

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9403 HOUSE RESOURCES

39

(e) *Validity of contracts*  
Fees to attorneys and consultants are limited to \$2 million. All contracts based on a percentage fee related to the value of the lands and revenues granted by this Act are declared unenforceable.

(f) *Valid existing rights*  
All valid existing rights, including inchoate rights of entrymen and mineral locators, are protected.

(g) *National petroleum reserve No. 4 and wildlife refuges*  
No subsurface estate is granted in Naval Petroleum Reserve Numbered 4 or in the National Wildlife Refuges, but an in lieu selection to subsurface estate in an equal amount of acreage outside these areas is provided for the Regional Corporations.

(h) *National forests*  
Appropriate limitations are placed on the amount of lands which may be granted from National Forests to Native villages located in the National Forests.

C. OTHER ISSUES

1. In sections 7 and 8 of the conference report authorizing the creation of Regional and Village Corporations, the conference committee has adopted a policy of self-determination on the part of the Alaska Native people. The conference committee anticipates that there will be responsible action by the board members and officers of the corporations and that there will not be any abuses of the intent of this Act. The conference committee does not contemplate that the Regional and Village Corporations will allow unreasonable salaries, officer, board member, consultant, attorney, or other salaries, expenses and fees. The conference committee also contemplates that the Regional and Village Corporations will not expend funds for purposes other than those reasonably necessary in the course of ordinary business operations.

2. The Senate amendment to the House bill provided for the protection of the Native peoples' interest in and use of subsistence resources on the public lands. The conference committee, after careful consideration, believes that all Native interests in subsistence resource lands can and will be protected by the Secretary through the exercise of his existing withdrawal authority. The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements by closing appropriate lands to entry by non-residents when the subsistence resources of these lands are in short supply or otherwise threatened. The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives.

Protect  
of  
Native  
Subsist  
C.O.  
L

3. Villages located on the Pribilof Islands present a special problem because the fur seals which frequent the islands are the subject of an International Treaty. It is the conference committee's recommendation that the Secretary, after consultation with the Secretary of Commerce, the State and the Planning Commission, reserve the appropriate rights and interests in land to insure the fulfillment of the United States' obligations under the Treaty.

1 sovereignty and Indian country in Alaska;

2 (8) allow the State of Alaska to choose whether it will establish a regional  
3 subsistence advisory council system in Alaska;

4 (9) provide that regional subsistence advisory councils are only advisory to  
5 regulatory boards; and

6 (10) eliminate commercial use and sale of fish and wildlife taken for  
7 subsistence uses.

8 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President  
9 of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker  
10 of the U.S. House of Representatives; the Honorable Trent Lott, Majority Leader of the U.S.  
11 Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators,  
12 and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in  
13 Congress.

94 STAT. 2422

PUBLIC LAW 96-487—DEC. 2, 1980

PUBLIC L.

managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and (4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

TITLE VIII—SUBSISTENCE MANAGEMENT AND USE

FINDINGS

16 USC 3111.

Sec. 801. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

43 USC 1601 note.

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

16 USC 3112.

Sec. 802. It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized

scientific principles as designated, or expanded, under this Act, the purpose of this Act is to protect the subsistence uses of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(2) nonwasteful subsistence uses of such resources on the public lands shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(3) except as otherwise provided by law, Federal land management activities on the public lands shall be consistent with the subsistence uses of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

Sec. 803. As used in this title, the terms "customary and traditional" mean the customary and traditional subsistence uses of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(1) "family" means a family as defined in the Alaska Native Claims Settlement Act, or any person or persons, taken for subsistence purposes, taken for subsistence purposes, taken for subsistence purposes.

(2) "barter" means the exchange of goods or services, taken for subsistence purposes, taken for subsistence purposes, taken for subsistence purposes.

(A) for other purposes, taken for subsistence purposes, taken for subsistence purposes, taken for subsistence purposes.

(B) for other purposes, taken for subsistence purposes, taken for subsistence purposes, taken for subsistence purposes.

PREFACE

Sec. 804. Except as otherwise provided by law, the taking of fish and wildlife on such lands shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(1) customary and traditional subsistence uses of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

(2) local residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized

(3) the availability of such resources on the public lands shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population, the subsistence uses shall be restricted taking into account the population of such population.

Post-It™ Fax Note	7371	Date	# of pages
To	Nancy	From	Pete
Co./Dept		Co.	
Phone #	Title 8 of ANILCA	Phone #	(4)
Fax #		Fax #	

JB

92<sup>nd</sup> Congress } HOUSE OF REPRESENTATIVES { REPORT  
1<sup>st</sup> Session } No. 92-746

### ALASKA NATIVE CLAIMS SETTLEMENT ACT

DECEMBER 13, 1971.—Ordered to be printed

Mr. ARMSTRONG, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany H.R. 10367]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10367) "to provide for the settlement of certain land claims of Alaska Natives, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill, and agree to the same with an amendment as follows:

In lieu of the matter inserted by the Senate amendment, insert the following:

That this Act may be cited as the "Alaska Native Claims Settlement Act".

#### DECLARATION OF POLICY

Sec. 2. Congress finds and declares that—

(a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims;

(b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax

45-008 0-71-1

Post-It Fax Note	7871	Date	# of pages 5
To Nancy		From Pete	
Co./Dept. Conference		Co.	
Phone # Excerpts from		Phone # ANCSA	
Fax # 2267		Fax #	

HOUSE JOINT RESOLUTION NO. 21  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MASEK, Ogan

Introduced: 2/12/97

Referred: Resources, State Affairs

A RESOLUTION

1 Relating to amendment of Title VIII of the Alaska National Interest Lands  
2 Conservation Act.

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

4 WHEREAS provisions of Title VIII of the Alaska National Interest Lands  
5 Conservation Act (ANILCA) (P.L. 96-487) unnecessarily encroach upon the ability of the  
6 State of Alaska to effectively manage state resources; and

7 WHEREAS the provisions of Title VIII of ANILCA appear to contradict the intent  
8 of the Tenth Amendment to the Constitution of the United States regarding powers reserved  
9 to the various states and the people; and

10 WHEREAS the Secretary of the Interior and the Secretary of Agriculture have relied  
11 on provisions of Title VIII of ANILCA to preempt state authority over a portion of fish and  
12 wildlife management on public land and water in Alaska; and

13 WHEREAS the Secretary of the Interior and the Secretary of Agriculture require that  
14 the state amend its constitution to conform to the provisions of Title VIII of ANILCA as a  
15 precondition to the partial relinquishment of federal management of certain uses of fish and  
16 wildlife on public land and water in Alaska back to the State of Alaska; and

(2) **The Legislative Affairs Agency**  
**Information Services**  
*Capital Improvement Project*

**Other Desktop Hardware**

	Qty	Price	Total	Notes
<i>Standard Gateway PC System Prices</i>				
Gateway P5-133	1	1,684		<i>NOTE: The prices are preliminary and do not include potential discount for quantity purchase. Additionally, the Agency will pursue a Lease/Purchase option. This will not save money, but will spread out the cost over monthly payments. Lease/Purchase may also include a maintenance agreement.</i>
Gateway P5-166	1	1,859		
Gateway P5-200	1	2,239		
Gateway P5-120 Notebook	1	2,429		

**Option #1 - Gateway Windows PC**

H&S Records Gateway P5-133	5	1,684	8,420	<i>NOTE: These upgrades are recommended because these offices are currently running older DOS systems. These PCs are used to transfer minutes to the mainframe are we need to convert them to Windows in order to eliminate</i>
H&S Finance Comm Sec. Gateway P5-133	7	1,684	11,788	
HP 5M Laserjet Printers	1	1,628	1,628	
WordPerfect I/Win Upgrade	12	105	1,260	
			21,836	<i>a mainframe file transfer software.</i>

**Option #2 - Gateway Windows PC (Higher-end)**

H&S Records Gateway P5-166	5	1,859	9,295
H&S Finance Comm Sec. Gateway P5-166	7	1,859	13,013
HP 5M Laserjet Printers	1	1,628	1,628
WordPerfect I/Win Upgrade	12	105	1,260
			23,936

1 WHEREAS the people of Alaska waged a long, hard fought battle to achieve  
2 statehood and state management of fish and wildlife resources of Alaska; and

3 WHEREAS the Alaska State Legislature has steadfastly resisted pressure from federal  
4 agencies to amend the Constitution of the State of Alaska to extend provisions contained in  
5 federal subsistence laws and regulations to state and private land and water in Alaska; and

6 WHEREAS the members of the Alaska State Legislature represent Alaska's citizens  
7 and, therefore, a plurality consensus view supporting the Constitution of the State of Alaska  
8 over the onerous intrusion of unwanted federal management of fish and wildlife;

9 BE IT RESOLVED that the Alaska State Legislature respectfully and ardently  
10 requests the Congress to revise Title VIII of the Alaska National Interest Lands Conservation  
11 Act (ANILCA) to once again allow the State of Alaska to resolve its own resource  
12 management conflicts and to manage the fish and wildlife resources of Alaska for the  
13 beneficial use of Alaskans; and be it

14 FURTHER RESOLVED that the Alaska State Legislature respectfully requests the  
15 Congress to make the following amendments to Title VIII of ANILCA to protect the interest  
16 of the State of Alaska in the management of its fish and wildlife resources:

17 (1) amend the definition of "public lands" to exclude state and private land and  
18 water;

19 (2) prohibit federal preemption of state fish and wildlife management on state  
20 and private land and water unless expressly authorized by the Congress;

21 (3) expressly state that neither the navigational servitude nor the reserved water  
22 doctrine authorizes federal management of fish or wildlife on state or private land and water  
23 unless otherwise provided by the Congress;

24 (4) repeal 16 U.S.C. 3117 (sec. 807 of ANILCA) relating to federal court-  
25 oversight of state subsistence management programs;

26 (5) authorize the State of Alaska to define the terms "rural" and "customary,  
27 and traditional" for purposes of the definition of "subsistence uses" under 16 U.S.C. 3113;

28 (6) amend the subsistence preference established in ANILCA under 16 U.S.C.  
29 3114 to provide a preference for a reasonable opportunity to take fish and wildlife for  
30 subsistence uses;

31 (7) clarify that ANILCA neither affirms nor denies the existence of tribal

*(from Rosita (M))  
via Dick  
Bishop)*

*Net Loss  
policy*

## AFN Policy On Resolving the Subsistence Issues \*

As of its March 4, 1996 meeting, the AFN Board of Directors adopted the following Policy Principles according to which the Native community will conduct any discussions with the State of Alaska on resolving the subsistence impasse.

1. The overall management principle contemplated by ANILCA is that regulation of subsistence uses by state or federal authorities must be carried out in a manner that causes the "least adverse impact" on customary and traditional taking and use patterns of Alaskan communities. Restrictions, such as individual bag limits and seasons, may not be imposed if they are inconsistent with customary and traditional use patterns. This includes both the quantity of game, the traditional seasons and places for hunting or fishing, and restrictions on methods and means of harvest. It is a significantly higher standard than the "reasonable opportunity" language in existing state law.
2. The Native community will insist that the following conditions be part of any resolution of the current federal-state impasse:
  - a) There must be no net loss from the current level of federal subsistence protections, including, but not limited to, the following points:
    - 1) The availability of one species of fish or game cannot be used as a basis for restricting opportunities to take another species in a customary and traditional manner.
    - 2) Regulations must provide opportunities to harvest each particular "stock" of fish and "population" of game that has been customarily and traditionally used.
    - 3) The Boards of Fish and Game cannot have unfettered discretion to place restrictions on harvests without a reasoned explanation of what "sustained yield" means and a reasoned determination of the number of fish or animals necessary to produce sustained yield.
    - 4) ANILCA's definition of "customary trade" includes sales for cash and does not require that fish or game used for customary trade be harvested only for personal or family consumption.

\* revised 11/5/96 -- from 1991 meeting. F.A.'s from the US Regional Solicitor's office, Dept. of

### AFN Subsistence Policy, continued

- 5) The word "rural" has a plain meaning, which includes at least part of the Kenai Peninsula and any attempt to limit the subsistence laws application through the use of a restrictive definition of "rural" is inconsistent with the plain meaning of the Act,
  - 6) ANILCA recognizes that subsistence is a group activity and a group way of life, as opposed to being an individual lifestyle; and
  - 7) The subsistence priority applies to all times, not just when there is a resource shortage. The Boards are required to provide fully for customary and traditional uses before any non-subsistence uses may be allowed.
- b) There must be basic reforms of state regulatory and management systems:
- 1) Changes in board structure and processes, to ensure fair treatment of subsistence uses
  - 2) Use of regional advisory councils, composed of subsistence users, whose proposals generate subsistence regulations, as in Federal Subsistence Board deliberations, and
  - 3) Use of co-management contracting to delegate functions and powers to Native communities and organizations;
- c) There must be no non-subsistence use areas in state law.
3. Resolution of the impasse should also include a strengthening of the federal preference (e.g. by changing to a Native or "Native-Plus" preference, or by defining "rural" so as to guarantee that Native communities that are historically surrounded by non-Native majorities will not be dropped from the preference).
4. A subsistence amendment to the Alaska Constitution must be worded and placed so as to ensure that a state statute that complies with Title VIII cannot, on any grounds, be struck down by the Alaska Supreme Court. In addition, such an amendment should:
- a) State that the subsistence preference may not violate the constitutional mandate for sustained yield,
  - b) Require, rather than permit, the Legislature to enact a statute complying with federal law (e.g., "...the Legislature shall...", rather than "...the Legislature may...");
  - c) State that subsistence is the priority use of fish and game in Alaska,
  - d) Include "culture" as a basis for differentiating among residents for application of the subsistence preference,
  - e) Be worded broadly enough to permit state law to comply with an improved federal preference in the future.

## Because of the federal subsistence law:

- **all other uses must be eliminated before "customary and traditional" subsistence use by rural residents can be restricted;**

Quoted from: April 11, 1995 memo from three Federal Associate Solicitors to Anchorage Regional Solicitor, and Dec. 2, 1981 letter from Alaska AG Wilson L. Condon to Governor Jay Hammond;

- **"customary and traditional" subsistence use means opportunistic year-round hunting and may also allow traditional techniques;**

unless populations are proven to be threatened [see Bobby v. Alaska, 718 F.Supp 764 (D. Alaska 1989)]  
Also see Tolmoff v. Alaska arguing that shining of deer is "customary and traditional".

- **the priority exists all the time -- it is not triggered by a shortage;**

The federal priority occurs whenever there are harvest regulations [see Bobby v. Alaska, 718 F.Supp 764 (D. Alaska 1989)];

- **subsistence priority resources have been sold in commercial markets;**

for tens of thousands of dollars [see Peratrovich v. U.S., No. A92-734Civ and a number of other cases in both state and federal courts].

- **tribal government authority over Alaska lands is promoted.**

[see January 1992, 9th Circuit decision in Puck v. Tyonek, 953F.2d 1179.]

# Alaska State Legislature

## Committees:

Military & Veteran Affairs,  
Chair

House Resources,  
Vice-Chair

House Transportation,  
Vice-Chair

Legislative Council



Representative Beverly Masek

During Session: Jan - May  
State Capitol  
Juneau, Ak. 99801-1182  
(907) 465-2679  
Fax: (907) 465-4822  
(800) 505-2678

During Interim: June - Dec.  
600 E. Railroad Ave.  
Wasilla, Ak. 99654  
(907) 376-2679  
Fax: (907) 376-6180

## SPONSOR STATEMENT HJR 21

HJR 21, "Relating to amendment of Title VIII of ANILCA," provides for two important items within the confines of the subsistence debate. First it will allow Alaskans an opportunity to discuss how the resolution of this important issue should take place, among Alaskans, or as imposed on us by federal law. As the legislature debates the merits of HJR 21, the people of Alaska will have a chance to participate in deciding whether this issue is better resolved by placing Alaskans at the table and working out a reasonable solution, or if we should relinquish some of our State's authority by following federal directives.

Secondly, if Alaskans agree, the basic tenets put forth by HJR 21 should be presented to Congress as a possible answer to this long running debate. It is important to note that if Congress acts favorably on HJR 21, that the major issue of a rural preference will remain in federal statute as a prerequisite for state management. However, Alaskans will have the option of trying to come to a reasonable agreement on what the terms "rural" and "customary and traditional" mean. I strongly believe the people of this state can do that.

HJR 21 also makes a request of Congress to clarify or change some of the other provisions of ANILCA. Among the changes requested are: a definition of public lands that would exclude state and private land and water, prohibit the preemption of state fish and wildlife management on state and private land and water, repeal of federal court oversight provision of state subsistence management programs, and the elimination of commercial sale of subsistence taken resources.

So far neither side in the subsistence debate seems willing to budge on the issues of amending ANILCA or the state constitution as the first step in returning full management authority to the state. The approach in HJR 21 is somewhat different in that it asks that the major stumbling block, "the rural priority," be kept in ANILCA, but at the same time to allow the state to define it. I realize this isn't by any means a perfect answer that will satisfy the parties involved on either side of this divisive issue; however, I am hopeful Alaskans, given the chance, can sit down and come up with a workable definition. I would encourage everyone to take a close look at this approach and give it some consideration as I feel it might start us towards resolving this important issue.

# Alaska State Legislature

MAR 10 1997

*Chairman,*  
Judiciary Committee

*Member,*  
Resources Committee  
Rules Committee  
Committee on Committees



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

352 Front Street  
Ketchikan, Alaska 99901  
(907) 225-8088  
Fax: (907) 225-0713

**Senator Robin L. Taylor**

## MEMORANDUM

**TO: Representative Gail Phillips**  
**Speaker of the House**

**Representative Beverly Masek**

**FROM: Senator Robin Taylor**

**DATE: 3/7/97**  
**RE: HJR 21**

\*\*\*\*\*

Please do everything possible to expedite passage of HJR 21, requesting Congress to amend ANILCA.

I spoke with Senator Murkowski about this resolution last weekend and it fits well with the request for guidance he made of the Legislature when he spoke to the joint session.

I did not introduce my own measure in order to allow Rep. Masek's version to be the vehicle by which we express our direction to the congressional delegation.

Early passage by the House will assure prompt attention in the Senate.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

**HJR**

**23**

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 23

Revision Date: 1/23/97 Dept Affected: Natural Resources  
 Title: An Act relating to traditional means of access for BRU: Resource Development  
traditional outdoor uses and to the classification of state land. Component: Land Development  
 Sponsor: Rep Masek  
 Requestor: H(RES) Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98*	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	52.8	52.8	52.8	52.8	52.8	52.8
TRAVEL	13.0	13.0	13.0	13.0	13.0	13.0
CONTRACTUAL	5.0	5.0	5.0	5.0	5.0	5.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES (1005)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>	<b>(1,100.0)</b>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	70.8	70.8	70.8	70.8	70.8	70.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>	<b>70.8</b>

Estimate of any current year (FY97) cost: \$ none

**POSITIONS**

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Expenditures are for staff needed to identify and reserve "traditional access" on all parcels leased, sold, or transferred to municipalities. Expenditures do not include cost to re-do all contracts to insert and value traditional access provision, which may be necessary and would cost in excess of \$.5 million for FY 98.

Revenue loss reflects changes due to de-valuing land currently under contract for sale. Revenue impact assumes no major new land offering. Value of future land offerings could be reduced by 50% due to allowing public use of "private" land.

Prepared by: Jane Angvik, Director Phone: 269-8503  
 Division: Land Date: 23-Jan-97  
 Approved by Commissioner: *Carol Chuall* Date: 1/23/97  
 Agency: Natural Resources

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

NO. \_\_\_\_\_  
BILL VERSION: HJR 23  
PUBLISH DATE: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Relating to the seizure and sale of Alaska commercial fishing entry permits by the United States...  
Sponsor: Representative Hudson  
Requestor: House Resources

Department Affected: Legislative Affairs Agency  
BRU: All  
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
----------------	---	---	---	---	---	---

<b>REVENUE FUND SOURCE</b>	0	0	0	0	0	0
----------------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852  
Division: Administrative Services Date: 3/6/97

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*  
Agency: Legislative Affairs Agency Date: 3/6/97

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

Revised

Latest

# FISCAL NOTE

by DNR

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB447(RES)

Revision Date: 14-Mar-96 Dept Affected Natural Resources  
 Title: State land and water may not be classified so as BRU: Parks & Recreation Management  
to preclude or restrict traditional means of access for trad'l rec. use Component: Parks Management  
 Sponsor: Representative Masek  
 Requestor: House Rules Component Serial No. 452

Expenditures/Revenues (Thousands of Dollars)

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY96) cost: \$ \_\_\_\_\_

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)

There is no fiscal impact to the Division of Parks associated with passage of this committee substitute.

Prepared by: Jim Stratton Phone: 269-8800  
 Division: Parks Date: 14-Mar-96  
 Approved by Commissioner: \_\_\_\_\_ Date: 14-Mar-96  
 Agency: Natural Resources

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

## HB 23 / SECTIONAL ANALYSIS

- SECTION 1)** Intent Language clarifying private property will not be affected by this legislation.
- SECTION 2)** Existing statutory language with technical amendment to to accept the body of HB 23
- SECTION 3)** Body of bill. Requires legislative approval if the Commissioner of Natural Resources intends, through land classifications, to block access for long periods of time or in large areas, including blockages for development or intrinsic values.
- Definitions:** Defines intrinsic values as basically being a natural environment. Also defines the types of activities and means of access the bill pertains to.
- SECTION 4)** Adds language to statute which protects development interests by allowing developers to provide reasonable alternative routes, or to control routes of access through the development parcel.

## **DNR proposed amendment to HB 23**

**House Resources Committee / Feb. 27, 1997**

**Page 2, Line 7 - Delete "and" between "public" and "safety" and then insert public and private between "and" and "property."**

**Page 2, Line 19 - Insert new language under subsection (3) to read: for protection of public safety and public or private property. Renumber the existing number (3) and (4) according to now be numbered as (4) and (5).**



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

### Beverly Masek

JAN 16 1997

State Capitol  
Juneau, AK 99801  
(907) 465-2679

Official Business

Memorandum

**To:** Rep. Scot Ogan, Co-Chair House Resources  
Rep. Bill Hudson, Co-Chair House Resources

**From:** Rep. Beverly Masek *BMM*

**Re:** HB 23 "An Act Relating to Public Access on State lands and waters."

**Date:** Jan. 15, 1997

I would respectfully request the House Resources Committee take up HB 23 as expeditiously as possible. This legislation has broad public support and passed the Legislature last year overwhelming. Unfortunately, Governor Knowles vetoed it.

HB 23 will protect the general public's ability to access public lands and waters in Alaska that are managed by the Division of Lands. This legislation is necessary due to the increasing propensity by some bureaucrats to actively pursue closing off access to large portions of the public.

Thank you for your time and assistance on this important issue, it is much appreciated.

# Alaska State Legislature

REPRESENTATIVE BILL HUDSON

State Capitol  
Juneau, Alaska  
99801-1182

(907) 465-3744

FAX (907) 465-2273

## COMMITTEES

CO CHAIR  
Resources Committee

MEMBER  
Transportation Committee  
Labor & Commerce Committee

## SPONSOR STATEMENT HJR 23

The IRS has been engaging in the outrageous seizure and sales of Alaska commercial fishing entry permits to collect past due taxes. I sincerely believe all taxpayers must act in good faith to meet their federal tax obligations, but it is not necessary or prudent to take away a fisher's basic right to work in order to collect federal taxes.

Recently, the IRS sold an entry permit with only two days notice to the State of Alaska. During this sale they sold the permit which was valued at \$30,000 for only \$5,005. The IRS has threatened to seize seven entry permits in the Dillingham area at this time, as well as threatening a widow in Anchorage with the sale of her deceased husband's fishing privileges for as little as \$3,000.

Commercial fishermen who lose their entry permits are deprived of their ability to make a living. Additionally, fishermen are deprived of their means to earn money to repay their debts to the IRS. It is certainly in the best interest of the federal government to recoup back taxes through the income earned by entry permit holders rather than to recover an insignificant amount through the sale of Alaska commercial fishing entry permits at 10 cents on the dollar. The actions of the IRS appear to be calculated to do harm to an Alaska citizen rather than to raise revenue. Alaskan limited entry permits are use privileges; only the state reserves the right to cancel or modify such privileges without compensation. AS 16.43.150 (e).

HJR 23, requests our Alaska congressional delegation to use any means available to them to assure that the IRS will collect past due taxes from income generated by the sale of fish and the voluntary sale of entry permits, to ensure that the IRS complies with federal law to avoid inflicting economic hardship on a taxpayer, and to protect fishing privileges and the right to work of Alaska fishermen.





# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

### Beverly Masek

State Capitol  
Juneau, AK 99801  
(907) 465-2679

Official Business

## CSHB 23 / SECTIONAL ANALYSIS

### SECTION 1)

~~Intent Language clarifying private property will not be affected by this legislation.~~

### SECTION 2)

This section is a complete rewrite from the original version which was an amendment to AS 38.05.300(a). The new language amends AS 38.04.55 which has to do with access through private use areas. The amendments to AS 38.04.055 include changing the authority for making restrictions from the Director to the Commissioner (page 1, line 6) and changing may to shall (page 1, line 10) which will require the commissioner to provide for access in relation to historical use. Also, new language is added to include traditional outdoor activity in the listing of historical uses.

### SECTION 3)

This section amends AS 38.04.058 by changing the authority from the Director to the Commissioner and by ~~adding new language~~ giving the commissioner authority to provide for restrictions or easements or right-of-ways to protect public safety and property. The restrictions applied under this section also must be made so as to protect as access to the maximum extent possible and must be made in a written finding.

### SECTION 4)

Body of bill. ~~Requires legislative approval if the Commissioner of Natural Resources intends, through land management, to block access for long periods of time or in large areas, including blockages for development or aesthetic values.~~

Definitions: Defines aesthetic values as those values held by a portion of the public and are social or cultural in nature. Also defines "traditional outdoor activity" and "traditional means of access".

Koman.  
Bruce two copy

★  
Bucorumt is  
the nicest  
heard the  
impliment  
CFEC!

HJR 23. IRS Limited Entry Permit Seizures, TALKING POINTS

- The IRS has been engaging in the outrageous seizure and sales of Alaska commercial fishing entry permits to collect past due taxes.
- I sincerely believe all taxpayers must act in good faith to meet their federal tax obligations, but it is not necessary or prudent to take away a fisher's basic right to work in order to collect federal taxes.
- Over the past two years the state has assisted in collecting at least \$5 million in back taxes. The IRS could attach the fisherman's earnings at the point of sale, they do not need to seize and sell permits
- Recently, the IRS sold an entry permit with only two days notice to the State of Alaska. During this sale they sold the permit which was valued at \$30,000 for only \$5,005. The IRS has threatened to seize seven entry permits in the Dillingham area at this time, as well as threatening a widow in Anchorage with the sale of her deceased husband's fishing privileges for as little as \$3,000.
- The actions of the IRS appear to be calculated to do harm to an Alaska citizen rather than to raise revenue.
- Alaskan limited entry permits are use privileges; under Alaska statute only the state reserves the right to cancel or modify such privileges without compensation.
- HJR 23, requests our Alaska congressional delegation to use any means available to them to assure that the IRS will collect past due taxes from income generated by the

CFEC  
operation  
STATE COMES:

Alaska  
rights

limited entry  
rights is Alaska

①

valuable

sale of fish and the voluntary sale of entry permits, to ensure that the IRS complies with federal law to avoid inflicting economic hardship on a taxpayer, and to protect fishing privileges and the right to work of Alaska fishermen.

complements. Admin. efforts - appeal

1988  
Cms Duona  
to greater effort  
to work with  
us.

# STATE OF ALASKA

## COMMERCIAL FISHERIES ENTRY COMMISSION

TONY KNOWLES, GOVERNOR

8800 GLACIER HWY, #109  
JUNEAU, AK 99801  
(907) 789-6150 Licensing Calls  
(907) 789-6160 Other Business  
(907) 789-6170 FAX  
(907) 789-6180 BBS

February 14, 1997

Mr. Paul Beene  
District Director  
Internal Revenue Service  
915 Second Avenue  
Seattle, WA 98174

FAX: (206) 220-6045

Dear Paul:

As I stated in our February 7th phone conversation, my Co-Commissioner Marlene Johnson and I will attend the February 19th meeting in Anchorage to continue our dialogue, conditioned by the substance of this letter. There are fundamental issues we must address.

### Our Existing Agreement

First, your January 14 letter acknowledges the State of Alaska has paid the IRS more than \$4.5 million in consideration under its existing agreement with the IRS. In fact, actual expenditures in human resources and dollars have been far greater. In our most recent commemoration of our agreement, the IRS committed its "best efforts" to ensure the benefits of the Tax Obligation Loan Program are available to Alaskans through meaningful intervention by the State and third parties.

We believe the two days' notice you provided the State of your pre-Christmas sale of Alaska limited fishing privileges is an actionable breach of our existing contract. With respect to contracts of which the U.S. is a party, the Federal Government has been held liable under ordinary principles of contract law. United States v. Winstar Corp., 518 U.S. \_\_\_, 116 S.Ct. 2432, 135 L.Ed.2d 964 (1996).

Our primary concern is IRS performance of its express duty to cooperate with the State in good faith under our existing agreement. This promise is virtually the only consideration given by the Federal Government in contrast to the substantial commitment of resources and money provided by the State. Now that the Federal Government has reaped the substantial rewards of the contract,

including a shift of tax collection responsibilities from the Federal Government to the State, the IRS may not disregard its promises through a change of policy to obtain self relief from an agreement you may now view as improvident or to pressure the State into acting as you dictate.

Specifically, the IRS has the continuing duty to provide reasonable notice of IRS targets in order to allow for meaningful intervention and help well before an IRS seizure and attempted forced sale of a holder's interest in a permit. Under ordinary contract law, this duty precludes the IRS from taking opportunistic advantage of the State and, also, from acting in a manner which destroys or injures our right to receive the fruits of our agreement.

As your January 14 letter confirmed, the State has enjoyed notable success in assisting taxpayers to achieve IRS compliance with no loss of fishing privileges, a result which the IRS effort, alone, did not accomplish prior to our collaboration.

#### Your Recent Proposals

As a separate and secondary matter, your January 14 letter urges the State to respond to your recent proposals for a new, supplemental agreement.

To recount the background for your recent proposals, on May 16, 1996, during a phone conversation with former Commissioner Homan and me, you stated, in return for further commitments by the State, IRS would discuss not seizing entry permits. Subsequently, at our July 19, 1996 meeting, in the presence of more than 30 people, you offered to discuss eliminating forced sales of entry permits pursuant to an agreement under which the IRS would collect from the proceeds of fish sales instead of forcing the sale of Alaska limited fishing privileges. In consideration, I offered to discuss potential changes to state law that would support IRS' collections.

A group of participants (including at least one Representative of our Congressional Delegation) met immediately following our July meeting and

confirmed receiving your offer. Shortly thereafter, I sent you a letter asking you to confirm your own statement. Instead, you responded, "I appreciate your sharing your reflections" on the meeting. Despite the fact your answer failed to confirm or qualify your statement, we gave you the benefit of the doubt and pursued discussions with you.

In November, the IRS sent the State four proposals to permanently change Alaska law to require the State of Alaska to assume various new responsibilities to achieve federal tax enforcement. Clearly, the Federal government seeks to shift the costs of meeting its statutory responsibilities to the State through those IRS proposals. For the State to elect to do so, the IRS must promise something meaningful in return. The confusing discussion that followed your proposals prompted us to seek written clarification as to what you are offering the State. After more than six months, you provided the clarification we first sought in July, and it is disturbing.

Your January 14 letter refers to your November proposals for Alaska to permanently change state law and assume responsibilities for the IRS, and you assert:

[t]hese proposals are what the IRS is offering the State.

The Federal government is not the creator of State law. Therefore, nothing is conveyed in IRS' purported offer to the State.

Additionally, in support of one IRS proposal for a change in Alaska law to require the Entry Commission to withhold all seasonal fishing permits until the IRS certifies each yearly applicant for a permit is in full compliance with his federal tax obligations, you represent that Alaska law already makes the same requirement for child support obligations. This is not true. The Alaska Legislature rejected the idea: both the Legislature and our Child Support Enforcement Division recognize that in order to collect from fishermen, fishermen need to be in the water catching fish.

In any event, your January 14 clarification emphasizes no matter what the State may undertake to do for the IRS, you assert the unqualified right, without reasonable notice as our contract requires, to attempt to force the sale of any property interest a delinquent fisher may have in State fishing privileges, particularly in those cases IRS subjectively classifies as "egregious." On December 4, you represented to the Alaska Congressional Delegation that the targets of your pre-Christmas sales of entry permits were such "egregious" cases.

Under 26 USC §6343, Congress created an affirmative duty on the part of the IRS to release a levy when "such levy is creating an economic hardship due to the financial condition of the taxpayer . . . ." The clear requirement of §6343 mandates a levy release in all cases of economic hardship, regardless of whether or not the IRS has subjectively designated any such case as "egregious". Despite this mandate, you have insisted the State negotiate an agreement recognizing the purported right of the IRS to attempt the forced sale in cases the IRS determines are "egregious". From your pre-Christmas actions, this amounts to a demand on the State to accept a pledge to do less than Congress has already required.

In short, your January 14 letter clarifies the IRS is not offering the State of Alaska any consideration for the changes you would like to see in State law.

#### Recent Events

It is clear the IRS' recent actions are an improper attempt to pressure the State. In addition, those actions demonstrate a lack of best efforts with respect to our agreement and, also, a failure to act in good faith with respect to the current negotiations.

Consistent with Part 3 of IRS Form 4585, the IRS assured a taxpayer targeted for your pre-Christmas sale: "The minimum bid price is established to protect your interests in the property." This written representation was deceptive. The IRS set the minimum bid at \$3,375, which is a fraction of the average \$30,000 for an authorized State transfer. Affidavits provided to CFEC

state a Revenue Officer under your direction advised possible buyers as follows: in order to pursue the IRS' present dispute with the State, the IRS intended to sell the particular permits for "substantially below the permits' fair market value" and, once a permit was transferred, it would "open the floodgates" of State permit seizures by the IRS. The affiants stated the Revenue Officer volunteered "the Commissioner of the IRS is aware of the situation and the matter is receiving attention at the highest levels at the IRS Washington D.C., headquarters" and, also, the IRS intended to pursue its disagreement with the State of Alaska "to a conclusion that is satisfactory to the IRS." Based on these affidavits, it appears the IRS willfully breached its duties to the State in an attempt to improperly coerce the State into acting as the IRS dictated.

Moreover, your December 6, 1996 letter states, if we fail to meet your expectations for future negotiations, "fishing entry permits will continue to be seized and sold [and thereby] endanger[] the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans)." Consistent with your letter, a Revenue Officer under your direction has announced he will resell an entry permit from the pre-Christmas sale on one day's notice. A Revenue Officer has threatened the seizure of seven limited entry permits in the Dillingham area at any moment. Additionally, we received a call from a widow in Anchorage who reported a Revenue Officer threatened to sell her fishing privileges and those of her deceased husband for as little as \$3,000.

In addition to disrupting orderly implementation of the Loan Program, IRS' pre-Christmas actions and threatened actions require the Entry Commission as Administrative Law Judges to rule on any claims that result. If we are in the midst of negotiating with you, and, on 2 days' notice, we are required to rule on a related claim, we face a conflict that creates at least an appearance of impropriety. We need sufficient warning from you to be able to withdraw from negotiations before such a conflict arises.

Apart from our requirements to function as Administrative Law Judges under State law, your pre-Christmas actions damaged the climate for cooperation between

the State and Federal Government. See the enclosed letter from our Governor to the Alaska Congressional Delegation.

Again, our agreement requires meaningful notice from you identifying your targets well in advance of an IRS forced sale.

#### Where Do We Go From Here

More than once in the past, we have discussed the possibility of extending the State's Tax Obligation Loan Program presently due to sunset this spring. We committed to explore that alternative. When we talked last Friday, you asked again about this possibility, and I told you the door was not closed to this option. Accordingly, you prepared a letter to Governor Knowles' advocating this alternative.

In contrast to the other IRS proposals, this option makes the most sense for several reasons.

First, the State-IRS "partnership" has proven effective to assist Alaskan fishers damaged by the post-1988 adverse market conditions not only in achieving federal tax compliance, but in ordering their other financial affairs.

Second, our joint cooperation has reaped rewards in cases in which the IRS, alone or through contractors, otherwise has been unsuccessful. In this regard, we are aware the IRS instituted a pilot program in 13 states, including Alaska, through which private collectors were to be hired by the IRS to collect delinquent taxes. According to a recent article, the IRS is disappointed in this program, because the five collection agencies hired by the IRS were able to contact only about 9% of the taxpayers and, according to the collection agencies involved, the poor results were "because the IRS was late in getting the files to them and the files were extremely old."

Third, our mutual cooperation has provided an opportunity to accomplish our respective goals, largely without counterproductive adversarial conflict. We

believe this effect has and continues to raise our citizens' confidence in our respective governments. Specifically, the process has become less threatening and less fearsome to the long fisher with tax problems, because we are working together.

Fourth, our cooperation has identified many Federal and State tools available to assist fishers. As a result, these tools have been more fully utilized than has been the case in the past.

Fifth, our respective efforts have put a human face on what otherwise could be characterized as mechanical processing by the IRS in relative isolation from the community. In this time of shrinking federal budgets and operations, we believe our cooperative undertakings should serve as a model for the future. In short, we continue to achieve good results and, thus, should persist on the path we know to be productive.

This week, after conferring with the Commission and the Division of Investments, State Representative Ivan introduced HB 123 to extend the Tax Obligation Loan Program. While this is a positive first step, persuading the Legislature and the Administration of the merits of this legislation will be an extremely difficult task. As you well know, there are very many worthy and competing alternative uses for the same funds. We need meaningful numbers from the IRS to show (1) the extent of the current problem; (2) the extent to which Alaskans have been helped; and (3) the extent of improvement in tax compliance since the original information presented by the former IRS Chief of Collections in 1993. This is the same information we requested more than a year ago consistent with our agreement. The numbers you employed in your January 14 letter suggest a substantial improvement of at least 58%. However, the figures you employed in your more recent letter to the Governor appear inflated. We need some real information from the IRS to present to the Legislature and the Governor.

February 14, 1997

In the interim, we have to operate with the sunset of the Loan Program in mind. We must evaluate and coordinate our outreach efforts to ensure maximizing service to Alaskans and revenue to the federal government. To further this goal, I reported to your Chief of Examination, Mel Joseph, that, on the recommendation of the IRS, the State has already modified its regulations governing permanent fund dividend recipients. Mr. Joseph and I are discussing practical ways to make use of the information that will be generated. This is an experimental work in progress, and we do not yet know whether it will prove to be a practical tool. Nonetheless, we remain committed to working through the process as we promised IRS.

Finally, as we have stressed in this letter, we must have meaningful notice of IRS' targets for seizure and sale well in advance of any action by the IRS so as (1) not to disrupt our planned cooperative efforts, and (2) to allow sufficient time for intervention and help well before an IRS seizure and forced sale.

The Legislature is in session for only 120 days. We hope you will address these points at our meeting on Wednesday, February 19.

Yours truly,

COMMERCIAL FISHERIES ENTRY COMMISSION

Dale Anderson, Commissioner  
Marlene Johnson, Commissioner  
Bruce Twomley, Chairman

by: 

Enclosure

# Office of the Governor

**TONY KNOWLES**  
Governor  
P.O. Box 110001  
Juneau, Alaska 99811-0001  
**NEWS RELEASE**



**Bob King**  
Press Secretary  
**Claire Richardson**  
Deputy Press Secretary  
907-485-3500  
FAX: 907-485-3533

FOR IMMEDIATE RELEASE: March 4, 1996

96-049

## **ENTRY COMMISSION DENIES IRS SALMON PERMIT TRANSFER**

**Knowles Calls Federal Seizure of Permits Harsh, Unwarranted**

Saying it's wrong to take away a person's livelihood to settle a tax debt, Governor Tony Knowles today applauded the Commercial Fisheries Entry Commission's decision to deny a request by the Internal Revenue Service (IRS) to transfer a salmon fishing permit held by a Hydaburg man.

In a 60 page decision released today, the commission, a quasi-judicial body, ruled the IRS acted beyond its federal statutory authority in making the request to transfer the permit to the high bidder in a permit auction. Although the IRS has attempted to seize and force the sale of Alaska entry permits for more than a decade, this is the first time the commission has been called upon to issue a formal decision on the subject.

"Taking away an Alaska fisher's right to fish is harsh, unwarranted, and counter-productive," Knowles said. "It is just wrong for the IRS to take away an individual's entry permit - their right to work - when other means to collect taxes from Alaska fishers are readily available. Seizing a permit from an isolated fishing community may well push an entire family onto the welfare rolls at a time when the state and federal government are looking for ways to get people off welfare and back to work."

Knowles noted that commercial fishers are an easy target for the IRS since the state maintains meticulous catch records. But he also noted that the state has taken extraordinary measures to cooperate with the IRS. For several years, the Entry Commission has urged Alaska fishers to meet their tax obligations. In addition, the state has committed \$3.6 million in secured loans through its tax obligation loan program.

"This issue is important to maintain jobs and protect families along Alaska's coast," Knowles said. "We must resist federal intervention that blocks access to traditional fisheries, destroys an individual's means of earning a living, threatens communities and directly interferes with Alaska's comprehensive fisheries management system."

# STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

JAN 14 1997

TONY KNOWLES, GOVERNOR

8800 GLACIER HWY. #100  
JUNEAU, AK 99801  
(907) 789-6150 Licensing Calls  
(907) 789-6160 Other Business  
(907) 789-6170 FAX  
(907) 789-6180 BBS

January 10, 1997

The Honorable Bill Hudson  
Alaska State Representative  
Room 108, State Capitol  
Juneau, AK 99801-1182

Dear Representative Hudson:

The enclosed correspondence will bring you up to date on IRS' efforts to force sales of Alaska's limited fishing privileges. For more information about the individual Alaskans who are the targets of IRS' forced sales, we encourage you to contact the Alaska Business Development Center at (907) 562-0335.

As the correspondence provides in more detail, the IRS drew the State into discussions last summer with an offer that now appears to have been an exercise in bait and switch. IRS' new, substitute offer appears to be a sham. (Enclosure A)

Additionally, as the talks were going forward, IRS--contrary to its existing written Memorandum of Understanding with Alaska--gave the State two days' notice and scheduled pre-Christmas sales of two limited entry permits. IRS announced these sales were directed from its highest levels in Seattle and Washington, D.C.

For its pre-Christmas sales, IRS targeted two fishers with dependents who already live on the edge of poverty. IRS offered to sell their \$30,000 entry permits for as little as \$3,375.00.

On very short notice, the Alaska Business Development Center intervened on behalf of the permit holders. The Alaska Business Development Center timely applied to the IRS Director to release the levies and cancel the sales, because the forced sale would cause economic hardship to the permit holders and those dependent upon them. The IRS Director has a duty under existing Federal Statute 26 USC §6343 to release a levy to avoid inflicting economic hardship on a citizen. The IRS Director failed to respond to the Alaska Business Development Center's request.

As the result of further efforts by the Alaska Business Development Center, IRS' Problem Resolution Officer intervened and temporarily postponed one of the sales. IRS sold the other permit held by an older Alaska Native for \$5,005.

As Administrative Law Judges, we at the Entry Commission are required by law to rule on a request to transfer arising from the forced sale. To preserve our ability to perform this function, we can not carry on further negotiations with the IRS while this matter is pending.

January 10, 1997

In the meantime, however, the enclosed letter from IRS' Director threatens to take more hostages and to "endanger[ ] the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans) . . . ." (Enclosure B) A permit holder has already called the Commission to report IRS has threatened to sell her and her deceased husband's permits for as little as \$3,000. Additionally, IRS has announced it will go to the Dillingham area early in the New Year to seize seven additional entry permits.

The primary current issues appear to be:

- (1) during the last months of Alaska's Secured Tax Obligation Loan Program, will the IRS comply with its existing Memorandum of Understanding (Enclosure C); and
- (2) will the IRS Director comply with his duty to avoid inflicting economic hardship on a citizen under 26 USC §6343?

To put this matter in a historic context, we enclose some IRS correspondence from one year ago. Please contrast the enclosed December 6, 1995 letter from the former, Alaska-based District Director as well as the enclosed November 29, 1995 letter from the former IRS Chief of Special Procedures, who was also based in Alaska. (Enclosure D)

IRS' intervening reorganization has removed management from Alaska and placed it in Seattle. IRS' reorganization has transferred or eliminated many of the individual IRS employees who worked constructively with the State.

More than a year ago, we warned that IRS' reorganization created the risk of less understanding and sensitivity to the needs of Alaskans--particularly Rural Alaskan fishers.

We would be happy to provide further information. We welcome any assistance you can provide.

Yours truly,

COMMERCIAL FISHERIES ENTRY COMMISSION  
Dale Anderson, Commissioner  
Marlene Johnson, Commissioner  
Bruce Twomley, Chairman

by: \_\_\_\_\_

Enclosures

**THE FOLLOWING PAGES MAY  
NOT FILM LEGIBLY BECAUSE OF  
THE POOR QUALITY OF THE ORIGINAL**

# STATE OF ALASKA

## COMMERCIAL FISHERIES ENTRY COMMISSION

8800 GLACIER HWY. #109  
JUNEAU, AK 99801  
(907) 789-6150 Licensing Calls  
(907) 789-6160 Other Business  
(907) 789-6170 FAX  
(907) 789-6180 BBS

JAN 14 1997

December 31, 1996

Mr. Paul Beene  
District Director  
Internal Revenue Service  
915 Second Avenue  
Seattle, WA 98174

Dear Paul:

We received your December 6th letter (copy enclosed) on December 13 and are sharing it with our Alaska Congressional delegation.

Your letter highlighted the phone conversation former Commissioner Frank Homan and I had with Patricia Miller on November 13, 1996, and accused us of an "unwillingness to move forward."

That phone conversation was prompted by our November 6th receipt of your request to change Alaska law in a variety of ways to disadvantage Alaskans in order to help the IRS. There were two items of substance in that conversation. (1) We told Patricia Miller it was entirely unclear what IRS was offering the state in return, and we needed written clarification from you to share with our Governor and Attorney General in order to develop a thoughtful response. Beginning last July, we have consistently requested such a confirming statement from you. (2) We then discussed a mutually agreeable schedule for going forward. Patricia Miller asked, "realistically, can you expect to have anything back to us before the end of January?" I said, depending on when we received your response, we hoped to have preliminary written comments back to the IRS by the end of the year.

Paul, no one could rationally interpret our actions to date as "an unwillingness to move forward."

Please recall, last July, in the presence of more than 30 people, you made an offer that led the state into these discussions. You offered to discuss eliminating forced sales of entry permits through an agreement under which the IRS would collect from the proceeds of fish sales (that is, the money generated) instead of forcing the sale of Alaska limited entry permits. Now, for the first time, your letter makes clear you have (without explanation) withdrawn your July offer and switched to a promise to force the sales of Alaska fishing privileges "in the most egregious cases."

Enclosure A  
(1 of 3)

Additionally, please remember, following your July offer, we again told you (for at least the third time) the state could not participate in discussions if the IRS pursued forced sales of entry permits during the negotiation process.

Now, having given the state two days' notice, you scheduled forced sales of two entry permits on December 11.

In its current Memorandum of Understanding (copy enclosed) with the State of Alaska, IRS promised "joint efforts to provide tax assistance to Alaska Commercial Fishers . . ." in order

to give the [Alaska tax obligation] loan program and our outreach efforts the best opportunity to succeed . . . .

\* \* \*

The parties agree to jointly use their best efforts to develop a meaningful outreach program to encourage individuals needing assistance to participate in the new loan program and to satisfy their past due tax obligations.

\* \* \*

Joint efforts will include communicating with the Alaska Federation of Natives (AFN) and its member organizations, the University of Alaska, fish processors, as well as other groups and individuals who may be able to contribute.

\* \* \*

[J]oint outreach efforts will be coordinated so employees from the IRS and [the State] can jointly meet with the taxpayers to apply for the loan and resolve tax problems.

Contrary to IRS' written promises, your actions toward the targets of your December 11 forced sales systematically deny potential benefits of the loan program to individual Alaskans and destroy an opportunity for the IRS to collect substantial revenue through the loan program. As IRS publications celebrate, Alaska's secured tax obligation loan program has so far raised more than \$4 million in revenue for the IRS. In short, your actions beg the question, of what value is a promise from the IRS?

Moreover, you represented to our Congressional delegation that your targets for your December 11 sales were "the most egregious cases." You have thus provided all observers with your definition of "most egregious" and made clear your new, substitute offer to Alaska amounts to substantially less than is already required of you to avoid inflicting economic hardship on a citizen under existing federal statute 26 USC §6343.

Enclosure A  
(2 of 3)

Now, you declare "fishing entry permits will continue to be seized and sold" by the IRS so as to "endanger[ ] the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans) . . ." unless your expectations are met.

Consistent with your declaration, a woman recently reported to the Commission that IRS threatened to sell her and her deceased husband's entry permits for as little as \$3,000. Additionally, IRS has announced it will go to the Dillingham area after the first of the year to seize 7 more entry permits.

Your actions have created a conflict for the Alaska Commercial Fisheries Entry Commission. You have asked the Commission to negotiate a matter. Now you have taken actions that will require the Commissioners, as administrative law judges, to rule on the matter. As long as this conflict persists, the Commission is precluded from further participation in the discussions you request.

Yours truly,



Dale Anderson, Commissioner  
Marlene Johnson, Commissioner  
Bruce Twomey, Chairman

Enclosures

cc: The Honorable Tony Knowles, Governor of Alaska  
The Honorable Bruce M. Botelho, Attorney General  
The Honorable Ted Stevens, U.S. Senator  
The Honorable Frank H. Murkowski, U.S. Senator  
The Honorable Donald E. Young, U.S. Congressman  
The Honorable Members of the Alaska State Legislature  
Participants in IRS' July 1996 Symposium  
The Honorable Margaret Milner Richardson, Commissioner of the IRS

Enclosure A  
(3 of 3)

District  
Director

915 Second Ave., Seattle, Wash. 98174

DEC 13 1996

GFEC

DEC 08 1996

Bruce Twomley  
Commercial Fisheries Entry Commission  
8800 Glacier Highway #109  
Juneau, AK 99801

Dear Bruce:

I received your letter dated November 22, 1996, and am somewhat disappointed in what appears to be your unwillingness to move forward with the opportunities presented.

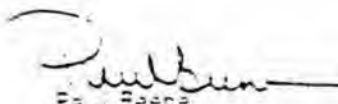
As Pat Miller made clear in her telephone conversation with you on November 13, 1996, the IRS is ready and willing to implement procedures which will minimize the possibility of a fishing entry permit being seized and sold. In an attachment to the minutes of our October 10, 1996, meeting, we presented proposals for five possible procedures which would have this effect. However, as Pat stated, the IRS is unwilling to forego the right to seize and sell a fishing entry permit in the most egregious cases, where all other efforts to work with the taxpayer have failed.

Your re-statement of your points from your October 21, 1996, letter in your November 22, 1996, letter and your unwillingness to accept Pat's definitive answers to your questions during the November 13, 1996, telephone call cause me concern. The delay in moving forward to resolve the issues at hand ultimately endangers the interests of Alaska taxpayers (e.g., devalued fishing permits, permits sold to non-Alaskans). Opportunities for cooperation and relief have been offered, yet your office has not addressed any of the proposals advanced, nor have you originated other ideas or proposals that would serve our mutual interests.

I need your assurance that you are prepared to negotiate in good faith. Understand that fishing entry permits will continue to be seized and sold in appropriate circumstances under current operating procedures. With your cooperation, revised procedures could be implemented which would increase voluntary compliance and minimize the burden and impact on Alaska taxpayers.

I have attached copies of the five proposals and ask for your creative input and commitment toward making these, or alternative proposals, work to our mutual benefit. Unless I feel that progress is being made by mid-January 1997, I will have no alternative but to pursue this matter with Governor Knowles. I have had high hopes that we could resolve this critical issue. I regret that our progress has not been more substantive to date.

Sincerely,

  
Paul Beers  
District Director

Attachments

Enclosure B

MEMORANDUM OF UNDERSTANDING

INTERNAL REVENUE SERVICE

AND

STATE OF ALASKA DIVISION OF INVESTMENTS  
AND COMMERCIAL FISHERIES ENTRY COMMISSION

The purpose of this memorandum is to outline the scope and responsibilities of employees working for the Internal Revenue Service (IRS) and the Division of Investments (DOI) and Commercial Fisheries Entry Commission (CFEC), in their joint efforts to provide tax assistance to Alaska Commercial Fishers.

The Alaska legislature has passed and the Governor has signed SB 251 which will provide loans to certain commercial fishers to satisfy their federal tax obligations and protect their limited entry permits. The parties understand and agree that, in order to give the loan program and our outreach efforts the best opportunity to succeed, we will take the following steps:

1. IRS will participate with DOI in joint outreach activities including the appointment of an IRS representative to facilitate SB 251 loan applications;
2. IRS will appoint a representative to coordinate IRS assistance for SB 251 implementation;
3. IRS will affix mailing labels to, and mail, postage-paid envelopes provided by DOI which will contain a flyer explaining the loan program, and which will bear a return address which makes reference to the Special Fishing Loan Program; IRS will provide a new post office box (different from its current post office box) which will be included in the return address for returned undeliverable mail;
4. IRS will provide returns filing information and confirmation of payment agreements on remaining balances after receipt of the signed taxpayers' authorization for release of tax information;
5. IRS will provide balance due information and basic lien subordination information to DOI via two-way fax inquiry;
6. In cases where DOI is able to loan an amount which will partially satisfy a borrower's tax liability, and where IRS is able to work out satisfactory payment arrangements for the balance, IRS will subordinate its lien to DOI in the amount of the loan, exclusive of any fees that DOI may charge the borrower;

Enclosure C  
(1 of 3)

7. Until September 30, 1994, IRS will not employ its electronic fish processor levy to those taxpayers who owe \$30,000 or less, except in those cases where the government's interest is threatened by statute expirations before December 31, 1995; other levies may take place at IRS' discretion;

8. DOI agrees to appoint a loan officer as liaison to IRS to coordinate the implementation of SB 251;

9. DOI will include a waiver of rights to privacy of tax return-related information in its loan application package;

10. DOI agrees to aggressively publicize the existence of the loan program created by SB 251.

The parties agree to jointly use their best efforts to develop a meaningful outreach program to encourage individuals needing assistance to participate in the new loan program and to satisfy their past due tax obligations. As resources permit, the IRS and DOI are committed to travel to selected areas of the state.

The parties understand that meaningful outreach can best occur with the help of trained local individuals who are trusted in the community selected for outreach, and the parties agree to use their best efforts to develop this human resource. Joint efforts will include communicating with the Alaska Federation of Natives (AFN) and its member organizations, the University of Alaska, fish processors, as well as other groups and individuals who may be able to contribute.

Where an individual has been designated and trained to be a local contact and helper in the outreach process, IRS will employ its best efforts to provide names of individuals whom the IRS would like to contact.

When time and funding permit, joint outreach efforts will be coordinated so employees from the IRS and DOI can jointly meet with the taxpayers to apply for the loan and resolve tax problems.

State employees will be provided with disclosure authorization forms so loan applicants can authorize village administrators, council members or other representatives to assist them in resolving outstanding tax problems.

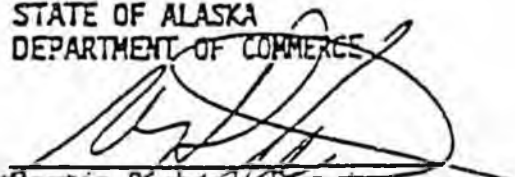
IRS employees assigned to the project will focus on Federal tax compliance issues. To the extent that information they identify relates to or impacts on state tax issues, such information will be shared with the State of Alaska, Department of Revenue.

Enclosure C  
(2 of 3)

The loan provisions of SB 251 are in effect for three years after the effective date of the act. The IRS and DOI representatives will meet yearly to exchange general information and develop new objectives. Any changes to the memorandum must be agreed to in writing by the signers.

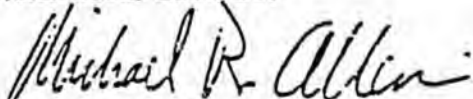
APPROVED:

STATE OF ALASKA  
DEPARTMENT OF COMMERCE

  
Martin Richard, Director  
Division of Investments


Signed at Tucson, AZ this  
20<sup>th</sup> day of July, 1994

INTERNAL REVENUE SERVICE  
ANCHORAGE DISTRICT

  
Michael R. Allen  
District Director

Signed at Anchorage, AK, this  
22<sup>nd</sup> day of July, 1994

STATE OF ALASKA  
COMMERCIAL FISHERIES ENTRY COMMISSION

  
Dale G. Anderson, Commissioner  
Commercial Fisheries Entry Commission

Signed at JUNEAU - AK, this  
20<sup>th</sup> day of JULY, 1994

Enclosure C  
(3 of 3)



# Alaska State Legislature

Please enter into the record my testimony to the House Resources  
 committee name  
 committee on HJR 23, dated March 6 1997  
 bill/subject

## Sale of Ltd Entry Permits

I support this bill wholeheartedly!

Actions by the IRS agents in villages have been reprehensible. Until the Bristol Bay Economic Development Corporation hired someone to work with locals on tax obligations, the IRS was aggressively going after the local fishing permits. This effort is helping considerably, however, if congress can help local fishermen from seizures by the IRS, then Alaska will be keeping the foundation for local economies. Permits employ entire families and without them all villages would be left with is subsistence and seasonal jobs with low pay.

Signed: Hazel Nelson  
 Testifier

Community of Egegik  
 Representing (Optional)

1577 P St #304 Beth AK 99501

Address

263-9820

Phone No.



# Cordova District Fishermen United

MAR 04 1997

P.O. Box 939  
Cordova, Alaska 99574  
(907) 424-3447 FAX (907) 424-3430

February 26, 1997

The Honorable Bill Hudson  
State Capitol, MS 3101, Room 108  
Juneau, Alaska 99801-1182

Dear Representative Hudson:

Cordova District Fishermen United (CDFU) would like to express the membership's appreciation for drafting House Joint Resolution 23 (HJR 23) relating to the seizure and sale of Alaska commercial fishing entry permits by the IRS. With recent extreme measures taken by the IRS, it was high time to initiate this kind of response from the Alaska legislature.

I personally have issues with the IRS and the behavior they have displayed. In my testimony before the House Special Fisheries Committee I explained my involvement in the IRS sponsored Alaska Symposium as the fishermen's representative and the frustration that has followed. I offer the support of CDFU and my personal knowledge of the recent meetings between the IRS, CFEC, Division of Investments and other interested parties for your utilization.

Thank you again for your efforts and you may contact me with any questions you may have at the number provided above.

Sincerely,  
**CORDOVA DISTRICT FISHERMEN UNITED**

Cheri Shaw, Executive Director

cc: Representative Grussendorf  
Representative Kubina  
Senator Lincoln



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112  
Juneau, Alaska 99801  
907/586-2820  
Fax: 907/463-2545

February 26, 1997

The Honorable Bill Hudson  
Alaska State House of Representatives  
State Capitol Building, Room 108  
Juneau, Alaska 99801-1182

Dear Representative Hudson:

**United Fishermen of Alaska supports HJR 23.**

UFA believes that all tax payers should file and pay their federal tax obligation.

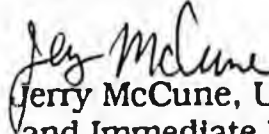
Currently, the IRS has the ability to collect back taxes during the fishing season, through the seizure of fishing vessels, and the voluntary sale of entry permits. When the IRS auctions off limited entry permits, it puts undo hardship on fishing families and the State of Alaska, as well as threatening communities.

Limited entry permits with a value of \$30,000 are being sold by the IRS for as little as \$3,000. Selling permits will not help pay future tax obligations or protect an individual's right to work. The Commercial Fisheries Entry Commission has taken every measure to help and cooperate with the IRS.

UFA does not believe the IRS should threaten to or take away the commercial fisherman's ability to make a living. UFA believes the IRS should work cooperatively with the Alaska Commercial Fisheries Entry Commission in its outreach program to assist the commercial fisherman whose taxes are in arrears.

UFA urges the passage of HJR 23 to protect state rights.

Sincerely,

  
Jerry McCune, UFA Lobbyist  
and Immediate Past President

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association  
Cordova District Fishermen United • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association  
Northern Southeast Regional Aquaculture Association • Northwest Setnetters Association • Peninsula Marketing Association • Petersburg Vessel Owners Association  
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative • Southeast Alaska Seiners Association  
Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112  
Juneau, Alaska 99801  
907/586-2820  
Fax: 907/463-2545

February 21, 1997

The Honorable Ted Stevens  
United States Senate  
522 Hart Building  
Washington, D.C. 20510-0201

bcc: Bruce Twomley, Chair  
Commercial Fisheries Entry Commission

UFA Board of Directors

Dear Senator Stevens:

United Fishermen of Alaska requests your assistance for the fishermen of Alaska. Please help stop the destructive campaign of the Internal Revenue Service (IRS) to sell Alaskan's fishing permits.

Recent reorganization within the IRS has seriously disadvantaged Alaskan fishermen. The Alaska IRS office has been reduced and management has been shifted to Seattle to the detriment of Alaskan fishermen. Limited entry permits, established more than 20 years ago, have become a target for the IRS. If this practice is allowed, many Alaskan fishermen and their families will lose access to their fisheries and the economic opportunities they provide.

The state has tried to work with the IRS to find alternatives to the sale of these permits. The state created loan program for Alaskan fishermen has provided the IRS with \$5 million over the past two years. The state has also provided an extensive outreach program to aid Alaskan fishermen to get current with the IRS. State financial and human resources have been directed to protecting Alaskans access. These fishing permits are an important state interest, as the effort put forth by the state to protect them shows.

The IRS can collect taxes owed without taking away a family's livelihood. Fishermen should pay their tax obligations and they can from the income generated by the permit. If the permit is lost and access to the fishery denied, many Alaskan fishermen and their families (particularly in rural Alaska) will suffer significant economic hardship. As you know, in many coastal areas of our state, there are few income opportunities other than fishing. If the IRS will work with the State of Alaska and the fishermen of Alaska, they can reach their goal.

The IRS does not need to employ such extreme measures as to permanently deprive Alaskans of access to their fisheries.

Please give your attention to protecting Alaskans from unnecessary economic harm from the Internal Revenue Service.

Sincerely,

*Theo Matthews*  
Theo Matthews, President  
United Fishermen of Alaska

Enclosure

cc: Governor Tony Knowles  
Juneau Congressional Office

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Drednetters Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association  
Cordova District Fishermen United • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association  
Northern Southeast Regional Aquaculture Association • Northwest Setnetters Association • Peninsula Marketing Association • Petersburg Vessel Owners Association  
Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Sealood Producers Cooperative • Southeast Alaska Seiners Association  
Southern Southeast Regional Aquaculture Association • United Cook Inlet Dred Association • United Southeast Alaska Gillnetters

# Alaska State Legislature

## House Resources Committee

**Co-Chair Scott Ogan**  
(907) 465-3715  
FAX (907) 465-3265  
Capitol Building, Room 124  
Juneau, Alaska 99801



**Co-Chair Bill Hudson**  
(907) 465-6820  
FAX (907) 465-2273  
Committee Meetings  
T/Th 1 - 4 p.m.

Vice Chair: Beverly Masek,  
Representatives Ramona Barnes, Fred Dyson, Joe Green, Reggie Joule, Irene Nicholia, William Williams

February 26, 1997

Bruce Twomley  
Chairman, CFEC  
8800 Glacier Highway, #109  
Juneau, AK 99801

Dear Mr. Twomley:

We request your presence at the House Resources Committee meeting, Thursday, March 6, 1997, 1:00 PM, Capitol Room 124. The House Resources Committee will hear two commercial fisheries bills: HJR 23 - IRS Limited Entry Permit Seizures; and HB 123 - Tax Obligation Loan Program.

Your input will be valuable to the committee process. Please come prepared to offer a brief overview of the sale of limited entry permits by the IRS, and any remarks you may have regarding the Tax Obligation Loan Program.

Sincerely,

---

Representative Bill Hudson  
Co-Chair, House Resources

---

Representative Scott Ogan  
Co-Chair, House Resources

January 27, 1997



---

Alaska Boating Association • P.O. Box 210430 • Anchorage, Alaska 99521

---

Representative Beverly Masek  
House of Representatives  
State Capitol, Interdepartmental Mail Stop 3101  
Juneau, AK 99801-1182

Dear Representative Masek:

We are sending this letter as further evidence of our convictions of why your HB0023 regarding access is so important to our group. In addition we will copy this letter to all members of the House Resource Committee. We wish to offer some statistics pertinent to the Six-River Rec. Management Plan that we feel should be placed into the record and made evident to everyone considering this bill:

Prior to the Six River Rec. Management Plan, the Deshka River with Kroto Creek and Moose Creek offered boaters a total of 140 river miles. Lake Creek offered 51.2 river miles. Alexander Creek offered 50.3 river miles. The Little Susitna River offered 33.8 river miles. The Talachalitna offered 86.5 river miles. These rivers were open to ALL users, Motorized and Non-motorized equally, for a total of 361.8 river miles.

The Department of Natural Resources placed various strategic restrictions on the rivers to exclude 155.5 river miles from motorized use. However, the non-motorized users were still allowed to use the entire 361.8 miles.

If DNR had wanted to reduce user conflict, they would have insisted that the non-motorized user be restricted from the same number of miles as the motorized user. This was not done and has not been done. Continually, the motorized users have been restricted while non-motorized users retain the full use of the resources.

There is one example of a user conflict which was resolved with what can be considered a true compromise and is the only workable compromise that our organization feels is valid within the state, at least to our knowledge. This compromise came about at the suggestion and encouragement of our organization. If we hadn't taken the strong stand that we took, the waterways involved would also probably be restricted to motorized use today. This involves the Little Susitna River. Out of the 33.8 miles within the Six-Rivers area, 27.3 miles of the Little Susitna were reviewed for restriction. Our organization strongly suggested that the only fair way to resolve the user conflict involved was to open these waters one week for motorized use and the following week for non-motorized use,

- Dedicated to the rights of Alaskan Boaters -

Page Two To Rep. Masek from ABA, January 27, 1997

alternating each week during open water seasons. This was finally agreed to under the plan and is, as stated before, the only working compromise that we are aware of.

Compromises, such as shown above can be reality, if all users and agencies work to make them possible. Too often, the motorized users are shut out while non-motorized are not asked to make any compromise or sacrifice. This simply is an injustice and total disregard by the agencies to resolve user conflict.

Thank you for allowing us, to once again be part of the legislative process. We ask that all committee members consider this information in making a decision to affirm this bill

Yours truly,



Roy J. Burkhart, Legislative Affairs Officer  
Alaska Boating Association

Voice. 907-495-6337 FAX. 907-495-6338 E-Mail: rjburk@alaska.net

cc: All Members of the House Resources Committee.

Representative Bill Hudson, Co-Chair

Representative Scott Ogan, Co-Chair

Representative Beverly Masek, Vice-Chair

Members:

Representative Ramona Barnes

Representative Fred Dyson

Representative Joe Green

Representative Bill Williams

Representative Irene Nicholia

Representative Reggie Joule

Don Sherwood, President, Alaska Boating Association



ALA

Post-It® Fax Note	7671	DATE	1/23/97	# OF PAGES	1
To	Public Affairs	From	FBI LIO		
Co/Dept	State	Co			
Project	WRITTEN TEST	Project	WRITEN	FOR	
Case	HB23 Telephon	Case	FORWARDED	1/23/97	

URE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Resources/Finance  
 COMMITTEE ON HB23 ~~access~~ access DATED 01-23-97  
 BILL SUBJECT COMMITTEE NAME

As a horseman for over 1/2 century and a user of public lands, I ask that you pass HB23 out of committee and on ~~to~~ the floor for a vote. Access to and use of public lands are continually being lost - mostly thru department regulations. This bill, while protecting public land and resources, also protects the public's right to and use of our (the public) land. The recent attempt by the Division of Parks to deny access and use to many lands under its control is one example of the "locking up" of Alaska by its own government.

As <sup>to</sup> ~~no~~ clarifying wording for the bill, on line 23, 27, and 28 after the word including you should add the words - "but not inclusive to" this will cover uses ~~or~~ <sup>or</sup> means that may have been over looked. Again, please pass HB23 <sup>to</sup> assure access to and use of public lands by the public.

SIGNED

TESTIFIER

Beverly A. Nester (Beverly A. Nester) (horse users)

REPRESENTING (OPTIONAL)

5765 Chena Hot Springs Road, Fbks. 99712

ADDRESS/PHONE NUMBER

907-488-6356

Karen Holt  
P.O. Box 489  
Talkeetna, Alaska 99676

January 19, 1997

To: Chairman Ogan  
for distribution to the members of the House Resource Committee  
Fax: (907)465-3265

Re: HB 23

The Department of Natural Resources has recently changed the Alaska State Park Regulations as they effect aircraft use in Denali State Park. Because of these regulation changes we can no longer land aircraft in Denali State Park east of the Parks Highway. At the same time, these regulation changes also allow helicopter landings in five specific areas of the Park.

I appreciate the beauty of Denali State Park and understand the necessity for this land to be protected both for and from those who enjoy it. Denali State Park is a major component of the state park system, which exists primarily to serve Alaska residents. Alaska already has more than 50 million acres of national park land that is set aside for the tourism industry. Our state park land should be for the purpose of accessible recreation for Alaska residents, and not be managed with all the same restrictions that go along with the national park lands.

This regulation change divides the Alaska resident user groups, and through liberal helicopter access leaves the door wide open for the large scale tourism industry. Princess Tours clientele now has better entrance to Denali State Park than those Alaska residents who choose to use airplanes to access alpine country of the park.

I support any legislation that will prevent a major commercial user of state park land getting better access than Alaskan residents.

Sincerely,

  
Karen Holt



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3372

## Twentieth Legislature - First Session

### HB 23

"An Act relating to traditional means of access for traditional outdoor uses and to the classification and the sale, lease, or other disposal of state land, water, or land and water."

With over 100 million acres of state land in Alaska, sufficient opportunity exists to balance the interests of users of motorized means to access this land with the interests of homeowners, cabin owners, and other users who seek quiet recreation and enjoyment. Enacting HB 23 will make it more difficult to find this balance. The Alaska Environmental Lobby opposes HB 23 because it would contribute to this contentious land use issue by exacerbating conflict; in addition, HB 23 would:

- essentially prohibit the Department of Natural Resources from protecting the intrinsic values, such as quiet and wildness, of land it manages from the intrusion of motorized activities without the authorization of the legislature. The administrative process for enacting land use decisions, with its requirements of public notice and hearing, is far more accessible to most Alaskans than is the legislative process,
- benefit commercial helicopter, airplane, and other motorized interests at the expense of those Alaskans and visitors who seek out the intrinsic values of our state lands,
- promote the great imbalance between the abundant amount of state land opened to unrestricted motorized use and the tiny amount that has limited motorized access,
- equate helicopters, ATV's, and airboats as "traditional uses" with canoes, snowshoes, and dog teams.

(OVER)

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH  
 ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL  
 DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU GROUP, SIERRA CLUB  
 KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS  
 KOTAI GROUP, SIERRA CLUB • KUKIADAKI AUDUBON SOCIETY • LEISURELAND CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER  
 RAMPART CONSERVATION ALLIANCE • SIKOTUIVILIK CONSERVATION SOCIETY • THE GREAT ALASKA CONSERVATION COUNCIL • TONGUE POINT CONSERVATION



P.O. Box 20761, Juneau, Alaska 99802

Phone/FAX (907) 789-2399

January 23, 1997

Representative Beverly Masek  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

Dear Representative Masek:

I am writing this letter on behalf of the Territorial Sportsmen in strong support for House Bill # 23 which you have introduced this session of the legislature.

The Territorial Sportsmen is a Juneau based conservation and sportsmen organization with a total membership of about 2,000. We are also one of the oldest conservation organization in Alaska and have always supported the wise use of Alaska's resources along with the maintenance of Alaska's unique features and traditions which include the opportunities to hunt, fish and trap.

One of the growing problems in Alaska is the loss of access to public lands. Over 60% of Alaska is now managed by the federal agencies who have chosen to apply overly restrictive prescriptions on traditional Alaskan access means. Although we do not object to access restrictions where there is a true habitat or biological problem, we vehemently oppose restrictions done exclusively to fit the protectionist philosophy of the unit manager -- an all too frequent occurrence.

We support this legislation because it attempts to assure that legitimate access for traditional Alaskan access will be protected on state lands. It also emphasizes the need for state planners and managers to examine a statewide perspective. Millions of acres of federal lands are managed to protect intrinsic values at the expense of traditional Alaskan activities. Despite these massive withdrawals, state managers are frequently faced with proposals to duplicate these restrictions on state lands and the accumulative impacts on Alaskans and traditional lifestyles have been extreme.

We urge the legislature to pass this legislation

Sincerely,

A handwritten signature in cursive script that reads "Ron Somerville".

Ron Somerville  
President



JAN 2 1997

**ALASKA MINERS ASSOCIATION, INC.**

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 275-7997 Telephone (907) 276-0347

Honorable Bill Hudson  
Honorable Scott Ogan  
Co-Chairmen  
House Resources Committee  
Capitol Building  
Juneau, AK 99801

January 22, 1997

RE: House Bill 23, Traditional Access

Dear Representatives Hudson and Ogan,

Thank you for the opportunity to comment on House Bill 23 which addresses the need to protect traditional means of access. We have reviewed this bill and are in support of it with one minor change.

As now written, Section 4 of the bill provides for restricting access when mining claims have been converted into mining leases. However, it does not provide for restricting access where mining occurs on claims that have not been converted to lease. The miner is not required to convert to a lease. Large operations will typically convert to a lease, whereas, small operations will normally stay with mining claims.

Given the title of 38.05.316. "Restriction on outdoor activities upon sale, lease, or other disposal of land and water", we are not sure how to best include access restrictions when mining claims are involved.

Unless there is a change, it may be difficult to restrict access on mining claims that may have areas that could be dangerous to the public. Water diversion ditches, surface mine pits, power cables for equipment, flyrock from blasting, etc. are all potential hazards to the public. Also, it must be noted that federal law requires that the mine operators control access and keep the public from potential hazards.

A change is needed to insure that restricting access to mining claims is allowed. Thank you for the opportunity to comment and we look forward to reviewing some alternate language to address this issue.

Sincerely,

Steven C. Borell, P.E.  
Executive Director

cc: Representative Beverly Masck

Interior Alaska Airboaters Association, Inc.  
5442 Delta Road  
Fairbanks Alaska 99701

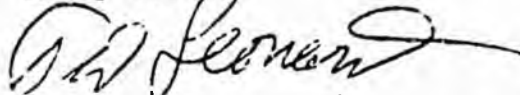
January 22, 1997

To: Representative Masek  
fax: 907-465-4822

We strongly support House Bill No. 23. This bill is needed to counteract the ever increasing restrictions on access to our public lands and waters for recreational and subsistence purposes by the average man.

We hope that our legislators will all join in voting to pass this bill and its companion Senate Bill No. 35.

Very Truly Yours,



Ted Leonard, Secretary/treasurer  
Interior Alaska Airboaters Association, Inc.



# Resource Development Council for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035  
(907) 276-0700 Fax: (907) 276-3887 e-mail: rdc@aonline.com

Founded 1975

**EXECUTIVE DIRECTOR**  
Becky L. Gay

**1996-97 EXECUTIVE COMMITTEE**

Soot L. Thorson, President  
Allen Bingham, Sr. Vice President  
John Sturgeon, Vice President  
Gerald G. Booth, Secretary  
Michael E. Stone, Treasurer  
Jacob Adame  
Cynthia Bailey  
Charlie Boddy  
James F. Branch  
Frank Brown  
Dennis Egan  
Roy S. Ewan  
Mans Frey  
Paul S. Glevinovich  
Uwe L. Gross  
David J. Parush  
William E. Pierce  
Elizabeth Remach  
Jerome M. Selby  
Thyes J. Shaub  
Robert B. Stiles  
Clyff R. Tare

**DIRECTORS**

Walt Abbott  
Irene A. Anderson  
Ernesta Ballard  
Richard F. Barnes  
Rex I. Bishopp  
James E. Carmichael  
James L. Cloud  
Jeffrey J. Cook  
Edward E. Crane  
Merlyn Crockett  
Lary Daniels  
John T. Donohue  
James V. Drew  
Paula P. Easley  
Bill Elander  
Donald S. Follows  
William B. Goodhard  
Lennie Gorsuch  
Elary Gromoff, Jr.  
Arvid Hall  
John L. Harris  
Robert S. Hatfield, Jr.  
Joseph R. Henn  
Karen J. Hofstad  
David W. Hughes  
Jim Jansen  
John T. Kelsey  
John Key  
John A. Landrum  
Pete Leonard  
Dale R. Lindsey  
Robert W. Loescher  
Frank E. McQuerry  
H. Raymond Measles  
Clarence "Rocky" Miller  
Wesley P. Nelson  
John K. Norman  
Wilbur O'Brien  
Michael O'Connor  
Kenneth E. Peavyhouse  
Kenneth R. Pohle  
Troy Reinhardt  
John A. L. Remse  
Ronald L. Rickerts  
Walt P. Schlotfeldt  
George R. Schmidt  
John Stein  
William A. Thomas, Jr.  
Scott P. Thompson  
Barry D. Thomson  
Leo A. Walian  
David W. Walter  
Douglas M. Webb  
J.C. Wingfield  
George P. Wuerch  
Eric P. Youid

**HONORARY DIRECTORS**

Phil R. Holdsworth  
William R. Wood

**EX-OFFICIO MEMBERS**

Senator Ted Stevens  
Senator Frank Murkowski  
Congressman Don Young  
Governor Tony Knowles

January 21, 1997

Representative Bill Hudson, Co-Chair  
Representative Scott Ogan, Co-Chair  
House Resources Committee  
State Capitol  
Juneau, AK 99801-1182

**RE: Support for HB 23, an act relating to Traditional  
Means of Access for Traditional Outdoor Uses.**

Dear Representative Hudson & Ogan:

The Resource Development Council (RDC) encourages your prompt consideration of HB 23, an act relating to traditional means of access for traditional outdoor uses.

Access to Alaska's vast lands is a major priority of RDC. It is imperative Alaska retain the widest possible range of multiple uses on its lands and preserve as many options as possible for access, especially traditional access for recreation and other uses.

Access is a paramount concern to RDC in light of the fact that so much of Alaska's federal and State conservation units are already managed for the preservation of backcountry qualities for those who demand solitude and untracked wilderness experiences. Alaska's parks, both state and federal, can contribute a great deal to tourism and local recreational needs, but reasonable access must be permitted. Tourism demands access and infrastructure to accommodate growing numbers of visitors, and these visitors, as well as local residents, demand a wide variety of opportunities, including flightseeing and aircraft landings.

This legislation would make the process of increasing access restrictions and prohibitions more open to the people of Alaska. HB 23 would help ensure that all Alaskans would have proper representation by their elected officials in cases involving restrictions on traditional recreational access. Important access decisions would be kept at the legislative level where they will be debated openly.

Traditional forms of access, including aircraft, snowmobiles and boats, are an essential element in Alaska's unique access

Page 2/ RDC support for HB 447

June 27, 1996

equation. Alaskans are very defensive of their rights to access the vast public lands of this northern state.

Thank you for considering RDC's position on this bill, which deserves your support.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL  
for Alaska, Inc.



Becky Gay  
Executive Director

January 22, 1997

Representative Beverly Masek  
Alaska House of Representatives  
State Capitol, Interdepartmental Mail Stop 3101  
Juneau, AK 99801-1182

Dear Representative Masek:

I am writing in response to your proposed legislation on traditional means of access for traditional outdoor uses, HB0023. I am a 30 year plus resident of Alaska and have used the public lands and waterways for years on an ongoing basis for recreational uses and for consumptive use hunting and fishing.

I strongly urge that continued access to public lands remain open to traditional uses for all citizens. If ever it becomes necessary to impose reclassification of uses or impose restrictions, limited or otherwise, it is important that the reclassification or restriction apply to ALL USERS and not only to singled out groups. This can only be assured if the power to make these decisions is placed into the hands of the Legislature. Too many times we have gone before the state agency representatives in a Public Hearing process and had the decision that finally is made on the issue be made for the convenience of the agency. Time and time again, these decisions have totally gone against the majority of the testifiers. It has become a mockery to the system and the citizen is becoming complacent to even testify, because they know that too often, their view will be ignored, even if it is in the majority view. The legislature is under the control of the citizen voter of this state and we, the users, can and do have control of who makes up that body. Currently we can do nothing about the bureaucratic individuals that control decisions being made for us at the agency level. It is critical that the control of these decisions become a legislative process.

One area of access to public lands that is too often overlooked is concern for the elderly and/or disabled citizen. I myself have limitations due to physical disabilities. Motorized access continues to be attacked. It is all well and good that certain citizens want their "remote experience" free of noise or other distraction. We who are limited certainly feel discriminated against by this thought process. It seems truly discriminatory to restrict an elderly or disabled citizen from access to the same public use area as anyone else, simply because the sound of a motor may infringe upon someone else's "experience". Are these same people traumatized when their neighbor uses a power lawnmower in the summer or a snowblower in the winter? This area too often is not mentioned when access becomes discussed. The limited individuals rights must not be overlooked.

Page Two(2), 01/22/97, To Rep Masck from R. Burkhart, re.: HB0023

I STRONGLY SUPPORT HB0023. I want to thank you, once again for your sponsorship of this very worthwhile legislation. Please keep me informed of any other legislation which I can be supportive of.

Yours truly,



Roy J. Burkhart  
Member, Board of Directors, Alaska Boating Association  
Legislative Affairs Officer, Alaska Boating Association  
P.O. Box 204  
Willow, AK 99688-0204  
Voice: 495-6337, FAX 495-6338, E-Mail. [rjburk@alaska.net](mailto:rjburk@alaska.net)

cc: Members of House Resources Committee

Rep. Bill Hudson, Co-Chair  
Rep. Scott Ogan, Co-Chair  
Rep. Ramona Barnes  
Rep. Fred Dyson  
Rep. Joe Green  
Rep. Bill Williams  
Rep. Irene Nicholia  
Rep. Reggie Joule

Don Sherwood, President, Alaska Boating Association

January 22, 1997

Representative Beverly Masek  
Alaska House of Representatives  
State Capitol, Interdepartmental Mail Stop 3101  
Juneau, AK 99801-1182

Dear Representative Masek:

This letter is in response to your proposed HB0023 relating to traditional means of access for traditional outdoor uses. I wish to thank you for sponsoring this worthwhile legislation. This bill is not only important to me as an individual who uses the outdoors on an ongoing and frequent basis for both recreational uses and as a consumptive user fisher and hunter, but, we know of many cases where the ability to have freely open access is critical to the on going assurance of livelihood for other fellow Alaskan friends and associates.

It is important that the control of access to public lands be placed under the close scrutiny and decision making control of the Legislature. These are the people who make the laws and are responsible for seeing they are properly and fairly enforced. If the decision authority remains in the hands of the state employee bureaucrats all control and effective enforcement can and will become lost to the people who are most affected by those decisions. We, the user and citizen, have no control over these bureaucratic individuals and must bow to the consequences of their arbitrary decisions. If the control is placed into the hands of the legislature, we have control in that we can and do make the decision as to which individuals remain in control every time we step into the election booth. Also, the public opinion process has become a mockery. We have time and time again gone in and testified...with overwhelming numbers in support of/or against a specific decision or proposal and the result has been that the agency has gone ahead and effected some decision totally disregarding the testimony. This is a mockery of the system that we have available to us. If this system was working there would be no need for you to be proposing this very legislation and there would be no reason for us spending our time and effort to support you on this matter. The truth is the system is not working and it is time that the citizens of this great state of ours work with the legislature to effect a change.

Access to public lands and waterways should remain open to traditional uses for all citizens of this great state of ours. When it becomes necessary to impose restrictions, for whatever feasible reason, the restriction or reclassification should apply to ALL USERS and not single out single or specific groups of users. And, as stated before, should only be imposed if imposed by legislative decision.

Page Two(2), 01/22/97, To Rep. Masek from E.J. Burkhart, re: HB0023

Thank you for your efforts and continue to keep me informed of any and all related legislation I can support you on.

I SUPPORT HB0023, and commend your sponsorship of this legislation

Yours Truly,



E. June Burkhart  
Member, Board of Directors  
Alaska Boating Association  
P O Box 204  
Willow, AK 99688-0204  
Voice: 495-6337, FAX 495-6338, E-Mail. [rjburk@alaska.net](mailto:rjburk@alaska.net)

cc: Members of House Resources Committee

Rep. Bill Hudson, Co-Chair

Rep. Scott Ogan, Co-Chair

Rep. Ramona Barnes

Rep. Fred Dyson

Rep. Joe Green

Rep. Bill Williams

Rep. Irene Nicholia

Rep. Reggie Joule

Don Sherwood, President, Alaska Boating Association



Contrary to the current process, *this bill would place the responsibility for such measures in the hands of those representatives who the people elect.* Even though this may become somewhat of a tedious burden, the legislature is the appropriate avenue.

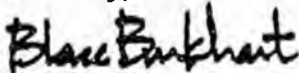
It may appear a somewhat ridiculous analogy, but I would remind you that this country (and others in the world) has fought several wars throughout history. Many of these, in one respect or another, involved freedom of the seas. No country wanted another to impose restrictions on their use of international waters. Likewise, Alaskans are getting tired of state agencies doing basically the same thing. If restrictions are necessary, let the people we elect make those decisions.

In closing I would like to address one argument I am sure will surface during discussions of this bill. In the recent movement to restrict snowmachine access at Curry Ridge, near Denali National Park, public testimony was heard on the matter. Ultimately the closure was not implemented. Opponents of this bill may point to that example as a means of defending the status quo - saying "see - the public opinion process works".

I can tell you from experience there was far less public testimony on that issue than was received on many others. I believe the real reason the closure was not implemented is the fact that you had already pre-filed this bill at that time. I wonder what would have come about had that not been the case.

**I SUPPORT HOUSE BILL NO. 23**

Sincerely,



Blase Burkhart

Secretary - Alaska Boating Association

Interior Alaska Airboaters Association, Inc.  
4542 Palm Road  
Fairbanks, Alaska 99701

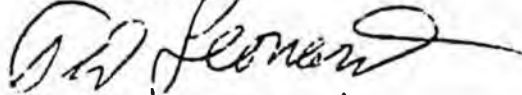
January 22, 1997

To: Representative Masek  
fax: 907-465-4822

We strongly support House Bill No. 23. This bill is needed to counteract the ever increasing restrictions on access to our public lands and waters for recreational and subsistence purposes by the average man.

We hope that our legislators will all join in voting to pass this bill and its companion Senate Bill No. 35.

Very Truly Yours,



Ted Leonard, Secretary/treasurer  
Interior Alaska Airboaters Association, Inc.




ALASKA AIRMEN'S ASSOCIATION., INC.

## RESOLUTION

The Alaska Airmen's Association hereby resolves that the Alaska Legislature adopt proposed House Bill No. 23 dealing with traditional means of access for traditional outdoor uses which shall include access by small private as well as commercial aircraft.

So Resolved this 22 day of January, 1997

  
John Spalding, President  
ALASKA AIRMEN'S ASSOCIATION, INC.



**Alaska State Snowmobile Association**

**PO Box 210427  
Anchorage, AK 99521-0427  
1-888-825-1663**

---

To: Representative Scott Ogan  
House Resource Co-chair

From: Jana Littlewood  
President, Alaska State Snowmobile Association

Date: 1/22/97

Re: HB 23

---

The Alaska State Snowmobile Association fully supports HB 23 and would appreciate the House Resource Committee's efforts to ensure this bill makes it to the House floor early this session.

The issue of Alaskan's rights to access state lands for recreational use is an issue the members of our organization are watching closely.

We appreciate your efforts in this matter.



January 21, 1997

Re: HB 23

To Whom It May Concern.

Mat-Su Motor Musers is a family-oriented snowmachine club encompassing the Mat-Su Borough, representing approximately 500 members. In the past, we have strenuously opposed closing public land areas to motorized access. Our mission statement reflects our commitment to public access to public lands and we support HB23 as a mechanism to protect access for all Alaskans.

Thank you for this consideration.

Sincerely,

*Glenda Smith*

Glenda Smith  
Legislative Chair



# ALASKA OUTDOOR COUNCIL

P.O. BOX 2790  
PALMER, AK. 99645  
(907) 376-2913

Jan. 17, 1996

The Honorable Scott Ogan, Co-Chair  
The Honorable Bill Hudson, Co-Chair  
House Resources Committee  
Alaska State House  
Juneau, Ak. 99801

Dear Rep. Ogan & Hudson:

The Alaska Outdoor Council fully supports efforts to protect public access for all Alaskans. Rep. Beverly Masek's efforts over the last two years with HB 447, and now with HB 23 are very much appreciated by Alaskans everywhere.

The Alaska Outdoor Council represents over 45 outdoor groups with a membership of around 12,000. Our interests are sound, scientifically based wildlife management, equal access to public resources and public access to common property resources.

The need for HB 23 has become more and more apparent over the past few years as the administration continually attempts to institute unwarranted restrictions on Alaskans wishing to access public lands and waters. Without such measures, we believe traditional Alaskan activities will continue to be restricted without justification

~~Since HB 23 is essentially the same as last year's HB 447, and since that legislation passed both Houses of the Legislature with overwhelming bipartisan support, the Alaska Outdoor Council urges you to expedite the movement of this legislation at your next convening.~~

Thank you for your time and attention to this important issue, it is very much appreciated.

Sincerely,

Rod Arno, President



## Tanana Valley Sportsmen's Association

INCORPORATED

P. O. Box 799

Fairbanks, Alaska 99707

Phone (907) 474-0437

January 20, 1997

The Honorable Beverly Masek  
Alaska State House of Representatives

Dear Representative Masek:

The Tanana Valley Sportsmen's Association supports the intent of House Bill No. 23. The proliferation of both Federal and State restrictions on access to and on public lands is abominable. The impunity which non-elected officials circumvent the public's wishes is an embarrassment to our system of government.

The provision for temporary restrictions, AS 38.05.300 (d) (1), is not acceptable. It would allow 80 days each year for three years. This effectively precludes traditional access for hunting, trapping, berry picking, mushroom gathering, firewood cutting etc. at peak use periods. Prime time for berry picking, mushroom gathering, is usually only a few days to a few weeks a year. Moose seasons over much of the State are only 2 to 4 weeks long. Caribou may be available in an area for only a few days as they migrate through.

The State has access restrictions off of the Dalton Highway which are strictly designed to accommodate some peoples sensibilities and are unrelated to maintenance of the habitat or conservation of renewable or non-renewable resources. AS 38.05.300 (d) (1) must be eliminated or shortened to 10 days or less.

Sincerely,

Oliver "Bud" Burris,  
Chairman, Legislative Affairs Committee



January 17, 1997

---

Alaska Boating Association • P.O. Box 210430 • Anchorage, Alaska 99521

---

Representative Beverly Masek  
Alaska House of Representatives  
State Capitol, Interdepartmental Mail Stop: 3101  
Juneau, AK 99801-1182

Dear Representative Masek:

This letter is in response to your proposed HB0023 relating to traditional means of access for traditional outdoor uses. At a regularly scheduled meeting of the Alaska Boating Association held on January 16, 1997, our organization voted unanimously to support your efforts and to strongly urge this legislation be passed. This letter is to communicate to you the organizations official position on this legislation.

In addition, many of our individual members will be corresponding with individual letters, POM's, testimony at teleconferences, etc. This bill is important to all members of our organization since traditional means of access is not only important to us for recreational considerations; but, in some cases is vital to some members livelihood.

Thank you for your efforts and continue to keep us informed of any and all related legislative matters we can be effective in supporting.

Yours truly,

Roy J. Burkhart, Legislative Affairs Officer  
Alaska Boating Association  
Voice: (907)495-6337 FAX: (907)495-6338 E-Mail: rjburk@alaska.net

cc: Donald Sherwood, President, Alaska Boating Association

- Dedicated to the rights of Alaskan Boaters -



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

### Beverly Masek

Official Business

State Capitol  
Juneau, AK 99801  
(907) 465-2679

## HB 23

### SPONSOR STATEMENT

#### "ACCESS PROTECTION BILL"

House Bill 23 addresses an increasingly troublesome problem involving public policy relating to the ability of Alaskans to access and utilize common property resources. This legislation will allow the Legislature to address concerns over access to state lands and waters where proposed administrative action involves significant areas of public interest.

Currently the administration may close public access onto state lands and waters regardless of whether Alaskans agree with such policy actions. This situation has led to the exclusion of many traditional uses in areas of public interest when some members of the bureaucracy felt it necessary to impose restrictions on those uses they viewed as socially incompatible or unacceptable.

The legislature has traditionally been responsible for implementing statutes designed to protect lands, waters and resources. However, there are no statutes which provide for the protection of the public's ability to access these common property resources. I feel this is an important public policy question which should rightly come under legislative purview.

HB 23 will allow the administration to affect public access on small areas, or for short periods of time. However, larger areas (more than 640 acres), or restrictions lasting for long time periods (more than eight months in a three year period) would be subjected to legislative approval.

HB 23 includes language which will give the Legislature the authority to protect traditional access for traditional uses, including subsistence activities. Furthermore, this legislation was crafted so as not to impede land disposals, mining, timber harvest or other resource development. Language has been inserted which allows development interests for safety reasons to "control and direct public access through developed properties", and to provide for "reasonable access alternatives".

In addition to enthusiastic individual support, the following groups representing in excess of 25,000 Alaskan outdoor users support HB 23: Alaska Marine Dealers, Resource Development Council, Alaska Visitors Association, Alaska Air Carriers, Alaska Airmen's Association, Alaska Bow Hunters, Alaska Snowmobile Assoc., Alaska Boaters Assoc., Mat-Su Motor Musers, Mat-Su Boaters, Alaska Outdoor Council, Territorial Sportsmen, Alaska Outdoor Council, Ketchikan Sport and Wildlife Club, and Mat Valley Sportsmen.

HJR

24

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

NO. \_\_\_\_\_  
BILL VERSION: HJR 24  
PUBLISH DATE: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Relating to challenging the environmental  
and economic integrity of Alaska timber as Christmas...  
Sponsor: Representative Williams  
Requestor: House Resources

Department Affected: Legislative Affairs Agency  
BRU: All  
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852  
Division: Administrative Services Date: 3/6/97

Approved By: Pamela A. Varni, Executive Director *Pamela A. Varni*  
Agency: Legislative Affairs Agency Date: 3/6/97

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

# Alaska State Legislature

## Committees:

Transportation, Chairman

Resources

Economic Development

Rules



Representative William K. Williams  
**MEMORANDUM**

During Session  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3424  
Fax (907) 465-3793

In Ketchikan  
352 Front Street  
Ketchikan, AK 99901  
(907) 247-4672  
Fax (907) 225-8546

TO: Representative Bill Hudson, Co-Chair  
House Resources Committee

FROM: Representative Bill Williams, Chair *Bill*  
House Transportation Committee

DATE: February 25, 1997

RE: Hearing request for HJR 24, opposing harvest of Tongass  
trees for Capitol Christmas trees

---

Would you please schedule, at your earliest convenience, House Joint Resolution 24, relating to challenging the environmental and economic integrity of Alaska timber as Christmas decor for the United States Capitol.

HJR 24 points out the hypocrisy of harvesting trees from the Tongass for Christmas celebrations while harvesting trees for the economic benefit of Southeast Alaskan's is being severely restricted.

If you have any questions, please contact my aide, Peter Ecklund at X5141.

Thank you

# Alaska State Legislature

Committees  
Transportation, Chairman  
Resources  
Economic Development  
Rules



Representative William K. Williams

During Session  
State Capitol  
Juneau, AK 99801-7182  
Phone (907) 465-3424  
Fax (907) 465-3793  
  
In Ketchikan  
352 Front Street  
Ketchikan, AK 99821  
Phone (907) 247-4672  
Fax (907) 225-5546

## Sponsor Statement

### House Joint Resolution 24

House Joint Resolution 24 was introduced in response to the Clinton Administration's proposal to harvest trees from the Tongass National Forest for the purpose of decorating the nation's capital during the 1998 Christmas season.

Under normal circumstances this proposal would be met with open arms and be considered an honor by the people who live and work in the Forest. However, these are not normal circumstances. Federal policy decisions, the inability of the Forest Service to get timber volume out, and litigation has led to mill closures, widespread job loss and economic depression, not to mention the associated negative socio-economic impacts.

I consider the proposal a direct insult to the people of Southeast Alaska. These are people who are prohibited from making an honest living in the woods, yet are asked to harvest Christmas trees, send them back east AND fund the project. At a time when we need every single dollar we have to try and rebuild our economy it is incredible that the Federal Government would ask us to fund such a project.

We need to send a strong message to Washington that says we do not agree with their actions regarding the Tongass National Forest. The human cost of 'saving the Tongass' has been too high. We do not agree with their taking of trees for decorative purposes while the jobless citizens of Southeast Alaska try to scrape enough money together to save their homes and dreams. I urge you to support House Joint Resolution 24.

10: Jerry  
5/20/99

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE WILLIAMS

TO: HJR 24

1 Page 2, lines 4 -6:

2 Delete all material and insert:

3 "WHEREAS even with the recent signing of a 3 year contract  
4 to supply wood to Southeast Alaska's 2 largest remaining sawmills,  
5 consistent supply remains a concern for their continued  
6 existence; and

7 WHEREAS over 60 percent of Southeast Alaska's timber-  
8 related jobs have been eliminated since 1990; and"

Jerry - please work up a  
CS Resources final for HJR24.

Many Thanks -  
Marlene x6820

John Conley  
Member Ketchikan Gateway Borough Assembly  
P O Box 8462 Ketchikan, Alaska 99901

State of Alaska  
House Resources Committee  
Testimony in Support of HJR 24

As you consider Mr. William's resolution please remember the amount of available timber lands we as a State have lost through federal intervention.

In 1971 460,000 acres were lost, 1980 1,640,000 acres were lost, in 1990 689,000 acres were lost, 1991 1,480,000 acres were lost and the TLMP preferred alternative proposes a further reduction of 500,000 acres

Since the last great compromise, the Tongass Timber Reform Act of 1990 we have lost over 2000 timber jobs in Southeast Alaska. And on March 24 1997 Ketchikan will lose another 450 jobs.

You as Legislators must be concerned about the federal intrusion upon our States right to the use of all of Alaska's natural resources for jobs and community stability.

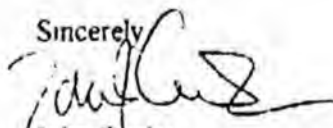
The request by the President of the United states is offensive to the people of South East Alaska who's lives have been severely impacted by the Clinton administration policy towards timber harvest on the Tongass National Forest

One must ask, are the Tongass trees to be displayed as trophies for the economic kill to timber communities in South East Alaska? If so then 60 is not enough 2500 would be a good start A tree for every displaced timber worker

What's next our fish to feast upon. Our minerals to be fashioned as environmental ornaments. Or our mighty glaciers to chill the Presidents refreshments.

Please represent us by sending a clear message that in Alaska our natural resources are to be used in a responsible manner To create jobs and stable economies Not environmental trophies to be displayed to the world

Sincerely



John Conley



File Code: 1600

Date: January 28, 1997

Gail Phillips, Speaker of the House  
Mail Stop 3100  
State Capitolard Street  
Juneau, AK 99801-1182

RECEIVED

JAN 31 1997

Ans'd.....

Dear Speaker Phillips:

Southeast Alaska has been given an honor and an opportunity - and a challenge. We would like to invite you to share in it.

The Tongass National Forest has been chosen to provide the Capitol Holiday Tree in 1998. This marks the first time the state of Alaska has been chosen for this honor. This tree will be a gift to all the people of America from the people of Southeast Alaska. Decked with thousands of ornaments made by children and adults from across Southeast, this tree will stand proudly in front of the nation's Capitol, to be enjoyed by Washington, DC, residents and visitors alike.

Along with the honor of providing the Capitol Tree comes the opportunity to generate national publicity about the people and resources of Southeast Alaska. Perhaps even more important, it is an opportunity for the diverse people living and working throughout the Tongass to come together on a project. Everyone can participate. Not only will we provide a 60-65' tree to shine over the Capitol lawn, we will also provide up to 60 smaller trees to decorate administrative and congressional offices. Thousands of ornaments will also be made and sent with the trees.

The honor and the opportunity are also the challenge. Never before has the Capitol Tree had so far to travel. Never have the logistics of coordination and transportation been so unique. Never have the participating communities been so physically isolated one from another as in Southeast Alaska.

This is not solely a Forest Service project. Because this tree and everything that goes with it are indeed from all the people of Southeast Alaska and because your organization represents people from one end of Southeast to the other, your participation will contribute greatly to the success of this effort. We'd like you to be part of a core group to lead the project. The Forest Service is available to provide technical support and coordination with the people in Washington who will receive and put up the tree and with people who have helped with the trees in the past. The core group will bring their organizational skills, imagination, and local and corporate contacts together to make this a great moment for Alaska.

We ask that you or your representative work with a core group to provide overall project management - from developing a theme and logo, to involving individual communities in ornament making and fund raising, to working out the best way to get the trees and ornaments (with the accompanying publicity and good will) across the country. As with any project of this scope, the core group won't do all the work. Their job is to organize it, keep it on track, and make sure Alaska is proud when the Speaker of the House throws the switch to light up the Alaska tree in December 1998.



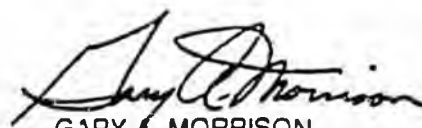
Merrily Jones of our Petersburg office has agreed to take the lead for the Forest Service and will be our representative to this core group. She'll help get the core group up and running. Once the group is organized, Merrily will share information from project coordinators of the last several years and also do her share of the group work.

Please contact Merrily at 907-772-5801 with your response by February 10. That will give the core group time to get started before the summer rush makes it difficult to put the project in motion.

We look forward to working with you to bring the spirit of Southeast Alaska to the people of America.

Sincerely,

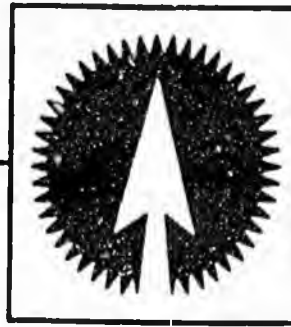
  
ABIGAIL R. KIMBELL  
Forest Supervisor  
Stikine Area

  
GARY A. MORRISON  
Forest Supervisor  
Chatham Area

  
BRADLEY E. POWELL  
Forest Supervisor  
Ketchikan Area

*Letter sent to:*  
Association of Alaska School Boards  
Boy Scouts of America  
Girl Scouts, Tongass Council  
Society of American Foresters  
Southeast Alaska Tourism Council  
Southeast Conference  
Southeast Mayors' Association  
Governor, State of Alaska  
President of the Senate, State of Alaska  
Speaker of the House, State of Alaska  
Tlingit-Haida Central Council





## FOR IMMEDIATE RELEASE

February 20, 1997  
Contact: Jack Phelps, Executive Director

### ALASKA FOREST ASSOCIATION PROTESTS CLINTON CHOICE OF TONGASS CHRISTMAS TREES

Calling President Clinton's decision to request Christmas trees from the Tongass to decorate the White House in 1998 "insulting beyond belief," Alaska Forest Association Executive Director Jack Phelps today joined Senator Robin Taylor and Representative Bill Williams in protesting the Clinton announcement. At a press conference this morning at the state Capitol, Taylor and Williams unveiled twin resolutions to be introduced Friday officially protesting the "administrative taking" of some 60 ancient trees from Alaska's Tongass National Forest to decorate Washington D.C. during the 1998 Christmas celebration.

"The White House has now added insult to injury to the timber workers, their families and the timber dependent communities of Southeast Alaska," Phelps said. "This is the administration whose policies have severely crippled the economy of our region on the premise that the Tongass forest must be overprotected. This is the administration that operates on the philosophy that crickets and rats are more important than people. This is the administration that strong-armed its own agency last year into reversing a perfectly good defense in a lawsuit brought by the extremist anti-logging crowd and kept nearly 300 million feet of environmentally approved timber away from mills that were desperately short of wood. And now they want us to cut some of our trees at our expense and ship them to Washington at our expense so that they can sing and dance in their Fantasyland world on the Potomac while Alaskans go hungry? This is insulting beyond belief. Senator Taylor and Representative Williams are doing the right thing, and I applaud their efforts."

