

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9407 HOUSE RESOURCES

AS

also gives the executive branch broad authority to develop programs. Such authority, however, was given specifically to Congress, not the President, and Congress has not delegated such powers explicitly to the President. Consequently, citing the NEPA as the legal basis for implementation of the AHRI is questionable.

The Federal Land Management and Policy Act

Even if it can be argued successfully that President Clinton's action is consistent with the purpose of the NEPA, the NEPA, as written, does not trump the requirements of other statutes. And, in the case of the Federal Land Management and Policy Act, the President is expressly restricted in his ability to designate or manage federal lands. Congress enacted the FLMPA in 1976 in order to reestablish its authority over the designation or dedication of federal lands for specified purposes, and to circumscribe the authority of the President and executive branch to manage federal lands.¹³

In the FLMPA, Congress declared that "it is the policy of the United States that Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes" and delineate the extent to which the executive branch may withdraw lands without legislative action.¹⁴ Congress thus asserted its authority to create, modify, and terminate designations for national parks, national forests, wilderness, Indian reservations, certain defense withdrawals, national wild and scenic rivers, national trails, and other national recreational areas and national seashores.¹⁵

In fact, Congress has not withdrawn, designated, or dedicated any federal lands for President Clinton's American Heritage Rivers Initiative, nor has it authorized the development of the program by the executive branch. The legislative process for obtaining a favored status designation for federal land and resources is clearly established. Consider, for example, the Wild and Scenic Rivers Act adopted by Congress on October 2, 1968.¹⁶ The act provides for the selection, by Congress, of American rivers that, along with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. The rivers selected are protected for the benefit and enjoyment of present and future generations.¹⁷ Since 1968, Congress has designated 154 Wild and Scenic Rivers under this act, amounting to 10,814 miles of river.¹⁸ In fact, Congress acted as recently as November 12, 1996, when it designated 11.5 miles of the Lamprey River in New Hampshire and 6.4 miles of the Elkhorn Creek in Oregon,¹⁹ following the designation of 51.4 miles of the Clarion River in Pennsylvania on October 19, 1996, as part of the Wild and Scenic Rivers program.²⁰ Congress is currently considering legislation to designate three more rivers. Representative Norman Dicks (D-WA) introduced H.R. 1477 to designate 51 miles of the Columbia River in Washington State; Senator Patty Murray (D-WA) introduced a companion bill (S. 200) in the Senate. Representative Martin Meehan (D-MA) introduced H.R. 1110 to designate the Sudbury Assibet and Concord Rivers in Massachusetts for the Wild and Scenic Rivers program, and Senator John Kerry (D-MA) introduced the companion bill (S. 469) in the Senate. Clearly, when Members of Congress believe there is reason to act, they will act.

If President Clinton wants to see his initiative implemented properly, then he first should propose legislation to Congress and allow Congress to approve or reject the initiative based on the merits of the proposal and the will of the people. Because Congress has not designated or dedicated any federal lands for the AHRI, or authorized the development of the AHRI, the actions of the President in creating and implementing the AHRI through Executive Order No. 13061 violate the FLMPA.

12. *Ibid.*

13. 43 U.S.C. § 1701(a).

14. 43 U.S.C. § 1701(a)(4).

15. *Legislative History, The Federal Land Policy and Management Act of 1976* (Public Law 94-579), Vol. 1 at 439 (1978).

16. 16 U.S.C. §§ 1271 *et seq.*

17. *Ibid.*

18. *Wild and Scenic Rivers Reference Guide*, Interagency Wild and Scenic Rivers Coordination Council, 1997.

19. Public Law 104-333.

20. Public Law 104-314.

HOW THE AHRI THREATENS PROPERTY RIGHTS

The protection of personal property in the Constitution is under increasing assault by all levels of government. The right to own and use property free from unreasonable or arbitrary government interference is fundamental to American freedom and the U.S. Constitution. In fact, the Framers of the Constitution considered the protection of property rights so important that they included it in the Third, Fourth, Fifth, and Sixth Amendments. Today, in an era of almost daily documented cases of unreasonable and arbitrary interference by government agencies, it is not surprising that the Clinton Administration does not seem to recognize or agree with the Founders on the importance of individual property rights.

This lack of appreciation for personal property rights is an undercurrent in President Clinton's AHRI. The right of individuals who own property along designated rivers to use their property free from unreasonable and arbitrary government interference is threatened by the AHRI. The Administration has resisted adding a mandatory opt-in provision to allow the property of landowners along designated American Heritage Rivers to be included in a nomination only in cases in which owners have given their written permission. Such a provision would have shown that President Clinton indeed was concerned about the property rights of those Americans whose land is located along designated rivers. The lack of such a provision means property owners have no guarantee that their property rights are protected.

The regulation of wetlands under the Clean Water Act affects hundreds of thousands of acres of property across the United States. Implementing the AHRI will add hundreds of thousands of acres of dry land to the federal government's control in perpetuity. Rather than increase the access of people to federal resources and protect their rights, the AHRI will increase the access of federal bureaucrats to private property across the United States.

HOW THE AHRI TREADS ON STATES' RIGHTS

The Founders believed that government closest to the people works best. The Tenth Amendment addresses the empowerment of state and local communities to govern. It recognizes that the federal government—as an entity—should have only limited powers, and that its powers should be specifically enumerated. Water rights and land-use planning are not stipulated powers of the federal government; historically they are subject to regulation and control at the levels of state and local elected government. As Chief Justice William Rehnquist has argued, taking the control of water from the legislatures of the various states and territories at the present time would be nothing less than suicidal. If the appropriation and use were not under the provisions of state law, the utmost confusion would prevail.²¹

President Clinton, through his executive order, is attempting to establish and exert federal control over something that clearly is under state jurisdiction. By allowing the intervention of the federal government through federal bureaucrats, known as "river navigators," who are appointed by the President, Executive Order No. 13061 will interject the federal government heavily into the local decision-making process.

The Clinton Administration claims that river navigators will not interfere in the local planning and zoning process, yet it resists incorporating a provision to prohibit them and all other federal employees involved with the initiative from intervening in local zoning and other decisions affecting private property and water rights. Such a provision would ensure that the states and local communities continue to control areas that are rightfully under their jurisdiction. The AHRI appears to be the program of a President who believes Washington, D.C., knows best and can govern best every aspect of life in every American community.

21. *California v. U.S.*, 438 U.S. 645 (1978).

HOW THE AHRI IS WASTEFUL, DUPLICATIVE, AND INEFFICIENT

The Clinton Administration claims that the AHRI will help "reinvent government." But President Clinton's understanding of reinventing government seems to mean creating additional layers of bureaucracy. The American Heritage Rivers Initiative, in fact, is similar to an existing program, the National Rural Development Partnership (NRDP) established by President George Bush in 1991 by executive order. The NRDP is a flawed program: President Bush had no congressional authority over water rights, property rights, or the appropriation of funding when he initiated it; therefore, it also violates a number of constitutional provisions.

Like the AHRI, the NRDP planned to create a collaborative relationship among federal, state, local, and tribal governments, and private, nonprofit, and community-based organizations within each state and some territorial areas, in order to establish a comprehensive and strategic approach to rural development efforts in each state. A comparison of the descriptions of these programs from their respective World Wide Web sites reveals further similarities.

According to the Web site of the National Rural Development Partnership,²² the NRDP's objectives are to:

- Encourage and support innovative approaches to rural development and more effective resolution of rural development issues;
- Develop innovative approaches;
- Build partnerships among, federal, state, local, and tribal governments and the private sector;
- Encourage local empowerment;
- Involve the Departments of Agriculture, Commerce, Defense, Energy, Housing and Urban Development, Interior, Justice, and Transportation, the Environmental Protection Agency, and the Army Corps of Engineers; and
- Use existing federal personnel and funds to work with the states to bring public and private resources together for solutions to local problems.

According to the Web site of the American Heritage Rivers Initiative,²³ the AHRI is supposed to:

- Encourage community revitalization by providing federal programs and services more efficiently and effectively;
- Develop strategies that lead to action;
- Build a partnership between federal, state, tribal, and local officials, as well as private for-profit, nonprofit, and community-based organizations;
- Encourage community-led efforts;
- Involve the secretaries of the Departments of Agriculture, Commerce, Defense, Energy, Housing and Urban Development, Interior, and Transportation; the attorney general; the administrator of the Environmental Protection Agency; and the chairs of the National Endowment for the Arts, the National Endowment for the Humanities, and the Advisory Council on Historic Preservation; and
- Use existing federal staff, resources, and programs to assist communities.

22. "National Mission and Goals Statement," National Rural Development Partnership, at www.rurdev.usda.gov/nrdp/goals.html.

23. Council on Environmental Quality, "American Heritage Rivers Initiative," at www.epa.gov/rivers/fedreg2.html.

Reinventing government usually does not imply duplicating a federal program already operating in 38 states that has the same objective: promoting community involvement and development. Besides sharing the NRDP's objective, the AHRI will create three new costly layers of bureaucracy. The AHRI:

1. Creates an American Heritage Rivers Interagency Committee that will be responsible for implementing the AHRI;
2. Establishes a panel to review the river nomination packets and recommend rivers to the President for designation. The panel will include representatives from natural, cultural, and historic resources concerns; scenic, environmental, and recreation interests; tourism, transportation, and economic development interests; and industries such as agriculture, hydropower, manufacturing, mining, and forest management.²⁴
3. Gives the Interagency Committee the authority to transfer funds from other legitimate and congressionally authorized federal programs to fund ten new river navigators appointed by the President. The new bureaucrats would be paid approximately \$100,000 each year to assist officials in the ten communities selected by the President to locate existing federal programs and money that would be used to improve their waterfronts and rivers. Funds also would be transferred to compensate engineers, biologists, and foresters who would provide studies and expertise in implementing the initiative. The salaries of the river navigators would cost \$1 million per year (which would be compounded annually because ten new river areas would be designated per year), and the cost of the engineers, biologists, and foresters would be added to the already estimated \$4 million annual cost of the program. It is unclear whether such authority on the part of the Interagency Committee is a violation of the Spending Clause in Article I of the Constitution because the Spending Clause gives Congress—and only Congress—the power and authority to “draw [monies] from the Treasury.”²⁵

President Clinton is planning to implement the AHRI at a time when the country is clamoring for Congress to downsize the federal government and give more control back to the states. The true definition of reinventing government is to make government smaller and more efficient. It is difficult to comprehend how creating another federal program—and one that is similar to an existing program—and adding new layers of federal bureaucracy will facilitate an efficient method of cleaning up America's great rivers. Secretary of the Interior Bruce Babbitt, in a recent speech entitled “United by Waters—How and Why the Clean Water Act Became the Urban Renewal Act That Actually Works,” stated:

Finally in 1972 Congress enacted a new law....[t]he Clean Water Act proclaimed a simple if awkwardly stated goal; make the nation's rivers, lakes, and shores “swimmable and fishable.” As American cities used the Act to clean up and restore their waters, those waters, in turn have begun to heal and restore our American cities.

Even as the Clinton Administration touts the effectiveness of the Clean Water Act in restoring and protecting American rivers, it boldly declares that the country also needs the AHRI. If Secretary Babbitt believes the goals of the Clean Water Act already are being achieved, then one must ask: What is the real reason behind the Clinton Administration's new initiative?

AHRI'S POLITICAL AGENDA FROM A WHITE HOUSE MEMO

One of the best ways to build or strengthen political support in a community is by selecting it to receive a massive infusion of federal funds. Representative Christopher Cannon (R-UT) stated on July 15, 1997, at a House Resources Committee hearing on the AHRI that three to five congressional districts could be covered by each of the ten rivers designated by President Clinton. Using these figures, by the next presi-

24. *Ibid.*

25. U.S. Constitution, Article I, Section 9, Clause 7.

dential election in 2000, the President would have targeted federal funds to go to between 90 and 150 political districts. The American Heritage Rivers Initiative is classic pork-barrel politics.

At the same House Resources Committee hearing, a memo from the Council on Environmental Quality surfaced that read:

Selection committee will recommend more AHR's [American Heritage Rivers] than are actually designated, giving someone else (the President?) a further choice. This could ensure that designated AHR's:

- SERVE POLITICAL PURPOSES
- Are located where agencies can staff them
- Are diverse (river, landscape, community, geography, etc.)²⁶

The Administration memo indicates that politics could well play a role in the designation of 10 rivers in early 1998, as well as the designation of an additional 20 rivers before the 2000 presidential election. The AHRI allows the White House to target federal dollars to communities in a way that could be politically advantageous.

CONCLUSION

At a time when the country wants to downsize government and revitalize the importance of the Tenth Amendment, and Congress is recognizing the necessity of empowering local communities and states even more, the American Heritage Rivers Initiative chooses the wrong approach for preserving some of America's great resources, its many rivers. Although there often has been a lack of political will in Congress to tackle these kinds of issues—even with flagrant violations of law and terrible policy—several Members of Congress recognize the problems with President Clinton's initiative and have begun to focus their attention on it.

For example, on June 10, 1997, Representative Helen Chenoweth (R-ID) and 46 cosponsors introduced H.R. 1842 to terminate funding by any federal agency for the AHRI. The bill passed the House Resources Committee by voice vote on November 5, 1997. In addition, on December 10, 1997, Representatives Chenoweth, Richard Pombo (R-CA), and Bob Schaffer (R-CO), and House Resources Committee chairman Don Young (R-AK) filed a lawsuit in U.S. District Court for the District of Columbia to challenge the constitutional authority of the President to implement this initiative.

Because President Clinton plans to designate the first ten rivers in early February, the time has come for every Member of Congress to take a long, hard, and honest look at the AHRI program. It is an indefensible waste of taxpayer dollars. Through its Wild and Scenic Rivers Program and numerous other water quality initiatives, Congress already has devoted considerable resources to cleaning, restoring, and enhancing America's rivers with great success. But even more disturbing than the waste, the AHRI program seriously undermines congressional authority and upsets the delicate balance of power so carefully crafted in the U.S. Constitution.

Congress must exercise its proper statutory and constitutional authority to bring this program to an end before it is launched.

26. Council on Environmental Quality, Draft Memo, "The American Heritage Rivers Initiative," provided to the House Resources Committee and the basis for questioning at a hearing on the Initiative. See *Oversight Hearing on the Clinton Administration's American Heritage Rivers Initiative*, House Report 105-36, 105th Congress, 1st Session, July 15, 1997, pp.81-82.



WESTERN STATES COALITION

Executive Board

Gail Phillips, *Speaker*
Alaska House of Reps.

Melvin Brown, *Speaker*
Utah House of Reps.

Clyde Ballard, *Speaker*
Washington House of Reps.

Bruce Hinchey, *Speaker*
Wyoming House of Reps.

Mark Killian, *Ret. Speaker*
Arizona House of Reps.

Lynn Lundquist, *Speaker*
Oregon House of Reps.

Walter Bradley, *Lt. Governor*
New Mexico

Met Johnson, *UT*
Executive Director
Co-founder

Rob Bishop, *Ret. Speaker*
Utah House of Reps.
Co-founder

Legislative Advisory Board

Ted Fernols - *OR*

Judi Danielson - *ID*

Leonard Blackham - *UT*

Rav Haynes - *CA*

Jack Brown - *AZ*

Lewis Entz - *CO*

Aubyn Curtiss - *MT*

Tom Hatch - *UT*

Frank Philp - *WY*

Boo Turner - *TX*

Jim Buck - *WA*

Rusty Bowers - *AZ*

Jim Welsh - *OR*

David Knowles - *CA*

Jim Gowans - *UT*

Joe Steil - *NM*

John Carpenter - *NV*

Dennis Iverson - *UT*

Jean McGrath - *AZ*

Joe Green - *AK*

Commissioners Advisory Board

Rex Wilson - *NM*

Louise Liston - *UT*

Linda Taliaferro - *WY*

Alan Gardner - *UT*

Art Lee - *AZ*

Melvin Getz - *CO*

Pai Wortman - *OR*

Pete Goicoechea - *NV*

George Enneking - *ID*

Bill Glanz - *WY*

Noel Williams - *MT*

Bill Coates - *CA*

Lenore Hardy Banett - *ID*

JolAnn Wood - *ID*

November 17, 1997

Dear Western States Coalition State Committee:

We're enclosing two important documents, first is the highlights of the transcript of Katie McGinty's address at the Western States Coalition Summit VIII July 12, 1997 and her pledge to us and all America on the American Heritage Rivers Initiative; the second is a resolution either by elected officials and/or from property owners. We suggest you take this matter seriously and react in accordance to the promise made by Katie McGinty and keep a copy, registered possibly in your courthouse which you should record. Thanks for all you do, good luck with your endeavors.

Sincerely,

Met Johnson
Executive Director

Encl.
MJ/mdp

Resolution by Elected Officials for:

Exclusion from the American Heritage Rivers Initiative

On behalf of _____ (County, Parish), _____ (State), we the undersigned, as duly elected officials and representatives of the community, do hereby request that our community be excluded from any area designated as an American Heritage River. The application for designation as an American Heritage Rivers requires that a "river community" designate itself for the purposes of this Initiative. As such, we the undersigned, affirm our Constitutional role as the local, legal authority(ies) authorized to represent this river community. We, the representatives of the river community, thereby request that all lands that fall within the jurisdiction of one or more of the undersigned not be designated, or be part of a designation, as an American Heritage River.

We oppose the intervention of the federal government, agencies and employees into matters of zoning, planning, and land and water use. These matters are best resolved at the state and local levels.

We will not submit not support any petition for federal designation of a river, watershed or portion of a river within our community, and within the boundaries of our jurisdiction, under the American Heritage Rivers Initiative. Any person or persons submitting a petition to the federal, state or local government to designate a river, a portion of a river, or a watershed as an American Heritage River that falls within the lands under our jurisdiction does so without our approval or consent as the elected representatives of the river community.

Now, therefore, be it resolved on this the _____ day of _____, 1997, that this resolution shall be executed, made public and delivered to the White House Council on Environmental Quality in Washington, DC.

Signed:

Resolution by Property Owners for:

Exclusion from the American Heritage Rivers Initiative

We the undersigned, as citizens and representatives of _____ (County, Parish), _____ (State), do hereby request that the property owned either by us or by the members - which includes both property totally in private ownership, rights property, as well as to public lands and resources - of our organization(s) be excluded from any area designated as an American Heritage River.

The application for designation as an American Heritage Rivers requires that a "river community" designate itself for the purposes of this Initiative. As such, we the undersigned are representatives of the river community. We, the citizens of the river community, thereby request that all lands that fall within the jurisdiction of one or more of the undersigned not be designated, or be part of a designation, as an American Heritage River.

We oppose the intervention of the federal government, agencies and employees into matters of zoning, planning, and land and water use. These matters are best resolved at the state and local levels.

We will not submit not support any petition for federal designation of a river, watershed or portion of a river within our community, and within the boundaries of our property, under the American Heritage Rivers Initiative. Any person or persons submitting a petition to the federal, state or local government to designate a river, a portion of a river, or a watershed as an American Heritage River does so without our consent and directly contrary to our desires.

Now, therefore, be it resolved on this the _____ day of _____, 1997, that this resolution shall be executed, made public and delivered to the White House Council on Environmental Quality in Washington, DC.

Signed:

(name/organization) (date)

QUESTION & ANSWER PERIOD

Pat Childers: If I could have these people come up we'll start the questions period: Laura Cleland, Oregon Lands Coalition; Bud Eppers, New Mexico Land Advisory Commissioner; Steve Burrell, Alaska Miners Association; Rob Bishop, former Speaker from the state of Utah. While those folks are coming up, a couple of points I'd like to make with those that don't understand NEPA and a few more things. It is a fact-gathering process involving state and local communities and also some key points in the Act and CEQ regulations, significant impact, the differences between an EA and an EIS is there's the famous . . . , finding no significant impact you don't have to do an EIS and all of that is supported by scientific evidence. With that I think these folks will first ask some of the questions and I have some questions concerning another issue if we could start with . . .

WSC Delegate: Can you hear me OK? Thank you. We very much appreciate you're coming. Thank you very much. In particular, first, on the American Heritage Rivers Initiative, we've heard what you've said but we don't believe in you.

McGinty: I picked that up from some of the reaction. I noticed that.

WSC Delegate: I would not say that crassly or anything like that but so many pieces of this are ill-defined, they appear to be establishing doing things through an Initiative, a non-regulatory issue, yes, but a non-regulatory issue where the general public does not know where it's going. The general public does not have confidence that this government can treat its citizenry fairly. Your response, I don't have a specific question on that but that is a sense that I have received very widely throughout Alaska where I come from but throughout the western United States.

McGinty: Fair enough. It has, I agree, that there has not been enough time, I think, for folks to get their arms around this or to become as informed about it as they would like. We've tried, in the light of some of the comments that maybe some of you personally have written, to be responsive to that issue. Most importantly, as you probably know, on the basis of your letters, we extended the comment period on the program for an additional sixty days which will mean we'll have ninety days overall, further to elicit your views and ideas about this. Now in addition to that we have tried to put the pedal to the metal, if you will, and get out there. Like we are doing here today, and talk to people about the Initiative. I mentioned that I was in St. Paul just two weeks ago. Karen is on her way to Wisconsin to visit with twenty some mayors about this program as well so we're trying our best to get the information out there. Now there are additional ways and, I think, convenient ways for folks to access information too. We have a hotline on this issue, a week after the President announced it we also set up a homepage so that we could provide information and receive commentary that way as well. We will continue to do our best to put information out there but I think at the end of the day too, you will see some changes in the program based on the commentary we did receive. **I mentioned the one piece in particular on private property rights, we will put that in there. Some others had mentioned "Geez we don't see agricultural interests represented strongly enough in this program and we want that to be respected and identified too." We will make sure that happens.** We have not made final decisions about this but I will tell you it's our strong inclination at this point also, that if a member of Congress who oversees the area in question, says he or she opposes the area being part of this program, that's it. The area won't be part of this Initiative. I hear what you're saying and I think your comments have been valuable, we've learned from them.

WSC Delegate: Let me follow up on that then. Why should we not then have a statute passed that this, whereby Congressmen actually say what . . .

McGinty: Well what we're trying to do with this Initiative actually is not to create anything new. The fact is you all are probably too painfully aware that there are plenty of programs out there. This is about trying to coordinate them, trying to make them more accessible to communities that are, for example, trying to put that

new historic area along their waterfront. Well, you know, do they know about the tax benefits, that the Park Service can help walk them through if they design it a certain way? Do they know about what the Small Business Administration can do to provide seed money and grants to launch something like that? Maybe you do, maybe you know about one of those programs but I'll, you know, tell you there are a lot of them out there, they are not as effectively put as the service of citizens and this really, it's got a label on it, the American Heritage Rivers Initiative but really what it's about is simply trying to take the stuff that's out there and make it work better and in fact, some criticism that we've received from a different direction is that "Well, this isn't anything new." Aren't there any new funds here, isn't there a new program? What's new in all of this? And the honest McGinty is, nothing, it's just an ability to bring it together to make it work and make it accessible to local communities.

WSC Delegate: Thank you very much. Different topic, you focused on NEPA also. At the New World Mine north of Yellowstone it appeared to the public that the NEPA process was working after a long and costly process for a company, the administration brought in the World . . . Committee, using the Yellowstone Reservation as a, in some people's view, a ploy to bring the community in, then all of a sudden the project was derailed when NEPA seemed to be working. How is it that the administration felt the need to do that, how is it that . . . ?

McGinty: In terms, I guess as I reflect on some of my comments, as we have tried to handle environmental issues, wherever it has been possible for us not to go to the route of endless court battles, but to work in a collaborative way with industry, we have done that. The Yellowstone issue is an example of that. The sequence of events that led to that agreement started with the company coming and knocking on our door. Now there's quite a story that you will resonate with and say, "Well it's still a problem" and that's the part of the story that said to the company, "Geez, we've got a lot of regulations we need to work through here. We've already sunk millions of dollars in this EIS and where has it gotten us? It's gotten us to a lawsuit that we've lost and now we're on the hope for millions of dollars to clean up historic pollution under the Clean Water Act, we've got wetlands permits we need to get yet and we're getting signals from the Corp of Engineers that are not particularly inclined to give them to," etc. etc. The company as a business decision looked at those odds and said, "I wonder if there isn't a better way for our shareholders to go about handling this issue. We don't like the prospect of years of regulatory and court battles" and it was on that basis that we came to a mutual agreement and I will tell you the EIS work continued throughout the deliberations and only was ceased when the company ceased it, when we reached the overall agreement. You know the alternative was to continue down a road but down a road again that you have right to say Well gee we shouldn't have a road like that but the truth is that it was a road that offered lots of years of further regulatory traps that needed to be gone through and lots of court battles.

WSC Delegate: Thank you. Last question from me would be in regards to, you made a very good statement about one size fits all and about command and control. We believe your message is not getting filtered down to your Secretary of Interior. In particular, in proposing the changes to the . . . Regulations the Secretary has not justified, has not given a reason, if there's a problem, he's not defining the problem that needs to be fixed and two to the mineral industry who typically spends three to five to seven years going through the NEPA process for a single project in a single watershed or a single mineral in a given climate. To think that someone could do an EIS which is the process that's required in two years that covers Alaska, southern Arizona, and Colorado and all the points in between is . . . , I mean it just does not resonate as being at all practical or at all feasible, how would you McGinty that?

McGinty: Let me say to . . . The number that you referred to, this is mining regulations?

WSC Delegate: 3809 regulations are the BLM, Bureau of Land Management regulations that deal not with the land tenure . . . , a federal mining law deals with land . . . ownership, whereas 3809 on BLM land deals with the reclamation standards, those kinds of things which are currently not a one-size fits all but that is the appearance the Secretary wants, a one-size fits all and we can't see it . . .

McGinty: OK. Well, I have to confess to not knowing the details of the regulations. I am aware that the Secretary was working on them and was going to promulgate them. The thing I would mention, two things I would mention on this front. This has been one of these endless battles to the 1872 Mining Law and what to do with it and I just would note for you that in the President's budget, submission to Congress this year, we took the issue on, again, time to just kickin' it off, we took it on again but the proposal that we put forward which called for a 5% net smelter return and which funneled that money into a reclamation fund is a proposal that won the support of the National Mining Congress. And I've received letters of support on that front, we worked with Senator Reed and others to get that done so I can look into the regulations you mentioned, I will do that, I'm not familiar with them, I do know however that what we did propose in the budget this year listened to and incorporated the proposals that had previously been put forward by the mining industry, particularly that net return which was so important to the mining companies as opposed to a gross return.

WSC Delegate: Let me mention that Senator Reed's proposal and also Senator . . . for a net return, it's a different basis of net than a net smelter return and it's a significantly different, we're talking . . . magnitude of difference. Thank you.

McGinty: Thank you.

WSC Delegate: As you're aware, our state constitutions delegate the responsibility of the management of water to the states . . .

Woman in audience : Excuse me, can we have the questions panel identify themselves?

Response (McGinty): That was for you.

WSC Delegate: My name is Bud Eppers. I'm chairman of the Chavez County Public Land Advisory Council and I'm here because Lt. Governor Bradley asked me to come up and present a question.

McGinty: On a Saturday . . .

WSC Delegate: On a Saturday

McGinty: Because he's doing something else.

WSC Delegate: But anyway, how do you intend to handle state constitutions . . . That are apparently going to develop and arise under the American Heritage Rivers Initiative?

McGinty: Well, there's nothing in the Initiative that anyway would effect water rights or the state's prerogative in terms of water rights, and, in fact, again to reiterate since we've been criticized from the other side about it, there isn't any new programatic initiatives that are part of this, so any outstanding rights, obligations, requirements, all of that is not changed by virtue of this program.

WSC Delegate: But under our state constitution, our state engineer is in charge of managing the water and he

hasn't been contacted, included, or participated in any way in this Commission. We feel that it would be important to have that individual and the individuals in other states as well to take part in this concept.

McGinty: I think that's an important point and one of the criteria that has been developed in fact on the basis of the public comment that has come in, is the criteria which would say, there needs to be broad bases of support, and in particular, people who have authorities and responsibilities need to be part of and sign off on the interest of the proposal pursuant to the American Heritage Rivers Initiative. If there is that kind of opposition that is not a proposal that's likely to be part of the program.

WSC Delegate: You spoke earlier about the elimination of hopefully of top-man driven program and I think many of us feel that this is just another top-man driven program because there was very little communication to our knowledge. It was established between the states, county governments or the landowners who might be effected from this program and we were wondering do all, have all fifty states participated in the drafting of this program, have they been involved in it in any way?

McGinty: Not only all fifty states but in terms of the basis of the overall public comment which again was extended because people felt that they didn't have sufficient opportunity, we hope that not just government or even local or state levels of government but individual citizens will voice their comments. And we have received countless comments and countless input into the program now. Underscored once again, however if a community, if the state, if an area of the country does not want to be part of this program that is completely and totally their prerogative. There will be nobody knocking on anyone's door, saying, "Here sign up for this program." It must come from the community, from the state, from the locality to us and again if a place is participating in the program but decides, you know, "This is a raw deal" for one way or another, they don't like it, there's no obligation to remain a part of the program. The point of putting it in is, I think that's a fair question, as I said, we've gotten that kind of critique from the other side, the point in putting it in is simply to make those programs that are already out there . . .

Man in audience: You have no authority under the constitution . . .

McGinty: To do what, sir?

Man in audience: . . . federal government . . .

McGinty: I know, I understand that principle completely and respect it fully

Man in audience: But in 1932 President Roosevelt . . .

Moderator: Sir, sir, I appreciate your concern, if I can't have you carry on a one on one debate here, let her ask the questions and then we'll go on with it. Thank you.

WSC Delegate: Miss McGinty, my name is Laura Cleland. I'm with Oregon Lands Coalition, a grassroots group. First I have a question from the audience for you. If the Heritage River Initiative is 100% voluntary, can I as a landowner along the selected river, avoid influence and any requirements of the Initiative?

McGinty: You can certainly, yes, not be part of it at all, not have your part of either the stretch of river, not be part of it, say this part of it is just not gonna be included in the Initiative, absolutely.

WSC Delegate: What is the mechanism, a simple written letter or what?

McGinty: Well again, the proposals will all come from the local level and after September is when we expect to begin to receive the proposals from the communities at that time so it has to identify what's in and what's out and there'll be no addition on our part to what's in and what's out.

WSC Delegate: Now I have a question. You have said, and I've seen you quoted in the newspaper, that you are bewildered and perplexed with the opposition to this program. I think that there's a real breach of trust between the people out here, the people in this room, in the west, and the folks back in Washington, D.C. and I have some examples. Well, you gave each of these examples as an accomplishment. We view each of these examples as failed public policy. This Initiative is brought to us by the same cast of characters who gave us the President's forest plan. That plan has closed hundreds of mills in the pacific northwest and put tens of thousands of people out of work. That is not success. This plan is being brought to us by the same people who brought us the Interior and Upper Columbia River Basin Management Plan. That project is still in the planning stages and already mills have closed, families have been hurt, and communities have been damaged. It's also brought to us by the same people who secretly planned for and executed the lock-up of 1.7 million acres in southern Utah without, I might add, using the NEPA process. You have garnered no trust. How are you going to overcome that?

McGinty: Well first of all I can see and understand that there is, we're at a very delicate place because there are people in the country who don't, as you're very well reflecting, who don't have the trust in terms of the government's ability genuinely to serve them, and in fact, to the contrary, a feeling that interests are being worked against. The reason I'm here is because I take that damn seriously. I think it's a scary proposition for our country and this country being the best one in the whole world that we might and do have that kind of distrust among citizens and between citizens and government. I don't want to be part of that, I can do whatever I can to help reach the difference because I really and genuinely take it very seriously. I'm not about just pointing fingers, I agree that we have responsibility, I think I very honestly said that we have lost our way on the environment. It's not a good place where we've come to and we've got to get to a different kind of place. Now I could walk through some of these examples that you've cited but I don't want to do that because I don't want to get into a deliberate or debating format on that. A more important thing is that you're opening statement which expresses something, even if I disagree with your examples or the details I don't disagree with the truth that you are . . . And the only thing I can say is that I've made myself personally available to you, to be as responsive as I can when you have a legitimate concern or beef. I will also tell you as honestly as I know how where I just disagree and then you deserve to know the reasons why I disagree. But I will lay that out. Now that's not going to solve the world, I don't presume myself to sit in a place even where I could solve all the problems of the world but I just sort of close the comment by respecting the truth you've pointed to and sharing with you a concern and a determination that we've got to try to fix it.

WSC Delegate: My name is Rob Bishop. I'm the ex-Speaker in Utah. If I could just go through the process very quickly, I've got three quick questions about the Escalante Monument, then I'd like to ask a couple that we've got from the audience and then we'll see if we can go through the panel again but we're looking at about a ten-minute finish for this. The first one on the Escalante Monument: According to the Antiquities Act that was used, land is set aside for specific scientific or historic purposes. We can understand that in the Garfield County part, can you tell me specifically what was the scientific and historic part of that Monument in the Kane County portion of it?

McGinty: May not be able to do it in that kind of detail but I'll tell you the most salient things that the Department of Interior brought forward in its analysis, were archaeological features, the Anasazi and I forget the other American Indian heritage that is there but archaeological sites that they indicate as the richest deposits of those

sites that we have in the country. There also are unique geological features and ecological features, for example, because of the ruggedness of the terrain there are plateaus as I understand it that have grasses there that have never been grazed and they're the only remnant grasses that we have in the country that have not been grazed and those are some of the things that were articulated.

WSC Delegate: I appreciate that although that's . . .

McGinty: Let me just say one thing, this is not to say that there's anything wrong with grazing, it is to say that that grass doesn't exist anywhere else and you may think that that's completely invaluable but there are many scientists who think that's quite valuable indeed but that's the only point of that particular . . .

WSC Delegate: And I appreciate that, those qualities are truly in the northern part, I was asking about the southern part where they don't exist. The second of three questions: The law says it's supposed to be conducted in the smallest area compatible. If something besides . . . is the smallest area, what was the largest area considered?

McGinty: That was the only area considered. The experts at the Department of the Interior brought it forward and said that in their judgment and estimation this was the smallest area compatible and I don't have the expertise myself to second guess that.

WSC Delegate: The final one is: If you look at the borders of that Monument, it follows geographical or geological borders until it comes to the Arizona state line and then it goes on a flat line. Now the cynics in Utah would say it's because President Clinton thought he could win Arizona and not Utah. I certainly would not be willing to be that cynical. **So the question I have is: Why did God stop creating scientific and historical sites at the Arizona border?**

McGinty: I'll have to go pray on that one. But I'll just make this one comment, again, I'd have to see a map to look at this again but one of the things that's very important about the National Monument, and this has, there's been a lot of misconception about this: **Every inch of the National Monument has always been federal land. There's not an inch of it that is brought in to . . . that's right, it's the land of the people of the country, that's right and so the borders are drawn,** if there was private property, or state property, or anything else that also represents that Arizona border so the boundaries are drawn on the basis of where the federal boundaries have already been set. . .

WSC Delegate: Let me go on with another question from the audience first. How can CEQ and twelve other federal agencies create the American Heritage River program, . . . federal action without having prepared an environment impact statement as required by NEPA?

McGinty: That's a very good question and the answer is because it is not a federal action. The federal programs that are out there, there's not a new one being created here. The action purely and simply on this program is local. If there is not a local initiative to undertake a program through the American Heritage Rivers Initiative, there is no program. It's purely and simply that. Now if part of what the local community wants to undertake involves various federal programs that also include EISs they will be done but the Initiative itself is a locally-driven one, not a federal Initiative. Am I done?

WSC Delegate: Well, the thing you want to ask, the word is done or finished. Let me ask just one last question and I apologize for this one in part because I told you we would hit on the New World Mine in Escalante and the Heritage River. This came from the audience and is slightly different but it deals with a presentation that was

given and it was simply on the global warming issue. Is it true that the satellite temperature data that has been taken and has shown during the past ten years there has been statistically significant cooling instead of warming trend. Does the federal government agree with that data or not?

McGinty: Yes and it's a cooling of the stratosphere as opposed to the issue of climate change isn't the stratosphere, it's the troposphere. It's the air that surrounds the planet that we walk on and live and breath on. And the cooling of the stratosphere, by the way, is the result of ozone, stratospheric ozone depletion, the hole in the ozone. So yes, we agree and it doesn't have anything to do with it. OK, well thank you all very much.

WSC Delegate: We'd like to thank Ms. McGinty and her staff for speaking before us, their arguments . . . But we would hope some future programs would be initiated with this group and some others. Thank you. thanks again.

WESTERN STATES COALITION SUMMIT VIII

Spokane, Washington on July 10-12, 1997

HOST: Speaker Clyde Ballard, WSC Executive Board Member

Subject: Speech by KATIE MCGINTY, Chairperson

Council on Environmental Quality

"Well, this is different because of the dedication of being here on a lovely Saturday morning. I hope you all aren't looking out there too much, working very hard to keep yourselves focused here. Well, I guess, it's the traditional thing to say, you know, it's a pleasure to be here. I must share with you that I mean that very sincerely today. Last night we had an interesting flight to come visit with you. At first we were an hour delayed and that's OK, I guess, we expect those things now but then as we tried to take off there was this little problem with the landing gear. Not only was it not working, not working at all, and they told us, of course, don't be worried, this is nothing to worry about, we're going to have a smooth flight. Well we weren't worried about the flight, we were worried about the landing. I guess if that landing gear was up the landing might have been smooth too. Anyway when we finally did arrive, and finally around 11:30, quarter to twelve. I guess, last night, got ourselves crashed into bed, not in there two minutes when (sounds of siren) these huge sirens start going off and the whole hotel is told we need to evacuate. Now you might think it was a big tragedy, actually the person might have thought it was a tragedy because someone's perfectly good popcorn got absolutely burned in the microwave oven. So anyway it is a pleasure to be here. I do want to thank you all too for accommodating my schedule. I have had more than my usual amount of travel this week. I see some folks are here from Alaska. I was in your fair state for a good chunk of the beginning part of the week, up there visiting with Don Young and seeing some of the oil developments, working with Arco who is trying to develop some of the Prudhoe Bay areas and we've been working with them to that end. But it was, as you know, Alaska is a big state with little airplanes, very little airplanes, I've been on plenty of them this week but I appreciate your accommodating that schedule and giving me the opportunity to talk to you today.

Now I want to speak in particular about the environment and further about the American Heritage Rivers Initiative which I know many of you have been focused on and this will be a good opportunity for us to visit about that. But I really wanted to mention a few things first. Why it was really important for me to come, why I welcome the opportunity and the invitation that I received to join you today. First I want to say that I do respect your opinion, I value your many collective years of experience and the very important wisdom that comes from the experiences that each of you has had. Second I really believe that some of the concerns that you have raised, that this group along with others was formed to take on, deserve a considerate, respectful hearing. While I have not always agreed, or at least not fully agreed with some of the solutions that you have proposed, I too have recognized problems and I believe therefore, that there may be an opportunity if we talk with one another; it may be that we can find where there is common ground between us. Third I really do honor the fact that you are engaged citizens in taking your own personal time, especially today in the summer on a Saturday, taking your own personal time to be informed, to organize, and to make a very real difference. This country was built on the basis of an active, informed citizenry, and I believe that the quality of our future depends on our instilling once again this sense of commitment and engagement among our fellow citizens. I really do honor your effort and the personal sacrifice that it represents because I do believe it is a model to all of our citizens as to how they too need to be engaged. Now let me be clear, again there are very real differences between us and I don't intend today to try to gloss over them, in fact, I don't think we can make progress unless we honestly and clearly try to articulate where those differences are. While I wholeheartedly believe, for example, that government can't be the answer to all of our problems and in fact, to go further, I believe that that's a very dangerous idea because it is

the antithesis of what I have just recognized and honored in your work. That kind of approach can lead to the attribute and the building of an apathetic citizenry, as opposed to an active and engaged citizen. However, I'm not prepared, if you will, completely to rely on the kindness of strangers. I think government has an important role to play and that our government is, in fact, an expression of our contract, if you will, with one another. Our commitment, enforceable commitment, to act in a decent and respectful way to one another. But having said all that, again I believe that the differences between us need not always be seen as insurmountable. They may be differences of degree that if we can engage in a respectable dialogue can yield to the discovery of some common ground. Finally, I wanted to come here because I believe we do have an obligation to listen to one another, that we as committed citizens have an obligation to try to work it out and thereby to insure the greater good of the country as a whole. We have enough examples, Bosnia, Northern Ireland, of what happens when people don't work it out. And make no mistake, those kinds of big areas of strife start when the smaller grievances go unaddressed and are allowed to fester and build. I don't want to let that happen here. We can't let it happen to this great land. We can't allow resentments to build that ultimately could tear us apart. So thank you for having me here, for being willing to sit and listen to some of what I have to say. In the questions and answers I look forward to doing the same, I will listen and I'll answer with as much detail and candor as I possibly can.

So let me now then turn specifically to the environment and to the American Heritage Rivers Initiative in particular. I would like to start by painting a bit of a larger picture and placing this Initiative in the context of a different kind of environmental policy we have tried to build over the last four and a half years. Now where do I start? Well its always a scary thing when you have someone who's an expert in your area of expertise right here sharing the podium with you. But I do start with NEPA, the National Environmental Policy Act that set up my office and that I am now charged to implement. Now you may not know it but under NEPA I have a very enviable job indeed. Well you might think it's a National Environmental Policy, I'm the chair of the council on Environmental Quality. So my job is to protect the environment, well not quite. Twenty-eight years ago when NEPA was written the authors had a much more sophisticated and a kind of poetic way of expressing themselves. They said it's not just my job to protect the environment, no. I am supposed to achieve productive harmony among environmental, economic, and social objectives. Now this is a very enviable job in Washington, D. C. where, of course, everyone loves to work it out. There's lots of harmony, very productive. This vision is challenging but I think it's exactly right. And I will say to you what I say to environmental audiences: I believe that somehow over the years we have lost our way on the environment. Recently I spoke to the Criminal Division of the American Bar Association too, and to them I said I wanted to report a felony, that the environment, I said, had been stolen. Well what did I mean? It seems to me that despite our many differences, different ethnic backgrounds, different life histories, different interests, different states, there really are some things that pull us together as Americans, all 260 some very odd million of us. One of those forces, one of those binding forces, is the environment. America the Beautiful, now wouldn't it be awful on a Saturday morning for me to sing that to you? That song has survived the decades we know, not just because it's nice and lyrical. It survived because it speaks to a truth, to the incredibly rich and deep connection that all of us have to the land, to the great land that is America, to the pride and the blessings we feel in her abundance. But what have we made of this powerful, binding force? Well unfortunately, and all too often it seems to me, we've made it into a source of polarization, litigation, and disputes, far from the talk of country and heritage, and humility, and gratitude for the blessings of our land. Our discourse about the environment has become discord. Endless hassles about the Venutias, the court battles, how many parts per million of this, how many parts per billion of this, and well you have to use this kind of filter, you have to put on that kind of scrubber, and as many of you know well, the dialogue is even worse when it comes to natural resources. We talk of train wrecks and we all know the image of spotted owls vs. loggers. The bitter discord that was allowed to build and the refrain that many, too many have experienced and that is repeated too often. You have to choose between your jobs and the environment. Well I go back to NEPA, this productive harmony. Twenty-eight years ago NEPA said, "No" to that narrow

CORRECTION

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



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

the antithesis of what I have just recognized and honored in your work. That kind of approach can lead to the attribute and the building of an apathetic citizenry, as opposed to an active and engaged citizen. However, I'm not prepared, if you will, completely to rely on the kindness of strangers. I think government has an important role to play and that our government is, in fact, an expression of our contract, if you will, with one another. Our commitment, enforceable commitment, to act in a decent and respectful way to one another. But having said all that, again I believe that the differences between us need not always be seen as insurmountable. They may be differences of degree that if we can engage in a respectable dialogue can yield to the discovery of some common ground. Finally, I wanted to come here because I believe we do have an obligation to listen to one another, that we as committed citizens have an obligation to try to work it out and thereby to insure the greater good of the country as a whole. We have enough examples. Bosnia, Northern Ireland, of what happens when people don't work it out. And make no mistake, those kinds of big areas of strife start when the smaller grievances go unaddressed and are allowed to fester and build. I don't want to let that happen here. We can't let it happen to this great land. We can't allow resentments to build that ultimately could tear us apart. So thank you for having me here, for being willing to sit and listen to some of what I have to say. In the questions and answers I look forward to doing the same, I will listen and I'll answer with as much detail and candor as I possibly can.

So let me now then turn specifically to the environment and to the American Heritage Rivers Initiative in particular. I would like to start by painting a bit of a larger picture and placing this Initiative in the context of a different kind of environmental policy we have tried to build over the last four and a half years. Now where do I start? Well it's always a scary thing when you have someone who's an expert in your area of expertise right here sharing the podium with you. But I do start with NEPA, the National Environmental Policy Act that set up my office and that I am now charged to implement. Now you may not know it but under NEPA I have a very enviable job indeed. Well you might think it's a National Environmental Policy, I'm the chair of the council on Environmental Quality. So my job is to protect the environment, well not quite. Twenty-eight years ago when NEPA was written the authors had a much more sophisticated and a kind of poetic way of expressing themselves. They said it's not just my job to protect the environment, no. I am supposed to achieve productive harmony among environmental, economic, and social objectives. Now this is a very enviable job in Washington, D. C. where, of course, everyone loves to work it out. There's lots of harmony, very productive. This vision is challenging but I think it's exactly right. And I will say to you what I say to environmental audiences: I believe that somehow over the years we have lost our way on the environment. Recently I spoke to the Criminal Division of the American Bar Association too, and to them I said I wanted to report a felony, that the environment, I said, had been stolen. Well what did I mean? It seems to me that despite our many differences, different ethnic backgrounds, different life histories, different interests, different states, there really are some things that pull us together as Americans, all 260 some very odd million of us. One of those forces, one of those binding forces, is the environment. America the Beautiful, now wouldn't it be awful on a Saturday morning for me to sing that to you? That song has survived the decades we know, not just because it's nice and lyrical. It survived because it speaks to a truth, to the incredibly rich and deep connection that all of us have to the land, to the great land that is America, to the pride and the blessings we feel in her abundance. But what have we made of this powerful, binding force? Well unfortunately, and all too often it seems to me, we've made it into a source of polarization, litigation, and disputes, far from the talk of country and heritage, and humility, and gratitude for the blessings of our land. Our discourse about the environment has become discord. Endless hassles about the Venutias, the court battles, how many parts per million of this, how many parts per billion of this, and well you have to use this kind of filter, you have to put on that kind of scrubber, and as many of you know well, the dialogue is even worse when it comes to natural resources. We talk of train wrecks and we all know the image of spotted owls vs. loggers. The bitter discord that was allowed to build and the refrain that many, too many have experienced and that is repeated too often. You have to choose between your jobs and the environment. Well I go back to NEPA, this productive harmony. Twenty-eight years ago NEPA said, "No" to that narrow

polarizing thinking that seems to seize us today, that says there's winners and there's losers. I'll see you in court. I'm going to win, you're going to lose. NEPA held the environment job as a binding force, as a lens through which we could bring clarity to our varied environmental, economic, social, cultural, historic values. NEPA says you can't pit the environment against the economy, you have to bring it together in one . . . whole. It says enough of the trench warfare, we can and we must achieve stewardship of the land and economic opportunity, together, both and not either or, that is a losing proposition and NEPA was right about that twenty-eight years ago. Importantly, and if you listen to the poetic productive harmony, NEPA understands that we can't get there, we can't figure out how to reconcile these things if we attempt to have it all come from Washington, D.C. Rather NEPA insists that federal agencies open the doors and that citizens, and state and local governments be given very real and meaningful seats at the decision-making table. Now NEPA has become a pretty rusty issue and Pat can probably tell you that before its directive it has not been fully or faithfully carried out. But with the University of Wyoming and the University of Montana, we're bringing it back to this basic principle: To put the county and the local governments at the decision-making table like we haven't done before. I take this charge very seriously. The last four and a half years we've tried to honor it in the environmental work we've done.

Let me discuss some of the flagship efforts because it is on the foundation of these efforts that the American Heritage Rivers Initiative was built. I'll start with one of your favorites, the endangered species. Now it has often and all too often meant crisis and confrontation but we try to begin to take a different approach. We reached out in partnership with landowners and state and local governments across the country to forge what we call "habitat conservation plans." Through these plans make no mistake we are protecting critical habitats, in fact we have nearly 400 of these plans underway or completed, and when they are completed we'll have 18 million acres that are under sustainable management. But the landowners secure something critically important with these HCPs, habitat conservation plans, too, the landowners secure certainty. We've said to landowners "A deal is a deal." There will be no surprises, no ESA-trained reps right around the corner, instead if they implement their HCP which, by the way, they devise and bring to us, they've got a guarantee that their ESA obligations are met, for 50, 75, 100 years or more. Right here in Washington State I've signed an HCP with a timber company that affords that landowner a century of certainty and we've worked partnerships with the state as well. Washington state for example has a 75-year guarantee from the federal government that their forest lands have met, under their HCP, all the Endangered Species Act requirements. That means fewer court battles, that means more certain timber flows, and all of that means more money for counties and for schools. And all of this again while we protect the environment too. In Oregon we've reached a truly historic partnership, the timber industry is at the heart of it. Industry will take the lead in protecting key watersheds for . . . salmon. On the basis of their leadership and commitment, we said that's good enough for us, we don't need to reinvent the wheel. We've got confidence that the industry's plan can get that job done. We've had similar approaches when it comes to air and water pollution regulations too. We launched something called Project Excel. Excel's based on a simple concept. You know, as I talk to business leaders in every part of the country there's not a single one who says to me, "Well, what I really want is dirty air and dirty water, that's what I want." Nobody says that. But a lot of business leaders say, "I think I know a thing or two about my business that you don't and if you give me a some flexibility I can get there cleaner, cheaper, and faster than you would otherwise tell me to do." Excel takes them up on that. It says if you're willing to get there cleaner and cheaper, we'll throw our rule book aside. We won't micromanage the details, we won't dictate the details. Well, in addition to cleaning up the environment Excel brings a lot of other benefits. There is significant savings if we can allow this flexibility and when you have businesses and local citizens giving them the ability to craft their own solution, an amazing thing happens. when you're in a conference room instead of in a courtroom. Solutions are found and the discussions broaden from the environment to the well-being of the community as a whole. Some communities have decided with the savings from Project Excel, some of them are investing and keeping libraries open longer hours, some are providing health care, some others have invested in job training for local citizens to insure that businesses are hiring locally. So this is about the environment but it's about more too. It's about communities and individuals

taking charge of their own future and using the environment not as a source of confrontation as a tool that it has become but as a catalyst to achieve a greater good. Now it is on this foundation that the American Heritage Rivers Initiative was built. This Initiative is testimony to that connection. The positive energy that can be built around the environment. We know that the rivers connect us physically, one community to another, that a river does run through it. They are a channel of water, the basic stuff of life but they are also a channel of our history, of our poetry, our culture, even the driving engines of our economy. Our spirit as a nation runs through those rivers too. The American Heritage Rivers Initiative is designed to support locally-driven efforts happening all across the country to restore rivers and revitalize the communities that surround them. Now I've seen this first-hand. None of you would guess that I have an accent of any kind but I do, I hail from Philadelphia. Usually it's a media giveaway as soon as a Philadelphian says the word water. Or I say, "Go home." But being from Philadelphia twenty years ago the Delaware Waterfront was no place you wanted to be, even with all of my kid brothers, and my dad's a cop. I did not want to be there. crime, and drugs, and trash, and decay but as our nation's Bicentennial approached, the river, the Delaware, captured our imaginations. The river had a story to tell we realized, history and culture, it was part of what made Philadelphia and our country great, whether it was Landing or George Washington's crossing, so we, the citizens of Philadelphia took that Delaware Riverfront back. we pushed out the pushers, restored the historic buildings along the Waterfront and that was the catalyst that led to the city as a whole coming back too, starting at the Waterfront and when the Waterfront was revitalized people said, "Well, what about First Street, what about all the abandoned buildings on First Street, we can't have that when we have such a nice Waterfront." So First Street was cleaned up and then Second Street and along. It's happening in other places of the country too. I was in St. Paul just a week or two ago and the mayor of St. Paul has changed the name of St. Paul actually to St. Paul on the Mississippi. Testimony to the fact that his greatest selling strength for economic development in St. Paul is to sell the fact that it sits on the Mississippi waterfront. He told me in no uncertain terms that a software company moved into the city of St. Paul and the biggest reason driving that decision was that employees would have a place to walk and to enjoy at lunchtime on that waterfront. He's selling the city on the basis of taking the Mississippi back.

Let me say with clarity what the American Heritage Rivers Program is and what it is not. It is 100% voluntary. It is 100% locally driven. It is 100% non-regulatory. There are absolutely no new regulatory requirements or restrictions of any kind. It is 100% in the spirit of NEPA, environmental, economic and social concerns integrated in a way that is designed and driven by local communities themselves. It is 100% in the spirit of reinventing government, it's a directive to federal agencies to recognize citizens as customers and serve them much better than they have before, to do more with less, to cut red tape and bureaucracy so that citizens can access resources in an efficient and effective way. It is finally 100% at the option of communities. Communities become part of the American Heritage Rivers program only if they choose and once a part, they can stop their participation at any time they choose as well. What this Initiative is not: It is not a federal land grab or an intrusion on private property rights. In fact in light of the concerns many of you have shared with us and I have visited personally with some of you in my office, in light of what you have said, we have gone back and taken language that President Reagan had penned directing agencies to respect and protect private property, we've taken that and put that into this program. Not every community will elect to be part of this program and that is perfectly well and good but some communities will see it as an opportunity to help them achieve important goals they've identified for themselves, economical revitalization, instilling in children an understanding and appreciation for the history, the development of a particular area, ensuring water quality, underscoring and demonstrating the unique aspects of a particular place, whether it is urban, rural, or suburban. For them this program means that federal agencies will be directed to work at their service, helping them to achieve the goals, that again, they have come together and set for themselves.

Let me conclude where I started off. I genuinely believe that the time for polarization and confrontation around

the environment has come to an end. It is time for partnership, collaboration and respect to be shown. The time for top down, one-size fits all, command and control solutions have come to an end. We've got to engage citizens in an active and effective way to work toward goals that are part of their own visions for themselves. The environment can and should bring us together. We, as Americans are tied to this land and we are blessed by what the Creator has given us here. We cannot let it, like so many other things, tear us apart. We've got to listen to one another, work with one another and find ways to work it out. I think the environment can help us do that. The American Heritage Rivers Initiative is true to all of these principles. Thank you for your time and your attention in allowing me to lay that out for you today. Thank you very much."

HOME

Recent
Developments

What is the
Initiative?

Milestones

Frequently
Asked
Questions

Nominating
Your River

Your River &
Its Watershed

Services

Contacts

AMERICAN HERITAGE RIVERS



Final Federal Register Notice
September 17, 1997

Council On Environmental Quality American Heritage Rivers Initiative

**DESCRIPTION OF AMERICAN HERITAGE
RIVERS INITIATIVE AND INFORMATION ON
HOW COMMUNITIES NOMINATE THEIR
RIVERS**

CONTENTS:

The major sections of this document include:

- Summary —
- Deadline
- Availability of Nomination Packets and
Supplementary Information
- Background
- Summary of Comments Received from
the Federal Register Notices of May 19
and June 20
- Overall Program Design
- Benefits of Designation
- Benefits to Applicants who Submit
Complete Nomination Packages
- Improved Services Available to All
Communities
- Clarifications
- Appendices

SUMMARY

In the State of the Union Address on February 4, 1997, President Clinton announced an initiative supporting community-led efforts relating to rivers that spur economic revitalization, protect natural resources and the environment, and preserve historic and cultural heritage. President Clinton has since issued Executive Order 13061 directing agencies to establish and implement the initiative. This notice summarizes the initiative developed to implement the President's directive.

The federal government plays two critical roles in supporting river-related projects. First, it offers federal agency services to organizations and governments conducting community-based work. Second, it creates a national information and communications network to encourage communities to provide useful information to communities, including sharing success stories.

The American Heritage Rivers initiative is voluntary and locally driven: communities choose to participate and can terminate their participation at any time. In implementing the American Heritage Rivers initiative, federal departments and agencies shall act with due regard for the protections of private property provided by the Fifth Amendment to the United States Constitution.

The American Heritage Rivers initiative will create no new regulatory requirements or rules for property owners or state, tribal, or local governments. The American Heritage Rivers initiative will use existing federal resources more effectively to assist communities.

To enhance federal assistance to community-based projects, the federal government will solicit nominations from communities wishing to designate their rivers as American Heritage Rivers. The nomination process is described in this notice. The President will designate 10 American Heritage Rivers in early 1998. The communities surrounding designated rivers will receive a number of benefits, including special recognition; focused support from existing federal programs; a person (the River Navigator) to serve as a liaison between the community and the federal government; improved delivery of assistance from agencies

throughout the federal government; and a good neighbor policy. The federal government will work to integrate and streamline its approach to providing existing federal services in designated American Heritage River communities in partnership with local leadership. These partnerships will give the federal government an opportunity to study and improve how it provides assistance to communities across the nation.

Additionally, the federal government will provide a new information center on the World Wide Web for community-based projects in economic revitalization, natural resources and the environment, and historic and cultural preservation. These Web pages will include information about services that can assist community projects and provide opportunities for dialogue between communities. The federal government will also provide this information to people without access to the Internet.

The American Heritage Rivers initiative was developed by an interagency task force convened by the White House.

The President's Executive Order creates a new committee, called the American Heritage Rivers Interagency Committee (Committee) that will be responsible for the implementation of the American Heritage Rivers initiative. The Committee will be composed of the following members or their designees at the Assistant Secretary level or equivalent:

- The Secretary of Defense:
- The Attorney General:
- The Secretary of the Interior:
- The Secretary of Agriculture:
- The Secretary of Commerce:
- The Secretary of Housing and Urban Development:
- The Secretary of Transportation:
- The Secretary of Energy:
- The Administrator of the Environmental Protection Agency:
- The Chair of the Advisory Council on Historic Preservation:
- The Chairperson of the National Endowment for the Arts:
- The Chairperson of the National Endowment for the Humanities.

Address:

Nomination packets will be accepted in three ways:

1. To mail nomination packets: Executive Office of the President, Old Executive Office Building, Room 360, Washington, D.C. 20502.
2. To fax nomination packets: 202-456-6546.
3. To e-mail nomination packets, see instructions on the American Heritage Rivers home page. <http://www.epa.gov/rivers>.

All applicants will receive a postcard notification that their nomination packet has been received.

For Further Information:

You can request additional information about American Heritage Rivers in the following ways:

1. To receive an information packet or ask a specific question: Call 1-888-40RIVER and leave a message with your name, address and daytime telephone number. Please be as specific as possible in your information request.
2. Federal field staff have been identified in each state to answer questions. You can obtain a list of the federal field staff by calling 1-888-40RIVER, or by accessing the American Heritage Rivers home page at: <http://www.epa.gov/rivers>. A list of the agency staff in Washington, D.C. is also available via these two methods.
3. The latest information is available on the American Heritage Rivers home page at <http://www.epa.gov/rivers>.

Supplementary Information:

This notice is available on the American Heritage Rivers home page at: <http://www.epa.gov/rivers>.

BACKGROUND**Why this Initiative?**

Rivers are an integral part of our Nation's history. They often define the distinctive character of communities, providing avenues for trade, opportunities for

commerce, agriculture and forestry, routes for exploration and discovery, inspiration for ideas and culture, means of recreation, and habitat for wildlife.

Communities across America are working to revitalize their waterfronts and to enhance the historic, cultural, recreational, agricultural, economic, public health, and environmental values of their rivers. At the same time, many people have called for better, smarter, and more coordinated ways to work with the federal government. President Clinton instructed the Cabinet to work with communities in the design of this initiative to support community-led efforts that spur economic revitalization, protect natural resources and the environment, and preserve our historic and cultural heritage.

The American Heritage Rivers initiative is consistent with the existing authorities articulated by Congress in the National Environmental Policy Act (NEPA) of 1969, as well as other authorities granted to agencies (the National Historic Preservation Act, the Housing and Community Development Act, the Clean Water Act and the Intermodal Surface Transportation Efficiency Act, to name a few). NEPA, for example, instructs federal agencies to seek to create and maintain conditions under which man and nature can exist in productive harmony, while preserving important historic, cultural, and natural aspects of our national heritage. The American Heritage Rivers initiative seeks to coordinate these existing authorities in a more efficient and complementary manner.

How Was the Initiative Was Developed?

President Clinton announced the initiative during the State of the Union Address on February 4, 1997. An interagency task force was formed to develop the initiative and was charged to report to the President within 90 days. The task force was chaired by the Council on Environmental Quality, and participating agencies included the Departments of Agriculture, Commerce, Defense, Energy, Housing and Urban Development, Justice, Interior, Transportation, the Environmental Protection Agency, the Advisory Council on Historic Preservation, the National Endowment for the Arts, the National Endowment for the Humanities, and the Smithsonian Institution.

On February 10, 1997, a home page on the World Wide Web was established to share ongoing information with the public and to encourage their input on all components of the initiative (<http://www.epa.gov/rivers>). The home page is updated on a regular basis. In addition, a hotline was established for citizen comments and questions (1-888-40RIVER).

During April and May, meetings were held across the country to solicit input on the criteria and selection process and to identify the particular federal resources sought most by communities. Staff members from the U.S. Congress authorizing and appropriating committees, along with a varied group of stakeholders, were invited to the two Washington, D.C. meetings. Meetings have also been held in Albuquerque, New Mexico; Boston, Massachusetts; Philadelphia, Pennsylvania; Atlanta, Georgia; Chicago, Illinois; San Francisco, California; Los Angeles, California; Seattle, Washington; Asheville, North Carolina; and Denver, Colorado. In addition, members of the interagency task force were invited to meetings in El Paso (organized by Congressman Silvestre Reyes) and Laredo, Texas (convened by Mayor Saul N. Ramirez, Jr. and Webb County Judge Mercurio Martinez, Jr.)

Participants in these meetings offered many excellent suggestions on the overall initiative design and the needs of communities across the country engaged in river revitalization efforts. As a result, a draft notice of the initiative was published in the Federal Register on May 19. The Federal Register notice specifically asked for comments on the proposed overall design of the initiative, the qualifying and selection criteria, and the nomination and selection process. It also solicited advice regarding the specific types of federal assistance communities would find most helpful.

The comment period was originally scheduled to end June 9, 1997, but was extended until August 20, 1997 at the request of individuals and organizations and to encourage additional public comment.

Following the Federal Register notice, members of the interagency task force were invited to attend a number of meetings, including those in Minneapolis, Minnesota (organized by St. Paul Mayor Norm Coleman and attended by some 20 mayors along the Upper

Mississippi River); the Fox River, Wisconsin (at the request of Congressman Jay Johnson); and the cities of Dubuque, Iowa; Jefferson City, Missouri; and Austin, Texas (at the invitation of representatives from the agriculture community); Denver, Colorado (at the invitation of the Upper Arkansas Watershed Council); West Virginia (at the request of the Hardy County Commissioners); and Frederick, Maryland (at the request of the Frederick County Board of Commissioners).

SUMMARY OF COMMENTS RECEIVED FROM THE COMMENT PERIOD (May 19 to August 20, 1997)

The Federal Register notice comment period ran from May 19 to August 20, 1997, for a total of 90 days. The Administration is appreciative to all those who took the time to express their views and ideas on the initiative.

More than 1,700 comments were received. Many respondents wrote in favor of the initiative, citing increased coordination of federal services, the attention to environmental, economic and cultural/historic values in the design of the initiative, the integrated method to river restoration and revitalization, and the community-driven approach. Many appreciated the fact that no new regulations would be imposed as a result of the initiative.

Many of the respondents wrote in opposition to the initiative. Many were opposed to federal involvement of any kind in restoring and revitalizing rivers and often expressed concern about property rights and the role of the United Nations along designated rivers.

Efforts were made to address all comments received. Special effort was made to clarify and refine the following areas:

overall initiative design:

- need for the initiative;
- qualifying and selection criteria;
- role of the federal government;
- Congressional, state, and local roles;
- benefits to non-designated rivers;
- role of the River Navigator;
- private property concerns;

- nomination and selection process
- public involvement in the design of the initiative.

A summary of the comments received, and how each was addressed, appears in Appendix 2 of this Notice.

OVERALL PROGRAM DESIGN

The American Heritage Rivers initiative will be driven by the needs and desires of communities that wish to participate. The federal government will focus the delivery of resources to support community-led efforts that spur economic revitalization, protect natural resources and the environment, and preserve our historic and cultural heritage. The initiative will also pinpoint and recognize outstanding models of community-based development, conservation, and other efforts, and will, through an information clearinghouse, share the lessons learned in these communities with all who are interested.

How do Communities Nominate a River and Who May Apply?

The nomination process begins in the local community. People representing all the different interests who live and work in the area should come together to develop the nomination. After meeting to share information, identify common goals for their river, and set strategies to achieve those goals, they should ask one of their members to submit a nomination on their behalf.

The nomination package must include a completed American Heritage Rivers Cover Sheet (printed at the end of this notice in appendix 1) and responses to items 1-4, listed below. Responses to items 3 and 4 constitute the primary basis for evaluating nominations. Items 1 and 2 will be used to put responses to items 3 and 4 in context, but will not be used to assess the merits of the nomination. The President will designate rivers that receive the highest evaluation from items 3 and 4 and have substantively answered items 1 and 2. The President will also seek rivers representing the geographical and resource diversity of the nation (for a complete discussion of additional factors used in the selection process, please see "How Will Rivers Be Selected for Designation?", below).

These four items reflect changes made to the initiative as a result of public comment. In the May 19 and June 20 Federal Register notices, five criteria were listed: 1) broad community support; 2) notable resource qualities; 3) local and regional partnership agreements; 4) strategies that lead to action; and 5) measurable results. In this final notice, two criteria from the earlier notices, 1) broad community support and 3) local and regional partnership agreements, have been combined into one item: "illustrate support for the nomination and plan of action." The second criterion from earlier notices, notable resource qualities, is no longer a criterion because it is primarily descriptive and thus, more difficult to objectively judge. However, it remains a key factor in selection. The two criteria from the earlier notices, 4) strategies that lead to action and 5) measurable results, have been combined into one item: "describe the community's plan of action," which includes measures of performance as one of the components of the plan of action.

The four items to be addressed in the nomination packet are:

- 1. Describe the proposed American Heritage River area.**

Define the proposed area and describe its natural qualities and current uses, for example, economic activities, population patterns, and topography. The size may vary from a short stretch to the whole length of the river. It can cover land immediately adjacent to the river, such as the waterfront and stream side areas, or span the entire watershed. It may cross jurisdictional boundaries. The scope of the area, however, should be sufficient to achieve the community's goals.

- 2. Describe the notable resource qualities in the area.**

Explain how the natural, economic, agricultural, scenic, historic, cultural, and/or recreational resources are distinctive or unique.

- 3. Describe the community's plan of action.**

Demonstrate that the community has in hand, or is

developing a clearly defined plan of action to achieve its vision for the river area. Applicants are expected to address all three American Heritage Rivers objectives -- economic revitalization, natural resource and environmental protection, and historic and cultural preservation -- either through planned actions or past accomplishments. Any actions planned on the designated river area should not adversely impact neighboring communities. The community may describe both long-term plans and short-term actions. It should also describe how private property rights will be respected.

At a minimum, the plan of action should address:

- Community vision
- Products and projects, including project maintenance
- Resources, both committed and anticipated, including means of generating additional support from both private and public sources
- Expected federal role
- Schedule or timeline
- Citizen involvement
- Public education
- Logistical support, operating procedures and policies
- Prior accomplishments, if relevant, and relationship to existing plans and projects in the area
- Challenges to community action
- Measures of performance.

4. Illustrate who supports the nomination and plan of action.

Demonstrate that a range of citizens and organizations support the nomination and plan of action. Provide evidence that members of the community have had an opportunity to comment on and discuss the nomination and plan of action.

- Supporters should reflect the diversity of the community. As appropriate, they should include farmers, ranchers, landowners, businesses and industries, educational and arts organizations, youth groups, community leaders, developers and community development organizations, historical societies, environmental groups and other

nonprofit organizations, elected officials, and state, tribal, and local governments. Supporters should include minority and low income individuals and groups. Those who rely on the resources but live outside the area should also be included in discussions about the plan of action, but may not submit a nomination.

- Describe the nature and scope of the supporters' roles. Demonstrate that they come from all affected jurisdictions.
- As appropriate, describe how past and continuing partnerships/agreements support the nomination proposal. If relevant, describe partnerships/agreements forged and commitments made specifically to support the American Heritage Rivers nomination proposal.
- Letters of endorsement and support are highly recommended, especially those from elected officials and appropriate state, tribal and local governments. Letters from federal agencies will not be accepted.

Nominations must be limited to 15 pages of 10-point text or larger, using one-inch margins. Letters of endorsement should include names, addresses, and phone numbers of the supporters and will not count toward the 15-page limit. Letters of endorsement should also indicate the level of support to be given to the American Heritage River plan of action by the individual or organization writing the letter. Letters of endorsement must be included in the nomination packet; letters of endorsement sent separately will not be considered. Due to constraints on the review and selection process, additional materials, such as videos, photographs, and plans, will not be accepted; however, photographs may be embedded in the text if the total length does not exceed 15 pages.

As part of a nomination packet, communities must identify projects they wish to undertake. Communities seeking designation do not have to agree on every aspect of the river's use; they must only agree to support the plan of action for the river they identify in their

nomination package. Of course, any projects identified in the nomination packet must still undergo applicable state and local review processes.

The most successful applicants will show evidence of broad community support and a clearly defined plan of action. A single nomination for the same river, river stretch or river confluence will indicate, in part, this broad community support. One nomination per river, river stretch or river confluence is recommended. Multiple nominations will be ranked and scored separately.

The scope of the nomination does not have to include contiguous segments of the river. While it is desirable to apply for designation of contiguous river segments, nominations for two or more noncontiguous segments will be accepted and considered. It is conceivable that two communities will choose to nominate noncontiguous segments of the same river. Although this is acceptable, actions proposed should not adversely affect neighboring communities or have a negative impact on such things as cultural or natural resources, the environment, river access, water quantity or quality, agriculture, navigation, or flood plain management.

After a designation is made, some communities may wish to add stretches of river as part of their designated river. The same process used by the community to seek designation should be used to augment the designated river area. The community should notify the American Heritage Rivers Interagency Committee (hereafter referred to as the Committee) of this augmentation (see "Coordinated Delivery of Federal Services" below). The Committee will then make such recommendations to the President on behalf of the community.

Foreign governments and their international organizations are ineligible to nominate rivers. Foreign governments and their international organizations will have no authority granted to them as a result of an American Heritage Rivers designation.

Nominations are welcomed from community-led efforts that are well underway, as well as from new efforts that are not yet being implemented.

How Will Rivers Be Selected for Designation?

A panel of experts in river revitalization will review nominations and recommend rivers to the President for designation. The panel will be composed of a number of interests, such as representatives of natural, cultural and historic resources concerns; scenic, environmental and recreation interests; tourism, transportation, and economic development interests; and industries such as agriculture, hydropower, manufacturing, mining, forest management and others.

The Chair of the Council on Environmental Quality shall develop procedures for selecting the members of the panel and directing its activities.

In preparation for review by the panel, agency staff will score individual nominations based on community responses to items 1-4 explained in detail above and summarized as follows:

1. Description of the proposed American Heritage River area.
2. Description of the notable resource qualities in the area.
3. Description of the community's plan of action.
4. Illustration of who supports the nomination and plan of action.

Responses to items 3 and 4 constitute the primary basis for evaluating nominations and will be given equal weight in the scoring process. Items 1 and 2 will be used to put responses to items 3 and 4 in context, but will not be used to assess the merits of the nomination.

From among those nominations that are considered to be qualified, the reviewing panel will also seek to recommend rivers for designation that represent a range and variety of kinds of rivers, including those that:

- as a group and individually, represent the natural, historic, cultural, social, economic and agricultural diversity of American rivers.
- showcase a variety of stream sizes and an assortment of urban, rural, and mixed settings from around the country. The Committee may recommend both relatively pristine and degraded rivers.
- highlight a variety of innovative programs in such areas as historic preservation, wildlife

management, fisheries restoration, recreation, community revitalization, agricultural practices, public health and drinking water source protection, and flood plain and watershed management.

- includes community partnerships in an early stage of development, as well as those that are more well established.
- stands to benefit from requested federal assistance.

Number of Designations

The President will designate ten rivers in early 1998. Additional designations in subsequent years will be guided by experience gained from the designated rivers and the level of community support for the initiative.

Terms of Designation

American Heritage Rivers designation is intended to enhance the partnership between a community along a designated river and the federal government. Although the term of focused, active assistance will be limited to five years, it may be impossible to achieve measurable results from a community's plan of action in that time. Federal agencies may continue to provide appropriate services as part of their ongoing activities after this time.

The community, with the support of the federal government, will work together to implement the plan of action. Designation will generally be considered indefinite or until and unless termination of designation is sought.

The Committee will develop a process by which any community that nominates and has its river designated may have this designation terminated at its request.

Upon a determination by the Chair of the CEQ that a community has failed to implement its plan, the Chair may recommend to the President that a designation be revoked. The Chair shall notify the community at least 30 days prior to making such a recommendation to the President. Based on that recommendation, the President may revoke the designation.

The federal government may also find it necessary to terminate designation because a community has failed to pursue its plan of action. The procedures for such an

action will accompany the designation of American Heritage Rivers. Regardless of whether the community or the federal government has requested termination of designation, the other party shall be entitled to know the rationale for the other party's action.

BENEFITS OF DESIGNATION

Presidential Recognition

Designated American Heritage Rivers will be selected by the President of the United States as rivers which deserve special recognition due to their distinctive qualities and community support.

Coordinated Delivery of Federal Services

Programs exist in numerous federal agencies to support river restoration, historic and cultural resource preservation, and community and economic revitalization, especially the agencies that have participated in the development of American Heritage Rivers.

All assistance from the federal government under the auspices of the American Heritage Rivers initiative will come at the request of the community. However, once a river is designated, a preliminary team of federal agency representatives will be available to help the community determine the role for federal assistance. A River Navigator, formerly referred to as a "caseworker" in public meetings and earlier documents (see "River Navigator" below, for a full description of this position) will be made available for each community. The Committee may also assist in overcoming obstacles that arise as the many federal services are provided.

Examples of the federal assistance a community might receive include: information and maps to help communities identify and evaluate historic, environmental and economic resources; capacity building, planning and community outreach assistance to ensure a well-defined action strategy and a broad base of support; training in the use of soil and water quality information as a basis for decision-making and against which to measure progress; training and assistance with environmental monitoring to help communities develop a report card on river conditions and trends; research

assistance to identify events and trends in local history; interpretive assistance to develop a framework for communicating the importance of the community's river heritage; technical and financial assistance to implement restoration and pollution prevention activities; and economic modeling to help communities assess benefits and costs of proposed projects.

Within 90 days of designation, the community and the federal agency team should agree on a framework document to identify their proposed roles. The community and the federal team should agree upon one sponsoring federal agency to lead the coordination of federal resources. Methods for simplifying and expediting individual program services will be investigated, and, recommendations made, as appropriate, for improving the scope and substance of federal tools.

The federal teams will function in partnership with each community, state, local, tribal governments, non-governmental organizations, and others, as appropriate.

The Committee will oversee the federal responsibilities under the initiative. Based on the lessons learned from each designated river, the Committee will look for opportunities to reduce bureaucracy, streamline services, and overcome obstacles.

Finally, federal employees providing assistance to designated American Heritage Rivers will participate in an evaluation of the successes and problems associated with the initiative and make recommendations for improving delivery and accessibility of services and programs.

River Navigator

The community surrounding each designated river will have the opportunity to help select a River Navigator who will assist the community in implementing its plan of action. The River Navigator will serve as a liaison between the community and the appropriate federal programs; assist the community, if requested, in engaging the assistance of state, tribal, and local governments and private sector interests; provide information services; offer technical advice; and

perform other duties as the community may request, consistent with the goals of the American Heritage Rivers initiative.

The community, rather than the River Navigator, will be responsible for implementation of the community's plans. The River Navigator will have no authority to adjudicate and may not engage in the following: lobbying; leadership of the community partnership or any of its endeavors, or sponsoring organizations; or serve as an officer or voting member of the partnership or any sponsoring organization.

In order to ensure clear communication, the federal government will request that the community identify a single person point of contact as its representative to work closely with the River Navigator. Of course, all members of the community may speak with the River Navigator and other appropriate federal officials assisting American Heritage Rivers.

The framework document, drafted by the federal agencies and the community within 90 days of designation, should include a position description for the River Navigator tailored to the unique needs of the community. The federal agencies and the community should develop performance measures for the River Navigator once she or he is identified. These performance measures must reflect the role of the River Navigator as defined in this Federal Register notice.

The River Navigator will be selected by the sponsoring federal agency with input from the community (see "Coordinated Delivery of Federal Services" above), and will be filled for a period no longer than five years beginning no later than 120 days after the date of designation. Because each community will have different needs, the sponsoring federal agency will identify several candidates for the River Navigator position from existing staff and provide an opportunity for the community to interview these candidates and provide input to the selection process. The River Navigator will have maximum latitude to work with the community, while also having direct access to principal staff of the sponsoring agency, including the agency representative on the Council (see "Coordinated Delivery of Federal Services" above) as well as other agencies.

The River Navigator position will be fully federally funded, unless the community volunteers non-federal funds to support the position. There is no requirement that a community accept a federal employee as their River Navigator. If the community chooses not to take advantage of the benefit of having a River Navigator, the federal government will provide a point of contact on the Council to call upon as needed.

"Good Neighbor" Policy

Regarding those sites designated as American Heritage Rivers, the federal government intends to act as a good neighbor in planning and making decisions that affect economic development, natural resources and environmental protection, and historic and cultural preservation. The assistance provided by federal agencies is intended to enhance and complement local community goals. In coordinating with state, tribal and local governments, federal agencies will strive to minimize inconsistency, and to reduce or eliminate conflicting policies and programs operating on and around designated rivers. Through early coordination and public involvement, federal agencies will be in a better position to accommodate the local community plans for designated rivers when planning proposed federal actions. The Good Neighbor policy will add no new layers of review or approval to federal actions -- it will simply facilitate those coordination policies and review processes already in place, and encourage the consolidation and streamlining of existing review processes, where possible.

Federal agencies will be encouraged to work in partnership to assist positively communities. Local federal facilities will be encouraged to provide public access, physical space, technical assistance, and other support for which they have authority and resources.

Private Sector Opportunities

The Administration will look for opportunities to help communities access resources from the private sector to enhance economic opportunities that will revitalize communities, improve living standards, provide incentives, create jobs and similarly achieve environmental goals.

BENEFITS TO APPLICANTS WHO SUBMIT COMPLETE NOMINATION PACKAGES

Communities that invest their time to complete the American Heritage Rivers nomination package have already taken important steps to revitalize their communities and improve their rivers. In recognition of these efforts, those who submit complete nomination packages will receive:

- An invitation to a national or regional symposium on partnering with federal, state, tribal and local governments to share information and learn about the tools and resources available from a variety of sources, including community organizations. These symposia will also provide community members an opportunity to give important feedback to federal program managers.
- Relevant site-specific data and computer software, including environmental information, geological maps, community planning software and economic modeling tools. This information will be tailored to meet the community's needs as identified in their nomination.

IMPROVED SERVICES AVAILABLE TO ALL COMMUNITIES

All communities will benefit from improved federal services. American Heritage Rivers Services consolidates existing information from many organizations in one, easy-to-use World Wide Web site. Those who do not have Internet access can call 1-888-40RIVER to request information.

Services, tools and products related to these three primary objectives of American Heritage Rivers are referenced in the web site. Users may choose from categories such as:

- Information Centers, Publications, Maps and Databases
- Calendars, Discussion Groups, and Contacts
- Hands On Assistance and Talent Banks
- Laws and Regulations

- Financial Assistance
- Community Outreach Tools, Curricula, and Professional Training
- Data Collection and Evaluation Techniques
- Planning and Management Tools
- Research and Development

Each entry describes the services and provides contacts for further information, including Internet links (where possible).

American Heritage Rivers Services also provides information organized geographically. Using familiar prompts, such as a river or city name, users can locate information on flood events, population change, road networks, the condition of the water resources, and the partnerships already at work in their area. They can construct customized maps and download them, use economic and environmental assessment models, find information on relevant educational programs, link their own information, or enter a dialogue with others.

CLARIFICATIONS

What is the Role of the Federal Agencies?

The role of the federal agencies in this initiative is to listen to community concerns and needs; to work with communities engaged in conservation and development activities; to overcome obstacles in the delivery of federal services to identified local priorities; and to play a coordination role in helping communities and government agencies learn from each other and compile the best practices, standards, and models for emulation throughout the country.

The greater coordination of federal agencies involved in the American Heritage Rivers initiative may result in more efficient review of federal actions taken in conjunction with implementation of the community's plan of action.

While federal agencies will not endorse individual nominations for designation as an American Heritage River, they will be able to answer questions about the nomination process and continue to work with local government and nongovernmental organizations, some of which may be pursuing designation.

All activities proposed under the American Heritage Rivers initiative must comply with and be consistent with any applicable federal, state, tribal and local laws, be voluntary, and be helpful to local governments. There is nothing in the American Heritage Rivers initiative that will alter any obligation of the federal government to comply with NEPA or any other statutory or regulatory requirements. Nothing herein shall create or alter any rights, duties, obligations, causes of action or defenses, implied or otherwise, of any person or entity. American Heritage Rivers is a commitment by the federal government to try to provide those programs and resources, identified by the community and paid for by taxpayers, in the most efficient and effective manner possible.

Protection for Private Property and Other Rights

The Administration is committed to ensuring that private property, water, and other rights are fully respected and protected under the American Heritage Rivers initiative.

- The American Heritage Rivers initiative will work in coordination with laws and regulations that seek to reduce pollution, improve water quality, protect drinking water, manage floodplains, promote economic development, facilitate interstate commerce, promote agriculture, protect wetlands and endangered species, preserve important historic and archaeological sites, and address other concerns.
- The American Heritage Rivers initiative will not conflict with matters of state and local government jurisdiction, such as water rights, land use planning and water quality standards, nor will it change interstate water compacts, Indian tribal treaty rights, flood damage reduction, or other existing rights. By achieving greater coordination between programs and local needs, American Heritage Rivers will work to build mutual understanding and better solutions to existing and future problems. It will provide a forum in which federal officials, community organizations, and other stakeholders can examine how the range of regulations are implemented locally.
- Employees of the federal government, including the River Navigator, may not as a result of the

American Heritage Rivers initiative infringe on the existing authority of local governments to plan or control land use, or provide or transfer authority over such land use; nor may the initiative affect any existing limitations on or create any new authorities for the participation of federal employees, including River Navigators, in local zoning or land management decisions involving private property.

- The initiative will not supersede, abrogate, or otherwise impair the authority of each state to allocate quantities of water within its jurisdiction; and any proposal relating to water rights in a community's plan must comport with all applicable laws and interstate compacts. Nothing in this initiative is meant to preclude any holder of a state water right from exercising that right in a manner consistent with state law.
- In implementing the American Heritage Rivers initiative, federal departments and agencies shall act with due regard for the protections of private property provided by the Fifth Amendment to the United States Constitution.

What is the Role of State, Tribal, and Local Governments?

State, tribal, and local governments play critical roles in the American Heritage Rivers initiative. The initiative is designed to complement the work already taking place at the state, tribal and local levels. Local agencies in particular bring a unique and valuable perspective. The American Heritage Rivers initiative can serve as a catalyst to bring these stakeholders together, including neighboring localities and states that share rivers.

Through partnerships, the American Heritage Rivers initiative will bring federal, state, tribal and local resources together to improve the ten designated rivers and provide more efficient services to communities. The greater efficiency achieved through greater coordination of federal services will translate into easier access to federal services by state, tribal, and local governments.

Projects identified through the nomination process for American Heritage Rivers will undergo appropriate state and local review processes. The identification of projects in the nomination process should not

circumvent local, regional, and/or state planning forums, especially those involving public review process. Indeed, as appropriate, such processes should complement public outreach efforts and can serve as public forums on proposed projects to be undertaken as part of designation as an American Heritage River. Designation should not impact existing timetables for projects already identified by the community. In many cases, designation could accelerate completion of common objectives.

Many of the federal agencies already have close working relationships with state, tribal, and local governments. These relationships will continue. The River Navigator may request that state, tribal, and local governments participate in the teams that will be assembled to work with each community to implement its plan of action.

Evidence of state, tribal, and local government support will be a key element in selecting American Heritage Rivers. It is likely that state, tribal, and local governments will submit nominations on behalf of communities who wish to participate.

APPENDICES

- Appendix 1- Nomination Form
- Appendix 2- Summary of Comments Received and How they Were Used

Email your suggestions

URL: <http://www.epa.gov/rivers/fedreg2.html>
Revised September 11, 1997



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
Kenneth J. Freeman

1997-98 EXECUTIVE COMMITTEE

- Allen Bingham, President
- John Surgeon, Sr. Vice President
- Gerald G. Boom, Vice President
- Uwe L. Gross, Secretary
- Michael E. Stone, Treasurer
- Jacob Adams
- Cynthia Bailey
- Charlie Boddy
- James F. Branch
- Frank M. Brown
- Martyn Crockett
- Dennis Egan
- Mano Frey
- Paul S. Glavmonick
- H. Raymond Measles
- David J. Parish
- Elizabeth Parish
- Jerome M. Selby
- Tryse J. Shaub
- Robert B. Siles
- Cliff R. Taro
- Scott L. Thorson

DIRECTORS

- Will Abbott
- Irene A. Anderson
- Don Argetsinger
- James S. Amovitz
- James E. Carmichael
- James R. Chatham, Ph.D.
- William H. Cheek
- James L. Cloud
- David C. Cobb
- Stephen M. Connelly
- Jeffry J. Cook
- Larry Daniels
- John T. Donohue
- Paula P. Eastley
- Bill Elander
- George L. Erickson
- Jeffrey Y. Foley
- Donald S. Follows
- Stanley T. Foo
- Lennie Gorsuch
- Elary Gromoff, Jr.
- Annie Hall
- John K. Mandeland
- Joseph R. Henn
- Karen J. Hofstad
- David W. Hughes
- Jim Jansen
- Charles W. Johnson
- Darryl F. Jordan
- John Key
- James W. Konst
- Pete Leathard
- Brian J. Letch
- Dale R. Lindsey
- Robert W. Loeschner
- Frank E. McQuary
- Clarence "Rocky" Miller
- Benjamin P. Nageak
- Wesley P. Nelson
- John K. Norman
- Wilbur O'Brien
- Michael O'Connor
- Gary L. Paaton
- Kenneth E. Peavyhouse
- William E. Pierce
- John A. L. Rense
- Ronald L. Ricketts
- George R. Schmidt
- Robert I. Smart
- William A. Thomas, Jr.
- Scott B. Thompson
- Barry D. Thomson
- Steve Walls
- J.C. Wingfield
- George P. Wulvich
- Eric P. Yould

HONORARY DIRECTORS

- Phil R. Holdsworth
- William R. Wood

EX-OFFICIO MEMBERS

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

February 26, 1998

Representative Jeannette James
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative James:

Re: Support for HJR 52, relating to opposition of American Heritage Rivers in Alaska.

The Resource Development Council for Alaska, Inc. (RDC) strongly supports HJR 52, opposing the designation of any Alaskan rivers as American Heritage Rivers. The American Heritage Rivers Initiative is a potential threat to private property owners throughout the United States. The supplementary layer of regulations used to manage rivers designated American Heritage Rivers will act as an additional roadblock to development in Alaska.

Several aspects of the Initiative are problematic. First, no clear justification for such a program is provided. Without a clearly defined purpose, this program threatens to add to the already cumbersome complex of federal land management policies. Second, no safeguards exist to protect the rights of private property owners. Finally, as many as thirteen Federal Agencies will be involved in developing an implementation plan for any designated river, resulting in added problems rather than improvements in local land-use planning.

More than half of the lands in Alaska are owned or managed by the federal government. There is no legal authority nor practical need for additional lands to be placed under federal land management. The American Heritage Rivers Initiative is an unnecessary federal program likely to create conflict between state and local communities and the federal government.

HJR 52 is an appropriate step forward in addressing the Initiative and RDC urges its passage. Thank you for the opportunity to comment.

Sincerely,

**THE RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.**

Ken Freeman
Ken Freeman
Executive Director



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 276-0347

Honorable Jeannette James
State House of Representatives
Capitol Building
Juneau, AK 99801

February 25, 1998

RE: House Joint Resolution 52, relating to the American Heritage Rivers Initiative

Dear Representative James,

Thank you for the opportunity to comment on House Joint Resolution 52 and thank you for introducing this measure. The Alaska Miners Association supports HJR-52 and we encourage its passage.

The American Heritage Rivers Initiative (AHRI) contains numerous problems. AHRI has not been authorized by the U.S. Congress and as a consequence the relationship between AHRI and existing laws and regulations has not been defined. The relationship between AHRI and the authorities of the land management agencies such as the Bureau of Land Management, Forest Service, U.S. Fish & Wildlife Service, etc. has not been defined. Also, the authorities of AHRI have not been defined as they relate to State and private property.

The system of laws in this country is one where the Congress provides the authority for an action which is then implemented by the Administration. Under this system, statutes and the resulting regulations and rights of the public to appeal or challenge those laws are well defined in law. This is not the case with AHRI and at least one example has already been identified that shows the danger of AHRI.

This example involves the procedure to "opt-out" of the AHRI. Last summer Ms. Katie McGinty, Director of the White House Council on Environmental Quality (CEQ), told the Western States Coalition meeting in Spokane, WA that if an area or community wanted to "opt-out" of AHRI they could do so by writing to her. Then just prior to the close of the nomination period, Ms. McGinty told selected Members of Congress that it was only by a letter from the applicable U.S. Congressman that an area could "opt-out" of the program.

In addition to the legal basis for the program, there are many other problems with AHRI including: 1) No justification has been given for this new program, why it is needed, or why does the current system of federal land management agencies and communities needs to be replaced with this new program. 2) The stated purposes of the program properly fall under local zoning issues and these are the responsibility of local governments, not the federal government. 3) No reference or acknowledgement is given to the fact that the lands under navigable waters are owned by the states and this would include most rivers in the country. 4) Elected representatives of local communities are not involved in the decision to list a river under AHRI.

These are a few of the many problems that have thus far been identified with the American Heritage Rivers Initiative. We urge passage of House Joint Resolution 52 opposing this Initiative for Alaska. If we can be of further assistance in this matter please contact me.

Sincerely,

Steven C. Borell, P.E.
Executive Director

HJR

56

HOUSE COMMITTEE REPORT

(9)

Date Referred to Committee: February 11, 1998

FURTHER REFERRALS:

Date of Committee Action: 2/26/98

The RESOURCES Committee considered:

HJR 56

HOUSE JOINT RESOLUTION NO. 56

YTTRIUM MINING

Relating to yttrium mining and transfer of the linear induction motor research vehicle to Alaska.

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

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

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Fred Dyson</i>	Dyson	✓			
<i>W. Williams</i>	Williams	✓			
<i>Green</i>	Green	✓			
<i>Barney Barnes</i>	Barnes	✓			
<i>Henry Mack</i>	Mack	✓			
<i>Scott Ogan</i>	Ogan	✓			
<i>Bill Hudson</i>	Hudson	✓			
<i>Roger Jank</i>	Jank	✓			

CHAIR'S SIGNATURE Bill Hudson Scott Ogan

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HJR 56

Revision Date: _____
Title: Yttrium Mining

Dept. Affected Legislative Affairs Agency

BRU A11

Component A11

Sponsor: Rep. Hudson

Requester: House Resources Committee

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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						
----------------------	--	--	--	--	--	--

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by House Resources Committee
Division Co-Chairman Bill Hudson
Approved by _____
Agency _____

Phone 465-6820
Date 2/26/98
Date _____

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

COMMITTEES

CO-CHAIR
Resources Committee

MEMBER
Transportation Committee
Labor & Commerce Committee



State Capitol
Juneau, Alaska
99801-1182
(907) 465-3744
Fax (907) 465-2273

Sponsor Statement

This Resolution urges the Federal Railroad Administration to transfer the Linear Induction Motor Research Vehicle (LIMRV) to the State of Alaska. The LIMRV is a high speed test vehicle which was used in the 1970's for obtaining experimental data by the United States Department of Transportation. The transfer of the LIMRV will allow for the potential development of a new industrial and research business in Alaska. The mining will take place on Prince of Wales Island where the only known North American source of yttrium is located, and the processing will take place in Ketchikan. The development of yttrium could revitalize Ketchikan, after the loss of the pulp mill.

Yttrium is a rare earth element that is currently being purchased from foreign sources at the current world market value of \$320,000 for one pound of pure yttrium. Power Superconductor Applications Corporation is proposing local employment in the mining and refining, as well as in the converting the LIMRV to their needs. Upon receipt of the LIMRV, there will be potential employment of up to 55 persons for the conversion.

The mining and refining of yttrium would also cause further job expansion on Prince of Wales Island. These yttrium deposits are also mixed with other rare earth elements, which will allow Alaska further development in other minerals.

Power Superconductor Applications Corporation is also planning to establish a high speed test facility at Annette Field on Metlakatla. This airfield makes available long flat strips of land and a moderate climate for the testing of the LIMRV. Currently, there are facilities in Southeast Alaska that could be quickly retrofitted by the Power Superconductor Applications Corporation for their requirements for the LIMRV conversions and yttrium development. The fact that there are current convertible facilities available, will allow for expedient development of the project.

Alaska has a unique deposit of this valuable earth element, the development of which could provide an opportunity for economic growth and development. I urge your support in this timely resolution.



Demonstration of Advanced Linear Induction Braking System on LIMRV for Enhancement of Railroad Safety

Abstract

A 4-year research and development program is outlined which designs, builds and tests several single-sided 2150-4665 HP linear induction motors (S-LIM) propulsion auxiliary sets for improvement of high speed braking on railroad locomotives and on steep grades for mountain terrain. The speed range of interest is 75 mph to 175 mph and specific to railroad passenger and high-speed rail service. The range of development for the mountain grades are 4.5%-12.25% and two key U.S. electric railways have been identified that have experienced braking failures on these grades within the last decade. The technology to be demonstrated is the fully-compensated linear induction motor (FC-LIM) operating in the regenerative/dynamic braking mode with a thyristor-controlled load bank. The LIM technology was originally developed at Imperial College of Science and Technology, London under a grant from the British government, pioneered by Professor Eric Laithwaite and Dr. Stephen Kuznetsov, principal investigators. The LIM braking system has commercial potential for augmenting electric braking on all high speed rail vehicles, urban electric traction vehicles and mountain-grade locomotives with either AC induction motor propulsion or DC traction propulsion systems. The retrofitting of the Linear Induction Motor Research Vehicle (LIMRV) is to occur in Alaska with alpha testing to be performed in Pennsylvania at the Brady's Bend Test Site. In Phase III, two GM Diesel-electric 3600-4000 HP locomotives are fitted with a 45 kN LIM brake system rated at 4,665 HP as an auxiliary brake system and run in steep grade conditions on 2 U.S. railroad properties for 12 months.

Background

Currently U.S. railroads have approximately 96% of their rolling stock equipped with DC dynamic brakes using a series wound 600-750 VDC class traction motor fed by a diesel electric synchronous generator set and a 6-pulse or 12-pulse bridge silicon diode rectifier. These propulsion sets offer dynamic braking but in most cases do not offer regenerative braking and consequently the locomotive and train kinetic energy is dissipated in resistor banks with fixed dissipation limits. Extended dynamic braking is usually limited to a peak rate of about 3.5 mphps in the U.S. with an emergency braking rate of 8-9 mphps often resulting in traction motor overload and commutation failures.

The other 4% of the rolling stock in the U.S. are AC induction motor propulsion system employing 4-pole or 6-pole squirrel cage traction motors and variable-voltage variable-frequency (VVVF) inverters for current and speed regulation. These systems have been implemented just in the last decade and typically offer excellent regenerative braking control over a wide range of speeds through a technique termed field-oriented-vector (FOV) control of the power inverter. However, despite the introduction of these advanced AC rotary motor systems, there remains a persistent problem of wheel to rail adhesion in snow, ice or rain laden environments. While the

AC induction systems have slip-slide detectors on each locomotive wheel set, once a slip-slide condition is initiated by external forces, it is often impossible to recover full braking effort until either the grade is lessened or the external weather agent removed. The FOV control systems generally reduce the motor flux and braking torque in response to slip-slide conditions and recover locomotive speed regulation at the expense of a reduced braking torque. Herein lies the fundamental problem of the AC rotary system in relying exclusively on wheel and rail adhesion limits.

The situation is compounded for high speed rail operating in the range of 125-175 mph whereby the braking rates for example at 2.5 mph result in a full laden 10-car passenger train requiring 6000-8000 ft. to come to a full stop. The principal investigator has met with ABB Traction and discussed these high speed braking problems at length. ABB, a leading manufacturer of high speed rail equipment, indicated that the prime factor preventing their systems from braking high speed trains such as the Type ALP44 (New Jersey Transit) locomotive faster is a basic physics principle known as rail to steel wheel coefficient of adhesion. The 175 mph high speed locomotive has a coefficient $\mu=0.12$ on dry flat rail. On a wet rail, the coefficient will decrease to $\mu=.002$ and on ice the coefficient may be as low as $\mu\leq.001$. This clearly indicates that even with the best AC-VVVF/FOV propulsion system, a compromise is being made on braking ability for the new high speed trains.]

The principal investigator documents herein, three linear induction motor braking systems for electric traction (subway) vehicles which have been in place for 6-15 years with superior characteristics all using single-sided linear induction brakes. These are:

- a. Toronto-Scarborough, Canada Transit System (> 15 years)
- b. Vancouver, British Columbia, Skytrain Transit System (> 13 years)
- c. Railway Technical Institute, Beijing, China (6 years)

The first two applications are 40-ton transit cars numbering 160 cars total. The last application in China is a 125-ton diesel electric locomotive with the 2 linear induction brake systems supplied by Power Superconductor in 1992 and each S-LIM had a rating of 600 KW. In all three applications, the locomotive or transit car is under automatic control (unmanned) and the system designers desired LIM braking for the reason that a controlled, uniform braking effort is obtained 100% at the time independent of snow, ice or rain conditions-this is a mandatory feature for automatic control by computer rather than a human operator. It should be noted that in the case of the Chinese 125-ton locomotive, the normal traction rotary motors are used for propulsion and the LIM system is used for acceleration boost and for 100% of braking. The PSA LIM is inverter controlled and incorporates field-oriented vector flux control to yield optimum performance.

State of Alaska Agreement

Power Superconductor has submitted to the State of Alaska, Division of Trade and Development, a comprehensive Teaming Agreement regarding the use of LIMRV for development engineering, test and certification of linear induction machines. The Agreement fully delineates the joint responsibilities of both parties in safeguarding the overhaul, operation, maintenance, storage and transportation of LIMRV including financial. The Teaming Agreement is currently being reviewed by the legal staff of the State of Alaska. PSA anticipates closure on this agreement within the next 30 days, for which the FRA will be sent a copy of this Agreement once signed. Should FRA require additional information on this Agreement, FRA staff is encouraged to speak with Marjorie L. Vandor, Assistant Attorney General, State of Alaska, who may be reached at (907) 465-3600.

Proposer's Level of Commitment and Organization

Power Superconductor and its predecessor firm, Electric Machinery Inc. was started in 1986 as a spin-off of the Westinghouse Electric Corporation, Central Research & Development Center, Pittsburgh. Its charter is to provide strategic electromagnetics research & development and advanced power electronics product design services to the U.S. Department of Defense, the U.S. transit and metal-production industries.

The individuals comprising Power Superconductor Applications Corp. have a prominent role in many large engineering programs. The organization, which is a focused manufacturing development group, has two primary objectives:

1. To advance basic scientific phenomena in applied cryogenics to electrical machinery and power electronics.
2. To apply the resulting knowledge to products for pulsed-power applications, civilian Maglev transport systems and rotating electrical machinery for propulsion.

The primary business of the company is development and manufacturing of high speed linear induction motors and high power inverters for guided ground transportation and people movers. PSA presently has a direct contract with the U.S. Navy to develop a 25,000 HP permanent magnet

propulsion motor diagnostic system for a ship drive program, geared to the DDG-51 Destroyer and SC-21 Surface Combatant. In the power utility area, PSA has a Cooperative Research and Development Agreement with Los Alamos National Lab to jointly develop yttrium (YBCO) based AC-excited superconducting wire/tape for a commercial development of 15-38 kV liquid-nitrogen cooled fault limiters for utility power stations under U.S. Patent 5,596,469.

Power Superconductor owns and operates a large traction & power research laboratory located at Bruce & Merrilees Industrial Park, New Castle, PA with 12,000 sq. ft. of high voltage and high current laboratories. This plant has extensive high power apparatus and one Type FCC 52-passenger linear induction motor test vehicle.

The Power Development Laboratory comprises a peak power supply of 10 Megawatts, 60 HZ up to 23 kV, 3-phase and a large DC magnet supply at 20,000 Amps, 600 Volts using Westinghouse Rotary Converter generator sets. The lab is equipped to test utility fault limiters and large generators up to 200 MVA short-circuit power and for qualifying large magnetic levitation apparatus.

The science and technology pursued by the corporation covers a broad base from high-voltage silicon thyristors and synchronous condensers to ultra high speed pulse power rotating generators for the U.S. military EM launcher programs. The charter of PSA is to establish a center of excellence for electrical engineers, metallurgists, and physicists to focus on improving superconducting power apparatus. Experts in every major field are available to assist the engineers in producing advanced high-speed machinery. The firm's scientists and engineers also provide technical support for the Department of Energy at Brookhaven National Laboratory, Argonne National Laboratory and Los Alamos National Laboratory on superconducting coils and superconducting electric power technologies.

Power Superconductor was recently awarded two contracts from the U.S. Navy (NAVSEA and Naval Surface Warfare Center) titled:

1. Design of High Speed, High Power Synchronous Generators for Surface Ships and Submarines, Contract No. N00167-91-D-0042/0018
2. Internal Fault Detection/Classification System for Permanent Magnet Machines, Contract N00024-96-C-4205

The firm provided the principal electromagnetic engineering to Babcock & Wilcox Corporation on the Dept. of Transportation Contract DTFR53-91-C-0065 for the design of the 300 mph FRA Maglev vehicle using superconducting (SC) vehicle suspension and all magnetic LSM propulsion. Power Superconductor provided the electromagnetic design for the SC linear synchronous motor and active electrodynamic guideway for the 18 MVA Maglev vehicle.

POWER SUPERCONDUCTOR APPLICATIONS CO., INC.

Linear Induction Catapult Motors

DESCRIPTION

Power Superconductor linear induction motors combine direct-drive, high-thrust with an ultra high-strength vehicle mounted reaction rail. All forces are transmitted over a 2-5 mm airgap from the beryllium-copper reaction rail to the stator assembly. The LIM catapult motor is designed for either a repulsive or neutral vertical force; there is no magnetic attraction between the reaction rail and the stator. The airgap may be filled with water, oil or any non-ferromagnetic fluid. The position of the reaction rail is detected by an optical or capacitive sensor and used to control frequency and phase angle of the inverter power supply in a closed loop control. This allows very fast accelerations and decelerations of the reaction rail along the stator guideway with positioning resolution of +/- 5 mm depending on the airgap selected.

The epoxy-encapsulated stator assembly is composed of a copper-wound magnetic core using high permeability cobalt silicon steel. Custom widths and special lengths are available on request. Windings with ratings from 240 volts to 4160 volts are available depending on the kW rating. The reaction rail is composed of beryllium-copper for high-duty cycle operations. High Power Density Models LIM-CAT-1200 and LIM-CAT-2100 have water cooled stator windings. Standard models are force air cooled.

Typical applications include aircraft catapults, locomotive test stands, ejector seat testing, metal forming and amusement park rides.

Military specification and EMC Shielded motors available on request.

CHARACTERISTICS

- ◆ Force ratings: 2,500-28,000 N/module
- ◆ Fast response, accelerations up to 120 G's
- ◆ No mechanical or frictional parts
- ◆ Uniform acceleration at all speeds
- ◆ Available speed range 5-150 m/s
- ◆ Hermetically sealed, oil resistant stator
- ◆ Explosion proof reaction rail and stator
- ◆ High resolution with closed-loop control
- ◆ Pulse Width Modulated (PWM) inverter
- ◆ NEMA Class H temperature stator

OPTIONS

- ◆ Current-source IGBT inverter
- ◆ IEEE-488 Bus interface to inverter
- ◆ High temperature Class R Stator winding
- ◆ Water Cooled stator for higher power
- ◆ Custom stator winding voltage rating

WARRANTY

Five year warranty on all units-the longest warranty in the linear motor industry.

TED STEVENS, ALASKA, CHAIRMAN

THAD COCHRAN, MISSISSIPPI
ARLEN SPECTER, PENNSYLVANIA
PETE V. DOMENICI, NEW MEXICO
CHRISTOPHER E. BOND, MISSOURI
SLADE GORTON, WASHINGTON
MITCH MCCONNELL, KENTUCKY
CONRAD BURCK, MONTANA
RONALD C. BUNNEY, ALABAMA
JUDY GAGG, NEW HAMPSHIRE
ROBERT F. SIEMETZ, UTAH
SEN HIGHTHORPE CAMPBELL, COLORADO
LARRY CRAIG, IDAHO
LAUCH FAIRCLOTH, NORTH CAROLINA
RAY BAILEY MITCHISON, TEXAS

ROBERT C. SYMS, WEST VIRGINIA
DANIEL K. BOULDER, MARIANA
ERNEST F. HOLLINGS, SOUTH CAROLINA
PATRICK J. LEAHY, VERMONT
DALE BISHOP, ARKANSAS
FRANK R. LAUTENBERG, NEW JERSEY
TOM HARKIN, IOWA
BARBARA A. MIKULSKI, MARYLAND
HARRY AGD, NEVADA
HEIDI EDWARDS, WISCONSIN
PATTY MURRAY, WASHINGTON
BYRON BORGES, NORTH CAROLINA
BARBARA BOXER, CALIFORNIA

STEVEN J. CORTLAGE, STAFF DIRECTOR
JAMES H. ENGLISH, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-8025

February 5, 1998

The Honorable Jolene Molitoris
Administrator
Federal Railroad Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Administrator Molitoris:

The people of Metlakatla, Alaska, are working with the State of Alaska and Power Superconductor Applications Corporation on a joint venture to investigate uses of linear induction motor technology. They have asked me to look into the possibility of moving the Linear Induction Motor Research Vehicle (LIMRV), which is owned by your agency, to their Annette Island test facility for a period of four years. I understand the LIMRV has been in storage in Pueblo, Colorado, for the past twenty years.

I would be interested in hearing your views on this proposal. Apart from my interest in advancing the development of U.S. based technology, this proposal involves creating employment opportunities for as many as 55 Native Alaskans on the Metlakatla reservation, where displaced timber workers have contributed to a serious unemployment problem. Thank you for your attention and consideration of this proposal to put these people back to work.

With best wishes,

Cordially,



TED STEVENS

CORRECTION

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



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

POWER SUPERCONDUCTOR APPLICATIONS Co., Inc.

Linear Induction Catapult Motors

DESCRIPTION

Power Superconductor linear induction motors combine direct-drive, high-thrust with an ultra high-strength vehicle mounted reaction rail. All forces are transmitted over a 2-5 mm airgap from the beryllium-copper reaction rail to the stator assembly. The LIM catapult motor is designed for either a repulsive or neutral vertical force; there is no magnetic attraction between the reaction rail and the stator. The airgap may be filled with water, oil or any non-ferromagnetic fluid. The position of the reaction rail is detected by an optical or capacitive sensor and used to control frequency and phase angle of the inverter power supply in a closed loop control. This allows very fast accelerations and decelerations of the reaction rail along the stator guideway with positioning resolution of +/- 5 mm depending on the airgap selected.

The epoxy-encapsulated stator assembly is composed of a copper-wound magnetic core using high permeability cobalt silicon steel. Custom widths and special lengths are available on request. Windings with ratings from 240 volts to 4160 volts are available depending on the kW rating. The reaction rail is composed of beryllium-copper for high-duty cycle operations. High Power Density Models LIM-CAT-1200 and LIM-CAT-2100 have water cooled stator windings. Standard models are force air cooled.

Typical applications include aircraft catapults, locomotive test stands, ejector seat testing, metal forming and amusement park rides.

Military specification and EMC Shielded motors available on request.

CHARACTERISTICS

- ◆ Force ratings: 2,500-28,000 N/module
- ◆ Fast response, accelerations up to 120 G's
- ◆ No mechanical or frictional parts
- ◆ Uniform acceleration at all speeds
- ◆ Available speed range 5-150 m/s
- ◆ Hermetically sealed, oil resistant stator
- ◆ Explosion proof reaction rail and stator
- ◆ High resolution with closed-loop control
- ◆ Pulse Width Modulated (PWM) inverter
- ◆ NEMA Class H temperature stator

OPTIONS

- ◆ Current-source IGBT inverter
- ◆ IEEE-488 Bus interface to inverter
- ◆ High temperature Class R Stator winding
- ◆ Water Cooled stator for higher power
- ◆ Custom stator winding voltage rating

WARRANTY

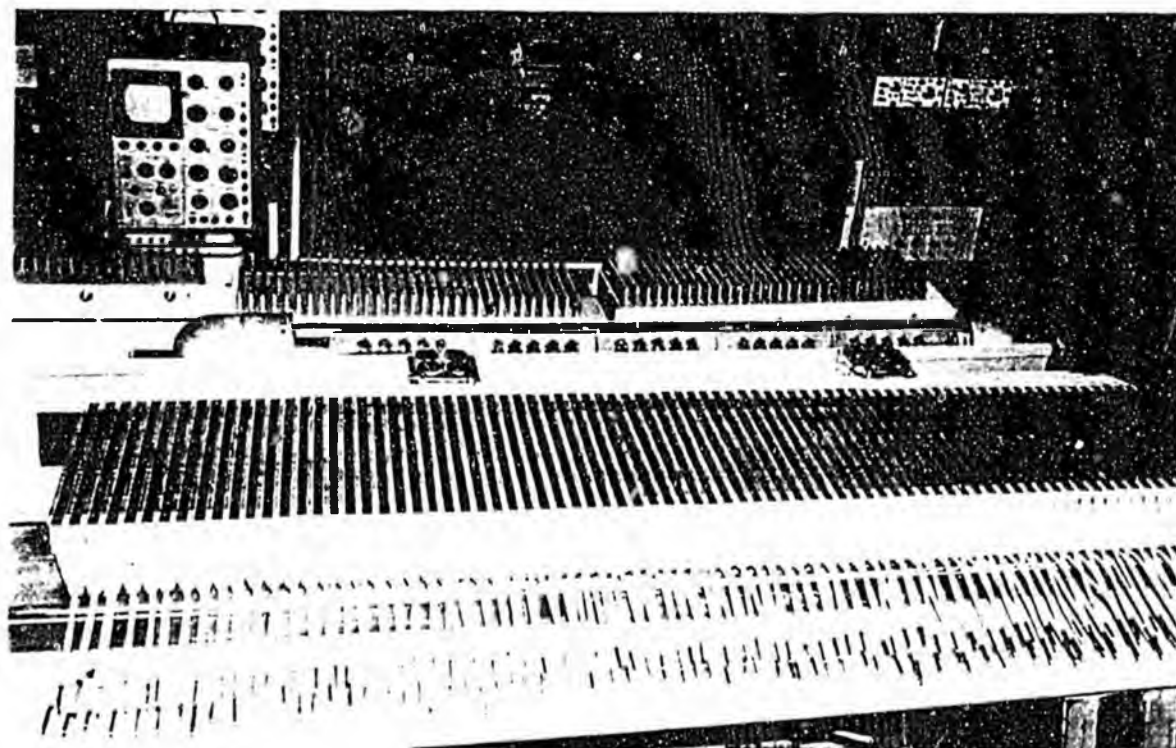
Five year warranty on all units-the longest warranty in the linear motor industry.

LINEAR INDUCTION CATAPULT MOTOR SPECIFICATIONS

Model	LIM-CAT-200	LIM-CAT-750	LIM-CAT-1200	LIM-CAT-1500	LIM-CAT-2100
Outline Drawing	W-65	W-66	W-67	W-68	W-69
Static Thrust**	N 2,000	7,500	12,000	15,000	21,000
Thrust at 160 km/hr	N 2,500	8,900	16,000	20,000	28,000
Synchronous Speed*	m/s 50	48	48	46	46
Maximum Frequency	Hz 180	150	150	150	125
Peak Power	kW 110	392	704	880	1232
Terminal Volts	V 480	480	480	4160	4160
Airgap	mm 2.5	2.5	3.0	3.0	4.0
Stator Surface Area	sq. m. 0.111	0.393	0.393	0.508	0.710
Core Depth	mm 88	88	100	100	100
Overall Width	mm 455	455	600	600	600
Standard Length	mm 440	1560	1560	2000	2000
Weight	kg 77	275	315	405	564

* Based upon design for operation at 160 km/hr.

** Static thrust is dependent on reaction rail material, and temperature rise.



Catapult Motor Model LIM-CAT-750 Prior to Epoxy Encapsulation

POWER SUPERCONDUCTOR APPLICATIONS CO., INC.

930 Cass Street, New Castle, PA 16101
 Tel.: (412) 657-9450 Fax: (412) 657-0774

THAD COCHRAN, MISSISSIPPI
 ARLEN SPECTER, PENNSYLVANIA
 PETE V. DOMENICI, NEW MEXICO
 CHRISTOPHER E. BOND, MISSOURI
 SLACK GORTON, WASHINGTON
 MITCH ANTHONY, KENTUCKY
 CONRAD BURCK, MONTANA
 RICHARD C. SHELBY, ALABAMA
 JUDG GREGG, NEW HAMPSHIRE
 ROBERT F. BENNETT, UTAH
 WEN HUI (M) IOWE C. BROWN, COLORADO
 LARRY CRAIG, IDAHO
 LAUCH FAIRCLOTH, NORTH CAROLINA
 KAY BAILEY HUTCHISON, TEXAS

ROBERT C. BYRD, WEST VIRGINIA
 DANIEL K. BIDLAY, ILLINOIS
 EDWERT F. HOLLINGS, SOUTH CAROLINA
 PATRICK J. LEAHY, VERMONT
 DALE B. BISHOP, ARKANSAS
 FRANK R. LAUTENBERG, NEW JERSEY
 TOM HANCOCK, IOWA
 BARBARA A. MIKULSKI, MARYLAND
 HARRY ROO, NEVADA
 HERB EDWARDS, WISCONSIN
 PATTY MURRAY, WASHINGTON
 SYRON DORGAN, NORTH DAKOTA
 BARBARA BOXER, CALIFORNIA

STEVEN J. COFFEY, STAFF DIRECTOR
 JAMES H. ENGLISH, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
 WASHINGTON, DC 20510-8025

February 5, 1998

The Honorable Jolene Molitoris
 Administrator
 Federal Railroad Administration
 400 Seventh Street, S.W.
 Washington, D.C. 20590

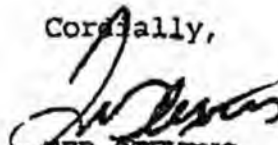
Dear Administrator Molitoris:

The people of Metlakatla, Alaska, are working with the State of Alaska and Power Superconductor Applications Corporation on a joint venture to investigate uses of linear induction motor technology. They have asked me to look into the possibility of moving the Linear Induction Motor Research Vehicle (LIMRV), which is owned by your agency, to their Annette Island test facility for a period of four years. I understand the LIMRV has been in storage in Pueblo, Colorado, for the past twenty years.

I would be interested in hearing your views on this proposal. Apart from my interest in advancing the development of U.S. based technology, this proposal involves creating employment opportunities for as many as 55 Native Alaskans on the Metlakatla reservation, where displaced timber workers have contributed to a serious unemployment problem. Thank you for your attention and consideration of this proposal to put these people back to work.

With best wishes,

Cordially,



TED STEVENS

DON YOUNG
CONGRESSMAN FOR ALL ALASKA
WASHINGTON OFFICE
2331 RAYBURN BUILDING
TELEPHONE 202/225-5766

COMMITTEES:
CHAIRMAN,
COMMITTEE ON
RESOURCES

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE



Congress of the United States
House of Representatives
Washington, D.C. 20515

February 26, 1998

DISTRICT OFFICES:
222 WEST 7TH AVENUE, #3
ANCHORAGE, ALASKA 99513-7595
TELEPHONE 907/271-5078
BOX 10, 101 12TH AVENUE
FAIRBANKS, ALASKA 99701-6275
TELEPHONE 907/456-0210
401 FEDERAL BUILDING
P.O. BOX 21247
JUNEAU, ALASKA 99802-1647
TELEPHONE 907/586-7400
109 MAIN STREET
KETCHIKAN, ALASKA 99901-6489
TELEPHONE 907/225-6880
130 TRADING BAY ROAD
SUITE 350
KENAI, ALASKA 99611-7716
907/283-5808

The Honorable Jolene Molitoris
Administrator
Federal Railroad Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Administrator Molitoris:

I have recently learned of a promising effort to organize a joint public-private partnership in Southeast Alaska to develop new advanced propulsion technology based on linear induction. I have been asked to look into the possibility of moving a Linear Induction Motor Research Vehicle (LIMRV), which is apparently owned by your agency, to a test facility on Annette Island in Southeast Alaska, for a four year period. I understand that the LIMRV was originally built to test this technology for use in a braking system for railroad engines, but it has been in storage at Pueblo, Colorado for the past 20 years.

If the proposed project is successful, new U.S.-developed high technology would be used in a number of important applications, and the resulting economic development in Southeast Alaska would create many new high wage employment opportunities in an area where there is a serious unemployment problem.

I am interested in learning your views on this proposal. Thank you for your consideration of this proposal to commence research and development on cutting edge technology while simultaneously employing Alaskans in high technology jobs.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Young", written over a circular stamp.

DON YOUNG
Congressman for all Alaska

DY/jr

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

COMMITTEES

CO-CHAIR
Resources Committee


MEMBER
Transportation Committee
Labor & Commerce Committee



State Capitol
Juneau, Alaska
99801-1182
(907) 465-3744
Fax (907) 465-2273

*Wants!
Schedule*

MEMORANDUM

TO: Representative Bill Hudson, Co-Chairman 
House Resources Committee
Marieke Barnes, House Resources Committee Aide

FROM: Douglas Salik

SUBJECT: HJR 56

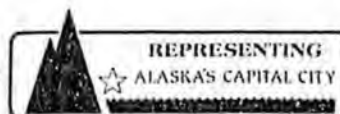
DATE: February 18, 1998

I respectfully request that the House Resources Committee schedule a hearing for House Joint Resolution 56 at your earliest convenience.

House Joint Resolution 56 supports the mining and refining of yttrium, a rare earth element found in large quantities in Alaska. This resolution also supports the transfer of the linear induction motor research vehicle (LIMRV) from the Federal Railroad Administration to the State of Alaska.

The transfer of the LIMRV would create up to 55 Alaskan jobs with the Power Superconductor Applications Corporation. Additionally, there is the possibility that many more jobs would be created as the actual mining and refining of yttrium begins.

I appreciate your consideration of my request. Please do not hesitate to contact me if I can answer any questions or provide further information.



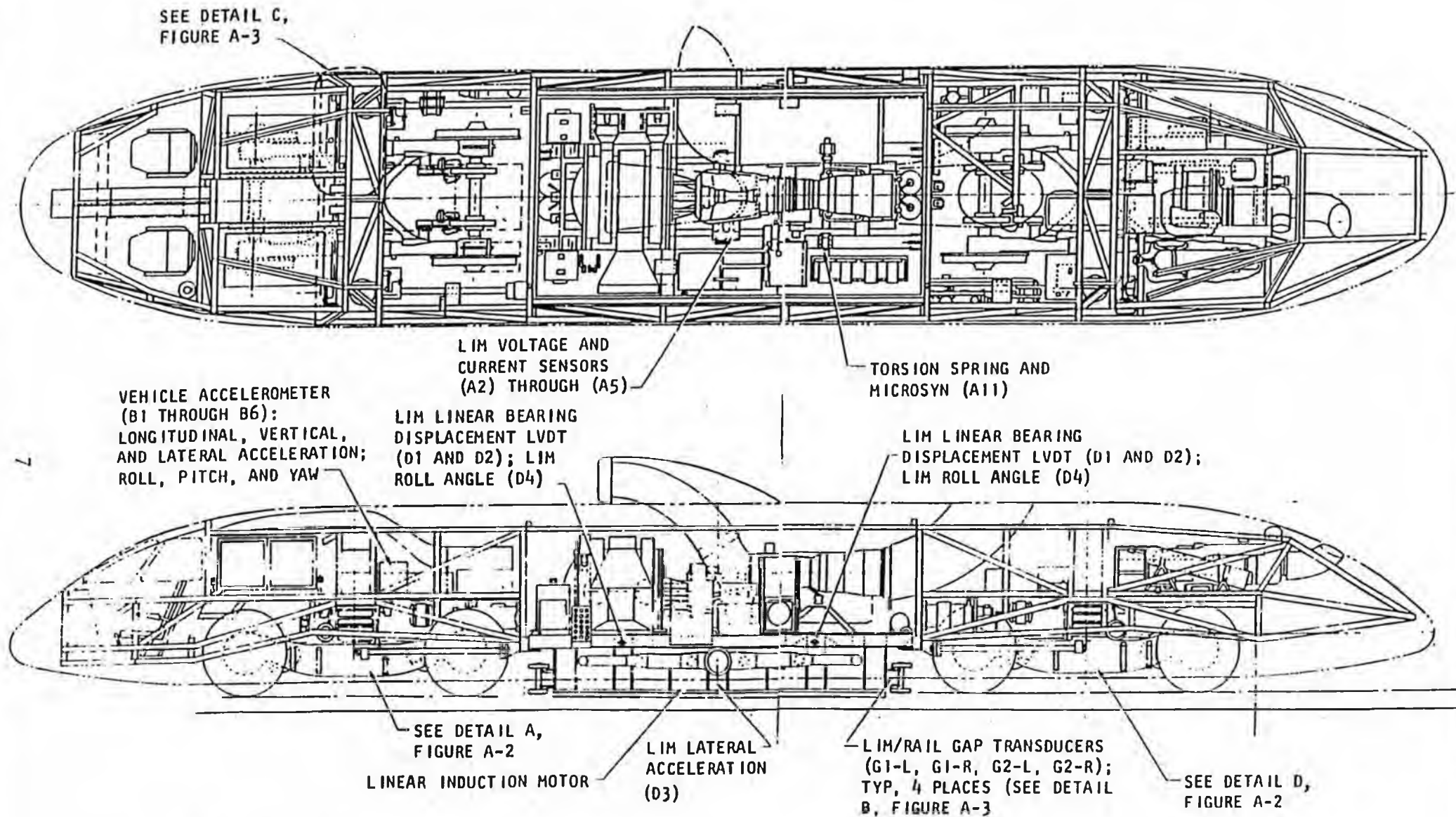
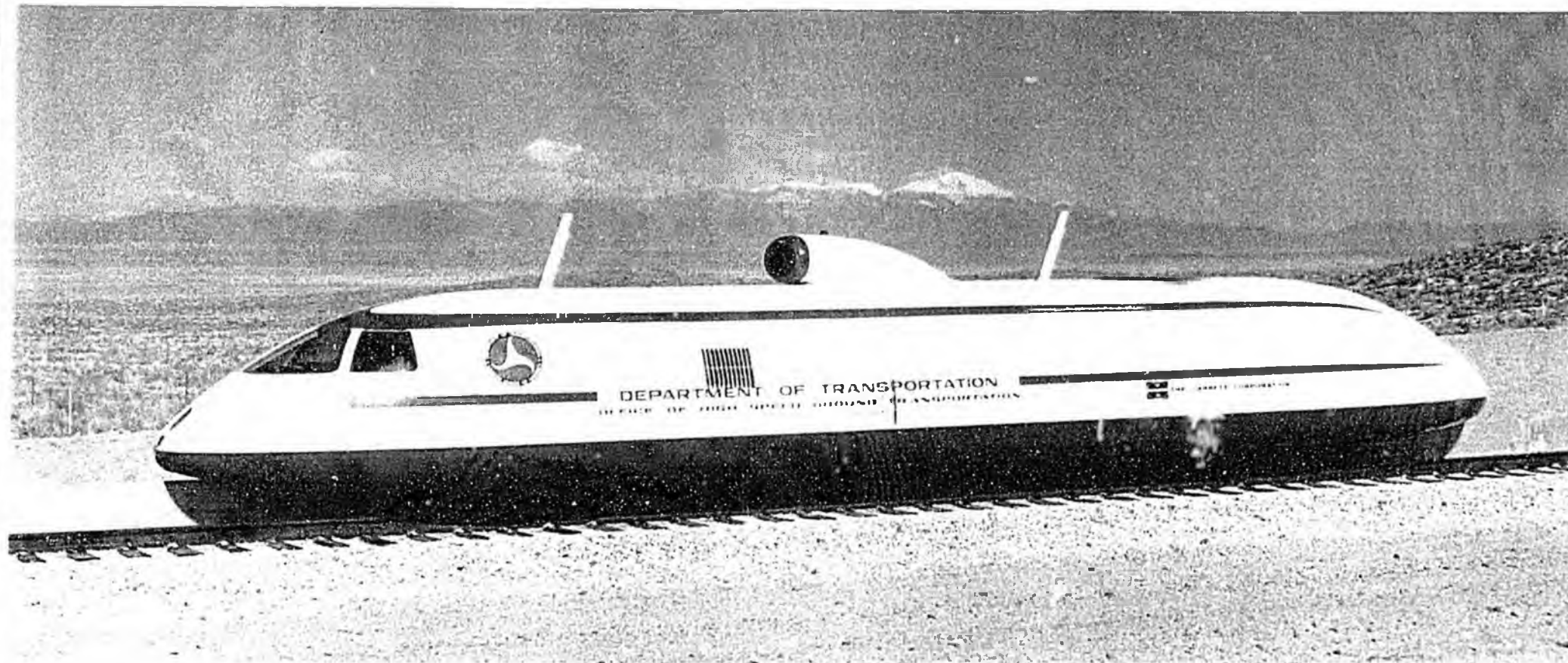


Fig. 10 LIMRV at Pueblo Test Track about 1974 with original Garrett propulsion system.

POWER SUPERCONDUCTOR APPLICATIONS CORP., New Castle, PA



Linear Induction Motor Research Vehicle with 260 mph propulsion system at U.S. Department of Transportation Test Track, Pueblo, Colorado

PROPOSED PROJECT FOR KETCHIKAN, WITH FEDERAL RAILROAD ADMINISTRATION
SPONSORSHIP OF AN YTTRIUM-BASED SUPERCONDUCTING LIM BRAKING SYSTEM
DEMONSTRATION.

Juneau contact: Pearson Associates, (907) 789-1402

HJR

101



COMMITTEE: JOINT HOUSE
JUDICIARY AND HOUSE RESOURCES

DATE: May 27, 1998

Subject of meeting:

HJR101 - CONST. AM; SUBSIT. PREF. BASED ON
RESIDENCE

SIGN-IN

PLEASE PRINT!

NAME

ADDRESS (MAILING / ZIP)

PHONE

REPRESENTING

DO YOU
WANT TO
TESTIFY?

NAME	ADDRESS (MAILING / ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
ADEFG STAFF			ADEFG	✓
BRUCE BOTZELHO			THE GOVERNOR	✓
Charles E. Culu			Task Force	
JULIAN MASON			The Governor	
Carl Rosier			Alaska Outdoor Council	
Dick Bishop			"	
Walt Sheridan			"	
David Kelleyhouse			"	
Tamara Axelsson			"	
Janie Leask				



COMMITTEE: JOINT HOUSE
JUDICIARY AND HOUSE RESOURCES

DATE: May 27, 1998

Subject of meeting:

HJR101 - CONST. AM: SUBSIT. PREF. BASED ON
RESIDENCE

SIGN-IN

PLEASE PRINT!
NAME

ADDRESS (MAILING / ZIP)

PHONE

REPRESENTING

DO YOU
WANT TO
TESTIFY?
Listen Only

NAME	ADDRESS (MAILING / ZIP)	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? Listen Only
LISA AMAROK	Box 62011 Golovin, AK 99762	779-2207	Chinik Eskimo Community	Testimony (by testimony)
Jack Fagerstrom	62003 GLO AK 99762	779-2204	C.E.C. + GNC	
FRANK KAVAIRLOOK	Box 53025 Koyuk AK 99753	907)963-3651	KAWERAK INC./ KOYUK TRAD. COUNCIL	
George Kudrin	401 E. Fineward Ln. #201 Anch. AK 99503	907-276-2700 276-2700	Alerting / Prib. of Totems Assn. Inc.	
Darlene Turner	PO Box 33 Shishmaref, AK 99772	(907)649-4511	DRA Village of Shishmaref	
Karen J. Sinnok	P.O. Box 17 Shishmaref, AK 99772	649-4211	Kawerak, Inc. Shishmaref DRA Council	
LONNIE E. TYONE	P.O. Box 761 Glennallen AK. 99588	822-5432	Copper River Native Association	
Katie John	PO Box 6007 Mentasta AK 99780	291-2316	Antra Inc.	
James A Denny	P.O. Box 243 Tok, AK 99780	883-5353	Antra Inc.	
Gabe Sam	122 First Ave. Fbks, AK 99701	452-8251	T.C.C.	



COMMITTEE: JOINT HOUSE
JUDICIARY AND HOUSE RESOURCES

DATE: May 27, 1998

Subject of meeting:

HJR101 - CONST. AM: SUBSIT. PREF. BASED ON
RESIDENCE

SIGN-IN

PLEASE PRINT!

NAME

ADDRESS (MAILING / ZIP)

PHONE

REPRESENTING

DO YOU
WANT TO
TESTIFY?

Michelle Sparck	AJCP, INC. PO Box 219 Bethel, Ak 99559	543 7342	ASSOC of Village Council Presidents	
Thomas H. Abel	P.O. Box 358 Hoonah AK 99827	945-3623 945-3624	Haida Elders	
George C. Shaffer	Fort Myers Fl. 33919 841 Cypress Lake Circle	941-481- 0737		
Stem Ginnis	P.O. Box 382 Ft. Yukon, Ak. 99740	662-3078	TCC	
Harold Brown	122 First Ave, Ste 600 Fbks 99701	452-8251	TCC	
Dick Bishop	211 4th St # 302A TNO 99501	463 3830	AOC	
Thomas Tilden	PO Box 786 Dillingham Alaska 99576	842 2259	BBA - Reg. Ltd.	Yes



COMMITTEE: JOINT HOUSE
JUDICIARY AND HOUSE RESOURCES

DATE: May 27, 1998

Subject of meeting:

HJR101 - CONST. AM. SUBSTIT. PREF. BASED ON
RESIDENCE

SIGN-IN

PLEASE PRINT!

NAME ADDRESS (MAILING / ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

JOHN WASHIYI, II	P.O. Box 74 SAVOONGA, AK 99769	984-6446	Community of Sincere Friends	Yes
Caleb Pungowiyi	Box 948 Nome, AK 99762	443-5231	Kawerak, Inc	NO
Robert Keith	POB 70 E. Lim AK 99762	907 890 3737	Kawerak / E.Lim	
J. Bullard	PO Box 948 Nome, AK 99762	907-443-5231	Kawerak	can't
Bruce Walter	PO Box 1652 Nome, AK 99762	907 443 5231	Kawerak	
Sandra T. Tanbone	P.O. Box 1090 Nome, AK 99762	443-2246	Nome Eskimo Com.	
Gloria Stickwan	PO Box 264 Copper Center, AK 99524		CRVA	
Gilbert Dement, Sr.	Box 14 Cantwell AK 99724	907 768 2562	CRNA	NO
FRED JOHN	Box 6024 Mentasta AK 99780	907 291 2309	AHTNA	
JANET AMULIKOLIK	Box 62101 Golovin, AK 99702	907 771 5581	Golovin Nat. Corp.	Yes

0-LS1815A
Utermohle
5/27/98

HOUSE JOINT RESOLUTION NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SPECIAL SESSION

BY

Introduced:

Referred:

A RESOLUTION

1 **Relating to changes to 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** the Alaska State Legislature is currently considering the issues concerning
5 the management of subsistence uses of fish and wildlife; and

6 **WHEREAS** the federal government has preempted state management of subsistence
7 uses of fish and wildlife on federal public lands in Alaska; and

8 **WHEREAS** the State of Alaska must comply with certain provisions of Title VIII of
9 the Alaska National Interest Lands Conservation Act (P.L. 96-487) in order to regain authority
10 to manage subsistence uses of fish and wildlife on federal public lands in Alaska; and

11 **WHEREAS** certain provisions of Title VIII of the Alaska National Interest Lands
12 Conservation Act (P.L. 96-487) must be amended in order for the State of Alaska to be able
13 to comply with the Act;

14 **BE IT RESOLVED** that the Alaska State Legislature finds that Title VIII of the
15 Alaska National Interest Lands Conservation Act (P.L. 96-487) must be amended in a manner
16 that accomplishes each of the following items:

1 (1) affirms the sovereignty of the state over state and private lands and
2 waters and for the management of fish and wildlife in the state;

3 (2) defines the term "public lands" to expressly exclude state and
4 private lands and waters, including navigable waters;

5 (3) prohibits federal preemption of state management of fish and
6 wildlife on state and private lands and waters in the state;

7 (4) expressly waives or renounces all claims to authority for
8 management of fish and wildlife on state and private lands and waters that may arise
9 under the navigational servitude doctrine or the doctrine of reserved water rights;

10 (5) repeals the jurisdiction of the federal courts under Title VIII, Alaska
11 National Interest Lands Conservation Act (P.L. 96-487), as amended, to hear cases
12 arising from state management of fish and wildlife on state and private lands and
13 waters, including navigable waters, in the state;

14 (6) either repeals the federal regional advisory councils established
15 under Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as
16 amended, or amends the powers and functions of the councils so that the councils
17 serve only as advisors to managers of fish and wildlife resources;

18 (7) defines the terms "customary and traditional," "customary trade,"
19 and "barter" to be consistent with the laws of the state;

20 (8) amends the subsistence preference of Title VIII, Alaska National
21 Interest Lands Conservation Act (P.L. 96-487), as amended, to provide a preference
22 for a reasonable opportunity for subsistence uses of fish and wildlife on federal public
23 lands in the state;

24 (9) repeals sec. 801(b)(4), Alaska National Interest Lands Conservation
25 Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating to
26 management by the Secretary of the Interior of fish and wildlife for subsistence uses
27 on all federal public lands in Alaska;

28 (10) repeals sec. 801(b)(5), Alaska National Interest Lands
29 Conservation Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating
30 to the application of the federal subsistence preference on federal public lands to
31 navigable waters in which the United States has reserved water rights;

1 (11) repeals sec. 814, Alaska National Interest Lands Conservation Act
2 (P.L. 96-487), as amended, relating to the adoption of federal regulations as necessary
3 and appropriate to implement Title VIII, Alaska National Interest Lands Conservation
4 Act;

5 (12) amends Title VIII, Alaska National Interest Lands Conservation
6 Act (P.L. 96-487), as amended, as necessary to limit subsistence uses and the
7 preference for subsistence uses to fish and wildlife;

8 (13) amends Title VIII, Alaska National Interest Lands Conservation
9 Act (P.L. 96-487), as amended, to eliminate references to comanagement agreements;
10 and

11 (14) affirms that the laws of the state are consistent with provisions of
12 federal law, as amended in accordance with this clause, governing the subsistence uses
13 of fish and wildlife on federal public lands in the state.

PROPOSED CHANGES TO ANILCA

Effective Date and Repeal of Amendment. A constitutional amendment regarding subsistence, takes effect on the day following the date that the governor certifies that federal law governing subsistence uses of fish and wildlife on federal public lands in the State

(1) affirms the sovereignty of the State over State and private lands and waters and for the management of fish and wildlife in the State;

(2) defines the term "public lands" to expressly exclude State and private lands and waters, including navigable waters;

(3) prohibits federal preemption of State management of fish and wildlife on State and private lands and waters in the State;

(4) expressly waives or renounces all claims to authority for management of fish and wildlife on State and private lands and waters that may arise under the navigational servitude doctrine or the doctrine of reserved water rights;

(5) repeals the jurisdiction of the federal courts under Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, to hear cases arising from State management of fish and wildlife on State and private lands and waters, including navigable waters, in the State;

(6) either repeals the federal regional advisory councils established under Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, or amends the powers and functions of the councils so that the councils serve only as advisors to managers of fish and wildlife resources;

(7) defines the terms "customary and traditional," "customary trade," and "barter" to be consistent with the laws of the State;

(8) amends the subsistence preference of Title

VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, to provide a preference for a reasonable opportunity for subsistence uses of fish and wildlife on federal public lands in the State;

(9) repeals sec. 801(b)(4), Alaska National Interest Lands Conservation Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating to management by the Secretary of the Interior of fish and wildlife for subsistence uses on all federal public lands in Alaska;

(10) repeals sec. 801(b)(5), Alaska National Interest Lands Conservation Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating to the application of the federal subsistence priority on federal public lands to navigable waters in which the United States has reserved water rights;

(11) repeals sec. 814, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, relating to the adoption of federal regulations as necessary and appropriate to implement Title VIII, Alaska National Interest Lands Conservation Act;

(12) amends Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, as necessary to limit subsistence uses and the preference for subsistence uses to fish and wildlife;

(13) amends Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, to eliminate references to comanagement agreements; and

(14) affirms that the laws of the State are consistent with provisions of federal law, as amended in accordance with this subsection, governing the subsistence uses of fish and wildlife on federal public lands in the State.

(15) Title VIII Section 801(2) is amended to read "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."

(b) the amendment would be repealed if

(1) within two years from the date that voter approval of the ballot proposition for the amendments proposed by this resolution was certified by the lieutenant governor, the governor does not make the certification described in (a) of this section;

(2) the State is determined by a federal agency or federal court to be substantially out of compliance with federal law governing the subsistence uses of fish and wildlife on federal public land in the State; or

(3) a federal court issues a final judgment that the rural subsistence preference enacted by Title VIII of the Alaska National Interest Lands Conservation Act violates the Constitution of the United States.

AMENDMENT # 1 by _____

INSERT on Page 2 Line 5 after resolution

Sec 4. **Effective Date and Repeal of Amendment.** take effect on the day following the date that the legislature certifies, by concurrent resolution, that federal law governing subsistence uses of fish and wildlife on federal public lands in the State has been modified to substantially comply as follows:

(1) affirms the sovereignty of the State over State and private lands and waters and for the management of fish and wildlife in the State;

(2) defines the term "public lands" to expressly exclude State and private lands and waters, including navigable waters;

(3) prohibits federal preemption of State management of fish and wildlife on State and private lands and waters in the State;

(4) expressly waives or renounces all claims to authority for management of fish and wildlife on State and private lands and waters that may arise under the navigational servitude doctrine or the doctrine of reserved water rights;

(5) repeals the jurisdiction of the federal courts under Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, to hear cases arising from State management of fish and wildlife on State and private lands and waters, including navigable waters, in the State;

(6) either repeals the federal regional advisory councils established under Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, or amends the powers and functions of the councils so that the councils serve only as advisors to managers of fish and wildlife resources;

(7) defines the terms "customary and traditional," "customary trade," and "barter" to be consistent with the laws of the State;

(8) amends the subsistence preference of Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, to provide a preference for a reasonable opportunity for subsistence uses of fish and wildlife on federal public lands in the State;

(9) repeals sec. 801(b)(4), Alaska National Interest Lands Conservation Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating to management by the Secretary of the Interior of fish and wildlife for subsistence uses on all federal public lands in Alaska;

(10) repeals sec. 801(b)(5), Alaska National Interest Lands Conservation Act (P.L. 96-487), as added by sec. 316(b)(3)(B) of P.L. 105-83, relating to the application of the federal subsistence priority on federal public lands to navigable waters in which the United States has reserved water rights;

(11) repeals sec. 814, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, relating to the adoption of federal regulations as necessary and appropriate to implement Title VIII, Alaska National Interest Lands Conservation Act;

(12) amends Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, as necessary to limit subsistence uses and the preference for subsistence uses to fish and wildlife;

(13) amends Title VIII, Alaska National Interest Lands Conservation Act (P.L. 96-487), as amended, to eliminate references to comanagement agreements; and

(14) affirms that the laws of the State are consistent with provisions of federal law, as amended in accordance with this subsection, governing the subsistence uses of fish and wildlife on federal public lands in the State.

(15) Title VIII Section 801(2) is amended to read "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."

(b) the amendment would be repealed if

(1) within two years from the date that voter approval of the ballot proposition for the amendments proposed by this resolution was certified by the lieutenant governor, the legislature does not make the certification described in (a) of this section;

(2) the State is determined by a federal agency or federal court to be substantially out of compliance with federal law governing the subsistence uses of fish and wildlife on federal public land in the State; or

(3) a federal court issues a final judgment that the rural subsistence preference enacted by Title VIII of the Alaska National Interest Lands Conservation Act violates the Constitution of the United States.

**PRESENTATION ON
SUBSISTENCE ISSUES**

May 26, 1998

Attorney General Bruce Botelho

Former Attorney General Charlie Cole

**Table 1 - Annual Harvest of Subsistence Foods,
by Geographical Area**

Geographical Area	Annual Harvest (Pounds/Person)
Anchorage/Juneau/Fairbanks/Mat-Su	30
Kenai Peninsula	96
Copper Basin	149
Southeast	212
Upper Tanana	218
Prince William Sound	256
Northern Cook Inlet	265
Alaska Peninsula	290
North Slope	364
Kodiak Island	426
Southwest	626
Western	732
Yukon-Koyukuk	839
Northwest Arctic	1,067

Source: Alaska Department of Fish and Game, 1987