

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672
9682 SENATE RESOURCES

SJR

40

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 2/16/98

FURTHER:

Date of 5-Day Notice: 2/27/98
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/5/98

Resources Committee considered SENATE JOINT RESOLUTION NO. 40

Relating to the fisheries management fee proposed by President Clinton.

and recommends:

- be replaced with _____ CS RES SJR 40 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Adrian Taylor</i>	✓	<i>Bob King</i>	✓		
<i>Debra L. Lewis</i>	✓	<i>Lynne Green</i>	✓		
<i>Loren D. Leman</i>	✓				
<i>Chair: Rick Halford</i>	✓	<i>Chair:</i>			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

SES	3/5/98	X	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SJR 40

Revision Date January 16, 1998 Dept. Affected _____
 Title Fisheries Management Fee BRU _____
 Component _____
 Sponsor Leman _____
 Requester S RES Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						0.0
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 (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This resolution is anticipated to have no fiscal impact on state agencies.

Prepared by Senate Resources Committee
 Division *Rick Hallford*
 Approved by Senator Rick Hallford, Chairman
 Agency _____

Phone 465-4907
 Date 3/3/98
 Date _____

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AMENDMENT

OFFERED IN THE SENATE

By LEMAN

TO: SJR 40

Page 1, line 8:

Following "would pay":

Delete "between \$10,000,000 and"

Insert "as much as ~~\$12,000,000~~"

Reasons: The total proportional value of fish harvested and landed in Alaska varies from season to season. New figures from Fisheries of the United States (1996) an annual report by the National Marine Fisheries Service, show that fish landed in Alaska comprise about one-third of the total United States production in terms of dollars. Fish landed elsewhere, but harvested in the 200 mile zone, may be half of total US production.



SENATOR LOREN LEMAN

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Sponsor Statement – Senate Joint Resolution 40

“Relating to the fisheries management fee proposed by President Clinton.”

Senate Joint Resolution 40 expresses the legislature’s opposition to a proposed fisheries management fee included in President’s Clinton’s Fiscal Year 1999 budget. The fee is designed to fund the management and enforcement activities of the National Marine Fisheries Service, under the National Oceanic and Atmospheric Administration.

The fee would be derived from a tax of up to 1 percent on the ex-vessel value of all fish harvested by commercial fishermen. Because Alaska has the most profitable fisheries in the country, state fishermen would pay the largest share of the \$20 million in annual revenues the tax is expected to generate nationwide.

Alaska’s fishermen would receive no new benefits or services from the new tax. The new revenues would simply free up the \$20 million already budgeted for management and enforcement services and enable these monies to be spent on new spending projects in President Clinton’s budget.

Commercial fishermen and seafood processors do not need another tax, especially one that produces no new quantifiable benefits. In addition to paying all the normal payroll and business taxes, commercial fishermen and seafood processors are burdened with several other taxes and user fees, including a raw fish tax, marine fuel tax, licensing fees, fishery landing tax, salmon enhancement tax, seafood marketing tax, and seafood marketing assessment.

The new tax may also pose a disproportionate burden for fishermen who operate only in state-managed waters extending 3 miles from shore, and who therefore derive little benefit from NOAA’s management services in offshore fisheries. President Clinton’s budget does not specify whether the tax would apply to only those fish caught in federally-managed waters, or whether it would extend to all fish, regardless of management zone. This critical decision is left to the discretion of the Secretary of Commerce. However, lower-level employees at the National Marine Fisheries Service have expressed the view that all fishermen benefit from the federal government’s management of the resource, regardless of the zone in which the fish are harvested. Following this logic, it appears likely the fee would be made to apply to all fish caught in waters around Alaska.

The fish tax would undermine the economic competitiveness of Alaska’s seafood industry, which is the largest source of private sector jobs in the state. SJR 40 urges the Governor and Alaska’s Congressional delegation to work to ensure the tax is not included in the Fiscal Year 1999 federal budget.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SJR 40

Revision Date January 16, 1998 Dept. Affected _____
 Title Fisheries Management Fee BRU _____
 Component _____
 Sponsor Leman _____
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OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						0.0
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						
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Part-time						
Temporary						

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

This resolution is anticipated to have no fiscal impact on state agencies.

Prepared by Senate Resources Committee

Phone 465-4907

Division _____

Date 3/3/98

Approved by Senator Rick Halford, Chairman

Date _____

Agency _____

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Federal tax on fishermen is unfair

Alaska fishermen will sleep better knowing that the Clinton Administration's proposed new tax on the commercial fishing industry is likely to be sunk by Sens. Ted Stevens and Frank Murkowski during the budget review process. If allowed, the tax would be a bitter pill for Alaska fishermen, many of whom already are facing difficult years as the global salmon market becomes more dominated by salmon farming operations, driving the prices for wild salmon to nearly uneconomical levels. Now is not the time to make it harder to be a fisherman in Alaska.

Here's what the Clinton tax would do: It would levy a 1 percent ex-vessel fish tax on the harvested catch of all fish. The Clinton budget depends on the tax, which would bring in about \$20 million a year to pay for enforcement and fishery management. Then the Clinton budget would take the existing \$20 million already in enforcement and fishery management and dedicate it to one of the many new programs being offered in the coming Clinton budget cycle.

Here's the catch for Alaska: More than half of that nationwide tax would come from Alaska-based fishermen, since the Alaska fishery is the largest in the country. Consequently, Alaska fishermen would bear the weight of this taxation shift.

It's not as though fishermen aren't already paying taxes — they are. They pay personal property taxes on their vessels, self-employment taxes, corporate taxes, income taxes and fuel taxes. They pay for permits. They pay to belong to regional aquaculture associations. They pay 1 percent to the state for the Alaska Seafood Marketing Institute. Some pay the room and board of government fishery observers. In fact, they pay all the taxes that regular businesses pay, and more. Another 1 percent would be as much as \$60 million paid by Alaska fishermen over the next five years.

The administration is right in saying people who use services should pay for them. We say fishermen already pay, and now is not the time to ask them to pay more.

4. USER FEES AND OTHER COLLECTIONS

start-up costs associated with these fee proposals. Table 4-2 splits the proposals between discretionary and mandatory categories for the appropriate scoring under the Budget Enforcement Act of 1997 (BEA). It includes user fees classified as offsetting collections and governmental receipts.

Discretionary Proposals

The following proposed fees are classified as discretionary because the Appropriations Committees are being requested to authorize collection of the fees and make them available for expenditure. In some cases, authorizing legislation will be proposed either to establish new fees or increase existing ones. The proposed authorizing legislation will make both the fee collection and spending contingent upon appropriations action.

Collections from the following proposals are to be deposited directly in appropriations accounts as offsetting collections:

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service (APHIS): The budget proposes to establish five APHIS fees to cover the cost of:

- Providing animal welfare inspections to recipients of APHIS services such as animal research centers, humane societies, and kennels.
- Issuing biotechnology certificates to firms that manufacture biotechnologically-derived products.
- Licensing, inspecting, and testing veterinary biologics by veterinary biologic companies.
- Inspecting to ensure the garbage fed to swine is properly cooked to avoid contamination to establishments regulated under the Swine Health Protection Act.
- Eradicating the pink bollworm.

Grain Inspection, Packers and Stockyards Administration (GIPSA) licensing fees.—The budget proposes to allow GIPSA to charge the grain shippers and handlers using the official inspection system its costs to develop, review and maintain standards and methods of testing (such as for grain quality and classification) used by the grain industry. In addition, an annual licensing fee is proposed to fund GIPSA activities that ensure the integrity of the livestock, meat and poultry market and marketplace, such as fostering open competition, and protecting consumers and businesses from unfair practices.

Food Safety and Inspection Service meat, poultry and egg products inspection fee.—The 1999 Budget proposes a new user fee for USDA's Food Safety and Inspection Service (FSIS). Under the proposed fee, the meat, poultry and egg products industries would be required to reimburse the Federal government for the cost of the salaries and benefits and other direct costs for all in-plant inspection. The proposal would transfer the cost of Federal inspection services to the industries that directly benefit, and would ensure that sufficient resources are available to provide the level of in-plant

inspection necessary to meet the demands of industry. The cost of the user fee would amount to less than one cent per pound of meat inspected.

Natural Resources Conservation Service (NRCS) cost-share fee.—The 1999 Budget proposes to impose fees for a number of NRCS activities, including the sale of soil survey data, maps, and snow survey data to private users, engineering designs, soil map interpretations for commercial purposes, and irrigation management activities where water supplies are not very limited. Fees would also be charged to meet requests for the NRCS to expedite soil surveys, watershed planning, and other services.

Farm services fee.—The Administration proposes to allow the Farm Services Administration (FSA) to charge fees to cover the full cost of collecting, processing, and disseminating information of interest to private individuals and companies (crop insurance companies, appraisers, and agricultural consultants, etc.), where the provision of information is not required to fulfill FSA's mission.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA), navigational assistance fees.—The Administration proposes a fee on U.S. and foreign commercial cargo carriers to recover the cost of navigational assistance services, such as nautical charting, provided by NOAA. The fee would be administered for NOAA by the United States Coast Guard as part of the Coast Guard's proposed navigational assistance fee program described below.

NOAA, fisheries management fees.—The Budget proposes a fee of not more than one percent of the ex-vessel value of fish harvested by commercial fishermen to provide for fisheries management and enforcement services.

Patent and Trademark fees.—The surcharge on patent fees, established in the Omnibus Budget Reconciliation Act of 1990 and extended in the Omnibus Budget Reconciliation Act of 1997, will expire at the end of 1998. The expiration of this authority will reduce Patent and Trademark Office (PTO) revenue by \$182 million in 1999. The Budget proposes legislation to extend and increase statutory fees charged for patent products and services to ensure that fee revenues continue to cover the cost of patent processing and related services.

Trade promotion services fees.—The Administration proposes to charge U.S. businesses for counseling and other promotional services provided by the International Trade Administration.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration (FDA) fees.—The proposal seeks \$128 million in new fees to finance FDA activities such as medical device reviews, animal drug approvals, import inspections, food additive petition reviews, generic drug application reviews, and fees for postmarket surveillance of products.

Table 4-2. PROPOSED USER FEE COLLECTIONS
(In millions of dollars)

Discretionary fee proposals	1998	1999	2000	2001	2002	2003	1998-2003
Offsetting collections deposited in appropriations accounts:							
Department of Agriculture:							
Animal and Plant Health Inspection Service fees		10	10	10	10	10	60
Grain Inspection, Packers and Stockyards Administration licensing fees		17	21	21	21	21	101
Food Safety and Inspection Service, meat, poultry, and egg products inspection fee		472	472	472	472	472	2,765
Natural Resources Conservation Service (NRCS) cost-share fee		10	15	15	25	25	90
Farm Services Administration, farm service fee		10	15	15	25	25	90
Department of Commerce:							
National Oceanic and Atmospheric Administration proposals:							
Navigational assistance fee		3	11	11	11	11	47
Fisheries management fee		20	20	20	20	20	100
Patent and Trademark Office, patent fees		192	189	207	219	228	1,025
International Trade Administration, trade promotion fees		6	12	12	12	12	64
Department of Health and Human Services:							
Food and Drug Administration fees	26	128	128	128	128	128	640
Health Care Financing Administration Fee Proposals:							
Physician, provider, and supplier enrollment registration fees		20	21	21	22	23	107
Managed care organization application and renewal fees		37	39	39	41	42	198
Initial provider certification fees		10	10	11	11	12	54
Provider recertification fees		52	54	56	58	61	282
Paper claims submission fees		110	114	118	122	126	589
Original and unprocessable claims fees		36	37	38	39	41	190
Department of the Interior: Bureau of Land Management, hardrock location and maintenance fees		39	40	41	42	43	205
Department of Labor: Alien labor certification fee			40	40	40	40	160
Department of Transportation:							
Coast Guard—navigational assistance fee		35	165	165	165	165	685
Surface Transportation Board fees		16	16	16	16	16	80
Army Corps of Engineers, wetlands permit fee		7	14	14	14	14	63
Federal Emergency Management Administration, radiological emergency preparedness fees		13	13	13	13	13	65
National Transportation Safety Board, aviation accident investigation fee		6	6	6	6	6	30
Social Security Administration, claimant representative fees		7	9	9	9	9	43
Subtotal, offsetting collections deposited in appropriations accounts	26	1,248	1,571	1,599	1,642	1,653	7,721
Offsetting collections deposited in receipt accounts:							
Department of Transportation: Federal Railroad Administration—railroad safety inspection fees		82	82	82	82	82	410
Department of the Treasury: Customs merchandise processing fee		48	48	48	48	48	240
Environmental Protection Agency:							
Pesticide registration fees		16	16	16	16	16	80
Chemical pre-manufacturing notification fees		8	8	8	8	8	40
Nuclear Regulatory Commission, extend NRC fees		313	314	322	332	342	1,623
Social Security Administration, claimant representative fees		12	17	17	17	17	80
Subtotal, offsetting collections deposited in receipt accounts		479	485	493	503	513	2,472
Total, discretionary user fee proposals	26	1,725	2,056	2,092	2,145	2,176	10,194
Mandatory Fee Proposals							
Offsetting collections deposited in appropriations accounts:							
Department of Health and Human Services:							
Medicare cost-based provider audit fees		395	395	395	395	395	1,975
Federal Deposit Insurance Corporation state bank examination fees		89	94	87	101	108	487
Subtotal, offsetting collections deposited in appropriations accounts		484	489	482	496	501	2,462
Offsetting collections deposited in receipt accounts:							
Department of Health and Human Services:							
Medicare premiums		127	870	814	1,025	1,234	3,878
Department of the Interior:							
Interior/USDA, entrance and recreation fees			80	88	88	90	352
National Park Service, park concession fees		3	6	12	18	25	64
Subtotal, offsetting collections deposited in receipt accounts		130	771	814	1,131	1,349	4,295
Collections deposited in governmental receipt accounts:							
Federal Aviation Administration, proposed user fees			1,700	1,700	1,700	850	5,850
Total, mandatory user fee proposals		614	2,960	3,196	3,327	2,700	12,707
Total, User Fee Proposals	26	2,339	5,016	5,198	5,472	4,876	22,901

Health Care Financing Administration (HCFA).—This proposal would establish fees for a variety of activities associated with the Medicare Program, including:

Physician, provider, and supplier enrollment registration fees.—The Administration proposes to charge physicians, providers, and suppliers an initial enrollment fee and a renewal fee in order to participate in the Medicare program. Physicians would be required to re-enroll every 5 years. Durable medical equipment suppliers, hospitals, skilled nursing facilities, home health

agencies, and durable medical equipment suppliers would be required to re-enroll every 5 years. Durable medical equipment suppliers, hospitals, skilled nursing facilities, home health

forts started in 1998 which will enhance the current program of service delivery.
Performance measures—

MBDA activities support Theme I of the Department of Commerce Strategic Plan: Build for the future and promote United States competitiveness in the global market place by strengthening and safeguarding the Nation's economic infrastructure. MBDA's activities include goals on improving opportunities for minority-owned businesses in major growth industries and improving opportunities for minority-owned businesses to pursue financing.

Goals	1997	1998	1999
Improve opportunities for minority-owned businesses in major growth industries according to geographic demands (dollar values for contracts awarded-assisted companies)	852	1,065	1,300
Improve opportunities for minority-owned businesses to pursue financing (number of debt equity, merger, and acquisition opportunities facilitated)	4	23	25

Object Classification (in millions of dollars)

Identification code 13-0201-0-1-376	1997 actual	1998 est.	1999 est.
Direct obligations:			
11.1 Personnel compensations full-time permanent	6	7	7
12.1 Civilian personnel benefits	1	1	1
13.0 Benefits for former personnel	1		
23.1 Rental payments to GSA	2	2	2
25.2 Other services	7	10	10
25.3 Purchases of goods and services from Government accounts	1	1	1
41.0 Grants, subsidies, and contributions	9	6	6
99.0 Subtotal, direct obligations	27	27	27
99.0 Reimbursable obligations		1	1
7.5 Below reporting threshold	1		1
4.3 Total obligations	28	28	28

Personnel Summary

Identification code 13-0201-0-1-376	1997 actual	1998 est.	1999 est.
1001 Total compensable workyears: Full-time equivalent employment	100	120	120

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

Federal Funds

General and special funds:

[SALARIES AND EXPENSES]

[(RESCISSION)]

[Of the unobligated balances available under this heading, \$3,000,000 are rescinded.] (Department of Commerce and Related Agencies Appropriations Act, 1998.)

Program and Financing (in millions of dollars)

Identification code 13-0700-0-1-376	1998 est.	1999 est.
Obligations by program activity:		
10.00 Total obligations (object class 25.2)	1	
Budgetary resources available for obligations:		
*1.40 Unobligated balance available, start of year: Uninvested	4	4
2.00 New budget authority (gross)		-3
23.90 Total budgetary resources available for obligation	4	1
23.95 New obligations		-1
24.40 Unobligated balance available, end of year: Uninvested	4	

New budget authority (gross), detail:		
40.35 Unobligated balance rescinded		-3
Change in unpaid obligations:		
72.40 Unpaid obligations, start of year: Obligated balance: Uninvested	2	1
73.10 New obligations		1
73.20 Total outlays (gross)	-2	-1
74.40 Unpaid obligations, end of year: Obligated balance: Uninvested	1	
Outlays (gross), detail:		
86.03 Outlays from current balances	2	1
Max budget authority and outlays:		
89.01 Budget authority		-3
90.00 Outlays	2	1

This program was terminated in 1996.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Federal Funds

General and special funds:

OPERATIONS, RESEARCH, AND FACILITIES

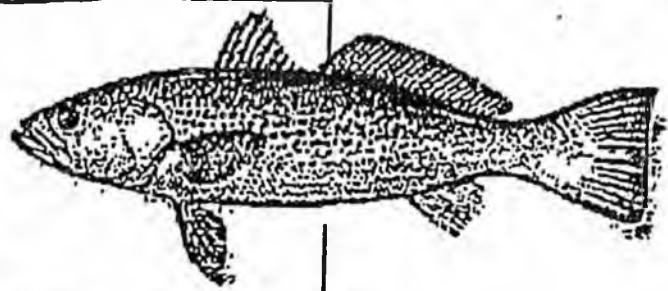
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; [not to exceed 283 commissioned officers on the active list as of September 30, 1998;] grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities as authorized by 33 U.S.C. 883; [§1,512,050,000] \$1,486,481,000, to remain available until expended; [Provided, That, notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs; Provided further, That the sum herein appropriated from the General Fund shall be reduced as such additional fees are received during fiscal year 1998, so as to result in a final General Fund appropriation estimated at not more than \$1,509,050,000; Provided further, That any such additional fees received in excess of \$3,000,000 in fiscal year 1998 shall not be available for obligation until October 1, 1998;] Provided [further], That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with these activities, notwithstanding 31 U.S.C. 3302; Provided further, That in addition, \$62,381,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; Provided further, That beginning in fiscal year 1999 and thereafter, the Secretary, in consultation with the Secretary of Transportation, shall under 31 U.S.C. 9701, establish and adjust user fees for any navigation services provided; Provided further, That such fees shall be implemented by publication of an initial fee schedule as an interim final rule in the Federal Register not later than 150 days after enactment of this provision; Provided further, That not to exceed \$2,500,000 of offsetting collections from user fees shall be collected and available until expended for necessary expenses under this heading; Provided further, That any such additional fees received in excess of \$2,500,000 shall remain available until expended, but shall not be available until October 1, 1999; Provided further, That notwithstanding any other provision of law, beginning in fiscal year 1999 and thereafter, the Secretary shall under 31 U.S.C. 9701, establish and adjust user fees for any fisheries management and enforcement services provided; Provided further, That such fees shall not exceed 1 percent of the ex-vessel value of fish harvested and shall be collected in such manner as the Secretary may establish; Provided further, That not to exceed \$19,781,000 of offsetting collections from such fees shall be collected and available until expended for necessary expenses under this heading; Provided further, That any such additional fees received in excess of \$19,781,000 shall remain available until expended, but shall not be available until October 1, 1999; Provided further, That grants to States pursuant to sections 306 and 306A of the Coastal Zone

NMFS

National Marine Fisheries Service

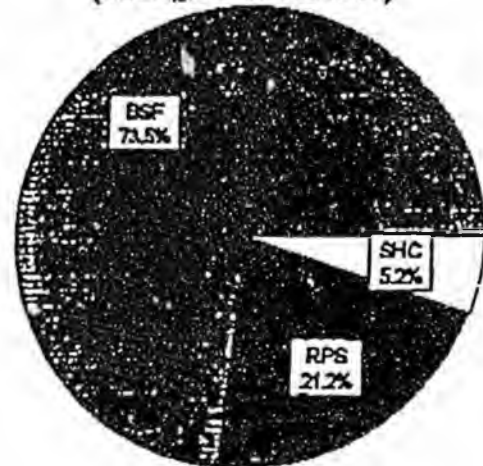
Total Request - ORF: \$351,376,000



The National Marine Fisheries Service is responsible for the management, conservation, and protection of living marine resources within the United States Exclusive Economic Zone. The Agency also plays a support and advisory role in the management of living marine resources in coastal areas under state jurisdiction, provides scientific and policy leadership in the international arena, and implements internationally agreed-upon conservation and management measures. Through science-based conservation and management and promotion of the health of coastal and marine ecosystems, benefits to the Nation from the sustainable use of living marine resources are maximized. Authorities are derived primarily from the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), the Sustainable Fisheries Act amendments to the MSFCMA, the Marine Mammal Protection Act (MMPA); the Endangered Species Act (ESA); and various other statutes that confer a mandate to reduce and mitigate degradation and loss of living marine resources habitat. Other legislative Acts provide authorities for enforcement, seafood safety, and cooperative efforts with states, interstate commissions, and other countries.

Goal Based

(Strategic Plan Structure)



The FY 1999 Budget request includes increases required to achieve NOAA's strategic plan goals to Build Sustainable Fisheries; Recover Protected Species; and Sustain Healthy Coasts. New mandates under the Sustainable Fisheries Act call for improved and expanded research to support fisheries management decisions and set new national standards which will entail significant costs for new management programs and additional data and analyses. Workloads associated with the management of West Coast salmon to meet the objectives of the Endangered Species Act continue to escalate.

Continued on third page following.

NATIONAL MARINE FISHERIES SERVICE
(\$ IN THOUSANDS)

Operations, Research and Facilities	FY 1998 ENACTED		FY 1999 BASE		FY 1999 PRES. REQUEST		INC/DEC. (REQUEST-BASE)	
	FTE	AMT.	FTE	AMT.	FTE	AMT.	FTE	AMT.
Information Collection & Analyses								
Resource Information	934	99,300	885	93,814	895	92,714	10	-1,100
(BASE Resource Info)		[84,800]		[82,914]		[91,864]		[8,950]
(Dolphin Encirclement) 1/		[3,800]				[850]		
(MarMAP)		[850]		[850]		[850]		
(Gulf of Mexico Consortium)		[1,500]		[1,500]		[0]		[-1,500]
(Gulf and South Atlantic Foundation)		[1,250]		[1,250]		[0]		[-1,250]
(Gulf State Marine Fisheries Cman)		[750]		[750]		[0]		[-750]
(Chuckchi Sea Study)		[900]		[900]		[0]		[-900]
(Atlantic Herring and Mackerel)		[400]		[400]		[0]		[-400]
(Summer Flounder)		[250]		[250]		[0]		[-250]
(Aquatic Resources Initiative)		[5,000]		[5,000]		[0]		[-5,000]
Antarctic research		1,200		1,200		1,200		
Chesapeake Bay Studies		1,890		1,890		1,500		-390
Right whale research		400		400		200		-200
(Gear Modification Research)		[150]		[150]		[0]		[-150]
MARFIN		3,500		3,500		3,000		-500
(NE Activities)		[500]		[500]		[0]		[-500]
SEAMAP		1,200		1,200		1,200		
Alaskan groundfish surveys		950		950		661		-289
(Calibrations Studies)		[289]		[289]		[0]		[-289]
Bering Sea pollock research		945		945		945		
West Coast groundfish		780		780		780		
New England stock depletion		1,000		1,000		1,000		
Hawaii stock management plan		500		500		0		-500
Yukon River chinook salmon		700		700		700		
Atlantic salmon research		710		710		710		
Gulf of Maine groundfish survey		567		567		567		
Dolphin safe technologies		250		250		250		
Habitat research/evaluation		450						
Pacific salmon treaty program		5,587		5,587		5,587		
Hawaiian monk seals		550		550		500		-50
Stellar sea lion recovery plan		2,770		2,770		1,440		-1,330
(Base program)		[590]		[590]		[590]		
(Alaska Sea Life Center - one time)		[1,000]		[1,000]		[0]		[-1,000]
(State of Alaska)		[850]		[850]		[850]		
(North Pacific Universities MM Consortium)		[330]		[330]		[0]		[-330]
Hawaiian sea turtles		248		248		248		
Bluefish/striped bass		800		800		0		-800
Halibut/Sablefish		1,200		1,200		1,200		
Subtotal	934	125,497	885	119,561	895	114,402	10	-5,159
Fishery Industry Information								
Fish statistics	146	13,000	148	13,000	148	14,500	2	1,500
Alaska groundfish monitoring		5,500		5,500		5,200		-300
(Base program)		[3,200]		[3,200]		[3,200]		
(Crab Management)		[850]		[850]		[850]		
(Bering Sea Fishermen's Association)		[300]		[300]		[0]		[-300]
(Rock Fish Research)		[800]		[800]		[800]		
(NMFS Rock Fish Research)		[350]		[350]		[350]		
PACFIN/catch effort data		4,700		4,700		3,000		-1,700
Rec. fishery harvest monitoring		3,900		3,900		3,100		-800
Subtotal	146	27,100	148	27,100	148	25,800	2	-1,300
Information Analyses & Dissemination								
Computer hardware and software	243	20,900	243	20,900	243	20,900		
Subtotal	243	4,000	243	4,000	243	4,000		
Subtotal	243	24,900	243	24,900	243	24,900		
Total, Info., Collection, & Analyses	1,323	177,497	1,274	171,561	1,288	165,102	12	-6,459

NATIONAL MARINE FISHERIES SERVICE
(\$ IN THOUSANDS)

	FY 1998 ENACTED		FY 1999 BASE		FY 1999 PRES. REQUEST		INC/DEL. (REQUEST - BASE)	
	FTE	AMT.	FTE	AMT.	FTE	AMT.	FTE	AMT.
Conservation and Management Operations								
Fisheries Management Programs	207	27,250	209	27,250	214	34,400	5	7,150
(Base program)		[24,700]		[24,700]		[33,350]		[8,650]
(Alaska Harbor Seal Commission)		[100]		[100]		[100]		
(Rancho Nuevo Sea Turtles)		[350]		[350]		[350]		
(Atlantic Salmon Recovery Plan)		[450]		[450]		[450]		
(Chinook Salmon Management)		[1,500]		[1,500]		[0]		[-1,500]
(State of Maine Recovery Plan)		[150]		[150]		[150]		
Federal Ship Financing Fund Expenses		-1,700		-1,700		0		1,700
Columbia River hatcheries		12,055		12,055		10,300		-1,755
(Mass Marking)		[655]		[655]		[0]		[-655]
Columbia River end. species studies		288		288		288		
Regional councils		11,900		11,900		12,800		900
International fisheries commissions		400		400		400		
Management of George's Bank		478		478		478		
Beluga whale committee		200		200		200		
Pacific tuna management		2,300		2,300		1,250		-1,050
Subtotal	207	53,171	209	53,171	214	60,118	5	6,945
Protected Species Management	259	8,200	262	8,200	262	8,200		
(California Sea Lions)		[500]		[500]		[500]		
Driftnet Act implementation		3,278		3,278		3,278		
Marine Mammal Protection Act		9,500		9,500		9,500		
Endangered Species Act recovery plan		20,200		20,200	14	30,450	14	10,250
Dolphin Encirclement 1/			9	3,800	9	3,300		-500
Fishery observer training		417		417		0		-417
East Coast observers		350		350		350		
Subtotal	259	39,945	271	43,745	285	63,078	14	23,333
Habitat Conservation	116	8,500	116	8,400	116	10,700		2,300
Enforcement & Surveillance	171	17,600	171	17,600	176	18,500	5	900
Total, Conservation and Mgmt. Ops	753	119,216	767	122,916	791	142,394	24	19,470
State and Industry Assistance Programs								
Grants to States								
Interjurisdictional fisheries grants		2,600		2,600		2,600		
Anadromous grants		2,100		2,100		2,100		
Anadromous fishery project						258		258
Interstate fish commissions		6,750		6,750		4,000		-2,750
(3 Commissions)		[750]		[750]		[750]		
(Atlantic Cooperative Management)		[6,000]		[6,000]		[3,250]		[-2,750]
Subtotal		11,450		11,450		8,958		-2,492
Fisheries Development Program								
Product quality and safety	93	10,524	93	10,524	88	9,824	-7	-700
Hawaiian Fisheries Development	0	750		750		0		-750
Subtotal	93	11,274	93	11,274	88	9,824	-7	-1,450
Total, State & Industry Assist. Progs.	93	22,724	93	22,724	88	18,782	-7	-3,942
Acquisition of Data	366	25,098	366	25,098	366	25,098		
TOTAL NMFS	2,535	344,535	2,500	342,299	2,529	351,378	29	9,077

Fisheries Fees (Proposed New Fees)

-19,781

-19,781

1/ Dolphin Encirclement was included in Resource Information in the FY 1998 Appropriation

NMFS

For FY 1999, the National Marine Fisheries Service requests \$351.4 million. This is a net increase of \$9.1 million over the FY 1998 base and consists of \$35.4 million in program increases directly related to mandated activities under the recent Sustainable Fisheries Act amendments to the Magnuson-Stevens Act, to the increased workload associated with protecting and restoring Pacific salmon, and habitat conservation. To offset these requested increases for mandated program activities, decreases of \$26.3 million are proposed for lower priority items and for one-time funding needs.

The NMFS FY 1999 base reflects the proposed transfer of \$2.2 million for Beaufort and Oxford Laboratories to NOS in FY 1998. The base also reflects the movement from the \$3.8 million in the Resources Information line item in FY 1998 for Dolphin Encirclement Studies required by the International Dolphin Conservation Act to the Protected Species Management line item.

The FY 1999 proposed appropriation establishes authority to collect fees to begin to offset costs associated with providing fisheries management and enforcement. A proposal for the fees is being developed, and receipts will be collected from fees assessed on landings of commercial fishermen in the U.S. The \$19.8 million in estimated fees will be used to offset the overall NOAA Budget Authority and Appropriation in FY 1999.

Detailed Program Changes

Information Collection and Analysis - The goal of this budget sub-activity is to provide accurate and timely analyses on the biological, ecological, economic, and social aspects of the Nation's use of its living marine resources in support of Administration goals to Build Sustainable Fisheries, Recover Protected Species, and Sustain Healthy Coasts. Also included are activities to determine the impacts of the incidental taking of marine mammals and endangered species; to develop forecast models for marine resource populations, ecosystems, and fishery systems; to improve the quality and timeliness of information on living marine resources, their habitats and their use; and to provide \$1.9 million within the base program for information and services critical to the Administration's South Florida Ecosystem Restoration Initiative. In FY 1999, NMFS requests a net decrease of \$6.5 million for this sub-activity which consists of \$10.5 million increases and \$16.9 million of program decreases for items not requested in FY 1998.

NOAA requests a net decrease of \$5.2 million from the FY 1998 base for the Resource Information line item.

NMFS requests a net decrease of \$1.1 million for the Resource Information base line item. This net change consists of \$9.0 million in program increases and \$10.1 million of program decreases. Of this \$9.0 million increase, \$5.9 million will be used to restore the FY 1997 level of base programs which was reduced in FY 1998 to cover the costs of report assignments, and to provide for the South Florida Ecosystem

NMES

Restoration Initiative. Without the restoration of this funding, research activities at NMFS laboratories in FY 1999 will be below FY 1997 levels.

\$3.1 million In Increases is required to support the Administration's Council on Sustainable Development to replenish and protect fisheries. Section 203 (e) of the goals of Sustainable Fisheries Act amendments to the Magnuson-Stevens Act requires the Secretary of Commerce to undertake or expand efforts to achieve annual resource assessments in all regions by requiring that all stocks be assessed annually. Presently, some stocks are only assessed every three years, and some stocks are not assessed at all. NMFS will begin a multi-year effort to meet this requirement through the collection of additional fishery-dependent statistics, improved stock assessments, and increases in charter days-at-sea to complement the days-at-sea provided by NOAA vessels. The \$10.1 million in decreases relate to appropriation report assignments for the Gulf of Mexico Consortium, Gulf and Atlantic States Fish Development Foundation, the Gulf States Marine Fisheries Commission, Chuckchi Sea study, Atlantic herring/mackerel, Summer flounder, and Aquatic Resources Initiative (see bracketed amounts in accompanying table).

In addition, eight decreases totaling \$4.1 million are proposed for other lower priority programs in Resource Information: Chesapeake Bay Studies, Right Whale Research, MARFIN, Alaskan Groundfish Surveys, Hawaii Stock Management Plans, Hawaiian Monk Seals, Stellar Sea Lion Recovery Plan, and Bluefish/Striped Bass Research (see amounts in accompanying table).

NOAA requests a net decrease of \$1.3 million for the Fishery Industry Information line item. An increase of \$1.5 million is requested for the collection of fisheries statistics and performance of economic analyses required by the new National Standard 8 of the Sustainable Fisheries Act. This mandates that conservation and management measures consider the economic impacts on fishing communities.

The increase will initiate a comprehensive plan in all NMFS regions for fisheries data collection on the socioeconomic characteristics of commercial and recreational fishermen, economic values within fisheries, and vessel data within fisheries, all of which will improve the analytical capability to predict and monitor the economic and social consequences of management decisions. Three decreases totaling \$2.8 million are requested for lower priority activities: Alaska groundfish monitoring, PACFIN, and recreational fishery harvest monitoring.

Conservation and Management Operations - This budget sub-activity provides for the development and implementation of Fishery Management Plans (FMPs) under the Magnuson-Stevens Act and the Sustainable Fisheries Act, and for the management of protected species under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). It also provides for the enforcement of laws and regulations



NMFS

under these and other statutes as well as for the protection of habitats. Funding for the eight Regional Fishery Management Councils is included in this sub-activity, as is funding for Mitchell Act hatcheries along the Columbia River in the Pacific Northwest. A net increase of \$19.5 million is requested for the sub-activity Conservation and Management Operations; this consists of \$24.7 million of program increases, offset by \$5.2 million of program decreases.

NOAA requests a net increase of \$6.9 million for the Fisheries Management Programs line item. A net \$9.6 million increase is requested to implement the Sustainable Fisheries Act and provide additional funding for the Regional Councils. These increases are offset by \$4.3 million in decreases for items funded in FY 1998 above the President's FY 1998 request (one-time funding for repair of certain hatcheries and an increase for research and management of pelagics in the Pacific). An \$8.7 million increase in the Fisheries Management Programs base line item is requested to initiate compliance with the SFA amendments to the Magnuson-Stevens Act which include implementation of new national standards, description and identification of Essential Fish Habitat (EFH), and incorporation of management measures to mitigate the adverse impacts of fishing on EFH. \$0.9 million will be provided to the Regional Fishery Management Councils to support their review of existing fishery management plans and incorporation of Essential Fish Habitat in fishery management plans, per the new requirements of the Sustainable Fisheries Act. Also required are revised Fishery Management Plans to rebuild overfished fisheries. Other multi-year activities required to support the Council on Sustainable Development's goal to replenish and protect fisheries include development of programs related to management of fishing effort, e.g., a central registry system of limited access permit systems, a standardized vessel registration system, inventory and regulation of allowable gear by fishery, and special studies, reports, and advisory panels. A \$1.7 million increase is requested for the Federal Ship Financing Fund (FSFF) administrative costs. These costs include managing the portfolio of loans that existed for the FSFF prior to FY 1992 plus all guaranteed and direct loans awarded since FY 1992. From FY 1996 through FY 1998, Congress reduced NOAA's ORF budget authority by \$1.7 million and directed NOAA to use the FSFF to cover these expenses. The President's Budget requests the restoration of this \$1.7 million to the Fisheries Management Program line item and does not propose the continuation of the financing adjustment in FY 1999 as there are no available balances for these costs in the FSFF.

NOAA requests a net increase of \$9.3 million for Protected Species Management. A \$10.3 million program increase is to establish core science and management competency and scientific research to support expert consultation and advice to public and private landowners and resource users to promote action that leads to the recovery of endangered and at-risk salmonids. NOAA has used the ESA's flexibility to work cooperatively with the States of Oregon and Maine to develop salmon conservation plans thereby preventing Federal listings of Atlantic and West coast salmon species. This increase also supports recovery actions for right whales, Hawaiian monk seals and Stellar sea lions. A \$3.3 million program (a decrease of \$0.5 million from the \$3.8 million FY 1999 base) is requested to fund the second year

NMFS

implementation of the International Dolphin Conservation Act. This will continue a four-year study on the effects of encirclement of dolphins as a method for harvesting tuna and development of a tracking and monitoring system for verification of "dolphin-safe" tuna imports. A decrease of \$0.4 million is requested to end funding to the University of Alaska for fishery observer training program which is duplicative of other training available at the Alaska Fisheries Science Center in Seattle, Washington.

An increase of \$2.3 million, including \$1.5 million for DARP, is requested for the Habitat Conservation line item to provide operational and programmatic capability for the Restoration Center which serves as NOAA's focal point for habitat restoration, restoring fish habitat and other living and nonliving natural resources injured by human activities, and transferring restoration technology to the public and private sectors. In addition, the Center coordinates NMFS' participation in both the Coastal America Program and in projects conducted under the NOAA/Corps of Engineers Memorandum of Agreement for habitat creation within Corps public works program.

NOAA requests an increase of \$0.9 million for Enforcement and Surveillance activities. This increase will advance critical enforcement and surveillance strategies through the Voluntary Compliance Programs, Vessel Monitoring Systems, and state performance contracts. All of these initiatives are essential to educate the public, deter potential offenders, and detect, apprehend, and prosecute willful violators of Federal statutes in support of the Nation's goal to replenish and protect fisheries.

State and Industry Assistance Programs - This budget sub-activity provides for product quality and safety research, grants to states under the Anadromous and Interjurisdictional Fisheries Acts, funding for the three Interstate Fisheries Commissions, and for the Atlantic Coastal Fisheries Act. NMFS requests a net decrease of \$3.9 million for FY 1999.

NOAA requests an increase of \$0.3 million for the Anadromous Fishery Project (Striped Bass) in the Northeast. A decrease of \$2.7 million is requested for one-time activities funded by the Atlantic Coastal Fisheries Act and passed-through to the Atlantic States Marine Fisheries Commission. A decrease of \$0.8 million is requested to terminate funding to the Oceanic Institute in Hawaii for fisheries development activities. A decrease of 7 FTE and \$0.7 million is requested to transfer product quality and safety program activities to the Food and Drug Administration as part of the Seafood Inspection PBO.



SJR

201



Hugh J. Doogan
359 Slater St.
Fairbanks, AK 99701-2933

July 21, 1998

Alaska State Senate
Resource Committtee
Alaska State Legislature
Juneau, Alaska 99801
Reference: Subsistence Question

"Enough is enough on subsistence." We do not need for our State Constitution to be amended to give one class of people rights over other classes of people on fish and game issues. This is discriminatory

Under our state constitution, every Alaskan has equal rights to the fish and game resources of our state. This has been affirmed many times by our state Supreme Court- "All people of the state of Alaska are one class- ALASKANS."

The Native people of Alaska's beef is not with the Alaska State Legislature or the white people, but with the Alaska Fish and Game Board. Here is what I propose:

- 1) Get rid of all Fish and Game advisory boards.
- 2) Get rid of commercial fishing on the rivers using fish wheels. The state Constitutional Convention said "The fish wheel is to be used for subsistence only."
- 3) The Native people of Alaska do not need as many fish as before, as they now use 4 wheelers and snow machines, instead of dogs, to work their trap lines.
- 4) The Native people of Alaska should also know that, like the snow machines and 4 wheelers, the "fish wheel" is a white man's invention.
- 5) There should be no selling of any parts of fish caught for subsistence use.

Ted Stevens and Don Young made the deal for "rural preference" in the *Alaska National Land Claim Bill*. They made this deal with the Natives and environmentalists of Alaska. They have had 18 years to amend Title 8 of this bill to do away with rural priority, which is discriminatory to all the rest of the people of Alaska. It is now time for Senator Ted Stevens and Representative Don Young to get off their "dead butts" and get this discriminatory Title 8 rural priority out of the *Alaska National Land Claim Bill*.

Hugh J. Doogan
359 Slater St.
Fairbanks, AK 99701-2933

A PUBLIC MESSAGE TO ALASKA'S LEGISLATURE

As professional natural resource managers, we are deeply concerned about the social turmoil and renewable resource use conflicts developing over the management of our fish and game in Alaska. The major issues involve the legal conflicts between the rural subsistence priority in Title VIII of the Alaska National Interest Lands Conservation Act and the equal protection and common use provisions of the Alaska State Constitution.

Alaska's fish and game management record has been outstanding. For the good of the resources of the state and its residents, it is imperative that the state maintain its general jurisdiction over fish and game resources while recognizing the legitimate role of the federal government in Migratory Birds and Endangered Species.

Numerous options and potential solutions are being presented to the public, including proposed State Constitutional Amendments and major modifications of the federal subsistence law. However, much of the advertising supporting a constitutional amendment has been inaccurate and inflammatory.

In our professional opinion, any proposed solution to this growing social and resource management crisis must contain the following:

- 1. Provisions in state and federal law to prevent federal agencies from assuming management of traditionally state managed fish and game resources in Alaska. The major emphasis must be to maintain state management of our fish and game resources.**
- 2. Provisions which assure that the state courts, rather than the federal courts, have fish and game jurisdiction on state and private lands and waters in Alaska. Federal court oversight over fish and game management on state and private lands and waters precludes effective state management and must be rejected.**
- 3. Provisions which provide for sound scientific management of our fish and game resources regardless of land ownership.**
- 4. State management of its fish and game resources must not be relinquished in any form until the state's legal challenges against federal management preemption allegedly authorized in ANILCA have been concluded in federal court.**

authorized in ANILCA have been concluded in federal court.

- | | | | |
|-------------------------|--|--------------------------|---|
| Brooks, James | - Retired Fish And Game Commissioner | Bishop, Richard | - Retired State Wildlife Conservation Regional Supervisor |
| Skoog, Ron | - Retired Fish and Game Commissioner | Harris, Don | - Retired Game Board Member |
| Rosier, Carl | - Retired Fish and Game Commissioner | Croxton, Loren | - Retired State Deputy Commissioner of Fish and Game |
| Sandor, John | - Retired Regional Forester | Davis, James | - Retired State Wildlife Biologist |
| Barton, Mike | - Retired Regional Forester | Bowman, Howard | - Retired U.S. Fish and Wildlife Service |
| Snyder, George | - Retired Auke Bay Laboratory Director,
National Marine Fisheries Service | Hinman, Robert | - Retired State Game Division Deputy Director |
| Burley, Dick | - Former Chairman of State Game Board | Jeglum, Carl | - Retired BLM Resource Management Division Chief |
| Andrew, Kay | - Former State Fisheries Board Member | Morrison, John | - Retired State Wildlife Biologist |
| Eide, Sterling | - Retired State Wildlife Conservation Regional
Supervisor | Nicolls, Wayne | - Retired U.S. Forest Service Forester |
| Burris, Bud | - Retired State Wildlife Biologist | Meacham, Chuck | - Retired State Deputy Commissioner of Fish and Game |
| Coose, Richard | - Retired U.S. Forest Service | Rausch, Robert | - Retired State Director of Game Division |
| Williams, Fred | - Retired State Sport Fish Division Area Biologist | Lochman, Robert | - Retired State Troopers and Board of Fisheries Member |
| DeSpain, Glenn | - Former State Game Board Member | Logan, Sid | - Retired Sport Fish Division Area Biologist |
| Arvey, William | - Retired State Fisheries Biologist | Szabo, Nick | - Former State Fish Board Member |
| Didrickson, Jack | - Retired Sales Game Division Area Biologist | Melchior, Herb | - Retired State Wildlife Conservation Division Biologist |
| Farmen, Darrell | - Former State Game Board Member | Galea, John | - Retired U.S. Forest Service District Ranger |
| Wienhold, Robert | - Retired State & U.S. Fish and Wildlife Fisheries
Biologist | Roys, Robert | - Retired State Director of Fisheries Rehabilitation of
Enhancement Division |
| Francisco, Kim | - Retired State Commercial Fisheries Area Biologist | Morgan, Sid | - Retired U.S. Fish and Wildlife Service Enforcement Chief |
| Barber, Willard | - Retired Fisheries Professor UAF | Redick, Russ | - Retired State Sport Fish Division Regional Supervisor |
| Grasser, Ed | - Former State Game Board Member | Grauvogel, Carl | - Retired State Wildlife Biologist |
| Bethers, Mike | - Retired State Fisheries Biologist | Jensen, Gordon | - Former State Fish and Game Board Member |
| Franzmann, Al | - Retired State Wildlife Biologist | Somerville, Ron | - Retired State Deputy Commissioner of Fish and Game |
| Griffin, Ken | - Retired State Commercial Fisheries Management
Biologist | Johnson, David | - Retired State Wildlife Conservation Division Regional
Supervisor |
| Harbo, Sam | - Retired Chairman State Game Board | Rearden, Jim | - Retired State Commercial Fisheries Management Biologist
& Alaska Board of Fish and Game Member |
| Andrews, Rupe | - Retired State Sports Fish Division Director | Kellyhouse, David | - Retired Director of State Wildlife Conservation Division |
| Hensel, Richard | - Retired U.S. Fish and Wildlife Service Biologist | Sheridan, Walt | - Retired U.S. Forest Service National ANILCA Coordinator |

**Territorial
Sportsmen**
INC

PAID FOR BY TERRITORIAL SPORTSMEN, INC.

P.O. Box 20761, Juneau, Alaska 99802



Alaska Outdoor Council

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Alaska Outdoor Council Subsistence Position July, 1998

Each new piece of information about the subsistence dilemma makes more clear that the drive to amend Alaska's constitution is about various political aspirations – not about ensuring sound fish and game management or fairly providing for Alaskan lifestyles. The Alaska Outdoor Council opposes a constitutional amendment for the sake of political aspirations.

The Alaska Outdoor Council continues to support Alaskans' personal and family consumptive uses of fish and game to support or supplement their livelihoods and lifestyles.

The Council supports sound scientific management to maintain and increase the abundance of fish and game for the benefit of Alaska is who rely on these resources for personal and family consumptive uses, and for other lawful purposes.

The Council maintains that those people who rely on personal and family consumptive uses of fish and game can be properly and adequately accommodated without amending Alaska's Constitution to provide for a statutory harvest priority that benefits a particular class, or category, of Alaskans.

The Council maintains that if a constitutional amendment providing for harvest preference is considered, it should be consistent with the existing common use and equal access provisions of the Alaska Constitution, with the following characteristics:

- The preference should go to individuals, not groups;
- To qualify for the preference the individual should substantially rely on fish and game for food to sustain a subsistence lifestyle. ZIP code, culture, ethnicity or other closed class criteria should not be standards;
- The preference should only be implemented when fish stocks or game populations are too low to accommodate long-term historic harvests or reasonable opportunity to harvest without impacting sustained yield – rather than whenever fishing, hunting or trapping are regulated as ANILCA demands;
- The amendment should allow, not require, the Legislature to establish a harvest priority.

The Council finds no compelling reasons for a constitutional amendment that conforms to Title VIII of ANILCA. In fact, the opposite is true—there are numerous Title VIII requirements that are inconsistent with sound management, fair allocation, and/or the authority of the State to manage fish and game.

The root cause of controversy over fish and game management and harvest preferences lies in ANILCA, not in Alaska's Constitution. **Lacking ANILCA amendments, fish and game management and allocation will continue to be unsatisfactory because Title VIII can be:**

- Implemented and enforced by federal agencies and federal courts; or
- Implemented and enforced by state agencies and federal courts.

It's the same overbearing federal law no matter which way we go. Either way, we are shot or hung lacking substantial ANILCA amendments.

If the Legislature anticipates a constitutional amendment that would comply with federal law, the amendment should not become effective unless and until :

1. ANILCA, Title VIII, is judged constitutional by the highest federal court decision obtainable; and

2. The ANILCA amendments listed below are enacted:

- Clearly exclude state and private lands and waters, including all navigable waters, and validly selected and tentatively approved state and private lands, from the definition of federal public lands;
- Clearly exclude state and private lands and waters, and validly selected and tentatively approved state and private lands, and including all navigable waters, from federal regulatory or court jurisdiction regarding subsistence uses of fish and wildlife;
- Clearly state that definitions of subsistence use, rural, customary and traditional, customary trade, reasonable opportunity, shortage of fish and game resources, and other terms critical to the administration of a subsistence priority will be determined by the state;
- Clearly state the Congressional determination that Title VIII of ANILCA is not "Indian law";
- Certify that the state is in compliance with the federal subsistence law.

Alaska

Subsistence is Our Right

Whether we live in urban or rural areas

But federal law demands a harvest priority for rural Alaskans,
rich or poor, all the time —
not "just in times of shortage".

(see notes below)

That means everyone in Nenana, Dutch Harbor, Glennallen, Sitka, Kodiak,
Barrow and Petersburg gets it — all the time.
Many "rural" communities have a higher median income than Fairbanks.

This is unjust discrimination.

This federal law, [Title VIII of ANILCA], can be —

- enforced next year by federal agencies and federal courts... & we're SHOT
- Or — If we amend Alaska's Constitution —
- enforced next year by state agencies and federal courts... & we're HUNG

Either way—with or without a rural amendment—
we're SHOT or HUNG.

It's always the same overbearing federal! law—
enforced by federal courts.

We CAN'T keep the Feds out if we Invite them In!!!

*If we amend our Constitution we invite the federal courts in —
forever surrendering our legal argument to get rid of them.*

*If we surrender the federal court will control all Alaska,
rather than just federal lands.*

If we stand firm for the equality of our Constitution, we can continue to fight the Federal takeover

- **Defend, don't amend, the Constitution.**
 - **Amend the federal law, ANILCA, and**
- **Continue the legal challenge against this federal law.**
(The legal challenge that Governor Knowles dropped)

Word games: It's not "just in times of shortage" — The subsistence priority according to:

Senator Ted Stevens

"Now, that is the one thing that I can assure the Alaska native people, and the rural Alaska, will mean, in any case where there's a limitation they will receive preference. And mind you, every regulation dealing with fish and game is a limitation."
(emphasis added)

*Public Hearing, 4/5/78, US Senate Committee
on Energy and Natural Resources*

Alaska Federation of Natives "No Net Loss"
policy:

"There must be no net loss from the current level of federal subsistence protections, including, but not limited to, the following points: ...#7. The subsistence priority applies to all times, not just when there is a resource shortage. The Boards [of Fisheries and Game] are required to provide fully for customary and traditional uses before any non-subsistence uses may be allowed."

*AFN Board of Directors, 3/4/96
and re-affirmed at October 1997 AFN Convention*

Department of Interior:

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

*4/11/95 memo from three federal Solicitors
to Anchorage Regional Solicitor
also 12/2/81 letter from AG Condon
to Governor Hammond*

Federal Judge Russell Holland

(When the state was in compliance with federal law, Alaska Legal Services successfully challenged 6-month moose and 8-month caribou season)

"...the Board of Game must in the future proceed with scrupulous care and caution in imposing seasons and bag limits on subsistence hunting."
(p.30 of 58)

"If bag limits are imposed on subsistence hunting, there must be substantial evidence in the record that such restrictions are not inconsistent with customary and traditional uses...It must be clear in the record that subsistence uses will be accommodated, as regards both the quantity or volume of use and the duration of the use. Need is not the standard. Again, it matters not that other food sources may be available at any given time or place. The standard is customary and traditional use of game." (p.32)
(emphases added)

"...the Board of Game shall review its subsistence hunting regulations for Lime Village, Alaska, and shall submit to the court for review reenacted subsistence hunting regulations in accordance with...this decision." (p42)

Bobby v. Alaska, 718 F.Supp. 764 (D.Alaska 1989)

Judge Holland eventually allowed almost year-round, no bag limit seasons.

Attorney General Bruce Botelho and Assistant AG Stephen White confirmed that whenever the Administration says "in times of shortage", the Administration means "whenever there are harvest regulations".

*Public hearing before the joint House/Senate Judiciary Committee
First special session, 1998*



**This is what the federal law means
for Alaska's future —
if we surrender our Constitution to it.**

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JUL-20-98 MON 10:53 AM

07/20/98 MON 08:54 FAX

P.02/02



THE SECRETARY OF THE INTERIOR
WASHINGTON

July 20, 1998

The Honorable Tony Knowles
Governor, State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Governor Knowles:

You have asked whether I could agree to a single two-year extension of the congressional moratorium, due to expire on October 1, 1998, on the ability of the U.S. to promulgate regulations enlarging its management of fish and wildlife for subsistence purposes under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA).

After careful consideration, it is my position that if the Alaska Legislature votes to place on the November ballot the constitutional amendment contained in the compromise described in your June 29 letter, I would, reluctantly, acquiesce in a one-time extension of the current congressional moratorium to October 1, 2000. The moratorium would have to be written to make clear that it would expire if the amendment, once placed on the ballot, were rejected by the voters. Furthermore, my acquiescence in the extension is also contingent in all other respects on adoption by the Alaska Legislature of the compromise described in your letter.

I trust this answers your question.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bruce Babbitt".

TONY KNOWLES
GOVERNOR



P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 485-3500
Fax (907) 485-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 29, 1998

The Honorable Bruce Babbitt
Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW, Room 6156
Washington, DC 20240

Dear Mr. Secretary:

During the special session of the 20th Legislature May 26 through June 1, my Administration and I worked closely with legislative leaders of both parties, the Alaska Federation of Natives, Alaskans Together, United Fishermen of Alaska, sports fishing groups, and other interested parties to develop a compromise subsistence proposal which we believe to be a true "Alaska solution" we can all support. We were successful in garnering agreement on that proposal from all these groups, although not from two-thirds of the Legislature that is necessary to put a constitutional amendment on the ballot.

Since the end of this session, supporters of the compromise have continued to cooperate in their efforts to broaden the public's understanding of the plan's key elements and to build more support for it within various groups, including the Legislature. Members of the Alaska Congressional Delegation have indicated, in letters to both legislative leaders and to me, that they find this creative solution supportable. They have also indicated their interest in working with you and with my office to make sure this compromise proposal achieves its objectives.

Our Alaska solution is a major step toward our goal of retaining state management of fishing and hunting while recognizing the importance of subsistence to the economy and culture of rural Alaska. To adopt the proposal, the Legislature must take action prior to the July 26 deadline for placing a constitutional amendment on the November ballot. I am writing today to share the key elements of this plan with you and to ask for your support as we work toward its adoption by the Legislature in the coming weeks.

We agreed on a plan that includes the following elements.

- ▶ **Subsistence Constitutional Amendment:** The compromise amendment would require the Legislature to provide a priority for "subsistence uses of a fish or wildlife resource by residents of a community or area that is substantially dependent on fish and wildlife for nutritional and other subsistence uses." The priority could be based on place of residence.

The Honorable Bruce Babbitt

June 29, 1998

Page 2

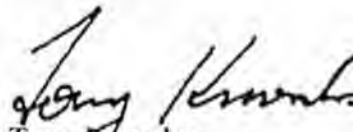
- ▶ **Delayed Effective Date of Amendment:** If approved by the voters, the amendment would not be effective until October 1, 2000, which would give legislators additional time to pursue a lawsuit challenging the constitutionality of Title VIII of ANILCA.
- ▶ **Legal Standing for Legislature:** As part of the compromise, I agreed to legislation authorizing the Legislative Council to pursue the ANILCA challenge in the name of the state.
- ▶ **Repeal of Constitutional Amendment if Lawsuit Succeeds:** The constitutional amendment would be repealed if a federal court issued a final judgment or order saying that the rural subsistence priority in Title VIII of ANILCA violates the Constitution of the United States.

Placing the constitutional amendment on the ballot is, of course, only the first step toward ensuring state management of hunting and fishing on all lands in Alaska, as we have continued to make clear in our discussions of this issue. The amendment must be approved by the voters, and statutory changes to implement the amendment and bring Alaska's law into conformity with ANILCA provisions will also be required. Equally important will be the willingness of both your department and Congress to extend the moratorium or otherwise delay the impending December 1, 1998, takeover until the amendment and statutes can go into effect.

Nevertheless, achieving consensus on putting the amendment on the ballot is the first step, and a critical one. I sincerely hope that all of us – the Department of Interior, the Congressional Delegation, the Alaska Legislature, and my Administration – can work together to make that happen. It is important for Alaskans to know your position on this Alaska solution. I support the compromise as a workable plan and would appreciate your support as well. For your information, I have included a summary of the proposal, a copy of the proposed constitutional amendment, and proposed statutory language to authorize the Legislative Council to pursue the ANILCA challenge in the name of the state.

If you have any questions, please feel free to call. I hope you will be able to join me in supporting this important step toward solving the state-federal impasse on subsistence.

Sincerely,


Tony Knowles
Governor

Enclosures

A COMPROMISE PROPOSAL TO HELP RETAIN STATE MANAGEMENT OF FISHING AND HUNTING IN ALASKA

During the Special Session of the 20th Legislature (May 26-June 1, 1998), legislative leaders of both parties, the Alaska Federation of Natives, Alaskans Together, United Fishermen of Alaska, sports fishing groups, and the Knowles Administration agreed on a compromise subsistence proposal. The proposal, which was not adopted by the Legislature, would be a major step toward the state's goal of retaining state management of fishing and hunting while recognizing the importance of subsistence to the economy and culture of rural Alaska. To adopt the proposal, the Legislature must take action prior to the July 26 deadline for placing a constitutional amendment on the November ballot.

After the legislative session, Secretary of the Interior Babbitt indicated support for this compromise, while noting that in order to conform with ANILCA and gain full state management, the state will still have to adopt revisions to its fish and game statutes. All three members of the Alaska Congressional Delegation have stated support for the compromise.

ELEMENTS OF THE COMPROMISE PROPOSAL

Subsistence Constitutional Amendment: The compromise amendment would require the Legislature to provide a priority for "subsistence uses of a fish or wildlife resource by residents of a community or area that is substantially dependent on fish and wildlife for nutritional and other subsistence uses." The priority could be based on place of residence.

Delayed Effective Date of Amendment: If approved by the voters, the amendment would not be effective until October 1, 2000, which would give legislators additional time to pursue a lawsuit challenging the constitutionality of Title VIII of ANILCA, which requires a rural priority for subsistence uses.

Legal Standing for Legislature: As part of the compromise, Governor Knowles agreed to legislation authorizing the Legislative Council to pursue the ANILCA challenge in the name of the state.

Repeal of Constitutional Amendment If Lawsuit Succeeds: The constitutional amendment would be repealed if a federal court issued a final judgment or order saying that the rural subsistence priority in Title VIII of ANILCA violates the Constitution of the United States.

Delayed Federal Takeover of Fishing and Hunting: Both Senator Stevens and Secretary Babbitt have agreed to seek to hold off the federal takeover, now scheduled for December 1, 1998, if voters approve the amendment in November 1998 and the Legislature acts to change state laws governing fish and game management to conform with the amendment and provide for subsistence.

PROPOSED CONSTITUTIONAL AMENDMENT

SENATE JOINT RESOLUTION NO. 101 am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTILETH LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Offered:

Referred:

A RESOLUTION

1 **Proposing amendments to the Constitution of the State of Alaska relating to establishing a**
2 **priority for subsistence uses of fish and wildlife; and providing for an effective date.**

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

4 *** Section 1. Article VIII, Constitution of the State of Alaska, is amended by adding a new**
5 **section to read:**

6 **Section 19. Subsistence Priority. The legislature shall, consistent with the**
7 **sustained yield principle, provide a priority for subsistence uses of a fish or wildlife resource**
8 **by residents of a community or area that is substantially dependent on fish and wildlife for**
9 **nutritional and other subsistence uses. The priority may be based on place of residence.**

3 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new section to
4 read:

5 Section 29. **Effective Date and Repeal of Amendment.** (a) If adopted by the
6 voters at the 1998 general election, the amendment set out in Section 19 of Article VIII,
7 regarding subsistence, takes effect on October 1, 2000.

8 (b) Section 19 of Article VIII, regarding subsistence, is repealed on the date of
9 a final, nonappealable judgment or order by a federal court deciding that the rural
10 subsistence priority in Title VIII, Alaska National Interest Lands Conservation Act, P.L.
11 96-487, amended violates the Constitution of the United States.

12 (c) In (b) of this section, "final, nonappealable judgment or order" means a
13 judgment or an order that cannot be appealed because all possible appeals, including a
14 petition for certiorari to the United States Supreme Court, have been taken or the time for
15 taking an appeal has expired without appeal.

16 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the
17 state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of
18 Alaska, and the election laws of the state.

PROPOSED STATUTORY LANGUAGE
REGARDING THE LEGISLATIVE COUNCIL'S
STANDING IN COURT

1 **An act authorizing the Alaska Legislative Council to sue on behalf of the state concerning**
2 **the validity of a rural subsistence priority conferred in federal statute; and providing for**
3 **an effective date.**

4 * Section 1. The Alaska Legislative Council may sue on behalf of the state as the plaintiff in
5 Legislative Council v. Babbitt, Civil No. 1:98CV0069(JR), United States District Court for the
6 District of Columbia to determine whether the rural subsistence priority conferred in Title VIII,
7 Alaska National Interest Lands Conservation Act, P.L.96-487, as amended, violates the
8 Constitution of the United States.

9 *Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Legislative Research Report 98.075

May 22, 1998

Subsistence Hearings Sponsored by the Legislature or the Governor, 1990-1998

Legislative Research Services
Division of Legal and Research Services
Legislative Affairs Agency
Alaska State Legislature

Prepared for Senator Tim Kelly
Prepared by Maria Gladziszewski, Manager



*Legislative Research Services
130 Seward Street, Room 218
Juneau, AK 99801
907-465-3991
907-463-3351 (fax)
www.legis.state.ak.us/legres/legres.htm*

SUMMARY

You asked about public hearings aimed at resolving the impact of the Alaska Supreme Court's December 1989 decision in *McDowell v. State*. In that decision, the Court held that the state's 1986 subsistence law violated the state constitution because it excluded urban residents from subsistence activities.

In attempts to resolve the issue since then, the legislature has met twice in special session (June 1990 and June 1992), and two governors have convened task forces (Governor Hickel's Subsistence Advisory Council in 1991-92 and Governor Knowles' Subsistence Task Force in 1997-98). Also, since the *McDowell* decision, the Legislature has held over 100 hearings on the issue, taking testimony from approximately 240 state and federal officials, and over 1,000 members of the public. Table 1 summarizes the statistics on legislative hearings; Tables 2 and 3 present more detail, including bill number and subject, committee, and hearing dates.

Table 1: Legislative Hearings on Subsistence, 1990-1998

LEGISLATURE	HEARINGS	TESTIMONY FROM PUBLIC OFFICIALS	TESTIMONY FROM MEMBERS OF THE PUBLIC (Including Interest group representatives)
16 TH Legislature	25	78	152
17 TH Legislature	30	79	235
18 TH Legislature	0	0	0
19 TH Legislature	11	10	259
20 TH Legislature	37	72	482
TOTAL	103	239	1,128

NOTE: These numbers do NOT represent numbers of different individuals who testified; rather, they are the sum of the total number testifying at each hearing (i.e., many public officials and interest group representatives testified numerous times).

Governor Hickel's Subsistence Advisory Council, charged with proposing a statutory fix that did not include constitutional amendments, convened first in February 1991 but was reorganized in the fall. According to Advisory Council member Byron Mallott, the group met five or six times between November 1991 and February 1992, primarily in the governor's conference room in the Frontier Building in Anchorage. Mr. Mallott reports that while the meetings were open to the public and the press, and several individuals and representatives from stakeholder groups attended the meetings to express opinions, the meetings were informal and Advisory Council members did not open them to formal testimony.

TABLE 2

Legislative Hearings on Subsistence, 1990-1998, by Bill

Committee	Date	Heard Testimony From:
16th Legislature (1989-1990)		
HJR 74, 88, 90 -- Constitutional Amendments on Subsistence		
House Resources	March 7, 1990	5 state officials, 1 member of the public
House Resources	March 10, 1990	2 state officials, 51 members of the public
House Resources	March 21, 1990	1 state official, 28 members of the public
House Resources	April 5, 1990	2 state officials, 10 members of the public
House Resources	April 20, 1990	3 state officials, 5 members of the public
House Resources	April 21, 1990	2 state officials
House Judiciary	April 27, 1990	4 officials (3 state, 1 federal), 4 members of the public
House Judiciary	April 30, 1990	3 state officials, 3 members of the public
House Judiciary	May 1, 1990	3 state officials
House Judiciary	May 4, 1990	5 state officials
SJR 78, SB 305 -- Subsistence Uses of Fish and Wildlife		
Senate Resources	May 3, 1990	4 state officials
SJR 78 -- Subsistence Uses of Fish and Wildlife		
Senate Resources	May 4, 1990	4 state officials, 2 members of the public
Senate Resources	May 6, 1990	3 state officials
Senate Resources	May 7, 1990	1 state official, 6 members of the public
16th Legislature, First Special Session, 1990 (June 25-July 8)		
HB 599, HB 600, HB 601, HCR 68, HJR 97, SB 553, SJR 86, SJR 88 -- Various, on Subsistence		
SB 555 -- Commission on Subsistence Use of Fish & Game (became law -- Chapter 1 FSSLA 90)		
House Work Session	June 20, 1990	In Anchorage -- 2 state officials, 10 members of the public
House Resources	June 25, 1990	7 officials (incl. Cowper, Murkowski, Stevens, Young), 10 public
House Resources	June 26, 1990	4 state officials
House Resources	June 27, 1990	1 state official
House Resources	June 29, 1990	5 state officials
House Resources	June 29, 1990	5 state officials
SB 553, SCR 61, SJR 86, SJR 88 -- Various, on Subsistence		
SB 555 -- Commission on Subsistence Use of Fish & Game (became law -- Chapter 1 FSSLA 90)		
Senate Resources	June 26, 1990	17 members of the public
SCR 62 -- Subsistence Legal Challenge		
Senate Resources	June 27, 1990	5 state officials, 1 member of the public
Senate Finance	June 28, 1990	3 state officials, 1 member of the public
Senate Rules	June 29, 1990	No testimony; committee discussion only
HJR 99 -- Constitutional Amendment: Subsistence Preference		
House Rules	July 7, 1990	6 state officials, 3 members of the public
THE FOLLOWING BILLS RECEIVED NO HEARINGS:		
HB 602-Subsistence Hunting and Fishing		SB 556-Subsistence Hunting and Fishing
HB 603-Subsistence Uses of Fish/Game		SCR 39-Joint Commission on Subsistence
HCR 70-Subsistence Regulations		SJR 87-Constitutional Amendment: Subsistence
HJR 98-Constitutional Amendment		SJR 89-Constitutional Amendment: Subsistence
HJR 100-Constitutional Amendment: Subsistence/Personal Use		
HR 16 -- Requesting Alaska Supreme Court to Extend Stay (became Legislative Resolve 10)		

TABLE 2**Legislative Hearings on Subsistence, 1990-1998, by Bill**

Committee	Date	Heard Testimony From:
------------------	-------------	------------------------------

18th Legislature (1993-1994)**THE FOLLOWING BILLS RECEIVED NO HEARINGS:**

HJR 23 / SJR 42 -- Constitutional Amendment: Subsistence Preference

SJR 12 -- Constitutional Amendment on Subsistence Preference

19th Legislature (1995-1996)**HB 312 -- Extend Current Subsistence Law**

House Resources April 25, 1995 3 state officials, 1 member of the public

House Resources April 27, 1995 1 state official, 4 members of the public

HJR 33 -- Amendments to ANILCA

House Judiciary March 17, 1995 24 members of the public

House Judiciary March 22, 1995 2 state officials, 80 members of the public

SCR 6 -- State v Babbitt Lawsuit Continuation (became Legislative Resolve 1)

House Rules January 27, 1995 No testimony; committee discussion only

SB 171 -- Extend Current Subsistence Law (became law -- Chapter 68 SLA 95)

Senate Resources April 28, 1995 1 state official, 3 members of the public

SJR 19 -- Ask Congress to Amend ANILCA (became Legislative Resolve 26)

Senate Resources March 29, 1995 In Fairbanks -- 1 state official, 69 members of the public

Senate Resources April 8, 1995 In Soldotna -- 33 members of the public

Senate Resources April 10, 1995 1 state official, 29 members of the public

Senate Rules April 11, 1995 No testimony; committee discussion only

House Judiciary May 1, 1995 1 state official, 16 members of the public

THE FOLLOWING BILLS RECEIVED NO HEARINGS:

HCR 7 -- State v Babbitt Lawsuit Continuation

HJR 14/SJR 2 -- Constitutional Amendment: Subsistence Preference

20th Legislature 1997-1998**HJR 21 -- Requesting that Congress Amend Title VIII of ANILCA**

House Resources March 13, 1997 19 members of the public

House Resources March 20, 1997 1 state official, 14 members of the public

House Resources March 27, 1997 No testimony; committee discussion, then bill moved out

House State Affairs April 10, 1997 1 state official, 15 members of the public

House State Affairs April 15, 1997 23 members of the public

House State Affairs May 3, 1997 No testimony; committee discussion, then bill moved out

HB 243 -- Extend Current Subsistence Law (became law -- Chapter 109 SLA 97)

House Resources May 1, 1997 2 state officials, 1 member of the public

Senate Resources May 8, 1997 1 state official

HB 255 -- Subsistence Hunting & Fishing

House Resources May 1, 1997 2 state officials, 7 members of the public

TABLE 3

Legislative Hearings on Subsistence, 1990-1998, by Date

Committee	Date	Heard Testimony From:
16th Legislature (1989-1990)		
House Resources	March 7, 1990	5 state officials, 1 member of the public
House Resources	March 10, 1990	2 state officials, 51 members of the public
House Resources	March 21, 1990	1 state official, 28 members of the public
House Resources	April 5, 1990	2 state officials, 10 members of the public
House Resources	April 20, 1990	3 state officials, 5 members of the public
House Resources	April 21, 1990	2 state officials
House Judiciary	April 27, 1990	4 officials (3 state, 1 federal), 4 members of the public
House Judiciary	April 30, 1990	3 state officials, 3 members of the public
House Judiciary	May 1, 1990	3 state officials
Senate Resources	May 3, 1990	4 state officials
House Judiciary	May 4, 1990	5 state officials
Senate Resources	May 4, 1990	4 state officials, 2 members of the public
Senate Resources	May 6, 1990	3 state officials
Senate Resources	May 7, 1990	1 state official, 6 members of the public
House Work Session	June 20, 1990	In Anchorage -- 2 state officials, 10 members of the public
House Resources	June 25, 1990	7 officials (incl. Cowper, Murkowski, Stevens, Young), 10 public
House Resources	June 26, 1990	4 state officials
Senate Resources	June 26, 1990	17 members of the public
House Resources	June 27, 1990	1 state official
Senate Resources	June 27, 1990	5 state officials, 1 member of the public
Senate Finance	June 28, 1990	3 state officials, 1 member of the public
House Resources	June 29, 1990	5 state officials
House Resources	June 29, 1990	5 state officials
Senate Rules	June 29, 1990	No testimony; committee discussion only
House Rules	July 7, 1990	6 state officials, 3 members of the public
17th Legislature (1991-1992)		
Senate Resources	April 5, 1991	1 state official
Senate Resources	March 5, 1992	4 state officials (including Governor Hickel)
Senate Resources	March 6, 1992	1 state official
Senate Resources	March 7, 1992	33 members of the public
Senate Resources	March 10, 1992	1 state official, 1 member of the public
Senate Resources	March 23, 1992	3 state officials
Senate Resources	March 27, 1992	1 state official
House Resources	April 1, 1992	2 state officials (including Governor Hickel)
Senate Judiciary	April 7, 1992	4 state officials, 2 members of the public
Senate Judiciary	April 9, 1992	2 state officials
House Resources	May 5, 1992	1 state official, 1 member of the public
House Resources	May 11, 1992	1 state official, 3 members of the public
House Resources	May 11, 1992	4 members of the public
Conference Committee	May 21-22, 1992	6 state officials, 1 member of the public
House Judiciary	June 10, 1992	3 state officials, 44 members of the public
S Comm of the Whole	June 15, 1992	2 state officials, 8 members of the public
House Resources	June 15, 1992	3 state officials
H State Affairs/Judiciary	June 16, 1992	3 state officials, 5 members of the public
S Comm of the Whole	June 16, 1992	4 state officials, 17 members of the public
House Resources	June 16, 1992	1 former state official

TABLE 3**Legislative Hearings on Subsistence, 1990-1998, by Date**

Committee	Date	Heard Testimony From:
House Judiciary	March 9, 1998	2 state officials
House Judiciary	March 11, 1998	4 state officials, 23 members of the public
House Judiciary	March 18, 1998	2 state officials, 10 members of the public
House Judiciary	March 20, 1998	3 members of the public
Senate Resources	March 25, 1998	2 state officials, 1 member of the public
House Judiciary	March 25, 1998	No testimony; committee discussion only
House Judiciary	March 27, 1998	3 state officials, 1 member of the public
House Judiciary	March 28, 1998	6 members of the public
House Judiciary	March 30, 1998	1 state official, 22 members of the public
House Judiciary	April 3, 1998	2 state officials
House Judiciary	April 6, 1998	3 state officials, 1 members of the public
House Finance	April 9, 1998	4 state officials
Senate Judiciary	April 25, 1998	9 members of the public
Senate Judiciary	May 1, 1998	1 member of the public
Senate Judiciary	May 5, 1998	1 state official, 4 members of the public
Senate Judiciary	May 6, 1998	No testimony or discussion, moved bill out

NOTE:

We compiled this information by first selecting major subsistence bills listed by subject in the *Final Status of Bills and Resolutions*, then searching through BASIS and FOLIO Views databases for meeting minutes. Because BASIS information is no longer available for the 16th and 17th Legislature, we also looked through committee records maintained in the Legislative Library.

SOURCES:

Final Status of Bills and Resolutions for each Legislature (published by the Legislative Affairs Agency); BASIS for the 18th, 19th, 20th Legislatures; FOLIO Views (committee minutes database); Committee records in the Legislative Library.

TONY KNOWLES
GOVERNOR



P.O. Box 110001
Juneau, Alaska 99811-0001
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

59/200

July 20, 1998

The Honorable Mike Miller
Senate President
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear President *Miller* Miller:

The attached joint resolution, calling for a vote on a state constitutional amendment, is the key element of a compromise plan developed at the end of the last special session. Along with a bill I am also introducing today on legal standing, this resolution offers a solution to Alaska's longstanding subsistence dilemma. The measure is the foundation of a plan that will enable the state to regain and retain complete management of fish and wildlife on all land and water in Alaska.

This legislation will allow the people of the state to vote in this November's general election to amend the Alaska Constitution. The constitutional amendment would require the Legislature to provide a subsistence priority for residents of an area substantially dependent on fish and wildlife. The priority may be based on place of residence.

The resolution also addresses concerns over the on-going court challenge to ANILCA's subsistence provisions. If approved by the voters, the constitutional amendment would not take effect until October 1, 2000, allowing time to pursue legal action. Should a final court decision find ANILCA's subsistence priority unconstitutional, the state constitutional amendment would be automatically repealed.

Since the last special session this approach has been reviewed and received the support of the Secretary of the Interior and Alaska's Congressional Delegation. If favorable action is taken on a constitutional amendment this year, the Secretary has agreed to delay further federal takeover of fish and wildlife management now slated for December 1 of this year. To regain state management, however, the Legislature must still pass state statutory changes necessary to comply with ANILCA.

The Honorable Mike Miller

July 20, 1998

Page 2

Giving Alaskans an opportunity to make their contribution to solving the dilemma by allowing them to vote on the amendment is critical. To adopt the proposal, the Legislature must act prior to the July 26 deadline for placing an amendment on the November ballot. I urge the Legislature to demonstrate its faith in Alaskans by promptly considering and passing this resolution. This is our last opportunity for a number of years to prevent the federal government from dominating the management of fish and wildlife in Alaska.

Sincerely,

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

Tony Knowles
Governor

FISCAL NOTE

No. 2
 Bill Version: STR 201
 (S) Publish Date: 7.20.98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected	Law
Title <u>Proposing an amendment to the Constitution ...</u>	BRU	Civil
<u>...relating to establishing a priority for subsistence uses ...</u>	Component	Natural Resources
Sponsor <u>Rules Committee</u>		
Requester <u>Governor</u>	Component Senal No.	<u>2212</u>

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)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

This resolution proposes an amendment to the Constitution of the State of Alaska directing the legislature to establish, consistent with the sustained yield principle, a priority for subsistence uses of a fish and wildlife resource by residents of a community or area that is substantially dependent on fish and wildlife for nutritional and other subsistence uses. The priority may also be based on place of residence. If adopted by the voters of the State of Alaska, the new constitutional amendment would not take effect for two years, and would be repealed if a federal court determines that the rural subsistence priority in Title VIII, Alaska National Interest Lands Conservation Act, P.L. 96-487, violates the Constitution of the United States.

Adoption of this amendment would have no fiscal impact on the Department of Law.

Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office,</u>	Date <u>7/13/98</u>
Approved by <u>Commissioner</u> <u>Bruce M. Botelho, Attorney General</u>	Date <u>7/13/98</u>
Agency <u>Department of Law</u>	

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

FISCAL NOTE

No. 1

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

BILL Version: STR 201

(S) Publish Date: 7-20-98

Revision Date (Note if correction) _____	Dept. Affected <u>Office of the Governor</u>
Title <u>Constitutional Amendment: Subsistence</u>	BRU <u>Elective Operations</u>
	Component <u>General and Primary Election</u>
Sponsor <u>Rules Committee at the Governor's Request</u>	
Requester _____	Component Serial No. <u>#22</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	0.0					
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)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time						
Part-time						
Temporary						

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

The division of elections has purchased a new ballot tabulation system which allows greater flexibility in ballot size. Ballots can be printed on paper size ranging from 8-1/2" x 11" to 8-1/2" x 17". Due to the expanded range of ballot size, the fiscal note is zero.

Prepared by <u>Gail Fenumia</u> <i>Gail Fenumia</i>	Phone <u>465-3935</u>
Division <u>Division of Elections</u>	Date <u>7/14/98</u>
Approved by C <u>Lt. Governor Fran Ulmer</u>	Date <u>7/14/98</u>
Agency <u>Office of the Lieutenant Governor</u>	

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HB

17

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 17(RES)

1 Page 4, following line 19:

2 Insert a new subsection to read:

3 "(g) Notwithstanding another provision of AS 40.15.300 - 40.15.380, the
4 commissioner shall approve, without review under AS 40.15.300 - 40.15.380, a plat
5 under AS 38.04.045 that consists solely of land owned by the state. The
6 commissioner may not charge a fee for the approval under this subsection."

7 Page 4, line 27:

8 Delete "each primary type"

9 Insert "at least a 5/8 inch by 24 inch rebar and cap"

10 Page 4, line 30, following "with":

11 Insert "at least"

12 Page 7, lines 14 - 16:

13 Delete

14 "(B) does not include cadastral plats, cadastral control plats,
15 open-to-entry plats, remote parcel plats created by or on behalf of the state, or
16 plats created by or on behalf of the United States Department of the Interior,"

17 Insert

18 "(B) does not include cadastral plats or cadastral control plats
19 created by or on behalf of the United States Department of the Interior,"

The Department of Natural Resources recommends that the following language be added to HB 17 in Sec. 9, AS 40.15.000(b):

shall (b) The commissioner shall review and approve each plat under AS 40.15.300 - 40.15.380 before the plat is recorded under AS 40.17. If the plat consists solely of state-owned land, review and approval of the plat under AS 38.04.045 serve the dual purpose of review under AS 40.15.300 - 40.15.380, and no additional fee may be charged by the commissioner for the plat approval required by this section. The approval by the commissioner shall be affixed to the plat in the form of the following statement:

Reason for the proposed change: AS 38.04.045 requires a survey before Title 38 land is patented out of state ownership as a preference-right grant, remote parcel disposal, municipal entitlement grant, etc. The department's normal Title 38 plat review before final conveyance covers all of the issues that an HB 17 plat review would address: checking for proper monumentation, legal access to the parcel, utility easements, etc. (An HB 17 plat review would also check that the subdivider has title to the land, but that is not necessary where the state itself is the subdivider.) No purpose would be served by carrying out or charging for a duplicative review of a state land disposal survey plat under HB 17. However, the department thinks that having two signature blocks for the commissioner on such a plat—one as Title 38 landowner, the other as platting authority—is still useful so that the Recorder's Office knows that both functions have been completed.

The exception recommended above would prevent "double-charging" for plat reviews on all state land disposal parcels in the unorganized boroughs. This would include any remaining random-staked homestead surveys and remote parcel surveys.

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCES

State of Alaska
DIVISION OF LAND

TO: Brett Huber

DATE: April 23, 1997

FROM: Jane Angvik
Director

SUBJECT: HB 17

I was in error in my comments to you about monuments. The definition I sent was only for state land, NOT private lands.

I understand it will be suggested that the language on p.4 line 26 be changed as follows. We have no objection.

existence of [each primary type] a monument with at least a 5/8 inch by 24 inch rebar and cap monument at controlling exterior corners....

and add to line 29

monumented with at least a 5/8 inch....

On the subject of p.7 line 17, and adding homestead plats. When I spoke with you this afternoon, I was not aware that there is a provision in Title 38 which contradicts the intent of adding the homestead language. If this language is added the Title 38 provision would have to be repealed, an issue which would be opposed by boroughs. I have attached Title 38.09.080(b) FYI.

Please give a call if you want to chat.

610

611

HOMESTEAD ACT

§ 38.09.100

NOTES TO DECISIONS

prepare for cultivation either 25 percent of the cropland soils, if the permit.

of this section, improvements or AS 38.05.090 and the state land entry. (§ 1 ch 103 SLA 1983; am

or in less" and repealed subsection (b), the extension for a permit holder making

amendment, effective June 9, 1988, substituting a description of the homestead entry permit where the commissioner determines that a rectangular or "a plat of survey" in paragraph (a)(2).

commissioner shall issue a patent to

not less than 25 months within the permit;

an approved survey of the land under a survey grid within five years

homestead within three years after

by aliquot parts or as a lot of

for cultivation either 25 percent of the cropland soils, whichever is

permit holder from residing in the permanent dwelling.

utility easements or rights-of-way corridors, and transportation

under AS 38.09.090 shall provide for the issuance of patent.

AS 38.09.090 shall contain the

delayed until at least five years after the provisions of AS 38.09.030(c);

for the issuance of patent. (§ 1 ch 103 SLA 1987; am § 6 ch 123 SLA

amendment, effective June 9, 1988, renumbering (a)(2), which read "complete on the land within five years after the permit."

Applied in Alaska Survival v. State, Dep't of Natural Resources, 723 P.2d 1281 (Alaska 1986).

Sec. 38.09.060. Marking boundaries. If it is impractical to brush the boundaries of a homestead entry, an applicant shall flag the boundaries. (§ 1 ch 103 SLA 1983)

Sec. 38.09.070. Priority of applications. The commissioner shall issue a homestead entry permit to the first applicant for land to comply with AS 38.09.020(b). (§ 1 ch 103 SLA 1983)

Sec. 38.09.080. Land within municipalities. (a) If a municipality has filed a selection of state land under AS 29.65 or former AS 29.18.201 — 29.18.213 with the commissioner, the state land selected may not be designated for homestead entry; if the commissioner determines that land selected by a municipality is not available for patent to the municipality under AS 29.65 or former AS 29.18.201 — 29.18.213, the state land is available for designation by the commissioner for homestead entry under AS 38.09.010.

(b) The disposal of homestead entry land is subject to local platting, recording, or subdivision requirements established under AS 29.35.180 and AS 40.15. (§ 1 ch 103 SLA 1983; am § 61 ch 74 SLA 1985)

Effect of amendments. — The 1985 amendment inserted "AS 29.65 or former" in two places in subsection (a) and substituted "AS 29.35.180" for "AS 29.33" in subsection (b).

Sec. 38.09.090. Purchase. (a) If an applicant complies with the requirements of AS 38.09.050(a)(2), (4), and (5) and pays to the commissioner an amount equal to five percent of the fair market value within two years of the issuance of an entry permit, an applicant may purchase the land under AS 38.05.065. The purchase price is the fair market value of the land at the issuance of the entry permit as determined by the commissioner.

(b) An applicant who complies with AS 38.09.050(a)(2) — (5) and who tenders the commissioner an amount equal to five percent of the present fair market value of the land within five years of the issuance of the permit may purchase the land under AS 38.05.065. The purchase price is the fair market value of the land at the time of the purchase. (§ 1 ch 103 SLA 1983; am § 54 ch 152 SLA 1984)

Cross references. — For reservations to which contracts for sale of and deeds to state land are subject, see AS 38.05.125.

Sec. 38.09.100. Lessees of remote parcels. (a) A lessee of a remote parcel under former AS 38.05.077 may elect to obtain title to the remote parcel under AS 38.09.050. If a lessee of a remote parcel elects to obtain title under AS 38.09.050, July 28, 1983, shall be considered the date of the issuance of the homestead entry permit.

(b) Except as provided in (a) of this section, nothing in this chapter affects the rights and obligations of lessees of remote parcels under former AS 38.05.077.

(c) Notwithstanding the provisions of former AS 38.05.077 and 38.05.078, the heirs or devisees of a deceased lessee of a remote parcel may sell their interest in the lease of the remote parcel. The sellers shall notify the commissioner of the sale. (§ 1 ch 103 SLA 1983; am § 1 ch 12 SLA 1987; am § 86 ch 14 SLA 1987)

Effect of amendments. — The first 1987 amendment added subsection (c).

The second 1987 amendment in the first sentence of subsection (a) and in subsection (b) inserted "former" preceding "AS 38.05.077" and made a minor punctuation change in subsection (a).

Editor's note. — AS 38.05.077, referred to in two places in this section, was repealed by § 7, ch. 103, SLA 1983.

SENATE COMMITTEE REPORT

DATE: 3/5/97

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 2 APRIL 1998

Resources Committee considered CS FOR HOUSE BILL NO. 17(RES)

"An Act establishing the Department of Natural Resources as the platting authority in certain areas of the state; relating to subdivisions and dedications; and providing for an effective date."

and recommends:

- be replaced with S CS HB 17 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Loren D. Roman</i>	✓		
		<i>Linda Mee</i>	✓		
		<i>Best Name</i>	✓		
CHAIR:		<i>Rick Hallock</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>DNR</i>	<i>1/22/97</i>		<i>71.3</i>

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Bill No. 1
 Version: HB 17
 (H) Publish Date: 1/31/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act establishing the DNR as the platting BRU: Resource Development
 authority in certain areas of the state; relating to subdivisions... Component: Land Development
 Sponsor: James
 Requestor: H(RES) Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES	66.3	66.3	66.3	66.3	66.3	66.3
TRAVEL						
CONTRACTUAL	1.0					
SUPPLIES	4.0	4.0	4.0	4.0	4.0	4.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	71.3	70.3	70.3	70.3	70.3	70.3
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	21.3					
1005 GF/Program Receipts	50.0	70.3	70.3	70.3	70.3	70.3
1037 GF/Mental Health						
Other						
TOTAL	71.3	70.3	70.3	70.3	70.3	70.3

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Approximately 250 plats per year will be submitted for review. The present fee for plat review is \$200 per plat. We propose to amend the regulation to increase the plat review fee to \$300 per plat so that program costs are recovered. This revenue will pay for a new position, Land Surveyor Assistant II, to carry out the responsibilities of this proposal.

The Contractual money purchases the updates to federal microfiche survey records needed to implement this proposal.

Supplies include copy purchases from the Records Office, office supplies, rent space and phone usage.

Prepared by: Jane Angvik, Director Phone: 269-8503
 Division: Land Date: 22-Jan-97
 Approved by Commissioner: [Signature] Date: 1/22/97
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSHB 17 (RES)

Revision Date: 31-Mar-98 Dept Affected: Natural Resources
 Title: Establishing DNR as platting authority in certain BRU: Resource Development
areas of the State Component: Land Development
 Sponsor: Rep. James
 Requestor: SRES Component Serial No. 431

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	66.3	66.3	66.3	66.3	66.3	66.3
TRAVEL						
CONTRACTUAL	1.0					
SUPPLIES	4.0	4.0	4.0	4.0	4.0	4.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	71.3	70.3	70.3	70.3	70.3	70.3
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	21.3					
1005 GF/Program Receipts	50.0	70.3	70.3	70.3	70.3	70.3
1037 GF/Mental Health						
Other						
TOTAL	71.3	70.3	70.3	70.3	70.3	70.3

Estimate of any current year (FY98) cost: \$ none

POSITIONS

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

ANALYSIS:

(Attach a separate page if necessary)

Approximately 250 plats per year will be submitted for review. The present fee for plat review for a two-lot subdivision is \$250. However, plat review fees contained in regulations increase with the number of lots contained in the subdivision and it is expected that current fee schedules will recover the cost of the new Survey Assistant position.

The Contractual money purchases the updates to federal microfiche survey records needed to implement this proposal.

Supplies include copy purchases from the Records Office and office supplies.

Prepared by: Jane Angvik /DD Phone: 269-8518
 Division: Land Date: 31-Mar-98
 Approved by Commissioner: [Signature] Date: 4-2-98
 Agency: Natural Resources

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SEN. LINCOLN,

THE PRIMARY PROBLEM WITH HB 17 IS THAT IT IS NOT NEEDED. HERE IN THE CHITINA RECORDING DISTRICT, LESS THAN 20 PLATS WERE RECORDED IN 1996 AND I JUST FILED A PLAT THAT RECIEVED THE NUMBER 97-20. FEW OF THOSE RECORDED ARE SUBDIVISIONS, MOST ARE "RECORDS OF SURVEY". MOST TRANSFERS OF LAND ARE DONE WITH A DEED, WITHOUT A SURVEY. THE ADDED EXPENCE AND TIME NEEDED FOR DNR TO REVIEW PLATS I'M SURE WILL ONLY DECREASE THE NUMBER OF SUBDIVISION SURVEYS NOW BEING DONE. WHAT WOULD BETTER SERVE THE PUBLIC, WOULD BE THE REQUIRERMENT THAT ALL TRANSFERS OF LAND BE SURVEYED AND THE RECORDERS OFFICE INSTRUCTED TO REFUSE TRANSFERS WITHOUT A SURVEY. ALL PLATTING AUTHORITIES REQUIRE A SURVEY OF THE LANDS BEING TRANSFERED. IF THE CONCERN IS TO PREVENT SLOPPY SURVEYS, THAT WOULD BE A MATTER FOR THE BOARD OF REGISTRATION TO ADDRESS AND THE MARKET PLACE.

THANKS FOR LISTENING.....JACK L. PHILLIPS, RLS.

Glenn Allan

DNR approval of plats in unorganized borough
CSHB 17 by Rep. Jeannette James
4/23/97

Last year this was HB 80, the Bill died in the rush of adjournment. HB 17 is a good bill that has been in the process for many Legislative sessions. House Bill 17 is a cleaned up and refined version of my prior bills HB 80 1996, HB 352 1994 and the old SB 211 1993, and SB 81 1991. The bill has been in the works for two decades.

I believe the work over the last several years has crafted the bill into one that has no opposition and is supported by the DNR, surveyors and all impacted classes of people.

Essentially HB 17 brings all of the unorganized Boroughs under the purview of DNR as pertains to platting of real estate. For example there is currently no control over anyone creating landlocked subdivisions with no possible access in the unorganized Boroughs. DNR has a specific time frame (45 days) to approve/disapprove the plat, if the review is not done timely, the plat is approved by default.

HB 17 cleans up some definition problems by defining the word subdivision so all agencies use the same terminology.

HB 17 has a fiscal note. Carol Carroll can explain the fiscal options.

Attached is a historical correspondence overview of the evolution of the bill, it shows that all parties concerns were satisfactorily addressed and resolved.

Amendments added in House Resources Committee

1. Amendment deleted portion regarding DEC platting review, they no longer review plats.
2. Amendment changed monumentation requirements so monuments on straight roads can be half the number of required on curves.
3. Amendment added three departments to subdivision definition, survey AS 34.65.100, lands AS 38.04.910 and DEC AS 46.03.900.

Available to testify

Craig Savage L.S.
Carol Carroll DNR
Jane Angvik DNR
Pat Kalen L.S.



Department of Transportation
and Public Facilities

POSITION PAPER

*Concern addressed
with amendment*

[Signature]

BILL NO: HB 352

APPROVED: _____

TITLE: Subdivision Plat Approval:
Unorganized Boroughs

DATE: February 9, 1994

In principal, we support the need for a platting authority in the unorganized borough, but we believe this bill will be detrimental to certain activities we perform as a public agency. Specifically, the application of subdivision procedures to (1) plats solely used to establish right-of-way boundaries, and (2) to lots used to convey leasehold interests on airports is unnecessary and cumbersome.

Platting Procedures and Right-of-Way Acquisitions

The general process of subdivision rules simply does not work well in the context of right-of-way plats. For example, a typical subdivision is done to create lots, voluntarily with the landowner's consent. In contrast, right-of-way acquisitions are often accomplished under condemnation procedures, making such routinely required tasks as surveying, platting, boundary monumentation, signature approvals and recording, prior to conveyance, exceedingly difficult or impossible.

In recent years the various platting authorities in the organized borough (under the authorities of AS 09.55.275, 35.30.020, and 40.15.070) have required that their platting ordinances fully apply to our right-of-way acquisitions. Fortunately, most of these jurisdictions have discovered how atypical right-of-way plats really are, and in response have amended their ordinances to specifically address right-of-way platting. In general, the amended ordinances validated the long-standing procedures we had been following prior to local enforcement. One borough in particular, has not taken this relaxed approach, to the detriment of project advancement in their jurisdiction.

In many other states, state law specifically exempts right-of-way plats from the oversight of local platting authorities, in favor of a general mandate, to conduct such platting with regard to recording plat documents, and appropriate boundary monumentation. Such an exemption would be the best solution to our circumstances.

Moreover, the new definition of "subdivision" contained in Section 3 further ensnares our activities. In a recent Fairbanks project, a land owner objecting to a condemnation action challenged the state, in part, due to a claim that the state failed to comply with AS 40.15.200. The judge specifically ruled that our subdivision plat was exempt based on the existing definition of "a tract or parcel of land into two or more lots". By adding the new

For Further Information contact J.K. Ginger Johnson at 465-3904.

BILL NO: HB 352

TITLE: Subdivision Plat Approval: Unorganized Boroughs

DATE: February 9, 1994

clause "or by creation of public access" to the definition, we could lose future legal challenges. It is important to again point out the impracticality of requiring that we subdivide a piece of property, prior to conveyance, that is being purchased involuntarily.

Another feature of typical subdivision procedures is the time involved to provide public notice, hold hearings and proceed through multiple-step approvals. Yet our transportation projects are already subject to other public hearing and public notice requirements, making the subdivision public reviews tedious, expensive and a cause of delay.

We would urge that the legislation be amended to generally exempt right-of-way plats in favor of existing practices used by the department.

Leasehold Interest Lots on State Airports

Historically, when leasing lots on state-owned airports we have retained unallocated land until a leasing demand arises. Then, based upon the requirements of the lessee, the department establishes the lot size, access ways, and other requirements. In earlier versions of this bill (such as SB 81 in the previous Legislature) we successfully convinced the sponsor to insert language which declared that subdivision procedures do not apply to maps prepared for the purpose of transferring a leasehold interest.

We believe that a similar provision is beneficial to the important business development functions that airport leases play, and that the requirements of subdivision reviews, surveying, monumentation and recording, do not serve the public interest in these circumstances.

MEMORANDUM

STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

South Central Regional Office

3601 C Street, Suite 1334

Anchorage, Alaska 99503

TO: Commissioner Sandor

DATE: March 10, 1993

THRU: Janice Adair
Assistant Commissioner

FILE #:

FROM: Svend Brandt-Erichsen 

PHONE #: (907) 563-6529

SUBJECT: Subdivisions and DNR

This memo is a follow up to our meeting with Commissioner Olds and Patrick Kalen, land surveyor. I have outlined the issues discussed for your review, and identified recommended actions which should respond to DNR's concerns.

A substantial portion of the meeting was spent on the definition of subdivision. Also discussed was a bill backed by DNR to establish platting authority for the unorganized borough. The two issues are related because DNR's bill died last year in part due to differences between surveyors, represented by Kalen, and DEC over the definition of subdivision, and DEC's authority to review subdivisions.

SUMMARY OF ISSUE:

DNR and DEC have two different definitions of subdivision because they use the term for different purposes.

DNR's definition is contained in the statutory chapter that governs recording of subdivisions. Recording occurs to provide formal notice of title and title restrictions. Under this chapter, a subdivision can not be recorded, and lots from it can not be sold, until the subdivision plat has been approved by the platting authority.

The express exceptions to DNR's definition of subdivision are for specific types of plats involving either large tracts of land or certain State land disposal programs. The primary benefit of the exception is to remove the requirement of platting authority approval prior to recording.

DEC's definition appears in regulation, and is intended to cover all divisions of a parcel of land which might result in development - whether those divisions are for purposes of sale, or simply for development. The requirement for DEC approval prior to recording has been upheld by the State Supreme Court in State v. Anderson (1988).

DEC's definition differs from DNR's in two ways:

- a) it does not exempt those plats expressly excluded from DNR's definition; and
- b) it includes unrecorded actions that divide interest in property, such as leases.

DEC is interested in a broader circle of transactions than DNR because DEC is reviewing potential wastewater generation and treatment and protection of drinking water, whereas DNR is tracking land ownership.

DIRECTION FROM COMMISSIONERS:

DEC and DNR should use the same definition of subdivision, if at all possible.
Reason: reduce potential confusion.

RECOMMENDATION:

1. For plats expressly exempted from DNR's statutory definition:

a) cadastral plats and cadastral control plats -- DEC concurs that these plats, due to the size of the parcels, do not trigger wastewater disposal concerns. As a result, DEC will take whatever action is necessary [i.e. field directive, or, if necessary, regulation change] to exempt them from review.

b) open to entry and remote parcel plats -- The agreement between DNR and DEC appears to be working well, and absent specific problems that need to be addressed, it should be left in place for these parcels. [Since DNR program has ended, this is a diminishing set of transactions.]

2. For transactions covered by DEC definition, but which do not have to be recorded:

EITHER --

a) Leave DEC definition as is, since there is no overlap with DNR authority, and there have been no objections from those directly affected [surveyors are not involved in these transactions]

OR --

b) Amend DEC's definition to restrict 'subdivision' to plats or other recorded instruments [corresponding to DNR's definition], and add a new definition for leases or other unrecorded divisions of property. This second category would still be reviewed in the same way as recorded subdivisions.

Based on our meeting and a subsequent discussion I had with DNR's Lands Division Director, our commitment to pursue option (b) would help them get their platting bill through. It would address the potential for confusion over different definitions of subdivision. It also would not change the types of transactions we review, only what we call some of them. As a result, there should not be a negative effect on our ability to protect public health.

ALASKA STATE LEGISLATURE

119 North Cushman, #201
Fairbanks, Alaska 99701
(907) 452-4882
Fax: 452-3254



Room 125, State Capitol
Juneau, Alaska 99801-1182
(907) 465-3834
Fax: 586-6246

Shirley Craft
Alaska State Senator

MEMORANDUM

To: The Honorable Charles E. Cole,
Attorney General

From: Barbara Bitney, ^{BB}
Legislative Aide to Senator Shirley Craft

Date: February 17, 1992

Re: The definition of the word "subdivision".

The Senator would like a legal opinion on the definition of the word "subdivision" under AS 40.15.290, and a comparison to the definition is written under AAC 18.72.990 (80), applying to the Department of Environmental Conservation.

The information she's been given states that, "the Department of Environmental Conservation has rewritten the definition of the word "subdivision" to include remote parcels in 18 AAC 72.990 (80), directly in conflict with AS 40.15.190 (2) (B). Land surveyors within the Department of Natural Resources objected. The response of the director was to order compliance with the DEC regulation."

Have the Department's of Natural Resources (DNR) and Environmental Conservation (DEC) overstepped their statutory boundaries by adopting a policy (see attached memorandum) that requires remote parcels to be subject to DEC subdivision plan review, instead of going through the normal legislative process?

Has the definition of "subdivision" under 18 AAC 72.990 (80), been expanded to the point of giving DEC jurisdiction over every land transaction, saying that it must be approved by DEC before the DNR (or any other platting jurisdiction) will grant final plat approval?

I have attached copies of AS 40.15.290 and 18 AAC 72.990 for your convenience. If you have any questions, please call me at 465-3834.

ALASKA SOCIETY OF PROFESSIONAL LAND SURVEYORS

March 15, 1993

Senator Loren Leman
State Capitol
Juneau, Alaska 99801-1182

Ref: State Survey Authority Bill, subdivisions

Dear Senator Leman:

I am sorry I missed you when I was in Juneau in February. I am writing on behalf of the Alaska Society of Professional Land Surveyors, who have come to regard you as a friend in the Legislature due to your attention to our concerns in the Sixteenth and especially in the Seventeenth Legislature.

I spoke with Senator Steve Frank concerning the subject of the State Survey Authority, proposed in the Seventeenth Legislature as SB 81. It failed to become law when the land surveyors realized that the definition of the word subdivision as written in statute, AS 40.15.290 (2), was not operative. A conflicting state regulation, 18 AAC 90.900 (80) superseded it whenever the two definitions were in conflict. (See the enclosed memo from Jerry Luckhaupt to Senator Shirley Craft dated February 26, 1992.) Senator Frank is aware of key events concerning this proposed legislation. I met with him in February to discuss where we should go from here. Since the definitions are where the problems with SB 81 were encountered, we agreed that getting that problem resolved is a logical beginning. Extending authority over all plats in the unorganized borough is something that we can look at later. Currently, DNR has its authority limited to only replats and vacations. SB 81 would have extended that authority over all types of transactions.

On behalf of the ASPLS I met in Juneau with DNR and DEC and arrived at a tentative understanding that we would like to have a single definition of the word "subdivision". The Commissioners of each agency support the concept of ending this confusion.

I recently received the enclosed internal memo from DEC confirming our understanding. We hope that you can help generate a Committee bill from the Senate Resources Committee that defines the word subdivision. I spoke with this at some length with Senator Steve Frank, who was instrumental in helping the surveyors at the eleventh hour of the Seventeenth Legislature on this subject last year, and he informed me that he would speak with you on the subject.

As you can see from the enclosed memo from DEC, we will not have any problem over a definition that has the effect of exempting control plats and cadastral plats from the definition of the word, but remote parcels may be a problem. All three are

currently not subdivisions according to AS 40.15.290 as it exists on the books today. 18 AAC 72.990 (83) conflicts with the statute definition, expanding it to include many types of transactions. We (ASPLS) agree that in general, DEC should have review authority over the other transactions, but they should call them something else. Concerning the Remote Parcel program, the intent of the legislature in declaring that these plats are not subdivisions should be examined.

The wording that ASPLS hopes to see applies to both the word "street" and the word "subdivision" as they appeared in CSSB 81(RES) as it passed the Senate in 1991 (copy included). However, this time, the words "street" and "subdivision" would apply to all state agencies and municipalities, rather than just to the DNR in the unorganized borough. DEC is expected to change their regulations to address the other types of transactions found in the 18AAC definition.

Concerning Svend Brandt-Erichsen's memo to Commissioner Sandor dated March 10, 1993, we are basically in agreement, except perhaps for interpreting what the legislative intent was when the word "subdivision" was defined in statute, and certain exemptions were listed. As Mr. Brandt-Erichsen notes, the Remote Parcel program has ended, so the number of these transactions will diminish to zero in time.

We do not anticipate having difficulty working with DEC on revised regulations for the other types of transactions. But we do want to look at them before we give expanded platting authority to the DNR in the unorganized borough.

Sincerely,



Patrick Kalen, PLS, ASPLS Legislative Affairs Committee Chairman

copy: Senator Steve Frank
Senator Loren Leman
Craig Savage, President, ASPLS
DEC Commissioner John Sandor
DNR Commissioner Glenn Olds

enclosures: as noted

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER

WALTER J. HICKEL, GOVERNOR

3601 C STREET
P.O. Box 107005
ANCHORAGE, ALASKA 99510-7005
PHONE: (907) 782-2692

May 16, 1992

Craig Savage, President
Alaska Society of Professional
Land Surveyors
623 W 6th Ave
Anchorage, AK 99501

Re: Platting in the Unorganized Borough

Dear Mr Savage:

Currently subdivision plats outside Boroughs and Cities need not be surveyed, and arguably need not even be recorded. This leaves the door open for paper plat subdivisions to be created by virtually anyone wishing to subdivide. There is no way to know how many or what kind of survey problems are in the making, although from time to time we do stumble across some oddities, as I'm sure your membership does as well.

There has been legislation proposed in the last 2 sessions, most recently Senate Bill 81, to remedy this problem in surveying and platting requirements. These bills were authored by the Surveying and Mapping Advisory Board and supported by DNR. In the proposed legislation DNR was to be the agency designated to review plats for compliance.

There appears to be little or no opposition to the concept of a law addressing the above stated issue. What has stood in the way of passage has been some technical objections by the industry and professional surveying societies. I would like to reopen the dialogue between the state agencies and the surveying community to resolve these problems and to gain support for legislation to resolve surveying and platting problems in the unorganized borough. I would like to meet with you, or your designee, to arrive at acceptable legislation to all of us. I propose that we use SB 81 as a starting point.

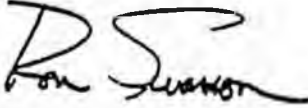
Please contact me, at 762-2692, or Norm Johnson, at 762-2425, at your convenience to arrange this meeting.

I am sending a similar letter to ACSM as well as notifying the

Craig Savage
May 16, 1992
Page 2

Departments of Environmental Conservation and Transportation and
Public Facilities.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Swanson".

Ron Swanson
Director

attachment - SB 81

cc: Janice Adair, DEC
Clyde Stoltzfus, DOT/PF
Carol Wilson, DNR
Marty Welbourn, DNR - LRS
Carol Shobe, DNR - TCS
Norm Johnson, DNR - LRS
Jerome Pape, DNR - LRS

BRIEFING: AS 40.15, SUBDIVISION AND DEDICATION

ISSUE: Currently subdivision plats outside Boroughs and Cities need not be surveyed, and arguably need not even be recorded. This leaves the door open for paper plat subdivisions to be created by virtually anyone wishing to subdivide. To be adequate to convey a locatable and uniquely described parcel, a plat needs to be tied to acceptable horizontal control of record. Paper plats (those done without field survey) almost assuredly produce gaps, overlaps and clouded boundaries. There is no way to know how many or what kind of survey and title problems are in the making since there are no laws governing surveying and platting in the unorganized borough. We do stumble across oddities from time to time that would be impossible to locate or abstract for title. Some review for compliance is necessary to assure that minimum survey and platting standards are met and that plats are put into the public record

A BILL, SB 81

BACKGROUND: There have been Bills in the last 2 legislatures to remedy this holiday in surveying and platting requirements to convey subdivision parcels. Neither were successful in becoming law. These bills were authored by the now defunct Surveying and Mapping Advisory Board and supported by DNR. In the proposed legislation DNR was to be the agency designated to review plats for compliance.

THIS BILL WAS

There is little or no opposition to passage of a bill addressing the above stated issue. What has stood in the way of passage has been the issue of DEC having the power to approve or disapprove all subdivisions of any interest in any land. The surveying community represented by the Alaska Society of Professional Land Surveyors opposes this blanket DEC authority. ASPLS sees a narrower role for DEC in plats of survey. If title 46 utilized a definition of subdivision similar to title 29 and 40, DEC would be restricted from review of rectangular system surveys and remote parcels. Also, DEC approval on a plat is not seen as appropriate because DEC regulations are subject to change and a plat is designed to live forever. For those residential subdivisions that should be of concern to DEC let their certificates accompany rather than appear on the plat. The surveyors opposing the bill would like to see these issues combined and resolved in one bill.

PROPOSED ACTION: DNR is still interested in pursuing a bill that takes care of platting in the unorganized borough and enough of the DEC issue to make it palatable to the surveying community. To this end we have invited the surveying societies and DEC to iron out their differences and begin drafting legislation acceptable to both.

Post-It™ brand fax transmittal memo 7671 # of pages 1

To <u>DIT. Kelson</u>	From <u>Norman Johnson</u>
Co.	Co.
Dept.	Phone #
Fax #	Ext #

586-9520

Alaska Society of Professional Land Surveyors

AFFILIATE OF AMERICAN CONGRESS OF SURVEYING AND MAPPING
MEMBER OF WESTERN FEDERATION OF PROFESSIONAL LAND SURVEYORS



Patrick H. Kalen, PLS
1041 Chena Ridge Road
Fairbanks, AK 99709
(907) 479-2882/2856

2

Request Amend

February 14, 1996

Rep. Jennette James
Alaska State Capitol
Juneau, Alaska 99801

Attn: Walt Wilcox

Ref: HB 80, definition, Sec. 40.15.380(f)(1)

Dear Rep. James:

I recently checked over the files for this bill, in hopes that we can move it soon. It is possible that we overlooked something. If I am right, it should be non-controversial and easily fixed. The definition for the word subdivision appears in Title 29 as well as in Title 40, and is referenced in several other statutes. Uniformity of definition of the word subdivision is a very important technical point. The wording and the definition in HB 80 are OK, but we may need to include extra references so as not to have conflicting definitions in statute. See the enclosed copy of SB 211. Don't we need to include sections 1, 2 and ~~3~~ to avoid the conflict?

We hope this poses no difficulty for finishing the bill and moving it. I have included a copy of SB 211 of the Eighteenth Legislature. If you have any questions, do not hesitate to call me.

Sincerely yours,

Patrick Kalen, PLS
Chairman, Legislative Affairs Committee

ALASKA SOCIETY OF PROFESSIONAL LAND SURVEYORS
Patrick H. Kalen, Legislative Chair
(907) 479-2628 / Fax 479-8830

May 2, 1996

Senator Bert Sharp
Attn: Cam Toohey
Alaska State Senate
Juneau, Alaska
FAX 1-907-465-2070

Ref: HB 80, revisions to monuments requirements, Sec. 40.15.380(f)(1)

Dear Senator Sharp:

These two revisions to HB 80 are critical. We want very much to see Jeannette James' bill pass. Thank you for listening to us. The amendments are to give DOT&PF flexibility in monumenting rights-of-way, and to make the definition of the words "subdivision" and "street" uniform in statute. The language comes from Loren Leman's draft of SB 211 that was introduced as a Senate Resources Committee Bill in the 18th Legislature.

I have included a copy of the wording of the amendment on the next page. We hope that this bill can move from Senate Finance soon and become law. If you have any questions, do not hesitate to call me.

Sincerely yours,



Patrick Kalen, PLS
Chairman, Legislative Affairs Committee

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

P.O. BOX 107005
ANCHORAGE, AK 99510-7005
PHONE: (907) 762-2483
FAX: (907) 562-4871

April 20, 1994

George W. Davidson, P.E., L.S.
Chairman
Department of Commerce and Economic Development
Division of Occupational Licensing
Board of Registration for Architects, Engineers and Land Surveyors
P.O. Box 110806
Juneau, AK 99811-0806

File: 546-1
Subj: Plats filed without DEC's approval


Dear Mr. Davidson:

Your letter of March 17, 1994, addresses a topic that has been around for some time and there is no simple answer for it. The recording office has very stringent guidelines for refusing to record a document and enforcement of the regulations for all state agencies is not one of them.

Local platting authorities are responsible for the enforcement of platting requirements. In areas outside organized boroughs, however, there is no platting authority. For the past three years, Department of Natural Resources, Division of Land, has tried to get a bill through the legislature to make the Division of Land the statewide platting authority in the unorganized boroughs. Without platting authority, there is nothing DNR can do to enforce DEC's requirements. Past efforts to gain passage of the bills have failed because the professional survey society wanted all state agencies to have a common definition for a subdivision. This year, all have agreed to the definition that is contained in House Bill 352. Regulations differed greatly as to what constituted a subdivision. Presently, this bill is in House Finance. Without passage of this bill, there is nothing DNR can do on this issue.

House Bill 352 has a lot of merit and I encourage you to press for its passage through legislative contacts. In the interim, DEC could do a mass mail-out to all registered surveyors stating it is the surveyors responsibility to obtain DEC's approval of all subdivision plats prior to recording. It may require a couple of mail-outs to alleviate the problem.

Sincerely,


Harry A. Noah
Commissioner

HAN:gb

cc: Representative Jeanette James

Alaska Society of Professional Land Surveyors

AFFILIATE OF AMERICAN CONGRESS OF SURVEYING AND MAPPING
MEMBER OF WESTERN FEDERATION OF PROFESSIONAL LAND SURVEYORS



Patrick H. Kalen, PLS
1041 Chena Ridge Road
Fairbanks, AK 99709
(907) 479-2682/2694

①
Request Amended

February 13, 1996

Rep. Jeanette James
Alaska State Capitol
Juneau, AK 99801

Ref: HB 80, revisions to monuments requirements, Sec. 40.15.380(f)(1)

Dear Rep. James:

During the Surveying and Mapping Conference held February 5 to February 9 in Anchorage, it recently came to our attention that there is movement within DOT&PF toward greater flexibility in schemes for monumenting rights-of-way. There is broad support for this in the private sector, as we are finding the centerline monuments that have been popular and heavily used in recent years to be quite dangerous to work around. They also pose installation and maintenance problems for DOT&PF.

Discussions with DOT&PF lead us to suggest some revision to a portion of your bill that sets requirements for monumentation that is rigid and allows no flexibility for other methods of monumentation that address safety and efficiency. Proposed changes begin at line 17 on page 6 after the words "with appropriate identification set on", delete all words down to line 22, "all recovered monumented property corners of record-----". Substitute wording is as follows:

"points from which the right-of-way may be defined, not exceeding 1320 feet except when line of sight permits greater distances;"

I have included a copy of the marked up page. We hope that this bill can move from Senate Finance soon and become law. If you have any questions, do not hesitate to call me.

Sincerely yours,

Patrick Kalen, PLS
Chairman, Legislative Affairs Committee



Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING

Patrick N. Kalen, PLS
1041 Chena Ridge Rd.
Fairbanks, AK 99709

April 18, 1995

Ref: HB NO. 80
Hon. John Torgerson
State Capitol
Juneau, Alaska

Dear Senator Torgerson:

We are in general support of the concept of this legislation, as it is a subject on which the American Congress on Surveying and Mapping worked long and hard with other professional societies and affected state agencies over several years, 1988 to 1992.

We have come down to a problem over the definition of the word "subdivision" in the past. A bill in the 17th Legislature (SB 81, 4/5/81) was sponsored by a working group called the State Surveying and Mapping Advisory Board. The bill was held in 1992 at our request due to uncertainty over the meaning and application of this word. We have sought separate legislation to address the problem. (SB 211 in the 18th legislature.)

So it with some dismay, if not surprise, that we see attempts to make special new definitions for the word "subdivision" for the unorganized borough. Exemptions have crept into the definition. They apply to entities that do not enjoy exemptions in any platting jurisdiction in the rest of the state where the vast majority of platting activity takes place.

We do not believe that any exemptions are in order. Suggestions made by Ron Swanson in a letter to you dated April 7 go a long way toward alleviating our concern. It does contain an exemption for common carriers. Although we would like to see a uniform definition, we understand that the common carriers are things like the Tesoro pipeline and the Alyeska pipeline. They do not fall under the intent of subdivision ordinances, and have not been subject to platting jurisdictions they pass through. We endorse the bill strongly if the changes suggested by Mr. Swanson can be incorporated.

Sincerely,


Patrick Kalen, Chairman of Legislative Affairs for ACSM



Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING

Patrick H. Kalen, PLS
1041 Chena Ridge Rd.
Fairbanks, AK 99709

February 21, 1995

Ref: HB NO. 80, Proposed Committee Substitute

Rep Jeanette James
State Capitol
Juneau, Alaska

Dear Rep James:

We appreciate the opportunity to testify today on your bill. We are impressed by the sensitivity you and your staff have shown to our concerns.

Apologies are extended to you for any difficulty my testimony may have presented. Although there are still some minor glitches in the committee substitute, it seemed obvious this afternoon that the bill should move out of the Community and Regional Affairs Committee. Hopefully, committee substitute language can be worked out in the Resources Committee.

As we have pointed out, much of that language was arrived at after long discussions with representatives of the affected parties in the room as the State Survey and Mapping Advisory Board met and drafted the rules in 1990 and 1991. Many compromises were made, so there are few changes that can be contemplated without opening up old arguments.

One such area is the monuments requirement. The changes sought in the area of monuments in section 40.15.320 by the DNR are a case in point. All concerned worried about increased costs for rural areas, and in our discussions in 1990 and 1991 we agreed after debate that primary monuments should not be require (although we had to admit that DNR might be able to sneak them in in regulation). The Statewide Platting Officer of DNR called me regarding revising this are last week. I advised him that we should be wary of revisions. I called him a couple times, but failed to connect due to conflicts with state working hours.

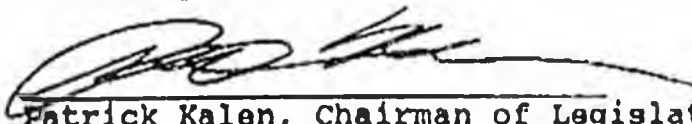
We do not support the requirement for primary monuments at controlling exterior corners, or the call for 5/8" rebar at interior corners. We think the original compromise language is adequate. Of course the DNR can propose to make these requirements in regulation. We agree with the representative at today's committee hearing who expressed concern over placing too much detail in statute.

Regarding the definition of the word "subdivision", we hope that you can look at SB 211 of the 18th legislature. We remain concerned about cluttering the definition. It may not be necessary to call out the Department of Public Facilities or the Department of Community and Regional affairs in the definition. Leasing is addressed in the Applicability section.

In addition to the language, also note that that bill also made the definition uniform throughout statute, and made it apply to all agencies. Since 1992, when we stopped SB 81 of the 17th Legislature at the 11th hour, we have placed the definition of "subdivision" and "street" ahead of the larger issue of the State Survey Authority.

We look forward to resolving these minor glitches. Please call me if you have any questions.

Sincerely,



Patrick Kalen, Chairman of Legislative Affairs for ACSM

Copy:

Mike Horne, Chairman of Legislative Affairs for ASPLS
Ron Swanson, Director, Division of Lands



Alaska Section
AMERICAN CONGRESS ON SURVEYING AND MAPPING

Patrick H. Kalen, PLS
1041 Chenoweth Ridge Rd.
Fairbanks, AK 99709

February 21, 1995

Ref: HB NO. 80, Proposed Committee Substitute

Rep Jeanette James
State Capitol
Juneau, Alaska

Attn: Walt Wilcox

Dear Rep James:

We are delighted by the new draft of HB 80. As we have noted in previous correspondence and testimony, many of the ideas, objections and specific concerns that have come up in the course of discussions of your bill were addressed in the language of SB 81 of the 17th legislature. Much of that language was arrived at after long discussions with representatives of the affected parties in the room as the State Survey and Mapping Advisory Board met and drafted the rules in 1990 and 1991. We see slightly changed language in the first two pages from that which the original State Survey Authority bill contained. It is written more concisely, while retaining the meaning and purpose of the original language by directly stating that the legislation refers to platting authority. (The original bill used cross references to title 29 instead of the words platting authority). We like the improved wording in the beginning of the bill.

The primary problem to resolve remains the area of the definition of the word "subdivision" on page 7, lines 6 through 17. We object to the exception in part A and to the exclusions for state agencies in part B of the definition.

Two things come to mind: First, one should consider what rules the state must work under in the majority of jurisdictions covering most of the land transactions in the state. That is, does the state enjoy such exemptions in organized platting authority areas? We think not. Second is the difference between temporary transfer of limited interests such as leases. The original bill, and, of course, your proposed committee substitute, limit applicability of the survey authority in Section 40.15.360, APPLICABILITY (page 5, line 4). Transfer of leasehold interests, extraction of natural resources, issuance of permits and disposal of aliquot part descriptions over 40 acres are not subject to platting authority.

8-LS10151E

ORIGINAL

SENATE BILL NO. 211
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Introduced: 5/5/93
Referred: TRA, CRA

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the definitions of subdivision and street."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 29.71.800(22) is amended to read:

4 (22) "street" has the meaning given in AS 40.15.290 [INCLUDES
5 STREETS, AVENUES, BOULEVARDS, ROADS, LANES, ALLEYS, AND OTHER
6 WAYS];

7 * Sec. 2. AS 29.71.800(23) is amended to read:

8 (23) "subdivision" has the meaning given in AS 40.15.290

9 [(A) MEANS THE DIVISION OF A PARCEL OF LAND
10 INTO TWO OR MORE LOTS OR OTHER DIVISIONS FOR THE PURPOSE
11 OF SALE OR BUILDING DEVELOPMENT, INCLUDES RESUBDIVISION,
12 AND RELATES TO THE PROCESS OF SUBDIVIDING OR TO THE LAND
13 SUBDIVIDED;

14 (B) DOES NOT INCLUDE CADASTRAL PLATS,

1 CADASTRAL CONTROL PLATS, OPEN-TO-ENTRY PLATS, OR REMOTE
2 PARCEL PLATS CREATED BY OR ON BEHALF OF THE STATE
3 REGARDLESS OF WHETHER THESE PLATS INCLUDE EASEMENTS OR
4 OTHER PUBLIC DEDICATIONS];

5 * Sec. 3. AS 40.15.290 is amended to read:

6 Sec. 40.15.290. DEFINITIONS. In this chapter

7 (1) "street" means an access way in common use including all of the
8 land lying within a dedicated right-of-way as delineated on a plat showing streets,
9 whether improved or unimproved [INCLUDES STREETS, AVENUES,
10 BOULEVARDS, ROADS, LANES, ALLEYS, AND OTHER WAYS];

11 (2) "subdivision"

12 (A) means the division of a tract or parcel of land into two or
13 more lots or by the creation of public access [. SITES, OR OTHER
14 DIVISIONS FOR THE PURPOSE, WHETHER IMMEDIATE OR FUTURE,
15 OF SALE OR BUILDING DEVELOPMENT, AND INCLUDES
16 RESUBDIVISION AND, WHEN APPROPRIATE TO THE CONTEXT,
17 RELATES TO THE PROCESS OF SUBDIVIDING OR TO THE LAND OR
18 AREAS SUBDIVIDED];

19 (B) does not include cadastral plats, cadastral control plats,
20 open-to-entry plats, or remote parcel plats created by or on behalf of the state
21 regardless of whether these plats include easements or other public dedications.

22 * Sec. 4. AS 34.65.100 is amended by adding a new paragraph to read:

23 (6) "subdivision" has the meaning given in AS 40.15.290.

24 * Sec. 5. AS 38.04.910 is amended by adding a new paragraph to read:

25 (13) "subdivision" has the meaning given in AS 40.15.290.

26 * Sec. 6. AS 46.03.900 is amended by adding a new paragraph to read:

27 (36) "subdivision" has the meaning given in AS 40.15.290.

STATE

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886

January 28, 1994

The Honorable Jeannette James
Alaska State House of Representatives
State Capitol
Juneau, AK 99801-1182

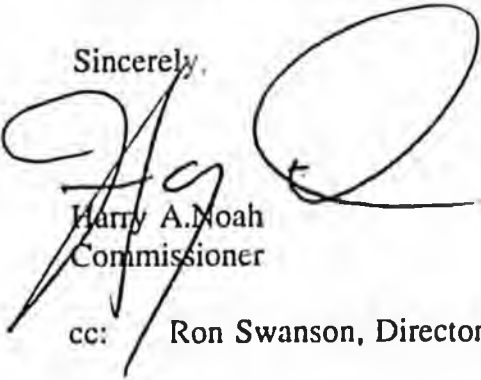
Dear Representative James:

The Department of Natural Resources supports the Sponser Substitute for House Bill 352, which includes the addition of the definitions of "streets" and "subdivisions." We also understand that the Alaska Society of Professional Surveyors also supports HB 352. They specifically requested that the bill include the definitions of "streets" and "subdivisions" as in the Sponsor Substitute. These two definitions are needed to establish a common definition of streets and subdivisions for use by all state agencies that are involved in permitting and approval of subdivisions. The lack of a common definition has made it difficult for surveyors to meet the requirements of all state agencies.

This bill will greatly benefit anyone purchasing or having property in the unorganized borough or third class boroughs. There is more and more subdivision activity in our outlying areas. The passage of this bill will ensure that land offered for sale in these areas meets the applicable laws, reduces the chances of clouded title, ensures proper location of sale parcels, and ensures that all subdivided parcels have legal access.

Thank you for sponsoring this bill. If the Department can be of assistance, please contact Ron Swanson at 762-2692.

Sincerely,



Harry A. Noah
Commissioner

cc: Ron Swanson, Director, Division of Land 762-2692

james-hb.352

COOK INLET REGION, INC.

March 25, 1994

Jeannette James
House of Representatives
Alaska Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative James:

Cook Inlet Region, Inc. (CIRI) appreciated the opportunity to comment on proposed language for House Bill 352.

Legislative counsel did contact Mr. Lawrence Kimball of my staff requesting assistance in developing language that will satisfy ANCSA corporation concerns.

As you are aware, proposed language was developed by Sealaska and CIRI staff and introduced during an HB 352 hearing in House Resources Committee. It is my understanding that House Resources has passed the bill out with the recommended language changes. CIRI supports HB 352 as it exited House Resources.

Thank you for providing the opportunity for CIRI to address important ANCSA issues in this legislation.

Sincerely,

COOK INLET REGION, INC.



Margaret L. Brown
Senior Vice President

2/4029

cc: Bill Williams, House Resources Committee

HB

23

SENATE COMMITTEE REPORT

DATE: 4/3/97

FURTHER:

DATE TURNED IN TO OFFICE: 4/23/97

Resources Committee considered CS FOR HOUSE BILL NO. 23(RES)

"An Act relating to management of state land; and relating to access to land."

and recommends:

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

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John L. Taylor</i>	✓				✓
<i>Loren A. Luman</i>	✓	<i>[Signature]</i>			
<i>[Signature]</i>	✓				
<i>Lyle Green</i>	✓				
CHAIR: <i>Rick Halford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
HAIR			
H. RESOURCES	4/27	X	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>Id. RESOURCES</i>	<i>4/27</i>	X	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HB 23 SPONSOR STATEMENT

"ACCESS PROTECTION BILL"

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

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

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

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

HB 23 includes language which will give the Legislature the authority to protect traditional access for traditional uses, including subsistence activities. Furthermore, this legislation was crafted so as not to impede land disposals, mining, timber harvest or other resource development. Language has been inserted which allows the department to control or direct access on or across development parcels, including parcels ceded to private parties through sales. This provision protects mining interests, oil and gas development, logging, and private property.

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

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 1
Bill Version: CSHB 23(RES)
(H) Publish Date: 3/5/97

2/27/97
Title: An Act relating to traditional means
of Access...
Sponsor: Rep. Masek
Requestor: House Resources

Dept. Affected DNR
BRU: _____
Components: _____
Serial # _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

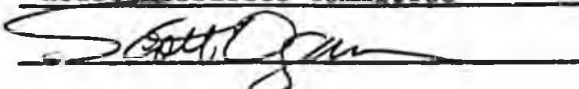
General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by: Co-Chairman Scott Ogan
House Resources Committee


Date: 2/27/97
Phone: 465-3715
Phone: _____

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 3, 1997

SUBJECT: Sectional Summary of CSHB 23(RES). (Work Order No. 20-LS0158\H)

TO: Representative Beverly Masek
Attn: Eddie

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill clarifies the intent of the legislature.

Section 2 of the bill amends AS 38.04.055 specifying when the commissioner of natural resources must retain easements and rights-of-way when making land available for private use.

Section 3 of the bill limits the authority of the commissioner of natural resources to restrict the use of easements or rights-of-way.

Section 4 of the bill provides that the commissioner may not manage state land, water, or land and water so that a traditional means of access for traditional outdoor activities is restricted for the purpose of protecting aesthetic values of the land, water, or land and water unless the restriction is small in size, is temporary, is for the purpose of developing natural resources and the commissioner has identified and approved an alternative for the access, is for the protection of public safety and public or private property, or is approved by the legislature. Definitions are provided in this bill section.

GPL:pl
97-053.plm



ALA

Post-It® Fax Note	7671	Date	1/23/97	# of Pages	1
To	Rep. Olson	From	Fbx LIO		
Co./Dept.	State Resources	Co.			
Priority	WRITTEN TEST	Subject	PROPERTY	FOL	
Event	HB23 TELEPHONE	Date	1/23/97		

URE

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

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

to
 Add clarifying wording for the bill, on line 23, 27, and 28 after the word including you should add the words - "but not inclusive to" this will cover uses ~~or~~ means that may have been over looked. Again, please pass HB23 to assure access to and use of public lands by the public.

SIGNED

TESTIFIER

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

REPRESENTING (OPTIONAL)

5465 Chena Hot Springs Road, Fbks. 99712

ADDRESS/PHONE NUMBER

907-488-6356

3038 Donnington Drive
Anchorage, AK 99504-3847
333-8347

January 22, 1997

Rep Bev Masek

I would like to thank you for your continued pursuit of insuring access to Alaskan resources. Your course of action will right a wrong that has needed fixing for a very long time. Our state resource managers have become puppets for the lower forty eight environmentalists, which have realized that they (the radical environmentalists) have wasted and ruined the lower forty eight, and now they want to lock up OUR State from us. Unfortunately, they are slowly succeeding because of no legal means of stopping the state administrative process. If we don't like the actions of a resource manager, there is nothing that can be done. The public has no recourse. He is not an elected official, and therefore is untouchable by anyone except his fellow green supervisor. Your bill enables a real public input process with people who are countable to their community. You know it is right as your bill went the mile last year, only to be conveniently delayed until the legislative session had ended, then after listening and reacting according to the wishes of the green radicals from the land southeast of Juneau, the bill was vetoed. Our Governor showed his true colors.

Please continue your efforts on our behalf. We greatly appreciate your work and diligent efforts. I sorry to say that because of the short notice, I probably will not be able to get off from work to testify at the hearing tomorrow; however, I want you and whomever else necessary to know that I believe that this bill will have a greater impact on the future of Alaska than any other bill that will be considered. It must complete the entire process and become our new way doing business.

Our right to access, utilize, and enjoy the unlimited resources within our State should not and cannot be denied. Just as it is our responsibility to wisely use and protect those same resources. Misuse by an individual or certain groups should be dealt with on a case by case basis, and not punish the whole for the mistakes of a few.

Please continue your outstanding efforts, and if I may be of any assistance; please let me know. Thank you.

BJ
Randy "Bj" Bjorgan
W - 269-8978

3038 Donnington Drive
Anchorage, AK 99504-3847
333-8347

January 22, 1997

Rep Bev Masek

I want to let you know that I wholeheartly support HB 23. This will allow us to have an input into the management of our State resources. Thanks for your continuous support of the people who use and enjoy Alaska.

I am sorry that I cannot make it to the public testimony tomorrow; but, please know that you have my continued support in all your efforts.

Thanks again,

signed
Margaret "Peggy" Bjorgan
W - 264-0514

DATE: JANUARY 22, 1997

TO: REPRESENTATIVE MASEK
FAX: 907-465-4822

I STRONGLY SUPPORT HOUSE BILL NO. 23. THIS BILL IS NEEDED TO PROVIDE ACCESS TO OUR PUBLIC LANDS AND WATERS FOR RECREATIONAL AND SUBSISTENCE PURPOSES.

I HOPE OUR LOCAL LEGISLATORS WILL JOIN IN VOTING TO PASS THIS BILL AND ITS COMPANION SENATE BILL NO. 35.

SINCERELY,



JEFFREY L JOHNSON
3283 RIVERVIEW DRIVE
FAIRBANKS, AK 99709