

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 80/2

9692 SENATE RESOURCES

Editor
WALTER A. McDOUGALL

Manuscript Editor
JILL GARNER

Contributing Editors
BRUCE D. BERKOWITZ
PAUL BRACKEN
PATRICK CLAWSON
MARK FALCOFF
MICHAEL RADU
HARVEY SICHERMAN
VLADIMIR TISMANEANU

BOARD OF EDITORS

STEPHEN E. AMBROSE
University of New Orleans

PAUL BALARAN
*Carnegie Endowment for
International Peace*

RICHARD K. BETTS
Columbia University

HENRY S. BIENEN
Northwestern University

PAUL BRACKEN
Yale University

ELIOT A. COHEN
*The School of Advanced
International Studies,
Johns Hopkins University*

STEPHEN P. COHEN
*University of Illinois at
Urbana-Champaign*

L. GORDON CROVITZ
Hong Kong

ARTHUR CYR
*Chicago Council on
Foreign Relations*

PETER DUGNAN
The Hoover Institution

MARK FALCOFF
*American Enterprise Institute
for Public Policy Research*

ALTON FRYE
Council on Foreign Relations

COLINS S. GRAY
University of Hull

PAUL HOLLANDER
*University of Massachusetts
at Amherst*

IRVING LOUIS HOROWITZ
Rutgers University

CHARLES KRAUTHAMMER
The Washington Post

EDWARD N. LUTTWAK
*Center for Strategic &
International Studies*

MICHAEL MANDELBAUM
*The School of Advanced
International Studies,
Johns Hopkins
University*

JOSHUA MURAVCHIK
*American Enterprise Institute
for Public Policy Research*

WILLIAM E. ODOM
Hudson Institute

RICHARD PIPES
Harvard University

HARRY R. POSEN
*Massachusetts Institute of
Technology*

PETER W. RODMAN
*Nixon Center for Peace and
Freedom*

ALVIN Z. RUBINSTEIN
University of Pennsylvania

ROBERT A. SCALAPINO
*University of California
at Berkeley*

RICHARD F. STAAR
The Hoover Institution

SHIRIN TAHIR-KHIEL
*Foreign Policy Research
Institute*

MARC TRACHTENBERG
University of Pennsylvania

STEPHEN VAN EVERA
*Massachusetts Institute of
Technology*

GEORGE WEIGEL
*Ethics and Public Policy
Center*

SAMUEL F. WELLS, JR.
*Woodrow Wilson Interna-
tional Center for Scholars*

Editorial Assistants: Annmarie K. Arena, Monica Shah

Articles appearing in *Orbis* are indexed and/or abstracted in *ABC Political Science*, *Academic Index*, *America: History and Life*, *Articles 1st*, *CARL UnCover*, *Contents 1st*, *Current Contents Social and Behavioral Sciences*, *Historical Abstracts*, *International Political Science Abstracts (Newspaper and Periodical Abstracts)*, *Public Affairs Information Service (PAIS)*, *Social Science Citation Index (SSCI)*, *Social Science Index*, *U.S. Political Science Documents*.

To inquire about membership, write or call the Foreign Policy Research Institute, 1528 Walnut Street, Suite 610, Philadelphia, PA 19102-3684, Tel: (215) 732-3774, ext. 105, Fax: (215) 732-4401, E-mail FPRI@aol.com. All contributions to FPRI are tax-deductible.

of property owned by individual Americans and the state of Alaska who would then be entitled to just compensation.

4. Alaska is not the only part of America's coast for which the EEZ has not been fully asserted by the State Department. For any American island, the two hundred nautical mile EEZ circle around it contains at least 125,000 square miles of potential seabed resources. Among the American islands where the State Department has neglected to assert the EEZ are the Caribbean island of Navassa (situated among Haiti, Jamaica, and Cuba) and the Pacific islands of Washington, Fanning, Baker, Stewart, and Kingman Reef.

5. The State Department's seeming haste to conclude a maritime boundary with our erstwhile adversary Russia is in stark contrast to its treatment of our friends in Canada. The State Department has not yet arrived at a maritime boundary agreement with Canada for either the Arctic end or the southern end of Alaska.

6. The posture of the United States as the victor in the Cold War with the Soviet Union is being undermined. The United States should be in a better bargaining position in 1997 than it was in 1990. And yet, even as Germans, Poles, Hungarians, Ukrainians, and others have succeeded in removing the Russian troops from their soil, America itself has not.



U.S.-Russian Maritime Boundary Giveaway

by Carl L. Olson, Mark J. Seidenberg, and Robert W. Selle

Admiral James D. Watkins, the Chief of Naval Operations (CNO), disappeared from Washington for several days in May 1985. When he literally "resurfaced" Watkins, a veteran submariner, was aboard the USS *Trepang* (SSN 674) about 250 miles from the North Pole. He was visiting an Arctic Ocean hydroacoustic research site at 86 degrees north, and the CNO's presence there underscored the strategic naval importance of this Arctic interface between the United States and the Soviet Union. Data developed there was proving vital for the cat-and-mouse games that U.S. attack submarines played and continue to play with Russian attack and ballistic missile submarines hiding under the ice cap. Exact sonar readings are crucial for the tricky acoustic behavior for near freezing temperatures in the confined environs bounded by the ice floes above and the shallow Arctic Ocean bottom below.

The *Trepang's* crew was ignorant of the negotiations then shuttling between Washington and Moscow over where precisely to fix the maritime boundary between the two countries in the Arctic Ocean and Bering Sea. The talks had already lasted four years and another five would pass before their conclusion.

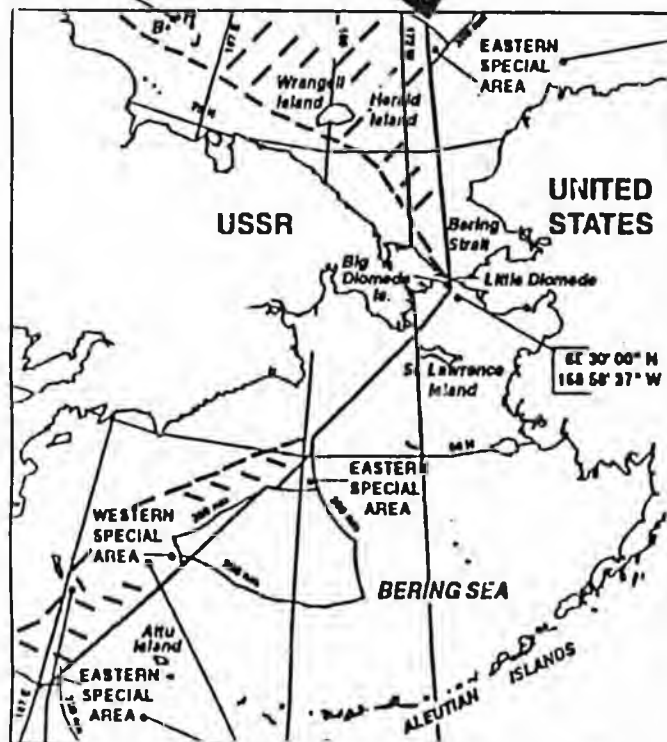
But no headline screaming "Americans and Soviets Meet in Historic Talks on Maritime Boundary between Alaska and Siberia" ever appeared in print, and no television news program ever displayed smiling ambassadors congratulating each other at an auspicious locale such as Geneva. Instead, the superpowers, without publicity, exchanged diplomatic notes in 1977, and conducted at least eight face-to-face negotiating sessions from 1981 to 1990, their purpose being to divide up the fishery conservation zones and exclusive economic zones (EEZ) in the Bering Sea and Arctic Ocean where the coasts of the two countries came within four hundred nautical miles of each other. And the reason the public never heard anything is that the Department of State saw fit to conduct these historic negotiations in secrecy. To this date the names

Carl L. Olson, Mark J. Seidenberg, and Robert W. Selle are chairman, vice chairman, and senior adviser, respectively, of State Department Watch, a nonpartisan foreign policy watchdog group in Washington, D. C.

Map: Maritime Boundary Giveaway

UNITED STATES-USSR MARITIME BOUNDARY *

The DeLong Islands of Henrietta, Bonnett, and Jeanette.



This Eastern Special Area is based on Russian sovereignty on Herald Island.

The maritime boundary cuts off part of the western reef of Little Diomede Island.

The Russians get "sovereign rights and jurisdiction" over the United States Western Special Area.

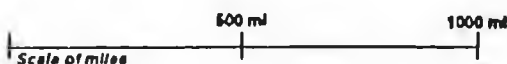
Copper Island, Sea Otter, and Sea Lion Rocks.

These Western and Eastern Special Areas are based on Russian sovereignty on Copper Island.

EIGHT U.S. ISLANDS AND SURROUNDING SEABEDS BEING GIVEN TO RUSSIANS.



* Maritime boundary as adopted by executive agreement of June 1, 1990, but not yet ratified by treaty.



Oil reserves are generally measured in the billions of barrels valued around twenty dollars per barrel depending on production requirements. Oil companies make their own proprietary surveys. In the Department of the Interior's Chukchi Sea oil and gas lease sale in 1990, for tracts in the Arctic Ocean bordering on the 1867 line, the low estimate was 430 million barrels and the high estimate was 3.5 billion barrels.⁴¹ As for estimates in the vicinity of Wrangell Island, the Russians are not talking. However, it is known that both ARCO and Halliburton have conducted petroleum surveys for the Russians on and around Wrangell.

Why then—and here we come to a key player in our mystery—has not one U.S. oil company, over the two decades of 1977–97, expressed any opposition to the concessionary treaty? Until someone says otherwise, we can only conclude that U.S. oil executives believe that the Russians will be easier and cheaper to deal with for exploration and development of the oil reserves than the American and Alaskan governments. They may also be looking at other vast oil deals in southern and European Russia, and hope to curry favor with the relevant officials in Moscow. And in the absence of other powerful lobbies seeking to influence U.S. policy, secretaries of state may be expected to accede to the oil industry's wishes.

One industry group that did want to retain the Arctic Islands for the United States was based in Rhode Island and Connecticut: the submarine shipbuilding industry which was facing severe post-Cold War cutbacks. These firms had designed wide-bodied submarines (similar to ballistic missile ones) that could be used as undersea tankers for use under the Arctic ice pack year-round.

In conclusion, whatever its private motives, the State Department cannot now conclude a new maritime boundary agreement with the Russians, or a companion agreement to turn over American fishing rights to the Russians, without confronting the following "unpleasant" realities:

1. Helms is now the chairman of the Senate Foreign Relations Committee and has the power to hold up any treaty under the rules of the Senate.
2. The effect of a new maritime boundary agreement will be called into question, given that the State Department has asserted its own unilateral authority to adopt a maritime boundary without a treaty. A thorough explanation of its actions to implement the executive agreement since 1990 will need to be forthcoming.
3. The abandonment of the eight islands would amount to a confiscation by the federal government

⁴¹ Minerals Management Service, Dept. of the Interior, *Final Environmental Impact Statement*, vol. 1, Chukchi Sea Oil & Gas Lease Sale 126, ivi.

navigation in the area. In the entire history of the treaty negotiations, Alaska has had no official voice.³⁵

The California legislature joined in with unanimous passage of a resolution authored by State Senator Don Rogers renewing its support for the state of Alaska and asking the president to withdraw the proposed treaty.³⁶ Senator Pete Wilson (R-Calif.) in September 1990 entered into the *Congressional Record* a commemoration of the congressional medals to the DeLong crew on the 100th anniversary of the awards.³⁷

The State Department testified at the Senate hearing on June 13, "The agreement is a maritime boundary agreement. It does not recognize Soviet sovereignty over those (five Arctic) islands."³⁸ But Helms was not impressed with the State Department's ultimate intentions, stating, "Since I doubt that the State Department will make use of the opportunity to press U.S. claims to the five islands—even though the right to do so is preserved—I intend to vote against the treaty."³⁹ Nevertheless, the treaty passed the Senate on September 16, 1991, in the wave of post-Cold War euphoria.

What Is To Be Done?

Six years later, the State Department has still failed to assert anything regarding the islands. The Alaska legislature has spoken again by the passage in the House of Representatives in 1997 of a resolution, introduced by Representatives Al Vezey and Joe Ryan, reiterating the position that Alaska's exclusion from the process is unconstitutional, that the executive agreement is considered null and void, and that the State Department ought to reveal what it has done to implement the executive agreement over the past six years.⁴⁰

Just exactly what is at stake economically with the seabeds under consideration? Alaska is the biggest fishing state in the nation, with billions of dollars in catches yearly. Conflicts over fishing rights have been rife for decades not only with the Russians, but with Japanese, Korean, and other fishing fleets. The Duma's objection to the agreement appears primarily motivated by desire for even more Russian fishing beds.

Oil is an even more significant prize. The north slope of Alaska is the largest oil field in the United States. This field faces and extends out into the Arctic Ocean, which is so shallow that the continental shelf (two hundred meter depth) extends out hundreds of miles, beyond both Wrangell and Herald Islands.

³⁵ Letter (dated May 17, 1991), from 36 members of the Alaska Legislature (headed by Rep. Ramona Barnes) to Sen. Joseph Biden Jr. (D-Del.), chair, Subcommittee on European Affairs, Senate Committee on Foreign Relations.

³⁶ California Senate, Joint Resolution 20, Sacramento, adopted Sept. 3, 1991.

³⁷ *Congressional Record*, 101st Cong., 2nd sess., 1990, 136, no. 117: S13524.

³⁸ Senate Committee hearing transcript, U.S.-Soviet Maritime Boundary, 12.

³⁹ *Congressional Record*, 102nd Cong., 1st sess., 1991, 137, no. 127: S13037.

⁴⁰ Alaska House Joint Resolution 22, 20th Legislature, 1st sess., Juneau, 1997.

of the negotiators, the dates and places of the rounds, and the substance of the talks remain classified information.¹

Billions of dollars of petroleum, fishery, and other resource potential are at stake in hundreds of thousands of square miles of seabeds under consideration. Strategic American/Alaskan land outposts in the Arctic and Aleutians (along with their seabeds) are in danger of being permanently abandoned to the Russians without any quid pro quo whatsoever.

Before discussing the current situation further, it would be helpful to give some legal perspective. Prior to 1976 countries did not divide up seabeds between themselves farther than their territorial seas of three or twelve miles from their coastlines. With the development of sea mining techniques and open sea fishing disputes, the international concepts of exclusive economic zones, fishery conservation zones, continental shelves (two hundred meter depth), and so on came into being with two hundred nautical miles from coastal baselines adopted. Generally countries adopt some form of equidistant line. These zones don't necessarily include all the seabeds between two landmasses and an open nonzone sea area can be completely surrounded by EEZs. In the Bering Sea a well-known open area called the "doughnut hole" is surrounded by the U.S. and Russian zones, and is subject to fishing by other countries.

The Fishery Conservation and Management Act of 1976 set the scene for negotiations with the Soviet Union by the outgoing Ford administration. The State Department, without any negotiations, then entered into a secret executive agreement with the Soviet Union in 1977 over a maritime boundary. The agreement fell apart later that year when the actual geographic coordinates of the proposed line became disputed (the Soviets wanted the line much farther toward the east and closer to Alaska). In 1981 a series of at least eight rounds of negotiations began. It resulted in the signing of a maritime boundary agreement in treaty form by Secretary of State James A. Baker III and Soviet foreign minister Eduard Shevardnadze on June 1, 1990, in Washington, D. C.² The two also signed an executive agreement that "pending the entry into force of that [maritime boundary] Agreement, the two Governments agree to abide by the terms of that Agreement as of June 15, 1990."³ No public announcement of this executive agreement was made by the State Department at the time of its signing in 1990. The U.S. Senate consented to the treaty in September 1991, and President George Bush carried out ratification for the U.S. side in December. The Soviet/Russian side, however, has let six years go by without ratifying the treaty,

¹ Some State Department representatives at the July 1984 negotiations in Moscow were legal adviser Davis Robinson, attorneys Elizabeth Verville and Scott Hajos, and staff members Harry Marshall, Richard T. Scully, and Robert W. Smith.

² Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed on June 1, 1990, at Washington, D.C., *International Legal Materials*, vol. 29, American Society of International Law, (1990), 941.

³ Unfiled agreement signed June 1, 1990, at Washington, D.C., relating to the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, Department of State, *United States Treaties and other International Acts Series* 11451.

hence it has not entered into force. The executive agreement, by contrast, appears to have been implemented by both sides.

The form of the agreement has considerable importance. The U.S. Constitution makes a treaty the supreme law of the land that can override any state law. An executive agreement, on the other hand, is not superior to any state law, and can be as easily amended or abrogated as entered into with the foreign government.

In February 1997 the Russian Duma (the lower house of the Russian legislature) resoundingly voted to denounce the executive agreement and demanded even more seabeds with their fishing rights yielding annually 150,000 tons of fish harvests worth over \$300 million. According to one news report:

State Department sources, speaking on the condition that they not be quoted by name, said the Clinton administration is working furiously to rescue the agreement. But they acknowledged that the dispute poses a serious difficulty that can be resolved only through concessions to the Russians. "Opposition to the treaty has emerged on the Russian side," a State Department source said. "It reflects the view of Russian fishing interests that the agreement disadvantaged them and that they lost opportunities to fish in the Bering Sea."¹

In May 1997 the State Department had to scrub a planned signing ceremony in Petropavlovsk on Kamchatka due to the failure of both sides to arrive at a new agreement that would transfer fishing rights to the Russians. Considerable opposition was voiced by U.S. fishing groups and others toward any further giveaways. Russian criticism continued in September with a front page story in the newspaper *Izvestia* and vocal complaints by foreign ministry officials and Duma leaders.²

The apparent ability of the State Department to exercise its will unilaterally with little input from the public has raised considerable question as to the processes involved. With respect to the treaty form of the maritime boundary agreement, the State Department has evidently and willfully ignored no less than five constitutional requirements for treaties.

1. Negotiations intended to produce a treaty are supposed to be revealed promptly to the U. S. Senate so that it can effectively exercise its "advice" power under the "advice and consent" clause (Article II, Section 2). The State Department never provided any such notification or request for input to the Senate for the original 1977 agreement, the series of negotiations in the 1980s, or the current round.

2. Because of the way the proposed boundary line has been drawn, it places eight American/Alaskan

a letter-writing campaign that resulted in some fifty thousand protests being delivered to the State Department.

Nevertheless, the unyielding State Department produced its agreement in 1990 without any formal input from the Senate, the state of Alaska, or the public. The line it created for the boundary was based on the 1867 line with significant zigs and zags added approximately halfway between the "arc of a great circle" and the "rhumb line" depictions. Almost no equidistant lines were used. Two hundred mile arcs were drawn with the assumption that the Soviet Union owned Copper Island in the south and Herald Island in the north. The line ran north-south through the reef that extends from the western shore of Little Diomed Island (U.S.) in the Bering Strait. It also created the novel concept of the eastern and western "special zones" by which the Soviet Union and United States were to exercise sovereign rights and jurisdiction on the other's seabeds. The two hundred mile arcs from the U.S. coast baselines were questionable, inasmuch as the U.S. Coast and Geodetic Survey has never compiled a survey of the coast baseline in the vicinity of the Bering Strait or Little Diomed Island.

A further problem of the constructive cession of the eight islands presented itself. This would amount to a substantial removal of property from the state of Alaska and any private owners of the islands, who ought then to receive just compensation from the federal government. (State Department Watch has attempted to assist the heirs of the Lomen Brothers, who had given up hope decades ago, with two of the group's directors taking on parts of the ownership of Wrangell Island.)

As previously mentioned, the executive agreement that was signed at the same time on June 1, 1990, was shielded from the public and Congress. It was not announced at the time of signing. It was not mentioned in the president's transmittal of the treaty agreement to the Senate.³¹ It was not mentioned in the State Department's testimony at the Senate Foreign Relations Committee hearing on the treaty in June 1991.³² It did not come up in the committee report, nor in the Senate floor debate in September.³⁴

Prior to the Senate vote the state legislatures of Alaska and California again expressed strong disapproval and urged rejection. A letter signed by a majority of members of the Alaska legislature stated:

We firmly believe United States interests and Alaskan interests are at stake and in jeopardy in the proposed treaty No Alaskan official has ever been invited to participate in the treaty negotiations, in spite of abiding Alaskan interest in fisheries, petroleum, and other potential continental shelf resources and the consideration of

³¹ Senate Treaty Document 101-22, 101st Cong., 2nd sess., Sept. 26, 1990.

³² Senate Committee on Foreign Relations hearing transcript on U.S.-Soviet Maritime Boundary Agreement, S. Hrg. 102-90, 102nd Cong., 1st sess., June 13, 1991.

³⁴ Senate Executive Report 102-13, *Foreign Relations Committee Report on the Agreement with the Union of Soviet Socialist Republics on the Maritime Boundary*, July 31, 1991, *Congressional Record*, 102nd Cong., 1st sess., 1991, 137, no. 127, S13009-10 and S13036-40.

¹ "Russians Won't Back Sea Boundary," *Fairbanks Daily News-Miner*, Mar. 9, 1997.

² *Izvestia* (Moscow), Sept. 1, 1997, "Russians Set To Go on Offensive in U.S. Fish Dispute," *Journal of Commerce* (New York), Sept. 4, 1997.

William Dannemeyer (R-Calif.), and Dan Burton (R-Ind.) introduced bills in the 99th, 100th, and 101st Congresses respectively.²⁶ In addition to questioning the giveaway nature of the proposed maritime boundary, the measures reiterated that the agreement would need to be in the form of a treaty and thus subject to congressional and public scrutiny.

The Alaska legislature was understandably upset. Urging the State Department to resist the Soviet demands was the subject of a resolution by State Representative Roger Jenkins, which passed both houses unanimously and was signed by Governor Bill Sheffield in April 1986.²⁷ After repeated rebuffs from the State Department, the legislature passed a resolution by State Senator Rich Uehling and signed by Governor Steve Cowper in May 1988 complaining that it was being improperly excluded from the negotiations.²⁸ The State Department contends that it briefed the governor's staff on various occasions during the negotiations. However, since none of the governor's staff held federal security clearances, they would not have been granted access to any of the substantive parts of the negotiations considered classified information.

Alaska's congressional delegation was split on this issue. Representative Don Young cosponsored the Burton bill in 1989. Senator Ted Stevens, however, appeared before the Alaska legislature in March 1986 and declared, "Alaskans don't belong in that fight."²⁹ Senator Frank Murkowski (R-Alaska) promised to introduce a bill in December 1985 to require the State Department to give a full report on this matter, but never fulfilled his promise.³⁰ Both senators testified in favor of the maritime boundary agreement at the Senate Foreign Relations Committee hearing on June 13, 1991.

The state of California agreed with Alaska, recognizing that if the State Department could ignore one state in negotiating over its boundaries and territory, it could abuse all states. The California legislature passed a resolution in September 1987 authored by Assemblywoman Marian La Follette to support Alaska's rights to be represented in the negotiations and give consent to relevant terms.³¹

Numerous nationwide and local groups passed resolutions questioning the impending giveaway, including the American Legion, Veterans of Foreign Wars, Daughters of the American Revolution, and Young Americans for Freedom. Editorials and news articles appeared in several publications including the *Wall Street Journal*, *Christian Science Monitor*, *Forbes*, *Chicago Tribune*, and *Detroit Free Press*, while State Department Watch, a public advocacy group, sponsored

If one state is excluded from boundary negotiations, then all states stand to be ignored.

islands on the Russian side, and thus apparently disposes of them by abandonment or by inverse condemnation. Disposals of U.S. territory and property are subject to the power of Congress (Article IV, Section 3), but the State Department has never approached the House of Representatives or Senate to approve its disposal plan.

3. In the federal system of government, the state and federal governments have coequal powers when a state's boundary and/or territory is involved. The proposed maritime boundary line impinges on Alaskan land and sea resources (under the Submerged Lands Act of 1953). Nevertheless, the State Department has refused repeatedly to allow representatives of the state of Alaska to participate in the negotiations, and has denied that the terms of the maritime boundary that impact on Alaska be subject to approval by the state of Alaska. This refusal contradicts a long-standing policy, dating from 1846 when Secretary of State Daniel Webster negotiated the boundary between Maine and New Brunswick with Great Britain. Webster required that commissioners from both Maine and Massachusetts (Massachusetts having some residual interests in Maine) participate in the negotiations, and that the states also consent to the terms of the final Webster-Ashburton Treaty.⁶

4. A novelty of the maritime boundary agreement creates a "western special area" on the U.S. side in the Bering Sea and gives the Russians the power "to exercise the sovereign rights and jurisdiction derived from exclusive economic zone jurisdiction that the United States would otherwise be entitled to exercise under international law in the absence of [this agreement]." The power of a foreign government to exercise sovereignty and jurisdiction on American soil is highly unusual, such as in the case of embassy grounds. The agreement also gives the United States similar sovereign powers over three "eastern special areas" on the Russian side.

5. Finally, the State Department apparently arrogates to itself the power to conclude binding executive

²⁶ H.R. 3766, 99th Cong., 1st sess., introduced by Siljander on Nov. 14, 1985; H.R. 341, 100th Cong., 1st sess., by Dannemeyer on Jan. 6, 1987; and H.R. 2383, 101st Cong., 1st sess., by Burton on May 17, 1989.

²⁷ Alaska House Joint Resolution 53, 14th Legislature, Juneau.

²⁸ Alaska Senate Joint Resolution 12, 15th Legislature, Juneau.

²⁹ "Oil deposits shift Cold War to drab, icy Arctic islands," *Miami Herald*, Mar. 23, 1986.

³⁰ Senator Murkowski, letter to the editor, *Wall Street Journal*, Dec. 2, 1985.

³¹ California Assembly, Joint Resolution 37, Sacramento, adopted Sept. 10, 1987.

⁶ Hunter Miller, *Treaties and Other International Acts of the United States*, vol. 4 (Washington, D.C.: U.S. Department of State, 1934), pp. 383-93.

agreements that otherwise would require a treaty (such as setting a boundary with another country). Its original 1977 agreement with the Soviet Union obviously was never intended to be a treaty. By signing the executive agreement on June 1, 1990 (which would have the U.S. government abide by the terms of the maritime boundary agreement in treaty form regardless of whether it was ever ratified and put into force), the State Department has claimed the power to ignore entirely the treaty process and treat the main maritime boundary agreement in treaty form as the side act.

A Long and Chilling History

Before presenting more legal and policy issues, it would be useful to recount the historical record of Alaska's geography so that the magnitude of what is at stake can be appreciated.

First, "Alaska" was not bought from Russia in 1867, as we all "learned" in school. Rather, the term "Alaska" does not even appear in the treaty of cession (Convention of March 30, 1867), signed by Secretary of State William H. Seward and tsarist ambassador Eduard de Stoeckel.⁷ What the United States did acquire in this treaty were various Russian coastal and island settlements toward the southern end of modern day Alaska: settlements known collectively as "Russian America." The Russians had not settled or claimed much inland, nor had they even settled or claimed territory around the Bering Strait or the Arctic Ocean littoral. Modern day Alaska, after all, is more than twice the size of Texas, and the five hundred or so Russian officials and pioneers could hardly claim to have effectively occupied more than a fraction of the "great land," as the Aleuts called it.

In describing what was being ceded to the United States in Article I of the treaty a couple of geographic lines were created. One line starts in the Bering Straits midway between Big and Little Diomed Islands and "proceeds north, without limitation, into the same Frozen (Arctic) ocean"; and from the same midway point it extends southwesterly to a midpoint between St. Lawrence Island and Cape Choukotski and thence to a midpoint between Copper Island and Attu Island. This line is sometimes referred to as the "1867 convention line." The other line in the treaty is a north-south meridian at 167 degrees east (the treaty calls it 193 degrees west) which extends between Copper Island and Bering Island in the Kommandorski Islands, "so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian" (i.e. Copper Island and the rest).

⁷ *U.S. Statutes at Large* 15: 539.

This U.S.-Soviet executive agreement unraveled later in 1977 when it was discovered that the U.S. and Soviet diplomats were using different geographical coordinates to depict the 1867 line. The 1867 treaty did not have any specific coordinates, since the line existed out in the middle of the ocean for the sole purpose of partially describing what was being transferred to the United States. For the segment that runs diagonally for over one thousand miles from the Bering Strait to a point in the mid-Aleutians, the United States was using a line that was the shortest between two points on a globe (i.e. the arc of a great circle). The Soviets used a straight line on a Mercator flat map (i.e. a rhumb line). The Soviet version lies considerably eastward from the U.S. version and gives the Soviets about fifty thousand square miles more seabeds.

Unaware of this interchange, the authoritative William Butler, dean of the Faculty of Laws at University College in London, wrote in 1978, "The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chuckchi Sea and northward remains to be negotiated."²³

An uneasy impasse continued until 1981 at which time the two sides started negotiations. These were concealed from public view by the State Department. The negotiations took on additional significance when on March 10, 1983, President Ronald Reagan proclaimed U.S. exclusive economic zones in general, with specific boundaries to be negotiated with nearby countries. Thus the maritime boundary between the United States and the Soviet Union would establish more than fishery conservation zones.

The maritime boundary issue came to public light in 1984, resulting in a heated reaction in Alaska, Congress, and the press to the effect that Washington was engaged in a vast giveaway. The public disclosure surfaced in March when the Department of the Interior was about to conduct an oil tract lease sale in the Navarin Basin of the Bering Sea. It had to admit that it was not quite sure where the western boundary of the Navarin Basin would be finally fixed (because of the dispute with the Soviets), hence, oil companies that bid on those western tracts might not eventually receive the leases. The announcement in the Federal Register stated, "The United States depicts the 1867 Convention line as the maritime boundary"²⁴

Sharp disapproval of the State Department's actions echoed in Congress, in state legislatures, and in public groups. Initiatives in the Senate were led by the ranking member of the Foreign Relations Committee Jesse Helms (R-N.C.), who introduced a series of resolutions with extensive commentaries in the *Congressional Record*.²⁵ In the House, Congressmen Mark Siljander (R-Mich.),

²³ William E. Butler, *International Straits of the World*, vol. 1, *Northeast Arctic Passage* (Alphen aan den Rijn, Netherlands: Sijthoff & Noordhoff, 1978).

²⁴ Federal Register (Mar. 16, 1984): 10056-68.

²⁵ S.R. 279, 99th Cong., 1st sess., *Congressional Record*, 131, no. 176 (Dec. 18, 1985): S18002-21; S.R. 20, 101st Cong., 1st sess., *Congressional Record*, 135, no. 6 (Jan. 25, 1989): S779-87; and Amend. 387 to the Department of State Authorization Bill, 101st Cong., 1st sess., *Congressional Record*, 135, no. 99 (July 20, 1989): 28438-47.

ocean on one side as "U.S." and the other "USSR" as if the line were an actual boundary, the Geographer of the State Department issued a detailed study. It stated, "Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used."¹⁷ In 1973 the Digest of International Law plainly declared, "The United States has not relinquished its claim to Wrangell Island."¹⁸ Then, sometime in the mid-1970s, the State Department's stance radically changed. It subsequently has sought to abandon to the Soviets/Russians all of Wrangell, Herald, Bennett, Jeannette, and Henrietta Islands in the Arctic, and Copper Island (with Sea Lion Rock and Sea Otter Rock) at the end of the Aleutians, along with the adjoining seabeds. It has never even sought a peace treaty to deal with the Soviet military invasion of Wrangell.

Following the 1976 passage of the Fishery Conservation and Management Act, the State Department made a preemptive concession to the Soviets over setting the maritime boundary between Alaska and Siberia. Without so much as public hearings or consultation with Congress, the State Department delivered a diplomatic note from the U.S. embassy in Moscow on January 24, 1977, stating, ". . . the U.S. Government, in enforcing its fishery jurisdiction, intends to respect the line set forth in the Convention signed at Washington March 30, 1867."¹⁹ The instructions from the secretary of state for delivery of the note stated, "Note speaks for itself, and accordingly, we do not wish to comment or solicit a reaction from Soviets orally at this time."²⁰

The 1867 convention line had never been a boundary before, and nowhere did it approximate an equidistant formulation. The five islands in the Arctic would be on the Soviet side. Moreover, the State Department ignored the 167 degrees east meridian segment and put Copper Island (with Sea Lion Rock and Sea Otter Rock) on the Soviet side.

The Soviet diplomats were taken aback by this generous offer. They eagerly accepted it with the proviso that no maritime boundary would be created by the 1867 line where it was farther than two hundred nautical miles from either coastline.²¹ In a confidential telegram from the American embassy in Moscow describing the presentation of the January 24 note to the nonplussed Soviet official, it was reported, "He did ask, as a personal aside, whether it was not customary to negotiate or at least discuss such matters before giving notice about enforcement provisions."²²

"Alaska" only came into being years later as U.S. Army, Navy, Revenue Marine, Treasury Department, and other federal officers took over the few Russian settlements and fanned out to make vast discoveries and assert U.S. sovereignty. Included in these postcession discoveries were five specific islands in the Arctic Ocean. They were not part of the 1867 purchase, and the Russians could not have ceded them to the United States since they had never owned them. This should not be surprising given the fact that the Arctic Ocean is frozen over for about nine months of the year, and during the summer the ice breaks up a little on the southern rim to allow only very limited navigation. The closest of the five islands to the Russian mainland is Wrangell Island, eighty

**The Russians
could not cede
what they did
not own.**

miles north of Siberia at 71 degrees north, 180 degrees east and west. In 1881 American sailors were the first to set foot on Wrangell and take possession for the United States. Captain Calvin Leighton Hooper of the U.S. Revenue Marine (later to become the Coast Guard) on patrol aboard his steamer *Thomas Corwin* directed the landing party coming ashore on Wrangell at the mouth of the Clark River on August 12, 1881. In his report

to Congress Hooper stated that after the ship had maneuvered through ever-threatening ice floes, "We immediately landed and, raising the American flag, took possession in the name of the United States."²³

The famed explorer John Muir, who was aboard the *Corwin* and in the landing party, wrote, "A notable addition was made to the national domain when Captain Calvin L. Hooper landed on Wrangell Land, and took formal possession of it in the name of the United States."²⁴ Muir's illustrations show the raising of the American flag and other shore activities.

A few weeks later the USS *John Rodgers* under the command of Navy Lt. Robert M. Berry, arrived to complete an extensive survey. The island turned out to measure about eighty miles east and west and forty miles north and south, and covered nearly twenty-eight hundred square miles, or more than Rhode Island and Delaware combined. Up until this time it was not known if "Wrangell's Land" was an island or an extensive peninsula of a larger land farther north. It had been named by an American whaling captain Thomas Long in 1867 when he spotted it from the south on his bark *Nile*. He named it in honor of a Russian official, Baron Ferdinand Petrovich von Wrangell, who had conducted Arctic forays but never sighted nor landed on the island himself.

The *Corwin* and *Rodgers* were patrolling the area in the summer of 1881 partly in search of the U.S. Navy steamer *Jeannette* which had been lost

¹⁷ The Geographer, U.S. Department of State, "U.S.-Russia Convention Line of 1867," *International Boundary Study* no. 14 (Revised), Oct. 1, 1965, 3.

¹⁸ Green Haywood Hackworth, *Digest of International Law*, vol. 1 (New York: Garland Publishing, Inc., 1973), 464.

¹⁹ U.S. Embassy (Moscow) note 99 of Jan. 24, 1977.

²⁰ U.S. Department of State telegram 013984 from secretary of state to American embassy, Moscow, DTG 211915ZJAN77, 1.

²¹ USSR Ministry of Foreign Affairs note no. 11/dusa of Feb. 24, 1977.

²² American embassy, Moscow, telegram 01163 to secretary of state, DTG 251544ZJAN77, 1.

²³ Calvin Leighton Hooper, *Report of the Cruise of the U.S. Revenue Steamer Thomas Corwin in the Arctic Ocean*, 1881. Senate Executive Document 204, 48th Cong., 1st sess., 1884, 66.

²⁴ John Muir, *The Cruise of the Corwin* (Boston, Mass.: Houghton Mifflin, 1917), p. 169. This is a better version of the book than the Sierra Club's 1993 reprint. The reprint fails to include Muir's own illustrations (including the ones showing the landing on Wrangell Island). It fails to include the title page illustration of the Muir aster (Engelmann Muirii), the flower named after Muir which he discovered on his cruise aboard the *Corwin*. It consistently misspells Wrangell as "Wrangel." Its new introduction also undercuts Muir's account by questioning, without any substantiation, the fact that the *Corwin* was the first landing on Wrangell.

for two years. As a joint expedition of the Navy and the noted *New York Herald* publisher James Gordon Bennett, the *Jeannette* had left San Francisco in July 1879 under the command of Lt. George Washington DeLong and passed through the Bering Strait in search of Wrangell's Land and the northwest passage. Unfortunately, several miles east of Wrangell the ship became trapped in the ice on September 6 and began drifting to the northwest. For nearly two years the crew endured unrelenting hardships as the ship traversed about five hundred miles. Finally, on June 12, 1881, it was crushed in the ice and sank about eight hundred miles from the North Pole. In this vicinity the crew discovered and claimed for the United States the islands they named Bennett, Jeannette, and Henrietta. (Jeannette was named for Bennett's sister, and Henrietta for his mother, and the three are known collectively as the DeLong Islands.)

"Latitude 77-8 Longitude E 153-25: We break camp and start southward over the ice tomorrow evening, hoping with God's grace to reach the New Siberian Islands, and from there to make our way by boats to the coast of Siberia," read DeLong's log of June 17, 1881. Persevering through severe cold, shifting icebergs, darkness, storms, and shortage of food, the crew eventually became separated into two parties. One group reached the Lena River delta in Siberia and was rescued. DeLong's group also reached land, but it ran out of food and all hands perished of starvation or exposure. Congress subsequently issued special medals to the crew, and a poignant statue of a cross draped in icicles stands at the Naval Academy in Annapolis to commemorate this stunning feat.¹⁰

The newly acquired territories were promptly listed in various U.S. government publications, and the Board of Geographic Names made appropriate topographical designations.¹¹ Although Hooper wanted to call his island "New Columbia," it remained Wrangell Island. Clark River was named after Ezra W. Clark, chief of the U.S. Revenue Marine Service, and Berry Peak and Rodgers Harbor on Wrangell commemorated the U.S. Navy survey party. Herald Island (about fifty miles to the east of Wrangell) was later claimed by the United States after the British abandoned it in the late nineteenth century. But not surprisingly, the settlement of such remote and frozen lands proved to be arduous and sporadic. Wrangell Island served as the setting of a 1910 Hollywood movie, numerous polar bear and whale hunts sponsored by wealthy sportsmen, and expeditions from the Field Museum in Chicago and Carnegie Museum in Pittsburgh. In 1921 Vilhjalmur Stefansson, an American with Canadian backing, acquired rights on the island and established a small settlement.¹² In 1923 the

well-established Lomen Brothers firm in Nome, Alaska, acquired Wrangell from Stefansson and founded a wildlife hunting and reindeer herding business.¹³

Russia, in the meantime, had become interested in extending its Arctic empire in reaction against its earlier retreat from North America (an expansionist ambition most recently reflected in Vladimir Zhirinovskiy's demand that Alaska be retroceded to Russia). In 1902 the tsarist regime took the occasion of a dispute over various whaling and sealing claims to assert that its sovereignty extended deep into the Arctic Ocean.¹⁴ At that time the United States rejected the pretense. In 1916 the tsarist government, then in its death throes during World War I, presented a diplomatic memorandum to the State Department claiming that Wrangell, Herald, Bennett, Jeannette, and Henrietta were now part of the Russian empire because they "form an extension northward of the continental tableland of Siberia."¹⁵ In essence, anything in the thousand miles between mainland Russia and the North Pole was being declared under Russian domain (known as the "sector theory"). This assertion, too, was summarily rejected by the United States.

The Bolsheviks' revolution and victory in the Russian civil war only whetted the Russian appetite in the Arctic. On August 20, 1924, the Soviet gunboat *Red October* landed at Wrangell Island, seized the Lomen settlement, forcibly hauled down the American flag, and removed the Lomen party to Siberia. The Americans were eventually repatriated (two died in the process). The State Department issued a passport for the group, which included an Eskimo baby who was born on Wrangell and had become an American national by virtue of being born on American soil.

No significant diplomatic follow-up was made by the State Department for this occupation of Wrangell. An obvious problem was that the United States did not recognize the Bolshevik government and had no diplomatic relations with it. This Arctic territory dispute thus remained on the back burner through the Depression, World War II, and Cold War. The Lomens tried for years to have the U.S. government take action over the family's lost real estate, but to no avail. For their confiscated furs, skins, equipment, and so forth, the Lomens were awarded compensation by the Department of Justice's Foreign Claims Settlement Commission in 1959.¹⁶

A Bizarre About-Face

In 1965, to dispel the misimpression that many mapmakers created when they drew the 1867 convention line onto world maps and labeled the

¹⁰ Leonard F. Gumridge, *Icebound* (Annapolis, Md.: Naval Institute Press, 1986), p. 182.

¹¹ Department of the Interior, U.S. Geological Survey Bulletin no. 169, *Alutians in Alaska* (1900); Bulletin no. 187, *Geographic Dictionary of Alaska* (1902); Bulletin no. 274, *A Dictionary of Alutians in the United States* (1906); Bulletin no. 299, *Geographic Dictionary of Alaska* (1906); and Bulletin no. 817, *Bonin Islands, Arizal, Geographic Centers and Alutians of the United States* (1930) (Washington, D.C.: GPO). Also, U.S. Geological Survey Professional Survey Paper 567, *Dictionary of Alaska Place Names* (Washington, D.C.: GPO, 1967, rev. 1971, 1975, and 1977).

¹² William R. Hunt, *Sky* (Vancouver, Canada: University of British Columbia Press, 1986), p. 196.

¹³ David B. Nolan and Mark J. Seklenberg, "The Right of American Sovereignty over Wrangell Island," *Alaska Quarterly* (University of Saskatchewan) 29, 1981, pp. 6-7.

¹⁴ Herbert H.D. Pierce, *Foreign Relations of the United States*, app. 1 (Washington, D.C.: Department of State, 1903), pp. 18, 107.

¹⁵ Russian diplomatic note of Nov. 13, 1916, Department of State, file no. RG1014/2, rec. gr. 59.

¹⁶ Foreign Claims Settlement Commission of the United States Claim no. SOV-40344, Decision no. SOV-3115, June 29, 1959, Washington, D.C.

Alaska State Legislature

Interim Address:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907)-456-5081
Fax# (907)-456-8245
Official Business



Session Address:
Room 13
State Capitol
Juneau AK
99801-1182
(907)-465-3719

2/21/97

Representative Al Vezey

HJR 22 SPONSOR STATEMENT

Currently the boundary between Russia and Alaska is a matter of dispute. At issue is a vast amount of seabed equivalent to an area the size of the state of Texas. Under U.S. Constitutional law Alaska has a right to participate in any negotiations affecting its boundaries and Alaska must concur in any changes that are made.

The current boundary dispute arises from two main sources. When the United States purchased Alaska from Russia in 1867 each party received a hand drawn map showing the Territory of Alaska being sold to the United States.

Then in 1881 Wrangel Island was discovered by an exploration and rescue party lead by Lt. Berry commanding the U.S. revenue cutter Rodgers. There is a body of evidence to establish that the Treasury Department (the governing body for Alaska for much of the 19th Century) added this newly discovered territory to the Territory of Alaska.

In 1924 Soviet Forces took Wrangel Island by force and interned its American inhabitants. The United States maintained its territorial sovereignty over Wrangel Island until as recently as 1976.

In 1977 the United States established the 200 mile Exclusive Economic Zone which was soon adopted by the rest of the world. All of sudden there was renewed interest in who owned which Island. Given a 200 mile EEZ, a single rock in the ocean could qualify a country for 30,000 square miles of seabed over which it would hold the right of an Exclusive Economic Zone.

When the United States and Russia sat down to work out the details of determining and managing their EEZ's, they discovered that the

two hand drawn maps did not agree with each other. In question where several small islands in the western Aleutians, and some other rocks in the Bering Sea.

In addition the Russians and the Americans could not agree on how to interpret the line drawn on the map between Russian and Alaska. Was it an arc of a great circle as the U.S. maintained or was it a rump line (a straight line projected onto a globe)? The difference can be as much as a 50 mile east-west shift in a boundary line.

Over Alaska's and California's protest, the U.S. entered into boundary negotiations without the participation of representatives from Alaska. The U.S. Senate subsequently ratified the proposed treaty without the consent of Alaska.

At the same time the Soviet Union broke up and the successor Russian government never ratified the treaty.

The boundary between Russia and Alaska remains unresolved as does the status of the territory of Wrangel Island and other islands in the Arctic Ocean. Someday this matter will have to be resolved and Alaska has a right to a place at the bargaining table.

Alaska State Legislature

Interim Address:
119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907)-456-5081
Fax# (907)-456-8245
Official Business



Session Address:
Room 13
(907)-465-3719
State Capitol
Juneau AK
99801-1182

Representative Al Vezey

HOUSE SPECIAL COMMITTEE ON WORLD TRADE AND STATE/FEDERAL RELATIONS

February 26, 1997

CAPITOL RM 205

1:05 p.m.

MEMBERS PRESENT

Representative Ramona Barnes, Chair
Representative Alan Austerman, Vice-Chair
Representative John Cowdery
Representative Pete Kott
Representative Irene Nicholia
Representative Gail Phillips

MEMBERS ABSENT

Representative Gene Kubina

COMMITTEE CALENDAR

*** HOUSE JOINT RESOLUTION NO. 22**

Relating to the maritime boundary between Alaska and the former Union of Soviet Socialist Republics.

- MOVED HJR 22 OUT OF COMMITTEE

(* First public hearing)

PREVIOUS ACTION

BILL: HJR 22

SHORT TITLE: ALASKA/RUSSIA MARITIME BOUNDARY

SPONSOR(S): REPRESENTATIVE(S) VEZEY, Ryan

JRN-DATE	JRN-PG	ACTION
02/14/97	357 (H)	READ THE FIRST TIME - REFERRAL(S)
02/14/97	358 (H)	WTR
02/26/97	(H)	WTR AT 1:00 PM CAPITOL 124

- MOVED HJR 22 OUT OF COMMITTEE

(* First public hearing)

PREVIOUS ACTION

BILL: HJR 22
SHORT TITLE: ALASKA/RUSSIA MARITIME BOUNDARY
SPONSOR(S): REPRESENTATIVE(S) VEZEY, Ryan

JRN-DATE	JRN-PG	ACTION
02/14/97	357 (H)	READ THE FIRST TIME - REFERRAL(S)
02/14/97	358 (H)	WTR
02/26/97	(H)	WTR AT 1:00 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE AL VEZEY
Alaska State Legislature
State Capitol, Room 13
Juneau, Alaska 99801-1182
Telephone: (907) 465-3719
POSITION STATEMENT: Sponsor of HJR 22.

ACTION NARRATIVE

TAPE 97-3, SIDE A
Number 0001

The House Special Committee on World Trade and State/Federal Relations was called to order by Chair Ramona Barnes at 1:05 p.m.

Members present at the call to order were Representatives Barnes, Austerman, Cowdery, and Kott. Members absent were Kubina, Nicholia and Phillips.

HJR 22 - ALASKA/RUSSIA MARITIME BOUNDARY

The first order of business to come before the House Special Committee on World Trade and State/Federal Relations was HJR 22, Relating to the maritime boundary between Alaska and the former Union of Soviet Socialist Republics.

CHAIR RAMONA BARNES called on Representative Al Vezey, sponsor of HJR 22, to present the resolution.

Number 0090

REPRESENTATIVE AL VEZEY, Alaska State Legislature, stated that the purpose of HJR 22 was to reconfirm Alaska's rights under U.S. Constitutional law to participate and to concur in any negotiations affecting its boundaries. The principle was first established in 1835 as the result of a dispute between the country of Canada and the United States over the boundaries of what is now the state of Maine. It was a very complex international issue at the time.

REPRESENTATIVE VEZEY further explained that there had been other boundary disputes. He cited the Fort Leavenworth R.R. Co. v. Lowe court case of 1885, of which, the U.S. Supreme Court ruled that a state had the right to participate in negotiations and that it had the right to concur with treaties that affected its boundaries. He also cited the DeGeofroy v. Riggs court case.

REPRESENTATIVE VEZEY further stated there were two boundary issues involved. The first stemmed from the Treaty of 1867, of which, the Russian Government ceded all of its territories east of the line to the United States. The second stemmed from the territories that were claimed on behalf of the U.S. and the state of Alaska by right of discovery in the late nineteenth century, in particular, Wrangell Island.

REPRESENTATIVE VEZEY further explained there was an Alaskan Native woman who gave birth to a child on Wrangel Island in 1921, of which, the State Department granted the child U.S. citizenship.

This did not sound dramatic or important until one realized that Alaskan Natives were not granted U.S. citizenship until after World War II. The State Department, therefore, said that by virtue of the child being born on U.S. territory, by a non citizen, was a U.S. citizen.

REPRESENTATIVE VEZEY further stated that the line agreed to in the treaty of 1867 was not a major disputed issue until 1974 when the United States unilaterally adopted a 200 mile exclusive economic zone. The world followed suit and by 1976 a 200 mile exclusive economic zone became the norm. As a result, every island off-shore became one of strategic economic importance. The boundary was described as the mid-point between Copper Island to the east on the Russian side and Attu Island to the west on the U.S. side. The territorial limits were not addressed, however, in 1867. At present, every rock in the ocean between the points had a 200 mile radius of sea bed that went with it. The discrepancies over where the line was interpreted went all the way up to the Bering Straits.

REPRESENTATIVE VEZEY further explained the position that the Russians took was that the lines intended to be a rhump line. He explained a rhump line was a straight line projected onto a globe. It was not the shortest distance between two points, and it could shift depending on the

angle and the projection of the map. In the case of the waters in the Bering Sea, there could be as much as a 50 mile east-to-west shift. In total, the sea bed in dispute, added up to 140,000 square miles, or the area the size of the state of Texas.

REPRESENTATIVE VEZEY further stated that in 1992 the U.S. Senate ratified a boundary treaty, over the protest of the state of Alaska, with the Union of Soviet Socialist Republics (USSR). The state of California also passed a resolution supporting the position of Alaska. California, at the same time, was in dispute with Mexico over their islands. Subsequent to the ratification of the treaty by the U.S. Senate, the USSR broke up and the successor states assumed treaty responsibilities. However, the successor states never concurred or ratified the treaty because they did not agree with the boundaries either. As a result, there still was not a boundary between Russia and the United States; there was a conference line only. The donut hole, therefore, was defined by the interpretation of the conference line and the mainland boundaries of the two nations. In addition, Wrangell Island did not show up on any map until 1995. He explained Wrangel Island was located on the same latitude as Barrow on the prime meridian. Therefore, it was east of Attu Island, west of the Rat Islands, and due north of the Aleutian Islands.

REPRESENTATIVE VEZEY concluded by stating that there was a tremendous amount of resources involved in the disputed area in terms of fisheries and off-shore mineral potential. Alaska, at least, had the right to participate in the negotiations of how the resources should be utilized. He believed it was a mistake to pass up the opportunity to sit at a negotiation table.

Number 0822

CHAIR BARNES stated for the record that Representative Irene Nicholia arrived shortly after convening the meeting.

Number 0832

CHAIR BARNES further stated that the testimony of Representative Vezey was fascinating. The issue of Wrangel Island had been around the legislature for about 15 years, but no one had carried the bill quite as eloquently as Representative Vezey. "You have indeed done your research, you are well versed."

Number 0859

REPRESENTATIVE ALAN AUSTERMAN commented that he thought Wrangell Island was north of the Diomed Islands. But, he believed that Representative Vezey stated it was located at the end of the Aleutian Chain.

Number 0885

REPRESENTATIVE VEZEY replied, "No sir." Wrangell Island was located at 172 degrees North, 180 degrees East or West on the prime meridian. It was approximately the same latitude as Barrow. In terms of its east-west location, it was to the east of the most western part of Alaska, and it was to the west of the majority of Alaska.

Number 0924

REPRESENTATIVE AUSTERMAN asked Representative Vezey to show him where Wrangell Island was approximately on a map.

REPRESENTATIVE VEZEY pointed to an approximate location of Wrangell Island on the map.

REPRESENTATIVE AUSTERMAN commented it was off the map.

REPRESENTATIVE VEZEY replied the only map in the State Capitol that showed Wrangell Island was the United States Geological Service (USGS) map of Alaska published in 1995.

Number 0981

REPRESENTATIVE AUSTERMAN asked Representative Vezey if the other islands referenced in the resolution were in the same area of Wrangell Island?

Number 0989

REPRESENTATIVE VEZEY replied they were in the same general area. They were to the east of Wrangell Island. They were discovered by voyagers looking for Wrangell Island who happened upon them first.

Number 1015

REPRESENTATIVE AUSTERMAN referred to page 1, lines 9-10 and the language, "west end of the Aleutian Islands." He asked Representative Vezey if any of these islands were on the Aleutian Chain?

Number 1033

REPRESENTATIVE VEZEY replied the southern boundary of the conference line was at a point between Attu Island and Copper Island. He reiterated, at the time of the conference line, nobody was concerned about every little rock in between, until the 200 mile exclusive economic zone.

Number 1074

REPRESENTATIVE AUSTERMAN wondered if some of these islands were included between the area of Attu Island and Copper Island.

REPRESENTATIVE VEZEY replied there was a geographical feature referred to as the "rock" that fell between the two islands. It was analogous to the Dinkum Sands barrier island, except that it was above mean high tide at all normal observations times. There were cases in the Aleutian Islands when rocks were sometimes above mean high tide and sometimes they were not above mean high tide.

Number 1130

CHAIR BARNES called for a motion to move the bill out of the committee.

Number 1135

REPRESENTATIVE PETE KOTT stated that he had been thoroughly enlightened and refreshed for the geography lesson. He also thought that his intern sitting in the audience had been refreshed for the history lesson. He hoped there would be further opportunity to hear more on the Floor of the House of Representatives.

Number 1159

REPRESENTATIVE KOTT moved that HJR 22 move from the committee with the attached fiscal note(s) and individual recommendations. There was no objection, HJR 22 was so moved from the House Special Committee on World Trade and State/Federal Relations.

ADJOURNMENT

Number 1206

CHAIR BARNES adjourned the House Special Committee on World Trade and State/Federal Relations meeting at 1:19 p.m.

House

97

HWTR

Ames 3-8-97
D. News

Russians rethink boundary

Nationalists attack Bering Sea treaty

By DAVID WHITNEY
Daily News reporter

WASHINGTON — A Bering Sea boundary agreement between the United States and the former Soviet Union is in danger of unraveling, raising fears that Russian nationalists will assert fishing rights in areas that now are under U.S. jurisdiction.

U.S. Sen. Ted Stevens, a key player on fisheries issues in Congress, described Russian opposition to the 1990 agreement as "a most difficult and dangerous situation."

The U.S. Senate ratified the treaty in 1991. Stevens, R-Alaska, said the Russian legislature is opposed to the deal because it "believes their negotiators gave away too much."

State Department sources, speaking on condition they not be quoted by name, said the Clinton administration is working furiously to rescue the agreement.

But they acknowledged that the dispute poses a serious diplomatic difficulty that may only be resolved with concessions to the Russians.

"Opposition to the treaty has emerged on the Russian side," a State Department source said. "It reflects the view of Russian fishing interests that the agreement disadvantaged them and that they lost opportunities to fish in the Bering Sea.

"We have engaged in informal negotiations to see if there is some way to deal with the opposition on the political side, recognizing that some of the (fish) stocks are on both sides of the boundary," the source said.

RUSSIANS: Nationalists

Continued from Page B-1

At stake is the Bering Sea's huge pollock fishery, which many believe is being overfished.

The North Pacific Fishery Management Council, which regulates the commercial pollock fishery in U.S. waters, is under pressure to drastically reduce harvesting. In Russian waters, the concern is that young pollock spawned in U.S. waters are being overexploited to raise cash for Russia's sputtering economy.

The dispute has the American Factory Trawler Association on edge. The association represents factory ships that fish pollock in U.S. waters off the Alaska coast.

"There's a possibility of them moving the boundary line to take fishing grounds from us," said the association's lobbyist, Jim Gilmore.

Greenpeace, an environmental group that has targeted pollock fishing by the factory ships as the culprit in the collapse of the Steller sea lion population, is concerned that the negotiations could lead to increased fishing in the U.S. zone.

"The last thing we need is an agreement that brings more boats in," said Gerry Leape, Greenpeace's legislative director. "If the Russians insist on fishing in the U.S. zone, we'd insist on a comparable reduction in U.S. fishing effort."

The 1990 boundary agreement, reached after 10 years of negotiations, was initiated by President George Bush and former Soviet President Mikhail Gorbachev during a 1990 summit in Washington, D.C. It was one of the last bilateral agreements before

the Soviet Union's collapse.

The agreement clarified the boundary left fuzzy for more than a century after the \$7.2 million purchase of Alaska from Russia in 1867.

The impetus was settlement of increasing competition over Bering Sea fishing grounds and the ownership of subsea areas of the Navarin Basin of the Chukchi Sea where U.S. companies had bid \$108 million for oil-development rights in 1984.

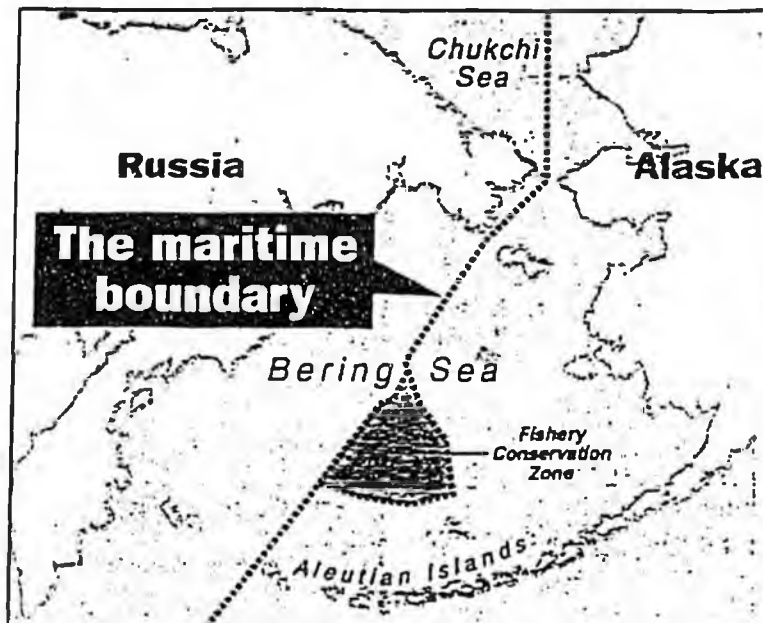
The negotiations centered on a difference of opinion between the countries on how to interpret a convention line cited in the 1867 agreement. The Soviets believed that the line should be fixed closer to the Alaska mainland while the United States said it belonged closer to the Russian shore.

The overlapping areas involved about 21,000 square nautical miles. The disagreement was resolved basically by splitting the difference. That agreement left an area north of the "donut hole," which is international water in the center of the Bering Sea, under U.S. control even though it fell within Russia's 200-mile territorial limit.

If the treaty collapses, Russia most likely would reassert its jurisdiction over those waters, opening them to foreign fishing. But there are some indications that Russian nationalists believe that the boundary should be even closer to the U.S. mainland than the U.S.-Soviet negotiators contemplated when the talks began in the early 1980s.

The best hope of the United States now is that the Russians can be persuaded to ratify the 1990 treaty by negotiating a broader Bering Sea fisheries management plan that would reduce fishing for

unhappy with 1990 treaty



‘Opposition to the treaty has emerged on the Russian side. It reflects the view of Russian fishing interests that the agreement disadvantaged them and that they lost opportunities to fish in the Bering Sea.’

— State Department official

underage pollock in Russian waters in exchange for additional fishing rights on the U.S. side of the border.

But no one seems confident now that such a deal can be struck because of sentiments in the Russian Far East that the former Soviet regime gave up legitimate territorial claims.

The dispute has been simmering for several years but only now seems to be nearing a boiling point because of the growing nationalist fervor against Russian President Boris Yeltsin and the country's worsening financial cri-

sis.

Stevens raised the dispute with Secretary of State Madeleine Albright in a meeting this week and with Russian Prime Minister Viktor Chernomyrdin earlier this year. Later this month, Stevens heads for Russia on a fact-finding trip as chairman of the Senate Appropriations Committee.

“I intend to raise this issue when I'm there,” Stevens said, declining to say more because of what he and the State Department described as the “extremely sensitive” nature of the negotiations.

MAR 1 / 1997

WATCH
STATE DEPARTMENTNEWS RELEASE
For immediate release
March 17, 1997
Contact: Carl Olson
818-223-8080 NATIONAL HEADQUARTERS
Post Office Box 65398
Washington, D.C. 20035
703-241-3700 WEST COAST OFFICE
Post Office Box 6102
Woodland Hills, California 91365
818-223-8080**CLINTON ADMINISTRATION PLANS EVEN BIGGER GIVEAWAY
OF 8 ALASKAN ISLANDS AND VAST OIL-RICH SEABEDS IN FACE OF
RUSSIAN DEMANDS OVER MARITIME BOUNDARY BETWEEN ALASKA AND SIBERIA**

The Clinton Administration is threatening an expanded giveaway of 8 Alaskan islands and vast oil and fishery rich seabeds to the Russians, it was charged by Carl Olson, Chairman of State Department Watch, a nonpartisan foreign policy watchdog group headquartered in Washington, D.C.

Reacting to the Russian government's demands for even more seabeds than were agreed to in 1990, the U.S. State Department proposes further concessions for the maritime boundary between Alaska and Siberia without any quid pro quo from the Russians.

Negotiations are scheduled in Moscow aimed at signing a new agreement in Petropavlosk in May, though the State Department refuses to name the members of the negotiating team or allow for input from the public or the State of Alaska. "If the U.S. has won the Cold War, why is the Clinton Administration in such a rush to appease the Russians' overreaching demands?" questioned Olson. "We deserve a much better deal for the American side."

A major flaw in the 1990 proposed maritime boundary agreement was that it placed on the Russian side the Alaskan islands of Wrangell, Herald, Bennett, Jeannette, and Henrietta in the Arctic, and Copper Island, Sea Otter Rock, and Sea Lion Rock at the western end of the Aleutians. Along with the islands went the 200 nautical miles of seabeds around them with billions of dollars of oil, fishery, and other resources at stake.

Alaskan officials have complained for years about the arrogant and unconstitutional treatment that the State of Alaska has received from the U.S. State Department over the 1990 agreement. State Representatives Al Vezey (R-Fairbanks) and Joe Ryan (R-Anchorage) have led the campaign to reverse the threatened giveaway. A resolution toward this end (House Concurrent Resolution 22) passed the House 38-1 in early March and it expected to pass the Senate shortly. It notes that the 1990 maritime boundary agreement was signed by Secretary of State James A. Baker III without any participation or consent by the State of Alaska, even though it impacts heavily on Alaskan territory, seabeds, and boundaries.

In Congress, the 1990 agreement was opposed by the current chairman of the Senate Foreign Relations Committee Jesse Helms (R-North Carolina), who stated, "Unfortunately, past experience has shown that the State Department frequently regards legitimate American interests as obstacles to accomplishments of its grandiose plans for an international order based upon the subordination of national sovereignty to a global governmental regime. ... I intend to vote against the treaty."

Circumventing the constitutional requirement for the State Department to seek prior advice of the Senate during any negotiations over a treaty, the State Department refused to do so for the 1990 agreement and has repeated this failure for the new negotiations.

Also brought into question is the State Department's secret 1990 side agreement with the Russians which stated that pending the ratification of the maritime boundary agreement treaty the two governments would abide by the terms anyway. This is a direct threat by an executive agency to give itself the power that only the Senate and President have under the constitution, and makes the ratification of the agreement a mockery. For the past 7 years the State Department has secretly been enforcing the flawed maritime boundary agreement and expects to continue.

###END###

MARK O MATFIELD, OREGON, CHAIRMAN

TED STEVENS, ALASKA
LOWELL P. WEICKER, JR., CONNECTICUT
JAMES A. McCLURE, IDAHO
PAUL LAXALT, NEVADA
JAKE GARN, UTAH
THAD COCHRAN, MISSISSIPPI
MARK ANDREWS, NORTH DAKOTA
JAMES ABDONOR, SOUTH DAKOTA
ROBERT W. KASTEN, JR., WISCONSIN
ALFONSE M. D'AMATO, NEW YORK
MACK MATTINGLY, GEORGIA
WARREN RUDMAN, NEW HAMPSHIRE
ARLEN SPECTER, PENNSYLVANIA
PETE V. DOMENICI, NEW MEXICO

JOHN C STENNIS, MISSISSIPPI
ROBERT C. BYRD, WEST VIRGINIA
WILLIAM PROXMIRE, WISCONSIN
DANIEL K. INOUE, HAWAII
ERNEST F. HOLLINGS, SOUTH CAROLINA
LAWTON CHILES, FLORIDA
J. BENNETT JOHNSTON, LOUISIANA
QUENTIN N. BURDICK, NORTH DAKOTA
PATRICK J. LEAHY, VERMONT
JIM SASSER, TENNESSEE
DENNIS DeCONCINI, ARIZONA
DALE BUMPERS, ARKANSAS
FRANK R. LAUTENBERG, NEW JERSEY
TOM HARRIN, IOWA

J. KEITH KENNEDY, STAFF DIRECTOR
FRANCIS J. SULLIVAN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 205 10

MAR 17 1997

March 17, 1986

Mark Ringstad
502 Monroe Street
Fairbanks, Alaska 99701

Dear Mark:

Thanks for your letter regarding the Wrangel Island issue and the platinum market.

The United States and the Soviet Union have been discussing the location of the 1867 U.S.-Russia Convention line which delimits the maritime boundary between the two countries. The central question is whether the Convention line should be depicted by rhumb lines, which are lines of constant compass bearing used primarily for navigation, or by arcs of great circles, which approximate the shortest distance between two points on the surface of the earth. The Soviets favor the use of rhumb lines; we favor the use of arcs of great circles.

Several individuals have complained that the State Department in the maritime boundary negotiations has failed to pursue U.S. claims to Wrangel Island and several other islands in the Arctic Ocean. These islands, which are much closer to the Soviet Union mainland than to Alaska or any other part of the United States, have been formally claimed by the Soviet Union for decades. After extensive research, the State Department has determined that the United States has never formally claimed the islands or disputed the Soviet claims.

The State Department's analysis of the status of Wrangel and the other islands has not satisfied its critics. I have not seen any evidence, however, that the State Department is not living up to its responsibility to protect the United States' interests in the maritime boundary negotiations. For this reason, I do not intend to support S. Res. 279, sponsored by Senator Jesse Helms, which expresses the sense of the Senate that Wrangel and the other Arctic Ocean islands are U.S. territory. I do not believe that the Senate should hamstring the President's efforts to negotiate a fair resolution of the maritime boundary dispute.

BACKGROUND

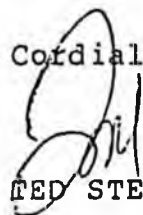
Mark Ringstad
March 17, 1986
Page Two

For your review, I have enclosed a packet of briefing papers on the issue which was prepared by the Department of State. I hope the information proves helpful to you.

Again, Mark, thanks for your letter. I appreciate your keeping me apprised of your concerns.

With best wishes,

Cordially,



TED STEVENS

Enclosure

U.S.-Soviet Maritime Boundary

The United States regards the line established by the 1867 U.S.-Russia Convention Ceding Alaska ("the Line") as our maritime boundary with the Soviet Union. Since 1977, both the United States and the U.S.S.R. have used the Line to delimit our respective 200 nautical mile fisheries zones. The United States has also used this Line in implementing the Outer Continental Shelf leasing program off Alaska. Use of the line is grounded in international law and the practice of the Parties. The United States believes it to further the full range of its interests, including resource interests.

After the United States established its 200-nautical-mile fishery zone in 1977, it discovered that there were differences between the United States and the USSR regarding the interpretation and application of the 1867 Convention Line. The United States depicts the Line as arcs of great circles, which approximate the shortest distance between two points on the surface of the earth and which appear as straight lines on a globe. The Soviet rhumb line depiction comprises lines of constant direction which are straight lines on a Mercator projection. These differences produce an area of about 18,000 square miles in the Bering Sea which each country considers to be under its exclusive maritime resource jurisdiction. Since 1981, the United States and the USSR have held four rounds of discussions in an effort to resolve their differences on interpretation and application of the 1867 Convention Line. Each round of discussions has been preceded by extensive consultation within the Executive Branch, and with the Congress and the Office of the Governor of Alaska.

Before the Department of Interior conducted Outer Continental Shelf Lease Sale No. 83 in the Navarin Basin in the Bering Sea in April 1984, it published a notice in the Federal Register which detailed special procedures to be applied for those portions of the lease sale subject to overlapping claims. The procedures were designed to preserve the full United States legal claim with respect to our Continental Shelf resource interests in the lease sale area, while at the same time, consistent with international law, not prejudicing a resolution of our differences with the Soviet Union.

Companies interested in bidding on tracts in the area of overlapping claims were advised that while the Department of Interior would identify the highest bidders for these tracts, no leases would be granted until the United States Government determined it to be in the interests of the United States to do so. The procedures provide that one fifth of the total bid for each tract would be held in an interest-bearing escrow account until leases are granted, or for five years if leases are not granted prior to that time. At the end of the five-year period the bidder can request refund of the deposit with interest.

Four U.S. oil companies submitted bids on certain of the tracts in the area of overlapping claims, and the Department of Interior is currently holding \$21.6 million in an interest-bearing escrow account. Similar procedures subsequently were adopted for lease sales in the Beaufort Sea in areas subject to both Canadian and United States jurisdiction.

Pursuant to the Magnuson Fishery Conservation and Management Act, the United States also licenses vessels to fish in its Exclusive Economic Zone, including the disputed area. Vessels of Japan, Korea, Poland, Taiwan and the U.S.S.R. now hold United States permits to fish or engage in cooperative fishing arrangements in the Bering Sea.

WRANGEL ISLAND

Wrangel Island is an island of approximately 3,700 square miles found in the Chukchi Sea, north of Siberia, approximately 200 nautical miles west of the line established by the 1867 Russia-United States Convention Ceding Alaska. (This island is not to be confused with Wrangell Island in the Alexander Archipelago of southeast Alaska.) Although U.S. citizens were reportedly involved in the early exploration and discovery of Wrangel Island and the island was listed in some early publications such as the U.S. Geological Survey's 1906 Geographic Dictionary of Alaska, extensive research by the Department of State has not produced any evidence that the United States has ever formally asserted a claim to Wrangel Island, protested Russian and Soviet claims dating from 1916 and 1924, respectively, or protested Soviet occupation of the island dating from 1924.

Wrangel Island is named for the Russian explorer Baron von Wrangell (or Wrangel), who unsuccessfully attempted to locate this island in the early 1800's. Dates of discovery of the island are variously listed as 1849 by a British ship, the H.M.S. Herald and 1881 by Captain Hooper of the U.S. Navy vessel Corwin. The British crew of the Herald reportedly saw Wrangel Island but did not land on it. After several attempts to land on the island by other American vessels and whaling ships, Captain Hooper is reported to have landed on the island and raised the American flag in 1881. Later in 1881, the crew of another U.S. vessel, the Rodgers, also reportedly landed on the island and mapped it.

In 1911, a crew from the Russian vessel, the Vaigach, reportedly landed on the island, surveyed it and erected a beacon which served as an astronomical positioning station. This led to a formal claim to the island by the Russian Government in 1916. The United States reportedly acknowledged receipt of the Russian note but made no substantive response.

In the early 1920's the Arctic explorer Vilhjalmur Stefansson reportedly formed a Canadian company and under its auspices organized a private expedition to occupy Wrangel Island, apparently with the intention of establishing British or Canadian sovereignty. Several successive Stefansson expeditions, including some U.S. citizens, occupied Wrangel Island. Stefansson, however, was unable to interest either the Canadian Government or the British Government in asserting a claim.

After having attempted to assert its claim to Wrangel Island by requiring a 1923 relief ship to call at a Soviet port on its way to Wrangel Island, the Soviet Union in 1924 formally asserted a claim to Wrangel Island by diplomatic note transmitted to the United States and other countries. Extensive research has not produced any evidence of a U.S. reply to this note.

In 1924, an American company, Lomen Bros., of Nome, Alaska reportedly purchased whatever rights the Stefansson group had acquired in Wrangel Island. Representative Sutherland of Alaska wrote to Secretary of State Hughes informing him of the purchase and asked what attitude the United States Government was likely to assume in the matter of sovereignty over the island. In July, 1924, the Acting Secretary of State replied that the Department did not desire to express an opinion respecting the question of the international status of Wrangel Island and that the Department also refrained from expressing approval or disapproval of a project which, it understood, was entirely commercial in nature.

In August, 1924, the crew of the Soviet vessel Red October arrived on Wrangel Island, hoisted the Soviet flag and transported the occupants to Siberia. Since that time, the Soviet Union has occupied Wrangel Island. In addition, the Soviet Union reasserted a formal claim to the island in 1926 via a decree transmitted to the United States and other governments. In the early 1940's, the Senate considered resolutions requesting reports from the Secretary of State concerning whether or not the United States had a valid claim to sovereignty over Wrangel Island. In 1940 and 1941, the Secretary of State responded that the United States had not formally claimed sovereignty over Wrangel Island and that it was desirable to avoid raising the question of sovereignty.

Although the United States has never formally recognized Soviet sovereignty over Wrangel Island and has from time to time indicated that it has not formally relinquished any claim, extensive research has not produced evidence of any formal U.S. assertion of a claim to the island, or of any U.S. protest of the Soviet claims to or occupation of the island.

HERALD, BENNETT, HENRIETTA AND JEANNETTE ISLANDS

Herald Island is an island of approximately 10 square miles located in the Chukchi Sea, north of Siberia, near Wrangel Island. Bennett, Henrietta and Jeannette Islands have areas of approximately 64, 5 and 7 square miles, respectively, and are located in the East Siberian Sea north of Siberia. Herald Island was reportedly discovered by a British Captain, Captain Kellett, in 1849. Bennett, Henrietta and Jeannette islands were reportedly discovered by the crew of the U.S. vessel Jeannette in 1881, although the vessel apparently only sighted but did not land on Jeannette Island. Although these islands were apparently listed in the 1906 Geographic Dictionary of Alaska, and some may have been listed in some subsequent publications of a similar nature, extensive research has not produced any evidence that the United States Government has ever formally asserted a claim to any of these islands or protested Russian or Soviet claims (from 1916 and 1924 respectively) or activities with respect to the islands.

A brief description of events with regard to each of these islands follows.

Herald Island

After the British discovery of Herald Island in 1849, the crews of several U.S. vessels reportedly landed on the island, including crews of the Vincennes in 1855 and Corwin and Rodgers in 1881. Perhaps because the crews were aware of the British discovery, none of them are reported to have claimed the island for the United States.

In 1916, the Russian Government formally asserted a claim to Herald Island via diplomatic note. The United States reportedly acknowledged receipt of the note but made no substantive response. In 1924, there were press reports that two U.S. citizens had landed on Herald Island and claimed it for the United States. The State Department responded to a 1926 Congressional inquiry concerning the expedition by stating that the Department was not prepared to make any statement with regard to the international status of the island.

In 1924 and 1926 the Soviet Government asserted claims to Herald Island by diplomatic note and decree, respectively, which were transmitted to the United States and other governments. In 1926 and again in 1934, crews of Soviet vessels are reported to have landed on the island and planted the Soviet flag. Although the United States has never formally recognized Soviet sovereignty over Herald Island, extensive research has produced no evidence of a U.S. claim to the island or of any U.S. protest of Soviet claims or activities.

Bennett, Henrietta and Jeannette Islands

Crews of several Russian ships reportedly landed on Bennett Island in 1902 (when a Russian expedition is reported to have stayed for approximately three and a half months) and 1913. In addition, in 1914, the Russian crew of the vessel Vaigach is reported to have received orders to survey Henrietta and Jeannette islands and to hoist the Russian flag; however, ice apparently prevented the expedition from carrying out these orders. Thereafter, in 1916, the Russian Government asserted a claim to all of these islands by diplomatic note. The United States is reported to have acknowledged receipt of the note but no evidence has been found of a substantive reply.

In 1924 and again in 1926, the Soviet Government also asserted claims to these islands by diplomatic note and decree, respectively. Research has produced no evidence of U.S. response to these claims. In 1937, the Soviet vessel Sadko is reported to have visited all the islands and to have raised the Soviet flag on Henrietta and Jeannette islands. In addition, in 1956, a Soviet expedition reportedly reached Bennett Island by air and remained there for three to five months. Although the United States has never formally recognized Soviet sovereignty over any of these islands, extensive research has produced no evidence that the United States has ever formally asserted a claim to the islands or protested Soviet claims or activities with regard to them.



5816 10-84 STATE(CE)

This International Boundary Study is one of a series of specific boundary papers prepared in the Office of the Geographer, Department of State, in accordance with provisions of Bureau of the Budget Circular No. A-16, Exhibit D.

Government agencies may obtain additional information and copies of the study by calling the Office of the Geographer, Room 8744, State Department Building, Department of State, Washington 25, D.C. (telephone: Code 182, Extension 4507).

INTERNATIONAL BOUNDARY STUDY

No. 14 (Revised)

Oct. 1, 1965

U.S. - RUSSIA CONVENTION LINE OF 1867

TABLE OF CONTENTS

	<u>Page</u>
Boundary map	ii
I. U.S. - Russia Convention Line of 1867 . .	1
II. Treaty.	1
III. Summary	2

The Geographer
Office of Research in Economics and Science
Bureau of Intelligence and Research

I. U.S. - RUSSIA CONVENTION LINE OF 1867

Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary. According to Boggs^{1/} "Most lines in water areas which are defined in treaties are not boundaries between waters under the jurisdiction of the contracting parties, but a cartographic device to simplify description of the land areas involved ...". He further describes such a line being a "line of allocation" of land. For example, all land areas to the east of the Convention line in question belong to the United States; to the west to the U.S.S.R. without regard to the water areas involved.

Early in 1955, a group of U.S. cartographic experts in the ACC/MAP^{2/}, after a rather long period of consultation and deliberation, issued the "Coordinate Positions for the Plot of U.S. - Russia Convention of 1867." This document, which is reproduced in part below, has been adopted as the standard description for the cartographic representation of the Convention line. Its re-issue in this series results from the large number of questions on the line which have been raised in recent months from offices unfamiliar with the original document.

II. TREATY

The only treaty establishing a so-called "boundary" between the United States and the modern Union of Soviet Socialist Republics is the Convention Ceding Alaska concluded March 30, 1867 with ratification advised by the Senate on April 9, 1867 and proclaimed by the President on June 30, 1867. The Convention line, as given below, marks the limit, to the east of which, the Emperor of Russia ceded all territory or claims to territory in North America. The 1867 Convention's territorial article on the western limits of the Alaskan cession reads as follows:

The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring's straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ignalok, and the island of Ratmanoff, or Noonarook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's straits and Behring's sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly

^{1/} Boggs, S.W., "Delimitation of Seaward Areas under National Jurisdiction," American Journal of International Law, Vol. 45, No. 2 April 1951, footnote 2, page 240.

^{2/} The Map Sub-Committee of the Air Coordinating Committee.

direction, so as to pass midway between the island of Attou and the Copper island of the Kormandorski couplet or group, in the North Pacific ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian islands east of that meridian.

In the Convention, 193° West Longitude coincides, of course, with 167° East Longitude. The modern names for selected places mentioned in the Convention are as follows:

<u>Convention Name</u>	<u>Modern Name</u>
Krusenstern or Ignalook	Little Diomede Island
Ratmanoff or Noonarbook	Big Diomede Island or Ostrov Ratmanova
Frozen Ocean	Arctic Sea
Cape Choukotski	Mys Chukotskiy
Attou Island	Attu Island
Copper	Ostrov Mednyy
Kormandorski couplet	Komandorskiye Ostrova

III. SUMMARY

The wording of the Convention is rather precise. The principal question left unsolved is whether the lines between the fixed points should cartographically be expressed as "rhumb lines" or as "great circle lines". It was decided that great circle lines should be understood by the Convention wording of "straight lines" on the earth and the ACC/MAP group resolved:

"The lines between points herein described are great circles except those lines which connect adjoining points on the same parallel shall follow the parallel."^{3/}

The Coordinate Positions for the Plot were listed as follows:

Coordinate Positions for Plot of U.S.- Russia Convention Line of 1857

<u>POINT</u>	<u>POSITION</u>	
	<u>Latitude</u>	<u>Longitude</u>
Mys (Cape) Chukotski, southeast extremity	64° 14'.2 N	173° 05'.5 W
St. Lawrence Island, northwest extremity	63° 47'.3 N	171° 45'.8 W
Medny (Copper Island) eastern extremity	54° 32'.2 N	168° 00' E
Attu Island, western extremity	52° 55'.3 N	172° 26'.8 E

^{3/} The actual wording applied to ADIZ boundaries in the vicinity of the Convention line. The significant point is made first and applied to the Convention line.

<u>POINT</u>	<u>POSITION</u>	
	<u>Latitude</u>	<u>Longitude</u>
Initial Turning Point	65° 30'.0 N	168° 58' 22".587 W ^{u/}
Turning Point No. 2	64° 12'.3 N	172° 00' W
Mid Point between Medny and Attu Island	53° 45'.0 N	170° 16'.0 E
End Point, southwestern extremity of Convention line	50° 36'.4 N	167° 00' E
5° increments of longitude along great circle arcs	65° 04'.2 N	170° 00' W
	62° 59'.4 N	175° 00' W
	60° 33'.5 N	180°
	57° 28'.0 N	175° 00' E
	53° 31.0 N	170° 00' E
Starting point of Convention Line	72° 00' N	168° 58' 22".587 W

It should be noted that the original Convention language stated that the line "proceeds thence due north, without limitation, into the same Frozen Ocean". Since the United States does not support so-called "sector claims" in the polar regions, the northernmost point for the representation of the Convention line was agreed to be 72° 00' N. Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used. Furthermore, labeling of the line as "U.S. - Russia Convention of 1857" is recommended.

The plotted points, it should be remembered, are subject to minor modification resulting from improved surveys, changes in datum, alteration in the spheroid, etc.

^{u/} This value was given erroneously in the distributed ACC/MAP minutes as 168° 50' 22".587 W. and copied in the original edition of this study instead of the correct value, 168° 58' 22".587 W.

Passed State Senate on vote of
18-0 (2 absent) on Feb. 24, 1988.

1 IN THE SENATE

BY FISCHER

2

SENATE JOINT RESOLUTION NO. 61

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

Requesting the Government of the United

6

States to reassert jurisdiction over

7

Wrangel Island, Herald Island, Henrietta

8

Island, Jeannette Island, and Bennett

9

Island together with the surrounding

10

outer continental shelf within the

11

American waters of the Chukchi Sea and

12

the East Siberian Seas and to pay the

13

State of Alaska compensation for damages

14

from their loss.

15

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

16

WHEREAS Alaskans and other Americans remain justifiably grateful for

17

the fortitude shown by Captain Thomas Long and the crew of the whaling bark

18

"NILE" from New London, Connecticut who, on August 14, 1867, were the first

19

to confirm the existence of a 1,740 square mile island in the Chukchi Sea;

20

and

21

WHEREAS Wrangel Island, named by Captain Long after the former gover-

22

nor of Russian Alaska Baron Ferdinand Petrovich von Wrangel, is located

23

some 270 miles northwest of Cape Lisburne, Alaska and is larger than the

24

State of Rhode Island; and

25

WHEREAS Captain Long was the first to sight and to describe Wrangel

26

Island, and the first recorded landing on the island occurred August 12,

27

1881, when Captain Calvin L. Hooper, commander of the Bering Sea Patrol, a

28

division of the U.S. Treasury Department and as such, the de facto governor

29

of Alaska, landed at Clark River on the eastern coast of Wrangel Island

1 and, with his fellow officers and John Muir (who later founded the Sierra
2 Club) raised the American flag and took possession of the island in the
3 name of the United States; and

4 WHEREAS Captain Hooper was engaged in a Congressionally sponsored
5 effort to rescue the "JEANNETTE," a vessel engaged in Arctic research that
6 was locked in ice floes and subsequently lost and therefore Captain Hooper
7 had the authority to claim Wrangel Island for the United States; and

8 WHEREAS Wrangel Island became a part of the United States by right of
9 confirmed discovery and first possession and, later, a permanent settle-
10 ment; and

11 WHEREAS Wrangel Island and its nearby satellite island Herald Island
12 were placed by the United States Coast and Geodetic Service within the
13 District and later Territory and State of Alaska in publications from 1900
14 through 1977; and

15 WHEREAS the De Long Islands of Henrietta, Jeannette, and Bennett were
16 first discovered in the East Siberian Sea and were claimed and named by
17 U.S. Navy Commander George W. De Long during his 1879 - 1881 expedition
18 into the Arctic where the commander and his crew died when their ship, the
19 "JEANNETTE," was crushed and sunk by ice floes; and

20 WHEREAS the first permanent settlement on Wrangel Island occurred when
21 the American ship "SILVER WAVE" landed a party on the island on
22 September 15, 1921, and raised the American flag over the island under the
23 direction of Captain Jack Hammer; and

24 WHEREAS the party from the "SILVER WAVE" landed with provisions for
25 only six months as they stated that they planned to sustain themselves by
26 hunting; and

27 WHEREAS the relief vessel in 1922 was blocked by ice floes; and

28 WHEREAS when the relief vessel "DONALDSON" arrived on August 23, 1923,
29 the only survivor of the 1921 expedition was an Eskimo seamstress named Ada

1 "Blackjack" Johnson, who died just a few years ago in Alaska; and
2 WHEREAS a new party led by Charles Wells of Uniontown, Pennsylvania
3 continued settlement on Wrangel Island; and
4 WHEREAS on May 13, 1924, Secretary of State Charles Evans Hughes
5 stated that the American Lomen Brothers were the proprietary owners of
6 Wrangel Island; and
7 WHEREAS on August 20, 1924, an armed party from the Soviet gunboat
8 "RED OCTOBER" landed on Wrangel Island, took Wells and the other Americans
9 by force, and told them that they were being returned to Alaska; and
10 WHEREAS notwithstanding their promises, they took the Americans to
11 Vladivostok and confiscated the pelts that the American trappers had accu-
12 mulated during the 12 bitter months on the island; and
13 WHEREAS the Americans who survived their ordeal in Vladivostok were
14 released following the intervention of the American consul at Harbin,
15 Manchuria but Charles Wells and two residents of Alaska died while detained
16 by the Soviet government; and
17 WHEREAS the residents of Alaska who survived their ordeal in Soviet
18 Siberia were all from Golovin Bay, Alaska and they survived notwithstanding
19 the severe physical and emotional trauma resulting from the assault, kid-
20 napping, false imprisonment, theft of property together with other vio-
21 lations of American and Alaska law by the agents of the Soviet regime; and
22 WHEREAS after seizing Wrangel Island, the Soviet government proceeded
23 to seize more American soil by occupying the nearby and defenseless Herald
24 Island; and
25 WHEREAS the Soviet government subsequently asserted a spurious claim
26 to the American De Long Islands of Henrietta, Jeannette, and Bennett; and
27 WHEREAS these illegal acts by the Soviet government interrupted 57
28 years of peaceful use of these islands by American seamen, herders, and
29 hunters; and

1 WHEREAS the Soviet occupation of what they refer to as Ostrova De Long
2 is an affront to all Americans, is an insult to the memory of their brave
3 discoverer, and a source of embarrassment to the United States Navy, which
4 memorializes his memory at the Naval Academy in Annapolis; and

5 WHEREAS the soil of all five of these American islands and their
6 surrounding continental shelf has been held by military force in contra-
7 vention of international law and by conduct that is contrary to what is
8 recognized as proper by civilized nations; and

9 WHEREAS the Soviet government has typified its uncivilized conduct by
10 establishing forced labor camps on Wrangel Island as reported in testimony
11 before the U.S. Senate Judiciary Committee in January 1973; and

12 WHEREAS it has been reported that Wrangel Island was the last known
13 place of imprisonment of Raoul Wallenberg, the Swedish Consul in Budapest,
14 Hungary at the end of World War II who was arrested by Soviet forces and
15 who was responsible for saving the lives of thousands of European Jews from
16 the Nazi Holocaust; and

17 WHEREAS this conduct on American soil has continued in defiance of
18 American law as well as in defiance of the international rules of conduct
19 resulting from the Nuremberg war crime trials after World War II; and

20 WHEREAS the continuing trespass by the Soviet government deprives the
21 State of Alaska and its people of their fundamental right to use the is-
22 lands of Wrangel, Herald, Henrietta, Jeannette, and Bennett together with
23 the surrounding continental shelf and its valuable resources; and

24 WHEREAS unlike the governments of Canada and Great Britain, the United
25 States has never surrendered its claims of sovereignty over these islands;
26 and

27 WHEREAS the State of Alaska does not believe that agreements between
28 the United States and the Soviet Union, whether they be secret or other-
29 wise, can affect American claims to these islands until they have been

1 ratified by the United States Senate;

2 BE IT RESOLVED by the Alaska State Legislature that the Government of
3 the United States assert and reassert American sovereignty over Wrangel
4 Island, Herald Island, and the De Long Islands of Henrietta, Jeannette, and
5 Bennett, their resources, and their territorial shelf in behalf of the
6 American people; and be it

7 FURTHER RESOLVED that the Government of the United States make satis-
8 factory compensation and restitution to the State of Alaska and its people
9 for the loss of this territory resulting from the neglect of the United
10 States Government to protect American lives and property when the lands
11 were seized in 1924; and be it

12 FURTHER RESOLVED that the State of Alaska asserts and reasserts its
13 claim to Wrangel Island, Herald Island, and the De Long Islands of
14 Henrietta, Jeannette, and Bennett and their surrounding continental shelf
15 as an integral part of the State of Alaska; and be it

16 FURTHER RESOLVED the Governor of the State of Alaska is requested to
17 initiate appropriate legal claims for relief before the U.S. Foreign Claims
18 Settlement Commission, the U.S. Court of Claims or other legal forums of
19 the United States as may be appropriate.

20 COPIES of this resolution shall be sent to the Honorable Ronald
21 Reagan, President of the United States; to the Honorable George P. Shultz,
22 Secretary of State; to the Honorable George Bush, Vice-President of the
23 United States and President of the U.S. Senate; the Honorable Jim Wright,
24 Speaker of the U.S. House of Representatives; and to the Honorable Ted
25 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
26 Don Young, U.S. Representative, members of the Alaska delegation in Con-
27 gress.

Introduced by Senator Rogers

May 2, 1991

Senate Joint Resolution No. 20—Relative to the boundaries of Alaska.

LEGISLATIVE COUNSEL'S DIGEST

SJR 20, as introduced, Rogers. Alaska boundary negotiations.

This measure would state the Legislative support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union. The measure would memorialize the President to withdraw from the United States Senate the proposed boundary treaty between the United States and the Soviet Union and request the California United States Senators to decline to consider the proposed treaty until the State of Alaska has been allowed to participate in the treaty negotiations and has been guaranteed that its consent will be required for the agreement.

Fiscal committee: no.

WHEREAS, Every state has a compelling constitutional interest in determining its own boundaries with other states and foreign countries; and

WHEREAS, The State of Alaska's boundary with the Soviet Union has been the subject of negotiations between the United States government and the Soviet government since 1981; and

WHEREAS, The State of Alaska has never been permitted to participate in the negotiations carried on by the Department of State; and

WHEREAS, The Alaska Legislature has vigorously protested this exclusion in the form of Senate Joint

Resolution 12, which was passed unanimously by both houses and signed by Governor Steve Cowper in May 1988; and

WHEREAS, The Department of State ignored these protests, and its negotiations have resulted in a proposed treaty titled "Agreement with the Union of Soviet Socialist Republics on the Maritime Boundary," which is now before the United States Senate for ratification; and

WHEREAS, The California Legislature previously expressed its support for the State of Alaska for its right to participate in any negotiations affecting its boundaries in the form of Resolution Chapter 122 of the Statutes of 1987; and

WHEREAS, It is settled procedure with respect to negotiations of state boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the terms of the proposed boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine in 1842); now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the California Legislature renews its support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union; and be it further

Resolved, That the California Legislature (1) respectfully memorializes the President of the United States to withdraw the proposed treaty from consideration by the United States Senate and (2) requests the California United States Senators to decline to consider the proposed treaty, until such time as the State of Alaska has been able to participate fully in negotiations and has been guaranteed that its consent will be required for any agreement affecting its boundaries; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of Alaska, to the President of the Alaska Senate, and to the Speaker of the Alaska House of Representatives.

the sponsor of
this resolution:

Sen. Don Rogers
State Capitol
Sacramento, Calif.
95814
916-445-6637

HOUSE RESOLUTION

No. 88

Session of
1991

INTRODUCED BY HASAY, CAPPABIANCA AND SERAFINI, APRIL 16, 1991

REFERRED TO COMMITTEE ON RULES, APRIL 16, 1991

A RESOLUTION

Memorializing the President of the United States and the Department of State to recognize Alaska's interest in the boundary negotiations between the United States and the Soviet Union and to include Alaska in the negotiating process at the proper time, recognizing Alaska's inherent interest in these negotiations.

WHEREAS, Negotiations are underway and have continued since 1981 between the United States Department of State and the government of the Soviet Union in an effort to determine the status of five strategic Alaskan arctic islands and an immense outer continental shelf; and

WHEREAS, The economic issues of petroleum, fishery and other valuable resources will have great impact on Alaska's welfare and prosperity; and

WHEREAS, Among all American states, Alaska is unique in that it is the only state that shares its boundaries with more than one foreign country; and

WHEREAS, Its boundaries are of vital importance to Alaska's State Government and the sovereignty of the United States; and

WHEREAS, Alaska has, to date, not been included in any of the negotiations between the United States and the Soviet Union; and

WHEREAS, Article II, section 2(2) of the United States Constitution which states: "He [the President] shall have Power, by and with the Advice and Consent of the Senate to make Treaties, provided two-thirds of the Senators present concur..." makes the President the official responsible for international agreements and treaties with the Senate's consent with no implied or stated right of any state to be included in or consent to the terms of any boundary dispute; and

WHEREAS, During 1842, the United States Secretary of State Daniel Webster negotiated with Lord Ashburton, the British envoy, over a disputed boundary along the border between Canada and the states of Maine and Massachusetts; a dispute which began at the close of the American Revolution and continued for 60 years bringing the two countries to the brink of war; and

WHEREAS, Secretary of State Webster, knowing that treaties require approval by two-thirds of the Senators present and subsequent ratification by the President, did, in an attempt to gain support in the Senate for the treaty and with President Tyler's approval, propose to Lord Ashburton that commissioners from the two states be asked to participate in the negotiations. With Lord Ashburton's consent, four commissioners from Maine and three from Massachusetts were appointed to join the negotiations. Webster thereby established a precedent which would allow inclusion of states in future boundary negotiations when necessary; therefore be it

RESOLVED, That the President of the United States and the Department of State take the example set by Secretary of State Daniel Webster in negotiating the Webster-Ashburton Treaty of 1842 by including Alaska, at the earliest appropriate time in their ongoing boundary negotiation, thereby recognizing Alaska's inherent interests in the establishment of this boundary; and be it further

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President of the United States and the Department of State to recognize Alaska's interest in the boundary negotiations between the United States and the Soviet Union and to include Alaska in the negotiating process at the proper time; and be it further

RESOLVED, That copies of this resolution be transmitted to the President of the United States, the Secretary of State, the Vice President of the United States as the presiding officer of the Senate, to each member of the Senate and to the Governor of Alaska.

the sponsor of this resolution:

Rep. George C. Hasay
State Capitol Building
Harrisburg, Penn. 17120
717-787-1117

118TH GENERAL ASSEMBLY
Regular Session
1989 - 1990

S. J. R. No. /

MR. SUHADOLNIK

RESOLUTION

Supporting the State of Alaska in its rightful position of participation in any negotiations involving its boundaries with the Soviet Union or Canada.

WHEREAS, The members of the 118th General Assembly of Ohio wish to proclaim our support of the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada; and

WHEREAS, Negotiations are currently underway between the United States State Department and the Soviet Union to determine the status of the strategic Alaskan Arctic islands and an immense outercontinental shelf. Although the transfer of these lands and vast, oil-rich seabeds would have a direct impact on the economic issues of petroleum, fishery, and other valuable resources concerning Alaska's welfare and prosperity, Alaska has not been present or even invited to any of at least eight rounds of negotiations between the United States and the Soviet Union which have taken place since 1981. This systematic exclusion of Alaska from crucial boundary negotiations is a clear violation of America's policy of state sovereignty, in which state governments have complete and unambiguous jurisdiction over well-defined geographical boundary lines of that state; and

WHEREAS, Among all American states, Alaska is unique in that it is the only state that shared boundaries with more than one foreign country. Its boundaries are of vital importance to Alaska's state

governments, and the current exclusion of Alaska from boundary negotiations with the Soviet Union is a deliberate infringement upon Alaska's sovereignty. It is settled procedure that a state government may only be involved in any negotiations that would affect its boundaries, but also give its express consent to the proposed terms of the boundary treaty, as was the case in 1842 when Secretary of State Daniel Webster negotiated with Great Britain over the boundary between Canada and the State of Maine; and

WHEREAS, The transfer of land between the United States and another country as well as the establishment of national boundaries must be provided for by a treaty signed by the President and ratified by Congress, in addition to being approved by the state or states which such negotiations would affect. Thus, the denial of Alaska's rights and sovereignty by the United States Department of State is not only an affront to the state government of Alaska, but is also an attack on the entire federal system of the United States of America; therefore be it

RESOLVED, That we, the members of the 118th General Assembly of Ohio, in adopting this Resolution, give our utmost support to the State of Alaska in its efforts to be rightfully represented at any boundary negotiations with the Soviet Union, and urge the President and Congress of the United States to ensure that the terms and conditions of any boundary agreement concerning Alaska are consented to by the State of Alaska and are drafted in the form of a treaty for ratification by the United States Senate; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this Resolution to the President and Vice President of the United States, to the Speaker of the House of Representative, to the Governor of Alaska, and to the news media of Ohio.



California Republican Party

1903 West Magnolia Blvd. • Burbank, California 91506 • (818) 841-5210

Bob Naylor
Chairman

Frank Visco
State Vice Chairman

Gerti B. Thomas
Regional Vice
Chairman North

Beth Ahlf
Regional Vice
Chairman Central

Mrs. Phil Moore
Regional Vice
Chairman South

Charlotte Mousel
Secretary

Marcia Gilchrist
First Assistant Secretary

Bill Hawkins
and Assistant Secretary

Howard G. Schaefer
Treasurer

Brian O'Toole
Assistant Treasurer

Hon. Clair Burgener
National Committeeman

Esther Greene
National Committeewoman

James Dignan
President, County Chairmen's
Association

January 29, 1988

Honorable Ronald Reagan
The President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

Enclosed is a copy of a resolution relative to the Alaska Boundary Negotiations which passed unanimously at our last California Republican Party Convention.

I ask that you consider the support by the California State Legislature with respect to Joint Resolution 37, and our membership's convictions on the matter of involving the State of Alaska in boundary negotiations with the Soviet Union.

Respectfully,

Robert Naylor
Chairman

cc: Vice President George Bush
Hon. Jim Wright,
Speaker of the House
Steve Cowpers,
Governor of Alaska
California Congressional Delegation

PASSED BY CALIFORNIA REPUBLICAN PARTY IN
CONVENTION, ANAHEIM, CALIFORNIA
SEPTEMBER 27, 1987

RESOLUTION

RELATIVE TO ALASKA BOUNDARY NEGOTIATIONS

SUBMITTED BY: CARL OLSON

WHEREAS, A resolution was passed by the California State Legislature Joint Resolution 37, authored by Marian LaFollette (38 AD) and co-authored by Assemblymen William Leonard, Gil Ferguson, Nolan Frizzelle, Eric Seastrand, John Lewis, Bill Bradley, Stan Statham, Gerald Felando, and Phil Wyman, and by Senators Don Rogers and Ed Royce supporting the State of Alaska in boundary negotiations with the Soviet Union; and

WHEREAS, The boundaries of the State of Alaska are of vital concern to the state government of Alaska; and

WHEREAS, The essence of sovereignty of a state within America's federal system requires that a state government have complete and unambiguous jurisdiction over well-defined geographical boundary lines; and

WHEREAS, Any time that boundaries of a state are to be altered in any way, that state has an essential and overriding interest in the determination of the boundary; and

WHEREAS, Alaska is unique among all American states in that it is the only state with the potential for having boundaries with more than one foreign country (Canada and the Soviet Union); and

WHEREAS, Boundaries with foreign countries and a state are, and ought to be, coterminous with America's national boundaries with those foreign countries; and

WHEREAS, Negotiations are underway between the United States Department of State and the government of the Soviet Union over setting boundaries between the United States and the Soviet Union, and there have been at least seven rounds of negotiations on this issue since 1981; and

WHEREAS, The economic issues of petroleum, fishery, and other valuable resources have great impact on Alaska's welfare and prosperity; and

WHEREAS, At no time has the United States Department of State allowed, or even offered to invite, a representative of the state government of Alaska to be on any negotiating delegation, or has it formally solicited the input or advice of the state government of Alaska over the content or form of these negotiations; and

WHEREAS, These negotiating delegations that the United States Department of State has assembled have included representatives of various other agencies of the federal government; and

WHEREAS, It is settled procedure for negotiations of boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the proposed terms of the boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain in 1842 over the boundary between Canada and the State of Maine); and

WHEREAS, The usurpation of one state's rights and sovereignty is an attack on the entire federal system of the United States of America; now, therefore, be it

RESOLVED, That the California Republican Party supports the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada; and, be it further.

RESOLVED, That the California Republican Party urges the President and U.S. Congress to ensure that any terms and conditions of any boundary agreement with respect to Alaska's boundaries is consented to by the State of Alaska, and that any such boundary agreement is drafted in the form of a treaty or ratification by the United States Senate; and, be it further

RESOLVED, That the Secretary is directed to transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, and to the Governor of Alaska.



The California Republican Assembly

RESOLUTION

SOVIET EMPIRE'S CLAIM TO 5 ALASKAN ISLANDS

WHEREAS: The following five islands located in the Arctic Circle adjoining Alaska: Henrietta, Jeanette, Bennett, Wrangell, and Herald were discovered by United States explorers, and have been claimed by the United States Government since 1881, and

WHEREAS: the Soviet Empire ^{is} negotiating with our State Department for the ^{legal} possession of these islands; therefore be it

RESOLVED: that the Board of Directors urges our members of Congress to oppose the Soviet Empire's claim to these islands which are known to be rich in oil and are strategically located; and be it further

RESOLVED: that our State Department be unyielding to the Russian demands; and be it further

RESOLVED: that this mandate of the January 18, 1987 CRA Board of Directors meeting be forward to : The President of the United States, United State Secretary of State, President Pro-tem of the United States Senate, Speaker of the House of Representatives, and Chairpersons of the Foreign Affairs Committess of both the United States Senate and the House of Representatives.

Adopted January 18, 1987
Board Meeting, Ontario, Calif.

Dr. Ralph Waugh, President
40646 16th Street West
Palmdale, Calif. 93550
805-948-5061, 273-2233



The California Republican Assembly

Bob Byerley, President
1230 Essex Drive
Fairfield, California 94533
707-422-9696

Be it resolved by the California Republican Assembly to urge each of the Republican members of the State Senate and Assembly to sponsor or co-sponsor the attached resolution in support of the State of Alaska regarding its fight to be included in the U.S. State Department's negotiations of an international boundary with the Soviet Union.

Adopted in Convention
March 29, 1987
Irvine, California

RESOLUTION OF SUPPORT FOR STATE OF ALASKA
IN BOUNDARY NEGOTIATIONS WITH SOVIET UNION AND CANADA

Whereas the boundaries of the State of Alaska are of vital concern to the State Government of Alaska, and
Whereas the essence of sovereignty of a State within America's federal system requires that a State Government have complete and unambiguous jurisdiction over well-defined geographical boundary lines, and
Whereas any time that boundaries of a State are to be altered in any way, that State has an essential and overriding interest in the determination of the boundary, and
Whereas Alaska is unique among all American States in that it is the only State with the potential for having boundaries with more than one foreign country (i.e. Canada and the Soviet Union), and
Whereas boundaries with foreign countries and a State are, and ought to be, coterminous with America's national boundaries with said foreign countries, and
Whereas negotiations are underway between the U.S. Department of State and the government of the Soviet Union over setting boundaries between the United States and the Soviet Union, and
Whereas there have been at least ~~six~~ ^{seven} rounds of negotiations on this issue since 1981, and
Whereas the economic issues of petroleum, fishery, and other valuable resources have great impact on Alaska's welfare and prosperity, and
Whereas at no time has the U.S. Department of State allowed, or even offered to invite, a representative of the State Government of Alaska to be on any said delegation, nor has it formally solicited the input or advice of the State Government of Alaska over the content and/or form of these negotiations, and
Whereas these negotiating delegations that the U.S. Department of State has assembled has included representatives of various other agencies of the Federal Government, and
Whereas it is settled procedure for negotiation of boundaries that representatives of any affected State not only must be included in the negotiations, but also must consent to the proposed terms of the boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain in 1842 over the boundary between Canada and the State of Maine), and
Whereas a usurpation of one State's rights and sovereignty is an attack on the entire Federal system of the United States of America,

CALIFORNIA

Therefore be it resolved by the State of _____
to support the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada, and
Be it further resolved that any terms and conditions of any boundary agreement with respect to Alaska's boundaries must be consented to by the State of Alaska, and that any such boundary agreement must be drafted in the form of a treaty for ratification by the U.S. Senate

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

October 13, 1987

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE. (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P. O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE. (907) 465-3600

R. Brian Kidney
Assistant Chief Clerk
Assembly
California Legislature
State Capitol
Sacramento, California 95814

Re: Assembly Joint Resolution
No. 37, relative to the
boundaries of Alaska

Dear Mr. Kidney:

Alaska Governor Steve Cowper asked that I respond to your September 24, 1987 letter which invited our attention to Assembly Joint Resolution No. 37, relating to the boundaries of Alaska.

On behalf of Governor Cowper and all Alaskans, please communicate our thanks for this resolution of support for Alaska sovereignty. As the California Legislature correctly notes, states have "an essential and overriding interest" in the negotiation of the United States' international boundaries when the negotiation may have the effect of altering state boundaries. The United States currently has disputes with Canada over boundary delimitation in Dixon Entrance to the south of Alaska and the Beaufort Sea to the north, as well as the dispute with the Soviet Union to the west.

The United States Supreme Court has repeatedly noted that the treaty power does not authorize the federal government unilaterally to divest a state of territory without its consent. See, e.g., DeGeofrov v. Riggs, 133 U.S. 258, 33 L.Ed. 642, 645 (1890); Fort Leavenworth R.R. Co. v. Lowe, 114 U.S. 525, 541 (1885). Rest assured that Alaska will fully assert its sovereign rights in this regard.

R. Brian Kidney
Assistant Chief Clerk

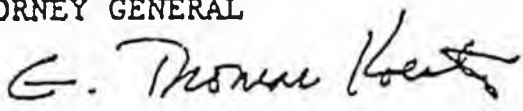
October 13, 1987
Page 2

We appreciate California's support in this effort. Thank you for communicating our appreciation to both houses of the California Legislature.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By:


G. Thomas Koester
Assistant Attorney General

GTK:dlm

cc: Honorable Ted Stevens
United States Senate
522 Hart Building
Washington, D.C. 20510

Honorable Frank N. Murkowski
United States Senate
709 Hart Building
Washington, D.C. 20510

Honorable Donald E. Young
House of Representatives
2331 Rayburn House Office Bldg.
Washington, D.C. 20515

Rosita Worl
Special Assistant
Office of the Governor
(CTS #87272HDC0001)

John Katz
Special Counsel, State/Federal Relations
Office of the Governor

David A. Colson
Assistant Legal Adviser
United States Department of State
Room 6420
Washington, D.C. 20520

Scott Hajost
Assistant Legal Adviser
United States Department of State
Room 6420
Washington, D.C. 20520

John Briscoe, Esq.

Michael W. Reed, Esq.

Assembly Joint Resolution No. 37

RESOLUTION CHAPTER 122

Assembly Joint Resolution No. 37—Relative to the boundaries of Alaska.

Adopted September 10, 1987
[Filed with Secretary of State September 17, 1987.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 37, La Follette. Alaska: boundary negotiations.

This measure would state the Legislature's support for the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada. It would memorialize the President and Congress of the United States to ensure that any terms and conditions of any boundary agreement with respect to Alaska's boundaries is consented to by the State of Alaska and that the agreement is drafted in the form of a treaty for ratification by the United States Senate.

WHEREAS, The boundaries of the State of Alaska are of vital concern to the state government of Alaska; and

WHEREAS, The essence of sovereignty of a state within America's federal system requires that a state government have complete and unambiguous jurisdiction over well-defined geographical boundary lines; and

WHEREAS, Any time that boundaries of a state are to be altered in any way, that state has an essential and overriding interest in the determination of the boundary; and

WHEREAS, Alaska is unique among all American states in that it is the only state with the potential for having boundaries with more than one foreign country (i.e. Canada and the Soviet Union); and

WHEREAS, Boundaries with foreign countries and a state are, and ought to be, coterminous with America's national boundaries with those foreign countries; and

WHEREAS, Negotiations are underway between the United States Department of State and the government of the Soviet Union over setting boundaries between the United States and the Soviet Union, and there have been at least seven rounds of negotiations on this issue since 1981; and

WHEREAS, The economic issues of petroleum, fishery, and other valuable resources have great impact on Alaska's welfare and prosperity; and

WHEREAS, At no time has the United States Department of State allowed, or even offered to invite, a representative of the state government of Alaska to be on any negotiating delegation, nor has it formally solicited the input or advice of the state government of Alaska over the content or form of these negotiations; and

WHEREAS, These negotiating delegations, which the United States Department of State has assembled, have included representatives of various other agencies of the federal government; and

WHEREAS, It is settled procedure for negotiation of boundaries that representatives of any affected state not only must be included in the negotiations, but also must consent to the proposed terms of the boundary treaty (such as was the case when Secretary of State Daniel Webster negotiated with Great Britain in 1842 over the boundary between Canada and the State of Maine); and

WHEREAS, A usurpation of one state's rights and sovereignty is an attack on the entire federal system of the United States of America; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the State of Alaska in its rightful position of participation in any boundary negotiations involving its boundaries with the Soviet Union or Canada; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to ensure that any terms and conditions of any boundary agreement with respect to Alaska's boundaries are consented to by the State of Alaska, and that any such boundary agreement is drafted in the form of a treaty for ratification by the United States Senate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Governor of Alaska.

HJR

23

SENATE COMMITTEE REPORT

DATE: 3/13/97

FURTHER:

DATE TURNED
IN TO OFFICE: 4/23/97

Resources Committee considered HOUSE JOINT RESOLUTION NO. 23

Relating to the seizure and sale of Alaska commercial fishing entry permits by the United States Internal Revenue Service.

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>Karen A. Roman</i>	✓	<i>John Mee</i>	✓		
<i>Bob Mays</i>	✓	<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
CHAIR: <i>Rick Helgad</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>CFEC</i>	<i>2/24</i>	X	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

COMMITTEES



State Capitol
Juneau Alaska
99801 US2
907-465-3744
FAX 907-465-2273

CHAIR
MEMBER
LEGISLATIVE COUNCIL

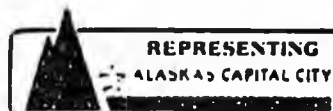
SPONSOR STATEMENT HJR 23

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

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

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

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



FISCAL NOTE

No. 1
 III Version: HJR 23
 (H) Publish Date: 2/25/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: February 24, 1997 Dept. Affected: CFEC
 Title: Relating to the seizure and sale BRU: _____
of CFEC permits by the IRS Component: _____
 Sponsor: Representative Bill Hudson
 Requester: House Special Committee on Fisher. COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF:Program Receipts						
1037 GF:Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact foreseen by this Resolution

Prepared by: House Special Committee on Fisheries Phone: 465-2487
 Division: Chairman, Alan Austerman Date: 2-24-97
 Approved by Commissioner: Chairman, Alan Austerman Date: 2-24-97
 Agency: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

JEFFREY D. CURRIER
BOROUGH MANAGER

P.O. Box 189
NAKNEK, ALASKA 99633



TELEPHONE
(907) 246-4224
FAX
(907) 246-6633

Bristol Bay Borough

NAKNEK, SOUTH NAKNEK, AND KING SALMON, ALASKA

Resolution 97-7

A resolution supporting HJR 23: Relating to seizure and sale of commercial fishing entry permits by the U.S. IRS

Whereas, Alaska fishermen possess limited entry permits to provide a living for themselves and their families and;

Whereas, the Alaska Commercial Fisheries Entry Commission, for the State of Alaska, has negotiated in good faith with the Internal Revenue Service to retain ownership of limited entry permits for Alaskan fishermen and;

Whereas, the Internal Revenue Service entered into a formal Memorandum of Understanding with the State of Alaska under which the Internal Revenue Service agreed to cooperate with the State in good faith before selling seized entry permits and;

Whereas, the Internal Revenue Service persists in seizing and selling entry permits even when the seizure results in significant economic hardship to the commercial fishermen in spite of federal law (26 U.S.C. 6343) which requires the IRS to release levy to avoid inflicting economic hardship on a taxpayer and;

Whereas, HJR 23 asks the Alaska Congressional Delegation to work with the IRS to help the State of Alaska and the fishermen by allowing back taxes to be taken out of income earned instead of by seizure and sale of limited entry permits;

Therefore Be It Resolved that the Bristol Bay Borough go on record as supporting HJR 23.

Passed and approved by the Assembly of the Bristol Bay Borough, Alaska this 17th day of March 1997.

Carol Zinn

Presiding Officer

ATTEST:

Betsy J. Bonin

Borough Clerk

SUPPORT

Cordova District Fishermen United

Celebrating 62 Years of Service to Commercial Fishermen in Cordova, Alaska
P.O. Box 939 Cordova, Alaska 99574 / Telephone (907) 424-3447 / Fax (907) 424-3430

March 6, 1997

Oral testimony given re: HJR 23 (Relating to the seizure and sale of commercial fishing entry permits)

Sent via facsimile to House Resources (907) 465-2273 and 465-2197

Good afternoon. Mr. Chairman and committee members, my name is Cheri Shaw. I am Executive Director of Cordova District Fishermen United (CDFU) and will be speaking on behalf of CDFU and myself this afternoon.

CDFU fully supports HJR 23. The Internal Revenue Service (IRS) has gone back on its agreement with the State regarding the seizure and sale of limited entry permits. Last summer, the IRS in conjunction with the Commercial Fisheries Entry Commission (CFEC), the Division of Investments, myself as the commercial fishing representative and other interested parties came together for the Alaska Symposium. The purpose of the symposium was to brainstorm ideas that would help fishing taxpayers in arrears satisfy their tax obligation to the IRS.

During the symposium, many intelligent solutions were discussed and the participants were given instructions to investigate the possibilities of implementing at least some of the ideas. Two examples of ideas discussed were, 1) coding a permit holders card to flag the tender or processor to hold out part of the fisherman's settlement and 2) starting a withholding program in the fishing industry as in other businesses.

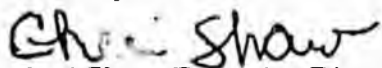
The IRS is losing money for the federal government by forced sales of limited entry permits. Some sales result in permits being given away for ten cents on the dollar, not even meeting the taxpayer's original obligation. The buyer of the permit is also a victim in this transaction by not being able to fish the permit until the transfer is finalized. This can result in litigation, causing more money and time to be spent. Working with the delinquent taxpayer from the beginning could have alleviated the dispute.

Patience, understanding and education of the delinquent taxpayer has reaped rewards far beyond the strong arm tactics used by the revenue officers. When given adequate notice of a proposed forced sale, CFEC has intervened and successfully counseled many fishermen on the programs available for their utilization. The tax obligation loan program which has already expended more than \$4.5 million dollars to the IRS has been an extremely successful program and will hopefully be reauthorized this legislative session.

It is high time for the State of Alaska to stand up to the self-proclaimed bounty hunters and let them know they've gone too far. Respect is given to those who keep their word.

Mr. Chairman and committee members, I will reiterate Cordova District Fishermen United's support for HJR 23 and answer any questions you may have. Thank you for the opportunity to testify before you today.

Sincerely,



Cheri Shaw, Executive Director
Cordova District Fishermen United



UNITED FISHERMEN OF ALASKA

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

February 26, 1997

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

Dear Representative Hudson:

United Fishermen of Alaska supports HJR 23.

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

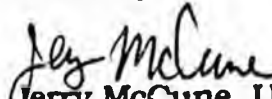
Currently, the IRS has the ability to collect back taxes during the fishing season, through the seizure of fishing vessels, and the voluntary sale of entry permits. When the IRS auctions off limited entry permits, it puts undo hardship on fishing families and the State of Alaska, as well as threatening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

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

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

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

Sincerely,


Jerry McCune, UFA Lobbyist
and Immediate Past President

MEMBER ORGANIZATIONS

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

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



Bob King
Press Secretary
Claire Richardson
Deputy Press Secretary
907-465-3500
FAX: 907-465-3633

FOR IMMEDIATE RELEASE: March 4, 1996

96-049

ENTRY COMMISSION DENIES IRS SALMON PERMIT TRANSFER **Knowles Calls Federal Seizure of Permits Harsh, Unwarranted**

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

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

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

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

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

(9)

Date Referred to Committee: February 25, 1997

FURTHER REFERRALS:

Rules

Date of Committee Action: 3/6/97

The RESOURCES Committee considered:

HJR 23

HOUSE JOINT RESOLUTION NO. 23

SALE OF LTD ENTRY PERMITS BY IRS

Relating to the seizure and sale of Alaska commercial fishing entry permits by the United States Internal Revenue Service.

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

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal note(s) _____

[] fiscal note(s) _____

[] zero fiscal note(s) _____

[] zero fiscal note(s) _____

H. FISH. CMTE / F&G 2/25/97

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>W.K. Williams</i>	WILLIAMS	✓			
<i>James A. Green</i>	GREEN	✓			
<i>Robert M. Masarik</i>	MASARIK			✓	
<i>Scott Egan</i>	EGAN	✓			
<i>Victoria</i>	VICTORIA	✓			
<i>James</i>	JAMES	✓			
<i>Bill Hudson</i>	Hudson	✓			
		(6)		(1)	

CO-CHAIR'S SIGNATURE Bill Hudson Co-Ch Scott Egan Co-Ch

PAST ACTION

Date of Committee Action: 2/24/97

X

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HJR 23

HOUSE JOINT RESOLUTION NO. 23

SALE OF LTD ENTRY PERMITS BY IRS

relating to the seizure and sale of Alaska commercial fishing entry permits by the United States Internal Revenue Service.

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

[] additional referral to _____ Committee [] attached amendment(s)

ADOPTS: _____ Letter of Intent

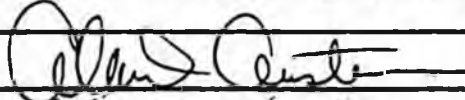
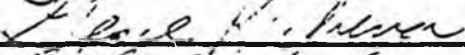
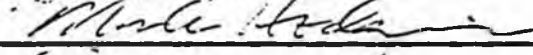
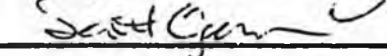
ATTACHES NEW FISCAL NOTE(S): (Dept) _____

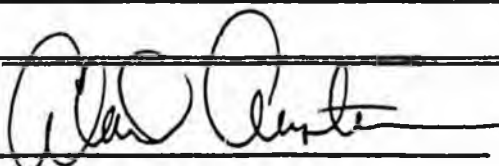
APPROVES PREVIOUS: (Dept/Date) _____

[] fiscal note(s) _____

[] fiscal note(s) _____

[X] zero fiscal note(s) House Fisheries Committee [] zero fiscal note(s) _____

<u>SIGNING WITH RECOMMENDATIONS</u>	DP	DNP	NR	AM
	✓			
	X			
	X			
	X			

CHAIR'S SIGNATURE 

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

TONY KNOWLES, GOVERNOR

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

February 14, 1997

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

FAX: (206) 220-6045

Dear Paul:

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

Our Existing Agreement

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

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

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

BACKGROUND

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

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

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

Your Recent Proposals

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

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

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

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

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

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

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

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

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

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

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

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

Recent Events

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

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

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

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

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

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

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

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

Where Do We Go From Here

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

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

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

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

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

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

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

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

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

Mr. Paul Beene

-8-

February 14, 1997

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

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

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

Yours truly,

COMMERCIAL FISHERIES ENTRY COMMISSION

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

by:  _____

Enclosure

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

JAN 14 1997

9870 GLACIER HWY #111
JUNEAU AK 99801
907 789-6150 (Evening Hours)
907 789-6160 (Other Hours)
907 789-1170 FAX
907 789-6180 BB

January 10, 1997

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

Dear Representative Hudson:

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

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

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

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

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

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

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

January 10, 1997

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

The primary current issues appear to be:

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

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

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

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

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

Yours truly,

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

by: _____

Enclosures

STATE OF ALASKA

COMMERCIAL FISHERIES ENTRY COMMISSION

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

JAN 14 1997

December 31, 1996

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

Dear Paul:

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

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

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

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

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

Enclosure A
(1 of 3)

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

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

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

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

* * *

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

* * *

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

* * *

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

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

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

Enclosure A
(2 of 3)

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

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

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

Yours truly,



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

Enclosures

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

Enclosure A
(3 of 3)

DEC 13 1996

GFEC

> DEC 05 1996

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

Dear Bruce:

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

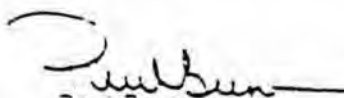
As Pat Miller made clear in her telephone conversation with you on November 13, 1996, the IRS is ready and willing to implement procedures which will minimize the possibility of a fishing entry permit being seized and sold. In an attachment to the minutes of our October 10, 1996, meeting, we presented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

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

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

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

Sincerely,


Paul Beene
District Director

Attachments

Enclosure B

MEMORANDUM OF UNDERSTANDING

INTERNAL REVENUE SERVICE

AND

STATE OF ALASKA DIVISION OF INVESTMENTS
AND COMMERCIAL FISHERIES ENTRY COMMISSION

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

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

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

Enclosure C
(1 of 3)

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

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

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

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

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

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

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

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

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

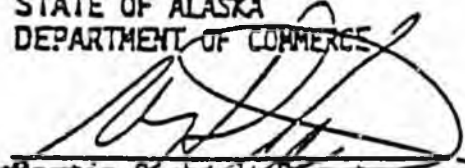
IRS employees assigned to the project will focus on Federal tax compliance issues. To the extent that information they identify relates to or impacts on state tax issues, such information will be shared with the State of Alaska, Department of Revenue.

Enclosure C
(2 of 3)

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

APPROVED:

STATE OF ALASKA
DEPARTMENT OF COMMERCE


Martin Richard, Director
Division of Investments


INTERNAL REVENUE SERVICE
ANCHORAGE DISTRICT


Michael R. Allen
District Director

Signed at Tucson, Alaska, this
20th day of July, 1994

Signed at Anchorage, AK, this
22nd day of July, 1994

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION


Dale G. Anderson, Commissioner
Commercial Fisheries Entry Commission

Signed at JUNEAU - AK, this
25th day of JULY, 1994

Enclosure C
(3 of 3)