

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8072

9966 HOUSE RESOURCES

The current board members appear more open to listening to the public, but are their decisions any different -- voting for same-day-airborne bear hunting?

Recent legislation requires the board to make a determination of best use of wildlife. I heard the board declare human consumption as highest use, just because lots of hunters use the area. Have any units been dedicated to other uses? Why not?

As a hunter, I say we must keep the ballot initiative process as it is. We also need to develop a "Wildlife Board" as a precursor to the Board of Game. Then wildlife management, not just hunting decisions, will be made for the benefit of all Alaskans, not just the 15 percent who hunt.

-- Leo Keeler

Anchorage Daily News

Saturday, May 09, 1998 Page: D10 Section: Metro Edition: Final LETTERS TO PEOPLE

Wildlife board needed

The first Alaska Legislature realized that the management of fish and game was extremely important to all Alaskans and the general public should have control of how it is used. The Board of Fish and Game was established to enable the public to have that control.

The grueling confirmation process for Dr. Vic Van Ballenberghe and Nicole Whittington-Evans showed that today's legislators do not want the public fully represented in wildlife management. The Legislature's attempted reversal of the requirement to bring boned meat out to prevent waste highlights the Legislature's lack of concern for local requests and use of local knowledge. The loss of past board chairman Larry Holmes, because he encouraged full public participation in the board process, demonstrates the Legislature's desire to serve only hunters.

Legislation is developing to assure an elite few control use of Alaska's wildlife. Senate Bill 262 bars the board from regulating hunting equipment or hunting from roadways, moving cars, helicopters or other motorized vehicles. House Bill 414 always puts hunting over nonconsumptive uses. House Bill 168 prevents restricting ATV use regardless if requested by a local community or the use is destroying land. Senate Bill 250 requires unrealistic harvest levels. Should highly mobile and highly mechanized hunters be able to control the Legislature, do anything, go anywhere?

The wolf initiative showed that the public can remain involved and in control. With the Legislature ignoring the general public, maybe we need a wildlife board, with elected members who have more power in wildlife matters than the Legislature.

Write your representative.

-- Leo Keeler

Anchorage Daily News

Sunday, May 18, 1997 Page: E3 Section: Forum Edition: Final LETTERS TO PEOPLE

Board must represent public

As a hunter, I was amazed when Sen. Bert Sharp's April 27 letter dictated a position for wildlife management. He doesn't even pretend to listen to the public. The 58 percent vote on the wolf issue was a cry for fair process. Who heard it? As with the tobacco tax and billboards, the public's complaints on wildlife issues are discounted because hunters are "paying the entire cost of game management." Oil dollars run Alaska, not oil companies.

"Teaming with Wildlife" is a national program to have wildlife viewers contribute financially. Why hasn't the Legislature and Alaska's hunting groups supported "Teaming"? Will the \$14.8 million it will generate for Alaska take away the hunters' control of Alaska's wildlife managers? What decisions will prevail when "Teaming" funds surpass "hunters'" funds?

Sen. Sharp said that all have "unfettered opportunities to make their case before the board," even though past boards have stated that "if you don't hunt, I don't want to hear from you." Now that it appears the Board of Game may begin fulfilling its role as an autonomous group, efforts are being made to have only hunters on the board -- SB 22. If political pressure continues to make the board a puppet for hunters or for the Department of Fish and Game, why continue the charade? The Board of Game must separate itself from all interests, even Fish and Game, and represent only the public, or the process will fail and the public will vote to rebuild it another way. -- -- Leo Keeler

Anchorage Daily News

Tuesday, March 11, 1997 Page: B6 Section: Metro Edition: Final LETTERS TO PEOPLE

Wildlife belongs to everyone

As a hunter, can I say I own Alaska's wildlife? The Alaska Constitution reserves wildlife for all residents, not only the 15 percent who hunt. It requires wildlife to be available for maximum use and benefit of all people. Sen. Taylor has proposed a law requiring Game Board members to hold hunting licenses. Will that ensure wildlife resources are used to benefit all people and interests, or give hunters ownership of Alaska's wildlife?

Hunting takes a public resource for private use. Do license fees for that privilege go to a public fund, similar to oil revenues or timber harvest? No. Alaska Statute 16.05.130 limits use of hunting fees and taxes to programs that only benefit hunters. What would Alaska look like if oil companies demanded the same consideration? Extremist legislators even cut wildlife education programs, thus limiting kids' ability to learn enough about wildlife to make informed decisions.

Alaska representatives are leading a growing nationwide drive to establish a Pitman Robertson-type tax on items used for wildlife watching and outdoor recreation. Extremist groups like Alaska Outdoor Council are fighting to prevent the "Teaming With Wildlife initiative" from becoming law. They claim there are problems with it. Rather than work to solve the problems and benefit wildlife, they would rather kill it. Alaska could get \$14.5 million for wildlife management from "teaming." Extremists are aware those funds would take away their control of the Alaska Department of Fish and Game.

Shouldn't we be doing all we can to manage wildlife for everyone?

-- Leo Keeler

Anchorage Daily News

Friday, October 25, 1996 Page: B11 Section: Metro Edition: Final Bottom of Form 1 LETTERS TO PEOPLE

VOTE TO RESTORE TRUST

Alaska Outdoor Council is against the wolf initiative because it erodes existing public process. A process overly influenced by radical hunting lobbyists. That was demonstrated in the McNeil Refuge controversy, where 300 letters requested to stop bear hunting and only four wanted it to continue. In the face of such overwhelming odds, the board's vote was just 4-3 to close the hunt. Were the last-minute politics of Ruggles and Van Ballenberghe board appointments part of AOC's public process?

AOC says the initiative "promotes crisis management of wildlife." Initiative supporters say Fish and Game can control wolf populations when the commissioner says it is needed and land-and-shoot should not be an everyday practice.

AOC says current federal laws prohibit aerial shooting and wildlife harassment, and the initiative invites costly legal actions. Enforcement officers say they cannot enforce existing laws. Loopholes caused by state-approved practices make it difficult to enforce those laws. Existing laws also invite legal actions, what's so different?

Doug Pope, past Game Board member and initiative proponent, points out that the federal subsistence conflicts and the difficulties opening ANWR relate to lack of trust in Alaska's public process. The U.S. Congress set standards for subsistence management that Alaska has yet to fulfill. They control opening ANWR. Voting to stop land-and-shoot practices, except by Fish and Game or of legally trapped animals, will help restore confidence in Alaska's public involvement and our ability to manage resources responsibly.

-- Leo Keeler Anchorage.

Anchorage Daily News

Friday, April 19, 1996 Page: B9 Section: Metro Edition: Final LETTERS TO PEOPLE

Outdoor council not for Alaska

Alaska Outdoor Council is acting like the Freeman of Alaska. Their budget cut of the Alaska Department of Fish and Game now in legislation is just one example.

House Bill 77 (pushed by AOC to amend the Intensive Game Management Act) is on Gov. Knowles' desk for signing or vetoing. Fish and Game says HB 77 will devastate game management, both in total resource management and public support of hunting. To fulfill HB 77 mandates, caribou cows and calves will be shot, predators (including bears) will be maintained at low levels regardless of cost, scientific standards will be ignored and sustained yield will be defined by human desires, not natural abundance. Extremist leaders of AOC say because hunting fees support ADF&G that only hunting should be funded. Hunter surveys show average hunters are willing to have 20 percent of hunting fees go to support nonhunting activities. Currently, nonhunting programs are only 5 percent of the wildlife budget.

During legislative hearings on board appointments, AOC asked members to protest Vic Van Ballenberghe and Ann Ruggles. A Kenai member did, without checking, then apologized to Van Ballenberghe. How many others are blindly following this freeman band?

People and businesses are dropping AOC membership and support. As a hunter, I think that is the best thing they can do for Alaska and sound game management. Everyone will benefit if they and others write their legislators, Gov. Tony Knowles, or simply call your Legislative Information Office and leave a 50-word public opinion message supporting Knowles' board nominees and denouncing AOC's legislation.

-- Leo Keeler Anchorage

Anchorage Daily News

Thursday, August 03, 1995 Page: B8 Section: Metro Edition: Final LETTERS TO PEOPLE

Go hunt bears somewhere else

James Marchini wrote that the recent flood of hunting applications for the area including McNeil River State Game Refuge convinced him to apply next time, in revenge. Others are seeking ways to guarantee three bears are killed each year.

These people look at the McNeil River viewing program and just see a lot of bears. Would they look at the Mona Lisa and just see another painting? Would they care if they destroyed either one?

Many ethical hunters, like permit winner Bruce Baker, applied for the hunt to protect McNeil bears. A past Game Board member applied to protect McNeil bears. They all stood up for ethical hunters everywhere and said this hunt should be stopped. Like Safari Club or Ducks Unlimited, they were willing to act to end unethical hunts.

Some say the hunt is for different bears. They use data from the 1960-1970s tagging program, when most bears were harvested from the Katmai area, now a park. They do not acknowledge the shift in hunting pressure. They ignore recent Fish and Game biologists' reports of McNeil-like tolerance of bears in the hunting area. One bear calmly walked within 15 feet of the biologists.

You can vote to allow four hunters to hunt human-tolerant bears, or vote to close the area to hunting and have these four would-be hunters join the other 8,000 ethical bear hunters elsewhere in the state. Write to the Board of Game, P.O. Box 25526, Juneau, 99802-5526.

-- Leo Keeler

Anchorage Daily News

Tuesday, May 23, 1995 Page: B7 Section: Metro Edition: Final LETTERS TO PEOPLE

Hunting McNeil bears unethical

Dick Bishop, of Alaska Outdoor Council, stated that hunting of McNeil River bears is a question of values. Friends of McNeil River questions the hunting of these specific bears, not the hunting of bears in other areas or even hunting moose or caribou in the McNeil River Brown Bear Refuge. The value of McNeil bears and personal values or ethics of hunting these human-tolerant bears are the only issues.

To Friends, the bears that visit McNeil River Sanctuary are more valuable for viewing than for hunting. These bears are so tolerant of humans that they feed or even nurse their cubs within 50 feet, or closer, to humans, which makes hunting them unethical. We are asking those who agree with us to apply for permits

to hunt and, if drawn, to stay home. Permits can be picked up any place hunting/fishing licenses are sold; apply for hunt numbers 341 and 351.

Past efforts of Friends and the hundreds of letters from the public did not convince the Board of Game as to how strongly the public desires that these bears not be hunted. Instead, the board fulfilled the desires of AOC and the few hunters who do feel hunting these bears is ethical or true fair chase. I wonder if anyone who hunts the refuge will proudly tell his friends where he killed the bear. Especially, if his friends know that the McNeil River bears will let people walk right up to them.

Leo Keeler

Anchorage Daily News

Monday, September 27, 1993 Page: B8 Section: Metro Edition: Final LETTERS TO PEOPLE

Hunts at McNeil not 'fair chase'

Rod Arno's Sept. 2 letter complained about my efforts to close the McNeil River Refuge to brown bear hunting. Mr. Arno signed the letter as president of the Alaska Outdoor Council. I wonder if the ethical standards of AOC, and affiliated clubs, support hunting the McNeil River bears.

How can it be "fair chase" to hunt bears that have been taught for decades that people will not harm them? Hunting the McNeil River bears is not "fair chase," no matter where they are encountered. McNeil bears don't know the boundaries of the sanctuary that protects them. Traveling three miles north to the McNeil River Brown Bear Refuge is easy for a bear. The Paint River fish ladder will draw more bears into the refuge where they will be hunted. Hunters will shoot at, injure or otherwise harm more bears than shown on harvest reports.

On Nov. 5, the Board of Game will address hunting in the McNeil River Refuge. Will they change their last decision allowing hunters to kill three McNeil bears? Will they ban brown bear hunting in the refuge and decrease the statewide harvest from 1,200 to 1,197, a 0.0025 percent reduction? Aren't the McNeil bears worth this small reduction?

As a hunter, I feel the value of the McNeil River viewing program is worth much more than the killing of three bears. If you feel the McNeil River Brown Bear Refuge should be closed to hunting, write to the Board of Game in Juneau.

Leo Keeler

Anchorage Daily News

Tuesday, August 17, 1993 Page: E8 Section: Metro Edition: Final LETTERS TO PEOPLE

McNeil bears aren't fair game

Do Alaskans consider hunting the McNeil River brown bears ethical hunting? The president of Alaska Outdoor Council said in his letter to the editor of July 22 that "hunters will share the McNeil River State Refuge lands with wildlife viewers." I hope he does not think Alaskans want to watch bears accustomed to people walking up to shoot pictures of them be shot with rifles instead.

Some try to say that when the bears leave McNeil Falls they are again afraid of people. However, biologists have seen and recognized these individual bears in other areas and found the bears still demonstrate their

habituated nature. I have hunted brown bears for many years and will continue to do so as long as I am sure it is a "fair chase" type of hunt. Hunting the McNeil River is not very sporting or "fair chase."

Everyone is worried about what Bruce Babbitt's impression of Alaska and Alaskans will be and how his visit may influence future decisions. I hope that Babbitt and the Game Board see that not all hunters want things made easy for them, that Alaskans recognize and protect world-class resources such as the bear viewing at McNeil River and that we will make wise decisions that protect our unique resources.

Let Babbitt know your opinion and write the Board of Game, Box 25526, Juneau 99802, asking them to close the McNeil River Brown Bear Refuge to bear hunting.

Leo Keeler

Anchorage Daily News

Wednesday, July 14, 1993 Page: B7 Section: Metro Edition: Final LETTERS TO PEOPLE
Consider all uses of wildlife

The Alaska Outdoor Council is urging Fish and Game to forgo management practices that lead to habituation of brown bears.

Coincidentally, the president of AOC runs a bear-hunting guide business on lands surrounding the McNeil River Brown Bear Sanctuary. AOC is beginning to lobby the Board of Game before they address closing the McNeil River Brown Bear Refuge to bear hunting in November.

Does AOC represent all outdoor interests as they say? Will ADF&G and the Board of Game recognize AOC's single-minded objective to fight any restriction on hunting and fishing, and not support other uses of state resources? If enough of the public voice their desires, maybe the Alaska Board of Game will consider nonconsumptive uses of wildlife.

During last year's controversy over McNeil River, Alaska residents and bear biologists identified the public enjoyment, economic value, scientific and educational usefulness of bear viewing. The new book "River of Bears" describes the history of development and value of bear viewing at McNeil River. A statement in the book "The only thing in life humans really need to worry about is ignorance and prejudice" appears to describe the major problem related to bear viewing and AOC's position.

Some will assume I am an animal rights activist without bothering to learn I hunt each year and guided my brother on a successful brown bear hunt last year. Others will be more open-minded and voice their views to the Board of Game before its November meeting.

Leo Keeler

Anchorage Daily News

Sunday, August 18, 1991 Page: E4 Section: Forum Edition: Final LETTERS TO PEOPLE
Save McNeil River sanctuary

The Army Corps of Engineers completed an analysis of the Paint River fish ladder in 1988. It stated the bears at McNeil River would be impacted, but did not say how. It did not address how the habits of the bears, or the viewing opportunities at McNeil River would change. Impact to McNeil River's designation as

a National Landmark was not evaluated. Also, managing the small fish return of McNeil River mixed with the 1,500,000 fish return for Paint River was not discussed.

A lawsuit questioning these and other issues was filed against the Corps. That prompted fishing interests to lobby for and obtain legislation addressing McNeil River Sanctuary. The new legislation allows bear hunting, uncontrolled land use and offers little protection for the bears. The fishermen were responsible for a ransom clause in the legislation. The legislation does not become effective until fish use the ladder. This new attempt to get the suit dropped failed. The lawsuit is still pending.

Recently, the Army Corps of Engineers announced its intention to address the issue of the McNeil River bears again. Still hoping to get the lawsuit dropped?

They ask interested people to comment to the Corps of Engineers, Alaska District, Regulatory Branch, P.O. Box 898, Anchorage 99506-0098, referencing project SPN 91-4, by Aug. 31. If enough people comment, the Corps will understand the value of McNeil River and do a thorough analysis. They should ensure that this world-renowned placed not be ruined forever.

Leo Keeler

Board of Directors

Chairman of the Board: Leo Keeler



I have participated with Friends of McNeil River since the first formalized meeting at Tony Dawson's home in 1990. I currently work as a land law specialist for the Chugach National Forest. My background includes a BS degree in Forest Land Management and professional experience developing unique recreation opportunities on public lands within the National Forests where I have been employed.

I first visited McNeil River in 1986 and recognized it as the site of the most significant human-wildlife interaction that occurs in the United States. I also recognized its significance as proof to the world that humans and wild, potentially dangerous animals, can co-exist.

In 1990, the Paint River fish ladder brought to light the likelihood that this interaction was at risk due to development or politically driven management objectives. Along with the other members of Friends of McNeil River (FOMR), I felt the only way to insure that McNeil was not changed on a whim, was to have legal statutes or regulations passed. Since 1990, I have worked with FOMR members toward that end-- the establishment of the McNeil River Refuge. Because the legislation that established the refuge left it open to hunting, my wife Dorothy and I led a campaign to close the area to bear hunting. The efforts of that campaign drew national attention and were aired twice on CBS News "Eye On America". It also was shown throughout Europe and featured in Europe's version of National Geographic.

I feel that it is now time to gain a better understanding of the needs of the bears and their interactions with humans and to share that information. I hope that FOMR can be a major influence in that effort. Through sharing lessons learned at McNeil, bear management can be better coordinated with human activity.

First Vice President: Tony Dawson



Photographer, writer and bush pilot, Tony Dawson is a 20-year resident of Alaska. Born in Washington state, he earned Zoology and Veterinary Medicine degrees at Washington State University, practiced in Idaho for two years, then moved to Alaska in 1975. For three years, he flew in Alaskan "bush" communities attending pets and sled dogs, and served two stints as Chief Veterinarian for the Iditarod Sled Dog Race.

Tony began photographing nature as a college hobby, and soon published his work in national magazines. Eventually, photography and writing became a profession. A past Field Editor at *Alaska Magazine*, and now a full-time freelancer, his publication list includes *Life*, *Newsweek*, *Time*, *Audubon*, *Outside*, *Wilderness*, *Sierra*, *National Wildlife*, *National Geographic WORLD*, *Outdoor Life* plus books from the National Geographic Society, National Wildlife Federation, Simon & Schuster and others.

Tony flies his Piper Super Cub across Alaska and has traveled widely while lecturing Holland America cruise passengers. Concerned about environmental issues, he was assigned to photograph the Exxon Valdez oil spill for *Audubon*, and is now documenting the beauty of the threatened Arctic National Wildlife Refuge.

Tony first visited McNeil Sanctuary in 1977, and has returned seven times. In 1990, he was a founding member of Friends of McNeil River. As a board member and spokesman, he wrote articles defending the

Briefing

Katie John

Case

Alaska State Legislature

House Resources Committee

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Juneau, Alaska 99801



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Committee Meetings:
M/W/F 1 - 3 p.m.

Members: Vice Chair John Cowdery, Representatives: Ramona Barnes,
John Harris, Carl Morgan, Jim Whitaker, John Cowdery, Reggie Joutle, and Mary Kapsner

Joint Hearing of the House and Senate Resources Committee

January 26, 2000
Senate Finance Room -- 532
2:00 PM

BRIEFING: Katie John Case

AGENDA

- I. Call to Order
- II. Roll Call
- III. Witnesses:

Joanne Grace, Assistant Attorney General, AK Dept. of Law
Kathryn Swiderski, Assistant Attorney General, AK Dept. of Law

- IV. Adjournment

Enclosures:

- 1) Memo of January 12, 2000 from Ted Popely and Ron Sommerville to Sen. Pearce and Rep. Porter, Final Judgement in *Katie John Case*.
- 2) Memorandum of January 24, 2000 from Joanne Grace to Bruce Botelho, Appeal option in *Katie John v. United States*.
- 3) Alaska's Complaint to Quiet Title in *State of Alaska v. United States of America* (Glacier Bay/Tongass).

MEMORANDUM

TO: Senator Pearce
Speaker Porter

FR: Ted Popely (JWP)
Ron Somerville

RE: Final Judgment in *Katie John Case*

DT: January 12, 2000

On January 7 of this year, U.S. District Court Judge Hoiland issued a final judgment in *Katie John et al. v. United States of America et al.* This case had been stayed until October 1, 1999, the date that federal subsistence fisheries regulations took effect.

The plaintiffs alleged that ANILCA requires the federal government to manage fisheries in navigable waters of Alaska. Both the District Court and the Ninth Circuit Court of Appeals agreed in part and the Appellate Court held that the term "public lands" includes navigable waters in which the United States has reserved water rights. Under the reserved water rights doctrine, when the United States withdraws land and reserves it for a federal purpose, it also reserves by implication water rights minimally necessary to fulfill the purposes of the reservation.

The court remanded the case to the Departments of Interior and Agriculture to identify those waters. The state's petition to the U.S. Supreme Court asking it to review the Ninth Circuit decision was denied in 1996. In January 1999, the Departments of Interior and Agriculture published final regulations to assume management of subsistence fisheries. The regulations cover subsistence activities on all waters within or adjacent to the exterior boundaries of 34 identified federal areas, including national parks, refuges, preserves, monuments, wild and scenic rivers, and national forests. They also will extend the Federal Subsistence Board's management to some federal lands selected under ANCSA or the Alaska Statehood Act until conveyed. In addition, the rules purport to confirm the Secretaries' authority to restrict or eliminate hunting, fishing and trapping on state and private lands when these activities interfere with the subsistence priority on the public lands.

Now that the final regulations are effective, Judge Holland has issued this final judgment. Procedurally, that means that the State has 60 days from January 7 to file its Notice of Appeal if it wishes to appeal to the Ninth Circuit Court of Appeals. That court would

undoubtedly issue an unfavorable ruling, which could then be appealed to the U.S. Supreme Court.

The Department of Law and the Administration may or may not choose to appeal the case. If they do not, the result for the state could be serious. Experts through several Administrations have felt that this case is positioned perfectly for a reversal by the U.S. Supreme Court. First, the decision could have impacts well beyond the State of Alaska, extending its effect on many western states with related water management issues. That prospect obviously supports the Supreme Court's desire to hear the case. Second and more importantly, Chief Justice Rehnquist and Justice Sandra Day O'Connor are renowned water law experts. It is widely believed that they would never allow the Ninth Circuit's decision to stand. It is virtually unheard of for the reserved water rights doctrine to stand for the proposition that the federal government reserved water rights so that it may extend management and control downstream from the federal reserve to affect fisheries and other activities. Rather, the reserved water rights doctrine evolved from the federal government's need to reserve its power to prevent upstream states and citizens from affecting the federal government's land downstream.

If the Administration chooses not to appeal the case, the Legislature will not have standing to continue the litigation. Private litigants affected by the decision may intervene, but the Legislature almost certainly cannot.

MEMORANDUM

State of Alaska

Department of Law

To: Bruce Botelho
Attorney General

DATE: January 25, 2000

TELEPHONE NO.: (907) 269-5100

FROM: Joanne Grace
Assistant Attorney General

SUBJECT: Appeal Option in
*Katie John v. United
States*, A90-484-CV
(HRH)

This memorandum summarizes the history of *Katie John v. United States* and the option the state has to continue the case by appealing the recent final judgment entered in the case.

Procedural History of the Case

This case was filed by Katie John, Doris Charles, and the Mentasta Village Council in 1990. AFN later intervened. The plaintiffs alleged that the Alaska National Interest Lands Conservation Act requires the federal government to manage fisheries in navigable waters of Alaska and, accordingly, that the Federal Subsistence Board should take over management of the Copper River and authorize a subsistence fishery at Bazulnetas.

The District Court agreed and held that the term "public lands" includes navigable waters in which the United States has reserved water rights. The subsistence priority of title VIII of ANILCA and the corresponding authority of the Federal Subsistence Board to regulate fishing and hunting apply to "public lands" as that term is defined in the Act. ANILCA defines "public lands" as "lands, waters, and interests therein, title to which is in the United States." The plaintiffs argued and prevailed on their theory that a federal reserved water right is an interest in water to which the United States has title, and the existence of such a right thereby renders the waters to which it applies "public lands." Under the reserved water rights doctrine, when the United States withdraws land and reserves it for a federal purpose -- for example, a national park or wildlife refuge -- it also reserves by implication water rights necessary to fulfill the purposes of the reservation. The United States initially agreed with the state that waters subject to a reserved water

right did not constitute public lands, but it changed its position after briefing in the district court, when the federal executive administration changed.

Although resolution of this legal issue did not dispose of the case, the state considered it vital to the case's outcome. Rather than wait until the Federal Subsistence Board completed the daunting task of assuming regulatory authority for subsistence fishing over a large percentage of Alaska's rivers and lakes, the state petitioned the Ninth Circuit to review the District Court decision on this issue without a final judgment. The Ninth Circuit agreed to hear the interlocutory appeal, and affirmed the part of the District Court decision based on federal reserved water rights. The Ninth Circuit remanded the case to the federal agencies to identify the waters in Alaska where the water right exists.

The Alaska Supreme Court considered the same issue at about the same time, and came to a contrary conclusion. In *Totemoff v. Alaska*, 905 P.2d 954 (Alaska 1995), the court held that ANILCA's definition of "public lands" did not include navigable waters subject to a federal reserved water right.

Partly based on this conflict between the court of appeals and Alaska's highest court, the state petitioned the U.S. Supreme Court in 1995, asking it to review the Ninth Circuit decision. The United States opposed the petition, arguing in part that review of the issue was premature. It urged the Court to wait until the case was complete, suggesting that the issue might be resolved through the regulations that the federal agencies would prepare, or through amendment of the Alaska Constitution. It maintained that the issue would be presented in a more concrete context after final judgment in the case. The Supreme Court denied the state's petition without comment in 1996.

In January 1999, the departments of Interior and Agriculture published final regulations to assume management of subsistence fisheries. The regulations cover subsistence activities on all waters within or adjacent to the exterior boundaries of 34 identified federal areas, including national parks, refuges, preserves, monuments, wild and scenic rivers, and national forests (excluding the marine waters of the Tongass and Chugach National Forests). They also extend the Federal Subsistence Board's management to some federal lands selected under the Alaska Native Claims Settlement Act or the Alaska Statehood Act until conveyed. In addition, the rules purport to confirm the Secretaries' authority to restrict or eliminate hunting, fishing, and trapping on state and private lands when these activities interfere with the subsistence priority on the public lands. The rules became final in October 1999.

Because the regulations were final, the U.S. District Court entered judgment in the case on January 7, 2000.

State's Option to Continue the Case

The District Court's entry of a final judgment presents the state with an option to re-petition the Supreme Court in the case. Denial of certiorari at the interlocutory stage of a proceeding is without prejudice to renewal of the questions presented when certiorari is later sought from the final judgment. A prior denial in this context does not establish the law of the case or amount to *res judicata* on the points later raised. The state would have to appeal first to the Ninth Circuit, however, which would be unlikely to reconsider its earlier decision.

The state has 60 days to appeal a final order in a case in which the United States is a party. The window may be even larger in this case, as the plaintiffs have filed a motion to amend the judgment (to continue an injunction that has no effect on the state), which tolls the time for appeal until the motion is decided.

The issue on appeal would be precisely the same issue raised in the last appeal, whether Congress intended "public lands" in ANILCA to include waters in which the United States has a reserved water right.

IN THE
Supreme Court of the United States

No. —, Original

STATE OF ALASKA,

v.

Plaintiff,

UNITED STATES OF AMERICA,

Defendant.

MOTION FOR LEAVE TO FILE A COMPLAINT

Pursuant to S. Ct. Rule 17, the State of Alaska, through its Attorney General, asks leave of the Court to file a complaint against the United States to quiet title to the lands underlying marine waters in Southeast Alaska. This motion is accompanied by a complaint and supporting brief.

Respectfully submitted,

Of Counsel:

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IN THE
Supreme Court of the United States

No. —, Original

STATE OF ALASKA,

v.

Plaintiff,

UNITED STATES OF AMERICA,

Defendant.

COMPLAINT TO QUIET TITLE

The State of Alaska, plaintiff, alleges as follows:

1. This is an action to quiet title to the tide and submerged lands in Southeast Alaska. These include the submerged lands within the Alexander Archipelago of Southeast Alaska that are enclosed behind the closing lines drawn by the United States to mark the seaward limit of inland waters at the 1903 Alaska Boundary Tribunal arbitration, together with the submerged lands extending three miles seaward from that line and from the remainder of Southeast Alaska's coast line. The lands that are the subject of this action are shown on the map at Exhibit ("Ex.") 1.*
2. This Court has jurisdiction under Article III, Section 2, Clause 2, of the United States Constitution and 28 U.S.C. § 1251(b)(2).
3. The United States consented to this action in 28 U.S.C. § 2409a(a). Alaska gave the United States written

* Exhibits referenced herein are appended to the accompanying Brief in Support of Motion for Leave to File a Complaint.

notice of its intent to file suit to quiet title to these lands on or about August 21, 1998, and March 22, 1999, as required by 28 U.S.C. § 2409a(m).

Count I: Historic Waters of the Alexander Archipelago

4. Upon admission to the Union on an equal footing with the other States, a new State succeeds to the United States' title to lands underlying navigable inland waters within its boundaries as an incident of its sovereignty.

5. Alaska was admitted to the Union "on an equal footing with the other States in all respects whatever" on January 3, 1959. Alaska Statehood Act § 1, Pub. L. No. 85-508, 48 U.S.C. note prec. § 21.

6. Under the equal footing doctrine, Alaska succeeded to the United States' title to lands underlying navigable inland waters within Alaska's boundaries as an incident of statehood.

7. From at least 1903 until 1971, the United States took the position in its international relations and in litigation with the States in this Court that the waters of the Alexander Archipelago were inland waters, including the pockets and enclaves that are more than three miles from the coast line of the mainland and any of the islands enclosed behind the closing lines drawn by the United States to mark the seaward limit of inland waters at the 1903 Alaska Boundary Tribunal arbitration (hereinafter "pockets and enclaves"). These pockets and enclaves are depicted in red on the map at Ex. 1.

8. Foreign nations acquiesced in the United States' claim that the waters of the Alexander Archipelago were inland waters, including the pockets and enclaves.

9. All of the submerged lands within these pockets and enclaves underlie navigable historic inland waters.

10. Because all of the submerged lands within the pockets and enclaves underlie navigable historic inland waters, Alaska took title to them upon its admission to the Union under the equal footing doctrine.

11. Congress both confirmed the equal footing doctrine rule of state ownership of lands underlying navigable inland waters and quitclaimed to the States the offshore submerged lands within state boundaries in the Submerged Lands Act of 1953, 43 U.S.C. §§ 1301-1315.

12. Congress made the Submerged Lands Act applicable to Alaska in Section 6(m) of the Alaska Statehood Act.

13. Congress defined Alaska's boundaries as coextensive with the three-mile territorial sea claimed by the United States at the time of Alaska's admission to the Union on January 3, 1959.

14. The United States claims an interest in the submerged lands within the pockets and enclaves, and also claims the submerged lands extending three miles seaward of the closing lines drawn by the United States to mark the seaward limit of inland waters at the 1903 Alaska Boundary Tribunal arbitration (hereinafter "1903 closing lines") where the submerged lands are more than three nautical miles from any point on the coast line of the mainland or any of the islands. The latter areas are depicted in dark blue on the map at Ex. 1.

15. Because the submerged lands within the pockets and enclaves and extending three miles seaward of the 1903 closing lines passed to Alaska at statehood under the equal footing doctrine and the Submerged Lands Act, the United States has no right, title, or interest in those lands.

16. On or about September 10, 1907, President Theodore Roosevelt reserved by proclamation an area of Southeast Alaska as the Tongass National Forest.

17. In 1908, President Theodore Roosevelt consolidated the Tongass National Forest with the Alexander Archipelago Forest Reserve and named the new entity Tongass National Forest.

18. On or about February 16, 1909, President Theodore Roosevelt enlarged the Tongass National Forest.

19. On or about June 10, 1925, President Calvin Coolidge again enlarged the Tongass National Forest. *See Ex. 2* (map with the 1925 enlargement and resulting outer boundaries of the Tongass National Forest).

20. Although the pockets and enclaves and the submerged lands extending three miles seaward of the 1903 closing lines are within the outer boundaries of the Tongass National Forest shown on the map at Ex. 2, the reservation of lands within these boundaries did not reserve the submerged lands therein or defeat Alaska's title to them at statehood.

21. Alaska's title is adverse to and clouded by the United States' claim of title to the lands underlying the pockets and enclaves and the waters extending three miles seaward of the 1903 closing lines where the submerged lands are more than three miles from any point on the coast line of the mainland or any of the islands.

22. Unless this Court declares and establishes Alaska's rights, Alaska will continue to be injured by the United States' claims to the lands underlying the pockets and enclaves and the waters extending three miles seaward of the 1903 closing lines where the submerged lands are more than three miles from any point on the coast line of the mainland or any of the islands.

Count II: The Tongass National Forest

23. Paragraphs 1-6, 11-13, and 16-19 are realleged and incorporated by reference.

24. Alaska took title to all lands between mean high and mean low tide and three miles seaward from the coast line inside the boundaries of the Tongass National Forest when it entered the Union on January 3, 1959. *See Ex. 2 (map showing boundaries).*

25. Although the lands described in paragraph 24 are within the lines delimiting the public lands withdrawn and reserved for the Tongass National Forest, the withdrawal and reservation of lands within the boundaries did not reserve or defeat Alaska's title to those submerged lands.

26. Because Alaska took title to the lands between mean high and mean low tide and three miles seaward from the coast line inside the boundaries of the Tongass National Forest at statehood, the United States has no right, title, or interest in those lands.

27. The United States claims an interest in these lands that is disputed by Alaska and creates a cloud on Alaska's title to them.

28. The United States' claim to these lands will continue to cloud Alaska's title unless this Court declares and establishes Alaska's rights.

Count III: Glacier Bay National Monument

29. Paragraphs 1-6 and 11-13 are realleged and incorporated by reference.

30. On or about February 26, 1925, President Calvin Coolidge created Glacier Bay National Monument by issuing Proclamation 1733 under the authority of the Antiquities Act of 1906, 34 Stat. 223, 16 U.S.C. §§ 431-433.

31. The President set apart as Glacier Bay National Monument "the tract of land" lying within the boundaries described in the 1925 order. *See* Ex. 3 (1939 map depicting 1925 boundaries in purple).

32. The Antiquities Act permits the President "to declare * * * historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest * * * to be national monuments," but permits the reservation of only "the smallest area compatible with the proper care and management of the objects to be protected." 16 U.S.C. § 431.

33. The primary purpose of the 1925 creation of Glacier Bay National Monument was to preserve the land left bare by the retreat of tidewater glaciers for study of the development of flora and fauna.

34. The President did not intend to include as part of the monument the lands underlying marine waters within the boundary described in Proclamation 1733.

35. Given the purposes of the monument, the President's authority to withdraw and reserve lands under the Antiquities Act did not extend to the submerged lands within the boundaries described by the 1925 reservation order.

36. On or about April 18, 1939, President Franklin D. Roosevelt expanded the area of Glacier Bay National Monument by issuing Proclamation 2330 under the authority of the Antiquities Act.

37. The Proclamation added to Glacier Bay National Monument certain public lands, including lands simultaneously excluded from the Tongass National Forest. *See* Ex. 3 (lands transferred from the Tongass National Forest

to Glacier Bay National Monument depicted between the red and green lines).

38. The primary purposes of the 1939 expansion of Glacier Bay National Monument were to set aside a refuge for brown bears and to preserve a coastal forest.

39. The lands underlying marine waters within the 1939 boundary of the newly expanded monument were unrelated to the purposes of a bear refuge and a forest preserve and therefore exceeded "the smallest area compatible with the proper care and management of the objects to be protected." 16 U.S.C. § 431.

40. The President did not intend to include as part of the monument the lands underlying marine waters within the boundaries described in Proclamation 2330.

41. The President's authority to reserve lands under the Antiquities Act did not extend to the submerged lands within the boundaries described by the 1939 proclamation.

42. The State of Alaska took title to all the lands underlying marine waters within the boundaries of Glacier Bay National Monument at statehood, pursuant to the equal footing doctrine and the Submerged Lands Act.

43. The United States' claim of title to the lands underlying marine waters within the boundaries of Glacier Bay National Monument as they were drawn at statehood is adverse to and disputed by Alaska, and creates a cloud on Alaska's title to those lands.

44. The United States' claim of title to these lands will continue to cause injury to Alaska unless this Court declares and establishes Alaska's rights.

PRAYER FOR RELIEF

Alaska prays that the Court require the United States to answer Alaska's Complaint and that, after due proceedings, the Court enter a decree declaring the rights of Alaska as against the United States in the submerged lands within the Alexander Archipelago of Southeast Alaska that are enclosed behind the closing lines drawn by the United States to mark the seaward limit of inland waters at the 1903 Alaska Boundary Tribunal arbitration, together with the submerged lands extending three miles seaward from that line and the remainder of Southeast Alaska's coastline, and enjoining the United States, its privies, assigns, lessees, and other persons claiming under it from interfering with the rights of Alaska, as well as award Alaska any other relief the Court may deem just and appropriate.

Respectfully submitted,

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Counsel for Plaintiff

Confirmation

CFE C,

Marlene

Johnson

RESUME

Marlene A. Johnson
9505 Antler Way

Juneau, Alaska 99801

NAME: Marlene A. Greenewald Johnson
POB: Hoonah, Alaska

PERSONAL INFORMATION: Married to Clifford Leo Johnson
Children: 3 sons and 2 daughters (grown)
13 grandchildren

EMPLOYMENT HISTORY:

Dec. 16, 1996 - present:
State of Alaska Commercial Fisheries Entry Commission, Commissioner. .

Jan. 1, 1995 - Dec. 1, 1996:
Manager of Shareholder Services for Huna Totem Corporation and coordinator of Huna Heritage Foundation.

1992 - 1995:
Shareholder Service Coordinator for Huna Totem Corporation, on a part time basis and coordinated the activities of Huna Heritage Foundation on a part time basis also.

1982 - 1992:
Chairman of Sealaska Corporation, full time, an Alaska Native regional corporation formed under Alaska Native Claims Settlement Act of 1971. Primarily a natural resource and investment company.

1969 - 1982:
Was part owner and Vice President of a regional air taxi, acted as the sales and personnel manager; and managed the Hoonah Station as well as the other outpost agents. Employed 50 people.

1961 - 1968:
Accountant for Coastal Glacier Seafood's, Hoonah Alaska, a retail store and seafood processing plant as well as the agent for the regional airline, Alaska Coastal-Ellis Air.

CIVIC AND OTHER ACTIVITIES:

1998 - Appointed by the Governor to serve on the Rural Governance & Empowerment Commission.

1992 - Present:

Board of Trustee of Huna Heritage Foundation, a non-profit whose mission is to preserve the culture of the Huna people.

1992 - Present:

Serves on the University of Alaska School of Fisheries and Ocean Sciences advisory council.

1985 - Present:

Serves on the Southeast Alaska Selective Service Board, is the past Chairman.

1992 - Present:

National Advisory Committee member to the Robert Wood Johnson Foundation on the Healthy Nations Program and The Improving the Health of American Indians.

1994 - Present:

Serves as a member of the Board of Directors for the Juneau Chapter of the American Cancer Society.

1990 - Present:

Serves as a Trustee on the Sealaska Heritage Foundation that provides scholarships and preserves and records southeast Alaska native's culture.

1971 - 1995:

Served on the Board of Directors of Sealaska Corporation, was one of the original incorporators of Sealaska. Represented the Corporation on several other Boards of Directors such as United Bank Alaska, Ocean Beauty Seafoods and AFN.

1972 - 1992:

Served on the Board of Directors of Huna Totem Corporation, the Village Corporation for the people of Hoonah. Primarily a timber and investment company.

1961 - 1980:

Served as a Vice President on the Tlingit and Haida Central Council, Executive Committee, the regional tribal governing body.

1964 - 1985:

Served on Rural Cap Board of Directors; as its President for 8 years, during which time helped form Alaska Federation of Natives and lobbied for the passage of Alaska Native Claims Settlement Act and later ANILCA.

1961 - 1986:

Served as an elected member to the Hoonah School Board, was the President for 15 years.

1967-1985:

Served on Hoonah Indian Association (IRA Council) Board of Directors and assisted them in writing grant applications and implementing programs.

1960-1980:

Served on the Hoonah Tlingit and Haida Community Council, was the secretary/treasurer for several years and established the Hoonah Cable TV for them.

OTHER BOARDS AND COMMISSIONS:

Served on a number of other Boards and Commissions for the community and State. Some of the are:

State of Alaska Health Systems Agency
State of Alaska Governor's Interim Commission on Children and Youth
The Governors Review Commission on Native Services
The Governors Task force on Tort Reform
The State Personnel Board
The State Public Employees Retirement Board
The Alaska Labor Relations Agency
The Alaska Railroad Labor Relations Agency
The State Reapportionment Board
The Governor's Transition Team
The Juneau Convention & Visitors Bureau, first Board of Directors
The University of Alaska Presidential Search Committee
The University of Alaska Foundation
The Alaska Committee

PERSONAL INFORMATION

Was born in Hoonah, Alaska to Robert and Elsie Greenewald. Was one of 14 children. Married to Clifford L. Johnson, who is retired from Alascom, a communications company. Lives in Juneau and also retains a residence in Hoonah.

Attended school in Hoonah and Juneau public school systems. Graduated from Juneau High School. Attended vocational training under the BIA in accounting and personnel management. Took training from University of Oregon and Washington State University in management, financial management and personnel. Completed the Administrative Law: Fair Hearing Course and Logic and Opinion Writing at the National Judicial College, at the University of Nevada, Reno.

AWARDS:

1991,1990,1989	nominated as one of Alaska's 10 outstanding women.
1989	Alaska Legislature commendation for public service.
1985-1991	Outstanding Women of America award
1986	AASA Mackinnon Education Excellence & Human Recognition Award for High Standards & Ideals in Education.
1985	American Indian Opportunity - Recognition for Outstanding Service.
1983-1989	Who's Who in America
1987-1995	Who's Who in American Business
1990-1994	Benton's Who's Who International
1993	RWJ Foundation Distinguished Service Award
1995	Alaska Federation of Natives Citizen of the Year Award.

Confirmation

A O O G C C

Daniel

Seamount

RESUME'

DANIEL TAYLOR SEAMOUNT Jr.
State of Alaska Professional Geologist License #507
AIPG Certified Professional Geologist #10425

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25116 Eagle River Road
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(907) 263-7699~~

OCCUPATIONAL GOAL: Commissioner AOGCC, Geologist

AOGCC

WORK EXPERIENCE:

793-1221

Union Oil Co. of Ca., 2/8/93 to 2/14/00

P.O. Box 196247, Anchorage, AK 99519-6247

Title: *Senior Advising Geologist*

Duties: Most recently have evaluated some North Slope Oil Fields and prospects. For last 3 ½ years explored for hydrocarbons in Cook Inlet Basin on both regional and specific prospect levels. Prospects were located in the North Middle Ground Shoal, Sunfish, Redoubt Shoal, Matanuska Valley, and South Cook Inlet, Susitna Basin and west side and east side areas. Mapped the base of fresh water section in Matanuska Valley for water disposal (UIC) well permits. Was project manager of the Matanuska Valley Coal Bed Methane project. For 3 ½ years prior, was project manager and Team leader of a group which exploited development, exploration, and business opportunities in Cook Inlet and Alaska North Slope. Heavily involved in planning and budgeting wells and forming partnerships. Made numerous written and oral presentations to management and partners to update them on project progress and presented to state agencies (DNR & AOGCC) to form units, drilling PA's, spacing exceptions, and plans of operations. Provided geological input on well bore disposal of platform effluent. Also worked on Kuparuk and Endicott Fields on North Slope. Proficient in Atlas's WDS well log system and Landmark's Stratworks, Petroworks, and Seisworks packages.

Union Oil Co. of Ca., 5/16/88 to 2/8/93

3300 N. Butler, Farmington, NM 87401
P.O. Box 2620, Casper, WY 82602-2620

Titles: *District Development Geologist: 8/89 to present 2/8/93*
Geologist: 5/88 to 8/89

Duties: Supervised and worked development and exploration geology of UNOCAL operated properties in the San Juan, Paradox, and Piceance Basins. Exploited tight sandstone reservoirs (27 wells), coal seam gas (57 wells), and conventional sandstone and carbonate oil and gas reservoirs. Horizontal, deviated, and vertical well bores were utilized. Additional work included managing geological contractors, progress reporting of drilling programs and field mapping. Presented San Juan Dakota reservoir characterization results to NM State O&G Comm. in approval process of tight gas sands designation. Worked with Utah O&G Comm. In forming Lisbon Field Unit. Presented to numerous potential partners and was on a team which sold Unocal's alternative fuel tax credit to outside investors.

Marathon Oil Co., 7/13/81 to 5/16/88

P.O. Box 120, Casper, WY 82602

Titles: *Staff Geologist: 1986 to 1988*
Project Supervisor: 1984 to 1986
Geologist: 1981 to 1984

Duties: Oil and gas prospecting in the D-J Basin (one Paleozoic discovery), the Green River Basin (assisted in two Moxa Arch Frontier and Dakota gas discoveries and one sub-economic oil well), the Las Animas Arch (a number of Morrow Prospects on hold), and the central Kansas uplift (Pennsylvanian basal ss and Lansing- Kansas City Fm.). Work included regional & local mapping of structures, thickness', and facies of Rocky Mountain petroleum reservoirs and presentation of prospects to management. Was expert witness in Nebraska lawsuit between Marathon and KN Energy.

Chevron U.S.A. Inc., 8/18/73 to 1/3/79

2525 N. Chester, Oildale, CA 93308 (10/75 to 1/79)

575 Market St., San Francisco, CA 94105 (8/73 to 10/75)

Titles: *Geologic Assistant: 1975-1979*
Computer Analyst : 1973-1975

Duties: Utilized geologic and geophysical computer programs. Performed well site work and prospect generation in California onshore and offshore. Correlated logs and generated structure and isopach maps. Witnessed logging runs, DST's, production tests, coring, and fracture stimulations.

Institute of Geophysics and Planetary Physics, 1/3/79 to 7/13/81

University of Ca, Earth Science Dept. Riverside, CA 92521

Title: *Research Associate (half time while finishing MS)*

Duties: Assisted research scientists in geothermal, seismic, and earthquake studies. Also, supervised the drilling of heat flow test holes.

EDUCATION:

M.S. - Geology, 6/81, University of CA, Riverside, CA.
Emphasis on geothermal development and exploration. Thesis titled, " Well Log Study of the Hydrothermally Altered Sediments of Cerro Prieto Geothermal Field, Baja California, Mexico".

B.S. - Geology, 5/73, University of CA, Riverside

INTERESTS

Backpacking
Fishing
Hiking
Hunting
Skiing
Wild Life Viewing

Overview:

Brd. of

Fisheries



Alaska State Legislature

REPRESENTATIVE BILL HUDSON

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

COMMITTEES

CHAIR
Resources Committee
Utility Restructuring Committee

MEMBER
State Affairs Committee
Transportation Committee
Fisheries Committee

House Resources Committee

Overview: Alaska Board of Fisheries

January 14, 2000
1:00 PM to 3:00 PM
Room 126

Agenda

- I. Call to Order
- II. Roll Call
- III. Witnesses:

Dan Coffey, Chairman, Alaska Board of Fisheries
Dr. John White, Vice-Chairman, Alaska Board of Fisheries

- IV. Adjournment

Alaska Statutes: Board of Fisheries

Sec. 16.05.221. Boards of fisheries and game.

(a) For purposes of the conservation and development of the fishery resources of the state, there is created the Board of Fisheries composed of seven members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, and with a view to providing diversity of interest and points of view in the membership. The appointed members shall be residents of the state and shall be appointed without regard to political affiliation or geographical location of residence. The commissioner is not a member of the Board of Fisheries, but shall be ex officio secretary.

(b) For purposes of the conservation and development of the game resources of the state. ...

(c) Members of the Board of Game serve staggered terms of three years ...

(d) Members of the Board of Fisheries serve staggered terms of three years. The terms of members of the board begin on July 1. Notwithstanding AS 39.05.080 (1), by April 1 of the calendar year in which the term expires, the governor shall appoint a person to fill the vacancy that will arise on the board due to expiration of the term of a member of the board and submit the name of the person to the legislature for confirmation. If a vacancy arises on the board, the governor shall, within 30 days after the vacancy arises, appoint a person to serve the balance of the unexpired term and submit the name of the person to the legislature for confirmation. A person appointed to fill the balance of an unexpired term shall serve on the board from the date of appointment until the earlier of the expiration of the term or the failure of the legislature to confirm the person under AS 39.05.080.

Sec. 16.05.230. Term of office. [Repealed, Sec. 40 ch 206 SLA 1975].
Repealed or Renumbered

Sec. 16.05.240. Powers excluded. [Repealed, Sec. 40 ch 206 SLA 1975].
Repealed or Renumbered

Sec. 16.05.241. Powers excluded.

The boards have regulation-making powers as set out in this chapter, but do not have administrative, budgeting, or fiscal powers.

Sec. 16.05.250. Regulations. [Repealed, Sec. 40 ch 206 SLA 1975].
Repealed or Renumbered

Sec. 16.05.251. Regulations of the Board of Fisheries.

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

(1) setting apart fish reserve areas, refuges, and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

- (2) establishing open and closed seasons and areas for the taking of fish; if consistent with resource conservation and development goals, the board may adopt regulations establishing restricted seasons and areas necessary for persons 60 years of age and older to participate in sport, personal use, or subsistence fishing;
- (3) setting quotas, bag limits, harvest levels, and sex and size limitations on the taking of fish;
- (4) establishing the means and methods employed in the pursuit, capture, and transport of fish;
- (5) establishing marking and identification requirements for means used in pursuit, capture, and transport of fish;
- (6) classifying as commercial fish, sport fish, guided sport fish, personal use fish, subsistence fish, or predators or other categories essential for regulatory purposes;
- (7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of fish;
- (8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;
- (9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;
- (10) establishing seasons, areas, quotas, and methods of harvest for aquatic plants;
- (11) establishing the times and dates during which the issuance of fishing licenses, permits, and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43;
- (12) regulating commercial, sport, guided sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries;
- (13) requiring, in a fishery, observers on board fishing vessels, as defined in AS 16.05.475 (d), that are registered under the laws of the state, as defined in AS 16.05.475 (c), after making a written determination that an on-board observer program
 - (A) is the only practical data-gathering or enforcement mechanism for that fishery;
 - (B) will not unduly disrupt the fishery;
 - (C) can be conducted at a reasonable cost; and
 - (D) can be coordinated with observer programs of other agencies, including the National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission;
- (14) establishing nonexclusive, exclusive, and superexclusive registration and use areas for regulating commercial fishing;

(15) regulating resident or nonresident sport fishermen as needed for the conservation, development, and utilization of fishery resources;

(16) requiring unlicensed fishing vessels present in or transiting the waters of the state to report to the department the quantity, species, and origin of fish on board; in this paragraph, "unlicensed fishing vessel" means a fishing vessel that is not licensed under AS 16.05.490 - 16.05.530.

(b) [Repealed, Sec. 12 ch 52 SLA 1986].

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

(d) Regulations adopted under (a) of this section must, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources by personal use, sport, and commercial fishermen.

(e) The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. The board shall adopt criteria for the allocation of fishery resources and shall use the criteria as appropriate to particular allocation decisions. The criteria may include factors such as

(1) the history of each personal use, sport, guided sport, and commercial fishery;

(2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;

(3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the state;

(6) the importance of each fishery to the economy of the region and local area in which the fishery is located;

(7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

(f) Except as expressly provided in AS 16.40.120 (e) and 16.40.130, the Board of Fisheries may not adopt regulations or take action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or hatchery required to have a permit under AS 16.40.100, or a harvest with a permit issued under AS 16.40.120.

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050 . The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

(h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

Sec. 16.05.253. Operation of stationary fishing gear.

(a) The Board of Fisheries may require a person who holds a limited entry permit or an interim-use permit under AS 16.43 to be physically present at a beach or riparian fishing site during the operation of net gear or other stationary fishing gear at the site, except when the permit holder is at or traveling to or from the location of

(1) a sale of fish caught in the gear; or (2) other stationary gear of the permit holder.

(b) In this section, "fishing site " means fishing site as defined by the Board of Fisheries and includes any structure used for providing shelter in support of the operation of the net gear or other stationary fishing gear.

Sec. 16.05.255. Regulations of the Board of Game.

Sec. 16.05.257. Subsistence hunting regulations. [Repealed, Sec. 12 ch 52 SLA 1986].

Sec. 16.05.258. Subsistence use and allocation of fish and game.

(a) Except in nonsubsistence areas, the Board of Fisheries and the Board of Game shall identify the fish stocks and game populations, or portions of stocks or populations, that are customarily and traditionally taken or used for subsistence. The commissioner shall provide recommendations to the boards concerning the stock and population identifications. The boards shall make identifications required under this subsection after receipt of the commissioner's recommendations.

(b) The appropriate board shall determine whether a portion of a fish stock or game population identified under (a) of this section can be harvested consistent with sustained yield. If a portion of a stock or population can be harvested consistent with sustained yield, the board shall determine the amount of the harvestable portion that is reasonably necessary for subsistence uses and

(1) if the harvestable portion of the stock or population is sufficient to provide for all consumptive uses, the appropriate board

(A) shall adopt regulations that provide a reasonable opportunity for subsistence uses of those stocks or populations;

(B) shall adopt regulations that provide for other uses of those stocks or populations, subject to preferences among beneficial uses; and

(C) may adopt regulations to differentiate among uses;

(2) if the harvestable portion of the stock or population is sufficient to provide for subsistence uses and some, but not all, other consumptive uses, the appropriate board

(A) shall adopt regulations that provide a reasonable opportunity for subsistence uses of those stocks or populations;

(B) may adopt regulations that provide for other consumptive uses of those stocks or populations; and

(C) shall adopt regulations to differentiate among consumptive uses that provide for a preference for the subsistence uses, if regulations are adopted under (B) of this paragraph;

(3) if the harvestable portion of the stock or population is sufficient to provide for subsistence uses, but no other consumptive uses, the appropriate board shall

(A) determine the portion of the stocks or populations that can be harvested consistent with sustained yield; and

(B) adopt regulations that eliminate other consumptive uses in order to provide a reasonable opportunity for subsistence uses; and

(4) if the harvestable portion of the stock or population is not sufficient to provide a reasonable opportunity for subsistence uses, the appropriate board shall

(A) adopt regulations eliminating consumptive uses, other than subsistence uses;

(B) distinguish among subsistence users, through limitations based on

(i) the customary and direct dependence on the fish stock or game population by the subsistence user for human consumption as a mainstay of livelihood;

(ii) the proximity of the domicile of the subsistence user to the stock or population; and

(iii) the ability of the subsistence user to obtain food if subsistence use is restricted or eliminated.

(c) The boards may not permit subsistence hunting or fishing in a nonsubsistence area. The boards, acting jointly, shall identify by regulation the boundaries of nonsubsistence areas. A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture, and way of life of the area or community. In determining whether dependence upon subsistence is a principal characteristic of the economy, culture, and way of life of an area or community under this subsection, the boards shall jointly

consider the relative importance of subsistence in the context of the totality of the following socio-economic characteristics of the area or community:

- (1) the social and economic structure;
- (2) the stability of the economy;
- (3) the extent and the kinds of employment for wages, including full-time, part-time, temporary, and seasonal employment;
- (4) the amount and distribution of cash income among those domiciled in the area or community;
- (5) the cost and availability of goods and services to those domiciled in the area or community;
- (6) the variety of fish and game species used by those domiciled in the area or community;
- (7) the seasonal cycle of economic activity;
- (8) the percentage of those domiciled in the area or community participating in hunting and fishing activities or using wild fish and game;
- (9) the harvest levels of fish and game by those domiciled in the area or community;
- (10) the cultural, social, and economic values associated with the taking and use of fish and game;
- (11) the geographic locations where those domiciled in the area or community hunt and fish;
- (12) the extent of sharing and exchange of fish and game by those domiciled in the area or community;
- (13) additional similar factors the boards establish by regulation to be relevant to their determinations under this subsection.

(d) Fish stocks and game populations, or portions of fish stocks and game populations not identified under (a) of this section may be taken only under nonsubsistence regulations.

(e) Takings and uses of fish and game authorized under this section are subject to regulations regarding open and closed areas, seasons, methods and means, marking and identification requirements, quotas, bag limits, harvest levels, and sex, age, and size limitations. Takings and uses of resources authorized under this section are subject to AS 16.05.831 and AS 16.30.

(f) For purposes of this section, "reasonable opportunity" means an opportunity, as determined by the appropriate board, that allows a subsistence user to participate in a subsistence hunt or fishery that provides a normally diligent participant with a reasonable expectation of success of taking of fish or game.

Sec. 16.05.259. No subsistence defense.

In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

Sec. 16.05.260. Advisory committees.

The Board of Fisheries and the Board of Game may adopt regulations they consider advisable in accordance with AS 44.62 (Administrative Procedure Act) establishing, at places in the state designated by the individual boards, advisory committees to be composed of persons well informed on the fish or game resources of the locality. The boards shall set the number and terms of each of the members of the advisory committees, shall delegate one member of each committee as chairman, and shall give the chairman authority to hold public hearings on fish or game matters. Recommendations from the advisory committees shall be forwarded to the appropriate board for their consideration but if the Board of Fisheries or the Board of Game chooses not to follow the recommendations of the local advisory committee the appropriate board shall inform the appropriate advisory committee of this action and state the reasons for not following the recommendations. The commissioner shall delegate authority to advisory committees for emergency closures during established seasons. The commissioner is empowered to set aside and make null and void only opening of seasons set by the advisory committees under this section. The appropriate board shall adopt the necessary regulations governing these closures.

Sec. 16.05.261. [Renumbered as AS 16.05.259]. Repealed or Renumbered

Sec. 16.05.270. Delegation of authority to commissioner.

For the purpose of administering AS 16.05.251 and 16.05.255, each board may delegate authority to the commissioner to act in its behalf. If there is a conflict between the board and the commissioner on proposed regulations, public hearings shall be held concerning the issues in question. If, after the public hearings, the board and the commissioner continue to disagree, the issue shall be certified in writing by the board and the commissioner to the governor who shall make a decision. The decision of the governor is final.

Sec. 16.05.280. Removal of board members.

The governor may only remove a board member for inefficiency, neglect of duty, or misconduct in office, or because the member while serving on the board is convicted of a misdemeanor for violating a statute or regulation related to fish or game or of a felony, and shall do so by delivering to the member a written copy of the charges and giving the member an opportunity to be heard in person or through counsel at a public hearing before the governor or a designee upon at least 10 days' notice by registered mail. The member may confront and cross-examine adverse witnesses. Upon removal, the governor or a designee shall file in the proper state office the findings and a complete statement of all charges made against the member.

Sec. 16.05.290. Compensation of board members.

Each member of a board is entitled to compensation at a rate equal to Step A, Range 20, of the salary schedule in AS 39.27.011 (a) for Juneau, Alaska, for each day going to and from and for each day in actual attendance at board meetings. For other meetings or conferences authorized by a board a member shall receive compensation at a rate equal to one-half of Step A, Range 20, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska, for each day going to and from and for each day in actual attendance. Each member of a board is also entitled to travel expenses and per diem authorized for boards and commissions under AS 39.20.180 .

Sec. 16.05.300. Board meetings.

(a) Each board shall hold at least one meeting a year and as many other meetings as it considers necessary. Each board shall select the time and place in the state for the transaction of business. Each board shall maintain its office at the principal office of the department.

(b) In addition, the Board of Fisheries shall hold at least one meeting or hearing a year in each of the following general areas:

- (1) Upper Yukon - Kuskokwim - Arctic
- (2) Western Alaska (including Kodiak)
- (3) Southcentral
- (4) Prince William Sound (including Yakutat).

Sec. 16.05.305. Clerical assistance for boards.

The Board of Fisheries and the Board of Game are authorized to hire and set the compensation for one clerical assistant for each board.

Sec. 16.05.310. Special board meetings.

A board may meet at any time upon the call of the commissioner or upon the request of two board members.

Sec. 16.05.315. Joint board meetings.

The Board of Fisheries and the Board of Game may hold a joint meeting upon the call of the commissioner or a board to resolve any conflicts in regulations of the boards and to consider matters, as determined by the commissioner or a board, that require the consideration of both boards.

Sec. 16.05.320. Quorum.

A majority of the members of a board constitutes a quorum for the transaction of business, for the performance of any duty, and for the exercise of any power. However, a majority of the full board membership is required to carry all motions, regulations, and resolutions. A majority of the members of the boards of fisheries and game constitute a quorum for the transaction of business in a joint board meeting. A majority of the membership of the boards is required to carry all joint motions, regulations, and resolutions of the boards.

SUMMARY OF ACTIONS
ALASKA BOARD OF FISHERIES
Work Session – October 27 – 30, 1999

DESIGNATED REPORTER: Jim Marcotte

This summary of actions is for information purposes only and is not intended to detail, reflect or fully interpret the reasons for the Board's actions.

FY 2000 BUDGET OVERVIEW

The department presented an overview of the Boards Support Section FY 2000 budget (RC68) and projected costs through the year, and board members discussed priorities for committee work.

BOARD OF FISHERIES MEETING PROCEDURES

Committee Process

Deputy Commissioner Rob Bosworth provided department comments on the board's committee process (see RC32), suggesting that some proposals may not need to go to committee and cautioning that committee reports could prove burdensome. Board members discussed the advisability of assigning every proposal to committee, the need for workload efficiency, and ways to best include public participation. The board approved intent to limit the number of committee members on a committee to less than a quorum of the board (i.e., less than the number of board members it would take to pass or prevent adoption of a regulation). The board also approved intent of allowing advisory committees to decide whether to direct their representatives as being free to offer comments on amended language during committee process or adhere to AC comments only. Pros and cons of audio taping committee sessions were discussed and a motion to record these sessions within fiscal constraints was withdrawn. They discussed whether written committee procedures best fit in regulation or board policy, and approved a motion to form a committee, consisting of Larry Engel and Ed Dersham, to develop draft policy bring back to board at Valdez meeting.

Agenda Change Request Form

The board accepted a new form (RC16) because non-standardized ACR result in difficulties due to ambiguity and failure to address criteria. The form uses similar wording as for proposal forms.

Proposal Form

The board adopted draft proposal form that adds a question on product quality. The proposal format next goes to the Board of Game for support before being implemented.

Policy on Findings

The board accepted a policy on development board on findings (99-184-FB) which the Department of Law was asked to draft. Guidelines are addressed in the policy. The board discussed inclusion of majority and minority opinions and the value of written findings in fishery management plans.

Oral Testimony

The board discussed, but chose not to limit public testimony to three minutes if over 200 people sign up to testify, opting instead to be mindful it is the board member's own questions that often slow the process.

COMMITTEE REPORTS

Joint BOF/NPFMC Committee Report

The board adopted an addendum to the Joint Protocol and State/Federal Action Plan (RC 31). St. Matthews blue king crab and for Bering Sea snow crab rebuilding processes were scheduled for the March 2000 meeting (RC33, RC38, RC39). American Fisheries Act sideboards were discussed and further action was scheduled for the March 2000 meeting (RC35).

Habitat Committee Report

The committee worked with Habitat Division on protection issues surrounding culverts and log transfer facilities.

Hatchery Committee Report

The board received a hatchery committee report (RC80). Committee member Coffey will compile and index the volume of attachments for the Valdez meeting. The board plans to hear testimony on the hatchery proposals (64, 358, 364, 365) at both the Valdez and Sitka meetings but will hold off on deliberation until the March 2000 meeting in Anchorage.

Federal Subsistence Fisheries Management

Commissioner Frank Rue reviewed the department goals of protecting Alaska's fish and wildlife consistent with sustained yield principals, continuing subsistence uses, providing expertise, and regaining state management. A memorandum of agreement is being drafted. Peggy Fox and Greg Bos from USFWS reported on the federal subsistence fisheries management program and stressed the need for close coordination. The board discussed extraterritorial jurisdiction procedures, customary trade, past administrative appeals, in-season management, and the final decision making role of the secretaries of Interior and Agriculture.

Rod and Reel Subsistence Committee Report

Sport Fish Director Kevin Delaney outlined the department survey (RC48). The board approved scheduling the Associated Village Council Presidents (AVCP) request and the department's evaluation and recommendations for March 2000. The board requested that only historical uses, and not new uses, be considered and expected to look at this as a model for future application and potential coordination with federal program.

Sustainable Fisheries Committee Report

The board provisionally accepted a draft policy on sustainable fisheries for further amendment and final action in March 2000. Deputy Commissioner Rob Bosworth said that national and international scrutiny from rankings for sustainability are becoming increasingly important and that Alaska cannot skate by on reputation. Members want to demonstrate a clear course of action leading up to March 2000.

TASK FORCE UPDATES AND PROPOSAL CONSIDERATION

Halibut LAMP Task Force

Ed Dersham presented a committee report on halibut local area management plans (RC11, RC55) and recommendation that a task force be constituted. The task force can come back to board in March prior to next step. The December NPFMC meeting may be best time for the task force to first meet, with shareholders paying their own travel. Boundaries for local area management plans need to be set. Halibut management closely tied to management of other fisheries. The board tabled proposals 9-11, 424-426 to the October 2000 worksession for further scheduling. The board accepted the committee charge (99-193-FB).

North Gulf of Alaska Chinook Task Force

Ed Dersham presented a committee report on North Gulf of Alaska chinook (RC10) and recommended Option 1 for October 2000 worksession. The board chose to finalize committee membership review the committee charge at their up-coming Valdez meeting. Proposals 2-8 and 423 were tabled to the October 2000 work session. The board clarified that members of the public will need to be responsible for their own travel costs.

Kodiak Trawl Task Force

Two proposals to close trawl areas were acted on in March 1999. Issues remained regarding the observer program on vessels less than 60 feet. Staff reported on recent task force teleconferences (RC56). Questions remain on the direction of the task force, data needs, relationship with federal observer program. Board members expressed interest in bycatch observer program, industry sponsorship, fleet-wide applicability, accountability, the need to exercise the precautionary principal, and the need for a more firm charge to the task force. The board asked for an ACR for March 2000 or board will generate proposal at that time. Observer program is different focus of task force than dealing with closures. The board discussed the percentage of fishing vessels to be randomly selected, the intent that costs be borne by the participants (RC86). Action on this was tabled to the Valdez meeting.

Kodiak Herring Task Force

Last year's proposal 94 was tabled to the October 1999 worksession in order to obtain an additional year of harvest data, stock assessments, and guideline harvest levels. The task force has not met and there are differences among set net and seine net gear groups. The board scheduled Proposal 94 for review at Valdez meeting while it encouraged the user groups to work together in bringing a proposal to Valdez or board will schedule Proposal 94 for January.

Kenai River Sport Fishing Guide Restrictions

Proposal 381 was deferred to 1999-2000 cycle. The department presented the results of a Kenai River sport fishing guide survey (RC43). There was near unanimous guide opposition of proposal 381 because it would restrict diverse fishing opportunity. The department recommends not adopting proposal 381. Proposal 381 died for lack of board action. Board members expressed interest in guide legislation, and the need for the development of a consensus among guides. The board voted to approach key members of the legislature regarding guide legislation. The task force is now a "committee" consisting of Nelson, Umphenour and Engel.

Perryville Subsistence Task Force

The department presented an interim progress report (see Task Force Tab) on subsistence uses of salmon in the Chignik management area by residents of Perryville which addressed coho stock and reasonable opportunity. Area fishers expressed support for the final language as presented. The board supported the work of the task force and expressed support for continued work.

Shellfish Onboard Observers (RCs 8, 15, 21, 42, 50, 52)

The board discussed the initial crab oversight committee and heard the department's support for the recommendations provided by the crab oversight committee (RC50). Linda Kozak, who served as facilitator, reviewed recommendations. The department does not support funding. The initial goal was to formalize a structure between the department and users. The board adopted policy language for permanent industry crab oversight committee with the provision that references to funding be deleted (99-186-FB). Board members clarified that task forces, as opposed to workgroups, are intended to be self sufficient.

The board also discussed the scope of the cost recovery program (RC 50, page 3), the use of common property resources to pay for department programs and voted to narrow scope of the cost recovery program to the observer program. The board set the task force size at 15 and asked that names be provided to the board prior to next meeting. Future vacancies would be referred to the board for approval.

Alitak Task Force

The board reviewed Alitak task force information and set the task force composition at two set netters from each fishing area (Olga, Moser, Alitak) and four seiners, and directed each user group to select members and one alternate. The selection of chair and meeting place was left up to the task force.

PROPOSAL NO. 1

ACTION: No Action

DESCRIPTION: Require guides to register to operate in Kenai River, Kasilof River and marine waters.

DISCUSSION: See discussion under Kenai River Sport Fishing Guide Restrictions.

PROPOSAL NO. 2

ACTION: Tabled to October 2000

DESCRIPTION: Establish a bag limit of two king salmon for the winter fishery between November 1 and March 31.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 3

ACTION: Tabled to October 2000

DESCRIPTION: Reduce the yearly bag limit for king salmon in Cook Inlet to two.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 4

ACTION: Tabled to October 2000

DESCRIPTION: Eliminate the early run king salmon guideline harvest level in central Cook Inlet marine fishery.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 5

ACTION: Tabled to October 2000

DESCRIPTION: Define the salmon corridor restrictions for sport fishing in lower Cook Inlet on June 25 each year.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 6

ACTION: Tabled to October 2000

DESCRIPTION: Establish a closed area for king salmon fishing at the mouth of the Anchor River.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 7

ACTION: Tabled to October 2000

DESCRIPTION: Move the southern boundary of the one mile restricted zone from Bluff Point to coincide with the southern closure marker of the Anchor River.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 8

ACTION: Tabled to October 2000

DESCRIPTION: Close the waters within a one-mile radius of the Anchor, Ninilchik rivers and Deep and Stariski creeks to king salmon fishing January 1 to June 30.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 423

ACTION: Tabled to October 2000

DESCRIPTION: Establish king salmon sport limits for Kodiak Island waters as follows: Over 20 inches: three king salmon per day, three in possession, only two of which may be over 28 inches in length. Less than 20 inches: ten per day, ten in possession. Nonresident anglers will be restricted to the taking of six king salmon greater than 20 inches annually.

DISCUSSION: See North Gulf of Alaska Chinook Task Force.

PROPOSAL NO. 9

ACTION: Tabled to October 2000

DESCRIPTION: Implement a moratorium on new entries to the halibut charter industry in Upper and Lower Cook Inlet for three years.

DISCUSSION: See Halibut LAMP Task Force.

PROPOSAL NO. 10

ACTION: Tabled to October 2000

DESCRIPTION: Allow only 12 halibut per 24-hour day for six-pack charters whom launch and load for Ninilchik to Anchor River.

DISCUSSION: See Halibut LAMP Task Force.

PROPOSAL NO. 11

ACTION: Tabled to October 2000

DESCRIPTION: Provide that recreational halibut angler shall not anchor their vessels in times or areas open to the salmon drift fishery when drift vessels are present and engaged in fishing.

DISCUSSION: See Halibut LAMP Task Force.

PROPOSAL NO. 424

ACTION: Tabled to October 2000

DESCRIPTION: Implement a moratorium on new entry into the halibut charter or guide service business in the waters of Cook Inlet and Kachemak Bay for a period of three years.

DISCUSSION: See Halibut LAMP Task Force

PROPOSAL NO. 425

ACTION: Tabled to October 2000

DESCRIPTION: Define a separate halibut management area for Kodiak similar to the Kodiak Salmon Management Area K.

DISCUSSION: See Halibut LAMP Task Force.

PROPOSAL NO. 426

ACTION: Tabled to October 2000

DESCRIPTION: Direct the development of six sub-area plans within larger Kodiak Management Area.

DISCUSSION: See Halibut LAMP Task Force.

PROPOSAL NO. 12

ACTION: Tabled to March 2000

DESCRIPTION: Change the opening date of the directed *C. bairdi* fishery to January 15 in specified waters of the Eastern Subdistrict.

DISCUSSION: The board heard staff comments on this carry-over proposal from last year (was Proposal 299) and tabled it to March 2000 and asked that the protocol committee review it.

PROFESSIONAL BOARD LEGISLATION (SB183)

Staff from Senator Drue Pearce's office presented the board a senate bill regarding a professional board (SB 183). Funding sources were not identified, and this bill is only a starting point for dialog. Board members discussed looking at guidelines of the North Pacific Fishery Management Council, reviewing the content of past legislative efforts, other state boards and commissions, and channeling information requests through the vice chair. The board voted to

have the legislative committee make a formal request to Pearce's office for information as described above to be distributed in a timely manner for approval in the Juneau board session in January. Board members also commented on the value of the current board process is the high level of direct contact with public.

FUTURE MEETING SCHEDULE

The board approved changing from an annual cycle for reviewing groundfish proposals to a three year cycle, with the first year 2002-2003.

The board approved the Call for Proposals for the April 10, 2000 deadline for Arctic-Yukon-Kuskokwim fisheries. The board also approved a schedule for the 2000-2001 meeting cycle (RC70). Specific dates may change subject to meeting room availability. The board also expressed its intent to not change meeting sites unless there is a very good reason.

FINDINGS

Findings for brown king crab, Area O (99-190-FB)

The board adopted the findings based on the Department of Law's review of consistency with the King and Tanner crab Fishery Management Plan.

Findings for red king crab, Bristol Bay (99-187-FB)

The board adopted the findings that provide the rationale for an earlier start date and gear stand down time.

Findings for Bering Sea Tanner Crab (99-188-FB)

The board adopted the finding after a Department of Law review and the crab Fishery Management Plan requirements were met.

Findings for CDQ crab (99-189-FB)

The board adopted the finding which address the stand-down period for CDQ crab fisheries.

Findings for Cook Inlet Salmon Management Plan (99-191-FB)

The board adopted the findings in order to clarify its action on this complex, mixed stock fishery given the substantial public testimony received last year.

Delegation of Authority to Correct Technical Errors in Regulations (99-192-FB)

This board finding, that updates a previous finding (96-163-FB), clarifies the authority of the department to correct technical errors in regulation, such as revisions characterized as housekeeping, where the board intention is clear.

AGENDA CHANGE REQUESTS

ACR#1

ACTION: Carried

DESCRIPTION: Require registration for specific salmon district in area.

DISCUSSION: The board found that the request met the criteria and scheduled it for consideration in March 2000.

ACR#2

ACTION: Carried

DESCRIPTION: Consider alternatives to deter prospecting in Bristol Bay red king crab fishery.

DISCUSSION: This request was based on an action taken March 1999 and a request from the North Pacific Fishery Management Council to consider other alternatives. This ACR will be considered in March 2000.

ACR#3

ACTION: No Action

DESCRIPTION: Consider alternatives to deter prospecting in Bristol Bay king crab fishery.

DISCUSSION: The board took no action based on the action taken on ACR 2.

ACR#4

ACTION: Carried as Amended

DESCRIPTION: Address the salmon allocation system in Nushagak District.

DISCUSSION: The board chose to separate the date (ACR 4A) from the remainder (ACR 4B). The date aspect was seen as correcting an error in regulation and not primarily allocative. The remainder was seen as predominately allocative and was not supported. ACR 4A will be considered in March 2000.

ACR#5

ACTION: Carried

DESCRIPTION: Create management plan for gillnet and purse seine herring fisheries in Nunivak Island area.

DISCUSSION: The board found the request was based on new information and that there were not allocative effects (see RC73). There is now enough experience to find that gillnets are not effective, which results in an inability to conduct the fishery. This ACR will be considered in January 2000.

ACR#6

ACTION: Carried

DESCRIPTION: Implement spawning season sportfishing closures in Aniak River.

DISCUSSION: The department indicated poor returns and favored spawning season closure. The board expressed conservation concern in dealing with the growing fishery. This ACR will be considered in March 2000.

ACR#7

ACTION: Carried

DESCRIPTION: Establish resident species management plan in Aniak River.

DISCUSSION: The board discussed the need for a management plan for stock protection. Local knowledge as expressed at a recent hearing held in Aniak indicates declines in fish stocks. This ACR will be considered in March 2000.

ACR#8

ACTION: Failed

DESCRIPTION: Re-evaluate sockeye escapement goal in Upper Susitna/Yentna River.

DISCUSSION: The board found that conservation purposes were not identified and that putting a biological escapement goal in regulation is not a correction of a regulation. Brood tables were seen as advisory and not controlling.

ACR#9

ACTION: Failed

DESCRIPTION: Reduce number of crew on scallop fishing vessels statewide.

DISCUSSION: Board members found the request more of an allocation issue than a conservation issue.

ACR#10

ACTION: Failed

DESCRIPTION: Revisit allocation of state water P-cod quota by vessel length.

DISCUSSION: The board discussed the regulatory changes made in March 1999, the use of large flat boats allowed back in for the "cleanup" fishery, and the extent of emergency order authority. The board found the scope of the request too broad.

ACR#11

ACTION: Failed

DESCRIPTION: Address replacement of lost tags for Tanner crab in Area J.

DISCUSSION: The board found that the agenda change request criteria were not met because the problem was not unforeseen.

ACR#12

ACTION: Carried

DESCRIPTION: Revisit allocation of state water P-cod quota by vessel length.

DISCUSSION: The board found that the request sought to correct an error in regulation and scheduled it for consideration in March 2000.

ACR#13

ACTION: No Action

DESCRIPTION: Amend the Little Susitna and Northern District coho management plans.

DISCUSSION: No action was taken based on the action taken on ACR 21.

ACR#14

ACTION: No Action

DESCRIPTION: Review Cook Inlet coho management strategy.

DISCUSSION: No action was taken based on the action taken on ACR 21.

ACR#15

ACTION: Failed

DESCRIPTION: Address conflict among different sportfish user groups on Kenai River.

DISCUSSION: The board took action on Proposal 381 earlier in this meeting.

ACR#16

ACTION: Failed

DESCRIPTION: Return opening of state water cod fishery to April 1.

DISCUSSION: The board noted that the issue had been dealt with before and did not find that the request addressed an error or unforeseen circumstances.

ACR#17

ACTION: Failed

DESCRIPTION: Divide P-cod quota between pot vessels over and under 50 feet.

DISCUSSION: The board found the request allocative and did not find the agenda change request criteria satisfied.

ACR#18

ACTION: Withdrawn

DESCRIPTION: Eliminate prohibition on taking sablefish for bait and personal use.

DISCUSSION: The proposer withdrew the request.

ACR#19

ACTION: Withdrawn

DESCRIPTION: Allow full retention of bycatch of high mortality species in Southeast.

DISCUSSION: The proposer withdrew the request.

ACR#20

ACTION: Carried

DESCRIPTION: Require permits for taking of miscellaneous groundfish in PWS.

DISCUSSION: The board cited conservation concerns, and scheduled this ACR for consideration in December 1999 with final deliberations in March 2000.

ACR#21

ACTION: Carried (in three parts)

DESCRIPTION: Create salmon management plans for Cook Inlet and Kuskokwim River.

DISCUSSION: ACR 21 was split into three components: 21A1 dealing with coho salmon in the Kuskokwim River, 21A2 dealing with chum salmon in the Arctic-Yukon-Kuskokwim area, and 21B dealing with coho in Cook Inlet. Commissioner Frank Rue said that the governor thought the Kuskokwim area was coming up this winter and had asked for the board to consider it as possible.

Kusko Coho (ACR 21A1) The board asked the department to bring in March a comprehensive report on past and present escapement enumeration projects, in-season evaluation tools, a discussion of escapement of enumeration capabilities, stock status, past research and future research needs, and conservation ability in the future. The board wishes to review these items in preparation for regulatory proposals to be submitted in April 2000 and the normal AYK meeting in December 2000. The board chose to limit oral public testimony on this ACR to advisory committee representatives only consistent with the action taken for ACR 21B.

AYK Chum (ACR 21A2) The board discussed general conservation concerns and stressed the need for reviewing management information given the precocity of the run failure. Members considered a review step helpful going into the regular cycle.

Board members asked the department to bring in March a report on AYK chum salmon conservation and management issues, including past and present escapement enumeration projects, in-season evaluation tools, a discussion of escapement of enumeration capabilities, stock status, past research and future research needs, and conservation ability in the future. Board members expressed concerns over progressing restrictions in the fishery. The board wishes to review these items in preparation for regulatory proposals to be submitted in April 2000 and the normal AYK meeting in December 2000. The board chose to limit oral public testimony on this ACR to advisory committee representatives only consistent with the action taken for ACR 21B. Member White was selected as a committee of one to deal with department on this specific information requests.

Cook Inlet Coho (ACR 21B) The board recalled actions taken last year at the Soldotna meeting and the current conservation concerns.

The board scheduled a special meeting in Girdwood from February 9-11 to consider a "Cook Inlet Coho Conservation Management Plan" including specific areas and options for in-season actions. The board considers the scope as conservation as opposed to allocative. An analysis of marine survival of wild vs. hatchery smelt was considered contained within general request. The board chose to limit oral public testimony to advisory committee representatives only but not limit written comments.

PETITIONS

Kenai River Early Run Chinook Management Plan Petition

The board discussed the "emergency" requirement for accepting petitions and the role of unmet harvest. Board members asked about significance of the relatively small number of fish retained. The department indicated that the harvest is so close to zero that biologically there is not a significant difference, but the harvest data is a helpful tool for run assessment. The board, citing the criteria of an unexpected situation, found that the petition criteria were met and scheduled the request for the February meeting in Girdwood, in order to take action which could be in regulation by summer (see RC79). The board will take oral public testimony only from advisory committees at that time.

Bristol Bay Red King Crab Landing Requirements Petition

Alaska Fisheries Conservation Group petitioned to board to change landing requirements. The board discussed the whether the intent better fit FMP criteria or the board emergency petition authority and voted to reject the petition. The department currently has authority to do what the petitioner requests.

ORGANIZE PROPOSALS FOR SESSIONS 1999-2000 CYCLE

Specific proposals were assigned to in-meeting committees and roadmaps were approved for the Valdez, Sitka, Juneau, and Anchorage sessions. Additionally, board members were given committee assignments.

BOF IN-MEETING COMMITTEE ASSIGNMENTS FOR 1999-2000 CYCLE

			Engel	Miller	White	Coffey	Dersham	Nelson	Umphenour
Valdez	A	Groundfish			X		Chair	X	
	B	Herring	X	Chair					X
	C	Sport/Resident Spec.	X	X					Chair
	D	Gear			X		X	Chair	
	E	PWS Salmon		Chair				X	X
	F	C. R. Salmon	Chair		X		X		
Juneau	A	Sub/P U			Chair		X	X	
	B	Herring	Chair	X					X
	C	Groundfish			X		Chair	X	
	D	Shrimp	X	Chair					X
	E	Dumg. crab	X	X				Chair	
	F	Misc. Shellfish			X		X		Chair
Sitka	A	Sport	Chair		X		X		
	B	King, Spec. Harv. A.	X	Chair					X
	C	Salmon, Spec. Harv.		X	X		Chair		
	D	Purse Seine		X				X	Chair
Anch.	A	Scal., West Dungen.			X		Chair	X	
	B	Cook Inlet	Chair	X					X
	C	Clams	X	X	Chair	X	X	X	X
	D	Groundfish		Chair			X	X	
	E	Misc.	X		X				Chair

Anchorage: Day 1 A&B; Day 2 C, D,&E; Day 3 E (cont.)
[approved 10/30/99]

CHANGE IN MEETING LOCATION REQUESTS

Board members indicated familiarity with all the request letters submitted July through September and noted that the impetus for selecting Valdez as the meeting location for Prince William Sound and Copper River finfish was in part to accommodate residents of the Copper River Basin. The board could not support relocating the meeting or adding additional days for a hearing due to budgetary concerns and because the 112 mile distance from Glennallen to Valdez already provided relatively good access.

OTHER

Legislative Audit Update

Executive Director Cote informed the board of recent audit activities and shared a copy of the audit survey (RC7) sent to random sample of people on the proposal booklet mailing list. The auditors will begin working again in December 1999.

New and Developing Fisheries Policy

Department legislative liaison Geron Bruce presented a draft new and developing fisheries policy (RC81). The board chose to move forward within the regulatory cycle and ask for the final draft for

fall 2000 worksession, with continued public review to March 2001. The board established a new "New and Developing Fisheries" committee consisting of White, Engel, and Miller.

Use of King Salmon for Dog Food

The department presented an update of recent fieldwork stemming from ACR18 taken up by the board March 1999. Members asked if the practice of feeding king salmon to dogs is still going on and asked for another update at the March 2000 meeting in Anchorage.

Recovering Shellfish Fisheries

The department presented information (RC27) on rebuilding plans for various shellfish fisheries.

Committee/Task Force Assignments

The board revised committee and task force assignments (RC87) and reviewed potential workload of committees and task forces. New assignments were made among board members for committee work.

Component Detail - FY01 Operating Budget

Agency: Department of Fish and Game

Component: **Boards of Fisheries and Game**
 BRU: **Administration and Support**

	<u>FY99 Act</u>	<u>FY00 CC</u>	<u>FY00Auth</u>	<u>00MgtPln</u>	<u>Adj Base</u>	<u>Gov Num</u>	<u>Gov Lang</u>	<u>Gov</u>	<u>00MgtPln to Gov</u>	
Personal Services	381.5	402.0	402.0	402.0	402.0	402.0		402.0	0.0	0.0%
Travel	254.2	271.9	271.9	271.9	271.9	271.9		271.9	0.0	0.0%
Contractual	212.5	198.2	198.2	198.2	198.2	198.2		198.2	0.0	0.0%
Commodities	23.2	31.5	31.5	31.5	31.5	31.5		31.5	0.0	0.0%
Equipment	26.1	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
Lands/Buildings	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
** Total Expend.	897.5	903.6	903.6	903.6	903.6	903.6		903.6	0.0	0.0%
1004 Gen Fund	729.6	733.7	733.7	733.7	733.7	733.7		733.7	0.0	0.0%
1007 I/A Rcpts		169.9	169.9	169.9	169.9	169.9		169.9	0.0	0.0%
1024 Fish/Game	167.7								0.0	0.0%
1053 Invst Loss	0.2								0.0	0.0%
Perm Full Time	5.0	5.0	5.0	5.0	5.0	5.0		5.0	0.0	0.0%
Perm Part Time	2.0	2.0	2.0	2.0	2.0	2.0		2.0	0.0	0.0%
Non-Perm	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%

Component Detail - FY01 Operating Budget

Component: **Advisory Committees**
 BRU: **Administration and Support**

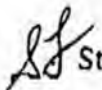
Agency: **Department of Fish and Game**

	<u>FY99 Act</u>	<u>FY00 CC</u>	<u>FY00Auth</u>	<u>00MgtPln</u>	<u>Adj Base</u>	<u>Gov Num</u>	<u>Gov Lang</u>	<u>Gov</u>	<u>00MgtPln to Gov</u>	
Personal Services	251.7	271.7	271.7	271.7	271.7	271.7		271.7	0.0	0.0%
Travel	67.7	72.4	72.4	72.4	72.4	72.4		72.4	0.0	0.0%
Contractual	35.3	23.8	23.8	23.8	23.8	23.8		23.8	0.0	0.0%
Commodities	3.6	2.0	2.0	2.0	2.0	2.0		2.0	0.0	0.0%
Equipment	17.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
Lands/Buildings	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
** Total Expend.	375.3	369.9	369.9	369.9	369.9	369.9		369.9	0.0	0.0%
1002 Fed Rcpts	9.4								0.0	0.0%
1004 Gen Fund	365.5	369.9	369.9	369.9	369.9	369.9		369.9	0.0	0.0%
1053 Invt Loss	0.4								0.0	0.0%
Perm Full Time	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%
Perm Part Time	5.0	5.0	5.0	5.0	5.0	5.0		5.0	0.0	0.0%
Non-Perm	0.0	0.0	0.0	0.0	0.0	0.0		0.0	0.0	0.0%

Overview
Citizen's Adv.
Commission -
Federal
Areas

**CITIZENS' ADVISORY COMMISSION
ON FEDERAL AREAS
3700 AIRPORT WAY
FAIRBANKS, AK 99709
(907) 451-2775
FAX (907) 451-2761**

TO: House Resources Committee

FROM:  Stan Leaphart- Executive Director

DATE: March 22, 1999

SUBJECT: Current Federal Land Management Issues Overview

Following is a brief summary of a number of issues currently under review by the Citizens' Advisory Commission on Federal Areas. If any committee member would like copies of any of the regulations, bills or other documents, please let us know and we will be happy to provide them to you.

Bureau of Land Management- Proposed 3809 Surface Management Regulations.

The Bureau of Land Management has released draft revised regulations governing mining activities on public lands managed by the BLM. The agency has also prepared an environmental impact statement analyzing the impacts of four possible regulatory frameworks under the 3809 Surface Management program. The public comment period on both the draft regulations and the EIS closes on May 10, 1999. A public hearing will be held in Fairbanks on Tuesday March 30. The draft revised regulations are the result of nearly eight years of public hearings and workshops, a BLM task force and a court challenge to portions of the regulations revised in 1997.

Important elements and revisions found in the draft regulations include: 1) Requiring financial guarantees for all operations greater than casual use; 2) Changes to or adoptions of key definitions such as "casual use," "mitigation," "unnecessary or undue degradation," and "reclamation;" 3) Procedures for approving an agreement under which BLM would defer to State regulation of mining operations; 4) Guidelines for preparing, submitting and modifying a notice or plan of operations; 5) Performance standards and reclamation requirements; and 6) Inspection and enforcement requirements.

Commission analysis of the draft regulations is still underway. Members and staff will be consulting with the mining industry and other interested parties to determine the potential impacts and effects of the proposed revisions.

House Resources Committee
March 22, 1999

2

Fortymile Wild and Scenic River- Long Term Camping Plan.

The Northern Field Office of the Bureau of Land Management has released an environmental assessment (EA) for long-term camping along the North Fork of the Fortymile Wild and Scenic River. The EA examines the impacts that are expected if the BLM adopts a collaborative proposal to resolve the issue of long-term camping in support of suction dredge operations on State mining claims on State-owned submerged lands within the river corridor. Comments on the EA will be accepted until April 2, 1999. A public meeting on the proposal was held in Tok on March 15 and a second is scheduled for March 22 in Fairbanks.

The proposal would allow a limited number of camp sites (not to exceed 10) to be established on federal uplands within a 21 mile segment of the North Fork wild river corridor. Activities within this corridor would be monitored annually by federal, state and other stakeholders. At the end of a two year period, this management scenario could be modified or terminated. As part of this proposal, the State has agreed to not approve any mining operations within the wild river corridor above this 21 mile segment and will not authorize long-term gravel bar or floating camps where the BLM authorizes upland camping for suction dredge operations. In addition, suction dredges on the North Fork will be limited to intake nozzles of 10 inches or less; joint annual inspections will be conducted and parties agree to operate under strict terms and conditions to be imposed by any permit that is issued, including bonding.

U.S. Forest Service- Suspension of Road Construction and Reconstruction in Unroaded Areas.

Effective March 1, 1999, the U.S. Forest Service adopted a final interim rule suspending road construction and reconstruction in certain unroaded areas for up to 18 months. During that 18 month period the agency is planning to develop a revised road management policy. The Tongass National Forest is exempt from the moratorium by this interim rule because its land and resource management plan was revised after January 1, 1996. The Chugach National Forest is subject to the moratorium as its management plan was originally adopted in 1984 and is currently undergoing revision. Regardless of the exemption under interim rule, management of roads in both forests will be affected by any final revised road management policy. The Commission is participating in the revision process of the Chugach plan and will also monitor the revision process for the road management policy.

Natural Gas Pipeline Right-of-Way Application- Kenai National Wildlife Refuge.

The U.S. Fish & Wildlife Service has issued a Notice of Intent to prepare and environmental impact statement for the construction of a natural gas pipeline and production facilities in the Kenai NWR. The agency is evaluating the application under the regulations (43 CFR Part 36) implementing Title XI of the Alaska Interest Lands Conservation Act (ANILCA). To the best of our knowledge, this is the first application for a new transportation and utility system corridor within a national wildlife refuge in Alaska filed under the access provisions of Title XI. Public meetings are scheduled in Soldotna on March 30, 1999 and Anchorage on April 1, 1999. Public comments on the

House Resources Committee
March 22, 1999

3

scope of the issues which should be addressed by the EIS must be received by April 15, 1999. The Commission will be monitoring this proposal, along with another right-of-way application in Denali National Park and Preserve. Because Title XI is the primary statutory authorization for granting rights-of-way within Alaskan conservation system units and has been little utilized in the 18 years since passage of ANILCA, decisions made in conjunction with these two right-of-way proposals will no doubt affect future applications.

Outer Continental Shelf Revenue Sharing Bills- H.R. 701 and S. 25.

H.R. 701- *Conservation and Reinvestment Act of 1999*, sponsored by Congressman Don Young and a similar bill, S. 25- also entitled *Conservation and Reinvestment Act of 1999*, co-sponsored by Senator Murkowski, would provide coastal impact assistance to state and local governments, and would amend a number of other federal conservation statutes to establish a fund to "meet the outdoor conservation and recreation needs of the American people." Three similar bills, S. 446 (Boxer), S. 532 (Feinstein) and H.R. 798 (Miller) are also currently before Congress.

Both the Young and Murkowski bills would provide some 27% (estimated at \$1.24 billion) of the funds from OCS revenues to coastal states. In those states where OCS production occurs, funds may be used for infrastructure and public service needs within the coastal zone to offset the impacts from oil and gas development. Distribution to states would be based upon a formula based upon proximity to the OCS activity, coastal population, and miles of shoreline. It is estimated that Alaska could receive as much as \$150 million per year under this formula.

Under H.R. 701 approximately \$756 million (19.4% of OCS revenues) would be available for the Land and Water Conservation Fund (LWCF). S. 25 would provide approximately \$660 million (14.2% of OCS revenues) to LWCF. The LWCF is the program designed to acquire federal and state recreation lands and to assist states and local communities with acquiring and developing recreation sites and facilities. The funds would be distributed evenly between the state and federal sides of the LWCF.

The provisions for funding the LWCF in these two bills have generated tremendous controversy among private property groups because it would provide state and federal agencies with more millions of dollars per year for acquisition of private properties, including inholdings, for conservation purposes. Even though both bills prohibit use of any funds for condemnation, there are serious concerns that providing an annual off budget appropriation will ultimately lead to abuses by federal land management agencies. The Miller, Boxer and Feinstein bills contain no prohibition on the use of the LWCF funds for condemnation of private properties.

The U.S. House Committee on Resources will be holding a field hearing on H.R. 701 (Young) and H.R. 798 (Miller) in Anchorage on Wednesday, March 31, 1999. The Senate Committee on Energy and Natural Resources has scheduled hearings on S. 25

House Resources Committee
March 22, 1999

4

(Murkowski), S. 446 (Boxer) and S. 532 (Feinstein) on April 20 and 27 and May 4, 1999 in Washington, D.C.

Glacier Bay Fisheries Act- S. 501 and H.R. 947.

Representative Young and Senator Murkowski have introduced identical bills authorizing commercial fishing under management by the State of Alaska and subsistence fishing and gathering under ANILCA Title VIII within Glacier Bay National Park. The bills also direct payment of not more than an aggregate of \$2 million per fiscal year in actual and punitive damage to persons that, at any time after January 1, 1999, suffer a loss in earnings from commercial fisheries legally conducted in the marine water of the park due to any action by a federal agency that interferes with anyone legally fishing or attempting to fish.

Senator Stevens has also included language in an emergency appropriations bill (S. 544) that would extend the deadline for Dungeness crab fishermen to file for compensation under the 1999 Department of the Interior and Related Agencies Appropriations Act as well as changes to the time period under which compensation levels would be determined. Provision is also made for partial compensation to any eligible crab fisherman in the event that full compensation has not been made by June 15, 1999. S. 544 would also authorize compensation for fish processors, fishing vessel crew members, communities and other affected by restrictions on fishing in Glacier Bay. Finally, the Secretary of the Interior is directed to publish an interim final rule implementing the restrictions and closures contained in the 1999 Appropriations Act and to allow public comment on the interim final rule.

Overview:

Dept. of

Natural

Resources

**Alaska Department of Natural Resources
House Resources Overview**



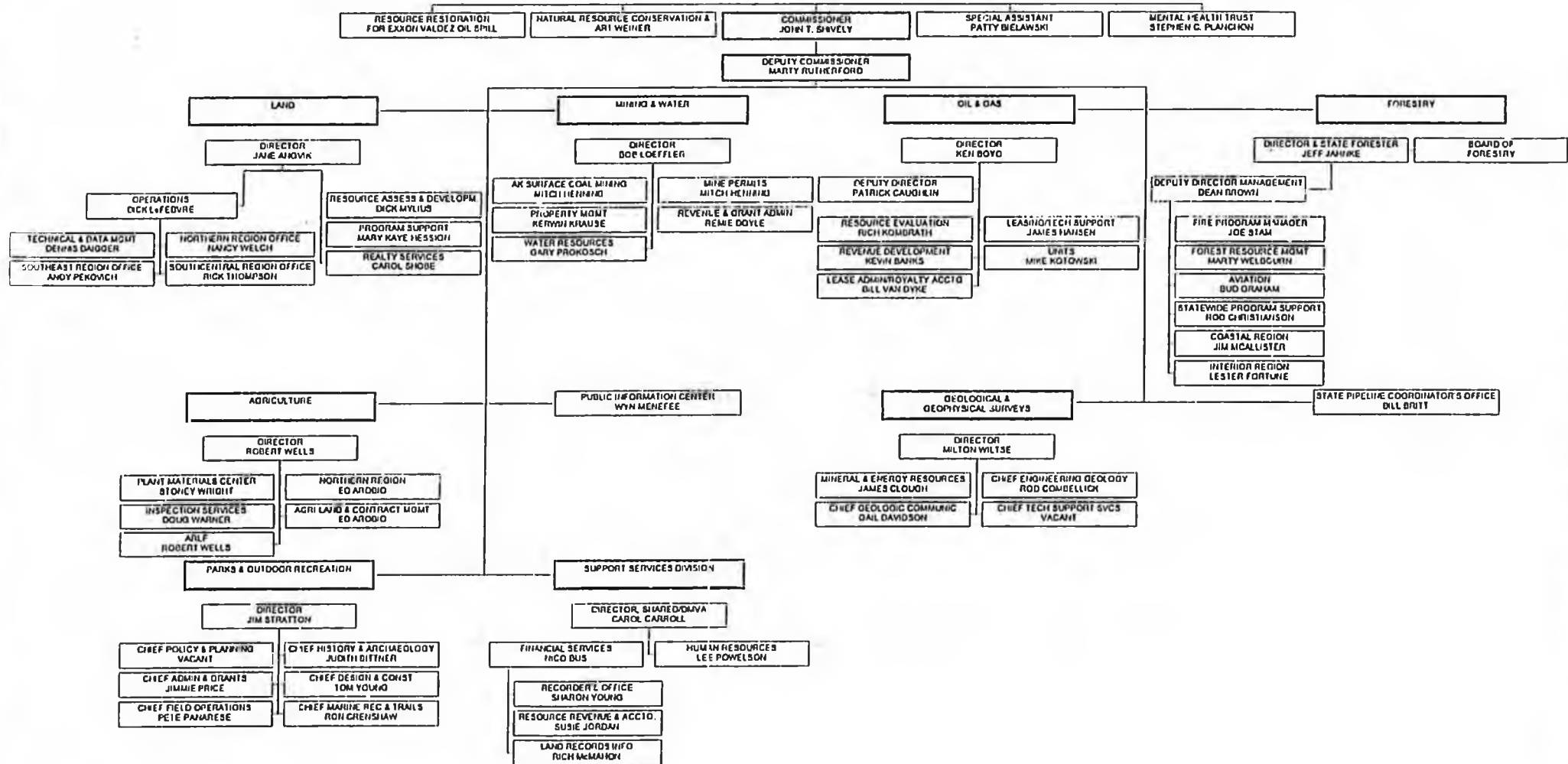
STATE OF ALASKA
Tony Knowles, Governor

DEPARTMENT OF NATURAL RESOURCES
John Shively, Commissioner

FEBRUARY 1999

Copies of this document are available from DNR Commissioner's Office, Attn: Nico Bus 465-2406

ALASKA DEPARTMENT OF NATURAL RESOURCES



DEPARTMENT OF NATURAL RESOURCES

Mission

Develop, conserve, and enhance natural resources for present and future Alaskans.

Major Goals and Strategies

1 Encourage resource development that creates Alaska jobs and ensures economic growth in all regions of the state

- Offer more than 7 million acres of state land for oil and gas leasing in 2 area-wide lease sales and begin Best Interest Finding for Exploration License applications in Copper River basin.
- Increase revenues generated from Alaska Mental Health Trust Lands from \$3.0 million to \$3.5 million in a manner consistent with trust management principles.
- Produce the geological surveys and mapping materials needed to sustain Alaska's mineral industry investments.
Increase farm production by 2% (\$1 million).
- Identify new areas capable of hosting major oil and gas discoveries.
- Generate \$1.4 million from the sale of up to 60 million board feet of timber with emphasis on value added products.
- Process, adjudicate and enter into Land Administration System 15,000 new mining claims, 20 new leases and 5,000 new prospecting sites.
- Complete 10 site-specific land use plans to facilitate land use classification for development projects, participate in 2 highway corridor plans, 20 trail plans, and Trails and Recreational Access for Alaska 10 initiatives.
- Convey land to 8 municipalities.
- Process 500 applications for material sales, shore fishery, upland and tideland leases, lease renewals, rights-of-way, and interagency land management assignments.
- Maintain the value of the Alaskan mineral industry at more than \$1 billion despite falling commodity prices; increase Alaska's market share of world exploration dollars; and increase mining employment to more than 4,000 well-paying Alaskan jobs.

2 "Doing It Right": Ensure resource development planning, management, and new project approvals are based on sound science and protection of public health, air and water quality, and fish and wildlife habitat

- Evaluate areas subject to major hazards like floods, earthquakes, volcanic eruptions, and landslides to help predict likelihood and severity of future major events.
- Conduct over 3,000 produce inspections, field inspections for seed certification and disease control, and issue certificates for export products.
- Through the Natural Resource Conservation and Development Board coordinate programs to obtain \$7.3 million federal funding for agriculture related conservation and erosion control in Alaska.
- Supervise the safety inspection of approximately 22 dams and test emergency action plans for 5 high-risk dams.
- Implement recommendations from the Spruce Bark Beetle Strategy Task Force with other landowners on the Kenai.
- Maintain inventory of historic and archaeological sites for use by developers, land managers and planners.

3 Ensure resource sustainability and multiple use, including recreational enjoyment of the resource base

- Maintain park access for 4 million visits at 121 state park units.
- Successfully manage 500-600 wildfires.
- Provide an expanded agriculture base by preparing 24 land disposal parcels and 17 lease opportunities on grassland areas.
- Review and issue 740 permits for commercial activities on parklands.
- Reforest 1,000 of forestland, survey 500 acres for regeneration, and review private land for compliance

under the Forest Resources and Practices Act reforestation requirements.

- Process 500 permit applications, which include land use permits for commercial guides, access to mining claims and logging areas, cross-country travel, trapping cabin permits, and tideland permits.
- Respond to all native allotment and ANCSA conveyance decisions by the federal government to reserve access to state land.
- Begin a recreational boating safety program through the new Office of Boating Safety.
- Provide management oversight to 2.6 million acres of legislatively designated public use, recreation areas, trails, and 15 special use areas; and provide co-management oversight of 5.4 million acres of legislatively designated game refuges, critical habitat areas, sanctuaries, and wildlife ranges.

4 Streamline natural resource leasing, sales, and permitting processes

- Complete automation of graphic land records for 200 townships so land ownership and resource information can be combined for analysis.
- Enhance the Recorder's Office operations to better meet the workload and user demand.
- Integrate appropriate modern location and communication technology, such as GPS and Internet communications, into the mining location staking, maintenance, and permit process.

KEY PERFORMANCE MEASURES

- Offer 7 million acres of state land for oil and gas leasing in 2 area-wide leases
- Complete geophysical/geological mineral inventory surveys of 1,000 square miles of Alaska lands
- Administer and facilitate the issuance of 15,000 mining claim permits
- Maintain and operate 121 state park units
- Maintain the state's land database through the notation of 10,000 state resource transactions affecting 12,000 townships and make the information available to the public
- Generate \$14 million from sale of forest products and offer approximately 60 million board feet of timber

Major Changes and Key Issues

Performance review

DNR will continue to identify the organization's desired outcomes, which will support the administration's goals.

Electronic commerce

Initiate secure electronic commerce with the Oil & Gas and Mining industries via standard reporting and electronic transactions. Deliver scanned images of status plats and surveys to the public via the Internet. Accept electronic payments for Mining, Parks, and Recorder's Offices.

Budget Summary	FY1998 Actual	FY1999 Authorized	FY2000 Governor
Designated/Statutory Program Receipts	\$2,931.7	\$3,554.0	\$4,040.7
General Funds	\$59,655.3	\$39,588.5	\$40,288.5
Federal Funds	\$12,380.4	\$10,693.7	\$11,429.3
Other Funds - Interagency receipts, etc.	\$11,714.8	\$10,632.0	\$11,522.1
TOTAL BUDGET	\$86,682.2	\$64,468.2	\$67,280.6
Positions - Full-time	555	556	578
Positions - Part-time and Seasonal	240	247	243
KEY PROGRAM AREAS (All Fund Sources)			
Oil and Gas Development	\$4,402.1	\$4,414.6	\$4,589.6
Resource Development & Administration	\$35,774.9	\$37,408.6	\$38,635.1
Parks & Recreation Management	\$8,020.0	\$7,327.3	\$8,036.9
Recorder's Office	\$2,272.3	\$2,314.3	\$2,614.3
Historic Preservation	\$1,163.0	\$1,256.4	\$1,256.4
Agriculture	\$2,969.8	\$3,252.3	\$3,653.6

Overview

McGrath

Wildlife

Mgmt.

**Joint Senate and House Resources Committee
Briefing: McGrath Wildlife Management
Expected Witnesses**

1. Mike Fleagle - Chief, McGrath Tribal Council (*teleconferenced*)
2. Toby Boudreau - Biologist, ADF&G (*teleconferenced*)
3. Donne Fleagle - Overview (5 Min)
4. Dick Newton - Takotna, "this is what's happening on the ground"
5. Regional Testimonies
 - AHTNA - Fred John
 - Tanana Chiefs Conference - Stanley Ned
 - Bristol Bay Native Assn. - Myra Olsen & Joe Clark
6. Agencies
 - Abundant Wildlife Coalition - Ted Angasan
 - Alaska Outdoor Council - Dick Bishop
 - Coalition for Alaskan Way of Life - Gabe Sam (*teleconferenced*)
 - Alaska Trappers Association - Pete Buist (*teleconferenced*)
 - Caribou Protection Program - Joe Mattie (*teleconferenced*)
 - Alaska Wildlife Conservation Assn. - Bill Hagar (*teleconferenced*)
7. Huslia - Darrel Vent
Fort Yukon - Jonothon Soloman
Kipnuk - Carl Jack

Statewide Rural Summit

VOLUME 1, ISSUE 11

FEBRUARY 2000

February 1 & 2, 2000, McGrath Hosts Statewide Meeting on Intensive/Active Wildlife Management

Donne Fleagle, P.O. Box 33
McGrath, Alaska 99627
(907) 524-5385
F: (907) 524-3701
Email: DFlea79969@aol.com

The Goal of this meeting is to bring rural Alaskans together in rural Alaska to discuss and arrive at strategies/remedies to use in addressing the declining moose population and its primary predator THE WOLF that threatens our villagers abilities to eat our traditional annual meat. Looming on the horizon is state regulations that will trigger a Tier II permit hunt here in McGrath which will put locals in competitive permit systems

with other non-local but historical users. Not everyone will share in the annual activity that has been a family seasonal benchmark. This is unacceptable to McGrath residents who are no strangers to pointing to this decline in our GMU and requesting some type of State intervention. McGrath Residents are no strangers to seeing nothing happen, which has given rise to ex-



Rural Decisions by Rural Alaskans.

treme frustration and anger towards the State Department of Fish and Game and loss of respect and faith in the Governor. Many are angry. It's been 3 years since the Governor met with the area. No ballot initiative was law

Cont'd Page 2

Predator Control Programs

The State can implement a Predator Control Program. Our Game Management Unit has a Wolf Predation Control Implementation Plan on the

books under 5AAC.92.125(1) that has been in regulation since Oct. 1995. The Board of Game has passed regulations to address our cries, how-

ever the Governor and his Fish and Game Commissioner, Frank Rue, have stated publicly that they do not support the archaic

Cont'd page 2

Special points of Interest:

- Hosted by the McGrath Native Village Council
- Donne Fleagle hired to plan and implement meeting
- Partnerships with Rural Cap, Takotna Community Association, TCC, MTNT, Ltd., Iditarod Area School District and Pen Air
- Contributors: Nikolai, Takotna, Telida Tribal Councils
- Community Participants and McGrath City Council Members
- Housing needs contact TCC 524-3005 or MNVC at 524-3024
- February 1 & 2, 2000
- McGrath School Commons
- Potluck February 1, 2000 @ 7 pm McGrath School Commons
- Chinese Auction at Local Tavern evening of February 1

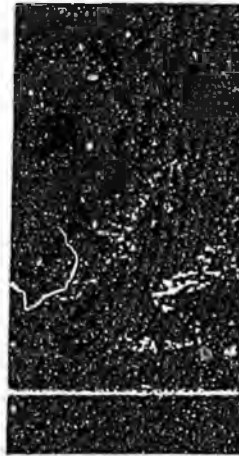
Programs cont'd.

inhumane methods used in the past to manage predator populations (wolves). In 1999, the Governor said, "We have come a long way since the disgraceful and indiscriminate wolf killings of 1994, which were done in the name of predator control." Commissioner Rue said, "The Board of Game and the Commissioner retain

control in deciding when to implement this type of predator control...." The Board of Game has heard our testimony in the past and has passed regulations that are on the books for a predator control program, thus it would seem the higher branch of Gov-

ernment is failing to do its job because of the ballot initiative in 1996 which did away with

same day airborne hunting, and I quote Com. Rue and Knowles, "the standard strongly supported by the public."



"Wolves have been spotted within the city limits..." Mayor Ursal said in a letter to the Gov.

"There are wolves all over the place! The wolves have gotten so numerous that they have killed and eaten a dozen pet dogs in the village of Chuathbaluk, ten miles upriver from Aniak. All the owners could find is the dog's chain or maybe just the dog's tail or a few entrails."

Herman Morgan, Chairman, Central Kuskokwim Fish & Game Advisory Committee in a letter to State officials.

Feb. 1 cont'd.

then. A predator control program passed by the State Board of Game was on the books. The Governor stood before all of us and said, "Let's put something in place that's lasting, so we don't go through this every two years." His

National Academy of Science Study was what he pointed to. It's done. What has been put in place is a steady decline in the moose population, and biologically sound aggressive scientific management has been eroded.

A system that manages people and NOT animals. What has developed is a "non-interventionist philosophy of resource management", and the ADF&G leadership has embraced this.

"The initiative process is not the place to decide wildlife management issues.

These decisions should be left to the managers who have been given the responsibility of caring for our resources." Mike Fleagle, McGrath 1998 Letter to the ADN

"We should try extremely hard to keep the questioned wording "biological emergency" in any wolf-moose controversy allowing the problem of empty freezers to be settled biologically rather than politically."

Vera Goods, 2nd Chief, Takotna Village Council and Dick Newton, Chairman, Takotna Community Association wrote

Predator Control Program for McGrath Updated

The McGrath Native Village Council sent an emergency petition to the Alaska Board of Game, which was heard at the January statewide issues meet-



The key to success is realizing our POWER as CHANGE agents

ing in Anchorage. In it, we requested immediate wolf control for our area. Board member Mike

Fleagle, was ruled to be in conflict, as he au-

thored the petition, and was not allowed to participate in the deliberations. Both he and Donne took the opportunity to testify before the board, and gave a good report of our cur-

rent situation. The

cont'd page 3

Updated cont'd.

board accepted the petition, and declared an emergency. They then updated the old intensive management plan for 19(D) East with current information, and added a section that would allow the commissioner to issue airborne shooting or land-and-shoot permits to members of the public, a practice that would now be allowed under SB-74. The board did an excellent job of addressing the issue, and as one member said, (paraphrased) "If we don't pass this and start to manage predators and prey, we might as well go home."

HISTORY

1995—Board of Game Wolf Predation Control Implementation Plan on the books under 5AAC.92.125 (1).

1996—Area meets with the Governor and begs for help. Governor does not implement BOG plan and does nothing.

1996—Ballot Initiative banning same day air-

BROAD PUBLIC SUPPORT

The Governor, the Commissioner of Fish and Game, the Deputy Commissioner and several other high level Administration folks were invited. The Administration has declined the invitation. The basis is

"while we mean no disrespect to the people of McGrath or the Tribal Council, we are not "ready" to discuss implementation of a predator control program in the McGrath area" and regardless of the Board of Game action, The Knowles Administration is now stipulating that there must be public support in Alaska before they can commit to a predator control program. So, WE, the people are right back

borne passes in fall elections

1998—Snaring Initiative fails at fall elections

1999—SB 74 Same Day Airborne vetoed and the veto overridden. Becomes law.

1999—Wolves eat local dogs and are spotted in down town areas. News articles in State papers.

where WE started. State Citizens, state resources, working within a state process that is broken.



"We choose to protect the Moose." Mayor Ursel wrote

Interestingly, the 3 criteria that Governor Knowles has quoted as being necessary for any program to start came from the pages of the National Academy of Sciences report.

The 3 criteria are

1. Sound Science,
2. Cost Effectiveness,
3. Broad Public Support.

In the NAS report, they state that Alaskans are likely to support predator control where the resource is largely used as a subsistence source of food.

1999—McGrath Tribal Council submits Petition to Board of Game for a wolf control program with letters of support from tribal councils and City of McGrath. Area meeting held.

2000—State Board of Game Reauthorizes Wolf Predation Control Implementation Plan

2000—Rural Summit held in McGrath.

"People remember what it's like when the old-time wolf hunters were out there and how many moose they had, he (Toby Boudreau, local F&G McGrath Biologist) said. That's all they want. They don't want all the wolves to go away; they just want enough moose to eat."

FDN-M Dec. 1999

Article

"They (State) are responsible, by our state constitution, as keepers and managers of the states natural resources and seem to be doing a horrible job."

Vera Goods, 2nd Chief, Takotna Village Council and Dick Newton, Chairman, Takotna Community Association wrote

□□-

ORAL TESTIMONY

By

Dick Newton, Takotna, Alaska

February 1 & 2, 2000

**RE: McGrath Rural Summit on Intensive Active Management,
McGrath, Alaska**

I would like to welcome our distinguished panel to the McGrath area and thank each of you for taking the time from your busy schedules to attend this gathering that directly involves every resident of this area. I would also like to thank the McGrath Village Council and Mike and Donne Fleagle for organizing this wolf summit.

We all know Governor Knowles is responsible for the wolf problem. The members of the Legislature and Board of Game have done their jobs and are continuing to apply pressure on the Governor to sign a land and shoot option.

It's either, land and shoot or go to court. I think they should issue permits at each hub, returning the wolves to the state biologists for examination and correct count.

This looks like one of the bigger snow years and what moose is left is really going to catch hell. Friday three of us put in a trail for the Iron Dog race from Takotna to Poorman. We seen one (1) moose in 140 miles and she was dragging her belly in the deep snow.

The wolves were traveling on top of the crust leaving hardly any tracks at all, sometimes only toe nail marks, which would be near to impossible to see from the air.

We should encourage the native corporations, profit and non-profit organizations to get behind the Legislature, the Board of Game and help us apply pressure on Knowles to the point where he cannot ignore us.

If Governor Knowles refuses to commit to land and shoot and therefore immediate relief of the wolf predation in GMU 19-D, I strongly suggest we go to the third level of state government and ask the courts for relief.

Thank You,