

**ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672**

**10134 SENATE RESOURCES**

- Section 4: Grants all resource agencies providing designated regulatory services and the Office of Management and budget the authority to proceed to adopt regulations necessary to implement this Act.
- Section 5: Establishes an immediate effective date for section 4 of this Act.
- Section 6: Establishes an effective date of July 1, 2001 for sections 1 – 3 of this Act.

# Alaska Forest Association, Inc.



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February 21, 2000

The Honorable Gene Therriault  
Chairman, House Finance Committee  
Alaska House of Representatives  
State Capitol, Room 511  
Juneau, AK 99801

**Re: House Bill 361**

Dear Representative Therriault,

Thank you for introducing HB 361, streamlining the fees charged by resource agencies for services. The Alaska Forest Association fully supports HB 361 because reform in the fee structures used by resource agencies is long overdue. HB 361 limits fees charged for services by resource agencies to the actual costs of providing a service. Additionally, HB 361 will help ensure that a resource agency will provide services to industry in a reliable and predictable manner while being able to collect fees for its services more efficiently.

The Alaska Forest Association (AFA) has been an active participant in the Agency Fees Working Group facilitated by the Resource Development Council (RDC) that produced a draft agency fees bill. We are pleased that this draft bill, which was written over a period of several years with input from various industries and from the resource agencies, is before the legislature this session as HB 361. This measure takes an important step forward in the effort to streamline government.

HB 361 creates a uniform framework for setting and collecting of fees charged by resource agencies. By passing HB 361 the Alaska Legislature can strengthen the working relationship between government and industry. The Alaska Forest Association urges the quick passage of HB 361.

Sincerely,

Jack Phelps  
Executive Director

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NOT FILM LEGIBLY BECAUSE OF  
THE POOR QUALITY OF THE ORIGINAL**

**COUNCIL OF ALASKA PRODUCERS  
HOUSE BILL 361**

The Council of Alaska Producers (the Council) is an association representing companies involved in exploration, development and active operation of hard rock mines in Alaska. Our industry is committed to sound operating practices and protection of the environment, and as such we encourage sound environmental regulation and thorough, accurate environmental permitting.

The Council shares the concerns stated in the recent Minerals Commission Report regarding the present inability for companies to acquire state environmental permits in a consistent, expeditious manner due to economic restraints being experienced by the state agencies. We recognize that our industry has a responsibility to fund a substantial portion of the state environmental permitting program. Therefore, we support HB 361 as a vehicle to enable ADEC to collect permitting fees in a structured, accountable and equitable manner.

The Council has been actively involved in the drafting of the HB361. We believe that Ken Freeman, and the working group that wrote this bill have provided a means for fair and accountable invoicing to the applicant. The bill incorporates and encourages fixed fees in acknowledgment that these represent funding predictability for applicants as well as decreased administrative and accounting costs for agencies. The bill also provides for negotiated fee agreements when projects involve complex permit components or extraordinary review and evaluation. HB 361, with its built-in flexibility and its basic assurances of accountability, presents a strong framework for assessing fees in support of environmental permitting.

We caution however, that permit fees alone cannot adequately fund state permitting programs, nor can permit fees provide program continuity throughout the boom and bust fluctuations associated with resource development. A stable permitting program, which maintains experience and expertise within the core staff, requires a multifaceted funding and operating approach. Therefore, HB 361 cannot be adopted in isolation. If this bill passes with complacency, without additional support measures being taken by both the Administration and the Legislature, then the bill will only have misled us all into furthering the demise of environmental permitting within our state.

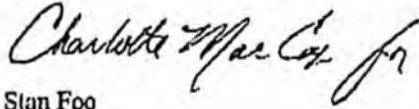
This bill does need to pass, and industry needs to continue its financial support of environmental permitting programs. But we also need the Legislature, the Administration, and the public, to acknowledge that when industry experiences a decline, and fewer permits are required, then the funding to the program dries up. The consequential lay-offs and/or relocation of the experienced employees presents a permanent loss to the program. The agency cannot attract or maintain qualified and experienced personnel in jobs that offer no stability. When economics allow for the industry to resume opening new operations, the state is no longer adequately staffed to review or permit those projects.

The Council proposes the following actions, taken in concert, as necessary for the maintenance of environmental permitting programs in Alaska.

HB 361 must pass

1. Industry must pay its fair portion of permitting costs as regulated under HB 361.
2. The Legislature must provide consistent year to year funding to support a core group of experienced permitting managers. The funds should be dedicated to specific appropriate programs to ensure that agency allocation of these funds cannot result in them being diverted to other sectors of a department.
3. The Administration must aggressively search for and find means to accommodate the use of third party contractors who will work under the core managers to provide permit development support on an as-needed basis. The legislature must help provide the necessary statutory authority to support this third party contracting. The current practice of maintaining permanent state staff for all aspects of permit development does not respond readily to the sporadic demands associated with permitting, nor can a limited number of staff personnel be expected to possess the varied technical and scientific expertise required for responsible permitting in today's world.

The Council of Alaska Producer believes that if we all work together, the Administration, the Industry, and the Legislature, we can provide responsible and reliable environmental permitting for the state of Alaska, ensuring protection of the environment and a sound economic future.



Stan Foo  
President, Council of Alaska Producers

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The Honorable  
Senator Pete Kelly  
Juneau, Alaska 99811  
and  
Senator Rick Halford, Chair  
Senate Resources Committee  
Juneau, Alaska 99811

Re: SB 269

Dear Senators,

SB 269 is a much improved approach to authorize large corporate entities to negotiate fees. These corporations are honest in their desire to find a way of paying for the services they receive from the state. They are willing to pay for the permitting of their proposed operations.

I believe the complexity of this legislation would be greatly improved with two minor changes. First, the language on page 2, line 11, seems to be an open door that was intended to be shut. Shouldn't it read:

"Or fees charged by a resource agency for a designated regulatory service as defined in AS 37.10.058, under AS 38.10.052.

Secondly, by specifically listing some of the smaller fees, it might not be necessary to distinguishing between "regulatory services," "designated regulatory services," and "standard designated regulatory services." I am not entirely certain how these are intended by the Legislature to work, but I do know that Deborah Behr will have to interpret this for the agencies.

The new fee authority is defined on page 6, lines 4 through 17, definition of "designated regulatory services." The definition includes all of the regulatory activities authorized under AS 46.03.020; AS 46.03.100; AS 46.03.720; the Clean Water Act; and coastal management consistency program. I have reviewed the hundreds of pages of regulations authorized by these regulations. I am convinced that only a few are supposed to be included in this fee system.

I think SB 269 would be greatly simplified if the broad statutory references were removed from the bill and a list of fees was set out in the definition of "designated regulatory services." Some of these fees might look like:

SB 269

Page 2

AS 37.10.058(2) "Designated regulatory service" fees include:

- Zones of Deposit .....\$500
- Thermal discharges ..... \$500
- Reclassification .....\$250
- Site Specific Criteria..... \$500
- Mixing Zones ..... \$1000

It would also help if fees already set by regulation were included, instead of the statutory references in AS 37.10.058(2):

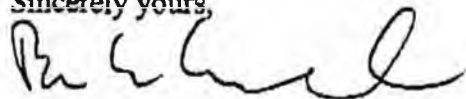
**NPDES certification ..... not to exceed \$500**

Another advantage of listing the fees in statute might also include the ease of limiting the total charged to any one small applicant (ie: under 20 employees), not just travel (page 7, lines 5 and 6).

Listing the fees for designated services does not harm the effort to create the new "negotiated service agreements." It just makes it simpler to understand.

I discussed these possible changes with Steve Borell, and Ted Owens today, March 29, 2000. To confirm or defuse my concerns one could ask Deborah Behr for her opinion. As the regulations attorney, she will be providing her opinion to the agencies, so it would be very valuable to have her interpretation prior to passage.

Sincerely yours,



Bruce Campbell

Enclosure: Questions for Mike Tibbles

STATUTORY CROSS REFERENCE TABLE

Statutory Authority	Administrative Code §	Statutory Authority	Administrative Code §
	18 AAC 85.320		18 AAC 90.215
	18 AAC 85.880		18 AAC 90.220
	18 AAC 85.340		18 AAC 90.225
	18 AAC 85.350		18 AAC 90.230
	18 AAC 85.880		18 AAC 90.235
	18 AAC 85.370		
	18 AAC 85.380		18 AAC 90.300
	18 AAC 85.390		18 AAC 90.305
			18 AAC 90.310
			18 AAC 90.315
	18 AAC 85.400		
	18 AAC 85.410		18 AAC 90.400
	18 AAC 85.420		18 AAC 90.410
	18 AAC 85.430		18 AAC 90.415
	18 AAC 85.440		
	18 AAC 85.450		
	18 AAC 85.460		18 AAC 90.500
	18 AAC 85.470		18 AAC 90.505
	18 AAC 85.480		18 AAC 90.510
	18 AAC 85.490		18 AAC 90.515
			18 AAC 90.520
			18 AAC 90.525
	18 AAC 85.500		18 AAC 90.530
	18 AAC 85.510		18 AAC 90.535
	18 AAC 85.520		18 AAC 90.540
	18 AAC 85.530		
	18 AAC 85.540		
	18 AAC 85.550		18 AAC 90.600
	18 AAC 85.560		18 AAC 90.605
	18 AAC 85.570		18 AAC 90.610
	18 AAC 85.580		18 AAC 90.615
	18 AAC 85.590		18 AAC 90.620
	18 AAC 85.600		18 AAC 90.700
	18 AAC 85.610		18 AAC 90.705
	18 AAC 85.620		
	18 AAC 85.630		18 AAC 90.900
	18 AAC 85.640		18 AAC 90.990
	18 AAC 85.650		
	18 AAC 85.660		
	18 AAC 85.670		18 AAC 15.030
	18 AAC 85.675		18 AAC 15.040
	18 AAC 85.680		18 AAC 15.050
	18 AAC 85.690		18 AAC 15.060
			18 AAC 15.070
			18 AAC 15.090
	18 AAC 85.700		
	18 AAC 85.710		18 AAC 15.100
	18 AAC 85.720		
	18 AAC 85.730		
	18 AAC 85.740		18 AAC 15.200
	18 AAC 85.750		18 AAC 15.210
	18 AAC 85.770		18 AAC 15.220
			18 AAC 15.230
			18 AAC 15.240
	18 AAC 90.010		18 AAC 15.250
	18 AAC 90.020		18 AAC 15.280
	18 AAC 90.030		18 AAC 15.270
	18 AAC 90.040		18 AAC 15.280
			18 AAC 15.290
	18 AAC 90.200		
	18 AAC 90.205		
	18 AAC 90.210		18 AAC 15.300

\*

AS 46.03.020(10) .....

NPDES

ALASKA ADMINISTRATIVE CODE

Statutory Authority	Administrative Code §	Statutory Authority	Administrative Code §
	18 AAC 15.310		18 AAC 95.050
	18 AAC 15.900		18 AAC 95.060
	18 AAC 15.910		18 AAC 95.070
	18 AAC 15.920		18 AAC 95.080
			18 AAC 95.090
	18 AAC 52.030		18 AAC 95.100
	18 AAC 52.040		18 AAC 95.110
	18 AAC 52.045		18 AAC 95.120
	18 AAC 52.075		18 AAC 95.130
	18 AAC 52.095		18 AAC 95.140
			18 AAC 95.150
	18 AAC 52.410		18 AAC 95.160
	18 AAC 52.430		18 AAC 95.170
	18 AAC 52.445		
			18 AAC 95.900
	18 AAC 52.505		
	18 AAC 52.510	AS 46.03.030	18 AAC 70.255
	18 AAC 52.550		18 AAC 70.260
	18 AAC 64.005		18 AAC 73.010
	18 AAC 64.010		18 AAC 73.020
	18 AAC 64.015		18 AAC 73.030
	18 AAC 64.020		18 AAC 73.040
	18 AAC 64.025		18 AAC 73.050
	18 AAC 64.250		18 AAC 73.060
	18 AAC 65.005	AS 46.03.032	18 AAC 76.005
	18 AAC 65.020		18 AAC 76.010
	18 AAC 65.025		18 AAC 76.020
	18 AAC 65.030		18 AAC 76.030
	18 AAC 65.035		18 AAC 76.040
	18 AAC 65.040		18 AAC 76.050
	18 AAC 65.045		18 AAC 76.060
	18 AAC 65.050		18 AAC 76.070
			18 AAC 76.080
			18 AAC 76.090
	18 AAC 71.010		
	18 AAC 71.020		18 AAC 76.100
	18 AAC 71.030		
	18 AAC 71.040		18 AAC 76.990
	18 AAC 71.050		
	18 AAC 71.060		
	18 AAC 71.070		18 AAC 77.005
	18 AAC 71.080		18 AAC 77.010
	18 AAC 71.090		18 AAC 77.020
			18 AAC 77.030
	18 AAC 71.900		18 AAC 77.040
			18 AAC 77.050
	18 AAC 73.010		18 AAC 77.060
	18 AAC 73.020		18 AAC 77.070
	18 AAC 73.030		18 AAC 77.080
	18 AAC 73.040		
	18 AAC 73.050		18 AAC 77.900
	18 AAC 73.060		
		AS 46.03.036	18 AAC 78.200
	18 AAC 95.010		18 AAC 78.205
	18 AAC 95.020		18 AAC 78.210
	18 AAC 95.030		18 AAC 78.215
	18 AAC 95.040		18 AAC 78.220

*I.M. vehicle testing*

*(E)*

*Litter*

*Litter containers provided by restaurants, stores, etc.*

*Place Mining Grants*

*Grants for public water projects*

*Compliance Orders*

STATUTORY CROSS REFERENCE TABLE

Statutory Authority	Administrative Code §	Statutory Authority	Administrative Code §
	18 AAC 70.015		18 AAC 15.080
	-----		-----
	18 AAC 70.235		18 AAC 15.100
	18 AAC 70.240		-----
	18 AAC 70.270		18 AAC 15.200
	-----		18 AAC 15.210
	18 AAC 70.990		18 AAC 15.220
	-----		18 AAC 15.230
	18 AAC 72.020		18 AAC 15.240
	18 AAC 72.035		18 AAC 15.250
	18 AAC 72.050		18 AAC 15.260
	18 AAC 72.060		18 AAC 15.270
	18 AAC 72.070		18 AAC 15.280
	-----		18 AAC 15.290
	18 AAC 72.200		-----
	18 AAC 72.205		18 AAC 15.300
	18 AAC 72.220		18 AAC 15.310
	18 AAC 72.230		-----
	18 AAC 72.235		18 AAC 15.900
	18 AAC 72.245		18 AAC 15.910
	18 AAC 72.250		18 AAC 15.920
	18 AAC 72.255		-----
	18 AAC 72.260		18 AAC 60.005
	18 AAC 72.263		18 AAC 60.010
	18 AAC 72.265		18 AAC 60.030
	18 AAC 72.270		18 AAC 60.035
	18 AAC 72.275		-----
	18 AAC 72.280		18 AAC 60.200
	-----		18 AAC 60.205
	18 AAC 72.600		18 AAC 60.210
	18 AAC 72.610		18 AAC 60.215
	-----		18 AAC 60.217
	18 AAC 72.910		18 AAC 60.220
	18 AAC 72.920		18 AAC 60.225
	18 AAC 72.945		18 AAC 60.230
	18 AAC 72.946		18 AAC 60.233
	18 AAC 72.960		18 AAC 60.235
	18 AAC 72.961		18 AAC 60.240
	18 AAC 72.990		18 AAC 60.243
	-----		18 AAC 60.245
	18 AAC 73.010		18 AAC 60.250
	18 AAC 73.020		18 AAC 60.255
	18 AAC 73.050		18 AAC 60.260
	18 AAC 73.080		18 AAC 60.265
	18 AAC 76.030		-----
	18 AAC 76.060		18 AAC 60.300
	18 AAC 76.070		18 AAC 60.305
	-----		18 AAC 60.310
	18 AAC 76.990		18 AAC 60.315
	-----		18 AAC 60.320
AS 48.03.100 .....	18 AAC 15.010		18 AAC 60.325
	18 AAC 15.020		18 AAC 60.330
	18 AAC 15.030		18 AAC 60.335
	18 AAC 15.040		18 AAC 60.340
	18 AAC 15.050		18 AAC 60.345
	18 AAC 15.080		18 AAC 60.350
	18 AAC 15.070		18 AAC 60.355
	18 AAC 15.080		18 AAC 60.360
			18 AAC 60.365

ALASKA ADMINISTRATIVE CODE

Statutory Authority	Administrative Code §	Statutory Authority	Administrative Code §
	18 AAC 60.375		18 AAC 72.005
	18 AAC 60.380		18 AAC 72.007
	18 AAC 60.385		18 AAC 72.010
	18 AAC 60.390		18 AAC 72.015
	18 AAC 60.395		18 AAC 72.020
	18 AAC 60.396		18 AAC 72.025
	18 AAC 60.397		18 AAC 72.030
	18 AAC 60.398		18 AAC 72.035
	-----		18 AAC 72.040
	18 AAC 60.400		18 AAC 72.055
	18 AAC 60.410		18 AAC 72.060
	18 AAC 60.420		18 AAC 72.065
	18 AAC 60.430		-----
	18 AAC 60.440		18 AAC 72.210
	18 AAC 60.450		18 AAC 72.215
	18 AAC 60.455		-----
	18 AAC 60.460		18 AAC 72.400
	18 AAC 60.470		18 AAC 72.405
	18 AAC 60.480		18 AAC 72.410
	18 AAC 60.485		18 AAC 72.415
	18 AAC 60.490		18 AAC 72.420
	18 AAC 60.495		18 AAC 72.425
	-----		18 AAC 72.430
	18 AAC 60.500		18 AAC 72.435
	18 AAC 60.505		18 AAC 72.440
	18 AAC 60.510		-----
	-----		18 AAC 72.600
	18 AAC 60.700		18 AAC 72.510
	18 AAC 60.720		-----
	18 AAC 60.730		18 AAC 72.900
	-----		18 AAC 72.910
	18 AAC 60.800		18 AAC 72.945
	18 AAC 60.910		18 AAC 72.946
	18 AAC 60.815		18 AAC 72.990
	18 AAC 60.820		-----
	18 AAC 60.825	AS 46.03.110 .....	18 AAC 15.010
	18 AAC 60.830		18 AAC 15.020
	18 AAC 60.840		18 AAC 15.030
	18 AAC 60.850		18 AAC 15.040
	18 AAC 60.860		18 AAC 15.050
	-----		18 AAC 15.060
	18 AAC 60.990		18 AAC 15.070
	-----		18 AAC 15.080
	18 AAC 70.005		18 AAC 15.080
	18 AAC 70.010		18 AAC 15.090
	18 AAC 70.015		-----
	-----		18 AAC 15.100
	18 AAC 70.210		18 AAC 15.120
	18 AAC 70.235		18 AAC 15.130
	18 AAC 70.240		18 AAC 15.140
	18 AAC 70.245		18 AAC 15.150
	18 AAC 70.250		18 AAC 15.180
	18 AAC 70.255		-----
	18 AAC 70.280		18 AAC 15.200
	18 AAC 70.270		18 AAC 15.210
	-----		18 AAC 15.220
	18 AAC 70.910		18 AAC 15.230
	18 AAC 70.990		18 AAC 15.240
	-----		18 AAC 15.250
			18 AAC 15.260

ALASKA ADMINISTRATIVE CODE

Statutory Authority	Administrative Code §	Statutory Authority	Administrative Code §
	18 AAC 78.825		18 AAC 80.580
	-----		18 AAC 80.565
	18 AAC 80.005		-----
	18 AAC 80.010		18 AAC 80.600
	18 AAC 80.015		18 AAC 80.605
	18 AAC 80.020		18 AAC 80.610
	18 AAC 80.025		18 AAC 80.615
	18 AAC 80.030		18 AAC 80.620
	18 AAC 80.035		18 AAC 80.625
	18 AAC 80.045		18 AAC 80.635
	-----		18 AAC 80.640
	18 AAC 80.200		18 AAC 80.645
	18 AAC 80.205		18 AAC 80.650
	18 AAC 80.207		18 AAC 80.655
	18 AAC 80.210		18 AAC 80.660
	18 AAC 80.215		18 AAC 80.665
	18 AAC 80.220		18 AAC 80.670
	18 AAC 80.225		18 AAC 80.675
	18 AAC 80.230		18 AAC 80.680
	-----		18 AAC 80.685
	18 AAC 80.300		18 AAC 80.690
	18 AAC 80.305		-----
	18 AAC 80.310		18 AAC 80.1000
	18 AAC 80.315		18 AAC 80.1005
	18 AAC 80.320		18 AAC 80.1010
	18 AAC 80.325		18 AAC 80.1015
	18 AAC 80.330		18 AAC 80.1020
	18 AAC 80.335		18 AAC 80.1025
	18 AAC 80.340		18 AAC 80.1030
	18 AAC 80.345		18 AAC 80.1035
	18 AAC 80.350		-----
	18 AAC 80.355		18 AAC 80.1100
	18 AAC 80.380		18 AAC 80.1105
	18 AAC 80.365		18 AAC 80.1110
	18 AAC 80.370		-----
	18 AAC 80.375		18 AAC 80.1900
	-----		18 AAC 80.1905
	18 AAC 80.400		18 AAC 80.1910
	18 AAC 80.405		18 AAC 80.1915
	18 AAC 80.410		18 AAC 80.1920
	18 AAC 80.415		18 AAC 80.1990
	18 AAC 80.420		-----
	18 AAC 80.425	AS 46.03.720 .....	18 AAC 15.010
	18 AAC 80.430		18 AAC 15.020
	18 AAC 80.435		18 AAC 15.030
	18 AAC 80.440		18 AAC 15.040
	-----		18 AAC 15.050
	18 AAC 80.500		18 AAC 15.080
	18 AAC 80.505		18 AAC 15.070
	18 AAC 80.510		18 AAC 15.080
	18 AAC 80.515		18 AAC 15.090
	18 AAC 80.520		-----
	18 AAC 80.525		18 AAC 15.100
	18 AAC 80.530		-----
	18 AAC 80.535		18 AAC 15.200
	18 AAC 80.540		18 AAC 15.210
	18 AAC 80.545		18 AAC 15.220
	18 AAC 80.550		18 AAC 15.230
	18 AAC 80.555		18 AAC 15.240

STATUTORY CROSS REFERENCE TABLE

Statutory Authority	Administrative Code §	Statutory Authority	Administrative Code §
	18 AAC 15.250		18 AAC 72.420
	18 AAC 15.260		18 AAC 72.425
	18 AAC 15.270		18 AAC 72.430
	18 AAC 15.280		18 AAC 72.435
	18 AAC 15.290		18 AAC 72.440
	-----		-----
	18 AAC 15.300		18 AAC 72.600
	18 AAC 15.310		18 AAC 72.810
	-----		-----
	18 AAC 15.900		18 AAC 72.900
	18 AAC 15.910		18 AAC 72.910
	18 AAC 15.920		18 AAC 72.945
	-----		18 AAC 72.946
	18 AAC 70.005		18 AAC 72.961
	18 AAC 70.010		18 AAC 72.990
	18 AAC 70.015		-----
	-----		18 AAC 73.010
	18 AAC 70.235		18 AAC 73.020
	18 AAC 70.240		18 AAC 73.050
	18 AAC 70.270		18 AAC 73.080
	-----		-----
	18 AAC 70.990		18 AAC 76.030
	-----		18 AAC 76.040
	18 AAC 72.005		18 AAC 76.060
	18 AAC 72.007		18 AAC 76.070
	18 AAC 72.010		-----
	18 AAC 72.015		18 AAC 76.200
	18 AAC 72.020		18 AAC 76.205
	18 AAC 72.025		18 AAC 76.210
	18 AAC 72.030		18 AAC 76.215
	18 AAC 72.035		18 AAC 76.220
	18 AAC 72.040		18 AAC 76.225
	18 AAC 72.055		18 AAC 76.230
	18 AAC 72.060		18 AAC 76.235
	18 AAC 72.065		18 AAC 76.240
	18 AAC 72.070		18 AAC 76.245
	-----		18 AAC 76.250
	18 AAC 72.200		18 AAC 76.255
	18 AAC 72.205		18 AAC 76.260
	18 AAC 72.210		18 AAC 76.265
	18 AAC 72.215		-----
	18 AAC 72.220		18 AAC 76.990
	18 AAC 72.225		18 AAC 77.900
	18 AAC 72.230		-----
	18 AAC 72.235		18 AAC 80.005
	18 AAC 72.240		18 AAC 80.010
	18 AAC 72.245		18 AAC 80.015
	18 AAC 72.250		18 AAC 80.020
	18 AAC 72.255		18 AAC 80.025
	18 AAC 72.260		18 AAC 80.030
	18 AAC 72.263		18 AAC 80.035
	18 AAC 72.265		18 AAC 80.045
	18 AAC 72.270		-----
	18 AAC 72.275		18 AAC 80.200
	-----		18 AAC 80.205
	18 AAC 72.400		18 AAC 80.207
	18 AAC 72.405		18 AAC 80.210
	18 AAC 72.410		18 AAC 80.215
	18 AAC 72.415		18 AAC 80.220

ALASKA ADMINISTRATIVE CODE

Statutory Authority	Administrative Code §	Statutory Authority	Administrative Code §
	18 AAC 80.225		18 AAC 80.680
	18 AAC 80.230		18 AAC 80.685
	-----		18 AAC 80.699
	18 AAC 80.300		-----
	18 AAC 80.305		18 AAC 80.1000
	18 AAC 80.310		18 AAC 80.1005
	18 AAC 80.315		18 AAC 80.1010
	18 AAC 80.320		18 AAC 80.1015
	18 AAC 80.325		18 AAC 80.1020
	18 AAC 80.330		18 AAC 80.1025
	18 AAC 80.335		18 AAC 80.1030
	18 AAC 80.340		18 AAC 80.1035
	18 AAC 80.345		-----
	18 AAC 80.350		18 AAC 80.1100
	18 AAC 80.355		18 AAC 80.1105
	18 AAC 80.360		18 AAC 80.1110
	18 AAC 80.365		-----
	18 AAC 80.370		18 AAC 80.1900
	18 AAC 80.375		18 AAC 80.1905
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	18 AAC 80.400		18 AAC 80.1915
	18 AAC 80.405		18 AAC 80.1920
	18 AAC 80.410		18 AAC 80.1990
	18 AAC 80.415		-----
	18 AAC 80.420	AS 46.03.730 .....	18 AAC 15.010
	18 AAC 80.425		18 AAC 15.020
	18 AAC 80.430		18 AAC 15.070
	18 AAC 80.435		-----
	18 AAC 80.440		18 AAC 90.010
	-----		18 AAC 90.020
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	18 AAC 80.505		18 AAC 90.040
	18 AAC 80.510		-----
	18 AAC 80.515		18 AAC 90.200
	18 AAC 80.520		18 AAC 90.205
	18 AAC 80.525		18 AAC 90.210
	18 AAC 80.530		18 AAC 90.215
	18 AAC 80.535		18 AAC 90.220
	18 AAC 80.540		18 AAC 90.225
	18 AAC 80.545		18 AAC 90.230
	18 AAC 80.550		18 AAC 90.235
	18 AAC 80.555		-----
	18 AAC 80.560		18 AAC 90.300
	18 AAC 80.565		18 AAC 90.305
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	18 AAC 80.600		18 AAC 90.315
	18 AAC 80.605		-----
	18 AAC 80.610		18 AAC 90.400
	18 AAC 80.615		18 AAC 90.410
	18 AAC 80.620		18 AAC 90.415
	18 AAC 80.635		-----
	18 AAC 80.640		18 AAC 90.500
	18 AAC 80.645		18 AAC 90.505
	18 AAC 80.650		18 AAC 90.510
	18 AAC 80.655		18 AAC 90.515
	18 AAC 80.660		18 AAC 90.520
	18 AAC 80.665		18 AAC 90.525
	18 AAC 80.670		18 AAC 90.530
	18 AAC 80.675		18 AAC 90.535

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/24/00

FURTHER: Finance

Date of 5-Day Notice: 3/24/00  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/31/00

Resources Committee considered

SENATE BILL NO. 296

FEEES FOR STATE SERVICE

and recommends:

- be replaced with \_\_\_\_\_ CS SIB 296 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:  
 same title  
 new title  
 House Bill:  
 same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Adopted by the Committee</i>	✓		
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>		CHAIR: <i>[Signature]</i>	✓		

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
DEC / Water Quality	3/20/00		✓
DEC. / Drinking Water	3/23/00		✓
DEC / Solid Waste	3/23/00		✓
Governor	3/28/00		✓
Law	3/24/00		✓
DNR	3/28/00	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**SB**

**301**



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### SPONSOR STATEMENT

#### SB 301

**An Act relating to the Chitina dip net fishing permit; and providing for an effective date.**

Over the past decade, the Chitina fishery has grown to be one of the largest fisheries in our state and is used by over 30,000 Alaskans. This legislation will: 1) raise the price of the Chitina dip net fishing permit from \$10 to \$25, and 2) will slightly change the name of the permit.

The \$25 amount was recently negotiated between the Department of Fish and Game and the Chitina and Ahtna Native Corporations. The Department uses a portion of the fees to pay for access across private land owned by the Corporations, but since the permit is in AS 16.05.340(a)(22), it requires legislation to change this fee.

The bill will also change the name of the permit from "Chitina personal use salmon dip net fishing permit" to "Chitina dip net fishing permit". This is a result of the Fish Board changing the designation of this fishery from a sport fish to a subsistence fishery and so the term, personal use, must be removed from the name of the permit.

Last summer, any Alaskan who wanted to fish at Chitina needed a \$15 sport fish license and a \$10 Chitina permit. Because the fishery is now a subsistence fishery, people will not be required to have a sport fish license and a Chitina dip net permit, and will only need to have a Chitina permit. If the price of the permit is \$25, the total amount required of individuals will remain the same.

The Chitina permit is a household permit, so a family of two last summer had to pay \$30 for their sport fish licenses and a \$10 Chitina permit, for a total of \$40. This year, a family of two will only be required to pay \$25 for the Chitina permit, thus being a savings for families.

With the increase in permit fees, the Department of Fish and Game will be able to provide increased and improved services for those who use the fishery. It will also allow for maximum public access to the fishery with minimal conflict with private land owners.

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB 301

Revision Date/Time (Note if correction)		Dept. Affected	<u>Fish and Game</u>
Title	<u>CHITINA DIPNET FISHING PERMIT</u>	BRU	<u>Sport Fisheries</u>
Sponsor	<u>Senate Finance</u>	Component	<u>Sport Fisheries</u>
Requester	<u>Senate Resources</u>	Component No.	<u>464</u>

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	44.8	44.8	44.8	44.8	44.8	44.8
Travel	1.2	1.2	1.2	1.2	1.2	1.2
Contractual	196.0	196.0	196.0	196.0	196.0	196.0
Supplies	8.0	8.0	8.0	8.0	8.0	8.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Fish and Game Fund	250.0	250.0	250.0	250.0	250.0	250.0
<b>TOTAL</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>	<b>250.0</b>

Estimate of any current year (FY2000) cost: 57.9

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

These expenses cover the printing of the permits and other administrative costs associated with the issuance of Chitna dipnet permits out of the Anchorage, Fairbanks, Glenallen, Palmer, and Chitna offices. Also included are payments to the Chitna and Ahtna Corporations for use of their land in the conduct of the dipnet fishery. These payments are pursuant to the terms of contracts between the Department of Fish and Game and the corporations.

Prepared by: Kevin Delaney *[Signature]*  
 Division: Sport fisheries  
 Approved by: Commissioner Frank Rue *[Signature]*  
 Agency: Department of Fish and Game

Phone: 465-4180  
 Date/Time: 4/3/00 9:07 AM  
 Date: 04/30/2000

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

## Alaska Outdoor Council

PO Box 73902  
Fairbanks, AK 99707-3902  
Tel./FAX: (907) 455-4AOC (4262)  
[outdoor@polarnet.com](mailto:outdoor@polarnet.com)

April 3, 2000

The Honorable Rick Halford, Chair  
Senate Resources Committee  
Alaska Legislature  
Juneau, AK 99801

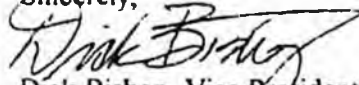
Dear Senator Halford

The Alaska Outdoor Council strongly supports SB 301. We respectfully request that your committee pass the bill as soon as possible. We recommend one amendment below.

The Council recommends that SB 301 be amended to waive the permit fee for Alaskans who qualify for the Permanent Identification Card and thereby are not required to buy fishing, hunting, or trapping licenses. We have heard this recommendation from several people who observed that otherwise the Card holders will actually have to pay more under the new rules than previously, while regular license holders would not, because a sport fishing license is no longer required for the dipnet fishery.

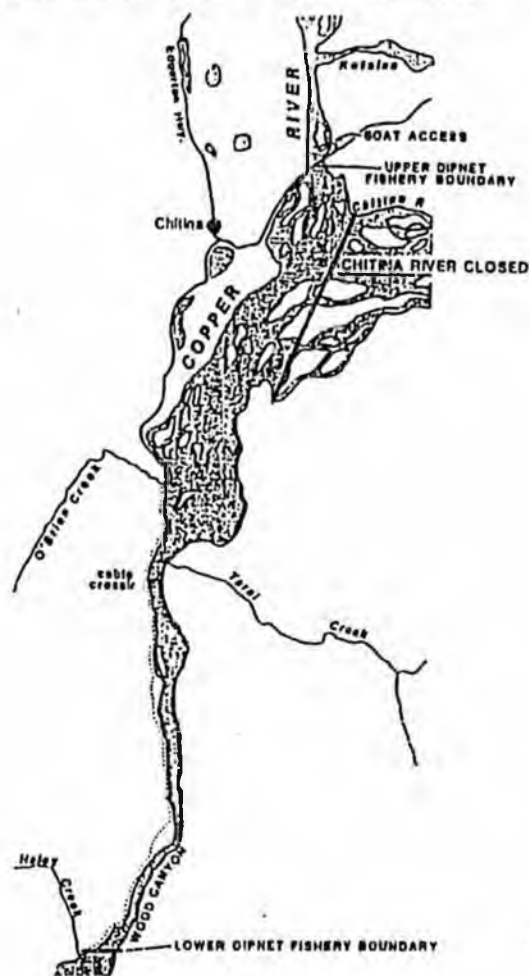
The Council very much appreciates the efforts of the Dept of Fish and Game, Ahtna and Chitina corporations, Chitina Dipnetters Association, Senate Finance Committee, and Senator Wilken's office in working out an agreement on the Chitina dipnet permit fee and getting the bill underway. We trust that the Legislature will pass SB301 so that the public will be able to participate in the dipnet fishery this season under a solid agreement.

Sincerely,



Dick Bishop, Vice President

# COPPER RIVER PERSONAL USE FISHERY



*Dept. Handout  
re reqs @  
Chitina*

## COPPER RIVER (CHITINA) PERSONAL USE SALMON DIPNET FISHERY



Information regarding:  
**When the fishery is open**  
and  
**Chitina permit station operating hours**  
can be obtained by calling one of the following recorded messages:

**Glennallen - 822-5224**  
**Fairbanks - 459-7382**  
**Anchorage - 267-2511**

*Alaska Department of Fish and Game  
Division of Sport Fish*

*1300 College Road  
Fairbanks, Alaska 99701  
(907) 459-7207*

*PO Box 47  
Glennallen, Alaska 99588  
(907) 822-3309*

The Alaska Department of Fish and Game administers all programs and activities free from discrimination on the basis of sex, color, race, religion, national origin, age, marital status, pregnancy, parenthood, or disability. For information on alternative formats available for this and other department publications, contact the department ADA Coordinator at (voice) 907-465-4120, or (TDD) 907-465-3846. Any person who believes s/he has been discriminated against should write to: ADF&G, PO Box 25526, Juneau, AK 99802-5526, or O E O, U.S. Department of the Interior, Washington, DC 20240.

**NOTICE:** This summary of regulations is not complete, nor quoted verbatim from State law. It is an informative abstract of 5 AAC 77, simplified for your convenience. For further details, or to inspect a copy of the official codified personal use fishing regulations, consult your local Department of Fish and Game representative or Department of Public Safety, Fish and Wildlife Protection Division office.

## WHAT IS THIS FISHERY?

This fishery has been authorized by the Alaska Board of Fisheries to provide Alaskans an opportunity to harvest salmon for *personal use* with dip nets. The fishery is managed under the Copper River Personal Use Management Plan (5 AAC 77) and requires that a permit must be obtained to participate in the fishery.

A dip net is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

This is **NOT** a *subsistence fishery*. The Board has also established a subsistence salmon fishery for the Glennallen Subdistrict which is the upstream portion of the Copper River upstream of the Chitina-McCarthy bridge to Slana. The Board has mandated that an Alaskan may participate in either the subsistence or personal use fishery, but not both. A summary of subsistence regulations is available.

Personal use fish are for use by the individual and immediate family. Personal use fish or their parts cannot be bought, sold, traded or bartered.

## WHO MAY PARTICIPATE?

Only Alaska *residents* who have a current Alaska resident sport fishing license can participate in this personal use fishery. Dipnetters are reminded that they must have their sport fishing license as well as their Copper River personal use permit in their possession to participate in this fishery.

## WHAT AREA IS OPEN TO FISHING?

The area open to the Copper River personal use fishery is restricted to the waters of the Chitina Subdistrict which consists of all waters of the mainstem Copper River between the downstream edge of the Chitina-McCarthy bridge and ADF&G regulatory markers located on an east-west line crossing the Copper River about 200 yards upstream of Haley Creek (in Wood Canyon).

All tributaries to the Copper River in this area, including the Chitina River, are closed to personal use fishing.

Much of the land in the Chitina area is privately owned and public access is limited. Maps depicting public access areas are available at the ADF&G trailer in Chitina. Not all private land is posted. The Department urges dipnetters to respect the rights of landowners.

## WHEN IS THE FISHERY OPEN?

Under the Copper River Personal Use Management Plan, salmon may be taken in the Chitina Subdistrict from June 1 through September 30 during periods established by emergency order. Emergency orders are issued throughout the season based on escapement estimates at the Miles Lake sonar and harvest levels during previous periods. Information regarding fishery openings will be updated on recorded message numbers listed on the back of this pamphlet.

## PERMIT REQUIREMENTS

A Copper River Personal Use Fishery permit is required and *must* be in the dipnetter's possession to participate in this fishery and when transporting fish caught under the permit. The permit is in two parts: the punchcard and the transport card.

Only one Chitina Subdistrict personal use salmon fishing permit may be issued to a household per year.

There is a \$10 access fee which covers the cost of a negotiated contract allowing dipnetters to cross private land to reach the river.

Permits may be obtained at the ADF&G office in Fairbanks, the Chitina Field office, and in September at the Glennallen office. Operating hours for the Chitina permit station are available at Department of Fish and Game offices in Glennallen, Anchorage and Fairbanks. Call the recorded message numbers listed on the back of this pamphlet for the updated office hours.

Permittees must record their harvest on the permit immediately upon landing fish by punching the appropriate area. Both tips of the tail fin must be removed from each salmon taken under the authority of a Copper River personal use salmon fishing permit before the salmon is concealed from plain view or transported from the fishing site.

Permit holders must return the punchcard portion of their permits to the ADF&G trailer in Chitina, or the drop box near the trailer, after each fishing trip to the area. Punchcards will be on file and may be picked up at the Chitina office for use for additional trips throughout the season. Retain the transport portion of the permit for the remainder of your trip and for subsequent trips.

Return of catch data is necessary for the management and conservation of the Copper River salmon resources. The final deadline for permit returns is October 31. A permittee who fails to return his or her personal use fishing permit will be ineligible to receive a personal use permit for the Copper River for the following calendar year.

## PROXY FISHING

If an applicant for a personal use salmon fishing permit is unable to personally take salmon due to a 70% physical disability, blindness, or being over 65, the permit may be issued to his or her authorized designee (proxy) to take salmon for the applicant as follows:

While taking or possessing salmon, the proxy must possess:

- i). A completed current years Proxy Fishing Information Form (11-203, rev 5/96)
- ii). Their own valid resident sport fishing license;
- iii). The applicant's valid resident sport fishing license or permanent identification card;
- iv). The applicant's personal use fishing permit;

It is illegal to be an authorized designee for more than one applicant simultaneously.

## BAG & POSSESSION LIMITS

The annual limits for this fishery are 15 salmon for a single household and 30 salmon for a household of two or more. Only 4 fish out of the total limit may be king salmon. In years of very high escapement, bag limits may be increased by emergency order, requiring a supplemental permit obtained at the Chitina field office only.

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME  
Frank Rue, Commissioner

Contact: Mac Minard  
Regional Supervisor  
Division of Sport Fish  
Fairbanks 459-7350

NEWS RELEASE - IMMEDIATE RELEASE

Thursday, March 30, 2000

**Alaska Department of Fish and Game, Chitina and Ahtna Native Corporations  
sign new access agreement for Chitina Dipnetting**

Fairbanks- A new agreement has been reached to guarantee access for Chitina dipnetters at the Copper River fishery. Today, the Alaska Department of Fish and Game, Chitina and Ahtna Native Corporations signed a one year agreement that will expand the legal access areas to the fishery and significantly improve services necessary to support the fishery. Much of the Copper River dipnet fishery falls within Native Corporation land, and public access to it has often been a point of conflict in the past. Trespassing on Native owned land and garbage problems have been the main complaints.

More than 20,000 Alaskans participate in this fishery and some 118,000 salmon are harvested by dipnetters each year. The agreement will guarantee that the fishery will continue, and that the Native corporations will work with the state to ensure that Alaskans will be able to participate in the annual salmon harvest. According to Mac Minard, Regional Supervisor with the Division of Sport Fish in Fairbanks, this agreement is intended to maximize legal public access and minimize the potential for conflict. "We worked very hard to strike an agreement that would provide Alaskans with the opportunity to participate in the fishery to the maximum extent allowable under regulations and still address the concerns of the upland land owners".

A new \$25 permit fee per household will be introduced to cover increased costs for access and services. There has been no permit fee hike in ten years, but the number of dipnetters has more than doubled over that time, putting a strain on resources and services. Minard said, "Its essentially its the same cost as before. Under the old Personal Use Fishery regulations, participants were required to hold a \$15 sport fishing license before you could purchase a \$10 Chitina dipnet permit. Under the new Subsistence designation the requirement for a Sport Fishing license has been removed so the new fee is comparable to what it cost an individual last

year. It could even save families money. Anyone over 16 participating in the dipnet fishery was required to have a sport fishing license, so a family of four would have had to pay for four licenses at \$60 and a \$10 Chitina dipnet permit. Now you only need a \$25 dipnet permit for the entire family, so in that case it's a savings of \$35," Minard added.

In addition, the agreement includes plans for improvements of services this summer. The permit fee will cover the cost of boosting services in the area, providing more outhouses and garbage disposal sites. These services, managed by the Alaska Department of Fish and Game, will provide much needed improvements for the public. Last year, ADF&G also introduced new permit issuing sites in Fairbanks so that Alaskan residents taking part in the fishery were not tied to the opening hours of the Chitina permit office.

"We're trying to make it easier for all Alaskans who want to take part in the dipnet fishery. There are more than ten thousand Alaskan households that rely on the Chitina fishery to put food on their tables each year," said Mac Minard. "It's one of the largest and most important fisheries in the state," he added.

For more information contact Mac Minard, Regional Supervisor, at the Alaska Department of Fish and Game, 459-7350.

###

Friday, March 31, 2000

**OUTDOORS**

Tim Mowry, Outdoors Ed

**Dipnetters  
still getting  
a good deal**

For what it's worth, here are my two cents on the increased fee for the Chitina dipnet fishery on the Copper River.

Assuming the Alaska Legislature approves it, which it is expected to do this week, the fee will be raised from \$10 to \$25 this year as a result of a new contract negotiated by the Alaska Department of Fish and Game with the Ahtna and Chitina Native corporations.

Tim  
Mowry



Most of the fee—\$18—goes to the two Native corporations in the form of a "trespass fee," which basically means dipnetters won't get arrested if they dipnet on Native land, something a good number of them do.

The other \$7 goes to Fish and Game to issue the permits and contract out collection of garbage and sanitation.

There's no doubt the Native corporations are going to collect a good chunk of change through the deal. Fish and Game has issued more than 10,000 permits each of the last two years. That translates to almost \$200,000 for the Native corporations.

What do dipnetters get out of the deal?

Not much, to be honest. There will be a few more garbage cans and portable toilets at places like O'Brien and Haley creeks, and they will probably be serviced a little better than they have been in the past. You'll probably see a few more signs, too, telling you not to cut wood and where you can and can't go.

You won't get any more fish. The road will probably be just as rough as it always has. The wind will still blow like crazy and fill everything with glacier dust.

But if you ask me, \$25 is still a pretty good price for 30 of the world's finest tasting salmon.

If you come home with 100 pounds of salmon, that's \$.25 a pound. Last time I checked the seafood department in the supermarket, fresh sockeye salmon was going for \$7.99 a pound.

The \$10 fee has not increased since it was implemented in 1993, but the number of dipnetters at Chitina has more than tripled since then. That translates into three times the amount of traffic, garbage and human waste. More people means more erosion on the trails they have carved out leading down to the river.

Let's face it, times are changing and this is a sign of the times. Native corporations have realized there is money to be made by charging trespass fees to hunters and fishermen under the guise of "protecting our rights as landowners," as Native corporations like to put it.

Go king salmon fishing on the Klutina River and chances are you will have to pay a trespass fee. The same is true on parts of the Gulkana River.

Like it or not, that's the way things go these days. It's no different than going to a professional baseball or football game in the Lower 48 and seeing people rent out parking spots on their front lawn for \$5 or \$10. They're just trying to make a quick buck like everyone else in the world today.

Also, let's not kid ourselves into thinking this is a subsistence fishery, even if the Alaska Board of Fisheries did designate it as such in its December meeting in Valdez, a decision, by the way, which is currently being reviewed by the Fish Board.

I would wager to say that 98 percent of the people I see at Chitina are not living a subsistence lifestyle. If they are, I would like to find out how they can afford to drive new, four-wheel-drive pickup trucks to Chitina and pull 24-foot riverboats behind them while maintaining a subsistence lifestyle?

I'll bet most of those dipnetters go home and store their fish in a freezer, too, rather than splitting it and hanging it to dry on wooden racks. If they smoke it, they probably do so with a smoker and wood chips they bought at a local department or hardware store.

That's subsistence? Also, why the heck are there guides shuttling dipnetters back

See MOWRY, Page C-2

and forth for \$50 a whack if it's a subsistence fishery? Since when is employing a guide part of subsistence?

It should also be noted that because it has been designated a subsistence fishery, a sport fishing license won't be required to get a dipnet permit. A sport fishing license costs \$15, which means dipnetters have really been paying \$25 for permits for the last seven years, though the majority of dipnetters who go to Chitina buy a fishing license regardless of whether they go dip-

netting or not.

Those opposed to the \$15 increase should be more concerned about the skyrocketing price of gas than the increasing cost of a dipnet permit. After all, at the current price of about \$1.60 a gallon, it will cost about \$15 more to drive to Chitina this year than it did last year, when gas was at around \$1.20 a gallon.

That's something to gripe about.

News-Miner outdoors editor Tim Mowry plans to be on the banks of the Copper River again this year to scoop up his 30 red salmon.



Compliments of...

**Gary Wilken**

Senator, West Fairbanks.

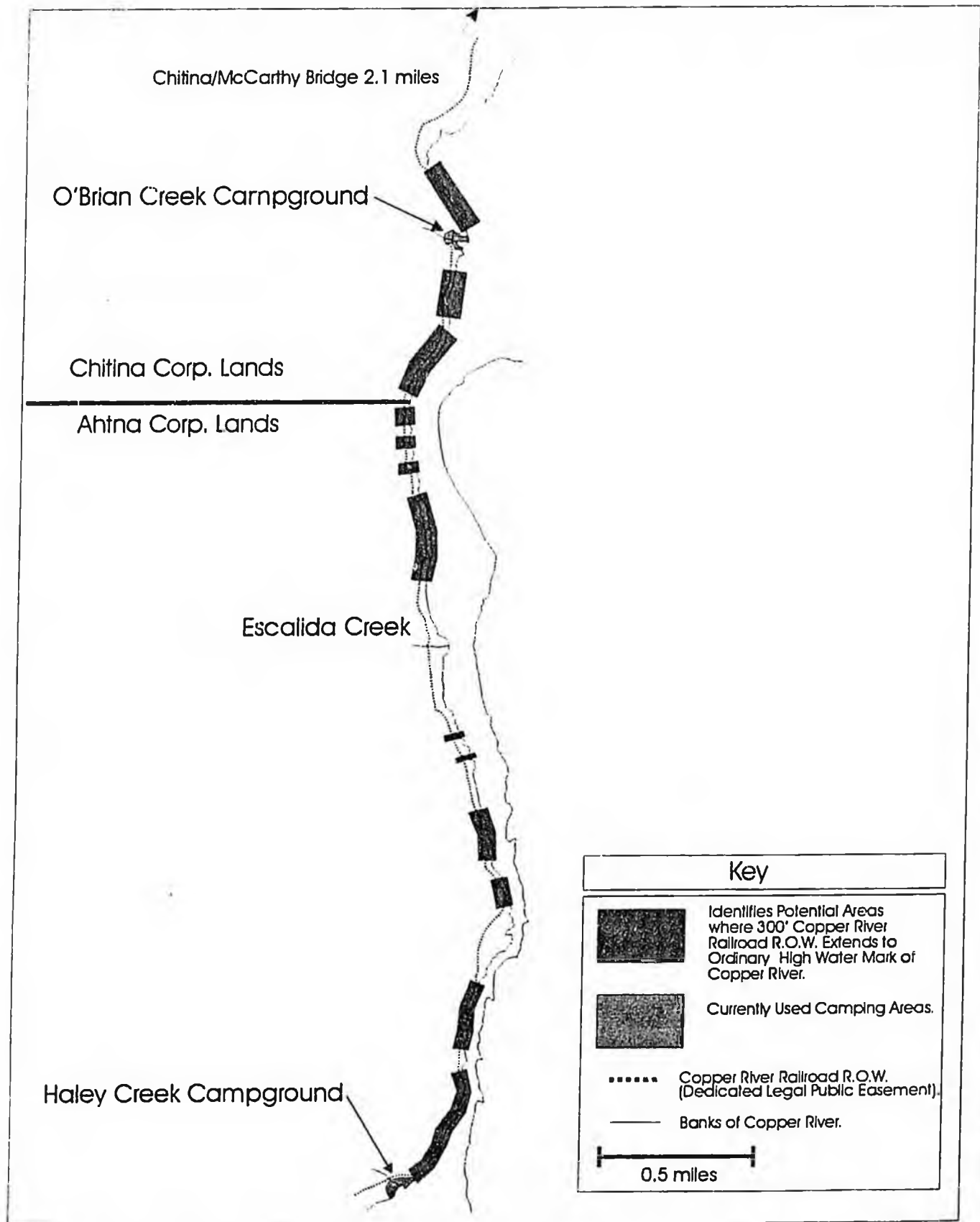
## A 40-Year History of the Copper River Dipnet Fishery and Access to O'Brien Creek

Year	Event
1960	<ul style="list-style-type: none"> <li>*Permit system for fish wheels and dipnets begins.</li> <li>*Edgerton Highway is upgraded, resulting in an increase in dipnetters from outside of Copper River basin.</li> </ul>
1963	<ul style="list-style-type: none"> <li>*State destroys old trestles because they are unsafe.</li> </ul>
1964	<ul style="list-style-type: none"> <li>*U.S. Geological Survey creates switchbacks on Copper River Highway outside of 200-foot right-of-way (ROW).</li> </ul>
1972	<ul style="list-style-type: none"> <li>*Improvements to Copper River Highway permit vehicular traffic 20 miles south of Chitina.</li> </ul>
1973	<ul style="list-style-type: none"> <li>*Sierra Club and Alaska Conservation Society obtain court injunction halting road construction.</li> </ul>
1974	<ul style="list-style-type: none"> <li>*Chitina Native Corporation (CNC) files selection applications for land near Chitina.</li> </ul>
1975	<ul style="list-style-type: none"> <li>*An agreement between state and federal agencies and the two conservation groups results in closure of the Copper River Highway at O'Brien Creek&gt;</li> </ul>
1978	<ul style="list-style-type: none"> <li>*Road at O'Brien Creek opened again in December.</li> </ul>
1980	<ul style="list-style-type: none"> <li>*Area where fish wheels permitted is moved above McCarthy Road Bridge.</li> <li>*Flood washes out approaches to O'Brien Creek Bridge.</li> </ul>
1982	<ul style="list-style-type: none"> <li>*BLM approves interim conveyance of CNC selections with easements and a 300-foot highway ROW.</li> <li>*CNC files notice of appeal for 13 reservations of easements including two at O'Brien Creek.</li> <li>*Appeal referred to the BLM hearings division.</li> <li>*Hearing at Copper River results in settlement of all but the two easements at O'Brien Creek.</li> <li>*Road improvements to O'Brien Creek; stopped after CNC disputes ownership of the road.</li> </ul>
1983	<ul style="list-style-type: none"> <li>*State replaces O'Brien Creek Bridge.</li> </ul>
1984	<ul style="list-style-type: none"> <li>*Two contested easements at O'Brien Creek (for parking, camping, and road access) rescinded.</li> <li>*BIA funds used to construct several houses in Chitina on road ROW.</li> </ul>
1985	<ul style="list-style-type: none"> <li>*Final conveyance of land to CNC.</li> <li>*CNC blocks road at Fox Creek and charges fee for entrance.</li> </ul>
1986	<ul style="list-style-type: none"> <li>*CNC continues entrance fee. Use of boats for access from Chitina-McCarthy Road bridge increases.</li> <li>*Protest by dipnetters over access fee results in announcement by Governor Sheffield that talks with CNC are underway.</li> </ul>
1987	<ul style="list-style-type: none"> <li>*CNC lawyer proposes a long-term lease of access at O'Brien Creek.</li> <li>*State completes a maintenance contract with CNC to remove litter, clean toilets and construct 7 new toilets for \$15,000 (money provided from Department of Transportation and Public facilities [DOTPF]).</li> </ul>

## A 40-Year History of the Copper River Dipnet Fishery and Access to O'Brien Creek

Year	Event
1988	<ul style="list-style-type: none"> <li>*Office of the Governor negotiates access and campground maintenance contract with CNC for \$22,000.</li> <li>*Legislature appropriates \$15,000 for access to O'Brien Creek and \$7,500 for a long-term access study.</li> <li>*DOTPF completes road work to O'Brien Creek placing road within ROW at Fox Creek Bridge at O'Brien Creek widened and road graded halfway to Haley Creek.</li> </ul>
1989	<ul style="list-style-type: none"> <li>*CNC objects to road work and states that archeological and grave sites may have been disturbed.</li> <li>*State decides not to pay for O'Brien Creek access in 1990.</li> <li>*CNC closes camp area at O'Brien Creek and posts no trespassing signs.</li> <li>*Attorney General opinion issued concerning road ROW.</li> </ul>
1990	<ul style="list-style-type: none"> <li>*Legislature approves \$10 permit fee for Chitina dipnetters, effective January 1991.</li> <li>*Legislature appropriates \$22,000 for O'Brien Creek access and campground maintenance.</li> <li>*CNC road ROW survey reveals O'Brien Creek bridge and part of road outside of 200-foot ROW. (1960 - 1990 information prepared by the Legislative Research Agency, August 1990 (90.355b).</li> </ul>
1992	<ul style="list-style-type: none"> <li>*Alaska Superior Court (3rd Judicial District) gave partial summary judgement in favor of State of Alaska, thereby recognizing a 300 feet ROW and dismissed all prior trespass claims.</li> <li>*Contract with O'Brien Creek and Haley Creek land descriptions and fee disbursement of \$30,000 to Ahtna and CNC Corporations.</li> </ul>
1993	<ul style="list-style-type: none"> <li>*Contract changed with corporations receiving \$30,000 (\$20,000 for access, \$2,000 for trash, and \$8,000 for campground maintenance.)</li> </ul>
1994	<ul style="list-style-type: none"> <li>*Contract changed so that CNC received 50% of actual fees collected, Ahtna Corporation received 40%, and the state received 10% for administration.</li> </ul>
1998	<ul style="list-style-type: none"> <li>*1994 Contract expires. Negotiations begin with Corporations expressing interest in fee increase as fishery gains popularity as number of permits increase.</li> </ul>
1999	<ul style="list-style-type: none"> <li>*One year agreement signed. Terms and conditions similar to 1994 contract - fee remained the same. a short time line before the fishing season began.</li> <li>*Fish Board changes designation to a subsistence fishery.</li> </ul>
2000	<ul style="list-style-type: none"> <li>*March - Agreement between Fish &amp; Game and Corporations is signed. Terms include a fee increase to \$25, with dispersment of the fees the same and additional services provided. This agreement is contingent upon passage of SB 301 or HB 442 to amend AS 16.05.340 (a) (22). The legislation would change the name of the permit to "Chitina dip net fishing permit" and would change the fee to \$25 (the fee agreed upon by the DF&amp;G and the Corporations.) (Information from 1992 - 2000 prepared by Department of Fish and Game - March 31, 2000.</li> </ul>

# Copper River Railroad Right-of-Way and Approximate Land Ownership (Chitina and Ahtna Native Corporations)



# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/29/00

FURTHER: Finance

Date of 5-Day Notice: 3/30/00  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/4/00

Resources Committee considered

SENATE BILL NO. 301

"An Act relating to the Chitina dip net fishing permit; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 301 \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>Idris Taylor</i>	✓		
		<i>Lyle Green</i>	✓		
CHAIR:		CHAIR: <i>Rick Halford</i>	✓		

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
F & G	4/3/00		✓

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

CS FOR SENATE BILL NO. 301(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Chitina dip net fishing permit; and providing for an  
2 effective date."

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

4 \* Section 1. AS 16.05.340(a)(22) is amended to read:

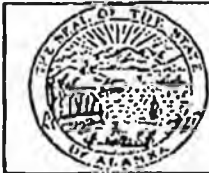
5 (22) Chitina [PERSONAL USE SALMON] dip net fishing  
6 permit ..... 25 [10]  
7 A person who has in the person's physical possession a permanent identification  
8 card issued under AS 16.05.400(b) and members of the person's family who are  
9 in the presence of the person are not required to possess a permit while engaged  
10 in dip net fishing at Chitina. In this paragraph, "family" means persons who are  
11 related by blood, marriage, or adoption and who live in the same household on  
12 a permanent basis. The legislature may appropriate the receipts from the sale of  
13 the permit to the fish and game fund.

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

L

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

4 pages



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SENATE RESOURCES & Finance  
 Committee on SB 301 Committee Name  
Bill / Subject Dated 4/4/00

Hon. Senators;

On D.O.T.'s planning board is a little known fact which will, or should, affect your decision regarding the dipnet fishery in the Copper river Chitina. A "Bicycle Path" is to be constructed from the "One mile lake" outside of Chitina Townsite, to the turnout by Trout lake. From there plans are to repair, widen etc, the 300' R.W. past O'Brian & Haley creek ending at Unanatinis River. Some 20 miles +/- To be completed around the year 2002. This will in my opinion affect the Chitina Dipnet fishery. - Tourists - traffic etc.

SIGNED:

E. N. Hemser, E. N. Hemser.  
Testifier

Member Chitina dipnet assoc. Hem enterprise of Chitina  
Representing

Box 118 Chitina 99566 - Box 74844 Fairbanks, 99707  
Address / Phone Number

457-2838 - 456-3001

#1 - R. N. HEMSER

been first in time in actual survey or construction, as this case may be, shall be deemed first in right.

SEC. 9. That the map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map.

SEC. 10. That any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory now authorized by law to hold lands in the Territories, hereafter in the possession of and occupying public lands in the District of Alaska in good faith for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only not exceeding eighty acres of such land for any one person, association, or corporation, at two dollars and fifty cents per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands, and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: *Provided*, That no entry shall be allowed under this Act on lands abutting on navigable water of more than eighty rods: *Provided further*, That there shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of this Act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for building and wharves, with the provision that the public shall have access to and proper use of such wharves, and landings, at reasonable rates of toll to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway: *Provided further*, That in case more than one person, association, or corporation shall claim the same tract of land, the person, association, or corporation having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are or may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests: *Provided further*, That all claims substantially square in form and lawfully initiated, prior to January twenty-first eighteen hundred and ninety-eight, by survey or otherwise, under sections twelve and thirteen of the Act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, Chapter five hundred and sixty-one), may be perfected and patented upon compliance with the provisions of said Act, but subject to the requirements and provisions of this Act, except as to area, but in no case shall such entry extend along the water front for more than one hundred and sixty rods: *And provided further*, That the Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or sea shore for landing places for canoes and other craft used by such natives: *Provided*, That the Aleutic, Pribilof Islands, and the islands leased or occupied for the propagation of foxes be excepted from the operation of this Act.

That all affidavits, testimony, proofs, and other papers provided for by this Act and by said Act of March third, eighteen hundred and ninety-one, or by any departmental or Executive regulation thereunder,

Indication of location on profile map.

—surveyed lands.

—unsurveyed.

Purchase of land embracing the improvements by area paid for purposes of trade.

Reserve. Entries on navigable water, limit. Alternate spaces reserved.

Use of for wharves, etc.

—roadway reserved.

Adverses claimants.

Purchases for trade.

Vol. 26, p. 1100.

Landing places for natives.

Certain islands reserved.

Admissibility of sections 12, etc. Vol. 26, p. 1002.

2392

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

AHTNA, INCORPORATED, an )  
Alaska corporation, and )  
CHITINA NATIVE CORPORATION, )  
an Alaska corporation, and )  
the CHITINA TRADITIONAL )  
COUNCIL, an Alaska Native )  
village, )

#2 - E. N. HEMER.

Plaintiffs, )

vs. )

STATE OF ALASKA DEPARTMENT )  
OF TRANSPORTATION AND PUBLIC )  
FACILITIES, )

Defendant. )

Case No. JAN-91-6957 CIV

ORDER ON MOTION FOR PARTIAL SUMMARY JUDGMENT

This court has reviewed the defendant's motion for partial summary judgment, opposition thereto and heard oral argument.

The court concludes that there are no genuine issues of material fact.

Partial summary judgment is hereby issued in favor of the defendant as follows:

1. The State of Alaska acquired through quit-claim deed from the federal government a 300 foot wide easement through the lands which are the subject matter of the plaintiff's complaint. Said easement was among other things intended for use as a public highway. Plaintiff is not entitled to any damages or just compensation for the 300 foot right-of-way.

2. All claims for trespass against the defendant are inappropriate and hereby dismissed. Any remaining claims for

monetary award from defendant for use of plaintiff's lands shall be limited to a claim for just compensation under the doctrine of inverse condemnation. Plaintiff is not entitled to any monetary award for the 100 foot right-of-way.

3. Plaintiff's claims for punitive damages are inappropriate and hereby dismissed.

DATED at Anchorage, Alaska this 3rd day of April, 1992.

*Karl Johnstone*

KARL S. JOHNSTONE  
Superior Court Judge

I certify that on:

4-3-92  
a copy of the above was mailed to each of the following at their addresses of record.

*M. [Signature]*  
Secretary/Clerk  
Litigator  
D. Brock  
AG-Russia

**S B**

**308**

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. SB 308**

Revision Date/Time (Note if correction) _____	Dept. Affected <u>DOT&amp;PF</u>
Title <u>"An Act relating to certain passenger vessels</u>	BRU <u>Marine Highway System</u>
<u>operating in the marine waters of the state</u>	Component <u>Southeast &amp; Southwest</u>
Sponsor <u>Resources</u>	<u>Vessel Operations</u>
Requester <u>Senate Resources</u>	Component No. <u>630</u>

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

POSITIONS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Full-time						
Part-time						
Temporary						

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

Prepared by: <u>Dennis Poshard, Special Assistant to the Commissioner</u>	Phone <u>465-3904</u>
Division <u>Commissioner's Office</u>	Date/Time <u>4/14/00 2:17 PM</u>
Approved by: <u>Commissioner <i>Joseph L. Perkins</i></u>	Date _____
Agency <u>Joseph L. Perkins, DOT&amp;PF</u>	

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# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB 308

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Environmental Conservation  
 Title Reports from Marine Passenger Vessels BRU Air & Water Quality  
 Component Air Quality  
 Sponsor Senate Resources  
 Requester Senate Resources Component No. 2061

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	60.4	35.2	35.2	35.2	35.2	35.2
Travel	5.0					
Contractual	28.7	5.9	5.9	5.9	5.9	5.9
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment	4.5	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>100.6</b>	<b>43.1</b>	<b>43.1</b>	<b>43.1</b>	<b>43.1</b>	<b>43.1</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	100.6	43.1	43.1	43.1	43.1	43.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>100.6</b>	<b>43.1</b>	<b>43.1</b>	<b>43.1</b>	<b>43.1</b>	<b>43.1</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time	1.0	0.0	0.0	0.0	0.0	0.0
Part-time	0	1.0	1.0	1.0	1.0	1.0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Tom Chapple Phone 269-7686  
 Division Air & Water Quality Date/Time 4/13/00 7:21 PM  
 Approved by Commissioner [Signature] Date 4-14-00  
 Agency Department of Environmental Conservation

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ATTACHMENT TO SB 308 FISCAL NOTE:

**Fiscal Impact:** In year one, one (1) full time position will be required to draft and administer regulations for the management of pollutant emissions into the Alaskan environment. One Environmental Specialist III will be located in Juneau to initially develop regulations and subsequently review monitoring data, conduct quality assurance reviews, and data analysis. The work tasks will include analysis of air, water, and hazardous and solid waste emissions throughout the coastal waters of the state, evaluation of the impacts, and information management. Once regulations have been developed, this position will be reduced to half time and will focus on the evaluation of summertime pollutant emissions.

During the first year, \$10.0 for professional services contracts is included to develop a database to manage and store emissions data received from the cruise ship industry. In addition, \$10.0 is included in the first year to cover advertising, printing, meeting, and mailing costs for two public notice periods on the regulations. Other contractual funds cover position support costs and technical assistance in the management of the database.

**Personal Services New Position Detail**

Department of Environmental Conservation  
SB 308 Fiscal Note - FY2001 Projected

Scenario: FY2001 Legislative Fiscal Note Info - 2  
Component: Air Quality (2061)  
BRU Name: Air and Water Quality

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#031	Environmental Spec III	FT	A	GG	Juneau	1A	18 B	12.0		45,456	0	0	14,931	60,387

**Justification:**

Implementation of SB 308

**Funding Detail:**

1004	General Fund Receipts	100.00%	60,387
<b>Total Funding:</b>		<b>100.00%</b>	<b>60,387</b>

**Component Summary:**

Total New Positions: 1

Fund Description	Fund Percent	Fund Amount
1004 General Fund Receipts	100.00%	60,387
<b>Total Funding:</b>	<b>100.00%</b>	<b>60,387</b>

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column.

**Personal Services New Position Detail**

Department of Environmental Conservation  
SB 308 Fiscal Note - FY2002 and Subsequent Years Projected

Scenario: FY2001 Legislative Fiscal Note Info - 2  
Component: Air Quality (2061)  
BRU Name: Air and Water Quality

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs
18-#031	Environmental Spec III	FT	A	GG	Juneau	1A	183	7.0		26,516	0	0	8,710	35,226
Justification:							Funding Detail:							
Implementation of SB 308							1004	General Fund Receipts					100.00%	35,226
												<b>Total Funding:</b>	100.00%	35,226

**Component Summary:**

Total New Positions: 1

Fund Description	Fund Percent	Fund Amount
1004 General Fund Receipts	100.00%	35,226
<b>Total Funding:</b>	100.00%	35,226

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column.



Official Business

# ALASKA STATE LEGISLATURE

## SENATE RESOURCES COMMITTEE

State Capitol  
Juneau, AK 99801

Chairman: Senator Rick Halford  
Vice Chair: Senator Robin Taylor  
Senator Lyda Green  
Senator Pete Kelly  
Senator Jerry Mackie  
Senator Sean Parnell  
Senator Georgianna Lincoln

### SB 308 Sectional Analysis

**Section 1:** adds new sections to AS 46.03, the Environmental Conservation statutes.

**Sec. 46.03.460** requires an owner/operator who conducts business in Alaska to register each vessel annually with DEC, prior to bringing the vessel into state waters.

**Sec. 46.03.465** requires the owner/operators to monitor cruise ship pollutants in order to fulfill the reporting requirements under AS 46.03.475. Monthly sampling of visible emissions from vessels while in an Alaskan port is required. Clarifies that information need only be collected for the amount of time that the vessel is in state waters and that information collected for another, substantially similar report will be sufficient.

**Sec. 46.03.470** requires that records be maintained for three years.

**Sec. 46.03.475** establishes the monthly reporting that must occur for several categories of pollutants. Specifies a timetable for these reports, the type of information required, and requires a statement regarding the accuracy of the report. Clarifies that the information provided for another, substantially similar report will be accepted.

**Sec. 46.03.480** establishes civil penalties for failing to register, failing to report, and falsifying a registration or report.

**Sec. 46.03.485** gives DEC rule-making authority to implement this legislation.

**Sec. 46.03.490** Definitions.

**Section 2** amends AS 46.03.760(e) to reflect the penalties incorporated into 46.03.480(c)

SB 308 Testimony  
Gershon Cohen, Ph.D., Project Director  
Campaign to Safeguard America's Waters  
Earth Island Institute  
Box 956, Haines, AK 99827  
907-321-4121 gershon@seaknet.alaska.edu

Dear Mr. Chairman,

My name is Gershon Cohen. I have lived in S.E. Alaska for nearly 20 years. I am a National Project Director on water pollution issues for the Earth Island Institute.

SB 308 is one of several bills sponsored, at least in part, in response to the wake-up call of last summer. We were shocked to hear that members of the cruise ship industry had been routinely dumping toxic wastes into Alaskan waters. Hopefully those days are behind us. But we must now address what may in fact be a greater problem, the industry's legal discharge of polluted wastes.

For the past nine months cruise ship representatives have proclaimed their intent to adhere to all applicable pollution laws from now on. Unfortunately, this is not the commitment to environmental stewardship it would first appear. The key word is "applicable" - the cruise ship industry is well aware that it remains exempt from key U.S. laws and regulations that would otherwise govern their discharge of polluted wastestreams. It is because of these exemptions that coastal states such as Alaska must take on the responsibility of monitoring the release of ship wastes into public waters. Similar measures are being considered by the California legislature.

Despite the industry's abysmal past, huge gaps in the regulatory process will permit the industry's discharges to go essentially unmonitored again this season. SB 308 can play a critical role in closing the information gap.

We support the bill's three fundamental objectives: First, the requirement that a responsible party be identified for each ship at the beginning of every calendar year. Second, the requirement that ships submit a report monthly on the quantity, composition, and discharge location of their wastestreams and record visible air emissions while in port. And third, the required accounting of all hazardous and solid wastes offloaded for transport to licensed treatment facilities.

The need for this information is obvious. The average cruise ship in today's fleet is a floating city transporting more than 5,000 passengers and crew. According

# CORRECTION

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



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

SB 308 Testimony  
Gershon Cohen, Ph.D., Project Director  
Campaign to Safeguard America's Waters  
Earth Island Institute  
Box 956, Haines, AK 99827  
907-321-4121      gershon@seaknet.alaska.edu

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The need for this information is obvious. The average cruise ship in today's fleet is a floating city transporting more than 5,000 passengers and crew. According

to the Royal Caribbean Cruise Limited web site, a typical ship generates during every *one-week* voyage approximately:

- 1,000,000 gallons of graywater, (containing solvents, detergents, biocides, medical wastes and other miscellaneous pollutants poured down galley, cabin sink, and shower drains);
- 210,000 gallons of raw and treated sewage;
- 25,000 gallons of oily bilge water;
- 110 gallons of photo chemicals;
- 5 gallons of dry-cleaning waste (containing perchlorethylene);
- 10 gallons of used paints; and
- 5 gallons of expired chemicals.

There are many reasons for obtaining accurate information on cruise ship discharges, as would be required under SB 308.

- 1) At present, we have no idea if the wastes being released constitute a problem.
- 2) We don't know where they are discharging. According to International Law the ships can discharge their graywater tanks and treated sewage anywhere, as long as they are not tied to a dock.
- 3) This data could help identify which systems and ships are better at controlling pollution, which might in turn lead to the adoption of improved environmental management throughout the fleet.
- 4) The information would help establish a baseline from which we could make a variety of decisions in the future.

I believe that you will hear today that this legislation is unnecessary. Since December of 1999, numerous meetings have been held between DEC, the U.S. Coast Guard, EPA, members of the public, and the industry. One of the industry's goals for this effort has been the development of a self-monitoring plan that the industry hoped would preempt the need for a change in Alaska law or regulation. Last week the industry finally submitted its long awaited proposal. Despite repeated clear and specific requests from both the agencies and the public, the industry proposal "missed the boat". They offered to evaluate their wastestreams twice/ship during the entire summer for only sewage parameters, ignoring our concerns regarding the toxic components of the graywater. At the end of the last meeting the industry's

representative did verbally agree to a limited amount of graywater testing for toxics. But at this rate we will be lucky to have a monitoring protocol in place for the 2001 season, let alone for the 2000 season, which begins in the next few weeks.

Senate Bill 308 and House Bill 371 clearly and fairly initiate a process for getting the cruise ship industry to play by the same rules as everyone else who does business in Alaska. The oil, mining, seafood processing, and timber industries are all required to monitor and report the quantity and composition of their wastewater discharges to either a state or federal oversight agency every month.

These bills will not chase the cruise ships away. They simply recognize that both the industry and the public have needs. The industry needs Alaska as a destination. One would hope they recognize that without clean air and clean water it will no longer be the "Alaska" they sell to their clients. Alaskans need clean air and clean water, as well as an active economy. Fortunately, these needs are not incompatible.

Nevertheless, without even considering the industry's performance over the past decade, there remains no legitimate reason for allowing the industry to continue to circumvent the monitoring and reporting performed by all other industries operating in Alaska. Nothing less than our physical and economic health is at stake.

I respectfully urge you to pass this bill out of committee today, and to work expeditiously with your counterparts in the House to see that this bill becomes law before the end of this legislative session.

Thank you for this opportunity to comment.

Gershon Cohen, Ph.D.

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# Law calls for cruise line to report ship pollution

■ Kertula says bill puts ship companies in line with other industries

By SVEND HOLST

THE JUNEAU EMPIRE

A bill that would require big cruise ships to report on the kinds and amounts of pollutants they're producing made its first legislative port of call Tuesday.



It cruised through the House Transportation Committee on a 3-2 vote.

House Bill 371 would mandate that passenger ships over 300 gross tons - big cruise ships - register with the state and file pollutant reports with the Department of Environmental Conservation.

About 550 cruise ships visited Alaska last summer, bringing in about 700,000 tourists, said the bill's sponsor, Rep. Beth Kerttula.

The Juneau Democrat said cruise ship companies wouldn't need to spend a lot of money to meet the bill's requirements. All she wants, she said, is for the cruise lines to let the state know how much potentially foul material - dishwasher, treated sewage and smoke stack emissions - the ships are producing.

That information is lacking today, she said.

"The bill is basically a right-to-know bill," she said. "We've seen some problems with waste."

She said the bill would put the cruise ship industry in line with the mining, oil and seafood processing industries, which all must submit environmental reports with the state.

No representatives of the major cruise lines testified at the hearing. All those who did testify favored the measure, including representatives of the Department of Environmental Conservation, the U.S. Environmental Protection Agency, the U.S. Coast Guard and cruise lines running smaller vessels not covered by the bill.

"We don't have the facts about the environmental impacts of these floating cities ... and that is unacceptable," said Mike Conway, with DEC.

The bill moved out of the committee with the support of Reps. Andrew Halero, an Anchorage Republican, and Democrats Al Bookesh of Angoon and Allen Kemmen of Anchorage.

The two no votes came from Republican Reps. John Cowdery of An-

## Activists petition EPA to act on cruise waste

By FERN CHANDONNE

THE JUNEAU EMPIRE

The environmental group Bluewater Network and 53 other organizations filed a petition Tuesday with the U.S. Environmental Protection Agency to address what they call the "titanic amount of pollution being caused by cruise ships."

The petition highlights loopholes and exemptions in environmental law that should be controlling pollution caused by the ships, according to the San Francisco group's spokeswoman, Kira Schmidt.

"The regulations were formulated with passage of the Clean Water Act in the early 1970s," Schmidt said. "And they haven't been updated since cruise ships became huge floating cities."

Cruise ship companies themselves apply to the EPA to be included within certain categories. Often the ships are rated, no matter their size, as "small quantity generators," which means they produce less than 220 pounds of waste per month, she said.

"Once the EPA gets a good handle on the amount of waste produced - something they don't have now - they're going to realize the regulations are inadequate," Schmidt said.

Bluewater is promoting legislation in California and Alaska to address cruise ship pollution.

House Bill 371, sponsored by Juneau Democratic Rep. Beth Kerttula, requires cruise ships in Alaska waters to report to the state the quantities and characteristics of all pollution discharged into state waters, as well as wastes offloaded at Alaska ports.

A report accompanying the petition to the EPA explains that a typical cruise ship on a one-week voyage generates approximately eight tons of garbage, a million gallons of gray water, 200,000 gallons of sewage, 25,000 gallons of oil-contaminated water, and an undetermined amount of hazardous waste.

Gray water is wastewater from sinks, galleys, showers and laundries.

The cruise lines are working with federal, state and local organizations to resolve those concerns, according to North West CruiseShip Association President John Hansen. The Vancouver, B.C. group represents the interests of cruise lines operating in Alaska.

The industry has already signed a memorandum of understanding for certain environmental practices with the Florida Department of Environmental Protection, Hansen said.

His group is currently conferring with the Alaska Department of Environmental Conservation on such concerns as "doughnut holes" - areas within Alaska's Inside Passage on the discharge of certain ships' waste - and the collection of all ship discharging in Alaska ports.

"Discussions with DEC and the Coast Guard have been very productive so far," Hansen said.

The EPA issued notices of air pollution violations to cruise ships in Juneau's harbor as recently as three weeks ago, said Juneau Assembly member Jim Powell. "What is required here is not only a national effort, but also a regional and local effort."

chorage and Willow's Beverly Masek. Cowdery said he wasn't convinced the system is broken. Masek said the bill seemed to duplicate work already begun by the state.

The measure has three more House committees - Labor and Commerce, Resources and Finance - to get through before it can go to the House floor. If the full House then approves the bill, it would go

through the Senate committee process before Gov. Tony Knowles would have a chance to sign it.

With the legislative session more than halfway over, Kerttula said she realizes time may be running out on the measure.

"I always have hope," she said. "It's an uphill battle. (But) we got a great first hearing, and we're under way."

Thursday, April 13, 2000

Continued from Page A-1

## EPA checks cruises

### Nationwide review targets 'gray water'

By PAULA DOBBYN  
Daily News reporter

The U.S. Environmental Protection Agency has launched a national review of the cruise ship industry in response to a petition by 54 environmental organizations. The federal agency will look for loopholes and exemptions in existing laws and determine whether tighter rules are warranted to reduce cruise ship pollution.

The EPA offices in Alaska, California and Florida are spearheading the review because the three states host a large number of cruise ships. A so-called white paper will be developed by the end of the month, with public hearings this summer or fall, followed by a set of recommendations, according to a leaked EPA memo.

"Rapid response to this petition is necessary, both because of the importance of the issue, and because extensive state and regional efforts to address cruise line pollution are proceeding at a fast pace, and these must be engaged to provide an effective national response," the March 31 memo states.

Juneau EPA official Steve Torok confirmed the agency's intent.

"We'll be looking at every point in the petition," Torok said. The first teleconference is scheduled for Friday, he said.

In their request to the EPA, the environmental groups, headed by the San Francisco-based Bluewater Network, asked the agency to consider how cruise ships dispose of their sink and shower waste, known as "gray water," as well as sewage, hazardous wastes and oily bilge water. They also want the EPA to look at the quantity and content of the discharges and decide if new laws and rules are needed to manage the large volume of waste.

Citing cruise line reports available to the public, the environmental groups say the typical cruise ship generates about 1 million gallons of gray water on a weeklong

voyage, about 210,000 gallons of sewage, some 25,000 gallons of oily bilge water and various amounts of photo chemicals, dry cleaning fluids, used paints, batteries and expired chemicals.

The industry says it complies with or goes beyond pollution laws. Before discharge, sewage is treated and oil is removed from bilge water, while hazardous substances are properly disposed of on land, the industry says.

"Cruise ships are point sources of enormous volumes of waste, which can have significant impacts on the marine environment and public health. Coupled with the cruise industry's proven record of violating pollution laws, it is clear we need more rigorous oversight of all cruise ship waste stream discharges," wrote Bluewater's Kira Schmidt in her request to EPA.

A February report by the General Accounting Office found that from 1993 to 1998, cruise ships were involved in 87 confirmed cases of illegal discharges of oil, garbage and hazardous wastes into U.S. waters. In Alaska, Royal Caribbean Cruise Line Ltd. and Holland America Line Westours Inc., were convicted of illegally polluting the Inside Passage. Royal Caribbean was fined \$6.5 million. Holland America paid \$1 million in fines and \$1 million in restitution.

Under existing laws, the ships can discharge unlimited amounts of gray water anywhere. Raw sewage can be legally dumped beyond three miles of shore. Treated sewage can be pumped out while the ship is tied up at port.

The cruise lines say they don't discharge unless they're under way and they never dump untreated waste. In a response to the Bluewater petition, the International Council of Cruise Lines accused the environmentalists of mischaracterizing the pollution situation and of failing to understand how the ships dispose of waste.

"Sensationalism does not achieve sound public policy, nor does it motivate others to respond positively," said Michael Crye, vice president of the cruise lines council. "We are concerned about the cleanliness of the ocean environment and are committed to full compliance with environmental laws. In fact, we are on the cutting edge of the development of new environmental technology."

# EPA: 6 lines broke laws

## 13 cruise ships cited for pollution

By CATHY BROWN  
THE JUNEAU EMPIRE

Cruise ships violated air quality standards on 14 separate days in Juneau last summer, the U.S. Environmental Protection Agency said. Violations also occurred in Glacier Bay National Park and in Seward, the agency said.

The EPA issued notices of violation Tuesday to six companies for air pollution coming from 13 ships in Alaska, said Don Dossett, an EPA compliance officer in Seattle.

The notices are a first step in a process that could lead to a maxi-

mum fine of \$27,500 per ship per day and compliance orders requiring certain actions to be taken.

But first the companies will have a chance to meet with the EPA to go over the facts and bring forward any information they have, Dossett said.

Notices of violation were issued to Holland America Line-Westours, Princess Cruises, Celebrity Cruises, Norwegian Cruise Lines, Carnival Cruise Lines and World Explorer Cruises.

Erik Elvejord, a spokesman for Holland America Line-Westours,

Please see EPA, Page 8

Empire 5/1/80

Some in the industry objected that EPA was pursuing the action at a time when the cruise lines are working with the state Department of Environmental Conservation, the EPA, the U.S. Coast Guard and community members to improve their environmental practices.

"It is unfortunate that EPA's press release did not recognize that the companies have put a great deal of effort into this issue and they are presently working with EPA and the state to solve the problem," said Nancy Wheatley, senior vice president for safety and environment for Royal Caribbean Cruises Ltd. The company is the parent company of Celebrity Cruises and Royal Caribbean International.

"We're kind of surprised that, given the process we're going through now ... that this came along to blind-side us," said Ron Valentine, vice president of operations at World Explorer Cruises in San Francisco. "We're not sure why this is happening now, given the good faith efforts we're engaged in."

Dossett said he didn't know what effect the EPA action would have on that process. But he said, "It's two separate actions. What we're doing here is addressing past violations." The work group is to address future compliance, he said.

### Continued from Page 1

said the company is pulling its records and plans to talk with the EPA.

"I think we feel they weren't violations, that the margin of error on smoke-reading is such that we were in the guidelines," he said. "If there's a problem, we certainly want to address it."

The notices allege the companies exceeded state opacity standards for air emissions, Dossett said. The standard is a way of measuring pollution by observing what can be seen through the smoke coming out of the stack.

More visibility means less pollution. "It's an indicator of more complete combustion of the fuel," Dossett said.

The companies also failed to report those emissions violations to the state, the EPA said.

Reactions from cruise lines were varied, but many said they aren't sure EPA's readings are correct, and they will discuss that with the agency. They said they have high environmental standards, and some intend to improve on those.

And some companies said they are surprised EPA took this action because they are in the process of working cooperatively with regulatory agencies to address environmental problems associated with the industry in Alaska.

"The readings that the EPA is using as the basis for their notices of violation are a mere snapshot in time and are not indicative of normal operation," said Jennifer de la Cruz, a spokeswoman for Carnival Cruise Lines.

She said the company recognizes the importance of air emission standards and already takes steps to control its emissions. In addition, this summer the company will install a continuous air opacity monitor and will train some staff in the EPA method for gauging emission levels.

Princess Cruises will request a conference with EPA to discuss the matter, which it "takes very seriously," the company said in a statement. Princess is working with regulators as well as with its technical managers to improve systems to minimize environmental impact, the company said.

# **EPA News Release**

00-13

February 29, 2000

Contact:

Don Dossett  
206/553-8257

John Pavitt  
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## **CRUISE LINES VIOLATE AIR STANDARDS, EARN EPA REPRIMAND**

The EPA today issued Notices of Violation (NOVs) to six companies operating large cruise ships that fouled the air in Juneau, Seward and Glacier Bay last summer. The 13 ships were monitored as they toured southeast Alaska, at times emitting smoke that significantly exceeded state and federal limits for visible emissions.

Responding to dozens of citizen complaints and media reports of large volumes of smoke billowing from the stacks of cruise ships, EPA investigators found numerous violations of the state's Marine Vessel Visible Emission Standards which govern the amount and duration of particulate matter discharges into the air. To assist the state in enforcing its smoke limits within Glacier Bay National Park, EPA investigators also worked with park rangers to monitor smoke emitted from ships visiting the area.

The NOVs were issued to the following companies:

- Holland America Line-Westours, Inc. (operating the Nieuw Amsterdam, Statendam, Veendam, Westerdam ships);
- Princess Cruises, Inc. (Dawn Princess, Sea Princess, Sun Princess);
- Celebrity Cruises, Inc. (Galaxy, Mercury);
- Norwegian Cruise Lines, Inc. (Dynasty, Wind);
- Carnival Cruise Lines, Inc. (Jubilee); and
- World Explorer Cruises, Inc. (Universe Explorer)

-more-

# ANCH. Daily News 7.24.94

Royal flush -- Tour company fouls sea - and its name

By Daily News editorial staff

When Gov. Tony Knowles says Alaska is open for business, this isn't what he has in mind.

Ships of Royal Caribbean Cruises Ltd. dumped oily bilge water and other toxic chemicals at sea during Alaska cruises in 1994 and 1995. This wasn't an isolated incident, as federal prosecutors spelled out in announcing the plea bargain by which the world's second largest cruise line will pay \$18 million in criminal fines and restitution. Its pollution felonies ranged from Puerto Rico and the Virgin Island to the Inside Passage.

Royal Caribbean will pay \$6.5 million in fines and restitution for its Alaska violations.

Company officials blamed wayward employees and tried hard to escape responsibility for the dumping, contesting U.S. jurisdiction and only grudgingly cooperating with prosecutors when the extent and seriousness of the violations became too clear to deny and when they ran out of options.

It makes an ugly sea story. Crew members dumped oily wastes at night to avoid witnesses. Record books were routinely cooked. Prosecutors said engineers won bonuses for cutting expenses for pollution control.

Royal Caribbean also hired two former U.S. attorneys general, Elliott Richardson and Benjamin Civiletti, to argue its immunity from prosecution based on the Liberian and Norwegian flags its ships flew.

These were not the works of an outfit trying to steer a straight course.

Prosecutors said the line saved tens of thousands of dollars with its dumping. Bad business. Now it's going to pay \$18 million. So Royal Caribbean lost good money and its good name.

Cruise ships are a vital part of Alaska's tourist trade. But they've got no business fouling Alaska waters in any amount. When the governor says Alaska is open for business, Alaskans take it for granted he means good, honest business that obeys the law and respects the land and sea that provides a rich living.

Any other kind of business has no business at all here.

The fines and the disgrace that goes with them should make it clear to all hands that environmental protection is serious business, and that "Save the Waves" buttons are no substitute for rigorous anti-pollution measures and company leaders that demand them.

Royal Caribbean International president Jack Williams said the company is "profoundly sorry" for what its employees did several years ago. Mr. Williams can lead his company's passage back to a good reputation and a continued warm welcome in Alaska with a fierce enforcement of environmental standards. The world's second-largest cruise line should take care that the water in its wake is as clean as the linen on its tables.

# CORRECTION

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# EPA News Release

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-more-

The EPA NOVs allege failure to comply with emission standards and failure to report excess emissions to the state. The companies will have the opportunity to meet with the EPA to discuss the violations before EPA takes any further enforcement action which could include compliance orders and/or assessment of penalties.

"Last year, over 550 cruises to southeast Alaska were taken by nearly 600,000 people from all comers of the earth," said EPA Regional Administrator Chuck Clarke. "Clearly, the strength of the cruise industry in Alaska is due entirely to the breathtaking beauty of the environment, the tourist industry's greatest asset.

"Since the cruise industry profits so handsomely from Alaskan environmental jewels it should understand that it needs to protect them as well."

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## Royal Caribbean Reports Record Results in 1999

MIAMI – (January 25, 2000) – Royal Caribbean Cruises Ltd. (NYSE, OSE: RCL) announced today a 16% increase in net income to \$383.9 million in 1999, up from \$330.8 million in 1998. Earnings per share was \$2.06, or 13% higher than the previous year. Since both years experienced non-recurring items, comparable EPS was \$2.15 in 1999 versus \$1.93 in 1998.

Revenues were \$2.5 billion, as compared to \$2.6 billion in 1998. The slight decline in revenues was due primarily to a 3% decrease in capacity in 1999. This decrease was the result of the sale of *Song of America* and service outages in the first half of the year.

On a comparable basis, earnings for the fourth quarter of 1999 increased to \$.21 per share compared to \$.17 per share in 1998. Reported net income for the fourth quarter of 1999 was \$38.3 million or \$.19 per share, which includes a \$3.3 million non-recurring item. Reported net income for the fourth quarter of 1998 was \$23.4 million or \$0.12 per share, which includes a \$9 million non-recurring item. Revenues for the fourth quarter of 1999 were \$584.0 million, up from \$575.1 million in 1998.

"We are pleased with our earnings growth in 1999, especially in a year of reduced capacity," said Richard D. Fain, chairman and chief executive officer. "Continued focus on yield management and cost control have proven effective, enabling us to report record earnings once again. We are particularly pleased with the introduction of *Voyager of the Seas*. We had always anticipated the ship would be a success, and are very happy with the positive press she has received. We look forward to continuing our tradition of product innovation with the delivery of *Celebrity's Millennium* in June of this year."

Royal Caribbean Cruises Ltd. is a global cruise company operating two cruise brands, Royal Caribbean International and Celebrity Cruises. The brands' combined fleet currently consists of 17 vessels; 10 additional vessels are on order for delivery through 2004.

Certain statements in this news release are forward-looking statements. Such forward-looking statements are not guarantees of future performance and involve known and unknown risks, uncertainties and other factors, which may cause the actual results, performances or achievements to differ materially from future results, performance or achievements expressed or implied in such forward-looking statements. Such factors include general

economic and business conditions, changes in cruise industry competition, weather and other factors described in further detail in Royal Caribbean's filings with the Securities and Exchange Commission.

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The New York Times 3Jan99

## Gaps in Sea Laws Shield Pollution by Cruise Lines

Douglas Frantz

Shortly after 10 A.M. on Oct. 25, 1994, radar and infrared sensors aboard a Coast Guard jet over the Atlantic off Puerto Rico detected a possible oil discharge. As the aircraft swept low, its crew saw a long oil slick trailing a ship entering the San Juan harbor.

The vessel was then the largest cruise ship in the world, Royal Caribbean's Sovereign of the Seas, a floating resort the length of three football fields. When Coast Guard inspectors boarded the ship in port, its officers denied discharging any oil.

Suspicious, the Coast Guard and Justice Department opened what would grow into a four-year inquiry leading to the discovery of a fleet-wide conspiracy within Royal Caribbean Cruises Ltd. to save millions of dollars by dumping oily waste into the ocean. Last June the cruise line pleaded guilty to conspiracy and obstruction of justice, admitted that its ships had rigged pipes to bypass anti-pollution equipment, agreed to pay a record \$9 million in fines and promised the dumping would never happen again.

Astonishingly, the next month it did. The Nordic Empress, another Royal Caribbean ship, was discovered discharging oily waste and creating false records to cover it up. Moreover, the new dumping incident occurred even though the company knew it remained under Federal investigation for other discharge incidents.

An examination of the criminal investigation, plus new details about the latest incident, shows how difficult it is for authorities to police the booming cruise industry as it launches ever larger ships, and how determined the industry is to make itself exempt from American regulation.

The review offers strong evidence that the dumping of oil and other wastes by cruise ships, which can create lasting pollution problems in oceans and coastal areas, is more common than previously known. And it reveals an influential industry that has assembled an international lobbying force to plead its case. Royal Caribbean's included two former United States Attorneys General, Elliot L. Richardson and Benjamin R. Civiletti.

In defending itself, Royal Caribbean, a Liberian corporation with its headquarters in Miami, made what the Justice Department described as an unprecedented claim: that a private company doing business in the United States was immune from criminal prosecution because its ships fly foreign flags.

All major cruise ship owners -- including Disney, which launched its first ship, the 2,200-passenger Magic, last summer -- sail their ships under foreign flags. By registering with so-called flag countries in exchange for substantial fees, the owners avoid American corporate taxes and can pay lower wages to foreign crews. Financial documents show that Royal Caribbean saves approximately \$30 million a year in United States taxes by registering its ships in Norway and Liberia.

Critics say the savings come at the price of muddied jurisdiction and lax enforcement by the flag

countries, one of the most prominent of which, Liberia, has been devastated by ethnic warfare and divided government most of the last decade. One Federal study found that **foreign countries took action in only 2 of 111 dumping cases referred to them by the United States.** Generally, flag countries have jurisdiction over ships in international waters and the United States asserts jurisdiction in its territorial waters.

These questions are raised just as concern is deepening that the industry's explosive growth is posing new threats to the environment, from the popular Caribbean to the pristine coastline of Alaska.

Royal Caribbean officials said the company had instituted tough new environmental compliance procedures. But the company did not succeed in having the case against it closed with its guilty plea. Instead, the company's discharge practices remain under investigation by Federal grand juries in Anchorage, Los Angeles, Miami and New York, according to a senior company official and its own recent filings with the Securities and Exchange Commission.

The outlines of the country's biggest ocean pollution investigation have been public since the company's admission of guilt. But the full extent of the dumping scheme, and the existence of the lobbying effort, was pieced together from court records in San Juan and Miami and from interviews with Federal officials and current and former Royal Caribbean employees.

The newest cruise ships carry 2,000 or more passengers and up to 1,000 crew members. Disposing of the waste they generate costs hundreds of thousands of dollars a year for each ship, which is one reason, authorities say, that crews sometimes disregard pollution laws.

In recent years other cruise lines have been fined at least six times for dumping oil and refuse. Last summer the Holland America Line, a division of the Carnival Corporation, pleaded guilty to discharging oily waste in Alaska's Inside Passage and paid \$2 million in penalties. The Investigation Told of Discharge, Prosecutors Move In

Word that the Sovereign of the Seas had discharged oily waste in October 1994 reached the Justice Department in Washington the day after the incident. In three inspections that October day, the Coast Guard had seen oil in pipes and elsewhere indicating that oily waste had been sent directly overboard. Most convincingly, lab tests matched oil from the ship to a sample taken from the slick by a Coast Guard boat.

Royal Caribbean argued that the discharge was an isolated oversight. But Richard A. Udell, a career prosecutor in the Justice Department's environmental section, found indications to the contrary in Coast Guard data bases.

The records showed that more than a year before, on Feb. 1, 1993, a Coast Guard jet had spotted an oil slick behind the Nordic Empress, off the Bahamas en route to Miami. A videotape taken from the jet showed a slick that appeared to be a perfect match to the videotaped discharge from the Sovereign of the Seas. The Nordic Empress's officers had also denied discharging anything.

On Oct. 25, 1994, inspectors had videotaped the engine room of the Sovereign of the Seas in San Juan; four days later, when the ship arrived in Miami, a second videotape was taken. Comparing them, Mr. Udell noticed that a set of pipes present on Oct. 25 was gone on Oct. 29. Government experts determined that the pipes had bypassed a critical anti-pollution device known as an oil-water separator.

On any ship, oil drips from machinery and collects along with sea water in the bilges. The separator filters

out oil so the water can be discharged and the oil stored for disposal in port. Each time the separator is operated, the event must be noted in the ship's oil record book. The Coast Guard relies on the books to monitor compliance with pollution laws.

The oil record book of the Sovereign of the Seas contained no record of a discharge. Later, a ship's engineer testified before a Federal grand jury that there had been none. The officers of the Nordic Empress had made the same claim in 1993, supported by their oil record book.

It took several months, but Coast Guard investigators eventually discovered similar bypass systems on the Nordic Empress and other Royal Caribbean ships. They began to doubt the authenticity of the oil logs.

Confronted by the evidence, witnesses changed their stories. They testified that Royal Caribbean ships regularly bypassed pollution devices and dumped oily waste overboard, usually at night to avoid detection. An engineer from one ship, the Song of America, testified that the oil-water separator was operated so infrequently that it did not work when he did try to use it. They also admitted that the oil record books were falsified so routinely that they were known among many engineers as Eventyrbok, which means fairy tale book in Norwegian.

As for the disappearing pipes on the Sovereign of the Seas, engineers said they had been ordered to cut them up on the voyage from San Juan to Miami and drop them in a trash bin, according to court records.

Oil-water separators are notoriously troublesome to operate. But company engineers testified that the bypass systems, which had been in operation on some ships since 1990, were partly the result of the company's bonus incentives. Membranes for the separator cost as much as \$80,000 a year per ship and disposing of waste oil in port can cost \$300,000 a year. By saving this money, a ship's officers could receive bigger year-end bonuses for staying under budget.

The savings was the Government's strongest evidence that senior management may have known of the conspiracy, said Government officials involved in the case.

But investigators were stymied in following the trail because crucial witnesses, all foreign employees of Royal Caribbean, had left the company and either returned home or taken jobs with other cruise lines outside the United States, the officials said. No senior company officials were charged.

## **The Defense Cruise Line Throws Big Guns Into Battle**

As evidence mounted, Royal Caribbean's lawyers tried to reach a deal. People involved in the negotiations said that in the fall of 1996 the company offered to plead guilty to some charges and pay a substantial fine. But the department rejected the offer and within weeks prosecutors told company lawyers to expect a 35-count indictment.

Mr. Civiletti, who was Attorney General under President Jimmy Carter, and two of his law partners, Judson W. Starr and Joseph G. Block, both former Justice Department environmental chiefs, had tried to negotiate the plea bargain. Other former Government officials working for the company had lobbied the State Department and Pentagon in an effort to persuade the Justice Department not to file charges.

The mission of the lobbying and legal arguments was not to refute the accusations, which would prove irrefutable, but to dispute the authority of the United States to bring charges. The former officials argued

that asserting American jurisdiction undermined international Law of the Sea and could lead other nations to interfere with American vessels, particularly military ships.

Some senior State and Pentagon officials agreed with the international law argument, but in a later legal brief, the Justice Department accused unnamed former Government officials on Royal Caribbean's payroll of providing incomplete and inaccurate information in those private sessions, something company lawyers deny.

A pre-indictment review is not unusual in a major case, and in this instance the Justice Department approved an indictment reduced to 10 counts. On Dec. 11, 1996, the grand jury in San Juan indicted Royal Caribbean and two engineers from the Sovereign of the Seas. The indictment accused the company of conducting a fleet-wide conspiracy to illegally discharge oily waste, but restricted most of the counts to the Sovereign of the Seas. The inquiry into the 1993 Nordic Empress discharge was shifted to a Federal grand jury in Miami.

Justice Department officials said Royal Caribbean's lobbying played no role in reducing the number of counts. "Like every other case, the appropriate charges were based solely on the facts and the law," said Myron Marlin, the department's chief spokesman. "In the end, the prosecution produced two criminal convictions, a record fine, and the case has had a ripple effect throughout the industry, not to mention that the investigation is still continuing."

Legal maneuvering intensified after the indictment. The company's team expanded to include four retired admirals, a former acting assistant attorney general, a former Coast Guard commandant and a former deputy assistant secretary for oceans at the State Department.

Many of these former officials filed affidavits saying the United States could not charge the company under international law. Some contacted former colleagues in a continuing effort to settle the case, according to court records and interviews.

Mr. Richardson, who was Attorney General under President Nixon and held other top Government posts, sought meetings with high-level Administration officials and acknowledged raising the issue with Thomas R. Pickering, the Under Secretary of State and an old friend.

"I mentioned it briefly to Tom Pickering," Mr. Richardson said. "The conversation was brief because the matter was in litigation."

The effort was international. An influential Norwegian family owns a large share of Royal Caribbean and its members helped enlist the Norwegian Government, people involved said. On March 12, 1997, a delegation from the Norwegian Embassy delivered a diplomatic note to the State Department seeking jurisdiction because the Sovereign of the Seas flies a Norwegian flag. They met with Mr. Pickering and other officials, people involved in the talks said.

Along with the prosecutors' steadfast contention that the United States had jurisdiction, they believed another reason not to cede authority was the poor record of flag countries on previous pollution referrals.

In 1992, the State Department had reviewed 111 cases in which accusations of cruise ships dumping garbage overboard had been referred to flag countries. The study found that the countries acknowledged receipt of the referral in only 35 cases and that the only penalties were small fines in two cases. As a result, the State Department halted referrals on dumping in United States territorial waters.

The Nordic Empress had been in international waters when it was discovered discharging oil in 1993, so in July of that year the matter was referred to Liberia because the ship flew a Liberian flag. Liberia accepted the company's claims that no dumping occurred and asked the Coast Guard to expunge the incident from its records, according to Liberian records.

Even after Royal Caribbean admitted lying about the Nordic Empress discharge last June, Liberia decided no action was necessary. The investigation was completed and closed in 1994, said David Crede, chief of investigations for Liberian Services Inc., a private company in Reston, Va., that is Liberia's agent for vessels flying its flag. In the case of the Sovereign of the Seas, the Norwegian Embassy said its officials had looked into the case and decided that no action was warranted. *The Outcome After Legal Setbacks, A Plea of Guilty*

The Nordic Empress had discharged its waste in international waters, but the ship had presented the Coast Guard in Miami with an oil record book that omitted the discharge. So, on Feb. 19, 1998, Royal Caribbean was indicted in Miami, not for dumping but on a single count of making a false statement to the Coast Guard.

On April 22 and 23, a pivotal hearing took place in Federal District Court in Miami in which the cruise line asked Judge Donald M. Middlebrooks to dismiss the charges.

The Federal judge in San Juan handling the Sovereign of the Seas case, Juan M. Perez-Gimenez, had already rejected the company's claim that the United States lacked jurisdiction and had ordered the case to trial in June.

At the Miami hearing, Mr. Civiletti argued that the United States had overreached its authority. He said that Liberia had jurisdiction and that that country had determined there was insufficient evidence of a crime. He also produced a surprise diplomatic note from the Liberian Embassy in Washington to the State Department asking that the case be dismissed.

Mr. Udell countered that Royal Caribbean's false statement to the Coast Guard, plus its extensive presence here, subjected the company to American law. Although its ships fly various flags of convenience, he said, "Royal Caribbean is as much a part of Miami as the Miami Dolphins."

The company called Mr. Richardson as an expert witness, because he had been the chief American negotiator at the United Nations conference that led to the Law of the Sea treaty. He testified that only Liberia could prosecute the discharge, and warned that the case would undermine the navigational freedom established by the United Nations convention.

But Mr. Richardson seemed less certain when the prosecutor, Thomas Watts-Fitzgerald, asked whether his view would change if the ship had produced a record required by the Coast Guard that contained a misrepresentation. It might well, Mr. Richardson replied.

On May 12, Judge Middlebrooks rejected the motion to dismiss, ruling that the United States had authority to press charges because of the false statement to the Coast Guard.

Losing on the jurisdiction issue and faced with indisputable evidence, Royal Caribbean pleaded guilty on June 3 in both cases and agreed to pay \$9 million in fines. The Government called the violations so pervasive and longstanding that the criminal conduct amounted to a routine business practice.

Unlike most plea bargains, this one did not end Royal Caribbean's criminal liability. The company refused

to yield to Government demands that it turn over the results of an internal inquiry, citing fears that employees would refuse to cooperate in future internal investigations. As a result, the company acknowledged, additional grand juries are contemplating similar charges.

The cruise line struggled to put the episode behind it. "We deeply regret our role in polluting the marine environment and we are particularly sorry for the attempts to conceal that pollution," Jack Williams, the company president, said in a statement. "These acts were inexcusable, they were wrong and we accept full responsibility for these violations."

But that effort hit a stunning shoal. On July 15, the company notified the Coast Guard that engineers aboard the Nordic Empress had tampered with pollution devices and discharged oily waste into the ocean. The company said a junior engineer had reported it.

When the Coast Guard questioned engineering personnel the next day, it was like stepping back in time. The chief engineer, Michael Psomadakis, a Greek citizen, denied that there had been a discharge and presented an oil record book that supported him, according to court records and a Coast Guard agent's affidavit. Mr. Psomadakis was served with a grand jury subpoena on the spot.

Two days later, the company held its own hearing and dismissed Mr. Psomadakis and another engineer. On July 19, company personnel escorted him to a Miami hotel to pick up his belongings for the trip home to Greece. He was given his passport and plane ticket and then evaded agents of the Federal Bureau of Investigation who were waiting to talk to him, simply by walking out another exit.

Nancy J. Wheatley, who was hired by Royal Caribbean last June as senior vice president for safety and the environment, and William K. Reilly, the former administrator of the Environmental Protection Agency, who joined the Royal Caribbean board last January, said in interviews that the company had implemented a vigorous new environmental compliance program under Government supervision.

Mr. Reilly said he believed the company's management was committed to cleaning up its past problems.

"Obviously everyone is chagrined about what has happened and somewhat stunned by the seriousness of the allegations," Mr. Reilly said. "The Justice Department set out to get Royal Caribbean's attention, and they got it."

Ms. Wheatley said the latest incident showed that the system was working, because a junior officer came forward and was supported by management.

"We know we don't have a business if the oceans aren't a beautiful place to go," Mr. Wheatley said.

But prosecutors were shocked. At a court hearing in September, they said the conduct, which was under investigation, demonstrated the difficulty in changing a pervasive culture of ingrained criminal conduct.

GRAPHIC: Photos: In 1994, a Coast Guard photograph, right, detected a possible oil discharge from Royal Caribbean's Sovereign of the Seas cruise ship, above, which led to a four-year inquiry into a fleet-wide conspiracy. (U.S. Coast Guard, below; Laura Kleinhenz for The New York Times)(pg. 1); A video of the engine room of the Sovereign of the Seas on Oct. 25, 1994, showed a pipe, upper right, that Government experts say was used to bypass a device that filters oil in the bilges. Four days later, a second video showed, the pipe had been removed. (United States Coast Guard)(pg. 20)

: New York Times press article

Subject: FW: New York Times press article

Date: Mon, 13 Mar 2000 12:36:26 -0900

From: "Turner, Tom" <Tom\_Turner@envircon.state.ak.us>

To: Bob Berto <bobb@ktn.net>. "Capt. Micheal Jones" <mikej@specialexpeditions.com>.

>

> The New York Times

> Tuesday, March 7, 2000

>

> Pollution by Cruise Ships Still a Problem, Report Says

> By DOUGLAS FRANTZ

>

> A report by Congressional investigators being released Tuesday  
> shows that officials from the Coast Guard and the Justice  
> Department are expressing concern about the effect on sensitive marine  
> life of the millions of gallons of waste water being discharged legally by

> cruise ships at sea and in port.

>

> The concerns persist despite progress by ship owners in disposing of  
> waste, the report says. The findings are part of an analysis of the  
> industry's pollution record by the General Accounting Office, an  
> investigative arm of Congress. The report was commissioned by  
> Democratic Reps. John Dingell of Michigan and Henry Waxman of  
> California.

>

> Most cruise ships using American ports fly foreign flags, and the report  
> said there were 87 confirmed cases of foreign-registered cruise ships  
> illegally discharging waste, oil, garbage and hazardous material from  
> 1993 to 1998, the latest year for which figures are available. The number  
> of cases declined to eight in 1997 and nine in 1998 from a high of 24 in  
> 1994.

>

> The cruise companies were credited with helping to reduce the numbers  
> through improved technology and a stronger commitment to eliminating  
> illegal discharges, the report said. Public attention was focused on  
> cruise  
> ship pollution in 1998 and last year when Royal Caribbean Cruises  
> International pleaded guilty to a fleetwide conspiracy to discharge waste  
> illegally over several years.

>

> But federal officials cautioned that the decline might also be the result  
> of  
> fewer resources allocated by the Coast Guard, the primary regulatory  
> agency, to detecting pollution. The decline has occurred as the number of  
> cruise ships has grown dramatically.

>

> Miami has the highest concentration of cruise ships in the country, but  
> the  
> Coast Guard district there reduced the time spent monitoring  
> environmental compliance by more than 50 percent from 1993 to 1998.

>  
> In addition, the report said that Coast Guard inspectors were hampered  
> by the size and complexity of the cruise ships. Ships using American  
> ports are inspected four times a year, but the typical inspection lasts  
> only  
> four to six hours and must cover fire drills, life-boat launchings and  
> record checks along with examination of anti-pollution equipment.  
>  
> Federal officials told investigators that they were more worried about the  
> millions of gallons of untreated "gray water" dumped legally by cruise  
> ships each year.  
>  
> Under federal and international regulations, ships can discharge gray  
> water from sinks, showers, kitchens, laundries and other facilities  
> anywhere, including in ports. Justice Department officials said a new  
> definition of gray water might be necessary to reflect the growth of the  
> industry since the regulations were written more than 20 years ago.  
>  
> Last year, the Coast Guard began examining whether standards for  
> dumping the untreated water needed to be tightened after complaints by  
> environmental groups and Alaskans that discharges might threaten  
> endangered whales and other marine life in Alaska's Inside Passage.  
> Tuesday's report dealt only with ocean pollution, but air pollution is  
> also  
> a growing concern. Last week, the Environmental Protection Agency said  
> that all six major cruise lines that sail to Alaska violated state and  
> federal air pollution laws last summer.  
>  
> The alleged violations involved 13 ships and could lead to fines of up to  
> \$27,500 per ship per day. The companies have said they do not believe  
> laws were broken.  
>  
> U.S. agencies are playing a larger role in enforcing pollution laws  
> because  
> of what the report called a breakdown in regulation by the countries of  
> registry, like Liberia and Panama. Cruise lines register ships in those  
> countries to avoid American taxes and other rules. "While I'm  
> encouraged that the industry is apparently more sensitive to  
> environmental concerns, it is clear that self-policing and self-regulation  
> have limits," said Dingell, the senior Democrat on the House Commerce  
> Committee. "The Coast Guard is stretched thin and it may be that we will  
> need to look at ways to increase their resources to guard against  
> environmental abuses in the future."

February 2000

# MARINE POLLUTION

## Progress Made to Reduce Marine Pollution by Cruise Ships, but Important Issues Remain



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EXCERPTS

plastic. In addition, only one company said it had made any effort to sort solid waste for recycling, and none reported investing in new solid waste treatment equipment. Three of the four companies said they have oily water separators and meters on their ships to measure the oil content of the wastewater discharged at sea. An official from the company that did not report having an oily water separator onboard said the oily bilge waste is stored onboard and transferred to waste handlers in port.

According to Relevant Federal Agencies and Others, Progress Has Been Made, but Important Concerns Remain

Officials from the Coast Guard, Justice, and the Center for Marine Conservation (CMC) acknowledged that the cruise ship industry has made progress in addressing illegal discharge issues. However, they expressed concern about emerging issues, most of which are related to the purity of wastewater discharged from these ships.

Officials' Views on Actions Taken by Cruise Ship Companies

While officials from the Coast Guard, Justice, and CMC acknowledged the progress that cruise ship companies have made toward improving environmental compliance, they pointed out that these companies have not yet demonstrated that they can sustain their efforts and prevent pollution incidents from occurring.<sup>18</sup> They also noted that willful incidents, especially by individuals, and accidents are still possible.

These officials agreed that changing the views or "culture" of ships' crews and cruise ship company officials on waste disposal is critical in ensuring the effectiveness of companies' environmental programs. They told us that before the adoption of MARPOL and applicable U.S. laws, ships' crews could legally discharge oil, garbage, and other potentially harmful wastes, and the crews viewed such practices as a way of life at sea. Even though fewer illegal discharge cases by cruise ships have been reported over the last 6 years, the admission by one large company of continued illegal oil discharges occurring as recently as 1998 suggests that not everyone's views have completely changed.<sup>19</sup>

<sup>18</sup> Justice officials' comments focused on cruise ship companies that had been prosecuted for criminal violations, while the Coast Guard and CMC officials focused more generally on the cruise ship industry.

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Coast Guard officials expressed optimism that the steps the cruise ship industry has taken would address illegal discharges. The officials said the ISM Code, which all cruise ship companies were required to adopt as of July 1998, would likely result in a more systematic and comprehensive approach to stemming marine environmental pollution. In a larger sense, they said, they were not as concerned about pollution by the cruise ship industry as they were about pollution from other parts of the maritime industry, such as cargo ships and tankers. Similarly, a CMC official said that while CMC is critical of past illegal discharges by cruise ship companies, it has been supportive of the cruise ship industry's voluntary actions, including efforts to reduce the volume of plastics and other eventual waste items brought onboard and to recycle glass, aluminum, and other types of waste.

Justice officials said the cruise industry needed to create a culture of compliance. In their view, environmental compliance plans, such as those required under their plea agreements, can help create such a culture. They also said that to be effective, a plan must have the right elements, the company must take it seriously by encouraging compliance and the self-reporting of violations, and people must be designated who will ensure that the plan is implemented. Otherwise, the plan is just a document. They further noted that having an environmental compliance plan, agreeing to outside audits of the plan's implementation, and sharing the results are not only good business practices but can also be mitigating factors under Justice's sentencing guidelines. While having an environmental compliance plan, based on the ISM Code or other standards, does not guarantee the elimination of future marine pollution incidents, Justice officials said a company that adopts a plan—as a valued aspect of its corporate activity—is much less likely to see environmental problems recur.

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### Concerns About Emerging Issues and the Quality of Federal Oversight

Justice and CMC officials raised concerns about several issues that are emerging for certain types of wastes generated by cruise ships and need further attention. Justice also identified several areas that may warrant increased scrutiny by the Coast Guard and other cognizant agencies.

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<sup>19</sup>Justice officials told us that their policy does not allow them to discuss ongoing investigations. As a result, we do not know whether any illegal discharge incidents by cruise ships are currently under investigation.

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## Justice's Concerns About Emerging Issues and Federal Oversight

One area that Justice officials believe should receive increased scrutiny by the Coast Guard and other cognizant agencies in future cruise ship pollution cases is the discharge of "gray water," which is untreated water from showers, sinks, kitchen and laundry drains, dishwashers, and other areas of a ship. Each year, cruise ships legally discharge millions of gallons of gray water into both U.S. and international waters.

Justice recently prosecuted a large cruise ship company that was found to be improperly disposing of printing shop, dry-cleaning, and photo lab wastes into its gray water system. These wastes, which included potentially harmful chemicals and toxic silver, were discharged into the sea along with the gray water. According to Justice officials, apart from the potential criminal violations related to toxic substances in gray water discharges, there may be a need for the Coast Guard to review the regulatory definition of gray water to evaluate whether the current regulations adequately address the potential environmental hazards to marine life from gray water discharges. Justice officials believe that a more comprehensive or explicit definition of gray water may be needed that recognizes changes in the industry since the regulations were written.

Industry representatives for the larger cruise ship companies told us they are addressing gray water issues in a number of ways. Officials said they have taken steps to identify and segregate hazardous materials to prevent them from entering the gray water system. For example, they said that photo-processing and dry-cleaning chemical wastes are collected and off-loaded onshore and noted that the cleaning chemicals used in kitchens and bathrooms are not caustic in their diluted forms. In addition, they recently adopted a policy not to discharge gray water while ships are in port and are exploring new technologies for treating gray water, including the use of more sophisticated gray water filtration systems aboard ships. However, the effectiveness of these efforts is unknown because there is virtually no monitoring of gray water quality by any independent oversight agency or organization before the water is discharged from cruise ships.

Justice officials are also concerned about three additional areas where they say increased federal oversight of cruise ships by the Coast Guard and other cognizant agencies may be warranted.

- Maintaining and operating pollution prevention equipment. According to Justice officials, several cases have involved ships that, despite periodic inspections, were determined to have chronically malfunctioning or inoperable oily water separators that owners and operators failed to

maintain. This suggests, according to Justice officials, that future inspections and investigations concerning this equipment should probe more thoroughly into its condition and evaluate the adequacy of equipment maintenance procedures.

- Falsifying oil record books. According to Justice officials, a number of cases suggest that owners or operators have routinely fabricated entries in their ship's oil record book to create the appearance of full compliance with MARPOL's discharge limitations. Justice officials believe that enhanced scrutiny of these logbooks on a periodic basis may be warranted and may also help encourage broader compliance.
- Recording shoreside disposal of garbage and sludge. Recent case experience has revealed that some ships were unable to produce any records documenting what should be periodic off-loadings and disposal of plastics and oily sludge from the ships to onshore disposal facilities, according to Justice officials. They believe that more frequent reviews and analysis of these records may identify violators and also deter other unlawful discharges.

#### Center for Marine Conservation's Concerns About Wastewater Discharges

A CMC official also expressed concern about gray water and black water discharges. "Black water" is the effluent wastewater from a vessel's onboard sewage system. CMC officials said that the annual discharge of millions of gallons of gray water and black water may harm ecologically sensitive areas, affecting such things as the long-term vitality of coral reefs.

Reports from recent third-party audits involving five ships of a large cruise ship company support the CMC official's concerns about black water. These reports noted that plastics from personal hygiene and other products (e.g., toothbrushes, plastic bottles, disposable razors, feminine hygiene products, etc.) were being flushed down toilets by passengers and entering the black water system. Once in the system, the plastics could be discharged into the sea with the black water because the ships' approved toilet vacuum system did not have screening devices to remove debris, according to the audit reports. The company involved is currently installing special filters to prevent plastics and other solid materials from being discharged into the sea, according to company officials. The audit reports also noted that untreated sewage was discharged at sea when onboard sewage systems were down for maintenance. Like gray water effluent, there is little, if any, oversight over the contents of black water before it is discharged into the ocean, according to Coast Guard officials. Coast Guard inspectors we talked with said they rarely have time during scheduled ship examinations to inspect sewage treatment equipment or filter systems to

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see if they are working properly and filtering out potentially harmful contaminants.

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## Conclusions

In recent years, both federal agencies and cruise ship companies have taken positive steps to develop plans, approaches, and/or hardware solutions to improve environmental compliance. Yet even with the progress that has been made so far, there are a number of areas where oversight could be improved.

Concerns related to marine pollution are emerging that may have a significant impact on the environment and may require further attention by both the cruise ship companies and federal oversight agencies. A key issue is the purity of gray and black water, which is particularly relevant for larger cruise ships, given the large volumes of this type of water they discharge at sea.

The process for referring to other countries alleged discharge incidents occurring outside U.S. jurisdiction (flag-state referrals) does not appear to be working either within the Coast Guard or internationally. As evidenced by the abrupt halt in flag-state referrals in 1995, the Coast Guard appears to have given up efforts to develop these cases, perhaps because the response rate from flag states has been so poor. However, the agency is obligated under MARPOL to take action on these cases when they occur. In addition, the relatively poor response rate from other countries on alleged discharge incidents is not in conformance with international agreements facilitated by IMO and undermines efforts to stem pollution of the world's oceans.

The Coast Guard may be able to improve its detection of illegal marine pollution incidents by modifying its aircraft surveillance, flying over water rather than land, where possible, when traveling to and from other primary missions. This change could provide more coverage of shipping lanes frequented by cruise ships and other commercial vessels and could strengthen the deterrent effect of this detection method. Such initiatives are being studied in one Coast Guard district, but formal action has not yet been taken.

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## Recommendations

To improve oversight of the cruise ship industry, we recommend that the Secretary of Transportation direct the Commandant of the Coast Guard to take the following steps:

# Cruise Ship Companies Included in GAO's Review

Company name	Number of ships	Passenger capacity
Carnival Cruises	14	1,022-2,758
Celebrity Cruises <sup>a</sup>	5	1,660-2,262
Cunard <sup>b</sup>	5	116-1,750
Holland America Line <sup>c</sup>	8	1,214-1,494
International Shipping Partners <sup>d</sup>	16	490-2,044
Norwegian Cruise Line	11	800-2,032
Princess Cruises	10	640-2,600
Royal Caribbean International	11	1,961-2,772
Europa Cruises Corporation <sup>e</sup>	1	350
Tropicana Cruises <sup>f</sup>	1	500
La Cruise	1	450
Palm Beach Casino Line	1	800

<sup>a</sup>This company, while operating under the name of Celebrity Cruises, is owned by Royal Caribbean Cruises, Ltd.

<sup>b</sup>This company, while operating under the name of Cunard, is owned by Carnival Corporation.

<sup>c</sup>This company, while operating under the name of Holland America Line, is owned by Carnival Corporation.

<sup>d</sup>International Shipping Partners (ISP) provides the day-to-day technical management and vessel operation for 16 cruise ships owned by 10 companies. Two of the companies ISP manages and operates ships for owned vessels that had illegal discharge violations cited by the Coast Guard between 1993-1999: Discovery Cruises and Premier Cruises. Premier Cruises merged with Dolphin Cruises, another company cited for illegal discharges, in 1993. ISP did not begin managing most of Premier's ships until 1997.

<sup>e</sup>Europa has four ships but currently operates only one; another is currently not operating, and the company has a contract with a third party to operate the other two ships.

<sup>f</sup>Tropicana is owned by Collins Companies, Greenville, SC. This ship is currently out of service.

# CORRECTION

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



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

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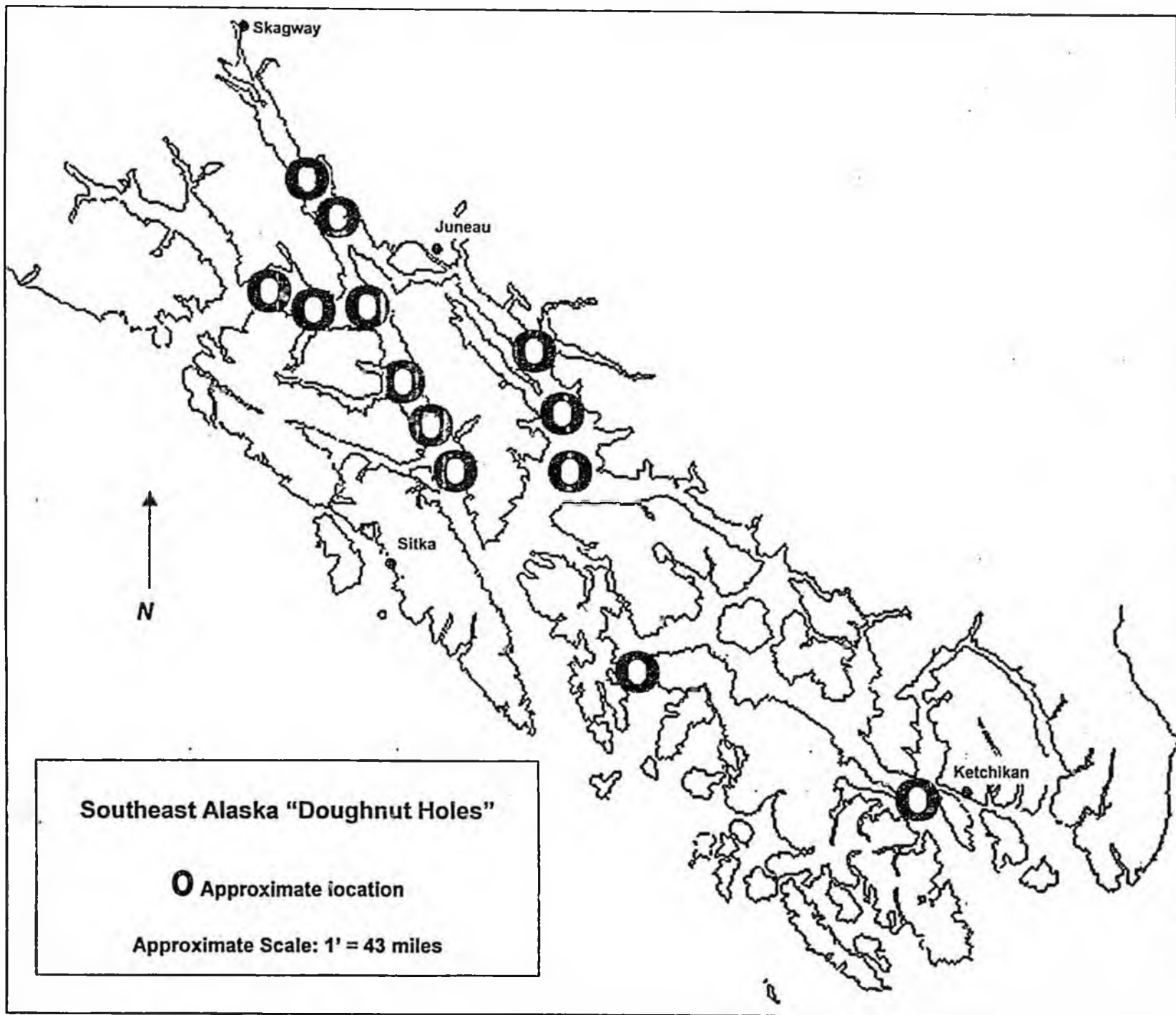
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NORTH WEST  
CRUISESHIP  
ASSOCIATION

Memorandum on Waste Management Practices  
and Procedures in Alaska

November 30, 1999

North West CruiseShip Association

## Memorandum on Waste Management Practices and Procedures in Alaska

### North West CruiseShip Association

November 30, 1999

The member lines of the North West CruiseShip Association (NWCA) have been closely involved in development of the cruise industry waste management practices and procedures published by the International Council of Cruise Lines (ICCL). NWCA fully supports the practices and procedures set out in the paper and its member companies incorporate them into their own environmental management plans. NWCA represents eight cruise lines which bring 97 percent of cruise ship visitors to Alaska.

The ICCL paper makes reference to visiting "interesting places in the world" as integral to the cruise industry. This certainly applies to Alaska where guests come to enjoy not just the interesting places but the spectacular natural beauty of Alaska. Alaska is unique in many respects, and NWCA understands the importance of adapting operations to the Inside Passage and other areas of coastal Alaska.

With this in mind, there are some factors, additional to the ICCL paper, which are of particular interest or concern relating to waste management practices and procedures in Alaska.

#### Solid waste

The first relates to the disposal of solid waste. The current practice of our member lines is to collect on-board recyclable and non-incineratable solid waste and unload them in port for recycling or safe disposal. For the most part, very little is taken ashore in Southeast Alaska ports. Basically, the only shore disposal is through Juneau's private incineration company. Some pallet boards are recycled in Ketchikan. By far, the majority of the solid waste (and all hazardous waste) is unloaded at the port of Vancouver and disposed of and tracked by certified waste disposal companies. Those ships that home-port in other West Coast ports similarly dispose of waste in those ports according to the requirements in those jurisdictions. This practice will continue in the future. In addition, all the cruise lines, individually, constantly seek ways to minimize the volume of solid waste.

#### International Waters within the Inside Passage

Secondly, we want to address the matter of the "doughnut holes" that have received much attention in the media in recent days. These areas are, by definition, locations in the Inside Passage that are three miles or more from land, and therefore deemed to be International Waters, and not subject to the same environmental regulations as areas within U.S. territorial waters. The NWCA member lines have given careful thought to this issue. Our position is as follows: For the purpose of environmental management we will make it our policy to consider all areas of the Alaska Inside Passage, including the so-called "doughnut holes," to be part and parcel of the Inside Passage and the territorial waters of the U.S. As such, our operating practices and procedures will be no different in these locations compared to the rest of the Inside Passage. In other words, cruise ships will not discharge waste in these locations that would not be allowed in the territorial waters.

### Ballast water

The third item relates to ballast water, and protection from release of non-indigenous species in Alaska waters. Cruise ships coming to Alaska follow a practice of discharging all ballast tank water that may contain tropical or other non-indigenous species before arrival in Vancouver, replacing it with Pacific northwest water. This practice is monitored by the Canadian Coast Guard. In the course of the Alaska cruise season, any ballast water taken on or released is strictly water of the Pacific northwest, and not subject to importation of species not native to this region.

### Oil spill response

The fourth matter is spill response. Our member lines fully recognize the sensitive environment in the Inside Passage and the importance of having an effective response program in place. Each ship has a well established and Coast Guard-approved oil spill prevention program that is required by international treaty. Oil spill contingency planning for each ship is documented in the "Shipboard Oil Pollution Emergency Plan" which contains the procedures used for oil spill prevention and response. This plan covers training, equipment and planning for effective cleanup in the event of a spill.

In order to improve the effectiveness of oil spill response, NWCA member, in cooperation with Southeast Stevedoring and SEAPRO, have developed a cooperative spill response program in which the resources of each of the partners can be pooled for efficiency and more effective use in the event of an oil spill.

SEAPRO will outfit a number of barges with emergency response equipment for NWCA and moor the barges in strategic locations in the Inside Passage. Southeast Stevedoring will provide a number of vessels of opportunity to transport the barges, deploy the booms and assist in spill response. SEAPRO will provide the overall management of these resources in addition to making their own equipment and trained personnel available. This cooperative program will be of benefit not only to the cruise industry but the entire marine industry in Southeast Alaska by making available additional response equipment and trained personnel for emergency response. To maintain a high state of readiness for the cruise industry program, annual response exercises will be conducted with the US Coast Guard.

### Air emissions

The final item is air emissions. It is an important matter in Alaska, most notably in Juneau with its unique geography, but also throughout coastal Alaska. This is a complicated subject which does not lend itself to simple solutions. The elements include ships' power system characteristics, fuel, power requirements for maneuvering, operation and maintenance, number of ships in port, atmospheric conditions, objective observations and more. The cruise lines have invested in technology and operational practices over the years to reduce emissions. In order to continue to improve industry performance NWCA members are prepared, as group, in cooperation with the DEC, to establish a working group comprised of technical staff to examine the issue of air emissions.

North West CruiseShip Association  
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