

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10135 SENATE RESOURCES

CRUISE SHIP REGULATION IN ALASKA

International cruise ships are subject to a strict regulatory framework. This begins with the International Maritime Organization (IMO), the United Nations' specialized agency responsible for improving maritime safety and preventing pollution from ships. The IMO adopts conventions and it is the responsibility of Governments to put these into effect and enforce them. These include:

1. The International Convention for the Safety of Life at Sea, 1974 (SOLAS)
2. The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78)
3. The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)

In waters subject to the jurisdiction of the United States, the Coast Guard is responsible for enforcing IMO rules as well as U.S. federal laws and regulations. This includes the U.S. Clean Water Act and EPA Clean Air Act. The Coast Guard inspects every cruise ship quarterly to verify compliance with safety and environmental regulations.

The U.S. Public Health Service, USDA, the U.S. Customs Service and INS also inspect and enforce regulations. The National Park Service requires permits that regulate ship operations in Glacier Bay

The State of Alaska requires that Alaska marine pilots be present on the bridge at all times while ships are in Alaska waters. Air emissions are subject to Alaska DEC and EPA regulation.

Cruise ships have aggressive environmental management programs which have been developed with the assistance of outside environmental and safety professionals. Underwriters and classification societies inspect and verify that systems and procedures are in place.

The average cruise ship is subject to over 60 inspections per year.

It is not accurate to claim that cruise ships are unregulated. Many layers of regulation has been developed by experts and implemented worldwide through these conventions, which are treaties in their own right. The Coast Guard is vigilant in enforcement and prosecutes offences.

Modern cruise ships have management systems in place for all waste streams. From solid waste to shower water, these systems ensure compliance with regulations and protection of the environment.

CRUISE INDUSTRY WASTE MANAGEMENT PRACTICES AND PROCEDURES

The cruise industry is dedicated to preserving the marine environment and oceans upon which our ships sail. As a stated industry policy, International Council of Cruise Lines (ICCL) members have adopted aggressive programs of waste minimization, waste reuse and recycling, and waste stream management. ICCL members are working in a number of areas to identify and implement new technologies in order to improve the environmental performance of our ships. ICCL member lines currently have policies in place which meet or exceed the stringent standards set forth in international treaties and applicable U.S. laws.

Introduction

The cruise industry is inextricably linked to the environment. Our business is to bring people to interesting places in the world, over the water. Recognizing the future of the industry depends on a clean and healthy environment, cruise industry senior management is committed to being stewards of the environment and setting policies that will make the industry a leader in environmental performance.

This policy document has been developed under the auspices of the industry's professional organizations, ICCL, the Florida Caribbean Cruise Association (FCCA), and the North West CruiseShip Association (NWCA). The goal of this document is to formalize cruise industry waste management practices.

In the development of industry management practices, the members of the ICCL have endorsed policy goals based upon the following fundamental principles:

- Fully comply with applicable laws and regulations
- Maintain cooperative relationships with the regulatory community
- Design ships to be environmentally friendly
- Embrace new technology
- Conserve resources through purchasing strategies and product management
- Minimize waste generated and maximize reuse and recycling
- Optimize energy efficiency through conservation and management
- Manage water discharges
- Educate staff, guests and the community.

Discussion

Just as on shore, ship operations and passengers generate waste as part of many daily activities. On ships, waste is generated while underway and in port. Because ships move, the management of these wastes becomes more complicated than for land-based activities, as the facilities and laws change with the location of the ship.

Photographic fixer removes the unexposed silver compounds from the film during the developing process. The spent fixer can have as much as 2000-3000 parts per million (ppm) of silver. Silver bearing waste is regulated by RCRA as a hazardous waste if the level of silver exceeds 5 ppm as determined by the Toxicity Characteristic Leaching Procedure (TCLP) test.

Silver recovery units are used to reclaim the silver from the used fixer waste stream. There are two types of recovery units. These are active (with electricity) and passive (without electricity) units. The active unit uses electricity to plate silver onto an electrode. The passive unit uses a chemical reaction between steel wool and silver to remove most of the silver from solution.

The effluent from the silver recovery process must be tested before it can be discharged. The regulatory limit for silver discharge is 5 ppm.

Industry goal: To prevent the discharge of harmful quantities of silver or silver oxides into the marine environment.

Handling method 1:

Treat used photographic and X-ray development fluids to remove silver for recycling.

Verify that the effluent from the recovery unit is less than 5 parts per million (ppm) silver as measured by EPA-approved methodology.

After treatment, the residual waste stream fluid is non-hazardous and may be landed ashore or discharged in accordance with the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

Handling method 2:

Assume used photographic and X-ray development fluids to be a hazardous waste and land ashore in accordance with the requirements of the Resource Conservation and Recovery Act (RCRA).

Next steps: To identify effective and efficient digital photo technology or other technologies to reduce hazardous waste stream generation.

Dry-cleaning waste fluids and contaminated materials

Discussion

Shipboard dry cleaning facilities use a chlorinated solvent called perchlorethylene (also known as PERC or tetrachloroethylene) as a dry cleaning fluid. This is the approved dry cleaning solvent for these units. Operators must receive specific required training for the correct use of this chemical and its associated precautions. This solvent must be used in accordance with all safety procedures including appropriate personal protective equipment (PPE).

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
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Central Microfilm Services
Department of Education & Early Development
State of Alaska

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- Manage water discharges
- Educate staff, guests and the community.

Discussion

Just as on shore, ship operations and passengers generate waste as part of many daily activities. On ships, waste is generated while underway and in port. Because ships move, the management of these wastes becomes more complicated than for land-based activities, as the facilities and laws change with the location of the ship.

Facilities on the ships and management practices must be designed to take into account environmental laws and regulations around the world. Moreover, because waste management ultimately becomes a local activity, the local port infrastructure, service providers and local waste disposal vendors are factors in the decision-making processes.

On an international level, environmental processes are an important part of the International Maritime Organization's (IMO's) policies and procedures for the maritime industry. The cruise industry has incorporated environmental performance into Safety Management Systems (SMS) and MARPOL-mandated Waste Management Manuals. Under agreements and laws specific to many nations, these programs are routinely reviewed by port states to ensure compliance. For example, in the United States, the U.S. Coast Guard has jurisdiction over environmental matters in ports and waterways and conducts examinations that include review of environmental systems, SMS documentation and such MARPOL-mandated documents as the Oil Record Book and the Garbage Record Book.

The industry effort to develop management practices has focused on the traditional high volume wastes (garbage, graywater, blackwater and bilge water), pollution prevention and the small quantities of hazardous waste produced onboard. In the process, ICCL members have shared waste management strategies and technologies, while focusing on a common goal of waste reduction.

The process of waste reduction includes waste prevention, the purchasing of products that have recycled content or produce less waste, and recycling or reuse of wastes that are generated. The ultimate goal is to have the waste reduction culture absorbed into every facet of cruise vessel operation. A fully integrated system beginning with the design of the vessel must address environmental issues at every step.

Management practices for waste reduction must start before a product is selected. Eco-purchasing and packaging are vital to the success of any environmental program, as are strategies to change packaging, processes and management to optimize the resources used.

The commitment of the industry to this cooperative effort has been quite successful as companies have shared information and strategies.

Waste handling procedures

Hazardous wastes and waste streams onboard cruise vessels are identified and segregated for individual handling and management in accordance with appropriate laws and regulations. Hazardous wastes are not discharged overboard nor are they commingled or mixed with other waste streams.

Photo processing, including X-Ray development fluid waste

Discussion

There are several waste streams associated with photo processing operations that have the potential to be regulated under the Resource Conservation and Recovery Act (RCRA). These waste streams include spent fixer, spent cartridges, expired film and silver flake.

Photographic fixer removes the unexposed silver compounds from the film during the developing process. The spent fixer can have as much as 2000-3000 parts per million (ppm) of silver. Silver bearing waste is regulated by RCRA as a hazardous waste if the level of silver exceeds 5 ppm as determined by the Toxicity Characteristic Leaching Procedure (TCLP) test.

Silver recovery units are used to reclaim the silver from the used fixer waste stream. There are two types of recovery units. These are active (with electricity) and passive (without electricity) units. The active unit uses electricity to plate silver onto an electrode. The passive unit uses a chemical reaction between steel wool and silver to remove most of the silver from solution.

The effluent from the silver recovery process must be tested before it can be discharged. The regulatory limit for silver discharge is 5 ppm.

Industry goal: To prevent the discharge of harmful quantities of silver or silver oxides into the marine environment.

Handling method 1:

Treat used photographic and X-ray development fluids to remove silver for recycling.

Verify that the effluent from the recovery unit is less than 5 parts per million (ppm) silver as measured by EPA-approved methodology.

After treatment, the residual waste stream fluid is non-hazardous and may be landed ashore or discharged in accordance with the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

Handling method 2:

Assume used photographic and X-ray development fluids to be a hazardous waste and land ashore in accordance with the requirements of the Resource Conservation and Recovery Act (RCRA).

Next steps: To identify effective and efficient digital photo technology or other technologies to reduce hazardous waste stream generation.

Dry-cleaning waste fluids and contaminated materials

Discussion

Shipboard dry cleaning facilities use a chlorinated solvent called perchlorethylene (also known as PERC or tetrachloroethylene) as a dry cleaning fluid. This is the approved dry cleaning solvent for these units. Operators must receive specific required training for the correct use of this chemical and its associated precautions. This solvent must be used in accordance with all safety procedures including appropriate personal protective equipment (PPE).

The dry cleaning units produce a small volume of waste from the bottoms of the internal recovery stills and filter media. This waste is comprised of dirt, oils, filter material, and spent solvent. Each ship utilizing these dry-cleaning units produces approximately two pounds of waste material weekly. However, the amount may vary greatly by season and passenger load. This material is classified as hazardous waste under RCRA and must be handled accordingly.

Industry goal: To prevent the discharge of chlorinated dry-cleaning fluids, sludge and contaminated filter materials into the environment.

Handling method:

Perchloroethylene (PERC) and other chlorinated dry-cleaning fluids, contaminated sludge and filter materials are hazardous waste and are to be landed ashore in accordance with the requirements of RCRA.

Next steps: Research and investigate the use of alternative dry cleaning processes such as CO² and "wet" processes for use onboard ships.

Print shop waste fluids

Discussion

Print shop waste may contain hazardous waste. Printing solvents, inks and cleaners all may contain hydrocarbons, chlorinated hydrocarbons, and heavy metals that can be harmful to human and aquatic species. Recent advances in printing technology and substitution of chemicals that are less hazardous reduces the volume of print shop waste generated and reduces the impact of these waste products.

The cruise industry will, whenever possible, utilize both printing methods and the chemicals used in the printing process that produce both less volume of waste and less hazardous waste products. Shipboard printers will be trained in ways to minimize printing waste generated. Alternative printing inks such as soy based, non-chlorinated, hydrocarbon-based ink products will be used whenever possible. All printshop waste including waste solvents, cleaners and cleaning cloths will be treated as hazardous waste, if such waste contains chemical components that may be considered as hazardous by regulatory definitions. All other waste will be treated as non-hazardous.

Industry goal: To prevent the discharge of harmful printing materials (inks) and cleaning chemicals into the environment.

Handling method 1:

When using traditional or non-soy based inks and chlorinated solvents, treat all print shop waste as hazardous and discharge ashore in accordance with RCRA.

Handling method 2:

Use non-toxic based printing ink such as soy-based, non-chlorinated solvents, and other non-hazardous products to eliminate hazardous waste products.

Next steps: Increased use of non-toxic based printing ink and non-chlorinated solvents and other non-hazardous products to eliminate the hazardous waste component within the stream.

Photo copying and laser printer cartridges

Discussion

Increased use of laser and photo copying equipment on shore as well as onboard ship results in the generation of increased volumes of waste cartridges, inks and toner materials. Cruise ships should use only such inks, toners and printing/copying cartridges that contain non-hazardous chemical components. None of these cartridges or their components should be disposed of by discharge into the marine environment. In recognition of the industry's goal of waste minimization, these cartridges should, whenever possible, be returned to the manufacturer for credit, recycling or for refilling.

Industry goal: *To return photo copying and laser printer cartridges for recycling.*

Handling method:

Wherever possible, photo copying and laser printer cartridges will be collected, packaged and returned for recycling.

Unused and outdated pharmaceuticals

Discussion

In general ships carry varying amounts of pharmaceuticals. The pharmaceuticals range from over-the-counter products such as anti-fungal creams to prescription drugs such as epinephrine. Each ship stocks an inventory based on its itinerary and the demographics of its passenger base. All pharmaceuticals are managed to ensure that their efficacy is optimized and that disposal is done in an environmentally responsible manner.

When disposing of pharmaceuticals the method used must be consistent with established procedures. Pharmaceuticals and medications which are off specification or which have exceeded their shelf-life, and stocks that are unused and out of date, cannot be used for patients and therefore must be removed from the ship. Further, each regulatory jurisdiction has a posting of listed pharmaceuticals that must be considered hazardous waste once the date has expired or the item is no longer considered good for patient use.

Through onboard management of the medical facility, stocks of such listed pharmaceuticals are returned to the vendor prior to date of expiration. Pharmaceuticals that are being returned and which have not reached their expiration date are shipped using ordinary practices for new products.

Safety and health

The handling of all expired listed pharmaceuticals must be in accordance with established procedures and all personnel handling this waste must receive appropriate training in the handling of hazardous materials. As guidance, the U.S. Environmental Protection Agency (EPA) has issued a report that clarifies the fact that

residuals, such as epinephrine, found in syringes after injections are not considered an acutely hazardous waste by definition and may be disposed of appropriately in sharps containers. All Universal Precautions will be adhered to when handling sharps.

Industry goal: To ensure that unused and/or outdated pharmaceuticals are effectively and safely disposed.

Handling method 1:

Establish a reverse distribution system for returning unexpired, unopened non-narcotic pharmaceuticals to the original vendor.

Handling method 2:

Appropriately destroy narcotic pharmaceuticals onboard ship in a manner that is witnessed and recorded.

Handling method 3:

Land listed pharmaceuticals in accordance with local regulations. Listed pharmaceuticals are a hazardous waste having chemical compositions which prevent them from being incinerated or disposed of through the ships sewer system. Listing of such pharmaceuticals may vary from state to state.

Handling method 4:

Dispose of other non-narcotic and non-listed pharmaceuticals through onboard incineration or landing ashore.

Fluorescent and mercury vapor lamp bulbs

Discussion

The recycling of fluorescent lights and high intensity discharge (HID) lamps is a proven technology capable of reliably recovering greater than 99 percent of the mercury in the spent lights. This is done by using a crush-and-sieve method. In this process, the spent tubes are first crushed and then sieved to separate the large particles from the mercury containing phosphor powder. The phosphor powder is collected and processed under intense heat and pressure. The mercury is volatilized and then diluted to the required purity. The glass particles are segregated and recycled into fiberglass. Aluminum components are also recycled separately.

Storage and handling of used lights pose no compatibility problems; nevertheless, storage and shipment of the glass tubes is best done keeping the glass tubes intact. These items are classified as "universal waste" when they are shipped to a properly permitted recycling facility as such, testing is not required.

Safety and health

Fluorescent and mercury vapor lamps contain small amounts of mercury that could potentially be harmful to human health and the environment. To prevent human exposure and contamination of the environment, these lamps must be handled in an environmentally safe manner. Recycling of mercury from lamps and other mercury containing devices is the preferred handling method and is encouraged by various states. The recycling of fluorescent lights and HID lamps keeps potentially hazardous materials out of landfills, saves landfill space and reduces raw materials production needs.

Industry goal: *To prevent the release of mercury.*

Handling method:

Collect fluorescent and mercury vapor lamps for recycling or land disposal.

Batteries

Discussion

If not properly disposed of, spent batteries may constitute a hazardous waste stream. Most of the large batteries are on tenders and standby generators. Small batteries used in flashlights and other equipment and by passengers account for the rest. There are four basic types of batteries used.

Lead-acid batteries – These are used in tenders and standby generators. They are wet, rechargeable and usually six-celled. They contain a sponge lead anode, lead dioxide cathode and sulfuric acid electrolyte. The electrolyte is corrosive. These batteries require disposal as a hazardous waste, unless recycled or reclaimed.

Lead-acid batteries use sulfuric acid as an electrolyte. Battery acid is extremely corrosive, reactive and dangerous. Damaged batteries must be drained into an acid-proof container. The leaking battery is then placed in another acid-proof container, and both the electrolyte and the damaged battery placed in secure storage for proper disposal as a hazardous waste.

Nickel-cadmium (NiCad) batteries – These are usually rechargeable, and contain wet or dry potassium hydroxide as electrolyte. The potassium hydroxide is corrosive and the cadmium is a characteristic hazardous waste. Therefore, NiCad batteries must be disposed of as hazardous waste, unless recycled or reclaimed.

Lithium batteries – These are used as a power source for flashlights and portable electronic equipment. All lithium batteries must be disposed of as hazardous waste or sent out for reclamation.

Alkaline batteries – These are common flashlight batteries and are also used in many camera flash attachments, cassette recorders, etc. They should be recycled, properly disposed or reclaimed.

Discarded batteries must be isolated from the refuse waste stream to prevent potentially toxic materials from inappropriate disposal. The wet-cell battery-recycling program is kept separate from the dry battery collection process. Intact wet-cell batteries are sent back to the supplier. Dry-cell batteries are manifested to a licensed firm for recycling.

Industry goal: *To prevent the discharge of spent batteries into the marine environment.*

Handling method:

Collect spent batteries and return for recycling or land disposal.

Bilge and oily water residues

Discussion

The area of the ship at the very bottom of the hull is known as the bilge. The bilge is the area where water collects from various operational sources such as water lubricated shaft seals, propulsion system cooling, evaporators, and other machinery. All engine and machinery spaces also collect oil that leaks from machinery fittings and engine maintenance activities. In order to maintain ship stability and eliminate potential hazardous conditions from oil vapors in engine and machinery spaces, the bilge spaces must be periodically pumped dry. In discharging bilge and oily water residues, both international regulations (MARPOL) and United States regulations require that the oil content of the discharged effluent be less than 15 parts per million and that it not leave a visible sheen on the surface of the water.

All ships are required to have equipment installed onboard that limits the discharge of oil into the oceans to 15 parts per million when a ship is en route and provided the ship is not in a special area where all discharge of oil is prohibited. Regulations also require that all oil or oil residues, which cannot be discharged in compliance with these regulations, be retained onboard or discharged to a reception facility. The equipment and processes implemented onboard cruise ships to comply with these requirements are complex and sophisticated.

Industry goal: To meet and exceed the international requirements for removing oil from bilge and wastewater prior to discharge.

Handling method:

Process bilge and oily water residue prior to discharge to remove oil residues, such that oil content of the effluent is less than 15 ppm as specified by MARPOL Annex 1.

Glass, cardboard, aluminum and steel cans

Discussion

Management of shipboard generated waste is a challenging issue for all ships at sea. This is true for cruise vessels, other commercial vessels, military ships, fishing vessels and recreational boats. Waste products in earlier days were made from natural materials and were mostly biodegradable. Today's packaging of food and other products presents new challenges for waste management. A large cruise ship today can carry over 3000 passengers and crew. Each day, an average cruise passenger will generate two pounds of dry trash and dispose of two bottles and two cans.

A strategy of source reduction, waste minimization and recycling has allowed the cruise industry to significantly reduce shipboard generated waste. To attain this, cruise ship operators are adopting a multifaceted strategy that begins with waste minimization to decrease waste from provisions brought onboard. This means purchasing in bulk, encouraging suppliers to utilize more efficient packaging, reusable packaging and packaging materials that are more environmentally friendly – those that can be more easily disposed of or recycled. In fact, through this comprehensive strategy of source reduction, total waste on passenger vessels has been reduced by nearly half over the past ten years.

Another important component of the industry's waste reduction strategy is product or packaging recycling. Glass, aluminum, other metals, paper, wood and cardboard are, in most cases, recycled.

Industry goal: To eliminate the disposal of MARPOL Annex V wastes into the marine environment through improved reuse and recycling opportunities.

Handling method:

Handle in accordance with the above industry goal or otherwise comply with the strict requirements of MARPOL when in international waters.

Incinerator ash

Discussion

Incinerator ash is not normally a hazardous waste. Through relatively straightforward waste management strategies, items that would cause the ash to be hazardous are separated from the waste stream and handled according to accepted hazardous waste protocols. In general, source segregation for waste streams is one of the foundation stones for onboard waste management and is incorporated into the waste management manual required by MARPOL. Waste management for onboard waste streams include the following: source reduction, minimization, recycling, collection, processing and discharge ashore. This allows the incinerator to be used primarily for food waste, contaminated cardboard, trash and wood.

Incinerator ash should be tested at least once quarterly for the first year of operation to establish a baseline. Testing may then be conducted once a year. A recognized test procedure should be used to demonstrate that ash is not a hazardous waste. The test may include the following metals as indicators for toxicity: arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver. Special attention is placed on the removal of batteries from the incinerator waste stream. The use of incinerators saves landfill space and prevents the build-up of material onboard that could become the breeding ground for insects, rodents and other vermin.

Industry goal: To reduce the production of incinerator ash by minimizing the generation of waste and maximizing recycling opportunities.

Handling method:

Proper hazardous waste management procedures onboard assure that waste products that will result in a hazardous ash are not introduced into the incinerator. Non-hazardous incinerator ash may be disposed of at sea in accordance with MARPOL Annex V. Ash identified as being hazardous must be disposed of ashore in accordance with RCRA.

Graywater

The term graywater is used on ships to refer to wastewater that is generally incidental to the operation of the ship. The International Maritime Organization (IMO) defines graywater as including drainage from dishwasher, shower, laundry, bath and washbasin drains. The U.S. Clean Water Act (formally known as the Federal Water Pollution Control Act) includes galley, bath and shower water in its definition. The U.S. regulations

implementing this act do not include a further definition of gray water. However, the regulations do include a provision that exempts all of the wastewater included in the IMO definition and other discharges incidental to the operation of a ship from the Clean Water Act's permitting program (formally known as the National Pollution Discharge Elimination System (NPDES) program). Finally, the US Coast Guard regulations include provisions that essentially combine the two definitions from the IMO and the Clean Water Act. These definitions indicate that there is global acceptance of the fact that gray water is not considered harmful to the environment. None of the definitions of graywater include blackwater (discussed below) or bilgewater from the machinery spaces.

The conclusion to be drawn from these various regulations is that wastewater discharges incidental to the operation of a ship are generally not subject to permitting or other regulatory programs.

Handling method:

Graywater will be discharged only while ships are underway.

Blackwater

Most cruise ships separate waste from toilets, urinals, and other similar facilities (including sinks and drains in the medical facility) from other wastewaters. This separated waste is called "blackwater."

Blackwater is processed using an approved "Marine Sanitation Device" (MSD) that is intended to prevent the discharge of untreated or inadequately treated blackwater. Marine Sanitation Devices use physical, chemical and/or biological processes to allow effluent from the process to be discharged with characteristics that are similar to effluents from conventional, shoreside wastewater treatment plants.

All MSDs are certified and approved by the U.S. Coast Guard. The U.S. Coast Guard consults with the Environmental Protection Agency in evaluating processes used by MSDs.

The U.S. Coast Guard regularly inspects MSDs while onboard ships for proper operation during their Control Verification Examinations. If the Coast Guard has reason to believe that an MSD is not properly operating, it can require the vessel owner to have the effluent sampled and analyzed by a qualified wastewater laboratory, with the results reported to the Coast Guard.

Handling method:

Blackwater will be discharged only while underway and in accordance with applicable regulations.

Conclusion

This paper has presented an overview of most waste management practices and procedures utilized onboard the cruise ships operated by members of the International Council of Cruise Lines. We are constantly working to improve waste management handling procedures.



Background Paper on NWCA Environmental Initiatives

Several days ago, the Environmental Protection Agency (EPA) issued notices of violation (NOVs) to six member companies of the North West CruiseShip Association (NWCA), alleging that 13 of our ships emitted more smoke than allowed by law. This is an allegation NWCA members take very seriously and are determined to rectify. Unfortunately some media reports did not accurately report the complete story.

NWCA represents eight cruise lines that bring 97 percent of cruise ship visitors to Alaska. NWCA members brought more than 570,000 visitors to Alaska last year. This year, we expect to bring more than 600,000 visitors, who will inject more than \$274 million into the state's economy. Cruise ships represent one of the few, real, growth industries in this state.

NWCA and its member companies are committed to operating in the most environmentally friendly manner possible. The association and its members have proposed several environmental initiatives that take the industry well beyond compliance, including:

- A voluntary water discharge policy that elevates discharge standards well beyond what is required by law.
- A voluntary enhanced oil spill response program that includes staging \$1.3 million in new response equipment in Southeast Alaska. This cooperative program benefits the entire marine industry by making available additional response equipment and trained personnel.

- A policy of no discharge of any gray or treated black water in any port in Alaska.
- Separation of waste streams.
- Disposal of solid wastes at landfills best equipped to handle the waste.
- Agreement to treat all Inside Passage waters as territorial waters, including the so-called "doughnut holes."
- Installation of opacity meters on most ships that will log stack emissions during the season.
- Using "head" tax receipts to replicate the state's Department of Environmental Conservation's "Juneau Air Quality Sulfur Dioxide Monitoring Project," which was conducted in 1995.

In addition, NWCA members agreed to provide self-collected data to regulators on various waste streams and have previously installed oily waste separators that produce effluents with less than 15 parts-per-million oil. Members also support current legislation to eliminate TBT anti-fouling paint in Alaska waters. EPA's actions may compromise these cooperative efforts.

Background

Several years ago, NWCA implemented a voluntary program to monitor stack emissions. This program ran concurrently with a state-funded effort until 1996 when the legislature deleted the program based on DEC's findings that the cruise industry posed no significant air quality problems. Each year, NWCA contracts opacity readers in Southeast Alaska. When these readers find problems, they notify the lines, which then correct the problem.

NWCA collects this data because its members want their operations to be as noninvasive as possible. When the EPA requested copies of last summer's readings, the member lines

readily turned the data over. We thought we were all driven by a common goal to make our operations better.

For reasons NWCA doesn't fully understand, the EPA used the data we collected against our member lines to issue the NOV's, which are similar to indictments.

A science open to interpretation

Opacity reading is an inexact art that has evolved little since the 1800s. It involves comparing a ship's stack emission against a template. Readers are given one-to-two-days of training. Accurate readings are affected by a number of environmental conditions, including the background (mountains, for example, may skew the readings), the ship's angle and cloud conditions. Many NOV's are dismissed due to problems with opacity readings.

DEC conducted a scientific ambient air study in Juneau in 1995. Monitoring sites were located behind the Foodland Shopping Center near Egan Drive and in the playground of Capital Elementary School on Fifth Street. The study found that "at no time did any observed concentrations (of sulfur dioxide) exceed state or federal health standards. The highest measured concentration of sulfur dioxide for the project was 23 percent of the 24-hour health standard, and 15 percent of the three-hour health standard." It is worth noting that the highest reading from the Foodland site came on a day no ships were in port.

NWCA members support replicating this research this season, funded by Juneau's new "head" tax receipts.

EPA's actions raise serious concerns

Last December DEC Commissioner Michele Brown hosted a forum to discuss waste management and disposal practices of cruise ships. The forum included representatives from DEC, EPA, the Coast Guard, the Southeast Conference and the cruise ship industry. The forum led to formation of an Executive Steering Committee and four work groups. EPA has fully participated in the process. For the process to work effectively,

candid discussion and disclosure must take place among the regulators, the enforcers and the industry.

Two of the working groups have asked NWCA members to increase its self-monitoring and share the findings to improve environmental standards. EPA's decision to requisition our data and then use it against our member lines certainly diminishes the motivation to self-monitor, and undermines the larger objective of achieving improvements. We're prepared to cooperate as long as the data we collect is used for productive, not punitive goals. We need a protocol that shields our member lines while baseline figures are being developed. These types of shields are widely accepted as an effective way for regulators to improve many industries' environmental performance. They are common industry practices and our proposal is supported by the Southeast Pilots Association and the Alaska Conservation Council.

Committed to environmental excellence

The member companies of NWCA are firmly committed to operating in the most environmentally excellent manner possible. That's why we implemented the voluntary emission program and that's why we instituted an aggressive initiative program to minimize our impact on Alaska waterways. However, we believe it is fundamentally unfair to use our voluntary initiatives to punish us.

Despite EPA's disappointing action and the negative press it generated, NWCA's eight member lines remain committed to participating in a cooperative process with the state.

2000 CRUISE SEASON NWCA SHIP LIST

Line	Ship	Tonnage	Passengers	Crew	Year Built	Refurbished
Carnival	Jubilee	47,262	1,486	670	1986	1998
Celebrity	Galaxy	76,522	1,896	908	1996	
	Mercury	77,713	1,870	908	1997	
Crystal	Harmony	49,400	1,006	545	1990	1997
Holland America	Nieuw Amsterdam	33,930	1,214	542	1983	1997
	Ryndam	55,451	1,266	588	1994	1997
	Statendam	55,451	1,266	588	1992	1998
	Veendam	55,540	1,264	588	1996	1998
	Volendam	63,000	1,440	618	1999	
	Westerdam	53,872	1,494	642	1986	
Norwegian	Nor. Sky	80,000	2,002	800	1999	
	Nor. Wind	50,764	1,748	617	1993	
Princess	Dawn Princ.	77,000	2,020	900	1997	
	Ocean Princ.	77,000	2,020	900	2000	
	Regal Princ.	69,845	1,596	696	1991	1998
	Sea Princ.	77,000	1,950	900	1998	
	Sky Princ.	46,314	1,184	550	1984	1998
	Sun Princ.	77,000	2,020	900	1995	1998
Radisson	Seven Seas Navigator	30,000	490	321	1998	
Royal Caribbean	Rhapsody of the Seas	78,491	2,000	765	1997	
	Vision of the Seas	78,491	2,000	765	1998	
World Explorer	Universe Explorer	23,879	734	365	1958	1995



NORTH WEST
CRUISESHIP
ASSOCIATION

March 20, 2000

FOR ADDITIONAL INFORMATION, CONTACT:

John Hansen – (604) 681-2351

NWCA SHIPS WILL DELIVER MORE THAN \$200 MILLION TO SOUTHEAST'S ECONOMY THIS SEASON

The cruise lines of the North West CruiseShip Association (NWCA) will inject more than \$200 million into Southeast Alaska's economy this season.

Twenty-two member ships will bring an estimated 609,000 passengers to Southeast ports of call. Juneau should see more than \$80 million flow into its economy with 379 dockings, a slight increase from 369 a year ago.

Skagway should experience a \$60 million season with 320 NWCA dockings, delivering 533,504 passengers. An estimated 10,000 additional travelers will visit Ketchikan this season, adding \$53 million to its economy.

Haines is expected to realize almost \$10 million from NWCA operations, followed by Sitka with \$11.3 million.

Four new NWCA ships will visit Southeast this season. The Ocean Princess will replace the Crown Princess. Ocean Princess, a 77,000-ton vessel finished this year, will carry 2,020 passengers and a crew of 900. Holland America introduces the Volendam, a 63,000-ton vessel launched last year that carries 1,440 passengers and a crew of 642. It replaces the Volendam and Noordam.

MORE

Norwegian Cruise Lines' Norwegian Sky will make 21 calls this season, replacing the Norwegian Dynasty. The Norwegian Sky is an 80,000-ton vessel finished last year, which carries 2,020 passengers and a crew of 800.

Radisson Seven Seas introduces the Seven Seas Navigator, a 30,000-ton vessel built in 1998, which carries 490 passengers and a crew of 321.

"These new, state-of-the-art ships will offer a quality shipboard experience for visitors to Alaska, along with the most advanced operational, safety and environmental systems," said John Hansen, NWCA president.

The member companies of the North West CruiseShip Association account for 97 percent of all cruise ship visitors to Alaska. Member companies include Carnival Cruise Lines, Celebrity Cruises, Crystal Cruises, Norwegian Cruise Line, Holland America Line, Princess Cruises, Radisson Seven Seas, Royal Caribbean and World Explorer Cruises.

Cruise-related spending and costs By local government

	Total 2000 Spending	1997 Government costs	1997 Net gain (loss)
Ketchikan (city and borough)	\$52,800,000	\$1,219,995	\$2,466,505
Wrangell	291,515	41,950	(1,550)
Sitka	11,330,000	293,730	391,270
Juneau	80,300,000	1,296,850	2,957,150
Haines (city and borough)	9,685,740	281,351	142,649
Skagway	66,200,000	187,122	861,878
TOTAL	\$214,607,250	\$3,309,498	\$6,840,702

Source: Cruise Industry Impacts on Local Government in Southeast Alaska, Prepared for Southeast Conference – January, 1998

1997 Cruise-related spending and tax revenues in Southeast Alaska

- Cruise ship passenger spending totaled \$160 million during 1997, including \$120 million in taxable spending.
- Cruise ship crew generated \$10 million in taxable spending.
- Taxable spending in support of cruise line operations totaled just under \$10 million in 1997. Cruise lines spent another \$18 million on maritime services, medical services for crew, state/federal government fees and other non-taxable services.
- Sales tax revenues totaled \$7 million in 1997.
- Port fees generated another \$3.2 million in local government revenues.

Cruise-related spending by Southeast Alaska's local governments

- Southeast Alaska's local governments incur relatively few additional costs as a result of providing services to cruise lines, passengers and crew. In general, communities are able to provide basic services within their existing staffing and service infrastructure.
- Cruise passengers affect a broad range of local government services, including emergency medical services, public utilities and libraries, with police departments the most affected.
- The cost of providing these services is small compared to the local government revenues generated by the cruise industry.
- New costs associated with the cruise industry to local governments totaled \$2.2 across the region.
- Direct overhead costs that can be allocated to the cruise industry totaled \$1.2 million.

Source: Cruise Industry Impacts on Local Government in Southeast Alaska, Prepared for Southeast Conference – January, 1998

Visitor industry creates 4,154 jobs for Southeast

	# of Jobs	Payroll (in millions of dollars)
Transportation		
Local & interurban passenger transport	248	\$3.7
Water transportation	393	11.7
Air transportation	525	21.5
Transportation services	124	2.8
 Retail		
General merchandise stores	50	1.0
Food stores	79	1.9
Apparel & accessory stores	40	0.6
Eating & drinking places	543	8.3
Miscellaneous retail	948	12.5
 Services		
Hotels & other lodging places	1,105	17.8
Auto rentals	18	0.4
Amusement & recreation services	334	4.1
 Total	 4,407	 \$86.1
% attributable to pleasure visitors	94%	

VISITOR-RELATED EMPLOYEMENT IN SOUTHEAST **4,154 jobs**
\$81.1 million payroll

Source: Economic Impacts of Alaska's Visitor Industry
 May 1999 McDowell Group, Inc.

Southeast Alaska Local Government Taxation

	Sales	Property	Bed	Other
Haines				
City	4.0%	5.85 mills	-	-
Borough	1.5%	4.50 mills	-	-
Total	5.5%	10.35 mills	-	-
<hr/>				
Juneau	5.0%	12.02 mills	7.0%	3.0% liquor 6.0% tobacco
<hr/>				
Ketchikan				
City	3.5%	5.86 mills	6.0%	-
Gateway Borough	2.0%	7.50 mills	4.0%	-
Total	5.5%	13.36 mills	10.0%	-
<hr/>				
Petersburg	6.0%	10.00 mills	4.0%	-
<hr/>				
Sitka	5.0%	6.00 mills	6.0%	2¢/gallon fuel
<hr/>				
Skagway	4.0%	7.00 mills	8.0%	-
<hr/>				
Wrangell	7.0%	12.00 mills	\$4/night	
<hr/>				
Southcentral Ports				
Seward				
City	3.0%	3.12 mills	4.0%	-
Borough	2.0%	8.08 mills	-	-
Total	5.0%	11.20 mills	4.0%	
<hr/>				
Valdez	-	20.00 mills	6.0%	-

How visitors get to Alaska

	Summer 1989	Summer 1990	Summer 1991	Summer 1992	Summer 1993	Summer 1994	Summer 1995	Summer 1996	Summer 1997	Summer 1998	Summer 1999
Domestic air	329,900	421,100	446,900	503,400	543,700	600,200	625,300	673,500	706,600	706,000	737,500
International air	22,500	22,500	21,800	20,400	19,600	19,100	17,700	31,200	29,000	27,500	31,900
Cruise ship	187,500	243,600	252,200	275,600	317,500	370,600	368,600	437,500	509,700	568,000	596,000
Alaska ferries	43,100	46,500	48,800	45,900	50,900	49,700	47,300	42,000	33,100	37,000	36,000
Highway	109,500	112,000	110,000	124,000	120,600	125,300	124,300	118,900	115,200	128,500	127,000

Source: Alaska Visitor Arrivals, Summer 1999 - McDowell Group

SENATE COMMITTEE REPORT

DATE: 4/13/00

FURTHER: Finance

Date of 5-Day Notice: 24-hour rule in effect
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/18/00

Resources Committee considered

SENATE BILL NO. 308

"An Act relating to certain passenger vessels operating in the marine waters of the state."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Chris Taylor</i>	✓		
		<i>Linda Green</i>	✓		
		<i>Debra...</i>	✓		
CHAIR: <i>Rick Halford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

DOT & PF	4/14/00	✓	
DEC	4/14/00		100.6

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SCR

2

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/22/99

FURTHER:

Date of 5-Day Notice: 1/28/99
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/8/99

Resources Committee considered

SENATE CONCURRENT RESOLUTION NO. 2

Relating to management of Alaska's wildlife and fish resources.

and recommends:

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

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

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lynne Green</i>	<input checked="" type="checkbox"/>	<i>Scott Parrell</i>	<input checked="" type="checkbox"/>		
<i>Pete Kelly</i>	<input checked="" type="checkbox"/>	<i>Demetrius</i>	<input checked="" type="checkbox"/>		
<i>Richard Halford</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Richard Halford</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
<i>RESOURCES</i>	<i>1/29</i>	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SCR 2

Revision Date 1/22/99 Dept. Affected _____
 Title Management of Fish and Wildlife BRU _____
 Component _____
 Sponsor Taylor _____
 Requester _____ Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services						0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES []						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

Phone 465-4907
 Date 1/29/99
 Date _____

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Chairman,
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50 Front Street
Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

SPONSOR STATEMENT

SCR 2

Relating to management of Alaska's wildlife and fish resources.

Over the past few years, we have seen a decline in our wildlife and fish populations in several areas. This decline has continued to the point where serious shortages currently exist and are continuing unabated. For example, moose populations in the Kuskokwim Delta and in the Forty Mile area have declined to the point where there are not enough moose to meet the subsistence demand. Residents of the area testified to this last year before the House Resources Committee when a similar resolution was before the Legislature. Yet to date, our Department of Fish and Game has not implemented a management plan to rectify this situation. On the fish side, Bristol Bay has been shut down early for the past two years because of the poor sockeye runs in that area. On the Kenai River, in 1997, there were almost no coho salmon. It would appear that we have not allowed enough escapement to provide for the perpetuation of these runs. These are just a few examples, there are many more.

The elected leaders of Alaska have the responsibility of protecting our resources by ensuring that the constitutional mandate for sustained yield management of Alaska's wildlife and fish resources is followed for the benefit of all Alaskans.

It is in the best interest of all Alaskans that the replenishable resources of our state be biologically managed for abundance. An abundance of wildlife and fish will benefit all user groups and will greatly reduce competition among Alaskans for wildlife and fish resources. Continued passive monitoring of declining wildlife and fish populations is no longer acceptable. Active aggressive management is mandatory, including predator control, if we are to achieve and maintain healthy wildlife and fish populations in the future.

Management of Alaska's wildlife and fish resources was delegated to the Alaska Board of Fisheries, the Alaska Board of Game, and the Alaska Department of Fish and Game by the Legislature.

Therefore the Legislature needs to make it crystal clear that it expects this type of active aggressive management. SCR 2 sends this message. It requests the Governor, the Board of Fisheries, the Board of Game, and the Department of Fish and Game to do everything within the scope of their powers, duties, and responsibilities to manage Alaska's wildlife and fish resources on a biological basis for abundance, and to develop and implement regulations, policies, and programs to restore an abundance of wildlife and fish in Alaska using all methods and means available to accomplish this goal as quickly as possible.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SCR 2

Revision Date 1/22/99 Dept. Affected _____
 Title Mangement of Fish and Wildlife BRU _____
 Component _____
 Sponsor Taylor _____
 Requester _____ Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services						0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES []						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

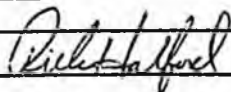
Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

Phone 465-4907
 Date 1/29/99
 Date _____

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SCR

3



Alaska State Legislature

Please enter into the record my testimony to the SR&S
committee name

committee on SCR 3, dated 4-5-00
bill # / subject

Dear Senator

To keep my testimony short I read only those underlined testimony on pages 716, 717, & 718.

I believe that Ron Sommerhill was also an observer while this discussion was taking place.

But otherwise I see this is how honest concerns become deluted during the politic-process

Thanks you

(9 PGS ATTACHED)

Signed: Wale Bondurant

Testifier

The Alaska Constitutional Legal Defense Fund

Representing (Optional)

31864 Moonshine Dr Soldotna AK 99669

Address

(907) 262-0818

Phone number

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

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April 5, 1978
 Committee on Energy & Natural Resources
 Washington D.C.

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that the Department of Interior is equipped to perform an oversight responsibility.

Mr. STEVENS. Well, all they had to do was veto that international commission recommendation, and we could have gone back and worked something out with a bargaining chip in our hand, right, and because of the international extreme environmentalist pressure, and that's all it was, acknowledge. They sided with them.

Now, I'm really concerned that there are people being sold a bill of goods, and I'll tell you what. In Anchorage the young man who's done the research for this University of Alaska, of a problem of wolves and caribou, told me it was not the wolves that had been bothering our caribou, it was the Alaskan Natives.

And he supports the provision in title 7, because he says only the Federal Government will have the courage to stand up to the political pressure of the Alaskan Native, and do you agree with that?

Mr. MITCHELL. Well, I can't agree with whether or not he made the statement.

Senator STEVENS. I can tell you that he made it to me with a long and circuitous argument, and we finally got to be split up because I have a tendency to lose my temper once in a while. But I'm really disturbed. I think you were present on the phone, I had that phone call discussion with the people in the Bethel region.

Mr. MITCHELL. Yes, sir, there was.

Senator STEVENS. I'm disturbed that the Alaskan Native people believe that title 7 will put the Federal Government on their side, in any future disputes between nonarea residents. It's not an ethnic problem, it's a rural people versus urban and city people.

Mr. MITCHELL. That's correct.

Senator STEVENS. But the Alaska Native people are most concerned about that rural problem, and they think this means the Federal Government is going to be on their side. And if you look at the problem of the wolves, and I think the Alaskan Native people agreed with the wolf control program, the Alaskan Natives in the State legislature authorized it, voted for it.

If you look at the whale decision, you look at the decisions that were made back during territorial days when the Federal Government in fact had the control, in fish traps and in other issues. I cannot think of one time without regard to the administration, whether it be Republican or Democrat, where the national administration has sided with the Alaskan Native people, or the rural Alaskan people, vis-a-vis national organized pressure groups.

Now, if you can tell me one, I'll reconsider by position on title 7.

Mr. MITCHELL. Senator, I think that there has been a lot of emotion over the issue of Federal participation, or oversight in the management of subsistence resources. But I think that I've been as close to rural Alaska as anyone during the development of this legislation, and the rural Native people are not trying to get the Federal Government on their side. They're trying to get the State on their side.

Senator STEVENS. Well, it's a strange way to do it, to get the Secretary of Interior, to get him veto power over the State fish and game management plan.

Mr. MITCHELL. Senator, it is a strange way to do it, but rural Native people have seen time and time and time again, and I'm sure that

the AFN President Mallot will back me up on this. They have seen the legitimate needs of rural people, and the legitimate need of wild-life resources in the rural areas of the State, sacrificed to the interest of Anchorage and Fairbanks sportsmen.

I have monitored most of the hearings that Commissioner Scooby has conducted on the Governor's proposed regionalization plan, the board of game and the board of fish go into the rural areas of State and they hear for days that this is critical. They go to Anchorage and they go to Fairbanks, and they hear that everything is fine.

And most of the people who live in Anchorage and Fairbanks have never been to a Native village and have no intention of going.

Senator STEVENS. Don't despair.

Mr. MITCHELL. I'm not.

Senator STEVENS. We had 80 percent votes against the Alaska Native Lands Claims Act, and we passed it anyway, and we've got a provision, a provision in my bill that requires the regional subsistence boards that the Governor is proposing.

Mr. MITCHELL. Senator, with all due respect, the provision of your bill does not provide for regionalization. It provides only for a subsistence preference.

Senator STEVENS. On a geographical basis.

Mr. MITCHELL. Well, that is—again, with all due respect.

Senator STEVENS. It's the only constitutional piece I know. I don't think yours is constitutional, despite your opinion. It's just not constitutional, that's all. I don't think you can take away from a State part of its sovereign powers as opposed to all other 49 States. Now, I've read your brief and I understand your position, but I'm convinced that mine is constitutional because it does provide for regional boards, and if there is a limitation on taking preference must be given to the residents of that region.

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

Mr. MITCHELL. Senator, today one of the biggest problems we have had is trying to get a State limitation on the taking of resources. Almost without question, and in fact you might know this better than I, with the exception of the current position of the Arctic Slope on the western Arctic caribou herd, in my personal knowledge I do not know of a single instance in which rural villages have gone to the board of game with a request to do other than restrict taking.

And it's the question of trying to get the board of game to restrict taking before wildlife resources are depleted.

Senator STEVENS. The Fairbanks people did that, the Anchorage people did that, that's not a rural proposition. The organization was formed in Anchorage, it was formed for the purpose of limiting the taking of fish and game, and the sportsmen associations are on record to limit the taking of fishing and game. I don't think it's a rural versus a nonrural position to limit the taking of game, to the carrying capacity of the lands involved.

The question is the preference that is to be given in terms of the limitation, and I disagree with you. I think my bill is very clear. I would be glad to have it, if you would point out to me where it is defi-

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cient in terms of providing for a priority for those in the region in the event of any limitation on taking.

Mr. MITCHELL. Senator, it does do that. But what we're saying is that there are more limitations that should be opposed than have been presently opposed.

Senator STEVENS. Wait a minute, what is defective about the proposal, how will any Alaskan Native be harmed if you have a limitation and preference is given to the people who live in that area.

Mr. MITCHELL. Senator, the Alaska Natives will not be harmed, however, giving that preference, getting it put into legislation is what this effort is all about.

Senator STEVENS. Wait a minute. We can limit on Federal lands the right of the State to regulate the taking, we've done it in the Sykes Act. It defines the current relationship now, and you're familiar with that, you wrote it in your brief. I know you are. My provision says to the State that you may, the State of Alaska, may continue to regulate the taking on Federal lands provided it establishes a regional geographic system of fish and game boards.

And one of the provisions of those fish and game boards must be that if there's a limitation on the taking of any fish or game, priority for that taking must be given to the residents of Alaska who live in the area involved. Now, I know that's constitutional, I hope you agree.

Mr. MITCHELL. I assume it's constitutional.

Senator STEVENS. What's the defect, why do we need title 7?

Mr. MITCHELL. We need title 7, Senator, because in and of itself your legislation as drafted, in the opinion of not myself, but a wide—

Senator STEVENS. I see your good friend sitting up here, I know he's worked very hard, he's a very distinguished lawyer, and I've had many discussions about it. But again, you've not told me where there's a defect because there would be no taking on Federal lands until that provision is lived up to by the State of Alaska.

Mr. MITCHELL. Senator, a defect is not in setting down a policy. The State of Alaska has had on paper a policy similar to what you have in your legislation, for years. The problem, Senator, is performing the ongoing management process to provide for rural needs and to protect the wildlife.

One of the very interesting things we've had when we were trying to get control-use area put in in the lower Yukon, in the moose herd, was that the board or the department didn't even know what the scortique was, much less what the local food requirements were. Everybody was shooting up that herd. They didn't know what the safe level of harvest of that resource was before they could even get into an allocation situation.

And one of the things we have in title 7 that is not included in the legislation is the requirement that we've got to come up with a comprehensive plan for the management of these resources before we lose more of them.

If you'll look at the legislative history of the Alaska statute, it sets out the subsistence of section of title GE of the State code. If you go back and look at that, you'll see that Jimmy Huntington, who is the prime sponsor, who is an Alaskan Native of the interior of Alaska.

wanted that legislation although that—with all due respect to the department—is not particularly artfully drafted because of the concern of those villages, because of the decimation of that herd in there, and even because of outside hunting.

That went on the past 5 years before the problem started in the Yukon. We've got to perform the process, and as Senator Durkin pointed out, the political pressures in Alaska, on the Governor and on everyone, makes it impossible to do that without some kind of Federal oversight. I am the last person to say that it would be helpful to the situation if the secretary ever in fact exercised his oversight authority and took over all management of fish and game in Alaska.

We know that would be disastrous. But just the way—

Senator STEVENS. That will be in this bill over my dead body because I fought for statehood and I fought against the people who wanted to put that in there at the time. This is just coming back from the people who oppose statehood, the people who are now articulating this position, who are in fact outspoken opponents of statehood. And they tried to kill our statehood bill with this provision.

Now, I'm not going to go back and fight that fight over again, and if people want to see a filibuster around here, there is a first-class filibuster. That's what it's going to be if they try to take statehood away from us by degrees. Now, that's what that provision is, and if you want something that protects the Natives, but don't tell me you have to get back to the Federal Government to have control over hunting, all hunting.

Now, title 7 goes to all hunting. If the Secretary doesn't like the provision to protect subsistence, he takes back all hunting and fishing rights on Federal lands in Alaska. Now that is excessive and it is a piecemeal replication of the statehood grant to our State, and it's not going to happen. And they're going to carry me off that floor before that happens.

And you let the people know who are advocating it, they had better realize it.

Mr. MITCHELL. I, and we understand your position on this, and what we are saying, and I also am familiar with the legislative history of section 6E, and I agree with you that in my judgment it was a cheap shot from the environmentalists.

Senator STEVENS. Yes; and I was there, every word of it, through the whole time, and I couldn't believe it happened. But we had to take it, and we took it because the distinguished predecessor of the other Secretary sitting here, who understood it and served in the Senate and said, relax, we will see to it that this is abided by. But we will also see to it that Alaska becomes a State, and we are a State now.

Certification was made with the Secretary of Interior, and there is no way, constitutionally, that that can be taken back in my opinion.

Mr. MITCHELL. Senator, the motivation for section 6E came from the environmental community. The motivation for title 7 comes from the rural Alaskan community. Now another thing about section 6E—

Senator STEVENS. It's being used a little bit by the national environment community, you will admit.

Mr. MITCHELL. Senator, if the truth be known, I think the shoe is on the other foot, I think it's the other way around.

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Senator STEVENS. That would be great, I wish we could get that shoe on that foot, it would be a good thing. If I thought the environmentalists were actually trying to protect the Natives, you tell me this. You show me when the environmentalists will agree to a rural control program, similar to the one that's on the Canadian side today, in the very areas that Justice wants to make a wilderness area.

On his side there is a wolf control program over there now. Now, you show me when you are ready to have a wolf control program in the Arctic Wildlife Range to protect the Natives subsistence interest in the caribou, and then I might listen to you.

Mr. MITCHELL. Senator, we are not down the line with the environmentalists, we are saying there are areas, just as there are areas with the State and the Department of the Interior, of common interest. And on the narrow issue of title 7, the environmental community has in fact given rural Alaskan support.

That does not mean that rural Alaskans support every action or every position of the national environmental community, right on down the line. And the other group of the people, right on down the line. Some do, some don't.

Senator STEVENS. This administration was elected on a program that at least there are substantial number of people, and this is not a political comment, it's just a fact. We are opposed to hunting per se.

We have a substantial number of people in the Department of the Interior now that are in the fish and wildlife areas who are opposed to hunting per se. Now, you want me to look the Alaskan Natives in the eye and tell them they are better protected by these people who oppose hunting by anybody. And they are, by exercising their rights as Alaskans, and the Alaskan Legislature, whether it's not this feeling, this built-in feeling, against their own way of life.

Now, do you deny that?

Mr. MITCHELL. Senator, one of the other provisions of title 7, that is of equal importance to dealing with the State, is dealing with precisely the environmental interest groups that you flag. One of the things that is in title 7, but again is not in your legislation, is a guarantee of a continuation of access for subsistence uses on all of this conservation unit.

Without that guarantee, Senator, it is quite possible that some of those managers and those conservation units will be hostile to subsistence.

Senator STEVENS. Let me tell you about that guarantee. We had a guarantee when Mount McKinley Park was created. The miners opposed it, they put in a bill that created Mount McKinley Park, they guaranteed mining that would forever be permitted, until the day it started.

Once it started, we will pass a little bill here, which I opposed. The Alaskans opposed it that were involved in it, from the State legislature, the Governor, who was then Governor Egan, Senator Bell, myself, there would be no question about it.

At the time that Mount McKinley Park was created, money would be permitted. As soon as it started it was cutoff. I can tell you a whole lot of guarantees we've had. How about the guarantee in section 17D2, the compromise that we could consider, establishing up to 80 million acres of land for national interest, we would consider it.

Now we're dealing with bills, none of them deal with less than 80 million acres, and it's not a consideration, it's a demand. Often they think we can't refuse.

Mr. MITCHELL. Senator, the Rural Cap committee has never taken a position on H.R. 39, but I would say parenthetically, however, that it's my reading of that statute that I think we are guaranteed. It might be a little strong.

Senator STEVENS. It says up to 80 million acres. And I was there, I would be glad to get the records out of this committee and show you that the compromise was very specific up to 80 million acres. Not that we would withdraw and establish at least 80 million acres, but to these people here who advocate this, you could think that the shoe is on the other foot.

All I'm telling you is, if by any chance a provision you advocate for title 7 becomes law, you will live to see the day that you will be petitioning Congress to overrule action of the Secretary of the Interior, denying the right of Alaskan Natives to hunt on Federal lands.

Mr. MITCHELL. Senator, if the political pressure comes to shut down the right of the Native people to hunt on the parks of Alaska, that political pressure comes. Now, it can come without title 7 through the form of either administrative action by the Secretary of Interior, or through the form of passing a congressional statute to that effect similar to what apparently went on with the McKinley Parks issue.

But at least under our legislation, Senator, under our legislation, the new legislation to get rid of subsistence uses, would have to overcome a presumption of the validity of those uses.

Senator STEVENS. No; you missed the point. Under existing law they would have to do it in every State, they could not do it just for Alaska. What you are suggesting is a provision that would apply only to Alaska, and, therefore, it takes us out of the protection of the resistance of other States to have it in their sovereignty, similarly invaded.

Senator DURKIN. Would the Senator yield for a question?

Senator STEVENS. Yes; I'm through.

Senator DURKIN. No, no—

Mr. MITCHELL. Senator, if I could just respond to that. The National Park system, I believe, is run on a statute by statute basis for the most part. What is allowed in McKinley by statute would be different from what is allowed in the case of the Arctic.

Senator STEVENS. I think that would be great. I suggested, and we agreed there would be a separate statute for each area created under section 17D2. It would be a wonderful thing if we had a separate statute for McKinley Park and a different one for Glacier Bay, and a different one for the Wrangles, just like they have a different one for Yellowstone and a different one for Yosemite, and a different one for Grand Canyon.

But we're not to be treated like other States, we're going to have 100 and some odd million acres in one bill.

Mr. MITCHELL. Senator, I understand that, my only point was that the legal mechanism exists to shut off this kind of uses on national parks in Alaska. While that might be permitted in other national park system units in the lower 48. And I just wanted to make that point—
Senator Durkin, do you have a question for me?

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Senator STEVENS. Thank you, Mr. Chairman. Let me close. I think you do an admirable job in representing the people of your area. I know we've had disagreements and I have a disagreement with Mr. Mallot, who is going to come behind you. But again, I don't think we're in disagreement as to the goal. I just think based on my experience of now some 25 years of dealing with people in the Department of Interior, of both political persuasion, that I have no confidence in the ability of the Department of Interior to put the needs and the rights of Alaska's rural people ahead of the demands of the national pressure groups.

Mr. MITCHELL. Senator, I would like to say that we also understand that you share our commitment to the ultimate objectives of this legislation, and we hope that while we do have procedural differences, that we can continue to engage in this or other types of dialog, to try and come up with a result that will do the job.

Senator STEVENS. Thank you, that will be ongoing, and thank you, Mr. Chairman.

Senator DERRIN. Thank you, Ted. I have an observation. I spent 3 days in Mount McKinley National Park last year, and I have a feeling that all of the animals had been sold to the Tokyo Zoo. I spent 3 days there, and there were very few animals out in those 3 days.

Senator STEVENS. We sent two to China and when I got there one was dead. I do remember that.

Senator DERRIN. The basic thrust was that I'm not sure what we're doing in Mount McKinley National Park, but there were damned few animals afoot in the 3 days we were up there.

Senator STEVENS. I'll tell you why you can't see animals in Mount McKinley National Park, they won't let us pave the road. No respectful animal would come near that blasted road with that dust there. You know, you go through a dust bowl that's following behind the enormous buses, you wouldn't stay within 1½ miles of it yourself unless you had to. Now, that's the problem, it's a great park but you can't see anything. You can't get to it unless you've got a backpack and you are backing in. That's the problem.

Most people traveling into that park are my age, not yours, and that's a compliment.

Senator DERRIN. Well, be that as it may. I was a little disappointed that there were very few animals afoot, other than the ones on the bus. But, Senator, it is my understanding that the Natives, and the groups that you are trying to protect, have signed off on title 7.

Senator STEVENS. They sign off on title 7, Mr. Chairman, because they have been led down the primrose path that I've been led down before, and I hope I've convinced them not to go down there. Now, it's one thing to have an oversight, and to have some sort of cooperative management concept. It's another thing to give the Secretary of Interior veto rights. And on the pretext of saying that the subsistence provisions in Alaska law are not adequate to protect Alaskan Natives, to give him the right to take back into the Department of Interior the total right to control fish and game on Federal lands in Alaska only.

In violation of the general statute of the United States, the Sikes Act, and in violation of what I consider to be the inherent constitutional rights of the State to equality. We are an equal partner in the Union, and we should not be treated that way. Now, if they want to go

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into some cooperative management program, where the Federal Government gives its advise and participates in it, and if it appoints a joint board, that's one thing.

But, to have this veto power and the right to preempt our State is wrong.

Senator DUKAKIS. I don't think the Senator from Alaska is going to argue for all time that Alaska should be treated equally. I've sat on other committees where I've heard that Alaska is unique and should be treated with due respect to its unique character.

Senator STEVENS. That's when it comes to money.

Mr. MITCHELL. Senator, one additional thing that I think is critical that I neglected to mention in title 7, is that a major part of the problem in Alaska, with State management, has been the lack of money. And I just happened to think about it when you brought that subject up.

We've had the local fish and game advisory board system now for a number of years, and it's worked very, very poorly. Aside from the inherent unworkability of the structure that was set up, the major reason that it hasn't worked is because it was never funded. It takes money to have biologists, it takes money for enforcement. Alaska and everyone thinks that we are oil rich, and we all know we're not.

And title 7, if I could just finish. Senator, we do include Representative Young, with the support of Rural Cap, and the other rural Native groups, including a provision that would say that if all of this falls into place there will be some Federal participation in this, there will be some recognition that while there are Federal interests at stake here, the State cannot be expected to exercise all of its massive responsibility without some additional Federal moneys for subsistence. I think that's part of it.

Senator STEVENS. That financial system is up to half the cost, it's up to \$5 million. That reminds me of the little carrot that was involved in the Marine Mammal Protection Act. I'm sure you know the history of that. After 4 years now, the Federal Government is one-by-one turning back to the State of Alaska, the management of ocean mammals because they were unwilling to commit the moneys that were necessary to protect the mammals when we were willing to commit much more. You cannot show that we have been unwilling to commit the amount of money that was necessary for protection of wildlife in Alaska. That is not so.

We have far outstripped the Federal Government on the amount of money that's been put out.

Mr. MITCHELL. Senator, that may be the case. I can show that the State has, until very, very recently, refused to adequately fund its own fish and game advisory board system. And my point is—

Senator STEVENS. I agree with that, that's another matter. Now, that's the advisory board system.

Mr. MITCHELL. That's what I was just talking about, not marine mammals. My point is that there is a Federal responsibility, regardless of title 7, the Federal Government has an interest out there. They can enforce. And all we do with the oversight provision, and I again expect the Senator respectfully to disagree with me, is to force the Secretary of Interior to do something positive for a change. He's got that latent oversight authority.

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Senator STEVENS. He does not have it today, the Sikes Act does not give him that right, he has the right to close the area to hunting. He does not have a right to take away from the State the right to manage hunting. Now, under this bill he would be entitled, again under the pretext that the State subsistence provisions for natives was not sufficient to take over the entire management of all Federal lands, military, forest, BLM, park land, fish and wildlife land, on the pretext of one incident. He could take the whole thing back.

Mr. MITCHELL. Senator, my point is there has only been a judicial decision in Alaska that is on appeal, that squarely holds that under the property clause of the Constitution, the Secretary has that authority any way, and what I'm saying, and as far as—

Senator STEVENS. I'm familiar with the gentleman's decision, but it's very limited now.

Mr. MITCHELL. The argument is made—

Senator STEVENS. It doesn't give him the right to take over the management of forest military lands on the pretext of a deficiency with regard to an entirely different matter.

Mr. MITCHELL. Senator, one of the independent bases of the decision, as I read it, is that in any event the Secretary has authority under the property clause of the Constitution, notwithstanding section 6E of the Statehood Act, to do that. In any event, Mr. Chairman, it is quite obvious that this is a very controversial issue, and there's been an incredible amount of work that has gone on in the House, on the part of all groups on this issue.

And I would hope that when you consider this issue, during your deliberations on this legislation, that in addition to Senator Stevens' views, which are well taken, and I think well known, that there would be ample understanding that there are other interest groups involved, who have in their own judgment perhaps a different interpretation of what is best, and at least at the moment the Department of Interior and a number of others. I think, responsible interest groups are in agreement with us on that. Thank you.

Senator DURKIN. That's why I expressed amazement that it hadn't been resolved. But I think we had better move on, if you don't have any further questions. And I hope the reporter has recorded that Alaska should be treated with equality and is not unique, and we'll save that for future efforts.

Is Mr. Mallot present?

Senator STEVENS. Mr. Chairman, may I apologize. Byron, I have to go, I'm the host of a luncheon.

STATEMENT OF BYRON MALLOT, PRESIDENT, ALASKA FEDERATION OF NATIVES

Mr. MALLOT. Thank you, Mr. Chairman. My name is Byron Mallot, I am president of the Alaska Federation of Natives. I have a prepared statement, and I would like to submit it for the record.

Senator DURKIN. Without objection, it will be included.

Mr. MALLOT. I will briefly summarize my statement. I would like to state that I had a feeling in listening to Senator Stevens in his dialog with Don Mitchell, and I would like to state that the arguments put forth by Mr. Mitchell are shared very strongly by the Alaska Federation of Natives.

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

BILL NO. SCR 3

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Sovereignty of the State; Resources BRU _____
 _____ Component _____
 Sponsor Senator Taylor _____
 Requester Senate Resources Component No. _____

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						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

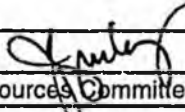
Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Juli Lucky  Phone 465-4907
 Division Senate Resources Committee Date/Time 3/30/00 5:20 PM
 Approved by _____ Date _____
 Agency _____

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ACCORDING TO:

- THE U.S. CONSTITUTION; AND
- THE U.S. SUPREME COURT;

THE POWER TO CONTROL FISHING IS AN ESSENTIAL ELEMENT OF STATE SOVEREIGNTY AND THE U.S. CONGRESS DOES NOT HAVE ANY SIMILAR POWER IN ALASKA'S NAVIGABLE WATERS.

"[T]he States entered the federal system with their sovereignty intact."

Blatchford v. Native Village of Noatak, 501 U.S. 775, 779 (1991)

"Under the federal system established by the Constitution, the States retain a 'residuary and inviolable sovereignty.'"

Alden et al. v. Maine, 98-436 (Decided June 23, 1999 - Citing *The Federalist* No. 39, p. 245)

"Being an instrument of limited and enumerated powers, it follows irresistibly that what is not conferred [to the Federal Government by the Constitution] is withheld, and belongs to State authorities."

New York v. United States, 505 U.S. 144, 156 (1992)

"[I]f a power is an attribute of state sovereignty . . . it is necessarily a power the Constitution has not conferred on Congress."

New York v. United States, 505 U.S. 144, 156 (1992) Referencing *United States v. Oregon*, 366 U.S. 643, 649 (1961); *Case v. Bowles*, 327 U.S. 92, 102 (1946); and *Oklahoma ex. Rel. Phillips v. Guy F. Atkinson Co.*, 313 U.S. 508, 534 (1941)

"Ownership of submerged lands - which carries with it the power to control navigation, fishing, and other public uses of water - is an essential attribute of [Alaska's] sovereignty."

United States v. Alaska, No. 84 Orig. (Decided June 19, 1997)

ACCORDING TO:

- THE UNITED STATES CONGRESS;
- THE U.S. SUPREME COURT; AND
- THE U.S. JUSTICE DEPARTMENT;

TITLE TO ALASKA'S NAVIGABLE WATERS AND SUBMERGED LANDS BELONGS TO THE STATE OF ALASKA

"[N]ew States are admitted to the Union on an "equal footing" with the original 13 colonies and succeed to the United States' title to the beds of navigable waters within their boundaries."

United States v. Alaska, No. 84, Orig. (Decided June 19, 1997)

"The State [of Alaska] received at statehood all navigable waterways . . ."

Judicial Admission by Elizabeth Ann Peterson – Attorney for U.S. Justice Department – during oral arguments re: The Alaska Legislative Council, Alaska State Legislature, et al., v. Bruce Babbitt, Secretary of The Interior, et al. held in the U.S. Court of Appeals for the District of Columbia on Thursday, April 8, 1999.

"In 1953 . . . Congress enacted the Submerged Lands Act . . . That Act 'confirmed' and 'established' State's title to and interest in 'lands beneath navigable waters within the boundaries of the respective States.'"

United States v. Alaska, No. 84, Orig. (Decided June 19, 1997)

"The Alaska Statehood Act expressly provides that the Submerged Lands Act applies to Alaska."

United States v. Alaska, No. 84, Orig. (Decided June 19, 1997)

"As a general matter, then, Alaska is entitled¹ under both the equal footing doctrine and the Submerged Lands Act to submerged lands beneath tidal and inland navigable waters, and under the Submerged Lands Act alone to submerged lands extending three miles seaward of its coastline."

United States v. Alaska, No. 84, Orig. (Decided June 19, 1997)

¹ *Black's Law Dictionary*, West Publishing Co., 1990 Edition: "Entitle. In its usual sense, to entitle is to give a right or legal title to."

“State sovereignty over submerged lands rests on the Submerged Lands Act of 1953.”

United States v. Alaska, 442 U.S. 184, 188 (1975)

“Section 6(m) of the Alaska Statehood Act of July 7, 1958, provides that the Submerged Lands Act ‘shall be applicable to the State of Alaska and the said State shall have the same rights as do existing States thereunder.’”

United States v. Alaska, 442 U.S. 184, 188 (Footnote 3) (1975)

“The Alaska Statehood Act expressly provides that the Submerged Lands Act applies to Alaska.”

United States v. Alaska, No. 84, Orig. (Decided June 19, 1997)

THE SUBMERGED LANDS ACT OF 1953

“Sec. 1311 (a) Confirmation and establishment of title and ownership of lands and resources; management, administration, leasing, development, and use. It is determined and declared to be in the public interest that

(1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are, subject to the respective States . . .”

Public Law 31, 83rd Congress, Second Session: 67 Stat. 29

**THE SUBMERGED LANDS ACT AMOUNTS TO A QUIT CLAIM DEED. HENCE,
ALL LEGAL AND JUDICIAL ROADS LEAD TO THE FOLLOWING:**

- Title to Alaska’s Submerged Lands belongs to the State of Alaska.
- Alaska holds title to and owns all the natural resources in all her Submerged Lands.
- Alaska holds title to and owns all the natural resources in all her Navigable Waters.
- The right and power to manage all Alaska’s Submerged Lands and Navigable Waters belongs to the State of Alaska and is subject to State law (not Federal law).
- The right and power to manage all natural resources (including fish) in Alaska’s Navigable Waters belongs to the State of Alaska and is subject to State law (not Federal law).

ALASKA HOLDS SOVEREIGN TITLE TO AND MANAGEMENT AUTHORITY
OVER ALASKA'S SUBMERGED LANDS, NAVIGABLE WATERS AND THE
NATURAL RESOURCES ON AND WITHIN THOSE LANDS AND WATERS

In his September 2, 1999 press release announcing his call for the September 22, 1999 special session on "subsistence," Alaska Governor Tony Knowles was quoted as stating:

"It would be irresponsible to turn over our right and responsibility to manage Alaska's fish and game to the federal government, a right that was at the heart of Statehood which we are celebrating on the 40th anniversary this year."¹

However, as shown below, it was Governor Knowles himself who has tried the hardest to surrender that right to the federal government.

During his term of office, Governor Hickel brought a lawsuit in the Federal Courts titled *State of Alaska v. Babbitt*.² He challenged federal intervention and defended Alaska's sovereign "title" and right to manage its submerged lands, navigable waters and the resources therein according to State law.

The primary discussion in *Babbitt* concerned the definition of "public lands" in Section 102 of the Alaska National Interest Lands Conservation Act ("ANILCA").³ The federal government argued that the definition of "public lands" includes navigable waters within and adjacent to federal uplands, by virtue of the implied reservation of water rights doctrine.⁴ The State of Alaska objected, pointing out that "title" to Alaska's submerged lands and navigable waters had definitively been transferred to Alaska at statehood. Therefore, according to the Equal Footing Doctrine of the U.S. Constitution and the Submerged Lands Act of 1953,⁵ ownership of and management of those lands, waters and the natural resources therein are subject to state law - not federal law. The State also pointed out that ANILCA itself clearly provides

¹ September 2, 1999 Press Release from Office of the Governor.

² 72 F.3d 698 (9th Cir. 1995)

³ 16 U.S.C. 1102.

⁴ See discussion in *State of Alaska v. Babbitt*, 72 F.3d 698 (9th Cir. 1995).

⁵ Section 6(m) of the Alaska Statehood Act of July 7, 1958, provides that the Submerged Lands Act "shall be applicable to the State of Alaska and the said State shall have the same rights as do existing States thereunder." 72 Stat. 343, note following 48 U.S.C. c.2 Section 2 of the Act provides: "The State of Alaska shall consist of all the territory, together with the territorial waters appurtenant thereto, now included in the Territory of Alaska." 72 Stat. 339, note following 48 U.S.C. c.2.

that federal "public land" does not include "land validly . . . granted . . . to the State under any other provision of Federal Law."⁶

Once again, *Babbitt* was an "ownership" case defending Alaska's "title" to its sovereign lands and resources and Alaska's sovereign right to manage those lands and resources according to State law. It had nothing at all to do with who could hunt or fish on Alaska's submerged lands or in Alaska's navigable waters.

Shortly after taking office, Governor Knowles announced (in Fairbanks, at a luncheon meeting of the Alaska Outdoor Council) that he was dropping *Alaska v. Babbitt* because "some Alaskans felt it was "anti-subsistence." Later, at its annual convention, he told the Alaska Federation of Natives he dismissed the case to fulfill a political campaign promise. Attorney General Bothello supported that admission when he testified before the State Senate that the case was not dismissed for any "legal" reason.

By dismissing *Babbitt* "with prejudice," Governor Knowles unilaterally, without legal contest, agreed to forfeit control over huge tracts of Alaska's sovereign submerged lands, thousands of miles of Alaska's sovereign navigable waters, hundreds of thousands of Alaska's sovereign lakes and all of Alaska's sovereign natural resources within those lands and waters (including but not limited to fish) to the federal government. In other words, by dismissing "with prejudice," the Governor "consented" to the federal government's blatant attempt to narrow Alaska's sovereign domain - an act the U.S. Supreme Court has recently held to be without legal basis.⁷

Governor Knowles knew exactly what he was doing. He, not the Legislature, has caused the dilemma that is currently facing the State. He decided not to contest the federal government's position that Alaska's sovereign submerged lands and navigable waters in and adjacent to federal uplands are "Federal Lands." It was Governor Knowles who ceded management authority to the federal government - a position that is without legal authority and is a barefaced attempt to surrender Alaska's sovereign powers to the federal government.

Now, after personally attempting to remove all avenues of appeal to the courts, the Governor is telling the Legislature that they must initiate a change in the equality provisions of Alaska's Constitution or they will take the blame for a federal takeover of Alaska's resources. His recent call for a special session (like all others the

⁶ 16 U.S.C. 3102(j)(3).

⁷ *New York v. United States*, 505 U.S. 144, 182 (1992). "Where Congress exceeds its authority relative to the States . . . the departure from the constitutional plan cannot be ratified by the "consent" of state officials . . . The authority of Congress cannot be expanded by the "consent" of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States."

Governor has initiated) is indeed a thinly veiled appeal for the Legislature to join him in his surrender of Alaska's sovereignty to the federal government

Interestingly, the last paragraph of the Governor's September 2nd press release provides:

"Every public opinion survey says Alaskans want us to act to preserve state sovereignty and the culture of rural residents," Knowles said. "As elected leaders, we must now have the courage and foresight to take the actions necessary to achieve these worthy goals."

Here, the Governor is right. Without a doubt, Alaskans do want a Legislature (and a Governor) with the courage and foresight to take the actions necessary to preserve (not surrender) state sovereignty. In fact, each Legislator (and the Governor) has sworn an oath to do just that. It is abundantly clear that Alaska's elected leaders cannot act to preserve Alaska's Sovereignty by surrendering to the federal government the State's ability to manage or allocate Alaska's sovereign lands, waters and wildlife resources.

What actions can the Legislature (and the Governor) take to preserve Alaska's Sovereignty?

Each member must examine the legal foundation supporting Alaska's Sovereign title and Sovereign management authority. Then, the Legislature can forge an action plan based on solid legal grounds.

Three recent U.S. Supreme Court cases: a 1975 Alaska case; a 1997 Alaska case; and a 1997 Idaho case, very clearly address the matter of state sovereignty over submerged lands.

In 1975, in *United States v. Alaska*, a case that addressed who owned the submerged lands in lower Cook Inlet, the U.S. Supreme Court ruled:

State sovereignty over submerged lands rests on the Submerged Lands Act of 1953 . . .³

Section 6(m) of the Alaska Statehood Act of July 7, 1958, provides that the Submerged Lands Act "shall be

³ *United States v. Alaska*, 422 U.S. 184, 187 (1975).

applicable to the State of Alaska and the said State shall have the same rights as do existing States thereunder."⁹

Moreover, in June of 1997, in the *Alaska* case of *United States of America, Plaintiff v. State of Alaska*,¹⁰ a case that addressed who owned certain submerged lands in Alaska, Justice O'Connor, delivering the opinion of the U.S. Supreme Court, wrote:

Ownership of submerged lands – which carries with it the power to control navigation, fishing, and other public uses of water – is an essential attribute of [state] sovereignty.

Justice O'Connor then very clearly explained how Alaska obtained sovereign title to and became owner of her submerged lands. In this 1997 *Alaska* case, the U.S. Supreme Court said:

Under the doctrine of *Lessee of Pollard v. Hagan* . . . new States are admitted into the Union on an "equal footing" with the original colonies and succeed to the United States' title to the beds of navigable waters within their boundaries.

The Alaska Statehood Act expressly provides that the [1953] Submerged Lands Act applies to Alaska.

That [Submerged Lands] Act "confirmed" and "established" States' title to and interest in "lands beneath navigable waters within the "boundaries of the respective states."

The [Submerged Lands] Act essentially confirms States' equal footing title to tidelands and submerged lands.

As a general matter, then, Alaska is entitled under both the equal footing doctrine and the Submerged Lands Act to submerged lands beneath tidal and inland navigable waters, and under the Submerged Lands Act alone to submerged lands three miles seaward of its coastline.

⁹ *United States v. Alaska*, 422 U.S. 184 (footnote 3) (1975).

¹⁰ *United States of America, Plaintiff v. State of Alaska*, No. 84 Orig. (1997).

"Entitled" is defined as: "In its usual sense, to entitle is to give a right or legal title to."¹¹

The Court said the only exception to this automatic transfer at statehood was if the United States had "explicitly retained" specific submerged lands prior to statehood.

Then, in the 1997 case of *Idaho v. Coeur d'Alene Tribe of Idaho*,¹² the U.S. Supreme Court said:

As we stressed . . . lands underlying navigable waters have historically been considered "sovereign lands." State ownership of them has been "considered an essential attribute of sovereignty."

In consequence of this rule, a State's title to these sovereign lands arises from the equal footing doctrine and is "conferred not by Congress but by the Constitution itself."

There is no doubt. The U.S. Supreme Court believes Alaska's submerged lands are State "sovereign lands" and Alaska's ownership of them is "considered an essential attribute of [State] sovereignty."

In the 1992 case of *New York v. United States*,¹³ the U.S. Supreme Court ruled:

[I]f a power is an attribute of state sovereignty . . . it is necessarily a power the Constitution has not conferred on Congress.

The constitutional authority of Congress cannot be expanded by the "consent" of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States.

¹¹ Black's Law Dictionary, (1990 Ed.).

¹² U.S. Supreme Court No. 94-1474 (decided June 23, 1997).

¹³ *New York v. United States*, 503 U.S. 144, 156 (1992).

Clearly, according to very recent, clear and consistent rulings of the U.S. Supreme Court: State ownership of submerged lands is an "essential attribute" of sovereignty; the power to control fishing in the water covering a state's submerged lands is an "essential attribute" of state sovereignty; and, since the power to control fishing in those waters is an "essential attribute" of state sovereignty, it is necessarily a power the Constitution has not conferred on Congress.

But, that's not all.

Notice that both Alaska cases refer to the Submerged Lands Act of 1953. Most Alaskans have never read the Act and are unaware of how directly on point it is to the current conflict. The Act was passed in 1953 by Congress to once and for all clarify which sovereign (state or federal) holds title to, ownership of and management authority over submerged lands, navigable waters and the natural resources (including fish) within those lands and waters. The Submerged Lands Act is very simple and very clear. Anyone can understand it. The portion pertinent to the matter at hand provides:

Sec. 1311(a)(1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are subject to the respective States . . .

Clearly, Congress intended the Submerged Lands Act to be a simple quitclaim deed. Then Congress provided, in the Alaska Statehood Act, that the Submerged Lands Act would apply to Alaska - even though Alaska became a State long after the Act was passed. Therefore, since the moment of statehood, Alaska's submerged lands, navigable waters and the natural resources within such lands and waters have belonged to Alaska and their management has been subject to Alaska law. Hence, according to the clear and consistent rulings of the U.S. Supreme Court in Alaska cases, the federal government has no ownership of or title to Alaska's submerged lands, navigable waters or the resources in those lands and waters and has no management power or authority over any of those lands, waters and natural resources (including fish). Once again, the power to control fishing in Alaska's navigable waters is "necessarily a power the Constitution has not conferred on Congress."¹⁴

¹⁴ *New York v. United States*, 505 U.S. 144, 156 (1992).

Now, it is abundantly clear why the federal government is doing everything it can to frighten and coerce Alaskans into surrendering their sovereignty and equality and to keep the merits of this issue from being argued in the courts! They know Alaska would win!

The foregoing white paper was researched and prepared by Ralph Seekins, Chairman and Lynn Levensgood, Executive Director of:

ALASKA WILDLIFE CONSERVATION ASSOCIATION
1625 Old Steese Highway
Fairbanks, Alaska 99701
(907) 456-1992

Alaska State Legislature

Chairman,
Judiciary Committee

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922



50 Front Street
Suite 203
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

SPONSOR STATEMENT SCR 3

Relating to the sovereignty of the State of Alaska and the sovereign right of the State of Alaska to manage the natural resources of Alaska.

SCR 3 is based on the Constitution of the United States, the Constitution of the State of Alaska, the Alaska Statehood Act and the Alaska Statehood Compact, as well as U.S. Supreme Court case law. It asks the governor and the legislature to uphold their oaths of office and defend our sovereign rights as a state and as a people.

When Congress passes the Alaska National Interest Lands Conservation Act (ANILCA), the provisions of the Alaska Statehood Compact, the Public Trust Doctrine and the Constitutions of the State of Alaska and the Constitution of the United States of America were violated.

SCR 3 recognizes the need of the legislature to pursue a judicial solution to the conflicts between ANILCA and our State and Federal Constitutions. The resolution further requests the Governor to urge the Secretary of Interior to put the unresolved dispute before the U.S. Supreme Court for a final resolution. Finally, the resolution requests the Interior Department to allow fish and game management to remain with the state until the U.S. Supreme Court has ruled on the Constitutionality of ANILCA.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/25/99

FURTHER: Judiciary

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

DATE TURNED
 IN TO OFFICE: 11/05/00

Resources Committee considered

SENATE CONCURRENT RESOLUTION NO. 3

Relating to the sovereignty of the State of Alaska and the sovereign right of the State of Alaska to manage the natural resources of Alaska.

and recommends:

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

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Adrian Taylor</i>	<input checked="" type="checkbox"/>	<i>Georgeanna Lind</i>			
<i>Lynne Meyer</i>	<input checked="" type="checkbox"/>				
<i>W. Kelly</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Rick Halford</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Senate Resources	3/30/00	<input checked="" type="checkbox"/>	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SCR

7

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/18/99

FURTHER:

Date of 5-Day Notice: 3/18/99
 (in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/1/99

Resources Committee considered

SENATE CONCURRENT RESOLUTION NO. 7

TULSEQUAH CHIEF MINE

and recommends:

- be replaced with _____ CS SCR 7 (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>Alan P. Donnell</i>	<input checked="" type="checkbox"/>	<i>Edgington</i>			<input checked="" type="checkbox"/>
<i>Pete Kelly</i>	<input checked="" type="checkbox"/>				
<i>Linda Green</i>	<input checked="" type="checkbox"/>				
<i>Chair: Rick Harford</i>	<input checked="" type="checkbox"/>	<i>Chair:</i>			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

S RES	3/23	X	

APPLY TO CS

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SCR 7

Revision Date 3/18/99 Dept. Affected _____
 Title Tulsequah Chief Mine BRU _____
 Component _____
 Sponsor Pearce _____
 Requester _____ Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services						0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES []						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by Senate Resources Committee Phone 465-4907
 Division _____ Date 3/23/99
 Approved by Senator Rick Halford, Chairman Date _____
 Agency _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
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**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

ATT. ROBIN TALOR
FROM DICK FELDMAN

MINE REVIEW & PERMITTING BRANCH,
4th Floor, 1810 Blanshard St.,
Victoria, B.C.,
V8V 1X4

28 March 1995

ATTN: Mr. Norm Ringstad

TO WHOM IT MAY CONCERN

The attached list of names gathered on this Petition is the result of hearing conflicting stories and rumours here in Atlin. Consequently, we decided to find out the actual feeling of people by going to each person and talking and listening to them.

These are people who have lived here most of their lives, and some who have been here only a short time. They all realize that Atlin must have some progress.

We would like it known that we are not affiliated with any Group or Organization in Atlin.

Sincerely,

Richard Feldman

Original - N. Ringstad, Mine Review & Permitting Branch, Victoria
cc - T. Chandler, Redfern Resources Ltd., Richmond
- JI. Williams, Taku River Tlingets, First Nations, Atlin
- R. Wilton, A.P.C. Atlin

office copy

REDFERN RESOURCES LTD.,
205-10711 GAMBIE ST.,
RICHMOND, B.C.
V6X 3G5

WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residence in Atlin, B.C.
Norm Graham	Box 178 Atlin	10 years
Trent Lemke	Box 316 Atlin	5 years
Rob Graham	Box 179 Atlin	1 year
Skip Hule	Box 281 Atlin	15 years
Paulina Tit	Box 134 Atlin	7 years
SHANE BROCKMAN	Box 323 ATLIN	8 YEARS
Jack a son	Box 92 ATLIN	24 YEARS
Kevin Smith	Box 224 Atlin	20 yrs
Doak in	Box 43 ATLIN B.C.	4 yrs.
Joan Carlson	Box 56 Atlin B.C.	25 yrs.
Larry Ross	Box 105	7 yrs
Bill Veelink	Box 180	1 year
Joe Achermann	Box 251	20 yrs.
Dawn Murray	Box 298	1 yr
Jack Corlick	Box 68	30 yrs.
Larry Simpson	Box 302	13 yrs.
Barbara Adams	Box 302 Atlin B.C.	13 years
Terri Lynn Murray	Box 243	1 year.

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V6X 3G5

WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residence in Atlin, B.C.
Leslie G. Edman	Box 172	45 yrs
Tommy Whitney	Box 378	9 years.
Pauline	Box 232	37 years.
Aaron McKenzie	Box 70	25 years.
Maria Simpson	Box 3870WH	1 yr.
Pat	Box 3870WH	1 yr.
Paul White	G.O.	15 YR
Bob Fisher	Box 314 Atlin BC	15 YRS.
P. Fisher	Box 314 Atlin B.C.	12 1/2 yrs.
Hina Almeida	Box 293 Atlin BC	10 mo
Archie Kuhl	Box 239 ATLIN, B.C.	7 yrs
John M. Dick	Discovery Ave. Atlin B.C.	1 yr
Reg Shaw	Box 238	20 yrs
W. R. G. Krause	Box 28	34 yrs
Don Johnson	Box 527	3 yrs
Peter Burns	Box 84	
Leigh Davies	Box 242	ATlin BC 23 yrs 15 years
Tracy Howe	Box 25	15 years
Bob Anderson	Box 225	Atlin 12 year
	Rox 71	Atlin 20 yrs

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WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residency in Atlin, B.C.
Bonus Abel	Box 94	17
Trudie Bevinie	Box 84	22
Pete Whitney	Box 270	9
Dyphann	Box 118	16
Jerry Hutchinson	Box 231	18
Vanya Dumb	Atlin	16 1/2
Edith Braga	Atlin	17
John Reed	Atlin	28
Rob Strick	Atlin	20
Ron Bowden	Atlin	25
P. Peterson	Atlin	15
Lois Johnson	Atlin	16 yrs.
Kathy Taylor	Atlin	9 yrs.
W. J. [Signature]	Atlin	4 yrs.
George [Signature]	Atlin	16 yrs.
Donna [Signature]	Box 324 Atlin	22 yrs.

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WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residency in Atlin, B.C.
Randy Sands	Box 376	13 yrs
M. C. [unclear]	Box 241	4 yrs
[unclear]	Box 134	3 yrs
[unclear]	Box 134	6 yrs
[unclear]	Box 134	2 years
[unclear]	Box 18	23 years
[unclear]		20 years
Andre Poljanec	Box 28	6 years
Cindy Bates	Box 341	2 yrs
Heather Sneath	Box 145	13 yrs
[unclear]	Box 118	2 years
[unclear]	Box 258	date
Candy Williams	Box 260	14 yrs
Joni Hansen	Box 254	3 yrs
Donna LaFontaine		

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WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
 THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residence in Atlin, B.C.
Alfred Feltman	Box 227	21 years
Julie Mann	Box 37	3 years
L Johnson	Box 269	14 years
Karen Randall	Box 39	2 years
Gloria Fyffe	Box 95	23 years
Shane Fuller	Box 58	21 years
Charles DePoy	Box 261	10 years
Steve Silvester	Box 248	16 years
Greg Horn	Box 85	2 years
Sony Butel	Box 341	6 years
Chris Fry	Box 306	5 YEARS
L. Stevenson	Box 41	3 YRS.
Paul Woodhouse	Box 43	4 1/2 YRS
Alan Murray	Box 351	20 yrs.
Charles Berrill	Box 84	22.
Jean Anderson	Box 173	18 yrs.
Tracy Whitney	Box 127	22 yrs

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RICHMOND, B.C.
V6X 3G5

WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residence in Atlin, B.C.
Walt Hahung	Atlin BC	4 years
Pagey Lesien	Atlin BC	10 years
Joy Smith	Atlin B.C.	1 year
W.S. Anderson	Atlin B.C.	8 YEAR
Marcus Stew	Atlin B.C.	79 years
Oliver Odian	Atlin B.C.	53 years
Gail Hindbo	Atlin B.C.	12 years
Vickie DeVries	Atlin B.C.	1 year
Roberta & William	Atlin B.C.	16 years
Les A. Suddler	Atlin B.C.	4 years
Worobky & Kluduck	Atlin B.C.	10 years
William Riley	Atlin B.C.	8 years
Jeff Webb	Atlin B.C.	20 years
Roxann Smith	Atlin B.C.	20 years
Lalie Anderson	Atlin B.C.	27 years
O.R. Anderson	Atlin B.C.	28 years

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205-10711 CAMBIE ST.,
RICHMOND, B.C.
V6X 5G5

WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residency in Atlin, B.C.
Red Cowan	Box 225	13 years
Mary Cowan	Box 225	13 years
Paul Andrew	Box 225	16 years
Ellen Smallwood	Box 225	18 years.
H. Colwell	Box 108	26 years
Harold Smith	Box 114	60 years
L. Macbrin	Box 81	3 yrs.
Ways Sewell	Box 77	15 yrs.
Jeanette Hill	Box 77	15 yrs.
Vera Kirkwood	Box 125	32 yrs.
Irene Copman	Box 82	58 yrs.
Tom Anderson	Box 125	55 yrs.
J. Zorn	Box 293	10 yrs
Jan Orr	Box 38	25
Helena Kennedy	Box 11	22 yrs
Corrus Williams	Box 127	8 years.

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205-10711 CAMBIE ST.,
RICHMOND, B.C.
V6X 3G5

WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

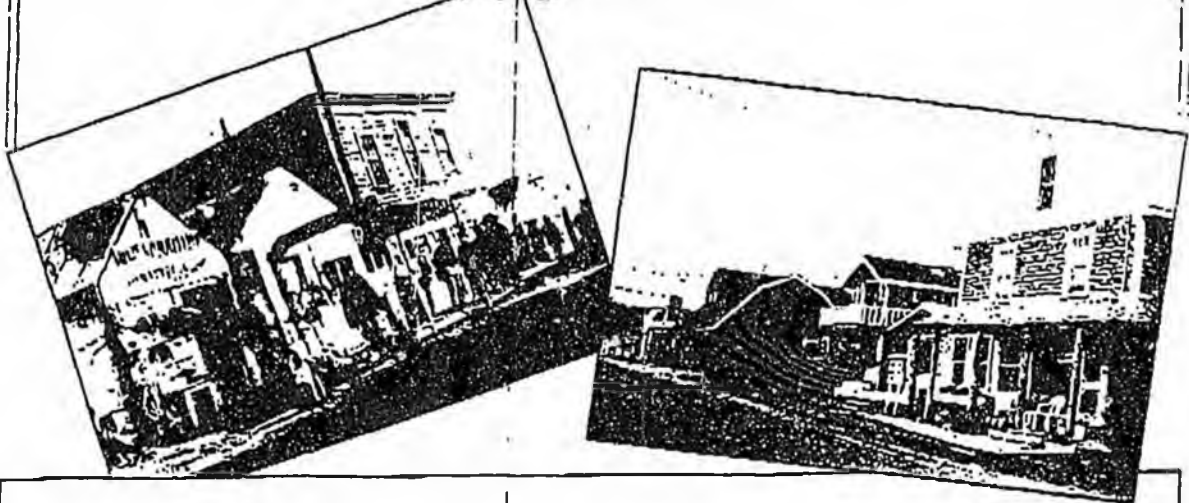
Name	Address	Length of Residency in Atlin, B.C.
Marge & Slim Laker	Box 193	18 yrs.
Neil H. Carter	Box 162	18 yrs.
Cathie Sardo	Box 316	13 yrs.
Carol Murphy	Box 57	20 yrs.
Pat Kennedy	Box 107	8 yrs.
JWR Smith	Box 9	24 yrs.
Maidyn Jack	Box 323	16 yrs.
Ray Ward	Box 172	49
Leah Nelson	Box 172	22
Ry Trudeau	Box 3	16 yrs.
Jimmy Carlock	Box 151	59
W. C. Stude	Box 371	10 yrs.
Victoria Trudeau	Box 3	15 yrs.
Judy Whitney	Box 270	9 yrs.
Phil Whitney	Box 270	9 yrs.
Fred Jenkins	Box 92	7 yrs.
Shirley McKenzie	Box 70	25 years.
Haley Styer	Box 178	10 yrs.

REDFERN RESOURCES LTD.,
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V6X 3G5

WE THE UNDERSIGNED, WANT IT TO BE KNOWN BY ALL PARTIES INVOLVED,
THAT WE ARE IN FAVOUR OF REDFERN'S PROPOSED ROAD PROJECT.

Name	Address	Length of Residency in Atlin, B.C.
LARRY PRINCE	P.O. Box 126 Atlin	8 yrs
GARY MCNEIL	PO Box 278 Atlin	7 yrs
Shirley McNeil	P.O. Box 228 Atlin B.C.	7 yrs.
David McNeil	P.O. Box 243 Atlin B.C.	1 yr.
Theresa McNeil	Box 243 Atlin B.C.	1 yr.
Carol Goodwin	Box 72, Atlin B.C.	28 yrs.
Terrie Wess	" " " "	18 "
J.A. Montoya	Box 40 Atlin	18 "

We Live Here... We Care



*"Atlin is no different than any other community
when change takes a priority in our lives. There is division
from independent."*

CARES - Concerned Atlin Residents for Economic Sustainability

Booklet produced with \$ donations
in 1996/97 in response to ~~current~~
un-factual productions produced by
BC Wild and other environmental groups.

- To "give Atlin residents and TRTFN
members who support the project
a voice on the issues."



Vera Kirkwood.
Long-time Atlin Resident

Who is CARES ?

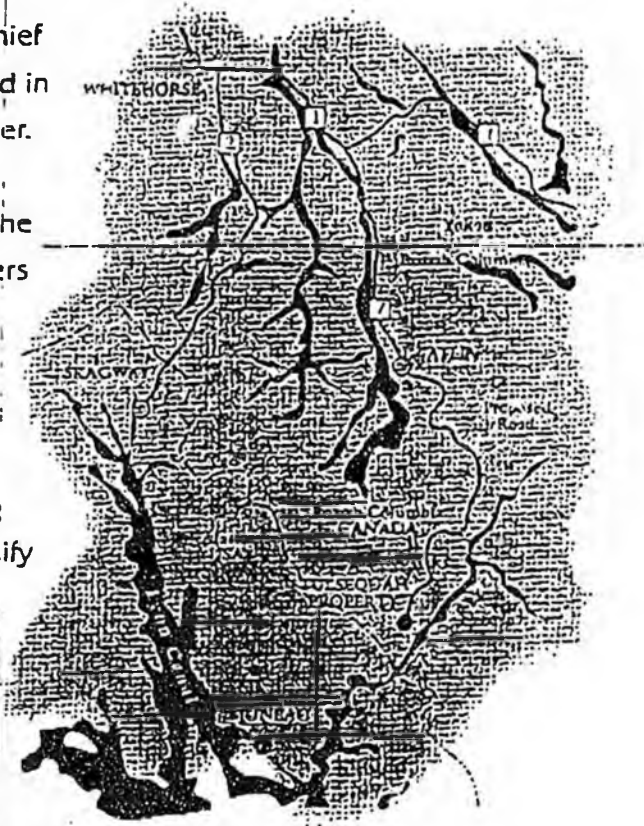
CARES is a group of local residents from the community of Atlin who have formed an association to encourage community planning and sustainable economic development. **CARES** supports Redfern Resources Ltd.'s proposal to reopen the Tulsequah Chief Mine in north western B.C.

This mine is located south of Atlin on the Tulsequah River. It was formerly operated by Cominco in the 1950's and is now 100% owned by Redfern. Redfern's proposal is currently undergoing public review through B.C.'s Environmental Assessment Process.

"We formed CARES because we believe that local concerns and opinions must be of primary importance when deciding development issues. We felt helpless because we were not being heard over the noise from the large well-financed, special interest groups from outside of our community. We also believe that a wise, informed and balanced approach is the only way of ensuring the health of our community."

CARES was formed as a means of giving Atlin residents a stronger voice in this matter. Because we are a small remote community with no municipal government, many residents were concerned that their opinions and input are over-shadowed by the predominantly outside, well-financed lobby groups who oppose this project. **CARES** members represent a broad spectrum of the Atlin community, including both First Nation and non-native members.

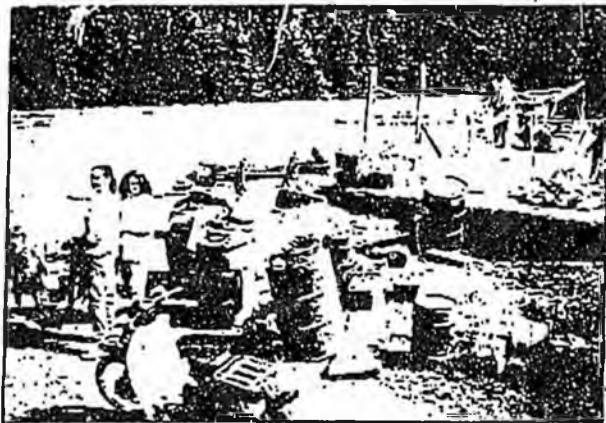
CARES believes that the Tulsequah Chief Mine will be constructed and operated in an environmentally responsible manner. We are committed to working with Redfern, the provincial government, the Taku River Tlingit First Nation and others in our community to ensure that any concerns are dealt with adequately. We also believe that, by participating fully in the mine development process, Atlin will enjoy substantial economic benefits that will help diversify our economy, provide us with real opportunities and contribute to the sustainable economic future of our community.



Map of Atlin and Region

A Diverse History

The Taku River watershed and the Atlin area is a region of spectacular scenery. It has been the home of the Taku River Tlingit First Nation (TRTFN) for thousands of years. The Taku River is an important salmon producing river and the area is home to grizzly, moose, mountain goats and eagles. The TRTFN continue to fish for



Fishing on the Taku River

salmon during the summer months and use the area for their traditional and cultural pursuits. Today, the TRTFN are in the process of negotiating a land claims treaty settlement with the provincial and federal governments.

While the Taku River Valley is spectacular, it is in no sense untouched. The area also supports big game outfitting, sports fishing, tourism, mineral exploration and previously, mining and logging.

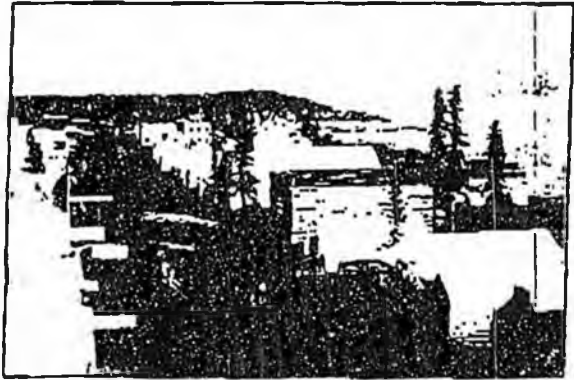
On the Alaskan side of the river, there is many summer homes used by residents of Juneau, the nearest community. The Taku Lodge caters to thousands of visitors per year. The Canadian portion of the river is dotted with cabins and small permanent communities. There are numerous airstrips, many of which were built for mining exploration, that presently, allow air transportation for the commercial fishers, river rafters, big game outfitters and prospectors. During the summer months, thousands of flights by helicopter and fixed wing aircraft as well as significant boat traffic make this area a beehive of activity. It is a beautiful area with healthy populations of wildlife, but is also well used by people.



The Polaris Taku townsite was established in the 1930's to service the Polaris Taku Mine. This prosperous community of several hundred people consisted of a post office, bowling alley, doctor and many other services. The Polaris Taku is located across the Tulsequah River and downstream from the Tulsequah Chief Mine.

The community of Atlin was established during the Klondike Gold Rush in 1898 when gold seekers, on their way to Dawson City, were diverted to the region after

news of a strike on Pine Creek. Like Dawson, the Atlin area rapidly grew to a bustling gold rush community with a population of over 10,000 people. Population decreased over the next few decades until a road was built in 1949 linking Atlin to the Alaska Highway. Easier access for larger equipment allowed placer gold mining to continue as a viable industry. It also encouraged diversification of the economy into other sectors.



Atlin at the height of the gold rush

Today, placer gold mining continues to be of vital importance to our community. It is the largest and most significant employer in Atlin's seasonal economy. Mineral exploration is another sector which makes a substantial economic contribution to our community. Tourism is also becoming increasingly important. Stunning wilderness, clean lakes, abundant wildlife and a romantic gold mining history attract people from around the world to visit our area. Atlin also enjoys a thriving artistic community, small family-run forestry operations and an expanding service sector.



Atlin today

CARES believes that a diverse community that allows people with different interests, experiences and skills to find a place here is essential. In this way, Atlin will be prepared to deal with uncertainties experienced in all sectors of the economy from time to time. We cannot depend on any one industry, whether it be tourism or resource industries, if we are to have a sustainable future. Mining has been historically and will continue to be in the future a fundamental part of our community.

The Tulsequah Chief Mine

The Tulsequah Chief deposit contains zinc, copper, lead, gold and silver. It is located on the Tulsequah River 14 km. upstream from its confluence with the Taku River. It is an underground mine and uses much less land than an open pit mine. Mine personnel will be flown from Atlin, Whitehorse and Smithers, eliminating the need for a townsite and the consequent surface disturbance that would entail. In other words, the mine site will occupy an extremely small portion of the Taku Valley watershed and should not affect other users in the area. In fact, it will occupy only 120 hectares of the 1.5 million hectare Taku watershed or .008% of the total land area.




*The Historic Tulsequah Chief Mine Site
The Tulsequah Chief Deposit was mined by
Cominco in the 1950's*

How long Will the Tulsequah Chief Mine Operate?

Redfern has defined a reserve of 7.9 million tonnes which will allow a 9 year mine life, at an annual rate of production of 900,000 tonnes. As Redfern has not yet found the limits to the deposit, the mine life maybe extended - perhaps significantly. Comparisons with similar deposits mined elsewhere indicate that the mine could be operating for 25 years or more. In fact, a doubling or tripling of the initial reserve and mine life is the norm in the Canadian mining experience; not the exception.


Redfern has spent over 3 years completing a very comprehensive project report. Studies undertaken include wildlife, habitat, fisheries, hydrology, water and air quality, geotechnical, socioeconomic, cultural, and many other studies too numerous to list.

CARES believes that the company has developed a sound proposal that will have minimal environmental impacts either at the site or down river. During operation, Redfern proposes to segregate all acid generating waste rock and mine tailings, mix them with cement and return them underground to backfill the mined out slopes. Cement contains limestone and will help neutralize the acidity of these deposits. On mine closure the mine will be flooded and the portal sealed off. This innovative procedure will ensure a permanent solution to acid rock drainage from the tailings. The historical mine waste rock from previous workings in the 1950's will be treated in the same fashion. The non-acid generating mine tailings will be mixed with limestone to ensure its permanent neutrality and will be stored in the tailings enclosure. At mine closure, it will be contoured, revegetated and returned to a natural state. Redfern will post a reclamation bond prior to construction to guarantee that effective reclamation of the mine-site occurs.



All used mine water will be treated in a water treatment plant to ensure that it meets stringent provincial water quality standards prior to discharge into the Tulsequah River. An independent lab conducted bio-assays in which rainbow trout and fresh water shrimp were immersed in the treated water for 96 hours. The tests had a 100% survival rate. This was without consideration for the dilution that would occur in real life. Sewage will also be fully treated before discharge. Daily monitoring & testing will occur to ensure that all standards are met.

CARES understands that the regulations that govern the mining industry today are very different from what they were many years ago. With the stringent standards that now exist, coupled with new and innovative technology, the Tulsequah Chief Mine will have only minimal environmental impacts. In fact, it will have a net benefit by cleaning up the acid rock generation from the previous mine workings and permanently encasing them underground.





Access Road Route & Mine Site

The Access Road

CARES supports Redfern's proposal to construct a 160 km single lane gravel road from the mine site to Atlin. This road has been engineered and will be constructed following stringent government regulations under a Special Use Permit. For example, extreme care will be taken at all stream crossings to ensure that fisheries values are not jeopardized. Route changes have been made after consultation with residents and Taku River Tlingit members. We believe that those of us who have lived in the region for a long time have a fundamental knowledge of it. We are encouraged that Redfern agrees with this.

CARES also supports the company's plan to limit non-company use of the road only to legitimate tenure holders already in the area (eg. trappers, guide outfitters, placer miners, fishers and the TRTFN). A manned gate will be located south of already roaded area. The road will be patrolled to ensure the integrity of this limited access management plan. The company's policies include a firearms ban along the road corridor to ensure that wildlife in the area is not impacted.

What will happen to Highway 7?

The Atlin to Jakes Corner road must be upgraded to accommodate mine traffic. **CARES** believes that a better road will also be of great benefit to the whole community. Previous upgrades promised by government, were cancelled due to budget cuts. The increase in government revenue from this project will more than compensate for the necessary upgrades.

The access road proposal has generated much controversy. Some argue that, once the road is constructed, people will ignore the limited access arrangements and hunt along the corridor. Others argue the government will open up this area to large logging companies for commercial harvest.



Wildlife on Atlin-Road

Leading wildlife biologists agree that wildlife will adapt to resource roads provided they are not hunted.

CARES shares these concerns. **CARES** believes that with meaningful First Nation and local involvement in the access management plan we can control the road's use. The Forest Practices Code also has extensive requirements for First Nation and public consultation regarding any forestry issues. These concerns are ones of human use and can be dealt with if there is a commitment to do so. **CARES** believes that it makes no sense to oppose the mine based on fears of forestry or other land use concerns when public processes to address these concerns are already in place. We must balance all land use decisions with the need to protect wildlife and the environment and use our resources wisely.

"I have worked in road construction, hunting and mining camps including Tulsequah for about 20 years off and on. It's been my experience that wildlife are curious by nature and they will remain in the area if they are not threatened by predators. People destroy wildlife, not mines and with a no hunting ban in place, the animals will be protected."



*Richard Feldman
Long-Time Atlin Resident*

The Tulsequah Chief Mine and the Taku River Tlingit First Nation

CARES understands that Redfern is pursuing talks with the TRTFN concerning a potential Impacts and Benefits agreement. A comprehensive agreement with the TRTFN would benefit the whole community by ensuring that local opportunities are maximized. The TRTFN is an integral part of the Atlin community. Anything that benefits the First Nation will inevitably benefit the community as a whole. Furthermore, an extensive agreement will allow considerable TRTFN involvement in management and monitoring of the Tulsequah Chief Mine project and access road.

CARES believes that this level of local involvement will produce a better project in which we can all benefit while promoting proper resource use.

Today, First Nations participate extensively in the resource activities that take place within their traditional territory. This participation is usually embodied in an Impacts and Benefits Agreement with the proponent of the project.

Fundamentally, these agreements are partnerships between the First Nation and the proponent to ensure that First Nation needs and concerns are addressed.

These agreements address concerns over the proper use of resources, through First Nation participation in such things as environmental compliance committees, access management boards, joint management committees and any special arrangements deemed necessary to ensure that the land is adequately protected. First Nations are extensively involved in all aspects of the development from construction, through operations to reclamation and closure.

At the same time, these agreements include provisions for preferential hiring and contracting of First Nation members and businesses. They usually include training and scholarship arrangements as well as business development provisions to ensure that First Nations are in a position to fully take advantage of the opportunities presented by development proposals.