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SENATE RESOURCES

## DENALI NATIONAL PARK AND PRESERVE

## Temporary Regulation Information: Recreational Snowmachine Use in the Former Mt. McKinley National Park Portion of Denali National Park and Preserve

November 1998

Public Meetings

### *What will this temporary regulation do?*



This temporary regulation will preserve the existing pattern of winter use in Denali National Park and Preserve while the National Park Service develops a backcountry management plan. The 12-month temporary regulation will clarify that recreational snowmachine use is not allowed in the former Mt. McKinley portion of Denali

National Park and Preserve, which is approximately 1/3 of the park. Snowmachine use for traditional activities will continue to be allowed, subject to reasonable regulations, in the other 2/3 of the park that was added by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

Send us your comments by December 1, 1998:

• Write us at:  
Superintendent's Office  
Denali National Park and Preserve  
P.O. Box 9  
Denali Park, AK  
99755

• Email us at:  
denalisnowmachl-  
necomments@nps.  
gov

### *Why is a temporary regulation needed now?*

The possibility of extensive snowmachine use in the former Mt. McKinley National Park portion of Denali National Park and Preserve represents a new level of use and a major departure from the established management policies of the area. The National Park Service (NPS) is required by the National Environmental Policy Act (NEPA) to evaluate any new uses that could have significant environmental impacts and any highly controversial actions before allowing them to occur. The last five years of technological advances in equipment and increased popularity of recreational snowmachine

use has clearly demonstrated that this activity will continue to increase rapidly. The potential for rapid change as snowmachine use moves into new areas and becomes increasingly common, coupled with uncertainty about the impacts that will result, places internationally significant resources at risk. Since the level of risk is uncertain and the consequences of error could be extremely high, resources of high value such as the core area of Denali should not be exposed to that risk. A temporary closure provides the time to plan and accurately evaluate impacts as required by law.

## *What will happen in the future?*



During the next 2-3 years, Denali National Park will work on a backcountry management plan and general management plan amendment to address snowmachine use and many other issues. An interim regulation on snowmachine use may be initiated after the temporary regulations to maintain existing winter use patterns until the backcountry management plan is complete. The backcountry management plan will include an environmental impact statement in compliance with the National Environmental Policy Act and continuing op-

portunities for public comment. Management options such as zoning for different uses and creating designated, maintained trails will be considered in this process. The NPS believes that many opportunities for economic development of snowmachine-related winter tourism exist in other areas of Denali and throughout the state. Denali National Park staff will continue gathering and analyzing data on snowmachine use during the next several winters.

## *What area will be closed and what will remain open?*

The temporary action applies to only about one-third of Denali National Park and Preserve, the original Mount McKinley National Park, most of which was designated as the Denali Wilderness by ANILCA. The remaining two-thirds of the park and preserve – some 4 million acres – remains open to snowmachine use when there is adequate snow cover for traditional activi-

ties. Snowmachine riding on the south side of the range near the Yentna, Kahiltna, and Ruth Glaciers is unchanged, as is riding in the Dunkle Hills and areas southwest of the West Fork of the Chulitna River. The Stampede Corridor and northern tier of the park in the ANILCA additions remain open.

## *How much other public land is open to recreational snowmachine use in Alaska?*



Millions of acres of multiple use lands of similar geographic character and accessibility are available as alternative recreation sites in south-central and interior Alaska. According to Alaska State Parks figures, over 95% of south central Alaska public lands are open to recreational snowmachine use. Of the

87.7 million acres in Alaska under Bureau of Land Management jurisdiction, only 16,281 acres are closed to snowmachine use. Of the 2,598,920 acres of legislatively designated lands managed by the Alaska Division of Lands, 99% are open to snowmachine use.

## *Didn't ANILCA open the former Mt. McKinley to Snowmachine use?*

In a Conservation System Unit such as the Denali Wilderness, ANILCA provides for:

*"...the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers),...for traditional activities (where such activities are permitted by the Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system*

*units... and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area."*

The legislative history of ANILCA lists several examples of traditional activities: "subsistence and sport hunting, fishing and berry picking, and travel between villages." It also states that the traditional activity must also have been generally occurring in the CSU before its designation by ANILCA in 1980.



## *Did recreational use of snowmachines by the general public ever occur in this area prior to ANILCA?*

The legal use of mechanized equipment for winter recreation by the general public never occurred in the core 2 million acres of Denali National Park and Preserve from 1917 to 1980. In fact, this portion of the park (former Mt McKinley National Park) was specifically closed to public recreational

snowmachine use by a nationwide regulation in 1972. This closure was in direct response to the increasing use of snowmachines and a growing concern from the public about their impacts to the resources and other values of park areas.

## *How has the NPS managed snowmachine use in this area since ANILCA?*

The historic focus on non-motorized use has continued. Since passage of ANILCA in 1980, the NPS managed this core area for non-motorized winter recreation such as dog mushing, snowshoeing, and cross-country skiing. Three dog sled tour businesses now use the park area and their services depend on the wilderness resources of the area such as solitude and natural quiet. The NPS has continued to prohibit recrea-

tional snowmachine use in the core area of Denali, and park staff have continued to patrol boundaries. Information on the location of park boundaries has been provided to snowmachine users, boundary signs have been placed at likely access points, and signs informing the public of the continued closure have been erected and maintained.



### *How much recreational snowmachine use has occurred in this area since ANILCA?*

Unauthorized snowmachine use of the former Mt. McKinley National Park area was extremely infrequent and occurred near the boundaries. Only very recently has the growing popularity of recreational snow-

machine use on adjacent lands begun to expand into this core area, requiring clearer regulations to prevent harm to resources and other values of the area.

### *How often does the NPS use snowmachines in this area?*

The NPS experimented with new mechanized transport technology that became available in the 1950s and 1960s for administrative purposes. By the mid 1970s, the NPS determined that these new forms of technology were both ineffective and inappropriate for use in Mt. McKinley National Park. Park managers returned to relying on dog teams for winter patrols in the park. This commitment to retain the

non-motorized tradition of the area continues today with park dog teams traveling hundreds of miles each winter to patrol and maintain facilities. In recent years, snowmachines have only been used in emergency rescue operations such as the death last year of a recreational snowmachiner who was caught in an avalanche at over 6,000 feet on a steep mountain-side.

### *How much is known about the impacts of snowmachine use on the environment?*

Studies conducted elsewhere indicate that snowmachine use can harm resource values critical to Denali, especially in the former Mt. McKinley National Park area. Snowmachine use is known to cause a variety of animals to alter activity patterns or in some cases avoid areas altogether. Snowmachine use occurs during the time of year when food supplies are low and an animal's ability to conserve energy may be critical to survival. Other studies indicate that packed trails created by snowmachines change the distribution of animals. Changes in animal populations can occur due to alterations in natural survival rates from increased movements outside of protected areas, improved access for predators, or altered access to food resources.

These changes in the core area of Denali could result in altering the summer viewing opportunities enjoyed by about 300,000 park visitors each year. Snowmachine use causes direct damage to

vegetation and soils during periods of inadequate snow cover, and other studies have documented indirect damage from compacted trails created by snowmachines. Visible evidence of regularly used winter trails can appear in the summer months. Observations in areas adjacent to Denali National Park and Preserve confirm that these impacts can occur. The impact of snowmachine use on the values of solitude and natural quiet is one of the most significant concerns. Motorized activities displace many non-motorized users who depend upon these protected areas. A major unknown factor is the long-term, cumulative impact of snowmachine use, especially from widespread, crosscountry travel. Additional studies are needed to adequately evaluate this region, and the temporary regulation will provide time to initiate these studies and begin the planning process required by law.



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INTERNET AT:

DENALISNOWMACHINECOMMENTS@NPS.GOV

(3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established pursuant to law;

(4) requirements, including the minimum necessary width, designed to control or prevent—

(A) damage to the environment (including damage to fish and wildlife habitat),

(B) damage to public or private property, and

(C) hazards to public health and safety;

(5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and

(6) requirements to employ measures to avoid or minimize adverse environmental, social or economic impacts.

(b) **WILD AND SCENIC RIVERS SYSTEM.**—Any transportation or utility system approved pursuant to this title which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

(c) **PIPELINE RIGHTS-OF-WAYS.**—In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a right-of-way issued pursuant to this title shall be issued in the same manner as a right-of-way is granted under section 28, and the provisions of subsections (c) through (j), (l) through (q), and (u) through (y) of such section 28 shall apply to rights-of-way issued pursuant to this title.

#### STUDY OF TRANSPORTATION AND UTILITY SYSTEMS

SEC. 1108. Except for systems which do not require an environmental impact statement, no application shall be approved pursuant to this title after two years from the date of enactment of this provision unless the need for such system has been identified in a study of the regional requirements for transportation and utility systems which—

(1) has been conducted by the State in consultation with the Secretaries of Transportation, the Interior, and Agriculture and the Alaska Land Use Council;

(2) is updated in a similar manner no less than every five years; and

(3) includes the considerations set forth in section 1104(f)(1)(B) through (I).

#### EXPEDITED JUDICIAL REVIEW

SEC. 1109. (a) It is the intent of Congress that any judicial review of any administrative actions, including compliance with the National Environmental Policy Act of 1969, pursuant to this title shall be expedited to the maximum extent possible.

(b) Any proceeding before a federal court in which an administrative action, including compliance with the National Environmental Policy Act of 1969, pursuant to this title is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c) No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.

#### SPECIAL ACCESS AND ACCESS TO INHOLDINGS

SEC. 1110. (a) Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natu-

ral and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this act or other law.

(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

#### TEMPORARY ACCESS

SEC. 1111. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.

(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

#### NORTH SLOPE HAUL ROAD

SEC. 1112. (a) IN GENERAL.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access, impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) RELEASE.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) APPLICATION OF SECTION.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

#### VALID EXISTING RIGHTS

SEC. 1113. Nothing in this title shall be construed to adversely affect any valid existing right of access.



## ANCHORAGE SNOWMOBILE CLUB

Dear Snowmobiler,

As a user group of the Alaskan outdoors and a proponent of the Alaskan way of life, I am sure you are aware of the National Park's Service's recent attempt to close the Old Denali Park to snowmobilers.

Park Superintendent Steve Martin has initiated this closure without following due process of the law. No findings of environmental damage have been made available to the public, nor has any of the required studies been conducted. Congressman Don Young wrote a strong letter to Don Barry, Assistant Secretary of Fish, Wildlife and Parks, Department of Interior, requesting this ban be lifted as Martin did not follow due process of the law.

What started out as a snowmobile issue has escalated into an interpretation and manipulation of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980. Snowmobilers were merely dealt the first blow. If the National Parks Service is allowed to interpret and manipulate ANILCA without following due process of the law ANILCA's intent and purposes will be undermined. Alaskans will find rights granted under ANILCA severely eroded.

ASSA has employed the services of Bill Horn of Birch, Horton, Bittner and Cherot. Bill Horn was involved with the drafting of ANILCA and has a unique insight into the legal ramifications of the document. Per ASSA's request, he drafted a six page letter to Don Barry. To date, no reply has been forthcoming to either the ASSA, Congressman Young or Bill Horn.

The ASSA has made it clear since 1997 it is willing to accept closures of certain areas as long as ANILCA is not stepped on. Only a portion of the Park has been requested for riding purposes.

The Alaska State Snowmobile Association is asking your support as we continue to pursue this legal battle with the National Parks Service. A Denali Access Defense Fund has been created to finance this endeavor. Remember, Denali is not the only area in Alaska to fall under ANILCA. This action will set a precedence to be followed.

Equally important is writing or emailing your legislature, the National Parks Service, Congressman Don Young and Senators Stevens and Murkowski. It is imperative they realize that Alaskans understand the purpose of the ANILCA document.

For more information, addresses or telephone numbers, call the ASSA hotline at 1-888-825-7669. Your call will be returned. Thank you very much for your time and consideration.

Sincerely,

Michele T. Trainor  
President, ASSA



P.O. BOX 210427 ANCHORAGE, AK 99521-0427

27 January 1999

Governor Tony Knowles  
Office of the Governor  
PO Box 11001  
Juneau, AK 99811

Dear Governor Knowles:

Although I have not yet received a response from you concerning this matter, I'm sure you are aware of the National Park Service's move to prohibit snowmobiles in the wilderness zone of Denali National Park and Preserve. Even though use of snowmobiles is guaranteed under section 1110a of ANILCA, Steve Martin, Park Superintendent, is intent on closing what he terms the "old park" to snowmobiling. While this proposed closure currently affects only snowmobilers, Martin's disregard for the specific provisions of ANILCA raises concern among more than just Alaskans who snowmobile. Our position has always been one of cooperation and compromise from our first meeting with Martin in 1997. We even suggested some areas to be left closed. Superintendent Martin chose to ignore us and continues to this day.

Congressman Don Young's letter to Don Barry, Assistant Secretary of Fish & Wildlife, is evidence of the importance of this issue to Alaskans. Additionally, we expect the legislature to oppose the closure, along with numerous other outdoor groups, in state and out of state. Also, the Alaska State Snowmobile Association has retained Bill Horn, of Birch, Horton, Bittner and Cherot to represent us in this matter. Since Bill Horn was involved with the drafting and implementation of ANILCA he has a unique insight into and understanding of the document. Mr. Horn is anxious to assist in any way possible, including a cooperative effort with the Attorney General's office.

While this may at first glance seem to be a "federal" matter best handled as such, the National Park Service disregard for ANILCA, a document drafted specifically to protect the rights of Alaskans, demands a response from our state at the highest level. What started out as a snowmobile issue has now escalated into Alaska's struggle to preserve the original intent and purpose of ANILCA.

The Alaska State Snowmobile Association has two requests. We ask that the Office of the Governor issue a statement opposing the closure of the wilderness zone of Denali National Park and Preserve to snowmobile use, with an appeal to the NPS to work with us. Such a statement will insure the National Park Service realizes ANILCA is a document not subject to interpretation. Second, we request you have the Attorney General's office contact us or Bill Horn to see if there is anything they can do to assist us in our struggle. How this matter is resolved will affect future closure actions for all lands falling under ANILCA guidelines. Let us make sure ANILCA stands as written and does what it was designed to do.

Thank you for your time and consideration.

Michele T. Trainor  
President, Alaska State Snowmobile Association

## NOTICE OF PUBLIC HEARINGS



Since 1917, the core of Denali National Park has been closed to motorized uses, including snowmachines. This core area is a key place in interior and northern Alaska where wildlife protection has been assured through minimal summer or winter disturbance to wildlife and habitat. This area is essential to the experience of more than a quarter-million visitors who travel into the park's interior each season.

The current rules are inadequate to legally maintain this 81-year tradition. Therefore, public hearings will be held on a proposed regulation to close the pre-ANILCA portion of Denali National Park and Preserve to snowmachine use. This leaves about two-thirds of the 6-million acre park and preserve open to snowmachine use during adequate snow cover. The 1980 additions to the park, such as the areas near the Tokositna, Ruth and Yentna Glaciers, remain open.

The hearings will inform the public of the nature and extent of the closures, gather information on concerns of effects on park resources, and collect information on any traditional snowmachine activity that occurred before 1980 in the area of the closure.

Maintaining the status quo for the wilderness core of Denali is an important action to prevent any deterioration in wildlife habitat and use patterns, and to maintain the traditional non-motorized visitor use area. This closure is in accordance with the provisions of Title 36 Code of Federal Regulations (CFR), Section 13.30 and 43 CFR 36.11(h). This closure will begin December 1, 1998 and will be in effect for one year.

### HEARING LOCATIONS:

- **Sunday, November 22, from 5:30 p.m. to 7:30 p.m. In the East Gold Room of the Westmark Hotel, 813 Noble St., Fairbanks**
- **Monday, November 23, from 6 p.m. to 8 p.m. In the McKinley Village Community Center, Mile 230 Parks Highway**
- **Tuesday, November 24, from 6 p.m. to 8 p.m. In the Library of the Susitna-Valley High School, Mile 98.6 Parks Highway**
- **Wednesday, November 25, from 5:30 p.m. to 7:30 p.m. In Space 1 of the Egan Convention and Civic Center, 555 West Fifth Avenue, Anchorage**

1 of 2

November 10, 1998

**CONTACT:** Jane Tranel

**FOR IMMEDIATE RELEASE**

**Public Information Office: (907) 683-9583**

## **Snowmachine Proposal Extends Riding Prohibition in Wilderness Core of Denali National Park**

The National Park Service is establishing temporary regulations to maintain the closure of a portion of Denali National Park and Preserve to snowmachine use this winter.

This continued closure of the two million acres that formed the pre-Alaska National Interest Lands Conservation Act of 1980 (ANILCA) portion of Mount McKinley National Park will be effective for one year while the National Park Service gathers additional information on potential impacts of snowmachine use and begins work on a backcountry management plan. Public hearings on the temporary regulations will be held in Fairbanks, the Healy-Cantwell area, the Talkctna/Trapper Creek area, and Anchorage during the week of November 22, 1998. The National Park Service intends to introduce additional regulations in early 1999 to allow completion of planning in 2001.

The temporary action applies to about one-third of Denali National Park and Preserve. The original Mount McKinley National Park, most of which was designated as wilderness ANILCA, has never been open to snowmachine. The remaining two-thirds of the park and preserve – some 4 million acres – remains open to snowmachine use when there is adequate snow cover for traditional activities. Snowmachine riding on the south side of the range near the Yentna, Kahiltna, and Ruth Glaciers is unchanged, as is riding in the Dunkle Township and areas southwest of the West Fork of the Chulitna River. The Stampede Corridor and northern tier of the park in the ANILCA additions remain open.

"We're taking the proposed action to protect park resources and values such as wildlife habitat, natural vegetation, wilderness recreation, and traditional recreational uses in this area. Recreational snowmachine use outside the core of Denali National Park and Preserve is increasing rapidly, and this use is expanding into some pre-ANILCA park areas such as the south side of the Alaska Range near the Parks Highway at Broad Pass," said Superintendent Steve Martin. "The existing closure established under the 1986 General Management Plan needs to be clarified to the public," he said.

While traditional snowmachine use in the park additions and the preserve was provided for in the 1980 law, it was not allowed in the former Mount McKinley National Park. "We believe the potential for entirely new levels and locations of use is an unacceptable risk for an internationally significant resource. No public input, planning, resource studies, or National Environmental Policy Act compliance supports this use of snow machines in the pre-ANILCA areas of the park," Martin said.

ANILCA provides that snowmachine use for traditional activities will continue to be allowed in the

2 of 2

park additions, subject to reasonable regulation. Denali National Park is beginning work on a backcountry management plan and general management plan amendment to address this and many other issues. The plan will include a management strategy for snowmachine use and an environmental impact statement in compliance with the National Environmental Policy Act.

The proposed temporary regulation will allow time for the necessary planning, information gathering, and public input. Regulations can be amended after the plan is completed in two to three years.

The National Park Service does not believe any traditional activities provided for ANILCA will be affected by the proposed action. Any current use in the closed area is very recent or of a type that does not reflect the traditional uses protected by the 1980 law. Recreational use of snowmachines in the former Mount McKinley National Park was neither customary or traditional, and was, in fact, prohibited by regulation.

The proposed regulation applies only to the one-third of Denali National Park and Preserve which has a unique history relative to snowmachine use. The National Park Service believes other adequate opportunities for economic development of snowmachine-related winter tourism exist.

Public hearings have been scheduled to provide information on the temporary closure and to solicit comments and ideas from the public to ensure that all information has been considered.

#### **Date Time Location**

November 22, 1998 5:30-7:30 p.m. Westmark Hotel, 10th and Noble Streets, Fairbanks

November 23, 1998 6-8 p.m. McKinley Village Community Center, Mile 230 Parks Highway

November 24, 1998 6-8 p.m. Susitna Valley High School Mile 99 Parks Highway

November 25, 1998 5:30-7:30 p.m. Egan Center, Anchorage

Comments will also be accepted by mail, and further information is available, by writing to Steven P. Martin, Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali Park, Alaska 99755. Telephone (907) 683-2294.

- END -



IN REPLY REFER TO

## United States Department of the Interior

NATIONAL PARK SERVICE  
Denali National Park and Preserve  
Post Office Box 9  
Denali Park, Alaska 99756

By Stephen P. Martin  
Superintendent, Denali National Park and Preserve

In the heart of Denali, on lands designated by Congress in 1917 as Mount McKinley National park, a special relationship has developed between people and the natural environment. This core area is a key place in Interior and Northern Alaska where wildlife and habitat have been protected through minimal summer or winter disturbance. This area is essential to the experience of more than a quarter-million visitors who travel into the park's interior each season. The wildlife and scenery, the rugged and essentially untrammelled wilderness are key ingredients to the region's economic success; a wild Denali is the icon for Alaska.

Since 1917, the National Park Service has managed this core area of Denali (about one-third of the total park and preserve) for non-motorized winter recreation such as dog mushing, snowshoeing and cross-country skiing. The area was closed to snowmachine use prior to the 1980 Lands Act and continues to be closed by the park's General Management Plan. The 1930 law provided for use by snowmachines in Denali for traditional activities only where such use was generally occurring at the time. This use is to be regulated to insure it does not conflict with the natural and other values of the park.

The core of Denali contains important wintering ground for moose, sheep, wolves and caribou and is denning habitat for wolves and bears. Research has shown unregulated snowmobile use could change the distribution of wildlife and other natural and aesthetic park values. Snowmachine use in the core area would end the quiet and solitude that dog mushers, cross-country skiers and other non-motorized users have long enjoyed.

Maintaining the status quo is the primary reason the Park Service has continued the long-time closure of the old park to snowmachine use. We've started a plan to establish reasonable regulations for snowmachine use in the portions of the park and preserve added by ANILCA and will review the long-standing closure of the original park. Until this plan is complete, continuing the closure of snowmachine use in the heart of Denali and maintaining the existing motor vehicle limits on the park road are essential to protect outstanding visitor experiences and natural systems in the park. Public involvement in decision making is an integral part of managing Denali. Allowing snowmachines in the

core of the park without meeting our public involvement and environmental review responsibilities would be a breach of the public trust.

The status quo allows continued snowmachine use in the other 66 percent of Denali (about 4 million acres) during periods of adequate snow cover. Riding on the south side of the Alaska Range near the Yentna, Kahiltna, and Ruth Glaciers is unchanged, as is riding in the Dunkle Township and areas southwest of the West Fork of the Chuitna River. The Stampede Corridor and the northern tier of the park in the ANILCA additions remain open. Other park areas are unaffected by this month's action.

Keeping an 81-year-old tradition in place still could become a nasty fight. But we're hopeful the Park Service, the snowmobile community, non-motorized interests and all park users can map out a path of mutual benefit. Consider a few possibilities:

- The 1996 development plan for Denali's South Side calls for trails and cabins. Can we join with State Parks, residents and the visitor industry to get these facilities built for year-round use?
- Snowmachine use can develop as a significant draw for winter tourism. The Lower 48 lesson is that riders seek a variety of experiences, from groomed trails to unmarked country. Alaska is big enough to offer all options. Snowmachine use in Denali needs to be linked to a winter park visit and done in a manner that protects resources and provides balanced opportunities. Can the snowmachine community, landowners and Park Service advance a plan that includes groomed trails, shelters, and parking, helps grow a year-round economy, and protects unique park values?
- Alaskans and our visitors are an untapped market for packages that offer snowmachine and cross country ski vacations. Can the snowmachine community and the Park Service work with businesses to promote a mix of skiing or dog mushing in the heart of Alaska's oldest wilderness and snowmachining outside the core of Denali?

We think these are exciting possibilities and hope you choose to join in an effort that looks after not only the heart of Denali National Park but the future of winter recreation across interior Alaska.



IN REPLY REFER TO

## United States Department of the Interior

NATIONAL PARK SERVICE  
Denali National Park and Preserve  
Post Office Box 9  
Denali Park, Alaska 99755

### Briefing Statement

November 9, 1998

Region/Office: Alaska Region/Denali National Park and Preserve

Project/Issue: Snowmachine Use - Temporary Closure of Pre-ANILCA (Alaska National Interest Lands Conservation Act) Mt. McKinley National Park

- Denali National Park is establishing a temporary closure to the use of snowmachines in the pre-ANILCA (1980) portions of the park. This represents about 2.2 of the 6.2 million acres of park lands. The temporary closure is required to prevent snowmachine use in an area that has been administratively closed to mechanical winter access since 1917. A recent interpretation of ANILCA based regulations requires a specific regulatory action to continue to enforce this closure. This 12 month closure will be done according to 36 Code of Federal Regulations (CFR), Section 17.30, and 43 CFR 36.11(h). The temporary closure will give the NPS time to establish longer term regulations so that study, planning and compliance can take place on parkwide snowmachine use. This will be done through the currently funded GMP amendments and is anticipated to take 2-3 years.
- A snowmobile advocacy group is currently encouraging its members to ride throughout the former Mt. McKinley National Park, especially along the park road corridor and on the south side of the Alaska Range near the Parks Highway at Broad Pass.
- The only snowmachine use allowed by ANILCA is for traditional activities generally occurring in 1980. The 1986 General Management Plan (GMP) documented the fact that snowmachine use for traditional activities did not occur in the original pre-ANILCA Mt. McKinley National Park. There are no traditional activities occurring currently in this part of the park that require the use of snowmachines, and no requests for this access have occurred.
- New levels and locations of use and resource impacts may potentially present unacceptable risks for an internationally significant resource. No public input, planning, resource studies, or National Environmental Policy Act (NEPA) compliance supports this dramatic change in park management.

### BACKGROUND INFORMATION

- From 1917 until 1980 the core two million acres of Denali National Park and Preserve have been closed to the use of any mechanized travel, including snowmachines in the winter. Beginning in 1980, Title XI of ANILCA provided for snowmachine use in Denali National Park for traditional activities. The congressional record on ANILCA clarifies the use of snowmachines to include only those uses generally occurring in an area prior to 1980. ANILCA provides for using snowmachines for travel to and from villages and homesites, subsistence activities, and in support of other traditional activities. Snowmachine

# CORRECTION

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



Rev. 6/98

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



IN REPLY REFER TO

## United States Department of the Interior

NATIONAL PARK SERVICE  
Denali National Park and Preserve  
Post Office Box 9  
Denali Park, Alaska 99755

### Briefing Statement

November 9, 1998

Region/Office: Alaska Region/Denali National Park and Preserve

Project/Issue: Snowmachine Use - Temporary Closure of Pre-ANILCA (Alaska National Interest Lands Conservation Act) Mt. McKinley National Park

- Denali National Park is establishing a temporary closure to the use of snowmachines in the pre-ANILCA (1980) portions of the park. This represents about 2.2 of the 6.2 million acres of park lands. The temporary closure is required to prevent snowmachine use in an area that has been administratively closed to mechanical winter access since 1917. A recent interpretation of ANILCA based regulations requires a specific regulatory action to continue to enforce this closure. This 12 month closure will be done according to 36 Code of Federal Regulations (CFR), Section 13.30, and 43 CFR 36.11(h). The temporary closure will give the NPS time to establish longer term regulations so that study, planning and compliance can take place on parkwide snowmachine use. This will be done through the currently funded GMP amendments and is anticipated to take 2-3 years.
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- The only snowmachine use allowed by ANILCA is for traditional activities generally occurring in 1980. The 1986 General Management Plan (GMP) documented the fact that snowmachine use for traditional activities did not occur in the original pre-ANILCA Mt. McKinley National Park. There are no traditional activities occurring currently in this part of the park that require the use of snowmachines, and no requests for this access have occurred.
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- use and other traditional uses are subject to reasonable regulations to protect the natural and other values of the park unit.
- Recreational use of snowmachines in Denali National Park has not been the subject of any planning documents or been analyzed in any NEPA document.
- Analysis of extensive information on natural resources and park values strongly indicates that snowmachine use within the former Mt. McKinley National Park would be detrimental to the resource values of the park by impacting wildlife habitat, natural vegetation, wilderness recreation, and natural sounds.
- When the park was expanded in 1980 from approximately 2 million acres to 6 million acres, the NPS realized that a greater level of protection was needed for the park. Regulations prohibiting snowmachine use in the core wilderness area of the park is consistent with the enabling legislation of the original Mt. McKinley National Park and the need to protect the natural balance in wildlife populations within the core wilderness area of the park.
- The former Mt. McKinley National Park was closed to snowmachine use from 1917 until 1980 by the Code of Federal Regulations, providing for nonmotorized wilderness recreation during the winter.
- The 1986 GMP stated that recreational snowmachining would only be allowed where it was traditional. "Traditional" was defined as a pattern of use that occurred prior to ANILCA. Based on this public planning process, the NPS continued to prohibit, through the Superintendent's Compendium, all snowmachine use in the former Mt. McKinley National Park. Park staff patrolled and contacted snowmachine users, providing information on the location of park boundaries, marking the boundary, maintaining signs stating that this particular portion of the park was closed to snowmachine use. Violations were infrequent.
- In the late 1980s, recreational snowmachine use began to increase dramatically throughout the state because of technological improvements in equipment. While the additional use did not occur in the former Mt. McKinley National Park except in a limited area on the south side of the Alaska Range, it became common in the ANILCA additions by 1995.
- Scientific research shows that detrimental environmental and social changes can occur when snowmachine use is introduced into an ecosystem and a recreational setting such as the area of Denali that has been traditionally closed to snowmachine use.

## CURRENT ACTIONS

- Denali National Park staff will continue gathering and analyzing data on snowmachine use during the next several winters. A literature review documenting impacts from snowmachine use in other protected areas has been completed. Documented impacts include noise, packed trails, stress on wildlife when food supplies are low and when animals need to conserve energy that is critical to their survival, and damage to vegetation and soils. The impact of snowmachine use on the values of solitude and natural quiet is one of the most significant concerns.
- New site-specific studies are planned to determine the impact of additional snowmachine use on park values in ANILCA additions to Denali.
- To insure that no resource impacts occur during the planning process, a longer term regulatory action is required. A proposed regulation which will close the pre-ANILCA portions of Denali National Park until the planning for parkwide snowmachine use is completed will be published in draft form early in 1999.

## CONCLUSION

- The possibility of extensive snowmachine use in the former Mt. McKinley National Park has created a threat to one of the most important ecosystems and wilderness resources on earth. The last five years of technological advances and increased popularity have clearly demonstrated that this use pattern can quickly move into new areas and reach a high density. The potential for such rapid change, coupled with the lack of information on the impacts that could result, places extremely valuable resources at risk. Since the level of risk is unknown and the consequences of error extremely high, Denali should be protected until uncertainty can be removed.
- The NPS does not believe that any traditional activities provided for in ANILCA will be affected by this closure. Any current use in the closure area is very recent or of a type that does not reflect the traditional uses that were intended to be protected by ANILCA.
- Millions of acres of multiple use lands of similar geographic character and accessibility are available as alternative recreation sites in south-central and interior Alaska. This decision applies to only the one-third of Denali National Park and Preserve which has a unique history relative to snowmachine use. The NPS believes ample opportunities for economic development of snowmachine-related winter tourism exist in other areas.
- Snowmachine use for traditional activities will continue to be allowed in the park additions. The NPS will provide for recreational snowmachine use in the park additions and the preserve, subject to reasonable regulations, according to ANILCA. Denali National Park is beginning work on a backcountry management plan and a general management plan amendment to address this and many other issues. The plan will include a management strategy for snowmachine use and an environmental impact statement in compliance with the National Environmental Policy Act.
- Statewide snowmobile organizations, recreation users, other interested groups, and the State of Alaska have been consulted about the proposed regulations to close the former Mt. McKinley National Park to snowmachine use.
- Public hearings as required by 36 CFR 13.30 and 43 CFR 26.11(h), will be held in Fairbanks, the Healy-Cantwell area (McKinley Village), Talkeetna/Trapper Creek, and Anchorage during the week of November 22, 1998. The NPS will provide information on the temporary closure and solicit comments and ideas from the public and ensure that all the information that is provided is considered.

Contact: Stephen P. Martin, Superintendent, Denali National Park and Preserve (907) 683-9581.

**SJR**

**13**

# Petersburg Vessel Owners Association

P.O. Box 232

Petersburg, Alaska 99833

Phone (907) 772-9323 Fax (907) 772-4495

March 29, 2000

Mr. William Daley  
Secretary of Commerce  
14th Street and Constitution Ave. NW  
Washington, D.C. 200230

## Re: Appointments to the North Pacific Fisheries Management Council

Dear Secretary,

In regards to the nominations for the NPFMC submitted by Governor Knowles of Alaska, PVOA cannot support any of the six names submitted as we believe these nominations violated public process and federal law. The six nominees were not on any known list of candidates available to the public nor was the public informed they would be potential nominees.

Magnuson-Stevens [302 (b) (2) (c)] statics (emphasis added):

**"The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each individual is qualified under the requirements of subparagraph (A) and unless the Governor, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals."**

No such consultation took place nor was the public aware of consideration of the six candidates submitted by Governor Knowles. However, the public was aware that there were six other interested and qualified individuals (from both the commercial and recreational sectors) who had submitted their names for consideration. None of these names were advanced by the Governor nor

was any reason given for that oversight. These were the only names up for consideration as known by the public. These were the names that were commented upon by the commercial and recreational fishing interests of Alaska including Petersburg Vessel Owners Association.

Of the six names submitted by the Governor, four presumably had no interest in serving on the NPFMC, since they did not even submit their names for consideration. At least they had no interest in being considered until the Governor's Office called them up and asked if their names could be submitted as "throwaways". This occurred immediately prior to the March 15 announcement by Governor Knowles.

Of the two candidates earmarked for the NPFMC seats, Mr. Dave Benton and Mr. Bob Penney, there are additional concerns beyond public notice.

In regards to Mr. Benton, he currently sits on the NPFMC in the seat designated for the State of Alaska (as specified in Magnuson-Stevens 302 (b) (1) (A)). Mr. Benton intends to retire from employment with the State of Alaska but only in part, as he will still be representing the State of Alaska in other forums such as U.S./Canada Pacific Salmon Treaty for some time in the future. Mr. Benton is being nominated for a NPFMC seat other than the seat occupied by the representative of the State of Alaska. We see this nomination as an attempt for the State of Alaska to hold two seats on the Council at the expense of the public and particularly the fishing industry.

In regards to Mr. Penney, to the best of our knowledge, we must note that none of us can recall ever seeing Mr. Penney attend a NPFMC meeting in the last three years to say nothing of testifying or serving on a Council committee or Advisory Panel. This lack of participation in the NPFMC is evident in his resume accompanying the press release.

Of the six names submitted (but not considered) by the Governor, all six had either attended Council meetings, testified, or served on the Council or Council committees or the Advisory Panel. What is the message here? It seems to be if a member of the public is interested or qualified in serving on the NPFMC, they need not apply.

In regards to both nominations changing the existing apportionment of the NPFMC, we direct your attention to the "1999 Report on the Apportionment

of Membership on the Regional Fishery Management Councils (RFMCs)" submitted by yourself, the Secretary of Commerce, to Congress in January, 2000. The 2000 Report Recommendation regarding the NPFMC reads as follows (emphasis added):

"In consideration of the strongly competitive commercial fishing and environmental interests in the North Pacific fisheries, the current balance of inshore, offshore, gear groups, and ecosystem representation **should be maintained** to meet the apportionment requirements of the Magnuson-Stevens Act."

We see no rationale in providing the State of Alaska an additional seat on the Council. Given that recreational issues occupy less than one percent of the NPFMC's agenda, and recreational interests have been strenuously advanced by present Council members (Mr. Mace, Mr. Kyle and Mr. Benton), we see no compelling rationale for a recreational seat at this time.

Given these considerations, we request you reject these nominations until such a time they can be done in a manner consistent with Magnuson-Stevens (Section 302 (b) (2) (C)) and your apportionment recommendation.

Respectfully yours,

Gerry Merrigan  
Director, PVOA

cc: Governor Knowles  
Senator Ted Stevens  
Senator Frank Murkowski  
Representative Don Young  
Chairman Rick Lauber, NPFMC  
United Fishermen of Alaska

# Petersburg Vessel Owners Association

P.O. Box 232  
Petersburg, Alaska 99833  
Phone (907) 772-9323 Fax (907) 772-4495

April 7, 2000

## TESTIMONY FOR SENATE RESOURCES COMMITTEE ON NPFMC APPOINTMENT PROCESS

Mr. Chairman, members of the Committee,

My name is Gerry Merrigan, representing PVOA, Petersburg Vessel Owners Association, a group of sixty commercial fishermen and twenty supporting businesses, with vessels ranging from Dungeness crab skiffs to Bering Sea crabbers and freezer longliners and everything in-between. Almost every PVOA member participates in the longline halibut and groundfish fisheries, and accordingly we have a great interest in the management and regulation of these fisheries under the NPFMC.

Today I would like to comment only on the portion of the resolution in front of you that relates to the Council. I cannot recommend the portion relating to membership of the Pacific Salmon Commission as that would necessitate re-opening up and Congressional amendment of the Pacific Salmon Treaty Act, an Act which just concluded a lengthy re-negotiation and amendment. Therefore I suggest deletion of the PSC portion of this resolution.

As to the NPFMC, Petersburg Vessel Owners has a long history of involvement with two members having held Council seats in the past. Several members have served on the Advisory Panel as well as numerous standing and ad hoc Council committees. The President of PVOA currently sits on the Advisory Panel to the NPFMC, and along with myself, serve on other Council committees.

I have been attending Council meetings for three years and previously spent five years at the Pacific Salmon Treaty representing Alaska after being nominated by the Governor and appointed by the Secretary of Commerce. In

all these forums, the message that commercial fishermen have always heard from the State is be reasonable, be respectful, work within the system, and try to achieve consensus. It is frustrating to reconcile those admonitions and this nomination process. No one can recall a Council nomination process that bypassed public process like this one. There are two main issues:

First, none of the six nominees advanced by the Governor were on a list of candidates known to the public. Nor was the public informed these individuals were potential nominees. Therefore, consultation with **"...representatives of the commercial and recreational fishing interests of the State regarding these individuals..."** did not and could not occur as prescribed in federal law in Magnuson-Stevens. Nor did consultation occur as described in the nominating letter from Governor Knowles to the head of NMFS.

Second, the preferred nominees of the Governor will represent a significant departure from present Council structure and make-up. Accordingly, this raises many questions but with no opportunity or public process to ask or answer these same questions.

It wasn't the case that the Governor did not have any interested or qualified applicants. There were six people who had taken the time and energy to submit their names for consideration, both from the recreational and commercial fishing sectors. Of these six names, all had some experience with the Council process ranging from serving on the Council, the Advisory Panel, Council committees, or at the very least, attending a meeting. None of these were the names advanced by the Governor nor was any reason given.

But these interested parties were the names that the public were aware of and commented on prior to March 15, when the nominations are made. The preferred nominees were added to the Governor's list on March 15 making comment by the public impossible. The interested parties were the people that sought endorsement and support from associations such as PVOA. Our Board of Directors took the time to consider these candidates, endorsing some and not others, and no doubt bruising some feelings, and all unnecessarily as it turns out, as they were not considered.

One of the more frustrating aspects was the Governor's letter to Penny Dalton, director of NMFS. In this letter, the Governor states that he did

consult with the commercial and recreational fishing interests of Alaska and then attaches a list of over a hundred groups and individuals. Yesterday, I asked the Governor's Office, how many of these groups and individuals were aware that Mr. Benton and Mr. Penney were potential nominees. The response was honest....not many, very few.

For these reasons, I support this resolution in regards to the portions concerning the NPFMC. I am not sure this will accomplish anything. We may very well have a public process and end up with the same candidates. At least the public will have the opportunity to ask some questions and receive some answers concerning the nominations. But I do know that doing nothing will accomplish nothing, therefore I ask you to move this resolution forward minus the sections concerning the Pacific Salmon Treaty.

Thank you for your time and I welcome any questions.

Gerry Merrigan  
Director, PVOA



# Alaska State Legislature

Please enter into the record my testimony to the SRES  
committee name

Committee on SJR 13, dated 4-7-00  
bill # / subject

*KPFA supports amended language to SJR 13  
that regards the NPFMC nominations.*

Signed: *Let P. Kuhn*  
Testifier

*Kenai Peninsula Fishermen's Assoc.*  
Representing (optional)

Address

Phone number



# Alaska State Legislature

Please enter into the record my testimony to the SPRES SENATE RESOURCE COMMITTEE  
committee name

Committee on CS # 13 SJR 13, dated 04-07-00  
bill # / subject

I am opposed to CS 13 BECAUSE IT IS  
A RACIST RESOLUTION. THE KIND OF BLOOD  
IN YOUR VEINS SHOULD NOT BE THE REASON TO APPOINT  
A PERSON TO THE NPFMC.

I AM ALSO OPPOSED TO REQUESTING THE WITHDRAW OF  
THE LATEST NOMINEES TO THE NPFMC.

THE FACTS BEHIND MR. MALATESA'S STUDY ARE FLAWED  
AND ARE NOT SCIENTIFIC. YOU COULD FIND PEOPLE TO SAY  
EITHER WAY ~~WHA~~ WHETHER OR NOT THEY WERE CONSULTED BY  
THE GOVERNOR. THERE ARE MANY PEOPLE IN THESE "CONSULTED"  
GROUPS, THE GOVERNOR IS NOT REQUIRED TO TALK TO THEM ALL.  
MALATESA WORKED HIS STUDY TO RECORD ONLY THOSE WHO  
DID NOT GET CONSULTED WITHIN A GROUP.

Signed: Don Johnson  
Testifier

SELF  
Representing (optional)

P.O. Box 876 SOLDOTNA, AK  
Address 99669

907 262 7893  
Phone number



# Alaska State Legislature

Please enter into the record my testimony to the SRES  
committee name

committee on SJR 13, dated 4-7-00  
bill # / subject

Sirs, This same resolution was presented to our Kenai Penn. Borough both March 22<sup>th</sup> and April 4<sup>th</sup> of this year. It was voted on twice by our Borough assembly and rejected. The same interest group could not convince our Borough of the resolutions merit, is now attempting to do an end run around our assembly and persuade you to do what their local representatives would not.

I did not vote for the governor and do not plan to in the future. The accusations which are being presented to you have been generated by a few of our local commercial users, ~~who have been generated by~~

These accusations Do NOT represent the majority of the residents here on the Kenai Borough. I appreciate your time and the Boroughs decision. I am 100% behind

at. Thank You - May God Bless You.

Signed: Phyllis Henning  
Testifier

Representing (Optional)

P.O. Box 3274

Address

Soldotna, AK 99669 -

Phone number



# Alaska State Legislature

Please enter into the record my testimony to the SPES committee name

committee on SJR 13, dated 4-7-00  
bill # / subject

my name is David Martin. I live in Clam Gulch and have been an involved Alaskan in the public process of Alaska's fish & game management. I am a firm believer & supporter of involving the public, without this you do not have a Democracy. I support SJR 13 that deals with making Governor Knowles withdraw his nominations to the North Pacific Fishery Management Council. He was in direct and knowing incompliance to the requirements of the Magnuson - Stevens Fishery Conservation and Management Act. Involved parties were unable to comment. The public process was discredited. Gov. Knowles ~~was~~ knowingly misled the Secretary of Commerce. He needs to be accountable to his actions. Please pass this portion of SJR 13. Protect the public process and the democracy of the United States and Alaska. It is not only the right thing to do but also your duty as an elected official. Thank you!

Signed: David R Martin David R Martin

Testifier

Self

Representing (Optional)

71605 Sterling Hwy Clam Gulch, AK 99568

Address

567-3306

Phone number



# Alaska State Legislature

Please enter into the record my testimony to the SRES  
committee name

committee on SJR 13, dated 4-7-00  
bill # / subject

3 PGS ATTACHED

Signed: Grace D. Kendall  
Testifier

Representing (Optional)

P.O. BOX 2523

Address

Soldotna, Alaska 99669

Phone number 907-262-6130

ATTN: SRES Committee

Regarding: SJR 13

Date: 04-07-00

My name is Grace Kendall. I have been a resident of Alaska since 1958 and am in support of SJR 13.

Governor Tony Knowles has always controlled and manipulated the process to nominate and elect sports fishing guides' interests. There is an article in the March 16, Anchorage Daily News that infers that Bob Penney's nomination to NPFMC was a reward (see attached article). I would also like to refer back to an article printed prior to Gov. Knowles election (see "Our Pledge to You").

Gov. Knowles has controlled and manipulated the process ever since he's been in office, and this needs to STOP! We do not have one single person on the Board of Fisheries who represents commercial drifters and set netters. It appears that he is now trying to stack the deck on the North Pacific Fisheries Management Council as well. I urge you to support SJR 13. Thank you.

# Penney gains a seat

## Sportfish booster named to council

By WEBLEY LOY  
Daily News reporter

Gov. Tony Knowles on Wednesday nominated Bob Penney, a close political ally and perhaps the state's No. 1 sportfishing champion, to a federal panel that regulates major commercial fisheries off Alaska.



Bob Penney of Soldotna

The Penney nomination represents a sea change for the North Pacific Fishery Management Council, which sportfishermen have long complained did not have a member to speak for their interests.



David Benton, Fish and Game official

The complaint, reached almost deafening volume this winter when the council placed a catch limit on the state's growing halibut charter boat industry, which commercial fishermen said was eroding their catch.

"We may have lost a skirmish, but I think we've won a major battle now," said Homer charter boat captain Bob Ward, gleeful over the Penney nomination.

Knowles also nominated

See Page A-7, COUNCIL

ADN 3/16/00

Mar 16, 2000

# COUNCIL: Processors association director praises Penney's willingness to listen

Continued from Page A-1

David Benton, deputy commissioner of the Alaska Department of Fish and Game, has sat on the council for years as an alternate for the commissioner, when he has had a seat. He is known for his strong support of a federal program that gives economically distressed Western Alaska communities a share of the Boeing Sea Commercial Fishing wealth.

Benton plans to retire from the department and was nominated for the seat of outgoing member Richard Leaker. Penney was nominated for the seat now occupied by Joe Kyle, a Juneau fisheries consultant who, in a surprise, was not nominated for a second three-year term.

The North Pacific council regulates commercial fishing in the U.S. exclusive economic zone between three and 200 miles offshore. It has 11 voting members, who are a mix of state and federal fishery managers and industry players. The Alaska governor nominates five members, who ultimately must be appointed by the secretary of Commerce. Knowles himself once served on the council.

The council spends most of its time drafting recommendations to the secretary for management of bottom fish species like pollock and cod, together worth perhaps \$1 billion a year, plus other important commercial species like halibut. It is concerned only nominally with salmon, which is a near-shore fishery more in the state's purview.

The Penney nomination is typical of increasing sportfish representation on all eight regional federal fishery councils established around the U.S. coast in 1976. Although many of the council regulates are not sportfish — pollock, for example, is a hard white fish caught by plant trawlers to make such products as fish sticks — council actions have been important to sportfishermen. For example, commercial fishing vessels catch thousands of pounds of halibut by accident and discard them as bycatch.

Rever McLabbe, executive director of the Alsea Processors Association, which represents huge factory trawlers that both catch and process pollock, said the council never has had a sportfish representative like Penney. He said he was encouraged by Penney's vow Wednesday to be a "willing listener."

Knowles said Penney and Benton will "help strengthen public confidence in the council process, since neither has a direct financial interest in the fisheries they will regulate and both have strong records of conservation of our fishery resources."

Penney is a millionaire Soldotna real estate developer and advocate of sportfishing rights. He is founder of the Kenai River Classic, an annual fund-raiser in which hobbyist and corporate fundraisers pay \$5,000 apiece to attend four salmon alongside politicians. Records with the Alaska Wildlife Commission show that Penney, family members and business associates gave Knowles about \$30,000 in the 1990, 1994 and 1998 governor's races.

A Reporter Webley Loy can be reached at wlo@adn.com or 257-4990.

**• We may have lost a skirmish, but I think we've won a major battle now.**

— Homer charter boat captain Bob Ward

STR13

SR35

4-7-00

Grace Kendau

pg 2



5



Tony Knowles

# Our pledge to you

Alaska's commercial fisheries will continue to be the mainstay of our economy as oil jobs decline. We are committed to keeping our fisheries healthy and our fishing families working.



Fran Ulmer

- Repeal SB308. Return the public process to resource management issues. Jim Campbell said he supports the bill (*Alaska Fisherman's Journal*, Oct. 1994) and then said he doesn't support it. (*Alaska Journal*, Oct. 1994).
- Appoint a Fish & Game Commissioner with Alaska experience. Jim Campbell said he would consider a commissioner from out of state and did not believe biology experience was necessary. (*Alaska Journal*, Oct. 1994).
- Veto any bill that mandates a specific allocation of fisheries. That's the Board's job.
- Support the U.S./Canada Treaty talks with all the best strategic and legal resources available to the state.

• Ask the UTA Board to provide expertise and representatives to the transition team.

• Protect Fish and Game from cuts that reduce management and biologists necessary to sustain our fisheries.

• Depoliticize and revitalize the Board of Fish' Appoint trustworthy and fair individuals who will be confirmed BEFORE they serve on the Board.

• Protect fisheries habitat. Enforce the Forest Practices Act.

• Retain state control of our near-shore fisheries and hold on to Alaska's majority on the NPFMC.

• Return commercial and subsistence fishing to Glacier Hwy.

**Fish should define us, not divide us**



# Alaska State Legislature

Please enter into the record my testimony to the SENATE RESOURCES  
committee name  
 committee on STR 13, dated 4/7/00  
bill # / subject

*PLEASE INCLUDE AS WRITTEN TESTIMONY*

Signed: \_\_\_\_\_  
Testifier

\_\_\_\_\_ Representing (Optional)

\_\_\_\_\_ Address

\_\_\_\_\_ Phone number

I support Senate Resolution

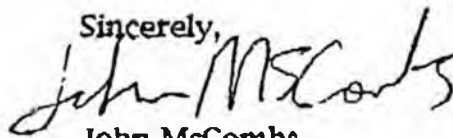
13

April 07, 2000

Dear ~~Sen. Ward~~, Sen. Ward.

~~\_\_\_\_\_~~, regarding the governor's nominations to the North Pacific Management Council, a not so strange turn of events it seems. While Bob King and the governor might concur on their own definition of "consult" in the context of a federal fisheries act, it will be difficult for Secretary of Commerce Daily to overlook the governor's declaration of consulting an alleged 107 individuals and organizations; when he did not. Governor Knowles appointed Bob Penney's lawyer, Dan Coffey, to the board of fish. Coffey's idea of a public process is no public testimony. Now the governor wants to appoint Penney to a board of which he has never attended one meeting. This disregard for process and the political nature of these nominations seems to mirror the current mess with the board of fish. Maybe someone will listen now and clean up this mess.

Sincerely,



John McCombs  
Box 87  
Ninilchik, AK 99639  
907-567-3334 or fax at 3601

March 17 1999

Testimony for Senate Resources Re: SJR NO. 13

Mr. Chairman, members of the Committee;

Thank you for allowing me the opportunity to testify today.

My name is Jim Bacon, I am a commercial fisherman, I live here in Juneau. I have served on the Northern Panel, U.S. Section of the Pacific Salmon Commission since 1991, I currently serve as the Co-Chairman of that body.

The Pacific Salmon Commission was created by the Pacific Salmon Treaty. The United States and Canada struggled through fifteen years of difficult negotiations to produce the existing treaty. To add another commissioner to the PSC would require re-negotiating provisions of the treaty and open contentious lengthy discussions with no certainty of success. However, I would counsel against pursuing SJR 13 not merely because it's success is uncertain, but because we do not need it. Alaska's delegation to the treaty fights diligently, and for the most part successfully, on behalf of all Alaskan's, native or non-native.

The original Treaty set management regimes for fisheries that impact salmon stocks which spawn in the other nations waters. The Commission is designed to review current arrangements and renegotiate expired annexes or management agreements.

The Alaska Northern Panel, and I make that distinction because there is a Canadian Northern Panel, is made up of representatives from the Alaska Native Brotherhood, the recreational fishing community, the commercial gear groups and fisheries managers from the Alaska Department of Fish and Game. We discuss the issues relevant to the negotiations and work towards a consensus to present to the Alaska Commissioner and Alternate Commissioner who act as our chief negotiators in the discussions with Canada and the Southern U.S. Alaska's greatest strength in this very contentious arena has been our ability to work together, with all affected interests and with the State to protect Alaskan interest's. While other delegations insist on circling the wagons and shooting inward, Alaskans consistently work together to serve all our interests.

Alaskan fisheries of relevance to the Treaty are the Southeast Alaska Chinook fishery both recreational and commercial, the District 104 Purse Seine fishery, commonly referred to as the Noyes Island fishery, the District 101 Gillnet fishery or Tree Point Fishery, and the Trans boundary fisheries of the Taku and Stikine Rivers. The Commission also shares information about the Alsek River fishery. A separate body deals with Yukon River issues.

The Pacific Salmon Treaty does not deal with any subsistence fisheries in Alaskan waters. Our subsistence fisheries are primarily in fresh water and intertidal marine waters near the

terminal areas and therefore do not fit the criteria for Treaty or commission involvement. Thus, the decisions of the PSC do not affect subsistence harvests.

The fishery of greatest import to my fleet, I am a purse seiner, is the Noyes Island fishery. Tlinget and Haida peoples of the West Coast of Prince of Wales pioneered that fishery and served the first cannery built in Alaska in the late 1800's. To this day there is no distinction between native and non-native fishermen's interest with respect to negotiations with Canada. Our interest is the same, to protect Alaska's right to harvest salmon in the sovereign waters of Alaska.

I am concerned with any approach which would either directly or indirectly divide or dilute Alaska's message, or provide our adversaries with the ability to exploit potential or perceived political differences. As I stated earlier, our unity is our strength.

I believe that the current make-up of the Northern Panel along with the Alaskan Commissioners has served all Alaskan interest's well. I would urge the Committee to not pass SJR 13.

Thank you Mr. Chairmen, I would be happy to answer any questions.



# Alaska Native Brotherhood

Camp Number 2

320 West Willoughby Avenue, Suite 100  
(907) 586-2049

Juneau, Alaska 99801

The Honorable Jerry Ward  
Alaska State Senate  
State Capitol-Room 423  
Juneau, AK 99801-1182

Dear Senator Ward:

March 19, 1999

This communication is relating to your resolution regarding membership on the Pacific Salmon Commission.

The Juneau ANB recommends that a tribal member of the Southeast Indian Tribes serve on the Pacific Salmon Commission. The reasons are obvious. The Tlingit Tribe has used, occupied and managed Southeast Alaska for several years, and has customarily and traditionally harvested Pacific Salmon for religious/spiritual, nutritional, medicinal, and cultural purposes. There are many tribal members involved in each of the commercial gear groups and there is a tribal member who currently serves as an alternate to the Northern Panel of the Commission.

The United States and Canada are aware that Pacific Salmon traverse to the Northern Pacific region, returning to their respective streams of origin. This means that the Alaska and Canada salmon stocks co-mingle in the process. It is well known that Canada maintains and operates Salmon Farms. It is our belief that salmon farming is wrong, and we fear the disease factor to the Pacific Salmon that are destined to the Southeast Alaska Streams. There are also reports that Atlantic Salmon has been transplanted to the Pacific Ocean. We object to this, for the same reasons as we object to Salmon Farming. We do believe that our state, federal or private finances and efforts be focused on rebuilding Alaska's Wild Stocks of Pacific Salmon, including restoring spawning streams to their original state and protect the ecosystem. For these reasons, Salmon Farming was included in the intent resolution.

The Juneau Camp of the Alaska Native Brotherhood appreciates your efforts, and that of Representatives, to work towards resolving the conflicts between the United States and Canada on the Pacific Salmon Commission.

Respectfully,

Cc: A.N.B. Grand Camp

*Ralph E. Anderson Jr.*  
1st V.P.

# Alaska State Legislature



## Senate

For Immediate Release February 25, 1999

**Jerry Ward**

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Juneau, AK 99801-1182  
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## Senator Ward Seeks Native Voice in Pacific Salmon Treaty Resolution Asks State Department For Native Seat on Commission

(JUNEAU)—Senator Jerry Ward (R-Anchorage/Kenai) has filed a resolution asking the United States State Department to initiate a reorganization of the Pacific Salmon Commission to include an Alaska Native representative.

The Pacific Salmon Commission is tasked with negotiating a treaty between the United States and Canada on fishing access rights. There is a total of 16 members—8 regular members and 8 alternates. The American delegation is made up of members representing the Federal Government, Alaska, Washington and Oregon, and the Washington Tribal interests.

Sen. Ward's resolution asks that there be an Alaska Native appointed to the commission. He says he finds it frustrating that Alaska Natives have no voice in what happens to Alaska's fish.

"No Native has been appointed to the commission who represents a personal consumption of salmon as their way of life," said Sen. Ward. "Having an Alaska Native on the commission will give a voice to all Natives in the state whose subsistence way of life depends on having access to salmon."

"Everybody's at the table except Alaska's original people," said Ward. "I think it's only fair that one of those seats on the commission be held by an Alaska Native. It will recognize the historical needs of the first people of this state."

Ward's resolution asks the President of the United States to take the necessary steps, including renegotiating the Pacific Salmon Treaty and restructuring the U.S. membership of the Pacific Salmon Commission, as appropriate, to provide for an Alaska Native commissioner.

Representative Beverly Masek (R-Willow) has introduced a companion resolution in the House of Representatives. ###

**Media Advisory: Senator Ward and Rep. Masek will discuss this issue with reporters at a press conference Friday, February 26, 1999, at 11:30 a.m. in the Beltz Room 211 of the Alaska State Capitol.**

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

## SPONSER STATEMENT

The Pacific Salmon Commission was intended to bring the United States and Canada together to work towards enhancing the wild renewable stocks of Pacific Salmon, and that the Alaska Legislature supports the restructuring of the Pacific Salmon Commission to work toward a Pacific Salmon Treaty.

The Alaska Legislature supports the objectives and goals of the Pacific Salmon commission, but believes that the effort<s> would be best served by the appointment of two<2> tribal members of the Southeast Alaska Indian Tribes that possess personal and traditional knowledge of the wild renewable stocks of Pacific Salmon, including the safe levels to maintain healthy stocks of Pacific Salmon.

The appointment of a tribal member of the Southeast Indian Tribes as a primary member, and another tribal member as alternate is in recognition that Alaska is comprised of Alaska Native Lands, and that Metlakatla is Indian Country; and that the appointment of two<2> Alaska Natives would be more equal representation.

The Alaska Legislature is also concerned that Canada has implemented Salmon Fish Farms within it's provincial territories, and that reports are available that Atlantic Salmon is being transplanted to Pacific Ocean waters. These activities could have adverse affects upon the wild renewable stocks of Pacific Salmon, and the Alaska Legislature must focus on enhancing the stocks of Alaska's wild salmon for the long term economic impact.

PUBLIC LAW 99-5—MAR. 15, 1985

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Public Law 99-5  
99th Congress

An Act .

To give effect to the Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985.

Mar. 15, 1985  
[H.R. 1093]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Pacific Salmon Treaty Act of 1985".

Pacific Salmon  
Treaty Act of  
1985.  
16 USC 8631  
note.  
Fish and fishing  
16 USC 8631.

SEC. 2. DEFINITIONS.

As used in this title, unless the context otherwise requires, the term—

- (a) "Commission" means the Pacific Salmon Commission established by the Treaty;
- (b) "enhancement" means manmade improvements to natural habitats, or the application of artificial fish culture technology, that will lead to the increase of salmon stocks;
- (c) "Magnuson Act" means the Act entitled "the Magnuson Fishery Conservation and Management Act," as approved April 13, 1976, and as later amended (16 U.S.C. section 1801 et seq.);
- (d) "Panel" means any of the Panels established by the Treaty;
- (e) "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State);
- (f) "salmon" means any anadromous species of the family Salmonidae and genus *Oncorhynchus*, commonly known as Pacific salmon, including but not limited to:

Popular names	Scientific name
Chinook or King Salmon.....	<i>Oncorhynchus tshawytscha</i>
Coho or Silver Salmon.....	<i>Oncorhynchus kisutch</i>
Pink or Humpback Salmon.....	<i>Oncorhynchus gorbuscha</i>
Chum or Dog Salmon.....	<i>Oncorhynchus keta</i>
Sockeye or Red Salmon.....	<i>Oncorhynchus nerka</i>

- and shall also include Steelhead (*Salmo gairdneri*);
- (g) "Secretary" means the Secretary of Commerce;
- (h) "Treaty" means the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985;
- (i) "treaty Indian tribe" means any of the federally recognized Indian tribes of the Columbia River basin, Washington coast or Puget Sound areas having reserved fishing rights to salmon stocks subject to the Treaty under treaties with the United States Government; and
- (j) "United States Section" means the four United States Commissioners appointed by the President pursuant to this title.



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16 USC 3632.

## SEC. 3. UNITED STATES SECTION.

(a) **COMMISSIONERS.**—The United States shall be represented on the Commission by four United States Commissioners who are knowledgeable or experienced concerning Pacific salmon, to be appointed by and serve at the pleasure of the President. Of these, one shall be an official of the United States Government who shall be a nonvoting member of the United States Section; one shall be a resident of the State of Alaska and shall be appointed from a list of at least six qualified individuals nominated by the Governor of that State; one shall be a resident of the States of Oregon, or Washington and shall be appointed from a list of at least six qualified individuals nominated by the Governors of those States; and one shall be appointed from a list of at least six qualified individuals nominated by the treaty Indian tribes of the States of Idaho, Oregon or Washington. Two of the initial appointments shall be for two-year terms; all other appointments shall be for four-year terms. Each Commissioner is eligible for reappointment. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Unless otherwise agreed, the chairmanship of the United States Section shall rotate annually among all four members with the order of rotation determined by lot at the first meeting.

(b) **ALTERNATE COMMISSIONERS.**—The Secretary of State, in consultation with the Secretary and the Secretary of the Interior, shall designate an Alternate Commissioner for each Commissioner from the respective lists referred to in section 3(a), and may designate an Alternate Commissioner for the Federal Commissioner. In the absence of a Commissioner, the Alternate Commissioner may exercise all functions of such Commissioner at any meeting of the Commission or of the United States Section. Alternate Commissioners are eligible for reappointment and may attend all meetings of the United States Section.

(c) **SOUTHERN PANEL.**—The United States shall be represented on the southern Panel by six Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Oregon, with salmon fishery management responsibility and expertise;

(3) one shall be an official of the State of Washington, with salmon fishery management responsibility and expertise;

(4) two shall be appointed from a list submitted by the treaty Indian tribes of individuals with salmon fishery management responsibility and expertise; and

(5) one shall be appointed from the commercial or recreational sector who is knowledgeable and experienced in the salmon fisheries for which the southern Panel is responsible.

(d) **NORTHERN PANEL.**—The United States shall be represented on the northern Panel by six Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Alaska, with salmon fishery management responsibility and expertise; and

(3) four shall be individuals knowledgeable and experienced in the salmon fisheries for which the northern Panel is responsible.

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(e) **FRASER RIVER PANEL.**—The United States shall be represented on the Fraser River Panel by four Panel members, of whom—

(1) one shall be an official of the United States Government, with salmon fishery management responsibility and expertise;

(2) one shall be an official of the State of Washington, with salmon fishery management responsibility and expertise;

(3) one shall be appointed from a list submitted by the treaty Indian tribes of individuals with salmon fishery management responsibility and expertise for the fisheries for which the Fraser River Panel is responsible; and

(4) one shall be appointed from the commercial sector of the salmon fishing industry concerned with fisheries for which the Fraser River Panel is responsible.

(f) **PANEL APPOINTMENTS.**—Panel members described in subsections (c)(2), (c)(3), (d)(2), and (e)(2) shall be appointed by the Governor of the applicable State. Panel members described in subsections (c)(4) and (e)(3) shall be appointed by the Secretary of the Interior from lists of nominations provided by the appropriate treaty Indian tribes. All other Panel members shall be appointed by the Secretary: *Provided*, That at least one member of the northern Panel shall be a voting member of the North Pacific Fishery Management Council, at least one member of the southern Panel shall be a voting member of the Pacific Fishery Management Council; and the Panel members described in subsections (c)(5), (d)(3), and (e)(4) shall be appointed from lists of nominations provided by the Governors of the applicable States. The appointing authorities listed above may also designate an alternate Panel member, meeting the same qualifications and having the same term of office, to service in the absence of a Panel member appointed under this subsection. Panel members and alternate Panel members, other than the southern Panel member described in subsection (c)(5), shall serve four-year terms; except that the Secretary of State shall designate one-half of the initial appointments to each Panel as serving two-year terms. The southern Panel member described in subsection (c)(5) and the corresponding alternate shall each be appointed for one-year terms; the first such member shall be appointed from the commercial sector and an alternate shall be appointed from the recreational sector, with the alternate succeeding to the member position in the subsequent year; thereafter the member and alternate positions shall rotate between the commercial and recreational sectors on an annual basis. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. Panel members and alternates shall be eligible for reappointment and may attend all meetings of the relevant United States Panel Section.

(g) **VOTING REQUIREMENTS.**—(1) The United States Section shall operate with the objective of attaining consensus decisions in the development and exercise of its single vote within the Commission. A decision of the United States Section shall be taken when there is no dissenting vote.

(2) All decisions and recommendations of the United States Section of the northern and southern Panels shall require the concurring vote of a majority of the United States Panel members present and voting, except that decisions and recommendations of the southern Panel shall require the concurring vote of the members designated in subsections (c)(2) and (c)(3) and one of those members designated in subsection (c)(4).



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(3) All decisions and recommendations of the United States Section of the Fraser River Panel shall require the concurring vote of all United States Panel members present and voting, except that orders referred to in article VI(6) of the Treaty may be agreed to on the basis of a majority, provided that the Panel members representing the State and Tribal fishery management authorities concur.

(4) All decisions and recommendations of any joint Panel shall require the concurring votes of each Panel under the voting rules specified in paragraphs (2) and (3).

(5) To assist in the resolution of disputes affecting decisions of the United States Section or of the United States Panel sections, a three-person Conciliation Board may be established. The members of the Conciliation Board shall be selected by the United States Section as follows: each non-Federal Commissioner shall submit a list of no fewer than three qualified nominees; one person shall be selected from each list by consensus decision of the Federal Commissioner and the other two non-Federal Commissioners. The Conciliation Board shall operate under such bylaws as may be established by the United States Section.

(6) In any matter where the Fraser River Panel is unable to act because the United States Fraser River Panel members have been unable to reach a decision in accordance with paragraph (3) of this subsection, and upon a determination by the Chairman of the United States Section that an action of the Panel is required, the United States Section shall act for the United States Panel members in the Fraser River Panel.

(7) In any matter where the Secretary of State determines that the United States is in jeopardy of not fulfilling its international obligations under the Treaty, the Secretary of State shall so certify to the United States Section. Such certification shall include the reasons for such determination and shall specify the date by which a decision by the United States Section is desired. If the United States Section has not reached a decision by the date specified, the Secretary of State, after consultation with the Secretary and the Secretary of the Interior, shall report on the matter to the President.

(h) CONSULTATION.—In carrying out their functions under the Treaty, the Commissioners and Panel members may consult with such other interested parties as they consider appropriate. The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) shall not apply.

Report.

5 USC app.

16 USC 2633.

#### SEC. 4. AUTHORITY AND RESPONSIBILITY.

(a) The Secretary of State is authorized to—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of and to the Commission and Panels;

(2) in consultation with the Secretary and the Secretary of the Interior, approve, disapprove, object to, or withdraw objections to fishery regimes, including enhancement programs and Fraser River Panel regulations proposed in accordance with the Treaty, on the condition that the United States shall be obligated to carry out such regimes or regulations only to the extent that funds are made available for such purposes in appropriation Acts; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1) of this subsection

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other than a proposed fishery regime or Fraser River Panel regulation.

(b) Recommendations of the Commission on fishery regimes or Fraser River Panel regulations approved by the Secretary of State pursuant to subsection (a)(2) shall be forwarded immediately to the States of Alaska, Oregon, Washington, and Idaho and to the treaty Indian tribes, as appropriate. In the exercise of their general fishery management authority, the States and treaty Indian tribes may adopt corresponding laws, regulations, or orders within their respective jurisdictions.

Indians.

(c) In cooperation with the appropriate Regional Fishery Management Councils, States and treaty Indian tribes, the Secretary shall prepare, as appropriate, all statements, reports, and information required by the Treaty and submit such documents to the Secretary of State, who shall transmit them to the Commission.

Indians.

SEC. 5. INTERAGENCY COOPERATION.

(a) In carrying out the provisions of the Treaty and this title, the Secretary, in consultation with the Secretary of the Interior, may arrange for cooperation with agencies of the United States, the States, treaty Indian tribes, private institutions and organizations, and may execute such memoranda as may be necessary to reflect such agreements.

15 USC 3634.  
Indians.

(b) Agencies of the United States may cooperate in the conduct of scientific and other programs, and may furnish facilities and personnel, for the purposes of assisting the Commission and Panels in carrying out their responsibilities under the Treaty. Such agencies may accept reimbursement from the Commission for providing such services, facilities, and personnel.

SEC. 6. PREEMPTION.

If any State or treaty Indian tribe has taken any action, or omitted to take any action, the results of which place the United States in jeopardy of not fulfilling its international obligations under the Treaty, or any fishery regime or Fraser River Panel regulation adopted thereunder, the Secretary shall inform the State or tribe of the manner in which the action or inaction places the United States in jeopardy of not fulfilling its international obligations under the Treaty, of any remedial action which would relieve this concern, and of the intention to promulgate Federal regulations if such remedial actions are not undertaken within fifteen days unless an earlier action is required to avoid violation of United States Treaty obligations. Should United States action be required to meet Treaty obligations to Canada in respect to treaty Indian fisheries conducted in terminal areas subject to the continuing jurisdiction of a United States district court, such action shall be taken within the framework of such court jurisdiction. Otherwise, regulations may be promulgated by the Secretary pursuant to section 7(a) of this title which shall supersede any State or treaty Indian tribal law, regulation or order determined by the Secretary to place the United States in jeopardy of not fulfilling its international obligations under the Treaty. Timely notice of all such determinations shall be disseminated by electronic media and shall be published in local newspapers in the major fishing ports affected and in the Federal Register. In order to enable the United States to fulfill its obligations under article IV(7) of the Treaty, the States of Alaska, Idaho, Oregon and Washington and the treaty Indian tribes

16 USC 3635.  
Indians.

Public availability.  
Federal Register, publication.

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shall advise the Secretary of all pertinent laws or regulations pertaining to the harvest of Pacific salmon, together with such amendments thereto as may be adopted from time to time.

16 USC 3636.

Regulations.

## SEC. 7. RULEMAKING.

(a) The Secretary, in consultation with the Secretary of the Interior, the Secretary of the Department in which the Coast Guard is operating and the appropriate Regional Fishery Management Council, shall promulgate such regulations as may be necessary to carry out the United States international obligations under the Treaty and this title, pursuant to section 6, as well as conforming amendatory regulations applicable to the United States Exclusive Economic Zone. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located. Such regulations as are necessary and appropriate to carry out obligations of the United States under the Treaty involve a foreign affairs function, and as such shall not be subject to sections 4 through 8 of the Administrative Procedure Act (5 U.S.C. 553-557), or the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(b) The Secretary, in cooperation with the Regional Fishery Management Councils, States, and treaty Indian tribes, may promulgate regulations applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with, fishery regimes and Fraser River Panel regulations adopted under the Treaty. Such regulations shall not discriminate between residents of different States.

5 USC 701 et seq.  
5 USC 705.5 USC 706.  
Hearing.

(c) Regulations promulgated by the Secretary under this title shall be subject to judicial review by the district courts of the United States to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code; except that section 705 of such title is not applicable, and the appropriate court shall only set aside any such regulation on a ground specified in section 706(2) (A), (B), (C), or (D) of such title. A civil action filed pursuant to this section shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of the United States district court at that time, and shall be expedited in every way by such court and any appellate court.

16 USC 3637.

## SEC. 8. PROHIBITED ACTS AND PENALTIES.

(a) It is unlawful for any person or vessel subject to the jurisdiction of the United States—

(1) to violate any provision of this title, or of any regulation adopted hereunder, or of any Fraser River Panel regulation approved by the United States under the Treaty;

(2) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this title; or

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(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(b) Any person who commits any act that is unlawful under subsection (a) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) of this section shall be guilty of an offense punishable as provided by section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d)(1) Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act which is prohibited under subsection (a) of this section, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act which is prohibited by subsection (a) of this section, shall be subject to forfeiture as provided by section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulation of the Secretary.

(e) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall enforce the provisions of this title and shall have the authority provided by subsections 311 (a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861 (a), (b)(1), and (c)).

(f) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

- (1) enter restraining orders or prohibitions;
  - (2) issue warrants, process in rem, or other process;
  - (3) prescribe and accept satisfactory bonds or other security;
- and
- (4) take such other actions as are in the interest of justice.

## SEC. 9. GENERAL STANDARD.

16 USC 3638.

All actions taken under sections 3(g), 4, 6, and 7 shall—

- (a) take into account the best scientific information available;
- (b) result in measures necessary and appropriate for the conservation, management, utilization and development of the Pacific salmon resource, with due consideration of social and economic concerns; and
- (c) be consistent with United States obligations under the Treaty, domestic Indian treaties and other applicable law.

## SEC. 10. ADVISORY COMMITTEE.

16 USC 3639.

(a) The United States Section shall appoint an advisory committee of not less than twelve but not more than twenty members who are knowledgeable and experienced with respect to fisheries subject to the Treaty. One-half the membership of the committee shall be residents of the State of Alaska and one member shall be a resident of the State of Idaho. Each member shall serve a term of two years and shall be eligible for reappointment.

(b) Members of the advisory committee may attend all public meetings of the Commission and Panels and all nonexecutive sessions of the United States Section and United States Panel sections. At nonexecutive meetings of the United States Section and United

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States Panel sections, members of the advisory committee shall be given the opportunity to examine and to be heard on any nonadministrative matter under consideration.

(c) The members of the advisory committee shall receive no compensation for their services as such members.

(d) The Chairman of the United States Section shall call a meeting of the advisory committee at least one time each year.

16 USC 3640.

## SEC. 11. ADMINISTRATIVE MATTERS.

5 USC 5332.

(a) Commissioners and Alternate Commissioners who are not State or Federal employees shall receive compensation at the daily rate of GS-18 of the General Schedule when engaged in the actual performance of duties for the United States Section or for the Commission.

(b) Panel Members and Alternate Panel Members who are not State or Federal employees shall receive compensation at the daily rate of GS-16 of the General Schedule when engaged in the actual performance of duties for the United States Section or for the Commission.

(c) Travel and other necessary expenses shall be paid for all United States Commissioners, Alternate Commissioners, Panel Members, Alternate Panel Members, members of the Joint Technical Committee, and members of the Advisory Committee when engaged in the actual performance of duties for the United States Section or for the Commission.

(d) Except for officials of the United States Government, such individuals shall not be considered to be Federal employees while engaged in the actual performance of duties for the United States Section or for the Commission, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 71 of title 28, United States Code.

5 USC 8101 et  
seq.  
28 USC 2671 et  
seq.  
16 USC 3641.

## SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this title including—

(a) necessary travel expenses of the Commissioners, Panel members, alternate Commissioners, alternate Panel members, United States members of joint technical committees established under article IV of the Treaty, and advisory committee members in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code;

(b) the United States share of the joint expenses of the Commission: *Provided*, That the United States Commissioners and Panel members and alternates shall not, with respect to commitments concerning the United States share of the joint expenses of the Organization, be subject to section 262b of title 22, United States Code, insofar as it limits the authority of United States representatives to international organizations with respect to such commitments;

(c) amounts for research, enhancement, and other activities necessary to carry out the purposes of the Treaty and this title; and

## PUBLIC LAW 99-5—MAR. 15, 1985

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(d) such amounts as may be due to settle accounts upon termination of the International Pacific Salmon Fisheries Commission.

**SEC. 13. REPEALER.**

The Sockeye Salmon or Pink Salmon Fishing Act of July 29, 1947 (16 U.S.C. 776-776f), as amended by the Act of July 11, 1957, sections 1-9, is repealed, effective December 31, 1985. The Secretary of State shall dispose of any United States property held by the International Pacific Salmon Fisheries Commission on the date of its termination in a manner which would further the purposes of this title.

Effective date.

16 USC 776,  
776a.  
16 USC 2642.

**SEC. 14. SAVINGS.**

This title shall not be interpreted or applied so as to affect or modify rights established in existing Indian treaties and other existing Federal laws, including the Order entered in *Confederated Tribes and Bands of the Yakima Indian Nation v. Baldrige*, Civil No. 80-342 (WD WASH.). This section shall not be interpreted or applied so as to affect or modify any rights or obligations of the United States pursuant to the Treaty.

16 USC 2643.

Indians.

**SEC. 15. RESTRICTION ON SPENDING AUTHORITY.**

16 USC 3644.

New spending authority or authority to enter into contracts provided in this Act shall be effective only to such extent, or in such amounts, as are provided in advance in appropriation Acts.

Approved March 15, 1985.

**LEGISLATIVE HISTORY—H.R. 1093:**

HOUSE REPORT No. 99-16 (Comm. on Merchant Marine and Fisheries).  
CONGRESSIONAL RECORD, Vol. 131 (1985):  
Mar. 5, considered and passed House.  
Mar. 7, considered and passed Senate.



## COMMISSIONERS

## UNITED STATES

Mr. James Pipkin (Chair)  
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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. SJR 13

Revision Date 2/26/99 Dept. Affected \_\_\_\_\_  
 Title AK Native on Pacific Salmon Commission BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Ward \_\_\_\_\_  
 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES [ ]</b>						
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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						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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 3/16/99  
 Approved by Senator Rick Halford, Chairman Date \_\_\_\_\_  
 Agency \_\_\_\_\_

TONY KNOWLES  
GOVERNOR  
governor@gov.state.ak.us



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
Juneau, Alaska 99811-0001  
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March 15, 2000

Ms. Penelope Dalton  
Assistant Administrator for Fisheries  
National Oceanic and Atmospheric Administration  
1315 East-West Highway  
Silver Spring Metro Building No. 3, Fourteenth Floor  
Silver Spring, MD 20910

Dear Ms. Dalton:

In accordance with the provisions of Section 302 of the Magnuson Fishery Conservation and Management Act, I am pleased to submit my nominations for the two obligatory seats on the North Pacific Fishery Management Council that will be vacant August 10, 2000. These two seats are currently held by Richard B. Lauber, who is ineligible for another consecutive term, and Joseph M. Kyle, who is completing his first term.

After reviewing the requirements of the act and after consulting with representatives of commercial and recreational fishing interests in Alaska, I nominate the following persons for consideration by the Secretary of Commerce. Please note among these nominations, my preference for the first seat is David Benton and my preference for the second seat is Robert Clark Penney.

First seat nominees to fill the seat currently held by Richard B. Lauber:

David Benton, Juneau  
James E. Bacon, Juneau  
Larry Jev Shelton, Juneau

Second seat nominees to fill the seat currently held by Joseph M. Kyle:

Robert Clark Penney, Anchorage  
Philip Cutler, Anchorage  
Timothy Ray Evers, Ninilchik

Ms. Penelope Dalton  
March 15, 2000  
Page 2

Individuals and representatives from the following organizations have provided advice regarding the North Pacific Fishery Management Council nominations:

Alaska Marine Conservation Council  
United Fishermen of Alaska  
Alaska Longline Fishermen's Association  
Representative Carl E. Moses, Alaska State Legislature  
Alaska Druggers Association  
Aleutian Spray Fisheries, Inc.  
Starbound Partnership LLP  
John R. Winther, Petersburg  
Kevin B. O' Leary, Kodiak  
Sitka Sound Seafoods  
Gilda M. Shellikoff, False Pass  
Akutan Fisheries Association  
Lawrence P. Cotter, Juneau  
Petersburg Vessel Owners Association  
Western Alaska Fisheries Inc., Kodiak  
Wards Cove Packing Company  
Premier Pacific Seafoods  
North Pacific Longline Association  
Mike Szymanski  
Alaskan Leader Fisheries  
City of Akutan  
North Pacific Processors, Inc.  
Fisheries Information Service, Juneau  
Ounalashka Corporation, Unalaska  
Kodiak Island Borough  
The Aleut Corporation  
Senator Kim Elton, Alaska State Legislature  
Henry Olson, Unalaska  
Jeffrey L. Thompson, Anchorage  
Saltwater, Inc.  
Alaska Groundfish Data Bank  
Applied Ocean Services  
Southwest Alaska Municipal Conference  
City of Unalaska  
Osterman Fish Company  
Resource Development Council

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Page 3

David Rogers, Juneau  
Woodbine Alaska Fish Company  
Alaska Fisheries Conservation Group  
Norquest Seafoods, Inc.  
Sea Catch Incorporated  
Dignon Company, Inc.  
Fishing Vessel Owners' Association Incorporated  
International Pacific Halibut Commission  
Clem Tillion, Halibut Cove  
Rondys, Inc.  
Concerned Area M Fishermen  
Morning Star L.L.C.  
Kodiak Fish Company  
Daniel Hull, Anchorage  
Coastal Fisheries L.L.C.  
Cordova District Fishermen United  
TDX Corporation  
Robert M. Thorstenson, Sr.  
All Alaskan Seafood Ventures  
Ocean Beauty Seafoods, Inc.  
Global Seafoods Kodiak, L.L.C.  
Capilano Pacific  
Icicle Seafoods, Inc.  
New West Fisheries Inc.  
Gordon Jensen, Petersburg  
Seafood Producers Cooperative  
Gary Painter, Newport, Oregon  
Snopac Products, Inc.  
Deep Sea Fishermen's Union of the Pacific  
Valdez Chamber of Commerce  
Robert Siter, Eagle River  
Thomas Carpenter, Slana  
Cracker Jack Sport Fishing Charters  
Marine Engineering Beneficial Association  
Alaska Sportfishing Association  
Alaska Sportfish Council  
Juneau Charter Boat Operators Association  
Mike and Patty Wing, Valdez (Cap'n Patty Charters)  
Mayor Frank Kelty, Unalaska

Ms. Penelope Dalton  
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Page 4

Edgar Pyle, Valdez (Owner, Northern Comfort Charters)  
Representative John Davies, Alaska State Legislature  
Lennie Gorsuch, Juneau  
Royal Aleutian Seafoods, Inc.  
At-Sea Processors Association  
Goodhand Charters  
Valdez Charterboat Association  
Doug Ogden, Anchorage  
Patrick Bookey, North Pole  
Drew Scalzi, Homer  
Mathew Kopec  
Joe Kilian, Valdez  
Alaskan Angler  
Johnny M. Kerr  
Lil Fox Charters  
Ken L. Larson, Valdez  
Sanity Charters  
Douglas & Donna Ibbetson, Thorne Bay  
Boardwalk Wilderness Lodge  
Southeast Alaska Sportfishing Adventures, Inc.  
Sportsman's Cove Lodge  
Randy Huber, Anchorage  
AJ Charter Service  
Lauren Burch  
Luck of the Irish Charters  
Michael J. Koskovich  
Central Bering Sea Fishermen's Association  
Sitka Charter Boat Owners Association  
Atka Fishermen's Association  
Valdez Charter Boat Association  
Robert Mikol, Fairbanks  
Larry Elliott, E.C. Phillips and Son

#### BACKGROUND OF FIRST SEAT NOMINEES

##### David Benton, Juneau

My first choice for the seat being vacated by Richard Lauber is David Benton. His broad and diverse record of experience, expert knowledge, and deep commitment to the conservation and management of the marine resources of the North Pacific make him my

Ms. Penelope Dalton  
March 15, 2000  
Page 5

foremost choice for this specific seat. Mr. Benton will resign from state employment at the end of June 2000 and I am pleased to present his name for a three year term on the council.

As Deputy Commissioner of the Alaska Department of Fish and Game since 1994, David Benton has served as the state's representative to the council for the past five years. Mr. Benton also represented the state on a variety of fisheries panels and negotiating teams including the Central Bering Sea Pollock Convention, the U.S. Section of the North Pacific Anadromous Fish Commission, and the U.S./Russia Intergovernmental Consultative Commission, and was appointed by the President as the United States Commissioner for Alaska to the U.S./Canada Pacific Salmon Commission. Prior to his post as Deputy Commissioner, Mr. Benton also served as Director of the Department's Office of External and International Fishery Affairs and as Special Assistant to the Commissioner of Fish and Game since 1987--totaling 13 years of continuous public service on behalf of the State of Alaska. He will bring a wealth of experience and a mastery of the issues to the council.

Mr. Benton's policy expertise is also supplemented through his four years as a private consultant on coastal and marine resource issues as principal owner of "Benton & Associates" from 1982-1986 prior to his state service. Finally, Mr. Benton brings an academic background in fisheries conservation and management through his degree in marine biology and coastal planning from the University of California at Santa Cruz.

For all of the above reasons, Mr. Benton will make an excellent appointment to the council. His broad exposure and strong record for the conservation and sound management of commercial and recreational fisheries of the North Pacific qualify him to serve as trustee and steward of our Nation's living marine resources.

James E. Bacon, Juneau

Mr. Jim Bacon is a longtime commercial fisherman in Southeast Alaska and a respected spokesperson for the industry. He has purse seined for herring, gillnetted for salmon and herring, longlined for halibut, crewed longlining blackcod, and chartered his own fishing vessel "Wavedancer" for a myriad of marine activities including scientific research. He has a distinguished record for conservation and development of the fisheries resources of Southeast Alaska. Past service includes President of Southeast Seiners Association for six years, President of the United Fishermen of Alaska for two years, and President of Southern Southeast Aquaculture Association for two years. He was appointed by the U.S. Secretary of Commerce to the Northern Panel of the U.S. Section of the Pacific Salmon Commission, where he has served as co-chairman since 1991. His 25 years experience in the fishery and for the industry qualify him for nomination to the council.

Ms. Penelope Dalton  
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Larry Jev Shelton, Juneau

Jev Shelton is a 30 year resident of Southeast Alaska and an active participant in Southeast Alaska fisheries as a southeast salmon drift gillnetter since 1972; a herring set gillnetter since 1974; and participant in the halibut longline fishery since 1979.

Jev's experience and expertise is supplemented by his distinguished record of past industry service including Executive Director of the Southeast Gillnet Federation; member of the Board of Directors of the United Fishermen of Alaska, the Northern Southeast Regional Aquaculture Association, and the Allied Fishermen of Southeast Alaska; President of the Southeast Fishermen's Coalition and longtime member of the United Southeast Gillnetter's Association. Mr. Shelton was appointed by the Governor of Alaska in 1983 to serve on the Pacific Marine Fisheries Commission and by the U.S. Secretary of Commerce in 1989 to serve on the Northern Panel of the Pacific Salmon Commission, where he has served since 1992. Mr. Shelton's wealth of experience in the conservation and development of the fisheries in Southeast Alaska qualify him as a nominee to the council.

BACKGROUND OF SECOND SEAT NOMINEES

Robert Clark Penney, Anchorage

My first choice for this seat is Mr. Bob Penney. Although I am not submitting the name of Joseph M. Kyle for reappointment, his service has been outstanding and his commitment to Alaska is to be highly commended. He has done a noteworthy job on the council and I praise his abilities and service over the past three years. However, I am seeking to clearly bring a new dimension to the council by nominating a recognized leader and spokesperson for the sportfishing public, a constituency that has not felt fairly represented in the past.

My foremost choice for this specific seat is Bob Penney and I am pleased to present his name for a three-year term on the council. Bob Penney is a lifelong sport fisherman, outdoorsman, and recreational enthusiast who will bring a wealth of experience and expertise of Alaska's recreational fisheries to the council. His personal knowledge, professional business ventures, record of leadership in a variety sportfish organizations, and commitment to the conservation of our fishery resources clearly qualify him for nomination to the council under criteria in 302(b)(2)(a).

Mr. Penney is founder, past chairman, and present board member of the Kenai River Sportfishing Association, founder and past chairman of the Kenai River Sportfishing

Ms. Penelope Dalton  
March 15, 2000  
Page 7

Classic Tournament, member of the Alaska Sportfishing Association, and lifetime member of the Alaska Flyfishing Association. He formed and helped fund HAB/PRO, an organization dedicated to habitat preservation and restoration of the Kenai River in Southcentral Alaska, one of the most popular, unique, and productive fishery drainages in the nation if not the world.

Mr. Penney also brings experience in value-added production and marketing of our sport-caught recreational fisheries through his private business "Trapper's Creek Smoking Company," a fish and wild game smoking, processing, retail, and wholesale supplier. He is also partner and owner of "Golden Horn Lodge" in Dillingham, a world class sportfishing lodge currently under renovation and located in southwestern Alaska's Wood-Tikchik State Park.

Mr. Penney will not only bring needed expertise and knowledge about recreational harvest to the council, but also will provide a strong and independent voice for the welfare of the living marine resources and will serve as an excellent trustee and steward of our nation's public fishery resources. I urge your consideration of his nomination.

Philip Cutler, Anchorage

Mr. Philip Cutler is a longtime sportfishing enthusiast and holds many leadership positions in this industry. He has served as President of Alaska Sportfishing Association since 1991, Managing Director of the Cook Inlet Sportfishing Caucus since 1995, and Vice President of the Cook Inlet Public Fishing Council since 1997. In addition, he has served on a number of public policy working groups including the Mayor of Anchorage's Ship Creek Citizen's Advisory Task Force, the Upper Cook Inlet Fisheries Management Strategy Group, the Alaska Board of Fisheries' Kenai River Sockeye Salmon Task Force, and the U.S. Forest Service Russian River Working Group. As an experienced sportfisherman and recreational and outdoors enthusiast, Mr. Cutler would bring a strong record of service for the recreational public on the council.

Timothy Ray Evers, Ninilchik

Timothy Evers is the owner of Deep Creek Sport Shop, The Big Valley Cabins, and Fishward Bound Adventures and has been a professional fishing guide for the past 15 years. In addition to his personal lifestyle and professional business qualifications, Tim also has a strong record of community and industry service. He was elected to serve as a member and vice-chair of the Central Peninsula Advisory Committee for the past eight years and is a board member of the Cook Inlet Aquaculture Association, the Alaska Sportfishing Association, the Alaska Sportfishing Council, and the Cook Inlet Council for Sport Fisheries. He founded the Deep Creek Charterboat Association and is presently serving on the Halibut Charter Boat IFQ Committee for the North Pacific Fisheries

Ms. Penelope Dalton  
March 15, 2000  
Page 8

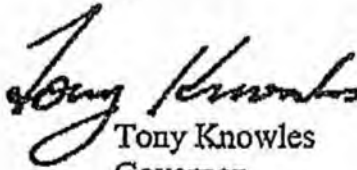
Management Council. Tim Evers has a strong and impressive record of participation in the development and management of our fisheries as a private citizen, business owner, and public servant and I am pleased to present him as a nominee to the council.

I am pleased to make these nominations for the two obligatory seats on the North Pacific Fishery Management Council. Enclosed are the six completed packets for my nominees.

Please contact Heather Bradner of my Boards and Commissions staff if you have any questions or if additional information is needed. She may be reached at (907) 465-3934.

Thank you for your consideration of these nominees.

Sincerely,



Tony Knowles  
Governor

Enclosures

cc: Frank Rue, Commissioner, Alaska Department of Fish and Game  
John W. Katz, Director of State/Federal Relations and Special Counsel to the  
Governor, State of Alaska

03/31/2000 15:08 907-772-4495

PETERSBURG\_VESSEL\_OWNERS\_

PAGE 01

## Petersburg Vessel Owners Association

P.O. Box 232  
 Petersburg, Alaska 99833  
 Phone (907) 772-9323 Fax (907) 772-4495

March 29, 2000

Mr. William Daley  
 Secretary of Commerce  
 14th Street and Constitution Ave. NW  
 Washington, D.C. 200230

Re: Appointments to the North Pacific Fisheries Management Council

Dear Secretary,

In regards to the nominations for the NPFMC submitted by Governor Knowles of Alaska, PVOA cannot support any of the six names submitted as we believe these nominations violated public process and federal law. The six nominees were not on any known list of candidates available to the public nor was the public informed they would be potential nominees.

Magnuson-Stevens [302 (b) (2) (c)] states (emphasis added):

"The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each individual is qualified under the requirements of subparagraph (A) and unless the Governor, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals."

No such consultation took place nor was the public aware of consideration of the six candidates submitted by Governor Knowles. However, the public was aware that there were six other interested and qualified individuals (from both the commercial and recreational sectors) who had submitted their names for consideration. None of these names were advanced by the Governor nor

1

03/31/2000 15:00

987-772-4495

PBURG\_VESSEL\_OWNERS\_

PAGE 02

was any reason given for that oversight. These six were the only names up for consideration as known by the public. These were the names that were commented upon by the commercial and recreational fishing interests of Alaska including Petersburg Vessel Owners Association.

Of the six names submitted by the Governor, four presumably had no interest in serving on the NPFMC, since they did not even submit their names for consideration. At least they had no interest in being considered until the Governor's Office called them up and asked if their names could be submitted as "throwaways". This occurred immediately prior to the March 15 announcement by Governor Knowles.

Of the two candidates earmarked for the NPFMC seats, Mr. Dave Benton and Mr. Bob Penney, there are additional concerns beyond public notice.

In regards to Mr. Benton, he currently sits on the NPFMC in the seat designated for the State of Alaska (as specified in Magnuson-Stevens 302 (b) (1) (A)). Mr. Benton intends to retire from employment with the State of Alaska but only in part, as he will still be representing the State of Alaska in other forums such as U.S./Canada Pacific Salmon Treaty for some time in the future. Mr. Benton is being nominated for a NPFMC seat other than the seat occupied by the representative of the State of Alaska. We see this nomination as an attempt for the State of Alaska to hold two seats on the Council at the expense of the public and particularly the fishing industry.

In regards to Mr. Penney, to the best of our knowledge, we must note that none of us can recall ever seeing Mr. Penney attend a NPFMC meeting in the last three years to say nothing of testifying or serving on a Council committee or Advisory Panel. This lack of participation in the NPFMC is evident in his resume accompanying the press release.

Of the six names submitted (but not considered) by the Governor, all six had either attended Council meetings, testified, or served on the Council or Council committees or the Advisory Panel. What is the message here? It seems to be if a member of the public is interested or qualified in serving on the NPFMC, they need not apply.

In regards to both nominations changing the existing apportionment of the NPFMC, we direct your attention to the "1999 Report on the Apportionment

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of Membership on the Regional Fishery Management Councils (RFMCs)" submitted by yourself, the Secretary of Commerce, to Congress in January, 2000. The 2000 Report Recommendation regarding the NPFMC reads as follows (emphasis added):

"In consideration of the strongly competitive commercial fishing and environmental interests in the North Pacific fisheries, the current balance of inshore, offshore, gear groups, and ecosystem representation should be maintained to meet the apportionment requirements of the Magnuson-Stevens Act."

We see no rationale in providing the State of Alaska an additional seat on the Council. Given that recreational issues occupy less than one percent of the NPFMC's agenda, and recreational interests have been strenuously advanced by present Council members (Mr. Mace, Mr. Kyle and Mr. Benton), we see no compelling rationale for a recreational seat at this time.

Given these considerations, we request you reject these nominations until such a time they can be done in a manner consistent with Magnuson-Stevens (Section 302 (b) (2) (C)) and your apportionment recommendation.

Respectfully yours,

Gerry Merrigan  
Director, PVOA

- cc: Governor Knowles
- Senator Ted Stevens
- Senator Frank Murkowski
- Representative Don Young
- Chairman Rick Lauber, NPFMC
- United Fishermen of Alaska

**Drew Scalzi**

---

**From:** Drew Scalzi <abl@xyz.net>  
**To:** <Bob\_King@gov.state.ak.us>  
**Sent:** Thursday, March 16, 2000 11:05 AM  
**Subject:** appointments

Bob,

I can only assume that the Governor's intent of Bob Pennys' appointment to the NPFMC is to dismantle the IFQ program for halibut, and turn the whole State of Alaska into a recreational play ground. After what we've seen on the Kenai Peninsula regarding salmon management from the BOF, it leaves little doubt in my mind the Knowles administration will continue to degrade commercial fishing interests in the Gulf of Alaska.

Sport fishers should have concerns over salmon and halibut by-catch issues with regard to the offshore trawl industry, as we all do and have been fighting for quite some time. Many of us however, can not help but assume that this appointment will move us further from conservation and focus more toward manipulating allocation.

The Governor has all but destroyed the commercial salmon industry in Cook Inlet with his BOF appointments and Bob Pennys' influence. Again we can only assume that the Governor is aware of his appointments agendas and what they hope to bring to their respective boards and councils. This then leaves the Governor responsible for the state of our commercial fisheries in the State of Alaska. It is not a legacy I think he will enjoy in retrospect.

Sincerely,

Drew Scalzi  
41685 Redoubt Circle  
Homer, Alaska 99603



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
907/596-2820  
Fax: 907/463-2845  
E-Mail: [ufa@alaska.net](mailto:ufa@alaska.net)

March 30, 2000

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

Dear Governor Knowles,

In response to your recent nominations to the North Pacific Fisheries Management Council, the seafood industry and fishermen are disappointed as to the direction and action you have taken and are compelled to comment.

The seafood industry has a tremendous investment in the Council's decisions regarding fisheries around the state. For this reason we object to the process followed in regards to your nominees to the Council. Various groups in our industry spend a lot of time interviewing candidates and making selections of the nominees they would like to support for the Council in order to protect the viability of our industry, which contributes substantially to the state's economy.

Your nominees were not on the list of candidates and we were not informed that they would be potential nominees. We understand that you can go beyond the publicly posted list of candidates; however, the seafood industry expected to be informed of your preferences regarding Council nominees in advance and of the direction and policy changes inherent in your choices. Had we been informed, we would have had time to discuss your choices and perhaps been able to work with you regarding your nominees. As it was, we were taken aback.

Section 302 (b)(2) (C) of the Magnuson-Stevens Act states:

"The secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals."

#### MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Central Area TWP Fishermen  
Cook Inlet Aquaculture Association • Copper River Salmon Producers Association • Chukotka District Fishermen United  
Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak County Association • North Pacific Fisheries Association  
Northwest Coastal Regional Aquaculture Association • Northwest Salmon Producers Association • Petersburg Vessel Owners Association  
Prince William Sound Salmon Producers Association • Sitka Valley Trollers Association

Furthermore in the "1999 Report on the Apportionment of Membership on the Regional Fishery Management Councils (RFMCs)" submitted by the Secretary of Commerce to Congress in January 2000; the Secretary stated the following regarding the North Pacific Fishery Management Council, "In consideration of the strongly competitive commercial fishing and environmental interests in the North Pacific fisheries, the current balance of inshore, offshore, gear groups, and ecosystem representation should be maintained to meet the apportionment requirements of the Magnuson-Stevens Act."

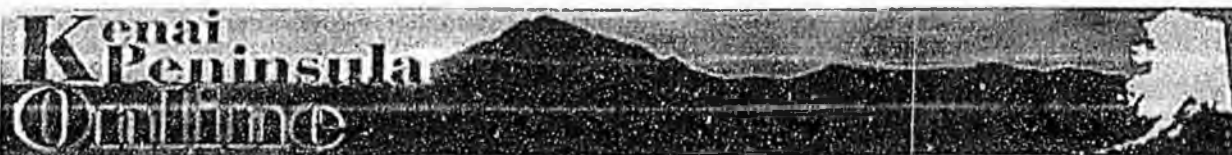
As the second largest industry, and the largest private sector employer in the state of Alaska, we do not feel that we were adequately informed or consulted about your nominees before your announcement and nomination. We did not have the opportunity to evaluate potential impacts of the proposed changes in Council composition. While we fully understand that all fisheries interests must be served in this process, we feel that your actions signal that the input and contributions commercial seafood industry are not valued. Partnership with industry has been a byword of your administration and we welcome opportunities to sustain a relationship beneficial to the economy and people of Alaska.

Sincerely,

*Thomas M. Gemmell*

Thomas M. Gemmell  
Executive Director

Copy: Secretary William Daley, Department of Commerce  
Senator Ted Stevens  
Senator Frank Murkowski  
Representative Don Young  
Commissioner Frank Rue, Alaska Department of Fish and Game  
Mr. Steve Pennoyer, Alaska Regional Administrator, NMFS



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## Commercial fishing advocates protest Knowles' nominees to fish council

ANCHORAGE (AP) -- Commercial fishing advocates are criticizing Gov. Tony Knowles, saying he did not consult with them before making his nominations to the North Pacific Fishery Management Council.

Under federal law, Knowles must "to the extent practicable," consult with representatives of the commercial and recreational fishing interests of the state before making his nominations to the council, which regulates federal fisheries in Alaska. The U.S. Secretary of Commerce makes the council appointments from the governor's nominations.

Commercial fishing advocate Joseph Malatesta Sr. says Knowles does not appear to have consulted the groups and individuals he lists in a March 15 letter nominating candidates for two North Pacific Fishery Management Council seats.

Knowles' top picks for the two seats are Anchorage sport-fishing activist Bob Penney and David Benton, deputy commissioner of the state Department of Fish and Game.

Knowles named 107 groups and individuals in his March 15 letter.

However, some were surprised to find their names on the list.

"I certainly wasn't consulted," said Unalaska Mayor Frank Kelty, whose name Knowles listed.

Kelty said he wrote Knowles to nominate Stephanie Madsen, vice president of the Pacific Seafood Processors Association, for the council.

"He sent me a letter saying he recognized I supported her, and thank-you very much," Kelty said. "If that means he consulted me, I don't know."

Knowles also listed Gilda M. Shellikoff, president and administrator of the False Pass Tribal Council and chair of the Aleutian Pribilof Community Development Association, which holds community development quota shares in Western Alaska fisheries.

"I didn't talk to him," Shellikoff said. "If he called me, I wasn't here."

Shellikoff said she wrote Knowles recommending the nomination of Joe Kyle to the North Pacific council. The administration wrote back that Knowles would take her recommendation into consideration.

"I was really surprised when I heard he'd said he'd consulted me," she said.

Malatesta said those are the sorts of contacts Knowles considers consultations, and they hardly satisfy the intent of the act.

"The heart and the intent of the Magnuson Act is to give the people forewarning, to give them an opportunity ahead of time to address the nominees, so that we can look at their credentials," he said.

Gordon Helm, spokesman for the National Marine Fisheries Service in Washington, D.C., said state governors have considerable discretion in how they make the consultations the act requires. The act specifies no penalties for failure to comply, he said. However, if the secretary determines that Knowles has not followed the consultative process, the two Alaska seats will remain empty until that is rectified.

"It comes down to how you define 'consult,'" he said. "There's a lot of latitude in this."

Knowles' spokesman Bob King said numerous groups and individuals suggested candidates for council seats. Sport fishers questioned the lack of sport fishing representatives on the council, whose actions may significantly affect halibut charters.

Knowles took the public's suggestions into account, he said, but the governor feels that he alone has the responsibility to make the nominations.

"These are his picks. They were made after listening to the comments of the people," King said.

In particular, the groups are unhappy with the choice of Penney, a Knowles political ally, real estate developer and advocate of sportfishing rights on the Kenai River.

Although the governor's nomination letter lists United Fishermen of Alaska and the Petersburg Vessel Owners Association as having provided advice, both organizations complain they weren't asked.

"We were taken aback," wrote Tom Gemmell, executive director for United Fishermen, in a letter to Knowles.

Gerry Merrigan, a Southeast fisherman and director of the Petersburg Vessel Owners Association, urged U.S. Commerce Secretary William



Daley to reject the nominations. He wrote that "to the best of our knowledge," Penney had never been seen at a North Pacific Council meeting. Penney could not be reached Wednesday for comment.

Because council business rarely strays into the recreational fishing world -- the council mainly deals with industrial-scale harvests of Bering Sea and Gulf of Alaska bottom fish like pollock and cod -- "we see no compelling rationale for a recreational seat at this time," Merrigan said.

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# Alaska State Legislature

Please enter into the record my testimony to the SRES  
committee name

committee on SJR 13, dated 4-7-00  
bill # / subject

Dear Senator Halford,

I would ask for your help along with any committee members who value "good governance" to support the portion of CS SJR 13 Page 3 lines 3-15.

Please, Senator Halford, do all you can do to encourage our Legislature to ask the U.S Secretary of Commerce to require our Governor T. Knowles to withdraw his most recent list of nominees for appointment to the N. Pacific Fishery Management Council until the Governor has complied with the Magnuson-Stevens Act.

Signed: Debra Halle Debra Halle  
Testifier

Myself  
Representing (Optional)

P.O. Box 592  
Address

Kasilof, Alaska 99610  
Phone number

Mr. Malatesta Sr. taped, with permission, his conversation with the people listed below.  
A transcription of the tape is being made and will be available this afternoon.

Interviewer: Joseph A. Malatesta Sr.  
PO Box 318  
Clam Gulch, Alaska 99568  
(907) 567-3419

Jay Stinson  
President, Alaska Draggers Association  
907-486-6933

Terry Gardner  
Norquest Seafood Inc., Owner  
206-281-7022

UFA  
Thomas Gemmell, Executive Director  
Karl Kircher, Vice President

Honorable Frank Kelty  
Unalaska

Clem Tillion  
Halibut Cove  
907-296-2207

Gordon Jensen  
Petersburg  
907-772-4705

Dick Walsh  
Concerned Area 'M' Fisherman  
907-772-4842

Mitch Kilborn  
Western Alaska Fisheries Inc., General  
Manager  
907-486-4112

Drew Scalzi  
Long Line Fisherman  
907-235-6359

Roy Brown  
Kodiak Fish Company  
907-486-3309

Gilda Shellikoff  
Falls Pass Tribal Council, President  
907-548-2207

**Taping by Joe Malatesta, Sr., of phone call to Mayor Kelty**

Joe: Today is April 1, 2000, and I am the investigator and legal assistance with the law firm of Robinson and Beiswenger in Soldotna. We are looking into the State of Alaska, Governor Tony Knowles' nominations to the North Pacific Fisheries Management Council. I am on the phone with Mr. Frank Kelty, the Mayor for Unalaska. Mr. Kelty I just need to make a quick taped interview with you regarding my investigation into the appointment.

Mayor: Yes, but before we go on the record... are we on the record right now?

Joe: Yes, but the purpose of this is so that I have a good record for myself, this is nothing official, I am just protecting myself because I am going to speak at the Borough Assembly and your name is listed on Governor Knowles' letter to Mr. Penelope Dalton, dated March 16, 2000.

Mayor: Let me clarify this. I received a letter from the Governor on letters of support that I sent into him on candidates that didn't make the final list. I sent a letter of support and I read the letters of support for Stephanie Madsen and the Governor thanked me in the letter for the support. His letter back was thanking me for supporting Stephanie Madsen and he would take it under advisement. I had been contacted by the Governor's that way.

Joe: Here's my question, prior to March 15, 2000, were you contacted by the Governor's office regarding any comments that you may have were you contacted by either Governor Knowles or a representative of the Governor or someone that works in his office regarding these names: David Benton, James Bacon, Larry Shelton, Robert Penny, Phillip Cutler or Timothy Everst.

Mayor: No I was not.

Joe: I understand that a lot of people wrote in letters of support for a nominee, but the thing is Governor Knowles is alleging to the United States Government, Secretary of Commerce, that he has had contact with possibly a 170 people, and he lists them, regarding these nominations, and that is what I am trying to find out. End of interview.

**Taping by Joe Malatesta, Sr., of phone call to Jay Stinson**

Joe: Today is the 28<sup>th</sup> day of March, 2000, and I am on a telephonic conversation with Jay Stinson who is the president of Alaska Draggers Association. Mr. Stinson, my name is Joseph Malatesta, Sr. and I am an investigator for the law firm of Robinson and Beiswenger also a legal assistant there, and what I would like to do is a quick taped interview with you regarding the Governor of Alaska, Mr. Knowles' nominees for the North Pacific Fisheries Management Council and do I have your permission?

Jay: Yes

Joe: Okay. Just for the sake of clarification, Mr. Stinson, you are the president of the Alaska Draggers Association?

Jay: Yes I am.

Joe: And Mr. Birch is the executive director?

Jay: Yes he is.

Joe: What I am doing is, I am checking and talking to people that were listed on Governor Knowles' contact sheet that he sent to the United States Department of Commerce regarding his nominees for position on the North Pacific Fisheries Council.

Jay: Alright.

Joe: Now, um I understand that your organization received a list of nominees and that you commented on a lot of them. Could you just fill me in on that?

Jay: We were under the assumption that Stephanie Madsen's name would be put forward, Dick Jacobsen from Sand Point, Joe Kyle from Juneau and Chris Norris from Icicle. So anyway, those were the names that we were furnished by the Governor's office. Well, those were the ones that were general knowledge, and I am not sure if those came from the Governor's office or not, but, those were the ones that we had been informed were interested in putting their names forward for consideration on those seats.

Joe: Okay, prior to March 15, 2000, were you ever contacted by the Governor himself, Mr. Knowles, or any representative or agent regarding the nominees of David Benton, James Bacon, Larry Shelton, Robert Penny, Phillip Cutler, Timothy Everest?

Jay: To the best of my knowledge, no. There again, I was actively engaged in fishing and I was not in my office, but I had been in discussion with Al Birch and our secretary, Paula Stinson, and to the best of my knowledge we had not heard of those names until we were informed that they had gone forward to the secretary of commerce for consideration.

**Taping by Joe Malatesta, Sr., of phone calls to Tom Gemmell**

1. My name is Joe Malatesta and I am the investigator and legal assistant for the Law Office of Robinson and Beiswenger in Soldotna, Alaska. I am on the phone telephonically with Tom Gemmell, the Executive Director of United Fishermen Alaska.

Joe M: Mr. Gemmell, I would like to do a taped interview with you regarding Governor Knowles' recent nominations to the North Pacific Fisheries Management Council. Can I have your permission?

Mr. Gemmell: You have my permission.

Joe M.: What is your mailing address?

Mr. Gemmell: Mailing address is: 211 Seward Street, Ste. 110, Juneau, Alaska 99801-1143.

Joe M: What is your position with United Fisherman of Alaska?

Mr. Gemmell: I am the executive director.

Joe M.: And how is the board made up? What do you have like a president, vice president?

Mr. Gemmell: We have a president, vice president, secretary and treasurer.

Joe M.: Okay, so then you have some kind of committee or board.

Mr. Gemmell: We have several committees set up national, statewide....(tape cuts out)

Joe M.: Let me take you back to a board meeting that you had in Juneau on or about March 8 through March 12, 2000. Do you remember that board meeting?

Mr. Gemmell: Yes, I do.

Joe M.: Did you by any chance discuss the appointment to the North Pacific Fisheries Council at that board meeting?

Mr. Gemmell: Yes we did.

Joe M.: Did you receive a list of nominations from the governor or any agent or representative of the Governor Tony Knowles of Alaska that you could discuss at that meeting?

Mr. Gemmell: Um, yes, I believe we received a list from the boards and commissions sections up there. The list contained I believe five names, and those names were Chris Norris, Stephanie Madsen, Joe Connell, Dan Falthey and Dick Jacobson. There were also I believe a couple sport fishermen's names on there, Jim Crather from Juneau and Mike Bethers from Juneau.

Joe M.: Did you folks talk at that meeting or discuss what the board wanted you to do?

Mr. Gemmell: The board discussed the nominations and put together a letter for me to sign, and I did sign that letter and um, as well as hand deliver that letter on the tenth of March.

Joe M.: By who?

Mr. Gemmell: I think my office manager, Robin Convest did that.

Joe M.: Okay, well, listen to this question closely. On or before, better yet before March 15, so it would be on March 14<sup>th</sup>, on or before March 14, 2000, did you ever receive any communications from the Governor himself, Mr. Knowles, or any of his staff, representatives or agents of the Governor's office regarding his nominations to the North Pacific Fisheries Management Council for the names of David Benton, James Bacon, Larry Shelton, Robert Penny, Phillip Cutler, or Timothy Everst?

Mr. Gemmell: No, I did not.

Joe M.: The appointments for this nomination for this appointment were made public on the morning of March 15, 2000. Did you have any knowledge of those appointments on March 15, 2000?

Mr. Gemmell: On the morning of March 15, 2000, um, I was paged that I had a call from George Ascott with the Governor's office. When I received this page I was at a federal subsistence regional advisory council meeting in Douglas, Alaska. I called Mr. Ascott and he informed me of the names of the people that were being nominated to the council.

Joe M.: And at that time the names that he told you were different from the list that the Governor's office had furnished to you upon request?

Mr. Gemmell: That is correct.

Joe M.: So at no time prior to this nomination did United Fishermen's Alaska have an opportunity to discuss these new nominees or make comment on these new nominees prior to their nomination.

Mr. Gemmell: No we did not.

Joe M.: End of conversation.

**Taping by Joe Malatesta, Sr., of phone call to Karl Kercher**

Joe M.: Today is the 28<sup>th</sup> day of March, 2000. My name is Joe Malatesta and I am a private investigator for the law firm of Robinson and Beiswenger in Soldotna, Alaska and I am with Karl Kercher. Mr. Kercher for the sake of this tape I would like to make a taped interview with you regarding Governor Knowles' nominees to the North Pacific Fisheries Council but I need your permission to make a taped interview.

Karl: Yes, you have my permission.

Joe: Karl, I understand that you are the executive director of the Kenai Peninsula Fisherman's Association.

Karl: That is correct.

Joe: Prior to the newspaper article nominating Mr. Penny and Mr. Benton to seats on the North Pacific Fisheries Council, were you ever contacted as the executive director or KPFA by the Governor of Alaska Mr. Knowles or any representative or agent of him regarding these appointments?

Karl: No, I was not.

Joe: Was the Fisherman's Association ever contacted, like any board of director or anything, to your knowledge or that they brought to your knowledge?

Karl: No, not to my knowledge.

Joe: Then you hold a seat on the United Fishermen of Alaska?

Karl: That is correct. I am a board member. KPFA is a member organization of United Fishermen of Alaska which gives us a board seat and I was elected vice-president of United Fishermen of Alaska. Currently vice-president of United Fishermen of Alaska.

Joe: And on or about March 8 through March 12, 2000, did you travel to Juneau, Alaska, to sit on a UFA board meeting?

Karl: Correct, yes I did. From the beginning of the board meeting through fairly close to the end of the board meeting. I left a couple hours early.

Joe: And what was the meeting about?

Karl: The meeting was about a broad variety of issues regarding all subjects that come up over the course of the year that effect the commercial fishing industry. A broad variety of subjects.

Joe: And did you folks ask the Governor or the Governor's office to provide you with a list of his nominees to the North Pacific Fisheries Management Council prior to your meeting on the 8<sup>th</sup> or 12<sup>th</sup>?

Karl: Um, yes we did. We had a list when we arrived at the meeting of those people that we knew of. We knew those positions were coming up soon so we took that up the first day of our board meeting. Prior to that we asked the Governor's office for the most current list of nominees to the North Pacific Fisheries Management Council.

Joe: And did he provide you with that list?

Karl: He did provide us with a list.

Joe: What were the names of his nominees from your recollection?

Karl: I remember the nominees were Chris Norris, Stephanie Madsen, Joe Kyle, Dick Jacobsen and two sport fishermen Preston and Mike Bethers.

Joe: On or before your meeting the 8<sup>th</sup> through the 12<sup>th</sup> of March, 2000, were you ever furnished by the Governor's office or the Governor himself, Tony Knowles, or any agent or representative the names of David Benton, James Bacon, Larry Shelton, Robert Penny, Phillip Cutler or Timothy Everst?

Karl: We heard none of those names.

Joe: So you weren't afforded an opportunity to discuss any of the later names that I just read to you with the Governor or your board?

Karl: No, we had a long discussion on those names on the list that we received, but those names that were currently nominated and on that letter we discussed, not at all.

Joe: Now up until the time you read it in the newspaper, Mr. Penny and Mr. Benton were nominated by the Governor, had anyone updated your list or changed the list and gave it to you as the vice-president of United Fishermen's Association?

Karl: No, actually on the day that the newspaper article came out I received a fax from United Fishermen of Alaska, that was a copy of Bob Penny's press release and the Governor's press release.

Joe: End of conversation.