

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10656 SENATE RESOURCES

*Att. Darwin Peterson pg 4 of 4*

Pete Bulst  
October 17, 2001

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Fairbanks Area 5-yr Schedule  
FY 02-06 Agency Draft

**NC-741-F Big Bend #3 and NC-1019-F Big Bend Mixed:** These sales are best reviewed together, in context with the previous Big Bend sales. The Chena River floodplain between Two Rivers and Chena River Recreation Area, including side channels, provides critical year-round habitat for anadromous and high value resident fish. We recommend that Big Bend #3 be deferred due to the complex drainage system within this sale area, possibly including backwater sloughs, that shows on aerial photos. Until complete information can be obtained on water body locations and types, and the extents of anadromous and high value resident fish habitats, we recommend that no further action be taken on this sale. The highest standards must be applied to unit layout, streamside buffers, road locations, winter stream crossings, and application of BMPs to prevent water quality degradation in fish habitat. The ADF&G recommends that the harvest and fallow areas mosaic for floodplain forest types described in TVSFMP Timber Management Guideline D.2 be maintained in this floodplain area. Crossings of all fishbearing waters will require a Fish Habitat (Title 16) Permit.

**NC-751-F Midway Island North:** This proposed sale is within the active floodplain of the Tanana River. All watercourses within the limits of ordinary high water provide habitat for anadromous and high value resident fish species. In Barton's 1989 radiotelemetry study, fall chum salmon were documented spawning immediately upstream of the southern end of the sale area of interest. The method for crossing the Tanana side channel by the existing secondary road is not specified, but will require a Fish Habitat (Title 16) Permit unless a bridge currently exists. We are unable to comment farther on road issues because the access routes are not shown. The extensive network of historic channels shown on the sale map will make layout of this sale difficult. In addition, the ADF&G recommends that a mosaic of small units be laid out if this sale is pursued, in an effort to better emulate typical floodplain disturbance patterns. In particular, cutting should be limited in the southern portion of the island (Section 35) where previous harvests have occurred.

**NC-844-F Whiskey Island #3:** The precise nature of our comments on this proposed sale depends on which of the identified areas of interest are actually used for sale layout. The northern portion of Section 8 has spruce sawtimber on relatively steep slopes, requiring a different level of care during harvest than the flatter sites in the rest of the section. Operations in Section 17 would require a Fish Habitat (Title 16) Permit for crossing Ho' Slough, a side channel of the Tanana River. The proposed crossing site would have to be evaluated based on bed and bank conditions, and winter water levels. All channels within the ordinary high water mark of the Tanana River active floodplain would be considered Type III-B waters for riparian standard purposes. Although we have no site-specific knowledge of waterbodies in this area at this time, the maps we consulted suggest that there may be other waterbodies requiring riparian buffers within these sections. We would appreciate clarification of land status for this sale, since the map for the newly adopted TVSFMP shows these sections to be out of the TVSF.

*I do not want this statement to set a precedent.*

[REDACTED]

*Att Darwin Peterson pg 3 of 4*

Pete Buist  
October 17, 2001

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Fairbanks Area 5-yr Schedule  
FY 02-06 Agency Draft

or wildlife concerns with these proposed access roads and harvest areas at this time. Areas with steep hillsides in some areas of interest indicate that extra care will be needed during road construction and maintenance activities, and during harvest, to prevent erosion and subsequent sedimentation of downslope surface waters. No cataloged<sup>1</sup> or known high value resident water bodies are present within the sections identified on the 5-Yr Schedule maps for these sales. Based on existing information, Title 16 permits are not needed for any displayed stream crossings. However, we reserve the right to modify this should additional information confirming fish presence become available, and to require correction under AS 16.05.860 should we discover in the future that fish passage has been blocked.

**NC-582-F Dunbar North #1:** This proposed sale is adjacent to the MFSGR. The small lakes at the toe of the slope may contain northern pike and/or whitefish, although this has not been field tested to date. The Division of Sport Fish will attempt to sample these lakes for fish and water quality this winter. Appropriate BMPs and site-specific care would need to be taken during harvest on the steeper hillside portions of this sale area. See our comments above under *Wildlife Resources* for concerns with increased access to the Dunbar Trail area. Perhaps the mainline road in this area could be kept well up on the ridge, with short spurs down to cutting units.

**NC-718-F Jenny M. Birch #10 and NC-1105-F Jenny M. South:** These sales are best reviewed together, in context with the previous Mullen Slough and Jenny M. sales. As noted in our comments on Jenny M. South in the previous FYSTS, the Chena River floodplain between Two Rivers and Chena River Recreation Area, including Mullen Slough, the lower portion of Jenny M. Creek, and other side channels, provides critical year-round habitat for anadromous and high value resident fish. We continue to recommend that Jenny M. South be deferred due to the complex drainage system within this sale area, possibly including backwater sloughs, that shows on aerial photos. Until complete information can be obtained on water body locations and types, and the extents of anadromous and high value resident fish habitats, we recommend that no further action be taken on this sale. The highest standards must be applied to unit layout, streamside buffers, road locations, winter stream crossings, and application of BMPs to prevent water quality degradation in fish habitat. The ADF&G is concerned by the potential cumulative effects of the nearly contiguous harvests existing and planned in this portion of the Chena floodplain. Without some sort of long-term DOF plan, it will be difficult for harvest and fallow areas to maintain the mosaic of floodplain forest types described in TVSFMP Timber Management Guideline D.2. Crossings of all fishbearing waters will require a Fish Habitat (Title 16) Permit.

*no ongoing study no line*

*no such thing as "complete information"*

<sup>1</sup> For the sake of brevity, it is customary to refer to the rivers, lakes, streams, or parts of them that are specified in the Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes pursuant to AS 15.05.870(a) (Anadromous Fish Act), and depicted cartographically in the corresponding Atlas(es), simply as "cataloged."

**Tanana Valley State Forest  
Citizens' Advisory Committee**

3700 Airport Way  
Fairbanks, AK 99709

March 18, 2002

Senator John Torgerson, Chair  
Senate Resources Committee  
State Capitol, Room 427  
Juneau, AK 99801-1182  
Fax: (907) 465-4779

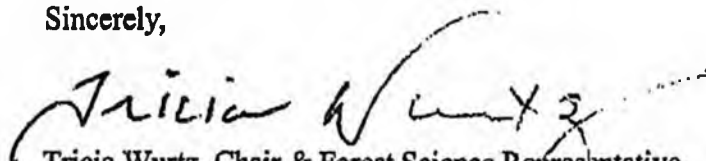
Dear Senator Torgerson,:

As you know, the Tanana Valley State Forest Citizens' Advisory Committee advises the State Forester on matters regarding the management of the Tanana Valley State Forest. We have been tracking the efforts of the many scientists and natural resource professionals working to revise the riparian standards and stream classification system for Region III (Interior Alaska) of the Forest Resources and Practices Act. On March 19, 2001, the Citizens' Advisory Committee unanimously resolved to support the language of HB131 by passing the following:

*The TVSF CAC commends the interdisciplinary Science & Technical Committee and the Implementation Group for their work in developing the provisions of HB13. This bill is the result of effective consensus-building among diverse user groups and is based on the best available scientific information. The TVSF CAC recommends prompt passage of this bill as written.*

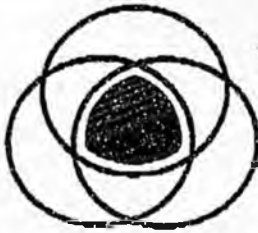
During our meeting on December 5, 2001, we voted to re-issue this letter. We still support prompt passage of these bills as written.

Sincerely,



Tricia Wurtz, Chair & Forest Science Representative  
Tanana Valley State Forest Citizens' Advisory Committee

CC: Marty Welbourn Freeman



# ALASKA BOREAL FOREST COUNCIL

*Sustaining our partnership with the land*

*Community  
Ecology  
Economy*

Senator John Torgerson  
State Capitol, Room 427  
Juneau, AK 99801-1182

March 20, 2002

Dear Senator Torgerson,

The Alaska Boreal Forest Council urges passage of HB 131/SB 98 in its current form. This bill addresses important provisions for the fuller implementation of the Alaska Forest Resources and Practices Act (FRPA) north of the Alaska Range (Region III of the Division of Forestry). It sets standards for commercial forestry operations in areas bordering surface waters and within riparian areas on all land ownerships throughout the Interior.

The bill itself is the outcome of an excellent two-part process established by the Board of Forestry. First a Science and Technical Committee reviewed the issues and pertinent research. It then drafted a stream classification system for this part of the state, and recommended changes to current riparian management standards based on the special conditions of glacial and non-glacial streams in Interior Alaska. The Implementation Group, comprised of representatives of affected interests, reviewed those recommendations, discussed how to make them work operationally, and drafted language for the bill.

All who have been involved in this process are to be congratulated for their good work. Given their care and expertise, its no surprise that the bill enjoys wide-ranging support from forest-based businesses, academics, agency managers, and community organizations. It is an important piece forward in everyone's expressed interest in sustained yield, multiple use management of forested lands for our region of the state.

Sincerely,

Janice C. Dawe, Ph.D.  
Executive Director

**WHITE SPRUCE ENTERPRISES, INC.**

1029 1/2 Old Valdez Trail - Salcha, AK 99714

Telephone 907-488-3004

Fax 907-488-2551

[whitespruce@moscultonet.com](mailto:whitespruce@moscultonet.com)

March 20, 2002

Senator John Torgerson  
State Capitol, Room 427  
Juneau, AK 99801-1182  
Fax: 907-456-4779

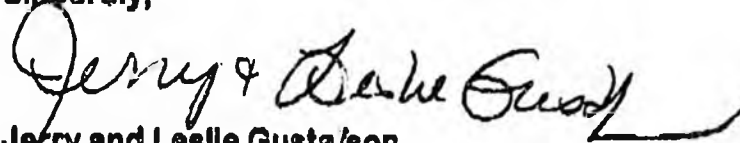
Dear Senator Torgerson,

RE: HB 131

We would like to request your support for HB 131 (the bill establishing a stream classification system and stream protection measure in Interior Alaska). This is a bill that many groups can live with—loggers, environmental interests, and personal land holders. It was an interdisciplinary effort of scientists and technical experts and members of many user groups who came to a consensus solution (not an easy task!).

We would appreciate your support to move this bill forward. We have been to many meetings to work this to an acceptable ruling for the timber industry.

Sincerely,



Jerry and Leslie Gustafson  
White Spruce Enterprises, Inc.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 131  
 (H) Publish Date: 2/8/02

Revision Date/Time (Note if correction): 01/30/02 Dept. Affected: Natural Resources  
 Title: Forest Resources and Practices Standards BRU: Forestry Mgt & Develop  
 Component: Forestry Mgt & Develop  
 Sponsor: Rules by Request of Governor  
 Requester: (H) RES Component Number: 435

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: none  
 Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Based on current levels of harvesting on non-state land, and current funding levels, DNR will not need additional operating funds to implement the changes in this bill. If the amount of harvesting on non-state land increases substantially, or if Forest Resources Practices Act (FRPA) funding, including federal Section 319 funding, declines significantly, additional funds would be needed for field inspections of riparian buffers. On state land, the revised riparian standards can be incorporated into the existing sale design process.

Prepared by: Jeff Jahnke, Director Phone 269-8474  
 Division: Forestry Date/Time 30-Jan-02  
 Approved by: Pat Pourchot Date 30-Jan-02  
 Agency: Natural Resources

**HB**

**165**

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB165(RES)  
 () Publish Date: \_\_\_\_\_  
 Dept. Affected: Natural Resources  
 BRU: Minerals, Land & Water Dev.  
 Component: Title Defense & Acquis.  
 Component Number: 2459

Revision Date/Time (Note if correction): 05/01/02  
 Title: Kenai River Special Management Area  
 Sponsor: Reps. LANCASTER, Scalzi  
 Requester: (S) STA

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: None  
 Check this box if funding for this bill is included in the Governor's FY2003 budget proposal: [ ]

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill transfers management of the listed parcels from Division of Mining, Land & Water to Division of Parks as additions to the Kenai River Special Management Area. These additions were envisioned in both the 1997 Revised Kenai River Comprehensive Management Plan, adopted by DNR in 1997, and the Kenai Area Plan adopted by DNR last year. There is no fiscal impact on this division.

Prepared by: Bob Loeffler Phone 269-8600  
 Division: Mining, Land and Water Date/Time 1-May-02  
 Approved by: Pat Pourchot Date 1-May-02  
 Agency: Natural Resources

For distribution information, call the Governor's Legislative Office

# Alaska State Legislature

## SESSION ADDRESS:

State Capitol  
Juneau, Alaska 99801-1182  
Phone (907) 465-2693  
Toll Free 800-463-2693  
Fax 907-465-3835



## INTERIM ADDRESS:

35477 Suite 101-B Spur Hwy  
Soldotna, Alaska 99669  
Phone 907-260-5236  
Fax 907-260-3044

## Representative Ken Lancaster District 8

Sponsor Statement  
For

HOUSE BILL 165

"An Act relating to the Kenai River Special Management Area;"

The Kenai River Special Management Area (KRSMA), under direction from the Alaska Legislature (AS 41.2.1500), is managed as a unit of the Alaska State Park system by the Division of Parks and Outdoor Recreation, Department of Natural Resources. To provide the protection and management called for in the management plan revision, 7,938 acres of general state lands, 11 upper Kenai River or Kenai lake tributaries, and the waters of Upper and Lower Trail Lakes must be legislatively added to the boundary of KRSMA. This includes almost all the public lands and waters that contribute to sustaining the Kenai River's important fish, wildlife, and recreational resources. The level and consistency of management to adequately protect the valuable resources of these lands and waters is currently not possible without KRSMA designation. Existing park staff assigned to KRSMA is adequate to cover additional management responsibilities. No new facilities are planned for the proposed additional lands.

The largest blocks of proposed lands are on the south side of Kenai Lake along Snug Harbor Road and up to Cooper Lake, and around much of Upper and Lower Trail lakes, and Trail River in the Moose Pass area. Of key importance are the numerous tributary streams draining into the upper Kenai River and Kenai Lake. These are important contributors to the watershed's fishery and water resources. A 200-foot corridor has been retained along each side of most of the tributaries and is proposed for KRSMA addition, along with each tributary. The mineral closing order for the KRSMA does not include those streams north of Cooper Creek.

Downstream from Skilak Lake there are a few limited additions proposed, primarily lands acquired as habitat and recreation lands under the Exxon Valdez Oil Spill settlement funding, or isolated tracts of state land overlooked during the 1984 KRSMA legislation.

This bill will transfer State lands to the Kenai River Comprehensive Management Area.

E-Mail: [Representative\\_Ken\\_Lancaster@legis.state.ak.us](mailto:Representative_Ken_Lancaster@legis.state.ak.us)

Cooper Landing • Bear Creek • Funny River • Hope • Moose Pass • Ridgeway • Seward • Soldotna • Sterling  
Listening to you – Getting things done.

**Subject:** House press releases 04102001: HB 156, HB 111, HB 34, HB 156

**Date:** Tue, 10 Apr 2001 19:20:40 -0800

**From:** Dan Saddler <Dan\_Saddler@legis.state.ak.us>

**Organization:** House Majority

**To:** media <lsncdrs+media@legis.state.ak.us>,

reps <lsncdrs+housemajlegs@legis.state.ak.us>,

people <lsncdrs+people@legis.state.ak.us>, staff <lsncdrs+hmajstaff@legis.state.ak.us>

File

Alaska State Legislature  
House of Representatives  
Representative Ken Lancaster

State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-2693 Phone  
(907) 465-3835 Fax

FOR IMMEDIATE RELEASE: April 10, 2001  
CONTACT: Rep. Ken Lancaster, (907) 465-2693

### **House Passes Kenai River Area Expansion HB 165 Would Help State Better Manage Popular Watershed**

(JUNEAU) – The House today passed legislation that would help the state better manage the Kenai River watershed to protect not only environmental quality, but also the region's recreational and commercial industries that depend on a healthy river system.

Rep. Ken Lancaster (R-Soldotna) sponsored House Bill 165, which would expand the Kenai River Special Management Area (KRSMA) to include an additional 7,938 acres of land and water.

"The health of the entire Kenai River system, including its many communities, depends upon sustaining adequate water quality and healthy wildlife habitat throughout the watershed basin," he said. "Now that the federal government has conveyed this land to the state, the Legislature needs to make this designation to assure good management practices and to protect this key element of the Kenai Peninsula's natural resources."

The Legislature created the KRSMA as a unit of the state parks system in 1984, and during public testimony on revisions of the area's comprehensive management plan, it became clear the state could do a better job of managing the area if it included the entire watershed, Lancaster said.

The bill would expand the KRSMA to encompass almost all of the public lands and waters that contribute to sustaining the river's fish and wildlife. It includes 200 feet of riverbank along each side of 11 upper Kenai River or Kenai lake tributaries, and the waters of the Upper and Lower Trail Lakes.

A healthy Kenai River, and access to it, is at the heart of the Kenai Peninsula's fishing, boating, camping and sightseeing businesses, and the improved management afforded by expansion of the management area should help protect and enhance the local economy, Lancaster said.

HB 165 moves next to the Senate for consideration.

## **New Proposed Land Additions For the Kenai River Special Management Area**

### **Background**

During public meetings to revise the Kenai River Comprehensive Management Plan and subsequent review of DNR's Kenai Area Plan, comments clearly suggested that the State should manage the Kenai River as a watershed system. The health of the entire Kenai River system, including its many communities, depends upon sustaining adequate water quality and quantity, and healthy riparian fish and wildlife habitat throughout the watershed's basin. The region's economy depends on the \$37 million in direct spending by non-locals visiting the Kenai River. River guides, RV Park owners, motels, B&B and restaurant operators, car and boat rental dealers, and many other local Kenai Peninsula businesses depend upon a healthy Kenai River for economic sustainability.

### **Proposal**

The Kenai River Special Management Area (KRSMA), under the direction from the Alaska Legislature (AS 41.21.500), is managed as a unit of the Alaska State Park system by the Division of Parks and Outdoor Recreation. To provide the protection and management called for in the management plan revision, 7938 acres of general state lands, 11 upper Kenai River or Kenai Lake tributaries, and the waters of Upper and Lower Trail Lakes are proposed to be legislatively added to the boundary of KRSMA. This includes almost all of the public lands and waters that contribute to sustaining the Kenai River's important fish, wildlife and recreational resources. The level and consistency of management to adequately protect the valuable resources of these lands and waters is currently not possible without KRSMA designation. Existing park staff assigned to KRSMA is adequate to cover additional management responsibilities.

### **Where are these lands?**

The largest blocks of proposed lands are on the south side of Kenai Lake along Snug Harbor Road and up to Cooper Lake, and around much of Upper and Lower Trail Lakes, and Trail River. Of key importance are numerous tributary streams draining into the upper Kenai River and Kenai Lake. These are important contributors to the watershed's fishery and water resources. A 200-foot corridor has been retained along each side of most of the tributaries and is proposed for KRSMA addition, along with each tributary.

### **Why now?**

During the creation of the KRSMA in 1984, the State had not yet received title from the federal government to lands surrounding Upper and Lower Trail Lakes, Trail River, and adjacent lands around the upper Kenai River and Kenai Lake. The original Kenai River Comprehensive Management Plan directed the State to designate these lands for the KRSMA once they became available. Since that time, these lands have been conveyed to the State. The recent plan revision re-emphasizes the intent that these important habitat and recreation lands and waters should be included in the boundaries of the Special Management Area.

**Future Management:** Facility development for most of the new land additions would not be consistent with KRSMA's intent: to preserve and protect the important fish and wildlife resources and habitat of the river and adjacent area. However, the KRSMA enabling legislation has directed Parks to manage and to provide for quality recreation. Some recreational development, primarily improved access, is appropriate, but the exact sites have not been selected. Recreational demands and user conflicts already occur on several access sites within the proposed additions. Examples of such areas include the Upper Trail Lake boat launch (also known as the "Ball Diamond"), and the Kenai Lake "Snail-a-thon Beach." Conceptually, the Division could enter into cooperative management agreements with the Cooper Landing and Moose Pass communities to care for these popular sites with minimal cost to the State. Basic sanitary facilities are greatly needed at these sites along with a clear management presence to deter negative behavior by some visitors. Without the lands being legislatively added to KRSMA, no solutions can be pursued to solve some of the most immediate problems at specific sites.

Introduced by:	Navarre
Date:	02/02/99
Action:	Adopted
Vote:	7 Yes, 2 No

**KENAI PENINSULA BOROUGH**

**RESOLUTION 99-013**

**A RESOLUTION URGING THE ALASKA STATE LEGISLATURE  
INCLUDE ADDITIONAL STATE LAND INTO THE  
KENAI RIVER SPECIAL MANAGEMENT AREA**

**WHEREAS**, the Alaska State Legislature established the Kenai River Special Management Area in 1984 to preserve and protect important fish and wildlife habitat and resources and to provide for recreational opportunities; and

**WHEREAS**, the Alaska Department of Natural Resources in cooperation with the Kenai River Special Management Area Advisory Board developed the 1986 Kenai River Comprehensive Management Plan; and

**WHEREAS**, in December 1997 a revised Kenai River Comprehensive Management Plan was adopted by the Commissioner of Natural Resources based on recommendations from the Kenai River Special Management Area Advisory Board; and

**WHEREAS**, the revised plan has recommended the additional State-owned lands and tributaries adjacent to the Kenai River be included in the boundary of the Kenai River Special Management Area; and

**WHEREAS**, Goal 3.9 of the Kenai Peninsula Borough Comprehensive Plan is to provide quality outdoor recreational areas and opportunities for Borough residents and visitors; and

**WHEREAS**, Goal 4.3 of the Kenai Peninsula Borough Coastal Management Program recommends public lands be retained for public open space or recreation areas; and

**WHEREAS**, the addition of these State lands and tributaries meets the goals and objectives of these Borough plans;

**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** The Kenai Peninsula Borough Assembly supports the addition of State land adjacent to the

Kenai River and the addition of Kenai River tributaries into the boundaries of the Kenai River Special Management Area.

**SECTION 2.** The Alaska State Legislature is urged to introduce legislation to amend Alaska Statute 41.21.500 and to expand the boundaries of the Kenai River Special Management Area to include the 9,681 acres identified in the 1997 Kenai River Comprehensive Management Plan.

**SECTION 3.** That copies of this resolution shall be provided to The Honorable Tony Knowles, Governor, State of Alaska; the Honorable John Shively, Commissioner of Alaska Department of Natural Resources; the Honorable Brian Porter, Speaker of the House, Alaska House of Representatives; the Honorable Drue Pearce, Senate President, Alaska State Senate; Representative Gary Davis, Representative Hal Smalley, Representative Scott Ogan, Representative Jerry Sanders, Senator John Torgerson, and Senator Jerry Ward.

**SECTION 4.** This resolution shall take effect immediately upon adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 2ND DAY OF FEBRUARY, 1999.**

**QUARTZ CREEK HOMEOWNERS' ASSOCIATION**  
P.O. Box 315, Cooper Landing, AK 99572  
907-595-2129

**RESOLUTION SUPPORTING HB 165**  
March 31, 2001

Whereas, HB 165 will protect important land parcels adjacent to Quartz Creek Homeowners' Association (QCHA) properties, by including these parcels in the Kenai River Special Management Area, and

Whereas, the members of the QCHA have been stewards of the subject land parcels beginning as early as 1947, and following establishment of the QCHA in 1958, and

Whereas, the members of the QCHA now extend into the 4<sup>th</sup> generation, and have individually and collectively worked with the residents of Cooper Landing; and local, state, and federal agencies to plan for the future of the area; and

Whereas, the members of the QCHA understand that the natural setting and habitat of the alpine area around QCHA properties and Cooper Landing is very fragile and cannot be randomly developed without initiating undesirable and irreversible changes, which will greatly reduce property values and other personal values related to the natural setting, and

Whereas, inclusion of the important land parcels listed in HB 165, as parkland within the Kenai River Special Management Area will prevent loss of property values and other personal values related to the natural setting.

Therefore, the Quartz Creek Homeowners' Association strongly supports passage of HB 165.

# FOCL

Friends of Cooper Landing

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Post Office Box 815  
Cooper Landing, Alaska 99572

**FRIENDS OF COOPER LANDING  
RESOLUTION 2001-01  
REGARDING HB 165  
March 30, 2001**

**Whereas, HB 165 seeks to add lands adjacent to critical waters in the Cooper Landing area to the Kenai River Special Management Area, and**

**Whereas, the residents of Cooper Landing have participated in years of planning efforts that produced the Kenai River Comprehensive Management Plan, the Kenai Area Plan, and the Cooper Landing Land Use Plan, and**

**Whereas, the residents of Cooper Landing recognize the importance of preserving habitat, preventing water pollution, and retaining public recreational access to these waters and the Kenai Lake shore, and**

**Whereas, additional development of the Kenai Lake shore will destroy habitat, introduce water pollution, and restrict public access, and**

**Whereas, the health of Kenai River and all of its tributaries is a critical factor in maintaining robust commercial and sport salmon fisheries, and trout fisheries; and traditional incomes on the Kenai Peninsula, and**

**Whereas, the economy of Cooper Landing is totally based on tourism and outdoor activities, which are dependent upon retaining the natural waters, habitat, and viewshed of the area, and**

**Whereas, addition of the land parcels described in HB 165 to the Kenai River Special Management Area will prevent negative impacts, which is critical to both the present economy and the future vitality of Cooper Landing; and is supported by a majority of Cooper Landing residents.**

**Therefore, the Friends of Cooper Landing strongly support passage of HB 165 and gratefully thank Peninsula legislators for its introduction.**

Friends of Cooper Landing, P.O. Box 815, Cooper Landing, Alaska 99752  
Bob Baldwin, President, 907-595-2129; 250-3913  
<[cooperlanding@alaska.com](mailto:cooperlanding@alaska.com)>

*-- Our focal point is Cooper Landing --*

3-26-01

Representative Ken Lancaster,  
A quick note (since I can't  
take part in today's teleconference)  
to support land additions  
to KRSMA. I'm especially  
concerned with protecting  
Kenai Lake, Kenai River, &  
tributaries of both. Our Snail-  
a-Thou Beach site is in Unit 390 -  
a site very important to Cooper  
Landing. Helen Rhode Memorial  
Park is in Unit 391 (can't recall  
sub-section <sup>letter</sup> number) and is also  
an important community  
maintained and supported  
KRSMA property - our welcome  
to all passing through on the  
Sterling Highway.

Sincerely,

Monafainter

POB 711  
Cooper Landing, AK 99572  
(907) 595-1248  
painter@arctic.net



**COOPER LANDING COMMUNITY CLUB, INC.**  
Library, Park, Cemetery, Ambulance Squad, Dall Homemakers, Gun Club  
P.O. Box 508 : Cooper Landing, AK 99572

February 1, 1999

Chris Degernes, Kenai Area Superintendent  
Department of Natural Resources      Division of Parks and Outdoor Recreation  
P.O. Box 1247  
Soldotna, AK 99669

Dear Chris:

The Cooper Landing Community Club voted to endorse the accompanying Resolution in Support of Expanding the Kenai River Special Management Area during our last meeting on Jan. 28, 1999. Sixteen members were present; there was one dissenting vote. Notice of this possible action appeared on agendas posted the week before at the post office, library, and at the Shrew's Nest. Agendas were passed out at the Cooper Landing Advisory Planning Commission meeting on Jan. 21. The agenda item read: " 10 b. State Parks Chris Degernes, Jim Richardson, David Rhode: Consider endorsing addition of State lands to KRSMA as outlined in KRSMA plan available at the library and previously endorsed by CLAPC."

As you know, Jim H. Richardson and David Rhode made the presentation aided by maps of the lands in question. Several people entered into the discussion. One of the concerns was that the Dept. of Transportation lot adjacent to the old Community Hall site near Mile 49 (for which the Community Club holds patent) would be put into KRSMA. Several members of the community have been wanting to have that piece added to the old Hall site which is to become a museum site. It was explained that while this is also state land, it is managed by DOT and so is not a part of KRSMA lands.

Another concern expressed was that this was taking land away from ownership by the public. It was explained that these lands are already DNR lands and they are not borough selectable lands nor state lands that would be earmarked for settlement.

Hope you are feeling well now---we missed your participation!

Sincerely,

Mona Painter, president

painter@arctic.net

**A Resolution in Support of Expanding  
the  
Kenai River Special Management Area**

**WHEREAS,** the Kenai River Special Management Area (KRSMA) was established in 1984 to preserve and protect the important fish and wildlife habitat and resources of the Kenai River watershed and to provide for recreational opportunities; and

**WHEREAS,** certain state owned lands adjacent to the Kenai River were combined with the waters of Kenai River, Kenai Lake and Skilak Lake to form the KRSMA; and

**WHEREAS,** the Kenai River Comprehensive Management Plan was revised in December, 1997 and recommended the addition of a number of new state owned parcels and tributaries to the KRSMA; and

**WHEREAS,** these land parcels adjacent to Kenai Lake, Cooper Lake, Upper and Lower Trail Lakes, plus a number of Kenai Lake tributaries, and the waters of Upper and Lower Trail Lakes and Trail River all combine to provide additional protection of fish and wildlife resources and habitat, as well as provide an opportunity manage recreational activities in a larger area of the Kenai River watershed;

**NOW, THEREFORE, BE IT RESOLVED BY** *the Cooper Landing Community Club:*

We hereby urge the Alaska Legislature to expand the Kenai River Special Management Area by adding the lands and waters identified in the 1997 Kenai River Comprehensive Management Plan. Such lands and waters are to be managed consistently with the mandate within Alaska Statutes Section 41.21.500.

Approved:

*Monal Painter, president*

*Jan. 28, 1999*  
Date



Printed On Recycled Paper

March 30, 2001

TO: Representative Lancaster  
FAX: 907-465-3835

RE: Kenai River Special Management Area

Dear Representative Lancaster,

As a tour operator doing business on the Kenai River, we fully support the expansion of the Kenai River Special Management Area.

Our main base of summer operations is in Cooper Landing. We provide rafting trips on the upper Kenai and through the Kenai River Canyon. We also offer day trip and multi day fishing packages along the upper and lower Kenai. We recognize that our guests appreciate the fine quality of this river environment. It is imperative that the fish habitat and wildlife resources be protected. The riparian ecosystem must remain intact in order to provide quality recreational opportunities – especially for those who are willing to spend money to experience a river with wild attributes.

The Kenai River Comprehensive Management Plan recommended the addition of new state owned parcels and tributaries to the KRSMA. By doing so, the intent of providing additional fish and wildlife resource protection will be accomplished. Quality recreational opportunities will simultaneously be expanded. This is good for business and good for the environment.

Respectfully,

Kirk Hoessle  
President


Cc: Representative Drew Scalzi  
Senator John Torgerson



**KENAI PENINSULA**  
**Learning Center**  
*At the Scenic Trail Lake Lodge*

Date: 4/1/00

To: Rep. Ken Lancaster (fax 907-465-3835)  
Rep. Drew Scalzi (fax 907-465-3472)  
Sen. John Torgerson (fax 907-465-4779)  
Dir. Jim Stratton (fax 269-8907)

From: Justin Ripley 

Re: Support for KRSMA Additions

As the owners of the Trail Lake Lodge located in scenic Moose Pass, we recognize the need to protect the area's watershed resources and corresponding recreational opportunities. We therefore support the 1997 Management Plan additions to KRSMA to the extent that they accomplish such protection.

Thank you for your attention to this matter. If you have any questions regarding our operations in Moose Pass, please do not hesitate to call me at 907-245-0900.

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## COOPER LANDING FISH AND GAME ADVISORY COMMITTEE

P.O. BOX 721  
COOPER LANDING, AK 99572  
PHONE: (907) 595-1540  
FAX: (907) 595-1540

April 6, 2001

Honorable Ken Lancaster  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Lancaster,

At its scheduled and advertised meeting of April 3, 2001, the Cooper Landing Fish and Game Advisory Committee took public comment, discussed and voted on agenda item HB 165, KRSMA additions. Our recorded vote was 6 members in support of HB 165 and 2 members opposed to HB 165.

Those supporting HB 165 felt these land and water additions support public future access and recreational opportunity, the sustainability of future fish and wildlife resources, and the protection of fish and wildlife habitat. Those opposed felt that this legislation was not politically viable and that future public access, use and development of these lands and waters could be needlessly protected and restricted by adding these lands and waters to KRSMA.

We hope that our comments both pro and con are useful during the debate on HB 165. If we can be of further assistance on this issue, please contact Bill Stockwell at 595-1540.

Sincerely,



Bill Stockwell, Chair

cc: Senator John Torgerson  
Representative Drew Scalzi  
Ted Wellman, KRSMA Advisory Board President  
ADF&G Board Support Section

APR 4 - 2001



# ALASKA FLYFISHERS



Winners of the 1994 McKenzie Cup

March 31, 2001

Representative Lancaster  
State Capitol, Room 421  
Juneau Alaska 99801-1182

Dear Representative Lancaster:

I am writing you on behalf of the Alaska Fly Fishers (AFF) regarding an issue which we feel is important to a large number of Alaskans. That issue is the habitat and resources related to the Kenai River and Russian River and their tributaries. According to a study published by UAA/ISER at the request of ANF & G, the Kenai and Russian Rivers were the most popular fishing sites in the State of Alaska, with 14% of the total fishing trips in the State being to this destination. Of the total households in the Anchorage and Kenai areas 75,163 households reported they had fished during the three years previous to the study being conducted. In 1993 approximately 540 million dollars were spend on sports fishing in Alaska and I'm confident that number has increased significantly by now.

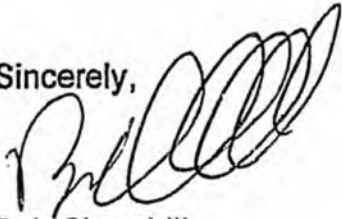
AFF is a nonprofit organization that has approximately 500 members. The majority of our members are located in Southcentral Alaska, including the Kenai Peninsula. When AFF was formed in 1973 one of our primary objectives was to protect and enhance the fisheries resources in Alaska. It is not our intent to "lock up lands", but to make sure the lands are available for use by the broadest number of people consistent with responsible use of the habitat. Examples of these types of actions directly related to the Kenai Peninsula, include our members are active members of Fish & Game Advisory Committees, sit on task forces related to habitat and resource issues on the Kenai River, and in 1992 initiated a Kenai River Cleanup which takes place each fall.

It is our understanding that the legislature is considering areas on the Kenai Peninsula for inclusion in the State of Alaska Park through HB 165. It is also our understanding this effort is made to insure these lands are put into uses consistent with the Kenai River Comprehensive Management Plan adopted in December of 1997. We have reviewed the text of HB 165, discussed these issues with the Chair of the Cooper Landing Fish & Game Advisory Committee and one of the members of the Kenai River Board. We encourage the legislature to consider the importance of the habitat and resources of this area prior to taking any action or failing to take action regarding this area.

We are very concerned about insuring the use these lands are consistent with the enhancement of the habitat and resources of the rivers and drainage's in this area (Trail Lakes, Kenai River, etc.). The Kenai River and it's tributaries are valuable and irreplaceable that if lost would have an extremely negative impact on Alaska and many Alaskans. This is clearly supported by the data contained in, "Economics of Sport Fishing In Alaska" published by the Institute of Social and Economic Research of UAA referenced earlier.

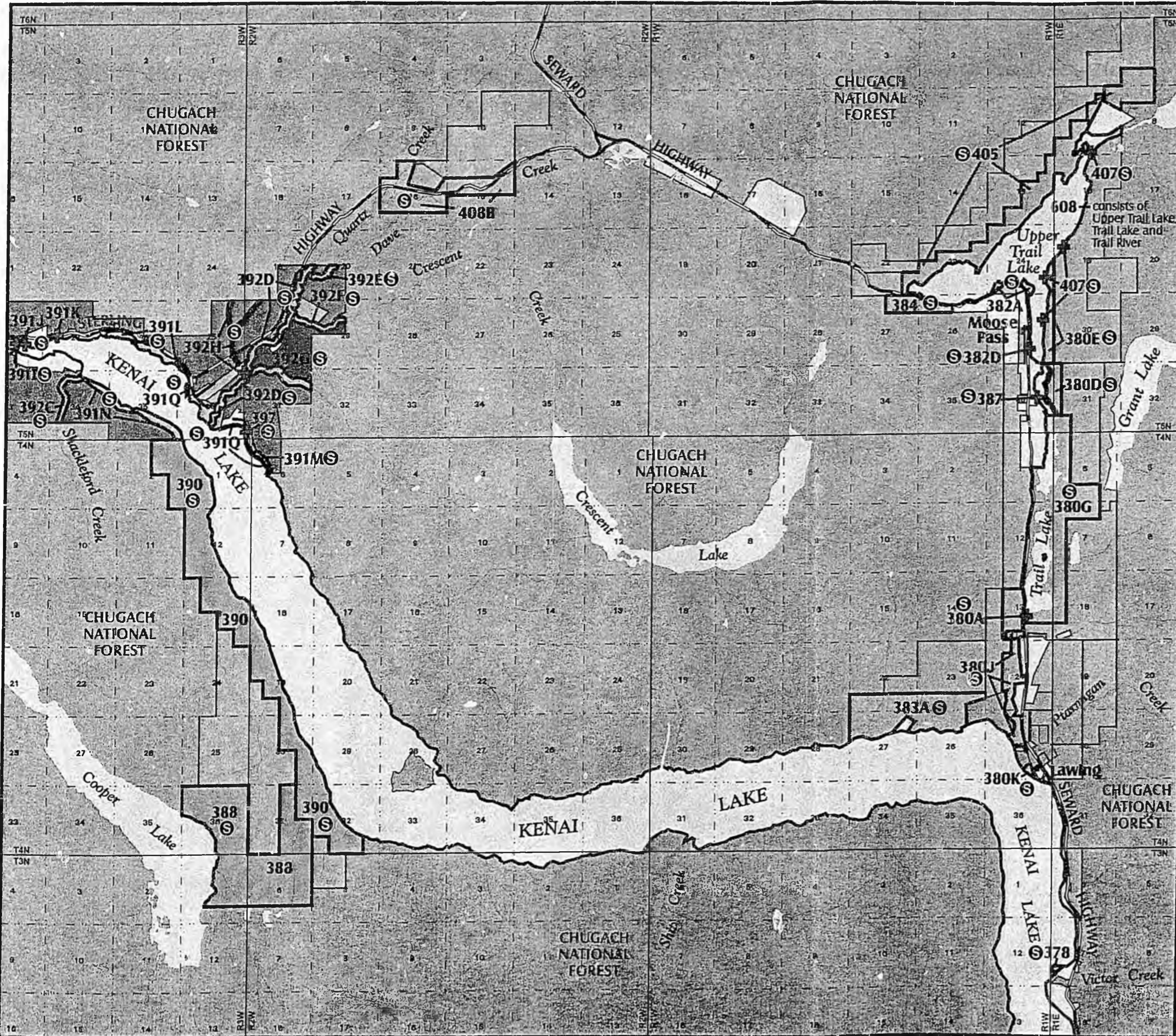
Therefore, it is our hope that whatever action is taken by the legislature is consistent with the enhancement of the habitat and fisheries resources of this area. This will provide an exception fisheries resource for Alaskan's and our visitors. This is not only for the inherent value of these lands and waters, but for the dollars in brings in to support Alaskan and for the enjoyment it provides for many of us.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Churchill", written in a cursive style.

Bob Churchill  
President

## Map 2 Kenai Lake



### LEGEND

#### Affected Parcels:

- Parcels affected by Proposed Leasehold Location Order and Special Use designation

#### Land Ownership:

- ANY COLOR KRSMA - Managed by Alaska State Parks
- Other State Owned
- Borough
- Borough selected
- Municipal (City of Kenai, City of Soldotna)
- Federal (Nat'l. Forest, Refuge, Wilderness)
- Private

#### Projects:

- Recreation projects
- Restoration projects

#### Proposed Additions to KRSMA:

- State
- State parcels smaller than 2 acres

#### Map features

- Main roads

Note 1: Parcel numbers reference the revised Kenai River Comprehensive Management Plan (December 1997).

Note 2: See also Table 1, attached, for further parcel description.



**Subject: HB527 Testimony**

**Date: Fri, 10 May 2002 10:55:21 -0800**

**From: Nancy Fresco <nancy@northern.org>**

**To: senator\_john\_torgerson@legis.state.ak.us, senator\_gary\_wilken@legis.state.ak.us  
senator\_ben\_stevens@legis.state.ak.us**

**TO: Senate Resources Committee  
FROM: Northern Alaska Environmental Center  
RE: Testimony on HB 527**

May 10, 2002

Dear Sirs and Madams,

Please accept the following testimony from the Northern Alaska Environmental Center, pertaining to House Bill 527.

House Bill 527 specifies that "entry upon the Minto Flats State Game Refuge for purposes of exploration and development of oil and gas resources shall be permitted when compatible with the purposes specified in (b) of this section". While we do not directly disagree with this statement, it is our studied opinion that in no case will the stipulation of compatibility prove tenable. The Minto Flats Game Refuge is an area of major ecological and social importance, and the purposes for which it was set aside are not compatible with gas drilling. Thus, HB 527 should not be passed out of committee.

The Minto Flats State Game Refuge was established for the purposes of protecting habitat, conserving fish and wildlife, and guaranteeing fishing, hunting and trapping, when these are compatible with conservation. The Game Refuge is an important area for both subsistence users and sport hunters, with extensive hunting, trapping, and fishing taking place along the Tanana River and smaller waterways. The complex mosaic of forests, rivers, and wetlands that spans the Game Refuge is prime habitat for salmon, moose, black bear, raptors, and waterfowl, and also supports healthy populations of many other species. For moose, this is a crucial area for calving and over-wintering. Chinook, coho, and chum all spawn here. Local residents' concerns center around access issues, hunting pressure, and habitat conservation.

Gas exploration and drilling, even if done with the lowest-impact modern techniques, requires detonation of explosives, significant land clearing, and creation of access routes. These impacts in turn can lead to habitat fragmentation, unprecedented stresses on nesting birds and calving moose, and increased pressure on game species through increased hunter access.

The Northern Center's position is that while gas is a cleaner substitute for fuels such as oil and coal, it should be considered a transitional fuel on the way to much cleaner technology. Whenever gas is developed,

the resultant infrastructure should be designed to minimize ecological impacts, and should be kept within existing development corridors. The Minto Flats State Game Refuge contains crucial habitat for many game species which we believe would be significantly impacted by development. In addition, the Refuge has no existing development corridors. Therefore, the Northern Center strongly believes that development should not occur within the Minto Flats State Game Refuge.

For the above reasons, we ask that you reject House Bill 527. Thank you for your attention in this important matter.

Sincerely,

Arthur Hussey, Executive Director

Northern Alaska Environmental Center  
830 College Road  
Fairbanks AK 99701  
(907) 452-5021

**HB**

**194**

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 194(FIN)  
 (H) Publish Date: 4/18/01

Revision Date/Time (Note if correction): 4/10/01 11:13 AM Dept. Affected: Fish and Game  
 Title: Fees for commercial fishing licenses and permits BRU: Comm Fish (Limited) Entry Comm  
 Component: Comm Fish (Limited) Entry Comm  
 Spncsor: Representative Stevens  
 Requester: House Finance Component Number: 471

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
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>						
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<b>CHANGE IN REVENUES ( )</b>	<b>(120.0)</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						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attachment for explanation. Enactment of this bill could reduce future state liabilities for payments of refunds and interest to non-resident fishermen for fees paid in fiscal year FY2002 and beyond depending upon final outcome of Carlson v. State lawsuit.

Prepared by: Roger Kolden Phone 790-6950  
 Division: Commercial Fisheries Entry Commission Date/Time 4/10/01 11:13 AM  
 Approved by: Mary McDowell Date 04/10/2001  
 Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

## HB 194 Fiscal Note - Estimates of Potential Fiscal Impacts\*

- If HB194 is enacted (with resident fees capped at \$300), CFEC's fee-generated revenues could drop by approximately \$136.0 per licensing year, beginning with licenses for 2002, which the Commission will begin issuing in the late fall of 2001.

A Supreme Court ruling in *Carlson v. State* is expected in the summer of 2002, making a final determination of an allowable method for calculating the maximum nonresident fee differential. That method would then determine the fiscal impacts of the provisions of HB 194 in future years.

If the state prevails in its arguments to the Supreme Court regarding what state expenditures may be included in the formula, the provisions of HB 194 will generate *more* revenue from nonresident fees than the provisions of existing statute would generate.

- If HB 194 is NOT enacted, and the state continues charging fees under its current fee structure, potentially large additional liabilities will continue to accrue to the state under the Carlson lawsuit. Under the Superior Court decision, the state is continuing to accrue new, additional refund and interest costs of approximately \$1.13 million per year. If the state wins on any of the issues it is appealing to the Supreme Court, that annual figure could be reduced, and if the plaintiffs win any of the issues they appeal, the additional liability that accrues to the state each year could be larger than that figure.
- If the state were to come into compliance with the Superior Court decision *without* changing the statute (that is, charge fees in accordance with both the existing statutory language, including the mandate that nonresident fees shall be three times the resident fees, *and* with the court's formula for calculating the maximum dollar amount by which nonresident fees may exceed resident fees), CFEC's fee-generated revenues would decline by more than \$3 million per year.

### *\*Assumptions Used in Making Calculations:*

1. *Numbers of permits distributed among five fee classes will be the same as in 2000 (the most recent licensing year figures available). Note that distribution of permits among fee classes varies considerably from year to year, so calculations made for one year based on fee class distribution in another year will necessarily be very rough estimates.*
2. *Continued use of five fee classes, with resident/base fees being increased by 20% in each class (HB194 caps resident/base fees at \$300, a 20% increase over current cap of \$250, so assume all classes increase in same proportion)*
3. *Estimate allowable nonresident permit differential for 2002 at \$135, which is average of allowable differentials over the most recent four years under provisions of Superior Court ruling in Carlson class action lawsuit (calculated by OMB).*
4. *Revenues generated from permit fees have been in decline since 1994 due to fewer permits being renewed and some fisheries moving into lower fee classes due to declines in economic returns. Assuming continuation of that trend, 2002 revenues will likely be around \$3.5 million under existing statute and use of the 3-to-1 fee differential.*

# FISCAL NOTE

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 194(FIN)  
 (H) Publish Date: 4/18/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Fees for commercial fishing licenses and permits BRU: Administration  
 Component: Administration  
 Sponsor: Representative Stevens  
 Requester: House Finance Committee Component Number: 479

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
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>						
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<b>CHANGE IN REVENUES (1024)</b>	<b>227.6</b>	<b>649.3</b>	<b>649.3</b>	<b>649.3</b>	<b>649.3</b>	<b>649.3</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						
Other 1024 Fish & Game Fund						
<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 (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

**Assumptions:**

The number of licenses sold annually will remain constant.

The non-resident fee differential is estimated at \$135, raising the price of the non-resident license from \$125 to \$195.

The Fishermen's Fund contribution would be capped at \$50 per license holder per year. Fishermen's fund contributions would remain stable.

Prepared by: Kevin Brooks Phone 465-5999  
 Division: Administration Date/Time 4/17/01 10:00 a.m.  
 Approved by: Gordy Williams for Commissioner Frank Rue Date 04/17/2001  
 Agency: Department of Fish and Game

For distribution information, call the Governor's Legislative Office

**ESTIMATE OF FEES FOR 2002 COMMERCIAL FISHING  
PERMITS AND CREWMEMBER LICENSES  
UNDER PROVISIONS OF HB194  
ASSUMING \$135 NONRESIDENT DIFFERENTIAL  
(CURRENT FEES IN PARENTHESES)**

		RESIDENT	NONRESIDENT
PERMITS	FEE CLASS V	60 (50)	195 (150)
	FEE CLASS IV	120 (100)	255 (300)
	FEE CLASS III	180 (150)	315 (450)
	FEE CLASS II	240 (200)	375 (600)
	FEE CLASS I	300 (250)	435 (750)
ADULT CREWMEMBER		60 (60)	195 (125)
CHILD CREWMEMBER		5 (5)	140 (5)
REDUCED FEE (POVERTY)			
PERMITS -	FEE CLASS V	30 (15)	97.50 (45)
	FEE CLASS IV	60 (15)	127.50 (45)
	FEE CLASS III	90 (15)	157.50 (45)
	FEE CLASS II	120 (15)	187.50 (45)
	FEE CLASS I	150 (15)	217.50 (45)

Prepared by CFEC  
4/9/01

# Comparison of Fee Structure for Commercial Fishing Permits and Crewmember Licenses Under Current Law and Under Provisions of HB194

*Prepared by CFEC - 4/9/01*

	Current Annual Fee	Annual Fee Under Provisions of HB194
Resident Permit	Range from no less than \$10 to not more than \$250 & reasonably reflect different rates of economic return for different fisheries. (Currently, by regulation, five fee classes of \$50, 100, 150, 200, and 250)	Range from no less than \$10 to not more than \$300 & reasonably reflect different rates of economic return for different fisheries. [Sec.5]
Non-resident Permit	3 times the fees established for residents  (Currently, by regulation, five fee classes of \$150, 300, 450, 600, and 750)	Resident fee plus an amount no higher than differential allowable by law. (Non-resident "surcharge" would be adjusted periodically to reflect changes in variables in formula the Supreme Court ultimately rules may be used to calculate allowable additional charge to nonresidents.) [Sec.5]
Resident Adult Crewmember License	\$60	\$60 [Sec.2]
Non-resident Adult Crewmember License	\$125	\$60 <u>plus</u> up to amount of allowable differential. [Sec. 2]
Resident Child Crewmember License	\$5	\$5 [Sec.2]
Non-resident Child Crewmember License	\$5	\$5 <u>plus</u> up to allowable differential [Sec.2]
Resident "Poverty" Permit Fee	\$15 (For all permit fee classes)	50% of regular resident fee. (Thus, \$30 for permits for which regular fee is \$60; \$60 for permits in \$120 fee class; etc.) Note: Nearly 80% of the poverty fees paid in 2000 were for resident permits in the lowest fee class. Those would increase by only \$15 under proposed change. [Sec.5]
Non-resident Poverty Permit	\$45	Up to 50% of full nonresident fee (base fee plus differential) [Sec.5]

# FISCAL NOTE

**STATE OF ALASKA-  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB194(FIN)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/24/01 1:17 PM Dept. Affected: Fish and Game  
 Title: Fees for commercial fishing licenses and permits BRU: Comm Fish (Limited) Entry Comm  
 Component: Comm Fish (Limited) Entry Comm  
 Sponsor: Representative Stevens  
 Requester: Senate Resources Component Number: 471

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
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>						
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<b>CHANGE IN REVENUES ( )</b>	<b>(120.0)</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</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						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attachment for explanation. Enactment of this bill could reduce future state liabilities for payments of refunds and interest to non-resident fishermen for fees paid in fiscal year FY2002 and beyond depending upon final outcome of Carlson v. State lawsuit.

Prepared by: Roger Kolden Phone 790-6950  
 Division: Commercial Fisheries Entry Commission Date/Time 4/24/01 1:17 PM  
 Approved by: Mary McDowell Date 04/24/2001  
 Agency: Commercial Fisheries Entry Commission

For distribution information, call the Governor's Legislative Office

## HB 194 Fiscal Note - Estimates of Potential Fiscal Impacts\*

- If HB194 is enacted (with resident fees capped at \$300), CFEC's fee-generated revenues could drop by approximately \$136.0 per licensing year, beginning with licenses for 2002, which the Commission will begin issuing in the late fall of 2001.

A Supreme Court ruling in *Carlson v. State* is expected in the summer of 2002, making a final determination of an allowable method for calculating the maximum nonresident fee differential. That method would then determine the fiscal impacts of the provisions of HB 194 in future years.

If the state prevails in its arguments to the Supreme Court regarding what state expenditures may be included in the formula, the provisions of HB 194 will generate *more* revenue from nonresident fees than the provisions of existing statute would generate.

- If HB 194 is NOT enacted, and the state continues charging fees under its current fee structure, potentially large additional liabilities will continue to accrue to the state under the Carlson lawsuit. Under the Superior Court decision, the state is continuing to accrue new, additional refund and interest costs of approximately \$1.13 million per year and approximately 250 new members are being added to the *Carlson* class each year. If the state wins on any of the issues it is appealing to the Supreme Court, that annual figure could be reduced, and if the plaintiffs win any of the issues they appeal, the additional liability that accrues to the state each year could be larger than that figure.
- If the state were to come into compliance with the Superior Court decision *without* changing the statute (that is, charge fees in accordance with both the existing statutory language, including the mandate that nonresident fees shall be three times the resident fees, *and* with the court's formula for calculating the maximum dollar amount by which nonresident fees may exceed resident fees), CFEC's fee-generated revenues would decline by more than \$3 million per year.

### *\*Assumptions Used in Making Calculations:*

1. *The estimates of renewals in 2002 are based upon weighted averages of the most recent three years of renewals for each type of permit. (2000 being the most recent year used). These estimates are necessarily rough since the number of permits renewed can change sharply from year-to-year, particularly in unlimited fisheries. The estimated distribution of permits by fee class assume that CFEC will adopt regulations establishing annual renewal fees based upon the same indicators of economic returns that are used in the current regulations.*
2. *Continued use of five fee classes, with resident/base fees being increased by 20% in each class (HB194 caps resident/base fees at \$300, a 20% increase over current cap of \$250, so assume all classes increase in same proportion)*
3. *Estimate allowable nonresident permit differential for 2002 at \$135, which is approximately the average of allowable differentials over the most recent ten years under provisions of Superior Court ruling in Carlson class action lawsuit (calculated by OMB).*
4. *Revenues generated from permit fees have been in decline since 1994 due to fewer permits being renewed and some fisheries moving into lower fee classes due to declines in economic returns. Assuming continuation of that trend, 2002 revenues will likely be around \$3.3 million under existing statute and use of the 3-to-1 fee differential.*

# Alaska State Legislature

**SESSION ADDRESS:**  
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## Representative Gary Stevens

### SPONSOR STATEMENT – CSHB 194 (FIN)

CSHB 194 (FIN), "An act relating to fees for commercial fishing licenses and permits", repeals current statute that requires the Commercial Fisheries Entry Commission (CFEC) to charge non-resident fishers three times the amount charged a resident fisher and replaces it with a provision that gives them the authority to charge non-resident fishers as close as is practicable to the maximum amount allowed by law. Which in some cases, may be more than 3 to 1.

As you may be aware, in 1982 Carlson and other nonresident commercial fishers sued CFEC alleging that the resident-nonresident fee differential violates the Commerce Clause and the Privileges and Immunities Clause of the U.S. Constitution. Caselaw holds that any difference in commercial license and permit fees may only be based on the amount that residents pay for the pertinent state services through taxes that are not also paid by nonresidents. Thus, the court established a formula that is used to compute the maximum difference that the state can charge for nonresident license and permit fees.

However, in a court trial in June 2000, the superior court ruled that some, but not all, of the budget categories identified by the state may be counted when calculating the annual expenditures for commercial fisheries management. By disallowing four of the six categories, the State of Alaska is faced with a potential \$22.5 million liability. The State has appealed that decision to the Alaska Supreme Court and will be arguing that the other four budget categories should be included in the formula. Meanwhile, as we continue to charge non-residents three to one, we continue to add more plaintiffs to the suit and our liability continues to grow.

By passing this piece of legislation, CFEC will discontinue the practice of charging three to one and instead will charge the maximum amount that is allowed by law. In other words, starting in January, CFEC would calculate the fee differential based on the two budget categories that the court has allowed. However, the Department of Law is hopeful that they will prevail in their appeal and once the court makes its final ruling, CFEC will be able to include some, if not all, of the other four budget categories into the formula.

**Subject: House Supports Outside Fishermen Fees**

**Date:** Fri, 20 Apr 2001 16:48:13 -0800

**From:** Dan Saddler <Dan\_Saddler@legis.state.ak.us>

**Organization:** House Majority

**To:** reps <lsncdrs+housemajlegs@legis.state.ak.us>,  
media <lsncdrs+media@legis.state.ak.us>, staff <lsncdrs+hmajstaff@legis.state.ak.us>,  
people <lsncdrs+people@legis.state.ak.us>

Alaska State Legislature  
House of Representatives  
Representative Gary Stevens

Capitol Building, Room 428  
Juneau, Alaska 99801-1182  
(907) 465-4925

FOR IMMEDIATE RELEASE: April 20, 2001

CONTACT: Rep. Gary Stevens ((907) 465-4925

## **House Supports Outside Fishermen Fees**

**Stevens' HB 194 Would Raise Permit Costs to Court-set Limit**

(JUNEAU) – The House today unanimously passed House Bill 194, which would allow the state to charge non-resident commercial fishermen as much as current and anticipated court decisions will allow for permits to fish in Alaska waters.

Rep. Gary Stevens (R-Kodiak) introduced the bill in response to the state's exposure to \$22.5 million in potential liability in a 1982 class-action lawsuit by non-resident fishermen, Carlson v. Commercial Fisheries Entry Commission.

"For the past 18 years, Alaska has been charging Outside fishermen three times more than Alaska fishermen for their permits," Stevens said. While federal case law does allow such differentials, he said, they must be based only on the cost for services that residents pay for in taxes or fees not paid by nonresidents.

"There is plenty of evidence to justify charging non-residents a significant premium to fish in waters off Alaska," he said. "We pay a tremendous amount more for services from the Department of Fish and Game, for fisheries research, for our hatcheries and for ports, harbors, roads and other state infrastructure."

However, in a June 2000 ruling on the Carlson case, the Alaska Superior Court disallowed four of six categories of expenditures the state had used in calculating its formula, leaving the state liable for paying up to \$22.5 million in "overcharges" to non-resident fishermen. The state is appealing that decision, and hopes to win approval of most or all of the remaining four categories.


HB 194 does not resolve the Carlson case, but does replace the 3-1 formula with language allowing the state to charge the maximum differential allowed by law, Stevens said. While that differential would be based initially on the two budget categories allowed by the court, it would increase if and when court approves the others.

“This bill will not only halt the growth of the state’s liability in the Carlson case, but also puts into place a legally defensible formula that will make non-residents contribute their fair share toward the expenses the state incurs in supporting the nation’s most vibrant commercial fishing industry.”

HB 194 moves next to the Senate for consideration.

###

Broadcasters note: Comments are available on the Majority Actuality Line 1-800-478-6540

 <a href="#">stevens fishfees 04202001.doc</a>	<b>Name:</b> stevens fishfees 04202001.doc <b>Type:</b> Microsoft Word Document (application/msword) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message
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Dan Saddler <[Dan\\_Saddler@legis.state.ak.us](mailto:Dan_Saddler@legis.state.ak.us)>

**HB**

**2006**

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 206(2d RES)  
(H) Publish Date: 2/13/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish & Game  
Title Vessel Limited Entry for Commercial Fisheries BRU Comm Fish Entry Commission  
Component Comm Fish Entry Commission  
Sponsor House Resources  
Requester House Resources Component No. 471

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
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						
Other (Specify Type--Do not abbreviate)						
<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 (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
  
No fiscal impact

Prepared by: Roger Kolden Phone 790-6950  
Division: Commercial Fisheries Entry Commission Date/Time 2/11/02 9:34 AM  
Approved by: Mary McDowell, Commissioner Date 02/11/2002  
Agency: Commercial Fisheries Entry Commission

# Alaska State Legislature

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## House Resources Committee

### House Bill 206 Sponsor Statement

*"An Act relating to a vessel-based commercial fisheries limited entry system for the Bering Sea Korean hair crab fishery and for weathervane scallop fisheries, to management of offshore fisheries, and to the definition of 'person' for purposes of the commercial fisheries entry program; and providing for an effective date."*

HB 206 establishes a vessel-based commercial fisheries limited entry program. The bill preserves the State's current limited entry program as the primary form of limitation, and authorizes the Commercial Fisheries Entry Commission (CFEC) to implement a vessel-based limitation in a fishery only under certain tightly defined conditions.

In its bill enacting the Hair Crab moratorium in 1996, the Legislature recognized the need to establish a vessel-based limitation program and directed CFEC and the Department of Law to draft and bring to the Legislature legislation to accomplish that. Such legislation was drafted but failed to gain passage during the 21<sup>st</sup> Session. HB 206 reintroduces enabling provisions for this important fisheries management tool.

Under the current limited entry statute, CFEC may only issue limited entry permits to gear operators in a fishery, not to vessels or vessel owners. This type of limited entry system, based on an "owner-operator" model, is appropriate for fisheries where typically vessels are small and fished by one person usually in nearshore waters. But other fisheries in Alaska, particularly some of those in the Gulf of Alaska and the Bering Sea, are characterized by larger vessels fishing in offshore waters. These vessels move from area to area and may be operated by successive skippers hired by vessel owners to keep the vessel fishing throughout a season. Current law may not be appropriate or workable for this kind of fishery; in fact, it could potentially increase rather than limit the units of gear and not achieve the resource conservation and economic viability purposes of the Limited Entry Act. Further, it would award ongoing fishing privileges to many who have worked essentially as hired crew, and not those who have invested in the fishery.

The bill establishes the framework for a vessel-based limitation system, much as existing law provides the framework for the operator-based program. Effective fishery management tools, such as those authorized in HB 206, will help ensure the State has the flexibility to effectively manage a wide range of fisheries and, in some fisheries, to gain or retain State management authority in the years ahead.

Introduced 3/21/2001  
Prepared by Co-chairman Drew Scalzi

## ***HB206 – Vessel- Based Commercial Fisheries Limitation Program***

- Under the current limited entry statute, CFEC may only issue limited entry permits to *gear operators* in a fishery, not to vessels or vessel owners; this provision may not be appropriate for some of Gulf of Alaska and Bering Sea fisheries with large vessels
- Recognizing this, the Legislature in 1996 directed CFEC and the Department of Law to draft legislation to establish a vessel-based limitation program
- HB 206 will establish a *vessel-based* commercial fisheries limited entry program for the Bering Sea Korean Hair Crab and Weathervane Scallop fisheries
- Without this legislation, the Entry Commission does not have an appropriate limited entry program to use for these two fisheries. The legislation will protect these fisheries from a potential influx of new participants upon expiration of the moratoria
- Presently these fisheries have moratoriums set to expire in 2003 and 2004; we need the legislation now so that CFEC can have lead time to get the program in place
- Originally the bill's provisions were set forth for generic application; last April, while in the Resources Committee, the bill was amended to apply only to the Bering Sea Korean hair crab fishery and the weathervane scallop fishery
- Over the interim, CFEC discovered several places where discrepancies existed with the original language because the bill was written for generic authority
- The bill was heard again in Resources, then in Rules where a few "wordsmithing" changes were added
- Each time the bill came before the members of the Resources Committee, it received favorable votes, with all do passes and only one no rec
- It is important we pass this legislation to give CFEC the tools to institute a vessel-based limitation in these fisheries so that the state has the ability to provide for the sound management of the resource and the long-term health of these fisheries

**BILL'S HISTORY**

## **HB206: Vessel-Based Commercial Fisheries Limitation Program**

**Authorizes implementation of a vessel-based commercial fisheries limited entry program for the Bering Sea Korean Hair Crab and Weathervane Scallop fisheries. (Resources CS)**

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### **Why we need this legislation?**

**Under current statute, CFEC may only issue limited entry permits to gear operators, not to vessels or vessel owners, and only to individual human beings, not to partnerships, corporations, or other "entities." These requirements may not be appropriate for some fisheries, particularly some Gulf of Alaska and Bering Sea fisheries with large vessels operated by successive skippers hired by vessel owners.**

**Recognizing that, in 1996, the legislature directed CFEC and Dept. of Law to draft legislation to establish a vessel-based limitation program that could be used for fisheries in which limitation under the state's existing operator-based program would not be effective.**

**Legislatively-enacted moratoria in hair crab and scallop fisheries will expire soon. Passage of HB206 this session is essential to the state's ability to limit these fisheries effectively and avoid their return to open access.**

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### **What this legislation will accomplish:**

**The original HB206 would have established the framework for a vessel-based limitation program much as existing law provides a framework for the operator-based program. The vessel-based program would then have been a tool, an alternate method of limitation, available to CFEC to use for limiting fisheries that could not be effectively limited under the current operator-based system.**

**House Resources narrowed bill to allow use of vessel-based limitation only in the hair crab and scallop fisheries, which the committee recognized as those in immediate need of new program. Committee was not ready to provide generic authority for use of a vessel-based program in other fisheries.**

# Petersburg Vessel Owners Association

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

March 8, 2002

Senator Torgerson  
Chair  
Senate Resources Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

RE: Support HB 206 Vessel Limited Entry System

Petersburg Vessel Owners Association is a group of commercial fishermen who participate in a variety of fisheries statewide. Some of our members participate in the Bering Sea Korean hair crab fishery that would be affected by this bill. The Bering Sea Korean hair crab fishery and the weathervane scallop fishery that are addressed in this bill are both large boat fisheries where the number of participants is restricted by moratorium. These moratoriums will soon expire. Therefore it is necessary to move quickly in establishing a limited entry system for these fisheries. The vessels that participate in these fisheries are large vessels with multiple owners. Therefore, if the entry commission were to offer an individual limited entry system, the number of permits issued would far exceed the current and historical number of participants.

Therefore the most reasonable option for these fisheries is a vessel based limited entry system. This bill will ensure that the entry commission has the necessary tools to limit these fisheries in a meaningful way. A system of vessel limited entry will allow the entry commission to issue a number of permits that corresponds to the current and historical participation in the fisheries. These stocks cannot support a level of fishing effort that far exceeds historical levels. Therefore it is necessary to institute vessel limited entry in these fisheries before the expiration of the moratorium.

We appreciate your consideration of these comments and hope you will support this bill. If we can assist you in any way, please feel free to contact us.

Respectfully,



Cora Crome  
Director

Cc: Senator Taylor, Representative Scalzi

F/V ARCTIC STORM  
CAPTAIN THOMAS J GILMARTIN JR  
46677 LAKE ST.  
KENAI, ALASKA 99611  
907-398-1100

3/2/2002

Senator Drue Pearce,

Subj: HB 206 bad for the Alaskan Economy

Sir,

This HB 206 if enacted will consolidate the bulk of a 1,350,000 scallop Quota into the hands of basically four entities. At the present time those four entities are comprised of six vessels. The F/V Provider & F/V Pursuit is the first pair controlled by Mark & Thresa Kandyanis these folks are from Bellingham Washington. The second pair are the F/V Carolina Boy & F/V Carolina Girl controlled by Bill Wells who is from Virginia or a state near there, the fifth vessel is the F/V Ocean Hunter the guy owning this one are from Washington or Oregon and the last vessel the F/V Foreum Star owned by Jim Chase who hails from Kodiak.

The other three vessels are the F/V Kelkenny owned by Tom Hogan of Homer Alaska, Max & Scott Hulse of Eagle River Alaska and the F/V Arctic Storm, which is my vessel, own the F/V LaBreesa and I'm from Nikiski Alaska.

The last four vessels mentioned are the State resident boats and combined catch only 50,000 pounds of the scallop quota. The rest of the quota or 1,300,000 pounds are caught by the out of state vessels. Now not only do the out of state guys catch more of the quota the majority of their crews are from out of state and there pay checks go out of state with them.

State revenue is derived from a 3.3 % tax on scallops sold. Well the big boats averaged \$3.37 a pound for their 1,300,000 pounds or .11 cents per pound tax. My vessel had 10,000 pounds of scallops at an average price of 8.00 a pound or .26 cents a pound tax.

Now if you're looking for economic health and stability of commercial fishing in this state you would not get it from this HB 206. With four big entities in command of 1,300,000 pounds of our states scallop quota the state loses:

- 1.) 15 cents a pound tax revenue on 1,300,000 pounds or \$195,000 dollars in tax revenue.
- 2.) According to Mr. Scalzi the loss of forty vessels economic activity generated in Alaskan communities.
- 3.) The loss of 6 jobs per vessel that's 240 jobs lost to the Alaskan economy.

The 50 or so permits that Mr. Scalzi thinks would be created when the moratorium expires in 2004 should be allowed. That would be consistent with state law that keeps permits in fisherman's hands, it has always been that way. **Why take away what has worked so well for so long????**

This bill needs to be changed or a new one written that directs the CFEC to end the moratorium immediately and allow any and all persons to enter the scallop fishery open access.

As many fisheries are experiencing down turns its time to diversify and scallops is one way to go. **Remember 10,000 pounds of scallops is worth \$50,000 to 100,000 dollars.**

The legislature's original intent to limit the number of fishing effort targeting scallops is not necessary, as the federal government has already done so in federal waters. The state should take 50 % of the quota for a state waters fishery, limit all vessels in state waters to one 8-foot dredge and allow the limited quota to limit fishing effort. **Again all this will spur the small vessel economy.**

As far as applicable federal law goes it does not apply to scallops because **the federal government has already delegated full management authority to the state of Alaska.** Except access in federal waters. Its time to use that authority and create economic activity among the small vessel fleet here in Alaska. The state should also include these small vessels in the state processor exemption program by declaring them catcher sellers for any product delivered fresh on ice. This would reduce the mass of paperwork and bonding and make it much easier to get involved in the fishery.

So lets get with it gentleman what's worked so well for so long should continue.

**NO to HB 206.**

**YES to jobs for Alaska's small vessel fleet**

Sincerely,

Tom Gilmartin

## Senate Resources Committee

4-16-02

## Reasons why HB 206 should be held or referred to Judiciary:

1. In the 3/20/02 Senate Resources hearing, legal was asked if this would be in violation of the understanding of voters when they approved the 1972 constitutional amendment to allow limited entry. You have not yet received a reply from the attorney. You should not pass this bill as it will just open the State to costs of a lawsuit the State attorneys may predict you will loose – especially an identified constitutional contradiction. At very least, a probable fiscal note for the legal costs should be attached.
2. The Magnuson/Stevens Fishery Conservation and Management act establishes in Section 303, page 61 that the Council can enact a Fishery Management Plan (FMP) and within the (b) Discretionary Provisions including (6) “establish a limited access system” Section 304(c)(1)(A) allows the Secretary of Commerce to prepare a FMP only “if—(A) the appropriate Council fails to develop...a fishery management plan”. However, **Section 304, page 66 forbids the Secretary from establishing a limited access system.** Thus creation of any limited entry plan for federal waters is exclusively and expressly reserved to the Federal Fisheries Management Councils. The State may regulate fishing vessels and fisheries outside the boundaries of the State [page 82] if “(i) there is no fishery management plan or other applicable Federal fishing regulations....” This is a similar authority to the Secretary’s to establish a FMP in the absence of action by the Council. **Since the Secretary’s authority under this identical provision is limited and exclusive of establishing any limited access system, so is the State’s ability to enact a limited access system - as that authority is expressly reserved to the Council.** Until the State Senate can get a contrary opinion from NOAA General Counsel negating the plain reading of the text of the Magnuson/Stevens Act, HB 206 should be held in Committee or referred to the Judiciary Committee. Also, a fiscal note should be attached for the federal court lawsuit costs.

[See attached 5 pages from the Magnuson/Stevens Act]



Testimony submitted by  
Paul Seaton, Homer, AK.

Attachment  
Magnuson/Stevens Act

16 U.S.C. 1853  
M-S Act § 303

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

16 U.S.C. 1853 note, 1854  
M-S Act § 303 note, § 304

104-297, sec. 108(b), M-S Act § 303 note

**IMPLEMENTATION.**--Not later than 24 months after the date of enactment of this Act [P.L. 104-297], each Regional Fishery Management Council shall submit to the Secretary of Commerce amendments to each fishery management plan under its authority to comply with the amendments made in subsection (a) of this section [i.e., the P.L. 104-297 revisions to § 303(a)(1), (5), (7), and (9), and the addition of § 303(a)(10)-(14)].

104-297, sec. 108(i), M-S Act § 303 note

**EXISTING QUOTA PLANS.**--Nothing in this Act [P.L. 104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

**SEC. 304. ACTION BY THE SECRETARY**  
104-297

16 U.S.C. 1854

(a) **REVIEW OF PLANS.**--

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall--

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall--

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify--

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

16 U.S.C. 1854  
M-S Act § 304

(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

(5) For purposes of this subsection and subsection (b), the term "immediately" means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

104-297

(b) REVIEW OF REGULATIONS.--

(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and--

(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

97-453, 99-659, 104-297

(c) PREPARATION AND REVIEW OF SECRETARIAL PLANS.--

(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if--

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management;

(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment; or

(C) the Secretary is given authority to prepare such plan or amendment under this section.

16 U.S.C. 1854  
M-S Act § 304

In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea. The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph.

- (2) In preparing any plan or amendment under this subsection, the Secretary shall--
- (A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and
  - (B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.



(3) Notwithstanding paragraph (1) for a fishery under the authority of a Council, the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system, including any individual fishing quota program unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

- (4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately--
- (A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and
  - (B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

SEC. 306. STATE JURISDICTION

16 U.S.C. 1856

97-453, 98-623

(a) IN GENERAL.--

(1) Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries.

(2) For the purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend

(A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party;

(B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich; and

(C) to the waters of southeastern Alaska (for the purpose of regulating fishing for other than any species of crab) that are--

(i) north of the line representing the international boundary at Dixon Entrance and the westward extension of that line; east of 138 degrees west longitude; and not more than three nautical miles seaward from the coast, from the lines extending from headland to headland across all bays, inlets, straits, passes, sounds, and entrances, and from any island or group of islands, including the islands of the Alexander Archipelago (except Forrester Island); or

(ii) between the islands referred to in clause (i) (except Forrester Island) and the mainland.

104-297

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

**HB**

**208**

**Cover Sheet for Fiscal Notes for HB208**

Year	02	03	04	05	06	07	08
DEC	0	0	0	0	0	0	0
DNR	98.3	123.9	0	0	0	0	0
F&G/Com Fish	90.0	*	*	*	*	*	*
F&G/Habitat	72.5	36.5	*	*	*	*	*
<b>TOTAL</b>	260.8	159.4					*

DNR estimates \$55,000 revenue within 3-4 years

\*may be additional long-term costs

Note: On 4/16/02 F&G notified Rep. Scalzi that the ComFish note would be lowered by approximately \$50,000. Fiscal note forthcoming.

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 208(FSH)  
(H) Publish Date: 3/6/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
Title An Act Relating to Aquatic Farming of Shellfish BRU Environmental Health  
Component Food Safety and Sanitation  
Sponsor Representative Scalzi  
Requester House Fisheries Component No. 2343

### Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type-Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

### POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

This fiscal note was developed using information from testimony on the Senate companion bill (SB 141). During this testimony, it became clear that "suitable" did not mean already certified as a growing area under the National Shellfish Sanitation Program (NSSP), therefore the department does not expect any increased costs during the years covered by this fiscal note. Certification under the NSSP normally takes place shortly before commercial harvesting begins. Currently the industry pays for part of the cost to certify growing areas and we would expect that to be the case if this bill passes. However, even with industry support for some of the certification costs, there will be an increased cost to the department when any of the growing sites permitted under this legislation need to be certified under the NSSP.

Prepared by: Janice Adair, Director Phone (907) 269-7644  
Division: Division of Environmental Health Date/Time 2/28/02 3:49 PM  
Approved by: Kurt Fredriksson Deputy Commissioner Date 2/28/2002  
Agency: Department of Environmental Conservation

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSHB 208(RES)

( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 3/12/2002 Dept. Affected: Natural Resources  
Title: Aquatic Farms for Shellfish BRU: Minerals, Land & Water Dev  
Component: Claims, Permits and Leases

Sponsor: Rep. SCALZI, Chenault, Lancaster, Harris, Hudson, James  
Requester: (H) FIN Component Number: 2460

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	82.8	110.4				
Travel	5.0	10.0				
Contractual	2.5	2.5				
Supplies	1.0	1.0				
Equipment	7.0	0.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>98.3</b>	<b>123.9</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	0.0	13.9	27.8	41.7	55.5	55.5
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	98.3	123.9				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>98.3</b>	<b>123.9</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: none  
Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

### POSITIONS

Full-time	2	2				
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
This bill creates a one-time disposal program of at least 90 aquatic farmsites and requires DNR to condition leases for sites that culture wild stocks of indigenous shellfish to restore the wild stock upon termination or expiration of the lease to the population level that existed prior to issuance of the lease. It provides an attempt at a new type of mariculture program -- one that is modeled on DNR's existing land disposal program where state agencies do all of the up-front work and an applicant bids for a site. DNR and DF&G would solicit nominations; pick the areas and sites; prepare best interest finding and coast zone consistency, then put the sites up for bid. With respect to the DNR lease, the applicant could, in the best of circumstances, bid for the site, submit an operating plan and obtain the site with little or no additional work by the agency. This is very different than the 9-month long process currently required of an applicant. As the agencies do the work up front, significant up-front expenses are necessary.  
[CONT.]

Prepared by: Bob Loeffler Phone 269-8600  
Division: Mining, Land and Water Date/Time 12-Mar-02  
Approved by: Pat Pourchot Date 12-Mar-02  
Agency: Natural Resources

**ANALYSIS: (continued)**

DNR's current aquatic farm program, which is very different from the procedures envisioned in this bill, operates with one employee and brings in approximately \$48.0 a year. It would continue to operate while this bill is implemented.

DNR's current mariculture staff consists of one person who is working at full capacity with the current program. Implementing the bill would require a new unit consisting of two employees to pick sites and complete the work.

Total estimated costs for DNR's portion of a one-time mariculture disposal: \$222,200, over two fiscal years.

Changes in revenue (annually): \$13,900+ for the first year, eventually reaching \$55,500+ over a period of 3-4 years.

It is unlikely that the market could absorb 90 aquatic farmsites at once. We come to this conclusion because the average number of applications received during an opening is approximately 15 to 20. For purposes of projecting revenue, we estimate that one-quarter of the sites, or 22, would be taken the first year, and the remainder would be taken "over the counter" over the subsequent three years. Rent for 22 three-acre sites would total approximately \$13,900. If half of the 90 sites, or 45, are taken initially, the possible annual revenue could be \$27,800. The total annual revenue after 90 sites are taken would be \$55,600. This estimate is based on an average 3-acre suspended culture site x 60 sites = \$33,000 and an average of 5-acre on-bottom culture site x 30 sites = \$22,500. (As of August 2, 2001, the aquatic farm lease fee was adjusted to \$350 for the first acre, plus \$100 for each additional acre.)

Personal Services New Position Detail

DRAFT

Department of Natural Resources

Scenario: DNR FY2003 Fiscal Notes - for Positions (2481)  
 Component: Claims, Permits & Leases (2460)  
 BRU Name: Minerals, Land, and Water Development (330)

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count Salary	COLA	Premium Pay	Annual Benefits	Total Costs
10-#075	Natural Resource Mgr I	FT	A	GG	Anchorage	2A	18 C	9.0	35,154	565	0	12,959	48,678
Justification:							Funding Detail:						
HB208							1004 General Fund Receipts						
											100.00%	48,678	
											Total Funding:	100.00%	48,678
10-#077	Natural Resource Tech II	FT	A	GG	Anchorage	2A	12 C	9.0	23,247	373	0	10,519	34,139
Justification:							Funding Detail:						
HB208							1004 General Fund Receipts						
											100.00%	34,139	
											Total Funding:	100.00%	34,139

Component Summary:

Total New Positions: 2

Fund Description	Fund Percent	Fund Amount
1004 General Fund Receipts	100.00%	82,817
Total Funding:	100.00%	82,817

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

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 208(RES)  
 (H) Publish Date: 3/13/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title Aquatic Farms For Shellfish BRU Commercial Fisheries  
 Component Fisheries Development  
 Sponsor Representative Scalzi  
 Requester House Resources Component No. 1942

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	40.0	25.0	*	*	*	*
Travel	10.0	5.0	*	*	*	*
Contractual	30.0	10.0	*	*	*	*
Supplies	5.0	3.0	*	*	*	*
Equipment	5.0	2.0	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>90.0</b>	<b>45.0</b>	*	*	*	*

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	90.0	45.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
<b>TOTAL</b>	<b>90.0</b>	<b>45.0</b>	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time					
Part-time					
Temporary	2				

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

ADF&G is required to provide consultation to DNR regarding the suitability of various sites before they are offered for lease. The Mariculture Program Leader and Assistant will lead and coordinate, in conjunction with industry nominations, the selection of sites to survey as well as field activities with ADF&G regional staff, and staff from other participating agencies. To accomplish site surveys for suitability, ADF&G will conduct dive surveys on potential sites. Personnel costs include funding for a seasonal Fisheries Biologist I, certified divers associated with dive surveys and inspections at proposed aquatic farm sites, and laboratory testing of samples taken from the sites. Travel costs include per diem and transport of department staff, including certified divers, to proposed and existing farm sites. Contractual costs include vessel time to conduct surveys and

Prepared by: Doug Mecum Phone 465-6100  
 Division: Director Date/Time 3/5/02 3:15 PM  
 Approved by: Gordy Williams for Commissioner Frank Rue Date 3/5/2002  
 Agency: Fish and Game

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. CSHB 208 (RES) - FN#3

ANALYSIS CONTINUATION

Inspections of proposed farm sites, and laboratory work for the analysis of water quality samples and PSP and Domolc Acid analysis for growing area certifications. Supplies include materials necessary for dive surveys, scientific supplies and data processing supplies, and assistance with regional mariculture plan development.

Additional time and funding needed to complete the work associated with identification of new areas in FY 2004 are roughly estimated at 50% of the FY 2003 costs.

\* There will also be increasing costs associated with any large increases in mariculture permitting and support. Many services, such as water quality and product testing, currently provided at little or no cost to aquatic farm operators by various state facilities, resources, and personnel, will probably not be fiscally possible as the number of mariculture operations increases, unless funding is provided. These are essential to meet statutory requirements. Since such impact is completely contingent on the number of new farms and the size of the farms, these costs are impossible to estimate. This fiscal note merely identifies the likelihood of additional long-term costs.

NOTE: ADFG Division of Habitat and Restoration has also submitted a fiscal note.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHB 208 (RES)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/19/2002 Dept. Affected: Fish and Game  
 Title Aquatic Farms For Shellfish BRU Commercial Fisheries  
 Component Fisheries Development  
 Sponsor Representative Scalzi  
 Requester Senate Resources Component No. 1942

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	40.0	25.0	*	*	*	*
Travel	5.0	5.0	*	*	*	*
Contractual			*	*	*	*
Supplies	5.0	3.0	*	*	*	*
Equipment		2.0	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>50.0</b>	<b>35.0</b>	*	*	*	*

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	50.0	35.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
<b>TOTAL</b>	<b>50.0</b>	<b>35.0</b>	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary	2					

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

ADF&G is required to provide consultation to DNR regarding the suitability of various sites before they are offered for lease. The Mariculture Program Leader and Assistant will lead and coordinate, in conjunction with industry nominations, the selection of sites to survey as well as field activities with ADF&G regional staff, and staff from other participating agencies. To accomplish site surveys for suitability, ADF&G will conduct dive surveys on potential sites. Personnel costs include funding for a seasonal Fisheries Biologist I, certified divers associated with dive surveys and inspections at proposed aquatic farm sites, and laboratory testing of samples taken from the sites. Travel costs include per diem and transport of department staff, including certified divers, to proposed and existing farm sites.

{Continued}

Prepared by: Doug Mecum Phone 465-6100  
 Division: Director Date/Time 4/19/02 11:00 AM  
 Approved by: Gordy Williams for Commissioner Frank Rue Date 4/21/2002  
 Agency: Fish and Game

**FISCAL NOTE**

**STATE OF ALASKA  
2002 LEGISLATIVE SESSION**

**BILL NO. CS HB 208 (RES)**

**ANALYSIS CONTINUATION**

Supplies include materials necessary for dive surveys, scientific supplies and data processing, and assistance with regional mariculture plan development.

Additional time and funding needed to complete the work associated with identification of new areas in FY 2004 are roughly estimated at 50% of the FY 2003 costs.

\* There will also be increasing costs associated with any large increases in mariculture permitting and support. Many services, such as water quality and product testing, currently provided at little or no cost to aquatic farm operators by various state facilities, resources, and personnel, will probably not be fiscally possible as the number of mariculture operations increases unless funding is provided. These are essential to meet statutory requirements. Since such impact is completely contingent on the number of new farms and the size of the farms, these costs are impossible to estimate. This fiscal note merely identifies the likelihood of additional long-term costs.

NOTE: ADFG Division of Habitat and Restoration has also submitted a fiscal note.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSHB 208(RES)  
 (H) Publish Date: 3/13/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: ADF&G  
 Title Aquatic farms for shellfish BRU Habitat and Restoration  
 Component Habitat  
 Sponsor Representative Scalzi  
 Requester House Resources Component No. 486

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	65.5	33.0	*	*	*	*
Travel	5.0	2.5	*	*	*	*
Contractual	2.0	1.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>72.5</b>	<b>36.5</b>	*	*	*	*

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	72.5	36.5	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Interagency Receipts from DNR						
<b>TOTAL</b>	<b>72.5</b>	<b>36.5</b>	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time	1				
Part-time					
Temporary	2				

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

CSHB 208 (FSH) creates a one-time offering of at least 90 aquatic farm sites for lease.

In addition to the requirements in the bill, the requirements of other State and Federal statutes may affect sites that could be offered. These may include, but are not limited to, the Alaska Coastal Management Plan, District Plans, legislatively designated areas statutes and regulations, and 16.40.100-199 which requires that the physical and biological characteristics of a site be suitable for shellfish farming, that a farm site not require significant alterations in traditional fisheries or other existing uses of fish and wildlife resources, and may not affect fisheries, wildlife or their habitats (cont)

Prepared by: Chlp Dennerlohn Phone 465-3065  
 Division: Habitat and Restoration Date/Time 3/5/02 12:30 PM  
 Approved by: Gordy Williams for Commissioner Frank Rue Date 3/5/2002  
 Agency: Fish and Game

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. CSHB 208(RES) - FN#4

ANALYSIS CONTINUATION

In an adverse manner. ADNR aquatic farm statutes and guidelines have specific requirements for such things as avoidance of eagle nests, marine mammal and seabird rookeries, and commercial seining areas. ADF&G maintains this information.

Identifying and evaluating 90 permitable lease sites will require intensive effort and additional staff will be needed. A Habitat Biologist III is needed to work with ADNR, ADEC, and ADF&G CFMD to identify potential lease sites. Existing fish and wildlife, habitat and public use data on sites will be collected and evaluated. Potential lease sites will be identified and surveyed in the field to determine suitability. The biologist will: review land use plans, coordinate with ADF&G Wildlife Conservation and Subsistence Divisions, ADNR, ADOL, local governments, and federal agencies; prepare site reports; attend public meetings and hearings; and issue Special Area permits as necessary. A 3-month FT III will aid in habitat site evaluations in the field, and one month of Cartographer 2 time will be needed to enter data into the GIS system.

\* Costs for administration and oversight of additional levels of mariculture activity in subsequent years may be significant, but are difficult to quantify at this time.



# Alaska State Legislature

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Official Business

REPRESENTATIVE DREW SCALZI  
State Capitol  
Juneau, Alaska 99801-1182

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FAX: (907) 465-3472

*Representative\_Drew\_Scalzi@legis.state.ak.us*

## HB 208 Aquatic Farms for Shellfish

*"An Act relating to aquatic farming of shellfish; and providing for an effective date."*

The mariculture industry has the potential to increase the availability of fresh seafood to Alaskans, strengthen the competitiveness of Alaskan seafood products in the world marketplace and provide a premium product year-round.

Mariculture is new to Alaska. The permitting process is complex due to the number of agencies that oversee aquatic farming, i.e., Fish and Game, Environmental Conservation, Natural Resources and Governmental Coordination. With cooperation from these entities, this industry, which has proven extremely successful in other states, can certainly enhance economic development in our coastal communities with year-round employment for farmers and processors.

In a good faith effort to encourage good relationships between government agencies and the industry, HB 208 is being introduced as companion legislation to Senator John Torgerson's SB141.

HB 208 requires the Department of Natural Resources to offer public leases on 60 suspended shellfish sites, 20 clam sites and 10 geoduck sites. These lease sites are in addition to those already permitted. Security bonds must be posted according to the value of the product on-site and will be returned upon termination of the lease. Farmers must abide by the sustained yield principle of management when harvesting the wild stock. The Commissioner of DNR must solicit nominations from industry for sites that do not interfere with established commercial, subsistence or personal use.

HB208 is the means for encouraging the state to develop another resource that will add economic diversity to our coffers -- while protecting the right of Alaskans to harvest a common property resource.

Glen Haight, Fisheries Development Specialist

April 9, 2002

**Introduction**

House Bill 208 calls for the designation of 90 aquaculture farm sites by the Department of Natural Resources (DNR) by February 2004. The bill has a fiscal note to cover the cost of DNR and Department of Fish & Game's (ADF&G) work in designating these sites. This analysis measures the cost of this fiscal note in FY 2003 and FY 2004 against the expected future income stream the State might expect from aquaculture operations created from this bill.

This analysis utilizes a technique called "net present valuation". A net present valuation takes future cash flows, positive or negative, and discounts them to a present day value through a risk factor (interest rate) appropriate for the nature of the investment. The analysis and supporting assumptions are attached.

The analysis indicates a return to the state through lease fees and taxes. This return is less than 8% and does not consider additional administrative costs that might come from additional farm operations. From a pure investment perspective, the extent of assumptions and duration in the forecast might be too great for such a small return. However, the Legislature has the ability to view the social and economic benefits from this activity apart from the return to the state.

Uncharted in this analysis are the benefits expected by the shellfish industry and ancillary businesses. Based on the revenue growth rate assumptions, there will be an increase in gross profits to the farm operations of \$9 million by the time full grow out takes place. Current farm values for the existing industry is \$400,000.<sup>1</sup> This growth rate assumes an increased effort by the State to better educate and assist potential new entrants into the industry, as well as increased assistance to existing participants.

While not quantified in this analysis, there is an expectation of increased business for freight companies, gear supplier and other input providers such as the Qutechak Shellfish Hatchery in Seward. Further, much of the farming activity occurs in rural

increase buying power and lower the cost of goods and services into these communities as the volume of purchases increase.

As you know, much of the likelihood of success in meeting the assumptions of this analysis is predicated on a host of events yet to occur. That aside, this particular bill appears to have a number of benefits beyond simply kick starting a budding Alaska industry. Its usefulness as an economic development-building device appears strong and its downstream impact to communities may be very important.

**Estimated Gross Revenues from the Additional Sites**

2005 \$	43,200
2006 \$	155,520
2007 \$	311,040
2008 \$	559,872
2009 \$	1,074,954
2010 \$	1,827,422
2011 \$	3,031,371
2012 \$	4,721,199
2013 \$	6,965,701
2014 \$	8,300,010
2015 \$	8,700,010
2016 \$	9,000,010

**Assumptions**

**General Assumptions**

Shellfish aquaculture operations will begin to function more efficiently and profitably than the historical norm for Alaska aquaculture operations. This is based on various factors:

- The State will shift its focus from establishing this industry, to maximizing the value of the industry.
- Expected reduction in employment from salmon fisheries (and likely other wild catch fisheries with the advent of black cod and halibut farms) will put a greater emphasis on alternative coastal employment opportunities.
- With greater production, efficiencies and market advantages will likely occur. Efficiencies might include, spreading out of fixed costs with more operations and lower freight rates through greater volumes. Greater volumes should increase producer's leverage in market negotiation.

**Costs**

Fiscal Note for 2003 = \$254,500 (DNR - \$92,000; F&G - \$162,500)

Fiscal Note for 2004 = \$196,500 (DNR - \$115,000; F&G - \$81,500)

<sup>1</sup> For reference, the statewide ex-vessel value of the salmon industry in 2001 was \$216 million. Herring roe was about \$11 million (includes spawn on kelp and sac). In 2000, halibut measured at \$134 million, shellfish \$142 million, and groundfish at \$564 million.

Agencies are expecting additional administrative expenses from the increase in farm sites, but cannot provide estimates until the farms are actually operating.

### **Farm Development**

The bill calls for 60 suspended culture sites, including oysters and scallops.

The bill calls for 20 littleneck clam sites.

The bill calls for 10 geoduck sites.

### **Grow out rates**

Oysters are assigned a conservative grow-out rate of 4 years.

Scallops are assigned a grow-out rate of 4 years.

Littleneck clams are assigned a conservative grow-out rate of 5 years.

Geoducks are assigned a conservative grow-out rate of 7 years.

### **Permitting Schedule**

- The sites will be determined by February 2004.
- Actual permitting and development on the sites will not begin until 2005.
- There will be an approximate pro rata development of species along the lines of the bill.
  - 2005 = 10 farms (7 suspended, 2 little neck, 1 geoduck)
  - 2006 = 20 farms (14 suspended, 4 little neck, 2 geoduck)
  - 2007 = 20 farms (14 suspended, 4 little neck, 2 geoduck)
  - 2008 = 20 farms (13 suspended, 5 little neck, 2 geoduck)
  - 2009 = 20 farms (12 suspended, 5 little neck, 3 geoduck)
- Permitting rates exceed historical rates given increased ease of permitting from this bill and increased focus and attention on industry.

### **Closures**

Despite increased focus and assistance to start-up operations, it is expected some level of closures of farm sites will occur.

### **Closure rates**

- 20% of farm sites within one year,
- 10% in the second year, and
- none thereafter.

### **Resale rate**

Farm sites that close will be resold to other farmers.

- In order to maintain salability, original farmers will bear the costs of DNR lease fees.
- The sale will occur one year after closure.

- These closed operations will not have any product. Purchased farm sites will undergo grow out rates starting from the time of purchase.

### **Acreage**

The analysis sets farm average farm acreage at 5. DNR records show current average is 3.5. However, some farm sites are not operating at maximum efficiency. Upon advice of industry, 5 acres are set at an optimum minimal size.

### **Owner/Business Per Farm Site**

For the purposes of the analysis, every two farms will be operated by a single owner/company. This will increase efficiencies in the operation, yet decrease business licensing fees to the state.

### **Farm Revenue**

Some of the more efficient farms in Alaska today net in excess of \$20,000/acre. However, DNR information provides that the average revenue per acre was approximately \$2,400. For this analysis, we assume a starting revenue/acre of \$2,400 in 2002 and increase it at 20% until it reaches \$20,000. At that point, future revenue streams are capped at \$20,000. Industry reports a well-maintained farm of littleneck clams and oysters are capable of achieving this level of profitability at this time. Scallops and geoducks are less certain.

For on-bottom operations, once permitting occurs, harvests of standing stocks will be allowable. This revenue stream will continue up until the time that the farmed stock is harvested. This activity will trigger water quality inspections.

### **State Fees**

DCED business licenses = \$25/owner

DNR permitting fees (first acre/acres thereafter) = \$350/\$100

DNR caretaker fee = left out for this analysis.

### **State Fisheries Tax**

Assumed 75% of all product will be exported and taxed.

Oysters/scallops = 3% of farm value

Littleneck clams = 1%

Geoducks = 1%

Rate of return set at different levels to understand the return at various levels of risk. That concludes the list of assumptions used in this analysis.

Department of Community & Economic Development

**State Revenue Projections From HB208**

	Fiscr' Year													
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>State Revenues</b>														
DNR Permit	\$ -	\$ -	\$ 7,500	\$ 22,500	\$ 37,500	\$ 52,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500	\$ 67,500
Business License	\$ -	\$ -	\$ 125	\$ 350	\$ 563	\$ 800	\$ 1,050	\$ 1,050	\$ 1,100	\$ 1,125	\$ 1,125	\$ 1,125	\$ 1,125	\$ 1,125
Business Tax	\$ -	\$ -	\$ 65	\$ 233	\$ 467	\$ 840	\$ 2,150	\$ 4,999	\$ 9,771	\$ 16,276	\$ 24,587	\$ 29,213	\$ 30,158	\$ 30,225
<b>Total</b>	\$ -	\$ -	\$ 7,690	\$ 23,083	\$ 38,529	\$ 54,140	\$ 70,700	\$ 73,549	\$ 78,371	\$ 84,901	\$ 93,212	\$ 97,838	\$ 98,783	\$ 98,850
<b>State Costs</b>														
Fiscal Note	\$ 254,500	\$ 196,500												
Additional Management Costs														
Identified State Costs	\$ 254,500	\$ 196,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Net Income (Loss)</b>	<b>-\$254,500</b>	<b>-\$196,500</b>	<b>\$ 7,690</b>	<b>\$ 23,083</b>	<b>\$ 38,529</b>	<b>\$ 54,140</b>	<b>\$ 70,700</b>	<b>\$ 73,549</b>	<b>\$ 78,371</b>	<b>\$ 84,901</b>	<b>\$ 93,212</b>	<b>\$ 97,838</b>	<b>\$ 98,783</b>	<b>\$ 98,850</b>
NPV at 0% return	\$368,644													
NPV at 5% return	\$89,567													
NPV at 7.5% return	\$2,177													
NPV at 10% return	(\$62,683)													
NPV at 12.5% return	(\$110,935)													
NPV at 15% return	(\$146,837)													
NPV at 17.5% return	(\$173,488)													
Internal Rate of Return	7.57%													



Rodger Painter, vice president  
P.O. Box 20704 Juneau, AK 99802  
Phone/Fax: (907) 463-3600  
rodgerpainter@hotmail.com

## Questions and Answers about HB 208

**What is the purpose of the legislation? Why not just allow applications to be submitted during scheduled openings?**

Aquatic farming is one of the most promising opportunities for coastal Alaskans to establish renewable, year-round businesses, but the application process has been difficult and contentious. Proposed sites often are rejected by regulatory agencies for a wide variety of purposes after the applicant has invested nearly two years into the process. HB 208 will virtually ensure applicants of success during a shortened permitting process, and provide coastal communities seeking to diversify their economy with a tool to attract entrepreneurs.

**HB 208 is an expensive piece of legislation. Will the treasury be repaid?**

House Bill 208 was patterned after the state oil and gas lease sales where the state identifies tract available for development by the private sector. It is meant to be an investment by the state that will bring in revenues to the treasury and stimulate economic activity. In this case, the state will be making an investment in resource inventory and land use management. The investment of \$350,000-\$400,000 in funding the fiscal notes of HB 208 will be repaid in the form of lease and tax revenues. Increased employment and economic activity in coastal Alaska will be other benefits. Sen. John Torgerson, author of the companion measure SB 141, describes the aquatic farm site lease sale as an investment by the state in one of its important natural resources. [An analysis of potential revenues from the lease sale by the Alaska Department of Community and Economic Development has been provided to the legislature.]

**Why is the state identifying sites? Shouldn't that be the role of the private sector?**

The legislation provides for nominations of farm sites by industry, local communities and individuals, again following the pattern of oil and gas lease sales. HB 208 is designed for the selection process to be a partnership between the state, industry and local residents. The industry is already working with the University of Alaska to conduct surveys of potential aquatic farm sites and this effort will be expanded if HB 208 is enacted.

**Who will be protecting important competing values, such as established fisheries, anchorages and sensitive habitats, during the selection process?**

One of the most critical features of HB 208 is that it takes no shortcuts in the established public process under the coast zone management program. The fiscal notes attached by HB 208 will fund a comprehensive planning process and series of public hearings on all 90 sites prior to the lease sale. The 1988 Aquatic Farm Act established siting criteria that provide a high degree of protection for established uses, the environment, and fish and wildlife resources.



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P.O. Box 20704 Juneau, AK 99802  
Phone/Fax: (907) 463-3600  
rodgerpainter@hotmail.com

## **Payback of Fiscal Notes for SB141/HB208**

### **Lease fees**

Aquatic farmers pay DNR \$350 for the first acre and \$250 for each additional acre in annual lease fees. For a five-acre farm this equates to \$1,350 per year. For 90 5-acre farms, this would amount to \$121,500 in annual revenues.

### **Fisheries Business Taxes**

Aquatic farmers are subject to the Fisheries Business Tax. If each of the 90 farms were to generate \$100,000 in gross sales per year, the tax liability per farm would be \$3,000. For 90 farms, the total would be \$270,000.

### **Other Annual Licensing and Permitting Fees**

Fisheries Business License = \$25 per farm. Shellfish shipping permits from DEC = \$100. Growing area certification (DEC) = \$300. Total per farm = \$425. Total for 90 farms = \$38,250.

### **Total Annual Lease Fees, Taxes and Licensing Fees**

Per 5-acre Farm = \$4,775. Annual total for 90 Farms = \$429,750.

### **Economic Contribution**

If each farm generated \$100,000 in gross revenues, 90 farms would contribute \$9 million to the economy. If farm supports two jobs, a total of 180 new jobs would be created.

**FISCAL NOTE PAYBACK ESTIMATE**

## QUTEKCAK SHELLFISH HATCHERY

PO Box 369  
101 Railway Avenue  
Seward, AK 99664  
907-224-5181 fax 224-5282  
[qshatch@arctic.net](mailto:qshatch@arctic.net)

February 28, 2002

Dear Representative Scalzi,

On behalf of the Qutekcak Native Tribe and the hatchery, I would like to express our support for HB-208, and our appreciation for your sponsoring this important legislation.

The economics of coastal communities have been negatively impacted in the recent past for a variety of reasons too numerous to recount here. What's important is to look for possible solutions, and we feel the shellfish farming industry has demonstrated the potential to bring needed economic diversity to these communities. That potential is enhanced due to the fact that many of the individuals who have been hardest hit are commercial fishermen who already possess many of the necessary skills and equipment.

Over the past few years we have witnessed an increased awareness of this industry's potential in Alaska, and have managed to dispel some perceptions that draw inaccurate parallels between finfish farming and shellfish farming. We have not been as successful in streamlining the permitting process in a way that will allow the industry to reach the "critical mass" necessary to support the hatchery as our research nears completion and the funding for that research needs to be replaced by marketing the developed product.

We recognize that there is no magic wand, and that the proper course for our industry is incremental and steady improvements in regulation and understanding, and in further demonstrating the economic benefits of the industry. This legislation represents an important step along that course of improvement by making available sites that will increase our customer base. We are cognizant that some investment in the form of agency budgets will be necessary on the State's part to make this legislation work, but are confident that we can provide returns over time on that investment many times over.

Thank you for your support and best regards,

Ron Long,  
Director

**Letters of Support**

# MARINE ADVISORY PROGRAM

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UNIVERSITY OF ALASKA FAIRBANKS

SCHOOL OF FISHERIES AND OCEAN SCIENCES

April 5, 2002

2221 E. NORTHERN LIGHTS BLVD., #110

ANCHORAGE, ALASKA 99508-4140

PHONE: 907-274-9691

FAX: 907-277-5242

To: Representative Drew Scalzi  
State Capitol, Room No.13  
Juneau, AK 99801-1182

From: Raymond RaLonde  
Aquaculture Specialist

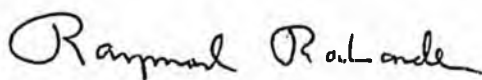
Subject: Supporting information for HB 208

In support of the HB 208, I can contribute substantial support within the University to assist with planning of shellfish aquaculture expansion. Specifically, I have received funding for aquatic farm site evaluations from the following sources and amounts

Source	Funding amount	Project duration
Alaska Sea Grant	\$81,350	2002-04
UAF President's Resources Fund	\$20,000	2002-2004
Alaska Cooperative Extension Service	\$4,200	2002
Alaska Cooperative Extension Service	\$20,000	2003

The initiative to identify and open additional sites for shellfish aquaculture development that you addressed in HB 208 exactly matches the goals of the aquatic site evaluation projects described here. Over the next two years, I and a team of scientists, state agency personnel, industry representatives, and coastal Alaska citizens hope to work together to identify and scale up shellfish aquaculture development in a systematic and environmental responsible manner to improve the economic plight of our coastal communities.

Good luck with your efforts to carry HB 208 through the legislature. Thank you for your support.



Raymond RaLonde



# Southeast Conference



P.O. Box 21989 Juneau Alaska 99802-1989 Tel. (907) 463-3445 Fax (907) 463-5670

April 11, 2002

Honorable Drew Scalzi  
State Capitol, Room 13  
Juneau, AK 99801-1182

**RE: Support of HB 208, Aquatic Farms For Shellfish**

Dear Representative Scalzi:

Southeast Conference strongly supports the aquatic farm lease sale provided for in CSHB 208 (Resources). This measure complements ongoing efforts by Southeast Conference to develop a strong shellfish farming industry in the region.

The economies of many Southeast communities have been devastated by the collapse of the timber industry and declining economics of the salmon fisheries. Shellfish farms provide viable opportunities for rural communities to diversify their economic base with year-round jobs.

Shellfish mariculture development is one of our key legislative priorities this year. Southeast Conference has initiated a pilot project on Prince of Wales Island to create "Aquaculture Development Zones" where shellfish farming would be encouraged. Participants in our project include the University of Alaska, the community of Naukati, the Prince of Wales Community Action Council, the Alaskan Shellfish Growers Association, the U.S. Forest Service, and the Alaska Departments of Natural Resources and Fish and Game, and Division of Governmental Coordination.

Passage of HB 208 would solve one of the biggest challenges faced by our informal working group: identifying high potential sites where applicants can be assured of obtaining leases and permits. Since we already have initiated site surveys on Prince of Wales Island, we will be prepared to assist in providing detailed site-specific environmental and biological data along with our areas nominations provided for in HB 208.

We wish to thank you for your efforts to encourage economic development in our coastal communities.

Sincerely,



Loren Gerhard  
Executive Director

# *Legends* of the Mountain

412 Washington Street  
Seward, Alaska 99664

To Whom It May Concern:

I am currently re-opening a full service restaurant in Seward, Alaska. We are a semi-casual concept with a focus on steaks and fresh seafood.

It has been my experience that local Alaskans and tourists alike look specifically for Alaskan products. Therefore, it is very important to me to have local seafood available not only to make my customers happy, but also to help keep my purchasing dollars in the State that I live in.

I think it is time for us to seriously support aquatic farming projects within the State of Alaska. This should create a renewable source that will benefit everybody now and in the future.

Sincerely,

Jeff Kilgore  
Executive Chef/General Manager

Honorable Drew Scalzi  
State Capitol, Room 13  
Juneau, AK 99801-1182

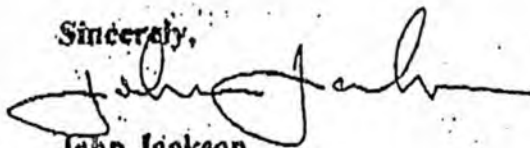
Dear Rep. Scalzi:

Sagaya Corporation is delighted to learn that you have sponsored legislation to increase the number of shellfish farms in Alaska. The oysters and clams we purchase from shellfish growers are among the finest seafood we feature in our stores, and they're the only local products we can obtain fresh on a year-round basis.

The potential for growth in the market for Alaska oysters and clams is great. We recently increased our efforts to push Alaska steamer clams and the response from customers has been very positive. During a recent promotion, customers snapped up about 1,000 pounds of Alaska clams over the weekend.

Increasing the number of aquatic farms in the state is the best gift you can give to seafood consumers in Anchorage and the rest of Alaska. House Bill 208 is a winner in our books.

Sincerely,



John Jackson

**Subject: HB 208**

**Date: Thu, 11 Apr 2002 16:18:52 -0800**

**From: Greg Favretto <greg@favco.net>**

**To: "pat\_hartley@legis.state.ak.us" <Pat\_Hartley@legis.state.ak.us>**

Honorable Drew Scalzi  
State Capitol, Room 13  
Juneau, AK 99801-1182

Dear Rep. Scalzi:

Your legislation designed to increase the number of aquatic farms in Alaska (House Bill 208) should prove to be one of the best things the state has done for Alaska seafood consumers, both residents and visitors.

We have worked closely with aquatic farmers for about 15 years and are delighted to have played a role in the marketplace receiving some of the world's best oysters.

Of the wide array of wonderful seafood products harvested from our waters, only two are available fresh on a year-round basis: oysters and littleneck clams, and both come from shellfish growers.

I wish you good luck with your legislation, as Alaska needs more shellfish farms to satisfy a growing demand for Alaska oysters and clams.

Sincerely, Greg Favretto



Rodger Painter, vice president  
P.O. Box 20704 Juneau, AK 99802  
Phone/Fax: (907) 463-3600  
rodgerpainter@hotmail.com

February 11, 2002

Senator John Torgerson  
State Capitol, Room 427  
Juneau, AK 99801-1182

Dear Senator Torgerson:

After carefully considering your comments on our proposed "aquaculture development zone" concept, we have decided that your approach on Senate Bill 141 is superior. We'd like to work closely with you and Rep. Scalzi in getting the legislation approved this session.

There is one amendment to SB 141 that we believe is vital to accomplishing the intent of the legislation: removal of the section on lease valuation. Here's the language we'd like to have deleted:

**In determining the fair market value of a lease for an aquatic farming site where shellfish indigenous to the site are cultured, the department shall consider the value of the harvestable shellfish resource on the site and the potential productivity of the site for cultured shellfish.**

Here's our rationale for removal of the language:

- Adoption of regulations by ADF&G subsequent to development of SB 141 has effectively rendered this section moot. Under current ADF&G procedures, the harvestable "standing stock" of native shellfish on an aquatic farm site must be harvested under commercial fishing permits prior to transfer of the site to the applicant. In addition, ADF&G policies prohibit applicants from obtaining sites with significant numbers of wild geoducks. Insertion of this language could confuse the validity of these practices.
- SB 141 also contains language codifying current ADF&G regulations and permit conditions requiring growers to replace standing stocks prior to relinquishing the site. The practical effect of putting both sections into law would be to require growers to pay for standing stocks twice, in addition to paying the state the same fisheries business tax rates of commercial fishermen AND lease fees for use of state land and waters.
- The existing language could create concerns for growers attempting to farm mussels and other species not subject to commercial fisheries. If the shellfish is not subject to commercial fisheries and we have a great abundance of the species, the state shouldn't create disincentives for utilizing surplus natural resources.
- The final clause of the section includes "potential productivity of the site" as a reason for increasing lease valuations. ASGA has objected strongly to this

language in ADF&G regulations and we will seek to have it removed when a more friendly administration takes office. The "potential productivity" of a site is an extremely elusive concept that is extremely troublesome for the industry.

- Alaska already has some of the highest tidelands lease fees for aquatic farm sites of any jurisdiction in North America, and we have been attempting to convince DNR to bring them more in line with our competitors. The existing language in SB 141 has the potential for increasing existing lease fees and moving us away from our goal.

After discussing your intent behind SB 141, we have become convinced it is a very good approach to moving the industry forward. DNR confirms the sites will remain "in the bank" following the initial offering and that it is possible to obtain annual offerings or even an over-the-counter approach. DNR also says it will be possible to divide a large site between two or more applicants.

We were unaware of these attributes of the state's land disposal process. We appreciate your vision in putting together this package and apologize for taking so long to get solidly behind the legislation. We look forward to working with you and Rep. Scalzi in getting SB 141 approved during this legislative session.

Sincerely,

**Rodger Painter**

c.c. Rep. Drew Scalzi  
Sen. Robin Taylor  
Rep. Lesil McGuire



Rodger Painter, vice president  
P.O. Box 20704 Juneau, AK 99802  
Phone/Fax: (907) 463-3600  
rodgerpainter@hotmail.com

February 20, 2002

Honorable John Torgerson  
State Capitol, Suite 427  
Juneau, AK 99801-1182

Dear Senator Torgerson:

Your efforts to create a "bank" of aquatic farm sites are greatly appreciated by aquatic farmers throughout the state. The committee substitute for SB 141 you have developed has made good bill even better, and we are enthusiastic about working with you to move it through the process this year.

We are particularly grateful for the changes in the committee substitute. We believe SB 141 represents a wise investment in creating new economic development opportunities in coastal Alaska with the use of one of the state's most abundant natural resources. What a better way to bolster the sagging economies of coastal regions than promote an environmentally friendly industry supporting year-round jobs.

We believe this approach to aquaculture development may become a model for the rest of the country. We again thank you.

Sincerely,

A handwritten signature in black ink that reads "Rodger Painter". The signature is written in a cursive style.

Rodger Painter  
Vice President

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL HEALTH  
DIRECTOR'S OFFICE  
555 CORDOVA STREET  
ANCHORAGE, ALASKA 99501  
<http://www.state.ak.us/dec/deh>

Telephone: (907) 269-7644  
Fax: (907) 269-7654  
e-mail: [Janice\\_Adair@envircon.state.ak.us](mailto:Janice_Adair@envircon.state.ak.us)

March 1, 2002

The Honorable Drew Scalzi  
Alaska House of Representatives  
Room 13, Capitol Building  
Juneau, AK 99801

Re: HB 208, an Act relating to aquatic farming of shellfish

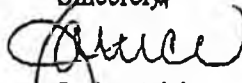
Dear Representative Scalzi:

Enclosed please find a copy of a letter I recently sent to Senator Torgerson regarding SB 141 which, as you know, is the companion bill to yours referenced above.

Although the Department of Environmental Conservation (DEC) has now submitted zero fiscal notes on both pieces of legislation, it is important that everyone understand that any shellfish sites must be certified by DEC under the National Shellfish Sanitation Program (NSSP) before the product can be sold in commerce. We are required by both state law (AS 17.20.005(6)) and federal law to comply with the NSSP. There are significant costs associated with certification, some of which are currently borne by the farmers themselves. The rest is covered in DEC's operating budget. Should either of these bills pass, down the road there will be increased costs to DEC for this certification. In the interest of full disclosure, I wanted you and the rest of the committee members to know that.

I do not plan to be on line for the hearing on HB 208 unless you'd like me to be available to answer questions, which I would be happy to do. You or your staff can reach me at 269-7644 or via email at [Janice\\_Adair@envircon.state.ak.us](mailto:Janice_Adair@envircon.state.ak.us) to let me know.

Sincerely,



Janice Adair  
Director

Enclosure:

- Letter to Senator Torgerson dated February 28, 2002

*Safe Food, Safe Water, Healthy Communities*

**DEC Comments**