

MEMORANDUM

DATE: June 21, 1979

TO: Council Members, Scientific & Statistical Committee and
Advisory Panel

FROM: Jim H. Branson, Executive Director

SUBJECT: Consideration of changes in the definition of fishery management
units for fishery management plans off Alaska

BACKGROUND INFORMATION

The federal definition of the territorial sea boundary has created FCZ enclaves within Alaska's numerous archipelagos. The State of Alaska considers these enclaves as part of the territorial sea. In the Gulf of Alaska most of these enclaves are found in the inland water ways of Southeastern Alaska, specifically:

Sumner Strait	Chart I
Clarence Strait	Chart II
Revillagigedo Channel	Chart II
Chatham Strait	Chart III and V
Frederick Sound	Chart IV
Stephens Passage	Chart IV
Icy Straits	Chart V
Cross Sound	Chart V

Other enclaves are found in Western Alaska inside the Shumagins and Kodaik Island group.

Shumagin Islands to Sanak Chart VI

Fishery Management Regulations in Southeast Alaska

The State of Alaska has historically developed and enforced fishery management regulations in the inland waters, and is currently enforcing State regulations in FCZ enclaves. The problem of differing State and Federal regulations for fisheries conducted with narrow inland water ways exists in the sablefish fishery, and the salmon troll fishery, for example. Copies of state and federal regulations for both fisheries are enclosed.

Confrontation between these two sets of regulations has not yet arisen, due to the State of Alaska permit specifications and landing laws.

Territorial Sea Boundaries

The determination of the territorial sea boundary by the State of Alaska is defined according to Section 5.AAC 39.975 (13) "Waters of Alaska means the waters west of the international boundary at Dixon Entrance including those extending 3 miles seaward;

- (a) from the coast
- (b) from lines extending from headland to headland across all bays, inlets, straits, passes, sounds and entrances
- (c) from an island or group of islands including the islands of the Alexander Archipelago and the waters between the groups of islands and the mainland."

The territorial sea as defined by the Interagency Commission is: 'those waters between the baseline and the line drawn so that all points on it are 3 nautical miles seaward of the baseline. The baseline is the line which divides the internal waters from the territorial sea. It consists of the low water mark along the coasts and "closing lines" across bays, rivers, inlets and other similar indentation.'

The issue is presently the subject of a suit filed by the Federal Government in the Supreme Court involving the ownership of the land underneath such an enclave in the Beaufort Sea. If the Supreme Court accepts the case, a resolution could take more than two years.

COUNCIL ACTION

In the interest of reducing duplicative unnecessary regulations and eliminating a potential enforcement problem, three possibilities are presented as courses of action. The data supporting these options have not been analyzed. Consistency of regulations can be obtained by:

- a. Redefinition of the fishery management unit in the Gulf of Alaska fishery management plans;
- b. Revise State and Federal regulations to make them consistent.
- c. Develop a Memorandum of Understanding between the NMFS and the ADF&G.

A. Redefinition of the Fishery Management Unit

The Gulf of Alaska Groundfish Plan and the Troll Salmon Plan do not specifically address the management of fisheries in the FCZ of the inland water ways. MSY for the Gulf groundfish species were estimated from the data collected in the outside waters from fisheries surveys and from the foreign fisheries catch data and does not include data from inshore areas. The exception to this are the MSY and OY figures for sablefish which were calculated from stocks both within inland waters and the FCZ proper.

The fishery management unit can be redefined to specifically exclude the inland waters and all other areas in the Gulf of Alaska that the state

has traditionally considered theirs for fishery matters. The MSY for sablefish would need to be adjusted to exclude the portion of the population in state waters. TALFF, DAH and Reserve would also change for that species. Fishery regulations in the inland FCZ enclaves would then be promulgated by the State, in the absence of Federal regulations.

The advantages of this option are that the potential enforcement problems would be avoided. The disadvantages are that, technically speaking, within certain areas of the FCZ, the State would develop and enforce its own regulations which might be contrary to the intent of the FCMA.

B. Consistency of Regulations

The second option is to develop consistent regulations for both State and Federal zones in the inland waters. This would require either a change in regulations by the Board of Fisheries to accommodate the differences in the Federal regulations or review and approval by the Secretary of Commerce of the regulations promulgated by the Board of Fisheries. At present, the groundfish regulations of the State are more restrictive than those promulgated by the Secretary of Commerce. For example, sunken gillnets or trawls are not allowed in the territorial sea but are permitted in the FCZ. Troll salmon regulations of the State are also more restrictive. For example, the State bans hand trollers from the surf line out in its waters, allows only 4 lines as opposed to 6 or 8 permitted in the FCZ, and has a long-term limited entry program. The Federal regulations allow hand trolling in the FCZ and a temporary one-year moratorium is in effect on power trolling.

The advantages of this approach would be that the Federal government would not relinquish its responsibility of management in the FCZ. One set of regulations would apply to all inland waters, and there would be no enforcement confrontation. The disadvantages would be that the Secretary of Commerce might not find acceptable the ban on hand trolling, nor the state limited entry scheme and its procedure for issuance of field orders. The Board might not approve of the Federal decision to disapprove the ban on hand trolling. A compromise position would require considerable effort and time to resolve.

C. Memorandum of Understanding

A Memorandum of Understanding could be drawn up between the National Marine Fisheries Service and the State of Alaska Department of Fish and Game, whereby, in the absence of Judicial resolution of the dispute, the State of Alaska would be permitted to enforce state regulations in FCZ enclaves within inland waters, subject to Federal review.

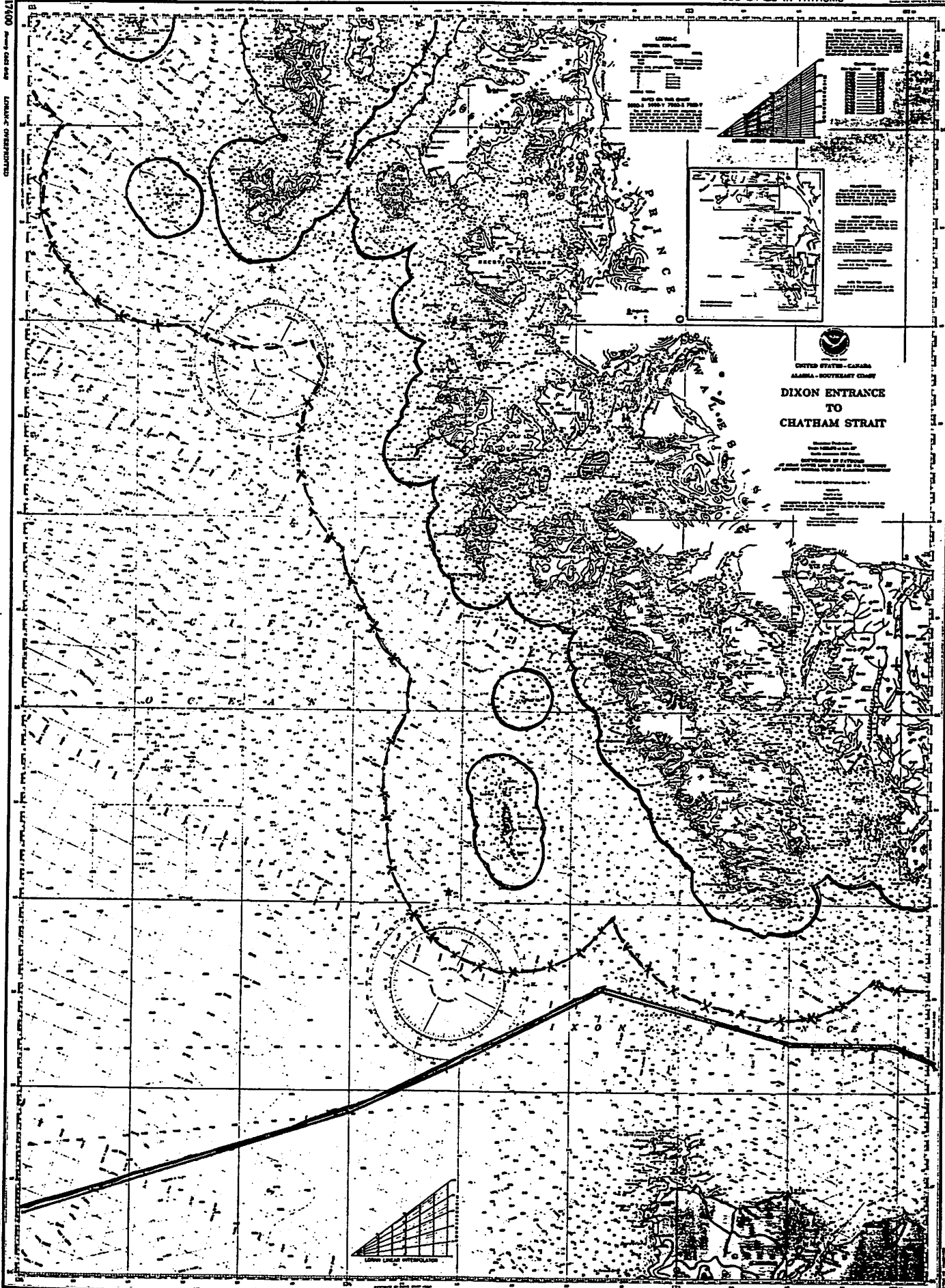
The advantages of such an option are that the management of inland waters would continue under the auspices of the State with the minimum of duplicative administrative procedures. Such a memorandum would formalize the management and enforcement system in existence at present.

The disadvantages of this option are that the FCMA provides little legal basis for such an agreement. The legal question of delegation of authority to manage fisheries in the FCZ has not been researched in this case.

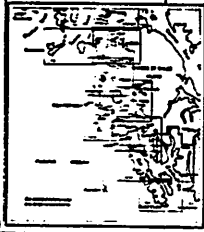
Attachments

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SOUNDINGS IN FATHOMS

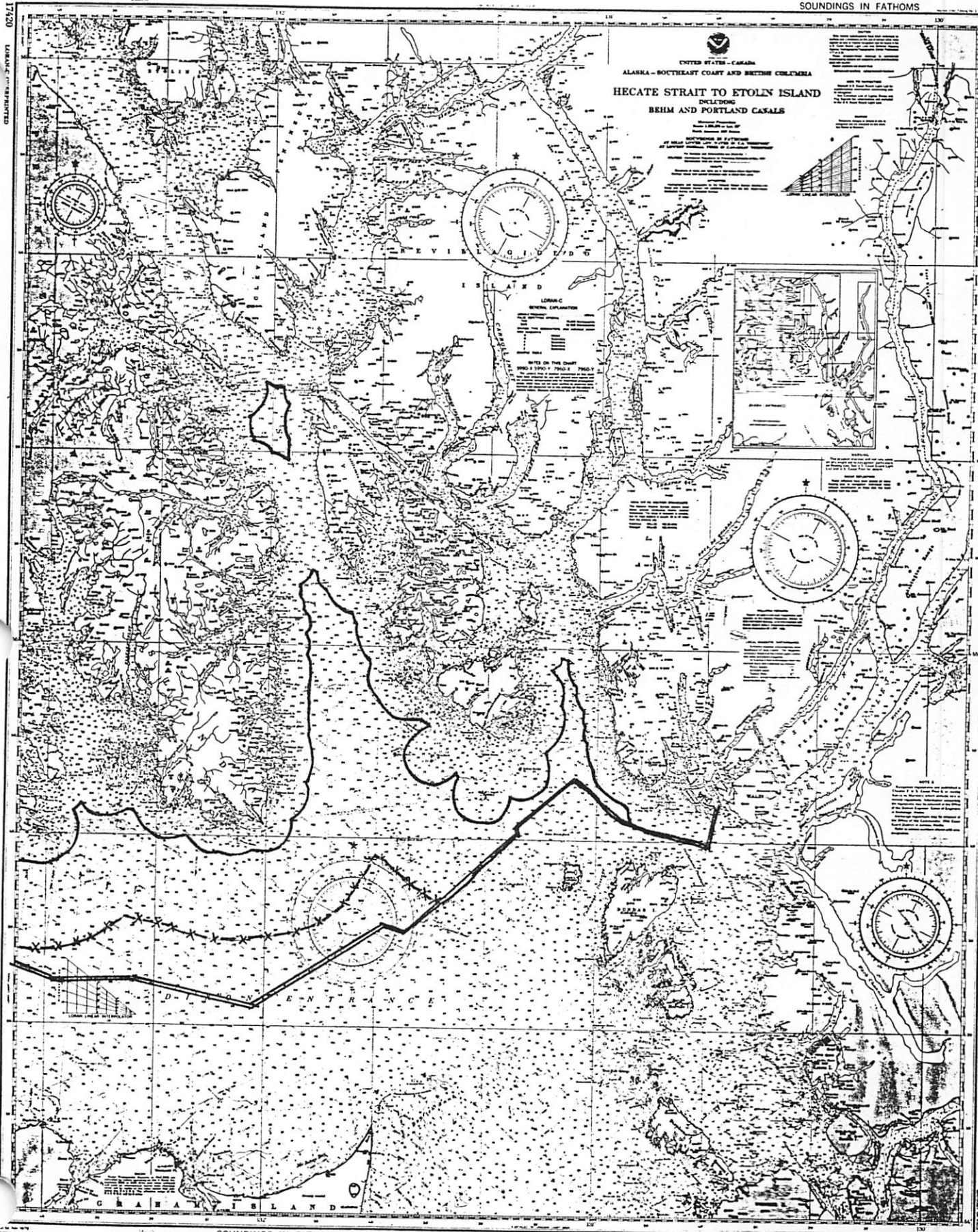


SYMBOLS
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UNITED STATES-CANADA
 ALASKA-SOUTHEAST COAST
**DIXON ENTRANCE
 TO
 CHATHAM STRAIT**
 SOUNDINGS IN FATHOMS
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SOUNDINGS IN FATHOMS



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SOUNDINGS IN FATHOMS

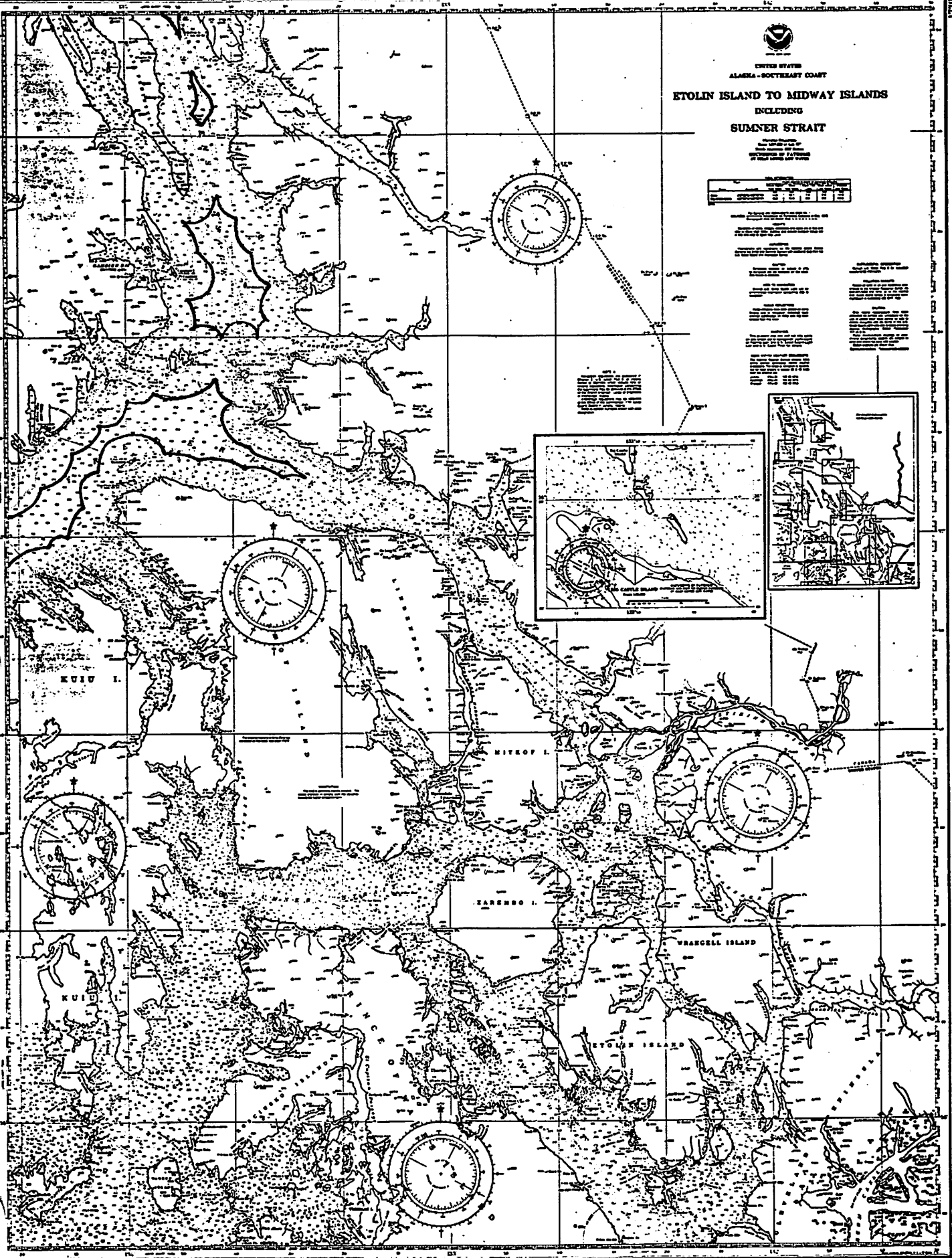
U.S. DEPARTMENT OF COMMERCE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

HECATE STRAIT TO ETOLIN ISLAND

(Hecate Strait to Etolin I.)

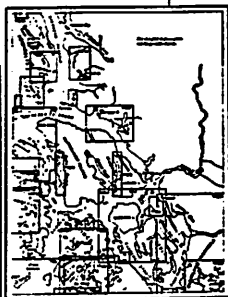
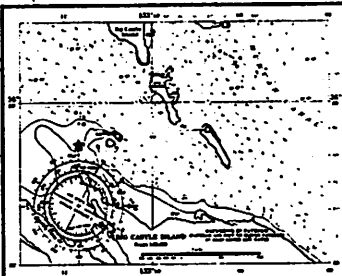
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UNITED STATES
ALABAMA - SOUTHEAST COAST
ETOLIN ISLAND TO MIDWAY ISLANDS
INCLUDING
SUMNER STRAIT



MAGNETIC VARIATION	
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REMARKS
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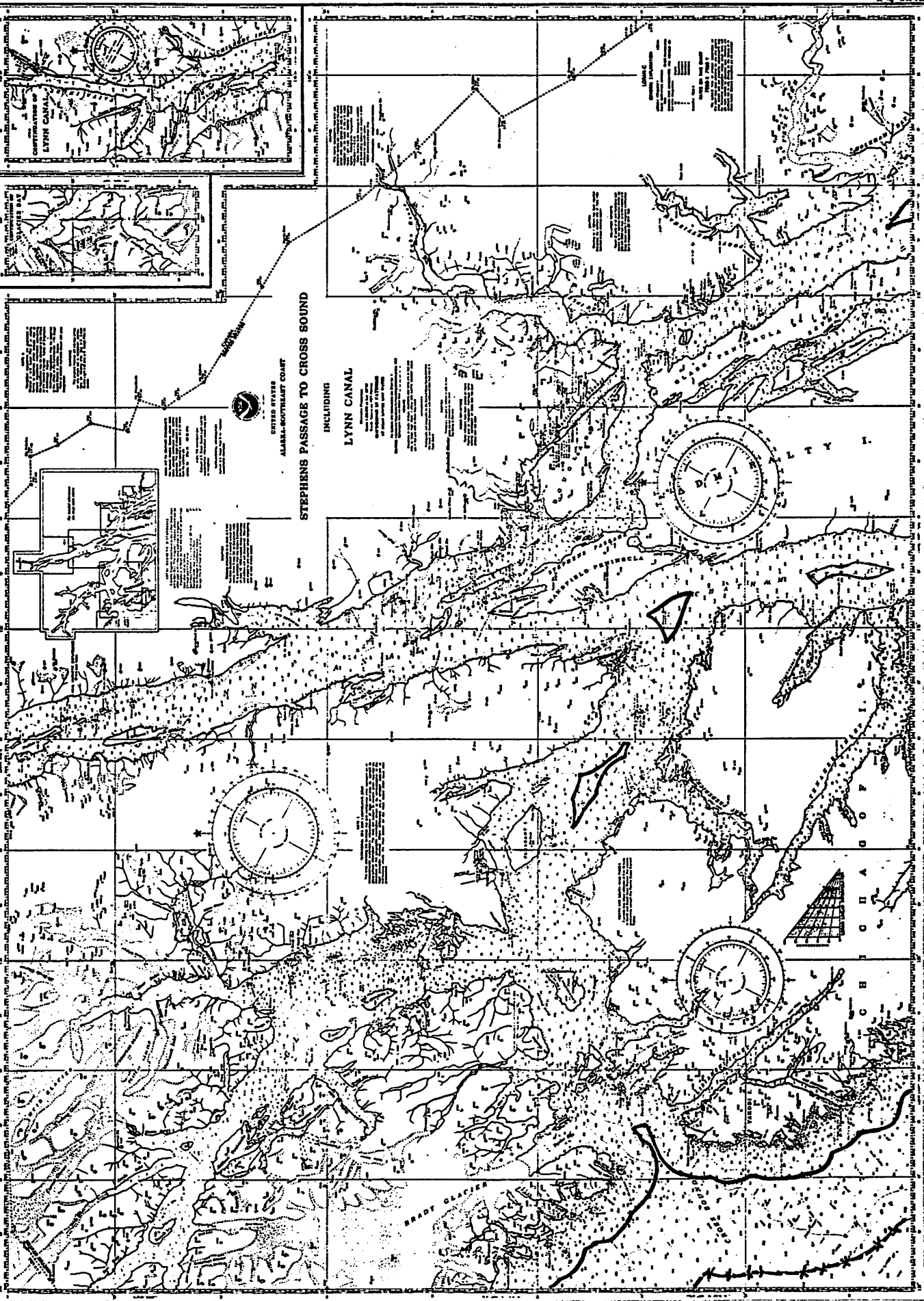
VARCOLE ISLAND

ETOLIN ISLAND



Y

SOUNDINGS IN FATHOMS



17300 UNCLASSIFIED

(Stephens Passage to Cross Sound)

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

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SOUNDINGS IN FATHOMS

UNCLASSIFIED

17300 UNCLASSIFIED

UNITED STATES
 ALASKA—SOUTH COAST
 ALASKA PENINSULA
 SHUMAGIN ISLANDS TO SANAK ISLANDS
 SOUNDINGS IN FATHOMS

