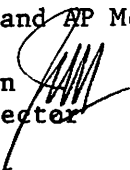


M E M O R A N D U M

TO: Council, SSC and AP Members

FROM: Jim H. Branson 
Executive Director

DATE: March 13, 1986

SUBJECT: Domestic Observer Program

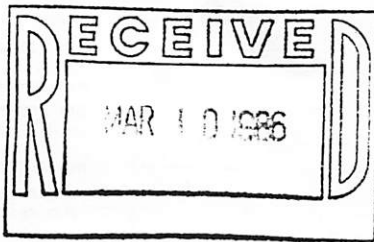
ACTION REQUIRED

Review state and federal efforts to establish domestic observer programs.

BACKGROUND

At the last meeting, the Council voted to support Bob McVey's request for \$250,000 to fund a pilot domestic observer program off Alaska. Agenda item C-2(a) is a letter from Bill Gordon to Jim Branson indicating that funding the pilot program may be difficult. Final word on this matter is expected in the near future. Item C-2(b) is a letter from Senator Murkowski stating that he asked Bill Gordon to keep him informed on the status of the domestic observer proposal.

Item C-2(c) is a copy of CSHB 355 introduced in the Alaska Legislature by Representatives Thompson, Goll and Binkley. The legislation would authorize the Commissioner of Fish and Game to implement an observer program for fisheries in state waters. The bill has been reported out of the House Resources Committee and is currently before the House Finance Committee.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Washington, D.C. 20235

MAR 7 1986

F/M5:GAW

ACTION	ROUTE TO	INITIAL
	Exec. Dir.	Y
	Deputy Dir.	
	Admin. Off.	Y
cc: Cm	Exec. Sec.	Ken
	Staff Asst. 1	
	Staff Asst. 2	
	Staff Asst. 3	
	Economist	
	Sec./Bkkr.	
	Sec./Typist	

Mr. Jim H. Branson
Executive Director
North Pacific Fishery Management Council
Post Office Box 103136
Anchorage, Alaska 99510

Dear Jim,

Thank you for your letter of January 31, 1986, supporting reprogramming of \$250,000 to fund a pilot observer program for United States vessels in the Alaska groundfish fishery. There has been a lot of discussion in recent years about the merits of an observer program as one means of filling the data gap created by the replacement of foreign fishing by domestic effort, and to insure compliance with the fishery regulations. Unfortunately, the fiscal requirements for this program come at a time when we anticipate great difficulty in maintaining funding for existing programs.

We are scheduled to review reprogramming options soon as part of our response to Gramm-Rudman. After that review, I should have a better idea of some of the possible sources of funds to support a pilot domestic observer program.

Thank you for your interest in this matter.

Sincerely,

William G. Gordon
Assistant Administrator
for Fisheries



Offered: 2/19/86
Referred: Resources and Finance

Original sponsors: Thompson, Goll
and Binkley

1 IN THE HOUSE

BY THE HOUSE SPECIAL
COMMITTEE ON FISHERIES

2

CS FOR HOUSE BILL NO. 355 (Fisheries)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act authorizing the establishment and implementa-
tion of on-board observer programs; and providing for
an effective date."

7

8

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

10 * Section 1. FINDINGS. (a) The legislature finds that, in particular
11 fisheries, observers on board fishing vessels would greatly enhance manage-
12 ment, primarily by facilitating information gathering, and additionally by
13 improving compliance. In fact, in those fisheries, on-board observers may
14 be the only practical data-gathering or enforcement mechanism. Some Alaska
15 fisheries include a large component of vessels, such as catcher/processors
16 and floating processors, that rarely or never enter Alaskan ports. These
17 situations are virtually impossible to monitor without the systematic
18 coverage of observers actually on board. The legislature therefore finds
19 it necessary to authorize the Board of Fisheries to establish, and the
20 Department of Fish and Game to implement, on-board observer programs in
21 particular fisheries if the board determines that it (1) is a practical
22 data-gathering or enforcement mechanism, (2) will not unduly disrupt the
23 fishery, and (3) can be conducted at a reasonable cost. The board may
24 require observers on board vessels registered under the laws of the state,
25 even if the vessels do not take fish within three miles of shore, because
26 the catch beyond three miles can have significant impact upon state manage-
27 ment considerations. A search warrant, criminal or administrative, should
28 not be required in the implementation of a program, since the process of
29 obtaining one would be so cumbersome as to defeat the purpose of the

1 program.

2 (b) The legislature finds that it is important to explore long-term
3 financing mechanisms that ensure a stable on-board observer program not
4 solely dependent upon state and federal appropriations. The legislature
5 believes that the program should be funded through a variety of sources.
6 The legislature also finds it critical that fishing vessels in state and
7 federal waters be subject to identical regulations, permits, and fees.

8 * Sec. 2. AS 16.05.050 is amended to read:

9 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commis-
10 sioner has, but not by way of limitation, the following powers and
11 duties:

12 (1) assist the United States Fish and Wildlife Service in
13 the enforcement of federal laws and regulations pertaining to fish and
14 game;

15 (2) through the appropriate state agency, acquire by gift,
16 purchase, or lease, or other lawful means, land, buildings, water,
17 rights-of-way, or other necessary or proper real or personal property
18 when the acquisition is in the interest of furthering an objective or
19 purpose of the department and the state;

20 (3) design and construct hatcheries, pipelines, rearing
21 ponds, fishways, and other projects beneficial for the fish and game
22 resources of the state;

23 (4) accept money from any person under conditions requiring
24 the use of the money for specific purposes in the furtherance of the
25 protection, rehabilitation, propagation, preservation, or investiga-
26 tion of the fish and game resources of the state or in settlement of
27 claims for damages to fish or game resources;

28 (5) collect, classify, and disseminate statistics, data and
29 information that, in the commissioner's discretion, will tend to

1 promote the purposes of this title except AS 16.51 and AS 16.52;

2 (6) capture, propagate, transport, buy, sell, or exchange
3 fish or game or eggs for propagating, scientific or stocking purposes;

4 (7) provide public facilities where necessary or proper to
5 facilitate the taking of fish or game, and enter into cooperative
6 agreements with any person to effect them;

7 (8) exercise administrative, budgeting, and fiscal powers;

8 (9) construct, operate, supervise, and maintain vessels
9 used by the Department of Fish and Game;

10 (10) authorize the holder of an interim-use permit under
11 AS 16.43 to engage on an experimental basis in commercial taking of a
12 fishery resource with vessel, gear, and techniques not presently
13 qualifying for licensing under this chapter in conformity with stan-
14 dards established by the Alaska Commercial Fisheries Entry Commission;

15 (11) not later than January 31 of each year, provide to the
16 commissioner of revenue the names of those fish and shellfish species
17 which the commissioner of fish and game designates as developing
18 commercial fish species for that calendar year; a fish or shellfish
19 species is a developing commercial fish species if, within a specified
20 geographical region,

21 (A) the optimum yield from the harvest of the species
22 has not been reached;

23 (B) a substantial portion of the allowable harvest of
24 the species has been allocated to fishing vessels of a foreign
25 nation; or

26 (C) a commercial harvest of the fish species has
27 recently developed;

28 (12) initiate or conduct research necessary or advisable to
29 carry out the purposes of this title except AS 16.51 and AS 16.52;

1 (13) enter into cooperative agreements with agencies of the
2 federal government, educational institutions, or other agencies or
3 organizations, when in the public interest, to carry out the purposes
4 of this title except AS 16.51 and AS 16.52;

5 (14) implement an on-board observer program authorized by
6 the Board of Fisheries under AS 16.05.251(a)(12); implementation

7 (A) must be as unintrusive to vessel operations as
8 practicable;

9 (B) must make scheduling and scope of observers'
10 activities as predictable as practicable; and

11 (C) does not require criminal or administrative search
12 warrants.

13 * Sec. 3. AS 16.05 is amended by adding a new section to read:

14 Sec. 16.05.055. ON-BOARD OBSERVER PROGRAM. The commissioner may
15 enter into appropriate contracts and agreements with agencies, such as
16 the National Marine Fisheries Service, North Pacific Fishery Manage-
17 ment Council, and the International Pacific Halibut Commission, de-
18 signed to ensure that on-board observer programs conducted in the
19 fisheries of the state are coordinated and consistent with each other
20 for vessels operating in state and federal water.

21 * Sec. 4. AS 16.05.251(a) is amended to read:

22 (a) The Board of Fisheries may adopt regulations it considers
23 advisable in accordance with the Administrative Procedure Act (AS 44.-
24 62) for

25 (1) setting apart fish reserve areas, refuges and sanctu-
26 aries in the waters of the state over which it has jurisdiction,
27 subject to the approval of the legislature;

28 (2) establishing open and closed seasons and areas for the
29 taking of fish;

- 1 (3) setting quotas, bag limits, harvest levels, and sex and
2 size limitations on the taking of fish;
- 3 (4) establishing the means and methods employed in the
4 pursuit, capture and transport of fish;
- 5 (5) establishing marking and identification requirements
6 for means used in pursuit, capture and transport of fish;
- 7 (6) classifying as commercial fish, sport fish or predators
8 or other categories essential for regulatory purposes;
- 9 (7) watershed and habitat improvement, and management,
10 conservation, protection, use, disposal, propagation and stocking of
11 fish;
- 12 (8) investigating and determining the extent and effect of
13 disease, predation, and competition among fish in the state, exercis-
14 ing control measures considered necessary to the resources of the
15 state;
- 16 (9) prohibiting and regulating the live capture, posses-
17 sion, transport, or release of native or exotic fish or their eggs;
- 18 (10) establishing seasons, areas, quotas and methods of
19 harvest for aquatic plants;
- 20 (11) establishing the times and dates during which the
21 issuance of fishing licenses, permits and registrations and the trans-
22 fer of permits and registrations between registration areas is al-
23 lowed; however, this paragraph does not apply to permits issued or
24 transferred under AS 16.43;
- 25 (12) requiring, in a fishery, observers on board fishing
26 vessels, as defined in AS 16.05.475(d), that are registered under the
27 laws of the state, as defined in AS 16.05.475(c), after making a
28 written determination that an on-board observer program
- 29 (A) is the only practical data-gathering or

1 enforcement mechanism for that fishery;
2 (B) will not unduly disrupt the fishery;
3 (C) can be conducted at a reasonable cost; and
4 (D) can be coordinated with observer programs of other
5 agencies, including the National Marine Fisheries Service, North
6 Pacific Fishery Management Council, and the International Pacific
7 Halibut Commission.

8 * Sec. 5. AS 16.05.940 is amended by adding a new paragraph to read:

9 (28) "fishery" means a specific administrative area in
10 which a specific fishery resource is commercially taken with a speci-
11 fic type of gear; however, the Board of Fisheries may designate a
12 fishery to include more than one specific administrative area, gear
13 type, or fishery resource; in this paragraph "gear" and "type of gear"
14 have the meanings given in AS 16.43.990.

15 * Sec. 6. In order to further the goals set out in sec. 1(b) of this
16 Act, the commissioner of fish and game shall study funding and jurisdic-
17 tional issues related to the on-board observer programs, and submit a
18 report on the matter to the legislature not later than January 31, 1987.

19 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

Alaska State Legislature

House of Representatives

Special Committee on Fisheries

AGENDA C-2
MARCH 1986
SUPPLEMENTAL

Pouch V
Juneau, Alaska 99811

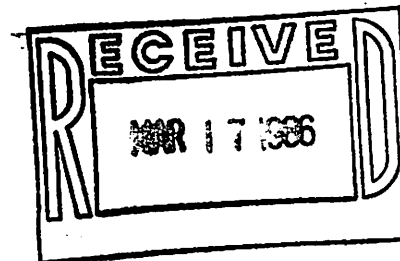
Phone:
(907) 465-4924



Official Business

February 18, 1986

Mr. Anthony Calio
NOAA Administrator
U.S. Department of Commerce
14th and Constitutional Avenue N.W.
Washington, D.C. 20730



Dear Mr. Calio:

The House Special Committee on Fisheries today approved legislation that would authorize an on-board observer program for domestic fishing vessels operating in Alaska waters. Since this is an issue of great concern to Alaska's fishing community, we are optimistic that the measure will be approved before the legislature adjourns in May.

We have directed the Alaska Department of Fish and Game to study methods of providing continuing funding for this program so it will not be solely dependent upon tax dollars in future years. The department also will be working closely with federal officials to ensure that we have a consolidated observer program in waters under state and federal jurisdictions.

The pilot program authorized by House Bill 355 will cost \$300,000, but this falls far short of covering the basic immediate need for observer coverage on domestic fishing vessels in Alaska's 200-mile zone. Consequently, we strongly urge your endorsement of a request by the Alaska office of the National Marine Fisheries Service to allocate \$250,000 for a pilot domestic observer program.

We hope to be working closely with the federal government in the structuring of a comprehensive on-board observer program that is funded through a variety of sources. Approval of these two pilot projects is essential to the establishment of a framework for an ongoing, cooperative effort.

Mr. Anthony Calio
February 18, 1986
Page Two

Again, we strongly urge your support of the \$250,000 NMFS pilot domestic fishing vessel observer program for Alaska waters. Thank you for your consideration of our request.

Sincerely,

Peter Goll
Chairman

c.c. Senator Ted Stevens
 Senator Frank Murkowski
 Representative Don Young