

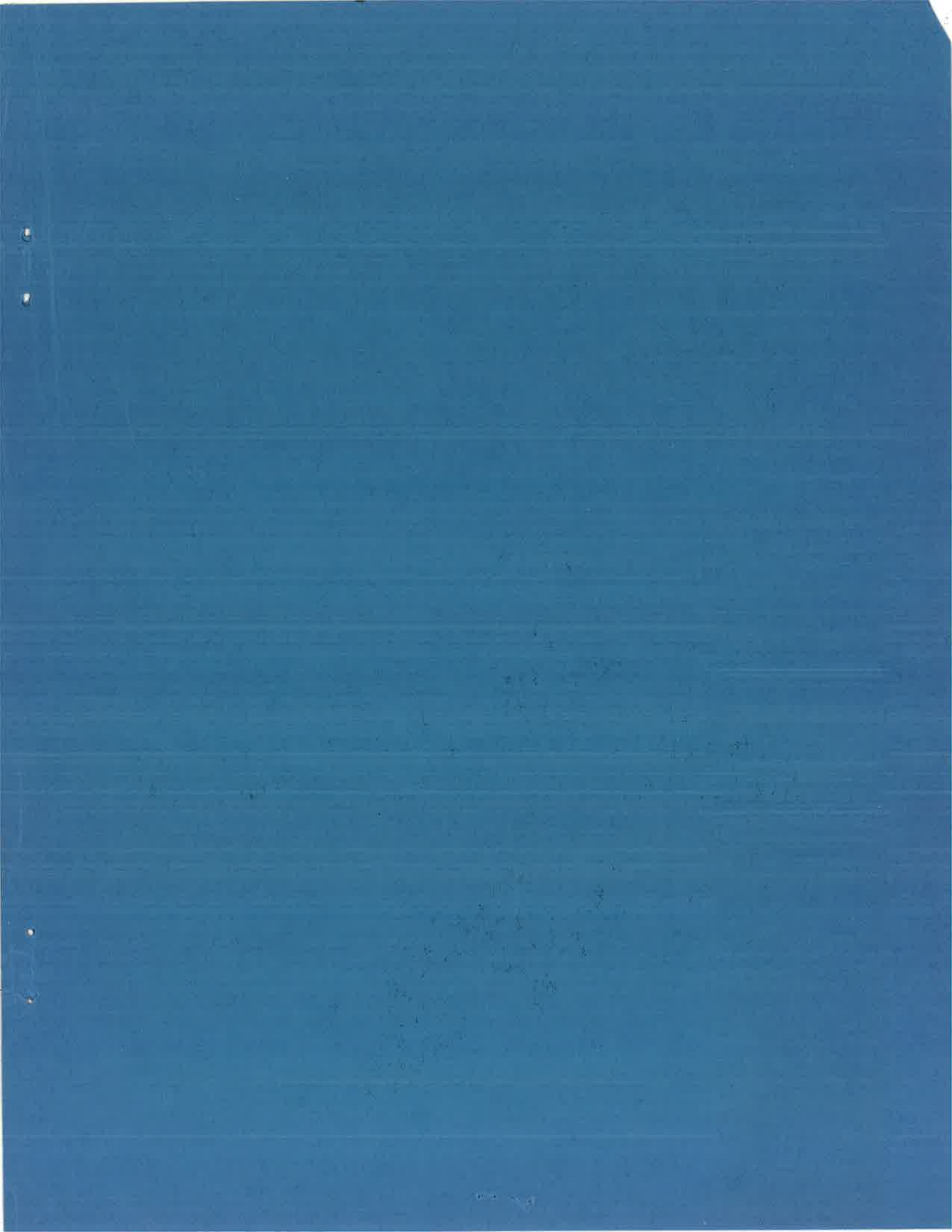
Dept. Commerce



**ENVIRONMENTAL IMPACT STATEMENT
ON THE INTERIM CONVENTION
ON CONSERVATION OF
NORTH PACIFIC
FUR SEALS**

February 1985





FINAL ENVIRONMENTAL IMPACT STATEMENT
ON THE
INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

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ABSTRACT

A Protocol extending the Interim Convention on Conservation of North Pacific Fur Seals was signed on October 12, 1984. The Department of State, in consultation with the Department of Commerce, sought agreement among the Party Governments on certain modifications to the Convention. These negotiations resulted in a contemporaneous Statement that clarifies certain parts of the Convention, in light of the decline of the fur seal populations, current economic conditions, and other problems of fur seal conservation and utilization.

The Department of State and the Department of Commerce plan to recommend that the Senate give its advice and consent to the ratification of the 1984 Protocol. Alternatives included: extension of the Convention without modification; renegotiation; or expiration. In addition, during the ratification of the 1980 Protocol extending the Convention, the U.S. Senate requested a 1984 report on certain fur seal studies. This EIS includes the material requested by the Senate.

SUMMARY

A Protocol extending the Interim Convention on Conservation of North Pacific Fur Seals for four years was signed by Party Governments on October 12, 1984. Attached to the Protocol is a Statement noting the concern of the Party Governments over the decline of the fur seal population, current economic conditions, and other problems of fur seal conservation and utilization. The Statement makes four major points: (1) that additional research is needed to further investigate the problem of entanglement of fur seals at sea, (2) that the Party Governments will take measures to prohibit the disposal at sea of synthetic material such as fishing nets and gear, which might lead to entanglement of fur seals in accordance with The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, (3) that in the event of unforeseen circumstances, as noted by States of fur seal origin, it may be necessary to take special measures for the conservation and management of fur seals, and (4) that within two years after entry into force of the Protocol extending the Convention, a review will be conducted by the Party Governments on the operation of the Convention to determine what further arrangements would be desirable in order to achieve the objectives of the Convention.

The 1984 Protocol requires the advice and consent of the United States Senate. The Department of State and the Department of Commerce plan to recommend that the Senate give its advice and consent to the ratification of the Protocol.

The Statement addresses issues which were originally proposed by the United States as requiring modification of the Convention's text. The U.S. proposed modifications included: (1) adding a provision to Article V of the Convention which would specifically provide for independent action by harvesting nations to modify the North Pacific Fur Seal Commission's (NPFSC) recommended harvest levels under emergency conditions; (2) new emphasis in international research under the Convention on the causes and the prevention of fur seal mortality at sea due to entanglement in discarded fishing nets and gear and other debris; and (3) additional obligations of the Parties to prohibit and prevent the disposal of fishing nets, gear, and other debris at sea which might lead to fur seal entanglement.

During the negotiations with the other Party Governments a consensus could not be reached on the specific U.S. proposals. While there was general agreement that the concerns which the United States was raising were serious and valid, the general belief was that these concerns could be fully accommodated by the existing Convention language, and therefore, there was no purpose to be served in amending the Convention. In order to clarify and memorialize this understanding the Party Governments agreed to execute the Statement concurrent with the signing of the Protocol.

The original proposal to extend the Convention for six years was modified as a result of comments received on the draft EIS. Therefore, the United States proposed the extension of the Convention for four years to the other Parties. This proposal was accepted.

Extension of the Convention with the attached Statement is not expected to result in any adverse environmental effects which cannot be avoided. This proposal should benefit the maintenance and enhancement of the long-term productivity of the fur seal herds and the North Pacific and Bering Sea ecosystems of which they form a part. There are no irreversible or irretrievable commitments of resources involved in this proposal should it be implemented. The Department of State and the Department of Commerce remain

committed to the view that this Convention continues to provide the best protection to the northern fur seal throughout its range.

Recent data on the migration routes and population status of this species confirm the need for international conservation and management mechanisms. Data and analyses, developed since the last extension of this Convention, indicate that the Pribilof Island seal population is declining at the rate of 6.5 percent per year, and is below levels which would result in maximum productivity. The reduced and declining status of the population is not thought to be the result of the current harvest of subadult males conducted under the Convention; although studies on the effects of the harvest and its role, if any, on currently observed declines are continuing. There is also some preliminary evidence that discontinuing the harvest might impede a recovery to previous high levels of population. The population decline is due, at least in part, to increased mortality of fur seals at sea. This mortality includes deaths caused by entanglement in fishing debris in the North Pacific Ocean and Bering Sea. If entanglement is a major cause of mortality, the population is likely to experience a continuing decline since existing net debris will probably remain at sea for many years.

An increase in international research and cooperation on methods to solve the entanglement problem is crucial to the maintenance of the northern fur seal population. The United States sponsored an international scientific and technical workshop on The Fate and Impact of Marine Debris, in November 1984, which will lead to new avenues for directed research on this problem.

Alternatives to the proposed action included: (1) extending the Convention without the Statement expressing the Party Governments' concerns. International management and prohibitions on pelagic sealing would be continued, but there would be no agreement on the need for additional research on fur seal entanglement. No added flexibility would be provided concerning possible adjustments to harvest levels; (2) renegotiating the Convention. This alternative could involve either a temporary or permanent reduction or suspension of the seal harvest on the Pribilof Islands. The employment levels and future economic development of the Aleut residents of the Islands would be adversely affected. A recovery of the fur seal population may be impeded by any alteration of the current harvest strategies. All other Party Governments are opposed to a renegotiation. This alternative action would result in a termination of this treaty; (3) allowing the Convention to expire in 1984. This would result in the end of the United States harvest of northern fur seals, except that allowed for subsistence purposes by the Aleuts and other Alaska natives. The Aleut residents of the Pribilof Islands could experience severe social and economic impacts from a loss of harvest jobs and income. An end to the male harvest on St. Paul Island could result in an increase in pup mortality on land at a time when the Pribilof Island population is experiencing a significant decline in productivity. Ending the harvest may impede the recovery of the northern fur seal population. International management and research programs for this highly migratory species would end.

On June 11, 1981, the U.S. Senate gave its advice and consent to ratification of the 1980 Protocol with the understanding that appropriate studies should be undertaken to determine (1) fur seal feeding habits, food requirements, migration and distribution; (2) the impact of possible adjustments in the size of the harvest; and (3) the impact of alternative employment for Pribilof Island residents on the residents, the fur seal herd and the Bering Sea ecosystem and means of promoting alternative employment opportunities. This final EIS incorporates our report to Congress on the results of these studies.

The final EIS contains a brief history of the Convention and a review of domestic laws which affect its implementation. A thorough discussion of the social and economic conditions on the Pribilof Islands, their history, and the plans of the Island residents for fisheries development and economic diversity is provided to explain the relationship of the Convention and the seal harvest to the Aleut people. All interested parties are encouraged to review the following discussions of alternatives and environmental impacts and provide their views and comments to the Information Contacts listed above.

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I. PURPOSE OF AND NEED FOR ACTION

A Protocol extending the Interim Convention on Conservation of North Pacific Fur Seals for four years was signed by representatives of Canada, Japan, the Soviet Union and the United States on October 12, 1984. The Protocol is a result of negotiations that began after publication of a draft Environmental Impact Statement (EIS) in November 1983 and the expiration of a public comment period on January 6, 1984. The Department of State, in consultation with the Department of Commerce, sought agreement among the Party Governments on certain modifications to the Convention, as outlined in the draft EIS. A consensus could not be reached on the specific U.S. proposals. The negotiations, however, resulted in a Statement attached to the Protocol and signed by the Party Governments (see Appendix A), that clarifies certain parts of the Convention. The Statement notes the concerns expressed on the decline of the fur seal populations, current economic conditions, and other problems of fur seal conservation and utilization.

We feel these changes will improve the Convention and that it will continue to provide the best available protection for northern fur seals throughout their range. The Department of State and the Department of Commerce, therefore, plan to recommend that the Senate give its advice and consent to the ratification of the 1984 Protocol. In order to place a decision on the future of this treaty in context with relevant historical and legal actions, we have prepared the following summaries of the history of the Convention and domestic laws which affect its implementation.

A. History of the Convention

The United States' responsibility for fur seals began in 1867 when Alaska, including the Pribilof Islands, was purchased from Russia. The estimated existing Pribilof seal population was between 2 and 2.5 million. Estimates of harvest size in 1868 and 1869 vary from 226,000 to 329,000. A 20 year lease of sealing rights on the Pribilofs was granted to the Alaska Commercial Company for 1870 through 1889. During the lease the annual harvest was not to exceed 100,000 males of 1 year of age or older. During this first lease period, pelagic sealing (harvest from vessels at sea) for fur seals by nationals from several nations increased from 5,000 to 30,000 per year.

In 1890, the sealing rights to the Pribilof Islands were again leased for 20 years, but the contracted annual quota was reduced and ranged from 7,500 to 60,000. The annual land harvest during this period averaged 17,000, the average estimated annual pelagic take was 42,000 animals. In 1910, the leasing of land harvest rights was abolished. The Pribilof Islands were made a special reservation by Congress, and the Secretary of Commerce and Labor was given direct responsibility for the islands and the fur seal industry. On the Commander and Robben Islands (under Russian jurisdiction), the average annual total harvest from 1871 to 1895 was 36,645, but was quickly reduced to insignificant levels thereafter due to combined overharvesting on land and at sea.

An international agreement to protect the fur seals from pelagic sealing was first signed in 1891; however, the first effective regulations by the United States came with the Fur Seal Treaty of 1911. With the signing of this treaty, the fur seal population was protected from pelagic sealing by the nationals of Great Britain, Japan, Russia and the United States. Commercial sealing on the Pribilof Islands was halted in 1912 by an Act of Congress until August 21, 1917. Since 1917, the harvest has been controlled first by a quota, and now by a government regulated harvest which takes only non-breeding males.

From 1925 to 1935, the world population of northern fur seals increased rapidly. Twice during the period, in 1926 and again in 1936, the Japanese Government tried to renegotiate the Fur Seal Treaty of 1911 because of alleged damage caused to its fisheries by the increasing fur seal population. Finally, in 1941, Japan notified the other members that it was abrogating the treaty because of this damage. From 1941 until the present Convention became effective in 1957, the Pribilof Island herd was protected by a provisional agreement between the United States and Canada. Pelagic sealing occurred only in the western North Pacific Ocean and was estimated to be no more than 6,000 annually.

The Interim Convention on Conservation of North Pacific Fur Seals was signed in Washington, D.C. on February 9, 1957, by the Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America. The Convention came into force on October 14, 1957. It was amended by a Protocol on October 8, 1963, which in turn entered into force on April 10, 1964. The Protocol extended the terms of the Convention for an additional six years and effected several changes with respect to the scientific research programs to be carried out by the Party Governments. The Convention, as amended, was continued in force for an additional six years by an exchange of notes among the Party Governments which became effective on September 3, 1969. In 1975, at a series of meetings of the Party Governments, the conference representatives, although unable to agree on U.S. proposals for a new management regime based upon an "optimum sustainable population" concept, agreed on a Protocol to extend the Convention for an additional four years. This Protocol was signed on May 7, 1976, and entered into force on October 12, 1976.

On October 14, 1980, a Protocol extending the Convention until 1984 was signed by Party Governments. On June 11, 1981, the U.S. Senate gave its advice and consent to the ratification of this Protocol with the following Understanding: "It is the understanding of the Senate that appropriate studies shall be undertaken to (1) determine the fur seal feeding habits and food requirements and the at-sea migration and distribution patterns of various age/sex classes of fur seals; (2) determine the impact of any possible adjustments in the size of the harvest on the Pribilof Island residents, the fur seal herd, and the Bering Sea ecosystem; (3) in consultation with the Aleuts, determine the impact of various mutually acceptable alternative sources of employment for Pribilof Island residents on those residents, the fur seal herd, and the Bering Sea ecosystem and possible means of promoting said sources of employment. The results of these studies shall be reported to the Congress by the Administration for referral to the appropriate committees no later than March 1, 1984."

The report requested by the Senate was incorporated into the draft EIS and published on November 10, 1983. Over 400 copies of this document were distributed to Congressional offices and other interested parties. This final EIS includes updates to the previously reported material, especially in the area of alternative employment sources for Pribilof Island residents.

Unlike other international forums (notably the International Whaling Commission), the NPFSC does not normally set annual harvest quotas for either the United States or the Soviet Union, but seeks through the general provisions of the Convention, to maintain a high population level of northern fur seals. Article V, paragraph 2(d) of the Convention states: "[The North Pacific Fur Seal Commission] shall recommend appropriate measures to the Parties on the basis of the findings obtained from the implementation of such coordinated research programs, including measures regarding the size and age composition of the seasonal commercial kill from a herd and regarding a reduction or suspension of the harvest of seals on any island or group of islands in case the total number of seals on that island or group of islands falls below the level of maximum sustainable pro-

ductivity." Thus the Convention text provides safeguards, through the operation of the Standing Scientific Committee, to prevent the stocks of northern fur seals from diminishing due to overharvesting.

The Convention mandates extensive research responsibilities of the Party Governments to study fur seal habitat, migration, feeding habits, reproduction and other vital statistics. A harvest is allowed only after such a recommendation by the Standing Scientific Committee is accepted by Parties to the Convention. The Convention further allows the United States and the Soviet Union to alter or cease a harvest if it is determined by the Commission that such action is necessary to the well-being of the fur seal population.

The present Convention (Appendix B) is recognized by world wildlife management authorities as a model international conservation program for a migratory species. It has resulted in the recovery of the Pribilof fur seal population from a low of about 300,000 animals in the early 1900s to about 2.0 million in the 1950's and 871,000 today. There is, however, domestic opposition to the treaty because of the commercial harvest it allows. Recent data indicate that the fur seal herds are declining in numbers. In addition, a conviction exists among many citizens that killing fur seals and other wildlife for their pelts is unethical and immoral. There is, opposition, therefore to any action which would continue the United States harvest of northern fur seals on the Pribilof Islands.

B. Domestic Legislation

1. The Fur Seal Act of 1966

The Fur Seal Act of 1966 (16 U.S.C. 1151, et seq.) implemented the Convention in the United States. This Act provided, among other things, for the conservation, management and protection of Northern fur seals, and the administration of the Pribilof Islands as a special reservation. The Act allowed Indians, Aleuts and Eskimos who dwell on the coast of the North Pacific Ocean to take fur seals in traditional ways using canoes. The Act also provides authority for the Secretary of Commerce to take and use fur seal skins on the Pribilofs, to carry out other duties in connection with the harvest, and to provide certain services to the Aleut residents. One of the major purposes of the Act was to give the Secretary broader discretion in the administration of the Pribilof Islands, encourage self-government, and provide certain benefits for the residents of the islands.

Fur Seal Act Amendments of 1983 (P.L. 98-129) were passed in the 98th Congress to provide for the orderly termination of Federal administration of the Pribilof Islands and to ensure a commitment of resources (\$20 million) by the Federal Government which will allow the natives of the Pribilof Islands to establish a stable, diversified economy, and to establish the Islands as a self-sustaining economic unit not dependent on sealing. The legislation, in addition to authorizing the creation of the fund, sets out the procedures by which the transfer of property and administration will occur. The treaty obligations of the United States under the Convention have not been altered by this legislation. It would, however, allow the government to contract with any public or private person for the taking of fur seals and/or the marketing of the skins, with the right of first refusal going to the village corporations of St. Paul and St. George Islands.

2. Alaska Native Claims Settlement Act

The Alaska Native Claims Settlement Act (43 U.S.C. 1601), in 1972, extinguished native claims to land in Alaska, authorized selection of certain lands and mineral rights, and established payments to native corporations. Under the terms of the Act, approxi-

mately 94 percent of the land area on St. Paul and 97 percent of the land area on St. George has been conveyed to the ownership of the Aleut residents. Ownership of the fur seal rookeries and a buffer zone around the rookeries was retained, along with some buildings and small areas, by the Federal government.

3. The Marine Mammal Protection Act of 1972, as amended (MMPA)

The MMPA (16 U.S.C. 1351-1407) is the major vehicle for the domestic management of marine mammals. It is a principal purpose of the MMPA, set out in Section 2, that "species and population stocks of marine mammals should not be permitted to diminish below their optimum sustainable population (OSP)" and "that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat." OSP has been defined by the National Marine Fisheries Service (NMFS) as "a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and growth less losses due to natural mortality"(41 F.R. 55536, December 21, 1976). This definition received subsequent judicial approval in Committee for Humane Legislation v. Kreps, (D.D.C. Civ. Action No. 77-0564 Order of the Court dated June 30, 1977).

Management of fur seals, however, does not fall within the direct purview of the MMPA by virtue of Section 11⁷, which provides that the MMPA shall not be considered to contravene the provisions of any existing international treaty or convention and its implementing legislation which applies to the taking of marine mammals. The exception created by Section 113, which clearly covers the Convention, ensures that the Fur Seal Act supercedes application of the MMPA. These views received recent judicial approval in International Fund for Animal Welfare v. Baldrige, (D.D.C. Civ. Action No. 84-1838 Order of the Court dated June 28, 1984).

Other provisions of the MMPA, however, have been relevant to the management of fur seals under the Convention and the Fur Seal Act. Section 108(a)(4) of the MMPA noted that the Secretary was to "initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of" the Act.

Section 108(b) required that the Secretary of Commerce undertake two studies by October 21, 1973, one relating to population trends and optimum sustainable population, the other relating to consistency of the Convention with the Act. Congressional policy, expressed in the statute, was that if certain findings resulted from the studies, negotiations to modify the Convention should be initiated, and if negotiations were unsuccessful, that the then-existing termination date of the Convention of October 14, 1976, should be extended. In the event of unsuccessful negotiations followed by a successful extension, Section 108(b) gives no specific Congressional guidance as to subsequent studies, findings, or renegotiating positions.

The Secretary transmitted the required studies to Congress on November 15, 1973, and they were published in the Federal Register on April 2, 1974 (39 F.R. 12051-12054). Although finding "no basic incompatibility" between the Convention and the Act, the

Secretary recommended negotiations under Section 108(b)(2)(B)(ii) to reconcile the differences in emphasis between the Convention and the MMPA.

Consequently, in 1975, the United States actively sought to renegotiate the Convention, calling for revisions which would allow the Parties to take biological and a variety of other factors into account in the conservation and management of fur seals. During the renegotiations, the U.S. delegation submitted a working paper on the concept of OSP-based management, noting U.S. concern about a management program based on single stock management.

The United States was unable to obtain agreement of the Parties to adopt an OSP based management scheme in a new Convention. Canada did not think that the OSP concept was a viable management tool for fur seals. Japan thought that the OSP concept required further refinement before being adopted. The Parties did, however, agree to a number of other changes to the Convention to take into account the health of the ecosystem and humane harvest measures.

The obligations of the Secretary under Section 108(b) have been fulfilled. The U.S. position on the future of the current Convention is, however, still subject to the guidance in Section 108(a)(4). The Convention is clearly an international treaty for the protection and conservation of a species of marine mammal to which the United States is a party, in which case Section 108(a)(4) expresses Congressional desire that the Convention be amended, if necessary, to make it consistent with the purposes and policies of the Act. We must, therefore, evaluate whether, and to what extent, the Convention has advanced the Northern fur seal toward population levels consistent with the purposes and policies of the Act, and whether other arrangements, consistent with the Act, are required.

In the absence of the Convention, management of the northern fur seal within the U.S. exclusive economic zone (EEZ) would be governed by the MMPA. Management under the MMPA centers around a moratorium, during which no marine mammal, marine mammal parts, or products thereof, can, with certain limited exceptions, be imported into the United States or be taken by any person subject to the jurisdiction of the United States. One of the exceptions provided allows certain, limited takings by Alaskan Natives, so long as the taking is for subsistence or handicraft purposes, and not accomplished in a wasteful manner. As discussed above, OSP is the primary management tool under the MMPA.

The 1981 amendments to the MMPA (Pub.L. No. 97-58) do not have any direct effects on the Convention or fur seal management. The amendments do, however, set out a completely new approach for the transfer of management authority to states for marine mammals under their jurisdiction. If the Convention were to expire, management of fur seals would be subject to the provisions of the MMPA, including Section 109(b)(1) regarding transfer of management, in which case the State of Alaska could, if it chose, request to manage fur seals.

4. The Endangered Species Act of 1973, as amended, ("ESA")

The ESA (16 U.S.C. 1531-1543) provides the domestic mechanism for the preservation, protection and conservation of endangered and threatened species. It also implements U.S. obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The ESA places restrictions, with some exceptions, on the importation and taking of, and other activities involving, endangered species, and provides for the appropriate regulation of threatened species by the Secretary. "Endangered species" is defined by the ESA to mean any species which is in

danger of extinction throughout all or a significant portion of its range. "Threatened species" is defined to mean any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

The fur seal is not listed as endangered or threatened under the ESA. However, a petition has been filed, by the Humane Society of the United States, to have the northern fur seal listed as a threatened species, in accordance with Section 4 of the ESA. Should this species be designated as threatened, the Secretary would be charged under Section 4(d) to issue regulations "necessary and advisable to provide for the conservation of such species", and by regulation, may prohibit any act prohibited under Section 9(a)(1), which pertains to endangered species. The ESA has a subsistence exception which applies to Alaska Natives, as long as any subsistence takings are not accomplished in a wasteful manner. No provision exists in the ESA similar to Section 113 of the MMPA, establishing the primacy of pre-existing international agreements applying to the taking of marine mammals. As a result, once a species is listed, the provisions of the ESA apply.

On April 11, 1984, the NMFS published a notice in the Federal Register (49 F.R. 14416-14417) requesting information and comments on the status of the northern fur seal (C. ursinus). At the request of a number of interested parties, the comment period was extended through August 17, 1984, (49 F.R. 27808, July 6, 1984). Pursuant to Section 4 of the ESA, the NMFS is performing a review of the status of C. ursinus to determine if the petitioned action is warranted, i.e., whether or not this species meets the criteria of a threatened species under the ESA. A final determination on this petition is expected shortly.

5. The Magnuson Fishery Conservation and Management Act, as amended, (Magnuson Act)

The Magnuson Act (16 U.S.C. 1801-1881), first promulgated in 1976, established a U.S. fishery conservation zone (FCZ), the inner boundary of which is a line coterminous with the seaward boundary of each of the coastal states, and the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured. In 1976, Section 404 of the Magnuson Act was passed, extending the jurisdiction of the MMPA to the boundaries defined above. The President's Proclamation of March 10, 1983, establishing an EEZ, does not change existing U.S policies concerning marine mammals.

II. ALTERNATIVES INCLUDING THE PROPOSED ACTION

A. Convention Extension with Attached Statement (Proposed Action/Proposed Record of Decision)

The Statement attached to the 1984 Protocol (Appendix A) addresses issues which were originally proposed by the United States as requiring modification of the Convention's text. The U.S. proposed modifications, as outlined in the 1983 draft EIS on the Convention, included: (1) adding a provision to Article V of the Convention which would specifically provide for independent action by harvesting nations to modify the North Pacific Fur Seal Commission's (NPFSC) recommended harvest levels under emergency conditions; (2) new emphasis in international research under the Convention on the causes and the prevention of fur seal mortality at sea due to entanglement in discarded fishing nets and gear and other debris; and (3) additional obligations of the Parties to prohibit and prevent the disposal of fishing nets, gear, and other debris at sea which might lead to fur seal entanglement.

During the negotiations with the other Party Governments a consensus could not be reached on the specific U.S. proposals. While there was general agreement that the concerns which the United States was raising were serious and valid, the general belief was that these concerns could be fully accommodated by the existing Convention language, and therefore, there was no purpose to be served in amending the Convention. In order to clarify and memorialize this understanding the Party Governments agreed to execute the Statement concurrent with the signing of the Protocol.

The original proposal to extend the Convention for six years was modified as a result of comments received on the draft EIS. Therefore, the United States proposed the extension of the Convention for four years to the other Parties. This proposal was accepted.

The Statement expresses the shared concern of the Party Governments over the decline of the fur seal population, current economic conditions, and other problems of fur seal conservation and utilization. The Statement makes the following major points:

(1) in accordance with Article II of the Convention, additional research should be conducted concerning current aspects of fur seal conservation including the problem of entanglement of fur seals in lost or discarded fishing nets, gear, and other debris. This concern reflects the modification proposed by the United States to amend Article II to require additional research on the current population decline, with special emphasis on the problem of entanglement of fur seals at sea (Sections III.B.7 and III.B.9.). The Pribilof Island population of northern fur seals is declining at about 6.5 percent annually. A major part of this decline is thought to be due to mortality at sea due to entanglement in marine debris. The United States hosted an international scientific and technical workshop in November 1984 which should result in suggested avenues for directed research on this problem. The results of this workshop will aid in the formulation of new research efforts which can be included in scientific programs of the NPFSC.

(2) in accordance with Article X of the Convention, and in conformity with their national laws, the Governments will take appropriate measures to prohibit the disposal at sea in the Convention areas of synthetic materials, such as fishing nets, or parts thereof, fishing gear, ropes, packing bands, and other debris which might lead to the entanglement of fur seals, in accordance with the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other

Matter, of December 29, 1972. This concern reflects the modification proposed by the United States to add a new article to prohibit the disposal of fishing debris at sea, with enforcement mechanisms. Although no new material was added to the treaty text, this agreement encourages more active implementation of existing laws and international arrangements on marine pollution.

(3) in accordance with Article X of the Convention, it may be necessary during the interim period of the Convention to take into account unforeseen circumstances as noted by the States of Fur seal origin in considering measures to be taken for conservation and management of the fur seal population. This concern is similar to the modification proposed by the United States to amend Article V to allow in special circumstances, a reduction or suspension of the harvest by individual harvesting nations. Although the Convention presently contains a provision which allows the NPFSC as a whole to recommend to the Governments "measures regarding a reduction or suspension of the harvest...", the United States or the Soviet Union may alter the number of seals to be taken in their respective harvests as a result of unforeseen circumstances and following consultations with the other Parties. A modification of the harvest strategy may include, for example, a change in timing for the harvest, with possible reinstatement at a later date. This agreement may be invoked if necessary for the recovery of the fur seal herd, and possibly in response to extreme environmental changes, such as a major oil or other toxic spill in the Bering Sea.

(4) taking into account Article XIII, paragraphs 4 and 5, as well as Article V, paragraph 2(e), within two years after the entry into force of the 1984 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals and considering current factors, the Governments will review the operation of the Convention to determine what further agreements would be desirable in order to achieve the objectives of the Convention. In the draft EIS our proposed negotiating position included the extension of a modified Convention for six years. However, based on a review of the current status of the species, the economics of the seal-skin market and the progress made on development of the Pribilof Islands, as well as the comments received on the draft EIS, we amended this position to a four year extension. Since the United States was unable to persuade the other Party Governments to modify the Convention, agreement was reached to review the operation of the Convention within a fixed period of time in order to determine whether other agreements would be desirable.

The United States remains committed to the premise that because of the range of migration of the northern fur seal, single-nation management of this species would be ineffective. Moreover, because of the interaction of marine mammals with fishing operations in the Bering Sea and North Pacific Ocean, opportunistic and/or directed pelagic take of fur seals could occur without the international safeguards provided by this treaty. The present text of the Convention can be improved, and improvements can take place within the next few years (see section 4 of the Statement) when the operation of the Convention is reviewed by the Party Governments. Although the United States was unable to persuade the other Party Governments to modify the Convention at this time, the resulting Statement clearly expresses the concerns in an officially agreed upon document.

In 1983, the United States, in its role as depository government, asked the other Convention members for their views on treaty modifications, since the Convention was due to expire in October 1984. The Party Governments clearly indicated to the United States that any attempt to interject major changes or to restructure the Convention

significantly would result in the loss of this valuable conservation agreement. Both renegotiation and expiration of the Convention could have major adverse impacts on the fur seal stocks and on the lives of the people who live on the Pribilof Islands. An end to the commercial harvest on St. Paul Island would result in the loss of jobs and income on the Islands. This could intensify the social and cultural impacts occurring on the Pribilof Islands during the transition to a self-sustaining economy based, for example, on fisheries and offshore energy operations. Although it is unlikely that pelagic sealing would be resumed except on an opportunistic basis, the Pribilof Islands fur seal population would be placed at great risk from a resumption of any pelagic taking that might occur following a termination of this treaty (Section III.B.4). The loss of any portion of the breeding stock of this declining species could be devastating to any recovery of the population to levels approaching OSP.

In our view, this Convention will help to advance the northern fur seal toward population levels consistent with the purposes and principles of the MMPA (Section I.B.3). International cooperation on population research, gear technology, and enforcement is the best way to begin to reverse the serious population decline, and bring this species back to levels supporting an optimum population size. Continued international prohibitions on pelagic harvests will prevent further losses while progress is made on the issue of fur seal entanglement in fishing debris. If the population decline is principally due to entanglement, however, the decline may continue through 1988, whether or not this treaty is extended. The existing debris is expected to remain at sea for many years.

B. Extend the Convention

We could have proposed an extension of the Convention without any attached Statement. The management and harvest regime that is currently articulated in the treaty would continue for four more years. A simple extension was favored by other Parties to the Convention.

We continue to believe that international management of fur seals under the NPFSC is the most effective means of conservation of this species. The essential cooperation of Party Governments on scientific research and on broader issues such as the entanglement of seals in marine debris would be less likely outside the treaty mechanisms. Extension of the Convention would allow Party Governments to continue to study the migration routes of fur seals, and the interaction between seals and commercial fishing operations in the North Pacific Ocean.

The harvest of fur seals would probably continue under the extension alternative. The NPFSC scientists believe that the current harvest probably is not a contributing factor in the population decline (Section III.B.9.), and thus termination of the harvest is not justified on scientific grounds. Should this action become necessary, however, the Convention has provisions which allow the Commission to reduce or suspend the harvest of seals. We are proposing, on the other hand, to recommend a Protocol extending the Convention which includes a Statement that expresses the shared concern of the Party Governments over the decline of the fur seal population, current economic conditions, and other problems of fur seal conservation and utilization. The proposed action would give the United States greater flexibility in determining our own harvest levels.

In our view, even a simple extension of the 1980 agreement for four years would have been preferable to renegotiation or termination of the Convention. The latter two alternatives could place this species at great risk from a resumption of pelagic sealing. Renegotiation is opposed by other Party Governments and is not considered an achievable

option at this time. The species population decline may continue, whether or not the Convention is extended through 1988.

C. Renegotiate the Convention

We could have proposed that the Convention be renegotiated to institute a different management regime along the lines of the MMPA (Section I.B.3.). This would have meant a formal restructuring of the agreement to consider substantial changes, such as introduction of OSP as the guiding management principle. If renegotiated to comply strictly with the MMPA, harvesting would have been permitted only if the population of seals were determined to be above OSP.

The renegotiation option may be favored by individuals who support international management and research on migratory species, but who are opposed to the harvest of a species whose population is below levels consistent with MMPA standards. Because the fur seal population is currently below OSP, this alternative would probably result in the suspension of commercial harvesting on the Pribilof Islands until the population recovered. Renegotiation of the Convention and the resulting termination of the harvest would seriously impact Island residents who are already experiencing the stress of significant social and cultural changes (Sections III.C.2.-4.). The jobs and income provided by the commercial harvest are necessary to the continued evolution of an independent economy on the Pribilof Islands. An end to the harvest at this time would multiply the pressures of social change on the Island residents, as they move from Federal employment to new private enterprises, including the operation of the seal harvest.

Successful renegotiation was unlikely at this time. The other Party Governments indicated their preference for the current Convention and their opposition to any new management scheme. They continue to oppose the introduction of OSP and believe that management under maximum sustainable productivity is preferable to the U.S. concepts embodied in the MMPA. It is highly unlikely that an agreement could be reached to restructure the Convention along the lines of the MMPA.

In addition to problems associated with seeking agreement from other Parties on a moratorium on commercial taking and the concept of OSP, a formal renegotiation holds other risks. Party Governments could propose, under this alternative, major changes to the Convention, including introduction of pelagic sealing, changes in the division of seal skins, and harvesting of other than bachelor males. Although such proposals may be inconsistent with what the United States believes to be effective wildlife management principles, other governments might well attempt to pursue these options to discourage U.S. efforts to restructure the Convention. However, in the Statement attached to the 1984 Protocol extending the Convention the Parties agree to review the Convention, and determine if modifications are desirable.

D. Allow Expiration of the Convention (No Action)

This alternative was based on the assumption that the Pribilof Islands northern fur seal population could be protected by domestic legislation alone, or in conjunction with a new multilateral agreement or separate bilateral agreements. If the Convention expires, the Pribilof portion of the population would immediately come under MMPA regulation. Because of the current decline in the herd, no commercial harvest of seals would be allowed. A subsistence harvest by native Alaskans for food and native handicrafts would be permitted. Our information indicates that up to 12,000 fur seals might be claimed by Aleut residents for subsistence purposes. The current subsistence take of 350 to 500 seals on St. George is only a small portion of the seals actually used for subsistence on

the Pribilofs. Under Section 109 of the MMPA, the State of Alaska may request jurisdiction and management authority for fur seals (Section I.B.3.). Following any transfer of management authority, and the recovery of the population to levels above OSP, a commercial harvest could resume under State wildlife regulations.

Expiration of the Convention without new bilateral or multilateral agreements does not appear to be an effective management scheme for fur seals. The United States could not expect the same high degree of cooperative research that has characterized the present fur seal treaty. International efforts to seek ways to reverse the present population decline would be adversely impacted. Moreover, Canada, Japan, and the Soviet Union have all indicated preference for an extension of this treaty, rather than a new bilateral or multilateral agreement. These countries believe that the present international regime is the best way to manage and conserve fur seals worldwide.

Without bilateral or multilateral agreements, expiration of the Convention would result in a conservation and management regime extending only to the 200 nautical mile limit of the U.S. EEZ (Section I.B.5.). The migration routes of fur seals place these animals outside the jurisdiction of either the United States or Canada during certain times of the year. The female portion of the population is at special risk from any resumption of pelagic sealing (Section III.B.4.). Continuing the Interim Convention eliminates the threat of any directed commercial pelagic take of this species.

Allowing the Convention to expire would also seriously affect the Aleut residents of the Pribilofs during a time when private enterprise is replacing the Federal Government as the major employer on the Islands (Sections III.C.2 and III.C.3.). The Aleut residents have expressed a need to continue the seal harvest, especially during this transition period. As the Village Corporations expand their economic base and develop their fishery operations, it is likely that they will depend less and less on the fur seal harvest. However, until that point, termination of the harvest could impair the economic viability of the Island communities.

Expiration of the Convention and the harvest is favored by some wildlife protection groups. Many people believe that the U. S. Government should not participate in any treaty which involves the killing of marine mammals. A perception also exists that ending the harvest would cause the population to increase toward OSP and MSP. Preliminary analysis of data relating to sex ratios suggests, however, that termination of the male-only harvest could impede any recovery of the species (Section III.B.8.). The current harvest is probably not responsible for the observed decline in numbers (Section III.B.9.); however, studies are continuing on the effects of the harvest and its role, if any, in the current population decline.

III. AFFECTED ENVIRONMENT

A. Oceanographic Factors

A review of oceanographic conditions in the subarctic North Pacific Ocean is found in Dodimead *et al.* (1963) and specific information on the oceanography of the eastern Bering Sea is available in Hood and Calder (1981). A brief summary of bathymetry, current systems and weather affecting living resources of this area (from Kajimura, 1980, 1982) follows:

1. Bathymetry

Figure 1 details general bathymetry of the Bering Sea where northern fur seals are known to occur at various times of the year. The continental shelf (denoted by the 1,000 meter contour line) is widest in the eastern and northern Bering Sea. The Pribilof Islands are situated in the eastern Bering Sea within a shallow plateau of about 55 to 73 meters, part of the vast continental shelf which extends over 740 km offshore. By contrast the Commander (Kamandorski) Islands are surrounded by very deep water. Continental shelf areas are associated with higher plant and animal productivity, although unique hydrodynamic conditions are known to increase productivity of deep waters. The shelf along the eastern Aleutian Islands, most of the Gulf of Alaska, and the western coast of the United States is relatively narrow. The shelf is widest off Kodiak Island where Portlock and Albatross Bank are major feeding grounds of fur seals in the Gulf of Alaska.

2. Ocean Currents

The role of ocean currents and other oceanic factors in the migration and distribution of fur seals in the eastern North Pacific Ocean is still generally unknown. Some factors that probably affect fur seals are seasonal and annual variations in temperature, salinity, dissolved oxygen and water movement patterns. Kenyon and Wilke (1953) reported that fur seals were most abundant in surface water temperatures of between 8° and 14° C. They also indicated that the preference for water of a given temperature may be only a response to the availability of food in the area. During the U.S./Canadian pelagic research cruises of 1958-74, the largest numbers of fur seals were collected at temperatures of 10-14° C off California, 7-12° C off Washington, 5-9° C in the Gulf of Alaska, and 8-10° C in the Bering Sea.

Upwelling of water from the depths is an important oceanic and coastal process which occurs when the surface layer is transported offshore (due to the stress of wind parallel to the coast on the sea surface) and is then replaced by nutrient-rich water from below. The western coast of North America is among the world's major upwelling regions. Here, upwelling probably influences productivity and concentrations of primary producers and zooplankton. This in turn influences the distribution and recruitments of fishery resources which become available to the fur seal, and ultimately the distribution of seals because they winter and feed off the western coast of North America.

3. Weather

Little is known concerning the effects of weather on fur seals at sea with the exception of pup/yearling seals. Scheffer (1950) concluded that storms in January and February 1950 were the principal cause of death to large numbers of pups/yearlings, many of which were washed ashore on the beaches of British Columbia, Washington and Oregon. Based on data from pelagic catches during December and January 1958-74 off Washington, the pup/yearling loses nearly one-half of its body weight after leaving the

Pribilof Islands the previous November. Much of this weight loss in newly weaned pups can probably be attributed to harsh storms and adverse oceanographic conditions encountered during the first winter at sea, and to inability to catch fish as efficiently as the older seals (pups are about 4-5 months old when they begin their southbound migration). Kenyon et al. (1954) reported that the highest mortality occurs during the fur seal's first year of life and weather may cause most of this mortality. Strandings of seals older than pups/yearlings are uncommon. Possibly these deaths are caused by disease or other factors unrelated to the direct effect of weather.

B. The Northern Fur Seal (*Callorhinus ursinus*)

1. Range and Breeding Islands

Information on the life history and population range of this species is available in Fiscus (1978,1980) and Kajimura (1980,1982).

The northern fur seal is a member of the family Otariidae (eared seals). This family also includes the sea lion. The northern fur seal is the only member of the genus Callorhinus. One of the most distinctive physical features of this species is its dense fur which serves to insulate the body from the cold temperatures of its environment. The commercial value of its fur has made this species the subject of often intense harvesting pressures that led to the species' decline in abundance in the early part of this century.

The northern fur seal is rarely found on land except on its home islands during the breeding season. Its range includes the subarctic waters of the North Pacific Ocean and portions of the Sea of Japan and the Okhotsk and Bering Seas (Figure 2). The southern boundary of its range in the eastern North Pacific extends to about 32°N (California-Mexican border) and in the western North Pacific to about 36°N off Honshu Island, Japan. In the Sea of Japan it ranges south to about 37°N on the Korean coast. There have been a few sightings of fur seals south of these latitudes, although fur seals are rare in waters with surface temperatures above 15°C. The northern limit of its range is delineated by sea-ice which in winter covers much of the Okhotsk and Bering Seas and about half of the Sea of Japan.

Most adult seals return each summer to the island of their birth, where females give birth to a single pup and mate with a territorial bull within the first few days of arrival. The breeding islands of the northern fur seal are: Robben Island in the Okhotsk Sea; Kamennye Lovushki Rocks and Sredney Rocks of the Kurile Islands in the western North Pacific; Commander Islands in the western Bering Sea; the Pribilof Islands in the eastern Bering Sea and San Miguel Island in the eastern North Pacific off southern California. A small breeding colony has recently been found on Bogoslof Island in the Aleutian chain of the southern Bering Sea.

At present it is known that most fur seals found in the eastern North Pacific Ocean are from the Pribilof Islands (St. Paul, St. George, and Sea Lion Rock; Otter and Walrus Islands have no fur seal rookeries) in the eastern Bering Sea, which are the principal breeding grounds of the northern fur seal. Fur seals from the western Bering Sea (Commander Islands), the western North Pacific (Kurile Islands) and the Okhotsk Sea (Robben Island) do not contribute significantly to this population. Two additional rookeries in the eastern North Pacific Ocean are off southern California on San Miguel Island and nearby Castle Rock near the southern limit of the fur seal's range. The San Miguel colony of fur seals was discovered in 1968 with about 100 fur seals. The Castle Rock colony was discovered in 1972.

The Soviet Union manages rookeries on islands in the western North Pacific, including Commander Islands (Copper and Bering Island) in the western Bering Sea, Robben (Tuyleniy) Island off Sakhalin Island in the Okhotsk Sea, and a few of the Kurile Islands. Recoveries of tagged animals have shown that seals from the eastern and western breeding islands intermix to some small extent at sea and on the breeding islands.

2. Estimates of Abundance

The current estimate of the North Pacific fur seal population is 1.2 million. The population native to each island group is as follows:

<u>Island Group</u>	<u>Jurisdiction</u>	<u>Number of Seals</u>
Pribilof Islands	USA	871,000
Commander Islands	USSR	210,000
Robben Islands	USSR	75,000
Middle Kurile Islands	USSR	47,000
San Miguel Island	USA	<u>4,000</u>
		1,207,000

3. Harvest Data

The number of fur seals harvested on the U.S. owned Pribilof Islands, 1950-1984, is presented in Table 1. Harvest data 1960-1983 for USSR owned islands is given in Table 2.

The U.S. Government currently harvests approximately 22,000-24,000 animals per year on St. Paul Island and shares 30 percent of the seal skins with Canada and Japan. Except for those females taken accidentally or for research, only males between the ages of two and six years are taken. About ninety percent of the animals are three and four years of age. Through 1972, seals were harvested each year on both major islands of the Pribilof group; however, since 1973 no seals have been taken commercially on St. George Island. In that year a moratorium on sealing was agreed to by Party Governments and St. George was set aside as a research study area. A commercial harvest of female seals on the Pribilof Islands occurred during the period 1956-1968.

Reports on the methods used to harvest northern fur seals may be found in Simpson (1967), Virginia Mason Research Foundation (1971), Veterinary Panel (1971), Battelle, Columbus Laboratories (1973) and Keyes (1980).

Northern fur seals are killed by manual stunning quickly followed by exsanguination. Stunning is accomplished by a sharp blow to the head with a long club. Because the bones of the fur seal skull are so thin, a fur seal may be rendered unconscious and insensitive to pain instantaneously with even a moderate blow to the head. Many seals are killed by the blow alone before they are bled. Exsanguination is accomplished by opening the chest cavity and piercing the heart or the large vessels leading from the heart.

Many individuals and animal welfare organizations have criticized these traditional methods of harvesting fur seals on the Pribilof Islands and questioned whether or not these methods constitute humane killing. However, independent studies by a number of prominent veterinarians, including the Panel on Euthanasia of the American Veterinary Medical Association, have led to the conclusion that clubbing is a rapid, highly efficient and humane method of rendering the animals unconscious when properly performed. Stunning, followed by exsanguination, constitutes painless, humane killing. Harvesting methods on the Pribilofs are comparable to the best methods used in the slaughter of domestic livestock.

There is a limited harvest season of five weeks ending on or about August 5th. Each bachelor hauling ground is harvested once each week, or five times during the season. Since at any one time, many of these seals are away from the Island and feeding at sea, it has been found that a sufficient number of young seals escape the harvest to return to breed in later years. Because the fur seal is polygynous, many more females are needed for reproduction than males. Regulation of the take in terms of season, sex and length limits and killing techniques, ensures that only those seals not needed as replacements for the breeding stock are taken, and that the harvest is carried out in the most humane way possible without undue stress to the animals.

Questions have been raised as to the genetic effects of the age/sex specific harvest.-

The NMFS research scientists have consulted with other researchers in this field on possible experimental procedures which could be used to answer these questions. As yet no specific research program has been formulated, and the magnitude and direction of any possible genetic changes in the population are unknown.

4. Migration and Distribution at Sea

The following discussion of the migratory patterns and at-sea distribution of the northern fur seal, with emphasis on the eastern North Pacific, is from Kajimura (1980, 1982).

Basic information on the migrations of fur seals was first obtained from pelagic fur sealing which developed as a commercial enterprise by 1871 and continued until 1911. In the eastern Bering Sea pelagic sealing began about 1880 and by 1884 most vessels had begun sealing along the northwest coast during the winter and followed the fur seal herd north into the Bering Sea to complete the season in September. Commercial pelagic sealing was a mothership-type operation. Sealing schooners transported hunters and canoes to offshore sealing grounds where the canoes stayed with the herd during north-bound migration to the Pribilof Islands. Townsend (1899) first summarized distribution and migration data from logbooks of pelagic sealers. Figure 3 depicts the general migration and distribution based on 304,713 fur seals collected by 123 vessels engaged in commercial pelagic sealing from 1883 to 1897. Two additional migration charts, Zeusler (1936) and Ognev (1935) are presented in Figures 4 and 5. The general pattern of movements depicted in these early charts agree quite well since the primary data source is commercial sealing records.

The first major study of the pelagic life of the northern fur seal was conducted by C.H. Townsend and F.A. Lucas in conjunction with commercial sealers in 1896 and 1897. In 1947, the research vessel Black Douglas covered the area from Seattle to the Pribilof Islands and return, including one trip along the Aleutian Islands westward to Attu Island. In 1948, the Black Douglas sailed from Seattle to Unalaska, to San Francisco and then returned northward along the coast to Seattle. Information on fur seal migration and distribution available up to 1952, including the surveys of the Black Douglas, was summarized by Kenyon and Wilke (1953).

Most of the information since 1952 on the pelagic life of the northern fur seal in the eastern North Pacific is from an analysis of the results of the pelagic research cruises conducted by the United States and Canada, 1958-74. Until 1963, however, Party Governments were required by treaty to fulfill a "quota" of pelagic collections. During 1958-63 therefore, when most of the seals were collected, the data on fur seal at-sea distribution is biased toward areas of highest concentration. Effort was directed toward collecting seals and away from systematic surveys to determine density, distribution or relative abundance of fur seals by time and area. Collections were made from areas of concentration known from sealing logs and earlier research cruises; marginal areas were neglected. The quota requirements were dropped from the Convention in 1963; however, several transect surveys were made off California and Washington, and in the Bering Sea near the Pribilof Islands (1965-74). Figure 6a, b, and c provides monthly summaries of fur seal sightings per hour of observation by the pelagic research cruises of 1958-74.

The 57,927 fur seal sightings shown in Figure 7 are from data obtained primarily from pelagic research cruises with supplemental data from other sources to provide a better picture of fur seal distribution at sea. Sightings of seals in the western North Pacific Ocean area are primarily from Japanese pelagic fur seal research cruises (1958-78), the NMFS Dall's Porpoise Program (1978-80) and from salmon research cruises of U.S. vessels (1955-72). Sightings of seals in the eastern North Pacific Ocean are primarily from Canadian and U.S. pelagic fur seal cruises (1958-74); other sightings are from NMFS programs which include the Platforms of Opportunity Program (POP), Outer Continental Shelf Environmental Assessment Program (OCSEAP) and Dall's Porpoise Program.

Some northern fur seals are found throughout their range in the eastern North Pacific Ocean in nearly all months of the year, with periods of peak abundance varying by time and area. Many immature seals of both sexes remain at sea during the first year or two of life and do not return to their island of birth until ages 2 or 3 years. Most fur seals spend about half the year at sea (November through May-June) and the remainder (July-October) on and around their home islands during the breeding season.

Fur seals are most frequently seen from about 20 to 40 nautical miles from land and usually in greatest numbers along the continental shelf and slope throughout their range primarily because of abundant food resources in this area. Most fur seals are still on or near the Pribilof Islands in October but by the end of November only about 30 percent or less of the population remains near the Pribilof Islands. This is at a time when the first

seals have completed their North Pacific (Gulf of Alaska) crossing and are beginning to appear off the coasts of southeastern Alaska, British Columbia, and Washington. During research cruises off California, Oregon, and Washington, the first seals were sighted on 5 December and on 25 and 27 November, respectively.

From January to March, fur seals are found along the continental shelf and slope, entering coastal waters in pursuit of prey, from the Gulf of Alaska southward to California. Fur seals continue to increase in abundance during December and January off Washington and California. In February and March, seals are most abundant from California to Sitka, Alaska. The numbers of fur seals wintering off California reach a peak during late January through March and decrease as they begin their northward migration starting in late March. Most seals have left this area by early June.

In April, fur seals are widely dispersed from Kodiak Island, Alaska, to California with the population reaching its peak in the Gulf of Alaska during May. The northbound migration begins March-June, first in the southern limits of the range off California and proceeding past Washington in April and May, the Gulf of Alaska in May and June, and westward into the Bering Sea in June. In June, fur seals are scattered throughout the North Pacific Ocean. Fur seals are in the eastern Bering Sea and on or near the breeding islands of St. Paul, St. George, and Sea Lion Rock (Pribilof Islands) in greatest numbers during July, August, and September (most age groups of both sexes).

Any discussion of fur seal distribution in the eastern North Pacific Ocean refers primarily to females because they represent about 90 percent of the pelagic catch (with some variation by time and area). Older females (age 5 years and up) are generally more abundant off California than off Washington, while the younger seals are not fully represented. Females of all ages (and young males 1-4 years old) are found in the Gulf of Alaska and the eastern North Pacific Ocean during winter and spring. Only the younger immature males (ages 1-5 years) have been found south of Alaskan waters with a few exceptions. Nearly all of the older males winter in Alaskan waters primarily in the Gulf of Alaska, north and south of the eastern Aleutian Islands, and probably in the Bering Sea. The catch of males diminished south of latitude 46°N (Washington-Oregon border). Of the 3,612 fur seals taken off California, only 2 percent, or 56 animals, were males of ages 1-5 years and only one male seal was 5 years old. The seals on which these percentages were based were taken prior to 1967, and the San Miguel Island males would at that time not have contributed to the offshore population. No attempt has been made to verify the distribution of older males because poor weather conditions during late autumn, winter, and early spring in the Gulf of Alaska and Bering Sea would severely limit vessel operations and reduce sightings or catches.

Fur seals congregate in social groups on land but at sea they are usually solitary. Solitary seals predominated in all areas. The frequency of solitary seals was highest in the Bering Sea (38-68 percent) where seals are more abundant during the breeding season. Off California, solitary seals represented 30 to 50 percent of the total sightings, whereas off Washington they comprised 30-64 percent. Larger groups of up to 20 seals have on occasion been sighted usually during spring migration but groups of this size are unusual. A few groups of seals numbering more than 20 have been seen off Washington and California when they were actively feeding on large schools of prey.

Bigg (1982) examined the distribution of fur seals in areas more than 200 nautical miles offshore in the eastern North Pacific. This work was based on analysis of the U.S./Canadian pelagic collections, results of earlier studies and observations of a Canadian research vessel stationed about 650 nautical miles west of Vancouver Island. Bigg suggests that during northbound migration pregnant females leave the California coast in March and travel offshore to arrive in the Gulf of Alaska in April. Young seals (1-3 years) of both sexes appear to remain offshore between January and June. In December-January, when the southern migration is underway, the offshore region probably contains essentially the entire population.

Clearly, all northern fur seals must spend some portion of their lives in waters outside the jurisdictions of both the United States and Canada. Pregnant females take a direct route from the West Coast to the Pribilofs each spring. This component of the population is the most sensitive to harvesting and at the greatest risk from any possible resumption of pelagic sealing.

5. Feeding Habits and Prey Consumption

Although northern fur seals feed on a variety of fishes and squids throughout their range, evidence suggests (based on abundance and distribution of principal prey species) that fur seals are opportunistic feeders preying on the most available species in the area (Kajimura 1982). Prey species taken by fur seals vary according to area, season and the migratory patterns of the prey but generally, smaller schooling fishes (including the neritic market squid) are usually the principal forage species over the continental shelf region and oceanic squids are important seaward of the continental slope in deepwater areas. The principal forage species utilized by fur seals throughout their subarctic range are given in Table 3.

Figure 8 shows the percent composition by prey species of the fur seals' diet in the eastern Bering Sea. The location of fur seal collection influences the importance of different prey species as the principal forage food. For example, if fur seals are taken near the Aleutian Islands and Passes, the principal prey appears to be capelin. If seals are taken beyond the shelf over deepwater, the forage species will likely be oceanic squids. Fur seals taken over the shelf are likely to be feeding on walleye pollock and Pacific herring (Perez and Bigg 1984).

Walleye pollock is one of the principal food species of fur seals in the eastern Bering Sea. Pollock is also the most abundant and widely distributed species over the Bering Sea continental shelf, and the most important demersal fish in terms of biomass and landings in the commercial fishery. McAlister and Perez (1977) estimate that as much as 80 percent of the fur seal diet is fish, and in the eastern Bering Sea, McAlister (1981) estimated that about 58 percent of the fish consumed by fur seals is walleye pollock.

A computer model of the Bering Sea ecosystem, Dynamical Numerical Marine Ecosystem Model or DYNUMES, has been developed by the Northwest and Alaska Fisheries Center of the NMFS. The model incorporates data on population size, distribution, reproduction rates and feeding of fur seals, as well as information on other marine mammals and oceanographic data. McAlister (1981) estimated fish consumption by marine mammals in the eastern Bering Sea and Aleutian Island area by calculating the food requirements of marine mammal species based on energy requirements, corrected environmental temperature, population estimates and prey distribution (Tables 4 and 5).

Based on these calculations, McAlister estimated the annual consumption of finfish by fur seals to be 476,000 metric tons (mt) (Table 4) compared to 2,287,000 mt consumed by all marine mammals in the area (Table 5). Total food consumption (including fish and squid) by the Pribilof Islands population of fur seals was estimated at 615,000 mt (Table 4).

McAlister estimated that marine mammals consumed approximately 5 percent of the standing stock of finfish in the eastern Bering Sea and Aleutian Island area (Table 5). In a similar study conducted in 1977 by McAlister and Perez, the value was calculated at 10 percent. A slight decrease in estimated total food consumption in the 1981 study of 2,287,000 mt compares to 2,647,000 in the 1977 study. McAlister (1981) states that the principal change is in the estimated increase of standing stocks of fish in the eastern Bering Sea and Aleutian Island areas from 27,260,000 mt to 48,988,000 mt. Based on estimates of consumption of fish in the eastern Bering Sea and Aleutian Island area, fur seals consume about 1 percent of the standing stock of fish, other pinnipeds consume a little over 2 percent and all marine mammals are estimated to consume 4.6 percent (Table 5).

6. Commercial Fisheries of the Bering Sea/Gulf of Alaska

Japan operates salmon gillnet fisheries in the Bering Sea and North Pacific Ocean from mid-May to the end of July. The fisheries are regulated by the International North Pacific Fisheries Commission (INPFC) established in 1953 by a convention among Japan, Canada, and the United States. In 1978, this treaty was renegotiated to conform with the 200-mile fisheries jurisdiction of the United States established by the Magnuson Act. The renegotiated convention limited the high seas salmon mothership fishery in the North Pacific to the area between 170° and 175°E, north of 46°N. In the Bering Sea, the fishery now operates predominately between 56° and 60°N and between 170°E and 175°W.

Sea birds and marine mammals are taken incidental to fishing operations in the Japanese fishery. In 1981 and 1982, U.S. observers monitored the incidental take of northern fur seals in commercial Japanese salmon gillnet operations. No incidental takes were observed in 1982. In 1981, four out of the nine reported incidental takes were observed. All but one of the incidental takes occurred in July, in one mothership fleet. Estimated incidental take for 1981 based on U.S. observer's data is approximately 94 fur seals in the Japanese salmon mothership fishery. The Japanese land-based salmon and squid gillnet fisheries may be additional sources of mortality.

Fourteen fur seals were entangled in Japanese salmon research gillnets in 1981 and eight in 1982. During the period 1979-1981, the animals were only observed entangled in larger mesh sizes (82 mm, stretch mesh), particularly 179 and 204 mm. Survival appears to be lower in these larger mesh sizes than in commercial mesh sizes (112-130 mm).

Although fur seals were commonly sighted at the nets during retrieval operations (45 percent of the sets), entanglements occurred in only 9 percent of the sets. Entanglement appears to be an uncommon event in this fishery. The low estimate of annual incidental take in commercial fishing operations calculated from U.S. observer data collected aboard the salmon catcherboats in 1981 may be more reliable than previous, higher estimates based on data from research operations.

A major commercial groundfish fishery began in the Bering Sea and Aleutian Island area in the 1950s. Harvests, primarily of yellowfin sole by Japan and the USSR, increased to over 500,000 mt in 1961 and then declined to about 85,000 mt in 1963. Peak harvests of primarily Pacific ocean perch occurred in 1965 in the Aleutian area. In the mid 1960s, the Japanese began an intensive walleye pollock fishery, and by 1972 total catches of groundfish exceeded 2.3 million mt. Walleye pollock accounted for an estimated 80 percent of this catch. Catches have declined since 1972 as catch restrictions were placed on pollock and other groundfish through bilateral agreements between the United States, and other countries. By 1976, catches were limited to about 1.5 million mt.

In 1981, Japan, the Republic of Korea (ROK), Taiwan, Poland and West Germany were the principal countries participating in the groundfish fisheries of the eastern Bering Sea and Aleutian Island regions. Total catches of groundfish and squid taken by the foreign fishery in this region in 1981 were 1,273,200 mt which was 21,800 mt less than in 1980. Although the 1981 catch was the lowest recorded in the Bering Sea and Aleutian Island region since implementation of U.S. extended jurisdiction, catches have not fluctuated substantially in this period, varying from a high of 1,383,300 mt in 1978 to a low of 1,273,200 mt in 1981.

In 1981, the Japanese fishery accounted for 81 percent of the total catch (929,362 mt) followed by the ROK (13 percent, 167,403 mt), Poland (4 percent, 55,023 mt), West Germany (1 percent, 11,873 mt), and Taiwan (1 percent, 5,978 mt). The USSR catcher vessels were not allowed to operate in the U.S. FCZ in 1981, although they were allowed to process catches taken by the U.S. fishing vessels. Foreign catches of groundfish in the eastern Bering Sea and Aleutian area are shown in Figures 9 and 10.

Japan's fisheries catch was 82 percent pollock (762,501 mt), 6.6 percent yellowfin sole (61,581 mt), 3 percent Pacific cod (27,970 mt), 4.4 percent other flatfish excluding turbot (41,309 mt), and 0.2 percent sablefish (92,099 mt). ROK fisheries targeted on 69.3 percent pollock (116,016 mt), 10.3 percent yellowfin sole (17,179 mt), and 7.4 percent Atka mackerel (12,385 mt). Polish fisheries also targeted on pollock which constituted 98.1 percent (53,984 mt) of their total catch. Similarly, West German catches were 86.8 percent (10,305 mt) pollock and the pollock catch of Taiwan fishermen (3,367 mt) was 56.3 percent of their total catch.

In joint venture fisheries, U.S. vessels delivered 78,535 mt of groundfish to Japanese, Polish, ROK, West German and USSR processing vessels. Pollock (42,083 mt), yellowfin sole (16,046 mt) and Pacific cod (9,159 mt) were the three major species targeted by the U.S. vessels in joint ventures.

With the passage of the Magnuson Act in 1976, the fishery resources of the eastern Bering Sea and Aleutian Islands came under the jurisdiction of the United States. Beginning in 1977, the U.S. annually established total allowable levels of foreign fishing based on the optimum yield of each fishery resource. Optimum yield is based on maximum sustainable yield modified by relevant economic, social and ecological factors. Optimum yields established for 1982 for major fishery species, in thousands of metric tons, are as follows:

<u>Species</u>	<u>MSY</u>	<u>1982 Optimum Yield</u>
Pollock	(BS) 1,100-1,600	1,100.0
Cod		78.7
Yellowfin sole	150-175	117.0
Other flounders	88-150	61.0
Pacific perch	(BS-AL) 12-17	10.75
Sablefish	(BS) 13	(BS-AL)
5.0	(AL) 2	
Atka mackerel	(AL) 23-28	24.8
Turbot	107	90.0
Squid	10	10.0
Others	61	74.249

(BS = Bering Sea) (AL = Aleutian Area)

Of the approximately 1.25 million mt of finfish removed from this area in 1981, 993,773 mt, or about 80 percent, was pollock (INPFC 1982).

7. Fur Seal Entanglement in Fishing Debris

Scordino and Fisher (1983) summarized information on fur seal entanglement in discarded fishing nets and other debris for the period 1969-1982:

Each year during the commercial harvest of male fur seals on St. Paul Island, a few seals (less than one percent of those harvested) are taken with net webbing, plastic packing bands, or other debris entangled primarily around the neck and less frequently around the head and shoulders. Entangled seals appearing on the Pribilof Islands have been reported since the early 1930s, and in 1967 the NPFSC recommended that its members make efforts to document the frequency of such occurrence and attempt to identify and record the types and origin of fishing gear responsible for the problem. Daily records have been kept since 1969 of entangled seals observed during the harvest on St. Paul Island and of observations of skins examined in the processing plant with scars around the neck that may have been caused by a past entanglement. Commencing in 1974, skins taken from entangled seals were tagged in the field. Thus observations in the processing plant consisted not only of these tagged entanglement skins but included other skins observed with scars or bruises which became apparent after the blubber was removed. These scars and bruises in the neck area, discovered after the blubber was removed, were very similar to those found on the skins from seals actually entangled and therefore are assumed to be caused by prior entanglements.

The number of entangled seals observed among the animals harvested on St. Paul Island since 1967 has averaged about 0.4 percent of those taken and varied from a low of 0.15 in 1967 to a high of 0.72 percent in 1975 (Table 6). The affected seals are usually entangled in trawl net scraps or plastic packing bands, but have been observed in other debris such as ropes, strings, rubber bands, monofilament gillnets, monofilament lines, plastic 6-pack holders, plastic hoops, and rice sacks. The debris sometimes has goose-neck barnacles attached to it. It is not known exactly where the seals are picking up the debris, but it is suspected that much of it is from the Bering Sea.

Japan examined samples of net webbing removed from fur seals by the United States in the late 1960s and reported that although most of the nets were made in Japan, the countries actually using the nets were unknown since large quantities of net material are exported. Most of the fragments were polyethylene and presumed to be parts of the lower wings and bellies of trawl nets. The mesh sizes of these polyethylene net fragments varied from 12 cm to 30 cm with those of 22 cm and 30 cm predominating.

The incidence of entanglement is not unique to males as female fur seals do occasionally appear on the haul-outs entangled in debris and have been taken in the harvest. Two entangled and mature female fur seals have been taken in the harvest in recent years; one in 1981 and another in 1979. Entangled females are also observed in the breeding areas, but the incidence of entanglement is considerably less than that observed among males taken in the harvest. Adult male fur seals are occasionally observed entangled, but these entangled animals are rarely seen on the breeding areas. Pups are sometimes observed under "billowing" pieces of net webbing attached to rocks, but individual pups with entangling debris are seldom reported. This element of the herd has yet to go to sea and become exposed to the potential of entanglement. In November 1982, local residents on St. Paul rescued one pup and two yearlings that were entangled in a single mass of net webbing that floated into the Village Cove area.

Entangled fur seals are sometimes reported stranded along the Aleutian Islands and along the western coast of North America. Entangled yearling fur seals have been sighted along the Aleutian Islands, and a resident of Nikolski, Umnak Island, reported that in some years ten to twenty of the dead yearlings that show up on the beach are entangled. The Washington Department of Game, Marine Mammal Project has recovered three fur seal carcasses in the last two years entangled in debris; a 118 cm long male fur seal was found in a heavy piece of 13.3 cm mesh trawl net in Oregon in December 1980, a 100 cm fur seal was found entangled in a mass of 27.9 cm mesh black and 29.2 cm mesh green trawl net webbing in Oregon in February 1982, and a 86 cm female fur seal was found with trawl net webbing around its neck in Washington in April 1982. A yearling fur seal tagged in September 1981 on San Miguel Island was recovered in British Columbia north of Vancouver Island in March 1982 entangled in net webbing. The northern fur seals breeding on San Miguel Island are sometimes observed entangled in debris.

Entangled fur seals are also observed during the harvest and on the rookeries in the western North Pacific Ocean. In 1981, the USSR reported 132 entangled seals on the Commander Islands, 70 on Robben Island, and 27 on the Kurile Islands. Of the 70 entangled fur seals observed on Robben Island, 11 were bulls, 5 sub-adult males, 19 bachelors, 32 females, and 3 were pups. The entangling debris on Robben Island consisted of net fragments (71.4 percent), ropes (20 percent), packing bands (5.9 percent), fishing lines (1.4 percent), and cords (1.4 percent). Entangled male seals are also observed during the harvest on the Robben and Commander Islands, and in 1979, the rate of entanglement was 1.09 percent on Robben Island, 0.98 percent on Southeastern Rookery, Medney Island, and 0.14 percent on Northern Rookery, Bering Island.

Other species of pinnipeds have also been observed entangled in discarded fishing debris. Hawaiian monk seals have been observed with net debris and plastic packing bands around their necks. Northern sea lions entangled in net webbing have been sighted on St. Paul Island by local residents. California sea lions, and northern elephant seals have been sighted with entangling debris on the Channel Islands off California

More intensive studies on the nature and extent of fur seal entanglement in discarded debris began in 1982. These recent investigations on entanglement (Scordino, et al. 1984) indicate that the large mesh (20cm) trawl net fragments are the predominate entangling debris found on sub-adult males observed during the harvest. Although some entangled seals are observed with deep wounds resulting from the debris, these studies found that the majority of the seals did not have skin lacerations indicating that they either became entangled very recently or that it takes a long time for cuts to develop. It was also found that entangled seals can rid themselves of different types of debris. These observations and observations of seals without debris but with scars from a prior entanglement indicate that entanglement does not necessarily result in mortality as the seals can escape from the debris.

The mortality rates of entangled seals are unknown although it is likely that many of the entangled seals cannot rid themselves of the debris and ultimately die from strangulation, starvation or infection. Crude estimates of entanglement caused mortality based on the composition of net debris (on seals and on beach) coincide with rates consistent with the decline in the fur seal population. Fowler (1982) indicated as much as 5 percent or more of the fur seal population may die each year from entanglement and that this mortality may be responsible for a large part of the observed decline in the fur seal herd in recent years. Current studies, including statistical assessments of entanglement data, continue to indicate correlations between the decline in fur seal abundance and the rate of entanglement.

The NPFSC has brought the entanglement problem to the attention of both party and non-party governments engaged in fishing in the North Pacific Ocean on numerous occasions. Member countries individually developed and distributed posters showing entangled seals along with a brief explanation of the problem to their respective fishing and maritime industries. In 1982, the NPFSC developed its own poster printed in five languages for distribution to nations now engaged in fishing and other maritime commerce in the North Pacific Ocean. In 1983, the United States proposed to the Commission and representatives of other North Pacific Ocean fishing nations, that a technical/scientific workshop be held to investigate the entanglement problem, and ways to counter it. A meeting of technical experts was held in November 1984 in Honolulu, Hawaii, and the results of this meeting should provide new avenues for directed research on this problem. In addition, under the authority of the Magnuson Act, the Regional Fishery Mangement Councils and the NMFS are working on ways to further discourage marine discards in the U.S. FCZ.

8. Historic Population Levels

The two islands subject to United States jurisdiction where harvesting of fur seals has taken place are St. Paul and St. George, the major islands of the Pribilofs. There are limited data from which to estimate the size of the Pribilof fur seal herd at the time that it was discovered in 1786. A best estimate would be that the unexploited Pribilof fur seal population was at the carrying capacity of the ecosystem as it existed at that time, and numbered between 2 and 2.5 million animals, of which 1.6 to 2.0 million animals were on St. Paul Island. Following exploitation, the herd reached its lowest levels in 1912, when 82,000 pups were counted on the St. Paul and St. George rookeries, representing a total population of about 300,000 animals. An average of 80 percent of the Pribilof Island fur seal population has been found on St. Paul Island, so there would have been about 240,000 fur seals on St. Paul Island in 1912.

From 1912 to 1924 the annual rate of increase of pups was about 8 percent (Figure 11). As long as the population was relatively small, the number of pups born could be determined by actual total or partial counts. After 1924 total pup counts became impractical because of the population increase, but a substitute counting method was not developed until 1947 when pups were tagged as a means of estimating their numbers. This method consisted of tagging a sample of pups with a permanent metal tag and estimating the total pup population from the ratio of tagged to untagged animals in the harvest of 3 and 4-year old animals. The population estimates made by this method were later shown to be inflated, primarily because some young animals died as a result of the tagging. In the early 1960s, a shearing type mark was developed, followed by random sampling the same season to obtain marked to unmarked ratios. This method provides the most reliable estimate of pup numbers, and is the method used today. Total populations are calculated from the number of pups born using the best estimates of mortality rates. Total counts are now made only of harem and idle bulls on the rookeries.

Evidence from the counts of adult males and the harvest of immature males (no females were harvested commercially until 1956 except for a few taken accidentally) indicates that the Pribilof Island fur seal population reached a maximum size by the early 1950s. For the period 1950 through 1956, Chapman (1973) estimated that the average number of pups born on St. Paul Island was 449,000. This number of pups indicates that the total St. Paul Island herd consisted of about 1,800,000 animals. If there were no illegal takings of animals, this herd size was probably very close to the carrying capacity of the ecosystem at the time because the management practices in effect from 1912 to 1956 should not have limited the growth of the population. For example, females were not harvested commercially; and therefore the number of pups and the size of the population could increase to the carrying capacity of the ecosystem provided there were sufficient adult males to fertilize the females. The fur seal population on St. Paul in the early 1950s, about 1,800,000, was probably not significantly different from the estimated pre-exploitation carrying capacity levels.

In the late 1950s it was believed that, theoretically, the population was too large to produce a maximum yield, and therefore, a program to reduce the number of fur seals was carried out. The reduction was achieved primarily by harvesting females from 1956 through 1962. From 1963 through 1968 an effort was made to stabilize the population by harvesting only females believed to be in excess of the number needed to maintain a stable population. As a result of the harvest of females and also possibly due to environmental changes associated with the development of commercial groundfish fisheries, the St. Paul Island fur seal population decreased from its peak in the early 1950s of about 1,800,000 to about 930,000 in 1970. No intentional commercial harvest of females has taken place since 1968, and based on a pup estimate of 278,000 in 1975, the population was estimated at 1,110,000 in 1975. The 1979 pup estimate was 246,000, equating to a population of about 990,000 (all figures for St. Paul Island). The current population estimate for both islands is 871,000.

Estimates of pups born from 1912 through 1982 are shown in Figure 11. Annual pup production is now about 22 percent lower than when the herd reduction program of 1956-63 ended, with similar declines occurring on both St. Paul and St. George Islands. Available estimates of pups born on both islands, 1970-1983 are as follows:

<u>Year</u>	<u>St. Paul Island</u>	<u>St. George Island</u>
1970	230,000	51,700
1973	-----	60,400
1975	278,000	-----
1978	-----	47,000
1979	246,000	-----
1980	203,900	-----
1981	179,000	38,152
1982	203,600	-----
1983	165,000	31,440

St. George Island was exempted from commercial harvesting starting in 1973, to provide a comparison between exploited (St. Paul Island) and unexploited populations of northern fur seals. It is anticipated that the results of this study will provide marine mammal scientists information on the natural factors which limit the abundance of fur seals.

There has been a long term decline in the number of animals harvested on St. Paul Island (Table 1). Since there have been no dramatic changes in the harvest strategy which takes a relatively constant fraction of male animals available (e.g., about 12 percent of the pups born are taken as 3 year olds), the decline in the harvest reflects a decline in the male portion of the population. This is consistent with the general decline in pup numbers on both islands. Since the mid-1970s, however, harvest levels have remained relatively stable. This may indicate an increase in utilization rates especially of the younger age classes (see Section III.B.9).

The Commander and Robben Islands fur seal populations were near depletion by 1911 when the fur seal treaty came into force. It is estimated that the Commander Islands population was between 1 and 1.7 million animals when first discovered in 1741. According to Dorofeev (1961), the total number of fur seals on the Commander Islands in 1911 did not exceed 9,000 animals while the Robben Island population was only 7,000. The population growth was noticeably slow between 1911 and 1957; however, the population has tripled since that time (Nikulin 1971). From 1968 through 1972, the total number of adult males on the Commander Islands showed a precipitous decline and by 1972, it was about one-third (1,721) of the 1967 population (5,642). Since 1972, the adult male population has quadrupled (1,711-7,343 in 1978). The cause of the sudden decline was interpreted to be an excess harvest of large males, and the increase resulted from a decreased harvest of males.

Data on pup production on Robben and Commander Islands have been available only since the middle 1950s when the stocks were estimated to be well below the level of maximum sustainable yield (MSY). The numbers of pups born annually on Robben and Commander Islands are shown in Table 7. For the Commander Islands, Lander and Kajimura (1976) estimate that MSY is achieved at a pup production level of 50,000-55,000 young per year. As shown in Table 7, pup production has exceeded this level since the early 1960s.

The number of pups born on Robben Island has shown a declining trend since the mid 1960s, although it has fluctuated at about 22,000 for the past three years. The number of adult males increased by 24.8 percent between 1978 and 1979, but has been declining since a peak of 2,000 in 1980. This trend may reflect both the results of harvest levels and the decline in numbers of pups born.

Preliminary analyses (Swartzman 1984), relating to historic sex ratios of the fur seal herds of both the eastern and western North Pacific, suggest a positive relationship between male to female ratios and pup mortality on land. The reason for such a relationship, if it exists, is not understood. Hypothetically, a change in sex ratio could trigger changes in behavior that affect the survival of pups on the rookeries. The increases in pup mortality that appear to be associated with increases in male to female (or bull to pup) ratios, however, provide basis for stressing that any alteration of the male-only harvest must be carefully evaluated. To the extent that there exists a relationship between sex ratio and pup mortality, termination of the harvest could impede a recovery of the population to higher levels. According to Swartzman (1984), there is no evidence that termination of the male harvest will have a positive effect on recovery efforts.

9. Status of Northern Fur Seals on the Pribilof Islands

A 1983 report submitted to the NPFSC discusses the current status of the Pribilof Island population of northern fur seals in terms of the management principles of the Interim Convention (maximum sustainable productivity MSP) and of the MMPA (optimum sustainable population, OSP). The Pribilof Island population is considered to be below levels supporting MSP and OSP, due to the effects of the female harvest of 1956-68 and to increased mortality at sea, probably from entanglement in discarded fishing gear.

The status report (NMFS 1983), and work in progress (NMFS 1985), describe the carrying capacity of the ecosystem for northern fur seals and measurements of the productivity of this species. Based primarily on a comparison of the number of pups on St. Paul Island in the late 1940s and early 1950s, and pup estimates of 1981-1983, the Pribilof Islands population today is below 50 percent of historic levels. In making this comparison between current and historic levels it has been assumed that the historic population levels are an empirical measure of the carrying capacity of this species in relation to its environment, and that the ecosystem has not changed.

It is possible that the carrying capacity of the ecosystem of the North Pacific and Bering Sea has been modified. However, the data we have support the view that if the carrying capacity has changed, it can not have changed dramatically. The Pribilof Island population, therefore, is probably below 50 percent of its carrying capacity, both current and historic.

Another criterion for evaluating the northern fur seal population is maximum net productivity (MNP). This is maximum net growth of the population as a whole, including all ages and both sexes. Available information (Smith 1973; Fowler 1984) indicates that for fur seals this would occur when the population is at 60 percent of its carrying capacity. If the current population is below 50 percent of its carrying capacity, it is also below those levels which would produce MNP in terms of total population numbers. MNP is the lower bound of the OSP range established by the NMFS in interpreting the MMPA (see Section I. B.3).

We have also compared the present population of Pribilof seals to population levels at which the maximum sustained yield or MSP of harvestable males would be obtained. This population level would be much higher than the level producing MNP of both males and females for polygynous species, such as fur seals. Based on the observed sex ratios of this species, the MSP of males is expected to be obtained from populations above 90 percent of the carrying capacity. Since this population appears to be reduced to levels well below the carrying capacity, the northern fur seal population is also below levels at which maximum sustained yield of sub-adult males will be obtained.

The decline and reduced status of the Pribilof fur seal population is not thought to be a result of the harvest of sub-adult males, but rather, a result of declines caused by the last female harvest and, at least in part, by an increased mortality at sea. The causes of this mortality and the decline are not fully determined but include deaths caused by entanglement in floating debris, primarily net fragments and plastic packing bands (see Section III B.7). The U.S. delegation to the Standing Scientific Committee of the NPFSC has expressed the need for further fur seal research on the effects of fisheries, changes in the marine environment, diseases, residual effects of the female harvest, effects of existing sex ratios, and of the other factors which may be contributing to the fur seal population decline. In addition, the United States sponsored a scientific and technical workshop on the Fate and Impact of Marine Debris. The November 1984 workshop included representatives from the Parties to the Convention, and other North Pacific fishing nations, in an effort to explore and alleviate the problem of mortality of fur seals and other marine animals due to entanglement in fishing debris.

Factors other than entanglement which have been considered as possible causes of increased mortality of fur seals include: predation, disease and toxic substances. Predation by seal lions and killer whales may be contributing to higher mortality rates, but there is very little direct information on this subject. There are no data, for example, on whether the abundance of killer whales has increased. Northern sea lions in the southeastern Bering Sea are thought to be experiencing a decline in population (Braham, et al. 1980), perhaps in parallel with that of the northern fur seal. There is no evidence of increased predatory activity in the form of injured animals. Diseases may also be viewed as potential contributors to increased mortality. There was an increase in the incidence of Leptospirosis during the mid-1970s. The incidence of mortality due to this disease, however, remains to be evaluated. Other diseases such as hookworm and San Miguel sea lion virus, which is known to occur in the Pribilof fur seal population, may also be implicated, but we have no evidence indicating that levels of these diseases have increased. Hookworm does not seem to be implicated since it affects animals on land and the mortality problem is occurring at sea. Toxic substances in the form of heavy metals or organic pesticides might contribute to increased mortality. A number of recent studies have evaluated these possibilities. So far, the results indicate that, for the most part, existing levels of contaminants in fur seal tissues occur at low or safe levels. Much more research is needed on toxic substances and other possible contributors to the fur seal population decline to provide more definitive answers to these questions.

The harvest of sub-adult male seals has also been considered as a possible contributing factor in the population decline. However, since the population experienced a major increase in numbers while a harvest was being conducted between the early 1900s and 1950s, it is difficult to attribute the current decline to effects of the harvest. Additional evidence supporting this conclusion concerns the decline in pup numbers on St. George Island, where no commercial harvest has occurred since 1973. The rate of decline on St. George is about the same as on St. Paul, the site of the current commercial harvest.

Recent work by scientists in the Soviet Union, however, suggests the need for caution regarding the effects of the harvest. Although the details of their work are not yet available, Soviet scientists claim to have evidence that reproductive rates can be determined by the degree of comparability in the age structure of the male and female segments of the population, and by the sex ratio. Their work indicates that departures from a sex ratio of 20 adult females to each breeding adult male may result in declining trends, especially when the age structures of the two sexes differ. On some Soviet islands, there may not be an adequate number of breeding aged males to inseminate young females at the end of the regular breeding season each year.

There is some evidence to suggest that the problems identified by the Soviet scientists could be involved in the decline on the Pribilofs. This evidence concerns possible increased utilization rates, i.e., an increase in the portion of available animals taken in the harvest each year. Although harvested males are not yet of breeding age, an increase in utilization rates will result in reduced recruitment to the breeding aged population of males and, therefore, a reduced ratio of males to females of breeding age in this population. An increase in utilization rates would explain the lack of decline in the harvest since the mid-1970s (Table 1). With the possible exception of such an indirect effect of the male harvest, the limited data available are not consistent with reduced reproduction rates as a possible contributing factor in the Pribilof decline. Indeed, any effects of the harvest now would be inconsistent with historical increasing trends in the population while being harvested, and are inconsistent with the decline in the unharvested population on St. George Island. The likely principal factor behind the decline is an increase in mortality at sea.

Further evaluation is needed to determine the effects of the harvest and its role, if any, on currently observed declines. It is the consensus of the scientists participating each year in the Standing Scientific Committee of the NPFSC that the harvest probably is not contributing to the decline and that no adjustments in harvest levels are required. This view is shared by other scientists (e.g. Swartzman, 1984). At the 1984 meeting of the NPFSC, Commissioners agreed to a U.S. proposal to limit the number of seals to be taken in the 1984 harvest. This action was intended to preclude the possibility of over-harvesting the Pribilof population.

C. Social and Economic Environment

1. Residents of the Pribilof Islands

Aleutian Island natives were brought to the previously uninhabited Pribilof Islands in 1787 by Russian sailors to harvest the northern fur seal. Descriptions of the discovery, early history and living conditions of the Islands can be found in Elliot (1881) and Jones (1980). The following information is primarily from a report by Orbach and Holmes (1982).

The Aleut hunters usually remained on the Pribilofs for several years at a time and often much longer. Although some returned to their original homes, many chose to begin families and make a new life on the Pribilofs. Throughout most of the 1800s the resident workforce was not self-sustaining, and replacement workers were periodically brought to the Pribilofs.

Russian and Aleut residents of the Pribilofs subsisted largely on seal and sea lion meat, fish, birds and eggs. Their diets were supplemented occasionally by dried goods brought in by ship. Aleut workers were paid with goods in exchange for their labor or by tokens or paper money. By 1825, fixed wage rates were established which applied to harvest and other work throughout the Russian colonies, including the Pribilofs. In addition to the fur seal harvest, Pribilof Aleuts hunted sea lions for their skins, and other products which were often sold in trade to southeastern Alaska. Sea lion oil supplemented scarce fuel reserves. Other activities included the building or maintenance of small boats, homes and commercial buildings. Pribilof Aleuts adopted the Russian Orthodox Religion and built churches on St. Paul (1819) and St. George (1833).

In 1867 when the United States purchased Alaska, there were 248 people on St. Paul Island and 127 on St. George. Private American sealing companies controlled the daily lives of the island residents until 1910. Between 1867-1869 the Aleuts elected a chief and a governing council. The first formal school on the islands was founded in 1869. In 1870 the U.S. Government awarded a 20 year sealing lease to the Alaska Commercial Company with the stipulation that the Company provide for the education and general well-being of the Pribilof Aleuts. Living conditions for the Aleuts reportedly improved during this period, and their personal income was comparable to that of other U.S. citizens.

In 1890, the North American Commercial Company was awarded the second 20 year lease; however, by this time the seal herd had declined sharply due to overharvesting. Reduced harvest incomes caused a period of severe poverty on the Pribilofs. The Government began to supplement the Aleuts' private income with welfare payments of food, clothing and other supplies.

The Fur Seal Act of 1910 placed the Pribilof Aleuts and the seal herd under the direct control of Federal agencies. The Aleuts were paid for their work with credits redeemable at the Government store, but the general poverty conditions continued. In addition, Government agents in charge of the islands began to place restrictions on travel, and conflicts developed due to the restrictions on social activities and over working conditions. During the 1920s Pribilof Aleuts started a community store; and after the passage of the Indian Reorganization Act of 1934, community councils were established on the Pribilofs to improve living conditions, education and recreational opportunities.

Pribilof Aleuts were interned during World War II in camps on the Alaska mainland, ostensibly for their own protection since a Japanese invasion was considered imminent. The shocking story of their abrupt transportation, the conditions in these camps, and the effect on the people has been detailed in the Report on Wartime Relocation and Internment of Civilians, Personal Justice Denied, Part II, The Aleuts, War and Evacuation in Alaska, pp.315-359, J. Bernstein, Chairman, December 1982. Disease, weather and other hardships caused many deaths, especially among the elderly. When they returned to the Pribilofs in 1944, they found that most of their homes had been ransacked by U.S. troops stationed on the islands, and most of their personal possessions, including musical instruments, manuscripts and items of religious significance, had been destroyed.

The Pribilof Aleuts began to demand their civil rights and made considerable progress during the 1950s. New wages were negotiated and travel and educational opportunities increased. Several small businesses were started. In 1951, Pribilof Aleuts sued the U.S. Government for damages under the Indian Claims Commission Act of 1946 because of mistreatment, inadequate compensation for their labor and long-term violations of their legal rights. They have received part of the \$8.2 million in damages finally awarded to them in 1978.

The Fur Seal Act of 1966 and the Alaska Native Claims Settlement Act of 1971 provided the Pribilof Aleuts with the first real opportunities for economic independence. Wage guarantees, training programs, and the transfer to the residents of title to their land and homes fostered the development of local government. Non-profit Native Corporations, including the Tanadgusix Corporation on St. Paul Island and the Tanaq Corporation on St. George Island, were established in 1971. In 1972, St. Paul was incorporated under the State of Alaska as a second class city. But the Pribilof Island economy remained primarily tied to Federal employment. Between 1970 and 1984, the NMFS was responsible for the administration of the Pribilof Islands and was the major employer on the islands.

A detailed economic analysis funded by the NMFS (Management and Planning Services 1980) found that the Aleut population on St. Paul Island in 1979 was 509, with a total earned income of \$2,180,566. The NMFS salaries for work in the fur seal harvest totaled \$232,950. The St. George population of 169 had a total earned income of \$848,300. Of the 234 full or part-time jobs available to Aleut residents in 1979, 150 were funded by the NMFS and 80 of these jobs were in fur seal harvesting or the initial processing of skins. The income and employment levels of Pribilof residents in 1982 are presented in Tables 8 and 9.

2. An End to Federal Administration of the Pribilofs

In 1981, the Department of Commerce began plans for the eventual termination of Federal administration of the Pribilof Islands, and the early transfer of current Federal activities to state and local governments and private enterprise. Pribilof residents, with the participation of state and Federal representatives, began to develop plans for a diversified economic base. A major goal was to ensure that the residents retain control of development plans and protect their social and cultural integrity.

The President's 1983 budget proposed a 4-year phase-out of Federal support for the Pribilof Islands Program. The Secretary of Commerce and the Governor of Alaska formed a working group to devise the best method of transferring the Federal administration of the Pribilofs while helping to build a viable Island economy. Initially, State and Pribilof Aleut representatives to the working group insisted that 5 years of full Federal funding was necessary prior to the start of any phase-out period. Federal representatives supported an immediate phase-out. The development of an alternative economy not based on Federal appropriations was of primary importance, and the obvious answer was the Bering Sea's rich fisheries resources. The Pribilofs are ideally situated for tapping these resources, but are without the harbor facilities necessary to do so.

Based on the concept of developing a new fisheries economy, the Department of Commerce proposed the creation of a \$20 million trust fund as an alternative to the 4-year phase-out. This \$20 million, when combined with a commitment by the State to build harbors on both islands, would provide Island residents with funds for community services and economic development until a new economic system was in place. The Department also proposed that most of its real and personal property on the Islands be transferred to either the Islanders or to the State, and that the Islanders conduct future fur seal harvests. After extensive discussions and visits to the islands, the proposal was found generally acceptable to both the State and the Pribilovians.

To implement the proposal, the Department drafted legislation (H. R. 2840), which was signed into law October 14, 1983. Under this law (P. L. 98-129), the Department continues its responsibilities of oversight and management of the fur seal harvest and for fur seal management as required by the Convention. The legislation implements the plans for transfer by permitting the Department to contract for the conduct of the harvest, to transfer most Federal real and personal property, and to establish the \$20 million trust fund.

Funding provided by the National Oceanic and Atmospheric Administration (NOAA) for the Pribilof Islands, 1979-1984, is given in Table 10. The Pribilof Island Program, of the Northwest Region of the NMFS in Seattle, Washington, was terminated in fiscal year (FY) 1984. Remaining administrative functions include payment of certain retirement benefits required by the Fur Seal Act, loan repayments to the State of Alaska, and the management of contracts to upgrade facilities on the islands. The NMFS's Alaska Region, in Juneau, is responsible for oversight of the Pribilof's commercial and subsistence fur seal harvests. In addition, the Northwest and Alaska Fisheries Center, Marine Mammal Laboratory, conducts research on the fur seal populations, including studies of population dynamics, physiology and behavior. This research program is funded at approximately \$330,000 per year.

3. Summary of Economic Development Plans and Progress

A survey of recent literature on the economic diversification of the Pribilofs has been prepared by the State of Alaska (Department of Community and Regional Affairs, 1982). The following information is based on reports prepared by Dames and Moore (1983 a,b) for the Pribilof Aleut communities.

The development strategies of both St. George and St. Paul Islands are based primarily on the economic opportunities provided by the rich fishery resources of the eastern Bering Sea. Estimates of the potential fishery yield (metric tons) within 200 miles of the Pribilof Islands, 1982-1986, are given in Table 11. To take advantage of this potential, harbors must be constructed on both islands. The State of Alaska has appropriated over \$30 million in the last 2 years for boat harbors, and the first phase of construction on St. Paul has been completed. Phase two will begin next spring and includes a \$2.5 million grant from the Economic Development Administration of the Department of Commerce. Preliminary construction on St. George began in 1984.

An Economic Strategies Plan has been developed by Dames and Moore (1983a) for St. George Island, and includes plans for port and fisheries development, tourism and infrastructure improvements. A breakwater and wharf will be constructed at Zapadni Bay. It will provide a 15-acre harbor for about 15 small boats. Included in this project will be site preparation for a future industrial area of 10 acres, with water and fuel tanks, access roads and transmission lines. The harbor will cost about \$14 million and is being funded by the State of Alaska. These facilities will be managed by the City of St. George.

Fishery development plans on St. George consist of the development of a day fishery and further expansion of the fishery once harbor facilities are completed. The local fleet consists of ten 20-foot aluminum vessels with a 4,000-pound capacity, two 32-foot Orca fiberglass bow-pickers, and a 28-foot all-purpose boat. Once the harbor facilities are ready for use, larger fishing boats will be added to the local fleet, including two 100- to 120-foot boats equipped to fish red and blue kingcrab, tanner crab, and hair crab, and to longline for halibut and Pacific cod. In addition, two to five nonresident boats (100 to 400 feet) will deliver red and blue king, hair crab, and possibly trawl-caught Pacific cod to a processing plant on St. George. Initially employment will consist of approximately 30 residents. These boats will operate about 4 months a year. Employment should significantly increase with the addition of two 100 to 140-foot boats. The Tanaq Corporation will own the boats and lease them to fishermen. Tanaq's investment in the boats totals \$210,000. A 28-foot all-purpose boat has been provided by the Hokutan Trawlers Association (along with fishing gear and technical assistance), in return for right of first refusal on 30 percent of the catch.

When the small-boat harbor is in operation, expected catch by the resident fleet is 4.45 million pounds. Nonresident boats are expected to bring in 4.5 million pounds of Tanner, king and hair crab for processing. About 51 native residents may be employed in the fisheries by 1990 (see Table 12). A seafood processing plant, with a capacity of 2,000,000 pounds, is expected to be in operation at Zapadni Bay by 1985. Employment will be approximately 20 to 30 persons during May to October, and about 10 persons during the rest of the year. Wages will be \$6 to \$8 per hour, and all employees will be local residents. An estimated \$546,000 could be generated in local income from seafood processing by 1990.

The Tanaq Corporation has been active in the development of tourism on St. George Island. Tourism has been limited to occasional charter tours, but the Corporation and local tour companies are attempting to expand this market and arrange an increased number of overnight trips to this scenic island. Although tourism is not expected to provide major economic benefits to island residents, a modest increase in the number of tourists could result in increased summer employment as tour guides and hotel workers. By 1990 tourism could provide \$50,000 in wages for native residents.

St. Paul's economic development plans (Dames and Moore 1983b) include the following objectives: (1) provide a level of fisheries activity that is profitable and assures full employment; (2) increase the number of tourists and related local employment; (3) establish a locally operated fur sealing industry that is profitable and continues to employ local residents at approximately historic levels. A major goal that St. Paul residents have in common with St. George residents, is the need to minimize adverse social impacts from this economic change, and to maintain their cultural integrity.

To date, lack of a harbor and onshore servicing has restricted fishing on St. Paul to local subsistence fishing and at-sea harvesting and processing by U.S. and foreign flag vessels. The exception has been the recent development of a halibut day fishery sponsored by the Tanadgusix Corporation (TDX). The first phase of harbor construction on St. Paul has been completed and full harbor facilities should be in operation by 1988. Unfortunately, winter storms in 1984 damaged the site and the delay this will cause in the following timetable has not yet been determined.

Phase I consisted of a 1,000-foot breakwater/wharf providing a 650-foot berthing area with water depths up to 25 feet. This space would be adequate for mooring up to four fishing boats in the 120-foot class if berthed singly, and up to 8-12 boats if rafted four abreast. The wharf can also accommodate 8-12 boats in the 30-foot class. A roll-on/roll-off ramp will facilitate loading and unloading of cargo on ocean-going barges. Although Phase I sustained heavy damage in a recent winter storm, Phase II will begin in spring 1985. This will involve the completion of the breakwater/wharf by extension to 1,700 feet to provide additional berthing and improved shelter. This extension will more than double the available berthing space for vessels. A third phase of construction is also planned to improve and expand the inner harbor to increase the capacity and efficiency of the harbor and onshore activities. This work could involve construction of piers and bulkheads and possibly some dredge and fill activity. The first two phases of harbor development on St. Paul are being funded by the State of Alaska. Total costs are estimated at about \$20 million. The City of St. Paul will manage these facilities.

In 1981, a small day fishery was started on St. Paul and by 1983 33 local small boats (16 to-32 foot) were fishing for halibut and crab. By 1985 the fleet is expected to consist of 5 small local boats (30-foot), 4 medium-size local boats (90-foot), and a nonresident fleet using St. Paul as a home port. Assuming the completion of the full 1,700-foot breakwater/wharf by 1986, the St. Paul-based fleet will consist of 10 30-foot, 4 90-foot and 4 115-foot boats delivering to shore-based processors and a floating processor moored in the harbor. About 40 medium-size nonresident crabbers would also use the harbor for refuge from storms and provisioning at St. Paul. In 1985, fisheries are expected to supply about \$810,000 in income to the Aleut residents of St. Paul. By 1990, 126 jobs and over \$5 million could result from the proposed fishery development plans (Table 13).

A small onshore seafood processing facility is available on St. Paul. By 1985 they plan to have a seasonal processing ship in the harbor for crab and by 1986-88, to expand the onshore processor to include facilities for halibut and cod. At least two large floating processors at sea are also planned. Any delay in breakwater/wharf construction, however, could affect this timetable by delaying fishing fleet expansion and demand for fish processing facilities. As shown in Table 13, projected income from seafood processing could grow to \$4.3 million by 1990 and employment levels may reach 257.

St. Paul also plans to develop its tourist industry. About 1,000 tourists visit St. Paul each year. St. Paul organizations are working to increase the tour market, train local tour guides and implement arts and crafts programs in the schools for sale to tourists. They also plan to upgrade the tourist accommodations in St. Paul.

4. Potential Impacts of Development Proposals

Details of the initial proposal for major harbor development on St. Paul Island and its possible impacts on island residents and living marine resources of the area are available in the Final Harbor Feasibility Report and EIS, St. Paul Island, Alaska, United States Army Corps of Engineers (COE), December 1982.

The St. Paul harbor development scenario will result in potentially significant social/cultural impacts on island residents. For example, Orbach and Holmes (1981) estimate that as many as 215 year-round new residents could be added to St. Paul (up to 366 in the summer), and about 50 day-use visitors. Since there are now only 562 Aleut residents on St. Paul Island, land use and law enforcement planning will be critical to the orderly development of this isolated community. The COE study concluded that the social impacts of harbor development would be considerable if a commercial fishing service facility is established on St. Paul, and stated that "It appears very likely that harbor development would change the socioeconomic structure from the Federal Government dependency to a self sufficient community. Traditional lifestyles may be lost especially if the fur seal harvest is terminated. Social changes may require a period of time before the new lifestyle becomes stable."

In comments by the Department of Commerce on the COE draft EIS (COE 1982, A-29 to A-42), the NMFS provided an assessment of impacts on the fur seal herd, other marine mammals and the Bering Sea fisheries. We concluded that available information does not suggest that harbor construction would present any significant threat to living marine resources. But secondary impacts resulting from harbor construction may occur. These may include increased competition for food sources between the developing fisheries and marine fish and mammals, long term pollution resulting from harbor operations, fuel spills and refuse accumulation, degradation of the marine environment resulting from disposal of fish processing wastes, and possible changes to the behavioral patterns of the northern fur seal. However, it is considered unlikely that development plans on St. Paul could have a significant impact on the amount of groundfish removed from the eastern Bering Sea. The North Pacific Fishery Management Council (NPFMC), established by the Magnuson Act, manages groundfish stocks within the 200 nautical mile EEZ. Since the NPFMC manages on an optimum yield basis, whether taken by domestic or foreign fleets, harbor development could only cause a shift of catch from foreign to domestic, and not an increase in catch. It is possible, however, that a greater proportion of the total catch could be taken closer to the Pribilof Islands.

The choice of the Village Cove site for the new harbor and limitations on construction activities during times when fur seals are present on the island, substantially reduce the possibility of direct impacts on fur seals. Increased human activities and potential pollution of the marine environment are our primary concerns.

Environmental reviews performed by the State of Alaska, the COE, and the NMFS suggest that the construction of a breakwater at Zapadni Bay on St. George Island will have no significant effect on fur seals or other living marine resources in this area. Seasonal restrictions have been placed on this work to avoid disturbing the nearby

rookery areas; and the NMFS, DOI, and State wildlife agencies are consulting at every stage of development on recommended mitigation measures. Migratory birds and valuable nesting habitats will be carefully protected. Impacts on the Bering Sea fisheries from St. George's fishery development scenario will be negligible. This small island development will not make a major contribution to the catch of commercial fishery resources in this area.

Braund (1982) examined the potential impacts on subsistence activities from harbor/-fisheries development on St. George Island. An increase in the commercial effort for halibut, for example, could cause local subsistence stocks to decline. Alternatively, the new port facilities could help local subsistence halibut fishermen increase their catch. Currently, subsistence resources may comprise up to 50 percent of the local diet. The harbor site at Zapadni Bay could also affect sea lion hunting, and sea bird hunting and egg collecting.

Changes in lifestyle, resulting from the fisheries economic strategies of St. George and St. Paul Islands, could cause an increase in stress-related health problems. A number of other social changes may be associated with the anticipated increased presence on the islands of non-residents. On the other hand, implementation of the fisheries development proposals outlined above, will give the Aleut residents of the Pribilof Islands their first economic independence.

The Pribilofs have been suggested as possible development sites for offshore oil and gas operations in the Bering Sea (Dames and Moore, August 1980; Alaska Consultants, Inc., May 1981; Marine Minerals Service (MMS), Department of the Interior (DOI), August 1982). In August 1982, the DOI proposed the sale of oil and gas leases covering 2.7 million acres in the St. George Basin, 61 to 179 miles offshore in water depths from 322 to 505 feet (Lease Sale No. 70).

Offshore exploration will require temporary shore support bases to provide drilling vessels with fresh water, food, and other supplies. During the exploration phase, oil companies will probably use existing port facilities, if possible; but they may be expected to build, modify or expand facilities if no existing facilities meet their needs. MMS (1982) identifies St. Paul as a potential onshore facilities site for offshore oil and gas exploration and development in the St. George Basin because of its proximity (75 miles) to the northwestern portion of the most likely production area (56°40'N, 168°30'W). St. George is only 38 miles from the northwestern lease sale area, and has been considered a potential crude oil terminal or liquid natural gas (LNG) plant site (Dames and Moore, August 1980). In the final EIS on Lease Sale No. 70 (MMS 1982), MMS considers four development and transportation scenarios to represent the range of possible approaches to producing and shipping oil and gas in the St. George Basin area. One of these scenarios hypothesizes the construction of one or more processing and loading facilities on the Pribilof Islands. MMS estimates, however, that there is only a 28 percent chance that commercial quantities of oil will be found in the area. About 37 new jobs could be created on St. Paul Island, including 17 jobs which could be filled by current St. Paul residents.

Major impacts on living marine resources of the area could occur from a possible oil spill as a result of any oil production and transportation. MMS bases its impact assessments on the assumption that the mean resource estimate is 1.12 billion barrels of oil. For this amount of oil, according to the U.S. Geological Survey, 4.3 to 6.5 oil spills exceeding 1,000 barrels are probable over the 22-year production life of oil fields in the St. George Basin. In comments by the Department of Commerce on the final EIS (MMS 1982, pp. K-95 to K-102), the NMFS assessed the potential for adverse impacts on the marine mammal populations in this area. The NMFS had recommended deletion of tracts from the proposed sale in the area of the Pribilof Islands and Unimak Pass, a major migration route for marine mammals in this region.

Referencing an October 1979 NMFS report entitled, "Living Marine Resources, Commercial Fisheries, and Potential Impacts of Oil and Gas Development in the St. George Basin, Eastern Bering Sea", these comments described in detail the detrimental effects of possible oil spills on marine mammals and endangered species in this area.

During the birth and breeding season when the seals' focal point is St. Paul and St. George Islands, they are no doubt particularly vulnerable to oil contamination since almost the entire Pribilof fur seal population, except for most 1-year old animals, is assembled in a relatively small area for up to 7 or 8 months (May-December). Oil spills in the St. George Basin area during May-November could have a disastrous effect on the fur seals of the Pribilof Islands. Oil drifting ashore on the Pribilof Islands during July and August could have a serious impact on fur seal pups. Any contact with oil at any time of the year would have a profound influence on the health of individual northern fur seals through an increase in pelt conductance and concomitant increase in metabolic rate. That death would inevitably follow such contact cannot be verified. However, considering that (a) oiled animals have greatly increased maintenance cost, and (b) they are extremely reluctant to enter sea water (where their food is found), it is clear that the health of oiled animals would be in serious jeopardy. Light crude oils, although coating the fur heavily enough to have a severe metabolic impact, may not be visibly detectable on the pelt. Therefore, oiled animals on the rookery may not be obvious, which would make ineffective any rehabilitation program following an oil spill.

Unimak Pass is a natural funnel for marine mammals and shipping traffic between the Gulf of Alaska and the Bering Sea. Unimak Pass has a steady flow of traffic year-round, as well as some migration concentrations (such as gray whales) that are not defined accurately due to lack of information. Shipping related to oil facility construction and field development will add significantly to the present congestion that includes fishing fleets and freight transport as well as the marine mammal migrations.

5. Subsistence Use of Fur Seals

Veltre and Veltre (1983) provide details of the prehistoric utilization of fur seals by Aleuts. Knowledge of Aleut use of fur seals in the prehistoric and early historic periods in the Aleutian Islands comes from both archaeology and early contact period documentary materials. Archaeological remains of fur seals are more common in the eastern Aleutian Islands than in the central or western portions of the archipelago. For example, at one site on Umnak Island, dated about A.D. 200-1700, the amount of fur seal

meat in the diet was second only to that of sea lions among marine mammals excluding whales. Fur seal bones found at the site came from both sexes and all ages, implying that hunting took place during the spring and fall migrations of this species through the island passes. Since fur seals rarely haul out in the Aleutians, it has been assumed that fur seal hunting in the Aleutians was done by Aleut men hurling spears from their baidarkas (skin-covered, kayak-like boats). The village of Nikolski on southwestern Umnak Island has yielded a record of fur seal use extending back nearly 4,000 years.

Since the first Aleuts came to the Pribilofs in the late 1700s, fur seal meat has been a dietary staple. Pribilovians use many parts of the fur seal for food, including meat and various internal organs. Especially prized are the foreflippers, which are often salt cured. St. George Island residents have claimed an annual subsistence need of about 3,000 animals. Since the termination of the St. George Island commercial harvest in 1973, St. George residents have been allowed a small subsistence harvest (350 in 1984). They can also share in the over 20,000 carcasses available on St. Paul Island. There are approximately three times as many Aleut residents on St. Paul Island, as on St. George Island. Based on the 3,000 annual estimate for St. George, St. Paul Island residents may need up to 9,000 fur seals annually for subsistence purposes. One estimate of the current subsistence needs of Pribilof Aleuts for fur seals, therefore, may be as high as 12,000 animals each year.

6. Economics of the Seal Harvest

Until 1984, the NMFS employed about 80 local residents for 5-11 weeks to harvest fur seals and process the skins for shipment. The annual harvest operation was funded at about \$500,000. Some of the carcasses are used by local residents for food and native handicrafts. The remainder of the carcasses are the property of the Tanadgusix Corporation which processes the meat and internal organs for crab bait, dog food, fox food, and human consumption. The male reproductive organs, "seal sticks", are processed and sold to markets in Asia. The new harbor will reduce the transportation costs involved in shipping products off the island and may enhance the development of further markets. The seal by-products operation could eventually become a significant part of the local economy.

Initial processing of seal skins employs about 30-40 local residents during the summer months. After the blubber is removed, the skins are washed, soaked in brine, dried, rolled in salt and borax, and packed in boxes. They are shipped to Seattle, then by rail to The Fouke Company in Greenville, South Carolina. The Fouke Company processes the skins into finished pelts which are sold to manufacturers in the garment industry.

For over 50 years, The Fouke Company was the exclusive bidder for the U.S. Government contract for processing and marketing fur seal skins. The Tanadgusix Corporation, who now has ownership of the U.S. share of skins harvested through 1983, has continued the contractual arrangements with the Fouke Company since Fouke has an exclusive processing method that has yet to be duplicated. Table 14 shows the revenues from skin sales that have been deposited into the U.S. Treasury.

The seal harvest operation has resulted in a profit to the U.S. Government in all years up to FY 82. Skin sales began to decline in FY 81 and dropped to very low levels in FY 82. This recent decline in the sale of fur seal skins is probably due to a number of factors. Sales are affected by economic conditions in the United States and Europe, including high interest rates and the strength of the U.S. dollar abroad. Other factors such as changes in fashion towards longer hair furs, lack of promotion and advertising, and the influence of the environmental movement have also affected skin sales.

In 1984, a contract to perform the seal harvest was signed with the Tanadgusix Corporation of St. Paul Island, in return for the sum of \$500,000 and the 1981-83 harvested skins owned by the United States (Contract No. 84-ABC-00060). Until passage of the Fur Seal Act Amendments in October 1983, the Federal Government was not allowed to contract for the seal harvest. The Tanadgusix Corporation (TDX) is expected to realize about \$450,000 from the sale of the 1981-83 harvested skins. TDX employees harvested 22,066 skins in 1984 and prepared them for shipment from the island. The 1984 skins remain on St. Paul Island, pending completion of negotiations on a 1985 harvesting contract. No decisions have yet been reached on the terms of this agreement.

IV. ENVIRONMENTAL CONSEQUENCES

During the negotiations with the Party Governments, the United States initially proposed to modify the Convention to reflect the position discussed in Section A below. Since a consensus could not be reached to modify the Convention as the United States had hoped, agreement was reached on an attached Statement which expresses the concerns of the Party Governments on fur seal conservation and management.

A. Convention Extension with Attached Statement (Proposed Action)

The United States proposed to continue the Convention for four years with modifications to the text of this treaty concerning the conduct of the seal harvests, and additional research and enforcement requirements. The United States proposed modifications through an exchange of notes with Party Governments, eliminating the need for formal renegotiation. In addition to a 4-year extension, the proposed modifications included revisions to Article V, paragraph 2(d) (see Section I.A.) to allow emergency actions by harvesting nations regarding reduction or suspension of their harvests, without prior concurrence of the NPFSC.

Following negotiations, the issues raised by the United States were addressed in a Statement which is attached to the Protocol and is signed by representatives of the Party Governments. The Statement does not modify the Convention but expresses the concerns of the Party Governments over the decline of the fur seal populations, current economic conditions, and other problems of fur seal conservation and utilization. The Statement also expands on the concerns of the Governments by stating that:

(1) in accordance with Article II of the Convention, additional research should be conducted concerning current aspects of fur seal conservation including the problem of entanglement of fur seals in lost or discarded fishing nets, gear, and other debris;

(2) in accordance with Article X of the Convention, and in conformity with their national laws, the Governments will take appropriate measures to prohibit the disposal at sea in the Convention areas of synthetic materials, such as fishing nets, or parts thereof, fishing gear, ropes, packing bands, and other debris which might lead to the entanglement of fur seals, in accordance with the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, of December 29, 1972;

(3) in accordance with Article X of the Convention, it may be necessary during the interim period of the Convention to take into account unforeseen circumstances as noted by the States of fur seal origin in considering measures to be taken for conservation and management of the fur seal populations; and

(4) taking into account Article XIII, paragraphs 4 and 5, as well as Article V, paragraph 2(e), within two years after the entry into force of the 1984 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals and considering current factors, the Governments will review the operation of the Convention to determine what further agreements would be desirable in order to achieve the objectives of the Convention.

Under this proposed action, the harvest of sub-adult male seals on the Pribilof Islands will probably continue at current levels, throughout the interim period of the Convention. This would benefit the residents of the Pribilof Islands who would maintain their jobs and wages in the harvesting and initial processing of seal skins. The seal harvest supplies about 80 jobs and \$500,000 annually. Expected social/cultural impacts

on island residents from new economic development proposals, including fisheries and possibly oil and gas exploration, could be mitigated by continuing their traditional harvest activities for at least four additional years.

The harvest of sub-adult male seals has been considered as a possible contributing factor in the population decline. However, since the population experienced a major increase while a harvest was being conducted between the early 1900s and the 1950s, it is difficult to attribute the current decline to effects of the harvest. Additional evidence supporting this conclusion concerns the decline in pup numbers on St. George Island, where no commercial harvest has occurred since 1973. The rate of decline on St. George is about the same as on St. Paul, the site of the current commercial harvest.

Agreement by Party Governments on an emergency mechanism which would allow the United States to reduce or suspend its harvest under unforeseen circumstances, would potentially have a positive impact on the northern fur seal population. This should provide assurance that harvesting will not have disastrous effects on this species. As noted in Section III.B.9., however, it is the consensus of the Standing Scientific Committee of the NPFSC that current harvest levels are not responsible for the observed decline in the population. On the contrary, preliminary analysis of data relating to pup mortality on land indicates that a termination of the harvest, at this time, could impede a recovery of the population. Recent work by Soviet scientists, however, suggests the need for continuing studies on the effect of the harvest and its role, if any, in the population decline. (see Section III.B.9). Section 3 of the Statement gives the United States greater flexibility in setting harvest levels on the Pribilofs, should a change in harvest strategy become necessary due to unforeseen circumstances.

While some scientists believe that it is possible that a termination of the harvest of males may actually impede a rapid recovery of the seal herds, they advise immediate action to prevent further losses of the breeding stock, especially pregnant females, in discarded fishing gear (see Section III.B.9.). An increase in international research and cooperation on methods to solve this problem is crucial to the maintenance of the northern fur seal populations. Prevention of further disposal at sea of this material, and new research mandates for all Party Governments will provide the first steps toward solving this problem. In Section 1 of the Statement the Party Governments strongly endorse additional research on current aspects of fur seal conservation including entanglement of fur seals in fishing debris. Section 2 of the Statement reaffirms the commitment of the Party Governments to take appropriate measures, in accordance with their national laws, the Convention and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, to prohibit disposal at sea of synthetic materials which might lead to the entanglement of fur seals.

Maintenance of the treaty prohibitions on pelagic sealing are considered essential to the protection of the breeding stock of these populations. Although a resumption of commercial pelagic sealing on a scale similar to that at the beginning of this century is considered unlikely, the taking of fur seals by commercial fishing fleets in the North Pacific Ocean for "predator control" can be expected to increase without the protections provided by this respected international treaty.

Under the signed Protocol, the harvests on U.S. and Soviet owned islands of sub-adult male fur seals will probably continue at current levels, unless and until it is determined that the harvest is impeding a recovery of the species or there is an unforeseen event which would alter the harvest level. This proposed action, therefore, will not result in an adverse impact on fur seal stocks. If entanglement is a major factor in the population

decline, then the current average annual decline of 6.5 percent may continue throughout the interim period of the Convention, whether or not the harvest continues. Under this assumption, the 871,000 population estimate on the Pribilofs could decline to 666,000 by 1988.

B. Extend the Convention

We could have proposed an extension of the Convention without modification for an additional four years, maintaining the current research and management regime for fur seals without change. Pribilof Island residents would continue to harvest fur seals and retain harvest and skin processing jobs and income. They would be protected from further social/cultural impacts by retention of their traditional harvesting activities for four more years.

A simple extension of the Convention was the preferred option of the other Party Governments, but the United States convinced them of the need to address issues of fur seal conservation and use, especially in light of the recent declines in stock size. This alternative, therefore, would have failed to address those concerns noted in Section A above. Specifically, under the present Convention as interpreted by other Party Governments, only after agreement by all Governments could action be taken to reduce or suspend the harvest. In an emergency situation, therefore, the Pribilof Island fur seal population could be adversely impacted by a delay in harvest adjustments.

It was the view of the United States, during the negotiations with the Party Governments, that certain clarifications were necessary to ensure the continued success of the Convention. A simple extension would have failed to address important fur seal management issues.

C. Renegotiate the Convention

The United States could have requested that Party Governments meet to renegotiate the basic principles of the Convention. Management principles of the MMPA, including OSP could be proposed as a replacement for the current harvest-oriented management regime. Harvests would be allowed only if the species or stock is determined to be within OSP. International research and the prohibition on pelagic sealing could possibly be retained.

Since the Pribilof Island portion of the population has been determined to be below OSP (Section III.B.9.), this alternative would result in the suspension of the harvest on the Pribilof Islands. Pribilof Aleut residents would lose jobs and income associated with the harvesting and processing of seal skins and the sale of meat and other by-products. Although the impacts on island residents of proposed development projects on or near the Pribilofs (Section III.C.3.) are independent of the future of the Convention, this alternative could increase the severity of these impacts. An end to the seal harvest on the Pribilof Islands would add to the potential burden of social change for island residents.

An end to the commercial harvest would result in an increase in primarily three and four year old male seals on St. Paul Island, at least in the short-term. Based on preliminary analyses, an increasing male population of this polygynous species could give rise to an increase in pup mortality on land. Thus, rather than aiding in a recovery of these stocks, a suspension of the male harvest may actually impede the recovery by altering the sex-ratios on St. Paul, and overall productivity of the seal population. Recent work by Soviet scientists, on the other hand, suggests the possibility that the current ratio of adult females to adult breeding males is not optimum, and that some

increase in the male population may be necessary. Following a detailed examination of the data on current population declines on both U.S. and some USSR owned islands, it is the consensus of the Standing Scientific Committee of the NPFSC that the harvest probably is not contributing to the decline and that no adjustments in harvest levels are required.

The proposal outlined in this alternative was discussed during the negotiations that resulted in the signed Protocol and Statement, and met strong opposition by the Party Governments similar to the strong opposition experienced during past negotiations (Section I.B.3). The Party Governments did, however, agree to review the operation of the Convention, within two years after entry into force of the Protocol, to determine what further agreements would be desirable in order to achieve the objectives of the Convention. The commitment to review the operations of the Convention is found in Section 4 of the Statement.

D. Allow Expiration of the Convention (No Action)

The United States could have allowed the treaty to expire in October 1984. Ending the Convention would have halted the present international management and research programs for the northern fur seal. Animals occurring within the 200-nautical mile EEZ would be protected by the United States under the provisions of the MMPA. There would be no U.S. harvest of northern fur seals except for subsistence purposes by the Aleuts and other Alaska Natives. However, under the authority of Section 109 of the MMPA, the State of Alaska could receive jurisdiction and management authority for fur seals. Following a recovery of the population to levels above OSP, commercial harvests could resume under applicable regulations.

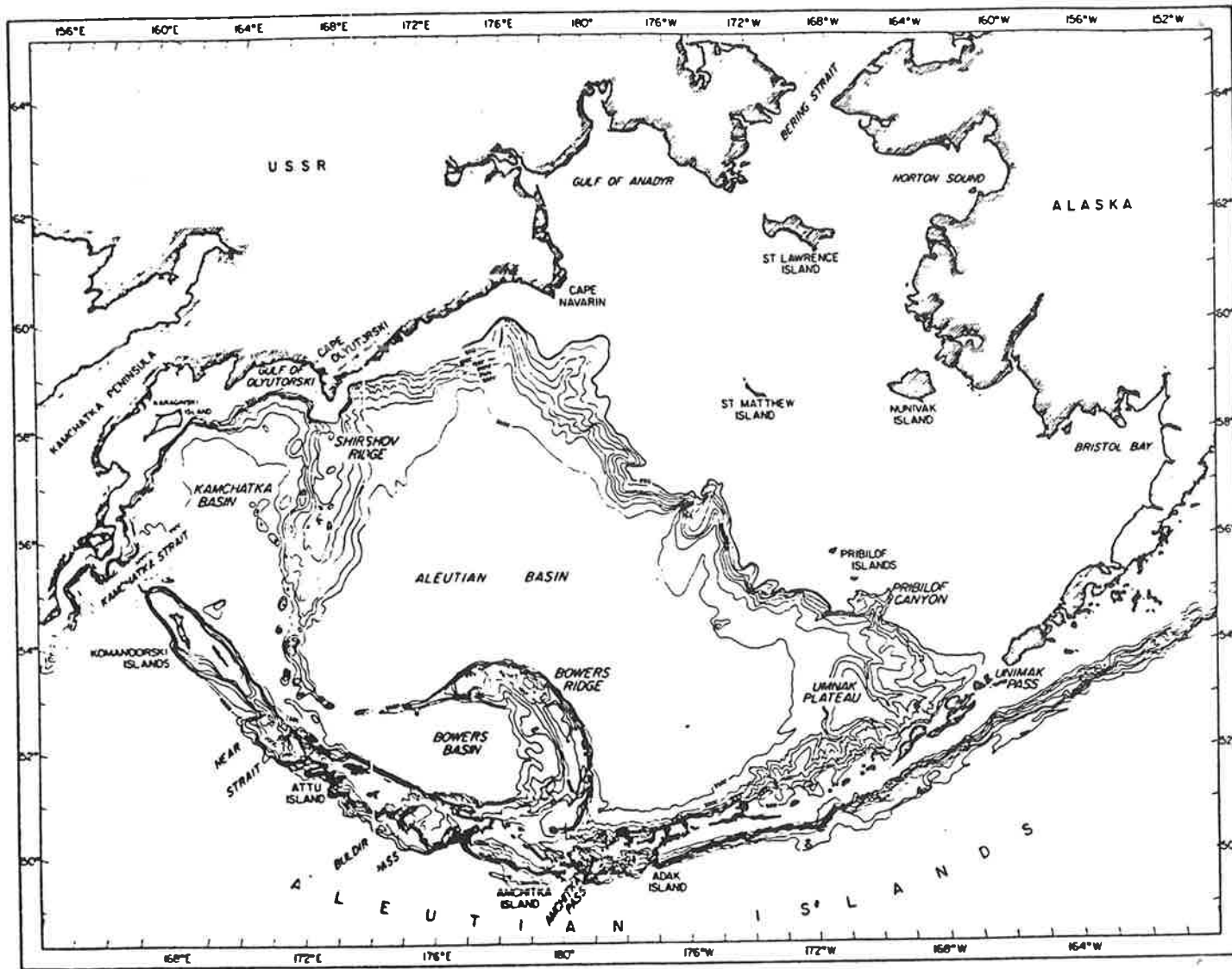
While this species remains below OSP, the Aleut residents of the Pribilof Islands would experience severe social/cultural and economic impacts from a loss of their seal harvest. These impacts would occur at a time when other major changes are occurring on the islands as a result of fisheries/harbor and offshore energy development. Although eventually these development plans will result in alternative employment opportunities for island residents, the loss of the traditional seal harvest would be a major adverse impact on island residents at this time.

An end to the male harvest on St. Paul Island could result in an increase in pup mortality on land at a time when the Pribilof Island population is experiencing a significant decline. An end to the harvest would not necessarily result in a recovery of this population to levels observed during the 1950s. On the contrary, ending the harvest may impede the recovery of the northern fur seal populations.

An end to international research and cooperation would seriously hamper U.S. efforts to solve the problem of fur seal entanglement in discarded fishing debris, which is currently responsible for a part of the 6.5 percent annual loss of fur seals. Since northern fur seals pass through waters outside the jurisdiction of the United States, under the MMPA we could protect the Pribilof Island herd during only part of its migration cycle. Most pregnant female fur seals appear to travel from California to the Pribilof Islands using a direct route which places them outside the 200-mile zones of both the United States and Canada. This is the portion of the population which has the greatest effect on future population size. Opportunistic taking of these animals by fishermen for predator control purposes could be expected to increase substantially in the absence of the treaty prohibitions on pelagic sealing.

V. REFERENCES
A. Figures and Tables

FIGURE 1. The Bering Sea. Figure prepared by Noel McGary for Sayles et al. 1979. In Hood and Calder (1981).



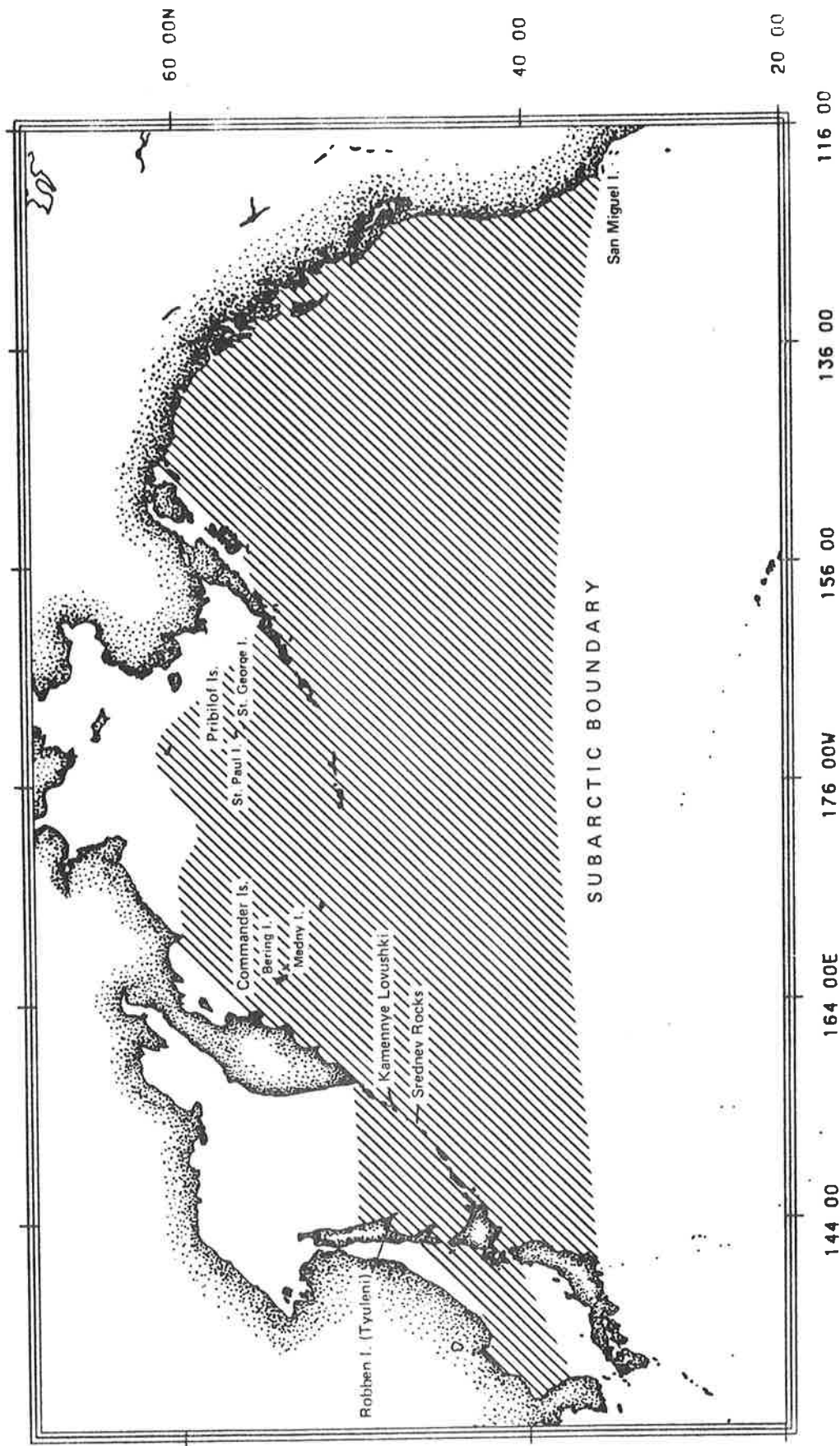


Figure 2. The general ocean distribution and breeding islands of the northern fur seal (from Kajimura, 1982).

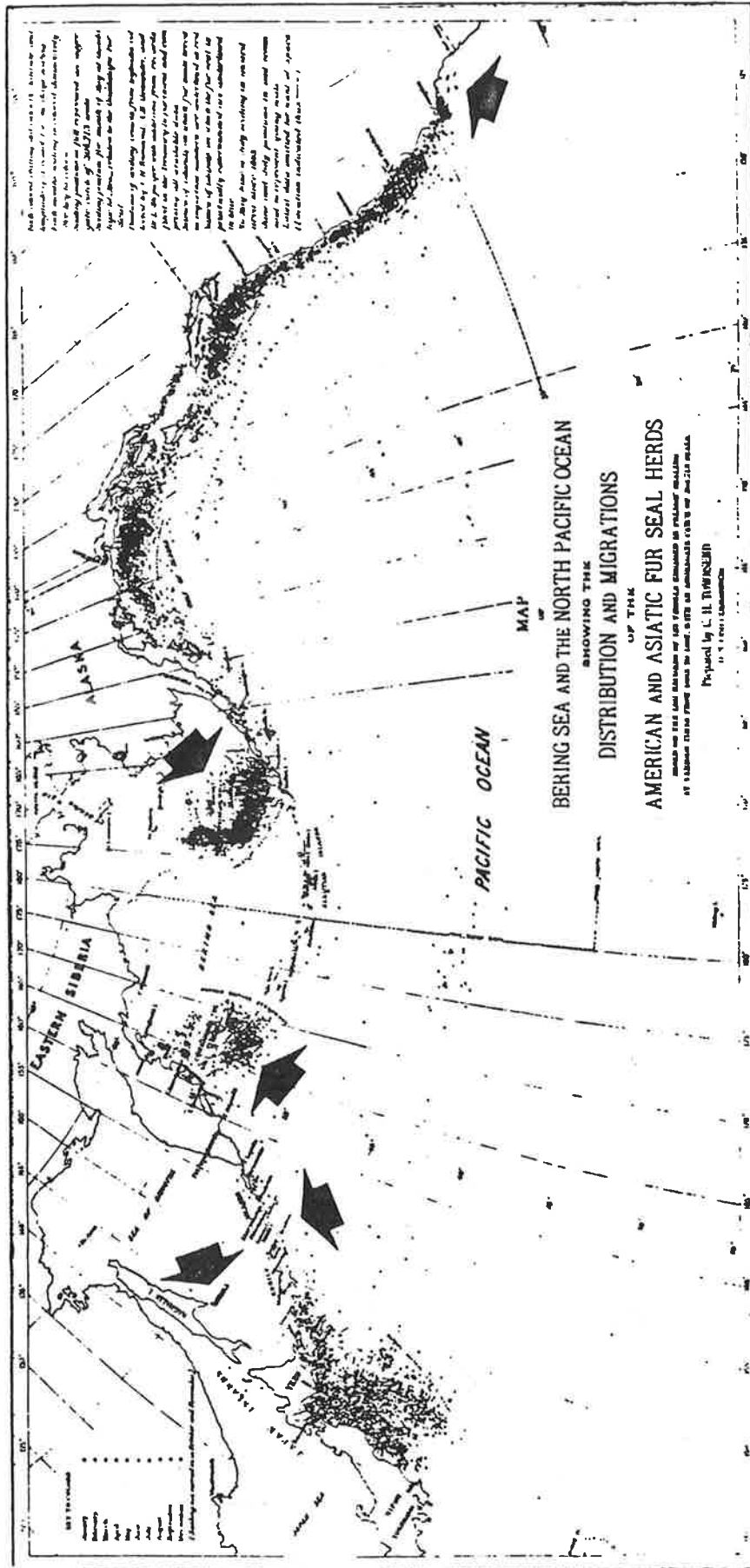


Figure 3. Distribution and migration of American and Asiatic fur seal herds based on early records of pelagic sealing. From Townsend (1899) with modifications (arrows) to indicate the breeding islands. In Kajimura (1980).

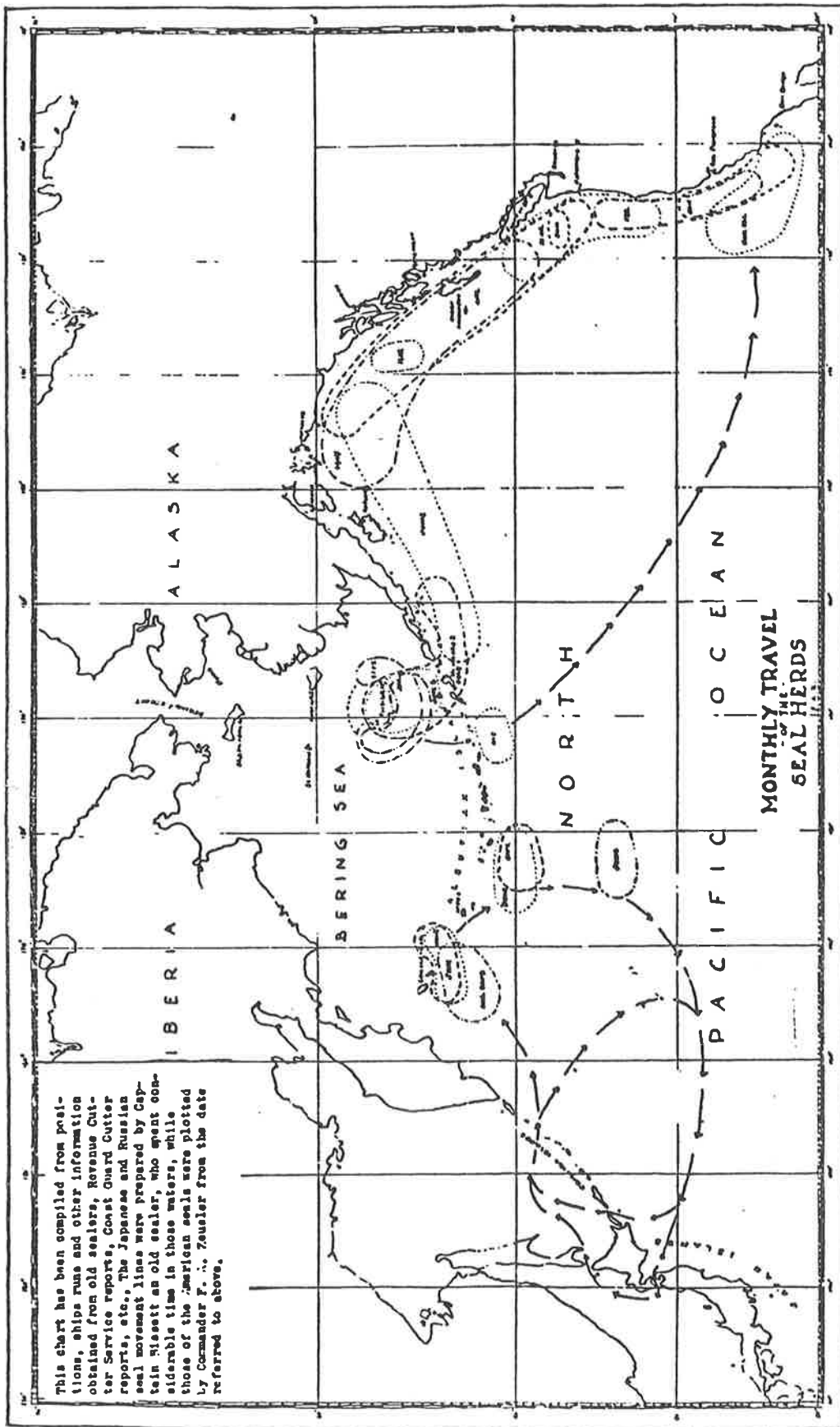


Figure 4. Monthly travel of the seal herds. From Zeussler (1936). In Kajimura (1980).

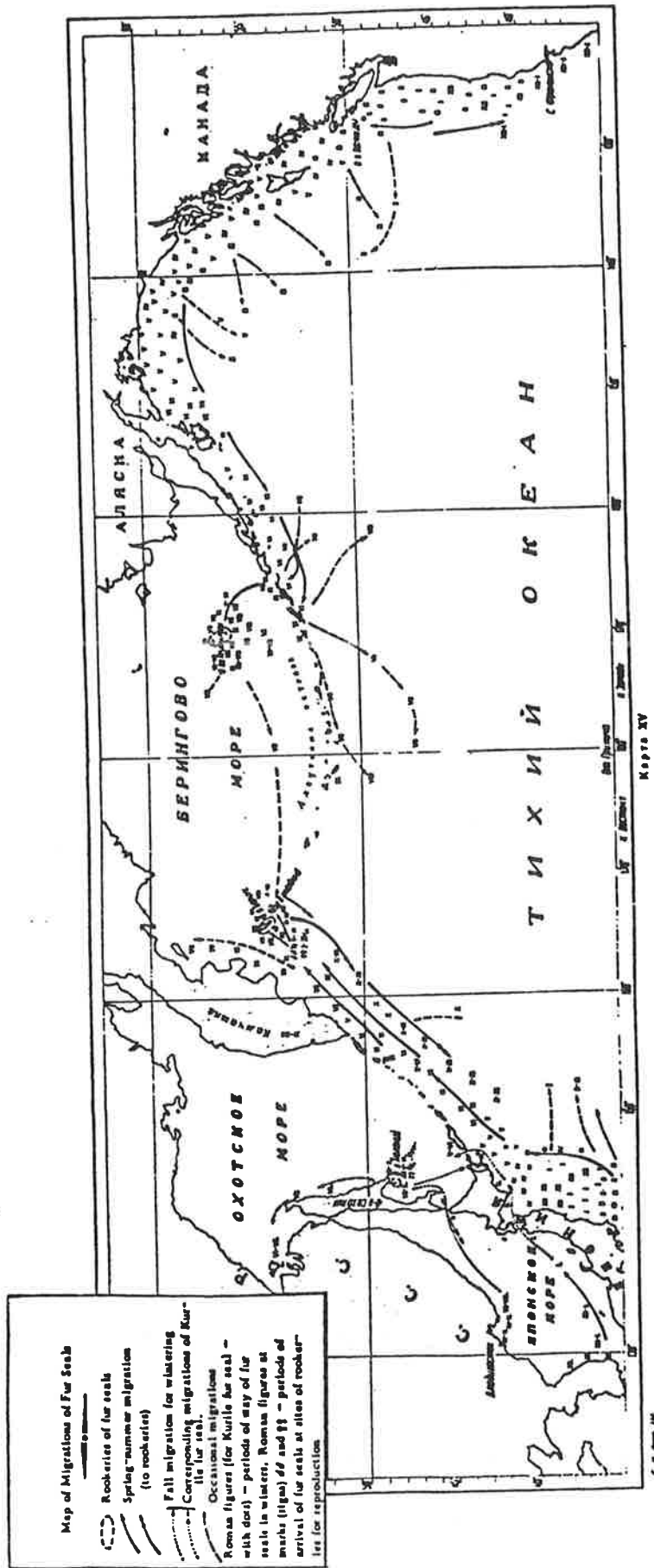


Figure 5. Breeding grounds and migration routes of fur seals in the North Pacific Ocean. Travel from the Pribilof Islands to Medney Island (Commander Islands) is based on recovery of Pribilof tagged seal. From Ognev (1935). In Kajimura (1980).

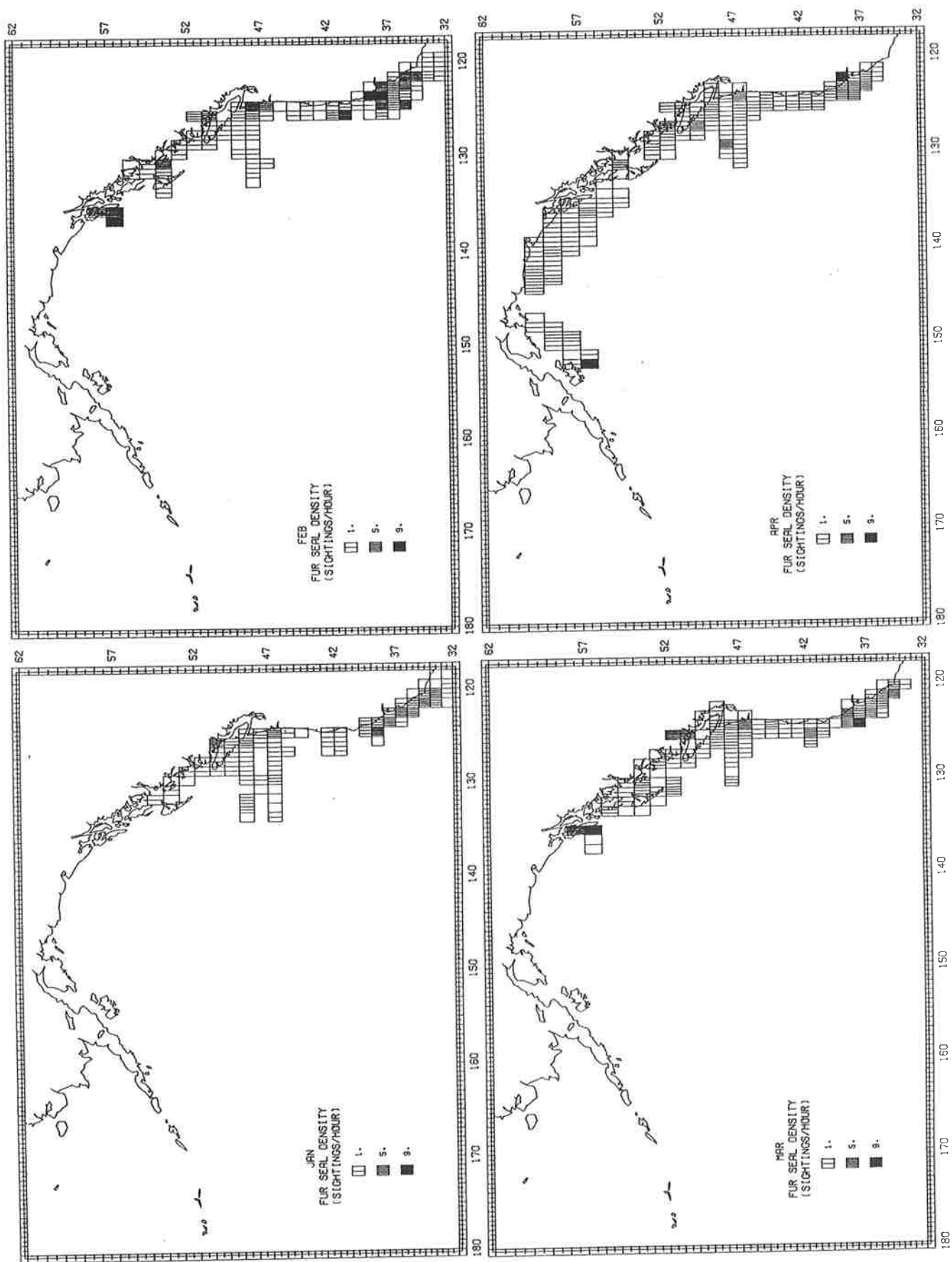


FIGURE 6a. Fur seal sightings per hour of observation, Jan - Apr. 1958-74. (Kajimura 1980)

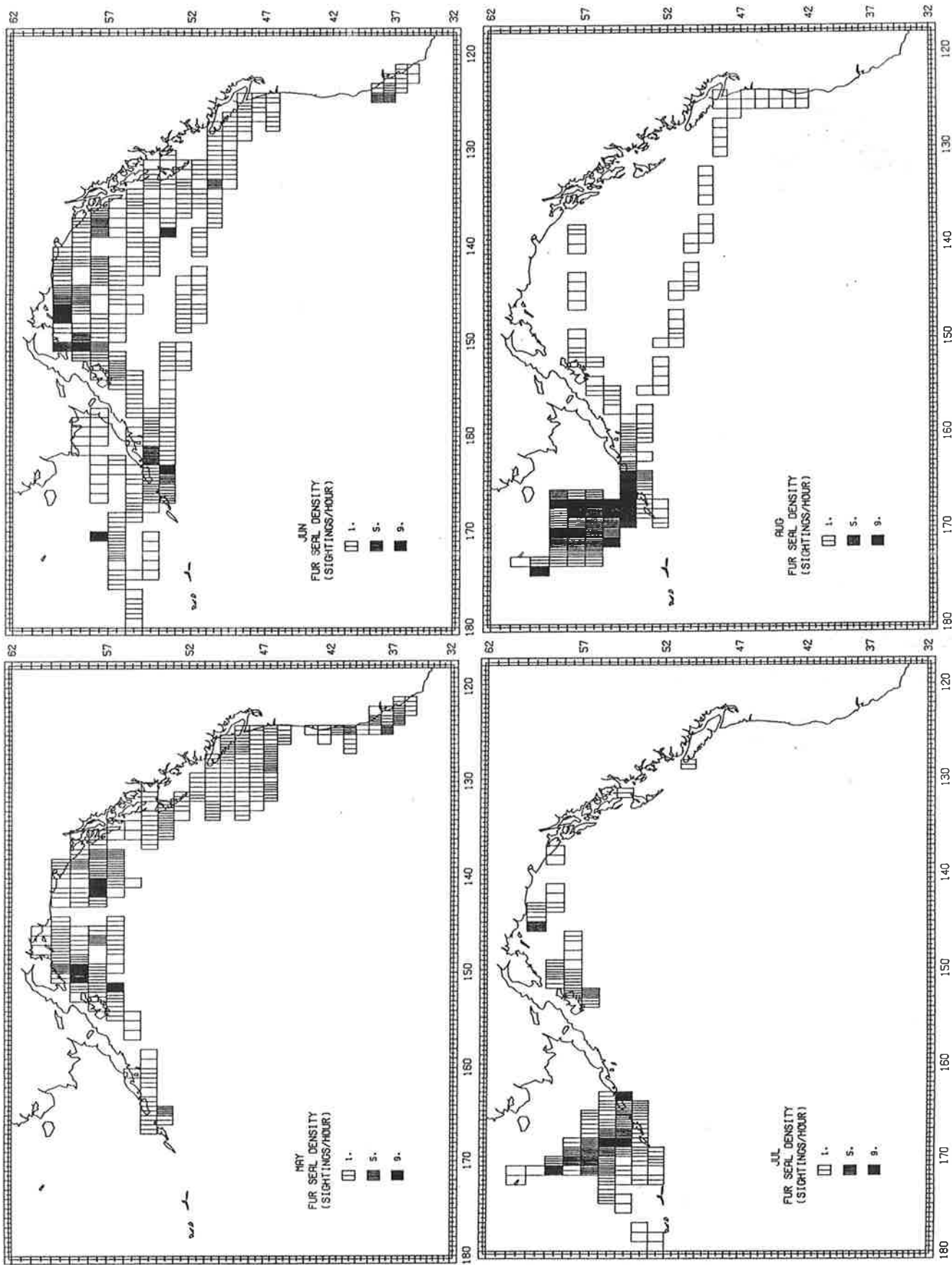


FIGURE 6b. Fur seal sightings per hour of observation, May - Aug. 1958-74. (Kajimura 1980)

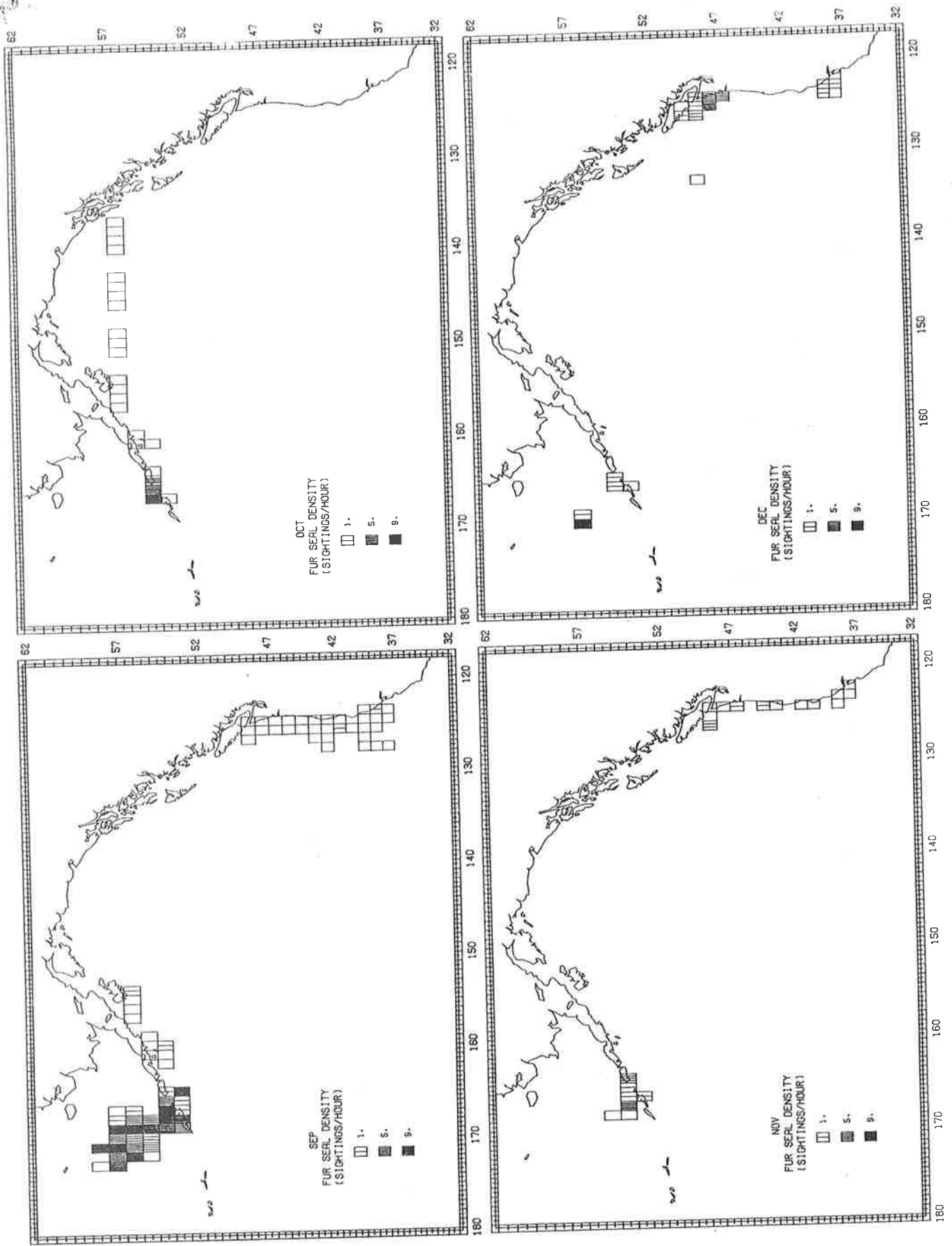


FIGURE 6c. Fur seal sightings per hour of observation, Sep. - Dec. 1958-74. (Kajimura 1980)

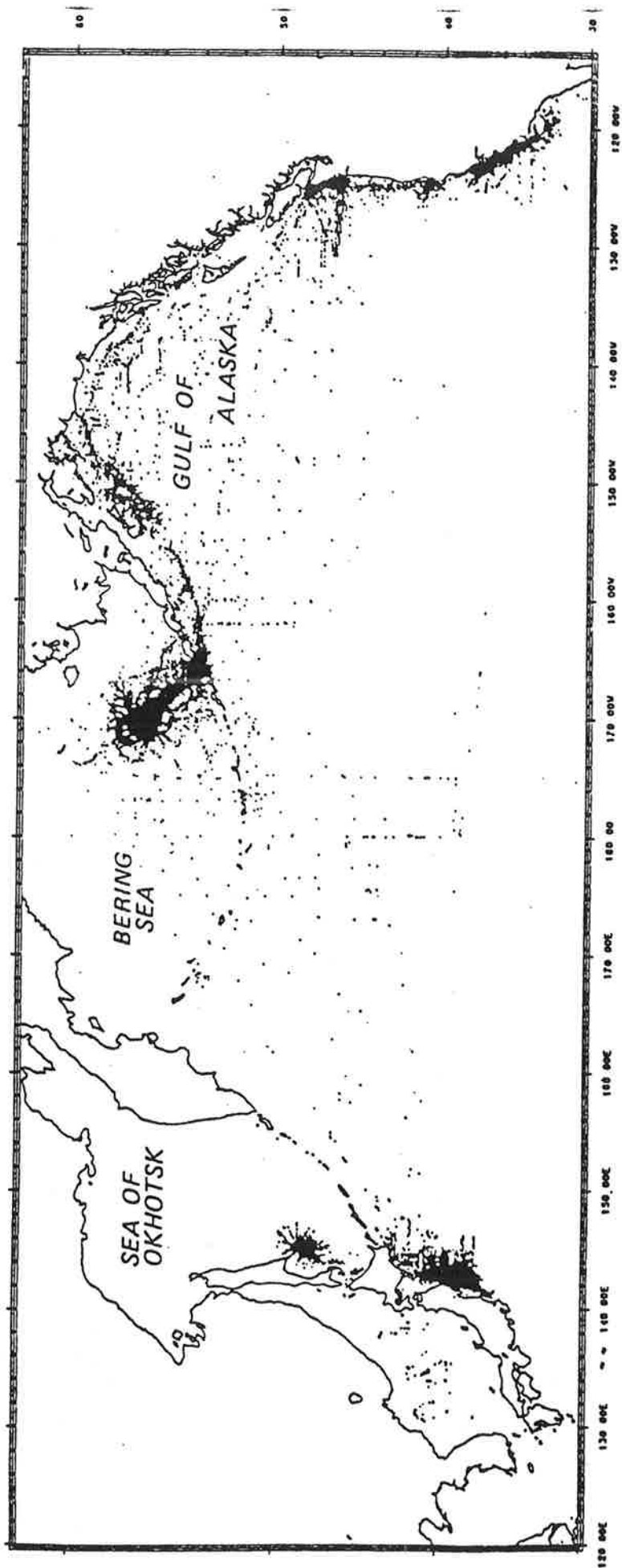


FIGURE 7. Fur seal sightings in the North Pacific Ocean by Japan, Canada and the United States, 1955-79. Kajimura (1982).

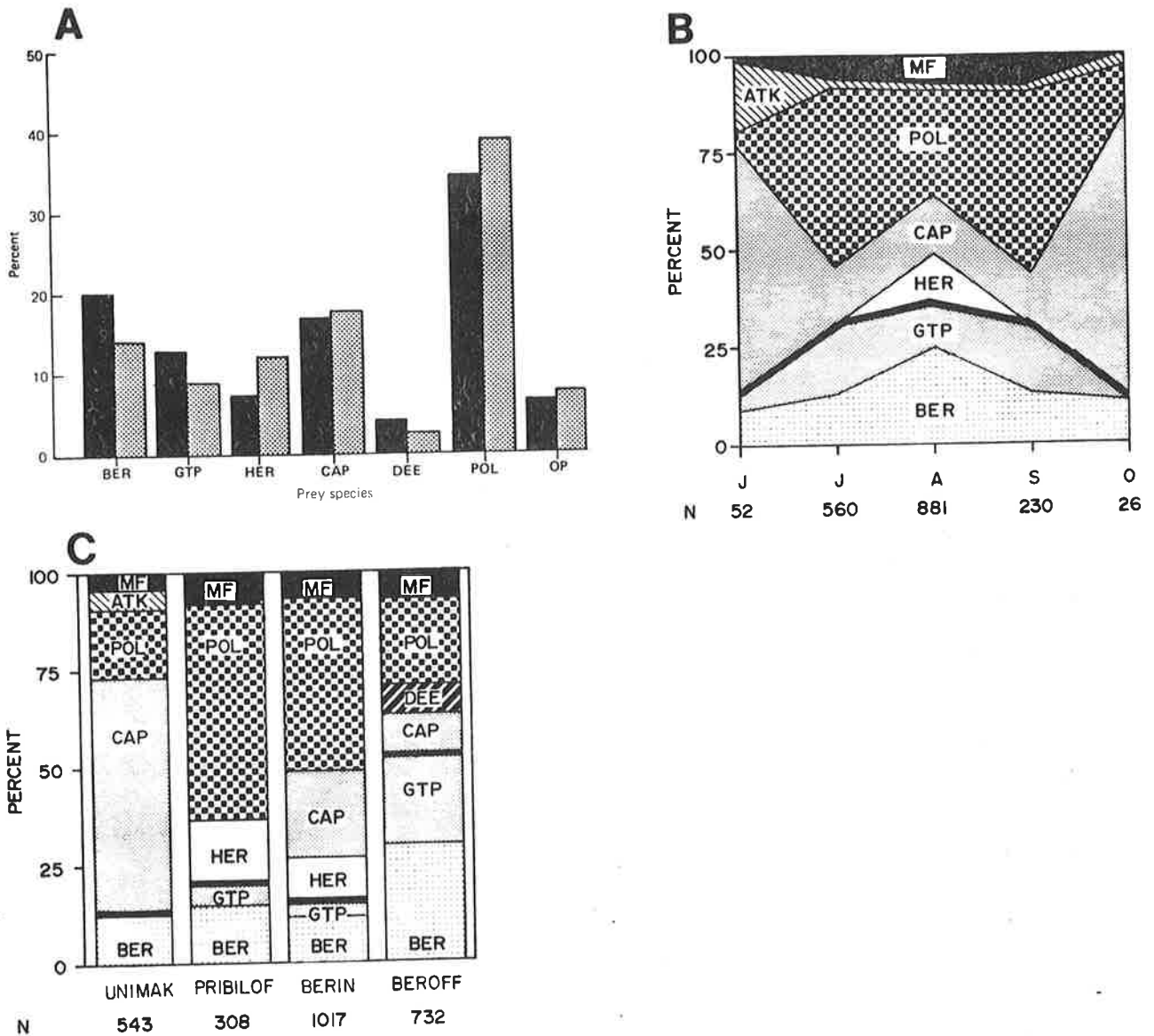


FIGURE 8. Composition (percent) of diet of fur seals by prey species in the eastern Bering Sea during 1958-74 (A) for pooled June-October samples, using modified volume (dark bars) and energy-adjusted modified volume; (B) by month using modified volume (number of stomachs containing food by month is also indicated); and (C) by subregion, with pooled June-October samples using modified volume (number of stomachs containing food by subregion is also indicated). A dark line separates squid and fish categories in the latter two figures. Key: ATK = Atka mackerel; BER = *Berryteuthis magister*; CAP = capelin; DEE = deep-sea smelts; GTP = *Gonatopsis borealis*; HER = Pacific herring; MF = minor fish species; OP = other prey; POL = walleye pollock. (from Perez and Bigg 1984)

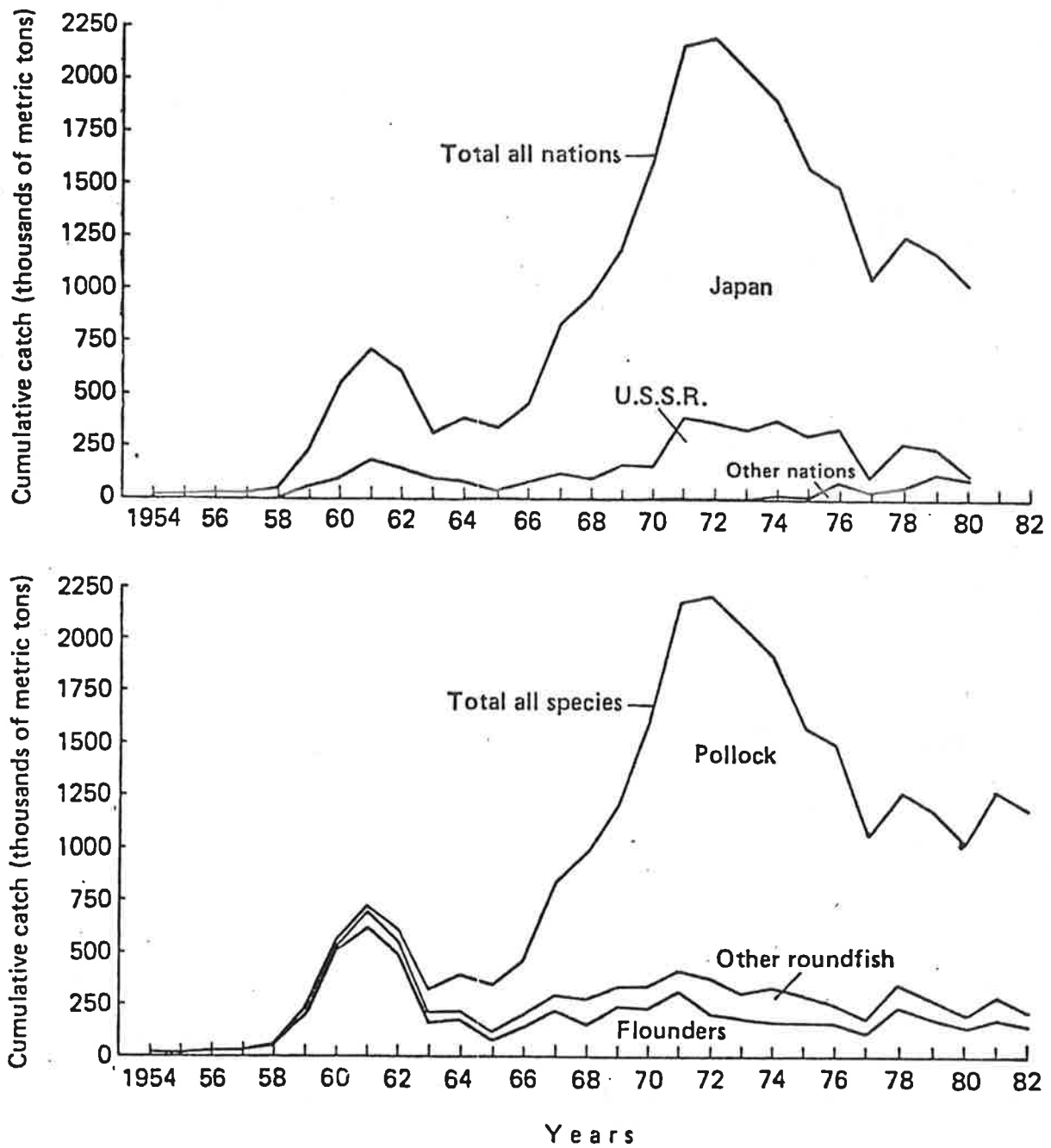


FIGURE 9. Foreign catches of groundfish in the eastern Bering Sea (east of 180°) by nation (upper panel) and by species or species group (lower panel), 1954-1982.

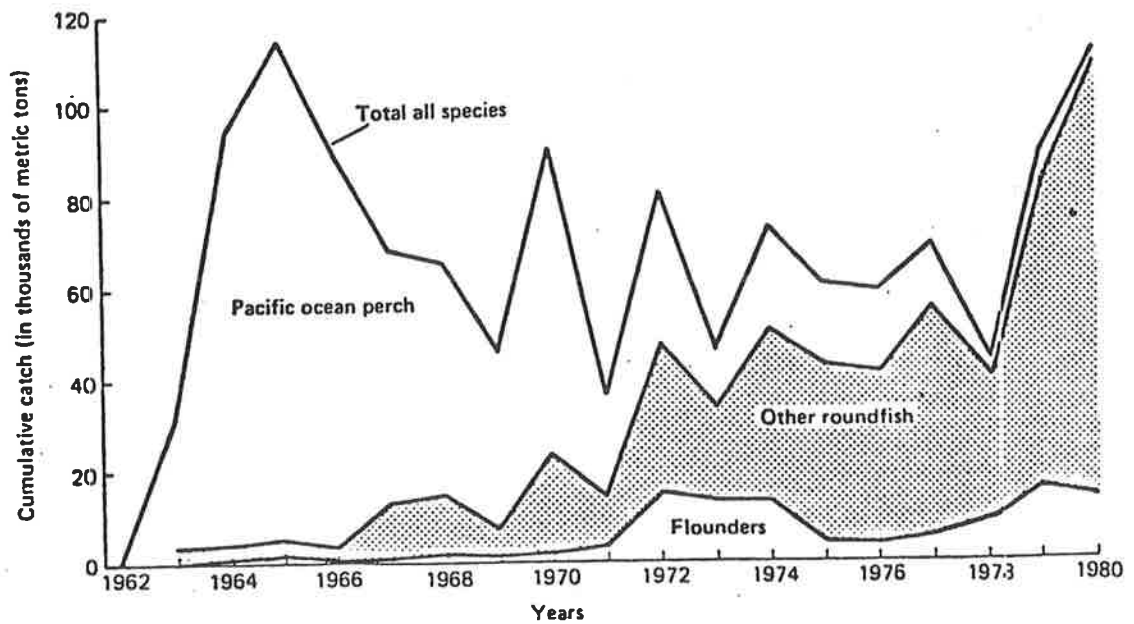
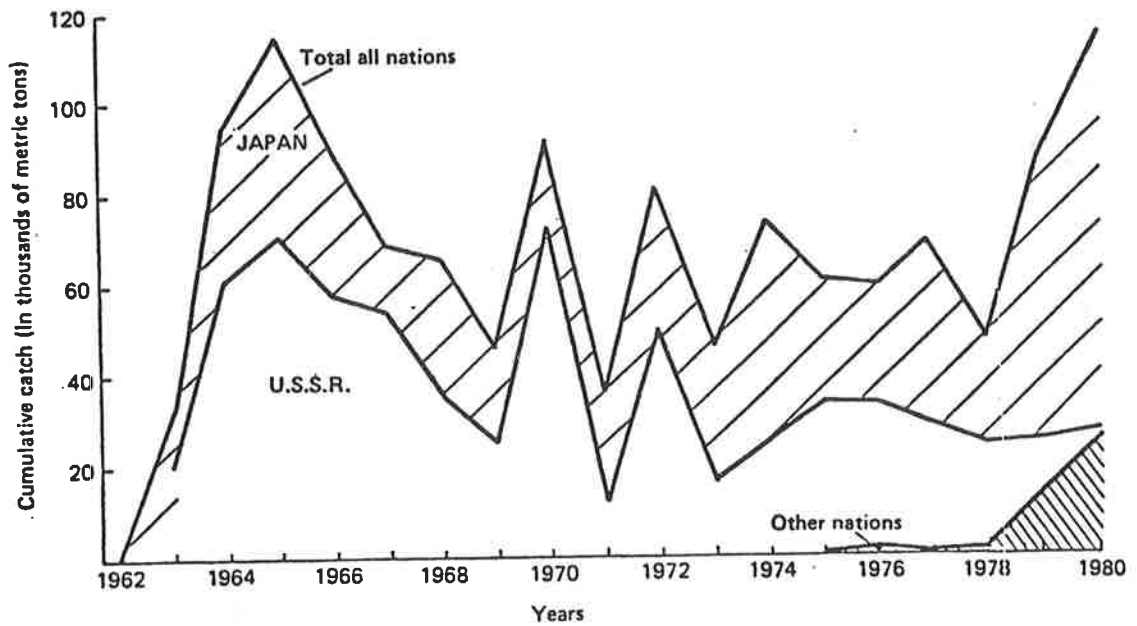


FIGURE 10. Foreign catches of groundfish in the Aleutian Island area (170°W - 170°E) by nations (upper panel) and by species or species group (lower panel), 1962-1980.

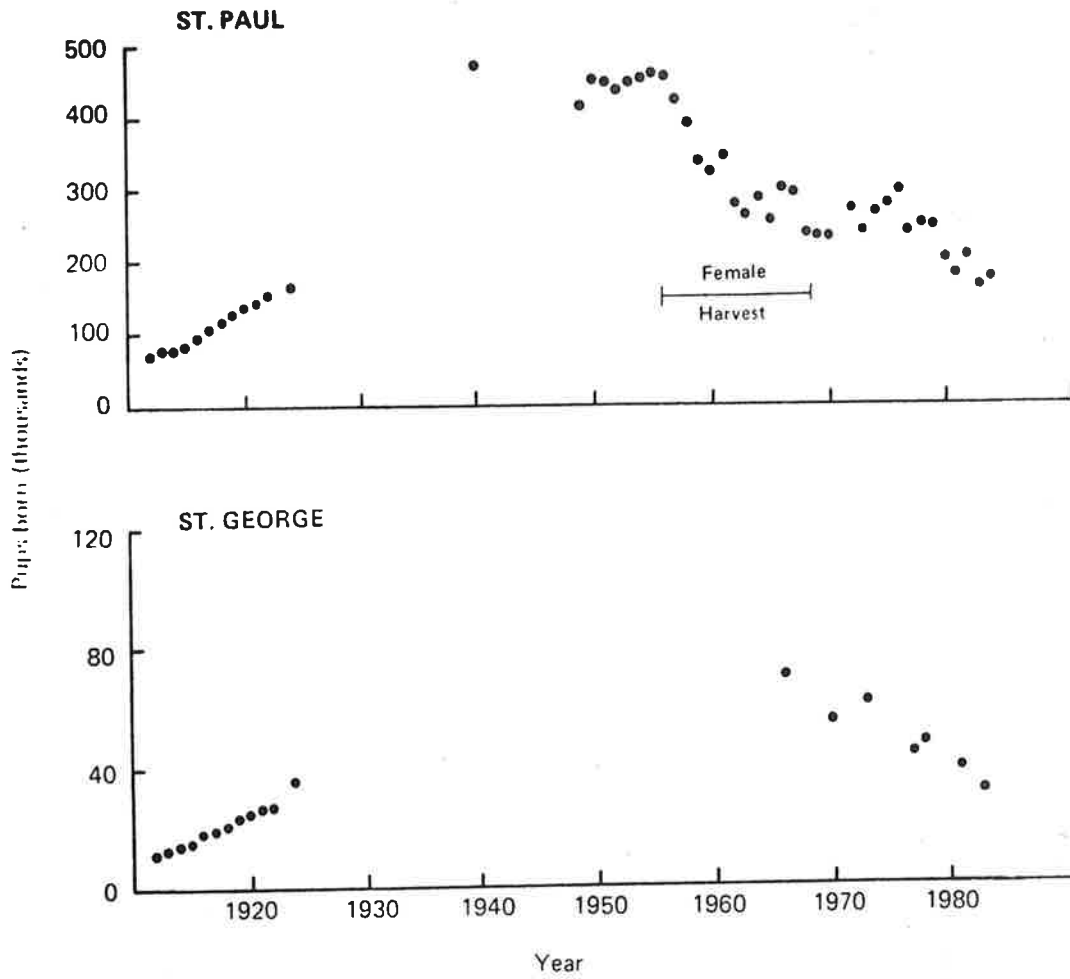


Figure 11. Estimated numbers of pups born on St. Paul and St. George Islands, Alaska, 1912 to the present (1984, From Lander, 1980; Briggs and Fowler, 1984).

TABLE 1. Number of fur seals harvested on the Pribilof Islands, 1950-84

Year	St. Paul Island			St. George Island			
	Males	Females	Total	Males	Females	Total	Grand Total
1950	48,565	245	48,810	11,360	34	11,394	60,204
1951	50,419	154	50,573	10,084	32	10,116	60,689
1952	51,401	159	51,560	12,269	41	12,310	63,870
1953	54,469	817	55,286	11,355	28	11,383	66,669
1954	49,699	540	50,239	13,525	118	13,643	63,882
1955	49,977	658	50,635	14,750	85	14,835	65,470
1956	75,807	20,888	96,695	20,250	6,744	26,994	123,689
1957	35,026	37,558	72,584	11,193	9,868	21,061	93,645
1958	36,171	23,956	60,127	11,695	7,144	18,839	78,966
1959	24,482	24,207	48,689	5,709	3,853	9,562	58,251
1960	29,144	3,294	32,438	7,183	1,018	8,201	40,639
1961	67,621	35,086	102,707	15,177	8,763	23,940	126,647
1962	43,203	35,003	78,206	10,477	8,757	19,234	97,440
1963	31,881	35,093	66,974	10,505	8,859	19,364	86,338
1964	37,789	12,034	49,823	11,191	4,418	15,609	65,432
1965	34,966	7,530	42,496	7,157	2,904	10,061	52,557
1966	42,079	372	42,451	10,393	109	10,502	52,953
1967	42,727	7,502	50,229	12,993	2,594	15,587	65,816
1968	36,349	10,544	46,893	9,276	2,791	12,067	58,960
1969	32,621	196	32,817	6,057	34	6,091	38,908

TABLE 2

 Commercial harvest of male seals on Commander and Robben Islands, 1960-1982

<u>Year</u>	<u>Robben Island</u>	<u>Commander Islands</u>	
		<u>Bering Island</u>	<u>Medny Island</u>
1960	6,210	- - - -	4,000
1961	6,947	- - - -	5,046
1962	7,037	3,655	2,750
1963	7,265	3,805	3,512
1964	8,212	5,061	5,328
1965	8,432	3,648	5,551
1966	9,188	4,506	4,237
1967	8,758	4,779	3,582
1968	5,070	5,625	3,881
1969	6,221	5,896	2,413
1970	7,042	4,841	4,232
1971	7,003	4,807	3,333
1972	5,911	4,262	2,294
1973	4,187	261	2,116
1974	2,482	-	1,713
1975	2,510	-	1,711
1976	2,500	-	2,674
1977	4,000	-	2,692
1978	3,200	1,221	2,758
1979	2,991	1,423	1,105
1980	3,107	1,515	1,021
1981	3,560	2,966	2,127
1982	2,874	2,938	2,128

TABLE 3. Principal forage species utilized by fur seals in the eastern North Pacific Ocean and the eastern Bering Sea, 1958-74, by area. Kajimura (1982).

Forage species	Location						
	California	Oregon	Washington	British Columbia	Gulf of Alaska	Western Alaska	Bering Sea
Fish:							
<u>Clupea harengus pallasii</u>	-	-	x	x	x	x	x
<u>Engraulis mordax</u>	x	x	x	-	-	-	-
<u>Oncorhynchus spp.</u>	-	-	x	x	x	x	-
<u>Mallotus villosus</u>	-	-	x	-	x	x	x
<u>Thaleichthys pacificus</u>	-	-	x	x	-	-	-
<u>Cololabis saira</u>	x	x	-	x	-	-	-
Gadidae	-	-	-	-	-	-	x
<u>Gadus macrocephalus</u>	-	-	-	x	-	-	-
<u>Merluccius productus</u>	x	x	x	x	-	-	-
<u>Theragra chalcogramma</u>	-	-	-	x	x	x	x
<u>Trachurus symmetricus</u>	x	-	-	-	-	-	-
<u>Sebastes spp.</u>	x	x	x	x	x	-	-
<u>Anoplopoma fimbria</u>	x	-	x	x	-	x	-
<u>Pleurogrammus monopterygius</u>	-	-	-	-	x	x	x
<u>Ammodytes hexapterus</u>	-	-	-	-	x	x	x
Cephalopods:							
<u>Loligo opalescens</u>	x	x	-	x	-	-	-
<u>Onychoteuthis sp.</u>	x	x	x	-	-	-	-
<u>Onychoteuthis borealijaponicus</u>	-	-	-	-	x	-	-
<u>Gonatus sp.</u>	-	-	-	-	x	-	-
<u>Beryteuthis magister</u>	-	-	-	-	x	x	x
<u>Gonatopsis borealis</u>	-	-	-	-	-	-	x
unidentified squid	-	-	-	-	x	-	-

TABLE 4. Marine mammal population estimates and food consumption in the eastern Bering Sea - Aleutian Island area. From McAlister (1981).

Common name	Scientific name	Population estimates		Food consumption (10 ³ m ton)	Fish consumption (10 ³ m ton)	Pollock consumption (percent)
		Summer	Winter			
Northern sea lion	<u>Eumetopias jubatus</u>	95,000	57,000	470	456	60
Northern fur seal	<u>Callorhinus ursinus</u>	556,000	56,000	615	476	58
Pacific walrus	<u>Odobenus rosmarus</u>	10,000	200,000	2044	0	-
Spotted or largha seal	<u>Phoca largha</u>	15,000	150,000	288	259	5
Harbor seal	<u>Phoca vitulina richardsi</u>	55,000	55,000	130	88	25
Ringed seal	<u>Phoca hispida</u>	small	600,000	686	569	-
Ribbon seal	<u>Phoca fasciata</u>	50,000	50,000	131	103	24
Bearded seal	<u>Erignathus barbatus</u>	small	180,000	666	113	-
Polar bear	<u>Ursus maritimus</u>	-	small	-	-	-
Sea otter	<u>Enhydra lutris</u>	(55,100 to 73,700)	-	-	-	-
Gray whale	<u>Eschrichtius robustus</u>	8,000	-	315	-	-
Minke whale	<u>Balaenoptera acutorostrata</u>	3,000	-	58	39	-
Sei whale	<u>Balaenoptera borealis</u>	(8,600 to 21,000)	-	-	-	-
Fin whale	<u>Balaenoptera physalus</u>	1,000	-	83	8	-
Blue whale	<u>Balaenoptera musculus</u>	(1,400 to 1,900)	-	-	-	-
Humpback whale	<u>Megaptera novaeangliae</u>	200	-	12	3	-
Right whale	<u>Balaena glacialis</u>	(100 to 200)	-	-	-	-
Bowhead whale	<u>Balaena mysticetus</u>	100	1,000	53	-	-
Killer whale	<u>Orcinus orca</u>	1,000.	500	21	6	-
Harbor porpoise	<u>Phocoena phocoena</u>	1,000	500	2	2	-
Dall's porpoise	<u>Phocoenoides dallii</u>	25,000	10,000	87	8	-
Belukha or white whale	<u>Delphinapterus leucas</u>	5,000	16,000	150	74	-
Sperm whale	<u>Physeter catodon</u>	10,000 (♂)	-	795	80	-
Baird's beaked whale	<u>Berardius bairdii</u>	1,000	-	37	3	-
Cuvier's beaked whale	<u>Ziphius cavirostris</u>	(unknown)	(unknown)	-	-	-
Bering Sea beaked whale	<u>Mesoplodon stejnegeri</u>	(unknown)	(unknown)	-	-	-

TABLE 5. Annual consumption of fish by marine mammals in the eastern Bering Sea and Aleutian area (in thousands of metric tons)

Fish consumed by fur seals ^{1/}	476
Fish consumed by northern sea lions ^{2/}	456
Fish consumed by other pinnipeds ^{3/}	1,132
Fish consumption by pinnipeds ^{4/}	2,064
Fish consumed by baleen whales ^{5/}	50
Fish consumed by toothed whales ^{6/}	173
Fish consumed by cetaceans ^{7/}	223
Marine mammal consumption of fish ^{8/}	2,287
Estimated standing stock of all fish	48,983

^{1/} Percent standing stock of fish consumed annually by fur seals	0.9%
^{2/} Percent standing stock of fish consumed annually by northern sea lions	0.9%
^{3/} Percent standing stock of fish consumed annually by other pinnipeds	2.3%
^{4/} Percent standing stock of fish consumed annually by all pinnipeds	4.2%
^{5/} Percent standing stock of fish consumed annually by baleen whales	0.1%
^{6/} Percent standing stock of fish consumed annually by toothed whales	0.4%
^{7/} Percent standing stock of fish consumed annually by all cetaceans	0.4%
^{8/} Percent of standing stock consumed annually by marine mammals	4.6%

TABLE 6. Fur seals entangled in fishing debris and other materials, United States commercial harvest of fur seals, St. Paul Island, Alaska, 1967-84.

Year	Number of seals harvested *	Number of entangled seals observed on killing field *	Percentage of harvest
1967	50,229	75	0.15
1968	46,893	75	0.16
1969	32,819	66	0.20
1970	36,307	101	0.28
1971	27,289	113	0.41
1972	33,173	144	0.43
1973	28,482	137	0.48
1974	33,027	190	0.58
1975	29,148	206	0.71
1976	23,096	97	0.42
1977	28,444	99	0.35
1978	24,885	115	0.46
1979	25,762	104	0.40
1980	24,327	119	0.49
1981	23,928	102	0.43
1982	24,828	102	0.41
1983	25,768	112	0.43
1984	22,066	87	0.39

* Includes both sexes

TABLE 7. Number of pups born on Asian Rookeries, 1955-1982

Year	Robben Island	Commander Islands (USSR)	
	(USSR)	Bering Sea	Medny Island
1955	25,500	-	-
1956	27,500	-	-
1957	29,700	-	-
1958	32,200	15,300	16,400
1959	35,000	16,700	17,880
1960	38,000	18,200	19,457
1961	41,200	19,800	21,200
1962	44,700	26,000	25,500
1963	49,000	-	-
1964	51,400	29,268	29,223
1965	48,400	26,840	31,710
1966	44,900	30,345	30,684
1967	56,500	31,156	23,374
1968	45,800	34,319	26,540
1969	43,500	32,146	26,511
1970	31,500	33,926	28,275
1971	41,100	35,784	30,710
1972	44,050	31,353	29,505
1973	35,300	28,964	24,924
1974	33,170	37,085	31,660
1975	27,000	35,376	38,600
1976	30,839	38,496	27,990
1977	28,584	37,570	30,400
1978	29,900	41,675	33,954
1979	24,189	38,120	32,000
1980	22,000	35,260	30,100
1981	21,000	30,720	30,750
1982	22,300	36,300	32,580

Table 8. 1982 ST. PAUL EMPLOYMENT AND EARNINGS (a) (Dames & Moore 1983b)

	Full Time	Part Time	Wages
NMFS	15	158	\$1,618,000
Public Health Service	1	2	59,000
School District	12	6	207,000
	(12)		
Store and Tavern	9	6	218,000
Community Council	1	0	19,000
City	8	3	189,000
Village Public Safety	2	2	34,000
U.S. Postal Service	1	1	25,000
Aleutian/Pribilof Islands Association	0	2	11,000
Reeve Aleutian Airways	0	2	20,000(b)
TDX Corporation Management	5	0	141,000
King Eider Hotel	0	7	22,000
Restaurant	0	16	38,000
Seal By-Products	0	7	15,000
Small Boat Fishery	0	6	15,000
Fish Processing Plant	0	4	7,000
U.S. Coast Guard	2	0	78,000
	(1)		
U.S. Weather Service	3	0	75,000
	(2)		
The Shelter	2	4	30,00(c)
Summer Youth Program	0	10	15,000
Total Earned Income			\$2,836,000
Total Employment	61	226	
Unearned Income			\$ 700,000(d)
Total Personal Income			\$3,536,000

(a) Source: Smythe 1983. Numbers in parentheses indicate non-Native employment.

(b) Assumed; no information available.

(c) Emergency basis only due to funding.

(d) Based on ISER (undated) estimate of 1980 unearned income.

Table 9.

1982 ST. GEORGE EMPLOYMENT AND INCOME

(Dames & Moore 1983a)

	Full-Time	Part-Time	Income
NMFS	10	31	\$754,000
Public Health Service	0	1	13,000
Pribilof School District	1	4	45,000
Store	2	0	44,000
Tanaq Corporation	2	0	51,000
Canteen	1	0	20,000
Village Council	0	3	19,000
Aleutian/Pribilof Island Association	1	1	24,000
Peninsula Airways	0	2	4,000
Summer Youth Program	<u>0</u>	<u>9</u>	<u>14,000</u>
Total	17	51	\$988,000
Transfer Payments (welfare, unemployment, etc.) (estimated based on ISER [undated] 1979 figure)			\$250,000
Total Personal Income			\$1,238,000

Source: Smythe 1983.

Table 10. NOAA Funding for the Pribilof Islands, 1979-85¹

<u>Fiscal Year</u>	<u>Actual Obligations</u>
1979	4,149,600
1980	5,143,300
1981	5,328,200
1982 ²	5,473,800
1983 ²	5,949,500
1984 ³	1,377,600
1985(est.) ⁴	2,556,000

¹ Administration of the Pribilof Islands and conduct of the fur seal harvest. Does not include funding for fur seal research, which averaged approximately \$330,000 annually.

² A supplemental appropriation of \$20 million was also provided for a special trust fund established by the Fur Seal Act Amendments of 1983, to promote a new economy on the Pribilof Islands.

³ Pribilof Island Program was terminated, including jobs and community services for island residents. FY84 obligations included termination costs less recoveries (\$727,600), the harvest contract (\$500,000), and continuing responsibilities in fur seal management and harvest oversight (\$150,000).

⁴ Includes \$2 million in supplemental funding for upgrading Federal facilities before transfer to island residents. Estimated remaining obligations limited to retirement and schools (\$406,000) and fur seal harvest oversight (\$150,000).

TABLE 11. ESTIMATES OF THE POTENTIAL YIELD WITHIN 200 MILES OF THE PRIBILOF ISLANDS 1982-86

Species	Percent of Eastern Bering Sea Potential Within 200 Miles of Pribilof Islands	Year				
		1982	1983	1984	1985	1986
Pollock	78	936,000	936,000	1,014,000	1,014,000	1,092,000
Pacific cod	76	127,680	127,680	127,680	127,680	127,680
Yellowfin sole	94	202,100	202,100	202,100	202,100	202,100
Other flounder	79	73,470	73,470	73,470	73,470	73,470
Turbots	79	50,560	50,560	50,560	50,560	50,560
Halibut(a)	61	610,000	610,000	610,000	610,000	610,000
Atka mackerel	85	5,100	5,100	5,100	5,100	5,100
Pacific Ocean perch	88	880	880	880	880	880
Other rockfish	29	3,190	3,190	3,190	3,190	3,190
Sablefish	71	1,420	1,420	2,130	2,130	3,550
Red king crab(a)	38	11,400,000	11,400,000	15,200,000	15,200,000	22,880,000
Blue king crab(a)	74	8,880,000	8,880,000	8,880,000	8,880,000	8,880,000
Tanner crab						
C. bardi(a)	18	3,600,000	3,600,000	4,500,000	5,400,000	5,400,000
C. opilio(a)	91	36,400,000	27,300,000	36,400,000	45,000,000	45,000,000
Korean hair crab(a)	98	11,760,000	11,760,000	11,760,000	11,760,000	11,760,000
Snail (meats)	80	2,400	1,400	2,400	2,400	2,400
Herring	80	1,600-	1,600-	1,600-	1,600-	1,600-
		4,000	4,000	4,000	4,000	4,000
Squid	75	3,800	3,800	3,800	3,800	3,800

(a) Pounds.
Source: Dames & Moore 1982a.

TABLE 12. Projected Employment and Earned Income for Native Residents of St. George Island, 1985 and 1990. (from Dames & Moore 1983a)

Sector	1985		1990	
	Employment (full-time/part)	Income (\$)	Employment (full-time/part)	Income (\$)
Fisheries	40/0	2,115,000	51/0	3,108,000
Seafood Processing	25/0	328,000	35/0	546,000
Harbor Construction	20/0	468,000	--	---
Harbor Service	2/0	30,000	2/0	30,000
Tourism	0/5	20,000	0/7	50,000
Housing Construction	2/0	60,000	2/0	60,000
Clinic	2/0	26,000	2/0	26,000
School	0/4	30,000	0/4	30,000
Store	2/5	175,000	2/5	171,000
Canteen	1/0	20,000	1/0	20,000
Tanaq Corp.	3/0	80,000	3/0	80,000
Hotel	0/0	70,000	0/3	80,000
City	6/5	130,000	6/5	130,000
Village Council	0/2	12,000	0/2	12,000
Aleutian Pribilof Islands Assoc.	1/1	24,000	1/1	24,000
Peninsula Airways	0/3	6,000	0/3	6,000
Summer Youth Program	0/9	14,000	0/9	14,000
Total Employment	104/37		105/39	
Total Earned Income		\$3,598,000		\$4,387,000

TABLE 13. Projected Employment and Earned Income for Native Residents of St. Paul Island, 1985 and 1990. (from Dames & Moore 1983b)

Sector	1985		1990	
	Employment (full-time/part)	Income (\$)	Employment (full-time/part)	Income (\$)
Fisheries	0/27	810,000	126/0	5,670,000
Seafood Processing	0/66	721,000	257/0	4,280,000
Harbor Construction	30/0	860,000	0/0	0
Tourism	0/2	7,000	0/3	11,000
Fur Sealing	0/77	245,000	0/77	245,000
Harbor Service	29/0	870,000	88/0	2,640,000
Housing Construction	5/0	104,000	5/0	260,000
Clinic	0/3	45,000	1/4	70,000
School	6/0	47,000	7/0	65,000
City	9/3	250,000	11/3	305,000
TDX Corp.	6/0	210,000	9/0	310,000
Hotel	3/6	135,000	4/6	160,000
Restaurant	0/20	95,000	0/16	80,000
Community Council, Store/Tavern	15/6	422,000	30/10	1,029,000
Reeve Aleutian Airways	1/2	60,000	2/2	90,000
Aleutian Pribilof Islands Assoc.	0/3	36,000	0/3	36,000
Village Public Safety Officer	2/3	60,000	3/3	90,000
The Shelter	2/4	40,000	2/4	40,000
U.S. Post Office, Weather Services, Coast Guard	1/1	30,000	1/2	45,000
National Weather Service	1/4	28,000	1/4	28,000
Total Employment	100/227		547/137	
Total Earned Income		\$5,075,000		\$17,659,000

Table 14. Receipts from Skin Sales, 1970-1983.

Fiscal year	Number of skins sold	Total proceeds from skin sales (in thousands)	Average sale price per skin	Amount received by U.S. Gov't (in thousands)	Average proceeds to Gov't	Year skins were harvested
1970	46,878	3,255.1	69.44	2,226.7	47.50	62,65,67
1971	34,082	2,638.4	77.41	1,370.2	40.20	68,69,70
1972	35,733	2,974.5	83.24	1,621.5	45.38	65,66,68,69
1973	27,949	2,942.0	105.26	1,803.4	64.52	66,68,69,70
1974	26,275	2,931.7	111.58	1,850.0	70.41	70,71
1975	25,157	1,954.5	77.69	1,022.4	40.64	71,72,73
1976	36,693	3,189.3	86.92	1,677.5	45.72	72,73,74
1977	36,435	3,729.8	102.37	1,654.6	45.41	74,75,76
1978	15,772	1,619.3	102.67	740.9	46.98	76,77
1979	15,591	1,714.1	109.94	815.2	52.28	77
1980	18,145	2,028.8	111.81	993.4	54.75	78
1981	17,364	1,569.6	90.44	479.5	27.61	79
1982	21,709	1,391.8	64.11	153.6	7.07	80,81
1983	9,571	647.3	67.63	143.5	15.00	81

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VI. PUBLIC REVIEW AND COMMENTS

The draft Environmental Impact Statement (EIS) was filed with the Environmental Protection Agency (EPA) on November 10, 1983. A Notice of Availability of the draft EIS was published in the Federal Register on November 18, 1983, establishing a public comment period which ended on January 6, 1984. Copies of the draft EIS were widely distributed to agencies, organizations and individuals, including congressional delegations. Please see Section VIII for a partial list of addressees.

Written comments were received from the following individuals and organizations during the environmental review period on this issue:

<u>Comment Reference</u>	<u>Commenter, Affiliation, Date</u>
A	Robert A. Hinman, Deputy Director, Division of Game, Department of Fish and Game, State of Alaska, dated December 20, 1983.
B	Michael K. Orbach, Associate Professor of Anthropology, and Beverly Holmes, Department of Sociology, Anthropology, and Economics, East Carolina University, dated December 20, 1983.
C	Robert S. Burd, Director, Water Division, U.S. Environmental Protection Agency, Region X, dated December 22, 1983.
D	Lydia Black, Anthropology Division, Providence College, dated December 27, 1983.
E	Don Young, Congressman for all Alaska, U.S. House of Representatives, dated December 30, 1983.
F	Bruce Jodar, Consequence, dated December 30, 1983.
G	Robert J. Wilson, dated January 4, 1984.
H	Hisao Azuma, Counselor, Embassy of Japan, dated January 5, 1984.
I	Cheryl Mouras, Senior Vice President, Animal Protection Institute of America, dated January 5, 1984.
J	Harry E. Hodgdon, Executive Director, The Wildlife Society, dated January 5, 1984.
K	Jack W. Lentfer, Environmental Research and Consulting, dated January 5, 1984.
L	Cynthia E. Carlson, Birch, Horton, Bittner, Pestinger and Anderson, dated January 6, 1984 enclosing comments from Flore Lekanof, Sr., President, St. George Tanaq Corporation, dated January 5, 1984.

- M Vivia Boe, Seal Project Coordinator, Greenpeace International, dated January 6, 1984.
- N Sherrad C. Foster, Director, Marine Issues Project, Defenders of Wildlife, dated January 6, 1984.
- O Bruce Blanchard, Director, Environmental Project Review, Office of the Secretary, U.S. Department of the Interior, dated January 6, 1984.
- P Richard T. Tinney, Seal Rescue Fund Director, Center for Environmental Education, dated January 6, 1984.
- Q David J. Hayes, Counsel for International Fund for Animal Welfare, The Fund for Animals, Humane Society of the United States, dated January 6, 1984 and September 12, 1984.
- R Senator Carl Levin, United States Senate, dated January 6, 1984.
- S John R. Twiss, Jr., Executive Director, Marine Mammal Commission, dated January 11, 1984.

Corrections suggested by these reviewers have been made to the text of the EIS wherever possible. Copies of all letters of comment received on the draft EIS are included at the end of this Section. Major issues identified in these comments are outlined and discussed below.

PROCEDURAL AND LEGAL CONCERNS

Comment: The Marine Mammal Protection Act (MMPA) applies when negotiating and implementing the Convention.

Reference: F-1, M-8, Q-2-5, Q-33-38

Response: In International Fund for Animal Welfare v. Baldrige, No. 84 - 1838 (D.D.C. June 28, 1984), the court concluded "that the substantive provisions of the MMPA contravene the Convention with respect to the particular killings at issue here, and that hence under section 1383 [of the MMPA] the Convention takes precedence." The MMPA does not require the U.S. to amend the Convention to make it consistent with the MMPA. Rather, subsection 108(b)(2)(B) of the MMPA requires, under certain circumstances, that the Secretary of State initiate negotiations to modify the Convention to make it consistent with the MMPA. If, however, such negotiations are unsuccessful, the Secretary of Commerce is required to take steps to continue the existing Convention "so as to continue to protect and conserve the North Pacific fur seals and to prevent a return to pelagic sealing."

Comment: The draft EIS does not evaluate impacts associated with annual decisions that will be made during the life of the Convention, i.e., whether or not to harvest each year, and if so, how many seals should be killed.

Reference: Q-65-69

Response: The commenter, while correctly stating that the 1984 draft EIS is closely patterned on the 1980 EIS and that the U.S. asserted that the 1980 EIS not only analyzed the impacts of Convention renewal but also analyzed the impacts of conducting an annual harvest, mischaracterizes the court ruling in International Fund for Animal Welfare v. Baldrige. The commenter incorrectly states that the court declined to rule on the scope of the 1980 EIS. As the court held: "Contrary to plaintiffs' assertion that the 1980 EIS concerned only the impact of the renewal of the Convention and not the annual kills, that document specifically addressed the impact of annual kills through 1984 at levels even greater than that planned for this year. Once an EIS has been properly filed for an ongoing annual program, each year's activity need not be the subject of a new or supplemental EIS if the program has not been expanded or revised."

Just as the 1980 EIS discussed the environmental effects of annual harvests, this EIS assesses the impacts of annual harvests through 1988. If there are significant new circumstances or information relevant to environmental concerns which bear on this proposed action or the program is revised or expanded, a supplemental EIS will be prepared.

Comment: A six year extension of the Convention is too long, considering the uncertainty surrounding the population status and other relevant factors.

Reference: F-6, G-2, I-2, M-2,7,8-10, Q-23-25, S-1,3,5

Response: We agreed with these comments and amended the initial negotiating position to include only a four year extension of the Convention. The 1984 Protocol provides, in addition to a maximum four year extension the opportunity to reconsider the terms of the treaty within its first two years in force.

BIOLOGICAL AND RESOURCE MANAGEMENT CONSIDERATIONS

Comment: The Pribilof seal harvest may be responsible for the current decline in population.

Reference: F-3,4, I-3, M-3, P-3, Q-6-12

Response: Sections III.B.8-9 of the final EIS contain data and discussions relevant to this issue. The conclusions may be summarized as follows. The male-only harvest is not thought to be related to the decline because (a) historically, increasing trends have been associated with a male harvest, and (b) currently, the seals on St. George Island are declining at the same rate as those on St. Paul, although the St. George harvest was terminated more than 10 years ago. Recent work by Soviet scientists, discussed in Section III.B.9 and in greater detail in NMFS(1985), suggests the need for continuing evaluation of the harvest and its role, if any, in population declines. The Standing Scientific Committee of the NPFSC concluded that the harvest is probably not contributing to the decline and that no adjustments in harvest levels are required. This view is shared by other scientists (e.g., Swartzman, 1984).

Comment: The draft EIS does not provide enough analysis of the biological effects of terminating the harvest.

Reference: Q-12, F-4,5, M-4, P-3, S-3

Response: According to Swartzman (1984), as discussed briefly in Section III.B.8 of the final EIS, there is no evidence that terminating the male harvest will have a positive effect on northern fur seal population recovery efforts. On the contrary, the resultant increase in subadult males might cause an increase in pup mortality on land. As reported in Section III.B.9, recent work by Soviet scientists suggests the possibility of an indirect effect of the male harvest on reproductive rates. It is the consensus of the scientists on the Standing Scientific Committee, however, that the harvest probably is not contributing to the decline, and that no adjustments in harvest levels are required.

Comment: The threat of a resumption of pelagic sealing has been overstated.

Reference: F-7, G-3, H-5, I-3, P-3, Q-20-22, S-3

Response: As stated in the draft and final EISs, we do not think a resumption of directed pelagic harvests is likely at this time. The kind of pelagic sealing practiced at the turn of the century would no longer be economically feasible. However, the resumption of pelagic sealing on an opportunistic basis is a likely consequence of the termination of this Convention. The loss of any portion of the breeding stock of this declining species could be devastating to a recovery of the population to levels approaching OSP.

Comment: An additional alternative could have been considered, namely, foregoing the United States' share (70 percent) of the harvest.

Reference: M-8, N-4, Q-20

Response: The 1984 Protocol and the statement expressing the concerns of the Party Governments will allow flexibility concerning possible adjustments of harvest levels. This agreement allow the U.S. to reduce or suspend its harvest under unforeseen circumstances, so as to ensure that harvesting will not have disastrous effects on the species. However, it is the consensus of the scientists participating each year at the Standing Scientific Committee of the NPFSC that no adjustments in harvest levels are needed. There is also some indication that reducing the harvest could adversely affect the population (see Swartzman 1984).

Comment: The draft EIS did not adequately discuss other possible causes of the population decline.

Reference: F-2, G-2, K-5,6, M-5, N-7, S-7,8

Response: Section III.B.9 of the final EIS contains additional information on the possibility that disease, predation and toxic substances could be involved in the population decline. Changes in the amount of food available have also been suggested as a factor in the decline of the Pribilof fur seal herd. If food resources are limited, one would expect reduced mean body sizes and reduced growth rates. As detailed in NMFS (1985), however, this is not the case for northern fur seals. For example, the average body size has increased, a response which is more consistent with an increased than a decreased level of food availability. It appears that mortality at sea is the likely principal factor behind the decline.

Comment: Genetic effects of the harvest need to be considered.

Reference: I-2, F-2

Response: As stated in Section III.B.9, the male harvest is not thought to be a contributing factor in the recent population decline on the Pribilof Islands. As discussed in Section III.B.3, the magnitude and direction of any possible genetic changes in the population, as a result of the male harvest, are not yet known. Swartzman (1984) discusses the possibility that the timing of the harvest might result in a genetic selection for later arriving males, which might possibly be the smaller males in each age class. Swartzman concludes, however, that there is no evidence to suggest that ending the harvest will have long term or even short term positive impacts.

Comment: The draft EIS references "in press", "in prep." and internal NMFS scientific documents that are not readily available to the public.

Reference: J-3, K-1

Response: We are attempting to address this problem through increased use of NMFS-Technical Reports and greater availability of papers submitted to the NPFSC. Much of the information in this decision document, however, is the very latest available, and may not reach publication for one or more years.

Comment: Figure 6 does not support claims for extensive offshore distributions of fur seals.

Reference: K-2, R-2, S-7

Response: Figure 6 provides monthly summaries of fur seal sightings per hour of observation by the pelagic research cruises of 1958-74. As noted in Section III.B.4, however, these observations were made only in areas of known fur seal concentrations. These cruises were generally designed to collect seals at sea and not as a systematic survey of density, distribution or relative abundance. With these limitations noted, Figure 6 can give a picture of seasonal migration patterns. Figure 7, which includes limited data on offshore observations, provides a better picture of fur seal distribution in the North Pacific Ocean.

Comment: How are the population estimates derived?

Reference: S-4, S-7

Response: The estimate of stock size on the Pribilof Islands is computed by summing the estimates of the following components: (a) Pup numbers are estimated from the shearing/sampling procedure; (b) Yearlings are estimated to be 50 percent of the numbers of pups; (c) Two-year olds are taken to be 70 percent of the yearlings; (d) Three-year old females are estimated as 70 percent of the 2-year old females; (e) Adult females are estimated as the total pups born divided by the average pregnancy rate; (f) Males older than 4 years are estimated from Lander's life table, taking account of animals in the commercial harvest.

The total stock size is the sum of a-f. The 1983 estimate for the Pribilof Islands was 871,000 animals, and 4,000 for San Miguel Island. The weakness of this method is that total numbers are prorated on the estimate of numbers of pups. Since pup numbers are more variable than numbers of adults, this traditional estimate of stock size fluctuates unrealistically. A new method is being developed.

Stock size for Robben Island is calculated similarly to the above. The survival coefficient comes from the Lander (1981) life table, and the age structure is assumed to

be equivalent to the age composition found in the pelagic samples. Estimated stock size of Robben Island is 70-80,000. Stock size of the Kuril Islands is calculated from pup counts (historically, pups comprise 26-34 percent of the population). The reliability of the method is similar to that used for the Pribilof Islands. Stock size for the Kuril Islands is now 45-50,000. Stock size on the Commander Islands is also calculated from pup counts, and assumes that pups comprise 30 percent of the total population. The present stock size is calculated to be 200-220,000.

ECONOMIC AND SOCIAL CONSIDERATIONS

Comment: The draft EIS fails to adequately analyze the socio-economic impacts of a termination of the killings.

Reference: K-5, M-5, S-3, Q-13-18

Response: Section III.C. of the final EIS provides the latest information on the economy of the Pribilof Islands, including jobs, salaries and economic development plans. In discussions of alternatives C and D, in Sections II and IV, we concluded from the available information that termination of the harvest would seriously impact Aleut residents who are already experiencing the stress of significant social and cultural changes in their communities. Table 14 and Section III.C.6 provide information on seal skin sales, which have declined sharply in recent years.

Comment: Projections of economic growth on the Pribilof Islands are overly optimistic.

Reference: D-1

Response: Section III.C. of the final EIS includes results of new studies (Dames & Moore 1983a and 1983b), requested by the cities of St. Paul and St. George on economic strategies. Projections of future income and jobs are presented in Tables 12 and 13. The President of St. George Tanaq Corporation recommended the Dames & Moore report for St. George. Please see comment L.

Comment: The subsistence needs of the Aleut people for fur seals need greater emphasis.

Reference: D-1, L-3

Response: A new subsection (III.C.5) has been added to the final EIS in response to this comment. One commenter sent us a recent report on the subsistence use of fur seals by Aleuts (Veltre and Veltre 1983).

Comment: Future funding for the seal harvest should be discussed in the final EIS.

Reference: K-5, M-6

Response: Financing of the Pribilof harvest was specifically addressed in the Fur Seal Act Amendments of 1983 (see Appendix C). According to Section 105(c), "All seal harvests will be financed, to the extent possible, from proceeds collected in preceding years or unsold assets retained from harvests conducted in preceding years. In the event that such assets and proceeds are insufficient, as determined by the Secretary, to finance the seal harvest in accordance with the requirements of the Convention, there are

authorized to be appropriated to the Secretary for fiscal year 1984, and for fiscal year 1985 and beyond if the Convention is extended by protocol signed by the parties and made effective as to the United States, such sums as maybe necessary to carry out the harvest and curing on the Pribilof Islands." The harvest contract for 1984 is discussed in Section III.C.6.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF GAME

BILL SHEFFIELD, GOVERNOR

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE (907) 465-4190

EAST CAROLINA UNIVERSITY
GREENVILLE, NORTH CAROLINA 27834

Robert A. Hinman
December 20, 1983

DEPARTMENT OF SOCIOLOGY,
ANTHROPOLOGY, AND
ECONOMICS

Telephone (919) 757-6883

B

Mr. Richard B. Roe
Acting Director
Office of Protected Species and Habitat Conservation
National Marine Fisheries Service
Washington, D.C. 20235

December 20, 1983

Dear Dick,

Enclosed is our final draft of "Aleuts of the Seal Islands" which, in its entirety, is available for your use in preparing the final EIS for the Interim Convention on Conservation of North Pacific Fur Seals. We were very pleased to see that our previous documents from this project, supported primarily by the Center for Environmental Education and partially by the Center for Coastal Marine Studies at the University of California at Santa Cruz, the Tanadgusix Corporation, and Dames and Moore were of use to you and have been referenced in several places in the Draft EIS.

We would like to emphasize the importance of the extension of the Convention with your proposed modifications for the social, cultural and economic well-being of the Pribilof Islanders. As you note throughout the Draft EIS, the steps proposed in this alternative, in conjunction with the other events now occurring with respect to the Pribilof Islands Program itself, are critical to the ability of the Pribilof Aleuts to provide themselves with a viable, sustained existence on the islands. This is, of course, our own opinion and does not necessarily reflect the thoughts or positions of any of the agencies which sponsored our research.

Once again, we are pleased with the use you have made of our previous material and hope that the enclosed document will be used in a similar manner.

Sincerely,

Michael K. Orbach

Michael K. Orbach
Associate Professor of Anthropology

Beverly Holmes

A

December 20, 1983

Mr. Richard B. Roe
Acting Director
Office of Protected Species
and Habitat Conservation (F/M4)
National Marine Fisheries Service
Washington, DC 20235

Dear Mr. Roe:

We have reviewed the "Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals," dated October, 1983.

For its intended purpose, this document was found to be informative and adequate. It is a useful compendium of historical and contemporary information required to make a recommendation on the four proposed options relating to United States action on the Convention, which must be taken in 1984.

We have no suggestions of significance relative to the DEIS. We assume that when the final EIS is prepared, your office will be seeking specific comment and recommendation about which of the options the United States should pursue. Our comment on the pros and cons of the options are more appropriately withheld until that time.

Sincerely,

Robert A. Hinman

Robert A. Hinman
Deputy Director

RECEIVED
DEC 21 1983

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION X

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101



REPLY TO
ATTN OF: M/S 443

DEC 22 1983

Richard B. Roe, Acting Director
Office of Protected Species and Habitat Conservation
National Marine Fisheries Service
Washington, D. C. 20235

Re: Draft EIS--Interim Convention on Conservation of
North Pacific Fur Seals

Dear Mr. Roe:

We have reviewed the Interim Convention on Conservation of North Pacific
Fur Seals Draft EIS and have no comments to offer at this time. We look
forward to your sending us the Final EIS.

EPA has rated this Draft EIS LO-1 [LO--Lack of Objection; 1--Adequate
Information]. We appreciate the opportunity to review the report.
Should you wish to discuss any aspect of EPA's review, please contact
Richard Thiel, Environmental Evaluation Branch Chief, at 442-1728 [ETS:
399-1728].

Sincerely,

Robert S. Burd

Robert S. Burd
Director, Water Division



D-1

PROVIDENCE COLLEGE

PROVIDENCE, RHODE ISLAND 02918

December 27, 1983

Anthropology Program

Mr. Richard B. Roe
Acting Director, Office of Protected Species and Habitat Conservation
National Marine Fisheries Service
Washington, D.C. 20235

Dear Mr. Roe,

I have the honor to respond to the request for comment on the DEIS on the
Interim Convention on Conservation of the North Pacific Fur Seal, sent to me November
10, 1983, under the signature of Mr. Joyce W.T. Wood.

On the whole, the draft is well conceived, notentifal alternatives well present--
ed, and the argument for extension of the Convention cogent. Detailed comments on
particulars are appended to this letter. In most instances where I take issue with
the DEIS submitted to me, it is a matter of emphasis, relative stress in weighting
of issues, and (more rarely) inaccuracies in detail.

General comments are as follows:

- 1) Statements on the issues by leaders of the Aleut communities on the Islands of
St. George and St. Paul, particularly by current presidents of the Village Corporation
set up under the Alaska Native Claims Settlement Act, and by Chairman of the Ro--
ard and President of the Aleutian Corporation should be included, along with
such statements as have been submitted to you (and included in the DEIS) by
various organizations claiming concern for the future well being of the US fur
seal herds.
- 2) It is essential to make clear that fur seal harvest constitutes the fall-back
line, the economic security blanket, for the Aleut communities in the Pribilof
Islands, and spells out the difference between survival of these communities
or eventual demise, ~~that is~~ or amount likely to have that effect.
- 3) The development of economic alternatives is presented in an overly optimistic
manner. Difficulties which may be encountered should be addressed (see appended
detailed comments on this issue).
- 4) It should be stressed that for the Pribilofians, the islands are HOME, settled
by their ancestors over generations, two hundred years ago. The fact that the
initial settlement was not entirely voluntary is immaterial. We hardly expect
the descendants of Rotary Bay denottees from England to vacate Australia, nor do
we contemplate forcible removal from their homes in Georgia descendants of simi-
lar denottees from English jails.
- 5) The reluctance on the part of parties to the Convention other than the USA to
accept theoretical measures such as OSP and MSP should receive more stress. The
fact that US Congress incorporated such terms into legislation is not likely
to affect USSR, Japanese, and Canadian attitudes on the matter (see appended
detailed comment for further discussion)

Should I have failed to express myself clearly, and you have any questions or
comments, please contact me before January 16 at home (tel. 401-861-7185), or
January 16th, 1984, c/o Department of Anthropology, University of Alaska

cc. Burd

Lincoln Stiles

D-3

L.T. Black, Comments, page 2

The same consideration applies to section 4, pp. 5-6 of the DEIS. Paragraph 2 of this section needs rewording in view of the fact that Proposed Legislation (H.R. 2840) has been signed by the President in law (P.L. 98-129), the fact mentioned elsewhere in the DEIS.

* * *

2) The Marine Mammal Protection Act of 1972, as amended.

Here the DEIS, quiet rightly, brings out the complications engendered by introduction as legal concepts of several theoretical constructs, notably OSP. It is unfortunate, that in the following sections, this point is lost.

As I understand the statements in the DEIS, p. 5, paragraph 2, should the Convention be allowed to lapse, WPA will govern taking of fur seals by the Aleuts, limiting the harvest only for subsistence need and handicrafts, prohibiting commercial harvest. I can only reiterate, that such an eventuality would effectively null out the rug from the village economics as presently constituted and will mean the destruction of the Aleut communities. I believe a remark to the effect that WPA does not take into account the needs of the human population of the Pribilof Islands is not out of place here.

At this point, I should like to indulge in a digression, which may be of interest to you. As mentioned in the DEIS and in my covering letter, many theoretical constructs and measures of the herds' well-being developed in the USA are not recognized as valid internationally, nor are they tested or even testable. That such theoretical constructs may be proven wrong in practice, is amply demonstrated by the results of the female harvest on St. George, instituted with the best intentions, illuminated by a theoretical construct of fur seal population dynamics. On June 13, 1976 I made notes in my field notebook about this innovation. The reason: in charge was stated to have been one Ralph Baker, allegedly of the Interior (Fisheries and Wildlife, probably agency incorrectly identified). The Aleuts were convinced that the action had as its ultimate end -- liquidation of St. George village. Destruction of Russian fishing fleets in the area, fishing (dredging) for bottom fish, primary food of fur seals. My informants stated that the destruction of the cove resulted in greater mortality (lesser survival rate) of the young. Aleuts made representations to management and biologists on St. George about the long range consequences of this course of action. Men who did make such representations were not only ignored but psychological pressure was applied, even threats, such as removal from the village. Great bitterness exists to this day on this account. Experience in managing the herd by the Aleuts was discounted in favor of a purely theoretical construct, which had serious repercussions for the well-being of the St. George villagers, and the effects are felt even to-day. If there is need, I will supply names and addresses and phone numbers of my principal informants.

* * *

II. A. Modify the Convention (Proposed Action)

1) Paragraph (1) amendment of Article V to permit unilateral suspension or reduction of harvest.

In my opinion, the proposed amendment, as written, does not take into account the needs of the Aleut community, or rather, the language is so vague that legal action may be initiated by well-meaning organizations or individuals, concerned primarily with alleged well-being of the fur seal herd, and not with that of the Aleuts, and thus result in extreme hardship for the human population.

D-2

LYDIA T. BLACK, PhD, Associate Professor of Anthropology, Providence College 28 December 1983

COMMENTS ON DEIS ON THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC.

FUR SEALS, OCTOBER 1983

A. History of the Convention.

The initial statement may be strengthened by inclusion, for comparison, harvest figures, under controlled managed conditions, for the last few years under the Russian American Company regime. Data are obtainable in the records of the RAC, Correspondence of Governors General, Communications sent, National Archives.

The concluding paragraph on p. 2 should include a statement that the reasons for the recent decline of fur seals are discussed in detail elsewhere, and, following the words "a conviction exists among many CITIZENS THAT killing of fur seals is unethical and immoral" or at the conclusion of the last sentence in the paragraph, reference should be made to the aboriginal subsistence use of fur seals by the Aleuts (see Velte and Velte, 1983) and the role of fur seal harvest for the Aleut communities in the Pribilof Islands.

* * *

B. Domestic Legislation.

1) The Fur Seal Act of 1966. Reference is made to the fact that "The Act allows Indians, Aleuts and Eskimos who dwell on the coast of the North Pacific Ocean to take fur seals in traditional way using canoes."

The full text of this passage runs as follows:

Indians, Aleuts, and Eskimos who dwell on the coasts of the North Pacific Ocean are permitted to take fur seals and dispose of their skin in any manner after the skins have been officially marked and certified by the Secretary of the Interior, provided that the seals are taken only in canoes not transported or used in connection with other vessels, and propelled entirely by oars, or sails, and manned by not more than five persons each, in the way hitherto practiced and without use of firearms.

This wording makes a mockery of the right to subsistence hunting by the Aleuts. To-day neither canoes (kavaks) nor spears or harpoons are made, nor used, and even the knowledge how to make these items or to use them is extinct. In my opinion, the disappearance of such knowledge and the failure to train the young generation in the traditional hunting implement making and their use may be largely attributed to the relocation and internment during WW II. Be it as it may, to-day only fire arms are used in seal and sea lion hunting and motor-driven dories. To exempt the Aleuts to go back to the aboriginal pre-contact methods is absurd, and constitutes an instance of discrimination: Eskimos of the Point Hope and St. Lawrence, who take bowhead whales, do so in motorized boats by means of harpoon-gun, and have been doing so for at least the last fifty years. *We do not expect the Eskimos who to go back to primitive methods, with 2000 or 3000 years of boat development.*

I believe that this language of the Act calls for comment in the DEIS incorporating perhaps the explanation that it is derived from the early 20th century documents, based on recommendations made as early as 1870's (see Hooper, US Revenue Cutter Service on Sea Otter hunting and proposed conservation measure) and were designed to fit the conditions prevailing a century ago. This language is inappropriate for modern conditions.

D-H

L.T. Black, Comments on the DEIS, p.3

I have in mind the phrase "...if necessary for the recovery of fur seal herd" (DEIS, p.7). In my opinion, this phrase leaves the door open to potential legal action to initiate stoppage of the kill, as neither the level of the drop in fur seal population nor the desired level is specified. I suggest that a tighter language is in order here. Perhaps indication of "catastrophic reduction in numbers below -----" might be useful.

2) Proposal to amend Article II. Here, on the contrary, I find the language too restrictive. No doubt, entanglement constitutes a serious problem, but why restrict special emphasis in research to the entanglement only? See DEIS p.19 where it is stated that "entanglement may be an uncommon event in this fishery". It is my impression that killing of fur seals (and sea lions) at sea by fishermen might be even more serious problem than the entanglement. I have never observed an actual kill myself, but since 1976 I have been told repeatedly by a number of informants that fishermen consider sea lions and fur seals vermin, a pest, which damages potentially valuable commercial fish and that any fishermen worth the name would shoot such animals when sighted. Needless to say, being aware that such killing is illegal, no skins are taken. It is extermination of a pest, pure and simple. My informants were stressing that Japanese fishermen are the worst offenders.

I repeat, that I have no first-hand evidence for the truth or untruth of such hearsay, but the very persistence of such belief may be indicative of the extent and seriousness of the problem. Should not it be brought into the open and dealt with internationally?

3) A Proposal to extend the Convention for six years. I believe that six years is insufficient, and ten years might be more reasonable term (at the very least ten years for the Aleut community to find its new feet—that is a new economic base).

* * *

Section D, Allow Expiration of the Convention (pp.10-11)

It is here that the comment about the fur seal harvest currently being Aleut economic security blanket is most in order. To reduce the harvest under MMP8 to subsistence level only, would require incredible reduction in living standard of individuals and remove revenues from the Village Corporation and the municipalities. Some comment to that effect surely is in order? About the rights of the Aleuts to pursuit of life, liberty, and happiness? As one Aleut told me, and, I understand, stated so before a Congressional body, the most endangered species seem to be the Aleut people!

Harvest Data, p.14 While the disastrous effect on the fur seal herd of the female harvest is clearly brought out in the supporting material (pp.106-115, see specifically p. 107-108) the DRASTIC DECLINE AT ST. GEORGE FOLLOWING THE TAKING OF FEMALES should be mentioned here, including the fact that it was a terrible miscalculation.

* * *

D-S

L.Black, p.4
Comment on DEIS

C. Social and Economic Environment (pp.26-33). This section contains numerous inaccuracies, especially of historic character. For example, the statement that the first 137 Aleutian Islands natives were brought to the previously uninhabited Pribilof Islands in 1787 by Russian sailors, sounds rather strange to me. I know of no document or primary source that gives the exact number of the Aleuts taken to the Pribilofs. I should appreciate, if you would let me know what is the basis for this figure. *A definitive source should not be used.*

Secondly, paragraph 2, p. 26, leaves much to be desired. I am unable to provide at this point exact data, as my library has been shipped for Fairbanks, Alaska and, therefore, I must rely on memory. First, Pribilof Islands were exploited, until 1799, by several independent companies, who brought their own workforces. Sheikhow enterprises: parent companies to the Russian American Company established 1799, had their first base on St.George, manned predominantly by Atkan (Central) Aleuts. It is those who were in the first and second decade of the 1800 replaced by predominantly Eastern Aleuts. By 1818, there were permanent settlements on both islands. By 1828, there were large permanent, resident communities. The statement that "the resident work-force was not self-maintaining and replacement workers were periodically brought to the Pribilofs" leaves me puzzled. True, individuals sometime asked to be returned to their ancestral villages or where they had relatives, but the permanent settlements, with the same families in residence, remained. In fact, during the Russian regime, Pribilofs were considered a very desirable habitat: not only were the workers there better paid than at Unalaska, for example, in the CONTEXT OF THE TIME, the standard of living was considered to be far better, with no risk of famine. Therefore, additional settlers often came to the islands, and population steadily grew. In fact, in 1865, the last Russian Governor, Makatov, finding on inspection that the population of the Herap Inland was growing so fast that it threatened to exceed its economic base, suggested that young family men, especially those with large families, resettle in the Pribilofs. Several families availed themselves of the opportunity, majority settling on St.George (see Documents of the Russian American Company, Correspondence of Governor General, Communications sent). Moreover, the Pribilofs, in the context of the times, were considered a very rich subsistence resource base and products such as fur seal carcasses, birds etc. were transported by the ship-hold to other less favored settled areas to alleviate hardship (see The Journals of Yakov Nekrasov, The Atka Years, 1828-1844, Kingston, Ontario, The Limestone Press, 1981).

Population figures, as given, puzzle me also. According to the Census, 1st of July 1868, the population of St.Paul numbered a total of 201 persons, broken down as follows: ~~65~~ 65 ~~65~~ of creole status, 123 resident Aleuts in households headed by able bodied males, and 48 resident widows and orphans, for a total of 236 persons. In addition, there were in residence 25 Aleuts from Unalaska and vicinity, 30 Koniags from Kodiak Island, 1 Russian, and 1 German (see Alaska File, Office of the Secretary of the Treasury, National Archives, Group 22, Microfilm Publication No.720, reel 2).

An important point, not brought up in the DEIS, is that our expectations of the standard of living have changed. By the 18th and even 19th century Alaskan standards, material conditions on the Pribilofs were exceedingly good. To-day, with our expectation of standard of living in matters of housing, energy (electricity, running water), public services (garbage removal, law and order maintenance etc.), health and education and other public services, economic returns must be far greater. It should be noted that even in the 19th century, both under Russian and US management, public services were provided free of charge to the resident community from the outside. Under the proposed regime, local communities must be self-maintaining and live up to the current standards and expectations. Therefore, the burden on the communities is very great.

well

DON YOUNG

WASHINGTON OFFICE

TELEPHONE 647-4274

INTERIOR AND INSULAR

MERCHANT MARINE AND

Senate of the United States

Office of Representatives

Washington, D.C. 20515

Mr. Richard Roe

Office of Insular Affairs

National Oceanic & Atmospheric Administration

Washington, D.C.

Dear Mr. Roe:

Draft Environmental Impact Statement on the Interior and

would seek to modify the Convention to allow an immediate

on fur seal entanglement, to prohibit the disposal of

years. However, this option should not be pursued at the

termination of the Convention - would result, as the

to do all of the things that the proposed modification

Convention, and the U.S. domestic harvest allowed pursuant

In the event that additional modifications are sought

and seek an extension of the Convention without modification

thus achieving one of the objectives of the proposed

to meet the other objectives.

I would appreciate your including these comments

Sincerely,

Don Young

DON YOUNG
Member for Alaska

Comment on DEIS

the section which should be failing to indicate the potential problem areas. While I am not completely in agreement with the section, I do believe that the environment is sufficiently difficult that problems may arise which could be avoided.

Development in the islands, will put a very serious stress on the communities and overall manner (pp. 30-31). I, for one, can think of the stress placed on the islands in a number of ways. First, the islands are being developed in a manner that is not in keeping with the needs of the islands. Second, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Third, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Fourth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Fifth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Sixth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Seventh, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Eighth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Ninth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Tenth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians.

The same consideration applies to increased potential need for revenue (revenues). How are such contingencies provided for?

c) By the way, in the summary of Aleut history in the introduction, an important source of food, and that even into modern times (pp. 10-11). I, for one, can think of the stress placed on the islands in a number of ways. First, the islands are being developed in a manner that is not in keeping with the needs of the islands. Second, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Third, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Fourth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Fifth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Sixth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Seventh, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Eighth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Ninth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians. Tenth, the islands are being developed in a manner that is not in keeping with the needs of the Aleutians.

The exchange for salmon provides for variety in uses, including

I conclude my remarks by the observation that the proposed development in the Pribilof

Islands on sea mammals, birds, fish and so on, the islands are home.

How many people in the USA elsewhere can make the same

The Aleut assessment of the situation in the islands is presented to the US Congress, and the

final document, the FIS to be presented to the US Congress, and the

presented at the Aleut community meeting, as supporting material, a paper

ANCHORAGE COMMUNITY MEETING, 20-25 August 1987, by Dr. Douglas M. Veitre of

ALASKA COMMUNITY DEVELOPMENT

Don Young

100-688

★
Consequence

F-1

Richard B. Roe
Office of Protected Species
National Marine Fisheries Service
Washington, D.C. 20235

12-30-83

Dear Mr. Roe,

Having carefully reviewed the DEIS on the Interim Convention on Conservation of North Pacific Fur Seals, I would like to offer the following comments.

Your proposed action, which includes extending the Convention with only minor modifications, represents a negligent attitude towards your responsibilities under the law. It is clearly stated, within the provisions of the Marine Mammal Protection Act, that the Secretary of Commerce must "initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of" the Act (Section 108(a)(4)). To be consistent, the Convention would have to be modified to include the following provision: "species and population stocks of marine mammals should not be permitted to diminish below their optimum sustainable population (OS)" and "that the primary objective of their management should be to maintain the health and stability of the marine ecosystem." Since your own scientists, in a background paper submitted to the Standing Scientific Committee of the North Pacific Fur Seal Commission clearly state that "The northern fur seal population of the Pribilof Islands has shown a declining trend in recent years. At current levels it is likely that the population is below Optimum Sustainable Population levels as established by the Marine Mammal Protection Act.", your proposed action should have recommended modifications which would reconcile these discrepancies. It does not. And, since the Convention itself requires that maximum sustainable production of sub-adult males be maintained, and since your own scientists have reported that "There is very little doubt that the population is below levels which would result in the maximum

F-2

sustainable production of subadult males...", you should have proposed specific modifications to the Convention which would have dealt with this problem. In fact, your only proposed modification relating to this problem is to call for more research into the causes of fur seal mortality at sea due to entanglement in fishing debris. Relying totally on this approach to solve the declining population problem of the fur seal herd is obviously negligent, particularly when alternatives exist. For example: No research has ever been done concerning the possible negative impacts of genetic pool tampering which results from subadult male harvesting techniques employed in the Pribilof operation. This is confirmed by one of your scientists in the 10 year report on Pribilof Research, February 1983. You propose no research into possible conflicts between fur seals and fishing fleets with regards to competition for fish, yet the Chairman of the Marine Mammal Commission has stated that his research indicates a definite negative impact exists. Since the limited research your scientists undertook in this area concentrated exclusively on data obtained from birth to 7 weeks, a substantial period of infant development has been ignored. Furthermore, recent research involving harp seals has shown that the nursing females are also negatively impacted by the competition for food with commercial fishing fleets. And, since your one area of concern (entanglement) is based on 1/3 incidence rate among harvested males, relying exclusively on research into this area is inexcusable. The fact of the matter is, you really don't know what is causing the observed and continuing decline. The Marine Mammal Commission, when presented with this same evidence, recommended a complete halt to all harvesting on the Pribilof until such time as a scientific explanation for the decline is available. Such a proposal is also advocated under the provisions of the Convention when the herd population is in decline, yet you make no such recommendation in your proposed action. I believe this is because of the position taken by your scientists when they stated: "Thus, the declining population appears to be below acceptable levels as based on several legally established criteria. It should be stressed, however, that the decline and reduced status of the Pribilof fur seal population is not a problem of

F-3

management through the harvest of subadult males. This is made clear by the fact that the decline observed in recent years is seen on both St. George Island and St. Paul even though St. George's population has not been subjected to a full scale commercial harvest since 1974. Furthermore, during all periods of increasing population levels following female harvests the population was subjected to a male only harvest. This was also true at the stochastically stable population levels in the 1940's and early 1950's. Harvesting of subadult males, therefore, as is often noted, is a rational approach to managing a resource. There exists the possibility that an increased harvest would change sex ratios to induce greater productivity (as in other species) but this has not yet been clearly demonstrated to be the case for fur seals. Such a position is not supported by the available data and should not be relied upon as justification for the continuation of the harvest operation.

Let's examine the facts:

1) "The decline seen in recent years is observed on both St. George Island and St. Paul even though St. George's population has not been subjected to a full scale commercial harvest since 1974." To begin with, this judgement assumes that St. George's population represents an unharvested control population. Only if this is true can a direct comparison be made. However, according to a recent report on the Impacts of the Subsistence Harvest on the St. George Research Program (1983), prepared by your own scientists, "The harvest of 350 animals has reached levels which may be having a significant impact on the sex ratio of the population." Since the sex ratio is the major factor affected by a harvest management technique, St. George obviously represents a questionable control population. Your own scientists go on to discuss the degree of error the subsistence harvest introduces into St. George data: "In statistical analyses, most biologists consider a 5% level the maximum tolerable risk of error in determining significance. The 10% level is considered unsafe." The risk of error factor in the St. George study was over 5% when the study was first initiated in 1976; has increased to 15% in 1983; and continues to increase in a nonlinear fashion as the population continues to decline.

F-4

Furthermore, the documented decline rate on St. Paul is double that observed on St. George, 8% vs 4% annually. It seems obvious that not only are comparisons invalid, but evidence may exist which demonstrates a negative impact due to subadult male harvesting on St. Paul! Certainly this possibility should be addressed rather than dismissed.

2) "Furthermore, during all periods of increasing population levels following female harvests the population was subjected to a male only harvest." While on the surface this appears to have been the case (rates of increase, sex ratios, etc. are not given), what is not mentioned is that during each of the historical periods of decline followed by population increase, a moratorium on all harvesting was used to begin the upturn in the population cycle. This generally lasted 5 years. And the only time a moratorium did not follow female harvesting (1956-1968), the herd failed to recover! Since this moratorium technique has proven highly effective in the past, it seems only reasonable to use it during this current crisis.

3) "This was also true at the stochastically stable population levels in the 1940's and early 1950's." To site, as a comparison example, a stable or increasing population seems quite unreasonable since the current herd is experiencing a serious decline in population. A far better comparison can be made between the current situation and fur seal population declines experienced recently on Russia's Commander Islands. Between 1967 and 1972, the total # of adult males on the Commanders declined by 70%. The reason given for the observed decline was excessive slaughtering of males. From 1961 to 1972, the adult male population on St. Paul also declined by 70%. Since 1972, the adult male population on the Commander Islands has increased by over 400% while the St. Paul adult male population has increased by only 5%. The reason given for the dramatic recovery on the Commander Islands was the 5 year moratorium on commercial harvesting instituted by the Russians. Why, when such evidence exists, have you chosen not to include a moratorium as part of your modifications?

4) "There exists the possibility that an increased harvest would change sex ratios to induce greater productivity (as in other species)." This statement refers to the supposed desirability

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of manipulating the Harem to Idle Bull ratio as a means of stimulating population expansion through increased birth rates. Reliance on this statement to determine the effects of a continuing harvest is quite unreasonable. Your own scientists state, in regards to an increased harvest changing sex ratios to induce greater productivity, "this has not been clearly demonstrated to be the case for fur seals." Furthermore, this theory is directly contradicted by the historical population recovery on the Commander Islands in which the rapid increase in the adult male population was accompanied by a steady increase in the number of pups born! Just as contradictory is the fact that during the Pribilof herd's maximum sustained population level (early 1950's), the H/I ratio was the same as it is today. The scientists' response to the low H/I level in the 1950's was to call for a dramatic population reduction scheme which included harvesting pregnant/nursing females. Today, your own scientists believe that this attempt to shift the sex ratios within the herd has contributed significantly to the population decline currently observed in the northern fur seals.

It should be obvious then, that no sound scientific reason exists for recommending a continuation of the harvest of northern fur seals on the Pribilof Islands. Since it is your responsibility to consider all impacts associated with the Convention, it seems negligent to have failed to consider the positive impacts associated with an end to the harvest operation. For example, the availability of younger males to breed with late-arriving young females increases the number of pups born in subsequent years. In light of the current and anticipated pressures being exerted upon the Herring Sea ecosystem, value could also be given to greater genetic diversity being available during high total male population periods. And, extra males means lower female/male ratios which result in higher impregnation rates (more sperm per female, better chance of impregnation coinciding with female estrus, better chance of the entire harem being impregnated). This too would result in an increase in the number of pups born. Of course, an end to the harvest operation would also result in an immediate population increase of 3%. When the decline rate is 8%, that is a very significant step.

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In light of all this evidence, it seems incredible that you would propose an increase in the Convention's duration from 4 years to 6 years. Nowhere do you evaluate the impacts of this extension on the seal herd nor do you discuss the reduction in opportunities to renegotiate the Convention. And the only justification you give for such a proposal is a supposed need on the part of the Aleuts living on the Pribilof Islands, for a 6 year guaranteed source of harvested skins to enable them to negotiate sales contracts. The fact of the matter is, the economics of participation in the harvest operation are so poor, the likelihood of anyone making a profit from running the operation is extremely remote, guaranteed source or no. And the Aleuts can ill afford to gamble on a currently unprofitable business venture when their resources are so limited. An analysis of the latest figures available from past harvest operations shows that a 5 fold increase in the number of skins sold each year would be necessary for the Aleuts to realize a gain comparable to the dollars received in 1982 from their wages. Given the current and anticipated short-term harvest levels, this is totally unreasonable. Furthermore, if the numbers of skins taken and sold was only tripled, the operators of the harvest would simply break even on their overhead costs and no wages could be paid. Again, this is unreasonable to expect. Any level of return below this will result in an operating loss to the Aleuts. Any suggestions that a continued harvest operation is needed by the Aleuts for economic survival is a misrepresentation and in direct conflict with the purported purpose of HR 2840, i.e., to encourage the Aleuts to utilize their trust fund to achieve economic independence from the harvest operation. Another aspect of the Convention's continuation which has not been considered is the economic responsibility for the continuation of the harvest operation. If the Aleuts decline to run the operation due to its negative economics, who then is responsible for providing the Convention's member nations with their shares of harvested skins? Shouldn't the IEIS have analyzed the possibility of a return to direct U.S. Treasury subsidies in order to meet the obligations set forth in the Convention?

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Since the negative impact of a return to pelagic sealing is given as one of the main reasons for extending the Convention, I would have expected a thorough discussion of this concern in your DEIS. Unfortunately, you provide only cursory treatment. Any reasonable appraisal would have included the following information. While Japan has threatened to begin pelagic sealing if the Convention is allowed to expire, that threat is most likely a hollow one. Japan withdrew from the Convention from 1941-1957 yet they never organized a directed pelagic sealing operation during that time. The vast majority of the northern fur seals' migratory route lies within the territorial boundaries of the U.S., Canada and Russia. When the seals do migrate in waters that are not protected by those nations, they are widely distributed along the route, making large numbers of interceptions extremely difficult. The only time the seals are vulnerable to pelagic sealing is when they are concentrated around their breeding grounds, and those areas are all within the protected waters of the U.S. and Russia. The economic factors involved in a direct pelagic sealing operation are so poor that there is currently no nation engaged in pelagic sealing, of any kind of seal, anywhere in the world. Furthermore, Japan relies exclusively upon the U.S. to process their share of the fur seal skins since the only processing plants in existence are on the Pribilof Islands and in S. Carolina. Under the MPA it would be illegal to import those pelts for processing. Finally, single-nation management works quite well for all other seals protected under the MPA, none of which are currently threatened by pelagic sealing operations.

After looking at all the facts, it seems far more reasonable to believe Japan's threat presents no immediate problem for the health of the fur seal herd than to overreact as you have in the DEIS. The real reason Japan maintains their threat is because the Convention guarantees them a free source of seal skins. Their only obligation is to promise to refrain from pelagic sealing!

Another major concern expressed in your DEIS is with the need for international cooperation to reduce the negative impacts of discarded fishing nets. Indeed, if this situation is contributing to the decline of the northern fur seal herd as well as other marine life, cooperation with fishing nations is essential.

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However, the Convention is certainly not the best forum in which to address this problem, particularly when only 4 nations are members and only the northern fur seals are of concern. Far better negotiations can be undertaken by the Commerce Department through the permit system currently authorizing foreign and domestic operators to fish in U.S. waters. This allows for negotiations with all involved parties, covers all marine life as required by the MMPA and permits direct sanctions for enforcement. To justify the Convention's extension because of a need to address the entanglement problem makes no sense.

A final concern discussed in your DEIS is the need for continued multilateral research efforts to effectively manage the seal herd. The important point to consider here is just how effective that cooperative research program has been. More time, money and effort has been expended on studying the northern fur seals than on any other marine mammal in history, yet the Pribilof herd has been experiencing a decline in population for almost 30 years and no scientific explanation has ever been discovered under the Convention. Today, the decline rate on St. Paul Island is a disastrous 8% annually and the only remedy recommended in your DEIS is more research into entanglement. And, if more research is really so essential to a recovery of the herd, why has the NOAA/NMFS research budget been cut for 1984 while overhead costs of the research program are expected to increase dramatically following the Government's pullout from the Pribilof Program. Perhaps what is really needed is better researchers, not just more of the same ineffective research and an end to the one known factor in the unsuccessful management program, the slaughter of thousands of seals each year to generate revenues.

All things considered, the current DEIS falls miserably in its attempt to address the real concerns facing the Aleuts and especially the northern fur seals. As a presentation to Congress, it seriously distorts the issues and provides selectively biased information. And as a conservation document it represents a contributory factor in the decline of a threatened species of marine mammal. I urge you to follow the mandate of the MMPA and draft a final EIS which assures complete protection for the northern fur seals and their environment. To do any less is not only negligent, it is illegal.

Sincerely,
Bruce Spuler

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Robert J. Wilson
1645 Mar West #8
Tiburon Ca., 94920
January 4, 1984

Richard B. Roe
Acting Director, Office of Protected
Species (F/W4)
National Marine Fisheries Service
Washington, D.C. 20235

In Re: Draft EIS on the Interim Convention of North Pacific
Fur Seals

Dear Sir:

The EIS process and the upcoming congressional debate provide an excellent opportunity to completely reevaluate the U.S. position regarding the Pribiloff fur seal herd and the effect on Pribiloff Island residents. Rather than focus on specific negotiating positions the NMFS and the Congress should instead agree on the goals and then determine the steps to work toward those goals.

The first goal should be to stop the U.S. killing of fur seals. It is wrong. It is unethical. It is inhumane. It is not in accord with present day ethics of Americans. It is a barbarous american policy. It weakens our standing in the worldcommunity when arguing against other nations marine mammal killing. It is hypocritical when viewed in light of america's resolve not to kill marine mammals as embodied in the MMPA.

The second goal would be to determine why this "model conservation program" is allowing a 5% per year reduction. Allowing this "population plunge" to continue for the recommended 6 year extension will lead to a reduction of 30% (at straight line rates). To state so affirmatively as the EIS does that the harvest doesn't affect this could be bold and uninformed. Expanded research is necessary.

The third goal would be to take firm steps to solve the entanglement problem.

The fourth goal would be to assist the Pribiloff Islanders to complete their return from slavery by ending all dependence on our colonial policies including our north pacific "cotton picking".

The fifth goal is to ensure pelagic sealing will not resume.

I. GOAL RATIONALE

Stop The Killing

The rationale for this needs no elaboration. While this may be considered an emotional issue no facts in the draft EIS support a continuation of the kill. It is not necessary for the conservation of the herd. The EIS should be expanded to discuss this issue fully and in detail.

The "facts" in the EIS do not justify continuation of the killing. ARTICLE V.2(d) of the Convention provides that the

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Commission shall recommend "suspension of the harvest of seals...in case the total number of seals...falls below the level of maximum sustainable productivity." The 1983 report (App. B to EIS) shows the poulation below both MSY and OSP. Why hasn't the killing stopped? Just because the decline is believed not to be due to the harvest doesn't affect the treaty requirement to stop the killing since all sorts of intervening causes such as overfishing were envisioned when the treaty was negotiated. Thus, under the treaty when population drops below the MSY the killing must stop. The draft EIS fails to address this issue.

The Herd Reduction

Efforts must be taken to determine the cause of the decline. Putting all our eggs in the basket of entanglement research could be a costly gamble. All three proposed approaches take herd reduction research into account. However, more emphasis and commitment to expend more research funds is necessary.

Gear Entanglement

All three proposals place research and prevention of net entanglement as priorities. However, not much more research needs to be done. Current studies demonstrate conclusively the effect of entanglement on the population. The report fails to mention the cooperative research projects of the Japanese on the Pribiloffs this year and even they must now be convinced of the conclusiveness of the research. Any treaty options should therefore focus on prevention of entanglement rather than research.

Effect on the Native Population

The major rationale for continuing the U.S. killing is the effect on the natives. It is also the rationale given for the unreasonable long (6 year) recommended extension. This is a somewhat hypocritical position. The major action taken recently by the U.S. has been the cruel "pull-out" by the passage of PL 98-129. As reported at p. 28 of the EIS the natives wanted a 5 year transition period. As the report states: "Federal representatives supported an immediate phase-out." Of course the U.S. got it after paying \$20,000,000. Harvesting salaries constitute only 10% of island income yet now "Federal representatives" seek a 6 year phase-out period claiming an immediate pull out would cause: "...severe social/cultural and economic impacts..." (p. 36).

Only a small number of people (80) are employed for the five week season. This is only 8 staff positions per year. Only 10% of personal income is derived from harvests. This is a drop in the bucket when compared to the money and land received under the Native Claims Settlement Act, the 20 million trust fund for the pull out and the millions spent by the U.S. and State of Alaska on research and grants.

The effect on the U.S. taxpayer must be balanced against this. Most americans know that killing these creatures is immoral and contrary to current american principles of humaneness to wildlife. I am sure that most taxpayers didn't know that the expenses for the program in FY 82 was

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\$466,000 and receipts from sales was \$153,000 for a loss of \$313,000. This is a cost to the taxpayer of \$14.42 for each skin sold. A taxpayer subsidy to European fashion markets. I resent this.

In my travels to the Pribiloffs this year I had numerous discussions with some of the natives on current issues facing them. My impression was that the natives were more concerned with the U.S. abandonment of them in the administration of the Island rather than the elimination of the short harvest. The EIS should therefore be more honest regarding native problems and not use the convention renegotiating as a ruse for hypocritical, pompous conclusory statements about "social impacts."

Pelagic Sealing

In 1980 the great issue propounded in defense of the treaty was it was needed to stop pelagic sealing. The draft EIS made all sorts of conclusory statements and Secretary Haig testified as to the importance of the issue. I could get no concrete information from NMFS or State on the source of this belief so I filed an FOI request. In fact, I filed numerous requests; got some information and was refused other. I appealed and finally in the fall of 1983 I had what appeared to be nearly complete files on this issue. Nowhere in those files is there any correspondence from any other treaty signatory or minutes of meetings where there was any indication that pelagic sealing would resume. The only conclusion that could be drawn from this is that NMFS and State intentionally misrepresented the facts to the public and the Congress on this issue. Therefore in all areas of the EIS where statements of other governments are referred to or hinted at or where possible other government action is discussed, the NMFS and State should be required to justify, with documents, those assertions.

Luckily, this year pelagic sealing is downplayed. This is probably due to the requirement by the Senate that NMFS report on migration distribution for this renegotiation. The research reported to the Senate in the draft EIS clearly establishes that migratory densities of females cannot be economical. Thus it has been dropped as an issue this time around. It was a "red herring" issue in 1980 and it is now.

In order to justify the status quo and bureaucratic inertia with a reluctance to rock the institutional boat and have to do some renegotiation work; it appears that NMFS and State have dropped the pelagic sealing issue and come up with the entanglement issue for this round. If they are successful 6 years from now another "issue" will take the forefront to postpone having to take the courageous action of insisting on stopping the killing.

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II. ACCOMPLISHMENT OF THE GOALS

The key to the accomplishment of the goals is whether the U.S. can unilaterally alter its share of the harvest. During the 1980 debates, in the EIS, and in letters to conservation organizations NMFS assured the American public we could reduce the kill. Therefore, organized opposition was dropped to the proposals to ensure no future pelagic sealing. This time the EIS states at p. 35: "Although the United States maintained that it may alter its share of the harvest under current treaty provisions, other Party Governments have disagreed with this interpretation."

That is the only discussion in this EIS. Based on the NMFS and State deception last time on pelagic sealing (discussed above) the EIS should be greatly expanded to discuss this issue. If in fact the other governments do disagree then reproduce the cables, letters or minutes of formal meetings where this is supported. I suspect you have no more support for this statement than you did last time in support of your false assertions regarding pelagic sealing.

Modification

The treaty modification should be an exchange of letters agreeing to our interpretation of our right to unilaterally reduce our take. Not just in "emergencies." We would then not need the modification for "emergency" termination. The next two proposals on research on decline and preventing entanglement would be agreeable. The term would be irrelevant.

If however, the parties cannot agree to our position on unilateral reduction then there should be no modification but only a renegotiation.

Extension

Extension serves no purpose whatsoever.

Renegotiation

Renegotiation is the preferred approach if we cannot unilaterally terminate our harvest. The only reasons against this option (p.10) are that other governments might not agree. It doesn't hurt to try. If everybody were to forego negotiations because they "felt" the other side wouldn't agree there would be no negotiations. If this is the normal view of the State Dept. then a real reorganization is in order in Foggy Bottom.

The U.S.S.R. didn't agree when we put Pershing and Cruise missiles next to their soil but we did it anyway because it was in our national interest. In this case the negotiation strategy is simple. Link it to our fisheries. If you want to fish in our waters agree to let us stop the kill and stop discarding your nets. That should be a simple task. Make them an offer they can't refuse.

Even if we didn't want to bully them, the other party governments have no vested interest in our kill. The amount of money received by Japan and Canada is miniscule. The USSR gets no direct benefit from our harvest. There is no overpopulation depleting fisheries that the parties are dependant upon. Therefore the pessimism of the State

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EMBASSY OF JAPAN
2520 MASSACHUSETTS AVENUE, N.W.
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(202) 234-2266

January 5, 1984

Department is misplaced. If it was agreed we were not going to harvest then the other governments would not have to be concerned with OSP or MSY concepts as they relate to the treaty since they would become moot.

The other fear of renegotiation is that other governments might wish to introduce other issues into the negotiations. That is a risk we take. Of course if they do, the Senate will refuse to ratify the treaty. We can also use our fisheries club.

America is finally standing up to other governments and insisting on respect of our national interests. Surely a small matter like a seal treaty shouldn't be too hard.

Expiration

If the treaty cannot be agreed upon then it should expire so we can stop our kill. The impacts are negligible. All the arguments listed are exaggerations or not based in fact. The result on the islanders would be negligible. There would be protection under the MMPA notwithstanding the "threat" to return management to those NMFS perceived "Alaskan barbarians." Pelagic sealing will not resume and NMFS and State knows it. All actions by foreign governments can be thwarted by fisheries and other laws and permits to fish can contain conditions regarding discarding of gear.

In summary, I would like to thank you for the opportunity to comment on these important matters. Please keep me advised as to further proceedings such as the revised draft EIS or a final EIS report or additional comment periods.

Sincerely yours,


Robert J. Wilson

Mr. Richard B. Roe
Acting Director
Office of Protected Species and
Habitat Conservation
National Marine Fisheries Service
Washington, D.C. 20235

Dear Mr. Roe:

Please find enclosed the comments of the Government of Japan concerning the Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals.

It should be noted that the comments enclosed are of a preliminary nature and submitting them at this time, when the U.S. Government is completing its own internal procedures, including the preparation of an Environmental Impact Statement on this subject matter, prejudices in no way the positions of the Japanese Government to be taken in the course of consultations among the contracting party governments.

Yours sincerely,


Hisao Azuma
Counselor

cc: Mr. Henry R. Beasley
Acting Director
Office of International Fisheries
National Marine Fisheries Service

Mr. Raymond V. Arnaudo
Fisheries Officer
Department of State

Comments of the Government of Japan on
Draft Environmental Impact Statement (DEIS)
on the Interim Convention on Conservation
of North Pacific Fur Seals

January 5, 1984

1. Japan believes that the fur seal resources of the North Pacific should be rationally utilized by human beings and that they should be appropriately and jointly managed by the contracting parties on the basis of scientific evidence under the framework of the present Interim Convention.

2. The position of Japan is that reasonable pelagic sealing conducted in conjunction with land sealing should be permitted in certain circumstances without adversely affecting achievement of the objectives of the Convention. In light of the following recommendation, adopted by the Commission at the 25th annual meeting in 1982, Japan believes that the necessary studies and research should be continued under the present Convention framework:

In accordance with the provisions of Article V, 2(e) of the Interim Convention on Conservation of North Pacific Fur Seals, the Commission has conducted extensive studies to determine whether or not pelagic sealing in conjunction with land sealing could be permitted in certain circumstances without adversely affecting achievement of the objectives of the Convention. These studies have not provided sufficient data to permit the Commission to reach a final decision on this question at this time. The Commission therefore recommends to the parties that the studies be continued.

3. Accordingly, Japan believes that Alternative B of the proposed actions as it is described in the DEIS, or a simple extension of the present Convention, is most appropriate. Japan is open to a four year extension or a six year extension.

4. With regard to Alternative A of the proposed actions as it appears in the DEIS, Japan views the following areas as problematic:

- (1) Alternative A proposes to amend Article V to introduce a system by which harvesting nations, under special circumstances, may decide unilaterally to change the number of fur seals the Commission has recommended be harvested. Japan is opposed to such an amendment in that it denies the fundamental principle of international management of fur seal resources as embodied in the present Convention. It is possible, without changing the present Convention by introducing such an amendment, for harvesting nations to suspend sealing before reaching the upper limit of fur seals that the Commission has recommended be harvested. Any potential improvements for the harvesting season which Alternative A represents are also possible under the present Convention.
- (2) Alternative A proposes to amend Article II to require additional research on the current population decline, with special emphasis on the problem of entanglement of fur seals at sea. Japan does not view such an

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amendment as necessary, since the pertinent article of the present Convention in no way precludes research towards a solution of the entanglement problem. (It is reasonable to assume that the causes of fluctuations in the stock condition of fur seals may vary with any particular time span, so it is highly questionable to amend an Article of the Convention just because an issue pending at the present time is entanglement.)

(3) Alternative A also proposes to insert a new article to prohibit the disposal of fishing debris at sea through the use of certain enforcement mechanisms. Japan fully recognizes the significance of the problem of discarded fishing debris, including fishing gear, which may cause entanglement of fur seals at sea. However, since all the parties to the present Convention are also, as stated in the DEIS, the parties to the London Dumping Convention, this issue should be dealt with in the latter Convention. Japan therefore sees no need for a new article dealing with this issue to be added to the present Convention. It would be particularly inappropriate to deal with general marine pollution problems, including the effects of discarded fishing debris on marine mammals other than fur seals, sea birds and sea turtles, within the framework of the Convention relating to conservation and utilization of fur seals, since the workshop which the U.S. has proposed to hold envisages tackling such general problems.

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5. Japan further wishes to refer to the problematic description in the third, fourth and fifth sentences of the third paragraph of Alternative D of the DEIS (p.10-11), They claim that continuing the regulated land harvest on the Pribilof Islands, or allowing the present Convention to continue, eliminates any possible threat of pelagic sealing by Japan. This is a sheer distortion of the situation. The DEIS has not incorporated the request made by Japan through its Embassy on October 17, 1983 to delete these sentences. Japan wishes to reiterate its abovementioned request since these sentences may cause a misunderstanding of the issue by the U.S. public. For example, Japan presently prohibits any taking of fur seals by its nationals under the Law Regulating the Harvest of Sea Otters and Fur Seals. It is inconceivable that the expiration of the present Convention would automatically lead to the resumption of such harvesting by Japanese nationals.

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Richard B. Roe

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January 5, 1984

Such a consequence must be addressed in a final EIS.

The DEIS did not explain why the fur seal population decline on St. Paul Island is nearly twice that of the St. George Island. When both populations are subject to the common problem of net entanglement, the only major difference remaining is that commercial killing occurs on St. Paul Island and not on St. George Island. This leads us to suspect that the DEIS conclusion that "the decline and reduced status of the Pribilof fur seal population is not a result of the harvest of subadult males..." should be reassessed.

Another deficiency of the DEIS was that it alluded to the possibility of a return to pelagic harvesting or taking of fur seals in the absence of the existing treaty. In our earliest correspondences with the Department of Commerce on the fur seal treaty, the "spectre" of a resumption of pelagic sealing was always given as an outcome if the treaty was not in effect.

It is our understanding that the economics of such a venture (a fleet dedicated to fur seal harvesting) would be prohibitive. Furthermore, we doubt that any significant numbers would be taken on the open sea for "predator control" purposes than are currently taken. On the other hand, if the existing fur seal treaty expired, the seals would be protected under provisions of the MMPA in areas such as Unimak Pass and around the breeding grounds, areas where they concentrate, and the only areas where pelagic sealing would be economically feasible.

Conclusion:

We feel that in light of the currently collapsed market in fur seal skins, the U.S. government should not subsidize an industry which is destined for international restrictions or eventual closure.

Furthermore, we feel the ongoing political troubles which are inherent in the existing treaty and which have, for example, prevented Canada and Japan from agreeing to a proposal by the United States to manage the herd to allow it to remain at its optimum sustainable population (OSP), are sufficient to persuade the U.S. government to adopt the action which would allow for the expiration of the North Pacific Fur Seal Treaty.

In summary, it is the belief of the Animal Protection Institute of America that while the U.S. involvement in the treaty may have once been necessary in protecting fur seals from foreign exploitation at a time when U.S. territorial waters were not as extensive as they are presently, the fur seals of the Pribilof Islands would be better

continued

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Richard B. Roe

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January 5, 1984

served by letting the Interim Convention on Conservation of North Pacific Fur Seals expire. This would immediately bring the Pribilof Islands herds under the management policies and protections of the MMPA and result in the termination of commercial killing of the Pribilof fur seals.

FOR THE ANIMAL PROTECTION INSTITUTE OF AMERICA

Most sincerely,



Cheryl Mouras
Senior Vice President

CM/bwe

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Richard B. Roe
5 January 1984
Page 2

northern fur seal was prevented in 1910 by wise management that resulted in a current population of 1.4 million animals. Although we are concerned about the 4-8% annual decline in pup numbers, allowing the treaty to expire in October 1984 would end the present international management and research programs for the northern fur seal. We know of no scientific information to indicate that ending the commercial harvest of sub-adult males in this polygamous species would reverse the downward trend in pup numbers. In fact, not harvesting sub-adult males could actually impede recovery by altering the sex-ratio, reducing productivity, and increasing pup mortality. Further, most pregnant females, on their return to the Pribilof Islands, travel outside the 200-mile zones of the U.S. or Canada and would become susceptible to pelagic sealing. Any amount of indiscriminate pelagic sealing is unacceptable. We must support and strengthen scientific management and research as the rational instruments for maintaining, restoring, and enhancing the northern fur seal resource for the continued use and appreciation by humanity. The "hands-off" approach by allowing the Convention to expire would have a major negative impact on the species we are attempting to conserve and on the Aleut people.

Alternative C (Renegotiate the Convention) does not appear to be viable at this time--the DEIS makes frequent reference to the fact that substantive renegotiation is opposed by most or all parties (e.g., pages 11, 8, 10, 36, etc.). It may be desirable ultimately to have a formally revised Convention, containing at least some of the items proposed in Alternative A, as well as a revised management strategy. However, when renegotiation is appropriate, it must be initiated with sufficient lead time to ensure that if revision efforts fail time remains to extend the basic Convention.

Alternatives A (Modify the Present Convention Through an Exchange of Diplomatic Notes) and B (Extend the Present Convention) are preferable to C or D. Alternative B is the minimum that must be accomplished. We are concerned, however, that Alternatives A and B are presented as either/or. The first priority must be to extend the present Convention to ensure that indiscriminate pelagic sealing where pregnant females could be highly susceptible to harvest, does not resume. The modifications proposed in Alternative A, as well as Alternative C, must be viewed as subsets to Alternative B. With an ongoing Convention, the parties should work toward modifications--through the procedure outlined in either A or C

The four (4) proposed modifications outlined in Alternative A all appear to be appropriate for improved management and research. However, failure of the parties to agree on one or more of these proposed modifications must not be grounds to withhold extension of the Convention. We suggest that Alternative A should be entitled "Extension of the Convention with Possible Modifications" and Alternative B should be "Extension of the Convention without Modifications." The language of Alternative A then should make it clear that extension of the Convention is not contingent upon acceptance of all the modifications proposed. All the modifications should be sought and as many as are acceptable to the parties should be incorporated in the extension of the Convention through an exchange of diplomatic notes.

The Wildlife Society is concerned that adequate funding, a major aspect of northern fur seal conservation and management, has not been addressed in the DEIS. Sufficient funding and manpower have not been available to collect and

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THE WILDLIFE SOCIETY

5410 Grosvenor Lane • Bethesda, MD 20814 • Tel. (301) 887-9770

5 January 1984

Mr. Richard B. Roe, Acting Director
Office of Protected Species and
Habitat Conservation (F/W4)
National Marine Fisheries Service
Washington, DC 20235

Dear Mr. Roe:

The Wildlife Society appreciates the invitation to review and comment on the Draft Environmental Impact Statement (DEIS) on the Interim Convention on Conservation of North Pacific Fur Seals.

The Wildlife Society is the international professional organization that represents nearly 8,000 wildlife biologists, managers, researchers, educators, and administrators. The Wildlife Society always has supported sound programs to perpetuate and manage wild living resources, including the Interim Convention on Conservation of North Pacific Fur Seals. The DEIS on the future of the Convention is of direct concern because it relates to our principal objectives: 1) to develop and promote sound stewardship of wildlife resources and of the environments upon which wildlife and humans depend; 2) to undertake an active role in preventing human-induced environmental degradation; 3) to increase awareness and appreciation of wildlife values; and 4) to seek the highest standards in all activities of the wildlife profession. Within this framework, we offer the following comments and suggestions in an attempt to be as helpful as possible in developing the best international management and conservation program for the northern fur seal (*Callorhinus ursinus*).

The Wildlife Society supports an extension of the Interim Convention on Conservation of North Pacific Fur Seals. For several years the Society has been involved actively in efforts to maintain and extend the Interim Convention because we believe it is in the best interest of the resource, the northern fur seal populations. The successful northern fur seal program, conducted under the Interim Convention, epitomizes the objectives and results of sound international research, management, and wise use. In addition, extension of the Convention will assist the United States in fulfilling the requirements of the Fur Seal Act of 1966, particularly in regard to the Aleut residents, and help ensure a stable economic base during the transition from Federal administration of the Pribilof Islands to state and local governments and private enterprise (P.L. 98-129).

We view Alternative D (Allow Expiration of the Convention) to be completely unacceptable. Human-caused impacts have occurred in practically all of the ecosystems of the world and thus require scientific management of these disrupted areas and their associated living resources. The extirpation of the



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Richard B. Roe
5 January 1984
Page 3

analyze data necessary to better understand the changes occurring in the Pribilof northern fur seal populations. Rather than address the funding issue, the DEIS proposes additional research. While the additional research is needed, adequate funding must be available for the entire research and management effort.

A second overall concern is the marginal amount of detail provided reviewers on several aspects of the northern fur seal populations. Both the DEIS and Appendix II rely heavily on "in press," "in prep.," and basically internal National Marine Fisheries Service documents, not readily accessible, to support generalized statements. This is particularly troublesome for understanding: 1) the changes that have occurred on St. George Island (in the 10 years since harvests were halted) indicating that sub-adult male harvest could impede recovery of the population; 2) the amount of herd mortality due to entanglement in fishing debris; and 3) the continuing effect of the female harvest (1956-68) on present productivity. Summary tables and/or additional information should be included in the final EIS.

The Wildlife Society believes that the best interests of the northern fur seal and the Aleut people require the continuation of the Interim Convention (incorporating those modifications outlined in Alternative A, that are acceptable to all parties). In addition, adequate funding and manpower must be available to achieve the necessary research and management goals.

The Wildlife Society appreciates the opportunity to present these views.

Sincerely,

Harry E. Hodgdon

Harry E. Hodgdon
Executive Director

mm

cc: W. Alan Wentz
Jack Berryman

JACK W. LENTFER
Environmental Research and Consulting
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January 5, 1983

Richard B. Roe
National Marine Fisheries Service
Washington, D.C. 20235

Dear Mr. Roe:

Enclosed are comments on the Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals.

Sincerely,

Jack W. Lentfer
Jack W. Lentfer



K-2

Assessing the likelihood of pelagic sealing requires an understanding of fur seal distribution and past pelagic sealing. Continental shelf areas with high productivity affect fur seal distribution. The continental shelf and water depths are best shown by a map, but the water depth contours on the Bering Sea map are illegible (Figure 1). The DEIS states (p. 16, last para) that fur seals are most frequently seen from about 70 to 130 kilometers from land. This is generally borne out by maps (Figures 3 through 6). The DEIS also states (p. 18, para 2) that clearly, all fur seals spend some portion of their lives in water outside the jurisdictions of both the U.S. and Canada (i.e., more than 200 miles offshore). Some reviewers might consider this inconsistent with the previous statement and the maps, and it is suggested that offshore distribution be described in more detail with maps to support the text. The DEIS states (p. 18, para. 1) that the offshore region (more than 200 nautical miles offshore) contains essentially the entire population in December and January. Again, this is not borne out by maps (Figure 6c which includes December observations and Figure 6a which includes January observations).

Once it has been demonstrated what portion of the population would be vulnerable to harvest outside the 200-mile zones of the U.S. and Canada, and at what times of year, the economics of pelagic sealing should be addressed. This should include assessment of a harvest operation directed only at fur seals, and also in conjunction with existing fisheries. Items to be considered should include fuel costs, feasibility if excluded from refueling and receiving support at U.S. and Canadian ports, effects of scattered rather than clumped distribution of seals on harvest efficiency, skin processing costs, skin sale prices in an apparently declining market, distribution and availability of seals throughout the year relative to other fishery efforts and limitations because of weather, pelt quality during period when animals can be taken, and effects of world opinion ~~and~~ pelagic sealing and taking of females. In case Canada might choose not to exclude pelagic sealing in her 200-mile zone, a similar analysis should be made if animals are protected within only the

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Review of DEIS on the Interim Convention on Conservation of

North Pacific Fur Seals

General Comment

Certain points in the DEIS should be developed more completely for the FEIS and before a preferred alternative is selected. These include final analysis of data showing that termination of the harvest may impede population recovery, assessment of the probability of pelagic sealing if the Convention expires, a more complete description of how the 5 percent entanglement loss figure is derived with a breakdown of loss by sex, and more complete analysis of effects on Pribilof Islands residents if fur seal harvesting were terminated. More complete information is especially needed because many of the references on which the report is based have not received wide distribution and are not readily available to many reviewers.

Specific Comments

Population status with and without continued harvesting.
The DEIS states (p. 11, last para. and p. 25, para. 4) that termination of the male-only harvest could impede any recovery of the population. This is based on analyses in progress. This is a key point, and analyses should be completed and results included in the FEIS.

The point should also be made that seals on St. Paul Island and St. George Island each show fidelity to their respective islands. This strengthens the argument that population declines which have occurred on both islands are not due to harvesting which now occurs only on St. Paul Island.

Pelagic sealing

The DEIS states (last sentence starting on p. 10) that Japan could reintroduce pelagic sealing either as a commercial operation or in conjunction with existing fisheries in the Bering Sea if the Convention expires.

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U.S. 200-mile zone. Current skin processing cost and sale price figures might be included. Processing cost per skin by Fouke Company in 1981 was \$91.50; sale price was \$65 (From Dames and Moore. 1983. Economic strategies plan, St. Paul Island, Alaska, p. 4-36).

The DEIS states (p. 36, last para.) that international taking of seals by fishermen for predator control purposes could be expected to increase substantially in the absence of treaty prohibitions on pelagic sealing. This is an important point, and the basis for the statement should be provided, or if it is speculative, it should be so stated. It might also be speculated that certain fishermen who perceive marine mammals as competitors will always try to control them regardless of whether or not it is legal. Any possible analysis of the effects of "predator control" taking on the population should be included in the FEIS.

Entanglement

The DEIS states (p.23, para.1) that as much as 5 percent or more of the fur seal population may die from entanglement and that this mortality may be responsible for a large part of the observed decline in the fur seal herd in recent years. The DEIS states (p. 22, para. 2) that incidence of entanglement among females is considerably less than that observed among males taken in the harvest. The DEIS also implies that continuing the males-only harvest is necessary for the population to recover. If this is correct and if entanglement kills primarily males, then the case for entanglement as the primary cause for population decline is not borne out. This should be addressed in the FEIS. Table 8 would be more complete with a breakdown of entanglement rate by sex.

The DEIS states (p. 21, last para.) that the entanglement rate for harvested animals has averaged 0.4 percent since 1967. Fowler (1982) is cited as stating that 5 percent or more of the fur seal herd may die from entanglement (top of p. 23). The citation, Fowler 1982, is not included in the Literature Cited section (p. 72). The entanglement mortality rate is important, and this reference should be included, as well as a complete

K-4

discussion of how the 5 percent or greater figure was obtained and its relationship to the 0.4 percent average rate in Table 8.

The DEIS states (p 21, last para.) that entangling debris on St. Paul Island seals is usually trawl net scraps and plastic packing bands. The discussion would be more complete and possible solutions present themselves if debris types were quantified by percentages as is done for Soviet rookeries (p. 22, para. 4).

Economics of harvest and Pribilof Islands villages

Table 19 would be more complete if it showed that proceeds to the government (column 6) were before Canada and Japan each received 15 percent.

The DEIS states (p. 33, last para.) that new markets and promotional ventures may reverse the current decline in seal skin sale profits. Is this a definite possibility that is being pursued, and if so by whom, or is it a somewhat speculative statement? This should be clarified in the FEIS.

The DEIS states (last sentence starting on p. 28) that under PL 98-129 passed in October 1983, the Department continues its responsibilities of oversight and management of the fur seal harvest and for fur seal management as required by the Convention. It is not clear from the DEIS who has responsibility for sale of skins--the Department or Pribilof residents. It could be implied that Pribilof residents do, since the DEIS also states (p.34, para. 3) that a treaty extension longer than 4 years is necessary for island residents to establish new markets for skins and harvest by-products. The party responsible for marketing of skins under PL 98-129 and a Convention extension should be defined in the FEIS.

If, under extension or modification of the Convention, the island residents will have responsibility for sale of skins, does this mean that the government will continue to fund the cost of harvesting, and that proceeds from sale of skins is then clear profit for island residents, or will costs of harvesting, skin

K-S

processing, and program administration be deducted from sale of skin proceeds. When all costs were considered, the program resulted in a net loss to the government in 1982. If program costs are deducted from proceeds from sale of skins in the future, will such losses continue, and if so, will island residents be willing to take over such a program? Discussion of these aspects should be included in the FEIS.

Is there a possibility that the government would continue to underwrite an economically unprofitable program to harvest, process, and sell skins, and at the same time island residents would develop a fur seal cottage industry? If the Convention expires, might residents develop a cottage industry? These questions should be addressed in the FEIS.

The DEIS states (p. 36, para. 5) that Pribilof Islands residents would experience severe economic impacts if the seal harvest were discontinued. All of the harvest now occurs on St. Paul Island, and if both islands will be severely impacted, the method of impact should be explained for St. George Island. The DEIS states (p. 28, para. 2) that total earned income by the Aleut population on St. Paul Island in 1979 was \$2,180,566, of which NMFS salaries for work in the fur seal harvest totaled \$232,950, or 11 percent. Is loss of 11 percent of salaries a severe economic impact, especially in light of the \$20 million trust fund created by PL 98-129, boat harbors which will be constructed, and the developing fisheries industry?

The DEIS states (p. 27, last para.) that Pribilof Aleuts have received part of \$8.2 million in damages awarded them in 1978. How much more will they receive, when will they receive it, and will ^{it} help in the transition to a different economy if the fur seal harvesting is terminated?

Population status

The most probable reason given for a declining fur seal population is entanglement mortality. Other possible causes for population decline should also be examined. For example, have changes occurred in pregnancy rates or reproductive rates of

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breeding age females, both for all breeding age females combined and for specific age classes? Reproductive rates could be measured by the ratio of pups to breeding age females on the rookeries. Have heavy metals affected reproduction? Were not high levels of mercury reported in fur seals 10-15 years ago? If so, have such levels persisted, and is reproduction being affected?

The DEIS generally assumes that the ecosystem and fur seal carrying capacity have not changed. This is based partly on pup weights and tooth weights of bachelor males, both of which do not show declining trends (p. 121). It is possible that ecosystem changes are occurring and causing females to breed at a later age. If older females produce heavier pups, any decline in pup weights could be masked. Tooth weights of bachelor males reflect ecosystem condition in specific areas which apparently differ from areas utilized by females. Thus, conclusions from tooth weight data from bachelor males should not be applied to the entire range of the fur seal.

To gain a better understanding of ecosystem stability, food items consumed could be compared on a year to year basis to detect any changes. If differences occur over a period of years, it could indicate a change in the ecosystem. Prey species composition could change over time and not be immediately reflected in seal body size or condition. However, it is possible that prey species composition could eventually change, resulting in fewer desirable prey species and a resultant effect on the fur seal population.

Figure 8 illustrates a change in composition of species taken in the commercial fishery. Does this indicate an actual change in composition of fish available to be taken, or does it indicate a changing management regime, or does it indicate a combination of these factors? This should be addressed in the FEIS relative to a stable or changing ecosystem.

Development of a commercial fishery is being proposed for residents of the Pribilof Islands. Fishing would probably be intensively

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in the immediate vicinity of the Pribilof Islands. The probable effect on fur seals should be included in the FEIS.

The DEIS states (p. 26, para. 2) that available information indicates that for fur seals maximum net productivity occurs when the population is at 60 percent of carrying capacity. The authority for this should be cited.

The DEIS states (p. 32, para. 3) that oil spills in the St. George Basin during May to November could have a disastrous effect on the fur seal population. The seriousness of this would be better understood if direction of ocean currents were included on Figure 9.

The DEIS states (p.10, para. 4) that if the Convention expires, information known to authors of the DEIS indicates that up to 12,000 seals per year will be taken by Pribilof residents for subsistence. The source of this information should be provided, as well as details on sex and age composition of the subsistence harvest and the probable effect on the population.

Editorial comments

P. 31, para. 4 Marine Minerals Service is listed; this should be Minerals Management Service.

P.32 The paragraphs on effects of oil spills and seismic activity on whales are of general interest but seem to have limited relevance to fur seals.

P. 33, para. 2 The terms baculums or penis bones are better than reproductive organs or seal sticks.

P. 33, last para. Clarification is needed so that it is understood that decline in sale of fur seal skins means a decline in revenue, not a decline in number of skins sold.

Figures 1 and 3 through 6 and Table 4 would be more useful if they were more legible.

L-1

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January 6, 1984

*NOT ADMITTED IN ALASKA

Richard B. Roe
Acting Director
Office of Protected Species and
Habitat Conservation
National Marine Fisheries Service
U.S. Department of Commerce
Washington, D.C. 20236

Dear Mr. Roe:

Enclosed please find comments submitted by the St. George Tanaq Corporation on the Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals. The enclosures indicated in the comments refer to a Dames and Moore Study and an Economic Development Status Report -- I will send copies to you as soon as I receive them from St. George Tanaq.

Please do not hesitate to contact me if you have any questions.

CEC:rhg
Enclosures
cc: Joyce Wood
Ilidor Philemonof
Flora Lekanof, Sr.
Anthony Merculief

Sincerely,
Cynthia E. Carlson
Cynthia E. Carlson



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January 5, 1984

Mr. Richard B. Roe
Acting Director
Office of Protected Species
and Habitat Conservation
National Marine Fisheries Service
Washington, D. C. 20235

Dear Mr. Roe:

The St. George Tanag Corporation appreciates the opportunity to comment on the Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals issued in October 1983.

Please be aware that our comments focus primarily on issues that relate to protection of the fur seal herd and the welfare of the Aleut communities of St. George and St. Paul Islands, Alaska.

Generally speaking, we support the Department of State and the Department of Commerce's "Proposed Action" to extend the Convention.

Our specific comments are summarized below:

- * In reference to page 7, we support all modifications to the Convention that are listed in connection with the "Proposed Action." In particular, an extension of the Convention for six years (paragraph 4) would be preferable to a four year extension; development of self-sustaining economies on both St. George and St. Paul will require a considerable amount of time and effort.
- * On page 28, paragraph 3, reference is made to "St. George Island entities withdrawing from the IOC in 1982." We believe this statement needs to be qualified. More accurately, St. Paul Island entities formed an Inter-Organizational Council and invited St. George to join. After serious deliberation between representatives from both islands, St. George entities felt that the best interest of their community would not be served by this organization. Therefore, a decision was made not to become member to the IOC; but rather, to work independently for the interests of the St. George community.
- * On Page 29, paragraph 4, reference is made to the St. George Harbor project funding requirements. The wording used in this passage is misleading. Essentially this statement should state that the City of St. George will seek an additional State appropriation in 1984 of approximately \$8.0 million.

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Rec'd 1-6-84

Mr. Richard B. Roe
January 5, 1984
Page Two

* On page 29, paragraph 5, reference is made to St. George Island's tourism program. The Tanag Corporation has initiated a small seal tourism program for 1984. As a result of our efforts, two of Alaska's largest tour retailers have reserved the months of June, July and August, five days a week, next summer to bring visitors to St. George. Essentially a professional tourism program has been prepared and is presently being marketed to consumers and a number of tourists will be visiting St. George Island next summer.

* On page 30, paragraph 2, reference is made to the Tanag Corporation's purchase of a "small fleet of 42-foot class fishing boats." In actuality our boats are closer to 20 feet in length. However, local fishermen have every intention of purchasing larger boats as soon as St. George Island's fisheries industry (including harbor construction) is more fully developed. Attached you will find a more recent summary of our efforts towards economic development.

* The Pribilof Island population of northern fur seals appears to be declining at a significant rate. If this trend continues, we are concerned that the seal harvest may be discontinued. This would adversely affect Pribilof Island residents and we are concerned about the actions proposed to remedy this situation. In particular, the "proposed action" plan focuses on continuing research on the problem of entanglement. We recognize the need for further research on the problem of entanglement; however, we are dismayed at the lack of attention given to the practice of commercial fishermen killing seals on the high seas under the pretense of "predator control." In our opinion, this issue should be researched further and steps should be initiated to inform fisherman operating in the open seas of the illegality and consequences involved with such actions.

* Also in regards to the fur seal entanglement issue, it has come to our attention that a great deal of net webbing and fishing debris collects on the beaches of the Pribilof Islands. Since the northern fur seal population is at its greatest concentration on the Pribilofs, it follows that this debris represents a significant threat to the seals; particularly the newborn pups. We suggest that a plan to rid Pribilof beaches of this debris each summer would be relatively inexpensive and should be given thoughtful consideration.

* The draft EIS enumerates that only a subsistence harvest now takes place on St. George Island. As you are aware, last year the St. George community expressed a desire to increase the subsistence harvest from 350 seals to 1,500. It may be important to note in the EIS that we will seek to increase the subsistence quota again this year. With the federal withdrawal from the Pribilofs now reality, the residents of St. George Island will need to take advantage of the present subsistence harvest as well as the commercial take of seals in the future.

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Mr. Richard B. Roe
January 5, 1984
Page Three

In closing, we would like to emphasize the importance of these issues to the people of the Pribilof Islands. We urge you to review our comments completely and thoughtfully.

Please contact us if you have any questions. Thank you for the opportunity to comment.

Respectfully yours,

ST. GEORGE TANAO CORPORATION

Flore Lekanof, Sr.

Flore Lekanof, Sr.
President

FL:BC:djd

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cc: Iliodor Philemonof
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January 6, 1984

National Marine Fisheries Service
Washington, D.C. 20235

To Whom it May Concern:

GREENPEACE INTERNATIONAL is herewith providing comments and suggestions in response to the DRAFT ENVIRONMENTAL IMPACT STATEMENT ON THE INTERIM CONVENTION OF NORTH PACIFIC FUR SEALS. Greenpeace thanks the preparers of this DEIS for their efforts in putting together the study.

It is very fortunate that the time has once again arrived to evaluate the Interim Convention, since some major changes in the issue have occurred since it was last examined. The most important of these are:

--The Pribilof Island Program's chief scientist's conclusion that there is little doubt that the northern fur seal population in the Pribilof Islands is below the level required by the Interim Convention, and below OSP as established by the Marine Mammal Protection Act

--The end of U.S. administration of the Pribilof Islands and U.S. financing of the fur seal kill

--The imminent introduction of new industry on the Pribilof Islands, meaning construction, increased vessel traffic, increased human population, and expanded fisheries near the breeding grounds of the seals

--The introduction by the United States of a 200 mile Exclusive Economic Zone
The implications of these very significant new developments are unfortunately not dealt with satisfactorily at all in the DEIS. Greenpeace International offers the following critique of the document.

THE DEIS DOES NOT ADEQUATELY DISCUSS THE IMPACT THAT DEVELOPMENT OF THE ISLANDS OF ST. PAUL AND ST. GEORGE WILL HAVE ON THE SEAL HERDS. It is

admitted that development could be rapid, and could entail many significant changes in the social and physical environments of the area, and that this development will affect the seals (pp. 30-32), but there is no realistic appraisal of the extent to which the seals may be affected.

Possible new activities pending in the Pribilof Islands, according to the

A NON-PROFIT
TAX-EXEMPT
ORGANIZATION

DEIS, include harbor and dock construction, building of fish processing and vessel service facilities, shore support bases for the offshore oil exploration operations, siting of a crude oil terminal or liquid natural gas plant site, expansion of airports, expansion of the tourism industry, and building of a helicopter support facility for the Exxon Corporation. The DEIS omits all reference to the cumulative impact that a combination of these activities would have on the fur seal herd. There is also no indication that there would be any limitations put on the amount of development activity in and around the islands, even though the DEIS states that some of the activities could pose significant threats to the fur seal herds (pp.30-32). Rather than suggesting ways to prevent these, the DEIS deals with the possibility of damage to the seal population by proposing to modify the Convention so that the hunt could be reduced or stopped "if necessary for the recovery of the fur seal herd, and particularly in response to extreme environmental changes, such as a major oil or other toxic spill in the Bering Sea." (Proposed Action, p.7.)

Since the DEIS makes the case that entanglement in fishing gear and debris thrown or lost from ships is the major factor in the fur seal's current rapid decline, it is remarkable that there is not more concern about and discussion of the effects of all this planned activity. The Final EIS should contain assurances that development will be kept to a level which will ensure that no exacerbation of the fur seals' decline will occur. The Final EIS should also include details on how the development will be monitored (e.g., to prevent dredging, blasting, vessel traffic, dumping of debris, and human presence near the rookeries) during construction. Then, what if any observation will there be of the effects the development is having on the seals over time? In view of the serious decline the seals are now experiencing, and the suspected involvement of entanglement in debris in the decline, these are concerns which must be seriously addressed in the Final EIS.

The proposal to extend the Interim Convention for six years instead of the usual 4 is incomprehensible in light of the great many changes which will occur in the fur seals' habitat and range over the next few years.

THE DEIS MAKES NO EFFORT TO OBJECTIVELY ANALYZE THE EFFECT OF THE HUNT ON THE FUR SEAL POPULATION. It is repeatedly asserted that the hunt is not a factor in the serious decline. The DEIS treats this assumption as a fact, and fails to even consider the possibility that the kill is placing additional pressure on the herd (p.26). Such a dismissal of the hunt's role is unwarranted, given the inadequacies of the arguments upon which the assumption is based.

The primary argument for this assumption is that both the St. Paul and St. George

populations are experiencing declines, though a commercial hunt has not been conducted on St. George since 1972.

However, by NMFS own admission, the data base obtained from St. George is invalid; thus this argument cannot be supported. Although the commercial hunt on St. George ended in 1972, a subsistence hunt has been allowed since 1976. According to information submitted to the Standing Scientific Committee of the Fur Seal Commission in 1983 (A study on the impact of the St. George harvest on NMFS research, by Dr. Fowler), the subsistence kill has always removed more than 5% of the potential harvest number of that area. And, since the seal population on St. George has been declining while the subsistence kill has been increased (from 200 to 500), the percentage has gone up to 15%. In statistical analysis, the maximum tolerable risk of error in such a case is 5%. So, by NMFS' own arguments (ibid.), the subsistence hunt infuses a risk of error which is high enough to make any data obtained from studying the St. George population as an "unharvested" population unacceptable to all outside scientists. Furthermore, Dr. Fowler has stated (pers. comm.) that once a harvest has ended, the population cannot be considered "unharvested" for 15 years. Thus all the information obtained in the intervening years cannot be used to make St. George a valid basis of comparison as an "unharvested" population.

Even if the "control group" on St. George Island could be accepted as a valid basis of comparison, there is a 50% difference in the rate of decline between its seal herd and that of St. Paul Island (4% decline on St. George, 8% annual decline on St. Paul). Assuming that there are no other major differences between the populations (an assumption fundamental to the use of St. George as a control group), How does NMFS account for this discrepancy? The role of the hunt should not be so summarily dismissed as it is in the DEIS.

Greenpeace asks why this important information was not brought up in the DEIS. What it reveals is that the claim that the hunt is not a factor to be considered in the disappearance of the northern fur seal has no basis in fact, and is no more than an educated guess.

A candid presentation of the deficiencies inherent in NMFS data on the role of the hunt should appear in the Final EIS.

There is other evidence which suggests that the DEIS is premature in its dismissal of the hunt as a factor in the reduction of the herd. It is alleged (p.114) that the hunt could be beneficial to the seal herd because it changes the sex ratio, which in turn could lead to higher productivity. But in fact, the data collected

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on this subject is unreliable and contradictory. The Final EIS should make it clear that this hypothesis is at present just that, with no evidence to support it.

The hypothesis is that the changed sex ratio brought about by the killing of large numbers of "idle" males could lead to lower pup mortality on land, as well as higher productivity. However, the DEIS indicates that the primary source of mortality in pups from birth to age 3 has been at sea (85%); not on land (4%). In terms of significance, the land mortality rates are less important. Were the hunt to stop, any increase in land mortality as a result of density dependent functions could be offset by increases in pup births. The increase in pup births could be brought about thus: "idle" bulls, those with no harems, could conceivably impregnate females which arrive on the rookeries late, and which thus fail to be included in harems. In addition, a larger number of bulls would have harems with less females, so that females would have a greater probability of being impregnated. This is because the bull may not reach all the females in his harem during their estrus if there are too many females in the harem.

Overall, there may be better opportunities for increasing reproductive success if the young males are left alive. The DEIS states "there is no evidence that termination of the male harvest will have a positive effect on recovery efforts." (p.25) It can be just as truthfully stated that there is no reliable evidence that termination of the male hunt will have a negative effect. The Final EIS should discuss the merits of giving the seals the benefit of the doubt by suspending the kill. This would be the best way to determine what effect if any the kill has on the mechanics of the population.

As for the hunt's perceived possible positive effect on the seal population, the data collected from different hunts suggests that the harvest has no impact on the number of seals born. For example, despite the consistent hunt on St. Paul, the number of pups born each year has declined since 1956. On Commander Islands, the number of pups born has increased steadily for the past 15 years despite a 2/3 increase in the number of males between 1967 and 1972, and a 400% increase in the number of males since 1972, when a moratorium on killing large males was put into effect.

On Robben Island, the number of males declined by 2/3 between 1971 and 1972 and continued to decline until 1974 when a harvest restriction enabled this trend to turn around. Yet, since 1967, the pup birth rate has shown a steady decrease. Faced with this conflicting data, it is impossible to say with any certainty at all that the young male kill has any particular effect on the pup births.

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What this data does seem to indicate is that various fur seal populations have recovered from declines following the placing of moratoria on killing. In 1911 this was a primary element in the restoration of the Pribilof Island fur seal population. This must be considered by the Final EIS.

THE LEADING EXPLANATION FOR THE SEAL POPULATION'S DECLINE, ENTANGLEMENT IN OCEAN-BORNE DEBRIS, IS BASED ON INFERENCE RATHER THAN ON HARD DATA. NMFS, through Dr. Charles Fowler, has carried out ground-breaking research in exploring the role that death by entanglement may be playing. However, the figures on which these assessments are based constitute an extrapolation based on net wounds found on a small percentage of the males killed during the slaughter operations (an average of .4% of the animals killed exhibit net and other debris wounds). Dr. Fowler should certainly be given adequate resources to continue his very valuable work in determining the actual extent of this problem, in particular, the development of the Pribilof Islands should be carefully monitored to see if it is worsening the entanglement-in-debris element. But the DEIS places so much emphasis on the assumed role of entanglement that all other possible factors in the decline are hardly addressed.

Other hypotheses which receive little or no attention in the DEIS include the effects of toxic chemical pollution and overfishing in the seals' range. The government concedes that chemicals have been found concentrated in fur seal blubber, but no effort has been made to assess the potential impact on the seal population as a whole. The effect that the increase in fishing operations in the Bering Sea is having is also unknown, although the increased fishing activity parallels the decreased pup births in the Pribilof Island fur seal herd. Victor Scheffer, a scientist who worked for decades on the northern fur seal studies by NMFS, has speculated that competition between seals and humans for dwindling supplies of fish may be the cause of the decline (pers. comm.). Finally, the effects of genetic tampering over decades of the directed kill on males and females is a question which has yet to be taken up by NMFS. The DEIS (p.15) simply states that this effect is unknown, and that there is no program planned to explore it.

THE DEIS PRESENTS A ONE-SIDED AND INCOMPLETE ANALYSIS OF THE EFFECTS THAT A TERMINATION OF THE FUR SEAL KILL WOULD HAVE ON THE PRIBILOF PEOPLE.

The DEIS expresses concern that the termination of the kill would have adverse social impacts on the Aleut community. In view of the rapid development planned for the islands, especially St. Paul, it is obvious that many drastic changes in the social and physical environments will be felt by the Aleuts. It is unlikely

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that continuing the hunt will offset these changes much. Certainly, given the alarming and mysterious drop in the fur seal's numbers, it is asking too much to give as a major reason for the kill's continuing the argument that the Aleuts must retain the familiar occupation of killing seals. The DEIS, by injecting this reasoning into the issue, presents an unrealistic and unbalanced portrayal of the situation developing in the Pribilofs with respect to the new economy and the disappearing seal herd. It also underestimates the Aleuts' ability to accept change and begin their new, independent way of life.

The argument that the kill must continue for economic reasons is also unsound, and the information contained in the DEIS on this subject is incomplete. With the greatly diminished market and drastically reduced prices for seal pelts, the Aleuts cannot hope to make a profitable go of running the sealing business on their own. It is becoming more and more unacceptable in the countries where these markets once existed to wear the furs of wild animals, and this situation is not likely to change for some time--if ever. The DEIS expresses optimism that the Aleuts will be able to develop new markets. If the US government (and the Canadian and Norwegian governments, which also have commercial seal hunts) has not been able to market the pelts in new countries, can it be reasonably expected that the Aleuts will have the money and marketing skill to do so? The Final EIS should address this reality, and should also go into more detail on how HR 2840, the bill which ended U.S. administration of the islands and U.S. government funding of the seal kill, will affect the operation of the slaughter. (Who would kill the seals to satisfy the Interim Convention if it is renewed if the Aleuts were unable to afford the commercial kill, which costs over \$400,000 annually?)

The proposal to extend the Interim Convention for six years to "ensure employment for Aleut residents over the next six years" is not reasonable in light of the above arguments. Greenpeace strongly opposes this proposal.

THE PROPOSED ACTION PUT FORTH IN THE DEIS IS TOO WEAK. THE SITUATION OF THE NORTHERN FUR SEAL IS SERIOUS ENOUGH TO MERIT MUCH STRONGER ACTION. The Proposed Action as described on pages 7-9 of the DEIS gives one the impression that only half-hearted efforts are being made to deal with the fur seal problem.

-- "(1) a proposal to amend article V to allow, in special circumstances, a reduction or suspension of the harvest by individual harvesting nations." This proposal does nothing to assure that something will be done to stop the fur seal's decline before it is too late. A much improved version of this would have the hunt stopped now, when it can be said that an emergency already exists.

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--"(2) a proposal to amend Article II to require additional research on the current population decline, with special emphasis on the problem of entanglement of fur seal at sea" There is an obvious need for additional research. Greenpeace has already stated its concern that possible factors other than the entanglement problem are not receiving adequate attention. If the Interim Convention is to be renewed, there must be a commitment made for a great deal more financial support for NMFS' and other fur seal studies than is now expected to be available. Dr. Charles Fowler's fine research on the causes of the fur seal's decline should not be allowed to languish at this v critical point in time. Greenpeace urges that the U.S. government provide more funding for the research, and that the Final EIS contain assurances that every possible effort will be made to obtain increased funding for studies of the effects caused by pollution, overfishing, and hunting, as well as those caused by entanglement. It is our understanding that fully half the funds now available for NMFS' fur seal studies will be required for living expenses on the Pribilof Islands now that they are the private property of the Aleuts (with the exception of the rookeries and bird cliffs). The Commerce and State Departments should speak to the Aleuts to see if they can get the island inhabitants to cooperate with the scientists so that the research monies are not swallowed up in inflated vehicle and housing rental costs.

--"(3) a proposal of a new article to prohibit the disposal of fishing debris at sea with enforcement mechanisms. Too little, too late. Most net found on seals, according to Fowler (pers.comm.) was discarded in the 1950's. The DEIS does not detail how enforcement would be introduced. The intention behind this particular modification is obviously good, but its implementation would quite likely have no positive result on the Northern fur seal population. Were the enforcement mechanisms ever so successful, the debris which is already in the oceans would still be killing approximately the same number of seals each year for decades to come.

--"(4) a proposal to extend the Convention for six years" As already stated, all of the changes which are occurring in this issue make it completely unacceptable that the Interim Convention be allowed to be in effect for six years. By then, the seal population's decline could be so serious as to put their recovery out of reach. The reasons cited for this proposed modification are unacceptable: the recovery of the seals should not be sacrificed to the hope that the Aleuts will be able to find new markets for seal skins and harvest byproducts.

The DEIS confident assertion (p.8) that these modifications will "enable Parties to achieve specific objectives in fur seal conservation" is certainly not borne out by the facts. It is apparent that the fur seals' disappearance is not being treated seriously by the U.S. government.

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The DEIS' approach to the idea of renegotiation with the other Party Governments is meek. Certainly the data available, even as presented in the DEIS, should make a more aggressive Proposed Action likely to be considered by the Party Governments.

Greenpeace International has cooperated with numerous other environmental and animal welfare organizations in reviewing the DEIS. We are in agreement with the comments presented by these organizations to the effect that:

--The DEIS is based on inaccurate legal assumptions. The U.S. must follow the guidelines of the Marine Mammal Protection Act when renegotiating and implementing the Interim Convention, which means that the government is obliged to make every effort to build the management principles of the MMPA into the Interim Convention. The DEIS does not do this.

--The DEIS does not recognize any alternative management schemes in its analysis, such as the possibility that the U.S. could forego its share of the kill. It does not adequately analyze the impacts that expiration of the Interim Convention would entail. The DEIS makes the faulty assumption that the Interim Convention is still of unquestionable value in fur seal conservation, when the opposite may be true. The actual likelihood of a resumption of pelagic sealing is not adequately taken up in the DEIS. It is simply assumed that, since the Japanese have threatened to resume pelagic sealing, it would occur. The economic realities of such a move on Japan's part, given the expense involved, the market conditions, and the U.S.'s introduction of a 200 mile Exclusive Economic Zone, should be thoroughly explored in the Final EIS, as this is a key question in the matter of whether or not the Interim Convention is of value.

As the various alternatives now appear, it looks as if simple expiration of the Interim Convention is the best action. The DEIS does not contain enough reliable information and analysis to enable one to come to a conclusion, however, as to what should actually be done. It is sincerely hoped that the Final Environmental Impact Statement will encompass a frank, realistic, open-minded discussion of the steps which must be taken to reach the goal of preservation of the dwindling Northern fur seal herd.

Greenpeace International is grateful for the opportunity to present this critique. We look forward very much to the Final Environmental Impact Statement. If there are questions regarding Greenpeace's stand on the renewal of the Interim Convention, or if we can be of assistance in any way, please do not hesitate to contact us.

Sincerely,


Wilvia Bog
Seal Project Coordinator,
Greenpeace International

Defenders OF WILDLIFE

January 6, 1984

Mr. Richard B. Roe
Acting Director
Office of Protected Species and
Habitat Conservation (F/M4)
National Marine Fisheries Service
U.S. Department of Commerce
Washington, D.C. 20235

Re: Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals (October 1983).

Dear Mr. Roe:

Defenders of Wildlife (Defenders)* submits the following comments in response to the above-referenced Draft Environmental Impact Statement (DEIS).

Introduction.

As both the National Marine Fisheries Service and the involved public are well aware, this year's deliberations regarding the future of the Convention are particularly difficult because of the uncertain future of fur seal populations throughout their range. Factors related to population declines, as well as amendment of the Fur Seal Act of 1966 (providing for termination of Federal management of the Pribilof Islands, Alaska), mandate a thorough reassessment of the United States' continued participation in the Convention, and what form the Convention's implementation will take. In this regard, Defenders states its appreciation for the efforts made by the Service to discuss clearly and fully the complex issues surrounding the Convention's history and structure, and the wildlife so directly affected by its implementation. Specific comments regarding the DEIS will follow later in these comments.

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* Defenders of Wildlife is a national, non-profit, tax-exempt organization with over 100,000 members and supporters, and is dedicated to the protection of the nation's wildlife resources and the natural environment.

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1. Amend Article V to allow...a reduction or suspension of the harvest....
 Defenders agree with the Service's apparent intentions in this modification but does not feel sufficient leeway is provided to invoke such reduction or suspension of the harvest. The Convention requires that fur seal populations be brought to and maintained at "maximum sustainable productivity," so as to provide for the greatest continuing annual harvest. Regardless of the cause(s), an "MSP" population status is not currently in effect. Appendix B ("Status of Northern Fur Seals in the Pribilof Islands") to the DEIS, as well as other scientific data, indicate the entire population of fur seals is well below both MSP and optimum sustainable population, and is continuing to decline at approximately 5% to 8% annually. The Convention's Scientific Committee has also indicated its belief that the harvest plays no direct role in the population decline. Defenders does not necessarily take issue with the Committee's findings; rather, this organization believes not all possible contributing factors have been explored in sufficient detail to state with absolute certainty that the harvest has absolutely no effect on the population overall. Therefore, "special circumstances" causing a harvesting nation to invoke a reduction or suspension of the harvest might include effects of the harvest. Whatever modifying language which is suggested to the other member nations must not be so restrictive as to exclude the possible future recognition that the harvest itself may indeed play a role in population declines.

Moreover, Defenders believes that this government has the option of not harvesting its share of fur seals, for whatever reason, if it so chooses. Although this opinion has not been shared by the U.S. Department of State

N-2

Defenders' Position Regarding the Convention.

As the Service is well aware, Defenders has followed and been directly involved in developments related to the Convention and North Pacific fur seals for several years. It is no surprise that this organization is opposed to the commercial harvest of any marine mammal species, and that it firmly supports the principles of the Marine Mammal Protection Act of 1972 (MMPA). The Convention, of course, is exempted from the MMPA's provisions (§113), and this organization has in the past supported the continuation of the Convention only because it prohibits pelagic taking and provides for continuing international scientific research and monitoring of fur seal populations. Defenders considers both critical to the welfare of those populations. At the same time, however, Defenders has firmly advocated the incremental reduction (to zero take) of U.S. commercial harvest levels, while the Aleut Natives were afforded time and opportunity to develop alternative sources of income.

Progress towards attaining these ends has been a continually frustrating exercise. There is little question the United States is in a somewhat difficult position as a party to the Convention, given the Convention's long-term harvest management objectives (as opposed to those of simple marine mammal protection). Given the passage and continued affirmation of the MMPA, Defenders believes that that as long as this government remains a party to the Convention, its approach to Convention implementation must be from the perspective of fur seal conservation.

With this in mind, Defenders is pleased to see at least some recognition of the serious problems associated with fur seal populations outlined as proposed actions in the DEIS (pp. 7-8). Defenders tentatively supports the Service's proposed action ("A. Modify the Convention"), with the following commentary and suggestions regarding the Service's specifically proposed modifications:

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in the past,* Defenders believes the Service must undertake discussion and resolution of this question as an integral part of its final decision-making regarding modifications proposed for the Convention. (In the event those discussions result in the same position by the Department of State, the Service should nonetheless proceed with a proposed modification to allow for reductions or suspension of the harvest.)

2. Amend Article II to require additional research on the current population decline.... Defenders is firmly supportive of this proposal. The one clear consensus regarding causes for the decline in fur seal populations is that there is no consensus of scientific (or other) opinion. Research into all possible causal factors is badly needed.

A strictly narrow reading of §108(b) to the MMPA may indicate the Service has met its obligations relative to the North Pacific fur seal and the Convention. This, at any rate, is how the Service has interpreted its obligations (p. 4). Defenders nonetheless finds it singularly distressing that a one-time compliance in 1973 with §108(b) resulting in population studies on fur seals apparently provides the "final word" on the health and stability of the fur seal. Now, some ten years later, the fur seal populations are in serious trouble; yet, there is apparently no specific provision in the MMPA for further efforts under §108(b). It is therefore critically important that provision for such constant vigilance is incorporated into the Convention. Defenders suggests that the Service consider expanding the proposed language of this modification to mandate

* See letter from Alexander M. Haig, Jr., Secretary of State, to Honorable Charles H. Percy, Chairman, Senate Committee on Foreign Relations, May 11, 1981.

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specified research at any time there is a determination the fur seal population is unstable or declining, whether the harvest is a direct causal factor or not.

3. Prohibit the disposal of fishing debris at sea, with enforcement mechanisms. Defenders strongly supports this proposed modification. Given the non-bio-degradable properties of much of the fishing debris currently floating on the open ocean, the minimum measure which must be implemented is the halt of any future such disposal activities.

4. Extend the Convention for six years. Defenders has no particular objection to this proposed modification, if the Service can demonstrate a valid reason for lengthening the period. To provide the Aleut Natives with "ample time to research and develop markets for the seal skins and harvest by-products" (p. 7) is not, however, a valid reason. Defenders strongly objects to this stated reasoning for extending the Convention for six years. The purpose of the Fur Seal Act Amendments of 1983 (P.L. 98-129) is to provide for the orderly termination of Federal management of the Pribilof Islands. In order to enable the Aleut Natives to become economically self-sufficient, there will be established Native corporations, which will use a one-time appropriation of \$20 million to initiate and establish local economies not dependent on sealing. It is therefore highly inappropriate for the Service to propose that "a longer extension is needed to allow island residents time to establish new markets for the seal skins and harvest by-products." (p. 34) The development of a viable commercial fisheries enterprise may require five or six years, but the development of new markets for seal skins from ongoing harvests should not be part of the reason for an elongated lifespan for the Convention.

has been in effect since 1957, it is unclear why any seals were taken offshore California at all. The Service should clarify this in the FEIS discussion.

Pages 25-26. It would be extremely helpful to the reviewing public if the Service presented an expanded discussion of possible causes for the decline in fur seal populations. In addition to entanglement, the residual effects of the harvest of female seals between 1956 and 1968 have also been cited as a possible causal factor. An indication of the generational results of that harvest should be included in the FEIS, as well as the discussions on entanglement.

Page 26. The FEIS should make note that the scientific and technical workshop on entanglement is now planned for late summer 1984, rather than "early 1984."

Page 33. Although environmental organizations likely appreciate the Service's acknowledgement of the effect their activities have had upon the commercial market for fur seal skins, the language used here gives the vague impression that well-intentioned environmental organizations are some variety of annoyances standing in the way of commercial success.

Pages 34-47. The "environmental consequences" section generally should be expanded to include fuller details of the effects of all possible alternative actions. The problem with the reasoning used by the Service to support a six-year extension of the Convention has been discussed earlier in these comments. The relevance of the statement (p. 35) concerning Alternative A's effect on "consumption of commercial and

Specific Comments on the DEIS.

Page 1. The discussion of the Convention's early history is somewhat confusing. It is unclear whether or not the 5,000 to 30,000 seals harvested per year pelagically by "nationals from several nations" during the first 20-year lease period (1870-1889) were part of the 100,000 male seals allocated for the Alaska Commercial Company. Did the Alaska Commercial Company consist of solely Alaskan sealers?

Page 7. A.(2) There is no justification for down playing the decline in fur seal populations by stating that "...seals appear to be declining at an estimated rate of five to eight percent annually." (Emphasis added.) There is no question as to the decline. The Service should flatly state this fact in discussing possible courses of action regarding the Convention.

Page 9. C. In a similar vein of thought, there is no reason to state that the fur seal population "may be currently below OSP." (Emphasis added.) Scientific data indicate beyond any reasonable question the fur seal population is indeed currently below its OSP (see Appendix B, p. 25, for example), and the Service should not attempt to pretend it isn't so.

Page 10. D. There should be some further explanation of "our information indicates that up to 12,000 fur seals could be taken by natives for subsistence." How does the Service arrive at this figure?

Page 17. The discussion of fur seal migration and distribution at sea is confusing at the point of noting that 3,612 seals were taken off California prior to 1967. Since the Convention in its present form

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other fish stocks by fur seals" is frankly unclear. This should be explained in the FEIS's expanded discussion.

Page 54. Table 4 ("Analysis of Stomach Contents of Fur Seals...") has appeared several times in various related Service documents. Not once, however, has it been usable, due to the unreadable "food items" and the size of the figures listed. The Service should reproduce this information (perhaps on two pages) in a usable manner in the FEIS.

Defenders appreciates the opportunity to review this DEIS, and hopes that the Service will consider carefully the above comments.

Sincerely,

Sheppard C. Foster

Sheppard C. Foster
Director, Marine Issues Project

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United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JAN 6 1984

ER 83/1536

Mr. Richard B. Roe
Acting Director, Office of Protected Species
and Habitat Conservation (F/M4)
National Marine Fisheries Service
Washington, D.C. 20235

Dear Mr. Roe:

This letter responds to your request for the Department of the Interior's review of the Draft Environmental Impact Statement (DEIS) concerning the Interim Convention on Conservation of North Pacific Fur Seals. We have reviewed the DEIS and, in general, are in agreement with its proposals and with the extension of the Convention for six years. However, we do have the following specific comments to offer for your consideration.

FISH AND WILDLIFE RESOURCES

Since it is not clear that net entanglement is the only cause of the recent fur seal population decline and the proposed modification of Article 2 could result in increasing research on net entanglement only, we suggest that additional research topics be emphasized. Therefore, we recommend that the proposal on page 7, paragraph 3, be amended to read as follows:

- (2) A proposal to amend Article II to require additional research on the current population decline, with special emphasis on mortality from net entanglement, natality, and/or possible changes in carrying capacity.

In addition to insuring employment for Aleut residents, it is particularly critical to protect the female fur seal population from pelagic harvest as the population is relatively low and declining. As the EIS indicated, discontinuing the harvest of subadult males might impede recovery of the population.

MINERAL RESOURCES

We wish to commend the National Marine Fisheries Service for its treatment of offshore oil and gas resources. Excellent sources of information were utilized and this information was well-presented in the DEIS.



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Mr. Richard B. Roe

SUMMARY COMMENTS

The Department supports the proposals found in the DEIS and the extension of the Convention for six additional years. We appreciate the opportunity to review and comment on this document. If we may be of further assistance, please do not hesitate to contact us.

Sincerely,

Bruce Blanchard
Bruce Blanchard, Director
Environmental Project Review

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January 6, 1984

Mr. Richard B. Roe
Acting Director, Office of Protected Species
and Habitat Conservation (F/M4)
National Marine Fisheries Service
Washington, D.C. 20235

Dear Mr. Roe:

The Center for Environmental Education has reviewed the Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals. I attach our comments the DEIS and suggestions as to how it might be improved. I hope that these prove helpful.

Thank you for this opportunity. If you have any questions concerning the comments or suggestions, please let me know.

Sincerely,

Richard T. Tinney
Richard T. Tinney
Seal Rescue Fund Director

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*Rec'd
1/16/84*

COMMENTS AND SUGGESTIONS CONCERNING
THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
ON THE INTERIM CONVENTION ON THE
CONSERVATION OF NORTH PACIFIC FUR SEALS

The purpose of this Draft Environmental Impact Statement (DEIS) is to identify and describe the possible consequences of alternative courses of action which the United States might take with respect to the Interim Convention on Conservation of North Pacific Fur Seals (the Convention). The Convention is due to expire in October 1984, and the United States must decide whether to renew, modify, renegotiate, or abandon it and the management regime it creates.

The DEIS can be improved to make it a more meaningful document and more useful aid in the decision-making process as envisioned by the National Environmental Policy Act. The following comments and suggestions are offered to facilitate this improvement.

Specific Comments and Suggestions

P. 3 -- The amendments to the Fur Seal Act were passed by both Houses of Congress and were signed into law by the President in November. The discussion of the Fur Seal Act should be modified to reflect the changes made in the Act, especially with respect to the emphasis it places on establishing a stable, diversified, and enduring economy not dependent on sealing. At various places in the DEIS, mention is made of developing new markets for seal pelts as well as devising new products to increase the income from the seal killing operations. This is contrary to the spirit and letter of the amended Fur Seal Act. We can not too strongly urge the National Marine Fisheries Service to correct its statements in this regard to conform to the Act's goal of ending the reliance of the Pribilof economies on the seal kill.

P. 7 -- With respect to the suggested modifications, we recommend that an additional modification be proposed that would amend Article II of the Convention to require the parties to develop a recovery plan, like those developed under the U.S. Endangered Species Act, for the northern fur seal. This recovery plan should be prepared as quickly as possible, on the basis of existing scientific information. Any perceived need for further research should not be a bar to the development of such a plan, which is necessary to ensure that all appropriate actions are taken in a coordinated and express program of returning the species to the levels contemplated by the Convention. The Commission's own Standing Scientific Committee has noted that the species is not at the level at which maximum sustainable productivity can be achieved. While the Center for Environmental Education does not endorse the annual kill and the notion of MSP, we believe that the Commission must fulfill the obligation imposed on it by the Convention to return the population to a higher level.

P. 7 -- With respect to modifying Article V of the Convention to allow unilateral suspension of the kill, the DEIS should be modified to give a clearer picture of exactly what types of special circumstances are contemplated which would trigger the suspension. Additionally, a better

description of the range of options as to what actions might be taken in the event of the appearance of special circumstances is needed. Specifically, we recommend that the authority be included to suspend the kill in the event it is determined to be necessary in order to allow the population to recover to its former levels or the levels contemplated by the management regime.

P. 7 -- There needs to be an express statement of what enforcement actions and mechanisms will be included in the provisions relating to the prohibitions on at-sea disposal of fishing debris.

P. 7-8 -- We repeat our statement that the amended Fur Seal Act is intended to help the Pribilof economies and their dependence on the annual commercial seal kill. Accordingly, the use of an effort to develop new markets for the products of the kill as a justification for a six-year extension of the Convention is inappropriate and should be eliminated.

P. 9-10 -- The statement that allowing any party to forego its share of the pelts is a departure from the concept of the greatest harvest year after year misinterprets that notion. The greatest harvest year after year in the context of the Convention means MSP, not the greatest number that can be killed in any one year regardless of population levels. The interpretation in the DEIS implies that the purpose of the Convention is simply to kill fur seals.

P. 15-18 -- The distribution discussion should rely on the most recent and most complete data available. The Department of the Interior's Pacific Outer Continental Shelf Office has sponsored a series of studies on the distribution of, among other species, northern fur seals at sea. The information in those studies is important to any discussion of distribution and the possibility of pelagic sealing.

P. 17-18 -- The discussion of distribution in the "offshore area" should be more explicit. As it is, the reader is not informed of what the offshore area is, or of what the data show except in the most conclusory manner. Given the importance of the matter in the context of evaluating the options, substantially more information is needed. At a minimum, one needs to know how extensive the cited study was, where exactly the seals were observed, and how densely the seals were distributed. Informed decision-making is impossible with out this kind of information.

P. 23 -- The meeting described here, at last word, had been rescheduled for August or September of 1984.

P. 24 -- The suggestion that there may have been environmental changes which resulted in part in the decline of the fur seal population (first full paragraph) is inconsistent with the statement made elsewhere that there has been no observed change in the carrying capacity of the ecosystem.

P. 24 -- The use of the word "depletion" in the last paragraph on the page results in the misuse of a word which in the context of marine mammals in the United States is a term of art with a very specific meaning. We suggest the use of a different word, such as "extinction."

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P. 26 -- The assertion, made here and elsewhere, that the annual commercial kill is not a causative factor in the present decline of the fur seal population is unsupported. Such a broad and controversial statement needs support by substantial authority. The use of the paper entitled "Status of Northern Fur Seals on the Pribilof Islands" for such support would be misplaced since the statement is made in that paper only as a matter of mere dictum. Substantial support would come from a study which was specifically addressed to that issue.

P. 34 -- Again, the mention of developing new markets for the products of the commercial kill is improper.

P. 36 -- The statement in the last paragraph on this page that "there is no data to indicate that an end to the harvest would benefit any recovery of this population ..." is used to support the idea that the kill should continue. We point out that the DEIS fails to present any data to indicate that the kill helps the population. We also caution that the non-existence of data showing a benefit is not the same thing as the non-existence of a benefit. There is considerable controversy in the scientific community about whether a cessation of the kill would help or harm the population and this should be acknowledged. We believe that the possibility of a benefit is a real one, given the difference in the rates of population decline at the Pribilofs, where the island with no commercial kill is experiencing a decline only half that of the island with a commercial kill.

P. 37 -- With respect to an increase in "predator control," what information supports this conclusion? The DEIS presents no data concerning the present rate of such killings, which while illegal, undoubtedly occur. Thus, the importance of this threat can not be evaluated.

General Comments and Suggestions

The DEIS seems to be based on three fundamental premises, none of which are supported by specific authority or experience. These are:

- (1) Without the Convention, pelagic sealing would resume;
- (2) The commercial kill is not harming the population;
- (3) The Commission can and will do what is needed to reverse the population decline.

In order to make an informed judgment about these matters, a decision-maker would need substantially more information than is presented in the DEIS. The National Marine Fisheries Service has it in its ability to provide this information, at least with respect to the first two premises. For example, regarding pelagic sealing, NMFS has data, as described in the DEIS, on the pelagic sealing rates of the no-convention years following 1941. It also has data on the distribution of seals outside the EEZ, the rate at which seals are encountered on the open seas, the rate at which seals can be successfully captured at sea, the cost of operating fishing vessels, the cost of processing pelts, and the value of pelts. From this information it would be a simple matter to get some idea of the economics of pelagic

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sealing and thus some idea of the reality of the threat pelagic sealing holds.

Additionally, NMFS could provide a discussion of the relative effects on the population of anticipated commercial kills under the present land-only regime versus anticipated pelagic kills in the absence of the Convention. As the DEIS is presently written, no comparison of the preferability of the two situations is possible. It may be that pelagic killing will have less of an effect on the seals than the on-land killing. One can not tell from the DEIS, except for unsupported statements making the assertion that pelagic killing would be worse. CEE is not here endorsing pelagic killing, only asking that it be put in perspective so that its effects can be evaluated.

As for the assertion that cessation of the commercial kill would impede recovery of the species, this too needs more discussion and support, as described above. We note that there is evidence to the contrary of this assertion, and that therefore this matter needs fuller exposition. Again, all we ask is that the relevant information be put forward so that informed decisions can be developed.

Finally, we are troubled by the level of concern shown by the Commission to date for the recovery of the species. It is for this reason that we above proposed that if the Convention is to be modified the modifications include a requirement that an action-oriented recovery plan be developed. Only through a genuine recovery effort can the Commission's claim to being a conservation body able to effect recovery as it did in the past be validated.

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COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT ON THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

International Fund for Animal Welfare
The Fund for Animals
Humane Society of the United States

January 6, 1984

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1/6/84*

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I. INTRODUCTION

The United States Department of Commerce recently released a Draft Environmental Impact Statement ("DEIS") pertaining to the Interim Convention on Conservation of North Pacific Fur Seals. While the DEIS represents a commendable first step in analyzing serious concerns related to rapidly-declining stocks of North Pacific fur seals, the DEIS is deficient in a number of important respects which are detailed below. First, the DEIS perpetuates the United States' traditional unwillingness to apply the time-proven and Congressionally-sanctioned management tools required under the Marine Mammal Protection Act. It also simplistically and inaccurately asserts that continued killing of fur seals under the Interim Convention will have no impact on the declining fur seal population. In addition, the DEIS includes an incorrect and inadequate analysis of the environmental and socio-economic impacts that would occur if the Pribilof killings were terminated, and it inadequately analyzes all reasonable alternatives available to U.S. authorities.

Because of significant inadequacies in the DEIS's analysis, and because several important and relevant subject areas are not addressed in the DEIS, the International Fund for Animal Welfare, the Fund for Animals, and the Humane Society of the United States request the Department of Commerce to revise the DEIS and repromulgate it in new draft form for public comment. Finalization of the DEIS without repromulgation would

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effectively deprive the public of the opportunity to comment on critically-important analyses that were either inadequately treated or ignored in the DEIS.

II. THE DEIS IS BASED ON INACCURATE LEGAL ASSUMPTIONS

A. The DEIS Incorrectly Assumes that the MMPA Does Not Apply When Renegotiating and Implementing the Convention

1. Section 113 of the MMPA Does Not Exempt U.S. Fur Seal Killings from the MMPA

The DEIS adopts the legal conclusion that the management principles embodied in the Marine Mammal Protection Act, 16 U.S.C. §§ 1351 et seq. ("MMPA") do not directly apply to North Pacific fur seals under United States jurisdiction. See DEIS at 2. This reading of the statute is incorrect. As explained and documented at length in Exhibit A (attached hereto and made a part hereof), the MMPA applies to fur seals killed on U.S. soil because a United States decision not to kill its share of fur seals under the Convention would not "contravene" the Convention within the meaning of Section 113 of the MMPA. See Exhibit A at 8-9.

Accordingly, the DEIS must be revised to reflect application of the MMPA to North Pacific fur seals under U.S. jurisdiction and it must analyze in detail the implications of the MMPA's application to fur seal management.

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2. Section 108(b)'s Requirements Have Not Been Fulfilled

The DEIS's legal conclusion that Section 108(b) of the MMPA is no longer operative also is incorrect. That statutory provision required the Secretary of Commerce to undertake a study of fur seal population levels to analyze whether they were at optimum sustainable population levels and, if not, to take affirmative steps to remedy the situation. See Exhibit A at 6-8. While the statute established a date for completion of a study of fur seal populations, an initial study completed in 1974 provided inconclusive results due to the lack of adequate data available at that time to analyze fur seal population levels. Id. Consistent with its statutory obligations under Section 108(b), the Department of Commerce promised to update the study when new information became available. Id.

New scientific information now is available, but the Department of Commerce apparently no longer intends to update its study, alleging that its obligations under Section 108(b) have been "fulfilled." This assertion, coming at a time when it is recognized that fur seal populations have fallen below optimum sustainable population levels (DEIS at 25), violates both the letter and spirit of the MMPA.

Accordingly, the DEIS must be revised to reflect the application of Section 108(b). Because the Department of Commerce has admitted that an updated study would show that the

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fur seal population is below the optimum sustainable population, the DEIS must evaluate its legal responsibilities and options available under Section 108(b)(2).

- 3. The DEIS Inadequately Analyzed the Requirements of Section 108(a)(4) of the MMPA

Section 108(a)(4) of the MMPA directs the Secretaries of Commerce and State to conform international treaties "with the purposes and policies" of the MMPA. The DEIS assumes that this statutory provision provides "guidance" to the U.S. in renegotiating the Interim Convention. See DEIS at 4. This legal conclusion is incorrect. Section 108(a)(4) provides more than guidance; it requires the U.S. to amend international treaties to make them consistent with the MMPA. ^{1/} Because the DEIS did not acknowledge the mandatory nature of its obligation under Section 108(a)(4), it included an inadequate analysis of the MMPA's application to North Pacific fur seals.

- 4. The DEIS Failed to Analyze the Requirements of Section 101(b) of the MMPA

Section 101(b) of the MMPA requires the Secretary of Commerce to limit the killing of any marine mammals by "Indians, Aleuts, or Eskimos" on U.S. lands whenever the

^{1/} See Section 108(a) ("The Secretary, through the Secretary of State, shall . . . (4) initiate the amendment of any existing international treaty . . . in order to make such treaty consistent with the purposes and policies of this Chapter. . . .") (emphasis added).

populations of such mammals are "depleted" and fall below the "optimum sustainable population." See 16 U.S.C. § 1371(b); 16 U.S.C. § 1362(1). Because the fur seal population now is below the optimum sustainable population, further killing of fur seals by Aleuts is not permissible under the MMPA. See generally Exhibit A at 5-6.

The DEIS is inadequate because it included no analysis of the Department's statutory responsibilities under Section 101(b), or of the interplay between the prohibition of native killings of fur seals and the Interim Convention.

- B. Application of the MMPA Requires that the U.S. Adopt a Fundamentally Different Management Approach When Renegotiating the Convention

Because the MMPA directly applies to fur seals under U.S. jurisdiction, and because the U.S. is obligated to negotiate MMPA principles into international treaties that govern marine mammals not under U.S. jurisdiction, the DEIS should have included a detailed discussion of negotiating positions based on these premises. That is, the U.S. must apply OSP principles for those fur seals under U.S. jurisdiction, and it is required to attempt to apply OSP principles to any renegotiation of the Convention. The DEIS did not acknowledge these statutory constraints on negotiating policy and, accordingly, it did not analyze them in adequate detail.

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Prepared by Roger L. Gentry, National Marine Mammal Laboratory, NOAA, Seattle, Washington 98115. (Feb. 1983).

- B. The DEIS Fails to Consider or Analyze Evidence that the Continued Killing of Sub-Adult Males Contributes to the Decline in the Fur Seal Population

The DEIS discusses on pages 25 and 26 the alleged "impact" that the continued killing of male fur seals has on the population decline. In this discussion, the DEIS baldly asserts that the killing of 25,000 fur seals does not contribute to the population decline. See DEIS at 26. Instead, the continuing decline is attributed solely to the killing of females that occurred nearly fifteen years ago and to at-sea deaths.

This surprising assertion is unsupported by any scientific analysis or data in the DEIS. Its only basis is the conjecture of research scientists whose work is derived from studying the effects of the commercial killing of northern fur seals. Most importantly, the DEIS includes no cumulative impact analysis or worst case analysis associated with continued killings, as required by the National Environmental Policy Act and governing regulations.

Furthermore, there is mounting scientific evidence that the continued killing of North Pacific fur seals is causing, or is a causal factor in, the population decline. This evidence is not discussed or analyzed in the DEIS. Some

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III. THE DEIS INCLUDES AN INCORRECT AND INADEQUATE ANALYSIS OF THE IMPACT OF CONTINUED FUR SEAL HARVESTING ON THE DECLINING FUR SEAL POPULATION

- A. The DEIS's Conclusion That Continued Killing Assists the Fur Seal Population by Disrupting the Sex Ratio of Seals and Thereby Decreasing Pup Mortality Has No Scientific Basis

The DEIS alleges, without support, that the killing of thousands of fur seals annually may help increase fur seal populations. See DEIS at 25. According to the conclusory assertion included in the DEIS, the killing of bachelor males disrupts the sex ratio of seals and thereby decreases pup mortality. Id.

The analysis underlying this remarkable assertion is completely absent from the DEIS. Moreover, the DEIS fails to analyze the more likely impacts of killing large numbers of sub-adult males, including the possibility that the continued and continuing killing of bachelor males has altered the behavioral or genetic makeup of the population in ways which decreases the ability of the seals or the seal population to survive. In addition, the killing of some bachelor males may have the effect of reducing the overall impregnation rate of females, and causing a reduction in pup production, and a subsequent reduction in the population. See: Draft (at p. 10) and Final (at p. 12) Rept. of Progress under the Coordinated Bering Sea-Pribilof Research Proposal: 10 Year Report.

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of the information that was completely omitted from the DEIS -- despite its direct relevance -- is reviewed briefly below. See also Exhibit D (petition to list fur seals as a threatened species under the Endangered Species Act) (attached hereto and made a part hereof).

1. The DEIS Should Have Analyzed and Compared the Relative Rate of Decline on St. George's Island

One of the most relevant pieces of evidence which indicates that the harvesting of sub-adult males contributes to the overall decline in the population is shown by the difference in rate of decline between St. George's Island (where commercial harvesting stopped in 1973) and St. Paul Island.

According to Fowler (1983), 2/ the exploited population on St. Paul Island is declining at a faster rate than the unexploited population on St. George Island. The fact that the exploited St. Paul population, which comprises about 80% of the herd, is declining at a rate of at least 6%-8% per year, whereas the unexploited St. George population is declining at about 4%, implicates the continuing harvest of

2/ Fowler, C. W. 1983. History and status of northern fur seals on the Pribilof Islands. Background paper submitted to 26th meeting of the North Pacific Fur Seal Commission, March 28-April 8, 1983. Washington, D.C. 18 pp.

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sub-adult males as a contributing factor in the overall 5%-8% decline.

Furthermore, there is a current subsistence take of 350 seals on St. George yearly. In a background paper submitted to the 26th meeting of the Standing Scientific Committee of the North Pacific Fur Seal Commission, "Impact of the Subsistence Harvest on the St. George Research Program," it was noted that the subsistence level of 350 animals must be considered as approaching significant levels.

2. The DEIS Should Have Analyzed and Compared the Relative Rate of Decline on San Miguel Island

In 1968 a small colony of northern fur seals was discovered on San Miguel Island off the coast of California (Johnson 1975). The initial population of breeding females was approximately 180 animals in 1969.

No harvesting has taken place on this island since it was colonized, and the current population numbers 4000. See DEIS at 14. The significance of this increasing population as compared to declining numbers of other northern fur seals stocks cannot be overemphasized.

Much has been written in the DEIS concerning the fact that declines have occurred on St. George Island where commercial harvesting does not take place. (However, see cautionary reference to subsistence take above.)

Unfortunately, there is no comparison drawn between the

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Island may have contributed to current declines.

Specifically, when the season length and size limits of young bachelor seals were increased on St. Paul Island beginning in 1956, the result was a more than two thirds decline in numbers of both idle and harem bull seals within a ten year period. There was a peak of 22,954 bulls on St. Paul in 1961; in 1971 the total number of adult male seals was barely over 5,000 but has increased since to approximately 10,700 in 1979 (Chapman 1981). 3/

Thus, once again, the DEIS's simplistic conclusion that the killing of sub-adult males has no impact on over-all populations does not square with available evidence and certainly is not the result of documented analysis of relevant and available evidence in the DEIS.

3/ Chapman, D. C. 1981. The northern fur seal -- an example of complexity. In "Problems in Management of Locally Abundant Wild Mammals." (P.A. Jewell, S. Holt, and D. Hart, eds.) pp. 193-204. Academic Press, New York.

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nonharvested and expanding San Miguel population and the declining stocks of fur seals of other breeding sites. This is an area that should be addressed in depth.

- 3. The DEIS Should Have Analyzed and Compared the Experience on the Commander Islands

The DEIS gives a brief overview of population declines on the Commander and Robben Islands in the Western Bering Sea but fails to correlate this data with declining populations in the Pribilofs.

The DEIS notes, regarding the Commander Islands (p. 25): "The cause of the sudden decline was interpreted to be an excess harvest of large males, and the subsequent increase resulted from a decreased harvest of males."

Similarly, regarding Robben Island, the DEIS notes (p. 25): "The number of adult males increased by 24.8% between 1978 and 1979, but has been declining since a peak of 2000 in 1980. This trend may reflect both the results of harvest levels and the decline in numbers of pups born."

The implications that excessive harvest of males may be directly involved in precipitous population declines should become a priority for analysis in a repromulgated DEIS.

- 4. The DEIS Failed to Analyze Additional Relevant Evidence Pertaining to Population Declines

As with the Commander and Robben Islands, there are indications that perturbations in the male harvest on St. Paul

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IV. THE DEIS INCLUDES AN INCORRECT AND INADEQUATE ANALYSIS OF THE ENVIRONMENTAL AND SOCIO-ECONOMIC IMPACTS THAT WOULD OCCUR IF THE PRIBILOF KILLINGS WERE TERMINATED

A. The DEIS Fails to Adequately Analyze the Impacts that a Termination of the Killing Would Have on Declining Fur Seal Populations

- 1. Because the DEIS Incorrectly Assumed That the Killing Had No Impact on the Declining Population, It Did Not Analyze the Impact that a Termination of the Killings Might Have on the Declining Fur Seal Population

As explained above, the DEIS simply assumed that the killing of 25,000 fur seals on U.S. lands per year does not contribute to fur seal population declines. See DEIS at 25. Accordingly, the DEIS failed to analyze the impact that a termination of the killings might have on fur seal population levels. This omission of any scientific analysis on this critically-important subject is especially significant in view of the DEIS's admission that killings would have to be suspended under the MMPA. Id. Obviously, the potential impacts that the cessation of such killings might have on population levels is highly relevant and important information to federal decision-makers who are considering their options in renegotiating the treaty.

- 2. The DEIS Fails to Analyze the Impact that Adoption of the OSP Management Concept Would Have on the Declining Fur Seal Population

In similar fashion, the DEIS is inadequate because it did not analyze the impact that adoption of the OSP management concept would have on the declining fur seal population.

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Instead, the DEIS only summarily stated that killing would be suspended under OSP. See DEIS at 9-10. Probable impacts of a suspension of the harvest, based on the extensive track record of applying OSP principles to other species, was not discussed in any respect in the DEIS.

- B. The DEIS Fails to Adequately Analyze the Socio-economic Impacts that Might Result from a Termination of the Killings

- 1. The DEIS's Fails to Discuss and Analyze Adequately All the Resources Available to the Aleuts

Although the Pribilof Island natives traditionally have been tied closely to seal killing for their economic livelihood, the traditional economic order is rapidly changing. The DEIS discussed some of these changes, but it omitted or inadequately analyzed others. Because the economic factors bear directly on the DEIS's conclusions about the alleged adverse impact that a cessation of the killings will have on island natives, it is critical that the DEIS be revised to include a complete and accurate analysis of the significant financial resources being devoted to the welfare of the natives, and the Congressionally-mandated goal of ending the natives' already-diminishing reliance on fur seal killings.

- a. External Resources

Although the DEIS touched upon some of the external financial resources available to Pribilof Island natives, it did not discuss in detail, or at all, several important sources

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of revenue that would mitigate any adverse consequences associated with an end to the killing of seals on the island. To illustrate, the DEIS did not explain the specifics of the millions of dollars available to the Aleuts pursuant to a 1978 court decree. See DEIS at 27. It also failed to discuss in detail resources available under the Alaska Native Claims Settlement Act of 1971, including the availability of funds, individual distribution, and expected future benefits. Similarly, the DEIS neglected to analyze expected revenues of several million dollars from the sale of bird cliffs to the Department of the Interior, and it neglected to discuss in detail the 1984 retirement benefits to be provided by the government, the number of retirees, amount of support, and eligibility during future years.

More generally, the DEIS did not discuss total available income to each island, on a community or per capita basis. Obviously, all of this information is extremely important, and must be discussed in depth, before the DEIS can conclude that an end to fur seal killings would have a significantly deleterious economic impact on island natives.

b. Internal Resources

In similar fashion, the DEIS did not adequately address the internally-generated resources that are available to mitigate any adverse impacts associated with an end to commercial fur seal harvests. Specifically, the DEIS should

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analyze in detail the adequacy of a subsistence harvest in satisfying cultural and economic needs of the islanders (when augmented by external resources, as discussed above).

When referring to potential job losses due attributable to an end to commercial harvesting, the DEIS relies on data that is up to five years out of date. This data must be updated and revised in view of the questionable economics of future seal harvesting. See Exhibit B.

2. The DEIS Fails to Discuss and Analyze Adequately the Socio-economic Needs of the Aleuts

a. Job Needs

Although the DEIS discussed employment prospects for Pribilof Island residents, it omitted important data that is needed to fully evaluate the impact of the seasonal fur seal harvest on the islanders' livelihood. As a general matter, the DEIS provided no employment overview for the islands, including the number of employment adults on each island or the emigration rate from the island. As for the harvest itself, the DEIS did not relate the percentage of annual employment work hours attributable to the seal harvest. Also, it failed to account for the Aleut's stipulation that they will not harvest in 1984 if a commercial profit is not foreseeable for the skins.

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stipulation was not made contingent on any need for a kill for cultural and societal reasons.

3. DEIS Fails to Analyze the Impact of the Trust Agreement Adequately and Correctly

The benefits of terminating the kill in light of the trust agreement are not discussed adequately in the DEIS. A cessation of the killing presumably would trigger the development of additional projects and reduce the dependence on sealing, the goal of the trust as articulated in its statement of purpose. It would free a certain portion of the work-force for fisheries, the volunteer work on the harbor facilities mentioned in the DEIS, tourism, and other projects. This greater availability also would be taking place during the best and most productive weather of the islands.

Termination of the killing also would facilitate the self-sufficiency of the work-force, another stated trust goal. Moreover, although not analyzed in the DEIS, a cessation of the kill would promote stability by not subjecting the workers to a part-time, seasonal, unpredictable job. To illustrate, each year's quota now is set by the Commission barely three months before the harvest and can be terminated at any time for circumstances beyond the control of the Aleuts.

The discussion also fails to acknowledge that the chosen method of Congress to end federal involvement with the Aleuts was development of an economy not dependent on sealing.

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b. Social and Cultural Needs

Although the DEIS mentions that the fur seal kill traditionally has played an important role in Aleut society, the DEIS fails to analyze in any detail the extent of the role played in today's rapidly-modernizing society. For example, the DEIS does not identify any aspects of Pribilof culture that would be altered by an end to the killing. Likewise, the natives' "outside-oriented" economy is not discussed; clothing, food, energy, housing, and education are not dependent on seal products, but have been primarily imported, particularly since World War II.

The DEIS also does not acknowledge that portions of the Pribilof culture which are specifically Aleut (and which are shared by other Aleuts in the Aleutian Islands chain) are not involved in the commercial harvest. Thus, while the externally-run harvest may have influenced the original settlement of the Pribilofs and other factors surrounding much of their culture, the DEIS does not discuss how much the seals themselves provide to today's society and culture.

This omission is especially significant in view of the Pribilof Islanders' suggestion, drafting, and inclusion of a clause in the current 1984 harvesting contract with the government, which allows them to refuse to kill seals in 1984 if no commercial profit from skin sales is apparent. This

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The primary purpose of H.R. 2840 was not to allow development of economy dependent on a healthy market for sealskins. This Congressional-mandated effort to separate the interests of the seals from the economic health of the Aleuts is not discussed in detail, as it should be.

4. The DEIS's Analysis of the Economics of the Fur Seal Harvest Fails to Adequately Analyze the Impacts Related to Recent Declines in the Marketability of Fur Seal Skins.

The DEIS downplays the drastic changes in the marketability of seal skins of all species (including Callorhinus ursinus) within the past few years. In addition to the fact that fashion has dictated increased popularity of longer-haired furs, the pelts of seals in general have dropped to a very low point in public appeal. See generally Exhibit B (attached hereto and made a part hereof).

Northern fur seal pelts, along with the more publicized harp and hooded seal pelts, will be severely affected by the European Economic Community ban (instituted October 1, 1983) on imports of young harp and hood seal products. This initial 2-year ban will undoubtedly have far reaching implications. The Canadian press and fur industry has called it the death blow to commercial seal hunting.

As has been the case for over a decade, the market for northern fur seal pelts has been entirely within European nations, where public opinion is currently at its height in

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opposition to seal hunting. An official of the West German fur industry has announced that all species of seal furs account for approximately 1% of the German fur trade and that this component can be viewed as an expendable item that may not be worth the adverse publicity created by seal hunting.

In a superficial response to these undiscussed matters, the DEIS noted that while fur seal prices have dropped to very low levels in fiscal year 1983, increased advertising and the search for new markets may "reverse the current decline." See DEIS at 33. This unsupported assertion can not withstand analysis. It seems unlikely that undisclosed promotional ventures can offset the anticipated collapse of the European market. The DEIS's failure to recognize the increasingly adverse economics of continued fur seal harvesting is a serious deficiency that undercuts the DEIS's entire socio-economic impact analysis.

V. THE DEIS FAILS TO ADEQUATELY ANALYZE ALL REASONABLE ALTERNATIVES

- A. The DEIS Fails to Analyze an Alternative Whereby the United States (1) Would Kill Enough Seals to Fulfill Other Nations' Quotas Under the Convention; and (2) the United States Would Decide Not to Exercise its Right to Kill its Own Share of Fur Seals

One reasonable alternative not discussed in the DEIS would be to retain the Convention in its present form with the United States refraining from harvesting its share of fur seals. The DEIS apparently does not address this obvious alternative because it incorrectly concludes that the U.S. could not cease its harvest without contravening the Convention. As explained above, however, there is no legal basis for this assumption. Accordingly, this alternative should be fully analyzed in the repromulgated DEIS.

- B. The DEIS Fails to Adequately Analyze the Likely Impacts Associated With Expiration of the Convention

- 1. The DEIS Does Not Analyze the Actual Likelihood that any Pelagic Sealing Would Be Resumed, nor does it Analyze the Expected Levels of any Pelagic Sealing Activities. Indeed, the DEIS Includes No Analysis of the Political or Economic Factors Which Suggest That Little, If Any, Pelagic Sealing Would Occur If the Convention Were Not Renewed

The EIS prepared in 1980 for the Interim Convention prompted the U.S. Senate to require a more definitive analysis regarding the alleged threats posed by a resumption of pelagic sealing should the Convention expire. In similar fashion, the

current DEIS lacks any definitive data or analysis that support its assertion that resumption of pelagic sealing would be a distinct threat to fur seal stocks.

While it is conceivable that predator control (particularly by the Japanese) on the western stocks of Callohrhinus ursinus could occur if the Convention were to lapse, and while it also is possible that incidental taking of individual fur seals might occur in conjunction with other commercial ventures, it would not be cost-effective to resume pelagic sealing as a commercial venture outside of the 200 mile U.S. economic zone. According to the Food and Agriculture Organization of the UN (FAO, 1979), 48% of fur seals sighted at sea appear singly, 28% in pairs, and 12% in groups of three. Densities of this species increase only in fairly close proximity to the breeding islands. 4/

The Japanese delegation to the Fur Seal Commission has repeatedly brought up the pelagic sealing question in relation to perceived predation on fish stocks. It is still inconclusive, however, how many fur seals migrate outside of US

4/ Food and Agriculture Organization of the United Nations (FAO), 1979. Fanned species summaries and report on sirenians. Mammals in the seas. FAO Fish. Ser. No. 5, Vol. II, Rome, Italy.

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suggests that a U.S. cessation of the harvest will trigger increased killings on foreign soil.

- C. The Impact of Extending the Convention for an Unprecedented Six Additional Years Is Inadequately Analyzed; the DEIS Fails to Analyze Impacts Associated With Shorter Extensions of the Convention

- 1. Historical Overview: Shorter Extensions Are MORE APPROPRIATE

Although the parties to the Convention initially extended the Interim Convention by protocol in two six years increments, a very fundamental difference between the U.S. and the other Parties resulted in an extension in 1976 of only four years. The shorter period was not only more appropriate for an "Interim Convention," but it also was more appropriate in view of the U.S.'s failure to achieve acceptance by the parties of a new management regime which, inter alia, would incorporate in the Convention the MMPA management principle of "optimum sustainable population." (As explained above, this effort on the part of the U.S. was mandated by the MMPA).

In 1980, the U.S. Senate limited an additional extension of the Convention to four years, requiring the Executive Branch to prepare an extensive study to be referred to the Congress no later than March 1, 1984. The subject to be covered in this report reflected the concern of many members of the Congress and a conviction which "exists among many citizens

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and Canadian 5/ exclusive economic zones and would be subject to Japanese hunting pressure. Bigg (1982) noted offshore migration of fur seals, but qualified his conclusions with the following:

However, the migratory pattern is complex and its description in this report remains incomplete due to small sample sizes in certain months and regions. The complete understanding of migration pattern will not be told in all likelihood until many seals are individually followed by satellite monitoring.

Thus, it is apparent that the DEIS's simple conclusion that pelagic sealing will be resumed if the Convention lapses does not provide an adequate analysis of this critical issue. The DEIS fails completely to analyze the likelihood that pelagic sealing will be resumed, the expected level of such sealing, or the political and economic factors that will inhibit resumption of pelagic sealing activities.

- 2. The DEIS Fails to Analyze the Relationship, If Any, Between Termination of Seal Killings on U.S. Soil and Harvesting that Would Take Place on Foreign Soil

The DEIS simply does not address the relationship, if any, between an end to the U.S. harvest of fur seals and harvest levels on foreign soil. There is no evidence which

5/ There is no tradition for sealing on the western coast of Canada (British Columbia) other than for subsistence purposes for native peoples.

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that killing fur seals is unethical and immoral." See DEIS at 2.

In view of this historical background, no compelling case is made by the DEIS for extending the Convention for six years, rather than four, or an even shorter period. In addition, the failure of the DEIS to even consider a reasonable alternative of extending or modifying the Convention for a four year term or less is a significant omission in the DEIS's analysis.

2. A Six Year Extension Would Abdicate the U.S.'s Responsibilities under the MMPA

As explained above, the MMPA requires U.S. officials to apply OSP principles to international treaties for marine mammals that do not fall under U.S. jurisdiction. An extension of the Convention for six years without adopting MMPA management principles would represent an abdication of these responsibilities.

3. A Six Year Extension Is Inappropriate in View of the Recent Alarming Decline in the Fur Seal Population

With the Pribilof Island population below OSP and continuing to decline at an alarming rate, an extension of the Convention for a period of six years is an unreasonably long period to bind the U.S. to a particular course of action. The DEIS should have evaluated shorter extensions of the convention in view of the rapidly deteriorating population levels of the

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species and to insure maximum flexibility in responding to such declines.

4. A Six Year Extension Is Inappropriate in View of the Rapidly-changing Economics of the Fur Seal Skin Industry and the Economic Well-being of the Aleuts

As explained at length above, the economic conditions of the Aleuts are changing rapidly and their traditional dependence on the killing of fur seals is being replaced by active subsidization of other commercial ventures. In view of this rapid change away from fur seal killing, it would be inappropriate to extend the Convention for more than four years (at the maximum), to enable timely reassessment of the native economic structure and facilitate the complete cessation of fur seal killings.

D. The DEIS Fails to Analyze Any Realistic Alternatives That Will Ameliorate Future Entanglement of Fur Seals

1. The DEIS Fails to Discuss in Any Detail Recommended Enforcement Provisions That Will Ameliorate Entanglement Problems

As the primary mechanism for solving one of the most serious threats facing the declining fur seal population today, it is particularly important to evaluate all reasonable alternatives that might ameliorate future entanglement of fur seals. Unfortunately, the DEIS failed to do so. While the DEIS mentions "enforcement provisions" or similar language in relation to entanglement several times (see, e.g., DEIS at 7,

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8, 9, 34, 35), it provides no examples or suggestions of alternative enforcement mechanisms. Enforcement simply is not discussed in any detail -- in relation to the Convention, in relation to other treaties, or in relation to domestic U.S. legislation. Likewise, enforcement provisions related to particular types of debris are not discussed. The effectiveness of various approaches is not discussed; their impact on current vs. future debris; and the environmental and economic impact and likelihood of acceptance by other nations of various enforcement mechanisms is not discussed.

The relationship between current latitude limits on pelagic sealing and enforcement of entanglement provisions also is not discussed in the DEIS. Current enforcement provisions under U.S. and foreign fishing regulations, and other international agreements which could be modified to apply to northern fur seals (such as the Dall porpoise observer program) also are not discussed. In addition, the relation of accidental, snagged, and safety-related abandonments to enforcement provisions is not discussed. Existing legislation of other countries applying to their ships while in international waters and providing enforcement mechanisms against abandonment is not discussed. The impact of enforcement provisions on the Aleuts, including their applicability during their developing fishing industry (and an analysis of likely entanglement problems associated with new

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Aleut fishing ventures) and during their subsistence hunt, and their subjection to penalties similarly is not discussed in the DEIS.

2. The DEIS Should Discuss the Full Range of Alternative Solutions to the Entanglement Problem

The DEIS failed to analyze the range of alternative solutions to the entanglement problems. Reasonable alternatives include:

- banning fisheries involving net or debris found entangling northern fur seals. This solution was used to solve the North Atlantic high-seas incidental seabird take problem, and was successful;
- use of traditional, biodegradable nets, which do not produce lasting debris;
- restrictions of fisheries to time and places when no or few northern fur seals are present;
- unique net and packing band marking, and ship and licensee registration of nets and other materials;
- requirements to pick up all sighted debris;
- inventory of all net and other materials loaded onto each ship and verification of return;
- hiring of ships to scavenge areas for debris;
- required towing of blunt hooks to snag debris;
- bounty system for nets turned in to governments or NFFS Commission;
- uniform adoption of individual nation code for enforcement;
- potential of current private sector net recycling, Party and non-Party nations;

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- future private-sector initiatives for recycling;
- effectiveness of wider multilateral treaty involving all nations currently contributing to the problem or capable of contributing to its solution;
- active disentanglement of seals at rookeries and at sea when encountered in active-fishing gear;
- technological alternation of packing bands, six-pack containers, and other marine-discarded plastics to require decomposition;
- current "cooperative mechanisms" which prompted Korea and Taiwan to participate in entanglement technical workshop planning;
- enforcement of regulations concerning other entangled wildlife and commercially harvested species, such as birds, etc.
- resuspension of deposited nets and debris, and coastal cleanup to prevent resuspension;
- dedication of portion of commercial vessels' time to cleanup dragging;
- comprehensive observer program, and current coverage of fleets under domestic and international programs.

See also Exhibit C (attached hereto and made a part hereof).

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VI. CONCLUSION

As demonstrated above, the DEIS prepared for the Convention includes an inadequate analysis of important issues that relate directly to the environmental impacts associated with the proposed action and reasonable alternatives. Because of the DEIS's deficiencies, the International Fund for Animal Welfare, The Fund for Animals, and the Humane Society of the United States request that the DEIS be revised and repromulgated again in draft form to enable full public comment on revisions.

Respectfully submitted:

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 Elsah, Illinois 62028

THE FUND FOR ANIMALS
 1765 P Street, N.W.
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 2100 L Street, N.W.
 Washington, D.C.

January 6, 1984

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January 6, 1984

Hon. Malcolm Baldrige
Secretary of Commerce
United States Department of Commerce
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

Dr. John V. Byrne
Administrator
National Oceanic and Atmospheric Administration
14th & Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Messrs. Baldrige and Byrne:

I am writing on behalf of the International Fund for Animal Welfare, the Fund for Animals, and the Humane Society of the United States to direct your attention to serious legal questions pertaining to the Commerce Department's annual harvest of North Pacific fur seals on the Pribilof Islands. Based on our analysis of the Department's responsibilities under the Marine Mammal Protection Act, we have concluded that the Department is failing to implement its statutory obligations and that the continued killing of the United States' share of the fur seal harvest under the Interim Convention on Conservation of North Pacific Fur Seals is unlawful. Accordingly, we request that the Department immediately suspend fur seal killings on United States lands.

I. Background

As you know, the United States finances and supervises the killing of approximately 25,000 North Pacific fur seals on

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United States soil each year. 1/ The annual killings take place under the aegis of the Interim Convention on Conservation of North Pacific Fur Seals ("the Convention"). 2/ Under that Convention, the signatory nations of Japan, Canada, the Soviet Union and the United States have agreed to prohibit the killing of North Pacific fur seals on the open seas (pelagic sealing). 3/ Instead, fur seal killings are restricted to certain U.S. and Soviet Union breeding islands. 4/ The North Pacific Fur Seal Commission, an international body established under the Convention, "recommends" a maximum number of seals that can be killed on the Pribilof Islands (the breeding islands under U.S. control.) 5/ Traditionally, the maximum number of fur seals permitted under the Convention have been killed. 6/

1/ In 1982, the United States supervised the killing of 24,730 fur seals on St. Paul Island. In 1981, 24,278 fur seals were killed on St. Paul Island. See Marine Mammal Protection Act of 1972 Annual Report 1982/83 & 1981/82 (U.S. Department of Commerce).

2/ The governing Convention originally was signed in 1957. See 8 U.S.T. 2283, T.I.A.S. No. 3948. The Convention was extended in 1963, 1969 and 1976. Protocol, Oct. 8, 1863, 15 U.S.T. 316, T.I.A.S. No. 5559; Protocol, Oct. 17, 1969, 20 U.S.T. 2992, T.I.A.S. No. 6774; Protocol, May 7, 1976, 27 U.S.T. 3371, T.I.A.S. No. 8368. On October 14, 1970, a protocol further extending the Convention was signed by the four parties to the original treaty. 127 Cong. Rec. S6078 (daily ed. June 11, 1981). This protocol was transmitted to the U.S. Senate and on June 11, 1981, that body voted unanimously to advise and consent to the ratification of the protocol. Id. at S6087 (daily ed. June 11, 1981).

3/ See Convention, Article III.

4/ Id., Article IV.

5/ Id., Article V.2.(d).

6/ Seventy percent of the proceeds garnered from the sale of the furs of the seals killed in this annual harvest are deposited in the United States Treasury, with the remaining proceeds distributed to Japan and Canada. See Convention, Article IX.

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II. Legal Issues

A. The Interim Convention on Conservation of North Pacific Fur Seals

As explained above, the signatory nations entered into the Interim Convention on Conservation of North Pacific Fur Seals to protect fur seals from population declines caused by unrestricted sealing. In addition, the Convention is intended to foster the population growth of fur seals to facilitate commercial harvesting without damaging the species. 10/

To assist in the achievement of these goals, the Convention established the North Pacific Fur Seal Commission, an international body that "recommends" the "size and the sex and age composition" of the maximum "commercial kill" permitted under the Convention. 11/ The Convention explicitly directs the North Pacific Fur Seal Commission to "recommend" (rather than "require") annual kill levels. While the Commission recommends the absolute number of fur seals that can be killed in a given year, neither the Commission nor the Convention requires that signatory nations kill the maximum authorized number of fur seals. Instead, the Convention simply requires that the proceeds garnered from any killings that actually occur in a commercial harvest be shared proportionally among the signatory nations. 12/

Thus, the language of the Convention does not obligate any signatory nation to kill the maximum number of fur seals permitted by the Commission. On the contrary, because the Convention seeks to increase the fur seal population, any nation's decision to refrain from killing additional fur seals advances the Convention's goals by increasing population levels.

10/ See Convention, Preamble (the signatory nations "desire to take effective measures towards achieving the maximum sustainable productivity of the fur seal resources of the North Pacific Ocean so that the fur seal populations can be brought to and maintained at the levels which will provide the greatest harvest year after year. . . .").

11/ See Convention, Article V.2.(d).

12/ Id., Article IX.1.

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Initially, the Convention's prohibition on pelagic sealing and the limitation on land killings helped the fur seal population to rebound from depressed levels. 1/ Despite the Convention's attempts to limit fur seal killings, however, population levels have remained well below historic levels, and well below the optimum sustainable population that can be supported by the fur seal habitat. 8/

In recent years, the failure of the fur seal population to rebound to historic levels has been exacerbated by alarming population declines of at least five to eight percent per year. 9/ Indeed, a preliminary review of 1983 fur seal pup production figures indicates a continuing and apparently accelerating rate of population decline. Despite these significant, highly-disturbing population declines, the United States continues to kill the full allotment of fur seals permitted under the Convention -- nearly 25,000 fur seals per year.

7/ It is estimated that the population of fur seals on the Pribilof Islands approached 2.5 million in 1867. By 1912, the population had declined to an estimated 300,000 fur seals, due primarily to unrestricted sealing. Through the Convention and predecessor international agreements, the fur seal population has been restored to some extent; it now approximates less than one million fur seals. See Draft Environmental Impact Statement on the Interim Convention of North Pacific Fur Seals at 23-26 (Oct. 1983) (hereinafter, "DEIS").

8/ United States officials have admitted that the present level of the fur seal population is below the optimum sustainable population for the species. Id. at 25.

9/ See Fowler, C.W. 1983. History and status of northern fur seals on the Pribilof Islands. Background paper submitted to the 26th meeting of the North Pacific Fur Seal Commission, March 28-April 8, 1983. Washington, D.C. 18 pp. See also Marine Mammal Protection Act of 1972 Annual Report 1982/83 at 48 (U.S. Department of Commerce).

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significant functioning element in the ecosystem." 16 U.S.C. § 1361(2). Consistent with this major objective, Congress determined that marine mammals should not be permitted "to diminish below their optimum sustainable population." Id. 14/

The MMPA's protections for marine mammals extend to all species that are subject to United States jurisdiction. 15/ This includes North Pacific fur seals. Any doubt on this matter is resolved by the statute's explicit requirement that the Secretary of Commerce undertake "a study of the North Pacific fur seals to determine whether herds of such seals subject to the jurisdiction of the United States are presently at their optimum sustainable population and what population trends are evident," with modifications made to the provisions of the North Pacific Fur Seal Convention if required in order to make the Convention consistent with the MMPA. Section 108(b); 16 U.S.C. § 1378(b) (emphasis added).

Confirming that the MMPA applies to the killing of North Pacific fur seals that are under the jurisdiction of the United States, Section 101(b) of the Act requires the Secretary of Commerce to limit the killing of any marine mammals by "Indians, Aleuts, or Eskimos" on U.S. lands whenever the populations of such mammals are "depleted" and fall below the "optimum sustainable population." See 16 U.S.C. § 1371(b); 16 U.S.C. § 1362(1).

Because of the applicability of the MMPA to fur seals under United States jurisdiction, the Secretary of Commerce must

14/ The Act defines an "optimum sustainable population" as "the number of animals which will result in the maximum productivity of the population of the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem in which they form a constituent element." 16 U.S.C. § 1362(8).

15/ In addition, the statute directs U.S. authorities to use their diplomatic skills to apply MMPA management principles to species outside U.S. jurisdiction but subject to international agreements. Specifically, the MMPA requires the Secretaries of Commerce and State to initiate negotiations to amend "any existing international treaty for the protection and conservation of any species or marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this chapter." 16 U.S.C. § 1378(a).

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The United States Senate has confirmed that the Convention does not bind the United States by requiring it to kill the maximum number of fur seals recommended by the North Pacific Fur Seal Commission. In fact, when the United States Senate renewed the Convention in 1980, it explicitly noted that "[t]he United States may initiate adjustments in the [fur seal] harvest level or the U.S. share thereof providing any adjustments are in conformity with the terms of the interim Convention, the health of the fur seal herd, and the rights of the Aleut people." See 127 Cong. Rec. §6079 (June 11, 1979). 13/

B. The Marine Mammal Protection Act

Because the United States is not obligated by the Convention to kill a specified number of fur seals on U.S. soil each year, the United States must be guided by other statutory constraints in deciding whether or not to kill fur seals. Specifically, the guidance of the Marine Mammal Protection Act of 1972 ("MMPA"), 16 U.S.C. §§ 1361 et seq., must govern the United States' decision whether to kill fur seals in the annual Pribilof Island harvest.

The MMPA establishes a comprehensive statutory scheme for the protection of all marine mammals, including North Pacific fur seals. As its primary objective, Congress directed that the stocks of marine mammals "should not be permitted to diminish beyond the point in which they cease to be a

13/ The Department of State speculated that other signatory nations might not approve of a United States decision not to harvest the maximum number of fur seals. As explained above, however, this opinion does not square with the governing language in the Convention. When consulted in 1979 about a possible U.S. reduction in its fur seal harvest, for example, the U.S. Commissioner to the North Pacific Fur Seal Commission reported that "[t]he party governments noted that such an interpretation of the Convention had never been contemplated, but did not initially oppose this interpretation." See letter from Carmen J. Blondin to Senator Levin (March 24, 1983). In addition, the United States Department of Commerce -- the agency charged with administration of the Convention and the MMPA -- has consistently recognized that the United States is not bound by the Convention to kill seals on U.S. lands. See generally 127 Cong. Rec. 56082-84 (June 11, 1979).

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review the operation of each program in which the United States participates involving the killing of marine mammals on U.S. lands with the Secretary obligated to suspend any programs involving killings that occur on U.S. soil and which do not conform with the MMPA. Specifically, the statute states:

If at any time the Secretary finds that any such program cannot be administered on lands owned by the United States or in which the United States has an interest in a manner consistent with the purposes or policies of this chapter, he shall suspend the operation of that program and shall include in the annual report to the public and the Congress required under section 1373(f) of this title his reasons for such suspension, together with recommendations for such legislation as he deems necessary and appropriate to resolve the problem.

Section 112(d); 16 U.S.C. § 1382(d) (emphasis added). Thus, any killings of a marine mammal species that is not at its optimum sustainable population level, such as the North Pacific fur seal, is prohibited by the statute, and the U.S. cannot participate in any program conducted on U.S. land that involves such killings.

Likewise, because Section 101(b) of the Act prohibits Alaskan natives from killing marine mammals for subsistence purposes when affected marine mammal populations fall below optimum sustainable population levels, 16 U.S.C. §§ 1362(1) & 1371(b), the MMPA requires the U.S. to prohibit further subsistence killings of North Pacific fur seals.

Despite the clear applicability of the MMPA to fur seals that are killed on U.S. soil, the Department of Commerce traditionally has avoided MMPA's statutory responsibilities as they extend to North Pacific fur seals, asserting that the MMPA simply does not apply to North Pacific fur seals. See DEIS at 4. Accordingly, the Department has neglected its obligations under Section 108(b) to study fur seal populations on U.S. lands and adjust its killing practices when the population declined below the optimum sustainable population level. In 1974, the Department initially attempted to comply with Section 108(b) by completing a study of fur seal populations subject to United States jurisdiction. This early study concluded that "[q]uite frankly, we do not know the answer to [the] question

'whether herds of such seals... are presently at their optimum sustainable population.' 39 Fed. Reg. 12053 (1974). Recognizing Congress' obvious intent that the Secretary of Commerce continue to monitor the fur seal herd under U.S. jurisdiction to insure that it satisfies MMPA requirements (through maintenance of an "optimum sustainable population"), the Secretary of Commerce explained that "[a]s soon as research and study provide more insight into the population trends and the effects of food competition, pollution, and management practices, we plan to supplement this report." Id. Unfortunately, however, the Secretary never has supplemented its ten-year-old report to Congress, nor has the Department conformed the killing of fur seals on U.S. soil with MMPA requirements. 16/

Similarly, the Department has taken no action to limit subsistence kills of fur seals under Section 101(b) of the Act, despite the fact that the Department has admitted that the fur seal population under the jurisdiction of the United States now is below the optimum sustainable population level required by the MMPA. See, e.g., DEIS at 9.

In ignoring MMPA requirements as they apply to fur seals on U.S. lands, the Department apparently is relying on Section 113(a) of the Act, 16 U.S.C. § 1384(a), which states that the provisions of the MMPA are "in addition to and not in contravention of the provisions of any existing international treaty... which may otherwise apply to the taking of marine mammals." See DEIS at 4. Apparently, it is the Commerce Department's view that application of the MMPA to fur seal killings occurring on U.S. lands would "contravene" the North Pacific Fur Seal Convention. Based on this assumption, the Commerce Department apparently has concluded that the MMPA has

16/ The Secretary has completed an annual report to Congress under 16 U.S.C. § 1373(f), of course, but this information is supplied pursuant to another statutory provision and does not respond to the specific concern maintaining optimum sustainable population levels under Section 108(b). The failure to supplement the Secretary's nearly ten-year-old report with updated data regarding fur seal populations is especially disturbing in view of the continuing scientific research that has been completed on fur seal populations by the North Pacific Fur Seal Commission and the Marine Mammal Commission.

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no applicability to the management of any North Pacific fur seals, even those fur seals that are killed by U.S. authorities on U.S. land.

As explained at length above, however, application of the MMPA to fur seal killings occurring on U.S. soil does not "contravene" the Interim Convention. The Convention does not require any nation to kill the entire allotment of fur seals that the North Pacific Fur Seal Commission permits it to kill. On the contrary, a U.S. reduction of its own killings of fur seals on U.S. lands would promote the Convention's goal of maximizing fur seal population levels. Because the Convention does not contravene the MMPA, U.S. authorities must comply with the MMPA in deciding whether they will kill the full allotment of fur seals permitted under the Convention.

With the fur seal population now below optimum sustainable population levels and continuing to decrease at an alarming rate, the MMPA requires that United States authorities prohibit additional killings of fur seals on U.S. lands. Moreover, the Act requires the Secretary of Commerce to "immediately" take "further measures to replenish any species or population stock which has already diminished below that population." 16 U.S.C. § 1361(2). We request that the Department immediately discharge these statutory responsibilities by directing that further killings of fur seals cease, and taking affirmative steps to help replenish depleted fur seal population. We would appreciate your prompt attention to this matter, and ask that you inform us at your earliest convenience of your proposed action.

Sincerely,

David J. Haye
David J. Haye

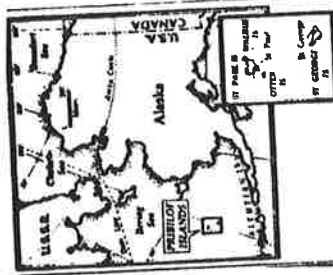
Counsel for the International
Fund for Animal Welfare, the
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Humane Society of the United
States.

Sealing Is Suffering So Feds Bid Farewell To Alaskan Islanders Lacking U.S. Jobs and Money, Alents Hope That Fishing Will Soon Pay Their Bills

By MARILYN CHASE
Staff Reporter of The Wall Street Journal
ST. PAUL, (UPI)—Fur seal hunters in Alaska are being told to get out of their homes and back to their jobs. Fishermen who troll the icy Bering Sea must leave after her to ensure a full catch and fair weather.
She had better not desert them now.
Last Friday, after 200 years as Russian, then American ward, the 100,000 sq miles of these remote Alaskan were cast adrift in southwest Alaska, the remnants of free enterprise.
On Oct. 24, U.S. government management of the islands' single industry ceased, as did federal employment of most of the islanders. For the Alentics, it's like starting out across the Bering Sea in a fishery industry with a mixture of risk and trepidation.
Since the islanders began to manage the fur seal harvest here to manage the natives. They have provided islanders a cutting diet of corned beef and subsidies, estranging them from their 8,000-year-old culture as subsistence hunters without preparing them for the transition to a free economy.
Orphaned islanders

Orphaned might be a better word than free. The federal pullout, provided for by law, leaves the islanders with no money to be done, an industry regulator that is dead, a money shortage, and a year's worth of debt. To survive, the wealth-creating commodity—for seal-herd little dashboard community is scrambling to find a cadre of managers, build a port and develop a promising fishing industry.

"Most towns take decades to develop an independent economy," says Larry Meyer, chief of St. Paul's only college graduate and the president of its native corporation. He presides over the community's economic council with his B.A. in economics and a whetstone given.
Before there were Russian employees of American bureaucrats in the Bering Sea, there were Alentics and seals, including seal with profit. One-and-a-half million seal still remained on the March and March



These four isolated islands, two of which—St. Paul and St. George—have human inhabitants. Each year, about 2,000 four-year-old bachelor seals (not babies, as in Canada) are culled, clubbed and skinned, blood from the harvest nourishes the grasses, and winter even; that last, even a brown rabbit of other island snows make a brown rabbit of other island vegetation.

Now, with its only established industry in distress, Alentics are being left to fend for themselves—a condition that hasn't existed since Gerasim Pribilof (pronounced "Pee-blee-uh-lee") claimed the islands in 1791. The Russian in 1791. Then, the islands were shipped to the United States, given Russian names and converted to the Russian Orthodox Church. Today, they pull up leg "What in Russian", sing the liturgy in Slavic, and give their lawn, round-headed children names out of Tolstoy: Natalia, Irina, Klavim and Vyacheslav.
When the U.S. bought Alaska in 1867, the fur-rich Pribilofs were a federal reservation under the U.S. Treasury Department. When international sealing ships planned

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With Sealing Suffering, the U.S. Government Leaves Its Former Alaskan Wards to Make a Living Fishing

Continued From First Page

dered the seal herds, the federal government came to oversee a 1911 treaty banning pelagic deep-sea hunting and enforcing a limited harvest by the Aleuts or St. Pauls. For nearly a century U.S. was a profitable harvest, netting \$5 million while its Aleut labor force got \$3 million.

The Embudo took on characteristics of a company town, hunters were paid in store credits and in rationed goods. The government fed Aleut laborers a 170-calorie diet, diet-less, Aleut laborers fed diet rations, 1,300-calorie rations for diet rations.

By 1945, in World War II, the Aleuts, Pribilofs and Pinnacles have embittered some Aleuts, among them Martha Kruloff, a widow of 7. I hair the government, she says faintly, stamping at a blizzard from her cottage. Our unimpaired houses were so cold there was ice on the baseboards, and my children's hands were blue.

I lost one child, she continues, in a non-sense. She was seven. Turned yellow. Her liver, I pines, I had wanted to take her off the island for treatment, but they refused. They were so cold, the agents.

When the Japanese bombed the Aleut Islands in World War II, Martha Kruloff and other Pribilof and Pinnacles evacuated and near Japan. With two convalescing and a toddler, Martha was munitia, and her pregnant. Masha says the camp, and she learned of the 25 interned Aleuts died.

Today, the U.S. is trying to thank America. The government, munitia, and the people over the years, and the government, John Phillips an officer of the National Oceanic and Atmospheric Administration (NOAA), whose National Marine Fisheries Service has overseen the Pribilofs, Repara tons of \$2 million were awarded in 1976 for inhuman conditions on the islands—a per- turned beef money. Aleut convalescing committee was formed that further reparations be paid for their wartime inter-

ment.

It will be the last of the federal bankrupt. With Aleut labor no longer cheap, and their product out of favor with environmentalists and fur traders alike, the government's Pribilof program ran a 14 million dollar loss in 1981. With sealing on the rise, that year profitable. The federal bailout that was finally enacted by Congress in September and signed by President Reagan Oct. 14.

After Years of Neglect

The federal government is using its exit with a \$2 million fund to be split between St. Paul and neighboring St. George islands, plus a \$2 million capital fund. But islanders contend that all this money won't make them whole after years as a captive labor force. "There's no way we can make up for 100 years of federal neglect. It's devastating," says Michael Zicharek, a 50-year-old St. Paul fisherman.

St. Paul's only unpaved roads, unless listed houses, aged sewage system, and oil tanks lacking protective barriers. The island's backlog of unfinished business totals \$150 million, says Thomas E. Humphrey, 21

Alaska, consulting engineer, who does work for the city of St. Paul. About \$11 million of that, he added, just to fix critical safety-code violations, he charges, adding "The government ran that place like a penal colony. They didn't think any code applied to them."

Washington disputes both the size and the urgency of the needs. "We think those are \$15 million," NOAA's Mr. Phillips says.

The government bailout leaves a vacuum in the islands' economy. More than half St. Paul's wage base until now has come from federal jobs, and finding jobs for displaced workers either with the city or the native corporation is a challenge.

Managers also face a shortage of skills. Under the fish-eries service, everything—from decisions to purchasing—was done by outsiders. Now I'm concerned about our lack of native managers," says John R. Merculieff, no relation

to Larry), the mayor of St. Paul. The island lacked a high school until 15 years ago and still doesn't have a 12th grade. Many adults over 40 lack secondary educations.

Finally, federal subsidies for the island's expansion also will dry up. Under federal management, islanders paid only about \$20 a month for water, sewer and garbage collection. After the bailout, islanders will gradually come to shoulder the true cost—about \$150 per household. Aleut leaders fear that, with most of the island unemployed except for a few, the islands' economy will collapse.

Anxiety and depression have worsened the islands' existing alcoholism, now estimated to affect 60% of St. Paul's residents. Suicide, hitherto rare in Aleut culture and a sin in the Eastern Orthodox Church, has caused three deaths in the past two years.

St. Paul's economy rebound demands a shift from fur to fish. In fish, islanders are

lucky for the Bering Sea's bried depths are alive with halibut, bottom fish, including cod, pollock, yellow sole and several varieties of crab prized in Asia. Some 80% of the world's bottom fish reside here, it is said.

Boning Up

But before tackling its new industry, the sea-going Aleuts had to learn a surprising new skill—fishing before 1981, "not a soul knew anything about commercial fishing," says Larry Merculieff. The irony was that he had fished crab 15 minutes offshore. He blames government management of Aleuts for a captive labor force and skills other than fishing. But now St. Paul has found a new ally, Japan. Two islanders currently are studying commercial fish processing there, and Mr. Merculieff is studying Japanese in anticipation of future business with Japan.

With state funds, both St. Paul and St. George are hurrying to build \$7-million ports, which eventually will include commercial fish-processing wharves and other marine services for travelers. Mr. Merculieff is sanguine about prospects.

"Every boat that's ever fished the Bering Sea wants a port in St. Paul," he says. "We

don't have to go looking for them. They've come looking for us." He says he has 200 companies interested and promises "deals must be made soon" if the port is to begin operation next fall as planned.

Tanaogusta (pronounced "to-ah-goo-sich") Corp., the St. Paul outfit company, isn't profitable yet. But a couple of its small specialty businesses are reportedly in the black. One is its old-fashioned food, which attracts bird lovers who trek to the Pribilofs each summer to observe the migratory passage of 150 species of wild birds. A certain bones prized in Japan and Korea for their supposed aphrodisiac properties.

More speculative potential exists to develop the islands as a service center for tourists of interest in the St. George Basin or the Bering Sea. But try St. Paul—with its one general store—lacks the facilities to support such industry now.

A healthy economic future for the islands will require an influx of outside capital. Larry Merculieff is confident of obtaining the cash, and he says that he will seek developers who are sensitive to Aleut culture. But his fellow citizens are apprehensive and fearful of an invasion of outsiders—or any outsiders.

don't have to go looking for them. They've come looking for us." He says he has 200 companies interested and promises "deals must be made soon" if the port is to begin operation next fall as planned.

Tanaogusta (pronounced "to-ah-goo-sich") Corp., the St. Paul outfit company, isn't profitable yet. But a couple of its small specialty businesses are reportedly in the black. One is its old-fashioned food, which attracts bird lovers who trek to the Pribilofs each summer to observe the migratory passage of 150 species of wild birds. A certain bones prized in Japan and Korea for their supposed aphrodisiac properties.

More speculative potential exists to develop the islands as a service center for tourists of interest in the St. George Basin or the Bering Sea. But try St. Paul—with its one general store—lacks the facilities to support such industry now.

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With state funds, both St. Paul and St. George are hurrying to build \$7-million ports, which eventually will include commercial fish-processing wharves and other marine services for travelers. Mr. Merculieff is sanguine about prospects.

"Every boat that's ever fished the Bering Sea wants a port in St. Paul," he says. "We

don't have to go looking for them. They've come looking for us." He says he has 200 companies interested and promises "deals must be made soon" if the port is to begin operation next fall as planned.

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MARINE MAMMAL COMMISSION
125 EYE STREET, N. W.
WASHINGTON, DC 20004

18 November 1983

Mr. William G. Gordon
Assistant Administrator for Fisheries
National Marine Fisheries Service
NOAA/Department of Commerce
Washington, D.C. 20235

Dear Mr. Gordon:

As you know, the Commission has long felt that entanglement of marine mammals in lost and discarded commercial fishing gear and other debris is an extremely serious problem which must be addressed. To this end, the Commission has made a number of written and verbal recommendations, suggestions, and offers of financial assistance within the context of commenting on issues related to the North Pacific fur seal, the Hawaiian monk seal, and a workshop to be focused on net entanglement.

On September 27, 1983, the National Marine Fisheries Service hosted a meeting with representatives of the governments of Canada, Japan, Korea, Taiwan, and the Union of Soviet Socialist Republics. At that meeting, it was agreed that it would be appropriate to convene a non-governmental, international workshop of scientific and technical experts to examine the issues and make recommendations thereon. The terms of reference discussed at that meeting were elaborated at the request of the participants and sent to them (see enclosure).

Since it now appears that the point has been reached of actually planning for and convening a workshop in Hawaii, the Marine Mammal Commission again wishes to restate its offer of the past two years to contribute to the support of such a workshop. To this end and specifically for the convening of a Steering Group, the Commission would be pleased to immediately transfer \$4,000 to the National Marine Fisheries Service.

Further, the Commission, based on consultations with its Committee of Scientific Advisors on Marine Mammals as well as discussions with members of the fishing community, the National Oceanic and Atmospheric Administration, the Department of State, and the National Marine Fisheries Service, makes the following recommendations:

- (1) that responsibility for the conduct of the workshop be formally and promptly assigned to the Honolulu Laboratory of the Southwest Fisheries Center and that interested persons be so advised;

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-2-

- (2) that such sums of money as may be determined to be necessary for the workshop (see (4) below) be immediately transferred to the Southwest Fisheries Center/Honolulu Laboratory;
- (3) that a Steering Group be immediately established and convened for the purposes described in (4) below, and that the Group's membership include Mr. Jim H. Branson, Dr. Douglas G. Chapman, Mr. Charles W. Fowler, Dr. William G. Gilmartin, Mr. John Henderson, Dr. Robert J. Hofman, Mr. Joe Scordino, and Mr. Richard S. Shomura;
- (4) that the Steering Group: a) choose a chairman for the workshop, agree upon dates specific, and assign responsibility to persons for the management of workshop preparations, conduct of the workshop proper, and the undertaking of followup actions; b) reach final agreement on the terms of reference for the workshop; c) prepare a detailed agenda for the workshop which sets forth the topics for discussion, the titles of invited papers, the names of those who will be asked to present the papers, and the participants for any panel discussions; d) develop a list of other invitees from the United States and abroad to assure the best possible level of scientific and technical participation in the workshop; e) prepare detailed total cost estimates (see (2) above) for the meeting so that such an amount can be immediately transferred to the Southwest Fisheries Center/Honolulu Laboratory by the National Marine Fisheries Service; and f) prepare a detailed plan for following up on the workshop;
- (5) that the National Oceanic and Atmospheric Administration's Office of the General Counsel identify and evaluate all domestic and international authorities that might be used to prevent further dumping of gear and debris and to facilitate the recovery of gear fragments and other discarded material already in the sea;
- (6) that the Service request the Department of State to take such steps as may be necessary to gather similar information with respect to the domestic authorities of other involved countries including such statutes and regulations as may exist to implement the provisions of relevant international agreements;
- (7) that the Service either undertake or cause to be undertaken the compilation, summarization, and evaluation of all published data on entanglement of fur seals, monk seals, other marine mammals, sea turtles, sea birds, fishes, and any other species in lost or discarded fishing gear;

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- (8) that the Service take such steps as are necessary and appropriate to: analyze collected fragments and other debris; collect and analyze relevant data and information provided on materials collected or sighted; conduct research (either directly or under contract) on ways in which gear may be effectively marked; and provide advice and recommendations on marking, mitigating measures, and such other matters as may be appropriate and necessary;
- (9) in this regard, that the Service undertake or cause to be undertaken such studies as would lead to describing ways in which net might best be marked so as to show its provenance in the event of recovery at sea or on beaches;
- (10) that the Service enter into formal agreements with the U.S. Coast Guard, the U.S. Navy, the U.S. Fish and Wildlife Service, and appropriate agencies within the States of Alaska, California, Hawaii, Oregon, and Washington to ensure that samples of netting and other debris which are collected by these agencies be given to the National Marine Fisheries Service for evaluation;
- (11) that the Service enter into formal agreements with appropriate state and Federal agencies with respect to the collection, compilation, and analysis of data and information gathered by such agencies on the distribution, quantities, type, etc. of netting or other debris sighted but not collected;
- (12) that the Service establish formal agreements with the various marine mammal stranding networks, research institutions, scientists, fishermen, and other possible sources of unpublished data to encourage them to obtain additional information on the types, quantity, and sources of gear and packing material being lost or discarded at sea as well as further information on the species, number, ages, and sexes of animals becoming entangled in discarded net or debris;
- (13) that the Service immediately start identifying critical data gaps so as to develop program plans (including a description of the financial, logistic, personnel, and other resources needed) to fill identified data gaps;
- (14) that the Service design and initiate such other programs as may be needed to determine: the types, quantity, size, and distribution of net fragments and other entangling debris as well as the likely fate of various types and sizes of netting and other debris present in the areas of concern;

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- (15) that the Service take such steps as may be appropriate to improve information dissemination and education amongst those actively engaged in fishing; and
- (16) that the Service assign a high level administrator/scientist responsibility for the overall management of all aspects of the net entanglement program and such meetings and workshops as may be held.

The Commission believes that action should be taken on all of the above recommendations as quickly as is possible. While some are clearly essential to the development of a successful workshop, others are necessary to provide badly needed data and information in the short term (i.e., for the workshop) and in the long term if an organized and meaningful approach is to be taken to successfully address the issues.

The Commission will be pleased to provide \$4,000.00 towards the immediate convening of the Steering Group as well as to help in such other ways as it can to assist in seeing that the ends are accomplished.

Should you either have questions or wish to discuss this letter, I shall be pleased to do so whenever convenient.

Sincerely,

John Minard
John R. Twiss, Jr.
Executive Director

Enclosure

cc with enclosure:

- Dr. Joseph W. Angelovic
- Dr. Raymond V. Arnaudo
- Dr. William Aron
- Dr. Izadore Barrett
- Dr. Carmen J. Blondin
- Mr. Jim H. Branson
- Dr. John V. Byrne
- Dr. Charles W. Fowler
- Dr. William G. Gilmartin
- Mr. John Henderson
- Mr. Robert A. Jantzen
- Dr. Robert V. Miller
- Mr. Richard B. Roe
- Mr. Joe Scordino
- Mr. Richard S. Shomura

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The Humane Society of the United States
2100 L Street, N.W.
Washington, D.C. 20037
(202) 452-1100



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Scientific Director

January 5, 1983

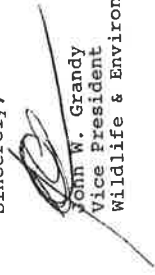
Mr. Richard B. Roe
Acting Director, Office of Protected Species
and Habitat Conservation (F/M4)
National Marine Fisheries Service
3300 White Haven Street, NW
Room 168
Washington, DC 20235

Dear Mr. Roe:

Enclosed is a copy of a petition which HSUS has just filed on behalf of itself and five other conservation and animal welfare organizations to have the North Pacific Fur Seal listed as a threatened species pursuant to the Endangered Species Act. This petition should also be considered as a portion of the comments of The Humane Society of the United States on the Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals.

Thank you for your attention to this matter.

Sincerely,


John W. Grandy
Vice President
Wildlife & Environment

JWG/gy

Enclosure

International Fund for Animal Welfare
Greenpeace
Animal Welfare Institute
Fund for Animals

prepared by:

The Humane Society of the United States
2100 L Street, NW
Washington, DC 20037
(202) 452-1102

Rec'd 1/6/83

HONORARY DIRECTORS

- Aida Fleming
- Virginia Millien
- Andrew Wyeth

PETITION

Before The
Assistant Administrator for Fisheries
National Oceanic and Atmospheric Administration
National Marine Fisheries Service

January 5, 1984

To list the Pribilof Fur Seal
(Callorhinus ursinus) as a Threatened
Species pursuant to the Endangered Species Act of
1973, as amended

filed by:

The Humane Society of the United States
Consequence
International Fund for Animal Welfare
Greenpeace
Animal Welfare Institute
Fund for Animals

EXHIBIT D

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This is a petition filed by the Humane Society of the United States (HSUS) and other interested parties pursuant to Section 4 of the Endangered Species Act of 1973, as amended, (16 U.S.C. § 1531 et seq.; hereinafter ESA) to declare the North Pacific Fur Seal (Callorhinus ursinus) a threatened species. This petition is based in large part on information supplied by the National Marine Fisheries Service (NMFS) to The HSUS in response to its February 16, 1983, Freedom of Information Act Request and by letter of March 25, 1983, from C. W. Fowler, NMFS, to J. W. Grandy, HSUS. Additional information was obtained from the 1983 draft Environmental Impact Statement (hereinafter "1983 DEIS") on the Interim Convention on the Conservation of North Pacific Fur Seals. The information in the aforementioned material is included herein by reference. Throughout this petition, information from these sources which is generally accepted and acknowledged is not consistently cited. Rather information sources are cited in order to resolve doubt or provide additional authority for matters which may be open to question.

A. Interested Parties

1. The Humane Society of the United States (HSUS) is a non-profit tax exempt corporation dedicated, inter alia, to the preservation, protection, and humane treatment of wildlife. HSUS has been deeply concerned over the survival, welfare, and humane treatment of these seals, and as early as 1968 and most recently

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in 1980, sent an investigator to view the annual killing. HSUS files this petition on behalf of itself and its 210,000 members and constituents and on behalf of the other interested organizations, whose names, interests, and membership levels follow.

2. "Consequence" is an animal rights organization which conducts intensive research and makes detailed presentations on animal rights issues. This petition is filed on behalf of Consequence.

3. International Fund for Animal Welfare (IFAW) is an international organization created to promote animal welfare throughout the world. This petition is filed on behalf of IFAW and its 500,000 members.

4. Greenpeace is an international organization dedicated to the preservation of marine ecosystems. This petition is filed on behalf of Greenpeace and its 350,000 members.

5. The Fund for Animals (FFA) is a non-profit, tax exempt organization dedicated to promoting humane treatment for all animals. This petition is filed on behalf of the FFA and its 200,000 members.

6. The Animal Welfare Institute (AWI) is a non-profit organization which promotes the welfare of all animals and has

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19,500 members. This petition is filed on behalf of AWI and its members.

B. Governing Law and Treaties

Management and annual killing of North Pacific Fur Seals are carried out pursuant to the provisions of the Interim Convention on the Conservation of North Pacific Fur Seals (hereinafter "Convention" or "Treaty") first signed in 1957, and since extended and "amended" by Protocols in 1964, 1969, 1976, and 1980. The Convention was formally implemented in the United States by The Fur Seal Act of 1966 (16 U.S.C. § 1151 et seq.) and is presumably designed to permit killing of fur seals to the extent such killing is compatible with the goal of maintaining the fur seal population at a level consistent with maximum sustainable productivity. However, the fur seal population is declining, is substantially below the maximum productivity level required by the Convention, and is at least 50% below the carrying capacity of its habitat (see: 1983 Background Paper submitted to the 26th meeting of the Standing Scientific Committee of the North Pacific Fur Seals Commission "Status of Northern Fur Seal on the Pribilof Islands", hereinafter "1983 Background paper"; 1983 DEIS at 23-26).

The Administrative Procedures Act ("APA"; 5 U.S.C. § 553 (e)) and Sec. 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. § 1533) are the statutes under which the right of petition and review are granted. The APA provides the general

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procedure, and safeguards against arbitrary and capricious denial of the Petition. The ESA, together with the legislative history surrounding its most recent amendments, gives specific guidance on the consideration of petitions, factors to be considered in the listing process, and the specific reasons for which a listing may be made (see: 16 U.S.C. § 1533; P. 20 and 21 of House of Representatives Rept. No. 97-835 "Conference Report on the Endangered Species Act Amendments of 1982" (hereinafter "Report")).

Specifically, the ESA (16 U.S.C. § 1533 (b) (1) (A)) notes that only scientific and commercial factors (meaning biological or trade (Report at 20)) may be considered when deciding whether or not to list a species. In other words only the current and reasonably predicted status based on biological and exploitation-related factors may be considered. It is impermissible under the ESA to consider the economic or political consequences of a listing, a fact which was made even clearer in the attendant legislative history (see: Report at 20).

Moreover, the ESA requires that, to the extent possible, candidate species--such as the Pribilof fur seal--be protected from adverse avoidable consequences of the prospective actions of Federal agencies (16 U.S.C. § 1536 et seq.).

Both of the foregoing admonitions and the Endangered Species Act itself suggest that in cases where doubt exists with respect to the status of a species, the Secretary should--indeed, must--err, if at all, on the side of providing protection for the species, not on the side of withholding perhaps necessary

education purposes;

- c. Disease or predation;
- d. The inadequacy of existing regulatory mechanisms; or
- e. Other natural or manmade factors affecting its continued existence.

C. History of Fur Seal Management

United States responsibility for fur seals began in 1867, with the acquisition of Alaska, including the Pribilof Islands, from Russia. The fur seal population at that time is estimated to have been at or near 3 million, with the seal population connected with the Pribilof Islands at 2 to 2.5 million. Seal killing was a way of life on the Islands because the Russians had relocated, and abandoned, the Aleuts on the Islands as "slaves" whose job was to kill seals.

The U.S. continued to allow sealing and indeed sealing "rights" were leased by the U.S. in twenty-year leases from 1870 to 1910. Sealing also continued in Russia but by the late 1800's sealing was largely ended on Robben and Commander Islands, because the seal population had been severely reduced by commercial operations. Pelagic sealing largely ended in 1911, with implementation of an International Agreement which was signed by the U.S., Great Britain (for Canada), Japan, and

protection. The reasons for such caution are apparent: if we err by providing "too much" protection, we only succeed in "unnecessarily" taking action designed to preserve a species. In the alternative, if we err by providing too little protection, a species may pass the point of no return or, at best, require much more effort later to achieve restoration. In short, where substantial proof of serious decline exists, or even where some indication of serious decline and substantial doubt exist, regarding the status of a species, the Secretary must grant a petition to list an animal as threatened, thus allowing maximum protection for the species in a timely fashion.

Finally, the ESA provides no specific guidance on what a petition must contain other than "substantial" information (16 U.S.C. § 1533 (b) (3) (A)). The statute does, however, list the reasons for which the Secretary may find a species appropriate for listing (16 U.S.C. 1533 § (a) (1) (A) et seq.). It follows that these factors are among those which, in influencing the biology of a species, the Secretary must consider in analyzing a petition. For that reason, our comments, in part, summarize information in a manner which is directly related to the five reasons for which the Secretary may, by law, list a species as threatened or endangered. These factors are:

- a. The present or threatened destruction, modification, or curtailment of its habitat or range;
- b. Overutilization for commercial, sporting, scientific, or

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Russia. In 1912, the low and decimated seal population caused the U.S. Congress to prohibit killing of seals on the Pribilof Islands.

Although seal killing on the Pribilof Islands began again in 1917, the temporary cessation and subsequent regulation of killing on the Commander, Robben, and Pribilof Islands aided in allowing a marked population expansion through the 1920's and 1930's.

In 1941, Japan renounced the Agreement and from then until 1957, fur seals were managed under joint agreement between the U.S. and Canada.

The current Convention was signed on February 9, 1957, by the Soviet Union, Canada, the United States, and Japan. At that time the seal population was estimated to be near 3 million, with 2 to 2.5 million in the area of the Pribilof Islands.

The Convention has been renewed and/or "amended" through a series of Protocols in 1963, 1969, 1976, and 1980.

The major substantive provision of the Convention is Article V.2.(d) which requires the Party nations to maintain the northern Pacific fur seal population at a level which will result in maximum sustainable productivity. The 1980 Environmental Impact Statement (hereinafter "1980 FEIS") asserted that this admonition in the Convention, together with the expertise of the Standing Scientific Committee appointed under the Convention, was sufficient to "prevent stocks of northern fur seals from diminishing to a level which could endanger their existence." (1980 FEIS at 2-3).

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While this may or may not eventually prove to be true, it is clear that the Convention and Scientific Committee have not been sufficient to prevent the fur seal population from declining from near 3 million (in 1957) to the current level of 1.4 million (1983 DEIS at 14).

D. Fur Seal Biology, Population History and Status

The fur seal is a marine mammal of the family Otariidae and the monotypic genus Callorhinus. Depending in large part on age and condition, adult females generally weigh from 65 to 120 pounds, while adult males weigh 350 to 600 pounds. Females breed at 4 to 5 years. Pregnant females normally produce only one pup and males are polygamous.

Fur seals inhabit subarctic waters of the North Pacific and breed primarily in the Soviet Commander, Robben, and Kurile Islands, and the U.S. Pribilof Islands. In addition, a small and growing breeding population inhabits the San Miguel Islands in California.

In the northern portion of the breeding range, seals begin coming ashore in June and leave by November. Pups are born during early July.

The fur seal was discovered for commercial purposes in 1786 and "harvesting" began almost immediately. Since that time population numbers have varied dramatically. The best estimate of the pre-exploitation population was near 3 million, with 2 to 2.5 million on the Pribilof Islands. The lowest estimated

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population for Saint Paul and Saint George Islands, following major pelagic and other exploitation, was 200,000 to 300,000 in 1912.

After restrictions on kill were instituted, the fur seal population increased from about 1912 to the 1950's, at which time the population was again at or near 3 million seals. From 1956 to 1968, both females and males were killed and the population declined. Since 1968, a male only kill has been permitted and the population has apparently continued to decline although not at a constant rate. In 1980, the population was estimated to be 1.74 million seals (1980 FEIS at 15). Current estimates place the population at about 1.4 million seals (1983 DEIS at 14), with the decline, possibly accelerating, now about 8 to 10 percent per year (NMFS officials, Pers. Comm.) The estimated carrying capacity for seals has not changed; thus the population is at a level of less than 50% of carrying capacity, and the maximum productivity level required by the treaty is not being attained (1983 Background Paper at 1, 8; 1983 DEIS at 23-26).

E. Causes of the Population Decline

Despite the conclusive evidence of a serious and continuing population decline, no one has been able to conclusively determine the reason(s) for the decline.

Some officials believe that the decline is still being caused by the killing of females which occurred between 1956 and 1968. Recent government data suggest, however, that the negative

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effects of the female killing on the population should have ended many years ago (1983 Background Paper at 10).

Another possible cause of the decline is entanglement of seals in discarded or lost netting and/or packing bands (1983 Background Paper at 9-10; Investigations on Fur Seal Entanglement in Net Fragments, March 1983 paper by Scordino and Fisher, Submitted to the 26th Annual Meeting of the Standing Scientific Committee, North Pacific Fur Seal Commission, hereinafter "1983 Entanglement Paper"). Observations of entanglement scars, as well as dead and living entangled seals, lend support to this theory. Indeed, some officials estimate that mortality due to entanglement may now exceed 5% of the population per year (1983 Background Paper at 10).

Another possible cause of the decline is the killing of the seals through commercial and other "harvest". Such destruction amounts annually to 24-30,000 seals. While most of the seals killed are males, some females are killed each year and this mortality, which is attributable directly to commercial sealing, must have a negative impact on the population. Further, evidence is mounting that the killing of even the male seals is having a strong negative impact both on the seals themselves and the population as a whole. First, on St. Paul Island where the commercial kill of male seals continues, the rate of decline is higher than it is on St. George Island where only a relatively small subsistence kill is permitted (1983 Background Paper at 4). Moreover, the seal population is expanding on the San Miguel Islands, where no killing of bachelor males is or has been

Q-58

permitted. In light of these facts, the summary and unsupported assurances (see: 1983 Background Paper at 1, 9) of those involved in the commercial kill that such commercial killing does not contribute to the continuing 8 to 10 percent annual population decline seem self-serving, at best.

F. Summary of the causes of the population decline as related to the factors for which an animal may be listed.

1. The present or threatened destruction, modification, or curtailment of its habitat or range.
This factor is not important because the carrying capacity of the habitat has apparently not declined since the population was discovered.

2. Overutilization for commercial, sporting, scientific, or education purposes.
This factor is certainly contributing to, if not causing, the population decline. The commercial kill results in the elimination of 24-30,000 seals per year. While most of these are males, loss of which NOAA suggests will not harm the population's productivity, some are females, the loss of which must reduce both the population and productivity.

Furthermore, the rate of decline is higher on St. Paul Island, where U.S. commercial kill occurs, than it is on St. George Island where no commercial kill is allowed (1983 Background Paper at 4). Thus, there may be some subtle, if unknown, effect of killing these presumably "excess" males on the productivity of the entire population. This conclusion is

Q-59

buttressed by the fact that the seal herd on the San Miguel Islands in California has continued to expand, in spite of the fact that it is not subject to the killing bachelor males. The factor at work could be genetic, physical disturbance, or a reduced rate of impregnation (see: Gentry, Feb. 1983, Draft Rept. of Progress Under the Coordinated Bering Sea-Pribilof Research Proposal: 10 year Rept. at page 10 (\$ 15b)).

3. Disease or predation.

These factors seem unimportant as there is no evidence of unusual disease or predation, except predation by humans, which is discussed elsewhere.

4. & 5. The inadequacy of existing regulatory mechanisms and other natural or manmade factors affecting its continued existence.

These two factors, taken together, must be considered of overriding importance in the continuing demise of the fur seal. The Convention requires that the fur seal population be managed at a level which insures maximum sustainable productivity. However, decisions made by the Parties pursuant to the Convention have provided a demonstrably inadequate mechanism for insuring such a result, based on the fact that all Parties now agree that the fur seal population has declined to a level substantially below maximum productivity, and no corrective action has been taken. Indeed, at the 1982 and 1983 meetings of the Parties, despite increasing evidence of a decline, and, no evidence that the annual killing is benefiting the seal population, the parties

Q-60

voted to continue to allow the annual commercial killing of 24-30,000 seals. Clearly, the Convention, which is the existing regulatory mechanism, has failed and continues to fail, as currently implemented, to provide adequate protection for fur seals.

Moreover, entanglement in old pieces of netting or other debris from packaging has long been identified as a serious cause of mortality. Numerous papers and reports have been produced on this by the North Pacific Fur Seal Commission (see: 1983 Entanglement Paper at 32-33). However, the only action taken recently has been the production (in 1982) of posters for use on board ship and in ports asking fisherman not to discard material overboard. Whether this will be helpful remains to be seen. However, the fact that similar materials were produced, distributed and/or posted in 1976, 1977, and 1978 asking fishermen to refrain from discarding this material, with no apparent decline in mortality, suggests that these efforts will be ineffective.

In addition, such action even if successful only deals with a part of the problem, since the sea already contains millions of tons of such material which is presumably capable of causing substantial and continuing mortality for innumerable years.

Furthermore, from a U.S. perspective, the governmental mechanisms for insuring compliance with the Convention's provisions have been equally inadequate. The U.S. Government has known for many years that the fur seal population was declining. The government has also consistently identified

Q-61

entanglement as a cause of mortality. NMFS, by letter of May 31, 1983, committed itself to convening a meeting of scientists in August 1983 to examine the problem. Yet August 1983 has come and gone, without the promised meeting, and the meeting date is now set for August of 1984. Such delays clearly demonstrate a lack of adequate attention to the problem and a lack of governmental mechanisms to deal with a serious failure to achieve the purposes of the Convention.

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G. Summary and Conclusion

In summary, it is our belief that the Pribilof Fur Seal should be listed as a threatened species as soon as possible. The population has declined by more than 50%, and the decline continues. The current rate of decline is 8-10% per year, and the population is at a level of less than 50% of carrying capacity in violation of the Convention. Finally, there are no indications that the decline has abated; indeed, recent data suggest that the rate of decline may be accelerating. Moreover, government officials have not yet been able to identify, much less correct, the cause of the decline.

Clearly, this is the kind of situation which the threatened species listing was designed to correct. It is clear that the Federal Government, despite an International Convention and the Marine Mammal Protection Act, has been unable to solve, or even positively identify, the problems of the fur seal. More effort, as well as focused attention, is needed. Yet, since 1974, without the authority and mandate of the ESA, the government has taken no direct corrective action whatsoever, apparently just producing posters and other literature in 1977, 1978, and 1982.

Meanwhile, the situation grows progressively worse. With a decline of 8 to 10% per year, mathematics suggests that it may only be a short time before the species is endangered. For example, the population is now at level of less than 50% of carrying capacity. At a rate of decline of 10% per year, the population will be reduced by 1/2 every seven years. Thus, if

Q-63

the rate of decline remains at about 10% per year, the seal population will be at less than 1/8th of its former level in just 14 years. Then it will be fully endangered.

In conclusion, the situation is as follows:

1. The population is declining by at least 8-10% per year, and the rate of decline may well be accelerating.
2. No actions are planned or have been taken to reverse the decline.
3. Under such circumstances, it must be assumed that the decline will continue.
4. The population size will decrease by 1/2 every seven years.
5. This rate of decline is clearly threatening the survival of the seals.

Based on the foregoing evidence and discussion, we respectfully urge that this Petition be expeditiously granted.

Q-64

HOGAN & HARTSON

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WRITER'S DIRECT DIAL NUMBER

331-4613

September 12, 1984

Preliminary
Terms of Reference

**ASSESSMENT AND MITIGATION OF FUR SEAL
AND OTHER MARINE MAMMAL MORTALITY DUE
TO ENTANGLEMENT IN LOST OR DISCARDED FISHING GEAR
AND OTHER DEBRIS IN THE NORTH PACIFIC**

1. Participation in this international workshop should include scientists, gear technicians, fishermen, net manufacturers, and other persons who might be expected to meaningfully contribute to a scientific and technical workshop of experts.
2. Appropriate activities for workshop participants would be the following:
 - i. to identify the species and numbers of marine mammals, birds, turtles, and non-target fish being caught in lost or discarded fishing gear and other debris;
 - ii. to assess the effects of this on the demography and/or dynamics of the affected populations and the ecosystem(s) of which they are a part;
 - iii. to identify the types and sources of gear and packing material in which marine mammals, birds, turtles, and fish are becoming entangled;
 - iv. to determine if certain species or age/sex classes of animals are more likely to be caught in lost or discarded gear and packing material than other species or age/sex classes and, if possible, why;
 - v. to estimate the rates of deterioration or longevity of different materials, their rates of accumulation (deposition and clearance), and the likely movements of such material as is lost or discarded with respect to different points of origin;
 - vi. to determine the short- and long-term impacts of lost or discarded materials already in the ocean upon marine organisms and identify steps that can or should be taken in this regard;
 - vii. to identify and evaluate alternative methods for disposing of unwanted net fragments and packing material as well as incentives (both positive and negative) for preventing or reducing discards; and
 - viii. to identify such information as may be needed to better understand and resolve the problem as well as the mechanisms whereby such information can be developed.

By Hand

Mr. Richard E. Roe
Office of Protected Species
National Oceanic and
Atmospheric Administration
3300 Whitehaven Street, N.W.
Page Building No. 2, Room 410
Washington, D.C. 20235

Dear Mr. Roe:

Enclosed for filing are four copies of supplemental comments on the draft environmental impact statement for the Interim Convention on the Conservation of North Pacific Fur Seals. As explained in the filing, these comments are being filed after the close of the official comment period due to intervening governmental action. We request that the supplemental comments be considered in preparing a final environmental impact statement or in reissuing a new draft environmental impact statement.

Sincerely,

David J. Hayes
David J. Hayes

Counsel for International Fund
for Animal Welfare, The Humane
Society of the United States,
The Fund for Animals



DJH/cj

Enclosures

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SUPPLEMENTAL COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT ON THE INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

In October 1983, the United States Department of Commerce released a draft environmental impact statement (DEIS) that purports to evaluate the environmental impacts associated with renewal of the Interim Convention on Conservation of North Pacific Fur Seals (Convention) and its alternatives. See DEIS at i. On January 6, 1984, the International Fund for Animal Welfare (IFAW), the Humane Society of the United States (HSUS), and The Fund for Animals filed extensive comments on the DEIS's analysis of the Convention and the alternatives set forth in the DEIS.

Several months after the comment period for the DEIS had closed, the United States Department of Justice took the position in pleadings filed with the United States District Court of Columbia that the EIS that had been prepared in 1980 for renewal of the Convention not only analyzed the environmental impacts associated with renewal of the Convention and alternatives to renewal, but it also analyzed the potential environmental impacts associated with (1) the annual decision under the Fur Seal Act whether or not to accept the recommendation of the North Pacific Fur Seal Commission and kill seals each year on the Pribilof Islands; (2) the determination of how many

International Fund for Animal Welfare
Humane Society of the United States
The Fund for Animals

September 12, 1984

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renewal of the Convention and alternatives to renewal of the Convention. If it had attempted to predict the environmental impacts associated with annual decisions whether or not to kill seals over the next six years (the proposed life of the Convention) and a range of alternative numbers of seals that might be killed in each year, the DEIS could not have done so. In view of the rapidly-declining seal population, such an environmental analysis can only be made close in time to the decision-making process, and the analysis obviously must focus on the status of the seal population during the time in question and in relation to the U.S. decision whether or not to kill the particular number of seals recommended by the North Pacific Fur Seal Commission in a given year. For example, it would not be possible to undertake an analysis of the potential cumulative impacts or "worst case" analysis of a particular year's killings without knowledge of the number of seals that had been killed in the preceding year. Moreover, the cost-benefit analysis required as part of the EIS review could only be undertaken contemporaneously with the decision, especially given changing fur seal economics.

In summary, IFAW, HSUS and The Fund for Animals believe the DEIS can not be applied to future decisions whether or not to kill seals under the Convention. If it is to be so applied, the DEIS must, at the least, be radically revised to

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seals should be killed in a given year; and (3) alternatives to killing seals in a given year under the Convention.^{*/} The District Court held that plaintiffs were estopped from attacking the 1980 EIS and it declined to address the merits of the Department of Justice's assertions regarding the scope of the 1980 EIS.

Because the 1984 DEIS is patterned closely on the 1980 EIS, the Department of Justice may make a similar assertion to avoid preparation of the environmental analysis that will be required over the next several years (if the Convention is renewed) to evaluate the potential impacts associated with a decision whether or not to kill seals in a particular year and, if so, how many seals should be killed, given the status of the seal population at the time.

IFAW, HSUS, and The Fund for Animals file these supplemental comments to emphasize the obvious point that the analysis in the DEIS does not purport to, and in fact does not, evaluate potential impacts associated with annual decisions that will be made during the life of the Convention (if it is renewed) whether or not to kill fur seals in a given year and, if so, how many seals should be killed. Instead, by its terms, the DEIS focuses only on the potential impacts associated with

^{*/} See Federal Defendants' Memorandum of Points and Authorities In Opposition to Motion for Preliminary Injunction (June 22, 1984) filed in International Fund for Animal Welfare, et al. v. Baldrige, et al., No. 84-1838 (D.D.C. 1984)

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United States Senate
WASHINGTON, D.C. 20510

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January 6, 1984

project (1) fur seal population levels over the life of the Convention; (2) expected levels of recommended kills by the North Pacific Fur Seal Commission; and (3) expected economics of fur seal killings over the life of the Convention; and the DEIS must evaluate all of this information in the context of a variety of alternatives, including a "no kill" alternative, for each year under the Convention. Obviously, the DEIS contains none of this required information or analysis.

IFAW, HSUS and The Fund for Animals did not raise these obvious points in its initial comments simply because the DEIS provided absolutely no indication that it might be applied to annual decisions over the next four or six years whether or not to kill seals and, if so, how many seals should be killed. Indeed, because the DEIS is focused exclusively on renewal of the Convention, the public had no reason to believe that the Government might attempt to apply the DEIS prepared for the Convention as a substitute for a specific EIS that must be completed in connection with the annual decision whether or not to kill seals. Because the Government tipped its hand regarding its potential use of the DEIS if the Convention is renewed only after the comment period had expired, IFAW, HSUS and The Fund for Animals have no alternative but to file these supplemental comments after the official comment period has closed.

Mr. Richard B. Roe, Acting Director
Office of Protected Species and
Habitat Conservation (F/M4)
National Marine Fisheries Service
Washington, D.C. 20235

Dear Mr. Roe:

The following questions and comments are submitted in response to the request for comments on the Draft Environmental Impact Statement on the Interim Convention on Conservation of North Pacific Fur Seals, October 1983.

I support Alternative D, which would allow the Interim Convention to expire. The Department of Commerce should ensure that the Aleut peoples of the Pribilof Islands are protected against the loss of income resulting from adoption of this alternative while they continue to expand and develop their fishing and tourism industries.

Attached are specific questions and comments for your review and consideration.

Thank you.

Sincerely,


Carl Levin

CL/jfc
enclosure

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QUESTIONS

- 1) Define the concept Maximum Sustainable Productivity as used in the Interim Convention, and Maximum Sustainable Yield. What is the difference between the two concepts?
- 2) What is the current population of the North Pacific fur seal on San Miguel Island and Castle Rock? Do the fur seals born at these locations migrate beyond the 200 mile Fishery Conservation Zone (FCZ)?
- 3) Does the Japanese high seas salmon fishery in the N. Pacific and bearing Sea take place within the U.S. 200 mile FCZ? What is the value of the salmon caught by the Japanese? How extensive, in terms of tons caught and as a percentage of total Japanese tonnage taken in U.S. waters, is the Japanese land-based salmon and squid gillnet fishery?
- 4) Under the proposed action, could the U.S. define an emergency circumstance as a continued 5 to 8 percent decline in the fur seal population, or an acceleration of that rate, as a justification for a suspension or reduction of the harvest?
- 5) The paragraph beginning at the bottom of page 17 and concluding on page 18 adds little to understanding. Specifically, the use of the word "offshore" is imprecise because, according to the DEIS, the "northern fur seal is rarely found on land except on its home island during the breeding season" (page 13). This paragraph should be rewritten clarifying the use of the word "offshore." Specifically, what percentage of the seals taken during the U.S./Canadian pelagic research were taken outside the U.S./Canadian 200 mile FCZ? What proportion of the U.S./Canadian pelagic research effort was inside the 200 mile FCZ?
- 6) The first full paragraph on page 18 makes several statements that are not substantiated by the preceding two and one-half pages of discussion. Moreover, these statements must be reconciled with the claim that "Fur seals are most frequently seen from about 70 to 130 kilometers from land and usually in greatest numbers along the continental shelf and slope throughout their range primarily because of abundant food resources in this area" (page 16). Given this claim, what is the source of the statement that pregnant females take a direct route from the west coast to the Pribilofs each spring? What percent of the total Pribilof fur seal population, or pregnant female population, are outside the U.S./Canadian 200 mile FCZ during the annual migration?
- 7) The DEIS states that "Although the United States maintained that it may alter its share of the harvest under current treaty provisions, other Party Governments have disagreed with this interpretation" (page 35). Have all party governments informed the U.S. that they disagree with this interpretation? When and how have the party governments informed the U.S. that they disagree with this interpretation?

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TECHNICAL CHANGES

- 1) Page 16. The paragraph beginning at the bottom of the page should be changed by converting the "70 to 130 kilometers" to nautical miles for consistency.
- 2) Nowhere in the Draft Environmental Impact Statement (DEIS) is there provided a comparison of the receipts from the sale of sealskins received by the Federal government and expenditures on the Pribilof Islands (i.e. the Pribilof Island Program Budget) for the years 1980, 1981, 1982, and 1983. A table should be included in the Final EIS similar to Table 20 in the September 1980 Final EIS.
- 3) Table 7 of the DEIS is incomplete. The total commercial catch of fish by foreign and domestic fisheries should be added to this table.
- 4) Tables 12, 13, 14, and 15 in the DEIS should be updated to reflect changes in employment, employment levels, and salaries and wages since these tables were first published in the September 1980 Final EIS.
- 5) Figures 6a-c should show the location of the 200 nautical mile Fishery Conservation Zone (FCZ).

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MARINE MAMMAL COMMISSION
425 EYE STREET, N. W.
WASHINGTON, DC 20006

11 January 1984

Mr. Richard B. Roe
Acting Director
Office of Protected Species and
Habitat Conservation
National Marine Fisheries Service
NOAA/DOC
Washington, D.C. 20235

Dear Dick:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the "Draft Environmental Impact Statement on the Interim Convention on the Conservation of North Pacific Fur Seals." Detailed comments are enclosed.

The Commission believes that the proposed action would be the preferred action if in fact it were to lead to the establishment of research, education, and enforcement programs which would assure prompt resolution of uncertainties concerning the rate and possible causes of the on-going decline of the Pribilof Island fur seal population(s) and if it were to assure that appropriate and necessary steps would be promptly taken to effectively stop and reverse this decline. As noted in our detailed comments, however, one cannot adequately evaluate the pros and cons of the proposed and alternative actions without a more complete and accurate description of what would be proposed as modifications to the language of the Convention. Moreover, the Commission believes that the disadvantages of extending the Convention for six years, rather than some shorter period of time, may well be greater than the possible advantages.

We recognize that there are a number of different ways whereby the Convention text could be modified to achieve the objectives outlined on pages 7-9 of the DEIS and that describing specific proposals in the Environmental Impact Statement might reduce negotiating flexibility and hinder efforts to reach agreements with other Parties to the Convention. We also recognize that the text of proposals to be made to the other Party Governments, pursuant to the process referenced in paragraph 2, page ii of the DEIS, must first be developed and cleared through the normal interagency process.

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In this regard, we note that, in the past, draft or recommended position papers on actions such as those proposed have often not been developed either in sufficient detail or early enough to permit thorough evaluation.

The continued existence and welfare of the Pribilof Island fur seal population(s) could well be determined by decisions made in the next several months. To help assure that proper decisions are made, the Commission recommends (1) that the Environmental Impact Statement be revised and expanded to address the deficiencies noted in the attached comments, and (2) that the Service prepare a draft or recommended position paper(s) indicating: (a) the precise language of the changes in the Convention text to be proposed to the other Party Governments under the proposed action; (b) when and how the proposed changes will be presented to the other Party Governments; and (c) what actions will be taken if the proposed changes are unacceptable to one or more of the other Party Governments.

Further, the Marine Mammal Commission recommends that the text of the draft or recommended position(s) be provided to the Commission and others for review and comment at least forty-five days before the proposed action(s) would be initiated.

If you or your staff have questions concerning this letter, please let me know.

Sincerely,



John R. Twiss, Jr.
Executive Director

Enclosure

cc: Dr. John V. Byrne
Mr. William G. Gordon
Ms. Joyce M. T. Wood

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COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) ON THE INTERIM CONVENTION ON CONSERVATION OF THE NORTH PACIFIC FUR SEAL

The DEIS notes (p. i) that: the Interim Convention on the Conservation of North Pacific Fur Seals will expire in October 1984; the Department of Commerce, through the Department of State, proposes to seek agreement among Party Governments on modifications to the text and a six year extension of the revised Convention; and alternatives to the proposed action include extension without modification, renegotiation, and expiration of the Convention.

The proposed modifications of the Convention text are not specified, and are described in a manner which suggests that they are considered optional and secondary to the proposed six year extension of the Convention. In addition to not providing a precise description of the proposed action, the DEIS does not provide a thorough or balanced evaluation of the identified alternatives. It tends to present only the positive aspects of the proposed action and the negative aspects of the alternatives.

To provide a more adequate basis for evaluating the alternatives, the EIS should be expanded to include: (1) more accurate description of the proposed modifications to the Convention text; (2) data and analyses to support the conclusion that termination of the subadult male harvest could impede population recovery; (3) further assessment of the proportion of the Pribilof Island fur seal population(s) that could be subject to pelagic sealing in areas outside national jurisdiction, the economics of pelagic sealing taking into account the density of seals in areas outside national jurisdiction, and the probability of pelagic sealing being resumed if the Convention is allowed to expire; and (4) a more complete assessment of the possible effects of terminating the fur seal harvest on residents of the Pribilof Islands.

Because of the uncertainties concerning the rate and cause of the on-going population decline, what can be done to stop and reverse the decline, and the likely effectiveness of possible mitigation measure, it would seem preferable to modify and extend the Interim Convention for two or three years, rather than the six years that is proposed. This would avoid making a commitment which might be inappropriate or ill-advised if the population decline is not stopped and reversed in the near future.

SPECIFIC COMMENTS

Cover and page i, title: Since the purpose of the DEIS is to evaluate the possible environmental (and socio-economic) effects of the proposed and alternative actions, the title

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of the FEIS would be more descriptive as follows: "Final Environmental Impact Statement on a Proposal to Modify and Extend the Interim Convention on Conservation of North Pacific Fur Seals".

P. 2, par. 2: The Interim Convention provides a mechanism, not safeguards, for preventing the diminution of stocks due to overharvesting. Therefore the word "safeguards" in the last sentence of this paragraph should be replaced with the words "a mechanism".

P. 2, par. 4: It is not clear whether the past and current population estimates, referenced in this paragraph and other parts of the DEIS, include pups and/or animals that pup and breed on islands other than St. Paul and St. George.

P. 5, par. 1: This paragraph also should note that the MMPA prohibits taking from populations which are below their MNP level (as defined in the paragraph beginning on the bottom of page 3 and carrying over to the top of page 4) and that the fur seal populations on St. Paul and St. George Islands are below their MNP levels.

Pgs. 7-8, Section A: The title of this Section and Section IV.A (p. 3) would be more accurate if changed to something like "Modify and Extend the Convention for Six Years." Similarly, references to Alternative B should be changed to something like "Extend the Convention for Four Years Without Modification."

P. 7, par. 1: The Departments of Commerce and State presumably are proposing, rather than considering proposing, certain modifications of the Interim Convention. Therefore, the word "considering" in the first line of this paragraph presumably should be deleted. Likewise, the word "proposed" in the second sentence in this paragraph presumably should be changed to "accepted".

P. 7, subparagraph (2): The International Scientific and Technical Workshop referenced in this paragraph presumably is intended to identify steps that might be taken to avoid and reduce entanglement in lost and discarded fishing gear, as well as to identify additional research that may be required to make such determinations. Therefore, the last sentence in the paragraph should be revised to read something like: "The results of this workshop will aid in determining possible mitigation measures and in the formulation of new research efforts which can be included in programs of the NPFSC."

P. 7, subparagraph (3): The underlined section of this subparagraph indicates that, as part of the proposed action, the U.S. would propose "a new Article to prohibit the disposal of fishing debris at sea, with enforcement mechanisms."

Subsequent statements are conditional - e.g., the second sentence in the paragraph states that: "... it may be advisable to include language in the fur seal treaty which specifically addresses the problem of fur seal entanglement in such wastes."

Given the information presented on pages 21-23 of the DEIS, there can be little doubt that it would be desirable to include language in the Fur Seal Treaty which specifically addresses the problem of fur seal entanglement in lost and discarded fishing gear and other debris. Furthermore, the merits of the proposed action cannot be evaluated fully in the absence of a specific proposal regarding prohibition, and enforcement of the prohibition, of at-sea disposal of fishing gear and other debris. Therefore, the FEIS should provide a description and discussion of precisely what would be proposed to prohibit and enforce a prohibition regarding the disposal of fishing gear and other debris.

P. 7-8, subparagraph (4): Given the uncertainties concerning the rate and causes of the on-going population decline, and steps that might be taken to stop and reverse the decline, it would seem preferable to extend the Convention for only two or three years, rather than six years, to avoid committing to an action which might be ill-advised if the population decline is not stopped and reversed.

P. 8, par. 2: This paragraph indicates that the Department of State has requested the views of all other Party Governments on the future of the Convention and that all Parties have indicated satisfaction with the present Convention and have expressed opposition to any substantive renegotiation. These requests and replies, as well as correspondence from environmental groups (Section VI), should be included in the FEIS.

P. 8, par. 3: The word "possible" in the first sentence of this paragraph raises questions as to whether the proposed action does or does not include the four modifications to the Convention listed on page 7. Therefore, either the word "possible" should be deleted or the description of the proposed action should be revised.

P. 9, par. 3: The term "to be above OSP" in the last sentence of this paragraph should be changed to read "to be above the lower limit of the OSP range".

P. 9, par. 4: There can be little doubt that the fur seal population(s) on St. Paul and St. George Islands are below the lower level of the OSP range as defined in 41 F.R. 55536. Therefore, the beginning of the second sentence in this paragraph should be changed to read something like: "Because the fur seal population currently is below the lower limit of the OSP range ..."

P. 10, par. 2: Although a proposal to renegotiate the Convention very well could lead to counter proposals as described, there is no reason to conclude that such proposals would constitute a "risk". That is, the present Convention cannot be modified without concurrence by the U.S. as well as other Parties. Therefore, this paragraph should be deleted or revised to provide a clearer indication of the potential risks.

P. 10, par. 3: The information indicating that up to 12,000 fur seals could be taken by natives for subsistence purposes should be presented.

P. 10, par. 4: The reference in the third sentence of this paragraph to international efforts to seek ways to reverse the present population decline presumably presupposes that other Parties to the Interim Convention will agree to the proposed action as outlined on pages 7 and 8 of the DEIS. If the presumption is correct, the word "proposed" should be inserted before the words "international efforts" at the beginning of the sentence. If the presumption is incorrect, the reference to "on going" international efforts should be explained. In addition, since the Interim Convention applies only to Northern fur seals, the word "Northern" should be inserted between the word "conserve" and the word "fur" in the last sentence of this paragraph.

P. 10, par. 5: The Japanese communicate informing the U.S. that Japan would consider pelagic sealing as an option, should the present Convention be allowed to expire, should be included in an appendix to the FEIS. In addition, the EIS should indicate whether and how the Pelly Amendment to the Fishermen's Protective Act, the Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act, or other authorities might be applied if one or more of the other Parties opted out of the Convention and began pelagic sealing, either as a commercial operation or in conjunction with other fishery activities in the Bering Sea or elsewhere. In this same regard, the FEIS should provide an assessment of the probable economics of pelagic sealing, both as a commercial operation and in conjunction with other fisheries activities.

P. 11, par. 2: The data, as well as the analysis, suggesting that termination of the male-only harvest could impede recovery of the species should be provided in the FEIS. In addition, it should be noted that seals on St. Paul and St. George Islands show fidelity to their respective islands and that this strengthens the argument that population declines, which have occurred on both islands, are not due to harvesting which now occurs only on St. Paul Island.

P. 14 (Estimates of Abundance): As noted earlier, it should be indicated whether these estimates include pups.

P. 17, par. 2: The third sentence in this paragraph states that: "In June, fur seals are scattered throughout the North Pacific Ocean." Figure 6b suggests that, while a small number of seals take a direct route from the Washington Coast to Unimak Pass, most of the migration occurs near the coast. Thus, the accuracy of the statement is questionable.

Figs. 17-18: The paragraph beginning on the bottom of page 17 and continuing on the top of page 18 references data analyses done by Dr. Michael Bigg. These analyses clearly are pertinent to questions regarding offshore distribution and the proportion of the Pribilof Island population(s) potentially vulnerable to pelagic sealing. Thus, both the data and the analyses should be described in greater detail. Support should be provided for the statement that "In December-January, ... the offshore region probably contains essentially the entire population" and the statement that "Clearly, all northern fur seals must spend some portion of their lives in waters outside the jurisdiction of both the United States and Canada."

Figs. 19-21 (Commercial Fisheries): This section describes salmon and groundfish fisheries in the Bering Sea/Gulf of Alaska. The preceding section (Feeding Habits and Prey Consumption) provides estimates of finfish consumption by fur seals in the Eastern Bering Sea and Aleutian Island areas. Feeding occurs, and could be affected by fisheries, in waters off the Continental United States and British Columbia, as well as in the Eastern Bering Sea. Therefore, the FEIS should be expanded to provide a more complete assessment of the possible effects of various fisheries on the northern fur seal population. In addition to presenting information on incidental take, it should consider the possibility that fisheries have reduced the amount of prey available for consumption by fur seals (i.e., reduced carrying capacity) and may be responsible, at least in part, for the observed population decline.

P. 22, par. 2: The third sentence in this paragraph states that: "Entangled females are also observed in the breeding areas, but the incidence of entanglement is considerably less than that observed among males taken in the harvest." Does this mean that females are less likely to encounter or become entangled in debris, that the observations may be biased, or some combination of differential entanglement and observational bias? The data upon which the statement is based should be presented or otherwise identified.

P. 23, first complete sentence: This sentence notes that: "Fowler (1982) indicated as much as 5 percent or more of the fur seal population may die from entanglement and that this

mortality may be responsible for a large part of the observed decline in the fur seal herd in recent years." In the period from 1912 to the early 1920's, the fur seal herd (or at least the number of pups and the male kill) increased at 7 to 8 percent per year. If the herd is now below its MNP level, it should be increasing at about the same rate and a superimposed mortality of 5 percent would result in a nearly stable or perhaps slightly increasing rather than decreasing population as has been observed for more than a decade. Therefore, there may be other factors suppressing population growth and/or the mortality due to entanglement in lost and discarded fishing gear and other debris may be substantially higher than 5 percent.

The citation for Fowler (1982) is not, but should be, included in the Literature Cited section beginning on page 71.

P. 23, par. 1: The meeting of technical experts referenced in the last sentence in this paragraph has tentatively been rescheduled for October 1984.

P. 24, par. 1: This paragraph presents estimates of the St. Paul Island fur seal population in the early 50's, 1970, 1975, and 1979. If possible, it would be preferable to give estimates for both St. Paul and St. George Islands up to and including 1983.

P. 24, par. 4: Although it certainly is true that there was a decline in the harvest from the early 1950's through the early 1970's, the harvest has been essentially stable since 1976. In addition, it was agreed at the Fur Seal Workshop held in Seattle on 14-16 November 1983, that there was no basis for concluding that the fraction of males taken in the harvest has remained relatively constant. Therefore, this paragraph should be revised to provide a more accurate description of the nature of both the harvest and the population decline. In this context, the 12 percent figure used as an example of the proportion of the 3 year olds taken seems low and presumably is a misprint.

P. 26, par. 3: Although it is highly unlikely, it is not inconceivable that the harvest of sub-adult males has been selective and resulted in escapement of males which produce offspring that are less fit (produce fewer viable offspring) than would have been produced by the males killed in the harvest. Therefore, the first statement in this paragraph should be qualified - e.g., the words "almost certainly" should be inserted between the word "population" and the word "is" in the first line of the paragraph.

P. 29, par. 1: The last sentence in this paragraph indicates that: "... a fur seal research budget of \$30,000 is proposed for level funding through FY 1984." The Service's response to the Commission's October 1983 request for information concerning

Federally-funded marine mammal research indicates that the National Marine Mammal Laboratory's budget included \$474,800 in FY 83 and \$495,000 in FY 84 for the fur seal research program. Thus, the \$330,000 budget figure should be revised or the difference between it and the budget information provided to the Commission should be explained. In addition, the FIS should indicate what effect, if any, the end of Federal administration of the Pribilofs will have on the fur seal research program.

P. 30, par. 3: This paragraph indicates that harbor and fishery development could affect fur seals but that the effects likely would be negligible. It is not clear whether the assessment considered the likelihood that small fishing boats, operating out of harbors in the Pribilofs, will fish in nearby areas in which fur seals feed during the pupping/breeding season, and might therefore have a significant effect on the fur seal food supply during the pupping/breeding season. The same uncertainty is present in the discussion (par. 1) on page 31, and should be clarified in the FEIS.

P. 31, par. 3: The words "Marine Minerals Service" should be changed to "Minerals Management Service" in the third line of this paragraph.

P. 33, par. 4: The second sentence in this paragraph states that: "The seal harvest operation has resulted in a profit to the U.S. Government in all years up to FY 82." This presumably means that the proceeds from the sale of skins have exceeded the cost of obtaining and processing the skins, including the cost of related research and administration programs. If this presumption is incorrect, a more detailed cost accounting should be provided.

Pgs. 34-35 (Environmental Consequences of the Proposed Action): The first sentence in this section states that: "The United States proposes to continue the Convention for six years with modifications to the text of this treaty concerning the conduct of the seal harvest, and additional research and enforcement requirements." Subsequently, it is stated that: the referenced modifications "could include revisions to Article V, paragraph 2(d); ... the United States could propose that scientific and technical studies of this problem [fur seal entanglement in fishing debris] be included in mandated fur seal research"; and "Modification of Article VI of the Convention could also be proposed to provide prohibitions and enforcement measures concerning the disposal of fishing debris at sea. (Emphasis added)" It seems, therefore, that the proposed action is to continue the Convention for six years, with possible modifications of the text. The possible environmental consequences of the proposed action will depend, in part, upon whether the referenced modifications are viewed as options or conditions for continuing the Convention. Therefore, the proposed action should be described more clearly.

P. 34, par. 3: This paragraph argues that a longer extension (six years versus four years) is needed to allow island residents time to establish new markets for seal skins and harvest by-products, and that assurance of at least six years of dependable supply will aid them in their new enterprise. The argument apparently is based upon the premise that extension of the Convention for four years, rather than six years, will somehow interfere with the establishment of new markets and that, once new markets are established, there will be further socio-economic incentives for continuing the harvest. It is not indicated or self-evident why continuation of the Convention for four years, rather than six years, would interfere with market development. Moreover, it might be more prudent to delay market development, and further dependence of the Aleuts on the fur seal harvest, until the cause or causes of the on-going population decline are better understood.

P. 34, par. 4: For the reasons noted earlier, the words "almost certainly" should be inserted between the words "levels" and "are" in the third sentence (fifth line) of this paragraph. In addition, the subsequent sentence (sentence 4), indicating that termination of the harvest could impede population recovery, should be deleted or better justified.

P. 34, par. 5: Although it is true, as stated in the last sentence of this paragraph, that modification of the Convention to provide strong enforcement mechanisms and new research mandates would provide the first steps toward solving the net entanglement problem, it is not clear, as noted earlier, whether the proposed action constitutes a commitment to achieve such a modification.

P. 35, lines 1-3: The DEIS does not provide a persuasive basis for the statement that "the taking of fur seals by commercial fishing fleets in the North Pacific Ocean for predator control, can be expected to increase without the protections provided by this respected international treaty." Therefore, additional support for this statement should be provided or, alternatively, the words "threat of" should be inserted between the words "the" and "taking" in the first line on the page.

P. 35, par. 1: The word "a" in the third line of this paragraph either should be deleted or replaced with the word "the". In addition, the word "therefore" in the subsequent sentence, should be replaced by the phrase "assuming that it leads to species' recovery".

P. 35, par. 4: The Interim Fur Seal Convention provides for emergency meetings and other mechanisms for making decisions during the periods between annual meetings of the Fur Seal Commission. Thus, if a major oil spill or other catastrophic event occurs, and the effects of that event on the Pribilof

Island fur seal population could be mitigated by reducing or suspending the harvest, it seems unlikely that action would be precluded unless the Convention is modified. Therefore, the point set forth in this paragraph either should be deleted or developed more carefully.

Pgs. 41-47: The figures on these pages would be more useful if the boundaries of the U.S., Canadian, Soviet, and Japanese exclusive economic zones were shown.

SUMMARY COMMENTS

The pros and cons of the proposed and alternative actions cannot be evaluated adequately without a more complete and accurate description of the proposed modifications to the text of the Interim Convention. Moreover, given the uncertainties concerning the rate, possible causes, and steps that possibly could be taken to stop and reverse the on-going population decline, it might be more prudent to propose extending the revised Convention for two or three years rather than six years. In either case, no decision should be made until there is a better understanding of the proposed changes in the Convention text. Then, an additional alternative should be developed and evaluated - namely, what would be proposed if one or more of the other Party Governments were unable to accept the proposed changes in the Convention text.

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NORTH PACIFIC FUR SEAL COMMISSION

C/O NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL MARINE FISHERIES SERVICE

WASHINGTON, D. C. 20235 U.S.A.

OCT 26 1984

This is a copy of the Protocol Amending the North Pacific Fur Seal Convention and the statement of concerns which will be attached. These documents were signed by the four Party Governments on October 12, 1984. Following the completion of the final Environmental Impact Statement, these documents will be transmitted to the Senate for its advice and consent.

The Protocol extends the Convention for 4 years, until October 1988. The statement notes the concern of the Party Governments over several issues, especially the recent decline of the fur seal herd, and makes four major points:

1. additional research is needed on the problem of net entanglement which we feel is a major cause of fur seal mortality at sea;
2. parties will take all appropriate measures to halt net and gear discard at sea, in accordance with the London Dumping Convention;
3. in the event of unforeseen circumstances, Parties may take measures as necessary for the conservation and management of the fur seals, after consultations with other Parties; and
4. within 2 years, all Parties will review the Convention to determine if modifications or renegotiation is necessary, in light of the issues raised in the statement.

We feel these changes improve the Convention by noting areas of concern by the four Parties in certain areas. We anticipate approval by the Senate in early 1985.



Carmen J. Blondin
U.S. Commissioner
North Pacific Fur
Seal Commission

Attachment

1984 PROTOCOL AMENDING THE INTERIM CONVENTION
ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America, Parties to the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended and applied, hereinafter referred to as the Convention,

Desiring to amend the Convention,

Have agreed as follows:

Article I

The Convention shall be applied as amended by this Protocol as from the date of its entry into force.

Article II

In Article V, paragraph 2(e) of the Convention, "at the end of the twenty-fifth year after entry into force of the Convention" is replaced by "by October 13, 1986".

Article III

In Article XI of the Convention, "in the twenty-sixth year after entry into force of the Convention" is replaced by "within the one year period prior to October 14, 1987".

Article IV

In Article XLIII of the Convention, paragraph 4 is replaced by the following: "4. The Convention shall continue in force until October 13, 1987 and thereafter until the entry into force of a new or revised fur seal convention between the Parties, or until October 13, 1988, whichever may be the earlier; provided, however, that the Convention shall terminate one year from the day on which a Party gives written notice to the other Parties of an intention of terminating the Convention."

Article V

1. This Protocol shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United States of America as soon as possible.

2. A signatory Government which intends to ratify or accept this Protocol may notify the Government of the United States of America that it will apply this Protocol provisionally in accordance with its laws and regulations pending the fulfillment of domestic constitutional requirements for ratification or acceptance.

3. The Government of the United States of America shall notify the other signatory Governments of ratifications or acceptances deposited and of notifications of provisional application made.

4. This Protocol shall enter into force provisionally on the date on which instruments of ratification or acceptance have been deposited with or the notifications of provisional application as referred to in paragraph 2 above have been made to the Government of the United States of America by all the signatory Governments. It shall continue in force provisionally until the date on which it enters into force definitively in accordance with the provisions of paragraph 5.

5. This Protocol shall enter into force definitively on the date on which instruments of ratification or acceptance have been deposited with the Government of the United States of America by all the signatory Governments.

6. The original of this Protocol shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to this Protocol.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Washington this 12th day of October, 1984, in the English, French, Japanese, and Russian languages, each text being equally authentic.

STATEMENT BY THE GOVERNMENTS OF CANADA, JAPAN, THE UNION
OF SOVIET SOCIALIST REPUBLICS, AND THE UNITED STATES OF AMERICA
ON THE SIGNING OF THE 1984 PROTOCOL AMENDING THE
INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America (hereinafter referred to as the "Governments"), Parties to the Interim Convention on Conservation of North Pacific Fur Seals, as amended and applied (hereinafter referred to as the "Convention"), noted that, through their efforts, the North Pacific Fur Seal Commission (hereinafter referred to as the "Commission") has made an important contribution during the past quarter century to the conservation and management of North Pacific fur seal resources, and to the maintenance of a healthy ecosystem that includes such resources.

Therefore, the Governments expressed their intention to ratify or accept the 1984 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals in order to enable the Commission to continue its effective role in achieving the objectives of the Convention.

At the same time, the Governments noted that concern had been expressed on the decline of the fur seal populations, current economic conditions, and other problems of fur seal conservation and utilization.

As a result of the concern expressed, the Governments have expressed their shared view:

(1) that, in accordance with Article II of the Convention, additional research should be conducted concerning current aspects of fur seal conservation including the problem of entanglement of fur seals in lost or discarded fishing nets, gear, and other debris;

(2) that, in accordance with Article X of the Convention, and in conformity with their national laws, the Governments will take appropriate measures to prohibit the disposal at sea in the Convention areas of synthetic materials, such as fishing nets, or parts thereof, fishing gear, ropes, packing bands, and other debris which might lead to the entanglement of fur seals, in accordance with the provisions of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, of December 29, 1972;

(3) that, in accordance with Article X of the Convention, it may be necessary during the interim period of the Convention to take into account unforeseen circumstances as noted by the States of fur seal origin in considering measures to be taken for conservation and management of the fur seal populations; and

(4) that, taking into account Article XIII, paragraphs 4 and 5, as well as Article V, paragraph 2(e), within two years after the entry into force of the 1984 Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals and considering current factors, the Governments will review the operation of the Convention to determine what further agreements would be desirable in order to achieve the objectives of the Convention.

DONE at Washington this 12th day of October, 1984
in the English, French, Japanese, and Russian languages, each
text being equally authentic.

INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

Note: The Interim Convention was signed in Washington on February 9, 1957, on behalf of the Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America. The Interim Convention came into force on October 14, 1957, and has since been amended as follows:

By a Protocol which was signed in Washington on October 8, 1963, and entered into force on April 10, 1964. The 1964 Protocol extended the term of the Convention for 6 years and affected several changes in the scientific research programs to be carried out by the Party Governments;

By an exchange of notes among the Party Governments which became effective on September 3, 1969, and which extended the term of the Convention, as amended, for an additional period of 6 years;

By a Protocol which was signed in Washington on May 7, 1976, and entered into force on October 12, 1976. The 1976 Protocol extended the term of the Interim Convention for a period of 4 years, and modified the research programs and the duties of the Fur Seal Commission; and

By a Protocol which was signed in Washington on October 14, 1980, and entered into force on July 2, 1981. The 1980 Protocol extended the term of the Convention for 4 years, and substituted, for enforcement purposes, the term "areas of fisheries jurisdiction" in lieu of "territorial waters."

The text of the Interim Convention, as amended, is as follows:*

The Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America;

Desiring to take effective measures towards achieving the maximum sustainable productivity of the fur seal resources of the North Pacific Ocean so that the fur seal populations can be brought to and maintained at the levels which will provide the greatest harvest year after year, with due regard to their relation to the productivity of other living marine resources of the areas;

Recognizing that in order to determine such measures it is necessary to conduct adequate scientific research on the said resources; and

Desiring to provide for international cooperation in achieving these objectives,

Agree as follows:

*Deletions are noted in brackets; additions are underscored.

Article I

1. The term "pelagic sealing" is hereby defined for purposes of this Convention as meaning the killing, taking, or hunting in any manner whatsoever of fur seals at sea.

2. The words "each year," "annual" and "annually" as used hereinafter refer to Convention year, that is, the year beginning on the date of entry into force of the Convention.

3. Nothing in this Convention shall be deemed to affect in any way the position of the Parties in regard to the limits of territorial waters or to the jurisdiction over fisheries.

Article II

1. In order to realize the objectives of this Convention, the Parties agree to coordinate necessary scientific research programs and to cooperate in investigating the fur seal resources of the North Pacific Ocean to determine:

(a) what measures may be necessary to make possible the maximum sustainable productivity of the fur seal resources so that the fur seal populations can be brought to and maintained at the levels which will provide the greatest harvest year after year; and

(b) what the relationship is between fur seals and other living marine resources and whether fur seals have detrimental effects on other living marine resources substantially exploited by any of the Parties and, if so, to what extent.

2. The research referred to in the preceding paragraph shall include studies of the following subjects:

(a) size of each fur seal herd and its age and sex composition;

(b) natural mortality of the different age groups and recruitment of young to each age or size class at present and subsequent population levels;

(c) with regard to each of the herds, the effect upon the magnitude of recruitment of variations in the size and the age and sex composition of the annual kill;

(d) migration routes of fur seals and their wintering areas;

(e) numbers of seals from each herd found on the migration routes and in wintering areas and their ages and sexes;

(f) relationship between fur seals and other living marine resources, including the extent to which fur seals affect commercial fish catches, the damage fur seals inflict on fishing gear, and the effect of commercial fisheries on the fur seals;

(g) effectiveness of each method of sealing from the viewpoint of management and rational utilization of fur seal resources for conservation purposes;

(h) quality of sealskins by sex, age, and time and method of sealing;

(i) effects of man-caused environmental changes on the fur seal populations; and

(j) other subjects involved in achieving the objectives of the Convention, as determined by the Commission established under Article V, paragraph 1.

3. In furtherance of the research referred to in this Article, the Parties agree:

(a) to continue to mark adequate numbers of pups;

(b) to devote to pelagic research an effort which, to the greatest extent possible, should be similar in extent to that expended in recent years, provided that this shall not involve the annual taking by all the Parties combined of more than 2,500 seals in the eastern and more than 2,200 seals in the western Pacific Ocean, unless the Commission, pursuant to Article V, paragraph 3, shall decide otherwise; and

(c) to carry out the determinations made by the Commission pursuant to Article V, paragraph 3.

4. Each Party agrees to provide the Commission annually with information on:

(a) number of black pups tagged for each breeding area;

(b) number of fur seals, by sex and estimated age, taken at sea and on each breeding area;

(c) tagged seals recovered on land and at sea;

and, so far as is practicable, other information pertinent to scientific research which the Commission may request.

5. The Parties further agree to provide for the exchange of scientific personnel; each such exchange shall be subject to mutual consent of the Parties directly concerned.

6. The Parties agree to use for the scientific pelagic research provided for in this Article only government-owned or government-chartered vessels operating under strict control of their respective authorities. Each Party shall communicate to the other parties the names and descriptions of vessels which are to be used for pelagic research.

Article III

In order to realize the purposes of the Convention, including the carrying out of the coordinated and cooperative research, each Party agrees to prohibit pelagic sealing, except as provided in Article II, paragraph 3, in the Pacific Ocean north of the 30th parallel of north latitude including the seas of Bering, Okhotsk, and Japan by any person or vessel subject to its jurisdiction.

Article IV

Each Party shall bear the expense of its own research. Title to sealskins taken during the research shall vest in the party conducting such research.

Article V

1. The Parties agree to establish the North Pacific Fur Seal Commission to be composed of one member from each Party.

2. The duties of the Commission shall be to:

(a) formulate and coordinate research programs designed to achieve the objectives set forth in Article II, paragraph 1;

(b) recommend these coordinated research programs to the respective Parties for implementation;

(c) study the data obtained from the implementation of such coordinated research programs;

(d) recommend appropriate measures to the Parties on the basis of the findings obtained from the implementation of such coordinated research programs, including measures regarding the size and the sex and age composition of the seasonal commercial kill from a herd and regarding a reduction or suspension of the harvest of seals on any island or group of islands in case the total number of seals on that island or group of islands falls below the level of maximum sustainable productivity; provided, however, that due consideration be given to the subsistence needs of Indians, Ainos, Aleuts, or Eskimos who live on the islands where fur seals breed, when it is not possible to provide sufficient seal meat for such persons from the seasonal commercial harvest or research activities, and

(e) study whether or not pelagic sealing in conjunction with land sealing could be permitted in certain circumstances without adversely affecting achievement of the objectives of the Convention, and make recommendations thereon to the Parties at the end of the twenty-~~first~~ fifth year after entry into force of the Convention.

3. In addition to the duties specified in paragraph 2 of this Article, the Commission shall, subject to Article II, paragraph 3, determine from time to time the number of seals to be marked on the rookery islands, and the total number of seals which shall be taken at sea for research purposes, the times at which such seals shall be taken and the areas in which they shall be taken, as well as the number to be taken by each Party, taking into account any recommendations made pursuant to Article V, paragraph 2 (d).

4. Each Party shall have one vote. Decisions and recommendations shall be made by unanimous vote. With respect to any recommendations regarding the size and the sex and age composition of the seasonal commercial kill from a herd, only those Parties sharing in the sealskins from that herd under the provisions of Article IX, paragraph 1 shall vote.

5. The Commission shall elect from its members a Chairman and other necessary officials and shall adopt rules of procedure for the conduct of its work.

6. The Commission shall hold an annual meeting at such time and place as it may decide. Additional meetings shall be held when requested by two or more members of the Commission.

7. The expenses of each member of the Commission shall be paid by his own Government. Such joint expenses as may be incurred by the Commission shall be defrayed by the Parties by equal contributions. Each Party shall also contribute to the Commission annually an amount equivalent to the value of the sealskins it confiscates under the provisions of Article VI, paragraph 5.

8. The Commission shall submit an annual report of its activities to the Parties.

9. The Commission may from time to time make recommendations to the Parties on any matter which relates to the fur seal resources or to the administration of the Commission.

Article VI

In order to implement the provisions of Article III, the Parties agree as follows:

1. When a duly authorized official of any of the Parties has reasonable cause to believe that any vessel outfitted for the harvesting of living marine resources and subject to the jurisdiction of any of the Parties is offending against the prohibition of pelagic sealing as provided for by Article III, he may, except within the [territorial waters of] areas in which another State [,] exercises fisheries jurisdiction, board and search such vessel. Such official shall carry a special certificate issued by the competent authorities of his Government and drawn up in the English, Japanese, and Russian languages which shall be exhibited to the master of the vessel upon request.
2. When the official after searching a vessel continues to have reasonable cause to believe that the vessel or any person on board thereof is offending against the prohibition, he may seize or arrest such vessel or person. In that case, the Party to which the official belongs shall as soon as possible notify the Party having jurisdiction over the vessel or person of such arrest or seizure and shall deliver the vessel or person as promptly as practicable to the authorized officials of the Party having jurisdiction over the vessel or person at a place to be agreed upon by both Parties; provided, however, that when the Party receiving notification cannot immediately accept delivery of the vessel or person, the Party which gives such notification may, upon request of the other Party, keep the vessel or person under surveillance within its own territory, under the conditions agreed upon by both Parties.
3. The authorities of the Party to which such person or vessel belongs alone shall have jurisdiction to try any case arising under Article III and this Article and to impose penalties in connection therewith.
4. The witnesses or their testimony and other proofs necessary to establish the offense, so far as they are under the control of any of the Parties, shall be furnished with all reasonable promptness to the authorities of the Party having jurisdiction to try the case.
5. Sealskins discovered on seized vessels shall be subject to confiscation on the decision of the court or other authorities of the Party under whose jurisdiction the trial of a case takes place.
6. Full details of punitive measures applied to offenders against the prohibition shall be communicated to the other Parties not later than three months after the application of the penalty.

Article VII

The provisions of this Convention shall not apply to Indians, Ainos, Aleuts, or Eskimos dwelling on the coast of the waters mentioned in Article III, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms; provided that such hunters are not in the employment of other persons or under contract to deliver the skins to any person.

Article VIII

1. Each Party agrees that no person or vessel shall be permitted to use any of its ports or harbors or any part of its territory for any purpose designed to violate the prohibition set forth in Article III.

2. Each Party also agrees to prohibit the importation and delivery into and the traffic within its territories of skins of fur seals taken in the area of the North Pacific Ocean mentioned in Article III, except only those taken by the Union of Soviet Socialist Republics or the United States of America on rookeries, those taken at sea for research purposes in accordance with Article II, paragraph 3, those taken under the provisions of Article VII, those confiscated under the provisions of Article VI, paragraph 5, and those inadvertently captured, which are taken possession of by a Party; provided, however, that all such excepted skins shall be officially marked and duly certified by the authorities of the Party concerned.

Article IX

1. The respective Parties agree that, of the total number of sealskins taken commercially each season on land, there shall at the end of the season be delivered a percentage of the gross in number and value thereof as follows:

By the Union of Soviet Socialist Republics	to Canada	15 percent
	to Japan	15 percent
By the United States of America	to Canada	15 percent
	to Japan	15 percent

2. Each Party agrees to deliver such sealskins to an authorized agent of the recipient Party at the place of taking, or at some other place mutually agreed upon by such Parties.

3. The respective Parties will seek to ensure the utilization of those methods for the capture and killing and marking of fur seals on land or at sea which will spare the fur seals pain and suffering to the greatest extent practicable.

Article X

1. Each Party agrees to enact and enforce such legislation as may be necessary to guarantee the observance of this Convention and to make effective its provisions with appropriate penalties for violation thereof.

2. The Parties further agree to cooperate with each other in taking such measures as may be appropriate to carry out the purposes of this Convention, including the prohibition of pelagic sealing as provided for by Article III.

Article XI

The Parties agree to meet in the twenty-~~second~~sixth year after entry into force of the Convention to consider the recommendations in accordance with Article V, paragraph 2(e) and to determine what further agreements may be desirable in order to achieve the maximum sustainable productivity of the North Pacific fur seal herds.

Article XII

Should any Party consider that the obligations of Article II, paragraphs 3, 4, or 5, or any other obligation undertaken by the Parties is not being carried out and notify the other Parties to that effect, all the Parties shall, within three months of the receipt of such notification, meet to consult together on the need for and nature of remedial measures. In the event that such consultation shall not lead to agreement as to the need for and nature of remedial measures, any Party may give written notice to the other Parties of intention to terminate the Convention and, notwithstanding the provisions of Article XIII, paragraph 4, the Convention shall thereupon terminate as to all the Parties nine months from the date of such notice.

Article XIII

1. This Convention shall be ratified and the instruments of ratification deposited with the Government of the United States of America as soon as practicable.

2. The Government of the United States of America shall notify the other signatory Governments of ratifications deposited.

3. This Convention shall enter into force on the date of the deposit of the fourth instrument of ratification.

4. The Convention shall continue in force for twenty-~~two~~six years and thereafter until the entry into force or a new or revised fur seal convention between the Parties, or until the expiration of one year after such period of twenty-~~two~~six years, whichever may be the earlier; provided, however, that the Convention shall terminate one year from the day on which a Party gives written notice to the other Parties of an intention of terminating the Convention.

5. At the request of any Party, representatives of the Parties will meet at a mutually convenient time within ninety days of such request to consider the desirability of modifications of the Convention.

6. The original of this Convention shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to the Convention.

PUBLIC LAW 98-129—OCT. 14, 1983

97 STAT. 835

Public Law 98-129
98th Congress

An Act

To provide for the orderly termination of Federal management of the Pribilof Islands, Alaska.

Oct. 14, 1983

[H.R. 2840]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fur Seal Act Amendments of 1983".

Fur Seal Act
Amendments of
1983.
16 USC 1151
note.

SEC. 2. The Act of November 2, 1966 (Public Law 89-702; 16 U.S.C. 1151-1187), known as the Fur Seal Act of 1966, is amended to read as follows:

"TITLE I—FUR SEAL MANAGEMENT

"Sec. 101. (a) 'Commission' means the North Pacific Fur Seal Commission established pursuant to article V of the Convention.

Definitions.
16 USC 1151.

"(b) 'Convention' means the Interim Convention on the Conservation of North Pacific Fur Seals signed at Washington on February 9, 1957, as amended by the protocol signed in Washington on October 8, 1963; by the exchange of notes among the party governments which became effective on September 3, 1969; by the protocol signed in Washington on May 7, 1976; and by the protocol signed in Washington on October 14, 1980, by the parties.

8 UST 2283.
15 UST 816.
20 UST 2992.
27 UST 3371.

"(c) 'Cure' or 'curing' means the performance of those post-harvest activities traditionally performed on the Pribilof Islands, including cooling, washing, removal of blubber, soaking in brine, draining, treating with salt or boric acid, and packing in containers for shipment of fur seal skins.

"(d) 'Fur Seal' means the North Pacific Fur Seal, *Callorhinus Ursinus*.

"(e) 'Import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

"(f) 'Natives of the Pribilof Islands' means any Aleuts who are permanent residents of the Pribilof Islands, or any organization or entity representing such natives.

"(g) 'North Pacific Ocean' means the waters of the Pacific Ocean north of the thirtieth parallel of north latitude, including the Bering, Okhotsk, and Japan Seas.

"(h) 'Party' or 'parties' means the United States of America, Canada, Japan, and the Union of Soviet Socialist Republics.

"(i) 'Person' means any individual, partnership, corporation, trust, association or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

"(j) 'Pribilof Islands' means the islands of Saint Paul and Saint George, Walrus and Otter Islands, and Sea Lion Rock.

"(k) 'Sealing' means the taking of fur seals.

"(l) 'Secretary' means the Secretary of Commerce.

"(m) 'Take' or 'taking' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill.

Unlawful
activities.
16 USC 1152.

"SEC. 102. It is unlawful, except as provided in this Act or by regulation of the Secretary, for any person or vessel subject to the jurisdiction of the United States to engage in the taking of fur seals in the North Pacific Ocean or on lands or waters under the jurisdiction of the United States, or to use any port or harbor or other place under the jurisdiction of the United States for any purpose connected in any way with such taking, or for any person to transport, import, offer for sale, or possess at any port or place or on any vessel, subject to the jurisdiction of the United States, fur seals or the parts thereof, including, but not limited to, raw, dressed, or dyed fur seal skins, taken contrary to the provisions of this Act or the Convention, or for any person subject to the jurisdiction of the United States to refuse to permit, except within the Exclusive Economic Zone of the United States, a duly authorized official of Canada, Japan, or the Union of Soviet Socialist Republics to board and search any vessel which is outfitted for the harvesting of living marine resources and which is subject to the jurisdiction of the United States to determine whether such vessel is engaged in sealing contrary to the provisions of said Convention.

Authorization of
fur seals for
subsistence.
16 USC 1153.

"SEC. 103. (a) Indians, Aleuts, and Eskimos who dwell on the coasts of the North Pacific Ocean are permitted to take fur seals and dispose of their skins after the skins have been officially marked and certified by a person authorized by the Secretary: *Provided*, That the seals are taken for subsistence uses as defined in section 109(f)(2) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1379), and only in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms. This authority shall not apply to Indians, Aleuts, and Eskimos while they are employed by any person for the purpose of taking fur seals or are under contract to deliver the skins to any person.

"(b) Indians, Aleuts, and Eskimos who live on the Pribilof Islands are authorized to take fur seals for subsistence purposes as defined in section 109(f)(2) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1379), under such conditions as recommended by the Commission and accepted by the Secretary of State pursuant to regulations promulgated by the Secretary.

Scientific
research and
investigations.
16 USC 1154.

"SEC. 104. The Secretary shall (1) conduct such scientific research and investigations on the fur seal resources of the North Pacific Ocean as he deems necessary to carry out the obligations of the United States under the Convention, and (2) permit, subject to such terms and conditions as he deems desirable, the taking, transportation, importation, exportation, or possession of fur seals or their parts for educational, scientific, or exhibition purposes.

Regulations.
16 USC 1155.

"SEC. 105. (a) The Secretary shall prescribe such regulations with respect to the taking of fur seals on the Pribilof Islands and on lands subject to the jurisdiction of the United States as he deems necessary and appropriate for the conservation, management, and protection of the fur seal population, and to dispose of any fur seals seized or forfeited pursuant to this Act, and to carry out the provisions of the Convention, and shall deliver to authorized agents of the parties such fur seal skins as the parties are entitled to under the Convention.

“(b) The Secretary is authorized to enter into agreements with any public or private agency or person for the purpose of carrying out the provisions of the Convention and of this title, including but not limited to the taking of fur seals on the Pribilof Islands, and the curing and marketing of the sealskins and other seal parts, and may retain the proceeds therefrom.

Agreements.

“(c) The Secretary shall give preference to the village corporations of Saint Paul and Saint George Islands established pursuant to section 8 of the Alaska Native Claims Settlement Act (Public Law 92-203) for the taking of fur seals on the village corporations’ respective islands, and the curing and marketing of the sealskins and other seal parts, and may retain the proceeds therefrom. Any proceeds therefrom will be deposited in a separate fund in the Treasury and will be available to the Secretary, subject to appropriations, for the purpose of this section. All seal harvests will be financed, to the extent possible, from proceeds collected in preceding years or unsold assets retained from harvests conducted in preceding years. In the event that such assets and proceeds are insufficient, as determined by the Secretary, to finance the seal harvest in accordance with the requirements of the Convention, there are authorized to be appropriated to the Secretary for fiscal year 1984, and for fiscal year 1985 and beyond if the Convention is extended by protocol signed by the parties and made effective as to the United States, such sums as may be necessary to carry out the harvest and curing on the Pribilof Islands. Such amounts as are determined by the Secretary to exceed amounts required to carry out this section shall be transferred to the General Fund of the Treasury.

St. Paul and St. George Islands.

43 USC 1607.

Appropriation authorization.

Transfer of funds.

“Sec. 106. (a) Any person authorized to enforce the provisions of this Act who has reasonable cause to believe that any vessel outfitted for the harvesting of living marine resources and subject to the jurisdiction of any of the parties to the Convention is violating the provisions of article III of the Convention may, except within the areas in which another State exercises fisheries jurisdiction, board and search such vessel. Such person shall carry a special certificate of identification issued by the Secretary or Secretary of the department in which the Coast Guard is operating which shall be in English, Japanese, and Russian and which shall be exhibited to the master of the vessel upon request.

Enforcement.
16 USC 1156.

Special certificate of identification.

“(b) If, after boarding and searching such vessel, such person continues to have reasonable cause to believe that such vessel, or any person onboard, is violating said article, he may seize such vessel or arrest such person, or both. The Secretary of State shall, as soon as practicable, notify the party having jurisdiction over the vessel or person of such seizure or arrest.

Seizure or arrest.

“The Secretary or the Secretary of the department in which the Coast Guard is operating, upon request of the Secretary of State, shall deliver the seized vessel or arrested person, or both, as promptly as practicable to the authorized officials of said party: *Provided*, That whenever said party cannot immediately accept such delivery, the Secretary or the Secretary of the department in which the Coast Guard is operating may, upon the request of the Secretary of State, keep the vessel or person in custody within the United States.

“(c) At the request of said party, the Secretary or the Secretary of the department in which the Coast Guard is operating, shall direct the person authorized to enforce the provisions of this Act to attend the trial as a witness in any case arising under said article or give

Enforcement.

- testimony by deposition, and shall produce such records and files or copies thereof as may be necessary to establish the offense.
- Presidential appointments.**
16 USC 1157. "SEC. 107. The President shall appoint to the Commission a United States Commissioner who shall serve at the pleasure of the President. The President may appoint one Native from each of the two inhabited Pribilof Islands to serve as Advisors to the Commissioner and as liaisons between the Commissioner and the Natives of the Pribilof Islands. The President may also appoint other interested parties as Advisors to the Commissioner. Such Advisors shall serve at the pleasure of the President. The President may also appoint a Deputy United States Commissioner who shall serve at the pleasure of the President. The Deputy Commissioner shall be the principal adviser of the Commissioner, and shall perform the duties of the Commissioner in the case of his death, resignation, absence, or illness. The Commissioner, the Deputy Commissioner, and the Advisors shall receive no compensation for their services. The Commissioners may be paid travel expenses and per diem in lieu of subsistence at the rates authorized by section 5 of the Administrative Expense Act of 1946 when engaged in the performance of their duties.
- Compensation.**
- Travel expenses and per diem.**
5 USC 5703 note. "SEC. 108. The Secretary of State, with the concurrence of the Secretary, is authorized to accept or reject, on behalf of the United States, recommendations made by the Commission pursuant to article V of the Convention.
- Recommendations.**
16 USC 1158. "SEC. 109. The head of any Federal agency is authorized to consult with and provide technical assistance to the Secretary or the Commission whenever such assistance is needed and reasonably can be furnished in carrying out the provisions of this title. Any Federal agency furnishing assistance hereunder may expend its own funds for such purposes, with or without reimbursement.
- Technical assistance.**
16 USC 1159.
- "TITLE II—ADMINISTRATION OF THE PRIBILOF ISLANDS
- 16 USC 1161. "SEC. 201. The Secretary shall administer the fur seal rookeries and other Federal real and personal property on the Pribilof Islands, with the exception of lands purchased by the U.S. Fish and Wildlife Service under section 1417 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) or acquired or purchased by any other authority after enactment of the Fur Seal Act Amendments of 1983 and, in consultation with the Secretary of the Interior, shall ensure that activities on such Islands are consistent with the purposes of conserving, managing, and protecting the North Pacific fur seals and other wildlife and for other purposes consistent with that primary purpose.
- 94 Stat. 2500.
Ante, p. 835.
- 16 USC 1162. "SEC. 202. In carrying out the provisions of this title, the Secretary is authorized—
- "(1) to operate, maintain, and repair such Government-owned property, both real and personal, and other facilities held by the Secretary on the Pribilof Islands as may be necessary; and
- "(2) to provide the employees of the Department of Commerce and other Federal agencies and their dependents, at reasonable rates to be determined by the Secretary, with such facilities, services, and equipment as he deems necessary, including, but not limited to, food, fuel, shelter, and transportation.
- Education.**
16 USC 1163. "SEC. 203. The State of Alaska will be responsible for meeting the educational needs of the citizens of the Pribilof Islands.

"SEC. 204. The Secretary of Health and Human Services shall provide medical and dental care to the Natives of the Pribilof Islands with or without reimbursement, as provided by other law. He is authorized to provide such care to Federal employees and their dependents and tourists and other persons in the Pribilof Islands at reasonable rates to be determined by him. He may purchase, lease, construct, operate, and maintain such facilities, supplies, and equipment as he deems necessary to carry out the provisions of this section; and the costs of such items, including medical and dental care, shall be charged to the budget of the Secretary of Health and Human Services. Nothing in this Act shall be construed as superseding or limiting the authority and responsibility of the Secretary of Health and Human Services under the Act of August 5, 1954, as amended, or any other law with respect to medical and dental care of natives or other persons in the Pribilof Islands.

Medical and dental care.
16 USC 1164.

42 USC
2001-2005f.

"SEC. 205. (a) Any provision of law relating to the transfer and disposal of Federal property to the contrary notwithstanding, the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, is authorized to bargain, grant, sell or otherwise convey, on such terms as he deems to be in the best interests of the United States and in furtherance of the purposes of this Act, any and all right, title, and interest of the United States in and to the property, both real and personal, held by the Secretary on the Pribilof Islands: *Provided*, That such property is specified in a document entitled 'Transfer of Property on the Pribilof Islands: Descriptions, Terms and Conditions,' which is submitted to the Congress on or before October 31, 1983.

Federal property, transfer and disposal.
16 USC 1165.

Document.

"(b) The property transfer document described in subsection (a) shall include, but need not be limited to—

- "(1) a description of each conveyance;
- "(2) the terms to be imposed on each conveyance;
- "(3) designation of the recipient of each conveyance;
- "(4) a statement noting acceptance of each conveyance, including the terms, if any, under which it is accepted; and
- "(5) an identification of all Federal property to be retained by the Federal Government on the Pribilof Islands to meet its responsibilities as described in this Act and under the Convention.

"(c) Within 60 days of the transfer of real or personal property specified in the document described in subsection (a), the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate shall be given a report prepared by the Secretary stating the fair market value at the time of the transfer of all real and personal property conveyed.

Report to congressional committees.

"(d) A Memorandum of Understanding shall be entered into by the Secretary, a representative of the local governmental authority on each Island, the trustee or trustees, and the appropriate officer of the State of Alaska setting forth the respective responsibilities of the Federal Government, the Trust, and the State regarding—

Memorandum of Understanding.

"(1) application of Federal retirement benefits, severance pay, and insurance benefits with respect to Natives of the Pribilof Islands;

"(2) funding to be allocated by the State of Alaska for the construction of boat harbors on St. Paul and St. George Islands;

“(3) assumption of the State of Alaska of traditional State responsibilities for facilities and services on such islands in accordance with applicable laws and regulations;

“(4) preservation of wildlife resources within the Secretary’s jurisdiction;

“(5) continued activities relating to the implementation of the Convention;

“(6) oversight of the operation of the Trust established by section 206(a) to further progress toward creation of a stable, diversified, and enduring economy not dependent on commercial fur sealing;

“(7) the cooperation of government agencies, rendered through existing programs, in assisting with an orderly transition from Federal management and the creation of a private enterprise economy on the Pribilof Islands as described in this Act; and

“(8) such other matters as may be necessary and appropriate for carrying out the purposes of the Act, including the assumption of responsibilities to ensure an orderly transition from Federal management of the Pribilof Islands.

Memorandum
submittal to
Congress.
Tax exemption.

The Memorandum shall be submitted to Congress on or before October 31, 1983.

“(e) The grant, sale, transfer or conveyance of any real or personal property pursuant to this section shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or disposition of such real or personal property for purposes of any Federal, State or local tax imposed on, or measured by revenue shall be the fair market value of such real or personal property at the time of receipt.

Agreements.

“(f) In carrying out the purposes of this Act, the Secretary is authorized to enter into agreements, including but not limited to land exchange agreements with other Departments and Agencies of both the State and Federal Governments, and with third parties, notwithstanding any provision of law relating to the transfer and disposal of Federal property to the contrary; except that the authority of the Secretary of the Interior regarding exchanges involving lands in the National Wildlife Refuge System on the date of enactment of the Fur Seal Act Amendments of 1983 is not affected by this section.

Ante, p. 835.

Report to
Congress.

“(g) The Secretary shall submit to Congress a report, no later than October 1, 1983, providing information on the status of the negotiations for concluding the documents described in subsections (a) and (d) of this section.

Pribilof Islands
Trust.
16 USC 1166.

“SEC. 206. (a)(1) In order to promote the development of a stable, self-sufficient enduring and diversified economy not dependent on sealing, the Secretary shall cause to be established a Trust for the benefit of the Natives of the Pribilof Islands, to be known as the ‘Pribilof Islands Trust’ (hereinafter referred to as the ‘Trust’).

Transfer of
funds.

“(2) All amounts appropriated to the Secretary under subsection (e) of this section shall be transferred by the Secretary to the Trust within fifteen days after submission of the Trust instrument to Congress in accordance with the requirements of subsection (c).

Distribution of
funds.

“(3) Except as provided in subsection (e)(2), none of the amounts transferred to the Trust pursuant to paragraph (2) shall be distributed by the trustee or trustees for the benefit of the Natives of the Pribilof Islands until 30 days after submission to Congress of the documents described in section 205 (a) and (d). Such distributions

shall be made by the trustee or trustees only after the Secretary has determined that such Trust has been established and will be operated in accordance with a trust instrument, or instruments, approved by the Secretary which further the purposes and policies of this Act.

"(4) Until the termination of the period described in paragraph (3), the trustee or trustees shall invest the amounts transferred pursuant to paragraph (2) in securities with maturities suitable for the needs of the Trust, bearing interest rates at rates determined by the trustee or trustees, taking into consideration average market yields on outstanding marketable obligations of the United States of comparable maturities. The income from such investments shall be credited to, and form a part of the Trust.

Investments.

"(b) The Trust shall be administered in accordance with such terms and conditions as are prescribed by the Secretary, and as set forth in the Trust instrument. In establishing such terms and conditions, the Secretary shall consult with the Natives of the Pribilof Islands, and other interested parties concerning the conservation, management and protection of the fur seal population.

Terms and conditions.

"(c) There may be one Trust instrument establishing the Trust described in section 206(a), or two such instruments, each relating to one of the two portions of the Trust as provided in subsection (d), which shall address, but need not be limited to, such matters as—

Instruments establishing Trust

"(1) establishing standards and procedures for the disbursement by the trustee or trustees of Trust assets for purposes of fostering in the Pribilof Islands a stable, diversified, and enduring economy not dependent upon sealing after Federal management of the islands is terminated, which procedures may include formal participation of Pribilof Islands Native councils, corporations, or other such entities;

"(2) establishing the Secretary as trustor;

"(3) establishing the procedure for appointment of the trustee or trustees by the Secretary after consultation with the Natives of the Pribilof Islands;

"(4) setting forth the rights, duties, powers and obligations of a trustee who shall act as an independent fiduciary and who shall be a United States citizen having recognized competence in business;

"(5) providing for the management and investment of Trust assets, pending distribution, by an investment manager or advisor, who may be the trustee, having recognized competence in such fields;

"(6) establishing methods and procedures for providing Congress and the Secretary with the annual reports described in subsection (g) of this section;

"(7) establishing Trust purposes in accordance with the purposes described in section 201 of this Act and subsection (a) of this section;

"(8) the duties of the trustee or trustees and the standards of care and diligence that shall govern the exercise of trust powers thereunder;

"(9) compensation of the trustee or trustees;

"(10) the term, termination and final distribution of the Trust estate;

"(11) mandating the applicability of the laws of the State of Alaska to the creation and governance of the Trust;

"(12) defraying of community expenses; and

Submittal to Congress.	“(13) payment of necessary administrative and legal expenses. The Trust instrument or instruments described in this subsection shall be submitted to Congress on or before October 14, 1983.
St. Paul and St. George communities.	“(d) The Trust shall be divided into two portions pursuant to a formula established by the Secretary after consultation with the natives of both Islands, to be accounted for separately for the independent benefit of the community of St. Paul and the community of St. George.
Appropriation authorization.	“(e)(1) There are authorized to be appropriated to the Secretary \$20,000,000 for the purpose of funding the Trust in accordance with the requirements of subsection (a)(2) of this section. “(2) Prior to the termination of the period described in subsection (a)(3) of this section, the trustee or trustees may make interim distributions for the benefit of the Natives of the Pribilof Islands, upon approval of the Secretary, of up to five percent of the amounts transferred to the Trust pursuant to subsection (a)(2) of this section if, as determined by the Secretary, such interim distributions are required to carry out the purposes of this Act.
Interest.	“(f) The interest on, and the proceeds from the sale or redemption of, any asset or obligation held in the Trust shall be credited to and form a part of the Trust.
Annual report submittal.	“(g) The trustee or trustees shall submit to Congress and to the Secretary an annual report, the first of which is due on April 30, 1984, and subsequent reports on the same date each year thereafter during the life of the Trust, providing information on expenditures made from the Trust and progress towards achieving the purposes set out in subsection (a) of this section. On April 30, 1986, the Secretary shall also submit a report to the Congress detailing all progress toward achieving these purposes since enactment of this Act. For purposes of preparing such report, the Secretary by regulation may require that the trustee and the State of Alaska submit such relevant information to the Secretary as he deems appropriate.
Report to Congress.	“(h) The funds appropriated to the Trust and the earnings and distribution therefrom shall not be subject to any form of Federal, State or local taxation: <i>Provided</i> , That this exemption shall not apply to any income from the investment or other use of such distributions.
Tax exemption.	“SEC. 207. The Secretary is authorized to enter into agreements or contracts or leases with, or to issue permits to, any public or private agency or person for carrying out the provisions of the Convention or this Act.
Agreements, contracts or leases. 16 USC 1167. 16 USC 1168.	“SEC. 208. (a) Service by natives of the Pribilof Islands engaged in the taking and curing of fur seal skins and other activities in connection with the administration of such islands prior to January 1, 1950, as determined by the Secretary based on records available to him, shall be considered for purposes of credit under the Civil Service Retirement Act, as amended, as civilian service performed by an employee, as defined in said Act.
5 USC 8331 <i>et seq.</i> Annuities.	“(b) The annuity of any person or the annuity of the survivor of any person who shall have performed service described in subsection (a) of this section, and who, prior to November 2, 1966, died or shall have been retired on annuity payable from the civil service retirement and disability fund, shall, upon application filed by the annuitant within one year after November 2, 1966, be adjusted, effective as of the first day of the month immediately following November 2, 1966, so that the amount of the annuity shall be the same as if such

subsection had been in effect at the time of such person's retirement or death.

"(c) In no case shall credit for the service described in subsection (a) of this section entitle a person to the benefits of section 11(h) of the Civil Service Retirement Act.

5 USC 8342.

"(d) Notwithstanding any other provisions of this Act or any other law, benefits under the Civil Service Retirement Act made available by reason of the provisions of this section shall be paid from the civil service retirement and disability fund subject to reimbursement to such fund from the Operations, Research, and Facilities Account of the National Oceanic and Atmospheric Administration in the Department of Commerce, for the purpose of compensating said retirement fund for the cost, as determined by the Civil Service Commission during each fiscal year, of benefits provided by this section.

5 USC 8331 *et seq.*

"SEC. 209. Chapter 83 of title 5, United States Code, is amended as follows:

5 USC 8301 *et seq.*

"(a) by deleting 'Credit' in section 8332(b) and inserting in lieu thereof the words 'Except as provided in paragraph (13) of this subsection, credit';

5 USC 8332.

"(b) by adding in section 8332(b) after paragraph (12) the following new paragraph:

'(13) one year of service to be credited for each year in which a Native of the Pribilof Islands performs service in the taking and curing of fur seal skins and other activities in connection with the administration of the Pribilof Islands, notwithstanding any period of separation from the service.';

"(c) by adding in section 8332(b) after 'paragraph (3) of this subsection.' the following sentence: 'The Office of Personnel Management shall accept the certification of the Secretary of Commerce or his designee concerning service for the purpose of this subchapter of the type performed by an employee named by paragraph (13) of this subsection.';

"(d) by adding in section 8332(f) after 'postal field service' the words 'and service described in paragraph (13) of subsection (b) of this section.';

"(e) by adding in section 8332(l)(1) the word 'or' at the end of clause (v) of subparagraph (B) thereof and by adding the following new subparagraph:

'(C) is of Aleut ancestry and while a citizen of the United States was interned or otherwise detained in, or relocated to any camp, installation, or other facility in the Territory of Alaska which was established during World War II for the purpose of the internment, detention, or relocation of Aleuts pursuant to any statute, rule, regulation, or order';

and

"(f) by amending paragraph (4) of section 8334(g) by striking 'January 1, 1950' and substituting the words 'October 29, 1983,' and adding after 'the Pribilof Islands' the words 'except where deductions, contributions, and deposits were made before October 29, 1983'.

5 USC 8334.

"SEC. 210. (a) Title I of the Act of January 4, 1975, Public Law 93-638 (25 U.S.C. §§ 450-450m), known as the Indian Self-Determination and Education Assistance Act, is amended by adding in section 105(e) after 'to be employed by a tribal organization' the words ', the city of St. Paul, Alaska, the city of St. George, Alaska, upon incorpo-

25 USC 450i.

25 USC 450i.

43 USC 1607.
25 USC 450i
note.

ration, or the Village Corporations of St. Paul and St. George Islands established pursuant to section 8 of the Alaska Native Claims Settlement Act (Public Law 92-203)'.
"SEC. 211. The Secretary is authorized to prescribe such regulations as he deems necessary to carry out the provisions of this title.

5 USC 8101 *et seq.*, 8301 *et seq.*, 8501 *et seq.*, 8701 *et seq.*
25 USC 450i.
Regulations.
16 USC 1169.

"(b) Notwithstanding any other provision of law, any Native of the Pribilof Islands employed by the Federal government on October 28, 1983, shall be deemed to have been covered under chapters 81, 83, 85 and 87 of title 5, United States Code, on such date for the purposes of determining eligibility for continuity of benefits under section 105(e) of the Act of January 4, 1975 (Public Law 93-638), known as the Indian Self-Determination and Education Assistance Act.

"SEC. 211. The Secretary is authorized to prescribe such regulations as he deems necessary to carry out the provisions of this title.

"TITLE III—ENFORCEMENT

16 USC 1171.

"SEC. 301. (a) Every vessel subject to the jurisdiction of the United States that is employed in any manner in connection with a violation of the provision of this Act, including its tackle, apparel, furniture, appurtenances, cargo, and stores shall be subject to forfeiture; and all fur seals, or parts thereof, taken or retained in violation of this Act, or the monetary value thereof, shall be forfeited.

"(b) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of a vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores for violation of the customs laws, the disposition of such vessel, including its tackle, apparel, furniture, appurtenances, cargo, and stores or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

16 USC 1172.

"SEC. 302. (a) Enforcement of the provisions of this Act is the joint responsibility of the Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating. In addition, the Secretary may designate officers and employees of the States of the United States to enforce the provisions of this Act which relate to persons or vessels subject to the jurisdiction of the United States. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes; but they shall not be held and considered as employees of the United States for the purpose of any laws administered by the Office of Personnel Management.

Warrants.

"(b) The judges of the United States district courts and United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in Federal district courts, as may be required for enforcement of this Act and any regulations issued thereunder.

"(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

"(d) Such person so authorized shall have the power—

"(1) with or without a warrant or other process, to arrest any person committing in his presence or view a violation of this Act or the regulations issued thereunder;

"(2) with a warrant or other process or without a warrant, if he has reasonable cause to believe that a vessel subject to the jurisdiction of the United States or any person onboard is in violation of any provision of this Act or the regulations issued thereunder, to search such vessel and to arrest such person.

"(e) Such person so authorized may seize any vessel subject to the jurisdiction of the United States, together with its tackle, apparel, furniture, appurtenances, cargo, and stores, used or employed contrary to the provisions of this Act or the regulations issued hereunder or which it reasonably appears has been used or employed contrary to the provisions of this Act or the regulations issued hereunder.

Seizure of vessel.

"(f) Such person so authorized may seize, whenever and wherever lawfully found, all fur seals taken or retained in violation of this Act or the regulations issued thereunder. Any fur seals so seized or forfeited to the United States pursuant to this Act shall be disposed of in accordance with the provisions of section 105 of this Act.

"SEC. 303. The Secretary is authorized to prescribe such regulations as he deems necessary and appropriate to carry out the provisions of this title.

Regulations.
16 USC 1173.

"SEC. 304. (a) Any person who knowingly violates any provision of this Act or of any permit or regulation issued thereunder shall, upon conviction, be fined not more than \$20,000 for such violation, or imprisoned for not more than one year, or both.

Penalties.
16 USC 1174.

"(b) Any person who violates any provision of this Act or any regulation or permit issued hereunder may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Hearings held during proceedings for the assessment of civil penalties authorized by this subsection shall be conducted in accordance with section 554 of title 5. The Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof. Any civil penalty assessed may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty, and such court shall have jurisdiction to hear and decide any such action.

Hearings.

Subpoenas.

Fees and
mileage.

"SEC. 305. (a) There are authorized to be appropriated to the operations, research, and facilities account of the National Oceanic and Atmospheric Administration in the Department of Commerce, such sums as may be necessary, up to \$2,000,000, for fiscal year 1984 for the purpose of upgrading Federal property to be transferred

Appropriation
authorization.
16 USC 1175.

pursuant to section 205 of this Act, \$736,000 for fiscal year 1984 for the purposes of sections 104 and 208 of this Act and such sums as may be necessary for each fiscal year thereafter for the purposes of sections 104 and 208 of this Act.

Contract
authority.

“(b) The contract authority of the Secretary under this Act is effective for any fiscal year only to the extent that appropriations are available for such purposes.”.

Approved October 14, 1983.

LEGISLATIVE HISTORY—H.R. 2840:

HOUSE REPORT No. 98-213 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 98-212 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 129 (1983):
May 23, considered and passed House.
Aug. 4, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendment with an amendment.
Sept. 28, Senate concurred in House amendment.

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