

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Witness Statement

Written Testimony of John R. Merculief, City Manager City of Saint Paul, St. Paul Island, Alaska

Before the Subcommittee on Fisheries Conservation, Wildlife and Oceans

Committee on Resources U.S. House of Representatives

On H.R. , the Pribilof Islands Transition Act July 29, 1999

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide testimony on this important legislation that is designed to complete the economic transition of the Pribilof Islands.

My name is John R. Merculief. I was born and raised on St. George Island, but have spent the last 27 years on St. Paul with my wife Piama, where we have worked and raised our seven children. I have been City Manager of the City of St. Paul since 1995, and was responsible for the development and submission of the City's Report, Recommendation, and Statement of Claims in October 1996, under the procedure called for by Public Law No. 104-91.

Prior to the transition, I worked as an electrical technician for NMFS on St. Paul Island, progressing to the position of electrical foreman and later to foreman and representative in charge (1979-1983) for maintenance of all on-island government activities. Following the transition, I worked for the City of St. Paul as the Director of Public Works (1984 to 1995), and was responsible, among other things, for the oversight of the St. Paul harbor construction and maintenance, and the day to day operations of the City, the harbor and the airport.

I have served my community as a member of the City Council from 1976 to 1994, and as Mayor from 1982-1983, 1989-1991, and 1993-1994. I served as a member of the Pribilof School Board for 18 years, and am a current a board member and past chairman of the Central Bering Sea Fishermen's Association (CBSFA), which is the local CDQ group (commercial fishing) on St. Paul Island.

I experienced first-hand the 1983 phaseout of the National Oceanic and Atmospheric Administration's (NOAA) operations in the Pribilofs, and have witnessed both the successes and the frustrations of my people in attempting to develop a fisheries-based economy. I therefore consider myself qualified to speak on the issues of concern to the Pribilof Islands and more specifically my community, St. Paul.

I. Introduction

The community that I represent as City Manager views the initial transition as a success. The St. Paul Harbor was completed in 1990, and, as envisioned, attracted investments from the fishing industry. The successes, however, have been limited to certain fisheries, namely the crab fishery and the halibut CDQ fishery, and, as a result, St. Paul has not yet developed a diversified, self-sufficient economy. Moreover, the success of the Pribilofs is tied to access to and the health of the Bering Sea fisheries. St. Paul and the

transition will be a failure if the efforts to become a fishing-based economy are made useless by an economically unviable fishery.

The legislation before you can be the vehicle through which the Pribilofs obtain the support and infrastructure necessary to serve the fishing industry as an advanced fishing base capable of maximizing the fishery in a sustainable way. In so doing, the legislation will be furthering the long-standing commitment of Congress to provide the Pribilofs with the ability to achieve full economic self-sufficiency while supporting the fisheries management goals of the Sustainable Fisheries Act of 1996 and the American Fisheries Act of 1998. This is the City of St. Paul's vision for the future, and what St. Paul believes the completion of the transition can and should accomplish.

Before turning to the City's analysis of what is needed to complete the transition, I would like to give you a brief background on the unique community of St. Paul Island.

II. Historical Perspective - St. Paul as a Government Town

The Pribilof Islands, Alaska, are the home of the largest remaining Aleut, native community in the world. They are also the primary breeding grounds of the Northern Fur Seal, which number approximately one million, and are home to over 200 species of birds. The Islands are situated in the middle of the Bering Sea, 800 air miles west from Anchorage, 200 miles north of Dutch Harbor, and are located within 65 miles of 55% of the U.S. Bering Sea fishery.

From 1869 until 1983, the Pribilof Islands were a government reservation. The U.S. government, which operated the profitable fur sealing operations on the Islands, exercised full control over all aspects of the Aleut resident's lives. NMFS managed the fur sealing operation on St. Paul under the "NMFS Pribilof Island Program." To ensure the proper prosecution of the fur seal harvest, all essential public services were placed under NMFS management and control, including power, water, sewer, and road and airport maintenance. The major source of employment on the Island was the NMFS administrative program which operated the Island. Only limited commercial development was allowed on the Island, such as the establishment of a local tavern and grocery store. NMFS would not allow the local residents, fishermen by heritage, to engage in commercial fishing, and would not allow the construction of a harbor.

III. The 1983 Fur Seal Act Amendments

In the late 1970's, a combination of pressure by the animal rights community to end fur sealing as a government economic activity, and federal concerns that the NMFS Pribilof Island Program was no longer profitable, led the government to consider allowing the Islands to develop independent economies. Included in the concept was the transfer of NMFS' responsibilities to Island entities.

This led to a three-party negotiation of responsibilities between the federal government, the state government, and the local entities. Numerous studies were conducted by each of the parties to the Transition Agreement. The studies concluded that the Island's location in the middle of the Bering Sea's fishing grounds created the opportunity for development of a viable, fishing-based economy. To do this, St. Paul needed a harbor. The consensus was that if the necessary public investment in a harbor and breakwater were made, the fisheries industry would locate on St. Paul and be profitable.

It was understood that it could be more than 10 years before it would be known whether the harbor could successfully be built. During this period, the City would be required to maintain services and bring requisite facilities to a level where they met state and federal standards. The plan was that the City, as the provider of services, would maintain income levels until the harbor was completed. The appropriate level of services and income would be determined, following completion of the harbor, by the private sector's use of the Island.

Each of the parties had made cost projections of the possible scenarios, the infrastructure that needed to be upgraded, or brought to code, and the expected costs and ultimate revenues. In every study, including the Humphrey Report conducted on behalf of the City, and the Williams-Kuebelbeck Report, prepared for NOAA, the analysis of the transition effort projected a large deficit in the operating and maintenance of the infrastructure and service. The hope was that this sum would not exceed the initial transition fund until a determination could be made as to the success of the harbor. It was recognized that infrastructure repair and upgrades would be required, but the thought was that these costs should be deferred until it was clear whether the transition would work.

A trust fund of \$20 million was established, which consisted of four years of the yearly Pribilof Island budget and provided an operating subsidy budget, split 60-40 between St. Paul and St. George. The trust was to allow the City to provide the necessary services, by subsidizing the City payroll and the costs of operation and maintenance of the services, until the harbor was completed. It was understood that this amount was far from what would be required, and that the amount ultimately required would depend on what level of development actually occurred.

This point was emphasized by the State of Alaska, in testimony before the predecessor Subcommittee of the House on the Fur Seal Act Amendments, stated:

[W]e perceive a commonly held misconception that the establishment of \$20 million trust fund for the people of the Pribilofs is some sort of panacea which should be permitted to absolve the Federal Government of further responsibility. The Pribilovians have tremendous infrastructure and social needs. In this context, \$20 million is but a drop in the bucket.

IV. The Completion of the St. Paul Harbor

The modified design and construction of St. Paul Harbor was completed in 1990, with a combination of federal, state and local funds. The initial Corps of Engineers studies, projecting positive cost-benefit ratios for the nation and the North West region which justified the construction of the harbor improvements, proved more than correct. The harbor's success exceeded all expectations. Originally constructed to accommodate seven, 110-foot crab vessels, the harbor currently serves up to 270 vessels, which range up to 310 feet in length. Within the harbor are three shore-based processors, two floating and one onshore. The St. Paul Harbor is the second largest generator of fish tax revenue in the State of Alaska. Its success has led to environmental and safety concerns, resulting in the authorization for Harbor modifications which are currently underway.

The initial transition effort has been a success. Today, St. Paul Island is a model of how the Government can make a difference. Credit is due to the right combination of sound public policy, private sector investment, and a committed local community. The opportunity is presented through Public Law 104-91 and the proposed bill you have before you, the Pribilof Islands Transition Act, to apply present day public policy goals in completing the transition. What is needed, first and foremost, is to address those areas that were deferred under the 1983 Fur Seal Act Amendments. The people of St. Paul should be able to rely on the Federal government meeting its obligations.

V. St. Paul's Plan for the Future

St. Paul's vision for the future is the development of a diversified, environmentally responsible, sustainable, fisheries-based economy. The success of the harbor, as a support base for the national fishing industry, provides revenue and jobs to the community. But St. Paul's residents have made it clear that they do not want to overdevelop and become just another industrial port. They want to develop in a manner which preserves the characteristics that make St. Paul unique: remaining a small, Aleut community; preserving the pristine quality of the rich ecosystem surrounding the Pribilof Islands, which is why the birds, marine mammals and fish are there; and, continuing to develop the capabilities of, and opportunities for, the local

fishing fleet.

The logical steps for the community to take in diversifying its fishing-based economy are: (1) to gain access to the abundant fish resource at their shores, in furtherance of the development of a day fishery, and fisheries-related small business opportunities for the residents; (2) to develop the infrastructure necessary for in-shore, multi-species processing (including pollock); and (3) to develop a small boat harbor so the local day boat fishery can improve its fleet, have a place to keep their boats, and have a facility from which to operate. Right now, most of the boats are transients, as there are no mooring facilities in the harbor. These are three important projects which will support the future growth of the community.

An important component of the transition bill before you today is sec. 206 (a)(1)(A), which provides for grants to implement specified projects. The City supports the criteria for any such grants found at section 206 (a)(2)(B) - that any such grant shall be one which "will promote the development of a stable, self-sufficient, enduring, and diversified economy in the Pribilof Islands that is not dependent on sealing."

The City would like to point out, however, that the economy depends on the development of individual entrepreneurial skill. A small boat harbor is therefore more important than another fish processor. Grant programs which promote development of the infrastructure or business talents of individual residents of St. Paul should be made, to allow St. Paul to be a competitive player in the fishing industry. The grants should be consistent with the Community's 1995 Comprehensive Plan.

The community understands that St. Paul's future lies in the sustainable management of the Bering Sea fishery and ecosystem which surrounds the Pribilofs. This is best reflected in the St. Paul Comprehensive Plan, completed in 1995, from which I quote.

"As the stewards of the city, we want to assure continued operation of the commercial fishing industry while ensuring protection and careful management of land, water, resources and our culture."

The plans of the residents and local fishermen for future development largely coincide with state and federal policies, most particularly with NOAA's mission of developing sustainable coastal communities and managing the fisheries in a sustainable manner. I submit that the types of programs supported by the City, i.e., development of a day fishery and the infrastructure which will allow existing processors to expand the species they process, are in keeping with the important policy considerations of good national fisheries management and conservation that will lead to the continued sustainable economic support for St. Paul, as well as the U.S. fishing industry.

I have a further comment on the proposed criteria for funding future economic development project grants. Sec. 206 (a)(2) requires that any project be jointly submitted by the city government, village corporation, and tribal council of St. Paul. Although community cohesiveness is a laudable goal, and one which the City of St. Paul has strived to achieve, history has shown that consensus between the City and the other Island entities is difficult. City residents are dependent on the success of the community, while the village corporation's stockholders, the majority of whom no longer live on the Island, sometimes do not retain a vested interest in the community. As a for-profit corporation, the Village corporation often has obligations to its shareholders that may be at cross purposes with the goals of the community and the people who live in the City of St. Paul.

Rather than hamstringing the process with the requirement of a joint submission when the Island entities responsibilities and interests are so different, the Secretary should be allowed, in its discretion, to approve projects based on the criteria set forth in sec. 206 (a)(2)(B), i.e., projects which "will promote the development of a stable, self-sufficient, enduring, and diversified economy in the Pribilof Islands that [are] not dependent on sealing" and meet the criteria elaborated above.

VI. Completion of the Transition: Cost Reimbursements and Environmental Clean-Up

You have specifically asked which of the City's claims result directly from the failure to build a harbor in a timely manner. The City has retained Natural Resources Consultants (NRC), a respected fishery consulting firm in the Northwest, which has done a number of analyses for NMFS and the fishing industry over the years, to respond to what portion of the City's claims arise from the fact that St. Paul did not have a harbor until 1990. The NRC report will also elaborate on the commercial fishing opportunities in the Pribilofs, both past and future. This report will be separately submitted in August.

With respect to the harbor development, St. Paul believes, based on its review of the 1980 Pribilof Island Services Plan and the 1983 Williams-Kuebelbeck analysis prepared for NMFS, that while there was never a guarantee to build the harbors on St. Paul and St. George, there was a consistent understanding that if the national benefits didn't support the building of a harbor, the transition was unlikely to work. The position taken in the 1980 and 1983 studies and reports was that if the harbors were built and the fishing industry relocated as they have, that other expenditures, i.e., funding for needed infrastructure repair and upgrade, were expected and would be obtained.

An essential part of completion of the transition is provided for by Sec. 206 (a)(1)(B), through which the Secretary is authorized to make grants to "reimburse costs incurred by the grantee in upgrading or replacing federal infrastructure or facilities." The City, as the entity which assumed responsibility for NMFS' administrative functions, took over the operation, maintenance, upgrades and replacement of the facilities, and was the local sponsor for the harbor project, is vitally interested in this aspect of the completion of the transition.

You have requested that the City provide information regarding Federal funds received since 1983 and expenditures made. Responses to these questions are set forth below.

(A) Receipt of Federal Funds Since 1983:

1) Pribilof Island Trust Fund: As specified in the Williams-Kuebelbeck Report, the St. Paul Island Trust was designed to fund the operation and maintenance of the facilities and infrastructure, any operational shortfall, and the continued employment of the necessary staff and management.. Actual receipts from the St. Paul Island Trust amounted to \$14.6 million, which were used for the continuation of all necessary municipal and other services pending completion of economic development (including the harbor), private investment, and generation of new sources of revenue flow from the private sector. The private sector has now taken over and the municipal revenues from the private sector commercial fisheries and its supporting industry now fully fund the operational cost of the Island's services.

However, the capital cost associated with the rapid development of the community has been a problem. The result is that the per capita debt is one of the highest in the State of Alaska. A letter on that is attached as Exhibit A. With the completion of the harbor and forgiveness of the CEIP loan, the City of St. Paul will be able to generate both the capital and operational funds necessary for normal services.

2) Subsistence: No subsistence funds have been provided to the City.

3) Upgrade, Repair, or Replace Facilities Formerly Owned By Federal Government: As anticipated in the Williams-Kuebelbeck Report, significant upgrades, repairs and replacements of facilities formerly owned by the federal government have been required. Due to funding constraints many of these have been performed on an emergency, as-needed basis so available municipal funds could be directed toward harbor development.

Very little federal funding has been received or directed toward the upgrade, repair or replacement of federal facilities. Federal funds that have been received include:

- \$1 million facilities upgrade awarded in 1983,
 - \$169,506 domestic sewage outfall grant to replace non-functioning drain fields, and
 - \$40,667 towards the development of a new landfill.
- In addition, a \$6,562,878 loan with interest at 5% under the Coastal Energy Impact Program was made to the City under a tripartite agreement with the Alaska Municipal Bond Bank for the relocation and development of the bulk fuel farm facilities to replace non-conforming facilities left by NMFS which were polluting the Refuge. \$2.5 million in interest payments have been made, leaving a balance of approximately \$6.7 million.

In all cases, contributions from federal grants have been less than that required to perform appropriate levels of public service for the utilities. Inefficient and inadequate facilities and infrastructure have resulted in costly operations and maintenance, and in service disruptions. For example, the City was not able to expand its customer base for the Electric Utility by providing power to the U.S. Coast Guard due to an inability to document assured service delivery. With the new power plant the City will have this capability. In addition, the City has had to subsidize rates for sewer, water and solid waste to maintain a reasonable rate structure for clients and to meet the needs of protecting the fragile environment of St. Paul. The result has been an inability to establish a reserve replacement fund for essential services.

Federal grant funds and appropriations have been off-set by the savings to the nation of more than \$2.6 million per year from harbor operations as specified in the Harbor Improvements Project Economic Analysis. Therefore, over the fifty year life of the harbor, the project alone will save the nation more than \$130 million (\$2.6 million x 50 years) in vessel operations and commercial fishing activities. These savings facilitate U.S. participation in the world economy for markets with small profit margins and international instability, such as fisheries.

4) Economic Development and Facilities Construction: No federal funds have been awarded to the City for economic development and facilities construction which have not been identified in Items (3) and (5).

5) Plan, Design, and Construct Harbors or Harbors-Related Facilities: Federal funds for harbor development included:

- \$2.5 million EDA south dock grant,
- St. Paul Harbor appropriation to the U.S. Army Corps of Engineers for \$19,635,200, and
- an additional \$233,886 for preliminary work on the Harbor Improvements

Project currently in process.

- In addition, a recent \$6.4 million appropriation for the Harbor Improvements

Project was made that went directly to the Alaska District, U.S. Army Corps of Engineers.

(B) Expenditures Made by City of St. Paul Since 1983:

1) Upgrade, Repair, or Replacement of Facilities or Equipment Formerly Owned by the Federal Government: As identified in claims filed by the City, the following expenditures were made through 1996 to upgrade, repair or replace equipment and facilities received from the federal government and required to be upgraded or relocated because of the transition or NMFS' obligations:

- (1) Bulk Fuel Farm \$6,562,878 loan (plus \$2,507,878 in interest payments to date)

- (2) Electric System \$1,960,382
- (3) Water System \$ 664,117
- (4) Asbestos Removal \$ 106,718
- (5) Existing landfill \$ 295,484
- (6) New power plant \$2,555,534
- (7) Public works complex \$2,662,000
- (8) 4-plexes \$1,240,000
- (9) Dental facility \$ 165,760
- (10) 1997-1998 additional projects⁽¹⁾ \$3,800,000

TOTAL: \$20,012,873

(not including CEIP interest payments)

Of particular concern to the City is the debt of \$6,562,878 it incurred on behalf of NOAA through the Coastal Zone Management Act (CZMA) CEIP program for replacement of the bulk fuel farm left by NOAA. This facility was in substandard condition and was located above a seabird nesting site, which was threatened by leaks from the tanks. To date the City has made \$2,507,084 in interest payments on the loan.

The City is currently engaged in negotiations with NOAA's Office of Coastal Resource Management (OCRM) to forgive, modify, or restructure the loan. OCRM has agreed that under the CZMA the loan is to be paid from revenues generated by the facilities built with the CEIP loan. Under the CZMA, if the economic activity for which the facilities were intended does not materialize and generate sufficient use and revenues, then the Secretary of Commerce, pursuant to Section 1456a(a)(1) of the act is authorized to recommend to Congress forgiveness, modification, or restructuring of the loan.

The City has determined that the revenues from the bulk fuel farm and related facilities are insufficient to pay back the loan, and has requested that the Secretary make the necessary determinations to forgive the loan. OCRM and the Inspector General's Office are presently reviewing the City's financial data prepared by KPMG Peat Marwick in order to verify the financial basis for the City's request.

Forgiveness of the loan (and reimbursement of the interest payments) are a critical part of the completion of the transition to the City. KPMG Peat Marwick has determined that the City of St. Paul is one of the most highly indebted communities per capita of its size in the State of Alaska.⁽²⁾ This indebtedness has largely resulted from the need to upgrade or replace infrastructure left by NOAA. In effect, the primary beneficiaries of the burden incurred by the 700 Aleuts of St. Paul Island to upgrade and build infrastructure necessary for a fisheries based economy have been the State of Alaska, through fisheries business tax revenues, and the federal fisheries. Moreover, this high level of indebtedness has impaired the City's ability to diversify St. Paul Island's economy and provide its local share for infrastructure that is of critical importance to State and federal fisheries policies, such as the Harbor Improvements Project.

2) Plan, Design, and Construct Harbors or

Harbor Related Facilities: As local sponsor, the City invested

\$9.6 million of its own funds in the first phase of the harbor development. \$9,600,000

3) Additional harbor and associated infrastructure

facilities developed since 1990: \$6,600,000

TOTAL CITY OF ST. PAUL FUNDS SPENT ON LOCAL INVESTMENT

IN FACILITIES, HARBOR DEVELOPMENT AND MEETING NMFS'

OBLIGATIONS \$29,049,000

(C) Claims Resulting Directly From Failure to Build a Harbor in a Timely Manner and Need to Upgrade, Repair, or Replace Facilities Formerly Owned by the Federal Government:

The City of St. Paul was forced by the transition to operate the services during the period of the phase-out. Revenues to partially off-set expenses were not realized until 1989-1990, when the harbor was completed. In addition, meeting the fiscal demands of operating and maintaining the infrastructure and building the harbor left few funds available to use as matching funds for other infrastructure upgrade and improvement projects. Thus, all infrastructure improvement projects were conducted when funding became available and when the life of the federal facility was exhausted. In cases such as the power plant, it was more cost effective to develop new facilities and acquire new generation and distribution systems than to continue to operate inefficiently.

The federal government's failure to maintain infrastructure for up to ten years prior to 1983, coupled with the strategy not to invest federal dollars into infrastructure improvements until the harbor was built and the economic success assured, has resulted in increased operation and maintenance costs as well as inordinate debt per capita.

In addition to the expenditures noted in response to previous questions, the City must expend the following sums on projects that are necessary to complete the harbor or service the commercial fisheries. These are the highest priority projects for funding from this Act.

- (1) New solid waste management facility (engineer's estimate of cost, without land) \$4 million
- (2) Water system and tanks \$1.3 million
- (3) Public safety building to meet legal standards \$ 4.5 million
- (4) Seafood outfall to comply with federal regulations for multi-species processing \$3.4 million
- (5) Business and recreation facility to meet the needs of local entrepreneurs and residents \$3.8 million
- (6) Small boat harbor and wharfage \$10 million

TOTAL \$27 million

Additional projects need to be considered, but are of lower priority, and will be identified by the City in connection with project submission.

(D) Environmental Clean-Up Work Required: You have also asked for information regarding environmental clean-up work required. In addition to the cleanup activities outlined in the Two Party Agreement between NOAA and the State of Alaska, the City of St. Paul has asked or requests that NOAA address the following cleanup issues:

1) Landfill/Solid Waste Management Facility: The City has on numerous occasions requested that NOAA redevelop landfills "to meet statutory requirements" as directed under Section 3(a) of Public Law (PL) 104-91. The Alaska Department of Environmental Conservation (ADEC) has refused to certify closure of the existing landfill until NOAA develops a new facility.

A landfill/solid waste management facility is important to the health of the residents and wildlife of the Pribilof Islands, and is a critical piece of the infrastructure required to develop a sustainable, fisheries-based economy. The needs of waste disposal on St. Paul require that such a facility include a new landfill, a car dump, septic sludge disposal, incineration capabilities, a waste staging and sorting area, a storage and maintenance area, hazardous materials disposal, and MARPOL. The City of St. Paul estimates that the costs of construction would be \$4 million.

The City has worked with NOAA and the State on the manner in which construction of a landfill/ solid waste management facility can be met, and believes the State is an appropriate entity to handle all aspects of the construction of the facility, as proposed under the bill.

2) Underground Storage Tanks (UST's): The City of St. Paul has requested cleanup of the contamination of soils adjacent to and surrounding residential UST's that are used for heating. These UST's were constructed by the Federal government in the mid-1960's and conveyed to homeowners, private businesses, and local entities. The City submitted this claim in its Statement of Claims under PL 104-91 in 1996 and also has brought it to the attention of NOAA at meetings of the Restoration Advisory Board.

There is a similar problem with abandoned UST's and contaminated soils on federal property at the National Weather Service site. This is of concern to the residents and the City because of the possibility of leakage, through the Island's porous soil, of the underground water supply.

Under Section 3(a) of PL 104-91, the Secretary of Commerce is directed to cleanup "... storage tanks, property ... and contaminants" left by NOAA or its predecessor agencies on lands which it transferred to the local entities or residents. Therefore, there is a strong statutory basis for the local entities' and residents' requests. NOAA should not be released from its Section 3(a) obligations until the cleanup activities are completed.

The City supports section 8a and local hire for the clean-up work to be performed on the Island, when performed in an efficient and cost effective manner. The City understands that the ability to have the work performed in a competent manner is a legitimate consideration.

VII. Completion of the Transition - Use of Funds and Limitation on Authority

The City supports the language in the bill that continues to preclude the seeking of financial contribution from the Pribilof entities or residents for clean-up activities. Local entities and residents should not be responsible, or share liability, for cleaning up contaminated property or sites left by the Federal government. This would be contrary to the intent and objectives of PL 104-91.

The City also supports the language in the bill that allows money received in the transition to be used in conjunction with other federal money, and that limits NOAA's regulatory authority to federal lands.

VIII. Conclusion

Mr. Chairman, and distinguished members of the Fisheries Conservation, Wildlife, and Oceans Subcommittee, thank you for this opportunity to provide written testimony on behalf of the City, and the community, of St. Paul. We look forward to discussing these issues with you and your staffs.

1. Since 1996, the City has spent additional funds to construct a new power plant as well as to conduct and carry out other infrastructure upgrades and replacements totaling \$3.8 million.
2. See Exhibit A - KPMG Peat Marwick letter from David McCambridge to John R. Mercurief dated February 28, 1997.

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