

Council of
Alaska Producers

**HB106 Testimony
House Finance Committee**

April 11, 2011

Honorable Bill Stoltze
Honorable Bill Thomas
Co-Chairs, House Finance Committee
Capitol Building
Juneau, AK 99811

Dear Representatives Stoltze and Thomas,

The Council of Alaska Producers (CAP) appreciates the opportunity to comment on HB106, the bill that extends and now modifies the Alaska Coastal Management Program (ACMP).

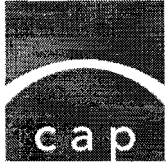
CAP is a non-profit trade association formed in 1992 and serves as a spokesperson for the industry. CAP brings together mining companies with interest in Alaska to represent and inform members on legislative and regulatory issues, to support and advance the mining industry, to provide education to members, the media, and the general public on mining related issues, and to promote economic opportunity and environmentally sound mining practices.

In prior testimony before the House Resources Committee we have testified in favor of a simple extension of the ACMP program as originally proposed by the administration in HB106. This reflects CAP's stance that permitting should be rigorous, science based, non-duplicative and predictable.

While that is still our preferred option, we do understand that there are significant concerns in the various coastal districts regarding their ability to develop enforceable policies and contribute meaningful local input in the consistency review process.

We appreciate the hard work that has been undertaken by the administration and the legislature in order to address the concerns of the local districts while ensuring that this critical program survives.

While we believe that many of the proposed changes will improve the program as intended, we do have significant concerns that must be addressed before we can support the committee substitute before you.



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Our primary concern is Section 12 of the committee substitute which repeals and reenacts AS 46.40.070 (b). This new section would:

- Allow a district coastal management plan to use state or federal authority to promulgate enforceable policies that establish new, more restrictive standards or requirements.
- Provide a “back door” around the so called “DEC carve out.” The DEC carve out prevents duplication of DEC permits, and under the 2003 ACMP precludes an enforceable policy that covers any matter that is the subject of a DEC regulation.

We are opposed to this new verbiage because we believe such legislative and administrative actions should only be taken by elected officials and State agencies. We also believe that enforceable policies should be based on science and be relatively the same throughout the State. The new AS 46.40.070(b) provides for ad hoc enforceable policies that could be different, or applied differently, for different projects in the same coastal district.

We respectfully request that this provision be eliminated from the committee substitute.

Our second point of concern is Section 14 of the CS that amends AS 46.40.096(d)(3)(C). This requires a signed order from at least two commissioners within 45 days of the initial request for an elevation, however there is no recourse in the statute if the commissioners do not complete their duties.

We request the addition of a default position saying that if no order has been signed by two commissioners within 45 days then DNR has the final say in the elevation.

Finally, we are very concerned with the lack of industry representation in the Coastal Policy Board created in Section 2. At a minimum, the “at large” position should be a member of one of the resource industries; however we would prefer a solution that allows fisheries, oil/gas, mining and timber to each have a seat on the board.

Thank you for your consideration in this matter,

Michael Satre
Executive Director

Testimony provided by Jason Brune, RDC, 4/11/11

Chairman Stoltze, Chairman Thomas, members of the Finance Committee. Thank you for the opportunity to testify today. For the record, my name is Jason Brune and I am the executive director of the Resource Development Council (RDC). RDC's membership is extremely diverse and has members on every side of this contentious issue, including oil and gas and mining companies, Alaska Native Corporations, and local governments such as the North Slope Borough.

Our previous testimony before House Resources endorsed the 6-year extension proposed in the original bill. We also endorsed the Governor's four principles for potential changes to the program.

1. The ACMP must maintain a predictable process.
2. The ACMP must be maintained as a strong state program, where participant input is valued.
3. ACMP standards and enforceable policies must be objective, and must not duplicate or redefine existing authorities.
4. Coastal districts should be afforded a meaningful role for input on projects, but should not possess a veto decision over projects.

Over the course of the last week, members of my Board held several meetings since the CS came forward from the Resources Committee. I also participated in a number of other meetings and conversations with other affected parties in the past week.

Let me be clear, we are not opposed to changes in the Alaska Coastal Management Program and indeed are committed to enhance local input and ensure coastal districts feel they have a meaningful role for input on projects.

Unfortunately, once again, this complex issue is being brought before us with less than 10 days to provide constructive feedback. This issue is way too important to my members to be dealt with without thorough review. Our members need predictability in their permitting process, and a number of the items in this CS have brought ambiguity to the process. As just one example, the new language states in section 17 (page 13, line 20) "and is not inconsistent with the statewide standards." Why not just say "is consistent with the statewide standards?" This type of language ambiguity brings a lot of concern and confusion to my members. Substantively, we have concerns with a number of sections, including section 12, section 14, and section 18.

Specifically regarding Section 12 we recommend the deletion of the language in subsection b (lines 20 and 21 on page 10) that states "unless the state or federal agency specifically objects." We also recommend the deletion of subsection d (lines 25-31 on page 10 and line 1 on page 11).

Regarding Section 14, page 12, section C (lines 15-18), we recommend the language be changed to, "shall be considered by the commissioners of the resource agencies within 45 days after the initial request for an elevation under this paragraph. If the decision is not rendered after 45 days, the commissioner of the department will have 10 days to render the final consistency determination and certification."

In section 18, clearly, special management areas need to be defined in much better detail.

And finally, we endorse the idea of having a Coastal Policy Board that comprises all of the affected parties, modeled after the Alaska Board of Forestry. Using this model, the Coastal Policy Board could be comprised of all of the entities that are included in the ACMP process. For example, 4 members from coastal districts and 4 members from the regulated community (fishing, mining, timber, and oil and gas). The Board of Forestry acts as a consensus minus one requirement. This ultimately forces compromise between all of the involved parties. The Board of Forestry is an award winning model that has been endorsed by the Alaska Conservation Alliance and RDC through winning the inaugural Tileston Award three years ago given jointly by both organizations. I believe this would be a great model for this committee to consider.

With that, thank you for the opportunity to testify today and I appreciate you taking comment on this very important issue.

Conclusion of Testimony.

Please let me know if you have questions. Again, thank you for the opportunity to testify and your service to the state.

Jason Brune
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(907) 276-0700
(907) 382-4353 (cell)

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Sec. 41.17.041. Board of Forestry.

- (a) The Board of Forestry is established in the division.
- (b) The board is composed of nine members appointed by the governor:
 - (1) a representative of a commercial fishermen's organization;
 - (2) a representative of a Native corporation established under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act);
 - (3) a representative of an environmental organization;
 - (4) a representative of a forest industry trade association;
 - (5) a professional fish or wildlife biologist who is not employed in that capacity by a state, municipal, or federal government agency, except for university employment;
 - (6) a professional forester who is not employed in that capacity by a state, municipal, or federal government agency, except for university employment;
 - (7) a representative of a mining organization;
 - (8) a representative of a recreational organization; and
 - (9) the state forester, who serves ex officio and without a vote.
- (c) The state forester is the presiding officer of the board and shall, in consultation with the board, establish procedures for scheduling and organizing board meetings. Seven voting members of the board constitute a quorum. Each decision of the board requires the affirmative vote of each voting member present less one.
- (d) A board member who is unable to attend a meeting may designate an alternate who possesses the same qualifications as the board member.
- (e) The division shall serve as staff to the board. The department, the Department of Fish and Game, and the Department of Environmental Conservation shall provide technical staffing and information as needed by the board.