

## Alaska Oil and Gas Association

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ALASKA OIL AND GAS ASSOCIATION  
TESTIMONY ON  
HB 74 – ALASKA COASTAL MANAGEMENT PROGRAM  
BEFORE  
HOUSE COMMUNITY & REGIONAL AFFAIRS COMMITTEE  
FEBRUARY 10, 2009

Mr. Chairman and Members of the Committee: My name is Marilyn Crockett and I am Executive Director of the Alaska Oil and Gas Association (AOGA). AOGA is a private, nonprofit trade association whose 16 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

Because virtually all operations of the members of AOGA take place within, or adjacent to, Alaska's coastal zone, we have been actively engaged in development and implementation of provisions of the Alaska Coastal Management Act (ACMA) and the subsequent Alaska Coastal Management Program (ACMP) since the program's inception in 1977. We provide these comments today as part of our ongoing involvement in deliberations related to this program.

Over the last 30 years there has been a significant evolution in federal and state environmental laws and regulations. In the late 1990s and early 2000s it became clear that the ACMP had become unmanageable in terms of process and scope, leading to confusion, misinterpretations and significant delays in processing permits, largely due to the significant evolution of environmental laws and regulations. The revisions to the program adopted by the Legislature in 2003 resolved these challenges and transformed the program into one that provides certainty for the State, local districts and the regulated community.

Unfortunately, HB74 as currently drafted effectively eliminates the certainty put into place by the Legislature in 2003. I will address a few specific examples.

Elimination of the "DEC Carve Out": One of the most problematic provisions of HB74 is elimination of the DEC Carve-out. This provision in existing law implements the original intent of the ACMP...that the air, land and water standards and permits administered by the State are inherently consistent with the ACMP and therefore the additional step of securing a consistency determination isn't necessary or required. These standards were developed after years of technical evaluation, and are implemented through permits that are

comprehensive and time-consuming, carrying with them statutory and regulatory requirements for extensive public comment, the time periods of which fall outside of the ACMP review schedules. The ADEC carve-out in no way diminishes a coastal district's opportunity to comment and provide input on a specific ADEC permit application.

As experienced in the program prior to the 2003 revision, elimination of the carve-out will result in consistency determinations on projects being held up until permits with long lead times are finalized, resulting in considerable delays in projects moving forward and a tremendous amount of uncertainty as to final approval for applicants to move forward.

Simply put, the ADEC carve-out avoids duplication of process and effort, eliminates the potential for inconsistent and conflicting permitting results, and improves the efficiency of the consistency review process.

Creation of a Coastal Policy Board: We are very concerned about the establishment of the Coastal Policy Board and the extensive responsibilities that will be vested with this Board. HB74 empowers the Board to approve all district programs and enforceable policies, changes to the coastal zone boundaries, statewide standards and changes to the program. The Department of Natural Resources may still adopt regulations, but only after approval of the Board, which will result in endless back-and-forth as DNR attempts to mesh its requirements under the Administrative Procedure Act with Board approval.

Further, experience under the previous Coastal Policy Council demonstrates that insertion of a Board into this process will result in considerable delays in program implementation because of the time required for action, given the infrequency of Board meetings, and the addition of another layer of approvals.

Predictability in timelines is eliminated: One of the most challenging aspects of any permitting program is the ability to rely on timelines for decision-making. This is especially true for operations in Alaska which often are faced with limited operating seasons where a delay in securing permits may result in a one-year delay in a project proceeding forward. Unfortunately, HB74 exempts activities proposed by a federal agency and activities permitted by a federal agency from the required deadlines for decisions. Virtually every project requires at least one federal permit, so the impact of this provision is dramatic. Further, oil and gas and other resource development activities are not the only activities that will be affected. Given the abundance of wetlands in Alaska's coastal zone, almost any activity, from homebuilding to construction of public facilities, will require a permit from the federal Corps of Engineers and therefore will be subjected to this timeline uncertainty.

Performance based enforceable policies are allowed: HB74 allows coastal districts to adopt performance-based enforceable policies. Applicants and districts are better served by clear and concise requirements because it eliminates the potential for misinterpretation and disagreements between parties as to whether a particular action proposed by the applicant will meet the performance based policy. Further, this will be especially challenging for districts with minimal resources to administer the program.

The coastal zone boundary will be expanded: HB74 expands the reach of review of activities from not only the coastal zone but also to “inland of the coastal zone if the activities would cause direct and significant impacts to a coastal use or resource”. During testimony at last week’s hearing on SB4 we heard a coastal district representative state that it is their desire to weigh in on projects adjacent to their district even if it means “over the mountain”. Such an expansion of the coastal zone boundary was never envisioned by the federal Coastal Zone Management Program or the State Program. This is another example of the uncertainty that faces project applicants in trying to determine whether their project is in or out of the ACMP.

To be successful and serve all entities in Alaska, any permitting program, and in particular the Alaska Coastal Management Program, must embody the following principles:

- Provide for development of Alaska’s resources for the benefit of all Alaska residents
- Contain clear and concise requirements
- Be unambiguous and avoid opportunities for misinterpretation
- Provide predictable and firm timelines
- Provide predictability regarding applicable requirements and scope
- Avoid duplication of other state and federal permitting programs
- Contain clear limits so that district policies not require agencies to implement authorities that were not granted them by the legislature or that contradict agency regulations.

At the end of the day, the challenge before you is achieving the necessary balance between development of state-owned resources for the benefit of all Alaskans while protecting unique coastal resources. We believe the program in place today strikes that important balance.

Thank you for the opportunity to testify this morning.