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Alaska State Legislature
REPRESENTATIVE REGGIE JOULE

Sponsor Statement

CS HB 74 Coastal Management Program

“An act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board.”

HB 74 is an effort to strengthen the partnership between the State of Alaska and coastal communities under the Coastal Management Program. This legislation will restore inter-agency cooperation in approving coastal districts enforceable policies, and will reinstate a meaningful seat at the table for coastal districts in the review of proposed state and federal resource development actions.

The bill focuses on four areas:

1. Restoring checks and balances by establishing a Coastal Policy Board representing coastal districts and state resource agencies;
2. Streamlining project reviews by reincorporating air and water quality concerns of the Department of Environmental Conservation into the consistency review process;
3. Restoring the ability of coastal districts to establish enforceable policies that do not conflict with state or federal law or address matters preempted by state or federal agencies; and
4. Restoring States' rights by reinstating provisions eliminated by 2003 legislation.

I support responsible development of our coastal resources. I believe this can best and most expeditiously be accomplished through restoring some meaningful involvement of coastal communities in development decisions that directly affect them.

CS House Bill 74 – Alaska Coastal Management Program (ACMP)

Sectional Analysis

26-LS0322/S

- Section 1:** Establishes the Alaska Coastal Policy Board (Board), composed of 5 public members representing coastal districts and commissioners of natural resources, fish and game, environmental conservation, and commerce, community and economic development.
- Section 2:** Clarifies that the Department of Natural Resources (Department) coordinates project consistency reviews for projects with only Department permits or for projects that involve two or more state resource agency permits.
- Section 3:** Establishes authority for the Department to adopt regulations after approval by the Board.
- Section 4:** Establishes powers for the Board including the ability to accept grants and take reasonable action to carry out provisions of AS 46.39 and AS 46.40.
- Section 5:** Establishes duties of the Board to approve statewide ACMP standards and criteria for district plan approval.
- Section 6:** Defines “board.”
- Section 7:** Provides for approval of ACMP program changes by the Board.
- Section 8:** Adds subsistence to the list of resources included in the ACMP objectives.
- Section 9:** Subsection (a) removes requirement for district enforceable policies to meet statewide standards. Clarifies that district enforceable policies apply to all land and water issues subject to the plan. Removes requirement to describe proper and improper uses. Changes the term “areas meriting special attention” to “special management areas.” Subsection (b) requires district enforceable policies to be clear and concise, prescriptive or performance-based, and supported by evidence if more specific than state or federal statutes or regulations.
- Section 10:** Makes conforming changes for board approval of ACMP regulations. Deleted language in AS 46.40.040(a)(2) – (5) moved to a new subsection (d).
- Section 11:** Moves language deleted from AS 46.40.040(a) to a new section outlining responsibilities of the Board.
- Section 12:** Makes conforming amendments by clarifying district plans must be approved by the Board.
- Section 13:** Establishes the review and approval process for coastal district plans, including provisions for districts to work with the Department to resolve issues before the Board approves a plan. Allows districts to request mediation of the Board’s decision.
- Section 14:** Establishes criteria for board approval of district plans and clarifies that district enforceable policies may not address matters preempted by state or federal laws.
- Section 15:** Makes conforming changes for board approval of ACMP regulations.

- Section 16:** Changes the term “subsequent review” to the commonly used term “elevation” and clarifies that the three state resource agencies make the final decision on a project elevation.
- Section 17:** Clarifies that aspects of an activity covered by a general or nationwide permit are excluded from a consistency review (rather than the entire activity). Eliminates language exempting Department of Environmental Conservation permits from consistency reviews.
- Section 18:** Makes conforming changes for Board approval of district enforceable policies.
- Section 19:** Allows ACMP consistency review of projects inland of the coastal zone if there would be direct and significant effects to coastal uses or resources. Clarifies that seismic survey activities in federal waters are subject to consistency reviews.
- Section 20:** Clarifies that categorically or generally consistent activities are for routine projects.
- Section 21:** Exempts federal activities and federally-permitted projects from the 90-day consistency review time limit. Allows extension of the time limit for adjudication of coastal district permits.
- Section 22:** Clarifies that “affected coastal resource district” includes districts with a publicly-reviewed draft plan or approved plan.
- Section 23:** Requires an individual consistency review for each Outer Continental Shelf lease sale.
- Section 24:** Gives the Board authority to act on a petition regarding non-implementation of a coastal district plan.
- Section 25 - 28:** Makes conforming amendment regarding Board action for a petition regarding non-implementation of a coastal district plan.
- Section 29:** Clarifies a coastal resource service area (CSRA) may accept new matter submitted by a city or village into its coastal management plan.
- Section 30:** Clarifies that municipalities and CRSAs are not prohibited from joint administration of functions.
- Section 31:** Removes language about boroughs that do not exercise planning and zoning authority.
- Section 32:** Makes conforming amendment clarifying the board’s role in coastal boundary changes.
- Section 33 - 34:** Makes conforming amendment regarding the board’s role in approving district plans and district enforceable policies.
- Section 35:** Clarifies that the term “project” includes federal activities and federally-permitted activities.
- Section 36:** Adds new definitions for the terms “Board” and “special management areas.”
- Section 37:** Repeals exemption of Department of Environmental Conservation permits from consistency reviews (AS 46.40.040(b)–(c) and AS 46.40.096(i)). Removes requirement for re-submittal of district plans every 10 years (AS 46.40.050(a)). Removes exemption of shallow gas projects from ACMP reviews (AS 46.40.205). Removes definition for “areas meriting special attention” (AS 46.40.210(1)).

**Changes between HB 74 (CRA, 26-LS0322\R) and CS HB 106 (CRA,
26-LS0402\S)**
March 10, 2009

Section 9

Page 7 lines 17-22 were amended to elucidate the requirements for coastal district enforceable policies. The first substantive amendment eliminates “contemporary or traditional local knowledge” as forms of evidence to support a coastal district policy, leaving “scientific or local knowledge” as appropriate evidence. The second substantive change is that district policies must be supported by evidence if “more specific” than state or federal law. This replaces the requirement of evidence if the policy is “stricter or more specific” than state or federal law.

Section 14

This section was amended to clarify requirements for board approval of district management plans. The first amendment at page 11 line 13 adds to the criteria for board approval a requirement that enforceable policies cannot be preempted by state law in addition to federal law, which appears in version \R. The second amendment at page 11 lines 22-25 is the addition of an explanation for what constitutes state preemption of a coastal district policy.

Section 30

Version \S retracts the insertion of a new section 46.40.190(a) pertaining to cooperative administration of the ACMP, which in \R occurred on page 16 line 21.

Section 31

Version \S retracts an amendment to the definition of “coastal resource district,” which occurred in \R on page 17 lines 8-23.

CS FOR HOUSE BILL NO. 74(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/5/09

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVES JOULE, EDGMON, AND BUCH

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska coastal management program; and establishing the**
2 **Alaska Coastal Policy Board."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 46.39 is amended by adding a new section to article 1 to read:

5 **Sec. 46.39.005. Alaska Coastal Policy Board.** (a) There is created in the
6 Department of Natural Resources the Alaska Coastal Policy Board. The board consists
7 of the following:

8 (1) five public members appointed by the governor, including one at-
9 large member from any coastal district and four members from a list composed of at
10 least three names from each region, nominated and submitted by the coastal districts
11 of each region; one public member shall be appointed from each of the following
12 regions:

13 (A) northwest Alaska, including, generally, the area of the
14 North Slope Borough and the Northwest Arctic Borough; and the Bering Strait

1 area, including, generally, the area of the Bering Strait regional educational
2 attendance area;

3 (B) southwest Alaska, including, generally, the area within the
4 Lower Yukon, Lower Kuskokwim, and Southwest regional educational
5 attendance areas and the Lake and Peninsula and Bristol Bay Boroughs; and
6 the Kodiak-Aleutians area, including the Kodiak Island and area of the
7 Aleutians East Boroughs and the area of the Aleutian, Adak, and Pribilof
8 regional educational attendance areas;

9 (C) Upper Cook Inlet area, including the Municipality of
10 Anchorage and the Matanuska-Susitna Borough; the Lower Cook Inlet area,
11 including, generally, the Kenai Peninsula Borough; and the Prince William
12 Sound area, including, generally, the area east of the Kenai Peninsula Borough
13 to 141 West longitude; and

14 (D) Southeast Alaska, generally the area east of 141 West
15 longitude;

16 (2) each of the following:

17 (A) the commissioner of environmental conservation;

18 (B) the commissioner of fish and game;

19 (C) the commissioner of natural resources; and

20 (D) the commissioner of commerce, community, and economic
21 development.

22 (b) Each public member appointed by the governor under (a)(1) of this section
23 serves a term of two years and until a successor is appointed and qualified. A public
24 member may be reappointed.

25 (c) The board shall designate co-chairs, one of whom shall be selected from
26 among the public members appointed under (a)(1) of this section and one from among
27 the members designated in (a)(2) of this section.

28 (d) Each member of the board shall select one person to serve as a permanent
29 alternate at meetings of the board. If a member of the board is unable to attend, the
30 member shall advise the alternate, who may attend and act in the place of the member.
31 The alternate for each public member appointed under (a)(1) of this section shall be

1 approved by the coastal districts in the region from which the public member was
 2 appointed. The alternate for a commissioner serving under (a)(2) of this section shall
 3 be a deputy commissioner or the director of a division in the commissioner's
 4 department. The names of alternates shall be filed with the board.

5 (e) Three public members and two designated members of the board constitute
 6 a quorum, but the board may delegate to one or more of its members the power to hold
 7 hearings. All decisions of the board shall be by a majority vote of the members present
 8 and voting.

9 (f) Members of the board or their alternates are entitled to per diem and travel
 10 expenses authorized by law for members of boards and commissions.

11 (g) Administrative support for the board shall be provided by the division in
 12 the department responsible for coastal and ocean management. The director of the
 13 division in the department responsible for coastal and ocean management, under
 14 direction of the co-chair designated by the board from the individuals listed in (a)(2)
 15 of this section, may contract with or employ persons as necessary to assist the board in
 16 carrying out the board's duties and responsibilities.

17 * **Sec. 2.** AS 46.39.010(a) is amended to read:

18 (a) The Department of Natural Resources shall render, on behalf of the state,
 19 all federal consistency determinations and certifications authorized by 16 U.S.C. 1456
 20 (Sec. 307, Coastal Zone Management Act of 1972), and each conclusive state
 21 consistency determination when a project requires a permit, lease, or authorization
 22 **from the department or** from two or more state resource agencies.

23 * **Sec. 3.** AS 46.39.010(b) is amended to read:

24 (b) The department may adopt regulations **approved by the board** necessary
 25 to implement this chapter.

26 * **Sec. 4.** AS 46.39.030 is amended to read:

27 **Sec. 46.39.030. Powers of the board [DEPARTMENT].** The **board**
 28 [DEPARTMENT] may

29 (1) apply for and accept grants, contributions, and appropriations,
 30 including application for and acceptance of federal funds that may become available
 31 for coastal planning and management;

- 1 (2) contract for necessary services;
- 2 (3) consult and cooperate with
- 3 (A) persons, organizations, and groups, public or private,
- 4 interested in, affected by, or concerned with coastal area planning and
- 5 management;
- 6 (B) agents and officials of the coastal resource districts of the
- 7 state, and federal and state agencies concerned with or having jurisdiction over
- 8 coastal planning and management;
- 9 (4) take any reasonable action necessary to carry out the provisions of
- 10 this chapter or AS 46.40.

11 * **Sec. 5.** AS 46.39.040 is amended to read:

12 **Sec. 46.39.040. Duties of the board [DEPARTMENT].** In conformity with

13 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the

14 **board [DEPARTMENT]** shall

15 (1) **approve** [DEVELOP] statewide standards for the Alaska coastal

16 management program [,] and criteria for the preparation and approval of district

17 coastal management plans **developed by the department** in accordance with

18 AS 46.40;

19 (2) establish continuing coordination among state agencies to facilitate

20 the development and implementation of the Alaska coastal management program; in

21 carrying out its duties under this paragraph, the department shall initiate an

22 interagency program of comprehensive coastal resource planning for each geographic

23 region of the state;

24 (3) assure continued provision of data and information to coastal

25 resource districts to carry out their planning and management functions under the

26 program.

27 * **Sec. 6.** AS 46.39.900 is amended to read:

28 **Sec. 46.39.900. Definitions [DEFINITION].** In this chapter, unless the

29 context requires otherwise,

30 (1) **"board" means the Alaska Coastal Policy Board established in**

31 **AS 46.39.005;**

1 (2) "department" means the Department of Natural Resources.

2 * Sec. 7. AS 46.40.010 is amended to read:

3 **Sec. 46.40.010. Development of Alaska coastal management program.** (a)
4 The Alaska Coastal Policy Board [DEPARTMENT] shall approve, in accordance
5 with this chapter, program changes to the Alaska coastal management program.

6 (b) The board [DEPARTMENT] may approve the Alaska coastal
7 management program for a portion or portions of the coastal area before approving the
8 [COMPLETE] program changes under (a) of this section. Portions of the program
9 approved under this subsection shall be incorporated into the Alaska coastal
10 management program.

11 (c) The Alaska coastal management program shall be reviewed by the board
12 [DEPARTMENT] and, when appropriate, revised to

13 (1) add newly approved district coastal management plans [,] or
14 revisions and amendments to the Alaska coastal management program;

15 (2) integrate newly approved district coastal management plans [,] or
16 revisions and amendments of district coastal management plans [,] with existing
17 approved plans and with plans developed by state agencies;

18 (3) add new or revised state statutes, policies, regulations, or other
19 appropriate material;

20 (4) evaluate [REVIEW] the effectiveness [OF IMPLEMENTATION]
21 of district coastal management plans; and

22 (5) consider new information acquired by the state and coastal resource
23 districts.

24 (d) All reviews and revisions shall be in accordance with the statewide
25 standards and district plan criteria adopted under AS 46.40.040.

26 * Sec. 8. AS 46.40.020 is amended to read:

27 **Sec. 46.40.020. Objectives.** The Alaska coastal management program shall be
28 consistent with the following objectives:

29 (1) the use, management, restoration, and enhancement of the overall
30 quality of the coastal environment;

31 (2) the development of industrial or commercial enterprises that are

1 consistent with the social, cultural, historic, economic, and environmental interests of
2 the people of the state;

3 (3) the orderly, balanced utilization and protection of the resources of
4 the coastal area consistent with sound conservation and sustained yield principles;

5 (4) the management of coastal land and water uses in such a manner
6 that, generally, those uses that [WHICH] are economically or physically dependent on
7 a coastal location are given higher priority when compared to uses that [WHICH] do
8 not economically or physically require a coastal location;

9 (5) the protection and management of significant historic, cultural,
10 natural, subsistence, and aesthetic values and natural systems or processes within the
11 coastal area;

12 (6) the prevention of damage to or degradation of land and water
13 reserved for their natural and subsistence values as a result of inconsistent land or
14 water usages adjacent to that land;

15 (7) the recognition of the need for a continuing supply of energy to
16 meet the requirements of the state and the contribution of a share of the state's
17 resources to meet national energy needs; and

18 (8) the full and fair evaluation of all demands on the land and water in
19 the coastal area.

20 * **Sec. 9.** AS 46.40.030 is amended to read:

21 **Sec. 46.40.030. Development of district coastal management plans.** (a)
22 Coastal resource districts shall develop and adopt district coastal management plans in
23 accordance with the provisions of this chapter. The plan adopted by a coastal resource
24 district shall be based upon a municipality's existing comprehensive plan or a new
25 comprehensive resource use plan or comprehensive statement of needs, policies,
26 objectives, and standards governing the use of resources within the coastal area of the
27 district. The plan must meet the [STATEWIDE STANDARDS AND] district plan
28 criteria adopted under AS 46.40.040 and must include

29 (1) a delineation within the district of the boundaries of the coastal area
30 subject to the district coastal management plan;

31 (2) a statement, list, or definition of the land and water uses and

1 activities subject to the district coastal management plan;

2 (3) a statement of policies to be applied to all [THE] land and water
3 uses subject to the district coastal management plan as well as policies that apply
4 only to special management areas; and

5 (4) [A DESCRIPTION OF THE USES AND ACTIVITIES THAT
6 WILL BE CONSIDERED PROPER AND THE USES AND ACTIVITIES THAT
7 WILL BE CONSIDERED IMPROPER WITH RESPECT TO THE LAND AND
8 WATER WITHIN THE COASTAL AREA; AND

9 (5)] a designation of any special management [, AND THE
10 POLICIES THAT WILL BE APPLIED TO THE USE OF,] areas under [WITHIN]
11 the district coastal management plan and enforceable policies that will be
12 applicable within those special management areas [RESOURCE DISTRICT THAT
13 MERIT SPECIAL ATTENTION].

14 (b) In developing enforceable policies in its coastal management plan under
15 (a) of this section, a coastal resource district shall ensure that the enforceable
16 policies are

17 (1) clear and concise as to the activities and persons affected by the
18 policies and the requirements of the policies whether the policies are prescriptive
19 or performance-based;

20 (2) necessary given local conditions; and

21 (3) supported by evidence, including scientific or local knowledge,
22 if the policies are more specific than state or federal statutes or regulations
23 [MEET THE REQUIREMENTS OF AS 46.40.070 AND MAY NOT DUPLICATE,
24 RESTATE, OR INCORPORATE BY REFERENCE STATUTES AND
25 ADMINISTRATIVE REGULATIONS ADOPTED BY STATE OR FEDERAL
26 AGENCIES].

27 * **Sec. 10.** AS 46.40.040(a) is amended to read:

28 (a) Except as provided in [(b) OF THIS SECTION AND] AS 41.17, the
29 department shall, after approval by the board,

30 (1) by regulation, adopt, under the provisions of AS 44.62
31 (Administrative Procedure Act) for the use of and application by coastal resource

1 districts and state agencies for carrying out their responsibilities under this chapter,
2 statewide standards and district coastal management plan criteria for

3 (A) identifying the boundaries of the coastal area subject to the
4 Alaska coastal management program;

5 (B) determining the land and water uses and activities subject
6 to the Alaska coastal management program;

7 (C) developing policies applicable to the land and water uses
8 subject to the Alaska coastal management program;

9 (D) developing regulations applicable to the land and water
10 uses subject to the Alaska coastal management program;

11 (E) developing policies and procedures to determine whether
12 specific proposals for the land and water uses or activities subject to the Alaska
13 coastal management program shall be allowed;

14 (F) designating and developing policies for special
15 management areas [THE USE OF AREAS OF THE COAST THAT MERIT
16 SPECIAL ATTENTION]; and

17 (G) measuring the progress of a coastal resource district in
18 meeting its responsibilities under this chapter;

19 (2) [DEVELOP AND MAINTAIN A PROGRAM OF TECHNICAL
20 AND FINANCIAL ASSISTANCE TO AID COASTAL RESOURCE DISTRICTS IN
21 THE DEVELOPMENT AND IMPLEMENTATION OF DISTRICT COASTAL
22 MANAGEMENT PLANS;

23 (3) UNDERTAKE REVIEW AND APPROVAL OF DISTRICT
24 COASTAL MANAGEMENT PLANS IN ACCORDANCE WITH THIS CHAPTER;

25 (4) INITIATE A PROCESS FOR IDENTIFYING AND MANAGING
26 USES OF STATE CONCERN WITHIN SPECIFIC AREAS OF THE COAST;

27 (5) DEVELOP PROCEDURES OR GUIDELINES FOR
28 CONSULTATION AND COORDINATION WITH FEDERAL AGENCIES
29 MANAGING LAND OR CONDUCTING ACTIVITIES POTENTIALLY
30 AFFECTING THE COASTAL AREA OF THE STATE;

31 (6)] by regulation, establish a consistency review and determination or

1 certification process that conforms to the requirements of AS 46.40.096.

2 * **Sec. 11.** AS 46.40.040 is amended by adding a new subsection to read:

3 (d) Except as provided in AS 41.17, the board shall

4 (1) develop and maintain a program of technical and financial
5 assistance to aid coastal resource districts in the development and implementation of
6 district coastal management plans;

7 (2) undertake review of and, after public hearing, approve district
8 coastal management plans in accordance with this chapter;

9 (3) initiate a process for identifying and managing uses of state
10 concern within specific areas of the coast;

11 (4) develop procedures or guidelines for consultation and coordination
12 with federal agencies managing land or conducting activities potentially affecting the
13 coastal area of the state.

14 * **Sec. 12.** AS 46.40.050(b) is amended to read:

15 (b) Within 30 months after certification of the organization of a new coastal
16 resource district, the coastal resource district shall complete and submit to the **board**
17 [DEPARTMENT] a proposed district coastal management plan. If, after receipt of a
18 written request for extension from the coastal resource district, the **board**
19 [DEPARTMENT] considers an extension proper, the **board** [DEPARTMENT] may
20 grant an extension to a date that is within 54 months after certification of the results of
21 the coastal resource district's organization. A request under this subsection must
22 include the reasons for the extension.

23 * **Sec. 13.** AS 46.40.060 is repealed and reenacted to read:

24 **Sec. 46.40.060. Review and approval.** (a) A coastal resource district shall
25 submit its district coastal management plan for review by the department. The division
26 in the department responsible for coastal and ocean management shall attempt to reach
27 a consensus with a coastal resource district concerning any changes required to
28 comply with the district plan criteria approved by the department and the board.

29 (b) If a consensus between the division and the coastal resource district is
30 reached, the division shall forward a recommendation to the commissioner, and the
31 commissioner shall submit the recommendation to the board.

1 (c) If a consensus between the division and the coastal resource district is not
2 reached, the division shall forward a recommendation to the commissioner with an
3 explanation of the reasons for its recommendation and, if applicable, offer
4 recommended changes to the district coastal management plan that would meet the
5 district plan criteria. The coastal resource district may request that the commissioner
6 reconsider the division's recommendation before the commissioner submits the
7 recommendation to the board.

8 (d) If, after receiving the commissioner's recommendation, the board finds that
9 the district coastal management plan meets the provisions of this chapter and the
10 district plan criteria adopted by the department, the board may approve the district
11 coastal management plan or may approve portions of the district coastal management
12 plan that meet those requirements.

13 (e) If the board finds that a district coastal management plan is not approvable
14 or is approvable only in part under (d) of this section, the board shall direct the
15 department to meet with officials of the coastal resource district to resolve differences.
16 If requested by a coastal resource district, the board shall direct that deficiencies in the
17 district coastal management plan submitted by the coastal resource district be resolved
18 through mediation conducted by a neutral third party. During mediation, the board
19 may call for one or more public hearings in the district.

20 (f) If, after mediation, the differences have not been resolved and mutually
21 agreed to by the coastal resource district and the board, the board shall enter findings
22 and, by order, may require

23 (1) that the district coastal management plan be amended to satisfy the
24 provisions of this chapter or meet the statewide standards and district plan criteria
25 approved by the board;

26 (2) that the district coastal management plan be revised to
27 accommodate a use of state concern; or

28 (3) any other action be taken by the coastal resource district, as
29 appropriate.

30 (g) An order of the board entered under (f) of this section is a final
31 administrative order that the coastal resource district may appeal to the superior court

1 under AS 44.62 (Administrative Procedure Act). The attorney general, at the request
 2 of the board, may file an action in superior court to enforce an order issued under (f)
 3 of this section.

4 * **Sec. 14.** AS 46.40.070 is repealed and reenacted to read:

5 **Sec. 46.40.070. Requirements for board review and approval.** (a) The board
 6 shall approve a district coastal management plan submitted for review and approval if
 7 the

8 (1) district coastal management plan meets the requirements of this
 9 chapter and the district plan criteria adopted by the department; and

10 (2) enforceable policies of the district coastal management plan

11 (A) do not duplicate, restate, or incorporate by reference state
 12 or federal statutes or regulations;

13 (B) are not preempted by federal or state law; and

14 (C) do not arbitrarily or unreasonably restrict a use of state
 15 concern.

16 (b) In (a)(2)(B) of this section, an enforceable policy of the district coastal
 17 management plan is preempted

18 (1) by federal statutes or regulations if the United States Congress
 19 expressly declares that local law or regulation is preempted, if the United States
 20 Congress demonstrates the intent to occupy the field exclusively, or if there is an
 21 actual conflict between federal and local law or regulation;

22 (2) by state law if it is prohibited, either by express legislative
 23 direction or direct conflict with a state statute or regulation, or where a local law or
 24 regulation substantially interferes with the effective functioning of a state statute or
 25 regulation or the underlying purposes of a state statute or regulation.

26 * **Sec. 15.** AS 46.40.096(a) is amended to read:

27 (a) The department shall, by regulation approved by the board, establish a
 28 consistency review and determination process that conforms to the requirements of
 29 this section.

30 * **Sec. 16.** AS 46.40.096(d) is amended to read:

31 (d) In preparing a consistency review and determination for a proposed

1 project, the reviewing entity shall

2 (1) request consistency review comments for the proposed project
3 from state resource agencies, affected coastal resource districts, and other interested
4 parties as determined by regulation adopted by the department;

5 (2) prepare proposed consistency determinations;

6 (3) coordinate elevations [SUBSEQUENT REVIEWS] of proposed
7 consistency determinations prepared under (2) of this subsection; an elevation [A
8 SUBSEQUENT REVIEW] of a proposed consistency determination under this
9 paragraph

10 (A) is limited to a review by state resource agencies [THE
11 DEPARTMENT];

12 (B) may occur only if requested by

13 (i) the project applicant;

14 (ii) a state resource agency; or

15 (iii) an affected coastal resource district; and

16 (C) shall be completed by the resource agencies
17 [DEPARTMENT] within 45 days after the initial request for subsequent
18 review under this paragraph;

19 (4) render the final consistency determination and certification.

20 * Sec. 17. AS 46.40.096(g) is amended to read:

21 (g) The reviewing entity shall exclude from the consistency review and
22 determination process for a project

23 (1) an aspect of an activity that

24 [(A)] is specifically authorized under a general or nationwide
25 permit that has previously been determined to be consistent with the Alaska
26 coastal management program; [OR

27 (B) IS SUBJECT TO AUTHORIZATION BY THE
28 DEPARTMENT OF ENVIRONMENTAL CONSERVATION UNDER THE
29 REQUIREMENTS DESCRIBED IN AS 46.40.040(b);]

30 (2) activities excluded from a consistency review under AS 41.17; and

31 (3) the issuance of an authorization or permit issued by the Alaska Oil

1 and Gas Conservation Commission.

2 * **Sec. 18.** AS 46.40.096(k) is amended to read:

3 (k) Except as provided in (g) of this section, AS 41.17, [AS 46.40.040(b),] and
 4 AS 46.40.094, the scope of a consistency review of a project, once triggered under (j)
 5 of this section, is limited to activities that are located within the areas described in (l)
 6 of this section and that either are subject to a state resource agency permit, lease,
 7 authorization, approval, or certification or are the subject of a coastal resource district
 8 enforceable policy approved by the **board** [DEPARTMENT] under this chapter. The
 9 scope of a consistency review subject to 16 U.S.C. 1456 is determined under 16
 10 U.S.C. 1456 and 15 C.F.R. Part 930.

11 * **Sec. 19.** AS 46.40.096(l) is amended to read:

12 (l) The regulations adopted under (a) of this section apply, as authorized by 16
 13 U.S.C. 1456(c), to

14 (1) activities within the coastal zone **or inland of the coastal zone if**
 15 **the activities would cause direct and significant impacts to a coastal use or**
 16 **resource**; and

17 (2) activities on federal land **and water**, including the federal outer
 18 continental shelf, that would affect any land or water use or natural resource of the
 19 state's coastal zone; for purposes of this paragraph, those activities consist of any
 20 activity on the federal outer continental shelf, **including seismic survey activity**, and
 21 any activity on federal land that are within the geographic boundaries of the state's
 22 coastal zone notwithstanding the exclusion of federal land in 16 U.S.C. 1453(1).

23 * **Sec. 20.** AS 46.40.096(m) is amended to read:

24 (m) As part of the regulations adopted under (a) of this section, the department
 25 shall establish a list of permits, certifications, leases, approvals, and authorizations
 26 issued by a state resource or federal agency that will trigger a consistency review
 27 under (j) of this section. In addition, the department shall establish in regulation
 28 categories and descriptions of uses and activities that, for purposes of evaluating
 29 consistency with the Alaska coastal management program, are determined to be
 30 categorically consistent or generally consistent after the inclusion of standard
 31 alternative measures. These categories of uses and activities must be as broad as

1 possible so as to minimize the number of routine projects that must undergo an
 2 individualized consistency review under this section.

3 * **Sec. 21.** AS 46.40.096(o) is amended to read:

4 (o) The time limitations in (n) of this section

5 (1) do not apply to a consistency review involving

6 (A) the disposal of an interest in state land or resources;

7 (B) an activity proposed by a federal agency; or

8 (C) an activity permitted by a federal agency;

9 (2) are suspended

10 (A) from the time a review schedule is modified in response
 11 to [THE REVIEWING ENTITY DETERMINES THAT THE APPLICANT
 12 HAS NOT ADEQUATELY RESPONDED IN WRITING WITHIN 14 DAYS
 13 AFTER THE RECEIPT OF] a written request from the reviewing entity for
 14 additional information, until the time the reviewing entity determines that the
 15 applicant has provided an adequate written response;

16 (B) during a period of time requested by the applicant;

17 (C) during the period of time a consistency review is
 18 undergoing a subsequent review under (d)(3) of this section;

19 (D) for 30 days if requested by an affected coastal resource
 20 district exercising authority under AS 29 to accommodate the
 21 adjudication process of an authorization issued by a coastal resource
 22 district pending the results of the adjudication.

23 * **Sec. 22.** AS 46.40.096(q)(1) is amended to read:

24 (1) "affected coastal resource district" means a coastal resource district
 25 with a publicly reviewed draft or approved plan in which a project is proposed to
 26 be located or that [WHICH] may experience a direct and significant impact from a
 27 proposed project;

28 * **Sec. 23.** AS 46.40.096 is amended by adding a new subsection to read:

29 (r) Notwithstanding any provision of this section, for federal agency activities
 30 defined in 15 C.F.R. 930.31, including Outer Continental Shelf lease sales and
 31 development projects, the department shall conduct a full consistency review and

1 provide its consistency response with respect to proposed uses or activities involved in
2 the project regardless of whether an earlier consistency review for a similar project has
3 been completed.

4 * **Sec. 24.** AS 46.40.100(b) is amended to read:

5 (b) A party that is authorized under (g) of this section may file a petition
6 showing that a district coastal management plan is not being implemented. A petition
7 filed under this subsection may not seek review of a proposed or final consistency
8 determination regarding a specific project. On receipt of a petition, the **board**
9 [DEPARTMENT], after giving public notice in the manner required by (f) of this
10 section, shall convene a hearing to consider the matter. A hearing called under this
11 subsection shall be held in accordance with regulations adopted under this chapter.
12 After **the** hearing, the **board** [DEPARTMENT] may order that the coastal resource
13 district or a state resource agency take any action with respect to future
14 implementation of the district coastal management plan that the **board**
15 [DEPARTMENT] considers necessary, except that the **board** [DEPARTMENT] may
16 not order that the coastal resource district or a state agency take any action with
17 respect to a proposed or final consistency determination that has been issued.

18 * **Sec. 25.** AS 46.40.100(c) is amended to read:

19 (c) In determining whether an approved district coastal management plan is
20 being implemented by a coastal resource district that exercises zoning authority or
21 controls on the use of resources within the coastal area or by a state resource agency,
22 the **board** [DEPARTMENT] shall find in favor of the district or the state resource
23 agency, unless the **board** [DEPARTMENT] finds a pattern of nonimplementation.

24 * **Sec. 26.** AS 46.40.100(e) is amended to read:

25 (e) The superior courts of the state have jurisdiction to enforce lawful orders
26 of the **board and the** department under this chapter.

27 * **Sec. 27.** AS 46.40.100(f) is amended to read:

28 (f) Upon receipt of a petition under (b) of this section, the **board**
29 [DEPARTMENT] shall give notice of the hearing at least 10 days before the
30 scheduled date of the hearing. The notice must

31 (1) contain sufficient information in commonly understood terms to

1 inform the public of the nature of the petition; and

2 (2) indicate the manner in which the public may comment on the
3 petition.

4 * **Sec. 28.** AS 46.40.100(h) is amended to read:

5 (h) If the **board** [DEPARTMENT] finds a pattern of nonimplementation
6 under (c) of this section, the **board** [DEPARTMENT] may order a coastal resource
7 district or a state resource agency to take action with respect to future implementation
8 of the district coastal management plan that the **board** [DEPARTMENT] considers
9 necessary to implement the district coastal management plan. The **board's**
10 [DEPARTMENT'S] determination under (c) of this section and any order issued under
11 this subsection shall be considered a final administrative order for purposes of judicial
12 review under AS 44.62.560.

13 * **Sec. 29.** AS 46.40.180(b) is amended to read:

14 (b) If a city or village within a coastal resource service area fails to approve a
15 portion of the district coastal management plan prepared and submitted for approval
16 under (a) of this section, the governing body shall advise the coastal resource service
17 area board of its objections to the proposed plan and suggest alternative elements or
18 components for inclusion in the district coastal management plan. New matter
19 submitted by a city or village that meets the [STATEWIDE STANDARDS AND]
20 district plan criteria adopted under this chapter **may** [SHALL] be accepted **by the**
21 **district** and the district coastal management plan modified accordingly. If a city or
22 village fails to provide objections and suggested alternatives within the time limits
23 established in this section, the coastal resource service area board may adopt the
24 district coastal management plan as initially offered.

25 * **Sec. 30.** AS 46.40.190(b) is amended to read:

26 (b) This chapter does not restrict or prohibit cooperative or joint
27 administration of functions between a municipality and a coastal resource service area
28 organized under the provisions of this chapter upon initiation of a mutual agreement
29 for the purpose. [A CITY THAT ELECTS TO BE EXCLUDED FROM AN
30 ADJACENT COASTAL RESOURCE SERVICE AREA UNDER (a) OF THIS
31 SECTION SHALL ENTER INTO A MUTUAL AGREEMENT FOR

1 COOPERATIVE OR JOINT ADMINISTRATION OF FUNCTIONS WITH THE
 2 COASTAL RESOURCE SERVICE AREA BOARD FROM THE ADJACENT
 3 COASTAL RESOURCE SERVICE AREA.]

4 * **Sec. 31.** AS 46.40.210(4) is amended to read:

5 (4) "coastal zone" means the coastal water including land within and
 6 under that water, and adjacent shoreland, including the water within and under that
 7 shoreland, within the boundaries approved by the former Alaska Coastal Policy
 8 Council and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465
 9 (Coastal Zone Management Act of 1972, as amended); "coastal zone" includes areas
 10 added as a result of any boundary changes approved by the **board** [DEPARTMENT]
 11 and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465;
 12 "coastal zone" does not include

13 (A) those lands excluded under 16 U.S.C. 1453(1); or

14 (B) areas deleted as a result of any boundary changes by the
 15 **board** [DEPARTMENT] in conformance with 16 U.S.C. 1451 - 1465;

16 * **Sec. 32.** AS 46.40.210(7) is amended to read:

17 (7) "district coastal management plan" means a plan developed by a
 18 coastal resource district, including enforceable policies of that plan, setting out
 19 policies and standards to guide public and private uses of land and water within that
 20 district and approved by the **board** [DEPARTMENT] as meeting the requirements of
 21 this chapter and the regulations adopted under this chapter;

22 * **Sec. 33.** AS 46.40.210(8) is amended to read:

23 (8) "enforceable policy" means a policy established by this chapter or
 24 approved by the **board** [DEPARTMENT] as a legally binding policy of the Alaska
 25 coastal management program applicable to public and private activities;

26 * **Sec. 34.** AS 46.40.210(9) is amended to read:

27 (9) "project" means all activities that will be part of a proposed
 28 development **and includes all federal agency activities as defined in 15 C.F.R.**
 29 **930.31, including lease sales and development projects affecting a coastal use or**
 30 **resource;**

31 * **Sec. 35.** AS 46.40.210 is amended by adding new paragraphs to read:

1 (13) "board" has the meaning given in AS 46.39.900;

2 (14) "special management area" means a delineated geographic area
3 within the coastal area that is sensitive to change or alteration and that, because of
4 plans or commitments or because a claim on the resources within the area delineated
5 would preclude subsequent use of the resources to a conflicting or incompatible use,
6 warrants special management attention, or that, because of its value to the general
7 public, should be identified for current or future planning, protection, or acquisition;
8 these areas, subject to the board's definition of criteria for their identification, include:

9 (A) areas of unique, scarce, fragile or vulnerable natural
10 habitat, cultural value, historical significance, or scenic importance;

11 (B) areas of high natural productivity or essential habitat for
12 living resources;

13 (C) areas of substantial recreational value or opportunity;

14 (D) areas where development of facilities is dependent upon
15 the utilization of, or access to, coastal water;

16 (E) areas of unique geologic or topographic significance that
17 are susceptible to industrial or commercial development;

18 (F) areas of significant hazard due to storms, slides, flooding,
19 earthquakes, active faults, tsunamis, volcanoes, liquefaction, ice movement or
20 snow avalanches, or erosion; and

21 (G) areas needed to protect, maintain, or replenish coastal land
22 or resources, including coastal flood plains, aquifer recharge areas, beaches,
23 and offshore sand deposits.

24 * **Sec. 36.** AS 46.40.040(b), 46.40.040(c), 46.40.050(a), 46.40.096(i), 46.40.205, and
25 46.40.210(1) are repealed.

**Changes between HB 74 (CRA, 26-LS0322\R) and CS HB 106 (CRA,
26-LS0402\S)**

March 10, 2009

Section 9

Page 7 lines 17-22 were amended to elucidate the requirements for coastal district enforceable policies. The first substantive amendment eliminates “contemporary or traditional local knowledge” as forms of evidence to support a coastal district policy, leaving “scientific or local knowledge” as appropriate evidence. The second substantive change is that district policies must be supported by evidence if “more specific” than state or federal law. This replaces the requirement of evidence if the policy is “stricter or more specific” than state or federal law.

Section 14

This section was amended to clarify requirements for board approval of district management plans. The first amendment at page 11 line 13 adds to the criteria for board approval a requirement that enforceable policies cannot be preempted by state law in addition to federal law, which appears in version \R. The second amendment at page 11 lines 22-25 is the addition of an explanation for what constitutes state preemption of a coastal district policy.

Section 30

Version \S retracts the insertion of a new section 46.40.190(a) pertaining to cooperative administration of the ACMP, which in \R occurred on page 16 line 21.

Section 31

Version \S retracts an amendment to the definition of “coastal resource district,” which occurred in \R on page 17 lines 8-23.

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF COASTAL AND OCEAN MANAGEMENT
<http://www.alaskacoast.state.ak.us>

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April 18, 2009

The Honorable Mark Neuman
Alaska House of Representatives
State Capitol, Rom 432
Juneau, AK 99801-1182

RE: Alaska Coastal Management Program

Dear Mr. Neuman:

In our conversation on April 14 and in the House Resources committee hearing on April 15, you requested that I put together a list or otherwise summarize the issues that were identified by Alaska Coastal Management Program (ACMP) participants during the recent re-evaluation effort led by the Department of Natural Resources, Division of Coastal and Ocean Management (DCOM). The following is a list of those issues with a brief description. It is important to recognize that there were comments addressing each of the following that either supported or opposed change to the ACMP subject.

1. Oversight of the ACMP – Comments addressed the development, structure, role, authority, and appropriateness of an oversight body for the ACMP (e.g., Coastal Policy Board or Council). Comments were also received addressing the location of the ACMP and DCOM (e.g., relocated to DFG, DCCED, or the Governor's Office).
2. Department of Environmental Conservation "carve-out" – Comments addressed the carve-out of DEC authorities from the coordinated consistency review, as well as whether coastal districts could address air and water quality issues under DEC authority.
3. Consistency review issues related to project review – Comments addressed the scope of the consistency review, the coastal project questionnaire, the application and management of the ABC List, and elevations and appeals of consistency determinations.
4. Statewide standards – Comments addressed all of the statewide standards of the ACMP at 11 AAC 112, including the purview, substance, form, authority, and structure of the standards, whether the focus of the standards should be tied to the direct interaction with coastal water or more broadly throughout the coastal zone, and whether the burden of proof in demonstrating compliance with the standards is on the applicant, the commentator, or the State.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."


Representative Mark Neuman
April 17, 2009
Page 2

5. District enforceable policies – Comments addressed the purview, substance, form, authority, and structure of coastal district enforceable policies, designated areas, and the revision process for amending coastal district plans.
6. General, non-categorized comments – Comments addressed the objectives of the ACMP, the subject uses of the ACMP, the basic structure of the ACMP and the available types/options of state coastal programs available under the federal CZMA, whether climate change should be addressed under the ACMP, whether the ACMP should directly address cumulative impacts, and whether ACMP staff should have a field presence.

At your request, I have listed above and summarized the key issues that ACMP participants have raised during the re-evaluation process. As a reminder, DCOM solicited written public comments on potential changes to the ACMP in July and November 2008, and held numerous public meetings to further gather input and share ideas for successful ACMP implementation. The public comments and the DCOM processes and products are available for reviewing and downloading at <http://www.alaskacoast.state.ak.us/Enews/Re-eval2008/index.html>. Significant effort was put into the development and consideration of these comments by ACMP participants. You may be interested in reviewing these more detailed comments and familiarizing yourself with the various issues surrounding the passionate debate on change to the ACMP laws.

I look forward to continuing to work with you on these important issues, and I thank you for taking an interest in the ACMP and the issues surrounding the implementation of a meaningful and balanced program.

If you have any questions, please do not hesitate to contact me.

Sincerely,


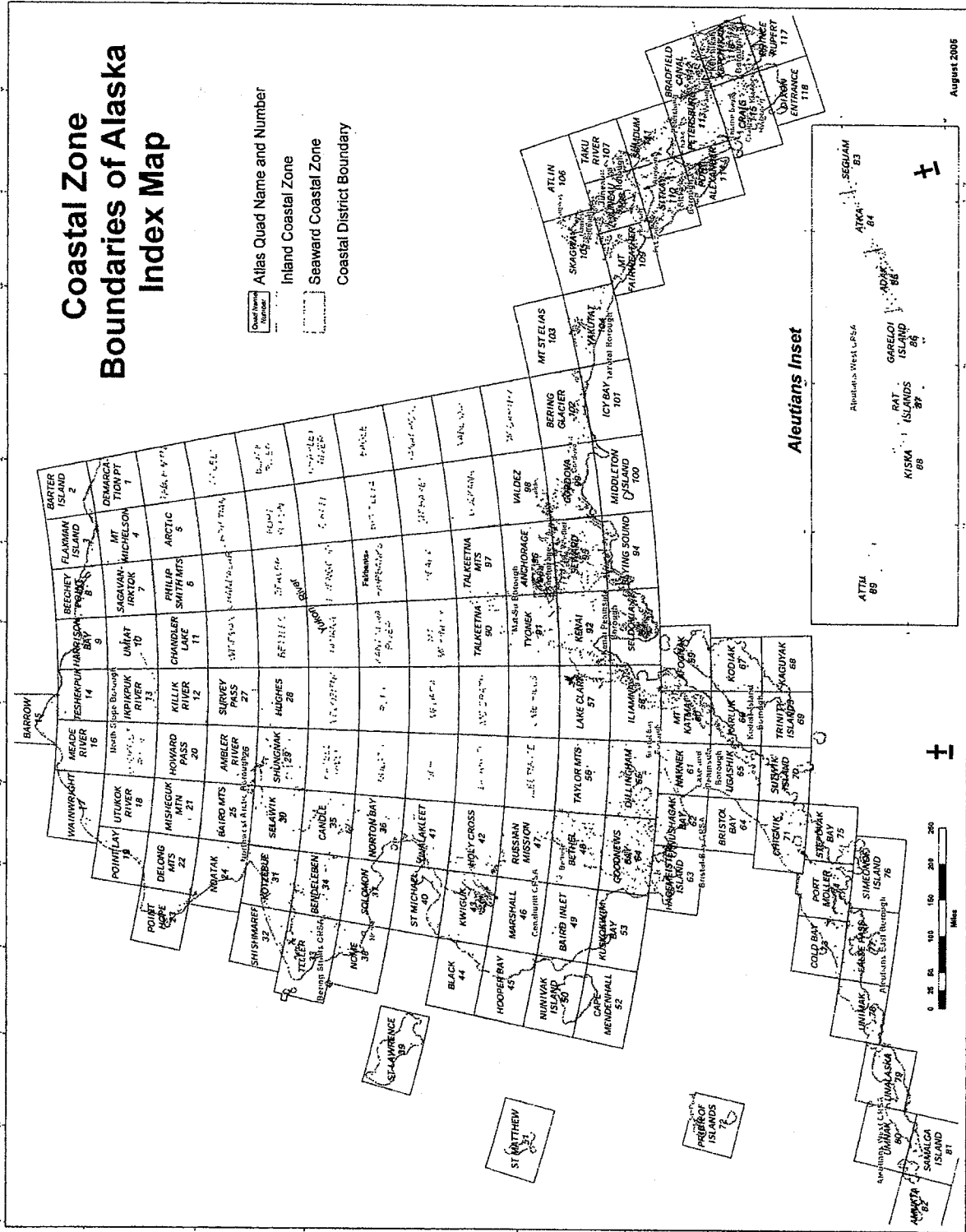
Randy Bates
Director

cc: Representative Johnson, Co-Chair House Resources committee
Senator McGuire, Co-Chair Senate Resources committee
Senator Wielechowski, Co-Chair Senate Resources committee
Senator Olson
Representative Joule
House and Senate Resource Committee members
ACMP coastal districts
Tom Irwin, DNR Commissioner
Jerry Gallagher, Office of the Governor, Legislative Liaison

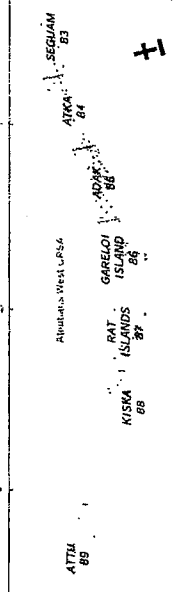
Index Map

Coastal Zone Boundaries of Alaska Index Map

Atlas Quad Name and Number
 Inland Coastal Zone
 Seaward Coastal Zone
 Coastal District Boundary



Aleutians Inset



Quad Name	Number
ADAM	85
ADRIAN	86
AMBLES RIVER	24
ANCHORAGE	87
ANCHORAGE INLET	88
ANGLIC	89
ATIU	106
BARDI WAT	89
BARTON	90
BECOFF POINT	91
BEGON QUATER	92
BELT	93
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Which Coastal District is Your Community In?

CITY	DISTRICT	CITY	DISTRICT
Adak	Aleutians West CRSA	Chignik Lagoon ...	Lake and Peninsula Borough
Akhiok	Kodiak	Chignik Lake	Lake and Peninsula Borough
Akiachak	Ceñaliulriit CRSA	Chugiak	Anchorage
Akiak	Ceñaliulriit CRSA	Clam Gulch	Kenai Peninsula
Akutan	Aleutians East	Clark's Point	Bristol Bay CRSA
Alakanuk	Ceñaliulriit CRSA	Coffman Cove	None*
Aleknagik	Bristol Bay CRSA	Cohoe	Kenai Peninsula
Alexander Creek	Mat-Su Borough	Cold Bay	Aleutians East
Ambler	Northwest Arctic	Cooper Landing	Kenai Peninsula
Amchitka	Aleutians West CRSA	Cordova	Cordova
Anaktuvuk Pass	North Slope Borough	Council	Bering Straits CRSA
Anchor Point	Kenai Peninsula	Craig	Craig
Anchorage	Anchorage	Cube Cove	None*
Angoon	Angoon	Deadhorse	North Slope Borough
Aniak	Ceñaliulriit CRSA	Deering	Northwest Arctic
Atka	Aleutians West CRSA	Dillingham	Bristol Bay CRSA
Atmautluak	Ceñaliulriit CRSA	Diomede	Bering Straits CRSA
Atkasuk	North Slope Borough	Dora Bay	None*
Attu	Aleutians West CRSA	Douglas	Juneau
Barrow	North Slope Borough	Dutch Harbor	Aleutians West CRSA
Bethel	Bethel	Eagle River	Anchorage
Big Lake	Mat-Su Borough	Edna Bay	None*
Bird Creek	Anchorage	Eek	Ceñaliulriit CRSA
Brevig Mission	Bering Straits CRSA	Egegik	Lake and Peninsula Borough
Buckland	Northwest Arctic	Ekuk	Bristol Bay CRSA
Candle	Northwest Arctic	Ekwok	Bristol Bay CRSA
Cape Chiniak	None*	Elfin Cove	None*
Cape Pole	None*	Elim	Bering Straits CRSA
Cape Yakataga	None*	Elmendorf AFB	Anchorage
Chefornak	Ceñaliulriit CRSA	Emmonak	Ceñaliulriit CRSA
Chenega Bay	None*	English Bay	Kenai Peninsula
Chevak	Ceñaliulriit CRSA	Excursion Inlet	None*
Chickaloon	Mat-Su Borough	Eyak	Cordova
Chignik	Lake and Peninsula Borough	False Pass	Aleutians East
Chignik Bay	Lake and Peninsula Borough	Fortuna Ledge	Ceñaliulriit CRSA

*Note: "None" means a coastal community not within a coastal district.

CITY	DISTRICT
Ft. Richardson	Anchorage
Funter Bay	None*
Gambell	Bering Straits CRSA
Girdwood	Anchorage
Golovin	Bering Straits CRSA
Goodnews Bay	Ceñaliulriit CRSA
Gravina Island	Ketchikan
Gustavus	None*
Haines	Haines
Halibut Cove	Kenai Peninsula
Happy Valley	Kenai Peninsula
Hawkins Island	None*
Hinchinbrook Island	None*
Hobart Bay	None*
Hollis	None*
Homer	Kenai Peninsula
Hoonah	Hoonah
Hooper Bay	Ceñaliulriit CRSA
Hope	Kenai Peninsula
Houston	Mat-Su Borough
Hydaburg	Hydaburg
Igiugig	Lake and Peninsula Borough
Iliamna	Lake and Peninsula Borough
Indian	Anchorage
Ivanof Bay	Lake and Peninsula Borough
Juneau	Juneau
Kachemak	Kenai Peninsula
Kake	Kake
Kaktovik	North Slope Borough
Kalgin Island	Kenai Peninsula
Karluk	Kodiak
Kasaan	None*
Kasigluk	Ceñaliulriit CRSA
Kasilof	Kenai Peninsula
Kenai	Kenai Peninsula
Ketchikan	Ketchikan
Kiana	Northwest Arctic
King Cove	Aleutians East
King Salmon	Bristol Bay Borough

CITY	DISTRICT-
Kipnuk	Ceñaliulriit CRSA
Kivalina	Northwest Arctic
Klawock	Klawock
Klukwan	None*
Kobuk	Northwest Arctic
Kodiak	Kodiak
Kokhanok	Lake and Peninsula
Kokhanok Bay	Lake and Peninsula
Koliganek	Ceñaliulriit CRSA
Kongiganak	Ceñaliulriit CRSA
Kotlik	Ceñaliulriit CRSA
Kotzebue	Northwest Arctic
Koyuk	Bering Straits CRSA
Kuiu Island	None*
Kupreanof	None*
Kwethluk	Ceñaliulriit CRSA
Kwigillingok	Ceñaliulriit CRSA
Labouchere Bay	None*
Lake Louise	Mat-Su Borough
Larsen Bay	Kodiak
Levelock	Lake and Peninsula
Long Island	None*
Lower Kalskag	Ceñaliulriit CRSA
Manokotak	Bristol Bay CRSA
Marshall	Ceñaliulriit CRSA
Mekoryuk	Ceñaliulriit CRSA
Metlakatla	None*
Meyers Chuck	None*
Moose Pass	Kenai Peninsula
Mountain Village	Ceñaliulriit CRSA
Mt. Edgecumbe	Sitka
Naknek	Bristol Bay Borough
Nanwalek	Kenai Peninsula
Napakiak	Ceñaliulriit CRSA
Napaskiak	Ceñaliulriit CRSA
Naukati	None*
Nelson Lagoon	Aleutians East
New Stuyahok	Bristol Bay CRSA
Newhalen	Lake and Peninsula

*Note: "None" means a coastal community not within a coastal district.

CITY	DISTRICT	CITY	DISTRICT
Newtok	Ceñaliulriit CRSA	Prudhoe Bay.....	North Slope Borough
Nightmute	Ceñaliulriit CRSA	Quinhagak	Ceñaliulriit CRSA
Nikiski	Kenai Peninsula	Red Mountain	Kenai Peninsula
Nikolski	Aleutians West CRSA	Ridgeway.....	Kenai Peninsula
Niniilchik	Kenai Peninsula	Rowan Bay	None*
Noatak	Northwest Arctic	Russian Mission	Ceñaliulriit CRSA
Nome	Nome	Sand Point.....	Aleutians East
Nondalton	Lake and Peninsula	Savoonga	Bering Straits CRSA
Noorvik	Northwest Arctic	Sawmill Bay	None*
Nuiqsut	North Slope Borough	Saxman	Ketchikan
Nunapitchuk	Ceñaliulriit CRSA	Scammon Bay	Ceñaliulriit CRSA
Old Harbor	Kodiak	Security Bay	None*
Oscarville.....	Ceñaliulriit CRSA	Selawik	Northwest Arctic
Ouzinkie	Kodiak	Seldovia.....	Kenai Peninsula
Palmer	Mat-Su Borough	Seward	Kenai Peninsula
Pedro Bay.....	Lake and Peninsula Borough	Shaktoolik.....	Bering Straits CRSA
Pelican.....	Pelican	Sheep Mountain	Mat-Su Borough
Pennock Island.....	Ketchikan	Sheldon Point.....	Ceñaliulriit CRSA
Perryville	Lake and Peninsula Borough	Shemya AFS	Aleutians West CRSA
Petersburg	Petersburg	Shishmaref	Bering Straits CRSA
Pilot Point	Lake and Peninsula Borough	Shungnak	Northwest Arctic
Pilot Station	Ceñaliulriit CRSA	Sitka	Sitka
Pitkas Point	Ceñaliulriit CRSA	Skagway	Skagway
Platinum	Ceñaliulriit CRSA	Skwentna.....	Mat-Su Borough
Point Baker.....	None*	Soldotna	Kenai Peninsula
Point Hope.....	North Slope Borough	South Naknek.....	Bristol Bay Borough
Point Lay	North Slope Borough	Squaw Harbor	Aleutians East
Polk Inlet.....	None*	St. George Island	None*
Port Alexander.....	None*	St. Mary's.....	Ceñaliulriit CRSA
Port Alsworth	Lake and Peninsula	St. Michael.....	Bering Straits CRSA
Port Armstrong	None*	St. Paul.....	St. Paul
Port Clarence	Bering Straits CRSA	Stebbins	Bering Straits CRSA
Port Graham.....	Kenai Peninsula	Sterling	Kenai Peninsula
Port Heiden	Lake and Peninsula Borough	Sunrise	None*
Port Lions	Kodiak	Sutton	Mat-Su Borough
Port Moller	Aleutians East	Talkeetna	Mat-Su Borough
Port Protection.....	None*	Tatitlek	None*
Portage	Anchorage	Tazlina	None*
Post Lake	Mat-Au Borough	Teller.....	Bering Straits CRSA

*Note: "None" means a coastal community not within a coastal district.

CITY	DISTRICT
Tenakee Springs.....	None*
Thorne Bay.....	Thorne Bay
Tin City.....	Bering Straits CRSA
Togiak.....	Bristol Bay CRSA
Toksook Bay.....	Ceñaliulriit CRSA
Tolstoi Bay.....	None*
Trapper Creek.....	Mat-Su Borough
Tuluksak.....	Ceñaliulriit CRSA
Tuntutuliak.....	Ceñaliulriit CRSA
Tununak.....	Ceñaliulriit CRSA
Tutka Bay.....	Kenai Peninsula
Twin Hills.....	Bristol Bay CRSA
Two Moon Bay.....	None*
Tyonek.....	Kenai Peninsula
Ugashik.....	Lake and Peninsula
Umiat.....	North Slope Borough
Unakwik Inlet.....	None*
Unalakleet.....	Bering Straits CRSA
Unalaska.....	Aleutians West CRSA
Ungalik.....	Bering Straits CRSA

CITY	DISTRICT
Valdez.....	Valdez
Wainwright.....	North Slope Borough
Wales.....	Bering Straits CRSA
Wasilla.....	Mat-Su Borough
Whale Pass.....	None*
White Mountain.....	Bering Straits CRSA
Whittier.....	Whittier
Willow.....	Mat-Su Borough
Wrangell.....	Wrangell
Yakutat.....	Yakutat

For more information contact:

The Alaska Coastal Management Program
Juneau — 907- 465-3075
Anchorage — 907-269-7470

*Note: "None" means a coastal community not within a coastal district.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB074
() Publish Date: _____

Identifier (file name): HB074-DNR-DCOM-03-15-10 Dept. Affected: Natural Resources
Title An Act relating to the Alaska Coastal Management Program. RDU Resource Development
Component Coastal and Ocean Management
Sponsor Rep. Reggie Joule
Requester House Community and Regional Affairs Committee Component Number 2680

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	82.0	0.0	82.0	82.0	82.0	82.0	82.0	82.0
Contractual	80.0	0.0	30.0	30.0	30.0	30.0	30.0	30.0
Supplies	3.0	0.0	3.0	3.0	3.0	3.0	3.0	3.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	165.0	0.0	115.0	115.0	115.0	115.0	115.0	115.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	165.0	0.0	115.0	115.0	115.0	115.0	115.0	115.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	165.0	0.0	115.0	115.0	115.0	115.0	115.0	115.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

HB 74 will have the following fiscal impact:

1. Travel - It is expected that the Coastal Policy Board (CPB) will need to meet at least four times annually to fulfill the obligations and provide the services outlined in HB 74. Travel (including air, hotel, and per diem) for appointed members, designated members, and state agency staff is included.
2. Contractual - In order to re-write the guiding regulations, DNR must secure contractual services for the promulgation and final Department of Law review of the regulations (FY 2010 only). In addition, contractual services for the CPB meetings must be procured, and will be an annual expense.
3. Supplies - The CPB meetings will require some level of supplies for ensuring the members have proper materials.

Prepared by: Randy Bates, Director
Division Coastal and Ocean Management
Approved by: Tom Irwin, Commissioner
Natural Resources

Phone 465-8797
Date/Time March 15, 2010
Date March 15, 2010

FISCAL NOTE

**STATE OF ALASKA
2010 LEGISLATIVE SESSION**

BILL NO. HB074

ANALYSIS CONTINUATION

4. Although not contemplated above as an additional expense, it is expected that coastal districts will choose to revise, amend, and seek approval for their coastal district plans. No funding is included in this fiscal note for Coastal District Plan revisions. DNR does not typically set aside any funding for plan revisions.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 74(CRA)
 (H) Publish Date: 3/5/09

Identifier (file name): HB74-DEC-CO-2-6-09 Dept. Affected: Dept. of Environmental Conservation
 Title Coastal Management Program RDU Administration
 Component Office of the Commissioner
 Sponsor Representative Joule
 Requester House Community and Regional Affairs Committee Component Number 633

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services	86.8		86.8	86.8	86.8	86.8	86.8	86.8
Travel	12.5		12.5	12.5	12.5	12.5	12.5	12.5
Contractual	10.4		10.4	10.4	10.4	10.4	10.4	10.4
Supplies	6.9		0.5	0.5	0.5	0.5	0.5	0.5
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	116.6	0.0	110.2	110.2	110.2	110.2	110.2	110.2

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts	116.6	0.0	110.2	110.2	110.2	110.2	110.2	110.2
TOTAL	116.6	0.0	110.2	110.2	110.2	110.2	110.2	110.2

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time	0.5		0.5	0.5	0.5	0.5	0.5
Part-time							
Temporary							

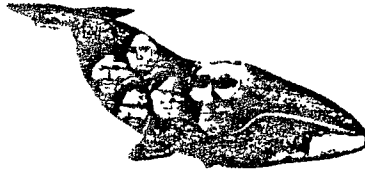
ANALYSIS: (Attach a separate page if necessary)

This legislation amends Alaska statutes related to the Alaska Coastal Management Program (ACMP). The bill requires that the Department of Environmental Conservation process its permits in accordance with the ACMP coastal consistency review procedures where permits are currently processed independent from those procedures. The increased work load for existing staff is estimated at one-half of the salary cost of a Range 19 position.

In addition to increasing the effort required to process a permit, the changes require a new half-time position to serve as ACMP lead for DEC with responsibility for internal and external coordination of ACMP matters. The fiscal note reflects the personnel and support costs of a new, part-time (0.5 FTE, Range 20) position to serve as DEC's ACMP Program Coordinator. First-year costs include one-time supply costs that are not reflected in subsequent years.

Prepared by: Marit Carlson-Van Dort Phone 465-5065
 Division: Commissioner's Office Date/Time 2/6/09 1:30 PM
 Approved by: Dan Easton Date 2/6/2009
Deputy Commissioner





Alaska Eskimo Whaling Commission

P.O. Box 570 • Barrow, Alaska 99723

February 10, 2009

Honorable Reggie Joule
Alaska State Legislature
State Capitol, Room 502
Juneau, Alaska 99801

Re: House Bill 74, Alaska Coastal Management Program

Dear Representative Joule:

On behalf of the Alaska Eskimo Whaling Commission (AEWC), I wish to thank you for sponsoring House Bill 74 on the Alaska Coastal Management Program (ACMP). The AEWC supports the committee substitute adopted by the Senate Community and Regional Affairs Committee on February 5, 2009.

House Bill 74 would restore the effectiveness to the ACMP that has been lost as a result of recent changes to the program. The bill would make it clear that coastal districts may establish local enforceable policies, it would bring air and water quality considerations back into ACMP project reviews, and it would establish a coastal policy board composed of state agencies and coastal districts.

The bill would also restore provisions that ensure states' rights are duly considered during reviews involving federal activities or permits, including activities on the federal Outer Continental Shelf (OCS). One of the major reasons the Alaska State Legislature enacted the Alaska Coastal Management Act in 1977 was to take advantage of provisions in the federal Coastal Zone Management Act (CZMA) that give the state and coastal districts their most powerful tools to influence federal decision making. The remainder of our comments addresses these issues.

Section 19 of the bill would require review of seismic survey activities for consistency with the ACMP. Although scientific studies demonstrate that seismic surveys can profoundly affect marine mammals, these activities have been excluded from the scope of some ACMP reviews, including the review of a multi-year offshore drilling program in 2007.

CITY OF CORDOVA



February 9, 2009

Re: HB 74

To: House Community and Regional Affairs Committee
Senate Resources Committee
Representative Thomas
Senator Kookesh

HB 74 and the companion bill in the House address issues raised by Coastal Management Zone planners at the ACMP workshop in December, 2008, in Anchorage. The bills establish a coastal policy board, bring DEC back into the consistency review process, and allow coastal districts to have enforceable policies as long as they are not specifically barred by state or federal law.

Please support this bill.

Thank you.

Anne Cervenka
City Planner
City of Cordova

Native Village of Kotzebue Kotzebue IRA

February 9, 2009

Honorable Reggie Joule
AK State Capitol
Room # 502
Juneau, AK 99801

RE: Support of H.B. 74 – An Act relating to the Alaska Coastal Management Program; and establishing the Alaska Coastal Policy Board

Knowledge of Language

Knowledge of Family Tree

Sharing

Humility

Respect for Others

Love for Children

Cooperation

Hard Work

Respect for Elders

Respect for Nature

Avoid Conflict

Family Roles

Humor

Spirituality

Domestic Skills

Hunter Success

Responsibility to Tribe

Dear Representative Joule;

The Native Village of Kotzebue writes in strong support of the House Bill 74 relating to strengthening the ACMP and establishing the Alaska Coastal Policy Board.

The Tribe was disappointed with the changes made to the program under previous Governor Frank Murkowski. The ability of the program to provide for real local involvement in development projects affecting the coastal environment of Alaska is very important to assure that projects are compatible with the needs and concerns of local communities. The changes to the program as envisioned under HB 74 would go a long way towards reaffirming the State's commitment to responsible development and local input as a vital component of such projects.

The Tribe supports the Coastal Policy Board as envisioned because it will provide an essential balance to the Alaska Coastal Management Program (ACMP). Currently, the commissioner of DNR makes all ACMP decisions, including approving district plans, which has been shown to be non-compatible with the needs of local communities as the recent wholesale rejection of the proposed Northwest Arctic Borough (NWAB) Enforceable Policies demonstrates. It is our understanding that the new board would be responsible for approving coastal district plans and any changes to the ACMP regulations, which should allow for a more responsive approach to approving local priorities as stated through Enforceable Policies.

Section 9 and Section 14 of the bill are especially useful in this regard, as they would clarify the criteria for Coastal District Enforceable Policies so as to obviate interpretation by DNR, because as the wholesale rejection of the NWAB District Plan relating to Enforceable Policies should show, it is currently not clear what the criteria are. The statutes currently allow districts to establish Enforceable Policies, but as it has been interpreted and implemented by the DNR, only one of the 50 enforceable policies proposed by the NWAB was approvable, which speaks to the disconnect between what local communities need and what the program is believed (by the DNR) to allow for. The bill would also allow coastal districts to address air and water quality issues during ACMP project reviews. Currently, activities permitted by DEC are unfortunately excluded from the coordinated consistency review of a project, which negatively impacts the ability of local communities to be able to take into account and fully mitigate the broadest range of impacts from any specific project falling under ACMP review.

We appreciate your leadership on ACMP revision and look forward to passage of this important Bill.

Sincerely,



Alex Whiting
Environmental Specialist



Linda Joule
Executive Director

333 Shore Avenue • P.O. Box 296 • Kotzebue, Alaska 99752

Phone: (907) 442-3467 • Fax: (907) 442-2162

Introduced by: Martin
Date: 04/07/09
Action: Adopted as Amended
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2009-030**

**A RESOLUTION SUPPORTING LEGISLATION TO ENABLE ALASKA'S COASTAL
COMMUNITIES TO MORE EFFECTIVELY PARTICIPATE IN THE ALASKA
COASTAL MANAGEMENT PROGRAM**

WHEREAS, the passage of House Bill 191 by the Alaska Legislature in 2003 at the request of the Murkowski Administration attempted to "streamline the Alaska Coastal Management Program (ACMP) and through its implementation by statutory and regulatory amendments, forced a complete revision of all Alaska Coastal Management Plans in Alaska, including the Kenai Peninsula Borough plan; and

WHEREAS, as a result of the passage of HB 191, and new regulations imposed by the Alaska Department of Natural Resources, the Kenai Peninsula Borough lost more than 70 percent of the policies the borough had utilized effectively during the previous 15 years to assist development applicants while exercising appropriate stewardship of our natural resources; and

WHEREAS, Alaska Coastal Districts are unanimous in their appeal for revisions in Alaska Statutes and regulations to restore the ability of Alaskan communities to regain "a meaningful seat at the table" when management and development decisions affecting Alaska's coastal zones are being made; and

WHEREAS, Legislation with the following key provisions could restore to local governments a more meaningful role in the local development decisions and stewardship of coastal resources:

- Reestablishes an oversight board for the ACMP composed of five public members representing coastal districts and five commissioners of State resource agencies to make ACMP policy decisions.
- Establishes that the duties of the Board are to approve ACMP standards and criteria for district plans.
- Restores the ability of coastal districts, through their political bodies, to write meaningful enforceable policies by enabling policies to be prescriptive or performance-based, stricter or more specific than state or federal laws, but not violative of either.
- Reincorporates the Department of Environmental Conservation in the consistency review process.
- Reestablishes the ability of coastal districts, through their political bodies, to consider cumulative impacts in project reviews.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough supports the revision of the Alaska Coastal Management Program to restore and establish these provisions, among others, and permit the Assembly to consider the adoption of policies that are more reflective of the borough's concerns in its coastal zone.

SECTION 2. That a copies of this resolution be forwarded to Governor Sarah Palin, Senator Al Kookesh, Representative Woodie Salmon, Senator Con Bunde, Representative Mike Hawker, Senator Thomas Wagoner, Speaker Mike Chenault, Representative Kurt Olson, Senator Gary Stevens, Representative Paul Seaton, Senator Donald Olson, Representative Reggie Joule, Representative Bryce Edgmon, Representative Bob Buch and Department of Natural Resources Commissioner Tom Irwin.

SECTION 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF APRIL, 2009.

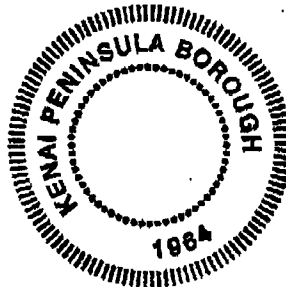


Milli Martin, Assembly President

ATTEST:



Johni Blankenship, Borough Clerk



Yes: Fischer, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin
No: None
Absent: Knopp



Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

Committee on HB 74 Coastal Mgmt Program, dated 4-15-09
bill # / subject public hearing date

See attached 2 pages

Signed: Gary Williams
Testifier

Kenai Peninsula Borough
Representing (optional)

144 S Binkley Soldotna, AK 99669
Address

Phone number



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

April 15, 2009

Honorable Craig Johnson
Honorable Mark Newman
Alaska State House
Capitol Building
Juneau, AK 99801

Re: House Bill 74, Changes to Alaska Coastal Zone Management

Dear Representatives Johnson and Newman,

The mining industry has been involved in the Alaska Coastal Zone Management Program (ACMP) for many years. Several companies have raised concerns regarding the CSHB-74(CRA). They agree that ACMP is not working well but they cannot support the changes being proposed in CSHB-74(CRA). **The bottom line is that this bill would create an administrative quagmire for the state permitting process and would create tremendous uncertainty for all permittees.**

As proposed by CSHB-74(CRA), the coastal districts would be in charge of the program and control what is done. In this situation, **the coastal districts would be in a position to set the rules and enforce them without accountability to the Legislature or the Administration.** The bill would re-establish the Coastal Policy Council (calling it the Coastal Policy Board) with 5 public members and 4 state agencies (DNR, DF&G, DEC, & DCEED). The governor would choose the public members but must select them from a list supplied by the Coastal Districts. **The effect is that the districts would control the outcome of the selection process. This is not a good situation for ACMP or any other public policy issue.**

Further under CSHB-74(CRA), the Coastal Policy Board (CPB) would approve or disapprove all plans and regulations. If the board feels that an agency is not interpreting the policies the way they want, it would have the authority to order the agencies to change, irrespective of State statute or regulation. **The CPB would thereby effectively have authority over both the Legislature and the Administration.**

CSHB-74(CRA) would also eliminate what has been called the DEC "carve-out". It would allow districts to interpret state statutes and regulations relating to air quality, water quality, solid waste disposal, water injection, land issues, sanitation, food service, public health, etc. Many of these statutes and regulations have been developed over many decades of detailed technical evaluation by the agency and through a tremendous amount of public process and input. Others are nation-wide standards developed over many years by federal government scientists at the cost of millions of dollars. **The coastal districts do not and will not have the technical expertise to fully evaluate these issues.**

regulate something the legislature has not given them, the district could simply write it themselves and DNR, DF&G, DCEED would have to comply.

A second conclusion is that many of the examples mentioned above would raise constitutional questions. Because the CPB has the authority to go beyond state law, the bill has the effect of delegating legislative law-making to a public-dominated board. This delegation is not constitutionally allowed. Similarly, it removes interpretation of state regulations from the administrative branch — where the interpretations constitutionally belong — and gives this authority to the CPB. While some of these constitutional issues existed before passage of HB-191 in 2003 (specifically the homeless stipulations), CSHB-74(CRA) greatly magnifies and expands these legal problems.

A third conclusion is that the bill essentially does away with the concept of state interest. There are some decisions — whether and how a gasline should be constructed, expansion of the railroad, even oil development on the North Slope — that should be decided by the state, without a veto by local authorities. It is critical that local land-use issues and local concerns be taken into account by the permitting agencies, but some issues affect the entire state and must be determined on a state-wide basis. CSHB-74(CRA) essentially does away with this concept.

A final conclusion is that the changes proposed would create tremendous uncertainty for the regulated public. There is no way to escape a great deal of uncertainty as individual coastal districts have the final say in what was previously agency matters.

Thank you for the opportunity to address our concerns to you.

Sincerely,

A handwritten signature in black ink, appearing to read "S. C. Borell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Steven C. Borell, P.E.
Executive Director

**Testimony of Patricia Phillips
Mayor, City of Pelican**

**House Resources Committee
House Bill 74 – Alaska Coastal Management Program
April 15, 2009**

Co-Chair Johnson, Co-Chair Neuman and House Resources Committee, my name is Patricia Phillips; I am Mayor of the City of Pelican.

The City of Pelican supports House Bill 4 because it reinstates essential components to the Alaska Coastal Management Program (ACMP). The State of Alaska and local coastal districts were once closely affiliated when the ACMP was first put into effect. However, more recently, the role of coastal districts has been impaired. HB 74 restores the ability of coastal districts to establish meaningful enforceable policies, discuss air and water quality issues during coastal management reviews, and provides a forum for coastal districts and state agencies through a "Coastal Policy Board". The main purpose is to reinstate local determination and due deference on matters of local concern regarding resources in coastal areas.

As a mayor of a small rural coastal community, I understand economic development is the driver to keep our communities vibrant and healthy. I see first-hand the onerous requirements of federal and state environmental reviews and permitting procedures. The ACMP is not just another regulatory program; rather, it coordinates the management authorities of state and federal agencies and local governments. The coordinated consistency review process allows all parties to consult with one another to work out issues early in the process prior to permits being finalized.

The ACMP Re-Evaluation process initiated by the Alaska Department of Natural Resources ended without consensus. I attended the December re-evaluation workshop in Anchorage and thought DNR missed an opportunity for consensus on many of the proposed changes to state statutes and regulations.

An important aspect of the ACMP is the ability of coastal districts to establish enforceable policies to address local conditions and concerns. Unique to Alaska is ANILCA which protects subsistence use on Federal public lands. Coastal districts need enforceable policies for subsistence and important habitat related to subsistence. Governor Palin recognized this when during her campaign for governor she pledged, "I would also revisit the change in regulations on the Alaska Coastal Zone Management program in which the past administration by eliminating the rights of local districts to write specific local enforceable policies on important issues like subsistence" (www.palinforgovernor.com). SB 4 establishes clear criteria for local policies that do not conflict with state or federal laws.

HB 74 establishes a Coastal Policy Board. This board is necessary to ensure the views of coastal districts and state agencies are considered for major coastal policy issues. The Coastal Management Program was designed to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, **in cooperation with** Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone [...], and giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decision-making.

HB 74 eliminates the "DEC carve-out" by bringing Department of Environmental Conservation permits into the project consistency review process. The draft statutes issued by the Alaska Department of Natural Resources last November supported elimination of the carve-out. Air and water quality affects nearly all coastal issues, so it makes sense to include these factors in the ACMP consistency review process.

Thank you for the opportunity to testify on this important bill, and I urge you to pass it out of committee at your earliest convenience.

Introduced by: Martin
Date: 04/07/09
Action: Adopted as Amended
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2009-030**

**A RESOLUTION SUPPORTING LEGISLATION TO ENABLE ALASKA'S COASTAL
COMMUNITIES TO MORE EFFECTIVELY PARTICIPATE IN THE ALASKA
COASTAL MANAGEMENT PROGRAM**

WHEREAS, the passage of House Bill 191 by the Alaska Legislature in 2003 at the request of the Murkowski Administration attempted to "streamline the Alaska Coastal Management Program (ACMP) and through its implementation by statutory and regulatory amendments, forced a complete revision of all Alaska Coastal Management Plans in Alaska, including the Kenai Peninsula Borough plan; and

WHEREAS, as a result of the passage of HB 191, and new regulations imposed by the Alaska Department of Natural Resources, the Kenai Peninsula Borough lost more than 70 percent of the policies the borough had utilized effectively during the previous 15 years to assist development applicants while exercising appropriate stewardship of our natural resources; and

WHEREAS, Alaska Coastal Districts are unanimous in their appeal for revisions in Alaska Statutes and regulations to restore the ability of Alaskan communities to regain "a meaningful seat at the table" when management and development decisions affecting Alaska's coastal zones are being made; and

WHEREAS, Legislation with the following key provisions could restore to local governments a more meaningful role in the local development decisions and stewardship of coastal resources:

- Reestablishes an oversight board for the ACMP composed of five public members representing coastal districts and five commissioners of State resource agencies to make ACMP policy decisions.
- Establishes that the duties of the Board are to approve ACMP standards and criteria for district plans.
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- Reestablishes the ability of coastal districts, through their political bodies, to consider cumulative impacts in project reviews.

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SECTION 1. That the Kenai Peninsula Borough supports the revision of the Alaska Coastal Management Program to restore and establish these provisions, among others, and permit the Assembly to consider the adoption of policies that are more reflective of the borough's concerns in its coastal zone.

SECTION 2. That a copies of this resolution be forwarded to Governor Sarah Palin, Senator Al Kookesh, Representative Woodie Salmon, Senator Con Bunde, Representative Mike Hawker, Senator Thomas Wagoner, Speaker Mike Chenault, Representative Kurt Olson, Senator Gary Stevens, Representative Paul Seaton, Senator Donald Olson, Representative Reggie Joule, Representative Bryce Edgmon, Representative Bob Buch and Department of Natural Resources Commissioner Tom Irwin.

SECTION 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF APRIL, 2009.

Milli Martin, Assembly President

ATTEST:

Johni Blankenship, Borough Clerk

Yes: Fischer, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin

No: None

Absent: Knopp

KENAI PENINSULA BOROUGH

Office of the Borough Clerk

144 North Binkley Street
Soldotna, AK 99669
Phone 907-714-2160
Fax 907-714-2388

Milli Martin, Assembly President
Pete Sprague, Vice President

MEMORANDUM

To: Assembly Members

From: Assembly President Milli Martin



Date: April 7, 2009

Re: Resolution 2009-030, Supporting Legislation Regarding the Alaska Coastal Management Program

The attached resolution offers general support for legislation now before both the House and Senate concerning the Alaska Coastal Management Program (ACMP). In my view, the ACMP is very important to the Kenai Peninsula Borough, as this borough has, mile for mile, the longest borough coastline in the state.

The Coastal Policy Council that was originally established in the legislation of 1977 worked well. The key to both pending bills is the reestablishment of the ACMP Coastal Policy Board that existed before the legislature removed it in 2003 with the enactment of HB 191. It is also a mechanism for coastal districts to appeal the decisions of the Department of Natural Resources (DNR) regarding the adoption of enforceable policies. Under the current policy, DNR has the final authority to interpret statutes and administrative code provisions, and deny policies on that basis. During the statutorily required rewrite of the Kenai Peninsula Borough Coastal Management Plan in 2003, a number of policies the borough used successfully for all concerned during 15 years of implementation were denied without appeal. Among policies DNR denied were those related to consideration of the impact of development in uplands adjacent to important river habitat, dredging and filling in water bodies, resource extraction on shorelines, and development in unstable areas.

In addition to the creation of the Board, a number of statutory and administrative code changes are necessary for the ACMP to live up to the purpose for which it was created. This purpose is to help those who want to invest in and develop projects to do so in a way that protects the uses and resources of coastal areas. The only opportunity the borough has "to have a seat at the table" during the project permitting process is through the ACMP.

I believe the Kenai Peninsula Borough has demonstrated over the years that both development and protection of resources can be accomplished. ACMP has been an integral part of the KPB since it was adopted by the borough in 1990.

I also recognize these bills will probably take two years for passage. However, I feel it is imperative to let members of the Legislature know the Assembly supports these efforts. The Alaska Municipal League has a letter of support on file, as did the cities of Cordova, Valdez, and Pelican, and the Aleutians West Coastal Resource Service Area. Resolutions from the Kodiak Island Borough and the City and Borough of Sitka have been sent to the legislature. I anticipate others will follow.

I ask your support of this resolution.

Testimony of Carol Smith

Coastal Program Coordinator for the City of Valdez

Senate Resources Committee

Senate Bill 4 Alaska Coastal Management Program

Good Afternoon! My name is Carol Smith, I am the Coastal Coordinator for the Valdez Coastal District and member of the ACMP Re-evaluation Stakeholder Group. Thank you for this opportunity to provide comments on HB 4 regarding changes to the Alaska Coastal Management Program (ACMP).

Because of the major regulation changes in 2003, the Valdez Coastal Management Plan went from 41 enforceable policies to 14. The updated Valdez Coastal Management Plan was approved even though a number of our meaningful policies were not approved. We felt it was important to be a part of the Alaska Coastal Management Program and it has been our hope that new regulations would be introduced to give the districts back more local input through meaningful policies. We believe the most affective coastal plan is a balance of Federal, State, Applicant and Local cooperation.

PROPOSED Coastal Policy Board: Section 1 of the bill would establish the Coastal Policy Board. We agree that the old Coastal Policy Council of 17 members did not always work well as it was too large and was made up of political representatives who were not always aware of everything that was happening with the ACMP. This proposed board is much smaller and would be made up of representatives of coastal districts and state agencies, and unlike the former council, it would not be responsible for project consistency reviews. The new board would only address ACMP issues. Appeals are now handled by the DNR Commissioner and the CPB would be a much fairer process.

ENFORCEABLE POLICIES: Sections 9 and 14 of the bill would make the criteria for district enforceable policies much clearer. A major problem since the 2003 changes has been varied interpretation of the new regulations by DNR. Districts need to be able to write meaningful enforceable policies that address local concerns. The bill would allow coastal districts to establish policies as long as they do not duplicate an existing law and do not address a matter preempted by a state or federal agency. The Alaska coastline is very vast and different so one shoe does not fit all situations.

DEC CARVE-OUT: The City of Valdez supports Section 37 of the bill which eliminates the "DEC Carve-out." At the November Workshop, the Alaska Department of Natural Resources and other state agencies indicated their support for bringing DEC back into the ACMP review process. Doing reviews on DEC projects has been very confusing and hard to coordinate for the state agencies as well as the coastal districts. It worked much better with the "one-stop shop" approach. We believe this change is very positive.

We realize this bill may not be perfect but it is a very positive step towards fixing problems that have been created by the 2003 regulations changes. The Coastal Districts want to see positive cooperation among all entities involved in the Coastal Management Plan.

Thank you for the opportunity to testify on Senate Bill #4. This concludes my testimony.

**Testimony in Support of HB74
Yakutat Coastal District**

The National Coastal Zone Management Act of 1972 created a program for balancing human actions within identified coastal districts. Noting the increase in population, decreasing space and diminishing resources the act attempted to create a system for making development decisions based on cooperation.

Local governments are specifically identified as cooperators in the CZMA. Under current regulations I feel we function merely as another public commenter and are not serving as empowered cooperators. We have no board to which we can bring disagreements and no ability to enact policies important locally. There were several projects that have occurred in recent years where the local district provided far more oversight than either the state or federal agencies involved. The problems were identified but there was no regulatory avenue for local districts to declare the actions as inconsistent which would have provided leverage to steer the project to a place within the spirit of the CZMA. Instead we had to stand by and watch or utilize other avenues to make our voices heard.

The ideas of local control, small government and self determination are intrinsic to American philosophy. Sometimes it is necessary to enable large government oversight to deal with problems such as coal emissions drifting from China to Alaskan shores. Other times it is appropriate to have management guided at the state level because some resources such as salmon and waterfowl are migratory in nature and can be harvested across district boundaries. However, issues such as water quality, construction, mining, timber harvest, etc. are sedentary in nature and the people within the Coastal District will have to live with the short and long term consequences of the action. Sometimes the impacts can last for generations, long after the profit and jobs have moved on, so overall results should be positive not negative. Geographically bound projects, such as these, must be evaluated with strong local cooperation to ensure this happens.

Empowered local participation brings four benefits to the table;

- 1.) Site specific knowledge of local areas and ecological processes
- 2.) Rapid feedback loops by observing changes in local socioeconomic and environmental conditions
- 3.) One more check and balance emanating from a different perspective than visiting State or Federal regulators
- 4.) Respect

There must be strong policy at the local level that embodies the vision of those living there. The current situation leaves us as powerless bystanders or forces us to become antagonists; HB 74 reinstates the possibility that we can repair the Alaska Coastal Program, reinvigorate the public process, avoid unnecessary controversy and create a sustainable model for the state's future development.

Thank you for the opportunity to comment

Bill Lucey
Coastal Planner - Yakutat

LOCAL COOPERATION

Sec. 304 COASTAL ZONE MANAGEMENT ACT OF 1972

(4) to **encourage the participation and cooperation** of the public, state and **local governments**, and interstate and other regional agencies, as well as the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title;

(5) to **encourage coordination and cooperation with** and among the appropriate Federal, State, and **local agencies**, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

(6) to **respond to changing circumstances** affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

(16 U.S.C. 1452)

THE SPIRIT OF THE COASTAL PROGRAM

SEC. 302. The Congress finds that—

(a) There is a national interest in the **effective management**, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and **future well-being** of the Nation.

(c) The **increasing and competing demands** upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, **have resulted in** the loss of living marine resources, wildlife, nutrient-rich areas, **permanent and adverse changes to ecological systems**, decreasing open space for public use, and shoreline erosion.

TESTIMONY OF TOM LOHMAN
NORTH SLOPE BOROUGH DEPT. OF WILDLIFE MANAGEMENT
HOUSE RESOURCES COMMITTEE
HB 74
APRIL 15, 2009

Thank you to Co-Chairs Johnson and Neuman, members of the Committee, my name is Tom Lohman. I've been with the North Slope Borough, first with the Law Department and now with the Wildlife Department, for almost 22 years. Our local district plan was approved in 1988, my 2nd year with the Borough...so I've been at this for a long time.

First off, the ACMP is not like other regulatory schemes, it was never been intended to be like, and should not be like other regulatory schemes. It is unique, and was created that way beginning at the federal level with the Coastal Zone Management Act. It is a voluntary partnership, and any party that opts to become involved expects to benefit from their participation. States that opt into the national program agree to meet certain general conditions, and in return get federal dollars and the very unique commitment that federal activities and permits will be consistent with the different terms and conditions of the federally approved state programs. In return for that yielding to the authority and differing dictates of the various states, the federal government gets the protection of coastal resources and uses the Congress wisely recognized as being environmentally, economically, culturally, and otherwise of critical value to the country as a whole.

DNR and should stop trying to make the ACMP a one-size-fits-all statewide program like most other statutory and regulatory programs.

Now, mirroring the wisdom of Congress the Alaska Legislature in crafting our state program adopted an approach unique among participating states. Authority was further transferred down to the local level...to local districts...recognizing the uniqueness of Alaska, the great size and diversity of our coastal areas, and a certain spirit that makes communities bristle when told by remote decision makers what's best for them...in the same way every Alaska state administration has had reasons at various times to tell federal decision makers in DC, Seattle, or San Francisco to back off when they try to implement general nationwide regulations that may work elsewhere but don't make sense here.

DNR has been wrong when it has testified that the districts are seeking local “control” that would usurp state powers. It’s important to distinguish between the ability of districts to adopt local policies, and have those policies approved at the state level...and the districts’ role in project reviews. DNR testimony has mixed the two...as it has done with question about traditional and contemporary local knowledge.

At the district plan approval level, districts ought to be able to bring any relevant information in support of a proposed policy to the attention of the Board, including any information understood by local people that may not yet have been formalized in a western scientific report. Sometimes this can be traditional knowledge, passed down through generations. Increasingly, it’s critical information about local environmental conditions and trends in the ecosystem. The Board members will not be idiots or sheep. They should and will critically probe the credibility of all information presented in favor and against a proposed policy, and will render their judgment accordingly. This kind of thing occurs all the time in the context of Game Board decisions, where differing local conditions require differing management prescriptions.

When we ask that districts be able to adopt policies that are more specific than one-size-fits-all state statutes or regulations, we are not advocating a wholesale redistribution of state authority to municipalities that would result in rejection of large numbers of projects or the imposition of unattainable standards that would drive development away from entire areas of the state. We are talking about the ability of districts to apply useful local information to proposed development under the specific local environmental and other conditions of their areas, in most cases to IMPROVE the design of projects and REDUCE conflicts earlier in planning processes.

An example would be, for instance, a district seeking a policy requiring that storage tanks of a certain size have 20% more secondary containment capacity than is required under state law if they know and can demonstrate at the plan/policy approval stage before the Board that such added capacity is necessary in the interests of environmental safety because there periodically is heavy local rainfall in the area. It may be that the heavy rainfall can be documented by western scientific evidence, or it may be that local conditions have so changed in recent years that only local contemporary information can be presented. It would be up to the Board, balancing its perception of the credibility of the information, the project’s economics, the

ability or lack thereof to retrofit the tanks after construction, and other factors, to decide whether to approve the policy. Everyone, the community, developer, and state agencies, benefit from that kind of local input.

I think it's critical to continually reinforce that districts ARE NOT anti-development, districts ARE NOT trying to attain more influence than we had for most of the pre-2003 history of the ACMP, districts ARE NOT crazy. DNR has been asked for specific examples of districts using their broad and varied pre-2003 policies to significantly delay or halt a problem-free project that was not also being delayed or halted by some other agency under some other regulatory scheme. DNR has been asked if there are a large number of policies that districts have proposed that DNR sees as being impediments to development in the state. DNR has been asked to identify any such policies. On all counts, DNR has yet to respond to these requests...by districts and your fellow legislators.

DNR has offered misleading testimony regarding districts' implementation of their plans during individual project reviews should this bill pass. DNR has alleged that industry will lack the certainty it needs to operate if different rules apply in different areas. That's already the case, as the oil industry, for instance, operates on both state and federal lands and waters, and in areas governed by the local ordinances of different local municipalities. Industry applicants can read maps. They know where the lines between jurisdictions are. The certainty they seek is in how established rules will be applied over time. They will have that certainty once district policies are approved.

The proposed Coastal Policy Board will play no role in individual project reviews. That was an issue before, with the old Council, but the Legislature solved the problem. There was a concern under the old system that third parties could use district policies by enlisting a few local residents as partners to delay or halt individual projects. The Legislature solved that problem. Nothing in the current bill will reverse those actions of the Legislature.

I want to remind you that "we" in the districts are not some outside group looking to affect development in the state. We are the state. We are your communities. We are your constituents. Under the districting concept, yes, there has been a limited grant from the state to local communities of some real voice and influence when it comes to deciding what is best in their own back yards. That small measure of influence is really important...not just to

the 28 or so active local districts across the state, but to the 150 or more communities and 2/3 of state residents we districts represent.

This bill tries to correct some of the damage that has been done to the program beginning six years ago now. When HB 191 passed in 2003, the Legislature, districts, and all of the residents that legislators and districts represent were assured that districts would be able to adopt meaningful local enforceable policies dealing with a broad range of coastal resources and uses. That simply hasn't happened, and despite years trying to play by the new rules after 2003, districts have been left with a greatly diminished role in the program.

It's been extremely frustrating that despite a couple of years of tremendous good faith effort and expense on the part of districts, the current administration has been slow to restore the program. DNR has testified in previous hearings about a lot of process, but has taken no action, and has revealed no plans, to actually do anything to fix the problems it admits do exist.

Commissioner Irwin gave his personal assurance at the statewide district meeting in Juneau in April of 2007 that DNR would fix what he acknowledged to be a broken program, but nothing was done. It was only when ACMP-related bills were filed in 2008 that DNR announced in February of that year that it would begin a formal reevaluation of the ACMP. Still, the reevaluation did not begin until July 2008. Department officials openly acknowledged that it was the bills that got them to act.

Again, in good faith, many districts put a lot of effort into our participation in the reevaluation. We met for three days in July. We submitted extensive written initial comments in August, attended 4 full-day meetings in September and October, and a 3-day intense meeting in early December to discuss proposed DNR legislation. We scrambled to prepare extensive comments yet again over the holidays, and were told that the goal was for DNR to file a bill at the start of this session.

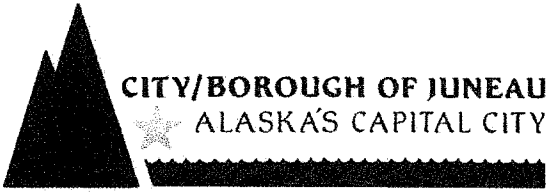
DNR officials have acknowledged on multiple occasions that there are significant problems with the ACMP. There has been testimony that DNR has not yet reached "consensus", and so hasn't introduced a bill. What does that mean? Who can't reach consensus? Is it a problem within DNR? Between DNR and the Governor's Office? It's never explained. There has

been testimony that some “fix” may be possible short of statutory changes, but that is never explained either.

It’s just baffling why, after so much effort on the part of the districts, that DNR cannot clearly explain its intentions with respect to the ACMP. It requires different skill sets to govern and to take pot shots at those who are trying to govern. Despite years of awareness of problems with the program, and the apparent waste of enormous effort on the part of the districts, DNR has offered no solution of its own, and done nothing this session except criticize the bills that others have introduced.

In vague explanation of its opposition, DNR has argued that there are some mysterious legal constraints on the executive branch’s ability, either through the agency itself or a newly created coastal policy board, to approve district policies that are more specific than laws passed by the legislature. We think that’s ridiculous, and have asked repeatedly for a more detailed legal briefing on the issue. We’ve seen none. DNR ought to provide for the Legislature and for districts a written legal opinion on this point, or should stop asserting it. No district is looking to adopt policies that conflict with or are preempted by state or federal law. None of us are anti-development, and never used our local plans to advance an anti-development agenda prior to the 2003 amendments. We just want some ability to shape the development that does occur to meet local needs, conditions, and concerns.

I commend Rep. Joule and the others who have sponsored this bill, ask that you move it, and thank you for the opportunity to testify today.



OFFICE OF THE MANAGER
Telephone: (907) 586-5240; Fax: (907) 586-5385
Rod_Swope@ci.juneau.ak.us

April 14, 2009

The Honorable Craig Johnson, Co-Chair
The Honorable Mark Neuman, Co-Chair
House Resources Committee
State Capitol Building
Juneau, Alaska 99810-1182

Re: HB 74 Alaska Coastal Management Program

Dear Representatives Johnson and Neuman:

The City and Borough of Juneau supports the proposed changes to the Alaska Coastal Management Program (ACMP) in House Bill 74. The bill addresses the most serious problems in the ACMP which resulted from major changes to the program in 2003. Specifically, the bill would establish a Coastal Policy Board to provide local input in decision-making; the bill would restore the district role in the program by allowing greater flexibility to develop meaningful local policies; and the bill would bring the Department of Environmental Conservation (DEC) back into the review process.

Background. HB 191, approved by the Legislature in 2003, required revision of local coastal management programs to conform with new statutory and regulatory requirements. The legislature approved the bill with the assurance that districts would be able to retain local policies and a strong role in the program. This has not been the case. The Department of Natural Resources (DNR) has acknowledged that subsequent regulations were more restrictive than the legislature intended. As a result, districts across the state have lost 50-95 percent of their previously approved policies. The Juneau Coastal Management Program (JCMP) was reduced from 99 policies to 16. Twelve of these policies were approved only after a lengthy and costly mediation process with the state.

As an example, Juneau's policy requiring a 50-foot setback from catalogued salmon streams could not be accepted under the 2003 program changes. This policy has support from state and federal agencies, it is accepted by developers, and it is non-controversial. However, the policy cannot be approved in the revised ACMP because it addresses water quality issues covered by DEC, because mapping requirements are too restrictive, and because various other hurdles in the program, including the "important habitat" designation, cannot be met.

The Juneau Assembly and Planning Commission decided to retain important coastal management policies in the city land use code even though those policies were rejected by the state in the ACMP. As a result, local habitat policies are now reviewed through an entirely separate local process rather than through a coordinated process with the state. This adds significant time and expense to applicants, especially if the project description is modified through the course of the local review. Furthermore, it is contrary to one of the major goals of the ACMP, which is to streamline and coordinate review processes for development.

ACMP as a Management Tool. CBJ has formally participated in the ACMP since our local plan was first approved in 1986. We have used the program to develop our local waterfront areas and to expedite development on lower-value wetlands, in addition to protecting certain sensitive habitat areas. Specifically, the JCMP has established Special Waterfront Areas, which are areas set aside for development. These areas have lower habitat standards, and developments must be approved if basic requirements to minimize impacts have been met. The Special Waterfront Area designation has allowed us to develop four major cruise ship ports, a seafood processing plant, the Alaska Marine Highway Ferry Terminal, and many harbors and marine cargo and transport facilities.

Similarly, the Juneau Wetlands Management Plan, a component of the JCMP, categorizes wetlands into high value and low value. JCMP policies on low value wetlands have much lower review standards to expedite development. These standards must be respected by the Corps of Engineers and other reviewing entities who might otherwise take a more restrictive approach to development.

These policies are very important to CBJ and allow local needs for development to be carried forth formally through the ACMP review process. CBJ has a vested interest in a strong local economy. The ACMP has never been used to slow or stop development, only to manage it in accordance with local needs. DNR has never been able to site an example, anywhere in the state, of a halted or delayed project from ACMP. Quite simply, there is no justification for reducing or eliminating the district role in the program. There is every reason to restore it, in accordance with the Alaska State Constitution mandate, for maximum local self-governance.

Project Examples. Legislators from both the House and Senate have requested specific local examples of where coastal districts have been prohibited from participating in project reviews under the current program. An example in the CBJ is the Taku River Tulsequah Barging Project. This barge project would use a combination of shallow-draft river tugs and tracked and tired low ground pressure vehicles to tow or push Air Cushion Barges along the Taku River. This project is controversial because the Taku River is the largest and most productive salmon stream in Southeast Alaska, and the river is heavily used for both commercial fishing and recreational use. CBJ has no local policies in the current ACMP with which to review this project. Under the previously approved JCMP, prior to 2003, CBJ would have reviewed the proposal under four different policies. CBJ has participated in the current review, but our comments are limited to review of the statewide standards. These standards are very limited in scope, and CBJ will not

have deference regarding project conformance with state policies. Local enforceable policies are critical for meaningful participation in this review.

ACMP Re-evaluation. In August through December 2008, DNR conducted a four month re-evaluation effort in response to proposed legislation from the previous session. CBJ actively participated throughout this effort. DNR stated that the goal of the re-evaluation was to address problems with the program and to introduce new legislation at the beginning of the 2009 session. DNR also stated that the goal was not to reach consensus but rather to develop a constructive dialogue. During the stakeholder meetings, participants found many points of agreement and asked DNR to record those points, but DNR declined.

DNR now states that legislation has not been proposed because of lack of consensus, and because program changes may not be necessary. The recent ACMP statewide conference, held in Juneau March 3-5, did not include the re-evaluation effort on the agenda. The stakeholder group and ACMP Working Group discussions on the issue have come to a halt. DNR shows no sign of addressing the serious problems with the program and continues to be resistant to active district participation in the program. This is why CBJ supports the current legislation; it appears to be our best hope of restoring a local role in the program.

How HB 74 Helps Local Districts. HB 74 would allow coastal districts to establish local enforceable policies in the program as long as those policies are not pre-empted by state or federal law and do not interfere with an issue of state concern. It's important to note that with the pre-emption clause, local policies cannot override state or federal authority. Furthermore, all policies must have full scientific support for approval. The changes proposed in HB 74 promote active, meaningful local input, not local control.


The proposed Coastal Policy Board would approve local coastal management programs, approve ACMP regulations, and administer the ACMP grant program. Establishment of this board is critical for restoring balance in the program and a fair review of district policies. As described in the Background section, district plans were drastically reduced by the 2003 changes and DNR has been resistant toward an active district role in the program. The proposed nine-member board would address this imbalance and bring local community representatives back into the decision-making process. The board would not override agency authority because the board would not conduct project reviews, because district policies cannot pre-empt state or federal law, and lastly because the board would have full agency representation.

Restoring DEC's role in the ACMP is equally important to districts. Separating DEC and all air and water quality issues from ACMP reviews has resulted in a fragmented review process for applicants and has once again limited local district policies. CBJ lost many valuable enforceable policies in our local program simply because the policies indirectly addressed water quality. These included such minimum protections as Best Management Practices to control erosion. During one project review regarding gravel mining in a salmon stream, the project was approved through the full ACMP review process and then denied by DEC, which added significant time and expense for the applicant.

House Resource Committee Co-Chairs Johnson and Neuman
HB 74 Alaska Coastal Management Program
April 14, 3009
Page 4 of 4

In closing, CBJ encourages the House Resources Committee and subsequent committees to move this bill forward. This legislation is critical for restoring a meaningful role for local communities in coastal management and resource development decisions. Thank you for the opportunity to comment.

Sincerely,



Rod Swope
City & Borough Manager

cc: Representative Beth Kerttula
Representative Cathy Muñoz
House Resources Committee Members:
Representative Bryce Edgmon
Representative Kurt Olson
Representative Paul Seaton
Representative Peggy Wilson
Representative David Guttenberg
Representative Scott Kawasaki
Representative Chris Tuck

**NORTHWEST ARCTIC BOROUGH
RESOLUTION 09-07**

**A RESOLUTION OF THE NORTHWEST
ARCTIC BOROUGH ASSEMBLY
SUPPORTING HOUSE BILL 74 (HB-74) AND
SENATE BILL 4 (SB-4) REGARDING THE
ALASKA COASTAL MANAGEMENT
PROGRAM (ACMP)**

WHEREAS: The Alaska Legislature is reviewing two bills, HB-74 introduced by Representative Joule and SB-4 introduced by Senator Olson, that would allow coastal districts to propose enforceable policies for coastal uses and resources that address local knowledge of the areas as long as the policies do not conflict with state or federal laws; and

WHEREAS: HB-74 and SB-4 would establish a coastal policy board (CPB) for public involvement in the program and include representation from the Alaska Department of Natural Resources, Department of Fish & Game, Department of Environmental Conservation, Department of Commerce, Community and Economic Development as well as coastal districts; and

WHEREAS: A subsistence way of life is a very important matter of local concern to the Northwest Arctic Borough, but subsistence use areas and subsistence enforceable policies were disapproved by the State of Alaska for the Northwest Arctic Borough's coastal management plan; and

WHEREAS: Governor Sarah Palin made campaign promises to revisit the ability of coastal districts to write enforceable policies, especially for subsistence; during her campaign for governor; and

WHEREAS: HB-74 and SB-4 would bring air and water quality issues back into the coordinated ACMP consistency review process because almost all coastal resources and uses are related to air and water quality and should be considered during project reviews to consolidate efforts and reduce duplication.

NOW THEREFORE BE IT RESOLVED that the Northwest Arctic Borough Assembly supports the legislative changes proposed in HB-74 and SB-4, which would allow coastal districts across the State of Alaska to create meaningful enforceable policies including policies for subsistence uses and resources; and

BE IT FURTHER RESOLVED, that the Assembly supports the proposed legislation as it would restore a Coastal Policy Board (CPB), which would provide a streamlined planning and policy review process with effective public engagement.

PASSED AND ADOPTED THIS 31st DAY OF MARCH 2009.



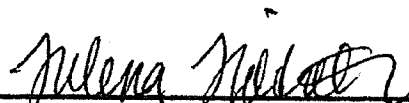
Walter G. Sampson, Assembly President

PASSED AND APPROVED THIS 31st DAY OF MARCH 2009.

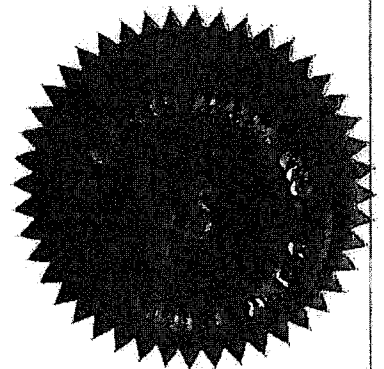


Siikauraq Martha Whiting, Mayor

SIGNED AND ATTESTED THIS 31st DAY OF MARCH 2009.



Helena Hildreth, Borough Clerk





Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

MEMBERS

March 20, 2009

Alaska State
Chamber of
Commerce

Honorable Craig Johnson

Honorable Mark Neuman

Alaska Wilderness
Recreation & Tourism
Association

Co-Chairs, House Resources Committee

Alaska State Capitol

Chugach Alaska
Corporation

Juneau, Alaska 99801

City of Cordova

Dear Representative Johnson and Representative Neuman:

City of Homer

The Prince William Sound Regional Citizens' Advisory Council supports House Bill 74 (HB 74) and urges the Resources Committee to hold a hearing on this important bill.

City of Kodiak

HB 74 would restore the effectiveness to the Alaska Coastal Management Program (ACMP) by bringing the Alaska Department of Environmental Conservation (ADEC)

City of Seldovia

back into the coordinated consistency review process.

City of Seward

City of Valdez

The Prince William Sound Regional Citizens' Advisory Council was pleased that the Alaska Department of Natural Resources (ADNR) supported elimination of the "ADEC carve out" in its November 24, 2008 proposed amendments to the ACMP statutes.

City of Whittier

Community of
Chenega Bay

Although ADNR did not introduce a coastal management bill this session, HB 74 would implement the agency's recommendation to bring air and water quality issues back into project consistency reviews.

Community of
Tatitlek

Cordova District
Fishermen United

We recommend a minor amendment to the bill that would re-establish regional citizens' advisory councils as review participants during project consistency reviews when a project requires an oil discharge prevention and contingency plan. Prior to removal of the ADEC from the ACMP, consistency review process in 2003, the ACMP regulations gave regional citizens' advisory councils special status as a review participant.

Kenai Peninsula
Borough

Kodiak Island
Borough

Kodiak Village Mayors
Association

Specifically, we recommend changes to AS 46.40.096(d) and AS 46.40.096(q) as detailed below. Although review participants are currently recognized in the ACMP regulations, we believe it would be important to include them to the ACMP statutes with the addition of regional citizens' advisory councils.

Oil Spill Region
Environmental
Coalition

Prince William Sound
Aquaculture
Corporation

Amend AS 46.40.096 (d) as follows:

(d) In preparing a consistency review and determination for a proposed project, the reviewing entity shall

(1) provide an opportunity for review participants to request additional information and request consistency review comments for the proposed project from review participants [STATE RESOURCE AGENCIES, AFFECTED COASTAL DISTRICTS] and other interested parties as determined by regulation adopted by the department;

Add a definition to AS 46.40.096(q):

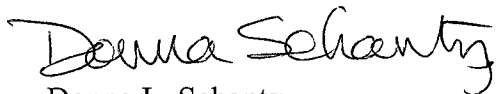
(3) “review participant” means

(A) a state resource agency, a state agency that has requested participation in a consistency review, an affected coastal resource district; and

(B) if a project includes an oil discharge prevention and contingency plan required under AS 46.04.030, an affected regional citizens’ advisory council as established under 33 U.S.C. 2732(d), in addition to the persons listed in (A) of this paragraph.

Thank you for this opportunity to express our support of HB 74. We look forward to the Resource Committee hearings on this bill.

Sincerely,



Donna L. Schantz
Acting Executive Director

- cc: Representative Reggie Joule, HB 74 sponsor
- Representative Bryce Edgmon, House Resources Committee
- Representative Kurt Olson, House Resources Committee
- Representative Paul Seaton, House Resources Committee
- Representative Peggy Wilson, House Resources Committee
- Representative David Guttenberg, House Resources Committee
- Representative Scott Kawasaki, House Resources Committee
- Representative Chris Tuck, House Resources Committee

Introduced by: Rick Gifford, Manager
Requested by: Assembly
Drafted by: Community
Development Dept.
Introduced on: 03/05/2009
Adopted on: 03/05/2009

**KODIAK ISLAND BOROUGH
RESOLUTION NO. FY2009-21**

**A RESOLUTION OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
SUPPORTING THE LEGISLATIVE AMENDMENTS PROPOSED IN HB-74 AND SB-4
TO RESTORE CERTAIN CHECKS AND BALANCES TO THE ALASKA COASTAL
MANAGEMENT PROGRAM (ACMP) THAT FAVOR THE MEANINGFUL PARTICIPATION OF
LOCAL COMMUNITIES AND COASTAL DISTRICTS IN THE PROJECT REVIEW PROCESS**

WHEREAS, the Alaska Coastal Management Act of 1977 created a sixteen member Alaska Coastal Policy Council (CPC) comprised of seven State-agency heads and nine local elected officials whom the governor appointed from a list of names submitted by local officials in each of nine coastal regions defined in the Act; and

WHEREAS, the CPC, with support of the former Division of Governmental Coordination in the Alaska Governor's Office, was responsible for approving coastal district policies, approving coastal district management plans and hearing appeals from decisions on coastal development projects; and

WHEREAS, the CPC was omitted from the legislative revision of the Alaska Coastal Management Program in 2003 and the statutory and regulatory changes required the Kodiak Island Borough to rewrite its coastal management plan and enforceable policies; and

WHEREAS, the resulting KIB Coastal Management Plan cannot have enforceable policies addressing a resource or subject matter that is regulated by another state or federal agency, leaving very little for the Borough to comment on as project comments are likewise restricted to only those matters for which the KIB has enforceable policies; and

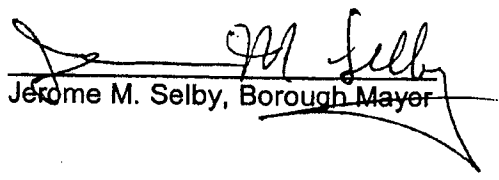
WHEREAS, the Kodiak Island Borough does not regulate environmental factors such as air, water and habitat; however, it would still benefit the KIB to have meaningful and reasonable coastal policies addressing these and other areas of concern as a basis for inter-agency coordination with those state and federal agencies which exercise these authorities; and


NOW, THEREFORE BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH that the Kodiak Island Borough, concurrently acting as the Kodiak Island Coastal District in this matter, supports the legislative changes proposed in HB-74 and SB-4, which would restore a Coastal Policy Board (CPB), in lieu of the former CPC, which would provide a more streamlined planning and policy review process than the former CPC and which would provide balance and intellectual independence from the centralized policy, planning and permitting program administered by the Division of Coastal Ocean Management (DCOM) within the Alaska Department of Natural Resources (ADNR); and

51 **BE IT FURTHER RESOLVED** that the proposed legislation would: 1) create a CPB consisting of
52 five public members appointed by the governor including one at-large and one member from
53 each of four coastal district regions which are Northwest, Southeast, Upper Cook Inlet and
54 Southwest; and, four commissioners from the departments of environmental conservation, fish
55 and game, natural resources and commerce, community and economic development, which
56 would be responsible for approving coastal grant allocations, coastal district policies, and
57 approving coastal district plans; 2) would restore the ability of coastal districts to adopt
58 meaningful plan policies even if they involve technical environmental issues or resources
59 regulated solely by a state or federal agency as a basis for local dialogue during project reviews
60 and coordination with those same state and federal agencies which are responsible for
61 regulating said environmental factors and resources; and 3) would restore subsistence use of
62 animal and vegetative resources as a use of state concern in the coastal zone; and
63

64 **BE IT FURTHER RESOLVED** that these bills would promote economic development by bringing
65 local, state, and federal agencies closer together to ensure early resolution of issues related to a
66 development project. Although the Kodiak Coastal District still has a "seat at the table" with state
67 and federal agencies, the currently approved plan policies do not allow any overlap with the
68 regulations or jurisdiction of said agencies, leave very little for the Kodiak Coastal District to
69 comment on because comments can only flow from the districts adopted policies, thereby
70 discouraging local input into the project review process and the minimizing the agency
71 coordination which is intended to be the hallmark of the coastal project review process.
72

73 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
74 **THIS FIFTH DAY OF MARCH, 2009**
75

76 KODIAK ISLAND BOROUGH
77
78 
79
80 Jerome M. Selby, Borough Mayor
81

82 ATTEST:
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84
85
86 Nova M. Javier, CMC, Borough Clerk
87



THE ALLIANCE

...for responsible development of Alaska's Oil, Gas & Mineral Resources

646 West Fourth Ave., Suite 200 * Anchorage, AK 99501 * Phone (907) 563-2226 * Fax (907) 561-8870

March 3, 2009

Rep. Craig Johnson, Co-Chair
Rep. Mark Neuman, Co-Chair
House Resources Committee
Alaska State Legislature
State Capitol (MS 3101)
Juneau, Alaska 99801-1182

Dear Reps. Johnson & Neuman,

We're writing on behalf of the Alaska Support Industry Alliance to urge you to oppose House Bill 74 relating to Alaska's coastal management program.

As you know, the program was reformed in 2003 to address inconsistencies, ambiguities and time-consuming redundancies that hampered resource development projects and discouraged investment. The reforms have worked, without compromising environmental standards. If it's fixed, don't break it.

The Alliance's growing membership now includes more than 460 organizations that provide goods and services to Alaska's oil, gas and mining industries - the industries whose investments not only are the backbone of our state's economy, but also are most susceptible to the regulatory roadblocks embodied in HB 74.

Our members and their 35,000-plus Alaska employees - your constituents - already are suffering the effects of reduced investment driven by the global economic downturn, lower oil prices and an uncompetitive state tax structure for oil and gas. Hundreds of Alaska workers in the industry have been laid off from their jobs in recent weeks; thousands more are vulnerable. Margins of Alaska contractors and suppliers also are being squeezed as oil companies seek to reduce operating and capital costs.

Reps. Johnson and Neuman, don't jeopardize even more Alaska jobs and businesses by recreating regulatory and permitting obstacles in the coastal management program and making Alaska an even less attractive place to invest. We urge you to just say "no" to HB 74. Thank you.

Sincerely,

Jeanine St. John
President

Paul Laird
General Manager



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET • KETCHIKAN, ALASKA 99901

• 907/228-6625 • fax 907/247-6625

OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

February 23, 2009

HB 74: House Resources Committee

Committee Co-Chairs: Representative Mark Neuman and Representative Craig Johnson

Dear Representative Neuman and Representative Johnson,

The purpose of this letter is to express my support for House Bill 74 and Senate Bill 4. As the Coastal Coordinator for the Ketchikan Gateway Borough I was fully immersed in the coastal plan amendment process, an extremely lengthy and frustrating experience. Ketchikan's plan was approved in March of 2008. The end result was a watered down plan with very few enforceable policies. The aspects of the plan that the Ketchikan District deemed most important and applicable to the average permittee were relegated to the appendix of the plan, or had to be labeled as "non-enforceable." The proposed legislation contained in HB 74 would restore the ability for the coastal district to establish more meaningful policies that address our local concerns, without duplicating existing state or federal law.

As Coastal Coordinator for the Ketchikan District, I would also like to advocate for the Coastal Policy Board proposed in the legislation. Reinstating the Coastal Policy Board would provide a much needed check and balance system to the Alaska Coastal Management Program (ACMP), and most importantly, offer the coastal districts a seat at the table regarding coastal policy decisions. The board would approve coastal district plans, approve overall grant programs, and approve changes to the ACMP regulations prior to adoption by the Department of Natural Resources. Currently all ACMP decisions and responsibility lies with the DNR Commissioner, not leaving much room for compromise and collaboration from the districts and state agencies.

Lastly, I support eliminating the "DEC Carve-out." It has been extremely confusing to have DEC permits in a separate permit process, as well as inefficient. The proposed legislation would allow DEC to retain authority for air and water quality statutes and regulations, making the permitting process streamlined and easier to navigate.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Leslie Jackson".

Leslie Jackson
Associate Planner

PIONEER

NATURAL RESOURCES ALASKA

March 10, 2009

Representative Craig Johnson, Co-Chair
Representative Mark Neuman, Co-Chair
House Resources Committee
State Capitol
Juneau, Alaska 99810-1182

Re: House Bill 74 – Alaska Coastal Management Program

Dear Representatives Johnson and Neuman:

On behalf of Pioneer Natural Resources Alaska, Inc. (Pioneer), I am writing to express our concern with House Bill 74 – a bill that would significantly alter the existing Alaska Coastal Management Program (ACMP.)

Pioneer is an independent oil and gas exploration and production company headquartered in Dallas, Texas with operations in the United States, Tunisia and South Africa. In Alaska Pioneer operates the Oooguruk Unit on the North Slope and the Cosmopolitan Unit in Cook Inlet. The company also maintains a substantial leasehold position in the state. With first production from our Oooguruk Unit in June 2008, Pioneer became the first independent company to operate a field on the North Slope. Pioneer brought the project online in five years – from exploration wells to first production – an unprecedented timeline for a North Slope offshore project.

In Pioneer's experience, the ACMP isn't broken and does not warrant the substantial overhaul contemplated in House Bill 74. In fact, the successful development of our Oooguruk project under the existing ACMP is a strong endorsement of the current program. Pioneer worked extensively with local, state and federal regulatory agencies and stakeholders to ensure the project was designed to minimize impact to the coastal environment and resources while maximizing its benefits.

Pioneer responded to more than 200 comments, many from local stakeholders, during the state's coastal consistency review and the federal project review. Additionally, the North Slope Borough adopted a "re-zone" ordinance specific to the Oooguruk project which addressed a number of issues of importance to the Borough, including subsistence, Native allotments and cumulative impacts. Finally, the public had multiple opportunities to comment on the project throughout the Alaska Department of Environmental Conservation's (ADEC) processing of Oooguruk's air permit and oil spill contingency plan.

Working with government regulators and other stakeholders, Pioneer undertook a number of initiatives to ensure Oooguruk did not have a detrimental impact to the coastal environment and resources. Many of these actions were developed to respond to issues and concerns raised during the project's consistency review.

- The company has conducted numerous studies to determine the project's possible impacts to bowhead whales, caribou and fish. We monitor polar bear, caribou, fox and bird activity continually and train our employees to avoid any interference with the subsistence activities of local residents.
- Pioneer designed Oooguruk's development wells on 7ft centers limiting the size of our drilling island to a mere six acres, reducing our need for gravel and minimizing the project's surface footprint. From a six-acre drill site we will develop a subsurface reservoir of roughly 10,000 acres.
- To minimize the potential for leaks produced fluids travel through the project's sub-sea flowline bundle in a pipe-in-pipe design. Sophisticated pressure monitoring allows for precise detection of leaks. The flowline bundle is the first of its kind on the North Slope.
- To accommodate caribou crossings the vertical support members (VSM) used to elevate the onshore section of the project's flowline are 7ft high – the highest VSMs on the North Slope.

Taken as a whole, the ACMP provides a robust regulatory process – one that provides the public and interested stakeholders with meaningful opportunities to engage with project sponsors and helps ensure development in Alaska's coastal zone is done right.

Compared to the current program, House Bill 74 creates an ACMP with significantly broader scope, increased bureaucracy, a number of poorly defined and undefined terms and less schedule certainty for project sponsors. It is unclear whether any of these changes will produce corresponding benefits to the coastal environment. On the other hand, project developers are likely to face increased costs as coastal consistency determinations become more complicated and time intensive.

- *Scope Growth*
House Bill 74 expands the state's coastal zone into the federal waters of the outer continental shelf as well as lands inland of the coastal zone. This change dramatically increases the program's jurisdiction and increases the uncertainty regarding when and where the program will be applied.
- *Bureaucratic Expansion*
The legislation creates the Alaska Coastal Policy Board (Board) adding an additional layer of bureaucracy and costing the state hundreds of thousands of dollars annually. The new entity, with limited staff and resources, will assume some of the duties and

responsibilities currently vested in the Alaska Department of Natural Resources (ADNR) and ADEC – state agencies properly equipped to handle the workload.

- *Definitions*

House Bill 74 adds a new term to the statute – “special management area” – which is defined so broadly as to likely include the state’s entire coastal zone. This term is sure to cause disputes among the Board, state agencies and project sponsors over interpretation and applicability. Such disputes will only increase the time and cost needed to conduct a consistency review.

- *Schedule Certainty*

The legislation removes the time limitations currently used by the resource agencies in issuing consistency determinations for any federal activity or authorization. Since few, if any, development projects in Alaska’s coastal zone do not require at least one authorization from a federal agency, the practical effect of this language is to eliminate schedule certainty for essentially all proposed projects.

Additionally, the bill sets aside a provision in the current program which specifies the air, land and water quality standards administered by ADEC constitute the standards for the purposes of the ACMP. Elimination of this provision will require ADEC permits to undergo consistency review leading to possible disagreements regarding interpretations, as well as project delays due to the significant lead times associated with many ADEC permits.

The net effect of the changes proposed in House Bill 74 will be to increase the cost, complexity and time needed for a project sponsor to acquire a consistency determination. Making the regulatory process in Alaska more burdensome sends a negative signal to prospective investors particularly if there are not clear corresponding benefits to the coastal environment and resources. Today at Oooguruk, Pioneer operates under roughly 250 permits and authorizations issued and enforced by more than a dozen different local, state and federal agencies. We do not believe the facts warrant a more expansive and complicated ACMP.

Put simply, the current program is not broken. In fact, proponents of the legislation have not been able to identify a single project authorized under the current system which they believe to be inconsistent with state or coastal district standards. Meanwhile, projects like Oooguruk stand as testament to the balance and success of the current system.

The concerns of coastal zone stakeholders are important and their participation in the permitting process helps assure development is done right. Pioneer’s experience with the current ACMP program has been largely positive. The program is a critical piece in the state’s regulatory regime and it successfully balances rigorous permitting standards and public access with a process that is reasonably efficient from the standpoint of project sponsors. Pioneer does not see a need for the substantial changes proposed in House Bill 74 and we do not support moving the bill forward.

Senate Resources Committee
House Bill 74 – Alaska Coastal Management Program
March 10, 2009

Thank you for your consideration of our position on this important issue. Please feel free to contact me if I can answer any questions or provide you with additional information.

Sincerely,

A handwritten signature in black ink that reads "Tadd Owens". The signature is written in a cursive style with a large, stylized 'T' and 'O'.

Tadd Owens
Director, Government & Public Affairs

**Alaska Republican Party
Resolution # 2009-A**

TITLE: Support for the Current Alaska Coastal Management Program (ACMP)

POSITION STATEMENT: The Alaska Republican Party strongly supports retaining the current Alaska Coastal Management Program (ACMP) because it provides concise and predictable permitting for business development opportunities in Alaska's coastal zone. Any modifications to the ACMP should reflect the following principles: clarity in the applicability and scope of consistency reviews, procedural streamlining, non-duplication of state and federal laws and regulations in local district policies, limited locally-designated areas based on special or unique local conditions, and "carve out" of the Alaska Department of Environmental Conservation (ADEC).

SUPPORT FOR POSITION:

1. After the ACMP program was first adopted in 1978, federal and state environmental laws and regulations evolved, becoming more rigorous, thus making the scope of consistency reviews, statewide standards and district enforceable policies redundant or duplicative. Conflicting requirements between ACMP and state and federal programs also created numerous complexities in complying with the program.
2. The ACMP program underwent a complete and thorough review in 2003 that resulted in several changes removing many of the obstacles for the business community by establishing clear triggers for applicability, identifying the information necessary for a complete application and setting clear deadlines for requesting additional information, establishing applicable standards for consistency reviews, and establishing firm deadlines for completion of consistency reviews.
3. One of the most significant permit streamlining benefits in the 2003 changes is what is known as the "ADEC carve out" which provides that ADEC's air, land, and water quality standards are the exclusive standards of the ACMP. This means that ADEC's standards adequately address those regulatory matters, and coastal districts may not establish any enforceable policies that lie within the regulatory purview of ADEC's environmental programs.
4. Additionally, the current ACMP program establishes clear boundaries on the scope and subject matter of statewide policies and district enforceable policies. The program requires coastal districts to focus their enforceable policies on "matters of local concern", which need to be appropriately justified in clear and concise language.
5. Maintaining the current ACMP program is supported by many in the regulated community, including the oil and gas industry, mining industry, and several Native corporations.

ACTION REQUIRED for the POSITION:

Alaska Republican Party members will work with the regulated community in evaluating any proposed statutory and/or regulatory changes to the ACMP program to ensure the core principles described above are retained. Potential involvement may include, but not be limited to, testifying at public hearings, submission of written comments and devoting public forum and/or publication space to provide information about the ACMP.

North Slope Borough

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723
Phone: 907 852-2611 or 0200
Fax: 907 852-0337 or 2595
email: edward.itta@north-slope.org

Edward S. Itta, Mayor



February 3, 2009

Representative Reggie Joule
Alaska State Legislature
State Capitol, Room 102
Juneau, Alaska 99801

Sent by fax:

RE: HB 74 Alaska Coastal Management Program

Dear Representative Joule:

Thank you for pre-filing HB 74 about the Alaska Coastal Management Program (ACMP). The North Slope Borough (Borough) supports this bill because it will restore meaningful local involvement in the ACMP, implement checks and balances, and streamline project reviews.

The Borough appreciates the sections of the bill that clarify the ability of coastal districts to establish enforceable policies, especially the provisions in AS 46.40.030 and 070. While the 2003 legislative changes to the ACMP allowed coastal districts to establish policies for matters not adequately addressed by state or federal law, many of our proposed enforceable policies were denied on the basis that they addressed an agency's authority. We made an extra effort to focus our proposed policies on matters that were not addressed by existing laws, but still they were denied.

HB 74 would restore checks and balances into the ACMP by establishing the Coastal Policy Board. This body would represent coastal districts and state agencies. It would be responsible for approving changes to ACMP regulations, amendments to coastal district programs and overall grant programs. This body is similar to the former Coastal Policy Council except that it has fewer members and is not responsible for project consistency reviews. Restoring the responsibility for project elevations to the three state resource agencies will ensure these agencies have a seat at the table.

The Borough also wishes to thank you for including in the bill the sections that streamline project reviews. The ACMP was an extremely effective program that resolved issues among

local, state and federal agencies, but changes to the program statutes and regulations reduced its effectiveness. Bringing the Alaska Department of Environmental Conservation back into the consistency review process will bring air and water quality issues back into ACMP project reviews. Likewise, allowing coastal districts to have meaningful policies will encourage their participation in the coordinated consistency review process. These changes will streamline project reviews because issues can be resolved early in the process by all parties. The changes will also encourage permitting agencies to ensure their permit stipulations are compatible and reasonable.

Again, the North Slope Borough thanks you for introducing HB 74, and I look forward to testifying on this bill as it moves through the committee process.

Sincerely,



Edward S. Itta
Mayor

cc Johnny Aiken, NSB Director, Planning & Community Services
Karla Kolash, NSB Mayor's Office
Andy Mack, NSB Mayor's Office
Marla Berg, NSB Mayor's Office

Good Morning

My name is Karol Kolehmainen and I am the Program Coordinator for the Aleutians West Coastal Resource Service Area. I am here today to bring testimony from my elected seven member Board of Directors which is largely in favor of HB74 as I will describe. The AWCRSA Board represents the entire western Aleutian area from Unalaska Island west to Attu Island, an area that is 20 to 60 miles in width and roughly 1000 miles long. This area, bounded by the Pacific Ocean to the south and the Bering Sea to the north, has a wealth of natural resources including some of the richest fishing grounds in the state.

We are here today because HB 191 mandated significant changes to the Alaska Coastal Management Program and our local district program. I would like to provide a brief overview of our current coastal management plan. The AWCRSA coastal management plan became effective February 11, 2007. Of the 44 enforceable policies we had at the beginning of the revision process, 10 remain. We no longer have any habitat policies, mitigation policies, or policies that mention air, land, or water quality. Also, we have designated subsistence use areas but no enforceable subsistence policies. Many of our previous enforceable policies have been moved to an unenforceable appendix and classified as "advisory" policies.

The ACMP prior to the passage of HB 191 was a networked program where local reviewers were on a par with state and federal reviewers. Following passage of HB 191 the program became centralized in DNR. We do not feel that it was the intent of HB 191 to silence the local voice or result in a disconnected program but it has had this effect. Passage of HB 74 will return us to a more meaningful position within a networked program.

The AWCRSA is in support of a Coastal Policy Board that incorporates the positive aspects of the former Coastal Policy Council. HB 74 accomplishes this by creating a policy board that includes representation from the coastal districts, the resource agencies and the DCCED Division of Community and Regional Affairs. We agree that the Board's mission should include the ability to approve local district plans, program related funding, and especially program and regulatory changes. We also agree that the Board would not be responsible for consistency reviews and would not hear elevations but rather they would be heard within a review panel of the resource agencies and not solely by the DNR Commissioner as is now the case. The new Board would serve as a public forum that should result in more public involvement and a more equitable decision making process. Also, it would provide an outreach component that is sorely lacking in the post HB 191 amended program.

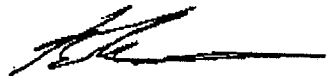
The DEC carveout has confused the consistency review process especially where the scope of the project requires permits from more than one agency. The removal of the DEC has been interpreted as the removal of any matter relating to

air, land, or water quality through the program implementing regulations. As I stated earlier, it became impossible to craft any acceptable policies related to air, land or water quality or that even mentioned the words air or land. This negated not only policies that were clearly within regulation of DEC but also policies related to habitat that might touch on water issues. The return of DEC to the coordinated ACMP program is integral to a meaningful program and the AWCRSA Board supports the inclusion of DEC in the networked ACMP.

The AWCRSA does not support the change made in Sec 46.40.190 relating to cooperative administration. The proposed wording has totally reversed the meaning of the paragraph and has the potential to undermine the existence of CRSA's. We request that the original wording be retained.

Time has shown that not all of the changes required by HB191 have worked and we appreciate the sponsor's efforts to address the problems in the current program. Passage of HB 74 will go a long way to restore the role of coastal districts in the ACMP, increase public involvement and oversight, and bring consistency reviews back into a coordinated and networked program.

Thank you for your time.



*Program Director
AWCRSA*

NORTHWEST ARCTIC BOROUGH

P.O. Box 1110

Kotzebue, Alaska 99752

(907) 442.2500 or (800) 478.1110

Fax: (907) 442.3740 or 2930

February 3, 2009

Honorable Senator Donny Olson
Capitol, Room 514
Juneau, Alaska 99811

Honorable Representative Reggie Joule
Capitol, Room 502
Juneau, Alaska 99801

Re: **SB 4 and HB 74 Alaska Coastal Management Program**

Dear Senator Olson, and Representative Joule:

The Northwest Arctic Borough (NWAB) would like to thank you for the introduction of SB 4 and HB 74 on the Alaska Coastal Management Program (ACMP). On behalf of the Borough, I would like to address the substance of HB 74 because we understand the Senate Community and Regional Affairs Committee will consider adoption of the provisions of HB 74 into a senate committee substitute.

The NWAB supports the proposed legislation that would restore the ability of coastal districts to effectively participate in the program, and establish meaningful policies under the ACMP; therefore providing valuable local input to development that happens in a very large and unique state. Another important provision in the bills would establish a board made of Alaskans to oversee the major aspects of ACMP as a publicly funded program. The proposed board would jointly represent state agencies and local coastal districts thereby restoring effective public engagement in the ACMP.

Currently, only the Alaska Department of Natural Resources (DNR) as a single agency makes all coastal management decisions. This has proved to be very one-sided and frustrating. For example, as you may know, during 2008 the NWAB attempted mediation with DNR to improve the decisions regarding our coastal management plan. Unfortunately, the mediation ended in an impasse with the majority of the proposed plan flat out denied. According to the

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ACMP now, our only re-course for a fair review is again to go back to the DNR commissioner for re-consideration of a decision that has already been made by the commissioner and his staff. As you can see, the ability to obtain a third party review that involves the public is not possible under the current program, and the new provisions in this bill will help prevent such a future problematic situation and provide state staff the clear criteria and direction for approval of coastal district policies with involvement of the coastal policy board.

The NWAB also supports the addition of subsistence to the ACMP objectives in AS 46.40.020. Until changes made by the Murkowski Administration, the ACMP has been an effective tool balancing resource development and protection of our coastal resources that support healthy subsistence. It is very important that Alaskans have the ability to propose local policies that demonstrate the real life connection of people and communities to coastal areas and actually reflect the close relationship Alaskan residents have to this land, the coastal zones and our valuable subsistence way of life. For the NWAB, the ability to cooperatively work with developers and the state to address subsistence impacts is the primary reason for participating in the ACMP so that development honors our long-time and permanent Alaskan lifestyles.

We also support provisions in the bill that would bring activities covered by the Alaska Department of Environmental Conservation back into the ACMP consistency review process. Impacts to air and water quality also affect habitat and subsistence, and it makes sense to address these issues together in a consolidated format during a single consistency.

The NWAB encourages responsible development of our natural resources. We recognize the economic importance of development in providing new revenues to fund local public services and facilities, and to provide steady employment opportunities in rural areas. However, it is important that local coastal districts have a role in voicing valid concerns and potential impacts to subsistence and other coastal uses and resources - all to ensure that we are doing resource development the right way.

In closing, these bills restore a meaningful role for coastal districts to facilitate effective future development opportunities. I appreciate your interest in improving the ACMP, and I look

NORTHWEST ARCTIC BOROUGH

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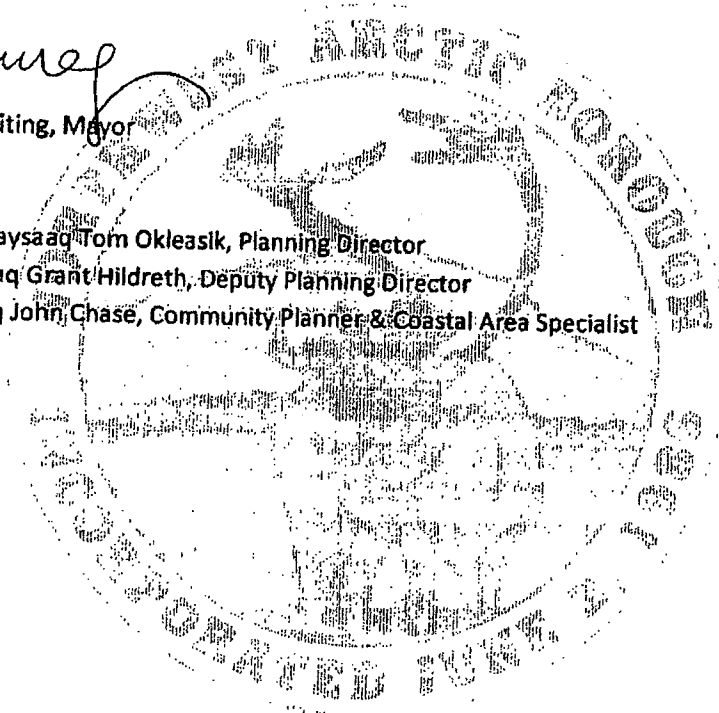
forward to working with you during this legislative session. Please contact me or Ukallaysaaq Tom Okleasik if you have any questions about our proposed plan at (907) 442-2500.

Sincerely,



Siikauraq Whiting, Mayor

Cc: Ukallaysaaq Tom Okleasik, Planning Director
Alagiaq Grant Hildreth, Deputy Planning Director
Kill'aaq John Chase, Community Planner & Coastal Area Specialist





December 22, 2008

Randy Bates
 Director, Division of Coastal and Ocean Management
 Department of Natural Resources
 P.O. Box 111030
 Juneau, Alaska 99811-1030

Re: **Alaska Coastal Management Program Re-Evaluation**

Dear Mr. Bates,

Ukpeagvik Inupiat Corporation (UIC) was created under the Alaska Native Claims Settlement Act (ANCSA) in 1972 to serve the social and economic interests of the Native Village of Barrow, Alaska, the northern most coastal village in the United States. In light of expanding resource exploration and development both onshore and offshore in our region, the UIC Board of Directors has developed the following policy statement:

In our interactions with the oil and gas industry, we will leverage our position to benefit the Ukpeagvik Inupiat Corporation Family of Companies, its shareholders and the community. We acknowledge the inevitability of exploration and development by the oil and gas industry and we will support exploration activities as long as they are done in a way that ensures:

- *Protection and preservation of the Inupiat culture and subsistence lifestyle*
- *Economic benefit for our community*
- *Employment for our shareholders and their families, and*
- *Contract opportunities for our companies*

UIC shares the interests of the North Slope Borough, as our coastal district governing body, to create a robust and growing industrial sector in Alaska's arctic. UIC also shares an interest in protecting our Inupiat customary and traditional way of life through local participation in project planning by implementing sound environmental regulations and policies under a flexible and reasonable Alaska Coastal Management Program. UIC is favorable to empowering local coastal districts to enforce locally driven environmental policies through a predictable and streamlined public process under the expertise of a coastal management plan.

Each coastal district or region in Alaska is so unique and special both geographically and ecologically, it makes sense to empower well thought and reasonable district specific enforceable policies to help guide project development beyond general state and federal regulations. For example, a local policy that fits the needs of Cook Inlet or Southeast communities, such as pipeline setbacks, cannery operations, cruise industry ports of call, general water use and waste discharge, or tank farm requirements, may not apply similarly in the unique arctic environment.

Before 2004, the original statutes and regulations of ACMP worked moderately well, allowing coastal districts to participate and include local expertise in the permitting process. With a few procedural modifications to the older, pre-2003 system, such as a streamlined Coastal Policy Board, as envisioned in

U k p e a g v i k I n u p i a t C o r p o r a t i o n

P.O. Box 890 • Barrow, AK 99723 • Fax (907) 852-4459 • Voice (907) 852-4460

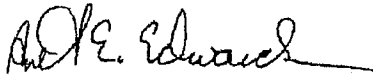
the North Slope Borough (NSB) recent recommendations, we believe the ACMP can achieve the intent of the Coastal Zone Management Act and the intent of the Alaska Constitution to maximize local control and governance.

UIC believes future statutory language should support an ACMP regime that allows multiple agencies such as DNR, DEC, ADF&G, and DCCED to participate in a meaningful consistency review. This broad challenge requires well defined language that should reflect flexible regulatory structure so as not to create the potential for arbitration and delay. If piecemeal decision-making is framed by restrictive state policy and tedious legislative review, higher probability for arbitration and delay of important commercial activity will result from special interest group interpretations of the environmental regulations governing proposed coastal economic development projects.

UIC believes sound natural resource management and environmental conservation are best served under "performance based policies", innovative solutions driven, flexible, and incorporating predictable regulations that guide industrial development – dispelling notions that local policies should apply only to specific designated areas and resources. This philosophy recognizes potentially large shifts in ecology and subsistence resource migration, which in turn defines public access and uses of resources, especially in light of climate change, global warming, arctic sea ice retreat, and cumulative industrial growth.

UIC is economically dependant, in large part, on a healthy oil and gas industry, but we are also dependant on a healthy arctic marine ecosystem which supports the Inupiat subsistence way of life. As a critical stakeholder in the ACMP regulatory process we thank you for this opportunity to comment on the ACMP reevaluation.

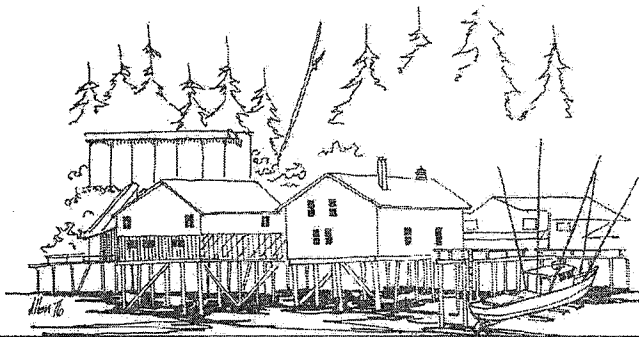
Respectfully submitted,
UKPEAGVIK INUPIAT CORPORATION



Anthony E. Edwardsen
President & CEO

Distribution:

Ukpeagvik Inupiat Corporation



City

of

Pelican

BOX 737 - PELICAN, ALASKA 99832 - PHONE: 735-2202/2203 - FAX: 735-2258 - E-MAIL: cityhall@pelicanity.net - WEBSITE: www.pelicanity.net

February 20, 2009

Honorable Bob Herron and Honorable Cathy Munoz
Co-Chairs House Community and Regional Affairs Committee
Capitol, Room 415
Juneau, Alaska 99801

Dear Co-Chairs Herron and Munoz:

The City of Pelican wishes to support House Bill 74 which would improve the Alaska Coastal Management Program (ACMP). Changes made to the program in 2003 have reduced the effectiveness of the ACMP.

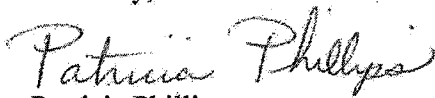
As a mayor of a small rural coastal community, I see first-hand the onerous Federal and State Environmental reviews and permitting processes. These bills would allow coastal districts to establish meaningful enforceable policies, but in my opinion, they would not lead to significant additional burdens for project applicants because coastal districts need economic development.

The City of Pelican supports creation of the Coastal Policy Board. This board would lead to a better balance in decisions because it would represent state agencies and coastal districts. Nothing in the proposed legislation would allow the board to overrule agency decisions.

We also support integration of the Department of Environmental Conservation into the ACMP consistency review process.

Thank you for the opportunity to comment on House Bill 74.

Sincerely,


Patricia Phillips
Mayor

cc: Members of the House Community and Regional Affairs Committee

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114
Email: crockett@aoga.org
Marilyn Crockett, Executive Director

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

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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.

February 10, 2009

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.



Roger D. (Dale) Summerlin
Vice President
Health, Safety & Environment

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Anchorage, AK 99510-0360
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February 4, 2009

The Honorable Donald Olson
Chairman, Senate Committee on Community & Regional Affairs
Alaska State Legislature
Alaska State Capitol, Room 514
Juneau, Alaska 99801

**VIA FAX TO (907) 465-4821
& Next Day UPS Delivery**

RE: Proposed Senate Bill No. 4
An Act Relating to the Alaska Coastal Management Program (ACMP)
Establishment of the Alaska Coastal Policy Board
State Statutes AS 46.39 and AS 46.40

Dear Senator Olson:

ConocoPhillips Alaska, Inc. (CPAI) has prepared this formal response to proposed Senate Bill No. 4, an act relating to the Alaska Coastal Management Program (ACMP) and establishment of an Alaska Coastal Policy Board, and offers the following comments for your consideration.

Retention of the Current Program

CPAI has been, and remains, a supporter of the centralized ACMP process which resulted from the passage of House Bill (HB) 191 in 2003 and was later implemented by regulations and statutory amendments. In 2003, the Alaska Legislature concluded that "the Alaska coastal management program (ACMP) is intended to function with a minimum of delay and avoid regulatory confusion, costly litigation, and uncertainty regarding the feasibility of new investment." In addition, the legislature stated that statewide standards "be clear, and concise and provide the needed predictability as to the application, scope, and timing of the consistency review process of the program."

Proposed changes in Senate Bill (SB) No. 4 would allow districts to restrict selected activities within their coastal district; these activities will undoubtedly involve uses of state concern and/or may involve matters already adequately addressed by existing regulatory programs. Decision-making authority concerning the management and use of state resources vests with the State.

The current program's approach eliminates enforceable policies which may be conflicting between coastal districts, state, and federal agencies, and which could result in a loss of



ALASKA MINERS ASSOCIATION, INC.

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February 9, 2009

Honorable Reggie Joule
Alaska State House
Capitol Building
Juneau, AK 99801

Re: House Bill 74, Changes to Alaska Coastal Zone Management

Dear Representative Joule,

The mining industry has been involved in the Alaska Coastal Zone Management Program (ACMP) for many years. Several companies have raised concerns regarding House Bill 74 and its companion SB-4. They agree that ACMP is not working well but they cannot support the changes being proposed in HB-74. The bottom line is that this bill would create an administrative quagmire for the state permitting process and would create tremendous uncertainty for all permittees.

As proposed by HB-74, the coastal districts would be in charge of the program and control what is done. In this situation, the coastal districts would be in a position to set the rules and enforce them without accountability to the Legislature or the Administration. The bill would re-establish the Coastal Policy Council (calling it the Coastal Policy Board) with 5 public members and 4 state agencies (DNR, DF&G, DEC, & DCEED). The governor would choose the public members but must select them from a list supplied by the Coastal Districts. The effect is that the districts would control the outcome of the selection process. This is not a good situation for ACMP or any other public policy issue.

Further under HB-74, the Coastal Policy Board (CPB) would approve or disapprove all plans and regulations. If the board feels that an agency is not interpreting the policies the way they want, it would have the authority to order the agencies to change, irrespective of State statute or regulation. The CPB would thereby effectively have authority over both the Legislature and the Administration.

HB-74 would also eliminate what has been called the DEC "carve-out". It would allow districts to interpret state statutes and regulations relating to air quality, water quality, solid waste disposal, water injection, land issues, sanitation, food service, public health, etc. Many of these statutes and regulations have been developed over many decades of detailed technical evaluation by the agency and through a tremendous amount of public process and input. Others are nationwide standards developed over many years by federal government scientists at the cost of millions of dollars. The coastal districts do not and will not have the technical expertise to fully evaluate these issues.

something the legislature has not given them, the district could simply write it themselves and DNR, DF&G, DCEED would have to comply.

A second conclusion is that many of the examples mentioned above would raise constitutional questions. Because the CPB has the authority to go beyond state law, the bill has the effect of delegating legislative law-making to a public-dominated board. This delegation is not constitutionally allowed. Similarly, it removes interpretation of state regulations from the administrative branch — where the interpretations constitutionally belong — and gives this authority to the CPB. While some of these constitutional issues existed before passage of HB-191 in 2003 (specifically the homeless stipulations), HB-74 greatly magnifies and expands these legal problems.

A third conclusion is that the bill essentially does away with the concept of state interest. There are some decisions — whether and how a gasline should be constructed, expansion of the railroad, even oil development on the North Slope — that should be decided by the state, without a veto by local authorities. It is critical that local land-use issues and local concerns be taken into account by the permitting agencies, but some issues affect the entire state and must be determined on a state-wide basis. HB-74 essentially does away with this concept.

A final conclusion is that the changes proposed would create tremendous uncertainty for the regulated public. There is no way to escape a great deal of uncertainty as individual coastal districts have the final say in what was previously agency matters.

Thank you for the opportunity to address our concerns to you.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Borell". The signature is fluid and cursive, with the first name being a single letter and the last name being more clearly legible.

Steven C. Borell, P.E.
Executive Director



217 Second Street, Suite 200 • Juneau, Alaska 99801
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

February 9, 2009

Representative Cathy Munoz
Representative Bob Herron
State Capitol
Juneau, Alaska 99801

Dear Representative Munoz and Representative Herron,

The Alaska Municipal League would like to go on record in support of HB 74 and SB 4. These bills would serve to resolve some of the major problems that communities and the State continue to deal with after the changes made to the ACMP statutes back in 2003 and 2004.

These bills would specifically establish an Alaska Coastal Policy Board to represent coastal districts, as well as the commissioners of Natural Resources; Fish & Game; Environmental Conservation; and Commerce and Community Development.

The Alaska Municipal League, first and foremost, supports a strong district role in decisions made about and for specific districts within our state.

It is important that local voices be heard when decisions are made about local areas.

Sincerely,

A handwritten signature in black ink that reads 'Kathie Wasserman'. The signature is written in a cursive, slightly slanted style.

Kathie Wasserman
Executive Director



December 22, 2008

Randy Bates
 Director, Division of Coastal and Ocean Management
 Department of Natural Resources
 P.O. Box 111030
 Juneau, Alaska 99811-1030

Re: **Alaska Coastal Management Program Re-Evaluation**

Dear Mr. Bates,

Ukpeagvik Inupiat Corporation (UIC) was created under the Alaska Native Claims Settlement Act (ANCSA) in 1972 to serve the social and economic interests of the Native Village of Barrow, Alaska, the northern most coastal village in the United States. In light of expanding resource exploration and development both onshore and offshore in our region, the UIC Board of Directors has developed the following policy statement:

In our interactions with the oil and gas industry, we will leverage our position to benefit the Ukpeagvik Inupiat Corporation Family of Companies, its shareholders and the community. We acknowledge the inevitability of exploration and development by the oil and gas industry and we will support exploration activities as long as they are done in a way that ensures:

- *Protection and preservation of the Inupiat culture and subsistence lifestyle*
- *Economic benefit for our community*
- *Employment for our shareholders and their families, and*
- *Contract opportunities for our companies*

UIC shares the interests of the North Slope Borough, as our coastal district governing body, to create a robust and growing industrial sector in Alaska's arctic. UIC also shares an interest in protecting our Inupiat customary and traditional way of life through local participation in project planning by implementing sound environmental regulations and policies under a flexible and reasonable Alaska Coastal Management Program. UIC is favorable to empowering local coastal districts to enforce locally driven environmental policies through a predictable and streamlined public process under the expertise of a coastal management plan.

Each coastal district or region in Alaska is so unique and special both geographically and ecologically, it makes sense to empower well thought and reasonable district specific enforceable policies to help guide project development beyond general state and federal regulations. For example, a local policy that fits the needs of Cook Inlet or Southeast communities, such as pipeline setbacks, cannery operations, cruise industry ports of call, general water use and waste discharge, or tank farm requirements, may not apply similarly in the unique arctic environment.

Before 2004, the original statutes and regulations of ACMP worked moderately well, allowing coastal districts to participate and include local expertise in the permitting process. With a few procedural modifications to the older, pre-2003 system, such as a streamlined Coastal Policy Board, as envisioned in

U k p e a g v i k I n u p i a t C o r p o r a t i o n

P.O. Box 190 • Barrow, AK 99815 • Fax 907-542-4459 • 2008-09-11-412-1467

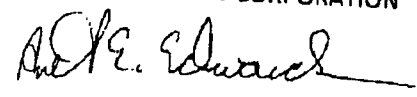
the North Slope Borough (NSB) recent recommendations, we believe the ACMP can achieve the intent of the Coastal Zone Management Act and the intent of the Alaska Constitution to maximize local control and governance.

UIC believes future statutory language should support an ACMP regime that allows multiple agencies such as DNR, DEC, ADF&G, and DCCED to participate in a meaningful consistency review. This broad challenge requires well defined language that should reflect flexible regulatory structure so as not to create the potential for arbitration and delay. If piecemeal decision-making is framed by restrictive state policy and tedious legislative review, higher probability for arbitration and delay of important commercial activity will result from special interest group interpretations of the environmental regulations governing proposed coastal economic development projects.

UIC believes sound natural resource management and environmental conservation are best served under "performance based policies", innovative solutions driven, flexible, and incorporating predictable regulations that guide industrial development - dispelling notions that local policies should apply only to specific designated areas and resources. This philosophy recognizes potentially large shifts in ecology and subsistence resource migration, which in turn defines public access and uses of resources, especially in light of climate change, global warming, arctic sea ice retreat, and cumulative industrial growth.

UIC is economically dependant, in large part, on a healthy oil and gas industry, but we are also dependant on a healthy arctic marine ecosystem which supports the Inupiat subsistence way of life. As a critical stakeholder in the ACMP regulatory process we thank you for this opportunity to comment on the ACMP reevaluation.

Respectfully submitted,
UKPEAGVIK INUPIAT CORPORATION



Anthony E. Edwardsen
President & CEO

Distribution:

26th Legislature(2009-2010)

Bill History/Action for 26th Legislature

BILL: HB 74

SHORT TITLE: COASTAL MANAGEMENT PROGRAM

BILL VERSION:

CURRENT STATUS: (H) RES

STATUS DATE: 03/05/09

THEN FIN

SPONSOR(s): REPRESENTATIVE(s) JOULE, EDGMON, BUCH, Herron, N.Foster, Salmon, Austerman, Thomas

HEARING: (H) RES Mar 19 1:00 PM BARNES 124 -- MEETING CANCELED -- TELECONFERENCE

HEARING: (H) RES Mar 22 1:00 PM BARNES 124 TELECONFERENCE

TITLE: "An Act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board."

Bill Number:

Jrn-Date	Jrn-Page	Action
01/20/09	0041	(H) PREFILE RELEASED 1/16/09
01/20/09	0041	(H) READ THE FIRST TIME - REFERRALS
01/20/09	0041	(H) CRA, RES, FIN
03/05/09	0394	(H) CRA RPT CS(CRA) 4NR
03/05/09	0394	(H) NR: KELLER, CISSNA, HERRON, MUNOZ
03/05/09	0395	(H) FN1: (DEC)
03/05/09	0395	(H) FN2: (DNR)
03/05/09	0395	(H) REFERRED TO RESOURCES
03/15/10	1746	(H) COSPONSOR(S): HERRON, N.FOSTER, SALMON, AUSTERMAN, THOMAS

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[HEARINGS](#)

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Bill Number:

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