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Alaska State Legislature REPRESENTATIVE REGGIE JOULE

Sponsor Statement

HB 74 Coastal Management Plan

"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.

HOUSE BILL NO. 74

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES JOULE, EDGMON, AND BUCH

Introduced: 1/20/09

Referred: Community and Regional Affairs, Resources, Finance

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;

(2) contract for necessary services;

(3) consult and cooperate with

(A) persons, organizations, and groups, public or private, interested in, affected by, or concerned with coastal area planning and management;

(B) agents and officials of the coastal resource districts of the state, and federal and state agencies concerned with or having jurisdiction over coastal planning and management;

(4) take any reasonable action necessary to carry out the provisions of this chapter or AS 46.40.

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

Sec. 46.39.040. Duties of the board [DEPARTMENT]. In conformity with 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the board [DEPARTMENT] shall

(1) approve [DEVELOP] statewide standards for the Alaska coastal management program [,] and criteria for the preparation and approval of district coastal management plans developed by the department in accordance with AS 46.40;

(2) establish continuing coordination among state agencies to facilitate the development and implementation of the Alaska coastal management program; in carrying out its duties under this paragraph, the department shall initiate an interagency program of comprehensive coastal resource planning for each geographic region of the state;

(3) assure continued provision of data and information to coastal resource districts to carry out their planning and management functions under the program.

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

Sec. 46.39.900. Definitions [DEFINITION]. In this chapter, unless the context requires otherwise,

(1) "board" means the Alaska Coastal Policy Board established in AS 46.39.005;

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

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

Sec. 46.40.010. Development of Alaska coastal management program. (a)

The Alaska Coastal Policy Board [DEPARTMENT] shall approve, in accordance with this chapter, program changes to the Alaska coastal management program.

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

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

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

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

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

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

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

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

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

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

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

(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,

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

20 (2) if stricter or more specific than state or federal statutes or
21 regulations, are necessary, given local conditions, and are supported by scientific
22 evidence or contemporary or traditional local knowledge sufficient to justify the
23 policies [MEET THE REQUIREMENTS OF AS 46.40.070 AND MAY NOT
24 DUPLICATE, RESTATE, OR INCORPORATE BY REFERENCE STATUTES
25 AND 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 statutes or regulations; 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 by federal statutes or regulations if the United States
 18 Congress expressly declares that local law or regulation is preempted, if the United
 19 States Congress demonstrates the intent to occupy the field exclusively, or if there is
 20 an actual conflict between federal and local law or regulation.

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

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

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

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

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

31 (2) prepare proposed consistency determinations;

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

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

(B) may occur only if requested by

(i) the project applicant;

(ii) a state resource agency; or

(iii) an affected coastal resource district; and

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

(4) render the final consistency determination and certification.

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

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

(1) an aspect of an activity that

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

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

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

(3) the issuance of an authorization or permit issued by the Alaska Oil and Gas Conservation Commission.

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

(k) Except as provided in (g) of this section, AS 41.17, [AS 46.40.040(b),] and AS 46.40.094, the scope of a consistency review of a project, once triggered under (j) of this section, is limited to activities that are located within the areas described in (f)

of this section and that either are subject to a state resource agency permit, lease, authorization, approval, or certification or are the subject of a coastal resource district enforceable policy approved by the board [DEPARTMENT] under this chapter. The scope of a consistency review subject to 16 U.S.C. 1456 is determined under 16 U.S.C. 1456 and 15 C.F.R. Part 930.

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

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

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

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

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

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

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

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

(1) do not apply to a consistency review involving

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

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

(C) an activity permitted by a federal agency;

(2) are suspended

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

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

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

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

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

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

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

(r) Notwithstanding any provision of this section, for federal agency activities defined in 15 C.F.R. 930.31, including Outer Continental Shelf lease sales and development projects, the department shall conduct a full consistency review and provide its consistency response with respect to proposed uses or activities involved in the project regardless of whether an earlier consistency review for a similar project has been completed.

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

(b) A party that is authorized under (g) of this section may file a petition

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

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

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

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

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

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

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

26 (1) contain sufficient information in commonly understood terms to
 27 inform the public of the nature of the petition; and

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

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

31 (h) If the board [DEPARTMENT] finds a pattern of nonimplementation

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

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

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

* Sec. 30. AS 46.40.190 is amended to read:

Sec. 46.40.190. Cooperative administration. (a) A municipality [CITY] within the coastal area that is within [NOT PART OF] a coastal resource service area shall be included for purposes of this chapter within the [AN ADJACENT] coastal resource service area unless the municipality's [ITS] governing body, by resolution [ADOPTED BY A MAJORITY OF ITS MEMBERSHIP], chooses to exclude the municipality [CITY] from the [AN] adjacent coastal resource service area and a copy of the resolution is filed with the commissioner of commerce, community, and economic development.

(b) This chapter does not restrict or prohibit cooperative or joint administration of functions between a municipality and a coastal resource service area organized under the provisions of this chapter upon initiation of a mutual agreement

1 for the purpose. [A CITY THAT ELECTS TO BE EXCLUDED FROM AN
 2 ADJACENT COASTAL RESOURCE SERVICE AREA UNDER (a) OF THIS
 3 SECTION SHALL ENTER INTO A MUTUAL AGREEMENT FOR
 4 COOPERATIVE OR JOINT ADMINISTRATION OF FUNCTIONS WITH THE
 5 COASTAL RESOURCE SERVICE AREA BOARD FROM THE ADJACENT
 6 COASTAL RESOURCE SERVICE AREA.]

7 * Sec. 31. AS 46.40.210(2) is amended to read:

8 (2) "coastal resource district" means each of the following that
 9 contains a portion of the coastal area of the state:

10 (A) unified municipalities;

11 (B) organized boroughs of any class that exercise planning and
 12 zoning authority;

13 (C) home rule and first class cities of the unorganized borough
 14 [OR WITHIN BOROUGHES THAT DO NOT EXERCISE PLANNING AND
 15 ZONING AUTHORITY];

16 (D) second class cities of the unorganized borough [, OR
 17 WITHIN BOROUGHES THAT DO NOT EXERCISE PLANNING AND
 18 ZONING AUTHORITY,] that have established a planning commission, and
 19 that, in the opinion of the commissioner of commerce, community, and
 20 economic development, have the capability of preparing and implementing a
 21 comprehensive district coastal management plan under AS 46.40.030;

22 (E) coastal resource service areas established and organized
 23 under AS 29.03.020 and AS 46.40.110 - 46.40.180;

24 * Sec. 32. AS 46.40.210(4) is amended to read:

25 (4) "coastal zone" means the coastal water including land within and
 26 under that water, and adjacent shoreland, including the water within and under that
 27 shoreland, within the boundaries approved by the former Alaska Coastal Policy
 28 Council and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465
 29 (Coastal Zone Management Act of 1972, as amended); "coastal zone" includes areas
 30 added as a result of any boundary changes approved by the board [DEPARTMENT]
 31 and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465;

1 "coastal zone" does not include

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

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

5 * Sec. 33. AS 46.40.210(7) is amended to read:

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

11 * Sec. 34. AS 46.40.210(8) is amended to read:

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

15 * Sec. 35. AS 46.40.210(9) is amended to read:

16 (9) "project" means all activities that will be part of a proposed
17 development **and includes all federal agency activities as defined in 15 C.F.R.**
18 **930.31, including lease sales and development projects affecting a coastal use or**
19 **resource;**

20 * Sec. 36. AS 46.40.210 is amended by adding new paragraphs to read:

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

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

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

31 (B) areas of high natural productivity or essential habitat for

1 living resources;

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

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

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

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

10 (G) areas needed to protect, maintain, or replenish coastal land
11 or resources, including coastal flood plains, aquifer recharge areas, beaches,
12 and offshore sand deposits;

13 * Sec. 37. AS 46.40.040(b), 46.40.040(c), 46.40.050(a), 46.40.096(i), 46.40.205, and
14 46.40.210(1) are repealed.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 4(CRA)
(S) Publish Date: 2/6/09

Identifier (file name): SB4-DEC-CO-1-30-09

Title Coastal Management Program

Dept. Affected: Dept. of Environmental Conservation

RDU Administration

Component Office of the Commissioner

Sponsor Senator Olson

Requester Senate 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					
OPERATING EXPENDITURES	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services	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
Contractual	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
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	116.6	0.0	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
TOTAL	116.6	0.0	110.2	110.2	110.2	110.2	110.2

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time	0.5	0.5	0.5	0.5	0.5	0.5	0.5
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-VanDort

Division: Commissioner's Office

Approved by: Dan Easton

Deputy Commissioner

Phone 465-5065

Date/Time 2/2/09 12:00 AM

Date 2/3/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

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

Identifier (file name): **HB074-DNR-DCOM-02-02-09** Dept. Affected: **Natural Resources**
Title: **An Act relating to the Alaska Coastal Management Program.** RDU: **Resource Development**
Sponsor: **Rep. Reggie Joule** Component: **Coastal and Ocean Management**
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					
OPERATING EXPENDITURES	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services	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
Contractual	80.0	0.0	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
Equipment	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
Grants & Claims	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
TOTAL OPERATING	165.0	0.0	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
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	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
1004 GF	165.0	0.0	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
1037 GF/Mental Health	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
TOTAL	165.0	0.0	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
Part-time	0	0	0	0	0	0	0
Temporary	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 February 6, 2009
Date February 6, 2009

FISCAL NOTE

STATE OF ALASKA
2009 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.

House Bill 74 – Alaska Coastal Management Program (ACMP)
Sectional Analysis
January 27, 2009

- 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 other 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 in AS 46.39.900.
- 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 the 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, either prescriptive or performance-based, and stricter or more specific than state or federal laws.
- 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 the 90-day consistency review time limit. Allows extension of the time limit for adjudication of coastal district permits.
- Section 22:** Clarifies that the term “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 are part of a CRSA unless they choose to be excluded.
- 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 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)).

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
Ninilchik	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.

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

Senator Donny Olson
Alaska State Legislature
State Capitol, Room 514
Juneau, Alaska 99801

Sent by fax: _____

RE: SB 4 Alaska Coastal Management Program

Dear Senator Olson:

Thank you for pre-filing SB 4 about the Alaska Coastal Management Program (ACMP). I understand the Senate Community and Regional Affairs Committee will be considering adopting a committee substitute similar to the version of this bill in the House. The North Slope Borough (Borough) supports the committee substitute because it will restore meaningful local involvement in the ACMP, implement checks and balances and streamline project reviews.

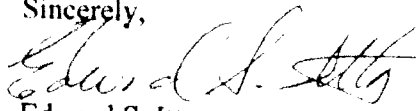
The Borough appreciates the sections of the proposed committee substitute that clarify the ability of coastal districts to establish enforceable policies, especially the provisions in AS 46.40.030 and 070. While the 2003 legislative changes to the ACMP allowed coastal districts to establish policies 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.

The committee substitute for SB 4 would restore checks and balances to 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 it 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 supports the sections of the proposed committee substitute that streamline project reviews. The ACMP used to be an 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 SB 4, and I look forward to testifying on this bill as it moves through the committee process.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward S. Itta". The signature is fluid and cursive, with the first name "Edward" being more prominent.

Edward S. Itta
Mayor

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

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 Alaskans 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

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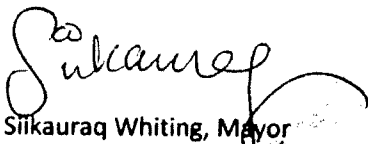
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forward to working with you during this legislative session. Please contact me or Ukallaysaaq Tom Okleasik if you have any questions about our proposed plan at (907) 442-2500.

Sincerely,



Silikauraq Whiting, Mayor

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



Roger D. (Dale) Summerlin
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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

conformity of district policies that currently exists in the ACMP program. The existing statewide standards provide clear and concise predictability to the ACMP process. Coastal districts are still afforded the ability to propose enforceable policies that conform to the district plan approval criteria and requirements outlined in 46.40.040 and 46.40.070; or those that are not duplicative, restate existing state or federal policies, and do not redefine, replace, or otherwise modify existing standards. From an applicant's perspective, the retention of the centralized ACMP will provide applicants with assurances of an efficient permitting process.

Elimination of the Alaska Department of Environmental Conservation (ADEC) Carve Out (AS 46.40.040 and 46.40.096)

CPAI believes the ADEC carve out should be retained in its present form and the carve out should not be eliminated from the ACMP program. CPAI believes there is significant misunderstanding by many stakeholders on this matter. Approvals for air, water, and C-Plan permits require public notice and public comment periods which allow for public input. The public notice and comment periods for these permits were not negatively affected by carving out the ADEC permits. Timelines associated with these approval processes are at least six months in duration, far longer than the existing 50- to 90-day ACMP coordination process. In addition, the timelines for public participation do not align with the intent or the process of the ACMP program which is one of thoughtful timely coordination and decision-making.

Eliminating the ADEC carve out will re-introduce conflicting regulatory mandates between ADEC and the ACMP process, and will delay the start of the consistency review process. Adequate public participation and opportunities for review by coastal districts is provided in the existing program. Adequate environmental protection is being provided by ADEC, regardless of whether or not their approvals are part of a consistency review process.

In closing, as we look at the substantial nature of the changes proposed in SB 4, we ask the question: Why? Since the passage of HB 191, have resource development projects been permitted by the state where a coastal district's input and concerns have not been accommodated? Is this change going to help motivate resource development projects in this state? We suggest that the current program is working as intended and changes are neither necessary nor desirable.

Sincerely,



Roger D. (Dale) Summerlin

cc: All Legislators