

House Bill 74
Alaska Coastal Management Program
March 22, 2010

Edward S. Itta
Mayor, North Slope Borough

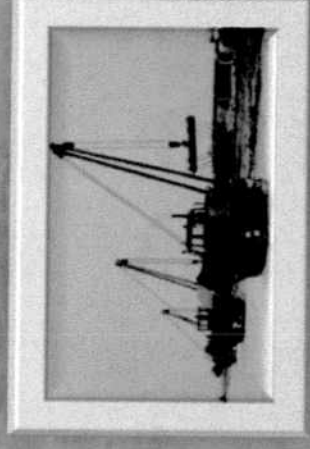
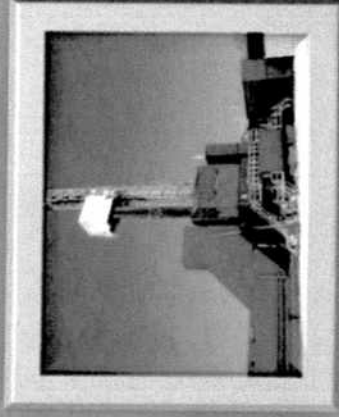


HB 74: North Slope Borough Testimony

- **Testimony will address the following topics:**
 - **Why the NSB supports this bill**
 - **How HB 74 does not stop development**
 - **How the ACMP is broken**
 - **Why the Legislature should care**
 - **How HB 74 promotes responsible development**
 - **Why a meaningful role for coastal districts makes sense for Alaska**

Why the NSB Supports HB 74

- It restores meaningful participation
 - State agencies & coastal districts
- It brings air and water quality back into project review
- It restores state's rights



HB 74 Does Not Stop Development

- The ACMP has always promoted development
 - Coastal districts have not stopped projects through the ACMP
 - Before 2003, <1% of projects appealed
 - All of coastal development since 1977 has been approved under the ACMP
- HB 74 will not override legislative or agency authority
- HB 74 does not allow citizen or third-party lawsuits
 - Citizen lawsuits eliminated in 2003
 - Citizen petitions eliminated in 2002

The ACMP is Broken

- **The ACMP has lost its value to review participants**
 - **Agencies and coastal districts have expressed frustration with the ACMP**
- **Few meaningful opportunities to resolve conflicts that arise at the local level**
 - **The ACMP used to be a tool to identify and resolve conflicts early in the process**
 - **Resolving conflicts early avoids lawsuits**

HB 74: Legislative Intent

- 2003 Legislative intent is being ignored
 - DEC Carve-Out
 - 2003 intent was to exclude only matters addressed by DEC laws
 - In practice, no air or water quality issues may be addressed during project reviews
 - Enforceable policies
 - DNR denied most policies proposed by local districts
 - Sample approvable policies requested by the Legislature are no longer allowable
 - Regulations More Stringent
 - DNR testified to the Legislature in 2008 that the regulations were “more stringent” than the Legislature intended
 - Since then, no changes have been made to the regulations

HB 74: Legislative Intent

- Regulatory confusion
 - HB 191 (2003) directed DNR to “avoid regulatory confusion”
 - 2004 regulations are costly and confusing
 - The designated area requirement delays reviews
 - Subsistence impacts can’t be considered unless they are in a designated area
 - DNR disapproved most district proposed subsistence use areas
 - OCS project review process is not clear
 - DNR–DEC coordination procedures are confusing
 - There is no regulatory provision for public comment on the DEC finding (draft DEC findings are only “advisory”)

HB 74: Leadership Needed



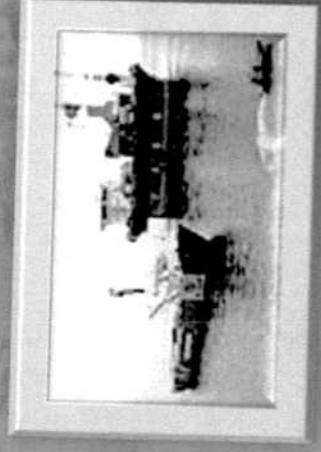
- **ACMP Re-evaluation**
 - Announced in February 2008
 - Not initiated until July 2008
 - Extensive multi-stakeholder involvement in 2008
 - Process abruptly ended after December 2008 with no explanation to participants
 - No way forward to resolve important issues
- **Legislation**
 - Leadership is needed to restore the ACMP's effectiveness

HB74: Why Should You Care?

- **Effective Stakeholder Participation**
 - Promotes responsible development
 - Reduces delays during project reviews
 - Reduces lawsuits
 - Improves relations
- **Between state and federal agencies and local government**
 - When a project does not require an EIS, the ACMP provides an efficient forum for agency coordination

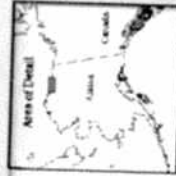
HB74: Why Should You Care?

- HB 74 will promote cooperation and approval of responsible development
- Congress requires states to have coastal programs in order to receive Coastal Impact Assistance Program (CIAP) funds
 - CIAP will bring \$79.8 million to Alaska

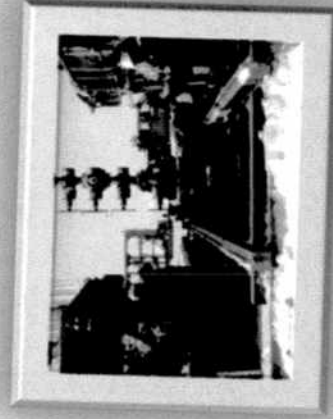
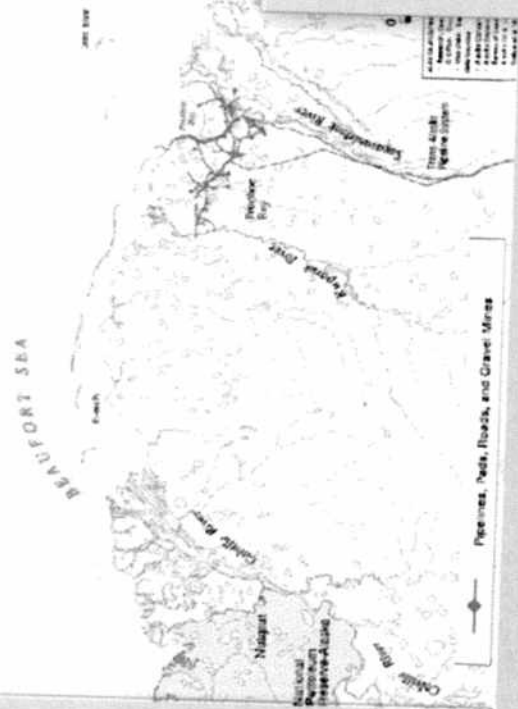


25 Years of Growth Under ACMP

Oil Development in America's Arctic



1977



Oil Exploration & Development in America's Arctic



2001



What HB74 Does

- Restores meaningful participation
- Brings air and water quality back into project review
- Restores state's rights



Restoring Meaningful Participation

- Coastal Policy Board
 - Gives districts and agencies a seat at the table
 - Restore checks and balances
 - More streamlined than the Coastal Policy Council
 - Fewer members (9 rather than 17)
 - Limited responsibilities
 - Approve coastal district plans, grant programs & regulations
 - The new board would not have any oversight over project “consistency reviews”

Restoring Meaningful Participation

- District enforceable policies
 - HB 74 would allow policies that:
 - Do not conflict with state or federal law
 - Address issues not preempted by state or federal law
 - Address a local concern



HB 74: Air and Water Quality

- Eliminating the “DEC Carve-Out”
 - Avoids confusion about scope of ACMP reviews
 - Reinstates public comments for OCS reviews
 - Currently because DEC has no permit for OCS waters, there is no opportunity for public involvement
 - Allows consideration of air and water quality impacts not addressed by DEC’s laws
 - For example, oils spill plans do not address effects of spill
 - DNR’s December 2008 draft statutes eliminate the DEC Carve-Out

HB 74: State's Rights



- **HB 74 Restores State's Rights**
 - 2003-2004 ACMP changes removed some rights provided by the Coastal Zone Management Act
 - HB 74 would:
 - Allow review of all projects that would have coastal impacts
 - Remove 90 day limit for reviews with federal permits
 - Most reviews would be completed in 30 or 50 days
 - Allow consideration of impacts to coastal resources on federal lands and waters
 - Designated area requirements limits the State's ability to influence decisions on federal lands and waters

Why a Meaningful Role for Coastal Districts Makes Sense for Alaska

- “One size fits all” does not work for Alaska
- Restoring the ability for districts to influence local projects is consistent with Alaska’s position against federal intrusion
- Local communities know best what is works, and their expertise improves projects
- Most project impacts are felt at the local level
- Local involvement through enforceable policies improves project designs and reduces litigation

HB 74: Summary



- This bill should be passed because it:
 - Encourages coastal partnerships
 - Promotes responsible development
 - Restores states' rights

Reduces regulatory confusion

"The ACMP is one of very few opportunities for local governments to work closely with both the State and federal agencies in reviewing proposed development projects." Edward S. Itta

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