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*See esp. p. 5*

COASTAL RESOURCE SERVICE AREA BOUNDARIES  
A Determination Under Section 46.35.120(b) of the  
Alaska Coastal Management Act (Ch. 84 SLA 1977)

December 2, 1977

Lee McAnerney  
Commissioner  
Alaska Department of  
Community and Regional  
Affairs

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*Debra E English  
12/2/76*

## Introduction

Section 46.35.120(b) of the Alaska Coastal Management Act states that:

The Commissioner of the Department of Community and Regional Affairs may, after public hearings held in the area affected, consolidate two or more regional educational attendance areas as a single coastal resource service area

(1) if a substantial portion of the coastal area contains land and water area owned by the federal government over which it exercises exclusive jurisdiction or land held in trust by the federal government for Alaska Natives over which the state would not exercise control as to use; or

(2) if, after giving due consideration to the standards applicable to incorporation of borough governments and the likelihood that a borough will be incorporated within the area, the commissioner determines that the functions to be performed under this chapter could be undertaken more efficiently through the combination of two or more regional educational attendance areas as a single coastal resource service area.

All determinations under this section must be made by December 4, 1977.

Coastal resource service areas are areawide coastal planning districts that may be formed in portions of the unorganized borough outside of municipalities that have and exercise planning authority. Service area boundaries must parallel those of one or more existing regional educational attendance area (REAA); the area covered by an REAA cannot be subdivided in determining boundaries of units that might be organized as coastal resource service areas. No time limits are set for establishment of a coastal resource service area.

Actual organization may be initiated:

- (1) by submission to the (Alaska Coastal Policy) council of a petition signed by a number of registered voters equal to 15 per cent of the number of votes cast within the coastal resource service area at the last state general election;
- (2) by submission to the (Alaska Coastal Policy) council of a resolution approved by the city council or traditional village council of not less than 25 per cent of the number of cities and villages within the coastal resource service area; or
- (3) at the direction of a majority of the members of the (Alaska Coastal Policy) council when it appears that a major economic development activity will occur.

In all cases, organization must be preceded by an election in the affected area.

#### Proposal

On June 21, 1977, the Commissioner of Community and Regional Affairs proposed consideration of coastal resource service area boundary adjustments in four regions, which included the following regional educational attendance areas.

- (1) Regional educational attendance areas 3(Lower Yukon) and 4(Lower Kuskokwim).
- (2) Regional educational attendance areas 6(Nushagak-Bristol Bay) and 7(Lake/Peninsula-Bristol Bay).
- (3) Regional educational attendance areas 8(Aleutian Chain), 9(Pribilof), and 10(Adak).
- (4) Regional educational attendance areas 18(Northern Panhandle), 19(Southern Panhandle), and 20(Metlakatla/Annette).

## Response

To obtain comments on boundary adjustments under consideration, the Department of Community and Regional Affairs:

- (1) scheduled and conducted public hearings in affected areas;
- (2) attended and participated in public workshops conducted by the Office of Coastal Management;
- (3) published a public notice in several newspapers of general circulation;
- (4) sent a cover letter (or memorandum) and information packet to mayors and city managers of coastal communities in affected areas, village council presidents, village corporation presidents, Coastal Policy members from affected areas, numerous state and federal agencies, and a variety of interest groups;
- (5) delivered presentations at meetings of organizations drawing individuals from throughout an affected area (e.g., the South-eastern Conference in Sitka, and a Bristol Bay Area Health Corporation Board of Directors meeting in King Salmon);
- (6) held informal meetings and discussions with people in affected areas; and
- (7) made a brief presentation to the Coastal Policy Council at their October, 1977 meeting in Kodiak.

Public hearings were held in Unalaska, Juneau, Dillingham, Ketchikan, and Craig. Hearings were also planned in Bethel, Emmonak, Naknek, St. Paul Island, and Petersburg, but were not conducted as a result of scheduling difficulties. Public sessions not actually conducted as formal hearings were held in Petersburg and King Salmon. Hearings were generally poorly attended, with members of the public present ranging from two to twelve.

Department of Community and Regional Affairs representatives attended coastal management workshops conducted in Kipnuk, Kotzebue, Juneau, Anchorage, Kodiak, Ketchikan, and Craig. Coastal resource service areas represented an item actively discussed at several of these workshops, as well as other workshops carried out in locations such as Bethel, Dillingham, and Unalaska.

Written comments were received from three state agencies, four federal agencies, and eight other individuals representing private corporations, non-profit associations, local governments, or no identifiable affiliation.

No clear consensus has emerged. Several comments received were not actually directed toward furnishing guidance on coastal resource service area boundaries. Many expressed a preference for creating coastal resource service areas smaller than existing REAA's. As previously noted, this is not allowed by statute.

Comments on the Nushagak-Bristol Bay and Lake/Peninsula-Bristol Bay REAA's (6 and 7) were mixed, but a majority of those presenting their views favored a single coastal resource service area for the Bristol Bay region.

Comments on the Northern Panhandle, Southern Panhandle and Metlakatla/Annette REAA's (18, 19, and 20) were predominantly in favor of maintaining separate areas, although many also supported a coastal resource service area that would include two or more REAA's.

Comments on the Aleutian Chain, Pribilof and Adak REAA's (8, 9, and 10) were also mixed, but a majority of commentators supported maintaining three separate areas.

Input on the Lower Yukon and Lower Kuskokwim REAA's (3 and 4) was limited by an inability to schedule a hearing there, but a majority of those who made recommendations expressed a preference for a single coastal resource service area in the Yukon/Kuskokwim Delta region.

#### Determination

(1) Section 46.35.120(c) of the Alaska Coastal Management Act, which requires a final determination on coastal resource service area boundaries by December 4, 1977, should be amended. A majority of citizens appearing at public hearings and expressing themselves through other means were unable to make an informed recommendation on territory that should be included in a coastal resource service area without a clearer understanding of what a coastal management program would entail. A determination by the Commissioner of Community and Regional Affairs without substantial input from affected residents is inconsistent with the Act's emphasis on a strong local role in coastal decision-making. Since no time frame is specified for service area organization, the problem could be rectified by revising Section 46.35.120(c) to read:

(c) a determination under (b) of this section shall be made before organization of the coastal resource service area.

Because expanded opportunities for better informed public input might result in preferences contrary to combinations recommended in this report, specific provision for "deconsolidating" REAA's combined should also be made, if the amendment suggested above is not interpreted to accommodate that option.

(2) We encourage that if a service area is organized in the Bristol Bay region, it should include both the Nushagak-Bristol Bay and Lake/Peninsula-Bristol Bay REAA's (6 and 7), and have therefore combined these REAA's. Although distinctions exist between these two portions of the region, these differences are outweighed by areawide commonalities.

(3) We support maintenance of two separate coastal resource service areas in northern and southern Southeast Alaska, and inclusion of the Metlakatla/Annette REAA (20) in a single service area with the Southern Panhandle REAA (19). Inclusion of REAA's 19 and 20 in a single service area is based on the criterion in AS 46.35.120(b)(1) concerning land held in trust by the Federal Government for Alaska Natives. While Southeast Alaska is a distinct region, significant differences between communities at northern and southern extremes of the region, as well as substantial distances involved, discourage formation of a single service area at this juncture. In addition, Southeast's unusual situation, with a number of small, dispersed first class cities, relatively few second class and unincorporated communities, and a majority of coastline under U.S. Forest Service jurisdiction, points out a need to consider special adaptations of the coastal resource service area, or alternatives to it, for responsive coastal

planning and management in this region.

(4) At this time, we encourage maintenance of three separate areas for the Aleutian, Pribilof and Adak REAA's (8, 9, and 10). The Pribilof Islands are linked to the Aleutian Chain by certain transportation, cultural and related ties, but remoteness makes the Pribilofs an independent entity in many respects. While Section 46.35.120(b)(1) of the Act provides grounds for including Adak in a combined Aleutian coastal resource service area, a disadvantage would be that the Adak Island population, which is solely military, contrasts sharply with that of civilian communities characterizing the remainder of the Aleutian Chain.

(5) We encourage that if a service area is organized in the Yukon/Kuskokwim Delta region, it should include both the Lower Yukon and Lower Kuskokwim REAA's (3 and 4), but consider it inappropriate to place these REAA's in a single service area prior to adequate public hearings.

#### Conclusion

The major question facing unorganized borough residents with respect to the Alaska Coastal Management Program is what form coastal management should take in their areas. Coastal resource service area boundaries represent only one aspect of this question, and one that cannot be responded to in an informed manner without considering what a coastal management

program might consist of, and how it should be carried out. These answers can only be furnished after a thoughtful educational and local involvement effort which was not possible in the constricted time frame and with the limited subject matter that applied to consideration of service area boundaries.

The Office of Coastal Management's recently completed extensive series of public workshops has provided a crucial first step in informing localities and their citizens about coastal management. With a Coastal Policy Council that is just becoming operational, and basic guidelines and standards that are only now being formulated, disseminated, and reviewed, final determination of service area boundaries at this time is premature, however.

We strongly encourage that the Coastal Policy Council devote careful attention to the complex question of coastal planning and management in the unorganized borough, and that service area boundaries be considered in the more appropriate context of but one component of broader questions involving the unorganized borough, before final boundary determinations are made. A minor amendment to the Alaska Coastal Management Act, as described in this report, is required to allow service area boundaries to be considered in this context, and we support such a change as a step which would strengthen Alaska Coastal Management Program effectiveness.

February 23, 1978

Amendment proposed to A.S. 46.40.210(6) (C)

Purpose: Protection of State and lessees against possible unreasonable and arbitrary actions.

Suggested Change: 46.40.210(6) - "Uses of state concern... include..."

*Local plans must be consistent with*

(C) the siting of major energy facilities, activities pursuant to a state oil and gas lease, or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

Effect: Each District Coastal Management Program must be submitted for approval by the Alaska Coastal Zone Management Council. In approving the District Program, the Council must find under existing law that the Program "does not arbitrarily or unreasonably restrict or exclude uses of state concern". A.S. 46.40.060(a). Thus, by amending the definition of "uses of state concern" in A.S. 46.40.210(6), the state and its lessees would have clearer protection against "arbitrarily" or "unreasonably" imposed restrictions or exclusions.

*Local control restricted only if "unreasonable or arbitrary"*

Rationale:

1. 1976 federal amendments to Coastal Zone Management Act require state managers to submit state management plans to local officials in advance of implementation, with opportunity for comment. CZMA, § 306(c)(2)(B).
2. Amendment would protect paramount state interest and state policy governing state lands, in matters of greater than local concern, without pre-empting or restricting local authority, except as to arbitrary or unreasonable conduct.
3. Creates a more favorable environment for investment, thus tending to increase responses to state invitations for bidding, etc.
4. Reduces possibility of regulatory vagueness leading to (a) intergovernmental conflicts; (b) conflicts between the private sector and government; (c) litigation.
5. Proposed state preleasing procedures will provide ample opportunity for comment and input from districts before state decisions to lease are final, adding to protections provided by the 1976 federal amendments.

*BP supports local gov't. involvement in leasing decisions & planning -*

*amendment wd. promote cooperation avoid conflict*

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*Local gov't. cd. impair planning process*

# TELEGRAM

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CSSB 388 WAS INTRODUCED TO FORCE ME TO APPOINT SOME OTHER  
ELECTED OFFICIAL AS MY ALTERNATE ON THE COASTAL POLICY COUNCIL.  
THOSE OF US IN ELECTED SERVICE IN THE NORTH SLOPE BOROUGH HAVE  
MANY CONFLICTING DEMANDS UPON OUR TIME. THE PRESENT  
FREEDOM TO APPOINT WHOMEVER I CHOOSE AS MY ALTERNATE ENABLES  
ME TO DECIDE WHEN TO ATTEND PERSONALLY, OR WHO TO SEND IN MY  
PLACE AND TO CHOOSE SOME ONE BEST ABLE TO PRESENT MY POINT  
OF VIEW DEPENDING UPON THE NATURE OF THE ITEMS ON THE AGENDA.  
PLEASE DO NOT PASS CSSB 388. IT WORKS AGAINST THE BEST  
INTERESTS OF OUR CZM PARTICIPATION.

EBEN HOPSON MAYOR NS BOROUGH BARW