

SB

220

COMMITTEE REPORT

SENATE

3/7/77

**Finance
**Community & Regional
Affairs (3/8/77)

4/6/77

Date

Mr. President:

The Committee on RESOURCES has had SB 220
~~management of coastal resources of the state~~
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

<u>William</u>	<u>No Pass</u>	_____
<u>Richard</u>	<u>No Pass</u>	_____
<u>John</u>	<u>REC</u>	_____
<u>Tom</u>	<u>-</u>	_____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

<u>Collette</u>	recommends:	<u>No Pass</u>
<u>John</u>	recommends:	<u>No Pass</u>
_____	recommends:	_____

W. P. ...
Chairman

AMENDMENT 41

OFFERED IN THE SENATE:

By: Resources Committee

To: _____ SENATE BILL No. 220

HOUSE BILL No. _____

PAGE: 2

LINE: 23

Sec. 44.29.391. ALASKA COASTAL POLICY COUNCIL

After (1) substitute new language as follows:

Delete line 28 + substitute

Eight public members appointed by the Governor from a list
comprised of at least three names from each region, nominated
by the municipalities of each region. The nominees shall

AMENDMENT #2

OFFERED IN THE SENATE:

By: Resources Committee

To: _____ SENATE BILL No. 220

HOUSE BILL No. _____

PAGE: 24

LINE: 22

between AS 46.35 and State Agencies, insert the following

Such technical assistance shall include the direct granting to the coastal resource districts a portion of any funds received by the state from the federal coastal zone management program, its amounts to be individually determined for each coastal resource district by the Commissioner.

A M E N D M E N T #1

OFFERED IN THE SENATE:

By: Resources Committee

To: _____ SENATE BILL No. 220

HOUSE BILL No. _____

PAGE: 2

LINE: 28

Sec. 44.19.891. ALASKA COASTAL POLICY COUNCIL.

After (1) substitute new language as follows:

Eight public members appointed by the Governor from a list
comprised of ^{at least} three names from each region, nominated by the
municipalities of each region. The nominees shall



Alaska State Legislature

TO: ALL MEMBERS

FROM: SENATOR KAY POLAND

MAY 10, 1977

JUNEAU ALASKA

HB 342 IS A COASTAL MANAGEMENT BILL AND LANDMARK LEGISLATION OF LONG-TERM EFFECT ON LAND PLANNING AND MANAGEMENT.

THE MEASURE IS THE PRODUCT OF A JOINT ADMINISTRATIVE AND LEGISLATIVE COMMITTEE STATUTORILY CREATED DURING THE 1976 SESSION. MEMBERS OF THE COMMITTEE WERE SENATOR POLAND, SENATOR TILLION, AND REPRESENTATIVES NELS ANDERSON AND SAM COTTON. ADMINISTRATION MEMBERS WERE COMMISSIONERS LEE MCANERNEY AND DON HARRIS, AND DPDP DIRECTOR BOB LERESCH. THE COMMITTEE WAS FORMED AFTER THE FIRM REJECTION OF AN ADMINISTRATION BILL INTRODUCED DURING THE 1975 SESSION, AND WHICH HAD BEEN BRANDED AS JUST ANOTHER ONEROUS LAYER OF GOVERNMENT.

THE PRESENT JOINT EFFORT BILL IS ONE THAT BEGINS THE PLANNING PROCESS AT THE CITIZEN LEVEL RATHER THAN AT THE CAPITAL LEVEL. THE BILL DOES NOT PERMIT THE PROMULGATION OF ANY ADDITIONAL REGULATIONS, BUT FOR THE COOPERATIVE FORMULATION OF A MANAGEMENT PLAN THAT MUST BE SUBMITTED FOR AFFIRMATIVE LEGISLATIVE APPROVAL BEFORE ANY PORTION CAN BE ADOPTED. ADDITIONALLY, THE MEASURE CALLS FOR THE CONFORMANCE OF ALL EXISTING DEPARTMENTAL REGULATION TO THE COASTAL MANAGEMENT ACT, AND FOR REVIEW FOR ANNULLMENT OF ANY REGULATION NOT NEEDED FOR THE IMPLEMENTATION OF THE MANAGEMENT PLAN.



Alaska Conservation Society

Incorporated in 1960

P.O. Box 80192

College Branch, Fairbanks, Alaska 99708

COASTAL ZONE MANAGEMENT - HB 342 & SB 220
Joint Senate/House Resource Committees
Mar. 30, 1977 C.R. & A.

The Alaska Conservation Society once again would like to reiterate its strong support for the concept of coastal management for Alaska.

The Alaskan coastline stretches for some 34,000 miles. It encompasses more than a third of our nation's shores and includes an array of ecosystems from the arctic ice pack to ell-grass estuaries. It serves many peoples needs - fishing grounds, logging areas, oil and gas pipeline corridors, wildlife habitat, transportation and soon, energy production facilities. The place where the land meets the sea is an indispensable resource in the most literal sense of the word. But, it goes even beyond that in intangible values, those of renewal of the human spirit and ecological integrity. To mesh all these factors is a challenge we are far from meeting.

There are many dilemmas now facing Alaska's coastal areas. We are grappling with many of them, such as OCS oil and gas development, but few easy solutions can be expected. Coastal management is a concept of a process - a system that is often put forth as the states best bet, the most promising means for solution. Coastal management is not necessarily a protective device despite the fact that the national program was inspired by conservation concerns. It is naive to assume that coastal management will be a smooth process that will vacuum up all the problems on Alaska's shores and spew them back neatly solved.

Coastal management is merely a first step. It can be something of a prototype for land use planning and it may provide a handle on such

immediate issues as OCS development. But it is a program that will only serve us well if we put demands on it from the beginning. The program will only reflect the needs and concerns of Alaskans to the extent that those needs and concerns are heard. It will only stand up to the expectations of the environmental community to the degree that those expectations are forcefully voiced. Toward that end, we would recommend the following ideas be included in a coastal management act:

1. Maximum local participation in planning for Alaska's coastal zone balanced with the reality that the coastal plan is primarily a state responsibility. The bill recommends a Coastal Policy Council. Some form of a council is needed in order to focus thought and discussion on coastal planning. We suggest that the Council be widened to include more than local elected officials selected by the Governor and members of the Governor's cabinet. The Council should contain several at large voting citizen members (appointed by the Governor) for example, using the 4 judicial districts, for basis of selection. This would allow the state to have the benefit of interested, knowledgable people from areas such as private industry, the University of Alaska, Native groups and conservation groups. Also a technical change, Sec. 44.19.891 Alaska Coastal Policy Council (a)(2)(G) (pg. 4 line 8) change "commissioner of Dept. of Public Works" to "commissioner of Dept. of Transportation and Public Facilities". But the local participation should be under the comprehensive and guiding hand of the state who have the ultimate responsibility in coastal planning and management for Alaska.

2. There should be a requirement for public hearings for regions formulating district coastal management plans. These hearings should be recorded, transcribed and all questions raised at these hearings should be answered and opinions and proposals should be discussed and their validity ascertained. The hearing records and evaluation should accompany any plan submitted to the Council. In this way the Council and the

citizens of the future will have a record of both majority and minority opinions within the community and the hearing records can serve as a valuable source of information in the years ahead as the value of the program is assessed and modified. This provision should be in the Act as local ordinances often have no such requirements. All hearings of the Council should likewise be recorded, transcribed, evaluated and made available as appropriate.

3. The emphasis of this act should be on protection, enhancement and management of the coastal zone, not on development. This program should not be used as a development tool. The coastal zone is a fragile area and needs protection, not harassment. This brings up the question of what protection will the coastal zone receive while the coastal plans are being developed? There is up to 2½ years, maybe more, before plans are required to be completed. Who will hold the reins until then? Will existing statutes and regulations be continued in haphazard form? Should interim protection be addressed in this Act? This could be a serious problem.

4. In line with our view that coastal management is a land use issue, we feel it makes more sense to treat the coastal zone as a resource and therefore, that this Act should be under the Dept. of Natural Resources, not Community and Regional Affairs. DNR has all current land use/resource management for the state and it seem logical that they should assume management of the coastal zone. Possibly the program could go under the Div. of Land and Water Management or a new division of coastal zone management could be created. This will become even more important as the plans are completed and the program moves into management of coastal resources.

In summary, a coastal management program should not be viewed as a crisis-resolution mechanism. Careful thought and critical evaluation must be used to develop flexible yet strong managment plans. This type

of planning and management is one of those rare opportunities for streamlining unconsolidated state regulatory and management activities, as so many existing laws remain inadequately implemented and so many agencies fail to exercise their mandates.

Over and above the financial benefits which can be expected to accrue to Alaska - over and above the valuable contribution coastal management could make toward cleaning up the state system of land and resource management - there is something else...what coastal management is all about. It is a protection of values, a balancing of the irretrievable, an acknowledgement of those qualities of life which make the coastline of Alaska worthy of our special attention.

Our state is in great need of a process which pulls the loose ends together and turns them to a common purpose. We see coastal management as one such tool.

SECTION-BY-SECTION ANALYSIS

SB 220 - HB 342

(An Act Relating to the Management of the Coastal Resources of the State)

In this analysis --

Council means the	Alaska Coastal Policy Council
Program means the	Alaska Coastal Management Program
District Program means the	District Coastal Management Program
Service Area means the	Coastal Resource Service Area

Area which Merits Special Attention	Defined in section 46.35.210(1)
Coastal Resource District	Defined in section 46.35.210(2)
Use of Direct and Significant Impact	Defined in section 46.35.210(5)
Uses of State Concern	Defined in section 46.35.210(6)

Major Economic Activity	Defined - 46.35.160(b)
Village	Defined - 46.35.180(d)

* Section. 1.

Sets out the legislative findings which show that

- The development of valuable resources which exist along Alaska's coast may outstrip the capabilities of coastal communities to deal with the impacts of accelerated development in the coastal areas; and that there is
- Great need for sound water and land use planning along the coast which would allow for development and use of the resources while at the same time protecting the natural and scenic values of the coast;

* Sec. 2

Sets out the legislative policy which provides that

- The coastal resources of the State should be preserved, protected, restored and enhanced as necessary, but also developed and used, for the benefit of this and future generations; that
- Coordinated planning and decision making among the various levels of governments and citizens of the State should be encouraged; that
- A management program, which would set out the State's policies, objectives and procedures regarding the coast should be developed; that
- Such a management program provide for the resolution of conflicts which may arise between public and private coastal resource activities as well as those which may have a direct and significant impact upon the coastal areas of the State; that

- Such a management program provide for participation by the public, local governments, and agencies of the State and Federal governments in the development and implementation of the program; that
- Such a management program utilize existing governmental structures and authorities; and finally that
- State agencies comply with the policies, and the guidelines and standards adopted by the Alaska Coastal Policy Council.

* Sec. 3

Adds new sections to Chapter 19 (Office of the Governor) of Title 44 (State Government) which would establish the Alaska Coastal Policy Council to carry out the State' policies.

Sec. 44.19.891

- (a) Creates the Alaska Coastal Policy Council within the Governor's Office. The council would consist of 15 members; eight would be public members, appointed by the governor, and seven would be Administration members. The eight public members would have to be mayors, or members of assemblies or councils of incorporated local governments from one of eight designated coastal regions. The seven Administration members would be the Director of DPDP, and the Commissioners of the Departments of Commerce and Economic Development, Community and Regional Affairs, Environmental Conservation, Fish and Game, Natural Resources, and Transportation and Public Facilities.

- (b) The public members would serve two year terms and could be reappointed. Their terms would be staggered.
- (c) The Council would select co-chairmen from among its membership, one from the public members and one from the Administration designees.
- (d) Members of the Council would be allowed to select one person as a permanent alternate to represent them at Council meeting.
- (e) Four public members and three designated members would constitute a quorum.
However, one or more members would be able to hold hearings.
Decisions of the Council would be by majority vote of those present and voting.
- (f) Council members would be entitled to per diem and travel expenses, and
- (g) A vacancy among the public members would be filled by appointment of the Governor for the unexpired portion of the term.

Sec. 44.19.892

Sets out the powers of the Council, which would include

- Applying for and accepting of grants, contributions, and appropriations, including Federal monies which would become available for coastal planning and management.
- Contracting for services.
- Consulting and cooperating with all parties concerned with or having jurisdiction over coastal planning and management.

Sec. 44.19.893

Sets out the duties of the Council, which would include

- Developing guidelines and standards for the preparation and approval of the Alaska Coastal Management Program.
- Establishing continuing coordination among the various State agencies to facilitate the development and implementation of the Alaska Coastal Management Program, as well as
- Initiating an interagency program of comprehensive coastal resource planning for each of the eight coastal regions represented on the Council.
- Providing, on a continuing basis, data and information to Coastal Resource Districts to carry out their planning and management functions under the Alaska Coastal Management Program.
- Submitting annually to the Legislature those portions of the Alaska Coastal Management Program approved or amended by the Council during the preceding year.

Sec. 44.19.894

Designates the staff of the Office of Coastal Management within DPDP to be the staff to the Council in carrying out its duties.

* Sec. 4

Adds a new chapter to Title 46 (Water, Air and Environmental Conservation) to develop the Alaska Coastal Management Program.

Sec. 46.35.010

- ((a) (Provides that the Council approves the Alaska Coastal Management Program.)
- (b) Provides that portions of the Alaska Coastal Management Program could be approved by the Council as they are developed.

(c) The Council would review the Program, and when appropriate revise it to

- Add newly approved District Coastal Management Programs;
- Intergrate newly approved District Coastal Management Programs, and/or revisions and amendments of District Coastal Management Programs with existing programs, and/or with plans developed by State agencies.
- Add new or revised State statutes, policies, regulations or other appropriate material.
- Review the effectiveness of implementation of District Coastal Management Programs.
- Consider new information acquired by the State and by Coastal Resource Districts.

(d) All reviews and revisions by the Council would have to be in accordance with the guidelines and standards adopted by the Council.

Sec. 46.35.020

Lists the eight objectives of the Alaska Coastal Management Program. They include

- The use, management, restoration and enhancement of the overall quality of the coastal environment.
- The development of industrial or commercial enterprises consistent with the social, cultural, historic, economic and environmental interests of the people.

- The orderly, balanced utilization and protection of the resources of the coastal areas consistent with sound conservation and sustained yield principles.
- The management of coastal land and water uses in such a manner that those uses which are dependent on a coastal location (economically and/or physically) are given a higher priority than those uses which do not require a coastal location.
- The protection and management of significant historic, cultural, natural and aesthetic values, and natural systems or processes within the coastal area.
- The prevention of damage to or degradation of land and water (reserved for their natural values) as a result of inconsistent land or water usages (adjacent to that land).
- The recognition of the need for a continuing supply of energy to meet the requirements of the State and the nation, and
- The full and fair evaluation of all demands on the land and water in coastal areas.

Sec. 46.35.030

Provides for the creation of Coastal Resource Districts to develop District Coastal Management Programs. The District Coastal Management Program would be based on a comprehensive resource use plan, or a comprehensive statement of needs, policies, objectives and standards which would govern the use of the various resources in the Coastal Resource District. Each District Program would have to be consistent with the guidelines and standards of the Alaska Coastal Management Program, and would include

- The delineation of the boundaries of the Coastal Resource District.
- A listing or definition of land and water uses and activities which would be subject to a District Coastal Management Program.
- The policies and regulations which would be applied to the land and water uses and activities which would be subject to a District Coastal Management Program.
- A description of the uses and activities which would be proper and those which would be improper within the boundaries of a Coastal Resource District.
- The policy which would be applied, and the procedures which would be used to determine which proposals for land or water uses or activities would be allowed.
- The designation of areas in a Coastal Resource District which merit special attention, and the criteria which would be applied for their use.

Sec. 46.35.040

Specifies the duties of the Alaska Coastal Policy Council. Among these would be

- The development, identification and definition of guidelines and standards for use by Coastal Resource Districts and State agencies within six months of the effective date of this Act. (These guidelines and standards, developed by the Council, would essentially cover the same items listed in the previous section (46.35.030).)

In addition, the guidelines and standards which would be developed by the Council would be used to measure the progress

Coastal Resources Districts are making in developing and implementing their own District Programs.

- The development of an ongoing program which would provide technical and financial assistance to the Coastal Resource Districts in the development and implementation of their District Programs.
- The review and approval of District Programs.
- The initiation of a process for identifying and managing, uses of State, regional and/or district concerns within specific coastal areas.
- The development of procedures and/or guidelines for coordination and cooperation with Federal agencies which manage and use Federal lands in coastal areas.

Sec. 46.35.050

Provides that Coastal Resource Districts would be required to complete and submit to the Council for approval a District Program within 30 months of the effective date of this Act, or within 30 months of certification of the results of a Coastal Resource District's organization, whichever would occur later.

Sec. 46.35.060

- (a) Provides that if certain portions of a District Program submitted to the Council for approval were not in compliance with the provisions of the Act, the Council could still approve those portions which were consistent.

- (b) Those portions of a District Coastal Management Plan which would or could not be approved by the Council because of deficiencies would be mediated. Such mediations would include public hearings in the affected Coastal Resource District, and meetings between the Council and Coastal Resource District officials to resolve the differences and correct the deficiencies.
- (c) If differences could not be resolved by mediation the Council would then call for a public hearing, and the differences would be resolved in accordance with the Administrative Procedure Act (44.62). The Council would be required to enter its findings, and then could require that
- The affected District Program be amended to be consistent with the Act, or that
 - The Program be revised to accommodate a use of State concern.
- (d) Designates the Superior Court as the court which would have jurisdiction to enforce orders of the Council.

Sec. 46.35.070

- (a) Provides for the standards the Council would have to follow in approving or disapproving a District Program. The Council must approve a District Program if it is consistent with the Act and the guidelines and standards adopted by the Council.
- (b) Even if a District Program were not consistent, the Council would have to approve it if it were determined that strict adherence to the guidelines and standards
- would result in violation of another law, or

- would cause substantial harm to another value in the Coastal Resource District, or that
 - the inconsistency is of a technical nature and would not result in substantial harm.
- (c) This section also provides that the Council would have to approve a restriction or exclusion (of a District Program) of a use of State concern, if it found that
- The Coastal Resource District had consulted with the appropriate State agencies; that
 - The restriction or exclusion was based on the fact that no suitable alternative site was available; and that
 - The restriction or exclusion was based on an analysis which showed that the proposed use would have been incompatible with the proposed site.
- (d) Under this section a decision by the Council would have to be made within 90 days.

Sec. 46.35.080

Provides that the Alaska Coastal Management Program would take effect upon adoption of a concurrent resolution by a majority of each house, or by a vote of the majority of each house at a time the houses are convened in joint session to confirm executive appointments.

Sec. 46.35.090

- (a) Provides that District Programs (approved by the Council for a Coastal Resources District) which do not have planning and zoning authority would be implemented by the appropriate State agencies.

- (b) Those Coastal Resource Districts who exercise planning and zoning authority would implement their own Programs (once they had been approved by the Council).

Sec. 46.35.100

- (a) Deals with compliance and enforcement of District Programs. It provides that municipalities and State agencies would administer land and water use regulations in conformity with approved Programs.
- (b) The sections states that if it were found that a District Program was not being enforced, implemented or complied with, the Council would convene a public hearing to consider the matter. After the hearing the Council could order the affected Coastal Resource District and/or State agency to take the necessary actions to enforce, implement or comply with an approved District Program.
- (c) In determining whether an approved District Program is being enforced, implemented or complied with by a Coastal Resource District which exercises planning and zoning authority, the Council would find in favor of the respective Coastal Resource District if
- Zoning or other regulations had been adopted or were being enforced;
 - Variances had been granted which complied with the elements of the District Program, or which had been approved by the Council; and

- Procedures and standards of the Act had been followed and considered by the Coastal Resource District.
- (d) In determining whether a State agency was enforcing, implementing, or complying with a District Program with respect to its exercise of regulations or control of the resources, the Council would find in favor of the State agency if the
- Use or activity for which the permit, license, or approval had been granted was consistent with the District Program, and if the
 - Requirements imposed by State statute, regulation, or local ordinance applicable to the use or activity were consistent with the District Program.
- ((e) The Superior Court would have jurisdiction to enforce orders of the Council.)

Sec. 46.35.110

Would provide for the establishment of Coastal Resource Service Areas with powers granted to perform the duties required in this Act, in the unorganized borough.

Sec. 46.35.120

- (a) Provides for the organization of Coastal Resource Service Areas in those Regional Education Attendance Areas which contain part of the coastline.
- (b) The section further provides that the Commissioner of the Department of Community and Regional Affairs could, after public hearings, consolidate two or more REAAs into a single Coastal Resource Service Area if

- A substantial portion of the coastal area in question belonged to or was administered by the Federal Government; i.e., an area over which the State could not exercise control as to its use; or if
 - There was the likelihood that an area in the unorganized borough which covered more than one REAA might be incorporated.
- (c) The section also provides that a determination for a possible consolidation of two or more REAAs (for the above stated reasons) would have to be made prior to organizing a Service Area, but no later than six months after the effective date of the Act.

Sec. 46.35.130

- (a) Provides for the three forms of organization of a Coastal Resource Service Area. It could be accomplished either by
- Submission of a petition to the Council by the number of voters equal to 15 percent of the number of votes cast in the last general election; or it could be accomplished by
 - Submission of a resolution to the Council by a city council, or a traditional governing body of not less than 25 percent of the number of cities and villages located within the Service Area; or it could be done at the
 - Direction of the Council whenever it appeared that a major economic development activity would occur in the Service Area. (Major economic activity is defined in Sec. 46.35.160(b)).

- (b) The Lt. governor would conduct an election on the question of organization of a Service Area within 60 days (but no later than 90 days) after the receipt of a petition or resolution, or at the direction of the Council.

Sec. 46.35.140

- (a) Provides that each Service Area would have an elected board which would have the same powers, duties and functions (to develop and implement a program) as those required of a Coastal Resource District.
- (b) The Board would have seven members, which would be elected at large, except that
- (c) The Commissioner of the Department of Community and Regional Affairs could (after consultation with residents of a Service Area) divide Service Areas into sections for the purpose of nominating and electing board members. (In accordance with AS 14.08.051(a)). Such division could also be requested in the petitions or resolutions submitted by Service Areas, or at the direction of the Council for organization of Service Areas as noted earlier. (Sec. 46.35.130(a))

Division into sections could also be proposed at any time by members of the respective Service Area boards. However, if such divisioning were to be proposed by a Service Area, it would have to be approved first by a majority of the qualified voters voting at the next regular election, or a special election called for that purpose.

If a division into sections for the purpose of nominating and electing board members were to be approved, it would take effect at the next regular election of Service Area board members.

- (d) The term of office for Service Area board members would be three years. Board members could be reelected. Terms would be staggered.
- (e) The Lt. governor would have to hold elections, with the first election to be held not less than 60 nor more than 90 days, after certification of the results of a Service Area organization election.
- (f) Subsequent elections would be held annually on the same date as the election for board members of REAAs.
- (g) Subsection (g) of this section provides for the appointment of a board member to fill a vacancy on a Service Area board.
(According to AS 14.08.041(a))
- (h) Recall of Service Area board members is subject to the same provisions as a recall for municipal officials. (Under AS 29.28.130 - 29.28.250).

(The Lt. governor would receive and review recall petitions, as well as conduct recall elections.)

Sec. 46.35.150

Provides that all elections in the Service Areas be administered by the Lt. governor as provided for in the Alaska Election Code. (In addition, it provides that the Lt. governor may adopt regulations as necessary, and that all election costs would be borne by the State.)

Sec. 46 35.160

- (a) Provides for the organization of a Service Area at the direction of the Council whenever it appeared that a major economic development activity would occur in a Service Area, or in waters adjacent to a Service Area which had not been organized. The Council would have to hold at least one public hearing in the affected area before an election could be held by the Council.
- ((b) Defines "major economic development activity".)

Sec. 46.35.170

- (a) Provides that if residents of a Service Area were to reject organization, and the Council found after public hearings that a major economic development activity was or would be occurring the Council could direct the Department of Community and Regional Affairs to prepare a District Program for submission to the Council and the Legislature.
- (b) In addition, the Department of Community and Regional Affairs would complete a District Coastal Management Program for a Service Area which had been organized, but which had
- Failed to make substantial progress in preparing an approvable District Program within 18 months of organization, or which had
 - Failed to submit for approval a District Program within 30 months of organization.

The preparation of a District Program by the Department of Community and Regional Affairs would be accomplished in consultation with the affected Service Area. The section further

provides that the District Program would reflect the expressed concerns of the residents of the Service Area to the maximum extent possible.

- (c) However, subsection (c) provides that before the Department of Community and Regional Affairs could complete a District Program, the Council would be required to meet with members of the Service Area board to determine if they could complete a District Program on their own within the time frame established in subsection (b) of this section (i.e., 18 or 30 months).

Sec. 46.35.180

- (a) Provides that a District Program would have to be submitted for review to each city or village within the Service Area before adoption by the board.

Within 60 days the council of a city, or the residents of a village could either approve, or enter their objections to the District Program.

- (b) If a city or village failed to approve portions of the District Program, the governing body would have to advise the Service Area board (or the Department of C&RA) of its objections, as well as suggest alternatives.

The Service Area board would accept new material from a city or village (which would be consistent with the guidelines and standards adopted by the Council) and the District Program would be modified accordingly.

- (c) Objections by a city council would be confined to elements of the District Program which would be within the corporate limits of the city. The objections of a village council would be confined to those elements of the District

Program which would be within the village and/or a two mile radius of the village.

((d) Defines "village".)

Sec. 46.35.190

- (a) A city which is within the coastal area, but which is not part of a Service Area could include itself in that Service Area if its governing body consented to the inclusion.
- (b) The initiation of mutual agreements and cooperative or joint administration of functions between a municipality and a Service Area is encouraged.

Sec. 46.35.200

Provides that upon adoption of the Alaska Coastal Management Program State departments, boards, and commissions would have to review their statutory authority, administrative regulations and applicable procedures to determine if any deficiencies or inconsistencies existed which would prevent them from complying with the statewide Program. State agencies would be required to take whatever actions were necessary to insure that they would be in full compliance with the statewide Program. This would include the preparation and submission of recommendations to the Council for needed legislation within six months from the effective date of the Program.

Sec. 46.35.210

Contains the definitions' section (pp. 21, 22, 23, 24), which includes definitions of

- (1) Area which merits special attention
- (2) Coastal Resource District

(3) Use of direct and significant impact

(4) Uses of State concern

* Sec. 5

Adds a new section to Chapter 47 (Department of C&RA) of Title 44 (State Government).

The section provides for various kinds of assistance for the development, implementation and maintenance of District Coastal Management Programs by the Department of Community & Regional Affairs.

* Sec. 6

Provides that the Administrative Regulation Review Committee would have to review the administrative regulations adopted by the various executive departments dealing with the State's coastal areas. The Committee would have to make recommendations by January 20, 1979 for annulment of regulations which in the Committee's opinion would not meet the intent of the Alaska Coastal Management Program. These recommendations would have to be transmitted to the first session of the Eleventh Alaska Legislature.

* Sec. 7

Provides for an effective date clause.

Testimony on SB 220

Submitted to Senate Natural Resources Committee on March 29, 1977,
at the request of Sen. Kay Poland, Chairwoman.

My name is Michael H. DeMan. I am the director of the Alaska Native Foundation's Village Management Assistance Program. I am by birth and choice a coastal Alaskan, and through my position at the Foundation, and previous work in state and local government, have traveled quite extensively in rural Alaska. The Foundation's involvement -- and mine -- with the coastal zone management, and its attendant OCS development issue, began last year. While ANF has limited resources to work with -- or perhaps because of that fact -- we try to stretch dollars as far as possible. And in dealing with coastal management and OCS -- we've seen our money go pretty far. We didn't look for the CZM/OCS issue -- rather it came to us, for two reasons:

1. As an organization working with villages, we received numerous questions about CZM and OCS from village leaders which we couldn't answer; so
2. ANF, together with the Alaska Native Human Resources project, set out to determine what CZM/OCS needs were not being met. Information and discussion seemed to be needed most strongly, so an OCS Awareness seminar was held in February. Funded in part by the State, the Kellogg Foundation and the BIA, more than 80 residents from coastal communities attended.

As a result of that Seminar and other work with the villages, ANF has come to the realization that CZM/OCS is only a portion of a much larger need for all of rural Alaska. The following

outline proposes a workable solution for government -- for all rural Alaskans.

1. There is a need for regional and sub-regional planning for rural Alaska (unorganized borough), which is not filled by an existing organizational structure.
2. This need could be met under the service area concept (Chapter 29-03-020) but it is unrealistic to expect existing small cities and villages to deal with major forces affecting their lives on an area wide basis. City annexation of lands in question is not the answer. The planning need is of a much broader nature.
3. The service area concept should be rewritten to allow cluster groups of communities to share planning and zoning administration and powers outside their respective cities. This would give service areas a structure to deal with such forces and concepts as: Coastal zone management, rural energy needs, economic development, large scale agriculture projects, inter-village transportation systems and communications, and other regional or sub-regional planning needs.
4. State and federal governments also need certain structures to interface with to make important decisions and determine policy directions. As the saying goes, what is everyone's responsibility, is no one's responsibility. So it is with the unorganized borough and planning.

5. The first step for rural Alaska is important. Too many times, the structure of present local governments has been super-imposed over an already totally mixed bag of organizations which evolved haphazardly to meet special situations. Although everyone agrees planning should come first, no one provides for it in a comprehensive non-burdensome way. We have that opportunity now.

6. Instead of forming planning structures and areas in reaction to government or private industry's ventures into rural life, which may overlap -- or which are designed for one purpose but used for another -- let's design planning structures and applications based on what is there now, in terms of inter-village relationships. All new projects emanating from without or within, then, would be able to deal with a planning organization which has defined goals, objectives, and responsibilities.

7. This service area should not be super-imposed, though outside guidance may be needed -- and welcomed. Rather, after careful development and pre-planning by the local people concerned, it should be voted upon by those people within the designated service area.

8. These service areas should then be allocated planning funds to cope with their priorities.

In order to accomplish the goal of development of a planning

Testimony on SB 220

page 4

structure for rural Alaska, the following must first take place:

1. Develop the boundaries of existing geographically-homogenous planning units, i.e., the cluster groups. An example would be the Nunivak-Nelson Island group of six villages.
2. Identify existing governmental, non-governmental, economic, and other applied boundaries presently in use in rural Alaska.
3. Define the rationale and purpose for each boundary.
4. Design a "Service Area Powers" concept, which allows a step-by-step approach to governmental responsibilities starting with overall planning. These service areas should not put additional strain on limited local expertise, which is already over-extended in many locations.
5. Re-examine the existing structure of the Department of community and Regional Affairs.
6. Identify money necessary to accomplish the above on a multi-year basis.

If these service areas are designed in a sound, effective way in close partnership with the people who will administer -- and in turn, be affected by such administration -- then sound decisions can be made in planning the physical, social and economic future of rural Alaskans.

Testimony on SB 220

page 5

I know this is a major proposal but coordination is vital for a rural people presently smothered by conflicting responsibilities, districts, jurisdictions, and general state overlap. Such coordination must come from you because you know the people best; you live there, and you make the laws.

SENATE BILL 220
ALASKA COASTAL MANAGEMENT
TESTIMONY BY JOHN BORBRIDGE, JR., PRESIDENT
SEALASKA CORPORATION

MARCH 30, 1977

MADAME CHAIRMAN AND MEMBERS OF THE SENATE RESOURCES COMMITTEE, FOR THE RECORD, MY NAME IS JOHN BORBRIDGE, JR. I AM THE PRESIDENT OF SEALASKA CORPORATION. I AM HERE TODAY TO OFFER OUR COMMENTS WITH RESPECT TO SENATE BILL 220, "AN ACT RELATING TO THE MANAGEMENT OF COASTAL RESOURCES OF THE STATE AND PROVIDING FOR AN EFFECTIVE DATE,"

SEALASKA CORPORATION GENERALLY BELIEVES THAT A COASTAL MANAGEMENT ACT SIMILAR TO SENATE BILL 220 IS NOT ONLY INEVITABLE BUT DESIRABLE, IN ORDER TO PROVIDE FOR THE WISE DEVELOPMENT OF THE COASTAL AREAS OF THE STATE OF ALASKA. HOWEVER, IT IS UNFORTUNATE THAT THE MOVE TO IMPLEMENT COASTAL MANAGEMENT IN THE STATE OF ALASKA COMES AT THIS POINT IN TIME.

ON DECEMBER 18, 1971, PRESIDENT NIXON SIGNED THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, WHICH PROVIDED AMONG OTHER THINGS FOR ALASKA NATIVES TO RETAIN OWNERSHIP OF 40 MILLION ACRES OF LANDS, WHICH THEY HAD OWNED SINCE TIME IMMEMORIAL. UNDER THE PROVISIONS OF THAT ACT, VILLAGE CORPORATION LAND SELECTION APPLICATIONS HAD TO BE FILED BY DECEMBER 18, 1974. TODAY IS MARCH 30, 1977 AND

TO DATE, ALTHOUGH THE VILLAGES IN SOUTHEASTERN ALASKA FILED THEIR APPLICATIONS IN A TIMELY MANNER, LESS THAN ONE ACRE OF LAND HAS IN FACT BEEN CONVEYED FROM THE FEDERAL GOVERNMENT TO THE NATIVE CORPORATIONS IN OUR REGION. ALTHOUGH MOST OF THE DELAY INVOLVED IN OBTAINING CONVEYANCE IS ATTRIBUTABLE TO THE DEPARTMENT OF INTERIOR, THE STATE OF ALASKA HAS CONTRIBUTED TO THESE DELAYS.

AS A CONSEQUENCE OF THESE GOVERNMENTAL DELAYS, THE NATIVE CORPORATIONS ARE IN GENERAL NOT RECEPTIVE TO ADDITIONAL CONTROLS AND ENCUMBRANCES BEING PLACED UPON LANDS TO WHICH THEY HAVE YET TO RECEIVE CONVEYANCE. CONSEQUENTLY, SEALASKA CORPORATION FROM A MATTER OF PRINCIPLE, MUST CONCUR WITH THE ALASKA FEDERATION OF NATIVES' POSITION THAT A COASTAL MANAGEMENT ACT SHOULD NOT BE IMPLEMENTED AT THIS TIME. RATHER, SUCH LEGISLATION SHOULD WAIT UNTIL THE NATIVE CORPORATIONS HAVE AT LEAST RECEIVED TITLE TO THE MAJORITY OF THEIR LANDS. THEN THESE CORPORATIONS WILL HAVE A BETTER IDEA OF THE SPECIFIC AFFECTS OF ANY STATE CONTROLS ON THE DEVELOPMENT OF THE LANDS. WE WILL BE ABLE TO PARTICIPATE IN THE COASTAL RESOURCE PLANNING PROCESS AS FULL-FLEDGED LANDOWNERS WITH THE ATTENDANT RESPONSIBILITY FOR ORDERLY AND RESPONSIBLE DEVELOPMENT. ADDITIONALLY, MANY NATIVE CORPORATIONS HAVE BUSINESSES AND SHAREHOLDERS WHO RELY HEAVILY ON THE COASTAL ECOSYSTEM. WE HAVE OR WILL, BE EMPLOYING PERSONNEL WHO ARE VERY KNOWLEDGEABLE IN THE USE AND PRESERVATION OF COASTAL RESOURCES. IT IS MOST DESIRABLE FROM OUR POINT

OF VIEW TO BE GIVEN A LITTLE MORE TIME TO CLARIFY OUR CONCERNS AND POSITIONS PRIOR TO ENACTMENT.

SEALASKA CORPORATION, HOWEVER, IS ALSO AWARE THAT CERTAIN FEDERAL FUNDS WHICH MAY BE BENEFICIAL TO COASTAL COMMUNITIES, PARTICULARLY WITH RESPECT TO THE PENDING OUTER CONTINENTAL SHELF DEVELOPMENT OF FEDERAL OIL RESERVES, MAY NOT BE AVAILABLE TO THESE COMMUNITIES IF A COASTAL PLAN IS NOT ADOPTED BY THE STATE. THEREFORE, OUR POSITION IS AS FOLLOWS:

- 1) TO THE EXTENT IMPLEMENTATION OF A COASTAL MANAGEMENT PROGRAM CAN BE DELAYED UNTIL TITLE IS RECEIVED TO THE NATIVE CORPORATION LANDS, THE STATE SHOULD DELAY SUCH IMPLEMENTATION;
- 2) TO THE EXTENT THAT SUCH A DELAY WOULD WORK ADVERSELY WITH RESPECT TO FEDERAL FUNDS TO OFFSET THE IMPACT OF OIL DEVELOPMENT ON THE OUTER CONTINENTAL SHELF, THE COASTAL MANAGEMENT PROGRAM SHOULD BE IMPLEMENTED.

INsofar AS SENATE BILL 220 IS CONCERNED, WE HAVE THE FOLLOWING COMMENTS:

OUR MAJOR OBJECTION TO SENATE BILL 220 AS IT PRESENTLY STANDS IS THAT THE UNORGANIZED BOROUGH LARGE PRIVATE OWNERS ARE EFFECTIVELY DISENFRANCHISED WITH RESPECT TO DEVELOPING THE

COASTAL DISTRICT PROGRAM FOR THEIR AREAS. SPECIFICALLY, DUE TO THE STIPULATIONS IN THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AND SUBSEQUENT AMENDMENTS, SEALASKA CORPORATION IS FORCED TO SELECT ITS LAND FROM AREAS WHICH ARE IN THE UNORGANIZED BOROUGHES. A GOODLY PORTION OF THE LANDS SELECTED BY SEALASKA CORPORATION WILL BE ON PRINCE OF WALES ISLAND AND THE PROVISIONS OF SENATE BILL 220 DO NOT ALLOW ANY INPUT BY SEALASKA CORPORATION IN THE DECISIONMAKING BODY WHICH WILL ESTABLISH THE COASTAL PLAN FOR THE PRINCE OF WALES ISLAND. JUST AS A GOOD FOREST MANAGEMENT ACT MUST PROVIDE FOR DIRECT INPUT IN THE DECISION-MAKING PROCESS BY TIMBER LANDOWNERS, SO ALSO A GOOD COASTAL MANAGEMENT PROGRAM ACT MUST PROVIDE FOR DIRECT USER INPUT IN THE POLICY BODY WHICH ESTABLISHES THE COASTAL MANAGEMENT PROGRAM. SOME METHOD MUST BE FOUND FOR NOT ONLY SEALASKA, BUT THE OTHER MAJOR PRIVATE LANDOWNERS IN THE STATE, TO HAVE A DIRECT INPUT INTO THE POLICYMAKING BODY THAT FORMULATES THE COASTAL MANAGEMENT PROGRAM THAT EFFECTS THEIR LANDS.

ONE OTHER MAJOR FAILING WE SEE IN SENATE BILL 220 IS THE COMPOSITION OF THE ALASKA COASTAL POLICY COUNCIL (LINE 24 ON PAGE 2 OF THE PROPOSED BILL). AS OUTLINED, THE COUNCIL WOULD CONSIST OF EIGHT PUBLIC MEMBERS APPOINTED BY THE GOVERNOR, AND SEVEN DEPARTMENT HEADS ALSO APPOINTED BY THE GOVERNOR. IN ESSENCE THEN, THE 15 MEMBER COUNCIL WOULD BE ENTIRELY SELECTED BY THE GOVERNOR OF THE STATE AND WOULD QUITE OBVIOUSLY REFLECT HIS PARTICULAR POSITION WITH RESPECT TO COASTAL MANAGEMENT.

FURTHERMORE, THE STRUCTURE OF THE COASTAL MANAGEMENT PROGRAM AS OUTLINED IN SENATE BILL 220 IS "FROM THE TOP DOWN". THE ALASKA COASTAL POLICY COUNCIL DICTATES TO THE COASTAL RESOURCE DISTRICTS THE BASIC POLICIES AND PROGRAMS WHICH MUST BE DEVELOPED BY THE DISTRICT.

IN ORDER TO OVERCOME THESE TWO SERIOUS DRAWBACKS IN SENATE BILL 220, WE WOULD SUGGEST THAT THE MEMBERSHIP ON THE ALASKA COASTAL POLICY COUNCIL CONSIST OF ONE MEMBER FROM EACH OF THE COASTAL RESOURCE DISTRICTS, SAID MEMBER TO BE ELECTED BY A MAJORITY VOTE OF THE MEMBERS SERVING ON THE COASTAL RESOURCE DISTRICT BOARD. THIS PROVISION WOULD ALLOW THOSE CITIZENS IN THE UNORGANIZED BOROUGHES AN OPPORTUNITY TO BE REPRESENTED ON THE COUNCIL. IN ADDITION, THE ALASKA COASTAL POLICY COUNCIL COULD HAVE MEMBERS DESIGNATED BY THE GOVERNOR, REPRESENTING THE VARIOUS DEPARTMENTS AS PRESENTLY OUTLINED IN SENATE BILL 220. AN ALASKA COASTAL POLICY COUNCIL MADE UP OF ONE MEMBER FROM EACH COASTAL RESOURCE DISTRICT, PLUS THE VARIOUS COMMISSIONERS, WOULD APPEAR TO BE MORE CONSISTENT WITH LOCAL PLANNING DEVELOPMENT AND CONTROL, AND STILL ALLOW SUBSTANTIAL INPUT BY THE STATE THROUGH THE COMMISSIONERS OF THE VARIOUS DEPARTMENT. POLICIES AND PROGRAM GUIDELINES DEVELOPED BY SUCH A COUNCIL WOULD MORE ADEQUATELY REFLECT THE VARIOUS DIFFERENCES IN RESOURCE MANAGEMENT THROUGHOUT THE STATE, AND SHOULD MINIMIZE FRICTION BETWEEN THE POLICY COUNCIL COORDINATING THE STATEWIDE EFFORT, AND THE RESOURCE DISTRICT BOARDS CHARGED WITH IMPLEMENTING THE STATEWIDE POLICY.

IN CLOSING, MADAME CHAIRMAN, AGAIN LET ME THANK YOU FOR ALLOWING SEALASKA CORPORATION TO TESTIFY ON THIS PROPOSED LEGISLATION. ANY COASTAL MANAGEMENT PROGRAM ESTABLISHED WILL HAVE A SUBSTANTIAL IMPACT UPON THE STATE OF ALASKA, SEALASKA CORPORATION AND THE VILLAGES IN SOUTHEASTERN ALASKA.

Testimony
SB 220/HB 342 "Coastal Resources"

Glenn Akins
Coordinator, Alaska Coastal Management Program
Division of Policy Development and Planning
Office of the Governor

I would like to address three things: 1) the role of the Administration in conducting a coastal management program; 2) the manner in which the coastal management bill will help us with the program; and 3) some suggested changes in wording which have been provided by state agency staff members.

The Coastal Management Program

The State of Alaska has been conducting a coastal management program for two and one-half years, without benefit of legislation. The goals of the Administration in conducting this program are to:

1. develop an understanding, an overview, within one program, of all the important uses and activities taking place along Alaska's 34,000 miles of coastline, filling gaps in the regulatory process where necessary, and simplifying it otherwise;
2. assist state agencies and local governments do a better job of managing coastal resources, through
 - a. developing better information on resources and resource uses and impacts,
 - b. funding local OCS siting programs and municipal coastal management programs,
 - c. conducting special regional planning efforts, such as the Gulf of Alaska facility siting program, and
 - d. preparing for the administration of the Coastal Energy Impact Fund;
3. providing for greater participation of citizens and local governments in coastal management decisions; and
4. establishing greater coordination among state and federal agencies which have responsibility for regulation of coastal resources.

The Bill

SB 220/HB 342 fits the Administration's goals for coastal management in the following ways:

1. The bill specifies the uses and areas which should be addressed within the coastal management program. It explains that coastal management is not regulation of everything that is happening along Alaska's shores and coasts. Many citizens and local government officials have had the impression that coastal management means regulation of any kind of use or activity, no matter how minor or local.
2. The bill establishes policies, or guidelines if you wish to call them that, in law which explain the State's interest in regulating the major uses and areas defined in the legislation.
3. The bill would establish the tie between state regulation and local planning and zoning. The guidelines for coastal areas and activities would become the basis for completing and reviewing local (municipal) coastal programs. Local governments would have a role in planning for uses and areas along the coast, in close cooperation with state agencies.
4. The bill provides a mechanism for resolving conflicts between the state and local governments.
5. The bill provides means for residents of the unorganized borough to participate in the coastal management program.

One question that could be raised here relates to federal approval of the State's coastal management program. That is, will this bill make the State's program approvable under the terms of the Coastal Zone Management Act of 1972?

The State can seek approval on the basis of state authorities alone, or on the basis of a partnership between the State and local governments. Every state which is actively involved in coastal management has chosen to involve local governments in a significant way. The bill would allow the State to use local planning and zoning authorities as an important part of the management program.

Suggested Changes

Administration Suggestions for Changes to SB 220/HR 342 "Relating to the Management of the Coastal Resources of the State"

1. Remove Legislative Oversight

The Legislature should have a proper oversight role in the coastal management process. This role, however, is already provided for in the budget review process, the ability to repeal or modify statutes, and the ability to review regulations. Furthermore, since the Legislature would create a Policy Council to oversee the program, it should abide by the Council's decision.

Recommendation: Revise Section 46.35.080 EFFECTIVE DATE OF THE ALASKA COASTAL MANAGEMENT PROGRAM. The Alaska coastal management program adopted by the Council, and any additions, revisions, or amendments of the program, take effect after approval by the Council.

2. The Unorganized Borough

The Administration requests close review of the Unorganized Borough provisions. The Administration does not wish to establish disincentives for the eventual formation of organized local governments. However, the Administration felt it necessary to respond to requests for participation by residents of the Unorganized Borough in the Coastal Management Program. It must be emphasized that the bill does not mandate districts in the Unorganized Borough, but allows their formation as a local option.

3. Existing Expertise

Revise Sections 44.19.892 and 44.18.894 to read POWERS OF THE COUNCIL. The council may shall

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

(2) utilize, to the maximum extent feasible, the expertise of and the information supplied by state agencies;

(3) contract for etc. as in existing bill.

COUNCIL STAFF. The council shall utilize the staff of the office of coastal management within the Division of Policy Development and Planning in discharging its powers and duties. The coordinator of the office, with the concurrence of the council, may contract with or employ

personnel or consultants he considers necessary to carry out the powers and duties of the council. The coordinator shall use the expertise of the state agencies to the maximum extent feasible, in carrying out his duties."



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

DATE: March 30, 1977

FILE NO. SB 220/HB 342

SUBJECT: Senate Bill 220, Management of
the Coastal Resources of the
State

The Honorable Kay Poland, Chair
Senate Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Poland:

The Legislative Committee of the City and Borough of Juneau has reviewed and considered SB 220 and supports the general approach taken in the bill to management of our coastal resources. The committee supports maximum local participation in the policy making and enforcement aspects of coastal resource management and to that end requests that minor changes be considered which would help maximize local government input, participation and response under the bill.

The membership of the Alaska Coastal Policy Council is made up of seven state department or division heads who have been appointed to their position by the governor or one of his appointees. In addition, the governor appoints eight persons of his choosing from various regions who are elected local government officials. Thus, the governor appoints all fifteen of the council members. The appointment of the eight elected local government officials is made without the advice and consent of either the legislature or the local municipalities. In order to insure that the viewpoint of local government is represented by local government members who reflect the policies of the local governments involved, the appointing power as to the public members should be shifted to the local governments involved. It could be completely shifted to the local governments if the language between lines 28 and 29 on page 2 and lines 1 and 2 on page 3 is deleted and replaced by the following language:

(1) eight public members, who shall be the mayor or member of the assembly or council of a municipality shall be appointed. One public member shall be appointed from each of the following general regions:

Following line 24 on page 3, add the following language which would be a continuation of (1):

Initially, and upon a vacancy or upon or prior to the expiration of the term of an incumbent, public members shall be appointed for the term or unexpired term in the following manner:

(A) Upon notification to municipalities in a general region by the governor or the council of a vacancy or a prospective vacancy in the seat representing the general region, the assembly or council of each municipality therein may, by motion or resolution, nominate its mayor or a member of its assembly or council to fill the vacancy. Upon making such a nomination, the municipality shall notify the governor and each of the other municipalities within the region of its nomination. If, subsequent to the making of such nominations, a majority of the municipalities within the general region adopt resolutions selecting one of the nominees as the region representative, such person shall be deemed appointed to the council.

(B) The person appointed shall notify the governor, the council, and each municipality in the region of the appointment. The person selected shall include with such notice a copy of each of the resolutions selecting that person as the representative of the general region.

(C) If the governor has not received notification of an appointment under (A) and (B) within 90 days of the last date upon which notice to a municipality was sent by the council or the governor, the governor shall appoint a public member for that general region from among the nominations supplied him under (A).

The procedure suggested above could be altered, however, the two elements which are essential to this procedure are:

1. That the representative for the general region should be appointed by the municipalities which will be the front line for enforcement of the coastal resources management program, and

March 30, 1977

2. That in the event the municipalities are not able to agree, the governor be limited in his appointments to the public member seats to persons who have been nominated by municipalities.

Other references to the appointment of public members by the governor which appear in the bill should be deleted or changed to conform to the change proposed above. Lines 1 and 2 of page 5 should be changed to read as follows:

(a)(1) of this section, the alternate designated under (d) shall serve until a replacement who shall serve for the unexpired portion of the term has been appointed in accordance with the procedures set forth in (a)(1) of this section.

Municipalities are the key to the implementation of the Alaska coastal management program. By providing municipalities with an opportunity to select their representatives for the council, the state will be taking a step in the direction of creating greater credibility of the state program, encouraging the fullest possible local input to and cooperation with the council and providing an environment in which local enforcement of the district coastal management program can be expected to be the most vigorous. In addition, allowing municipalities to select their representative in each general region will probably help insure a better balance on the council between those who represent state interests and those who most accurately reflect local needs and interest.

While the municipality has not taken a position relative to the following points I believe they are points which might be appropriate for committee discussion.

1. There appears to be a conscious effort not to specify which agency or body has the responsibility for developing the Alaska coastal management program. While it is the council which initially approves the program, it does not clearly appear that the council has any responsibility for developing or assembling the program. It develops guidelines for the preparation of the program; it reviews the program, and it approves the program in part or in whole. Section 46.35.010 on page 6 clearly gives the council the power to review the program but merely provides that the program be revised when appropriate without noting what body or agency has the revisory power. Subsection (c)(1) of subject section provides that the council add newly approved district management coastal programs to the Alaska coastal management program.

2. Proposed sections 60 and 70 set forth the procedure for council approval of district coastal management programs. Proposed section 80 provides that the Alaska coastal management program adopted by the council takes effect upon its approval by the state legislature. Thus, it would appear that district coastal management programs would, by their incorporation in the Alaska coastal management program, be subject to legislative approval. Section 90, however, indicates that council approval is all that is needed for the district coastal management program of a district which exercises zoning or other resource control. Thus, while it is not really clear in the proposed legislation, it does appear that if the state is to be responsible for implementation of a district coastal management program, that program must be approved by both the council and the legislature while council approval is all that is necessary for a district which exercises zoning or other resource controls. If the foregoing reading is accurate as to legislative intent, then changes should be made to the language in section 10(c)(1) which appears to provide for the incorporation of approved district programs into the Alaska program which then receives legislative approval. In addition, the language at lines 12 and 13 on page 13 should be changed so that after the word "programs" in line 12 it would read "which have received final approval by the council or the legislature, as required, and are in effect." Language of this nature would help remove the ambiguity of whether or not both council and legislative approval are required for both state enforced and locally enforced programs. If, on the other hand, it is the intent of the legislature that district programs which are to be implemented through local zoning and other resource controls should be fixed in concrete through the mechanism of legislative approval, section 100 should be redrafted to remove the very strong implication that legislative approval is not needed except where state implementation is contemplated.
3. Returning to page 7, it does not appear in the list of objectives that the interests of the region or district are to be considered. If these are deemed appropriate for consideration, the addition of the phrase ", the region and the district" at the end of the sentence ending on line 18 on page 7 would incorporate such standards.
4. It would appear from reading section 30 starting on page 8, and in particular subsections (5) and (6), that implementation of the district coastal management program is contemplated through a mechanism which is

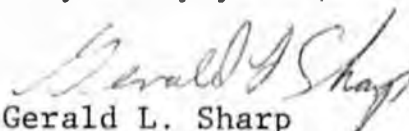
March 30, 1977

similar to conditional use procedures in conventional zoning programs. If it is contemplated that each use of land or water regulated under the district program is to be regulated as a conditional use, this aspect of the legislation could be subject to attack as many courts do not hesitate to overturn ordinances which purport to be zoning ordinances but under which all or almost all land uses are subject to the conditional use procedure. Such courts seem to balk at the idea that the legislative or regulatory body can decide on a case-by-case basis whether each or most uses under a general zoning will be allowed. Such an approach can be likened to spot zoning for each use. Of course, if there are sufficient standards that there is little discretion as to whether or not an application for a particular use is to be granted, such procedures are less vulnerable to attack.

5. At pages 10 and 11, the bill contemplates a mediation process which is to be utilized as to those district programs or parts thereof which are not approved by the council. The committee may want to consider whether it would be more appropriate to give the coastal resource district an opportunity to revise all or certain parts of its plan to bring it into compliance with council requirements before forcing the district into mediation. While the conventional concept of mediation involves a neutral third party who attempts to obtain agreement between the disputants, it appears that section 60(b) contemplates that the council itself acts as mediator. This appears to be something more akin to negotiation than mediation. However, it appears that in either event the coastal resource district is not in much of a position to resist changes requested by the council as the council has the ultimate authority to order the program amended. It must be admitted, however, that this is a commendable effort to provide a vehicle for the resolution of disputes between inferior and superior agencies prior to the superior agency invoking its power of a final and formal disapproval.

In closing, the municipality encourages the committee to increase or strengthen the authority and role of municipalities in the coastal resource management scheme.

Very truly yours,


Gerald L. Sharp
City/Borough Attorney

cc: Senators Butrovich, Croft,
Meland, Huber, Colletta, and Tillion
Don Berry, Executive Director
Alaska Municipal League

GLSmmb

Virginia Del Piaz - Alaska Conservation Society

Mike DeMunn - Alaska Native Foundation

State people should be only advisors
plan for something

^{Mayor} Don Gilman - Koyuk Peninsula Borough
- 5 municipalities within borough
commission too large?

boroughs nominate to the Gov.
elected official - likes that
money to assist in planning

Peter Hebert, Sealaska Corp. for John Bourbridge

Prods - have not surveyed lands
wants State to wait until voters receive their lands
unorganized borough - Sealaska has lands in
Barrow with ~~some~~ other areas
Council - doesn't want Gov. picking

Lee Dussay - City of Juneau

Jean Atkins - Co-ordinator of the OZU office

Alaska

- (1) Maximum local participation - wants State in
- (2) wants more council members
- (3) public hearings for district plans
- (3) hearings of the council - taxes & transition
wants intrusion plan protection not development
- (4) - wants it under DNR not ERTA

ANCHORAGE - ALASKA KODIAK PRINCE Wth Sound

Glen Akon - CZM office

NUNAM KITLUTSISTI

Protector of the Land

BOX 267

BETHEL, ALASKA 99559

May 16, 1977

Senator Kay Poland
Alaska State Senate
Fouch V
Juneau, Alaska 99811

Dear Senator Poland,

I am somewhat concerned that a message sent to you directly on March 26, 1977 did not come to your attention until mid-May. The reason for the letter in the first place was the very vital issue of coastal zone management. The letter was the result of a three day work session in the lower Yukon concerning the proposed legislation, and possibly was the only direct input your Committee received from rural Alaskan native villages concerning this legislation that will directly affect the lives of these coastal Alaskan citizens. Following the failure of your committee to keep any form of information coming on this issue: no reports sent, copies of bills, or questions about rural concerns; and the fact that the villages involved and threatened by Norton Sound OCS activities called the meeting to review the bill, it appears that decision making in Juneau for coastal Alaska is once again operating in the blind. To this date, I still have no information about the final form of this bill so that we may interpret the language into Yup'ik Eskimo to see if the concerns of the villages were met or were as unheeded as their correspondence.

I am sending a copy of your letter and this letter to each village in the region affected by the CZM legislation. I hope that the information flow to these villages from your Committee will soon begin.

in peace,

Harold Sparck
harold sparck, director



Alaska State Legislature

SENATOR
KAY POLAND
DISTRICT L
P.O. BOX 49
KODIAK, ALASKA 99615



Senate

KODIAK-ALEUTIAN
DISTRICT

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

Harold Sparck
Director
Nunam Kitlutsisti
P. O. Box 267
Bethel, Alaska 99559

May 31, 1977

Dear Mr. Sparck:

I am enclosing a copy of the final coastal zone bill. There may have to be amendments to this act next year. In the meantime, you can contact Glenn Akins, Pouch A-D, Juneau, Alaska 99811. Mr. Akins is the Director of the Coastal Management Office.

The coastal zone bill went through three additional committees after it left our committee, and, apparently, the Governor's legislative office in Bethel was not used, for they could have given you all the action on this bill.

Three years of work and hearings went into the coastal zone bill to put the decision making at the local level, this was fought by the administration, and the measures taken to assure the unorganized borough of having a voice in their decisions was insisted upon by the coastal zone committee.

Mr. Akins tells me he will be holding workshops throughout the state and I would suggest that you contact him regarding a workshop for your area. He probably is planning a workshop for Bethel but rather than assume this, I would advise making a direct request.

Sincerely,

A handwritten signature in cursive script that reads "Kay Poland".

Kay Poland
State Senator
Kodiak-Aleutian District

KP:ss

The Administration, acting through the Coastal Management Policy Committee created by the Governor, has examined the recently circulated draft of coastal management legislation, called "draft #3", and has the following comments to make:

1. Item (4) of sec. 44.19.893 (page 5) DUTIES OF THE COUNCIL, in the draft calls for legislative reaffirmation of the program every year. There are several checks on council activity already available and this provision seems unduly burdensome. This item should be changed back to the original version which called for annual reports to the legislature.
2. The draft does not provide a state role in coastal management apart from membership on the council. We feel that the regional coastal program concept is still valid and would like to offer the attached suggestion as a way of providing for regional programs.
3. Sec. 46.35.040 DUTIES OF THE ALASKA COASTAL POLICY COUNCIL has been changed in item (1) by removing the substantive areas over which the council can establish guidelines. It is important that both the district and state programs have meaningful guidance, so we would recommend that the five items dealing with land and water uses be restored to this section. If the regional coastal program concept is employed, the state agencies should have to operate by the same rules as local governments, and these rules should be substantive so that basic coastal policies are known in advance. Both local governments and state agencies are protected since the council can allow deviations from the guidelines, and the legislature has the power to disapprove any of the guidelines because of the administrative regulations review mechanism.
4. The state is committed to encouraging the formation of organized local governments in the unorganized borough, and while we believe that a meaningful method must be found for involvement of Unorganized Borough residents in coastal management, we believe that the formation of special purpose service areas would act as a disincentive to the creation of regular local governments. Therefore, we must renew our belief that Article 2 should be deleted. The regional coastal program concept will go a long way toward involving the residents in the Unorganized Borough. One way of assuring this involvement is to require numerous hearings in each region prior to the adoption of a regional coastal program, and as an added safeguard, a requirement that each comment and question about the program must be answered by the council. This would prevent the council from ignoring a concern and would make public the response or reaction of the council.

NEW SECTION

Sec. _____ REGIONAL COASTAL PROGRAMS BY STATE AGENCIES

(a) In order that the state interest may be fully understood, and to coordinate and facilitate the exercise of existing state authorities and programs, the state agencies shall prepare regional coastal management programs based on their present duties and functions.

(b) The state agencies' individual components shall be combined and coordinated into a single program for each region, which, after approval by the administration members of the council will be presented to the full council with a request for approval and adoption.

(c) The council shall assure that the substantive contents of the state regional coastal programs and the substantive contents of district coastal programs are mutually coordinated and consistent, and to this end may request or order changes in either district or state regional programs to assure such coordination and consistency.

(d) The subject areas that may be addressed in state regional coastal programs are the same as described in sec. 46.35.030 for district coastal programs. However, substantive land or water use regulations, standards, designations, and other restrictions and commitments in the state regional coastal programs shall be based wholly on authorities provided in existing state law and such new laws as may be enacted in the future.

(e) Nothing in this Act shall be construed to expand or broaden state agency authority over land and water uses; the only intent of this section is to facilitate and coordinate the exercise of existing state law in coastal areas, except insofar as new state law may be enacted which affects the coast.

(f) The guidelines to be used for the development of district coastal programs shall be used by the state agencies in the development of regional coastal programs.

(g) The state agencies, coordinated by the administration members of the council, acting as a subcommittee, shall prepare a preliminary designation of the regions for which programs shall be developed, and all other administrative arrangements shall be made and documented within six months of the effective date of this Act, and such materials shall be submitted to the full council for their adoption.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

*Dillingham
Sullivan
Kennerly
Bethel*

FOUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M

January 6, 1977

SUBJECT: Interim Activity by HCR 123 Committee on
Coastal Management

TO: Members of the Legislative Council

FROM: Senator Kay Poland

This report supplements my November 8 report to you on the same subject.

The committee has had two meetings since that date. In early November, the subject of discussion was the review and revision of the working draft of a bill to establish a coastal management program for Alaska. After considering the draft at hand and the changes offered by all present, staff prepared a "clean" copy of the bill which was mailed, in late November, to local governments in the state's coastal areas, native corporations, and to representative groups and interested parties inviting review and comment. A few responses were received. Each suggested specific changes broadening the membership of the statewide coastal policy council established in the bill and otherwise offered comments on particular concerns.

Remarks generally supportive of the draft have been received from municipal officials, at least as regards the division of responsibilities between the state and its local governments, implying that objections to earlier legislation offered on this subject have been partially answered.

State departments also received copies of the working draft. Meeting during the first part of this week, agency officials expressed serious reservations about elements of the legislation and directed administration representatives most knowledgeable of the provisions of the legislation to prepare alternative sections responding to these concerns.

Accordingly, the meeting of the HCR 123 committee of yesterday did not further consider the bill. Rather, administration representatives in attendance requested an additional 10 - 14 days in which to draft amendments incorporating their concerns. The time requested has been granted and we would hope to meet again about January 19 to have the comments and work product.

TO: Legislative Council
January 6, 1977
Page 2

I cannot, therefore, report that the HCR 123 committee has concluded its work. There is substantial agreement on major elements of the draft, material disagreement on other portions; comments received from officials and the general public should be considered. I believe I speak for a majority of the members of the committee in suggesting that substantial agreement concerning this very important subject is to be preferred and that reasonable delay in submission of legislation is warranted at this time. We are interested in having the administration's comments and alternative suggestions and I, personally, believe that we can, in due course, have a bill which will serve as the basis of formal consideration by standing legislative committees.

The coordinator of the Alaska Coastal Management Office, Glenn Akins, has provided a copy of the draft of the legislation to officials of the U.S. Office of Coastal Zone Management. Their response, with commentary as to specific provisions of the bill in light of federal requirements, is attached.

Speaking for the legislative members of the HCR 123 committee -- Representatives Anderson and Cotten and Senator Tillion -- I appreciate the support extended by the members of the Ninth Legislature and the Legislative Council in our efforts to prepare and offer for consideration a bill establishing the framework for a coastal management program which meets the needs and desires of the people of the state. I regret that our work is, at this date, unfinished.

KP:JBC/smh

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 8, 1976

SUBJECT: Interim Activity by HCR 123 Committee on Coastal Management

TO: Members of the Legislative Council

FROM: Senator Kay Poland

The members of the committee on coastal management* have met twice and are to meet again at 1:30 p.m. tomorrow afternoon to continue work looking toward completion of a legislative package addressing coastal management.

The resolution directing the establishment of an interim committee had two purposes. It asked, first, that the Legislative Affairs Agency, in cooperation with the Office of the Governor, "codify all laws and regulations pertaining to coastal zone management" for submission to the legislative session convening in January. The first meeting of the committee considered that mandate. We found that a significant amount of work had been completed, under contract between the Office of Coastal Management and a private consultant, and had culminated in the preparation of a two volume report summarizing and analyzing constitutional provisions, current state statutes, and regulations adopted and followed by the several state agencies which touched on the subject of management of the coastal resources of the state. The report, copies of which are available from the Office of Coastal Management, provides, in a convenient location, a working summary of the principal provisions of law which may be looked to as authority by which to implement and carry forward a comprehensive coastal program.

*The members of the committee are:

Senator Kay Poland
Representative Nels Anderson
Representative Sam Cotten
Senator Clem Tillion
Don Harris, Commissioner of Public Works
Guy Martin, Commissioner of Natural Resources
Lee McAnerney, Commissioner of Community and Regional Affairs
Bob LeResche, Director, Division of Policy Development
and Planning

Rather than move forward on this single directive, the members of the council turned their attention to the second matter, the "review of ... public testimony ... on the subject of Alaska coastal zone management" and "the development of a sound coastal zone management program" for submission to the Legislature.

On this subject, the record of hearings held by the interim legislative committee during the summer and fall of 1975 was particularly useful. The final report of that committee noted particularly the expression of interest in coastal resource planning by residents of affected areas. The testimony received from many people indicated that a state coastal management program must provide for community expression and, where possible, direct community involvement and implementation. Noteworthy, also, was an expression from representatives of the business community that attention be given to provision for a coordinated system of permit issuance as an alternative to the current piecemeal system.

These suggestions were the starting point for the committee's deliberations. Through the first two meetings we have considered the question of how to provide for coastal management in a manner which recognizes a responsible role for local governments and residents of the coastal area while attempting to achieve a balance with the needs and interests of the state. We are generally agreed that the essence of the approach to be taken would be one which relies primarily on community and regional entities willing to develop and implement comprehensive coastal area plans that, in turn, would serve as the basis for the general state program. Approval of plans would rest with the state; moreover, at least as to "uses" of the coastal resources which were of direct interest to the state (or to the federal government), including development of state transportation facilities, siting of energy facilities, and the like, provision would be made for the state administration to supersede a decision by a local government where this local decision arbitrarily or unreasonably precluded such uses. Principal reliance would rest with development of coastal management programs by local governments which have and exercise planning and zoning authority. To assure that residents of areas outside incorporated municipalities were given opportunity to participate, we are considering the establishment of coastal service areas of the unorganized borough not unlike those which were established for operation of rural schools in 1975.

To assure that Alaska and its local governments would continue to obtain financial assistance in the preparation and implementation of a coastal management program from the federal government under the 1972 Coastal Zone Management Act as amended, the drafting process has paid particular attention

TO: Legislative Council Members
November 8, 1976
Page 3

to the requirements which the federal act imposes. We find that these requirements are technical, albeit not insurmountable.

The committee contemplates no separate permitting system such as characterized earlier legislation on the subject. The numerous permit requirements now found in state law should, when reoriented to coastal management programs substantially developed by local governments, provide ample authority to enforce policies enunciated in the community and state programs.

Finally, the committee is expected to consider, possibly as a separate bill, a coordinated permitting system. We understand that a substantively similar recommendation was directed to the governor in the recently-completed Management and Efficiency Review, and have been advised that staff of the Office of Coastal Management and the Department of Environmental Conservation have the subject under consideration.

The working relationship between members of the legislature and persons designated by the governor to serve on the committee has been quite good, and discussion of alternatives and resolution of conflicting viewpoints has usually resulted in a working agreement or consensus. I am confident that comprehensive legislation on the subject of coastal management which is consistent with the interests of all concerned can be offered for consideration during the session convening in January, and am reasonably certain that the bill(s) offered would have the support of many interests.

JBC:hjd

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IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the management of the coastal resources of the state; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

(1) the coastal area of the state is a distinct and valuable natural resource of concern to all the people of the state;

(2) the demands upon the resources of the coastal area are significant, and will increase in the future;

(3) the protection of the natural and scenic resources and the fostering of wise development of the coastal area are of concern to present and future citizens of the state;

(4) the capacity of the coastal area to withstand the demands upon it is limited;

(5) the degree of planning and resource allocation which has occurred in the coastal area has often been motivated by short-term considerations, unrelated to sound planning principles; and

(6) in order to promote the public health and welfare, there is a critical need to engage in comprehensive land and water use planning in coastal areas and to establish the means by which a planning process and management program involving the several governments and areas of the unorganized borough having an interest in the coastal area may be effectively implemented.

* Sec. 2. LEGISLATIVE POLICY. It is the policy of the state to

1 (1) preserve, protect, develop, and, where possible, restore or
2 enhance the coastal resources of the state for this and succeeding genera-
3 tions;

4 (2) encourage coordinated planning and decision making in the
5 coastal area among levels of government and citizens engaging in or affected
6 by activities involving the coastal resources of the state;

7 (3) develop a management program which sets out policies, objec-
8 tives, standards and procedures to guide and resolve conflicts among public
9 and private activities involving the use of resources which have a direct and
10 significant impact upon the coastal waters of the state;

11 (4) assure the participation of the public, local governments, and
12 agencies of the state and federal governments in the development and imple-
13 mentation of a coastal management program; and

14 (5) utilize existing governmental structures and authorities, to
15 the maximum extent feasible, to achieve the policies and objectives set out
16 in this chapter.

17 * Sec. 3. AS 44.19 is amended by adding new sections to read:

18 ARTICLE 11A. ALASKA COASTAL POLICY COUNCIL.

19 Sec. 44.19.891. ALASKA COASTAL POLICY COUNCIL. (a) There is
20 created in the Office of the Governor the Alaska Coastal Policy Council.
21 The council consists of the following:

22 (1) four public members appointed by the governor from among
23 the following municipalities and communities located within the coastal
24 area of the state:

25 (A) the mayor or member of a city council of a city
26 having a population of more than 5,000;

27 (B) the mayor or member of a city council of a city
28 having a population of less than 5,000;

29 (C) the mayor or member of the assembly of a borough

1 or unified municipality; and

2 (D) one representative who is a resident of a second
3 class city or unincorporated community of the unorganized borough;

4 (2) each of the following ex officio:

5 (A) the director of the division of policy development
6 and planning;

7 (B) the commissioner of the Department of Commerce and
8 Economic Development;

9 (C) the commissioner of the Department of Community and
10 Regional Affairs;

11 (D) the commissioner of the Department of Environmental
12 Conservation;

13 (E) the commissioner of the Department of Fish and Game;

14 (F) the commissioner of the Department of Natural Re-
15 sources; and

16 (G) the commissioner of the Department of Public Works.

17 (b) Each public member appointed by the governor under (a)(1) of
18 this section serves a term of two years and until his successor is
19 appointed and qualified, except that the term of office of a public
20 member first appointed under (a)(1)(A) and (a)(1)(C) of this section
21 shall be one year. A public member may be reappointed.

22 (c) The four public members appointed under (a)(1) of this section
23 are voting members of the council. From those persons serving ex
24 officio under (a)(2) of this section, the governor shall designate four
25 members who shall be voting members.

26 (d) The governor shall designate a chairman from among the eight
27 voting members of the council.

28 (e) Members appointed under (a) of this section may select one
29 person to serve as an alternate at meetings of the council. If the

1 member appointed or designated is unable to attend, the alternate may
2 act in his place.

3 (f) A majority of the voting members of the council constitutes
4 a quorum, but one or more of the members designated by the council may
5 hold hearings. All decisions of the council shall be by a majority vote
6 of the voting members present and voting.

7 Sec. 44.19.892. POWERS OF THE COUNCIL. The council may

8 (1) apply for and accept grants, contributions, and appropri-
9 ations, including application for and acceptance of federal funds which
10 may become available for coastal planning and management;

11 (2) contract for necessary services;

12 (3) consult and cooperate with

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

16 (B) agents and officials of the coastal resource dis-
17 tricts of the state, and federal and state agencies concerned with
18 or having jurisdiction over coastal area planning and management;

19 (4) take any reasonable action necessary to carry out the
20 provisions of secs. 891 - 894 of this chapter.

21 Sec. 44.19.893. DUTIES OF THE COUNCIL. In conformity with the
22 Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et
23 seq.), the council shall

24 (1) develop guidelines and standards for the preparation of,
25 and approve, in accordance with AS 46.35, the Alaska coastal management
26 program;

27 (2) establish continuing coordination among state agencies
28 to facilitate implementation of the Alaska coastal management program;

29 (3) assure continued provision of data and information to

1 coastal resource districts to carry out their planning and management
2 functions under the program;

3 (4) report annually to the legislature on the status of the
4 program.

5 Sec. 44.19.894. COUNCIL STAFF. The council may utilize the staff
6 of the office of coastal management within the division of policy
7 development and planning in discharging its powers and duties. The
8 coordinator of the office, with the concurrence of the council, may
9 contract with or employ personnel or consultants he considers necessary
10 to carry out the powers and duties of the council.

11 * Sec. 4. AS 46 is amended by adding a new chapter to read:

12 CHAPTER 35. COASTAL MANAGEMENT PROGRAM.

13 ARTICLE 1. DEVELOPMENT OF ALASKA COASTAL MANAGEMENT PROGRAM.

14 Sec. 46.35.010. DEVELOPMENT OF ALASKA COASTAL MANAGEMENT PROGRAM.

15 (a) The Alaska Coastal Policy Council established in AS 44.19.891 shall
16 approve, in accordance with secs. 10 - 200 of this chapter, the Alaska
17 coastal management program.

18 (b) The council may approve the Alaska coastal management program
19 for a portion or portions of the coastal area before approving the
20 complete program under (a) of this section. Portions of the program
21 approved under this subsection shall be incorporated into the Alaska
22 coastal management program adopted under (a) of this section.

23 (c) The Alaska coastal management program shall be reviewed and,
24 when appropriate, revised annually to

25 (1) add newly approved district coastal management programs,
26 or revisions and amendments to existing approved district coastal
27 management programs;

28 (2) add new or revised state statutes, policies, regulations
29 or other appropriate material;

1 (3) review the effectiveness of implementation of district
2 coastal management programs; and

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

5 (d) All reviews and revisions shall be in accordance with the
6 guidelines and standards adopted by the council under sec. 40 of this
7 chapter.

8 Sec. 46.35.020. OBJECTIVES. The Alaska coastal management program
9 shall be consistent with the following objectives:

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

12 (2) the development of industrial or commercial enterprises
13 which are consistent with the social, cultural, historical, economic
14 and environmental interests of the people of the state;

15 (3) the orderly, balanced utilization and preservation of
16 the resources of the coastal area consistent with sound conservation
17 and sustained yield principles;

18 (4) the management of coastal land and water uses in such
19 a manner that, generally, those uses which are dependent on a coastal
20 location are given higher priority when compared to uses which do not
21 require a coastal location;

22 (5) the protection and enhancement of significant historic,
23 cultural, natural and aesthetic values and natural systems or processes
24 within the coastal area;

25 (6) the prevention of damage to or degradation of land and
26 water reserved for their natural values as a result of inconsistent
27 land or water usages adjacent to that land;

28 (7) the recognition of the need for a continuing supply of
29 energy to meet the requirements of the state and the contribution of a

1 share of the state's resources in meeting national energy needs; and

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

4 Sec. 46.35.030. DEVELOPMENT OF DISTRICT COASTAL MANAGEMENT PRO-
5 GRAMS. Coastal resource districts shall develop and adopt district
6 coastal management programs in accordance with the provisions of this
7 chapter. The program adopted by a coastal resource district shall be
8 based upon a comprehensive resource use plan or a comprehensive state-
9 ment of needs, policies, objectives and standards governing the use of
10 resources within the coastal area of the district. The program shall be
11 consistent with the guidelines and standards adopted by the council
12 under sec. 40 of this chapter and shall include:

13 (1) a delineation within the district of the boundaries of
14 the coastal area subject to the district coastal management program;

15 (2) a statement, list, or definition of the land and water
16 uses and activities subject to the district coastal management program;

17 (3) a statement of policies to be applied to the land and
18 water uses subject to the district coastal management program;

19 (4) regulations, as appropriate, to be applied to the land
20 and water uses subject to the district coastal management program;

21 (5) a description of the uses and activities which will be
22 considered proper and the uses and activities which will be considered
23 improper with respect to the land and water within the coastal area;

24 (6) a summary or statement of the policies which will be
25 applied and the procedures which will be used to determine whether
26 specific proposals for land or water uses or activities shall be
27 allowed; and

28 (7) a designation of, and the policies which will be applied
29 to the use of, areas within the coastal resource district which merit

special attention.

Sec. 46.35.040. DUTIES OF THE ALASKA COASTAL POLICY COUNCIL. The Alaska Coastal Policy Council shall

(1) by regulation adopted under the provisions of the Administrative Procedure Act (AS 44.62), identify and define, within six months of the effective date of this Act, for the use of and application by coastal resource districts for carrying out their responsibilities under this chapter, ^{Suggested} guidelines and standards for

(A) identifying the boundaries of the coastal area subject to the district coastal management program;

(B) determining the ^{Suggested} land and water uses and activities subject to the district coastal management program;

(C) developing ^{Suggested} policies applicable to the land and water uses subject to the district coastal management program;

(D) developing ^{Suggested} regulations applicable to land and water uses subject to the district coastal management program;

~~(E) describing the uses and activities which will be considered proper and those which will be considered improper with respect to those land and water uses;~~

(F) developing ^{Suggested} policies and procedures to determine whether specific proposals for the land and water uses or activities subject to the district coastal management program shall be allowed;

(G) designating and developing policies for the use of areas of the coast which merit special attention; and

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

(2) develop and maintain a program of technical and financial assistance to aid coastal resource districts in the development

1 and implementation of district coastal management programs;

2 (3) undertake review and approval of district coastal manage-
3 ment programs in accordance with this chapter;

4 (4) initiate, as necessary, a process for identifying and
5 managing uses of state concern within specific areas of the coast;

6 (5) develop procedures or guidelines for consultation and
7 coordination with federal agencies managing land or conducting activi-
8 ties potentially affecting the coastal area of the state.

9 Sec. 46.35.050. ACTION AND SUBMISSION BY COASTAL RESOURCE DIS-
10 TRICTS. Each coastal resource district shall make substantial progress,
11 in the opinion of the council, toward completion of an approvable dis-
12 trict coastal management program and shall complete and submit to the
13 council for approval its program within 30 months of the effective date
14 of this Act.

15 Sec. 46.35.060. REVIEW AND APPROVAL BY COUNCIL. (a) If, upon
16 submission of a district coastal management program for approval, the
17 council finds that the program is substantially consistent with the
18 provisions of this chapter and the guidelines and standards adopted by
19 the council and does not arbitrarily or unreasonably restrict or exclude
20 uses of state concern, the council may grant summary approval of the
21 district coastal management program, or may approve portions of the
22 district program which are consistent. An approved district coastal
23 management program shall take effect upon adoption by the coastal re-
24 source district and approval by the council, except that programs pre-
25 pared by coastal resource service areas under sec. 110 of this chapter
26 or by the Department of Community and Regional Affairs under sec. 160
27 of this chapter shall be submitted for review by the legislature and
28 shall take effect 45 days after the convening of a regular legislative
29 session unless disapproved by a concurrent resolution adopted by a

1 majority of the members of each house.

2 (b) If the council finds that a district coastal management pro-
3 gram is not approvable or is approvable only in part under (a) of this
4 section, it shall direct that deficiencies in the program submitted by
5 the coastal resource district be mediated. In mediating the deficien-
6 cies, the council may call for one or more public hearings in the dis-
7 trict. The council shall meet with officials of the coastal resource
8 district in order to resolve differences.

9 (c) If, after mediation, the differences have not been resolved to
10 the mutual agreement of the coastal resource district and the council,
11 the council shall call for a public hearing and shall resolve the dif-
12 ferences in accordance with the Administrative Procedure Act (AS 44.62).
13 After a public hearing held under this subsection, the council shall
14 enter findings and, by order, may require

15 (1) that the district coastal management program be amended
16 to make it consistent with the provisions of this chapter or the guide-
17 lines and standards adopted by the council;

18 (2) that the district coastal management program be revised
19 to accommodate a use of state concern; or

20 (3) any other action be taken by the coastal resource dis-
21 trict as appropriate.

22 (d) The superior courts of the state have jurisdiction to enforce
23 orders of the council entered under (c) of this section.

24 Sec. 46.35.070. STANDARDS FOR COUNCIL REVIEW AND APPROVAL. (a)
25 The council shall approve a district coastal management program sub-
26 mitted for review and approval if the program is consistent with the
27 provisions of this chapter and the guidelines and standards adopted by
28 the council.

29 (b) Notwithstanding an inconsistency of a district coastal

1 management program submitted for review and approval with the guidelines
2 and standards adopted, the council shall approve the program if it finds
3 that

4 (1) strict adherence to the guidelines and standards adopted
5 would result in a violation of another state law or policy;

6 (2) strict adherence to the guidelines and standards adopted
7 would cause or probably cause substantial irreparable harm to another
8 interest or value in the coastal area of the district; or

9 (3) the inconsistency is of a technical nature and no sub-
10 stantial harm would result to the policies and objectives of this
11 chapter or the Alaska coastal management program.

12 (c) In determining whether a restriction or exclusion of a use of
13 state concern is arbitrary or unreasonable, the council shall approve
14 the restriction or exclusion if its finds that

15 (1) the coastal resource district has consulted with and
16 considered the views of appropriate federal, state or regional agencies;

17 (2) the district has based its restriction or exclusion on
18 the availability of reasonable alternative sites; and

19 (3) the district has based its restriction or exclusion on
20 an analysis showing that the proposed use is incompatible with the
21 proposed site.

22 (d) A decision by the council under this section shall be given
23 within 90 days.

24 Sec. 46.35.080. IMPLEMENTATION OF DISTRICT COASTAL MANAGEMENT
25 PROGRAMS. (a) A district coastal management program approved by the
26 council for a coastal resource district which does not have and exercise
27 zoning or other controls on the use of resources within the coastal
28 area shall be implemented by appropriate state agencies. Implementa-
29 tion shall be in accordance with the comprehensive use plan or the

1 statement of needs, policies, objectives and standards adopted by the
2 district.

3 (b) A municipality which has and exercises zoning or other con-
4 trols on the use of resources within the coastal area shall implement
5 its district coastal management program. Implementation shall be in
6 accordance with the comprehensive use plan or the statement of needs,
7 policies, objectives and standards adopted by the municipality.

8 Sec. 46.35.090. COMPLIANCE AND ENFORCEMENT. (a) Municipalities
9 and state agencies shall administer land and water use regulations or
10 controls in conformity with district coastal management programs approved
11 by the council and in effect.

12 (b) On petition of a coastal resource district, a citizen of the
13 district, or a state agency, showing that a district coastal management
14 program is not being enforced or implemented, the council shall convene
15 a public hearing to consider the matter. A hearing called under this
16 subsection shall be held in accordance with the Administrative Procedure
17 Act (AS 44.62). After hearing, the council may order that the coastal
18 resource district or state agency take any action which the council
19 considers necessary to enforce, implement or comply with the district
20 coastal management program.

21 (c) In determining whether an approved district coastal manage-
22 ment program is being implemented, enforced or complied with by a
23 coastal resource district which exercises planning authority or controls
24 on the use of resources within the coastal area, the council shall find
25 in favor of the district if

26 (1) zoning or other regulations have been adopted and are
27 being enforced;

28 (2) variances are being granted according to procedures and
29 criteria which are elements of the district coastal management program,

1 or the variance is otherwise approved by the council; and

2 (3) procedures and standards adopted by the coastal resource
3 district as required by this chapter or by the guidelines and standards
4 adopted by the council have been followed and considered.

5 (d) In determining whether a state agency is complying with a
6 district coastal management program with respect to its exercise of
7 regulation or control of the resources within the coastal area, the
8 council shall find in favor of the agency if

9 (1) the use or activity for which the permit, license or
10 approval is granted is consistent with the district coastal management
11 program and regulations adopted under it; and

12 (2) the use or activity for which the permit, license or
13 approval is granted is consistent with requirements imposed by state
14 statute, regulation, or local ordinance applicable to the use or
15 activity.

16 (e) The superior courts of the state have jurisdiction to enforce
17 lawful orders of the council.

18 ARTICLE 2. COASTAL MANAGEMENT PROGRAMS

19 IN THE UNORGANIZED BOROUGH.

20 Sec. 46.35.100. AUTHORITY IN THE UNORGANIZED BOROUGH. Under
21 AS 29.03.020 and secs. 100 - 170 of this chapter, the legislature autho-
22 rizes organization of coastal resource service areas in the unorganized
23 borough and grants authority to the service areas which may be organized
24 to perform the duties required under this chapter.

25 Sec. 46.35.110. COASTAL RESOURCE SERVICE AREAS. (a) Except as
26 provided in (b) of this section, each regional educational attendance
27 area established under AS 14.08.031 containing a part of the coastal
28 area may be organized as a coastal resource service area.

29 (b) The commissioner of the Department of Community and Regional

1 Affairs may, after public hearings held in the area affected, consolidate
2 two or more regional educational attendance areas as a single coastal
3 resource service area if

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

9 (2) in the opinion of the commissioner, the functions to be
10 performed could be undertaken more efficiently through combination of
11 regional educational attendance areas as a single coastal resource ser-
12 vice area.

13 (c) A determination under (b) of this section shall be made before
14 organization of the coastal resource service area and no later than six
15 months from the effective date of this Act.

16 Sec. 46.35.120. ORGANIZATION OF SERVICE AREA. (a) Organization
17 of a coastal resource service area may be initiated by

18 (1) submission to the council of a petition signed by a
19 number of registered voters equal to 15 per cent of the number of votes
20 cast within the coastal resource service area at the last state general
21 election;

22 (2) submission to the council of a resolution approved by the
23 city council or traditional governing body of not less than 25 per cent
24 of the number of cities and villages within the coastal resource ser-
25 vice area; or

26 (3) at the direction of a majority of the members of the
27 council in the manner set out in sec. 150 of this chapter.

28 (b) Acting at the request of the council, the lieutenant governor,
29 not less than 60 nor more than 90 days after receipt of a proper

1 petition under (a)(1) of this section, a proper resolution under (a)(2)
2 of this section, or at the direction of the council under (a)(3) of
3 this section, shall conduct an election on the question of organization
4 of a coastal resource service area.

5 Sec. 46.35.130. COASTAL AREA BOARDS. (a) Each coastal resource
6 service area, upon organization, shall have an elected board represent-
7 ing the population of the service area. The board shall have the powers
8 and duties and perform the functions prescribed for or required of
9 coastal resource districts.

10 (b) A coastal area board shall contain seven members. Board
11 members shall be elected at large by the qualified voters of the coastal
12 resource service area.

13 (c) The commissioner of the Department of Community and Regional
14 Affairs, after consultation with residents of a coastal resource service
15 area, may divide a service area into sections only for the purpose of
16 nominating and electing board members. Division of a service area into
17 sections for the purpose of nomination and election shall be in accor-
18 dance with the provisions of AS 14.08.051(a). Division may be proposed
19 in the petition submitted under sec. 120(a)(1) of this chapter, in the
20 resolution submitted under sec. 120(a)(2) of this chapter, at the direc-
21 tion of the council under sec. 120(a)(3) of this chapter, or may be
22 proposed at any time by the members of the coastal area board. If
23 proposed by the board, the division of the service area into sections
24 is subject to approval of a majority of the qualified voters voting on
25 the question in the coastal resource service area at the next regular
26 election or at a special election called for that purpose and, if ap-
27 proved, takes effect at the next regular election of members of the
28 coastal area board.

29 (d) The term of office of a member of a coastal area board is

1 three years, except that the terms of the members of the first board
2 elected after organization of a coastal resource service area shall be
3 determined by lot, with two members serving one-year terms, two members
4 serving two-year terms, and three members serving three-year terms.
5 Members serve until their successors are elected and have qualified.
6 Nothing in this section prohibits the reelection of a board member.

7 (e) The lieutenant governor shall provide for the election of the
8 members of coastal area boards. The first election of board members
9 shall occur not less than 60 nor more than 90 days after certification
10 of the results of an organization election under sec. 120(b) of this
11 chapter in which a majority of votes cast favors organization of the
12 service area.

13 (f) Except for the first election of members of coastal area
14 boards, elections shall be held annually on the date of election of
15 members of regional educational attendance area boards under AS 14.08.-
16 071(b).

17 (g) A vacancy on a coastal area board shall be filled by appoint-
18 ment as provided in AS 14.08.041(a) for vacancies in the membership of
19 regional educational attendance area boards.

20 (h) Members of coastal area boards are subject to recall on the
21 same grounds and in the same manner as provided for recall of municipal
22 officials in AS 29.28.130 - 29.28.250. The lieutenant governor functions
23 in place of the assembly or council and municipal clerk for receipt and
24 review of recall petitions and the conduct of recall elections.

25 Sec. 46.35.140. ELECTIONS IN SERVICE AREAS. Organization elec-
26 tions under sec. 120 of this chapter and other elections, including
27 recall elections conducted under sec. 130 of this chapter, shall be
28 administered by the lieutenant governor in the general manner provided
29 in the Alaska Election Code (AS 15.05 - 15.60). In addition, the

1 lieutenant governor may adopt regulations necessary to the conduct of
2 coastal area board elections. The state shall pay all election costs.

3 Sec. 46.35.150. ORGANIZATION AT THE DIRECTION OF THE COUNCIL. (a)
4 Whenever it appears that major economic development activity will occur
5 in a coastal resource service area or in waters adjacent to a coastal
6 resource service area which has not been organized, the council may
7 direct the lieutenant governor to submit to the voters of the service
8 area the question of organization. The council may require an election
9 on the question only after holding at least one public hearing within
10 the area proposed for organization.

11 (b) For purposes of this section, "major economic development
12 activity" includes a call for nomination by the secretary of the United
13 States Department of the Interior for leasing of tracts within petroleum
14 basins in waters of the outer continental shelf adjacent to the coastal
15 resource service area or any other significant industrial or commercial
16 activity which, in the opinion of the council, would commit the re-
17 sources of the coastal area to a use of direct and significant impact
18 upon the coastal waters of the state.

19 Sec. 46.35.160. PREPARATION OF DISTRICT COASTAL MANAGEMENT PRO-
20 GRAM BY THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS. (a) If
21 residents of a coastal resource service area reject organization of the
22 service area at an election called for the purpose and the council
23 finds, after public hearing, that major economic development activity
24 has occurred or will occur within the service area, the council may
25 direct the Department of Community and Regional Affairs to prepare and
26 recommend for consideration by the council a district coastal management
27 program for the service area.

28 (b) At the request of the council, the Department of Community
29 and Regional Affairs shall complete the district coastal management

1 program in accordance with this chapter and the guidelines and standards
2 adopted by the council for a coastal resource service area which has
3 been organized but which has failed to make substantial progress in the
4 preparation of an approvable district coastal management program within
5 18 months of certification of the results of an organization election
6 or which has not submitted for approval to the council a program within
7 30 months of certification of the results of its organization election.
8 Preparation of the program shall be conducted in consultation with the
9 coastal resource service area and shall, to the maximum extent consis-
10 tent with this chapter, reflect the expressed concerns of the residents
11 of the service area.

12 (c) Before requesting the department to complete the district
13 coastal management program under (b) of this section, the council shall
14 meet with the members of the coastal area board to determine whether
15 the coastal area board is able to complete a district coastal management
16 program within the time limitations established in this section.

17 Sec. 46.35.170. LIMITATIONS OF APPROVAL OF DISTRICT COASTAL
18 MANAGEMENT PROGRAMS. (a) Unless specifically required by federal or
19 state law, a coastal area board, or the Department of Community and
20 Regional Affairs acting in the place of a coastal area board under sec.
21 160 of this chapter, may not adopt and recommend to the council for
22 approval a district coastal management program involving coastal land
23 and water within cities and villages of a coastal resource service area
24 without first securing the consent of the following:

25 (1) for land and water within the corporate limits of a city
26 of any class within the service area, the approval of the council of the
27 city;

28 (2) for land and water within two miles of a village within
29 the service area, the approval of an appropriate village entity such

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as the traditional council, the majority of the residents of the village obtained at a public meeting held in the village and called for the purpose, or a village referendum.

(b) If a city or village within a coastal resource service area fails to approve a portion of the coastal district management program prepared and submitted for approval under (a) of this section, the governing body shall, within 60 days, advise the coastal area board or the department, as applicable, of its objections to the proposed program and suggest alternative elements or components for inclusion in the district coastal management program. New matter submitted by a city or village which is substantially consistent with the guidelines and criteria adopted by the council shall be accepted and the district coastal management program modified accordingly. If a city or village fails to provide objections and suggested alternatives within the time limits established in this section, the coastal area board or the department, as applicable, may adopt the district coastal management program as initially offered.

(c) For purposes of this section, "village" means an unincorporated community where at least 25 persons reside as a social unit as determined by the Department of Community and Regional Affairs.

ARTICLE 3. GENERAL PROVISIONS.

Sec. 46.35.180. COOPERATIVE ADMINISTRATION. (a) A city within the coastal area which is not part of an adjacent coastal resource service area may include itself for purposes of this chapter within an adjacent coastal resource service area if its governing body, by resolution adopted by a majority of its membership, consents to the inclusion of the city and a copy of the resolution is filed with the commissioner of the Department of Community and Regional Affairs.

(b) Nothing in this chapter restricts or prohibits cooperative

1 or joint administration of functions between a municipality and a coastal
2 resource service area organized under the provisions of this chapter
3 upon initiation of a mutual agreement for the purpose.

4 Sec. 46.35.190. STATE AGENCIES. Upon the adoption of the Alaska
5 coastal management program, state departments, boards and commissions
6 shall review their statutory authority, administrative regulations, and
7 applicable procedures pertaining to land and water uses within the
8 coastal area for the purpose of determining whether there are any defi-
9 ciencies or inconsistencies which prohibit compliance with the program
10 adopted. They shall, within six months of the effective date of the
11 Alaska coastal management program, take whatever action is necessary,
12 including preparation and submission of recommendations to the council
13 for additional or amended legislation, in order to facilitate full
14 compliance with and implementation of the program.

15 Sec. 46.35.200. DEFINITIONS. In this chapter, unless the context
16 otherwise requires,

17 (1) "area which merits special attention" means a delineated
18 geographic area within the coastal area which is sensitive to change or
19 alteration and which, because of plans or commitments or because a
20 claim on the resources within the area delineated would preclude subse-
21 quent use of the resources to a conflicting or incompatible use, war-
22 rants special management attention, or which, because of its value to
23 the general public, should be identified for current or future planning,
24 protection, or acquisition; these areas, subject to council definition
25 of criteria for their identification, include:

26 (A) areas of unique, scarce, fragile or vulnerable
27 natural habitat, cultural value, historical significance, or scientific
28 importance;

29 (B) areas of high natural productivity or essential

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habitat for living resources;

(C) areas of substantial recreational value or opportunity;

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

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

(F) areas of significant hazard due to storms, slides, floods, erosion or settlement; and

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

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

(A) unified municipalities established under AS 29.68.-240 - 29.68.440;

(B) organized boroughs of any class which exercise planning and zoning authority;

(C) home rule and first class cities of the unorganized borough or within boroughs which do not exercise planning and zoning authority;

(D) second class cities of the unorganized borough, or within boroughs which do not exercise planning and zoning authority, which have established a planning commission, and which, in the opinion of the commissioner of the Department of Community and Regional Affairs, have the capability of preparing and implementing a comprehensive district coastal management program under sec. 30 of this chapter;

(E) coastal resource service areas established and

1 organized under AS 29.03.020 and secs. 100 - 170 of this chapter;

2 (3) "council" means the Alaska Coastal Policy Council;

3 (4) "department" means the Department of Community and
4 Regional Affairs;

5 (5) "use of direct and significant impact" means a use, or an
6 activity associated with the use, which proximately contributes to a
7 material change or alteration in the natural or social characteristics
8 of a part of the state's coastal area and in which

9 (A) the use, or activity associated with it, would have
10 a net adverse effect on the quality of the resources of the coastal
11 area;

12 (B) the use, or activity associated with it, would limit
13 the range of alternative uses of the resources of the coastal area;
14 or

15 (C) the use would, of itself, constitute a tolerable
16 change or alteration of the resources within the coastal area but
17 which, cumulatively, would have an adverse effect;

18 (6) "uses of state concern" means those land and water uses
19 which would significantly affect the long-term public interest; these
20 uses, subject to council definition of their extent, include:

21 (A) uses of national interest, including the use of
22 resources for the siting of ports and major facilities which con-
23 tribute to meeting national energy needs, construction and mainte-
24 nance of navigational facilities and systems, resource development
25 of federal land, and national defense and related security facili-
26 ties that are dependent upon coastal locations;

27 (B) uses of more than local concern, including those
28 land and water uses which confer significant environmental, social,
29 cultural, or economic benefits or burdens beyond a single coastal

1 resource district;

2 (C) the siting of major energy facilities or large-scale
3 industrial or commercial development activities which are dependent
4 on a coastal location and which, because of their magnitude or the
5 magnitude of their effect on the economy of the state or the sur-
6 rounding area, are reasonably likely to present issues of more than
7 local significance;

8 (D) facilities serving statewide or interregional trans-
9 portation and communication needs; and

10 (E) uses in areas established as state parks or recrea-
11 tional areas under AS 41.20 or as state game refuges, game sanctu-
12 aries or critical habitat areas under AS 16.20.

13 * Sec. 5. AS 44.47 is amended by adding a new section to read:

14 Sec. 44.47.085. PLANNING ASSISTANCE FOR DEVELOPMENT AND MAINTENANCE
15 DISTRICT COASTAL MANAGEMENT PROGRAMS. The department shall conduct a
16 program of research, training, and technical assistance to coastal
17 resource districts necessary for the development and implementation of
18 district coastal management programs under AS 46.35. State agencies
19 shall assist the department in carrying out the purposes of this section

20 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-

21 070(c).

CHANGES TO THE DRAFT:

(1) Page 2, after line 16, add the following:

(6) authorize and require state agencies to carry out their planning duties, powers and responsibilities and take actions authorized by law with respect to programs affecting the use of resources within the coastal area in accordance with the policies set forth in this Act and the guidelines and standards adopted by the Alaska Coastal Policy Council.

(2) Page 3, line 21; add the following:

A public member may be reappointed. Public members are subject to confirmation by a majority of the members of the legislature in joint session.

(3) Page 4, line 6 and following, add:

(g) Members of the council are entitled to per diem and travel expenses authorized by law for members of boards and commissions.

(h) If there is a vacancy among the public members appointed under (a)(1) of this section, the governor shall make an appointment to become immediately effective for the unexpired term.

(4) Page 8, line 7:

...application by coastal resource districts and state agencies carrying out their responsibilities...

(5) Page 9, line 9:

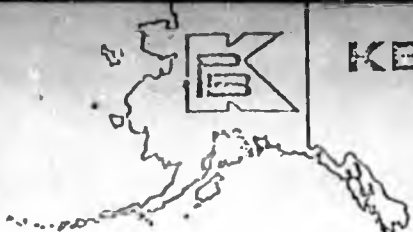
Sec. 46.35.050. ACTION AND SUBMISSION BY COASTAL RESOURCE DISTRICTS. Each coastal resource district shall make substantial progress, in the opinion of the council, toward completion of an approvable coastal management program and shall complete and submit to the council for approval its program within 30 months of the effective date of this Act or within 30 months of certification of the

results of its organization election, whichever is later.

(6) Page 18, line 17 and following:

Replace the language in (a) of the draft with the following:

Sec. 46.35.170. APPROVAL OF PROGRAMS IN COASTAL SERVICE AREAS. (a) Before adoption by a coastal area board, or by the department of community and regional affairs under sec. 160 of this chapter, a district coastal management program shall be submitted for review to each city or village within the coastal resource service area. The council of a city or residents of a village may approve the program submitted for review or may enter objection to any portion of the program. Objection by a city council is limited to objection to elements of the program affecting resources or the use of resources within the corporate limits of the city. Objection by a village is limited to objection to elements of the program affecting resources or the use of resources within the village or within two miles of the village.



KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

DON GILMAN
MAYOR

December 20, 1976

Guy R. Martin, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

Kay Poland, Senator
Pouch V
Juneau, Alaska 99811

Dear Commissioner Martin and
Senator Poland:

The following comments are a result of a review of the proposed legislation for Coastal Zone Management. The review was conducted jointly by representatives of the Kenai Peninsula Borough, City of Seward, City of Homer, City of Soldotna, Borough Planning Commission, OEDP and several members of the Kenai Peninsula Borough Assembly. We forward them to you in all sincerity and ask that they be given due consideration.

It was the consensus of opinion of the above representatives that the HCR 123 Committee had made a major effort to return to the legally constituted planning authorities the chief responsibility for implementing an Alaskan Coastal Zone Management Program. We wish to compliment the Committee for this effort for it removes much of the criticism of previous bills. We believe this action shows a definite shift away from state domination of planning to an equal partnership with local governments.

There are several areas of importance on which we wish to submit questions or comments. I will list them but not necessarily in priority.

1. The exact jurisdiction of this Act is in question. There should be a clearer definition of the coastal zone written into the language. It is difficult to determine, for instance, whether large, navigible rivers are included

under this Bill. This becomes important when the consideration of eligibility of communities for seats on the Policy Committee are considered. If this determination is to be left to the Coastal Resource Districts, the Act should stipulate this fact.

2. The local representation on the Policy Committee should be expanded to a nine member committee with six local community representatives and three state voting members. There should be a requirement for five votes to pass any resolution of this board instead of a majority of a quorum. These remarks are made for the following reasons:

a) There are only two cities of more than 5,000 in the coastal zone if Fairbanks and the unified municipalities are omitted. They are Kenai and Ketchikan.

b) In order to allow for a wide representative distribution from coastal communities, including boroughs and cities, 4 members is not sufficient to represent the numerous categories of communities. For instance, there are: 2 first class or home rule cities over 5,000; 3 unified municipalities; 25 first class or home rule cities under 5,000; 104 second class cities in the unorganized boroughs.

c) The wording in Sec. 44.19.891 (1) virtually eliminates first class or home rule cities in the unorganized boroughs, therefore leaving out Cordova, Valdez, Yakutat, Unalaska, Dillingham, Nome, etc.

We would like to propose the following changes:

a) Sec. 44.19.891 (1) (A) Amended to read: Mayor or member of council or assembly of a city or unified municipality having a population of more than 5,000.

b) Sec. 44.19.891 (1) (B) Amended to read: "Mayor or member of council of a first class or home rule city having a population of less than 5,000. Two (2) to be appointed."

c) Sec. 44.19.891 (1) (C) Amended to read:
"Mayor or member of the assembly of a home rule,
first class or second class borough."

d) Sec. 44.19.891 (1) (D) leave intact.

e) Sec. 44.19.891 (1) (E): Added to Sec.
"Mayor, member of council, member of assembly or
member of a planning commission to be appointed
at large."

3. The definition of a coastal resource district needs to succinctly state that any city, borough, or unified municipality with planning and zoning authority will constitute a district. This suggestion is made because of the reference in Sec. 46.35.080 (b) and 46.35.090 to municipality and coastal resource district. As we read the intent of the Act, municipalities exercising planning and zoning authority and coastal resource districts are synonymous.

4. The enforcement of the Program should include a section that specifically states how the Policy Council will review a state agency program which has had a question raised regarding the agencies working within the framework of an accepted coastal district program. In other words, all state agencies should realize that they are to adhere to the adopted program.

In summary, we feel that the local communities must have a strong role in the implementation and enforcement of this program. The only way to insure this participation is to write into the initial legislation adequate requirements which will place local governments on an equal status with the state.

Yours for a Better Alaska,

Donald E. Gilman, Mayor
Kenai Peninsula Borough

DEG/tb

Association of Village Council Presidents
Nunam Kitlutsisti
Box 267
Bethel, Alaska 99559
December 28, 1975

Senator Kay Poland
Pouch V
Juneau, Alaska 99811

Dear Senator Poland,

We have finally received a copy of the work draft copy of Bill proposed for coastal zone management for the 1978 legislature. Representative Anderson asked that our comments be made known to the committee prior to January 5. The Association of Village Council Presidents will not meet until January 19th in Bethel, and at that time, the AVCP will decide on its position concerning the establishment of REAA zones as Coastal Resource Districts, and the mechanism proposed for election of district representatives.

However, we are able to address at this time several parts of the bill that have been discussed within the region. The proposed legislation is considerably better than the administration's original draft. The creation of policy making Coastal Resource Districts is appropriate with the Governor's themes of de-centralizing government where local areas are capable of self-management, and in line with rural Alaska's opposition to a single state-wide board managing the State's vast coastal zone. In that the unorganized borough will comprise the major portion of lands included in the coastal zone, we would recommend that the Alaska Coastal Policy Council be expanded to include 3 additional public members from the unincorporated communities or boroughs in the State. An expansion in rural representation is the best way to guarantee adequate analysis of the coastal management plans submitted from districts or from DCRA by the Council. As currently proposed, there would be very little expertise among members of the Council to judge rural land practices or current or proposed uses.

A second major change would involve the specific language of subsistence utilization. Rural Alaskans were recently informed by the Commissioner of Economic Development that our way of life is an embarrassment for econometrics. The rural subsistence lifestyle is difficult to value in cash terms or in market terms, and has been just ignored. We do not believe that it is being ignored so that subsistence will go away, but that it is too difficult to manage from a state-wide mechanism of government. We therefore propose that in Sec. 46.35.020 and again in Sec. 46.35.200, that subsistence utilization be considered as a use of the coastal zone. Each alternate word employed by the drafters of the bill imply subsistence, but only by clearly stating the word, and by describing the activity can the subject be properly covered.

The third major change we would recommend concerns districts managing their own programs. In Sections 46.35.040(2) and 44.47.035, a state-wide technical advisory system is proposed, with staff members from the DCRA being assigned different districts. In line with the revisions that guarantee local policy making, provisions should be made for the Coastal Resource District to manage its own funds, and hire its own staff. The bill correctly defines a policy, and a mechanism to assure local input, but expects a ^{both} growing state bureaucracy to properly handle the input of/older natives and the political decisions of both the district and the unincorporated communities. We feel that the

Alaska Policy Coastal Council should have the authority to pass-through Federal appropriations to the Districts to develop their own technical and financial programs, and aid in the growth of local ability to develop policy and manpower.

The problem of timing the lease sales brings on the fourth major problem. Delays in leasing may take us well past the 30 month maximum proposed by the bill in regard to designation of Districts within the REAA mechanism. In our own region, the Navarin Basin is a future possibility for OCS leasing, yet in the establishment of Districts the State may not want to create a District and thereby spread both finances and manpower as a hedge against future development while trying to fit within the election and designation mechanism of the Act. In Sections 46.35.050, and again in 46.35.110(c) specific time tables are created that may be unrealistic. The formation of a District within the Lower Kuskokwim REAA to handle proposed activities brought on by the future Navarin Basin lease sale should be based on the expectation of a commitment to lease by the Secretary of the Interior.

In unrelated topics, it would be important to include the subject of timing of development: intensive, moderate, or slow; as a condition of Sec. 45.35.030 with interest given to the seasonal nature of activities, particularly the timing of activities to conform to local environmental and biological conditions. Section 46.35.170(b) speaks of time limits established in this section (page 19, line 14-15) yet there is no mention of a time limit in the section. Section 46.35.130(d) does not mention the duration of the Council. If the District is to stay in existence after approval of its plan by the Council, this should be explicitly stated, and our region approves of the continuation of the Districts. We would also like to request that some review mechanism be made available to the Districts once organized to review the Council's authority under Sec. 46.35.040.

We hope that a representative from our region will be in Juneau after AVCP meets in mid-January to inform you of our region's decision on the mechanism of designation and election.

Sincerely yours,

David Friday
David Friday, Chairman
Munam Kitlutsisti

cc: Representative Nels Anderson
Representative Phillip Guy
Representative William Akers
Senator George Hohman
Senator John Sackett
Governor Jay Hammond

RR 6 Box 3491
Juneau, AK 99803
January 3, 1977

Senator Kay Poland
c/o Legislative Affairs Agency
State of Alaska
Juneau, AK 99802

Dear Senator Poland:

I have reviewed the Draft of the "Act Relating to the Management of the Coastal Resources of the State" that is to be presented to the tenth Legislature. This appears to be a fine Act and should do much to prevent the loss of public values and the degradation of coastal communities that has blighted so much of the coast "outside". I do have two suggestions:

1. The Council appears to be too narrow with only selected local officials or the Governor's cabinet permitted. I would suggest that the Council should contain three, at large, voting members appointed by the Governor so that the State can have the benefit of some of the vast knowledge of industry people, University people, coastal residents or others who might have expertise in coastal planning matters.
2. Public hearings should be required by any entity submitting District Coastal Management Plans. These hearings should be recorded, transcribed and all questions raised at these hearings should be answered and all opinions and proposals should be discussed and their validity ascertained. The hearing records and evaluation should accompany any Plan submitted to the Council. In this way the Council and the citizens of the future will have a record of both majority and minority opinions within the community and the hearing records can serve as a valuable source of information in the years ahead as the value of the program is assessed and modified. The provision should be in the Act as local ordinances often have no such requirements.

All hearings of the Council should likewise be recorded, transcribed, evaluated and made available as appropriate.

Thank you very much for the consideration of these proposals.

Yours truly,

Jim King
James G. King



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Rockville, Maryland 20852

January 5, 1977

Mr. Robert LeResche
Director, Department of Policy
Development & Planning
State of Alaska
Pouch AD
Juneau, Alaska 99811

Jack Elke

Dear Bob:

At the request of Glenn Akins, the Office of Coastal Zone Management has reviewed the draft bill on coastal management for Alaska, prepared by the Interim Committee established by HCR 123.

We have evaluated this bill in light of the standards established by the Coastal Zone Management Act of 1972, as amended, and of the experience provided by other existing state coastal management programs.

Our preliminary assessment of this bill is that it will establish the foundation for a coastal management program which is unique to Alaska. While the management program should meet many of the requirements of the Federal Coastal Zone Management Act, there are a number of areas outlined below where further provisions and clarifications appear to be needed. Our assessment assumes a demonstration in the completed management program that Alaska's existing land and water use controls will be adequate to carry out the state role envisioned by this bill, and that the standards, guidelines and procedures to be adopted pursuant to the final legislation will be sufficient to meet the minimum standards imposed by Congress in passing the Coastal Zone Management Act. We are anxious to work with your staff and the HCR 123 Committee as needed to insure that this very innovative approach to coastal management, which is sensitively designed to meet the needs of Alaska, can also fully meet the requirements of the Coastal Zone Management Act and implementing regulations.

As a first step in this process, which we hope will continue over the next few months while the bill is being further revised and considered, we offer the following comments and raise certain questions about the draft bill. First, there are three general issues which we would like to raise for your consideration, which could have a major effect on the timing and acceptability of the Alaska coastal management program in terms of the approval under Section 306 of the Federal Act.

1. What interim controls would the state use to implement the Alaska coastal management program prior to completion and approval of district coastal management programs? Prior to granting approval of a management program submitted by a coastal state, the Secretary of Commerce must find, among other things, that the state has the authority necessary to implement the program, including the authority required under Section 306(d).



If the state is to seek approval of its management program prior to completion of the district coastal management programs, the legislation should establish the authority and the mechanism for the state to carry out the management program, at the time the program is approved. This authority should insure that the objectives, policies and guidelines established in the management program will guide land and water use decisions by state agencies, local governments, and other Federal and regional agencies, while the district coastal programs are being prepared.

In other states with existing coastal management programs, the objectives and policies established in state legislation and rules and regulations are controlling at the time the program is approved. An appeals mechanism through an administrative body (such as the proposed Alaska Coastal Policy Council) and/or the courts can insure that land and water use decisions will be carried out in accordance with the management program.

2. What agency of the state will be designated to administer grants for implementing the program? The bill in its current form establishes responsibilities for several state agencies for approving and implementing a coastal management program. The Alaska Coastal Policy Council appears to have overall responsibility for carrying out the management program. This Council is representative of several state agencies and local officials. The staff Office of Coastal Zone Management within the Division of Policy Development and Planning may be utilized as staff to the Council. The Department of Community and Regional Affairs (CRA) has major responsibilities for assisting coastal resource districts, conducting a program of research and training and technical assistance, and for preparing coastal resource district management programs in certain situations. The bill does not make it clear which of these state entities would have the lead agency responsibility under Section 306(c)(5) of the Federal Act. This bill could clarify the fiscal and programmatic responsibilities of the lead agency for purposes outlined in the Coastal Zone Management Act and NOAA regulations.

3. What form will the standards and guidelines have, and what legal function will be served? Section 46.35.040 provides for the adoption by regulation of guidelines and standards covering major elements of the Alaska coastal management program. It is not clear from the language of this section whether these are procedural guidelines or standards for "identifying," "determining," "developing," "describing," and "designating," the policies of the management program, or whether these are to be substantive guidelines and standards of the program establishing the boundaries, uses, and other policies guiding land and water use decisions.

It is not clear whether state and local agencies in resource districts would be bound by substantive land and water use standards and guidelines at the time these regulations are adopted, or only whether a process of developing the substantive policies would be in place. Section 46.35.070 suggests that it is the intent of the bill for these guidelines and standards to provide the substantive basis for decisions. If the state is to seek 306 approval prior to completion of the district coastal management programs, these standards and guidelines should establish the substantive land and water use policies of the management program and should be enforceable at the time of approval. This might be accomplished by omission of the first words of subsection (A) through (G). These guidelines and standards should be specific enough for the lead agency to determine (1) the compliance of district coastal resource programs,

(2) the compliance of major development activities or projects in the interim, or those not covered by the approved programs, and (3) the consistency of Federal programs and policies affecting the state's coastal area.

The following comments are offered on the specific sections of the bill:

44.19.891(b):

Several other pieces of legislation similar to HCR 123 have expanded this section to include time constraints for actually making the appointments (i.e. "governor shall appoint within ___ months after enactment", or "by June __, 1977"). It appears that there is no actual date which would officially start the Council's performance of their duties.

44.19.892:

It is not clear why (4) limits the powers of the Council to take any reasonable action to carry out the provisions of Sections 891-894 only, rather than the entire bill, especially Chapter 35.

44.19.893:

To be in conformity with the Federal Coastal Zone Management Act, as stated in this section, the Council should also have the duty for administrative review of compliance with the guidelines and standards and the objectives of the program by state and local agencies and districts, provided under subparagraph (1). This assumes that the Alaska coastal management program will rely, in large part, upon the techniques for control of land and water uses specified in Section 305(e)(1)(a) of the Federal Act.

The Council might also have the duty to establish continuing coordination among the local units of government or coastal resource districts to facilitate implementation of the Alaska coastal management program, as paragraph (2) provides among state agencies.

The way item (3) is worded can perhaps be misunderstood. It sounds like the state will do all the supplying of data and information to the locals. While this may be appropriate for some of the unorganized boroughs or villages, some of the larger cities may be capable of generating their own data on a scale appropriate to their needs. The current local program development grant preliminary guidelines require inventories and analyses work to be performed by the locals. This line might read, "to help them carry out their planning and management functions" or "to provide technical and financial assistance to coastal resource districts . . ."

44.19.894:

This section should be more specific regarding the duties and responsibilities of the staff to the Council. The administrative staff of the Council should have more than a coordination function as implied in the title, "Coordinator," and should be capable of handling the fiscal and programmatic responsibilities and executive functions as the lead staff agency. If the Council or DPDP is to be the lead agency designated by the Governor, perhaps a title of "Director" or

-4-

"Manager" would be more appropriate. The term "may utilize" implies that the Council is not bound to utilize the staff agency for its lead administrative support. As indicated earlier, the duties and responsibilities of the lead staff agency should be clarified.

46.35.010(c):

We suggest that the Council should maintain the flexibility to review and evaluate the Alaska coastal management program, whenever appropriate, rather than restricting this to an annual review and revision. We also suggest that the eligible purposes for review and revision established by section (c)1-4 be broadened to allow general purpose revisions at the discretion of the state, which at a minimum, would allow for revisions in response to Federal performance evaluations under Section 312 of the Federal Act and for revisions in response to amendments to the Federal Act and implementing regulations.

46.35.030(7):

The term "special attention" should probably be defined under Sec. 46.35.200 or in the guidelines and standards pursuant to Sec. 44.19.893(?).

46.35.040(1):

As stated above, the guidelines and standards developed in response to this section should be substantive as well as procedural. This would be assured by omitting the first words of (A) through (G). These standards and guidelines should also apply to state agencies in addition to the coastal resource districts, and should be adopted with the force of regulation by the time the state seeks approval of their program under Section 306 of the Federal Act. If the state wishes to seek Federal approval under Section 306 prior to the adoption of such regulations, the objectives of the program in Sec. 46.35.020 would need to be much more specific, and provide an adequate standard for interim land and water use controls before district coastal resource programs are approved.

46.35.040(2):

Subsection 5 should include as well reference to Federal funding assistance programs which also are subject to the Federal consistency regulations of Section 307. We would recommend revising the sentence so it reads, ". . . managing land, conducting activities, or providing Federal assistance . . ."

46.35.030:

This section provides for implementation of district coastal management programs for a coastal resource district which does not exercise zoning, and for a municipality which has zoning and other controls. Are there units of local government with zoning or other controls other than municipalities which are not covered by either (a) or (b) of this section? Would subsection (b) more appropriately begin, "A coastal resource district which has and exercises zoning or other controls . . ." if this is the case, to insure implementation of all district coastal resource programs?

46.35.060(b):

You may want to look at the use of the term "mediation of deficiencies." This implies that there may be a compromise of state guidelines and standards especially after the Council has found the program not approvable. Perhaps something like "the Council will advise and consult with the district on program inadequacies prior to going to the step outlined in (c)" would be another way of approaching it.

46.35.090:

This section seems to require compliance with the management program by coastal resource districts and state agencies only after completion and approval of district coastal resource programs. Unless this section also requires interim compliance by state agencies and coastal resource districts and other unorganized units of government, all of the district coastal resource programs would need to be completed prior to approval of the state program under Section 306 of the Federal Act.

If this section could be expanded to also provide for compliance and enforcement of the objectives of the chapter and the standards and guidelines promulgated under section 46.35.040, in place of coastal management programs until such programs are approved, the state could qualify for 306 funding much earlier. This enhanced funding could be used by coastal resource districts completing their programs.

Let me bring to your attention two statements made in the California Coastal Act of 1976 which deal with compliance and conflict resolution:

"The legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The legislature therefore declares that in carrying out the provisions of this division, such conflict be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies."

This gives clear recognition that policies may be conflicting especially within a given resource area, but that in the event of conflict, the decision to be most protective of significant coastal resources should prevail. This, of course, is just one type of priority-setting that can be used as a means to resolve conflict. The second statement says that "all state agencies shall carry out their duties and responsibilities in conformity with this decision." This means that they must comply with the policies of the Act prior to local coastal program certification.

46.35.150:

This section and section 46.35.160 seem to limit the ability of the state to control land and water uses in unorganized districts to situations where major economic development activity has or will occur. This does not appear to be consistent with the Federal law and would seem to be contradictory to the objective of developing management programs in advance of such development activities occurring.

OCZM is concerned with the limitation on the definition of "major economic development activity" to OCS and other significant industrial and commercial development activities only. How would the coastal program developed as a result of this bill control other uses which might have direct and significant impacts on coastal waters of the state, such as residential and recreation development, or major public works such as highways, utilities and other civic and educational facilities? Could "major economic development activity" be changed to "major development activity" to include all uses with a direct and significant impact on coastal waters?

46.35.160(a):

The subsection states that the Council may direct the Department of Community and Regional Affairs to prepare a district coastal management program. The bill or the management program prepared for submission for Federal approval should describe the circumstances under which the Council might not direct CRA to prepare such a program, and what alternative courses of action might be taken by the Council to insure compliance with the management program.

46.35.170:

This section appears to provide a mechanism for local governments, village and citizen involvement in the development and approval of district coastal resource programs, while insuring compliance with the management program guidelines and criteria. However, this would require that the Coastal Policy Council have the final administrative authority to determine whether "new matters" submitted by a city or village under (b) are "substantially consistent" or not. This provision should allow the Council to disapprove the "new matter" or require modification as needed, after considering the views of the coastal area board.

If, however, a city or village is able to block approval of the district coastal resource program through this provision, this section could become a major obstacle to Federal approval of Alaska's coastal management program.

46.35.190:

We read this section to require state agencies to comply with the Alaska coastal management program within 6 months of approval, and assume it is not meant to give 6 months to establish a process to put the requirement for operation at some future date. The bill should also make clear its intent to expand the basis of decision-making under existing statutes to allow purposes, objectives, policies and standards of the Alaska coastal management program to be taken into account in decisions of other state agencies.

As it appears that the state agency enforcement of the Alaska coastal management program is an integral and major part of this bill, it would be difficult to obtain 306 approval of the program prior to completion of this 6 month compliance by state agencies. However, this period roughly corresponds to the period necessary for Federal review of the management program and environmental impact statement, so it might be possible to begin the review process prior to full state compliance.


What mechanism is provided for administrative review of the state's activities for enforcement of compliance with the state program? The key provision of coastal legislation in other states is an appeals mechanism and standing for affected parties, and units of government to appeal land and water use decisions to an administrative agency and/or the courts.

46.35.200:

The definition of the Alaska coastal management program would be desirable since several places in the bill refer to compliance or consistency with this program. The definitions of the uses of national interest is very important to meeting the concerns of Federal agencies and the Federal Act's requirements. We recommend that you take a close look at this since it may save you a lot of controversy. Our Section 305 regulations would suggest that there are other items that deserve mention (i.e. resource preservation of Federal lands such as parks and their recreation facilities, historic sites, etc., and production of food and fiber such as fisheries, agricultural or forest lands). Therefore, you might want to expand the list or make it non-exclusive by saying "such as the use of resources . . ." and further refine it in the guidelines.

Finally, of some concern is the frequent use of the word "may" in connection with the exercise of authority by one or another entity and in relation to one or another subject matters. Thus, under Section 46.35.069(c), page 10, the Council "may require" certain actions in relation to a district coastal management program. Under Section 46.35.090(b), page 12, the Council "may" order certain actions. Under Section 46.35.110, page 13, a regional educational attendance area "may be organized into a coastal resource service area." When used in these sections and others elsewhere in the bill, is "may" also meant to imply "may not?" On the basis of its plain meaning, the word clearly implies discretion, ergo clearly also implies may not.

We hope these comments will help in your revision of the proposed coastal bill. If we can be of further assistance or if you have any questions in this regard, please call me at 202/634-4235.

Sincerely,

H. Grant Dehart
Pacific Regional Coordinator
Office of Coastal Zone Management