

HB

172

COMMITTEE REPORT

HOUSE

FURTHER:

February 12, 1979

Date: 15 March 79

Mr. Speaker:

The Committee on C&RA has had HB 172

"An Act limiting the authority of the Dept. of Environmental Conservation to require submission, review and approval of subdivision & development plans within municipalities; eff. date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for 175 177 same title
- new title
- and recommends amendments
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

[Handwritten signatures]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

[Handwritten notes]

Bob P. [Signature]
CHAIRMAN

~~AMENDED TITLE:~~

AN ACT LIMITING THE AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL
 CONSERVATION TO REQUIRE SUBMISSION, REVIEW
 AND APPROVAL OF SUBDIVISION AND DEVELOPMENT PLANS WITHIN
 MUNICIPALITIES; AND PROVIDING FOR AN EFFECTIVE DATE

~~PRIME SPONSORS: FREEMAN.~~

~~CO-SPONSORS:~~

~~CURRENT STATUS: 3/15/79 IN (H) RULES~~

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/12/79	01	0204	FIRST READING -- COMMITTEE REPORTS
03/15/79	02	0594	CRA -- DNE04, CS02, NR01
			RULES
XXXX	XX	XX	*** *** ***



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

COMMITTEE MINUTES

DATE: 3/15/79

BILL NUMBER AND TITLE: HB 172 Limiting authority of DEC to require submission
review and approval of subdivision & development plans within municipalities

ORIGINAL SPONSOR: Freeman

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS:

MEMBERS PRESENT: All members present

MEMBERS ABSENT:

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

The C&RA committee passed out CSHB172 with the following recommendations:

Do Pass

Branson-Do not Pass

Carney

Parr-Do Not Pass unless amended

Zharoff

O-Connell-No Recommendation

Metcalfe-Do not pass unless amended

Parker - Do not pass unless amended

COMMITTEE ACTION: See Above-

TAPE #4 SIDE 1

Sections 1068-1078



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

DATE:

BILL NUMBER AND TITLE: CSHG 172 (continued)

ORIGINAL SPONSOR :

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS:

MEMBERS PRESENT:

MEMBERS ABSENT:

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

Discussion of mandatory tone of CS continued.

COMMITTEE ACTION:

TAB # SIDE

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FOREST, LAND AND WATER MANAGEMENT

323 E. 4TH AVENUE
ANCHORAGE, ALASKA 99501

March 30, 1979

Honorable Bill Parker, Chairman
Community & Regional Affairs Committee
State House of Representatives
Pouch V
Juneau, Alaska 99811

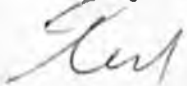
Dear Bill:

I have a copy of Commissioner Mueller's letter to you of March 6, regarding House Bill 172.

He rightly notes that we have found the requirement for developing off-site sewage facilities in many places to be a significant obstacle to development of State owned subdivisions. The problems that Ernie cites with the absence of off-site sewage I think are very significant and ones that should not be overlooked in designing any program. The problem is actually lack of funding to develop sewage systems that would comply with State and local regulations. We have proposed to solve that problem through an enterprise bond fund which would be authorized to issue revenue bonds to develop the necessary roads, streets, sewers, etc. If this bill passes, the problems of disposal of State lands in those areas where there is insufficient on-site sewage capability will be solved.

I would like to make the point as strongly as possible that I believe that it is the responsibility of the developer regardless of whether or not it is the State to make the initial investment in the improvements to the land that makes the subdivision a benefit to the community rather than a menace.

Yours truly,



THEODORE G. SMITH
Director

cc: Ernie Mueller
Pat Conheady



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

DATE:

3/14/79

BILL NUMBER AND TITLE: ~~HB 172~~ Limiting authority of DEC re subdivision review

ORIGINAL SPONSOR : Freeman

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS:

MEMBERS PRESENT: ~~Parker~~ Branson
~~Carney~~ O'Connell
Parker Zharoff
Metcalf

MEMBERS ABSENT:

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

Ernie Mueller, Commissioner of DEC

Objects to drafting of CS which requires that program be mandatory. At the present time no municipality performs all of the services they would be required to cover under CSHB172. The State would ultimately have to provide back up. Many communities have expressed concern that they would not be able to provide the services the state now does.

The bill implies that construction standards for sewage treatment systems would be set by the municipalities. There is a need for uniformity of standards statewide. Municipalities could end up suing each other. The program should have voluntary rather than mandatory involvement. CSHB172 implies repeal of plumbing codes.

Broad approach of the bill is very objectional to the Dept. Original bill did not deal with sewerage treatment facilities., rather just on-lot review.

Freeman -- Provisions need to be made for a community such as Ketchikan which is 1 block wide and 3 miles long. A sewer system is not practical here.

Mueller - Enforcement should not be used instead of prevention. On-lot waste disposal is the problem. Communities should be given the right to develop viable options. Restrict bill to on-site problem. There should be minimum standards to be met

John Scribner -- refers to come of the implications of the bill.

Rep. Branson suggests that the problem be handled in 29.33.090.

Jack Chenoweth -- Stated that 46.03.720 be amended at the suggestion of Scribner.

COMMITTEE ACTION:

TAPE # SIDE Sections



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

COMMITTEE MINUTES

DATE: 3/12/79

BILL NUMBER AND TITLE: HB 172 Limiting the authority of DEC to require submission, review and approval of subdivision and development plans within municipalities

ORIGINAL SPONSOR : Freeman

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS:

MEMBERS PRESENT: Parker Parr
Carney Branson
O'Connell
Zharoff Metcalfe

MEMBERS ABSENT:

NONE

INDIVIDUALS CONTACTED:

Freeman
Municipal League DEC (John Scribner)

WITNESSES TESTIFYING:

Freeman -- Rep. Parker, Rep. Freeman and Jack Chenoweth have worked together on a CS for HB 172 following the direction of the CRA Committee. CSHB 172 before the committee for discussion at this time.

Freeman feels it meets the needs of the municipalities by removing the veto power of DEC.

Joh Scribner -- Testifying for DEC. Sees problems in the proposed CS HB 172. There are no minimum standards other than those set by the municipalities.

The bill deals with more areas than just "on-site" disposal concerns as had been the original concern. Sewerage systems discussed and the implications of the bill are broader.

Problem with p. 2 Lines 20-23. Federal standards apply here and would conflict with municipalities setting standards.

COMMITTEE ACTION: Will take up bill when all members have had chance to digest CS.
March 14 --Jack Chenoweth will be invited.

TAPE # 3 SIDE 2

1430-1665



Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

COMMITTEE MINUTES

DATE: 2/28/79

BILL NUMBER AND TITLE: HB 172 limiting authority of DEC to require submission, review, etc. of subdivision & development plans

ORIGINAL SPONSOR :

Freeman

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS:

MEMBERS PRESENT:

Parker
Metcalfe
Zharoff

Carney
Branson

MEMBERS ABSENT:

O'Connell

INDIVIDUALS CONTACTED:

Freeman (4993)
Lee Sharp

Marilyn Miller
Chenoweth

Dept. Environmental Conservation

WITNESSES TESTIFYING:

Freeman -- Cites references to DEC's role in holding up land transmission and use from "Alaska Land, A Report to the Legislature". DEC is stopping subdivisions. Land isn't getting to the people. Let municipalities handle own affairs. Mistake on Line 20 prompts rewrite in form of Committee Substitute. (eliminates word "not")

John Scribner-- Water Program , DEC

Only 9% of cost of getting land out to the public is traceable to DEC. Local gov't can have option of reviewing subdivisions for compliance now with a request for a waiver from DEC. If the municipalities are given this responsibility, minimum standards should be set. Local governments don't have expertise and money so waiver has not been requested except in Anch.

AS 46.03.720 refers to DEC's responsibility re individual plats--this portion of statutes may also be involved in a change of approach.

Freeman -- Problem should be solved on local level. Legislature gets "heat" as DEC is a state agency. "Big Brother" approach not acceptable. Decision should be made on local level. Rep. Metcalfe thinks local gov't should have right to choose to have DEC review rather than making it mandatory. Freeman --DEC should have advisory capacity only.

Chenoweth -- Mentioned error of "not" being included on Line 20 of HB 172

Rep. Parr suggests that Committee Substitute be drafted giving DEC review responsibility for compliance and that the municipalities be responsible for developing their own standards and that the local government have veto power.

COMMITTEE ACTION: Committee Substitute to be drafted including concepts discussed.

BILL WORK SHEET

COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Received from _____

BILL NO. HB 172 re Limiting authority of DEC to require submission, review etc. of subdivision
Original Sponsor _____ & development plans

Fiscal Note Requested G&RA DEC Page 2604

Contacts: Freeman 4993 ✓ Lee Sharp ✓
m. mullen ✓

LAA Legal Research contact: Chenoweth

✓ John Scribner- DEC 2604 - 2640

Says this bill originated as a result of publication of "Alaska Land-A Report To The Legislaute" published by the Dept. of Natural Resources Jan. 1979 (see attached) Says that in researching problem, DEC found that in 2 areas DEC regs had seeminly caused a problem: Glen Allen--a plot of land proposed for subdividing intersected 3 regional boundaries. Div. of Lands got 3 different interpretations of DEC regs. Problem was resolved. Ted Smith doesn't feel there is a problem with the regs, according to Scribner. He was pleased with the response of DEC.

Ketchikan- parcels of state owned land was to be subdivided. There was no topsoil, only bedrock in this area. No on-site waste disposal was possible. Div. of Lands has proposed a collection system which will work.

According to Scribner, Russ Meekins appointed Oral Freeman to look into this.

Sec. 46.03.720 (a) States no person may construct, extend, install or operate a sewerage system or treatment works, or any part of a sewerage syste or treatment works, until plans for it are submitted to the department for review and the department approves them in writing and issues a written permit.

Requirement for DEC can be waived if the local government takes the responsibility.
(See 18AAC 72.068

BILL WORK SHEET

COMMITTEE ON COMMUNITY AND REGIONAL AFFAIRS

Referred to _____
Received from _____

BILL NO. CSHB172 re DEC
Original Sponsor _____

Fiscal Note _____

Contacts:

LAA Legal Research contact: _____

John Scribner -- (Telephone information)

Federal Water Pollution Control Act is in fact controlling. State qualifies to administer but the municipalities still have to meet state standards.

Would like to amend CS references to sewer treatment to say "individual on-lot waste treatment and disposal system"

- p. 1 l. 28
- p. 2 l. 15
- p. 2 l. 9
- p. 3 l. 5
- p. 3 l. 3

Should be amended to specifically exclude water from the CS

p. 2 Lines 19-23 as problem area re Feds. (see above)

Telegrams should be arriving from Cordova, Valdez

CRA Opposed. Small Communities are not in a position to handle this themselves. No means to operate and enforce. EPA will be involved if municipal regs aren't stringent enough.

Contacted re 3/14 Hearing

- ✓ C+RA
- ✓ DEC
- ✓ Municipal League
- ✓ Freeman

Original sponsor: Freeman

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 172

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to review and approval of subdivision
7 and development plans by municipalities; and providing
8 for an effective date."

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

10 * Section 1. AS 46.03.090 is amended to read:

11 Sec. 46.03.090. PLANS FOR POLLUTION DISPOSAL. The department may
12 require the submission of plans

13 (1) for sewage and industrial waste disposal or treatment or
14 both for a publicly or privately owned or operated industrial establish-
15 ment[,]; and

16 (2) for a community, public or private property subdivision
17 or development only

18 (A) if that subdivision or development is located out-
19 side a municipality which exercises platting and subdivision
20 approval authority under AS 29.33.150 - 29.33.240; or

21 (B) if, in a municipality which exercises platting and
22 subdivision approval authority, standards applicable to the re-
23 view and approval of subdivision plats have not been adopted and
24 filed with the Department of Community and Regional Affairs in
25 accordance with AS 29.33.155.

26 * Sec. 2. AS 46.03.720(a) is amended to read:

27 (a) Except when construction, extension or installation of a
28 sewerage system or treatment works receives approval by the platting
29 board of a municipality in conjunction with the review and approval of

3 a subdivision or dedication under AS 29.33.150 and 29.33.155, no [N.]
4 person may construct, extend, install or operate a sewerage system or
5 treatment works, or any part of a sewerage system or treatment works,
6 until plans for it are submitted to the department for review and the
7 department approves them in writing and issues a written permit.

8 * Sec. 3. AS 29.33.150(1) is amended to read:

9 (1) form, size, and other aspects of subdivisions, dedica-
10 tions, and vacations of land, including but not limited to, standards
11 for review and approval of proposed subdivisions having sewerage and
12 wastewater treatment and disposal systems, including on-lot treatment
13 and disposal systems;

14 * Sec. 4. AS 29.33 is amended by adding a new section to read:

15 Sec. 29.33.155. STANDARDS FOR SUBDIVISIONS. The municipality
16 shall adopt standards applicable for the review and approval of subdivi-
17 sions with respect to type and location of water sources and sewerage
18 treatment and disposal systems. A copy of the municipality's current
19 ordinance defining standards applicable for the review and approval
20 shall be filed with the commissioner of community and regional affairs.
21 The municipality's ordinance shall provide that a proposed subdivision
22 may not be approved if the subdivision does not contain soils suitable
23 for effective absorption of discharged wastewater or if treatment and
24 disposal results in the release of wastewater which does not meet water
25 quality criteria defined by the municipality.

26 * Sec. 5. AS 29.33.160 is amended by adding a new subsection to read:

27 (c) The platting board may request the Department of Environmental
28 Conservation to review and advise on proposed type and location of water
29 sources and sewerage treatment and disposal systems for proposed sub-
30 divisions submitted for platting board review and approval.

31 * Sec. 6. AS 46.03.020 is amended by adding a new paragraph to read:

2 (12) when requested to do so by a municipality exercising
3 platting and subdivision authority under AS 29.33.150, review proposed
4 type and location of water sources and sewerage treatment and disposal
5 systems for proposed subdivisions by application of the municipality's
6 ordinances for water supply and sewerage treatment and disposal.

7 * Sec. 7. AS 44.47.050(5) is amended to read:

8 (5) maintain a library or reference file of municipal ordi-
9 nances required to be kept by the department by law, serve as a
10 clearinghouse for information useful in solution of community and
11 regional problems, and channel to the appropriate authority requests for
12 documents, information and services;

13 * Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-
14 070(c).
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STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

March 6, 1979

The Honorable Bill Parker
Chairman, Community and Regional
Affairs Committee
State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Chairman Parker:

Currently being considered by the Committee on Community and Regional Affairs is House Bill 172. This bill would restrict the authority of the Department of Environmental Conservation to review and approve subdivision plans for suitability for on-site waste disposal to only those areas outside the boundaries of organized municipalities. Presumably, municipalities would have the option of requiring subdivisions to meet requirements similar to those currently imposed by our regulations, or to allow them to be developed and sold without any assurance that a homebuilder can construct an on-site sewage disposal system.

If this bill were to become law, Alaska can expect severe economic, public health, and environmental consequences. While we fully agree that local governments should take the lead in implementing land use controls through their local planning and zoning programs, many simply do not have the financial or staff resources to conduct technical review of subdivisions for their suitability for on-site waste disposal. Thus, we can expect a number will not undertake this additional task, thus assuring that many subdivisions in organized areas will not be suitable for on-site waste disposal. The present statewide review program has resulted in numerous platting changes to subdivisions to ensure that such disposal is possible, or that an alternative waste collection and disposal system is provided.

Attempts at construction of on-site waste disposal systems on inadequate soils will result in contaminated ground water, a flow of raw human body wastes across the surface of the land, or an untreated discharge to nearby waterways. Substantial threat to public health can result from direct contact with these uncontrolled sewage discharges, or by ingestion of contaminated well water.

In addition to the public health implications, passage of this bill could severely stall new housing starts in Alaska. Presently, Federal home loan financing and guarantee programs require certification by a State or local government agency that land is suitable for on-lot waste disposal before a loan will be approved for a home without community sewer service. Alaskan banks, which administer these Federal funds, inform us that approximately 50 percent of new home loans in Alaska have some Federal funding or guarantee. Naturally, other home loan programs are available, but usually at a substantially higher interest rate.

Review and certification for on-lot waste disposal suitability can occur at either the subdivision-wide level, or on an individual lot basis. Because soil borings must be taken, and analysis must be made by qualified persons, it is far more economical to conduct these investigations on a subdivision-wide basis. If this Department's review and approval of waste disposal capability on a subdivision-wide basis is eliminated in organized municipalities, lending institutions will simply require an investigation on each and every lot before granting a Federal home loan. This will result in greater expense to the home buyer. The Department of Environmental Conservation currently performs single-lot reviews in those areas where subdivision-wide review was not conducted, generally on small or older subdivisions. Because of the additional workload associated with a change from a subdivision-wide to a lot-by-lot review, I anticipate that it will be necessary to add five to ten additional staff to conduct the reviews required by banks handling Federal lending and guarantee programs. I must emphasize that the banks with which we have discussed this program simply will not make such home loans unless they can be assured by a responsible government agency that on-site waste disposal is feasible. Neither they, nor the Federal Government, will take the risk of losing an investment because of a failing waste disposal system, or a contaminated water supply.

If a builder is able to finance his home in another manner, and constructs a waste disposal system which subsequently fails, he may find himself with a home he cannot sell. This situation exists in Eagle River near Anchorage, where homes with contaminated wells and failing sewage systems cannot be sold.

This latter situation has occurred many times in the past--on several occasions to entire subdivisions--where wells will become contaminated from failing sewage systems sometimes affecting hundreds of lots. In some cases, entire families have become seriously ill--even death may result. Eventually, the State and local governments must step in to help, through the construction of complete new community water and sewer

systems. These systems will cost many times what would have been required if they had been installed when the property was first developed; in some cases, even with State and Federal grant funding assistance, the sewer and water assessments far exceed the total original cost of the lots. Just a few examples where this has occurred include Lemeta in Fairbanks, Deborah Subdivision in Eagle River, Mendenhall Valley in Juneau, Island Lake in Kodiak, and Robe River Subdivision in Valdez. Many millions of dollars in State funds have been spent to correct the problems in Lemeta and the Mendenhall Valley. Many others are not yet solved, but are scheduled to cost tens of millions of State and Federal funds.

Apparently, the impetus behind this bill relates to alleged problems the Department of Natural Resources has in disposing of State-owned lands. A recent report by the Division of Lands implies that compliance with subdivision review regulations is an obstacle to the State's land disposition program, especially as regards homesites. Unfortunately, the report tells only part of the story. The Department of Environmental Conservation does not have any requirements concerning private water systems, only regarding waste disposal. Further, regardless of the subdivision review regulations, a small proportion of State-owned lands simply cannot be used for on-site sewage disposal because of bedrock, high water table, muskeg, or other similar problems.

Further, it has been alleged by some that meeting our subdivision waste disposal requirement is overly costly. A review of the Division of Lands' cost analyses indicates that this is simply not the case. The Division of Lands has estimated that, over the next few years, \$618 million will be needed to dispose of State-owned lands. The vast majority of these costs are for road and street construction--only 9 percent is for sewer and water improvements. Roughly one-half of the 9 percent is for community water systems--an improvement which is not required by the Department of Environmental Conservation. The other one-half is for sewage collection and disposal systems proposed by private consultants to the Division of Lands because the soil cannot be used successfully for on-site sewage disposal.

My staff and I are committed to working with the Department of Natural Resources to resolve difficult problem areas, as indeed we are with any land developer. In one case, near Glennallen, our joint efforts actually resulted in more developable lots than originally proposed by DNR's consultant. Except for coordination problems which existed several months ago between my field staff and the Division of Lands and which has since been resolved, DNR has been quite complimentary of our assistance in this unprecedented land disposal effort.

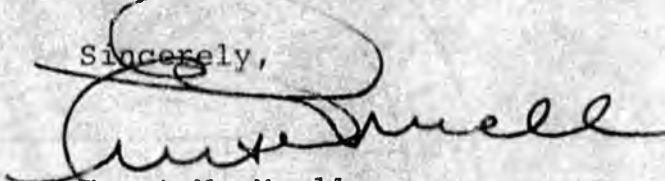
March 6, 1979

This bill would very possibly result in more stringent requirements being imposed on subdivisions outside municipal boundaries than those inside, unless every municipality chose to undertake the expense of establishing a subdivision review program similar to ours. In our view, this is somewhat anomalous--in most cases, municipal requirements are more strict than State requirements.

As you know, DEC regulations presently provide for local governments to carry out subdivision plan review in lieu of the Department. The Municipality of Anchorage is the only municipality to apply for the program and receive approval. No other municipality has even applied for the program in spite of our active encouragement to do so. The requirements are extremely minimal and anything less stringent cannot responsibly be said to protect public health or prevent pollution problems.

As an alternative to this bill, and the other proposal discussed during your February 28 hearing, I would suggest that local governments be specifically granted the authority and the responsibility for controlling on-site sewage disposal problems within their boundaries. This would require that municipalities develop and implement a program which is at least as stringent as the State's in a manner similar to that of Anchorage. Only in this manner can we ensure that even a minimal level of protection is afforded to those who buy land in Alaska, protection against severe threats to public health, some assurance they can finance their new homes, and protection against the loss of a portion of their substantial investment.

Sincerely,



Ernst W. Mueller
Commissioner

cc: Committee Members
Mr. Keith Specking

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B - JUNEAU 99811

March 13, 1979

The Honorable Bill Parker
Chairman, Community and Regional Affairs Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

The Department of Community and Regional Affairs has reviewed The House Community and Regional Affairs Committee's substitute for House Bill 172. The draft substitute addresses many of the concerns we had with the original bill, specifically new responsibilities the bill would delegate to municipalities which exercise platting power.

Section 4 of the committee substitute requires all municipalities which exercise platting authority to adopt standards for review and approval of subdivisions with respect to the type and location of water sources and sewerage treatment and disposal systems. Sections 5 and 6 support local enforcement of subdivision ordinances through technical assistance from the Department of Environmental Conservation.

Taken together, Sections 4, 5, and 6 of CSHB 172 create a potentially effective system for delegating to local governments certain of the State's police powers, particularly those pertaining to the protection of the public health. There are three points we would like the committee to consider in its deliberation on the bill.

1. Before the State delegates to local governments responsibilities so vital as the prevention of public health hazards produced through pollution by inadequate on-site sewerage disposal, and the assurance for prospective landowners or leaseholders that they will be able to obtain financing to purchase or construct a home (many financing institutions require assurance of adequate water supply and sewerage disposal before issuing a loan), it should ensure that municipal standards of review and approval will be adequate to provide the public the protection to which they are entitled. Two ways for CSHB 172 to do this would be to (1) modify Sec. 4 (p.2, line 23) to require that local standards meet minimum standards presently applied by the Department of Environmental Conservation or (2) to require municipalities to submit standards to the Department of Environmental Conservation for approval.

2. Local subdivision ordinances in many small municipalities in the State are administered solely by a planning commission, consisting of volunteers, and sometimes assisted by a city foreman or engineer. In such instances, the cities may prefer for the Department of Environmental Conservation to retain the responsibility of review and approval of subdivisions for the adequacy of water supply and sewerage treatment and disposal. Section 4 makes the assumption of the Department of Environmental Conservation's previous responsibilities in this regard mandatory for local governments which must exercise platting powers (i.e., boroughs of all classes but the third class, first class cities, and home rule cities). Changing "SHALL" on page 2, line 14 to "may" would clarify the voluntary nature of municipal assumption of the responsibility for review and approval of subdivisions with respect to the type and location of water supply and sewerage treatment and disposal.

3. The Department of Environmental Conservation's technical assistance program would have to be adequately funded in order to insure the bill's promise to offer municipalities the technical expertise they need to properly review subdivisions.

We appreciate your consideration of points raised in this letter.

Sincerely,

Lee McAnerney
Commissioner

By:


Don Argetsinger
Deputy Commissioner

cc: The Honorable Ernst Mueller
Commissioner
Department of Environmental Conservation

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

March 15, 1979

The Honorable William Parker
Chairman
House Committee on Community
& Regional Affairs
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Parker:

The committee substitute for House Bill 172 that was prepared on March 14, 1979 addresses few of the concerns expressed in our testimony before you.

One of our major concerns is that the bill gives local government exclusive authority over water and sewerage systems for subdivisions without assigning them adequate responsibility to insure protection of public health and prevent pollution of State waters. We have a great deal of respect for the abilities of local government, given a fair chance, but, as written, CS HB 172 is in effect "throwing them to the wolves" by also abrogating the State's responsibilities in this matter. By not setting some kind of minimum standards for local governments to fall back on when reviewing and approving water and sewage aspects of subdivisions, some will be virtually helpless to deal with extraordinary political and development pressures to approve the installation of systems on unsuited sites. The consequences of this action will result in public health problems; loss of financing opportunities for development; pollution of State waters; and unnecessary expenditure of State, federal and local monies for clean-up.

The State of New York, after over 40 years of exclusive local control, developed so many serious sewage problems that minimum state standards for on-lot waste disposal were recently adopted. Other states have taken similar actions. Alaska is in a unique position to assist local government by requiring them to meet certain minimum standards for protection of public health and prevention of pollution of State waters and we should not step backward as dictated by this bill.

The Honorable William Parker
Page 2
March 15, 1979

Another major concern expressed before your committee still has not been addressed adequately. There remains a substantial conflict with State and federal law with respect to construction of sewerage systems and sewage treatment and disposal systems; and setting of sewage treatment standards and water quality standards. This conflict can be resolved substantially by limiting review of subdivisions by local government specifically to individual on-lot disposal of wastewater.

The March 14 draft exempts any jurisdiction from responsibility for reviewing and approving of on-site sewage disposal systems in subdivisions previously approved by local government. We believe the Committee does not intend that these individual systems within approved subdivisions be exempted from review altogether and suggest that appropriate assignment of responsibility be added.

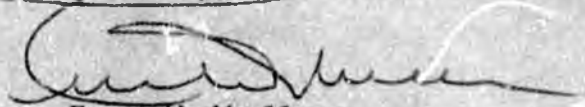
There are several lesser concerns with wording that should be addressed by the committee for clarification:

1. Sec. 1. The additions on lines 27-29 of page 1 are vague and will lead to problems of interpretation. We suggest integration of this introductory phrase into the more specific wording on page 2, lines 4-7 by the addition of "under authority of AS 29.33.150-AS 29.33.240" after "municipality" on line 4, and the elimination of lines 27-29 down to, no.
2. The term "sewerage system or treatment works" should be substituted for the similar terms on page 2, lines 11, 12, 17 and 26 and page 3, lines 2 and 3.
3. Beginning on page 2, line 29, delete the phrase "exercising platting and subdivision authority under AS 29.33.155" and on page 3, line 3 and 4 the phrase "by application of the municipality's ordinances for water supply and sewerage treatment and disposal." The first phrase is unnecessary and confusing. It is our view that the communities power to request assistance from this Department, and our responsibility to respond to these requests, should not be unduly limited. The language in the proposed committee substitute would preclude a long standing practice between the Fairbanks North Star Borough and this Department. An Ad Hoc Subdivision Review Committee has been in existence for a number of years, by which federal, State and local agencies provide advice to the Borough on a broad variety of matters relating to subdivision development. This approach has been very valuable to the Borough in its subdivision review program. The proposed language would prohibit this program for no discernable reason.

The Honorable William Parker
Page 3
March 15, 1979

Thank you for this opportunity to comment on this bill. We enthusiastically support the concept of local control, but feel it is important to also provide municipalities with the necessary tools to do the job effectively. The present draft falls short of that goal.

Sincerely,



Ernst W. Mueller
Commissioner

cc: Committee Members
Dept. of Community & Regional Affairs

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

March 15, 1979

The Honorable William Parker
Chairman
House Committee on Community
& Regional Affairs
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Parker:

The committee substitute for House Bill 172 that was prepared on March 14, 1979 addresses few of the concerns expressed in our testimony before you.

One of our major concerns is that the bill gives local government exclusive authority over water and sewerage systems for subdivisions without assigning them adequate responsibility to insure protection of public health and prevent pollution of State waters. We have a great deal of respect for the abilities of local government, given a fair chance, but, as written, CS HB 172 is in effect "throwing them to the wolves" by also abrogating the State's responsibilities in this matter. By not setting some kind of minimum standards for local governments to fall back on when reviewing and approving water and sewage aspects of subdivisions, some will be virtually helpless to deal with extraordinary political and development pressures to approve the installation of systems on unsuited sites. The consequences of this action will result in public health problems; loss of financing opportunities for development; pollution of State waters; and unnecessary expenditure of State, federal and local monies for clean-up.

The State of New York, after over 40 years of exclusive local control, developed so many serious sewage problems that minimum state standards for on-lot waste disposal were recently adopted. Other states have taken similar actions. Alaska is in a unique position to assist local government by requiring them to meet certain minimum standards for protection of public health and prevention of pollution of State waters and we should not step backward as dictated by this bill.

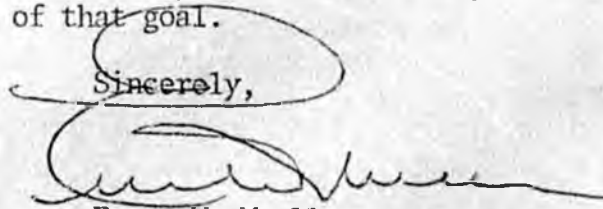
The Honorable William Parker

Page 3

March 15, 1979

Thank you for this opportunity to comment on this bill. We enthusiastically support the concept of local control, but feel it is important to also provide municipalities with the necessary tools to do the job effectively. The present draft falls short of that goal.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ernst W. Mueller', written over a circular scribble.

Ernst W. Mueller
Commissioner

cc: Committee Members
Dept. of Community & Regional Affairs

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
JUNEAU, ALASKA 99802

1979 MAR 9 PM 5

02076 NL TDA CORDOVA ALASKA 50 03-09 220P AST
PMS REP BILL PARKER
COMMITTEE OF REGIONAL AFFAIRS
JUNEAU

THE CITY OF CORDOVA STRONGLY OBJECTS TO HB172 AND ASKS THE ADEC
SUBDIVISION PLAN REVIEW COMPLEMENTS OUR CITY REGULATIONS AND WE
HAVE A VERY GOOD WORKING RELATIONSHIP WITH ADEC ON POLLUTION
DISPOSAL PROBLEMS WHERE THEY LEND TECHNICAL SUPPORT THAT WE ARE
NOT QUALIFIED TO GIVE
CITY OF CORDOVA



KETCHIKAN GATEWAY BOROUGH

344 FRONT STREET
KETCHIKAN, ALASKA 99901

March 8, 1979

The Honorable Representative William Parker
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Parker:

My staff has reviewed the possible implications of HB 172 and the following comments are provided for your information:

The principle of local control and local regulation embodied in the proposed amendment to Alaska Statute 46, Chapter 3, is one that should be supported. It has been recognized by Ketchikan Gateway Borough Planning staff, the KGB Planning Commission and even the local Environmental Conservation Officer that waste water disposal regulations, formulated for a statewide average, are not suitable for Ketchikan with its poor soils, high precipitation and high water table. I assume HB 172 does not question the value of good environmental safeguards but addresses only the inequities that have arisen from ADEC comprehensive regulations. Unfortunately in divesting ADEC of the power to review subdivision or development plans where the municipality has subdivision authority (such as Ketchikan) there is no guarantee the local community will have the funds and expertise to carry the job through. It seems to me, at least as far as Ketchikan is concerned, that the problem is the relative insensitivity of the regulations to local conditions not the contention that Alaska Statute 46 violates the rights of municipal self rule. If a mechanism can be designed to allow local government to draft local waste water regulations for adoption into State law and let ADEC provide technical and enforcement services the result would be very beneficial. Special skills are needed to write and enforce environmental regulations, even those designed for local conditions, and I think HB 172 as presented will create a vacuum into which the municipality will be unable to step without State assistance.

City Council of Sand Point

Box 16

SAND POINT, ALASKA 99661

February 28, 1979

Marilyn Miller
Alaska Municipal League
204 N. Franklin St.
Juneau, Alaska 99801

Dear Marilyn:

This letter follows our brief conversation today. Recall that I mentioned concern over a recent bill or proposal in the legislature to limit the State Department of Environmental Conservation from exercising subdivision control within municipal jurisdictions. I understand the intent of the proposed legislation but would not wish to see a strict prohibition placed upon DEC to exercise subdivision control.

The City of Sand Point has by ordinance set forth procedures for subdivision which includes DEC review and assistance.

The city would wish any new legislation relating to DEC and subdivisions have language that would optionally permit municipalities to by ordinance include or permit DEC review, assistance or regulatory overview of subdivision plans and construction.

Thank you.

Sincerely yours,



David A. Jensen
City Manager

DAJ:alp

WO#6340
Chenoweth

Original sponsor: Freeman

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 172

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to review and approval of subdivision
7 and development plans by municipalities; and providing
8 for an effective date."

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

10 * Section 1. AS 46.03.090 is amended to read:

11 Sec. 46.03.090. PLANS FOR POLLUTION DISPOSAL. The department may
12 require the submission of plans

13 (1) for sewage and industrial waste disposal or treatment or
14 both for a publicly or privately owned or operated industrial establish-
15 ment[,]; and

16 (2) for a community, public or private property subdivision
17 or development only

18 (A) if that subdivision or development is located out-
19 side a municipality which exercises platting and subdivision
20 approval authority under AS 29.33.150 - 29.33.240; or

21 (B) if, in a municipality which exercises platting and
22 subdivision approval authority, standards applicable to the re-
23 view and approval of subdivision plats have not been adopted and
24 filed with the Department of Community and Regional Affairs in
25 accordance with AS 29.33.155.

26 * Sec. 2. AS 46.03.720(a) is amended to read:

27 (a) Except when a plat receives approval by the platting board of
28 a municipality in conjunction with the review and approval of a subdivi-
29 sion or dedication under AS 29.33.155, no [NO] person may construct,

1 extend, install or operate a sewerage system or treatment works, or any
2 part of a sewerage system or treatment works, until plans for it are
3 submitted to the department for review and the department approves them
4 in writing and issues a written permit. The review and approval of a
5 plat of a subdivision or dedication by a municipality exempts the
6 department from review of individual subdivision lots under this sub-
7 section.

8 * Sec. 3. AS 29.33.150(1) is amended to read:

9 (1) form, size, and other aspects of subdivisions, dedica-
10 tions, and vacations of land, including but not limited to, standards
11 for review and approval of proposed subdivisions having on-lot sewerage
12 and wastewater treatment and disposal systems;

13 * Sec. 4. AS 29.33 is amended by adding a new section to read:

14 Sec. 29.33.155. STANDARDS FOR SUBDIVISIONS. A municipality which
15 requires subdivision approval may adopt standards applicable for the
16 review and approval of subdivisions with respect to type and location of
17 water sources and sewerage treatment and disposal systems. A copy of
18 the municipality's current ordinance defining standards applicable for
19 the review and approval shall be filed with the commissioner of com-
20 munity and regional affairs. The municipality's ordinance shall provide
21 that a proposed subdivision may not be approved if the subdivision does
22 not meet the standards defined by the municipality.

23 * Sec. 5. AS 29.33.160 is amended by adding a new subsection to read:

24 (c) The platting board may request the Department of Environmental
25 Conservation to review and advise on proposed type and location of water
26 sources and sewerage, sewerage treatment and disposal systems for pro-
27 posed subdivisions submitted for platting board review and approval.

28 * Sec. 6. AS 46.03.020 is amended by adding a new paragraph to read:

29 (12) when requested to do so by a municipality exercising

1 platting and subdivision authority under AS 29.33.155, review proposed
2 type and location of water sources and sewerage, sewerage treatment and
3 disposal systems for proposed subdivisions by application of the munici-
4 pality's ordinances for water supply and sewerage treatment and
5 disposal.

6 * Sec. 7. AS 44.47.050(5) is amended to read:

7 (5) maintain a library or reference file of municipal ordi-
8 nances required to be kept by the department by law, serve as a clearing-
9 house for information useful in solution of community and regional
10 problems, and channel to the appropriate authority requests for
11 documents, information and services;

12 * Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

March 6, 1979

Mueller 2600

The Honorable Bill Parker
Chairman, Community and Regional
Affairs Committee
State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Chairman Parker:

Currently being considered by the Committee on Community and Regional Affairs is House Bill 172. This bill would restrict the authority of the Department of Environmental Conservation to review and approve subdivision plans for suitability for on-site waste disposal to only those areas outside the boundaries of organized municipalities. Presumably, municipalities would have the option of requiring subdivisions to meet requirements similar to those currently imposed by our regulations, or to allow them to be developed and sold without any assurance that a homebuilder can construct an on-lot sewage disposal system.

If this bill were to become law, Alaska can expect severe economic, public health, and environmental consequences. While we fully agree that local governments should take the lead in implementing land use controls through their local planning and zoning programs, many simply do not have the financial or staff resources to conduct technical review of subdivisions for their suitability for on-site waste disposal. Thus, we can expect a number will not undertake this additional task, thus assuring that many subdivisions in organized areas will not be suitable for on-site waste disposal. The present statewide review program has resulted in numerous platting changes to subdivisions to ensure that such disposal is possible, or that an alternative waste collection and disposal system is provided.

Attempts at construction of on-site waste disposal systems on inadequate soils will result in contaminated ground water, a flow of raw human body wastes across the surface of the land, or an untreated discharge to nearby waterways. Substantial threat to public health can result from direct contact with these uncontrolled sewage discharges, or by ingestion of contaminated well water.

In addition to the public health implications, passage of this bill could severely stall new housing starts in Alaska. Presently, Federal home loan financing and guarantee programs require certification by a State or local government agency that land is suitable for on-lot waste disposal before a loan will be approved for a home without community sewer service. Alaskan banks, which administer these Federal funds, inform us that approximately 50 percent of new home loans in Alaska have some Federal funding or guarantee. Naturally, other home loan programs are available, but usually at a substantially higher interest rate.

Review and certification for on-lot waste disposal suitability can occur at either the subdivision-wide level, or on an individual lot basis. Because soil borings must be taken, and analysis must be made by qualified persons, it is far more economical to conduct these investigations on a subdivision-wide basis. If this Department's review and approval of waste disposal capability on a subdivision-wide basis is eliminated in organized municipalities, lending institutions will simply require an investigation on each and every lot before granting a Federal home loan. This will result in greater expense to the home buyer. The Department of Environmental Conservation currently performs single-lot reviews in those areas where subdivision-wide review was not conducted, generally on small or older subdivisions. Because of the additional workload associated with a change from a subdivision-wide to a lot-by-lot review, I anticipate that it will be necessary to add five to ten additional staff to conduct the reviews required by banks handling Federal lending and guarantee programs. I must emphasize that the banks with which we have discussed this program simply will not make such home loans unless they can be assured by a responsible government agency that on-site waste disposal is feasible. Neither they, nor the Federal Government, will take the risk of losing an investment because of a failing waste disposal system, or a contaminated water supply.

If a builder is able to finance his home in another manner, and constructs a waste disposal system which subsequently fails, he may find himself with a home he cannot sell. This situation exists in Eagle River near Anchorage, where homes with contaminated wells and failing sewage systems cannot be sold.

This latter situation has occurred many times in the past--on several occasions to entire subdivisions--where wells will become contaminated from failing sewage systems sometimes affecting hundreds of lots. In some cases, entire families have become seriously ill--even death may result. Eventually, the State and local governments must step in to help, through the construction of complete new community water and sewer

systems. These systems will cost many times what would have been required if they had been installed when the property was first developed; in some cases, even with State and Federal grant funding assistance, the sewer and water assessments far exceed the total original cost of the lots. Just a few examples where this has occurred include Lemeta in Fairbanks, Deborah Subdivision in Eagle River, Mendenhall Valley in Juneau, Island Lake in Kodiak, and Robe River Subdivision in Valdez. Many millions of dollars in State funds have been spent to correct the problems in Lemeta and the Mendenhall Valley. Many others are not yet solved, but are scheduled to cost tens of millions of State and Federal funds.

Apparently, the impetus behind this bill relates to alleged problems the Department of Natural Resources has in disposing of State-owned lands. A recent report by the Division of Lands implies that compliance with subdivision review regulations is an obstacle to the State's land disposition program, especially as regards homesites. Unfortunately, the report tells only part of the story. The Department of Environmental Conservation does not have any requirements concerning private water systems, only regarding waste disposal. Further, regardless of the subdivision review regulations, a small proportion of State-owned lands simply cannot be used for on-site sewage disposal because of bedrock, high water table, muskeg, or other similar problems.

Further, it has been alleged by some that meeting our subdivision waste disposal requirement is overly costly. A review of the Division of Lands' cost analyses indicates that this is simply not the case. The Division of Lands has estimated that, over the next few years, \$618 million will be needed to dispose of State-owned lands. The vast majority of these costs are for road and street construction--only 9 percent is for sewer and water improvements. Roughly one-half of the 9 percent is for community water systems--an improvement which is not required by the Department of Environmental Conservation. The other one-half is for sewage collection and disposal systems proposed by private consultants to the Division of Lands because the soil cannot be used successfully for on-site sewage disposal.

My staff and I are committed to working with the Department of Natural Resources to resolve difficult problem areas, as indeed we are with any land developer. In one case, near Glennallen, our joint efforts actually resulted in more developable lots than originally proposed by DNR's consultant. Except for coordination problems which existed several months ago between my field staff and the Division of Lands and which has since been resolved, DNR has been quite complimentary of our assistance in this unprecedented land disposal effort.

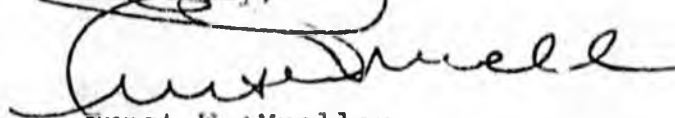
March 6, 1979

This bill would very possibly result in more stringent requirements being imposed on subdivisions outside municipal boundaries than those inside, unless every municipality chose to undertake the expense of establishing a subdivision review program similar to ours. In our view, this is somewhat anomalous--in most cases, municipal requirements are more strict than State requirements.

As you know, DEC regulations presently provide for local governments to carry out subdivision plan review in lieu of the Department. The Municipality of Anchorage is the only municipality to apply for the program and receive approval. No other municipality has even applied for the program in spite of our active encouragement to do so. The requirements are extremely minimal and anything less stringent cannot responsibly be said to protect public health or prevent pollution problems.

As an alternative to this bill, and the other proposal discussed during your February 28 hearing, I would suggest that local governments be specifically granted the authority and the responsibility for controlling on-site sewage disposal problems within their boundaries. This would require that municipalities develop and implement a program which is at least as stringent as the State's in a manner similar to that of Anchorage. Only in this manner can we ensure that even a minimal level of protection is afforded to those who buy land in Alaska, protection against severe threats to public health, some assurance they can finance their new homes, and protection against the loss of a portion of their substantial investment.

Sincerely,



Ernst W. Mueller
Commissioner

cc: Committee Members
Mr. Keith Specking

SUMMARY

Among other things, Chapter 181 SLA 1978 (HB 720) required the Division of Lands to dispose of 30,000 acres of Homesite and Open-to-Entry lands during Fiscal Year 1979. This report describes how this will be accomplished and discusses options for this and future years.

A number of problems have been encountered by the Division in meeting this requirement: (1) The fiscal note that accompanied House Bill 720 (the precursor to Chapter 181 SLA 1978) did not contain sufficient money to survey the 30,000 acres of subdivisions required if the land is to be made available where the public wants it -- generally in organized boroughs. (2) The Cook Inlet Land Exchange and the Municipal Selection Act which also passed in 1978 have temporarily complicated existing title problems. Much land slated by the Division for disposal was selected either by municipalities or the Cook Inlet Regional Corporation under those two authorizations. (3) Land to be disposed of in small parcels (under 40 acres) within boroughs must be subdivided in accord with Borough subdivision regulations. In most boroughs these regulations include development of physical access, which requires not only money but time. (4) Department of Environmental Conservation regulations require review of any subdivision to ensure that onsite sewage disposal is possible. In some cases inside boroughs this results in substantial requirements for investment in sewer and/or water systems before the subdivision is approved.

The program that the Division has undertaken for the remainder of the fiscal year will meet the 30,000 acre requirement and surmount the problems listed above. The disposals will be made in three general categories:

1. Existing and planned subdivisions - 11,500 acres. These subdivisions are principally outside the boroughs so that the subdivision regulations do not apply.
2. Miscellaneous lots and large parcels open-to-entry - 8,000 acres. On surveyed lands there is no limit to the size of parcel that may be offered under the open-to-entry program. This category includes parcels of 40 acres or more for which there is no basic reason for retention in state ownership as well as various odd lots in existing subdivisions.
3. Dispersed open-to-entry - 16,750 acres. This is a modification of the existing open-to-entry program which limits the density of settlement, as requested by many Alaskans. This acreage represents in excess of 3,300 parcels which will be offered to individuals.

In sum this plan totals approximately 36,250 acres (to allow for shrinkage during review processes) which will be made available in approximately 5,000 individual parcels during the months of April to June 1979.

Other requirements of Chapter 181 include development of a needs assessment program, the redesignation of mental health land, presentation of a three level budget and an extensive revision of the regulations. All of these have been completed and are described in this report.

(c) The department will, in its discretion, require that the designs for sewerage systems and treatment works in remote areas have a history of successful operation in comparable environmental situations. Sewerage systems or treatment works also must be designed to successfully operate under the conditions of seasonal frost or perennial frost encountered in the areas where the construction is proposed.

(d) If any construction or other activity is intended which might render water of the state inaccessible or uninhabitable for spawning or propagation of salmon, or cause violations of the Water Quality Standards in ch. 70 of this title, the required submission of plans shall contain the following information:

(1) a detailed description of and timetable for the proposed construction or other activity; and

(2) other information the department requires to fully assess the impact of the proposed activity upon the waters.

(e) The department will, within 30 days of receipt of complete plans, approve plans submitted under this section if the applicant demonstrates that the sewerage system or treatment works will meet the requirements of this chapter and ch. 70 of this title.

(f) The department will, in its discretion, attach terms and conditions to approved plans necessary to insure compliance with the requirements of this chapter and ch. 70 of this title.

(g) For the purpose of reviewing plans required to be submitted under this section, the department will use, where applicable, the design criteria contained in the following:

(1) Sewage Treatment Plant Design, Manual of Practice Number 8, 1976, and Design and Construction of Sanitary and Storm Sewers, Manual of Practice Number 9, 1970; Water Pollution Control Federation, 3900 Wisconsin Avenue, Washington, D.C. 20016;

(2) Glossary -- Water and Wastewater Control Engineering, Joint Editorial Board, American Public Health Association, American Society of

Civil Engineers, American Water Works Association and Water Pollution Control Federation, 1969; available from Water Pollution Control Federation, 3900 Wisconsin Avenue, Washington, D.C. 20016;

(3) Wastewater Engineering: Collection, Treatment, Disposal; Metcalf and Eddy, Inc., 1972, McGraw-Hill Book Company, New York, N.Y.;

(4) Recommended Standards for Sewage Works, Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, Health Education Service, P.O. Box 7283, Albany, New York 12224.

(h) Copies of the referenced materials are on file in the lieutenant governor's office, and may be reviewed in any of the regional offices of the department.

(i) No person may install a package aerobic sewage treatment plant unless the plant, or a similar model in a series of plants, has been certified by the National Sanitation Foundation, unless it can be demonstrated to the department's satisfaction that the plant meets or exceeds the National Sanitation Foundation certification criteria. Approval of package plants will be made only on receipt of acceptable proof of satisfactory operation of similar systems under conditions of proposed use. A list of approved package aerobic sewage treatment plants is available from any of the regional offices of the department. (Eff. 8/10/73, Reg. 47; am 2/3/77, Reg. 61; am 3/4/78, Reg. 65)

Authority: AS 16.10.010

AS 46.03.020(10)(A)

AS 46.03.050

AS 46.03.090

AS 46.03.720

18 AAC 72.065. SUBDIVISION PLAN REVIEW. (a) Before or within five days after the time of the filing of a proposed subdivision plat with a platting authority, or, where no subdivision plat is filed with a platting authority, at least 60 days before subdividing, the person proposing the subdivision, unless the subdivision is an isolated subdivision, shall submit to the department the following information:

(1) a map of the proposed subdivision

showing lot and street layout with lot dimensions and areas, contours sufficient to show topography, drainage, all marshy or muskeg areas, and any existing or proposed improvements or bodies of water within 200 feet of the proposed subdivision;

(2) recommended or proposed type and location of water sources and sewage treatment and disposal systems on a typical lot diagram in relation to water sources and sewage treatment and disposal systems on adjacent lots;

(3) to the extent ascertainable, a statement concerning the possibility of any future community water or sewerage systems and an approximate timetable for their development;

(4) representative soil testing, logs, and borings, prepared by a professional engineer registered in the State of Alaska, in an area sufficient to determine whether soils are suitable for on-site sewage disposal and to determine the area required for soil absorption systems; however, soil tests, logs, and borings are not required if the subdivision plat clearly indicates that the area for which representative tests, logs, and borings will not be made will not be used for residential or other development which would necessitate domestic sewage treatment and disposal; moreover, representative tests, logs, and borings are not required if a means of sewage treatment and disposal other than soil absorption systems is proposed under (2) of this subsection; and

(5) a statement concerning responsibility for construction, operation and maintenance of water supply and sewage treatment and disposal facilities in the proposed subdivision.

(b) No person creating a subdivision after the effective date of this section, except an isolated subdivision, may sell, contract to sell, lease, or otherwise convey an interest in any lot or lots within that subdivision if plan approval has not previously been granted for that subdivision by the department under this section.

(c) It is the responsibility of the subdivider to provide evidence of plan approval under this section to prospective buyers, lessees or promisees.

(d) Within 30 days of submission of complete plans, the department will approve the plans if the applicant demonstrates that

(1) where the person proposing the subdivision assumes responsibility for sewage treatment and disposal within the subdivision, the proposed manner of sewage treatment and disposal will meet the requirements of this chapter and ch. 70 of this title; or

(2) where the person proposing the subdivision does not assume responsibility for sewage treatment and disposal within the subdivision, there will exist practicable means of sewage treatment and disposal within the subdivision which will meet the requirements of this chapter and ch. 70 of this title.

(e) The department will, in its discretion, attach terms and conditions to approved plans necessary to insure compliance with the requirements of this chapter and ch. 70 of this title. (Eff. 2/3/77, Reg. 61; am 3/4/78, Reg. 65)

Authority: AS 46.03.020(10)(A)
AS 46.03.050
AS 46.03.090

18 AAC 72.068. WAIVER OF SUBDIVISION PLAN REVIEW IN QUALIFIED JURISDICTIONS. (a) A platting authority may petition the department to waive the exercise of sec. 65 of this chapter within its jurisdiction. The petition shall contain

(1) a copy of all pertinent ordinances relating to the review of sewage treatment and disposal matters for subdivisions;

(2) a statement of all pertinent administrative and judicial enforcement processes available to the platting authority; and

(3) a statement of administrative organization, staff, funding and other resources available to the platting authority to administer and enforce its sewage treatment and disposal requirements.

(b) Within 90 days of receipt of a completed petition, the department will grant the petition if the applicant demonstrates that, based upon the information submitted under (a) of this

section and in light of the department's own investigation

(1) the ordinances of the platting authority governing sewage treatment and disposal matters in subdivisions are at least as stringent as the requirements of this chapter and ch. 70 of this title; and

(2) the platting authority possesses sufficient resources and enforcement authorities to insure uniform compliance with sewage treatment and disposal requirements, and is in fact consistently and uniformly applying and enforcing its ordinances regarding sewage treatment and disposal matters in subdivisions.

(c) A preliminary decision by the department to deny a petition will be served upon the platting authority in the manner prescribed by AS 44.62.370. A denial of a petition entitles the platting authority to an adjudicatory hearing which will be conducted under the Administrative Procedure Act (AS 44.62.350 et seq.).

(d) If the department has reason to believe that a platting authority for which a petition has been granted under this section is no longer meeting a requirement of (b) of this section, the department will, in its discretion, reassert the authority exercised through sec. 65 of this chapter within the jurisdiction of the platting authority. A preliminary decision to reassert authority will be served upon the platting authority in the manner prescribed by AS 44.62.360. A decision to reassert authority entitles the platting authority to an adjudicatory hearing which will be conducted under the Administrative Procedure Act.

(e) Upon final departmental action reasserting authority under (d) of this section, the requirements of sec. 65 of this chapter apply to any person proposing a subdivision who has not subdivided before the effective date of the reassertion of authority. (Eff. 2/3/77, Reg. 61)

Authority: AS 46.03.020(10)(A)
AS 46.03.090

18 AAC 72.070. OPERATIONAL REPORTS. The department may require that persons who own or operate a wastewater treatment works submit routine operational reports on forms

supplied by the department. (Eff. 8/10/73, Reg. 47)

Authority: AS 46.03.020(10)(A)
AS 46.03.020(10)(D)

18 AAC 72.080. EMERGENCY NOTIFICATION. (a) The owner or operator of community or industrial liquid sewerage systems or treatment works shall report to the department within 24 hours by telephone or telegraph or, in the absence of both, by mail, in the event of

(1) treatment works out of operation for a period greater than six hours;

(2) chlorine accident, spill, or outage;

(3) treatment works flooding;

(4) sludge carry-over, washout, or overflow;

(5) any bypass of treatment works or part thereof during periods of high flow or equipment breakdown.

(b) A follow-up written report shall be sent to the department within seven days of the event reported.

(c) The written report shall contain but not be limited to

(1) times and dates of the event;

(2) a detailed description of the event, including quantities of sewage involved;

(3) details of any damage to receiving waters;

(4) actions taken to correct the causes of the event. (Eff. 8/10/73, Reg. 47)

Authority: AS 46.03.020(10)(A)
AS 46.03.020(10)(D)
AS 46.03.710

18 AAC 72.090. PENALTY. Repealed. (Eff. 4/1/77, Reg. 61)

18 AAC 72.100. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "cesspool" means a subsurface pit which receives untreated sewage;

of quality and purity or group the designated waters of the state into classes as to minimum quality and purity, or both. The department shall classify waters in accordance with considerations of best usage in the interest of the public. The department may alter and modify classifications after hearing. (§ 3 ch 120 SLA 1971)

ALR references. — Statute prescribing standard of purity of water furnished for human consumption, 6 ALR 475.

Sec. 46.03.090. Plans for pollution disposal. The department may require the submission of plans for sewage and industrial waste disposal or treatment or both for a publicly or privately owned or operated industrial establishment, community, public or private property subdivision or development. (§ 3 ch 120 SLA 1971)

Sec. 46.03.100. Waste disposal permit. (a) A person who conducts an operation which results in the disposal of solid or liquid waste material or heated process or cooling water into the waters or onto the land of the state must procure a permit from the department before disposing of the waste material or water. The permit must be obtained for direct disposal and for disposal into publicly operated sewerage systems.

(b) This section does not apply to a person discharging only domestic sewage into a sewerage system. (§ 3 ch 120 SLA 1971; am § 3 ch 220 SLA 1976)

Effect of amendment. — The 1976 amendment in the first sentence of subsection (a), substituted "an operation" for "a commercial or industrial operation," inserted "or heated process or cooling water" and "or onto the land," and added "or water" to the end of the sentence.

Sec. 46.03.110. Waste disposal permit procedure. (a) An application for a permit shall be made on forms prescribed by the department or on forms prescribed by the United States Environmental Protection Agency and shall contain the name and address of the applicant, a description of his operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and any other information considered necessary by the department. Application for permit shall be made at least 60 days before commencement of a proposed discharge.

(b) Upon receipt of a proper application the department shall publish notice of the application in two separate publications of a newspaper of general circulation within the general area in which the disposal of waste material is proposed to be made. The notice may also be published in other appropriate information media. The notice shall include a statement that a person who wants to present his views to the department in regard to the application may do so in writing to the

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PMS REP MARGARET BRANSON
COMMITTEE FOR REGIONAL AFFAIRS
JUNEAU

THE CITY OF CORDOVA STRONGLY OBJECTS TO HB172 AND ASKS THE ADEC
SUBDIVISION PLAN REVIEW COMPLEMENTS OUR CITY REGULATIONS AND WE
HAVE A VERY GOOD WORKING RELATIONSHIP WITH ADEC ON POLLUTION
DISPOSAL PROBLEMS WHERE THEY LEND TECHNICAL SUPPORT THAT WE ARE
NOT QUALIFIED TO GIVE
CITY OF CORDOVA

TELEGRAM

ALASKA COMMUNICATIONS, INC.
PHONE: 855-442
JUNEAU, ALASKA 99802

1979 MAR 9

PM

550

Original sponsor: Freeman

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 172

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to review and approval of subdivision
7 and development plans by municipalities; and providing
8 for an effective date."

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

10 * Section 1. AS 46.03.090 is amended to read:

11 Sec. 46.03.090. PLANS FOR POLLUTION DISPOSAL. The department may
12 require the submission of plans

13 (1) for sewage and industrial waste disposal or treatment or
14 both for a publicly or privately owned or operated industrial establish-
15 ment[,]; and

16 (2) for a community, public or private property subdivision
17 or development only

18 (A) if that subdivision or development is located out-
19 side a municipality which exercises platting and subdivision
20 approval authority under AS 29.33.150 - 29.33.240; or

21 (B) if, in a municipality which exercises platting and
22 subdivision approval authority, standards applicable to the re-
23 view and approval of subdivision plats have not been adopted and
24 filed with the Department of Community and Regional Affairs in
25 accordance with AS 29.33.155.

26 * Sec. 2. AS 46.03.720(a) is amended to read:

27 (a) Except when construction, extension or installation of a
28 sewerage system or treatment works receives approval by the platting
29 board of a municipality in conjunction with the review and approval of

1 a subdivision or dedication under AS 29.33.150 and 29.33.155, no [NO]
2 person may construct, extend, install or operate a sewerage system or
3 treatment works, or any part of a sewerage system or treatment works,
4 until plans for it are submitted to the department for review and the
5 department approves them in writing and issues a written permit.

6 * Sec. 3. AS 29.33.150(1) is amended to read:

7 (1) form, size, and other aspects of subdivisions, dedica-
8 tions, and vacations of land, including but not limited to, standards
9 for review and approval of proposed subdivisions having sewerage and
10 wastewater treatment and disposal systems, including on-lot treatment
11 and disposal systems;

12 * Sec. 4. AS 29.33 is amended by adding a new section to read:

13 Sec. 29.33.155. STANDARDS FOR SUBDIVISIONS. The municipality
14 shall adopt standards applicable for the review and approval of subdivi-
15 sions with respect to type and location of water sources and sewerage
16 treatment and disposal systems. A copy of the municipality's current
17 ordinance defining standards applicable for the review and approval
18 shall be filed with the commissioner of community and regional affairs.
19 The municipality's ordinance shall provide that a proposed subdivision
20 may not be approved if the subdivision does not contain soils suitable
21 for effective absorption of discharged wastewater or if treatment and
22 disposal results in the release of wastewater which does not meet water
23 quality criteria defined by the municipality.

24 * Sec. 5. AS 29.33.160 is amended by adding a new subsection to read:

25 (c) The platting board may request the Department of Environmental
26 Conservation to review and advise on proposed type and location of water
27 sources and sewerage treatment and disposal systems for proposed sub-
28 divisions submitted for platting board review and approval.

29 * Sec. 6. AS 46.03.020 is amended by adding a new paragraph to read:

1 (12) when requested to do so by a municipality exercising
2 platting and subdivision authority under AS 29.33.150, review proposed
3 type and location of water sources and sewerage treatment and disposal
4 systems for proposed subdivisions by application of the municipality's
5 ordinances for water supply and sewerage treatment and disposal.

6 * Sec. 7. AS 44.47.050(5) is amended to read:

7 (5) maintain a library or reference file of municipal ordi-
8 nances required to be kept by the department by law, serve as a
9 clearinghouse for information useful in solution of community and
10 regional problems, and channel to the appropriate authority requests for
11 documents, information and services;

12 * Sec. 8. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).