

HB

72

SUPPLEMENTAL FISCAL NOTE, TO COVER COSTS
ASSOCIATED WITH DEVELOPMENT OF AN IN-STATE
HAZARDOUS WASTE SECURE LANDFILL

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB-72
 Title Act relating to the disposal of radioactive and hazardous wastes
 Requested by Rogers, Gardiner, Clocksin and Miller Date _____

II. FISCAL DETAIL

Agency Affected Environmental Conservation
 Program Category Affected Environmental Conservation
 BRU, Program, or Subprogram(s) Affected Environmental Quality Management; Env. Quality Operation:
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-	-	58.3	64.1	70.5	77.6
200 TRAVEL	-	-	12.0	7.0	7.7	8.6
300 CONTRACTUAL	-	150.0	2,225.0	15.0	16.5	18.1
400 COMMODITIES	-	-	2.0	2.0	2.0	2.0
500 EQUIPMENT	-	-	10.0	2.0	2.0	2.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-	150.0	2,307.3	90.1	98.7	108.3

FUNDING (Thousands of Dollars)

GENERAL FUND	-	150.0	2,307.3	90.1	98.7	108.7
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-	-	1	1	1	1
PART TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

HB-72 as originally written did not allow for any in-state disposal of hazardous waste. However, a proposed change to Sec. 18.31.010, if adopted, would allow for in-state disposal of those wastes which could not be recycled or rendered harmless. The only way to safely dispose of those wastes which cannot be recycled is in a "secure landfill", which is a carefully located, designed and operated facility which will assure that the deposited wastes will have no adverse effects on the public health or environment.

Other states are becoming increasingly reluctant to accept out-of-state hazardous wastes, and this reluctance will be more pronounced in years to come, particularly as the quantities of waste increase, as will happen in Alaska. As Alaskan industry develops, there will be a critical need to provide for disposal of hazardous wastes. This fiscal note identifies the steps which

IV. DATE March 10, 1981 PREPARED BY Thomas R. Hanna
 AGENCY Dept. of Environmental Conservation
 PHONE 465-2666
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

must be taken to develop an in-state hazardous waste secure landfill. The assumptions on which this fiscal note are as follows:

1. There are hazardous waste disposal site locations within the state which are accessible, capable of being developed and maintained in an environmentally safe manner for an indefinite time period, and acceptable to the public.
2. Only low-level radioactive waste, and hazardous waste, generated within the state will be disposed in the secure landfill.
3. The state will own the landfill, set standards and criteria for its operation, and periodically inspect to assure that it is operated and maintained in an environmentally acceptable manner. Operation and maintenance of the facility will be carried out by a private operator on contract to the state.
4. There will be a 10% inflation for each year beyond FY-82.

FY-82 ACTIVITIES AND COSTS

During FY-82 a feasibility study to identify suitable sites for a secure landfill is needed. This study would be conducted by consultant under contract from the department, to have several alternative sites selected by January, 1982. The feasibility study will cost \$100,000, plus \$50,000 for sampling of groundwater and soil characteristics at the final candidate site locations (prior to announcing the results of the study).

A detailed plan of developing the site, including the types of wastes expected to be handled, the means of transportation of the wastes, and the associated costs, will be presented to the legislature.

FY-83 ACTIVITIES AND COSTS

During FY-83, the landfill design details will be finalized. One person full-time will be needed to oversee the effort, handle contract negotiations, assure that the landfill is designed and constructed, and operated properly. The costs associated with this phase could vary substantially depending on the site location and final design details, and the costs listed should be considered only appropriate. Underwriting of costs by industry could substantially reduce these costs to the state, and alternative financing means will be evaluated.

1. Cost of Department Position, to oversee design, construction and operation of facility:

Personal Services (R20)	58.3
Travel	12.0
Contractual	25.0
Commodities	2.0
Equipment	10.0

Subtotal	<u>107.3</u>
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2. Detailed design of facility (by contract)	\$ 200.0
Will include site layout, support facilities, logistics, in-depth site testing of soils, groundwater, design of cell membranes, cell depths and locations/characteristics, leachage control system design	
3. Construction of facility and startup (by contract)	\$2,000.0
Includes all construction associated with facility and including all items mentioned in (2) above, construction quality assurance and inspections, landfill equipment	
<u>TOTAL FY-83:</u>	<u>\$2,307.3</u>

FY-84 AND BEYOND

Operational costs are likely to run between \$500,000 and \$1,000,000, and will be highly dependent on site location, amount and types of wastes disposed of, and the disposal fees to be charged. The actual costs should be covered by the disposal fees charged, however, and the only costs to the State General Fund would be those to fund the full-time landfill inspection position.

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Membership Comments Requested on Disposal of High-Level Radioactive Waste

The Government, Energy, and Minerals (GEM) Committee of the Society of Mining Engineers reviewed the following policy statement on disposal of high-level radioactive waste. This statement was adopted by the Association of Engineering Geologists with the request that SME-AIME endorse and publicize the statement.

Before presentation to the SME-AIME Board of Directors for endorsement, the GEM Committee requests input from the membership. Address comments to GEM Committee, c/o Claude L. Crowley, Society of Mining Engineers, Caller No. D, Littleton, CO 80127.

Association of Engineering Geologists Policy Statement on Disposal of High-Level Radioactive Waste

Adopted by the AEG Board of Directors
June 27, 1980

It is the position of the Association of Engineering Geologists that radioactive nuclear wastes can be safely isolated and disposed of by deep underground burial in secure geological environments. The scientific and technical means to locate and define the boundaries of these environs and to achieve such safe disposal is well developed and increasing. Sufficient criteria have now been established to permit responsible selection of candidate sites. A sense of urgency regarding safe disposal of nuclear wastes prevails, and it can and must be satisfied.

The waste is dangerous over a long period of time and many people are so conditioned in this concept that they tend to react emotionally rather than objectively when radioactive waste is mentioned. This has resulted in a call to cease construction of nuclear power plants and passage of laws to prohibit the disposal of nuclear waste.

Nuclear waste has been produced from civil and military activity. This accumulated waste must be disposed of soon because present temporary storage facilities are not designed for permanent separation of the waste from the biosphere.

One of the methods of isolation of the waste is deep burial in specially excavated spaces in structurally adequate bedrock where ground water is absent or will not return to the biosphere carrying with it waste materials and where erosion will not expose the waste during its radioactive lifetime. To these conditions is added a requirement for a location such that future societies will most probably never expose the waste inadvertently. The location and demonstration of the feasible, acceptable character of such sites is a geological problem. It can be solved by the investigative and analytical methods now available within the geological professions.

Repository sites should be strategically located, as far as geological and subsurface conditions permit, with respect to the regional distribution of nuclear facilities. Each site should be selected only on the basis of a progressive sequence of comprehensive investigations.

Primary considerations in the selection of each repository site must be long-term geological integrity of the host rock through natural retardation of radionuclide travel and amenability to simple, proven, and reliable methods of engineered design and construction. Safe disposal sites can be found in several types of rock. Technologies exist to ensure selection of disposal sites in these geologic media which can provide long-term integrity without harmful effects due to migration of radioactive materials to the biosphere.

Each disposal site should be selected and developed cooperatively by governmental entities, private industry and academic researchers. Full and open disclosure must be an integral part of the entire process to assure the protection of the health, welfare and safety of the public. The selection process should proceed with all deliberate speed.

Leslie C. Gates
Chairman,
SME-AIME GEM Committee

DRAFT

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

TESTIMONY ON HB-72

RELATING TO THE DISPOSAL OF RADIOACTIVE AND HAZARDOUS WASTES

FEBRUARY 13, 1981

The Department of Environmental Conservation welcomes the opportunity to review and comment on HB-72, relating to the transportation, storage, and disposal of nuclear and other hazardous waste material in Alaska. The Department strongly supports legislation on these two important environmental concerns.

Before getting into our detailed testimony, we would like to indicate that there is other legislation relating to hazardous and radioactive wastes. SB-29, which is now in the Senate Judiciary Committee, covers the transportation and disposal of nuclear waste - our comments today on nuclear wastes will be similar to our earlier testimony on SB-29 which we also support. In addition, the Administration is about to submit a hazardous waste bill within the next one to two weeks. We hope that all of these bills will be made compatible with each other, and possibly consolidated into one comprehensive bill which is suggested by HB-72. We would like to now present our testimony on the bill (HB-72), first discussing the portions dealing with radioactive wastes, and then discussing that portion dealing with hazardous wastes.

Radioactive wastes:

The portion of the bill relating to radioactive wastes (Section 18.45.025 and 46.03.842-844) is similar to SB-29, which has undergone several hearings

already in this legislative session. These sections require that any new facility producing, using, or disposing of high level nuclear waste material must first obtain a permit from the department. It also requires that the department adopt regulations governing issuance of these permits and that these regulations and any permits cannot be issued unless the legislature, local government, and governor have given approval. As written, this portion of the bill will clearly state the legislature's intent that these highly toxic wastes should not be disposed of in Alaska. The Department supports this policy, and would like to recommend several relatively minor changes in wording, to avoid potential problems which are otherwise likely to result:

- (1) As written, Section 18.45.025 may be in conflict with the recent State Supreme Court decision concerning legislative review and approval of regulation and permits, in particular subsections (1) and (3). We have attached SB-29 which eliminated these two conditions, along with a copy of our testimony on that bill. We understand that the Senate Judiciary Committee is now considering language which would be compatible with the court case and yet still provide for legislative oversight on this important environmental issue. This Committee might want to consider changes to this portion of the Act to make it compatible with the court decision.
- (2) Section 46.03.842 covers transportation of "nuclear wastes". As it is now written, it will also prohibit nuclear materials used for medicine, industry, and research, much of which is low-level material which could adequately transported and safely deposited in properly constructed landfills without posing a threat to health or the environment. Especially considering the likely increase in growth in the state and the need for

these activities, we recommend that this section refer only to high-level nuclear wastes, by including "high-level" in front of "nuclear wastes" in the section. This wording is included on the attachment to this testimony.

- (3) The Committee should be aware that there are other existing statutes relating to the disposal of radioactive wastes: AS 46.03.250 and AS 46.03.260 also cover the adoption, regulation, and issuance of permits for disposal of radioactive wastes. In an effort to clarify the jurisdiction of these statutes with those proposed in HB-72, the department recommends that a slight housekeeping amendment be added to the bill to make these statutes to apply only to low-level radioactive wastes. The suggested changes to these statutes are also included on the attachment, which would then allow the department to regulate the disposal of low-level radioactive wastes through regulation and permit, whereas high-level nuclear wastes would come under the considerably more stringent requirements of other sections in this bill.

Hazardous Wastes:

The portion of the bill dealing with all hazardous wastes would provide the department explicit authority to adopt regulations for the safe disposal of hazardous wastes in the state. At this time there are no detailed standards or criteria established in Alaska covering hazardous materials, yet these substances can easily cause a threat to public health and environment if improperly handled, transported, or disposed of.

Hazardous wastes are generated by virtually every part of the Alaskan economy. Not only does major industry generate these materials, but they also are generated by small businesses and commercial establishments, government operations, and virtually every individual in the state. These wastes can include anything which is ignitable, reactive, toxic or corrosive, and would include such common substances as paint thinners, wood preservatives, acids, and a wide variety of chemicals and petroleum substances which can be hazardous if not properly handled and disposed of. However, there is very little widespread knowledge of how these materials should be handled. Worse yet, there are few adequate disposal facilities (none in Alaska) which can handle these substances without eventually causing a hazard to the environment.

The department very strongly supports the need for regulations and safeguards in this environmental effort, and to have specific legislative intent defined in the Alaska statutes. This currently does not exist except for general environmental protection authorities as stated in AS 46.03.020(10).

One concern on HB-72 is that Section 18.31.010 would make it unlawful to dispose of hazardous waste in the state unless "the waste has been processed to remove its harmful properties". The department strongly supports the need to reduce these hazardous to the maximum extent possible, and this can be done through recycling and/or incineration. Through these means about 80-85% of the total volume of hazardous wastes can be eliminated or rendered harmless, provided that proper facilities are available. However, the remaining 15-20% of the wastes will still need some means

ATTACHMENT TO
DEPARTMENT OF ENVIRONMENTAL CONSERVATION'S
TESTIMONY ON HB-72

SUGGESTED CHANGES TO HB-72
RELATING TO RADIOACTIVE AND HAZARDOUS WASTES

ADDITION OF "HIGH-LEVEL" TO SEC. 46.03.842 AS FOLLOWS:

Section 46.03.842. TRANSPORTATION OF NUCLEAR WASTE MATERIAL. The transportation of high level nuclear waste material in the state, except for purposes of disposal outside the state, is prohibited.

MODIFICATION OF SEC. 18.31.010 AS FOLLOWS:

Section 18.31.010. DISPOSAL OF HAZARDOUS WASTE PROHIBITED. It is unlawful to dispose of hazardous waste in the state, unless it has been subjected to best available disposal techniques and cannot be rendered harmless, its harmful properties cannot be removed or the wastes recycled. Disposal shall be in accordance with regulations adopted by the department, and done in such a manner as to protect the public health, livestock, wild-life and the environment.

ADDITION OF THE FOLLOWING NEW SECTIONS:

Sec. 46.03.250. AUTHORITY. The department shall adopt regulations establishing standards governing the discharge of low level radiation (RADIONUCLIDES) to the air, water, land and subsurface of the state.

Sec. 46.03.260. USE OF ATOMIC RADIATION. A person who conducts an operation which results in the discharge of low level radiation (RADIONUCLIDES) to the air, water, land or subsurface land of the state must obtain a permit from the department before commencing the discharge.

A M E N D M E N T

In the SENATE

BY RODEY

To: SB 29

Page 1, line 13:

After "Conservation" insert "to construct the facility on land designated by the legislature under (b) of this section".

Page 1, after line 13:

Insert

"(b) The legislature shall designate by law the land in the state on which a nuclear fuel production, utilization, reprocessing or disposal facility may be located."

Page 1, line 14:

Change "(b)" to "(c)"

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Testimony on SB-29

Relating to the Disposal of Radioactive Wastes

February 4, 1981

The Department of Environmental Conservation welcomes the opportunity to review and comment on SB-29, relating to the disposal of radioactive wastes in Alaska. We support this bill, and feel that it will provide much-needed clarification to existing Alaska Statutes relating to the handling and disposal of nuclear wastes.

As written, SB-29 will accomplish four things. First, it will eliminate certain aspects of the currently existing Alaska Statute 18.45.025 which would be found to be unconstitutional under the terms of a recent state supreme court decision. These changes would take the legislature out of the formal process of reviewing and approving regulations and permits relating to the disposal of nuclear wastes. However, the Department would still have to obtain local government and governor approval to either activity. These conditions are retained from the present AS 18.45.025, and are supported by the Department as desirable preconditions for issuing permits for high level nuclear activities.

The second thing accomplished by the bill will be to prohibit the disposal of high level wastes. This portion of the bill will clearly indicate the legislature's intent that these highly toxic wastes should not be disposed of in Alaska.

The third part of the bill, which was added in the Senate Resources Committee, will amend AS 46.03.250 and AS 46.03.260 to apply to low level radiation only. This change will eliminate overlapping jurisdictions which currently exist between these statutes and AS 18.45.025, which is included in the first part of this bill. The Department supports this change, which will clarify the legislature's intent on regulating low level radioactive waste disposal.

The last effect of this bill will be to prohibit the transportation of nuclear wastes in the state, except for the purpose of disposal outside of the state. The Department supports this portion of the bill, with the understanding that its intent is to apply to high level wastes only. Low level radiation is used in numerous application in Alaska, primarily in research, medicine and instrumentation, and transportation of these materials can be done in a safe manner as long as adequate handling procedures are followed. These low level materials were specifically excluded from the definition of "high level nuclear waste material" found in the bill. To clarify this portion of the bill, the Department recommends that the words "high level" be added to the proposed AS 18.45.027 as follows:

"Section 18.45.027. TRANSPORTATION OF NUCLEAR WASTE MATERIAL.

The transportation of high level nuclear waste material in the state, except ^{for} purposes of disposal outside of the state, is prohibited."

The Department thanks the Committee for consideration of our comments, and we would be glad to respond to any questions or provide additional information.

of disposal. While it would be nice if other states would take these wastes, the trend across the country is that fewer and fewer waste disposal sites (as well as states) are willing to take on the burden of waste disposal from other states.

This trend is likely to continue, and it may be possible out-of-state disposal sites would not be available to Alaskan wastes within the next five years. Consequently, the department recommends that modifications be made to Section 18.31.010 to allow for the disposal of hazardous wastes within the state but only under very carefully prescribed conditions, and at the same time require the best available disposal practices be used so that the amount and risk of these wastes will be minimized. Suggested language is attached to our testimony which should accomplish these two objectives.

This bill will require a fiscal note, to cover the expense of field and technical personnel to help the Alaskan public and industry in properly disposing of these materials. This note will be provided to the Committee no later than February 18, along with an explanation of what is covered in the fiscal note and how the Department will establish an effective hazardous waste control program under this legislation.

The department thanks the committee for consideration of our comments and for the opportunity to present oral testimony on this bill. We would be glad to respond to any questions or provide any additional information which might be requested.

A M E N D M E N T

Offered in the HOUSE

BY VASKA

TO: HB 72

Page 2, lines 24 and 25, delete all material and replace with:

(2) approval of the permit has been obtained as required in (c) of this section [THE LOCAL GOVERNMENT WITH JURISDICTION OVER THE PROPOSED FACILITY SITE HAS APPROVED THE PERMIT];

Page 2, following line 28, insert:

(c) If the nuclear fuel production facility, utilization facility, or reprocessing facility is to be located in a city, borough, or unified municipality, a permit may not be issued under this section unless the governing body of the city, borough, or unified municipality approves the issuance of the permit. If the nuclear fuel production facility, utilization facility, or reprocessing facility is to be located in the unorganized borough, a permit may not be issued under this section unless a majority of the registered voters who live within 100 miles of the proposed facility vote to approve the issuance of the permit for the facility at a general or special election of the state called for the purpose.

League of Women Voters of Alaska

8926 Birch Lane
Juneau, AK 99801
February 12, 1981

The Honorable Terry Gardiner and
Fred Zharoff, Co-Chairmen
House Resources Committee
Alaska Legislature
Juneau, AK 99811

Re: House Bill 72 (Hazardous and Nuclear Wastes)

Dear Representatives Gardiner and Zharoff & Committee Members:

The League of Women Voters of Alaska supports enactment of House Bill 72, especially proposed new AS 46.03.844 (prohibiting in-state storage of high level nuclear waste material).

We do ask, however, that the Committee consider incorporating into the legislative history, as guidance to the Department of Environmental Conservation when drafting its facility siting permit regulations pursuant to AS 18.45.025, the League's "criteria for evaluating suitability of storage or disposal sites for hazards and nuclear (including low-level radioactive) waste." A copy of these criteria is attached as Exhibit A. As the title implies, these criteria are applicable not only to nuclear waste storage and disposal sites, but also to hazardous chemical waste storage and disposal sites. Presumably the only nuclear waste storage facilities which could be permitted (under the legislation written) would be for storage of low level radioactive waste and the League's "criteria" apply to those facilities as well.

With respect to hazardous chemical waste storage and disposal facilities, the League has not attempted in preparing these comments, to analyze House Bill 72 for consistency with the federal Resource Conservation and Recovery Act (RCRA) and pertinent regulations thereunder (e.g., 40 CFR Part 123, State Programs), so that the resulting Alaska statutes would enable the State to take over the

implementation of RCRA in Alaska if that is desired. Such an analysis is recommended, and the Department of Environmental Conservation (based on studies it has under way) may be able to provide valuable comments in that regard. We would not wish to see the nuclear waste provisions of the bill delayed, however, awaiting lengthy analysis of the chemical waste portions.

The Committee's attention is invited to a possible problem posed by proposed AS 46.03.842, which prohibits transportation of all nuclear waste material in this state except for purposes of disposal outside the state. We question whether it was not the intent to prohibit in-state transportation of high level nuclear waste material in the state. The present wording will prohibit all in-state transport of even those low level radioactive materials used in medicine, education or scientific research, which presumably should be taken away from the Alaskan institutions or hospitals where they have been used and stored in a suitably permitted Alaskan disposal facility limited to low level radioactive materials storage. Do Alaskans prefer to continue storing our low-level radioactive wastes in the State of Washington indefinitely, or should we be taking responsibility ourselves for storage of the low-level radioactive wastes we generate?

Finally, the Committee should be aware that since the A.L.I.V.E. decision, statutory provisions for the Legislature to approve regulations by the mechanism of a concurrent resolution no longer have any legal effect. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980). We are referring specifically to AS 18.45.025(b)(1). It may be that Subsection (b)(3), concerning legislative approval of a facility permit by concurrent resolution, has also been affected by the A.L.I.V.E. decision. Probably Assistant Attorney General Jon Tillinghast could answer this question.

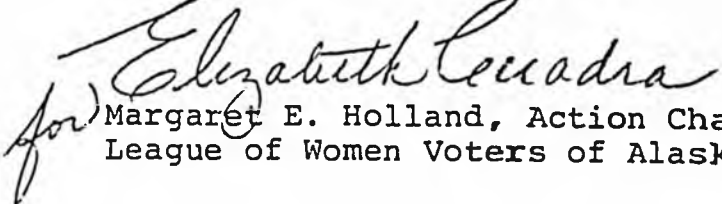
We are pleased that the present statute as amended will afford opportunities for meaningful citizen participation; first, when the regulations to be issued by the Department have been drafted and are out for public site. We invite the Committee's attention, however, to the draft uniform procedural regulations (now out for public comment) resulting from the Governor's Permit Reform Project.

The Honorable Terry Gardiner and
Fred Zharoff, Co-Chairmen
February 12, 1981
Page Three

Under these regulations, the Department will decide whether these facility permits are Class 1 or Class 2 permits. As the procedural regulations are presently drafted, Class 1 permits can be issued without any public notice nor notice to local government. Furthermore, some of the facility sites may be located in the unorganized borough, where there is no municipality involved under AS 18.45.025(b)(2). For the sake of obtaining adequate interagency and public participation in the individual siting permit decision, we believe that permits for hazardous chemical waste storage facilities and for radioactive (even low level) waste storage facilities should be Class 2 permits.

Thank you for considering our comments.

Sincerely yours,


for Margaret E. Holland, Action Chair
League of Women Voters of Alaska

MEH:DEC:rm

Enclosure ("Nuclear Waste Primer," League of Women Voters
Education Fund, 1980, 2 copies)

Criteria for Evaluating Suitability of Storage or Disposal Sites for Hazardous and Nuclear (including Low-Level Radioactive) Waste

These criteria, developed in April 1980, are an arrangement of national Environmental Quality and Land Use positions to help Leagues judge both the process employed in site determination and the suitability of a proposed site.

To ensure safe disposal:

- No disposal or storage sites shall be located in natural hazard areas such as floodplains, areas with high seismic or volcanic activity, areas of unstable geologic, ice or snow formations, or areas subject to extensive damage from hurricanes.
- There should be an examination of alternative sites, methods of storage and methods of treatment.
- Both on and off site monitoring for contamination of ground and surface waters and soils are of the utmost importance.
- Containers should be designed to prevent leakage of the material stored or disposed of.
- When containers are stored there should be regular inspections for possible leakage.

Siting of waste disposal or storage facilities should not take place in areas of critical concern, which include:

- Drinking water supply sources such as reservoirs and other storage facilities and sole source aquifers and watersheds.
- Fragile land areas such as shorelines of rivers, lakes and streams; estuaries and bays or wetlands.
- Where there are rare or valuable ecosystems or geologic formations, significant wildlife habitat or unique scenic or historic areas.
- Areas with significant renewable resource value, such as prime agricultural lands, aquifer or aquifer recharge areas, significant grazing and forest lands.

The waste siting decision-making process should provide for:

- Ample and effective public participation, including adequate funding for such participation.
- Economic, social and environmental impacts statements so that both decision makers and the public have information on which to base a decision. Secondary land use demands, in addition to the actual site, should be considered — roads, sewers, water, etc.
- Site selection in conformance with any adopted comprehensive plan — an example would be an adopted Coastal Zone Management Plan.
- Participation and review by all governmental levels to assure conformance with comprehensive plans at each level of government.
- Procedures for mediation of intergovernmental conflicts.

Exhibit A

TO: House Resources Committee
FROM: League of Women Voters of Alaska
RE: H.B. 72: Erratum for LWVAK Letter of February 12
DATE: February 12, 1981

In the final text of our letter of February 12, we unintentionally omitted some lines on page 2, last paragraph. The first sentence of that paragraph should read:

"We are pleased that the present statute as amended will afford opportunities for meaningful citizen participation; first, when the regulations to be issued by the Department have been drafted and are out for public comment; and second, when municipalities hold their public hearings to develop the municipality's position regarding a permit for a specific proposed facility site."

The underscored portion is the part we unintentionally omitted.

1 IN THE HOUSE

BY ROGERS

et al.

2 CS HOUSE BILL NO. 72

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 PRESENTS A BILL

6 For an Act entitled: "An Act relating to the transportation, storage and
7 disposal of nuclear and other hazardous waste material;
8 and providing for an effective date."

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

10 * Section 1. AS 18 is amended by adding a new chapter to read:

11 CHAPTER 31. HAZARDOUS WASTE.

12 Sec. 18.31.010. DISPOSAL OF HAZARDOUS WASTE PROHIBITED. It is
13 unlawful to dispose of hazardous waste in the state unless the waste
14 has been processed to remove its harmful properties in accordance with
15 regulations adopted by the department.

16 Sec. 18.31.020. REGULATIONS. The department shall adopt regu-
17 lations in accordance with the Administrative Procedure Act (AS 44.62)
18 for the disposal of hazardous waste to protect the public health, live-
19 stock, wildlife, and the environment.

20 Sec. 18.31.030. PENALTIES. (a) A person who violates AS 18.-
21 31.010 or a regulation adopted under AS 18.31.020 is guilty of a Class
22 A misdemeanor.

23 (b) A corporation that violates AS 18.31.010 is subject to a
24 civil penalty of not less than \$10,000.

25 Sec. 18.31.100. DEFINITIONS. In this chapter

26 (1) "department" means the Department of Environmental Con-
27 servation;

28 (2) "dispose" means to abandon, deposit, or otherwise dis-
29 card;

(3) "hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may

(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(B) pose a substantial present or potential hazard to human health or environment when improperly disposed of;

(4) "waste" means material for which no use or reuse is intended and which is to be disposed of.

* Section 2. AS 18.45.025 is amended to read:

Sec. 18.45.025. FACILITIES SITING PERMIT REQUIRED. (a) A [NO] person may not construct a nuclear fuel production facility, utilization facility, reprocessing facility, or nuclear waste disposal facility in the state unless he has first obtained a permit from the Department of Environmental Conservation to construct the facility on land designated by the legislature under (b) of this section.

(b) The legislature shall designate by law the land in the state on which a nuclear fuel production, utilization, reprocessing or disposal facility may be located.

(c) The Department of Environmental Conservation shall adopt regulations governing the issuance of [THESE] permits required by (a) of this section. However, a [; HOWEVER, NO] permit may not be issued until

[(1) THE LEGISLATURE HAS APPROVED THE REGULATIONS BY A CONCURRENT RESOLUTION CONCURRED IN BY A MAJORITY OF THE MEMBERS OF EACH HOUSE;]

(2) the municipality [LOCAL GOVERNMENT] with jurisdiction over the proposed facility site has approved the permit; and
doesn't take care of non-municipal (uninc. boro) areas.

[(3) THE LEGISLATURE HAS APPROVED THE PERMIT BY A CONCURRENT RESOLUTION CONCURRED IN BY A MAJORITY OF THE MEMBERS OF EACH HOUSE;

AND]

(4) the governor has approved the permit.

* Sec. 3. AS 18.45 is amended by adding a new section to read:

Sec. 18.45.027 TRANSPORTATION OF NUCLEAR WASTE MATERIAL. The transportation of ^{HIGH LEVEL Comm. amendment} nuclear waste material, except for purposes of disposal outside the state, is prohibited.

* Section 4. AS 46.03.020(10)(H) is repealed and re enacted to read:

(H) operation, handling, transportation, treatment, storage, and disposal of hazardous waste, and safe handling and storage of hazardous material;

* Sec. 5. AS 46.03.020(10) is amended by adding a new subparagraph to read:

(I) any other purpose which may be required to implement the policy declared in AS 46.03.010;

* Sec. 6. AS 46.03.250 is amended to read:

Sec. 46.03.250. AUTHORITY. The department shall adopt regulation establishing standards governing the discharge of low level radiation [RADIONUCLIDES] to the air, water, land, and subsurface land of the state.

* Sec. 7. AS 46.03.260 is amended to read:

Sec. 46.03.260. USE OF ^{Nuclear} ATOMIC RADIATION. A person who conducts an operation which results in the discharge of low level ^{nuclear} radiation [RADIONUCLIDES] to the air, water, land or subsurface land of the state must obtain a permit from the department before commencing the discharge.

* Sec. 8. AS 46.03 is amended by adding new sections to read:

ARTICLE 6A. HAZARDOUS WASTE.

Sec. 46.03.340. HAZARDOUS WASTE IDENTIFICATION. The department shall adopt regulations (1) establishing criteria for identifying the characteristics of hazardous waste; and (2) listing particular hazardous wastes which will be subject to AS 46.03.350, and identifying the sources of those wastes.

1 L Sec. 46.03.350. HAZARDOUS WASTE PERMITS. No person may generate
2 process, transport, store, or dispose of a hazardous waste listed by
3 the department under AS 46.03.340(2) without a permit and without
4 filing reports which may be required by the department. By regulation
5 the department may exempt a person who generates, processes, transport
6 stores, or disposes of hazardous waste in quantities so small as to not
7 present a hazard to the public health, or to the livestock, fish,
8 wildlife, or environment of the state.

9 * Sec. 9. AS 46.03.790(a) is amended to read:

10 (a) Except as provided in (c) of this section, a [A] person who,
11 violates or who causes or permits a violation of a provision of this
12 chapter or AS 46.04, or of a regulation, lawful order of the department,
13 or permit, approval, or acceptance, or term or condition of a permit,
14 approval, or acceptance issued under this chapter or AS 46.04 is guilty
15 of a violation.

16 * Sec. 10. AS 46.03.790(b) is amended to read:

17 (b) Except as provided in (c) of this section, a [A] person who
18 wilfully violates a provision of this chapter, or of a regulation,
19 lawful order of the department, or permit, approval, or acceptance, or
20 term or condition of a permit, approval, or acceptance issued under
21 this chapter or AS 46.04 is guilty of a misdemeanor.

22 * Sec. 11. AS 46.03.790 is amended by adding a new subsection to read:

23 (c) A person who violates AS 46.03.842 - 46.03.844 is guilty of a
24 class C felony.

25 Sec. 46.03.842. TRANSPORTATION OF NUCLEAR WASTE MATERIAL. The
26 transportation of nuclear waste material in the state, except for pur-
27 poses of disposal outside the state, is prohibited.

Sec. 46.03.844. STORAGE AND DISPOSAL OF HIGH LEVEL NUCLEAR WASTE

MATERIAL. (a) The storage and disposal of high level nuclear waste material in the state is prohibited.

(b) For purposes of this section, "high level nuclear ^{waste} material"

(1) means

(A) nuclear waste materials produced by nuclear power plants; and

(B) material of a kind or quantity which, when stored or disposed, would constitute a threat to the health or safety of the public, as determined by the department under AS 46.03.250 by regulation;

(2) does not include radioactive materials used in medicine, education, or scientific research which are stored or disposed of in conformity with procedures established by the department by regulation.

* Sec. 12. AS 46.03.900 is amended by adding new paragraphs to read:

(30) "dispose" means to abandon, deposit, or otherwise discard;

(31) "generation" means the act or process of producing;

(32) "hazardous material" means a material or combination of materials which, because of its quantity, concentration, or physical chemical, or infectious characteristics, may

(A) cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating reversible illness, or

(B) pose a substantial hazard to human health or the environment when improperly used, stored, handled, transported, or otherwise managed;

(33) "hazardous waste" means a hazardous material for which no use or reuse is intended and which is to be disposed of.

* Sec. 13. AS 18.45.025(1) and (3) are repealed.

* Sec. 14. This Act takes effect immediately in accordance with AS 01.10.-



Alaska State Legislature

House of Representatives

Committee on Resources

Terry Gardiner, Co-Chairman
Fred F. Zharoff, Co-Chairman
465-3715

Pouch V
State Capitol
Juneau, Alaska 99811

MEMO: Feb. 24, 1981

TO: Subcommittee on Hazardous Waste
Rep. Ben Grussendorf, chairman

FROM: Bob Speed, A.A.
House Resources Committee

RE: agenda for discussion of amendments
HB 72

Page 1, lines 12 to 15: Because nuclear waste must be treated differently than other hazardous waste, it has been proposed that disposal of nuclear waste be dealt with separately under AS 46.03, to be titled: "Disposal of nuclear waste prohibited" so that a proposed DEC amendment to this section can be adopted.

DEC proposes that this section (AS 18.31.010) be amended to read:

"Section 18.31.010. DISPOSAL OF HAZARDOUS WASTE PROHIBITED. It is unlawful to dispose of hazardous waste in the state, unless it has been subjected to best available disposal techniques and cannot be rendered harmless, its harmful properties cannot be removed or the wastes recycled. Disposal shall be in accordance with regulations adopted by the department, and done in such a manner as to protect human health, property, livestock, wildlife, and the environment."

Page 1, line 24: DEC has been asked to clarify whether corporations are already subject to cost of clean-up and financially liable for spills.

Staff also proposes that corporations be subject to criminal prosecution for intentional violation of large amounts of hazardous materials

Page 2, line 8: Staff proposes that subsection (E) be amended to conform with Sec. 18.31.020 (Page 1, lines 18-19) and that it read: "human health or welfare, property, livestock, wildlife or the environment..."

Page 2, line 28: Subsection (2), providing for municipalities, does not provide for the unorganized borough. SEE VASCA AMENDMENT.

MEMO: Feb. 24, 1981
Hazardous waste

page 2

AMENDMENTS AND DISCUSSION POINTS (continued)

Page 3, line 4: The Senate (CS SB29 (Jud)) amended this section to read, after the words "transportation of": "high level"

Staff proposes that this be further amended to read "high level or transuranic nuclear waste"

Page 3, following line 13: add: new section dealing with storage and disposal of nuclear waste (see comments on 13.31.010 on page one of this memo).

Page 3, line 20: delete word "atomic" and add in its place "nuclear"

Page 3, line 21: after the words "low level" add the word "nuclear"

Page 3, line 24: add a provision, if necessary, that failure to comply with this section is unlawful; proposed penalty would be a Class A misdemeanor

Page 4, line 15: change "violation" to "misdemeanor"

Page 4, lines 23-24: DEC has been asked to clarify whether this section and penalty covers corporations and their officers; if not, then this section should be amended to provide for similar penalties for corporations and corporate officers.

Page 5, line 2: after "high level" add "or transuranic"

Page 5, following line 7: Add new section defining "Transuranic nuclear waste"; reletter following section(s).

-- "high level nuclear waste"
"transuranic nuclear waste" should all be defined
"low level nuclear waste" quantitatively

Page 5, lines 12-14: This section should be defined more carefully, to ensure that educational and scientific research uses are strictly controlled. DEC has been requested to provide a stricter definition controls the amount or quantity, and that such activity is strictly small-scale, and within the limits that the legislature envisions under this bill. This is a crucial question, since nuclear waste disposal areas and breeder reactors are both within the definition of "research."

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. House Bill No. 72
 Title "An Act Relating to transportation, storage and disposal of nuclear material"
 Requested by Commissioner's Office Date February 26, 1981

II. FISCAL DETAIL
 Agency Affected Department of Health and Social Services
 Program Category Affected Division of Public Health
 BRU, Program, or Subprogram(s) Affected Radiological Health Program
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE February 26, 1981 PREPARED BY Sidney D. Heidersdorf
 AGENCY Dept. of Health & Social Services
 PHONE 465-3019
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) M&B Approval [Signature] Date 2/27/81

Position Paper
On
HOUSE BILL NO. 72

An Act entitled: "An Act relating to the transportation, storage and disposal of nuclear and other hazardous waste material; and providing for an effective date."

The major provisions of HB 72 prohibit: (1) the disposal of hazardous wastes in the State unless the waste has been processed to remove its harmful properties; (2) the transportation of nuclear waste material in the State except for purposes of disposal outside the State; and (3) the storage and disposal of high-level nuclear waste material in the State.

AS 18, Chapter 31, Hazardous Waste

The requirement that hazardous waste first be "processed to remove its harmful properties" before it may be disposed of appears to have far-reaching ramifications. The assumption in the disposal of many hazardous wastes is that the waste does, in fact, maintain its harmful properties, but it is disposed of in such a way as to reasonably preclude the possibility of any hazard to human health or the environment.

The following wording for Section 18.31.010 is suggested:

Section 18.31.010 DISPOSAL OF HAZARDOUS WASTE. It is unlawful to dispose of hazardous waste in the State unless done so in accordance with regulations adopted by the Department.

Radioactive (Nuclear) Wastes

It is recommended that the word "radioactive" replace the word "nuclear" wherever the term makes reference to waste. This is a more precise description of the kind of waste under consideration.

Section 46.03.842. Transportation of Radioactive Waste Material.

As written, this section prohibits disposal of low level radioactive waste in the State if transportation is involved. This is in conflict with Section 46.03.844, which permits waste disposal from use in medicine, education, and scientific research. If low level radioactive waste material is to be disposed of in the State it may have to be transported to a disposal site away from the facility producing the waste.

It is recommended that the words "high level radioactive" be inserted on page 3, line 2, making the section read: "The transportation of high level radioactive waste material..."

Section 46.03.844. STORAGE AND DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTE MATERIAL.

The definition of "high level nuclear waste materials" includes "material of a kind or quantity which when stored or disposed of, would constitute a threat to the health or safety of the public." Low level wastes, improperly stored or disposed of, fall under that definition. The Department recommends against making definition of high level radioactive waste contingent upon factors of storage and disposal. This is contrary to established practice in radiation protection and may be a source of confusion and debate.

To clarify Section 46.03.244(b), the following definition is suggested to replace (b):

(b) For purposes of this section "high level radioactive waste material" means used reactor fuel or the radioactive wastes produced during the reprocessing of used reactor fuel.

To further clarify existing statutes, AS 46.03.250 and AS 46.03.260, we also suggest a definition for low level radioactive wastes be added as follows:

(c) "Low level radioactive wastes" means wastes other than high-level radioactive wastes, uranium mine or mill tailings, or transuranic wastes containing more than 10 nanocuries per gram.

The Department of Health & Social Services takes a neutral stand on H. B. 72 with incorporation of the proposed changes.

Recommended by:

David Bruce
David Bruce, Deputy Director

Date:

March 5, 1981

Approved by:

Helen D. Beirne
Helen D. Beirne
Commissioner

Date:

3-6-81

NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES
IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS
BEEN FILMED.

A
NUCLEAR
WASTE
PRIMER

League of Women Voters Education Fund