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Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99801
(907) 485-3834
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Senate

Committee on Resources

March 18, 1981
1:30 p.m.

Butro Room
207 - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Gilman
Senator Mulcahy
Senator Sturgulewski

Teleconferenced Hearing

SB 216 An Act repealing the Alaska Coastal Management Program.

Bob Klien, Administrative Assistant for the City of Homer, stated that the Program is helpful in alleviating potential off and on shore development impacts. He suggested to the Committee that if the Program is repealed that some way is needed for communities to be able to prepare for off shore development.

Elsie O'Brien, Mat-Su, stated that she favored repeal of the law.

Ivan Widom, Nome, stated that without the funding they have received from the program they would not have been able to plan to the extent that they have. There is an oil and gas lease sale planned for 1982 in their area and if oil is discovered there will be impacts on their community.

Kate Troll, stated that she is opposed to SB 216 because the program is the only opportunity for the unorganized boroughs to deal with major resource development. She suggested to the Committee that they consider work to improve the program.

Linda Freed, Coastal Management Coordinator for Kodiak, stated that the Kodiak Island Borough supports the coastal management program. The Borough is not completely content with the Office of Coastal Management and the Coastal Policy Council. She suggested to the Committee to consider possible amendments to the law or have the regulations re-worked.

Wayne Marshall, Kodiak Native Association, stated that he supports the Program because it is a tool the city can use in making difficult decisions. Since the resources are located in the rural areas the people in those areas need some voice in how decisions will be made regarding those resources.

Jim Ayres, RuralCap, stated that the Program could be improved by strengthening the Act. The people in rural areas want to see the program work.

Mike Jeffrey, Barrow, stated that the strongest reason for opposing SB 216 is that the Program is a vehicle by which local communities can get involved in resource development. It gives the village people a sense of power to effect things going on around them.

Jeannie Sande, League of Women Voters, Ketchikan, stated that the League is opposed to SB 216 because they had urged passage of the original Act.

Dan Hinkle, Resource Development Council, stated that the Council has passed a resolution favoring the repeal of the Coastal Management Program. The Program provides questionable management techniques, institutionalizes delay and creates over regulation. A good number of the people favoring the Program are either planners, consultants or government people dependant upon the Program.

Bob Blodgett, Bering Strait Coastal RSSA Planning Board, stated that the Program provides the people input on how resources will be developed. Most of the communities are so small, without a viable economic base that they have as much clout as a broken pump.

Bob Pavitt, professional planner, Juneau, stated that the Program is no more than a planning tool for the communities.

Jon Halliwell, Co-Chairman, Coastal Policy Council, stated that he was speaking at the Council's request to express their concern over SB 216. The Council would like to see the Program allowed to remain intact until it has had time to take effect. The Council is working on specific suggested amendments to the Program.

Tim Troll, City Manager, St. Marys, stated that the Program gives the unorganized borough some form of planning control.

Abi Dixon, Aleutians, stated that the Program should not be repealed. The people would like to have a voice in the use of the various resources in their areas.

Patrick Phillip, stated that the Program provides an important planning tool for the unorganized borough as it faces a number of oil and gas lease sales in their area. If the Program is repealed the local people will have no say in the balancing of development with the environment.

Hank Ostrosky, Naknak, stated that there are problems in planning for their area. He suggested that the Committee continue the hearing process until such time as adequate information can be brought forward on the Coastal Management Program and the Law of the Sea.

Senator Frank Ferguson, stated that the reason he co-sponsored SB 216 is because the Coastal Management Program has never given any region of the state any authority. The Program never did anything for the North Slope Borough in its fight against development of the Beaufort Lease sale areas. He suggested that a statutory amendment is necessary to give the rural regions the same authority as the municipal governments. There is a need for increased funding for research in those rural areas. The Coastal Management Program has nothing to do with the protection of the subsistence lifestyle in the rural areas. It has been a misnomer that the Program deals with subsistence.

Cliff Eanes, attorney for the Wildlife Resource Center, stated that he is opposed to SB 216 because the local residents need control over development. Coastal planning identifies areas that need special attention and protection.

The Committee adjourned at 4:00 p.m.

Alaska State Legislature

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Senate

Committee on Resources

March 16, 1981
1:30 p.m.

Senate Finance Room
5th Floor - Capitol

MEMBERS PRESENT

Senator Fahrenkamp
Senator Fischer
Senator Mulcahy
Senator Bradley
Senator Eliason
Senator Gilman

Teleconferenced

Hearing: SB 216

An Act repealing the Alaska Coastal
Management Program.

Fran Ulmer, Director, Division of Policy Development and Planning and Co-Chair Coastal Policy Council, stated that the Coastal Management Program provides technical assistance to local governments, encourages local areas to conduct planning and develop cooperative management plans between local, state and federal governments.

In response to the question, what improvements to the Alaska Coastal Management Act would the Office of Coastal Management recommend, Murray Walsh, Director, Office of Coastal Management, stated that he would like to see: 1. a clarification and strengthening of the role of local governments; 2. removal of the uncertainty over existing interim management system; 3. clarification of legislative oversight; and, 4. clarification of legislative intent.

Harry Boone, Nome, stated that he thought they needed a coastal policy and control by local communities. The people in his community live off the land and they need coastal planning.

Calep Pungowlyi, Nome, stated that they need the coastal management program but there are a few problems; the act

limits municipal planning to a 2 mile radius of the community; local boards are subject to the Coastal Policy Council's limitations, the local boards do not have zoning authority and many communities do not have the money to put up the 20% match.

Mike Schmitz, Planning Director, Sitka, stated that there has not been enough time to look at the long range effects of Coastal Management. The program should not be written off until it has had a chance to prove or disprove itself.

Dick Smith, Sitka, stated that he supports the program. The Act has enough safeguards that the program will benefit the state in the long run.

Harry Wilde, Bethel, stated that he did not want to see the funding for Coastal Management reduced. They need the program.

Peter Black, Bethel, Coastal Resource Board, stated that the unorganized areas are depending upon coastal zone plans to If they are not completed, it will hurt subsistence hunting. The planning is best done by the native people who know the area.

David O. David, Bethel, stated that he did not want to see the funding for coastal zone management reduced. He was mostly concerned about subsistence and hunting because it is their way of life.

Showalter J. Smith, Director of Regional Planning, Bethel, stated that he supports the Office of Coastal Management. He suggested that the Senate Resources Committee wait for Congressional hearings on President Reagan's budget cuts.

Peter Ehrhardt, Attorney, Bethel, stated that he felt it was a fundamental right of the local people to manage the resources. The people who live on the coast should have some control over development.

Janet Shantz, Bethel, stated that coastal management program is important because it gives area residents the opportunity to participate in the planning of how the resources will be used. The program also provides planning funds and, with several state oil and gas lease sales planned in their area, this is very important.

Dave McClure, Dillingham, stated that he had been a planner in Bristol Bay and they need time to complete their plan.

Laura Schroeder, Dillingham, stated that the coastal zone program needs local and borough support in order to succeed.

The local people want the state and federal government of stay out of local business.

Mike Jacobson, Dillingham, stated that there are 29 Villages on the coast in the Bristol Bay area and they are all dependent upon subsistence. The local people should have some say as to how the coast line should be managed. The optimum use of the coast can be accomplished by planning in advance for the future uses.

Stan Thompson, Kenai, stated that it has been said that coastal zone management gives the local community control over state and federal agencies but, it has turned out to just one more control and another agency telling the people how to run their lives. The program should be repealed at once.

Ruby Coyle, Kenai, stated that she is opposed to the Coastal Management Program. It is just another form of government. She suggested to the Committee that the program be repealed.

Pat Lowry, Kenai, stated that the original act was passed because the state had been told if they did not form a program the federal government would step in. If Alaska pulls out of the Coastal Management Program it will encourage Congress to drop the program. There are presently plenty of state and federal environmental laws to protect the environment. SB 216 needs to be passed into law.

Waldo Coyle, Kenai property owner, stated that the program is another large layer of bureaucracy therefore it should be repealed. The decisions about land management should be made by the people not a few directors of governmental agencies.

David Thompson, Kodiak, stated that he was not in favor of SB 216. Kodiak is a fishing community and any coastal development will impact the community therefore the management of the coast should be in the hands of the local people. Alaska with 33,00 miles coast line needs the Coastal Management Program.

S. Forrest Blau, Kodiak, stated that he was opposed to SB 216 because thousands of people have participated and millions have been spent by the state and federal government on the program. The program has helped the local communities to do a better job of planning.

Henry Mitchell, Executive Director, Bering Sea Fishermen Assoc., Anchorage, stated that the fishermen are very concerned by any attempts to cancel the program. He urged to committee to make more funds available for the program.

Adelheid Herrmann, Bering Sea Fisherman Association, stated that the program is a tool for the unorganized borough to

plan for development. He was opposed to SB 216.

Tom Hawkins, Choggiung Ltd., Dillingham, stated that the program needs improvement. It is in the best interest of the state to improve the program vs. abolishing it.

Bob Fleming, Anchorage, stated that he favors repeal of the program. Regulatory reform is not possible so long as coastal management is in existence. The program has institutionalized delay. It is the most far reaching and restricting program ever passed by the legislature. The program really offers no local control. The very same things can be done by the cities via ordinance.

The meeting was adjourned at 3:20 p.m.

TO: The Honorable Jay S. Hammond
Governor
State of Alaska

DATE: January 27, 1981

FILE NO:

TELEPHONE NO:

FROM: Jonathan K. Tillinghast
Assistant Attorney General
Department of Law

SUBJECT: Permit Reform Regulations

On January 9, commissioners LeResche, Mueller and Skoog, and the Office of Coastal Management on behalf of the Alaska Coastal Policy Council, issue a joint public notice of proposed adoption of uniform procedural regulations governing permit procedures and coastal management consistency determinations. Public hearings on these regulations are scheduled for February 4-9, with adoption to occur around March 1.

These regulations, in part, are a response to growing legislative concern over state regulatory practices. Last session, the Senate easily passed SB 548 -- a very severe, and unworkable, permit reform bill. The more draconian portions of the bill required all permits to be issued in 30 days (effectively precluding public involvement); reversed the traditional burden of proof in permit proceedings; and essentially abolished administrative appeals. The House Judiciary Committee passed substitution legislation (HCSSB 548) jointly drafted by AOGA and the administration. The bill died in House Rules.

Your June 17 memorandum establishing the permit reform project committed us to implement HCSSB 548 administratively. The commitment was made for three reasons:

1. The bill provided creative solutions to real problems in state regulation (see below);
2. It is the prerogative and responsibility of the executive branch to place its own house in order; and
3. The only realistic alternative was submission to unliveable permit reform legislation this session.

The regulations we have published accomplish the three primary goals of HCSSB 548. They establish one uniform state permitting procedure; set specific deadlines (30 and 65 days) for permit decisions; and identify a lead agency for coastal management purposes so that only one consistency determination will be made on a project.

These regulations are the product of an incredible effort by your cabinet. It has been very difficult to accommodate the divergent needs and missions of four agencies in one uniform procedure. Nonetheless, agreement has been achieved. The agreement represents a compromise of competitive interests and goals, and is to the total satisfaction of no one. It is generally believed within the administration, however, that a better interagency product is not possible.

January 27, 1981

Because of the high visibility of these regulations -- and the general subject matter -- the failure of any agency to adopt them would be a monumental embarrassment, rendering the administration helpless to forestall any number of outrageous "permit reform" bills which have been threatened. These bills include original SB 548 and repeal of the Coastal Management Act.

The reaction of more moderate segments of the oil industry is that they are impressed, but unsatisfied. In a meeting with Sohio representatives on January 23, I explained a series of proposals which would cause that corporation to support the regulations. They are the same proposals which have been recommended by other oil industry representatives. These are:

1. Expand the role of the designated lead agency to include preparation of a state position on related federal permit applications. Industry is correct that the benefits of a lead agency are largely illusory if another agency can still effectively stop a project through a federal permitting agency. Sohio will introduce legislation on this matter -- and they allege that it will be a priority bill of Senator Rodey;

2. Allow the Department of Natural Resources to be the lead agency on state land disposals even when an Environmental Impact Statement will be prepared on a related federal permit. The draft regulations assign that responsibility to the Division of Policy and Development Planning; and

3. Defer resolution of the question of the weight to be given local government comments on coastal management consistency issues. Although this issue must someday be resolved, resolution is not vital in these regulations, and the controversy is an albatross around the regulations' neck.

I recommend adoption of these changes, not simply because they will defuse unpalatable legislative initiatives, but because proposal (1) in particular is simply good government. Unfortunately, agreement on these matters is unlikely absent direction from your office. Adoption of (1) will cause ADF&G particular concern. Adoption of (2) and (3) is contrary to DPDP's position, although the impact on DPDP would be lessened if the final regulations contain more safeguards for DPDP in the discharge of its coastal management monitoring role.

If you agree, we should prepare and release a supplement to the draft reflecting these changes. This will not dissuade more extreme elements in AOGA; however, I am awaiting a commitment from Sohio that the more credible industry segments will inform the legislature that the administration has developed a serious and sufficient product, and that legislation at this time is unnecessary.

JKT:jf

CITY OF WRANGELL, ALASKA

Resolution No. 2-81-123

A RESOLUTION OF THE COUNCIL OF THE CITY OF WRANGELL, ALASKA, URGING REPEAL OF THE EXISTING ALASKA COASTAL ZONE MANAGEMENT ACT AND IMPLEMENTATION OF A VOLUNTARY GRANT PROGRAM TO LOCAL GOVERNMENTS FOR DEVELOPMENT OF COASTAL ZONE MANAGEMENT PROGRAMS ON A LOCAL LEVEL.

WHEREAS, the Alaska Legislature voluntarily participated in the Federal Coastal Zone Management Program and enacted the Alaska Coastal Zone Management Act; and

WHEREAS, the Coastal Zone Management Act is a further intrusion by the State by imposing land use restrictions on local governments; and

WHEREAS, the Coastal Zone Management Act has created additional review processes to projects and actions, thereby increasing the cost of State and local government without benefit to the public; and

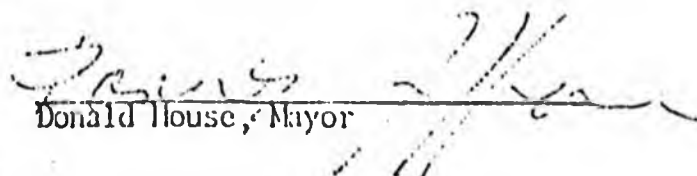
WHEREAS, Local government is capable of implementing land use planning and management of the coastal zone within their boundaries; and

WHEREAS, the only obvious benefits of the Act is to provide financial assistance to local government for development of a coastal zone management program and further control over State projects within their boundaries.

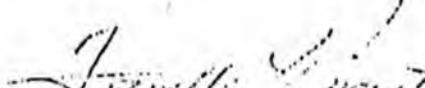
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WRANGELL, ALASKA:

1. That Governor Jay S. Hammond and the Alaska State Legislature be urged to repeal the Alaska Coastal Zone Management Act and to withdraw from the Federal Coastal Zone Management Program.
2. That the State implement a voluntary grant program to local governments to assist in development of coastal zone management programs on a local level.
3. That the State, in implementing a voluntary grant program, provide for local control in development and management of a coastal zone program, thereby removing State Agency controls over local land use planning.

PASSED AND APPROVED February 24, 1981, 1981


Donald House, Mayor

ATTEST:


Franette Vincent, Acting City Clerk

KODIAK ISLAND BOROUGH
RESOLUTION NO. 81-10-R

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY SUPPORTING
THE ALASKA COASTAL MANAGEMENT PROGRAM, CHAPTER 84, SLA 1977 (AS AMENDED).

WHEREAS, the Kodiak Island Borough is in the midst of preparing
its coastal management plan, through the Alaska Coastal Management Program,
Chapter 84, SLA 1977 (as amended); and,

WHEREAS, the completion of the Kodiak Island Borough Coastal
Management Plan is dependent on the continuation of the Alaska Coastal
Management Program; and,

WHEREAS, the Kodiak Island Borough will derive the intended
benefits of state and federal consistency with their coastal management plan
only through the continued existence of the Alaska Coastal Management Program;
and,


WHEREAS, the Kodiak Island Borough is also anticipating that the
products of the Borough's Coastal Management Program will provide the basic
framework for an up-dated comprehensive plan, specifically planning for the six
villages in the Borough; and,

WHEREAS, Senate Bill No. 216, "An Act repealing the Alaska
coastal management program; and providing for an effective date", was introduced
on February 25, 1981 in the Alaska Senate.

NOW, THEREFORE, BE IT RESOLVED that the Kodiak Island Borough
Assembly does hereby reaffirm its support for the Alaska Coastal Management
Program, Chapter 84, SLA 1977 (as amended).

PASSED AND APPROVED this 5th day of March, 1981.

KODIAK ISLAND BOROUGH

By 
Borough Mayor

ATTEST:

By 
Borough Clerk

Resources

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION NO. 81-07

A RESOLUTION SUPPORTING THE CONTINUED
EXISTENCE OF THE ALASKA COASTAL MANAGE-
MENT PROGRAM.

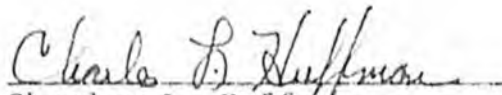
- WHEREAS: The State of Alaska has more coast line than the rest of the United States combined, and
- WHEREAS: The Federal Government has mandated that the coast lines of the United States will be regulated and protected by adequate management plans, and
- WHEREAS: The Federal Government has allowed the individual coastal states of the union to devise their own coastal management plans provided they adhere to certain minimum requirements, and
- WHEREAS: Alaska's coast has national and international significance for its vast and generous source of renewable and non-renewable resources, especially potential energy resources for which there is ever increasing demands, and
- WHEREAS: Three-fourths of Alaska's population live on or near the coast, and
- WHEREAS: The State of Alaska has spent considerable time and effort creating the Alaska Coastal Management Program and has devoted months and years in developing standards and guidelines upon which a master plan can be generated utilizing the maximum input and control of local governments yet addressing and answering the concerns of the State of Alaska and the U. S. government, and
- WHEREAS: Although we realize the program has not gone forth without its share of problems we do believe they can be resolved, and

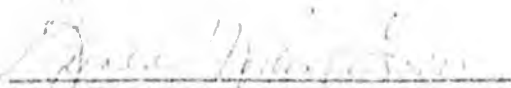
WHEREAS: Senate Bill 216 being considered by the Senate Resources Committee in the Alaska State Legislature would repeal the Coastal Management Program.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UNALASKA that

1. We urge the Senate Resources Committee to move this bill back to the senate floor with a "No Recommendation".
2. We urge and request the Senators of the Alaska State Legislature to vote "Nay" on this bill and in so doing preserve the Alaska Coastal Management Program and the tremendous strides being made toward the realization of a statewide management plan to protect the coastal waters and shores of our great state.

PASSED AND APPROVED THIS 12th DAY OF MARCH, 1981.


Charles L. Huffman
Mayor


Glenda Martin Currier
City Clerk

March 10, 1981

The Honorable Bettye Fahrenkamp, Chairperson
Senate Resources Committee
Alaska State Senate
Fouch V
Juneau, Alaska 99801

Dear Senator Fahrenkamp;

The Alaska Coastal Management Act (ACMA) was enacted in 1977 and has been the center of uninformed controversy ever since. As a person who was involved in the development of the Act from the first introduction of a Bill in the Legislature in 1975 to the present, I feel compelled to provide you with information which, to date, has not been presented or has been presented in a less than desirable format. To set the record, I was assigned to follow the Legislative process of the Coastal Management proposals in my capacity of Land and Engineering Officer for Sealaska Corporation due to the fact that any coastal regulation would affect the extensive coastal holdings of the corporation. Subsequently, as an Assemblyman for the City and Borough of Juneau, I continued my involvement due to my concern that local governments be in control of any coastal planning. As first public member Co-chair of the Alaska Coastal Policy Council (ACPC), I continued my efforts to assure local control in the development of the Guidelines and Standards. Finally, as a consulting engineer, I have continued to champion local control in the plans our firm prepares for local governments. So much for background.

Generally speaking, the State has delegated planning and zoning functions to the municipalities with no review process by the State as to how the local governments plan and zone their communities. The Alaska Coastal Management Act however, specifically requires the State agencies to comply with the local coastal planning once that planning has been approved by the ACPC. In order to gain such approval the local plan must be consistent with the ACMA including the Guidelines and Standards. These Guidelines and Standards are very broad and essentially allow the local governments to do virtually any thing they would want to do anyway. By having these local plans approved by the ACPC, a State policy agency within the Office of the Governor, the local plan then becomes the Executive policy for all State agencies. In short, because a State executive agency (the Alaska Coastal Policy Council) has approved the plan it is binding whereas normal planning and zoning is not normally binding, not having been approved by a State agency. (Exceptions are construction planning for University and Public Facility projects, which require local approval whether in the coastal area or not.)

Most local governments have failed to recognize this powerful tool which can be used to assure State agency compliance with local desires. I believe that this failure to recognize the control potential of the ACMA is the reason the Conference of Mayors requested repeal of the Act, not knowing that in so doing they are in effect giving up their only real existing lever insofar as State agencies are concerned. The State agencies have been aware for some time of the local control potentials of the ACMA, and it is not surprising to me that the Commissioner of Natural Resources requested that the ACMA be repealed. That Department is the one most likely to have its discretionary

functions severely curtailed by local coastal planning.

At a recent Senate Resources meeting Senator Sturgulewski asked what specific problems there were with the ACMA. I think the major single problem is that "Coastal Management" is a four letter word to most people who have not taken the time to understand the Alaska Coastal Management Act. In general, unknowledgable people equate the ACMA with "environmentalism", whatever that is, and oppose coastal management. While it is true that the Federal Coastal Zone Management Act is for the preservation and reclamation of the coastal areas, the Alaska Coastal Management Act is a systems analysis planning tool to be used to assure wise DEVELOPMENT of our coastal areas. Essentially, the ACMA requires local governments to inventory their resources; analyze those resources; establish LOCAL goals and objectives for the use of those resources; and develop a plan that sets forth as a policy statement the areas to be reserved for

Industry
Commerce
Recreation
Housing
Other Uses

No responsible business person would start a business venture without first assessing his assets(resources), ascertaining the value of those assets(analyzing his resources), determining what he wanted to do with his assets(setting goals and objectives), and establishing a plan of action(comprehensive plan). A good part of the conflict that now exists between "developers" and "environmentalists" is due to the fact that neither group can be assured of any future for their pursuits. The "developer" sees all areas preserved for their natural qualities and the "environmentalist" sees no land left for recreational pursuits. A comprehensive or coastal plan assures all of the citizens that specific areas will be set aside for specific uses. Best of all, the ACMA provides that this planning be done exclusively by local governments with mandatory compliance by State agencies

Much has been made of the Federal budget cuts which will "eliminate" the Coastal Zone Management Act. The fact is that although the Federal funds may not be forthcoming, the Federal Act is still law and Federal agencies still have a consistency requirement. It should be noted that in 1977 when the Alaska Coastal Management Act was being debated, most Alaska legislators would not have voted for the Act if Federal money were the primary reason for the Act. There had already been sufficient evidence of Federal strings in other programs. Essentially, the ACMA would not have passed without two important provisions; Federal consistency and Legislative review of local plans. (While the ALIVE Case removed the legislative approval requirement, the Policy Council is requesting the Legislature to reinstate that provision in a Constitutionally acceptable manner.) Consequently, even though the President will undoubtedly exclude coastal management funds from the Federal budget, we can still expect Federal consistency in our Alaska coastal plans.

Exactly what does Federal consistency mean? First, it means that the Federal government cannot do anything on their lands which would cause a violation of the Alaska Coastal Management Act on adjacent lands. More importantly, the Federal permitting activities on non-Federal lands must be consistent with the State plan. As a result of this consistency requirement, the Corp of Engineer has said that if a permit is requested in an area with an approved coastal plan, the review time is substantially reduced allowing for a more timely permit issuance. Additionally, the Corp has indicated that if a local government has an approved plan that logically

classifies wetlands using realistic criteria, the Corp will issue a blanket permit to that local government allowing dredge and fill operations in those wetlands classified as less valuable. All the owner of the wetlands then needs to do is obtain the appropriate local building or other normal permit, if any.

After saying all these good things about the ACMA I must admit that there are some real and perceived problems with the ACMA. The biggest real problem right now is the fact that local governments have yet to develop their plans and the State agencies are using their interpretations of the Guidelines and Standards to the frustration of developers and local governments. When the Alaska Coastal Policy Council formulated and adopted the Guidelines and Standards, we deliberately made them broad to allow for interpretations from Barrow to Ketchikan. I still believe this was a good idea however, we didn't expect it would take so long for local governments to make their interpretations. As a consequence of not having local plans with local interpretations of the Guidelines and Standards, the State agencies, in the name of coastal management, are unilaterally making these interpretations to suit the agencies needs. To eliminate this situation the local governments need to adopt minimal plans as soon as possible, going back later to flesh out and/or amend their plans. The "first cut" minimal plan will then interpret the Guidelines and Standards according to local wishes, thereby eliminating the unilateral State agency interpretation. It should be noted that interpreting the Guidelines and Standards includes adjusting the boundary of the coastal area.

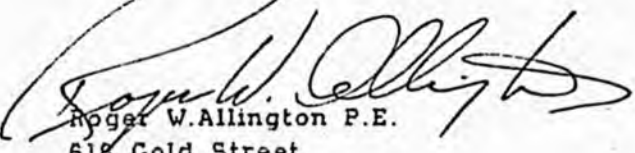
Another change which is needed is to relocate the Office of Coastal Management from the Office of the Governor and make it an independent staff reporting only to the Policy Council. I believe the OCM has done an admirable job of being staff to the Council so far however, recent controversial plans presented to the Council have apparently resulted in substantial pressure on the OCM by State agencies to encourage recommendations to the Council which were not in keeping with the ACMP. It should be noted that although the OCM is a part of the Division of Policy Development and Planning, that agency did not apply pressure to OCM. Pulling OCM out of the Office of the Governor and making it responsible only to the Policy Council would assure independent assessment by OCM and the Council.

One perceived problem with ACMP is the supposed ability of local governments to stop oil and gas development by using the ACMP. The fact is that the Act specifically provides that the local plan cannot be approved if it "arbitrarily or unreasonably restricts a use of State concern." Furthermore, oil and gas development is statutorily defined as a use of State concern. Therefore, if a local plan is submitted which "arbitrarily or unreasonably restricts" oil and/or gas development, that plan is unapprovable and State agencies are not obligated to comply with it. There is a possibility that a local government might enact a local planning or zoning ordinance under their general municipal powers (AS 29) but that has nothing to do with coastal management. To curtail local planning and zoning so that those powers could not be used to stop development would require the Legislature to reassess the whole relationship of State v municipal powers.

In summary, the current Alaska Coastal Management Act, including the Guidelines and Standards, requires no more than good sense would dictate in developing a local coastal or comprehensive plan. The Alaska Coastal Management Program (Act plus Guidelines and Standards) is an optional Federal program which provides Federal consistency regardless of funding source. As such it should be funded at least 80% by the State if, as expected, the Federal funds dry up. Local governments should be encouraged to get minimal plans prepared as soon as possible so as to eliminate unilateral

interpretations by State agencies. And finally, some amendments should be made to the Act to establish CM as an independent staff to the Council; to give the Legislature back its overview function; to give full planning powers back to the cities in the unorganized borough (see SB 562 from last Session); and clarify that local governments make consistency determinations with respect to their plans. (See proposed Uniform Permit Regulations).

Thank you for your time and attention. I expect to be at the Coastal Management hearings and will answer any questions you may have at that time.



Roger W. Allington P.E.
618 Gold Street
Juneau, Alaska 99801

cc: Senator Gilman; Senate C&RA
Representative Grussendorf; House C&RA
Representative Zharoff; House Resources
Representative Gardiner; House Resources

COMMENTS ON INQUIRES TO THE ALASKA COASTAL POLICY COUNCIL March 11, 1981

At the present all consistency determinations are being made by the Division of Policy Development and Planning. This is proper inasmuch as until local plans are in effect, the State must decide whether a proposed action is consistent with the Act and Standards. Because the Guidelines and Standards are necessarily broad to allow maximum local option, any interpretation prior to local plan development is difficult due to the wide range of interpretations available. It would be my assumption that if in fact, there have been delays in making consistency determinations, that the root cause is a debate between DPDP and the agency proposing the coastal activity, with neither side having clear-cut authority to make the necessary consistency determination. The Act is silent on consistency determinations however, it doesn't take a genius to see that if the Legislature gave coastal planning power exclusively to the local governments that it follows that determinations as to whether a proposed action is consistent would also be the sole province of the local government, if there is one.

In short, there is a need for the Legislature to statutorily indicate the body charged with consistency determinations. Inasmuch as the coastal plan is to be an element of the local comprehensive plan, it follows that the local governing body should make these determinations. In the unorganized borough, either the coastal resource planning board or a State agency would be the consistency determiner. If a State agency is to make these determinations, then that agency must be the DPDP as all other agencies propose actions in the coastal area and for them to make consistency determinations on their own actions would be akin to the pitcher being the umpire in a baseball game.

As to how consistency would be determined, this is not the big mystery that some would have us believe it is. As stated above, the coastal plan is an element of the local comprehensive plan. As such the local planning and zoning commission makes a first determination as to consistency followed, if necessary, by action of the city council or borough assembly on appeal. In the unorganized borough the first determination could be by the coastal resource planning board with an appeal allowed to either the Coastal Policy Council or DPDP.

The term "feasible and prudent" has been much maligned by those who have only lately become involved in the coastal management process. The ACPC wrestled long trying to develop a way to modify otherwise overly restrictive regulations to make them workable. Again there is no mystery if one just reads the definition in the Guidelines and Standards. "Feasible" means technically possible and "prudent" is associated with the established "prudent man" criteria used by the courts, which includes economics as well as other factors; i.e. would a prudent man take such action? It is also necessary to examine where the term "feasible and prudent" is used in the regulations. For instance, there is a requirement that roads be kept out of the coastal area, that is, in the uplands, "where feasible and prudent"! If it were not for the modifier "feasible and prudent" all roads would have to be built out of the coastal area.

With respect to the Anchorage CMP; that plan is consistent with the ACMP or it would not have been approved by the ACPC nor the Legislature. (The Anchorage CMP was approved by the Legislature before the ALIVE case made approval by concurrent resolution unconstitutional). It must be realized however, that the Anchorage CMP is a first effort that essentially says how they are going to develop their geographically

specific plan with specific policies.

The Legislative intent with respect to consistency is quite clear if one does not try to convolute the Act to arrive at something preconceived which is contrary to that intent. As stated above, it is inconceivable that the Legislature would give the local governments so much authority to develop a plan without also intending that the local government make consistency determinations.

In most cases where a permit or lease is required for a specific proposed action, there is a certain degree of discretionary authority allowed to the permitting or leasing agency. The Alaska Coastal Management Act gives that discretionary function exclusively to the local governments in the development of their coastal plans. If an approved local plan, for instance, indicates a dock in a given area, both the Corp of Engineers with respect to permits, and the Department of Natural Resources, with respect to tideland leases, cannot refuse the respective permits and/or leases unless issuance of such would be contrary to statutes.

The Cordova CMP was adopted by the ACPC after much heated debate and pressure by resource agencies to get the City to enlarge its coastal boundaries even though the proposed boundaries were consistent with the ACMP. The Cordova plan was the first plan which exercised local control to the maximum insofar as the resource agencies were concerned. The approval process before the ACPC was real "hardball", and quite frankly, the ACPC was "on trial" to see if the Council, in fact, believed in local control or whether they would "knuckle under" to the resource agency pressure. Fortunately, the Council upheld the local control concept, taking the attitude that if the local plan met the legal criteria, even though it might be done "better" (whatever that means), the plan must be approved. At the February 3, 1981, meeting of the Council, when the Cordova plan was approved, the Federal representative from NOAA stated that the plan was unapprovable from the Federal level unless the boundaries were expanded. This in spite of the fact that the Federal government had approved the Alaska Coastal Management Program with the local control and boundary criteria which the Cordova plan complied with. The OCM, rather than submitting a program to the Feds cold with an anticipated negative response, elected to try to turn the particular individual around in his thinking so that Federal approval would not be an uphill battle. There is no reason to pick a fight when there is a good chance that the problem can be resolved peacefully.

Also, to put Federal approval in perspective, the Cordova (or any other) plan is in effect insofar as State and local governments are concerned with or without Federal approval. The only thing Federal approval provides now that funding is to be exclusively State and/or local, is Federal consistency. If the Feds do not approve a plan, we are no worse off than we would be without a plan insofar as the Federal agencies are concerned, but we still get State agency compliance with the local plan.

The Feds can "intervene in the activities of the OCM only through suggestions or possibly threatened withholding of Federal approval. As noted above, withholding of Federal approval is serious but not overriding of all other concerns. Also, OCM is not empowered to do anything except act as staff to the ACPC. The ACPC is the determining body and my observation of the ACPC at Cordova leads me to believe that if they are convinced that the local plan is consistent with the ACMP, that the plan will be approved notwithstanding threatened Federal disapproval.

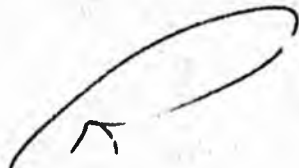
The ACMP requires State agencies to be consistent with approved local plans, even to the extent of requiring that agency regulations be consistent with the ACMP. The only

thing missing so far is the approved local plans and the intestinal fortitude on the part of the local governments to require State compliance. Most local leaders do not know how powerful a tool they have because they have assumed any kind of planning is a necessary evil. Furthermore, many, if not most, community planners look only at the resource planning functions of the Act. To really make the Act work the way it was intended to work requires the mayors and managers to examine the local control features so the local governments can take charge of their own destinies. As long as local leaders look on coastal planning as just another planning function, the State agencies will do as they please. One cannot really expect State agencies to advertise a program that can take away their discretionary functions.

There are a number of beneficial changes which should be made in the Alaska Coastal Management Act. The first class and home rule cities in the unorganized borough should be given back their coastal planning powers which were removed by SB 562 in the Eleventh Legislature. The Office of Coastal Management should be made an independent staff to the ACPC, not affiliated with the Office of the Governor. The statutes should clearly indicate that consistency determinations are the sole responsibility of local governments where such governments exist. If a State agency is to make a consistency determination in the unorganized borough or in the case of no local plan, that agency should be in the Office of the Governor; not an action agency.

Repeal of the ACMA will set local control back substantially and cause a major problem with development in the State. Repeal will not eliminate the multitude of permit and other requirements which exist outside coastal management. The days of uncontrolled development are no longer here whether we like it or not. At least the ACMP provides a method of resolving conflicts and expediting the permitting and/or leasing process. Additionally, the ACMP makes the local people through their elected officials the determiners of policy; not some distant body in Juneau or Washington D.C.

At the present the ACMP receives about \$4.5 million in Federal funds. Over half of this goes to State agencies to do tasks they should be doing anyway, without coastal funds. The remainder goes to local governments to help pay the costs of developing a local plan. There is considerable sentiment that the entire \$4.5 million should be distributed to local governments to speed up the local program development. Probably a \$3.0 million program with 10% local match is all that can be absorbed in the forthcoming fiscal year. OCM and C&RA can probably furnish closer estimates.



Roger W. Allington P.E.

MAR 5 1981

MEMORANDUM

State of Alaska

111-4
Resources

TO: The Honorable Bettye Fahrenkamp
Chairman, Senate Resources Committee

DATE: March 4, 1981

FILE NO:

TELEPHONE NO:

Bill R. Walsh
FROM: Murray R. Walsh
Coordinator
Office of Coastal Management

SUBJECT: ACMP Workshop

Please find attached an invitation to the Local Government Workshop on the Alaska Coastal Management Program scheduled for March 17. We encourage Senate Resource Committee members and their staff to attend.

cc: Senate Resource Committee Members

STATE OF ALASKA

JAY S. HAMMOND, Governor

OFFICE OF THE GOVERNOR

DIVISION OF POLICY DEVELOPMENT AND PLANNING

POUCH AP

JUNEAU, ALASKA 99811

(907) 465-3541 OR 465-3574

March 3, 1981

To: All district participants in the Alaska Coastal Management Program

You are cordially invited to attend a local government workshop on the Alaska Coastal Management Program (ACMP). The workshop will be conducted at the Elks Club, 109 S. Franklin, Juneau, Alaska on March 17, 1981 from 9:00 am to 4:00 pm. A tentative agenda is attached for further information.

As you may be aware, there are several important issues which have surfaced since the start of the year which could have serious impact on the ACMP. The two most significant of these issues include the proposed federal budget cuts by President Reagan and Alaska Senate Bill 216, "An act repealing the Alaska Coastal Management Program." The Office of Coastal Management (OCM) would like to bring you up to date on these vital issues.

Another workshop agenda item which is just as important is a major concern which revolves around "what constitutes a significant amendment to an approved district program?" Local government officials have recently expressed their fears that a rigid definition of "significant amendment" could be construed as state oversight of local planning authorities granted under Title 29 resulting in a loss of local autonomy. At its February meeting, the Coastal Policy Council directed OCM to address this issue. OCM has been working on defining "significant amendment" and will have a draft available at the workshop. However, since the outcome of definition will have considerable impact on local government, we feel your involvement is crucial in drafting the definition.

In addition, with your assistance and input we will attempt to resolve other specific concerns you may have with the ACMP. In order to facilitate discussion of any concerns you would like to see addressed, we would appreciate being notified of the concern so we can add it to the agenda. We request that you bring a short written problem statement to the workshop for discussion purposes.



ALASKA
COASTAL MANAGEMENT PROGRAM

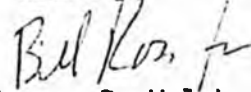
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The Coastal Policy Council has scheduled its next meeting in Juneau on March 18 & 19, also at the Elks Club. The results of the workshop will be presented to the Coastal Policy Council in the form of recommendations. In addition, the Senate Resources Committee has scheduled two hearings on March 16 & 18 on Senate Bill 216. OCM strongly encourages your participation at these hearings.

We have reserved a number of rooms at the Baranof Hotel to insure the availability of lodging for workshop and Council meeting attendees. Please contact Michelle Shook at OCM (465-3540) to reserve one of these rooms (call collect if necessary).

We look forward to seeing you at the workshop and Council meeting.

Sincerely,



Murray R. Walsh
Coordinator
Office of Coastal Management

LOCAL GOVERNMENT WORKSHOP ON THE ALASKA COASTAL MANAGEMENT PROGRAM

Sponsored by the Office of Coastal Management
Elks Club
109 S. Franklin St.
Juneau, Alaska
Tuesday, March 17, 1981
9:00 am to 4:00 pm

Purpose: To discuss the status of the ACMP and pertinent issues and possible solutions relating to the development and implementation of district coastal management programs.

AGENDA

Morning Session - 9:00 am - 12:00 pm

- I. Welcome and introductions
- II. Overview of the ACMP status from a local, state, and federal perspective.
- III. Discussion and agreement on definition of "significant amendment" to be presented to the Council.
- IV. Discussion of other specific issues identified by workshop participants and proposed solutions.

Afternoon Session - 1:30 - 4:00 pm

- V. Discussion of the implementation of district programs.
 - A. Consistency and the Regulatory Reform Regulations
 - B. OCM's role after the Regulatory Reform Regulations
 - C. District's responsibility to insure its role in consistency decisions
 - D. CRSA program implementation

FEB 24 1981

Alaska Loggers Association, Inc.



111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

February 19, 1981

The Honorable Bettye Fahrenkamp
Chairman, Senate Natural Resources Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Re: Report To The Senate Natural Resources Committee

Dear Senator Fahrenkamp:

I. OVERALL STATE OF THE INDUSTRY

A. Introduction:

This letter is a follow-up to the opportunity which you gave the Alaska Loggers Association (ALA) to testify regarding the condition of the forest industry. The ALA represents 105 logging companies throughout the State. As an overall matter, our relationship with the executive branch of government is excellent. We have appreciated the responsiveness and positive attitude toward our industry from the Governor, The Department of Natural Resources (DNR), The Department of Environmental Conservation (DEC), and The Alaska Department of Fish & Game (ADF&G). We believe that these are well managed agencies which understand their mission of interaction with our industry and have attempted to regulate us in a reasonable way.

The Governor strongly supported the position of the forest industry in the recent D-2 battle in Congress and we appreciate his concern for the jobs and well-being of our industry. We also appreciate the Governor's regulatory reform effort which should substantially reduce the time it takes us to get permits.

SERVING ALASKA'S TIMBER INDUSTRY

Alaska Loggers Association, Inc.

The Honorable Bettye Fahrenkamp

February 19, 1981

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DNR has been in the process of constructing a highly sophisticated regulatory program for the forest industry. Throughout this process, DNR has taken the time to learn about our industry and has been both reasonable and fair in setting goals for our operations on the ground.

DEC has been helpful in working with us to achieve a workable regulatory program for the forest industry. DEC has also supported the Alaska pulp mills in their attempt to settle environmental problems with the Environmental Protection Agency. The habitat division of the Alaska Department of Fish and Game has likewise been an agency which has taken the stance of showing us how we can perform projects, rather than being obstructionists.

B. Fish and Game Boards:

Our major problem with government at this point is with the Boards of Fish and Game. The law (AS 16.05.251(a)(7)) authorizes the Boards of Fish and Game to be involved in setting regulations for fish and game habitat. The problem with this is that the Boards have no expertise regarding forest operations. The authority of AS 16.05.251 (a)(7) has been used by an overzealous Fish and Game Board executive director who has sought to inject himself into habitat management -- often in a manner inconsistent with the management philosophy of the habitat section of the Alaska Department of Fish and Game.

We would recommend that this problem be handled by having regulatory functions left solely to the habitat section of the Alaska Department of Fish and Game by repealing AS 16.05.251(a)(7). Alternatively, we would recommend that a forester be put on each of the boards. We now have environmental and fisheries experts on the Forestry Board. Thus, if they are going to regulate forest operations through their habitat management authority, it seems only reasonable that a forester be on the Fish and Game Boards. Foresters are trained to manage all resources and thus would provide expertise which is now lacking. In any event, we would urge you to consider some approach which would deal with the problems of confusion and duplication presently being created by the Fish and Game Boards.

C. State of Market:

At this point, domestic markets and foreign markets are feeling the impact of high interest rates in home building and inflation in general. The markets are not good. The industry has mills capable of producing construction timber for use in Alaska. Alaska law (AS 36.15.010) requires that Alaska timber be used in projects upon which public construction monies are spent, if practical. We would urge your assistance in obtaining assurance from the Administration that this policy of purchasing Alaskan forest products will be fully implemented.

Alaska Loggers Association, Inc.

The Honorable Bettye Fahrenkamp
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II. AREAS FOR LEGISLATIVE INITIATIVE.

A. State Forest Land. We need to improve upon the program of identifying potential State forest land for retention by the State, particularly as land conveyances are made under the D-2 process. We would urge that all State lands which have high forest values be considered for retention in the public domain and managed as State forests. We believe it would be appropriate for a legislative authorization which would underscore DNR's existing policy in this regard. Furthermore, potential State forest land should be legislatively exempted from the State's land disposal program.

B. Budgeting Outputs of Forest Goods and Services. The Forest and Rangeland Renewable Resources Planning Act of 1974 provides a Federal mechanism by which the agreed program for outputs of National Forest goods and services is linked with the annual budgeting process of the Department of Agriculture. Under the Federal legislation an assessment is made of the Nation's needs for forest resources at given time intervals. After public hearings, and determinations by the Forest Service, a program for management of all national forests is submitted to Congress by the President. Approval of the program by the Congress means that sufficient budget will be authorized to allow the program to go forward.

We believe that you should consider implementing an approach like this on the State forests. It would be most useful for State forest managers to be able to pursue long term programs with knowledge that such programs will be supported by necessary legislative appropriations over the long periods of time it takes to grow trees and maintain, produce, or enhance other resources.

As the State obtains more forest land, it is important for it to determine how to manage those forests over the long run. Interim goals should be designed to implement the target which the forests are planned to ultimately achieve. All of this should be part of the agreed upon program.

There is a need to link program with budget. The Forest Practices Act, as a practical matter, calls for increased personnel for management purposes. Thus far, the budgeting levels of the Department are not able to meet these objectives and there are insufficient personnel to manage the Forest Practices Act. Likewise, there are insufficient ADF&G biologists, particularly research biologists. Accordingly, a law which integrates outputs with budget and manpower at the State level would be most appropriate.

C. Reforestation and Afforestation Programs. As we obtain new forests and new lands, we should have a strong reforestation program. Not only should we reforest lands which have been harvested or burned where necessary, the State should consider planting lands

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capable of sustaining forest growth (afforestation). Sufficient funds should be provided for these programs in DNR's budget.

D. Research Program. Alaska has 22 million acres of commercial forest land in the Interior of Alaska, 14-16 million acres of which are in State, municipal and private hands. A research program could be of tremendous value in determining the new tree growing, harvesting, marketing and reforestation methods needed to establish a strong forest industry in the Interior. Furthermore, such a research program could help resolve apparent conflicts between users of various forest resources. We would propose that the program be modeled upon the Forest Service research station approach.

E. Purchaser Credits. The Federal Government allows monies spent by contractors in building roads and other permanent facilities to be used as an offset against stumpage rates charged by the Forest Service. This means that the Federal Government does not have to budget for the costs of those roads or other permanent facilities. A similar program by the State would be most helpful.

F. Authority for Memorandum of Understanding. ADF&G and DNR may wish to enter a memorandum of understanding (MOU) by which ADF&G would have DNR manage certain ADF&G habitat programs on forest lands. There is concern that there is no authority for this in AS 16.05.870 which gives ADF&G its habitat management authority. We urge that a subsection be added to AS 16.05.870 which provides that ADF&G may enter an MOU with other agencies regarding the management functions described in AS 16.05.870.

G. Southcentral Case. Attached is a memorandum from Jim Clark to Jim Rynearson of Alaska Lumber and Pulp Co., Inc., (ALP) describing the impact of this case upon the State's primary manufacture requirement. The State should consider combining with other States in the Northwest to petition Congress to specifically authorize States to require primary manufacture. The ALA strongly supports application of the primary manufacture requirement to all public lands.

H. Fire. We believe that the State's budget for fire control is inadequate. This was made clear by the fires in the interior of Alaska last year. We would urge that this be given priority in DNR's budget this year.

III. OVERSIGHT OF EXISTING PROGRAMS

A. State Forest Practices Act and BMPs. We believe that DNR has done an excellent job of promulgating these regulations. While we do not agree with each and every provision, the process was fair and open and DNR negotiated reasonable regulations with us and other groups.

Alaska Loggers Association, Inc.

The Honorable Bettye Fahrenkamp
February 19, 1981
Page Five

Section 11 AAC 95.060 of the regulations states that best management practices (BMPs) will be the method by which the standards set forth in the regulations will be achieved. The BMP manual thus far produced is heavily prescriptive in that it sets forth in infinite detail how forestry is to be performed. We believe that as much professional management as possible is needed to insure a sound environmental response to site specific problems. Prescriptions such as those set forth in the BMP manual (which are designed to tell professional managers how to do their job) are a product of distrust of the managers. Thus, they hinder the professional managers of every discipline. We strongly urge that the BMP manual be rewritten to set goals without telling the operators or managers how to accomplish them. We further urge you to direct policy on this matter by passing a resolution stating that the BMP manual should not be prescriptive, but should instead favor professional management.

B. Alaska Coastal Zone Management Act (ACMA). The forest industry has not yet been fully impacted by ACMA. As we understand the Act, it is broken into three parts: 1) planning and zoning; 2) funding for planning and zoning; and 3) consistency requirements. ACMA provides no planning and zoning authority to municipalities which they did not already have. However, communities have been made cognizant of these powers and have had an incentive to plan in their communities because of the availability of federal funds. *

The procedural requirements to assure consistency are the major problems we have with ACMA. The difficulty is that as applied to the forest industry, consistency presently requires a separate review by the Department of Planning and Policy Development (DPDP) of whether or not a forest operation is consistent with State and local plans. Consistency is already required of Federal agencies by Section 313 of the Federal Water Pollution Control Act of 1972 and by the forest industry in particular by the July 1980 MOU entered between the State and the Forest Service. Thus, a separate consistency review for our industry when operating on National Forest land is merely duplicative.

We appreciate the fine job done by the Hammond Administration on regulatory reform. The proposed regulations would eliminate many duplications of procedure present in the existing ACMA program. Accordingly, we urge their earliest adoption. However, we believe that Sections 208 and 313 are sufficient to insure consistency with coastal zone requirements for forestry operations on Federal lands. Furthermore, the Legislature has previously made clear that ACMA should not create duplication of procedures for the forest industry operating on State and private land (AS 41.17.020(j)). We believe that ACMA's impact on forestry should be considered in light of previous policy declarations by the Legislature.

Alaska Loggers Association, Inc.

The Honorable Bettye Fahrenkamp
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Accordingly, we urge you to review the ACMA to determine whether or not in situations where: (1) an industry is regulated by comprehensive State regulations and (2) the Federal agencies must follow the State management requirements, an exemption from the procedural burdens of the consistency regulations might be in order. We are not advocating that at this time, as we believe more information is needed. We do believe that oversight hearings on the issue would be most helpful.

C. Beach Logs. Another problem with the regulations surrounds the primary manufacture requirement. Beach log salvors are allowed to export logs in the round. This has encouraged log pirates to steal logs which are then sold under a salvage permit. The AIA has previously proposed a program to take away the incentive for log piracy and provide a fair market to salvors. (See attached). We would urge you to support this program by resolution.

IV. IMPLEMENTATION OF D-2.

As you know, the D-2 Bill resulted in only a 450 MMBF timber supply being available to the forest industry on the Tongass National Forest. This is the amount the industry needs to maintain itself over the long run. Accordingly, harvest will have to take place in all of the LUD III and LUD areas shown on the Tongass Land Management Plan (TLMP). This will cause conflicts with other user groups. To provide more flexibility (if the pressure from the user groups becomes too great), we may urge that Northwest Admiralty Island, East Behm Canal and Southern Misty Fiords be open to multiple use. We would urge the State's assistance in doing this.

Thank you for holding public hearings on the state of the forest industry. We believe them to have been most useful. We will provide you any assistance we can on these matters.

Yours very truly,



Lloyd A. Jones, President

JFC:bj

cc: Governor Hammond
John Katz
Keith Specking
Robert LeResche
Ronald Skoog
Ernst Mueller
Greg Cook
John Sanctor

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
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ARLISS STURGULEWSKI



POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

TO: SENATE RESOURCES COMMITTEE
FROM: SENATE RESOURCES COMMITTEE STAFF
DATE: March 13, 1981
RE: Hearing - March 16th and 18th - SB 216 "An Act repealing the Alaska coastal management program."

For your information attached please find:

Letter from Roger Allington, former Co-Chair of the Alaska Coastal Policy Council

Previously distributed letter from the Alaska Loggers Association please note PAGE FIVE.

The Hearing on SB 216 March 16th will be conducted in Senate Finance and the hearing March 18th will be in the Butro Room.

Attachments

FK

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

ALASKA LEGISLATIVE INFORMATION OFFICE
444 NORTH CAPITOL, N.W.
SUITE 327
WASHINGTON, D.C. 20001
(202) 624-5873

February 27, 1981

The Honorable Bettye Fahrenkmap
Chairman, Senate Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Cynthia has provided me with the substance of your conference call of February 25, 1981 and I have made some preliminary inquiries and am still awaiting further information.

I talked first to John Iani, the Fisheries and Coastal Zone Management staff person for Senator Murkowski. He is knowledgeable on some of the areas you are interested in and has made a request of the Library of Congress on our behalf to seek information regarding multi-national and international treaties specifically, in reference to salmon taking on the high seas, the names of various fisheries councils which make determinations on these treaties and current policy, and the background material necessary so that you can have some input into that decision-making, etc. John is from Kodiak and has been working in this area for some time. He knew precisely why this information was requested and was most congenial in offering his assistance. I shall be hearing from him soon and will send the extra material he obtains for us from the Library of Congress. He can be reached at (202) 224-6665 for further information.

Then I contacted the State Department and found the Office of Fisheries (202/ 632-2335) and they referred me, more specifically, to Mr. Raymond Arnaudo (202/ 632-5690) who is in charge of the Pacific Ocean area in this same Office of Fisheries. He told me that Chuck Meacham was a walking compendium regarding all of these councils and treaties but, since his retirement, they have abolished the position he held in the Office of the Governor. Since then I have learned that he may still be working on a contract basis with the Governor's Office so you may be able to obtain more information from him. He also recommended that I contact Rod Moore on Congressman Don Young's staff as he is most knowledgeable in this area. Mr. Arnaudo has copies of the kinds of treaties we have regarding fishing in the North Pacific and also information about the councils and other groups which have an input into policies regarding fishing in and around Alaska. When I receive this information from Mr. Arnaudo, I will send it right along to you.

Because of Mr. Arnaudo's reference to Rod Moore, I then talked to him and he was, indeed, knowledgeable in the areas we are interested in. He would be happy to talk to any one of you directly and can be reached at (202/ 225-5765). He informed me that Alaska is a voting member of the North Pacific Fisheries Management Council, a non-voting member of the Pacific Fisheries Management Council and also, a member of the Pacific Marine Fisheries Commission. I will have to check on the membership of Alaskans on all three of these groups. I would assume we would have someone overseeing them even if we are a non-voting member of, at least, one. He was not sure about our status on the latter Commission. The Alaskan who attends as the voting member of the North Pacific Fisheries Management Council is Ron Skoog, Commissioner of the Department of Fish and Game, in Juneau. Although it does not have to be him, I believe the Governor generally designates him as the Alaskan representative.

I asked Rod how Alaskans and, specifically, the members of the Alaska Legislature, can have input into all of these meetings and he said there were several ways. He felt that the Legislature could make its voice heard by adopting a resolution to be sent to these organizations, by directing the Governor as to the will of the Legislature, by appointing a member to testify and present a certain position when these commissions meet, or by letter to the various organizations. I indicated that Alaskans had become increasingly frustrated because they did not feel that their feelings and concerns were being given to these groups. He told me that Clem Tillion is the Chairman of the North Pacific Fisheries Management Council but he is not a State of Alaska appointee. The Governor nominates people and they are then chosen by the Secretary of Commerce. The North Pacific Fisheries Management Council meets, he said, about ten times a year but did not know how often or when the Pacific Marine Fisheries Commission or the Pacific Fisheries Management Council meet. We will attempt to find that information for you.

Regarding treaties with Canada, South Korea, and Canada, Rod said that the North Pacific Fisheries Convention covers high seas salmon fishing and that all countries are signatories to it. He indicated that we are also negotiating a treaty with Canada regarding the spawning of salmon in the Fraser River. Because these spawning areas are so vital to the United States, these negotiations may lead to some sort of an agreement for joint management of the salmon fishing/spawning in this area in Southeast Alaska. He also indicated that there are ongoing negotiations regarding interceptions of salmon in this same area.

The Honorable Bettye Fahrenkamp
February 27, 1981
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Mr. Arnaudo indicated he would send me a sample of the international treaty so that I can send it to you. The North Pacific Fisheries Convention, by the way, was first signed in 1952 and was renegotiated and signed in 1978. Rod also told me that Steve Pennoyer, Director of the Division of Commercial Fisheries in the Department of Fish and Game, is a fount of information in this area and could point us even further to the sort of information we are requesting.

Please let me know if you wish us to contact Mr. Pennoyer or see if we can find any trace of Chuck Meacham (I note he is listed in the last Directory of State Officials). Perhaps, you would want the Resources Committee staff to obtain more direct information right there in Juneau. We, of course, stand ready to do what we can in this regard. I am still awaiting material from John Iani and Mr. Arnaudo and shall make further inquiries at NOAA in the Department of Commerce to see what information they have. I thought I would get this letter off to you right away since your conference call indicated you needed this information so that you might prepare for an April Board meeting. However, I have tried to keep you informed of the various fishing meetings and information as it appears in the Federal Register. In addition, we will try and find the names of the members of all these commissions and councils.

I think it is obvious from my cursory inquiry in this area that there is a lot of information about these fishing arrangements but that little of it, specifically as it pertains to Alaska, is written down anywhere. I guess we need a compendium of information just for Alaskans regarding these groups and treaties, their membership, meeting dates, and how we can have constant input into their deliberations.

Please note the attached which I just found in the Federal Register this morning. This refers to another Public Law (96-265), The Fisheries Conservation and Management Act of 1976, which requires applications for permits, and printing thereof, in the Fishery Conservation Zone of the United States, after February 28, 1977. The summary includes applications from Taiwan, Japan, Korea, Italy, Cuba, Poland and Russia, all of which desire to fish in Alaskan waters. I shall try to obtain a copy of this Public Law and send it to you.

Do let me know if there is any other specific information you would like and you may be sure I will be back in touch with you when I have the other information to send.

Sincerely,


Gene Kennedy
Director

Enclosure
GK/km

Council, located in the geographical area of Seattle, Washington, will hold a public meeting at 9:00 a.m. on Thursday, March 19, 1981, at the Washington Athletic Club, 6th and Union, Room 2105, Seattle, Washington, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Maxine Wood, District Director, U.S. Small Business Administration, Room 1744 Federal Building, 915 2nd Avenue, Seattle, Washington 98174, (206) 432-7791.

Dated: February 20, 1981.

Robert P. O'Malley,
Executive Director, Office of Advisory Councils.

[FR Doc. 81-6184 Filed 2-25-81; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 743]

Fishery Conservation and Management; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and

Management Act of 1976 (Pub. L. 94-265) as amended ("the Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the Federal Register.

Individual vessel applications for fishing in 1981 have been received from Taiwan and the Governments of Japan, Korea, Italy, Cuba, the Polish People's Republic, and the Union of Soviet Socialist Republics and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 633-7432).

Dated: February 17, 1981.

James A. Storer,
Director, Office of Fisheries Affairs.

Fishery Codes and Designation of Regional Councils Which Review Applications for Individual Fisheries

Code and fishery	Regional Council
ADS Atlantic hakes and slunks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
USA Bering Sea and Aleutian Islands halibut, longline and herring gillnet	North Pacific.
CRB Crab (Bering Sea)	North Pacific.
GOA Gulf of Alaska	North Pacific.
NWA Northeast Atlantic	New England, Mid-Atlantic.
SMT Seamount groundfish (Pacific Ocean)	Western Pacific.
SNA Snails (Bering Sea)	North Pacific.
WOC Washington, Oregon, California coastal	Pacific.
PBS Pacific halibut and sharks	Western Pacific.

Activity Codes Specify Categories of Fishing Operations Applied for

Activity code	Fishing operations
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

Nation, vessel name, and vessel type	Application No.	Fishery	Activity
Japan:			
Kakko Maru No. 62, Danish salmon	JA-01-1482	BSA	1
Tenyo Maru No. 28, Danish salmon	JA-01-1493	BSA	1
Tomi Maru No. 81, medium stern trawler	JA-01-0416	BSA	1
Hokyo Maru No. 26, Danish salmon	JA-01-0567	BSA	1
Shinsei Maru No. 18, longline	JA-01-1481	ABA	1
Takashiro Maru No. 52, cargo/transport vessel	JA-01-0516	ABS, BSA, CRB, GOA, HWA, WCC	3
Toko Maru No. 84, longline fishing vessel	JA-01-1393	ABS	1
Kosei Maru No. 31, longline	JA-01-0978	PBS	1
Kosei Maru No. 11, longline	JA-01-2077	PBS	1
Dakichi Maru No. 72, longline	JA-01-0876	PBS	1
Kawachi, cargo/transport vessel	JA-01-0912	HWA, BSA, GOA, SMT	3
Fukuyo Maru No. 10, pot fishing vessel	JA-01-0703	CRB	1
Hokko Maru No. 12, pot fishing vessel	JA-01-0704	CRB	1
Kayo Maru No. 28, pot fishing vessel	JA-01-0711	CRB	1
Koyu Maru No. 21, pot fishing vessel	JA-01-0717	CRB	1
Koyo Maru No. 2, pot fishing vessel	JA-01-0812	CRB	1
Ekyu Maru, pot fishing vessel	JA-01-0917	CRB	1
Matsuri Maru No. 22, pot fishing vessel	JA-01-0921	CRB	1
Ekyu Maru No. 26, pot fishing vessel	JA-01-0922	CRB	1
Hakuyo Maru, pot fishing vessel	JA-01-0927	CRB	1
Kabuto Maru No. 2, pot fishing vessel	JA-01-0930	CRB	1
Koyo Maru No. 17, pot fishing vessel	JA-01-0932	CRB	1
Poland:			
Manta, large stern trawler	PL-01-0055	WOC, GOA, BSA	1
Chety, large stern trawler	PL-01-0078	WOC, GOA, BSA	1
Tenok, large stern trawler	PL-01-0079	WOC, GOA, BSA	1
Tasac, large stern trawler	PL-01-0094	WOC, GOA, BSA	1
Kaszuby 2, cargo/transport vessel	PL-01-0097	HWA, WOC, GOA, BSA	3
Harna, cargo/transport vessel	PL-01-1429	HWA, WOC, GOA, BSA	3
Lewanter, cargo/transport vessel	PL-01-0100	HWA, WOC, GOA, BSA	3
Tymocz, cargo/transport vessel	PL-01-0101	HWA, WOC, GOA, BSA	3
Bran, cargo/transport vessel	PL-01-0053	HWA, WOC, GOA, BSA	3
Zulung, cargo/transport vessel	PL-01-0041	HWA, WOC, GOA, BSA	3
Goff, cargo/transport vessel	PL-01-0049	HWA, WOC, GOA, BSA	3
Honeta, cargo/transport vessel	PL-01-0061	HWA, WOC, GOA, BSA	3
Tenat, cargo/transport vessel	PL-01-0060	HWA, WOC, GOA, BSA	3
Apulan Ledochowicz, fishing cargo vessel	PL-01-0067	BSA, GOA, WOC, HWA	3
Taiwan:			
Jai Ailin No. 2, longline fishing vessel	TW-01-0093	PBS	1
Teng Ring No. 01, longline fishing vessel	TW-01-0012	GOA	1
Korea:			
Dong Yang No. large stern trawler	KS-01-0004	BSA, GOA	1
Hway Yang No. large stern trawler	KS-01-0008	BSA, GOA	1
No. 31 (Daejeon), longline fishing vessel	KS-01-0050	BSA, GOA	1

Huber, vessel name, and vessel type	Application No.	Fishery	Activity
Joint Ventures--Continued			
<i>Mya Gudana</i> , stern trawler	UH-01-0017	WOC	2
<i>Orkut</i> , stern trawler	UH-01-0064	WOC	2
<i>Parabla</i> , stern trawler	UH-01-0703	WOC	2
<i>Sardak</i> , stern trawler	UH-01-0210	WOC	2
<i>18 Syed Vazir</i> , stern trawler	UH-01-0017	WOC	2
<i>Sabak</i> , factory/processor-ship	UH-01-0233	WOC, GOA, BSA	2

All vessels listed are participating in the Fish Processors Associated (215 W 12th St., Vancouver, WA)/KMOCS joint venture, which will be conducted between Jan. 15 and Oct. 20, 1981, in the BSA and GOA fisheries.
 All vessels listed are licensed to participate in the USSR/Maine Resources Co. (1215 21st Ave. West, #108, Seattle, WA) joint venture, which will be conducted in the BSA, GOA, and WOC fisheries between Apr. 15 and Dec. 31, 1981.

JFR Dec. 01-0301 Filed 2-25-81; 0:45 am
 BILLING CODE 4710-02-M



GENE KENNEDY
 DIRECTOR

ALASKA LEGISLATIVE INFORMATION OFFICE
 444 NORTH CAPITOL, N.W.
 SUITE 327
 WASHINGTON, D.C. 20001
 (202) 624-5873

Affairs, Room 5417A, Department of
 Interior, NW, Washington,

and related
 are made part of the
 sidered by the
 late in connection with
 are available for
 copying in the Office of
 gal Adviser for
 s during normal

relating to this notice
 ed to Mr. Collums at the
 phone: 202-632-1217).
 13, 1981.

John R. Crook,
*Assistant Legal Adviser for Economic and
 Business Affairs.*
 JFR Dec. 01-0309 Filed 2-25-81; 0:45 am
 BILLING CODE 4710-02-M

[CM-3/376]

Shipping Coordinating Committee;
 Subcommittee on Safety of Life at Sea;
 Meeting

The U.S. SOLAS Working Group on
 Subdivision, Stability and Load Lines
 will conduct an open meeting on March
 11, 1981, at 10:00 a.m., Room 1303 of
 Coast Guard Headquarters, 2100 Second
 Street, S.W., Washington, D.C. 20593.

The purpose of the meeting will be a
 review of the agenda items and
 delegation papers received by that time
 in preparation for the 26th Session of the
 Subcommittee.

- In particular the Working Group will
 discuss:
- Final U.S. positions for all agenda items, in particular:
 - Improvement of Load Line Convention
 - Intact Stability
 - Subdivision of Dry Cargo Ships—Info to Master

For further information contact Mr.
 William A. Cleary, Jr., U.S. Coast Guard

(G-MMT-5/TP12), 2100 2nd Street, S.W.,
 Washington, D.C. 20593. Telephone (202)
 420-2188.

Dated: February 20, 1981.
 John Todd Stewart,
Chairman, Shipping Coordinating Committee.
 JFR Dec. 01-0305 Filed 2-25-81; 0:45 am
 BILLING CODE 4701-07-M

DEPARTMENT OF TRANSPORTATION
 Federal Aviation Administration
 IDocket No. 81-ASW-3AC1

Gulfstream American Corporation
 (Formerly Rockwell International);
 Models 690D and 695A; Aircraft
 Certification and Availability of
 Documents

AGENCY: Federal Aviation
 Administration (FAA), DOT.

ACTION: Announcement of certification
 program and type certification basis.

SUMMARY: This document announces the
 type certification program and type
 certification basis for the Gulfstream
 American Models 690D and 695A.
 Gulfstream American Corporation has
 applied for an amended type certificate
 for the Models 690D and 695A.
 Application was originally requested by
 Rockwell International, however,
 Rockwell International was purchased
 by Gulfstream American Corporation
 with ownership effective February 3,
 1981. As both models have identical
 geometry and are both outgrowths of
 previously approved models, they are
 included in one announcement.

DATES: The closing date for comments
 will be specified in a later
 announcement.

ADDRESSES: Send comments on the
 program in duplicate to: Regional
 Counsel, Attention: Docket No. 81-
 ASW-3AC, Southwest Region, Federal

reduce costs and dependence on steam
 the company proposes to generate steam
 by means of a new bark or wood
 waste fuel power plant in Edmuaston.
 The steam would be transported through
 the pipeline across the St. John River
 (the U.S.-Canadian boundary). A
 parallel pipeline would return the
 condensate from the Madawaska plant
 to Canada. The pipeline would cross the
 river on a new suspension bridge to be
 constructed about 900 feet east of the
 existing international bridge.

The Department's jurisdiction with
 respect to this application is based upon
 Executive Order 11423, dated April 16,
 1968 (the Order), and the International
 Bridge Act of 1972 (33 U.S.C. sec. 535),
 approved September 26, 1972. As
 required by the Order, the Depa. nent is
 circulating this application to concerned
 agencies for comment. In addition, the
 Department's Office of Environment and
 Health is reviewing an assessment of
 the environmental effects of the
 proposal, which has been submitted as
 part of the application, in order to
 determine if an environmental impact
 statement will be required. Interested
 persons may submit their views
 regarding this application in writing by
 March 20, 1981 to Mr. Haley D. Collums,
 Attorney Adviser, Office of the
 Assistant Legal Adviser for European

AVCP

Association of Village Council Presidents
P. O. Box 219 • Bethel, Alaska 99559 • Phone 543-3521

My name is Showalter J. Smith, Director of Regional Planning for the Association of Village Council Presidents.

In order for the Senate Resources Committee to highly recommend to the State Senate for SB216 to eventually become State law, the Committee will need to definitely consider several major factors which directly relate to the possible repeal of the State Coastal Management Program.

First, the Association of Village Council Presidents through the past AVCP Convention resolutions has totally supported the Alaska Coastal Management Program. This support eventually lead to the reality of a Coastal Resource Service Area Board which is an entity presently benefitting the region as a whole. Presently, the existing Board is considering major alternatives relative to any major development impacts, especially the Outer Continental Shelf development which will occur, due to the region's subsistence and commercially-related resources which will directly be affected. If the repeal of the Coastal Management Program occurs, there will be no regional platform to voice recommendations to any governmental body on any developments. The result would be a total vacuum at the regional level due to the repeal of the region's existing Board which is presently and highly concerned about the region's renewable subsistence resources.

The possible repeal of the present Coastal Resource Service Area Board for the AVCP region would also result in a planning system by another body. This other body mentioned in SB216 would plan for the benefit of our region with the "second-hand knowledge" of the region's subsistence

resources. Presently, our program has direct concerns since our Coastal Resource Service Area Board members live a day-to-day lifestyle who, in essence, negate the system proposed within SB216.

Second, we analyze that SB216 is too premature for the State Senate to consider at the present time. The State Senate, in our opinion, will need to wait for U. S. Congressional action before the repeal of the Alaska Coastal Management Program is presently considered. We assume that Congress will hold hearings on the issue due to President Reagan's proposed budget cuts. Therefore, any witnesses before the Congressional Committee will certainly recommend changes of the federal law or recommend the repeal of the federal program. We, therefore, recommend that the Senate Resources Committee to wait for U. S. Congressional action so that the Resources Committee could have better alternatives due to the information received from U. S. Congressional hearings on the Coastal Management Program.

Third, SB216 if enacted will leave no planning time for the benefit of the State government, and especially, for the population of the AVCP area. As the Senate Resources Committee may be aware, the State has established a lease-sale schedule at the mouth of the Yukon River which will occur in 1982. Time-frame for that particular sale is very close, and to especially, the need to consider SB216 at the present. Due to such a close time frame, if SB216 is enacted, it is our opinion that the governing administrative bodies of the State, and especially, the population of the region will be left in total confusion previous to the sale. Confusion will be the result of the transfer of authority, and any new regulations directly relating to SB216. This possible confusion is not what we especially want or need to encounter before the 1982 lease sale occurs.

Therefore, we highly recommend the Senate Resources Committee not send to the Senate Floor, the bill numbered SB216 based on the above major issues, and those issues certainly affect the region of the Association of Village Council Presidents.

Thank you.

STATE OF ALASKA

OFFICE OF THE GOVERNOR
DIVISION OF POLICY DEVELOPMENT AND PLANNING

** Revised + Corrected*
JAY S. HAMMOND, Governor

POUCH AP
JUNEAU, ALASKA 99811
(907) 465-3541 OR 465-3574

March 13, 1981

The Honorable Bettye Fahrenkamp
Chair, Senate Resources Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

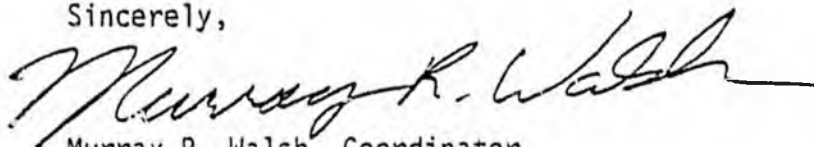
Attached please find the Office of Coastal Management's response to the questions you asked us on March 6, 1981. The bulk of this material is largely made up by attachments to questions 12 and 19.

In preparation of our latest newsletter, we had addressed some of the same concerns that you inquired about. Since it is a briefer public statement regarding the status of the ACMP, I have enclosed a copy of it as well.

We appreciate the opportunity to inform the Committee further about the ACMP.

If you have any questions regarding our response, please do not hesitate to contact me.

Sincerely,



Murray R. Walsh, Coordinator
Office of Coastal Management

MRW/lry
Attachments
cc: Senate Resources Committee members
Coastal Policy Council



ALASKA
COASTAL MANAGEMENT PROGRAM

01-A17LH

1. There have been reported instances of multiple extensions of the review period in making consistency determinations. What methods do you see that would streamline your procedures and speed up the process to avoid delays in the issuance of permits?

In nearly every case where the review period has been extended, DPDP was either awaiting a needed document from another state agency or dealing with a significant issue related to the project or both. Resolution of significant issues at the State level does not delay the final federal action, since issues not resolved by the State result in further extensions of time at the federal level. It also means that the matter has to be decided solely by the federal agency.

DPDP attempts to issue its consistency determinations within 30 days. As the information provided the Senate Resources Committee in February showed, DPDP often meets this timeframe. As a courtesy to applicants, DPDP sends them letters to announce 15 or 30-day extensions if the 30-day deadline is not going to be reached, informing the applicant for the reason that additional time is needed. For example, almost 60 percent of the projects require a Certificate of Reasonable Assurance from DEC, and these projects always require, one if not several, extensions to allow for DEC's public notice and review procedures. On May 15, 1980 DPDP began to await DEC's Certificates prior to issuing its determination in order to consolidate a full decision. Before May 15, an average of 23 extensions per month were made. After May 15, that average went to 52 extensions per month, reflecting the additional number of extensions needed for projects requiring certification from DEC. Consequently, the extensions on the part of DPDP do not cause "delay" in the overall issuance of permits, since the applicant must have DEC's Certificate prior to moving ahead. Since we recently began issuing joint DPDP/DEC public notices for all Corps permit applications, both the review time and the need for extensions has been significantly reduced.

To streamline the issuance of permits, two areas need attention: process and substance. The Regulatory Reform Program of the Administration, now nearly concluded, will solve many of the procedural problems. (It should be noted that the time frames associated with these regulations will not necessarily help the overall time problems for applicants needing federal permits, as well as state authorizations.)

Substantive problems arise because the State has to decide major policy issues in the context of a permit decision. These issues should be dealt with in the planning arena, preferably the local planning arena. The solutions or settlements of the issues should take the form of policies, rules or guidelines that can and must be used by the permit

2. How will proposed development activities be evaluated for consistency with the Alaska Coastal Management Program (ACMP) in areas with approved district programs?

Under either the existing system, or that proposed in the Regulatory Reform Regulations, the approved local plans will be widely circulated through state and federal agencies. Significant state and federal activities or authorizations must be consistent with the approved plans.

Hence the plan forms the rules that all agencies must conform with. OCM offers orientation sessions to train district staff in consistency procedures. OCM also encourages local officials to hold an implementation meeting to orient local, state and federal personnel as to how the plan is to be interpreted, and to explain the implementation process the district has developed.

At present, development activities proposed by the federal government or requiring a federal permit that are to be evaluated for consistency with the ACMP are circulated for a 24-day interagency review by the State Clearinghouse. Cities, boroughs, native groups and citizen organizations along with relevant state agencies are included in the review process. When there is a district program in effect, DPDP staff contact the district to elicit any concerns. The comments of local districts with approved programs are given a "great weight" in the final decision of the state, including any "balancing" factors involved.

Should a district (or a citizen of the district, or a state agency) believe that a district program is not being implemented, enforced, or complied with properly, it can petition the Coastal Policy Council for a hearing. The Superior Court of the State has jurisdiction to enforce lawful orders of the Council.

Under the proposed Regulatory Reform Regulations, State permits are classified into two categories, Class I and II, which must be issued in 30 and 65 days respectively. State and federal consistency determinations follow either of the two proceedings for review of Class I or II permits. The Class I permit process requires the deciding state agency to consult on a timely but informal basis with other resource agencies and the district with the approved program.

The Class II permit process requires the deciding state agency to provide public notice, a copy of which is sent to the local government having jurisdiction over the proposed activity, and a formal interagency review which includes the coastal resource district with the approved program. Great weight is given to the comments of the district. Again, the approved local plan will be the rules that all will use to determine consistency.

3. Has a different definition of "feasible and prudent" been either proposed or employed other than the definition arrived at by the Coastal Policy Council for coastal management purposes?

The only definition of "Feasible and Prudent" employed by OCM and the state agencies is that now found in the Council's regulations. Recently, the Overton Park definition was proposed to be used in the Regulatory Reform Project. However, the Overton Park definition has been removed from the draft regulations, based on comments received from the public.

4. Are economics considered in determining what is "feasible and prudent"?

Absolutely yes. In every consistency determination by DPDP, economic factors codified in the ACMP Standards were given equal consideration to the ACMP environmental Standards. In almost every consistency

determination made by DPDP which allowed a departure from the AMCP standards, economic considerations were the dominant factor.

Case example -- Noatak HUD Housing Relocation:

The Village of Noatak requested the Department of Housing and Urban Development (HUD) to assist in relocating six (6) existing houses, as well as to build several others. In addition the village requested the Department of Transportation and Public Facilities (DOTPF) to construct a gravel berm to stabilize the bank of the Noatak River to protect the homes and the village itself from erosion damage.

The key issue was where the necessary gravel (260,000 cubic yards) be would be obtained. The village of Noatak felt that the gravel could removed from the east channel of the river directly in front of the village without any harm to anadromous fish. Both the Department of Fish and Game (DF&G) and the U.S. Fish and Wildlife Service (F&WS) believed that the gravel removed from that location would result in severe siltation down river, thereby smothering salmon eggs. Both agencies felt that an upland gravel source would be both feasible and less environmentally damaging.

As a result of these concerns, the Mauneluk Corporation and the DOT/PF explored the possibility of utilizing eskers as a long term gravel source three (3) miles inland from Noatak. Subsequent economic investigations revealed that the cost of constructing a road to the site, as well as site preparation, would approximate \$2 million. As a result of this cost estimate, the OCM requested the DF&G and F&WS to investigate other alternatives. In response to that request, a site (an island) was selected just down river from the village as one which would be both feasible and prudent, given the economic considerations of the upland site.

In order to satisfy the concerns of DF&G and F&WS, a protective silt barrier was constructed prior to the placement of the gravel for the berm. This ensured that silt, mixed in with the gravel, would not be carried down river in amounts large enough to endanger salmon eggs. Additionally, gravel would not be removed below the low water line on the island to further protect salmon eggs.

Subsequent to these agreements, the permit to remove gravel from the island was determined to be consistent with the ACMP and the erosion control project was completed.

5. Since the major thrust of the Coastal Management Act was to assist local governments in the development and implementation of coastal management plans, do the quoted portions of the Anchorage Plan comply with the intent of the original legislation?

Anchorage chose not to have a formal consistency review mechanism or an autonomous permit system, and instead sought to rely on commenting through existing State procedures. This was the Municipality's choice to make. The Council was assured that the city would implement its program through the use of existing state and local procedures and

having been thus assured, the Council was not in a position to ask anything more of the city. As currently authorized by State law, the state makes the state and federal consistency decisions, with due consultation with the affected local government. If the local government is aggrieved, it may take its case to the Coastal Policy Council. The situation right now does, in our opinion, comply with the intent of the original legislation. Indeed, the Legislature itself approved the Anchorage plan in 1980.

The recent history since Anchorage's program took effect clearly shows that their program has the impact intended by the original legislation. As of January 1, 1981, 40 federally authorized projects within Anchorage's boundaries were submitted to DPDP for review. Two were withdrawn by the applicants. Of the 38 in review, the Municipality did not comment on 11 of them. Of the remaining 27 projects, 20 of DPDP's consistency determinations were the same as the Municipality's recommendations. In the 6 of the remaining projects, the Municipality's concerns were not ACMP-related. (Often the State Clearinghouse used these non-ACMP concerns in their A-95 response on the project.) In the last project DPDP differed in its original decision, but during informal mediation the stipulations were changed to address the concerns of the city. (This last project was complicated by land ownership conflicts between the applicant and the city which went beyond the bounds of the ACMP.)

Case example -- Cook Inlet 235 Transportation Permit:

The Department of Transportation and Public Facilities (DOT/PF) applied for a Corps permit for road improvements on the Seward Highway including a bridge over Bird Creek. The Municipality raised concerns about reseeded for erosion control and maintenance and creation of needed pullouts and recreation access. Working closely with the city and the Division of Parks, JCM developed stipulations which would keep the project consistent with the approved Anchorage Program that is binding upon state agencies. DOT/PF realized that these stipulations were necessary in order to complete the project in a manner consistent with the Anchorage plan, and hence agreed to them.

6. Are existing interim state procedures for determining consistency of proposed coastal activities with ACMP an unwarranted departure from legislative intent as expressed in the original legislation? Are these procedures delaying the normal time period for issuing permits?

We do not think the existing interim consistency procedures -- which we call the interim management system are an unwarranted departure from the ACMA expression of legislative intent. There are two questions inherent in this: (a) Is it contrary to the intent of the ACMA to have an interim management plan at all, and if not, (b) is the method we have chosen a violation of the legislative instruction to utilize existing authorities to the maximum extent possible in implementing the ACMP?

As to the first question, there is a statutory obligation on the Council to develop a coastal program that conforms with the federal CZM Act (AS 44.19.093) and an obligation for state agencies to use and apply the

guidelines and standards of the Council (AS 46.40.040). The federal CZM Act requires that a state have coastal rules and the means to apply them if it is to obtain federal approval. The benefit of federal approval is the federal funds and the power of consistency. Thus, for ACMP to comply with federal law, an interim management system was needed until the local programs were completed. The obligation for other state agencies to abide by the Council's guidelines and standards also supports the intent that there be an interim management system.

For clarity, however, the Council put in additional language in its regulations to establish the basic legal obligations of the interim management system (6 AAC 80.010 and 030). The Legislature endorsed this approach by approving these regulations.

The second question is whether the system developed and used during 1979 and 1980 did maximize the use of existing state mechanisms and authorities, or was an undue creation of new systems.

When the question of how the State would deliver its federal consistency determinations was being considered in 1978 and 1979, the Administration decided that DPDP would conduct the review process. It should be remembered that the ACMP regulations require State agencies must be consistent with the ACMP. Thus, if a project needed both a federal and a State authorization, that project would receive two consistency determinations: one by DPDP on the federal authorization and one by the State agency on its own action. Although this potential of "double jeopardy" has not often resulted in actually conflicting determinations by DPDP and another State agency, it did show that new procedures, perhaps even duplicative procedures, had been established. OCM took the lead in attempting to resolve this situation by establishing explicit coordination procedures to minimize double jeopardy resulting in conflicting decisions, and in seeking a long-run solution. The Regulatory Reform Project, funded in part by OCM, has had the responsibility of coming up with an appropriate solution. If the proposed regulations are adopted, the intent of the ACMA to utilize existing procedures for implementing the ACMP will be fully met.

The second half of Question #6 asks if current procedures are "delaying" the normal time for issuing permits. We interpret the word "delay" to mean needless, pointless or merely bureaucratic need for an extension of time. Using this interpretation of the word "delay", the answer to the question is "no." There have been several cases where extended periods of time were needed to make the consistency determination. Only a extremely few of these were initiated by DPDP itself, and then only largely because of issues that, if not dealt with by the State, would have resulted in either non-issuance of a federal permit, or still more time being required for federal agencies alone to have resolved the issues.

7. What impact has the ACMP had on the issuance of state and federal land and water use authorizations in areas both with and without approved district programs?

OCM has not made an effort to compare the "consistency history" to date between that group of State and federal authorizations made in

areas which have approved district programs versus the areas which do not. This is so because there are only a few district programs in existence at the present time. However, in each case when there was a district program in place at the time DPDP has made a consistency decision, we have used the comments and opinions expressed by the district during the review. DPDP has never rejected a district comment in its final determination.

We assume this question also asks whether the interim management system has made a difference overall in the quality of state and federal authorizations. We believe there have been significant differences, within state government and out, over this question. These following comments apply mainly to the consistency decisions made by DPDP. OCM would need more time for a thorough evaluation of the consistency decisions made by other agencies.

a) Coordinated Decisions. All DPDP consistency decisions are made through an open process which enable participation by state and federal agencies, local governments and the public. Mechanisms are in place to receive comments, identify conflicts and mediate solutions to reflect coordinated final decisions. Thus, all perspectives are considered in the final decision. As can be seen from the information provided to the Senate Resources Committee in February, the process operates quite rapidly most of the time. We believe the overall consistency process will operate even more rapidly when the Regulatory Reform Project is completed.

Case Study: Kuparuk Bridge Permits. Both Coast Guard and Corps of Engineers permits were required for this project, along with a DNR authorization and a DEC Certificate of Reasonable Assurance. One issue addressed by several agencies was the removal of the remains of the old bridge. DF&G wanted the bridge out by Spring of 1982, DEC said by September 1982, DNR said by Spring 1983. The applicant received word of these differing dates on State authorizations prior to the issuance of DPDP's consistency determination. OCM contacted all three agencies and got them to agree on one date September 1982, so that the applicant would not be confused by the previously differing deadlines.

b) Additional Public Interest Protection. In chapter 80 AAC, the ACMP contains rules and requirements in several areas where there were no previous resource use policies. It is interesting to note that none of the criticism of ACMP we have heard to date has mentioned the value of these standards themselves. Through the interim management system, the state has applied rules on coastal development, geophysical hazards, timber practices, habitat protection, sand and gravel extraction and energy facility siting, to name the most important. Timber practices is the only category where another state authorization -- the Forest Practices Regulations -- is addressing and supplanting the ACMP standards.

Very early in the development of ACMP, in fact just as the 1977 Act was passing the Legislature, OCM surveyed the existing land use statutes and regulations of the State. We found ample procedural rules and even regulatory permit systems, but apart from air and water quality, and

solid waste disposal, there were no rules of substance by which to guide land use decisions, and offer predictability to permit applicants.

The ACMP standards, although general in nature, have provided guidance to decision-makers, and have given criteria for balancing resource conflicts and for considering economic factors in State decisions. This has resulted in not only environmental protection for critical coastal habitat, but has also resulted in safer and wiser projects, and decisions that balanced any resource allocation conflicts.

c) Providing direction for federal authorizations. Just as there was a dearth of uniform and identifiable coastal resource management rules at the State level, there was a similar dearth at the federal level.

Yet there were and are federal permit systems and authorizations being implemented in Alaska. With the advent of ACMP consistency determinations, the federal government now has direction and guidance in making its own decisions in Alaska. The federal agencies do not, as a rule, contest or appeal a DPDP consistency determination. In most cases, even in cases where there have been intensely debated issues, the federal permitting or deciding agency has accepted the ACMP consistency determination and not added any more stringent requirements.

It should be remembered as well, that a federal permitting agency may have the legal right to deny its permit on its own authority, even if the State has declared a proposal to be consistent. There has never been the a case in which a federal agency has denied a permit after DPDP has certified it as consistent.

In short, ACMP has, through the interim management system, provided coordinated decision-making, using well-established and accepted standards. These standards cover several coastal resources and uses. The interim management system has facilitated the federal decision-making process as well. Improvements to the system have been suggested and are being made, largely through the regulatory reform project, but the system as a whole is useful and we believe it works.

8. What is the number of states that have chosen to withdraw from operating a Coastal Management Program?

There are twenty-five states and U.S. territories which have obtained federal approval for their coastal programs under the federal CZM Act. None of the twenty-five have "dropped out" of the federal program or threatened to do so. Six states are developing programs and actively seeking federal approval for them (Florida, New Hampshire, Texas, New York, Ohio and Indiana). The remaining four states have coastal programs of various types, but are not seeking federal approval for them (Georgia, Virginia, Minnesota and Illinois).

9. \$50 million was placed in the Alaska Mutual Bond Bank for Coastal Energy Impact loans. Why has only \$10 million of the funds been utilized?

The Coastal Energy Impact Program (CEIP) to date has received \$50 million

for loans from the federal government. This money is administered by the Local Government Assistance Division of the Department of Community and Regional Affairs, with the financial advice and administrative assistance of the Alaska Municipal Bond Bank. To date, \$12.5 million has been loaned to Alaska communities for public improvement and services which are required as a result of OCS activities. They are as follows: (1) \$3.75 million to the Municipality of Anchorage for extension of its water system; (2) \$7 million to the Kenai Peninsula Borough for an expansion of its hospital; and (3) \$1.7 million to the City of Seward for an electrical distribution system.

The two principal reasons for only 25 percent of the available funds being loaned are:

1) Lack of actual impact. The main reason for the creation of the program was the early prediction of massive development and subsequent impacts as a result of an accelerated OCS oil and gas lease schedule. The predicted development impacts from the three sales in Alaska (sale #39, Cook Inlet and #55), however, simply have not materialized. A case in point is the city of Yakutat. Potentially intense impacts from exploration were ameliorated by the oil industry providing its own power, water and sewer and prohibiting its employees from entering the community. The net result was a lack of need for Yakutat to provide additional public facilities and services. Furthermore, the oil industry activities ceased after its unsuccessful exploratory wells and thereby reduced the need for onshore support facilities. Additionally, the industry intends to continue this "enclave" policy with respect to Sale #55. The other area of energy development (the Kenai Peninsula and indirectly Anchorage) has felt the effects of light impacts (slight increase in population and demand for public services) from the exploratory phase as well as preparation for potential development and production phases. To date, the area has been able to adequately accommodate these impacts without providing many new public services or facilities.

2) Low municipal interest in the program. Many communities have commented that, in light of the involvement with the federal government and the length of time to secure a loan through the program, they obtained other funding. This was not a reflection of the handling of the program by the State but more of an apparent reluctance by municipalities to become involved with the federal government. In fact, according to Dave Rose, Executive Director of the Alaska Municipal Bond Bank, no formal grant application from a community has been denied by the State. The federal government has, however, opposed some pre-applications.

In summary, we see no major administrative or statutory problems with the program. The program probably was unexpectedly premature since there has been little impact to date which required new or expanded public services. This does not mean, however, that the program will be unneeded in future years. Many rural parts of the State where future sales are to be held are currently without adequate public services or facilities and therefore, any sizable influx of new residents would easily create severe impacts. Consequently, these areas would be required to develop new or expanded public facilities and services to accommodate the possible dramatic changes in their communities. Additionally, if a sizable commercial find occurs in Cook Inlet, the communities of the

Kenai Peninsula and Anchorage could feasibly be required to provide additional public facilities and services.

10. The Cordova Coastal Management plan has not been forwarded to the Federal Government and is supposedly being held a few months to clarify a few points. Would you provide the committee with a copy of the minutes of the Coastal Policy Council relating to the Cordova Coastal Management Plan, specifically any discussion of the CPC's rationale for this action?

A copy of the draft minutes from the Coastal Policy Council (CPC) meeting in Cordova is attached. These minutes are draft because the Council has not approved them yet. The CPC did not make a statement or decision with regard to transmitting the Cordova Plan on to the federal Office of Coastal Zone Management (OCZM). The OCM Coordinator did make such a statement, and after some further reflection, wishes now to retract it. OCM was surprised at the testimony offered by OCZM at the meeting in Cordova, and the Coordinator was seeking a non-confrontative method to address the federal office's concerns. However, further reflection has caused OCM to agree that Cordova's plan, as approved by the Council, is indeed a federally approvable program. We intend now to transmit the Cordova Program to OCZM and ask that it be summarily approved as a routine implementation item and incorporated into the federally-approved ACMP. A letter of apology is en route to Cordova containing OCM's promise to aggressively defend that city's coastal program.

11. To what extent and under what circumstances can the federal Office of Coastal Zone Management intervene in the ACMP's operations?

The federal Office of Coastal Zone Management can intervene in the ACMP's operations in three ways:

- 1) As a participant in the ACMP. As a federal agency, OCZM has the right to comment on any facet of the ACMP, be it regulations, research reports of the Council, or a draft local program. OCM has never quarrelled with OCZM over its right to do this.

- 2) As the federal granting agency. OCZM administers the federal money which the State receives yearly. Besides the routine administrative matters of sound fiscal management, OCZM approves the overall direction of how the State is going to fund the development of the ACMP. Occasionally in the last year, OCZM has stepped over what OCM believed were the proper bounds of this overall guidance and stipulated specific programmatic uses of the funds. We have challenged them on this, and to date we believe that no funding decision by the State has been negatively impacted by OCZM's oversight. It should also be said that at times, OCZM's guidance (and stipulations) have resulted in a more sound ACMP.

- 3) As the federal approval agency. This is by far the most important role of OCZM. By giving or withdrawing federal approval, OCZM determines whether or not Alaska has the power of federal consistency. OCZM also approves each local program as part of the overall state ACMP.

Generally OCZM has been supportive of the ACMP and the uniquely Alaskan approach the State has developed. However, in the Regulatory Reform Project, in particular, OCZM was somewhat tactless in conveying its displeasure in how the State's effort was developing. This is not to say that OCZM should not convey to the State its concerns when we are addressing an issue that concerns the approvability of the ACMP. We have no quarrel with that. Provided that Alaska wants to retain federal consistency, it is the price we pay. However we also expect that these kinds of messages be developed rationally, on the basis of facts and law, and delivered sensibly to the State. When OCZM fails to do this, not only are the good points they wish to convey lost, but the entire merits of the question (and even of the ACMP as a whole) get lost in a state vs. federal confrontation. This has happened in Regulatory Reform, and we have confronted OCZM over it.

12. Would you provide the committee with a copy of Fran Ulmer's December 11, 1980 memorandum to Col. Lee R. Nunn regarding Prudhoe Bay oil field, water flood project, federal EIS?

The requested December 11, 1980 memo (attached) is best understood in the context of the entire review process that occurred for the Waterflood project. OCM had previously prepared a detailed analysis of the process for the State's formal federal evaluation. We have attached this analysis. We have also provided Senator Fahrenkamp with one copy of the other relevant correspondence. Additional copies are available from OCM.

13. Would you supply the committee with a copy of OCM's budget and number of personnel when the office was first established?

The Alaska Coastal Management Program (ACMP) was first funded in FY 75 under provisions of the federal Coastal Zone Management Act of 1972. During that year high priorities were placed upon the technical aspects of program development. However, additional concerns were addressed as to (a) the role of state policy as a foundation to base decisions, (b) the role of citizens in determining policies and implementation; and (c) the legal aspects of coastal management. Also, in addition to these concerns, the proposed federal government's leasing schedule for the Outer Continental Shelf area was thought to mean immediate development along portions of Alaska's coast, with resulting impacts.

In FY 75 the (ACMP) consisted of Coordinator and two research analysts to coordinate program development and address immediate key issues affecting Alaska's coastal future. At this time the budget for the ACMP was comprised of a grant from the National Oceanic and Atmospheric Administration (NOAA) for \$592,000 and General Fund Match of \$380,000. See question 19 for a discussion of OCM's FY 82 budget.

14. Is it true that OCM can overrule earlier "consistency" decisions at a later date?

We see two points to address in this question. One is to clarify whether OCM could overrule a consistency decision made by another state agency on the same project during roughly the same period of time.

Our answer to question #6 dealt in part with the problem of "double jeopardy." This is the only way that DPDP might "overrule" an earlier consistency determination on the same project. That is, since DPDP is the last agency to issue its decision -- in order to develop a fully consolidated state position -- very occasionally an earlier State agency decision will be expanded upon to include consistency issues that were not fully addressed in the agency's decision. DPDP only does this "expansion" if a concern of a district, the public or another agency has not been incorporated into the earlier agency's decision, and no justification for not doing so is presented to DPDP by that agency, or if the Governor decides a policy issue in a particular manner contrary to the agency's decision.

Again, the Regulatory Reform project has developed procedures to ensure that only one consistency determination is made per project at that level of detail (see below). This single determination will be made with full consideration of all ACMP-related issues.

The second point relates to projects that develop in stages, progressing from the general or conceptual level to the specific level of actual construction. For larger projects there are often two consistency decisions made at different stages of project development: one is if the project can occur, and if so, the second is how the project should be constructed in order to be consistent with the ACMP. For example, a consistency decision was made that the Beaufort Sea Oil Lease was consistent with the ACMP. Now we are beginning to review the actual plans for how the oil exploration will occur. A decision on the consistency of an exploration plan is not used to "reconsider" the original decision that to lease an area for oil exploration was consistent with ACMP. As another example, a pending decision on a log storage dump is not used to reconsider whether the original timber sale was consistent with ACMP in the first place. Thus, there is no overruling in the sense of using the "how" stage to re-ask the "if" question.

Of course, DPDP will reconsider its decision if the applicant requests that we do so. This has occasionally resulted in a modified or amended decision.

15. How can the ACMP reduce state and federal discretion and provide greater predictability in land and water use authorizations?

Development of a local district coastal management program is the vehicle within the ACMP that can be used to reduce federal and state agency discretion and to provide greater predictability in land and water use decisions. Predictability is a major objective of both the ACMA and the federal CZM Act.

The ACMA and the federal Act provide the mechanisms for a cooperative planning process that can be used to resolve issues, and thus increase predictability, for all levels of government. Participation of state and federal agencies is explicitly required. Both the funding arrangements and the program structure were designed to promote cooperation among the various levels of government.

The ACMA and the federal Act also provide partial enforcement authority to ensure that state and federal agencies comply with coastal management plans, once they are approved. The authority for prohibiting state or federal actions that are not consistent with the local district programs is very powerful and explicit. In essence, state and federal agencies may take no action that is prohibited by a local program.

However, the authority for requiring affirmative state and federal actions on projects or development uses called for in a local plan is not explicit. (An example would be where a local program called for the construction of a small boat harbor in its plan and then sought Corps of Engineers permit and the accompanying state approval to begin construction.) Neither ACMA nor the federal Act requires the state or the federal government, respectively, to approve a project solely because the project is consistent with a local program. In fact, the ACMA and the federal Act require that other state and federal authorities pertaining to land and water use are not diminished. However, to the extent that a local plan specifically incorporates and addresses a given state or federal legal authority, the ACMA and the federal Act generally support the obligation of the state and federal governments to be consistent with the local plan.

Up to now, no district has specifically addressed or attempted to affirmatively influence state or federal authorities. In view of this, the extent of the overall authority conveyed by the ACMA and the federal Act have not been demonstrated.

However, some districts are now developing plans that will attempt to direct state and federal decisions in an affirmative sense. This approach could be made more attractive to districts if the ACMA incorporated a more explicit responsibility for "affirmative consistency" by state agencies. (See question 17.)

16. To what extent does the ACMP expand or diminish local government self-determination and control over land and water use activities?

The extent to which the ACMP either restricts or expands "local control" is very much dependent on the approach taken by the district in developing its coastal management program. The ACMP enhances local control when a district prepares a plan which:

- 1) clearly identifies major coastal development issues facing the district;
- 2) describes the state and federal regulatory authorities and legal requirements applicable to state and federal decisions on the major development issues; and
- 3) fully describes how it will seek to direct both the procedural and substantive provisions of state and federal authorities to implement the plan, once it is approved by the Coastal Policy Council, the Legislature, and the federal OCZM.

The ACMP enables districts to address a wider variety of issues than typically are addressed in local comprehensive plans under Title 29 of the Alaska Statutes. Further, the ACMP seeks to strengthen the local government's role in directing how state and federal agencies should respond to these wider issues by the power of consistency. In exchange for this power, the local district must involve state and federal agencies in the planning process, and allow a state body -- the Council and the Legislature -- and a federal body -- OCZM -- to ratify the plan.

The oversight role of the Coastal Policy Council, the State Legislature and OCZM, while expanding local control under the approach described above, could be seen as diminishing local control if a local government approached coastal management as just another planning function like other planning functions authorized under Title 29. Under Title 29 authorities, local government can prepare a local development plan independent of any oversight requirements by a statewide Council or the Legislature. However, plans developed in this manner have little ability to influence the discretionary land and water authorities of State and Federal agencies.

17. What improvements to the Alaska Coastal Management Act would the Office of Coastal Management recommend?

The basic intent of the ACMP has been supported even by those who are critical of the implementation of the program. We believe that a few changes to the ACMA would result in significant improvements to the program.

1) Clarification and strengthening of the role of local governments. As previously suggested, substantial provisions for local autonomy already are present in the ACMP. In some areas, however, clarification of the obligation of the state to follow local leadership and strengthening of the local role could be extremely helpful.

The two most important things that need to be accomplished are to assure that the local coastal management planning process is strong enough to truly resolve conflicts over resource uses in the coastal zone and to assure that the state agencies are fully committed to following the local plans in making decisions under their other authorities in addition to Title 46.

This could be accomplished by authorizing local governments to take the lead on addressing key state legal authorities in addition to those in Title 46 within their districts. A mechanism is needed to require state agencies to participate in the district's coastal planning process for their other authorities in addition to those of Title 46, and to reach binding agreements on key issues. Such a process would not diminish the substantive authority of state agencies but would increase their accountability to the coastal planning process. The result would be to cause the state agencies to exercise their discretionary authorities outside of Title 46 within a locally controlled planning process. Two changes are needed:

a) Explicit authorization to the districts to address key state legal authorities with their coastal planning process and to require the state agencies to participate in these efforts, and

b) Provision of a mechanism to effectively bind the state agencies to these additional agreements and decisions reached in the coastal management planning process and detailed in the district program. We would recommend the Coastal Policy Council approval of the district program be this act that binds the state agencies.

2) Remove uncertainty over existing interim management system. The interim management system for consistency determinations has been called into question by some people. Concern over whether the system comports with the intent of the ACMA and whether it functions efficiently have been raised. We have addressed both of these issues in other parts of our response to the Committee. (Please see the answer to question 7 in particular.) We feel that the existing system works as well as the State's overall permit processes. It contributes to sound management of coastal resources and we believe it should be retained.

Given the controversy that has surrounded the interim management system, however, we feel that the Legislature should clarify whether it wishes to retain the existing system, adopt a new system, or abandon interim management through adoption of additional statutory language. This would put the program on a more solid footing.

3) Clarify legislative oversight. We believe that the ACMP must venture into controversial areas if it is to be effective. In one aspect or another, in one district or another, there will be important local, state, and/or national issues. Many times, acceptable compromise will be found, but sometimes not. The Council has already declared its desire that some form of legislative oversight be re-established. We would ask that the Committee consider the Council's request.

4) Clarify the role of CRSA boards after CRSA programs are approved. Currently, the Act is silent as to the existence of the coastal resource service area planning boards after they have developed plans in the Unorganized Borough, and obtained approval for those plans. The Act does require state agencies to implement these plans but specifies no role otherwise for the planning boards in the implementation phase. We believe that the boards should continue to function after the CRSA plans are put into effect, and that they should participate in implementation. The CRSA boards should have the same powers in implementation as do the local governments.

18. What additional legislative action would the Office of Coastal Management recommend should the Alaska Coastal Management Act be repealed?

The main elements of the ACMP which should be preserved in perhaps other legislation are:

- 1) a planning structure for the Unorganized Borough;
- 2) local ability to hold state and, to the extent possible without federal consistency, federal land and water use decisions accountable to locally developed land and water use plans.
- 3) Provisions for funding so that adequate local resource inventories and plan development can occur; and
- 4) a conflict resolution process that assures some statewide uniformity in balancing resource use conflicts.

19. Since President Reagan has eliminated CZM funding from the federal budget, what would be the budget of the state program if the state chose to fund the full program?

Since the State will receive one more full federal grant in state FY 82 even if President Reagan's proposed budget is upheld, the Legislature would need to consider state general funds for the ACMP beginning in state FY 83. We have always thought that the cost of the ACMP would be high at the beginning of program approval, and then taper off as more and more local programs were approved by the Council. We anticipated state FY 82 to be the last of the maintenance years, and state FY 83 would be the beginning of this reduction. In response to a request from Senator Stimson, OCM prepared some financial projections for FY 83 and beyond. We have attached a copy of our response to Senator Stimson, and you should refer to it for a detailed response to this question.

Roughly speaking, based on our projections of needed personnel in FY 83, the state agency participation, including OCM, in ACMP would be about \$1,900,000 in FY 83. (The projected state agency participation in FY 82 is \$2,700,000). There would be additional reductions in FY 84 and FY 85. Financial assistance needs for the local districts is harder to estimate. The local districts have had \$2,000,000 available to them in FY 80 and FY 81. OCM has proposed the same amount for FY 82. We anticipate that another 15 programs will be submitted to the Council for approval between now and the end of FY 82. Thus, in FY 83, the local need for funds will depend, in large part, on the cost of implementation of these local programs. Of course, individual grants to each district is but one way to finance these programs. Local coastal planning money could perhaps be integrated into another type of revenue sharing method that the Legislature may choose to develop.

STATE OF ALASKA

JAY S. HAMMOND, Governor

OFFICE OF THE GOVERNOR

DIVISION OF POLICY DEVELOPMENT AND PLANNING

POUCH AD
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December 11, 1980

Colonel Lee R. Nunn
District Engineer
U.S. Department of the Army
Alaska Corps of Engineers
P.O. Box 7002
Anchorage, Alaska 99510

Subject: Prudhoe Bay Oilfield Waterflood Project F.E.I.S.

Dear Colonel Nunn:

The Division of Policy Development and Planning (DPDP) has completed its review of the proposed Prudhoe Bay Waterflood project and its associated permits. This letter will serve four primary functions.

First, it will describe, in detail, the State's federal consistency decision. Apart from the consistency determination on the FEIS, consistency determinations on all associated waterflood permits currently in review are included as separate sections. Second, it will outline the associated monitoring program and mitigative measures necessary to assure compliance with the Alaska Coastal Management Program (ACMP). Third, it will explain how an early start-up date is critical to the State's ultimate position. Fourth, it will outline the process of applicant design selection and submittal, and how the State may review similar projects in the future.

This letter will address the FEIS and related permits in the following sequence:

- I. Prudhoe Bay Waterflood FEIS (State I.D. No. 80061901)
- II. Prudhoe Bay Waterflood Project (State I.D. No. 79101902)
 - A. Beaufort Sea 20 (COE #071-0YD-2-790291)
 - B. Beaufort Sea 21 (COE #071-0YD-2-790292)
 - C. Beaufort Sea 23 (COE #071-0YD-2-790293)
- III. Beaufort Sea 54 (COE #071-0YD-4-790446; State I.D. No. 80013115)
- IV. Beaufort Sea 55 (COE #071-0YD-4-790447; State I.D. No. 80013110)
- V. NPDES and PSD Permits (EPA No. AK-002984-C, State I.D. No. 80062303)

December 11, 1980

Therefore, this letter addresses all aspects of the waterflood project currently in review for consistency with the ACMP. The proposed permit actions include those of the Army Corps of Engineers (COE) as well as the Environmental Protection Agency (EPA).

Prior to making specific comments on the Final Environmental Impact Statement, we wish to commend the Corps of Engineers for their efforts. Both the draft and final environmental documents have presented clear, comprehensive analysis of impacts in a concise manner. In addition, your active cooperation and participation with the State in assessing a complex and most important project is very much appreciated.

I. Prudhoe Bay Waterflood FEIS (State I.D. No. 80061901)

Having completed its review of the Prudhoe Bay Oil and Gas Waterflood Project Final Environmental Impact Statement (FEIS), the Division of Policy Development and Planning (DPDP) has concluded that the proposed construction of the extended breached causeway is consistent with the ACMP. This decision incorporates, and is predicated upon, a detailed monitoring program as well as stipulations which will serve to mitigate the environmental impacts of extending the existing causeway. Further, it anticipates that the State may require additional modification of design and/or construction in the future, in order to eliminate or alleviate any significant adverse effects. The monitoring program and stipulations will be discussed later in this section.

Discussion of Alternatives

While it has been determined overall that the applicant's proposal to extend the existing causeway approximately 3700 feet north of Dockhead No. 3 and to add a 50-foot breach just north of Dockhead No. 3 is consistent with the ACMP, extension of the existing causeway is not the State's environmentally preferred alternative. The gravel island alternative, discussed in the FEIS, is both feasible, and more highly desirable from an environmental standpoint. Construction of a gravel island to accomplish waterflood poses the least risk to anadromous and marine fish, as discussed below; would essentially eliminate the possibility of any project-related adverse effects on salinity and water temperature in Simpson Lagoon; and would significantly reduce the possibility of eastward accretion of Stump Island and deposition in Stump Island Channel due to settling of suspended solids during causeway construction and by erosion of gravel from the causeway.

The ability of anadromous fish migrating along the coast to negotiate successful passage around the existing Dockhead No. 3 is not well understood. However, additional biological effects on fish populations, such as arctic char, cisco and whitefish, forced into colder, deeper waters in order to negotiate around the proposed extended causeway may be expected. While these impacts cannot be quantified with any degree of specificity at the present time, construction of the gravel island would maintain the existing rates of passage.

Further, although intake structures would be similar for both the gravel island and the extended causeway alternatives, except for the fish bypass screen associated with the extended causeway, the impacts on migrating fish could be increased considerably with the extension of the causeway because fish migrating around the end of the causeway would be directed into or in close proximity to the intake structure.

Assessing only the environmental impacts on Prudhoe Bay and Simpson Lagoon due to extension of the causeway, the project would be inconsistent with the ACMP. From the standpoint of minimizing environmental degradation, the gravel island alternative presented and discussed in the FEIS is clearly preferable.

Balancing of Economic and Environmental Factors

In determining whether a proposed activity is consistent with the Guidelines and Standards of the ACMP, the State must consider all factors in balancing the environmental consequences of any proposed activity within the coastal zone against the economic and other public benefits to be derived from the particular activity proposed. In the case of waterflood, the applicants have identified that if the proposed causeway extension is found inconsistent with the ACMP, a likely one-year delay in the start-up time for waterflooding the Prudhoe Bay oil field will result. This delay predicted by the applicants is not the result of the State's failure to identify the environmental impacts on fish migration, sediment transport and salinity in Simpson Lagoon from the proposed extension of the causeway early in the review process. These issues were clearly articulated beginning approximately one year ago. Rather, it is due to: 1) the State's inability to require the applicants to undertake equally detailed design of both the environmentally preferred gravel island alternative and the applicants' preferred causeway extension proposal beyond the conceptual design stage during the environmental impact statement process; and 2) the applicant's determination not to voluntarily design for the State's preferred alternative early in the projects development.

Because the applicants did not complete any of the design work for the environmentally preferred gravel island alternative, it is estimated that construction of the waterflood project would be delayed for one year while the project was redesigned to incorporate the gravel island intake alternative. This would also delay the start up of waterflooding by one year. Thus even though the State has determined that construction of a gravel island would minimize environmental impacts and would be feasible from an engineering and cost standpoint under 6 AAC 80.070 and 6 AAC 80.130, the delay involved in requiring that design for the waterflood project would result in loss of oil productivity in the Prudhoe Bay field and subsequent lost revenues to the State which outweigh the detrimental impacts of an extension of the causeway. In other words, while the State believes that a feasible and environmentally preferred alternative to the applicants' proposal does exist in the gravel island

alternative, when weighed against economic considerations important to the State, not to mention the overall national interest in maximizing domestic oil production, the applicants' proposal is unquestionably the most prudent under the ACMP.

Another advantage of the solid-fill causeway over the gravel island is that the causeway will provide all weather access to the seawater treatment facility and will eliminate the need for additional living facilities at the site.

The magnitude of the loss to the State anticipated from a one-year delay in the commencement of waterflooding is extreme. Denying the causeway extension based on its lack of consistency with the ACMP would result, under current State estimates, in the loss of 65-70 million barrels of otherwise recoverable oil valued at nearly \$1 billion in 1980 dollars. While this may represent less than one percent of the total estimated oil to be recovered from Prudhoe Bay, it represents nearly 7 percent of total recovery attributed to the waterflood.

The 65-70 million barrel loss of oil would be true regardless of attempts to catch up over-injecting. The Alaska Oil and Gas Conservation Commission has stated this decrease in ultimate oil recovery from delay of water injection into the oil field will result regardless of any effort to "catch up" in waterflooding on a cumulative basis. In addition, a higher injection rate is undesirable because it would result in increased production costs. Proper location of injection wells together with optimum rates of injection and timing are delicate variables which, if mishandled, would result in loss of otherwise recoverable oil. Moreover, even with an increased injection rate, it would require eight critical years through the mid 1980's and into the early 1990's to "catch up" in cumulative water injection. A significant loss in ultimate oil recovery would result in upwards of a 100,000 barrel decrease in the anticipated daily oil production rate in the late 1980's and 1990's.

Over-injection of water at a later time in an attempt to "catch up" on waterflooding also might result in injection rates too great for the overall reservoir, thereby overrunning otherwise recoverable oil. In other words, one major potential risk of delaying the start of waterflooding is that permanent damage to the reservoir and loss of ultimate recovery of oil could be much greater than current estimates indicate.

The magnitude of known impacts on rates of production of Prudhoe Bay oil due to the delay in the commencement of waterflooding anticipated from the State requiring the gravel island alternative and the consequent impacts on State revenues throughout the 1980's and early 1990's weighed heavily in the balancing analysis required by the Guidelines and Standards of the ACMP. Those factors, balanced against the nature of environmental impacts expected on Simpson Lagoon, Stump Island and on migration around the proposed extended causeway lead to the State's conclusion that the applicant's revised breached causeway design and seawater

treating plant, described in the FEIS, is consistent with the ACMP. However, this determination of consistency is dependent on the inclusion of the stipulations and monitoring requirements listed for each permit in Sections II-V in this letter in the Corps of Engineers' Section 404 and Section 10 permits as well as in the Environmental Protection Agency's NPDES and PSD permits.

Monitoring and Mitigation Provisions

The stipulations and monitoring required by this determination are necessary in order to measure and mitigate, as much as possible, the impacts of certain activities or portions of activities proposed in connection with the waterflood project. Without compliance by the applicants with the stipulations and monitoring program described in Sections II-V of this determination, those activities would be inconsistent with the Guidelines and Standards of the ACMP.

The monitoring program consists of various requirements which the applicants will be required to fund. The monitoring program will identify and quantify the effect of the applicants' project on fish and wildlife resources and water quality, and will provide information to be used in modifying, as necessary, certain operations to minimize adverse impacts. While the State recognizes that the monitoring requirements will, in some cases, involve several years of study and a significant expenditure of funds by the applicants, it is also recognized that the proposed project is unprecedented and has the potential of greatly altering the Beaufort Sea/Simpson Lagoon environment. Specifically, as a result of the construction of the causeway extension:

- A) approximately 67 acres of seafloor habitat will be lost unavoidably due to the placement of 3700 linear feet of gravel fill;
- B) Anadromous fish may be barred from portions of their coastal habitat by the solid fill causeway extension which blocks traditional migration routes.
- C) Simpson Lagoon will likely become more marine due to the diversion of fresh water from the Sagavanirktok River northward; and potentially may experience population changes or reductions to those anadromous fish and waterfowl species whose distribution is limited by the amount of available brackish water lagoonal habitat;
- D) net accretion rates at the east end of Stump Island likely will increase due to that portion of the island being protected from normal erosional forces, and may further modify Simpson Lagoon by blocking fish passage and contributing to a more marine environment; and
- E) anadromous fish populations may be reduced due to entrainment in the water intake.

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It is therefore imperative that known or suspected environmental impacts of the causeway on fish and wildlife resources and water quality are monitored adequately so as to determine whether any future modifications are warranted based on new evidence of biological impacts.

As the FEIS states, "two discrete goals exist for the monitoring program. The first relates to improving impact prediction accuracy for future proposals. With proper scientific observation, the need to apply required 'worst case' scenarios would be considerably diminished, the reason for controversy lessened, and the regulatory process made more predictable. The second goal is to have information about environmental performance while in operation. This would allow adjustments to be made in operation and provide the basis for design changes to be considered that would ensure regulatory requirements being met or improvements made." The State agrees with the statement in the FEIS and further recommends that an independent third party administer the implementation of the monitoring program to the satisfaction of both the State and the applicants. This would ensure that both the monitoring program and resulting information would be impartially evaluated during and after actual construction of the project.

In summary, the State has concluded that the applicants' proposal, modified by the stipulations and monitoring requirements for each permit discussed below, is consistent with the ACMP. This determination is based on the State's conclusion that there is no feasible and prudent alternative to the applicants' proposal at this time, since the delay in the projected 1984 start-up time for waterflooding predicted for the gravel island alternative would result in the loss of significant oil production needed by both the State and the Nation. The State, therefore, concurs with the applicants' proposed extension of the existing causeway.

It should be emphasized that the State's finding that the applicants' proposed causeway extension is feasible and prudent under the ACMP is based on the schedule for completion of the project presented by the applicants. Therefore, significant delays which result in the causeway extension and gravel island alternatives becoming equal in terms of the actual commencement date of waterflooding of the Prudhoe Bay oil field, as determined by the State, may be cause for the modification of this consistency determination. Specifically, it is contemplated that in the event of significant delay in the construction schedule for the causeway extension, the State may require the applicants to complete the design and construction of the gravel island alternative instead. In this regard, the present consistency determination creates no vested or compensable interest or property rights in the applicants.

Prior to completing comment on the Final Environmental Impact Statement, the State of Alaska feels it necessary to indicate that our action in finding the extended causeway to be the prudent alternative should not be considered a precedent for future North Slope development. We are aware of the consideration currently being given to the construction of addi-

tional causeways in the Mid-Beaufort Sea region. Further, were one to assume future requirements being similar to present requirements for the development of onshore and offshore arctic oil fields, it is not unreasonable to expect many requests for additional causeways and seawater intakes to develop the oil resources of the arctic coastal plain and continental shelf.

Because of the potential cumulative impacts of such development, it is necessary for the State to assess expeditiously future project specific developments not only on an individual basis but also from a cumulative perspective. The joint effort of the State and the Corps in developing future development scenarios will be most helpful in this regard.

II. Prudhoe Bay Waterflood Project (State I.D. 79101902)

There are three COE permits associated with this State I.D. number. They are discussed below:

A. Beaufort Sea 20 (COE No. 071-OYD-2-790291)

This proposed joint activity of the Sohio Alaska Petroleum Company and the Atlantic Richfield Company consists of two phases. The first involves placing three 48-inch intake pipelines, a 20-inch outfall pipeline, a processing plant, two 30-inch waterlines and one fuel line on the existing causeway and on a portion of the proposed 3700-foot causeway extension. The second phase involves placing two 48-inch intake pipelines, a seawater treatment plant with a "state-of-the-art" fish bypass system, two 30-inch waterlines, and the construction of the remainder of the 3700-foot breached causeway. The construction in this second stage will be similar to Phase I except that the underwater trench will only be 16 feet wide.

The extended causeway would be breached just north of existing Dockhead No. 3 with a 50-foot-long clear span bridge. The 3700-foot-long causeway would provide all-weather vehicular access to the seawater treatment plant and protection for the pipelines and powerlines buried within the causeway.

Having reviewed this application, the Division of Policy Development and Planning has determined that the proposed activity is consistent with the Guidelines and Standards of the Alaska Coastal Management Program, 6 AAC 80 and 6 AAC 85, contingent upon the applicants' compliance with the following stipulations and monitoring requirements:

Stipulations:

1. The applicants must modify their proposed design of the causeway extension to the satisfaction of the State, to accommodate the addition of a second breach in the future at a location identified

by the State; or alternatively, the applicants must provide assurances accepted by the State that, under the applicants' present design, waterflooding will not be disrupted significantly if a new breach at the described location is required.

The State may, in the future, require the applicants to construct a breach in the proposed causeway extension after its completion (which is not currently included in the applicants' proposed design). The location of the additional breach would be immediately shoreward of the seawater intake facility in the causeway extension. (This stipulation is intended to determine whether, based on the results of monitoring studies required by this consistency determination or other information, the causeway is significantly damaging the marine habitat, or water quality, or that significant numbers of aquatic species are unable to migrate around the end of the extension or are being entrained in the seawater intake). 6 AAC 80.040; 6 AAC 80.070; 6 AAC 80.130; 6 AAC 80.140.

The possibility that an additional breach may be required by the State after the causeway extension is completed and while waterflooding operations are ongoing means that the design of the applicants' proposal must be modified before construction starts in order to insure that, if an additional breach is later required, waterflooding will not be disrupted while construction of the additional breach proceeds.

2. If the monitoring program indicates that (1) the seawater intake(s), screens and fish bypass system are entraining, entrapping or impinging significant numbers of fish and marine organisms; (2) significant numbers of anadromous fish are not migrating around the causeway; (3) the value of the area of Simpson Lagoon located west of the ARCO dock to anadromous fish and waterfowl has been reduced, or (4) the outfall line is located in an area that allows the accumulation of pollutants, the State will require the applicants to take whatever steps are necessary to correct the problem. (This stipulation is intended to mitigate any adverse impacts which are identified by the monitoring program). 6 AAC 80.040; 6 AAC 80.070; 6 AAC 80.130; 6 AAC 80.140
3. The pass between Stump Island and the causeway will be maintained at such frequency and in such a manner so as to assure maintenance of normal unrestricted passage of fish and wildlife or other marine organisms. A plan for such maintenance will be submitted to the State for review and approval should the sedimentation studies indicate significant deposition. (This stipulation is intended to minimize potential adverse impacts to Simpson Lagoon by maintaining adequate flows of sediment, detritus and water, and to maintain a free migration route for aquatic species at the east end of Simpson Lagoon.) 6 AAC 80.040; 6 AAC 80.070; 6 AAC 80.130; and 6 AAC 80.140

4. If treated seawater is discharged from the low pressure pipelines, it shall be discharged onto the surface of the sea ice (in winter) or directly to marine waters in other seasons. (This stipulation is designed to moderate adverse impacts to water quality under the ice during the period of ice cover when natural mixing is at a minimum.) 6 AAC 80.130 and 6 AAC 80.140
5. The management of the monitoring program is subject to the following conditions:
 - a. A draft Request for Proposal(s) based on the attached requirements shall be submitted to the State and all participating resource agencies for review and shall be subject to the approval of the State prior to finalization. Proposals submitted in response to the RFP shall also be distributed to the above agencies, minus confidential cost estimates, for substantive review and recommendations, and in the areas of proposed methods of data analysis and sampling methodology. The proposal(s) must be jointly approved by ARCO, and any independent third party managing the studies, and the State prior to selecting the contractor(s).
 - b. Draft annual reports, including raw data, findings and conclusions, must be prepared and submitted to the State on or before March 1st of each year to allow sufficient time for review and to modify, as necessary, any subsequent year's efforts.
 - c. Annual meetings shall be held within two (2) months of receiving the draft yearly reports to provide the above resource agencies the opportunity to discuss the findings, methods, and conclusions of the prior year's study with contractor(s), ARCO, and the third party managers. The contractor(s) will incorporate the consensus recommendations of the participating resource agencies into the findings and conclusions of the yearly report prior to finalizing the report.

(These stipulations will ensure that the monitoring program will provide a data base for key water quality and biological parameters with which to objectively assess the impacts to aquatic habitats and water quality resulting from the causeway extension. Benthic infauna, synoptic and long term temperature and salinity patterns, erosion and depositional characteristics, precision bathymetric profiling and fish migration studies are key categories of monitoring deemed essential to establish a sensitive and statistically defensible base for comparison of marine environmental conditions before and after causeway construction) 6 AAC 80.130, 6 AAC 80.140

7. Because the effects of this project on the State's water and biological resources, including but not limited to fish and marine invertebrate populations, are not fully known and cannot be objectively determined at the present time, the applicants shall be

required to take action, as required or approved by the State, in the future to eliminate or alleviate, to the satisfaction of the State, any significant adverse effects on these resources indicated by the monitoring program or other information which are considered unacceptable by the State. (Rational is the same as No. 5 above).
6 AAC 80.130, 6 AAC 80.140

Monitoring requirements:

1. Effects of Causeway on Coastal Erosion

Permanent bench marks are to be fixed at 4 equidistant stations along the extended causeway and at 5 (pre-determined) stations on Stump Island prior to construction of the causeway. Beach profiles are to be plotted to -1 to -3 meters mean sea level (MSL) and sampled for volumetric transport for grain size analysis at least one year prior to causeway construction and over a period of 15 years after construction is completed beginning in the first year of post construction (1984), and continuing in the second (1985), the fifth (1988) and in the fifteenth (1998). Additionally, aerial photogrammetry is to be conducted in the same years, i.e., 1984, 1985, 1988 and 1998, except that baseline photogrammetry will be conducted in 1981. The aerial extent of photography shall include all of Stump Island and some permanent reference landmark on the mainland and/or causeway. (This monitoring requirement is intended to study the erosion rates on the causeway, the coast and on Stump Island as well as the deposition rates in Stump Island Channel.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

2. Sediment Characteristics

Prior to causeway construction, baseline sedimentation characteristics must be determined during the open water period. Diver or drop core samples are to be collected during mid-winter, prior to break-up and prior to freeze-up for a period of three years following causeway completion. The materials are to be collected and analyzed for grain size, total organic nitrogen, nitrates and total phosphorus. The samples are to be collected at 10 selected stations on both the east and west sides of the existing and extended causeways. (This monitoring requirement is intended to verify sedimentation characteristics as well as rendering some indication of the effects on productivity of lagoonal systems.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

3. Sedimentation Rate

Using a precision navigation system and a precision depth finder and/or sounding rod, the bathymetry is to be plotted annually in open water for a period of 5 consecutive years commencing at the time construction is completed in 1984. The survey shall include

the area out to the 2 kilometer contour offshore, and 5 kilometers east and west of the causeway extension in to the 0.5 meter depth contour. Baseline bathymetry plotting is to be conducted in the summer of 1981 to reconfirm the 1979 survey. (Reconfirmation is to be repeated in 1983 and in 1986.) (This monitoring requirement will verify the sedimentation rates due to the extended causeway). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130, and 6 AAC 80.140.

4. Water Quality

Standard temperature, depth and salinity profiles, including surface and bottom measurements, are to be taken biweekly during the open water period with concurrent meteorologic and current measurements to include one series to be taken during the period of maximum summer river input. Provide for STD measurements immediately following meteorological anomalies, i.e., major west, north westerly storms. These measurements are to be conducted commencing one year prior to the causeway extension and terminating two years after completion of the causeway extension. The locations shall be on a 1000-meter spacing on a line along the shore inside Stump Island, east past Dockhead No. 2; also on a line from shore seaward from Storkensen Point past the west end of Stump Island; also through the Stump Island causeway pass and east of the causeway out to approximately the 5 meter contour; also at 5 locations along each side of the existing and proposed causeway. There shall be a total of 30 measurement stations. (This monitoring is intended to verify the vertical temperature and salinity profiling as well as the horizontal distributions). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130, and 6 AAC 80.140.

5. Effectiveness of 50-Foot Causeway Breach in Mitigating Fisheries and Water Quality Problems

Fish movements through the 50-foot causeway breach and water quality on either side of the breach shall be monitored for a period of five years. Fish movements through the 50-foot breach shall be monitored acoustically through the entire open-water period beginning at break-up. Acoustical counts and species composition will be verified with nets.

Standard flow, temperature, and salinity measurements are to be taken on either side of the breach to determine flow velocities, volumes and the effects of the breach on water quality and fish movement. One of the standard stations described in monitoring requirement No. 4 above is to be placed on either side of the breach, while a current meter is to be placed in the breach. Measurements of wind velocity and direction, tidal height variations on each side of dock, and storm surges will be made daily. Measurements will continue for two years following completion of the causeway extension. (This monitoring requirement is intended to determine the effectiveness of the breach in mitigating fish passage problems and changes in flow rates, temperature and salinity due to the extended causeway.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130, and 6 AAC 80.140.

6. Synoptic Water Quality Measurements

Using standard methodology, water samples 0.5 meters beneath the surface are to be collected and analyzed. Measurements must include total suspended solids, nitrates, phosphates, sulfates, temperature, dissolved oxygen, salinity, pH and ammonia. All 30 stations described in Monitoring Requirement No. 4 above are to be sampled in 1-2 days: (1) immediately after break-up; (2) during a steady NNE wind condition; and (3) in August, immediately before freeze-up. The sample is to be repeated if possible during or within 1 day of a persistent west wind. These samples are to be collected and analyzed in open water for a duration of four consecutive years commencing one year prior to completion of the causeway extension. (This is intended to study the effects of the causeway extension on synoptic water quality parameters controlling primary productivity.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 ACC 80.140.

7. Marine Life Density and Mortality Rate in Return System

The density and condition of marine organisms including fish and invertebrates in the marine life return system shall be monitored on a weekly basis for the first year of operation. Annual sampling will continue until it is determined: (1) that marine life entrainment and mortality is minimal; (2) that modifications to the system have minimized mortalities, or; (3) that there is no means of mitigating the problem.

Sampling locations will include the marine life outfall and the inplant diversion line. Water will be diverted to holding tanks and the number, species, size, life stage, and condition of marine organisms will be recorded. Semi-annually a sample will be held for 96 hours to determine latent mortality. Concurrently, live traps and divers will be used to sample organisms at the marine life return line outfall. Records will be made of latent mortality, physical abnormalities, and aberrant behavior. In addition to the normal sampling period, observations will be required during initial start-up, icing, storms, or other unusual conditions. (This program is intended to monitor the effectiveness and mortality in the marine life return system.) 6 AAC 80.040, 6 AAC 80.070 6 AAC 80.130 and 6 AAC 80.140.

8. Entrapment in Seawater Intake

The number of fish entrapped in the seawater intake will be monitored. Entrapment will be monitored weekly for the first year, bi-weekly in the second year, and monthly in the third year.

Entrapment of marine and anadromous fish shall be monitored in the seawater intake inside of the treatment plant and upstream of the screens. Presence of fish shall be determined by acoustical monitoring for one minute of every five for a 24-hour period. During periods of adequate water visibility, fish will be monitored with underwater

television and recorded on video tape. Observations during unusual conditions such as start-up, storms, icing, and equipment malfunctions shall also be made. (This monitoring is required to determine the effectiveness of water velocity controls designed to eliminate fish entrapment.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

9. Effects of Screens on Fish and Invertebrates

Television or visual monitoring for impingement is to be performed on the same schedule as described in Monitoring Requirement No. 8 above during periods of good visibility. If traveling screens are installed, impinged fish and invertebrates are to be counted and noted each time the screens are rotated. Observations are to be made during periods of unusual conditions including initial start-up and icing. Monitoring will be performed at the intake screens. (This monitoring requirement is intended to ascertain the impingement rate of anadromous and other fish species). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

10. Entrainment of Marine Organisms

A portion of the intake water must be filtered using standard mesh (e.g., 505 microns) plankton nets. The nature and quantity of entrained biological material shall be evaluated one day per week, four times per day for the first year, bi-weekly for the second year, and monthly in the third year. The monitoring is to be performed at the seawater intake line downstream of the screen. Observations are also to be made during periods of unusual conditions such as start-up, icing, etc. (This monitoring requirement is intended to ascertain the rate of entrainment at the main outfall line and the effectiveness of the marine life by-pass and screen system). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

11. Effect of Causeway-Induced Water Quality Changes to Infaunal Organisms

Benthic infauna will be monitored by grab or diver samples using 0.01 to 0.02-m² cores. Five replicates per station are to be sieved to 1.0mm. Species diversity and abundance will be documented for each sample. Samples are to be taken at the Woodward-Clyde Stations 1, 2, 5, 7, 9, 12, 13, 15, 25, 30, 37, 43, 44, 45, 48 and 50; and at a station on each side of the causeway extension or alternative stations approved by the Department of Environmental Conservation. Water temperature and salinity are to be measured at the surface and the bottom concurrently. This monitoring is to be conducted annually during open water periods for a period of three years commencing in 1981, and including 1986 and ending in 1989. Sampling and data treatment methodologies shall be consistent with those used in recent studies in the Prudhoe Bay area. (This monitoring requirement is intended to ascertain the effects on infauna and their distributions due to the extended causeway). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

12. Effects of Causeway-Induced Water Quality Changes on Epifaunal Organisms

Replicate epifaunal samples are to be collected utilizing either a drag-net or an epibenthic pump. These samples are to be collected annually in the years 1981 and 1983 and semi-annually in 1986. These samples are to be collected at the Woodward-Clyde Stations No. 1, 2, 5, 7, 9, 12, 13, 15, 25, 30, 37, 43, 44, 45, 48 and 50, at a station on each side of the causeway extension, and at two stations in the discharge vicinity. The distribution and abundance of Mysis, Onisimus, Gammarus is to be observed and noted. The attraction of these species to the discharge area also is to be noted. (This monitoring requirement is intended to ascertain the epifaunal distributions due to the causeway extension). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

13. Effects of Causeway Extension on Fish Migrations

Anadromous fish are to be tagged and released with an extended anchor and internal sonic tags. Beach seining, fyke netting, and acoustic monitoring programs are to be established to document and quantify: (1) the number of fish from the east and west encountering the causeway and; (2) the number of fish successfully moving around the causeway and through the breach. The fyke nets should be directional to establish the direction of fish movement. The tagging operations are to be conducted on both sides of the causeway, and along the natural shoreline, and in the vicinity of the discharge and marine life outfall. Tag recoveries in the Colville and Kaktovik fisheries, concentrations of fish around the intake and the outfall, as well as migration delays, and unusual predation patterns are to be documented. These fish movement studies will be conducted continuously during open water for a period of five years commencing in 1981 and ending in 1985; and every four years thereafter to study fish attraction to intake and discharge points. (This monitoring requirement is intended to determine if changes in fish movements have occurred as a result of constructing the extended causeway). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

14. Effect of Causeway on Invertebrates

Unbaited directional traps are to be set in an attempt to determine the "flux" of invertebrates in and out of the pass between the causeway and Stump Island under various meteorological conditions and at various times of the year, especially immediately following break-up. These traps are to be set from the causeway westward across the Stump Island Channel. A baseline will be established prior to causeway construction and studies are to be conducted annually in open water for a period of two years commencing upon completion of the causeway. (This monitoring requirement is intended to ascertain factors which influence invertebrate distribution due to the extension of the causeway). 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

15. Effect of Water Quality Changes on Anadromous Fish and Water Fowl Distribution

Distribution and abundance of arctic cisco, least cisco, arctic char and oldsquaw ducks shall be monitored in the portion of Simpson Lagoon and Prudhoe Bay affected by causeway-induced water quality changes. Abundance and distribution of these species must be monitored every two weeks during the open-water period for five years beginning in 1981. The area monitored must include the entirety of Simpson Lagoon from the ARCO Dock to the Egg Island Channel, and the area of Prudhoe Bay within two miles of the east and north side of the dock.

Fish survey techniques must include netting, tagging and bio-acoustical surveys with trawling for species verification. Aerial surveys and aerial photography will be used to determine oldsquaw abundance and distribution. Survey techniques must be sufficiently sensitive and surveys sufficiently intense to allow statistical comparison for areas as small as 160 acres. Distribution and abundance of oldsquaw ducks and anadromous fish will be correlated with information on salinity and temperature. (This monitoring program will assess the effects of causeway-induced temperature and salinity changes on the abundance and distribution of oldsquaw ducks and anadromous fish.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

16. Biofouling in Intake System

The incidence of biofouling on the seawater intake structures, upstream of the chlorination, heating and filtering system shall be monitored annually for four years after plant start-up, and every five years thereafter over the life of the project. Measurements of biofouling on intake surfaces will be made using divers and underwater television. Estimates of species composition, rate of accumulation and success of control programs will be provided. (This program will provide information necessary for redesign of existing or future seawater intakes in the Beaufort Sea.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

17. Ice Growth at Intake and Discharge

Monthly measurements of ice growth including frazil ice at and in the seawater intake and main outfall, will be made for two years after project start-up. Evaluation of measures to control ice buildup will be made. (Monitoring will provide critical information for use in evaluating feasibility of remote seawater intakes.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

B. Beaufort Sea 21 (COE No. 071-OYD-2-790292)

This proposed activity by the Atlantic Richfield Company proposes to place one 42-inch low pressure seawater supply line about 10 miles long

and extending to the east Injection Plant from a point near the West Dock module staging area where the east and west low pressure seawater supply lines diverge. A 12-inch outside diameter fuel gas pipeline will be constructed parallel to the low pressure seawater supply pipeline connecting to the Central Compressor Plant (CCP). The pipelines will be installed in a single increment in 1982-1983 on above ground pile-bents. The route will follow the existing roadway between the module staging area and the CCP, and then along existing pile-bents from the CCP to the east Injection Plant.

The east Injection Plant will be located adjacent to Flow Station 1, partially utilizing an existing gravel pad originally built for Drill Site 10. The injection plant will be installed in 1983, with a possible second increment of an additional high pressure pump module being added a year later.

Required well pad manifolds will be installed to direct water to individual wells. The individual injection sites will require gravel pad expansion. The high pressure pipeline system will be installed above ground on pile-bents and will follow existing pipeline routes. High pressure pipelines will be installed in two increments, commencing in the fall of 1982 and completed in the spring of 1985.

Having reviewed this application, the Division of Policy Development and Planning has determined that the proposed activity is consistent with the Guidelines and Standards of the Alaska Coastal Management Program, 6 AAC 80, provided that the applicant complies with the following stipulations and monitoring requirements:

Stipulations:

1. Drainage structures are to be provided through or past all water-line construction pads, the injection plant, manifold building and well pads sufficient to maintain natural surface drainage patterns. (This stipulation is intended to minimize impacts to wetlands.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.
2. One year prior to project start-up, a saltwater spill contingency plan must be submitted to the State Department of Environmental Conservation for review and approval. (This stipulation is intended to minimize adverse impacts on freshwater lakes, streams and wetland vegetation.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.
3. Waterflood pipeline crossings of the Sagavanirktok River are to be made at the existing flowline crossing within Section 3, T10N, R15E, Umiat Meridian. Crossing at any other location will require a separate consistency determination. (This stipulation is intended to minimize impacts by consolidating energy-related facilities.) 6 AAC 80.070.

Monitoring requirements:

1. In an effort to determine bird mortalities due to the construction of above ground power lines, a route from the CCP to the base of the causeway, 300 meters in width, is to be walked under the lines (or along the windward or western shore if flooded) noting any dead or injured birds, their species, and nature of any apparent injury. This observation is to be repeated every other day, three times a day over a six-day period during spring and fall migrations and during the peak breeding season. The weather conditions also must be noted at the times of these observations. Monitoring is to take place in the spring, summer, and fall for a duration of two years. (This monitoring requirement is intended to ascertain bird mortalities due to power line construction). 6 AAC 80.070, 6 AAC 80.130.

C. Beaufort Sea 23 (COE No. 071-OYD-2-790293)

This proposed activity of the Sohio Alaska Petroleum Company is for the placement of one 38-inch-outside-diameter low pressure seawater pipeline approximately eight miles long. This line will extend to the west Injection Plant from a point near the West Dock module staging area, where the east and west low pressure seawater supply lines diverge. The pipeline will be installed in a single increment in 1982/1983 on above-ground pile-bents. Its route will follow an existing roadway from the module staging area to Term Well "K" and a new road from there to Pad "E". From Pad "E" to the west Injection Plant, the line will be installed on or alongside existing pile-bents. The proposed new roadway from Pad "E" northward to Term Well "K", 2.5 miles in length, will be constructed in 1980 and will require approximately 150,000 cubic yards of gravel. Modification of the existing road from the West Dock staging area to Term Well "K" will also be completed in 1980 but no new gravel is required for this project. The Injection Plant will be located near Gathering Center 1 on a gravel pad requiring approximately 70,000 cubic yards of gravel. The Injection Plant will be installed in 1983 with the possible addition of a second increment of a pumping module a year later.

Required well pad manifolds will be installed to direct water to individual wells. Gravel allotted for well pad expansion, including water injection wells, will be approximately 500,000 cubic yards. The high pressure pipeline system will be installed above ground on pile-bents and will follow existing pipeline routes with one exception, Well Pad WF-1 shown on figure 10-1 in the Engineering Overview. Well Pad WF-1 will require approximately 40,000 cubic yards of gravel. Construction of the high pressure pipelines will commence in 1982 and would be completed in 1985.

Having reviewed the application, the Division of Policy Development and Planning has determined that the applicant's selection of the western low pressure seawater pipeline, Alternative A-1, is inconsistent with specific standards of the Alaska Coastal Management Program, 6 AAC 80. Specifically, the State has determined that the wetlands to be impacted

by the applicant's alternative is a prime waterfowl nesting area as well as one used heavily by caribou and that a more feasible and prudent alternative exists, specifically route A-3. Therefore, routing for both the pipeline and road will be consistent provided that the applicant complies with the following stipulations and monitoring requirements:

Stipulations:

1. Routing for the proposed road access and pipeline pad between Well Pad K and Well Pad E must follow the A-3 route as described in Volume I, FEIS, Prudhoe Bay Oilfield Waterflood Project and provision must be made for caribou passage.

The pipe elevation above the work pad will be a minimum of five-feet. Because there is some question about the adequacy of a five-foot clearance in providing caribou passage, the State reserves its final recommendation on pipeline clearance until the completion of ongoing studies on September 1, 1981. If the design schedule does not allow this flexibility a minimum pipe elevation of seven-feet will be required. (These measures would optimize the chance for maintenance of the existing caribou usage as well as provide for protection of nesting waterfowl in the productive drained lake habitat through which these routes pass.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

2. One year prior to project start-up, a salt water spill contingency plan must be submitted to the State Department of Environmental Conservation for review and approval. (This stipulation is intended to minimize adverse impacts on freshwater lakes, streams and wetland vegetation.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.
3. Drainage structures shall be provided through or past all construction pads, well pads, and access roads sufficient to maintain natural surface drainage patterns. (This stipulation is intended to minimize impacts to wetlands.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

Monitoring Requirements:

1. Effect of Elevated Pipeline on Caribou and Waterfowl

The effect of the construction, operation, and maintenance of the elevated pipeline gravel pad and roadway on the abundance, distribution, and production of caribou and waterfowl in the area affected shall be monitored over a three-year period. A baseline must be established at least two years prior to pipeline construction. The same survey techniques must be used for both the baseline and monitoring program and must be sufficiently sensitive to detect annual changes as small as ten percent in abundance, distribution, and production of caribou and waterfowl in the study area. The study area must encompass an area at least 1000 meters on either

side of the alignment, and for caribou must include the entire area between the proposed west low pressure seawater pipeline and the existing road between Pad C and the ARCO dock. (This program will ascertain the effect of the low pressure seawater pipeline and the road extension on caribou and waterfowl.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

2. Effect of the Gravel Road and Pipeline Pad on Wetlands Habitat

The effect of drainage modifications and dust from the access road and pipeline pad on wetlands habitat shall be monitored over a five-year period. Parameters monitored must include hydrology, vegetation type and productivity, permafrost integrity, and snow depth. A baseline must be established before construction and monitored annually for five years after construction. In addition to statistical sampling of vegetation type and productivity, techniques must include low level aerial photography of the area affected by the pipeline pad and road (1000 meters on either side). In addition, detailed mapping of drainage patterns and measurements of the active surface layer must be conducted. (This program will monitor the effects of continuous fill gravel roads and gravel pads on arctic wetlands.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

III. Beaufort Sea 54 (COE No. 071-0YD-4-790446; State No. 8C013115)

This activity proposed by the Sohio Petroleum Company is for the placement of 160,000 cubic yards of gravel material on wet tundra to construct an access road from the ARCO West Dock to the pad "E" access road in the North Slope Borough. This general purpose gravel road will be used for module movement and for pipeline construction of the proposed waterflood project. Gravel will be hauled across existing gravel roads from the Put River oxbow borrow area or the dead arm of the Kuparuk River.

Having reviewed this application, the Division of Policy Development and Planning has determined that the applicant's selection of the western low pressure seawater pipeline routing Alternative A-1 is inconsistent with specific standards of the Alaska Coastal Management Program. Specifically, the State has determined that the wetlands to be impacted by the applicant's alternative is a prime waterfowl nesting area as well as one used heavily by caribou and that a more feasible and prudent alternative exists, specifically route A-3.

Stipulations:

1. Routing for the proposed road access and pipeline pad between Well Pad K and Well Pad E must follow the A-3 route as described in Volume I, FEIS, Prudhoe Bay Oilfield Waterflood Project and provision must be made for caribou passage.

The pipe elevation above the work pad will be a minimum of five-feet. Because there is some question about the adequacy of a five-foot clearance in providing caribou passage, the State reserves its final recommendation on pipeline clearance until the completion of ongoing studies on September 1, 1981. If the design schedule does

not allow this flexibility a minimum pipe elevation of seven-feet will be required. (These measures would optimize the chance for maintenance of the existing caribou usage as well as provide for protection of nesting waterfowl in the productive drained lake habitat through which these routes pass.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

2. One year prior to project start-up, a salt water spill contingency plan must be submitted to the State Department of Environmental Conservation for review and approval. (This stipulation is intended to minimize adverse impacts on freshwater lakes, streams and wetland vegetation.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.
3. Drainage structures shall be provided through or past all construction pads, well pads, and access roads sufficient to maintain natural surface drainage patterns. (This stipulation is intended to minimize impacts to wetlands.) 6 AAC 80.040, 6 AAC 80.070, 6 AAC 80.130 and 6 AAC 80.140.

Monitoring requirements:

1. Effect of Elevated Pipeline on Caribou and Waterfowl

The effect of the construction, operation, and maintenance of the elevated pipeline gravel pad and roadway on the abundance, distribution, and production of caribou and waterfowl in the area affected shall be monitored over a five-year period. A baseline must be established at least two years prior to pipeline construction. The same survey techniques must be used for both the baseline and monitoring program and must be sufficiently sensitive to detect annual changes as small as ten percent in abundance, distribution, and production of caribou and waterfowl in the study area. The study area must encompass an area at least 1000 meters on either side of the alignment, and for caribou must include the entire area between the proposed west low pressure seawater pipeline and the existing road between Pad C and the ARCO dock. (This program will ascertain the effect of the low pressure seawater pipeline and the road extension on caribou and waterfowl.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

2. Effect of the Gravel Road and Pipeline Pad on Wetlands Habitat

The effect of drainage modifications and dust from the access road and pipeline pad on wetlands habitat shall be monitored over a five-year period. Parameters monitored must include hydrology, vegetation type and productivity, permafrost integrity, and snow depth. A baseline must be established before construction and monitored annually for five years after construction. In addition to statistical sampling of vegetation type and productivity, techniques must include low level aerial photography of the area affected by the pipeline pad and road (1000 meters on either side). In addition, detailed mapping of drainage patterns and measurements of the active surface layer must be conducted. (This program will monitor

the effects of continuous fill gravel roads and gravel pads on arctic wetlands.) 6 AAC 80.040, 6 AAC 80.070 and 6 AAC 80.130.

IV. Beaufort Sea 55 (COE No 071-0YD-4-790447; State No. 80013110)

This proposed activity by the Sohio Petroleum Company is for the placement of 60,000 cubic yards of gravel material in wet tundra to widen an existing access road from pad "E" to the Spine Road in the North Slope Borough, Alaska.

This widening will facilitate crawler equipment movement during sealift operations. The gravel will be hauled across existing gravel roads from the dead arm of the Kuparuk River.

Having reviewed this application, the Division of Policy Development and Planning has determined that the proposed activity is consistent with the Guidelines and Standards of the Alaska Coastal Management Program.

V. NPDES and PSD Permits (EPA No. AK-002984-0; State No. 90062303)

A. National Pollutant Discharge Elimination System (NPDES)

The applicants, Atlantic Richfield Company and Sohio Petroleum Company, on behalf of the Prudhoe Bay Unit Owners, propose in this activity to discharge waste waters from the proposed seawater treatment plant to the Beaufort Sea at Prudhoe Bay. The Beaufort Sea is classified as type II/Marine Waters according to the State's federally approved water quality standards. This source has been determined to be a new discharger by EPA, Region X.

Having reviewed this application, the Division of Policy Development and Planning has determined that the proposed activity is consistent with the Guidelines and Standards of the Alaska Coastal Management Program, 6 AAC 80, provided that the applicants comply with the stipulations and monitoring requirements included in the Department of Environmental Conservation's Water Quality Certification, attached, and the following:

Stipulations:

1. If the monitoring program demonstrates that (1) toxic levels of chlorine, chlorine compounds or other pollutants exist outside of the mixing zone, or (2) if acute or chronically toxic levels of chlorine compounds or other pollutants are found to be accumulating in the sediment or biota, the applicants will be required to modify either the facility or the process to the satisfaction of the State.

B. Prevention of Significant Deterioration (PSD)

This activity proposed by the applicants, Atlantic Richfield Company and Sohio Petroleum Company, includes the construction of certain facilities

December 11, 1980

associated with the proposed waterflood project. The atmospheric emissions from the proposed facilities will be produced by nine gas-fired heaters and ten gas-fired turbines.

Having reviewed this application, the Division of Policy Development and Planning has determined that the proposed activity is consistent with the Guidelines and Standards of the Alaska Coastal Management Program, 6 AAC 80, provided that the applicants adhere to the following Air Quality Control Permits to Operate:

- a) AQC-531;
- b) AQC-532, and;
- c) AQC-533.

Future Permitting Process for Major Projects

In closing, the State is considering the concept of requiring an applicant to complete concurrent planning and design work for an applicant's preferred alternative as well as the alternative which best balances the State's interests when a major project is proposed. The State is extremely interested in avoiding future situations where consideration of alternatives to major development activities which may be in the public interest may be limited by the lack of planning and design work. The State would like to meet with the Corps and other appropriate agencies to discuss this issue. The State is intent upon assuring that for all future projects of this magnitude, we retain maximum flexibility in determining the manner in which its natural resources are developed.

Again, we greatly appreciate the cooperation the Corps has extended the State in our consideration of this important project.

Thank you.

Sincerely,



Frances Ulmer
Director

Attachment

cc: Herman Schmidt, SOHIO
Tim Derigo, ARCO
Commissioner LeResche, DNR
Commissioner Skoog, ADF&G
Commissioner Mueller, DEC
Wilson Condon, Attorney General
Tom Barnes, OCM

Chuck Logsdon, Dept. of Revenue
Douglas Redburn, DEC
Hoyle Hamilton, Alaska Oil & Gas Conservation Commission
John Miller, DMEM
Lance Trasky, ADF&G
Ike Waits, DNR
Laurie Adams, Dept. of Law
Ray Nye, EPA
Sylvia Kawabata, EPA
Shehla Anjum, NSB

Consistency Determination Summary

Prudhoe Bay Waterflood Final EIS

State I.D. NO. 80061901

The review of the Prudhoe Bay Waterflood Final EIS and associated Corps of Engineers (COE) and Environmental Protection Agency (EPA) permits has undoubtedly been the most controversial project ever reviewed by the State under federal consistency. This project was declared consistent with stipulations on 12/11/80 including a monitoring program. (The State decision is attached. See attachment A).

Prudhoe Bay is located on Alaska's North Slope and is the site of vast petroleum and natural gas reserves. In order to derive the maximum potential from the oil field, it became prudent for the State and the operators to propose that the field be waterflooded to maintain field pressure and "squeeze" as much oil out as possible. The method by which the Prudhoe Bay operators proposed to carry out waterflooding created the issue, not whether it should be done.

The aspect associated with waterflooding which created the most concern to the State was the applicants' (Atlantic Richfield Co. and Sohio Petroleum Co.) desire to extend an already-existing causeway, known as West Dock, an additional 3,700 feet North into Prudhoe Bay. While the State had not officially adopted a preferred design prior to the applicants proposing their own, several state agencies, principally the Departments of Fish and Game (DF&G) and Environmental Conservation (DEC) as well as the Division of Policy Development and Planning (DPDP),

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through written and oral communication with the applicants and the Corps of Engineers (COE), expressed their strong desire for either a remote intake structure or a gravel island. Several federal agencies, principally the Fish and Wildlife Service (F&WS), Environmental Protection Agency (EPA), and National Marine Fisheries Service (NMFS), indicated their strong support for these alternatives as well.

As the attachments indicates, many environmental issues were involved in the placement of the fill for the extended causeway, the most sensitive of which included the causeway acting as a barrier to anadromous fish migrations, as well as the causeway acting as an interference with near shore currents as they affect salinity in Simpson Lagoon and the eastward migration of stump Island.

As the State began to formalize its position through the draft EIS, the applicants indicated that, because detailed design plans had already been developed by the applicants for the extended causeway, any insistence on the part of the State to require a gravel island would necessitate a year's delay in waterflooding to accommodate the drafting of new design plans.

Because of the forecasted delay, which the State eventually concurred with, the economic implications to the State in promoting the gravel island would eventually have led to the direct loss of an estimated \$700 million to the State in non-recoverable oil revenues. This became of such overriding importance that the recommendation of the gravel island alternative was no longer either feasible or prudent.

The applicants proposal, the extension of the existing causeway, was finally chosen by the State because an alternate design, such as that for a gravel island, would have required several additional months of design time to complete. The additional time required would have resulted in design completion not coinciding with the barge shipments from the lower 48 to Prudhoe Bay and thus delaying construction start-up for one additional season.

The following is a summarization of events involved in the consistency review of the Waterflood project.

- 6/20/80 - Draft EIS received from Corps of Engineers (COE) review initiated.

- 7/14/80 - Department of Environmental Conservation (DEC) endorsed gravel island (environmentally preferred alternative); however, DEC objected to location of outfall; did not advocate breaching of existing causeway if gravel island constructed.

- 7/15/80 - Alaska Oil and Gas Conservation Commission (AOGCC) amplified problems associated with delay in waterflooding.

- 7/15/80 - National Marine Fisheries Service (NMFS) stated that project is inconsistent because of detrimental effects upon salinity, coastal processes, sedimentation and anadromous fish migrations in the area.

- 7/16/80 - AOGCC submitted additional and clarifying comments.

- 7/16/80 - Department of Transportation and Public Facilities (DOT/PF) stated that DEIS and all associated permits are consistent.

- 7/17/80 - State agencies held State position meeting in Juneau to discuss areas of disagreement among state agencies and to urge all comments to be submitted soon; DEC voiced earlier concerns of 7/14/80; Department of Fish and Game (DF&G) supported gravel island alternative; Division of Energy and Mineral Management (DMEM) and AOGCC opposed any delays in waterflooding associated with island or remote intake facility.

- 7/21/80 - DF&G stated that construction of access roads would be inconsistent if waterflood disapproved.

- 7/21/80 - DF&G revised and elaborated on above comments; endorsed gravel island alternative; identified issues unanswered as yet and discussed monitoring program for project.

- 7/22/80 - DPDP staff met with Fran Ulmer; agreed that Atlantic Richfield Co. (ARCO) should be contacted and issues discussed prior to State issuing comments on draft EIS.

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- 7/24/80 - DMEM discussed implications of delays.
 - 7/28/80 - DF&G submitted additional comments for clarification.
 - 7/29/80 - Alaska Legal Services Corporation (ALSC) stated that project should not be approved until environmental effects are more fully identified; offered specific comments on draft EIS; ALSC spoke for village of Kaktovik.
 - 7/30/80 - ALSC submitted verbatim transcripts from public hearing held by Alaska BLM/OCS office, at Kaktovik on 6/21/80.
 - 8/4/80 - State (DPDP) issued comments on draft EIS (see Attachment B).
 - 8/19/80 - ARCO amended various permits to realign outfall facility.
 - 9/22/80 - OCM discussed various attributes of project with Fish and Wildlife Service (F&WS).
 - 10/22/80 - ARCO submitted copy of correspondence between itself and COE discussing impacts on production activity in event of delay in waterflooding.
 - 10/24/80 - Fran Ulmer (DPDP) transmitted memo to all pertinent state agencies to set up meeting in Anchorage to discuss primary consistency issue; meeting was set for 10/27/80 to reach State position.

- 10/27/80 - At State agency meeting in Anchorage, agencies concluded that applicant's proposal is the only feasible and prudent alternative given the unacceptable prospect of a delay if the gravel island alternative is chosen.
- 10/31/80 - AOGCC discussed implications of waterflooding delays at length in a memo to Fran Ulmer.
- 11/7/80 - DEC provided written comments on issues discussed at 10/27/80 meeting.
- 11/12/80 - At a second State agency meeting in Anchorage, State decided to declare applicant's proposed causeway extension consistent with ACMP due to State vital economic interests at stake.
- 11/14/80 - State (DPDP) informed ARCO and Sohio by letter that causeway extension is consistent and that consistent decision was forthcoming.
- 11/14/80 - DMEM recommended approval of causeway extension provided that adequate monitoring of construction and subsequent activities is performed.

- 11/17/80 - EPA approved causeway extension and other associated projects provided that certain mitigation measures are carried out, such as a breach in existing causeway.

- 11/20/80 - EPA forwarded copy of draft National Pollutant Discharge Elimination System (NPDES) permit to DEC for certification.

- 11/20/80 - ALSC submitted further comments on behalf of Kaktovik on Final EIS.

- 11/21/80 - DEC submitted monitoring requirements for waterflooding.

- 11/28/80 - DF&G submitted lengthy discussion of issues surrounding the monitoring program.

- 12/1/80 - DF&G submitted monitoring requirements for waterflooding.

- 12/3/80 - DPDP circulated draft of State's consistency determination on Final EIS and associated permits to state agencies.

- 12/5/80 - COE responded to EPA issues paper of 11/17/80 to COE.

- 12/6/80 - DF&G responded to DPDP draft of Final EIS with suggested changes.

- 12/8/80 - DMEM submitted specific comments on Final EIS.

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- 12/8/80 - AOGCC submitted specific comments on Final EIS.
 - 12/8/80 - F&WS submitted specific comments on associated access road.
 - 12/9/80 - DEC issued Certificates of Water Quality on NPDES and COE permits.
 - 12/11/80 - NMFS recommended to COE that causeway permits not be issued until modified to address earlier concerns of NMFS.
 - 12/11/80 - State issued federal consistency determination on Final EIS and on all associated permits.
 - 12/18/80 - Department of Community and Regional Affairs (C&RA) submitted late comments on Final EIS.
 - 12/19/80 - OCM requested SCH to amend consistency determination on NPDES permit to include certain stipulations inadvertently omitted from 12/11/80 consistency determination.
 - 12/24/80 - DEC amended Certificate of Water Quality to delete requirement that a specific monitoring program be included in COE permits.

12/26/80 - State amends its 12/11/80 letter to COE for B.S. 20. The amended letter agrees with COE that the formal relationship of consistency is between applicant and state for a federal license or permit. State therefore deletes language binding the COE to include stipulations in Sections II-V of the 12/11/80 consistency letter while retaining language requiring applicant acceptance of them. State also deletes monitoring requirements No. 1-17 of 12/11/80 letter (with identical language or the 12/24/80 DEC letter), in order that the monitoring requirements can be jointly worked out with federal agencies. State also indicates that any monitoring program shall be approvable by State prior to implementation by ARCO. This amendment has the effect of renumbering stipulations for B.S. 20. consistency determination.

1/2/81 - COE issues permit for B.S. 20 under Sections 10, 11, 14,

1/12/80 - ARCO writes letter to Fran Ulmer indicating receipt of 12/26/80 letter. Raises question regarding appropriate scope of State's authority in consistency determinations but ARCO believes that any problems can be resolved through good faith efforts of ARCO and State. ARCO comments on stipulations of 12/26/80 letter: (1) ARCO agrees to accommodate a possible future breach in causeway; (2) ARCO wants to confirm that State would not attempt to mitigate effects of causeway on Simpson Lagoon until "significant reduction" is known to exist to the

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lagoon; (3) COE will insure that dredging Stump Island Passage will be done as necessary; (4) ARCO states that it is their understanding that new Stip. No. 5 would be administered consistently with COE permit Special Condition A; (5) ARCO want opportunity to comment on monitoring program; (6) ARCO feels that Stip No. 6 (12/11/80 letter) should be deleted because State should not be able to arbitrarily decide what other mitigating measures should be employed; ARCO indicates concurrence with remainder of stipulations and will reply soon to B.S. 21.23. and 54.

1/20/81 - ARCO sends letter to COE and indicates that it is prepared to contract with Dames and Moore and attach set of proposed contract provisions. (This is a surprise action to all agencies).

1/20/81 - Tom Barnes of OCM writes memo to Murray Walsh of OCM in response to
1/12/81 letter from ARCO to Fran Ulmer with specific recommendations which urges State to be reluctant in amending consistency determinations on B.S. 21, 23 and 54.

1/26/81 - State, federal and local agencies meet with COE, Dames and Moore, and CRREL to discuss selection of independent third party to monitor waterflood construction and associated activities.

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- 1/26/81 - ARCO/Sohio writes letter to Fran Ulmer responding to B.S. 21, 23 and 54; again questions State's proper role in federal consistency; ARCO/Sohio requests State to withdraw stipulations associated with these three permits; applicants maintain that 2-year caribou baseline study is not possible due to construction schedule; request verification of pipeline vertical distance requirements; contends that Stipulations 1 and 2 are unnecessary for B.S. 54 since pipeline construction is addressed in B.S. 23; concurs with remaining stipulations for B.S. 21, 23 and 54.

 - 1/26/81 - DEC issues 401 for B.S. 54.

 - 1/27/81 - DF&G submits memo to SCH regarding management of monitoring program and the State's proposed COE letter to ARCO on monitoring program; DF&G critical of ARCO involvement in monitoring program.

 - 1/28/81 - DF&G provides comments to DMEM regarding State issuance of DNR permit for causeway extension.

 - 1/29/81 - DMEM issues permit for causeway extension.

 - 1/30/81 - COE sends letter to ARCO detailing provisions of monitoring program to be funded by ARCO.

- 2/5/81 - DF&G send memo to Division of Forest, Land and Water Management indicating non-objection to amendment of State permit to extend causeway.

- 2/6/81 - Fran Ulmer sends letter to COE (Col. Nunn) indicating that State further amends B.S. 21, 23, and 54 by deleting monitoring requirements for B.S. 21, 23 and 54 and replacing them with the substitution language of the /2/26/80 letter to COE;

- 2/6/81 - Fran Ulmer responds to ARCO and Sohio's letter of 1/12/81 on specific points.

PERTINANT SECTIONS OF CPC MINUTES ON CORDOVA PLAN APPROVAL

Annette Islands Reserve Program. The Council had approved the plan with stipulations: (1) that they adopt a standard for coastal development dealing with dredging, and (2) they adopt a state standard dealing with highways. Lawson was informed by phone they have adopted these standards, and he will provide a summary at the next Council meeting.

Haines Program. Michelle Shook stated the Council had asked that areas be reexamined: designate recreational areas, further work on the area meriting special attention, and a resource analysis deficiency which was included in their AMSA designation. These requirements were completed, and Haines adopted the refinements by ordinance on February 2. OCM expects submission of the program refinement soon.

G. Final Action on Cordova Program. Walsh recommended the Council approve the Cordova plan as submitted and revised by City with certain stipulations. Shook pointed out that the area of major concern is the boundary question. She pointed out that Cordova did not accept OCM's original recommendation of a two-tiered boundary. OCM revised its findings and accepted boundaries as designated with the exception of the exclusion of Eyak Lake. OCM recommended that Eyak be designated as an area meriting special attention, that the lake be included within the coastal boundaries of the district program, suggesting establishing landward boundaries, and recommending the City of Cordova be designated by the lead agency in pursuing this AMSA designation. The only other area that received substantial comment was land clearing and grading activities on upland areas. OCM stated these could be solved by an ordinance on the subject, as stated in Cordova program. OCM has no problem with Ski Hill being designated an AMSA.

Other recommendations by OCM were to provide more thorough resource inventory and analysis, in particular habitats, and to look again at boundaries and management classifications of the program. Also, OCM recommended the use of a more detailed map on a larger scale, and encouraged Cordova to adopt its comprehensive plan.

Walsh explained that the 500-foot setback and 500-foot contour boundaries for Eyak Lake are suggestions as a working boundary as an interim measure. OCM asked that Cordova reconsider during the next 15-18 months to see if issues other than clearing and grading appear that attention through coastal management planning could help resolve. Any local government that responds to the ACMP should be encouraged rather than discouraged; the City has gone quite a distance in the program and has identified opportunities in the program and solutions for some local problems.

Perry Lovett, City Manager of Cordova, stated they held many public meetings during the development of this program, and they feel they have met all requirements. Cordova would like to have an approved program as submitted, and anything else, including Eyak Lake, would come up as an amendment.

Roger Allington made comments. He said it was clear from public participation in public hearings that expansion of boundaries was not supported by the general populace of this community. He stated that the Council can not change a boundary without going through amendment process. He stressed that designating Ski Hill an AMSA is the prerogative of the community. Regarding the map's scale, the Cordova plan is one of the least expensive, and the scale of the map reflected that. He stated the resource inventory is sufficient and adequately covers the habitat areas, and the map shows land ownership.

Pat Travers, Federal Office of Coastal Zone Management, said based on 6 AAC 85.040(c), OCZM felt the Cordova program in its current form was inconsistent, and that it would be unlikely that the Federal OCZM could approve it as part of the Alaska Coastal Management Program. The material provided by Cordova bears out the fact that areas are being excluded from the coastal zone, when uses in these areas could affect coastal waters. This is contrary to the ACMP.

Garbin Bukaria, a citizen of Cordova, commented that some would like to see tradition retained. He said some people are trying to exploit the resources, and they are impacting the area. One concern was Odiak Slough being filled and the use of Odiak Pond as a solid waste disposal site. He expressed that Cordova needs money for resource management and solutions to resolve problems as Cordova does have a financial resource base as do other communities.

Hollis Henrichs, Mayor of Cordova, asked what kind of controls or impacts would be imposed on activities immediately contiguous to Cordova's 6-mile coastline. This is a concern of Cordova. Walsh responded that standards of Council are in effect as state regulation and apply to any state or federal permit outside the city. This is all the control that can be expected in areas outside the city until that area chooses to organize a CRSA.

Robert Kopchak, a Cordova council member and General Manager of Eyak Corporation, said the areas outside of Cordova need to be examined regarding the impact of coastal management. He expressed his desire to preserve local attitude of the community and beauty. Regarding the area outside the City, beyond City's control, the lack of knowledge of what was going to happen and their resulting impacts is a serious concern and inhibits the City's planning ability. He indicated support for the program as submitted.

Jon Nickles, Fish and Wildlife Service, stated F&WS could support the recommendation made by OCM regarding the boundary issue. He did not recommend that the plan be approved. He also suggested that a mediation process be pursued.

Pete Islieb, resident of Cordova, felt boundaries were somewhat inconsistent within state program; that recommendations should be included for areas outside the city, an area of economic concern to Cordova. He supported the Council to approve the plan with stipulations as recommended by OCM.

Ward moved to adopt the plan as presented with the caveat that if the Council has legal ability to do so, the Council make Eyak Lake an AMSA. Selkregg seconded. Adams spoke to the motion and explained that the Council is legally not able to designate the area as an AMSA. She said a plan can be modified only by following a procedure; it would take further work and coordination.

Ward then changed his motion to adopt the plan as presented with the caveat that the Council, through staff, commence negotiations to bring all interested parties together to effect a resolution of the Eyak Lake problem. Selkregg, as second, concurred. The motion passed by role call vote.

Mueller moved to amend Ward's previous motion to adopt, as well, the recommendations of OCM staff as Council recommendations to Cordova. The motion was seconded and passed with role call vote.

After the Cordova plan was approved by the Council, Walsh suggested that more work be done on the program before it is forwarded to the Federal Office of Coastal Zone Management, because the federal government would not consider it approvable. He emphasized that state approval will not be affected by withholding it from the Federal Office of Coastal Zone Management, and that it will be submitted to the Lieutenant Governor's Office as a completely state-approved program. Additional time prior to submission to OCZM will give Cordova time to work the Council's recommendations, and address the concerns voiced by OCZM. Walsh commented further regarding this matter on February 10. (See p. 9, infra.)

It was moved, seconded, and passed to adjourn the meeting at 9:30 p.m.

February 10

The meeting was called to order at 9:00 a.m. on February 10, at which time Tom Lawson submitted a proposed resolution that the Legislature repeal some portions of SB 562; this resolution conveyed public's feeling that the regulations were unnecessary. (This was in response to a motion, regarding agenda item D, to simplify this bill.) The portions proposed to be deleted are:

- (1) AS 46.40.120 (d)(1) which states: "each coastal resource service area formed by dividing an existing regional educational attendance area must contain at least one first class city or home rule city."
- (2) AS 46.40.120(d)(2) which states: "a city within a coastal resource service area formed by dividing an existing regional educational attendance area may not elect to exclude itself from the coastal resource service area."
- (3) The second sentence of AS 46.40.190(b), which states: "A city which elects to be excluded from an adjacent coastal resource service area under (a) of this section shall enter into a mutual agreement for cooperative or joint administration of functions with the coastal resource service area board from the adjacent coastal resource service area."

Walsh said the three provisions proposed to be removed are conditions of how a CRSA has to be formed: (1) the provision that there has to be a first-class city in a sub-REAA sized CRSA; (2) once a CRSA is formed, no first-class city within a lesser sized CRSA can withdraw; and (3) remove mandatory obligation to form mutual agreement for cooperative or joint administration, since the law is not specific as to how this would be done.

Lawson said the remaining provisions of SB 562 are parts which allow a CRSA to divide up a REAA into no more than three coastal resource service areas, and the fact that a first-class city or a home-rule city is automatically within a CRSA unless it chooses to opt out.

It was moved to approve concept regarding SB 562 resolution. Motion was seconded and passed.

Requested additional funds for local match (nonagenda item). Walsh reported that the request for additional general funds to offset the required local match has not been responded to. He stated he would approach legislative finance committees, if the Council so chose. The Council stated that OCM should wait until the Governor has responded to their original request, and Walsh concurred.

Cordova Program (agenda item G; see pages 6-8). Walsh commented further that when the recommendations are scrutinized, and, if deemed necessary by Cordova, the plan is changed and the Eyak Lake AMSA is completed, the program can be submitted to the Federal OCZM for federal approval. He estimated the development time for Eyak Lake AMSA to be nine months to a year. He pointed out that this strategy will not affect financial support for the implementation and further development of the Cordova program.

H. District Program Extension Requests. Staff recommended to grant the extension for submittal of Kake's district program to December 4, 1981. It was moved to grant the Kake program extension, and after being seconded, it passed.

I. Regulatory Reform Project Status Report. Walsh said these regulations will eventually be adopted by the Council and by state agencies. He gave an overview of the provisions of the regulations:

Article I provisions are general. There were few negative comments about this Article.

Article II, Class I permits. This type of permit is intended to be issued within 30 days. There is no public notice, and interagency review is informal. The purpose for establishing this class is to require agencies to act on permits expeditiously.

Article III, Class II permits. These permits are to be issued in 65 days, and are subject to both public notice and interagency review. Other state agencies can examine the application and comment, and time is provided for the decision-making agency to act on those comments and

STATE OF ALASKA

JAY S. HAMMOND Governor

OFFICE OF THE GOVERNOR
DIVISION OF POLICY DEVELOPMENT AND PLANNING

POUCH AP
JUNEAU, ALASKA 99811
(907) 465-3541 OR 465-3574

March 11, 1981

The Honorable Terry Stimson
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Stimson:

In response to your request at the Senate Finance Committee hearing on February 24, I have prepared a table of funding allocation alternatives for Fiscal Year 1982 and a projection for subsequent years for the Alaska Coastal Management Program (ACMP).

I must at the outset caution you that these allocation alternatives do not have the sanction of either the Coastal Policy Council nor the Governor's Budget Review Committee (BRC). Thus, I am willingly complying with your information request, but do not wish to intimate that any of the listed budget reductions in FY 82 should occur without a more thorough discussion of their impact on the ACMP. If you would like to pursue such a discussion, it should, of course, involve both the Council and the BRC, as well as myself.

I have listed reduced levels of funding for FY 82, which would enable the state agencies and the Office of Coastal Management (OCM) to fulfill a minimum of ACMP responsibilities. Again, I wish to emphasize that this does not mean that the originally submitted FY 82 budget is excessive or that any funding amount above the baseline is for "frills". For most of the agencies, the listed reductions will mean a cessation of some service or the dereliction of some responsibility that they had previously fulfilled.

In my conversations with the state agencies, I have urged that the impact of any reduction which may occur be directed towards state agency implementation rather than technical assistance to local districts. If this indeed was the impact of these cuts, some of the state agencies may seek a budget amendment for FY 82 to replace these federal funds with state general funds, so that their on-going routine implementation responsibilities can be accomplished. If any agency chose to submit such an amendment, the fate of their request would be up to the BRC and, ultimately, the Legislature.



ALASKA
COASTAL MANAGEMENT PROGRAM

01-A17LH

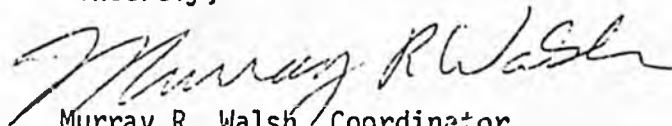
The Honorable Terry Stimson

-3-

3/11/81

I appreciate your interest in and concern for the ACMP. I am available to assist you in any other way that you believe would be beneficial. Please contact me if you have any questions about the material presented here, or if you have any additional information needs.

Sincerely,

A handwritten signature in cursive script that reads "Murray R. Walsh".

Murray R. Walsh, Coordinator
Office of Coastal Management

Attachments

MRW/BR/lry

cc: The Honorable Thelma Buchholdt
The Alaska Coastal Policy Council

I believe that funding for state agency implementation that is obtained through a Reimbursable Services Agreement (RSA) with our office should eventually be reduced to zero. I believe that ACMP implementation can either be absorbed by current personnel or should be requested by each agency individually as it assesses its needs, along with any other non-ACMP tasks, for additional personnel. At the on-set of the ACMP, during the development of district programs and while field staff are being trained in ACMP, specific ACMP-funded staff are indeed necessary for each agency. I believe that staff for this purpose should continue to be funded through RSA's with this office, so that the Council can guide the development of the ACMP and so that the Legislature can get a clear financial picture of the current costs of the ACMP.

I have always mentioned that the funding for state agency participation in ACMP would be at the high point at the beginning of the program and taper off as more district programs were approved and implementation became routine. Attached is an estimate of anticipated submittal of district programs to the Council for approval. As you can see, FY 82 is anticipated to be a busy and important year for the ACMP. For this reason, FY 82 was seen as a maintenance year for ACMP funding, and OCM's budget, including inter-agency transfers, was prepared accordingly. However, FY 83 promises to present a much different financial picture. If our projection of district program submittals is accurate, then FY 83 will result in a markedly reduced request for funding state agency participation in the ACMP. Incidentally, if President Reagan's proposed elimination of federal funds for coastal management occurs, FY 83 would be the first year that significant state funding would be necessary for the ACMP.

Although the reductions I have prepared for the FY 82 budget would not be in the best interests of the ACMP, I can confidently tell you that the FY 83 personnel projection for the agencies and OCM are indeed reductions that I fully anticipate we will be able to make. Beyond FY 83, the future is a bit more hazy, but again, I fully anticipate and will work for the types of personnel reduction that the FY 84 and FY 85 projections indicate.

This is not to say that the legislature would be authorizing "less" ACMP in FY 83 and beyond. Rather, the tasks of OCM and the state agencies (except for implementation) naturally scale down as district programs are approved. As I said above, state agency implementation tasks should eventually be absorbed by or reflected in each agency's own budget and not OCM's.

I have prepared a set of assumptions that you should use when considering the following tables. Since OCM is staff to the Council and has significant legal responsibilities during the district program development approval process, the desired time table for any reduction in OCM staff would begin in FY 83. In order to facilitate your consideration of OCM's budget, I have listed the significant categories of OCM's work load and prepared a timeline for anticipated reductions in OCM staff. Finally, for all agencies I have given a brief summary of the impact any reduction in FY 82 funds would probably have.

DISTRICT PROGRAM STATUS

ALASKA COASTAL MANAGEMENT PROGRAM

I. Developing District Programs

1. Aleutian/Pribilof Islands Coastal Resource Service Area (CRSA)--
organizational efforts underway.
2. Bering Straits CRSA
3. City of Bethel
4. Bristol Bay Borough
5. Bristol Bay CRSA--organizational efforts underway.
6. Cities of Craig and Klawock
7. City of Hydaburg
8. City and Borough of Juneau
9. City of Kake
10. Kenai Peninsula Borough
11. Ketchikan Gateway Borough
12. Kodiak Island Borough
13. Matanuska-Susitna Borough
14. NANA CRSA
15. City of Nome
16. North Slope Borough
17. City of Petersburg
18. City and Borough of Sitka
19. City of Valdez
20. City of Wrangell
21. City of Yakutat
22. Yukon/Kuskokwim CRSA

II. Approved District Programs

1. Municipality of Anchorage
2. Annette Islands Indian Reserve
3. City of Cordova
4. City of Haines
5. City of Skagway

III. District Programs to be Submitted in Calendar Year 1981

1. Bristol Bay Borough
2. Cities of Craig and Klawock
3. City and Borough of Juneau
4. City of Kake
5. Kenai Peninsula Borough
6. Ketchikan Gateway Borough
7. Matanuska-Susitna Borough
8. City of Nome
9. City of Petersburg
10. City and Borough of Sitka
11. City of Valdez
12. City of Wrangell
13. City of Yakutat

IV. District Programs to be Submitted by June 1982

1. City of Hydaburg
2. North Slope Borough

V. District Programs to be Submitted after June 1982

1. Aleutian Pribilof Islands CRSA
2. City of Bethel
3. Bristol Bay CRSA
4. City of Hoonah
5. Kodiak Island Borough
6. NANA CRSA
7. City of Pelican
8. Yukon/Kuskokwim CRSA

VI. Grant Total (without match) to Districts

1. Fiscal Year 80 - \$2,120,245
2. Fiscal Year 81 - \$ 807,473 (to date)

February 1981

ASSUMPTIONS FOR CONSIDERATION OF THE ACMP FINANCIAL PROJECTIONS

- (1) Responsibilities under the Alaska Coastal Management Act remain essentially the same in terms of workload.
- (2) All State agency personnel (other than OCM staff) who are assigned to discrete coastal management concerns, are funded through Reimbursable Services Agreements with the Office of Coastal Management.
- (3) Personnel who do ACMP implementation for state agency activity are absorbed into each agency's normal agency operating budgets beginning in FY 83.
- (4) The monies to local governments and coastal resource service areas for program development and implementation are passed through by the Department of Community & Regional Affairs in individual contracts.
- (5) The schedule of local district program development and approval is accurate. (See attached.)

STATE AGENCY FY 82 BUDGET PROJECTIONS

<u>CURRENT PERSONNEL</u>	<u>AGENCY</u>	<u>FY 82 SUBMITTED</u>	<u>FY 82 REDUCED BASELINE</u>	<u>REDUCTION</u>
5	DEC ¹	\$225	\$175	\$50/1.25 workers
9	DNR ²	400	240	160/4 workers
7	ADF&G ³	362	287	75/1 worker
3	DOT/PF ⁴	135	60	75/1 worker
1	DCED ⁵	96	46	50/0 workers
4	DPDP ⁶	142	0	142/4 workers
8	DCRA ⁷	294	244	50/1 worker
1	DEPT. LAW ⁸	54	40	14/.25 worker
2.25	AEIDC ⁹	93	93	0/1.5 workers
0	LIBRARY ¹⁰	8	4	4/0 workers
<hr/> 40.25		<hr/> \$1809	<hr/> \$1189	<hr/> \$620.0/12.5 workers

- 1.) DEC had nearly full utilization of ACMP funds during FY 80. Any reduction in the \$225.0 projected for them would result in less efforts on local district program review and implementation.
- 2.) DNR has never had their full quota of ACMP personnel on board. They currently have 5 positions filled and are actively recruiting for 2 vacancies. Delays in establishing permanent positions has been the major cause of this problem. Reduction of personnel would result in less coordination of DNR's activities with the ACMP, including staff to integrate ACMP with DNR's regional planning effort, and reduction of technical assistance to districts.
- 3.) ADF&G has had full utilization of ACMP funds to date. They respond to extensive technical assistance requests from districts for resource inventory information required by the ACMP. Reduction of funds would result in the loss of the sole position responsible for ensuing implementation of ACMP into ADF&G activities.
- 4.) DOT/PF has not needed the full amounts allocated to them to date. They have indicated that integration of ACMP responsibilities into on-going worker efforts has not necessitated billing the ACMP funds to the maximum extent possible. The reduction listed would have minimal impact on technical assistance to districts.
- 5.) DCED had an extensive personnel reorganization in FY 81 which resulted in all ACMP funded positions being eliminated. They have recently reestablished 1 ACMP position and are recruiting to fill it. The reduction listed would allow DCED to meet basic coordination and implementation responsibilities.
- 6.) DPDP: The State Clearinghouse has had most of its personnel funded by the ACMP. The Governor has decided that these on-going responsibilities of his office should not be dependent upon federal funding. Hence, he has submitted a budget amendment for FY 82 which funds these 4 positions with state general funds.
- 7.) DCRA's responsibilities for the ACMP depend in large part on the timing of local district development and the demand for local funding by the districts. A reduction of DCRA's efforts could only be possible due to the fact that DCRA has not to date had all of their ACMP funded positions filled.
- 8.) The Dept. of Law. If the regulatory reform regulations are adopted the number of consistency decisions made by DPDP will be reduced. Legal assistance could perhaps be reduced by $\frac{1}{2}$.
- 9.) AEIDC's submitted FY 82 budget is already a reduction from FY 81 levels. FY 81 funding for AEIDC was \$120.0.
- 10.) The library RSA could be reduced in half, with a corresponding reduction in service.

STATE AGENCY PERSONNEL ALLOCATION*

	FY 81 (current)	FY 83	FY 84	FY 85
DEC	5	3	2	1
DNR	9	5	4	3
DF&G	7	5	3.5	2
DOT/PF	3	1	1	1
DCED	1	1	1	1
DPDP	4	0	0	0
DCRA**	8	6	5	5
DEPT. of LAW	1	½	½	½
AFIDC	2.25	1	0	0
	<hr/> 40.25	<hr/> 22.5	<hr/> 17	<hr/> 13.25

*Note: These figures are approximations of the sum total of the federally funded positions doing ACMP work, including administrative support. State matching funds vary from agency to agency and do not always entail additional personnel time. Any implementation costs would either be absorbed beginning in FY 83, or each agency would request state general funds through its own budget.

**FY 83 and beyond projections for DCRA assume local district funding is passed through by DCRA in individual contracts.

OFFICE OF COASTAL MANAGEMENT

	FY 81 (current)	FY 82 (submitted)	FY 82 (reduced baseline)	FY 83	FY 84	FY 85
<u>ADMINISTRATION</u>						
Federal Grant	24	24	24	6	1	0
RSA's	6	5	5	4	4	4
State Budget	4	4	4	4	4	4
Overall Operations	25	24	22	18	14	11
<u>DISTRICT PROGRAMS</u>						
Development	17	18	18	12	8	5
Approval	24	30	30	15	8	5
Implementation	3	8	8	15	19	22
<u>INTERIM MANAGEMENT</u>						
DDP decisions	46	18	18	15	15	15
Training & monitoring of state agencies	2	15	8	12	10	10
<u>SPECIAL PROJECTS</u>						
Wetlands	20	12	7	6	4	2
Planning issues						
primers	6	6	5	5	2	1
OCS readiness	7	5	4	4	4	3
Annual Report	5	3	3	3	3	3
Others	5	2	1	3	3	3
<u>PUBLIC INFORMATION</u>						
	4	6	4	4	2	2
<u>COORDINATION with State & Federal Agencies</u>						
	12	12	12	12	7	6
	211 working months (includes temporaries)	192 w.m. (16 workers)	174 w.m. (14.5 workers)	138 w.m. (11.5 workers)	108 w.m. (9 workers)	96 w.m. (8 workers)

OCM Personnel time line:

Date:	July 1, 1981	(Dec. 31, 1981)	July 1, 1982	Dec 31, 1982	July 1, 1983	July 1, 1984
No. of Workers:	16 (proposed)	(13)*	12**	11***	9****	8*****

*If reductions are made in OCM's FY 82 budget, we would attempt to keep 14.5 workers for FY 82. OCM would accomplish this by keeping a full staff of 16 for the first half of FY 82, and then reducing the work force by three workers (2 Planner III's, 1 Clerk Typist III) at that time.

**Even if OCM got a full 16 workers for all of FY 82, the work force would be reduced to 12 at the beginning of FY 83. This would be accomplished by eliminating the Deputy Coordinator position, 2 Planner III's and 1 Clerk Typist III.

***As the federal grant was closed out, OCM could reduce the work force further (Administrative Assistant I) by 1 worker.

****In FY 84, a further reduction of 2 workers would occur (Planner III, Clerk Typist III)

*****In FY 85, one worker would be eliminated (Planner IV.)

Permit No.: AK-002984-0
Application No.: AK-002984-0
S.I.C. No.: 1311

AUTHORIZATION TO DISCHARGE UNDER THE
"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 et seq; the "Act"),

ARCO Oil and Gas Company (A division of Atlantic Richfield Company) is authorized to discharge from a facility located at Prudhoe Bay, Alaska to receiving waters named the Beaufort Sea in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on

The permit and the authorization to discharge shall expire at midnight,

Signed this day of

DRAFT

NOV 20 1980

Director, Enforcement Division

*OK for inclusion
w/ WAFB report consistency
Determined*

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS, AND INFLUENT MONITORING REQUIREMENTS

1. During the period beginning on the effective date of this permit and lasting through the expiration date, the permittee is authorized to discharge filter backwash, strainer backwash, and untreated seawater from outfall number 001.

a. Such discharges shall be limited and monitored by the permittee as follows:

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	Monthly Average		Daily Maximum		Measurement Frequency	Sample Type
	Under Ice	Open Water	Under Ice	Open Water		
Flow	17,100m ³ /day (4.5 mgd)	18,900m ³ /day (5.0 mgd)	18,900m ³ /day (5.0 mgd)	94,700m ³ /day (25.0 mgd)	Continuous	Recording
Total Suspended Solids	1,880 kg/day (4,130 lbs/day)	10,300 kg/day (22,700 lbs/day)	2,090 kg/day (4,590 lbs/day)	69,400 kg/day (153,000 lbs/day)	Weekly	24Hr Composite
Volatile Suspended Solids (mg/l)	N/A	N/A	N/A	N/A	Weekly	24Hr Composite
Settleable Solids (ml/l)	N/A	N/A	N/A	N/A	Weekly	Composite during backwash cycle
Chlorine Residual	N/A	N/A	0.1 mg/l	0.1 mg/l	Continuous	Recording
Ammonia (NH ₃ -N)	N/A	N/A	1.5 mg/l	1.5 mg/l	Monthly	24Hr Composite
pH	No less than 6.0 standard units and no greater than 9.0 standard units.				Continuous	Recording
Temperature (°C)	No greater than 2.0°C above ambient conditions.				Continuous	Recording

b. A single effluent sample shall be taken for analysis of the 65 priority pollutants designated pursuant to Section 307 (a)(1) of the Clean Water Act, utilizing EPA test procedures and detection limits as specified in the December 3, 1979, Federal Register or subsequent final procedures. This sample shall be taken during a backwash cycle at a time estimated to represent a maximum annual discharge during open water conditions.

c. There shall be no discharge of floating solids, visible foam in other than trace amounts or oily wastes which produce a sheen on the surface of the receiving water.

d. Samples taken in compliance with the monitoring requirements above shall be downstream of all discharge processes.

e. In addition to the above effluent monitoring requirements, the daily frequency of the backwash cycles shall be recorded and reported on the monthly Discharge Monitoring Report.

f. All sanitary wastes shall be transported and disposed of at onshore treatment systems.

2. Marine Life Return Outfall

During the period beginning on the effective date and lasting through the expiration date, the permittee is authorized to discharge fish and other marine life sluiced with untreated seawater through outfall number 002.

a. A semi-annual monitoring program (representative of both under ice and open water conditions) shall be established in order to obtain an estimate of the mortality rate and physical abnormalities and disorientation of marine species returned through the outfall. The permittee shall submit details of a proposed monitoring program for review and approval by the Environmental Protection Agency and the Alaska Department of Environmental Conservation within six months prior to discharge.

3. Influent Monitoring Requirements

During the period beginning with the commencement of waterflood treatment plant operations and lasting through the expiration date of the permit, the permittee shall monitor the influent as specified below:

INFLUENT CHARACTERISTICS

MONITORING REQUIREMENTS

	<u>Measurement</u> Frequency	<u>Sample</u> Type
Flow m ³ /day(mgd)	Continuous	Recording
Total Suspended Solids (mg/l)	Weekly	24 Hr Composite
Volatile Suspended Solids (mg/l)	Weekly	24 Hr Composite
Temperature (°C)	Continuous	Recording

Influent samples shall be taken at approximately the same time during the same day as effluent samples.

B. RECEIVING WATER MONITORING PROGRAM

1. Mixing Zone

An outfall diffuser system shall be utilized for the dispersal of the discharge into the Beaufort Sea. The diffuser shall be located approximately 1000 feet north of the seawater treating plant at a minimum depth contour of 14 feet. A mixing zone is provided below, the boundaries of which shall be monitored for determining compliance with the state of Alaska Water Quality Standards (18AAC 70.020).

a. The sides of the mixing zone shall be no more than 1,000 feet from the diffuser centerline.

b. The ends of the mixing zone shall be no more than 1,000 feet from each end of the diffuser system.

2. Receiving Water Monitoring

The permittee shall implement the following receiving water and biological monitoring program. The emphasis of the program is on monitoring for subtle changes in water quality and sediment quality, responses of resident biota to waste water discharges, and on developing a sampling strategy to provide a defensible statistical basis for analysis of the data, including examination of any gradients in biological response as a function of distance from the diffuser. The following program encompasses studies that are considered necessary to objectively evaluate existing environmental conditions and any chronic effects of the proposed effluent discharges on water quality and biota.

The permittee shall submit semi-annual progress reports on the following studies to the Alaska Department of Environmental Conservation, Pouch O, Juneau, and the Environmental Protection Agency, Anchorage Office, and the Director, Enforcement Division. Semi-annual and annual reports shall be made available to other agencies upon request. The first semi-annual report shall be due on July 1, 1981 and semi-annually thereafter through July 1, 1985. A final summary report including all data and conclusions contained by that time, shall be submitted on October 1, 1985. This report shall include a synthesis of data and a discussion and interpretation of major findings and also principal investigator recommendations for further studies or study refinements should any such studies be necessary.

a. Subtidal Benthos Monitoring Program

(1) Species Diversity and Abundance Studies

The subtidal benthic macro-infaunal program shall consist of annual grab or diver sampling with the following specifications: a randomly selected and distributed array of twenty (20) samples

shall be collected once per year within an area bounded by 1500 feet on both sides of the diffuser centerline and 1500 feet from each end of the diffuser system. All samples shall be collected during the same period, sample locations shall be permanently located during the first year effort, and subsequent years' sampling dates shall be timed as closely as practicable to the first year's sampling date(s). At a minimum, the number of macro-infaunal species present and total abundance of organisms (1.0 mm) per square meter shall be determined for each sample. Proposed methods of random station selection, sampling period selection, and analysis of data shall be submitted to the Department of Environmental Conservation, Juneau and the Environmental Protection Agency, Anchorage, at least two (2) months prior to initiating the field program and approval must be granted prior to commencement. This program shall commence either the first winter or first open water period following the effective date of this permit at the applicant's option.

The percent organic composition of sediments shall be monitored for all samples concurrent with the benthic program.

(2) Biological Studies of Individual Species

The permittee shall provide a measure of the overall biological condition of Liocyma fluctuosa (or another commonly occurring bivalve species approved by the Department of Environmental Conservation) using sampling design and statistical methodologies consistent with published accounts on this index of health. A sufficient number of organisms shall be analyzed to provide a statistically defensible basis for comparing means. This study shall begin within six (6) months from the effective date of this permit. Published accounts generally specify the following ratios for calculating the index, either of which are acceptable in reporting results:

$$\frac{\text{Tissue dry weight (g)} \times 100}{(\text{shell length in mm})^3}$$

(References: Stekoll, Clement and Shaw. 1978. Sublethal effects of chronic oil exposure on the intertidal clam Macoma balthica, University of Alaska, IMS)

or

$$\frac{\text{ash-free dry weight (g)} \times 1000}{(\text{cm shell length})^3}$$

(References: Anderson, J.W. 1978. Condition index and free amino acid level of Protothaca staminea exposed to oil contaminated sediment. Battelle Northwest Laboratories, Sequim, Washington.)

Liocyma (or an alternate bivalve species approved by the Department) shall be collected from at least eight (8) randomly selected stations within the study area specified in section a.(1). Establishment of at least two (2) control sites outside this area to assess gradients in condition factor as a function of distance from the diffuser is a critical requirement of this study. Stations shall be permanently located. Sampling frequency at all sites during the first two years shall be at least twice per year (under ice and open water periods) to evaluate natural seasonal variations in condition. The Department of Environmental Conservation will evaluate the data at the end of two years to determine whether sampling frequency should be modified.

b. Total Residual Chlorine, Organochlorides and Ammonia

(1) Sediment concentrations of total residual chlorine, specific organochlorine compounds identified in the effluent analysis, and ammonia ($\text{NH}_3 - \text{N}$) shall be monitored annually at subtidal stations identified in a.(2) above to commence within six (6) months after facility discharge. Detection levels shall conform to those specified in Alaska Water Quality Standards and EPA guidelines for toxic substances.

(2) Total residual chlorine and specific organochlorine compounds identified in the effluent shall be monitored annually in the soft tissues of Ampharete vega and Liocyma fluctuosa. Sample sites shall include each of those stations listed in a.(2) above. A sufficient number of organisms shall be analyzed to provide a statistically defensible basis for comparing means.

c. Outfall Study and Water Quality Verification

The permittee shall develop and implement a dye study which will measure the actual diffusion and dispersion characteristics achieved by the outfall diffuser system during "worst case" mixing conditions. The study shall be conducted during winter (ice-covered) hydrographic conditions. The study plan shall as a minimum include the following:

(1) Proposed station grid to include stations outside, along, and inside the present mixing zone boundaries to adequately describe dispersion.

(2) Detailed methods of measuring diffusion and dispersion (i.e. type of dye, tracer material, instrumentation, simulation of worst case and average case volume of discharge).

(3) Hydrographic characterization at the sampling points.

(4) Duration of testing interval.

The plan shall be submitted to the Alaska Department of Environmental Conservation, the Alaska Operations Office of EPA, and the Director, Enforcement Division, EPA, at least three (3) months prior to commencement of facility discharge. The outfall study shall commence no later than three (3) months after the beginning of discharge unless hydrographic conditions warrant a modification. Summary reports shall be submitted within 45 days after the study is completed, and a final comprehensive report to be submitted no later than three (3) months following completion of the test. Each report shall include all relevant data including receiving water and effluent characteristics, volume of discharge, graphed dilution contours, raw data, station locations and duration of test.

A program of verification of the adequacy of the mixing zone boundaries to meet Alaska Water Quality criteria for sediment, turbidity, chlorine residual and dissolved oxygen shall include both a winter (ice-covered) and a summer (open-water) sampling effort of the water column at a minimum of four (4) sites located equidistant from one another around the perimeter of the mixing zone. A fifth sample shall be taken 500 feet from the diffuser inside the mixing zone. Four (4) additional stations shall be located equidistant from one another outside of the mixing zone boundaries along a perimeter 1500 feet from both the diffuser ends and centerline. Samples shall be collected at mid-depth. Methods of analysis shall be as specified in the Methods for Chemical Analysis of Water and Wastes, EPA, 1977. Ambient concentrations of sediment, turbidity, and dissolved oxygen shall be established at the time of sampling from a site located sufficiently distant from the mixing zone to be considered outside the zone of influence. Winter sampling stations may include any or all of those approved for the dye dispersion study if it is shown those stations are more representative in describing plume behavior. Summer sampling locations shall include at least those nine (9) locations described above.

The seasonal verification program shall commence within six (6) months of commencement of diffuser operation to allow for preliminary analysis of the dye study results and identification of most reasonable sampling locations.

3. Bioassay Monitoring

If appropriate methodology is developed which is mutually acceptable to EPA and ADEC in which to perform bioassay monitoring to determine acute toxicity levels of toxic substances from the expected effluent discharge, EPA may initiate a permit modification for review to establish a bioassay monitoring program to determine these levels.

C. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required shall be representative of the volume and nature of the monitored discharge. The permittee shall take samples and measurements to meet the monitoring requirements specified. Samples shall be taken in the effluent stream before its discharge to the receiving water, at the specific locations identified in Part A of this permit.

2. Reporting

Effluent and influent monitoring results shall be summarized each month on a Discharge Monitoring Report form (DMR: EPA No. 3320-1). These reports shall be submitted monthly and are to be post-marked by the fourteenth day of the following month. Signed copies of these, and all other reports herein, shall be submitted to the following addresses:

- (1) United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

Attn: Water Compliance Section M/S 513
- (2) United States Environmental Protection Agency
Alaska Operations Office
711 C Street, Box 19
Anchorage, Alaska 99513
- (3) Alaska Department of Environmental Conservation
Northern Regional Office
Box 1601
Fairbanks, Alaska 99707
- (4) Alaska Department of Environmental Conservation
Pouch 0
Juneau, Alaska 99811

3. Additional Monitoring by Permittee

If the permittee monitors any effluent or influent parameter identified in this permit more frequently than required, the results of such monitoring shall be included in the DMR. Such increased frequency shall also be indicated.

4. Definitions

a. The "monthly average" is the arithmetic mean of samples collected during a calendar month.

b. The "daily maximum" discharge means the maximum allowable discharge in any calendar day.

c. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.

d. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

e. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.

f. mgd = million gallons per day

g. m³/day = cubic meters per day

h. mg/l = milligrams per liter

i. ml/l = milliliters per liter

j. kg/day = kilograms per day

k. lbs/day = pounds per day

5. Test Procedures

Test procedures for the analysis of pollutants shall conform to 40 CFR Part 136, which contains a list of approved methods.

6. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. the exact place, date, and time of sampling and measurements;
- b. the dates the analyses were performed;

c. the person(s) who performed the analyses, sampling or measurements;

d. the analytical techniques or methods used; and

e. the results of all required analyses.

7. Records Retention

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, calibration and maintenance of instrumentation, and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Director, Enforcement Division or the State water pollution control agency.

8. Noncompliance Reporting

a. Noncompliance notification will be made when any of the following situations occur:

(i) Bypassing of any treatment facilities (Part D.5., below).

(ii) Facility upset (Part D.6., below).

(iii) Failure of facility (Part D.7., below).

(iv) Other instances not covered by above.

b. Noncompliance notification shall consist of at least the following:

(i) A description of the discharge and cause of noncompliance;

(ii) the period of noncompliance to include exact dates and times and/or the anticipated time when the discharge will again be in compliance; and

(iii) steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge.

c. Timing of report shall be consistent with the following:

(i) Permittee shall report telephonically within 24 hours from the time of becoming aware of any violation of a daily maximum. A written submission shall be provided within five (5) days of becoming aware of the noncompliance.

(ii) Permittee shall provide a written report of any violations of the monthly average. This report shall conform to a. and b. above and be submitted concurrently with the Discharge Monitoring Report as a separate report.

D. GENERAL REQUIREMENTS

1. Reopener Clause

If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant and that standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the Director shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

2. Modification

The permit may be modified, terminated, or revoked during its term for cause as described in 40 CFR 122.15 and 122.16.

Any permittee who knows or has reason to believe that any activity has occurred or will occur which would constitute cause for modification or revocation and reissuance under 40 CFR 122.15 must report its plans, or such information to the Director.

3. Right of Entry

The permittee shall allow the Director or an authorized representative, upon the presentation of credentials and such other documents as may be required by law,

a. to enter upon the permittee's premises where a point source is located or where any records must be kept under the terms and conditions of the permit;

b. to have access to and copy at reasonable times any records that must be kept under the terms and conditions of the permit;

c. to inspect at reasonable times any monitoring equipment or method required in the permit;

d. to inspect at reasonable times any collection, treatment, pollution management, or discharge facilities required under the permit; and

e. to sample at reasonable times any discharge of pollutants.

4. Operation and Maintenance

The permittee shall at all times maintain in good working order and operate as efficiently as possible all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance includes but is not limited to effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures.

5. Bypass

a. Bypass is prohibited unless all of the following four (4) conditions are met:

(i) Bypass is unavoidable to prevent loss of life, personal injury or severe property damage;

(ii) there are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down-time;

(iii) permittee makes notification in accordance with Part C.8.b. and c.; and

(iv) where the permittee knows in advance of the need for a bypass, prior notification shall be submitted for approval to the Director, if possible at least ten (10) days in advance. The bypass may be allowed under conditions determined to be necessary by the Director to minimize any adverse effects. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible.

b. Prohibition of Bypass

The Director may prohibit bypass in consideration of the adverse effect of the proposed bypass or where the proposed bypass does not meet the conditions set forth in Part D.5.a., above.

6. Upsets

a. Effect of an Upset

An upset shall constitute an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph b. below are met.

b. Conditions Necessary for a Demonstration of Upset

The permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) an upset occurred and that the permittee can identify the specific cause(s) of the upset;

(ii) the permitted facility was at the time being operated in a prudent and workman-like manner and in compliance with proper operation and maintenance procedures;

(iii) The permittee submitted information required in Part C.8.b. and c.

c. Burden of Proof

In any enforcement proceeding the permittee seeking to establish the occurrence of an upset shall have the burden of proof.

7. Failure of the Facility

The permittee, in order to maintain compliance with its permit, shall control production and all discharges upon reduction, loss, or failure of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

The permittee shall report such instances in accordance with Part C.8.b. and c. above.

8. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the United States resulting from noncompliance with the permit.

9. Removed Substances

Collected screenings, grit, sludges, and other solids removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent entry of those wastes or runoff from such materials into navigable waters unless otherwise authorized in this permit.

10. Transferability of Permits

This permit may be transferred to another person by the permittee if:

- a. The permittee notifies the Director of the proposed transfer;
- b. a written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittees (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Director; and
- c. the Director within 30 days does not notify the current permittee and the new permittee of his or her intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

E. RESPONSIBILITIES

1. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Director, Enforcement Division. As required by the Act, effluent data shall not be considered confidential. Knowingly making a false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Act.

2. Civil and Criminal Liability

Except as provided in permit conditions on "Bypass" (Part D.5.) and "Upset" (Part D.6.) and "Failure of Facility" (Part D.7.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

3. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

4. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

5. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

6. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit in any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.