

COMMITTEE REPORT

SENATE

FURTHER:

5/6/86

Date 5/11/86

Mr. President

The Committee on FINANCE considered CSHB 491 (Fin)
relating to the disposition of federal funds received by the state from
competitive leasing of oil and gas in the National Petroleum Reserve -
Alaska; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation 24,499.14 HFC.
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

Carl Fife N/K

[Signature]
Co-Chairman
N/K
Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 491 (FIN)
 Title : National Petroleum
Reserve Alaska
 Sponsor : Adams by request
 Requestor : Senate Finance Committee
 Date of Request : 5/8/86

FISCAL DETAIL

Agency Affected : Community & Regional
 BRU : Affairs
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		24499.4				
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		24499.4				
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

It is anticipated that \$24 million will be returned from the permanent fund and the public school fund as a result of the recent Superior Court decision. This fiscal note appropriates that amount from the NPR-A (continued page 2) *APA*

Prepared by : Al Adams, Bill Sponsor Phone : 465-3706
 Division : _____ Date : 5/8/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal Note Continuation

CS HB 491 (Finance)

Special revenue fund created in this bill to the Department of Community and Regional Affairs for payment of impact grants to communities affected by oil and gas development in the National Petroleum Reserve-Alaska.

Offered: 4/30/86
Referred: Rules

Original sponsor: Adams by request

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 491 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the disposition of federal funds

7

received by the state from competitive leasing of oil

8

and gas in the National Petroleum Reserve - Alaska;

9

and providing for an effective date."

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

11 * Section 1. FINDINGS. The legislature finds that:

12

(1) the United States Congress by P.L. 96-514 (42 U.S.C. 6508)

13

provided that the state receives 50 percent of the funds received from

14

competitive leasing of oil and gas in the National Petroleum Reserve -

15

Alaska;

16

(2) 42 U.S.C. 6508 further provides that in the allocation of

17

the funds received by the state, the state shall give priority to those

18

subdivisions of the state most directly or severely impacted by the devel-

19

opment of oil and gas leased under 42 U.S.C. 6508;

20

(3) since 1982 the state has received approximately \$48,643,000

21

from the federal government under the terms of 42 U.S.C. 6508; of that

22

amount, approximately \$18,044,000 has been placed in the general fund and

23

spent by the state for various state programs; approximately \$24,317,000

24

has been placed in the permanent fund and \$182,000 in the public school

25

fund; the remainder, approximately \$6,100,000, has been placed in the

26

National Petroleum Reserve - Alaska special revenue fund established by ch.

27

94, SLA 1984; of that amount, \$3,700,000 has been appropriated for grants

28

to local governments or for state projects; approximately \$2,400,000 still

29

remains in the fund;

1 (4) in a decision dated March 18, 1986, a superior court of the
2 state ruled in City of Barrow, et al. v. State, et al., 1JU-85-2634 Civil,
3 that the state violated the terms of 42 U.S.C. 6508 by failing to establish
4 a rational system by which political subdivisions impacted by oil and gas
5 development in the National Petroleum Reserve - Alaska could apply for and
6 receive funds on a priority basis; the court has required the state to
7 segregate and account for all funds received under 42 U.S.C. 6508 before
8 1984, including money received under 42 U.S.C. 6508 that has been deposited
9 in the permanent fund under AS 37.13.010 or appropriated to the National
10 Petroleum Reserve - Alaska special revenue fund under ch. 94, SLA 1984, but
11 excluding funds expended before 1984 by general fund appropriations; it
12 also appears from the decision that the court would make National Petroleum
13 Reserve - Alaska money deposited in the public school fund (AS 37.14.110)
14 subject to the same segregation and accounting requirements as the money
15 deposited in the permanent fund; and

16 (5) because of the continuing nature of congressional appro-
17 priations under 42 U.S.C. 6508, and in order to rectify the state's past
18 failure to establish a system by which claims of local governments to 42
19 U.S.C. 6508 funds could be determined and dealt with on a priority basis,
20 it is necessary to change the National Petroleum Reserve - Alaska special
21 revenue fund regarding segregation and allocation of the money received
22 under 42 U.S.C. 6508 and to establish criteria by which appropriations may
23 be made from the fund to impacted municipalities.

24 * Sec. 2. Section 2, ch. 94, SLA 1984 is amended to read:

25 Sec. 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE
26 FUND. (a) The National Petroleum Reserve - Alaska special revenue
27 fund is established. The fund consists of all money disbursed to the
28 state by the federal government under 42 U.S.C. 6508 (P.L. 96-514)
29 since December 12, 1980, less the amount deposited in the general fund

1 and expended by the state by general fund appropriations before
2 June 9, 1984 [SHALL CONSIST OF MONEY RECEIVED BY THE STATE FROM THE
3 FEDERAL GOVERNMENT UNDER 43 U.S.C. 1337 (P.L. 96-514)].

4 (b) The commissioner of revenue shall manage the National Petro-
5 leum Reserve - Alaska special revenue fund [IN ACCORDANCE WITH AS 37.-
6 10.070].

7 (c) The Department of Community and Regional Affairs shall adopt
8 regulations under which municipalities impacted by National Petroleum
9 Reserve - Alaska oil and gas development under 42 U.S.C. 6508 may
10 apply for and be eligible to receive grants to alleviate the impact.
11 The department shall give priority in the allocation of grants to
12 municipalities that are experiencing or will experience the most
13 direct or severe impact from oil and gas development under 42 U.S.C.
14 6508 within the National Petroleum Reserve - Alaska. The department
15 shall fund all meritorious grant applications out of the money appro-
16 priated to it each year. Within 10 days after the convening of each
17 regular session of the legislature, the department shall submit to the
18 legislature a list of all municipalities that have received grants, a
19 list of all municipalities determined by the department to be eligible
20 for further grants, a recommendation of the amount of money to be
21 granted for those additional applications, and written justification
22 of each past and potential grant [THE COMMISSIONER OF REVENUE SHALL
23 PAY TO THE SUBDIVISIONS OF THE STATE THAT ARE MOST DIRECTLY OR SEV-
24 ERELY IMPACTED BY DEVELOPMENT OF OIL AND GAS LEASED UNDER 43 U.S.C.
25 1337 THE AMOUNT APPROPRIATED BY THE LEGISLATURE FROM THE FUND FOR THAT
26 PURPOSE. IT IS THE INTENT OF THE LEGISLATURE THAT THE AMOUNT APPRO-
27 PRIATED FOR PAYMENT TO SUBDIVISIONS EQUAL 50 PERCENT OF THE AMOUNT
28 RECEIVED FROM THE FEDERAL GOVERNMENT UNDER 43 U.S.C. 1337 AND THAT
29 THIS PERCENTAGE BE REVIEWED ANNUALLY BY THE LEGISLATURE].

1 (d) It is the intent of the legislature that each year of
2 the money in the National Petroleum Reserve - Alaska special revenue
3 fund be made available for appropriation by the legislature to munic-
4 ipalities that demonstrate under (c) of this section present impact,
5 or the need to determine or plan for future impact, from oil and gas
6 development under 42 U.S.C. 6508. It is the intent of the legislature
7 that an initial appropriation be made to the Department of Community
8 and Regional Affairs to cover anticipated impact grants, and that
9 additional funds be made available through supplemental appropriations
10 if the impact is greater than anticipated and the legislature con-
11 siders the additional grants proposed by the department to be meri-
12 torious [AMOUNTS RECEIVED BY THE STATE UNDER (a) OF THIS SECTION AND
13 NOT PAID UNDER (c) OF THIS SECTION SHALL BE USED BY THE STATE FOR THE
14 FOLLOWING ACTIVITIES AND SERVICES:

15 (1) PLANNING;

16 (2) CONSTRUCTION, MAINTENANCE, AND OPERATION OF ESSENTIAL
17 PUBLIC FACILITIES; AND

18 (3) OTHER NECESSARY PUBLIC SERVICES].

19 (e) A municipality may use the funds received under (d) of this
20 section only for the following activities and services to alleviate
21 the impact of the oil and gas development under 42 U.S.C. 6508 within
22 the National Petroleum Reserve - Alaska [AMOUNTS PAID TO SUBDIVISIONS
23 OF THE STATE UNDER (c) OF THIS SECTION SHALL BE USED BY THE SUBDIVI-
24 SIONS ONLY FOR THE FOLLOWING ACTIVITIES AND SERVICES IN CONJUNCTION
25 WITH DEVELOPMENT OF THE NATIONAL PETROLEUM RESERVE IN ALASKA AND A
26 PROGRAM OF COMPETITIVE LEASING OF OIL AND GAS FROM THAT RESERVE]:

27 (1) planning;

28 (2) construction, maintenance, and operation of essential
29 public facilities by the municipality [SUBDIVISIONS]; and

1 (3) other necessary public services provided by the munic-
2 ipality [SUBDIVISIONS].

3 * Sec. 3. Section 2, ch. 94, SLA 1984 is amended by adding new sub-
4 sections to read:

5 (f) Funds appropriated under (d) of this section may not be used
6 for the retirement of municipal debt.

7 (g) Amounts received by the state under 42 U.S.C. 6508 and not
8 appropriated for grants to municipalities under (d) of this section
9 lapse at the end of each fiscal year as follows:

10 (1) 50 percent to the principal of the Alaska permanent
11 fund;

12 (2) .5 percent to the public school fund (AS 37.14.110);
13 and

14 (3) the remainder to the general fund for use by the state
15 for the following facilities and services:

16 (A) planning;

17 (B) construction, maintenance, and operation of essen-
18 tial public facilities; and

19 (C) other necessary public services.

20 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

4/B

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 4/28/86

REQUEST

Bill/Resolution No. : CSFB 491 (Fin)
 Title : An Act establishing a National
 Petroleum - Alaska Special Reserve
 Fund
 Sponsor : Adams by Request
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Community & Regional Affairs
 BRU : Local Government Assistance

 Components : Training & Development
 Grants Administration

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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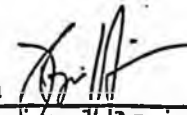
FUNDING : (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

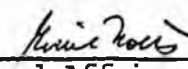
POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

Prepared by : Doug Griffin 
 Division : Municipal & Regional Assistance

Phone : 465 4750
 Date : 4/28/86

Approved by Commissioner : 
 Agency : Community & Regional Affairs

Date : 4/28/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA
DEPARTMENT OF REVENUE

MEMORANDUM

TO: Milt Barker
Deputy Commissioner

FROM: Brian C. Andrews
Comptroller

DATE: April 10, 1986

RE: National Petroleum Reserve - Alaska (NPRA) Revenues

To date, the State has received five payments constituting the 50% disbursed obligation of the Federal Government of NPRA revenues pursuant to P.L. 96-514. The receipts were deposited in the General Fund, Permanent Fund (AS 37.13.010), Public School Fund (AS 37.14.110), and NPRA Special Revenue Fund (Ch. 94, SLA 1984) in the following amounts:

<u>Date</u>	<u>General Fund</u>	<u>Permanent Fund</u>	<u>Public School Fund</u>	<u>NPRA Special Revenue Fund</u>	<u>Total</u>
12-03-82	\$17,227,054.25	\$17,401,064.91	\$174,010.65	\$ -	\$34,802,129.81
11-08-83	816,490.18	824,737.55	8,247.37	-	1,649,475.10
01-03-85	-	3,784,368.48	-	3,784,368.47	7,568,726.95
06-19-85	-	1,671,217.79	-	1,671,217.79	3,342,435.58
01-29-86	-	635,779.75	-	635,778.75	1,271,557.50
Total	\$18,043,544.43	\$24,317,168.48	\$132,258.02	\$6,091,365.01	\$48,634,324.94

The accounting contact at the Department of Natural Resources is Myrtle Paulk. The AKSAS collocation code number and account number for the NPRA Revenue fund are 1044119 and 6306.

BCA/mem

17401054.91 +
 824737.55 +
 3784368.48 +
 1671217.79 +
 635779.75 +
 24517188.68 *
 3784368.47 +
 1671217.79 +
 635778.75 +
 6091365.01 *
 34802129.81 +
 1649475.10 +
 7568726.95 +
 3342435.58 +
 1271557.50 +
 48634324.94 *
 54709100.81 *
 1649475.10 +
 7568726.95 +
 3342435.58 +
 1271557.50 +
 48634324.94 *
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Handwritten notes and signatures at the bottom of the page, including a large signature.

HB 491 is an attempt to clean-up NPR-A legislation passed in the 1984 session, based on a March 1986 superior court ruling.

The Superior Court found that the State violated the terms of 42 U.S.C. 6508...which is the federal law which provides that the state receives 50% of the funds received from competitive leasing of oil and gas in the National Petroleum Reserve --Alaska. This law mandates that in the allocation of these funds, the state has to give priority to subdivisions most severely or directly impacted. (See the chart, prepared by the Department of Revenue in your bill file regarding the disposition of income from NPR - A.)

The Superior Court, in its March 18, 1986 ruling requires

- 1) the state to segregate and account for the funds received,
- and 2) state must set up a system by which impacted communities can apply for and receive funding on a priority basis.

The 1984 legislation set up a separate revenue fund to account for monies which were received by the state. However, the State failed to set up a system by which impacted communities could apply for and receive funding on a priority basis.

This bill would set up a rational system by which impacted communities would be able to apply for and receive funding.

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 9, 1986

The Honorable Frank Ferguson
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: CSHB 491(Fin)

Dear Senator Ferguson:

We were asked to provide a letter explaining the financial implications of (1) P.L. 96-514 (42 U.S.C. 6508), (2) the recent superior court decision in City of Barrow v. State, 1JU-85-2634 Civil, and (3) CSHB 491(Fin).

The federal law provides that the state is to receive 50 percent of federal revenues from oil and gas leasing in the National Petroleum Reserve-Alaska ("NPRA"). In allocating those funds, the federal law requires the state to give priority to subdivisions of the state most directly or severely impacted by NPRA leasing.

In the court decision, the superior court held that the state had violated the provision of federal law requiring the state to give priority to the subdivisions of the state most directly or severely impacted by NPRA leasing. It directed that a fund be reconstituted to afford the opportunity for those subdivisions to demonstrate impacts entitling them to priority to the funds. At the same time, the superior court ruled that not all of the monies received by the state under the federal law should be placed in the reconstituted fund. Instead, the ruling directed the state to reconstitute a fund consisting of money received under the federal law but excluding funds expended prior to 1984 by general fund appropriation.

This bill is designed to implement the federal law as construed by the superior court. It is not only consistent with the superior court's decision, but accomplishes precisely what the superior court ordered. As currently written, it affords subdivisions of the state the opportunity to apply for funds to alleviate impacts of NPRA leasing. To the extent subdivisions

The Honorable Frank Ferguson

May 9, 1986
Page 2

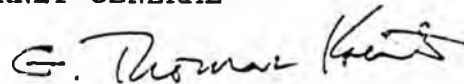
demonstrate direct or severe impact from NPPA leasing, under the federal law they are entitled to a priority to those funds. Once that priority use has been satisfied, any remaining funds become subject to the provisions of state law, including the automatic deposit in the Alaska Permanent Fund.

In brief, the bill as presently drafted satisfies the requirements of both federal and state law. Both the plaintiffs in the superior court litigation and the Administration are in agreement on this point.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By:



G. Thomas Koester
Assistant Attorney General

GTK:dlm

cc: Commissioner Nordale, DOR
Commissioner Notti, C&RA
Dave Rose, Alaska Permanent Fund

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 CITY OF BARROW, CITY OF WAINWRIGHT,)
and NORTH SLOPE BOROUGH,)

4 Plaintiffs,)

5 v.)

6 STATE OF ALASKA, WILLIAM SHEFFIELD,)
7 Governor of Alaska, MARY NORDALE,)
8 Commissioner, Department of)
Revenue, State of Alaska,)

9 Defendants.)

FILED IN THE TRIAL COURTS
STATE OF ALASKA, FIRST DISTRICT
AT JUNEAU

MAR 18 1986

Clerk of Court

By PB Deputy

No. 1JU-85-2634 Civil

10
11 SUMMARY ORDER

12 Plaintiffs move for summary judgment on their
13 complaint for declaratory relief. Specifically, they seek a
14 judicial declaration that the defendants (hereinafter, the
15 State) have violated the terms of P.L. 96-514 (42 U.S.C. 6508)
16 by (a) failing to segregate funds received from the federal
17 government, (b) failing to establish a system by which political
18 subdivisions impacted by oil and gas development in the National
19 Petroleum Reserve - Alaska (hereinafter, NPR-A) could apply for
20 or receive funds to impacted subdivisions on a priority basis as
21 required by the federal law and (c) appropriating those funds to
22 the general use of the State of Alaska. (Plaintiffs alterna-
23 tively seek parallel declaratory relief on the basis of breach
24 of fiduciary duty to administer a trust created by P.L. 96-514.)
25 Plaintiffs additionally seek a declaration that ch. 94, SLA
26 1984, requires all funds (past or future) received by the State
27 from the federal government under P.L. 96-514 to be placed in a
28 special revenue fund and made available for appropriation by the
29 legislature under a system which complies with the requirements
30 of P.L. 96-514. Lastly, plaintiffs seek injunctive relief
31 (a) requiring the State to segregate and account for all funds
32 received under P.L. 96-514 and to administer those funds in

1 accordance with law and (b) prohibiting the State from expending
2 any P.L. 96-514 revenues (past or future) until a system is
3 established for lawful administration and disposition of such
4 funds.

5 The State has filed a cross-motion for summary judg-
6 ment, arguing first that the plaintiffs' complaint does not
7 state a cause of action. The State argues to this result from
8 its conclusion that P.L. 96-514 imposes no judicially enforce-
9 able conditions on Alaska's receipt of NPR-A revenues.
10 Additionally, the State argues (a) that the plaintiff municipal-
11 ities have no right to share in NPR-A revenues in advance of
12 actual commercial production from NPR-A; (b) that the State is
13 entitled to deposit a portion of NPR-A revenues directly into
14 the Alaska Permanent Fund upon receipt; (c) that the State is
15 under no obligation to adopt specific procedures whereby
16 political subdivisions may apply for and receive NPR-A funds;
17 (d) that plaintiffs' delay in bringing this action bars their
18 claims for relief as to moneys already expended by the State;
19 (e) that any State obligation with respect to NPR-A funds should
20 be deemed satisfied through the sharing of state revenues with
21 the plaintiff municipalities under other programs; and (f) that
22 ch. 94, SLA 1984, does not affect NPR-A revenues which were
23 received and spent by the State prior to the date on which that
24 law became effective.

25 The parties have both requested expedited handling of
26 this motion. Oral argument was heard one week after the
27 briefing was completed. In order to avoid further delay¹ in
28
29

30 1. The six-week period during which this case has
31 been held under advisement coincides almost exactly with the
32 period during which the undersigned has been the only superior
court judge present in Juneau.

1 announcing the court's decision, the court's conclusions on the
2 above issues are set out below in summary fashion.

3 1. Mandatory Duty Regarding Allocation of NPR-A Revenues.

4 A. P.L. 96-415 provides that half of all receipts
5 from sales, rentals, bonuses and royalties on leases pertaining
6 to lands in the National Petroleum Reserve - Alaska shall be
7 paid by the federal government to the State of Alaska "for
8 (a) planning, (b) construction, maintenance and operation of
9 essential public facilities, and (c) other necessary provisions
10 of public service." In the allocation of such funds, the
11 federal act establishes a mandatory duty on the State of Alaska
12 to "give priority to use [of NPR-A funds] by subdivisions of the
13 state most directly or severely impacted by development of oil
14 and gas leased under [P.L. 96-514]."

15 B. The duty imposed by P.L. 96-514 ultimately falls
16 upon the Alaska Legislature (because it has the spending power),
17 and it includes the duties to examine the claimed needs of
18 subdivisions arising from oil and gas development impacts, to
19 evaluate them and, if the claimed needs are found to exist, to
20 rank them in order of priority, and to meet or satisfy them out
21 of NPR-A revenues.

22 C. The duty set out above may be met through exist-
23 ing entities and the budget review process; it is not necessary
24 that a new apparatus be created to receive NPR-A claims.

25 2. When the Duty Arises.

26 The duty arises upon the commencement of any "develop-
27 ment" of the subject tracts. Because "development" includes
28 "any step taken in the search for . . . hydrocarbons" (as well
29 as capture, production and marketing of same), it is clear that
30 the duty arises well before actual commercial production and
31 exists at least as early as when test wells are being drilled.
32 Of course, in evaluating claimed impact needs, and in

1 determining whether they truly exist, the legislature certainly
2 may take into account the likely pace of exploration, the
3 likelihood of further exploration, the likelihood of actual
4 commercial production which may result and its likely pace, etc.

5 3. Automatic Deposit into Permanent Fund.

6 The State cannot, consistent with its obligations
7 under P.L. 96-514, automatically deposit 50% (or any amount) of
8 all NPR-A revenues into the Alaska Permanent Fund. Such action
9 clearly contravenes the mandatory duty placed on the State by
10 the very law which authorizes payments to the State (since such
11 payments are made on the condition that the State "give priority
12 to use [of such funds] by subdivisions of the state most
13 directly or severely impacted" by the developments of leased
14 lands). Rather than a direct deposit to the permanent fund, the
15 State must first resort to the process referred to in Parts 1-B
16 and 1-C above to examine the claimed needs of impacted subdivi-
17 sions and to rank any found to exist. Because the language of
18 the federal act is so broad concerning the allowable objects of
19 state expenditure of NPR-A funds ("other necessary provisions of
20 public service"), it is conceivable that an allocation of NPR-A
21 revenues to the permanent fund might be allowable after the
22 State complies with the mandatory duty imposed on it to evaluate
23 needs and establish priorities. But this difficult question
24 need not be resolved now, for on the undisputed facts before the
25 court the State has made no effort at all to meet the duty
26 imposed upon it. The automatic deposits into the permanent fund
27 clearly violate the federal law.

28 4. Plaintiffs' Delay in Filing Lawsuit.

29 By virtue of their delay in bringing this action,
30 plaintiffs are barred from obtaining relief as to any moneys
31 already expended by the State. Because the State is under a
32 duty under federal law to undertake an evaluative process to

1 prioritize claims, and because it would be impossible to
2 recreate the conditions under which that process would have
3 taken place in 1982 and 1983 (for example), the State would be
4 prejudiced by an order now requiring it to place into a special
5 fund monies which have been expended for other purposes and an
6 order requiring it to make allocations based on a system of
7 priorities which cannot be recreated. There is no bar, however,
8 as to those funds which have been placed in the NPR-A reserve
9 account since 1984, and there is no bar as to those funds
10 deposited directly into the Permanent Fund.

11 5. Satisfaction.

12 Summary judgment on this defense is denied. Even
13 assuming that the amount of development-related impact needs of
14 the plaintiffs for the period 1981 - 1985 could somehow be known
15 by this court without formal legislative determination under the
16 process mandated by the federal act, there would remain factual
17 matters in dispute. The court, however, adopts the position of
18 the State that it may show satisfaction to the extent that it
19 shows that a given appropriation to plaintiffs was for needs
20 arising out of oil and gas development-related impacts.

21 6. Ch. 94, SLA 1984.

22 Having determined that federal law imposes a mandatory
23 duty upon the State as set out above, it is unnecessary to
24 consider whether state law too forbids the practices complained
25 of here by plaintiffs. Under the supremacy clause of the
26 federal constitution, federal law controls. Whether ch. 94, SLA
27 1984, also requires, as a matter of state law, that which
28 P.L. 96-514 requires therefore need not be decided.

29 CONCLUSION

30 Having reached the above conclusions, the court
31 declares the rights of the parties and orders as follows:

32 //

- 1 (1) The State has violated P.L. 96-514 by failing to establish
2 a system by which political subdivisions impacted by oil
3 and gas development in the NPR-A could apply for and
4 receive funds on a priority basis.
- 5 (2) The State has violated P.L. 96-514 by appropriating NPR-A
6 funds to the general use of the State of Alaska without
7 giving priority to those uses specified in P.L. 96-514.
- 8 (3) The State is required to segregate and account for all
9 funds received under P.L. 96-514, other than those already
10 expended.
- 11 (4) The State is required to administer funds received under
12 P.L. 96-514 in such a way that it gives priority to the use
13 of such funds by subdivisions most directly or severely
14 impacted by development of oil and gas leased under
15 P.L. 96-514.
- 16 (5) As to the defense of satisfaction, that matter must be
17 reserved for trial on the factual issue whether any appro-
18 priations to plaintiffs during the years in question were
19 for needs arising from impacts related to oil and gas
20 development.

21 The matter will be scheduled for trial at counsel's
22 request upon the filing of a proposed scheduling order signed by
23 all parties, or a scheduling conference will be set if counsel
24 are unable to agree upon a schedule for trial.

25 IT IS SO ORDERED.

26 DONE at Juneau, Alaska, this 18th day of March, 1986.

27
28 Walter L. Carpeneti
29 Walter L. Carpeneti
30 Superior Court Judge
31
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