HB
55

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 55
PUBLISH DATE: HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the Alaska Oil & Gas Cons. Comm., Changing Court Rule
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Oil & Gas Cons. Comm.
BRU: Oil & Gas Cons. Comm.
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: C. V. Chatterton
Phone: (907) 279-1433
Division: Oil & Gas Conservation Comm.
Date: _____

Approved by Commissioner: Lucky Marshall for Larry Merculieff
Date: 11/23/88
Agency: Department of Commerce & Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

LW/dg130710-2
112388a

No. 2

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: HB 55
PUBLISH DATE: HOUSE 1/9/89

FISCAL NOTE

REQUEST:

Revision Date:
Title: Underground Injection Program

Agency Affected: Natural Resources
BRU: Petroleum Management

Sponsor: Rules Committee
Requestor: ~~Governor Cooper~~

Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill does not affect the Department of Natural Resources. The Oil and Gas Conservation Commission is located within the Department of Commerce and Economic Development.

Prepared by: Carol Wilson
Phone: 465-2400
Division: Commissioner's Office
Date: 11/29/88

Approved by Commissioner: Jerome Gorsuch
Date: 11-28-88
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 55
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act relating to the Alaska Oil & Gas Cons. Comm., Changing Court Rule
Sponsor: Rules Committee
Requestor: House Judiciary Committee

Agency Affected: Oil & Gas Cons. Comm.
BRU: Oil & Gas Cons. Comm.

Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

This legislation will have no fiscal impact on the department in FY 90.

Prepared by: C. V. Chatterton
Division: Oil & Gas Conservation Comm.
Phone: (907) 279-1433
Date: 1/18/90

Approved by Commissioner: Larry Meriulieff
Agency: Department of Commerce & Economic Development
Date: 1/21/90

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

LW/dg13071D-2
011890b

go0679hEa
Chenoweth

AMENDMENT

OFFERED IN THE HOUSE BY MENARD

TO: DRAFT CSHB 55( )

Page 1, line 7, after "Commission":

Insert ", and transferring its responsibility for reinjected water to the Department of Environmental Conservation"

Page 3, following line 15:

Insert new bill sections to read:

"* Sec. 6. AS 46.03.100(d) is amended to read:

(d) This section does not apply to injection projects permitted under AS 46.03.055 [AS 31.05.030(h)].

* Sec. 7. AS 46.03 is amended b adding a new section to read:

Sec. 46.03.055. REINJECTED WATER. (a) The department may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j) for the control of underground injection related to the recovery and production of oil and natural gas.

(b) The commissioner may not deny public access to information that is required to be disclosed under 42 U.S.C. 300h-4.

* Sec. 8. AS 31.05.030(h) and 31.05.035(e) are repealed.

* Sec. 9. TRANSITION. All litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Act, or

in connection with functions transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, and regulations issued or adopted under authority of a law amended or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Act, and in effect on the effective date of this Act, remain in effect notwithstanding this Act's taking effect. Records and other property of the Oil and Gas Conservation Commission held for purposes of administration of AS 31.05.030(h) are transferred commensurate with the provisions of this Act to the Department of Environmental Conservation."

Renumber the following bill sections accordingly.

go0679hE
Chenoweth
4/3/89

Original sponsor: Rules/Governor

IN THE HOUSE

CS FOR HOUSE BILL NO. 55 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule, Rule 732 of the Uniform Rules of Criminal Procedure, adopted by the Alaska Supreme Court under its constitutional rule-making authority; and providing for an effective date."

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

* Section 1. AS 31.05.027 is amended to read:

Sec. 31.05.027. LAND SUBJECT TO COMMISSION'S AUTHORITY. The authority of the commission applies to all land in the state lawfully subject to its police powers, including [. IT APPLIES TO] land of the United States and [OR TO] land subject to the jurisdiction of the United States [ONLY TO THE EXTENT THAT CONTROL AND SUPERVISION OF CONSERVATION OF OIL AND GAS AND PREVENTION OF WASTE BY THE UNITED STATES ON ITS LAND FAILS TO CARRY OUT THE INTENT AND PURPOSES OF THIS CHAPTER, AND OTHERWISE APPLIES TO FEDERAL LAND SO FAR AS AN OFFICER OF THE UNITED STATES HAVING JURISDICTION, OR AN AUTHORIZED REPRESENTATIVE, SHALL APPROVE ANY OF THE PROVISIONS OF THIS CHAPTER OR ORDERS OF THE COMMISSION WHICH AFFECT LAND]. The authority of the commission further applies to all land included in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180(p).

* Sec. 2. AS 31.05.070(a) is amended to read:

(a) The commission may summon witnesses, administer oaths, and

require the production of records, books, and documents for examination at a hearing or investigation conducted by it. [A PERSON MAY NOT BE FXCUSED FROM ATTENDING AND TESTIFYING, OR FROM PRODUCING BOOKS, PAPERS AND RECORDS BEFORE THE COMMISSION OR A COURT, OR FROM OBEDIENCE TO THE SUBPOENA OF THE COMMISSION OR A COURT, ON THE GROUND OR FOR THE REASON THAT THE TESTIMONY OR EVIDENCE, DOCUMENTARY OR OTHERWISE, REQUIRED OF THAT PERSON MAY TEND TO INCRIMINATE OR SUBJECT THAT PERSON TO A PENALTY OR FORFEITURE.] This section does not require a person to produce books, papers, or records, or to testify in response to an inquiry not pertinent to a [SOME] question lawfully before the commission or court for determination. If a witness claims the privilege against self-incrimination, the commission may request the attorney general to apply to the superior court under AS 12.50.101 for an order compelling testimony [A NATURAL PERSON IS NOT SUBJECT TO CRIMINAL PROSECUTION OR TO A PENALTY OR FORFEITURE FOR OR ON ACCOUNT OF ANY TRANSACTION, MATTER OR THING CONCERNING WHICH, IN SPITE OF OBJECTION, THAT PERSON MAY BE REQUIRED TO TESTIFY OR PRODUCE EVIDENCE, DOCUMENTARY OR OTHERWISE, BEFORE THE COMMISSION OR COURT, OR IN OBEDIENCE TO ITS SUBPOENA. HOWEVER, A PERSON TESTIFYING IS NOT EXEMPT FROM PROSECUTION AND PUNISHMENT FOR PERJURY COMMITTED IN SO TESTIFYING].

* Sec. 3. AS 31.05.150(a) is amended to read:

(a) A person who [WILFULLY] violates a provision of this chapter, or a regulation or order of the commission adopted under this chapter, is liable for [SUBJECT TO] a civil penalty of no [NOT] more than $5,000 a day [$1,000] for each day [ACT] of violation [AND FOR EACH DAY THAT THE VIOLATION CONTINUES], unless the penalty for violation is otherwise provided for and made exclusive in this chapter.

* Sec. 4. AS 31.05.150(b) is amended to read:

(b) A [IF A] person who, for the purpose of evading this chapter

[,] or any regulation or order of the commission adopted under this chapter, knowingly commits an act specified in AS 11.46.630(a) is guilty of a class A misdemeanor [WILFULLY MAKES OR HAS MADE A FALSE ENTRY IN A REC , ACCOUNT OR MEMORANDUM REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR WILFULLY OMITS, OR CAUSES TO BE OMITTED, FROM A RECORD, ACCOUNT OR MEMORANDUM, FULL, TRUE AND CORRECT ENTRIES AS REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR REMOVES FROM THE STATE OR DESTROYS, MUTILATES, ALTERS OR FALSIFIES SUCH RECORD, ACCOUNT OR MEMORANDUM, THE PERSON IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $5,000, OR BY IMPRISONMENT IN JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

Sec. 5. AS 31.05.150 is amended by adding a new subsection to read:

(f) A person who knowingly violates a regulation or order of the commission is guilty of a misdemeanor punishable by a fine of no more than $5,000 a day for each day of violation.

* Sec. 6. Section 2 of this Act has the effect of changing Rule 732 of the Uniform Rules of Criminal Procedure, adopted by the Alaska Supreme Court in State v. Serdahely, 635 P.2d 1182 (Alaska 1981). It changes the immunity granted a witness for compelled testimony from "transactional" immunity to "use" immunity.

* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

HOUSE COMMITTEE REPORT

(9)
Date Referred: January 9, 1989 . FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 4-14-89

The RESOURCES Committee recommends that:

HOUSE BILL NO. 55 [OIL & GAS CONSERVATION COMMISSION]
"An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date."

[X] be replaced with CS HB 55 (Res) [ ] the same title [X] a new title

[ ] have attached amendment(s)

[X] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: Hs. Resources ~ letter of intent

ATTACHES NEW FISCAL NOTE(s):

[ ] fiscal impact
[ ] zero fiscal note
[ ] zero with analysis

APPROVES PREVIOUS:

[ ] fiscal note(s) published:

_____

[X] zero fiscal notes(s) published:
2.ee.- 1-9-89 CED 1-19-89 DNR

SIGNING DO PASS:

Mike Navarre
Ruth E. Davis

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Bill Hudson - NR Rec.
Richard Foster NO REC
Bert Sharp No Rec.

Chairman's signature

Alaska State Legislature
HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3718

Letter of Intent
for
CS HB 55 (RES)

Letter of Intent

It is the intent of the legislature that the administration examine the possibilities of moving all or a portion of the responsibility for the underground injection control (UIC) program from the Alaska Oil and Gas Conservation Commission to the Department of Environmental Conservation by Executive Order or examine the possibility of accomplishing this function through an inter-agency agreement. It is the intent of the legislature that the agency/agencies with control over the program conduct sufficient inspections of the types of substances being injected and provide for adequate public participation during all phases of the UIC program. It is further the intent of the legislature that the agency/agencies assigned the responsibility be best suited to protect Alaska's ground water.

Representative Curt Menard
Co-Chairman

Representative Cliff Davidson
Co-Chairman

go0679hE

Original sponsor: Rules/Governor

IN THE HOUSE

CS FOR HOUSE BILL NO. 55 (Res)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule, Rule 732 of the Uniform Rules of Criminal Procedure, adopted by the Alaska Supreme Court under its constitutional rule-making authority; and providing for an effective date."

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

* Section 1. AS 31.05.027 is amended to read:

Sec. 31.05.027. LAND SUBJECT TO COMMISSION'S AUTHORITY. The authority of the commission applies to all land in the state lawfully subject to its police powers, including [. IT APPLIES TO] land of the United States and [OR TO] land subject to the jurisdiction of the United States [ONLY TO THE EXTENT THAT CONTROL AND SUPERVISION OF CONSERVATION OF OIL AND GAS AND PREVENTION OF WASTE BY THE UNITED STATES ON ITS LAND FAILS TO CARRY OUT THE INTENT AND PURPOSES OF THIS CHAPTER, AND OTHERWISE APPLIES TO FEDERAL LAND SO FAR AS AN OFFICER OF THE UNITED STATES HAVING JURISDICTION, OR AN AUTHORIZED REPRESENTATIVE, SHALL APPROVE ANY OF THE PROVISIONS OF THIS CHAPTER OR ORDERS OF THE COMMISSION WHICH AFFECT LAND]. The authority of the commission further applies to all land included in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180(p).

* Sec. 2. AS 31.05.070(a) is amended to read:

(a) The commission may summon witnesses, administer oaths, and

require the production of records, books, and documents for examination at a hearing or investigation conducted by it. [A PERSON MAY NOT BE EXCUSED FROM ATTENDING AND TESTIFYING, OR FROM PRODUCING BOOKS, PAPERS AND RECORDS BEFORE THE COMMISSION OR A COURT, OR FROM OBEDIENCE TO THE SUBPOENA OF THE COMMISSION OR A COURT, ON THE GROUND OR FOR THE REASON THAT THE TESTIMONY OR EVIDENCE, DOCUMENTARY OR OTHERWISE, REQUIRED OF THAT PERSON MAY TEND TO INCRIMINATE OR SUBJECT THAT PERSON TO A PENALTY OR FORFEITURE.] This section does not require a person to produce books, papers, or records, or to testify in response to an inquiry not pertinent to a [SOME] question lawfully before the commission or court for determination. If a witness claims the privilege against self-incrimination, the commission may request the attorney general to apply to the superior court under AS 12.50.101 for an order compelling testimony [A NATURAL PERSON IS NOT SUBJECT TO CRIMINAL PROSECUTION OR TO A PENALTY OR FORFEITURE FOR OR ON ACCOUNT OF ANY TRANSACTION, MATTER OR THING CONCERNING WHICH, IN SPITE OF OBJECTION, THAT PERSON MAY BE REQUIRED TO TESTIFY OR PRODUCE EVIDENCE, DOCUMENTARY OR OTHERWISE, BEFORE THE COMMISSION OR COURT, OR IN OBEDIENCE TO ITS SUBPOENA. HOWEVER, A PERSON TESTIFYING IS NOT EXEMPT FROM PROSECUTION AND PUNISHMENT FOR PERJURY COMMITTED IN SO TESTIFYING].

* Sec. 3. AS 31.05.150(a) is amended to read:

(a) A person who [WILFULLY] violates a provision of this chapter, or a regulation or order of the commission adopted under this chapter, is liable for [SUBJECT TO] a civil penalty of no [NOT] more than $5,000 a day [$1,000] for each day [ACT] of violation [AND FOR EACH DAY THAT THE VIOLATION CONTINUES], unless the penalty for violation is otherwise provided for and made exclusive in this chapter.

* Sec. 4. AS 31.05.150(b) is amended to read:

(b) A [IF A] person who, for the purpose of evading this chapter

[,] or any regulation or order of the commission adopted under this chapter, knowingly commits an act specified in AS 11.46.630(a) is guilty of a class A misdemeanor [WILFULLY MAKES OR HAS MADE A FALSE ENTRY IN A RECORD, ACCOUNT OR MEMORANDUM REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR WILFULLY OMITS, OR CAUSES TO BE OMITTED, FROM A RECORD, ACCOUNT OR MEMORANDUM, FULL, TRUE AND CORRECT ENTRIES AS REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR REMOVES FROM THE STATE OR DESTROYS, MUTILATES, ALTERS OR FALSIFIES SUCH RECORD, ACCOUNT OR MEMORANDUM, THE PERSON IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $5,000, OR BY IMPRISONMENT IN JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

* Sec. 5. AS 31.05.150 is amended by adding a new subsection to read:

(f) A person who knowingly violates a regulation or order of the commission is guilty of a misdemeanor punishable by a fine of no more than $5,000 a day for each day of violation.

* Sec. 6. Section 2 of this Act has the effect of changing Rule 732 of the Uniform Rules of Criminal Procedure, adopted by the Alaska Supreme Court in State v. Serdahely, 635 P.2d 1182 (Alaska 1981). It changes the immunity granted a witness for compelled testimony from "transactional" immunity to "use" immunity.

* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

HOUSE COMMITTEE REPORT

4/

(7)
Date Referred: April 17, 1989 FURTHER REFERRALS:

Date of Committee Action: 4-19-90

The JUDICIARY Committee considered: HB 55

HOUSE BILL NO. 55 [OIL & GAS CONSERVATION COMMISSION]
"An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date."

RECOMMENDATIONS:
[X] be replaced with CSHB55(JUD) [ ] the same title [X] a new title
[ ] have attached amendment(s)
[X] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact _____
[ ] zero fiscal note _____
[ ] zero with analysis _____

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) CED & DNR
[X] zero fiscal note(s) 11/9/90
[ ] zero fn/analysis _____

SIGNING DO PASS:

Gruenberg
ELLIS
Goll
M. Davis

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
Mike Miller			
M. Miller			

Chairman's Signature

Original sponsor(s): Rules/Governor

IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 55 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Oil and Gas Conservation Commission."

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

* Section 1. AS 31.05.027 is amended to read:

Sec. 31.05.027. LAND SUBJECT TO COMMISSION'S AUTHORITY. The authority of the commission applies to all land in the state lawfully subject to its police powers, including [. IT APPLIES TO] land of the United States and [OR TO] land subject to the jurisdiction of the United States [ONLY TO THE EXTENT THAT CONTROL AND SUPERVISION OF CONSERVATION OF OIL AND GAS AND PREVENTION OF WASTE BY THE UNITED STATES ON ITS LAND FAILS TO CARRY OUT THE INTENT AND PURPOSES OF THIS CHAPTER, AND OTHERWISE APPLIES TO FEDERAL LAND SO FAR AS AN OFFICER OF THE UNITED STATES HAVING JURISDICTION, OR AN AUTHORIZED REPRESENTATIVE, SHALL APPROVE ANY OF THE PROVISIONS OF THIS CHAPTER OR ORDERS OF THE COMMISSION WHICH AFFECT LAND]. The authority of the commission further applies to all land included in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180(p).

* Sec. 2. AS 31.05.150(a) is amended to read:

(a) A person who [WILFULLY] violates a provision of this chapter, or a regulation or order of the commission adopted under this chapter, is liable for [SUBJECT TO] a civil penalty of no [NOT] more than $5,000 a day [$1,000] for each day [ACT] of violation [AND FOR EACH DAY THAT THE VIOLATION CONTINUES], unless the penalty for viola-

tion is otherwise provided for and made exclusive in this chapter.

* Sec. 3. AS 31.05.150(b) is amended to read:

(b) A [IF A] person who, for the purpose of evading this chapter [,] or any regulation or order of the commission adopted under this chapter, knowingly commits an act specified in AS 11.46.630(a) is guilty of a class A misdemeanor [WILFULLY MAKES OR HAS MADE A FALSE ENTRY IN A RECORD, ACCOUNT OR MEMORANDUM REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR WILFULLY OMITS, OR CAUSES TO BE OMITTED, FROM A RECORD, ACCOUNT OR MEMORANDUM, FULL, TRUE AND CORRECT ENTRIES AS REQUIRED BY THIS CHAPTER, OR BY A REGULATION OR ORDER, OR REMOVES FROM THE STATE OR DESTROYS, MUTILATES, ALTERS OR FALSIFIES SUCH RECORD, ACCOUNT OR MEMORANDUM, THE PERSON IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $5,000, OR BY IMPRISONMENT IN JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

* Sec. 4. AS 31.05.150 is amended by adding a new subsection to read:

(f) A person who knowingly violates a regulation or order of the commission is guilty of a misdemeanor punishable by a fine of no more than $5,000 a day for each day of violation.

STANDARD ALASKA PRODUCTION COMPANY

STATEMENT ON HB 186 - March 17, 1988

HB 186, in Section 2, seeks to (i) amend AS 31.05.035(c) to limit its application to all exploratory wells, and (ii) exclude wells drilled on private lands from the benefits of extended confidentiality, while providing these benefits to wells drilled on State lands. Standard believes no legitimate public interest is served by this discriminatory treatment of wells drilled on private lands.

In Alaska's unique frontier environment, years may elapse between the drilling of an exploratory well and the disposition of unleased acreage nearby. Almost any well yields significant information about nearby lands, both State and private, and has considerable commercial value. Alaska exploratory wells are extremely expensive. The capital investment required to drill a well is simply not justified unless the information obtained thereby is maintained in a confidential status until nearby lands are leased. Therefore, Standard believes the proposed language on lines 2 and 3 on page 2 of HB 186 should be eliminated.

Standard has consistently objected to the removal of provisions providing protection for exploratory wells, delineation wells or development wells which are deepened to new horizons. However, Standard has no objection to the immediate release of information from wells drilled strictly in a development setting. Accordingly, Standard would support provisions relieving the Alaska Oil and Gas Conservation Commission from this administrative burden.

Standard believes the encouragement of the drilling of exploratory wells on all lands is in the overall best interest of the State and is the key to continued development of the oil and gas industry in Alaska. Unless provisions are made for protection of information obtained from this activity, no incentive will exist to engage in exploration in areas where development could require decades.

TESTIMONY OFFERED ON MARCH 17, 1988
BEFORE THE ALASKA HOUSE OF REPRESENTATIVES
RESOURCES COMMITTEE
REGARDING HOUSE BILL 186
By J. R. Carson

Thank you, Mr. Chairman. My name is John Carson. I am the Chief Geologist for Chevron U.S.A.'s Western Region. I have been a petroleum geologist for 32 years and have spent nearly two-thirds of that time working on Alaska exploration. I speak today on behalf of Chevron. I appreciate the opportunity to testify on this matter of importance to both the State and the petroleum industry. My remarks will be brief. I will be glad to answer questions.

Chevron opposes Section 2 of House Bill (HB) 186 which amends AS 31.05.035(c). The issue is extended confidentiality of well data. HB 186 proposes restricting eligibility for extended confidentiality to exploratory wells only and to further restrict eligibility to only those wells drilled on state lands.

As we stated in testimony during last year's session with reference to HB 41, Chevron believes the current law is fair, well-intended, and in the best interest of the State as well as the industry. I will not repeat that total testimony here today, but will sum it up by saying we feel that the opportunity to apply for extended confidentiality encourages operators to expend risk capital in the search for oil and gas; they can count on their sensitive data being held from other operators while waiting for a sale to be scheduled and held. Further, the surrounding landowners will receive higher sale bids and leasing bonuses if the data are held confidential. The benefit to all will be increased drilling over a long period of time which should lead to discovery of more reserves. For your further information, we have attached a copy of Chevron's testimony on HB 41 offered last April.

Chevron's objections to Sec. 2 of HB 186 are twofold: first, the limitation of extended confidentiality to exploratory wells, and second, the elimination of extended confidentiality provision for wells drilled on lands other than those owned by the State.

Chevron has no objection to routine development wells being excluded from eligibility; however, problems arise when delineation or development wells drilled below the producing zones are not afforded confidential status. Such wells may not fall in the State's definition of exploratory wells. Often, the data from these wells is highly critical. Provisions should be made to cover these wells as well as stratigraphic tests which are drilled solely to gain information about the rocks in the subsurface.

In discussing the limitation of extended confidentiality to wells drilled on state lands, I would like to make three points: 1) oil knows no political boundaries, 2) the AOGCC's obligation is to protect all landowners, and 3) the makeup of landownership in Alaska, which confirms the need for the current law.

Oil and gas accumulations and their accompanying rock formations have no coincidence with or regard for political boundaries. Consequently, enacting legislation that discriminates as to ownership is futile. Oil is where you find it and accumulations are rarely on one landowner's domain. Prudhoe Bay is a notable exception.

The AOGCC is empowered to subject its policing authority to all lands of the state regardless of ownership (Sec. 1 of HB 186 clarifies this authority). This authority should carry with it an obligation to protect, as well as police, all of the

landowners of the state. Surely, the federal government and private landowners, whether they be Alaska natives or individuals, deserve the same protection as the State. If HB 186 is enacted, operators would tend to drill on state lands to the detriment of the private landowner and the federal government.

An argument for relaxation of extended confidentiality is that the law was enacted for a special situation — the Beaufort Sea Sale of 1979 — and is no longer needed. We believe the policy considerations which gave rise to the law remain wholly applicable today. There are too many variables in the Alaska political scene to assure sales coming off as scheduled. In addition, the 6,640-mile long coast line of Alaska has the same multiple landownership at every mile that was responsible for sale delays in the Beaufort in 1979. The 1979 sale may have been unique in that the two government agencies were able to work out a joint sale. Typically state and federal agencies hold sales at different times in the same area while private landowners lease when the demand exists. This complication of various leasing dates is the reason that extended confidentiality eligibility on <u>all</u> lands is so important.

HB 186 acknowledges that extended confidentiality for exploratory well data is appropriate, but unfairly limits its effect to wells drilled on state lands.

As presently drafted, HB 186 would apply to well data presently on file with the State. We have previously expressed our grave concern with this type of retroactive legislation. The present version of HB 41 recognizes these concerns. That bill has been amended to prevent retroactive consideration. A similar amendment should be made to HB 186.

In summary, AS 31.05.035(c) currently provides protection for all parties concerned; the state, the landowners, and the operators. Continuation of this law unchanged will, in the long run, encourage drilling for oil and gas and, hopefully, in finding new reserves which will offset foreign oil dependency and strengthen Alaska's economy.

Thank you. I will be glad to answer any questions you may have.

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1989

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Oil and and Gas Conservation Commission (commission). This bill offers revisions to AS 31.05 to improve the state's underground injection control (UIC) program for injection wells related to the recovery and production of oil and natural gas (Class II wells). It also conforms certain sections of AS 31.05 to the revised criminal code, and removes unnecessary restrictions on the commission's authority to regulate oil and gas activities.

The primary reason for this bill is the need to improve the state's UIC program to ensure continued federal funding. In 1984, CSHB 680(L&C) was enacted (ch. 91, SLA 1984). It authorized the commission to "take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f -- 300j), for the control of underground injection related to the recovery and production of oil and natural gas." AS 31.05.030(h). The commission prepared an application for a state UIC program for Class II wells, which was approved by the U.S. Environmental Protection Agency (EPA) in June 1986.

In their review of the state's UIC application, EPA staff identified certain provisions in AS 31.05 which could be amended to improve the state's proposed program. This set of amendments is now proposed as required under the terms of a memorandum of agreement between the commission and EPA, Region 10. If the changes requested by the EPA are not made, continued federal funding for the UIC program would possibly be jeopardized. During its periodic audits of the state's UIC program, EPA inquires as to the status of these amendments.

Another set of amendments, to the criminal provisions of AS 31.05, is recommended by the criminal division of the Department of Law. When the comprehensive rewrite of AS 11 and AS 12 was undertaken in 1981 and 1982, it was determined to be too great a task to attempt amendment of the state's other criminal provisions, scattered throughout the Alaska statutes, at the same time. As this bill amends AS 31.05 for other reasons, I believe it appropriate to take advantage of this opportunity to clean up the criminal provisions of AS 31.05, to make them consistent with AS 11 and AS 12, as revised.

A third amendment removes unnecessary restrictions on the commission's jurisdiction over federal land. All of these amendments are recommended by the Alaska Oil and Gas Conservation Commission and are discussed in more detail below.

The amendments of AS 31.05 in the bill are as follows:

Section 1. AS 31.05.027 is amended to eliminate state statutory limitations on the commission's jurisdiction over land of the United States.

Federal law requires that state UIC programs apply to underground injection occurring on property leased or owned by the United States. 42 U.S.C. 300h(b)(1)(D) and 300j-6. However, AS 31.05.027 presently provides in part:

> The authority of the commission . . . applies to land of the United States or to land subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas and prevention of waste by the United States on its land fails to carry out the intent and purposes of AS 31.05.005 -- 31.05.170, and otherwise applies to federal land so far as an officer of the United States having jurisdiction, or an authorized representative, shall approve any of the provisions of AS 31.05.005 -- 31.05.170 or orders of the commission which affect land.

The jurisdictional limitations of AS 31.05.027 first appeared as territorial legislation enacted in 1955, when Alaska's relationship to the federal government was far more subservient than after Alaska's acceptance into the Union. As a state, Alaska's potential jurisdiction over oil and gas activities on federal land is limited only by constitutional restrictions on the exercise of state police powers. See Myers, The Law of Pooling and Unitization, sec. 11.04 (2d Ed. 1985). AS 31.05.027 asserts less jurisdiction than is now constitutionally permissible. It would be amended by this bill to remove this potential impediment to the commission's regulation of oil and gas activities on federal land.

Section 2. AS 31.05.070(a) is amended to eliminate "transactional" immunity when a person is being compelled to testify or produce documents before the commission or a court, and to make its provisions consistent with the revised Alaska criminal code.

As it now reads, AS 31.05.070(a) affords a person transactional immunity if compelled to appear as a witness under that statute. This provision could preclude effective enforcement of the state's UIC requirements by foreclosing subsequent prosecution of that witness for violating a requirement of the state's UIC program. The provision is also inconsistent with the immunity provision of AS 12.50.-101. The amendments eliminate the immunity provision. Under the proposed language to be added to AS 31.05.070(a), a witness who asserts his or her privilege against self incrimination may be granted immunity and compelled by a court, under AS 12.50.101, to testify. The immunity will be immunity from the use of his or her testimony and any evidence derived from it. Language that disallows self-incrimination as a ground for excusing attendance, testimony, or production of books and records, is also deleted. That current language is potentially unconstitutional, and is unnecessary.

AS 31.05.070(a) also currently provides that a compelled witness is not exempt from prosecution and punishment for perjury committed while testifying. This provision would also be repealed because it duplicates provisions of the criminal code.

Sections 3 and 4. AS 31.05.150(a) and (b) are amended to eliminate the "wilful" standard from consideration in the imposition and recovery of civil penalties; to increase the civil penalties that may be imposed; to make sec. 150's provisions consistent with the provisions of the revised criminal code; and to establish criminal liability for violations of the commission's regulations and orders.

AS 31.05.150(a) currently imposes civil penalties for wilful violations of AS 31.05 or regulations or orders of the commission. However, there is no indication of the type of wilfulness required.

Use of the term "wilfully" in criminal statutes has traditionally required a showing of bad intent. Although evidence of bad intent is generally not required to impose civil penalties, amendment of the statute to eliminate the term would remove any doubt as to the ability of the state to impose civil penalties in the absence of evidence of bad intent.

The amendments would increase the amount of civil penalties imposable under AS 31.05.150(a) from "not more than $1,000" to "no more than $5,000 a day for each day of violation." The $1,000 amount, which was first established in 1955, might now be inadequate to deter violations. The increased penalty would more effectively accomplish deterrence.

Section 4 amends AS 31.50.150(b), which imposes criminal liability for falsifying records and committing similar offenses, to make the description of those offenses consistent with AS 11.46.630(a)(1) -- (4). The class A misdemeanor penalty classification raises the possible maximum term of imprisonment to one year but the amount of the fine is unaffected.

Section 5. AS 31.05.150 is amended by adding a new subsection (f), imposing criminal liability on a person who knowingly violates a regulation or order of the commission.

Section 6. Section 2 of this bill, providing for "use" immunity rather than "transactional" immunity, amends a court rule that was adopted in a somewhat unusual manner. This section takes a cautious approach, to assure compliance with art. IV, sec. 15, of the Alaska Constitution, regarding legislative change of a court rule.

Section 2 would, for commission sanctions, amend Rule 732 of the Uniform Rules of Criminal Procedure (promulgated by the National Conference of Commissioners on Uniform State Laws in 1984). This rule does not appear in the publication of Alaska Court Rules, but rather was adopted by the Alaska Supreme Court in a decision, State v. Serdahley, 635 P.2d 1182 (Alaska 1981). A Superior Court judge has held that a legislative change of the substance of that rule requires the same procedures as for a legislative change of any other court rule.

Thus, sec. 6 cites the court rule and describes the change, as required by Rule 39(e), Uniform Rules of the Alaska State Legislature. Also, in compliance with that legislative rule, the title of the bill mentions the court-rule change. If this bill passes but the section making that change does not receive a two-thirds vote in favor of it, and if the amended statute is challenged in court, the Alaska Supreme Court will, of course, have the final word on whether these legislative procedures were necessary.

I urge your prompt action on this measure to strengthen the state's UIC program and to update AS 31.05.

Sincerely,

Steve Cowper
Governor

April 14, 1989

Testimony on HB 55
before the House Resources Committee

The Safe Drinking Water Act sets forth procedures for use of deep wells for disposal of various wastes. Underground injection is a method of disposal where wastes are pumped into a geologic formation that is supposed to be first evaluated for its compatability with the wastes, and capacity to hold the wastes in place. Pressure is critical since fluids must have sufficient pressure to displace native fluids yet not so much pressure that formation is fractured or waste migrates.

The Environmental Protection Agency issues permits and regulates these wells, by five classes, depending on waste type. As with many environmental laws, EPA delegates parts to the state. In Alaska's case, EPA delegated the Class II portion of the program to the Alaska Oil and Gas Conservation Commission in 1986.

Alaska Center for the Environment opposed this transference at that time because we saw inherent conflict in having the same agency that regulates oil and gas production also attempt to enforce environmental protection laws. Since evaluating AOGCC's performance since it has had authority over the injection program, we feel even more strongly that it is unable to adequately manage the injection program, thus seriously jeopardizing both the Alaskan environment and the future of Alaskans health.

Some of the problems are:

1. Class II wastes are defined as nonhazardous and strictly related to oil and gas production, such as produced waters, which are fluids that are brought to the surface with oil and gas. These wastes can be dangerous because of corrosivity, chemical additives, and presence of carcinogens, such as benzene. The wastes are far from benign and warrant careful handling and disposal.

2. Once injected, there is a high degree of uncertainty as to what happens to the wastes. It is a classic OUT OF SIGHT, OUT OF MIND disposal method. Wastes can travel miles to resurface in other wells, contaminate groundwater, or cause drastic changes in the environment including inducement of earthquakes.

3. Full containment of the wastes is not always assured. Of 18 permit applications submitted to and approved by AOGCC, at least 6 failed to test for containment of wastes with the confining layer, which is the geologic strata meant to hold the waste in place. Four applications failed to even identify or describe the confining layers.

MEMORANDUM State of Alaska

ALASKA OIL & GAS CONSERVATION COMMISSION

TO: Bob Evans
Office of the Governor

DATE: January 3, 1990

FILE NO: 1.CVC.45
TELECOPY NO: 276-7542
TELEPHONE NO: 279-1433

THRU:

RECEIVED
JAN 05 1990
OFFICE OF THE COMMISSIONER

SUBJECT: Legislative letter of intent for CSHB 55 -- Transfer of Class II UIC program to DEC

FROM: C. V. Chatterton
Commissioner

Issue: Representatives Menard and Davidson, in a letter of intent for CSHB 55, are asking the administration to examine the possibilities of moving all or a portion of the Underground Injection Control (UIC) from AOGCC to the Department of Environmental Conservation (DEC) by Executive Order or examine the possibility of accomplishing this function through an interagency agreement.

Background: The federal government's UIC regulations are promulgated under the Safe Drinking Water Act (SDWA) of 1974 as amended. The regulations define five categories of injection wells: Class I, Class II, Class III, Class IV and Class V. Class II wells deal with the underground emplacement of fluids related to the recovery and production of oil and natural gas.

In 1986, AOGCC was delegated primacy for the UIC program for Class II wells in Alaska by the U. S. Environmental Protection Agency (EPA) pursuant to Section 1425 of the SDWA. AS 31.05.030(h) sets forth the statutory authority for AOGCC to accept this enforcement responsibility. As a prerequisite for the award, AOGCC promulgated comprehensive regulations governing underground injection relating to oil and gas activities. The regulations provide an opportunity for public hearing, establish criteria for injection well construction, provide for testing the mechanical integrity of each well, and set forth operating and monitoring requirements for injection wells.

AOGCC does not regulate the kinds of fluid that may be injected by a Class II well beyond the limitation that waste fluids injected for disposal must not be hazardous as defined by federal regulations promulgated under the Resource Conservation and Recovery Act (RCRA). RCRA regulations exempt wastes that are intrinsically associated with the exploration, development or production of crude oil from hazardous waste definition. No limitations are placed on fluids injected for enhanced recovery, which effectively is a cycling process. This approach is in keeping with the SDWA, which avoids addressing the kinds of

fluids that may or may not be injected underground in Class II wells. The purpose of the act is to prohibit contamination of underground sources of drinking water by any fluid injected into a Class II well. (See 42 USC 300h)

AOGCC has been found by EPA on two separate annual audits to be doing a credible job of preventing contamination of drinking water sources by fluids injected underground through Class II injection wells. Contamination is prevented by insuring that the mechanical integrity of injections wells is achieved and maintained and the sealing integrity of confining zones is not broached.

Discussion: Representatives Menard and Davidson's request to transfer the UIC program to DEC is somewhat perplexing. AOGCC administers the UIC program for Class II injection wells only; all other underground injection by Class I, Class III, Class IV and Class V wells in Alaska is administered by EPA. For several years, EPA has wooed DEC to no avail to seek primary enforcement responsibility for the other four injection well classes. It would appear counterproductive to require DEC to staff up and administer just the Class II UIC program without also seeking primary enforcement responsibility for the other injection well classes. Further, the Class II UIC program alone does not appear to provide the vehicle for alleviating Representative Davidson and Menard's concerns.

The primary concern of Representatives Menard and Davidson appears to be one of insufficient inspection of the types of fluid being injected underground. The UIC Class II program, however, is not the vehicle for regulating the type (kind) of fluids being injected underground. Rather than regulating fluid types, the thrust of the UIC Class II program is to address the source of the fluid injected for disposal (ie., non-hazardous fluids only). EPA addresses this point in its August 22, 1989 Final Report of Mid-Course Evaluation of the Class II UIC program which states "oil and gas wastes are not defined on the basis of their constituents, but rather are defined on the basis of their source."

Sampling a fluid to determine its constituents would be of little avail in determining the source of the fluid. And fluid source rather than fluid constituents appears to be the measure for determining whether or not a fluid is exempt from a definition of hazardous waste for purposes of disposal in a Class II well. EPA best summarizes this point in its Mid-Course Evaluation, stating: "analytical methods will help detect hazardous constituents, but that does not mean necessarily that the wastes are hazardous under RCRA and cannot be disposed in a Class II well."

Recommendation: Under the Class II UIC program, and considering the RCRA exemption for oil field wastes, it is questionable

whether AOGCC has authority to monitor and regulate the various constituents of fluids injected underground. However, if AS 46.03.100(d) and AS 46.03.299(b) were repealed, it appears that DEC would have statutory authority, without the Class II UIC program, to regulate the types of fluids that may be injected underground for disposal. AS 46.03.100(d) exempts Class II well injection projects from the requirements of a DEC waste disposal permit; AS 46.03.299(b) exempts oil field wastes from the state's hazardous waste regulations.

Regardless of whether the public good is better served by regulation of the types of fluids injected underground, it seems appropriate for the UIC Class II program to remain intact with the Commission. In fact, transfer of the program may not be a prudent step. This issue was raised by EPA during its midyear 1989 review which states:

> "The transfer of the UIC Program to ADEC is a legislative decision. If the legislature decides to make such a transfer, EPA would work closely with the state to ensure a smooth transition. It is worth noting that such a transfer would require statutory and regulatory revision commensurate with the more stringent §1422 of the Safe Drinking Water Act and UIC Regulations 40 CFR §§144-146. Delegation under the more flexible §1425 requires an existing Class II program to demonstrate how the existing program is effective in protecting underground sources of drinking water. Since the legislature would, in effect, be creating a new program for ADEC to administer, the §1425 option would not be available to it. Also, the Class II wells can not be split between two state agencies; ADEC could coordinate with the AOGCC under a state memorandum of agreement."

In summary, should the Legislature find that the public good is better served by regulating the constituents of fluids injected underground in Alaska, the repeal and/or amendment of selected sections of AS 46.03 appears to offer a more direct route than the transfer of the UIC Class II well program to DEC.

cc. Dick Monkman, Deputy Commissioner, DCED
Linda Wild, Legislative Liaison, DCED

MEMORANDUM State of Alaska

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: Guy Bell, Director
Div of Admin Services
Dept of Comm & Econ Devel
Juneau

DATE: April 6, 1990

FILE NO: F.CVC.50

TELEPHONE NO:

THRU:

SUBJECT: Blowout Prevention Inspection Program

FROM: C V Chatterton
Chairman

The following is in response to your April 4, 1990 telephone request and supplements my April 4, 1990 subject memorandum.

With the grounding of the Exxon Valdez tanker, the public has understandingly shown concern with the operational safety of other potential sources for catastrophic oil spills. The public is questioning the veracity of industry statements that "it can't happen, but should it happen we will fix it." The public is now turning to its regulatory agencies seeking assurance that crude oil handling operations in Alaska are being conducted in accordance with the law and with the best available technology.

Rightfully so, the public now questions the level of inspection activity performed by governmental agencies as to whether or not in-place inspection programs are appropriate and adequate to provide the confidence that "all goes well" in Alaska in operations that could be the source of another catastrophic crude oil spill.

A well being drilled for crude oil or a crude oil producing well that is being re-enetered for workover purposes offers a potential source for an oil spill resulting from a well blowout.

The Alaska Oil and Gas Conservation Commission has promulgated regulations under the authority of AS 31.05.030 to govern proper procedures and equipment installations necessary to insure that the best available defenses against the occurance of a well blowout are practiced. 20 AAC 25.033 Primary Well Control and 20 AAC 25.035 Secondary Well Control are the salient regulations pertinent to well blowout prevention. These regulations require rig crews to conduct periodic tests and report the results on the daily drilling record. These basic records are required to be kept at the well site for inspection during the drilling or workover period, and in the well operator's office for the following five years.

One may question the authenticity of the required test reports. Are required tests being actually performed and results accurately reported? Are operating procedures being conducted in accordance with regulation? The probability is that the required tests and procedures are being performed, followed, and accurately reported.

To gain this assurance of probability, one must understand the makeup of personnel involved on a drilling well. For example, on an exploratory well site, the operator (the "oil company") will have one employee and sometimes two representing the "oil company" interests by providing 24-hour supervision of rig activity. There will be an independent drilling contractor providing the equipment and employees to do the actual well drilling. Their employee cadre will consist of a drilling foreman and two crews of six to 12 employees each working back to back 12-hour shifts. There will be an independent mud logging contractor providing the equipment and personnel to maintain a 24-hour continuing check of the condition of the drilling fluid. Other independent contractor employees are also on location for a total of 40 to 50 people, only one of which, or possibly two, represent the "oil company". With the exception of the one or two company representatives, these people owe no allegiance to the "oil company".

As noted earlier, our regulations require documentation of blowout prevention equipment test results on the daily drilling record, the "tour sheet". Entries on the tour sheet are made by the working lead man, the driller, an employee of the contractor, for each shift. The driller signs the tour sheet to verify its completeness and accuracy of events happening during his shift or "tour". A periodic review of the tour sheets will immediately disclose whether a required blowout prevention equipment test has failed to be conducted or reported. Further, the independent drilling contractor and its employees lack a monetary incentive for cutting corners on regulations. The "oil company" is picking up the tab for the well.

Regardless of apparent built-in checks by third parties on regulatory compliance by an oil company, we do have a field inspection program to provide a further degree of assurance that drilling operations are being safely conducted in compliance with regulations. Our field inspection program provides for one inspector on the Arctic Slope seven days a week. The inspector actually witnesses the required testing of blowout prevention equipment and inspects its installation. With one inspector watching over 24-hour operations of the

currently 14 drilling and workover rigs operating, the inspector is unable to witness every required blowout prevention equipment test. The inspector will waive witnessing many routine and repetetive tests on the same rig. The inspector prioritizes his inspections when unable to witness all tests being conducted. Highest priority is given to inspecting the initial installation and testing of blowout prevention equipment installed on an exploratory well by a rig that has been stacked and manned by new drilling crews. Lowest priority is placed on witnessing the required weekly retesting of already installed equipment. Our inspectors review the tour sheets on location to insure that required tests other than those actually witnessed have been performed and recorded.

In the Commission's judgment, our inspection program provides a highly visible regulatory presence in the field, and we find the authority of the inspector is respected and accepted. Our field inspection program coupled with the third party checks mentioned above provides, in the Commission's judgment, the assurance that operations are being conducted in compliance with regulations governing blowout prevention systems.

MEMORANDUM State of Alaska

ALASKA OIL AND GAS CONSERVATION COMMISSION

TO: Guy Bell, Director
Div of Admin Services
Dept of Comm & Econ Devel
Juneau

DATE: April 4, 1990

FILE NO: F.CVC.49

TELEPHONE NO:

THRU:

SUBJECT: Blowout Prevention Inspection Program

FROM: C V Chatterton
Chairman

Confirming phone calls, the following is in response to your query as to the cost of a rig blowout inspection program for Alaska comparable to the degree of inspector on-scene presence practiced by the Feds.

To allay fears of non-compliance with our regulations, to the degree that the Feds require for their regulations, we should have about seven inspectors on the Arctic Slope. This will provide a continuous or nearly continuous presence of an inspector for each drilling and workover rig.

Working our inspectors on a 7-day on/7-day off schedule, as do the Feds, we propose 14 inspectors for Arctic Slope drilling and workover rigs. Currently, there are 14 drilling and workover rigs operating on the Slope. Each on-scene inspector would be assigned from one to three rigs to follow, depending upon the remoteness of the rig.

The cost of compensating, transporting, and maintaining one of our inspectors on the Slope approximates $162,500 per year. His relief -- on his seven days off -- costs for personal services at $71,082 per year.

On this basis, the 14 inspectors needed to provide a presence on Arctic Slope drilling and workover rigs, for an inspector program comparable to the Feds to insure compliance with our regs, will cost in the neighborhood of $1,635,000/yr.

For Cook Inlet we now have four rigs operating. To provide near-presence coverage of operating rigs, equivalent to Feds, would require two inspectors on the Cook Inlet scene, each with a relief inspector. Cost of the Cook Inlet program would approximate $325,000 per year.

Summarizing, we will require a cadre of 18 inspectors and $1,960,000 annually to fund a rig inspection program to provide the presence or near-presence of inspectors on each operating rig, comparable to the Federal program. With a cadre of inspectors this size, there probably will be the need for additional inspector supervisors. These costs have not yet been determined.

It should be realized that mere compliance with all regulations will in no way guarantee that a well blowout will not occur. A regulation will not prevent a well blowout. Well blowouts occur because of human failure, not non-compliance with regulations. Yet, all that a tight inspection program can provide is greater assurance that regulations are being complied with.

State cuts drilling rig inspections

By CHARLES WOHLFORTH
Daily News reporter

The state has reduced inspections of equipment that prevents blowouts on oil and gas drilling rigs, cutting the number of inspectors from five to three over the last five years while increasing their workload.

Inspectors for the Alaska Oil and Gas Conservation Commission, which is responsible for the equipment, say their coverage is inadequate. But when their supervisor said it to the commission in a memo recently, he was stripped of his duties and ordered to destroy the document.

Blowouts occur on drilling rigs when a driller suddenly loses control of the pressure of underground oil or gas. Blowout preventers cut off the flow from the well to keep

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INSPECTIONS: State cuts down on monitoring of equipment to prevent blowouts

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the rig from turning into a gusher that can cause explosions, fires, deaths, and oil spills.

The federal government guards against blowouts and other drilling accidents by keeping inspectors full time on exploratory rigs, which are the most likely to have blowouts. State inspectors have missed attending weekly tests on such rigs, according to the memo by the inspector supervisor, Michael Minder.

Minder wrote the memo in January, outlining the decrease in inspections and suggesting more inspectors are needed. His boss, Commissioner Lonnie Smith, removed Minder from his supervisory post and told him to destroy all the copies of the document, Smith said.

The Anchorage Daily News obtained a copy of the memo. It says that since the commission reduced its number of inspectors from five to three, their attendance at mandatory blowout preventer tests on North Slope oil rigs fell from 85 percent to 27 percent last year. Smith said the facts in the memo are accurate.

Instead of inspections, the commission has relied on reports of the tests filed by the operators of the rigs themselves, said Chairman C. V. "Chat" Chatterton."

The memo also says the inspectors attended only eight of 15 blowout preventer tests reported in Cook Inlet in 1989.

Cook Inlet oil rigs, although they can have natural gas blowouts, are not liable to cause oil spills because the pressure of the oil in the old fields has declined. But North Slope rigs could turn into gushers if the equipment failed, experts said.

The last major blowout in Alaska was the 1987 natural gas explosion of the Marathon Oil Co. Steelhead platform in Cook Inlet. No one was killed and the blowout caused no serious pollution.

The world's biggest oil spill was caused by a blowout in Ixtoc, Mexico, in 1979. It gushed 140 million gallons of crude oil — 12 times as much as the Exxon Valdez — during nine months it was out of control.

The oil and gas commission, which receives its funding from the state Department of Commerce, is the only agency that inspects drilling equipment on state lands and water.

The commission had a budget of $2.6 million until oil prices declined and squeezed the state budget under the administration of Governor Bill Sheffield, Chatterton said. For the last three years, its annual budget has been $1.6 million, he said.

But the commission's only request for an increase in funding was for a new computer system, Chatterton said. He and Smith said three inspectors are enough.

Two of the three inspectors disagreed. A third could not be reached.

"We need more inspectors," said Inspector Bobby Foster. "Three inspectors checking the rigs in the the state right now, plus all the other work we do — we need more inspectors."

"It's a bad situation," said Inspector Harold Hawkins.

Minder was on a rig in Cook Inlet this week and could not be reached for comment. His memo said he hoped the number of inspectors would be increased.

"A lack of manpower together with budgetary constraints have reduced our exposure both on the North Slope and, particularly, in the Cook Inlet fields," he wrote.

It was that sentence that got him in trouble, said Minder's boss, Smith. Smith said Minder showed him a hand-written copy of the memo, and Smith ordered him not to have it typed or to distribute it unless the sentence was removed. He said Minder distributed the memo anyway. Smith ordered Minder to get the copies back and destroy them, and stripped Minder of his supervisory duties.

"I don't think we were getting his support, and we certainly weren't going to change his viewpoint, so I changed the organization," Smith said.

The commission has three members: Chatterton, Smith, and David Johnston. Johnston, a petroleum geologist, has been on the commission since January 1989. Smith has been a member, and worked for the commission's predecessor, since 1969. Before that he worked for Gulf Oil. Chatterton, a former state legislator, joined the commission in 1982. He worked for Standard Oil of California.

They said the fact that there have been few blowouts shows that the inspection program is good enough. Smith said the number of exploratory wells has gone down, so fewer inspections are needed.

But Minder's memo said tests on exploratory wells were missed, and that drilling activity is increasing, including on old equipment that has been out of use for years.

The federal government keeps inspectors on outer continental shelf exploratory rigs 24 hours a day as long as they are in operation, said Alan Powers, regional director of the Minerals Management Service. He said that policy is partly motivated by doubts about rig operators.

"Who knows whats going on?" Powers said. "Are you going to believe their promises? Well, the way to overcome that (doubt) is to put someone on the rig."

But Chatterton said the federal program is excessive.

State inspectors are responsible for many more wells than their federal counterparts in Alaska, and since 1986 have also had responsibility for inspecting wells used to inject oil field waste into the earth. The state receives $100,000 a year to do those inspections for the federal Environmental Protection Agency, Chatterton said.

Despite the increased work load, Chatterton said three inspectors can do the work five did before because their work schedules were changed. Now inspectors travel to the North Slope for a marathon week of work, then spend a week in Anchorage on call to go to Cook Inlet, then take a week off, Chatterton said. The inspectors are exempt from union rules and do not receive overtime, he said.

The inspectors were less enthusiastic about the schedule. Foster said he has gotten as little as eight to 12 hours of sleep in an entire week as he struggled to inspect as many North Slope wells as possible. Last week he worked 90 hours, he said. Nonetheless, he is unable to finish all the work.

"There's just three of us in the state," Foster said. "It gets to the point where you can just work so many hours, and then you give out."

Hawkins he has worked 40 hours straight without sleep during inspections on the Slope. But he stopped working those hours last year, when he had a heart attack while working the second of two consecutive 22-hour days.

"I damn near died over this," Hawkins said. "I won't do that anymore, since I had my heart attack."

But Chatterton said he will not ask for more money for inspectors because he is looking out for the public's good.

"We're not in the business of making jobs for people or spending the public's money, and we don't think we need more than three inspectors," Chatterton said.

Environmentalists protest use of waste injections

1/15/89 AT

By BOB ORTEGA
News Writer

The man running the public hearing leaned forward and smiled apologetically.

"I'm puzzled and at a loss as to how to proceed with this, to be honest," he said.

The confusion of Chat Chatterton, the amiable chairman of the Alaska Oil and Gas Conservation Commission, was understandable. For years, the commission has quietly approved industry requests to allow underground injection wells in oil fields. Usually, when the commission prints a public notice in the newspaper, no one responds, so it issues an order without any hearing or debate.

Much the same was expected last month, when Unocal Corp. asked for the OK to inject wastes 2,300 feet underground into a well north of Beluga, across Cook Inlet from Anchorage.

So no one seemed to know exactly what to do when both Unocal and the commission received a sudden broadside from Trustees for Alaska and the Alaska Center for the Environment, two Anchorage-based environmental groups.

In a detailed five-page letter, the groups questioned both the commission's procedures and legal authority, and charged that Unocal's Dec. 1 application was deficient in at least three dozen different ways.

Friday, in a public hearing held at the environmental groups' request, Trustees' executive director Randall Weiner and ACE director Sue Libenson reiterated their concerns.

Unocal, they said, had failed to show that it won't pollute an aquifer that may someday provide drinking water. Unocal environmental engineer Roy Roberts said he could address the points brought up by Weiner and Libenson — but would prefer to do so in writing.

So now what?

After a little headscratching and some off-the-record consultation with Unocal officials and Weiner, Chatterton and fellow commissioner Lonnie Smith decided, in effect, to leave matters open for two more weeks so Unocal could respond to the questions raised at the hearing.

Commission staff members seemed both surprised and amused at the attention.

The commission was created by federal statute nearly a decade ago; and gained primary responsibility over injection wells three years ago from the Environmental Protection Agency.

Since then, the commission has issued 18 orders covering hundreds of wells, all on the

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North Slope or in the Cook Inlet area. Only once before has it received any kind of protest, and never, according to commission records, has it received a substantive protest.

The lack of public interest may be understandable. While the public notices are always printed in one of the two Anchorage daily newspapers, most of the wells have not been anywhere near any communities except Sterling, Kenai, and, on the North Slope, Nuiqsut.

In addition, most of the injections have been into very deep aquifers already exempted by the EPA for that kind of activity.

In this particular case, Unocal is seeking an aquifer exemption, and an order allowing it to inject wastes into a well next to the Lewis River Field. There is a freshwater aquifer more than 1,000 feet thick, immediately below the surface; but the company plans to inject its wastes into a deeper, salt-water aquifer.

The application concludes that a layer of siltstone and coal between the two aquifers will protect the upper one from contamination, and points out that there are no communities in the area anyway.

At the hearing, Libenson argued that 100 years ago, there were no communities using fresh water in the Anchorage area.

"I think we need to consider public water sources even in areas not now heavily populated," she said.

"We only have to look over to oil and gas development on the Kenai, where daily we discover new problems with the drinking water," to see the importance of preventing potential pollution, she said.

Weiner, in oral and written testimony, said that Unocal apparently has failed to gain permits or proper certification from the Alaska Department of Environmental Conservation, the state Division of Governmental Coordination, and the Matanuska-Susitna Borough.

He also charged that, in essence, Unocal's application failed to provide enough information to prove that wastes won't leak into the freshwater aquifer during the disposal process, and that the application failed to follow required procedures.

Finally, Weiner also said that the commission should provide greater public notice, issue a fact sheet to explain to the public in lay terms what actions are being contemplated, and double the response period to 30 days.

"It's doubtful that Tyonek and Susitna flats residents were informed of this application," he said.

Unocal's Roberts said the company is working on the well to make sure the casing doesn't allow leakage; he said he's satisfied the upper aquifer will not be contaminated.

Steven Porter, an attorney for the commission, said he has not yet researched, but plans to look into questions raised about the commission in the testimony.

Weiner has promised that Trustees for Alaska will provide substantial input into any future oil industry requests for aquifer exemptions.

Exerpted from January 29, 1986 MOA
State of Alaska - EPA Region X

16. The AOGCC agrees that when seeking injunctive relief for UIC violations, it shall request the court, when appropriate, to order the violator to cease or curtail its oil or gas production operations.

17. The AOGCC agrees to seek the following statutory amendments in the 1986 Legislative session:

a. AS 31.05.027 to be amended to eliminate any limitation of AOGCC jurisdiction on land of the United States.

b. AS 31.05.070(a) to be amended to eliminate the transactional immunity provided as a result of a person being compelled to testify or produce documents before the Commission or a court.

c. AS 31.05.150(a) to be amended to eliminate "wilfully" from consideration in the imposition and recovery of civil penalties.

d. AS 31.05.150(b) to be amended to include wilful violations of a rule, regulation or order of the Commission as cause for imposition and recovery of criminal fines.

If the 1986 Legislature fails to enact these amendements, the AOGCC will submit the amendments in subsequent Legislative sessions.

C. V. Chatterton, Chairman
Alaska Oil and Gas
Conservation Commission

Ernesta B. Barnes
Regional Administrator
U.S. Environmental Protection
Agency, Region 10

JAN 29 1986

United States
Environmental Protection
Agency

Region 10
1200 Sixth Avenue
Seattle WA 98101

Alaska
Idaho
Oregon
Washington

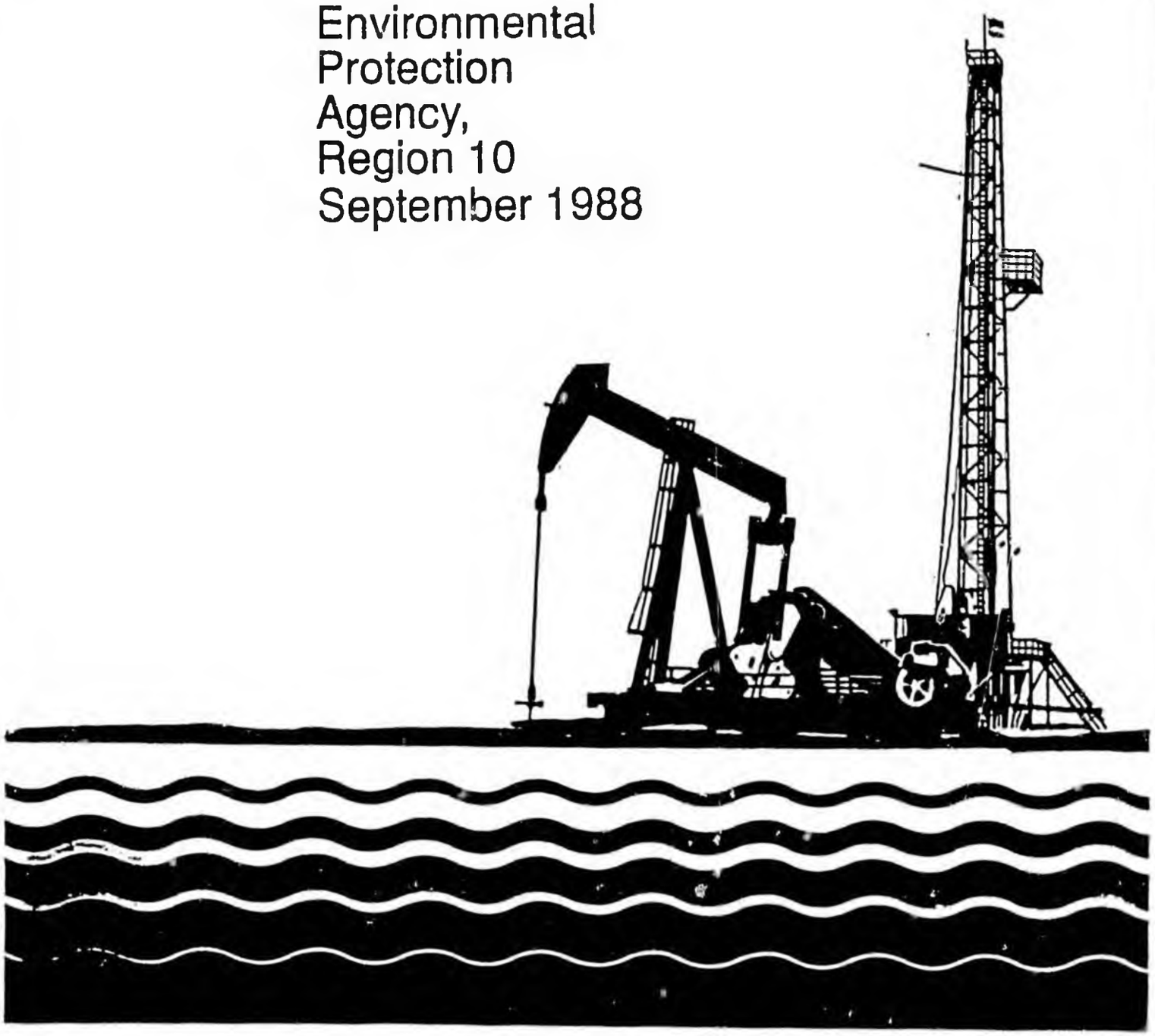
Water Division

Drinking Water

EPA

Evaluation of the Alaska Oil & Gas Conservation Commission Underground Injection Control Program

U.S.
Environmental
Protection
Agency,
Region 10
September 1988



Evaluation of the Alaska Oil and Gas Conservation Commission Underground Injection Control Program

Executive Summary

On June 19, 1986, the Alaska Oil and Gas Conservation Commission (AOGCC) was delegated primacy for the Class II Underground Injection Control (UIC) Program as authorized under Section 1425 of the Safe Drinking Water Act. The remainder of the UIC Program for Class I, III, IV, and V injection wells continues to be administered by the U.S. Environmental Protection Agency (EPA) Region 10.

A representative of the EPA conducted an in-depth performance audit of the AOGCC Class II UIC Program on September 12-19, 1988. Three days were used for office review and four days for inspections and field review of Class II wells on the North Slope. This audit is an expanded version of the routine Region 10 Mid-Year review. The purpose was to evaluate the overall implementation of the AOGCC UIC primacy program since its approval in June of 1986.

The evaluation of the AOGCC UIC Program focused on the following major elements:

I. Administration
II. Public Outreach
III. Inventory/Data Management
IV. Permitting/File Reviews/Aquifer Exemptions
V. Mechanical Integrity Testing
VI. Financial Assurance
VII. Plugging and Abandonment
IX. Compliance/Enforcement

Discussions on each of these elements is contained in the body of this report. In general, the Alaska Section 1425 UIC Program is a well implemented and well staffed operation. The AOGCC staff is technically competent; environmentally sensitive; and responsive to the public, the regulated community, and EPA. However, there are some areas of concern where program changes are recommended. Discussed below is a brief summary of the audit team's findings.

Highlights

1. The AOGCC maintains a trained technical staff sufficient to manage the UIC Program.

2. AOGCC has completed and maintains an accurate inventory for all Class II wells.

3. All injection wells are regulated under AOGCC Area Injection Orders or Disposal Injection Orders.

4. The AOGCC continues to make environmentally sound permit determinations for Class II injection wells, which afford protection of underground sources of drinking water (USDWs).

5. The AOGCC maintains a close working relationship with EPA for processing aquifer exemptions.

6. The AOGCC has effectively utilized federal grant dollars to meet national and regional priorities as defined in the state specific guidance.

7. Widespread public involvement is obtained by publication of public notices in the states' largest newspaper; sending copies of notices to those people on the mailing list; and requiring applicants to provide a copy of their permit application to operators and surface owners within a 1/4 mile radius of the injection project.

8. The Mechanical Integrity Test (MIT) requirement of an initial baseline pressure test and a repeat of the pressure test at least every four years, coupled with annulus monitoring, provide good assurance that USDWs are being protected.

9. The quarterly and annual reports, program plans, grant applications, and Financial Status Reports have been submitted to EPA on schedule.

10. The commitment to an effective field inspection effort is a strong point.

11. The Commission's UIC Program Manager continues to maintain a strong commitment to meeting UIC program requirements and working with EPA.

Findings and Recommendations

1. EPA is concerned that the public notification effort does not include publication of notices in local newspapers and the holding of hearings in the local area where the injection operation is located. It is recommended that local newspapers be used and hearings be held closer to the injection well operation. In lieu of local hearings a television or telephone hookup could be used.

2. Financial assurance requirements may not be adequate to assure proper plugging and abandonment of wells if economic conditions worsen. Financial responsibility should be increased.

3. Using two inspectors on the North Slope during periods of increased MIT testing would preclude the current need to occasionally waive important inspections.

4. Permit applications do not consistently demonstrate or document the requirements of state regulations. A closer review of the permit applications and permits would ensure the state regulations are met.

5. Other recommendations are noted in the report.

EPA Review Team

Harold Scott, Alaska UIC Coordinator - Region 10

AOGCC Participants

C.V. Chatterton, Chairman
Lonnie Smith, Commissioner
Blair Wondzell, Senior Petroleum Engineer
Mike Mender, Senior Petroleum Engineer
Bob Crandall, Geologist
Harold Hawkins, Petroleum Inspector

(1) the drilling, producing and plugging of wells;

(2) the shooting and chemical treatment of wells;

(3) the spacing of wells;

(4) the disposal of salt water, nonpotable water and oil field wastes;

(5) the contamination or waste of underground water;

(6) the quantity and rate of the production of oil and gas from a well or property; this authority shall also apply to a well or property in a voluntary cooperative or unit plan of development or operation entered into in accordance with AS 38.05.180(p).

(f) The commission may classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

(g) When the commission finds sufficient likelihood of an unexpected encounter of oil, gas, or other hazardous substance as a result of well drilling in an area of the state, the commission may, by regulation, designate the area and specify a depth in the area as one in which wells or any boring into the soil in excess of the specified depth but not otherwise subject to this chapter are subject to the regulations and requirements adopted under this section. The designation of an area or specification of a depth under this subsection does not constitute a certification that no hazardous substance will be encountered in another area or at a lesser depth, and the state is not liable for any damages arising from such an unexpected encounter of a hazardous substance.

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j), for the control of underground injection related to the recovery and production of oil and natural gas. (§ 4 ch 40 SLA 1955; am § 2 ch 75 SLA 1960; am § 1 ch 209 SLA 1970; am § 1 ch 87 SLA 1977; am §§ 1, 2 ch 160 SLA 1978; am § 1 ch 91 SLA 1984)

Effect of amendments. — The 1984 amendment added subsection (h).

Sec. 31.05.035. Confidential reports. (a) For all wells for which a permit to drill has been issued by the commission since January 3, 1959, the commission may require:

(1) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information; and

(2) the filing of flow test information and all logs, except experimental logs and velocity surveys run on a well and not required by (1) of this subsection;

elements, as submitted to EPA in the State's program application:

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Alabama. This incorporation by reference was approved by the Director of the Federal Register on June 25, 1984.

(1) Alabama Water Pollution Control Act, Code of Alabama 1975, sections 22-22-1 through 22-22-14 (1980 and Supp. 1983);

(2) Regulations, Policies and Procedures of the Alabama Water Improvement Commission, Title I (Regulations) (Rev. December 1980), as amended May 17, 1982, to add Chapter 9, Underground Injection Control Regulations (effective June 10, 1982), as amended April 6, 1983 (effective May 11, 1983).

(b) The Memorandum of Agreement between EPA Region IV and the Alabama Department of Environment Management, signed by the EPA Regional Administrator on May 24, 1983.

(c) *Statement of legal authority.* (1) "Water Pollution—Public Health—State has Authority to Carry Out Underground Injection Control Program Described in Federal Safe Drinking Water Act—Opinion by Legal Counsel for the Water Improvement Commission," June 25, 1982;

(2) Letter from Attorney, Alabama Water Improvement Commission, to Regional Administrator, EPA Region IV, "Re: AWIC Response to Phillip Tate's (U.S. EPA, Washington) Comments on AWIC's Final Application for Class I, III, IV, and V UIC Program," September 21, 1982;

(3) Letter from Alabama Chief Assistant Attorney General to Regional Counsel, EPA Region IV, "Re: Status of Independent Legal Counsel in Alabama Water Improvement Commission's Underground Injection Control Program," September 14, 1982.

(d) The Program Description and any other materials submitted as part of the application or as supplements thereto.

Subpart C—Alaska

§ 147.100 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Alaska, other than those on Indian lands, is the program administered by the Alaska Oil and Gas Conservation Commission approved by EPA pursuant to Section 1425 of the SDWA. Notice of this approval was published in the FEDERAL REGISTER (May 6, 1986); the effective date of this program is June 19, 1986. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Alaska. This incorporation by reference was approved by the Director of the FEDERAL REGISTER effective June 19, 1986.

(1) Alaska Statutes, Alaska Oil and Gas Conservation Act, Title 31, §§ 31.05.005 through 31.30.010 (1979 and Cum. Supp. 1984);

(2) Alaska Statutes, Administrative Procedures Act, Title 44, §§ 44.62.010 through 44.62.650 (1984);

(3) Alaska Administrative Code, Alaska Oil and Gas Conservation Commission, 20 AAC 25.005 through 20 AAC 25.570 (Supp. 1986).

(b) The Memorandum of Agreement between EPA Region 10, and the Alaska Oil and Gas Conservation Commission, signed by the EPA Regional Administrator on January 29, 1986.

(c) *Statement of Legal Authority.* Statement from the Attorney General of the State of Alaska, signed by the Assistant Attorney General on December 10, 1985.

(d) The Program Description and any other materials submitted as part of the original application or as supplements thereto.

[51 FR 16684, May 6, 1986]

§ 147.101 EPA-administered program.

(a) *Contents.* The UIC program in the State of Alaska for Classes I, III,

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(b) *Effecti*
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[52 FR 17680, M

§ 147.102 Aquif

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(iv) Trading Ba

(3) The portion
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producing field.

IV and V wells, and for all classes of wells on Indian lands, is administered by EPA. This program consists of the UIC program requirements of 40 CFR Parts 124, 144, and 146, and additional requirements set forth in the remainder of this subpart. Injection wells owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date of the UIC program for all non-Class II wells in Alaska and for all wells on Indian lands, is June 25, 1984.

[52 FR 17680, May 11, 1987]

§ 147.102 Aquifer exemptions.

(a) This section identifies any aquifers or their portions exempted in accordance with §§ 144.7(b) and 146.4 of this chapter at the time of program promulgation. EPA may in the future exempt other aquifers or portions, according to applicable procedures, without codifying such exemptions in this section. An updated list of exemptions will be maintained in the Regional office.

(b) The following aquifers are exempted in accordance with the provisions of §§ 144.7(b) and 146.4 of this chapter for Class II injection activities only:

(1) The portions of aquifers in the Kenai Peninsula, greater than the indicated depths below the ground surface, and described by a ¼ mile area beyond and lying directly below the following oil and gas producing fields:

(i) Swanson River Field—1700 feet.

(ii) Beaver Creek Field—1650 feet.

(iii) Kenai Gas Field—1300 feet.

(2) The portion of aquifers beneath Cook Inlet described by a ¼ mile area beyond and lying directly below the following oil and gas producing fields:

(i) Granite Point.

(ii) McArthur River Field.

(iii) Middle Ground Shoal Field.

(iv) Trading Bay Field.

(3) The portions of aquifers on the North Slope described by a ¼ mile area beyond and lying directly below the Kuparuk River Unit oil and gas producing field.

§ 147.103 Existing class I, II (except enhanced recovery and hydrocarbon storage) and III wells authorized by rule.

Maximum injection pressure. The owner or operator shall limit injection pressure to the lesser of:

(a) A value which will not exceed the operating requirements of § 144.28(f)(3) (i) or (ii) as applicable; or

(b) A value for well head pressure calculated by using the following formula:

$$Pm = (0.733 - 0.433\ Sg)d$$

where

Pm = injection pressure at the well head in pounds per square inch

Sg = specific gravity of inject fluid (unitless)

d = injection depth in feet.

§ 147.104 Existing class II enhanced recovery and hydrocargon storage wells authorized by rule.

(a) *Maximum injection pressure.* (1) To meet the operating requirements of § 144.28(f)(3)(ii) (A) and (B) of this chapter, the owner or operator:

(i) Shall use an injection pressure no greater than the pressure established by the Regional Administrator for the field or formation in which the well is located. The Regional Administrator shall establish maximum injection pressures after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of Part 124, Subpart A of this chapter, and will inform owners and operators in writing of the applicable maximum pressure; or

(ii) May inject at pressures greater than those specified in paragraph (a)(1)(i) of this section for the field or formation in which he is operating provided he submits a request in writing to the Regional Administrator, and demonstrates to the satisfaction of the Regional Administrator that such injection pressure will not violate the requirement of § 144.28(f)(3)(ii) (A) and (B). The Regional Administrator may grant such a request after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of Part 124, Subpart A of this chapter.

(2) Prior to such time as the Regional Administrator establishes rules for maximum injection pressure based on

data provided pursuant to paragraph (a)(2)(ii) of this section the owner or operator shall:

(i) Limit injection pressure to a value which will not exceed the operating requirements of § 144.28(f)(3)(ii); and

(ii) Submit data acceptable to the Regional Administrator which defines the fracture pressure of the formation in which injection is taking place. A single test may be submitted on behalf of two or more operators conducting operations in the same formation, if the Regional Administrator approves such submission. The data shall be submitted to the Regional Administrator within 1 year of the effective date of this program.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage well may not be in compliance with the requirements of §§ 144.28(e) and 146.22, the owner or operator shall comply with paragraphs (b) (1) through (4) of this section, when required by the Regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may specify other requirements in addition to or in lieu of the requirements set forth in paragraphs (b) (1) through (3) as needed to protect USDWs.

Subpart D—Arizona

§ 147.150 State-administered program. [Reserved]

§ 147.151 EPA-administered program.

The UIC program for the State of Arizona is administered by EPA.

(a) *Contents.* The UIC program that applies to all injection activities in Arizona, including those on all Indian lands, is administered by EPA. The program for all injection activity, except that on Navajo Indian lands, consists of the UIC program requirements of 40 CFR Parts 124, 144 and 146, and any additional requirements set forth in the remainder of this subpart. Injection well owners and operators and EPA shall comply with these requirements.

(b) *Effective dates.* The effective date for the UIC program in Arizona, except for the lands of the Navajo Indians, is June 25, 1984.

[52 FR 17681, May 11, 1987]

§ 147.152 Aquifer exemptions. [Reserved]

Subpart E—Arkansas

§ 147.200 State-administered program—Class I, III, IV and V wells.

The UIC program for Class I, III, IV and V wells in the State of Arkansas is the program administered by the Arkansas Department of Pollution Control and Ecology, approved by EPA pursuant to section 1422 of the SDWA. Notice of this approval was published in the FEDERAL REGISTER on July 6, 1982 (47 FR 29236); the effective date of this program is July 6, 1982. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Arkansas. This incorporation by reference was approved by the Director of the Federal Register on June 25, 1984.

HOUSE RESOURCES STANDING COMMITTEE
March 17, 1988
8:30 a.m.

MEMBERS PRESENT

Co-Chair Adelheid Herrmann
Co-Chair Sam Cotten
Representative John Sund
Representative Mike Navarre
Representative Drue Pearce
Representative Dick Shultz

MEMBERS ABSENT

Representative Cliff Davidson
Representative Henry Springer
Representative Lyman Hoffman

COMMITTEE CALENDAR

HJR 40 - Relating to petroleum research and development in the state.

HELD in Committee for further consideration.

HB 186 - "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date.

HELD in Committee for further consideration.

WITNESS REGISTER

Representative Jim Zawacki
Alaska State House of Representatives
P.O. Box V
Juneau, AK 99811
465-2719

Hugh Malone, Commissioner
Department of Revenue
P.O. Box S
Juneau, AK 99811
465-2300

C.V. Chatterton, Chairman
Oil & Gas Conservation Commission
3001 Porcupine Drive
Anchorage, AK 99501
279-1433
Position Statement: Supports HB 186 With Amendments.
Supports HJR 40.

Dr. Sharma, Research Director
University of Alaska
3rd Floor, Signers' Hall
Fairbanks, AK 99755
474-7112
Position Statement: Supports HJR 40.

John R. Carson
6001 Bollinger Canyon Rd.
San Ramon, CA
(915)842-6404
Position Statement: Supports HB 186 With Amendments.

Steven R. Porter, Assistant Attorney General
Department of Law
1031 West 4th, Suite 200
Anchorage, AK 99501
276-3550

PREVIOUS ACTION

HB 186:	Jrn-Date	Jrn-Pg		Action
	03/18/87	542	(H)	Read the first time with referral(s)
	03/18/87	543	(H)	RES, JUD, FIN
	03/18/87	543	(H)	2 Zero fiscal notes published 3/18/87
	03/18/87	543	(H)	Governor's trans ltr

HJR 40:	Jrn-Date	Jrn-Pg		Action
	01/11/88	1841	(H)	Read the first time with referral(s)
	01/11/88	1841	(H)	RES
	01/18/88	1932	(H)	Co-spon added: Adams, Frank, Furnace, Koponen
	01/20/88	1958	(H)	Co-spon added: Miller Pearce
	01/22/88	1984	(H)	Co-spon added: Menard

ACTION NARRATIVE

(Tape HRC 88-131, Side 2, #294)

Chairman Sam Cotten called the meeting to order at 8:40 a.m. He informed members they would be considering HB 186 and HJR 40.

HB 186 - "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date.

Chairman Cotten advised members HB 186 had been introduced by the Governor. He informed members that Mr. Chat Chatterton, Chairman of the Oil and Gas Conservation Commission would be available via teleconference.

C.V. CHATTERTON, Chairman, Alaska Oil & Gas Conservation Commission advised members he was in support of HB 186. He advised members that along with him were Commissioners Lonny Smith, Bill Barnwell and Steve Porter with the Department of Law.

Mr. Chatterton stated that a similar bill to HB 186 had been introduced during the second session of the Fourteenth Legislature, as HB 572. He noted that the bill had moved out of the House Resources Committee, however died in House Finance. Mr. Chatterton informed members that except for sections 2 and 8, of the HB 186, there appeared to be no difference than the original proposal of HB 572.

Mr. Chatterton stated that Chapter 91 of the Session Laws, 1984, enacted AS 31.05.030 (h), which authorized the commission to take all actions necessary to allow the state to acquire the primary enforcement responsibility for Class 2 underground injection wells. He stated that under that authority, the commission prepared and submitted to the U.S. Environmental Protection Agency (EPA) an application for approval of a state underground injection control program. Mr. Chatterton informed members that in reviewing the application, the EPA staff identified provisions in AS 31.05, which in their judgement should be amended to improve the state's underground injection control program. He noted that the statutory amendments were reflected in HB 186, in sections 1, 3, 5, 6, and 7. Mr. Chatterton stated that the amendments were proposed for legislative consideration under terms of a memorandum of agreement between the Commission and the Environmental Protection Agency, which obligated the commission to strive for legislative enactment of the proposed amendments.

Mr. Chatterton stated that the commission felt they were fulfilling their obligation in striving for the proposed legislation, both in the fourteenth and fifteenth legislature.

Mr. Chatterton referenced section 2, which proposed amendments to the confidentiality provision of AS 31.05.035 (c), advising members that section would not serve any beneficial purpose and asked that the committee consider a Resource Committee Substitute deleting section 2, from HB 186.

Mr. Chatterton advised members that in dealing with tax matters, in general on the oil industry, that Chapter 247, Session Laws, 1970 repealed AS 31.05.130 and AS 31.05.140, which resulted in the affiliation with IOCC more or less disintegrating. He stated that the state had maintained it's affiliation, annually paying it's assessment to the IOCC, and by reenacting section 4, there would be no monetary exposure.

Mr. Chatterton stated that section 8 was an amendment of the criminal provisions of AS 31.05 which had been recommended by the criminal division of the Department of Law.

Chairman Cotten asked for a briefing of the Underground Injection Control Program, and what EPA was requesting the state to change.

Mr. Chatterton advised members that the program for primary enforcement responsibility had been awarded to the state in May of 1986. He advised members that the program basically covered the underground injection of fluids that had been involved in oil field operations. Mr. Chatterton stated that they would involve any materials that were used for enhancing the recovery of crude oil from an oil reservoir, or the disposal of oil field wastes that are not hazardous materials. Mr. Chatterton informed members that the purpose was carried out by the Federal Safe Drinking Water Act of 1974. He stated that it was to prevent the contamination of fresh waters. Mr. Chatterton advised members the commission had been protecting fresh waters since before statehood. He informed members that whether or not HB 186 should pass, or portions of the proposed legislation with respect to the Underground Injection Control Program, that he did not believe it would change or interfere with the states current program.

Chairman Cotten noted that he had some question as to the technical changes of the different amendments and how they would change the program the commission was pursuing. He asked that Mr. Chatterton explain to members exactly what

the underground injectior program entailed, and how closely and directly the commission monitored the program.

Mr. Chatterton advised members that the commission did monitor the program in compliance with what was demanded by the the Environmental Protection Agency. He stated that specifically, the commission issues permits for drilling of service wells which would be used for the purpose of disposing of oil field waste, or for the purpose of enhancing the ultimate recovery from the state's oil reservoirs. He noted that those would be gas injection wells to maintain reservoir pressure, and water injection wells to maintain reservoir pressure. Mr. Chatterton advised members there were approximately 460 class two wells the commission has surveillance over, with approximately 20 oil field waste disposal wells.

Mr. Chatterton informed members the commission issues permits for the drilling of those types of wells, and also permits for the conversion of an existing producing well to become an injector well. He stated that in the process of issuing the permits, the commission reviews whether or not the construction of the well was such that it could be maintained so there would be no chance of waste fluids getting into fresh water. Mr. Chatterton informed members the commission also monitors the operation of the wells, with all operations reporting to the commission on a monthly basis.

Chairman Cotten referenced section 1, stating that it appeared to increase the land that could be subject to the commissions authority. He asked Mr. Chatterton if that would increase the commissions authority over federal lands at all. Mr. Chatterton advised members that regardless of the way AS 31.05.027 read, the commission would take the position, under regulation, that all lands subject to the police powers of the United States, would be the commissions responsibility.

Mr. Chatterton stated that the effect of section 1 was basically a requirement of the EPA. He informed members that the Environmental Protection Agency requires the underground injection on federal lands to be controlled, and noted that the EPA did not trust their sister agencies to live up to the drinking water act, so section 1 had been specifically requested to make the commissions authority over federal lands much more clear with respect to underground injections.

STEVE PORTER, Assistant Attorney General, Department of Law, advised members that he would like to confirm the fact that the police power of state, such as Alaska, did extend to federal jurisdiction as a constitutional matter, so long as the state exercises it's police powers and did not

interfere with the preemptive or supremacy clause rights of the federal government. He stated that it was his feeling there was no constitutional problem with the section, but that it merely clarifies the fact that the police powers could extend to federal lands.

Chairman Cotten referenced sections 3, 5, 6 and 7 and asked that the commission explain those four sections. Mr. Porter informed members that the distinction between transactional immunity and use immunity was that when the state was having someone testify with regard to a particular matter in which criminal charges could be brought, there would be two different types of immunity categories that could be granted. He noted that with transactional immunity, the person who would be granted immunity could not be charged with the transaction about what they testified. Mr. Porter stated that under the second type of immunity, which would be the use immunity, the state would not be able to use that person's testimony or any evidence that should arise out of that person's testimony against them. He noted that if they were able to come up with completely independent evidence of that person's criminal guilt, the person could be convicted. Mr. Porter advised members that if they would read AS 31.05.070, as currently written, it would grant transactional immunity, and the change in the language that would be enacted with section 3, would convert the transactional immunity into use immunity. Mr. Porter stated that if the commission were to grant immunity to a person to testify under the transactional immunity clause, the person could not have been convicted of that offense, no matter how strong the other evidence was. He stated that under the new statute, the commission could use his testimony against him.

Chairman Cotten referenced sections 5, 6, and 7 and asked that the commission explain those sections and provide members with a practical application as to when they would come into play. Mr. Porter advised members that sections 5 and 6 dealt with the fact that AS 31.05.150, as currently written, only provides for civil penalties against violators of the commission's statutory regulations, if the offense was willful. He noted that it had been another recommendation of EPA, in that they would need willfulness to define a crime, however one would not need willfulness for civil penalties. Mr. Porter stated that in section 5, it would delete the requirement of willfulness from the civil penalty provision. Mr. Porter advised members that another effect of section 5 was that it would increase the penalty from $1000 per act, to $5000 per day. He noted that the idea there was that private civil penalties had been in effect since before statehood, and the amount of the penalty was not sufficient.

Mr. Porter addressed section 6 advising members that it would amend the criminal portion of the penalties of the commission, to clarify a Class A misdemeanor, which would bring it into compliance with the rest of the criminal code.

Mr. Porter referenced section 7, advising members that it would add a new subsection (f), which would impose a criminal liability with a criminal fine of no more than $5000 per day for known violations. He noted that rather than having civil penalties for knowing violations, they would now have civil penalties of $5000 for any violation, and also the possibility of a $5000 fine for criminal violations.

Mr. Porter addressed section 8, advising members that was mostly procedural, and arises out of the fact that in section 3, the change between transactional and use immunity would vary an informal adoption by the Alaska Supreme Court, of an immunity rule that generally went for transactional immunity. He stated that under the legislative rule and under the constitution it would be necessary to have expressed legislative intent in the bill to alter the judicial adoption of the rule.

Mr. Porter referenced a case State vs. Daily, in which the Alaska Supreme Court stated that in general, transactional immunity would be offered whenever a person would be required to testify. He stated that at the recommendation of the EPA for conservation commission purposes, it was believed that use immunity would be better than transactional immunity. Mr. Porter advised members that with the legislative rule, it would be necessary to state that expressly in the act, or the court cases had held that it would be deemed to be inadvertent, and there would not be any legislative overruling of the court rule.

Mr. Chatterton stated that the commission believed they could continue to ensure compliance with regulations without resorting to the courts. He informed members that he could not visualize where those sections would ever come into play, whether or not they would be amended as was being proposed. It was Mr. Chatterton's opinion that the amendments were basically a mechanism to clear the statutes up.

Chairman Cotten asked if there had ever been violations of commission orders. Mr. Chatterton advised members there had been violations on one or two occasions, and they had been suspended, however he knew of only one. He advised members that the EPA kept asking for reports as to the number of violations the commission had taken to court.

Mr. Chatterton advised members the commission did not have to go to that extent, advising members there were other means of insuring compliance and bringing people into compliance.

Representative Herrmann asked that Mr. Chatterton address section 2, and provide members the reason the commission wanted that section deleted. Mr. Chatterton informed members that the commission felt it would serve no useful purpose of having further legislative oversight on that particular subject at this point in time. He informed members, with regard to HB 41, they had requested language that the commissioner should only have the right to extend confidentiality beyond the 24 months on state lands. Mr. Chatterton advised members the commission would be relaxed with the deletion of the reference to state land, and limiting the confidentiality to only exploratory wells.

Chairman Cotten referenced section 4 and the affiliation of the Interstate Oil Compact Commission, and asked if any new authority or responsibility would be placed upon the commission with the reenactment of that language. Mr. Chatterton advised members it would not affect the commission, that they would not function any differently than they were currently functioning.

JOHN CARSON, Chief Geologist, for Chevron U.S.A., Western Region addressed members of the committee. He provided members a written copy of his testimony.

(See Attachment #1.)

Mr. Carson noted that HB 186 acknowledged the fact that extended confidentiality for exploratory well data was appropriate, but unfairly limits its affect to wells drilled on state land. Mr. Carson advised members that the legislation, as presently drafted, would apply to well data presently on file with the state. He noted that Chevron had previously expressed their grave concern with that type of retroactive legislation. Mr. Carson stated that the present version of HB 41 recognized that concern, and had been amended to prevent retroactive consideration, and noted that a similar amendment should be made to HB 186, under section 2.

Mr. Carson stated that AS 31.05.035 (c) currently provides protection for all parties concerned; the state, the land owners and the operators. He stated with the continuation of existing law would, in the long run, encourage drilling for oil and gas, and hopefully find new reserves which would offset foreign oil dependency as well as strengthen Alaska's economy.

Representative Sund asked if Mr. Carson had comments on any other areas of the proposed legislation, other than section 2. Mr. Carson, said he did not, and that Chevron would be in support of the legislation if section 2 were not included.

Chairman Cotten asked if the language were to define exploratory wells in a way that would satisfy Chevron's concern with regard to the different zones and the removal of state land only, if they would then support the legislation. Chairman Cotten asked Mr. Chatterton also, if that would be of any benefit to the state. Mr. Carson advised members that Chevron would have no problem with not being able to expend a true routine development well beyond the two years.

Mr. Chatterton referenced page 1, line 28, regarding the underlined language, for all exploratory wells, and asked that the committee favorably consider to include "for all stratographic tests and exploratory wells". Mr. Chatterton referenced page 2, line 2, and requested that the committee add language after from insert stratographic tests and. Mr. Chatterton stated that in the commissions regulations, they did have a definition for an exploratory well, and noted that it read as follows; exploratory well means a well that is drilled to discover a pool, and noted that that may take care of the concern expressed by Mr. Carson of Chevron.

Chairman Cotten asked how it would benefit the public in making all the other development wells not eligible for the extended confidentiality. Mr. Chatterton stated that it was his feeling it would be of benefit to the public indirectly as it would cut out the amount of attention and time that the commission would have to put forth in the confidential filing, and would cut costs somewhat.

Chairman Cotten asked Mr. Carson if the committee were able to define, satisfactorily exploratory wells, and add the strategic testing language, as requested by Mr. Chatterton, would Chevron support the proposition making the other development wells not eligible for the extended confidentiality. Mr. Carson advised members that Chevron would have no problem with that. He stated however, that adding only "stratographic tests" would still not relate to the deepening, and was not completely sure that a well drilled to find a new pool would either.

Chairman Cotten referenced the confidentiality of the type of information they were discussing, and advised members he had spoken with some associates of Mr. Carson, and had informed him that the federal rules had changed and asked for an explanation of that. He stated that as the committee discussed HB 41 the previous year, it was his

recollection that the extended confidentiality would not apply as far as the federal government was concerned.

Mr. Carson advised members that about the same time HB 41 was being considered by the Alaska Legislature, the OCS Regulations adopted the provision where they would extend confidentiality on wells drilled in OCS waters until such time there was a lease sale, and after the lease sale and the lands that affected that well, it could then be released to the public. He noted that it had since been enacted, and was his understanding that it only involved OCS lands. He added that it was such a lease that would be offered within 50 miles of the well.

Chairman Cotten asked if it would be Mr. Carson's understanding that federal rules parallel state rules. Mr. Carson stated that under current state law he felt they closely paralleled each other.

Mr. Chatterton advised members he was fearful of one area in that the way section 2 was written, that there would be no confidentiality for development wells, that it would become public information immediately. Chairman Cotten noted that currently there was a two year confidential period.

Chairman Cotten advised members it would be his intent to ask staff to communicate with industry representatives and the commission to possibly arrive at a suitable definition that could prove satisfactory to everyone, and also further explore the question regarding the 24 month confidentiality period for development wells.

Chairman Cotten referenced the commissions underground injection control program and the definition of non-hazardous wastes that were going to be regulated and asked that the commission provide members information as to how that definition had been arrived at. Mr. Chatterton informed members he would provide the requested data as well as they could.

Chairman Cotten informed members and the public he would HOLD HB 186 in committee for further consideration.

Chairman Cotten asked that Mr. Chatterton remain on line for the discussion of HJR 40.

Chairman Cotten called a brief AT EASE. (9:35 a.m.)

The meeting reconvened at 9:45 a.m.

HJR 40 - Relating to petroleum research and development in the state.

Chairman Cotten informed members that Representative Zawacki was the prime sponsor of HJR 40 and would provide testimony on the proposed resolution.

REPRESENTATIVE ZAWACKI advised members the resolution pertained to petroleum research and development in the state of Alaska. He referenced a letter from Senator Ted Stevens, which had been included in members packets, advising members that the letter addressed recommendations by the Energy Research Advisory Board which had been formed to advise the Department of Energy on research needs, to establish six energy producing provinces throughout the country and to establish a university based center of excellence that would have included Alaska. He stated that due to budget constraints from DOE and Congress that the proposal had been delayed. Representative Zawacki informed members that because of that, it had been necessary to amend the original language, and that was the reason for the committee substitute.

Representative Zawacki informed members that the resolution was supported by Dr. Sharma, the Research Director of the University of Alaska, Fairbanks. He noted that the resolution would send a message to the Governor, the state's congressional leaders and the Secretary of the Department of Energy, of the extreme importance of petroleum research and development in the state of Alaska.

Representative Zawacki advised members that Alaska was acknowledged as the number one petroleum producing state in the country, and that it was necessary to emphasize the unique problems associated with petroleum production in the state of Alaska.

Representative Zawacki informed members that the resolution would bring further recognition to the state and the Research Development Center at the University of Alaska, Fairbanks. He asked that the committee support the proposed committee substitute of HJR 40.

DR. SHARMA, Research Director, University of Alaska, Fairbanks, addressed committee members. He stated that 85% of the state's revenues were derived from oil production. Mr. Sharma stated that also, 40% or more of the future U.S. petroleum resources would be derived from the state of Alaska. He noted that it would be very pertinent that the state develop technology to produce the oil resources economically. Dr. Sharma informed members that the basic purpose of the petroleum laboratory in Fairbanks was to maximize oil recovery and to develop technology so that the state would be able to economically compete and produce the resource. He noted that it would also set up an

independent expertise center in order to assist the private sector to develop Alaska resources.

Dr. Sharma informed members that the legislature had been kind and generous to allocate $1 million for the petroleum development laboratory. He advised members that they did have a very limited staff and because of that they were concentrating only on specific problems of Alaskan fields.

Chairman Cotten referenced Dr. Sharma's four major reasons of the requested legislation, noting that it would seem that one would overlap with the authority and responsibility of the Oil & Gas Conservation Commission. He stated that would involve the question of maximizing the development of the resource. Chairman Cotten asked that Dr. Sharma further comment towards that issue. Dr. Sharma stated that when they speak about maximizing recovery, the Petroleum Development Laboratory would be developing an enhanced oil recovery method, as well as developing technology. He informed members that they would be working with the reservoir material in the laboratory to assure that the new technologies would recover as much oil as possible. Dr. Sharma stated that the Oil & Gas Conservation Commission was solely mandated to regulate, however in order to fill their obligation of regulating the industry, it would be necessary for them to have background information as to which method would maximize the recovery of oil. Dr. Sharma advised members that the commission did not have the authority or expertise to undertake that type of research and development of technology. He advised members that that information was necessary in order to maximize oil recovery.

Mr. Chatterton addressed HJR 40, however advised members they did not have the bill before them, but stated that the commission would have no problem with the proposed resolution.

Chairman Cotten informed members some very important questions had been raised during the meeting and it would be his intention to hold another hearing to consider both pieces of legislation to consider what research would be necessary and also the subject of maximum recovery.

The Meeting Adjourned at 10:00 a.m..

(Tape HCR 88-132, Side 1, #635.)

HOUSE RESOURCES STANDING COMMITTEE
March 30, 1988
8:30 a.m.

MEMBERS PRESENT

Co-Chair Adelheid Herrmann
Co-Chair Sam Cotten
Representative John Sund
Representative Mike Navarre
Representative Cliff Davidson
Representative Henry Springer
Representative Lyman Hoffman
Representative Dick Shultz

MEMBERS ABSENT

Representative Drue Pearce

COMMITTEE CALENDAR

HB 186 - "An Act relating to the Alaska Oil and Gas Conservation Commission; changing a court rule; and providing for an effective date."

HELD in committee for further consideration.

HB 548 - "An Act relating to oil discharge contingency plans."

CS HB 548 (RES) was Reported Out of Committee with a zero fiscal note and a DO PASS RECOMMENDATION.

HJR 40 - Relating to petroleum research and development in the state.

HELD in Committee for further consideration.

WITNESS REGISTER

Dennis D. Kelso, Commissioner
Department of Environmental Conservation
P.O. Box O
Juneau, AK 99811
465-2600
Position Statement: Supported HB 548.

ACTION NARRATIVE

Tape HRC 88-137, Side 1, #394

CHAIRMAN COTTEN called the meeting to order at 8:35 a.m. noting members present. He advised members they would not be considering HJR 40 and HB 186 as he was postponing action on those at this meeting should anyone be in attendance wishing to testify.

HB 548 - "An Act relating to oil discharge contingency plans."

Chairman Cotten advised members the bill had been introduced by the House Resources Committee as there was other similar proposed legislation being considered by the legislature and the committee wanted to make sure hearings would be scheduled on the legislation.

Chairman Cotten advised members the legislation dealt with requirements for oil discharge contingency plans. He asked that Commissioner Kelso come forward and address members of the committee.

DENNIS KELSO, Commissioner, Department of Environmental Conservation, advised members that Larry Dietrick, Director of the Division of Environmental Quality, was available and prepared to address questions regarding the department's oil pollution control program.

Commissioner Kelso informed members the department was in support of HB 548. He noted that the bill was extremely important and would accomplish two things. Commissioner Kelso advised members that the proposed legislation would clarify DEC's authority to require that oil handling facilities be able to carry out their oil spill contingency plans. Commissioner Kelso informed members that those plans were presently required under existing law.

Commissioner Kelso advised members the bill would also establish penalties for not having the ability to accomplish what the plan states.

Commissioner Kelso referenced the recent Cook Inlet oil spill informing members that that spill had illustrated the importance of the measure and issue before them. He stated that the spill was relatively small when compared to world standards, advising members it involved between 56,700 and 159,600 gallons, however was very critical as it occurred directly over a record salmon run area. Commissioner Kelso advised members that the result was a potential jeopardy to an important part of the commercial salmon pass, as well as a risk to the recreational fishery as the spill occurred immediately prior to July 4.

be necessary for the operators to be able to show the state that they did have access to the appropriate cleanup equipment, however would not have to have the equipment on site, as they would be a member of a cooperative that mobilizes materials and people when a spill should occur.

REPRESENTATIVE LYMAN HOFFMAN asked if it would be determined then that the facility would not have to own the equipment, but have access to a second party for the cleanup process. Commissioner Kelso stated that was his understanding, that often times there were contractual arrangements that dealt with the mobilization in the event of a spill.

Chairman Cotten noted that it was his understanding that the proposed legislation was an administration bill which was introduced by the administration in the other body.

DOUG MERTZ, Assistant Attorney General, Department of Law, advised members that his reading of the proposed amendment would basically accomplish the same effort as the original language. He stated that it would give the state the ability to make the contingency plan prove that the plan could be carried out and that in fact the facility would have real world access to the equipment, whether it be owned by the facility, or have an alternative arrangement.

REPRESENTATIVE HERRMANN asked for further clarification of the terms "access to." Mr. Mertz advised members that the key element was the contingency plan itself. He noted that if the facility would receive approval of their contingency plan, they would have to show that they did have the ability to respond with the appropriate personnel and equipment within a certain, short time frame. Mr. Mertz noted that it was the time frame they would have to prove ability to meet.

Representative Sund asked who was required to have an oil discharge contingency plan in place. Commissioner Kelso advised members that they would include tank vessels, tank barges, offshore exploration production facilities and on-shore facilities. He advised members that on-shore facilities would have to have 10,000 barrels or more in order to be covered.

Representative Sund stated that in southeast Alaska, much of the fuel was distributed out of Ketchikan by barge, noting that both Standard Oil and Union Oil carry approximately 450,000 gallons each. He asked if they would fall under the legislation. Commissioner Kelso stated that that would be correct. Representative Sund asked if it was the oil company's responsibility to obtain the contingency plan, or the people they discharge the fuel to, to be responsible for the plan.

LARRY DIETRICK, Director, Division of Environmental Quality, advised members that periodic training was intended for the response personnel of the organization that has the contingency plan. He noted that in addition, the department may require that simulated training exercises on a larger scale, with actual spill materials, be conducted on a periodic basis with the state providing oversight during those training exercises.

REPRESENTATIVE ADELHEID HERRMANN asked if the department felt comfortable with the language on page 1, line 17 "may require". Commissioner Kelso advised members the department presently had that authority, and felt it sufficient to make a case by case determination.

Representative Sund MOVED to Report Out of Committee CS HB 548 (RES) with Individual Recommendations. There being NO OBJECTION, it was so ordered.

CS HB 548 (RES) was Reported Out of Committee with a zero fiscal note and a DO PASS RECOMMENDATION.

ANNOUNCEMENTS:

Chairman Cotten advised members with regard to HB 186 and HJR 40, that the committee was awaiting additional information on the legislation, and would be scheduled at a later date.

ADJOURNMENT:

The meeting adjourned at 9:55 a.m.

(Tape HRC 88-137, Side 1, #630)

HOUSE RESOURCES STANDING COMMITTEE
April 12, 1988
8:30 a.m.

MEMBERS PRESENT

Co-Chair Adelheid Herrmann
Co-Chair Sam Cotten
Representative John Sund
Representative Mike Navarre
Representative Cliff Davidson
Representative Drue Pearce

MEMBERS ABSENT

Representative Henry Springer
Representative Lyman Hoffman
Representative Dick Shultz

COMMITTEE CALENDAR

CONFIRMATION HEARINGS:

Don Collinsworth, Commissioner, AK. Department of Fish and Game.
Phil Smith, Commissioner, Commercial Fisheries Entry Commission
William Barnwell, AK. Oil and Gas Conservation Commission
Frederick Hodson, Board of Fisheries
Arthur Clark, Guide Board
Peter Buist, Guide Board
Samantha Castle, Game Board
Robert Lochman, Board of Fish

SB 362 - "An Act establishing the dude Creek Critical Habitat Area; and providing for and effective date.

HELD in Committee until the following date.

WITNESS REGISTER

Commissioner Don Collinsworth
Department of Fish and Game
P.O. Box 3-2000
Juneau, AK 99802
465-4100

Philip J. Smith, Board Member
Commercial Fisheries Entry Commission
P.O. Box KB
Juneau, AK 99811

William Barnwell, Board Member
Oil and Gas Commission
3629 Knik Avenue
Anchorage, AK 99517

PREVIOUS ACTION

SB 362:

JRN-DATE		JRN-PG	ACTION
01/21/88	(S)	1984	READ THE FIRST TIME - REFERRAL(S)
01/21/88	(S)	1984	RESOURCES, FINANCE
02/16/88	(S)	2266	RES RPT CS 5DP NEW TITLE
02/16/88	(S)	2267	FISCAL NOTE PUBLISHED
02/16/88	(S)	2267	LETTER OF INTENT WITH RES REPORT
03/16/88	(S)	2649	FIN RPT 6DP CS(RES) W/NEW TITLE
03/16/88	(S)	2649	TWO ZERO FISCAL NOTES W/ANALYSES
03/17/88	(S)	2666	RULES TO CALENDAR
03/17/88	(S)	2668	READ THE SECOND TIME
03/17/88	(S)	2668	RES CS ADOPTED UNAN CONSENT
03/17/88	(S)	2669	ADVANCED TO THIRD READING UNAN CONSENT
03/17/88	(S)	2669	READ THE THIRD TIME CSSB 362(RES)
03/17/88	(S)	2669	RES LETTER OF INTENT AMENDED Y12 N7 X1
03/17/88	(S)	2670	ADOPTED RES LETTER OF INTENT AS AMENDED
03/17/88	(S)	2670	SENATE LETTER OF INTENT Y12 N7 X1
03/17/88	(S)	2671	PASSED Y18 N1 X1
03/17/88	(S)	2671	EFFECTIVE DATE SAME AS PASSAGE
03/17/88	(S)	2671	ELIASON NOTICE OF RECONSIDERATION
03/18/88	(S)	2691	RECON TAKEN UP - IN THIRD READING
03/18/88	(S)	2691	ADOPTED NEW SENATE LETTER OF INTENT
03/18/88	(S)	2692	PASSED ON RECONSIDERATION Y18 N- X2

03/18/88	(S)	2692	EFFECTIVE DATE SAME AS PASSAGE
03/18/88	(S)	2694	TRANSMITTED TO (H)
03/21/88	(H)	2641	READ THE FIRST TIME - REFERRAL(S)
03/21/88	(H)	2642	RESOURCES THEN FINANCE

Previous committee consideration and testimony on SB 362 was held on April 6, 1988.

ACTION NARRATIVE

(Tape HRC 88-143, Side 2, #000)

CHAIRMAN ADELHEID HERRMANN called the meeting to order at 8:45 a.m. noting members present. She informed members they would be considering the confirmation of appointed positions to various state boards and commissions. Chairman Herrmann advised members that Mr. Barnwell in Anchorage and Don Collinsworth would be considered first as they had time constraints. She advised members they would also be considering the confirmation of Phil Smith, Bud Hodson, Arthur Clark, Peter Buist and Samantha Castle.

Chairman Herrmann asked that Mr. Barnwell in Anchorage, available via teleconference, provide comments to the committee. She advised members he was being considered as a member of the Alaska Oil and Gas Conservation Commission.

WILLIAM BARNWELL, advised members he had no comments, however would address questions of committee members.

REPRESENTATIVE SAM COTTEN advised members he would like to hear Mr. Barnwell's philosophy regarding the operation of the Oil and Gas Conservation Commission; his ideas as to how active the commission ought to be; and whether he saw any new initiatives being derived from the commission regarding oil and gas conservation within the state's primary oil provinces.

Mr. Barnwell advised members that he did feel the commission ought to hold many hearings to make sure that the public be informed on oil and gas issues and help in providing information to the legislature, as well as the public, on the state of the oil industry. He advised members that the commission was in a position of having substantial knowledge of the oil industry and it was important that the state and the legislature be aware of the information available to effectively manage the state's oil and gas interests.

Mr. Barnwell informed members that one of the larger issues of the oil industry was the protection of the waters below the oil fields. He advised members that was the reason he had requested to be considered first as the commission was meeting with the Environmental Protection Agency (EPA) that morning to discuss the state's underground injection program. Mr. Barnwell advised members that it was an important issue to insure that the disposal activities were properly managed, and the underground formations properly protected.

Mr. Barnwell advised members that another issue of concern to the commission was the opening up of new fields, as it would be necessary to be well informed as to the geology of the fields, as well as the engineering properties of those formations.

Mr. Barnwell advised members that the commission was a very objective, nonpartisan organization that makes decisions purely to prevent the waste of the resource, and to manage it properly so that the state would realize the greatest benefit from the oil and gas reserve in Alaska.

Representative Cotten referenced the AS 030. which references the responsibilities of the commission. He stated that under AS 030. (d), it states that the commission may require the gaging, or other measuring of oil and gas to determine quality and quantity of oil and gas. Representative Cotten asked that Mr. Barnwell explain to members what activity the commission had undertaken recently, or would expect to undertake in the near future regarding gaging the quantity of oil and gas primarily in the north slope area.

Mr. Barnwell advised members that the commission meters the flow of oil from the oil fields which was done primarily to determine the amount of oil that was being produced from the oil and gas fields in the state. Mr. Barnwell stated that through the meters the commission very accurately measures the amount of oil and gas that not only comes out of the ground, but also the amount of water and gas that is injected back into the fields. He advised members that that procedure was done from the total picture, not from the point of view of what the state royalty should be or what the sales ticket would be. Mr. Barnwell advised members that the commission keeps records of all the oil and gas that is produced, and from the various meters, the Department of Natural Resources intervenes and separates out what each individual oil company has produced.

Representative Cotten asked that Mr. Barnwell provide comments regarding reservoir analysis. Mr. Barnwell advised members that the commission had not done as much of that as had been done in the past. He advised members that

when Prudhoe Bay first came on-line there were some very detailed and complex models of the Prudhoe field and the commission had been using those models to predict and understand what was happening there up until this time. Mr. Barnwell stated that due to budget constraints over the past couple of years, the commission had not allowed modeling. He advised members however, that they did have a petroleum reservoirs engineer on the staff and kept and received records on the pressure and production data from all fields. Mr. Barnwell informed members that within the next year or so, it would be probable that they might have to do a considerable amount more of that type of analysis because of the Prudhoe field beginning to decline in production and also because of other oil fields coming on-line. Mr. Barnwell made reference to the Endicott field in that the commission would have to monitor that more closely as it begins to come on-line.

Representative Cotten advised members that a bill was before the committee, HB 186, which the committee had considered at one meeting and would have another hearing on in the near future. Mr. Barnwell advised members that the commission welcomed questions from the legislature. He stated that with regard to HB 186, that there were some provisions in the proposed legislation that EPA had requested, which were housekeeping provisions regarding penalties and it was the commission's hope that those provisions would remain in the legislation and follow through the legislative process.

Chairman Herrmann thanked Mr. Barnwell for his comments. She advised members they would consider comments of Mr. Don Collinsworth next, as he was also under a time constraint.

MR. DON COLLINSWORTH, Commissioner, Department of Fish and Game, advised members that there was a North Pacific Fisheries Management Council Meeting underway in Anchorage, and that was his reason for requesting to be heard early on in the committee hearing.

Mr. Collinsworth gave a brief background regarding his past involvement with the state and personal history.

Mr. Collinsworth advised members that the duties of the Commissioner of the Department of Fish and Game were described in Alaska Statute, Title 16. He stated that the duties were to manage, protect, maintain, improve and extend the fish and wildlife resources in the interest of economy and general well-being of the state.

Mr. Collinsworth advised members that the department was organized to carryout those functions of the commissioner. He stated that he was pleased to advise the members that the fish and wildlife resources of the state were

considered to be in very good to excellent condition. Mr. Collinsworth stated that the bear, moose, caribou, deer, as well as the fisheries population were all in good shape. He advised members that there were some specific species with localized exceptions however, but overall, the health of the state's wildlife resource and status of their habitat was good.

Mr. Collinsworth informed members that the major challenge of the Department of Fish and Game, at the present time, was to maintain the quality of the management and research programs in the face of declining fiscal resources. He stated that there were increasing demands to manage new fisheries, as well as an increasing demand for more precision and allocation of wildlife resources.

Mr. Collinsworth stated that the Department of Fish and Game was also challenged to work with other land and water management agencies, including state agencies as well as the large federal bureaucracy, in planning for land and water use across the state. Mr. Collinsworth advised members that there was presently a great deal of planning happening on the federal side with the Forest Service, Bureau of Land Management, Fish and Wildlife Service and the Park Service. Mr. Collinsworth advised members that the Fish and Wildlife Service had just completed it's 16 comprehensive refuge plans and were now in preparation of completing 52 step down plans. He advised members that those 52 step down plans dealt with fish, wildlife, public use and access. He informed members that the department had attempted to have a management presence to participate in all of those planning forms to assure that the state's interest in fish and wildlife and public use were attended to and that the department would have an opportunity to represent the state's interests in those planning processes.

REPRESENTATIVE JOHN SUND advised members he was appreciative of the job Mr. Collinsworth had been doing. He stated that he did have numerous questions and concerns regarding the adequacy of funding the state's natural resource issues, however felt that Mr. Collinsworth was in agreement with that statement.

Representative Sund advised members that with regard to the statement made by Mr. Collinsworth regarding the development of new fisheries in the state and the additional management time that would be involved, that he was very concerned with the budget being able to accomplish that. Representative Sund asked how the department would prioritize the new fisheries and game areas.

Mr. Collinsworth advised members those were always difficult decisions on how to take the limited fiscal resource available and provide a type of management presence across the state. He stated that he had a basic belief that it was necessary to have a management presence wherever fish and wildlife were being harvested, and to provide for the utilization of those resources in a manner that would be consistent with the constitutional obligation for sustained yield. Mr. Collinsworth informed members that if the department would have increasing demands for utilization of new fishery resources, the department tries to attend to the needs to allow for expansion and economic development of under utilized or under developed resources. He informed members that in order to accomplish that, it would be necessary for the department to redistribute the department's human and fiscal resources. Mr. Collinsworth noted that it was very difficult to maintain the level of quality that he would like to see in order to address the new needs as they arrive. He stated that he felt the fish and game program was deficient in fiscal and human resources to attend to all of the needs he could identify. Mr. Collinsworth stated that he felt that there were several areas where the public demand for more precision in management and obligation to protect and maintain the resources in sustaining new levels, was being put in jeopardy simply because the fiscal resources were not available.

Mr. Collinsworth advised members that the three state resource agencies, Fish & Game, Natural Resources and Commerce and Economic Development who essentially manage the state's wealth, receive less than 7% of the general fund operating budget. He noted that the seafood industry and sector in the state's economy was doing fairly well in the face of declining activity in many other sectors of the state's economy. Mr. Collinsworth stated that there were additional opportunities that could be exploited by the state if the fiscal resources were directed into the area of seafood. He stated that there had been a lot of discussion regarding Alaska acquiring additional bottom fish economic activity, advising members that there would not be a verbal solution to the problem. Mr. Collinsworth informed members that the manner in which the state could acquire that activity would be to create the right kind of economic environment for the corporate enterprises and individuals attempting to invest in Alaska's seafood industry to be able to do that. He stated that would mean that the state would have to invest some resources into the infrastructure development that would be required to facilitate the industry. He stated that it was his feeling they would have to be real smart as to how the various taxing policies would be applied, not only at the state level, but boroughs and municipalities as well. Mr. Collinsworth advised members that unless the state was

willing to make the investment of the development of the infrastructure and provide the management, as well as providing the ability to assess the resources and define how they could be harvested, that the state would not achieve anything more than the rate of what the state was utilizing those resources currently.

VERBATIM:

Representative John Sund: Commissioner, what do you see in the need of our, of a domestic observer program in the fisheries.

Commissioner Collinsworth: Well, that is becoming a very significant issue both in the federal forms of the North Pacific Council, as well as with regard to state resources. The most critical need for observer programs do relate to the ground fish fisheries that are primarily prosecuted in the area from three to two hundred miles in the EEZ. This year we have experienced a very significant and increased by-catches of crab in the Bering Sea, for example, as the ground fish fisheries are being prosecuted. We have also, the halibut by-catch is higher this year than it was last year. The by-catch of crab and halibut and even king salmon around Kodiak is of concern. And while we have some statistical information about what these by-catches are, because of the reporting requirements on joint venture vessels in the Bering Sea, we have very little information about by-catches on fully domestic type fisheries around Kodiak, as well as in the Bering Sea. And as the foreign fleets, which had 100% observer coverage that has been eliminated now, in terms of any directed foreign allocation, both in the Bering Sea and the Gulf, we've lost that source of information about by-catch and other information about the status of the populations that are being harvested. And we have a very limited program in joint ventures, we do have coverage on the receiving vessels, foreign vessels that are receiving the product, but our observer coverage onboard the catching vessels is extremely limited and it's one of the fundamental kinds of information you need in order to be able to manage the fisheries is, is exactly what is being caught and what the by-catch rates are.

Representative Sund: Do you feel we should mandate onboard observers on domestic vessels?

Commissioner Collinsworth: The federal government had been very reluctant to mandate onboard observers. I was successful in requiring, or with a motion that any joint venture vessel that fished in the EEZ, also would be required to take an observer into the Donut Fishery on foreign vessels. That was a motion that we were successful in moving through the council. The federal government has

been reluctant because of the cost of mandatory observer coverage, but I believe that it's going to be essential.

END VERBATIM:

Representative Cotten advised members he had two concerns; that of enforcement and allocation. He stated that he was aware of the fact that enforcement responsibilities were no longer within the Department of Fish and Game, however noted that there was presently proposed legislation that would increase penalties for fishing violations with a lot of discussion regarding the state's enforcement efforts. Representative Cotten asked Commissioner Collinsworth how well he thought Fish and Game worked with the Department of Public Safety and how well the enforcement was being conducted, and if not being done sufficiently, what would be the commissioner's recommendation.

Commissioner Collinsworth advised members that he wished he had the collateral to do something about it, however that was a decision that did not rest within his power. He advised members that he did feel enforcement was a very important aspect of the overall conservation management program. Commissioner Collinsworth stated that without adequate enforcement there would be less than a complete management program, in his opinion. He stated that fish and wildlife protection was within the Department of Public Safety, and it was his feeling that they were extraordinarily handicapped in terms of the resources available for enforcement responsibility. Commissioner Collinsworth stated that, with his understanding, there were approximately 80 fish and wildlife officers that carry a badge and were in power to enforce fish and game laws. He noted those 80 officers were responsible to enforce all of the marine activities as well as all of the terrestrial activities. Mr. Collinsworth stated that since violators of fish and game laws do not occur only between the hours of 8:00 a.m. to 5:00 p.m., three shifts of enforcement officers were necessary, and after reducing the number of officers because of administrative overhead; officers on leave; officers sick; officers in court carrying out a prosecution, etc.; that after that reduction and the necessity to divide the remainder among three shifts, there was only a hand full left to cover a state the size of Alaska. Commissioner Collinsworth informed members that the department did not have an adequate amount of officers, as well as not having the necessary equipment to conduct business. He advised members that the department was deficient in terms of the number of vessels as well.

Commissioner Collinsworth advised members that he and Commissioner English had just recently met with the Governor; along with Jack Jordon, Director of Public Safety; and Ken Parker, Director, Division of Commercial

Fisheries for the purpose of discussing the enforcement needs for the spring herring fisheries at the Bering Sea, as far as the number of vessels that could be made available and number or officers that could be made available. He noted that with the length of shoreline and the size and sequencing of those fisheries, that it would be extremely difficult to provide what he would consider to be an adequate level of enforcement. Mr. Collinsworth advised members that there were problems experienced in Cook Inlet in the present year resulting in one closure until Public Safety was able to get their aircraft back in the air, as it had 110 hours on it and was necessary to have 100 hour maintenance check. He advised members that people had been fishing over the line with no enforcement so the department closed the fishery.

Commissioner Collinsworth advised members there had also been problems in the South Peninsula where the department was reluctant to open the fishery because there was no enforcement present. He stated that he felt that the Fish and Wildlife Protection Program was underfunded, however did a good job to the extent that they have the people and resources available. Commissioner Collinsworth advised members that the two departments did work together quite closely.

Chairman Herrmann noted that Commissioner Collinsworth had referenced two instances where the department was managing the resource because of the lack of enforcement protection, and asked how often those instances would, or did occur. Commissioner Collinsworth advised members that in an average season there could be a few occurrences where either the department felt they could not control a fishery to a line, as was being dealt with in Cook Inlet, or isolate a fishery to certain days as was done on the South Peninsula the past year.

Chairman Herrmann advised members that many people had been requesting that a resource economist be included on the Board of Fish and it was her feeling that would be necessary. She referenced the South Peninsula and the inability to manage the fishery because of the lack of protection. Chairman Herrmann stated that the fall fishery was necessary for the people and it was her feeling that there were a lot of fall fisheries that people could utilize for economic purposes, however was not able to be done as there was no check on the amount of resource available, as well as no market. Chairman Herrmann asked what the Department of Commerce and Economic Development were doing regarding that situation, as it was her feeling the department's could be working together to improve the fisheries in the state.

Chairman Herrmann advised members that she felt there ought to be a fisheries person within the Office of the Governor, and asked that Commissioner Collinsworth comment on that concept. She referenced the statement made by Commissioner Collinsworth regarding developing management of the bottom fishery and asked if that would be a state responsibility, and how the department would work together with the federal government on that issue.

Commissioner Collinsworth stated that with regard to having an economic analysis and information available to the the Board of Fisheries, that it was his belief that was a deficient area. He stated that the Board did receive a good deal of biological information from the Department of Fish and Game, and spent quite a substantial amount of money collecting that information. Commissioner Collinsworth stated that on the other hand, the board receives relatively little information regarding the economic implications of the regulatory decisions as to what the distribution or economic affects would be of making those decisions. Commissioner Collinsworth advised members that most of that information was acquired from the public who were affected by the decisions, and through public testimony people assert the kind of economic impact that alternative regulations would have on their particular interest. Commissioner Collinsworth stated that a single economist serving the Boards of Fish and Game would not get the job done. He stated that it was simply too much to ask, other than very specific areas that the board may be addressing, for a single economist to address all of the proposals facing the board, and arrive at any type of economic analysis. Commissioner Collinsworth advised members that they would probably need three people with an economic background, as a single individual would not be able to accomplish any comprehensive work as additional resources would be necessary to provide the board good information regarding the distribution or economic affects of their various regulatory decisions.

Commissioner Collinsworth stated that with regard to the bottom fishery, the state spends very little money in the area of managing that fishery. He noted that there were certain areas within the territorial sea where there were bottom fish species that were being managed, such as shelf rock fish in southeastern, and some inside sable fish fisheries. Commissioner Collinsworth stated that the preponderance of the management obligation, and the authority to manage ground fish, was within the North Pacific Fisheries Management Council. He advised members that most of the money spent by the department was on the traditional fisheries within the territorial seas where the department has the sole management responsibility, and were not shared with the federal government as was done within the EEZ.

Commissioner Collinsworth referenced Chairman Herrmann's question regarding a fisheries position within the Office of the Governor and stated that there was a special assistant assigned to natural resource issues, who was Mr. Rod Swope and advised members that he did handle a good deal of fisheries issues. He noted that he did speak by phone daily with Mr. Swope with over half of the calls relating to fisheries. It was Commissioner Collinsworth's opinion that Mr. Swope provided a good conduit from the Governor's office to the Department of Fish and Game in dealing with fisheries issues. He advised members that there could be a person in the Governor's Office assigned specifically to fisheries, however they had chosen to use the fisheries cabinet form as the principal means of attempting to coordinate the activities of the state, which included the Entry Commission, Department of Commerce and Economic Development, Fish and Wildlife Protection, the Department of Natural Resources, Department of Environmental Conservation, as well as the Department of Community and Regional Affairs. Commissioner Collinsworth advised members that when dealing with issues that involve other areas such as taxes, that they would also work with the Department of Revenue. He advised members that was the form being utilized to coordinate the activities of the state as it relates to the seafood industry.

Chairman Herrmann advised members that she had been attempting to follow the fish and wildlife plans, refuge plans, and park plans that were occurring within her district and advised members that it was almost impossible to monitor all of them. She referenced the Citizens Advisory Committee on Federal Lands, advising members that they were also unable to follow the mass of plans being considered. Chairman Herrmann stated that she was concerned that the planning was being conducted around the people in District 26, with them not being directly involved. She asked Commissioner Collinsworth to comment on the involvement of the Department of Fish and Game and if the Regional Advisory Councils, and Advisory Committee's were involved in the process.

Commissioner Collinsworth advised members that there was in fact an enormous amount of planning activity. He stated that the federal government had a lot of human resources and did a lot of planning. Commissioner Collinsworth stated that there were 16 comprehensive plans done for the refuges, and the step down plans would be more discrete and would be prepared for each of the refuges. He stated that there would be a step down plan for fisheries and wildlife; and step down plans for public use and access. Commissioner Collinsworth advised members that the department had a very limited number of resources primarily in the habitat division, to interact with the Fish and

Wildlife Service. He noted that the department also participates actively in state planning functions regarding water and land use planning functions of the Department of Natural Resources. Commissioner Collinsworth advised members that the department attempts to participate in the initial phases of the planning where the general policies and objectives are laid out to the extent of having influence in an attempt to assure that the interests of the state were being represented. Commissioner Collinsworth advised members that it was more than the department was able to keep up with adequately, however tried to have some level of participation in all of the planning processes.

Representative Cliff Davidson referenced additional fiscal and human resources as mentioned by the Commissioner and asked to what priority use would the department apply those additional resources. Commissioner Collinsworth stated that the department had a full variety of obligations such as a hatchery program, with a state investment of $80 million plus for capital construction for a hatchery program and the department had felt obligated to operate the hatcheries at an efficient level which had been very difficult, and were currently trying to operate those hatcheries by means of a joint venture with the regional associations. He noted that there were needs in the areas of game and wildlife management, as well as increased needs for research and management in the area of sport fisheries. Commissioner Collinsworth advised members that there was a continuing demand in the area of commercial fisheries. He stated that because of the planning functions and development activities across the state, there was a need in the area of habitat. Commissioner Collinsworth stated that he did not feel that there was an area within the overall agency that he would consider the program to be sufficient. He stated that if they would have additional resources at the margin, he could identify priority needs in each one of those areas. Commissioner Collinsworth advised members that they had tried to maintain balance across all obligations within the department. He stated that the Department of Fish and Game compiles a project budget, advising members that each year they complete a process whereby each division would consider 80% of their budget as the base figure, and from there they collectively rank one project against the other up to 100%. Commissioner Collinsworth advised members that the department tries to maintain a balance across all obligations and incrementally, it was his belief the department would need additional funds in each one of the programs.

(Tape Change, HRC 88-144, Side 1, #000)

Representative Davidson referenced the constraints of the Magnuson Act and how the state must interact with federal

guidelines and regulations. He asked Commissioner Collinsworth what measures or initiatives the state could pursue to encourage and ensure additional or expanded Alaskan participation in the bottom fisheries.

Commissioner Collinsworth stated that he did not feel there was a regulatory solution to the issue. He informed members that under the Magnuson Act, it was very difficult to provide special preferences to individual groups. Commissioner Collinsworth stated that there had been interest on the part of various constituents to develop regulations that would establish special development zones and other types of regulations that would bias the harvest to certain groups. He noted that those in general had been found to be inconsistent with the national standards of the Magnuson Act, making it very difficult to develop regulatory programs that would compel more of the harvest and economy activity to stay in Alaska. Commissioner Collinsworth informed members that the way and means to attract industry would be to provide the necessary infrastructure in ports, harbors, docks, power, water sanitation and cold storage facilities. He stated that the right type of environment would have to be created for the seafood industry for investors to want to locate their corporate headquarters in the state. Commissioner Collinsworth added that they would have to consider the state's taxing policies, as well as the state's investment tax credits and other programs to create the right type of economic climate and attitude, and also to provide the infrastructure necessary to facilitate investment in the state.

Commissioner Collinsworth referenced Dutch Harbor advising members they were in need of a sanitation system and facilities. He advised members there was a company wishing to expand their operations in Dutch Harbor currently. Commissioner Collinsworth informed members that those facilities were necessary in order for the interested party to build their bunk houses to accommodate approximately 150 people, and were unable to make that investment until the sewer facility was in place.

Commissioner Collinsworth stated that there was a need to work collectively with municipalities and the private sector to begin to address infrastructure needs in the state. He stated that investment decisions in Alaska's ground fish fisheries were being made presently. Commissioner Collinsworth stated that those investment decisions would be to either build on-shore processing plants or to invest in factory trawlers in offshore operations. He noted that to the extent that the state could encourage on-shore activity, that it would enhance the state's employment and revenues that would accrue to the state.

Representative Davidson referenced the Magnuson Act with regard to forbidding any type of preference, however noted that there seemed to be a considerable amount of discussion at the council level on limited access and participation in fisheries. He stated that if they were not able to follow preference that it would seem to be limiting participation to those practices currently operating. Representative Davidson informed members that the response from Senator Stevens was that it was primarily a finance problem of getting Alaskans involved in the fisheries.

Commissioner Collinsworth stated that he was not sure what the senator was referring to, whether it was private financing being available for the construction of new vessels or on-shore facilities, factory trawlers, or if he might have been referring to something else. Commissioner Collinsworth stated that corporations making decisions as to whether or not to invest in the ground fish fishery, were considering the fact of how attractive it would be to invest in the industry in Alaska, versus maintaining their facilities in Pacific Northwest.

Commissioner Collinsworth reiterated the fact that it was critical that the state address the infrastructure needs of the state to create an attractive economic environment to allow those Boards of Directors to make the decisions to invest in Alaska.

Chairman Herrmann informed members that she did not see fishing infrastructure as a priority item within the Department of Transportation and Public Facilities, and asked if DOT would be involved in the Fishery Committee Cabinet and what process would be involved.

Commissioner Collinsworth advised members that the Department of Transportation did occasionally meet with the Fisheries cabinet to discuss such issues as infrastructure development. He stated that when the jobs bill was initially being prepared that the Fisheries Cabinet did make some recommendations as to projects they felt were timely and ready to proceed with. Commissioner Collinsworth noted that those projects were subject to receiving federal funds. He advised members that Fish and Game would continue to work with DOT as the project proposals come forward.

Chairman Herrmann thanked Commissioner Collinsworth for his comments and advised members they would now receive comments from Phil Smith who was being considered as the Commissioner to the Alaska Commercial Fisheries Entry Commission.

PHIL SMITH, member, Commercial Fisheries Entry Commission, advised members he had been a member of the commission since 1983. He stated that one of the reasons he had been excited about the potential for serving on the commission was that as a collegial body, no one commissioner on the Limited Entry Commission could make a decision as it takes at least two members to make a decision. Mr. Smith advised members that would require people serving on the commission be able to work well together. He informed members that he had been very pleased since appointed to the commission with the Chairman Bruce Twomley, as well as Commissioner Richard Listowski. Mr. Smith advised members that they had all seemed to have balanced out each other's strengths and weaknesses.

Mr. Smith advised members that the commission had been quite successful in the past several years, informing members that of the well over 200 cases of individual applications for entry permits the commission had adjudicated, that only one decision had been reversed at the superior court level.

Mr. Smith advised members that the commission had been responsive to the people in Southeast Alaska who had requested that the commission consider limited entry in the crab fisheries as well as the sable fish fisheries. He noted that over the past six months, the commission had undertaken one of the major efforts in the history of the commission, which was the limitation of the westward area herring fisheries.

Chairman Herrmann asked that Mr. Smith explain the process in which the commission determines the maximum or optimum numbers of permits in certain fisheries. Mr. Smith advised members that under the terms of the Limited Entry Act, which was enacted by the legislature in 1973, there were 19 salmon fisheries limited by the legislature by the fact of the Act passing. He stated that it had been directed in the Act that the maximum number of permits to be issued in each of the 19 salmon fisheries would be the highest number of gear licenses that had been issued and fished in any of the four years prior to limiting entry. Mr. Smith advised members that "fishery" was considered a species, a gear type, and an area. He noted that the 19 fisheries included every salmon fishery from Southeast to Bristol Bay. Mr. Smith advised members that in subsequent limitation decisions, the commission had a somewhat broader discretion than to merely choose the highest number of operating units that appeared over the four year period. Mr. Smith stated that it was fairly clear from the original legislation that the legislature did not want to see a drastic reduction in the number of individuals who would end up with permits, which was reinforced in 1983, when the Supreme Court and it's decision upheld the decision of the prior commission

to set a maximum number of 2150 in the salmon hand troll fishery in southeast. Mr. Smith stated that the commission had an obligation through the maximum number process, to adopting a maximum number to protect what the court called the Reliance Interests of those who had been involved in the fishery prior to limitation. He informed members that with that as a guide, the current commission and the fisheries they had limited had generally looked to the level of participation in the year prior to limitation. Mr. Smith stated that the commission had allowed themselves to be instructed by the public hearing process.

Mr. Smith advised members that the optimum number was another term found in the Act which was a number that had never been called out by the commission in any fishery. He stated that theoretically when a fishery had been limited for a time with all permits out, the commission is instructed by the terms of the Act to assess the long-term viability and stability of the fishery both biologically and economically, and to arrive at a number which would be considered the optimum amount of years, as opposed to maximum number which was almost a mechanical operation Mr. Smith stated that if in a fishery it was discovered ten years after it had been limited that it was over geared that the commission, under the terms of the Act, was instructed to make those analysis and to call out an optimum number.

Chairman Herrmann asked if the commission had set any optimum numbered fisheries. Mr. Smith advised members that they had not as optimum numbers required buy-back. He stated that they generally contemplate that the optimum number would be less than the maximum number. Mr. Smith advised members there were two reasons the commission had not gone to that process. He noted that one was that the Act states after all the permits are issued. Mr. Smith stated that virtually in all the salmon fisheries there were still cases in court and still unanswered questions as to how many total permits were actually out there. He stated that the commission felt it to be imprudent to set an optimum number while decisions were yet being made as to what the actual number of permits would be.

Mr. Smith advised members that the second reason was because it would contemplate buy-back. He advised members that with the recommendation of the Attorney General, that it purports the current buy-back statute in the Act as unconstitutional and suggests that it violates the Alaska Constitution on two grounds. Mr. Smith informed members that the A. G.'s opinion had suggested that it would violate the Alaska Constitution on these two grounds; 1. Directs the commission to establish a separate fund for buy-back, which was in violation of Article 9 which prohibits the establishment of special funds. 2. Because

the statute empowers the commission to basically tax the gross earnings of fishermen in order to establish the fund to be used for buy-back. Mr. Smith stated that the A. G.'s opinion had questioned whether or not that might not be an unconstitutional delegation of legislative authority to the commission. He stated that with the legal problems and practical problems, as well as not actually knowing the total number of permits, the commission had not moved forward on an optimum number in any fishery.

Representative Cotten referenced leasing of permits and asked Mr. Smith if it did actually occur, if not, why should it not happen, and how the commission was addressing that issue. Mr. Smith advised members that the commission was aware of the fact that leasing of permits did occur. He stated that the first reason that it should not happen was because it was specifically prohibited by section 150 of the Limited Entry Act. Mr. Smith advised members that it was his belief that the policy decisions behind that were multiple, of which one was that there was great concern from the inception of limited entry that there not be established a sort of landlord class of permit holders who would be able to exercise economic coercion of any activities of fishermen. Mr. Smith advised members that an additional reason was that there was some concern that if leasing were permitted, the market for permits would decline as the fisherman who wished to leave the fishing industry would not transfer them as they would retain them and lease the permit and collect rent. Mr. Smith advised members that that would mean that the access to the fishery would be more restricted for people who wished to purchase permits. He noted that as there would be fewer permits available, the price of the permit would undoubtedly escalate.

Mr. Smith advised members that the other concern would be one of effort. He stated that currently there were no requirements that someone who holds a permit must, in fact fish. Mr. Smith stated that in most limited fisheries, 80% to 90% of the permit holders actually go out and involve themselves in the fishery. Mr. Smith advised members that if leasing were permitted, then virtually everyone holding a permit would strike a deal with someone who wanted to fish and would realize an increase in fishing effort. Mr. Smith advised members that leasing of a permit may also result in fishing more vigorously, as the person would have the additional expense of making the payment on the lease of the permit.

Representative Cotten asked if anyone had been prosecuted for the leasing of their permit. Mr. Smith stated that he did recall specifically a case of an attorney who was

leasing permits and ended up paying a $10,000 fine as well as selling his permit and having his practice barred for a period of five years.

Representative Cotten asked how those people who were leasing their permits were detected. Mr. Smith advised members that the anti-leasing provisions to an extent, was self enforcing, because if a person holds a permit and wants to lease it, should they transfer the permit on the terms that the person use it for a certain period of time and then return it that if the lessee opted not to return the permit, the original permit holder would not have a legal leg to stand on. Mr. Smith stated that prior to allowing a transfer to take place, the commission reviews, and requires the disclosure of all of the terms and conditions of the transfer. If information should come to the commission's attention of the leasing of a permit, Mr. Smith informed members that the commission investigates the situation and suspends the transferability of the permit, pending the potential of revocation, etc.

Chairman Herrmann noted that with regard to the leasing of permits and rural Alaska, that a lot of fishermen that did not have retirement programs could utilize the leasing of their permit for retirement purposes. She noted that they could sell the permit receiving a onetime lump sum amount, however with the ability to lease their permits they would have a steady income from the required lease payments. Chairman Herrmann referenced continuing disability, stating that if someone should have cancer, that one year they could transfer the permit, however the following year they would be required to express a new disability. Chairman Herrmann informed members that it was absurd for someone to have to claim a new disability every year under the commission's regulations.

Mr. Smith stated that the leasing legislation that had been before the legislature the past couple of years introduced by Representative Herrmann, had created some concern with the commission because of the fact that the Limited Entry Act was residency neutral, and if they should allow people who are 65 years of age or older to lease permits, that they may well end up with a lot of grandmothers from the Lower 48 on behalf of finance people or attorneys who were in fact creating all the problems the commission was trying to prevent. Mr. Smith advised members that the commission was yet committed to work with Representative Herrmann on that issue. He stated that another area he had not mentioned as to why leasing was such an evil, was that the commission was currently in court with the Internal Revenue Service with the issue being whether or not permits were considered as property for purpose of IRS enforcement actions. Mr. Smith advised members that people thought the Limited Entry Commission was somewhat arbitrary in it's

decision making, as the IRS had set a standard that few could aspire to. Mr. Smith advised members that the IRS had seized permit cards from fishermen immediately prior to fisheries openings. He stated that the commission did not feel that with the rather arbitrary and thoughtless procedures employed by the IRS, that someone's livelihood should be at stake in that manner. Mr. Smith advised members they were in federal court and he did not know what the final decision would be, however that was another concern the commission had with a bill that would make a permit look more like property, as that was the IRS's argument and they have the right to seize personal property. Mr. Smith stated that they had argued consistently, as the law provides, that an entry permit was a use privilege, and a privilege that is extended under the laws of the state and subject to the laws of the state and the fact that entry permits can be revoked without compensation.

Mr. Smith stated that with regard to Representative Herrmann's concern of the commission's regulations regarding emergency transfers, that the Act read under Section 180 (a), that a fisherman who, because of illness, death, disability, required military or government service, or some other unexpected and unforeseen occurrence, may receive an emergency transfer of his or her permit. Mr. Smith stated that in response to that, the commission had created a regulation, Section 740 (i), which only creates a presumption, that if an individual was coming back to the commission for the second year in a row claiming an emergency that was keeping him from fishing, that the commission ought to research the situation. He stated that the regulation begins with the term, "except for extraordinary circumstances." Mr. Smith stated that on it's face it did appear that it could be unfair, however he advised members that he had ruled on dozens of emergency transfer requests and realized the situation the person may be in and would allow the transfer to take place. Mr. Smith advised members that the commission did not feel the law allowed the flexibility to interpret the word "emergency" as something that would occur over a period of five or ten years. Mr. Smith stated that no matter where they would draw the line that it would appear to be arbitrary as someone would be right there with an exception to the rule.

Representative Drue Pearce asked if banks took assignments on permits. Mr. Smith stated that they did not, that the only entities that could use permits as collateral were the commercial fisheries and agriculture banks. Representative Pearce stated that it would not be dealt with as a liquor license was. Mr. Smith advised members that was correct.

ANNOUNCEMENTS

Chairman Herrmann advised members that the remaining appointees would be heard the following day. She advised members they would also be considering the Dude Creek legislation the following day.

ADJOURNMENT:

The meeting adjourned at 10:05 a.m.

(Tape HRC 88-144, Side 1, #601.)

MEMORANDUM State of Alaska

ALASKA OIL & GAS CONSERVATION COMMISSION

TO: Bob Evans
Office of the Governor

DATE: January 3, 1990

FILE NO: 1.CVC.45

TELECOPY NO: 276-7542

TELEPHONE NO: 279-1433

THRU:

RECEIVED
JAN 05 1990
OFFICE OF THE COMMISSIONER

SUBJECT: Legislative letter of intent for CSHB 55 -- Transfer of Class II UIC program to DEC

FROM: C. V. Chatterton
Commissioner

Issue: Represencatives Menard and Davidson, in a letter of intent for CSHB 55, are asking the administration to examine the possibilities of moving all or a portion of the Underground Injection Control (UIC) from AOGCC to the Department of Environmental Conservation (DEC) by Executive Order or examine the possibility of accomplishing this function through an interagency agreement.

Background: The federal government's UIC regulations are promulgated under the Safe Drinking Water Act (SDWA) of 1974 as amended. The regulations define five categories of injection wells: Class I, Class II, Class III, Class IV and Class V. Class II wells deal with the underground emplacement of fluids related to the recovery and production of oil and natural gas.

In 1986, AOGCC was delegated primacy for the UIC program for Class II wells in Alaska by the U. S. Environmental Protection Agency (EPA) pursuant to Section 1425 of the SDWA. AS 31.05.030(h) sets forth the statutory authority for AOGCC to accept this enforcement responsibility. As a prerequisite for the award, AOGCC promulgated comprehensive regulations governing underground injection relating to oil and gas activities. The regulations provide an opportunity for public hearing, establish criteria for injection well construction, provide for testing the mechanical integrity of each well, and set forth operating and monitoring requirements for injection wells.

AOGCC does not regulate the kinds of fluid that may be injected by a Class II well beyond the limitation that waste fluids injected for disposal must not be hazardous as defined by federal regulations promulgated under the Resource Conservation and Recovery Act (RCRA). RCRA regulations exempt wastes that are intrinsically associated with the exploration, development or production of crude oil from hazardous waste definition. No limitations are placed on fluids injected for enhanced recovery, which effectively is a cycling process. This approach is in keeping with the SDWA, which avoids addressing the kinds of

fluids that may or may not be injected underground in Class II wells. The purpose of the act is to prohibit contamination of underground sources of drinking water by any fluid injected into a Class II well. (See 42 USC 300h)

AOGCC has been found by EPA on two separate annual audits to be doing a credible job of preventing contamination of drinking water sources by fluids injected underground through Class II injection wells. Contamination is prevented by insuring that the mechanical integrity of injections wells is achieved and maintained and the sealing integrity of confining zones is not broached.

Discussion: Representatives Menard and Davidson's request to transfer the UIC program to DEC is somewhat perplexing. AOGCC administers the UIC program for Class II injection wells only; all other underground injection by Class I, Class III, Class IV and Class V wells in Alaska is administered by EPA. For several years, EPA has wooed DEC to no avail to seek primary enforcement responsibility for the other four injection well classes. It would appear counterproductive to require DEC to staff up and administer just the Class II UIC program without also seeking primary enforcement responsibility for the other injection well classes. Further, the Class II UIC program alone does not appear to provide the vehicle for alleviating Representative Davidson and Menard's concerns.

The primary concern of Representatives Menard and Davidson appears to be one of insufficient inspection of the types of fluid being injected underground. The UIC Class II program, however, is not the vehicle for regulating the type (kind) of fluids being injected underground. Rather than regulating fluid types, the thrust of the UIC Class II program is to address the source of the fluid injected for disposal (ie., non-hazardous fluids only). EPA addresses this point in its August 22, 1989 Final Report of Mid-Course Evaluation of the Class II UIC program which states "oil and gas wastes are not defined on the basis of their constituents, but rather are defined on the basis of their source."

Sampling a fluid to determine its constituents would be of little avail in determining the source of the fluid. And fluid source rather than fluid constituents appears to be the measure for determining whether or not a fluid is exempt from a definition of hazardous waste for purposes of disposal in a Class II well. EPA best summarizes this point in its Mid-Course Evaluation, stating: "analytical methods will help detect hazardous constituents, but that does not mean necessarily that the wastes are hazardous under RCRA and cannot be disposed in a Class II well."

Recommendation: Under the Class II UIC program, and considering the RCRA exemption for oil field wastes, it is questionable

whether AOGCC has authority to monitor and regulate the various constituents of fluids injected underground. However, if AS 46.03.100(d) and AS 46.03.299(b) were repealed, it appears that DEC would have statutory authority, without the Class II UIC program, to regulate the types of fluids that may be injected underground for disposal. AS 46.03.100(d) exempts Class II well injection projects from the requirements of a DEC waste disposal permit; AS 46.03.299(b) exempts oil field wastes from the state's hazardous waste regulations.

Regardless of whether the public good is better served by regulation of the types of fluids injected underground, it seems appropriate for the UIC Class II program to remain intact with the Commission. In fact, transfer of the program may not be a prudent step. This issue was raised by EPA during its midyear 1989 review which states:

> "The transfer of the UIC Program to ADEC is a legislative decision. If the legislature decides to make such a transfer, EPA would work closely with the state to ensure a smooth transition. It is worth noting that such a transfer would require statutory and regulatory revision commensurate with the more stringent §1422 of the Safe Drinking Water Act and UIC Regulations 40 CFR §§144-146. Delegation under the more flexible §1425 requires an existing Class II program to demonstrate how the existing program is effective in protecting underground sources of drinking water. Since the legislature would, in effect, be creating a new program for ADEC to administer, the §1425 option would not be available to it. Also, the Class II wells can not be split between two state agencies; ADEC could coordinate with the AOGCC under a state memorandum of agreement."

In summary, should the Legislature find that the public good is better served by regulating the constituents of fluids injected underground in Alaska, the repeal and/or amendment of selected sections of AS 46.03 appears to offer a more direct route than the transfer of the UIC Class II well program to DEC.

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