

HB

128

HOUSE RESOURCES COMMITTEE
Roll Call and Members' Bill Votes

* (indicates first public hearing)

Room 124, Capitol Bldg.

Mon., Wed., Fri.

Date: 3-1-95

Tape# 95-26, 95-27 Joint

Time: 8:10 am/pm Time Adjourned: _____ am/pm

| ROLL CALL: | PRES | ABS | TIME | AR | | |
|-------------------------------|------|-----|-------------|----|--|--|
| Rep. Joe Green | ✓ | | | | | |
| Rep. Bill Williams | ✓ | | | | | |
| Rep. Scott Ogan | | | <u>8:21</u> | | | |
| Rep. Alan Austerman | ✓ | | | | | |
| Rep. Ramona Barnes | | | | | | |
| Rep. John Davies | ✓ | | | | | |
| Rep. Pete Kott | ✓ | | | | | |
| Rep. Eileen MacLean | | | <u>8:22</u> | | | |
| Rep. Irene Nicholia | ✓ | | | | | |

Other Legislators Present _____

AGENDA:
Bill No.

Short Title

Action Taken

| | | |
|----------------|---|---------------------------|
| → <u>HB107</u> | <u>Restricted Limited Entry Permits</u> | <u>CSHB107(FISH) Out</u> |
| → <u>HB128</u> | <u>Waste Disposal Permit Exemption</u> | <u>CS55HB128(RES) Out</u> |
| <u>HB170</u> | <u>Improve Mt. of Carmel</u> | <u>Not heard</u> |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

*House Resources
3-1-95 8:10am
Tape #95-26
HB128*

03/01/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

08:37:16

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:PSG

TCN:50299

SCHEDULED FOR:03/01/95 08:00 TO 10:00

FOR:PSG

PUBLIC HEARING

HOUSE RESOURCES

Ken Medsen
918 3687

LOCATION: PETERSBURG

| LOCATION | NAME | CONTACT INFO | STATUS | TESTIFY |
|----------|-------------|--------------|--------------|---------|
| HB 107 | MR. TERRY | 130x 496 | HASBROUCK | TESTIFY |
| HB 107 | MRS. BETH | 262 | FLOR ✓ | TESTIFY |
| HB 107 | MR. SCOTT | 1575 | CROSS ✓ | TESTIFY |
| HB 107 | MR. ANDY | 1432 | WRIGHT ✓ | TESTIFY |
| HB 107 | MR. MARK | 457 | JENSEN ✓ | TESTIFY |
| HB 107 | MR. LADD | 935 | NORHEIM ✓ | TESTIFY |
| HB 107 | MR. DAVE | 148 | BEEBE ✓ | TESTIFY |
| HB 107 | MRS. SHERRI | 1312 | WOHLHUETER ✓ | TESTIFY |
| HB 107 | MR. ROCKY | 1373 | LITTLETON ✓ | TESTIFY |
| HB 107 | MRS. HEIDI | 527 | LYONS ✓ | TESTIFY |
| HB 107 | MRS. LIV | 1335 | EWING ✓ | TESTIFY |
| HB 107 | MR. MICHAEL | 1288 | SHELDON ✓ | TESTIFY |
| HB 107 | MR. DENNIS | 1083 | O NEAL ✓ | TESTIFY |
| HB 107 | MRS. GWYNNE | 1224 | SHORT ✓ | TESTIFY |

99833 772-3154
 3829
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Theo Francis
938 9393

HOUSE RESOURCES COMMITTEE



Alaska State Legislature
House of Representatives

DATE: 2/28/95

PLACE: ROOM 124

SUBJECT OF MEETING:
HB 107 - Restricted Limited Entry Permits
HB 128 - Waste Disposal Permit Description
HB 170 - Antenna Management of Game

| NAME | REPRESENTING | BUSINESS/PERSONAL MAILING ADDRESS | ZIP | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY? | WHAT SUBJECT/ WHICH BILL? |
|------------------|----------------------|-----------------------------------|-------|-----------|-----------|-------------------------|---------------------------|
| ✓ Daena Henkins | ADEC | 410 Willoughby | 99801 | | 465-522 | Y (N) | HB 128 |
| ✓ Bill Flor | SEDCA | Box 262 Pag | 99832 | | | (Y) N | HB 107 |
| ✓ Neil MacKinnon | MINORALS COMMISSIONS | 1114 GLACIER AVE JUNEAU | 99801 | | 5PO 1259 | (Y) N | HB 128 |
| ✓ David Johnston | AOGCC | 3001 Porcupine Dr Anch. | 99501 | | 279-1433 | (Y) N | HB 128 |
| ✓ Frank Homan | CFEC | 8800 CLACIER HWY | 99801 | | 789-6160 | (Y) N | HB 107 |
| ✓ Patricia Berg | ARCO | P.O. Box 100360 Anch | 99510 | | 265 6878 | (Y) N | HB 128 |
| ✓ Molly Sherman | AEL | PO Box 22151 JUNEAU | 99802 | | 463 3366 | (Y) N | HB 128 |
| | | | | | | Y N | |
| | | | | | | Y N | |
| | | | | | | Y N | |
| | | | | | | Y N | |

HOUSE RESOURCES COMMITTEE



Alaska State Legislature
House of Representatives

DATE: 2/28/95

PLACE: ROOM 124

SUBJECT OF MEETING:

HB 107
HB 128
HB 170

| NAME | REPRESENTING | BUSINESS/PERSONAL MAILING ADDRESS | ZIP | (H) PHONE | (W) PHONE | DO YOU WANT TO TESTIFY? | | WHAT SUBJECT/ WHICH BILL? |
|---------------|--------------|-----------------------------------|-------|-----------|-------------|----------------------------------|---|---------------------------|
| Troy Reinhart | KPC | Po Box 6600, K/V | 99901 | - | 225 2151 | <input checked="" type="radio"/> | N | HB 128 |
| | | | | | | <input type="radio"/> | N | |
| | | | | | | <input type="radio"/> | N | |
| | | | | | | <input type="radio"/> | N | |
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| | | | | | | <input type="radio"/> | N | |
| | | | | | | <input type="radio"/> | N | |
| | | | | | | <input type="radio"/> | N | |
| | | | | | | <input type="radio"/> | N | |

AMENDMENT

OFFERED IN THE HOUSE

TO: Work Draft CSSH B 128(RES), "R" version

1 Page 2, lines 11 - 12:

2 Delete "the disposal, in the annular space of an oil or gas well, of drilling mud,
3 cuttings, and nonhazardous drilling operation wastes:"

4 Insert "the disposal of drilling mud, cuttings, and nonhazardous drilling operation
5 wastes in the annular space of an oil or gas well or in the annular space of a water well
6 associated with oil or gas exploration and production:"

7 Page 2, line 19:

8 Delete "an oil or gas"

9 Insert "a"

9-LS0514R
Chenoweth
2/23/95

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES WILLIAMS, Kott, Toohey, *Green, Kelly*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disposal of wastes; giving the Alaska Oil and Gas
2 Conservation Commission authority to regulate disposal in the annular space of an
3 oil or gas well of drilling mud, cuttings, and nonhazardous drilling operation wastes,
4 and exempting the disposal of those wastes from the requirement of a waste disposal
5 permit issued by the Department of Environmental Conservation; and establishing an
6 exemption from the requirement of obtaining a waste disposal permit from the
7 Department of Environmental Conservation for certain activities that yield solid and
8 liquid waste material discharges and cooling water discharges."

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

10 * Section 1. AS 31.05.030(e) is amended to read:

11 (e) The commission may regulate

12 (1) ~~(.)~~ for conservation purposes

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

2 (B) [(2)] the shooting and chemical treatment of wells;

3 (C) [(3)] the spacing of wells;

4 (D) [(4)] the disposal of salt water, nonpotable water, and oil field

5 wastes:

6 (E) [(5)] the contamination or waste of underground water;

7 (F) [(6)] the quantity and rate of the production of oil and gas

8 from a well or property; this authority shall also apply to a well or property in a

9 voluntary cooperative or unit plan of development or operation entered into in

10 accordance with AS 38.05.180(p);

11 (2) the disposal, in the annular space of an oil or gas well, of drilling
 12 mud, cuttings, and nonhazardous drilling operation wastes; in this paragraph, a
 13 "nonhazardous drilling operation waste" means a waste, other than a hazardous
 14 waste identified by the Environmental Protection Agency in 40 C.F.R., Part 261, its
 15 regulations identifying and listing hazardous wastes, associated with the act of
 16 drilling an oil or gas well for exploratory or production purposes.

17 * Sec. 2. AS 46.03.100(d) is amended to read:

18 (d) This section does not apply to

19 (1) the disposal, in the annular space of an oil or gas well, of drilling
 20 mud, cuttings, and nonhazardous drilling operation wastes regulated under
 21 AS 31.05.030(e)(2); or

22 (2) injection projects permitted under AS 31.05.030(h).

23 * Sec. 3. AS 46.03.100 is amended by adding a new subsection to read:

24 (f) Except as to discharges arising out of exploration and development drilling
 25 for oil and gas resources, this section does not apply to

26 (1) discharges of solid or liquid waste material or water discharges that
 27 will arise from

28 (A) the following activities if the discharge is incidental to the
 29 activity, the activity is carried out in a manner consistent with established industry
 30 procedures, and the activity does not produce a discharge from a point source, as
 31 that term is defined in regulations adopted under this chapter, directly into any

1 surface water of the state:

2 (i) mineral drilling, trenching, ditching, and similar
3 activities;

4 (ii) landscaping;

5 (iii) water well drilling, geophysical drilling, or coal bed
6 methane drilling;

7 (B) drilling, ditching, trenching, and similar activities associated
8 with facility construction and maintenance or with road or other transportation
9 facility construction and maintenance if the discharge is incidental to the drilling,
10 ditching, trenching, or similar activity, the drilling, ditching, trenching, or similar
11 activity is carried out in a manner consistent with established industry procedures,
12 and the drilling, ditching, trenching, or similar activity does not produce a
13 discharge from a point source, as that term is defined in regulations adopted under
14 this chapter, directly into any surface water of the state; however, the exemption
15 provided under this subparagraph does not relieve a person from obtaining a
16 permit under (a) of this section if the drilling, ditching, trenching, or similar
17 activity will involve the removal of the groundwater, stormwater, or wastewater
18 runoff that has accumulated and is present at an excavation site for facility, road,
19 or other transportation construction or maintenance; or

20 (C) bilge pumping, unless the bilge product pumped may be
21 expected to yield an oily sludge, emulsion, or sheen on the surface of any water
22 of the state; or

23 (2) cooling water discharges from a boat or vessel into any surface water
24 of the state.

HOUSE COMMITTEE REPORT

(9)

Date Referred: February 8, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/1/95

The RESOURCES Committee considered:

SSHB 128

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128

WASTE DISPOSAL PERMIT EXEMPTION

"An Act establishing an exemption to the requirement of obtaining a waste disposal permit for certain activities that yield water and waste material discharges ancillary to those activities."

recommends it be replaced with the following committee substitute CS SSHB 128 (RES) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) ADEC, ADFIS zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|-----------|-----|-----|-----|----|
| <u>Rene Michals</u> | Nichols | | | X | |
| <u>Eileen Maclean</u> | Maclean | | | X | |
| <u>John Davies</u> | Davies | | | X | |
| <u>Joseph Green</u> | Green | ✓ | | | |
| <u>W.K. Williams</u> | Williams | ✓ | | | |
| <u>Alan Austerman</u> | Austerman | ✓ | | | |
| <u>John Kott</u> | Kott | ✓ | | | |
| <u>Scott Ogden</u> | Ogden | ✓ | | | |
| | | (5) | | (3) | |
| | | | | | |
| | | | | | |

CHAIR'S SIGNATURE W.K. Williams

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSS HB 128 (RES)

Revision Date: 3/1/95 Dept. Affected: Fish and Game
 Title: Waste disposal permit exemption BRU: Habitat and Restoration
 Component: Habitat
 Sponsor: Rep. Williams
 Requester: House Resources COMPONENT SERIAL NO. 488

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND & STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS, CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | |
|----------------------|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | |
|----------------------|--|--|--|--|--|

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|------------------------|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | |
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FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1006 GF/MHTIA | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

| | | | | | |
|-----------|--|--|--|--|--|
| FULL-TIME | | | | | |
| PART-TIME | | | | | |
| TEMPORARY | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This committee substitute better defines the scope of the exemptions. Most of the listed categories are covered by existing Corps of Engineers general or nationwide permits; others, such as roadside ditching could be addressed through an individual Corps of Engineers permit, if wetlands are involved. Not much is gained by keeping an essentially redundant ADEC permitting requirement. This committee substitute addresses the department's concerns.

Prepared by: Geron Bruce
 Division: Commissioner's Office
 Approved by Commissioner: Frank De
 Agency: _____

Phone: 485-8143
 Date: 3/1/95

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Alaska State Legislature

HOUSE RESOURCES COMMITTEE

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3715

MEMORANDUM

To: Resources Committee members

From: Jack Phelps *JLP*
Committee staff

Date: February 23, 1995

Re: Draft CS SSHB128(RES), version R

Attached is the new draft CS. The principal change is in Section 1 of the bill on page 2, line 14 where we have substituted the federal definition of hazardous waste for the state statutory definition cited in the O version of the bill. The reason for this change, as discussed before committee last Monday, is that the AOGCC currently is required to regulate Underground Injection Control activities using this federal definition. It just would not make sense to require them to use a different standard for this particular regulatory activity.

I have attached a copy of AS 46.03.900. Paragraph (9) contains the definition of hazardous waste which was cited in the O draft of the CS.

ADEC currently leans on the federal definition in their own regulatory activities. Included in this packet is a copy of 18 AAC 62.020, ADEC regulations dealing with identification of hazardous waste. In this section of the code, the federal standard used in the proposed CS is adopted by reference as state regulation.

Finally, I have attached a copy of AS 29.35.590 in paragraph (8) of which we have precedent for Alaska statutes defining hazardous waste by citing 40 CFR 261.

The bill will be back up before the committee on Wednesday, March 1. If you have any questions about this draft, please give me a call @ 3715.

Revisor's notes. — Subsection (b) was formerly AS 46.04.090(b). Renumbered in 1991.

Sec. 46.03.900. Definitions. In this chapter

(1) "air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances or a combination of these;

(2) "air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in quantities and duration that tend to be injurious to human health or welfare, animal or plant life or property or would unreasonably interfere with the enjoyment of life or property;

(3) "atomic radiation" means all ionizing radiation;

(4) "broadcast chemicals" means chemical substances which are released into the air or onto land or water for the purpose of preventing, destroying, repelling, stimulating or retarding plant or animal life, or chemical substances released for meteorological control, oil spill control or fire control;

(5) "commissioner" means the commissioner of environmental conservation;

(6) "department" means the Department of Environmental Conservation;

(7) "dispose" has the meaning given "disposal" in 42 U.S.C. 6903(3);

(8) "facility" means any offshore or onshore structure, improvement, vessel, vehicle, land, enterprise, or endeavor;

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

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

(B) pose a substantial present or potential hazard to human health or the environment when improperly managed, treated, stored, transported, or disposed of;

(10) "hazardous waste reduction" means decreasing, avoiding, or eliminating wastes that are hazardous to human health or the environment through source reduction or recycling; the term does not include hazardous waste treatment or hazardous waste disposal;

(11) "industrial waste" means a liquid, gaseous, solid, or other waste substance or a combination of them resulting from process of industry, manufacturing trade or business, or from the development of natural resources; however, gravel, sand, mud, or earth taken from its original situs and put through sluice boxes, dredges, or other devices for the washing and recovery of the precious metal contained in them and redeposited in the same watershed from which it came is not industrial waste;

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- (A) ignitability;
 - (B) corrosivity;
 - (C) reactivity; or
 - (D) toxicity;
- (2) is specifically listed at 18 AAC 62.020 as being hazardous; or
 (3) is a mixture of a hazardous waste and a nonhazardous waste.
 (Eff. 7/11/87, Register 103)

Authority: AS 46.03.020 AS 46.03.299

18 AAC 62.020. IDENTIFICATION OF HAZARDOUS WASTE.

(a) Regulations of the federal government for identification and listing of hazardous wastes, promulgated and published as 40 C.F.R. Part 261 (amended through July 1990), are adopted by reference as state regulations.

(b) The commissioner will, in his or her discretion, list a waste as hazardous when evidence of sufficient hazard is received. This determination will be based upon

- (1) the criteria at 40 C.F.R. sec. 261.11; and
- (2) the addition criterion of acute aquatic toxicity defined as a 96-hour LC₅₀ of less than 500 mg/l. (Eff. 7/11/87, Register 103; am 8/7/92, Register 123)

Authority: AS 46.03.020 AS 46.03.299

Editor's notes. — Copies of the federal regulations referred to in 18 AAC 62.020 are available from the U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or may be reviewed at any regional office of the department.

Article 2. Standards Applicable to a Generator

| Section | Section |
|--|-----------------|
| 200. Purpose and scope | 220. (Repealed) |
| 210. Requirements for a generator of hazardous waste | 230. Manifest |

18 AAC 62.200. PURPOSE AND SCOPE. 18 AAC 62.200 — 18 AAC 62.230 set out the regulatory requirements imposed on a generator of hazardous waste. A generator who produces a hazardous waste listed or characterized under 18 AAC 62.020 shall notify the department, and shall obtain a State/EPA identification number. A generator may not treat, store, dispose, or offer for transport any hazardous waste without an identification number. (Eff. 7/11/87, Register 103; am 8/7/92, Register 123)

Authority: AS 46.03.020 AS 46.03.302 AS 46.03.308
 AS 46.03.296 AS 46.03.305 AS 46.03.311
 AS 46.03.299

Sec. 29.35.590. Definitions. In AS 29.35.500 — 29.35.590

(1) "acute hazardous waste" means a waste listed by the administrator or the Environmental Protection Agency in accordance with the criteria in 40 C.F.R. 261.11(a)(2);

(2) "consumer commodity" means a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use, including a drug or medicine;

(3) "extremely hazardous substance" means a substance listed in 40 C.F.R. Part 355, Appendix A and B;

(4) "handles" includes disposes of, generates, processes, stores, treats, transships, and uses hazardous chemicals, materials, or wastes, but does not include the handling of hazardous chemicals, hazardous materials, or hazardous wastes while they are in transit and before they reach the final destination indicated on the shipping paper accompanying the shipment, except while they are at a transshipment facility; in this paragraph, "shipping paper" has the meaning given in 49 C.F.R. 171.8;

(5) "hazard class" means the class of a hazardous material defined in 49 C.F.R. 173;

(6) "hazardous chemical" means a chemical that is a physical hazard or a health hazard;

(7) "hazardous material" means a material or substance, as defined in 49 C.F.R. 171.8, and any other substance determined by the division of fire prevention, or by a municipality for purposes of its own reporting program, to pose a significant health and safety hazard; "hazardous material" does not include food, drugs, alcoholic beverages, cosmetics, tobacco, or tobacco products intended for personal consumption;

(8) "hazardous waste" means a hazardous waste as identified by the Environmental Protection Agency under 40 C.F.R. 261, and any other hazardous waste defined by the division of fire prevention or by a municipality for purposes of its own reporting program;

(9) "quantity" means the total amount of a material or waste handled at a time and includes the aggregate of a material or waste that is divided among multiple containers;

(10) "threshold planning quantity" means the quantity listed in the column "threshold planning quantity" for a substance listed in 40 C.F.R. Part 355, Appendix A and B;

(11) "transshipment facility" means a building, dock, yard or other structure or area at which hazardous chemicals, hazardous materials, or hazardous wastes are held, or transferred from one vehicle, vessel, or container to another, for the purpose of reshipment within seven days after arriving at the facility, if regularly holding or transferring within that period of time is the principal business of the facility. (§ 4 ch 108 SLA 1986; am §§ 15, 16 ch 143 SLA 1988)

Alaska Oil and Gas Conservation Commission**3001 Porcupine Drive
Anchorage, Alaska 98501****Phone: (907) 279-1433****Fax: (907) 276-7542**

Facsimile Cover Sheet**To: Jack Phelps
Representing: c/o Rep. Williams
Phone:
Fax:****From: David W. Johnston
Title: Alaska Oil and Gas Conservation
Commission
Phone: 907-279-1433
Fax: 907-276-7542****Date: 24/02/95
Pages including this
cover page: 8**

Comments: Enclosed are the few pages from the Interstate Oil and Gas Compact Commission's report on Alaska's Oil and Gas Waste Management programs. The recommendation concerning annular disposal is on page 11, Recommendation I.9.

I bring a copy of the entire document with me. See you next week.

ALASKA STATE REVIEW

**IOGCC/EPA STATE REVIEW OF OIL AND GAS EXPLORATION
AND PRODUCTION WASTE MANAGEMENT REGULATORY PROGRAMS**



**A PROJECT OF THE
Interstate Oil and Gas Compact Commission**

DECEMBER 1992

INTRODUCTION

This report contains the findings and recommendations of a six-person team appointed by the Interstate Oil and Gas Compact Commission (IOGCC) to review components of the regulatory programs of the state of Alaska that pertain to the management of wastes derived from the exploration and production (E&P) of crude oil and natural gas. The review was coordinated by the IOGCC in cooperation with the United States Environmental Protection Agency (EPA) and other interest groups.

BASIS FOR THE REVIEW: The primary basis for the Alaska review is the EPA/IOCC Study of State Regulation of Oil and Gas Exploration and Production Waste, hereinafter, referred to as the "IOGCC Guidance" or "IOGCC Guidelines". The review team evaluated Alaska's E&P waste regulatory programs against the guidelines and criteria listed in the IOGCC Guidance. However, the review team also had some latitude to make inquiries, findings, and recommendations beyond the specific guidelines and criteria contained in the IOGCC Guidance. These outside comments are identified as such in the report. The Guidance deals only with E&P waste identified as exempt from Subtitle C of the Resource Conservation and Recovery Act (RCRA). Since the potential exists for non-exempt waste to be commingled with exempt waste at E&P sites, steps should be taken to prevent such mixing. This issue is not the subject of this report.

The ultimate purpose of the review was to identify strengths and recommend improvements for the state's E&P waste regulatory programs. Because it is not intended to be a detailed review of the effectiveness of Alaska's E&P waste program, the review did not include an evaluation of site-specific case studies or environmental data. The review (and the criteria upon which it is based) is more of an evaluation of whether the state has certain elements of an E&P waste regulatory program than it is a determination of the extent of which the Alaska program is protective of human health and the environment.

Ground rules for the Alaska review were established by an IOGCC steering committee comprised of state environmental and oil and gas regulatory officials, representatives of industry and environmental organizations, and officials of interested federal agencies. Members of the review team, official observers of the reviews, rules of participation, and guidelines for preparation of the draft and final reports were approved by the steering committee.

CONTENTS OF THE REVIEW: A questionnaire (see Appendix B), based primarily on criteria listed in the IOGCC Guidance, was developed by the steering committee and used as a focal point for the Alaska review. The questionnaire touched only briefly on E&P waste management issues that were not addressed in the administrative and technical criteria of the IOGCC Guidance. Those practices and issues excluded are:

- Technical requirements for injection wells regulated under the federal Safe Drinking Water Act (SDWA);
- Effluent limitations for discharges to surface waters regulated under federal Clean Water Act's National Pollutant Discharge Elimination System (NPDES) permits;
- Monitoring and regulation of naturally occurring radioactive materials (NORM) in oil field wastes; and
- Air emission from oil field wastes or waste management facilities.

Questions concerning injection wells and NPDES-permitted discharges were limited, both in the questionnaire and during the in-state review, to how the regulatory programs for those practices interface with other E&P waste management practices.

The review team focused its evaluation on Alaska's regulatory requirements for onsite disposal of drilling and production wastes and offsite treatment and disposal facilities. The review addressed management of those wastes in onsite pits, one-time land application, burial, roadspreading, commercial drilling mud pits, commercial soil farms, surface facilities at commercial disposal wells, solid waste landfills, and crude oil and tank bottom reclamation plants.

Statutory and administrative components of the Alaska programs, including staffing and funding levels and enforcement activities, were assessed against applicable criteria in the IOGCC Guidance. How Alaska's programs interface with federal programs applicable to E&P wastes was also reviewed.

REVIEW TEAM MEMBERSHIP: The review team chosen for the Alaska review included: Mr. William R. Bryson (review team chairman), State of Kansas, Corporation Commission; Mr. James E. Erb, Commonwealth of Pennsylvania, Department of Environmental Resources; Ms. Patti Saunders, Alaska Center for the Environment; Mr. Michael Stettner, State of California, Department of Conservation, Division of Oil & Gas; Mr. Bob Lipchak, ARCO-Alaska, Inc.; and Ms. Janie Nelson, State of Wyoming, Oil and Gas Conservation Commission. Observers included: Mr. Curt Eilo, EPA Region 10; Mr. Bill Hochholser, U.S. Department of Energy, Office of Fossil Energy; Mr. David Lowe, BP Exploration; and Mr. Jim Roderick, Public Awareness Committee for the Environment-Cook Inlet Vigil. Others present included Mr. Jerry R. Simmons, IOGCC staff; Ms. Brenda Craiger, IOGCC staff; Mr. Dennis Ruddy, U.S. Environmental Protection Agency, Office of Solid Waste; and Mr. M.G. "Marty" Mefferd, IOGCC contractor.

WHERE AND HOW THE REVIEW WAS CONDUCTED: The Alaska review was conducted in Anchorage, Alaska at the Alaska Oil and Gas Conservation Commission (AOGCC) offices on July 13-17, 1992. Mr. David Johnston, Oil and Gas Conservation Commission Commissioner was responsible for AOGCC staff's responses to the questionnaire and review panel questions, and provided members of his staff as necessary during the review process. Mr. Glenn Miller, Alaska Department of Environmental Conservation (DEC) was responsible for DEC staff's responses to the questionnaire and review panel questions, and provided members of his staff as necessary during the review process.

The review was conducted by discussing the answers in the questionnaire provided to the review team by AOGCC, DEC and DNR. Prior to beginning each section of the questionnaire, the appropriate staff member would give an overview of the topic to be discussed (i.e., permitting, enforcement, technical requirements, etc.). Each review team member was responsible for leading the questioning and ensuing discussion for particular topics. Observers were also permitted to ask questions throughout the review. At the end of each day, the review team and observers identified issues raised during the daily sessions.

The review team prepared a list of findings and areas of concern. On Friday, July 17, 1992, an exit interview was conducted with each agency to inform them of the review team's preliminary findings, including positive aspects and areas of concern.

Each review team member was assigned one or more sections to prepare into draft report. The review panel met again on September 21-25, 1992, to complete the draft report. Once completed, the draft report was distributed for review and comment to all participants in the review, including the Alaska regulatory officials and review observers. The review panel met on November 8-10, 1992 to consider all comments and to prepare a final report.

The review team reached consensus on most of the findings and recommendations contained herein. In areas where consensus was not achieved, appropriate entries have been made in the report.

OIL AND GAS PRODUCTION AND WASTE MANAGEMENT IN THE STATE OF ALASKA

The first commercial oil production occurred in the Katalla field in the Gulf of Alaska, which was discovered in 1902. The field was abandoned in 1933, after processing 154,000 barrels of oil, when the refinery burned. Modern day production began with the discovery of the Swanson River field on the Kenai Peninsula in 1957 (Cook Inlet Area) and the Prudhoe Bay field in 1967 (North Slope Area).

The State of Alaska owns 30 percent of the land in the state. This includes all of the North Slope oil fields, as well as most of the Cook Inlet fields. Thus, the State of Alaska is involved in oil and gas exploration and production waste management both as a regulatory agency and as a landowner.

In 1991 Alaska produced 15.4 million barrels of oil from the Cook Inlet fields and 665 million barrels from the North Slope fields. Cook Inlet production peaked at 83 million barrels in 1970 and the North Slope peaked at 744 million barrels in 1988. The North Slope fields produced a peak of 2.1 trillion cubic feet (tcf) of natural gas in 1991; all but 248 billion cubic feet (bcf) was reinjected to maintain pressure and improve ultimate recovery. All gas produced is utilized or returned to the reservoir on the North Slope, as there are no pipelines carrying gas to other markets. North Slope gas production started with the Barrow field which was discovered in 1949. Cook Inlet gas production began from Swanson River in 1958 and peaked at 311 bcf in 1990. The 1991 production was 308 bcf. Gas from the Cook Inlet Area goes to Anchorage, Kenai and other South Central Alaska communities. It is also used to produce ammonia and urea as well as being exported as LNG to Japan. Alaska currently has 1,572 producing oil wells and 108 producing gas wells. Currently, Alaskan oil fields produce nearly 25 percent of domestic production.

No information about reserves was provided to the review team; however, production from Cook Inlet fields is expected to decline from approximately 39,000 barrels per day (b/d) in 1992 to 17,000 b/d in the year 2000. The North Slope fields will decline from 1,700,000 b/d in 1992 to an estimated 100,000 b/d in the year 2016, depending on the economic limits of the fields, and assuming no other discoveries are made and developed.

Alaska currently has 613 injection wells, of which 34 are Class II disposal wells and 579 are enhanced recovery (EOR) wells. Twenty-four disposal wells were active at the end of 1991, injecting 125,683,277 barrels of produced water in that year. In 1991, approximately 830,193,000 barrels were reinjected into producing formations through EOR wells. In addition, 999,700 barrels of fluid associated with North Slope operations were disposed of into Class I non-hazardous/industrial wells at Pad 3. Data on volumes of waste disposed into reserve pits or through permitted NPDES

discharges were not made available to the review team. Volumes were also not available for burial and landfilling practices on the North Slope, although the volume was characterized as a "small amount."

Major sources of groundwater are from alluvial deposits in the Kenai Peninsula (Cook Inlet). On the North Slope, no fresh groundwater zones have been identified in oil and gas fields. The Swanson River field is located in a federal wildlife refuge on the Kenai Peninsula. Only a small portion of Alaska's oil and gas production activities are conducted on privately owned lands.

E&P waste management practices in Alaska have been changing in the last few years. Over the past five years, the industry-state relationship on the North Slope has matured into a more cooperative, proactive and open approach to solving problems. This relationship has been possible because of the small number of operators, all of whom are major oil companies that have adequate multidisciplinary personnel resources to deal with Alaska environmental regulations and problems.

The acceptability of some longstanding practices has been rethought by industry, state and federal agencies. New technologies for waste treatment and disposal are being developed. As these new technologies come on line, old practices are being phased out. For instance, on the North Slope, muds, cuttings and some associated waste are now being ground and injected, replacing above ground reserve pits, which have in the past been the primary method of disposal. Also, prior to 1988, the general practice was to discharge the liquid fraction in the pits (consisting of snow melt and some free liquids in the wastes) to the adjacent tundra. This practice was conducted pursuant to DEC wastewater permits, but without federal NPDES permits. These liquids are now disposed of in injection wells.

Although not prohibited by regulation, above-grade pits, tundra discharges and roadspreading of pit liquids have not been authorized on the North Slope since 1988. The use of reserve pits for E&P waste management continues on the Kenai Peninsula, although roadspreading of pit liquids was discontinued in 1988, as it was on the North Slope.

Non-commercial E&P waste management facilities such as tank batteries, reserve pits and EOR/disposal wells are used in both the North Slope and Cook Inlet Areas. Neither producing area has commercial E&P waste management facilities, nor are there any roadspreading or landfarming operations.

EPA and DEC have signed a Memorandum of Agreement pursuant to which DEC conducts certain aspects of the RCRA hazardous waste program in Alaska. Alaska does not have RCRA Subtitle C primacy. EPA also retains authority for the Clean Water Act's NPDES wastewater discharge program, while DEC manages a state water quality program.

FINDING I.7.

Consistent with IOGCC Guideline 3.1, Title 46 of Alaska Statutes sets forth DEC's programs for environmental protection. AS 46.03.010 is a declaration of the state's policy to protect the environment and the health and welfare of the people of Alaska.

FINDING I.8.

The declaration of policy in AS 46.03.010 is an outstanding example of the goal statement called for by IOGCC Guideline 3.2.

DEC administers the following technical criteria relevant to:

| | |
|-------------------|---|
| 18 AAC Chapter 50 | Air quality control |
| 18 AAC Chapter 60 | Solid waste management |
| 18 AAC Chapter 62 | Wastewater disposal |
| 18 AAC Chapter 70 | Water quality standards |
| 18 AAC Chapter 72 | Hazardous waste |
| 18 AAC Chapter 75 | Oil and hazardous substance pollution control |
| 18 AAC Chapter 80 | Drinking water standards |
| 18 AAC Chapter 85 | Radiation protection |

FINDING I.9.

Annular disposal of wastes is regulated by DEC's wastewater program, while injection of wastes through tubing into Class II wells is controlled by AOGCC.

RECOMMENDATION I.9.

To maximize efficient and effective use of resources, especially in light of fiscal and staffing shortfalls, and to take advantage of existing technical expertise, AOGCC and DEC should consider unifying administration of the annular disposal and UIC programs under AOGCC using an MOU or other such delegation. (IOGCC Guidance 3.1.e.)

PAUL S. GLAVINOVICH
MINERALS CONSULTANT

PO Box 112816
Anchorage, Alaska 99511

Telephone
(907) 345-3646

February 24, 1995

Rep. Bill Williams, Chairman
House Resources Committee
Alaska State Legislature
Juneau, Alaska

Re: HB 128

Dear Representative Williams:

HB 128 will amend AS 46.03.100 to exempt certain activities associated with mineral exploration, construction, water well drilling and etc. from the requirement of obtaining a waste disposal permit. The activities so exempted represent no threat to environmental quality and had been ignored by DEC until 1994 when an environmental activist demanded this statute be enforced on all activities irrespective of environmental impact. DEC Southeastern Region's immediate and arbitrary response was extremely disruptive and had the potential to seriously delay, defer or cancel ongoing exploration activities.

I cannot believe that AS 46.03.100 was intended to include the minimal discharges associated with those activities addressed in your legislation. HB 128 corrects this oversight and provides very welcome regulatory relief with the attendant reduction in associated costs.

I strongly recommend the Committee's support for HB 128.

Sincerely,



Paul S. Glavinovich

Alaska State Legislature

Committees:

House Resources
Co-Chairman
World Trade &
State Federal Relations
Transportation
Rules
Oil & Gas

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
352 Front Street
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-8546

Representative William K. Williams

SPONSOR STATEMENT

HOUSE BILL 128

The current language of AS 46.03.100 requires a permit for any disposal of solid or liquid waste into the waters or onto the land of the state. Under the existing law there is no provision for an exemption regardless of how minimal or benign the deposit may be.

Until recently, the Alaska Department of Environmental Conservation (ADEC) treated negligible discharges as if there were a minimal exemption in the statute. Presently, the department is in the process of considering a general permit that would apply to "mine drilling exploration, water well drilling and monitoring well drilling" (Proposed permit #9540-DB001). It is not apparent that the department is contemplating regulations that would apply to other industries which would be affected if the current law was followed to the letter.

House Bill 128 would provide in statute a general exemption for discharges which are incidental to activities such as mineral drilling and trenching, well drilling, or road and facility construction when the discharge is not directly into the surface waters of the state. This would restore the status quo which has worked for years without harm to the environment.

House Bill 128 is important in reaching the oft-repeated goal of minimizing the unnecessary regulatory burden on Alaska's resource development industries. I urge its speedy passage.

9-LS05140
Chenoweth
2/17/95

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 128(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES WILLIAMS, Kott, Toohey

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disposal of wastes; giving the Alaska Oil and Gas
 2 Conservation Commission authority to regulate disposal in the annular space of an
 3 oil or gas well of drilling mud, cuttings, and nonhazardous drilling operation wastes;
 4 exempting the disposal of certain wastes in the annular space of an oil or gas well
 5 from the requirement of a waste disposal permit issued by the Department of
 6 Environmental Conservation; and establishing an exemption from the requirement of
 7 obtaining a waste disposal permit from the Department of Environmental Conservation
 8 for certain activities that yield solid and liquid waste material discharges and cooling
 9 water discharges."

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

11 * Section 1. AS 31.05.030(e) is amended to read:

1 (e) The commission may regulate

2 (1) [.] for conservation purposes

3 (A) [(1)] the drilling, producing, and plugging of wells;

4 (B) [(2)] the shooting and chemical treatment of wells;

5 (C) [(3)] the spacing of wells;

6 (D) [(4)] the disposal of salt water, nonpotable water, and oil field

7 wastes:

8 (E) [(5)] the contamination or waste of underground water;

9 (F) [(6)] the quantity and rate of the production of oil and gas

10 from a well or property: this authority shall also apply to a well or property in a

11 voluntary cooperative or unit plan of development or operation entered into in

12 accordance with AS 38.05.130(p);

13 (2) the disposal, in the annular space of an oil or gas well, of drilling
 14 mud, cuttings, and nonhazardous drilling operation wastes; in this paragraph, a
 15 "nonhazardous drilling operation waste" means a waste, other than a hazardous
 16 waste as that term is defined in AS 46.03.900, associated with the act of drilling an
 17 oil or gas well for exploratory or production purposes.

18 * Sec. 2. AS 46.03.100(d) is amended to read:

19 (d) This section does not apply to

20 (1) the disposal, in the annular space of an oil or gas well, of drilling
 21 mud, cuttings, and nonhazardous drilling operation wastes regulated under
 22 AS 31.05.030(e)(2); or

23 (2) injection projects permitted under AS 31.05.030(h).

24 * Sec. 3. AS 46.03.100 is amended by adding a new subsection to read:

25 (f) Except as to discharges arising out of exploration and development drilling
 26 for oil and gas resources, this section does not apply to

27 (1) discharges of solid or liquid waste material or water discharges that
 28 will arise from

29 (A) the following activities if the discharge is incidental to the
 30 activity, the activity is carried out in a manner consistent with established industry
 31 procedures, and the activity does not produce a discharge from a point source, as

1 that term is defined in regulations adopted under this chapter, directly into any
2 surface water of the state:

3 (i) mineral drilling, trenching, and similar activities;

4 (ii) landscaping;

5 (iii) water well drilling, geophysical drilling, or coal bed
6 methane drilling;

7 (B) drilling, ditching, and similar activities associated with facility
8 construction and maintenance or with road or other transportation facility
9 construction and maintenance if the discharge is incidental to the drilling,
10 ditching, or similar activity, the drilling, ditching, or similar activity is carried out
11 in a manner consistent with established industry procedures, and the drilling,
12 ditching, or similar activity does not produce a discharge from a point source, as
13 that term is defined in regulations adopted under this chapter, directly into any
14 surface water of the state; however, the exemption provided under this
15 subparagraph does not relieve a person from obtaining a permit under (a) of this
16 section if the drilling, ditching, or similar activity will involve the removal of the
17 stormwater or wastewater runoff that has accumulated and is present at an
18 excavation site for facility, road, or other transportation construction or
19 maintenance; or

20 (C) bilge pumping, unless the bilge product pumped may be
21 expected to yield an oily sludge, emulsion, or sheen on the surface
22 of the state; or

23 (2) cooling water discharges from a boat or vessel into any surface water
24 of the state.

CS SSHB 128(RES) Waste Disposal Permit Exemption

Sectional Analysis

Section 1 of the bill amends AS 31.05.030(e) to give authority to the Alaska Oil & Gas Conservation Commission to regulate annular pumping.

Section 2 of the bill amends AS 46.03.100(d) to exclude annular pumping from the permitting authority granted to the Department of Environmental Conservation by AS 46.03.100(a).

Section 3 of the bill adds a new subsection to AS 46.03.100 establishing an exemption from the requirement of obtaining a permit for the incidental discharge of solid and liquid waste materials and certain water discharges arising from various activities within the state.

To qualify for the exemption, the discharge must be incidental to the activity, the activity must be carried out in a manner consistent with established industry procedures, and the activity must not produce a discharge from a point source directly into the surface waters of the state.

Under this bill, bilge pumping is also exempt providing it conforms to current U.S. Coast Guard standards. Engine cooling water discharges are also exempted by the bill.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB128

Revision Date: _____
Title: An Act establishing an exemption to the
requiremt. of obtain. waste disposal permit
Sponsor: Rep. Williams
Requestor: _____

Department Affected: Environmental
Conservation
BRU: Environmental Quality
Componc Wastewater & Water Treatment

COMPONENT SERIAL NO. 1426

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TRAVEL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CONTRACTUAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| SUPPLIES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| EQUIPMENT | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| LAND&STRUCTURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| GRANTS,CLAIMS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| MISCELLANEOUS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|----------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE

| | | | | | | |
|-------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipt | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1006 GF/MHTIA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

The department would promulgate the requested definition of "point source discharge" in a revision of the wastewater regulations using existing staff and funding.

Prepared by: Deena J. Henkins *Lawrence Jones*
Division: Environmental Quality *(LARRY JONES)*

Phone: 465-5312
Date: 2/2/95

Approved by Commissioner: *Leonard P. Merrill*
Agency: Department of Environmental Conservation

Date: 2/2/95

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ALASKA MINERALS COMMISSION

1995 REPORT TO THE GOVERNOR AND ALASKA STATE LEGISLATURE

DIMINUTIVE DISCHARGES

FINDING: The Alaska Department of Environmental Conservation (ADEC) has recently begun selective enforcement on the mining industry of a regulation relating to disposal of nondomestic wastewater. This regulation applies to a broad spectrum of routine activities in Alaska which result in small discharges of solid or liquid waste, such as drilling, blasting, construction and earth excavations, and marine bilge-pumping. ADEC regulatory action is being conducted under 18 AAC 72.500, which states (in part) "a person who disposes of nondomestic wastewater into or onto land, surfacewater, or groundwater in Alaska must have a permit issued by the Department (ADEC) for that disposal." Regulations detailed through 72.500 are promulgated under AS 46.03.100, which specifies that both liquid and solid waste are to be regulated.

Clearly, this regulatory language is so broad as to include most outdoor activities in the State. The Department of Law has maintained that no exemptions are allowed and that ADEC must require a permit for all discharges, regardless of the source, type, or insignificance of the discharge. To date, ADEC has chosen only to require a permit for selected mineral drilling activities. This selective enforcement of a bad regulation is an example of government at its worst.

THE COMMISSION RECOMMENDS THAT:

- 14. The Alaska Legislature should amend AS 46.03.100 to exempt diminutive activities, including mineral drilling, certain construction activities, and marine bilge-pumping from requiring a Waste Disposal Permit. Specifically, mineral drilling in which the only discharges are ground-up rock, water, and biodegradable additives, (which are EPA approved for water-well drilling), should be exempted.*

NOTES TO DECISIONS

Quoted in *State v. Anderson*, 749 P.2d 1342 (Alaska 1988).

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

(b) A permit for disposal of a hazardous waste may not be issued under this section unless the applicant for the permit has furnished proof to the commissioner of financial ability to control the hazardous waste. Proof of financial responsibility may be demonstrated by self-insurance, insurance, surety, or guarantee, under regulations adopted by the department. Acceptance of proof of financial responsibility under this subsection expires

(1) one year from its issuance for self-insurance;

(2) on the effective date of a change in the surety bond, guarantee, or insurance agreement; or

(3) on the expiration or cancellation of the surety bond, guarantee, or insurance agreement.

(c) This section does not apply to a person discharging only domestic sewage into a sewerage system.

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

(e) A person who applies for a solid waste permit under this section shall demonstrate to the satisfaction of the commissioner that the applicant has reasonably considered all solid waste management options and that the permit would be consistent with the practices and priorities established under AS 46.06.021. (§ 3 ch 120 SLA 1971; am § 3 ch 220 SLA 1976; am § 9 ch 93 SLA 1981; am § 4 ch 91 SLA 1984; am § 3 ch 88 SLA 1990)

Revisor's notes. — Subsections (b) and (c) were formerly (c) and (b), respectively. Relettered in 1987.

Cross references. — For further requirements for persons submitting proof of financial ability under this section, see AS 46.03.833.

Effect of amendments. — The 1990 amendment added subsection (e).

Opinions of attorney general. — This section confers upon the Department of Environmental Conservation permit authority over dredge or fill activities, including residential subdivisions, within

wetlands, estuaries, and inland and coastal marshes periodically inundated by discernible bodies of fresh or salt water upland from the mean high tide line to the extent of the aquatic or salt water vegetation line. November 13, 1975 Op. Att'y Gen.

Dredge or fill activities in coastal and fresh water wetlands shoreward to the aquatic vegetation line do result in the disposal of solid waste material into the waters of the state within the meaning of this section and thus, to the extent that these activities are of a commercial or in-

(31) "oil and grease" means oil and grease as defined by the procedure used under 18 AAC 70.020(c);

(32) "pH" means the negative logarithm of the hydrogen-ion concentration, expressed as moles per liter: $\text{pH} = -\log_{10} (\text{H}^+)$;

(33) "point source" means a discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged;

(34) "pollution" means the contamination or altering of state land or water in a manner that creates a nuisance or makes land or water unclean, noxious, impure, or unfit so that it is actually or potentially harmful, detrimental, or injurious to

(A) public health, safety, or welfare;

(B) domestic, commercial, industrial, or recreational use; or

(C) livestock, wildlife, or aquatic life;

(35) "residues" means floating solids, debris, sludge deposits, foam, scum, or any other material or substance remaining in a water body as a result of direct or nearby human activity;

(36) "secondary recreation" means recreation activities in which water use is incidental, accidental, or sensory; it includes fishing, boating, camping, hunting, hiking, and vacationing;

(37) "sediment" means solid material of organic or mineral origin that is transported by, suspended in, or deposited from water; it includes chemical and biochemical precipitates and organic material such as humus;

(38) "sheen" means an iridescent appearance on the water surface;

(39) "sodium adsorption ratio (SAR)" means the estimated degree to which sodium from a given water will be adsorbed in soil, as proposed by the U.S. Salinity Laboratory, U.S. Department of Agriculture, "Handbook 60"; it is expressed as the quotient of the sodium ion concentration and the square root of half the sum of the calcium and magnesium ion concentrations:

$$\frac{(\text{Na}^+)}{\frac{(\text{Ca}^{++}) + (\text{Mg}^{++})}{2}}$$

(40) "spawning" means the process of producing, emitting, or depositing eggs, sperm, seed, germ, larvae, young, or juveniles, especially in large numbers, by aquatic life;

(41) "thermocline" means a layer of water between a warmer, surface zone and a colder, deep-water zone in a thermally stratified body of water, in which water temperature decreases rapidly with depth;

Issue Paper

Minor Discharge and Disposal Regulatory Issues

A.H. Clough- DCED- DED

8 September, 1994

Background:

The Alaska Department of Environmental Conservation (ADEC) has recently changed how it regulates incidental discharges from mineral related drilling. This occurred during the spring of 1994 in response to AJ Mine opponents complaints to the SE Region of ADEC.

The crux of this regulatory issue is 18 AAC 72.500. This statute is under the nondomestic wastewater section of the Alaska Administrative Code. The code, under 18 AAC 72.500, cites restrictions on nondomestic wastewater disposal. It states; "A person who disposes of nondomestic wastewater into or onto land, surface water, or groundwater in Alaska must have a permit issued by the department (ADEC) for that disposal."

The Waste Disposal Permit process is provided under Sec. 46.03.100. Waste Disposal Permit; (a) "A person who conducts an operation that results in the disposal of a solid or liquid waste material or heated process or cooling water into the waters or onto the land of the state shall procure a permit from the department before disposing of the waste material or water. The permit shall be obtained for direct disposal and for disposal into publicly operated sewerage systems." It is important to note that under 46.03.100 both liquid and solid waste discharge and disposal is to be regulated.

Until these issues were raised by AJ mine opponents various activities which resulted in minor discharges of either solid or liquid waste were treated as insignificant by ADEC and ignored. Examples of such diminutive activities include; mineral drilling, marine bilge pumping, roadway construction and maintenance, along with other routine construction and maintenance activities.

The scope of these disposal issues were discussed in detail with ADEC in Juneau on several occasions. Participating in discussions were ADEC, the Department of Commerce and Economic Development (DCED), the Division of Governmental Coordination (DGC), and the Department of Law (DoL). The Department of Law maintained that under the statute (18 AAC 72.500) no diminutive exemption existed

and that ADEC must require a permit for all discharges, no matter how minor or insignificant. However, DoL allowed that a "0" discharge situation did not require a permit.

Thus far, the only activity which ADEC has chosen to enforce this statute on is drilling by mining companies. Furthermore, this requirement has only been selectively applied to Echo Bay Alaska's AJ project. Even more disturbing, contemporaneous with the development of this issue, at a construction site adjacent to the ADEC Juneau office significant drilling, blasting, pile driving, and other excavations which clearly had significant discharge and disposal of both liquid and solid waste were ongoing. The similarities of these activities to the mineral related drilling by Echo Bay was noted to ADEC. Nevertheless, no effort was made by ADEC personnel to require a permit for the adjacent construction activities. This selective enforcement of statute and regulation is an example of government at its worst. Such actions are against equal protection under the law doctrine and clearly contrary to good public policy. That such a duality of enforcement has developed readily demonstrates that something is fundamentally wrong with the strict application of the statute along with subordinate regulation and enforcement.

Mining companies, or others, may claim exemption from the statute and regulation by maintaining "0" discharge during drilling. However, total "0" discharge is likely rarely obtained; due to leaking of drill string joints, fluids lost during core retrieval and such. Further, it is doubtful that construction related excavations could be considered for a "0" discharge exemption from 18 AAC 72.500.

As indicated, this statute and regulation are not being applied to any other interest such as marine bilge pumps along with construction and maintenance activities. This is not just a mining issue. Clearly, any activity which results in the discharge of solid or liquid waste are at issue. The only statutory exemption is for domestic wastewater. It is not certain whether the domestic exemption would be applied to the drilling of domestic water wells or not.

Issue:

Various construction, mining related, marine related, and other routine activities clearly result in relatively small discharge and disposal of solid and liquid waste to land and/ or waters of the state. These waste fall into three main categories; either water (usually on-site derived with or without any suspended solids or additives), on-site derived soil, and on-site derived rock. Further, the clean fill material commonly used for various construction purposes represents a similar discharge/ disposal situation under the current statute. In

essence it is not possible to drill a hole, excavate a trench, or pump a bilge without some level of discharge and disposal. Such discharged and disposed materials are typically of locally derived natural materials, are non-toxic, and any additives are benign (for example, the common polymer additive used in mineral related drilling is approved by the US EPA for potable water well drilling). These diminutive discharge and disposal practices present no significant environmental hazard. In recognition of these situations such discharges and disposals have not previously been regulated.

Discussion:

The enforcement undertaken by ADEC on this issue is highly selective. SE Region indicated that unless a complaint is lodged, such as the case with the AJ Mine opponents, that ADEC will not go looking for compliance or violations; an arbitrary "don't ask- don't tell" type policy. This policy is clearly evident by the total disregard of the discharges related to the construction site adjacent to ADEC headquarters. Contemporaneous with the "don't ask- don't tell" policy ADEC indicated they would be investigating the development of a general permit or other similar mechanism to deal with the regulation of minor discharges. Work is apparently being done by ADEC on the development of a General Permit. However, neither DCED or industry representatives have been asked to participate in the GP development at this time. Therefore, the status of the General Permit project is unknown.

Clearly, the current selective enforcement policy of ADEC is not acceptable. Three viable options seem available concerning resolution of the discharge permit issue.

First, individual or project wide permits could be sought by mining companies (or any other activity which results in a discharge) as the need arises. This is not a workable situation. In addition to the time required by any applicant to apply for and receive such permits, the staff time, costs and commitment by ADEC could be much better utilized on more pressing issues. Requiring and enforcing such restrictions could effectively delay any and all activities which discharge. The "0" discharge argument could be advanced, but as already indicated actual "0" discharge is nearly impossible to attain in a field situation; especially in the case of any excavations.

Secondly, a general permit could be developed by ADEC and then used to allow diminutive activities. This represents an improvement over the project permitting but still requires development of the GP as well as a permitting process for diminutive activities. A GP may be a workable system but it still represents another layer of bureaucracy

and regulatory interference which is likely not necessary. As with individual and project wide permits, a GP still requires significant staff time and effort to regulate and enforce activities which clearly do not need such scrutiny. For these reasons a general permit approach is not favored. Nevertheless, the development and implementation of a general permit may be useful as an interim measure awaiting a statutory change.

Finally, statutory change could be granted to eliminate the problem. Such a statutory approach is the most desirable "fix" although it will undoubtedly require a concerted effort to move the necessary legislation through the Alaska legislature and the Governor. The statutory fix represents the best way to eliminate the problem. A statutory change would be envisioned to define diminutive activities along with allowable exemptions. This would eliminate the subjectiveness of the current system, not result in expanded or redirected bureaucracy thus responding in a positive manner to industry, government, and citizen needs. All this can be accomplished without adding additional bureaucracy and layers of permitting process. Finally, the statutory changes can clearly define activities which do require additional oversight as well as those which clearly do not.

Recommendations:

Pursuing a statutory change is the preferred course of action. A statutory change is recommended for several reasons. First of all, maintaining the status quo is simply not workable. It places any activity which requires a discharge/ disposal open to litigation by project opponents. The second option, that of a general permit, represents a great improvement over the current situation still requires a permitting process for insignificant activities and does not represent either a business, government, or public friendly system. The statutory change results in fixing the problem, allowing certainty of activities, and brings all the stake holders into the issue. Such statutory changes should be actively sought during the 19th Legislature.

**STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WASTEWATER GENERAL PERMIT**

Permit No. 9540-DB001

Date Issued: _____

This general wastewater disposal permit applies to lands or waters of the state, including public and private lands and waters, and is issued for the disposal of wastewater from drilling operations which are determined to have minimal environmental impact and no perceived risk to human health. This general permit applies to wastewater disposal from operations such as mine drilling exploration, water well drilling and monitoring well drilling unless there are contaminants present in the effluent for which the monitoring well is being constructed.

This permit is not applicable for discharges to 1) waters listed by the state as impaired, where the impairment is wholly or partially caused by a pollutant contained within the proposed discharge, 2) to discharges from drilling operations for the oil or gas industries, or 3) to discharges from monitoring wells at contaminated sites.

This permit is subject to the conditions and stipulations contained in Appendices A and B, which are incorporated herein by reference. All disposals made under the authority of this permit, regardless of size, are subject to the conditions and stipulations contained herein.

The Department will require a person to apply for an individual disposal permit when it determines that the proposed disposal does not meet the conditions of this general permit, contributes to pollution, may cause an adverse impact on public health or water quality, or a change occurs in the availability of technology or practices for the control or abatement of pollutants contained in the disposal. Issues that the Department may consider when deciding whether to require an individual permit for a particular disposal include, but are not limited to: proximity of contaminated sites, proximity of drinking water sources, and potential changes in drinking water quality. Issuance of an individual disposal permit requires a 30 day Public Notice period and additional time for processing the application.

This permit is issued under provisions of Alaska Statute 46.03., Title 18 of the Alaska Administrative Code, as amended or revised, and other applicable state laws and regulations, including standards of the Alaska Coastal Management Program under 6 AAC 80.

This permit does not relieve the permittee of the responsibility of obtaining other required permits.

This permit is effective upon issuance and expires XXXXXXX or upon issuance of an amended general permit. It may be terminated, modified, or renewed in accordance with AS 46.03.120.

Jerry Imm, Director
Environmental Quality

APPENDIX A - SPECIFIC PERMIT CONDITIONS

I. NOTICE OF DISPOSAL

- A. Applicants wishing to conduct disposal activities under this permit must submit a Notice of Disposal to the appropriate regional office at least 30 days prior to the initiation of disposal activities, unless they are excluded under item I.B. of this permit.
- B. Applicants are automatically covered by this permit and will not need to submit a Notice of Disposal or receive written notification that they are covered provided they are:
1. not using drilling fluid additives,
 2. using water only as a drilling fluid,
 3. using National Sanitation Foundation (NSF) approved "Well Drilling Aids" (NSF Standard 60: Drinking Water Treatment Chemicals - Health Effects, 1988, available from the NSF, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, MI 48106, (313)769-8010, Telex: 753215, FAX (313)769-0109) or,
 4. discharging less than 500 gallons per acre per annum of drilling fluid wastes.
- C. Each Notice of Disposal submitted under I.A. must include the following information:
1. Applicant's name, position, company address and telephone number.
 2. Site map showing general location of discharge, any receiving waters and any downstream surface waters within 1/2 mile of the discharge.
 3. Information on any public water supply within 1 mile of the discharge point that is also within the same watershed as the discharge.
 4. Date of initial discharge, expected duration of discharge and average and maximum daily flow rates in gallons per day.
 5. For additives not approved by the National Sanitation Foundation provide the commercial name, the chemical constituents, the concentration at which the product will be used, the expected concentration in the discharge, any health advisories or narrative on product usage or care, and Material Safety Data Sheets.

I. NOTICE OF DISPOSAL (cont.)

6. For additives not approved by the National Sanitation Foundation provide information which shows that the material will not be toxic to aquatic or other life and shall meet all water quality criteria specified in 18 AAC 70 at the point of discharge, at a minimum of 25 feet from any fish bearing stream or at a specified distance from the point of discharge.
 7. Method and design of proposed treatment system if required to meet permit limitations identified in Part II below, and design of all wastewater conveyances, constructed or natural, for this drilling operation.
- D. For additives not approved by the National Sanitation Foundation, applicants must receive written approval from the Regional Administrator of the appropriate regional office, or their designee, before conducting disposal activities under this permit. The Department may, in its discretion, deny use of this permit or require a person to apply for an individual permit when the department determines the proposal does not meet the conditions of this general permit, contributes to pollution, causes an adverse impact on public health or water quality, or a change occurs in the availability of technology or practices for the control or abatement of pollutants contained in the disposal. The Department may waive the requirement to monitor for parameters listed in section III.A if either the pollutant does not or is not likely to exist in the effluent, or if the pollutant cannot be directly monitored against background levels.
- E. When additives not approved by the National Sanitation Foundation are used in the drilling process, the applicant must contact the Department of Fish and Game, Habitat and Restoration Division, two weeks prior to any discharge, if the discharged water will go directly or via storm drains to fish-bearing waters.

II. LIMITATIONS

- A. During the period beginning on the effective date of this permit and lasting through the expiration or termination date, the permittee is authorized to discharge wastewater as specified in this section.

II. LIMITATIONS (Continued)

- B. Wastewater discharged from drilling operations shall not exceed the following limitations where they enter waters of the state:

| <u>Effluent Limitations</u> | <u>Maximum Value</u> |
|-----------------------------|---------------------------------------|
| Turbidity | 5 NTU's above background ¹ |
| Total Aromatic Hydrocarbons | 10 µg/L |
| Settleable Solids | 0.2 mL/L ² |

- C. The effluent pH shall be between 6.5 and 8.5 pH units or within 0.5 units of the receiving water pH at all times.
- D. The Department will in its discretion add limitations for those additives listed in part I.C of Section I., NOTICE OF DISPOSAL.
- E. The discharge shall not cause thermal or physical erosion.
- F. The discharge shall not create a thermal barrier to fish movement.
- G. The discharge shall not result in the exclusion of fish from aquatic habitat.
- H. The discharge shall not cause resuspension of sediments upon discharge into receiving waters.
- I. The discharge shall not cause a violation of the Alaska Water Quality Standards (18 AAC 70).

¹Applies to discharges to the waters of the state only. Not applicable to disposals which freeze upon discharge. Shall not have more than 10% increase in turbidity when the natural condition is more than 50 NTU, not to exceed a maximum increase of 15 NTU. Shall not exceed 5 NTU over natural conditions for all lake waters.

² When the discharge flow is greater than the receiving water flow, settleable solids shall have a maximum limitation of 0.1 ml/l.

III. MONITORING

- A. Permittees shall monitor the wastewater stream where it enters waters of the state in the following manner and at the minimum frequencies listed while the discharge is occurring:

| <u>Effluent Characteristic</u> | <u>Sample Location</u> | <u>Minimum Frequency</u> | <u>Sample Type</u> |
|--------------------------------|------------------------------------|--------------------------|--------------------|
| Total Flow | Effluent | Weekly | NA |
| Turbidity (NTU) | Effluent & Background ⁴ | Daily ³ | Grab |
| Total Aromatic Hydrocarbons | Effluent | Monthly ³ | Grab |
| Settleable Solids | Effluent | Daily | Grab |

- B. Samples and measurements taken as required shall be representative of the volume and nature of the monitored activity.
- C. Monitoring results shall be recorded and kept for a period of three years and shall be available for review by the agency during that period.

IV. MANAGEMENT PRACTICES

- A. The operator shall take whatever steps are appropriate to maintain the drilling operation in such a manner that the terms and conditions of this permit are met. This includes leaving the drilling site, including any settling ponds, in a condition that will not cause additional degradation to the receiving waters over those resulting from natural causes and to comply with abandonment procedures in 18 AAC 80 for any water test borings or wells.
- B. The operator shall maintain fuel handling and storage facilities in a manner which prevents the discharge of petroleum products into receiving waters.

V. RECORDS RETENTION

³A Minimum of one sample shall be taken.

⁴Turbidity values of effluent and receiving water shall be determined. One sample shall be taken at a point representative of the discharge prior to its entering the receiving water. A second sample shall be taken of the receiving water upstream of the discharge point, or in the case of receiving waters with low or no flow, prior to discharge, at a location representative of the receiving water. Both samples shall be taken during the same day within a reasonable time frame (i.e., within 20 minutes to one-half hour).

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed, and calibration and maintenance of instrumentation, and recordings from continuous monitoring instrumentation shall be retained in Alaska for observation by the Department for three years. Upon request from the Department, the permittee shall submit certified copies of such records.

VI. NONCOMPLIANCE NOTIFICATION

- A. If, for any reason, the permittee does not comply with or will be unable to comply with any terms or conditions specified in this permit, the permittee shall report the noncompliance to the Department within 24 hours, or as soon as possible, of becoming aware of such conditions.
- B. A written follow-up report shall be sent to the appropriate Department office at the address below within seven days of the noncompliance event. The written report shall contain, but not be limited to:
1. Times and dates on which the event occurred, and if not corrected, the anticipated time the noncompliance is expected to continue.
 2. A detailed description of the event, including quantities and types of materials involved.
 3. Details of any actual or potential impact on the receiving environment or public health.
 4. Details of actions taken or to be taken to correct the causes of the event.
 5. Details of actions taken or to be taken to correct any damage resulting from the event.

Alaska Department of Environmental
Conservation
Northern Regional Office
Attn: Wastewater Section
610 University Ave.
Fairbanks, Alaska 99709-3643
(907) 451-2360
FAX: 451-2187

Alaska Department of Environmental
Conservation
Southeastern Regional Office
Attn: Wastewater Section
410 Willoughby Ave., Suite #105
Juneau, Alaska 99801
(907) 465-5350
FAX: 465-5362

Alaska Department of Environmental
Conservation
Southcentral Regional Office
Attn: Wastewater Section
3601 C Street, Suite #1334
Anchorage, Alaska 99503
(907) 563-6529
FAX: 562-4026

Alaska Department of Environmental
Conservation
Pipeline Corridor Regional Office
Attn: Wastewater Section
411 W 4th Ave., Suite #2-C
Anchorage, AK 99501
(907) 278-8594
FAX: 272-0690

VII. RESTRICTION OF PERMIT USE

The Department may prohibit or restrict use of this permit by a permittee because of noncompliance within this permit.

VIII. TRANSFER OF OWNERSHIP

In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Regional Environmental Administrator of the Department of Environmental Conservation at the address in Appendix A, Paragraph V of this permit.

APPENDIX B - GENERAL PERMIT CONDITIONS

I. ACCESS AND INSPECTION

The permittee shall allow the Commissioner or his/her representative access to the permitted facilities at reasonable times to conduct scheduled or unscheduled inspections or tests to determine compliance with this permit, State laws, and regulations.

II. INFORMATION ACCESS

Except where protected from disclosure by applicable state or federal law, all records and reports submitted in accordance with the terms of this permit shall be available for public inspection at the appropriate State of Alaska Department of Environmental Conservation Regional Office.

III. CIVIL AND CRIMINAL LIABILITY

Nothing in this permit shall relieve the permittee from any potential civil or criminal liability for noncompliance with the permit or with applicable law.

IV. AVAILABILITY

The permittee shall post or maintain a copy of this permit available to the public at the disposal facility.

V. ADVERSE IMPACT

The permittee shall take all necessary means to minimize any adverse impacts to the receiving waters or lands resulting from noncompliance with any limitation specified in this permit, including any additional monitoring needed to determine the nature and impact of the noncomplying activity. The permittee shall clean up and restore all areas adversely impacted by the noncompliance.

unseen
VI

CULTURAL OR PALEONTOLOGICAL RESOURCES

Should cultural or paleontological resources be discovered as a result of this activity, work which would disturb such resources is to be stopped, and the State Historic Preservation Office, Division of Parks and Outdoor Recreation, Department of Natural Resources (907) 762-2622, is to be notified immediately.

VIII. OTHER LEGAL OBLIGATIONS

This permit does not relieve the permittee from the duty to obtain any other necessary permits from the Department or from other local, state or federal agencies, and to comply with the requirements contained in any such permits. All activities conducted and all plans implemented by the permittee pursuant to the terms of this permit shall comply with all applicable local, state, and federal laws and regulations.

IX. POLLUTION PREVENTION

In order to prevent and minimize present and future pollution, when making management decisions that affect waste generation, the permittee shall consider the following order of priority options as outlined in AS 46.06.021:

- * waste source reduction,
- * recycling of waste,
- * waste treatment, and
- * waste disposal.

The permittee shall instruct personnel not to dispose of any wastes, including diesel, waste or spilled oil and solvents with drilling fluid wastes. These materials may be hazardous wastes and must be managed in compliance with 18 AAC 62..

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

STATE OF ALASKA
DIVISION OF MINING AND
WATER MANAGEMENT

TO: Jerry Imm
Director
Environmental Quality

DATE: January 5, 1995

THRU: Jules Tilleston
Director

TELEPHONE NO.: 762-2109

FROM: M.W. Henning
Mine Permitting

SUBJECT: Comments on Wastewater
Disposal General Permit
No. 9540-DB001

Division of Mining and Water Management appreciates the opportunity to comment on the Draft Wastewater Disposal General Permit No. 9540-DB001 being promulgated for 19 AAC 72.500, which covers the disposal of nondomestic wastewater. The division is aware of the impetus for this permit stems from drilling activities being conducted by Echo Bay at the AJ Mine and is in response to mine opponents complaints to the SE Region office of ADEC.

Until these issues were raised in relation to the AJ Mine Development ADEC considered these discharges as insignificant and ignored them. Examples of activities include mineral exploration drilling, pumping of marine bilges, road construction and maintenance activities. Various activities related to construction, mining, marine, and other miscellaneous routine activities result in small discharges to the land and/ or waters of the state. It is not possible to conduct most of these activities without some level of discharge and disposal. These materials are usually derived from natural materials, are non-toxic, and any additives are benign (for example, the common polymer additive used in mineral exploration drilling is approved by the EPA for potable water well drilling. These diminutive discharge and disposal practices present no significant environmental hazard. Because of this ADEC in the past has chosen not to regulate discharges from these activities.

In reviewing the draft permit many areas of concern have been identified, for example in the first paragraph of the General Permit the words "mineral exploration drilling" should be added before "mine drilling exploration." This might be a fine point, but they can be distinctly different operations. Might as well make it as broad as possible.

In IB four items listed were connected only by the word "or". Does this mean if only one of the criterion is met, but not the others an activity would still fall under the general permit.

IB3. This is a problem. Very few of the polymer additives commonly used in diamond drilling and water well drilling are on the NSF approved list. Most have Material Safety Data Sheets (MSDS) which document that they are non-toxic to life.

IIB,C. What is the precedent for these standards? Clean Water Act? No reference for the authority of these standards is cited.

IIA. Could be a costly problem. First, what happens if the discharge never enters the waters of the state. Does the applicant still have to monitor the stream to prove it.? Second, because most of the polymers are not on the NSF list they are not listed in I. B. Therefore everyone would be required to go through this monitoring scheme.

There are many additional areas of concern within the draft permit that need to be scrutinized more thoroughly before this permit is issued. We strongly urge ADEC to consider extending the comment period to adequately allow industry and agencies the opportunity to address the issues.

MEMORANDUM

STATE OF ALASKA

Department of Commerce and Economic Development

Division of Economic Development

To: Jerry Imm
Director, Environmental Quality

From: Albert H. Clough
Economic Development

Subject: Wastewater General Permit

Date: 9 January, 1995

Thank you for the opportunity to provide input on this important issue.

First of all, we remain concerned that ADEC is confining this issue to mineral exploration drilling and choosing to ignore other activities which generate similar types and levels of discharges to lands and waters of the state. The Division of Economic Development has maintained throughout this process that all similar activities should be exempt from permit requirements. Nevertheless, if ADEC is going to single out one activity, such as mineral drilling, then all activities which generate similar discharges to lands and waters of the state should be required to undergo similar scrutiny and permit requirements.

Following are comments specific to the various sections of the ADEC Draft Wastewater General Permit (Permit No. 9540-DB001).

The requirement of a 30-day public notice period on an individual disposal permit is unreasonable. Such a requirement will effectively prohibit exploration drilling on a variety of programs throughout the State. It is commonplace for surface exploration to delineate drill targets throughout the exploration season. Such a 30-day notice placed upon a program late in a season could readily exceed the time available for normal summer exploration season activities. Further, the opened ended stipulation of "additional time for processing the application" is especially troubling. Should an individual disposal permit be required the notice and review time should not exceed 5 working days.

Appendix A- Specific Permit Conditions

I. Notice of Disposal

- A. As already indicated, this 30-day requirement is unreasonable.
- B. This section is unclear. Are all 4 stipulations required to be met in order to qualify for the General Permit, or only 1 of the stipulations? Is the National Sanitation Foundation the only authority to certify drilling additives; what about EPA approvals, or MSDS information which clearly shows the additive to be benign. Further, once an additive is approved for use by ADEC will this additive be added to the approved list so that subsequent applicants and ADEC will not have to duplicate the review and approval process. Finally, what is the basis for 500 gallons/ acre/ annum? If discharges are demonstrated to be benign and not contaminating receiving waters why is a annual volume restriction necessary?
- C. Disposal Notice. Item 4 needs to be revised to allow for flexibility. It is not reasonable to hold drilling or other minor discharges to an exact date or flow rate. The requirement should specify an estimated window of operations. Similarly, flow rates will be only an estimate until such time as actual drilling or excavation commences. Further, such flows likely will change through the drilling of the hole (most commonly decrease). Item 5, the approved additive list remains of great concern. As previously mentioned ADEC should check to see what EPA approvals may already exist as well as utilization of the information presented on the MSDS to grant approval.
- D. ADEC needs to check to verify what sort of pre-approvals are acknowledged through EPA procedures.

II. Limitations; no comment.

III. Monitoring:

This section specifies that wastewater will be monitored where it enters water of the state. Is it correct to presume that so long as discharges do not directly enter waters of the state that no monitoring is required? By way of process; in the vast majority of cases discharges from mineral related drilling are low volume, confined to the drill site area, and will readily percolate into the ground, therefore do not discharge into waters of the state. Should this be the case; these monitoring requirements and characteristic may be workable. However, if discharges confined at the drill site need such monitoring these parameters are unreasonable.

IV. Management Practices, no comment.

V. Records Retention:

The three year record retention requirement in Alaska is not workable. The company doing the work may not have an office in Alaska for one. To require the establishment of an office purely for the purposes of storing monitoring records is unreasonable. I would suggest that any records be required to be retained for the period of one year, with no location specified.

VI. Noncompliance notification, no comment.

VII. Restriction of permit use, no comment.

VIII. Transfer of ownership, no comment.

Appendix B- General Permit Conditions, no comment at this time.

Summary

This proposed General Permit has many problems. Comments presented in this memorandum are intended to highlight only some of the more significant concerns. The Department of Environmental Conservation is urged to solicit input from all affected parties prior to issuing this general permit. Finally, as already indicated, if ADEC feels compelled to move this permit process ahead then it needs to be inclusive and not just a punitive measure directed at the minerals drilling industry.



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FEB 16 1995

February 7, 1995

Representative Bill Williams
Co-Chairman, House Resources Committee

Dear Mr. Williams,

I whole heartedly support H.B. 128. I am a drilling contractor in Fairbanks, Alaska and understand the negative implications of selective enforcement of A.S. 46.03.100. The matter of permitting drilling waste water discharge is of great concern to me and others in the drilling fraternity in Alaska. H.B. 128 will help limit a statute written to broadly.

Sincerely,

Rocky MacDonald

To: Jack Phelps
Fx: 1-907-465-3793

Fr: Blair Wondzell
Ph: 1-907-279-1433
Fl: COMHS129

Jack, as we discussed on the 16 th, I provide the following information.

Under the Federal 1974 Safe Drinking Water Act (SDWA), underground injection of fluids was divided into 5 classes: I. industrial and municipal waste; II. injection associated with oil & gas development; III. extraction mining; IV. hazardous or radioactive wastes; and, V. injection that does not fit in the other categories. The AOGCC obtained primary responsibility over Alaska's Class II injection wells on June 19, 1986.

The AOGCC regulates all Class II injection and disposal operations in Alaska under a Memorandum of Agreement (MOA) with EPA, Region X, dated January 29, 1986, revised, November 22, 1991. Fluids which can be disposed of are non-hazardous oil field wastes; paragraphs 9 and 11 of the revised MOA refer to 40 CFR Part 261 to define non-hazardous oil field wastes.

It would make our regulation of the annular pumping much easier if the same definition of "non-hazardous" fluids could be used as we are required to use for management of Alaska's Class II, UIC Program. The definition could reference either the MOA or 40 CFR, Part 261; we would prefer the MOA reference.

Jack we appreciate this opportunity to comment on these anticipated regulation changes. If I can provide additional information, please call me - 907-279-1433.

Blair Wondzell



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 276-0347

February 24, 1995

Honorable William Williams
Co-Chairman
House Natural Resources Committee
State Capitol
Juneau, AK 99801-1182

RE: CSSH-128(RES), Drilling Wastes

Dear Representative Williams,

On behalf of the Alaska Miners Association I wish to go on record in support of House Bill 128 dealing with discharge of drilling and other incidental wastes. This issue is very important for exploration, construction, landscaping, and any other commercial activity that results in disturbance of the ground.

This bill will correct a technicality in the existing statute and maintain the status quo regarding minimal discharges. Without the changes proposed in this bill, a special additional permit is required for any commercial activity that causes a surface disturbance. This would include water well drilling, mineral exploration drilling, construction foundations, landscaping, ditching, trenching and similar activities.

This is a prime example of an area where requirements exist that add to the permitting burdens for industry without providing any benefit. This is also the type of item that Governor Knowles has indicated he wants to see corrected. There is no evidence that there is a problem with these discharges. The status quo has worked for years without harm to the environment and changing the statute as proposed in this bill will keep the current practice in place.

Thank you for sponsoring this bill and we urge its rapid passage so the affected activities will not need to obtain a permit for the immediate future exploration and construction season.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Governor Tony Knowles

February 24, 1995

Representative William K. Williams
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: CSSSHB-128

Dear Representative Williams:

I wish to go on record favoring CSSSHB-128. It benefits the State by clarifying the line of authority between the Alaska Oil & Gas Commission and the Department of Environmental Conservation. The apparent overlap between the two agencies has in the past resulted in some disagreement.

More importantly, it puts into law a logical and usual practice concerning the need for a permit for certain solid and liquid waste discharges.

Where such discharges are benign there should be no need for a permit. Unfortunately, the current law does not provide for an exception, and some individual State employees have required a permit. This bill, if enacted, should not only clarify the requirement, but would help advertise Alaska's invitation to explore for minerals and drill for water. Such industries would provide not only high paying jobs, but income to the State during the time oil revenues are falling.

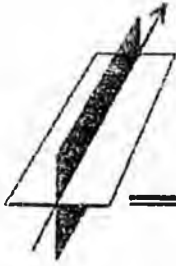
Again, I favor passage of CSSSEB-128, and thank you for introducing the original bill.

Sincerely,



George R. Schmidt
2356 Sonstrom Drive
Anchorage, Ak 99517

Phone: 1-907-243-0644



ON-LINE EXPLORATION SERVICES, INC.

11976 WILDERNESS DR. ANCHORAGE, AK 99516-2238
(907) 345-4815 (907) 345-1987 Fax

February 26, 1995

Rep. Bill Williams, Chairman
House Resources Committee
Alaska State Legislature
Juneau, Alaska 99801-1182

RE: HB 128

Dear Representative Williams:

Thank you for introducing HB 128. HB 128 will amend AS 46.03.100 to exempt certain activities associated with mineral exploration, well drilling or transportation from the requirements of obtaining a waste disposal permit. The activities listed in the bill create only minimal disturbances and are not a significant impact on the environment.

The State needs to encourage resource development, not require a permit for each stone overturned. Swift passage of the bill will affirm the State's commitment to encourage responsible resource development.

I wish to thank you and the Resource Committee for your efforts to ease unnecessary regulatory burdens and encourage the Committee's strong support for HB 128.

Sincerely,

Kevin P. Adler, P.E.
Vice President



ALASKA EARTH SCIENCES

February 27, 1995

Representative Bill Williams
Alaska State Legislature
State Capitol (MS 3100)
Juneau AK 99801-1182

Representative Williams,

I would like to express my support for House Bill No. 128, specifically the language which exempts mineral trenching and drilling from additional regulation. Certain language proposed as part of the Alaska DEC permit process would have provided unnecessarily burdensome controls over activities such as the discharge of minor flows of diamond-drill drilling water. Drill sizes and water flows are very small compared to oil and gas drilling, and in general mineral-drill discharge consists of water, rock dust, and heavily diluted drill additives which are environmentally benign.

As an active exploration geologist and a director of the Anchorage Branch of the Alaska Miners association, I will actively support regulations and procedures which will prevent, minimize, or reclaim unnecessary damage to the environment by mineral exploration or mining activities. I do, however, strongly object to overly complicated or burdensome regulation which serves no meaningful environmental purpose. In my opinion House Bill 128 forestalls potential regulation of this type.

Sincerely,

Toni K. Hinderman
Consulting Exploration Geologist

11341 Olive Lane, Anchorage, Alaska 99515

Phone: (907) 522-4864 Fax: (907) 349-3557

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Resource Development Council for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035
Phone 907/276-0700 Fax 276-3887

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RDC Comments on HB 128 February 27, 1995

The Resource Development Council supports HB 128, "An Act relating to the disposal of wastes: giving the Alaska Oil and Gas Conservation Commission authority to regulate disposal in the annular space of an oil or gas well of drilling mud, cuttings, and nonhazardous drilling operation wastes, and exempting the disposal of those wastes from the requirement of a waste disposal permit issued by the Department of Environmental Conservation; and establishing an exemption from the requirement of obtaining a waste disposal permit from the Department of Environmental Conservation for certain activities that yield solid and liquid waste material discharges and cooling water discharges."

The Resource Development Council is a long-time proponent of providing a regulatory regime within the State of Alaska that ensures environmental protection while at the same time providing regulations that are realistic and necessary.

RDC supports HB 128, which would provide a general exemption for discharges which are incidental to activities such as mineral drilling and trenching, well drilling, or road and facility construction.

RDC is a statewide, membership-funded, non-profit, pro-development organization working on behalf of Alaska's basic industries, including oil and gas, mining, timber, fishing and tourism. RDC's membership includes the aforementioned industries, as well as the sectors which support those industries, such as construction, labor and other technical service providers, individuals, Native corporations, communities and a wide variety of Alaska interests.

Providing a general exemption for incidental discharges, not a point source, allows for environmental protection while reducing the regulatory burden on industries already complying with multiple regulatory and environmental permits and standards.

RDC comments on HB 128

February 24, 1995

Under existing law there are no provisions for an exemption regardless of how minimal or benign the deposit may be. Incidental discharge regulations may be administered inconsistently given changes in department personnel and political agendas. Providing the exemption in statute restores the status quo which has worked for years without harm to the environment and ensures that this exemption will not be at risk in the future.

It's important for the State to provide regulatory incentives to resource development activities. The industries which will be affected by this discharge exemption are vital to the economy of Alaska.

RDC believes HB 128 sends a refreshing message to Alaska's resource development community that the State of Alaska is cognizant of the burdensome nature and potential economic hardships environmental regulations can impose upon resource projects and to the private development sector in general.

RDC commends Representative Williams for a bill that makes good environmental, regulatory and economic sense. RDC hopes this bill is passed expeditiously by the Nineteenth Alaska State Legislature.

Thank you for the opportunity to submit comments on HB 128.

February 27, 1995

COOK INLET REGION, INC.

Honorable William K. Williams
Co-Chairman, House Resources Committee
State Capitol
Juneau, AK 99801-1182

VIA FAXCOM 907-465-3793

Dear Representative Williams:

I am writing to express my support for HB 128 which provides a statutory alternative to the General Permit (GP) for drilling wastes proposed by the Alaska Department of Environmental Conservation (ADEC). ADEC's proposed GP, which would selectively apply to the drilling industry, derives from the permitting requirements of AS 46.03.100 which requires a permit for any disposal of solid or liquid waste into the waters or onto the lands of the state. The proposed GP would create additional regulatory compliance burdens for drilling programs where no environmental problem has been shown to exist.

HB 128 adopts the reasonable approach of providing a general exemption for discharges which are incidental to drilling, trenching and construction activities and not directly discharged into waters of the state. It would remove the need for yet another permit that would do little, if anything, to protect the state's environment. By streamlining the permitting process, it would promote responsible resource development and would help ease the work load on state agencies charged with the administration of environmental permitting. HB 128 makes good sense for industry and government alike and I strongly support its passage.

Sincerely,

COOK INLET REGION, INC.


Thomas C. Crafford
Manager, Minerals and Coal

cc G. Booth
C. Marrs
L. Kimball

Mr. Kyle Brown
Discovery Drilling Inc.
Box 111165
Anchorage, Alaska 99511-1165

EB 2:3 1995

February 20, 1995

Representative Williams
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Williams,

I'm writing today to offer total support of pending HB 128. I feel that some background information is critical to understanding the value of this legislation.

Alaska Statute 46.03.100. states, in so many words, that all solid or liquid discharges to the lands or waters of the state shall procure a permit. This requirement has gone largely unenforced since its inception. Recently, pressure from a certain special interest group, has been brought to bear on A.D.E.C. to enforce this statute on a specific industry. This pressure brought into existence a proposed drilling wastewater permit (Permit No. 9540-DB001). The problems with this proposed permit are many;

- The proposed permit targets a specific industry and ignores all others.
- The proposed permit is not based on any specific hazard. It is in response to a political need.
- The proposed permit shows a blatant lack of any cost benefit analysis.
- The proposed permit is far more complicated, expensive and burdensome than what should be required for operations with, as the permit states, "minimal environmental impact and no perceived risk to human health".
- The permit is unnecessary in light of the fact that there are already laws in effect that prohibit any pollution of state lands or waters that are enforced.
- A.D.E.C. representatives have verbally stated that the only affected parties will be the targeted group and that other drilling concerns (water well drillers etc.) need not be concerned about enforcement.
- The statute is far too broad. All discharges are included without regard to their size, source or harmless nature.

As a drilling contractor, we would be adversely affected by this permit, however our clients (engineering firms) and their clients would suffer the most from the unnecessary time delays, paperwork, monitoring and lab costs required by this permit, as they are the ones who would ultimately have to deal with these issues.

The proposed permit is clearly not representative of responsible government policy. I feel that HB 128 goes a long way to addressing the overly broad nature of the statute and concurrently deals with A.D.E.C.'s need to respond to the special interest group in question.

Thank you very much for your time in this matter. Please contact me at your convenience if you have any questions or if I can help in some other way to help with this issue.

Very Truly Yours,



Kyle Brown
Discovery Drilling Inc.

February 27, 1995

To: Representative Bill Williams

From: Anita Williams

Anita Williams

Subject: Support for HB-128

I want to thank you for taking the steps to introduce HB-128 concerning drilling wastes. Government has become so encumbered with useless rules and regulations that it is difficult to concentrate on the important issues and problems. By sponsoring this bill you are making an important statement that government need to focus its energies on solving real problems, not making rules and regulations just because it can.

Thank you for your efforts. Keep up the good work.

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| | |
|---------------------------|-----------------------------|
| To <i>Bill Williams</i> | From <i>Anita Williams</i> |
| Co. <i>State House</i> | Co. |
| Dept. | Phone # <i>907-562-0709</i> |
| Fax # <i>907-465-3793</i> | Fax # <i>907-563-7559</i> |



AMBLER EXPLORATION INC.
CONTRACT DRILLING & EXPLORATION SERVICES

1310 W. INTERNATIONAL AIRPORT ROAD, UNIT B
ANCHORAGE, ALASKA 99518

TEL (907) 662-6263
FAX (907) 662-0264

February 27, 1995

William K. "Bill" Williams
House District 1
State Of Alaska
P.O. Box 6374
Ketchikan, Alaska 99901

Re: HB-128 (Drilling Wastes)

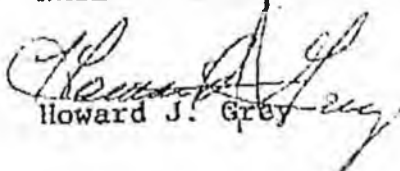
This letter is to acknowledge our support for HB-128 which resolves the issue of discharge from drilling operations. I understand this was initially raised to penalize or target a single operation. Your perserverance in helping to legitimize the permitting and regulatory process is appreciated.

Industry's faith in Alaska is at a low ebb with investment dollars continuing to go overseas where a more temperate investment climate prevails. We need to send a message that Alaska is not adverse to development of our natural resources and that we need to foster such development if we are to continue to provide employment opportunities, social programs and an acceptable lifestyle.

Again, thank you for your assistance.

Sincerely,

AMBLER EXPLORATION, INC.


Howard J. Grey

Howard J. Grey
1927 West 13th Avenue
Anchorage AK 99501
(907) 272-2617

February 27, 1995

Via Fax 907-465-3793
1 Page to Transmit

William K. "Bill" Williams
House District 1
State of Alaska
PO Box 6374
Ketchikan AK 99901

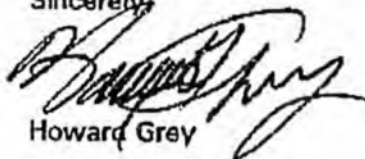
RE: HB-128 (Drilling Wastes)

Dear Representative Williams:

Thank you for introducing HB-128. This legislation will correct any misinterpretation with regard to permitting of drilling operations, for what amount to low volume discharges.

I appreciate your assistance in watching over the regulatory process.

Sincerely,



Howard Grey

HG:las



February 17, 1995

FEB 27 1995

Representative Bill Williams
Room 128
State Capitol
Juneau, AK 99811-1182

FEB 27 1995

Dear Representative Williams:

This letter is written to express our support of your proposed HB 128 establishing an exemption to the requirement of obtaining a waste disposal permit for certain activities, etc. The proposed draft regulations by the DEC that is obviously directed at exploration drilling; it is onerous, ridiculous, and would be nothing more than one more "road block" for miners and mining companies. Your proposed bill would fix this dilemma. I applaud your actions.

Yours truly,

Richard A. Hughes, P. E.
Project Manager



NANA REGIONAL WATER CORPORATION, INC.

101 E. BERTON BOULEVARD, ANCHORAGE, ALASKA 99501
TELEPHONE (907) 265-4100



February 26, 1995

Honorable William K. Williams
Co-Chairman House Resources Committee
State Capitol
Juneau, AK 99801

Dear Rep. Williams:

This letter is in express support from both NANA and its subsidiary NANA/Dynatec for HB 128. This is a very viable alternative to the proposed general permit for incidental wastes from drilling programs. The proposed general permit would create additional regulations for programs in which no environmental problems have been shown to exist. The ADEC has a lot of real problems with which to deal and should be allowed to channel their efforts into things such as safe water, sewage disposal and land fills in communities and villages.

Thank you for your time and effort in sponsoring HB-128. It is a very reasonable and responsible approach to solve the present dilemma.

Sincerely,

Anita Williams
Senior Geologist

cc J. Rense
J. Schaeffer

| | | |
|---|----------------------|-----------|
| Post-Net Form for Transmittal (Form 7571) | | Processed |
| TO: William K. Williams | FROM: Anita Williams | |
| CO: State House | ORG: NANA | |
| DEPT: | PHONE: 907-583-7079 | |
| FAX: 907-465-3770 | FAX: 907-465-7559 | |



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February 28th, 1995

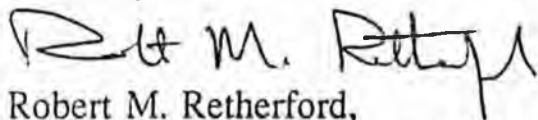
Representative Bill Williams
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK, 99801-1182

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Sincerely,



Robert M. Retherford,
Senior Exploration Geologist