

**HB**

**360**

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIALT

P.O. Box 55326  
North Pole, Alaska 99705  
(907) 488-0862

House District 33



White in Juneau  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797

## House Of Representatives

**House Bill 360:**

"An Act prohibiting the Department of Environmental Conservation from including an administrative fine in certain consent orders or other agreements."

**Sponsor:**

Representative Gene Therriault

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### Sponsor Statement

This legislation is intended to halt a practice currently in use by the Department of Environmental Conservation that allows the agency to levy fines without having the specific statutory authority to do so. Under current law, DEC has broad authority to "enter into contracts necessary or convenient to carry out the functions, powers and duties of the department." Under that authority, DEC can issue a "consent order" that functions as a contract with an entity the DEC believes has violated an emission standard or law. In the contract, DEC agrees to forgo other remedies in return for the agreement of the other party to abate the alleged pollution and pay a fine for past alleged pollution. Although this practice could possibly hold up in court if challenged, I do not believe it is appropriate as a policy matter for an agency to levy administrative fines and penalties when the Legislature has chosen not to grant them that specific power.

## Sectional Analysis

**House Bill 360**, "An Act prohibiting the Department of Environmental Conservation from including an administrative fine in certain consent orders or other agreements.

**Section 1** Adds a new section that prohibits the Department of Environmental Conservation from including in a consent order a provision that requires the other party to pay a fine for a violation or alleged violation under AS 46.03.

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## House Of Representatives

To: Representative Joe Green  
Chairman, House Resources Committee

From: Representative Gene Therriault 

Date: February 13, 1996

Re: Hearing Request for House Bill 360

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I would like to request a hearing for House Bill 360, "An Act prohibiting the Department of Environmental Conservation from including an administrative fine in certain consent orders or other agreements."

This legislation is intended to halt a practice currently in use by the Department of Environmental Conservation that allows the agency to levy fines without having the specific statutory authority to do so.

Attached to this memorandum are a Sponsor Statement and Sectional Analyses. I would appreciate consideration of this bill at the Committee's earliest convenience. Thank you.

STATE OF ALASKA  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF ENVIRONMENTAL HEALTH  
DRINKING WATER PROGRAM

ALASKA DEPARTMENT OF )  
ENVIRONMENTAL CONSERVATION )  
 )  
Complainant, )  
 )  
vs. )  
 )  
 )  
Respondent )  
\_\_\_\_\_ )

COMPLIANCE ORDER BY CONSENT

C.O. # \_\_\_\_\_

The Alaska Department of Environmental Conservation ("department") and \_\_\_\_\_ ("respondent" or "\_\_\_\_\_") enter into this Compliance Order by Consent, stipulating and agreeing that:

1. Respondent is responsible for the Class A public water system serving the \_\_\_\_\_ (Public Water System Identification Number \_\_\_\_\_) plant, located in \_\_\_\_\_, Alaska.

2. Respondent is providing water through this public water system from a surface water source that is not filtered.

3. The U. S. Environmental Protection Agency, in consultation with the department, notified \_\_\_\_\_ in writing on March 12, 1992 that it could not continue to provide unfiltered surface water after June 29, 1993.

4. The department notified \_\_\_\_\_ in writing on December 29, 1992, that this water system will be required to comply with the Surface Water Treatment Rule's adequate filtration and disinfection requirements.

5. \_\_\_\_\_ wrote to the department on November 4, 1993, requesting an extension, for one year from the date of the letter, to purchase and install the necessary equipment.

6. \_\_\_\_\_ wrote to the department on October 3, 1995, requesting another extension, until August 31, 1996, to complete the construction and installation of the required drinking water system and to comply with the rule.

7. The department alleges that the \_\_\_\_\_ failed to sample the public water system for:

a. volatile organic chemicals, once every year as required by 18 AAC 80.200; annual sampling was missed in calendar year 1994.

b. lead and copper, a set of five samples for two consecutive six months as required by 18 AAC 80.850; samples were missed during the initial monitoring period, July 1, 1993 - June 30, 1994.

8. The department further alleges that the Respondent failed to notify all persons served by this public water system of these violations and of their failure to monitor, as required by 18 AAC 80.900.

9. \_\_\_\_\_ past and future provision of unfiltered surface water through its \_\_\_\_\_ public water system has been

and will be in violation of at least AS 46.03.720 and Alaska's Drinking Water Regulations, 18 AAC 80, including but not limited to 18 AAC 80.500, 80.501, 80.505, 80.510, 80.530, 80.540, 80.560, 80.580.

10. In consideration of the Department's promise to refrain from pursuing administrative compliance order proceedings under AS 46.03.850, \_\_\_\_\_ stipulates and agrees to the conditions of this Compliance Order by Consent.

11. \_\_\_\_\_ shall, by no later than June 15, 1996, begin construction of the improvements as described according to the engineering plans it has already submitted to the department and which the department approved on March 2, 1995.

12. \_\_\_\_\_ shall, beginning within 30 days of the effective date of this Compliance Order by Consent, submit progress reports to the department on a monthly basis. Reports shall outline accomplishments and problems encountered while fulfilling the requirements of this compliance order. The reports are to be submitted within 10 days of the end of each month to:

Alaska Department of Environmental  
Conservation  
555 Cordova St.  
Anchorage, AK 99501

13. The Respondent shall, by November 1, 1996, have completed installation of the public water system for the \_\_\_\_\_ plant approved in the department's approval letter of March 2, 1995

and this system shall be at that time physically and legally capable of operation.

14. The Respondent shall, by December 1, 1996, submit to the department As-Built Plans under 18 AAC 80.350, signed by an Alaskan registered engineer which meet all the conditions stated in the department's March 2, 1995 approval letter.

15. The Respondent shall collect water samples for analysis by a certified drinking water laboratory, by March 15, 1996 for:

a) coliform bacteria, in accordance with 18 AAC 80.605. Respondent shall continue taking samples for coliform bacteria during the first week of every month. If any monthly sample is found to contain either (a) any coliform bacteria or (b) other bacteria in amounts too numerous to count, the Respondent shall submit repeat or additional samples as directed by the department.

b) volatile organic chemicals (VOC's), in accordance with 18 AAC 80.200. If VOC's are detected in any of the samples, monitoring must be repeated as required by the department.

16. The Respondent, as required by 18 AAC 80.530, shall provide interim disinfection treatment that will provide a residual disinfection concentration in the water entering the distribution system not less than 0.8 mg/l. The daily chlorine and turbidity readings should be submitted to the department within ten days after the end of the month during which the samples were taken.

17. The Respondent shall collect water samples for analysis by a certified drinking water laboratory, by June 30, 1996, for lead and copper, in accordance with 18 AAC 80.850. A second set of samples shall be collected before December 31, 1996.

18. All schedules contained herein will be considered enforceable conditions under the terms of this order.

19. If, for any reason, Respondent is unable to comply with a term or condition of this order, including a time deadline, or should Respondent anticipate a future cause for noncompliance, Respondents shall immediately notify the department in writing with a detailed explanation of the condition or conditions and Respondents' proposal to remedy the violation and a timetable for compliance. If Respondent establishes the grounds for noncompliance to the satisfaction of the department, Respondent's obligation to meet the applicable requirement may be extended or altered as the department, in its discretion, deems warranted.

20. In the event that Respondent fails to meet any deadline or other condition contained in this order, Respondent shall pay to the department stipulated penalties as follows:

(a) if Respondent fails to complete installation in accordance with paragraph 13, above, Respondent shall immediately owe and pay to the department \$4,000.

(b) if Respondent fails to collect or submit water samples or water analysis reports as outlined in this Compliance Order By Consent or as routinely required of a Class A public water system, Respondent shall pay \$500 for

each monitoring violation incurred. This subparagraph shall apply to water samples or water analysis reports which are required to be submitted prior to February 1, 1998.

(c) if Respondent fails to comply with any other deadline or condition of this Compliance Order by Consent and Respondent thereafter operates the \_\_\_\_\_ plant, Respondent shall immediately owe and pay to the department \$500 per day for each day the system operated in noncompliance with the deadline or condition.

\_\_\_\_\_ that the stipulated penalties set forth in this paragraph do not preclude the department from electing to pursue and are in addition to any other remedies or sanctions available to the department as a result of Respondent's breach of this compliance order.

21. Respondent acknowledges and agrees that this Compliance Order by Consent constitutes an order of the department for all purposes, including but not limited to the purposes of AS 46.03.765, AS 46.03.760, AS 46.03.790 and AS 46.03.850, and that should any provisions of this Compliance Order by Consent not be met, including any provision of any plan submitted and approved pursuant to this Compliance Order, the department may initiate legal proceedings for such breach, and may seek enforcement of this order, including but not limited to actions for specific performance, injunctive relief, damages, and/or costs. The Respondent agrees to pay the department's full attorney fees should the department prevail in such an action. Additionally or

alternatively, in its sole discretion, the department may pursue formal administrative action and/or may file a suit for injunctive relief, civil penalties, and/or for damages under AS 46 03.760 or AS 46.03.822, and/or may pursue criminal penalties under AS 46.03.790, and/or may pursue any other appropriate relief under any other provision of law.

22. In the event of Respondent's breach of a provision of this Compliance Order by Consent, Respondent consents to the entry of temporary and/or preliminary injunctive relief against it for the purpose of enjoining such violation. Respondent agrees that the department may apply to and obtain such injunctive relief from the Superior Court for the State of Alaska without a showing of imminent threat of continued violation or probable success on the merits, or the necessity of demonstrating physical irreparable harm, but must only show the violation of this Compliance Order by Consent.

23. The department expressly reserves its right to initiate any administrative or legal proceeding related to any violation, including a proceeding for injunctive relief and civil penalties and/or damages under AS 46.03.760 or AS 46.03.765 or any combination thereof and for criminal penalties under AS 46.03.790 and for any other appropriate remedy for any violation arising from the events alleged herein (except as provided in paragraph 10, above) or for any future violation. In addition, the department reserves the right to initiate appropriate legal action as to any matter if subsequently discovered events or conditions constitute

an immediate threat to public health, public safety, or the environment, whether or not the department may have been able to discover the event or condition prior to entering into this Compliance Order by Consent.

24. This Compliance Order by Consent is not and shall not be construed to be a waiver of any cause of action or regulatory authority which may be claimed or exercised by any agency or department of the State of Alaska other than the Department of Environmental Conservation. Respondent recognizes that it may be subject to additional requirements imposed by other local, state, or federal agencies.

25. This Compliance Order by Consent does not affix or otherwise affect obligations, liabilities, claims, defenses, or rights as between Respondent and any other party potentially responsible for the \_\_\_\_\_ public water system.

26. Respondent acknowledges by execution of this compliance order that it is waiving rights it may have were the department to issue a mandatory compliance order under AS 46.03.850 and 18 AAC 95, including the right to an adjudicatory hearing and judicial review of the department's determinations in this matter, and that these rights are knowingly and voluntarily waived.

27. Nothing in this Compliance Order by Consent shall be construed as altering Respondents' existing or future obligations to monitor, record, or report information required under any environmental or public health laws, regulations or permits, or to allow the department access to such information.

28. Respondent hereby expressly grants the department access to its \_\_\_\_\_ Class A public water system for inspection of the system and the records of the system's operation at any time during any business day without any prior notice.

29. The State of Alaska shall not be held as a party to any contract entered into by Respondent related to activities conducted pursuant to this compliance order by consent.

30. Respondent agrees to hold the State of Alaska and its representatives, agents, and employees harmless and to indemnify and defend the State of Alaska against all claims (including but not limited to legal, equitable, or administrative claims), liabilities, losses, and damages, and costs awarded or incurred, including attorney fees, and against all claims and actions (including but not limited to legal, equitable, or administrative claims and actions), whether wrongfully brought or not, for injury to or death of persons and loss of or damage to property arising out of or in any manner connected with the incidents which give rise to this Compliance Order by Consent, except for any claims arising out of the sole negligence of the State.

31. Respondent agrees that this Compliance Order by Consent shall apply to and bind their agents, heirs, assigns, and successors and all persons, contractors, and consultants acting on their behalf. If Respondent transfers, sells or leases the premises described in paragraph one to another party prior to Respondents' fulfillment of the provisions of this order,

Respondent shall incorporate a copy of this order into the documents of transfer or lease, and shall provide in those documents that the new owners or lessees shall take or lease subject to the terms and conditions of this compliance order; however, respondent's failure to comply with this procedure shall not relieve any new owner or lessees from liability as Respondents' successor.

32. This compliance order by consent may be modified by the written agreement of the parties. No amendment is valid unless approved in writing by the Director of the Environmental Health Division of the department or his/her written designee.

33. A failure to enforce any provision of this compliance order by consent in no way implies a waiver of the department's right to insist upon strict performance of the same or other provisions in the future.

34. The Effective Date of this Compliance Order by Consent shall be the date the Order is signed by Respondent and the department.

35. It is the intent of the parties hereto that the clauses of this Order are severable and should any part of it be declared by a court of law to be invalid and unenforceable, the other clauses shall remain in full force and effect.

36. This Compliance Order by Consent shall expire upon final approval by the department of the \_\_\_\_\_ system as outlined in the department's March 2, 1995 approval letter.

DEPARTMENT OF ENVIRONMENTAL

CONSERVATION

Dated: \_\_\_\_\_, 1996

By: \_\_\_\_\_

Director, Environmental Health  
State of Alaska  
Department of Environmental  
Conservation

ASSENT OF COUNSEL

Approved as to legality and form.

BRUCE M. BOTELHO  
ATTORNEY GENERAL

Dated: \_\_\_\_\_, 1996

By: \_\_\_\_\_

Assistant Attorney General

I, \_\_\_\_\_, hereby certify that I have  
authority to enter into agreements and to otherwise legally bind  
\_\_\_\_\_ and that on behalf of \_\_\_\_\_, I have freely  
and voluntarily entered into this agreement with the State of  
Alaska, Department of Environmental Conservation.

DATED: \_\_\_\_\_

By: \_\_\_\_\_

SUBSCRIBED AND SWORN before me this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 1995, at \_\_\_\_\_, Alaska.

\_\_\_\_\_  
Notary Public, State of Alaska  
My Commission Expires: \_\_\_\_\_

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(c) Subject to the \$500,000,000 maximum set under (a) of this section the court shall assess four times the penalty set out in (a) of this section if the court finds

(1) the discharge was caused by the gross negligence or intentional act of the defendant;

(2) the defendant did not take reasonable measures to contain and clean up the discharged oil; or

(3) the defendant did not act or respond in accordance with an approved oil discharge prevention and contingency plan.

(d) Notwithstanding AS 46.03.875, a person liable for civil penalties under this section is not also liable for the discharge of the crude oil under AS 46.03.760(a). A person causing or permitting a discharge of crude oil of 18,000 gallons or less not permitted under applicable state or federal law is liable for that discharge under the penalty provisions of AS 46.03.760(a); however, the court may impose a penalty of less than \$500 for the discharge.

(e) The court may reduce the penalty imposed under this section if the defendant demonstrates, by a preponderance of the evidence, that the discharge was caused solely by a negligent act of a third person unless the third person is a person with whom the defendant was found jointly and severally liable for the discharge under other state law.

(f) A person otherwise liable for penalties under this section is not liable if the person demonstrates, by a preponderance of the evidence, that the discharge occurred solely as a result of

(1) an act of God;

(2) a negligent or intentional act of the State of Alaska or the United States; or

(3) an act of war.

(g) In this section, "discharge" means entry of crude oil into or upon the water or public land of the state, regardless of causation, except discharges into an enclosed and impervious oil spill containment area. (§ 3 ch 41 SLA 1989; am § 2 ch 191 SLA 1990)

Revisor's notes. — The introductory language of (c) of this section was reorganized in 1989 to conform to the style of the Alaska Statutes.

**Sec. 46.03.760. Civil action for pollution; damages.** (a) A person who violates or causes or permits to be violated a provision of this chapter other than AS 46.03.250 — 46.03.314, or a provision of AS 46.04 or AS 46.09, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under this chapter or AS 46.04 or AS 46.09 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial

violation, nor more than \$5,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, which shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance discharged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged.

(b) Except as determined by the court under (e)(4) of this section, actions under this section may not be used for punitive purposes, and amounts assessed by the court must be compensatory and remedial in nature.

(c) The court, upon motion of the department or upon its own motion, may defer assessment of all or part of that portion of the sum imposed upon a person under (a)(3) of this section conditioned upon the person complying, within the shortest feasible time, with the requirement for which a violation is shown.

(d) In addition to liability under (a) — (c) of this section, a person who violates or causes or permits to be violated a provision of AS 46.03.740 — 46.03.750 is liable to the state, in a civil action brought under AS 46.03.822, for the full amount of actual damages caused to the state by the violation, including

(1) direct and indirect costs associated with the abatement, containment, or removal of the pollutant;

(2) restoration of the environment to its former state;

(3) amounts paid as grants under AS 29.60.510 — 29.60.599 and as emergency first response advances and reimbursements under AS 46.08.070(c); and

(4) all incidental administrative costs.

(e) A person who violates or causes or permits to be violated a provision of AS 46.03.250 — 46.03.314, AS 46.14, or a regulation, a lawful order of the department, or a permit, approval, or acceptance, or term or condition of a permit, approval, or acceptance issued under AS 46.03.250 — 46.03.314 or AS 46.14 is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$10,000 for each day after that on which the violation continues, and that shall reflect, when applicable,

(1) reasonable compensation in the nature of liquidated damages for any adverse environmental effects caused by the violation, that shall be determined by the court according to the toxicity, degradability and dispersal characteristics of the substance dis-

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liquidated damages y the violation, that g to the toxicity, the substance dis-

charged, the sensitivity of the receiving environment, and the degree to which the discharge degrades existing environmental quality; for a violation relating to AS 46.14, the court, in making its determination under this paragraph, shall also consider the degree to which the discharge causes harm to persons or property; this paragraph may not be construed to limit the right of parties other than the state to recover for personal injuries or damage to their property;

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation;

(3) the economic savings realized by the person in not complying with the requirement for which a violation is charged; and

(4) the need for an enhanced civil penalty to deter future noncompliance.

(f) As used in this section, "economic savings" means that sum which a person would be required to expend for the planning, acquisition, siting, construction, installation and operation of facilities necessary to effect compliance with the standard violated. (§ 3 ch 120 SLA 1971; am § 9 ch 220 SLA 1976; am § 5 ch 266 SLA 1976; am §§ 5, 6 ch 116 SLA 1980; am §§ 5 — 7 ch 77 SLA 1984; am § 9 ch 59 SLA 1986; am § 8 ch 83 SLA 1991; am § 16 ch 74 SLA 1993)

Revisor's notes. — In 1995, former (d) of this section was relettered as (f); former subsections (e) and (f) were relettered as (d) and (e), respectively; "(e)(4)" was substituted for "(f)(4)" in subsection (b); and "(a)-(c)" was substituted for "(a)-(d)" in subsection (d).

Cross references. — For oil pollution control, see AS 46.04; for provision that actions brought under (a) and (d) of this section may be brought directly against insurers or other persons providing evidence of financial security, see AS 46.04.040(e); for limited immunity from liability under this section, see § 4, ch. 96, SLA 1990 in the Temporary and Special Acts.

Effect of amendments. — The 1991

amendment, effective June 28, 1991, in subsection (f), added the paragraph designations, added paragraph (3), and made punctuation changes.

The 1993 amendment, effective June 26, 1993, inserted "AS 46.14" in two places in the beginning language of subsection (e) and added the language beginning "for a violation" to the end of paragraph (e)(1).

Editor's notes. — Section 23, ch. 83, SLA 1991 provides that the amendment to subsection (e) made by § 8, ch. 83, SLA 1991 does "not apply to a release of oil or a hazardous substance and resultant cleanup activities or to efforts to respond to or abate that release if the release occurred before June 28, 1991."

NOTES TO DECISIONS

This section and AS 46.03.790 held not unconstitutional. — See Stock v. State, 526 P.2d 3 (Alaska 1974), decided prior to the 1976 amendment of those sections.

Quoted in State v. Alaska Int'l Air. Inc., 552 P.2d 1064 (Alaska 1977).

Collateral references. — Injunction against pollution of stream by private persons or corporations. 46 ALR 8. When statute of limitations commences

to run as to action against municipality for damages to riparian premises by pollution of stream by discharge of sewage. 122 ALR 1509.

HB 360 would prevent DEC from including a fine for violations or alleged violations of AS 46.03 in any "consent order" or other agreement. The way this bill has been drafted is somewhat confusing - DEC does not have the authority to levy fines. In addition, consent orders are judgments entered by a court, and agreed to by both parties involved. We have not prepared a fiscal note yet because we need to get clarification on both the question of fines, and whether or not the intent of the bill is to divest the judiciary of its ability to levy penalties.

It is probably worthwhile to first review what kinds of costs can be assessed for violations of DEC statutes and also review the kinds of agreements, including consent orders, that DEC negotiates with permittees.

AS 46.03.760 outlines the costs a person who violates provisions of Title 46 may be liable to pay in a civil action. Those costs are:

- 1) liquidated damages that represent reasonable compensation for adverse affects of the violation;
- 2) reimbursement of reasonable costs incurred by the department in the detection, investigation, and attempted correction of the violation, and
- 3) the economic savings realized by the person for not complying.

The statute specifically states that these sums must be compensatory and remedial in nature.

They may not be punitive.

The only penalties that are authorized may be imposed by the court for violations of the air statutes and hazardous waste statutes. The language in the statute refers to "the need for an enhanced civil penalty to deter future noncompliance." The imposition of penalties is not mandatory but the ability to do so is a requirement for state primacy in both the air and hazardous waste programs.

When we have a situation where there is a violation, the department's preferred option is to negotiate a compliance schedule with the permittee. There are two kinds of negotiated agreements we use. The most common is a Compliance Order by Consent, and the other is a Consent Order, or Consent Decree. Both of these documents are negotiated with the permittee who is allegedly violating some statute which DEC is required to implement. They are contracts where both sides - the state and the permittee - get something out of it. A Consent Decree is filed with the Court, while a COBC is not. Other than that, they are essentially the same thing.

As I said, both sides get something out of these agreements. The permittee gets time to come into compliance while remaining in operation. The state gets compliance with the law. Both sides stay out of court. Compliance Orders by Consent and Consent Decrees or Orders will forestall an EPA action because the state is actively seeking compliance. Consent Decrees can also forestall citizen lawsuits which are allowed under most all federal environmental laws for the same reason - the state is actively seeking compliance.

Negotiated into these contracts will be "stipulated" penalties. That is, penalties the permittee *agrees* to pay if he fails to comply with the Compliance Order, or if more time is needed for

compliance, fails to work out a new schedule with the department. Because the compliance schedule is negotiated with the permittee based on the timelines they can meet, it is not common for these penalty sections to be invoked. But the ability to levy the penalty is a critical part of the "quid pro quo" that allows the public and the courts to view these arrangements as fair to both sides. They are also extremely effective in helping to achieve compliance with the laws.

The department questions why the legislature would want to remove the department's ability to negotiate these kinds of agreements with permittees. There is no requirement to sign a COBC or a Consent Order - they represent a mutual agreement, and can allow a company the time and flexibility they need to come into compliance while at the same time assure the public that action is being taken to achieve that compliance.

Only if an agreement cannot be reached does going to court become a viable option. But if this bill were passed, going to court would be the only option.

# STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

COMMISSIONER'S OFFICE

Michele Brown, Commissioner

Kurt Fredriksson, Acting Deputy Commissioner

410 Willoughby Avenue, Suite 105

Juneau, Alaska 99801-1795

Facsimile: 907-465-5070

## FACSIMILE TRANSMITTAL

T SHARON McCauley	Date: 2/16/96	No of pages: (including cover)
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Fax Number: 907 2267

From: Michele Brown      Kurt Fredriksson      Gennie French      Santé Lesh  
 Phone (907)      - 5065      465 - 5250      465 - 5066      465 - 5065

Billie Wilson 465-5061

MESSAGE: JANICE ADAMS TESTIMONY

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