

SB

250

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Senator Gary Stevens
Alaska State Legislature

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Sponsor Statement SB 250
(Updated February 4, 2004)

Senate Bill 250, "An Act establishing a moratorium on the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, and directing the commissioner of natural resources to reacquire shallow natural gas leases on the Kenai Peninsula within the moratorium area."

SB 250 reaffirms the State of Alaska's previous findings that Kachemak Bay and the Homer area are not appropriate for oil and gas development.

In 1976, the State of Alaska found it in the best interest of the state to reacquire oil and gas leasehold interests in Kachemak Bay and the surrounding upland areas. The state approved SB 720 (1976) because it found that the natural environment, resources, and intrinsic beauty of the Kachemak Bay area supported a community economic development path based on renewable resources such as tourism and fishing. The state reacquired the leases in 1976 so that the local communities would be unencumbered by the conflicts associated with oil and gas development in this unique environment.

In 1999, the state again found it to be in the best interest of the state to exclude the Homer area from the Area Wide Oil and Gas Lease Sale Program. Today, Homer enjoys the benefits realized by the forethoughts of previous state leaders. Surrounded by the Kachemak Bay Fox River Flats Critical Habitat Area, the Kachemak Bay State Park, the Alaska Maritime National Wildlife Refuge, and Alaska's only National Estuarine Research Reserve, Homer has built a thriving economy based on tourism, fishing, and small businesses.

An unintended consequence of the 1999 decision to exclude the Homer area from the Area Wide Oil and Gas Lease Sale Program of Cook Inlet basin was to make the area available for the streamlined and less regulated Shallow Natural Gas Leasing Program (HB 394, 1996).

Following the letter of the law in HB 394, but not the precedence set over the past 30 years, the Department of Natural Resources leased the subsurface rights of 22,000 acres of land in the Homer area (June, 2003). These leases include predominately residential areas, schoolyards, municipal reservoirs, and the natural environment excluded from past lease sales. There is serious concern that the benefits of exploiting such a small gas

reserve (22,000 acres to a depth of only 3,000 feet) would be much smaller than the economic and environmental costs to the community.

The residents of the Kachemak Bay area are also concerned about the streamlined process by which these leases were let, the lack of local public notice, the unintended statutory preemption of DNR's ability to consider public comments, the potential for administrative override of local ordinances, and the lack of clear, environmental regulations.

I urge your support for this extremely important legislation to continue the state's 30 year consensus of supporting the renewable resource economic development path of the Southern Kenai Peninsula.

CITY OF HOMER

HOMER, ALASKA

Mayor. Ladd.

RESOLUTION 03-147(S)

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA REGARDING LOWER PENINSULA SHALLOW NATURAL GAS LEASES AND COAL BED METHANE DEVELOPMENT.

WHEREAS, Leases for Coal Bed Methane (CBM) development in the City of Homer and surrounding areas have been approved by the State of Alaska, Division of Oil and Gas, and;

WHEREAS, Notification of said leases ~~was never forwarded~~ by the State of Alaska to the City of Homer **has not occurred since year 2000** and therefore this community was not given ~~adequate notice~~ **current information** in which to comment to the State concerning these leases and;

WHEREAS, At a Homer Public Information Meeting, November 10, 2003, the Department of Natural Resources, Department of Revenue, Department of Environmental Conservation, and the Alaska Oil and Gas Conservation Commission heard a preponderance of public testimony questioning the State of Alaska's decision to lease Lower Peninsula coal bed methane sub surface land without having provided notification to and timely opportunity for citizen input, and;

WHEREAS, The closed decision-making process utilized by the State of Alaska to lease Lower Peninsula coal bed methane land is contrary to widely held beliefs of Homer area residents and the City of Homer, and;

WHEREAS, CBM development could severely and adversely impact quality of life as well as private and public property including:

- the City of Homer water supply that serves approximately 1100 homes and businesses in the City via water mains and approximately 450 homes and businesses inside and outside the City via water trucks;
- groundwater vitally important for:

private water wells,

health of the general ecology and the local area economics that are heavily dependent on a healthy ecology (commercial, sport, charter, guided and subsistence fishing, visitor and tourism industries;

home and land values;

roads and public safety;

NOW, THEREFORE, BE IT RESOLVED, that the City of Council of Homer, Alaska declares that CBM development may not be consistent with the goals of the residential, commercial, recreational, and tourism growth of this community and that the potential adverse impacts of CBM development may far outweigh the potential benefits; and

Page Two

Resolution 03-147(S)

City of Homer

BE IT FURTHER RESOLVED, that the Homer City Council declares that projects such as natural gas leases and coal bed methane development are very sensitive to local planning and quality of life, and waiving shallow natural gas and CBM developer compliance from local ordinances and regulations based upon HB 69 is contrary to principles of representative government, and;

BE IT FURTHER RESOLVED, that the Homer City Council requests that the Legislature and the Governor agree to legislation providing the Commissioner of the Department of Natural Resources the authority to buy back the leases, ~~Director of the Division of Oil and Gas revoke the existing CBM leases or repurchase leases within the Homer Bridge Creek Watershed including other environmentally sensitive areas within the City, and deny all future applications for CBM development in, or near the City of Homer and surrounding area, and;~~

BE IT FURTHER RESOLVED, that the Homer City Council asks that the ~~Kenai Borough and the State of Alaska~~ place a moratorium on any further leasing or permitting of shallow gas leases and CBM activity in the area until the short and long term adverse effects of CBM and shallow gas development shall be studied and properly regulated in Alaska State ~~and Kenai Borough statutes~~, and;

BE IT FURTHER RESOLVED, that the Homer City Council requests legislators to repeal HBC9 so that local governments may properly regulate CBM development within their jurisdictions.

PASSED AND ADOPTED by the City Council of Homer, Alaska this 24th day of November, 2003.

CITY OF HOMER

ATTEST: JACK CUSHING, MAYOR

MARY L. CALHOUN, CMC, CITY CLERK

Fiscal Note: NA

**CITY OF KACHEMAK
KACHEMAK, ALASKA**

RESOLUTION 2003-12A

**A RESOLUTION OF THE CITY OF KACHEMAK, ALASKA
REGARDING LOWER PENINSULA SHALLOW NATURAL GAS
LEASES AND COAL BED METHANE DEVELOPMENT**

WHEREAS, leases for shallow gas or coal bed methane (CBM) development in Kachemak City and the surrounding Homer area have been approved by the State of Alaska, Division of Oil and Gas and;

WHEREAS, notification of said leases was never forwarded by the State of Alaska to Kachemak City, the City of Homer, individual property owners, or announced in either of the local papers and therefore this community was not given adequate notice in which to comment to the State concerning these leases;

WHEREAS, shallow gas or CBM development could severely and adversely impact private and public property including home and land values, groundwater, roads and public safety;

THEREFORE BE IT RESOLVED, that the Kachemak City Council declares that shallow gas or CBM development is inconsistent with the goals of this residential, commercial, recreational and tourism-oriented community and that the potential adverse impacts of natural gas or CBM development would far outweigh any potential benefits and;

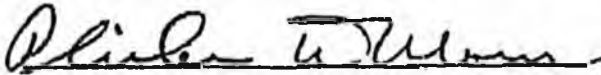
BE IT FURTHER RESOLVED, that Kachemak City requests the Director of the Division of Oil and Gas and all other relevant state agencies to immediately place a moratorium on all permitting activities related to shallow gas or CBM development in, or near, Kachemak City and;

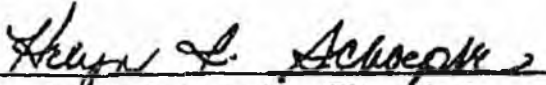
BE IT FURTHER RESOLVED, that Kachemak City requests the Alaska State Legislature to consider buying back the shallow gas leases sold in Kachemak City and the surrounding residential area, and to establish a new shallow gas and CBM program limited to non-residential lands with proper environmental safeguards and citizen participation.

BE IT FURTHER RESOLVED, that Kachemak City directs the Alaska Legislature to repeal HB69 so that local governments may properly regulate shallow gas or CBM development and impacts within their jurisdictions.

ADOPTED BY THE COUNCIL OF THE CITY OF KACHEMAK ON THIS 10th DAY OF December 2003.

CITY OF KACHEMAK


Philemon D. Morris, Mayor


Helyn I. Schoepke, City Clerk

Introduced by: Martin, Moss
Date: 12/16/03

KENAI PENINSULA BOROUGH
RESOLUTION 2003-___

A RESOLUTION REQUESTING AMENDMENT OF ALASKA STATUTES 31.05.125 AND 38.05.177(O), WHICH AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES COMMISSIONER TO WAIVE COMPLIANCE WITH LOCAL LAWS FOR SHALLOW NATURAL GAS LEASES IN LIMITED CASES, REQUESTING ADDITIONAL PUBLIC NOTICE REQUIREMENTS, AND REQUESTING THAT THE STATE BUY BACK SOUTH PENINSULA SHALLOW GAS LEASES

WHEREAS, in House Bill 69, effective June 7, 2003, the state legislature amended numerous provisions in state law to encourage the development of shallow natural gas resources; and

WHEREAS, in House Bill 394, effective October 9, 1996, the state legislature also amended numerous statutes to authorize shallow natural gas leasing from sources within 3,000 feet of the surface and including related provisions; and

WHEREAS, while the development of natural resources in Alaska is an important element of Alaska's economy, the recognition of property rights and local authority to regulate uses of property for protection of property rights is similarly important; and

WHEREAS, Sections 4 and 6 of HB 69 enact AS 31.05.125 and 38.05.177(o), which delegate to the Commissioner of the Department of Natural Resources (³DNR²) the authority to waive local requirements relating to compliance with local laws upon a demonstration of an overriding state interest; and

WHEREAS, the local planning authority, including planning commissions, councils and assemblies, are best able to understand and implement the needs of the local community respecting land uses; and

WHEREAS, it is in the state's best interest to develop its natural resources utilizing partnerships between the state, mineral lessees, surface owners and the public to ensure public understanding and involvement, as supported by Governor Murkowski in his November 12, 2003 address to the Alaska Municipal League; and

WHEREAS, HB 394 enacted AS 38.055.177 governing shallow gas leases, but only requires notice of the lease application be published in a newspaper of general circulation and not in additional local media if available; and

WHEREAS, requiring publication in the local media will significantly improve notice to members of local communities with local media; and

WHEREAS, the Homer community was not given adequate notice of the proposed shallow gas leases, and was not sufficiently made aware of the impact of HB 394 on the process used for issuing shallow gas leases; and

WHEREAS, because processing a lease application may take more than one year it is appropriate to require additional public notice as circumstances may have changed within the intervening year; and

WHEREAS, at a public meeting held November 10, 2003 in Homer, many residents encouraged the state to buy back the South Peninsula Shallow Gas Leases, and Governor Murkowski preliminarily indicated that he may consider this option after further analysis, if it is feasible and desired by the people, recognizing that any buy back would require legislative approval;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. For all of the above reasons, the Kenai Peninsula Borough Assembly respectfully requests Governor Frank Murkowski and the Alaska State Legislature buy back the South Peninsula Shallow Gas Leases particularly within the Homer Bridge Creek Watershed and other environmentally sensitive areas in the Homer area.

SECTION 2. The Kenai Peninsula Borough urges the Alaska State legislature to significantly amend Alaska Statutes 31.05.125 and 38.05.177(o), to eliminate the ability of the state to waive local land use regulations without advance public notice and hearings, and to require the adoption of clear and high standards that must be met before any local laws may be waived by the DNR Commissioner to accommodate shallow gas leasing.

SECTION 3. That Alaska Statute 38.05.177(c) be amended to require notice of a lease application be published by local news media if available, as well as in a newspaper of general circulation, and to require additional such publication if more than one year elapses between submission of the lease application and final action on the application by the director.

SECTION 4. That copies of this resolution shall be provided to Governor Frank Murkowski, Representatives Vic Kohring, Carl Morgan, Mike Hawker, Kelly Wolf, Mike Chenault, and Paul Seaton, and Senators Georgianna Lincoln, Con Bunde, Thomas Wagoner, and Gary Stevens.

SECTION 5. That this resolution takes effect immediately upon its adoption.
ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
16TH DAY OF DECEMBER 2003.

ATTEST: Pete Sprague, Assembly President

Linda S. Murphy, Borough Clerk

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Public needs to be heard

South peninsula residents have legitimate concerns about leases

Milli Martin

Voices Of The Peninsula

Editor's Note: The following is a response to Sen. Tom Wagoner's column on shallow gas leases which was printed in the Peninsula Clarion on Dec. 29.

Kenai Peninsula Borough Resolution 2003-129, of which I am a co-sponsor, asks three things:

1. To buy back the Homer area leases;
2. To amend Alaska Statutes 31.05.125 and 38.05.177 to eliminate the ability of the state to waive local land use regulations; and
3. To require notice of lease applications be published by local news media if available, and to republicize if more than one year elapses between submission of the lease application and final action.

As I recall, the intent of House Bill 69 and other measures that passed the Legislature in the 2003 session, was a well intentioned and needed effort to streamline what had become a very cumbersome permitting process. But I also believe that as a result of House Bill 69 and the coastal zone management changes that the state has gone overboard. Putting up roadblocks to public participation is not good public policy, nor good government. It is the public, after-all, that all of us serve.

It was appreciated that Sen. Wagoner was the only senator willing to amend some of what the Senate put into House Bill 69. And please understand, I believe there is good in that bill that needs to remain. Prior to going to the Senate it was supported by Rep. Paul Seaton of Homer. However, so much was added, that although Sen. Wagoner's amendment certainly helped, the one

issue we all felt was wrong, was retained.

In the interim, Rep. Paul Seaton and Sen. Gary Stevens have pre-filed bills to buy back those leases, with the proviso to extend a credit to the purchaser toward new leases < which is in response to public requests.

Did landowners on the southern Kenai Peninsula know they do not own subsurface rights? Perhaps. True, that is a realm of buyer beware. However, because of the power extended to the

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beware. however, because of the power extended to the commissioner of the Alaska Department of Natural Resources, an appointed position, in House Bill 69, these same property owners are keenly concerned about what will happen with their lands and about private property rights that all of us cherish.

It has been my observation that the folks of the Kenai Peninsula consider their private property rights to be almost sacrosanct. It is one reason the Kenai Peninsula has so little zoning.

In reviewing the DNR history of the shallow gas leases, both in the Mat-Su and on the Kenai Peninsula, these were initially advertised in February of 2000 in the Peninsula Clarion, the Anchorage Daily News and the Frontiersman, for one day. That satisfied the requirements as set out in House Bill 394 in 1996 (Alaska Statute 38.055.177). There were leases being considered for the southern peninsula as well as Nikiski and Kasilof.

To then say that Homer was notified is a stretch. Advertising in the Clarion did clearly notify the north peninsula area, but not Homer. According to the the Peninsula Clarion's circulation manager, currently the newspaper delivers 23 issues of the Clarion to Homer via mail and sells about 25 to 35 per day besides, for a total circulation south of Anchor Point of 60 issues per day, maximum. Had this been advertised in the Homer News, it would have reached a circulation of 3,200! That is a vast difference. Note, too, the leases were initially advertised in 2000, but were not let until June of 2003, with no further noticing. It is my view that posting of notices to the Homer Post Office is useless, because where it is posted, if it is posted, is in a small box behind the stamp machine, where it is rarely seen by the public. This issue of noticing to the public is in my view a violation of due process.

As noted by the Department of Natural Resources in its report of the history of these leases, DNR received 14 public comments from the Talkeetna area. (The leases were advertised in the local paper, the Frontiersman.) Subsequently, DNR arranged several public hearings in the community, and as a result withdrew that sale noting "the staff met and corresponded with the Talkeetna Community Council and residents of the area. ... Geologists from two agencies independently reported that this prospective lease would be of only marginal interest for commercial production of coalbed methane and that the area is estimated to have low potential ... (and) have concluded that, in this case, community concerns outweigh the probability of significant benefits to the State."

Would the Homer area have been given the same consideration? I believe so.

How many times during the ensuing discussions has the Kenai Peninsula Borough's oil and gas liaison stated that the lower peninsula is of marginal interest? The attendance at the two public hearings in Homer, conducted long after the fact, certainly demonstrated community feelings.

Where is, where was, the consideration for that before the leases were let?

It has been said that buying back the leases would be bad for business on the peninsula. I disagree.

To the contrary, good business practices would indicate that they will be far more comfortable working in an area where proper groundwork has been laid beforehand. Unfortunately, the people of Homer were

not included in the process, and it was wrong.

Does the southern peninsula oppose gas and oil development? I believe residents have legitimate concerns because of unstable soils, the bluff, their drinking water supply (one lease is directly under the city of Homer reservoir) and the impact on the tourism industry, as well as the issues reviewed above.

These are all issues that should have received a thorough review before the leases were let. To just say we oppose all development flies in the face of the facts. The borough economic reports certainly indicate a rather healthy economy in Homer. I think the record will show that considerable gas reserves will be tapped in the North Fork area outside of Anchor Point that will benefit both the Homer area and the north peninsula for some years to come.

Development is a given, and it will happen. But it has to happen right, with public planning and public input.

As Gov. Frank Murkowski said in his address to the Alaska Municipal League last November, with resource development there must be public participation. It didn't happen here.

We are asking to start the process over and give us the same consideration that was extended to Talkeetna, and we would certainly appreciate Sen. Wagoner's support in that effort.

Milli Martin is a member of the Kenai Peninsula Borough Assembly. She represents District 9, the South Peninsula.

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SENATE COMMITTEE ON COMMUNITY & REGIONAL AFFAIRS

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Official Business

Senator Tom Wagoner, Vice-Chair
Senator Kim Elton
Senator Georgianna Lincoln
Senator Gary Stevens

State Capitol, Room 30
Juneau, AK 99801-1182
Phone: (907) 465-4989
Fax: (907) 465-3922

February 04, 2004
1:30 – 3:30 PM
Fahrenkamp 203

AGENDA

I. Call To Order

II. New Business

SB 250 Natural Gas Lease Closure Kachemak Bay & Kenai Peninsula

Sponsor: *Senator Gary Stevens, Dist R (R-Kodiak)*
Fiscal Impact: *Mark Meyers, Director Oil & Gas, DNR*

III. Old Business

Bills Previously Heard/Scheduled

IV. Adjourn

February 4th, 2004
C&RA MEETING SCRIPT

TO BEGIN

The meeting of the Senate **Community & Regional Affairs**

Committee is called to order. Let the record show it's

1:34 PM on February 4th 2004.

Let the record show there is a quorum. Present are:

Vice-Chair Senator Wagoner

Senators Stevens, Elton, Lincoln

and myself Senator Stedman.

CHAIR'S INTO REMARKS

Today we will consider **SB 250**, introduced by our own Senator **Gary Stevens**, which establishes a moratorium on the issuance of shallow natural gas leases in the Kachemak Bay area and asks the state to reacquire existing leases within the moratorium area along the Kenai Peninsula.

This is a bill that touches on a number of vital areas of concern to the state. It has potential revenue and cost implications to the

state's treasury and I know it is also of concern to the constituents in the effected communities.

Which is way it is **not my intention** to move this bill today, but to allow **Senator Stevens** to familiarize the members with it and then have **Mark Meyers, Director of Oil & Gas, Department of Natural Resources** speak to the fiscal impact. So we will not be taking public comment here today, but as always, the public is welcome to submit written comments via e-mail or fax to my office. However, we have members of the public in the committee room today and have invited interested members from other communities – specifically the effected communities of **Homer & Kenai** - to listen in through their local Legislative Information Office.

Senator Stevens, would you like to begin by giving us an introduction of this bill?

SPONSOR TESTIMONY:

****** Senator Stevens Testimony******

QUESTIONS BY THE CHAIR:

****** Questions******

QUESTIONS BY MEMBERS:

****** Questions******

INTRODUCTION OF SECOND WITNESS:

Are there other questions for **Senator Stevens** from the members?

If there are no other questions for Senator Stevens, **Director Meyers**, would you please begin by identifying yourself, who you represent and then give us your thoughts on the fiscal impact of this bill on the state.

WITNESS TESTIMONY:

****** Mark Meyers Testimony******

QUESTIONS BY MEMBERS:

****** Questions******

Are there other questions for **Director Meyers** from the members?

CHAIR'S CLOSING REMARKS:

I'd like to thank you both for your testimony today, it has been very informative.

ADJOURN

There being no further business before the committee, our next meeting will be here at **1:30pm Monday, February 9th** - where will will take up **SB 260**.

We are adjourned at 2:21 PM

POTENTIAL QUESTIONS
C&RA Committee
February 4, 2004

For Sen Stevens:

Senator Stevens, as I consider this bill, what would really help me understand the effected areas better, is a detailed map outlining the specific moratorium areas. I see that Section 1 of the bill refers to leases in the "vicinity of Kachemak Bay to adjacent upland areas". If our intent is to close off land to potentially valuable economic development, I think we need to look carefully at those areas and make sure we don't paint it with too broad a brush. Perhaps you could provide the committee with some additional detail for our consideration???

In addition to the negative cost to the State of buying back the existing leases, there will also be a revenue effect in the form of lost royalties to the state. Might this moratorium also have an effect on local city and borough funds if we close development in this area?

FOR Director Meyers:

I understand that DNR has been working through the process of determining whether site specific measures - like setback requirements, noise thresholds, water quality, etc. – might be necessary before actually methane development begins, can you tell us whether that analysis has been completed in the areas effected by this moratorium?

Director Meyers, I see that the City Council of Homer has passed a resolution in support of this bill. In that resolution, they state that DNR did not consider public testimony in opposition to area CBM leases and that the State used a “closed decision-making process” to lease land in the Lower Kenai Peninsula. How do you feel about that assertion?

Bertal Bates

I know that one concern has been that the subsurface rights leased in the Homer area last year through HB 69 – used a streamlined and less regulated process available only to Shallow Natural Gas leases. The implication being that if the Oil & Gas leasing process had been followed, that the bill might not have passed. Can help me understand how the public's involvement – either individual landowners and/or the local borough governments – is different under the two leasing procedures??

I don't understand how ~~the~~ the fiscal impact on the state is “Indeterminate”? I know it will be negative, but can't we get at least a base-line estimate? If we are talking about buying back 8 shallow

natural gas leases – at a minimum we should know what those leases initially sold for?

Do you have a sense for what the loss revenue to the state might be if 22,000 acres in Homer were taken off the table for development?

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Senator Gary Stevens
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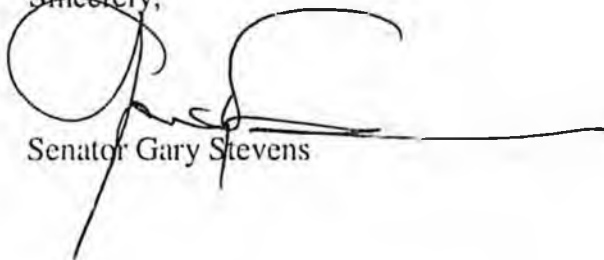
Memorandum

DT: January 16, 2004
TO: Senator Bert Stedman
Senate Community and Regional Affairs Committee
FR: Senator Gary Stevens
RE: SB 250

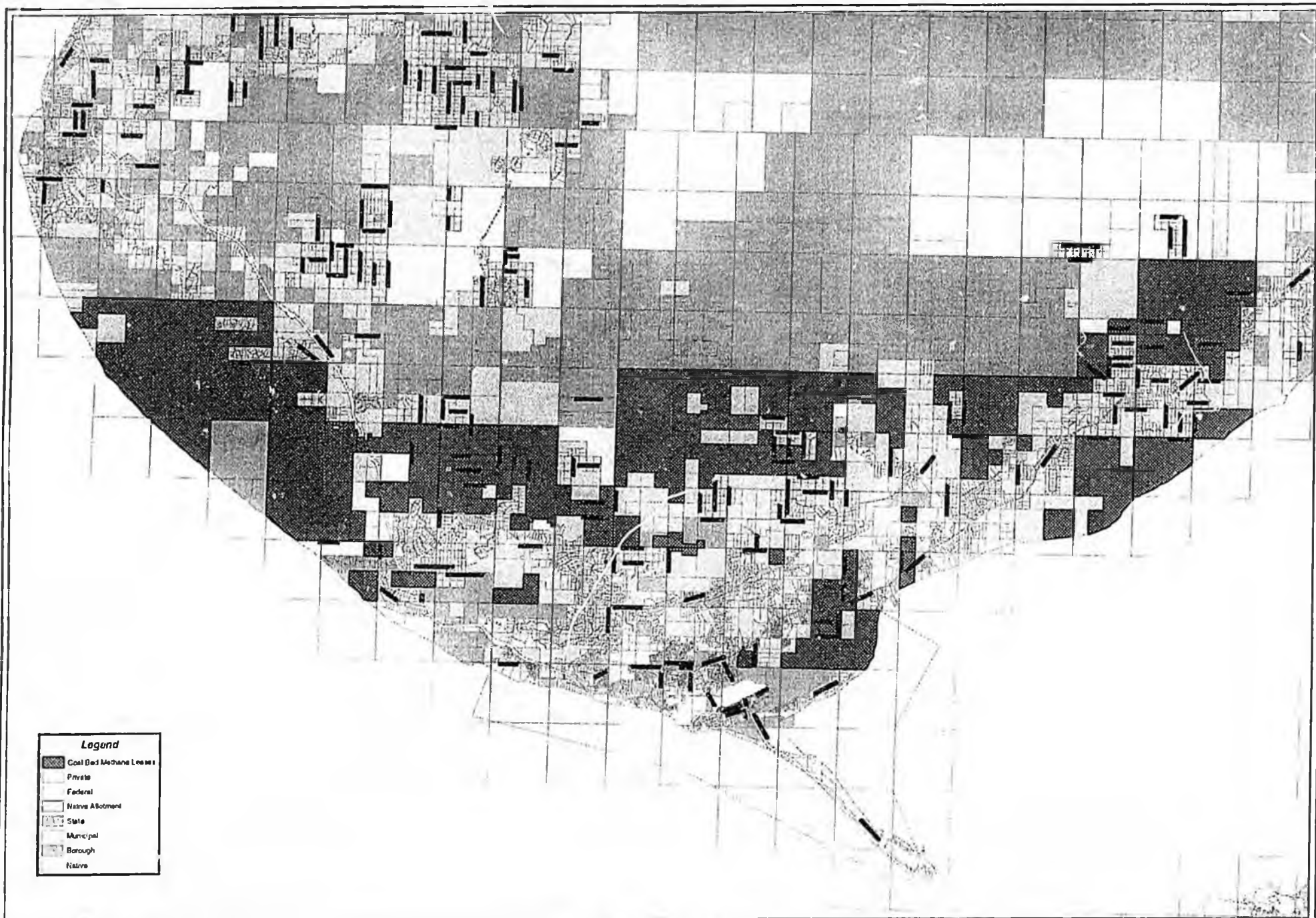
I would like to request a committee hearing at your earliest convenience on Senate Bill 250 "An Act establishing a moratorium on the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, and directing the commissioner of natural resources to reacquire shallow natural gas leases on the Kenai Peninsula within the moratorium area; and providing for an effective date."

Thank you for your consideration of this request.

Sincerely,



Senator Gary Stevens



Legend

- Coal Bed Methane Leases
- Private
- Federal
- Native Allotment
- State
- Municipal
- Borough
- Native



The information displayed herein is for a general informational purpose only and should not be used as a basis for any legal action. The Kona Peninsula Borough assumes no responsibility for any errors or omissions.

Kona Peninsula Borough
GIS Division

COAL BED METHANE LEASES



SEPTEMBER 25, 003



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Who will pay for buybacks? What peninsula priority will be sacrificed?
Enough rhetoric on gas leases

Sen. Tom Wagoner
Voices Of The Peninsula

The rhetoric about shallow gas drilling in the Matanuska-Susitna Borough and the Kenai Peninsula Borough has escalated to the point where some background information for rational discussion of the issue is required. I'm especially concerned about four areas: history, public notice, local planing and state interests vs. private interests.

History: Most of the resources (surface and subsurface) are owned by the state of Alaska. In fact, that was a primary concern when the Alaska Statehood Act was being debated. It was decided that in order for this new, remote, sparsely populated state to be able to govern and provide for itself, it needed resources for financial stability.

Alaska was allowed to select more than 100 million acres of land as an economic base for the new state. It was granted the right to all minerals underlying these sections and, in fact, is required to retain this mineral interest when conveying interests in the surface estate. If it fails to do so, the rights revert to the federal government.

These mineral interests support the permanent fund dividend check that each Alaskan gets annually. It's the subsurface mineral rights in the entire state, not just those in Prudhoe Bay, that fuels the divided program for all Alaskans.

Public notice: The noticc process is being used as a basis for requesting a lease buyback for the southern peninsula. In the Mat-Su, criticism from local entities included allegations regarding Insufficient notice to allow for comment. Criticism on the southern peninsula included allegations that citizens were unaware of the state's interests.

In 1996, the state's Lease Sale 85A in Cook Inlet offered lands in which the state owned surface and subsurface estate and lands in which the state owned only the subsurface while surface rights were owned privately or owned by a municipality. The lease sale affected the southern peninsula and was widely debated, published and noticed.

The Cook Inlet Areawide Plan, completed in 1999, also was widely debated, published and noticed. It is the basis of lease sales for 10 years under a program initiated by former Gov. Tony Knowles.

Perhaps people who have just moved to the Homer area were unaware of these mineral holdings, but I can't imagine anyone else saying they didn't know they didn't own the subsurface rights to their

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saying they didn't know they didn't own the subsurface rights to their land < at least not with a straight face. Public notice was provided on Lease Sale 85A and the Cook Inlet Areawide Plan via the Anchorage Daily News, the Peninsula Clarion and the Homer News.

I asked the Division of Oil and Gas to provide a brief outline of its process for the recent shallow natural gas lease program. Here's the outline (note the Peninsula Clarion was involved because the lease area included Nikiski, not just the southern peninsula):

The original shallow natural gas applications received in February 2000 for the Mat-Su and the Kenai Peninsula required a 60-day comment period under AS 38.05.177 and 38.05.945 (specifically, one day in a newspaper of statewide circulation and one day in a newspaper in the area affected) and a full Alaska Coastal Management Program review.

The public notice that was issued was a combined notice for the purposes of the comment period and the coastal management review. It was published in the Anchorage Daily News, the Frontiersman and the Peninsula Clarion.

Additional requests for comments, postmaster letters, etc. also were sent out. The public notice also was posted on the division, department and state Web sites.

The division actually added an additional step in the review process by circulating a draft Alaska Coastal Management Program consistency analysis and director's decision to all who had commented in the original notice process. This additional step was done as this was a new program that had not gone through the coastal management process before.

I point out that those notices also were sent to numerous individuals and entities, and included the Kenai Peninsula Borough, the Mat-Su Borough and the mayors of the cities within those boroughs.

Local planning: As a former mayor, I am particularly offended by allegations that the local planning and zoning authority was preempted with House Bill 69.

Further, assertions that it was "rushed through" the Senate are patently absurd. The record clearly shows that it was referred to the Senate Resources Committee on Feb. 14 and passed out of that committee on March 28.

I chaired the final hearing before Resources, and I also was involved in the language that was inserted regarding the local planning authority. The Alaska Municipal League had expressed concerns with the language in the draft bill and so I had my staff prepare an amendment for inclusion in the bill.

The amendment used language in existing statute (AS 35.30.030) and says, quite simply, that if the Department of Natural Resources clearly demonstrates an overriding state interest, waiver of local compliance requirements may be granted by the commissioner.

Quite frankly, my understanding was that the Alaska Municipal League was in contact with the affected municipalities, including the Mat-Su Borough, and that they supported by amendment as opposed to the previous draft language. I obviously did not find it to be onerous.

I'm certain that some municipalities would prefer to have no state involvement, but that is simply not acceptable. My own borough

assembly has suggested by passage of Resolution 2003-129 that the Kenai Peninsula Borough is better equipped than the state to handle this type of development. I find that to be an intriguing concept from a second-class borough that has no zoning authority.

Let's talk about local control. I'm confident that if we left the good people in the Homer area in charge, they would never provide for this resource that benefits all of us < including them.

Instead, they want to have their peninsula neighbors (Nikiski, Kasilof, Ninilchik, etc.) as well as other areas of the state to take any risk and then share in the benefit of the tax base generated by those risks.

Oh, and still take their permanent fund divided check, of course.

State interests vs. private interests: As I mentioned before, House Bill 69 includes language based on an existing statute that provides for a waiver of local requirements when there is an overriding state interest.

This language complies with the Alaska Constitution, Article VIII, Section 2, which states the Legislature shall provide for the utilization, development and conservation of all natural resources belonging to the state, including land and waters for the maximum benefit of its people.

The Constitution also states in Article VIII, Section 16, that no person shall be involuntarily divested of his interests in lands or improvements affecting either except for a superior beneficial use or public purpose and then only with just compensation.

For those of you who have taken the time to read this missive, I thank you.

My concern about this matter is great. As I stated before, my own assembly saw fit to support a resolution in support of buying back the leases in the southern peninsula. I'm ashamed of that resolution and applaud the three members who refused to be muscled: Gary Superman, Grace Merkes and Paul Fischer.

There is a simple question to be asked now: Who is going to pay for these buybacks? Which project that is on the Kenai Peninsula's priority list is going to be removed to let this new priority take its place?

Here's a suggestion: Perhaps those people who support the buybacks should step forward and turn in their permanent fund dividend checks.

Sen. Tom Wagoner is a Republican who lives in Kenai. He represents District Q in the state Senate. He was elected to the Senate in 2002.

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Alaska State Legislature

2/4 By Fax

Senator Stedman	
Rec on:	2/9
Read	Copy
SENATOR	
COMMITTEE NAME	MILES
IAN	
TODAY'S DATE	
Note:	

Please enter into the record by testimony to the

SCRA

committee on

SB 250
BILL SUBJECT

, dated

2/4/04

- 1) Sen. Stevens neglected to remind the committee of the Bradley Lake's power generating facility when noting the southern peninsula's contribution to Alaska's economy.
- 2) If these leases were let to benefit the local community's access to energy resources, why wasn't there a regulatory framework to protect said community devised before leasing [for basically no commitment by the lessee]?
- 3) The southern peninsula doesn't currently have access to natural gas. So would the state's royalties from these leases cover the infrastructure required to deliver this new "benefit" to said rural community?

Signed: JOE MILES
 TESTIFIER

myself
 REPRESENTING

PO Box 15393 Homer 99603
 ADDRESS

PHONE NO.



2/4 by Fax

Alaska State Legislature

Senator Stedman	
Rec on:	2/9
Read	Copy
COMM	REF
MILES	163
TODAY'S DATE	
DICK	
Note:	

Please enter into the record by testimony to the

Community + Regional Affairs

committee on SB 250
BILL / SUBJECT

, dated 2/4/01

I Totaly reject The disingenous ASSERTION
 By DNR Spoksmen THAT #1: The Leasing of
 Coal Bed Methane is in The best intrest of The
 STATE, in THAT he himself STATED THAT The program
 was designed To operate AT A LOSS.

#2 The PROGRAMES purpose is to help community's
 Develop LOCAL resources. since The communities
 Are Barred From The review process.

IT WAS ME THAT BROUGHT TO THE ATTENTION OF GOV.
 HICKEL, AND THE CITIZENS OF ALASKA THAT COOK INLET
 RIGS HAD A WAIVER of EXISTING EPA REQUIREMENTS
 IN THE DUMPING OF DRILLING MUDS.
 IS THIS WHAT WE CAN EXPECT FROM DNR TO CLAIM
 IS IN THE BEST INTREST OF THE STATE.

Or IT'S CITIZENS.

Signed:

Joseph H. Fletcher Joseph Fletcher

CITIZEN
REPRESENTING

4852 Clover Lane, Homer, 99603
ADDRESS

PHONE NO.

Subject: SB 250 hearing on 2/4/04

Date: Tue, 3 Feb 2004 21:34:03 -0800 (PST)

From: emily emily <inletchicke@yahoo.com>

To: Senator_Bert_Stedman@legis.state.ak.us, Senator_Thomas_Wagoner@legis.state.ak.us,
Senator_Gary_Stevens@legis.state.ak.us, Senator_Kim_Elton@legis.state.ak.us,
Senator_Georgianna_Lincoln@legis.state.ak.us

Chair: Senator Bert Stedman

Vice Chair: Senator Thomas Wagoner

Members: Senator Gary Stevens

Member: Senator Kim Elton

Member: Senator Georgianna Lincoln

To the members of the Senate Community and Regional Affairs Committee:

We are disappointed that the public is not allowed to give testimony for this hearing on SB 250, but we're hopeful that we will have an opportunity to testify in the near future. The lack of public notice and participation is the reason we are asking for a buyback of the coal bed methane leases in the Homer area.

Our property's subsurface was leased without our knowledge, and we understand the concept of split estate, but what is frustrating is that there was no notice in the local papers. We never had the opportunity to submit comments regarding the lease sale, and neither did anyone else in Homer. We are worried about what CBM development would do to our property - the aesthetics, quality of life, and value of the land.

Luckily, we don't have a well, but we do have a cistern, which is filled with city water. Because the city reservoir is also in the leased area, we are especially concerned with what CBM development would do to the water quality as well as to the supply. Will it be safe to drink? Will the city experience water shortages so that they will start prohibiting water delivery to cisterns? Without regulations in place yet, we have great concern for the future of our personal water supply.

A buyback of the leases as proposed in SB 250 is the way to start the process over and do it right. Please pass this bill on for consideration by the next committee, or please allow testimony from the public. Thank you for your attention to this matter.

Sincerely,

Emily and Robert Ward

PO Box 2672

Homer, AK 99603

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Subject: SB 250

Date: Tue, 03 Feb 2004 21:59:59 -0900

From: Anne Wieland <agpacsu@xyz.net>

To: <Senator_Bert_Stedman@legis.state.ak.us>

CC: <Senator_Thomas_Wagoner@legis.state.ak.us>, <Senator_Gary_Stevens@legis.state.ak.us>, <Senator_Kim_Elton@legis.state.ak.us>, <Senator_Georgianna_Lincoln@legis.state.ak.us>

Dear Senator Stedman and members of the Community and Regional Affairs Committee,

I was shocked and outraged to find that the subsurface estate under my Homer residence and lot across the street as well as those of many neighbors had been leased for Coal Bed Methane extraction totally without our knowledge through public notice. What has happened to the democratic process? This is reminiscent of how the Communists seized part of my grandfather's property in eastern Europe in the 1940's.

It is also disturbing to me that the CRA Committee has not opened this hearing to public input. I hope that in the future you will make it possible for us to testify.

These Homer properties are my most valuable asset and will some day be my childrens'. If they choose to sell them, who will want to purchase them with such liens as these leases against them? We have heard of cases in the South 48 where property values declined when CBM came to town. If our values decline, the Kenai Peninsula Borough stands to lose taxes in a situation where our schools are already grossly underfunded.

My neighbors' and my lots on Kachemak Drive are along the bluff above Kachemak Bay and are at low elevation with soils often saturated with water from the Beluga Wetlands. According to what I've learned, the CBM extraction process involves the injection of water into the subsurface. Such a process could cause soils in the area to be even more vulnerable to sloughing or eroding into the bay, as well as contaminating the ground water which ultimately drains in Kachemak Bay.

It is totally inappropriate to consider drilling for Coal Bed Methane on most of the lots in the Homer area, including our geologically vulnerable area, under neighborhood churches, under our Homer City reservoir, under an elementary school.

The only sensible solution is to buy back these leases before any work is done to make them more expensive, and/or to grant credits to the lease holders for other projects around the state. Please, for the sake of our quiet rural life style on these small lots, support SB250, vote it out of committee and support its ultimate passage.

Sincerely,
Anne Wieland
Homer

Subject: SB 250

Date: Fri, 30 Jan 2004 16:17:27 -0900

From: Mike O'Meara <momeara@prattmuseum.org>

To: "senator_bert_stedman@legis.state.ak.us" <senator_bert_stedman@legis.state.ak.us>

Dear Senator Stedman:

Re: HB 364/SB 250 - Seaton and G. Stevens

I'm pleased that a hearing has been scheduled for SB 250 on February 4. However, it is most disappointing that the committee will refuse to hear public comment. While it is probably not the intent, this decision has the appearance that the Chairman has no interest in what Alaskan citizens have to say. Since I'm being denied an opportunity to discuss this topic with you, I'm sending this message to express my views. SB 250 is one of the many reforms needed to repair a badly flawed state policy on coalbed methane/shallow gas policy.

Property owners around Kachemak Bay are angry about just about every aspect of the shallow gas fiasco (lack of proper public notice, the statutory preemption of DNR's ability to consider public comments, statutory authorization for administrative override of local ordinances, low royalty rate, and no meaningful environmental regulations). Any potential benefits seem likely to be outweighed by the likely economic, social, and environmental costs to the community. This bungled process has already driven a wedge between citizens and the oil and gas industry. Pursuing it further absent significant reform will make it very difficult for anyone to benefit from the limited potential of shallow gas resources.

The rational way to correct the present Shallow Natural Gas Leasing Program failure is through a buyback of the leases as proposed in SB 250/ HB 364. There should then be permanent moratorium on oil and gas development in sensitive areas of the state such as Kachemak Bay. While I support SB250/HB 364 I would rather see a buyback of all shallow gas leases in the state. This would allow us to design a properly thought out shallow gas program that would protect the interests of all Alaskans and assure reasonable revenue to the state. Unless you plan to simply pass this bill for consideration by the next committee assignment, please reconsider and allow testimony from citizens.

Sincerely,

Mike O'Meara
P.O. box 361
Homer, Alaska 99603

State of Alaska
OFFICE OF THE GOVERNOR

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



John Manly
Press Spokesman
907-465-3500
FAX: 907-465-3532
www.gov.state.ak.us

FOR IMMEDIATE RELEASE: December 8, 2003

No. 03-252

Murkowski: Lease Buyback is Last Resort

(Anchorage) – Governor Frank H. Murkowski has made it clear that consideration of the state buying back any coalbed methane leases in the Mat-Su and on the Kenai Peninsula would only be after all other options are exhausted.

"The state will consider buybacks of shallow natural gas leases only as a last resort," Murkowski said on Thursday, December 4, while responding to a question during a press conference.

DNR is currently engaged with the public in crafting rules, such as setback requirements, noise limitations, and water quality monitoring, that will be required for coalbed methane development in the Mat-Su Borough.

"Prior to approving any coalbed methane development, the Department of Natural Resources will make a determination as to whether additional site specific measures are necessary given the particular values of the location," Murkowski said. "Until DNR's public process is complete and the companies have determined where development might occur, it is premature to consider buybacks."

The state remains committed to the development of coalbed methane, recognizing that over the next decade the known reserves of natural gas in the Cook Inlet region may be inadequate to meet the demand. Additionally, coalbed methane could be a significant source of rural energy.

###

LEGAL SERVICES

JAN 13 2004

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 13, 2004

SUBJECT: Senate Bill 250, providing for a moratorium on state shallow natural gas leases on uplands in the vicinity of Kachemak Bay and directing reacquisition of existing shallow natural gas leases on the Kenai Peninsula in the moratorium area -- sectional analysis (Work Order No. 23-LS1424D)

TO: Senator Gary Stevens

FROM: Jack Chenoweth
Assistant Revisor of Statutes

This memo is intended as a response to Doug Letch's request for preparation of a summary of Senate Bill 250 as introduced.

Bill section 1, a temporary law provision, sets out a statement of purpose for the measure.

Bill section 2, amending AS 38.05.177(a), adds "land and water within the Kenai Peninsula Borough east of Cook Inlet and south of the north boundary of Township 5 South, Seward Meridian" to the description of areas of the state in which shallow natural gas leasing is not authorized.

Bill section 3, a second temporary law provision, directs the commissioner of natural resources to reacquire by purchase the shallow natural gas leases previously entered into within the area described in the preceding bill section, allows reacquisition by purchase by cash payment or future credits, and, if reacquisition by purchase is not successful, authorizes reacquisition by exercise of eminent domain.

Bill section 4, an additional temporary law provision, directs that the language of AS 38.05.177(a)(2)(E) establishing a shallow natural gas leasing moratorium, described above, shall operate to prohibit a second lease if the existing lease terminates for reasons specified in AS 38.05.177(d)¹ or (h).²

¹ Subsection (d) directs the manner in which an initial shallow natural gas lease may be extended or terminated:

(d) A lease shall be automatically extended if and for so long thereafter as gas is produced in paying quantities from the lease and the lessee continues to meet all requirements of the lease. A lease issued

Bill section 5 gives the measure an immediate effective date.

JBC:med
04-020.med

under this section covering land on which there is a well capable of producing gas in paying quantities does not expire because the lessee fails to produce gas unless the lessee is allowed reasonable time to place the well on a producing status. If drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, including such operations as redrilling, sidetracking, or other means necessary to reach the originally proposed bottom hole location, the lease is extended for one year and for so long thereafter as gas is produced in paying quantities. A gas lease issued under this section that is subject to termination by reason of cessation of production does not terminate if, within 90 days after production ceases or a longer period determined at the discretion of the director, reworking or drilling operations are commenced on the land under lease and are thereafter conducted with reasonable diligence during the period of nonproduction. In addition, upon application by the lessee, the director may once extend a lease issued under (c) of this section for a period of not more than three years.

² Under subsection (h), a lease may be otherwise terminated for the reasons specified in that subsection:

(h) A lease issued under this section is subject to the following terms and conditions and may be terminated by the director in the event of a breach of a term or condition:

(1) the lessee may surrender the lease or relinquish part of the lease at any time;

(2) the lease may not be transferred or assigned until a well capable of production of gas in paying quantities has been drilled on the lease; however, this paragraph does not prohibit the lessee from entering into a farm out agreement or similar arrangement with a third party under which the third party assists in exploration and development of production from the lease if the agreement or arrangement does not require a payment of consideration by the third party to the lessee, except that the lessee may retain an overriding royalty interest in the lease or may retain a net profit or other production payment.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB250-DNR-O&G-02-04-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Natural Gas Leases on the Kenai Peninsula RDU Resource Development
Component Oil and Gas Development
Sponsor Sen. G. Stevens
Requester Sen. Community & Regional Affairs Component No. 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**Indeterminate Amount**					

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	**Indeterminate Amount**					
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**Indeterminate Amount**					

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 250 would require the Department of Natural Resources (DNR) to: 1) enter into negotiations to buyback eight shallow natural gas leases in the area just north of Kachemak Bay around Homer and 2) prevent the issuance or reissuance of any current or future shallow natural gas leases in the same area.

**Indeterminate Negative Fiscal Note. It is impossible to predict at this time the specific negative impact to the state.

(Continued on next page)

Prepared by: Mark D. Myers Phone 269-8800
Division: Oil and Gas Date/Time 2/4/04
Approved by: Thomas Irwin, Commissioner Date 2/4/04
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. SB250-DNR-O&G-02-04-04

ANALYSIS CONTINUATION

In accordance with SB 250, the state would, at a minimum, have to reimburse the purchase price with interest and compensate the lessee for expenses or other costs incurred. It is unknown at this time how many DNR staff hours would be required to technically evaluate each lease and negotiate with the leaseholder.

If the department is unable to negotiate a satisfactory price, the Commissioner may acquire a leasehold through eminent domain. The legal costs for condemning a leasehold through eminent domain are unknown, but could entail significant costs for attorneys and expert witnesses. Under the State Constitution, eminent domain requires "just compensation". Just compensation could include the purchase price, sunk costs and the value of the resource. Additionally DNR staff hours would also be required to administer any credits against future bonus bids, rentals, permit fees, and royalties.

It is impossible to predict future application fees, rentals, royalties, and taxes that the state would give up by SB 250 limiting the issuance of any future shallow natural gas leases in this area.