

**HB**

**74**

During Session:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4833  
Fax (907) 465-4586  
1-800-782-4833

Representative\_Reggie\_Joule@legis.state.ak.us



During Interim:  
P.O. Box 673  
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**Alaska State Legislature**  
**REPRESENTATIVE REGGIE JOULE**

**Sponsor Statement**

**CS HB 74 Coastal Management Program**

“An act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board.”

HB 74 is an effort to strengthen the partnership between the State of Alaska and coastal communities under the Coastal Management Program. This legislation will restore inter-agency cooperation in approving coastal districts enforceable policies, and will reinstate a meaningful seat at the table for coastal districts in the review of proposed state and federal resource development actions.

The bill focuses on four areas:

1. Restoring checks and balances by establishing a Coastal Policy Board representing coastal districts and state resource agencies;
2. Streamlining project reviews by reincorporating air and water quality concerns of the Department of Environmental Conservation into the consistency review process;
3. Restoring the ability of coastal districts to establish enforceable policies that do not conflict with state or federal law or address matters preempted by state or federal agencies; and
4. Restoring States' rights by reinstating provisions eliminated by 2003 legislation.

I support responsible development of our coastal resources. I believe this can best and most expeditiously be accomplished through restoring some meaningful involvement of coastal communities in development decisions that directly affect them.

**CS House Bill 74 – Alaska Coastal Management Program (ACMP)**  
**Sectional Analysis**  
**26-LS0322/S**

- Section 1:** Establishes the Alaska Coastal Policy Board (Board), composed of 5 public members representing coastal districts and commissioners of natural resources, fish and game, environmental conservation, and commerce, community and economic development.
- Section 2:** Clarifies that the Department of Natural Resources (Department) coordinates project consistency reviews for projects with only Department permits or for projects that involve two or more state resource agency permits.
- Section 3:** Establishes authority for the Department to adopt regulations after approval by the Board.
- Section 4:** Establishes powers for the Board including the ability to accept grants and take reasonable action to carry out provisions of AS 46.39 and AS 46.40.
- Section 5:** Establishes duties of the Board to approve statewide ACMP standards and criteria for district plan approval.
- Section 6:** Defines “board.”
- Section 7:** Provides for approval of ACMP program changes by the Board.
- Section 8:** Adds subsistence to the list of resources included in the ACMP objectives.
- Section 9:** Subsection (a) removes requirement for district enforceable policies to meet statewide standards. Clarifies that district enforceable policies apply to all land and water issues subject to the plan. Removes requirement to describe proper and improper uses. Changes the term “areas meriting special attention” to “special management areas.” Subsection (b) requires district enforceable policies to be clear and concise, prescriptive or performance-based, and supported by evidence if more specific than state or federal statutes or regulations.
- Section 10:** Makes conforming changes for board approval of ACMP regulations. Deleted language in AS 46.40.040(a)(2) – (5) moved to a new subsection (d).
- Section 11:** Moves language deleted from AS 46.40.040(a) to a new section outlining responsibilities of the Board.
- Section 12:** Makes conforming amendments by clarifying district plans must be approved by the Board.
- Section 13:** Establishes the review and approval process for coastal district plans, including provisions for districts to work with the Department to resolve issues before the Board approves a plan. Allows districts to request mediation of the Board’s decision.
- Section 14:** Establishes criteria for board approval of district plans and clarifies that district enforceable policies may not address matters preempted by state or federal laws.
- Section 15:** Makes conforming changes for board approval of ACMP regulations.

- Section 16:** Changes the term "subsequent review" to the commonly used term "elevation" and clarifies that the three state resource agencies make the final decision on a project elevation.
- Section 17:** Clarifies that aspects of an activity covered by a general or nationwide permit are excluded from a consistency review (rather than the entire activity). Eliminates language exempting Department of Environmental Conservation permits from consistency reviews.
- Section 18:** Makes conforming changes for Board approval of district enforceable policies.
- Section 19:** Allows ACMP consistency review of projects inland of the coastal zone if there would be direct and significant effects to coastal uses or resources. Clarifies that seismic survey activities in federal waters are subject to consistency reviews.
- Section 20:** Clarifies that categorically or generally consistent activities are for routine projects.
- Section 21:** Exempts federal activities and federally-permitted projects from the 90-day consistency review time limit. Allows extension of the time limit for adjudication of coastal district permits.
- Section 22:** Clarifies that "affected coastal resource district" includes districts with a publicly-reviewed draft plan or approved plan.
- Section 23:** Requires an individual consistency review for each Outer Continental Shelf lease sale.
- Section 24:** Gives the Board authority to act on a petition regarding non-implementation of a coastal district plan.
- Section 25 - 28:** Makes conforming amendment regarding Board action for a petition regarding non-implementation of a coastal district plan.
- Section 29:** Clarifies a coastal resource service area (CSRA) may accept new matter submitted by a city or village into its coastal management plan.
- Section 30:** Clarifies that municipalities and CRSAs are not prohibited from joint administration of functions.
- Section 31:** Removes language about boroughs that do not exercise planning and zoning authority.
- Section 32:** Makes conforming amendment clarifying the board's role in coastal boundary changes.
- Section 33 - 34:** Makes conforming amendment regarding the board's role in approving district plans and district enforceable policies.
- Section 35:** Clarifies that the term "project" includes federal activities and federally-permitted activities.
- Section 36:** Adds new definitions for the terms "Board" and "special management areas."
- Section 37:** Repeals exemption of Department of Environmental Conservation permits from consistency reviews ( AS 46.40.040(b)-(c) and AS 46.40.096(i)). Removes requirement for re-submittal of district plans every 10 years (AS 46.40.050(a)). Removes exemption of shallow gas projects from ACMP reviews (AS 46.40.205). Removes definition for "areas meriting special attention" (AS 46.40.210(1)).

**Changes between HB 74 (CRA, 26-LS0322\R) and CS HB 106 (CRA,  
26-LS0402\S)  
March 10, 2009**

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**Section 9**

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Page 7 lines 17-22 were amended to elucidate the requirements for coastal district enforceable policies. The first substantive amendment eliminates "contemporary or traditional local knowledge" as forms of evidence to support a coastal district policy, leaving "scientific or local knowledge" as appropriate evidence. The second substantive change is that district policies must be supported by evidence if "more specific" than state or federal law. This replaces the requirement of evidence if the policy is "stricter or more specific" than state or federal law.

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**Section 14**

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This section was amended to clarify requirements for board approval of district management plans. The first amendment at page 11 line 13 adds to the criteria for board approval a requirement that enforceable policies cannot be preempted by state law in addition to federal law, which appears in version \R. The second amendment at page 11 lines 22-25 is the addition of an explanation for what constitutes state preemption of a coastal district policy.

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**Section 30**

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Version \S retracts the insertion of a new section 46.40.190(a) pertaining to cooperative administration of the ACMP, which in \R occurred on page 16 line 21.

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**Section 31**

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Version \S retracts an amendment to the definition of "coastal resource district," which occurred in \R on page 17 lines 8-23.

# STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF COASTAL AND OCEAN MANAGEMENT  
<http://www.alaskacoast.state.ak.us>

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April 18, 2009

The Honorable Mark Neuman  
Alaska House of Representatives  
State Capitol, Rom 432  
Juneau, AK 99801-1182

RE: Alaska Coastal Management Program

Dear Mr. Neuman:

In our conversation on April 14 and in the House Resources committee hearing on April 15; you requested that I put together a list or otherwise summarize the issues that were identified by Alaska Coastal Management Program (ACMP) participants during the recent re-evaluation effort led by the Department of Natural Resources, Division of Coastal and Ocean Management (DCOM). The following is a list of those issues with a brief description. It is important to recognize that there were comments addressing each of the following that either supported or opposed change to the ACMP subject.

1. Oversight of the ACMP – Comments addressed the development, structure, role, authority, and appropriateness of an oversight body for the ACMP (e.g., Coastal Policy Board or Council). Comments were also received addressing the location of the ACMP and DCOM (e.g., relocated to DFG, DCCED, or the Governor's Office).
2. Department of Environmental Conservation "carve-out" – Comments addressed the carve-out of DEC authorities from the coordinated consistency review, as well as whether coastal districts could address air and water quality issues under DEC authority.
3. Consistency review issues related to project review – Comments addressed the scope of the consistency review, the coastal project questionnaire, the application and management of the ABC List, and elevations and appeals of consistency determinations.
4. Statewide standards – Comments addressed all of the statewide standards of the ACMP at 11 AAC 112, including the purview, substance, form, authority, and structure of the standards, whether the focus of the standards should be tied to the direct interaction with coastal water or more broadly throughout the coastal zone, and whether the burden of proof in demonstrating compliance with the standards is on the applicant, the commentor, or the State.

*"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."*

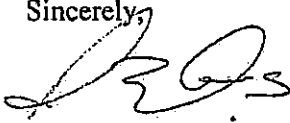
Representative Mark Neuman  
April 17, 2009  
Page 2

5. District enforceable policies – Comments addressed the purview, substance, form, authority, and structure of coastal district enforceable policies, designated areas, and the revision process for amending coastal district plans.
6. General, non-categorized comments – Comments addressed the objectives of the ACMP, the subject uses of the ACMP, the basic structure of the ACMP and the available types/options of state coastal programs available under the federal CZMA, whether climate change should be addressed under the ACMP, whether the ACMP should directly address cumulative impacts, and whether ACMP staff should have a field presence.

At your request, I have listed above and summarized the key issues that ACMP participants have raised during the re-evaluation process. As a reminder, DCOM solicited written public comments on potential changes to the ACMP in July and November 2008, and held numerous public meetings to further gather input and share ideas for successful ACMP implementation. The public comments and the DCOM processes and products are available for reviewing and downloading at <http://www.alaskacoast.state.ak.us/Enews/Re-eval2008/index.html>. Significant effort was put into the development and consideration of these comments by ACMP participants. You may be interested in reviewing these more detailed comments and familiarizing yourself with the various issues surrounding the passionate debate on change to the ACMP laws.

I look forward to continuing to work with you on these important issues, and I thank you for taking an interest in the ACMP and the issues surrounding the implementation of a meaningful and balanced program.

If you have any questions, please do not hesitate to contact me.

Sincerely,  


Randy Bates  
Director

cc: Representative Johnson, Co-Chair House Resources committee  
Senator McGuire, Co-Chair Senate Resources committee  
Senator Wielechowski, Co-Chair Senate Resources committee  
Senator Olson  
Representative Joule  
House and Senate Resource Committee members  
ACMP coastal districts  
Tom Irwin, DNR Commissioner  
Jerry Gallagher, Office of the Governor, Legislative Liaison



# Which Coastal District is Your Community In?

CITY	DISTRICT	CITY	DISTRICT
Adak .....	Aleutians West CRSA	Chignik Lagoon ...	Lake and Peninsula Borough
Akhiok.....	Kodiak	Chignik Lake.....	Lake and Peninsula Borough
Akiachak.....	Ceñaliulriit CRSA	Chugiak .....	Anchorage
Akiak.....	Ceñaliulriit CRSA	Clam Gulch.....	Kenai Peninsula
Akutan .....	Aleutians East	Clark's Point .....	Bristol Bay CRSA
Alakanuk.....	Ceñaliulriit CRSA	Coffman Cove.....	None*
Aleknagik.....	Bristol Bay CRSA	Cohoe .....	Kenai Peninsula
Alexander Creek.....	Mat-Su Borough	Cold Bay.....	Aleutians East
Ambler .....	Northwest Arctic	Cooper Landing.....	Kenai Peninsula
Amchitka.....	Aleutians West CRSA	Cordova.....	Cordova
Anaktuvuk Pass.....	North Slope Borough	Council .....	Bering Straits CRSA
Anchor Point.....	Kenai Peninsula	Craig .....	Craig
Anchorage .....	Anchorage	Cube Cove .....	None*
Angoon .....	Angoon	Deadhorse.....	North Slope Borough
Aniak .....	Ceñaliulriit CRSA	Deering .....	Northwest Arctic
Atka .....	Aleutians West CRSA	Dillingham.....	Bristol Bay CRSA
Atmautluak .....	Ceñaliulriit CRSA	Diomede .....	Bering Straits CRSA
Atqasuk .....	North Slope Borough	Dora Bay .....	None*
Attu.....	Aleutians West CRSA	Douglas .....	Juneau
Barrow .....	North Slope Borough	Dutch Harbor.....	Aleutians West CRSA
Bethel .....	Bethel	Eagle River.....	Anchorage
Big Lake .....	Mat-Su Borough	Edna Bay.....	None*
Bird Creek .....	Anchorage	Eek .....	Ceñaliulriit CRSA
Brevig Mission.....	Bering Straits CRSA	Egegik .....	Lake and Peninsula Borough
Buckland.....	Northwest Arctic	Ekuk .....	Bristol Bay CRSA
Candle .....	Northwest Arctic	Ekwok.....	Bristol Bay CRSA
Cape Chiniak.....	None*	Elfin Cove .....	None*
Cape Pole.....	None*	Elim.....	Bering Straits CRSA
Cape Yakataga.....	None*	Elmendorf AFB .....	Anchorage
Chefornak.....	Ceñaliulriit CRSA	Emmonak .....	Ceñaliulriit CRSA
Chenega Bay.....	None*	English Bay .....	Kenai Peninsula
Chevak .....	Ceñaliulriit CRSA	Excursion Inlet.....	None*
Chickaloon.....	Mat-Su Borough	Eyak .....	Cordova
Chignik .....	Lake and Peninsula Borough	False Pass.....	Aleutians East
Chignik Bay .....	Lake and Peninsula Borough	Fortuna Ledge.....	Ceñaliulriit CRSA

\*Note: "None" means a coastal community not within a coastal district.

<b>CITY</b>	<b>DISTRICT</b>	<b>CITY</b>	<b>DISTRICT-</b>
Ft. Richardson .....	Anchorage	Kipnuk .....	Ceñaliulriit CRSA
Funter Bay .....	None*	Kivalina .....	Northwest Arctic
Gambell .....	Bering Straits CRSA	Klawock .....	Klawock
Girdwood .....	Anchorage	Klukwan .....	None*
Golovin .....	Bering Straits CRSA	Kobuk .....	Northwest Arctic
Goodnews Bay .....	Ceñaliulriit CRSA	Kodiak .....	Kodiak
Gravina Island .....	Ketchikan	Kokhanok .....	Lake and Peninsula
Gustavus .....	None*	Kokhanok Bay .....	Lake and Peninsula
Haines .....	Haines	Koliganek .....	Ceñaliulriit CRSA
Halibut Cove .....	Kenai Peninsula	Kongiganak .....	Ceñaliulriit CRSA
Happy Valley .....	Kenai Peninsula	Kotlik .....	Ceñaliulriit CRSA
Hawkins Island .....	None*	Kotzebue .....	Northwest Arctic
Hinchinbrook Island .....	None*	Koyuk .....	Bering Straits CRSA
Hobart Bay .....	None*	Kuiu Island .....	None*
Hollis .....	None*	Kupreanof .....	None*
Homer .....	Kenai Peninsula	Kwethluk .....	Ceñaliulriit CRSA
Hoonah .....	Hoonah	Kwigillingok .....	Ceñaliulriit CRSA
Hooper Bay .....	Ceñaliulriit CRSA	Labouchere Bay .....	None*
Hope .....	Kenai Peninsula	Lake Louise .....	Mat-Su Borough
Houston .....	Mat-Su Borough	Larsen Bay .....	Kodiak
Hydaburg .....	Hydaburg	Levelock .....	Lake and Peninsula
Igiugig .....	Lake and Peninsula Borough	Long Island .....	None*
Iliamna .....	Lake and Peninsula Borough	Lower Kalskag .....	Ceñaliulriit CRSA
Indian .....	Anchorage	Manokotak .....	Bristol Bay CRSA
Ivanof Bay .....	Lake and Peninsula Borough	Marshall .....	Ceñaliulriit CRSA
Juneau .....	Juneau	Mekoryuk .....	Ceñaliulriit CRSA
Kachemak .....	Kenai Peninsula	Metlakatla .....	None*
Kake .....	Kake	Meyers Chuck .....	None*
Kaktovik .....	North Slope Borough	Moose Pass .....	Kenai Peninsula
Kalgin Island .....	Kenai Peninsula	Mountain Village .....	Ceñaliulriit CRSA
Karluk .....	Kodiak	Mt. Edgecumbe .....	Sitka
Kasaan .....	None*	Naknek .....	Bristol Bay Borough
Kasigluk .....	Ceñaliulriit CRSA	Nanwalek .....	Kenai Peninsula
Kasilof .....	Kenai Peninsula	Napakiak .....	Ceñaliulriit CRSA
Kenai .....	Kenai Peninsula	Napaskiak .....	Ceñaliulriit CRSA
Ketchikan .....	Ketchikan	Naukati .....	None*
Kiana .....	Northwest Arctic	Nelson Lagoon .....	Aleutians East
King Cove .....	Aleutians East	New Stuyahok .....	Bristol Bay CRSA
King Salmon .....	Bristol Bay Borough	Newhalen .....	Lake and Peninsula

\*Note: "None" means a coastal community not within a coastal district.

<b>CITY</b>	<b>DISTRICT</b>	<b>CITY</b>	<b>DISTRICT</b>
Newtok .....	Ceñaliulriit CRSA	Prudhoe Bay .....	North Slope Borough
Nightmute .....	Ceñaliulriit CRSA	Quinhagak .....	Ceñaliulriit CRSA
Nikiski .....	Kenai Peninsula	Red Mountain .....	Kenai Peninsula
Nikolski .....	Aleutians West CRSA	Ridgeway .....	Kenai Peninsula
Ninilchik .....	Kenai Peninsula	Rowan Bay .....	None*
Noatak .....	Northwest Arctic	Russian Mission .....	Ceñaliulriit CRSA
Nome .....	Nome	Sand Point .....	Aleutians East
Nondalton .....	Lake and Peninsula	Savoonga .....	Bering Straits CRSA
Noorvik .....	Northwest Arctic	Sawmill Bay .....	None*
Nuiqsut .....	North Slope Borough	Saxman .....	Ketchikan
Nunapitchuk .....	Ceñaliulriit CRSA	Scammon Bay .....	Ceñaliulriit CRSA
Old Harbor .....	Kodiak	Security Bay .....	None*
Oscarville .....	Ceñaliulriit CRSA	Selawik .....	Northwest Arctic
Ouzinkie .....	Kodiak	Seldovia .....	Kenai Peninsula
Palmer .....	Mat-Su Borough	Seward .....	Kenai Peninsula
Pedro Bay .....	Lake and Peninsula Borough	Shaktoolik .....	Bering Straits CRSA
Pelican .....	Pelican	Sheep Mountain .....	Mat-Su Borough
Pennock Island .....	Ketchikan	Sheldon Point .....	Ceñaliulriit CRSA
Perryville .....	Lake and Peninsula Borough	Shemya AFS .....	Aleutians West CRSA
Petersburg .....	Petersburg	Shishmaref .....	Bering Straits CRSA
Pilot Point .....	Lake and Peninsula Borough	Shungnak .....	Northwest Arctic
Pilot Station .....	Ceñaliulriit CRSA	Sitka .....	Sitka
Pitkas Point .....	Ceñaliulriit CRSA	Skagway .....	Skagway
Platinum .....	Ceñaliulriit CRSA	Skwentna .....	Mat-Su Borough
Point Baker .....	None*	Soldotna .....	Kenai Peninsula
Point Hope .....	North Slope Borough	South Naknek .....	Bristol Bay Borough
Point Lay .....	North Slope Borough	Squaw Harbor .....	Aleutians East
Polk Inlet .....	None*	St. George Island .....	None*
Port Alexander .....	None*	St. Mary's .....	Ceñaliulriit CRSA
Port Alsworth .....	Lake and Peninsula	St. Michael .....	Bering Straits CRSA
Port Armstrong .....	None*	St. Paul .....	St. Paul
Port Clarence .....	Bering Straits CRSA	Stebbins .....	Bering Straits CRSA
Port Graham .....	Kenai Peninsula	Sterling .....	Kenai Peninsula
Port Heiden .....	Lake and Peninsula Borough	Sunrise .....	None*
Port Lions .....	Kodiak	Sutton .....	Mat-Su Borough
Port Moller .....	Aleutians East	Talkeetna .....	Mat-Su Borough
Port Protection .....	None*	Tatitlek .....	None*
Portage .....	Anchorage	Tazlina .....	None*
Post Lake .....	Mat-Au Borough	Teller .....	Bering Straits CRSA

\*Note: "None" means a coastal community not within a coastal district.

CITY	DISTRICT
Tenakee Springs.....	None*
Thorne Bay.....	Thorne Bay
Tin City.....	Bering Straits CRSA
Togiak.....	Bristol Bay CRSA
Toksook Bay.....	Ceñaliulriit CRSA
Tolstoi Bay.....	None*
Trapper Creek.....	Mat-Su Borough
Tuluksak.....	Ceñaliulriit CRSA
Tuntutuliak.....	Ceñaliulriit CRSA
Tununak.....	Ceñaliulriit CRSA
Tutka Bay.....	Kenai Peninsula
Twin Hills.....	Bristol Bay CRSA
Two Moon Bay.....	None*
Tyonek.....	Kenai Peninsula
Ugashik.....	Lake and Peninsula
Umiat.....	North Slope Borough
Unakwik Inlet.....	None*
Unalakleet.....	Bering Straits CRSA
Unalaska.....	Aleutians West CRSA
Ungalik.....	Bering Straits CRSA

CITY	DISTRICT
Valdez.....	Valdez
Wainwright.....	North Slope Borough
Wales.....	Bering Straits CRSA
Wasilla.....	Mat-Su Borough
Whale Pass.....	None*
White Mountain.....	Bering Straits CRSA
Whittier.....	Whittier
Willow.....	Mat-Su Borough
Wrangell.....	Wrangell
Yakutat.....	Yakutat

For more information contact:

The Alaska Coastal Management Program  
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Anchorage — 907-269-7470

\*Note: "None" means a coastal community not within a coastal district.

# FISCAL NOTE

STATE OF ALASKA  
2010 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB074  
() Publish Date: \_\_\_\_\_

Identifier (file name): HB074-DNR-DCOM-03-15-10 Dept. Affected: Natural Resources  
Title An Act relating to the Alaska Coastal Management Program. RDU Resource Development  
Component Coastal and Ocean Management  
Sponsor Rep. Reggie Joule  
Requester House Community and Regional Affairs Committee Component Number 2680

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation	Information					
	Required	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>	<b>FY 2011</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	82.0	0.0	82.0	82.0	82.0	82.0	82.0
Contractual	80.0	0.0	30.0	30.0	30.0	30.0	30.0
Supplies	3.0	0.0	3.0	3.0	3.0	3.0	3.0
Equipment	0.0	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	0.0
Grants & Claims	0.0	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	0.0
<b>TOTAL OPERATING</b>	<b>165.0</b>	<b>0.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	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	0.0
1004 GF	165.0	0.0	115.0	115.0	115.0	115.0	115.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>165.0</b>	<b>0.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>

Estimate of any current year (FY2009) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

HB 74 will have the following fiscal impact:

- Travel - It is expected that the Coastal Policy Board (CPB) will need to meet at least four times annually to fulfill the obligations and provide the services outlined in HB 74. Travel (including air, hotel, and per diem) for appointed members, designated members, and state agency staff is included.
- Contractual - In order to re-write the guiding regulations, DNR must secure contractual services for the promulgation and final Department of Law review of the regulations (FY 2010 only). In addition, contractual services for the CPB meetings must be procured, and will be an annual expense.
- Supplies - The CPB meetings will require some level of supplies for ensuring the members have proper materials.

Prepared by: Randy Bates, Director  
Division Coastal and Ocean Management  
Approved by: Tom Irwin, Commissioner  
Natural Resources

Phone 465-8797  
Date/Time March 15, 2010  
Date March 15, 2010

**FISCAL NOTE**

**STATE OF ALASKA  
2010 LEGISLATIVE SESSION**

**BILL NO. HB074**

**ANALYSIS CONTINUATION**

4. Although not contemplated above as an additional expense, it is expected that coastal districts will choose to revise, amend, and seek approval for their coastal district plans. No funding is included in this fiscal note for Coastal District Plan revisions. DNR does not typically set aside any funding for plan revisions.

# FISCAL NOTE

**STATE OF ALASKA**  
**2009 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 74(CRA)  
 (H) Publish Date: 3/5/09

Identifier (file name): HB74-DEC-CO-2-6-09 Dept. Affected: Dept. of Environmental Conservation  
 Title: Coastal Management Program RDU: Administration  
 Sponsor: Representative Joule Component: Office of the Commissioner  
 Requester: House Community and Regional Affairs Committee Component Number: 633

**Expenditures/Revenues** (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
<b>OPERATING EXPENDITURES</b>								
Personal Services	86.8		86.8	86.8	86.8	86.8	86.8	86.8
Travel	12.5		12.5	12.5	12.5	12.5	12.5	12.5
Contractual	10.4		10.4	10.4	10.4	10.4	10.4	10.4
Supplies	6.9		0.5	0.5	0.5	0.5	0.5	0.5
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>116.6</b>	<b>0.0</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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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 Interagency Receipts	116.6	0.0	110.2	110.2	110.2	110.2	110.2	110.2
<b>TOTAL</b>	<b>116.6</b>	<b>0.0</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>

Estimate of any current year (FY2009) cost: 0.0

**POSITIONS**

Full-time	0.5		0.5	0.5	0.5	0.5	0.5
Part-time							
Temporary							

**ANALYSIS:** (Attach a separate page if necessary)

This legislation amends Alaska statutes related to the Alaska Coastal Management Program (ACMP). The bill requires that the Department of Environmental Conservation process its permits in accordance with the ACMP coastal consistency review procedures where permits are currently processed independent from those procedures. The increased work load for existing staff is estimated at one-half of the salary cost of a Range 19 position.

In addition to increasing the effort required to process a permit, the changes require a new half-time position to serve as ACMP lead for DEC with responsibility for internal and external coordination of ACMP matters. The fiscal note reflects the personnel and support costs of a new, part-time (0.5 FTE, Range 20) position to serve as DEC's ACMP Program Coordinator. First-year costs include one-time supply costs that are not reflected in subsequent years.

Prepared by: Marit Carlson-Van Dort  
 Division: Commissioner's Office  
 Approved by: Dan Easton  
Deputy Commissioner

Phone 465-5065  
 Date/Time 2/6/09 1:30 PM  
 Date 2/6/2009



## Alaska Eskimo Whaling Commission

P.O. Box 570 • Barrow, Alaska 99723

February 10, 2009

Honorable Reggie Joule  
Alaska State Legislature  
State Capitol, Room 502  
Juneau, Alaska 99801

Re: House Bill 74, Alaska Coastal Management Program

Dear Representative Joule:

On behalf of the Alaska Eskimo Whaling Commission (AEWC), I wish to thank you for sponsoring House Bill 74 on the Alaska Coastal Management Program (ACMP). The AEWC supports the committee substitute adopted by the Senate Community and Regional Affairs Committee on February 5, 2009.

House Bill 74 would restore the effectiveness to the ACMP that has been lost as a result of recent changes to the program. The bill would make it clear that coastal districts may establish local enforceable policies, it would bring air and water quality considerations back into ACMP project reviews, and it would establish a coastal policy board composed of state agencies and coastal districts.

The bill would also restore provisions that ensure states' rights are duly considered during reviews involving federal activities or permits, including activities on the federal Outer Continental Shelf (OCS). One of the major reasons the Alaska State Legislature enacted the Alaska Coastal Management Act in 1977 was to take advantage of provisions in the federal Coastal Zone Management Act (CZMA) that give the state and coastal districts their most powerful tools to influence federal decision making. The remainder of our comments addresses these issues.

Section 19 of the bill would require review of seismic survey activities for consistency with the ACMP. Although scientific studies demonstrate that seismic surveys can profoundly affect marine mammals, these activities have been excluded from the scope of some ACMP reviews, including the review of a multi-year offshore drilling program in 2007.

# CITY OF CORDOVA



February 9, 2009

Re: HB 74

To: House Community and Regional Affairs Committee  
Senate Resources Committee  
Representative Thomas  
Senator Kookesh

HB 74 and the companion bill in the House address issues raised by Coastal Management Zone planners at the ACMP workshop in December, 2008, in Anchorage. The bills establish a coastal policy board, bring DEC back into the consistency review process, and allow coastal districts to have enforceable policies as long as they are not specifically barred by state or federal law.

Please support this bill.

Thank you.

Anne Cervenka  
City Planner  
City of Cordova

**City of Cordova, P.O. Box 1210, Cordova, AK 99574 Direct (907)424-6233 Fax(907)424-6000**

# *Native Village of Kotzebue Kotzebue IRA*

February 9, 2009

Honorable Reggie Joule  
AK State Capitol  
Room # 502  
Juneau. AK 99801

**RE: Support of H.B. 74 – An Act relating to the Alaska Coastal Management Program; and establishing the Alaska Coastal Policy Board**

*Knowledge of Language*

*Knowledge of Family Tree*

*Sharing*

*Humility*

*Respect for Others*

*Love for Children*

*Cooperation*

*Hard Work*

*Respect for Elders*

*Respect for Nature*

*Avoid Conflict*

*Family Roles*

*Humor*

*Spirituality*

*Domestic Skills*

*Hunter Success*

*Responsibility to Tribe*

Dear Representative Joule;

The Native Village of Kotzebue writes in strong support of the House Bill 74 relating to strengthening the ACMP and establishing the Alaska Coastal Policy Board.

The Tribe was disappointed with the changes made to the program under previous Governor Frank Murkowski. The ability of the program to provide for real local involvement in development projects affecting the coastal environment of Alaska is very important to assure that projects are compatible with the needs and concerns of local communities. The changes to the program as envisioned under HB 74 would go a long way towards reaffirming the State's commitment to responsible development and local input as a vital component of such projects.

The Tribe supports the Coastal Policy Board as envisioned because it will provide an essential balance to the Alaska Coastal Management Program (ACMP). Currently, the commissioner of DNR makes all ACMP decisions, including approving district plans, which has been shown to be non-compatible with the needs of local communities as the recent wholesale rejection of the proposed Northwest Arctic Borough (NWAB) Enforceable Policies demonstrates. It is our understanding that the new board would be responsible for approving coastal district plans and any changes to the ACMP regulations, which should allow for a more responsive approach to approving local priorities as stated through Enforceable Policies.

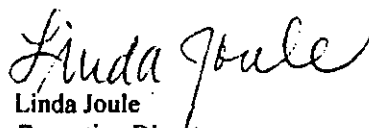
Section 9 and Section 14 of the bill are especially useful in this regard, as they would clarify the criteria for Coastal District Enforceable Policies so as to obviate interpretation by DNR, because as the wholesale rejection of the NWAB District Plan relating to Enforceable Policies should show, it is currently not clear what the criteria are. The statutes currently allow districts to establish Enforceable Policies, but as it has been interpreted and implemented by the DNR, only one of the 50 enforceable policies proposed by the NWAB was approvable, which speaks to the disconnect between what local communities need and what the program is believed (by the DNR) to allow for. The bill would also allow coastal districts to address air and water quality issues during ACMP project reviews. Currently, activities permitted by DEC are unfortunately excluded from the coordinated consistency review of a project, which negatively impacts the ability of local communities to be able to take into account and fully mitigate the broadest range of impacts from any specific project failing under ACMP review.

We appreciate your leadership on ACMP revision and look forward to passage of this important Bill.

Sincerely,



Alex Whiting  
Environmental Specialist



Linda Joule  
Executive Director

333 Shore Avenue • P.O. Box 296 • Kotzebue, Alaska 99752  
Phone: (907) 442-3467 • Fax: (907) 442-2162

Introduced by:	Martin
Date:	04/07/09
Action:	Adopted as Amended
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
RESOLUTION 2009-030**

**A RESOLUTION SUPPORTING LEGISLATION TO ENABLE ALASKA'S COASTAL  
COMMUNITIES TO MORE EFFECTIVELY PARTICIPATE IN THE ALASKA  
COASTAL MANAGEMENT PROGRAM**

**WHEREAS,** the passage of House Bill 191 by the Alaska Legislature in 2003 at the request of the Murkowski Administration attempted to "streamline the Alaska Coastal Management Program (ACMP) and through its implementation by statutory and regulatory amendments, forced a complete revision of all Alaska Coastal Management Plans in Alaska, including the Kenai Peninsula Borough plan; and

**WHEREAS,** as a result of the passage of HB 191, and new regulations imposed by the Alaska Department of Natural Resources, the Kenai Peninsula Borough lost more than 70 percent of the policies the borough had utilized effectively during the previous 15 years to assist development applicants while exercising appropriate stewardship of our natural resources; and

**WHEREAS,** Alaska Coastal Districts are unanimous in their appeal for revisions in Alaska Statutes and regulations to restore the ability of Alaskan communities to regain "a meaningful seat at the table" when management and development decisions affecting Alaska's coastal zones are being made; and

**WHEREAS,** Legislation with the following key provisions could restore to local governments a more meaningful role in the local development decisions and stewardship of coastal resources:

- Reestablishes an oversight board for the ACMP composed of five public members representing coastal districts and five commissioners of State resource agencies to make ACMP policy decisions.
- Establishes that the duties of the Board are to approve ACMP standards and criteria for district plans.
- Restores the ability of coastal districts, through their political bodies, to write meaningful enforceable policies by enabling policies to be prescriptive or performance-based, stricter or more specific than state or federal laws, but not violative of either.
- Reincorporates the Department of Environmental Conservation in the consistency review process.
- Reestablishes the ability of coastal districts, through their political bodies, to consider cumulative impacts in project reviews.

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

**SECTION 1.** That the Kenai Peninsula Borough supports the revision of the Alaska Coastal Management Program to restore and establish these provisions, among others, and permit the Assembly to consider the adoption of policies that are more reflective of the borough's concerns in its coastal zone.

**SECTION 2.** That a copies of this resolution be forwarded to Governor Sarah Palin, Senator Al Kookesh, Representative Woodie Salmon, Senator Con Bunde, Representative Mike Hawker, Senator Thomas Wagoner, Speaker Mike Chenault, Representative Kurt Olson, Senator Gary Stevens, Representative Paul Seaton, Senator Donald Olson, Representative Reggie Joulé, Representative Bryce Edgmon, Representative Bob Buch and Department of Natural Resources Commissioner Tom Irwin.

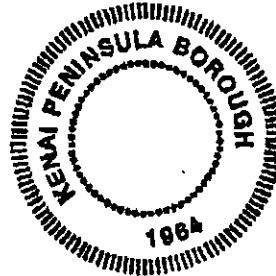
**SECTION 3.** That this resolution takes effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF APRIL, 2009.**

*Milli Martin*  
Milli Martin, Assembly President

ATTEST:

*John Blankenship*  
John Blankenship, Borough Clerk



Yes: Fischer, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin  
No: None  
Absent: Knopp





# ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

April 15, 2009

Honorable Craig Johnson  
Honorable Mark Newman  
Alaska State House  
Capitol Building  
Juneau, AK 99801

Re: House Bill 74, Changes to Alaska Coastal Zone Management

Dear Representatives Johnson and Newman,

The mining industry has been involved in the Alaska Coastal Zone Management Program (ACMP) for many years. Several companies have raised concerns regarding the CSHB-74(CRA). They agree that ACMP is not working well but they cannot support the changes being proposed in CSHB-74(CRA). **The bottom line is that this bill would create an administrative quagmire for the state permitting process and would create tremendous uncertainty for all permittees.**

As proposed by CSHB-74(CRA), the coastal districts would be in charge of the program and control what is done. **In this situation, the coastal districts would be in a position to set the rules and enforce them without accountability to the Legislature or the Administration.** The bill would re-establish the Coastal Policy Council (calling it the Coastal Policy Board) with 5 public members and 4 state agencies (DNR, DF&G, DEC, & DCEED). The governor would choose the public members but must select them from a list supplied by the Coastal Districts. **The effect is that the districts would control the outcome of the selection process. This is not a good situation for ACMP or any other public policy issue.**

Further under CSHB-74(CRA), the Coastal Policy Board (CPB) would approve or disapprove all plans and regulations. **If the board feels that an agency is not interpreting the policies the way they want, it would have the authority to order the agencies to change, irrespective of State statute or regulation. The CPB would thereby effectively have authority over both the Legislature and the Administration.**

CSHB-74(CRA) would also eliminate what has been called the DEC "carve-out". It would allow districts to interpret state statutes and regulations relating to air quality, water quality, solid waste disposal, water injection, land issues, sanitation, food service, public health, etc. Many of these statutes and regulations have been developed over many decades of detailed technical evaluation by the agency and through a tremendous amount of public process and input. Others are nation-wide standards developed over many years by federal government scientists at the cost of millions of dollars. **The coastal districts do not and will not have the technical expertise to fully evaluate these issues.**

regulate something the legislature has not given them, the district could simply write it themselves and DNR, DF&G, DCEED would have to comply.

A second conclusion is that many of the examples mentioned above would raise constitutional questions. Because the CPB has the authority to go beyond state law, the bill has the effect of delegating legislative law-making to a public-dominated board. This delegation is not constitutionally allowed. Similarly, it removes interpretation of state regulations from the administrative branch — where the interpretations constitutionally belong — and gives this authority to the CPB. While some of these constitutional issues existed before passage of HB-191 in 2003 (specifically the homeless stipulations), CSHB-74(CRA) greatly magnifies and expands these legal problems.

A third conclusion is that the bill essentially does away with the concept of state interest. There are some decisions — whether and how a gasline should be constructed, expansion of the railroad, even oil development on the North Slope — that should be decided by the state, without a veto by local authorities. It is critical that local land-use issues and local concerns be taken into account by the permitting agencies, but some issues affect the entire state and must be determined on a state-wide basis. CSHB-74(CRA) essentially does away with this concept.

A final conclusion is that the changes proposed would create tremendous uncertainty for the regulated public. There is no way to escape a great deal of uncertainty as individual coastal districts have the final say in what was previously agency matters.

Thank you for the opportunity to address our concerns to you.

Sincerely,



Steven C. Borell, P.E.  
Executive Director

**Testimony of Patricia Phillips  
Mayor, City of Pelican**

**House Resources Committee  
House Bill 74 – Alaska Coastal Management Program  
April 15, 2009**

Co-Chair Johnson, Co-Chair Neuman and House Resources Committee, my name is Patricia Phillips; I am Mayor of the City of Pelican.

The City of Pelican supports House Bill 4 because it reinstates essential components to the Alaska Coastal Management Program (ACMP). The State of Alaska and local coastal districts were once closely affiliated when the ACMP was first put into effect. However, more recently, the role of coastal districts has been impaired. HB 74 restores the ability of coastal districts to establish meaningful enforceable policies, discuss air and water quality issues during coastal management reviews, and provides a forum for coastal districts and state agencies through a "Coastal Policy Board". The main purpose is to reinstate local determination and due deference on matters of local concern regarding resources in coastal areas.

As a mayor of a small rural coastal community, I understand economic development is the driver to keep our communities vibrant and healthy. I see first-hand the onerous requirements of federal and state environmental reviews and permitting procedures. The ACMP is not just another regulatory program; rather, it coordinates the management authorities of state and federal agencies and local governments. The coordinated consistency review process allows all parties to consult with one another to work out issues early in the process prior to permits being finalized.

The ACMP Re-Evaluation process initiated by the Alaska Department of Natural Resources ended without consensus. I attended the December re-evaluation workshop in Anchorage and thought DNR missed an opportunity for consensus on many of the proposed changes to state statutes and regulations.

An important aspect of the ACMP is the ability of coastal districts to establish enforceable policies to address local conditions and concerns. Unique to Alaska is ANILCA which protects subsistence use on Federal public lands. Coastal districts need enforceable policies for subsistence and important habitat related to subsistence. Governor Palin recognized this when during her campaign for governor she pledged, "I would also revisit the change in regulations on the Alaska Coastal Zone Management program in which the past administration by eliminating the rights of local districts to write specific local enforceable policies on important issues like subsistence" ([www.palinforgovernor.com](http://www.palinforgovernor.com)). SB 4 establishes clear criteria for local policies that do not conflict with state or federal laws.

HB 74 establishes a Coastal Policy Board. This board is necessary to ensure the views of coastal districts and state agencies are considered for major coastal policy issues. The Coastal Management Program was designed to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in **cooperation with** Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone [...], and giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decision-making.

HB 74 eliminates the "DEC carve-out" by bringing Department of Environmental Conservation permits into the project consistency review process. The draft statutes issued by the Alaska Department of Natural Resources last November supported elimination of the carve-out. Air and water quality affects nearly all coastal issues, so it makes sense to include these factors in the ACMP consistency review process.

Thank you for the opportunity to testify on this important bill, and I urge you to pass it out of committee at your earliest convenience.

Introduced by: Martin  
Date: 04/07/09  
Action: Adopted as Amended  
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
RESOLUTION 2009-030**

**A RESOLUTION SUPPORTING LEGISLATION TO ENABLE ALASKA'S COASTAL  
COMMUNITIES TO MORE EFFECTIVELY PARTICIPATE IN THE ALASKA  
COASTAL MANAGEMENT PROGRAM**

**WHEREAS,** the passage of House Bill 191 by the Alaska Legislature in 2003 at the request of the Murkowski Administration attempted to "streamline the Alaska Coastal Management Program (ACMP) and through its implementation by statutory and regulatory amendments, forced a complete revision of all Alaska Coastal Management Plans in Alaska, including the Kenai Peninsula Borough plan; and

**WHEREAS,** as a result of the passage of HB 191, and new regulations imposed by the Alaska Department of Natural Resources, the Kenai Peninsula Borough lost more than 70 percent of the policies the borough had utilized effectively during the previous 15 years to assist development applicants while exercising appropriate stewardship of our natural resources; and

**WHEREAS,** Alaska Coastal Districts are unanimous in their appeal for revisions in Alaska Statutes and regulations to restore the ability of Alaskan communities to regain "a meaningful seat at the table" when management and development decisions affecting Alaska's coastal zones are being made; and

**WHEREAS,** Legislation with the following key provisions could restore to local governments a more meaningful role in the local development decisions and stewardship of coastal resources:

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- Reestablishes the ability of coastal districts, through their political bodies, to consider cumulative impacts in project reviews.

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**SECTION 2.** That a copies of this resolution be forwarded to Governor Sarah Palin, Senator Al Kookesh, Representative Woodie Salmon, Senator Con Bunde, Representative Mike Hawker, Senator Thomas Wagoner, Speaker Mike Chenault, Representative Kurt Olson, Senator Gary Stevens, Representative Paul Seaton, Senator Donald Olson, Representative Reggie Joule, Representative Bryce Edgmon, Representative Bob Buch and Department of Natural Resources Commissioner Tom Irwin.

**SECTION 3.** That this resolution takes effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 7TH DAY OF APRIL, 2009.**

\_\_\_\_\_  
Milli Martin, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, Borough Clerk

Yes: Fischer, Long, Pierce, Smalley, Smith, Sprague, Superman, Martin  
No: None  
Absent: Knopp

# KENAI PENINSULA BOROUGH

Office of the Borough Clerk


144 North Binkley Street  
Soldotna, AK 99669  
Phone 907-714-2160  
Fax 907-714-2388

Milli Martin, Assembly President  
Pete Sprague, Vice President

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## MEMORANDUM

**To:** Assembly Members

**From:** Assembly President Milli Martin 

**Date:** April 7, 2009

**Re:** Resolution 2009-030, Supporting Legislation Regarding the Alaska Coastal Management Program

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The attached resolution offers general support for legislation now before both the House and Senate concerning the Alaska Coastal Management Program (ACMP). In my view, the ACMP is very important to the Kenai Peninsula Borough, as this borough has, mile for mile, the longest borough coastline in the state.

The Coastal Policy Council that was originally established in the legislation of 1977 worked well. The key to both pending bills is the reestablishment of the ACMP Coastal Policy Board that existed before the legislature removed it in 2003 with the enactment of HB 191. It is also a mechanism for coastal districts to appeal the decisions of the Department of Natural Resources (DNR) regarding the adoption of enforceable policies. Under the current policy, DNR has the final authority to interpret statutes and administrative code provisions, and deny policies on that basis. During the statutorily required rewrite of the Kenai Peninsula Borough Coastal Management Plan in 2003, a number of policies the borough used successfully for all concerned during 15 years of implementation were denied without appeal. Among policies DNR denied were those related to consideration of the impact of development in uplands adjacent to important river habitat, dredging and filling in water bodies, resource extraction on shorelines, and development in unstable areas.

In addition to the creation of the Board, a number of statutory and administrative code changes are necessary for the ACMP to live up to the purpose for which it was created. This purpose is to help those who want to invest in and develop projects to do so in a way that protects the uses and resources of coastal areas. The only opportunity the borough has "to have a seat at the table" during the project permitting process is through the ACMP.

I believe the Kenai Peninsula Borough has demonstrated over the years that both development and protection of resources can be accomplished. ACMP has been an integral part of the KPB since it was adopted by the borough in 1990.

I also recognize these bills will probably take two years for passage. However, I feel it is imperative to let members of the Legislature know the Assembly supports these efforts. The Alaska Municipal League has a letter of support on file, as did the cities of Cordova, Valdez, and Pelican, and the Aleutians West Coastal Resource Service Area. Resolutions from the Kodiak Island Borough and the City and Borough of Sitka have been sent to the legislature. I anticipate others will follow.

I ask your support of this resolution.

## **Testimony of Carol Smith**

**Coastal Program Coordinator for the City of Valdez**

**Senate Resources Committee**

**Senate Bill 4 Alaska Coastal Management Program**

Good Afternoon! My name is Carol Smith, I am the Coastal Coordinator for the Valdez Coastal District and member of the ACMP Re-evaluation Stakeholder Group. Thank you for this opportunity to provide comments on HB 4 regarding changes to the Alaska Coastal Management Program (ACMP).

Because of the major regulation changes in 2003, the Valdez Coastal Management Plan went from 41 enforceable policies to 14. The updated Valdez Coastal Management Plan was approved even though a number of our meaningful policies were not approved. We felt it was important to be a part of the Alaska Coastal Management Program and it has been our hope that new regulations would be introduced to give the districts back more local input through meaningful policies. We believe the most affective coastal plan is a balance of Federal, State, Applicant and Local cooperation.

PROPOSED Coastal Policy Board: Section 1 of the bill would establish the Coastal Policy Board. We agree that the old Coastal Policy Council of 17 members did not always work well as it was too large and was made up of political representatives who were not always aware of everything that was happening with the ACMP. This proposed board is much smaller and would be made up of representatives of coastal districts and state agencies, and unlike the former council, it would not be responsible for project consistency reviews. The new board would only address ACMP issues. Appeals are now handled by the DNR Commissioner and the CPB would be a much fairer process.

ENFORCEABLE POLICIES: Sections 9 and 14 of the bill would make the criteria for district enforceable policies much clearer. A major problem since the 2003 changes has been varied interpretation of the new regulations by DNR. Districts need to be able to write meaningful enforceable policies that address local concerns. The bill would allow coastal districts to establish policies as long as they do not duplicate an existing law and do not address a matter preempted by a state or federal agency. The Alaska coastline is very vast and different so one shoe does not fit all situations.

DEC CARVE-OUT: The City of Valdez supports Section 37 of the bill which eliminates the "DEC Carve-out." At the November Workshop, the Alaska Department of Natural Resources and other state agencies indicated their support for bringing DEC back into the ACMP review process. Doing reviews on DEC projects has been very confusing and hard to coordinate for the state agencies as well as the coastal districts. It worked much better with the "one-stop shop" approach. We believe this change is very positive.

We realize this bill may not be perfect but it is a very positive step towards fixing problems that have been created by the 2003 regulations changes. The Coastal Districts want to see positive cooperation among all entities involved in the Coastal Management Plan.

Thank you for the opportunity to testify on Senate Bill #4. This concludes my testimony.

**Testimony in Support of HB74  
Yakutat Coastal District**

The National Coastal Zone Management Act of 1972 created a program for balancing human actions within identified coastal districts. Noting the increase in population, decreasing space and diminishing resources the act attempted to create a system for making development decisions based on cooperation.

Local governments are specifically identified as cooperators in the CZMA. Under current regulations I feel we function merely as another public commenter and are not serving as empowered cooperators. We have no board to which we can bring disagreements and no ability to enact policies important locally. There were several projects that have occurred in recent years where the local district provided far more oversight than either the state or federal agencies involved. The problems were identified but there was no regulatory avenue for local districts to declare the actions as inconsistent which would have provided leverage to steer the project to a place within the spirit of the CZMA. Instead we had to stand by and watch or utilize other avenues to make our voices heard.

The ideas of local control, small government and self determination are intrinsic to American philosophy. Sometimes it is necessary to enable large government oversight to deal with problems such as coal emissions drifting from China to Alaskan shores. Other times it is appropriate to have management guided at the state level because some resources such as salmon and waterfowl are migratory in nature and can be harvested across district boundaries. However, issues such as water quality, construction, mining, timber harvest, etc. are sedentary in nature and the people within the Coastal District will have to live with the short and long term consequences of the action. Sometimes the impacts can last for generations, long after the profit and jobs have moved on, so overall results should be positive not negative. Geographically bound projects, such as these, must be evaluated with strong local cooperation to ensure this happens.

**Empowered local participation brings four benefits to the table;**

- 1.) Site specific knowledge of local areas and ecological processes
- 2.) Rapid feedback loops by observing changes in local socioeconomic and environmental conditions
- 3.) One more check and balance emanating from a different perspective than visiting State or Federal regulators
- 4.) Respect

There must be strong policy at the local level that embodies the vision of those living there. The current situation leaves us as powerless bystanders or forces us to become antagonists; HB 74 reinstates the possibility that we can repair the Alaska Coastal Program, reinvigorate the public process, avoid unnecessary controversy and create a sustainable model for the state's future development.

Thank you for the opportunity to comment

Bill Lucey  
Coastal Planner - Yakutat

## LOCAL COOPERATION

### **Sec. 304 COASTAL ZONE MANAGEMENT ACT OF 1972**

(4) to **encourage the participation and cooperation** of the public, state and **local governments**, and interstate and other regional agencies, as well as the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title;

(5) to **encourage coordination and cooperation with and among** the appropriate Federal, State, and **local agencies**, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

(6) to **respond to changing circumstances** affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

(16 U.S.C. 1452)

## THE SPIRIT OF THE COASTAL PROGRAM

SEC. 302. The Congress finds that—

(a) There is a national interest in the **effective management**, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and **future well-being** of the Nation.

(c) The **increasing and competing demands** upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, **have resulted in** the loss of living marine resources, wildlife, nutrient-rich areas, **permanent and adverse changes to ecological systems**, decreasing open space for public use, and shoreline erosion.

TESTIMONY OF TOM LOHMAN  
NORTH SLOPE BOROUGH DEPT. OF WILDLIFE MANAGEMENT  
HOUSE RESOURCES COMMITTEE

HB 74

APRIL 15, 2009

Thank you to Co-Chairs Johnson and Neuman, members of the Committee, my name is Tom Lohman. I've been with the North Slope Borough, first with the Law Department and now with the Wildlife Department, for almost 22 years. Our local district plan was approved in 1988, my 2<sup>nd</sup> year with the Borough...so I've been at this for a long time.

First off, the ACMP is not like other regulatory schemes, it was never been intended to be like, and should not be like other regulatory schemes. It is unique, and was created that way beginning at the federal level with the Coastal Zone Management Act. It is a voluntary partnership, and any party that opts to become involved expects to benefit from their participation. States that opt into the national program agree to meet certain general conditions, and in return get federal dollars and the very unique commitment that federal activities and permits will be consistent with the different terms and conditions of the federally approved state programs. In return for that yielding to the authority and differing dictates of the various states, the federal government gets the protection of coastal resources and uses the Congress wisely recognized as being environmentally, economically, culturally, and otherwise of critical value to the country as a whole.

DNR and should stop trying to make the ACMP a one-size-fits-all statewide program like most other statutory and regulatory programs.

Now, mirroring the wisdom of Congress the Alaska Legislature in crafting our state program adopted an approach unique among participating states. Authority was further transferred down to the local level...to local districts...recognizing the uniqueness of Alaska, the great size and diversity of our coastal areas, and a certain spirit the makes communities bristle when told by remote decision makers what's best for them...in the same way every Alaska state administration has had reasons at various times to tell federal decision makers in DC, Seattle, or San Francisco to back off when they try to implement general nationwide regulations that may work elsewhere but don't make sense here.

AMENDMENT 1

**OFFERED IN:** The House Community & Regional Affairs Committee

**TO:** HB 74 (HCRA)

**OFFERED BY:** Representative Joule

**Delete** at pg. 7 (b)(2), lines 20-23.

**Add** at pg. 7 line 20 the following:

(b)(2)(a) are necessary given local conditions, and

(b)(2)(b) are supported by evidence, including contemporary or traditional local knowledge, if the policies are more specific than state or federal statutes or regulations.

AMENDMENT 2

**OFFERED IN:** The House Community & Regional Affairs Committee

**TO:** HB 74 (HCRA)

**OFFERED BY:** Representative Joule

At pg. 11, line 13 **delete** the following from sec. 46.40.070:

(B) are not preempted by federal statutes or regulations; and

**Add** the following at pg. 11, line 13:

(B) are not preempted by federal or state law.

At pg. 11, line 20 **add**:

(c) In (a)(2)(B) of this section, an enforceable policy of the district coastal management plan is preempted by state statutes or regulations if it is prohibited, either by express legislative direction, or direct conflict with a state statute, or where a local law or regulation substantially interferes with the effective functioning of a state statute or regulation or its underlying purpose.

AMENDMENT 3

**OFFERED IN:** The House Community & Regional Affairs Committee

**TO:** HB 74 (HCRA)

**OFFERED BY:** Representative Joule

**Delete** pg. 16, lines 21-28.

**Add** at pg. 16, line 21 the following:

(a) A city within the coastal area that is not part of a coastal resource service area shall be included for purposes of this chapter within in adjacent coastal resource service area unless its governing body, by resolution adopted by a majority of its membership, chooses to exclude the city from an adjacent coastal resource service area and a copy of the resolution is filed with the commissioner of commerce, community, and economic development.

AMENDMENT 4

**OFFERED IN:** The House Community & Regional Affairs Committee

**TO:** HB 74 (HCRA)

**OFFERED BY:** Representative Joule

**Delete** at pg. 17, lines 8-23.

**Add** at pg. 17 line 8 the following:

“coastal resource district” means each of the following that contains a portion of the coastal area of the state:

- (A) unified municipalities;
- (B) organized boroughs of any class that exercise planning and zoning authority;
- (C) home rule and first class cities of the unorganized borough or within boroughs that do not exercise planning and zoning authority;
- (D) second class cities of the unorganized borough, or within boroughs that do not exercise planning and zoning authority, that have established a planning commission, and that, in the opinion of the commissioner of commerce, community, and economic development, have the capability of preparing and implementing a comprehensive district management plan under AS 46.40.030;
- (E) coastal resource service areas established and organized under AS 29.03.020 and AS 46.40.110 – 46.40.180;

**AMENDMENT 1**

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**Add** at pg. 7 line 20 the following:

(b)(2)(a) are necessary given local conditions, and

(b)(2)(b) are supported by evidence, including contemporary or traditional local knowledge, if the policies are more specific than state or federal statutes or regulations.

**EXPLANATION:**

This amendment brings clarity to the existing bill section, which is confusing. It omits the word "stricter," which may have instigated fear among opponents of the bill that this bill will allow coastal districts to create enforceable policies that undermine the authority of the state and federal governments.

## AMENDMENT 2

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**TO:** HB 74 (HCRA)

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(c) In (a)(2)(B) of this section, an enforceable policy of the district coastal management plan is preempted by state statutes or regulations if it is prohibited , either by express legislative direction, or direct conflict with a state statute, or where a local law or regulation substantially interferes with the effective functioning of a state statute or regulation or its underlying purpose.

### **EXPLANATION:**

This amendment clarifies that district enforceable policies cannot override state law or render state law moot by further articulating when a district policy oversteps its bounds, i.e. when it is preempted by state law. Much of the discontent with the ACMP involves a lack of consensus regarding what district enforceable policies are "approvable." For stakeholders to work together and for DNR to promulgate regulations that implement the ACMP as the legislature intends<sup>1</sup>, it needs adequate guidance. This amendment seeks to provide more thorough guidance than does the existing bill.

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<sup>1</sup> "The ACMP regulations ended up more stringent than what was intended under HB 191. Coastal districts were limited in their ability to craft enforceable policies that address coastal uses and resources that were important to local residents. This limitation manifested itself into severely strained relationships between OPMP [Office of Project Management and Permitting], DCOM, and many districts." Statement by Randy Bates, minutes from SB 161, 2008 version of bill, first hearing.

**AMENDMENT 3**

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**TO:** HB 74 (HCRA)

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**EXPLANATION:** This restores the original wording of the law. This bill section flips the meaning of the existing statute by creating the possibility for the elimination of coastal resource service areas, which is not the intent of the sponsor.

AMENDMENT 4

**OFFERED IN:** The House Community & Regional Affairs Committee

**TO:** HB 74 (HCRA)

**OFFERED BY:** Representative Joule

**Delete** at pg. 17, lines 8-23.

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



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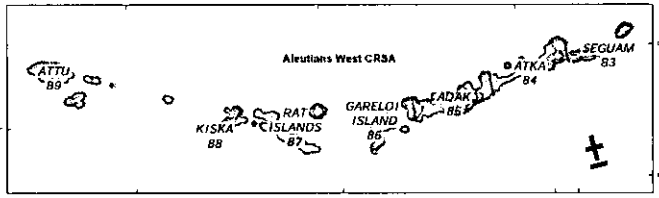
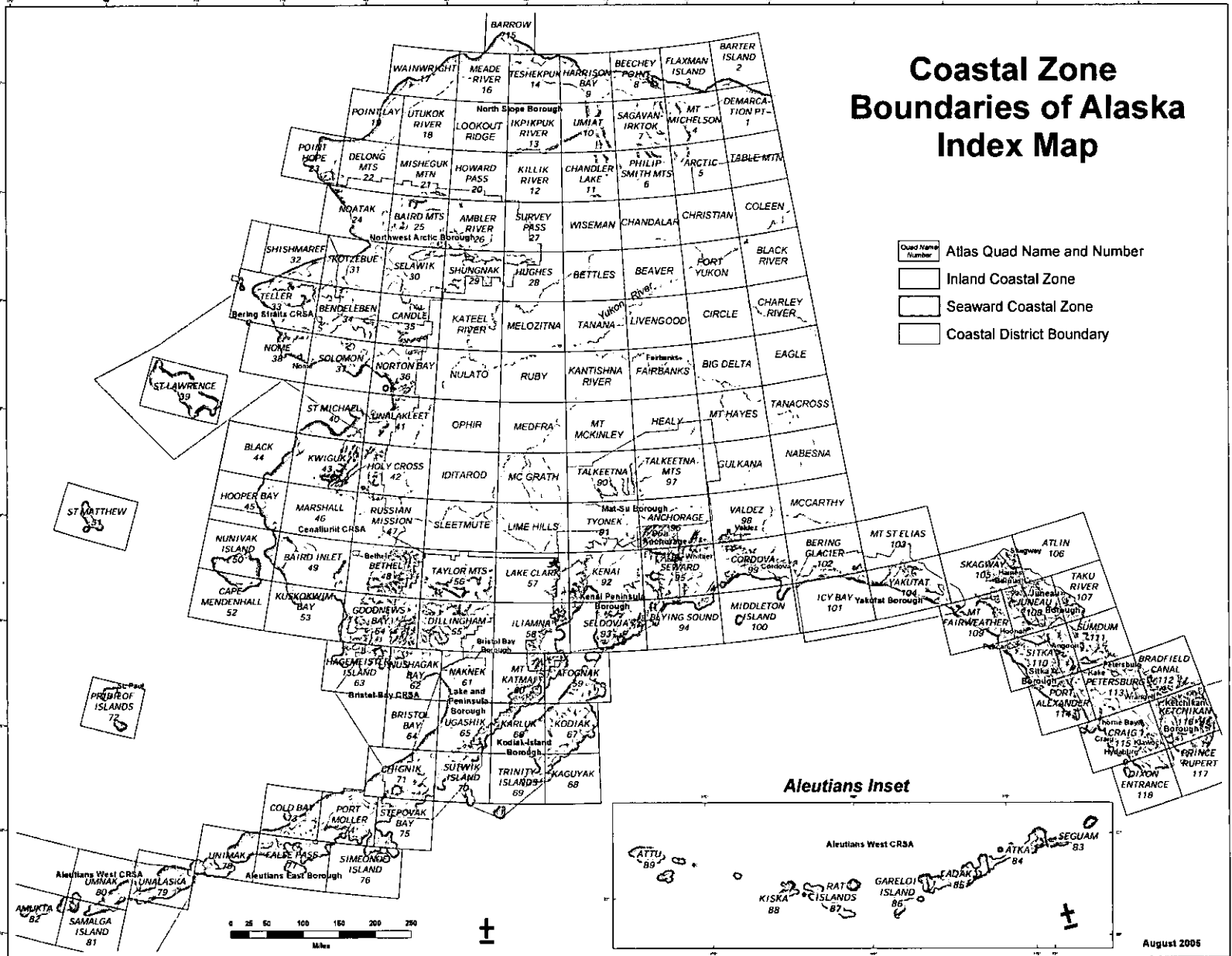
- (A) unified municipalities;
- (B) organized boroughs of any class that exercise planning and zoning authority;
- (C) home rule and first class cities of the unorganized borough or within boroughs that do not exercise planning and zoning authority;
- (D) second class cities of the unorganized borough, or within boroughs that do not exercise planning and zoning authority, that have established a planning commission, and that, in the opinion of the commissioner of commerce, community, and economic development, have the capability of preparing and implementing a comprehensive district management plan under AS 46.40.030;
- (E) coastal resource service areas established and organized under AS 29.03.020 and AS 46.40.110 – 46.40.180;

**EXPLANATION:** This bill section might have unintended consequences, such as disallowing a district that is currently in an unorganized borough from continuing its status as a coastal resource district if it formed a borough that does not exercise planning and zoning authority.

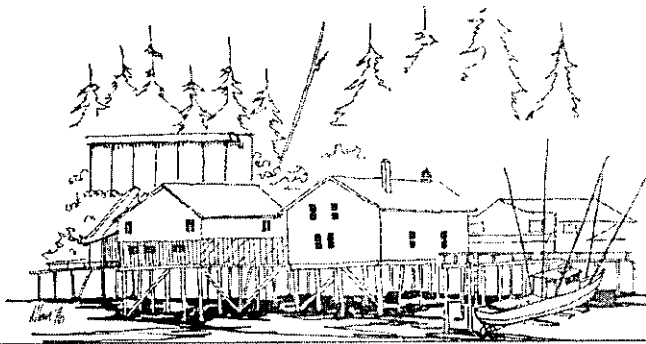
Quad Name	Number
ADAK	85
ANGLER RIVER	29
AMUKTA	82
ANCHORAGE	96
ANCHORAGE INSET	96A
ARCTIC	5
ATKA	84
ATLIN	106
ATU	89
BAIRD MTS	25
BARROW	15
BARTER ISLAND	2
BEECHY POINT	8
BENDELEBEN	34
BERING GLACIER	102
BETHEL	48
BLACK	44
BLIND SOUND	94
BROADFIELD CANAL	112
BRISTOL BAY	64
CANDLE	35
CAPE MENDENHALL	52
CHANDLER LAKE	11
CHIGNIK	71
COLD BAY	73
CORDOVA	96
CRAG	115
DE LONG MTS	22
DE MARCATION PT.	1
DILLINGHAM	85
DIXON ENTRANCE	118
FALSE PASS	77
FLAXMAN ISLAND	3
GARELOI ISLAND	86
GOODNEWS BAY	54
HAGBERG IS.	83
HARRISON BAY	9
HOLY CROSS	42
HOOPER BAY	45
HOWARD PASS	20
HUGHES	28
ICY BAY	101
KIKPIK RIVER	13
KILIK	58
JUNEAU	105
KAGUYAK	68
KARLUK	66
KENAI	92
KETCHIKAN	116
KILIK RIVER	12
KISKA	88
KODIAK	67
KOTZEBUE	31
KUSKOKWIM BAY	53
KULUK	41
LAKE CLARK	57
MARSHALL	46
MEADE RIVER	16
MIDDLETON IS.	100
MICHIGAN MTN	21
MT FAIRWEATHER	108
MT KATMAI	80
MT MICHIGAN	4
MT ST ELIAS	103
NAKNEK	61
NOATAK	24
NOME	38
NORTON BAY	37
NUNIVAK ISLAND	50
MUNAK BAY	82
MUSHAGAK BAY	62
PETERSBURG	113
PHILIP SMITH MTS	6
POINT HOPE	23
POINT LAY	19
PORT ALEXANDER	114
PORT MOLLER	74
PRINCE OF ISLANDS	72
PRINCE RUPERT	117
RAT ISLAND	87
RUSSIAN MISSION	47
SAGAVANIRKOTOK	7
SANALGA ISLAND	81
SEGUAM	83
SELANK	30
SELDOVIA	63
SEWARD	95
SHISHMAREF	32
SHUNGNAK	29
SIMEONOV IS.	76
SITKA	110
SKAGWAY	102
SOLDON	37
ST LAWRENCE	39
ST MATTHEW	51
ST MICHAEL	40
STEPHENS BAY	75
SUMDUM	111
SURVEY PASS	27
SUTWIN ISLAND	70
TAKU RIVER	107
TALKEETNA	90
TAKU MTS	87
TAYLOR MTS	56
TELLER	33
TESHEKUPUN BAY	14
TRINITY ISLANDS	69
TYONK	81
UGASHIK	65
UNAK	80
UNALAKLEET	41
UNALASKA	79
UNIMAK	78
UTUKOK RIVER	98
VALDEZ	98
WAINWRIGHT	17
YAKUTAI	104

# Coastal Zone Boundaries of Alaska Index Map

-  Atlas Quad Name and Number
-  Inland Coastal Zone
-  Seaward Coastal Zone
-  Coastal District Boundary



Index Map



City  
of  
Pelican

BOX 737 - PELICAN, ALASKA 99832 - PHONE: 735-2202/2203 - FAX: 735-2258 - E-MAIL: cityhall@pelicanity.net - WEBSITE: www.pelicanity.net

February 20, 2009

Honorable Bob Herron and Honorable Cathy Munoz  
Co-Chairs House Community and Regional Affairs Committee  
Capitol, Room 415  
Juneau, Alaska 99801

Dear Co-Chairs Herron and Munoz:

The City of Pelican wishes to support House Bill 74 which would improve the Alaska Coastal Management Program (ACMP). Changes made to the program in 2003 have reduced the effectiveness of the ACMP.

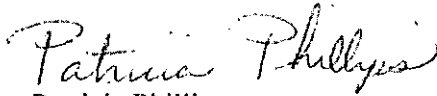
As a mayor of a small rural coastal community, I see first-hand the onerous Federal and State Environmental reviews and permitting processes. These bills would allow coastal districts to establish meaningful enforceable policies, but in my opinion, they would not lead to significant additional burdens for project applicants because coastal districts need economic development.

The City of Pelican supports creation of the Coastal Policy Board. This board would lead to a better balance in decisions because it would represent state agencies and coastal districts. Nothing in the proposed legislation would allow the board to overrule agency decisions.

We also support integration of the Department of Environmental Conservation into the ACMP consistency review process.

Thank you for the opportunity to comment on House Bill 74.

Sincerely,

  
Patricia Phillips  
Mayor

cc: Members of the House Community and Regional Affairs Committee



December 22, 2008

Randy Bates  
 Director, Division of Coastal and Ocean Management  
 Department of Natural Resources  
 P.O. Box 111030  
 Juneau, Alaska 99811-1030

Re: **Alaska Coastal Management Program Re-Evaluation**

Dear Mr. Bates,

Ukpeagvik Inupiat Corporation (UIC) was created under the Alaska Native Claims Settlement Act (ANCSA) in 1972 to serve the social and economic interests of the Native Village of Barrow, Alaska, the northern most coastal village in the United States. In light of expanding resource exploration and development both onshore and offshore in our region, the UIC Board of Directors has developed the following policy statement:

*In our interactions with the oil and gas industry, we will leverage our position to benefit the Ukpeagvik Inupiat Corporation Family of Companies, its shareholders and the community. We acknowledge the inevitability of exploration and development by the oil and gas industry and we will support exploration activities as long as they are done in a way that ensures:*

- *Protection and preservation of the Inupiat culture and subsistence lifestyle*
- *Economic benefit for our community*
- *Employment for our shareholders and their families, and*
- *Contract opportunities for our companies*

UIC shares the interests of the North Slope Borough, as our coastal district governing body, to create a robust and growing industrial sector in Alaska's arctic. UIC also shares an interest in protecting our Inupiat customary and traditional way of life through local participation in project planning by implementing sound environmental regulations and policies under a flexible and reasonable Alaska Coastal Management Program. UIC is favorable to empowering local coastal districts to enforce locally driven environmental policies through a predictable and streamlined public process under the expertise of a coastal management plan.

Each coastal district or region in Alaska is so unique and special both geographically and ecologically, it makes sense to empower well thought and reasonable district specific enforceable policies to help guide project development beyond general state and federal regulations. For example, a local policy that fits the needs of Cook Inlet or Southeast communities, such as pipeline setbacks, cannery operations, cruise industry ports of call, general water use and waste discharge, or tank farm requirements, may not apply similarly in the unique arctic environment.

Before 2004, the original statutes and regulations of ACMP worked moderately well, allowing coastal districts to participate and include local expertise in the permitting process. With a few procedural modifications to the older, pre-2003 system, such as a streamlined Coastal Policy Board, as envisioned in

**U k p e a g v i k I n u p i a t C o r p o r a t i o n**

P.O. Box 890 • Barrow, AK 99723 • Fax (907) 852-4459 • Voice (907) 852-4480

the North Slope Borough (NSB) recent recommendations, we believe the ACMP can achieve the intent of the Coastal Zone Management Act and the Intent of the Alaska Constitution to maximize local control and governance.

UIC believes future statutory language should support an ACMP regime that allows multiple agencies such as DNR, DEC, ADF&G, and DCCED to participate in a meaningful consistency review. This broad challenge requires well defined language that should reflect flexible regulatory structure so as not to create the potential for arbitration and delay. If piecemeal decision-making is framed by restrictive state policy and tedious legislative review, higher probability for arbitration and delay of important commercial activity will result from special interest group interpretations of the environmental regulations governing proposed coastal economic development projects.

UIC believes sound natural resource management and environmental conservation are best served under "performance based policies", innovative solutions driven, flexible, and incorporating predictable regulations that guide industrial development - dispelling notions that local policies should apply only to specific designated areas and resources. This philosophy recognizes potentially large shifts in ecology and subsistence resource migration, which in turn defines public access and uses of resources, especially in light of climate change, global warming, arctic sea ice retreat, and cumulative industrial growth.

UIC is economically dependant, in large part, on a healthy oil and gas industry, but we are also dependant on a healthy arctic marine ecosystem which supports the Inupiat subsistence way of life. As a critical stakeholder in the ACMP regulatory process we thank you for this opportunity to comment on the ACMP reevaluation.

Respectfully submitted,  
UKPEAGVIK INUPIAT CORPORATION



Anthony E. Edwardsen  
President & CEO

Distribution:

Ukpeagvik Inupiat Corporation

**House Bill 74 – Alaska Coastal Management Program (ACMP)**  
**Sectional Analysis**  
January 27, 2009

- Section 1:** Establishes the Alaska Coastal Policy Board (Board), composed of 5 public members representing coastal districts and commissioners of natural resources, fish and game, environmental conservation, and commerce, community and economic development.
- Section 2:** Clarifies that the Department of Natural Resources (Department) coordinates project consistency reviews for projects with only Department permits or for projects that involve two or more other state resource agency permits.
- Section 3:** Establishes authority for the Department to adopt regulations after approval by the Board.
- Section 4:** Establishes powers for the Board including the ability to accept grants and take reasonable action to carry out provisions of AS 46.39 and AS 46.40.
- Section 5:** Establishes duties of the Board to approve statewide ACMP standards and criteria for district plan approval.
- Section 6:** Defines Board in AS 46.39.900.
- Section 7:** Provides for approval of ACMP program changes by the Board.
- Section 8:** Adds subsistence to the list of resources included in the ACMP objectives.
- Section 9:** Subsection (a) removes requirement for district enforceable policies to meet the statewide standards. Clarifies that district enforceable policies apply to all land and water issues subject to the plan. Removes requirement to describe proper and improper uses. Changes the term "areas meriting special attention" to "special management areas." Subsection (b) requires district enforceable policies to be clear and concise, either prescriptive or performance-based, and stricter or more specific than state or federal laws.
- Section 10:** Makes conforming changes for board approval of ACMP regulations. Deleted language in AS 46.40.040(a)(2) – (5) moved to a new subsection (d).
- Section 11:** Moves language deleted from AS 46.40.040(a) to a new section outlining responsibilities of the Board.
- Section 12:** Makes conforming amendments by clarifying district plans must be approved by the Board.
- Section 13:** Establishes the review and approval process for coastal district plans including provisions for districts to work with the Department to resolve issues before the Board approves a plan. Allows districts to request mediation of the Board's decision.
- Section 14:** Establishes criteria for board approval of district plans and clarifies that district enforceable policies may not address matters preempted by state or federal laws.
- Section 15:** Makes conforming changes for board approval of ACMP regulations.

- Section 16:** Changes the term "subsequent review" to the commonly used term "elevation" and clarifies that the three state resource agencies make the final decision on a project elevation.
- Section 17:** Clarifies that aspects of an activity covered by a general or nationwide permit are excluded from a consistency review (rather than the entire activity). Eliminates language exempting Department of Environmental Conservation permits from consistency reviews.
- Section 18:** Makes conforming changes for Board approval of district enforceable policies.
- Section 19:** Allows ACMP consistency review of projects inland of the coastal zone if there would be direct and significant effects to coastal uses or resources. Clarifies that seismic survey activities in federal waters are subject to consistency reviews.
- Section 20:** Clarifies that categorically or generally consistent activities are for routine projects.
- Section 21:** Exempts federal activities and federally-permitted projects the 90-day consistency review time limit. Allows extension of the time limit for adjudication of coastal district permits.
- Section 22:** Clarifies that the term "affected coastal resource district" includes districts with a publicly-reviewed draft plan or approved plan.
- Section 23:** Requires an individual consistency review for each Outer Continental Shelf lease sale.
- Section 24:** Gives the Board authority to act on a petition regarding non-implementation of a coastal district plan.
- Section 25 - 28:** Makes conforming amendment regarding Board action for a petition regarding non-implementation of a coastal district plan.
- Section 29:** Clarifies a coastal resource service area (CSRA) may accept new matter submitted by a city or village into its coastal management plan.
- Section 30:** Clarifies that municipalities are part of a CRSA unless they choose to be excluded.
- Section 31:** Removes language about boroughs that do not exercise planning and zoning authority.
- Section 32:** Makes conforming amendment clarifying the board's role in coastal boundary changes.
- Section 33 - 34:** Makes conforming amendment regarding the board's role in approving district plans and district enforceable policies.
- Section 35:** Clarifies that the term "project" includes federal activities and federally-permitted activities.
- Section 36:** Adds new definitions for the terms "Board" and "special management areas."
- Section 37:** Repeals exemption of Department of Environmental Conservation permits from consistency reviews ( AS 46.40.040(b)-(c) and AS 46.40.096(i)). Removes requirement for re-submittal district plans every 10 years (AS 46.40.050(a)). Removes exemption of shallow gas projects from ACMP reviews (AS 46.40.205). Removes definition for "areas meriting special attention" (AS 46.40.210(1)).

# North Slope Borough

OFFICE OF THE MAYOR

P.O. Box 69  
Barrow, Alaska 99723  
Phone: 907 852-2611 or 0200  
Fax: 907 852-0337 or 2595  
email: edward.itta@north-slope.org

*Edward S. Itta, Mayor*



February 3, 2009

Senator Donny Olson  
Alaska State Legislature  
State Capitol, Room 514  
Juneau, Alaska 99801

Sent by fax: \_\_\_\_\_

**RE: SB 4 Alaska Coastal Management Program**

Dear Senator Olson:

Thank you for pre-filing SB 4 about the Alaska Coastal Management Program (ACMP). I understand the Senate Community and Regional Affairs Committee will be considering adopting a committee substitute similar to the version of this bill in the House. The North Slope Borough (Borough) supports the committee substitute because it will restore meaningful local involvement in the ACMP, implement checks and balances and streamline project reviews.

The Borough appreciates the sections of the proposed committee substitute that clarify the ability of coastal districts to establish enforceable policies, especially the provisions in AS 46.40.030 and 070. While the 2003 legislative changes to the ACMP allowed coastal districts to establish policies for matters not adequately addressed by state or federal law, many of our proposed enforceable policies were denied on the basis that they addressed an agency's authority. We made an extra effort to focus our proposed policies on matters that were not addressed by existing laws, but still they were denied.

The committee substitute for SB 4 would restore checks and balances to the ACMP by establishing the Coastal Policy Board. This body would represent coastal districts and state agencies. It would be responsible for approving changes to ACMP regulations, amendments to coastal district programs and overall grant programs. This body is similar to the former Coastal Policy Council except that it has fewer members and it is not responsible for project consistency reviews. Restoring the responsibility for project elevations to the three state resource agencies will ensure these agencies have a seat at the table.

The Borough also supports the sections of the proposed committee substitute that streamline project reviews. The ACMP used to be an effective program that resolved issues among local, state and federal agencies, but changes to the program statutes and regulations reduced its effectiveness. Bringing the Alaska Department of Environmental Conservation back into the consistency review process will bring air and water quality issues back into ACMP project reviews. Likewise, allowing coastal districts to have meaningful policies will encourage their participation in the coordinated consistency review process. These changes will streamline project reviews because issues can be resolved early in the process by all parties. The changes will also encourage permitting agencies to ensure their permit stipulations are compatible and reasonable.

Again, the North Slope Borough thanks you for introducing SB 4, and I look forward to testifying on this bill as it moves through the committee process.

Sincerely,



Edward S. Itta  
Mayor

cc Johnny Aiken, NSB Director Planning & Community Services  
Karla Kolash, NSB Mayor's Office  
Andy Mack, NSB Mayor's Office

# NORTHWEST ARCTIC BOROUGH

P.O. Box 1110

Kotzebue, Alaska 99752

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Fax: (907) 442.3740 or 2930

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February 3, 2009

Honorable Senator Donny Olson  
Capitol, Room 514  
Juneau, Alaska 99811

Honorable Representative Reggie Joule  
Capitol, Room 502  
Juneau, Alaska 99801

**Re: SB 4 and HB 74 Alaska Coastal Management Program**

Dear Senator Olson and Representative Joule:

The Northwest Arctic Borough (NWAB) would like to thank you for the introduction of SB 4 and HB 74 on the Alaska Coastal Management Program (ACMP). On behalf of the Borough, I would like to address the substance of HB 74 because we understand the Senate Community and Regional Affairs Committee will consider adoption of the provisions of HB 74 into a senate committee substitute.

The NWAB supports the proposed legislation that would restore the ability of coastal districts to effectively participate in the program and establish meaningful policies under the ACMP; therefore providing valuable local input to development that happens in a very large and unique state. Another important provision in the bills would establish a board made of Alaskans to oversee the major aspects of ACMP as a publicly funded program. The proposed board would jointly represent state agencies and local coastal districts thereby restoring effective public engagement in the ACMP.

Currently, only the Alaska Department of Natural Resources (DNR) as a single agency makes all coastal management decisions. This has proved to be very one-sided and frustrating. For example, as you may know, during 2008 the NWAB attempted mediation with DNR to improve the decisions regarding our coastal management plan. Unfortunately, the mediation ended in an impasse with the majority of the proposed plan flat out denied. According to the

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ACMP now, our only re-course for a fair review is again to go back to the DNR commissioner for re-consideration of a decision that has already been made by the commissioner and his staff. As you can see, the ability to obtain a third party review that involves the public is not possible under the current program, and the new provisions in this bill will help prevent such a future problematic situation and provide state staff the clear criteria and direction for approval of coastal district policies with involvement of the coastal policy board.

The NWAB also supports the addition of subsistence to the ACMP objectives in AS 46.40.020. Until changes made by the Murkowski Administration, the ACMP has been an effective tool balancing resource development and protection of our coastal resources that support healthy subsistence. It is very important that Alaskans have the ability to propose local policies that demonstrate the real life connection of people and communities to coastal areas and actually reflect the close relationship Alaskan residents have to this land, the coastal zones and our valuable subsistence way of life. For the NWAB, the ability to cooperatively work with developers and the state to address subsistence impacts is the primary reason for participating in the ACMP so that development honors our long-time and permanent Alaskans lifestyles.

We also support provisions in the bill that would bring activities covered by the Alaska Department of Environmental Conservation back into the ACMP consistency review process. Impacts to air and water quality also affect habitat and subsistence, and it makes sense to address these issues together in a consolidated format during a single consistency.

The NWAB encourages responsible development of our natural resources. We recognize the economic importance of development in providing new revenues to fund local public services and facilities, and to provide steady employment opportunities in rural areas. However, it is important that local coastal districts have a role in voicing valid concerns and potential impacts to subsistence and other coastal uses and resources - all to ensure that we are doing resource development the right way.

In closing, these bills restore a meaningful role for coastal districts to facilitate effective future development opportunities. I appreciate your interest in improving the ACMP, and I look

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forward to working with you during this legislative session. Please contact me or Ukallaysaaq Tom Okleasik if you have any questions about our proposed plan at (907) 442-2500.

Sincerely,



Siikauraq Whiting, Mayor

Cc: Ukallaysaaq Tom Okleasik, Planning Director  
Alagiaq Grant Hildreth, Deputy Planning Director  
Kill'aq John Chase, Community Planner & Coastal Area Specialist





Roger D. (Dale) Summerlin  
Vice President  
Health, Safety & Environment

P.O. Box 100360  
Anchorage, AK 99510-0360  
Phone 907.263.4682  
Fax 907.263.4438

February 4, 2009

The Honorable Donald Olson  
Chairman, Senate Committee on Community & Regional Affairs  
Alaska State Legislature  
Alaska State Capitol, Room 514  
Juneau, Alaska 99801

**VIA FAX TO (907) 465-4821  
& Next Day UPS Delivery**

RE: Proposed Senate Bill No. 4  
An Act Relating to the Alaska Coastal Management Program (ACMP)  
Establishment of the Alaska Coastal Policy Board  
State Statutes AS 46.39 and AS 46.40

Dear Senator Olson:

ConocoPhillips Alaska, Inc. (CPAI) has prepared this formal response to proposed Senate Bill No. 4, an act relating to the Alaska Coastal Management Program (ACMP) and establishment of an Alaska Coastal Policy Board, and offers the following comments for your consideration.

**Retention of the Current Program**

CPAI has been, and remains, a supporter of the centralized ACMP process which resulted from the passage of House Bill (HB) 191 in 2003 and was later implemented by regulations and statutory amendments. In 2003, the Alaska Legislature concluded that "the Alaska coastal management program (ACMP) is intended to function with a minimum of delay and avoid regulatory confusion, costly litigation, and uncertainty regarding the feasibility of new investment." In addition, the legislature stated that statewide standards "be clear, and concise and provide the needed predictability as to the application, scope, and timing of the consistency review process of the program."

Proposed changes in Senate Bill (SB) No. 4 would allow districts to restrict selected activities within their coastal district; these activities will undoubtedly involve uses of state concern and/or may involve matters already adequately addressed by existing regulatory programs. Decision-making authority concerning the management and use of state resources vests with the State.

The current program's approach eliminates enforceable policies which may be conflicting between coastal districts, state, and federal agencies, and which could result in a loss of

conformity of district policies that currently exists in the ACMP program. The existing statewide standards provide clear and concise predictability to the ACMP process. Coastal districts are still afforded the ability to propose enforceable policies that conform to the district plan approval criteria and requirements outlined in 46.40.040 and 46.40.070; or those that are not duplicative, restate existing state or federal policies, and do not redefine, replace, or otherwise modify existing standards. From an applicant's perspective, the retention of the centralized ACMP will provide applicants with assurances of an efficient permitting process.

**Elimination of the Alaska Department of Environmental Conservation (ADEC) Carve Out (AS 46.40.040 and 46.40.096)**

CPAI believes the ADEC carve out should be retained in its present form and the carve out should not be eliminated from the ACMP program. CPAI believes there is significant misunderstanding by many stakeholders on this matter. Approvals for air, water, and C-Plan permits require public notice and public comment periods which allow for public input. The public notice and comment periods for these permits were not negatively affected by carving out the ADEC permits. Timelines associated with these approval processes are at least six months in duration, far longer than the existing 50- to 90-day ACMP coordination process. In addition, the timelines for public participation do not align with the intent or the process of the ACMP program which is one of thoughtful timely coordination and decision-making.

Eliminating the ADEC carve out will re-introduce conflicting regulatory mandates between ADEC and the ACMP process, and will delay the start of the consistency review process. Adequate public participation and opportunities for review by coastal districts is provided in the existing program. Adequate environmental protection is being provided by ADEC, regardless of whether or not their approvals are part of a consistency review process.

In closing, as we look at the substantial nature of the changes proposed in SB 4, we ask the question: Why? Since the passage of HB 191, have resource development projects been permitted by the state where a coastal district's input and concerns have not been accommodated? Is this change going to help motivate resource development projects in this state? We suggest that the current program is working as intended and changes are neither necessary nor desirable.

Sincerely,

  
Roger D. (Dale) Summerlin

cc: All Legislators

**Rob Earl**

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**From:** Terry Harvey  
**Sent:** Tuesday, February 24, 2009 1:56 PM  
**To:** Rob Earl  
**Subject:** RE: borrell hb 74 suggestions

- 1) a process for selecting members of the Coastal Board giving the Gov full authority to select the members
- 2) Make Coastal Policy Board strictly advisory
- 3) Make it explicit that no policy decisions may be made contrary to State & Fed statutes

---

**From:** Rob Earl  
**Sent:** Tuesday, February 24, 2009 12:22 PM  
**To:** Terry Harvey  
**Subject:** borrell hb 74 suggestions

Herron would still like to know what the borrell suggestions were ... so could you ping him and maybe get those in writing?

Thanks,

Rob E. Earl  
Staff to Rep. Bob Herron  
907.465.4942; fax 907.465.4589

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
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Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 25, 2009

**SUBJECT:** Draft CSHB 74(CRA); minor edits  
(Work Order No. 26-LS0322\E)

**TO:** Representative Bob Herron  
Chair of the House Community and Regional Affairs Committee  
Attn: Rob Earl

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

Enclosed is a draft of CSHB 74(CRA). Please read this draft carefully to ensure that it is consistent with the committee's intent.

Since you requested a work draft of the CS, I made some nonsubstantive edits in Amendment 2 to conform with AS 46.40.070(a)(2)(B) as that subparagraph appears in sec. 14 after being amended by the first part of Amendment 2. Thus, the term "state law" replaced "state statutes or regulations" and "state statute or regulation" replaced "state statute." These changes were made to make the amendment internally consistent.

Also, in Amendment 2, what do you mean by "local law"? Do you mean municipal ordinances or municipal regulations? Is "local law" intended to mean something different than municipal ordinances and regulations?

The effect of Amendment 3 on AS 46.40.190(a) in sec. 30 of the draft bill effectively changes sec. 30 to only amend AS 46.40.190(b). The draft CS reflects that effect.

Amendment 4 withdraws all changes proposed in sec. 31 of the bill. Thus, that section has also been eliminated in this draft version.

If I may be of further assistance, please advise.

DMB:plm  
09-119.plm

Enclosure



217 Second Street, Suite 200 • Juneau, Alaska 99801  
 Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

February 9, 2009

Representative Cathy Munoz  
 Representative Bob Herron  
 State Capitol  
 Juneau, Alaska 99801

Dear Representative Munoz and Representative Herron,

The Alaska Municipal League would like to go on record in support of HB 74 and SB 4. These bills would serve to resolve some of the major problems that communities and the State continue to deal with after the changes made to the ACMP statutes back in 2003 and 2004.

These bills would specifically establish an Alaska Coastal Policy Board to represent coastal districts, as well as the commissioners of Natural Resources; Fish & Game; Environmental Conservation; and Commerce and Community Development.

The Alaska Municipal League, first and foremost, supports a strong district role in decisions made about and for specific districts within our state.

It is important that local voices be heard when decisions are made about local areas.

Sincerely,

*Kathie Wasserman*

Kathie Wasserman  
 Executive Director

Good Morning

My name is Karol Kolehmainen and I am the Program Coordinator for the Aleutians West Coastal Resource Service Area. I am here today to bring testimony from my elected seven member Board of Directors which is largely in favor of HB74 as I will describe. The AWCRSA Board represents the entire western Aleutian area from Unalaska Island west to Attu Island, an area that is 20 to 60 miles in width and roughly 1000 miles long. This area, bounded by the Pacific Ocean to the south and the Bering Sea to the north, has a wealth of natural resources including some of the richest fishing grounds in the state.

We are here today because HB 191 mandated significant changes to the Alaska Coastal Management Program and our local district program. I would like to provide a brief overview of our current coastal management plan. The AWCRSA coastal management plan became effective February 11, 2007. Of the 44 enforceable policies we had at the beginning of the revision process, 10 remain. We no longer have any habitat policies, mitigation policies, or policies that mention air, land, or water quality. Also, we have designated subsistence use areas but no enforceable subsistence policies. Many of our previous enforceable policies have been moved to an unenforceable appendix and classified as "advisory" policies.

The ACMP prior to the passage of HB 191 was a networked program where local reviewers were on a par with state and federal reviewers. Following passage of HB 191 the program became centralized in DNR. We do not feel that it was the intent of HB 191 to silence the local voice or result in a disconnected program but it has had this effect. Passage of HB 74 will return us to a more meaningful position within a networked program.

The AWCRSA is in support of a Coastal Policy Board that incorporates the positive aspects of the former Coastal Policy Council. HB 74 accomplishes this by creating a policy board that includes representation from the coastal districts, the resource agencies and the DCCED Division of Community and Regional Affairs. We agree that the Board's mission should include the ability to approve local district plans, program related funding, and especially program and regulatory changes. We also agree that the Board would not be responsible for consistency reviews and would not hear elevations but rather they would be heard within a review panel of the resource agencies and not solely by the DNR Commissioner as is now the case. The new Board would serve as a public forum that should result in more public involvement and a more equitable decision making process. Also, it would provide an outreach component that is sorely lacking in the post HB 191 amended program.

The DEC carveout has confused the consistency review process especially where the scope of the project requires permits from more than one agency. The removal of the DEC has been interpreted as the removal of any matter relating to

air, land, or water quality through the program implementing regulations. As I stated earlier, it became impossible to craft any acceptable policies related to air, land or water quality or that even mentioned the words air or land. This negated not only policies that were clearly within regulation of DEC but also policies related to habitat that might touch on water issues. The return of DEC to the coordinated ACMP program is integral to a meaningful program and the AWCRSA Board supports the inclusion of DEC in the networked ACMP.

The AWCRSA does not support the change made in Sec 46.40.190 relating to cooperative administration. The proposed wording has totally reversed the meaning of the paragraph and has the potential to undermine the existence of CRSA's. We request that the original wording be retained.

Time has shown that not all of the changes required by HB191 have worked and we appreciate the sponsor's efforts to address the problems in the current program. Passage of HB 74 will go a long way to restore the role of coastal districts in the ACMP, increase public involvement and oversight, and bring consistency reviews back into a coordinated and networked program.

Thank you for your time.



*Program Director  
AWCRSA*



December 22, 2008

Randy Bates  
 Director, Division of Coastal and Ocean Management  
 Department of Natural Resources  
 P.O. Box 111030  
 Juneau, Alaska 99811-1030

Re: **Alaska Coastal Management Program Re-Evaluation**

Dear Mr. Bates,

Ukpeagvik Inupiat Corporation (UIC) was created under the Alaska Native Claims Settlement Act (ANCSA) in 1972 to serve the social and economic interests of the Native Village of Barrow, Alaska, the northern most coastal village in the United States. In light of expanding resource exploration and development both onshore and offshore in our region, the UIC Board of Directors has developed the following policy statement:

*In our interactions with the oil and gas industry, we will leverage our position to benefit the Ukpeagvik Inupiat Corporation Family of Companies, its shareholders and the community. We acknowledge the inevitability of exploration and development by the oil and gas industry and we will support exploration activities as long as they are done in a way that ensures:*

- *Protection and preservation of the Inupiat culture and subsistence lifestyle*
- *Economic benefit for our community*
- *Employment for our shareholders and their families, and*
- *Contract opportunities for our companies*

UIC shares the interests of the North Slope Borough, as our coastal district governing body, to create a robust and growing industrial sector in Alaska's arctic. UIC also shares an interest in protecting our Inupiat customary and traditional way of life through local participation in project planning by implementing sound environmental regulations and policies under a flexible and reasonable Alaska Coastal Management Program. UIC is favorable to empowering local coastal districts to enforce locally driven environmental policies through a predictable and streamlined public process under the expertise of a coastal management plan.

Each coastal district or region in Alaska is so unique and special both geographically and ecologically, it makes sense to empower well thought and reasonable district specific enforceable policies to help guide project development beyond general state and federal regulations. For example, a local policy that fits the needs of Cook Inlet or Southeast communities, such as pipeline setbacks, cannery operations, cruise industry ports of call, general water use and waste discharge, or tank farm requirements, may not apply similarly in the unique arctic environment.

Before 2004, the original statutes and regulations of ACMP worked moderately well, allowing coastal districts to participate and include local expertise in the permitting process. With a few procedural modifications to the older, pre-2003 system, such as a streamlined Coastal Policy Board, as envisioned in

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the North Slope Borough (NSB) recent recommendations, we believe the ACMP can achieve the intent of the Coastal Zone Management Act and the intent of the Alaska Constitution to maximize local control and governance.

UIC believes future statutory language should support an ACMP regime that allows multiple agencies such as DNR, DEC, ADF&G, and DCCED to participate in a meaningful consistency review. This broad challenge requires well defined language that should reflect flexible regulatory structure so as not to create the potential for arbitration and delay. If piecemeal decision-making is framed by restrictive state policy and tedious legislative review, higher probability for arbitration and delay of important commercial activity will result from special interest group interpretations of the environmental regulations governing proposed coastal economic development projects.

UIC believes sound natural resource management and environmental conservation are best served under "performance based policies", innovative solutions driven, flexible, and incorporating predictable regulations that guide industrial development – dispelling notions that local policies should apply only to specific designated areas and resources. This philosophy recognizes potentially large shifts in ecology and subsistence resource migration, which in turn defines public access and uses of resources, especially in light of climate change, global warming, arctic sea ice retreat, and cumulative industrial growth.

UIC is economically dependant, in large part, on a healthy oil and gas industry, but we are also dependant on a healthy arctic marine ecosystem which supports the Inupiat subsistence way of life. As a critical stakeholder in the ACMP regulatory process we thank you for this opportunity to comment on the ACMP reevaluation.

Respectfully submitted,  
UKPEAGVIK INUPIAT CORPORATION



Anthony E. Edwardsen  
President & CEO

Distribution:

Ukpeagvik Inupiat Corporation

**Rob Earl**

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**From:** Rep. Bob Herron  
**Sent:** Thursday, February 12, 2009 8:08 AM  
**To:** Rob Earl  
**Subject:** FW: HB 74 Support

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**From:** John Strassenburgh [mailto:[jsandr@matnet.com](mailto:jsandr@matnet.com)]  
**Sent:** Wednesday, February 11, 2009 11:39 PM  
**To:** Rep. Berta Gardner; Rep. Sharon Cissna; Rep. Charisse Millett; Rep. Wes Keller; Rep. John Harris; Rep. Cathy Munoz; Rep. Bob Herron  
**Subject:** HB 74 Support

Dear members of the House Community and Regional Affairs Committee:

I would like to voice my strong support for HB 74, which would subject proposed Coal Bed Methane projects to coastal zone management reviews. Coal Bed Methane should never have been exempted from these reviews (which they were in 2003), and it is high time this gross error was fixed.

I live in the Mat-Su Valley. You are probably aware of the huge public outrage that erupted in the Valley in 2003 and 2004, when Kohring, Green, Ogan, Masek greased the skids and it looked like Evergreen Resources was going to drill in everybody's back yard. The legislation that passed at that time gutted any responsible oversight (e.g., CBM was exempted from a DNR Best Interest Finding requirement), CBM was exempted from local zoning), and public participation in the decisions was virtually eliminated.... I could go on and on.

Suffice it to say, again, it is high time the all the errors of 2003 were corrected. HB 74 helps with that, and I hope you will support the bill.

Thank you,

John Strassenburgh  
PO Box 766  
Talkeetna, AK 99676  
[jsandr@matnet.com](mailto:jsandr@matnet.com)

**Rob Earl**

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**From:** Terry Harvey  
**Sent:** Saturday, February 14, 2009 12:36 PM  
**To:** Rob Earl  
**Subject:** FW: HB 74 - Coastal Management

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**From:** Rep. Cathy Munoz  
**Sent:** Thursday, February 12, 2009 2:53 PM  
**To:** Terry Harvey  
**Subject:** FW: HB 74 - Coastal Management

Terry, please give Bob's office a copy of these comments, and add a copy to our file on the issue. Cathy

---

**From:** Glenn Gray [mailto:glenn@glenngray.net]  
**Sent:** Wednesday, February 11, 2009 8:49 AM  
**To:** Rep. Cathy Munoz  
**Subject:** RE: HB 74 - Coastal Management

Cathy:

Thank you for the update. I hope any amendments to the bill will have adequate discussion before adoption.

There were a few statements made at the committee meeting that need some clarification.

1. DNR should explain how it believes the coastal board would overrule state agencies. I don't see any language that would give the board authority to approve anything that conflicts with state or federal laws.
2. Neither the former Coastal Policy Council nor the proposed board is meant to be a stakeholders group. Only state agencies and coastal districts manage the program. The public gets involved at the board meetings.
3. The issues raised by AOGA about the DEC carve out can be fixed in regulation (i.e., removing the requirement to have a draft air/water quality permits before starting ACMP review).

Thanks again, and please call me if I can help explain anything. It is a tough program to understand

Glenn

Glenn Gray and Associates  
P.O. Box 33646  
Juneau, AK 99803  
Phone: (907) 789-7822  
Fax: (907) 523-1005  
Email: [glenn@glenngray.net](mailto:glenn@glenngray.net)

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**From:** Rep. Cathy Munoz [mailto:Representative\_Cathy\_Munoz@legis.state.ak.us]  
**Sent:** Tuesday, February 10, 2009 1:34 PM

**To:** Glenn Gray  
**Subject:** RE: HB 74 - Coastal Management

Thanks Glenn, today we heard the bill in committee and it is expected to move out at our next hearing on Thursday. Sincerely, Cathy

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**From:** Glenn Gray [mailto:glenn@glenngray.net]  
**Sent:** Sunday, February 08, 2009 2:18 PM  
**To:** Rep. Cathy Munoz  
**Subject:** HB 74 - Coastal Management

Dear Representative Munoz:

I am writing to you to express my support for HB 74 on the Alaska Coastal Management Program (ACMP). This bill would fix a lot of the problems that resulted from changes made to the ACMP statutes in 2003 and the regulations adopted by the Murkowski Administration in 2004.

As a land use consultant, I had the privilege to work on the coastal management plans for 8 coastal districts throughout Alaska. Previous to my work as a consultant, I worked as a senior staff person for the ACMP for 10 years.

I would like to request a meeting with you to discuss this bill. I know you are busy, but I believe I could provide considerable insight into how this bill will improve the ACMP.

Sincerely,

Glenn Gray

Glenn Gray and Associates  
19296 Randall Road  
Juneau, AK 99801  
Phone: (907) 789-7822  
Fax: (907) 523-1005  
Email: [glenn@glenngray.net](mailto:glenn@glenngray.net)



# ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

February 9, 2009

Honorable Reggie Joule  
Alaska State House  
Capitol Building  
Juneau, AK 99801

Rob

Re: House Bill 74, Changes to Alaska Coastal Zone Management

Dear Representative Joule,

The mining industry has been involved in the Alaska Coastal Zone Management Program (ACMP) for many years. Several companies have raised concerns regarding House Bill 74 and its companion SB-4. They agree that ACMP is not working well but they cannot support the changes being proposed in HB-74. The bottom line is that this bill would create an administrative quagmire for the state permitting process and would create tremendous uncertainty for all permittees.

As proposed by HB-74, the coastal districts would be in charge of the program and control what is done. In this situation, the coastal districts would be in a position to set the rules and enforce them without accountability to the Legislature or the Administration. The bill would re-establish the Coastal Policy Council (calling it the Coastal Policy Board) with 5 public members and 4 state agencies (DNR, DF&G, DEC, & DCEED). The governor would choose the public members but must select them from a list supplied by the Coastal Districts. The effect is that the districts would control the outcome of the selection process. This is not a good situation for ACMP or any other public policy issue.

Further under HB-74, the Coastal Policy Board (CPB) would approve or disapprove all plans and regulations. If the board feels that an agency is not interpreting the policies the way they want, it would have the authority to order the agencies to change, irrespective of State statute or regulation. The CPB would thereby effectively have authority over both the Legislature and the Administration.

HB-74 would also eliminate what has been called the DEC "carve-out". It would allow districts to interpret state statutes and regulations relating to air quality, water quality, solid waste disposal, water injection, land issues, sanitation, food service, public health, etc. Many of these statutes and regulations have been developed over many decades of detailed technical evaluation by the agency and through a tremendous amount of public process and input. Others are nationwide standards developed over many years by federal government scientists at the cost of millions of dollars. The coastal districts do not and will not have the technical expertise to fully evaluate these issues.

HB-74 would extend the applicability of ACMP to the off-shore continental shelf (OCS) for coastal districts because of DEC decision making on OCS air permits and C plans. This means that coastal districts would have decision making power over these areas, rather than the Legislature and Administration.

Furthermore, the bill would effectively eliminate the ability to "phase" projects. This would result in delays for issuance of consistency determinations for long-lead time approvals such as air quality permits and C plans.

HB-74 would also eliminate the requirement for district plans to meet a set of consistent statewide standards. Each district would be able to interpret state statutes and regulations different from each other, and different from state agencies. Decisions would be at the whim of any district. This would eliminate certainty and be a nightmare for the regulated public, and eventually the Administration and the Legislature due to the havoc it would create.

One of the several problems with ACMP before the passage of HB-191 in 2003 was that districts were allowed to create so-called "homeless stipulations". These were stipulations that were outside existing statute and regulation that could be added to a permit. HB-74 specifically gives authorization for districts to go beyond state or federal law and this would again be allowing "homeless stipulations". In effect, this means that if the legislature will not pass a statute to require some action, the district would be able to do what the legislature would not approve and thereby go beyond state or federal law. In 2003, and for many years before that this was a tremendous problem for permittees. Oftentimes due to project schedules, permittees could not take the time to challenge these homeless stipulations.

HB-74 would also extend the authority of coastal districts far beyond the coastal zone "inland of the coastal zone if the activities would cause direct and significant impacts to a coastal use or resources." This means that if a coastal district decides to oppose some activity along an inland river, it would have a mechanism to do so by changing state regulations or adding stipulations that would make the project impossible.

HB-74 would place local districts in charge of whether the federal government leases the OCS for oil & gas. Districts would, without the limitation of state or federal law, put any stipulation they wish on the OCS. While the local view is important, the decision is state-wide or national and a coastal district should not have a veto. Similar to oil development on state and federal lands on the North Slope, even if a company can meet all state and federal standards, until the coastal district says it's consistent (based on vague policies that can change state air and water and C-plan standards at a whim), the company is stopped. What should be a state-wide decision is delegated to the local coastal district.

One conclusion is that HB-74 would effectively negate "state law". There would be no need for the Legislature - if a coastal district wanted something different in law, for example regarding water quality, the coastal district could simply write it and DEC would have to follow it. If a coastal district wanted a different reclamation standard, the district could write it and DNR would have to follow it. Also, in whatever the situation, if a coastal district wished to regulate

something the legislature has not given them, the district could simply write it themselves and make DNR, DF&G, DCEED would have to comply.

A second conclusion is that many of the examples mentioned above would raise constitutional questions. Because the CPB has the authority to go beyond state law, the bill has the effect of delegating legislative law-making to a public-dominated board. This delegation is not constitutionally allowed. Similarly, it removes interpretation of state regulations from the administrative branch — where the interpretations constitutionally belong — and gives this authority to the CPB. While some of these constitutional issues existed before passage of HB-191 in 2003 (specifically the homeless stipulations), SB-4 greatly magnifies and expands these legal problems.

A third conclusion is that the bill essentially does away with the concept of state interest. There are some decisions — whether and how a gasline should be constructed, expansion of the railroad, even oil development on the North Slope — that should be decided by the state, without a veto by local authorities. It is critical that local land-use issues and local concerns be taken into account by the permitting agencies, but some issues affect the entire state and must be determined on a state-wide basis. SB-4 essentially does away with this concept.

A final conclusion is that the changes proposed would create tremendous uncertainty for the regulated public. There is no way to escape a great deal of uncertainty as individual coastal districts have the final say in what was previously agency matters.

Thank you for the opportunity to address our concerns to you.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Borell", written in a cursive style.

Steven C. Borell, P.E.  
Executive Director

# JUNEAU EMPIRE.COM

## Local governments criticize state coastal management program

Bill supporters say state has too much power over area development

Monday, February 16, 2009

By Kate Golden | **JUNEAU EMPIRE**

State and local districts continue their fight this year over the power to influence local development in coastal areas.

Lawmakers this session are faced with a complex bill - overwhelmingly supported by local governments in coastal areas, and opposed by the oil industry, the governor and the Alaska Department of Natural Resources - that would overhaul the Alaska Coastal Management Program for the second time in six years.

Development projects in coastal zones must go through the program, which does two things: ACMP reviewers coordinate federal, state and local permits; and they decide whether projects are consistent with state standards and local environmental policies.

Coastal planners from the North Slope to Juneau told lawmakers Tuesday they'd like the program to return roughly to how it worked before the Legislature-approved, Murkowski-administration-written overhaul in 2003.

They want more local control.

Murkowski's 2003 rewrite was aimed to promote development, and industry reps tend to support the current program.

But local districts like the North Slope and the Northwest Arctic Borough say they know of no projects that were held up because of the pre-2003 process.

Rep. Reggie Joule, D-Kotzebue, introduced his bill in committee Tuesday with slides showing how drilling sites in Prudhoe Bay have burgeoned over the years, much of the development before 2003.

"The notion that we will stop development is not accurate," Joule said.

DNR doesn't support the bill because it would "override DNR authority," according to Division of Ocean and Coastal Management director Randy Bates, who participated in the 2003 rewrite and runs the ACMP.

He said the bill would favor coastal districts but wouldn't adequately represent other stakeholders, naming the state, industry, and the public.

"That's been one of the biggest challenges we have, trying to find the right balance to the program,"

Bates said.

### **Local districts lost control**

A big chunk of the fight is over coastal districts' so-called local enforceable policies.

These policies are tailored to districts' "unique concerns." Juneau, for example, has pro-development policies regarding Special Waterfront Areas, where environmental regulations are looser.

Districts decide whether projects are consistent with those policies. The state has to defer to that interpretation.

The policies are local districts' most powerful hook into projects.

But DNR must approve those policies. And the department and the districts have been fighting for five years over how much overlap district policies can have with areas the state regulates.

"The district role was drastically reduced in 2003," said Teri Camery, planner for the city and borough of Juneau.

DNR says the policies can't be about anything the state already addresses, such as subsistence.

But the districts disagree with DNR over what it means to "adequately address" an issue.

Much of the combat is over local say on subsistence areas.

A statewide standard for subsistence says development must avoid or minimize harm to subsistence areas. The North Slope wanted to get more specific, to protect special subsistence areas. Planners wrote policies that restricted development in those areas during certain seasons, and banning some types of development outright.

DNR told them that because there's a statewide standard, the local policies couldn't address subsistence. Alaska's 27 districts ended up having a lot less say than they wanted. Several went to mediation, and a few districts have declared an impasse with DNR.

Juneau coastal district proposed 99 policies and got 14. The Northwest Arctic Borough proposed 50, most about subsistence, and got one, which addressed wind farms. Anchorage proposed more than 100 and got five.

Juneau planners retained some denied policies by incorporating them into the local land use code.

"That adds time and expense to the developer," said Camery, because they have to go through a separate review.

"Our plan was flat-out denied by the state," said Tom Okleasik, planning director of the Northwest Arctic Borough. "Our only recourse is to go back to the DNR commissioner," he said - who denied the plan in the first place.

Districts see the problem as a lack of check on DNR's power.

Their solution: Create a coastal policy board external to DNR, in the governor's office - five coastal district representatives plus the commissioners of Natural Resources, Fish and Game and Commerce -

to approve coastal districts' plans. A similar council existed before the 2003 rewrite.

DNR acknowledges the districts' frustration about policies, but doesn't agree there should be an outside board. In its own draft revisions of the program, DNR suggested local districts could appeal to the Legislature, an equally controversial idea.

### **Mixed views from industry**

The oil and gas industry says the current ACMP isn't broken.

"We cannot find any examples of when a coastal district's concerns were not addressed," said Steve Albuquerque of ConocoPhillips, who called the current process streamlined and efficient.

ConocoPhillips just wants a clear and predictable permit process, he said.

But not all developers are satisfied with the current program.

Redfern Resources Ltd., a Canadian company that is applying to haul a barge year-round on the Taku River south of Juneau, has complained about the process. Redfern first applied for permits in late 2007 and hasn't finished the process yet.

The project's original permit application was canceled by state ACMP reviewers when Redfern changed the tow vehicles for the barge. And it has been delayed several times while state permitters ask the company for more information on the project.

Redfern has not commented on the proposed bill, but has criticized the current permit process.

"If you review the historical notes with the legislation from 2003, it specifically speaks toward the purpose of the ACMP: to provide a predictable procedure or consistency review. And we're finding this process very unpredictable," said Tim Davies, Redfern's regulatory affairs manager, in January.

"We're talking about a very significant project," he said. "Over \$300 million to develop the mine, and \$24 million a year coming into the Juneau economy. Do we really want to have such an unpredictable process in place for making these type of decisions?"

Local districts promote the new bill as fixing that.

"The predictability industry wants would be in place, once the districts have policies," said Tom Loman, Anchorage city planner.

DNR's promised rewrite missing

DNR has been working on a revision of the program since February last year, when the Legislature was considering a similar coastal-district-friendly ACMP overhaul.

The state opposed that bill, too. Bates told lawmakers the state would re-examine the program with help from districts and industries, find consensus and produce its own bill for the next session.

**So far, no bill.**

This week, Bates said he couldn't rule out the introduction of a DNR-sponsored bill.

But the department doesn't see anything wrong with the current program - other than the "instability" resulting from coastal districts' criticism of it.

"We believe no change is necessary, particularly in the form of the bills offered," Bates said.

The department has been working with the districts since last summer. In November the department released a draft set of statutes. Bates on Tuesday characterized them as "conversational" and said it shouldn't be taken as the department's actual view.

According to local planners, the draft statutes further restricted coastal districts' ability to write policies. Some planners said they were looking forward to the state's final compromise - but without it, they're pinning their hopes on the current bill.

### **Palin supports DNR**

Gov. Sarah Palin seemed to criticize the Murkowski ACMP rewrite in a 2005 campaign promise:

"I would ... revisit the change in regulations on the Alaska Coastal Zone Management Program in which the past administration by eliminating (sic) the rights of local districts to write specific local enforceable policies on important issues like subsistence," her campaign Web site said then.

Palin said at a press conference Wednesday that she's aligned with DNR on its ACMP stance: no changes yet deemed necessary.

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Testimony of Carol Smith  
Coastal Program Coordinator for the City of Valdez

House Community and Regional Affairs Committee  
House Bill 74 Alaska Coastal Management Program

Good Morning. My name is Carol Smith, and I am the coastal coordinator for the City of Valdez. I appreciate this opportunity to provide comments on House Bill 74 on the Alaska Coastal Management Program (ACMP).

Before the regulation changes in 2003, the Valdez Coastal Management Plan had 41 enforceable policies and now has 14. The Valdez Coastal Management Plan was approved because we felt it was important to be a part of the Alaska Coastal Management Program even though we lost most of our policies. It was our hope that new regulations would be introduced to give the districts back more local input through meaningful policies.

My testimony will address four issues, the "DEC Carve-out," the renewal requirement for district plans, the proposed coastal policy board, and district enforceable policies.

DEC CARVE-OUT: The City of Valdez supports Section 37 of the bill which eliminates the "DEC Carve-out." At the November Workshop, the Alaska Department of Natural Resources and other state agencies indicated their support for bringing DEC back into the ACMP review process. Doing reviews on DEC projects has been very confusing and hard to coordinate for the state agencies as well as the coastal districts. It worked much better with the "one-stop shop" approach. We believe this change is very positive.

RENEWAL: Section 37 would also eliminate the requirement for coastal districts to update their plans every 10 years. If a plan is still current, there is no reason to update it. It is very costly and time consuming to update the plans.

PROPOSED CPB: Section 1 of the bill would establish the Coastal Policy Board. We agree that the old Coastal Policy Council of 17 members did not always work well as it was too large and made it very hard to setup meetings. Also, it was made up of political representatives who were not always aware of everything that was happening with the ACMP. This proposed board is much smaller, and unlike the former council, it would not be responsible for project consistency reviews. The new board would be made up of representatives of coastal districts and state agencies. This board would only address ACMP issues, so it would not be able to overrule an agency's authority. The new board would be made up of representatives of coastal districts and state agencies. This would be a fairer representation for the appeals process.

**ENFORCEABLE POLICIES:** Sections 9 and 14 of the bill would make the criteria for district enforceable policies much clear. Districts need to be able to write meaningful enforceable policies that address local concerns. The bill would allow coastal districts to establish policies as long as they do not duplicate an existing law and do not address a matter preempted by a state or federal agency. The Alaska coastline is very vast and different so one shoe does not fit all situations.

“Example: The Valdez Planning Commission wanted to address a gap in the clean air act between the different regulations. This request was denied as district plans cannot have policies on Air Quality.

Thank you for the opportunity to testify on HB 74. This concludes my testimony.

**Testimony of Steve de Albuquerque**  
**Health, Safety & Environmental Director**  
**ConocoPhillips Alaska**  
**House Community & Regional Affairs Committee**  
**HB 74**  
**February 10, 2009**

Mr. Chairman, members of the House Community & Regional Affairs Committee, good morning. My name is Steve de Albuquerque and I am the Director of Health, Safety & Environment, for ConocoPhillips Alaska. My group is responsible for all local, state & federal land use and environmental permitting for ConocoPhillips operations in Alaska.

Mr. Chairman, ConocoPhillips respectfully opposes the passage of HB74. Simply put, we do not think ACMP legislative reform is needed at this time and question the need for the significant changes proposed by HB74. During testimony last week on Senate Bill 4, we heard coastal districts say many times that these proposed changes to the ACMP will streamline the permitting process and save applicants time. As the person in charge of permitting for the state's largest oil & gas explorer, developer and producer, let me assure you Mr. Chairmen that this simply would not be the case.

This morning I'd like to focus my comments on three areas:

1. The existing ACMP permitting process;
2. The creation of the Coastal Policy Board; and
3. Retention of the Alaska Department of Environmental Conservation carve out.

## The Existing ACMP Process:

Alaska is one of the most complex and rigorously regulated permitting and business environments in the world. We work very closely on a daily basis with local, state, and federal agencies, as well as private landowners, native village and regional corporations, communities and the public to seek input on our permit activities.

While we have heard the frustration expressed by the coastal districts with the way the 2003 statutory changes were implemented, we cannot point to a single example, with respect to our projects, where any district's input or concerns were not adequately addressed in the project decision. We work closely and well with the coastal districts and the Administration. In my four years serving as permitting director for ConocoPhillips under the revised program, I can't think of an instance where we and the coastal districts were not able to satisfactorily resolve an issue.

In 2003, the Alaska Legislature concluded that "the Alaska coastal management program is intended to function with a minimum delay and avoid regulatory confusion, costly litigation, and uncertainty regarding the feasibility of new investment." Furthermore, the legislature said that statewide standards must be "clear, concise, and provide the needed predictability as to the application, scope, and timing of the consistency review process of the program." This is the streamlined process we have today. From the applicant's perspective, the ACMP process as we know it today provides the assurances of an efficient permitting process. Existing statewide standards are clear and concise. We are able to establish relatively firm timelines..

Coastal districts are afforded the ability to propose enforceable policies that conform to the district plan approval criteria and requirements. Districts can also propose enforceable policies that are not duplicative, do not restate existing state or federal policies, and do not redefine, replace, or otherwise modify existing standards. In contrast, this bill would allow districts to restrict selected activities within their coastal district; these activities will undoubtedly involve uses of state concern and would involve matters already adequately addressed by existing regulatory programs. Decision-making authority concerning the management and use of state resources vests with the State. The current approach avoids enforceable policies which may be conflicting between coastal districts, state, and federal agencies, and which could result in a loss of conformity of district policies that currently exists in the ACMP program.

If there is one take-away for the Committee Mr. Chairman, ConocoPhillips simply desires a clear and consistent permitting process. We just want to be clear on the rules and be in a position to accurately estimate time lines. As you know, resource development in Alaska already is burdened with many seasonal constraints and uncertainties. We have short winter drilling and work windows as well as limitations on logistics and restrictions on travel to protect tundra, wildlife and subsistence activities. Our work is extremely time-sensitive. From an applicant's perspective, the existing process provides applicants with a coordinated review and approval process and assurances of an efficient, predictable and timely permitting process.

### The Creation of the Coastal Policy Board:

ConocoPhillips thinks the creation of a Coastal Policy Board is unnecessary and would unduly complicate the program add another layer of complexity. The current program provides clear, concise and consistent statewide standards for resource development activities in Alaska. The existing process prevents conflicts in the regulatory process and provides applicants and stakeholders with assurances of an efficient permitting process. The creation of a Policy Board, with approval and decision-making authority, could lead to an inconsistent permitting landscape.

From the public comment and input perspective, interested stakeholders currently have ample opportunity to review and comment on proposed projects during the mandated public comment periods associated with obtaining local, state, and federal permits. Applicants must comply with municipal codes, enforceable policies, statewide standards, and existing state and federal regulations to obtain final approvals for any proposed project.

### Retention of the Alaska Department of Environmental Conservation Carve Out:

ConocoPhillips does not support elimination of the ADEC carve out. We believe there is significant misunderstanding by stakeholders on this matter. Approvals for environmental permits, air and water included, and oil spill contingency plans have well-documented and clear public notice and comment requirements which allow for public input. The public notice and comment periods for these permits have not been negatively affected by carving out the ADEC permits. Again, the current process works well.

Eliminating the ADEC carve out will re-introduce conflicting regulatory mandates between ADEC and the ACMP process, and will, as in the past, delay the start of the consistency review process and overall project timelines. Adequate public participation and opportunity for review by coastal districts is provided in the existing streamlined program. It is important to note that adequate environmental review and protection is being provided by ADEC as part of the consistency review process.

In closing, Mr. Chairman, ConocoPhillips simply desires a clear and consistent permitting process. We're not trying to reduce the level of environmental protection of the places we work or the subsistence resources upon which so many of our stakeholders depend. We want to understand the rules and to accurately estimate time lines.

As we look at the substantial nature of the changes proposed in HB74, we ask the question: Why?

- Since 2003, the existing consistency review process has ensured that both the state's and coastal districts' concerns have been met prior to permits being issued for development projects in Alaska's coastal zone.

• We suggest that the current program is working as intended and changes are neither necessary nor desirable.

Thank you for the opportunity to testify, Mr. Chairman. At this point I'd be happy to answer any questions you might have.

## Alaska Oil and Gas Association

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ALASKA OIL AND GAS ASSOCIATION  
TESTIMONY ON  
HB 74 – ALASKA COASTAL MANAGEMENT PROGRAM  
BEFORE  
HOUSE COMMUNITY & REGIONAL AFFAIRS COMMITTEE  
FEBRUARY 10, 2009

Mr. Chairman and Members of the Committee: My name is Marilyn Crockett and I am Executive Director of the Alaska Oil and Gas Association (AOGA). AOGA is a private, nonprofit trade association whose 16 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

Because virtually all operations of the members of AOGA take place within, or adjacent to, Alaska's coastal zone, we have been actively engaged in development and implementation of provisions of the Alaska Coastal Management Act (ACMA) and the subsequent Alaska Coastal Management Program (ACMP) since the program's inception in 1977. We provide these comments today as part of our ongoing involvement in deliberations related to this program.

Over the last 30 years there has been a significant evolution in federal and state environmental laws and regulations. In the late 1990s and early 2000s it became clear that the ACMP had become unmanageable in terms of process and scope, leading to confusion, misinterpretations and significant delays in processing permits, largely due to the significant evolution of environmental laws and regulations. The revisions to the program adopted by the Legislature in 2003 resolved these challenges and transformed the program into one that provides certainty for the State, local districts and the regulated community.

Unfortunately, HB74 as currently drafted effectively eliminates the certainty put into place by the Legislature in 2003. I will address a few specific examples.

Elimination of the "DEC Carve Out": One of the most problematic provisions of HB74 is elimination of the DEC Carve-out. This provision in existing law implements the original intent of the ACMP...that the air, land and water standards and permits administered by the State are inherently consistent with the ACMP and therefore the additional step of securing a consistency determination isn't necessary or required. These standards were developed after years of technical evaluation, and are implemented through permits that are

comprehensive and time-consuming, carrying with them statutory and regulatory requirements for extensive public comment, the time periods of which fall outside of the ACMP review schedules. The ADEC carve-out in no way diminishes a coastal district's opportunity to comment and provide input on a specific ADEC permit application.

As experienced in the program prior to the 2003 revision, elimination of the carve-out will result in consistency determinations on projects being held up until permits with long lead times are finalized, resulting in considerable delays in projects moving forward and a tremendous amount of uncertainty as to final approval for applicants to move forward.

Simply put, the ADEC carve-out avoids duplication of process and effort, eliminates the potential for inconsistent and conflicting permitting results, and improves the efficiency of the consistency review process.

Creation of a Coastal Policy Board: We are very concerned about the establishment of the Coastal Policy Board and the extensive responsibilities that will be vested with this Board. HB74 empowers the Board to approve all district programs and enforceable policies, changes to the coastal zone boundaries, statewide standards and changes to the program. The Department of Natural Resources may still adopt regulations, but only after approval of the Board, which will result in endless back-and-forth as DNR attempts to mesh its requirements under the Administrative Procedure Act with Board approval.

Further, experience under the previous Coastal Policy Council demonstrates that insertion of a Board into this process will result in considerable delays in program implementation because of the time required for action, given the infrequency of Board meetings, and the addition of another layer of approvals.

Predictability in timelines is eliminated: One of the most challenging aspects of any permitting program is the ability to rely on timelines for decision-making. This is especially true for operations in Alaska which often are faced with limited operating seasons where a delay in securing permits may result in a one-year delay in a project proceeding forward. Unfortunately, HB74 exempts activities proposed by a federal agency and activities permitted by a federal agency from the required deadlines for decisions. Virtually every project requires at least one federal permit, so the impact of this provision is dramatic. Further, oil and gas and other resource development activities are not the only activities that will be affected. Given the abundance of wetlands in Alaska's coastal zone, almost any activity, from homebuilding to construction of public facilities, will require a permit from the federal Corps of Engineers and therefore will be subjected to this timeline uncertainty.

Performance based enforceable policies are allowed: HB74 allows coastal districts to adopt performance-based enforceable policies. Applicants and districts are better served by clear and concise requirements because it eliminates the potential for misinterpretation and disagreements between parties as to whether a particular action proposed by the applicant will meet the performance based policy. Further, this will be especially challenging for districts with minimal resources to administer the program.

The coastal zone boundary will be expanded: HB74 expands the reach of review of activities from not only the coastal zone but also to "inland of the coastal zone if the activities would cause direct and significant impacts to a coastal use or resource". During testimony at last week's hearing on SB4 we heard a coastal district representative state that it is their desire to weigh in on projects adjacent to their district even if it means "over the mountain". Such an expansion of the coastal zone boundary was never envisioned by the federal Coastal Zone Management Program or the State Program. This is another example of the uncertainty that faces project applicants in trying to determine whether their project is in or out of the ACMP.

To be successful and serve all entities in Alaska, any permitting program, and in particular the Alaska Coastal Management Program, must embody the following principles:

- Provide for development of Alaska's resources for the benefit of all Alaska residents
- Contain clear and concise requirements
- Be unambiguous and avoid opportunities for misinterpretation
- Provide predictable and firm timelines
- Provide predictability regarding applicable requirements and scope
- Avoid duplication of other state and federal permitting programs
- Contain clear limits so that district policies not require agencies to implement authorities that were not granted them by the legislature or that contradict agency regulations.

At the end of the day, the challenge before you is achieving the necessary balance between development of state-owned resources for the benefit of all Alaskans while protecting unique coastal resources. We believe the program in place today strikes that important balance.

Thank you for the opportunity to testify this morning.