

**ALASKA LEGISLATURE**

**HOUSE and SENATE FINANCE COMMITTEE FILES,**

**1993-1994**

**1223**

297

potential to substantially impair FWP's ability to catch and prosecute game violators."

8. A review of public information databases revealed numerous other situations where perception of a conflict of interest could exist. A significant number of FWP enforcement employees had financial transactions or relationships with individuals they are charged with monitoring, including registered big game guides-outfitters and individuals involved in commercial fishing. The associations that we researched were primarily related to property transactions. The relationships may not have actually affected the enforcement officer's actions, but they can provide the appearance of a conflict of interest. While this information is not conclusive, it does illustrate an area that has the possibility to lead to negative public perception that could impair the division's ability to perform its mission.

The problem discussed above is not limited to FWP. As we more fully examine in Recommendation No. 1, the current statutory requirements regarding disclosure of possible conflicts of interest for public employees are insufficient; potentially reputation-damaging relationships and associations are ignored. Disclosure of any such relationships and associations, economic or otherwise, between public employees and individuals or groups that a public agency has discretionary dealings with should be required. In all areas, including FWP's, this could greatly alleviate the concern that certain individuals receive preferential treatment.

As noted above, positive public perception is crucial to maximize the effectiveness and efficiency of law enforcement agencies. FWP has not, at times, been managed in a manner that would foster this type of positive opinion.

#### Fish & Wildlife Safeguard corporation (Safeguard)

Safeguard currently enjoys a unique relationship with the State of Alaska. The corporation is a private non-profit entity, supposedly separate and distinct from state government, yet it receives considerable support, both financially and otherwise, from various state agencies, including FWP.

The division provides both space and related utilities at Anchorage DPS headquarters for the benefit of Safeguard without reimbursement from the corporation. FWP also provides an FWEO as a liaison officer to act as the interface between the division and Safeguard; approximately one-quarter of this individual's time is estimated to be spent on Safeguard activities. The division's officers are often used in the delivery of Safeguard reward payments to informants. The Department of Fish and Game (DFG), pursuant to AS 16.05.343, contracts with Safeguard to conduct a raffle for a bison harvest permit, with the corporation retaining a percentage of the net proceeds plus expenses. DFG also provides free advertising to Safeguard within its bi-monthly magazine and on hunting and fishing licenses.

The Court System and Department of Law (DOLaw), in conjunction with FWP, also directly support Safeguard. We noted numerous court judgements ordering defendants convicted of fish and wildlife violations to pay a "donation" to Safeguard instead of a fine to the State; even more common were offers extended to individuals whose equipment had been ordered forfeited to the State. Violators were allowed to re-acquire these items by donating the approximate fair market value of the specific article or articles to Safeguard. We also noted a deferred prosecution agreement between DOLaw and a defendant in a major fishing violation case. The settlement required the defendant to, among other things, donate \$10,000 to Safeguard. FWP has represented that, in some cases, the courts offer defendants the option of paying a fine to the State or making a donation to Safeguard. However, as the donation to the non-profit corporation may be tax-deductible and the fine is not, the incentive to violators appears to be toward donating to Safeguard.

We believe that this diversion of monies from the state General Fund to a private corporation may violate the state constitution. It further erodes the legislature's most significant power, that of appropriation. As we further discuss in Recommendation No. 5, executive or judicial branch agencies appropriating monies that should fall to the General Fund may violate the most basic separation of powers doctrine. Court decisions have held that all appropriations must be made by legislative act; this tenet has been breached. While the amounts involved may not be material to the State, we believe this to be a dangerous precedent to set.

Further sullyng the matter is Safeguard's refusal to allow the State access to its financial records. Relying on the private non-profit status of their organization, the corporation refused Legislative Audit requests to review its fiscal matters, regardless of the level of state support received. As such, we were unable to ascertain the amount of state fine and forfeiture monies received and how these monies were utilized by the corporation. Information such as levels of private donations in relation to public monies, rewards paid out, and board expenses was not disclosed by the corporation and could not be ascertained by other audit procedures.

We also attempted to review how the information received by Safeguard about fish and wildlife violations was used. However, due to weak internal controls over the system, no determination could be made as to the disposition of many of the tips received and the cases generated. Not all pre-numbered case information sheets could be located, case sheets purported to be voided often were not retained, information was recorded on Safeguard's computerized database with no supporting documentation available for review, and the database was not updated in a timely fashion nor could it be reconciled to APSIN.

For a program receiving considerable state support, we consider this to be unacceptable. Safeguard currently does not have to be accountable for its actions to any organization; no checks or balances are inherent in the system. The internal control requirements placed upon state agencies and organizations that receive state support are thought by Safeguard not to apply to its operations. As such, the purported primary beneficiary of Safeguard's efforts, FWP, currently has no means of ensuring itself of the quality or validity of the program. As further discussed in Recommendation No. 6, if DPS is to continue its association, certain modifications should be made.

Controls should be instituted to ensure that there would be performance measurement criteria available for review, including a tie between Safeguard's database of information and DPS's APSIN that could allow evaluation of the disposition of information received over the Safeguard hotline. Further, FWP employees would no longer be used to deliver reward payments to anonymous informants; state employees should not be required to participate in an activity that, as designed, has inadequate cash controls. While it is possible to implement appropriate controls without jeopardizing the anonymity of informants, we understand that this has not been accomplished. Additionally, such requirements as corporation financial statements certified by the board of directors being provided periodically and the elimination of fish and wildlife violators from the regional Safeguard boards would encourage confidence in the program.

Failing this, in our opinion, the only viable option is for DPS to disassociate itself from Safeguard. As we discussed above, public perception is critical to an organization such as FWP. Without adequate controls in place, Safeguard may not appear positively in the public's view. This impacts FWP through the close association between the two organizations. We believe that a program such as Safeguard has merit and can be of benefit to law enforcement; however, adequate accountability must be established for this to occur.

### Summary

Law enforcement is an area in which both sound professional judgement and discretion play vital roles. Both of these attributes of a successful program are needed in making decisions regarding targeting of suspected violators in light of limited resources, conducting operations against suspected violators, managing conflict-of-interest situations, and interfacing with other organizations such as Safeguard. However, as we note throughout this section, judgement and discretion must be tempered with the accountability and documentation that are required for actions within the public arena. FWP, in its internal dealings and its relationship with Safeguard, has not always met these requirements in a successful manner. Our concerns are heightened when one considers that FWP, a relatively small division, is charged with enforcing fish and game laws and regulations over the entire State and its adjoining waters; nothing short of prudent management that inspires public confidence will suffice.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Executive Branch Ethics Act should be expanded to more fully address disclosure of possible conflicts of interest.

Conflict of interest can be described as the division of loyalty that exists when a person has a duty to perform which may impact his or her financial or personal interests. It may manifest itself either in fact or in appearance with the same result: the public confidence that is critical to an effective and efficient government is crippled. Public perception plays a key role in maintaining this confidence. A perceived lack of fairness or impartiality in a public agency's dealings can adversely affect the agency's effectiveness, whether factual or not. With this in mind, laws, regulations, and policies should be enacted that will provide guidance so that potential conflicts of interest, both in fact and in appearance, are minimized.

The Alaska Executive Branch Ethics Act, AS 39.52, provides a code of ethics for public officers and employees of the executive branch of state government. Article 2 of this act discusses prohibitions and restrictions upon, and related disclosures of, such items as improper use of official position, gifts, information, or influence; it further delineates the requirements for concurrent employment outside of state government and employment after leaving state government. Subsequent articles address other required disclosures, procedures, and enforcement related to the ethics codification.

Notably absent from AS 39.52, however, is language specifically discussing an area that has great potential for conflict of interest, that of close association, economic or otherwise, between public employees and groups or individuals that a public agency has discretionary dealings with. A conflict of interest, in either fact or appearance, can exist in such areas as personal or business relationships or associations. Hypothetical examples of these types of affiliations could include:

- Department of Revenue, Oil and Gas - Audit Division revenue auditors having a financial interest in an auditee through ownership of debt or equity securities;
- Department of Administration, Division of General Services and Supply procurement officers holding investments in companies receiving state contracts, even if competitively bid;
- Department of Transportation and Public Facilities, Regional Design and Construction staff exercising eminent domain proceedings against individuals with whom they are involved either socially or in a business relationship; or
- Department of Commerce and Economic Development, Division of Banking, Securities, and Corporations bank examiners reviewing institutions where both

they and management are involved in either a social or business association outside of the organization.

Additionally, as noted in the Report Conclusions section, we identified numerous actual financial transactions and associations between the Department of Public Safety (DPS), Division of Fish and Wildlife Protection (FWP or the division), enforcement employees and certain groups of individuals they are charged with enforcing the law against, specifically registered big game guides-outfitters and individuals involved in commercial fishing.

When affiliations similar to the above occur, they give the appearance of a conflict of interest; yet the employee's actions may not actually be affected by the apparent conflict. However, to avoid even the appearance of impropriety or partiality, disclosure of these types of relationships or associations should be required of public employees by statute. This is necessary to ensure the public's confidence in state government and is not without statutory precedent. The legislative branch's Standards of Conduct, AS 24.60, requires disclosure of close economic associations involving a substantial financial matter between certain individuals and groups.

We recommend that the Executive Branch Ethics Act be augmented to include conflict-of-interest disclosure requirements related to close associations, economic or otherwise, between public employees and individuals or groups that a public agency has discretionary dealings with. The disclosures should be required periodically and should be reviewed by the employee's designated supervisor, who would decide if employee reassignment or divestiture was necessary.

### Recommendation No. 2

FWP should create and retain sufficient documentation to clearly support decisions related to targeting suspected fish and wildlife violators for covert operations.

Properly executed undercover operations are a highly effective method of apprehending law-breakers. Perhaps more important than the actual apprehension is the deterrent effect such operations have on potential violators; this appears to be true in the enforcement of fish and game laws and regulations.

As a result of this, covert operations are utilized by FWP in its enforcement of laws related to both big game guiding and commercial fishing. However, as in most governmental functions, the demand exceeds the available resources. Hence, choices must be made as to what individual or group will be selected for an enforcement action.

FWP's policies and procedures provide very general criteria upon which a covert operation may be initiated. The division has verbally represented that suspected violators that fit this criteria are periodically listed and reviewed by investigators and management. The purpose of this review is to select a target for a covert operation. FWP purportedly takes into account such factors as the number of complaints received, chance of conviction, the gravity of the resource damage caused by the suspected violator, and the anticipated cost of a

successful operation in its selection process. Professional judgement and discretion each play large roles in making the final selection.

However, none of this laborious decision-making effort is documented by FWP. The division appears to be of the opinion that if a targeted individual is arrested, tried, and convicted, the selection was justified. While this may be true, it ignores the question of who was not selected, and why. Currently, there is no means available for either the division or any outside source to answer that question due to the lack of supporting documentation of targeting decisions. As discussed in the Report Conclusions section and in Recommendation No. 1 of this section, the appearance of conflicts of interest can lead to charges of favoritism and bias. Without well-supported findings and criteria related to targeting decisions, FWP has little to offer in its defense against those criticisms.

As such, we recommend that FWP improve its procedures for targeting suspected offenders for covert operations. Specifically, adequate supporting documentation of why an individual or group was selected, and therefore why other individuals or groups were not, should be created and retained. As well as providing management with a valuable tool in administering the program consistently, this will furnish the division with tools to combat any charges of partiality.

### Recommendation No. 3

FWP should make it a priority to create and maintain an updated, cohesive, and comprehensive covert operations policy manual.

Law enforcement agencies, by their nature, are highly structured paramilitary entities. Policies, procedures, directives, and standards are established for even the seemingly minutest detail of routine and non-routine operations and applications. As evidenced by a review of DPS's Operating Procedures Manual and Officer's Information Manual (OIM), FWP is no exception to this. However, the division's documentation of the policies and procedures related to its covert operations are lacking in both organization and substance.

All FWP covert operations are supervised and conducted by the Statewide Investigations Section (SIS), based in Anchorage. Policies pertaining to SIS are contained primarily within the OIM and a series of procedures and directives. These documents contain such potentially useful items as the basis and procedures for initiating covert operations (see Recommendation No. 2 above), responsibilities of SIS, organization of SIS, checklists for special operations, debriefing information, communications protocol, and financial procedures for funds utilized in a covert operation.

However, there are also a number of outdated and unorganized sections within the manuals. The Special Operation Procedures Manual does not appear to have been updated since 1987. Obsolete directives and organization charts and non-policy related notes from meetings permeate the text. In general, the collective information within both manuals that relates to SIS lacks the cohesive, comprehensive quality that is so necessary for a document of this

importance. The data available regarding covert operation policy appears to have been assembled in a piece-meal fashion, with little regard for purging outdated material or documenting basic attributes of a successful program.

To gain a basis for comparison, we reviewed two additional governmental fish and wildlife law enforcement organizations' policies and procedures manuals related to covert operations. In stark contrast to FWP's efforts, both manuals are cohesive documents that comprehensively cover a much greater spectrum of aspects of covert operations.

Adequately documented, updated, and completed policies and procedures are necessary in many circumstances. However, in very sensitive matters such as covert law enforcement operations, these policies are critical. Adequate policies and procedures provide for an approved, consistent method of accomplishing a goal and help to remove unnecessary variability. Further, these types of policies and procedures provide a means to make the best use of limited resources. Consistency of application can be adversely affected if policies and procedures are not documented. This can cause a less efficient and effective enforcement effort.

As such, we recommend that FWP create and maintain an updated, cohesive, and comprehensive covert operations policy manual. The division could utilize ideas from manuals from similar organizations as a base and alter them based upon the unique challenges and requirements presented by enforcement efforts in Alaska. We further recommend that this important project be given high priority.

#### Recommendation No. 4

DPS should improve internal controls related to the Alaska Public Safety Information Network (APSIN) to ensure completeness and accuracy of criminal justice information within the system.

#### Background

APSIN is an on-line real-time database operated and maintained by DPS. The system is dedicated to providing information to all law enforcement agencies within Alaska on such items as licensed drivers, registered vehicles, criminal histories, wanted persons, and stolen property. Additionally, for DPS users, APSIN tracks case information, evidence, payroll, and officer activity data.

APSIN runs on a mainframe computer installed at the Anchorage Data Center. The system came on-line in 1984.

### Prior Finding

A 1986 Division of Legislative Audit report on Alaska's criminal justice information systems documented numerous weaknesses in quality and completeness of data housed within APSIN. The following types of errors were disclosed.

- a. Individuals with known criminal histories were not found.
- b. Criminal conviction histories were found to be incomplete.
- c. Incorrect criminal information was found due to the entering of the wrong charge.
- d. In the case of a charge reduction, both the original and the reduced charge appeared as convictions.

Additionally, the majority of APSIN users surveyed expressed a general lack of confidence in the system to provide complete and accurate criminal history information.

### Legislative Audit's Current Position

In our cursory review of APSIN for this audit, we noted many of the same weaknesses discussed above.

As discussed in the Report Conclusions section, two managers of the division, one current and one former, have fish and wildlife violations. However, neither of these individuals' records on APSIN show any evidence of these infractions. While the former manager's conviction occurred in 1965, other violation history from that time frame is captured within the system. The currently employed manager's violation took place in 1984, approximately two months after the department converted to APSIN. DPS received a copy of the relevant judgement in a timely manner; the department was unable to justify why this individual's record has been excluded.

A different charge appeared in APSIN with the current manager listed as a defendant in a separate commercial fishing case. DPS states that this is an error; the case disposition should read that it was closed after an investigation. No original documentation is available to support either scenario, as the department is unable to locate the applicable case file.

A Fish and Wildlife Enforcement Officer's conviction for misdemeanor assault is incorrectly displayed as a felony within APSIN, as is an FWP Trooper's misdemeanor conviction for possession of marijuana.

Additionally, no mechanism is in place that allows for an audit trail of additions, deletions, or any other modifications to an individual's criminal history to be reviewed. As such, there is no assurance that all criminal histories are included in APSIN.

APSIN is utilized by law enforcement agencies, the courts, and others to provide crucial criminal history information that is used throughout the enforcement and judicial processes. As such, it is imperative that data maintained within the system is complete, accurate, and subject to adequate controls over unauthorized or inappropriate modifications. We have not found this to be the case. DPS should implement controls to ensure that data within APSIN is complete and accurate. Further, to address public perception concerns discussed in the Report Conclusions section, the department should review the data in APSIN that relates to DPS employees for completeness and accuracy. Implementation of these recommendations will serve to increase user confidence in this vital system.

#### Recommendation No. 5

The Court System and Department of Law (DOLaw) should cease the current practice of diverting state fine and forfeiture monies to Fish & Wildlife Safeguard corporation (Safeguard).

A portion of the funding of the non-profit Safeguard is derived from court-awarded donations in lieu of fines and/or forfeitures in fish and wildlife violation cases. During the course of our review, we noted instances where various state district and superior courts ordered convicted violators to donate monies to Safeguard instead of fines to the General Fund. We also encountered cases where the defendant was permitted to re-acquire items ordered forfeited to the State by making a donation to Safeguard approximately equal to the items' fair market value. Further, we reviewed a deferred prosecution settlement agreed to by DOLaw in which a requirement was that the defendant acquiesce to pay a \$10,000 donation to Safeguard. The courts have been permitting these types of arrangements for a number of years. The judiciary appears to be encouraged by both DOLaw and FWP. A district attorney stated that he often advocates such types of penalties in sentencing recommendations; FWP's Safeguard liaison FWEO has sent letters to judges soliciting such support.

The total amounts involved are not readily identifiable from the Court System's records and Safeguard declined to allow us access to their accounting records.

We believe that this diversion of monies from the General Fund to a private corporation may violate the state constitution by effectively bypassing the legislature's appropriation power. The Court System has represented to us that the authority to issue these types of sentences is based upon AS 12.55.080 which, in part, states that a court may ". . . place [a] defendant on probation . . . upon the terms and conditions the court considers best." However, we do not interpret this to mean a court may direct fines and forfeitures from the General Fund to a non-profit organization. It should be the legislature's decision whether to fund or not fund an organization such as Safeguard with General Fund monies.

We do acknowledge that the courts have significant judicial discretion in the determination of sentences and establishing terms of probation. We further note that this concern is likely not limited to the circumstances described in this report. Therefore, we recommend that the

Court System and DOLaw reconsider the current practice. If Safeguard is to receive General Fund monies, it should be appropriated by the legislature in accordance with state law.

Recommendation No. 6

FWP should consider continuing its association with Safeguard only if certain conditions are met.

Safeguard is an enigma. On one hand, the organization receives considerable state support; examples include free space, free related utilities, free program advertising, a liaison state enforcement officer, a contract for a state raffle, court-ordered donations (see Recommendation No. 5), and use of state employees in delivering reward monies. However, the corporation falls back onto its private, non-profit corporation status when accountability concerns are raised: requests for financial information or access to files directly related to the scope of this audit were refused by Safeguard.

We consider this to be unacceptable. FWP and other state agencies provide significant support to Safeguard; prudent management by these agencies would dictate that notable accountability concerns be addressed. Currently, the corporation's dealings and operations are not subject to any public oversight; no measurement criteria is available to adequately appraise successes or failures. Information regarding financial decisions about reward payments, the reasonableness of corporation expenses, or the uses of court-ordered donations have not been made available for review by either FWP or Legislative Audit. Similarly, no oversight over suitability of regional or statewide board members is provided; hence, fish and wildlife violators are involved in decision-making. There are insufficient controls over information received over the hotline and its subsequent disposition; no documentation is available to prove all tips are appropriately handled.

We cannot conclude that Safeguard is not functioning in a responsible manner just as we cannot conclude that it is; the information is either not available or Safeguard is simply unwilling to provide it. Regardless, FWP should not continue to associate with and support such an organization without significant changes being made. Such conditions of continuing the relationship should include the instituting of controls to adequately assess performance, including a tie between Safeguard's database of information and APSIN to allow for the evaluation of the disposition of information received over the hotline. Additionally, FWP officers should not be utilized to deliver cash reward payments to anonymous informants without adequate cash controls; it is possible to implement adequate controls without jeopardizing confidentiality requirements. On a periodic basis, financial statements certified by the boards of directors should be made available for review to determine the reasonableness of corporation expenses. Fish and wildlife violators should be removed from the corporation's regional boards of directors and a policy prohibiting such individuals from being a member of any of the boards should be enacted.

The alternative to implementing these changes is for the State to totally disassociate itself from Safeguard. While there may be potential benefits from such an association, these could

be more than offset by an organization that refuses to be accountable. As we discussed in the Report Conclusions section, public perception of Safeguard may impact FWP's effectiveness.

As such, we recommend that FWP continue its association with Safeguard if, and only if, the above conditions providing oversight of the program are met.

be more than offset by an organization that refuses to be accountable. As we discussed in the Report Conclusions section, public perception of Safeguard may impact FWP's effectiveness.

As such, we recommend that FWP continue its association with Safeguard if, and only if, the above conditions providing oversight of the program are met.

DEPARTMENT OF PUBLIC SAFETY

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July 2, 1993

Mr. Randy S. Welker  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811-3300

RECEIVED  
JUL 2 1 1993

LEGISLATIVE AUDIT

Dear Mr. Welker:

Re: Audit No. 12-443-93

I am writing in response to your letter and preliminary audit report of March 23, 1993. Thank you for the opportunity to review and comment on the preliminary report and for the courtesy in allowing us an extension of time. My comments are as follows:

Recommendation #1

"The Executive Branch Ethics Act should be expanded to more fully address disclosure of possible conflict of interest."

We are unaware of the numerous actual financial transactions and associations between FWP enforcement employees and certain groups of individuals they are charged with enforcing the law against, and as such cannot comment specifically on them. Short of obvious violations of the Ethics Act, it would be very difficult to learn of these transactions, let alone prohibit them. As I am sure you are aware, the vast majority of Alaskans participate in outdoor activities to include hunting and fishing. To regulate the members of Fish and Wildlife Protection (FWP) so stringently as to prohibit any close associations would be most difficult. However, we agree that amending the Executive Branch Ethics Act, as you suggest, would be an excellent review tool for the Department of Public Safety, and one that we would certainly comply with.

Recommendation #2

"FWP should create and retain sufficient documentation to clearly support decisions related to targeting suspected fish and wildlife violators for covert operations."

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I agree with your recommendation and toward that end the following things are occurring. In conjunction with the Alaska State Troopers (AST), FWP will become part of a statewide intelligence gathering network and repository. This is being made possible by a \$170,000 federal grant and is expected to be on-line this year. In the interim, all documentation is now being retained in hard copy on standard department forms.

Through input into this soon-to-be network, there will be sufficient documentation to sustain why one person or operation was targeted and another was not. Still and always lacking from a hard data base will be that portion of the decision-making process known as professional judgement and experience. The Division is overtasked in the area of covert operations and, until such time as sufficient manpower is available, will be forced to prioritize covert operations.

#### Recommendation #3

"FWP should make it a priority to create and maintain an updated, cohesive, and comprehensive covert operations policy manual."

I agree and we are doing this now. A complete update and rewrite is ongoing. In addition, in August the supervisor of the covert unit will be attending a seminar composed of covert managers from the western states. He has been instructed to glean as much information as possible from those states about their policy manuals and provide me with a draft for review. I expect that review by October of 1993.

#### Recommendation #4

"The Department of Public Safety (DPS) should improve internal controls related to the Alaska Public Safety Information Network (APSIN) to ensure completeness and accuracy of criminal justice information within the system."

The department agrees with the specific data errors in the two instances noted by the auditor which are being researched and corrected. A second part of this recommendation would have the department review existing employees' records for criminal history accuracy. The question is, how would one accomplish that? The only data DPS might have on an employee is if it is already recorded in APSIN, which if serious enough, often precludes hiring of that individual. DPS will review the feasibility and effectiveness of such a review.

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**NOTE:** There appears to be some confusion regarding the functions several subsystems of APSIN are used for. This note is intended to clarify these functions:

The trooper case report system is internal to the Department of Public Safety. Information contained in this system is not used to determine a person's criminal history.

To date, fish and wildlife violations (misdemeanors) have been recorded in a separate citation subsystem apart from the regular criminal history database. The department is reviewing the appropriateness of merging fish and wildlife violations into the criminal history system so the entire record is visible in one place.

The criminal history record system is the only system routinely used by the courts and prosecutors for determining previous criminal histories and by employers for screening applicants. Based on the contents of records in this system, repeat offenders would receive more severe sentencing, employment might be denied, etc. Therefore, due to the official use of this APSIN subsystem, efforts to ensure completeness and accuracy must be focused.

The auditor makes a broad, system-wide recommendation. Accordingly, a more complete response is required.

DPS concurs with the general thrust of this recommendation with the caveat that it is not possible for DPS to implement these changes by itself. The continuing support and cooperation of the criminal justice community and the Legislature is essential if substantive improvements are to be achieved. Funding and legislation are issues that must be factored into a permanent solution.

APSIN's Criminal History Record Information (CHRI) database is a central repository of information contributed by police, prosecutors, courts, and Corrections. Each CHRI entry contributed by each of these agencies is dependent upon the procedures, source documentation, and quality control of records and information provided to DPS by each of these agencies. There is nowhere else to go to obtain CHRI other than APSIN. The courts depend upon prosecutors to obtain previous criminal history information; prosecutors depend upon APSIN to provide that information.

CHRI is used to assist in investigations, in making sentencing, probation, and release decisions, and to screen various applicants for employment who intend to work with children and in

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other sensitive areas. To the extent CHRI entries are incomplete, inaccurate, or unreadable:

Offenders will not be properly identified for prosecution due to missing arrest information and fingerprints.

Repeat offenders will receive lighter sentences due to missing arrest information used at sentencing.

Dangerous persons who should not be released back into the public, may be.

Persons who should not be permitted contact with children or dependent adults (potential teachers, school bus drivers, foster parents, child care) will be permitted access via employment, as disqualifying arrest information will not be complete.

DPS has contracted two significant reviews on how to approach CHRI improvement and has drafted legislation for introduction that would define the responsibilities of contributors of CHRI to APSIN, provide guidance regarding the use of this information, and provide for periodic auditing of the database for compliance, quality, and completeness. A recent audit of APSIN's CHRI database was conducted as part of a federal grant received from the U.S. Department of Justice, Bureau of Justice Statistics. Alaska's Criminal Justice Work Group has adopted the audit report (conducted by SEARCH) and supports the draft legislation as a foundation for improving Alaska's CHRI database. This information was made available to the auditor.

APSIN's CHRI database is essential for making a number of significant criminal justice and employment decisions. The consequences of incomplete or inaccurate data are substantial. The standard that SEARCH recommends, as do other states (including Alaska's DPS), is that all arrest entries and court actions which result in a conviction be supported by fingerprints as the underlying source documentation that positively identifies the CHRI entry with the person to which it belongs. Arrest and charge linkage numbers must continue to be used and implemented to permit tracking of criminal processing across all criminal justice agency systems and to permit electronic interfaces between these systems to efficiently and accurately record these entries in APSIN.

DPS, with the cooperation of the criminal justice agencies, has successfully implemented the arrest tracking number and will be able to electronically interface with the Department of Law by early 1994.

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To be able to continue to make improvements to APSIN's CHRI database, legislation needs to be enacted. The Departments of Public Safety, Law, and Corrections and the Court System need to maintain operating funding to continue current automation efforts, and receive capital funds to build the information systems necessary to support Alaska's \$300 million criminal justice system. Additionally, the Department of Corrections, the Court System, and DPS need funding to be able to record and process fingerprints, which are the keystones of the CHRI database.

Recommendation #6

"FWP should consider continuing its association with Safeguard only if certain conditions are met."

I agree with the recommendation and will follow those suggestions offered by the Department of Law. Henceforth, members of the Department of Public Safety will not be involved in the delivery of reward monies. I will further make a recommendation to Safeguard that applicants are screened to ensure fish and wildlife violators do not become a member of any of their boards. Fish and Wildlife Protection will further strengthen its documentation of tips received over the Wildlife Safeguard hotline.

I believe that Safeguard can be of benefit to the State of Alaska and her resources much the same as "Crime Stoppers," another private organization.

It is my belief that had the initial request for information by Legislative Audit been received at a different time under different circumstances, the results would have been much different. There are concerns by Safeguard that this audit was initiated after one person, convicted of guiding without proper licenses, attempted to find out who it was that turned in an anonymous complaint about him to the Safeguard hotline and was subsequently paid a reward. This same person attended at least one Safeguard meeting in an attempt to learn the name and was very disruptive. Were it not for those types of incidents and a concern, real or perceived, by Wildlife Safeguard that informants' names would be revealed, I believe the auditors would have been granted access to financial statements.

On page five of your report, at the end of paragraph 4, I would suggest that an additional sentence be added indicating that the deterrent effect is also factored into the final selection process.

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On page seven, item #4 is an old issue which has been examined by both the Ombudsman and Legislative Audit. Since that review, legislation has been passed prohibiting such activity. Nothing appears to be gained by revisiting this issue and I would ask that the comments be stricken.

Also on page seven, item #7 again is an old issue. The employee was reprimanded as the evidence did not support further disciplinary action. Whether or not the Division's ability to catch and prosecute was compromised was never established. I would ask that this item be stricken.

Thank you again for the opportunity to comment on your preliminary report. I would be glad to discuss my response with you further, if you so desire.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Burton", with a long horizontal flourish extending to the right.

Richard L. Burton  
Commissioner

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
P. O. BOX 110300 - STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 W. 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

June 30, 1993

Randy Welker  
Legislative Auditor  
P.O. Box W  
Juneau, Alaska 99811-3300

**RECEIVED**  
JUN 30 1993  
**LEGISLATIVE AUDIT**

Re: Dept. of Law Response to Fish and Wildlife Audit  
Audit Control Number 12-4431-93  
**CONFIDENTIAL**

Dear Mr. Welker:

This is in response to your preliminary audit, suggesting that the state constitution does not permit violators of fish and game laws to satisfy fines and forfeitures by making donations to a private, non-profit corporation that promotes the lawful use of fish and game resources. For the reasons stated in this letter, we believe your analysis raises legitimate concerns about current practices and we make suggestions for handling such cases in the future.

The provisions of Title 16 relating to fines and forfeitures are somewhat confusing. State law provides that property used or acquired in violation of fish and game laws can be forfeited "to the state", but AS 16.05.190 (relating to illegally taken fish and game) and AS 16.05.195 (relating to vessels, guns, traps, nets, fishing gear, etc.) treat those proceeds differently.

Under the first statute, forfeited fish and game is to be disposed of "as directed by the court" or, if sold, the funds are to be deposited in the general fund. AS 16.05.190. Under the other statute, forfeited property is to be disposed of "at the discretion of the department [of fish and game]". AS 16.05.195(f).

Even more recent enactments in AS 16.05.722 and 723, which arguably provide authority for forfeiture separate from AS 16.05.190 -- 195, permit or require forfeitures in commercial fishing cases without specifying what is to be done with the proceeds.

To make matters even more confusing, AS 16.05.100 establishes a revolving "fish and game fund" and AS 16.05.110 mandates that "money received in settlement of a claim or loss caused by damage to the fish and game resources of the state" be deposited in the fund.

According to a 1986 opinion of this department, money received as a forfeiture due to damage to the resources must be deposited in the fund, and doing so does not violate the constitutional prohibition of dedicated funds. 1986 Inf. Op. Att'y. Gen. (May 20; 661-86-0489) (copy attached).

The 1986 opinion also concluded that fines -- as distinct from forfeitures -- had traditionally been deposited in the general fund, and therefore could *not* be deposited in the fish and game fund. That opinion was based upon then-existing AS 16.05.720(b), which provided: "The court shall transmit the proceeds from all fines to the proper state officer for deposit in the general fund of the state." That statute was, however, repealed in 1988 as part of a broader revision of the penalty provisions for fish and game violations.<sup>1</sup>

In light of this confusing statutory scheme, it is perhaps not surprising that the handling of proceeds from fish and game cases has been problematical. Even without legislative clarification of the statutes discussed above, money derived from legal proceedings relating to fish and game offenses should not be diverted to a private entity if that money would ordinarily be imposed as a fine or forfeiture accruing to the state.

Although the courts have broad powers to impose conditions of probation under AS 12.55.080, if a court determines that a fine or a forfeiture is an appropriate sanction in a case, there is no statutory authority to impose probation conditioned on the money being paid to a private corporation rather than to the state.

There has been widespread acceptance by the courts, the fish and wildlife protection division and the department of law, of the practice of using fines and forfeitures to finance the Fish and Wildlife Safeguard Corp., and there is no reason to believe this private organization is not doing a good job of promoting lawful use of fish and wildlife. That does not, however, change the fact that the group uses state facilities, receives funds through state action (both judicial action through criminal court judgments and executive action by sale of promotional items on state premises), yet its private status effectively removes the group from legislative oversight by its refusal to be audited.

Until there is legislative clarification, state prosecutors will be directed not to enter into any agreement, and to oppose court action, that would allow a fine or forfeiture to be satisfied by a donation to a private entity. This applies to Fish and Wildlife Safeguard Corporation, D.A.R.E., Inc., Crimestoppers, or any similar organization.

---

<sup>1</sup> A similar statute, that requires fines from violations of AS 16.10 to be deposited in the general fund, still exists. AS 16.10.040. The statute provides that the funds so collected are immediately available for expenditure by the department of fish and game.

As an example, prosecutors should oppose a sentence providing for a \$1000 fine that is suspended on the condition the defendant make a \$250 donation to Fish and Wildlife Safeguard Corporation. This type of sentence obviously reflects the court's view that a \$250 payment is appropriate in light of the nature of the violation. The payment is, in essence, a fine that should not be diverted from the state to a private entity.

Similarly, prosecutors in criminal cases, and assistant attorneys general in civil cases, should oppose a forfeiture in which the defendant is permitted to "buy back" the property by making a donation to a private entity.

A more difficult question is whether a court may, *in addition* to imposing an appropriate fine and/or forfeiture, require a defendant in a criminal case, as a condition of probation, to make a donation to Fish and Wildlife Safeguard or another private entity.

The statutes provide courts with considerable authority to fashion an appropriate sentence. In addition to any other penalty, courts can order a defendant to pay money for restitution to a victim or to an organization that has provided counselling, medical or shelter services to a victim. AS 12.55.045. Courts can also require a defendant to perform work that benefits the community, even if it is in lieu of a fine or jail sentence. AS 12.55.055. There is nothing that prohibits community work being provided to a private, non-profit community service organization.

There is also nothing in the statutes that prohibits a court from requiring a defendant to pay money to a private entity as a condition of probation. The powers of courts to fashion conditions of probation are broad enough to permit them to order payment of money even though the underlying statute does not permit a fine as a sentence. *Brown v. State*, 559 P.2d 107 (Alaska 1977).

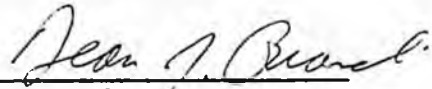
In light of these broad powers, as long as a court has considered and imposed an appropriate fine and/or forfeiture in a fish and game case, prosecutors will be permitted to recommend, suggest or agree that a donation to a private entity may be an appropriate condition of probation.

Thus, using the example given above, an appropriate sentence might be a \$1000 fine, with \$750 suspended, thus resulting in the *unsuspended* \$250 payment going to the general fund. The remaining \$750 could stay suspended on the condition that the offender make a suitable donation to the corporation, or on any other condition imposed by the court. This type of sentence, in our view, addresses the concerns raised in your preliminary audit, while at the same time giving the courts discretion to fashion sentences that provide appropriate rehabilitative and public service components.

Thank you for giving us the opportunity to comment.

Sincerely,

**CHARLES E. COLE**  
**ATTORNEY GENERAL**

By:   
Dean J. Guaneli  
Assistant Attorney General &  
Criminal Division Administrator

DJG:jf

cc: All Criminal Division Offices  
All Natural Resources Attorneys

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

May 20, 1986

Representative Adelheid Herrmann  
P. O. Box 63  
Naknek, Alaska 99633

Re: Settlement Proceeds in State v. F/V Baranof  
Our File: 661-86-0489

Dear Representative Herrmann:

Thank you for your March 18, 1986 letter requesting our opinion on whether the proceeds received in settlement of State v. F/V Baranof 1/ may be deposited in the fish and game fund, AS 16.05.110. As explained more fully below, we believe the money should be deposited in the fish and game fund and may be made available for an onboard observer program, as recommended in the memorandum from Colonel Henderson attached to your letter.

1. The Fish and Game Fund Includes Certain Settlement Proceeds.

In general, proceeds from fines and penalties received for violations of commercial fishing statutes AS 16.05.480--AS 16.05.690 and commercial fishing regulations adopted by the board of fisheries or the Department of Fish and Game are to be deposited in the general fund. AS 16.05.720(b). 2/ However, AS 16.05.110(3) specifically requires "money received in settlement of a claim or loss caused by damage to the fish and game resources of the state" to be deposited into the fish and game fund established in AS 16.05.100. This more specific provision, which was originally enacted as part of the same act that created AS 16.05.720(a), therefore governs settlement proceeds. See generally Singer, Sutherland Statutory Construction § 47.02, at 120 (4th ed. Sands 1984).

1/ Court No. 3KO-81-219, Civ. (3rd Jud. Dist. Kodiak, Nov. 6, 1985).

2/ This provision has been in effect since 1959. See sec. 12, art. 3, ch. 94, SLA 1959.

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

P.O. BOX K-STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

Representative Adelheid Herrmann  
Re: Settlement Proceeds in  
State v. F/V Baranof  
661-86-0489

May 20, 1986  
Page 2

2. F/V Baranof Settlement Proceeds Are Based on Damages Claims.

The money received by the state in settlement of State v. F/V Baranof constitutes money received in settlement of a claim by the state for damages to the state's natural resources (viz., king crab). State v. F/V Baranof was a civil in rem forfeiture action brought by the state against a king crab vessel for a multitude of commercial fisheries violations. The state alleged, inter alia, that the vessel was fishing in closed waters, fishing in waters for which the vessel was not registered, and fishing during closed season, and that its operators failed to report catch data. A central purpose underlying the fisheries management and conservation laws and regulations involved in the case is protection of the resource from excessive harvest: i.e., the state's claims against the vessel arose from alleged damages to the resources. The fact that the case was brought as an in rem forfeiture action, rather than as a money damages action against the skipper and owners, reflects a number of practical considerations, but does not change the underlying nature of the claims asserted by the state, which were founded upon damage to the king crab fishery resources. <sup>3/</sup> Accordingly, the settlement proceeds should be deposited in the fish and game fund under AS 16.05.110(3) (for settlement proceeds) only if this statutory provision does not violate article IX, section 7, of the Alaska Constitution. For the reasons outlined below, we find that this section does not violate the Constitution.

3. Article IX, Section 7 Does Not Invalidate Dedication Of The F/V Baranof Proceeds.

As you know, article IX, section 7, of the Alaska Constitution generally prohibits the legislature from dedicating revenue to special purposes. However, it allows some limited exceptions and exemptions. The section provides in full:

The proceeds of any state tax or license shall not be dedicated to any special purpose except as provided in section 15 of this article [Alaska Permanent Fund] or when required by the federal

---

<sup>3/</sup> AS 16.05.195 provides that a forfeiture action may be combined with a civil damages action arising out of the same underlying incidents. It is clear that both kinds of proceedings are closely related.

government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska [i.e., April 24, 1956].

The term "proceeds of any state tax or license" has been interpreted to apply generally to all public funds. See 1975 Op. Att'y Gen. No. 9 at 16 (May 2); 1982 Op. Att'y Gen. No. 13 at 7 (Nov. 30); see also State v. Alex, 646 P.2d 203 (Alaska 1982). Thus, the constitutional prohibition against dedicated funds applies to money received from fines, penalties and civil settlements (such as that in State v. F/V Baranof), unless the dedication is subject to the exceptions or exemptions in article IX, section 7, of the Constitution. The exceptions for the Alaska Permanent Fund and for funds required by the federal government for state participation in federal programs do not apply to dedication of settlement proceeds under AS 16.05.110(3). Therefore, we need only look at whether this fund was a continuance of a dedication that existed as of April 24, 1956, the date of ratification of article IX, section 7.

AS 16.05.110(3) derives from the original 1959 fish and game code, which specified that "all monies received in settlement of any claims or losses caused by damages to the fish and game resources of the state" were to be deposited into a special fund to be used for carrying out the purposes of the fish and game code. Sec. 17, Art. I, ch. 94, SLA 1959. That 1959 fish and game fund was itself a continuation of a fund originally established in 1953 by the territorial legislature. The 1953 fund was dedicated to "furtherance of the protection, rehabilitation, preservation, or conservation of the territorial fish and shellfish resources." Sec. 1, ch. 64, SLA 1953. The fund was to include money received "in settlement of any claims for damages to such [territorial] fish and shellfish resources." Ch. 64, SLA 1953. 4/

---

4/ In 1957, the nature of this fund was amended to include money received in settlement of damages to game resources as well. Ch. 63, SLA 1957. However, this amendment to include settlement of claims for damages to game resources occurred after the date of ratification of article IX, section 7, of the Alaska Constitution; therefore, money received in settlement of claims regarding damages to game resources may not be dedicated to the fish and game fund under the "grandfather" exception in article IX, section 7.

Representative Adelheid Herrmann  
Re: Settlement Proceeds in  
State v. F/V Baranof  
661-86-0489

May 20, 1986  
Page 4

Thus, since 1953, the legislature has treated money received in settlement of claims arising from damage to fisheries resources separately from commercial fishing fines or penalties, and has directed that the former money be deposited in a special fund dedicated to fisheries management. Because a dedicated fund that included money received in settlement of claims of damages to fisheries resources existed on (and before) the date of ratification of article IX, section 7, of the Alaska Constitution (i.e., April 24, 1956), the prohibition against dedicated funds does not apply.

4. Summary.

In summary, because a fund dedicated to fisheries management, composed in part of money received in settlement of claims of damages to Alaska's fisheries resources, existed on the date of ratification of article IX, section 7, of the Alaska Constitution, the fund is exempted from the dedication prohibition of article IX, section 7, of the Alaska Constitution. Therefore, the settlement proceeds from State v. F/V Baranof should be deposited in the fish and game fund under AS 16.05.110(3). Money in the fish and game fund may be expended for purposes and provisions of Title 16, Alaska Statutes, which may include fisheries management programs such as an onboard observer program.

If you have any additional questions regarding the F/V Baranof settlement proceeds, please do not hesitate to contact this office.

Yours sincerely,

HAROLD M. BROWN  
ATTORNEY GENERAL

By: *Sarah E. McCracken*  
Sarah Elizabeth McCracken  
Assistant Attorney General

SEM/jmo

cc: Commissioner Don W. Collinsworth  
Alaska Department of Fish & Game  
Steven Pennoyer, Deputy Commissioner  
Ken Parker, Director, Division of Commercial Fisheries  
Col. Red Henderson, Director, Division of Fish & Wildlife  
Protection, Dept. of Public Safety  
Ron Lorensen, Deputy Attorney General  
Jim Baldwin, AGO Juneau  
Larri I. Spenger, AGO Juneau



Chambers of  
Daniel A. Moore, Jr.  
Chief Justice

**Supreme Court**  
State of Alaska

303 "B" Street  
Anchorage, Alaska  
99501-2083  
(907) 261-0622  
Fax (907) 276-5808

June 16, 1993

Randy Welker  
Legislative Auditor  
Legislative Audit Division  
P. O. Box 113300  
Juneau, Alaska 99811-3300

**RECEIVED**  
JUN 21 1993  
**LEGISLATIVE AUDIT**

Dear Mr. Welker:

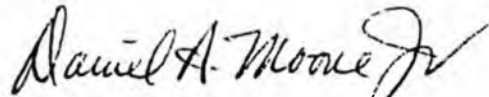
I have had an opportunity to review Recommendation No. 5 of your Preliminary Audit Report of the Department of Public Safety, Division of Fish and Wildlife Protection, Enforcement Issues dated March 23, 1993. In that recommendation, you expressed concerns about the court's allowing sentencing arrangements which include provisions for donations to the non-profit organization "Safeguard", as advocated by the Department of Law and the Division of Fish and Wildlife Protection.

The Supreme Court, as a matter of policy, agrees with your conclusion that criminal sentences should not include provision for donations to any private organization unless such an action is specifically authorized by statute. Since administration of the court system in accord with the laws of Alaska is the responsibility of the supreme court by statute, and the specific responsibility of the chief justice by the terms of the Alaska Constitution, I believe that it is quite appropriate for me to communicate this conclusion to all judges. However, since your audit is only preliminary at this point and therefore still confidential, I will await notification from you that the audit has been made public before I take any action.

Randy Welker  
Page #2  
June 16, 1993

I appreciate the opportunity to respond to your concerns. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Daniel A. Moore Jr." with a large, stylized flourish at the end.

Daniel A. Moore, Jr.  
Chief Justice

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

July 9, 1993

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the responses to our preliminary audit report on the Division of Fish and Wildlife Protection (FWP or the division) from the Department of Public Safety (DPS or the department), the Department of Law, and the Court System. In general, the agencies concurred with the findings and recommendations presented. However, in the interest of clarity, we make the following comments.

### Recommendation No. 1

The Executive Branch Ethics Act should be expanded to more fully address disclosure of possible conflicts of interest.

The department states that not only are they unaware of the numerous actual financial transactions between FWP enforcement employees and certain groups of individuals they are charged with enforcing the law against, but also that "*it would be very difficult to learn of these transactions, let alone prohibit them.*" Unfortunately, DPS did not fully grasp the overall concept behind this finding. The recommendation does not endorse sweeping prohibitions of FWP employees' activities, nor does it attempt to regulate their personal behavior. Rather, our concern is primarily related toward monitoring possible conflicts of interest through disclosure requirements contained within the Executive Branch Ethics Act.

As we discussed in both the Report Conclusions and Findings and Recommendations sections, in order to maximize efficiency and effectiveness, law enforcement agencies must be perceived by the public as being above reproach. To foster positive public perception, disclosure to management of significant relationships and associations between enforcement officers and individuals involved in such occupations as guiding and commercial fishing should be mandated. Management could then review such disclosures and determine if reassignment or divestiture was necessary.

DPS states that amending the Executive Branch Ethics Act as we have described would be "*an excellent review tool*" for the department. However, DPS currently has within its authority, through existing law, the ability to provide themselves with that tool by taking the initiative and developing policies and procedures that will address these public perception

concerns. The department could, in conjunction with the Department of Law, develop and adopt a policy that provides both an overall framework and specific direction. Such a policy is currently in place for the Department of Fish and Game (DFG). DFG's specifically tailored standards of professional conduct augment the requirements of the Executive Branch Ethics Act and address the topics of both public perception and disclosure of possible conflicts related to associations, relationships, and arrangements.

#### Recommendation No. 4

#### DPS should improve internal controls related to the Alaska Public Safety Information Network (APSIN) to ensure completeness and accuracy of criminal justice information.

DPS inquires as to the methodology they should follow in order to determine the completeness and accuracy of current departmental employees' criminal history records housed within APSIN. While not providing absolute assurance, we believe a practical approach should include, at a minimum, a comparison of the employee's APSIN file with their respective application for employment with the State. Further, each employee should review their criminal history file on APSIN for correctness and completeness; an affirmative written statement attesting to its accuracy should be required.

As we noted above, these steps are not considered all inclusive and will not provide total assurance as to the completeness and accuracy of current DPS employees' histories within APSIN. However, such procedures would demonstrate that the department is concerned about these issues and is taking steps to address them.

#### Public Perception

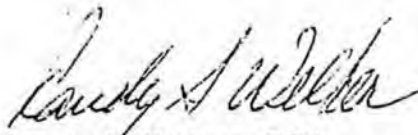
DPS asks that the comments relating to the former commander of the Statewide Investigations Section (SIS) being an assistant guide while he was in a position to influence who would or would not be subject to an undercover operation be stricken from our report. They reason that this an old issue and legislation has since been passed prohibiting such activity.

Similarly, the department asks that a discussion of an FWP Trooper's reprimand for discussing privileged information at a private gathering that included an assistant guide also be expunged from our report. DPS states this also is an old issue that was never proven to have compromised FWP's ability to catch and prosecute.

Neither item has been deleted from our report. Audit findings are not considered irrelevant simply because they are not current situations in need of immediate individual resolution; rather, our audit is concerned with the much broader perspective of the cumulative effect of the many conflicts. We have included both instances because they directly relate to the public perception concern of enforcement employees having close relationships and

associations with certain individuals they are charged with enforcing the law against. These relationships and associations illustrate an area that has the possibility to lead to negative public perception that could impair the division's ability to perform its mission. Additionally, regarding the SIS commander being an assistant guide, simply because a law is in place does not mean it is being followed; as discussed later in the same section of the report, we noted three FWP enforcement individuals that, in violation of that law, held guide licenses during our audit fieldwork.

While any one of the conflicts enumerated in the report taken on its own is troublesome, collectively they point to a pattern that should be addressed by management.



Randy S. Welker, CPA  
Legislative Auditor

SENATE COMMITTEE REPORT

*mdr*

DATE: 3/18/94

FURTHER: *[Signature]*

DATE TURNED INTO OFFICE: 4/7/93

Judiciary Committee considered SENATE BILL NO. 333

"An Act relating to disclosure of close economic associations by certain state employees and to the prohibition against nepotism in the executive branch of state government; and providing for an effective date."

*+ do pass*

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )

or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )

attaches amendment(s)

same title  
 new title  
 technical title change  
(HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*2 & 3  
1 & 2*

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
<i>Off of Gov</i>	<i>3-18-94</i>	<input checked="" type="checkbox"/>	
<i>Law</i>	<i>3-18-94</i>	<input checked="" type="checkbox"/>	
<i>Admin</i>	<i>3-18-94</i>		<i>25.8</i>

Appropriation No Fiscal Note

DO PASS:

*[Signatures: David Couley, Suzanne Little, Rick Halford, George Jack]*

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Signature: Phillip L. Taylor]*  
Chair: Signature and Recommendation *Do Pass*

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERR.

DATE: 2/22/94

FURTHER: Judiciary

Date of 5-Day Notice: 3.3.94  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-16-94

State Affairs Committee considered SB 333

"An Act relating to disclosure of close economic associations by certain state employees and to the prohibition against nepotism in the executive branch of state government; and providing for an effective date."

and recommends:

*major committee report with no rec*

replace with \_\_\_\_\_ CS \_\_\_\_\_

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

*df + Enl  
moving*

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DA - (OEEO)	3.14.94	<del>NO</del>	25.8
DOL	3.10.94	✓	
Office of GOV.	3.8.94	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

PASS:

OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Adrian Taylor No Rec*  
*Mike Miller No REC*

*Loren A. Skuman No Rec*  
Chair: Signature and Recommendation

**S B**

**3 3 8**

**HFIN**

**FILE**

Date Referred: May 4, 1994

HOUSE COMMITTEE REPORT  
FURTHER REFERRALS:

Date of Committee Action: 5/7/94

The FINANCE Committee considered:

CS SB 338(FIN)

CS FOR SENATE BILL NO. 338(FIN)

CROSSROADS DISCOVERY CENTERSHIP CRK

"An Act relating to the issuance of revenue bonds for acquisition and construction of the Northern Crossroads Discovery Center for the Ship Creek Landings Project; relating to a study of the feasibility and financial viability of the Northern Crossroads Discovery Center; relating to construction of the Northern Crossroads Discovery Center; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS SB 338 (FIN) [ ] the same title [ ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

[X] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[X] zero fiscal note(s) Revenue 3/2/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Richard [Signature]	X	E.P. Maclean		✓	
[Signature] Hanky	X	Paul J. Larsen		X	
Sean R. Paul	X	Terry Martin		X	
		John Gussindler		X	
		Tom Hoff		✓	
		Mike Navarre		✓	
		Tan Brown		✓	
		Sam Merrill		X	

[Signature]  
CHAIRMAN'S SIGNATURE

# FISCAL NOTE

No. 1  
 Bill Version: SB 338  
 (S) Publish Date: 3-2-94

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL 1**

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: An Act Relating to the Issuance of Revenue Bonds BRU: Revenue Operations  
for the Alaska Discovery Center Component: Treasury Management  
 Sponsor: Senate Labor and Commerce Committee  
 Requestor: Senate Labor and Commerce Committee COMPONENT SERIAL NO. 121

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE FUND SOURCE:</b>						
-----------------------------	--	--	--	--	--	--

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0	0				
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CS SB 338 (LDC)  
 have no fiscal impact. This  
 fiscal note is appropriate.  
3/1/94 [Signature]  
 date Comre Aide (initial)

Estimate of current year (FY94) impact: \$ 0

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

The Department of Revenue believes it to be in the best interest of the State to have a thorough analysis of the project feasibility as required by this legislation. A qualified financial advisor should also review all bond and legal documents for proper disclosure of revenue sources and other credit issues. The analysis will be funded from bond proceeds.

Prepared by: Laraine L. Derr Deputy Commissioner  
 Division: Treasury  
 Approved by Commissioner: Darrel J. Rexwinkel  
 Agency: Department of Revenue

Phone: 465-4880  
 Date: 2/28/94  
 Date: 2/28/94

Changes in CS SB 338 (Fin) have no fiscal impact. This  
 fiscal note is appropriate.

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4/19/94 [Signature]  
 date Comre Aide (initial)

**Bullets on SB 338:**  
**Revenue Bonds for the Northern Crossroads Discovery  
Center at Ship Creek Landings**

\*The Alaska Railroad Corporation (ARRC) has unique and rare federal authorization to issue non-recourse revenue bonds for private as well as public interests.

\*SB 338 authorizes the ARRC to sell \$55 million in non-recourse revenue bonds to be loaned to a public or private entity for the acquisition, design and construction of Northern Discovery Center at Ship Creek Landings if the following conditions are met:

- The potential developer pays for a feasibility and financial viability study to be performed by a person/business selected by the ARRC
  
- The ARRC board of directors reviews the feasibility study and determines the project is viable

\*Payment of the bonds and interest is made solely with assets and revenues received from the owner/operator of the facility, and the ARRC is prohibited from using any other financing or financial vehicle to repay bonds.

\*On the face of each bond a statement will indicate that the ARRC is not obligated to pay the bonds or interest except from revenues and assets it receives from the owner/operator of the facility; that neither the faith or credit nor taxing power of the state or a political subdivision is pledged towards bond payment; and the issuance of the bonds does not create a legal or moral obligation of the state, nor is dependent on an appropriation from the Alaska Legislature. The success or failure of this project in no way should affect the ARRC, the state, or political subdivision's bond rating.

\*Prior to the start of construction, the developer must post a payment and completion bond in favor of the ARRC.

# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Bert Sharp  
Senator Judy Salo  
Senator Georgianna Lincoln



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## SENATE LABOR AND COMMERCE COMMITTEE

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### MEMORANDUM

**TO:** Senator Tim Kelly, Chair

**FROM:** Josh Fink, Committee Aide

**DATE:** April 25, 1994

**RE:** CS SB 338 (FIN), Non-recourse Revenue Bonds for the Northern Crossroads Discovery Center at Ship Creek

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Following is a sectional analysis of CS SB 338 (FIN):

#### Section 1:

(a) Authorizes the sale of \$55 million in revenue bonds by the Alaska Railroad Corporation (ARRC) for the construction and acquisition of the Northern Crossroads Discovery Center in the Ship Creek Landings if, after a feasibility and financial viability study required by Section 2, the board of directors of the ARRC determines the project is feasible and financially sound.

(b) Authorizes the ARRC to loan the money to a public or private entity that it considers appropriate to acquire, design and construct the facility. In addition, this section authorizes the ARRC to enter into lease agreements with that entity to provide for and secure payment of the loan made from the bond proceeds.

(c) Provides that notwithstanding AS 42.40.630 and 42.40.640, Payment of bonds and Security for bonds, these bonds are special non-recourse bonds payable only from the revenues and assets received by the ARRC from the entity that owns and operates the facility. Moreover, this section expressly prohibits the ARRC from utilizing any other financing or financial vehicle of the corporation for payment of the bonds except from revenues and assets received from the owning/operating entity of the facility.

Memo to Sen. Kelly  
Sectional Analysis CS SB 338 (FIN)  
April 25, 1994  
Page 2

Section 2:

Requires a feasibility and financial viability study of the project to be performed by a person/business selected by the ARRC and paid for by the potential developer. Upon receipt of the study, the ARRC board of directors shall determine if the project is feasible and financially viable.

Section 3:

Requires that before construction on the project begins, the developer post a payment and performance bond in favor of the ARRC to assure completion of the project.

Section 4:

Requires a statement on the face of each bond that indicates that 1) The ARRC is not obligated to pay the bond or interest except from the revenues and assets received by it from the owning/operating entity; 2) Neither the faith and credit nor the taxing power of the State of Alaska or of a political subdivision is pledged to the payment of the bond; and 3) The issuance of the bonds does not create a legal or moral obligation of the state and payment of the bond is not directly or indirectly dependent upon an appropriation by the legislature.

Section 5: Immediate effective date.



**Economics Research Associates**

*Affiliated with Drivers Jonas*

Los Angeles  
San Francisco  
San Diego  
Chicago  
Boston  
Washington, D C  
Fort Lauderdale

***SHIP CREEK PROJECT  
ANCHORAGE, ALASKA***

***Prepared By:  
Economics Research Associates  
April 1992***

## THE ALASKA EXPERIENCE OR DISCOVER ALASKA CENTER AT SHIP CREEK IN ANCHORAGE

### SHIP CREEK PROJECT - INTRODUCTION

The purpose of this report is for Economics Research Associates (ERA) to provide LoPatin and Company and the Alaska Railroad Corporation with an initial assessment of the development opportunities for the Ship Creek Area. The focus of the assessment is the 120-acre Ship Creek site located on the City of Anchorage waterfront. ERA's initial recommendations reflect:

1. An overview of current tourism to Anchorage and Alaska and tourism trends.
2. Current visitor activities and amenities.
3. An assessment of related market as well as railroad and public policy issues.

ERA's initial conclusions are somewhat general in detail and are subject to further refinement based on more specific market evaluation and concept development.

The research to date reinforces the growing importance of the tourism industry in Alaska and especially for the City of Anchorage. City, public, and private leadership generally agree that providing expanded activities for visitors, keeping them here longer, and increasing off season tourism is essential for the Anchorage economic base. The diminished employment need in the oil industry and concerns over future military activity highlight the importance of tourism for the State economy as well. The State's visitor priorities are similar to those of the City, with the major addition of trying to explain the scale and grandeur of Alaska to short-term visitors. Since Anchorage serves as a major point of entry to the State, the Ship Creek project could indeed be the Gateway to Alaska.

The Gateway notion is reflected in our recommendation that the Ship Creek project should be highlighted by an exciting, sponsored visitor amenity. The initial concept, Discover Alaska Center, would be designed to introduce what Alaska is and what the State has to offer to visitors. As such, the Discover Alaska Center would serve as an innovative marketing center for the amenities of the City and the State to encourage extended stays and return visits. In addition, the Center would also augment existing tourist facilities to encourage a more enjoyable visit.

The Discover Alaska Center is the cornerstone of the Ship Creek project. We have briefly described the overall concept and the possible component features. Current and near-term tourism forecasts of up to one million visitors by the year 2000 provide the market for the Center. **A major consideration for the necessary refinement of the Discover Alaska Center is the degree of sponsorship that will be available.** To the degree that public and private financial support can be obtained, the project could be expanded beyond what the current market would justify in order to:

1. Produce a more exciting facility that has expanded visitor appeal.
2. Generate more enthusiasm for tourists to extend their visit and plan return trips.
3. Create new interest in off-season visits through the marketing program and by the Center itself which will be an exciting year-round facility.
4. Provide the City and State population with a high-end entertainment, education, and cultural amenity.

The final recommendations for the Discover Alaska Center must by necessity follow the response of prospective private and public sponsors. It is recommended that ARRC, local, State and Federal appointed and elected policy makers be enlisted to help identify potential funding sources. As this process evolves, it will be necessary to incorporate additional technical expertise in the area of concept design and related financial feasibility issues.

Our recommendations for the overall land use in the Ship Creek area reflect both the need to finalize the Discover Alaska Center and the variety of planning, engineering, and design issues involved with a site of this type. **A project of this size needs to be viewed as a process which will be carried out over a period of years through a series of successful projects.** The Discover Alaska Center is the first and most important project in the process.

The program involves the long-term development of the Anchorage waterfront based on a tourism, education, and entertainment theme. The initial project, a Discover Alaska Center, is the catalyst to the Ship Creek project and its aim is to provide an introduction and feel for Alaska in ways that instill a desire to see more of it. This focus reflects:

- a) An emerging recognition of the importance of tourism to the local and state economies.
- b) The immense scale of Alaska and the distance and access problems in experiencing many of its unique amenities.
- c) Anchorage's role/opportunity as Alaska's entry point as well as the state's cultural, education, and entertainment center.

The basis themes recommended for the Discover Alaska Center build off of Alaska's major amenities and attractions:

- Nature and scenic tourism;
- A unique history and culture; and
- A resource center that serves the world.

Our recommended program reflects current visitor activity which is growing and has tremendous potential to capture the expanding interest in nature by both domestic and Far East visitors. Current Anchorage visitation (described in Appendix A) amounts to approximately 765,000 people per year, up 20 percent since 1985. As indicated, a major issue with current visitation is its seasonality; most come during the four month summer season, and the duration of the visit averages a little over two days in Anchorage.

Our conclusions from our assessment of the Anchorage market is that an attraction such as the Discover Alaska Center is greatly needed. There are not enough quality activities for current visitors in the city and the vast majority of the State's visitors appear to have unfulfilled time.

The current Alaska visitor:

1. Arrives during the four month summer season (72%).
2. Is from the Western states (41%), South (18%), or Midwest (15%).
3. Arrives by air (69%).
4. Is on a vacation or pleasure trip (65%).
5. Is 45 years or older (62%).
6. Stays in a hotel (approx. 62%) and does not stay too long.

Based on ERA's initial assessment, the attraction should be targeted to an adult market with the understanding that it will have educational appeal to youths in the local market in the off-season. However, ERA believes that in time, Alaska will expand as an attraction for children and teenagers as a result of the increasing attention given ecology, environment, nature, and wilderness by education systems. This should increase the market for families with children as well as young adults.

Ideally, there will be the opportunity to reach visitors more than once on their visit to Anchorage. The attraction should be flexible enough in its programming to provide a number of experiences, including differing evening and daytime experiences. In addition, the Anchorage area has a very high percentage of visitors who are not on package tours when compared to the rest of Alaska. This means people will have the freedom to set their own itineraries and visit more than once or for longer periods of time. Our recommended concept involves a number of tourist venues, as well as a combination of visitor services including food, entertainment, and tour information.

A major theme of the Discover Alaska Center is to provide visitors with a greater awareness of the vast number of activity options and the idea that an extended stay or repeat visit is warranted. Expanding the visitor market and season is the basis for securing the support of existing tourist functions and maximizing the development potential of the balance of the Ship Creek site.

Existing tourist venues are described in Appendix B and include:

1. The Portage Glacier
2. Inside Passage
3. Mendenhall Glacier
4. Glacier Bay
5. Ketchikan Totems
6. Denali Park/Mt. McKinley
7. Skagway Historic District
8. Anchorage Museum of History

In ERA's opinion, the high penetration rates for the existing tourist sites as well as for other Anchorage facilities along with the short duration of the visits indicates tourists are looking for something to do.

This point has already been recognized by the owners of the Alyeska Ski Resort. The resort, located outside of Anchorage, is planning a major expansion of its lodging and recreational facilities (see Appendix D).

To further public support for the project, secondary themes of education and entertainment for the Alaskan market are also important considerations. On the level of the school-age child, the Anchorage School District Community Resources Office coordinates educational visits by its students to local visitor attractions.

The best example of an attraction like this would be the Museum of Art and History. The Museum hosts close to 650 school groups with a total of 17,000 students annually. An estimated 14,000 are students in the Anchorage school district (just under one-third of the total student census). The remaining student groups come from schools throughout the state.

In addition to these student groups, the museum hosts another 90,000-110,000 visits from Anchorage area residents and other Alaskans. They come individually or in small groups to see the museum's collection, special events and exhibits, and film series. They leave with increased knowledge or appreciation for art and history.

#### DISCOVER ALASKA CENTER - CONCEPT

Alaska is a tourism gem in the rough - one that is truly in the rough because, depending on the survey, Alaska ranks between 40th and 44th out of the fifty states in total visitor expenditures<sup>1</sup>. Many states that are much less well known as visitor destinations like Nebraska, Iowa, Alabama, Kentucky, West Virginia, Kansas and others do far better. Considering what Alaska has to offer, this amazingly low ranking illustrates the apparent great potential for new visitor development.

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<sup>1</sup> The national rankings include items such as travel generated expenditures in: transportation, lodging, food service, entertainment and recreation, and general retail trade. The source is the National Travel Survey by the U.S. Travel Data Center.

A key aspect of visitation is obviously linked to the distance and cost involved in travelling to Alaska compared with other tourist destinations. While it would be interesting to examine the implications of air travel pricing policies, especially during the off-season (including the potential impact of incentive programs) that is not our current focus. ERA's experience, however, is that there is a relationship between the distance and cost of vacation travel and the need to derive a high level of personal satisfaction from the experience. In general, this means that Alaska must take every effort to assure that visitors have a relatively easy time getting introduced to this huge and diverse state, maximize the activities and enjoyment of their stay, and leave with the feeling that it was worth the effort.

At present, Alaska is not easily understood. It is too big and diverse to grasp. There are 586,000 square miles, at least five definable native cultures, a number of widely different environments, and a richer variety of wildlife and sealife than in any other state. Sixty percent of the visitors to Alaska stay for more than a week, but even these visitors see only a mere fraction of what Alaska has to offer and never even hear about much of it.

Polls show that visitors leave satisfied with their experience, but the majority never get the thrill of seeing Mt. McKinley, much of the wildlife, the native cultures, or hearing the great stories of courageous and tenacious European explorers and American pioneers. The vast majority leaves without enjoying the finest selection of outdoor activities in North American such as hiking, fishing, climbing, canoeing or other types of boating.

The Discover Alaska Center is envisioned as three entertainment/educational pavilions that, like anchor stores in a shopping mall, result in a critical mass of attraction that attract more visitors than a single pavilion would on its own. The concentration of visitors also provides support for the smaller retail and food vendors that are a major source of project revenues. The goal of the three pavilions is to inform or educate people about Alaska in a very entertaining way to increase visitor interest in doing more, staying longer, and coming back.

**The recommended themes of the three pavilions are:**

- I. Nature/Ecology,
- II. History/Culture, and
- III. Resources.

A fourth pavilion, or set of services spread amongst the three pavilions would have entertainment, food, and visitor services, possibly in an old Anchorage street scene format.

The centerpiece of the Discover Alaska Center should be a large open space (most visitors will come in the summer), with a focal element that has an Alaskan theme and is large enough to draw curiosity. ERA likes the idea of a very large sculpture/model of the state of Alaska that can be walked on and around. Walking on and around the model will help people grasp the enormity of the state and its many terrains and distinctive areas. Built in lights marking important sites and routes and spot-lighting can heighten the drama of the sculpture/model. A variety of techniques are available to enclose the concept during the off season to provide a year-round amenity.

As stated, a major consideration is the potential of obtaining private or public sponsorship for the Discover Alaska Center. In order to facilitate potential discussion or preliminary interest in this project, we have provided the following description of potential activities. Depending upon the potential sponsor response, further market refinement and facility design research and alternatives will be developed. For purposes of discussion, the Discover Alaska Center could involve:

## 1. NATURE/ECOLOGY

### *Introduction:*

This theme is recommended for the primary pavilion of this attraction for the following reasons:

1. The natural world theme is the basis of Alaska's appeal as a destination and should be the key part of any attraction that proposes to give an overview of Alaska.
2. If this attraction is to be the "organizing" attraction for visitors to Alaska, it must introduce and provide details about the natural attractions of Alaska.
3. Anchorage visitors who see the Anchorage area attractions with natural orientations do not see the full range of natural attractions in Alaska.

4. Future interest in natural attractions can only be expected to increase as concerns about and interest in the natural world continue to rise.

Each of these points is discussed below.

1. *Natural attractions are the basis for Alaska's appeal*

Four of the top five attractions and six of the top ten attractions in Alaska have a natural orientation. All six have amazingly high summertime visitor penetration rates (percent of visitors who come to the attraction) for visitors to the region where they are located. Winter visitation drops sharply as access to these natural areas is often sharply reduced. In order of their attendance totals, the six are:

<u>Attraction</u>	<u>Tourist Market Penetration Rate</u>	<u>Region</u>
Portage Glacier	67%	Southcentral
Inside Passage	74%	Southeast
Mendenhall Glacier	65%	Southeast
Glacier Bay	59%	Southeast
Denali/McKinley	99%	Denali/McKinley
Kenai River	34%	Southcentral

Two of these attractions, Portage Glacier and the Kenai River, are in the southcentral region where Anchorage is located. Three of located in the Southeastern region (i.e., Juneau).

2. *The Discover Alaska Center as an organizing attraction for the natural attractions*

The Discover Alaska Center will be positioning itself as an entertaining and educational attraction and a complete visitors center. To be a complete visitors center, the Discover Alaska Center Nature Pavilion should offer information services on the state's leading natural attractions as well as many of the newer ones that are under development. The information service should include pictures with descriptions of these attractions, commercial and public tours available for

transportation to and within these attractions, activities permissible at the place, and other types information of importance to visitors. The attraction descriptions and pictures, and the activities permissible should form the core content of the entertainment found elsewhere in the Nature Pavilion.

3. *Natural Attractions in the Anchorage area do not tell the whole story.*

Alaska's most popular natural attraction is the Portage Glacier which is located just outside of Anchorage. Visitor attendance is estimated to be approximately 270,000 annually. It has a summer visitor penetration rate of 67 percent for visitors to the southcentral region. On the way to Portage Glacier, visitors pass Chugach State Park. The State Park's visitor attendance is estimated to be approximately 110,000 annually. It has a summer visitor penetration rate of 27 percent for visitors to the southcentral region.

These two natural attractions offer some elements of a glacier, forest and mountain experience, but not all. For example, Portage Glacier does not have the giant cliffs of ice that plunge into the ocean that Glacier Bay does. Chugach State park is not as grand or well known as the mountains in Denali are. Neither offers viewing of sea mammals.

Visitors to Anchorage's two leading natural attractions see only a portion of the state's natural attraction resource. The intent of the presentations in this pavilion should be to broaden the awareness of natural sights and experiences in Alaska beyond the experiences that visitors get at Portage and Chugach.

4. *Future interest in natural attractions will increase.*

The world around us, in particular concerns about the "the natural world," will shape our lives more than ever in the coming decades. The concepts of conservation, re-cycling, low impact vacationing, learning about and respect for nature, and ultimately "eco-tourism" have, after years as a sub-culture, become a part of the mainstream travel/vacation culture. This is not to say that they have displaced the modern travel/vacation values that hold pleasure, comfort, relaxation, convenience, and entertainment in high esteem. Modern man's demands for these remain firm. Rather, they have become awkward but inevitable bedfellows.

### *Response to Market*

As noted earlier, the Anchorage visitor market is typically older individuals on vacation, business people in town for over three days, and foreign visitors - often European, but increasingly Japanese and Korean. The Anchorage resident market differs little from that of any other typically American city of 250,000. With these factors in mind, this element of the Discover Alaska Center endeavors to be:

- Clearly structured;
- Easy to move through;
- Playful with the imagination through sight and sound shows rather than physical body motion; and
- Rich in informational content that, when mixed with the audio and visual media, makes for an element that is appealing to curious adults and educational to children.

### *Description of Components*

Based on ERA's experience, potential elements for this pavilion could include: a presentation in a large specialty theater that emphasizes the big picture of Alaska's natural landscape, "please-touch" and interactive exhibits in pre-show areas that focus on ecology and the man-nature relationship, and a smaller specialty theater that focuses on wildlife. Kiosks that promote sightseeing with a wilderness flavor could be located just outside of this element's exit.

We recommend that an Omnimax/Planetarium type theater be considered because:

- The subject of Alaska, with its vast scenery and open spaces, and phenomena like the Northern Lights, is particularly appropriate for presentation in a large format film presentation like Omnimax.
- There is a local desire for a planetarium that cannot be economically justified, and there are several Omnimax installations in San Diego, Minneapolis, and Kansas that successfully integrate the planetarium projection equipment into a Omnimax.

- It is hoped an Omnimax type film of Alaska can be successfully distributed to theaters in the Lower 48 and abroad where they can be used in presentations that either subtly or overtly promote travel to Alaska, as well as generate additional revenues. ERA believes that properly marketed, a road show of the film and Alaska exhibits could be a highly successful activity. The program could be linked to science museums and private theaters.

We also recommend a smaller specialty theater that focuses on wildlife. This could be expressed in a "Sounds of Alaska" concept.

- In a totally dark room, the sounds of wildlife and other sounds in nature are played on a high-tech, high-fidelity sound system. Moments after the sounds begin and move around the room, images or quick films of the animals or scenes are flashed on a screen. This would be done best in a round or polygon shaped room where people sit or stand in the center. For example, the growl of a grizzly would be heard, followed a moment later, by a short (five second) film clip of a grizzly loping rapidly towards you, flashing on the wall. Then the screech of a bald eagle would be heard, followed by the image of a eagle flashed on another wall. Other sounds would be the crashing of a glacier into the sea, wolves, whales and the winds of the arctic.

### *Length of Stay*

As this nature pavilion is the primary pavilion in the Discover Alaska Center, we expect that visitors to the Center will spend the greatest amount of time there.

The greatest amount of time will be spent in the theater if the film is the typical thirty minutes. The "Sounds of Alaska" presentation should take no more than 10 minutes. On average, the exhibit areas and information areas will take no more than 30 minutes including wait times. This brings the total length of time spent in this pavilion to 60 to 70 minutes on average.

### *Other Amenities*

A gift shop with a merchandise mix similar to that of the Nature Company Stores would be appropriate at the exit from this Pavilion.

## **II. History/Culture**

This theme is recommended for the second pavilion of the attraction for the following reasons.

1. After nature, the theme with the greatest appeal to visitors is the history and native cultures of Alaska.
2. As in the first pavilion, If this attraction is to be the "organizing" attraction for visitors to Alaska, it must introduce and provide information about the historical and cultural attractions of Alaska.
3. Anchorage visitors are not, at this time, exposed to the full range of the historical and cultural story of Alaska.
4. Interest in cultural attractions is growing as a desire for more "authentic" experiences increases among segments of the traveling public.

Each of these points is discussed below

### *1. Historical and Cultural attractions: Alaska's second theme*

Eight of the top fifteen attractions in Alaska have a natural theme, but six have historical or cultural themes. The six have surprisingly high summertime visitor penetration rates for visitors to their regions. As with many of the natural attractions, visitation drops sharply between September and May. In the case of four cultural/historical attractions in the southeastern region, this is due to the cessation of cruise ship trips from mid-September to mid-May. The state's top six cultural/historical attractions in order of their summer visitor attendance are:

<u>Attraction</u>	<u>Tourist Market Penetration Rate</u>	<u>Region</u>
Ketchikan Totems	58%	Southeast
Skagway Historic Gold Rush District	57%	Southeast
Anchorage Museum of History and Art	42%	Southcentral
Sitka's Russian Church/Dancers	33%	Southeast
University of Alaska Museum	54%	Interior/North
Alaska State Museum	31%	Southeast

Only one of these attractions, the Anchorage Museum of History and Art, is in the Southcentral region where Anchorage is located. Four of the six are located in the Southeastern Region.

2. *The Discover Alaska Center as an organizing attraction for historical/cultural attractions*

To be a complete Alaska visitors center, the Discover Alaska Center History/Culture Pavilion should offer information services on the state's leading historical and cultural attractions as well as many of the newer ones that are under development. But it can also play another role that will help visitors place the historical and cultural attractions that they see in a context. With the exception of some of the museums, each of the state's many historical and cultural attractions focusses on a particular piece of the state's history, to the exclusion of the rest of the state's history. The Ketchikan totems are artifacts from one era, the Sitka Russian church another. In presentation, this attraction can organize these many different periods and places and provide information services about places from each period. These information services should include pictures with descriptions of these attractions, commercial and public tours available for transportation to and within these attractions, and other types of information of importance to visitors. The attraction descriptions and pictures should form the core content of the entertainment found elsewhere in the Cultural/Historical Pavilion.

3. *Cultural/historical attractions do not tell the whole story in Anchorage.*

Of the six cultural/historical attractions that are among the top fifteen attractions in the state, only one is in Anchorage. That is the Museum of History and Art. This is really not surprising because, we understand, the Anchorage area was not permanently settled until recent historic times. Hence, there are no historical artifacts like old settlements or clusters of totem poles to build an attraction around. (The exception is a small but developing Russian site twenty-five miles outside of town called Eklutna).

The Museum is currently the focus for visitor cultural/historical interest. It is open year-round and has an annual attendance that is estimated to be 250,000 and a remarkable summer visitor penetration rate of 42 percent. This is lower than the nearby Portage Glacier's 67 percent but is still very high for a museum. The museum has a very good static presentation on the cultural history of native Alaskans, and the impacts of the Russians, and lives of the anglo pioneers, but the entertainment value is low and the visual impact limited by the static diorama format. Recognizing this, the museum has supplemented the displays with native film and dance programs thrice daily in the summer. While the dances and films are good, the overall package is not easily comprehended as a whole, and the visitor flow is choppy.

Efforts have been underway for the development of an attraction developed by and about native peoples on a site just outside of Anchorage. There is reported confusion and opposition to the development of this attraction. The future development prospects and parameters of this attraction should be better known by the end of this year.

Neither the Museum nor the proposed native peoples attraction discusses Alaska's Natural History, and neither explain the Alaska's history in an entertaining way.

4. *Future interest in cultural/historical attractions will increase.*

Cultural tourism is closely related to eco-tourism in that it is a growing type of travel that strives to add learning and relevance to the travel/vacation experience. The interest in cultural subjects is reflected in statistics that show rising museum visitation in the U.S., increased spending on cultural events (they now exceed sporting event spending), and the rise of specialty media outlets

that serve cultural tourism and eco-tourism interests including the Arts and Entertainment network, the Discovery Channel, and the number of cultural and nature programming on the Turner networks and PBS. In education, increased interest in other cultures can be seen in the multi-culturalism movements in all levels of education.

### *Response to Market*

The Anchorage visitor market is comprised, typically, of well-educated, older individuals on vacation, business people from the Pacific Rim or the Lower 48 in town for over three days, and foreign visitors - often European, but increasingly Japanese and Korean. The Anchorage resident market differs little from that of any other typically American city of 250,000. With these factors in mind, this element of the Discover Alaska Center endeavors to be:

- Clearly structured;
- Easy to move through;
- Playful with the imagination through sight and sound shows rather than physical body motion;
- Rich in informational content that, when mixed with the audio and visual media, makes for an element that is appealing to curious adults and educational to children. The content here is going to be a little more difficult to convey in an entertaining way than the content of the nature pavilion. However, the content cannot be lost in the entertainment if this is expected to have the educational value that it needs to retain and maintain funding and support from the public sector;
- One segment of the market whose content concerns will need to be addressed will be the native peoples. These concerns should be used to increase the accuracy and relevance of the content and enhance, not reduce, the entertainment values; and
- Sections on the multi-cultural history and current reality of Alaska should be interesting and involving for foreign visitors, especially the Japanese.

ERA also believes this pavilion would provide an excellent merchandising opportunity for high quality authentic native arts and crafts.

### *Description of Components*

ERA recommends that this pavilion contain components that include a non-static exhibit that describes the native peoples history in Alaska from the Bering Straits land-bridge times to the present - with an emphasis on native cultures, a geo-drama theater that tells geological history of Alaska, and exhibits on the modern development of Alaska.

One recommendation that ERA has for the story of the native peoples in Alaska would be a theater similar to the Spirit Lodge that was sponsored by GM at the 1986 World's Fair in Vancouver. A variation that could have some appeal would be to have visitors seated in a dome rail car (complete with motion and sound) that travels past the historical and cultural attractions.

The geo-drama concept attempts to the geological/natural/and human history of the state in one high energy audio/visual presentation. The idea calls for a theater experience that is conceptually similar to this description.

- The geo-drama would trace the geological/natural/and human history of Alaska from when the universe was created, through the creation on the solar system, the earth, the arrival of plants and animals, early man, and the shifting plate tectonics that resulted in the creation of Alaska including periods when the climate of Alaska was in a frigid ice age, a warm tropical age, and a hot age of erupting volcanoes. As the geological form of the state cools into shape, the migrations of people over time would be shown on a projected map of the state. Live performers could be incorporated to enhance the explanation of Alaska's diverse cultural heritage. Viewers would stand or sit on a balcony around the edge of a circular room and watch a fast-paced, multi-media presentation projected on the circular floor below as if they are looking through a porthole to the past.

The geo-drama should also capture the idea that Alaska has benefitted over time from its geographic position on the Pacific Rim that has brought many peoples to its shores.

In a place as big as Alaska, transportation routes and means directed the way in which miners from the gold rush era to the oil drilling era traversed and then settled the state. This element would describe the settling of Alaska in modern times through methods of transportation including dogsleds, seaplanes and ski-planes, ships, railroads, and roads. There are many good "people" stories here involving heroism, gumption, and grit. Simulators like a dog sled in-a-blizzard simulator with a wind machine and a real snow machine along with rail and plane simulators could bring reality closer to the visitors.

### *Length of Stay*

This pavilion will have a more balanced time distribution between the three principal elements than the Nature Pavilion will. Each of the three elements we expect will take fifteen minutes, although a geo-drama may take twenty minutes. Including waiting time, the amount of time spent in this pavilion should average about sixty minutes.

### *Other Amenities*

This pavilion should include at least one gift shop with two distinct merchandise categories. One would be merchandise made by native peoples and the second would be merchandise similar to that found in a science museum gift shop ( in keeping with the geo-drama element). Given that both of these merchandise lines are very different from one another, it may be wise to separate them into two smaller shops but still permit easy passage between the two to maximize visitor exposure to goods.

### III. Resources

#### *Introduction*

This theme is recommended for the third and final pavilion because resource extraction - oil, fish/sea mammals, coal, timber, gold and other minerals have shaped the lore and the development of Alaska. It is likely that the industries built on these resources could be interested in taking a role in the telling of the Alaska story at the Discover Alaska Center. If so, and if their financial and in-kind contributions are significant enough, this third pavilion could be as compelling as the first two. For the present, we are assuming financial assistance could be provided.

There are two attractions that the resource extraction industry has at this time in Alaska and the more popular of the two, the Alaska Pipeline, wasn't built as an attraction. The story and technological sophistication of the pipeline is such that it draws almost 120,000 visitors each year. Sixty-five percent of the summer visitors to the Interior/Northern region make it a point to see the pipeline. This is a greater market penetration rate than the University of Alaska Museum and Alaskaland, an amusement park, have in that region. It is the single largest draw in the region.

Near Juneau, in the southeastern region, the two year old DIPAC fish hatchery was built with visitors in mind and features a visitors center, displays of fish in a variety of tanks, and an outdoor area to watch the salmon on the fish ladder. In its second year it had a 33 percent summer visitor penetration rate.

All elements of this pavilion are likely to be influenced by industry supporters, but the lessons of corporate support at the World's Fairs and EPCOT should keep the message of the exhibits as honest and balanced as possible.

ERA has several suggestions for elements to this pavilion. They are:

A whale exhibit, similar to the Underwater World attractions, could involve walking through a tank while whales swim around, over, and under you.

- Seeing Alaskan wildlife is great sport for visitors, and they can never get enough of it. The most popular to sight are moose, otters, salmon, sea lions, walrus, puffins, eagles, polar bears, kodiak bears, and whales. Of these, one ranks higher than others in high interest by tourists and rarity of high-quality sightings - whales. A walk-through tank, similar to ones developed in other pacific rim countries, could give visitors a far better view of whales than they might normally get.

A salmon center...

They could not be closer. Ship Creek hosts Anchorage's principal salmon runs. Native folklore and other legends of the pacific northwest say more about salmon than nearly any other fish or animal. There are two options here.

- One would be to put in a fish hatchery that is designed to maximize visitor exposure to the process like DIPAC which is near Juneau. Last year, its second year, DIPAC, attracted 100,000 visitors. Many are visitors from the cruise ships, who were quick to add it to their itinerary. DIPAC is a non-profit organization supported by the fishing industry.
- The alternative would be to build a special display area for salmon, including a possible man-made stream about six feet wide and thirty winding yards long. If filled with black gravel, the brightly colored beauty of the fish could be seen sharply against the dark background. This stream could also be the hook for a highly-themed seafood restaurant.

An oil exhibit that addresses the importance of this resource to the nation and state as well as the extraction process. This important component needs to be reviewed with industry representatives to determine their interest and willingness to participate in the project. In ERA's experience, industry related exhibits are more common than might be thought. Almost two dozen individual companies have individual museums including the elaborate Motorola and Corning museums and the relatively simple Schwinn and John Deere exhibits. There are several ways to approach a petroleum exhibit. Here are three.

- As an Energy Exhibit. Virtually every one of the science museums in the country has an energy exhibit. Epcot has one too. It is comprised of three movies and a ride through attraction.
- As an exhibit about Oil and Alaska. This could resemble a successful exhibit modeled after one staged at the Royal Museum in Victoria, British Columbia several years ago. This exhibit focused on the Canadian Oil industry and the many roles that petroleum and its products plays in our lives.
- As an exhibit that emphasizes the sophisticated technology and sheer size of the key Alaskan pieces of the oil refining business. Here the emphasis would be on the Alaska Pipeline and the technological achievement of designing, building and operating facilities like those in Prudhoe Bay. The majority of the visitors know of the pipeline and many are interested in seeing it but are unable to travel to see it. The pipeline could be viewed as a level of achievement on par with the Hoover Dam, the Sears Tower, the St. Louis Arch and other examples of man-made achievements.

#### IV. Tourism Amenity

This amenity could include:

- Local information about Anchorage,
- Tour and travel services,
- Entertainment, and
- Restaurants.

This component of the project depends upon the eventual scale and configuration of the other three. More importantly, its actual location in the Discover Alaska Center depends upon a variety of related decisions including:

1. Where the Discover Alaska Center is located.
2. The location and timing of a potential Ship Creek hotel. The tourist amenity could be an enclosed "street" between the Center and the hotel. An alternative could have the tourist amenity in the hotel as long as the Center is physically linked.

At present, we assume the amenity could include:

1. Several theme restaurants obviously geared to tourists but certainly serving the regional population as well. Theme concepts include native or pioneer experiences.
2. 1800's entertainment which could include a bar/dance hall and some sort of gaming (mock) format. This is an exciting part of Alaska's heritage and could be an enjoyable and rewarding experience.
3. Introductory booths to inform visitors (and locals) of Anchorage as well as Alaska amenities, events, tours, etc.
4. Travel and tour representatives.
5. Related tourist amenities.

The mission of the tourism amenity is to assure visitors are fully informed of things to see and do in Anchorage and Alaska. Properly done this facility will also augment the entertainment scene for visitors as well as locals.

Note: The tourist amenity will need to be finalized as other components of the Discover Alaska Center are detailed.

## SHIP CREEK ECONOMIC IMPACTS

Estimating the economic impacts of tourism is a difficult but necessary component of any project seeking public support or consensus. ERA has had considerable success and experience over the years on forecasting and estimating the impacts of various tourism programs.

For the Discover Alaska Center and early components of the Ship Creek project we have developed some preliminary impact estimates. The estimates utilize existing Alaska Division of Tourism data<sup>2</sup> and reflect the preliminary nature of the Ship Creek components at this time. ERA views these numbers as a guide to assist public sector and tourism decision makers in their review of the Ship Creek project. This important component of the project will be revised as further market research is completed and the overall concept is further refined.

### Discover Alaska Center 1992

As indicated in our report, the City of Anchorage currently has approximately 765,000 visitors per year (1990/91). If we assume the Center has a cost of \$30 million and that it would draw around 40 percent of the City's visitors it would have an attendance of 300,000 per year. Assuming an average per capital expenditure of \$20.00 indicates a gross income of \$6 million per year. Depending upon the eventual composition of the Center, a considerable portion of the gross income would be consumed by expenses, say \$3 to \$4 million. The probable inability of the facility to cover debt expenses is very common and is reflected by the fact that most projects of this type are publicly sponsored (i.e., loss leaders for tourism development).

A variety of mechanisms exist to fund the deficit of tourism generating projects and some discussion of these options is in the following section.

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<sup>2</sup> ERA believes the Alaska Division of Tourism data to be developed in a fashion acceptable to the tourist industry. It should be noted that visitors include all travelers to the state by non-Alaska residents (e.g., business, tourists, family, etc.).

The justification for sponsorship of a project such as the Discover Alaska Center will obviously vary with the entity being asked to provide resources. For example, City support would relate to construction and operating jobs as well as to City tax dollars generated. While an accurate assessment of economic impacts will need to wait until the project is further defined one obvious benefit will be in the form of expanded tourism. For example:

- Assume the earlier attendance figure for the Discover Alaska Center of 300,000 people per year (this is only a slightly higher penetration rate than that achieved at the Anchorage Museum).
- Assume further that as a result, 10 percent of the visitors extend their stay by one day = 30,000 additional visitor days and 20,000 additional hotel rooms rented.
- Assume 5 percent of the visitors decide to make a return visit = 15,000 people who stay approximately three days in Anchorage or 45,000 visitor days and utilize 30,000 hotel rooms.

Perhaps as important is the number of people who derive more enjoyment and satisfaction out of their visit and go back home and say so.

#### Discover Alaska Center 2002

An option to the above 1992 Center would be an expanded version (i.e., more facilities and features, upscale merchandise, larger, etc.). For this version we used \$50 million which would build a facility that visitors would not want to miss and would pay more to see. In this scenario we assume that 60 percent of our 765,000 visitors would attend for an attendance of 460,000. With an average per capita expenditure of \$30.00, a gross of just under \$14 million would be generated. Using our earlier assumptions, the visitor impact could be:

- Draw 460,000 of Anchorage's visitors per year;
- Fifteen percent of the visitors extend their stay by one day = 70,000 additional visitors, 46,000 additional hotel rooms rented; and
- Ten percent of the visitors make a return trip = 46,000 who stay three days in Anchorage or 138,000 visitor days with 92,000 hotel room nights.

The point of the above admittedly academic exercise is to illustrate the dramatic economic impact that can be generated by even a modest increase in Anchorage tourism. Local tourism people estimate the average visitor spends around \$500.00 during their Anchorage stay or approximately \$200.00 per day using a 2.5 day visit. If the Discover Alaska Center adds 75,000 visitor days (i.e., 1992 version), it will generate \$15 million per year in new Anchorage visitor expenditures. The 2002 version would generate \$41.6 million per year.

As the project is finalized, these impact numbers will be refined and documented.

### Hotel Occupancy

A rough assessment of the current hotel situation in Anchorage based on existing data and ERA's fieldwork and interviews is as follows:

- Current number of visitor quality rooms in Anchorage - 3,500 (out of a total of approximately 4,400 rooms);
- Current Anchorage visitors of around 615,000<sup>3</sup> people staying approximately three days at 1.5 people per room in Anchorage equals a need for 1,228,000 room nights per year. If Anchorage hotels operate at 65 percent, there would be currently a need for 5,200 rooms (i.e., at 75 percent it 4,485 rooms). In any event, it would appear current hotel occupancy in Anchorage is very healthy.
- While we did not evaluate existing room rates, our interviews suggest the full-service hotel rooms sell at a very healthy price, especially in season (e.g., in December we got a preferred rate at the Hilton of \$75.00. This room could go as high as \$125.00 during the summer months).

Any success in extending tourist visits to Anchorage would appear to put immediate pressure on the existing full-service hotels.

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<sup>3</sup> This does not include the local estimate of 150,000 Anchorage visitors per year who come from elsewhere in the state. While we are sure some do come, and do stay in hotels, there are no accurate figures.

More importantly, tourism is expected to increase by two to three percent per year over the next decade to a total number of Anchorage visitors of 792,000 by 2001. This projection, which appears realistic, does not consider the development of Ship Creek or the Discover Alaska Center. If we assume around 180,000 additional visitors to Anchorage and if they stay 2.5 days at 1.5 people per room, a demand for 300,000 hotel room nights will be generated. If we assume we are currently operating at near capacity (a reasonably safe assumption, especially in during the summer), Anchorage will need over 1,250 new hotel rooms. If the positive impacts of Ship Creek and the Discover Alaska Center are incorporated, this need for new full-service rooms is over 1,700. Incidentally, this same scenario indicates a demand for 800 new additional full-service hotel rooms by 1996.

**WOHLFORTH, ARGETSINGER, JOHNSON & BRECHT**

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March 18, 1994

BY FAX -

Senate Finance Committee  
State Capitol  
Juneau, Alaska 99801

Re: Potential State liability for bonds issued pursuant to the terms of CS  
for Senate Bill No. 338 (L&C) (Alaska Railroad Ship Creek Project)  
Our File No. 5323/0601

Honorable Members of the Committee:

During this morning's meeting of the committee, Eric Wohlforth was asked whether the State of Alaska might be liable for the repayment of bonds authorized to be issued if the above-referenced bill were enacted. A similar question was asked of me when the bill was before the Labor and Commerce Committee. Following this morning's meeting of the Finance Committee, Mark LoPatin asked me whether the requirement in the bill for a feasibility study might lead to some liability of the State for the bonds. I am preparing this letter at Mr. LoPatin's request for the purpose of setting forth our views relating to potential State liability for bonds issued under the authorization of this bill. In brief, we do not believe the State would have any liability for the repayment of bonds issued under the terms of the bill in its present form.

Section 1 of the bill authorizes the issuance of bonds and describes the bonds that are authorized to be issued as "special nonrecourse obligations of the Alaska Railroad Corporation payable only from the revenues and assets of the public or private entity that owns and operates the Northern Crossroads Discovery Center." This language is clear. It authorizes the issuance of bonds that are only payable from the revenues and assets of the entity that owns and operates the Northern Crossroads Discovery Center. Any effort to issue bonds that are payable from any other assets (including assets of the State of Alaska) would be beyond the authority granted by this language, and any such bonds would be invalid. Without more, I believe this language would prevent any attempt to issue bonds

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for which the State of Alaska could be held liable. However, there is more to the bill.

Section 4 of the bill requires that each bond issued under Section 1 contain on its face several statements, each of which strongly and plainly indicates that the bonds may not in any way pledge the assets of the State. Those statements are:

(1) the Alaska Railroad Corporation is not obligated to pay the bond or the interest on the bond except from the revenue or assets pledged for the bonds;

(2) neither the faith and credit nor the taxing power of the State of Alaska or of a political subdivision of the state is pledged to the payment of the bond; and

(3) the issuance of the bonds does not create a legal or moral debt of the State of Alaska and payment of the bond is not directly or indirectly dependent upon an appropriation by the Alaska State Legislature.

To my knowledge, these disclaimers are uniquely strong. It is difficult to imagine how they could be made stronger or clearer. A person who buys a bond with this language printed on the bond would be clearly informed that the State is neither legally nor morally obligated to use its assets to repay the bond.

The language of the bill describes, and only authorizes the issuance of, revenue bonds -- that is, bonds that are secured solely by the revenues of the project that it is issued to finance. It is possible to issue revenue bonds that do not obligate the State of Alaska, and the bonds authorized by this bill would be in that category. The requirement in the bill for a feasibility study, if it has any impact on their status, probably strengthens the argument that the bonds are revenue bonds. By requiring a feasibility study, the bill further emphasizes that the bonds are payable solely from revenues by requiring that there be a reasonable demonstration of the existence of such revenues before the bonds may be issued.

I hope this letter is helpful to the committee in its consideration of the bill. We are, of course, happy to assist further at your request.

Sincerely,



Kenneth E. Vassar

# FISCAL NOTE

No. 1  
 Bill Version: SB 338  
 (S) Publish Date: 3-2-94

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL 1**

Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: An Act Relating to the Issuance of Revenue Bonds  
for the Alaska Discovery Center BRU: Revenue Operations  
 Sponsor: Senate Labor and Commerce Committee Component: Treasury Management  
 Requestor: Senate Labor and Commerce Committee COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0	0				
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CSB 338 (20C)  
 have no fiscal impact. This  
 fiscal note is appropriate.

Estimate of current year (FY94) impact: \$ 0

3/1/94 date CAF Comptroller (initial)

ANALYSIS: (Attach a separate page if necessary.)

The Department of Revenue believes it to be in the best interest of the State to have a thorough analysis of the project feasibility as required by this legislation. A qualified financial advisor should also review all bond and legal documents for proper disclosure of revenue sources and other credit issues. The analysis will be funded from bond proceeds.

Prepared by: Laraine L. Derr, Deputy Commissioner Phone: 465-4880  
 Division: Treasury Date: 2/28/94  
 Approved by Commissioner: Darrel J. Rexwinkel Date: 2/28/94  
 Agency: Department of Revenue

Changes in CSB 338 (Fin) ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 have no fiscal impact. This distribution information call the Governor's Legislative Office  
 fiscal note is appropriate.

4/19/94 date CAF Comptroller (initial)

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Suite 239  
West Bloomfield, MI 48322-9107  
Telephone: 810-737-9944  
Fax: 810-737-9947

# LoPatin & Co.

March 3, 1994

Senator Tim Kelly  
Labor and Commerce Committee  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Senator Kelly and members of the Senate Labor and Commerce Committee:

It was a pleasure meeting with you Tuesday and presenting Ship Creek Landing to the committee. We are very excited by this project and encouraged by the responses we have received. We expect it will become one of the most significant developments in the State; promoting not just Anchorage, but all residents and business.

At the hearing I was asked to provide employment estimates for the Northern Crossroads Discovery Center. We estimate the center will employ 325 full and part time employees. I expect virtually all employees will be Alaskan residents.

In addition, Senator Lincoln requested a copy of the Economic Research Associates' preliminary market analysis. Enclosed is your copy. Please note the report was preliminary and not all the suggestions were incorporated in the preliminary design. The design does, however, embody the ERA concept for the Discovery Center. That being:

"as an innovative marketing center for amenities of the city and state to encourage extended stays and return visits. In addition, the center would also augment existing tourist facilities to encourage a more enjoyable visit."

Thus, the economic impacts of the center go beyond the \$41.6 Million to the Anchorage economy to other segments of the State.

If you have any further requests, do not hesitate to call.

Sincerely,



Mark LoPatin

## THE NORTHERN CROSSROADS DISCOVERY CENTER

The purpose of this informational package is to introduce you to the Northern Crossroads Discovery Center at Ship Creek Landings. We believe Ship Creek Landings is one of the most important real estate developments in Alaska today. Its centerpiece will be the 250,000-square-foot, multi-attraction, tourist-oriented Northern Crossroads Discovery Center. This center will be a unique, multi-dimensional medium that will reach a very attractive market in a variety of ways. The Northern Crossroads will offer a total entertainment environment with facilities and services that will appeal to a wide spectrum of the population. The audience will consist of the educated, well-to-do one million annual visitors and area residents and their families, who will attend the center year round.

The Northern Crossroads Discovery Center will have three entertainment/educational attractions. The themes of the three attractions include: **1) Natural Wonders of Alaska;** **2) History and Cultural Diversity of Alaska;** and **3) Museums of St. Petersburg.**

Each of these attractions will be discussed individually. In this regard, it should be kept in mind that in addition to the three attractions, throughout the Discovery Center there will be demonstrations, crafts, special events, displays, and entertainment promoting Alaska, its attractions, and natural wonders. Thus, making the Northern Crossroads Discovery Center both an attraction and a promotor of other statewide attractions. As will be discussed later, an independent preliminary market analysis has estimated the benefit of the Discovery Center to the Anchorage economy will approach \$42 Million annually. Yet, less tangible, but equally important is the promotional value to the state. That said, the specifics of the Discovery Center are:

## **NATURAL WONDERS OF ALASKA**

The vast panoramas, the fascinating wildlife, the exceptional way of Alaskan life will all be explored in a larger than life 20 to 25-minute Omnimax film. For those readers who may not be aware, the Omnimax format utilizes panoramic, wide angle photography, ideal to depict the scenic beauty of Alaska. The screen, rather than flat, is actually a dome above the audience. In addition, the field of view is so large, that the pictures actually extend beyond the viewer's peripheral vision. In effect the picture literally surrounds the audience and creates the illusion of almost entering the scene. In order to make this experience even greater, the theater will be designed to accept the latest in technology, such as 3D, so that it has the capacity for the widest possible scope of films and formats. This will give the theater tremendous flexibility for shoulder (non-peak) season programs and special events.

An Omnimax format was chosen because no other large screen projection system can come close to Omnimax in terms of impact. Because part of the mandate for the attraction is to portray Alaska's scenic beauty and wildlife in a dramatic manner, a strong visual medium is essential. Omnimax fulfills this need extremely well. The extra technical elements will be added to differentiate it from any other local experience. In addition, the Omnimax format and an existing library of films mean that the theater can be active throughout the non-peak periods by bringing ever-changing movies to the Anchorage community.

The types of scenes included in the Discover Alaska movie may include:

- o Iditarod race from the back of a dogsled.
- o riding an ice floe in Glacier Bay

- o helicopter views of Mount McKinley
- o salmon jumping upstream directly at the camera
- o Northern Lights
- o winter storm on ship in Bering Straits
- o trans-Alaska pipeline
- o gold mining
- o Alaska Railroad ride to Seward
- o island hopping in a float plane
- o riding in an oomiat - a genuine walrus skin boat
- o flying through the Valley of 10,000 Smokes to see the lunar-like pumice landscape
- o close up action of a brown bear on Kodiak Island
- o touring old Russian outposts in Alaska

The Omnimax film of Alaska will be distributed to theaters in the Lower 48 and abroad where it will be used in presentations that either subtly or overtly promote travel to Alaska. We believe that properly marketed, a road show of the film and Alaska exhibits could be a highly successful activity. The program could be linked both to science museums and private theaters.

## THE HISTORY AND CULTURAL DIVERSITY OF ALASKA

This attraction will be two separate shows. Visitors will first enter the pre-show area in groups of no more than 200 people. This space has lean rails and a raised front screen on which an approximately 8-minute laser light show will appear. This production will give the viewer a realistic representation of the Northern Lights. It will simultaneously explore various Native legends regarding this phenomenon.

The visitors will then proceed into the main theater which has ten rows of lean rails, each with capacity for twenty people. The rows are steeply built so that everyone has a clear view of the main stage.

The lights dim and we see, in a half light, a robed, partially hooded figure standing on a bare stage. The robe does not give us any hints as to the origin of the figure. He begins to speak in a soft, deliberate voice and slowly moves about the stage. He tells us that he is seeking to explore the origins of the Alaska people and he invites us to join him on his journey.

He then proceeds to tell us a legend from each of the main contributing cultures. There are 4 or 5 legends, all between 1 and 2 minutes in length. As he begins each one, he raises his arms and the legend comes to life holographically on the stage with people, props, and settings. The style of the legends will be particularly suited to the individual stories but they will all feel mystical with appropriate lighting and sound.

The host watches each legend play out and after the last one he tells us that this is only part of his journey. As he says this, he slowly lowers his hood and we see that he is not human, but alien. He tells us that he must now explore the future and that we cannot go

with him, yet. There is a flash of light and an ascending, bright, pulsing beam as he totally disappears.

As the bright light fades, we hear his voice echoing, "Good luck fellow travelers - we will meet again in the future."

The theater lights slowly come up as the show ends.

## **MUSEUM**

Northern Crossroads, in recognition of the site's place in Alaska's history, will showcase a museum. The development's name, in fact, Ship Creek Landings, was the name used by the first Anchorage residents.

To promote the history and cultural diversity of Alaska and Anchorage, the third pavilion will be a world class hands-on museum. On April 28, 1993 an agreement was signed with the government of St. Petersburg, Russia in which they will open a permanent annex of their Russian-Alaskan materials collected from four of the most famous Russian museums. This will be the first foreign museum on U.S. soil. In addition to an exhibition, the agreement provides for educational seminars, outreach programs, and traveling shows. This would attract personnel from the international community as well as U.S.

## **OTHER ATTRACTIONS**

In addition to the aforementioned pavilions, the Northern Crossroads Discovery Center will have smaller entertainment and educational components throughout the site. There will be hands-on exhibits, demonstrations, craft exhibits, entertainers, etc. The Anchorage Museum of History and Art has indicated an interest in locating an Explorer Park at the Center. This park will highlight a part of the area's history. From Captain Cook to Vancouver, exhibits will illustrate Anchorage's powerful history.

## **INFORMATION AND RESERVATION CENTER**

In addition, there will be a visitor component which will introduce tourists to the opportunities available in the state, from restaurants to boat tours. Thus, by

establishing the Northern Crossroads Discovery Center as an information and reservation center, tourists should make the center one of their first stops.

## SUMMARY OF DEVELOPMENT TEAM

What follows is a brief description of those comprising the development team of the Northern Crossroads Discovery Center. It is with no false sense of modesty that we state that the team described below, both in terms of its creative vision and its practical experience, is clearly capable of realizing the full potential of the Northern Crossroads project.

### **LoPATIN & CO.**

LoPatin & Co. has been actively involved in real estate development for the past 40 years. Since the development estimates were first compiled by Crain's Detroit Business, the company has been consistently ranked as one of Michigan's largest development companies.

Projects have ranged from high speed oval automobile racetracks to amusement parks. Geographically, the firm has traveled from Florida to Michigan, Texas to California. Recent developments include a 1.2 million square foot industrial park, hotels, office buildings, and manufactured home communities.

Notwithstanding its size, the area of which the company is most proud concerns its reputation with the local municipalities and government agencies with whom it has worked. These relationships have been very helpful in shepherding difficult projects through the burdensome approval process. Examples include the only development in Southfield, Michigan in which the City took an active role in acquiring, consolidating, and financing property for a private development. In addition, the company has been

selected by several governmental units to develop community projects ranging from a mixed use office development to a municipal conference and exposition center.

### **FORREC LTD.**

Forrec Ltd. is a Toronto-based consulting firm with 30 years of experience, providing a full range of planning, design, construction and operation services to the leisure and entertainment industry. Since the firm's establishment, Forrec Ltd. has gained an international reputation for design excellence and efficient performance.

The firm represents the very best design skills in the industry and, therefore, has been selected to consult on major projects throughout the world. Some of these include the West Edmonton Mall and the International Leisure Complex, St. Petersburg, Russia. Forrec has recently completed the master planning, design, contract documentation and construction supervision for all facade and area development at MGM/Universal Studios, Florida as well as the program development, master planning and design for "Fiesta Texas", located in San Antonio, Texas, the first major U.S. theme park to be developed in a decade.

Other works in progress include conceptual master plans for railway lands in Chicago and Milwaukee, conceptual and attraction design for the K.I.A. Motors pavilion at the 1993 Taejon World Fair in Seoul, Korea, native resort development for the Chippewas of Rama, Ontario, Canada, masterplan and attraction design for Ocean Park, Hong Kong and design advisors to special theme application of the new Treasure Island Casino, Las Vegas.

### **HELLMUTH, OBATA & KASSABAUM**

Hellmuth, Obata & Kassabaum, Inc., is a full-service architectural organization with more than 30 years of experience. Its diversified practice includes comprehensive architectural and engineering services, and a wide range of related disciplines from computer systems planning to the development of master plans. HOK has a staff of over 1,000 professionals experienced in a wide variety of assignments for major corporations, developers, federal, state, and local governments, hospitals, colleges and universities. They have worked throughout the United States, in Canada, the Caribbean, Central and South America, Europe, the Middle East, and Asia. HOK is recognized as one of the premier, as well as one of the largest, design firms in the United States.

Since 1970 HOK has done over fifteen projects in Alaska including the State Capital Site Selection Study, the University of Alaska Master Plan, the BP Exploration Alaska Inc. Corporate Headquarters, the ARCO Prudhoe Bay Operations Center Living and Recreational Center, and the Trans Alaska Pipeline Environmental Analysis.

HOK is responsible for major award-winning projects such as the National Air and Space Museum, the King Khaled International Airport, and the Houston Galleria, Houston, TX.

#### **ECONOMICS RESEARCH ASSOCIATES**

Since its first study for Walt Disney Productions more than 30 years ago, Economics Research Associates (ERA) has evolved into one of the largest diversified real estate consulting firms and has completed more than 3,000 assignments related to recreation and tourism. The world's oldest and largest management consultant firm to the leisure industry, ERA has pioneered the planning, development and operational phases for many of the world's major recreation, entertainment, education and tourist attractions.

Recreation and tourism related projects have included theme parks, zoos, aquariums, museums, expositions and fairs; specialty entertainment facilities and individual recreation facilities and clubs. Notable clients have included Walt Disney World, Six Flags, Knott's Berry Farm, Opryland, U.S.A., National Aquarium in Baltimore, and the Los Angeles Olympics Organizing Committee.

## **VISITORS PROFILES**

In April 1992, Economics Research Associates completed a report dealing with the Northern Crossroads Discovery Center concept. In it, visitors to Alaska were profiled. Because of some of the unique characteristics of these visitor groups and their tremendous impact on the Anchorage and Alaskan economies, certain facts should be highlighted here. For the reasons discussed below, sponsorship efforts to these targeted groups should be particularly effective.

### **THE TARGETS**

Nearly 70% of those non-residents who visit Alaska spend some time in Anchorage. In turn, nearly 70% of these visitors can be described as pleasure visitors. While the vast majority of visitors to Alaska arrive from the Lower 48 (86%), the percentages of visitors arriving from Canada, Europe and the Pacific rim are clearly rising. In fact, the number of international visitors has increased by nearly 25% in the past three years. These trends show that the Alaskan market is broadening as it grows and that most of the new visitors are coming from new markets. With respect to the Alaskan visitor, the average age has dropped from 54 in 1985 to 50. The average visitor income, during that same period, has increase to \$59,000. In short, the Alaska pleasure visitor, given their maturity, education and wealth, would appear to be an ideally receptive audience for sponsor messages.

### **THE BUSINESS VISITOR**

Approximately 30% of the visitors to Alaska arrive on business. Nearly a third of these persons, however, describe the purpose of their trip as both business and pleasure. In

Anchorage, the average visitor is 47 years old. Inasmuch as the Northern Crossroads Discovery Center will combine food and entertainment services along with a physical connection to both a hotel and conference center, the penetration rate for the Anchorage business traveler should also be high.

## **THE ANCHORAGE POPULATION**

Anchorage's population differs significantly from the U.S. norm in terms of age and education. The community is characterized by a low median age and a highly educated, career oriented workforce. In 1987, the median age in Anchorage was 28.4, compared to the U.S. average of 31.5. Fifty-five percent (55%) of all adult residents have completed one year of college. This compares to only 35% nationwide.

As the median age falls squarely within the baby boom generation, young and growing families are clearly the norm. In fact, 40.6% of the population is between the ages of 25 and 44. This compares with 32.5% nationwide. The Anchorage school district is currently experiencing record enrollments which now exceed 44,000 students.

In addition to youth and education, Anchorage also distinguishes itself in the areas of per capita and household income. The average per capita income in Anchorage is 141% of the national average. Moreover, due to the high percentage of women in the work force, (74.4% of Anchorage women are employed) the typically combined household incomes create a tremendous amount of disposable income. Thus, wholly independent of the visitor market, sponsorship of the Northern Crossroads Discovery Center will offer a unique opportunity to reach the Anchorage resident in a positive and entertaining way.