

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3000

ENCLOSURE - REMAINING STEPS FOR ACMP PRELIMINARY APPROVAL

GENERAL COMMENT

The changes proposed by Alaska, with further modification as described below, should meet Coastal Zone Management Act (CZMA) preliminary approval requirements. Once these changes are submitted to and reviewed by NOAA, NOAA will be able to make a preliminary approval decision. Changes submitted to NOAA for preliminary approval consideration should be, for any regulatory changes, a final rule by Alaska submitted to the Alaska Lieutenant Governor prior to publishing the final rule, and a revised Alaska Coastal Management Program (ACMP) document for the non-regulatory changes. As stated in our March 25, 2005, letter, the remainder of the items described in the January 28, 2005, letter and enclosures do not need to be made at this time for preliminary approval. Those items will need to be made to the ACMP document before final approval and NOAA believes that some of the items may be eliminated.

PUBLIC HEARING

A public hearing on the submission of the amendment must be held before NOAA can make a preliminary approval decision. This requirement is derived from CZMA section 306(d)(4) stating that for program approval that the "State has held public hearings in the development of the management program." This requirement is also applied to amendment requests because of the substantial change to a state's management program, under 15 CFR § 923.81(a). This requirement is for public hearings on the submission of a state's amendment request to NOAA; it does not refer to public hearings a state may have held during the development of the amendment at the state level. See 15 CFR § 923.81(b)(5) (describing documentation of public input during a state's development of an amendment).

The public hearing requirement for the submission of amendments to NOAA is tied to preliminary approval by 15 CFR § 923.82(a) and (c). These sections provide that NOAA cannot make a preliminary approval determination on a state's proposed amendment until the state has satisfied the applicable program approvability requirements and the procedural requirements of CZMA section 306(d), which include the public hearing requirement in section 306(d)(4) that is applied through 15 CFR § 923.81(a). The public notices and summaries for the public hearing, described in 15 CFR § 923.81(b)(3) and (4) relate to the section 306(d)(4) hearing.

The provisions in 15 CFR § 923.81(b)(3) and (4) regarding hearing summaries and concurrent Federal agency review provide that a state can submit hearing summaries 60 days after the hearing. This does not alter the requirement for a state's section 306(d)(4) hearing to be held before a preliminary approval determination is made.

Alaska is required to have at least one section 306(d)(4) hearing on the amendment submission. See 15 CFR § 923.81(a). Additional hearings are at the State's discretion. Alaska's responsibilities for the public hearing are to provide a public notice of the hearing 30 days in advance, note the time and location of the hearing and make available for public review at the time of the public notice, all agency materials pertinent to the hearings. The latter requirement could be satisfied by directing the public to the ACMP website and identifying the ACMP

amendment documents subject to the public hearing. At the hearing the State should make an opening statement about the purpose of the hearing (to provide the public an opportunity to comment on the State's ACMP submission to NOAA), and inviting any public comment. The State is not required to respond to comments. After the hearing, the State must submit to NOAA, within 30 days of the hearing, a transcript or summary of the hearing. 15 CFR § 923.58(d).

APPLICATION OF ENFORCEABLE POLICIES TO FEDERAL LANDS AND GEOGRAPHIC LOCATION DESCRIPTIONS (GLDS).

Paragraphs (a), (b) and (d) are satisfactory.

Paragraph (c) is satisfactory with the exception that the parenthetical "(occurring within the coastal zone)" is incorrect. A federal agency must provide a consistency determination for an activity, regardless of location, if the federal agency determines there will be effects to coastal uses or resources. This includes effects to uses or resources *of* the coastal zone (not *in* the coastal zone) where the use or resource affected is inland or seaward of the coastal zone. A state may, of course use the various provisions in NOAA's regulations to reach agreements with federal agencies regarding when and how federal consistency will apply to federal agency activities under 15 CFR part 930, subpart C (e.g., general concurrences, de minimis activities, beneficial activities).

The first sentence in paragraph (c) should be amended to read:

Federal agency activities that occur inland of the coastal zone boundary are only subject to ACMP consistency review process if the federal agency determines that effects to any land or water use or natural resource of the coastal zone ~~coastal uses or resources (occurring within the coastal zone)~~ are reasonably foreseeable and the State has an enforceable policy addressing the use or resource.

APPLICATION OF DISTRICT POLICIES AND DESIGNATED AREAS

The language is not clear regarding the scope of district policies and designated areas. The proposed language merely says that CZMA and NOAA regulations apply for the State standards and District policies. Because the other State standards would still have the language limiting review to projects occurring within a designated area, the following language needs to be added after the term "projects" (additional language is underlined):

Notwithstanding any other provision, for the purposes of federal consistency reviews conducted under 16 USC 1456, projects, within or affecting land or water uses or natural resources of the coastal zone, will be subject to the state standards at 11 AAC 112.200 – 11 AAC 112.900 and the coastal district enforceable policies approved under 11 AAC 114 in accordance with the requirements of the applicable subparts of 15 C.F.R. part 930 and other relevant parts of Alaska's federally approved coastal management program.

The ACMP document or preamble to the rule change should discuss this change in the context of the CZMA "effects test" for federal consistency purposes. In particular, the discussion should note that for purposes of federal consistency reviews, projects within or affecting a district's designated area would be subject to the applicable state and district enforceable policies.

TECHNIQUE A

Alaska proposes to amend the subsistence use standard at 11 AAC 112.270(a) to read, "A project within a subsistence use area designated by the State or under 11 AAC 114.250(g) must . . ."

Technique A is meant to apply state enforceability to entire local government plan. While Alaska still has Technique A components, NOAA now recognizes that the ACMP is relying primarily on Technique B for implementation of State standards and that the only State standard presently reliant on District policies is the subsistence use policy. All other District policies are at the choice of the Districts and are not required for ACMP approval or to implement State standards. Therefore, Alaska's proposed change to its regulation is sufficient for NOAA to make a preliminary approval decision, because it would give the State the ability to designate subsistence use areas and enforce the subsistence use standard during District plan development, pursuant to 15 CFR § 923.42(b)(2), and would use 15 CFR § 923.42(b)(3)(i) for direct State enforcement of the subsistence use standard if a District failed to adopt a plan.

SCOPE AND CONTENT OF DISTRICT PLANS

NOAA looks forward to reviewing the revised/combined District guidance, which must satisfy the need for clarity pursuant to 15 CFR § 923.3(e)(1) and (2), prior to making a preliminary approval decision.

HABITATS POLICY

1. Comprehensive Habitat Management. The CZMA requires state programs to develop and maintain a management program sufficient to carry out the protection of coastal resources such as shorelands, wetlands, estuaries, floodplains, fish and wildlife and their habitat and to use the land and water resources of the coastal zone giving full consideration to the ecological values of those resources as well as need for compatible economic development. Further, the CZMA requires the management program to contain specific, comprehensive and enforceable policies to provide that protection and overarching management scheme. State coastal programs need to manage and protect those significant resources and areas that make a state's coastal zone a unique, vulnerable or valuable area, particularly wetlands, estuaries, tidelands and offshore areas. 16 USC § 1455(d)(1); 15 CFR §§ 923.1, 923.3., 923.10 and 923.11. NOAA finds that Alaska's habitat management components are sufficient for purposes of our preliminary approval decision.

2. **Written Scientific Evidence.** NOAA believes that 11 AAC 114.900(40) provides a sufficient definition of this phrase for purposes of our preliminary approval decision.
3. **Significantly More Productive.** Alaska now proposes to replace this phrase with "biologically and significantly productive" in asking the districts to designate significant habitats. NOAA appreciates this change as it removes the comparison of habitats by deleting the term "more." While the State believes that the term is commonly understood and applied, and requires no additional explanation, we continue to believe that "significantly productive" is not a term generally accepted in the scientific community. NOAA did not recommend "biological productivity" as a preferable term; rather we asked the State to provide a definition so that users, districts, and other affected interests would be on notice as to how "productivity" is being measured so they would know what to provide data on. However, NOAA finds that defining the term is not needed for preliminary approval.
4. **Adjacent Habitat.** To address NOAA's concerns regarding the "adjacency" requirement, Alaska proposes to revise 11 AAC 112.300(c)(1)(B)(ii) and 11 AAC 114.250(h)(2) to read ". . . that is shown by written scientific evidence to be biologically and significantly productive." This language is an improvement over the "adjacency" requirement previously proposed by Alaska. NOAA finds that Alaska's change is adequate for our preliminary approval decision. Please see, however, our comments under No. 3, above, regarding the definition of "biologically and significantly productive."



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Communities ask Legislature for delay on coastal program overhaul

Representatives of coastal districts say they don't have time to revamp local plans

Communities across the state are asking the Alaska Legislature to put the brakes on a plan to restructure environmental oversight of coastal areas.

The Alaska Coastal Management Program has been in place since 1979 and gives state and local governments a role in reviewing and approving federal projects in coastal areas. Thirty-three of Alaska's 35 coastal zone districts have set policies to address local coastal management issues under the existing program.

The Legislature shifted regulatory control on environmental effects from communities to the state and federal government in 2003, arguing the coastal zone program had become redundant with state and federal laws.

The overhaul of the program is set to take place July 2006. Local districts now must submit their revised local policies to the state Department of Natural Resources by July to come into compliance with the new state program. But representatives of the coastal districts say they do not have enough time or the resources necessary to revamp their local plans.

Three separate proposals in the Legislature would push the deadline back by at least a year. A plan by Sen. Gary Stevens, R-Kodiak, would delay the deadline a year from the time federal government approves the state's revised program.

The coastal management plans can take much longer than that to create. For the North Slope Borough, it took five years before its plan was finalized in 1988. North Slope Borough environmental specialist Tom Lohman told the Senate Community and Regional Affairs Committee Monday it took so long because of input from oil companies.

"They are not a passive stakeholder when it comes to something as important as a coastal management program," Lohman said.

Now, he said, the borough is waiting for direction from the Department of

Natural Resources on issues such as subsistence whaling by Inupiat Eskimos in the Beaufort and Chukchi Seas and management of wildlife refuges.

"We have not had final guidance from DNR as to whether we can craft meaningful policies dealing with subsistence on federal lands or waters or habitat protection on federal lands or waters on the North Slope," he said.

Lohman and other coastal districts argued that the state's proposed overhaul of the program has not been approved by the federal government's Office of Ocean and Coastal Resource Management. They questioned the logic of spending time and money to submit plans this summer if the federal government rejects the program.

Randy Bates, Alaska's Project Management and Permitting director, said the plans due in July are not necessarily the final product.

"When they get their plans in they can continue to refine them," he told the committee. "Our goal is to massage them into compliance."


Gov. Frank Murkowski, though, has threatened to eliminate the coastal management program entirely if the federal government does not abandon its objections to parts of the state's proposal.

Click here to return to story:

http://www.juneauempire.com/stories/031503/sta_20050315008.shtml

Douglas Letch

From: tidepoolak@ak.net
Sent: Wednesday, March 02, 2005 12:03 PM
To: Sen. Gary Stevens
Subject: Protect Local Control in Coastal Decision Making



Dear Senator Stevens,

The Alaska Coastal Management Program has promoted balanced development throughout Alaska's coastal zone for over 20 years. Since the passage of HB 191, however, it has become increasingly clear this Administration does not value the role local citizens and coastal citizens play in Alaska coastal planning and management. Yet the Alaska Coastal Management Program affords Alaska a bundle of states rights that would disappear without the ACMP. For example, without the ACMP, the state would have little influence over offshore federal decisions, such as current proposals to promote fish farming in federal waters.

Therefore, I am writing now to urge you in the strongest possible terms to:

1. Support passage of HB 146 and SB 102 to extend the timeline for ACMP revisions;
2. Revise the current draft ACMP proposal to meaningfully involve coastal Alaskans and coastal districts in planning and management decisions affecting local coastal communities and resources.

Local control over local decisions has long been a hallmark of the ACMP specifically, and Alaska government generally. Please do not disenfranchise local citizens and communities by casting away these sensible long-standing policies.

Stacy Studebaker
4288 Cliffside Rd.
P.O. Box 970
Kodiak, AK 99615

March 10, 2005,

Senator Gary Stevens

Subject: Testimony Regarding SB 102

Senator Stevens:

The Bristol Bay Coastal Resource Service Area, based in Dillingham and covering an area of 25,000 square miles, including close to 500 miles of coastline and hundreds of miles of anadromous fish streams, supports SB 102 at the least, but prefers HB 146 as best.

When HB 191 passed the legislature two years ago, we were optimistic that we would be able to update our plan in a way that would more meaningfully fulfill a local role in coastal management. We were not so optimistic that the unreasonably short deadline would allow for a thorough and quality job, but we prepared to make the most of it.

However, as revisions to three sets of state regulations pertaining to the Alaska Coastal Management Program dragged on beyond the deadline for that work, and then as interpretations and clarifications consumed more weeks, we saw our effective window for updating our plans shrink from one year, to six months, to, now, about four months. And still uncertainty hovers over the entire enterprise.

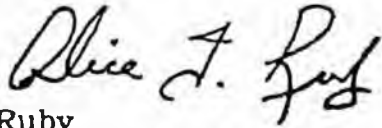
We embarked on our plan updates in good faith. Through no fault of the hard work of a dedicated staff at the Office of Project Management and Permitting, we believe seeking an extension to the deadlines imposed by HB 191 is the best course of action at this point.

We continue to work on our plan update, and we will submit something if need be, but we believe that the citizens of the State of Alaska are entitled to thorough and considered work on their behalf, and HB 191 does not allow that as it is written today.

There are a number of reasons why the state should not allow the ACMP to disappear, not least of which is the looming battle over offshore finfish farming in federal waters.

Thank you for your attention to this matter so very important to your local coastal districts and to the State of Alaska.

Sincerely,

A handwritten signature in cursive script that reads "Alice J. Ruby". The signature is written in dark ink and is positioned above the printed name and title.

Alice Ruby
Chair, Bristol Bay CRSA

CITY OF DILLINGHAM
Dillingham, Alaska

RESOLUTION NO. 2005-10
Support Alaska Coastal Management Program

A RESOLUTION OF THE COUNCIL OF THE CITY OF DILLINGHAM, ALASKA, CALLING FOR THE CONTINUATION THE ALASKA COASTAL MANAGEMENT PROGRAM AND AN EXTENSION OF THE DEADLINE FOR SUBMISSION OF COASTAL DISTRICT MANAGEMENT PLANS.

WHEREAS, the Twenty-Third Alaska State Legislature passed House Bill 191, which, in part, imposes a deadline of July 1, 2005 for coastal districts chartered under the Alaska Coastal Management Plan (ACMP) to submit updated coast district plans to the Alaska Department of Natural Resources (DNR), and

WHEREAS, in the past, coastal districts have needed at least two years to complete coastal district plan updates, and

WHEREAS, DNR has issued unclear regulations that have served to confuse and delay the updating of such plans, and

WHEREAS, the federal Office of Coastal and Resource Management (OCRM), which has to approve the state's revisions to the ACMP, has not been satisfied with information provided to date and may require an Environmental Impact Statement process before such approval is forthcoming, now

THEREFORE, BE IT RESOLVED that the Dillingham City Council urges the Twenty-Fourth Alaska State Legislature to:

Section 1. extend the deadline for submission of coastal district management plans to no later than June 30, 2006, and

Section 2. seek a final and definitive clarification on the ACMP regulatory framework so that coastal districts can take action within the requirements of that framework; and

Section 3. urge the Department of Natural Resources to work closely with the Office of Coastal and Resource Management to ensure the proper alignment of the state and federal regulatory frameworks.

APPROVED AND ADOPTED this ____ day of _____, 2005.

SEAL:

Chris Napoli, Mayor

ATTEST:

City Clerk

CITY OF ALEKNAGIK

P.O. BOX 33, MAIN STREET
ALEKNAGIK, ALASKA 99555-0033
PHONE: 907-842-5933 OR 842-2528
FAX: 907-842-2107
E-MAIL: aleknagik@aleknagik.ak.us

February 25, 2005

To the Honorable Representative Carl Moses
State Capital Building #500
Juneau, AK 99801-1182

RE: Alaska Coastal Management Program (ACMP)

To the Honorable Representative Carl Moses:

The City Council of the City of Aleknagik would like for you to support an extension of time to revise the Alaska Coastal Management Program Plans. The Plans are to be revised by July 1, 2005, but there is not enough time remaining to do a proper job.

The City received notification of the revision in July 2004, but there has been no process for communities and interested people to provide input. We would like to see a concerted effort to gather information from all interested parties on a local level, with public review comment periods at each step of the way, before the Bristol Bay Coastal Resource Plan is rewritten. This should not be an administrative exercise without public input.

Thank you for your time, and any help you can provide toward extending the deadline for the ACMP Plan Revisions is greatly appreciated. Please contact me if you have any questions or concerns.

Sincerely,



Berna Andrews
Mayor

cc: Bobby Andrew, President, Aleknagik Natives Limited
Gusty Chythlook, President, Aleknagik Traditional Council
Andrew deValpine, Director, Bristol Bay CRSA

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/14/05

FURTHER: Resources

Date of 5-Day Notice: 3/3/05
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/14/05

Community and Regional Affairs Committee considered SENATE BILL NO. 102

SB 102 COASTAL MANAGEMENT PROGRAMS

"An Act relating to district coastal management programs; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB102 (CRA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DNR	3/14/05	✓			1
DCCED	3/8/05			✓	2
ADFG	3/8/05			✓	3
DEC	3/14/05			✓	4

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Thomas H. Wagoner</i> WAGONER			✓	
<i>Greg Ellis</i> ELLIS	X			
<i>Bob Stevman</i> STEVMAN			✓	
CHAIR: <i>G. Stevens</i>			α	

G. STEVENS

SB

103

HFIN

FILE

ALASKA STATE LEGISLATURE



Official Business

SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

Letter of Intent

SB 103: OIL & GAS: REG. OF UNDERGROUND INJECTION

March 7, 2005

It is the intent of the Legislature that state agencies with relevant expertise and experience, contribute appropriately to the regulation of Class I injection wells. The Legislature recognizes that all Class I wells to date in Alaska have been used in the oil and gas industry and that the Alaska Oil and Gas Conservation Commission is clearly the appropriate agency to regulate these and any future Class I wells used in the oil and gas industry. In the event that Class I wells are proposed for other uses, the Legislature should have a timely opportunity to consider the potential role of other regulatory agencies. Therefore, it is the intent of the Legislature that if an application for a Class I well not associated with oil or gas operations is received by the Alaska Oil and Gas Conservation Commission, the Commission shall immediately provide a copy to the Legislature, so as to enable the Legislature to consider appropriate action.

Adopted by the Senate

COMMITTEE COPY

Date: 4/19/05

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 103
(S) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Admin
Title: Underground injection under the RDU: Oil & Gas Conservation Commission
Federal safe drinking water Component: Oil & Gas Conservation Commission
Sponsor: Rules Committee
Requester: Governor Component No.: 2010

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	25.0	25.0	25.0	25.0	25.0	25.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	25.0	25.0	25.0	25.0	25.0	25.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1162 AOGCC Receipts	25.0	25.0	25.0	25.0	25.0	25.0
TOTAL	25.0	25.0	25.0	25.0	25.0	25.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Will take 10% inspection time (\$9.0) and 10% Petroleum Engineer (\$16.0). The impact will be covered by overtime.

Prepared by: Daniel Seamont, Commissioner Phone: 907-793-1221
Division: Alaska Oil & Gas Conservation Commission Date/Time: 1/28/05 1:13 PM
Approved by: Michael Tibbles, Deputy Commissioner Date: 1/28/2005
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 103
(S) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Regulation of underground injection under RDU: Resource Development
the federal Safe Drinking Water Act Component: Commissioner's Office
Sponsor: Rules
Requester: Governor Component No.: 423

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact for DNR associated with implementation of this legislation.

Prepared by: Janet Baxter, Legislative Liaison Phone: 907-465-4730
Division: Commissioner's Office Date/Time: 2/8/2005
Approved by: Tom Irwin, Commissioner Date: 2/8/2005
Agency: Natural Resources

Alaska UIC Issues

What we do.

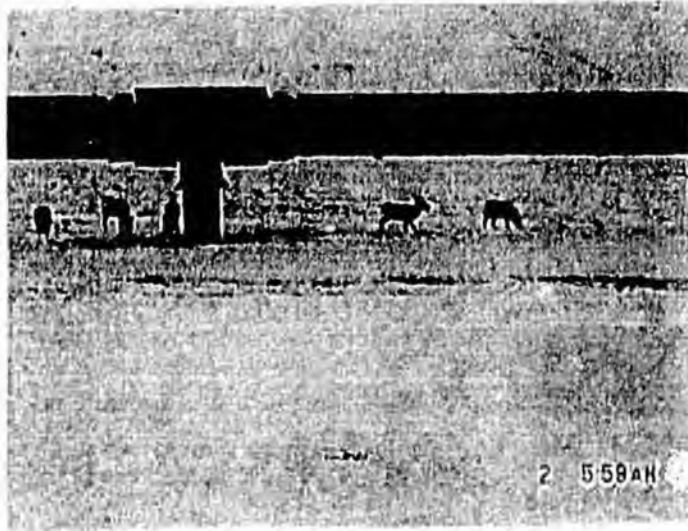
What are the challenges?

What are the options?



AOGCC – EPA UIC Situation

- Introduction
- UIC and other USDW Responsibilities
- Senate Bill 103
- The Problem to Solve
 - UIC Well Classes
 - Alaska UIC Situation- redundancy, confusion, Time, \$\$\$
- Options/Solutions



Meter proving on pipelines

AOGCC regulates operations affecting subsurface oil & gas resources, ensures the reliability of oil & gas flow measurements, and ensures that underground sources of drinking water are protected.

Protect Fresh Water

Regulate oil & gas fields operations



Regulate wells constructed

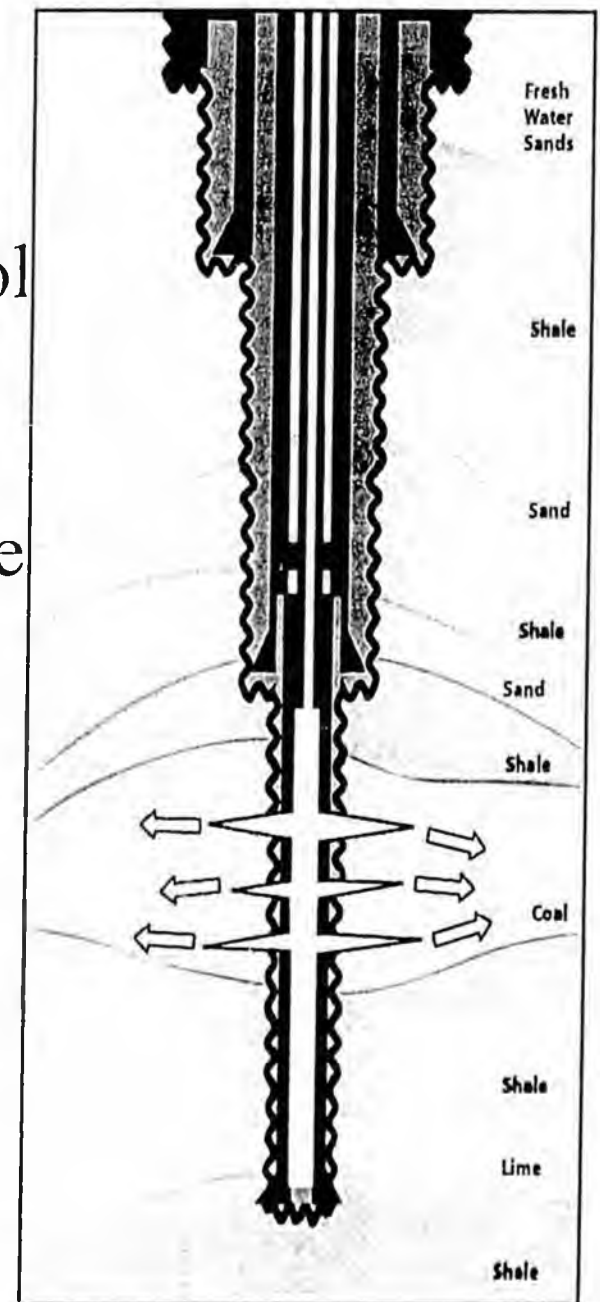
UNDERGROUND INJECTION PROGRAM (Class II)

AOGCC has primacy for implementing the federal Underground Injection Control (UIC) Program relating to regulation of underground injection activities for the purposes of enhanced oil recovery and the most environmentally sound disposal of oil field waste.

The proper underground injection of material to enhance oil recovery has resulted in billions of \$\$\$ in revenue to the State of Alaska

And

The best place to put oilfield waste is deep underground.



UIC Situation

Two agencies performing same job, one protecting a non-existent resource resulting in onerous and costly requirements on industry and Alaska.

Common Sense Solutions?

AOGCC control through primacy or single disposal class by eliminating redundancy through statute change (new bill) and positive EPA interpretation and ruling

Underground Injection Control



- Program under Safe Drinking Water Act
 - Protect underground drinking water sources
- 5 classes of wells
 - Class I: industrial, hazardous and non-hazardous; municipal waste
 - Class II: oil and gas
 - Class III: mining
 - Class IV: shallow hazardous and radioactive waste injection
 - Class V: whatever doesn't fit in I-IV (into H₂O table->20 people domestic, industrial, ?)

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Class I
(7)

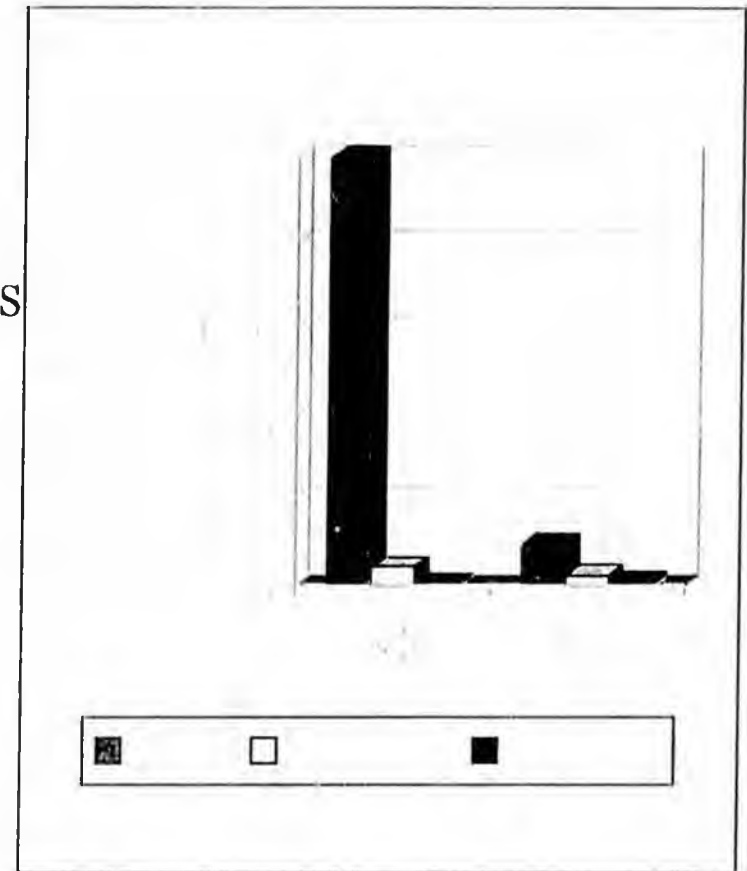
Class V
**(3000++
statewide)**

Class II
(1155)



Alaska UIC Statistics - 2004

- 1155 operable UIC wells
 - 90% EOR (Class II-R)
 - Most converted producers
 - 1.1 billion bbls water, 3.2 Tcf gas injected (2004)
- 7 Class I wells
 - All on North Slope
 - 8th Class I well drilling
- 1.87 Billion bbls waste disposed (cumulative)
 - Class I wells: 1.2% of total volume disposed to date



UIC Situation- Waste of Tax Payer and Industry \$\$ & Time

- Confusion by operators over what waste is allowed to be disposed in each Class
 - All wastes on the NS are directly associated with hydrocarbon production- should all be Class II-(not EPA view)
 - Much time & energy expended for waste determination and tracking by industry and government
- Redundancy- North Slope- EPA and AOGCC running virtually identical programs.
 - Often same fluids injected into the same disposal zones through different class wells- depending on where the fluids came from
 - Class I- same confinement and well construction or worse (see slide after next)
 - AOGCC performs much work advising EPA on their program and inspecting class I wells- taking over-sight would add little work

UIC Situation- Waste of TP and Industry \$\$ & Time (cont.)

- EPA Class I program-
 - Protects non-existing resource (fresh water)
 - Inefficient permit process; EPA approvals generally much slower than AOGCC.
 - Onerous & costly stipulations concerning well integrity
 - EPA has no permanent onsite field inspectors
 - EPA regulates only 7 out of 1162 UIC wells
 - Costly and remote for EPA

Temptation to transport waste long distance for surface displacement or disposal in redundant disposal well



Options/Solutions

AOGCC working with EPA Region 10

- Business as Usual
 - No effort expended to change status quo
 - Confusion
 - Costly to tax payer and industry
 - Redundant
 - Inefficient approval process
 - Not Operator preference

Options/Solutions (Cont.)

AOGCC working with EPA Region 10

- AOGCC primacy over EPA oversight- 2 well classes- SB103
 - Less industry confusion
 - Saves industry and tax payer \$\$
- One class of well for all disposal- overseen by AOGCC- need statute & ruling by EPA
 - Less energy used for waste determination and tracking
 - Less industry confusion greatly
 - Saves industry and tax payer \$\$

SB103



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 10, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the regulation of underground injection under the federal Safe Drinking Water Act. This bill would enable the Alaska Oil and Gas Conservation Commission (AOGCC) to regulate all underground injection wells used in the oil and gas industry, in contrast to the current situation under which the AOGCC regulates most of these wells but the United States Environmental Protection Agency (EPA) regulates others.

Under the federal Safe Drinking Water Act of 1974, 42 U.S.C. 300f - 300j-26, the underground injection of waste or other fluids requires an EPA permit, unless the EPA has approved a state underground injection control program as meeting Safe Drinking Water Act standards. In 1986, the EPA approved Alaska's underground injection program for a subset of underground injection wells, known as Class II wells. Class II wells inject certain fluids related to the recovery and production of oil and natural gas. The AOGCC administers this program. However, the EPA continues to regulate other types of injection wells in Alaska, including Class I wells, which are used in the oil and gas industry to dispose of wastes that do not go into Class II wells. I believe that the time has come for authority over all underground injection relating to oil and gas operations to return to the state.

This action would have several benefits for the state and the industry. First, the AOGCC is generally able to respond more quickly to permit applications than is the EPA. Second, having a single, uniform process for regulating underground injection by the industry will improve efficiency and reduce confusion. Finally, there has been considerable uncertainty over, and considerable agency time and effort devoted to, the question of when a Class II well is appropriate for waste disposal and when a Class I well is required, and

COMMITTEE COPY

The Honorable Ben Stevens
February 10, 2005
Page 2

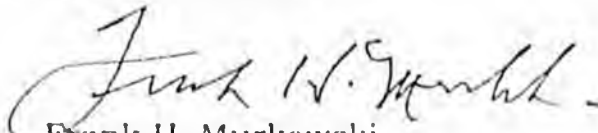
this question will likely become much less important with a single agency exercising authority over both classes of wells.

Under the bill that I am proposing, the AOGCC would have the authority to take all actions necessary to allow the state to acquire primary enforcement responsibility for Class I injection wells, in addition to continuing its current regulation of Class II wells. While the definition of Class I wells covers broad categories of industrial and municipal wastes in certain circumstances, in practice Class I wells in Alaska have been used only in the oil and gas industry, to accommodate wastes not allowed in Class II wells. There are currently 1,144 Class II wells (disposal and enhanced recovery) and seven Class I wells in the state.

This bill also provides for an immediate effective date.

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosure

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

April 26, 2005

The Honorable Kevin Meyer
Co-Chairman, House Finance Committee
State Capitol, Room 515
Juneau, AK 99801

Dear Representative Meyer:

I am writing to request you schedule Senate Bill 103, An Act relating to regulation of underground injection under the federal Safe Drinking Water Act; and providing for an effective date at your earliest convenience. Senate Bill 103 would enable the Alaska Oil and Gas Conservation Commission (AOGCC) to regulate all underground injection wells used in the oil and gas industry.

In 1986, the EPA approved Alaska's underground injection program for a subset of underground injection wells, known as Class II wells. Class II wells inject certain fluids related to the recovery and production of oil and natural gas. The AOGCC administers this program. However, the EPA continues to regulate other types of injection wells in Alaska, including Class I wells, which are used in the oil and gas industry to dispose of wastes that do not go into Class II wells.

Granting the state the authority over all underground injections relating to oil and gas operations would have several benefits for the state and the industry. First, the AOGCC is generally able to respond more quickly to permit applications than is the EPA. Second, having a single, uniform process for regulating underground injection by the industry will improve efficiency and reduce confusion. Finally, there has been considerable uncertainty over, and considerable agency time and effort devoted to, the question of when a Class II well is appropriate for waste disposal and when a Class I well is required. This question will likely become much less important with a single agency exercising authority over both classes of wells.

Thank you for your consideration.

Sincerely,



Michael Tibbles
Deputy Commissioner



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SB

103

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
APR 08 2005
SENATE FINANCE
COMMITTEE

DATE: 3/8/05

FURTHER:

DATE TURNED IN TO OFFICE: 8 April 2005

Finance Committee considered

SENATE BILL NO. 103

SB 103 OIL & GAS: REG. OF UNDERGROUND INJECTION

"An Act relating to regulation of underground injection under the federal Safe Drinking Water Act; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by Senate Resources Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DNR	3/8/05			<input checked="" type="checkbox"/>	#2
Admin	1/28/05	25.0			#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			

ALASKA STATE LEGISLATURE



Official Business

Senator Ralph Seekins, Vice-Chair
Senator Ben Stevens
Senator Kim Elton

SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair
State Capitol, Room 427
Juneau, AK 99801-1182
Phone: (907) 465-4907 Fax: (907) 465-4779

REPORTED OUT

APR 08 2005

SENATE FINANCE
COMMITTEE

Senator Fred Dyson
Senator Bert Stedman
Senator Gretchen Guess

Letter of Intent

SB 103: OIL & GAS: REG. OF UNDERGROUND INJECTION

March 7, 2005

It is the intent of the Legislature that state agencies with relevant expertise and experience, contribute appropriately to the regulation of Class I injection wells. The Legislature recognizes that all Class I wells to date in Alaska have been used in the oil and gas industry and that the Alaska Oil and Gas Conservation Commission is clearly the appropriate agency to regulate these and any future Class I wells used in the oil and gas industry. In the event that Class I wells are proposed for other uses, the Legislature should have a timely opportunity to consider the potential role of other regulatory agencies. Therefore, it is the intent of the Legislature that if an application for a Class I well not associated with oil or gas operations is received by the Alaska Oil and Gas Conservation Commission, the Commission shall immediately provide a copy to the Legislature, so as to enable the Legislature to consider appropriate action.

COMMITTEE COPY

APR 08 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 103
(S) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: Regulation of underground injection under RDU: Resource Development
the federal Safe Drinking Water Act Component: Commissioner's Office
Sponsor: Rules
Requester: Governor Component No.: 423

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 00
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact for DNR associated with implementation of this legislation.

Prepared by: Janet Baxter, Legislative Liaison Phone: 907-465-4730
Division: Commissioner's Office Date/Time: 2/8/2005
Approved by: Tom Irwin, Commissioner Date: 2/8/2005
Agency: Natural Resources

APR 08 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 103
(S) Publish Date: 2/14/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Admin
Title Underground injection under the RDU Oil & Gas Conservation Commission
Federal safe drinking water Component Oil & Gas Conservation Commission
Sponsor Rules Committee
Requester Governor Component No. 2010

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	25.0	25.0	25.0	25.0	25.0	25.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	25.0	25.0	25.0	25.0	25.0	25.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1162 AOGCC Receipts	25.0	25.0	25.0	25.0	25.0	25.0
TOTAL	25.0	25.0	25.0	25.0	25.0	25.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Will take 10% inspection time (\$9.0) and 10% Petroleum Engineer (\$16.0). The impact will be covered by overtime.

Prepared by: Daniel Seamount, Commissioner Phone 907-793-1221
Division Alaska Oil & Gas Conservation Commission Date/Time 1/28/05 1:13 PM
Approved by: Michael Tibbles, Deputy Commissioner Date 1/28/2005
Agency Department of Administration

Alaska UIC Issues

What we do.

What are the challenges?

What are the options?



AOGCC – EPA UIC Situation

- Introduction
- UIC and other USDW Responsibilities
- Senate Bill 103
- The Problem to Solve
 - UIC Well Classes
 - Alaska UIC Situation- redundancy, confusion, Time, \$\$\$
- Options/Solutions



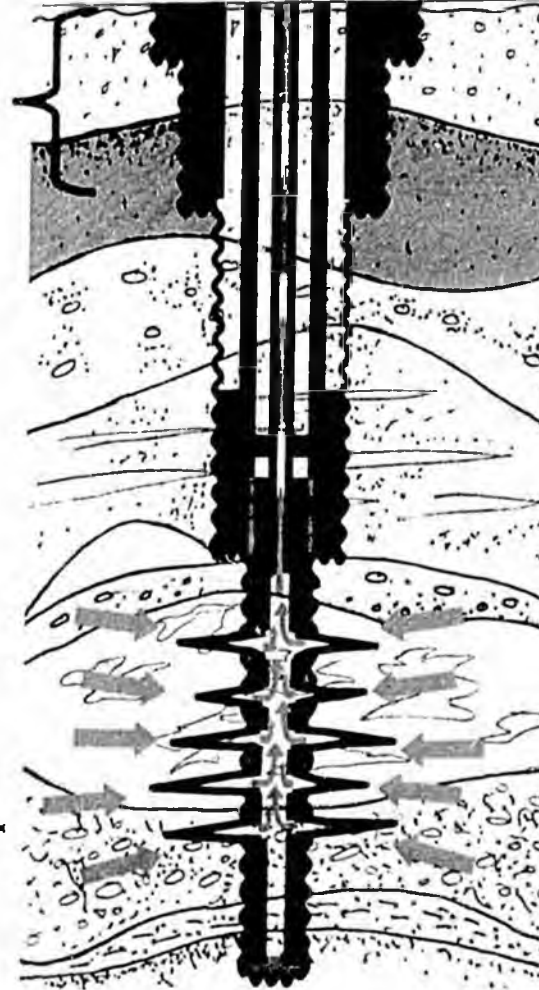
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Meter proving on pipelines

AOGCC regulates operations affecting subsurface oil & gas resources, ensures the reliability of oil & gas flow measurements, and ensures that underground sources of drinking water are protected.

Protect Fresh Water

Regulate oil & gas fields operations



Regulate wells constructed

Inspection of drilling operations



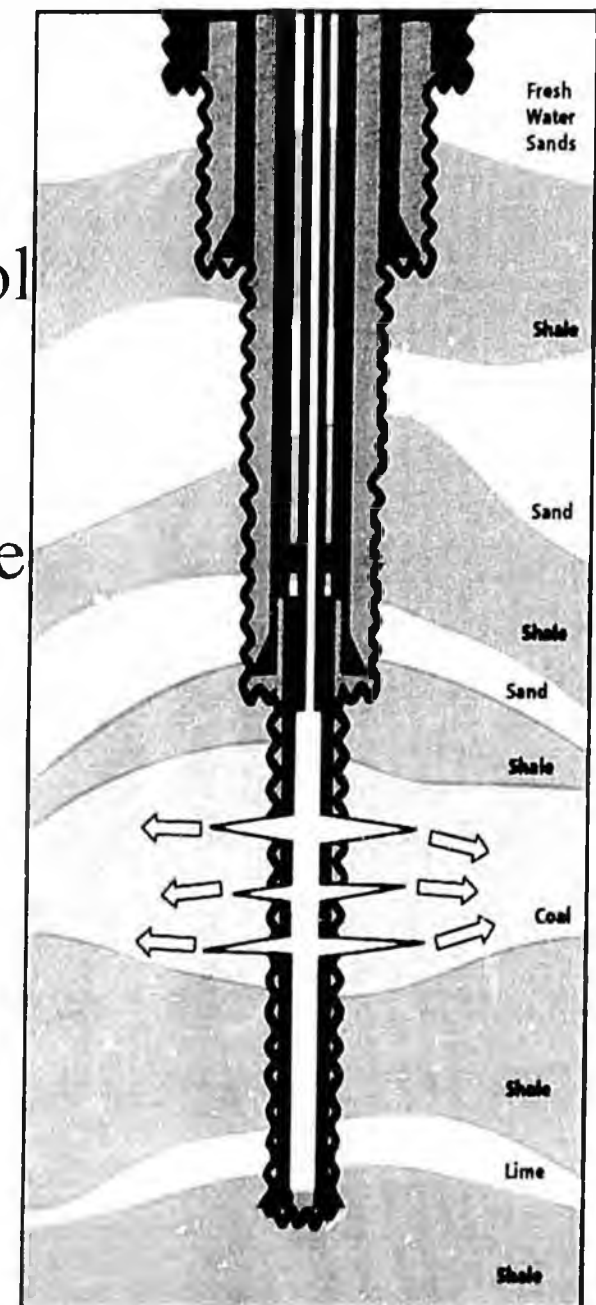
UNDERGROUND INJECTION PROGRAM (Class II)

AOGCC has primacy for implementing the federal Underground Injection Control (UIC) Program relating to regulation of underground injection activities for the purposes of enhanced oil recovery and the most environmentally sound disposal of oil field waste.

The proper underground injection of material to enhance oil recovery has resulted in billions of \$\$\$ in revenue to the State of Alaska

And

The best place to put oilfield waste is deep underground.



Sec. 31.05.030. Powers and duties of commission.

(d) The commission may require

(3) the drilling, casing and plugging of wells in a manner that will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and prevent blowouts, cavings, seepages and fires;

(e) The commission may regulate

(1) for conservation purposes

(D) the disposal of salt water, nonpotable water, and oil field wastes;

(E) the contamination or waste of underground water;

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j), for the control of underground injection related to the recovery and production of oil and natural gas.

Senate Bill 103

“An Act relating to regulation of underground injection under the Safe Drinking Water Act and providing for an immediate effective date.”

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

(h) The commission may take all actions necessary to allow the state to acquire primary enforcement responsibility under **42 U.S.C. 300h-1 and 42 U.S.C. 300h-4** (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f - 300i-**26**), for the control of underground injection related to the recovery and production of oil and natural gas **and the control of underground injection in Class I wells as defined in 40 C.F.R. 144.6, as amended.**

*** Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

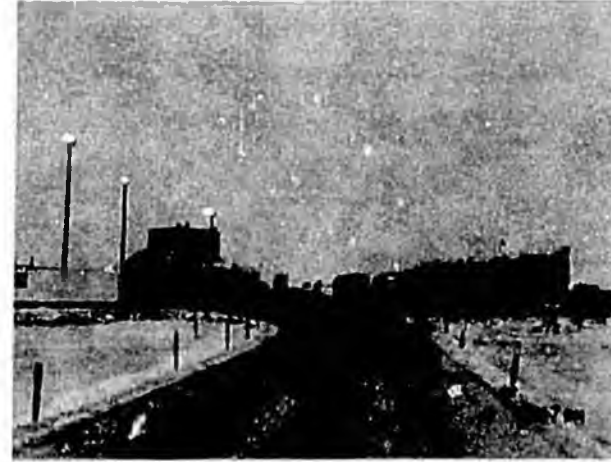
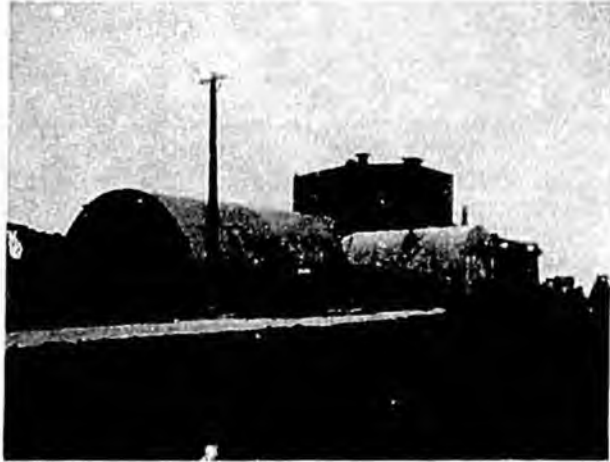
UIC Situation

Two agencies performing same job, one protecting a non-existent resource resulting in onerous and costly requirements on industry and Alaska.

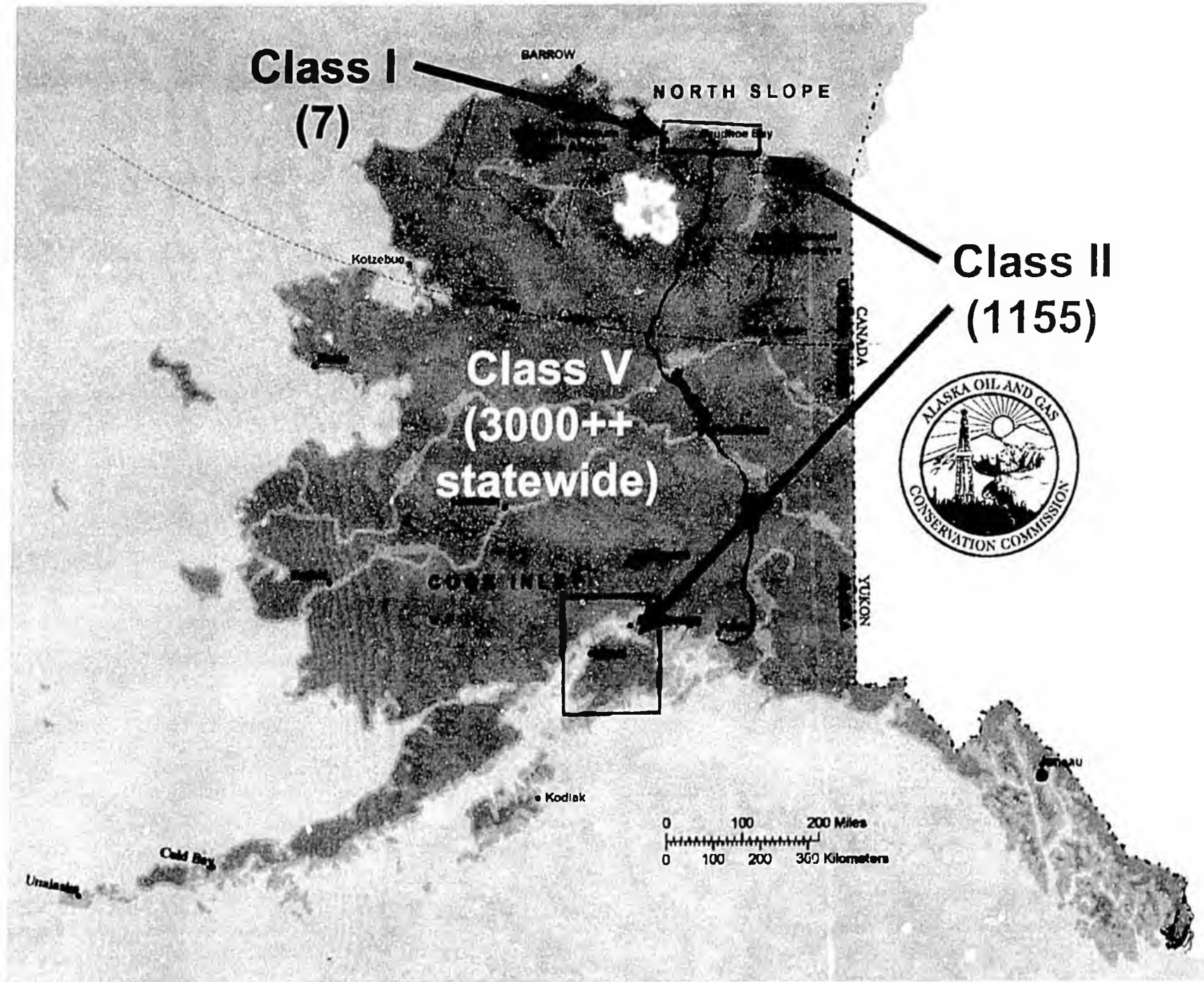
Common Sense Solutions?

AOGCC control through primacy or single disposal class by eliminating redundancy through statute change (new bill) and positive EPA interpretation and ruling.

Underground Injection Control

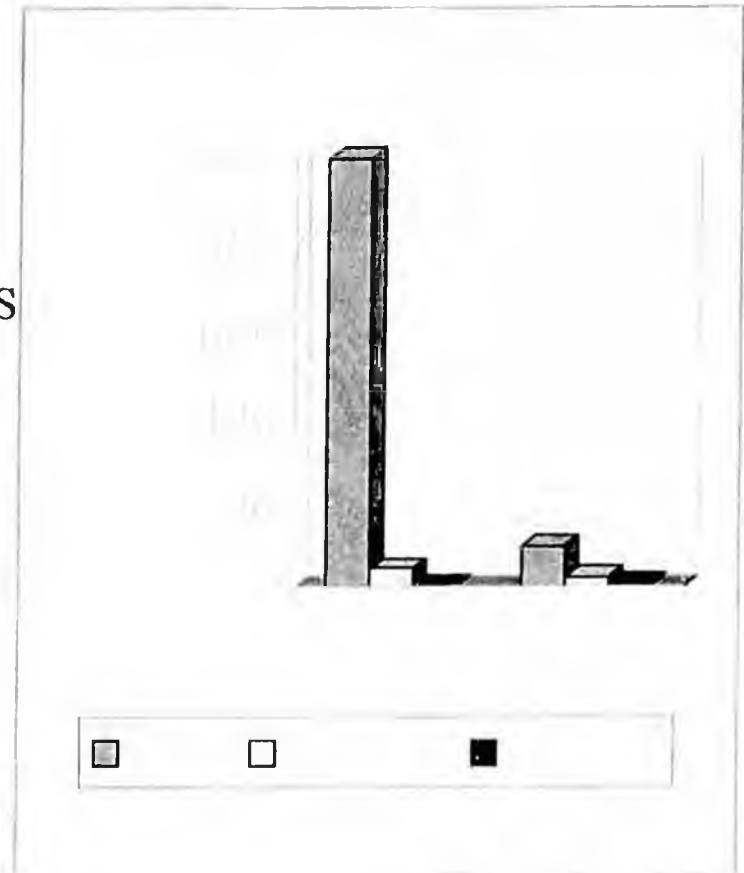


- Program under Safe Drinking Water Act
 - Protect underground drinking water sources
- 5 classes of wells
 - Class I: industrial, hazardous and non-hazardous; municipal waste
 - Class II: oil and gas
 - Class III: mining
 - Class IV: shallow hazardous and radioactive waste injection
 - Class V: whatever doesn't fit in I-IV (into H₂O table->20 people domestic, industrial, ?)



Alaska UIC Statistics - 2004

- 1155 operable UIC wells
 - 90% EOR (Class II-R)
 - Most converted producers
 - 1.1 billion bbls water, 3.2 Tcf gas injected (2004)
- 7 Class I wells
 - All on North Slope
 - 8th Class I well drilling
- 1.87 Billion bbls waste disposed (cumulative)
 - Class I wells: 1.2% of total volume disposed to date



UIC Situation- Waste of Tax Payer and Industry \$\$ & Time

- Confusion by operators over what waste is allowed to be disposed in each Class
 - All wastes on the NS are directly associated with hydrocarbon production- should all be Class II-(not EPA view)
 - Much time & energy expended for waste determination and tracking by industry and government
- Redundancy- North Slope- EPA and AOGCC running virtually identical programs.
 - Often same fluids injected into the same disposal zones
 - Class I- same confinement and well construction or worse (see slide after next)
 - AOGCC performs much work advising EPA on their program

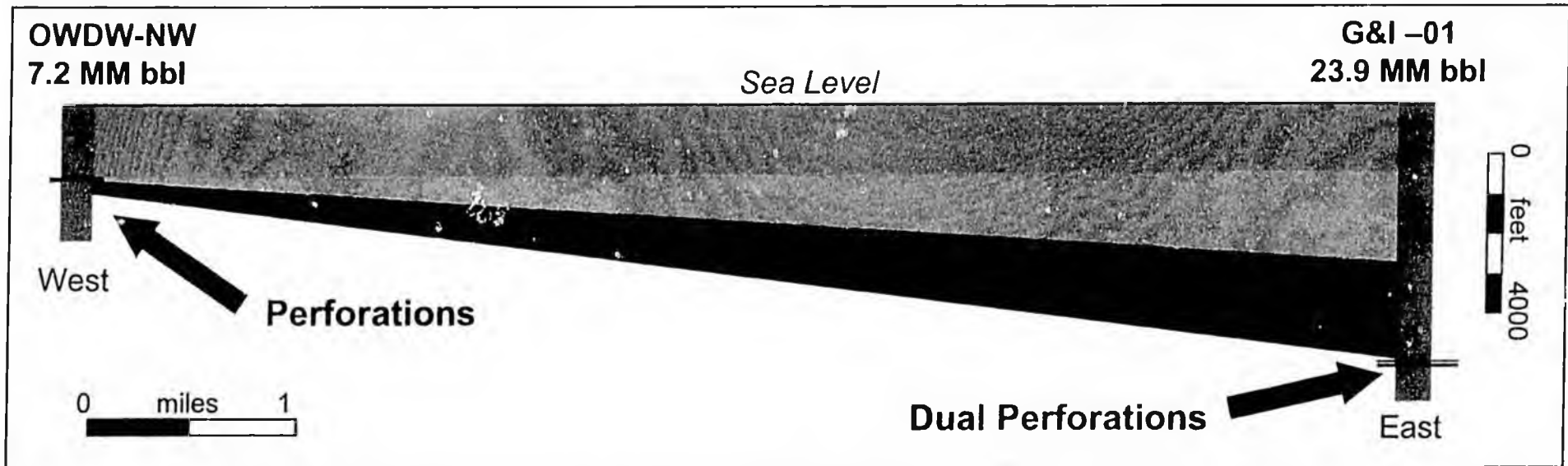
UIC Situation- Waste of Tax Payer and Industry \$\$ & Time (cont.)

- EPA Class I program-
 - Protects non-existing resource (fresh water)
 - Inefficient permit process; EPA approvals generally much slower than AOGCC.
 - Onerous & costly stipulations concerning well integrity
 - EPA has no permanent onsite field inspectors
 - EPA regulates only 7 out of 1162 UIC wells
 - Costly and remote for EPA

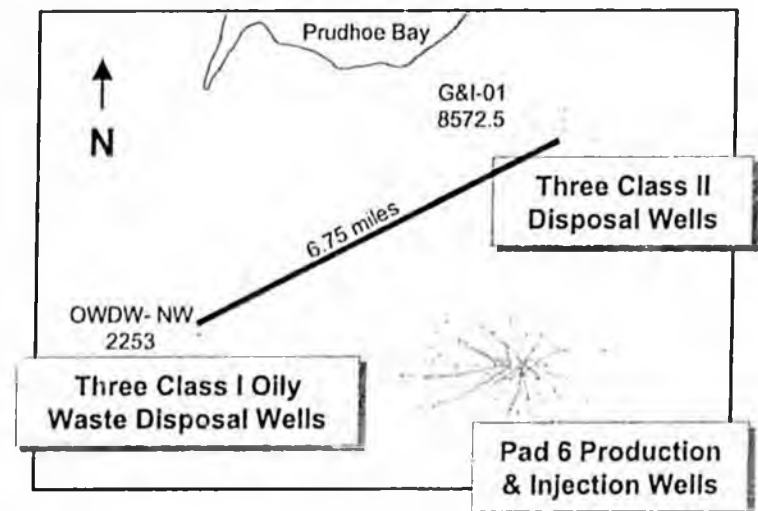
Temptation to transport waste long distance for surface displacement or disposal in redundant disposal well



Confinement Analysis in Prudhoe Bay Unit Class I vs. Class II-D



	OWDW-NW	G&I-01
Permafrost Interval	0-1905'	0-1800'
Confining Interval	1905-1980'	1800-4200'
Injection Interval	1980-2253'	4270-6750'
Perforations	1980-2005'	6415-6422' 6505-6527'



Confusion- Fluids Eligible for Class II

- EPA position
 - fluids that have been down hole
 - generated by contact with oil & gas production stream during removal of produced water or other contaminants
- Wastes “directly associated”; “intrinsically derived from”; “associated with”; “uniquely associated”?
 - Interpretive; contrary to logic
 - Cement rinsate; unused fluids; camp wastes
- Room for exceptions? On what basis?
 - EPA position – no; rules do not provide for exceptions
 - AOGCC – should be
 - uniqueness of NS ops; environmental preference; no USDWs; freshwater protection mandate for AK; SDWA and UIC

Class I and Class II Examples

- Alpine UIC compliance cost (per barrel fluid disposed)
 - Class I: \$2.50
 - \$100k to operate
 - Class II: \$1.50
 - Difference is integrity demonstrations, reporting
- Prudhoe Bay field comparison
 - Grind and Inject Facility – Class II
 - AOGCC
 - Oily Waste Disposal Wells – Class I
 - EPA

Options/Solutions

AOGCC working with EPA Region 10

- Business as Usual
 - No effort expended to change status quo
 - Confusion
 - Costly to tax payer and industry
 - Redundant
 - Inefficient approval process
 - Not Operator preference

Options/Solutions (Cont.)

AOGCC working with EPA Region 10

- AOGCC primacy over EPA oversight- 2 well classes- SB103
 - Less industry confusion
 - Saves industry and tax payer \$\$
- One class of well for all disposal- overseen by AOGCC- need statute & ruling by EPA
 - Less energy used for waste determination and tracking
 - Less industry confusion greatly
 - Saves industry and tax payer \$\$

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB103
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
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WWW.GOV.STATE.AK.US

February 10, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the regulation of underground injection under the federal Safe Drinking Water Act. This bill would enable the Alaska Oil and Gas Conservation Commission (AOGCC) to regulate all underground injection wells used in the oil and gas industry, in contrast to the current situation under which the AOGCC regulates most of these wells but the United States Environmental Protection Agency (EPA) regulates others.

Under the federal Safe Drinking Water Act of 1974, 42 U.S.C. 300f - 300j-26, the underground injection of waste or other fluids requires an EPA permit, unless the EPA has approved a state underground injection control program as meeting Safe Drinking Water Act standards. In 1986, the EPA approved Alaska's underground injection program for a subset of underground injection wells, known as Class II wells. Class II wells inject certain fluids related to the recovery and production of oil and natural gas. The AOGCC administers this program. However, the EPA continues to regulate other types of injection wells in Alaska, including Class I wells, which are used in the oil and gas industry to dispose of wastes that do not go into Class II wells. I believe that the time has come for authority over all underground injection relating to oil and gas operations to return to the state.

This action would have several benefits for the state and the industry. First, the AOGCC is generally able to respond more quickly to permit applications than is the EPA. Second, having a single, uniform process for regulating underground injection by the industry will improve efficiency and reduce confusion. Finally, there has been considerable uncertainty over, and considerable agency time and effort devoted to, the question of when a Class II well is appropriate for waste disposal and when a Class I well is required, and

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The Honorable Ben Stevens
February 10, 2005
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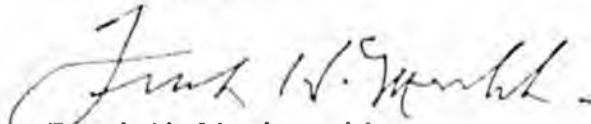
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Under the bill that I am proposing, the AOGCC would have the authority to take all actions necessary to allow the state to acquire primary enforcement responsibility for Class I injection wells, in addition to continuing its current regulation of Class II wells. While the definition of Class I wells covers broad categories of industrial and municipal wastes in certain circumstances, in practice Class I wells in Alaska have been used only in the oil and gas industry, to accommodate wastes not allowed in Class II wells. There are currently 1,144 Class II wells (disposal and enhanced recovery) and seven Class I wells in the state.

This bill also provides for an immediate effective date.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/14/05

FURTHER: Finance

Date of 5-Day Notice: 2/24/05
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/9/05

Resources Committee considered SENATE BILL NO. 103

SB 103 OIL & GAS: REG. OF UNDERGROUND INJECTION

"An Act relating to regulation of underground injection under the federal Safe Drinking Water Act; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by Resources Committee

further referral to _____ Committee

Senate Bill:

- Same Title
- New Title

House Bill:

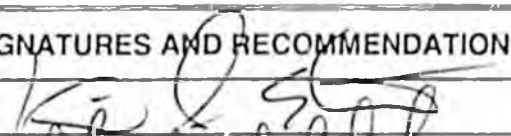
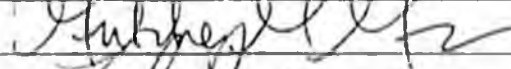
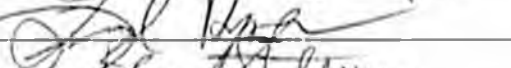
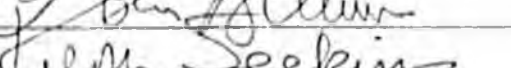
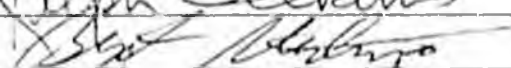
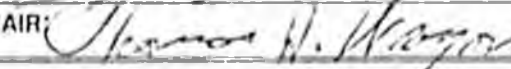

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

➔ **PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
AQMA	2/14	✓			1
DNR	2/14			✓	2

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Elton				✓	
Guess				✓	
Dyson				✓	
B. Stevens		✓			
Seekins		✓			
Skedman				✓	
Wagoner	CHAIR: 	✓			

SB

108

SFIN

FILE

SB 108

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

SB108
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
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FAX (907) 465-3532
WWW.GOV.STATE.AK.US

February 11, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting an omnibus insurance bill.

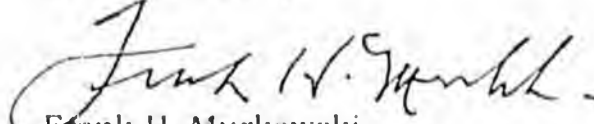
The bill would make changes to certain insurance licensing provisions to provide more efficient licensing processes and to bring Alaska's law into greater conformity with other states' laws. It would make minor changes to the surplus lines statutes to clean up language and to make reporting easier for alien insurers.

The bill also would make changes to the requirements for the administration of insurer deposits and would provide authorization for insurer deposits to be paid to the state insurance guaranty funds rather than becoming an asset of an insolvent insurer. Finally, the bill would give the Division of Insurance in the Department of Commerce, Community, and Economic Development the authority to regulate health discount plans, would clarify the state's regulation of guaranteed auto protection products and motor vehicle service contracts, and would provide for oversight of certain self-funded governmental plans.

A sectional analysis, describing the bill in more detail, is available from the division of insurance.

In sum, this omnibus insurance bill will make the regulation of insurance more efficient for the state, easier for industry, and at the same time give heightened protection to Alaska insurance consumers. I urge your prompt and favorable action on this measure.

Sincerely yours,


Frank H. Murkowski
Governor

Enclosure

COMMITTEE COPY

Section Analysis of SB 108/Y

Sec.	Statute	Change	Purpose or Effect
1	21.06.130(a)	Amended	Replaces the term "considers advisable" with "has reasonable cause" in examining or requiring documents & records from producers
2	21.09.160	Amended	Removes requirement that the director provide specific notice to agents appointed with an insurer of the suspension or revocation of the insurer's certificate of authority; clarifies automatic suspension or revocation of authority of a managing general agent of an insurer whose certificate of authority has been suspended or revoked.
3	21.09.160(c)	Added	Requires an insurer to notify its agents and managing general agents of the insurer's suspension or revocation.
4	21.24.040(a)	Amended	Removes never used option for how deposits may be made by deleting references to a safe deposit box.
5	21.24.040(c)	Amended	Removes never used option for how deposits may be made by deleting references to a safe deposit box.
6	21.24.130(d)	Amended	Provides public protection by permitting the director to release an insurer's statutory deposits to a guaranty fund of which the insurer is a member, if a right to receive all or a portion of the deposit is assigned to the guaranty fund.
7	21.27.010(c)	Amended	Removes reference to the functions of a third party administrator since those are defined in AS 21.90.900; changes reference to the specific third party administrator statutes.
8	21.27.100	Amended	Eliminates requirement for insurer or managing general agents to file appointments with the division; requires the insurer and producer to maintain a listing of agents/managing general agents and to provide the list upon request of the director.
9	21.27.110	Amended	Eliminates requirement for an insurer or reinsurer to file termination of appointments with the division since appointments will no longer be filed with the division; however, an insurer or reinsurer will be required to file notice of termination when the termination is for cause.
10	21.27.380(a)	Amended	Allows the director to notify a licensee of renewal by means other than mail.
11	21.27.630(b)	Amended	Replaces the term "class of insurance" with the defined term "class of authority."
12	21.27.630(c)	Amended	Removes reference to the functions of a third party administrator since those are defined in AS 21.90.900.
13	21.27.630(k) and (l)	Added	Removes the requirement of an admitted insurer to file and obtain a separate third party administrator registration; adds a requirement for a third party administrator who qualifies

			for exemption to file a certification with the director.
14	21.27.650(a)	Amended	Includes a requirement for a person who meets an exemption provision under the chapter to file a certification with the division.
15	21.27.650(q)	Added	Authorizes the director to immediately suspend a third party administrator's registration, without advance notice or hearing, if the administrator is insolvent, in bankruptcy, in receivership or other delinquency proceeding or is using methods or practices injurious to policy holders or the public.
16	21.27.660	Added	Clarifies that the Comprehensive Health Insurance Association is considered an insurer for the purposes of a person who acts as a third party administrator on behalf of that association
17	21.27.900(33)	Added	Defines appointment
18	21.34.040(d)	Amended	Specifies the timing for financial reporting for alien insurers to coincide with their filing dates for stockholder reports; eliminates duplication.
19	21.34.100(a)	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
20	21.34.100(f)	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.
21	21.36.030(a)	Amended	Expands provision prohibiting misrepresentation and false advertising to include electronic communications.
22	21.36.030(a)	Amended	Adds reference to health discount plans to give the director authority to regulate trade practices of health discount plans that are not otherwise regulated under AS 21; specifies that misleading references to health discount plans are considered unfair trade practices.
23	21.36.065	Added	Defines the circumstances under which a project owner or a contractor can provide insurance coverage for a large construction project separately from insurance coverage for other projects or operations of the owner or contractor. The owner or contractor controlled insurance program may be used only for a construction project with a contract cost of at least \$50,000,000. for a defined period of time at a specified location. The owner or contractor may use an owner or contractor controlled insurance program only when it has been approved by the director.
24	21.36.155	Added	Adds provision to give the director authority to regulate trade practices of health discount plans that are not otherwise regulated under AS 21 and establishes guidelines for regulation of these products.
25	21.36.190	Added	Allows for the use of an owner or contractor controlled insurance program only if it meets the requirements in AS 21.36.065

26	21.36.195	Amended	Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices
27	21.51.405	Added	Requires that rates for health insurance policies not be excessive, inadequate or unfairly discriminatory. The change makes the standards applicable to individual health insurance rates the same as those that apply to other types of insurance and brings Alaska law in line with other states.
28	21.55.500(16)	Amended	Clarifies that the plan administrator for the Comprehensive Health Insurance Association must be registered as a third party administrator.
29	21.66.080(a)	Amended	Allows the director to designate the location for filing of financial statements for title insurers to be consistent with other insurers.
30	21.66.085(b)	Amended	Changes the due date for financial statements for title insurers to be consistent with other insurers.
31	21.85.200 - .230	Added	Provides for division oversight of certain self-funded governmental plans that are exempt from coverage under the state's group plan.
32	21.85.500	Added	Defines self-funded governmental plans.
33	21.90.900(42)	Amended	Expands definition of third party administrators to include administrators for the Comprehensive Health Insurance Association or for self-funded employer plans subject to AS 21.85.
34	21.90.900(43)	Amended	Expands definition of transact to apply in the context of providing coverage for medical care.
35	21.90.900(45) - (47)	Added	Adds definition for health discount plan
36	21.24.040(b); 21.27.330(b); 21.27.650(p)	Repealed	Removes reference to use of safe deposit boxes; eliminates requirement for firms to file and pay a fee for branch offices; and removes provision that defines transact with respect to operating requirements for third party administrators as it has been moved to a definition section at the end of the article pertaining to third party administrators.
37	Uncodified Law	Amended	Allows regulations for implementation for certain sections but not before those sections are effective.
38	Uncodified Law	Amended	Provides revisors instructions regarding title of section 21.85 and restructuring of section into three articles.
39	Effective Date		Makes certain sections effective July 1, 2005.
40	Effective Date		Makes all other sections effective immediately.

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/14/05

FURTHER: Finance

Date of 5-Day Notice: 3/24/05
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/15/05

Labor and Commerce Committee considered SENATE BILL NO. 108

SB 108 INSURANCE

"An Act relating to the regulation of insurance, insurance licensing, surplus lines, insurer deposits, motor vehicle service contracts, guaranteed automobile protection products, health discount plans, third-party administrators, self-funded multiple employer welfare arrangements, and self-funded governmental plans; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 108 (LEC) * new title
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DCED	2/14/05	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		Do PASS	Do NOT PASS	No REC	AMEND
Davis	<i>Betty Davis</i>			<input checked="" type="checkbox"/>	
ELLIS	<i>J. Ellis</i>			<input checked="" type="checkbox"/>	
B. Stevens	<i>Sen Stevens</i>	<input checked="" type="checkbox"/>			
Bunde	CHAIR: <i>C. Bunde</i>	<input checked="" type="checkbox"/>			

SB

110

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 110
(S) Publish Date: 2/16/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title: Relating to Regulation of the RDU
Discharge of Pollutants Component: _____
Sponsor: Rules Committee
Requester: Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone: 465-6137
Division: Legislative Liaison Date/Time: 2/11/05 3:33 PM
Approved by: Commissioner Kevin Dully Date: 2/11/2005
Agency: Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 110
(S) Publish Date: 2/16/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title: NPDES Primacy RDU: Resource Development
Sponsor: Rules Component: Commissioner's Office
Requester: Governor Component No.: 423

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

DNR does not expect any change to our reviews under the new program since the state is simply assuming responsibility for the existing federal program.

Prepared by: Janet Baxter Phone 465-4730
Division: Commissioner's Office Date/Time 12/8/2004
Approved by: Tom Irwin Date 12/8/2004
Agency: Natural Resources