

SCOMM

104:6

0-LS0091\F
Lauterbach
1/22/97

CS FOR HOUSE BILL NO. 51()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG AND KELLY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Department of Environmental Conservation."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. FINDINGS AND INTENT.** The legislature confirms that it is the policy of
4 the state to implement water quality laws based on scientific and technical evidence. The
5 legislature specifically requests that state agencies possessing the necessary expertise to
6 implement AS 46.03.085 - 46.03.087, enacted by sec. 4 of this Act, coordinate their efforts
7 to enable cost efficiencies in adopting regulations that encourage the creation and retention
8 of jobs for Alaskans and the economic development of the state's natural resources consistent
9 with the public interest.

10 *** Sec. 2.** AS 46.03.020 is amended by adding new subsections to read:

11 (b) The department may not adopt a regulation under (a)(10) of this section
12 unless

13 (1) the department considers whether compliance with the regulation
14 is economically feasible for the persons governed by the regulation; and

15 (2) the regulation is based on science.

(c) In regulations of the department, "background condition" means the biological, chemical, and physical conditions of a body of water outside the area of influence of the discharge under consideration. When the department performs background sampling to determine a background condition during an enforcement action, the department shall measure conditions that are upslope or outside the area of influence of the discharge. If several discharges to a body of water exist and an enforcement action is being taken, the department's background sampling shall measure conditions immediately upslope from each discharge. If the department is assessing the background condition of a disturbed watershed, the department may use the background condition of a similar watershed as the reference condition.

* Sec. 3. AS 46.03.050 is amended by adding a new subsection to read:

(b) The department shall seek and maintain federal approval under 33 U.S.C. 1342(b) of the state's permit program for discharges into navigable water so that the department has authority to administer the national pollutant discharge elimination system in the state in lieu of the federal permit program otherwise applicable to the state under 33 U.S.C. 1342(a). If, at any time, the department determines that statutory or budgetary changes are necessary to obtain or maintain federal approval of the state's program under this subsection, the department shall notify the legislature through the governor.

* Sec. 4. AS 46.03 is amended by adding new sections to read:

Sec. 46.03.085. Water quality standards. (a) In adopting and applying water quality standards, the department, consistent with 33 U.S.C. 1251 - 1376 (Clean Water Act),

(1) shall ensure that the standards are sufficient to protect human health and propagation of fish and wildlife;

(2) shall consider the background condition of bodies of water, including the presence of naturally occurring pollutants, such as arsenic;

(3) shall use scientific justification to develop water quality standards that can be reliably measured;

(4) may not require water discharged by a user to be of a higher quality than the background condition of the water received by the user; and

1 (5) shall provide procedures for permitting mixing zones in state bodies
2 of water under regulations adopted by the department.

3 (b) Except when setting standards under AS 03.05.011(a) for shellfish growing
4 areas, as defined in the national shellfish sanitation program manual of operations
5 published by the Food and Drug Administration, the department may adopt a water
6 quality standard or other regulation related to water quality that is more restrictive than
7 applicable federal water quality criteria or regulations only after following the
8 procedures in AS 46.03.087(b).

9 (c) Within 90 days after receiving a written request to amend the state's water
10 quality standards to incorporate a reduction in, or elimination of, federal water quality
11 criteria, or by another date mutually agreed on by the applicant and the department,
12 the department shall either propose regulations that amend the state's water quality
13 standards to incorporate the reduction or elimination or initiate the procedure required
14 under AS 46.03.087(b). If, following the procedure under AS 46.03.087(b), the
15 department is unable to make the written findings required under AS 46.03.087(b)(3),
16 the department shall propose regulations that amend the state's water quality standards
17 to incorporate the reduction in or elimination of the federal water quality criteria or
18 regulations.

19 (d) Except as otherwise provided in AS 46.03.087, the measurement of
20 constituents other than sediment to determine whether a permittee is in compliance
21 with permit limitations based on water quality shall be by methods approved in writing
22 by the United States Environmental Protection Agency or by substantially equivalent
23 methods approved by the department.

24 (e) The measurement of sediment to determine whether a permittee is in
25 compliance with permit limitations based on water quality shall be by the volumetric
26 Imhoff cone method for settleable solids. However, this subsection may not be
27 construed to limit the department's authority to adopt water quality criteria for total
28 suspended solids to meet United States Environmental Protection Agency requirements.

29 (f) In this section, "background condition" has the meaning given in
30 AS 46.03.020(c).

31 **Sec. 46.03.087. Special procedures for certain water quality regulations.**

1 (a) The department may, after following the procedures in this section, adopt a

2 (1) water quality standard or discharge standard that is more restrictive
3 than applicable federal water quality criteria or discharge standards;

4 (2) water quality standard or discharge standard for which there is no
5 corresponding federal water quality criteria or discharge standard; or

6 (3) regulation that allows the use of a method that is not substantially
7 equivalent to methods approved by the United States Environmental Protection Agency
8 for the measurement of constituents to determine whether a permittee is in compliance
9 with permit limitations related to water quality.

10 (b) Before adopting a standard or regulation governed by (a) of this section,
11 the department shall

12 (1) make available to the public, at convenient locations, copies of the
13 proposal and the findings of the department that describe the basis for the proposal;

14 (2) consider the economic and technological feasibility of the proposal
15 and prepare written findings; and

16 (3) find in writing, as applicable, that

17 (A) hydrologic conditions or discharge characteristics in the area
18 of the state or at the particular site where the standard or regulation applies
19 reasonably require the water quality standard, discharge standard, or method of
20 measurement to protect human health and welfare or propagation of fish and
21 wildlife; and

22 (B) hydrologic conditions or discharge characteristics are
23 significantly different in that area of the state or at that particular site from
24 those upon which the corresponding federal criteria or regulations are based.

25 * Sec. 5. TRANSITIONAL REVIEW OF REGULATIONS. (a) The Department of
26 Environmental Conservation shall, during the triennial review process of regulations that is
27 required under 33 U.S.C. 1313(c) (Clean Water Act), review its water quality regulations that
28 are in effect on the effective date of this Act in order to determine if they comply with federal
29 requirements and are not more stringent than applicable federal regulations. If the review
30 indicates that there are state regulations that are more stringent than applicable federal
31 regulations, the department shall determine whether it could justify those regulations under the

1 requirements of AS 46.03.087(b)(3), enacted by sec. 4 of this Act. If the department
2 determines that it cannot meet the requirements of AS 46.03.087(b)(3), the department shall
3 adopt the necessary revisions to the regulations. It is the legislature's intent that the
4 department complete its review of all regulations governed by this subsection and its adoption
5 of all necessary revisions required under this subsection within four years after the effective
6 date of this section.

7 (b) The Department of Environmental Conservation shall, by January 31, 1999, and
8 annually thereafter until all of the state water quality regulations in effect on the effective date
9 of this Act are reviewed, prepare a written report on the status of the department's review and
10 revisions required under (a) of this section. The department shall submit the report to the
11 governor and notify the legislature that the report is available.

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House Special Oil + Gas	2-20-96
" " " "	3-21-96
House Resources	3-27-96
" "	4-01-96
" "	4-17-96
" "	4-19-96
Senate Resources	5-02-96
" "	5-03-96



Official Business

COMMITTEE:

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

DATE: January 23, 1997

SIGN-IN

Subject of meeting:

~~REDACTED~~
CONSERVATION

~~PLEASE PRINT:~~
NAME

ADDRESS

PHONE

REPRESENTING

DO YOU WANT
TO TESTIFY?

JANICE ADAIR			DEC	YES
MIKE CONWAY	410 Willoughby Ave., Juneau	465-5298	DEC	YES
Ceron Bruce	P.O. Box 25526 Juneau, 99802	465-6143	DF+G	YES
Irene Alexakos	325 4th St Juneau 99801	586-2751	Alaska Clean Water Alliance	Y
Marie Sansone	Ct. House 6 th Flr MS0300	465-6726	Attorney Gen. Office	ans. questions
Douglas Mertz	319 Seaview, Juneau		PLS REAC	Yes



HOUSE SPECIAL COMMITTEE ON OIL & GAS

DATE:

SIGN-IN

Subject of meeting:

HB 51 - REGULATIONS OF THE DEPT. OF ENVIRONMENTAL
CONSERVATION

PLEASE PRINT!

NAME

ADDRESS

(MAILING) & (ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

[illegible]

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSHB 51(O&G)

Revision Date: _____	Dept. Affected: <u>Fish and Game</u>
Title: <u>An Act Relating to the Department of</u>	BRU: <u>Habitat and Restoration</u>
<u>Environmental Conservation</u>	Component: <u>Habitat</u>
Sponsor: <u>Rokeberg and Kelly</u>	
Requester: <u>House Oil and Gas Committee</u>	COMPONENT SERIAL NO. <u>486</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 100	FY 01	FY 02	FY 03
PERSONAL SERVICES	150.0	150.0	112.5	112.5	112.5	112.5
TRAVEL	18.0	18.0	13.0	13.0	13.0	13.0
CONTRACTUAL	12.0	12.0	9.0	9.0	9.0	9.0
SUPPLIES	8.0	8.0	6.0	6.0	6.0	6.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	188.0	188.0	140.5	140.5	140.5	140.5

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	188.0	188.0	140.5	140.5	140.5	140.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	188.0	188.0	140.5	140.5	140.5	140.5

Estimate of any current year (FY97) cost: \$ _____

POSITIONS

FULL-TIME	2	2	1	1	1	1
PART-TIME			1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Additional expenditures stem from the increased workload that will occur as the department is required to increase the scope, substance, and specificity of its AS 16.05.840, 16.05.870, and 16.20 permit application reviews and significantly increase field inspections and site-specific water quality data collection (background conditions) in lieu of complete reliance on the Department of Environmental Conservation's water quality standards and wastewater discharge permitting program. Additional expenditures will occur assisting ADEC in developing a NPDES program that will be approved by EPA. Estimate that five reviews requiring ADF&G participation will be conducted annually to adopt regulations under AS 46.03.087(b).

Prepared by: [Signature]
Division: Habitat and Restoration

Approved by Commissioner: Frank Rue
Agency: Fish and Game

Phone: 465-4105
Date: 1/29/97
Date: 1/29/97

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ADF&G Fiscal Note Assumptions on CSHB 51(O&G)

Page 2

One additional permitting position will be needed to increase the scope of AS 16.05.870 and AS 16.20 permit reviews for activities previously afforded full protection under ADEC's wastewater permit program. This is largely due to the significantly increased field presence that will be required to collect and evaluate background conditions under AS 46.03.085(a)(4) and concerns that AS 46.03.085(e) will preempt retention of the Aquatic Life Standard's numerical turbidity and stream substrate sediment accumulation criteria. The corresponding federal narrative sediment criteria lumps settleable solids, turbidity, and total suspended solids together and does not include numeric limitations. Under a best case scenario, it would still require readoption of these criteria under AS 46.03.087, potentially on a site-specific basis. Greater statutory assurance that ADEC could retain its Aquatic Life turbidity and sediment accumulation criteria would significantly reduce this cost estimate.

Estimate five reviews will be conducted annually under AS 46.03.087(b) to adopt water quality regulations for which there is no corresponding federal criteria, a more restrictive criteria is proposed, or for methods that are not substantially similar to methods approved by EPA. Difficult to estimate cost because it is highly dependent on availability of site-specific water quality and hydrologic data; however, estimate it may range a low of \$10,000 per review to a maximum of \$62,000 each (this is the actual annual cost recently incurred assisting ADEC in development of site-specific criteria for Ikalukruk Creek (Red Dog Mine).

Estimate 0.5 FTE Habitat Biologist will be needed in Years 1 and 2 to assist in developing a state-run NPDES program that will be approved by the EPA.

Increased AS 16.05.870 and AS 16.20 Permit Review and Compliance Inspections

	<u>Annually</u>	
Line 100	75.0	1 - Habitat Biologist
Line 200	7.0	
Line 300	5.0	
Line 400	3.0	
TOTAL	90.0	

AS 46.03.087(b) Evaluations (5 annually) (Assume low-range estimate of \$10,000 each)

	<u>Annually</u>	
Line 100	37.5	0.5 - Habitat Biologist
Line 200	6.0	
Line 300	4.0	
Line 400	3.0	
TOTAL	50.5	

NPDES Program Assumption (Years 1 and 2 Only)

	<u>Year 1 and 2</u>	
Line 100	37.5	0.5 - Habitat Biologist
Line 200	5.0	
Line 300	3.0	
Line 400	2.0	
TOTAL	47.5	

FISCAL NOTE

STATE OF ALASKA 1997 LEGISLATIVE SESSION

BILL NO.

HB 51

Revision Date: 1/22/97 5:00 P.M.

Title: An Act relating to the Department of Environmental Conservation

Department Affected: Environmental Conservation

Sponsor: Reps Rokeberg and Kelly

BRU: Department-wide

Requestor: House Special Committee on Oil and Gas

Component: All

COMPONENT SERIAL NO.

633

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	2,597.0	2,597.0	2,597.0	2,597.0	2,597.0	2,597.0
TRAVEL	208.0	208.0	208.0	208.0	208.0	208.0
CONTRACTUAL	681.0	681.0	681.0	681.0	681.0	543.0
SUPPLIES	204.0	204.0	204.0	204.0	204.0	204.0
EQUIPMENT	212.0	212.0	212.0	212.0	212.0	212.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	3902.0	3902.0	3902.0	3902.0	3902.0	3764.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS:

FULL-TIME	29	29	29	29	29	29
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Susan Braley
Division: Air & Water Quality

Phone: 907-465-5308
Date: 1/22/97

Approved by Commissioner: Frank Tilton Acting Comm.
Agency: Department of Environmental Conservation

Date: 1-22-97

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Attachment to Fiscal Note, HB 51 -- 1/22/97

The break out of the fiscal note for HB 51 is shown by pertinent sections of the bill.

All Sections.

There will be significant legal issues associated with several sections of this bill, including obtaining delegation of the NPDES program from EPA as directed by Section 3. Per the Department of Law, they anticipate a full time attorney will be required.

Line 300 (Department of Law RSA)

\$138,000

Section 2.

This section prohibits the adoption of any environmental regulation by DEC unless the requirements are economically feasible for the persons governed by the regulations without any consideration of the public health impacts. The department administers 29 sets of regulations through Title 18 (Environmental Conservation). In a given year, approximately 15 regulatory packages are developed, revised, or amended by the department, some of which are complex and comprehensive amendments to existing law or are mandated by recent changes to federal law. The requirement to determine the economic feasibility of compliance with all DEC regulations cannot be met solely by DEC technical and scientific staff whose training is in areas other than economics.

Based on the level of regulatory activity in the department, funding for three Economists would be required:

Line 100	2 FTE (Economist II)	\$190,000
	1 FTE (Economist III)	\$107,600
	Total Line 100	\$297,600
Line 200	Travel	\$5,000
Line 300	Contractual	\$3,000
Line 400	Supplies	\$3,000
Line 500	Equipment	\$9,000

TOTAL COSTS SECTION 2 PER YEAR = \$317,600

Section 3.

This section requires the department to seek and maintain primacy of the federal National Pollutant Discharge Elimination System (NPDES) program from the USEPA. The major components of the NPDES program include permitting, compliance monitoring, and enforcement. This section represents the most substantive part of the proposed legislation from a fiscal perspective. In 1987 the department analyzed the viability of gaining primacy for the NPDES program and estimated at that time it would cost approximately \$2.3 million to administer the minimum effort required by EPA to

maintain the NPDES program.

The Division of Air and Water Quality is currently in the process of awarding a \$25,000 contract to conduct a new feasibility study on state primacy of the NPDES program. Unfortunately, the results of that study will not be available until June 1997. Therefore, for purposes of this fiscal note, the 1987 analysis has been used as the basis for determining the costs of assuming the NPDES program, taking into account current costs estimates.

Line 100	21 FTE professional staff (Envir. Specialists/Engineers)	\$1,994,700
	4 FTE clerical staff (Admin. Clerk II)	\$209,800
	(to implement NPDES related functions in permitting, monitoring, compliance monitoring, and enforcement)	
	Total Line 100	\$2,204,500
Line 200	Travel (compliance monitoring, enforcement)	\$200,000
Line 300	Contractual	\$400,000
Line 400	Supplies	\$200,000
Line 500	Equipment	\$200,000
TOTAL COSTS SECTION 3		\$3,204,500

Section 4 & 5.

To achieve the requirements under these sections, one additional full time staff position would be required to handle the requests to change a State water quality standard allowed in Sec. 46.03.085© and Section 36.03.087(b), as well as a full review of the regulations required in Section 5 of the bill. The timelines required in 46.03.085(c) would mean a staff person would have to give immediate and full time attention to the requested change.

Because of the contentious nature of making changes to the state water quality standards, it is vital that we seek, and have available for the public, third party expertise on the water quality standard in question. Past experience with contractual funding for third party expertise shows that costs run from \$20,000 to \$75,000 depending on the complexity of the issue. For example, an initial review done just on settling velocities of sediment for the A-J Mine's tailing impoundment cost the Department \$20,000 in 1994. Given the estimate of four changes requested per year, it is estimated that \$100,000 in contractual expenses will be incurred per year to gather third party expertise on the issues. Public notice and hearing costs run approximately \$10,000 per regulatory change. Therefore, the fiscal note includes:

Line 100	1 FTE professional staff(Envir. Specialist III)	\$95,100
Line 200	Travel (hearings, research)	\$3000

Line 300	Contractual Costs for 3rd party expertise	\$100,000
	Public Notice costs	\$40,000
Line 400	Supplies	\$1000
Line 500	Equipment	\$3000

TOTAL SECTION 4 & 5 PER YEAR = \$242,100

TOTAL COSTS OF HB 51 FOR ALL SECTIONS:

Line 100 (personal services)	\$2,597,200
Line 200 (travel)	\$208,000
Line 300 (contractual)	\$681,000
Line 400 (supplies)	\$204,000
Line 500 (equipment)	\$212,000
TOTAL GF	\$3,902,200

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 13, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 1/30/97

The HOUSE SPECIAL COMMITTEE ON OIL AND GAS Committee considered:

HB 51

HOUSE BILL NO. 51

REGULATIONS OF DEPT OF ENV. CONSERVATION

"An Act relating to the Department of Environmental Conservation."

recommends it be replaced

with the following committee substitute CS For HB No. 51 K

☒ the same title
☐ a new title

☐ additional referral to _____ Committee

☐ attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

☒ fiscal note(s) D.E.C. 1/22/97

☐ fiscal note(s) _____

ADF&G 1/29/97

☐ zero fiscal note(s) _____

☐ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Car Bender</u>	☒			
<u>Mike H...</u>	☒			
<u>Tom T...</u>	☒			
<u>Scott W...</u>			☒	
<u>John J...</u>		☒		
<u>John R...</u>				

CHAIR'S SIGNATURE

Matthew...

1/30/97

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Juneau, Alaska 99801-2105

MEMORANDUM

January 21, 1997

SUBJECT: Sectional Summary of HB 51. (An Act relating to the Department of Environmental Conservation)

TO: Representative Norman Rokeberg
Attn: Shirley Armstrong

FROM: Terri Lauterbach 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Gives findings and intent of the legislature.

Section 2. Places feasibility and measurability limits on all regulations of the Department of Environmental Conservation.

Section 3. Directs the DEC to seek and maintain authority from the federal government ("primacy") so that the state can administer the national pollutant discharge elimination system (NPDES) in Alaska instead of the federal government.

Section 4. Adds two new sections to the Alaska Statutes that affect the adoption and application of water quality standards. Requires special procedures for state standards that are different in specified ways from related federal standards.

Section 5. Requires DEC to review all current water quality regulations to determine if they comply with federal requirements and are not more stringent than applicable federal regulations. Requires rejustification or revision of regulations that fail the review criteria.

TML:jdr
97-028.jdr

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
JUDICIARY COMMITTEE, MEMBER
CORRECTIONS FINANCE SUBCOMMITTEE, MEMBER



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SESSION:
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JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

MEMORANDUM

TO: Representative Mark Hodgins, Chairman
House Special Committee On Oil & Gas

FROM: Representative Norman Rokeberg *NJR*

DATE: January 21, 1997

SUBJECT: HB 51 - "An Act relating to DEC water quality."

Attached is committee packet for HB 51. As of this date I have not received the fiscal notes from the Departments of Fish and Game or Environmental Conservation. My office has contacted each department and they have assured me that the fiscal notes will be made available to the committee before the public hearing on Thursday.

In addition Representative Kelly and I met with Mr. Al Ewing, Deputy Commissioner of DEC today to discuss DEC's current position on the bill. DEC's staff have made some recommendations for word changes and we have contacted legal to prepare a blank CS for presentation to the Oil and Gas Committee.

Thank you for scheduling HB 51 and I am looking forward to working with you on this bill.

FISCAL NOTES

State of Alaska
Office of the Governor

TONY KNOWLES
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Bob King
Press Secretary
Claire Richardson
Deputy Press Secretary
907-465-3500
FAX: 907-465-3533

FOR IMMEDIATE RELEASE: January 24, 1997

97-027

KNOWLES APPLAUDS STRONG GROWTH IN MINING
Receives Alaska Minerals Commission's 1997 Report

Governor Tony Knowles underscored his commitment to the state's mining industry today when he received the 1997 Alaska Minerals Commission report highlighting a third consecutive year of strong growth since he took office.

"New mines are coming on line around the state, especially in rural Alaska, and Alaskans are filling lots of new jobs," Knowles said. "My priority is creating public-private partnerships that improve the economic and regulatory climate for environmentally sound mining efforts that result in more and better jobs for Alaskans."

The mining year was highlighted by the commissioning of a new mine at Fort Knox near Fairbanks and the construction of the Illinois Creek Mine near Galena. Together the mines will employ about 485 workers and are expected to produce about 420,000 ounces of gold each year.

Alaska Minerals Commission chairwoman Irene Anderson thanked Knowles for taking action on recommendations made by the commission last year. "The continued funding of the airborne geophysical surveys is just one of the legislative and administrative actions that have contributed significantly to continued strong growth of the mining industry," Anderson said.

Some of the commission's recommendations for 1997 include the state assuming control of a federal program monitoring the discharge of pollutants into streams, continued investment in aerial mapping of Alaska's mineral resources, and support of the Alaska Mineral and Energy Resource Education Fund.

-more-

"The growth of high-paying mining jobs combined with the continued protection of our environment shows that the relationship between my administration and the mining industry is working very well," Knowles said. "We're not only creating jobs by developing our resources, we're doing it right."

Commerce Commissioner William Hensley, whose staff provided administrative and professional support to the Alaska Minerals Commission says it is recommending that the state should take control of the federal National Pollutant Discharge Elimination System program to simplify the permit process.

"At present, a federal agency based in Seattle runs the program. The commission believes the process would be more efficient if it was operated by Alaskans. The water quality standards would remain subject to federal approval," Hensley said.

Another area the commission would like to see changes in is the airborne surveying of Alaska's geophysical features. Up until now, efforts have been short term.

"The commission feels strongly that mapping should be institutionalized rather than based on annual appropriations," Hensley said. "Competition for mining investment dollars is fierce and some countries have been mapping for years. They understand that if you don't have the information you can't play in the mining game."

During today's presentation of the report, Knowles pledged to continue working to maintain the positive trend in Alaskan mining activity and told commission members that he and his staff would carefully examine the 1997 recommendations.

AMENDMENT

BY ROKEBERG

OFFERED IN HOUSE SPECIAL COMMITTEE ON OIL AND GAS

TO: CSHB 50\K DATED 1/29/97

PAGE 2, Line 7 after "shall":

DELETE: "seek and maintain"

INSERT: "continue to investigate the feasibility of securing"

Alaska State Legislature

REPRESENTATIVE

PETER KELLY

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While in Juneau

State Capitol

Juneau, Alaska

99801-1152

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House District 31

House Of Representatives

Amendment: from ADF&G written comments.

Before: House Oil & Gas Committee

Page 2, line 21. Following "shall consider"

Insert: "reasonably available information on"

Page 3, line 24. Following "(e)"

Delete: "The"

Insert: "Except as otherwise provided in AS 46.03.087, the"

Page 4, line 14. Following "consider"

Insert: "and prepare a written finding assessing"

Page 4, line 15. Delete: "and prepare written findings"

Amend #1
ADOPTED
10:30 pm
1/30/17

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House District 31

House Of Representatives

Amendment: from ADF&G written comments.

Before: House Oil & Gas Committee

Page 2, line 21. Following "shall consider"

Insert: "reasonably available information on"

Page 3, line 24. Following "(e)"

Delete: "The"

Insert: "Except as otherwise provided in AS 46.03.087, the"

Page 4, line 14. Following "consider"

Insert: "and prepare a written finding assessing"

Page 4, line 15. Delete: "and prepare written findings"

January 27, 1997

The Honorable Norman Rokeberg
Alaska Legislature
State Capitol, room 24
Juneau, AK 99801-1182

Post-It Fax Note	7871	Date	1-29 1997
To	SHIRLEY ARMSTRONG	From	GERON BRUCE
Co./Dept.		Co.	
Phone #		Phone #	415-6143
Fax #	415-2040	Fax #	415-2332

Dear Representative Rokeberg:

The Department of Fish and Game has reviewed HB 51 and the Oil and Gas Committee substitute which was adopted by the committee on January 23. It is our understanding that additional changes may also be made to the bill before it leaves the House Oil and Gas Committee. I am requesting your consideration of several changes to the bill at this time. I believe these changes are important to maintaining healthy fish populations in Alaska's fresh water bodies.

The department supports the change made by the committee substitute in Section 2 of the bill. This section deals with the consideration of the economic feasibility of a Department of Environmental Conservation regulation. The original HB 51 prohibited the adoption of any regulation by DEC unless it was economically feasible for the persons governed by the regulations.

Whether or not a given regulation is economically feasible is likely to be debated and litigated. Furthermore, while the economic impact of environmental regulations should be considered in the process of adopting regulations, it should be considered along with other factors. For example, the cost of maintaining water quality standards has to be balanced against the benefits of maintaining fish production for Alaska's commercial, recreational, and subsistence users.

The Department of Fish and Game requests your consideration of the following amendments to Section 4.

Section 4 AS 46.03.005. Water Quality Standards.

- (a)
- (1) shall ensure that the standards are sufficient to protect human health, (AND PROPAGATION OF FISH AND WILDLIFE) maintain aquatic productivity, and protect designated use(s) of a water body:
- (2) shall consider ~~the natural condition of the water body~~ On the background condition of bodies of water, including the presence of naturally occurring pollutants, such as arsenic;
- (3) shall use scientific justifications and water quality criteria that can be reliably measured, unless a different criteria is required by federal law or regulation; and
- (4) when site-specific information is reasonably known or available, may not require discharge water to be of a higher quality than the natural condition of the water into which the discharge is made, unless a more restrictive discharge criteria is required by federal law or regulation. (RECEIVED BY THE USER);

Justification: The amendment to (a)(1) is necessary to ensure that all designated uses of a waterbody are protected consistent with the Clean Water Act

The amendments to (a) (2) and (a) (4) are necessary to ensure that ADEC is only required to consider reasonably available natural background information (this could include information supplied by a permit applicant). Absent clarification, the statute shifts the burden of proof to ADEC for determining site-specific water quality standards under 18 AAC 70.025. Shifting the burden of proof entails a large fiscal note and in many cases will cause unreasonable delays in permit issuance.

The amendment to (a) (3) is necessary to maintain compliance with the Clean Water Act, National Toxins Rule, and technology-based, federally promulgated effluent limitations.

The language is also changed in (a) (4) to make it clear that the standards apply to the water into which the discharge occurs and not the water that is received by the user. Otherwise, polluted water could be taken by a user from a settling pond, for example, and after use discharged into another water body regardless of the impact on the receiving water body.

Section 4. AS 46.03.085

(e) Except as otherwise provided in AS 46.03.087, [T]he measurement of sediment to determine whether a permittee is in compliance with permit limitations based on water quality shall be by the volumetric Imhoff Cone method for settleable solids. However, this section may not be construed to limit the department's authority to adopt water quality criteria for total suspended solids, turbidity, or stream substrate sediment accumulation to meet United States Environmental Protection Agency requirements.

Justification: EPA has a single narrative sediment criteria that includes settleable solids, total suspended solids, and turbidity. In contrast, ADEC has separate criteria for settleable solids, turbidity, and a criteria for stream substrate sediment accumulation under the Aquatic Life Standard. This amendment is needed to ensure that ADEC has authority to adopt turbidity and stream substrate sediment accumulation criteria adequate for maintaining fish production.

Section 4. AS 46.03.087

(b) Before adopting a standard or regulation governed by (a) of this section, the department shall

(1) make available to the public, at convenient locations, copies of the proposal and the written findings of the department that describe the basis for the proposal; and

(2) consider and prepare a written finding assessing the economic and technical feasibility of the proposal [AND PREPARE WRITTEN FINDINGS], and

(3) find in writing, as applicable, that

[(A) HYDROLOGIC CONDITIONS OR DISCHARGE CHARACTERISTICS IN THE AREA OF THE STATE OR AT A PARTICULAR SITE WHERE THE STANDARD OR REGULATION APPLIES REASONABLY REQUIRE] the water quality standard, discharge standard, or method of measurement is reasonably required to protect human health or propagation of fish and wildlife; or [AND]

(B) hydrologic conditions or discharge characteristics are significantly different in the area of the state or at that particular site from those upon which the corresponding federal criteria or regulation are based.

Justification: As currently drafted, adopting water quality standards or criteria requires a showing that (1) hydrologic conditions or discharge characteristics reasonably require it to protect human health or fish and wildlife AND (2) hydrologic conditions or discharge characteristics are significantly different from those used to develop a corresponding federal standard (assuming that there is one). This would require gathering of site-specific hydrologic or discharge information for any criteria proposed under AS 46.03.087. In many cases, federal criteria are developed based on laboratory testing. Hence, we would be unable to adopt an aquatic life TSS or turbidity criteria unless we could first show impacts to the propagation of fish and wildlife including why hydrologic conditions or discharge characteristics are

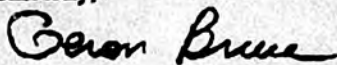
significantly different from those used to develop corresponding federal standards. The presumption also exists that a standard is not needed if the federal government, for various reasons, has not adopted a corresponding standard.

Case in point: The federal suspended sediment and turbidity standard is a narrative prohibition limiting reductions in the depth of compensation for photosynthetic activity to 10% or less of the seasonally established norm. This standard is impossible to implement in clear, shallow lakes, rivers, and streams - yet available literature clearly demonstrates reductions in fisheries production with increasing levels of suspended sediment and turbidity. It is difficult and costly for ADEC to establish reliably the seasonal norm in waters with high natural variability. The only reasonable, cost-effective options is to establish a separate state TSS or turbidity standard. To the extent that the required written finding requires ADEC's to conclusively demonstrate why state or local conditions are significantly different (e.g., demonstrate why EPA didn't adopt a numeric TSS or turbidity standard) or why a TSS or turbidity criteria is needed to protect human health (not aquatic life), it will impact ADEC's ability to adopt necessary standards for the protection of fish and wildlife.

The proposed amendment retains both conditions as a justification for adopting a different state standard or criteria but deletes the connective "and" requirement.

Thank you very much for considering our suggestions. If you or your staff would like to discuss these recommendations further, please contact me.

Sincerely,



Geron Bruce

Special Assistant to the Commissioner

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR
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January 30, 1997

The Honorable Mark Hodgins
Chairman, House Special Committee on Oil & Gas
Room 110, State Capitol
Juneau, AK 99801

Dear Representative Hodgins:

This letter is in response to Representative Rokeberg's request during the January 23, 1997 committee hearing on HB 51. Representative Rokeberg asked for our Department's written concerns with HB 51, along with a listing of state Water Quality Standards that are more stringent than the federal standards.

While our concerns with HB 51 are numerous, of primary importance is the lack of a central objectives. The sponsor's statement says that the intent is to "foster resource development within the State of Alaska while endeavoring to simplify the regulatory climate." Our confusion results from the fact that the bill does neither. It is ambiguous and several of its provisions are contradictory. Rather than simplifying the regulatory climate, it adds yet another layer of process, process that in turn adds no value to developing well reasoned water quality standards.

Therefore, to the extent the intent of the legislation is unclear, it is hard for us to make any specific recommendations on how to fix it. And, to the extent unclear legislation becomes law, everyone's costs go up. Our limited staff time would also be diverted from permitting to sorting out this new, confusing process.

Going through the bill section-by-section, I will highlight some of the major problems we see with the legislation.

Section 1. The Department supports the policy of enabling cost efficiencies, creation and retention of jobs for Alaskans, and the economic development of the State's natural resources. But that development must be done right. Doing it right means setting standards based upon sound science, prudent resource management and full public involvement. For water quality standards, public health and multiple use compatibility must also be compelling policies.

Section 2. As was pointed out in our testimony last week, this section applies to all the Department's environmental programs and creates a hurdle the department simply could not jump over. Nor is it in the best interests of the people of this state. To require that environmental regulations consider only whether the person can afford to comply puts thousands of Alaskans at risk from detrimental health effects due to environmental problems.



Our drinking water can be full of naturally-occurring bacteria and protozoans that are deadly to humans that may not be "economically feasible" to treat. We can be negatively impacted from hazardous chemicals that are released but not "economically feasible" for the person responsible for the release to clean up. Is our system of standards to be based solely in economics? Are public health and equal access to resources irrelevant?

How do we make the determination that something is or is not "economically feasible?" On an individual basis? By industry group? Based on what kind of information? Does the operator with the most financially marginal operation set the standards for the state?

This section also creates confusion regarding "background condition." There are terms of art dealing with "background" and "natural condition." These maybe factors when dealing with permitting or compliance but are generally not issues in standards setting. In fact, a serious source of confusion in the bill is the lack of distinction between standard settings, permit issuance, and compliance monitoring. Standards are only one part of a sound water management program. Standards set basic levels of protection for public health, resource values, and other water uses. Permitting sets the terms and conditions for particular discharges to ensure that human or aquatic life health is not harmed and that other water users are not shut out by the first user on the block. Compliance is verifying that the permit terms are being followed.

To apply this, say there's a standard of X parts per billion for a contaminant. This standard was set based upon aquatic life mortality or human health impacts from long-term exposure. An operator discharging into a water body would have to show that his discharge would not cause a violation of that standard in the water body. However, in permitting the discharge the agency can factor in individual circumstances. For example a mixing zone can be designed when there is no feasible treatment technology and no public health or aquatic life risk is posed from the specific discharge into the specific water body. If so, the operator could then have a permit to meet the standard at the edge of a mixing zone rather than at the point of discharge. Finally, in compliance checking, if the standard is exceeded but the source of the exceedance stems from a different operator upstream, enforcement discretion is used so that the downstream water user is not responsible for pollution from an upstream user.

There are other site specific tools to make sure that standards are imposed in a common sense manner. But, trying to deal with industrial permitting and compliance issues through a broad brush downgrading of standards relegates public health and resource protection to incidental and secondary consideration at best.

Section 3. At industries' request, the Department is looking into the possibilities of assuming NPDES delegation from EPA. We will be awarding a contract soon to present strategies with costs and possible funding sources. However, as our fiscal note shows however, this is an expensive program and one that the state has looked at before, only to refuse because of the cost.

Even if the money issues were resolved, however, EPA wrote last year that this bill would likely preclude state assumption of the NPDES program. For all delegations, the EPA - as do all other federal agencies that delegate programs to the states - looks at a variety of issues, including whether

or not the state is "at least as stringent" as the federal rules. To the extent this legislation dictates that water quality standards be set based only on the least stringent "science" without the other considerations in the Clean Water Act, including protection for shared users, we would not have a program that was at least as stringent as the federal government.

The reason the federal government has such a requirement--that the states be at least as stringent--is to ensure all people in this country have the same basic public health and environmental protection. That is, no matter where you live in the United States, there is a floor below which a state may not go. Some programs do allow states to do case-by-case adjustments, just like our state water quality program allows an applicant to use the natural condition of a water body as a basis for a water quality standard change that is less restrictive than the federal criteria. The Clean Water Act and federal regulations adopted under it were intended solely as a floor to give states the ability to tailor standards to local conditions. Those standards were not meant as a mandatory ceiling.

Section 4. Section (a) conflicts with the Clean Water Act, for many reasons. In addition to the reasons stated above, all existing and potential uses are required to be protected in the Act, including protection of propagation of fish, shellfish, wildlife recreation in and on the water, domestic water supply, agricultural, industrial, and navigational uses. This bill ignores that multiple use protection.

The concept forcing us through special procedures for water quality standards that are more stringent than the federal criteria is very problematic for both the department and permittees. Not only will this add cost and time to the entire process but, because of other processes already provided for in state law, it is very likely that the Department may have multiple simultaneous requests. That is, requests could be filed under the process in this bill, requests could be filed under the Administrative Procedures Act (AS 44.62.220) and finally through the triennial review. Effectively, what we would have is the ability for groups with opposing issues to use the process to fight each other and unduly delay projects.

There is no requirement that the person petitioning the department to change the state's standard provide the department with any information upon which to make a decision. Under the Administrative Procedures Act, the petitioner must provide the department with the information needed to make a decision. AS 44.62.230 lays out what any department must do when it receives a petition to adopt, change, or repeal a regulation. It says that within 30 days we must either deny the petition or schedule a hearing. It is unclear to me how this process is flawed to the point that an entirely new, duplicative, and simultaneous process must be created.

We don't know what is meant by the terms "hydrological conditions or discharge characteristics." These are not terms of art in the water world. EPA federal criteria are based on laboratory toxicity tests. This seems to be another example of confusion between standard setting and permitting.

We also believe that setting in statute specific measurement requirements is short sighted. If it is in statute, we have no way to allow someone to use another method if they so desire.

January 30, 1997

Section 5. I question the wisdom in using Department resources in this way, just for the sake of becoming as minimally stringent as possible. When faced with the choice of creating a comparison table from the 6,700 pages of federal guidance, and dealing with actually addressing water quality standards, we have chosen the latter. In particular, we launched an effort to address the most pressing problems identified by those affected by water quality standards.

We mailed 1,200 letters to Alaska businesses, organizations and individuals, asking for the water quality standard driving them crazy in their day-to-day activities. Working with a public work group we prioritized the standards to set a timetable for resolution. Enclosed is a listing of those issues and the expected time lines for resolutions. We will be making a transition from the Governor's Water Quality Work Group to the triennial review process this year and will continue to work with Alaskans to resolve water quality standard problems.

You also asked for a comparison of the State standards with those of the federal standards. DEC has not completed its work on doing a comparison, so this information is not available. The toxics criteria involves interpretation of over 6,700 pages of technical information that the State adopted by reference. We hope to have this work completed some time this spring, workload permitting. However, we understand that a contractor, Parametrix, has been doing this exercise for AOGA and that a copy may have been provided to Representative Rokeberg. DEC provided assistance to Parametrix during this process.

In summary, setting water quality standards that assure Alaskan's long-term public health and water quality needs is by its nature a complex and intensive process blending science and public policy choices. The science used to justify many positions taken on these issues can be as numerous as the individuals looking at the information. What works for one party will not work for another. That's why it takes continual interactive public discussion to achieve that balance. Reducing water quality standards by blanket statements, adding yet another process to follow, and passing confusing and contradictory legislation will not advance that effort.

Sincerely,



Michele Brown,
Commissioner

Enclosure

cc: Honorable Tom Brice
Honorable Con Bunde
Honorable J. Allen Kemplin
Honorable Scott Ogan
Honorable Norman Rokeberg
Honorable Joe Ryan
Pat Pourchot, Legislative Director, Office of the Governor
Al Ewing, Deputy Commissioner, ADEC
Janice Adair, ADEC

ISSUE	APPROACH	TO WQWG	TO COMMISSIONER
petroleum hydrocarbons -- re-evaluate Total Aromatic Hydrocarbon, Total Aqueous Hydrocarbon, and oil & grease standard	Research and report available information, including background of current standards, alternative compound specific data, and other states' criteria.	4/30/97	5/15/97
dissolved metals -- criteria for metals should be based on dissolved metal and bioavailable metal species	Research and report on derivation of EPA criteria, federal guidance, evolution of EPA conversion factors, and bioavailability of dissolved vs. Particulate metals.	3/31/97	4/15/97
reclassification -- define in detail the process and requirements for petitioners to follow	Draft reclassification guidance document for petitioners, including a decision tree and application information.	5/1/97	5/15/97
fecal coliform -- sampling frequency should be changed from 5/month to once/week.	Review origin of fecal coliform sampling requirements in permits and make changes in DEC written guidance on monitoring requirements, as appropriate.	12/31/96	1/15/97
total dissolved solids -- State should re-evaluate the TDS standards	Review TDS information on other states, Canada, DEC paper, and DPA TDS research ... look at differences between WQS and DW regs, review in-state TDS studies ... report results and recommendations for TDS changes to consider regs changes.	5/15/97	6/5/97
compliance schedules -- change regulations to allow DEC and/or EPA to enter into water quality compliance schedules in permits	Review court decisions on need for compliance schedule language in standards and propose language for regulation change.	1/30/97	2/15/97
National Toxics Rule -- Alaska needs to get out from under the NTR	DEC to discuss approaches with EPA and make appropriate request, after conceptual approval given.	12/19/96	letter signed by Commissioner
303(d) Listing -- develop science-based criteria and guidelines for adding and removing streams from the listing of impaired water bodies	Review federal and other states regulations and guidance ... develop guidance document for Alaska.	4/22/97	5/6/97
Arsenic -- State should adopt its own human health criteria	Petition EPA for exemption during interim period of EPA research, allowing Alaska standard to be in effect.	Advised @ 12/19 meeting	1/15/97
acute toxicity -- consider an acute whole effluent toxicity criterion for effluents	Review and report on whole effluent toxicity information and make recommendations for changes.	2/1/97	2/15/97
pH -- re-evaluate the State's pH criteria	Review regulations and resolve discrepancies with State and federal regulations.	1/31/97	2/15/97
non-indigenous species -- address this issue and consider adopting WQS to protect State waters from such a threat	Assemble information about the issue and consult with federal agencies on situation ... make recommendations.	1/20/97	2/3/1997

ALASKA MINERALS COMMISSION

1997 REPORT TO THE GOVERNOR AND ALASKA STATE LEGISLATURE

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WATER QUALITY: MIXING ZONES

- 5 The water quality regulations promulgated by the Department of Environmental Conservation on October 31, 1996, should not be implemented and should be withdrawn until they are modified to be workable and no more stringent than required by federal law. Specific standards such as TDS should be revoked with reasonable standards implemented or, at the very least, the process for development and approval of site-specific standards need streamlining and simplifying.

WATER QUALITY: NATURAL CONDITIONS

- 
- 6 The Legislature should adopt a Statute to supplant the regulation at 18 AAC 70.025 to the effect: "If available evidence reasonably demonstrates that the natural condition of a waterbody is of lower quality than a water quality criterion for the use classes in 18 AAC 70.020(b), and that the natural condition will maintain and protect those uses that are attained in the waterbody, the natural condition constitutes the applicable water quality criterion."
- 

WATER QUALITY: BASELINE DATA

- 7 The Legislature should appropriate funds to begin baseline water quality data gathering and development of appropriate aquatic life criteria for acute and chronic toxicity on Alaskan species under Alaskan conditions.

ACCESS

- 8 The Legislature should make funding available to the Division of Land and the Attorney General's Office for ongoing research and litigation of the RS2477 rights-of-way. The Governor should aggressively assert "quiet title" to the routes with the best documentation. Further, the State should assert an access route pursuant to Title XI of the Alaska National Interest Lands Conservation Act to test the process and set precedent.

NAVIGABILITY

- 9a The Legislature should make funding available to continue a centralized, systematic navigability program within the Department of Natural Resources. Additionally, funding should be made available to the Department of Law to support any "quiet title" actions necessary to secure ownership of submerged lands.
- 9b The Legislature should not adopt a Statute that treats the beds of disputed waterways as "State-selected lands."

USER FEES AND ASSESSMENTS

- 10a The Legislature should amend AS 44.46.025, which allows the Department of Environmental Conservation to prescribe fees for services, and require public review and Legislative approval of all fees affecting the mining industry.
- 10b The Legislature should amend AS 44.46.025 to require that all regulations that prescribe fees shall include a detailed schedule justifying the applicable direct costs of inspections, permit preparation and administration, plan review and approval, and other services provided by the department that are to be paid for by the proposed fee. In no event should the proposed fee exceed those costs reasonably necessary to cover the direct costs of the above.
- 10c The Legislature should restrict the fee-prescribing authority of other agencies in a similar manner and require that fee schedules shall be submitted annually as part of the budget process.

Alaska State Legislature

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House District 31

House Of Representatives

Comparison

HB 51 to CS HB 51

Responding to comments and suggestions from the public testimony received on HB 51, the blank Committee Substitute has changed in the following manner from the original bill referred to House Oil & Gas Committee.

In section 2 of the bill ADEC objected to and the **CS deletes**: AS 46.03.020 (b) (1) requiring a new regulation to be "economically feasible" for the persons governed by the regulation.

Also in Section 2, a new part (c) has been added defining "background condition." This definition has been excerpted from the State of Washington. It applies to the use of "background condition" in Section 4, Part (2).

Section 3 is unchanged. This is the language needed by Governor Knowles and Commissioner Hensley in their quest for the State of Alaska to assume primacy over the NPDES program.

Section 4 part (4) has been modified to reflect the language from Governor Knowles' Mineral Commission Report. This version clarifies that we are talking about "water receiving the discharge," not water received by the discharger. It also provides the procedure for ADEC to follow when the natural condition of the water does not meet the standards normally required by ADEC.

Specifically the standards become those necessary to meet the existing uses within the water body.

Section 4 also contains a new part (f) referring to the earlier definition of "background condition" mentioned above.

I believe the remaining portions of the bill are unchanged from the bill referred to your Committee.

0-LS0091\K
Lauterbach
1/29/97

CS FOR HOUSE BILL NO. 51()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG AND KELLY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Department of Environmental Conservation."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. FINDINGS AND INTENT.** The legislature confirms that it is the policy of
4 the state to implement water quality laws based on scientific and technical evidence. The
5 legislature specifically requests that state agencies possessing the necessary expertise to
6 implement AS 46.03.085 - 46.03.087, enacted by sec. 4 of this Act, coordinate their efforts
7 to enable cost efficiencies in adopting regulations that encourage the creation and retention
8 of jobs for Alaskans and the economic development of the state's natural resources consistent
9 with the public interest.

10 *** Sec. 2.** AS 46.03.020 is amended by adding new subsections to read:

11 (b) The department may not adopt a regulation under (a)(10) of this section
12 unless the regulation is based on science.

13 (c) In regulations of the department, "background condition" means the
14 biological, chemical, and physical conditions of a body of water outside the area of
15 influence of the discharge under consideration. When the department performs

1 background sampling to determine a background condition during an enforcement
2 action, the department shall measure conditions that are upslope or outside the area of
3 influence of the discharge. If several discharges to a body of water exist and an
4 enforcement action is being taken, the department's background sampling shall
5 measure conditions immediately upslope from each discharge.

6 * Sec. 3. AS 46.03.050 is amended by adding a new subsection to read:

7 (b) The department shall seek and maintain federal approval under 33 U.S.C.
8 1342(b) of the state's permit program for discharges into navigable water so that the
9 department has authority to administer the national pollutant discharge elimination
10 system in the state in lieu of the federal permit program otherwise applicable to the
11 state under 33 U.S.C. 1342(a). If, at any time, the department determines that statutory
12 or budgetary changes are necessary to obtain or maintain federal approval of the state's
13 program under this subsection, the department shall notify the legislature through the
14 governor.

15 * Sec. 4. AS 46.03 is amended by adding new sections to read:

16 **Sec. 46.03.085. Water quality standards.** (a) In adopting and applying water
17 quality standards, the department, consistent with 33 U.S.C. 1251 - 1376 (Clean Water
18 Act),

19 (1) shall ensure that the standards are sufficient to protect human health
20 and propagation of fish and wildlife;

21 (2) shall consider the background condition of bodies of water,
22 including the presence of naturally occurring pollutants, such as arsenic;

23 (3) shall use scientific justification to develop water quality standards
24 that can be reliably measured;

25 (4) may not require water discharged by a user to be of a higher quality
26 than the natural condition of the water receiving the discharge; if the available
27 evidence reasonably demonstrates that the natural condition of a body of water does
28 not meet the standards contained in the water quality criterion applicable to that water
29 under regulations of the department and the natural condition maintains and protects
30 the existing uses of the water, then the natural condition of that body of water
31 constitutes the criterion that must be met by a discharge into that body of water; and

1 (5) shall provide procedures for permitting mixing zones in state bodies
2 of water under regulations adopted by the department.

3 (b) Except when setting standards under AS 03.05.011(a) for shellfish growing
4 areas, as defined in the national shellfish sanitation program manual of operations
5 published by the Food and Drug Administration, the department may adopt a water
6 quality standard or other regulation related to water quality that is more restrictive than
7 applicable federal water quality criteria or regulations only after following the
8 procedures in AS 46.03.087(b).

9 (c) Within 90 days after receiving a written request to amend the state's water
10 quality standards to incorporate a reduction in, or elimination of, federal water quality
11 criteria, or by another date mutually agreed on by the applicant and the department,
12 the department shall either propose regulations that amend the state's water quality
13 standards to incorporate the reduction or elimination or initiate the procedure required
14 under AS 46.03.087(b). If, following the procedure under AS 46.03.087(b), the
15 department is unable to make the written findings required under AS 46.03.087(b)(3),
16 the department shall propose regulations that amend the state's water quality standards
17 to incorporate the reduction in or elimination of the federal water quality criteria or
18 regulations.

19 (d) Except as otherwise provided in AS 46.03.087, the measurement of
20 constituents other than sediment to determine whether a permittee is in compliance
21 with permit limitations based on water quality shall be by methods approved in writing
22 by the United States Environmental Protection Agency or by substantially equivalent
23 methods approved by the department.

24 (e) The measurement of sediment to determine whether a permittee is in
25 compliance with permit limitations based on water quality shall be by the volumetric
26 Imhoff cone method for settleable solids. However, this subsection may not be
27 construed to limit the department's authority to adopt water quality criteria for total
28 suspended solids to meet United States Environmental Protection Agency requirements.

29 (f) In this section, "background condition" has the meaning given in
30 AS 46.03.020(c).

31 **Sec. 46.03.087. Special procedures for certain water quality regulations.**

1 (a) The department may, after following the procedures in this section, adopt a

2 (1) water quality standard or discharge standard that is more restrictive
3 than applicable federal water quality criteria or discharge standards;

4 (2) water quality standard or discharge standard for which there is no
5 corresponding federal water quality criteria or discharge standard; or

6 (3) regulation that allows the use of a method that is not substantially
7 equivalent to methods approved by the United States Environmental Protection Agency
8 for the measurement of constituents to determine whether a permittee is in compliance
9 with permit limitations related to water quality.

10 (b) Before adopting a standard or regulation governed by (a) of this section,
11 the department shall

12 (1) make available to the public, at convenient locations, copies of the
13 proposal and the findings of the department that describe the basis for the proposal;

14 (2) consider the economic and technological feasibility of the proposal
15 and prepare written findings; and

16 (3) find in writing, as applicable, that

17 (A) hydrologic conditions or discharge characteristics in the area
18 of the state or at the particular site where the standard or regulation applies
19 reasonably require the water quality standard, discharge standard, or method of
20 measurement to protect human health and welfare or propagation of fish and
21 wildlife; and

22 (B) hydrologic conditions or discharge characteristics are
23 significantly different in that area of the state or at that particular site from
24 those upon which the corresponding federal criteria or regulations are based.

25 * **Sec. 5. TRANSITIONAL REVIEW OF REGULATIONS.** (a) The Department of
26 Environmental Conservation shall, during the triennial review process of regulations that is
27 required under 33 U.S.C. 1313(c) (Clean Water Act), review its water quality regulations that
28 are in effect on the effective date of this Act in order to determine if they comply with federal
29 requirements and are not more stringent than applicable federal regulations. If the review
30 indicates that there are state regulations that are more stringent than applicable federal
31 regulations, the department shall determine whether it could justify those regulations under the

1 requirements of AS 46.03.087(b)(3), enacted by sec. 4 of this Act. If the department
2 determines that it cannot meet the requirements of AS 46.03.087(b)(3), the department shall
3 adopt the necessary revisions to the regulations. It is the legislature's intent that the
4 department complete its review of all regulations governed by this subsection and its adoption
5 of all necessary revisions required under this subsection within four years after the effective
6 date of this section.

7 (b) The Department of Environmental Conservation shall, by January 31, 1999, and
8 annually thereafter until all of the state water quality regulations in effect on the effective date
9 of this Act are reviewed, prepare a written report on the status of the department's review and
10 revisions required under (a) of this section. The department shall submit the report to the
11 governor and notify the legislature that the report is available.



Resource Development Council for Alaska, Inc.

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January 20, 1997

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To: Representative Mark Hodgins, Chair
Representative Norm Rokeberg and Pete Kelly, Co-Sponsors
Members of the House Oil and Gas Special Committee
Alaska State House

From: Becky Gay, Executive Director, RDC

RE: HB 51 "An Act relating to the Department of Environmental Conservation"

Thank you, Chairman Hodgins and members of the Committee, for the opportunity to comment in support of HB 51, "an Act relating to the Department of Environmental Conservation." The State must work together actively and honestly to advance economically-feasible, technologically-achievable and enforceable water quality standards for Alaska. This bill is a good step in that direction.

Over the interim, RDC has worked closely with the agencies and the regulated public to address perceived shortcomings in the water quality bill which passed by a huge margin last session, but was then vetoed. Changes are reflected in HB 51 where appropriate, to make it an even better bill.

Especially in light of declining budgets, RDC believes the Legislature is ideally positioned to help DEC make tough choices in the use and protection of water. For instance, the Legislature is the appropriate body to debate and define intent. Final choices between programs for DEC implementation can find "fiscal backing" and should -- with adequate funding.

Congruence between the Legislature and the Administration on certain critical choices will provide Alaska with a springboard from which to regulate efficiently and fairly. Such congruence should also reduce or curtail costs from litigation which arises from ambiguities, vagueness and delay. Statutory authority will minimize wasted efforts and will strengthen agency resolve in areas of concern, like mixing zones.

Currently, there is no state "adjustment policy" on regulations. States are required to change only when federal regulations become more restrictive. This is a one-way street. RDC believes the State needs to legislate a requirement to automatically adjust state standards when federal changes result in less strict standards, or when federal mandates are deleted from law. HB 51 charges DEC to do this.

— **BACKUP MATERIAL** —

Foremost, HB 51 requires DEC to set standards and criteria which are scientifically supportable, consistent with existing federal standards and realistic for Alaska.

Where possible, it gives statutory backing for DEC efforts already underway. For instance, HB 51 clarifies the issue (and hopefully strengthens DEC's discretionary resolve) to use natural "background" conditions as the standard when natural levels exceed the State standard. DEC already utilizes this approach, as in the case of arsenic, but is unnerved occasionally by threatened lawsuits. Statutory backing will help.

HB 51 specifically allows for the State to have a stricter standard than federally required. It also allows for DEC to have a standard not in federal law.

HB 51 additionally provides for the following:

- An efficient "change mechanism" for DEC to respond to changes in federal regulations.
- A professional and definitive process (similar to, but not as rigorous as the air program) for evaluating agency conclusions which result in state standards being set stricter than federal requirements.
- An allowance for discharge waters to match the quality of the receiving waters.
- A statutory mandate that mixing zones will be provided for by regulation.

One change RDC recommends is replacing Section 4 (a)(4) with language which reads, "may not require discharged water to be of a higher quality than the natural condition (or existing quality) of the receiving water." This language was debated last year in HB 342 and was found more correct than that which is drafted in HB 51. This change should address concerns that polluted or impaired waterbodies might become more degraded under the current language.

Thank you for giving RDC the opportunity to comment on this legislation. I look forward to working with you in advancing this bill.

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Miners bitter over new permit guidelines

By PATRICIA JONES
Staff Writer

Claudine Nordeen shook her head in disbelief after learning Tuesday that she and her husband are now required to add nitric acid to placer mining water samples to preserve them for arsenic testing.

"You guys are all worried about cancer but you make us play around with acid," she said in disgust to a permit writer from the U.S. Environmental Protection Agency, who was outlining new federal guidelines for Alaska gold miners using placer- and suction-dredging methods.

The guidelines are included in a new general permit that many, but not all, Alaska miners will work under beginning this summer. The new general permit replaces regulations set in 1994, and the new rules expire in June 1999.

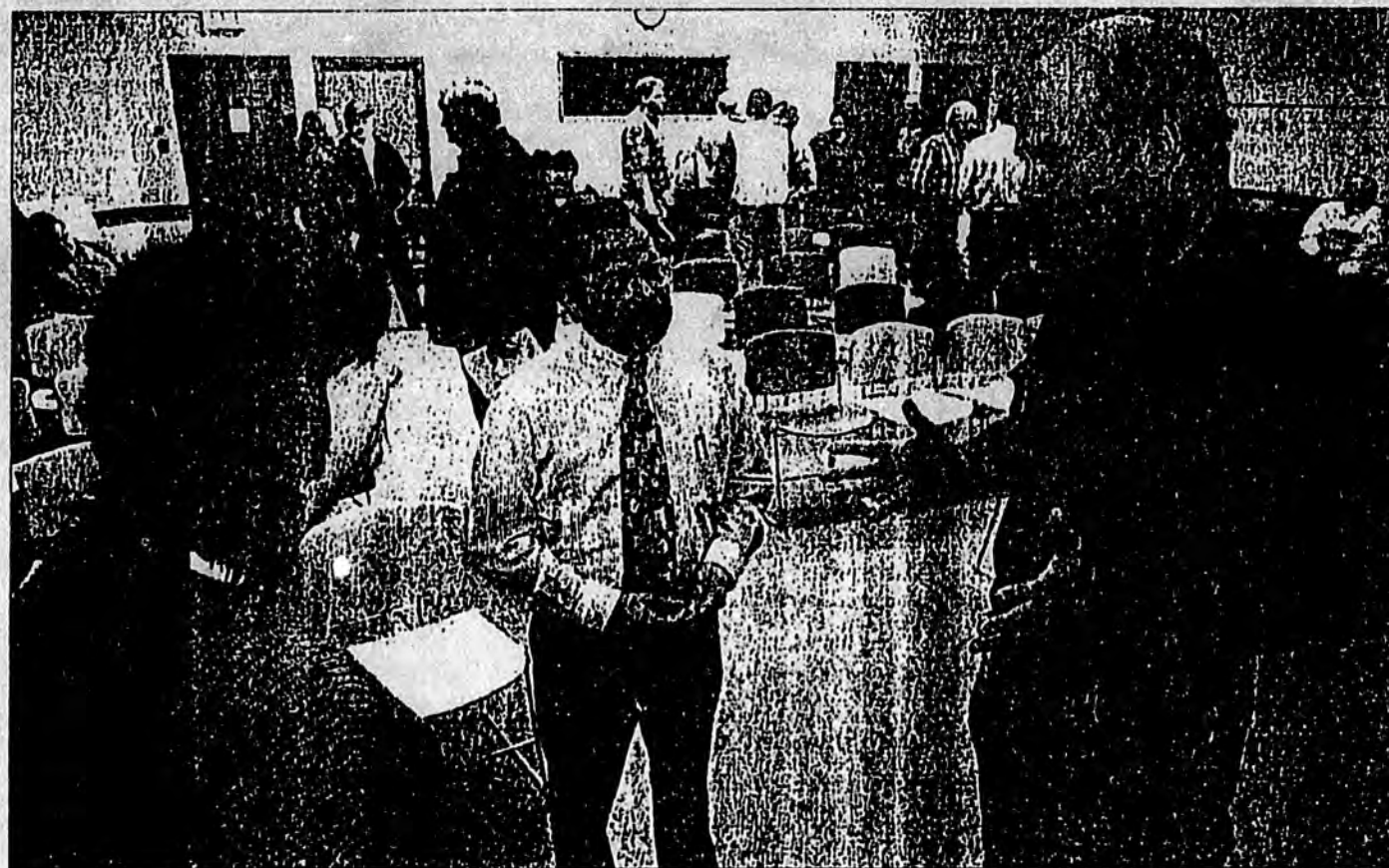
About 30 miners, as well as some local state regulatory employees, gathered Tuesday at the Noel Wien Public Library to go over changes in the operating rules. Much of the discussion about detecting arsenic remained quite acidic, including Nordeen's comment.

She was referring to a discussion earlier in the afternoon workshop, when Carla Fisher, the EPA permit writer in the Seattle office, told the group of miners about the dangers of arsenic.

"Based on a previous study in Taiwan, where there were high concentrations of high arsenic levels, we found high incidents of skin cancer," Fisher said.

Yet to preserve one liter water samples taken from discharged water to test for arsenic, EPA regulations require that Alaska miners use nitric acid. Another miner said he couldn't buy nitric acid because local stores had discontinued carrying that product, due to safety mandates from EPA.

The only way to get around using nitric acid is to take the



Sain Hara/News-Miner

PERMIT TALK—John Cook, right, of Cook's Mining asks Cindi Godsey, left, of the Environmental Protection Agency about monitoring requirements for new general permits Tuesday during a break in the EPA's workshops for placer miners. Listening in is Larry Peterson, middle, an environmental consultant who helps miners file their permits. Godsey is a national pollutant discharge elimination system permit writer for the EPA.

water sample to a testing lab within 48 hours, Fisher told the group Tuesday.

That's not a realistic option for Nordeen and her husband, since the couple runs a small placer mine near Wiseman, in the Brooks Range. That's more than 200 miles from Fairbanks, where the closest testing lab that can accurately measure arsenic in

water is located.

Even more contentious to many miners is that the federal requirement included in the general permit keeps discharged water at less than .18 parts per billion of arsenic. That compares with the state Department of Environmental Conservation's drinking water standard of 50 parts per billion.

And the lowest level that laboratory tests can accurately detect arsenic is one part per billion, said Jim Johnson, vice president of Northern Testing Laboratories, Inc. of Fairbanks.

"Many regulations have very little concern about any real health problems," he said, pointing out that municipal water systems can provide water

with more arsenic in it than mines can release into the environment.

Through the commissioner's office, DEC officials have asked regional EPA administrators to relax their regulations in Alaska and let the state's water quality standards be the limit for arsenic in mining operations.

See MINERS, Page B-2

MINERS

Continued from Page B-1

While that request was not included in the new general permit, EPA will allow each miner to request that the discharge arsenic level be based on the background measure of arsenic in water flowing into the mining operation.

That means that miners will likely need to gather background data to apply for that modification, which must go through a public comment period before approval from DEC and EPA.

"At this point, this year we know we have very limited background samples," said Pete McGee, a Fairbanks manager of a watershed development program for DEC.

FAIRBANKS

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Mine rules better but still flawed

The latest agreement between placer miners, government agencies and environmental groups brings water quality regulations, if not down to Earth, then at least into a low-level orbit.

This agreement was about a year in the making. It grew from a proposed out-of-court settlement between the federal Environmental Protection Agency and environmental groups. That settlement, announced in February of 1996, was so foul that Alaska's Department of Environmental Conservation publicly challenged the EPA.

The resulting compromise, discussed at a workshop Tuesday in Fairbanks, brought some reason to the rules, but left plenty to criticize. Environmental groups, represented primarily by the Sierra Club Legal Defense Fund, have agreed not to challenge the EPA's general permits for placer mining if the state finds those permits acceptable. That removes some uncertainty for miners. The environmental groups also agreed to drop a demand that the EPA enforce stream discharge limits for most metals until EPA finishes a 2-year study of whether such limits are even needed in Alaska. That makes sense as well.

But the most bizarre aspect of the EPA's permit—the arsenic standard—still remains. The standard says no one may dump water into "freshwater" rivers and lakes if the dumped water contains more than .18 parts per billion of arsenic. This number has little basis in science; it was developed through a highly questionable extrapolation process. In fact, the EPA, Alaska's DEC, and other state agencies in the United States allow "drinking water" from a well to contain up to 50 ppb of arsenic.

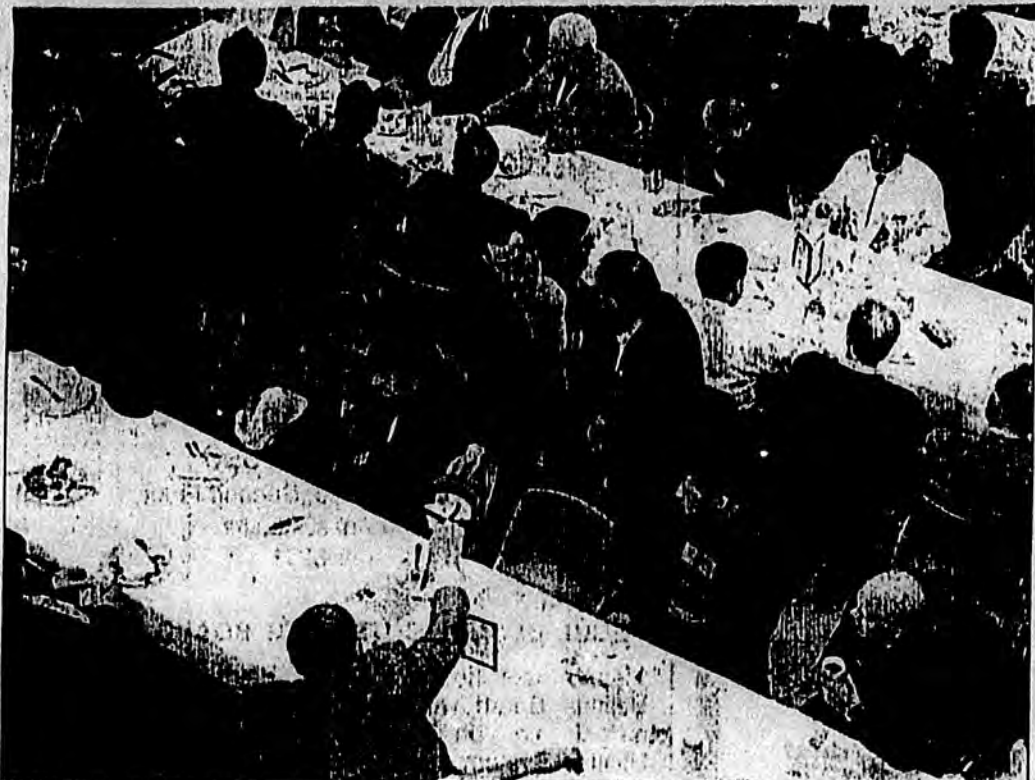
The EPA did make one concession with regard to arsenic rules. The original general permits did not allow consideration of natural arsenic levels in the water that placer miners use. If it came out of a placer mine, the standard applied. In the compromise, background levels can be considered. Also, since arsenic can't be reliably detected below 3 ppb, the EPA won't go after any miners unless the arsenic added to discharge water exceeds that figure.

Unfortunately, the EPA's general permits won't be available to anyone operating in federal conservation areas and on the "wild" parts of wild and scenic rivers. Miners with legitimate claims in these areas need individual permits, requiring more expensive data and detail.

That's overkill. Placer miners today do not muck up the Interior's clearwater streams like they did during the early 1980s. Strict regulations have forced virtually all operations to recycle 100 percent of their water. Only during heavy rainfall do their muddy ponds overflow. So, for all intents and purposes, such intermittent overflows are the only discharge to which these regulations will apply. And if those overflows conform to the general permit rules, they will still threaten our wild rivers no more than the average eroding mud bank.

50 ppb
freshwater

36 ppb
saltwater



Nora Gruner/News-Miner

PASSING THE HAT—Dick Swainback passes the hat during a luncheon at the Alaska Miners Association conference Friday afternoon. The association was trying to raise funds for legal fees to fight proposed Environmental Protection Agency rules concerning water quality. The group raised \$6,101 within minutes.

Miners unite to fight EPA

Funds to help battle new placer proposals

By HEATHER ROBERTSON
Staff Writer

Bernie Karl meant business. He dipped into his wallet, produced two crisply folded \$100 bills, and waved them in the air, ceremoniously depositing them in a black hat.

Passing the hat through a congregation of miners assembled for a luncheon presentation during the Alaska Miners Association conference on Friday, Karl urged miners to bolster his donation with their own reserves to divert a current of legislation facing the industry.

An agreement between the federal Environmental Protection Agency and the Sierra Club Legal Defense Fund regarding regulation of placer mining in Alaska has miners up in arms. The agreement concerns the general permits issued annually for placer operations in Alaska, embroiling miners in a tightly knotted legal snare.

The association is taking a



Nora Gruner/News-Miner

MINING SPEAKER—Marguerite Reiss discusses the history of mining in Alaska during a luncheon at the Alaska Mining Conference Friday afternoon at Alaskaland.

stand against the EPA's proposed changes, claiming that the newly formulated regulations within the permit are too stiff, citing "no scientific basis" in changes regarding water quality regulations.

The Sierra Club sued EPA, arguing that the current allowable

arsenic levels do not guarantee protection from metals in placer mining discharge water. In turn, EPA acquiesced in an out-of-court settlement, rewriting permit stipulations.

"As of Tuesday's public hearing, the Alaska Miners Association See MINERS, Page B-2

Continued from Page B-1

ciation was not hopeful that a legal means was available to stop EPA from taking final action on the placer mining draft permit," said Karl Hanneman, Fairbanks branch director of the association.

"Yet there is a legal process available that has to be utilized by next Friday. We can request that EPA grant a non-adversary hearing. We have a legal means of delaying imposition of the EPA settlement," he said.

Stating at the luncheon that \$10,000 in legal fees needed to be raised, Hanneman urged miners to donate money, pointing out that the miners association

would not proceed "til money was in the hat."

By passing the hat, the administrative appeal process could begin, said Hanneman. Urging miners to look in the mirror and critically assess whether the placer permit regulations affects them, he said for those who feel the impact, donating was an alternative to "beating their chests" over current inflammatory issues.

Following Karl's lead, other miners dipped into their pockets, raising \$6,101 within minutes.

"The willingness to donate money on a short notice was an indication that it's a serious matter that affects a lot of

people. It points to the real issue, not just a superficial issue," said James Johnson, vice president of Northern Testing Laboratories, a water testing lab.

Key speaker at the noontime luncheon, Marguerite Reiss, commented on the miners' generous donations, proclaiming that "they were holding a fortress against invasion."

Reiss, who has a master's degree in library science, spoke on the role Alaska women played in mining.

Dredging back in history, Reiss recounted tales of women miners ensconced in mining partnerships. Reiss questioned women's levels of endurance,

wondering "how many women had enough of those partnerships."

Declaring that there are priceless stories in mining that need to be told now, Reiss recounted a series of tales that bore obvious points of contention.

"There are barbs in these stories. When women went through these situations, I am sure it wasn't funny to them," she said.

Reiss spoke of the resourcefulness of Alaska women in mining.

"Women kept accounts of their stories that are used now for historical purposes. Also by writing their stories down, it gave them courage to go on," said Reiss.

Obituaries

like a grandmother to me. Helen really came into my life 15 years ago after being abused and losing both legs.

Cheryl Welsh of Des Moines and Guynel Welsh of Pasco; and numerous great-great nieces and

married July 8, 1995; father, Gene Murray; mother, Marilyn Murray; and maternal grandmother, Alice Gorrell, both for-

NYSE volume totaled 554.12 million shares vs. 556.57 million in the previous session.

The NYSE's composite index rose 3.33 to 398.58. The Nasdaq composite index rose 5.95 to 1,326.30.

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On the verge of a... members authorized a strike during contract negotiations. The union reached a contract agreement just before a planned strike, but not before travelers canceled reservations, causing a drop in revenues, Hayden said.

bled notes in the margins as DeLong lectured.

Patrick Pennoyer attended each of the seminars after receiving a mailing promoting them.

tions are the right ones, but he's intrigued.

"I've heard what's been said previously," Pennoyer said. "It seems different hearing it first hand. It's a lot to

Is Juneau's drinking water in jeopardy?

■ *Debate swirls around request to use Gold Creek to discharge water from A-J mine*

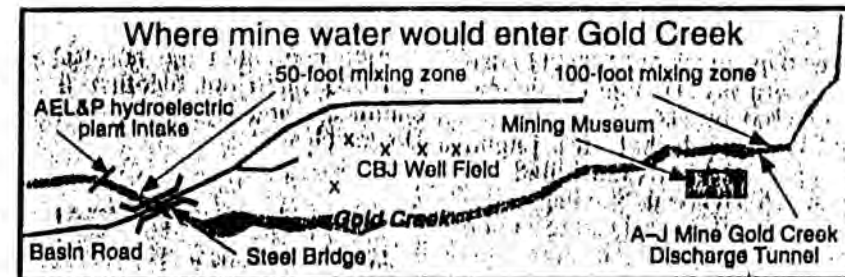
By LORI THOMSON

THE JUNEAU EMPIRE

First Gold Creek gave Juneau's founders chunks of gold to build an industry on. Then it gave the city drinking water.

Now people are debating another use for the creek near downtown — as a place to discharge water from the Alaska-Juneau gold mine.

Echo Bay Alaska Inc., working to develop the mine, wants permission from the state to release wastewater into the creek at levels



SVEND HOLST / JUNEAU EMPIRE

Proposed path: Mine wastewater would be released below the Steel Bridge and from the Gold Creek discharge tunnel. Map information courtesy of the Alaska Department of Environmental Conservation.

above federal water-quality standards.

But will a mine discharge threaten Juneau's drinking water?

State officials say it won't, while some mine critics say it could.

Earl Hubbard of the Alaska Department of Environmental Conservation believes Juneau's drinking water from Gold Creek is protected.

People are most concerned about water from underground areas where drilling or other mining activity may have left contaminants. This water — about 406 million gallons of it — is filling up a large set of caverns 1,000 feet below sea level, known as the Deep North.

"The discharge from the Deep North doesn't have a path to get to

Please see Gold, Page 8

Businesses likely win

■ *Legislative agenda makes interests dependent on government program probable losers*

This is the fifth part of a series on the legislative session that opens Monday.

By MARK SABBATINI

THE JUNEAU EMPIRE

The winners of this year's legislative session, according to observers, will generally be interests dependent on state money.

Those include businesses, developers who may see

Juneau Empire 9 Jan 1997

Gold Creek . . .

Continued from Page 1
Juneau's drinking water supply," Hubbard said.

Mine wastewater would come into Gold Creek at two points.

Water from Deep North would be filtered and tested before being released just below the steel bridge on Gold Creek, Hubbard said. The discharge pipe is downstream from wells that serve as Juneau's primary source of drinking water.

The other discharge is of rain water that flows through the historic mine, but never touches mining activity, Hubbard said. Since 1939, that discharge has come out the Gold Creek drainage tunnel, upstream from the city's water wells and about 300 feet above a bridge near the former Gold Creek Salmon Bake.

Some people question whether mine water has no way to reach drinking-water wells.

"In the ideal world, that's how it works. In reality, I think there's a far greater threat," said Laurie Ferguson Craig of Alaskans for Juneau, a group of mine critics.

Craig said she's concerned about a possible break in a pipe or an emergency overflow.

After a 1994 fish kill in Gold Creek, Echo Bay put in an elaborate piping system so water from mine activities was diverted to Deep North caverns, said Chris Kennedy from Anchorage. Kennedy investigated that fish kill in the state attorney general's office. The state believed the kill was due to low water levels in the creek.

The piping system has built-in safeguards and as long as Echo Bay and government officials closely monitor it, wastewater wouldn't be able to get into the city's water supply, said Marie Sansone, an assistant attorney

general, who handles A-J mine issues.

"If any of those were to become lax, there could be a problem," Sansone said.

Pivotal to the whole issue is a national debate about whether federal standards for arsenic and some other substances are too strict.

Alaska is one of several states asking to use its own water-quality standards rather than the federal ones, which state officials believe are too stringent — especially since maximum levels of arsenic are below detection.

Natural levels of arsenic in many Alaska waterways are well above the federal standard, Hubbard said.

"Nearly half of Alaska's drinking water supply would be out of compliance," he said.

The proposed Deep North discharge has arsenic levels that average 1.7 parts per billion, which exceeds the federal standard of 0.18 parts per billion, but is well below the state standard of 50 parts per billion, according to Hubbard.

The arsenic in the mine discharge comes from natural levels

in water running through the mine, not from mine activity, Echo Bay spokesman David Stone said.

While the state is trying to appeal federal regulations, that process could take another year, he said.

That's a problem because in the meantime, the caverns of Deep North continue to fill up with rain water from other parts of the mine.

Deep North is expected to start overflowing by this time next year, unless Echo Bay begins pumping it

out this spring, Hubbard said.

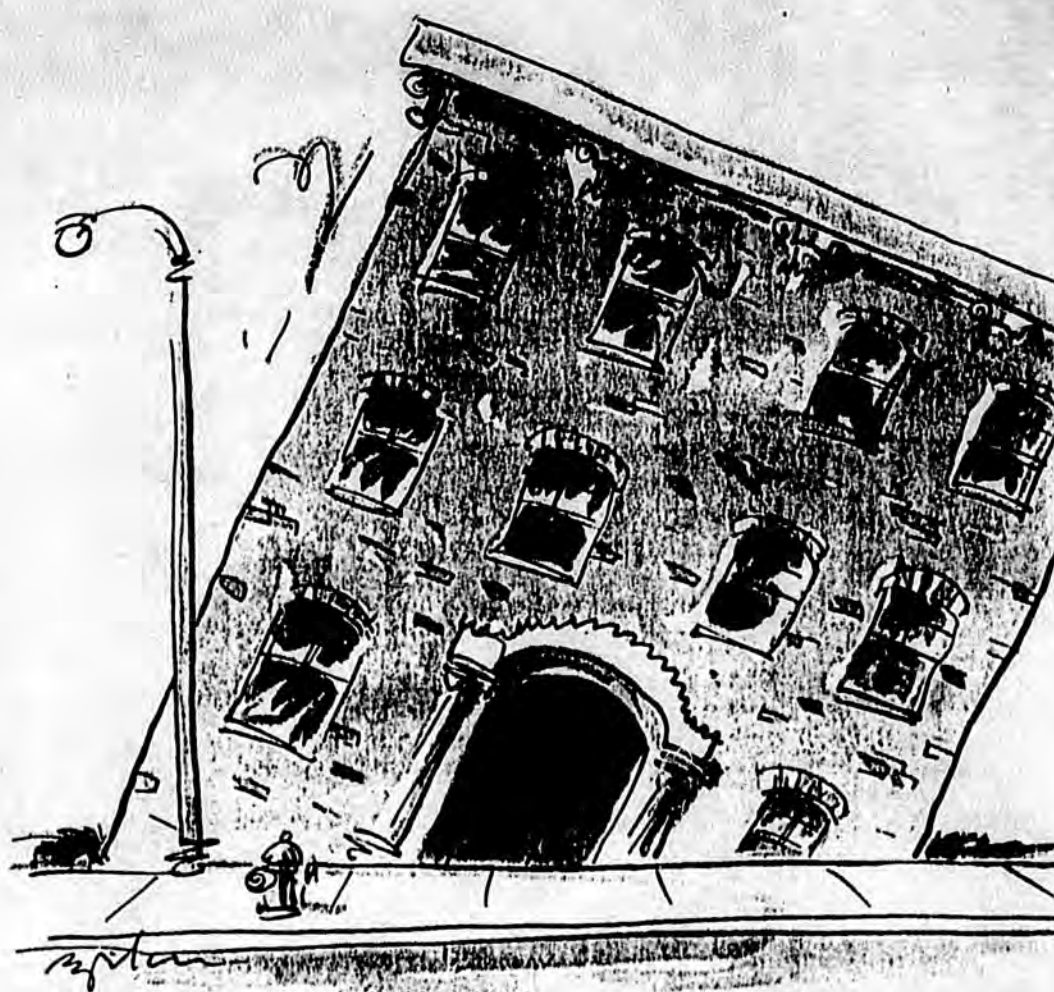
That could cause two problems: Echo Bay does not want the mine to be releasing an unpermitted discharge, Stone said.

Also, an overflow would mean there would be less control over the water, which could pick up mine sediments, Hubbard said.

To prevent that, the state is leaning toward approving two mixing zones in Gold Creek, areas where the mine discharge would exceed water-quality standards, Hubbard said.

One mixing zone would be the Gold Creek drainage tunnel about 100 feet downstream other one would be about 50 long downstream from the bridge near the Alaska Electric Light & Power Co. flume. But Hubbard said the actual areas where discharges would exceed standards would usually be smaller.

Craig of Alaskans for Juneau said she doesn't believe water-quality standards should be and thinks reviews of the



Two days left!

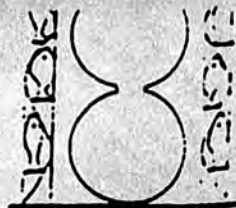
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ALASKA STATE FORESTER

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A Brief History of the Classification of Alaskan Waters From a Review of Water Quality Objectives/Standards Since 1949

1949 The Alaska Water Pollution Control Board was established by the territorial legislature under the authority of Chapter 117, titled simply "An Act". The Alaska Water Pollution Control Board was responsible for administration of the Alaska Water Pollution Control "Act" to safeguard Alaskan waters from pollution and establish standards of water purity which affect public health, fish and wildlife, recreation and industrial development.

According to Amos Alter (Person, comm., 1992), Director of the Division of Sanitation and Engineering for the Alaska Department of Health in 1949, there was only one person assigned to actively administer the water pollution control program. It wasn't possible for this one person to classify all Alaskan waters for different uses. It was also generally believed by the Board that Alaska had a unique chance to protect its pristine waters, unlike states that already had many polluted waterbodies. Therefore, it was determined that Alaskan waters should be generally protected for the highest water use. This was "water supply and their sources." Initial limits were provided by the US Public Health Service (USPHS) and included federal Drinking Water Standards.

1952 The first Water Quality Objectives table of standards was produced. This is found in a paper titled, "Pollution Control Council, Pacific Northwest Area". It was developed through the coordination of the engineering representatives from pollution control agencies in Alaska, British Columbia, Idaho, Montana, Oregon, and Washington. These standards were applicable to those regions and the Territory of Alaska.

It is in this table, "applicable to the receiving waters for salt and fresh surface waters and underground waters," that the first employment of protecting waters for the highest water use is evident. For example, for the parameter "toxic, colored or other deleterious substances", the USPHS standards applied to four of the five listed water uses.

1959 The Territory of Alaska became the State of Alaska. Concurrently, the Alaska Administrative Procedure Act became effective. Water Quality Objectives were published in the Administrative Code, Title 7, under Health and Welfare. The Water Pollution Control Board was disbanded. The Water Quality Objectives were under the broad authority of A.S. Title 46, (Water) and A.S. Title 18, (Fish and Game). The Commissioner of Health and Welfare after conducting public hearings, could establish standards and/or group the designated waters of the state into classes.

The Water Quality Objectives adopted by the State of Alaska were the same table established in 1952 by the Territory.

1952 - 1979 For 27 years the original work and intent of the Alaska Water Pollution Control Board and the Pacific Northwest Council were repeated in succeeding Water Quality Standard (WQS) revisions. Clarifications in language and some modifications were made but these did not change the character of the original work. Key elements in the classification of state waters follow:

1. It was possible through public hearings to reclassify waters for specific uses. If waters were not reclassified, the "highest water use" superseded the other uses for a given waterbody.
2. The burden of justifying a reclassification was placed on those wishing to reclassify a waterbody.
3. In 1970, Ward Cove in Ketchikan, Ship Creek in Anchorage, Chena River, Fairbanks, and Silver Bay in Sitka were classified for specific uses as were all coastal waters. In 1971, both Ward Cove and Silver Bay were deleted from the reclassification list.
4. In 1973 the following significant clarification was made: "If waters have more than one use, the most stringent water quality criterion of the the uses shall apply." Up until 1979, numeric limits were primarily found in the USPHS Drinking Water Standards because other criteria had not been developed. It became more evident with this wording clarification that criteria and designated uses were integral parts of a water quality standard.

The Department of Environmental Conservation was created in July of 1971 as a split off from the Division of Environmental Health in the Department of Health and Welfare. DEC made few changes in the 1971 Water Quality Standards from previous Department of Health and Welfare standards. Reclassification required public hearings, the approval of the Commissioner of DEC and concurrence by the Administrator of the EPA for interstate waters.

1979 In 1979 significant changes were made in style, format and content of the WQS. Water quality criteria applicable to each use were significantly broadened in scope and detail. It was in this revision that aquatic life criteria made their first appearance with the adoption of federal criteria from the 1976 Red Book for the parameter of 'toxic and other deleterious organic and inorganic substances.' The USPHS Drinking Water Standards were also replaced by the Alaska Drinking Water Standards. It was now stated that between the Drinking Water Standards and the aquatic life criteria, the more stringent should be chosen as the applicable criterion. This practice continues today and in most cases, EPA's aquatic life criteria are more stringent than the Drinking Water Standards.

In general, the WQS took a more restrictive turn in 1979. There were many more stipulations that had to be met before a waterbody could be reclassified. For the first time, there was a section that included waterbodies ineligible for reclassification (parks, refuges, etc.). Another section spelled out what conditions defined the designated uses. To eliminate a use for a given waterbody it would have to be proven that those conditions did not exist. Ship Creek and marine waters were deleted from the reclassified list in this revision.

Key points are that although significant alterations were made in 1979, it was still quite possible to reclassify a waterbody after public hearings and the approval of the Commissioner. The burden of proof was on the applicant and the applicant only had to address 'existing uses' of the waterbody in the reclassification procedures.

1979 - 1987 During this period, amendments were proposed and adopted through the public process, but no comprehensive Water Quality Standard document was published with the incurred changes. No significant amendments were made concerning reclassification of waterbodies during this time.

In 1982 one important amendment was the adoption by reference of federal aquatic life criteria for 64 compounds or classes of compounds listed in the 1980 EPA Ambient Water Quality Criteria documents. This adoption by reference includes the bulk of the numeric criteria in effect today. Human health criteria for non-carcinogens also were adopted at that time.

In 1984 Nolan Creek and five tributaries near Wiseman were reclassified for the industrial use.

1987 - Today In 1987, revised Water Quality Standards were published. It was in this revision that aquatic life criteria for nine compounds, published by EPA in 1985, were adopted by reference. The procedures for reclassifying state waters were extensively modified to make them consistent with 1983 EPA regulations. The Clean Water Act does not address procedures for reclassifying state waters. At the time of this revision, two waterbodies remained on the reclassified list, Nolan Creek and Chena River. Although not referred to specifically in the WQS, the department now had to comply with EPA regulations in order to reclassify waterbodies of the state. Significant federal requirements follow:

A) To exclude a designated use through reclassification, it was no longer enough to show that the designated use was not an 'existing use' of the waterbody. One also had to prove that the designated use was not 'attainable.' This provision added a new and more difficult element in the formula for reclassification of state waters. It has proven to be onerous and costly to show that some designated uses might not be attained at some place in time, by some method.

B) EPA's regulations also require that a structured scientific study called a 'use attainability analysis' (UAA) must be conducted to prove that a use cannot be attained. Therefore, the decision to reclassify a waterbody is made after conducting a use attainability analysis. The State's request to reclassify must be approved by the Regional Administrator of EPA. High costs of analysis and strict EPA guidelines were prohibitive for considering all suggested reclassifications proposed. Based on these factors, a provision was added in the WQS that the decision on whether to proceed with a reclassification was at the department's discretion.

In November, 1989 an amendment to the WQS included a revision of the section on Classification of Waters. As a result of the Tolovana Use Attainability Analysis, the Department removed some protected use classes from 14 streams or segments of streams in the Tolovana River Basin. The cost to the state was extensive and it proved to be very difficult to eliminate significant 'attainable' uses that would satisfy the original intent of the applicant. In the final analysis, the department's cost and efforts to reclassify or not to reclassify rested solely on EPA's final approval. Therefore, even if the department wished to reclassify a waterbody, the department decisions can be vetoed by EPA according to the 1983 EPA regulations still in effect today.

The 1989 WQS revision retained the same procedures for reclassification adopted in 1987, and they remain the same today.

Water quality standards and the arsenic cancer risk

Editor's Note: The Montana Legislature passed several bills revising the state's water quality standards and requiring that treatment standards be economically, environmentally and technologically feasible. Legislation passed by the Montana Legislature and supported by Governor Rasicot revised the human health risk level from 1 in 1 million to 1 in 100,000 and adjusted the standard for arsenic from 1 in 1 million to 1 in 1,000 risk. The revisions were made after local communities and businesses throughout Montana were unable to obtain waivers from stricter standards which were economically and technologically infeasible.

By Senator Lorents Grosfield
Chairman, Montana Senate
Natural Resources Committee

Second of two-part series
(Edited for space)

One of the troubling policy questions that we must continually weigh is, how "clean" does "clean" need to be? If we are discharging water into a stream, should "clean" mean as close as we

can get to totally pure? Should it mean cleaner than the water naturally occurring in the stream? Should it mean as clean as the water we're discharging into? Should it mean clean enough to meet all the water quality standards that have been set to protect our health and environment?

Take Anchorage, Alaska, a city of about 250,000 people. Recently it was discovered the discharge into Cook Inlet from the municipal sewage treatment facility contained too much arsenic to meet the standard. An analysis of the problem revealed that it would cost the city \$970 million to upgrade its system in order to eliminate enough arsenic to meet the standard. That's over \$12,000 for every family! The amount of arsenic to be eliminated was about one pound. But further investigation revealed that literally hundreds of pounds of arsenic already arrives naturally from the various rivers that flow into Cook Inlet and from the tide coming in from the ocean. Given that hundreds of pounds are already arriving naturally, what possible sense would it make for the city to tax its citizens enough to pay the \$970 million to eliminate one pound from the city's discharge? Could it be perhaps that the standard is flawed, or at least needed an exemption to deal with the specific Anchorage situation?

It's important to remember that water quality standards have not been cast in stone by some supreme being. Environmental science is not an exact science and none of these standards are "infallible."

Take Senate Bill 331 and the issue of Montana's water quality standard for arsenic. Arsenic is a known cancer causing agent. But there are at least four major points that need to be understood.

First, SB 331 changed the standard for arsenic from being based on a one-in-a-million increased lifetime cancer risk to a one-in-a-thousand increased risk. Does this mean that the Legislature has increased the cancer risk 1,000 times? Absolutely not.

At a one-in-a-million increased risk, the Montana water quality standard for arsenic in Montana streams and rivers

before SB 331 was 0.018 parts per billion (18 parts per trillion). But the EPA drinking water standard is 50 parts per billion (50,000 parts per trillion). This means that our old standard for streams and rivers was 2,778 times more restrictive than the federal drinking water standard!

The new one-in-a-thousand cancer risk standard in SB 331, for discharges to our rivers, streams and groundwater, figures out at 18 parts per billion, which is still almost three times stricter than the federal drinking water standard of 50. But what is even more telling are the relatively high levels of arsenic that occur in most Montana streams naturally. For example, the average arsenic in the Missouri River at Toston from natural sources is about 24 parts per billion. With this level of arsenic naturally occurring in the river, there is no increased cancer risk in the upper Missouri River by moving the standard from 0.018 to 18. Why? Because the standard is still less than what's there naturally.

Granted, not all Montana streams have as much naturally occurring arsenic as the Upper Missouri. The average natural arsenic in the Yellowstone River at Livingston is about 21 parts per billion. By the time the Yellowstone reaches the North Dakota border, it is down to about 7. But in the Madison River at West Yellowstone, the natural arsenic level is about 260 parts per billion!

Remember, with our standard now at 18, we are still nearly three times stricter than the federal standard of 50, which like all federal drinking water standards, already has a significant safety margin built into it.

The second point is that fish are not as sensitive to arsenic as humans. Changing the standard to 18 will have absolutely no effect on fish. The arsenic standard set for healthy fish is 190 parts per billion; that is, below this level, fish will not be affected at all, and it's not until continual exposure for a week or more at a level of 360 parts per billion that fish will actually die.

The third major point is that we

(Continued to page 5)

The Resource Development Council (RDC) is Alaska's largest privately funded, nonprofit economic development organization working to develop Alaska's natural resources in an orderly manner and to create a more balanced, diversified economy while protecting and enhancing the environment.

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Writer & Editor: [Name]



Congressman Don Young, Chairman of the House Resources Committee, enjoys a warm welcome before the large luncheon crowd at the RDC Annual Meeting. Young addressed new opportunities for Alaska in the new Congress.



Outgoing President Dave Parish receives a "First Barrel of Oil" plaque from President Elizabeth Rensch for his outstanding service to RDC. Parish first came to RDC ten years ago as a student intern during summer break from college.



RDC board member John Forceskie, President of Teamsters Local 959, receives special recognition and a plaque from RDC's outgoing President Dave Parish. Forceskie, who retires from the Teamsters this month, served as Vice President of RDC for eight years, longer than any other board member in that office.



At upper right, members of RDC's new Executive Committee pose for the camera. At bottom right, Gail Phillips, Speaker of the Alaska House, presents Eielson Junior High School student Katrina Balash with a certificate for her winning essay in the RDC Statewide Essay Contest. Katrina's essay addressed "The Role of Resource Development in Alaska's Economy." The winner in the high school category was Skagway's Lisa See who focused on "Opening ANWR."



Montana strives for reasonable water quality standards

(Continued from page 2)

cannot, even given present technologies, reliably measure arsenic at less than 3 parts per billion. Now, if 0.018 parts per billion is not measurable, it's not detectable, and if it's not detectable it's certainly not enforceable.

The fourth point pertains to the creation of the old standard at 0.018 parts per billion. It was based on a Tai-

wan study showing that a person living in Taiwan had a one-in-a-million increased chance of getting cancer IF that person drank 2 liters of water per day from that same "contaminated" source of supply each consecutive day for 70 years and ate an average of 6.5 grams of fish caught from that same source of supply each day for 70 years.

If a person were to do these things, that person would have a one-in-a-million increased chance of getting cancer.

Given all this, was it reasonable to have a standard set at 0.018 parts per billion in the first place? Is it reasonable to have a water quality standard for discharges to streams and groundwater set at a level 2,778 times

stricter than the federal drinking water standard? It reasonable to have standards we cannot even measure? Is it reasonable to have standards set at a level substantially below the condition that nature provides naturally?

Don't forget who pays for the implementation of these standards.

ALASKA WATER QUALITY REGULATIONS

Summary of Actions

	<i>Issue</i>	<i>Discussion</i>	<i>Action</i>
1. ANTI-DEGRADATION	Adding a requirement to protect Outstanding National Resource Waters ("ONRW") to existing law that 1.) protects current water uses, and 2.) maintains existing water quality that exceeds minimum standards.	The absence of a section on ONRW is a deficiency in current regulations. Federal law requires protection of high quality waters such as a water of a national or state park or wildlife refuge or a water of exceptional recreational or ecological significance.	Adopt additional antidegradation provisions identical to current federal law that protects ONRW
2. TREATMENT WORKS	These are facilities or bodies of water used to treat and/or dispose of sewage or industrial waste, such as municipal treatment plants, sewage lagoons or constructed drainage ditches.	Current regulation authorizes treatment works in natural water bodies. DEC is repealing this section because it is redundant with existing permitting laws administered in DEC's Solid Waste and Domestic Waste Water programs. The repealed section also confuses treatment methodologies with water quality standards.	Repealed
3. PETROLEUM HYDROCARBONS	These are found in oil or diesel and are limited in wastewater discharges to protect water quality.	Current law prohibits surface oil sheens and film, but does not measure particulate hydrocarbons or nonaromatics; however, neither did the former regulations. The current regulations more accurately measure the most toxic dissolved hydrocarbons available to aquatic organisms and thus are superior to the former regulations. However, DEC will investigate the need for a particulate standard. DEC concluded that the present "Note 8" describing methodology and analysis for petroleum hydrocarbon testing is confusing and deficient. DEC is amending the regulation to clarify required analytical measurements.	Repeal Note 8 regarding analytical standards and adopt Note 8 from August 1993 version. Conduct research of need for a numerical particulate standard by July 1996.
4. SEDIMENT	"Sediment" can be interpreted as settleable solids or as total suspended solids which includes both settleable and nonsettleable solids.	Before the December 1994 changes, the water quality standards defined "sediment" as total suspended solids which includes both settleable and nonsettleable solids, but established a numerical criterion only for settleable solids. DEC's change clarified that settleable solids is the regulated parameter. There is no criteria established for TSS. Neither EPA nor the Region 10 states have a TSS criteria.	Retain existing section. Complete study of the need for TSS standard and report by July 1996.
5. MIXING ZONES	These are designated areas of a waterbody where wastewater enters and mixes with the receiving water. The water quality standards can be exceeded within a MZ to dilute the wastewater discharge, but standards must be met at and beyond the zone boundaries.	The current regulations provide better MZ management controls by setting stricter standards for human health exposures in the vicinity of a proposed MZ; establishing previously lacking criteria for mixing zones in fresh water rivers and streams; and establishing control technology prerequisites. DEC retains the authority to grant or deny a MZ based on the factual data presented. Despite the improvements, there is a need to revisit the regulations to clarify a number of issues, such as size limits for rivers and streams, toxics and lethality.	Initiate rule making in September 1995. Prepare interim guidance for MZ evaluation ASAP and complete guidance by April 1, 1996.
6. RISK LEVEL	The adoption of a risk level was in response to federal law; however, the state has not developed the human health criteria necessary to effectuate the standard.	EPA devised a mathematical equation composed of factors such as risk level, contaminated fish consumption rates, body weights and contaminated water consumption. When presented with three choices DEC adopted the middle risk factor of 1 in 100,000 or (or 10^{-5}). No other parameters necessary to this equation have been defined so national default standards apply. There are 54 carcinogens for which human health criteria could be established; however, DEC can limit the discharge of a toxic as appropriate to protect public health.	Recommend no change and initiate rulemaking to determine Alaska-specific values.

Industry and Environmental Representatives Hail Cooperative Process

**GOVERNOR TONY KNOWLES
ANNOUNCES RESOLUTION ON
WATER QUALITY STANDARDS**



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**OFFICE OF THE GOVERNOR
TONY KNOWLES
JUNEAU, ALASKA**

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Calling it one of the major achievements of his Administration to date, Governor Tony Knowles has announced the resolution of a long-standing dispute over water quality standards for Alaska designed to be user-friendly to industry but tough enough to protect the state's environment. The regulations are the result of months of intensive work by the Knowles Administration and represent a broad acceptance by state, industry, and environmental representatives.

"This decision is very important for Alaska jobs and families," Knowles said. "Industry benefits from having clear standards to work with and from knowing that the Administration is willing to work with them to resolve regulatory disputes. And all of Alaska's families benefit from having high standards for the protection of our precious liquid assets."

"Governor Knowles and Commissioner Burden were successful in bringing the parties together to discuss the state's decision," said Judy Brady, Executive Director of the Alaska Oil & Gas Association. "While differences of opinion remain on individual components of the package, today's decision brings this phase on water quality to closure and sets the stage for further coordinated efforts on the standards."

"Governor Knowles and ADEC have charted a course that we hope will lead to correction of the major weaknesses in the recently adopted water quality standards," said Eric Jorgensen, managing attorney for the Sierra Club Legal Defense Fund. "In particular, we are pleased that ADEC has decided to re-examine fully the mixing zone regulation and expect that the Governor's proposal will reflect the high priority Alaskans place on clean water."

"Certainly there are areas in which we would have preferred a different outcome in these regulations, nevertheless we believe the Knowles Administration has made a good faith effort to address the concerns of both sides," said Becky Gay, Executive Director of the Resource Development Council. "This agreement allows us to move on and resolve other important water quality regulatory issues."

"The Governor has re-stated his commitment to the protection of Alaskans by taking a conservative approach for discharges containing carcinogens, repealing the new regulation on treatment works, and initiating a rulemaking that will establish standards that address Alaska specific human health criteria," said Gershon Cohen, director of the Alaska Clean Water Alliance.



Greater Fairbanks Chamber of Commerce
709 2nd Ave., Fairbanks, AK 99701
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Issue No. 5
March 10, 1995

Fairbanks Spared in Base Cutting

Fairbanks' wide open spaces are a rare and highly desirable commodity from the military point of view, Maj. Gen. Thomas Needham told the Fairbanks chamber at their General Membership Luncheon Feb. 28.

Needham spoke to the Fairbanks chamber the same day that the latest round of base closures and realignments was announced by the Department of Defense, but the news for Fairbanks was mostly good.

"It's not easy talking to a chamber of commerce on the day the secretary (of the Department of Defense) announces base cutbacks and closures," Needham said.

Fort Wainwright, Needham said, would be spared further cuts for the foreseeable future and may actually gain some military and civilian personnel due to the transfer of responsibilities and personnel from Fort Greely near Delta Junction.

"According to the announcement made by the secretary, Fort Greely will become a sub-post of Fort Wainwright," Needham said.

The Department of the Army has decided to transfer Fort Greely's Northern Warfare Training Center and Cold Region Testing Center to Fort Wainwright. Along with the new responsibilities, Fort Wainwright will gain approximately 205 military and 56 civilian positions, according to the Department of Defense.

According to a Department of the Army report, the move will cost Delta Junction, the town closest to Fort Greely, 969 jobs or 36 percent of the area's employment base between 1996 and 2001. Direct employment by the military accounts for 724 of those jobs and the other 245 are "indirect" employment created as a collateral effect of military activity.

"It's too early to tell how many," Needham said. "Cooks can be moved pretty easily, but it is harder

to move a power plant."

Needham said it is still too early to say whether the move will mean more civilian jobs for Fairbanksans working on construction of new facilities. He did, however, point out that while defense contracts are down an average of 23 percent nationwide this year, the level remained virtually unchanged in Alaska.

Needham said Alaska will wind up with about 6,500 soldiers, approximately 5,000 at Fort Wainwright and most of the balance at Fort Richardson. The Army will also hang on to its 1.6 million acres of land in Alaska, he said.

Availability of space, Needham said, is part of what makes the Interior a desirable home for the military. As Anchorage grows, the military is running out of room for "live-fire" exercises.

"The trouble with live-fires at Fort Richardson is that, because of environmental constraints, we can only do it in the winter when there is 8-inches of ice," Needham said. "We're running out of room down there."

The Army has 916,000 acres available for training at Fort Wainwright, 62,000 acres at Fort Richardson and 662,000 acres that they will retain at Fort Greely, according to Linda Douglass of the Fort Wainwright Public Affairs Department.

According to the Department of the Army report, the realignment between Fort Greely and Fort Wainwright will result in a \$23 million implementation investment that will yield a net savings of \$43 million during the implementation period and \$19 million a year thereafter.

Needham said the army plans to spend \$2 million to upgrade Bassett Army Hospital at Fort Wainwright and another \$5 million on barracks renovation.

"Family housing is adequate, but we have let barracks slide," Needham said. "In the barracks, we (see Needham, next page)

(Needham continued from page 1)
have soldiers sitting on furniture older than they are."

The Army also plans to fix up the post swimming pool and spend another \$12 million on roads and other projects.

"The good news is that we have money to train," Needham said, adding that he expects Alaska's military to be called to a global hot spot some day.

Needham thanked Fairbanks for its support of Fort Wainwright during the army post of excellence evaluation that recently went on in Fairbanks.

"Both Fairbanks and the post had a good day when the evaluation team was here," Needham said. "We sincerely appreciate the support we get from the community."

Needham said he doesn't expect the results of the evaluation until some time in June.

"We won't know until they call us and tell us to come to Washington (D.C.)," Needham said.

Board Hears Report on Water Quality Standards

The Sierra Club is mounting a new challenge to Alaska's Water Quality Standards which could cost Alaskans billions of dollars and stifle future development the chamber board was told at their March 6 meeting.

Mary Nordale, President of the Alaska Miner's Association, and Bill Jeffress, of Fairbanks Gold, gave the board a briefing on the Department of Environmental Conservation water quality standards review currently underway. The Sierra Club Legal Defense Fund has petitioned the DEC to revoke the water quality standard signed into law by Gov. Hickel on Dec. 5, 1994.

If the new standard being sought by the Sierra Club goes into effect, it could kill the mining, fishing and timber industries, Jeffress said. The Fort Knox project near Fairbanks, due to begin construction this summer, could be jeopardized by new, more stringent standards, Jeffress said.

Alaska's current standard allows a human health risk of 1 in 100,000. That means a person would have a 1 in 100,000 chance of contracting cancer if they were to drink two liters of treated water a day for 70 years, Jeffress said. The Sierra Club wants the risk factor changed to 1 in 1 million.

To put it into perspective, he said, your chances of being hit by an airplane falling from the sky involve about half the risk of the state's 1 in 100,000 standard. According to Jeffress' figures, Americans have a 1 in 4 chance of dying from cancer with or without the 1 in 1 million standard.

The Sierra Club's standards are unattainable, Jeffress said. Under the 1 in 1 million standard, drinking water would not be an acceptable discharge, he said. The technology doesn't exist, Jeffress said, to remove natural levels of arsenic from Alaska's water to the 1 in 1 million standard.

Nordale said the 1 in 1 million standard, if applied, would apply across the board and cost state and local government in Alaska \$2 billion to upgrade waste water systems. She estimated the cost to owners of residential septic systems at \$50,000 per lot.

Jeffress said the effect on the Alaskan economy would be catastrophic. He said venture capital for development would likely be scared off by the 1 in 1 million standard. The higher standards have proven fiscally and technologically unattainable in other states, he said. If we ignore the public process, he said, the regulations will go into effect virtually unopposed.

There will be a public hearing on the proposed water quality standards at 7 p.m., March 17 in the Noel Wein Library. Jeffress urged all interested parties to attend the meeting.

March Luncheon Speakers

March 14 British Petroleum Alaska President John Morgan will address the membership on development opportunities on the North Slope and what needs to be done to make those opportunities a reality. There will also be a Parka Parade preview.

March 21 MarkAir Director of Marketing Craig Johnson will speak on MarkAir's economic impact in the state of Alaska.

March 28 American Red Cross will give a Koyukuk River flood update.

Business After Hours

5-7 p.m., Thursday March 23

at

Frontier Business Machines

hosted by

Margherita Gilbertson

See insert for details

APN The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaskans, putting Alaska first"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

The Anchorage Times Commentary in this segment of the *Anchorage Daily News* does not represent the views of the *Daily News*. It is written and published under an agreement with former owners of *The Times*, in the interests of preserving a diversity of viewpoints in the community.

Water quality

THE KNOWLES administration has good reason to celebrate this week's general accord reached with environmentalists and industry over revised water quality regulations for the state. From all accounts, the process followed by the administration in developing a consensus was fair and the final result appears balanced.

Neither side got all that it wanted, but each is signaling it can accept the compromise.

Count us among the skeptics who doubted such a result was possible. We voiced our concern earlier this year when Gov. Tony Knowles ordered the Department of Environmental Conservation to review the state's water quality regulations that were signed by the previous administration on its last day in office.

The Sierra Club Legal Defense Fund petitioned for the repeal of those regulations and although the new administration did not grant the request, it agreed to reopen the process to more public discussion. That sent shudders through the mining, timber and oil industries — and throughout state communities that treat, process and discharge wastewater. There was much apprehension that any changes to the water quality regulations would result in extraordinary expense for all concerned.

That kind of worst-case scenario, as it turns out, did not occur. Instead, the Knowles administration appears to have achieved that oft-sought middle ground that protects the most important objectives of both sides in the debate.

In announcing resolution of the issue Wednesday, Gov. Knowles said, "Industry benefits from having clear standards to work with and from knowing that the administration is willing to work with them to resolve regulatory disputes. And all of Alaska's family benefits from having high standards for the protection of our precious liquid assets."

It's understandable that the governor should feel good about his accomplishment. But as he knows, the debate is by no means over regarding this particular issue.

The compromise itself ensures there will be more give and take to come. For instance, adding a new set of regulations requiring protection of "outstanding national resource waters" is sure to generate legal challenges down the road. Yet-to-come standards for regulating hydrocarbon particulates and total suspended solids, and a further review of mixing zone restrictions all promise more controversy and debate.

That's how it should be. Ongoing review, debate and revision of state water regulations are anticipated in the federal law that provides states the authority to regulate water quality.

An open public process that allows all sides to be represented at the table, as has happened up to this point, is the best way to address these complex issues and serve the state's best interest.

ADN 4/24/95

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The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaskans, putting Alaska first"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

The Anchorage Times Commentary in this segment of the Anchorage Daily News does not represent the views of the Daily News. It is written and published under an agreement with former owners of The Times, in the interests of preserving a diversity of viewpoints in the community.

Expensive flush

IT'S UNLIKELY that many residents are giving serious thought to the state's water quality standards now under review by the Alaska Department of Environmental Conservation.

But if local sewer bills increase by more than 400 percent as a result of new water discharge regulations requested by environmental activists, the residents will not only take an interest, they probably will be up in arms.

The state's water quality regulations were signed into law by Gov. Walter J. Hickel on Dec. 5, 1994 — the day he left office. The Hickel administration had worked on developing those regulations for about three years, during which there were numerous opportunities for public comment.

The Sierra Club Legal Defense Fund, however, challenged the process. It petitioned the new administration to suspend or repeal the water quality standards that had just been enacted. Gov. Tony Knowles responded by ordering an additional public review period for the regulations.

It is important to note that Knowles did not signal an intention to make any changes in the new water quality law. Neither did he suspend or repeal the regulations as requested. He only provided an additional comment period, which ended last week.

THE MERE POSSIBILITY, though, that Sierra Club lawyers might prevail in persuading the new administration to rewrite the law got the attention of Anchorage's elected officials, as well as numerous other local government and business leaders across the state.

According to written testimony from Mayor Rick Mystrom, for instance, the state's water quality standards already "are highly protective of the environment and in some cases are more restrictive than federal standards."

It would cost Anchorage hundreds of millions of dollars, he said, if the state were to adopt the changes requested by the environmentalists — "and unfortunately result in little or no measurable improvement to the environment."

Among changes requested by the Sierra Club is one that would require municipal wastewater dumped into the Inlet to be 10 times purer than the ocean water into which it is discharged.

Complying with such a bizarre standard would require construction of new water treatment facilities. Mystrom says sewer bills for single family dwellings in Anchorage would increase to \$109.70 a month, from an existing rate of \$21.65. The mayor endorsed a resolution that the Anchorage Assembly passed unanimously earlier this month. It requests simply that DEC retain the current water quality standards as enacted last December.

We trust that Anchorage's former mayor, now the governor, will take the city's concern to heart.

ADN 01 FEB 95

State agrees to review rules on water quality

The Associated Press

JUNEAU — The Knowles administration has agreed to reopen for public review key sections of water-quality standards adopted on the final day of Gov. Wally Hickel's term.

Department of Environmental Conservation Commissioner Gene Burden has decided to accept additional public comment between Feb. 18 and April 19 on some

sections of the new regulations.

Burden made the decision in response to a Jan. 12 petition from the Sierra Club Legal Defense Fund, which represents several groups that have criticized the rules as too lax.

The Alaska Clean Water Alliance, United Fishermen of Alaska and Alaska Wilderness Recreation

Please see Page D-4, WATER

WATER: New standards to get review

Continued from Page D-1

and Tourism Association have alleged that the rules actually weaken water-protection standards and threaten public health.

The Hickel administration had defended the rules and said they would protect the state's water bodies from pollution.

Industry generally supported the rules. A mining association official said reopening the regulations would bring uncertainty to the mining and oil and gas

industries.

Sections reopened to public review are those dealing with mixing zones and treatment works, sediment, petroleum hydrocarbons and human health-risk levels.

Mixing zones are areas where water-quality standards can be exceeded as pollutants are released into, and diluted with, public waters. Such zones have been proposed by developers of the Kensington and Alaska-Juneau gold mines.

Critics of the new rules

had wanted several sections of the rules suspended, but the rules will remain in effect during the new public review period, DEC special assistant Ernie Piper said.

"We're not overturning the regulations ... we're not slowing down any permit reviews," Piper said. "At the same time, we're going to be as responsive as possible to public concerns."

Changes could be made to the rules after the comment period, Piper said.

7.

THE
FOLLOWING
DOCUMENT(S)
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Water rules will go

Knowles wants new standards

Daily News staff and wire reports

JUNEAU

The Knowles administration said Wednesday it will change some controversial rules environmentalists say allow too much pollution in Alaska's relatively clean waters. The rules were approved the last day of the Hickel administration and were supported by industry and pro-development groups.

Environmentalists had hoped for a complete reversal. But clean-water activists said they were satisfied Gov. Tony Knowles agreed to revise at least some rules and to study others to see if changes are needed.

The state's simple room for error in the rules allows industries to operate in Alaska with strong water standards and still make a profit," said Gershon Cohen, who heads the Alaska Clean Water Alliance. "We're not interested in stopping industry and stopping the use of natural resources."

Among the revisions will be a policy identical to federal standards for protecting high-quality waters such as those in national parks, state parks or wildlife refuges. The state previously had no such policy. Rules on mixing zones will be clarified. Mixing zones are parts of bays

See Page B-2, WATER

WATER: Pollution rules in for a change

Continued from Page B-1

and other waters where a fixed amount of pollutants can be discharged without penalty. The idea is to use the water to dilute potentially harmful compounds so they won't hurt fish or other wildlife, or people outside the mixing zone. Cohen and others felt Hickel's mixing zone rules were too lax.

The state also will set up rules to determine acceptable levels of cancer-causing chemicals that might be absorbed by fish that people eat, said Gene Burden, environmental conservation commissioner.

The compromise was reached Tuesday, when the governor's staff met with business and conservation leaders.

Hickel's top environ-



mental officials devised the new rules mainly to help wood-pulp mills and to speed the development of new mines, including the planned A-J mine near Juneau. Many pro-business groups had said the state's previous water-pollution standards were too harsh and hurt businesses. On Wednesday, one business supporter appeared satisfied with Knowles' compromise, which retains some of Hickel's rules.

"Certainly, there are areas in which we would have preferred a different

outcome," said Becky Gay, who heads the Resource Development Council, a trade group. "Nevertheless, we believe the Knowles administration has made a good faith effort to address the concerns of both sides."

State officials plan to begin meetings with interested parties next month with business and conservation leaders to work out details of the new water-quality standards, which could be in place within six months, Burden said.

State leaders said working out a compromise will benefit the business climate and the environment. Knowles told reporters, "This is a very positive step forward from the gridlock and confrontation and hard feelings that were there before."

Water-quality rule changes draw criticism on all sides

The Associated Press

JUNEAU — Proposed changes in the state's water quality regulations are being panned by industry and environmental representatives alike.

But their complaints differ. Citizen groups say the regulations didn't change enough, while a mining representative says the changes are a major break from the past and could cause problems.

The state revised the regulations in response to a January 1990 petition by the Sierra Club Legal Defense Fund, represent-

ing United Fishermen of Alaska, the Alaska Clean Water Alliance and the Alaska Wilderness Recreation and Tourism Association.

The groups petitioned the state after Gov. Walter Hickel signed new water quality regulations just about before he left office in December 1990. Those regulations followed a three-year battle over water quality standards.

The proposed changes focus on mixing zone regulations, with potential effects on mining, oil and pulp companies. Mixing zones are small near-

shore areas where state water quality standards are exceeded. Mixing zones were designed as a temporary exemption to Clean Water Act principles.

Gershon Cohen, who heads the Alaska Clean Water Alliance, said, "But mixing zones have become the rule, not the exception."

Pamela Grefsrud of the state Department of Environmental Conservation said the revisions are largely minor language changes intended to clarify the regulations. But the Alaska Wilderness Association disagrees, saying they're "very disturbing."

has presented this as minor changes when they've broken with the past. It's a very, very different document than anything we've had in the state," said Paul Rusanowski, Juneau branch chairman of the association.

One of the changes is a new definition of mixing zones, which Rusanowski said is likely to confuse people because it differs from what has been described as a mixing zone for years.

Another revised section could be interpreted to require the state to review a previously

approved discharge into water if any circumstances change, he said. That could pose problems for companies when changes occur, such as a drop in water flow in a dry year.

But Sierra Club Legal Defense Fund representatives are disappointed the revisions don't do more to narrow the situations in which a mixing zone for toxins or carcinogens are allowed, said Kelly Nolan, an attorney for the organization.

At hearing for the proposed changes was held Friday night in Juneau.

Information From HB 342 File

19th Legislature

HB 342(1)

SCS CSHB 342(RES) AM S

"An Act relating to water quality."

Sponsor(s): REPRESENTATIVE(S) ROKEBERG,Kelly,Ogan,James

Current Status: VETOED BY GOVERNOR Status Date: 10/04/96

Jrn-Date	Jrn-Pg	Action
5/09/95	2042	(H) READ THE FIRST TIME - REFERRAL(S)
10/17/95	(H)	O&G AT 1:00 PM ANCHORAGE LIO
10/17/95		(H) MINUTE(O&G)
2/13/96		(H) O&G AT 10:00 AM CAPITOL 124
2/13/96		(H) MINUTE(O&G)
2/20/96		(H) O&G AT 10:00 AM CAPITOL 124
2/20/96		(H) MINUTE(O&G)
3/21/96		(H) O&G AT 10:00 AM CAPITOL 124
3/21/96		(H) MINUTE(O&G)
3/22/96	3267	(H) O&G, RES
3/22/96	3267	(H) O&G RPT CS(O&G) 1DP 3NR
3/22/96	3268	(H) DP: ROKEBERG
3/22/96	3268	(H) NR: G.DAVIS, B.DAVIS, WILLIAMS
3/22/96	3268	(H) 2 FISCAL NOTES (DEC, F&G)
3/27/96		(H) RES AT 8:00 AM CAPITOL 124
3/27/96		(H) MINUTE(RES)
3/29/96		(H) RES AT 8:00 AM CAPITOL 124
3/29/96		(H) MINUTE(RES)
4/01/96		(H) RES AT 8:00 AM CAPITOL 124
4/01/96		(H) MINUTE(RES)
4/17/96		(H) MINUTE(RES)
4/19/96		(H) MINUTE(RES)
4/19/96	3874	(H) RES RPT CS(RES) 2DP 5NR
4/19/96	3875	(H) DP: GREEN, KOTT
4/19/96	3875	(H) NR: NICHOLIA, DAVIES, AUSTERMAN,
4/19/96	3875	(H) BARNES, WILLIAMS
4/19/96	3875	(H) ZERO FISCAL NOTE (H.RES/DEC)
4/23/96		(H) FIN AT 1:30 PM HOUSE FINANCE 519
4/24/96	4002	(H) RULES TO CALENDAR 4/24/96
4/24/96	4011	(H) READ THE SECOND TIME
4/24/96	4012	(H) RES CS ADOPTED UNAN CONSENT
4/24/96	4012	(H) AM NO 1 OFFERED
4/24/96	4012	(H) AM TO AM 1 ADOPTED UNAN CONSENT
4/24/96	4012	(H) AM NO 1 AS AMENDED ADOPTED UNAN CONSENT
4/24/96	4012	(H) AM NO'S 2-4 NOT OFFERED
4/24/96	4012	(H) AM NO 5 DIVIDED
4/24/96	4013	(H) AM NO 5, PART A PASSED Y36 N1 E3
4/24/96	4013	(H) AM NO 5, PART B NOT OFFERED
4/24/96	4014	(H) AM NOS 6 AND 7 NOT OFFERED
4/24/96	4014	(H) AM NO 8 ADOPTED UNAN CONSENT
4/24/96	4014	(H) ADVANCED TO THIRD READING 4/26 CALENDAR
4/26/96	4060	(H) READ THE THIRD TIME CSHB 342(RES) AM
4/26/96	4060	(H) RETURN TO SECOND FOR AM 9 UNAN CONSENT

4/26/96	4060	(H)	AM NO 9 FAILED Y14 N20 E5 A1
4/26/96	4061	(H)	AUTOMATICALLY IN THIRD READING
4/26/96	4061	(H)	PASSED Y25 N8 E5 A2
4/26/96	4062	(H)	BROWN NOTICE OF RECONSIDERATION
4/26/96	4076	(H)	COSponsor(s): KELLY, OGAN
4/29/96		(S)	RES AT 3:30 PM BUTROVICH ROOM 205
4/29/96	4096	(H)	RECON TAKEN UP - IN THIRD READING
4/29/96	4097	(H)	PASSED ON RECONSIDERATION Y31 N8 E1
4/29/96	4135	(H)	TRANSMITTED TO (S)
4/29/96	3703	(S)	READ THE FIRST TIME - REFERRAL(S)
4/29/96	3703	(S)	RESOURCES
5/01/96		(S)	RES AT 5:45 PM BUTROVICH ROOM 205
5/01/96		(S)	MINUTE(RES)
5/02/96		(S)	RES AT 1:00 PM BUTROVICH ROOM 205
5/02/96		(S)	MINUTE(RES)
5/03/96		(S)	RES AT 12:30 PM BUTROVICH ROOM 205
5/03/96		(S)	MINUTE(RES)
5/03/96		(S)	MINUTE(RES)
5/04/96	3912	(S)	RES RPT SCS 1DP 4NR SAME TITLE
5/04/96	3912	(S)	FN TO SCS (DEC)
5/04/96	3912	(S)	FIN REFERRAL ADDED
5/04/96	3912	(S)	FIN REFERRAL WAIVED
5/06/96		(S)	RLS AT 11:30 AM FAHRENKAMP RM 203
5/06/96		(S)	MINUTE(RLS)
5/06/96	4062	(S)	RULES TO CALENDAR & 1DP 5/6/96
5/06/96	4102	(S)	HELD TO 5/7/96
5/07/96	4148	(S)	READ THE SECOND TIME
5/07/96	4148	(S)	RES SCS ADOPTED UNAN CONSENT
5/07/96	4169	(S)	AM'S NO 1-5 NOT OFFERED OR WITHDRAWN
5/07/96	4169	(S)	AM NO 6 MOVED BY DUNCAN
5/07/96	4169	(S)	AM TO AM 6 ADOPTED UNAN CONSENT
5/07/96	4169	(S)	AM NO 6 AS AMENDED ADOPTED UNAN CONSENT
5/07/96	4169	(S)	ADVANCED TO THIRD READING UNAN CONSENT
5/07/96	4169	(S)	READ THE 3RD TIME SCS CSHB 342(RES)AM S
5/07/96	4169	(S)	PASSED Y14 N6
5/07/96	4193	(S)	TRANSMITTED TO (H) AS AMENDED
5/07/96	4585	(H)	HELD UNDER UNFINISHED BUSINESS
5/07/96	4585	(H)	CONCUR AM OF (S) Y27 N7 A6
5/07/96	4624	(H)	COSponsor(s): JAMES
10/21/96	4850	(H)	4:20 PM 9/25/96 TRANSMITTED TO GOVERNOR
10/21/96	4850	(H)	VETOED BY GOVERNOR 10/4/96

Alaska State Legislature



Official Business

Speaker of the House of Representatives

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3720

September 25, 1996

The Honorable Tony Knowles
Governor, State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Knowles:

I was surprised by the tone of your letter to me dated September 19, 1996. You claim that I have violated the spirit and letter of the Alaska Constitution by not transmitting HB 342, Water Quality. Not so! On the contrary, the legislature and regulated community have made an extraordinary effort to root-out and dispel misconceptions, identify and answer technical questions and try to mitigate phantom problems the Commissioner of the Department of Environmental Conservation (DEC) has with the bill.

The very nature of the water quality subject made it imperative that the legislature and industry make every effort to convince you and your staff of the merits and feasibility of implementing the provisions of HB 342. The time, telephone calls, correspondence and legal opinions on the part of all the supporters of HB 342 provided to your staff, the Commissioner of the Department of Environmental Conservation and lower level personnel of DEC made it impossible for us to let the bill be mischaracterized and maligned. The compromise legislation before you is a new approach. The bill was worth our extra effort.

As far as the issue of bill transmittal, your Attorney General will verify that our state constitution contains no provision setting a time limit by which a bill must be transmitted to the Governor. Since this bill was important to me, the sponsor and the regulated community, it was necessary to pursue a course of action that would help you understand the importance of this bill.

In addition, I sincerely hope you reconsider your decision not to allow the Water Quality Task Force to review HB 342. I am disappointed you chose not to appoint Legislators as members of the task force as we had asked.

The Legislature produced an excellent bill. If you decide to veto this bill, you are doing a great disservice to the public. You will be revisiting all the issues concerning water quality that have been addressed by the Legislature, the Department of Environmental

Conservation and the regulated community, which were all involved in the creation and evolution of HB 342.

The Legislature passed HB 342 to bring certainty to water quality standards in Alaska. Many of the controversies surrounding the use of Alaska water bodies have created problems for economic development in Alaska and this bill seeks to remedy that.

With this transmittal of HB 342, I strongly urge you allow it to become law, preferably with your signature.

Sincerely,



Gail Phillips
SPEAKER OF THE HOUSE

GP:kf

cc. Representative Norman Rokeberg
Becky Gay, Executive Director, Resource Development Council
Judith Brady, Executive Director, Alaska Oil and Gas Association
Steve Borell, Executive Director, Alaska Miners Association
Michele Brown, Commissioner, Department of Environmental Conservation



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 276-0347

June 24, 1995

Honorable Tony Knowles
Governor of Alaska
Capitol Building
Juneau, AK 99801

RE: HB-342, Relating to Water Quality

Dear Governor Knowles,

The Alaska Miners Association urges you to sign House Bill 342, relating to water quality.

This bill will clarify several items in State law regarding water quality. The bill is needed to insure that when changes to federal laws make them less restrictive, State regulations are also changed in a timely manner. Changes to federal law typically mandate strict time frames for the states to adopt changes that become more stringent but not if the requirements become less stringent. This bill addresses this latter case.

The bill also includes provision where the State can be more stringent than federal law or can write regulations to address items not covered in federal law. HB-342 specifies how this will be done and the standards that must be followed in this process. This is an important improvement to the existing state water quality law.

The Department of Environmental Conservation was deeply involved in the development of this bill and provided numerous important recommendations that were incorporated into the final version. This involvement was essential and insured that the changes made by this bill complemented existing state law without unduly burdening DEC's administration of the provisions.

This is a good bill that makes positive changes to help simplify the State's very complex water quality statutes and we urge you to sign it.

Sincerely,

Steven C. Borell, P.E.
Executive Director



2173 University Ave. S., #101
Fairbanks, AK 99709
907-474-2080
Fax 907-474-2082

FAX TRANSMITTAL

TO:	Representative Norman Rokeberg	DATE:	4/24/96
ORG.:	State House of Representatives		
CITY:	Juneau, AK	NO.:	907-465-2040

MESSAGE

As Chairman of the Fairbanks Branch of the Alaska Miners Association and Project Manager for Ryan Lode Mines, I wish to express support for CSHB343, "An Act relating to water quality" with the changes suggested by Steve Borell, Executive Director of the Alaska Miners Association on this date. Your efforts in addressing the water quality issue is greatly appreciated.

Yours truly,

A handwritten signature in cursive script, appearing to read "Richard A. Hughes".

Richard A. Hughes, P. E.
Project Manager



Resource Development Council for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2036
Phone 907/276-0700 Fax 276-3867

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Betsy L. Gay

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May 14, 1996

Governor Tony Knowles
Capitol Bldg., Third Floor
Juneau, AK 99801

RE: Support for HB342, "an Act relating to water quality."

Dear Governor Knowles:

The Resource Development Council for Alaska, Inc. (RDC) encourages you to sign HB 342 into law.

As you well know, RDC has long supported and worked toward economically-feasible and technologically-achievable State water quality standards. These efforts have been in the administrative arena, just last year at your behest in your conference room, "mano-a-mano" with the opposition and most recently through the legislative process.

During the interim and throughout this session, RDC worked closely with Department of Environmental Conservation (DEC), the House sponsors, its members and finally the Senate to make the bill more pragmatic without causing much cost to the agency.

DEC was very helpful in pointing out areas which could be changed to minimize fiscal impacts and this bill reflects nearly all of their suggestions.

For instance, at DEC's insistence the bill was changed from mandating a pro-active, automatic agency response to a requirement that DEC respond only to a petition for change. This was modeled on the Administrative Procedures Act (APA), but gives DEC a 90-day response schedule, rather than APA's 30 day time line.

DEC could not ascertain where it was currently stricter, so it was difficult to determine the fiscal impact of any action to address current policy changes. Much debate was given to this subject, mostly on how to eliminate or decrease the cost DEC estimated or anticipated necessary to get a handle on the unknown. The best guess was "one to five (or six)" components might qualify. An agreement was brokered to let DEC handle that element of internal guesswork as part of the triennial review, notwithstanding that the last "triennial" review took six years, not three.

RDC support for HB342 - Governor Knowles

May 14, 1996

page 2

Additionally, language amending the section on settleable solids was added on the floor to eliminate DEC's so-called "deal-breaker" opinion of that section, apparently caused by awaiting results of the agency's total suspended solids study due in June 1996.

The legislation deserves your support for it also provides the following:

- A professional and definitive process for evaluating any conclusion which results in state standards being set stricter than federal requirements.
- An allowance for discharge waters to match the quality of the receiving waters, giving legislative support to DEC's current policy to use natural background levels as the standard when natural levels exceed the State standard.
- The bill specifically allows the State to set stricter standards if it chooses, outlining a pro-active review of that decision and a range of variables to consider.

Presently states are required to amend regulations to match federal regulations only when federal regulations are more restrictive.

HB 342 provides the state the ability to adjust state water quality standards when federal changes result in less strict standards, or when federal mandates are deleted from law. This will be particularly useful when all parties are in agreement.

Thank you for giving RDC the opportunity to comment on this legislation, which deserves your support. I would appreciate the opportunity to discuss this with you and Commissioner Brown soon.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.



Becky L. Gay
Executive Director

copy Alaska Legislature
RDC H₂O task force members
RDC Community members

6 pages
sh

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114
Judith Brady, Executive Director

June 28, 1996

The Honorable Tony Knowles
Governor
State of Alaska
P. O. Box 110001
Juneau, Alaska 99811-0001

HB342 - An Act Relating to Water Quality

Dear Governor Knowles:

The Alaska Oil and Gas Association encourages you to sign HB342 into law.

Throughout legislative consideration of this bill, AOGA spent many hours working with DEC staff to identify mechanisms which would improve the bill's effectiveness and to develop alternatives to provisions in earlier drafts on which DEC had concerns. As outlined in the attached letter to DEC Commissioner Michele Brown, the bill was substantially amended throughout this process. The end result is statutory authority for DEC to manage the state's water quality standards to ensure they are (1) consistent with federal requirements, (2) based on sound science and (3) take into consideration Alaska conditions.

Many of the provisions in this bill mirror those of the statute governing DEC administration of the EPA Title V Air program. That statute was developed by consensus by a work group composed of representatives from industry, municipalities, environmental groups, utilities and DEC. Like HB342, the Title V statute requires state standards to be consistent with federal standards, but also provides a mechanism for adoption of more restrictive standards if Alaska conditions warrant. Given the broad support for this approach by DEC and other Title V work group members, it is entirely appropriate to carry over these provisions to the water program.

You are well aware of AOGA's interest and dedication to ensuring Alaska's water quality regulations appropriately protect the environment and allow for needed development of Alaska's resources. HB342 accomplishes both of these objectives, and we encourage you to sign it into law.

We would appreciate the opportunity to discuss this legislation with you.

Sincerely,

A handwritten signature in cursive script that reads "Judith M. Brady".
JUDITH M. BRADY
Executive Director

Attachment

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Direct: (907)272-8497 Fax: (907)279-8114
Marilyn Crockett, Assistant Executive Director

June 28, 1996

The Honorable Michele Brown, Commissioner
Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801-1795

HB342 - An Act Relating to Water Quality

Dear Commissioner:

Attached is a copy of our letter to Governor Knowles encouraging him to sign HB342 into law.

As you know, we worked very closely with your staff on this legislation. As a result, the final version of this bill is very different from the version which was introduced. Virtually all of the changes made to the bill were agreed to in order to address concerns raised by the Department. Following are several examples:

Consistency with federal regulations—the ability for an individual to petition the department for a change in the regulations was offered by AOGA as a compromise to address DEC concerns over a provision which required the department to amend the regulations when the federal regulations changed. The initial provision required DEC action within 12 months of each change, which would have required constant monitoring of EPA's regulations. A second proposal would have required rulemaking by August 1 of each year to bring State regulations in line with federal requirements in effect on January 1 of that same year—a one-time, but nonetheless, annual review.

Janice Adair and I reached agreement on the petition alternative in mid-April, and Janice transmitted the language to Representative Rokeberg in a memo dated April 18. The provision in the final bill allows individuals to petition the department to amend the State's standards to incorporate a reduction in, or elimination of, federal standards. The department is given 90 days (or longer if agreed to by the applicant) to take action—60 days longer than the response time required under the APA for petitions.

The Honorable Michele Brown
June 28, 1996
Page 2

We also agreed to a "transitional review" provision which, instead of requiring a review of State regulations within one year of the effective date of the legislation as earlier proposed, DEC will conduct its review as part of the EPA-required triennial review (despite AOGA's reservations that actual experience indicates the triennial review takes five to six years to complete—not three years!).

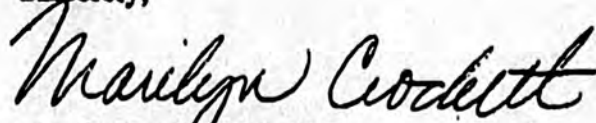
Ability to adopt more restrictive standards—Initially the bill prohibited the State from having or adopting water quality standards more restrictive than federal requirements. The concept of consistency with federal requirements is one of the basic premises of another DEC statute—the Alaska's Title V statute (AS 46.14). As you know, that statute was developed and agreed to by a work group of industry, environmental, municipal and utility representatives and DEC.

Recognizing that there may be situations in Alaska which warrant a more restrictive standard, the Title V group included language outlining a process under which the State may adopt standards which are more restrictive than those of EPA, or provisions that EPA does not have. Because that language was acceptable to DEC, we proposed that process be included in HB342. While slight modifications were made to the language to reflect its use for water quality standards and methods, the process is essentially the same as in the Title V statute—with one major difference. The Title V statute requires peer review of proposals for more restrictive standards. We agreed not to include that requirement due to concerns expressed by DEC over costs. We also agreed to DEC's request for deletion of the requirement for a public hearing.

Consideration of Actual Conditions—Early versions of the bill contained provisions addressing the quality of discharges and the waterbodies into which discharges occur. At the suggestion of DEC, the bill was amended to incorporate concepts already embodied in the State water quality standards for site-specific criteria.

These examples are but a few of the numerous concessions we agreed to make to address concerns and issues raised by DEC. (Some of these were rather hotly debated internally here at AOGA before agreement was reached!) I encourage your support of this legislation and would welcome the opportunity to visit with you in this regard.

Sincerely,



MARILYN CROCKETT
Assistant Executive Director

**ALASKA OIL AND GAS ASSOCIATION
POSITION ON
HB 342, WATER QUALITY STANDARDS**

The Alaska Oil and Gas Association (AOGA) is a trade association whose 19 member companies account for the majority of oil and gas exploration, production, transportation, refining and marketing activities in Alaska.

AOGA supports the goal of HB 342 to establish reasonable, economically achievable, and scientifically based State water quality standards that are no more stringent than federal standards unless, on a case by case basis, scientific evidence justifies more stringent state regulation.

Specifically, AOGA supports legislation that provides for the following:

State regulations and standards to be consistent with federal requirements;

If circumstances warrant state standards which are more restrictive than federal requirements, a definitive process for evaluating the need for a more stringent standard which considers science and economics;

Efficient amendment of state regulations to match changing federal regulations;

Regulations that specify only EPA-approved measurement methods;

Allowance for discharge waters to match the quality of receiving waters

Presently the state is required to amend its regulations only when changes to federal regulations result in standards which are *more* restrictive than those of the state. To ensure consistency with federal regulations, the state also should be required to amend state standards when changes occur to federal regulations which result in *less* restrictive standards, or when provisions are deleted from federal regulations. There should be an efficient means for agencies to modify existing state regulations to effect this requirement.

Federal regulations should be the basis as well as the boundary for state regulations. In the event that there is a legitimate need for more stringent state regulations, an impartial scientific peer review should be established. In addition, there should be established review criteria, which considers science and economics, for evaluating the merit of the argument for having state regulations that would be more stringent than federal requirements.

Finally, an appeal process should be provided that allows the regulated community to challenge state regulations on the basis that a state regulation is more stringent than federal requirements. That process should involve a review panel comprised of representatives other than the agency issuing the regulations in question.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO.

HB 51

Revision Date: 1/22/97 5:00 P.M.

Title: An Act relating to the Department of Environmental Conservation

Department Affected: Environmental Conservation

Sponsor: Reps Rokeberg and Kelly

BRU: Department-wide

Requestor: House Special Committee on Oil and Gas

Component: All

COMPONENT SERIAL NO.

633

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	2,597.0	2,597.0	2,597.0	2,597.0	2,597.0	2,597.0
TRAVEL	208.0	208.0	208.0	208.0	208.0	208.0
CONTRACTUAL	681.0	681.0	681.0	681.0	681.0	543.0
SUPPLIES	204.0	204.0	204.0	204.0	204.0	204.0
EQUIPMENT	212.0	212.0	212.0	212.0	212.0	212.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	3902.0	3902.0	3902.0	3902.0	3902.0	3764.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0	3,902.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS:

FULL-TIME	29	29	29	29	29	29
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Susan Braley
 Division: Air & Water Quality

Phone: 907-465-5308
 Date: 1/22/97

Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Date: 1-22-97

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Attachment to Fiscal Note, HB 51 -- 1/22/97

The break out of the fiscal note for HB 51 is shown by pertinent sections of the bill.

All Sections.

There will be significant legal issues associated with several sections of this bill, including obtaining delegation of the NPDES program from EPA as directed by Section 3. Per the Department of Law, they anticipate a full time attorney will be required.

Line 300 (Department of Law RSA) **\$138,000**

Section 2.

This section prohibits the adoption of any environmental regulation by DEC unless the requirements are economically feasible for the persons governed by the regulations without any consideration of the public health impacts. The department administers 29 sets of regulations through Title 18 (Environmental Conservation). In a given year, approximately 15 regulatory packages are developed, revised, or amended by the department, some of which are complex and comprehensive amendments to existing law or are mandated by recent changes to federal law. The requirement to determine the economic feasibility of compliance with all DEC regulations cannot be met solely by DEC technical and scientific staff whose training is in areas other than economics.

Based on the level of regulatory activity in the department, funding for three Economists would be required:

Line 100	2 FTE (Economist II)	\$190,000
	1 FTE (Economist III)	\$107,600
	Total Line 100	\$297,600
Line 200	Travel	\$5,000
Line 300	Contractual	\$3,000
Line 400	Supplies	\$3,000
Line 500	Equipment	\$9,000

TOTAL COSTS SECTION 2 PER YEAR = \$317,600

Section 3.

This section requires the department to seek and maintain primacy of the federal National Pollutant Discharge Elimination System (NPDES) program from the USEPA. The major components of the NPDES program include permitting, compliance monitoring, and enforcement. This section represents the most substantive part of the proposed legislation from a fiscal perspective. In 1987 the department analyzed the viability of gaining primacy for the NPDES program and estimated at that time it would cost approximately \$2.3 million to administer the minimum effort required by EPA to

maintain the NPDES program.

The Division of Air and Water Quality is currently in the process of awarding a \$25,000 contract to conduct a new feasibility study on state primacy of the NPDES program. Unfortunately, the results of that study will not be available until June 1997. Therefore, for purposes of this fiscal note, the 1987 analysis has been used as the basis for determining the costs of assuming the NPDES program, taking into account current costs estimates.

Line 100	21 FTE professional staff (Envir. Specialists/Engineers)	\$1,994,700
	4 FTE clerical staff (Admin. Clerk II)	\$209,800
	(to implement NPDES related functions in permitting, monitoring, compliance monitoring, and enforcement)	
	Total Line 100	\$2,204,500
Line 200	Travel (compliance monitoring, enforcement)	\$200,000
Line 300	Contractual	\$400,000
Line 400	Supplies	\$200,000
Line 500	Equipment	\$200,000
TOTAL COSTS SECTION 3		\$3,204,500

Section 4 & 5.

To achieve the requirements under these sections, one additional full time staff position would be required to handle the requests to change a State water quality standard allowed in Sec. 46.03.085© and Section 36.03.087(b), as well as a full review of the regulations required in Section 5 of the bill. The timelines required in 46.03.085(c) would mean a staff person would have to give immediate and full time attention to the requested change.

Because of the contentious nature of making changes to the state water quality standards, it is vital that we seek, and have available for the public, third party expertise on the water quality standard in question. Past experience with contractual funding for third party expertise shows that costs run from \$20,000 to \$75,000 depending on the complexity of the issue. For example, an initial review done just on settling velocities of sediment for the A-J Mine's tailing impoundment cost the Department \$20,000 in 1994. Given the estimate of four changes requested per year, it is estimated that \$100,000 in contractual expenses will be incurred per year to gather third party expertise on the issues. Public notice and hearing costs run approximately \$10,000 per regulatory change. Therefore, the fiscal note includes:

Line 100	1 FTE professional staff(Envir. Specialist III)	\$95,100
Line 200	Travel (hearings, research)	\$3000

Line 300	Contractual Costs for 3rd party expertise	\$100,000
	Public Notice costs	\$40,000
Line 400	Supplies	\$1000
Line 500	Equipment	\$3000

TOTAL SECTION 4 & 5 PER YEAR = \$242,100

TOTAL COSTS OF HB 51 FOR ALL SECTIONS:

Line 100 (personal services)	\$2,597,200
Line 200 (travel)	\$208,000
Line 300 (contractual)	\$681,000
Line 400 (supplies)	\$204,000
Line 500 (equipment)	\$212,000

TOTAL GF	\$3,902,200
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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSHB 51(O&G)

Revision Date: _____	Dept. Affected: <u>Fish and Game</u>
Title: <u>An Act Relating to the Department of</u>	BRU: <u>Habitat and Restoration</u>
<u>Environmental Conservation</u>	Component: <u>Habitat</u>
Sponsor: <u>Rokeberg and Kelly</u>	
Requester: <u>House Oil and Gas Committee</u>	COMPONENT SERIAL NO. <u>486</u>

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 100	FY 01	FY 02	FY 03
PERSONAL SERVICES	150.0	150.0	112.5	112.5	112.5	112.5
TRAVEL	18.0	18.0	13.0	13.0	13.0	13.0
CONTRACTUAL	12.0	12.0	9.0	9.0	9.0	9.0
SUPPLIES	8.0	8.0	6.0	6.0	6.0	6.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	188.0	188.0	140.5	140.5	140.5	140.5

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	188.0	188.0	140.5	140.5	140.5	140.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	188.0	188.0	140.5	140.5	140.5	140.5

Estimate of any current year (FY97) cost: \$ _____

POSITIONS

FULL-TIME	2	2	1	1	1	1
PART-TIME			1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Additional expenditures stem from the increased workload that will occur as the department is required to increase the scope, substance, and specificity of its AS 16.05.840, 16.05.870, and 16.20 permit application reviews and significantly increase field inspections and site-specific water quality data collection (background conditions) in lieu of complete reliance on the Department of Environmental Conservation's water quality standards and wastewater discharge permitting program. Additional expenditures will occur assisting ADEC in developing a NPDES program that will be approved by EPA. Estimate that five reviews requiring ADF&G participation will be conducted annually to adopt regulations under AS 46.03.087(b).

Prepared by: 
 Division: Habitat and Restoration
 Approved by Commissioner: Frank Rue
 Agency: Fish and Game

Phone: 465-4105
 Date: 1/29/97
 Date: 1/29/97

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ADF&G Fiscal Note Assumptions on CSHB 51(O&G)

Page 2

One additional permitting position will be needed to increase the scope of AS 16.05.870 and AS 16.20 permit reviews for activities previously afforded full protection under ADEC's wastewater permit program. This is largely due to the significantly increased field presence that will be required to collect and evaluate background conditions under AS 46.03.085(a)(4) and concerns that AS 46.03.085(e) will preempt retention of the Aquatic Life Standard's numerical turbidity and stream substrate sediment accumulation criteria. The corresponding federal narrative sediment criteria lumps settleable solids, turbidity, and total suspended solids together and does not include numeric limitations. Under a best case scenario, it would still require readoption of these criteria under AS 46.03.087, potentially on a site-specific basis. Greater statutory assurance that ADEC could retain its Aquatic Life turbidity and sediment accumulation criteria would significantly reduce this cost estimate.

Estimate five reviews will be conducted annually under AS 46.03.087(b) to adopt water quality regulations for which there is no corresponding federal criteria, a more restrictive criteria is proposed, or for methods that are not substantially similar to methods approved by EPA. Difficult to estimate cost because it is highly dependent on availability of site-specific water quality and hydrologic data; however, estimate it may range a low of \$10,000 per review to a maximum of \$62,000 each (this is the actual annual cost recently incurred assisting ADEC in development of site-specific criteria for Ikalukruk Creek (Red Dog Mine).

Estimate 0.5 FTE Habitat Biologist will be needed in Years 1 and 2 to assist in developing a state-run NPDES program that will be approved by the EPA.

Increased AS 16.05.870 and AS 16.20 Permit Review and Compliance Inspections

	<u>Annually</u>	
Line 100	75.0	1 - Habitat Biologist
Line 200	7.0	
Line 300	5.0	
Line 400	3.0	
TOTAL	90.0	

AS 46.03.087(b) Evaluations (5 annually) (Assume low-range estimate of \$10,000 each)

	<u>Annually</u>	
Line 100	37.5	0.5 - Habitat Biologist
Line 200	6.0	
Line 300	4.0	
Line 400	3.0	
TOTAL	50.5	

NPDES Program Assumption (Years 1 and 2 Only)

	<u>Year 1 and 2</u>	
Line 100	37.5	0.5 - Habitat Biologist
Line 200	5.0	
Line 300	3.0	
Line 400	2.0	
TOTAL	47.5	

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
JUDICIARY COMMITTEE, MEMBER
CORRECTIONS FINANCE SUBCOMMITTEE, MEMBER



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Representative Norman Rokeberg

SPONSOR STATEMENT

HB 51- "An Act relating to DEC water quality."

HB 51 is an important piece of economic development legislation and regulatory reform that is long overdue. The intent of this bill is to foster resource development within the State of Alaska while endeavoring to simplify the regulatory climate. Under Department of Environmental Conservation's current regulatory system, adoption of federal changes can take a considerable length of time. Presently, there is no mandate in state statutes requiring departments to repeal regulations when the federal government no longer requires enforcement or eases criteria. I believe that HB 51 will help DEC as well as the State of Alaska in the long run.

HB 51 provides a process for the Department of Environmental Conservation (DEC) to follow when regulations are initially proposed. This bill replaces a bill, HB 342, that was vetoed by Governor Knowles last year. Only minor changes have been made to the version that passed the legislature last year.

HB 51 is supported by the 18-member Alaska Oil and Gas Association (AOGA), the Resource Development Council (RDC) and small independent placer miners. The primary focus of this bill is to make state regulations incorporate reductions in, or elimination of, federal regulations. Standardizing state regulations with federal regulations and criteria will provide certainty to members of the public and industry as to the nature of the water quality standards that users of water requesting permits will be required to meet.

First the bill contains an intent section to provide the Department of Environmental Conservation the view of the legislature. In conjunction with the intent section the powers of the department have been amended to provide guidance in the section of statute that outlines the powers of DEC.

Second, this bill lists a number of water quality standards and measurements that must be taken into account when proposing, adopting and applying water quality standards.

Third, the bill provides that after receiving a request by a permit applicant to amend state regulations to incorporate the federal changes DEC shall, within 90 days or another mutually agreed upon date (between DEC and the applicant), either proceed to adopt the federal change and propose a new state regulation or follow the process outlined in the bill to justify a more restrictive a water quality standard.

(rev 1/21/97)

— SPONSOR STATEMENT —

Fourth, the bill establishes that water quality criteria and measurements except for sediment must be by federal EPA methods which have been approved in writing or by a substantially equivalent method approved by DEC.

Fifth, the bill authorizes the commissioner to establish a discharge standard for sediment and establishes the volumetric Imhoff Cone method as the measurement of settleable solids in discharged water.

Sixth, establishes a process for DEC to use when the department proposes regulations: (1) allows DEC to adopt a regulations **more restrictive** than federal criteria; (2) allows DEC to establish a state water quality standard for which there is no corresponding federal criteria; and (3) allows DEC to establish a state water quality measurement different from the method of measurement that EPA recommends.

Lastly, the bill sets up a transitional review of state water quality regulations that coincides with the department's triennial review process required by the federal Clean Water Act. The bill provides for annual reports to the Legislature on the progress of their review.

This bill is needed so that the state's water quality standards remain consistent and not more restrictive than applicable federal water quality standards .

HB 51 will provide certainty to the public in enforcement of Alaska's water quality requirements.

I urge your support of this important development tool.



JAN 22 1997

Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

HB 51 - Twentieth Legislature

"An act relating to the Department of Environmental Conservation"

Clean water is critical to the economic prosperity and health of Alaskans. HB 51 would weaken Alaska's water quality standards (WQS). The Alaska Environmental Lobby is opposed to this bill because it would:

- jeopardize the health and welfare of Alaskans and their ability to protect their water resources by lowering Alaska's water quality standards ((WQS) to the lowest level of standards nationwide,

- allow the Department of Environmental Conservation (DEC) only 90 days to study and draft regulations that the bill mandates be based on "scientific and technical evidence". The bill language would cripple DEC's review process,

- lead to greater confusion, delays, and litigation in the permitting process,

- dramatically shift the primary purpose of WQS away from protecting public health and welfare to being "economically feasible"

- significantly weaken the definition of natural background level. The natural background level of substances of concern (ex. arsenic) is already addressed by current state water quality standards (18 AAC 70.035 Site-Specific Criteria),

- violate the basic goal of the Clean Water Act to limit the discharge of toxic pollutants into our water. By redefining "natural background", this bill makes polluted water the standard for future discharges.

At a time when Alaskans demand state control over the state's natural resources, HB 51 would hand over the power to determine the quality of Alaska's waters to the federal government. The state's unique attributes that Alaskans value so highly - our abundant fish runs, our rich estuaries, our cold, clean streams - must be protected by unique standards drafted by professional resource managers in concert with the industrial interests within the state and with over-sight by all concerned Alaskans.

**ALASKA OIL AND GAS ASSOCIATION
POSITION ON
WATER QUALITY STANDARDS LEGISLATION
January, 1997**

The Alaska Oil and Gas Association (AOGA) is a trade association whose 18 member companies account for the majority of oil and gas exploration, production, transportation, refining and marketing activities in Alaska.

AOGA supports the goal of legislation which would establish reasonable, economically achievable, and scientifically based State water quality standards that are no more stringent than federal standards unless, on a case by case basis, scientific evidence justifies more stringent state regulation.

Specifically, AOGA supports legislation that provides for the following:

State regulations and standards to be consistent with federal requirements;

If circumstances warrant state standards which are more restrictive than federal requirements, a definitive process for evaluating the need for a more stringent standard which considers science and economics;

Efficient amendment of state regulations to match changing federal regulations;

Regulations that specify only EPA-approved measurement methods;

Allowance for discharge waters to match the quality of receiving waters

Presently the state is required to amend its regulations only when changes to federal regulations result in standards which are *more* restrictive than those of the state. To ensure consistency with federal regulations, the state also should be required to amend state standards when changes occur to federal regulations which result in *less* restrictive standards, or when provisions are deleted from federal regulations. There should be an efficient means for agencies to modify existing state regulations to effect this requirement.

Federal regulations should be the basis as well as the boundary for state regulations. In the event that there is a legitimate need for more stringent state regulations, there should be established review criteria, which considers science and economics, for evaluating the merit of the argument for having state regulations that would be more stringent than federal requirements.

Finally, an appeal process should be provided that allows the regulated community to challenge state regulations on the basis that a state regulation is more stringent than federal requirements.