

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2469 SCOMM 104: HOUSE SPEC. COMM. OIL & GAS, 1997-98



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SCOMM 104: HOUSE SPECIAL COMMITTEE ON OIL AND GAS, 1997-98

MEMBERS:

REPRESENTATIVE MARK HODGINS, CHAIR
REPRESENTATIVE TOM BRICE
REPRESENTATIVE CON BUNDE
REPRESENTATIVE J. ALLEN KEMPLEN
REPRESENTATIVE SCOTT OGAN
REPRESENTATIVE NORMAN ROKEBERG
REPRESENTATIVE JOE RYAN

Established by House Resolve No. 5, 1997.

Contents: 15 files. 61 cassettes are also available of meetings held 1/23/97 - 8/12/98.

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2. D.E.C. ENFORCEMENT STANDARDS
3. DUTCH HARBOR OIL SPILL CONTINGENCY
PLAN OVERVIEW
4. OVERVIEW: POINT THOMPSON
5. POINT THOMPSON LEASE HOLDERS
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SCOMM

104:1

Robert N. Christenson

15800 Southpark Loop, Anchorage, AK 99516

EXPERIENCE

STRATEGIC PLANNING - VECO Corporation

Senior Vice President, Strategic Planning, Current

Responsible for long range planning for the corporation which includes Engineering, Construction, Operations and Maintenance, Drilling and international activities in the oil and gas sector.

VECO ENGINEERING (FORMERLY CHRISTENSON ENGINEERING)

President, 1993-1996

See below for responsibilities

CHRISTENSON ENGINEERING

President, 1986-1993

Responsible for the total operation of multi-disciplined petroleum service company of 1,000 personnel. Principal service areas are all facets of production facilities including well tie-ins, gathering, separation, produced water handling, gas handling, crude transport, various EOR methods-water flood and gas injection, gas compression and utilities. Coordination of these activities with drilling and reservoir to maximize production. Also maintenance and operations of existing fields and engineering alliance partner for the Alyeska pipeline.

HALLANGER ENGINEERS

Manager, 1976-1986

Same responsibilities as above and additionally serviced refineries in the Puget Sound area.

Discipline Engineer/Project Engineer, 1956-1976

During this time I served as a discipline engineer with progressively increasing responsibility and transitioned into project direction with increasing responsibility in various industries.

EDUCATION

CALIFORNIA STATE UNIVERSITY AT LONG BEACH

Bachelors of Science in Mechanical Engineering, 1963

REGISTRATION

- Mechanical Engineer in Alaska and Washington



BILL J. ALLEN
Chairman & CEO

May 2, 1997

RECEIVED
MAY 05 1997

Representative Mark Hodgins
Chair House Oil & Gas Special Committee
Alaska State Legislature
State Capital
Juneau, AK 99801

MARK
Dear Representative Hodgins,

I understand that on Tuesday, May 6, the Legislature will act on the nomination of Robert Christenson to the Alaska Oil & Gas Conservation Commission. Bob is currently a senior vice-president at VECO with a wide variety of responsibilities overseeing development and management of operations in the oil and gas sector. A licensed, professional engineer with a lifetime of accomplishment in the petroleum business, he has been associated with Alaska's oil scene since the early '80s. Bob was previously owner and president of the company which is now VECO Engineering, Inc.

Bob and his wife, Sara, along with their son and grandchildren, are valued Alaska residents and intend to retire here. Bob understands the critical role that the oil industry has in our state and the benefits that Alaskans receive from oil production. You can depend on Bob to use his experience, professional stature, and impeccable integrity to help the state get the maximum benefit from its petroleum resources.

Without reservation, I strongly recommend your confirmation of Bob Christenson to the Oil & Gas Commission.

Sincerely yours,

Bill Allen

BA:js

April 29, 1997

Representative Scott Ogan
State Capitol
Room 128
Juneau, AK 99801-1182

Dear Representative Ogan,

I understand the Governor has appointed or plans to appoint Mr. Robert N. Christenson to a position as Commissioner (Petroleum Engineer) on The Alaska Oil and Gas Conservation Commission. Mr. Christenson, while having an impressive resume, appears to be qualified as a mechanical engineer by registration and experience. I find the appointment to be curious since he apparently has not qualified by experience or degree in the discipline required.

I am a registered petroleum engineer currently working on the staff of the Alaska Oil and Gas Conservation Commission. I have been in this position for over six years. As a student I worked as a petroleum engineer intern with Great Northern Drilling Co., Shell Oil, Amerada Hess, and Chevron (summer college jobs during 1966, 1967, 1968 and 1969). Since graduating from Montana Tech in 1970 with a BS in Petroleum Engineering I have worked for UNOCAL, BP Alaska, Standard Oil of Ohio, and Alaska Petroleum Contractors for over 19 years prior to joining the AOGCC. In addition, I served in the U.S. Army for 2 years (1970 - 1972). I became registered in 1977 by passing the petroleum engineers registration examination. I applied for the job of Commissioner in May 1996, however, I was not even interviewed for the job. There were at least 2 other registered Petroleum Engineers who also were not interviewed.

I must protest this appointment on the grounds of lack of petroleum engineering experience and registration in the discipline as required by statute. For example, if an employer was advertising for a petroleum engineer with experience in drilling, well completion, artificial lift design, stimulation design, reservoir engineering and such, would this man apply? Would he qualify? I would have to say no.

This is the second time the current Governor has appointed a non-petroleum engineer to this position. I can say that with as small a staff as we have, the Commission cannot afford to waste a position on a person who is not experienced in those issues which we deal with daily at the AOGCC. We need the experience and ability to tackle real petroleum engineering problems and an ability to work in the discipline as well. I would ask you share this letter with others on the Resources Committee.

Sincerely,


John D. Hartz
3104 Brookside Dr.
Anchorage, AK 99517



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

Date: 5/6/97

The Honorable Gail Phillips
Speaker of the House
State Capitol
Juneau, AK 99801

Dear Madam Speaker:

In accordance with AS 39.05.080, the Special Committee on Oil & Gas has reviewed the qualifications of the following and recommends that the appointment be forwarded to a joint session for consideration:

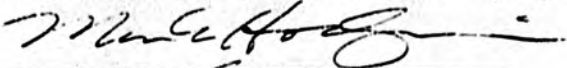
Alaska Oil and Gas Conservation Commission

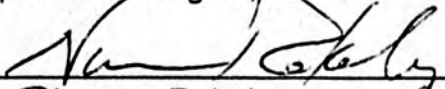
Robert N. Christenson - Anchorage

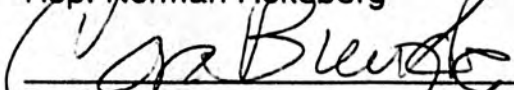
Appointed: 04/28/1997 Expires: 12/31/2000

(This appointment was also referred to the Resources Committee.)

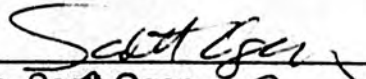
This does not reflect an intent by any of the members to vote for or against this individual during any further sessions for the purposes of confirmation.

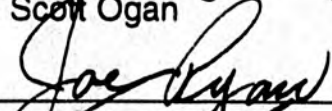

Rep. Mark Hodgins, Chair


Rep. Norman Rokeberg


Rep. Con Bunde


Rep. J. Allen Kemplen


Rep. Scott Ogan


Rep. Joe Ryan


Rep. Tom Brice

SCOMM

104:2

VIA FAX 465-2833

①

TO: House Oil & Gas Committee
Representative Mark Hodgins, Chair

FROM: Robert P. Bannon

DATE: April 11, 1997

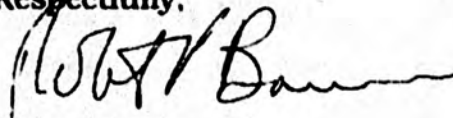
Dear Sirs:

Thank you for this opportunity to provide some insight into the treatment I experienced at the hands of the Anchorage office of the Alaska Department of Environmental Conservation. The following is entirely my own work product.

I am proud to have worked with CH2MHILL on air quality matters and permitting, Shannon & Wilson on environmental assessment and soils testing, Mr. Harry Utti, P.E. on environmental assessment, Mr. Calvin Brunner, P.E on incineration, and AMTEST for air quality tests from our stack emissions.

I swear under penalty of perjury that the following statements are true to the best of my knowledge.

Respectfully,



Robert P Bannon
277-6505
Anchorage

OVERVIEW

I was a minor stockholder in a small business, Sure-Way Incineration (Alaska Inc. No. 7) which incinerates primarily medical wastes from over 300 doctors, hospitals and clinics across Alaska. About 8 % of our business consists of oil spill clean-up wastes. We are familiar with this waste stream, having provided three incinerators on the Exxon Valdez spill clean up in Valdez.

After we had done business for some years the Department wrote a regulation which we were told by the Department required our firm to get an air quality permit from the Anchorage office of the DEC. We got a permit and stepped into a bizarre world of double standards, inconsistent and arbitrary enforcement by certain individuals in the Anchorage office who were dismissive of the input not only of ourselves, but also of our various highly qualified engineers and consultants. After several years and permits, the Department acknowledged that we did not, in fact, require their permit.

We obtained a permit from the Municipality of Anchorage. The Municipal permit was tougher, it required performance to specific standards in all regards higher and more exacting than had been required by the Department. The enforcement was significantly more conscientious, the inspections far more rigorous, consistent and numerous than under the Department. The reporting requirements, operating parameters, and training required of us were more exacting, and we were required to have periodic public hearings and open-houses to answer any questions that may arise. We did well under the Municipal system. The individuals who permitted us were knowledgeable, listened to our engineers, were uniformly polite and responded to us in writing typically within a week.

Our time involved in the Municipal permit which protected and informed the public to a higher level was less than one-tenth of the time spent when we were involved with the DEC.

We have now sold our business, and I would advise anyone desiring an Alaska DEC permit that the treatment they receive may be completely arbitrary, depending upon whichever individual processes their project, and which office handles it geographically within the State. Further, I would advise that the Director of at least the Anchorage office apparently does not have any meaningful oversight of problem employees, their billing process is a shambles, and that in our repeated experience the testimony of the Department at public hearings was not true and in fact misleading on key items of critical importance to small businesses.

End of Overview

Major Criticism: Under the Anchorage DEC system one individual writes and issues a permit, a second individual (without any background in this field) inspects the project. If he determines problems, a third individual who did not write the permit or inspect writes a letter to the permit holder outlining the problems he has heard tell of. A fourth individual is assigned to coordinate the project with us. A fifth individual is responsible for accounting and billing. A sixth individual is an expert on waste. These are supposedly overseen by a seventh individual, the Anchorage Director. Under this silly system, whenever a question arises, DEC etiquette requires a huddle of most of these players. If there is a problem, apparently no one tells Juneau. Please contrast this with the Municipal system: two individuals work together to issue the permit, inspect the project, write all letters pertinent to the file, do the monthly review and are responsible for all aspects of the permit. When one is absent, the other can answer questions quickly and with authority.

Second Major Criticism: Each of the last two Anchorage Directors assigned a different employee who was to coordinate the project within the Department, resolve any difficulties between ourselves and the Department, and bring the matter to a close. I would like to publicly thank both of these employees, Simon Mawson, P. E. and Priscilla Wohl for attempting this assignment with good will and a refreshing "open door" policy. Unfortunately, both the current Anchorage Director Marianne See and her predecessor Janice Adair overlooked a key item: they gave the task, but did not give either individual any authority. We watched in amazement as other individuals in the Department refused to cooperate, "lost" our file, would not answer our letters for months at a time even after promising to do so, and would not produce our files even when we requested under Freedom of Information Act. We received many apologies from both Mawson and Wohl separately for their lack of ability to produce cooperation within the department, and we have nothing but praise for the actions they took and their many repeated attempts to cajole some level of cooperation. They should not have been assigned the responsibility without the appropriate authority or backing from the Anchorage Director.

Third Major Criticism: At one time we complained to the then Commissioner of DEC, who stated the we should not be held to a higher standard than that required by the federal regulations. This was ignored by the individual we were working with in the Anchorage office, Lamoreaux, who told us he disagreed with the position of the Commissioner.

(4)

Fourth Major Criticism: We were written up for a major violation and fined when we incinerated material from a drum our customer had repeatedly told us was non-hazardous and appropriate for incineration. The customer acknowledged to the DEC that we had double-checked and been assured of this, although a later test by DEC proved the material to be contaminated with solvent. The customer was the State of Alaska Department of Transportation, the material was delivered on a State truck by State employees wearing State identification. We paid the fine and wrote a Waste Management Plan which Bill Lamoreaux reviewed and approved. This required that we do confirming tests on some of the customer's wastes annually.

Remember . . . we got fined and a formal violation for burning a drum of State of Alaska waste. We learned our lesson, and when our testing of one customer's drums proved hazardous we followed the plan and did the following:

1. We re-tested (with the same result).
2. We advised the customer we were not accepting the waste and why.
3. We advised DEC .
4. Our attorney advised the State Attorney DEC works with.
5. We had the customer sign for a copy of the test results, and
6. We took photos of the customer loading his drums and leaving our facility.

The customer drove down the road to another incinerator which accepted the drums and incinerated the material. Although forewarned by days, the DEC took no action to prevent this. Eventually DEC investigated, determined that all of this was true, and did not fine or write a violation on the other facility. Instead of a "good job" to us, DEC wrote that we were subject to a fine for having stored the material!! Lamoreaux now objected to parts of the plan bearing his signature of approval - in fact his pen-and-ink changes - which allowed us to receive material on site and then reject it.

(5)

Incident 1. We were applying for our first permit and our contact person Bill MacClarence decided that he wanted us to install a "Continuous Emissions Monitor" as he had been requiring of 'dirt burners'. We checked into it and informed him 1. We were not a 'dirt burner', we had an entirely different process, and 2. the cost of \$60,000 was not within our reach, and 3. it was not required of us by any State Regulations or EPA. He required it of us anyway, we appealed his decision. As a result he turned us in to the EPA as a Significant Violator. The appeal determined that the CEM not required, but our file continued us as Significant Violators.

Incident 2. When producing a permit for us the Department decided our operators should have certain training they had read about, and they required it in our permit. We inquired what the training consisted of, the Department did not know but would get the info from EPA. I researched at the Library and contacted the University of New York where the program was being developed. There were no individuals on the West Coast with the training. It requires a P.E. with three additional years experience operating a major incinerator. We protested to Juneau that this would cost all our operators their jobs, and put us out of business to boot. The requirement was eliminated by Juneau.

Incident 3. We were inspected by a new person one year. She praised us for our fence. The next year we were inspected by another new person, Robert Weimer. He formally cited the same fence as a violation. We asked what was the problem with the fence and he described for us where he wanted more fence installed, which was not required by the permit. He would not remove the violation.

Incident 4. After a public hearing where some members of the public were making some strange statements about us, I reviewed our file at the Department. I was amazed to find casual "e mail" sent back and forth from different Department members that was part of the file. We had not been informed of this. One Department employee in Juneau was estimating how much our business made each year, (His calculation of our company annual profit was about ten time how much our business was then grossing.) Our Anchorage permit person Bill MacClarence was speculating about my personal net worth. Offended by this, I inquired of the ombudsman's office and was shown a regulation that incorrect information would be removed from a file if we requested. I contacted the supervisor, Bill Lamoreaux and requested that he do this. He declined, but offered if we wanted to put a different viewpoint in writing he would include that in the file.

(6)

Incident 5. We had our stack emissions tested at significant expense by AMTEST, which does about 80% of this work in Alaska. The individual performing the test was a Professional Engineer and had done over 10,000 of these tests. He said he could form no opinion of how we were doing by visually inspecting the filters. Our local engineer had obtained his Masters Degree working with the tester, and he agreed that he also could form no opinion from the filters, he would have to wait for the lab results in 30 days or so. Our local DEC permit writer, Bill MacClarence returned to his office and placed a note in our file without telling us, that said he felt we were doing quite poorly from his observation of the filters, and criticized our operation. We passed the various tests with flying colors, but his speculation remained in our file.

Incident 6. We entered into a "Compliance Order" to try and resolve our issues with the Department. Among the details it required us to answer the Department's letters within ten days. It gave the Department 60 days to answer. We were told by Lamoreaux that there might be some instance when they took 60 days, but that would be unusual.

We always answered within the 10 day requirement. The Department never answered within the 60 day requirement.

Incident 7. The order said if we had trouble resolving an issue, we should appeal to a specific person in the Department. When our engineer did not receive an answer to his submittal to Eileen Olson after 80 days and numerous inquiries, we called for such a meeting. After this meeting began, the individual we were appealing to, Lamoreaux, excused himself and left the meeting. He did not return. We were left with Mr. Simon Mawson and the individual about whom we were complaining, Eileen Olson.

Incident 8. In this meeting Eileen Olson said she had received letters from our engineer, but she would not answer them because she felt he had not addressed all the questions she had raised. We asked how we were to know this, since she had not responded to us in any manner. Mr. Mawson obtained a promise from Olson that she would respond to us within two weeks. Five months later, we had no response after checking repeatedly with Mawson.

(2)

Incident 9. In this meeting Eileen Olson said she was going to take our engineer's Work Plan and compare it to information kept in our "secret file". We had not heard of this. We asked three times to see it, Olson refused. We asked if our engineer could review it, Olson declined. Our engineer had been required to review all our files at the Department in order to provide a Work Plan that would address the issues, Olson assured us our engineer had not reviewed the "secret file". We requested the file under the Freedom of Information Act. Finally Olson provided what she said was available to us from the "secret file", a single page we had not seen before, from a disgruntled former employee who was now a competitor. There were blanked portions of the document, Olson said if we wanted to know what was there to get an attorney. This was not said in a spirit of cooperation or helpfulness.

A year later we found that the Attorney General's office had said we should have received the information in the file, and Simon Mawson felt strongly that we should receive the file, but the individual we were complaining about, Eileen Olson, had substituted her judgment, and only provided us one page. We know that there was more, because it was turned over to us over a year later.

Incident 10. Shannon & Wilson took 8 days to visit our site and write a plan by a P.E. showing where they wanted to drill holes. It took Olson longer to review it than it took them to write it. She (who had not been to the site with them) wanted several holes in different locations. She lacked critical knowledge of our site, building, and drilling techniques.

Incident 11. After the appeal discussed in 7 above, where Lamoreaux left and failed to return, we elevated our appeal as called for in the Order. By this time even the response Olson promised to Simon Mawson and ourselves was weeks overdue. We and our attorney met with the Anchorage Director See and inquired first: Why had the supervisor Lamoreaux left the meeting and not returned? and second: Why had Olson not answered our letters? We outlined the Freedom of Information fiasco. We expressed in strongest terms that Olson and Lamoreaux had been unfair and unreasonable and we desperately needed Director See's help. We were told by See that she would provide us a written response within five days. She never responded.

Incident 12. Our new competitor went to a Palmer DEC employee, showed him an incinerator with no tests results, no permit, no data recording system, lock-outs or loading system and got the Palmer person to write a letter lauding it as "State of the Art." This was a service not offered to us.

(3)

Incident 13. After months of additional total lack of response I contacted Kurt Fredrickson, Assistant Commissioner in Juneau. He was unaware of any problem. He came to Anchorage and met with us. He opened by asking us what was the problem, we pointed sequentially to three individuals in the room and said (of the Anchorage Director) "Marianne See said she would answer us in writing in five days and she has not answered in over 9 months." (of the Supervisor) "Bill Lamoreaux has not answered us in over 10 months." (of the person handling our file) "Eileen Olson has not answered us in over 12 months." Our attorney noted the 60 day answer requirement on the part of the State. None of the individuals denied the lack of responses. After the meeting we were informed the supervisor Lamoreaux would not be involved in our project anymore, but the others would.

Incident 14. We attended public hearings when new regulations were adopted. We were told the Department would have a "Small Business Advocate" available to assist with applications and resolve problems with the Department. When we later requested his assistance, we were told:

1. (By Anchorage) The position did not exist. Never heard of it.
2. (By Juneau) The position did not exist, it was supposed to exist, but the Department did not have any funds for it.
3. (By Anchorage) The Department was in trouble with EPA because they did not have the position filled. If we complained to EPA about the fact the Department did not have the position filled, it would be held against us.

Incident 15. The Department produced a bill for their time. We asked for them to give us back-up documents. A month later they came back \$15,000 higher.

Incident 16. When the Department tried to bill us for its time, they produced records proving that supervisor Lamoreaux spent a full work week revising a 4 page letter he had previously sent. 37 hours of effort did not produce a letter. The letter-in-progress was then handed on to another person to work. The billing system being a complete shambles, the Department agreed to knock off approximately \$60,000 of time that had been charged to us.

Incident 17. We said our unit was rated incorrectly by the Department. Lamoreaux said they went by manufacturer's ratings. We got a rating letter from the Bellingham assembler. Lamoreaux said they wanted the actual computations. We got the computations from the Bellingham assembler. Lamoreaux said they weren't stamped. We said the guy isn't a P.E. Lamoreaux said he wanted computations from a P.E. We agreed to get same. Lamoreaux said he wanted the P.E. to assume burning conditions of, say, a ten knot wind, and XX Fahrenheit. And Lamoreaux gets to approve the waste stream but he

(9)

won't tell us what it is. And he wants a mass balance, since we got an engineer. None of this is in the regulations. It was not required of anyone else in Alaska. Our figures were correct, and eventually accepted after thousands of dollars on our part, and there was no standard requiring that we do any of this.

There are many many more examples in addition to the above. The mere recitation of these cold facts cannot capture the mean-spirited and arrogant attitude that was displayed to us by certain individuals we worked with in Anchorage.

We had a number of suggestions on how to actually produce less pollutants. We generated our own power and heated our building with waste heat, but we get no credit for that, that is not the job of the DEC. Their job is to inspect us, hold conferences with each other, and to write more complex permits. When Robert Welmer inspected us he wrote us up for a number of violations. We met with him and his supervisor Bill Lamoreaux and noted a number of the accusations were not true. Robert Welmer's response "It does not have to be true, it is just an accusation."

I do not mean to imply that other offices are run in this manner, or that the Department does not have a large group of dedicated people. I would be remiss if I did not favorably mention the previous Anchorage Director Janice Adair, Mr. John Stone and Mr. Kurt Fredrickson of Juneau, Mr. Al Bohn of Anchorage, and the attorney assigned by the A. G.'s office, Mr. Leroy Latta.

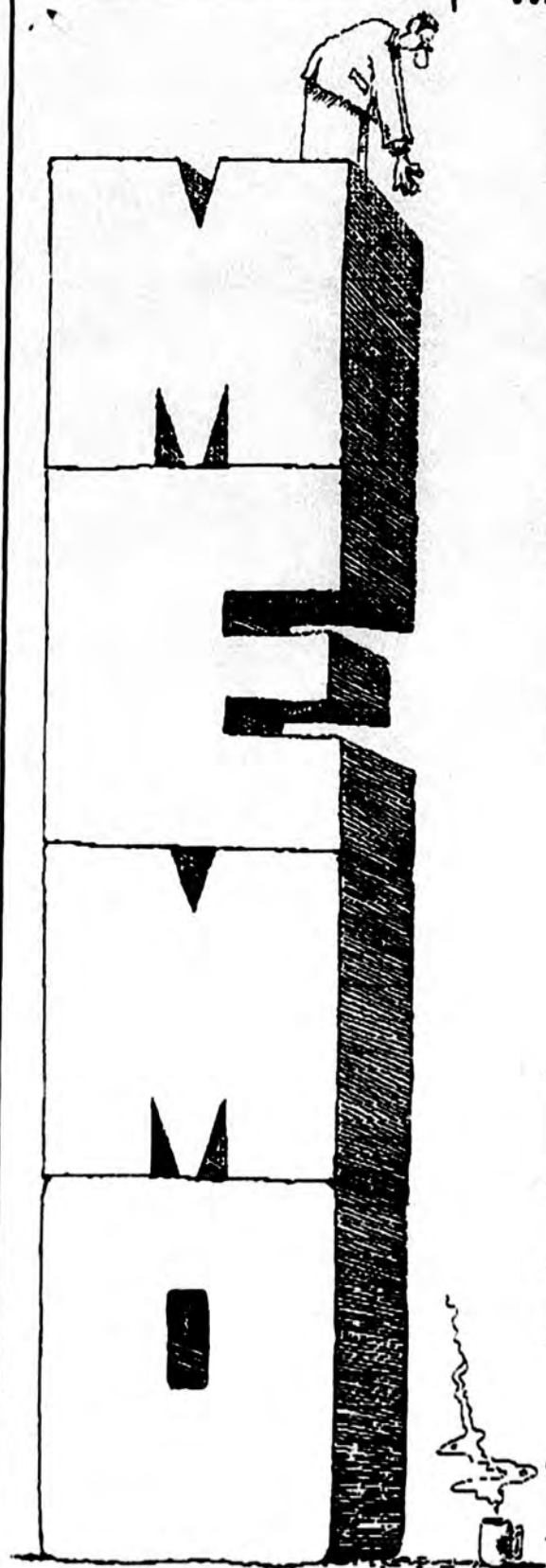
Having said that, a reasonable person should be very upset about this case history. This was a waste of not only our funds and time, but a tremendous misuse of the funds and other resources of the State of Alaska. Who was responsible for monitoring the time and funds they spent on our case? Why does it take 100% of a work week to revise a four page letter? What happens when an employee decides that she won't provide information as required by law? Who reports the Anchorage Director when she does not answer for nine months after promising a response? Why was Juneau unaware of the problems?

It ~~is~~ broke. Please fix it.

Respectfully,


Robert P. Bannon

WinFax PRO Cover Page



**Before you
dive into
something
else...**

**please
read the
following.**

Phone: 907-262-5969, Fax: 907-262-6892

To: Rep. Mark Hodgkins

Fax Number : 1-907-465-2833

From : C & R ENTS / Peninsula Pumping

Pages: 4

Date: 3/25/97

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From: John Cook

To: Senator Stevens WASHINGTON, DC
From- John E. Cook Sterling Alaska
Phone 907-262-5969 FAX 907 262 6892
Attn: Ann Marie-Jeff

Dear Sir: Madam:

I had a nice chat with Ryan and was referred to you with this complaint. I represent the small station owners and need answers to a very important matter called free enterprises and the small businessmen who used to compete with each other on selling our gas. In doing so the public had a choice who to buy from. A few years ago before the EPA and DEC came down on service stations all the big stations in the area sold out to individuals and let them run & own the stations. The reason they did this is they knew the stations were contaminated and let the suckers go down

Page 2

After the smoke cleared and, all the stations but a few like me that fought and retained their stations, the other so called station operators were destroyed. They committed suicide, went bankrupt, lost their families and future and were destroyed mentally and spiritually. Then out of the smoke appeared big brother. One of these were Tesoro who owned the refineries and supplied gas to these stations. Now the area is clean and they build big beautiful stations and go into direct competition with their customers (the small station owners). Mapco also appeared and they own their stations and refineries. They get their fuel direct out of the pipe line and then pump all the residue from the oil back into the pipe line. What a sweetheart deal. Now we have 2 refineries who own their own stations and control the prices. Tesoro and Mapco prices are identical so the little people are not going to last and then the price goes to 3.00 per gallon.

Page 3

and Bongs! a monopoly is Boen. The oil companies have fulfilled their giant plant. Complete control from well head to pipe line to refineries and right up to the hose that goes into your car, and guess what all the service Stations have the same price. No Competition. Need I go on. This is serious we must act now. They sell it and we the service station compete and sell to the public. The good old American Way.

Sincerely,

John E Cook
Box 49

Sterling AK
99672

Copies sent to:

Rep Mark Hodgkins
Interior John Torgersen
Fred Hammen - Ken Soldotna

owner of Sterling Tesoro
Sterling AK
also known as
"Cook's Corner"

4/3/97

3 pages

To: Representative Mark Hodgins

From: John Shrader

Lake Creek Lodge

907 746 1088 ph/fax

Re: DEC comments

In June of 1993 the septic system at Lake Creek Lodge was leaking gray water periodically. In an attempt to find the trouble we excavated a portion of the leech field.

While the field was uncovered, an engineer from the Wasilla DEC office came for a routine site inspection. He stated that because there was exposed gray water he would have to issue a Notice of Violation. He then photographed the excavation site and returned to his office.

A short time later we received the NOV for day-lighting gray water. The corrective action items were to; clean and decontaminate spill area (about 20 St. ft.), fill in excavation trenches, and have engineer evaluate system.

The system was represented at the sale to me as having a capacity of 72 persons. The true capacity was 32 persons with occasional use to 50 persons. (source DEC documents). At the time of the failure there were only 25 persons at the site.

The first two items were completed almost immediately the engineer arrived in early August. The engineer filed his report with DEC, later his report was discredited. The report noted "recent soil work, and normal operation of the system."

During the 93-94 Winter I spoke with the DEC office several times about the capacity of the system, so I could book guests and operate the business. They were insisting that no more than 32 persons could visit the Lodge even though they had approved the system and drawing for 50. They also demanded

further testing and an evaluation of the system.

I had hoped to discuss the photos taken during the inspection showing my intent to find and correct the problem. When I asked about them they would not produce them nor were they anywhere in the file.

In May of 94 assuming I was dealing with ethical people and that I was just not understanding. I had an attorney come to Wasilla DEC with me to discuss my problem, and to help obtain a solution.

We were unable to reason with them and began an administrative appeal. One of the items we of concern with was DEC had contacted ABC to withhold our liquor license pending compliance with the NOV. I have recently obtained some of the correspondence from that appeal. Mr. Pinard writing to Mead Treadwell on this question stated the License was issued in April. (Implying his office was NOT interfering). Subsequent phone logs show they convinced ABC to recall the license as having been issued in error. Mr. Pinard deliberately deceived his supervisor to retain his power over the situation.

The Environmental Health branch of DEC had shown no interest in the not issuing the license (it is in their domain not Waste water). One piece of internal mail from EH states we were extremely cooperative and compliant.

Mr. Pinard further attempted to deceive his superiors sending inflammatory "information" in response to their questions. ie. 'that women and children were endangered by our system'. IF that were the case DEC was negligent not to have the AST close the Lodge and arrest me! He also asserted we had a system designed for only 10 persons and had grossly misused the system. (The response to this one was 'you know you're mistaken Paul')

Through 1995 they continued to interfere with the operation of the Lodge and with the liquor license. They never took steps to condemn the septic system they just withheld permission to use a system they had already approved.

In the Spring of 1996 I went to the Wasilla office and asked how I could be in compliance. I was shown a DEC hand-out that stated for a system of my capacity I was able to design a system myself! I, not knowing where to start,

asked the DEC engineer what to do? He walked me through the design and helped configure the proposed new system.

Two weeks later, I was informed (by phone and mail) that I could NOT design a system. Even though contrary to the statute shown me by the DEC engineer earlier that spring. I was informed an engineer's stamp was needed on the drawing.

DEC offered to let me operate under a Consent by Order of Compliance. The conditions included; a deadline, releasing all my rights for a hearing on this issue, and the State retaining their rights to prosecute. I informed DEC I could not in good conscience give up my rights while they retained theirs.

I still needed to improve my leech field and proceeded to install the field as drawn and submitted. DEC had me charged and prosecuted for installing an unpermitted leech field. After the trial the photos taken in 1993 'appeared' in the file, they now contend they were there all along.

The field, though not presently approved, is truly "state of the art," and has given no indication of failure of any kind.

The process of having with this office has destroyed my confidence and my trust in the State to deal fairly with the people they obligated are to serve. The intractability of DEC on this issue has caused great financial difficulty. (The loss of over \$850,000) The documented deceit of the Wasilla office is shameful.

John Shrader
Lake Creek Lodge
907 746 1088 phone/fax

MAR 12 1997

414 Swires Rd.
Kenai, Alaska 99611
March 6, 1997

RECEIVED
MAR 17 1997

Representative Gary Davis
State Capital, Room 513
Juneau, AK 99801-1182

RE: State of Alaska Department of Environmental Conservation 18 AAC 70 Water Quality Standards and 18 AAC 75 Oil and Hazardous Substances Pollution Control Regulations Cleanup Standards

Dear Representative:

The above referenced document has come to my attention. After reviewing the document and attending the February 13, 1997 workshop in Kenai, I would like to share my perspective regarding the presentation of this issue for public comment and the actual public review draft.

I am particularly unhappy with the timing and duration of the ADEC's public notice regarding the changes to these regulations. [REDACTED] ed [REDACTED] surely, comprehensive changes to regulations that impact practically all Alaskans should warrant more than one notice in the newspaper two days before Christmas!! One would hope that our public servants working for the ADEC would realize that by publishing this notice two days before Christmas, the notice might be missed by the hundreds, if not thousands, of Alaskans traveling during this holiday season. I would be included in this number since I was traveling out of State during this time to visit relatives for the holidays. By chance, a friend mentioned this notice to me the day of the scheduled public hearing in Kenai. This change in regulation came as a surprise and shock to me, but I hastily rearranged my schedule to ensure that I could be present for this hearing. I recommend in the future that notices be published on multiple days over several weeks and I would certainly try to avoid publishing such important notices the week before and after major holidays such as Christmas! I also recommend that important notices be advertised on radio as well to ensure that it receives maximum exposure to the public. I did notice that these regulations could be viewed on ADEC's homepage, but I doubt that many Alaskans regularly peruse this site unless they have a specific reason to do so. I also wonder how many Alaskans have the ready means to access this information or the skill to access the web site even if they knew that it existed.

After reviewing the draft of these documents, I have several concerns. [REDACTED] Certainly, people could go to the public library and research them, but it would be helpful for the average individual to have the pertinent regulations and Statutes attached to the document.

While I am sure that this document makes perfect legal and technical sense to the skilled individual(s) who drafted it, I believe that the average person would find the document extremely confusing. While I realize that it is important to include all of specific scientific, statistical, and legal information, the ADEC should include a summary in "plain English" to assist people in understanding it. I noted that the ADEC is seeking comment to comply with Administrative Order 157 to use "plain English," but in order to be able to give feedback, the people must be able to understand what it is saying in order to help the ADEC write it in "plain English."

I also find that the interpretation and enforcement of these regulations is up to the discretion ADEC employees. This arrangement effectively puts incredible power and control into a handful of unelected bureaucrats over the people. What recourse would a citizen have against the ADEC if, by chance, they made a mistake? I could find no mention in these regulations concerning the economic impact that the

enforcement of these regulations could have upon small businesses. While protecting the environment is important and punishing people who willfully and negligently contaminate the environment is also critical, where is the advocate for the small business person who cannot afford a full time hazardous waste management department? Has a study been conducted addressing the potential negative economic impact that these new regulations may cause?

For instance, on page 3 of the public review draft, "A person in charge of a facility or operation shall maintain, and shall provide to the department monthly, a written record of any discharge of one gallon to 10 gallons of oil solely to land, including a cumulative discharge." How will this information be used by the ADEC? Is the knowledge gained from this really worth the extra cost involved? This regulation will force a small business owner to pay for someone to draft, review, send, track, file, and store these monthly reports. The ADEC will also have to receive, file, track, and store these monthly reports from every business in the state. The ADEC will probably have to hire a couple more people just to handle the mountain of paperwork generated from this sentence in the regulations alone. How much more will it cost to enforce the entire list of new regulations? The money to pay for this additional work will ultimately come from tax payers including small businesses. Will this be another unfunded mandate?

I believe that the community should be educated about hazardous wastes and rewarded for hazardous materials clean up. Currently, people are afraid to respond or report accidental spills for fear that the ADEC will either condemn the property or force the owner to pay for exorbitant cleanup costs that could potentially force the individual into bankruptcy. If an accidental spill occurs, and the ADEC is notified as required, they should come in and clean it up to their satisfaction with a minimal charge to the property owner or other parties involved. Of course, if a person blatantly dumps hazardous material instead of paying to have that material properly disposed that person should be fined and prosecuted.

How would the ADEC handle a situation where a person, who wishes to harm another person, decides to dump hazardous waste upon the other person's property? Has anyone considered this possibility in the regulations? If the regulations get more stringent and they are written to punish people rather than trying to partner with the public to prevent and cleanup hazardous wastes, I believe we will see more cases of "midnight dumping" of hazardous wastes on innocent people's property. I recently heard of someone caught in Anchorage committing such a crime, but how many go undetected until years later? The ADEC should also consider an equitable policy addressing the needs of landowners who purchased property with unknown hazardous waste contamination that has been discovered. Certainly it is in the public interest for the contamination to be cleaned as quickly as possible and with as little cost to the landowner as possible.

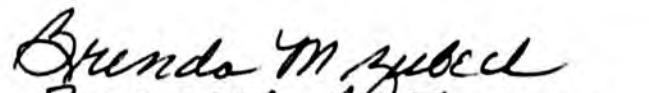
I firmly believe that it is in the public interest to organize a panel of concerned citizens to oversee the activities of ADEC. Such a powerful agency needs to be directly accountable to the people they serve. The panel members should have no affiliation with the ADEC and the individuals should not be able to vote on issues where they may have a conflict of interest. This panel should specifically review cases to ensure that ADEC has acted in the best public interest when enforcing and interpreting regulations.

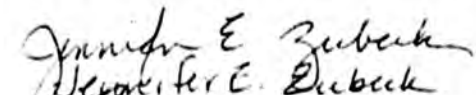
These are just a few of my concerns regarding these new regulations and I strongly urge you to consider them. More regulation may seem like the solution to everything for some, but I am hesitant to adopt any new regulations before the people truly understand the ramifications of them.

Sincerely,


Bill E. Zubeck


Bill B. Brown


BRENDA M. ZUBECK


Jennifer E. Zubeck

DANIEL T. ZUBECK

blue, loaded, power, 35,000 miles, new, \$16,500.00. OBO. 282-4441.

1994 GOLD OLDS 3.0L, 100,000 miles, new, \$16,500.00. OBO. 282-4441.

HAZARDOUS SUBSTANCES POLLUTION CONTROL REGULATIONS

2.721 NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED CHANGES TO THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION'S HAZARDOUS SUBSTANCES POLLUTION CONTROL REGULATIONS

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Alaska State Legislature



Official Business
Fax: (907) 465-3472

Speaker of the House of Representatives

State Capitol
Juneau, AK 99801-1182
(907) 465-3720
(907) 465-2689

March 24, 1997

Bill Zubeck
414 Swires Road
Kenai, AK 99611

Dear Mr. Zubeck:

Thank you for taking the time to write me such a thoughtful letter with your comments on the Department of Environmental Conservation. I can sense your frustrations with this department's myriad of regulations, while I recognize that the department is charged to follow our legislative mandates and federal regulations, as well.

I am sending a copy of your letter to Michele Brown, the Commissioner of the Department, and I will inquire about its adherence to public notice policies and note your concern for making the announcements more "reader friendly-friendly." I will also inquire if there is recourse when a new property must clean-up contamination from a former owner.

Again, thank you for your letter. It is important for us to hear from residents of the Kenai Peninsula as we consider legislation this Session.

Sincerely,

Gail Phillips
Gail Phillips
SPEAKER OF THE HOUSE

GP: ps

cc: Michelle Brown, Commissioner, DEC

✓cc: Rep. Mark Hodgins

*Mark - he may be
one to add to our
list to testify at the
mtg about DEC.*
G

414 Swires Rd.
Kenai, Alaska 99611
March 6, 1997

RECEIVED
MAR 10 1997
Ans'd.....

Representative Gail Phillips
State Capital, Room 208
Juneau, AK 99801-1182

RE: State of Alaska Department of Environmental Conservation **18 AAC 70 Water Quality Standards and 18 AAC 75 Oil and Hazardous Substances Pollution Control Regulations Cleanup Standards**

Dear Representative:

The above referenced document has come to my attention. After reviewing the document and attending the February 13, 1997 workshop in Kenai, I would like to share my perspective regarding the presentation of this issue for public comment and the actual public review draft.

I am particularly unhappy with the timing and duration of the ADEC's public notice regarding the changes to these regulations. According to the advertisement in the Peninsula Clarion, this notice was published only ONCE on December 23, 1996. Surely, comprehensive changes to regulations that impact practically all Alaskans should warrant more than one notice in the newspaper two days before Christmas!! One would hope that our public servants working for the ADEC would realize that by publishing this notice two days before Christmas, the notice might be missed by the hundreds, if not thousands, of Alaskans traveling during this holiday season. I would be included in this number since I was traveling out of State during this time to visit relatives for the holidays. By chance, a friend mentioned this notice to me the day of the scheduled public hearing in Kenai. This change in regulation came as a surprise and shock to me, but I hastily rearranged my schedule to ensure that I could be present for this hearing. I recommend in the future that notices be published on multiple days over several weeks and I would certainly try to avoid publishing such important notices the week before and after major holidays such as Christmas! I also recommend that important notices be advertised on radio as well to ensure that it receives maximum exposure to the public. I did notice that these regulations could be viewed on ADEC's homepage, but I doubt that many Alaskans regularly peruse this site unless they have a specific reason to do so. I also wonder how many Alaskans have the ready means to access this information or the skill to access the web site even if they knew that it existed.

After reviewing the draft of these documents, I have several concerns. First, unless one is an attorney, I doubt that many people are familiar with the Alaska Statutes cited in this document. Certainly, people could go to the public library and research them, but it would be helpful for the average individual to have the pertinent regulations and Statutes attached to the document.

While I am sure that this document makes perfect legal and technical sense to the skilled individual(s) who drafted it, I believe that the average person would find the document extremely confusing. While I realize that it is important to include all of specific scientific, statistical, and legal information, the ADEC should include a summary in "plain English" to assist people in understanding it. I noted that the ADEC is seeking comment to comply with Administrative Order 157 to use "plain English," but in order to be able to give feedback, the people must be able to understand what it is saying in order to help the ADEC write it in "plain English."

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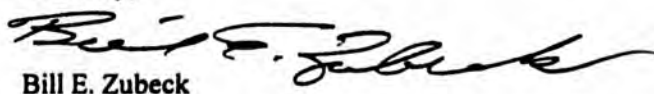
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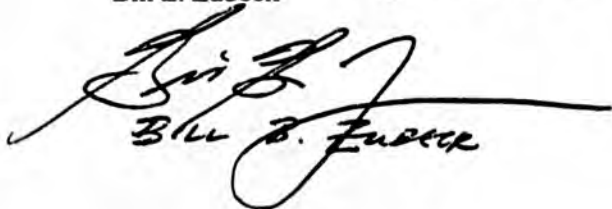
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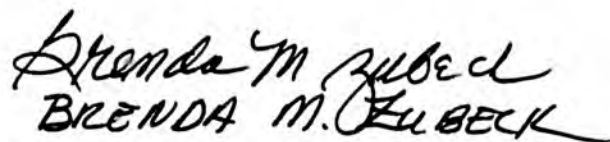
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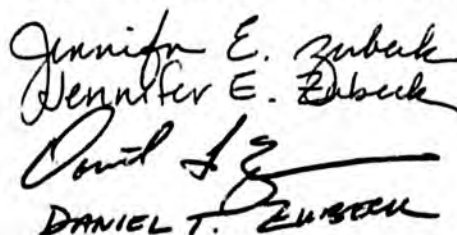
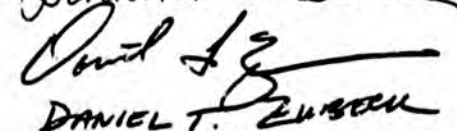
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Sincerely,


Bill E. Zubeck


Bill E. Zubeck


BRENDA M. ZUBECK


JENNIFER E. ZUBECK

DANIEL T. ZUBECK

[illegible]

1985 BUICK LESABRE - 100,000, 282-6664-1. Price \$7,495. Power windows, power door locks, cruise control, stereo, shock absorbers, front end d. 27K, loaded! Excellent condition. Call Eugene Hinton, \$19,000, 280-6018. Take over payments & fair!

395 RONDA COURT, #100, BOSTON, MA 02114
/un. Take over payments.
lient share. Call 205-395-3953.
please leave message.

1986 NEON
sport. Extended main-
tenance intervals.
100,000 miles/7 years
warranty. 120-horsepower
V-6 engine. 177-horsepower
TOMCO V-6 engine.

1976 CHEVY 1/2 TON
5.7 diesel, Hare's fuel pump,
needs exchanging. Everything
standard. \$1,000. 262-8794,
288-1882.

283-8404.

1993 TOYOTA CELICA
ock brakes, 32K miles,
al, AM/FM cassette.

1978 GMC MAGNADIE
230(6-7m) Diesel, jets, brakes,
P/S, 15 speed transmission.

let's see it. call: 283-8404.

rear deflector, window Pumps with cab right camper.
2. Low, low miles. Excellent condition. \$2,250.
00.00, 283-6628. -- 283-2901.

INVITATION FOR BIDS

valued bids for the exclusive right to operate a restaurant

and place may be published and read. This may also be mailed to the City of Kernal, but must be received in the office of the City Manager, no later than 10:00

It shall be excluded on the grounds of race, color, religion, or national origin.

will include a general information briefing, a question and answer session and an inspection tour of the concession area in the Terminal.

BID PROPOSALS MUST BE MADE ON FORMS FURNISHED BY THE CITY.

DATE: December 18, 1996

QUICK SUMMARY: Will be fully charged; Discharge Reporting, Census, and Census Information of 2010 and 2011.

Who is affected: Persons responsible for oil and other hazardous substances discharges and releases, including: indus-

These regulations will provide guidance on how to use the new standards and the basic process for clearing up contamination and include several guidance documents to assist in oversight and describe how the regulations were developed. Details are included in this notice, especially the second paragraph.

NOTICE IS GIVEN that the Alaska Department of Environmental Conservation (DEC), under authority of AS 48.03.010,

the Alaska Administrative Code (18 AAC 75) regarding oil and hazardous substance pollution control, and to adopt regulations

standards for oil and other hazardous substances and propose to use the water quality standards for surface water and for groundwater. The proposed amendments would require the permittees to develop and implement a water quality management plan for the water body. The plan would be subject to review and approval by the permittee's local government. The plan would be subject to review and approval by the permittee's local government. The plan would be subject to review and approval by the permittee's local government.

NOTICE IS ALSO GIVEN that any interested person may present written comments relevant to the proposed action, including comments on the proposed action, to the responsible authority, by the date specified in the notice. The responsible authority will consider all comments received by the date specified in the notice. The responsible authority will also consider any comments received by the date specified in the notice. The responsible authority will also consider any comments received by the date specified in the notice.

Additionally, any interested person may present oral or written statements relevant to the proposed action, including comments concerning the cost of compliance with the proposed regulations and alternative practical methods of complying, at public hearings to be held as listed below. The hearings might be extended to accommodate persons presenting at least one-half hour.

Date	Time	City	Location
January 16, 1997	1:430 pm	Juneau	Centennial Hall, 101 Egan Drive
January 21, 1997	1:430 pm	Fairbanks	Carlson Center, 201 Second Avenue

PUBLIC HEARINGS

PUBLIC HEARING BY TELECONFERENCE
February 13, 1997 7-8 pm
Kanal
Kanal Visitors and Convention Bureau, 11671, Kukul's Bay Highway

Country	Year	Value	Unit
Kenya	1990	1.0	1000
Kenya	1991	1.0	1000
Kenya	1992	1.0	1000
Kenya	1993	1.0	1000
Kenya	1994	1.0	1000
Kenya	1995	1.0	1000
Kenya	1996	1.0	1000
Kenya	1997	1.0	1000
Kenya	1998	1.0	1000
Kenya	1999	1.0	1000
Kenya	2000	1.0	1000
Kenya	2001	1.0	1000
Kenya	2002	1.0	1000
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Kenya	2006	1.0	1000
Kenya	2007	1.0	1000
Kenya	2008	1.0	1000
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Kenya	2021	1.0	1000
Kenya	2022	1.0	1000
Kenya	2023	1.0	1000
Kenya	2024	1.0	1000
Kenya	2025	1.0	1000
Kenya	2026	1.0	1000
Kenya	2027	1.0	1000
Kenya	2028	1.0	1000
Kenya	2029	1.0	1000
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Kenya	2068	1.0	1000
Kenya	2069	1.0	1000
Kenya	2070	1.0	1000
Kenya	2071	1.0	1000
Kenya	2072	1.0	1000
Kenya	2073	1.0	1000
Kenya	2074	1.0	1000
Kenya	2075	1.0	1000
Kenya	2076	1.0	1000
Kenya	2077	1.0	1000
Kenya	2078	1.0	1000
Kenya	2079	1.0	1000
Kenya	2080	1.0	1000
Kenya	2081	1.0	1000

Hammer	Tok	Juraku
Valeaz	Kanal	Wragal

If you are a person with a disability who may need special assistance to participate in the process on the proposed regular meeting dates please call Mr. Mahesh at 408.455.8444 before January 26, 2008.

Date: December 18, 1998

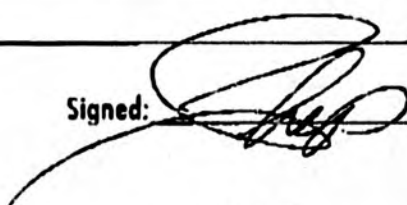


DATE: 16 Apr 97 FAX: _____
NAME: Paul Carter
FIRM: 10 Rep Hodgins
RE: Testimony
FROM: Bill Schoepfster No. Pages 4
Including This One

Please notify us immediately if you do not receive all the pages. Thank you!

Comments: Revision of draft
testimony faxed yesterday.

copy: Mark Hickey

Signed: 

Petra Marine Office Sent From:

☐ ANCHORAGE

Phone: (907) 562-5000
Fax: (907) 562-6500

☐ SEWARD

Phone: (907) 224-3190
Fax: (907) 224-3937

☐ DUTCH HARBOR

☐ Main Office
Phone: (907) 581-1350
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Phone: (206) 283-0073
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☐ SOLDOTNA

Phone: (907) 262-2250
Fax: (907) 262-7180

☐ WHITTIER

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Fax: (907) 472-2324

Testimony: House Oil & Gas Committee
Thursday, 17 April 1997
H:\Testimony.doc

No one can work as long as I have with an agency without having many memories. My work with ADEC extends over the past 15 years and includes surviving the enormous changes that resulted from the watershed Valdez Spill. The relationship is long and varied; the agency and I have both changed with time. We are both fatter; we are both more experienced. We ponder the same problems and are striving for acceptable solutions. We could both benefit from more exercise and diet.

Anecdotes about problems symptomatic of large bureaucracies don't solve problems. I have my stories, but reciting them has never been productive.

Mission and Measurement! That's my message.

The frustrations recited are the result of the problems - not the cause. I want to give you my view of the cause. The agency needs better definition of its missions and better measurement of its progress. Without Mission & Measurement the work gets lost in processes. The process becomes the mission. Activity becomes the measure of progress, not results. The desired outcomes are lost for lack of focus.

Contingency plans are an example of process overtaking purpose. I have been struggling for several years to

define the spill response planning standard for noncrude tank barges. Contingency plan review has been hampered by the fact that we have been working without a clear understanding of how to meet the statutory standard. Plan review has been a difficult process. We are now in the midst of our first plan renewal of our tank barges. Since nothing has changed - we have the same operation, the same barges, and the same laws and regulations - one might conclude the renewal would be a quick and easy matter. To the contrary, it has been going on for eight months. I believe the reason is that neither the industry nor the agency understands what is expected. The plan is measured against different standards every time it is reviewed. Without defined outcomes, the process cannot focus on results, so it grinds on. The review activity itself becomes the measure of work.

This is frustrating for the agency and for the industry. To our mutual credit, we have undertaken the work to resolve this. Kurt Fredriksson has taken an active role to help solve this problem. He has supported our effort to form a workshop with industry, ADEC, and the Coast Guard to develop realistic and effective prevention and response strategies. Tom Chapple and Steve Provant have been very helpful with their support. Two weeks ago we signed a formal partnering agreement whereby all three groups agreed to work together to define a clear strategy that we all

understand and accept as workable. This is a fine example of how we should confront these problems, and I have very high expectations for this model collaborative effort.

We need to work hard to get beyond processes and focus on results. Too often work is defined by activities when it should be defined by results. Everyone wants to do a good job and to be thought of as doing work important to the mission. But, no one can do this unless the mission is clear and the work is measured.

People want to see how their efforts contribute to the agency mission. Management must be focused on outcomes. Processes must be judged by results. Results must be measured against goals.

Mission & Measurement, that's my message. We all do a better job if we see the importance of our work measured against goals. But we must have a mission defined in terms of results we can measure. We want fewer spills cleaned up quicker - not innumerable plans each one thicker.

To: Representative Mark Hodgins
From: Nancy Wainwright
Re: Public Hearing on ADEC Enforcement

April 15, 1997

Two incidents in my personnel experience demonstrate a significant problem with DEC's inequitable enforcement of state law.

I traveled to Prudhoe Bay for an oil spill drill, and toured DEC's facilities, as well as various camps and fields with a DEC employee a few years ago. After the drill, the oil industry (which had footed the bill for most of the spill drill participants' air transportation to Prudhoe) thought the DEC employee and I had departed with the rest of the drill participants on the industry-chartered plane. The DEC employee, to his credit, believed it was improper to ride on the industry plane, and insisted that he and I take commercial transportation. [How different his ethics than those of the current administration--who routinely partake of oil industry largess and perks such as trips to London or Texas in fine style.]

Having some time to kill before the commercial airline departure, the DEC employee and I drove around the oil fields. We came upon a oil industry employees burning oil field detritus and discarded ATCO units in a large open area, in clear violation of state air quality and disposal laws. No enforcement action was taken against these activities. I later learned that the DEC employee was ultimately relieved of his North Slope duties because he was deemed "unfriendly" to the oil industry for reporting such unlawful industry activity. This is not unlike DEC's treatment of Dan Lawn, another DEC employee who suffered from retaliatory DEC measures for being "industry-unfriendly"-- which the Alaska Supreme Court recently reversed.

As a contrast, not long afterward, I participated in an Anchorage community

council efforts to compel DEC to enforce air quality regulations on a small incinerator in South Anchorage. In that case, DEC chose to vigorously enforce the laws against that small operator because the incinerator operator was burning without the proper emission controls. ADEC imposed fines, involved the Attorney General's office in a compliance action and conducted multiple inspections ---principally due to the unrelenting POLITICAL pressure by the community council, and the Legislators who, themselves, received political pressure from the community.

These two examples illustrate that DEC is governed not by adherence to its mission, to uniform application of its laws, nor to sound scientific principles. DEC is governed, and pursues enforcement according to political pressure. No matter what side of the industry/environment debate one falls on, this system of selective enforcement is contrary to the public and private interests.

Today, I am working with citizens who are trying to ensure that DEC enforces the statutes and regulations established after the *Exxon Valdez* oil spill to protect against future spills. This has been a long, frustrating, and expensive citizen effort which has been met by DEC and the Governor, not with enforcement actions, but with political compromise and private industry meetings to, once again, forge a political solution to the chronic lack of compliance by the oil industry with the post-*Exxon* laws. DEC's political solution is to grant the oil industry a waiver of state oil spill prevention law requiring best available technology (BAT), until the year 2000--a law which DEC has continually failed to enforce since *before* the *Exxon Valdez*. This leaves the State vulnerable to significant legal challenges -- particularly if there is an oil spill without BAT in place.

Could a small operator obtain such a waiver of State law? Would DEC

tolerate blatant disregard for its regulations if the polluter had no presence in Juneau? Or, if a community or special interest group mounted a significant political opposition to a small operator?

The principal problem with DEC is its inequitable enforcement of laws based upon the political power of the regulated entity. A suggested solution is to remove DEC, as much as possible from political pressures. DEC could be reorganized to become an independent agency, whose Commissioner and high ranking staff are not political appointees. The agency could be administered by an independent authority or Board with staggered terms, spanning Administrations, so its enforcement of laws is insulated from the political whims of each Administration. Strict conflict of interest provisions, including prohibitions on accepting any gifts or perks, should be enforced on its staff.

Finally, there is much discussion of a new name for DEC as a symbolic of the need to reform the agency. The Legislature seems interested in interjecting a balance of development with environmental safeguards. The Legislature might wish to consider the following: the "Department of Sustainable Development." This incorporates the concept of development that meets the needs of the present without compromising the ability of future generations to meet their own needs. The agency's mission could be to regulate current development, while appropriately conserving resources for future generations. Whatever laws the legislature chooses to enact to guard against pollution should be fairly and uniformly enforced---and blind to the political forces behind the polluter.

YOUNG'S TIMBER, INC.
CONSULTING • MILLING • DEVELOPMENT

P.O. BOX 42
TOK, AK 99780
PH./FAX 907-883-5060

April 3, 1997

Representative Mark Hodgins
Room 110
Juneau, Alaska

Dear Representative Hodgins,

- #1 I think your name change from Department of Environmental Conservation to Department of Environmental Development is great and I support it 100%.
 - #2 I think the reliability and integrity of the personal of the Division of Forestry is quite sufficient to make the call on Forest Practices Act Permits.
 - #3 The cost for Department of Environmental Conservation to have someone from Juneau and Fairbanks to come to Tok and check the professionalism of the State Foresters performance is asinine and that is very wasteful of taxes, energy, and State resources. Especially for an inspection on a private two man firewood salvage sale, to make the trip, only to check one operator when there are seven working operations in the area.
- This happened to me.
- #4 Another situation has just risen. On an access to a State Timber Sale. One small 100' ice crossing got some small logs put in for support and a few shovel fulls of vegetation matting got mixed up with the snow and over the dry stream bed. And now I am battling Department of Environmental Conservation.

A very clean crossing by acceptable practices.

No, the Department of Environmental Conservation, Army Corps of Engineers, and the works are coming in force to inspect our little ice bridge with very minor debris in it

Of course I agreed to breach the crossing so water won't be blocked. But now I have to get every little piece of vegetation out of the bridge to my great expense.

But the cost of eight different inspectors, transportation, and per diem must be more than my extended cost of completing their wishes.

As usual I am the small local operator that the bureaucracy is justifying its existence with four different departments involved.

Next week the inspection team will be there. It might be nice to have an aide there to see for yourself what small private businesses go through.

Over the last three years this is the third time the Department of Environmental Conservation has reacted in this manner. (Harassment?) Each time there was no merit.

Thanks,

Joe Young
President





Alaska State Legislature

HOUSE OF REPRESENTATIVES

Beverly Masek

Official Business

**600 East Railroad Avenue
Wasilla, AK 99654
907-376-2679**

MEMORANDUM

TO: MR. PAUL PINARD / D.E.C.

FROM: REPRESENTATIVE BEVERLY MASEK

DATE: OCTOBER 30, 1995

RE: CONSTITUENT CONCERNS

In an effort to ascertain the validity of a number of complaints about selective enforcement of DEC regulations I would appreciate the following information:

- 1. A list of all subdivisions of 2 lots or less, of 2 acres or less in size for which septic system bonds have been required before Department approval.**
- 2. A list of all auto repair shops (not service stations) which have been required by the Department to comply with public restroom and water regulations.**
- 3. A list of all parties who have been required by the Department to excavate septic test holes on subdivision lots of less than three lots, 2 acres or less in size during January or February.**
- 4. A list of all complaints to the Department or area office about the agency or representatives of the agency.**
- 5. ** The average time it takes your office to approve a subdivision of 2 or less lots, two acres or less in size.**

DEPT. OF ENVIRONMENTAL CONSERVATION

November 3, 1995

Representative Beverly Masek
600 East Railroad Avenue
Wasilla, Alaska 99654

Dear Representative Masek:

I received your October 30, 1995, request for information. While we are willing to provide the information you need, your request is very broad and it would be helpful if the scope were better defined. For example, are you requesting this information for the last six months, the past year or for some other period of time? Is this information needed from all Department offices or just from the Wasilla Office?

Within the Wasilla office, we currently have in excess of 80,000 files, which are filed under individual property legal descriptions. The files are not kept by the type of facility, such as auto repair shops. For some of the questions you have posed, files would need to be individually reviewed to determine if a particular property falls under your request. For example, we can certainly provide you with a list of subdivisions that the Department has reviewed, but each file would have to be reviewed to determine the size and/or number of lots in that subdivision. If you can clarify your request we will be better able to respond to your needs.

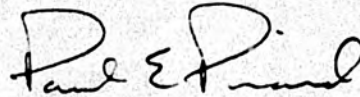
I can respond to your item #3 at this time. That request was for a list of all parties who have been required to excavate testholes for subdivisions during January and February. To my knowledge, the Department has not required anyone to dig testholes for a subdivision during this time period. In fact, the Department tends to discourage testhole work during this period since watertable information, which is necessary for the evaluation of the proposed subdivision, is not representative of seasonal high levels if obtained during the winter. The Department, however, does not prohibit individuals from doing their testhole work during the winter but may require subsequent monitoring of watertable levels if there is an indication that a high watertable may exist. I hope that this helps to explain our role as it relates to this particular issue.

Once the Department receives a clarification of the scope of your request we will be glad to research our files and provide you with the information you request, although we may need an extension of the initial ten(10) working days, as provided by law, to be able to fully respond. Again, our files are open to the public and it may be more beneficial and timely for you to review them for the issues of concern to you.

November 3, 1995

We would be more than willing to assist you in this effort as well. If you have any questions, please feel free to call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul E. Pinard".

Paul E. Pinard, P.E.
Area Manager

PEP:lb

cc: Michele Brown, DEC/Deputy Commissioner
Marianne See, DEC/Director SPS
Billie Wilson, DEC/Juneau



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Beverly Masek

Official Business

600 East Railroad Avenue
Wasilla, AK 99654
907-376-2679

MEMORANDUM

TO: MR. PAUL PINARD / D.E.C. *BM*
FROM: REPRESENTATIVE BEVERLY MASEK
DATE: NOVEMBER 8, 1995
RE: CONSTITUENT CONCERNS

In an effort to ascertain the validity of a number of complaints about selective enforcement of DEC regulations I would appreciate the following information:

1. A list of all subdivisions of 2 lots or less, of 2 acres or less in size for which septic system bonds have been required before Department approval. (SINCE YOU HAVE BEEN IN A POSITION TO IMPOSE SUCH A REQUIREMENT)
2. A list of all auto repair shops (not service stations) which have been required by the Department to comply with public rest room and water regulations. (SINCE YOU HAVE BEEN IN THE WASILLA OFFICE)
3. A list of all complaints to the Department or area office about the agency or representatives of the agency. (SINCE YOU HAVE BEEN IN THE WASILLA OFFICE)

4. ** The average time it takes your office to approve a subdivision of 2 or less lots, two acres or less in size. (SINCE YOU HAVE BEEN IN THE WASILLA OFFICE)

My office is not interested in how many files your office has, nor is it interested in how you might chose to extract the information from various files.

What I need to know is how DEC rules and regulations are being applied and if there is any validity to reports of selective enforcement, inconsistent application, and dilatory action.

If you are having trouble finding the records necessary to disprove such behavior perhaps I could suggest an official response in detail to these allegations for the legislative record while the data from pertinent files is being assembled for review.

The other possibility is for my office to solicit from the private sector any information from their files which might fall into the category of selective, inconsistent, and dilatory regulatory action by you or your office.

The subject of regulatory harrassment has also been received from numerous parties, however until I review the information I have requested of you it would be premature to follow up on those allegations.

Please advise if you can not comply with my original request, as outlined in more detail in this memo.



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Beverly Masek

Official Business

600 East Railroad Avenue
Wasilla, AK 99654
907-376-2679

November 8, 1995

Commissioner Gene Burden
410 Willoughby Avenue Ste. 105
Juneau, Alaska 99801-1795

Dear Commissioner Burden:

Thank you for your time with me on the issue of complaints involving DEC in my District, and please thank your Deputy Michelle Brown for her assistance also.

Since our conversation it has been brought to my attention that the complaints filed about Mr. Pinard in this area go back many years. While it is logical to assume some complaints are a necessary part of the regulatory business, it is not logical to hear about personality and vindictiveness from so many sources. My office has talked to past legislative employees as well as current ones who have served in the area for some time. We have spoken with a wide range of constituents, as well as professional people who deal on a regular basis with Mr. Pinard. At least one has indicated he is afraid to upset Mr. Pinard because "...he can make life so difficult if he does not like you."

The case in point immediately before me is the property of Mr. Wayne Kingsbury. Mr. Kingsbury bought ten acres of property some time ago. Last year he decided to sell two two-acre lots. He was told he would have to dig test holes for septic assessment which he immediately complied with in February at great expense. Mr. Pinard came out performed a cursory inspection and informed Mr. Kingsbury he would have to come back in May and do the tests. Mr. Kingsbury was incredulous and asked why DEC did not tell him winter test holes were not adequate for testing. Since that time Mr. Pinard has made every conceivable request of Mr. Kingsbury and his engineer again at great expense to Mr. Kingsbury. Each time Mr. Pinard has been ask to respond he has taken nearly the entire thirty days allowed him under the law. My staff has an engineering background and has reviewed the requests by Mr. Pinard. Many seem to be dilatory in nature and the last suggestion that Mr. Kingsbury post bond borders on outright harassment. First the DEC regs. did not intend this to apply to small subdivisions. A disinterested third party was sent to Mr. Pinard's office. He asked if he needed to bond for small subdivisions. He was told emphatically no. The third party said he had been told by a person it was required at which time Mr. Pinard's office said, " You are just being jerked around."

It appears that Mr. Pinard may be guilty of doing the "jerkng around". In fact he refused to even consider Mr. Kingsbury's initial request for the subdivision until Mr. Kingsbury completed an upgrade on his restroom and water facilities at his private auto repair shop. Mr. Pinard insisted Mr. Kingsbury needed public toilets and water supply. Mr. Kingsbury went to his engineer who had signed off on his "state approved" water and septic system. After a conversation with the engineer, and realizing Mr. Pinard held all the cards, Mr. Kingsbury upgraded his system at an additional \$2300.00.

Since that time Mr. Kingsbury has been delayed nearly a year by Mr. Pinard. His engineer who is very well respected professionally has no explanation for all the delays. He is about to lose Borough permits because of the delay and the people trying to buy the lots are so frustrated one has offered to hire an attorney to sue the state.

If this were the only case of it's kind perhaps there might be some mitigating facts which could explain the time and money DEC has cost Mr. Kingsbury, who by the way just received an outstanding review by an EPA representative. In trying to ascertain both sides of the conflict it has become evident to me that Mr. Pinard has a long history of controversy surrounding him. One that has caused several other legislators to call public meetings to try and diffuse the controversies. In one of the more graphic confrontations of the past Mr. Pinard required a private citizen to post a bond to cover questions on a septic system. Over the objections of the citizen, her engineer, and the facts on the plat Mr. Pinard insisted their septic tank be dug up because he did not believe it to be a 1000 gallon tank. The citizen complied, the engineer and contractor dug up the tank, and Mr. Pinard was contacted for inspection. His reply was bury it I do not have time to come over and inspect it.

If necessary I can research past files and collect more data on similar instances of conflict between DEC and the citizens of the area. I understand both Rep. Ron Larson and Senator Green have held hearings about these conflicts.

Specifically I have asked Mr. Pinard for information (see memo) and his first response was he did not have time to pull all the data. My staff explained it was in his interest to provide the requested information in a timely manner, a requirement he imposes on a regular basis as part of his job.

I feel at this point I need to see the information from DEC area files and I need to talk with the other legislative offices to get their views and insights. Additionally I will inform the Governor that I am concerned that his "Customer oriented" form of interaction he is striving to put in place may need special attention in this area.

If representatives of DEC are to maximize the efforts of the department they must be willing to withstand the rigors of dealing with people who may not fully understand nor appreciate the money and efforts being required of them. The country and indeed the states are having to do business with their constituents in a manner more responsible and responsive to their needs. I give Governor Knowles a lot of credit for recognizing and promising to work toward those ends. I would appreciate your efforts to further that goal in my District.

Sincerely,

Beverly Masek

Beverly Masek
Representative Dist. 28

*Gene -
I look forward to speaking
with you in person soon
Thank-you
Bw*

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

Division of Statewide Public Service

555 CORDOVA STREET

Anchorage, AK 99501-2617

Telephone: (907) 269-7634

Fax: (907) 269-7678

November 17, 1995

Representative Beverly Masek
600 Railroad Avenue
Wasilla, AK 99654

Dear Representative Masek:

We have discussed your request of November 8, 1995 with David Stancliffe of your staff, so that we could better understand the scope of the information you seek. We understand that you want to see records from our Wasilla office for the period during which Paul Pinard has managed that office. This request, then, covers 14 years during which more than an estimated 5,000 proposed subdivisions have been reviewed. We sincerely want to respond to your request in a satisfactory manner, and offer the following information for your consideration.

ITEM 1: A list of all subdivisions of 2 lots or less, of 2 acres or less in size for which septic system bonds have been required before Department approval.

Requiring a bond for a small subdivision is a "last resort" measure that we use if (a) there is no land in the subdivision that will support conventional sewage disposal, (b) there is no local government building permit process, and (c) the developer is unable to install the necessary drainfield at the time of plan review, such as in winter. We estimate that fewer than 1% of all submittals have resulted in a requirement for a bond. Thus, our staff, if asked whether this is a standard requirement for a small subdivision, would say "no" because it usually can be avoided. We have pulled out some case files from the past several years that we would gladly review with you, to show how this requirement has been applied and met for small subdivisions.

ITEM 2: A list of all auto shops which have been required by DEC to comply with public restroom and water regulations.

We will create the list you requested because we do not maintain a list of auto repair shops (or service stations). I would also note that it is the Palmer environmental health office, rather than the Wasilla office, that regulates public restrooms although the Wasilla office does ensure that the installation of the public water and sewer systems serving the restrooms are in compliance with state law. We have requested the Department of Commerce to provide a list of all businesses doing auto repair work. After we receive that list, we will cross check it with borough tax records to get a property description. With a property description, we can review our files to see what we have on record and if those businesses are in compliance with drinking water and sewer regulations. We estimate it will require one week to create this list for you, once we receive the list from the Department of Commerce.

We have assembled some preliminary information based on conversations with staff and a examination of a listing of incoming work over the last couple of years. That information is also attached.

ITEM 3: A list of all complaints to the Department or Area Office about the agency or representatives of the agency.

Our division now maintains a log regarding complaints but previously we did not maintain lists. If a complaint was about a specific project, that information may be available in our files. To address your question, we are attaching a list of complaints that come readily to mind among staff. We note that considering the thousands of decisions and authorizations provided by the Wasilla office each year, we receive very few complaints.

ITEM 4: The average time it takes the Wasilla Office to approve a subdivision of 2 lots, two acres or less in size.

The Wasilla office, while having the highest workload in water and sewer system and subdivision plan review of any Department office, completes reviews and issues decisions in an average time frame of 25-30 days after receipt of a complete submittal.

If submittals are not complete, the department staff must explain what needs correction, so the applicant can obtain review of a complete application.

We hope that this letter and the attached information will address your questions. Because our files are maintained by project location, rather than by size of development or type of business, we would have to search each of 5,000 files to verify each instance of your item #1, and 4 inquiries. For item #3, we would potentially need to search all of our 80,000 files in the Wasilla Office.

We consider that our estimates, and new list regarding auto repair shops, should give a relatively thorough response. We will need to know if you concur with this approach. If you do want to have us verify each actual record for these questions, we need to do this in a manner that also ensures that we can continue to keep up public services. We can authorize up to 2 hours per day to search our files, allowing us to continue serving up to 100 telephone inquiries and 50 walk-ins per day, as well as other public support duties in the busy Wasilla office. We have previously been advised by the Department of Law that such an approach is reasonable. However, this extensive records search would take approximately 6 months and we are very concerned that this may not meet your information needs.

If you want us to do the search, it will be necessary for us to seek an extension of time under 6 AAC 96.325(e) from the Attorney General unless you are willing to agree in writing under 6 AAC 96.325(g) to the 6 month schedule we have proposed in this letter.

Representative Masek

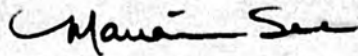
-3-

November 17, 1995

We also have a standard complaint resolution process that we use to see if a specific office or staff has handled an issue appropriately and to identify any needed corrective action. If you have questions about a specific issue or project that we could investigate under our standard process, we would like to work with you on this.

I would greatly appreciate it if we could schedule a meeting to discuss your concerns and to determine how we might better provide you with the information you seek.

Sincerely,



Marianne See
Director, Statewide Public Service

BW/PP/MS/mk (g:eq-cler mk masek)

Enclosures

cc: Paul Pinard, ADEC, MSPSO

**Preliminary List of Complaints Against Wasilla DEC
Office and Staff: November 17, 1995**

1. Don Burke, President of BioTech Corporation: filed several complaints against Wasilla Office Staff for unfair enforcement. Mr. Burke was recently prosecuted by the State Attorney General's Office and found guilty by a Palmer jury on several counts for violations, of State Regulations.
2. Pete Kineen, owner of the Dead Building Cemetery: filed several complaints against the Wasilla Office Staff regarding selective enforcement. The Department's Commissioner revoked this facility's solid waste permit in September, 1995. An appeal was heard in the State Superior Court on November 1, 1995. The judge ruled against the requested Injunction Motion (to prohibit the Department from enforcing the permit revocation).
3. Bill Devon, co-owner of Cache Creek Chevron: filed complaints against Wasilla Office Staff for actions associated with suspected contamination on this property. This site investigation was turned over to the Department's SPAR Division in early September 1995, after the initial complaint response and investigation by the Wasilla Office. On October 30, 1995, Mr. Devon's hired consultant, oversaw the excavation of 40 cubic yards of contaminated soil.

Mr. Devon also made complaints a few years ago on issues associated with his installation, without Department approval, of water and sewer systems for his Petrocache property. An audit was conducted which found the Wasilla Office to have taken appropriate action.
4. Jackson Parry, an engineer who worked for Mr. Devon, made a complaint against Wasilla Office Staff. A criminal complaint had been filed by the State's Attorney General's's Office against Mr. Parry, and in a hearing in Palmer District Court, Mr. Parry pled "no contest" to the charges.
5. Jerry Gustin, owner of Chulitna River Lodge, made complaints against Wasilla Office Staff for actions associated with the Department's efforts to obtain compliance with the State's Water and Sewer and Sanitation Regulations. Mr. Gustin was prosecuted by the Palmer District Attorney and was given a fine and community service by the court.
6. Windsong Residents - several residents of this subdivision made complaints regarding a lack of enforcement and response action by Wasilla Staff in dealing with wastewater problems.
7. Robert Farmer, of Deshka Creek Lodge, made a complaint regarding a lack of enforcement by the Wasilla Office on area lodges to ensure a level playing field.
8. John Shrader, of Lake Creek Lodge, made complaints against Wasilla Office Staff, when they responded to a failed sewer system, with sewage on the ground.

**Preliminary List of Auto Repair Shops in the Mat-Su Public Service Area required
by the Department to comply with Drinking Water Regulations - 11/17/95**

Midas
Xpress Lube
Quick Lube
My Shop
Allied Automotive
House of Tires
Auto Arts
Car Care
Turnage Auto Body
Kingsbury & Son
Mat-Su Borough's Vehicle Repair Shop
Denali Way Auto
Byer's Creek Maintenance Station
(Aircraft Repair - Lot 40, Block 1, Shaw's Tri Lakes #2)
(Aircraft Repair - Matanuska Air)
Rasmussen Auto Shop/Bogard
Nye Ford
Tony Chev
Valley Motor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER
410 WILLOUGHBY AVENUE
JUNEAU, AK 99801-1795**

**Telephone: (907) 465-5066
Fax: (907) 465-5070**

November 29, 1995

MCS # 540 MS:mk

Representative Beverly Masek
600 Railroad Avenue
Wasilla, AK 99654

Dear Representative Masek:

I read your critique of November 8, 1995 about the Department's Mat-Su Public Service Office with great concern, because we specifically strive to offer a customer oriented service in all our offices throughout the state. As you may know, Paul Pinard has managed the office in Wasilla for 14 years, and has provided, in close cooperation with local Borough government, a variety of essential local environmental services. Let me offer some information about the matters you raise, so that we may resolve your concerns.

First, let me assure you that we want all our offices to provide prompt review of proposals. We are re-evaluating our procedures to provide a more thorough initial check of incoming submittals, so that any deficiencies are promptly notified to the engineer and owner for completion. A complete application at the start can prevent misunderstanding as to the cause of delays and prevent the applicant's incurring of unnecessary professional fees. We really want to have people turn in the submittal with the needed information, just once, and have it reviewed one time only.

The Mat-Su office is the busiest of the local public service offices, with an estimated 600 engineering plan reviews carried out last year. Our staff in this and all our offices are expected to treat people with as much consistency as possible, to ensure that all are meeting environmental standards that help assure public health and minimize exposure to hazards such as untreated sewage.

Your letter described issues with property of Mr. Wayne Kingsbury. Mr. Kingsbury proposed a small subdivision of two lots, in an area of very high groundwater, which greatly limits the options for on-site septic systems. This review was a complicated, in part because the surveyor's information was significantly revised after the original submittal, and the new information revealed that there was no suitable land for conventional sewage treatment and disposal. This

revision completely changed the engineer's evaluation, causing him to redesign for a non-conventional system and prepare a whole new design for review. With larger subdivisions, an engineer can usually redesign to avoid using a non-conventional design, but that flexibility is limited in very small subdivisions. Although we infrequently see submittals for small subdivisions that require non-conventional systems, if no adequate useable area exists, then we do consistently require either that the drainfield be built, or that a construction assurance be put in place until a system is built.

Last week Mr. Kingsbury, David Stancliffe, Paul Pinard and a representative of the Borough met to discuss the options for this proposed subdivision development and approval. We especially appreciate the participation of Mr. Stancliffe, who now has had the opportunity to hear and see the rather extensive background about this particular property. Mr. Kingsbury is understandably frustrated with the length of time needed to gain approval, however we note that much of this time was a consequence of incomplete or incorrect information that was substantially revised before we could review for actual approval.

At the end of that meeting, we note that Mr. Kingsbury's engineer and the representative from the Borough were firmly supporting the recommendations made by Mr. Pinard to post an assurance that the eventual sewage treatment system would be suitable for the saturated subsurface conditions of the lot. Of course, no construction assurance would be needed if Mr. Kingsbury now installs the absorption field portion of the system. In lieu of Mr. Kingsbury's building the system, Mr. Pinard has proposed \$1,000 per lot (total \$2,000) be set aside through an escrow or other suitable mechanism, until the septic systems are developed. This could be done at the time of the sale, in conjunction with recording the plat, to minimize any financial inconvenience. Our authority to require this assurance is within 18 AAC 72.300, and we consistently use this requirement for this type of situation.

I have enclosed a chronology of our file information about Mr. Kingsbury's project now, and in the past. I hope that this will help clear up some of the misunderstandings that appear to have developed about this matter. It also explains that in no way were matters with Mr. Kingsbury's other properties tied to any actions about the proposed subdivision. While on rare occasions we have heard from members of the public who have raised their disagreements with the Wasilla office, I can assure you that we have investigated any such comments only to find that Paul Pinard has consistently followed environmental requirements designed to protect public health. There are 80,000 project files in the Wasilla office, and complaints have been extremely rare. This is truly a very good record in a high-development oriented area where there have been many opportunities for dispute over compliance issues.

Your letter mentioned a case of a disgruntled homeowner who represented Mr. Pinard as requiring a bond and an excavation for a septic tank. This is not the practice at our offices, so any detail you could provide to research this alleged incident would be appreciated.

Representative Beverly Masek

-3-

November 29, 1995

I also want to note that I am not aware of any hearings about Mr. Pinard held by any legislator. Please let me know if I am mistaken.

I would welcome an opportunity to discuss any of your questions so please call me if I can be of further assistance. Marianne See, who supervises Mr. Pinard and is Director of the Statewide Public Service Division, is also available to talk or meet with you (269-7634). I hope that this information helps clear up any misunderstandings about this matter. We welcome any suggestions that will improve our services and help the public with proposed projects.

Sincerely,



Gene Burden
Commissioner

cc: Marianne See, Director Statewide Public Service
Paul Pinard, Manager Mat-Su Public Service Office

Necessary, Mark S.

From: Haffner, Jeffrey D.
To: Necessary, Mark S.
Cc: Haffner, Jeffrey D.; King, Damon
Subject: Request for Comments related to ADEC/Tesoro Experience
Date: Monday, April 14, 1997 5:15PM
Priority: High

I am making a quick stab at this based on my involvement since I have been working for Tesoro. To some extent I will break this down by areas within the department.

AIR

We have a mixed review here. The department in many respects have been helpful in the areas of permitting thus far throughout the title V process. It is my understanding that they were also helpful and worked cooperatively during the vacuum unit expansion. The Anchorage terminal permit went fairly smoothly although I do not believe the department understands what they can enforce and what they cannot as evidenced by some of the language put in the permit.

The process the state has gone through in promulgating its title V permit was less than admirable. Industry has almost had to take a threatening position for the department to make common sense changes. In addition, it appears at times that political motivation is the driving factor more often than good science and compliance initiatives.

WATER

We have had a very good relationship with the department in this area. Often times when problems have been encountered, our contact(s) have been most helpful.

HAZARDOUS WASTE

Here again we have had a good relationship with the representatives from the department. Specifically Mr. Geoff Kany has helped us with Part B permitting issues as well as hazardous waste designations for specific waste streams from the refinery. Unfortunately, the state chose to eliminate this department from the ADEC and this will be detrimental.

SPAR

Mixed reviews again. While the department "saved face" on the secondary containment issues, again the underlying motive was political and not based on common sense. The ACS process is almost on its head with the regulated community having the department approve the ultimate compliance with the regulation long after the compliance date of 1/1/97. The department did not come close to taking into consideration all practical input prior to coming up with a standard for compliance. Even today, the guidance which the ACS's were to be based on and which were supposed to be finished by 1/1/97 are not out in draft form.

We have experienced some departmental inconsistency in reviewing our Contingency Plans. This is likely related to personalities involved but also is a reflection of poor regulations which are subject to individual interpretation apparently without overall departmental guidance.

SPAR/Contaminated Sites

The proposed regulations are reasonable and based on good, if not debatable, science. The length in time it took to develop is evidence of a politically motivated department. We have had fairly good experiences with the department in this area and look forward to an improved process under the proposed regulations.

I hope this is helpful and sufficient for your needs. If you have any questions, do not hesitate to call me.

Jeff



Environmental Systems, Inc.



April 15, 1997

Representative Mark Hodgins
State Capitol Room 110
Juneau, AK. 99801
fax: (907) 465-2833

RECEIVED
APR 16 1997

RE: Evaluation of DEC Enforcement Standards

Sir:

I am a practicing environmental professional with 10+ years of experience throughout Alaska including the North Slope. My professional duties include environmental compliance for ESI's thermal remediation system, petroleum hydrocarbon cleanup, site assessment, air quality, water quality, and more. These years of work have encompassed hundreds of sites, permits, enforcement actions, and hours of meetings and interface with DEC.

Overall DEC functions well and professionally. Their efforts are reasonable and in my opinion, supportive of industry. Of course at times, the environmental mandate conflicts with industrial economic factors.

Nevertheless DEC is shorthanded and underfunded. Enforcement actions are limited due to lack of adequate staff and support. In fact the lack of adequate enforcement and untimely response time to plans and reports, etc. hampers industry and ultimately places additional costs and associated burdens upon industry and Alaskans alike.

Without adequate enforcement and support, DEC cannot fulfill their mandate. While some in industry may welcome the lack of enforcement as an open door to opportunity, the truth of the matter is that lack of enforcement ultimately results in negative impact to the environment which in turn has a negative impact upon industry, ultimately resulting in a negative economic impact upon our great state.

For these reason, cutting back DEC funding is a grave mistake. Likewise maintaining DEC at current levels is not appropriate. The state may save a dime, however Alaskans and industry will have to pay the dollar it costs to save that dime. Budget cutting is a difficult process. Alaska's representatives have a mandate to save money, not just cut line items on a budget.

Sincerely,

Carl S. Overpeck
Chemist/Compliance Officer

March 25, 1997

Senator Lyda Green
~~Representative Beverly Masek~~
Juneau, AK

RECEIVED
APR 07 1997
Ans'd.....

Senator Green:
Dear ~~Representative Masek:~~

I am writing to you to show you another example of wasted tax dollars and inefficient government. I hope that the Republicans are still concerned about the waste of tax money on frivolous activities, and I believe you and all legislators should be informed of some of the ridiculous activities which occur that waste time and money.

I am a design engineer in the Aviation Design Section of DOT/PF in the Anchorage office. I attended a meeting last week at the Anchorage office of Dept. Of Environmental Conservation along with my project manager and our own environmental analyst from DOT. Mr. Michael Lu, EIT, and Mr Bill Lamoreaux of DEC were present at the meeting. The purpose of the meeting was to explain to DEC the extent of construction activities for the Runway 6R Reconstruction project at Anchorage International Airport which is scheduled to begin in May of this year. Apparently DEC became concerned about pollution caused by construction and possible harmful effects on surface water flow patterns within the area.

The problem that I see occurring is that DEC is questioning a registered engineers design to solve a problem and in so doing, we have to pay for their analysis of our design. DOT/PF already has two extensive internal reviews to analyze each project. Why is it that DEC feels it needs to get involved in this project which isn't changing surface water flow patterns nor is any pollution going to occur due to the construction. And even if we were to have a project that expected to produce some sedimentary erosion of soils, we would solve the problem without having DEC tell us what to do. This is only one example of many where government agencies compete and conflict with each other on our projects. Of course, the end effect is just a waste of money and time, all of which increases the burden of paying for all this bureaucratic waste.

It is my belief that construction of projects which either reconstruct or modify existing facilities should not have to have an environmental assessment completed. Reconstruction does not affect wetlands, nor does it affect "virgin" ground, it only rebuilds an existing structure, in this case, Runway 6R at Anchorage Int. Airport. The environmental laws should be changed to reflect that assessments should be completed only when a new project is constructed on undisturbed ground.

Since DEC and other state agencies are involved in our project, someone has to pay for the time that all these people charge to the project. It has gotten to the point that just to design a project, thousands of dollars (taxpayers money) are needed to pay for this senseless analysis by others who need something to do to justify their position. I think that

if the taxpayers knew how much money was wasted to get a project out to bid, they would say that's enough, change the system so there aren't multiple agencies conflicting together.

The end result to the State of Alaska and the people who pay for this huge inefficient government is that more money goes to support the agencies involved and less money is spent on the actual work that needs to be done in order to maintain airports, roads, and other essential facilities. Obviously I don't have to tell you this, but it seems that nothing is ever done to address this problem and the problem escalates out of control. Do you agree with me and if so, what can be done to correct the problem. If the legislature can't find an answer, maybe we need to start communicating with each other more so that this large inefficient state government can be organized in a manner that will serve the needs of the state without all the money being spent on government agencies wasteful spending.

A friend of mine drove up from outside last week, and he said the roads in Canada are in very good to excellent condition, but when you get to the Alaska border, the roads (including the recently reconstructed roads) are in terrible condition. Maybe it would pay to visit our neighbors and see how they obtain good quality roads.

I've always believed that the larger (more people) the organization, the less efficient it is in performing their business, and I believe the State of Alaska government (I call it the Great Alaska Social Club) is in this category.

Please keep my name confidential and do not give my name to anyone on your staff or in any government agency. The last time I wrote to you, my employer was notified and I was told that if I didn't like it here, I was welcome to leave.

STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Representative Jeannette James

Joint Administrative Regulation Review Committee

RECEIVED

MAR 19 1997



Rep. James, Chair
Sen. Mackle, Vice Chair
Rep. Austerman
Sen. Wilken
Rep. Croft
Sen. Lincoln

State Capitol Building
Juneau, AK 99801
(907) 465-3743, FAX 465-2381
1-800-585-374
Direct 465-6819 Walt
Walter_Wilcox@legis.state.ak.us

MEMO

March 17, 1997

TO: Dept. of Environmental Conservation

ATTN: Commissioner Brown

FROM: Rep. Jeannette James, Chair, Admin. Reg. Rev. Committee

RE: River Terrace cleanup, #92-23-09-187-01 Hinkle

I hereby request copies of all records, correspondence, field notes, photographs, enforcement actions, by DEC and DEC driven court activities as relates to Judy and Gary Hinkle of Kenai, regarding River Terrace Cleanup. Your case is # 92-23-09-187-01. Please review AS 24.20.460 (3) et seq.

Who is in charge of this cleanup, what are the employees qualifications to deal with the highly technical nature of the instant case? What is the chain of command from you down to the DEC employees that are involved in this case.

Please contact me, or Walt Wilcox if you have any questions.
Thank you for your prompt response.

cc: Sen. Torgerson
Rep. Davis
Speaker Phillips
Rep. Hodgins
Virgil Norton

RECEIVED

JAN 27 1985

MEMORANDUM

Dept. of Environmental Conservation
Air Quality Section

STATE OF ALASKA

Department of Environmental Conservation

TO: Janice Adair
Regional AdministratorDATE: December 12, 1984
Revised: January 22, 1985FROM: James R. Weise *JRW*
AQ/SW Program Manager

SUBJECT: UniSea, Inc.

SUBJECT: UniSea, Inc. request for relief from Item 7.2 of Compliance Order By Consent (COBC) No. 91-2-8-8-072-1

I have reviewed the air quality files concerning UniSea, Inc. and have prepared the following response to Mr. Joe Frazier's request of the Department, seeking relief from the civil penalties under the referenced compliance order. UniSea and the Department of Environmental Conservation signed a Compliance Order by Consent (COBC) in March, 1991. This order was the result of UniSea's failure to obtain an air quality permit on three separate occasions, after installing additional power generation equipment at their Unalaska fish processing facility. The installation and operation of this equipment, without a permit from the Department, is a violation of state and federal Prevention of Significant Deterioration (PSD) laws.

The purpose of the COBC was to resolve prior violations, establish a schedule for submitting the PSD permit application, and limit facility emissions below the PSD threshold. Limiting fuel consumption by the cumulative equivalent total (CET) of not more than 1,870,000 gallons of diesel fuel per year for the facility defined the structure of the COBC. It was the Department's attempt to limit potentially adverse environmental effects until information regarding ambient impacts could be prepared by UniSea. The COBC also limits the facility to operation of not more than three diesel generators at any time. This, again, was the Department's attempt to limit potentially adverse environmental effects. The stipulated penalty associated with exceeding the CET is \$100 per day and the penalty associated with having more than three diesel generators in operation is \$200 per day.

UniSea's facility operating report for the month of November, 1994, indicated that the year-to-date CET gallons of diesel fuel consumed was at 2,271,845 gallons. This is an increase of 188,559 gallons fuel consumed from receipt of the October facility operating report which reported 2,085,286 gallons fuel consumed.

Janice Adair

-2-

January 22, 1995

UniSea exceeded the 1,870,000 CET gallons of fuel limitation, Item 6.2 of COBC No. 91-2-6-8-072-1, on October 4, 1994. This information was reported to the Department in the Facility's Operating Report for the month of September, 1994. This report was received by the Southcentral Regional Office of the Department on October 11, 1994.

UniSea will exceed the CET limit for 88 days during the 1994 calendar year, using October 5, 1994 as the effective start date of CET exceedance. Total penalty for this exceedance will be \$8,800. UniSea has exceeded the CET limit every year since signing the COBC, and has paid the Department penalties of \$9,100 and \$9,200 for the 1992 and 1993 calendar years respectively.

Mr. Mike Golet, Department of Public Works (phone, 581-1251), informed the Department, on Nov. 22, 1994, that the City of Unalaska paid UniSea, \$93,000 for electricity during the month of October, 1994. This indicates that, perhaps, UniSea has made a financial gain by exceeding the CET, and for this reason alone, should not be granted relief from condition 7.2. of the COBC.

To encourage UniSea to complete the PSD application in a timely manner, a compliance schedule for submission of the required information was described in section 5 of the COBC (enclosed). UniSea has met all of the conditions of this section except condition 5.7. The information required for this condition was "submission of all remaining information required by DEC - December 1, 1992." The remaining required information specifically relates to 18 AAC 50.300(c)(2) (demonstration that allowable emissions will not exceed ambient standards or increments).

Conversations with Al Bohn, Air Quality Program at the Central Office, on November 2 and December 8, 1994 and a review of the Department's files at the Southcentral Regional Office, indicates that this information was submitted on August 6, 1992. However, the demonstration was determined as "flawed" and subsequently returned to UniSea as inadequate. According to subsequent conversations between Al Bohn and UniSea's consultant, UniSea knowingly submitted modelling which showed impacts at more than double the ambient air standard for nitrogen dioxide, in order to be considered simultaneously with other Dutch Harbor PSD applicants for purposes of increment allocation. Therefore, the PSD application is incomplete and that the information required by the COBC deadline of December 1, 1992 has not been submitted.

The stipulated penalty for a violation of any deadline of the COBC is \$5,000 a day, for each violation. UniSea, Inc. has been in violation of condition 5.7 of the COBC since December 1, 1992. This is a total of 780 days, as of January 20, 1995, for a potential penalty of \$3,900,000. Further review of the file indicates that UniSea

Janice Adair

-3-

January 22, 1989

concerning the status of their PSD application since a fax of a letter, dated December 1, 1982, was received on December 2, 1982. I have been unable to obtain any record of the Department's response to this letter, or any record indicating that UniSea has followed-up on their request to the Department concerning the status of their PSD application. The extended period of non-compliance may also be considered grounds for terminating the compliance order (under the Breach provisions), and referral to the Department of Law, or EPA and the Department of Justice.

This letter, dated December 1, 1982, requested an extension of Item 5.7. of the Compliance Order. The request included the revised schedule and scope of work to be performed by their consultants, Dames & Moore, on behalf of UniSea, Alyeska, and Westward Seafoods. The revised schedule indicated project completion in 28 weeks assuming a December 4, 1982 authorization. The request asked for extension of the deadline for Item 5.7. of the COBC until June 15, 1983, so that UniSea could complete the PSD application. The request further stated that "numerous outstanding issues not fully addressed in the permit application previously submitted were specified and clarified for us."

UniSea, Inc., in this statement, was referring to the November 4, 1982 meeting between the Seafood processors, their consultants (Dames & Moore), the Department of Environmental Conservation, Region 10 EPA, and the City of Unalaska as well as the November 25, 1982 letter from Mr. Leonard Verrelli, ADEC-Central Office, Chief Air Quality Management Program. The Department's November 25, 1982 letter, from Mr. Leonard Verrelli, was addressed to Messrs. Joe Frazier of UniSea, Inc., Greg Baker of Westward Seafoods, and Winn Brindle of Alyeska Seafoods, Inc. This letter summarized the issues and concerns from both the Department and the EPA, and provided guidance concerning the issues and concerns of the seafood processors as related to their PSD applications.

My recommendations are the following:

1. Deny the request from UniSea, Inc. for relief of the CET exceedance. The CET exceedance most probably could have been avoided if UniSea, Inc. was not selling electricity to the City of Unalaska. It is important to note that UniSea has exceeded the CET for the past two years. The CET was set to limit emissions from the facility during the PSD application review process.
2. Inform UniSea, Inc. of the status of their PSD application as perceived by the Department. Encourage UniSea, Inc. to contact the Department to note the status of their PSD application and renew interest in obtaining an air quality permit to operate. Note the associated \$3,900,000 (cumulative and increasing) potential penalty for noncompliance with condition 5.7. of the COBC. Because the

Janice Adair

-4-

January 22, 1995

Department has informed UniSea that their PSD application was incomplete (August 14, 1992), has possibly granted UniSea an extension to complete their PSD application, and has provided UniSea, Inc., as well as their consultants Dames & Moore, the emission inventory for the Dutch Harbor area (August 25, 1993). I further recommend that the Department pursue this penalty if UniSea does not enhance its efforts to obtain a PSD permit.

3. Obtain the utility records from the City of Unalaska for the last two years. Again, a CET exceedance most probably could have been avoided if UniSea was not using their generators to sell excess capacity to the City of Unalaska. The COBC does not specifically prohibit UniSea from selling electrical power to the City of Unalaska.

4. Bill MacClarence and Earl Hubbard are scheduled to inspect the facility in February, 1995. They will note whether UniSea, Inc. has operated more than three (3) diesel generators at any one time.

If you have any questions please let me know.

PIPELINE IN PERIL

A STATUS REPORT ON THE TRANS-ALASKA PIPELINE

EXECUTIVE SUMMARY

**Prepared for the
Alaska Forum for Environmental Responsibility
by
Richard A. Fineberg, Ester, Alaska**

September 1996

Executive Summary

The United States depends on the Trans-Alaska Pipeline System (TAPS) to deliver nearly one out of every ten barrels of the oil this nation consumes daily. The pipeline transports approximately 1,500,000 barrels per day from Prudhoe Bay, on Alaska's North Slope, to the Valdez Marine Terminal (VMT), on Prince William Sound, 800 miles away.

TAPS is owned and operated by seven major oil companies through their wholly-owned subsidiary, the Alyeska Pipeline Service Co. (Alyeska). Arco, BP and Exxon — three companies who control more than 90% of the crude oil produced from Alaska's North Slope bonanza — own a similar percentage of TAPS. In seeking permission to build what Alyeska called the largest privately financed construction project in the world, the developers promised that elaborate environmental safeguards would protect worker safety and minimize both the likelihood of and damage to the environment from oil spills.

This report was commissioned by the Alaska Forum for Environmental Responsibility (AFER) to assess the current condition of the TAPS and the ability of its owners to honor their commitment to the American people. The central concern of this report is whether Alyeska and the reconstituted state-federal Joint Pipeline Office (JPO) are taking appropriate measures to correct acknowledged, persistent and serious shortcomings in the TAPS delivery system.

Based on review of the documentary record covering a broad range of activities during 1994, 1995 and early 1996, this report concludes that Alyeska's efforts are not sufficient to protect the environment TAPS crosses, and the health and safety of its workers, from the increased risks of an aging pipeline. Actions are recommended to ensure that the owners of TAPS fulfill their promises to the state of Alaska and the citizens of the United States to deliver a high level of environmental protection and worker safety while reducing the risks of interruptions to this important oil supply line.

This report contains four sections. The first sets the stage for analyzing the current condition of TAPS. It discusses the history of TAPS, its economic and environmental context and the major internal and external audits of management and operations which followed 1993 congressional hearings on TAPS whistleblower issues. The second section picks up the Alyeska story with a review of the company's response to the audits and its most recent revision to its quality assurance program, an essential part of pipeline operations. The paper then examines selected aspects of running and maintaining the pipeline that moves

- (2) The oil industry has played a major role in Alaska politics and JPO's actions appear to some observers to be deceptive, ineffective and unduly sensitive to Alyeska's desires.
- (3) As TAPS throughput gradually declines, North Slope oil becomes relatively more expensive to produce. TAPS managers therefore seek to reduce expenditures — a policy at cross-purposes with the need for additional outlays to ensure safety.
- (4) The JPO monitoring effort is recognized as an experiment in regulatory oversight.

The TAPS regulatory system has had a rocky history. During construction of the pipeline, a storm over falsified welding certification put the massive construction monitoring program at the heart of national headlines and congressional hearings. After construction, the government monitoring effort languished. Following Alyeska's delayed response to the 1989 Exxon Valdez spill, quality control inspector complaints and congressional inquiries led to a revitalization of virtually moribund TAPS monitoring efforts. In 1990, the Alaska State Pipeline Coordinator's Office joined with its counterparts in the federal Bureau of Land Management to form the consolidated state-federal JPO.

Since 1990, JPO has taken action on a wide range of technical and organizational issues. To its credit, JPO:

- has undergone rapid expansion in recent years;
- takes an experimental approach to regulating remote activities;
- has sought to carve out new areas of jurisdiction necessary to meet its responsibilities; and
- has shown creativity, in the absence of strong political support from Juneau or Washington, in developing a behind-the-scenes strategy to maximize its limited leverage.

At the same time, however, JPO:

- frequently supports Alyeska publicly, despite a documentary record or informal statements that would appear to warrant a more critical stance;
- by virtue of its behind-the-scenes strategy frequently gives the appearance of inappropriate collaboration with Alyeska;
- is often unduly reliant on Alyeska for the information on which its evaluations are based;
- relies for technical expertise on consulting and engineering firms also under contract to Alyeska and/or its owners; and
- appears slow to recognize and acknowledge whistleblower concerns, or to address the chilling effects of retaliatory action.

To praise the creativity, energy, intelligence and intentions that JPO personnel and their leaders have contributed to this effort is not to judge the outcome a success. Increased staff, greater funding, new programs and huge volumes of technical paperwork do not, in and of themselves, guarantee effective oversight.

In addition to the findings summarized above, two theories of regulatory process suggest that JPO's activities deserve close scrutiny:

- (1) regulators sometimes tend to represent the entity they are supposed to oversee (a concept known as "regulatory capture");
- (2) from a sociological point of view, one latent function of the regulatory agency is to inure society to the risks inherent in modern technology.

JPO's centralized operation was dealt a serious blow when the vanguard of the Alaska Department of Environmental Conservation (ADEC) TAPS contingent moved out of the JPO Anchorage office as part of an agency reorganization. ADEC carries out enforcement responsibilities for oil spills and contingency plans, as well as clean air and water, in Alaska. In several areas, ADEC has failed to take strong, timely action: regarding vapor recovery system problems, the need for tractor tugs to escort tankers through Prince William Sound and Alyeska's efforts to economize on oil spill response personnel. When ADEC fails to act, JPO must use what leverage it can muster to ensure that Alyeska fulfills its obligations to protect Alaska's environment.

JPO has an unenviable and sensitive political task which is compounded by the enormity of the problems it faces obtaining the information required to make informed, balanced decisions on issues that are frequently technical and controversial. If the intended goals of the TAPS monitoring effort are safe pipeline operations, environmental protection and a safe workplace (the latter achieved in part by ensuring a viable employee concerns program), the data and analysis presented in this report suggest that the JPO has yet to reach its goals. The agency's challenge is to ensure that its actions conform to Alyeska's stated goal for its quality program: "Know what's right, do what's right and prove it."

TRUSTEES FOR ALASKA

A NonProfit, Public Interest, Environmental Law Firm

725 Christensen Drive, Suite 4

Anchorage, Alaska 99501-2101
(907) 276-7110 Fax

(907) 276-4244

Facsimile Transmission

Date: 4/15/97

To: Representative Mark Hodgins

Fax Number (907) 465-2833

From: Peter Van Tyn

Total Pages Including cover: ~~14~~ 15

RE:

Written testimony for 4/17 House Oil & Gas
Committee hearing.

TRUSTEES FOR ALASKA

A NonProfit, Public Interest, Environmental Law Firm

725 Christensen Dr., #4 Anchorage, AK 99501 (907) 276-4244 (907) 276-7110 Fax Email:
ecolaw@trustees.org

April 15, 1997

Representative Mark Hodgins
State Capitol, Room 110
Juneau, Alaska 99801

Via Facsimile: (907) 465-2833

Re: Committee Hearing on ADEC enforcement activities

Dear Representative Hodgins,

Trustees for Alaska, on behalf of our members, the Alaska Environmental Lobby, Alaska Center for the Environment, National Audubon Society, Sierra Club, Greenpeace, Alaska Wildlife Alliance and Northern Alaska Environmental Center submits these comments to the State of Alaska House of Representatives Oil and Gas Committee for discussion during the April 17, 1997 Committee Hearing to evaluate Alaska Department of Environmental Conservation enforcement standards. From the perspective of conservation organizations with thousands of members in Alaska who are very concerned about protecting and preserving Alaska's incredible and unique environment and natural resources, we believe that your hearing is a timely one.

Over the last several years, we have witnessed a very disturbing lack of enforcement by DEC of the environmental laws it is charged with enforcing. A small sampling of specific instances in which this was the case is set out below. Due to the vast discretion embodied in DEC when choosing whether or not enforcement of its laws should occur, it is hard for us to draw concrete conclusions about why this situation exists, although we have identified some reasons why it has occurred. First, though, let us provide some examples:

- * In the early days of this decade, Unisea, Inc. entered into a Consent Order By Decree with DEC concerning air quality violations at its Dutch Harbor Seafood Processing Plant. In 1995, DEC noted that Unisea had been operating in violation of the COBC "since December 1, 1992 . . . for a potential penalty of \$3,900,000." Memo from Janice Adair to James Weise, January 22, 1995 (attached). DEC did not pursue these violations. DEC also withheld all information about Unisea's rather remarkable non-compliance history when seeking public comment on an air quality permit application from Unisea.

- * In Cook Inlet, several oil companies produce oil from offshore platforms. Those companies are allowed to pollute the Inlet by authorization of a federal Clean Water Act permit. Pursuant to this permit, the oil companies were required to provide DEC, on a monthly basis, with Discharge Monitoring Reports detailing their pollutant discharges into the Inlet. These DMRs allow the regulators to ascertain whether the companies are in compliance with their Clean Water Act permits. To our knowledge, DEC has never reviewed these DMRs to check whether the companies are in compliance with their permit. Trustees for Alaska conducted an independent analysis of the DMRs and found over 4,200

permit violations in the period from 1987 to 1995. Despite providing notice to DEC about these violations, DEC never acted on the violations. Trustees, on behalf of several organizations, filed a citizen suit against the companies, which was settled through a consent decree with the United States Environmental Protection Agency, providing roughly one million dollars in settlement money to be used to further monitor pollution in Cook Inlet.

* In his Status Report on the Trans-Alaska Pipeline entitled *Pipeline in Peril*, Richard Fineberg details his review of the documentary record concerning Alyeska's environmental and worker safety record from 1994 to early 1996. (referenced portions attached) He concludes that "Alyeska's efforts are not sufficient to protect the environment TAPS crosses, and the health and safety of its workers, from the increased risks of an aging pipeline." ES-1. With respect to DEC's role in this situation, Mr. Fineberg notes that in "several areas, ADEC has failed to take strong, timely action: regarding vapor recovery system problems, the need for tractor tugs to escort tankers through Prince William Sound and Alyeska's efforts to economize on oil spill response personnel." ES-20.

* Problems with the transportation of oil are not limited to Alyeska and the Pipeline. In 1981 the legislature acted with great foresight in implementing a best available technology requirement for oil spill response and prevention technology. It was not until 16 years later, and 8 years after the tragedy of the *Exxon Valdez*, that DEC implemented regulations concerning this key legal provision, and even these regulations are suspect. Additionally, DEC has time and again sanctioned delay in oil shippers' submissions of contingency plans for oil spill prevention and response, delay that has led many coastal residents to seek legal recourse to protect their marine and coastal environments, communities and ways of life.

The primary reason for DEC's lack of enforcement is the utter lack of resources to get the job done. DEC's enforcement budget has seen significant cuts over the last several years, which, in turn, hampers its ability to do a competent or credible job enforcing the law. As Robert Bundy, the United States Attorney for the District of Alaska recently noted in another letter to the state legislature, "Alaska's enforcement resources [are] stretched almost pathetically thin." Letter from Bundy to Rep. Joe Green, April 4, 1997 at 10 (relevant portion attached).

Another reason has to do with the concept of regulatory capture. As Mr. Fineberg noted in the context of DEC's oversight of the Trans Alaska Pipeline, behind the scenes dealings "gives the appearance of inappropriate collaboration" between the regulators and regulatees and "regulators sometimes tend to represent the entity they are supposed to oversee." See Fineberg, *Pipeline in Peril*, at ES-19 to ES-20 (September 1996) (attached). In this situation, the close relationship between regulator (DEC) and regulatees (industry) taints decisionmaking due to inappropriate collaboration, both real and through the appearance of impropriety. This situation implicates many concerns, including procedural due process, substantive fairness and environmental concerns.

The legislature could easily remedy the first situation by increasing DEC's budget, particularly for enforcement. The legislature could also send a strong message to DEC that it should remedy the second situation. A simple reminder that DEC is acting on behalf of Alaska's residents as a protector of Alaska's incredible natural resources and should not act at the behest of private multi-national corporations likely would get the message across.

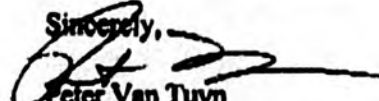
Given the fact that you yourself introduced legislation to change DEC's name from Department of Environmental Conservation to the Department of Environmental Development, or the fact that the State legislature in recent years has consistently cut DEC's budget, we doubt that your committee hearing is designed to consider addressing the types of concerns for Alaska and her environment such as those we have set out above. To the extent your committee is holding this hearing to provide cover for a further evisceration of DEC, we are strongly in opposition.

Recognize as well that a continuance or worsening of DEC's "no enforcement" approach to environmental regulation will not provide benefits to business as some might suggest. Enforcement activities which DEC should conduct will simply fall into the laps of federal regulators such as the EPA and citizens of the State. History has shown that the EPA and citizens do not have the resources to go after every violator or to act equally against all violators. Simply put, when the state does not take the lead in the enforcement of its environmental laws, uniform and predictable state-wide enforcement falls to the wayside.

To the extent that your committee identifies problems with environmental regulation in Alaska, the answer should not be to "shoot the messenger." Rather, if you truly believe a law is so burdensome as not to be able to justify its environmental benefits, you should seek to change that law on its substance. By addressing a perceived problem on its merits, and not through the parliamentary budget games and legislative strong-arming so common in recent years, you more truly serve the Alaskans who elected you in the first place.

Thank you for the opportunity to comment to your committee concerning the upcoming hearing.

Sincerely,



Peter Van Tuyn
Litigation Director

April 13, 1997

Representative Mark Hodgins

State Capitol, Room 110

Juneau, Alaska 99801

Fax 907-456-2838

My written testimony includes opinions that are undoubtedly just the opposite to those that you intended to solicit; In your press release of the Oil and Gas Hearing to Evaluate DEC Enforcement Standards.

I have found the Alaska Department of Environmental Conservation to be mostly politically handicapped by those self-interests which except no liability for their acts resulting in the pollution to the environment and disregard of conservation of public resources.

As a Kenai River land owner, I am appalled at the failure of DEC to take immediate and positive action in two pollution identified point sources, that I am aware of:

(1) Cook's gas station at Sterling has a history of long time and still is a contentious source of identified pollution. As my Kenai River property is in that

(1)

area, I have been aware of and greatly concerned of the potential harm from the DEC's failure to timely enforce the clean up of this continuing pollution site. As a public share-holder in the viability of the Kenai River as a most valuable Public Trust resource, I have been continually stymied in my request to obtain full disclosure as to the status of this publicly admitted high pollution source. This has been a known long time source of massive pollution and the most apparent obstruction to its responsible clean up is the denial of liability by all involved parties, including the owner, industry, State and Federal agencies.

(2) The pollution by a former dry cleaning establishment along the Kenai River near the Soldotna bridge. It still continues to exist, as a known highly potential source of catastrophic harm to the irreplaceable Kenai River and the public's health, while the determination of liability is decided. I charge that DEC has the immediate liability to responsibly clean up this highly visible

(2)

and potentially destructive pollution source site; and would hold you as highly responsible to demand immediate remedial response.

I am concerned that you, Representative Mark Hodgins, by your attitude and irresponsible public attacks on Environmental Conservation; you are in fact not so concerned with making DEC "user-friendly to people" as to making it polluter friendly.

I would also like to hear your findings as to the viability of the State's support of whistle-blowers in view of the North Slope "Poisoning of the Well" incident in which the employee lost his job for refusing to follow orders, by industry, to perform operations that were positively known to cause unlawful pollution. I also seek your explicit position as to the well publicized pollution whistle-blower case at Valdez, who was also fired. Then when he proved the merits of his actions in court, the State of Alaska condemned his responsible actions by eliminating his position.

Representative Hodgins your hostile attituded and repetitive degrading, of environment and conservation protection, mirrors

mind set contamination that is highly prominent
in the Alaska State Legislature 1996-1997

Session.

I believe that a catalogue those legislature
proposals and the Governor's support shows
a calculated intent to promote the rape, ruin
and run of Alaska's resource for the sole
purpose of immediate high profits. I believe
these legislature and administrative records will
be of useful value to those in US Congress,
and at this time, who are addressing the
welfare of the ANWAR and National
Petroleum Reserve. They should be made
aware of all legislation being considered
to remove most protection of the environment
and conservation of such resources, by Alaska's
irresponsible liability.

I await your comments addressing the
Evaluation of DEC's Enforcement Standards

Dale Bondurant

HC 1 Box 1197

Soldotna Alaska 99669

Copies to: (see page 5)

(#)

(Continued from Page 4)

Copies to:

Governor, Tony Knowles

Lt Governor, Fran Ulmer

Senate President, Mike Miller

House Speaker, Gail Phillips

Environmental Conservation, Michele Brown

House Resource Committee, Bill Hudson

Senate Resource Committee Rick Halford

President, Bill Clinton

United States members of Congress

Various Conservation and Environmental Organizations

Concerned Alaskans and other U.S. Citizens

References furnish include but not limited to:

HB-4, HB-28, HB-29, HB-31, HB-46, HB-51,
HB-58, HB-60, HB-109, HB-128, HCR-1, HA-5,
HJR-12, HJR-13, SJR-20, SB-35, SB-39,
SB-41, SB-43, SB-50, HJR-9, CS HCR-1

RECEIVED
APR 16 1997

715 Muir Avenue
Kenai, Alaska
99611-8816
April 14, 1997

TO: SPECIAL COMMITTEE ON OIL AND GAS
Alaska State House of Representatives

I understand that your committee will be holding a hearing on the experiences, positive and negative, of people who have had dealings with the Alaska Department of Environmental Conservation this coming Thursday morning, April 17. I understand that this will be a "listen-only" teleconference, with people outside Juneau not allowed to submit oral testimony. I plan to FAX in written testimony, which I hope will be accepted by the committee, before that time.

I would also request that the committee pass around the enclosed visual aids, so that each member has an opportunity to see an excellent example of when the D.E.C. was "user-friendly": March 25, 1989. (I am sorry, I only have one of each of these photographs, otherwise I would have sent one for each member of the committee.)

Sincerely,



Gerald R. Brookman

ALASKA STATE LEGISLATURE

Session:

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3779 - Phone
(907) 465-2833 - Fax



Interim:

145 Main St. Loop Suite 221
Kenai, Alaska 99611
(907) 283-7223 - Phone
(907) 283-3075 - Fax

REPRESENTATIVE MARK D. HODGINS
House District 9

MEMORANDUM

DATE: April 16, 1997
TO: All Legislators
FROM: Rep. Mark Hodgins
RE: D.E.C. Enforcement Standards Hearing

The House Special Committee on Oil & Gas will hold a hearing on Thursday, April 17, 1997, at 8:30am, in Rm. 124 of the Capitol. This meeting will be teleconferenced to Anchorage, Fairbanks, and Kenai.

The purpose of this meeting will be to discuss the enforcement standards employed by the department. We will be discussing several specific projects as well as written testimony received from numerous members of the public.

The purpose of this meeting is to discover methods and means for creating a more user-friendly, service oriented department.

All legislators are invited to attend.

SENT BY:

RR-10-97 THU 07:48 AM

ADEC SPAR STP

4-14-97 ; 7:10AM ; AK VILLAGE ELECTRIC

FAX NO. 907 465 5218

02:# 1/ 1

P.02

Mark Hodgins
FYI
Maw

**ABOVEGROUND STORAGE TANK
EDUCATION AND TRAINING WORKGROUP**
DEC Cordova Street Building, First Floor Conference Room
Anchorage, Alaska
Friday, April 18, 1997
TENTATIVE MEETING AGENDA

Attendees: Catherine Gitkov (DEC), Dan Garcia (DEC), Ted Moore (DEC), Bill Stokes (DEC), Eric Marchegiani (DCRA), Midge Clouse (DCRA), Charlie Walls (AVEC), John Anderson (NSB), Rick Tarpey (AVTech), Wiley Wilham (LRMF), LCDR Guy Thertault (USCG), Don Marson (EPA), Sandra Borbridge (EPA)

Purpose of meeting: Preliminary development of a statewide aboveground storage tank (AST) education and training program.

9:00 Opening remarks, introductions - Cathy Gitkov

AVEC TRAINING

9:15 ~~Circuit-rider~~ program - Charlie Walls

9:30 Department of Community & Regional Affairs operator training program - Eric Marchegiani

9:45 North Slope Borough Training Program - John Anderson

10:15 Brainstorming - Cathy Gitkov

What are our training goals?

Training program Components

11:45 Lunch

1:00 Brainstorming (continued) - Cathy Gitkov
Who needs training?

What should training consist of?

How should training be conducted?

Avenues of training outreach?

2:45 Meeting Review & Where we go from here - Cathy Gitkov

3:00 Adjourn

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Alaska Village Electric Cooperative, Inc.

4831 Eagle Street
Anchorage, Alaska 99503-7497
(907) 561-1818
(907) 561-2388 FAX



December 19, 1996

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

CONFIDENTIAL

Dear Governor Knowles:

This letter is regarding the oil spill response concerns in Alaska rural villages. Alaska Village Electric Cooperative represents public nonprofit power generation facilities in fifty villages and is struggling to remain in compliance with state and federal spill response regulations and continue to keep the lights burning.

A recent ruling by the EPA, as a result of the Oil Pollution Act of 1990 (OPA 90), has created a nightmare in rural Alaska. The EPA has determined that many of our rural bulk facilities are "significant and substantial harm facilities." This means that the villages are now required to prepare "Facility Response Plans" (40 CFR 112), provide specific personnel training and purchase spill response equipment to meet similar criteria of the larger, well-funded storage facilities that are located in the urban areas of Alaska and the Lower 48. We believe that these requirements are unrealistic for small, isolated villages in the Arctic where fuel is delivered only once or twice a year. As you are aware, funding is limited for rural villages. We do not believe that it is reasonable to spend approximately \$50,000.00 per facility to write a plan and purchase equipment that may never be used.

We are requesting your help in addressing the following important issues:

The Oil & Hazardous Substance Release Prevention Fund (A.S. 46.08.010(a)) was established to provide additional spill response and prevention in Alaska. Is it possible for us to access this fund to obtain monies for spill response equipment and training for rural Alaska villages?

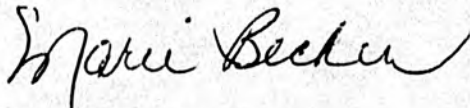
Is it possible to access equipment staged by A.D.E.C. and the Coast Guard for spill response throughout the state to meet EPA requirements?

Since we represent 50 nonprofit public Alaskan Utilities, may we work through your office to allow the EPA, USCG and ADEC the ability to provide us with access to this equipment for our spill response plans?

We realize that EPA may require us to ultimately comply with OPA 90. Would it be possible for you to assist us by working with the EPA to establish a temporary moratorium in implementing these regulations, while we work with your office and our Congressional Delegation to amend OPA 90 to establish spill response that is realistic and will work in rural Alaska.

I look forward to talking with you at your earliest convenience regarding these issues, as they are critically important to rural Alaskans.

Sincerely,



Marie Becker
Government Relations Representative
Alaska Village Electric Cooperative, Inc.

MB/wlr
MB96L012

cc: Ms. Michelle Brown, Commissioner, DEC
Senator Frank Murkowski
Senator Ted Stevens
Charles Walls, President & CEO, AVEC

STATE

DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR
410 Willoughby Ave., Ste 105
Juneau, AK 99801-1795
PHONE: (907) 465-5065
FAX: (907) 465-5070
<http://www.state.ak.us/dec/home.htm>

February 7, 1997

Marie Becker
Government Relations Representative
Alaska Village Electric Cooperative Inc.
4831 Eagle Street
Anchorage, AK 99503-7497

MCS 96.194

RECEIVED

FEB 18 1997

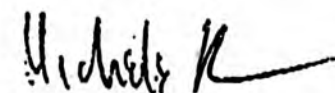
AVEC

Dear Ms. Becker:

— Governor Knowles asked that I respond to your December 19, letter describing the problems you face in complying with the Environmental Protection Agency's (EPA) spill prevention and response requirements under the federal Oil Pollution Act. I understand you have met with my staff in the Division of Spill Prevention and Response who provided you with an overview of the Department's efforts to work with local government's on locating spill response equipment under the provisions of a local response agreement.

I can appreciate the difficulties your company faces in complying with EPA's spill prevention and response planning requirements. As mentioned in your letter, response equipment is just one element of the federal requirements. Perhaps we could be of some assistance by hosting a meeting with representatives from AVEC, EPA and the U.S. Coast Guard to better understand your facility operations and fiscal constraints and explore options that might fulfill EPA's requirements. Please contact Kurt Fredriksson, Director for the Department's Spill Prevention and Response Division at 465-5250 if you would like such a meeting to be scheduled.

Sincerely,



Michele Brown
Commissioner

MB/TC/mh (GASPAR\MCS\BECK194.WPD)

cc: The Honorable Senator Ted Stevens
The Honorable Senator Frank Murkowski
Richard Albright, Director, EPA Alaska Operations Office
Captain Buzz Rome, U.S. Coast Guard