

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672  
1542 SCOMM 57: SENATE SPECIAL COMMITTEE ON OIL & GAS, 1987-198839

Congress failed to act on the recommendations within the ten-year period, the recommendation of the Secretary and Governor would be implemented.

It is imperative that the recommendations from the Governor of Alaska be included with those of the Secretary of the Interior given the significant interests of the state involved in both the leasing and protection of resources in the 1002 area. Not only is the state a sovereign steward of natural resources with regulatory responsibilities in the area, it is the principle owner of lands which any ANWR production transportation system must cross.

This recommendation is based on several salient facts. First, Congress has mandated that fish and wildlife populations in ANWR receive a very high level of protection. Because of this mandate, USFWS is required to take a conservative approach when making decisions regarding the impact of development activity on the refuge's fish and wildlife populations. Second, while a sizable amount of information has been collected on the impact of oil and gas activity on the Central Arctic Caribou Herd, questions remain regarding the potential impact of the oil and gas activity on the Porcupine Caribou Herd population because of its larger size, distribution and movement patterns, and population dynamics. Contrary to the statements made on page 112 of the draft 1002(h) report, at this point in time there is inadequate information to predict what population impacts would occur if oil and gas development were to take place in the core calving area. Third, protection of the herd and its habitat is of great concern to our Canadian neighbors, and the deferral and studies will respect those concerns.

#### Special Values of ANWR

We predicated our review on two fundamental facts inherent to ANWR. First, the fish and wildlife resources of ANWR are of significant state, national, and international importance. The Porcupine Caribou Herd, which numbers some 180,000 animals, annually migrates between Canada's Northwest Territories and Alaska's arctic coastal plain where it spends a portion of each summer. These animals are of great importance to both the people of Alaska and Canada. The Porcupine Caribou Herd and other fish and wildlife of the ANWR coastal plain are the foundation of the subsistence way of life to the residents of Kaktovik, Arctic Village, Venetie, and Fort Yukon in Alaska and Old Crow in the Yukon Territory of Canada. Furthermore, within the refuge, "The 1002 area is the most biologically productive part of the Arctic Refuge for wildlife and is the center of wildlife activity on the refuge." (Draft 1002(h) report, page 46.) The Alaska Department of Fish and Game has conducted an extensive review of ANWR fish and wildlife information which is available on request to USFWS

and other interested parties. The department's data on distribution and abundance of fish and wildlife and areas of special concern confirm the great importance of ANWR's renewable resource base.

The second intrinsic feature of ANWR is that it has high oil and gas potential. The state concurs with the draft 1002(h) report findings on page 1 that the 1002 area, "... is clearly the most outstanding oil and gas frontier remaining in the United States, and could contribute substantially to domestic energy supplies." As you know, the Alaska Department of Natural Resources has recently made public a preliminary appraisal it conducted of petroleum resource potential in ANWR's coastal plain. Alaska's report confirms DOI's conclusion that ANWR's coastal plain has the potential for an unusually large accumulation of oil.

#### Past Lessons Learned from Oil and Gas Activities in Alaska

As indicated in the draft 1002(h) report, development of ANWR's coastal plain will alter the existing environment and to some degree affect the Porcupine Caribou Herd. It is critical that appropriate and effective measures be taken to minimize the potential adverse effects of oil and gas activities on ANWR's coastal plain. Alaska has nearly two decades of experience in dealing with oil exploration, and lessons of the past will serve as a guideline for development in the future. In the event Congress permits exploration, the state would encourage that the best and latest technology be used.

The state assumes the draft 1002(h) report was not intended to be all inclusive, and that more detailed performance standards would be developed in concert with the state prior to any lease sales or any transfer of subsurface rights. Clearly, additional time will be needed in order to develop an adequate set of terms and conditions designed to ensure protection of air and water quality and fish and wildlife resources. With this understanding, our general comments on the proposed mitigation measures summarized in the draft 1002(h) report are included in Enclosure A.

#### Federal/State Consultation and Resolution of Issues

The state is encouraged to read on page 97 of the 1002(h) report that "The FWS would emphasize early and continuous consultation and coordination with leaseholders, permittees, and state and federal agencies at the start of planning." Consistent with this federal intent, the state feels it is essential that DOI establish a formal consultation process with the state and other parties in order to clearly establish at what points in the process and what level of detail different issues and authorities will be addressed. This process would also allow the opportunity for the parties to clarify their respective authorities,

permitting, and field procedures to avoid duplication or conflicting efforts. These consultations should identify or acknowledge existing regulatory requirements and authorizations at federal, state, and local levels. At a minimum, it should address different agencies' review times and public notice requirements. Issues that should be addressed are the timing of the various phases of review for specific projects; the level of detail to be addressed at each; and the coordination of permitting, review of plans of operations, field surveillance, and field approvals. Experiences associated with the development of the Trans-Alaska Pipeline System (TAPS) and the proposed Alaska Natural Gas Transportation System (ANGTS) from Prudhoe Bay to the Canadian border could provide useful models for cooperative management programs.

A coordinated interagency process for planning, design review, permitting, field surveillance, compliance and enforcement, and reclamation would serve the state, DOI, and industry well. The state's existing coastal management consistency process as well as the jurisdiction of state agencies such as the Departments of Fish and Game, Environmental Conservation, Natural Resources and the Alaska Oil and Gas Conservation Commission need to be acknowledged and effectively implemented in the review and permitting of each stage of the overall project. Lack of sufficient and effective coordination could lead to each agency dealing independently with applicants and could result in permitting inefficiencies with duplicative and inconsistent compliance and enforcement actions.

#### Topics Needing Further Discussion in the Final 1002(h) Report

Overall, the State finds that USFWS did an excellent job in compiling and summarizing a large amount of biological and geological information in the draft 1002(h) report. Considerably more work needs to be directed to the following eight issues of major importance to the state.

##### 1. Standards for Air and Water Quality Protection

The draft 1002(h) document focuses primarily on a discussion of habitat and wildlife issues and petroleum potential. The document is considerably weaker with respect to air, land, and water quality issues. DOI must acknowledge and accurately reflect in the final 1002(h) report state authority in this area and the body of regulations and requirements associated with sound environmental practices. A list of pertinent state authorities is included in Enclosure B for your reference.

##### a) Air Quality Management

Particular attention should be paid to emissions associated with start-up and upset flaring, emissions of nitrogen oxides, and the best available technology review process associated with "prevention of significant deterioration" review.

b) Drilling Wastes and Solid Waste Management

Major waste streams include garbage, drilling wastes, metal wastes, and oily wastes. Our experiences on the north slope verify that it is very important that proper management of all these wastes be addressed from the beginning.

Drilling wastes are of particular concern. Improper management of drilling wastes can result in the contamination of adjacent habitats with potential negative effects to the vegetation and fish and wildlife species. Management of drilling wastes should involve development of best practices to minimize waste generation and to ensure total containment or injection of all produced wastes. Best practices should be based in part on a thorough evaluation of the effectiveness of past practices of drilling waste disposal in Alaska. Recent efforts by the Alaska Department of Environmental Conservation to develop a workable set of regulations governing these activities are nearing completion and should be viewed as the framework for developing specific requirements. In addition, the U.S. Environmental Protection Agency is currently studying the issue of proper drilling waste disposal and should soon have a report available.

Provisions for pickup of windblown litter and other debris must be addressed by stipulation. Early planning for sound disposal of each waste stream will lead to the best environmental results.

c) Liquid Waste Management

Possible liquid waste discharges include domestic wastewater, reserve pit fluids, produced water discharges, hydrostatic test discharges, vessel rinsates and radiographic wastes. Each needs to be identified and provisions made for proper disposal. The existing local, state and federal regulatory structure, ranging from plan review to the use of the best practicable technology, needs to be addressed. ReInjection of produced waters and non Resource Conservation and Recovery Act (RCRA) regulated liquid wastes is routinely practiced on state lands on the north slope.

d) Hazardous Waste Management

No discussion of hazardous waste management is included in the draft 1002(h) report. Hazardous waste management is governed by stringent requirements under the federal RCRA. Transportation of hazardous materials is regulated by the federal Department of Transportation. Proper management must be addressed.

e) Oil Spill Prevention and Response

The draft 1002(h) report refers to the need to address oil spill control requirements at page 84. More detailed plans will be required under the cited state and federal statutes. Provision for a coordinated response capability should be provided by stipulation.

2. Provisions for Offshore Support Facilities

It is important that the final 1002(h) report and management alternatives address the siting in ANWR of oil and gas facilities needed to support offshore oil and gas development occurring adjacent to ANWR on state-owned submerged lands and on the federal Outer Continental Shelf. As written, none of the alternatives specifically state that support facilities, if needed, would be permitted.

3. Alternative Development and Transportation Scenarios

Statements in the draft 1002(h) report refer to a transportation corridor (road and pipeline) between ANWR and TAPS Pump Station 1 in Prudhoe Bay. The state recognizes that the scenario which was analyzed is only one of many potential alternatives. The actual alignment of transportation facilities if, in fact, discoveries are made and any facilities are required, will be dependent upon many factors including the location and size of any reserves discovered, the need to accommodate delivery of any additional nearby reserves, terrain constraints, habitat considerations, and project economics. We suggest that the final report reflect the interrelationship of these factors in determining the size and location of needed transportation facilities. In addition, we suggest that the report describe the level of any review that will proceed these decisions. Interagency and public reviews of TAPS and ANGTS projects provide a good model of the scope of analysis which accompanies the review and approval of a major transportation project.

4. Subsistence ANILCA 810 Analysis

The draft 1002(h) report does not address the process by which the impacts of oil and gas development on subsistence activities will be identified and mitigated. Such an analysis is required by Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA).

Impacts of oil and gas activity in the 1002 area on fish and wildlife resources can adversely affect human uses of these resources. This is true both in the 1002 area and in other Canadian and Alaskan communities that rely on wildlife which use the 1002 area, most notably the Porcupine Caribou Herd. The draft 1002(h) report does not present a complete picture of subsistence uses in the area. The discussion focuses principally on subsistence uses in the community of Kaktovik, and makes only passing reference to some but not all other communities that use the Porcupine Caribou Herd. A more comprehensive discussion of subsistence uses by communities that use Porcupine Caribou Herd is required in order to better assess the future impacts of development in the coastal plain. The potential impacts associated with oil and gas exploration and development in the 1002 area, like the siting and design of transportation facilities, cannot be addressed with certainty until exploration has confirmed the existence and location of potential oil and gas fields and some understanding of the scope of development is known. Enclosure C describes the basic requirements of ANILCA 810, and provides a recommended approach for meeting these requirements.

#### 5. Water Availability and Use

The draft 1002(h) report correctly notes that water resources in the 1002 area are very limited and confined to the surface. Most of these water sources freeze solid by late winter. Given the paucity of fresh water for industrial use within the 1002 area, the draft report concludes that adjacent marine waters must be viewed as a water resource. Little attention is given to other alternatives used elsewhere on the north slope, such as snow melters and deep thaw lake reservoirs.

Fresh water for use in the Prudhoe Bay oilfield was taken from the Sagavanirktok River adjacent to the Deadhorse industrial area during the early years of that field's development. This removal of water from the Sagavanirktok River resulted in dewatering of fish overwintering habitats with documented mortality of large numbers of fish. As a consequence, the state no longer allows the use of water from this and similar sources. Currently, in order to provide fresh water for industrial uses in the Prudhoe Bay area, the state requires the use of several large surface

water reservoirs that have been developed. The majority of these reservoir sites are depleted deep gravel mine sites that have been flooded with surface water. Other sites are shallow tundra lakes that have been deepened to provide winter water supplies. These water reservoirs are filled either passively or actively from nearby drainages during the spring breakup period and are, in general, isolated from river and stream systems during the remainder of the year. DOI should initiate a more thorough analysis of similar alternatives for industrial water use in the 1002 area.

6. Gravel Use

Gravel sites in ANWR should be sited, developed, and reclaimed in such a manner that overall impacts to water quality and fish and wildlife resources are mitigated. Plans for gravel removal should include detailed plans for the reclamation of the site to be conducted in phases concurrent with the removal of gravel. Gravel sites may also be developed in such a manner that they can be used as water sources for both exploration and development.

7. Disputed Acreage

Although the draft report references the submerged lands ownership dispute between the state and federal government regarding the coastal lagoons between the mainland and offshore barrier islands, it does not address the ownership status of the beds of nontidal navigable waters. The state asserts ownership of the submerged lands underlying the Aichilik, Jago, Okpilak, Hulahula, Salerochit, Staines, and Canning rivers within the 1002 area.

8. Decision Rules and Mitigation Policy

The terms "avoidable adverse impacts" and "unnecessary adverse effects" are not defined and do not appear in USFWS Mitigation Policy (Federal Register, Vol. 46, No. 15). Adding further to the confusion is a list of "unavoidable effects" on page 101 that includes a mix of those that are truly unavoidable (e.g., loss of habitat by gravel overlay for roads and pads) with many that are avoidable with proper design (e.g., erosion and ponding along roads, water storage pits in streambeds).

There also appear to be discrepancies between the explanation regarding Resource Category 1 and 2 in the draft 1002(h) report and the explanation for both of these categories in the federal mitigation policy regulations. Further, the draft 1002(h) report makes no mention of the requirement for "no significant adverse affect" as provided

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under Section 1002(h) of ANILCA. DOI should address these apparent inconsistencies with USFWS mitigation policy in the final 1002(h) report.

As discussed earlier in our comments, the Alaska Coastal Management Program standards and review procedures need to be addressed in the final 1002(h) report. In particular, reference should be made to the Habitat Standard (6 AAC 80.130) which requires habitats to be managed so as to maintain or enhance their characteristics and that uses and activities which will not conform to this standard may be allowed if there is a significant public need and there is no feasible and prudent alternative to meet the public need.

### Conclusion

Recognizing the important renewable and nonrenewable resource values found in ANWR, the state fully supports the opening of the coastal plain to oil and gas leasing subject to appropriate and effective mitigation based on our firm belief that exploration, development, and production can occur in a manner consistent with the established purposes of ANWR. We look forward to reviewing the final 1002(h) report and actively pursuing a joint consultation process in the near future to resolve specific aspects of concern to the State of Alaska.

Sincerely,



Robert L. Grogan  
Director

### Enclosure

cc: Lieutenant Governor Steve McAlpine  
Commissioner Don Collinsworth, DFG, Juneau  
Commissioner Judy Brady, DNR, Juneau  
Commissioner Dennis Kelso, DEC, Juneau  
John Katz, Office of the Governor, Washington DC  
Rod Swope, Office of the Governor, Juneau  
Mayor George Ahmaogak, North Slope Borough, Barrow  
Mayor Loren Ahlers, Kaktovik

ENCLOSURE A  
State Comments on Summary of Recommended  
Mitigation for the 1002 Area

The following comments are provided within the context of the federally proposed stipulation package summarized on pages 145-147 of the draft 1002(h) report. Our comments represent the state's position in response to the specific federal proposal and do not represent the state's total concern regarding mitigation requirements. The state reserves the right to comment further on stipulations not yet included or discussed with DOI. In addition to the following major comments on the specific stipulations, there are a number of terms and conditions which should be added.

First, there are mitigative measures for certain "non evaluation" species mentioned in the species discussions in the "Environmental Consequences" chapter of the draft 1002(h) report that are not contained in the summary section. These mitigative measures should be added to the summary section. Second, there are a number of factors which are either not addressed or not handled in sufficient detail in order to provide for an overall effective mitigation program. Examples include the following: coordinated state/federal process for design review, permitting, field surveillance, compliance, and enforcement; rehabilitation; maintenance of public fish and wildlife resource use; material exploration, extraction, and rehabilitation; solid waste management; timing restrictions on activities, and setbacks required for the use of explosives; liquid waste management; hazardous waste management; stream crossings and fish passage; water management; bonding and financial responsibility; right of access; erosion control; oil spill contingency planning; penalty provisions for non-compliance; definitions of key terms; identification of information needs; design criteria and compliance plans; quality assurance/quality control; air quality; and support service industries. These subjects need to be addressed in a comprehensive manner and appropriate mitigative measures described.

In addition, the DOI stipulations do not clearly differentiate between stipulations or restrictions applied to exploration versus development. The state suggests that the DOI reorganize the entire mitigation section into two distinct components: exploration, and development. Implementation of the stipulations should be tied to the type of activity proposed. Stipulations referring to area specific closures may be effective forms of mitigation during exploratory activities but may be ineffective or inappropriate during development. For example, the stipulation on no activity within 1/2 mile of a documented polar bear den could be useful and effective during exploration, but it is unclear how it would be implemented during development when facilities are fixed and certain activity levels are required. There are other stipulations that fall into a similar category

and clarification is needed in order to interpret how and when they will be used and implemented.

Stipulation 1 - Sensitive Habitats and Species:

As written it is unclear how this stipulation would be enforced. DOI should define what is included in the term "non essential facilities."

Stipulation 2 - Road and Drainage Designs:

Roads and other facilities should be designed, constructed, and maintained in such a manner that the following performance standards are achieved: natural drainage is maintained; free passage of fish is provided; gravel fills are stable; upslope ponding and downslope dewatering is prevented; the number of stream crossings is minimized; natural floodplains and flow patterns are maintained; spring areas are avoided; and road alignments are perpendicular to stream flows and sited in areas of minimal floodplain width. Design criteria and specifications to satisfy these performance standards should be developed by the industry and should be approved by the appropriate federal and state agencies.

Stipulation 3 - Exploration Pad Construction:

The state strongly supports the objective of this stipulation to minimize gravel requirements for exploration activities.

Stipulation 4 - Rehabilitation Plan:

The need for rehabilitation plans is clear, but the timing of their submittal and definition of measures necessary to ensure that they will be implemented needs further consideration. Separate rehabilitation plans for exploration and development, including abandonment should be required. Also, requirements for conducting necessary research to develop techniques and measures for the rehabilitation of specific sites (e.g., gravel pads, seismic lines, material sites, etc.) should be addressed.

Stipulation 5 - Off-Road vehicles:

Should be modified to prohibit off-road vehicle use, except for travel by snowmachines, unless otherwise specifically permitted.

**Stipulation 6 - Limits on Oil Exploration:**

While we agree in principle with this stipulation, as written it may be too restrictive. Exploration includes both surface disturbing and non surface disturbing activities. The stipulation should limit any surface disturbance activities to the winter months and allow only non surface disturbing activities during the summer, provided there are no area or timing restrictions that would dictate otherwise.

**Stipulation 7 - Gravel and Water Removal:**

The state recommends that DOI address gravel removal and water removal separately. In addition, DOI should prohibit winter water removal from fish-bearing waters, springs and tributaries. We also recommend that DOI modify summer/fall water removal language to read: "During summer and fall, water removal shall be restricted to those operations that will maintain instream flows at levels necessary to provide optimum fish passage and rearing habitat, and water quality. In addition, large surface water reservoirs should be created to provide an adequate supply of fresh water for oil and gas related industrial activity." Deep pit type excavations adjacent to active channels of the streams identified as lacking suitable fish overwintering habitat could provide a winter water source and provide overwintering fish habitat. These reservoir sites should incorporate features that will enhance their value as fish and wildlife habitat (e.g., areas of shallow water, varying shoreline, provide for free movement of fish in and out of sites).

With respect to gravel removal, prohibit removal in all fall spawning fish and overwintering areas. Additionally, prohibit gravel removal from all fish-bearing rivers/streams unless approved on site-specific basis. Plans for gravel removal should include detailed plans for the rehabilitation

of the site and rehabilitation must be conducted in phases concurrent with the removal of gravel. The importance of rehabilitation cannot be overemphasized. At a minimum, any gravel site, whether upland and/or floodplain, should be sited and designed to conform to the guidelines as defined in the Gravel Removal Guidelines Manual for Arctic and Subarctic Floodplains (USFWS, Woodward-Clyde Consultants, 1980).

**Stipulation 8 - Pipeline Elevation:**

We recommend this stipulation be modified by adding a general statement of intent and then incorporate stipulations 8 thru 11 under that statement, and add an additional item regarding traffic control. Suggested language is as follows:

- (a) Include language as proposed in stipulation No. 9.
- (b) Include language as proposed in stipulation No. 10 except pipelines should be buried where "feasible and prudent" not just where "possible."
- (c) Roads and pipelines should be separated. Offset distances shall be optimum for preventing the synergistic effect of roads and pipelines on caribou movement, based on most current relevant research.
- (d) A surface traffic control plan should be prepared, approved by the Regional Director, and implemented. The plan should consider such measures as convoying, pulsed traffic, and seasonal or daily restrictions.

**Stipulation 12 - Restrict Surface Occupancy within 3 Miles of Coastline:**

The blanket 3-mile buffer for facilities adjacent to the coast is too stringent as written. Provisions must be made to allow drill pads, flow stations, and other

essential support facilities for offshore development, in this buffer strip. In addition, measures must be taken to ensure free passage of caribou along the coast. Criteria must be established to determine which facilities will be allowed in the buffer area.

**Stipulation 13 - Monitoring and Research Requirements:**

Modify to make two separate terms. One that states: "The DOI should be responsible for ensuring appropriate monitoring of populations, productivity, movements, and general health of key species in relation to overall oil and gas activities in ANWR." Then add a separate requirement to read: Where there is a possibility that an activity could adversely affect fish and wildlife, "Lessees and permittees may be required to monitor the impacts of the activity on selected species, their habitats, and human uses; to evaluate impact hypotheses and the effectiveness of specific mitigation measures employed; and to develop corrective actions, including improved mitigative techniques, as necessary."

**Stipulation 14 - Watercourse Setbacks:**

The blanket 3/4-mile buffer for all permanent facilities is too stringent as written. Provisions must be made to allow drill pads, flow stations, and other essential facilities within this 3/4-mile buffer. Criteria must be established to determine which facilities will be allowed in the buffer area.

**Stipulation 15 thru 18 - Peregrine Falcon and other Raptors Protection:**

The state concurs with the need for special protection for the peregrine falcon, however, stipulations should be modified to incorporate language developed by the federal peregrine falcon recovery team. In addition, the same level of protection provided to the endangered peregrine falcon should not be provided to all raptors.

**Stipulation 19 - Polar Bears:**

This stipulation should be expanded to require an annual fall monitoring program to follow bears moving ashore and identify den site locations.

Stipulation 20 - Construction Near Coastal Bluffs:

Support language as proposed.

Stipulation 21 - Discharge of Firearms:

Restrictions on the discharge of firearms in the vicinity of structures is necessary to protect human safety and oil field operations, however, the five-mile prohibition may be excessive. Further discussion is needed on the subject and the potential effects on human use of resources in the 1002 area.

Stipulation 22 - Prohibit Surface Occupancy in Sadlerochit Spring Special Area:

In addition to the Sadlerochit Spring Special Area, surface occupancy should be prohibited in the area within 1/2 mile of the Fish Hole No. 1 spring outlet located in the Hulahula River, and extend for 1/4 mile on either side of mean high water for a distance of 3 miles downstream of the outlet.

Stipulation 23 - Protection of Thaspi arcticum:

It is not known how widespread this plant is, so it is impossible to determine how large an area will be placed off limits by this stipulation. Until the plant is placed on the endangered species list and more is known regarding its areal extent, it is premature to impose such a restriction.

Stipulation 24 - Causeways:

Based on the state's case-by-case review and experience in authorizing the Westdock, Endicott and Lisburne causeways, we recommend that the proposed stipulation be revised such that the construction of docks and causeways minimize nearshore hydrographic changes and avoid significant adverse effects on fish populations and movements.

Stipulation 25 - Time and Area Closures for Wildlife:

Although the state generally supports the language as proposed, it should be made clear that the stipulation applies only to exploratory activities, vehicle movements, and other activities that can reasonably be re-scheduled for another period of time.

**Stipulation 26 - Overflight Restrictions:**

Expand to include aircraft overflight restriction above barrier islands, lagoons, river deltas, and wetlands within one mile of coast between May 15 and September 30 (excluding take-offs and landings). Also make clear that human safety takes precedence over the restrictions.

**Stipulation 27 - Reduction of Human/Bear Conflicts:**

Modify to read, "Measures must be taken to minimize human/bear interaction and conflict. These measures may include, but not be limited to, the use of bear-proof fencing around certain facilities, special solid waste management plans (such as incineration of putrescible wastes), and employee education programs."

**Stipulation 28 - Limit Use of Infrastructure to Official Business:**

Support language as proposed.

**Stipulation 29 - Inventory Areas for Cultural Resources:**

Support language as proposed.

**Stipulation 30 and 31 - Air and Water Quality Provisions:**

As discussed in our cover letter, the proposed stipulations represent a very small step toward defining what will be needed to provide an appropriate level of air and water quality protection as leasing moves forward. Further consultation between DOI and the state is needed on this subject to jointly develop a workable package of specific measures. Such a process would better acquaint DOI with the extensive body of environmental regulation and provide appropriate forums for decisions about stipulations, plans of operations, and permits. It is crucial to ensure that exploration and

Enclosure A

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development is conducted in accordance with environmental standards appropriate for the coastal plain of ANWR.

Stipulation 32 - Environmental Orientation Programs:

Support the language as proposed.

Enclosure A/kfi

# ENCLOSURE B

## SUMMARY OF MAJOR STATE AUTHORITIES PERTINENT TO ANWR

The State of Alaska defines and regulates the following: .

| <u>Program</u>                   | <u>Statutes</u>             | <u>Definitions</u>     | <u>Regulations</u>   | <u>Definitions</u>            |
|----------------------------------|-----------------------------|------------------------|----------------------|-------------------------------|
| 1) SOLID WASTE                   | AS 46.03.100-120<br>800-810 | AS 46.03.900 (24)      | 18 AAC 60<br>(draft) | 18 AAC 60.910 (49)            |
| Construction Waste               |                             |                        |                      | (Not defined)                 |
| Industrial Waste                 |                             | AS 46.03.900 (10)      |                      | -- --                         |
| Other Wastes                     |                             | AS 46.03.900 (16)      |                      | -- --                         |
| "Drilling Wastes"                |                             | AS 46.03.900 (31-32)   |                      | 18 AAC 60.910 (16)            |
| Putrescible Waste                |                             | -- --                  |                      | 18 AAC 60.910 (40)            |
| Septage, Sewage<br>Sludge Sludge |                             | -- --                  |                      | 18 AAC 60.910 (46)<br>to (48) |
| Sanitary Waste                   |                             | -- --                  |                      | -- --                         |
| 2) LITTER                        | AS 46.06                    | AS 46.06.150 (4)       |                      |                               |
| 3) HAZARDOUS                     | AS 46.03.296-308<br>830-833 | AS 46.03.299 (a) - (b) | 18 AAC 62            |                               |

| <u>Type of Waste</u>                | <u>Statutes</u>                                               | <u>Definitions</u>                                                       | <u>Regulations</u>     | <u>Definitions</u> |
|-------------------------------------|---------------------------------------------------------------|--------------------------------------------------------------------------|------------------------|--------------------|
| 4) OIL and HAZARDOUS<br>SUBSTANCES* | AS 46.03.740<br>758-760<br>780-790<br>822-826<br><br>AS 46.04 |                                                                          | 18 AAC 20<br>18 AAC 75 |                    |
| Oil                                 |                                                               | AS 46.03.758(6)<br>AS 46.03.826(4)<br>AS 46.04-120(9)<br>AS 46.08.900(7) |                        |                    |
| Hazardous Substances                | AS 46.03.826(3) *                                             | AS 46.08.900(6)<br>AS 46.09.900(4)                                       |                        |                    |
| 5) WASTEWATER                       | AS 46.03.100-120                                              |                                                                          | 18 AAC 72              |                    |
| Domestic Wastewater                 |                                                               | -- --                                                                    |                        | 18 AAC 72.990(16)  |
| Graywater                           |                                                               | -- --                                                                    |                        | 18 AAC 72.990(24)  |
| Non-domestic<br>Wastewater          |                                                               | -- --                                                                    |                        | 18 AAC 72.990(29)  |
| Other Wastes                        |                                                               | -- --                                                                    |                        | 18 AAC 72.990(32)  |
| Septage                             |                                                               | -- --                                                                    |                        | 18 AAC 72.990(44)  |
| Sludge                              |                                                               | -- --                                                                    |                        | 18 AAC 72.990(50)  |
| Spoils                              |                                                               | -- --                                                                    |                        | 18 AAC 72.990(52)  |

\* Note new legislation adding AS 46.08, AS 46.09, and amending AS 46.03.745, 758(k), 760(a), 765, 780(a), 790(a) (b) (d) and AS 46.04.010 and 090(b).

|     | <u>Type of Waste</u>                                                                                                                                                   | <u>Statutes</u>              | <u>Definitions</u> | <u>Regulations</u>               | <u>Definitions</u>                           |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|--------------------|----------------------------------|----------------------------------------------|
| 6)  | TOXIC MATERIALS and WASTES are a "special class regulated under the Federal Toxic Substances Control Act and National Emission Standards for Hazardous Air Pollutants. |                              |                    |                                  |                                              |
| 7)  | HABITAT PROTECTION                                                                                                                                                     |                              |                    |                                  |                                              |
|     | Fish Habitat Permit                                                                                                                                                    | AS 16.05.840<br>AS 16.05.870 | -- --              |                                  |                                              |
| 8)  | COASTAL MANAGEMENT                                                                                                                                                     | AS 46.40                     |                    | 6 AAC 50<br>6 AAC 80<br>6 AAC 85 | 6 AAC 50.190<br>6 AAC 80.900<br>6 AAC 85.900 |
| 9)  | WATER USE                                                                                                                                                              | AS 46.15                     |                    | 11 AAC 93                        |                                              |
| 10) | GRAVEL SALES                                                                                                                                                           |                              |                    | 11 AAC 76                        |                                              |
|     | a. Near Shore                                                                                                                                                          | AS 38.05.110-120             |                    |                                  |                                              |
|     | b. Navigable Rivers                                                                                                                                                    | AS 38.05.110-120             |                    |                                  |                                              |
| 11) | PIPELINE RIGHT OF WAY LEASES                                                                                                                                           |                              |                    | 11 AAC 80                        |                                              |
|     | a. Near Shore                                                                                                                                                          | AS 38.35                     |                    |                                  |                                              |
|     | b. Navigable Rivers                                                                                                                                                    | AS 38.35                     |                    |                                  |                                              |
| 12) | OIL AND GAS LEASES                                                                                                                                                     |                              |                    | 11 AAC 83                        |                                              |
|     | a. Near Shore                                                                                                                                                          | AS 38.05.180                 |                    |                                  |                                              |
|     | b. Navigable Rivers                                                                                                                                                    | AS 38.05.180                 |                    |                                  |                                              |

| <u>Type of Waste</u>             | <u>Statutes</u>  | <u>Definitions</u> | <u>Regulations</u> | <u>Definitions</u> |
|----------------------------------|------------------|--------------------|--------------------|--------------------|
| 13) SURFACE LEASES               |                  |                    | 11 AAC 62          |                    |
| a. Near Shore                    | AS 38.05.070-075 |                    |                    |                    |
| b. Navigable Rivers              | AS 38.05.070-075 |                    |                    |                    |
| 14) LAND USE PERMITS             |                  |                    |                    |                    |
| a. Near Shore                    | AS 38.05.850     |                    | 11 AAC 62          |                    |
| b. Navigable Rivers              | AS 38.05.850     |                    |                    |                    |
| 15) CLASSIFICATION               |                  |                    |                    |                    |
| a. Near Shore                    | AS 38.04.065-900 |                    | 11 AAC 55          |                    |
| b. Navigable Rivers              | AS 38.04.065-900 |                    |                    |                    |
| 16) ACCESS ALONG HISTORIC TRAILS | RS 2477          |                    |                    |                    |

Enclosure B/kfi

ENCLOSURE C

**A Recommended Approach to  
Implementation of ANILCA §810**

**March 14, 1986**

§810 of ANILCA requires federal agencies to consider the effects of proposed land actions upon people engaged in subsistence uses. Specifically, it requires agencies to:

1. Evaluate the effects of the proposed action on subsistence uses and needs;
2. Determine the availability of other lands for the purposes sought to be achieved and assess whether other alternatives are available which would reduce or eliminate the use, occupancy or disposition of public lands needed for subsistence purposes;
3. Determine whether the proposed action would "significantly restrict" subsistence uses;
4. If the proposed action would significantly restrict subsistence uses, to:
  - a. Meet certain public notice and hearing requirements.
  - b. Determine that such a restriction meets certain standards, including involving the minimum amount of public lands and minimizing adverse impacts upon subsistence uses and resources.

This paper describes the basic requirements of §810 and provides a systematic approach to meeting these requirements when making a decision on an OCS oil and gas lease sale.

**Evaluating Effects on Subsistence Uses**

ANILCA §810 provides, as a starting point, that "in determining whether to...lease...public lands...the head of the federal agency having primary jurisdiction over such lands...shall evaluate the effect of such use, occupancy, or disposition...on subsistence uses and needs...."

This section is clearly intended to require a specific assessment of impacts on subsistence uses. An adequate §810 evaluation must include complete and accurate information about the proposed action and about the subsistence uses of potentially affected wild resources.

Information about the wildlife populations, fish stocks, and geographic areas which could be affected by the proposed action

are needed to determine the scope of potential effects on subsistence. Information about the specific subsistence uses of, and needs related to, these resources and areas is required to identify and evaluate these effects. This includes data on:

1. Who uses the resources which could be affected;
2. Where, when, and how the resources are harvested;
3. How much they use; and,
4. The significance of the harvested resources for meeting socioeconomic and cultural needs.

Maps of community subsistence use areas can provide valuable data about which communities and groups of people use fish and wildlife that could be affected. Each §810 evaluation should include a map and list of communities that use the stocks and populations of resources potentially affected by a proposed action. The Alaska Department of Fish and Game routinely develops maps of subsistence use as it conducts community subsistence studies. The state welcomes opportunities to cooperate with federal agencies in improving the subsistence data base.

Once the area and communities which could be affected by an action are identified, an assessment must be made of the potential effects of the action on uses of fish and wildlife. The potential linkages between the proposed action, fish and wildlife resources, and subsistence uses need to be clearly described. This can be accomplished through developing hypothetical scenarios, and tracing their implications out through the biological system to the people who rely on subsistence uses.

The evaluation of effects should address potential positive, neutral, and negative effects, as well as direct and indirect impacts on subsistence uses resulting from a proposed lease sale. The guidelines for implementation of §810 developed by the Alaska Land Use Council are helpful in identifying several effects which would restrict subsistence uses:

1. A reduction in subsistence uses due to direct impacts on the resource, adverse impacts on habitat, increased competition for the resources, or other factors;
2. A reduction in the subsistence uses due to changes in availability of resources caused by an alteration in their distribution, migration, or location; and
3. A reduction in subsistence uses due to limitations

on the access to harvestable resources, such as by physical or legal barriers.

An adequate §810 assessment must consider the potential effects of the proposed action in each community which would be affected. In some circumstances, however, it may be necessary to examine effects on the subsistence uses of "typical" communities or groups of people within the affected zone.

Biological and socioeconomic data need to be at a level of detail which will allow a meaningful assessment of potential impacts on the people who use resources for subsistence. These effects can occur at the individual, household, community and regional level.

A working document has been developed by the Alaska Land Use Council which identifies minimum data standards for making an adequate §810 assessment. (Alaska Land Use Council, Working Group II; November 28, 1984, Draft Standards and Guidelines for the Collection, Analysis, and Presentation of Subsistence Use Information for ANILCA §810 Determination, pp. 5-6.) In some cases existing data on subsistence uses may not be adequate to conduct a §810 analysis. Agencies must anticipate these special data needs at the earliest stages in the EIS process. Public meetings may be useful in compiling additional data on subsistence uses and needs. Additional research may also be necessary to address particular data gaps. New studies should be closely coordinated with the State of Alaska as required by ANILCA §812.

The §810 evaluation must thoroughly describe and document data about subsistence resources and uses so that all concerned parties can ascertain which resources and subsistence uses could be affected by a proposed action.

#### Identifying Alternatives

§810(a) also requires federal agencies to evaluate "...the availability of other lands for the purposes to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes."

In ANILCA §802 Congress states its policy that the "...utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands...." It is therefore important that §810 analyses fully identify and explore alternative areas and approaches which would minimize adverse impacts on rural residents.

**Determining Whether Actions Would "Significantly Restrict" Subsistence Use**

Once the potential effects of the lease sale upon subsistence uses have been described, the next step required by §810 is to determine whether these effects could "significantly restrict subsistence uses...."

The legislative history of ANILCA gives no clue to the intended meaning of "significantly restrict." The closest parallel to the "significantly restrict" standard appears to be the requirement of the National Environmental Policy Act (NEPA) to analyze actions which may "significantly affect" the environment. Regulations of the Council on Environmental Quality (CEQ) for implementing NEPA state that both the context and intensity of impacts must be considered in deciding significance.

The people who would be affected, and the roles that the particular resources play in their lives provide the obvious context for evaluating significance in relation to restrictions on subsistence uses. The "intensity" of effects also has to be evaluated in relation to use of specific resources by people.

In §810 Congress recognized that subsistence uses are essential to many rural Alaskans, and intended federal land actions to have the least adverse impact possible upon them.

When considered in relation to this mandate, a "significant" restriction to subsistence uses is an effect which imposes a meaningful burden or hardship on particular people.

A determination of "significance" therefore requires discussion of such factors as socioeconomic circumstances, the degree to which harvest of particular resources could be reduced by the proposed action, and the consequences of the frequency, timing, and location of restrictive effects. These need to be evaluated in the context of the people who actually harvest and use the potentially affected resources, and in the context of what would constitute a meaningful burden to those people.

A hypothetical example may be useful in demonstrating the approach suggested above:

During an EIS study a proposed lease sale is determined potentially to affect local salmon stocks. The studies suggest that the activity will not have a major impact on regional salmon populations or regional harvest levels, but depending on its timing and precise location, it could reduce a particular stock or run. It is impossible, given uncertainty about where or when the activity will occur, to predict exactly which salmon stock might be affected. However, the EIS has identified 20 communities and groups of people who make subsistence use of the

salmon runs which migrate through the general impact area and could be affected. The §810 evaluation therefore identifies these communities and the potential risks. It then examines what effect a reduction in a local salmon run could have for households within typical communities, perhaps dividing the communities into four or five categories, based on location, degree of reliance on subsistence resources, and so forth.

In the hypothetical example, the FEIS concludes that the proposed action could substantially reduce local stocks of king salmon for one or more seasons. As subsistence uses have been shown to occur on these stocks the §810 analysis would then identify this as a potential restriction and then go on to determine whether the action would "significantly restrict" the subsistence use of king salmon. In this analysis king salmon are one of the first fresh foods available to particular households in early summer, and the loss of king salmon for one or more seasons would be a meaningful burden on families in the communities. The §810 analysis, after weighing the risks to subsistence use of king salmon against the important role of king salmon to the people, might conclude that the action could "significantly restrict" subsistence use of king salmon in several of the communities.

#### Meeting Notice and Hearing Requirements

§810(a) requires the head of each federal agency to meet certain notice and hearing requirements before allowing an action which would significantly restrict subsistence uses. The appropriate state agency and appropriate local committees and regional councils established under §805 must be notified, and a hearing must be held in the vicinity of the area involved.

In ANILCA §801 Congress clearly stated its intent that rural residents, who have knowledge of local conditions and subsistence requirements, should have a meaningful role in decisions affecting subsistence uses and needs. The specific requirements of §810 are intended to ensure that federal agencies have the best available information about the potential effects of proposed actions on rural residents. They also seem, when taken in conjunction with §810(a)(3), to be intended to ensure that local knowledge and experience is brought to bear on the requirement that adverse impacts on subsistence be minimized.

Again, a community focus in evaluating effects would simplify the notice and hearing requirements. Each §810 evaluation should include a map and list of the communities potentially affected, and identify those where subsistence uses could be significantly restricted. In this way §810 assessment itself would indicate many of the groups which should be notified.

It is ~~advisable~~ for agencies to follow the §810 procedures for public involvement in instances where a determination of significance is not clear or where there may be significant restriction even though certain data may not yet be available to support the finding.

Public notification of hearings following a determination of significant restriction should follow several avenues, including:

1. Notice published in local and regional newspapers;
2. Notice mailed to local fish and game advisory committees, regional councils, local governments, and Native organizations;
3. Notice aired on local radio and/or television broadcasts;
4. Notice posted in community halls and other local meeting places; and
5. Personal communications with individuals or groups known by the land manager to have an interest in the action.

Minimizing unavoidable adverse impacts upon subsistence uses and resources

§810(a)(3) requires three findings before an action which would significantly restrict subsistence uses can proceed.

1. That such a significant restriction of subsistence uses is necessary, consistent with sound management principles, for the utilization of public lands.

This finding of necessity should be specific to the proposed action, and should be based upon an analysis of the potential impacts upon subsistence uses and the relative value of the proposed action in meeting the goals for the use of public lands.

2. That the proposed activity will involve the minimal amount of public land necessary to accomplish its purposes.

The finding of necessity should exclude all public lands that are not necessary to achieving the proposed purpose.

3. That reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources.

Identification and consideration of possible mitigation measures are required to minimize the adverse impacts to subsistence uses that could result from the proposal to use, occupy, or dispose public lands. These can take many forms, and as noted above, public involvement can play a key role in developing suitable mitigation measures.

The following categories represent a broad range of types of mitigation measures:

1. Alternatives for deleting public lands from the proposed action to reduce the risk of potential subsistence resource restriction.
2. Alternatives for reducing impact to seasonal camps and other harvest and use locations;
3. Alternatives for reducing habitat changes that may reduce species abundance and decrease harvest opportunity;
4. Alternatives for reducing numbers of people living in, working in, or passing through area;
5. Alternatives for reducing numbers of people competing for resources;
6. Alternatives for reducing disturbance, roads, noise, water quality degradation, etc., that may affect distribution of species;
7. Alternatives for reducing land classification and ownership changes;
8. Alternatives for reducing changes in access routes to use areas; or
9. Alternatives for compensating people for losses.

Time and area restrictions on activity may frequently be useful in mitigating effects on subsistence uses.

#### Summary

Federal agencies can satisfy the requirements of ANILCA §810 by following the systematic approach outlined above. An adequate §810 evaluation for an OCS oil and gas lease sale would clearly meet the following standards:

1. Identify the people who make subsistence use of all wild resources which would be affected by the proposed action;
2. Identify the nature of their subsistence uses and needs for these resources;
3. Describe the potential effects of the proposed action on wild resources and upon community subsistence uses and needs, and identify which of these effects could be restrictions;
4. Make a determination of whether potential restrictions would be "significant" in the context of the meaning of the affected resources to the people who use them, and the role the resources play in their lives;
5. Identify alternatives that would minimize adverse impacts on rural residents;
6. If the proposed action could significantly restrict particular subsistence uses:
  - a. meet notice and hearing requirements;
  - b. make findings that:
    1. the necessity for the proposed action outweighs the risks to subsistence;
    2. the proposed action will involve the minimal amount of public lands needed to accomplish its purpose;
    3. reasonable steps will be taken to minimize adverse impacts upon subsistence uses and needs.
7. Thoroughly document all data and findings so that concerned parties have access to them.

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4-2-87

BRIEFING by  
DENNIS KELSO,  
DEC

**SENATE SPECIAL COMMITTEE ON  
OIL AND GAS  
April 2, 1987  
3:40 p.m.**

**MEMBERS PRESENT**

Senator Bettye Fahrenkamp, Chairman  
Senator Jack Coghill

**MEMBER ABSENT**

Senator Paul Fischer

**ALSO IN ATTENDANCE**

Representative Mike Davis

**COMMITTEE CALENDAR**

Briefing by the Department of Environmental Conservation on  
Oil and Gas Issues

**WITNESS REGISTER**

Commissioner Dennis Kelso  
Department of Environmental Conservation  
P.O. Box 0  
Juneau, Alaska 99811

Larry Dietrick, Regional Supervisor  
Division of Environmental Quality  
Northern Region  
Dept. of Environmental Conservation  
P.O. Box 1601  
Fairbanks, Alaska 99707

Jeff Mach  
Division of Environmental Quality  
Northern Region  
Dept. of Environmental Conservation  
P.O. Box 1601  
Fairbanks, Alaska 99707

**ACTION NARRATIVE**

TAPE ONE SIDE ONE  
April 2, 1987

Number 001

The Senate Special Committee on Oil and Gas meeting was  
called to order by Chairman Fahrenkamp at 3:40 p.m. She

invited Commissioner Kelso to address the committee on oil and gas issues that relate to DEC.

Number 010

Commissioner Kelso noted that Larry Dietrick, Regional Supervisor for DEC in Fairbanks, was participating via the teleconference network and that he and Mr. Dietrick would follow the list of topics that the committee suggested and handle them jointly. He added that Jeff Mach of Larry's staff would also be participating.

The first topic Mr. Kelso addressed was the Oil and Hazardous Substance Release Response Fund. Originally the fund was envisioned to deal with things like marine oil spills but was broadened in order to cover other kinds of spills. Today, they find the demand for use of the fund for cleanup to be increasing in areas such as leaking underground storage tanks, leaking tanks above ground, and certain other kinds of spills that involve materials or liquids that are dangerous and which require immediate attention, but for which there may not be a responsible party available to do the cleanup.

Number 061

If there is a responsible party on hand, they expect that party to clean it up. If there is no responsible party, or the party is unable to clean it up or unwilling to, then they can draw on the fund, use the money for the cleanup effort and then they proceed to recover the costs, if possible, from the responsible party. That means the fund itself can be replenished by the money recovered from responsible parties by placing it in the mitigation account. It is not immediately part of the fund because of the constitutional prohibition on dedicated funds, but is specifically earmarked to be available to be appropriated into the fund in order to keep the fund at a strength that allows them to do the cleanup work.

Number 081

Responding to a question from Senator Fahrenkamp, Commissioner Kelso explained that the recovered monies are in a separate account within the general fund. The purpose of the mitigation account was to hold those funds so they could be appropriated into the fund, and that is done through the normal appropriation process.

Number 095

In FY '87 the legislature appropriated more than \$600,000 to the fund, and they anticipate by the end of the fiscal

year the full amount appropriated will have been used in cleanup efforts.

Number 108

For the coming fiscal year, they have estimated that precluding any major cataclysmic event that they don't now project, but just relying on those things that they know are going to require cleanup efforts now, about \$1 million would be needed to do the work on those spills.

Number 116

Senator Fahrenkamp asked what percent of that he thought was recoverable, to which the Commissioner responded that based on past experience it would be well above 50%.

Number 143

Commissioner Kelso confirmed that in the case of a major problem, the Governor would be able to declare a disaster for some kinds of situations.

Number 184

The kinds of things they are projecting for the rest of this year and for FY '88 are continued work on the Peters Creek benzene contamination, exploratory investigative work on Anchor Point, the Irons Subdivision on the Kenai and industrial site cleanup in Kenai. They think the Crown Point work is completed, but in other parts of the state, work has only begun on some major spills. He referred to a fuel oil spill in Kotzebue which began coming to the surface because there was so much oil in the ground. He estimated there could be as much as 40,000 gallons of the fuel remaining and the source is probably leaking underground tanks.

Number 225

Commissioner Kelso said a problem he thinks they will see more and more that is going to require expenditures from the fund periodically will be spills that come from old tanks, some of which may not even be visible at the surface of the ground, or which their presence may not even be known.

Number 253

Representative Davis asked if when the government surpluses oil storage tanks, if anyone takes a look to make sure that they are safe to use and what their life expectancy is.

Number 265

Commissioner Kelso replied that the Federal Underground Storage Tank Program is in the process of developing standards, but the state does not currently have regulations that have been developed for that purpose. He thought that down the line the only way to address that will be to have standards for new tank installation and some standards that would apply also to the configuration of plumbing and materials used in the plumbing.

Number 285

Addressing a question by Representative Davis on whether there are any standards at all on tanks that have been surplused and then picked up, moved to another location and reused in the process, Larry Dietrick said there are no specific regulations. EPA is proposing regulations for old surplus tanks with their proposed LUST regulations, which are supposed to be out in the near the future. He explained that LUST is the federal acronym for leaky underground storage tanks. Although they haven't seen a draft of the regulations, they believe they deal directly with tank integrity, dying, construction, operation, installation and testing of both the tanks and the piping. He thought they would not only address new tanks, but old tanks that are going to be surplused.

Number 310

Senator Fahrenkamp said that if they find that is not so, to let the committee know so they can take a look at it, as she felt that it was an important issue.

Number 329

Commissioner Kelso spoke to a new program that is a priority to the department. After doing an inventory of existing underground storage tanks (4,600 identified statewide), they are beginning a training program on proper maintenance, testing, and monitoring of those tanks. Eventually, they hope to have a more comprehensive program. At the present time, unless the owner of a tank wants to have it tested, there is not a mechanism to require that person to have it tested. However, because there is a substantial potential liability if a leaking tank contaminates someone else's well, for example, there is an incentive to have that done and they can help people get the proper testing done.

Number 369

Senator Fahrenkamp said the homeowner could be liable just as well as anyone else and the cost to individuals for pressure testing could be very high. She wondered if there would be any way in the future where people in areas could

sign up to have the testing done and have a pooling of rates. That way whole areas could be tested and it would make it easy for the homeowners.

Number 397

Larry Dietrick responded that they have discussed what they could do for the small operators and possibly including the homeowners. First of all, they would set up a seminar for the small operators to basically give them information to bring them up to speed as to the direction things are going in and encourage them to undertake a program for evaluating their own tanks and piping.

For the larger companies in the Fairbanks area, they are slowly trying to get a handle on their situations and are generally starting with the bigger facilities that have a bigger potential. They are trying to encourage them to take on their own testing programs, conduct tests as are appropriate for piping and/or storage tanks, and when they find problems to initiate corrective actions.

Number 463

Commissioner Kelso gave an overview of what possible expenditures may look like on a project basis for the next year.

Referring to the Kotzebue spill, it's thought that between 100,000 to 200,000 gallons are contaminating perhaps 10 acres. They have completed the Phase I work, which is, basically, determining the scope and assuring that it is not coming from other sources. Phase II involves the recovery and that is much more expensive and estimated to cost \$130,000 a year.

In addition, underground spills at several sites in other parts of the state will require some attention. There are sites near Fairbanks that will require about \$105,000 in cleanup efforts if they are undertaken.

There are also remote sites in the bush that would require about \$210,000.

The Commissioner said these figures do not include the possible additional sites that they do not know about at this time, so the potential for a great deal of demand on the fund is there and they project that it is going to be a very active area for them over the foreseeable future.

Number 498

Representative Davis inquired if the state was going to be able to recover the costs of cleaning up those sites.

Number 502

Commissioner Kelso responded that it depended upon the circumstances of the particular spill. On some of them where the responsible party is readily established, after the recovery of the product, the cost of that work can be recovered directly, assuming that the responsible party is able to cover those cost. There is not a generic answer to the question, he said.

Number 517

Responding to a question from Representative Davis, the Commissioner said that all the projects he outlined are projects they think are candidates for cleanup under the response fund. They do not anticipate coming to the legislature for an appropriation for any of the cleanup projects, but it may well be that the total is much greater than what they can cover in the fund itself.

Number 562

Commissioner Kelso briefed the committee on what they had recovered in costs so far in FY '87 and then requested Mr. Dietrick to give a history of the MAPCO spill.

Number 584

Mr. Dietrick said the initial problem that was brought to light was a history of spills that resulted in significant contamination of the ground water in the immediate vicinity of the refinery. The spill history goes back to about 1977 and it's estimated that there are in excess of 100,000 gallons spilled to date.

The work towards bringing MAPCO under a compliance order that would lock in the recovery efforts and spell out what is needed to correct the situation began last summer. The compliance order was issued in December and the main feature of it requires that an environmental audit be conducted of the entire facility.

Recovery to date is approaching 90,000 gallons. Recent recovery rates remain high which causes them to be concerned about ongoing leakage.

Work on the environmental audit is scheduled to be completed in the fall.

The initial contamination of the drinking water wells on the refinery site was brought to light in November of '86 and that was a consequence of the compliance order which required them to immediately start testing their portable water wells on site. Initial results indicated that there

was benzene in the water. The most serious implications of this was the extent of that contamination and what the potential threat was to the North Pole area. The City of North Pole does have their own wells and tests have revealed that they are basically in good condition.

As a result of concerns for the City of North Pole, they amended the compliance order by letter and required that they immediately retain a consultant to evaluate the ground water movement direction at the refinery, and based on that information, select an initial perimeter number of wells that would be installed and monitored for benzene. A consultant was retained, a preliminary analysis has been completed, an initial round of wells has been completed and they should get their first sampling next week. What this has done is provide the City of North Pole and DEC with an early warning detection system so that they can conclusively say, without doubt, whether or not the contamination is spreading from the facility.

TAPE ONE SIDE TWO  
April 2, 1987

Number 675

Continuing, Mr. Dietrick said that the compliance order requires that all on-site monitoring and recovery wells be checked daily. The threshold is that if there is over a half inch of product upon that inspection, they have to start up pumping and recovery efforts immediately. Yields from some of the recovery wells remains very high. Mr. Dietrick said the problem definitely isn't going away and they remain very concerned.

Number 700

Senator Fahrenkamp asked, if it is determined by the amount that's in these recovery wells that there is a constant leaking and has been, rather than recovering spills that are no longer leaking, to what extent would the liability be determined to be on the present owners, past owners, etc.?

Number 717

Mr. Dietrick responded that determining the responsible party in some of these events is a matter that only an attorney can sort out in the end. The situation is somewhat complicated by virtue of the fact that the refinery is located and leased from the State of Alaska. The Department of Law will generally identify anybody that may have any kind of responsibility whatsoever, and it usually ends up that the judge sorts through who shares the

responsibility and how much they may be subject to in the way of penalties or fines.

Number 748

Senator Fahrenkamp said any expense of the present owners would be passed on to the consumers, and she thought that was an important aspect to be looked at.

Number 825

Senator Fahrenkamp asked Mr. Dietrick to explain the complaint that MAPCO has been injecting hazardous materials into the pipeline.

Number 837

Mr. Dietrick said the most recent allegations were received in March from EPA. They received quite a number of allegations about activities pertaining to handling, storage and disposal of hazardous waste at the refinery. They already had an inspection scheduled for the facility and they requested it be moved up to the next day. They've completed the investigation at this point and the report is now in EPA's hands. EPA has labeled it "Enforcement Confidential" because of potential litigation and requested that the department not discuss or disclose any information until they've completed their investigation and determined what appropriate actions may be necessary.

In response to Senator Fahrenkamp's concern with the committee's inability to get the needed answers on the allegations, Commissioner Kelso directed Mr. Dietrick to relate the information that they have about pipeline integrity.

Number 887

Jeff Mach related that they did conduct an inspection at the facility on March 5 and found that the facility had accumulated over their operating history so far, a number of drums of oil samples and other wastes that were generated by some of their processes. They were taking drums that had been stored and segregating them and then emptying them back into the systems that they have at the refinery. Some of those things that are discarded chemicals that have not been used would be considered hazardous waste. Putting them back into the system for recycling, or neutralization is not illegal, but they did find a number of technical violations.

Number 927

Commissioner Kelso said that in conversations with the operators of the pipeline they've been assured by them that given the volumes that were alleged and the volume carried by the pipeline that there was not a threat to pipeline integrity, and that at the volumes being discussed, it would probably be difficult to detect these materials in the crude oil stream when it reached Valdez.

Number 974

Larry Dietrick next addressed waste water disposal. The refinery expanded production to 90,000 barrels a little over a year ago. Initially they were proposing to have a separate waste water treatment facility, but the plans were abandoned after they got started up. They changed over to a stack injection and had been doing that for sometime prior to expansion of their building. When the expansion occurred, their waste water stream expanded considerably and got ahead of the planning. They now have stock-piled on site approximately 3 million gallons of oily waste waters. They also went to the extent of using secondary containment areas for bulk fuel storage, or containment of this waste water, but these are basically maximized out. They are trying in a very short time frame to get the approvals that are necessary to transfer this material to the North Pole area lagoon system. The City of North Pole is very concerned and upset about the possibility.

The real concerns are that they have to be assured that the waste water doesn't contain anything that could be considered hazardous because of the allegations being made about hazardous wastes on the site.

A meeting was held to bring all the involved parties (City of North Pole, EPA, MAPCO, DEC) together to try to come up with a resolution. There is a game plan at this time and they are initially working under a May 1 deadline for MAPCO to try to have treatment completed, modifications to their EPA permit completed and compatibility tests completed. The testing and discussions between the consultants probably can't realistically be completed in that time frame. He thought MAPCO may have to bring in additional tankage on site to contain the water until they can get the initial batch pretreated and get the tests back to make sure it won't be a problem for North Pole and then initiate a transfer.

Number 052

Senator Fahrenkamp said, as she understood it, DEC is working to try to help relieve the problem so it can be settled with as little damage as possible to both parties.

Number 056

Mr. Dietrick said that was correct, and the real issue here is to make sure that the material that's being transferred is compatible with the North Pole treatment system and permit. The second part of the problem then is to work out the permitting and administrative things that have to be done to make it legal.

Number 078

Dietrick said this effort right now is focused on getting relief for them for their immediate storage problem and that will be followed by an effort on their part to evaluate their waste water stream and then propose a long-term solution.

Number 086

Senator Coghill wondered if it would be possible for MAPCO to put together a lagoon behind the MAPCO property and have an evaporating system there so that they don't have to use the city system.

Number 094

Mr. Dietrick agreed they could, but said that presently the evaporation is not occurring at a rate that is alleviating their problem.

Number 101

Senator Coghill referred to a pulp mill he had toured which had a lagoon with approximately 12 aireators. The water goes in and they reduce most of the water in the chemical waste, bring it back, retort, get the chemicals back out and reuse them. He suggested taking a look at that as a long-term solution for MAPCO.

Number 108

Mr. Dietrick thought it was a good suggestion and would be a option.

He said there were some other allegations dealing with buried materials behind the refinery and they will be pursuing those also. Those areas will have to be excavated and soils tested. EPA may include that aspect as part of their investigation, he said.

Number 138

Senator Fahrenkamp asked if there was any liability on the part of those who make the allegation, if the allegation turns out to be false.

Mr. Dietrick responded, not that he was aware of.

Commissioner Kelso added that what they have been doing in this situation is whenever an allegation has come to the Fairbanks staff that seems to have some basis in fact, they have systematically investigated. Simply because an allegation has been made, does not mean that MAPCO has had to do some particular thing, but the department takes it seriously and has pursued their investigation.

Number 152

There was a brief discussion on how the allegations are handled as to their validity when they come in to the department, and the possible costs to the state.

Number 256

Commissioner Kelso asked Mr. Dietrick to summarize the DEC Oil Industry Workshop which they had conducted that week.

Number 260

Mr. Dietrick said their general approach is preventive in nature. In most cases if they can work with companies up front, identify problems and design out the problems, they can completely avoid environmental problems. It can't be done in all cases, but there is a lot of room to do it.

The DEC workshop they have put together is for the oil and gas industry, primarily targeted on the North Slope operators. They plan to have them on an annual basis.

The intent in having these workshops was to provide a forum whereby they could communicate directly with the companies, let them know where they are going on certain programs, where they thought problems were and how to get them corrected, and what can be done to ease permitting requirements.

TAPE TWO SIDE ONE  
April 2, 1987

Number 327

This year's workshop was a two-day session held in Anchorage. They expanded the agenda so that it wasn't just them doing the talking. They included representatives from the industry, having them give presentations on various practices they were employing. Vendors appeared on issues associated with flaring. They also gave an update on the hazardous waste program. An EPA representative was there to give them information on what direction EPA is going and there was a discussion during that session on underground

injection control. Mr. Dietrick said they do have applications for a class 1 hazardous waste injection wells at Prudhoe, Kuparuk and Endicott. A session was held on liquid waste disposal. This year they provided a summary of the total values of liquid waste being created and disposed of on the North Slope. They also had a session on the oil pollution program. Standard and ARCO gave presentations on their drum processing operations that they have installed on the slope.

Number 508

Senator Fahrenkamp asked about the status of proposed drilling mud regulations.

Commissioner Kelso responded that their position is that drilling muds can be properly managed under state solid waste regulations. They worked closely with industry in developing a set of solid waste regulations specific to drilling muds that they think will do a very good job. They are in the last stages of adopting those regulations. Once those regulations are out, they will have regulations that specifically address drilling muds. It may be that these regulations will provide a model for some other agencies and some other states to look at, he stated.

Essentially what they are trying to do, the Commissioner said, is to keep the drilling muds in a disposal format that prevents water from moving through the material and leaching out material from the pit where the disposal takes place and then migrating into areas where it shouldn't be. They have tried to develop performance standards so that industry can use its ingenuity to come up with the proper design.

Number 580

Senator Fahrenkamp asked for an update on the spill danger from the All Alaska, a processor that went aground on the north shore of St. Paul Island.

Number 590

Commissioner Kelso said the processor carried 141,000 gallons of diesel fuel and 1/2 million pounds of crab. It went aground between 150 to 300 ft. offshore and rapidly silted in so it was not possible for a tug to get it off and there was no possibility of salvage.

By the time the Coast Guard was able to respond, the 141,000 gallons had been reduced by about 20,000 gallons and there was concern that the ship would break up spilling the rest of the fuel. They called in their Pacific strike team which deals with major marine spills. The regional

response team, of which DEC is a participant, also responded. They are presently working on the best approach for removing the fuel.

DEC has been getting regular updates, but as of early this week, Commissioner Kelso still didn't have specific information on whether they were going to unload from the vessel without crossing the beach or whether they had now resolved the difficulties and were proceeding with the beach unloading. As of the weekend, there had been no further leaking and it was stable as of that time; however, he said he would keep Senator Fahrenkamp advised on the situation.

Senator Fahrenkamp inquired if the spill would be eligible for the 470 funds.

Commissioner Kelso said it probably wouldn't be necessary to use 470 because the Coast Guard will take responsibility. The vessel owner is responsible for the damage and cleanup costs, although he has abandoned the vessel. That means that the Coast Guard, through its strike team, will do the work, unload the vessel and salvage the cargo, if possible, however, that does not appear to be possible.

Number 706

Commissioner Kelso advised Senator Fahrenkamp that the rest of the materials that hadn't been covered during the meeting would be provided to the committee in a written summary.

Number 710

Senator Fahrenkamp thanked Commissioner Kelso, as well as Larry Dietrick and Jeff Mach in Fairbanks, for their participation.

There being no further business to come before the committee, the meeting was adjourned at 5:30 p.m.



# ALASKA STATE LEGISLATURE

## SENATE SPECIAL COMMITTEE ON OIL AND GAS

Senator Bettye Fahrenkamp  
Chairman  
Senator Jack Coghill  
Senator Paul Fischer

P.O. Box V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3834

### MEMORANDUM

TO: Members, Senate Special Committee on Oil and Gas

FROM: Committee Staff

RE: Committee Meeting, April 2, 1987

DATE: April 1, 1987

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On Thursday, April 2, at 3:30 pm in the Beltz Room, the Senate Special Committee on Oil and Gas will receive a briefing by Dennis Kelso, Commissioner of the Department of Environmental Conservation. The commissioner will address areas in which the department has oversight over the oil and gas industry. He will be joined via teleconference by Larry Dietrick, Northern Regional Supervisor of the Division of Environmental Quality. Topics expected to be discussed include:

- (1) an update on the situation at the MAPCO refinery in Fairbanks,
- (2) hazardous wastes,
- (3) disposal of drilling muds,
- (4) air quality on the North Slope, and
- (5) the status of the Hazardous Substance Release Response Fund.

The commissioner and Mr. Deitrick will be available to answer any questions committee members may have on oil and gas issues.

# STATE OF ALASKA

## DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER  
P.O. BOX 0, JUNEAU, ALASKA 99811-1800

Telephone: (907)  
Address:

(907) 465-2600

March 18, 1987

The Honorable Bettye Fahrenkamp  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811-3100

Dear Senator Fahrenkamp:

Enclosed is a report to the 15th Alaska Legislature on the Oil and Hazardous Substance Release Response Fund, as required by AS 46.08.060. The Fund allows the Department to investigate and clean up oil and hazardous substances spills. This report provides information on the department's spill response activities, fund expenditures, and monies recovered from spillers during the six month period from July 1, 1986 to January 1, 1987.

The department has funded several significant oil and hazardous substance spill investigations from the fund during the first six months of FY 87. These include the Kotzebue underground spill (\$62,638), Peters Creek groundwater contamination (\$208,415), Crown Point chemical release (\$20,000), and Nome underground spill (\$12,745). Total Fund expenditures and encumbrances for FY 87 to date are \$402,751.

We estimate that \$612,000 will be required to respond to and clean up oil and hazardous substance spills associated with continuing projects, identified in this report. Furthermore, the department will likely be called upon to initiate spill cleanup activities during the remainder of FY 87 and FY 88.

To date, the department has recovered monetary settlements from parties associated with three oil spills in FY 87. These funds are deposited to the Oil and Hazardous Substance Release Mitigation Account.

The Honorable Bettye  
Fahrenkamp

-2-

March 18, 1987

When final payments are made to the state, revenue to the Mitigation Account will be \$307,299. As provided in AS 46.02.080, these funds are available for appropriation to the response fund.

If you have any questions on this report, please contact me.

Sincerely,



Dennis D. Kelso  
Commissioner

Enclosure

A REPORT TO THE 15th ALASKA LEGISLATURE  
ON THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND  
by the

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Dennis Kelso - Commissioner

January 30, 1987

STATE OF ALASKA  
STEVE COWPER - GOVERNOR

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## Section 1. INTRODUCTION

The 1986 Legislature passed HB 470, a bill relating to the release of oil and hazardous substances. This legislation, in part, established an Oil and Hazardous Substance Release Response Fund. The legislation incorporated the previously existing oil spill reserve account into the Oil and Hazardous Substances Release Response Fund. The department uses money from the Response Fund for the response and cleanup of oil and hazardous substance spills. Section 46.08.060 of the bill requires the department to submit to the Legislature an annual report summarizing information on: spill response activities during the preceding fiscal year; projected costs of cleanup for the next year; expenditures from the fund; and monies recovered from spillers. Since FY 87 is the first year of the fund's existence, this report covers the six month period from July 1, 1986 - January 1, 1987.

## Section 2. EXECUTIVE SUMMARY

The Legislature appropriated \$680,666 to the Response Fund for FY 87. However, monies in the Fund were subject to a 35 percent restriction on spending that was placed on all capital budget appropriations in July 1986. As a result, \$451,327 was released to the department to spend for oil and hazardous spill responses in FY 87. On January 1, 1987, OMB released the remaining balance of the Oil Spill Mitigation Account (\$79,338) to the department for additional spill expenditures. As of January 1, 1987, our records show FY 87 expenditures of \$206,670 and encumbrances and other obligations of \$196,081 (Attachment A), leaving \$127,914 remaining in the unrestricted portion of the Fund.

During FY 87, the department reached settlement agreements for damages from three oil spills. These settlements are deposited to the Oil and Hazardous Substance Release Mitigation Account. When final payments are made to the state, total revenue recovered in the Mitigation Account from these three spill settlements will be \$307,299. This total may increase as the department proceeds with enforcement actions on other spills in FY 87. As provided in HB 470, these funds are available for appropriation to the Response Fund.

The department has allocated monies from the Fund for several significant oil and hazardous substance spill investigations during the first six months of FY 87. These include the Kotzebue underground spill (\$62,638), Nome underground spill (\$12,745), West Poppy Lane gravel pit (\$15,464), Iron's Subdivision groundwater contamination (\$9,041), Peters Creek groundwater contamination (\$208,415), Anchor Point groundwater contamination (\$10,407), and Crown Point chemical release (\$20,000).

The department projects that at least \$612,000 will be needed to respond to and clean up existing known oil and hazardous substance spills. These are costs associated with continuing projects. In addition, we estimate that at least \$350,000 will be required for new cleanup activities to be initiated during FY 88.

No funds were provided to municipalities for their involvement in oil and hazardous substance spill response activities during FY 87.

### Section 3. FUND EXPENDITURES FOR FY 87

The Legislature established the Response Fund on July 1, 1986, with appropriations from three different sources as follows:

|                                            |                  |
|--------------------------------------------|------------------|
| FY 86 Oil Spill Mitigation Account balance | \$158,677        |
| FY 86 Oil Spill Expense Reserve balance    | 221,989          |
| FY 87 Capital Budget appropriation         | 300,000          |
| Total                                      | <u>\$680,666</u> |

In August, 1986, the Office of Management and Budget (OMB) restricted this appropriation by 35 percent. This reduction was applied to all capital appropriations.

The department responded to a rash of oil and hazardous substances spills during the summer of 1986. By the end of August we had either spent or encumbered a total of \$226,669 for oil and hazardous substances spill response and cleanup activities. As a result, the department asked OMB that an exception to the spending restriction be granted.

On September 15, 1986, we were advised by OMB that they would release monies from the following Fund appropriations as follows:

|                                                 |                  |
|-------------------------------------------------|------------------|
| 50% of the Oil Spill Mitigation Account balance | \$ 79,338        |
| 100% of FY 86 Oil Spill Expense Reserve balance | 221,989          |
| 50% of FY 87 Capital budget appropriation       | 150,000          |
| Total revised appropriation                     | <u>\$451,327</u> |

OMB released the remaining balance of the Oil Spill Mitigation Account (\$79,338) on January 1, 1987 for additional spill expenditures. As of January 1, 1987, our records show total spill expenditures, encumbrances and other obligations of \$402,751. The balance of the Fund on January 1, 1987, was:

|       |                                  |
|-------|----------------------------------|
|       | \$530,665 (\$451,327 + \$79,338) |
|       | 402,751                          |
| Total | <u>\$127,914</u>                 |

#### Section 4. REVENUES AND SOURCES OF FUNDS RECOVERED in FY 87

To date, the department has recovered monies from three oil spills in FY 87. These spills are described in more detail in Section 5 of this report. All funds recovered from spillers are credited to the oil and hazardous substance release mitigation account.

##### **I. Motor Vessel VASHON**

A settlement agreement was reached with the owner of the M/V VASHON on September 8, 1986, whereby the owner agreed to reimburse the state in the amount of \$3,500 for the department's expenses in responding to an oil spill. The vessel owner agreed to pay this amount over a 15-month period; \$1,300 has been received to date.

##### **II. Chevron - Peters Creek Underground Oil Spill**

The state's investigation of the contamination of groundwater in the Peters Creek area north of Anchorage led to testing on the site of Peters Creek Chevron gasoline station to determine if an unreported 1984 fuel spill at the station was a source for the groundwater contamination. The Peters Creek Chevron Station was determined not to be a contributor to the groundwater contamination. The state did proceed to recover investigative costs and damages associated with the 1984 spill in the amount of \$15,000. Chevron assumed the costs with the contractor for drilling test holes for soil sampling. The total settlement costs to Chevron are \$28,693 with \$14,999 payable to the mitigation account. Approximately \$653 has been received, and the balance of \$14,346 is due by February 18, 1987.

##### **III. Nome Gasoline Spill**

On November 28, 1986, a settlement agreement was announced for state expenses involved in investigating and cleaning up a major spill of gasoline from the Q-Trucking facility in Nome. The settlement is for \$363,800; \$75,000 will go to the federal government and \$288,800 will be paid to the state. The spill of more than 50,000 gallons was first discovered in 1983, and DEC subsequently recovered more than 35,000 gallons from the ground.

Based on these settlements, total revenues to the oil and hazardous substance release mitigation account for FY 87 has amounted to \$307,300 as follows:

|                      |                |
|----------------------|----------------|
| M/V Vashon           | \$ 3,500       |
| Peters Creek Chevron | 14,999         |
| Nome Gasoline Spill  | <u>288,800</u> |
| Total                | \$307,299      |

Other funds may be recovered to the mitigation account as additional settlements are reached with spillers.

## Section 5. Major Department Spill Response Activities for FY 87

### I. Kotzebue Underground Oil Spill

In 1980, the department became aware of a problem with oil seeping into the elementary school basement in Kotzebue. After our investigation, we determined that 100,000 to 200,000 gallons of #1 fuel oil (diesel) was contaminating an underground area that was estimated at that time to be 10 acres. The fuel has been in the ground for 25 to 30 years. Possible causes of the spill include fuel storage or handling problems from a nearby oil facility in the 1950s.

In more recent years, oil has been observed leaching into Kotzebue Sound from time to time, posing a potential threat to local fisheries. The department has been involved in the recovery of the oil with the objective of mitigating potential environmental and safety problems. Problems experienced in the collection of the fuel included a seasonally frozen groundwater aquifer above the permafrost and inconsistent monitoring of the primary collection sump in the school basement. By the fall of 1984, about 40,000 gallons of fuel had been recovered using a variety of methods. While a large quantity of oil remains underground, recovery has been severely reduced because of recent funding constraints and sporadic collection conditions associated with the cold climate and permafrost.

During August 1986, a comprehensive study was conducted to identify the scope of the underground contamination problem and to determine that fuel loss is no longer continuing. Work included pressure testing existing fuel lines in the area, installing in-line flow meters within the perimeter of the spill site area, consultation with an expert hydrogeologist to identify the areal extent of the spill, installation of monitoring wells, and initiating a sampling program.

A report of this work has been completed. The cost of contracting this investigation was \$49,633. Other costs total \$6,682.

### II. Nome Gasoline Spill

A major gasoline spill in Nome occurred on July 12, 1983. Unleaded gasoline surfaced with groundwater along the marshy grasses of Dry Creek near Nome. Results of ditching, drilling, surveying groundwater elevations, and product sampling ultimately led DEC to a suspect spill source. Because some of the gas product entered navigable waterways, the U.S. Coast Guard (USCG) intervened and assisted to keep the gasoline from entering Norton Sound. Once the USCG stopped cleanup, ADEC contracted for cleanup work and was later reimbursed with \$597,896 of federal funds for the major part of this cleanup effort.

DEC continued efforts in 1984 and 1985 to identify the spiller and initiated litigation to recover the amounts of state funds expended that were not part of the federal reimbursement.

Expenditures this year have totalled \$1,908. A contract remains active for an expert witness in the field of hydrogeology. The encumbered balance for the contract is \$10,837, and it is expected to be closed out in the near future.

The Department of Law announced on November 28, 1986, that they had reached a settlement with the spiller over state expenses involved in DEC's investigation and cleanup of the Nome gasoline spill. This settlement is detailed in the revenue section of this report.

### III. West Poppy Lane Gravel Pit

The West Poppy Lane gravel pit, located near Soldotna, is approximately 40 acres in size. Department investigation has revealed contaminated soils and groundwater. In FY 87, DEC has spent \$15,464 on travel and per diem, sample analysis, and site excavation work. This is a continuing project for which additional expenses are likely.

### IV. Iron's Subdivision

Another apparent underground spill has affected drinking water in Iron's Subdivision in Soldotna. A contract has been written to have test wells drilled for sampling to determine the source of contamination. Work is continuing on this spill. Expenditures this fiscal year have totalled \$9,041.31.

### V. Peters Creek

Contamination of drinking water in several private wells in the Peters Creek area in Chugiak was identified by DEC in April 1986. The department believes that the benzene contamination originated from a leak from an underground storage tank(s) and/or underground lines connecting the tanks at the Peters Creek Tesoro gasoline station. The spill created an emergency situation. Several contracts were written during the investigative phase to determine the source and extent of the contamination.

An emergency water supply was provided by the Municipality of Anchorage for 36 homes with contaminated wells. Due to the contamination, all of the wells will be abandoned.

Expenditures are \$77,396 this fiscal year; an additional \$52,019 has been encumbered. This was spent for contractual services for testing of water samples to define the contaminated area, testing of tanks and lines, and other investigatory work. A contract for \$79,000 has been approved for the first phase of the cleanup since the property owner/spiller has declared that he does not have the financial resources for this work. Phase I work will involve the initial recovery and disposal of free product from the affected groundwater in the Peters Creek area. Litigation against the spiller has been initiated. An additional \$75,000 may be needed for further cleanup work which could continue for at least another year. Moreover, additional expenses will likely be incurred in conjunction with the litigation.

### VI. Anchor Point

Benzene contamination of several wells in the Anchor Point Area has been identified. Investigative work has included drilling of test wells and sampling of water to determine the scope and source of the contamination. Like the

Peters Creek spill, this spill may involve considerable expenditures by the state before it is resolved. Expenditures and encumbrances for this fiscal year thus far are \$10,407.

#### VII. Motor Vessel VASHON

The vessel VASHON grounded near Ketchikan in June 1986. The department and the Coast Guard worked with the vessel owner to keep the fuel oil from the vessel contained and recovered. The vessel was sold for salvage. Expenditures for this fiscal year amounted to \$2,067. As noted earlier in this report, DEC and the Department of Law worked out a settlement agreement to recover DEC's expenses from the vessel's owner.

#### VIII. Moose Pass/Crown Point

In March 1986, toxic fumes were emitted from a tank car on the Alaska Railroad in the vicinity of Crown Point. This spill resulted in declaration of a state emergency. Funds were made available by the Department of Military and Veteran Affairs for assistance to affected people in the spill area. The department is managing \$180,000 in funds provided by the Division of Emergency Services to contract with Dames & Moore to assess whether any environmental effects of the spill remain in the area. DEC has added \$20,000 from the fund to analyze additional environmental samples. A report from the contractor is to be released in March 1987.

#### IX. Buckingham Well

This spill involved a drinking water well in Soldotna that was allegedly damaged by a fuel delivery truck's hitting the well casing. The contents of the fuel tank spilled on the ground around the well casing with some of the fuel's discharging into the well. The department cleaned the well and eliminated the residual hydrocarbon levels remaining in the drinking water. Expenditures are \$1,881 for FY 87.

## Section 6. Projected Response Activities for Balance of FY 87 and FY 88

I. Southeast Region - no known projects at this time.

### II. Southcentral Region - Anchorage

#### A. Peters Creek

The Peters Creek spill is described in the previous section. Cleanup is now scheduled for the spill.

Cleaning groundwater is a difficult undertaking; the feasibility of a cleanup can be better assessed after experience is gained with the initial cleanup. If a second phase proves to be appropriate, it is estimated to cost about \$75,000. The specific details of further actions needed under this second phase of cleanup will not be known until Phase One has been completed and additional information is gathered on the spill. Another \$12,000 may be necessary to properly close out 20 monitoring wells in the area. Costs will also be associated with the litigation underway in this case.

#### B. Anchor Point

More exploratory and investigative work on this groundwater spill will be needed. Contracts are being prepared for drilling test wells in an attempt to locate the spill source. The estimates of costs for the investigative work is \$14,000. Additional funds will be needed in the future for cleanup and potential litigation costs.

#### C. Iron's Subdivision

More investigative work requiring sampling and possibly some well drilling will be necessary at this spill site - estimated costs are \$6,000. Additional funds may be needed for litigation and cleanup if the suspected spiller can not or will not clean up the contamination.

#### D. Industrial Site - Kenai

The estimated amount for the cleanup is expected to be about \$60,000. At this point, it is uncertain whether it will be necessary for the state to initiate the cleanup. If so, cleanup activities as well as litigation costs would likely be needed.

#### E. Moose Pass/Crown Point

It is unknown at this time what funds may be needed on this project. The current cleanup contractor has not completed his work and reports. Additional funds may be required.

### III. Northern Regional Office - Fairbanks

#### A. Kotzebue Oil Spill

Phase One consisted of determining the scope of the underground contamination and ensuring that other oil was not leaking from other sources. Phase Two cleanup activities in FY 88 would entail recovering free product from the groundwater and disposing of it. Cost estimates are based on an assumption that there is approximately 40,000 gallons of oil remaining in the ground and that 90 per cent of it can be recovered. Permafrost and frozen ground limit recovery work each year. As a result, complete product recovery may take one to three years. Following are provides annual cost estimates on Phase Two work.

|                                      |                |
|--------------------------------------|----------------|
| Consulting and administrative costs  | \$ 10,000      |
| Equipment costs (wells, pumps, etc.) | 20,000         |
| Contracted labor (4-6 weeks per yr.) | <u>100,000</u> |
| Total                                | \$130,000      |

#### B. Potential Underground Oil Spill Cleanups - Fairbanks

Underground spills have occurred at several sites near Fairbanks and have contaminated the groundwater to some degree. These are Lucky Sourdough in Fairbanks, Stage Stop in North Pole, and Air North in Fairbanks. It is estimated that investigative costs will be about \$35,000 per site for a total of \$105,000. Additional spills in the Fairbanks area may also need to be addressed.

#### C. Potential Underground Oil Spill Cleanups - Remote Locations

There are four potential problem sites that may require cleanup funds. These are Minto School, Harold's Air Service in Galena, Wales City Building, and Manley Hot Springs. The estimated costs for cleanup are \$70,000 per site for a total of \$210,000. Cleanup work at remote sites are at least double the cost of local sites.

#### Conclusion

Total estimated costs of known required cleanup actions are \$612,000. Based on past records and experience, we estimate that investigations for new spills discovered in FY 88 will require additional funds of at least \$350,000.

Section 7. Municipal Participation in the Fund

No municipalities requested reimbursement for any expenses they incurred in the cleanup of oil and hazardous substance spills during the first half of FY 87.

## Section 8. Hazardous Waste Sites

The state and the Environmental Protection Agency are in the process of investigating about fifty potential hazardous waste disposal sites in Alaska. The results of these investigations may reveal sites of past spills. The state will make every attempt to use federal funds for any remedial action that proves necessary at these sites. However, it is likely that some sites will require a response but not be eligible for federal dollars. This could add significantly to the need for response funds in the future.

Attachment B to this report is a list of known hazardous waste sites included on a list generated under the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and a schedule of task accomplishments for each site. Six site investigative reports have been completed. These reports generally describe the scope of the problem and investigative work completed at each site, and rank the relative importance of site. These reports are used by DEC and the Environmental Protection Agency in the evaluation process of determining what future course of action needs to be taken at each site.

# Attachment A

Major Fund Expenditures and Encumbrances by Spill Project as of January 1, 1987:

| <u>Spill Project</u>     | <u>Encumbered Balance</u> | <u>Expenditures</u> | <u>Total</u>        |
|--------------------------|---------------------------|---------------------|---------------------|
| Kotzebue                 | \$ 6,322.50               | \$ 56,315.03        | \$ 62,637.53        |
| Nome                     | 10,837.00                 | 1,908.48            | 12,745.48           |
| Union Oil/Poppy Lane     | 0.00                      | 15,464.43           | 15,464.43           |
| Buckingham               | 0.00                      | 1,880.86            | 1,880.86            |
| Iron's Subdivision       | 0.00                      | 9,041.31            | 9,041.31            |
| Peter's Creek            | 131,018.90                | 77,395.79           | 208,414.69          |
| Anchor Point             | 4,064.00                  | 6,343.08            | 10,407.08           |
| M/V Vashon               | 0.00                      | 2,067.26            | 2,067.26            |
| Moose Pass               | 20,000.00                 | 0.00                | 20,000.00           |
| Misc. spill expenditures | 23,838.48                 | 36,254.25           | 60,092.73           |
| Total                    | <u>\$196,080.88</u>       | <u>\$206,670.49</u> | <u>\$402,751.37</u> |

## Attachment B

## Revised Schedule of Accomplishments

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
CERCLA ACTIVITIES UNDER EPA COOPERATIVE AGREEMENT

Table 1

| <u>Site</u>                                           | <u>Submitted<br/>to EPA for<br/>State Lead</u> | <u>Proposed<br/>State<br/>Action</u> | <u>Workplan<br/>Ordered</u> | <u>Workplan<br/>Approved</u> | <u>Fieldwork<br/>Complete</u> | <u>Report<br/>Draft</u> | <u>Final</u> |
|-------------------------------------------------------|------------------------------------------------|--------------------------------------|-----------------------------|------------------------------|-------------------------------|-------------------------|--------------|
| AKD980975106<br>Perseverance<br>Mill-Juneau           | 3/85                                           | SIF                                  | 7/86                        | 10/86                        | 11/86                         | 3/87                    | 5/87         |
| AKD980495568<br>Juneau Landfill-<br>Juneau            | 3/85                                           | SI                                   | 7/86                        | 2/87                         | 11/86                         | 3/87                    | 4/87         |
| AKD083354209<br>White Pass Yukon<br>RR-Skagway        | 3/85                                           | SI                                   | 7/86                        | 10/86                        | 11/86                         | 3/87                    | 5/87         |
| AKD980664866<br>Old Kenai Dump-<br>Kenai              | 3/85                                           | SI                                   | 10/85                       | 12/85                        | 3/86                          | 5/86                    | 1/87         |
| AKD092876390<br>Union Chemical-<br>Kenai              | 3/85                                           | SI                                   | 10/85                       | 12/85                        | 3/86                          | 3/87                    | 5/87         |
| AK09806642924<br>Kenai Landfill-<br>Kenai             | 3/85                                           | SI                                   | 10/85                       | 12/85                        | 3/86                          | 9/86                    | 1/87         |
| AKD009276619<br>Frontier Tanning-<br>Anchorage        | 3/85                                           | SI                                   | 8/85                        | 10/85                        | 11/85                         | 1/86                    | 3/86         |
| AKD061673430<br>Alaska Pollution<br>Control-Anchorage | 3/85                                           | SI                                   | 10/85                       | 12/85                        | 3/86                          | 5/86                    | 1/87         |
| AKD018542969<br>Rogers & Babler-<br>Anchorage         | 3/85                                           | SI                                   | 10/85 <sup>1</sup>          |                              |                               |                         |              |
| AKD009246497<br>Alaska Husky<br>Battery-Anch.         | 3/85                                           | SIF                                  | 10/85                       | 12/85                        | 3/86                          | 5/86                    | 1/87         |
| AKD980495618<br>Red Devil Mines-<br>Bethel            | 3/85                                           | SI                                   | 7/86                        | 10/86                        | 11/86                         | 3/87                    | 5/87         |

Table 1 (cont'd)

| <u>Site</u>                                                    | <u>Submitted<br/>to EPA for<br/>State Lead</u> | <u>Proposed<br/>State<br/>Action</u> | <u>Workplan<br/>Ordered</u> | <u>Workplan<br/>Approved</u> | <u>Fieldwork<br/>Complete</u> | <u>Report<br/>Draft</u> | <u>Final</u> |
|----------------------------------------------------------------|------------------------------------------------|--------------------------------------|-----------------------------|------------------------------|-------------------------------|-------------------------|--------------|
| AKD038526620<br>Alaska Gold -<br>Nome                          | 3/85                                           | SI                                   | 8/85                        | 10/85                        | 11/86                         | 1/86                    | 3/86         |
| AKD045771235<br>Fairbanks Borough<br>Landfill - Fairbanks      | 3/85                                           | SI                                   | 7/86                        | 10/86                        | 11/86                         | 3/87                    | 5/87         |
| AKD046879567<br>University of<br>Alaska - Fairbanks            | 3/85                                           | SI                                   | 7/86                        | 10/86                        | 9/86                          | 3/87                    | 5/87         |
| AKD004904215 Alaska Battery Enterprises<br>SI<br>SI1           | 3/85                                           | SI1                                  |                             |                              |                               |                         |              |
| AKD980639751<br>Fort Yukon<br>City Dump -<br>Fort Yukon        |                                                |                                      |                             |                              |                               |                         |              |
| AK980978902<br>Alaska Auto<br>Carriers -<br>Anchorage          | 4/86                                           | PA2                                  |                             |                              |                               |                         |              |
| AKD980975932<br>Bendles Road<br>Oiling Facility -<br>Anchorage | 4/86                                           | PA2                                  |                             |                              |                               |                         |              |
| AKD097246789<br>Red Samm Const. -<br>Juneau                    | 4/86                                           | PA2                                  |                             |                              |                               |                         |              |
| AKD009252230<br>Louisiana Pacific -<br>Ketchikan               | 4/86                                           | SI2                                  |                             |                              |                               |                         |              |
| AKD009252487<br>Alaska Pulp<br>Corporation -<br>Sitka          | 4/86                                           | SIF2                                 |                             |                              |                               |                         |              |
| AKD980980701<br>Union Oil Gravel<br>Pit - Kenai                | 4/86                                           | RI/FS2<br>(PA)                       |                             |                              |                               |                         |              |
| AKD980976203<br>Soldotna Landfill -<br>Kenai                   | 4/86                                           | SI                                   | 7/86                        | 12/86                        | 4/87                          | 6/87                    | 7/87         |

Table 1 (cont'd)

| <u>Site</u>                                          | <u>Submitted<br/>to EPA for<br/>State Lead</u> | <u>Proposed<br/>State<br/>Action</u> | <u>Workplan<br/>Ordered</u> | <u>Workplan<br/>Approved</u> | <u>Fieldwork<br/>Complete</u> | <u>Report<br/>Draft</u> | <u>Final</u> |
|------------------------------------------------------|------------------------------------------------|--------------------------------------|-----------------------------|------------------------------|-------------------------------|-------------------------|--------------|
| AKD037995404<br>Alaska Electro-<br>plating-Anchorage | 4/86                                           | SI                                   | 7/86                        | 10/86                        | 11/87                         | 3/87                    | 5/87         |
| AKD083350389<br>North Pole<br>Refinery-North<br>Pole | 4/86                                           | SI                                   | 7/86                        | 2/87 <sup>3</sup>            |                               |                         |              |
| AKD098866498<br>M&M Enterprises-<br>Anchorage        | 4/86                                           | SI                                   | 7/86                        | 10/86                        | 11/86                         | 3/87                    | 5/87         |
| AKD980981930<br>Arness Property-<br>Kenai            | 4/86                                           | PA <sup>2</sup>                      |                             |                              |                               |                         |              |

1 CERCLA staff will make an on-site inspection to determine if further action is necessary.

2 Work on hold to prevent project cost overrun.

3 Revisions requested in workplan.

5  
BTF  
Coghull

Kelso -  
DBL -

Kelso and Larry Detrich  
Jeff Mach.

HB 420 Fund -

deal w/ Marine oil spills. -

broader now -

leaking underground tanks

Responsible party is supposed to be  
primary -

Recover costs later. -

Replenish funds -

separate account w/in GF

Then normal appropriation process.

600,000 last year but 35%  
= 450,000

for FY 88 - 1 million used.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

5:35

BTF  
Coghull

Kelso —  
DEE —

Kelso and Larry Detrich  
Jeff Mach.

HB 420 Ford —

deal w/ Maine oil spills. —

broader now —

leaking underground tanks

Responsible party is supposed to be  
primary —

Recover costs later. —

Repay the funds —

separate account w/in GF

Then would appropriate process.

600,000 last year but 35%  
= 450,000

for FY 88 — 1 million used.

high percentage (above 50) of replacement.

Disaster declarations by Gov. could be available  
Arrow Point. —

Targeted to clean up.

Well contamination. —

Kerosene fuel oil 100-200 gals of #1

fuel oil -  
leaked up into elementary school

10-20 years  
refined product - probably from buried tanks

Old tanks will be problems in the future.

Davis

surplus U.S. tanks? certified?

Dabnick

no specific regs.

Fed regs will apply to new installations  
(LUST) Leaky Underground Storage Tanks.

Davis

working w/ service stations?

Kelso

1000 tanks statewide.

Kelso Training program on maintenance  
testing, monitoring, of tanks

Destruction

1) Seminar for small operators who have  
tanks -

arrange programs for evaluating tanks  
+ pipes

60% of stations are owned by oil companies  
They have programs  
Independents don't.

2) Faults - Then zone -

breaks pipes. creates small leaks -

went to welded joints at Algeche camps.

working w/ MUS, O&E + Military.

130,000 / year in Katschun -

105,000 in Fbky

Lucky Goudouf -

Remade site s.

Mirko School.

210,000

High Tread on Fund.

None - mercury - arsenic spill.

MARCO -

SPILL -

Spill of HAGO

Wastewater

Dertnick

History of spills -  
contaminated groundwater.

goes to 1977

100,000 gals spilled to date

compliance order. requires  
environmental audit be conducted - completed this fall

90,000 have been recovered. - ongoing leakage

11/86 - drinking water contaminated -  
benzene in water.

5 parts / billion is limit

75-500 at site.

Potential Threat to N. Pole water systems

remain constant - wells drilled  
sampling next week.

determine whether contamination is spreading.

Recovery wells checked daily.

→ 600 gals/day!

no diminishing of rate!

who's responsible?

Judicial system sorts it out.

Maintaining wells -

deep wells. 30-40 ft.?

groundwater flow is toward school,  
city wastewater lagoons.

Allegations from EPA -

move up RCRA 2

DNR has

Arden Cole -

MARCH -

inspection 3/5 -

accumulated drums of wastes.

unused chemicals.

were segregating drums +  
emptying -

some could be considered Haz Wastes -  
may not be illegal.

technical violations.

Assured by operators that there was no  
Threat to pipe integrity.  
at volumes. -  
unlikely that you could detect.

Wastewater. Disposal -

when expanded -

now have 3 million gallons of  
only wastewater in lagoon.

2nd areas - 2 tanks.  
used evaporator

want to transfer to N. Pole treatment ph.

wastewater - ensure there's no haz waste

Sample sludge -  
meeting last Friday  
w/ N.P. EPA, Mapco, DEC -  
will be in critical stage in 10 days -  
bring in more facts.

some material is compatible w/ N. Pole.

Permits from EPA needed.

have known about for a long time.

need long term solution.

evaporation has not worked - not fast enough

[allegations of buried materials behind refinery  
will be checking and.

MAPCO is on Superfund list.

~~John~~

O&G Industry Workshop -

① QVEA - implicated in MAPCO.  
adjacent to - also have problems.  
ask for in-house audit.  
also MUS

2 workshops last year - 1 fairbanks + PIS.

communicate directly w/ industry -  
ease permitting.

coordinated schedule w/ AOGA  
evaluations afterward.

Azide -

underground injection -

subsurface better than surface -

on Slope - water is salty; so no longer  
to water supply.

EPA receiving application

for wastes -

Liquid wastes -

total volume, how managed.

Oil pollution program.

adequate areas for disposal of  
solid oily wastes.

a facility now working in N. Slope Basin  
use of synthetic liners.

drum processing operation  
washing

"micromeritics"

15-20,000 drums/year.

Air -

flame systems.  
AOGA

drilling wastes -  
Thermal destruction  
concrete block.

drilling muds regulations

followed by another comment by AOC A

Drilling Muds -

can be managed under state solid waste  
regs.

last stages of adopting regs.

may provide model for other states.

Keep muds in a format that prevents  
water from leaching water out &  
migrating to other areas.

- 1) require pits to not leak
- 2) monitoring

Performance standards -

let industry come up w/ techniques

ALL ALASKA -

St. Paul Island

191 000 191 000

Crew walked on low tide —  
sailed in — tug couldn't

20,000 gals leaked

Distribute minutes to other committee members  
and Resources.

adjourned 5:30

April 2, 1987

Senate Special Committee on Oil and Gas

Briefing by DENNY KELSO, Commissioner of the Department of Environmental Conservation.

LARRY DEITRICK, Northern Regional Supervisor of the Division of Environmental Quality, will be on the TELECONFERENCE from FAIRBANKS.

Topics expected to be discussed include:

- (1) an update on the situation at the MAPCO refinery in Fairbanks,

What are some of the allegations being made?

How will questions about the integrity of the pipeline be settled?

Is there a potential danger to the health and safety of Alaskans?

Is there a history of other environmental violations at the refinery?

- (2) hazardous wastes,

What are "exempt wastes"? Examples?

Can Larry review the topics discussed at the oil and gas workshop held in Anchorage yesterday?

Does deep well injection work well?

Some kinds of disposal may work well in certain areas and not in others (Like North Slope and Kenai Peninsula). Are regulations flexible enough to accommodate this?

- (3) disposal of drilling muds,

What is the status of proposed regulations?

- (4) air quality on the North Slope

- (5) the status of the Hazardous Substance Release Response Fund. (Also called the HB 470 FUND)

The fish processor ALL ALASKA is on the rocks in Western Alaska. Has the oil spill danger been resolved? Would it be eligible for 470 funds?

OTHER QUESTIONS:

- 1) Valdez

a> existing air or water quality problems?

What is the status of Alyeska's <sup>ballast</sup> ~~dump~~ water discharge permit?

b> potential problems with proposed refinery?



# ALASKA STATE LEGISLATURE

## SENATE SPECIAL COMMITTEE ON OIL AND GAS

Senator Bettye Fahrenkamp  
Chairman  
Senator Jack Coghill  
Senator Paul Fischer

P.O. Box V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3834

### MEMORANDUM

TO: Members, Senate Special Committee on Oil and Gas  
FROM: Committee Staff  
RE: Committee Meeting, April 2, 1987  
DATE: April 1, 1987

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On Thursday, April 2, at 3:30 pm in the Beltz Room, the Senate Special Committee on Oil and Gas will receive a briefing by Dennis Kelso, Commissioner of the Department of Environmental Conservation. The commissioner will address areas in which the department has oversight over the oil and gas industry. He will be joined via teleconference by Larry Dietrick, Northern Regional Supervisor of the Division of Environmental Quality. Topics expected to be discussed include:

- (1) an update on the situation at the MAPCO refinery in Fairbanks,
- (2) hazardous wastes,
- (3) disposal of drilling muds,
- (4) air quality on the North Slope, and
- (5) the status of the Hazardous Substance Release Response Fund.

The commissioner and Mr. Deitrick will be available to answer any questions committee members may have on oil and gas issues.