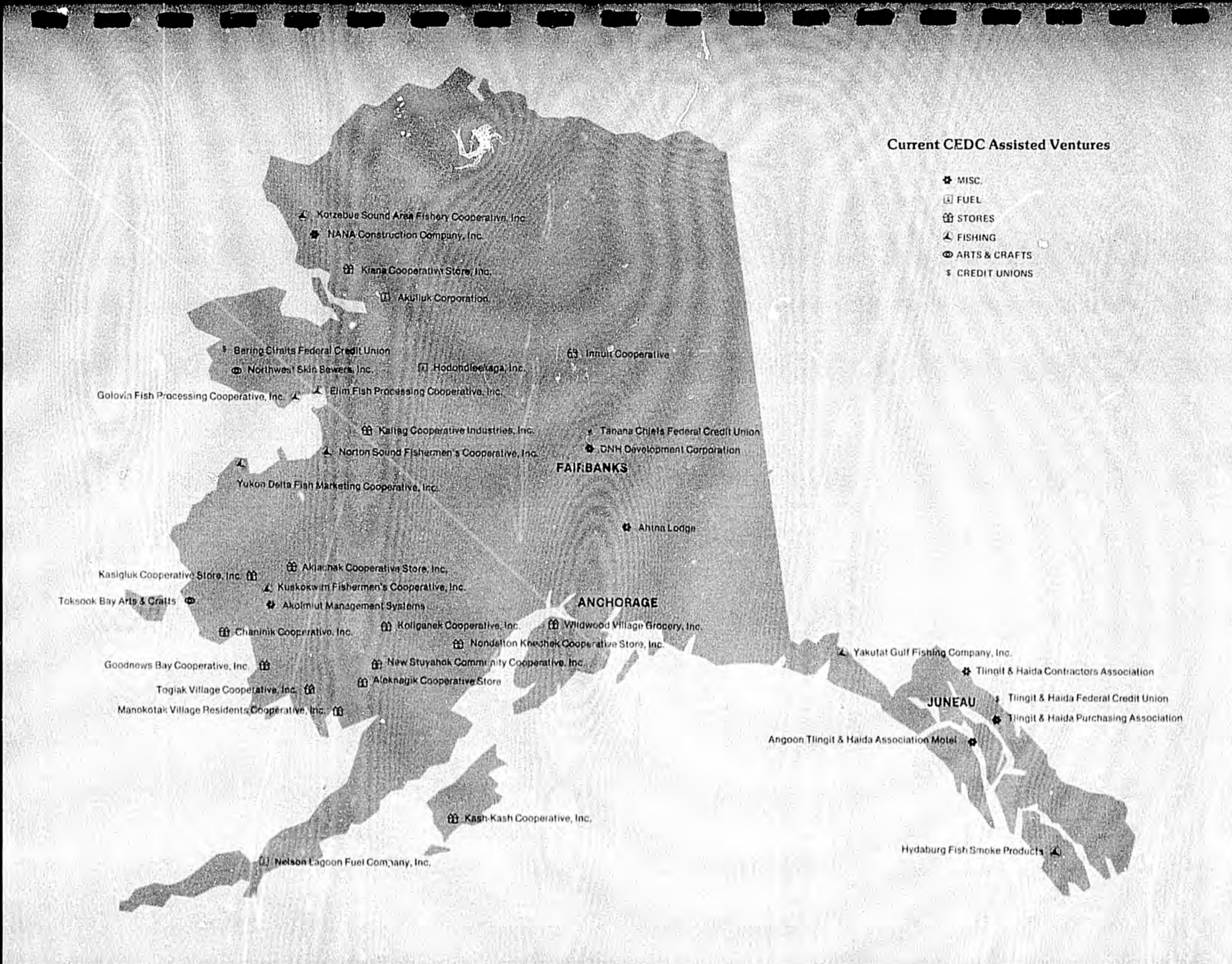
ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

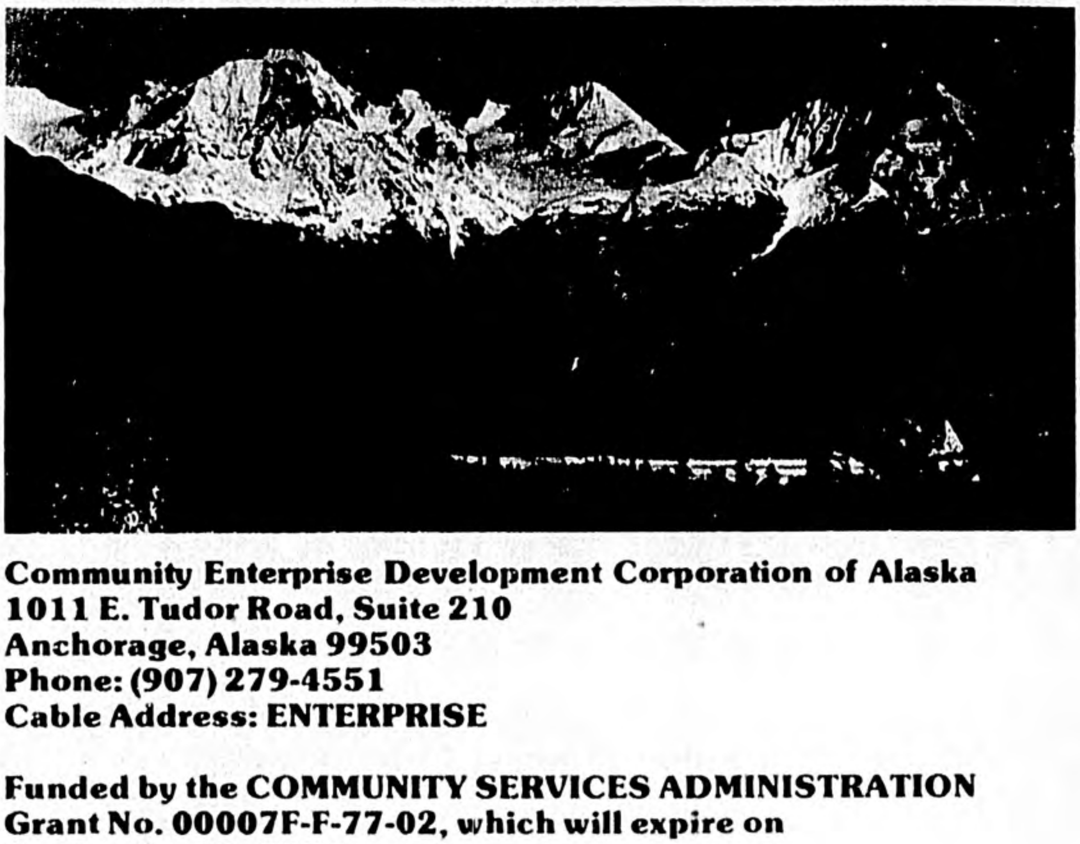
210 SCOMM 9: HOUSE SPEC. COMM. ON PERMANENT FUND 1977-78

In order to accomplish these two goals, CEDC is recommending CSA/OED approval of a grant of $17 million for a two year period. Viewed on a per capita basis, this is a request for $51 per year for each rural, low-income resident -- a modest investment request, but with a very great potential for return both in terms of future taxes, rents, revenues, jobs, and perhaps more importantly, in terms of human resource development and integration into the economic system.


Current CEDC Assisted Ventures
MISC.
FUEL
STORES
FISHING
ARTS & CRAFTS
CREDIT UNIONS
Kotzebue Sound Area Fishery Cooperative, Inc.
NANA Construction Company, Inc.
Kiana Cooperative Store, Inc.
Akuliuk Corporation
Bering Straits Federal Credit Union
Northwest Skin Sewers, Inc.
Hodondleekaga, Inc.
Innuit Cooperative
Golovin Fish Processing Cooperative, Inc.
Elim Fish Processing Cooperative, Inc.
Kaltag Cooperative Industries, Inc.
Tanana Chiefs Federal Credit Union
Norton Sound Fishermen's Cooperative, Inc.
DNH Development Corporation
FAIRBANKS
Yukon Delta Fish Marketing Cooperative, Inc.
Ahtna Lodge
Akiachak Cooperative Store, Inc.
Kasigluk Cooperative Store, Inc.
Kuskokwim Fishermen's Cooperative, Inc.
Toksook Bay Arts & Crafts
Akolmiut Management Systems
ANCHORAGE
Chaninik Cooperative, Inc.
Koliganek Cooperative, Inc.
Wildwood Village Grocery, Inc.
Nondalton Kneshek Cooperative Store, Inc.
Goodnews Bay Cooperative, Inc.
New Stuyahok Community Cooperative, Inc.
Aleknagik Cooperative Store
Togiak Village Cooperative, Inc.
Manokotak Village Residents Cooperative, Inc.
Yakutat Gulf Fishing Company, Inc.
Tlingit & Haida Contractors Association
JUNEAU
Tlingit & Haida Federal Credit Union
Tlingit & Haida Purchasing Association
Angoon Tlingit & Haida Association Motel
Kash-Kash Cooperative, Inc.
Nelson Lagoon Fuel Company, Inc.
Hydaburg Fish Smoke Products

1976
ANNUAL REPORT

COMMUNITY ENTERPRISE DEVELOPMENT CORPORATION of ALASKA



Turnagain Pass, Alaska

Community Enterprise Development Corporation of Alaska
1011 E. Tudor Road, Suite 210
Anchorage, Alaska 99503
Phone: (907) 279-4551
Cable Address: ENTERPRISE

Funded by the COMMUNITY SERVICES ADMINISTRATION
Grant No. 00007F-F-77-02, which will expire on
September 30, 1978

Cover photo: Golovin Bay, Alaska

INTRODUCTION

Community Enterprise Development Corporation of Alaska (CEDC) is a private, non-profit corporation funded by the Office of Economic Development, Community Services Administration, Washington, D.C. It operates on the belief that one way to break the poverty cycle in Alaska's rural communities is by providing an opportunity for low income groups to participate in the free enterprise system.

CEDC's impact area is all of rural Alaska, excluding the urban cities of Anchorage, Fairbanks, Juneau, Ketchikan, and Sitka. This area covers approximately 586,412 square miles and is populated by over 155,000 people living in more than 200 towns and villages.

Chaninik, Alaska

Bethel, Alaska

Using seed capital from the Community Services Administration (CSA), other state and government agencies, and private sources, CEDC develops and supports business enterprises in the low income areas of rural Alaska. Along with financial assistance in the form of loans and grants to new businesses, CEDC endeavors to fill in the educational and experience gaps of emerging rural businessmen by providing technical and training support to these businesses.

To ensure that the greatest number of people will benefit from the program, the CEDC board of directors only approves assistance to those businesses that have broad ownership. In addition, the business must also be able to show that it will have an economic impact on the community in which it is based. These businesses operate independently of CEDC and are managed by their own staff and board of directors.

Since it was organized in 1968, CEDC has assisted over 60 community owned businesses throughout the State of Alaska. These businesses vary according to community needs and desires but generally include industries such as fish processing, consumer stores, hotel/motel facilities, apartment complexes, fuel distribution, construction, and credit unions. These private businesses, and the people who own and manage them, are one step closer to achieving an economically healthy rural Alaska.

Chairman's Report

I am once again pleased to present the annual report of Community Enterprise Development Corporation of Alaska to its membership. This report highlights the accomplishments of the corporation during the last year and emphasizes the progress CEDC has made toward becoming a strong business development corporation.

Perhaps the most encouraging and gratifying of the corporation's accomplishments this year was the receipt of $5 million in supplemental grant funds from the Community Services Administration (CSA). These supplemental funds were announced during June of this year and represent an increase in CSA's confidence in our program. CEDC was one of the few community development corporations (CDCs) around the country who had managed to expend their venture capital prior to the end of their grant period and thus require supplemental funding. I feel this is a great credit to the executive committee and the staff of CEDC and something that the membership should be proud of.

The importance of training for our board of directors was emphasized again this year by our corporation. To this end, executive committee members traveled to several training seminars throughout the United States and participated in the quarterly meetings of the National Congress for Community Economic Development. In addition, three training sessions were held in Alaska for the board of directors with one of these sessions being specifically designed for the executive committee. It is my feeling that these training sessions have enabled our executive committee and board of directors to become more active in the management of our corporation.

According to the by-laws of CEDC this is the last year I can serve as chairman of your corporation. I would therefore like to take this opportunity to thank each of you for the support you have given me throughout these past two years. These years have been filled with hard work and frustrating times, but I feel that the corporation has improved and will continue to grow and prosper during the years to come. I have felt honored to represent this corporation at meetings throughout the country and in meetings with the CSA officials. It has also been my pleasure to serve as Alaska's representative on the board of directors of the National Congress for Community Economic Development. This has been a gratifying experience because I have realized the respect that other CDCs have for our corporation, a respect which I hope will increase each year. I urge you to continue to work together as a team to further the goals of this corporation. If each member of this corporation continues to take an active part in the development of CEDC, then it will continue to be a strong business development corporation which is respected throughout the nation.

It has been a pleasure for me to serve as your chairman for the past two years and I thank you for the opportunity.

Sincerely,

Hjalmar Olson

Hjalmar Olson
Chairman
CEDC Board of Directors

President's Report

The year 1976, as you will note from reading this annual report, was one of rapid growth and a period of transition for Community Enterprise Development Corporation of Alaska.

CEDC's assets as of September 30, 1976, are $8,552,996, which is a substantial increase from a year ago. During this same period the corporation was able to decrease the delinquency rate on loans from $135,000 to $5,602 on outstanding loans which totalled $2,009,226. The decreasing of CEDC's delinquent loans has not been an easy feat to accomplish. As many of you will remember, in the earlier days of CEDC there was no program for billing ventures for their loans. The billing procedure was instituted several years ago at the urging of the Office of Economic Development and the successful results were achieved through the dedicated efforts of CEDC's controller, Lorne Davis.

At the February board of directors meeting, the board voted to hire Touche Ross & Company to prepare CEDC's 1976 annual audit. An annual audit was prepared for the year ending April 30, 1976, and a second operation/financial audit was prepared as of September 30, 1976. This represented the end of CEDC's 18 month grant for 1974-76. Both of these audits have not identified any major deficiencies within CEDC.

During the past several months two new departments have been created within CEDC's organizational structure. These include the fisheries department, with a professional staff of seven people, and an expediting department, with a professional staff of nine people. The fisheries department is in the final stages of organization and planning while the expediting department has been active and operational for quite some time. In fact, the ex-

pediting department's sales for 1976 will exceed $2.5 million.

CEDC relocated to new office space at 1011 East Tudor Road in mid-August of this year which resulted in an improved working environment and better atmosphere for CEDC staff members. Furthermore, with the large conference room the office provides, CEDC's executive committee will be able to conduct their meetings in the office. This will enable the committee members to have immediate access to CEDC staff and corporate information and should assist them in making sound investment decisions.

As a closing comment I wish to express my sincere appreciation to the board of directors and particularly the chairman of the board, Hjalmar Olson, for the confidence and support that I have received during 1976.

Sincerely,

Jerry Nelson

Jerry H. Nelson
President

Executive Committee's Report

On behalf of the board of directors, the executive committee is pleased to present this annual report of its activities to the membership of CEDC. This report covers the period from December 1975 to November 1976 and is presented so that CEDC's membership may be aware of the accomplishments and achievements of its corporation during the past year.

The executive committee began their year by selecting a committee to work with the staff in preparing the corporation's refunding proposal. This committee worked industriously for the next several months resulting in CEDC's refunding proposal being submitted to the Community Services Administration, Office of Economic Development on June 21, 1976. This proposal is for a two year period beginning October 1, 1976, and requested a total of $17 million.

Grant and Loan Review Committee

CEDC Board Training

Another priority item for the executive committee was the selection of the business representatives that were to serve on the board of directors according to the revised by-laws. The three individuals selected represent the fields of banking, private industry, and law. In addition to serving as a member of the board of directors, these individuals were selected to serve as members of the grant and loan review committee which is charged with reviewing all of the requests for financial assistance that are submitted to the corporation. These members have proven to be a valuable asset to that committee and it is hoped that the executive committee will again be able to find such qualified individuals this year.

Together with approving substantial investments in the Golovin and Elim Fish Processing Co-ops, the South Naknek store Pay N Tuk, and the Naknek Cooperative store, the committee also approved the refinancing of two of CEDC's existing ventures. These two ventures, Chaninik Cooperative Store and New Stuyahok Community Cooperative, were refinanced to enable the ventures to improve their existing facilities and increase their inventory. This represents the first time that CEDC has refinanced any of its consumer store ventures and it is the committee's hope that this will pave the way for future refinancing or expanding of troubled stores.

The committee approved the transferring of the interest monies earned on the corporation's deposits to the revolving fund. This move will increase the amount of funds over which the board of directors has direct control and provides it with some independence and flexibility.

CEDC Board of Directors

CSA Pre-review visit

In addition to holding meetings throughout the state this year, the executive committee members also traveled to Washington, D.C., San Francisco, Atlanta, and St. Louis to attend seminars, training sessions, and meetings of the National Congress of Community Economic Development. These trips were a part of the continuing training efforts of the corporation and were complimented by training sessions conducted for the full board of directors by Mr. Al Fleming of Lokahi Pacific and Quechan, Inc., a training firm based in Kenai, Alaska, in February, March and October of 1976. It is the hope of the corporation that through continued training the board of directors and membership will become increasingly aware of their responsibilities and duties and thereby continue to play an active role in the development of this corporation.

Executive Committee Members:

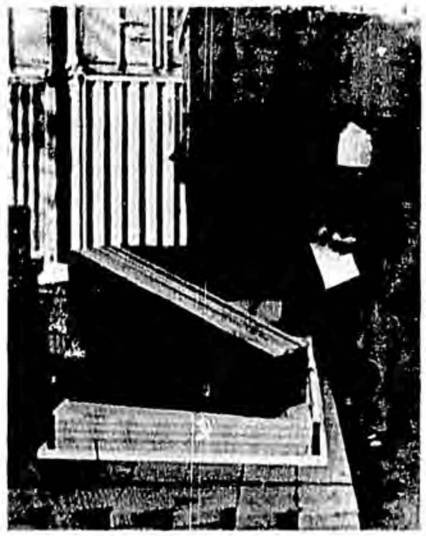
Hjalmar Olson, Chairman
Al Ketzler, Vice Chairman
Myrtle Johnson, Treasurer
Marie Olson, Recording Secretary
Donald Nielsen, Corresponding Secretary
George Keene, Member at Large
Robert Nick, Member at Large
Hank Eaton, Member at Large
Helena Nelson, Member at Large

CEDC has a continuing responsibility to its membership to keep them informed as to the status of the various ventures that the corporation is assisting. However, it would be impractical to report on all of the 32 ventures that CEDC is currently providing either financial or technical assistance. Therefore, the following represents only a highlighting of those ventures that are new or were particularly active during the past year.

Ahtna Lodge

In October of 1975 the Community Services Administration (CSA) approved an investment by CEDC in a lodge facility located in the Ahtna region. This investment was made in conjunction with the Ahtna Development Corporation and the Tazlina Village Corporation with CEDC's involvement being in the form of a limited partnership. The lodge, known as "The Ahtna", is a 30 unit facility which includes a restaurant, cocktail lounge, banquet facilities, and gift shop. Its location, at the junction of the Glenn and Richardson highways, provides it an excellent opportunity to capture the tourist trade as well as that of the pipeline related activities. The grand opening of "The Ahtna" was held on July 10th of this year, but the facility was actually open for business by the early part of June. Since its opening this summer the lodge has experienced a 100 percent occupancy rate which is considerably higher than that which was projected for this period. Although the lodge has experienced some problems due to the unique construction requirements in that region, it appears to be prospering and the outlook is very favorable for the winter months.

Ahtna Lodge, Glennallen



Pre-cut materials for Chaninik CO-OP

Kwigillingok, Alaska

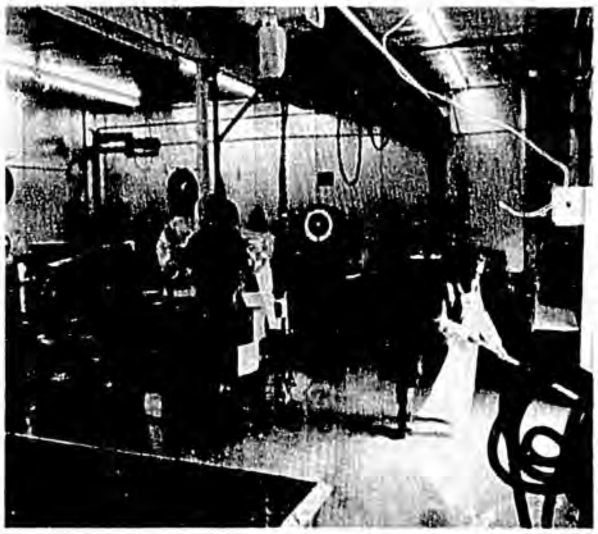
Chaninik Cooperative

The Chaninik Cooperative, located in Kwigillingok, Alaska, was incorporated in 1971 for the purpose of establishing a consumer store in the community. The store was originally financed by CEDC with a long term loan shortly after the co-op was organized. The store was originally located just outside of the community of Kwigillingok in a small, poorly insulated structure. Over the course of the next five years this facility proved to be inadequate in its ability to service the community needs. Since the structure was located in the outskirts of the community and was small, more and more villagers began finding other sources to meet their grocery needs. In an attempt to change this trend, the Chaninik Co-op requested CEDC assistance in constructing a new facility. Consistent with CEDC's goal of providing modern, up-to-date facilities, the revelopment study prepared by the CEDC development staff recommended the construction of a new retail store in addition to the refinancing of Chaninik's outstanding loan balance with CEDC. The new store will be a 24' x 52' facility located within the town of Kwigillingok and will provide a basic food line for the community in addition to an excellent selection of hardware and dry goods. The pre-cut building materials were shipped to Kwigillingok in early October with construction estimated to be completed by the early part of December and the grand opening of the new store tentatively scheduled for mid-December. This is CEDC's first attempt at upgrading and remodeling an existing venture through the refinancing of its existing debt together with additional funds and it is felt that the store will be a great success.

New Stuyahok Community Cooperative

The New Stuyahok Community Cooperative was founded in May of 1970 and its first CEDC financing was received in July of 1970 to establish a cooperative store in the community. Throughout the past six years the co-op has provided a needed service to the community of New Stuyahok by selling groceries, hardware, and clothing as well as being an outlet for outboard motors and snow machines. The co-op has shown an increasing profit each year and the community is displaying a renewed interest in the management of the store. The cooperative was anxious to expand the store's operations and requested additional financing from CEDC in July of this year to accomplish this. After considerable research it was determined that the co-op's outstanding loan balance should be refinanced with an additional sum to cover the increased inventory and improvement of the facility. This refinancing was approved by the CEDC executive committee in August of this year and the loan has now been disbursed. The store has already shown an improvement due to this restructuring of its outstanding debt and it is projected to show a continued profit.


Golovin, Alaska

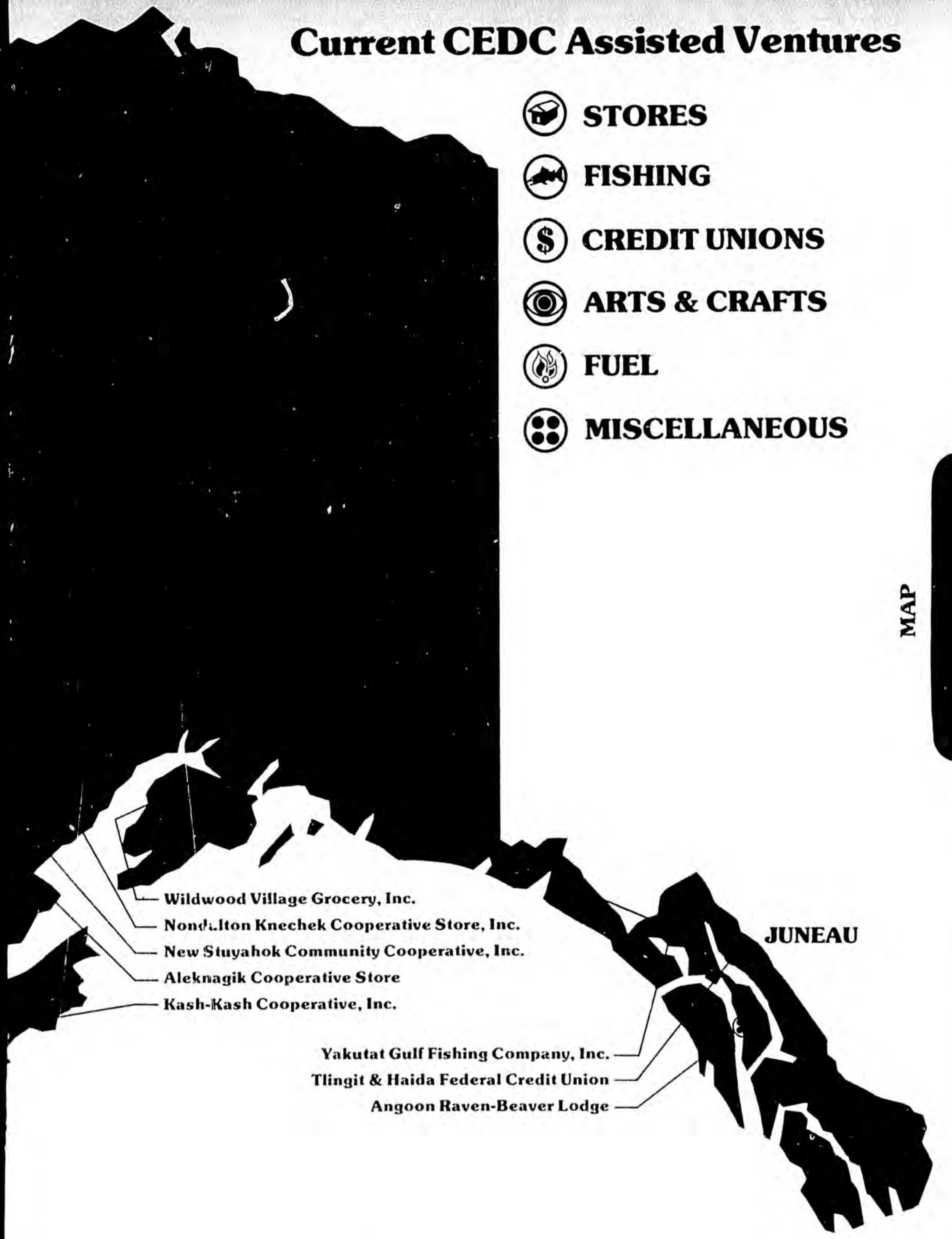

Golovin Fish Processing Cooperative, Golovin

Golovin Fish Processing Cooperative

The Golovin Fish Processing Cooperative was officially formed in January of 1974 by a membership representative of the residents of the Golovin Bay area (Golovin, White Mountain, and Council). In 1975 the co-op was successful, with CEDC financial and technical assistance, in obtaining the Small Business Administration's processing plant facility located in Golovin. After some modifications, the plant was operational during the 1975 fishing season and the co-op did reasonably well in spite of some mechanical difficulties. In December of 1975 the co-op requested additional financial and technical assistance from CEDC to enable them to continue the plant improvement program the co-op had begun during the summer. This request was prompted by two factors which were not foreseen prior to that season. The village of Elim had requested that Golovin freeze the fish caught in the Moses Point area in order to receive a much greater income for their fish resource. In addition, the Golovin Co-op was required to invest additional money during the 1975 season to make emergency repairs to their freezing system. The co-op therefore wanted to extend their building to provide additional cold storage area, concrete the existing floor and complete the freezer modifications that were already begun. The feasibility study for this expansion was completed and CSA approval was received in February of 1976. The modifications to the plant were begun in March of this year with the plant being completed in time for the beginning of the fishing season in June. The co-op experienced a good year and should have no problems getting ready for next season.

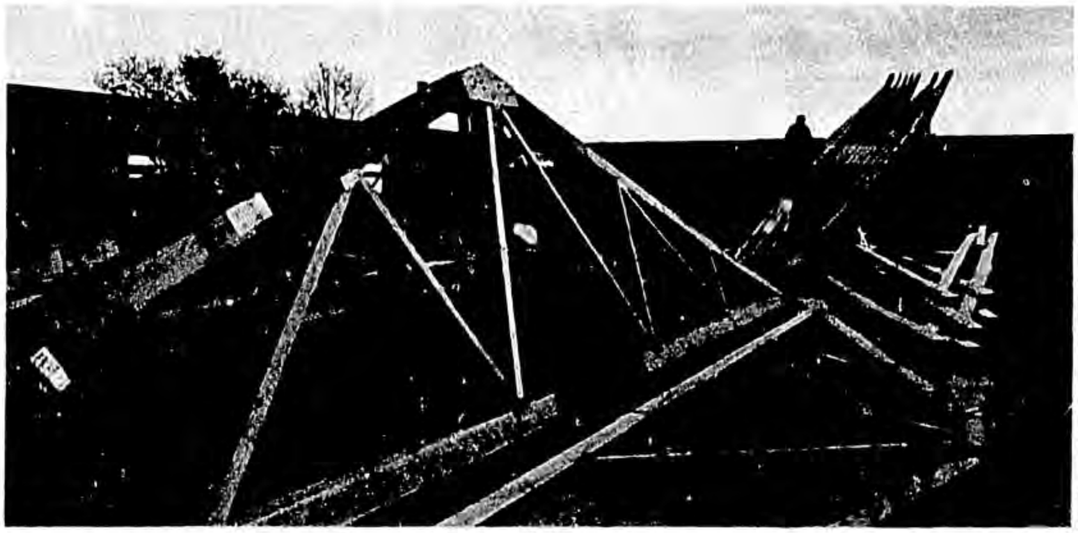

Kotzebue Sound Area Fishery Cooperative, Inc.
NANA Construction Company, Inc.
Kiana Cooperative Store, Inc.
Akuliuk Corporation
Innuit Cooperative
Hodohdleekaga, Inc.
Northwest Skin Se s, Inc.
Bering Straits Federal Cr nion
Golovin Fish Processing Coope
Elim Fish Processing Cooperative,
Kaltag Cooperative Industries, Inc.
Norton Sound Fishermen's Cooperative, Inc.
DNH Development Corporation
Yukon Delta Fish Marketing Cooperative, Inc.
Ahtna Lodge
Akiachak Cooperative Store, Inc.
Kasigluk Coo rative Store, Inc.
Kuskokwim Fishermen's Cooperative, Inc.
Akolmiut Management Systems
Toksook Bay Arts & Crafts
Koliganek Cooperative, Inc.
Chaninik Cooperative, Inc.
Goodnews Bay Cooperative, Inc.
Togiak Village Cooperative, Inc.
Manokotak Village Residents Cooperative, Inc.
Kvichak-Naknek Aquatic Cooperative
Naknek Cooperative
South Naknek Pay N Tuk
Nelson Lagoon Corporation Fuel Company

Current CEDC Assisted Ventures



Kvichak-Naknek Aquatic Cooperative

The Kvichak-Naknek Aquatic Cooperative was started last autumn by a group of fishermen in the Naknek area as an alternative to the cannery system. The co-op started with a herring roe-on-kelp harvest this season with the objective of maximizing the income both to the fishermen and to the co-op. From the profits obtained from this operation the co-op hopes to go into salmon harvesting and processing. The long range goals of this co-op are to effect a positive and continuous impact on the community of Naknek and the Bristol Bay area. One of the major impacts will be the retention of the profits within the Bristol Bay area. Another will be the establishment of an economic institution that has its headquarters in the area, and is more responsive to the community. Finally, it will attempt to expand the fishing season by going beyond the narrow specialization (salmon) and economic instability of the present canneries to harvesting and processing of other types of seafood. This season saw the co-op experience an excellent harvest of herring roe-on-kelp and they were able to obtain a higher price for their product than originally was anticipated. It is hoped that with this beginning the co-op will be able to attain its other goals.



Naknek Cooperative, Naknek

Naknek Cooperative

The Naknek Cooperative was organized in February of 1976 for the purpose of providing the community with a new consumer store facility. This represents one of the most ambitious retail ventures that CEDC has ever assisted. The enthusiasm for this venture is exhibited by the participation of over 240 people in a community of only 318 people. The financing of this venture will be in cooperation with the United Bank Alaska and the village corporation in Naknek (Paug-Vik). To ensure the completion of construction of this store facility during the 1976 season, Paug-Vik is building the 48' x 120' structure which features 2,880 square feet of retail selling space, a small coffee shop, storage area, and retail offices. A professional manager will be retained by the co-op to manage this new store and to train a local individual to operate this venture in the future. In addition to this manager/consultant and his trainee, four other individuals will be employed full time by the co-op to assist in the operation of this facility. The construction of the facility was begun in early September with the foundation being laid and the structural framework being completed. The entire facility is expected to be completed by the end of November with the grand opening tentatively scheduled for mid-December. When completed this will be the largest retail facility in the area and the largest retail facility that CEDC has assisted thus far.

Pay N Tuk Cooperative

The Pay N Tuk Cooperative was formed in May of 1976 by the residents of the South Naknek community. The cooperative was organized to open a new store in the community because the existing store operated by the local cannery was not providing the community with the services they required. In addition, the cannery had previously stated its intention to close its doors in the near future. With this in mind, the residents of South Naknek decided to open their own store in order to be assured that the needs of the community would be met. This store is located in the old school building which has been leased from the Bristol Bay Borough. The store will employ a manager and a bookkeeper who will run the operation of the facility. Through the use of interim financing the store was able to have its grand opening on September 21st. Although the store has experienced some of the usual start up problems that are common to all new business operations, it initially appears to be doing well. It is hoped that eventually the co-op will have its own building in which to accommodate its store facility.

Pay N Tuk Cooperative, South Naknek

Moses Point, Alaska

Elim, Alaska
Elim Fish Processing Cooperative

Elim Fish Processing Cooperative

The Elim Fish Processing Cooperative was organized in November of 1975 and requested financing and technical assistance from CEDC in the establishment of a gill and gut salmon processing plant. This plant is located on their reservation adjacent to the abandoned FAA landing site at Moses Point on Norton Bay. The facility was designed so that the Elim product would be iced and then transported approximately 45 miles to the processing plant in Golovin where it would be frozen and subsequently transported to Seattle for sale with the Golovin product. The feasibility study for this project was completed and approval received from the Community Services Administration in February of 1976. Immediately upon receipt of the approval, the building materials for the facility were ordered and construction began in March. In addition to the construction of the gill and gut facility, the co-op members worked throughout the winter building boats to be sold to the fishermen the next summer. Although problems were encountered during the construction, the plant was ready for operation at the beginning of the fishing season on June 15th. The Fish and Game Department closed the area's fisheries on July 8th and did not reopen the area until July 26th. During this closed period the fish peaked out and for the first time in the area's history the fishermen harvested a limited amount of fish. This has naturally created some problems for the venture, but the CEDC staff is working together with the co-op management in reassessing their situation and working out viable alternatives so that the co-op will be able to operate next season.

TOUCHE ROSS & CO.

510 L STREET, SUITE 600
ANCHORAGE, ALASKA 99501

November 5, 1976

Board of Directors
Community Enterprise Development
Corporation of Alaska
Anchorage, Alaska

We have examined the balance sheet of Community Enterprise Development Corporation of Alaska as of September 30, 1976, and the related statements of revenues and expenditures and changes in fund balance for the seventeen months then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The Corporation has kept its records and prepared its financial statements for previous years on the cash basis. Effective May 1, 1975 the Corporation adopted the accrual basis of accounting and made appropriate adjustments to fund balances to reflect the effects thereof, as described in Note B.

In our opinion, the aforementioned financial statements present fairly the financial position of Community Enterprise Development Corporation of Alaska at September 30, 1976, and the results of its operations and changes in fund balance for the seventeen months then ended, in conformity with generally accepted accounting principles.

Touche Ross & Co.

Certified Public Accountants

COMMUNITY ENTERPRISE DEVELOPMENT CORPORATION OF ALASKA

BALANCE SHEET
September 30, 1976

	Grant Fund		Revolving Fund		
	Grant No. 00007-F-75-02	Short-term Loans	General	Expediting	Total
ASSETS					
Cash	$ 56,382	$10,500	$ 32,936	$162,872	$ 262,690
Time certificates of deposit	1,908,912		500,000		2,408,912
Letter of credit	3,000,000				3,000,000
Accounts receivable		40,000	50,898	19,117	110,015
Prepaid expenses	8,880				8,880
Short-term loans to ventures		39,500			39,500
Merchandise held for sale				8,263	8,263
Long-term loans to ventures			2,015,420		2,015,420
Investments in ventures			917,000		917,000
Allowance for loss on investments (Note C)			(150,000)		(150,000)
Equipment (net of accumulated depreciation of $4,735)				13,196	13,196
	$4,974,174	$90,000	$3,366,254	$203,448	$8,633,876
LIABILITIES AND FUND BALANCE					
Accounts payable	$ 64,905	$ —	$ 5,000	$ 5,652	$ 75,557
Accrued payroll and related taxes	23,286				23,286
Short-term notes payable				30,000	30,000
Consumer deposits				84,044	84,044
Loans approved, not disbursed	15,652				15,652
Unapplied grants	4,940,948				4,940,948
Fund balance (deficit) (Note B)	(70,617)	90,000	3,361,254	83,752	3,464,389
	$4,974,174	$90,000	$3,366,254	$203,448	$8,633,876

See notes to financial statements.

COMMUNITY ENTERPRISE DEVELOPMENT CORPORATION OF ALASKA

STATEMENT OF REVENUES AND EXPENDITURES
Seventeen Months Ended September 30, 1976

	Grant Fund	Revolving Fund	
	Grant No. 00007-F-75-02	General	Expediting
Revenues (Note A):			
Grant	$3,059,052	$ —	$ —
Equity in venture capital expenditures		1,317,210	
Interest		543,568	
Expediting			260,942
Miscellaneous		31,712	
	3,059,052	1,892,490	260,942
Expenditures (Note A):			
Venture capital expenditures —			
Loans	826,710		
Investments	490,500		
Grants	15,776	258,041	
Provision for loss on investments (Note C)		155,912	
	1,332,986	413,953	
Cost of merchandise sold			227,163
General and administrative expenditures —			
Salaries and wages	880,799		
Fringe benefits	128,910		
Travel	324,569		
Consultants and professional services	144,995		
Space costs and rentals	93,466		
Lease and purchase of equipment	51,256		
Consumable supplies	25,161		
Other	76,910	783	22,125
	1,726,066	783	249,288
	3,059,052	414,736	249,288
Excess of revenues over expenditures	$ —	$1,477,754	$ 11,654

See notes to financial statements.

COMMUNITY ENTERPRISE DEVELOPMENT CORPORATION OF ALASKA

STATEMENT OF CHANGES IN FUND BALANCE
Seventeen Months Ended September 30, 1976

	Grant Fund		Revolving Fund	
	Grant No. 00007-F-75-02	Short-term Loans	General	Expediting
Fund balance, April 30, 1975, as previously reported	$ 388,040	$ —	$ 249,134	$ —
Adjustments to record:				
Approved short-term loan fund	(79,980)	79,980		
Unapplied grant funds, as of April 30, 1975	(197,411)			
Payroll tax adjustment	(1,266)			
Venture capital expenditures of prior years	(180,000)	10,020		
Expediting fund balance			(32,098)	32,098
Equity in venture capital expenditures of prior years			1,706,464	
Fund balance, April 30, 1975, as restated	(70,617)	90,000	1,923,500	32,098
Transfer			(40,000)	40,000
Excess of revenues over expenditures for the seventeen months ended September 30, 1976			1,477,754	11,654
Fund balance, September 30, 1976	$ (70,617)	$90,000	$3,361,254	$83,752

See notes to financial statements.

COMMUNITY ENTERPRISE DEVELOPMENT
CORPORATION OF ALASKA

NOTES TO FINANCIAL STATEMENTS
Seventeen Months Ended September 30, 1976

NOTE A — ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Organization —

Community Enterprise Development Corporation of Alaska was organized for the purpose of financing minority business enterprises throughout rural Alaska. Initial funding of loans to and investments in such ventures has been provided by the Community Services Administration (formerly Office of Economic Opportunity). Collection and reinvestment rights of loans to and investments in ventures vest in the revolving fund.

Basis of accounting —

The accompanying financial statements have been prepared on the accrual basis of accounting as follows:

1. Grant revenues are recognized at the time grant expenditures are incurred. Administrative expenditures are recorded as incurred.

2. Venture capital expenditures (long-term loans and investments) are recognized as revenue in the revolving fund when approved by CSA.

3. Merchandise held for sale is stated at the lower of cost (first-in, first-out method) or market.

4. Investments in which the Corporation has 20% to 50% ownership and exercises significant management influence have been accounted for on the equity method. Other minority investments are carried at cost, net of allowances for possible losses.

5. Grant fund expenditures include amounts disbursed to the revolving fund for the lease and purchase of equipment required in performance of the grant. Equipment purchased with revolving funds is capitalized and depreciated on a straight-line basis over the estimated useful life of the assets.

6. Estimates of in-kind contributions and related expenditures have not been included in the financial statements.

Income taxes —

The Corporation is exempt from Federal and Alaska income taxes under Section 501(c)(4) of the Internal Revenue Code of 1954.

NOTE B — CHANGE IN ACCOUNTING:

During the year ended April 30, 1975 and prior years, the Corporation accounted for revenues and expenditures principally on the cash basis of accounting. Because management believes that recognition of revenues and related assets when collection rights accrue to the revolving fund provides improved financial disclosure and is consistent with the terms of the grant, effective May 1, 1975, the Corporation changed its accounting for such revenues and expenditures to the accrual method of accounting (see Note A). The effect of this change was to increase previously reported revolving fund balances by $1,706,464. Because of the change, the financial statements for the current period are not comparable to those of prior years.

NOTE C — ALLOWANCE FOR LOSS ON INVESTMENTS:

At September 30, 1976 the Corporation's investment of $150,000 in Alaska Consumer Federation has been determined to be worthless. Approval to write off the investment has been granted by Community Services Administration pending final bankruptcy proceedings. Accordingly, an allowance for the full amount of the investment has been established.

NOTE D — REVOLVING FUND REVENUES AND EXPENDITURES:

During the seventeen months ended September 30, 1976, the previous requirement that interest earned on cash investments be returned to the U.S. Treasury was waived. The current period's statement of revenues and expenditures includes approximately $265,000 of such interest revenue which had previously been reported as accounts payable.

Revolving fund expenditures for the period include the write-off of a $215,650 loan to "Old Harbor" which was purchased from the grant fund at the request of the Community Services Administration. The loan is considered worthless.

NOTE E — CHANGE IN FISCAL YEAR:

The Corporation has changed its fiscal closing date to September 30 for both financial reporting and income tax purposes. The major reason for the change is to coincide with the CSA grant period. Accordingly, the financial statements include the results of operations for the seventeen months from May 1, 1975 to September 30, 1976.

Sales, Profit, Value of Real Estate, Employment Statistics CEDC Assisted Ventures - 1976 Fiscal Year

Venture	Year End	Sales Volume	Net Profit	Depreciated Value of Land, Building, Fuel Tanks, Boats	Replacement Value[9]	Total Payroll	Maximum Number of Venture Employees During Each Quarter
Stores:							
Akiachak Cooperative*	September	$ 102,784	$ 23,481	$ 31,728	$ 83,200	$ 13,251	5
Aleknagik Cooperative Store	October	86,799	4,374	32,287	62,400	10,953	3
Chaninik Cooperative Store	November	45,975	397	29,935	62,400	11,908	4 (16 Construction)
Goodnews Bay Cooperative	December	61,299	8,661	10,000	50,000	7,120	3
Innuit Cooperative	August	73,347	(2,930)	10,979	53,600	13,741 (Est)	3
Kaltag Cooperative*	December	90,000	9,816	8,874	50,000	7,142 (Est)	3
Kasigluk Cooperative, Inc.*	May	211,496	29,230	7,109	83,200	14,356	3
Kiana Cooperative Store	December	69,010	(3,216)	45,995	83,200	7,115	4
Koliganek Cooperative, Inc.	August	55,517	(568)	8,241	50,000	7,538	4
Manakotak Village Residents Cooperative*	April	78,704	5,704	11,207	83,200	11,826	3
New Stuyahok Community Cooperative	August	92,578	476	13,780	83,200	16,055 (Est)	4
Nondalton Knechek Cooperative	January	137,134	66	60,173	129,600	23,376	5
Pay N Tuk Cooperative*	August	82,500	5,414	9,800	50,000	13,190	2
Togiak Village Cooperative	August	196,718	21,946	8,207	129,600	26,471	2
Wildwood Village Grocery	August	603,000	9,823	137,473	115,400	53,466	6
Store Subtotal		$1,987,061	$112,674	$425,788	$1,169,000	$237,508	70
Fisheries:							
Elim Fish Process Cooperative	December	$ 218,989	$(80,915)	$145,820	$ 145,820	$ 35,300	88
Golovin Fish Processing Cooperative	December	351,194	(31,229)	195,537	195,537	88,623	92
Kotzebue Sound Area Fisheries[1]	December	1,338,696	(91,774)	N/A	200,000 (Est)	192,219	3
Kvichak-Naknek Aquatic Cooperative	Information Not Available						
Norton Sound Area Fishermen[2]	December	417,341	6,254	195,590	300,000	91,886	150
Yakutat Gulf Fishing Company***	December	100,309	(35,962)	235,830	235,830	43,067	9
Yukon Delta Fish Marketing**	December	1,370,614	(22,932)	1,013,493	1,213,493	335,416	500
Fisheries Subtotal		$3,797,143	$(256,558)	$1,786,270	$2,290,680	$786,511	842
Lodges:							
Ahtna Development Company[3]	June	$302,281	$(29,378)	$1,771,993	$1,771,993	$88,266	23
Angoon (Raven-Beaver) Lodge	October	14,295	4,574	177,662	177,622	9,010	1
Lodge Subtotal		$316,576	$(24,804)	$1,949,655	$1,949,615	$97,276	24
Other:							
Akuliak Incorporation[4]	December	$ 76,439	$ 5,177	$47,630	$ 72,700	$ 4,200	1
Bering Straits Federal Credit Union[5]	December	528,600	16,710	-	-	16,905	3
DNH Development Corporation	Information Not Available						
NANA Construction	June	6,631,594	363,247	-	-	1,333,692	130
Northwest Skin Sewers[6]	December	6,854	(417)	-	-	-	1 Full
Nelson Lagoon Cooperative Fuel Company	June	31,210	168	42,144	46,200	6,300	1
Tlingit & Haida Federal Credit Union[7]	December	839,714	13,509	-	-	N/A	4 (Plus 1 Part-time)
Toksook Bay Arts and Crafts[8]	December	18,252	1,020	1,298	50,000	2,319	1
Other Subtotal		$8,132,663	$399,414	$91,072	$168,900	$1,363,416	142
Grand Total		$14,233,443	$230,726	$4,252,785	$5,578,195	$2,484,711	1,078

Notes:

* Represents actual venture performance figures for the first six months fiscal year 1976 with the remainder computed on a pro rated basis.
** Represents actual venture performance figures for the first nine months of fiscal year 1976 with the remainder computed on a pro rated basis.
*** Represents actual venture performance figures for the first ten months of fiscal year 1976 with the remainder computed on a pro rated basis.

[1] Represents actual fiscal year 1975 figures - 1976 unavailable at this time.

[2] Represents actual fiscal year 1975 figures - 1976 unavailable at this time.

[3] Represents four months operation.

[4] Represents pro forma figures for fiscal year 1975 - 1976 unavailable at this time.

[5] Represents pro forma figures for fiscal year 1975 - 1976 unavailable at this time.

[6] Represents fiscal year 1975 figures - 1976 unavailable at this time.

[7] Represents nine months operation in 1976.

[8] Represents fiscal year 1975 figures - 1976 unavailable at th's time.

[9] Replacement costs were computed on the Marshall-Swift system based upon materials used, total square capacity, and regional location.

OVERVIEW - CEDC AND ALASKA PERMANENT FUND

Introduction

The following proposal outlines how CEDC and the Alaska Permanent Fund (AkPF) could work jointly in the economic development of rural Alaska.

Direct Investment

One means of AkPF participation would be for the Fund monies invested directly in CEDC or CEDC associated investments. This can either be through debt, equity, or other securities.

1. Debt

In this example, the AkPF would act as a type of bank in that monies are borrowed from it at a specified interest rate. Because of the assumed objectives of this fund (to benefit Alaskans), the interest rate may be below commercial rates.

One configuration would be where CEDC borrows money directly from the Fund and thus becomes liable for the debt. In turn, CEDC invests the monies in any manner which it chooses, with the main stipulation that it pays off its debt. CEDC would continue operating as is, using the fund monies as equity in its ventures or debt capital for assisted ventures.

A more restricted form would be where CEDC owned ventures borrow money directly from the Fund. Money would thus be released on a case-by-case basis.

The final method, CEDC assisted ventures (e.g. co-ops) would borrow money directly from the Fund. The existence of this capital would enable more high risk ventures to be initiated without being restricted by CSA or the size of the CSA appropriation for CEDC.

2. Equity

The methods of equity investment would be very similiar to debt investment by the AkPF, with the main difference that the Fund would be in an ownership position and be able to receive a higher return (or realize greater losses).

Direct investment of the Fund in CEDC would involve the owners of CEDC relinquishing much of their ownership control to the AkPF. This disadvantage (from the owners' point of view) would be offset by a large increase in CEDC's capital requiring no fixed interest charges.

Another method, similiar in effect to that above, would be the formation of a holding or development corporation owned jointly by CEDC and the AkPF. This corporation would take over the investment activities of CEDC and be self-supporting.

The third method would be one in which CEDC and the AkPF invest jointly and become co-owners of various ventures.

Finally, the AkPF may be a source of equity capital for CEDC assisted ventures. This would enable the ventures to have a lower debt burden, although they would be subject to outside ownership and control.

3. Other

Other types of securities (preferred stock, bonds, limited partnerships, etc.) issued by either CEDC, a CEDC holding corporation, CEDC owned ventures or CEDC assisted ventures would be purchased by the AkPF.

4. Sale of Debt Securities

In a case similiar to number three above, CEDC sells to the AkPF loans which it has made to the ventures. Because of the high risk nature of some of these loans and the low interest rates charged, many may have to be sold at a discount. The effect would be to increase CEDC's options in its asset structure and equity without necessarily being restricted to notes receivable.

Management of Fund

This scheme would involve allocation of a portion of the Fund to be used in CEDC's special impact area. This portion of the AkPF would be managed by CEDC. CEDC would in turn be paid for these management services. The fee would be based on either: (1) a fixed yearly payment, (2) the size of the monies involved or, (3) a percent of the income returned to the AkPF.

Loan Guarantee Program

To enable many CEDC ventures to acquire conventional financing, a loan guarantee program may be set up. On loans that require this, the AkPF would provide the needed guarantees.

Conclusion

This report has provided a very brief overview of some of the options available to the AkPF in working jointly with CEDC. These options are based on the principle that the assets of the AkPF will not diminish but increase. This therefore eliminates the use of AkPF monies for either grants or subsidies. The Fund will be a self-supporting entity that can be used to benefit Alaskans far into the future instead of being consumed within a hundred years. The options presented in this report can serve to plan for the future.

SCOMM

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In short, CDCs carry out programs of economic development. But unlike other economic development programs (private or governmental), the CDC approach aims to increase power and influence for the low-income community as a whole—not just for a few individuals or groups. For this reason, the CDC operates solely under the guidance of a community-based and community-selected board of directors. By 1975, dozens of communities in at least 30 states had organized CDCs.

Why Are CDCs Needed?

To understand why many communities feel they must have a CDC, start with the fact that any low-income area is in deep trouble—even if the rest of the country is in good shape. And if the rest of the country happens to be in an economic downturn, a low-income area can feel virtually hopeless. There are many reasons—economic, social, and political—for the impoverished conditions of the inner-city slum and the chronic depression of certain rural areas. To understand some of the reasons and to make a plan for dealing with them marks the beginning of hope.

One of the most important keys to understanding a poverty district lies in seeing the interrelation or network of impoverishing conditions. That is, each bad condition reinforces the negative of every other condition. Poor housing holds only the people who cannot afford better, and their low income means that local businesses cannot find enough customers, tax returns go down, local services cannot be paid for, schools are poor, families move away for better educational facilities, the community loses the leadership of concerned families, and political strength of the community is thereby weakened so that it cannot insist on federal or state help for its area—for example, for improved housing—and so on and on.

Low-income areas stay that way because their economic and social environments weaken individual attempts to do something. Only a broad community effort has a chance to reverse the pattern of isolation that handicaps a depressed rural area or the pattern of deterioration that destroys an inner-city neighborhood.

A depressed rural community or a deteriorated city neighborhood is generally the victim of external economic forces that have overexploited or bypassed its needs. The pattern of those forces is continually strengthened at the expense of the low-income areas. It is up to the disadvantaged communities to change that pattern as it affects their own localities, because no one else will.

Poverty in these areas is not a problem of poor individuals and families; it is a problem of a poor community that cannot help its residents prosper. The key long-term solution, then, is development—not welfare payments. (Welfare payments, of course, will always be necessary for temporary misfortune and to aid those who cannot work even though they want to.) The goal of community economic development is to develop—that is, create or improve—economic, social, and other local resources and opportunities.

Only a local group, like a CDC, can do the job of fitting together a comprehensive development program. Outsiders, however well-intentioned, cannot do this. For example, the history of federal efforts to attract outside firms into inner-city poverty areas is dismal. The firms simply cannot be persuaded to identify their interests with the social and financial costs of locating in a depressed area.

Rural regions have the same problem. When a rural village tries to get an outside firm, it often finds that it has paid a price that is too high: Outsiders get the new, good jobs, the firm demands tax rebates and yet requires expensive county services, profits flow away from the area, and still the far-off corporate board room may decide at any time to relocate or close the plant if its profit rate is not attractive enough.

Even an energetic local resident cannot, by himself, effectively start or expand a local business that will help the community. He finds banks will not lend money for a business in a risky community; insurance companies will not give him fire and theft insurance; politicians will not heed his requests for zoning regulations. But a CDC as an institution with broader resources has a better chance to overcome such obstacles. With more political and economic muscle, it can handle these problems either for its own businesses or for local businessmen who need help.

Breaking the vicious circle of community poverty is a matter of a coordinated attack on many levels. It is not possible to cause fundamental change in a community by working on just one of its problems—say, better education, *or* better roads, *or* new housing. When the rest of the community is deteriorating, the better educated will move away, the better roads will carry prosperity through to another location, and new housing will begin to deteriorate.

Success in building a strong community is possible only when the community situation is seen as a whole, with a plan for comprehensive action laid out in step-by-step progression. Only a broad-based representative organization that responds to the community alone, because it is a creation of that community, can prepare and carry out a comprehensive strategy for development.

What Is the CDC Strategy?

The strategy of community economic development is essentially a plan of action to build new resources that will strengthen the community internally *and* in its relations with the larger world. It begins with a coordinating, planning, and action tool, like a CDC, to carry out this strategy.

One of the most important parts of that strategy creates community-controlled businesses and industries. These provide jobs for residents, as well as managerial and entrepreneurial opportunities. They also represent important links with the larger economy. Local business and industry help construct the base for increasing local influence, but new businesses are only one tactic in the strategy.

The land resources of the community are especially critical to development. Most CDCs, therefore, have some plan by which they expect to exert influence on the use of local land. Usually that requires the CDC to own and control large parcels of it. Only by so doing will it be possible to carry out other parts of the CDC strategy. For example, new businesses may need an industrial park. Or to take another example, an economical program for rebuilding dilapidated housing may require large-scale land development. Land then is usually a central focus for CDC strategy.

Another part of the strategy of community economic development aims at what is called "community infrastructure." This is the network of physical and organizational facilities that can make an area a hospitable place to live, work, run a business—or can make it totally unattractive. A CDC will press for the creation or improvement of these facilities by the local government or by others. For example, local government will be pressured to provide better street lighting, sewer and water systems, road resurfacing, parks, schools, and security. Other facilities, such as housing or day care centers for the children of working mothers, might be provided by local government or, with CDC help, by a private organization. In any case, all of these are necessary parts of a growing, improving environment.

Part of the "community infrastructure" is not so much physical as it is simply established ways of doing things—things like not making credit available to local residents, or not hiring them because of their color, or payoffs to building inspectors to get them to pass slum conditions. The CDC has to have a strategy for dealing with this sort of problem too. Changing the practices of the established institutions is a crucial part of giving the community a better chance at the advantages other communities have.

Still another part of the strategy of local development makes sure that the opportunities created in the new businesses, in the new hiring practices of established institutions, and in the new community facilities go to local residents. Plans also have to be made for upgrading skills and developing local talent, so that the community does not have to depend upon attracting outside specialists to relocate there. However, a community will also want to make itself attractive so that it can benefit from the talent and specialized skills of people who may choose to move back to their old neighborhoods or new people attracted by the hope of the area.

All these plans in a development program take money, and a lot of it. That is just what no poor community has. So a CDC must finally face up to the problem of outside capital and financial resources. It is unreasonable to expect that poor communities can do the development job with their own financial resources. The necessary capital *must* come from outside the low-income area. Yet that capital is not going to flow into the area on its own.

The CDC strategy plans for the community to develop its organizations and political strength to make sure that the capital becomes available. An organized community is the only community that can insist that government and private funds are committed to the community—and committed in ways that the community wants, according to priorities that the community sets.

Who Starts a CDC?

CDCs always begin by the initiative of local residents. Sometimes residents have been encouraged by others who are not local residents (for example, a VISTA volunteer, a sympathetic state or municipal political leader, a concerned businessman, a church leader). But local people must take the initiative.

To date, CDCs have been started by people of many different racial and ethnic backgrounds. They have been sponsored by a variety of neighborhood civic groups and churches, by Model Cities Boards, poverty program Community Action Agencies, and by people who just got together without a previous organization and built one up from there.

The individual history of each CDC is a special story in and of itself, but, generally, all are directly or indirectly by-products of the civil rights movement in America. What started with the black minority has been taken up by others, including inner-city white ethnics and rural Appalachians, as well as Chicanos, Native Americans, Puerto Ricans, and others.

Some CDCs were started by coalitions of local community leaders and organizations. For example, the Hough Area Development Corporation, in Cleveland, included as its founding members virtually every recognized spokesman in the neighborhood, from street corner leaders to settlement house directors, lawyers, and politically active welfare recipients.

Some CDCs have been created by Community Action Agencies. Job Start in southeastern Kentucky is one of these. The CAA in Knox County, Kentucky, had been providing job training and other educational and social services to its predominantly white residents only to discover that there would be no jobs in the area no matter how good the training. The CDC was started to remedy this situation.

Some CDCs begin as a limited group and then become a broader community organization. Under the leadership of the Reverend Leon Sullivan, members of Philadelphia's Zion Baptist Church founded

Zion Investment Associates (Progress Enterprises) in 1962, which in 1968 was opened to others besides his church members.

Whatever might be the organizational background of the local CDC, it usually has a special history of some important or dramatic success in attacking one problem and then deciding to move on to a broader campaign. For example, the East Boston CDC grew out of an Italian-American neighborhood's battle against the taking of its houses for airport expansion. The Featherfield Farm project of New Communities, Inc., in southwest Georgia became a vision for black sharecroppers who had organized for voting rights. The economic development program of FIGHT in Rochester, New York, was one outcome of a campaign against discriminatory hiring at the major local industries. Perhaps it is true that no poverty community can launch an ambitious development program until it has experienced success in an important battle on a more limited issue.

What Is the Role of Outsiders?

Although a CDC is a resident-controlled organization, no CDC can get along without assistance from outsiders. In fact, that is one of the jobs of a CDC—to get help, especially financial help, from outside sources, but to get it on the terms that the community can accept.

Outside assistance has been important even in the beginning of many CDCs. For example, the biggest CDC—Bedford-Stuyvesant Restoration Corporation—would not have moved toward its massive community program without the help of Senators Robert Kennedy and Jacob Javits, who mobilized financial and industrial leaders to take an interest in the community. The two senators, in fact, sponsored federal legislation that today provides the single most important source of funds for all CDCs.

Harlem Commonwealth Council in New York City is an example of a CDC started with major help from academic institutions (Columbia University and the New School for Social Research). The academic group made economic studies of Harlem and showed the feasibility of specific industrial and commercial alternatives for economic development, but local leaders actually built the CDC organization and its program.

Other CDCs, such as The East Los Angeles Community Union (TELACU), have begun as the direct result of following the model of another CDC. TELACU was formed in May 1968 when the United Auto Workers gave funds to a group of its Chicano labor union members to set up a broad-based economic development program comparable to the one UAW had sponsored in the riot-torn black area of Watts. The TELACU area contains the largest concentration of Mexican-Americans in the Southwest—over 500,000.

To describe the crucial part sometimes played by outsiders is simply to describe reality. But it is not real to suppose that an impoverished area can be changed with outside help, unless the local leadership is enlisting local energies to guide the outside specialists and to make sure that decisions are made with local approval and according to local judgments about what comes first. For instance, one of the toughest problems of comprehensive economic development is deciding the trade-offs: that is, deciding, for example, what cost in reduced business income should be accepted for hiring and training less skilled employees because they are residents, rather than taking already skilled workers from other areas who would be more productive right away. Outside specialists cannot make that decision—or make it stick. Only people taking responsibility for their own community can make the trade-offs between one benefit now and another later on. In each situation, the decision may be different, depending upon the needs of the program and its community.

Where Does the Money Come From?

The ambitious programs of the CDCs require a lot of money. If you want to rebuild a neighborhood or strengthen a rural area, with housing, new businesses, and community facilities, you must mobilize a whole range of financial resources—for planning, administration, and investments.

There must be money for equity (ownership) investments by the community, and there must be money available as loans to the community, or as guarantees for loans, and a whole host of other complex financial arrangements by which the CDC can pay for what it needs. There must be flexible grant funds and outright gifts which can be used for any investment purpose or indeed held for a while until priorities can be sifted out for their use. Less flexible funds are also necessary. The CDC has to have access to specialized dollars, like sewer grants or mortgage loans or other credits, that are linked to specific purposes.

Funds for CDCs have come from many sources: the local community residents themselves, labor organizations, private industry, private foundations, churches, and government agencies. Progress Enterprises illustrates the potential of community residents' own resources. This CDC began on the 10-36 plan—church members contributed $10 per month for 36 months. By this approach, in about eight years Progress Enterprises had enrolled 6,000 members and had accumulated more than $2 million to invest in its economic development program. However, Progress Enterprises has also received millions in private and government grants and loans. Thus dollars raised in one way can often lever dollars in another way from different sources.

CDCs have received funds from a variety of charitable institutions, but the Ford Foundation has provided by far the largest support in this category. In 1973 it committed itself to grant $75 million to selected CDCs over a five-year period.

The chief support for a very significant proportion of the CDCs in the United States has been the Office of Economic Opportunity (now the Community Services Administration). From 1968 to the end of fiscal year 1974, the Special Impact Program at OEO had invested over $165 million in the support of about 45 CDCs. Other programs at OEO have also offered considerable support, and recent changes in the government structure of the antipoverty programs will probably not affect that. However, one now-discontinued federal program was a source of substantial investment assistance: the Model Cities Program of HUD provided an estimated $50 million to CDCs.

Some sources of support from other national, state, and local government agencies usually are available only after the CDC has been in operation for a while. The Small Business Administration, Economic Development Administration, Office of Minority Business Enterprise, Farmers Home Administration, and other federal agencies have provided both financial and technical assistance. With "seed money" from government agencies, the CDCs have successfully levered additional funds from local and regional banks and other lending institutions. State and local housing authorities have also provided dollars.

In the past, the larger corporations as well have provided support. FIGHT, a CDC in Rochester, New York, received subsidies and technical support from Xerox Corporation for FIGHT's electronics plant. Other business corporations, such as Cummins Engine and IBM, have also assisted CDCs by starting a plant in a CDC's target area, or by giving technical assistance, or by guaranteeing a market for the products of a CDC's new business venture. Aid from the corporate world, however, has decreased considerably in the past few years.

What Do CDCs Look Like?

The operations of the CDCs are as diverse as the problems they face and as unique as the communities they serve. Nevertheless, a few examples will illustrate their possibilities.

Job Start in southeastern Kentucky serves ten counties of about 220,000 people, two-thirds of whom have annual family incomes below $3,000. Job Start itself is the parent or "umbrella" organization for a number of smaller groups; it is a planning body controlled by a 14-member board of directors. Twelve directors are elected from existing Community Action Agencies and from other development agencies in the area. Two state-organized area development districts operating within the ten-county area also each elect one director. The bylaws specify that a majority of the directors be in a low-income bracket.

Job Start's major objective has been to create jobs by establishing its own wholly owned small industries. The CDC currently owns and operates three related woodworking and cut-and-sew manufacturing facilities, under the marketing label of Possum Trot. Although from 1970 to 1972 Job Start created 65 jobs through these three subsidiaries and its own offices, 600 people were on the waiting list for 23 jobs at one of the subsidiaries as it opened. There are more openings now because Possum Trot products have caught on in the marketplace; they are sold through high-quality mail order catalogues in the country and in department stores serving well-to-do customers in major cities. Yet the need for jobs is still overwhelming.

To create a substantial number of additional jobs, Job Start modified its policy of wholly owned industries to invest $250,000 in a corporation it would jointly own and run with a private entrepreneur. This plant, which makes tents and other outdoor recreational products, has produced about 200 more jobs. By 1973, a total of over 400 people were employed through the efforts of Job Start, which had generated an increase in total community income of over $5 million in 1973 alone. The involvement of local people in this endeavor has raised the community spirit and influence. For example, the CDC can now bring improved roads: In an arrangement with the county officials, the CDC furnishes manpower and the use of some equipment, and the counties cover the other direct costs. By this means the CDC groups have gotten the right to decide which roads get county attention.

Harlem Commonwealth Council in New York City is run by a board of directors of 30 members. The original community leaders and founders (or their internally elected replacements) represent over one-third of the board. Another eight are elected by the United Block Association (a neighborhood-based coalition of Harlem residents). The remaining 10 directors are representatives of community organizations operating within Harlem, such as the local branches of the NAACP and the Urban League, and local church groups.

The chief focus of this CDC is to develop a cluster of profitable business ventures, which are technically owned by HCC's holding company. Ultimately, the ownership of these businesses is to be turned over directly to community residents through the sale of stock in the holding company. In 1974, HCC had eight ventures in operation and a nonprofit subsidiary offering technical services to local businesses.

HCC's efforts have produced planned land development, job opportunities, and manufacturing in Harlem. The City Office Building on West 125th Street, owned by a subsidiary of HCC, was built as a joint venture of HCC and a major white-owned firm. Chase Manhattan Bank provided the needed loan. The resulting seven-story, fully modern building, centrally located on Harlem's main street, is the first new office building constructed in Harlem in decades. The upper five floors are rented by city agencies on 21-year renewable leases, and the street floor is leased by small businesses and franchise firms. HCC's own offices and those of another of its subsidiaries, Harlem Commonwealth Tours, are also in this building.

The Shultz Company, the largest manufacturing plant in Harlem, was purchased by HCC in September 1972. Occupying two six-story buildings, the Shultz Company employs 100 to 150 people in its production of specialized display and counter facilities for supermarket chains in the middle Atlantic and southern New England areas.

A small CDC, the Lummi Indian Tribal Enterprise, Inc., is changing the life of approximately 1,600 Lummi Indians, most of them living on a reservation on a small peninsula off the northern coast of the state of Washington (about a 5,700-acre reservation). In 1965 the total annual income for the tribal organization was less then $9,000; the median family income was $2,000, with one-third making less than $1,500. Unemployment was sky high; health care was almost nonexistent.

That year the tribe launched a campaign to gain help and bring attention to their needs. Over a number of years, they prepared proposal after proposal for federal grants from many different agencies, and their success in effectively using the initial grants garnered enough additional money to make massive changes.

By 1973, the Lummis had harvested their first crop from their new tribal business–one of the most extensive and sophisticated aquaculture ventures in the United States. The $2 million that OEO had granted the Lummi CDC, together with substantial other federal funds, was being transformed into three million fish, thirty million oysters, hundreds of thousands of silver salmon, and fifty million seed oysters--an annual output expected soon to gross $6 to $7 million annually.

Ten times as many Lummis were going to college as in 1965, and projections were seriously being made that within a few more years the average attainable net income for each tribal family would be well over $10,000 a year. The Lummis have capitalized effectively on their initial successes to begin a process of community transformation.

The Lummi CDC is run by a board of directors chosen by the 11-member administrative governing body of the tribe, which itself is elected annually by all members of the tribe. This structure is specially adapted to accommodate the traditions of the tribal organization with the requirements of business administration.

TELACU, The East Los Angeles Community Union, formed in 1968, has brought over $40 million to its Chicano neighborhood. An example of its influence is the way it affected a major Los Angeles firm that was to develop the 504-unit Nueva Maravilla Housing Project. TELACU, by bringing together a planning group of residents–welfare mothers and young gang leaders as well as residents with jobs–created the plan for this housing project so that it includes recreation and health care facilities and social services. Nueva Maravilla then received $10 million from Los Angeles County. In order that its constituents might benefit from the jobs that would be created from the project, TELACU obtained $500,000 in manpower training money to train residents and also secured $3.8 million in subcontracts for community businessmen. But TELACU also creates its own projects in business or in housing--for example, the 20-unit Happy Valley Villa.

Membership in TELACU (a federation of organizations) is open only to organizations that either have their principal office in the target area or serve residents in the area. Individuals cannot become members as such. Eligible organizations must have a substantial membership of low-income residents of the area served by TELACU. Each group appoints one authorized representative to sit on the TELACU board of directors. In this way, community control is achieved by the method of indirect representation.

TELACU, the Lummis, HCC, Job Start–these illustrate the very different forms that the CDC can take.

How Successful Are CDCs?

An extensive independent evaluation of the largest federal program of support (OEO's) has estimated that as of 1973 about two-thirds of the CDCs were successful. To be realistic, there are also many CDCs that are not successful. And it is a fact that sometimes a generally successful CDC launches unsuccessful projects. Yet compared to what has happened to other ventures in poverty areas, the CDC record–for OEO-funded CDCs--is excellent, according to the only research available.

The independent evaluators of these CDCs found, for example, that 50 percent of the 250 ventures started by CDCs would be at least breaking even by their fourth year. Nationally, for new, small businesses in general, only about one-third even live to the age of five years. Moreover, in the depressed areas in which CDCs operate, the figures for failure are higher: For example, in Chicago 80 percent of new black-owned businesses folded in 1972; these are the businesses that operate in the same unfriendly economic environment where black (and other) CDC ventures are making a go of it.

Moreover, the OEO-supported CDCs have been able to attract new loans and other investments at a leverage ratio comparable to all U.S. corporations in attracting loans, bonds, and mortgages—in the years studied, \$.61 to every dollar for CDCs, compared to \$.65 to every dollar for U.S. corporations in general. Further, the 30 CDCs evaluated had created 2,066 permanent jobs and 5,500 temporary jobs in an average three-year period. Other detailed statistics show that the training and hiring practices of the CDCs have resulted in impressive job opportunities for local residents.

The statistics of success of the CDCs must not, however, be overweighed against nonstatistical measures—for example, the ways of building a community sense of well-being. To take two cases: in St. Louis, Missouri, the efforts of the Union Sarah Economic Development Corporation, which serves 32,000 people in a 133-city-block area, have encouraged private developers to return to the area. One absentee landlord, whose property abuts a CDC project of townhouses, garden apartments, parking lot, and swimming pool, has not only rehabilitated his own property, but also has moved back to his old neighborhood. In Bedford-Stuyvesant, the CDC has created a black cultural affairs center by renovating a large abandoned building and using it as the centerpiece of an ambitious development of commercial, educational, and housing properties. The children from this predominantly black area come from all the public schools to view performances at the modern theater, and major corporations have competed for commercial space there.

Such local creativity builds hope and pride, necessary ingredients for the future of any community. CDCs, therefore, consider it essential not to measure their performance simply on statistics of business profits or even number of jobs created. There is a lot to building a community that cannot be measured that way. In addition, statistical methods of research are hard to use, and the best available studies have grave limitations.

What Problems Do CDCs Face?

CDCs face three basic problems, as they continue their work. First, they must get more funds, and the flow of capital must be stable, not dependent on short-term grants. Their job is a big one, and it will take big money over many years. Even good profits from their businesses will not support the necessary massive development needed. Second, they will always face tough decisions in their attempt to balance broad community interests with success on any one project. A multipurpose organization will always have to trade off a little success in one goal for more achievement in another. Third, they have to maintain a high level of community participation to keep their energy potent.

The first problem probably boils down to whether or not federal appropriations will grow to match the needs of communities that seek to improve themselves. Private foundations, churches, and others simply will not be able to provide the fundamental capital investment that is required. Ultimately, the proposed creation of a national community development banking system could decrease dependence on annual federal appropriations. But for some years the solution to the financial problem of developing communities will lie in the one possible source of major investment funds—federal tax dollars.

It is important to remember, however, that CDCs do not merely spend the federal funds. They use that money to raise more money from the private capital market. To repeat, many CDCs have just about matched the private corporate world in their ability to get loan funds from banks and other private sources. But debt capital (credit) depends on having equity money to begin with, and that must come from federal grants.

The second category of problems (the tough trade-off decisions) has caused some critics to doubt that a CDC can, for example, establish profitable enterprises with stable jobs. These critics say that a business cannot survive if it has to meet multiple social goals (not to speak of contending with the unfriendly economic environment of the low-income areas). Although the research evidence so far does not support this criticism, inescapable tensions do exist between making a big profit and producing other community benefits. Moreover, trying to create the largest number of jobs usually means selecting businesses in which most of the jobs are low-paying. While community residents may at first be satisfied with such jobs if they have been unemployed, sooner or later they will demand that the CDC produce better jobs.

Choosing appropriate markets for CDC goods and services raises a comparable problem. The need for dollars from outside the community inclines the CDCs to develop businesses that produce goods for export and bring cash to the area. The desire to service the CDC community, however, applies pressure to produce goods and services marketable in the immediate area. Also, the CDC may be torn between a project of assistance to local businesses and a business venture that it starts and runs itself.

The resolution of another conflict is technically difficult. There is a "multiplier effect" for each type of business, depending upon where the money goes for goods and services. If people spend money where they live, the effect of the expenditure can be multiplied into benefits for others in the community. Each business, too, spends money, and the CDC must weigh where that expenditure takes effect and how much difference an investment put in one sector would make compared to another. Yet multiplier effects, themselves, have to be gauged against the different risks of each business as a venture.

Further, budgeting limited time is as hard a decision to make as budgeting limited funds. CDCs deeply involved in successful business ventures will naturally be pressed to sharply diminish their other activities for the community. The CDC director and staff can become so engrossed in running the business operations that they have neither time nor energy to work on other community projects.

This leads to the third problem—how to keep the whole program moving by community participation in the CDC affairs. If residents cease to identify the CDC as theirs and as worthy of the contributions of energy that it takes to keep an organization effective, the CDC will soon run down. At best, it will turn into a minor business operation. At worst, the CDC can be taken over by people who will turn it to their own private advantage. An alert community will strengthen a CDC, and the CDC, as one of its goals, must always be working to keep the community alert.

Most of these program tensions can be reduced somewhat by the thoughtful and active participation of the CDC board of directors. The board of directors has the responsibility as trustees for the community to decide the trade-offs and the allocations of time, money, and energy. That is a heavy responsibility and means a lot of unpaid work by citizen leaders.

To date, the CDCs are only a small effort for social change, carried on without much fanfare. The CDC as an organizational form seems to have promise, and communities are learning what it can do and what it cannot. They are also learning that although the CDC begins from the idea that only a comprehensive multipurpose strategy will work, one organization does not and cannot do the whole job. CDCs have to foster and work with other community organizations that do particular tasks in the overall development strategy. For example, a CDC could assist a food-buying cooperative or help set up an independent credit union. A CDC could invest in a MESBIC (Minority Enterprise Small Business Investment Corporation), which helps the small businessman at the right time with a loan or a shared investment. Also, CDCs can join forces on many projects with local antipoverty agencies, the Community Action Programs.

The CDC cannot attack the problem of poverty without working with all sorts of other groups in the community—and outside of it. Yet not everything can be done at the same time. Thus, operating a CDC is a tough process of choosing priorities, making choices, and learning the differences between the various types of specialized tools that must be used to build the community.

What Are Prospects for the Future?

Assuming that federal support for the community economic development movement continues, CDCs appear to have a good future. Even though some CDCs have failed, enough have succeeded to demonstrate that they can assist the poor and the disadvantaged to join the nation's social and economic mainstream. Although they are definitely not a panacea, CDCs can carry out social and economic change in some communities, and in others the CDCs can be important at least for purposes of amelioration. The particular role a CDC plays, its legal structure, the problems it faces, and its likelihood of success depend greatly upon the community itself—*and* upon the people who want to make their community a better place to live.

Each community must recognize that the particular social, political, and economic tools it creates for self-development will be different from another community's organizations. There is nothing special about the words "community development corporation." The important thing is the process of development and self-determination that a community undertakes, with whatever councils, cooperatives, corporations, or other organizations. The CDC is *one* powerful form of organization to express and achieve community self-determination.

How to Get More Information

The Center for Community Economic Development and the National Congress for Community Economic Development inform the public about CDCs. The National Congress (with offices at 1126 16th Street, N.W., Washington, D. C. 20036) offers membership and technical services to community groups. The Center is a nonprofit research and advocacy organization in support of groups like the National Congress, individual CDCs, cooperatives, and other low-income urban or rural development councils. Both organizations publish a newsletter, and the Center also maintains a national library and publishes research reports and materials like this pamphlet.

COMMUNITY DEVELOPMENT CORPORATIONS

A community development corporation (CDC) is organized and controlled by local residents to develop the economy of their own community. The CDC is, in fact, a new community tool created by people in low-income areas to gain influence over the economic conditions of their lives. To get that influence to make fundamental changes in their communities, CDCs

- identify and develop local skills and talents
- own and control land and other resources
- start new businesses and industries
- increase job opportunities
- sponsor new community facilities and services
- improve the physical environment

The Center for Community Economic Development (CCED) is an independent research group located at 639 Massachusetts Avenue, Suite 316, Cambridge, Mass. 02139. Its primary function is to conduct public policy research by examining the ongoing problems of community development corporations (CDCs) and of other community-based economic organizations. CCED acts also as a clearinghouse and library for materials and information on community-based economic development, and it has assisted CDCs as an advocate on social and economic problems. Its work is supported primarily by a grant from the United States Office of Economic Opportunity.

Opinions expressed in this paper should not be construed as representing the opinions or policy of any agency of the United States government.

This is one of a series of publications. A complete list of publications is available upon request.

Community Dev't Corps

The Permanent Fund has the potential capability of financing a range of social and economic projects within the state of Alaska. When identifying the investment goals of the Permanent fund, it is necessary to consider the unique geographic and social organization of local communities in the state. Given the accelerated growth that many communities will be experiencing with the energy resource development and the variety of ways these communities can participate it is important that the Permanent Fund investigate a form of organization and management that can best fit the decentralized and disparate nature of growth in the state.

Objective:

Community Development Corporations have operated as a development bank for a number of years in Alaska and in other areas of the country. The objective is to investigate the possibility of a decentralized management and investment decision criteria for the Permanent Fund modeled on the form taken by CDC's.

Scope of Work:

1. To provide information on the organizational structure of Community Development Corporations.
2. To investigate the range of CDC investments.
3. To provide information on the management and control of CDC funds.
4. To provide information on investment decision criteria.

Tasks:

1. To identify the impact of leasing oil-rich lands on the Outer Continental Shelf on the economy of coastal communities around the state.

This will be done by evaluating econometric models developed by the Department of Interior to predict growth patterns in Alaskan economy, and from work done by Robert Stobaugh at the Harvard Business School Energy Project on petrochemical industry strategies for less developed countries.

2. To provide information on the organizational structure of Community Development Corporations.

This will be done by identifying how the Alaska CDC is structured and how it differs from other CDC's around the country. The Alaska CDC is one of the most active in the country.

3. To investigate the range of CDC investments.

This will look at the size and type of enterprise and the level of financial assistance.

4. Management and control.

This will investigate who sits on the Board of Directors of a CDC, hires the staff and how investments decisions are made.

5. Investment criteria.

The major emphasis of this report will be to investigate how CDC's evaluate investments in a project. For example, how can the investment criteria accomodate seasonality, flexible work schedules, high threshold costs and ownership patterns reflecting the social organization of the community.

Tasks Schedule:

The results of this investigation will be formally presented in a paper to the Permanent Fund Advisory Committee by the end of December, 1976.

Budget: $5,000

Community Development Corporations--CDCs are revenue generating entities organized and controlled by local residents to develop and direct the economic activity in their area. The CDC is a relatively new community tool created by low-income people to gain influence over the economic conditions that affect their lives. In order to obtain this control, CDCs engage in such activities as (1) identifying and developing local skills and talents; (2) endeavoring to own and control land and other resources; (3) capitalizing and operating new businesses and industries; (4) increasing job opportunities; (5) sponsoring new community facilities and services; and (6) improving the physical environment of the community.

Any or all of these activities may be chosen by a CDC, but the primary purpose of these efforts is to increase power and influence for the low-income community as a whole--not just for a few individuals or groups. For this reason, CDCs operate solely under the guidance of a community based and community selected Board of Directors. A depressed community is generally the victim of external economic forces that have overexploited or bypassed its needs. The pattern of these forces is continually strengthened at the expense of the low-income areas. Self-determination by the community of changes that need to be made and the means of achieving them is necessary, as only the residents can make those decisions and adopt strategies for change that are appropriate for their community.

CDCs are currently operating in communities in more than 30 states. Most CDCs are incorporated under general business or non-profit corporation statutes and therefore are subject to the laws governing corporations.

Funding sources-The chief support for many of the CDCs in the U.S. has been the Office of Economic Opportunity (OEO)--which is now the Community Services Administration (CSA). Other federal agencies which provide financial and/or technical assistance are the Small Business Administration, the Economic Development Administration, the Office of Minority Business Enterprise and the Farmers Home Administration. Assistance is sometimes available from state and local governments, foundations, and private corporations. Aid from the corporate world has decreased considerably in the past few years, however. With "seed money" provided by the public sector, many CDCs have successfully levered additional funds from local and regional banks and other lending institutions. The goals and objectives of a particular CDC, and the type of activities it engages in can determine possible sources of funds and eliminate others. Due to lack of management experience, location within a depressed area, and initial employment of large numbers of unskilled or inefficient workers, such extra costs can be incurred that the demise of a fledgling CDC can occur. For this reason, a continuous inflow of assistance from sources other than its own business enterprises must be assured until sufficient cash flows have been established.

Self-determination and assistance restrictions-Two factors, leadership and institutional strength, seem to increase the ability of CDCs to use outside assistance without sacrificing much local control. These factors are crucial to the raising of equity within the community, which in turn is important for enabling the CDC to acquire outside financing from a position of strength. Without these two vital factors, CDCs may be unable to use the expertise of outside consultants without relinquishing self-determination or retaining control in policymaking areas. Aside from attempting to develop or utilize these strengths, CDCs must choose outside aid with an eye to the types of restrictions imposed on the assistnace and how well the help matches the corporation's goals.

Local Economic Development Corporations--LEDC's are organizations formed to foster economic development in low-income areas. Boundaries of the organization's activities are described in the LEDC's charter, and may be within, coincide with, or exceed the boundaries of a political subdivision. Occasionally, the area served may extend to two or more states.

Goals of the LEDC may be project specific (i.e. building of a supermarket), or they may be open-ended, seeking out and engaging in various projects within a community. Initiative for formation of an LEDC may come from leaders within a low-income community or area, church groups, foundations or concerned local businessmen. Funding for the activities of the organization may also be obtained from diverse sources; it may come from federal grants/loans, state grants/loans, foundations or from slae of stock in the LEDC to members of the community. Although there is no "standard" structure for LEDC's, the type of activities to be pursued and the types of funding sought are important considerations in structuring the organization. Two of the most common corporate formats for LEDC's will be discussed.

Local Development Corporation--LDC's are organized under applicable state laws as stock or membership corporations and the primary goal of such an organization must be, but is not limited to, community development. LDC's so chartered may avail themselves, under Sec. 502 of the Small Business Investment Act of 1958, of SBA loans. Loans are made by SBA to the LDC, which in turn lends funds to approved projects. Limitations exist on loans in this category—$350,000 maximum for each small business/ $1 million limit to any LDC in any one fiscal year. If an LDC's funds are provided by a lending institution under a 90% SBA guarantee plan, the $1 million limitation does not apply. Loans may be used for construction or expansion of existing facilities, not for working capital or inventory acquisition. Working capital is provided by the LDC itself or from funds furnished by private or other sources. By utilizing the LDC format, greater leverage opportunities exist than when the SBIC structure (discussed below) is chosen, as direct LDC participation in a given project is usually 20% or less. However, SBIC's have greater discretion in making loans then do LDC's, who must convince SBA of the merits of each project funded and use the monies for certain purposes only, whereas SBIC's may use their own criteria for determining a project's desirability. Another attractive feature of the LDC format is that initial capital requirements are less.

Small Business Investment Companies--SBIC's are private corporations licensed under the Small Business Act of 1958. A prerequisite of licensing is that the SBIC must raise $150,000 of its own capital; to make this less onerous, the restrictions on banks investing in common stock (under the Bank Holding Act of 1956) have been relaxed to a degree for investments in SBIC's. National banks, members banks of the Federal Reserve system and non-member insured banks are permitted to buy stocks in SBIC's to the extent allowed by state law up to an amount equal to 5% of the capital and surplus of the bank. Initial capital may also be raised by selling part of the SBIC's stock to a foundation. After the initial capital is raised and the corporation is licensed, SBIC's which invest 65% or more of their funds in venture capital can obtain federal financing at a ratio of 3-to-1 for that part of their paid-in capital and surplus which exceeds $1 million. SBIC's can be profit-making ventures, and the law encourages them to make equity investments. Retained earnings may be added to the paid-in capital and surplus, thereby enhancing the leverage capability of the SBIC.

As mentioned in the section covering LDC's, SBA regulations contain only a few prohibitions on the use of funds provided to SBIC's. SBIC funds can be used to provide working capital to a project at the discretion of the SBIC Board of Directors. Conflict of interest regulations are generally more restrictive for SBIC's than for LDC's, however.

Industrial Revenue Bonds

An IRB is a tax-exempt bond, a combination of both corporate bonds and municipal revenue bonds affording to the companies the advantages of both.

IRB's are issued in the name of a municipality and require that the funds be applied towards construction and/or purchase of property, plants and equipment as well as costs incidental to the bond issue itself. By structuring the revenue bond program at a municipal level, the program enables each municipality to regulate its industrial growth and retains the "home rule" feature. Generally, the bonds are issued by the municipality for a specific company and retains title to the property until the bond issue is paid off. If the company defaults, the municipality is not liable and the property is sold to satisfy the claims of the bondholders.

Advantages of Industrial Revenue Bonds

- 100% financing available
- Lower interest costs
- Company control of design and construction
- Tax free interest to bondholders

Federal Regulations Governing Industrial Revenue Bonds

A limit of $5,000,000 is imposed on all issues except those financing pollution control.

Issues of $1,000,000. or less are subject to no restrictions.

For issues above $1,000,000.

1. The capital outlay from any source of funds by any company or its affiliates cannot exceed $5 million during a 6 year period - 3 years prior and three years following the date of the construction contract.

2. Companies cannot avoid this restriction by leasing equipment that is ordinarily purchased.

3. Violation of these restrictions results in the removal of the tax exempt status of the bonds.

The Alaska Industrial Development Authority

The AIDA was initially created as an instrumentality of the state with powers to incur debt for acquiring or constructing industrial and manufacturing plants. It was basically created to entice private industry into establishing themselves in Alaska. The basic problem was that there didn't exist a market for products of same and the AIDA was basically inoperative.

The 1977 Legislature amended the law to allow AIDA activity relating to facilities for air and water transportation, pollution control and waste disposal, and for the local furnishing of electric energy or gas. As such, AK Airlines and Wien Airlines are obtaining financing through this Authority. Bonds issued by AIDA are tax exempt and the interest rate through this type of financing is very attractive.

Community Enterprise Development Corporation of Alaska--CEDC is a community development corporation (CDC) founded in 1968, which receives funding for operating expenses and project loans from the Community Services Administration (CSA), formerly the Office of Economic Opportunity. Its impact area is the entire state of Alaska; excluding the five urban centers of Anchorage, Fairbanks, Juneau, Ketchikan and Sitka. CEDC seeks to foster economic development in rural Alaska by providing technical assistance and feasibility studies, loans, grants and capital investments to various types of commercial enterprises in rural Alaska. Projects that will create employment opportunities, lower living costs and enable village residents to maintain some control over economic activity in their area are those sought by CEDC. Projects considered by CEDC must be unable to obtain initial financing from private sources, but bank (or other private institution) participation can be a component of the final investment package. Additionally, only those projects with broad community ownership (at least 15 individuals) and whose owners fall within the federal poverty guidelines as determined by CSA are eligible for consideration.

Corporate structure--CEDC is organized under Alaska statutes as a voluntary, non-profit corporation. Management of the corporation is provided by a 30-member Board of Directors, comprised of 20 members from enterprises which have received CEDC assistance; 7 members from the ANCSA regional corporations or RurAL Cap regional corporations; and 3 members of the Alaska business community. The entire Board meets three times a year--day to day management is provided by an Executive Committee, which is composed of and elected by the members of the Board.

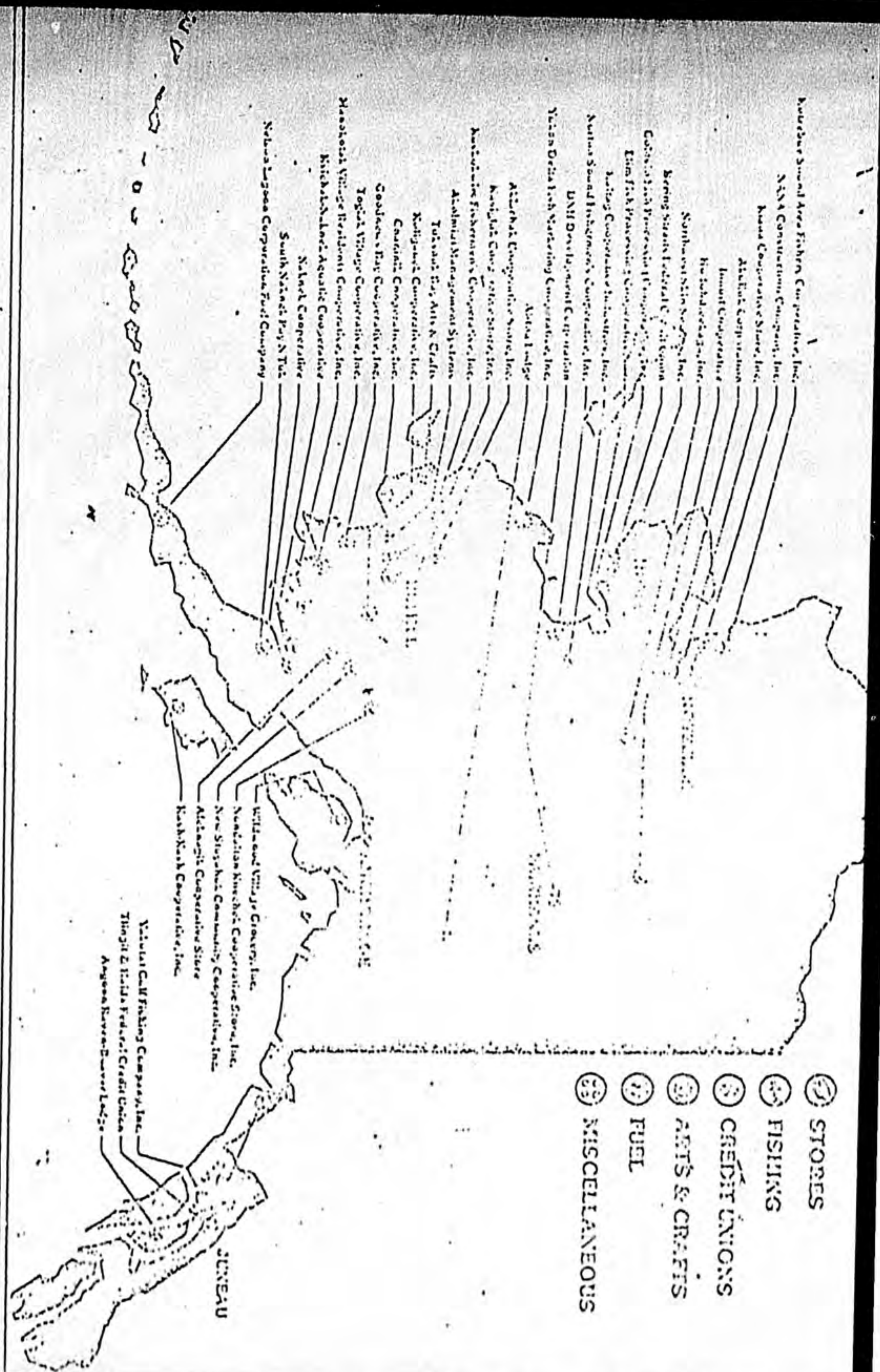
Areas of Activity--CEDC has undertaken projects in such diverse areas as fishing cooperatives, cooperative grocery/variety stores, fuel dealerships, credit unions, hotels/lodges, arts and crafts cooperatives and construction companies.

Types of financing/loans--CEDC's participation in projects takes several forms; loans, grants and equity financing. CEDC intends to concentrate on equity financing to an ever greater degree in order to realize its goal of self-sufficiency from CSA by creating increased cash flows. In addition to participating directly in assisted ventures, CEDC brings together other federal agencies, state agencies and private investors to join in financing and assisting ventures. CEDC has standardized its interest charge for all types of loans to 7.5% per annum compounded simple, in order to return more money to the corporation for operating expenses and other lending activities. For venture capital investments or major loans no maximum limit (other than availibility of funds) exists, loan term is 10 years. These investments/loans must be approved by CSA, which sometimes presents difficulties due to field evaluation timing and differing standards of desirability between CEDC and CSA. A fisheries revolving loan fund totalling $600,000 may be loaned to members to a maximum of $250,000 per loan. Existing ventures may borrow operating capital from the short term revolving loan fund ($15,000 maximum); repayment terms vary but the interest rate is 7.5%. Interest payments, monies returned, etc., are placed in the CEDC revolving fund, which may be loaned to members at the discretion of the Board of Directors. CEDC has a loan portfolio of over $1,500,000, with a loan delinquency rate of .45%. By encouraging other institutions and agencies to participate in project financing, CEDC has achieved a leverage ration of 1:1.36.

Priority areas/goals--CEDC encourages and expects that assisted ventures will become self-sufficient and provides all available expertise to help projects realize this goal. In addition, CEDC is working toward becoming an independent agency that is not dependent on CSA for funding, but does not expect this to happen in the near future. Priority areas are fisheries, tourism, timber and cooperative store ventures, the first three of which are extremely capital intensive. CEDC has received an increase in the number of projects submitted for consideration as awareness of the possibilities of community owned businesses increases in rural Alaska. However, due to lack of funds many of these potentially viable projects cannot be addressed by CEDC.

See other side for additional information.

NAME OF AGENCY	FUNCTIONAL RELATIONSHIP		
	Funding	Technical Assistance	Regulatory
Federal			
ACTION Volunteer Programs		X (Also rep. on board)	
Department of Agriculture			
Cooperative Extension Service (University of Alaska)		X	
Farmers Home Administration	X	X	
Forest Service		X	
Alaska District Engineer		X	
Department of Commerce			
Economic Development Admin.	X	X	
National Marine Fisheries Service		X	
Federal Communications Commission			X
Housing and Urban Development	X	X	
Health, Education & Welfare		X	
General Services Administration	surplus property		
Department of the Interior			
Bureau of Indian Affairs	X	X	
Bureau of Land Management		X	
Internal Revenue Service			X
Interstate Commerce Commission			X
Department of Labor		X	
Land Use Planning Commission		X	
Small Business Administration	X	X	
Department of Transportation		X	X
Federal Aviation Admin.			
State			
Department of Commerce	X	X	
Department of Community and Regional Affairs			
Division of Economic Opportunity		X	
Division of Rural Development Assistance	X	X	
Department of Economic Development	X	X	
Division of Tourism	X	X	
Department of Fish and Game		X	X
Department of Labor	Training	X	
Department of Natural Resources		X	
Department of Public Safety			X
Revenue Department			X
Other			
Alaska Economic Development Office (OMBE)	X	X	
Aleyetka Investment Company (MESBIC)	X		
Campaign for Human Development	X		
American Indian Tribal Commission	X	X	



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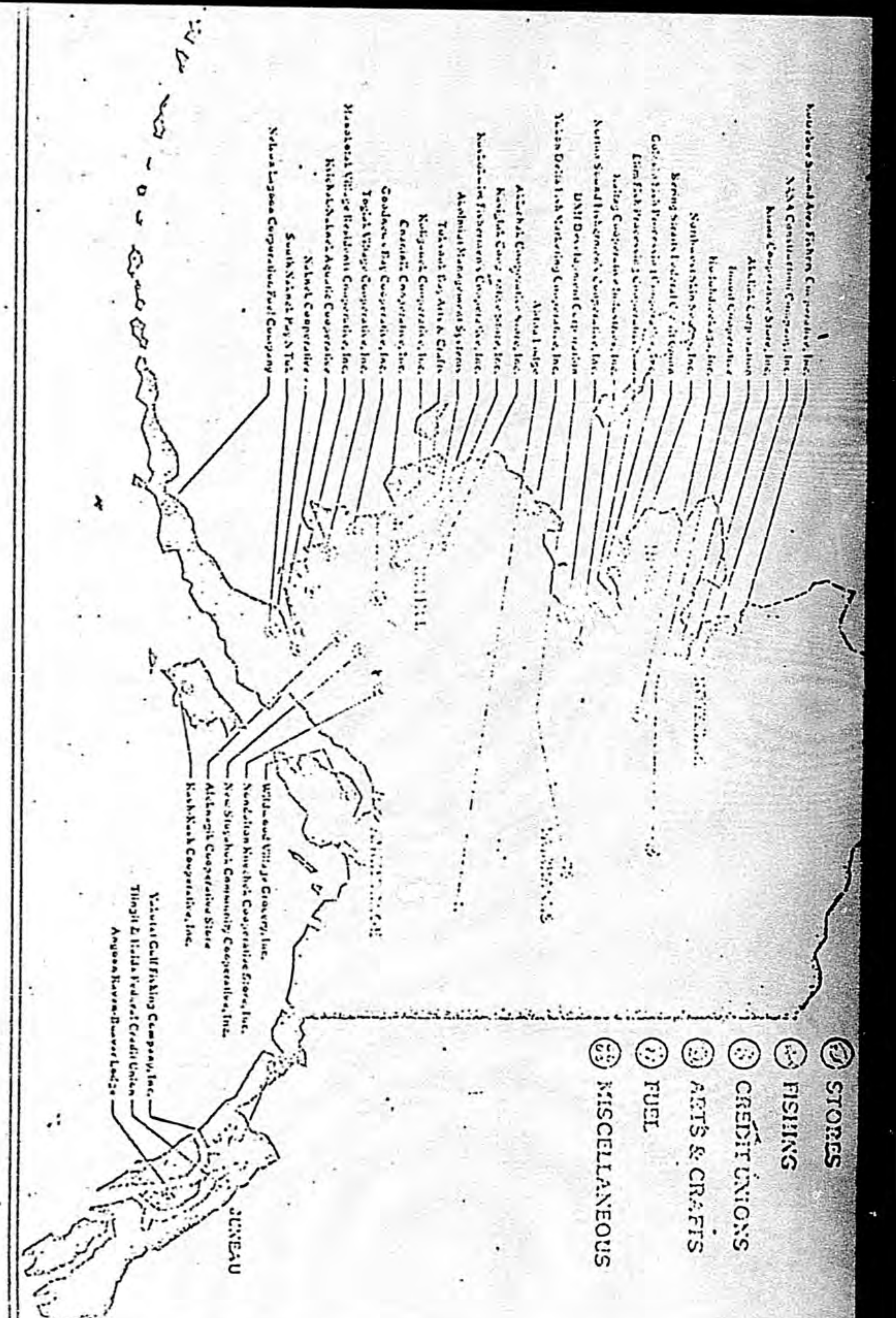
Forest Service		X	
Alaska District Engineer		X	
Department of Commerce			
Economic Development Admin.	X	X	
National Marine Fisheries Service		X	
Federal Communications Commission			X
Housing and Urban Development	X	X	
Health, Education & Welfare		X	
General Services Administration	surplus property		
Department of the Interior			
Bureau of Indian Affairs	X	X	
Bureau of Land Management		X	
Internal Revenue Service			X
Interstate Commerce Commission			X
Department of Labor		X	
Land Use Planning Commission		X	
Small Business Administration	X	X	
Department of Transportation		X	X
Federal Aviation Admin.			
State			
Department of Commerce	X	X	
Department of Community and Regional Affairs			
Division of Economic Opportunity		X	
Division of Rural Development Assistance	X	X	
Department of Economic Development	X	X	
Division of Tourism	X	X	
Department of Fish and Game		X	X
Department of Labor	Training	X	
Department of Natural Resources		X	
Department of Public Safety			X
Revenue Department			X
Other			
Alaska Economic Development Office (OMBE)	X	X	
Alyeska Investment Company (MESBIC)	X		
Campaign for Human Development	X		
American Indian Tribal Commission	X	X	



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#9:104

CONNECTICUT PRODUCT DEVELOPMENT CORPORATION

February 14, 1978

Mr. Tom Singer
Pouch V
Juneau, Alaska 99811

Dear Mr. Singer:

I feel that the best way to respond to your letter request of January 26, 1978 for information concerning the earning record to date of the Connecticut Product Development Corporation (CPDC) is to provide you with both the rate of return, which was projected at the time consideration was being given to the creation of CPDC, and the actual earning record, which CPDC has experienced to date.

First, with regard to the projected rate of return, I am attaching a copy of the relevant section of the Strike Force for Full Employment, which made the recommendation to then Governor Thomas J. Meskill, that CPDC be established. As you will note from the attached material, CPDC's return is solely by way of a royalty on sales of products developed with CPDC's financial assistance. Namely, if the developed product proves to be saleable, CPDC obtains a return. However, if the developed product proves not to be saleable, then CPDC loses its investment in the project. It is important to note that CPDC's investment is not in the form of a loan, consequently a company which receives financial assistance from CPDC is under an obligation to payback CPDC's investment only in the event and to the extent that the developed product proves to be saleable. Furthermore, it is also important to note that CPDC does not expect to obtain a return on each of its investments. Rather, it is expected that when all of CPDC's investments are considered collectively, the return derived therefrom will be adequate to make CPDC self-supporting, i.e., provide CPDC with sufficient return to cover CPDC's administrative expenses as well as its investment in all of its projects. To achieve this, CPDC must necessarily obtain from its successful projects sufficient income to offset its loses in its unsuccessful projects.

As concerns CPDC's actual earnings to date, to put them in perspective note must be taken of the fact that CPDC did not make its first investment in a project until March 1975. Since then,

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nineteen projects have been approved for investment by CPDC. Of this total, CPDC has effected Development Agreements with seventeen companies. From the projects which have proceeded to completion, CPDC to date has received $3,147.29 in royalties, and is due approximately another $3,900 in royalties. In this time frame, CPDC has committed itself to provide up to $1,163,138 in funds for the nineteen projects, and has actually, as of January 31, 1978, expended $676,478.97 of this amount. There are several projects from which CPDC expects, based on actual orders received for the developed products, to receive significant royalty returns during calendar year 1976. Some of these royalties will be deferred for a couple of months, inasmuch as CPDC only requires that the royalty payment due to it be made thirty days after the close of each quarter of the company's fiscal year.

To summarize, not all of CPDC's projects will meet the expected or hoped for results, but the present operation of CPDC indicates that the original Strike Force estimate of 35% successes will easily be achieved. CPDC made its first authorization of funds in 1975, and received its first royalties in 1976. The subsequent and anticipated rate of royalty return is some two years ahead of estimate, and yet the investment is only one quarter that which the Strike Force projected at this stage of CPDC's development. Based on present estimates, it is the opinion of CPDC staff that the entire amount that CPDC has invested in projects to date will be returned by way of royalty payments within two to three years.

If you have need of any further information regarding CPDC and/or its method of operation, please do not hesitate to contact us at your convenience.

Very truly yours,

Arthur E Fournier Jr

Arthur E. Fournier, Jr.
Senior Project Executive

AEF:pas

Enclosures

PROPOSAL FOR THE CONNECTICUT PRODUCT DEVELOPMENT CORPORATION

INTRODUCTION:

It is evident that product development is the precursor of manufacturing opportunity. And manufacturing new products is a clear path to creating jobs for Connecticut's high skill level work force. From this basic observation, the subcommittee, armed with an impressively successful model, has recommended the formation of a Connecticut Product Development Corporation. This corporation, CPDC, would have the following objectives:

1. To exploit innovation in situations where private financing is not available.
2. To select development opportunities which will result in new products offering employment opportunities for Connecticut citizens,
3. To increase the attractiveness of Connecticut as a corporate base of operations.
4. To become self-sustaining thru reimbursements from successful developments.

The recommendations have been reduced to proposed legislation in the appendix entitled, "Connecticut Product Development Corporation Act" hereafter referred to as the Act. The Act fully describes the purposes of the corporation, the governing procedures, personnel makeup, and all other detail with respect to operation and funding.

Connecticut Product Development Corporation (CPDC) has been modeled after the proven National Research Development Corporation of the United Kingdom. The unique characteristic of the United Kingdom corporation is that it has become self-sustaining by obtaining reimbursement from successful projects for which it supplied financial support. The Committee suggests that CPDC would become self-sustaining, provide Connecticut with new job opportunities and additional tax revenue, while at the same time providing evidence of aggressive leadership at the State level to encourage economic growth and development.

MECHANICS:

In operation, CPDC would have a technical staff to screen proposals from industry, universities or individuals. A Board of Directors, appointed by the Governor, would approve projects for financial support, usually on a cost-sharing basis. CPDC would fund only development, not basic research, nor capital equipment, and facilities. Its funds would be used to bolster new product development in the critical phase of translating an idea into a producible commodity. It is evident these funds will be at high risk. CPDC expects success in but one out of three projects sponsored. This success ratio will produce royalty revenues from successful projects sufficient to make CPDC self-sustaining.

The Act would provide CPDC its initial funding through the sale of up to $10 million tax-free state bonds. The Act provides for servicing this debt and retiring it after an initial postponement that recognizes the natural gestation period before CPDC would receive significant revenues.

MODEL:

Confidence in the success of CPDC is heavily dependent upon the model provided by Britain's NRDC. (Exhibit I outlines NRDC history). In the extrapolation of this model to predict Connecticut experience, the committee drew upon the background understanding of K.E.V. Willis, who is the administrative manager of NRDC and member-consultant to the Committee.

A SUCCESSFUL MODEL
BRITAIN'S NATIONAL RESEARCH DEVELOPMENT CORP.

1. Started in 1948 - 5 million pounds

2. Current line of credit - 50 million pounds
   Current borrowing - 23.5 million pounds

3. Current revenue - 6.5 million pounds
   Current operating expense - 1.0 million pounds

4. Started as exploiter of government owned patents, but major success came from NRDC sponsored backing of university and industry R&D.

5. Types of projects supported

   a. New antibiotic
   b. Hovercraft
   c. Fuel Cell
   d. Computers
   e. Clean Diesel Engine
   f. Blackberry Harvester
   g. Medical Instrumentation
   h. Machinery, Metal Cutting, Farm, Textile
   i. Construction Equipment
   j. New Materials, Ceramics, Plastics

6. Record to date - development projects

Total submissions	25,000
Developments sponsored	640
Discontinued projects	238
Projects currently earning income	126
Projects active, not not yet earning	278

Success ratio $\frac{126}{364} = 35\%$

EXHIBIT I

PROJECTED BENEFITS:

The Committee has projected the first 10 years of CPDC operation, assuming that funding is limited to that derived from the Connecticut bond issue. EXHIBIT II is a cash flow projection and EXHIBITS III and IV summarize parametric assumptions in generating the cash flow.

The gross revenue is expected to reach $1,700,000 in the 10th year, but more importantly, $43,000,000 of annual new business will have been created along with 3400 new jobs. Further, we estimate additional tax revenues of $400,000 to the State and $280,000 to local government.

It can not be over-emphasized that, up to the limit of Connecticut industrial capability, these benefits can be directly multiplied by increasing the funding available. There is every reason to believe that the new national thrust toward encouraging research and development in the private sector would favor CPDC. It is entirely reasonable to conjecture that CPDC obtain support to the extent of $100,000,000 with the concomitant benefits including 34,000 new jobs.

CPDC has no counterpart in any other state. Its proposed format has already evoked keen interest among federal planning groups who are seeking viable mechanisms for joint government-industry efforts to increase U.S. productivity and competitive posture world-wide.

CPDC CUMULATIVE CASH FLOW PROJECTION

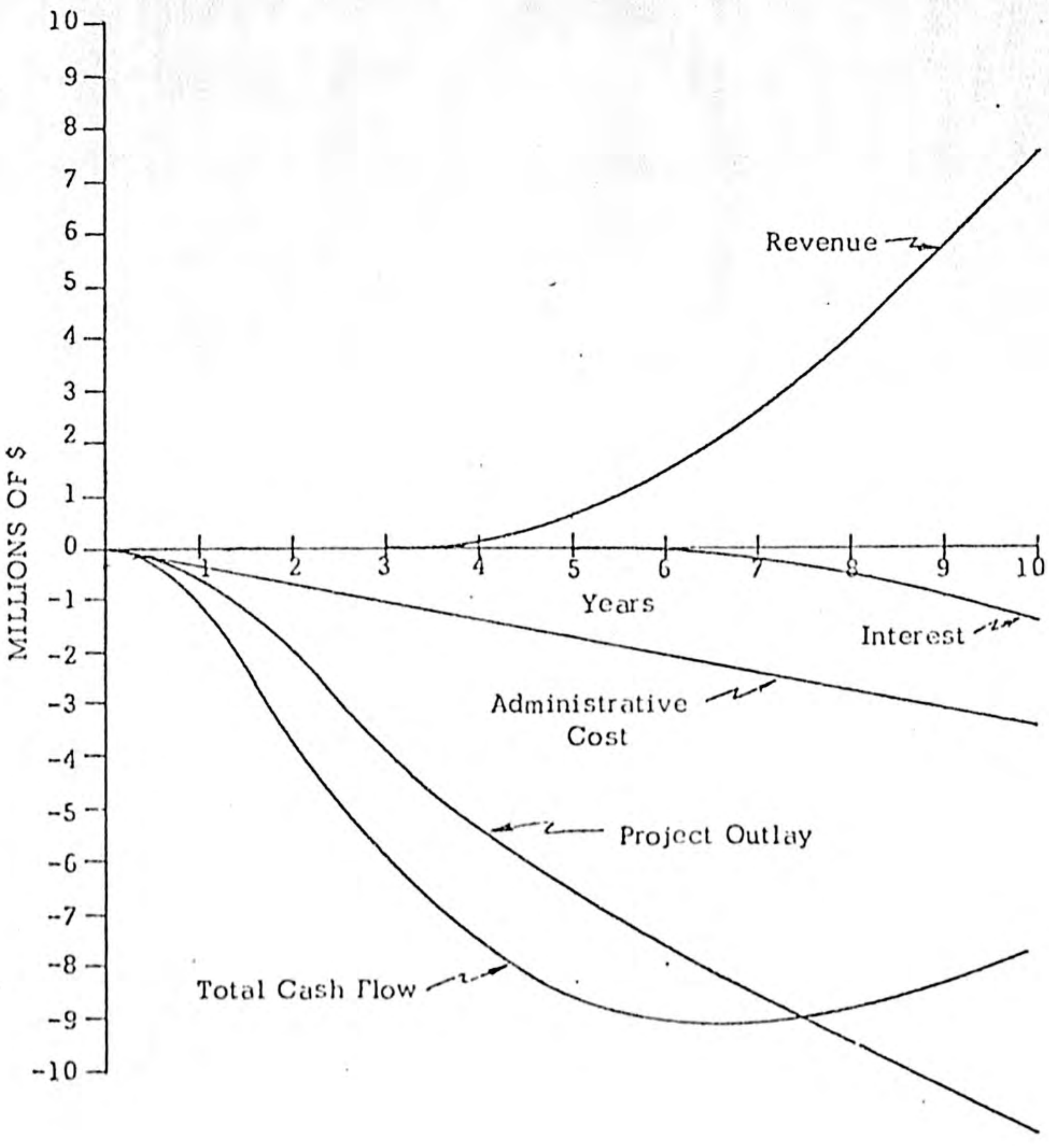

EXHIBIT II

PARAMETERS FOR EMPLOYMENT PREDICTION

1. Direct employment of one person for every $20,000 of sales.

2. Employment by Connecticut subcontractors i 12% of the direct employment.

3. CPDC staff and R&D staff employment at $25,000 average cost per employee.

4. For every three jobs created in manufacturing, two additional jobs appear in the service area.

SCOMM

#9:105

File: confirmation powers –

Cite as, Alaska, 553 P.2d 1

Mike BRADNER, Speaker of the House, Alaska State Legislature, et al., Appellants,

v.

Jay S. HAMMOND, Governor of the State of Alaska, Appellee.

No. 2802.

Supreme Court of Alaska.

Aug. 2, 1976.

Speaker of the House, President of the Senate and State Legislature brought action against Governor for declaratory judgment of constitutionality of statute which provided that appointment of deputy heads of each principal executive department and 19 specified directors of divisions were subject to confirmation by legislature and which prescribed procedures pertaining to confirmation process. The Superior Court, First Judicial District, Juneau, Thomas E. Schulz, J., granted Governor's motion for summary judgment and declared statute unconstitutional, and plaintiffs appealed. The Supreme Court, Rabinowitz, J., held that state constitutional provisions delineate full extent of legislature's authority to confirm Governor's appointment of subordinate executive officers and that such statute was violative of separation of powers requirements of State Constitution.

Judgment affirmed.

1. Constitutional Law ⇐50

"Separation of powers doctrine" prohibits one branch of state government from encroaching upon and exercising powers of another branch.

See publication Words and Phrases for other judicial constructions and definitions.

2. States ⇐46

Appointment of executive officers of state government is an "executive function" rather than a legislative one. Const. art. 3, §§ 1, 16.

See publication Words and Phrases for other judicial constructions and definitions.

3. States ⇐46

Confirmation of appointment of executive officers of state government is an attribute of appointive power of Governor rather than a distinct legislative power. Const. art. 2, § 1; art. 3, §§ 1 et seq., 16.

4. States ⇐46, 52

State constitutional provisions, which empower Governor to appoint and dismiss head of each principal executive department and subjects such appointments to confirmation by legislature and which, with regard to related offices, vests power of appointment in Governor and power to confirm in legislature and provides for removal of such officers as provided by law, delineate full extent of legislature's authority to confirm Governor's appointment of subordinate executive officers. Const. art. 3, §§ 25, 26.

5. Constitutional Law ⇐58
States ⇐46

Statute, which provided that appointment of deputy heads of each principal executive department and 19 specified directors of divisions were subject to confirmation by legislature and which prescribed procedures pertaining to confirmation process, was violative of separation of powers requirements of State Constitution. AS 39.05.020; Const. art. 2, § 1; art. 3, §§ 1, 16, 25, 26; art. 4, § 1.

6. Constitutional Law ⇐50

"Separation of powers doctrine" requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision.

Terrance Sandalow, Ann Arbor, Mich., Billy G. Berrier, Juneau, for appellants.

Robert M. Johnson, Rodger W. Pegues, Asst. Attys. Gen., and Avrum M. Gross, Atty. Gen., Juneau, for appellee.

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Before BOOCHEVER, C. J., RABINOWITZ and ERWIN, JJ., DIMOND, Justice Pro Tem., and TAYLOR, Superior Court Judge sitting as Justice Pro Tem.

OPINION

RABINOWITZ, Justice.

This appeal arises from a declaratory judgment suit which appellants instituted in superior court seeking a declaration that Section 1 of Chapter 82, SLA 1975 is constitutional. This legislative measure effected significant changes in the procedures for appointment and removal of subcabinet officials, including deputy commissioners and division heads of the executive branch of Alaska's government.[1] Specifically, it removed certain division directors from the classified service and placed them in the partially exempt service, provided that the appointment of deputy heads of each principal executive department and 19 specified directors of divisions were subject to confirmation by the legislature in joint session, and it prescribed procedures pertaining to the confirmation process.

The legislative history of Chapter 82 discloses that on April 28, 1975, Alaska's Ninth State Legislature enacted Free Conference Committee Substitute to Senate

1. Chapter 82, SLA 1975 provides:

Section 1. AS 39.05.020 is amended to read:

Sec. 39.05.020. Appointment of department heads and other executive officers. The governor shall appoint the head of each principal executive department in the state government. Each appointment is subject to confirmation by a majority of the members of the legislature in joint session. The following executive appointments are also subject to confirmation by a majority of the members of the legislature in joint session:

(1) The deputy head of each principal executive department of the state;

(2) director, division of banking;

(3) director, division of insurance;

(4) director, division of family and childrens services;

(5) director, division of corrections;

(6) director, division of oil and gas;

(7) director, division of elections;

(8) director, division of policy planning and research;

(9) director, division of personnel;

(10) director, division of budget and management;

(11) director, division of medical assistance;

(12) director, division of mental health;

(13) director, division of public health;

(14) director, office of telecommunications;

(15) director, division of marine transportation;

(16) director, division of waters and harbors;

(17) director, division of lands;

(18) state geologist, division of geological and geophysical surveys;

(19) director, division of agriculture;

(20) director, division of aviation.

Section 2. AS 39.05.080(2) is amended to read:

(2) When appointments are presented to the legislature for confirmation,

(A) the presiding officer of each house shall assign the name of each appointee to a standing committee of that house for a hearing, report and recommendation; standing committees of the two houses assigned the same person's name for consideration may meet jointly to consider the qualifications of the person appointed and may issue either a separate or a joint report and recommendation concerning that person; then

(B) the legislature shall, before the end of the session in which the appointments are presented, in joint session assembled, act on the appointments by confirming or declining to confirm by a majority vote of all of the members the appointments presented.

Sec. 3. AS 39.25.040 is amended to read:

Sec. 39.25.040. Director of personnel. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel must have at least three years of practical working experience in the field of personnel administration.

Sec. 4. AS 39.25.120(2) is amended to read:

(2) the directors, division of personnel, division of mental health, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor; . . .

Bill 98. After initial passage, Governor Hammond vetoed the bill on the ground that Section 1 thereof impinged upon the executive power of appointment. On May 21, 1975, the legislature, in joint session, overrode the veto. The act then became law the following day as Chapter 82 of the 1975 Session Laws of Alaska (hereinafter Chapter 82).

Subsequent to enactment of Chapter 82, Governor Hammond appointed persons to posts affected by the Act's provisions. Under AS 39.05.080(1), part of the codification of Chapter 82, the governor was obliged to present to the legislature for confirmation the names of these persons. The governor refused to do so. Appellants then commenced this action for a declaratory judgment[2] of the constitutionality of Chapter 82. The superior court granted Governor Hammond's motion for summary judgment, declaring Section 1 unconstitutional. This appeal followed.

The controlling constitutional provisions we are called on to interpret here are contained in Article III of Alaska's constitution and concern the appointive powers of the governor.[3] Article III, Section 1 provides:

> The executive power of the State is vested in the governor.

Article III, Section 25 further provides that:

> The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as otherwise provided in this article with respect to the secretary of State. The heads of all principal departments shall be citizens of the United States.

This provision explicitly empowers the governor to appoint and dismiss the head of each principal department. It subjects these executive appointments to confirmation by a majority of the members of the legislature in joint session. Article III, Section 26 treats related offices and provides:

> When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

As with Section 25, Section 26 vests the power of appointment in the governor and the power to confirm in the legislature in joint session. Removal of Section 26 board or commission members is as provided by law and, therefore, not necessarily at the governor's pleasure.

As analyzed by appellants, the sole question in this appeal is whether Sections 25 and 26 of Article III describe the outer

2. AS 22.10.020(b) provides:

   In case of an actual controversy within the state, the superior court, upon the filing of an appropriate pleading, may declare the rights and legal relations of an interested party seeking the declaration, whether or not further relief is or could be sought. The declaration has the force and effect of a final judgment or decree and is reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against an adverse party whose rights have been determined by the judgment.

3. There is no dispute that our constitution was designed with a strong executive in mind. Executive Committee Chairman Victor Rivers reported to the floor that "[w]e are all strongly agreed on the principle of the strong executive." Alaska Constitutional Convention Proceedings at 1984 (hereinafter ACCP). *Accord*, ACCP at 1102, 1741, 1986–88, 2038, 3103.

limits of the legislature's confirmation authority, or whether the legislature may by statute require confirmation of other high-level, policy-making officials within the executive branch. In arguing that Sections 25 and 26 only establish a constitutional minimum requiring that certain appointments within the executive branch must be legislatively confirmed, appellants emphasize that neither Section 25 nor 26 prohibits the legislature from requiring confirmation of other executive appointments. Admitting that the power to enact legislative confirmation requirements in addition to those provided for in Sections 25 and 26 is not explicitly conferred on the legislature by Alaska's constitution, appellants advance the contention that the validity of Chapter 82 turns on whether such enactments are within the ambit of the constitution's general grant of legislative power to the legislative branch of Alaska's government.[4]

In opposition, appellee Hammond primarily argues that the power to confirm executive officers is an executive power which may be lawfully exercised by the legislature only to the extent granted by the Alaska Constitution. Viewed in this manner, appellee analyzes the power to confirm executive officers as part of the appointment process, incapable of existence independent of the power of appointment, and characterizes this confirmation authority as a power "super-added" to the legislature's general legislative powers. Thus, appellee would find that Sections 25 and 26 set the maximum rather than the minimum parameters of the legislature's power to confirm appointments of executive officers. This follows, according to appellee, from the fact that legislative confirmation is a delegated function taken from an executive function, and thus the breadth of this delegated authority must be strictly construed.[5] Applying this strict interpretative criterion, appellee concludes that Chapter 82 is violative of the separation of

4. Article II, Section 1 of the Alaska Constitution provides in part that "[t]he legislative power of the State is vested in a legislature . . . ."

In support of their thesis that the confirmation power is within the legislative power grant of Article II, Section 1, appellants contend that the record of the constitutional convention demonstrates that the delegates "clearly understood that the legislature would have authority to enact statutory confirmation requirements." Additionally, appellants point to the circumstance that since the inception of statehood both the executive and legislative branches "have consistently acted upon the understanding that the legislature has such authority" and this longstanding interpretation should be accorded significant weight by the judiciary in matters of constitutional interpretation. *Okanogan Indians v. United States* (The Pocket Veto Case) 279 U.S. 655, 49 S.Ct. 463, 73 L.Ed. 894 (1929); *Hampton v. United States*, 276 U.S. 394, 48 S.Ct. 348, 72 L.Ed. 624 (1928); *Downes v. Bidwell*, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901); *see generally* 16 Am.Jur.2d Constitutional Law § 83 (1964); 16 C.J.S. Constitutional Law §§ 32–34 (1956).

In addition appellants emphasize that this interpretation dates back to the first years of statehood. Contemporaneous interpretation of fundamental law by those participating in its drafting has traditionally been viewed as especially weighty evidence of the framers' intent. *Myers v. United States*, 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160 (1926); *Cooper Mfg. Co. v. Ferguson*, 113 U.S. 727, 5 S.Ct. 739, 28 L.Ed. 1137 (1885); *Norfolk & W. Ry. Co. v. Board of Public Works*, 124 W.Va. 562, 21 S.E.2d 143 (1942); *Jones v. Williams*, 121 Tex. 94, 45 S.W.2d 130 (1931).

5. Countering appellants' contention, appellee's reading of Alaska's constitutional history demonstrates "an intent by the constitutional framers to restrict legislative confirmation of those officers set forth in Art. III, §§ 25 and 26."

The attorney general candidly admitted at oral argument that examination of practice between the legislative and executive branches since statehood indicates that the executive has at least acquiesced to legislative confirmation of certain subcabinet officials. However, he argued that the political reality of a legislature dominated by the same party as that of the governor, as well as the minor interference such intervention created, indicates that the executive stance in the past should not be read as a "constitutional interpretation by a coordinate branch of government," but rather as a product of a realistic ordering of executive goals at the time.

powers doctrine implied in Alaska's constitution.

After study of the excellent briefs and oral arguments of respective counsel, on March 25, 1976, this court issued an order affirming the superior court's declaration that Section 1, Chapter 82, SLA 1975 is unconstitutional. In this order we further indicated that a full opinion would be issued in due course.[6]

[1] In *Alaska State-Operated School System v. Mueller*, 536 P.2d 99, 103 (Alaska 1975), we observed that "[t]hose who wrote our constitution followed the traditional framework of American government. The governmental authority of the State of Alaska was distributed among the three branches, the executive, the legislative and the judicial." Analyzing this tripartite form of government provided for Alaska, this court concluded, in *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947, 950 (Alaska 1975), that ". . . it can be fairly implied that this state does recognize the separation of powers doctrine."[7] Our recent opinion in *Continental Insurance Cos. v. Bayless & Roberts, Inc.*, 548 P.2d 398, 410–11 (Alaska 1976), acknowledges that the underlying rationale of the doctrine of separation of powers is the avoidance of tyrannical aggrandizement of power by a single branch of government through the mechanism of diffusion of governmental powers.[8] It it clear that the doctrine is not a common law concept; it is, however, a brooding omnipresence by virtue of its conceptually central role in the structure of American constitutional government.

A problem inherent in applying the doctrine of "separation of powers" stems from the fact that the doctrine is descriptive of only one facet of American government. The complementary doctrine of checks and balances must of necessity be considered in determining the scope of the doctrine of separation of powers.[9] Both doctrines address and are designed to resolve the problem of efficient government versus tyrranical government[10] and have as their goal

6. At oral argument respective counsel advised that if a decision was not forthcoming in the immediate future, Governor Hammond, without prejudice to his position in this appeal, intended to submit the names of various subcabinet appointments to the legislature in order to facilitate confirmation hearings. Our March order was in response to these disclosed time constraints.

7. In *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947, 950 (Alaska 1975), we also said that "[a]lthough the Alaska Constitution does not expressly address itself to the doctrine of separation of powers, we have noted that often what is implied is as much a part of the constitution as what is expressed. *Wade v. Nolan*, 414 P.2d 689, 698 (Alaska 1966)."

In reaching this conclusion that the doctrine of separation of powers is implicit in the Alaska Constitution, we cited *Lira v. Billings*, 196 Kan. 726, 414 P.2d 13, 16 (1966), where the Kansas Supreme Court acknowledged that the doctrine is implied from the existence of three separate constitutional provisions calling for three branches of government.

8. *Continental* dealt in part with the inherent contempt powers of the courts of Alaska. There we observed that the inherent power to punish for contempt exists independently of statute and that although the legislature may regulate the procedure and enlarge the power, it cannot ". . . 'without trenching upon the constitutional powers of the court, and destroying the autonomy of that system of checks and balances which is one of the chief features of our triple-department form of government, fetter the power itself.'" *Continental Ins. Cos. v. Bayless & Roberts, Inc.*, 548 P.2d 398, 410 (Alaska 1976), quoting *In re Shortridge*, 99 Cal. 526, 528, 34 P. 227, 229 (1893).

The doctrine prohibits one branch from encroaching upon and exercising the powers of another branch. *Myers v. United States*, 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160 (1926); *Giss v. Jordan*, 82 Ariz. 152, 309 P.2d 779 (1957).

9. ". . . a dynamic relationship of cooperation and conflict. . . ." R. Tresolini & M. Shapiro, American Constitutional Law 9 (3d ed. 1970) [hereinafter Tresolini].

10. Tresolini, *supra* note 9, at 11. *Compare* *O'Donoghue v. United States*, 289 U.S. 516, 530, 53 S.Ct. 740, 77 L.Ed. 1356, 1360 (1933) *and* *United Public Workers of America v. Mitchell*, 330 U.S. 75, 91, 67 S.Ct. 556, 565, 91 L.Ed. 754, 768 (1947).

the protection of the electorate from tyranny.[11] In the instant appeal, the parties, in recognition of the controlling nature of the issue, dispute the meaning of the doctrine of separation of powers, and its implications for the determination as to whether Chapter 82 is violative of Alaska's constitution. In our view, the doctrine is of importance to the resolution of the merits of this appeal, for if the doctrine clearly precludes legislative intervention (by confirmation) in the appointment of executive officials, or requires "strict departmentalization," then Chapter 82, which purports to authorize legislative "meddling" in the exercise of an executive power, is unconstitutional because it would be violative of separation of powers requirements.

[2] In determining if Chapter 82 violates the doctrine of separation of powers, which is implicit in Alaska's constitution, it is necessary to answer the threshold question whether the appointment of executive officers is a legislative or executive function. Under the structure envisaged by Alaska's fundamental charter, the legislative power of the state is vested in the legislature,[12] the executive power in the governor,[13] and the judicial power in a supreme court, a superior court and such additional courts as established by the legislature.[14]

Appellee contends that the appointment of executive officers is an executive function.[15] We find appellee's contention most persuasive. In addition to vesting the executive power of the state in the governor, Section 16 of Article III provides that "[t]he governor shall be responsible for the faithful execution of the laws." In view of the responsibilities imposed by Section 16, and the authority granted by Section 1, the governor is necessarily clothed with the power to appoint subordinate executive officers to aid him in carrying out the laws of Alaska.[16] Thus, we conclude that the appointment of executive officers is an executive function;[17] for without such a power, the responsibility for executing executive duties would be diffused and the goal of separation of branches of government, avoiding too

11. Justice Brandeis wrote, dissenting in *Myers v. United States*, 272 U.S. 52, 293–95, 47 S.Ct. 21, 85, 71 L.Ed. 160, 242–43 (1926):

> The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy. . . . In America, as in England, the conviction prevailed then that the people must look to representation assemblies for the protection of their liberties. And protection of the individual, even if he be an official, from the arbitrary or capricious exercise of power was then believed to be an essential of free government.

Compare C. Antieau, 2 Modern Constitutional Law § 11:13, at 200 (1st ed. 1969):

> The doctrine of separation of powers was deemed necessary by the framers of the Constitution for two principal purposes: first, to protect the liberty of the citizen; and second, to safeguard the independence of each branch of the government and protect it from domination and interference by the others.

Cf. Warren v. Boucher, 543 P.2d 731, 734, 737 (Alaska 1975).

12. Art. II, § 1, Alaska Const.

13. Art. III, § 1, Alaska Const.

14. Art. IV, § 1, Alaska Const.

15. There is no dispute here that the appointees subjected to legislative confirmation by Chapter 82 are executive officers.

16. *Ahearn v. Bailey*, 104 Ariz. 250, 451 P.2d 30 (1969).

17. In *Springer v. Philippine Islands*, 277 U.S. 189, 202, 48 S.Ct. 480, 482, 72 L.Ed. 845, 849 (1927), the Supreme Court said:

> Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions.

See also Myers v. United States, 272 U.S. 56, 115–16, 47 S.Ct. 21, 24–25, 71 L.Ed. 160, 165–66 (1926).

great a concentration of power in one branch, would be defeated.

[3] Given our conclusion that under Alaska's constitution the appointment of subordinate executive officers by the governor is an executive function, it is then necessary to determine the nature of the legislature's confirmation powers. Here we are in agreement with appellee's analysis that under Alaska's constitution confirmation is a specific attribute of the appointive power of the executive.[18] Other courts which have been called upon to resolve this issue have been unanimous in their holdings that confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which has in turn been delegated in some specific instances by constitution to the legislative branch of government.[19]

In light of the nature of the legislature's power of confirmation, the question whether Sections 25 and 26 of Article III describe the outer limits of the legislature's confirmation authority, or whether the legislature may by statute require confirmation of other high-level, policy making officials within the executive branch, admits of but one resolution. As to this issue, we think the provisions of Sections 25 and 26 of Article III are clear and unambiguous.[20] Thus, we conclude that Sections 25 and 26 mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government.[21]

[4–6] The lack of ambiguity in Sections 25 and 26 of Article III of the Alaska Constitution mandate that this court interpret these express provisions as embodying not only th. maximum parameters of the delegation of the executive appointive authority through the legislative confirmation function but, further, that they delineate the full extent of the constitution's express grant to the legislative branch of checks on the governor's power to appoint subordinate executive officers. In our view, the separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision.[22]

18. In *Myers v. United States*, 272 U.S. 56, 169, 47 S.Ct. 21, 43, 71 L.Ed. 160, 187 (1926), the Supreme Court termed confirmation a power "super added" to those possessed by the legislature.

19. *Myers v. United States*, 272 U.S. 56, 138–39, 47 S.Ct. 21, 32–33, 71 L.Ed. 160, 174–75 (1926); *Wittler v. Baumgartner*, 180 Neb. 446, 144 N.W.2d 62, 67 (1966); *Spears v. Davis*, 398 S.W.2d 921 (Tex.1966); *Walker v. Baker*, 145 Tex. 121, 196 S.W.2d 324 (1946); *State v. Dowling*, 167 La. 907, 120 So. 593 (1928); *People v. Shawver*, 30 Wyo. 366, 222 P. 11 (1924).

20. *Compare Warwick v. State ex rel. Chance*, 548 P.2d 384, 391–96 (Alaska 1976).

21. In *O'Donoghue v. United States*, 289 U.S. 516, 530, 53 S.Ct. 740, 743, 77 L.Ed. 1356 (1933) (emphasis added), the Supreme court said:

The Constitution, in distributing the powers of government, creates three distinct and separate departments—the legislative, the executive, and the judicial. This separation is not merely a matter of convenience or of governmental mechanism. Its object is basic and vital, *Springer v. Philippine Islands*, 277 U.S. 189, 201, 48 S.Ct. 480, 72 L.Ed. 845; namely, to preclude a commingling of these essentially different powers of government in the same hands. *And this object is none the less apparent and controlling because there is to be found in the Constitution an occasional specific provision conferring upon a given department certain functions, which, by their nature, would otherwise fall within the general scope of the powers of another.* Such exceptions serve rather to emphasize the generally inviolate character of the plan.

22. *Compare Leege v. Martin*, 379 P.2d 447, 450 (Alaska 1963). *See also State v. Campbell*, 536 P.2d 105, 110–11 (Alaska 1975), where we said (footnotes omitted):

This court is admittedly under a duty to reconcile, whenever possible, challenged legislation with the constitution by rendering a construction that would harmonize the statutory language with specific constitutional provisions. However, in fulfilling that duty, the extent to which the express language of the provision can be altered and departed from and the extent to which the infirmities can be rectified by the use of implied terms is limited by the constitutionally decreed separation of powers which prohibits this court from enacting legislation or redrafting defective statutes.

To hold otherwise would emasculate the restraints engendered by the doctrine of separation of powers and result in potentially serious encroachments upon the executive by the legislative branch, because there would be no logical termination point to the legislature's confirmation of executive appointments.[23]

The superior court's judgment is Affirmed.

CONNOR and BURKE, JJ., not participating.

Kenneth D. MOORE et al., Appellants,

v.

STATE of Alaska et al., Appellees.

STANDARD OIL COMPANY OF CALIFORNIA, Cross-Appellant,

v.

Kenneth D. MOORE et al., Cross-Appellees.

Nos. 2551, 2587.

Supreme Court of Alaska.

July 9, 1976.

Fishermen and owner of lodge on Kachemak Bay brought action challenging legality of sale of certain offshore oil and gas leases in the Bay. The Superior Court, Third Judicial District, Anchorage, Thomas E. Schulz, J., granted defendants' motion for summary judgment and fishermen and lodge owner appealed. The Supreme Court, in separate opinions by Connor and Rabinowitz, JJ., held that the action was not barred by laches; that legal requirements concerning publication of notice of sale were met; that determination that the sale was in the best interests of the State was required to be made prior to the sale; that contention that no such decision had been made was subject to judicial review; that the director of the division of lands had not made such a determination; that remand was required for determination of whether commissioner of natural resources had relieved the director of the division of lands of the responsibility for making that decision; that director of division of lands was required to consult with planning agencies in two cities and one borough in the vicinity of Kachemak Bay prior to entering into the sale; but that rule requiring the director to enter into such consultation would be applied prospectively only.

Remanded.

Dimond, J. pro tem., dissented in part and filed an opinion in which Rabinowitz, J., concurred.

Connor, J., filed a statement dissenting in part.

1. Appeal and Error ⟹949
Equity ⟹84

Decision to sustain a defense based on laches is properly addressed to the discretion of the trial court and will not be overturned unless the Supreme Court feels a definite and firm conviction that a mistake has been committed.

2. Appeal and Error ⟹1169(8)

Although clear error in a trial court ruling cannot be demonstrated by merely showing a conflict in evidence and Supreme Court will not reweigh conflicting evidence, existence of conflicts in evidence which give rise to genuine issues of material fact provides an adequate ground for reversal of a grant of summary judgment.

3. Equity ⟹72(1)

Before the equitable doctrine of laches can be applied, defendant must show that the plaintiff was guilty of inexcusable delay and that the delay resulted in undue prejudice to the defendant.

23. Our holding makes it unnecessary to discuss any of the other arguments advanced in this appeal.

Mike BRADNER, Speaker of the House, Alaska State Legislature, et al., Appellants,

v.

Jay S. HAMMOND, Governor of the State of Alaska, Appellee.

No. 2802.

Supreme Court of Alaska.

Aug. 2, 1976.

Speaker of the House, President of the Senate and State Legislature brought action against Governor for declaratory judgment of constitutionality of statute which provided that appointment of deputy heads of each principal executive department and 19 specified directors of divisions were subject to confirmation by legislature and which prescribed procedures pertaining to confirmation process. The Superior Court, First Judicial District, Juneau, Thomas E. Schulz, J., granted Governor's motion for summary judgment and declared statute unconstitutional, and plaintiffs appealed. The Supreme Court, Rabinowitz, J., held that state constitutional provisions delineate full extent of legislature's authority to confirm Governor's appointment of subordinate executive officers and that such statute was violative of separation of powers requirements of State Constitution.

Judgment affirmed.

1. Constitutional Law ⇐50

"Separation of powers doctrine" prohibits one branch of state government from encroaching upon and exercising powers of another branch.

See publication Words and Phrases for other judicial constructions and definitions.

2. States ⇐46

Appointment of executive officers of state government is an "executive function" rather than a legislative one. Const. art. 3, §§ 1, 16.

See publication Words and Phrases for other judicial constructions and definitions.

3. States ⇐46

Confirmation of appointment of executive officers of state government is an attribute of appointive power of Governor rather than a distinct legislative power. Const. art. 2, § 1; art. 3, §§ 1 et seq., 16.

4. States ⇐46, 52

State constitutional provisions, which empower Governor to appoint and dismiss head of each principal executive department and subjects such appointments to confirmation by legislature and which, with regard to related offices, vests power of appointment in Governor and power to confirm in legislature and provides for removal of such officers as provided by law, delineate full extent of legislature's authority to confirm Governor's appointment of subordinate executive officers. Const. art. 3, §§ 25, 26.

5. Constitutional Law ⇐58
States ⇐46

Statute, which provided that appointment of deputy heads of each principal executive department and 19 specified directors of divisions were subject to confirmation by legislature and which prescribed procedures pertaining to confirmation process, was violative of separation of powers requirements of State Constitution. AS 39.05.020; Const. art. 2, § 1; art. 3, §§ 1, 16, 25, 26; art. 4, § 1.

6. Constitutional Law ⇐50

"Separation of powers doctrine" requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision.

Terrance Sandalow, Ann Arbor, Mich., Billy G. Berrier, Juneau, for appellants.

Robert M. Johnson, Rodger W. Pegues, Asst. Attys. Gen., and Avrum M. Gross, Atty. Gen., Juneau, for appellee.

Before BOOCHEVER, C. J., RABINOWITZ and ERWIN, JJ., DIMOND, Justice Pro Tem., and TAYLOR, Superior Court Judge sitting as Justice Pro Tem.

OPINION

RABINOWITZ, Justice.

This appeal arises from a declaratory judgment suit which appellants instituted in superior court seeking a declaration that Section 1 of Chapter 82, SLA 1975 is constitutional. This legislative measure effected significant changes in the procedures for appointment and removal of subcabinet officials, including deputy commissioners and division heads of the executive branch of Alaska's government.[1] Specifically, it removed certain division directors from the classified service and placed them in the partially exempt service, provided that the appointment of deputy heads of each principal executive department and 19 specified directors of divisions were subject to confirmation by the legislature in joint session, and it prescribed procedures pertaining to the confirmation process.

The legislative history of Chapter 82 discloses that on April 28, 1975, Alaska's Ninth State Legislature enacted Free Conference Committee Substitute to Senate

1. Chapter 82, SLA 1975 provides:

Section 1. AS 39.05.020 is amended to read:

Sec. 39.05.020. Appointment of department heads and other executive officers. The governor shall appoint the head of each principal executive department in the state government. Each appointment is subject to confirmation by a majority of the members of the legislature in joint session. The following executive appointments are also subject to confirmation by a majority of the members of the legislature in joint session:

(1) The deputy head of each principal executive department of the state;

(2) director, division of banking;

(3) director, division of insurance;

(4) director, division of family and childrens services;

(5) director, division of corrections;

(6) director, division of oil and gas;

(7) director, division of elections;

(8) director, division of policy planning and research;

(9) director, division of personnel;

(10) director, division of budget and management;

(11) director, division of medical assistance;

(12) director, division of mental health;

(13) director, division of public health;

(14) director, office of telecommunications;

(15) director, division of marine transportation;

(16) director, division of waters and harbors;

(17) director, division of lands;

(18) state geologist, division of geological and geophysical surveys;

(19) director, division of agriculture;

(20) director, division of aviation.

Section 2. AS 39.05.080(2) is amended to read:

(2) When appointments are presented to the legislature for confirmation,

(A) the presiding officer of each house shall assign the name of each appointee to a standing committee of that house for a hearing, report and recommendation; standing committees of the two houses assigned the same person's name for consideration may meet jointly to consider the qualifications of the person appointed and may issue either a separate or a joint report and recommendation concerning that person; then

(B) the legislature shall, before the end of the session in which the appointments are presented, in joint session assembled, act on the appointments by confirming or declining to confirm by a majority vote of all of the members the appointments presented.

Sec. 3. AS 39.25.010 is amended to read:

Sec. 39.25.010. Director of personnel. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel must have at least three years of practical working experience in the field of personnel administration.

Sec. 4. AS 39.25.120(2) is amended to read:

(2) the directors, division of personnel, division of mental health, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor; . . .

Bill 98. After initial passage, Governor Hammond vetoed the bill on the ground that Section 1 thereof impinged upon the executive power of appointment. On May 21, 1975, the legislature, in joint session, overrode the veto. The act then became law the following day as Chapter 82 of the 1975 Session Laws of Alaska (hereinafter Chapter 82).

Subsequent to enactment of Chapter 82, Governor Hammond appointed persons to posts affected by the Act's provisions. Under AS 39.05.080(1), part of the codification of Chapter 82, the governor was obliged to present to the legislature for confirmation the names of these persons. The governor refused to do so. Appellants then commenced this action for a declaratory judgment[2] of the constitutionality of Chapter 82. The superior court granted Governor Hammond's motion for summary judgment, declaring Section 1 unconstitutional. This appeal followed.

The controlling constitutional provisions we are called on to interpret here are contained in Article III of Alaska's constitution and concern the appointive powers of the governor.[3] Article III, Section 1 provides:

> The executive power of the State is vested in the governor.

Article III, Section 25 further provides that:

> The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as otherwise provided in this article with respect to the secretary of State. The heads of all principal departments shall be citizens of the United States.

This provision explicitly empowers the governor to appoint and dismiss the head of each principal department. It subjects these executive appointments to confirmation by a majority of the members of the legislature in joint session. Article III, Section 26 treats related offices and provides:

> When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

As with Section 25, Section 26 vests the power of appointment in the governor and the power to confirm in the legislature in joint session. Removal of Section 26 board or commission members is as provided by law and, therefore, not necessarily at the governor's pleasure.

As analyzed by appellants, the sole question in this appeal is whether Sections 25 and 26 of Article III describe the outer

2. AS 22.10.020(b) provides:

In case of an actual controversy within the state, the superior court, upon the filing of an appropriate pleading, may declare the rights and legal relations of an interested party seeking the declaration, whether or not further relief is or could be sought. The declaration has the force and effect of a final judgment or decree and is reviewable as such. Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against an adverse party whose rights have been determined by the judgment.

3. There is no dispute that our constitution was designed with a strong executive in mind. Executive Committee Chairman Victor Rivers reported to the floor that "[w]e are all strongly agreed on the principle of the strong executive." Alaska Constitutional Convention Proceedings at 1984 (hereinafter ACCP). *Accord*, ACCP at 1102, 1741, 1986-88, 2038, 3103.

limits of the legislature's confirmation authority, or whether the legislature may by statute require confirmation of other high-level, policy-making officials within the executive branch. In arguing that Sections 25 and 26 only establish a constitutional minimum requiring that certain appointments within the executive branch must be legislatively confirmed, appellants emphasize that neither Section 25 nor 26 prohibits the legislature from requiring confirmation of other executive appointments. Admitting that the power to enact legislative confirmation requirements in addition to those provided for in Sections 25 and 26 is not explicitly conferred on the legislature by Alaska's constitution, appellants advance the contention that the validity of Chapter 82 turns on whether such enactments are within the ambit of the constitution's general grant of legislative power to the legislative branch of Alaska's government.[4]

In opposition, appellee Hammond primarily argues that the power to confirm executive officers is an executive power which may be lawfully exercised by the legislature only to the extent granted by the Alaska Constitution. Viewed in this manner, appellee analyzes the power to confirm executive officers as part of the appointment process, incapable of existence independent of the power of appointment, and characterizes this confirmation authority as a power "super-added" to the legislature's general legislative powers. Thus, appellee would find that Sections 25 and 26 set the maximum rather than the minimum parameters of the legislature's power to confirm appointments of executive officers. This follows, according to appellee, from the fact that legislative confirmation is a delegated function taken from an executive function, and thus the breadth of this delegated authority must be strictly construed.[5] Applying this strict interpretative criterion, appellee concludes that Chapter 82 is violative of the separation of

4. Article II, Section 1 of the Alaska Constitution provides in part that "[t]he legislative power of the State is vested in a legislature . . . ."

In support of their thesis that the confirmation power is within the legislative power grant of Article II, Section 1, appellants contend that the record of the constitutional convention demonstrates that the delegates "clearly understood that the legislature would have authority to enact statutory confirmation requirements." Additionally, appellants point to the circumstance that since the inception of statehood both the executive and legislative branches "have consistently acted upon the understanding that the legislature has such authority" and this longstanding interpretation should be accorded significant weight by the judiciary in matters of constitutional interpretation. *Okanogan Indians v. United States* (The Pocket Veto Case) 279 U.S. 655, 49 S.Ct. 463, 73 L.Ed. 894 (1929); *Hampton v. United States*, 276 U.S. 394, 48 S.Ct. 348, 72 L.Ed. 624 (1928); *Downes v. Bidwell*, 182 U.S. 244, 21 S.Ct. 770, 45 L.Ed. 1088 (1901); *see generally* 16 Am.Jur.2d Constitutional Law § 83 (1964); 16 C.J.S. Constitutional Law §§ 32-34 (1956).

In addition appellants emphasize that this interpretation dates back to the first years of statehood. Contemporaneous interpretation of fundamental law by those participating in its drafting has traditionally been viewed as especially weighty evidence of the framers' intent. *Myers v. United States*, 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160 (1926); *Cooper Mfg. Co. v. Ferguson*, 113 U.S. 727, 5 S.Ct. 739, 28 L.Ed. 1137 (1885); *Norfolk & W. Ry. Co. v. Board of Public Works*, 124 W.Va. 562, 21 S.E.2d 143 (1942); *Jones v. Williams*, 121 Tex. 94, 45 S.W.2d 130 (1931).

5. Countering appellants' contention, appellee's reading of Alaska's constitutional history demonstrates "an intent by the constitutional framers to restrict legislative confirmation of those officers set forth in Art. III, §§ 25 and 26."

The attorney general candidly admitted at oral argument that examination of practice between the legislative and executive branches since statehood indicates that the executive has at least acquiesced to legislative confirmation of certain subcabinet officials. However, he argued that the political reality of a legislature dominated by the same party as that of the governor, as well as the minor interference such intervention created, indicates that the executive stance in the past should not be read as a "constitutional interpretation by a coordinate branch of government," but rather as a product of a realistic ordering of executive goals at the time.

powers doctrine implied in Alaska's constitution.

After study of the excellent briefs and oral arguments of respective counsel, on March 25, 1976, this court issued an order affirming the superior court's declaration that Section 1, Chapter 82, SLA 1975 is unconstitutional. In this order we further indicated that a full opinion would be issued in due course.[6]

[1] In *Alaska State-Operated School System v. Mueller*, 536 P.2d 99, 103 (Alaska 1975), we observed that "[t]hose who wrote our constitution followed the traditional framework of American government. The governmental authority of the State of Alaska was distributed among the three branches, the executive, the legislative and the judicial." Analyzing this tripartite form of government provided for Alaska, this court concluded, in *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947, 950 (Alaska 1975), that ". . . it can be fairly implied that this state does recognize the separation of powers doctrine."[7] Our recent opinion in *Continental Insurance Cos. v. Bayless & Roberts, Inc.*, 548 P.2d 398, 410–11 (Alaska 1976), acknowledges that the underlying rationale of the doctrine of separation of powers is the avoidance of tyrannical aggrandizement of power by a single branch of government through the mechanism of diffusion of governmental powers.[8] It it clear that the doctrine is not a common law concept; it is, however, a brooding omnipresence by virtue of its conceptually central role in the structure of American constitutional government.

A problem inherent in applying the doctrine of "separation of powers" stems from the fact that the doctrine is descriptive of only one facet of American government. The complementary doctrine of checks and balances must of necessity be considered in determining the scope of the doctrine of separation of powers.[9] Both doctrines address and are designed to resolve the problem of efficient government versus tyrannical government[10] and have as their goal

6. At oral argument respective counsel advised that if a decision was not forthcoming in the immediate future, Governor Hammond, without prejudice to his position in this appeal, intended to submit the names of various subcabinet appointments to the legislature in order to facilitate confirmation hearings. Our March order was in response to these disclosed time constraints.

7. In *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947, 950 (Alaska 1975), we also said that "[a]lthough the Alaska Constitution does not expressly address itself to the doctrine of separation of powers, we have noted that often what is implied is as much a part of the constitution as what is expressed. *Wade v. Nolan*, 414 P.2d 689, 698 (Alaska 1966)."

In reaching this conclusion that the doctrine of separation of powers is implicit in the Alaska Constitution, we cited *Lira v. Billings*, 196 Kan. 726, 414 P.2d 13, 16 (1966), where the Kansas Supreme Court acknowledged that the doctrine is implied from the existence of three separate constitutional provisions calling for three branches of government.

8. *Continental* dealt in part with the inherent contempt powers of the courts of Alaska. There we observed that the inherent power to punish for contempt exists independently of statute and that although the legislature may regulate the procedure and enlarge the power, it cannot ". . . 'without trenching upon the constitutional powers of the court, and destroying the autonomy of that system of checks and balances which is one of the chief features of our triple-department form of government, fetter the power itself.'" *Continental Ins. Cos. v. Bayless & Roberts, Inc.*, 548 P.2d 398, 410 (Alaska 1976), quoting *In re Shortridge*, 99 Cal. 526, 528, 34 P. 227, 229 (1893).

The doctrine prohibits one branch from encroaching upon and exercising the powers of another branch. *Myers v. United States*, 272 U.S. 52, 47 S.Ct. 21, 71 L.Ed. 160 (1926); *Giss v. Jordan*, 82 Ariz. 152, 309 P.2d 779 (1957).

9. ". . . a dynamic relationship of cooperation and conflict. . . ." R. Tresolini & M. Shapiro, American Constitutional Law 9 (3d ed. 1970) [hereinafter Tresolini].

10. Tresolini, *supra* note 9, at 11. *Compare O'Donoghue v. United States*, 289 U.S. 516, 530, 53 S.Ct. 740, 77 L.Ed. 1356, 1360 (1933) *and United Public Workers of America v. Mitchell*, 330 U.S. 75, 91, 67 S.Ct. 556, 565, 91 L.Ed. 754, 768 (1947).

the protection of the electorate from tyranny.[11] In the instant appeal, the parties, in recognition of the controlling nature of the issue, dispute the meaning of the doctrine of separation of powers, and its implications for the determination as to whether Chapter 82 is violative of Alaska's constitution. In our view, the doctrine is of importance to the resolution of the merits of this appeal, for if the doctrine clearly precludes legislative intervention (by confirmation) in the appointment of executive officials, or requires "strict departmentalization," then Chapter 82, which purports to authorize legislative "meddling" in the exercise of an executive power, is unconstitutional because it would be violative of separation of powers requirements.

[2] In determining if Chapter 82 violates the doctrine of separation of powers, which is implicit in Alaska's constitution, it is necessary to answer the threshold question whether the appointment of executive officers is a legislative or executive function. Under the structure envisaged by Alaska's fundamental charter, the legislative power of the state is vested in the legislature,[12] the executive power in the governor,[13] and the judicial power in a supreme court, a superior court and such additional courts as established by the legislature.[14]

Appellee contends that the appointment of executive officers is an executive function.[15] We find appellee's contention most persuasive. In addition to vesting the executive power of the state in the governor, Section 16 of Article III provides that "[t]he governor shall be responsible for the faithful execution of the laws." In view of the responsibilities imposed by Section 16, and the authority granted by Section 1, the governor is necessarily clothed with the power to appoint subordinate executive officers to aid him in carrying out the laws of Alaska.[16] Thus, we conclude that the appointment of executive officers is an executive function;[17] for without such a power, the responsibility for executing executive duties would be diffused and the goal of separation of branches of government, avoiding too

11. Justice Brandeis wrote, dissenting in *Myers v. United States*, 272 U.S. 52, 293–95, 47 S.Ct. 21, 85, 71 L.Ed. 160, 242–43 (1926):

> The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy. . . . In America, as in England, the conviction prevailed then that the people must look to representation assemblies for the protection of their liberties. And protection of the individual, even if he be an official, from the arbitrary or capricious exercise of power was then believed to be an essential of free government.

Compare C. Antieau, 2 Modern Constitutional Law § 11:13, at 200 (1st ed. 1969):

> The doctrine of separation of powers was deemed necessary by the framers of the Constitution for two principal purposes: first, to protect the liberty of the citizen; and second, to safeguard the independence of each branch of the government and protect it from domination and interference by the others.

Cf. Warren v. Boucher, 543 P.2d 731, 734, 737 (Alaska 1975).

12. Art. II, § 1, Alaska Const.

13. Art. III, § 1, Alaska Const.

14. Art. IV, § 1, Alaska Const.

15. There is no dispute here that the appointees subjected to legislative confirmation by Chapter 82 are executive officers.

16. *Ahearn v. Bailey*, 104 Ariz. 250, 451 P.2d 30 (1969).

17. In *Springer v. Philippine Islands*, 277 U.S. 189, 202, 48 S.Ct. 480, 482, 72 L.Ed. 845, 849 (1927), the Supreme Court said:

> Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions.

See also Myers v. United States, 272 U.S. 56, 115-16, 47 S.Ct. 21, 24-25, 71 L.Ed. 160, 165-66 (1926).

great a concentration of power in one branch, would be defeated.

[3] Given our conclusion that under Alaska's constitution the appointment of subordinate executive officers by the governor is an executive function, it is then necessary to determine the nature of the legislature's confirmation powers. Here we are in agreement with appellee's analysis that under Alaska's constitution confirmation is a specific attribute of the appointive power of the executive.[18] Other courts which have been called upon to resolve this issue have been unanimous in their holdings that confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which has in turn been delegated in some specific instances by constitution to the legislative branch of government.[19]

In light of the nature of the legislature's power of confirmation, the question whether Sections 25 and 26 of Article III describe the outer limits of the legislature's confirmation authority, or whether the legislature may by statute require confirmation of other high-level, policy making officials within the executive branch, admits of but one resolution. As to this issue, we think the provisions of Sections 25 and 26 of Article III are clear and unambiguous.[20] Thus, we conclude that Sections 25 and 26 mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government.[21]

[4-6] The lack of ambiguity in Sections 25 and 26 of Article III of the Alaska Constitution mandate that this court interpret these express provisions as embodying not only the maximum parameters of the delegation of the executive appointive authority through the legislative confirmation function but, further, that they delineate the full extent of the constitution's express grant to the legislative branch of checks on the governor's power to appoint subordinate executive officers. In our view, the separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision.[22]

18. In *Myers v. United States*, 272 U.S. 56, 169, 47 S.Ct. 21, 43, 71 L.Ed. 160, 187 (1926), the Supreme Court termed confirmation a power "super added" to those possessed by the legislature.

19. *Myers v. United States*, 272 U.S. 56, 138-39, 47 S.Ct. 21, 32-33, 71 L.Ed. 160, 174-75 (1926); *Wittler v. Baumgartner*, 180 Neb. 446, 144 N.W.2d 62, 67 (1966); *Spears v. Davis*, 398 S.W.2d 921 (Tex.1966); *Walker v. Baker*, 145 Tex. 121, 196 S.W.2d 324 (1946); *State v. Dowling*, 167 La. 907, 120 So. 593 (1928); *People v. Shawver*, 30 Wyo. 366, 222 P. 11 (1924).

20. *Compare Warwick v. State ex rel. Chance*, 548 P.2d 384, 391-96 (Alaska 1976).

21. In *O'Donoghue v. United States*, 289 U.S. 516, 530, 53 S.Ct. 740, 743, 77 L.Ed. 1356 (1933) (emphasis added), the Supreme court said:

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22. *Compare Leege v. Martin*, 379 P.2d 447, 450 (Alaska 1963). *See also State v. Campbell*, 536 P.2d 105, 110-11 (Alaska 1975), where we said (footnotes omitted):

This court is admittedly under a duty to reconcile, whenever possible, challenged legislation with the constitution by rendering a construction that would harmonize the statutory language with specific constitutional provisions. However, in fulfilling that duty, the extent to which the express language of the provision can be altered and departed from and the extent to which the infirmities can be rectified by the use of implied terms is limited by the constitutionally decreed separation of powers which prohibits this court from enacting legislation or redrafting defective statutes.

To hold otherwise would emasculate the restraints engendered by the doctrine of separation of powers and result in potentially serious encroachments upon the executive by the legislative branch, because there would be no logical termination point to the legislature's confirmation of executive appointments.[23]

The superior court's judgment is Affirmed.

CONNOR and BURKE, JJ., not participating.

Kenneth D. MOORE et al., Appellants,

v.

STATE of Alaska et al., Appellees.

STANDARD OIL COMPANY OF CALIFORNIA, Cross-Appellant,

v.

Kenneth D. MOORE et al., Cross-Appellees.

Nos. 2551, 2587.

Supreme Court of Alaska.

July 9, 1976.

Fishermen and owner of lodge on Kachemak Bay brought action challenging legality of sale of certain offshore oil and gas leases in the Bay. The Superior Court, Third Judicial District, Anchorage, Thomas E. Schulz, J., granted defendants' motion for summary judgment and fishermen and lodge owner appealed. The Supreme Court, in separate opinions by Connor and Rabinowitz, JJ., held that the action was not barred by laches; that legal requirements concerning publication of notice of sale were met; that determination that the sale was in the best interests of the State was required to be made prior to the sale; that contention that no such decision had been made was subject to judicial review; that the director of the division of lands had not made such a determination; that remand was required for determination of whether commissioner of natural resources had relieved the director of the division of lands of the responsibility for making that decision; that director of division of lands was required to consult with planning agencies in two cities and one borough in the vicinity of Kachemak Bay prior to entering into the sale; but that rule requiring the director to enter into such consultation would be applied prospectively only.

Remanded.

Dimond, J. pro tem., dissented in part and filed an opinion in which Rabinowitz, J., concurred.

Connor, J., filed a statement dissenting in part.

1. Appeal and Error ⟹949
Equity ⟹84

Decision to sustain a defense based on laches is properly addressed to the discretion of the trial court and will not be overturned unless the Supreme Court feels a definite and firm conviction that a mistake has been committed.

2. Appeal and Error ⟹1169(8)

Although clear error in a trial court ruling cannot be demonstrated by merely showing a conflict in evidence and Supreme Court will not reweigh conflicting evidence, existence of conflicts in evidence which give rise to genuine issues of material fact provides an adequate ground for reversal of a grant of summary judgment.

3. Equity ⟹72(1)

Before the equitable doctrine of laches can be applied, defendant must show that the plaintiff was guilty of inexcusable delay and that the delay resulted in undue prejudice to the defendant.

23. Our holding makes it unnecessary to discuss any of the other arguments advanced in this appeal.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 14, 1978

The Honorable Hugh Malone
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Please add to your list of Alaskans to be confirmed for appointments to boards and commissions the following:

BOARD OF FISHERIES

Chris F. Goll, Jr. of Anchorage - term expiring 7/1/80

GUIDE LICENSING BOARD

Norman C. Sutliff of Kodiak - term expiring 6/15/79

BOARD OF HAIRDRESSING AND BEAUTY CULTURE EXAMINERS

*Judith R. Maness of Anchorage - term expiring 6/15/79

STATE COMMISSION FOR HUMAN RIGHTS

Florencia M. Paden of Mt. Edgecumbe - term expiring 1/31/82

MEDICAL BOARD

Doctor Winthrop Fish of Anchorage - term expiring 4/21/81
Doctor Jeffrey Partnow of Fairbanks - term expiring 11/6/80
*Doctor Hilbert Henrickson of Ketchikan - term expiring 4/21/82

BOARD OF PHARMACY

*Lester E. Elkins of Petersburg - term expiring 3/31/83

BOARD OF PUBLIC ACCOUNTANCY

*James Dierenger of Fairbanks - term expiring 4/25/81
*Charlotte Stuart of Anchorage - term expiring 4/25/81

PUBLIC OFFICES COMMISSION

*Jerry White of Anchorage - term expiring 2/1/83

VIOLENT CRIMES COMPENSATION BOARD

*Patricia Moore of Ketchikan - term expiring 12/15/80

BOARD OF WELDING EXAMINERS

Phillip Davies of Fairbanks - term expiring 12/16/82
James W. Crippen of Anchorage - term expiring 12/16/78
J. C. Wingfield of Fairbanks - term expiring 12/16/79
* Donald Lochman of Anchorage - term expiring 12/16/81

The following is being submitted even though statutes do not specifically require confirmation as a result of the Supreme Court decision Bradner vs. Hammond. The same decision also removed the necessity for confirmation of persons appointed to other boards even though statutes previously required legislative scrutiny.

COMMISSION ON POSTSECONDARY EDUCATION

John Malone of Bethel - term expiring 3/1/82

Please withdraw the name of James Gaines from the Human Rights Commission since he has recently submitted a letter of resignation.

Thank you for your additional consideration to these matters.

Sincerely,

Jay S. Hammond
Governor

*reappointments

SCOMM

#9:106

CONSTITUTIONAL AMENDMENTS, 1976

To assist you in updating your copy of the Constitution the following constitutional changes were authorized by Alaskan voters on November 2, 1976. New language is underlined and deleted language is in parentheses.

SPECIAL SESSIONS

Article II, Section 9. Special sessions may be called by the governor or by vote of two-thirds of the legislators. The vote may be conducted by the legislative council or as prescribed by law. At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session, (OR) to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session. Special sessions are limited to thirty days.

ACTION UPON VETO

Article II, Section 16. Upon receipt of a message during a regular session of the legislature, the legislature shall meet immediately in joint session and reconsider passage of the vetoed bill or item. Bills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature. Other vetoed bills become law by affirmative vote of two-thirds of the membership of the legislature. Bills vetoed after adjournment of the first regular session of the legislature shall be reconsidered by the legislature sitting as one body no later than the fifth day of the next regular or special session of that legislature. Bills vetoed after adjournment of the second regular session shall be reconsidered by the legislature sitting as one body no later than the fifth day of a special session of that legislature, if one is called. The vote on reconsideration of a vetoed bill shall be entered on the journals of both houses.

DEDICATED FUNDS

Article IX, Section 7. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section (CONSTITUTION) by the people of Alaska.

ALASKA PERMANENT FUND

Article IX, Section 15. At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. (THE LEGISLATURE MAY APPROPRIATE ADDITIONAL AMOUNTS TO THE PERMANENT FUND WHICH SHALL BECOME A PART OF THE PRINCIPAL OF THE FUND.) All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

SCOMM

#9:107

STATE
of ALASKA

MEMORANDUM

TO: The Honorable Clark Gruening
The Honorable Terry Gardiner

DATE: May 6, 1977

FROM: Dona Lehr, Acting Director Dona
Bill Luria, Principal Planner Bill
Policy Development and Planning
Office of the Governor

SUBJECT: Permanent Fund Work Program

At your request, we have taken a look at the various work efforts you and your staff people have identified as being needed to develop the enabling legislation for the Permanent Fund. We have tried to organize the efforts involved in a logical order, as well as to include some of our own thoughts and recommendations. Attached is a breakdown of the range of suggested research/consultant efforts geared toward generation of enabling legislation for the Permanent Fund. Included are specific task suggestions, rationale for each task, end products and possible areas of responsibility. (Except for certain elements of the Fiscal Planning effort, we have not taken a hard look at how the Renewable Resources Revolving Fund will be integrated into the Permanent Fund work effort.)

It should be noted that an exact delineation of each task effort, and who should do what, is not necessary at this time. More specific requirements - in-house vs. consultants for example - will evolve as the program proceeds. The important point is that the program get started immediately. Not attached, but available, is a flow chart depicting what we think should be accomplished and when, as well as highlighting critical milestones/decision points and public input and internal review points. The chart can serve as a tool for monitoring the progress of the effort.

Our initial recommendations are:

1. Pool the collective knowledge and back-up material of your staff people, SIAC, DPDP and the Public Forum so that a refined set of goals, objectives and areas of concern can be identified. This will then form the basis for refining the attached as well as: (a) generating a detailed outline of what will go into the Legislative Report and the Public Forum Document; and (b) defining and assigning specific research/consultant efforts that should start soon;

2. The following research efforts should be started immediately in order to provide back-up for the Legislative Report and the Public Forum Document:

   * overview of the general implications/impacts of the Permanent Fund on Alaska;
   * preliminary investigations of alternative fund management strategies;
   * continuation of the legal analyses; and
   * initial State fiscal planning, looking at the strengths and weaknesses of existing fiscal tools.

3. Delegate (or hire) one person who's responsibility will include monitoring the progress of the work effort as well as coordinating the various legislative, executive and consultant inputs; and

4. Clarify the relationship between the Executive (DPDP, Revenue and the SIAC) and the Legislative (House and Senate) branches regarding the overall work effort.

DPDP can provide the following: 1) coordinate State agency participation; 2) assist in monitoring program progress; 3) assist in defining and monitoring consultant efforts; and 4) participating directly in research efforts (particularly fiscal planning), goals formulation and Public Forum workshops.

DKL/BL/ljs

Attachments

cc: Fran Ulmer
    Brian Rogers

PERMANENT FUND WORK ELEMENTS
(Excluding Public Input)

EFFORT	TASK REQUIREMENTS	RATIONALE	END PRODUCTS	SUGGESTED RESPONSIBILITY
Summary of Background Information				
.Public Forum	What has been said; what directions were given; what can't be determined; what problems were highlighted (comprehensive, absence of back-up material); what can back-up material provide?	Provides basic input for formulating refined set of goals and for generating Legislative Report and Public Forum Document.	Preliminary list of goals, objectives and priorities, and areas of concern.	Legislative staff, DPDP, Jack Kruse. Growth Policy Council Public Forum 6/17
.SIAC	Summary of SIAC consultant inputs, future plans, coordination possibilities.	Same as above plus input to developing fund management strategies.	Summary memo of information.	SIAC, Revenue.
.Misc.	Prior consultant advice; legislative/staff points of view and information; types of investments, management, results, performance of other major investment efforts in Alaska (e.g. Native Corporations).	Same as above plus provides some guidance for individual investment investigations.	Summary memo.	Legislative staff.
General Implications				
.Broadbrush	Think piece on potential impact of fund on Alaska, in-state vs. out-of-state investments; efficiency of capital markets, loan vs. direct expenditures.	Provides back-up information for Legislative Report and Public Forum Document as well as helping to define more specific areas of investigation.	Memo-type report.	Legislative staff, ISER (Arlon Tussing). 6/30
.Analytics	Analytical evaluation of above-impacts on population, per capita income, and growth.	Same as above.	MAP-model Report.	ISER. ongoing; begins in July

PERMANENT FUND WORK ELEMENTS
(Excluding Public Input)

EFFORT	TASK REQUIREMENTS	RATIONALE	END PRODUCTS	SUGGESTED RESPONSIBILITY
Legal Analysis	Summary of legal issues		portion of report	Doug, Law 6/30
.Preliminary	Define "permanent" and "income producing" (market ROI? over-all vs. project? income to fund or individuals?).	Provide back-up information for Legislative Report.	Internal memo with recommendations.	Legislative staff, Law.
.Final	Refine above plus defining "prudent person," inflation, reserve accounts, % put into fund (greater than 25% - can it be withdrawn, interest (can it be withdrawn)?	Highlights constraints to fund management strategies and indiviual investments.	Same as above.	Same as above.
Fiscal Planning				
.Initial	Definition of fiscal tools (loans, bonds, CIP, Renewable Resources Revolving Fund, general fund, etc.) strengths and weaknesses.	Back-up input to legislative Report.	Internal memo.	DPDP B&M Revenue Legislative staff. 6/30 John, Doug
.Preliminary	Short- and long-term possible expenditure patterns combined with alternative revenue projections. Investigate size of "surplus" in general fund, implications for Permanent Fund contribution, context for evaluating alternative uses of earnings moving the financing of government expenditures to a recurring basis.	Provides input to interim goals formulation and Public Forum Report.	Same as above.	Same as above and ISER. Dick Haggart Revenue DPDP B&M
.Final	Continuation of above.	Provides input to selecting optional fund management approach(es).	Same as above, but effort is on-going beyond Permanent Fund effort.	Same as above.

PERMANENT FUND WORK ELEMENTS
(Excluding Public Input)

EFFORT	TASK REQUIREMENTS	RATIONALE	END PRODUCTS	SUGGESTED RESPONSIBILITY
Legislative Report - Public Forum Report	Generate reports including back-up information and tabloid-ready questions.	Forms basis for public information/public input process.	*	Legislative staff, Public Forum staff.
Fund Management Activities				
.General	Critique of present enabling legislation overview of CDC, Development Banks, State Banks, credit unions, consumer coops, etc. - traditional goals.	Background information for Legislative Report, Public Forum Document and interim goals formulation.	Memo-type report.	Price-Waterhouse 6/30 Legislative staff, Daniels 6/30 consultant mix (straights, freaks, ISER, Tom Singer). 6/30
.Interim	Refinement of above including a comparative evaluation, pros & cons, implications, relationships to State goals, general selection criteria, test strategy with types of investments.	Part of decision-making process to narrow down management funds to a select few.	Report(s) with recommendations for selected management strategies.	Same as above.
.Final	More detailed and analytical evaluation of selected management fund strategies including analysis of practicality, conflicts, with existing legislation, implications, political considerations (special interest groups).	Part of decision-making process to select optional management strategy(ies), input to fund structures and legislative decisions.	Report(s) with recommendations for optional management strategies.	Same as above.
Legis report	compile, outline, research, draft, edit, produce	Common ground for Committee members public, press	publication (report)	Clark, Terry, Brian, Judy, Doug, John, et al 7/15

PERMANENT FUND WORK ELEMENTS
(Excluding Public Input)

EFFORT	TASK REQUIREMENTS	RATIONALE	END PRODUCTS	SUGGESTED RESPONSIBILITY
Fund Management Structure				
.Preliminary	For selected management alternatives, investigate structural make-up potentials-control, organization, operating procedures, accountability, performance evaluation, flexibility to change, safety and maintenance of fund	input to final structure decision	memo-type report highlighting strengths and weaknesses and initial recommendations	SIAC, legislative staff, consultants 8/15 ~~Seldon Daniels~~ ~~Arlon Tussing~~ ~~John Ling~~, SIAC
.Final	Refinement of above, including investment criteria, staffing, funding, location (centralized or regional), pilot projects requirements, sunset concept	basis of enabling legislation	report with final organizational recommendations	Same as above
Investment Studies				
.General	Overview of investment opportunities, sectoral and regional analyses, State programs, evaluation (in terms of market return/viability)	general background information, back-up input to Public Forum Document	report outlining investment potentials and relationship to fund management alternatives	Same as above plus various State agencies Senate Committees SIAC
.Interim	Refinement of above, including rationale, criteria for project selection, measures of success-long-term implications, sensitivity analyses, specific investments comparative evaluations	provides input to enabling legislation, as well as to the alternate fund managers	report detailing initial investment opportunities	Same as above
.Final	Effort is an on-going responsibility of fund managers	--	--	--

PERMANENT FUND WORK ELEMENTS
(Excluding Public Input)

EFFORT	TASK REQUIREMENTS	RATIONALE	END PRODUCTS	SUGGESTED RESPONSIBILITY
Enabling Legislation	Bringing together all the above into formal legislation	--	--	legislative staff

STATE of ALASKA

MEMORANDUM

Jim — This is my response to the issue paper. Please consider these responses "internal" in nature.

TO: Barry Quinn
Executive Director
Alaska Growth Policy Council
Office of the Governor

DATE : September 3, 1976

FROM: Dona Lehr
Economic Policy Analyst
Policy Development and Planning
Office of the Governor

SUBJECT: Alaska Forum Issue Development

Since you are addressing the general tone and emphasis of the introductory section of the Policy Issues paper, I will confine my comments to a few (and relatively minor) specific wording concerns on that portion (i.e. the first 9 pages). Following that, I have more substantive comments on the framing of the "oil and wealth" issue. That discussion attempts to include the thoughts of Tom Singer, in addition to my own.

INTRODUCTORY SECTION

1. Page 6, line 5 ff. Perhaps a wider list of alternative values, including some of the range of recreational experience beyond wilderness and wildlife protection, might appear more balanced. For instance, many who put high stock in hunting and fishing may not identify with either the "protection" or "subsistence" value.

2. Page 6, line 14 ff. Might a "single generation" (20 years) be an overstatement, especially if, as the next sentence suggests, all non-renewable resources are under consideration? Specifically, much of mineral development has been projected to occur 20-25 years in the future.

   Although resource exploitation is the correct phrase, given the negative connotations of exploitation it might be desirable to use "extraction" instead.

3. Page 6, line 17 ff. When speaking of investing revenues to promote industries, some ventures other than resource based industries should be mentioned. Manufacturing? (If what we're talking about is subsidizing industry, we can probably have whatever type we want!) Also, I might mention small business investment.

4. Page 7, line 2 ff. The exact reverse of this statement may be true. That is, long-time Alaskans may resent the newcomers' fear of the passing of familiar community and life-styles. If the original sentence is to be included, other possible alternative views should be mentioned.

5. Page 8, line 5 ff. The line of causation in this paragraph is somewhat unclear. The impression is that expenditures yield revenues, which in turn expand expenditures, and so on. It is true