

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

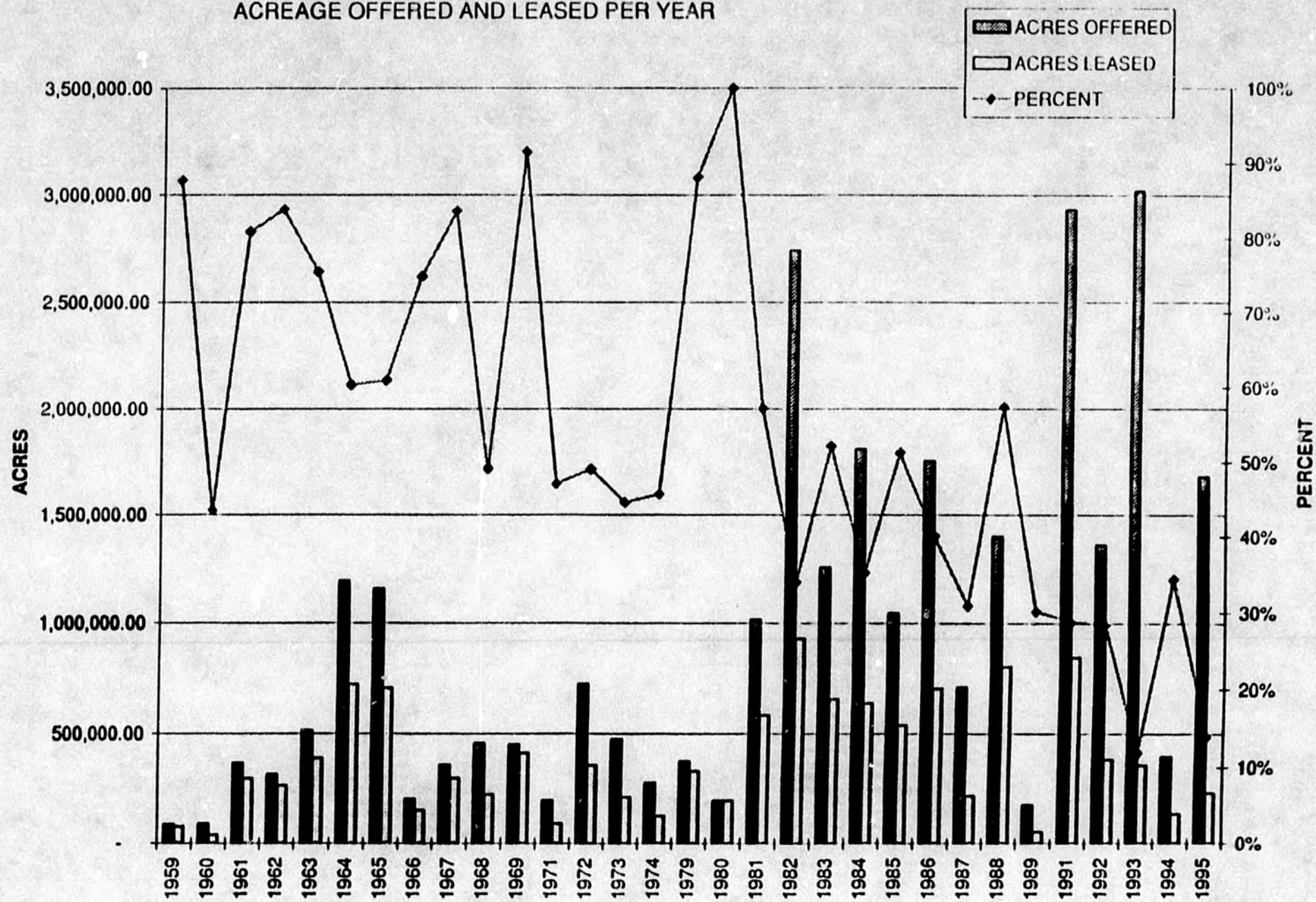
2335 SCOMM 96: HOUSE SPEC. COMM. ON OIL & GAS, 1995-1996

ACREAGE OFFERED AND LEASED PER YEAR

1 5/96

YEAR	ACRES OFFERED	ACRES LEASED	PERCENT
1959	88,055.00	77,191.00	88%
1960	90,615.21	39,372.27	43%
1961	367,241.44	296,755.44	81%
1962	316,730.63	265,498.63	84%
1963	514,365.46	388,579.51	76%
1964	1,194,373.00	721,224.00	60%
1965	1,157,075.06	704,751.28	61%
1966	203,639.75	152,576.99	75%
1967	358,978.89	300,104.31	84%
1968	457,822.48	225,233.15	49%
1969	450,858.47	412,548.47	92%
1971	196,635.07	92,617.97	47%
1972	725,322.38	356,217.27	49%
1973	475,048.85	211,695.40	45%
1974	278,269.43	127,119.65	46%
1979	375,818.22	330,985.69	88%
1980	196,268.00	196,268.00	100%
1981	1,017,836.74	582,406.38	57%
1982	2,744,028.59	930,730.70	34%
1983	1,256,733.10	655,342.96	52%
1984	1,812,083.46	636,801.96	35%
1985	1,047,538.45	537,486.35	51%
1986	1,757,253.61	703,669.74	40%
1987	710,289.31	218,779.31	31%
1988	1,399,070.95	803,809.06	57%
1989	176,658.63	53,140.49	30%
1991	2,933,001.11	845,768.48	29%
1992	1,361,737.00	385,382.00	28%
1993	3,020,993.69	359,438.07	12%
1994	396,760.00	136,307.00	34%
1995	1,682,840.00	233,085.00	14%
Grand Total:	28,763,941.98	11,980,886.53	42%

ACREAGE OFFERED AND LEASED PER YEAR



1/9/96

GRNDTTL XLS

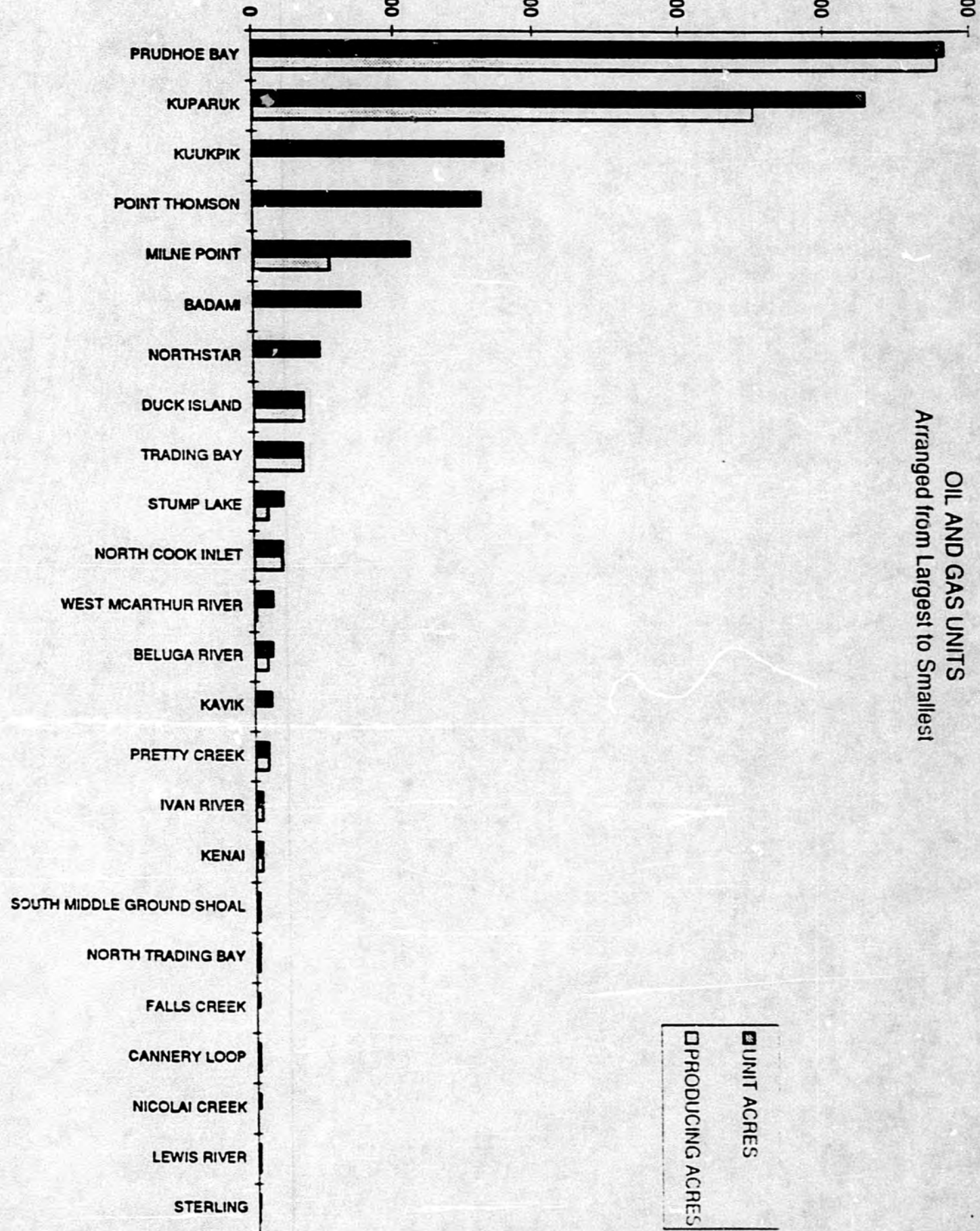
UNIT ACREAGE

08-Jan-96

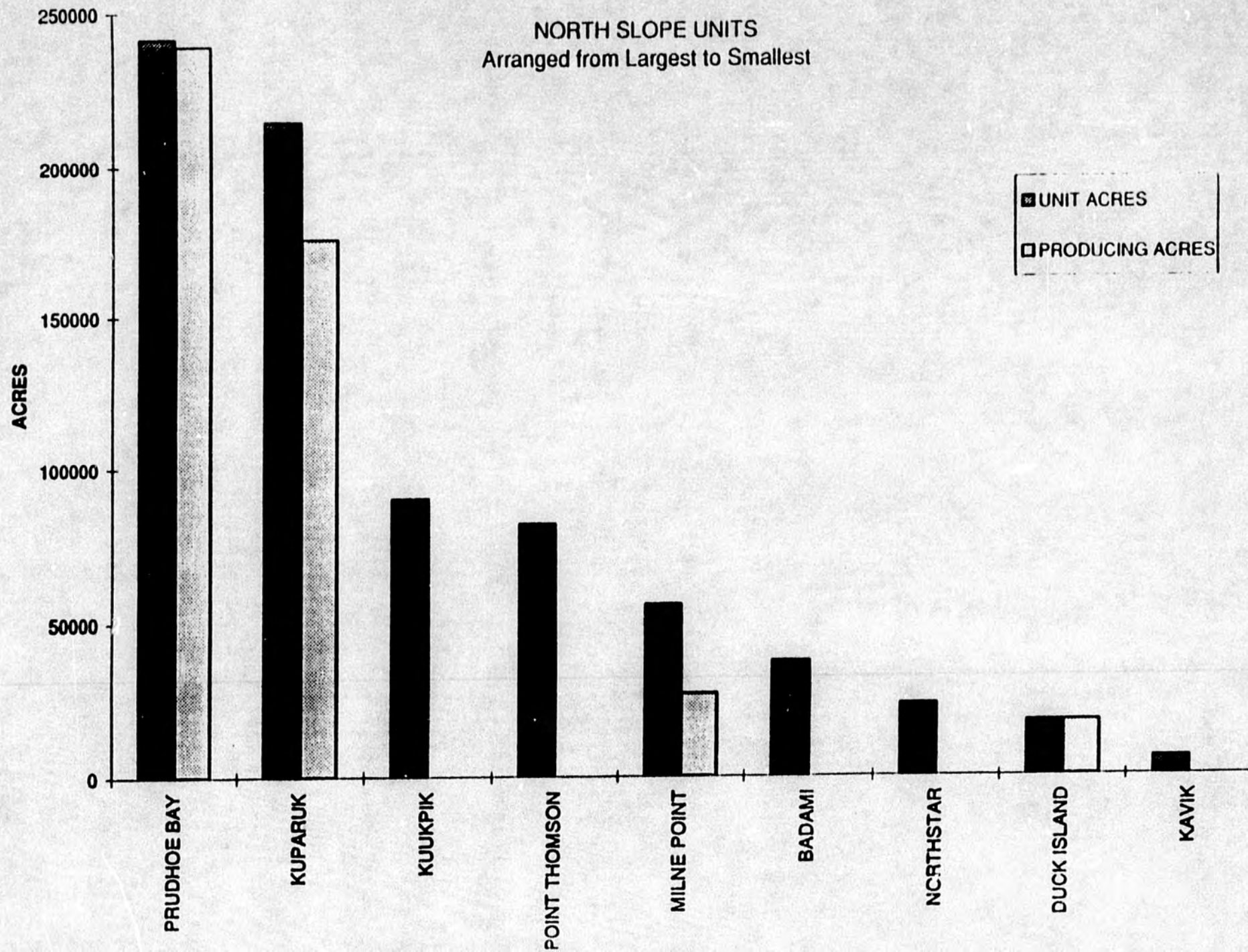
AREA	UNIT NAME	UNIT ACRES	PRODUCING ACRES
<u>COOK INLET</u>			
	BELUGA RIVER	6,099.15	4,464.60
	CANNERY LOOP	916.00	916.00
	FALLS CREEK	964.45	0.00
	IVAN RIVER	2,290.79	2,290.79
	KENAI	2,191.08	2,191.08
	LEWIS RIVER	720.00	720.00
	NICOLAI CREEK	879.78	0.00
	NORTH COOK INLET	9,781.50	9,781.50
	NORTH TRADING BAY	1,120.00	1,120.00
	PRETTY CREEK	4,579.33	4,579.33
	SOUTH MIDDLE GROUND SHCAL	1,160.00	1,160.00
	STERLING	496.37	133.28
	STUMP LAKE	10,062.50	4,880.00
	TRADING BAY	17,299.50	17,299.50
	WEST MCARTHUR RIVER	6,330.00	640.00
	COOK INLET	<u>64,890.45</u>	<u>50,176.08</u>
<u>NORTH SLOPE</u>			
	BADAMI	37,401.92	0.00
	DUCK ISLAND	17,547.62	17,547.62
	KAVIK	5,652.59	0.00
	KUPARUK	214,331.15	175,502.15
	KUUKPIK	89,799.11	0.00
	MILNE POINT	55,498.00	26,965.00
	NORTHSTAR	23,343.49	0.00
	POINT THOMSON	81,281.03	0.00
	PRUDHOE BAY	241,555.10	238,995.10
	NORTH SLOPE	<u>766,410.01</u>	<u>459,009.87</u>
	<u>GRAND TOTAL:</u>	<u>831,300.46</u>	<u>509,185.95</u>

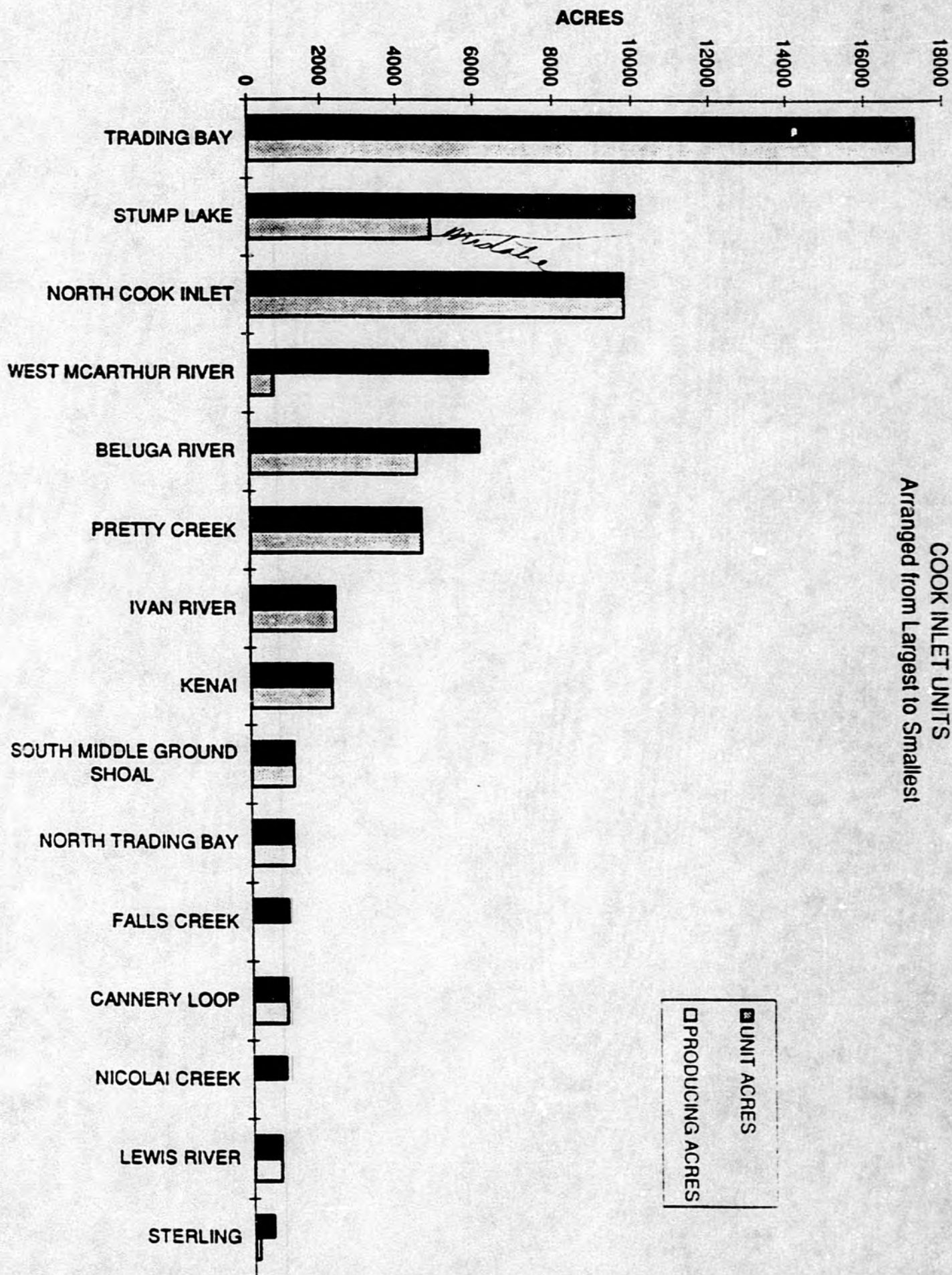
ACRES

OIL AND GAS UNITS
Arranged from Largest to Smallest



NORTH SLOPE UNITS Arranged from Largest to Smallest





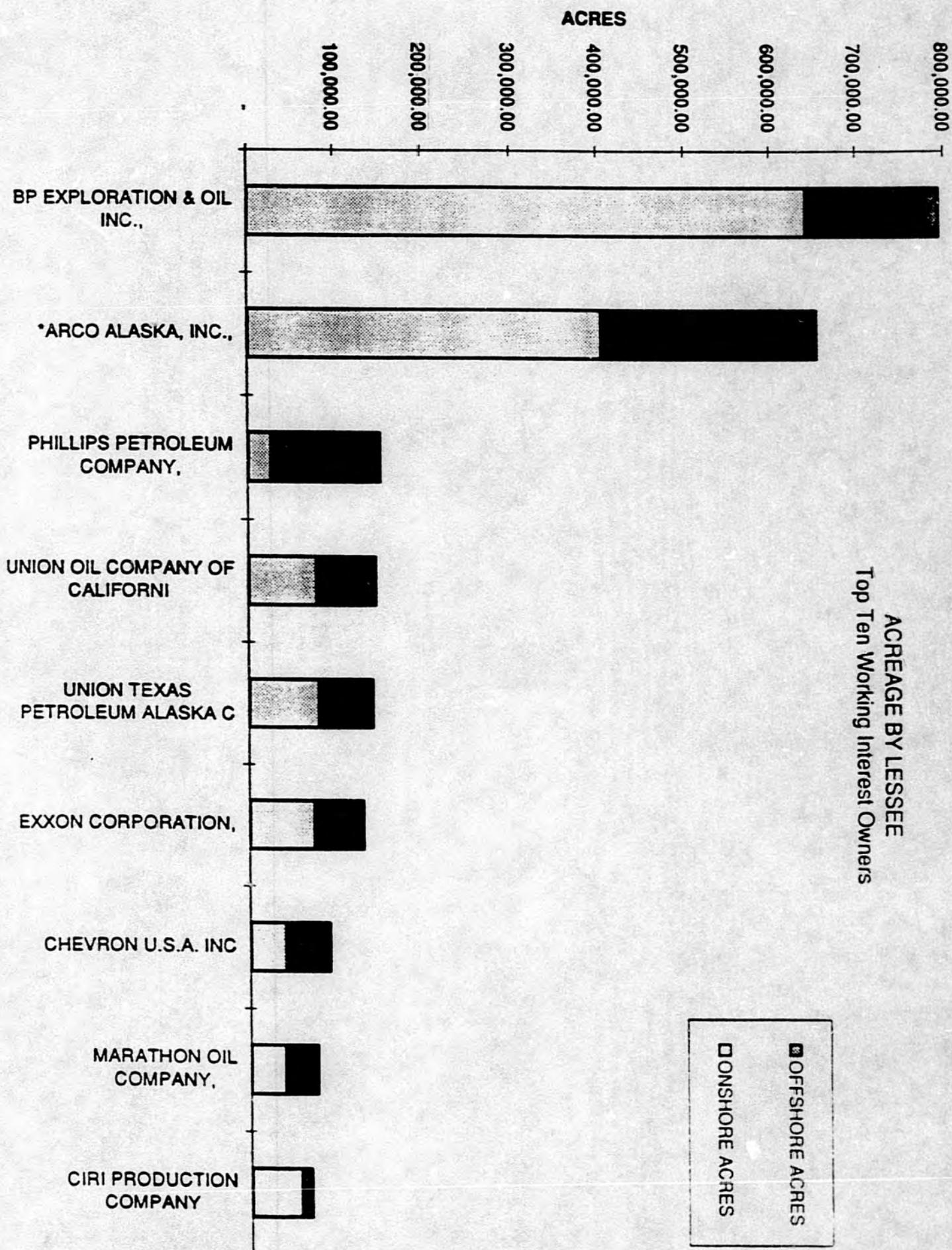
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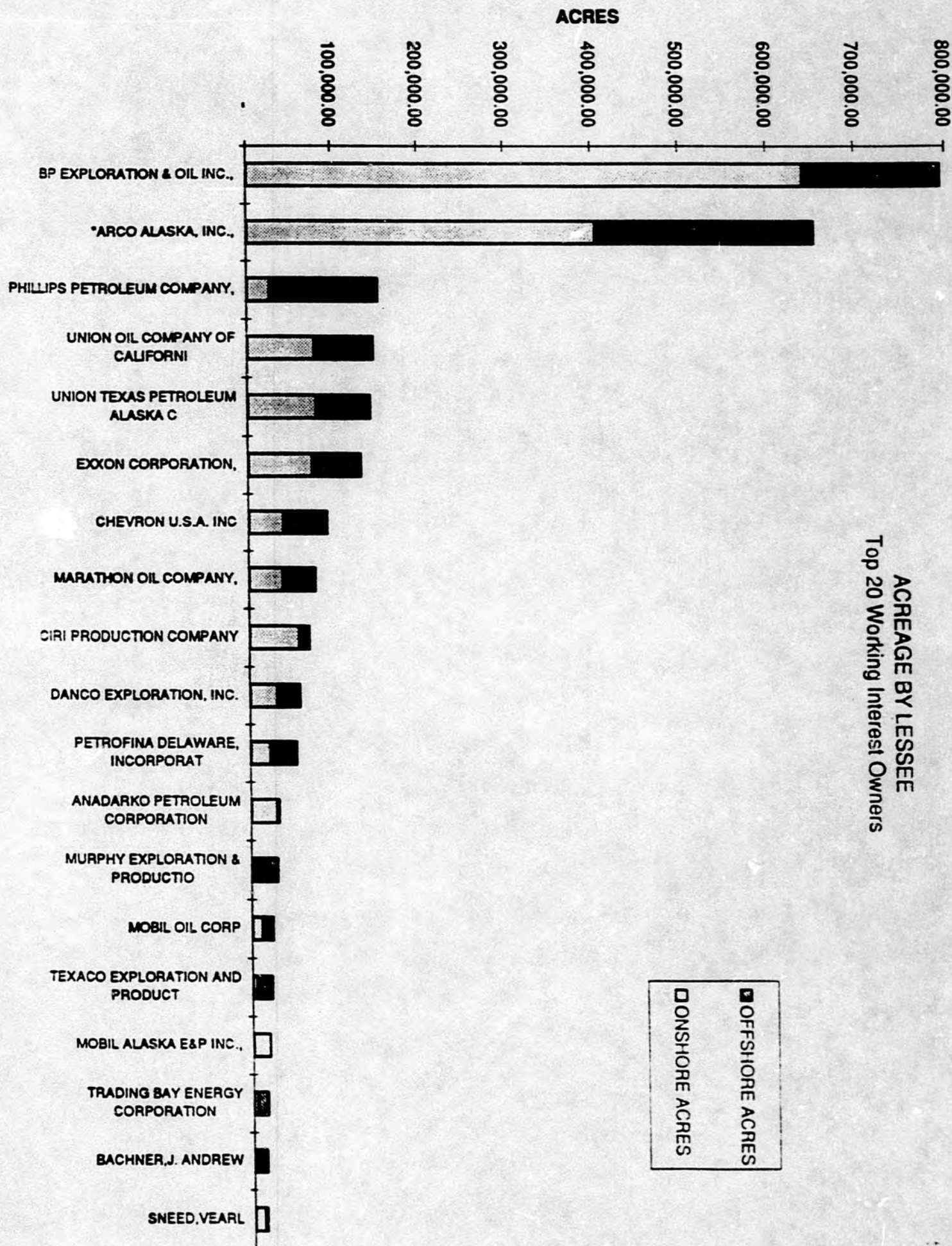
Top Ten Working Interest Owners

<u>NAME</u>	<u>ONSHORE ACRES</u>	<u>OFFSHORE ACRES</u>
BP EXPLORATION & OIL INC.,	642,481.63	152,483.17
*ARCO ALASKA, INC.,	484,772.30	249,911.48
PHILLIPS PETROLEUM COMPANY,	27,003.32	126,717.40
UNION OIL COMPANY OF CALIFORNI	79,552.93	68,566.13
UNION TEXAS PETROLEUM ALASKA C	81,274.35	62,793.05
EXXON CORPORATION,	75,674.05	56,680.87
CHEVRON U.S.A. INC	41,370.84	51,454.11
MARATHON OIL COMPANY,	40,314.40	38,009.15
CIRI PRODUCTION COMPANY	58,471.89	12,092.10
DANCO EXPLORATION, INC.	32,424.28	26,569.57
	1,670,634.79	971,405.54

ACREAGE BY LESSEE
Top Ten Working Interest Owners



ACREAGE BY LESSEE
Top 20 Working Interest Owners



Oil and Gas Lessees
Listed in Order of Total Acreage Held

NAME	TOTAL ACRES	ONSHORE ACRES	OFFSHORE ACRES
BP EXPLORATION & OIL INC.,	794,964.81	642,481.63	152,483.17
*ARCO ALASKA, INC.,	654,589.81	404,678.32	249,911.48
PHILLIPS PETROLEUM COMPANY,	153,720.72	27,003.32	126,717.40
UNION OIL COMPANY OF CALIFORNI	148,119.06	79,552.93	68,566.13
UNION TEXAS PETROLEUM ALASKA C	144,067.40	81,274.35	62,793.05
EXXON CORPORATION,	132,354.93	75,674.05	56,680.87
CHEVRON U.S.A. INC	92,824.96	41,370.84	51,454.11
MARATHON OIL COMPANY,	78,323.55	40,314.40	38,009.15
CIRI PRODUCTION COMPANY	70,563.99	58,471.89	12,092.10
DANCO EXPLORATION, INC.	58,993.85	32,424.28	26,569.57
PETROFINA DELAWARE, INCORPORAT	54,631.14	23,373.73	31,257.41
ANADARKO PETROLEUM CORPORATION	33,024.48	30,407.29	2,617.18
MURPHY EXPLORATION & PRODUCTIO	30,497.95	275.54	30,222.41
MOBIL OIL CORP	24,736.02	12,232.09	12,503.93
TEXACO EXPLORATION AND PRODUCT	23,323.57	5,161.65	18,161.92
MOBIL ALASKA E&P INC.,	19,719.83	19,719.83	-
TRADING BAY ENERGY CORPORATION	17,354.22	4,384.08	12,970.14
BACHNER, J. ANDREW	15,254.12	26.40	15,227.72
SNEED, VEARL	14,881.99	11,714.19	3,167.80
PLACID OIL CO	12,768.19	1,615.17	11,153.01
STEWART PETROLEUM COMPANY,	10,252.23	279.50	9,972.72
SHELL WESTERN E & P INC	10,250.27	2,700.49	7,549.77
BURGLIN, CLIFFORD	10,062.22	8,576.00	1,486.22
MIDGARD ENERGY COMPANY,	9,989.81	3,574.31	6,315.50
SHELL ONSHORE VENTURES INC.,	8,524.27	929.90	7,594.37
BOREALIS RESOURCES INC.,	8,306.50	5,813.50	2,493.00
MOBIL ROCKY MOUNTAIN INC,	7,656.75	-	7,656.75
OXY USA INC.,	7,395.02	4,517.49	2,877.53
SHELL FRONTIER OIL AND GAS INC	5,725.00	5,725.00	-
LAPP RESOURCES INC	5,674.97	5,674.97	-
BLOCKER JOHN R	5,365.38	279.50	5,085.88
AMOCO PRODUCTION COMPANY	5,323.75	3,329.00	1,994.75
BACHNER, KARL A.	4,677.88	4,677.88	-
DANCO INC	4,462.00	-	4,462.00
TEXACO INC,	4,282.31	2,777.31	1,505.00
BACHNER DANA K	3,958.98	3,958.98	-
ROSEWOOD RESOURCES INC,	3,706.78	939.22	2,767.56
HUNT PETROLEUM CORPORATION,	3,542.82	1,082.76	2,460.05
LEWIS RIVER UNIT PARTNERSHIP,	3,200.00	3,200.00	-
SHELL OFFSHORE INC.,	2,955.33	-	2,955.33
MOBIL EXPLORATION AND PRODUCIN	2,723.23	1,733.39	989.84
ESCOPETA OIL & GAS CORPORATION	2,486.46	139.75	2,346.71
ESCOPETA PRODUCTION - ALASKA	2,486.46	139.75	21,346.71
ARCTIC SLOPE REGIONAL CORPORAT	2,278.50	2,278.50	-
PENNZOIL EXPLORATION AND PRODU	2,158.39	371.50	1,786.89
FORSGREN, KEITH C	2,080.11	3.60	2,076.51
SHELL LAND & ENERGY COMPANY,	1,376.80	1,376.80	-
LOUISIANA LAND AND EXPLORATION	1,329.04	339.20	989.84
JAMES, ALFRED III	1,280.00	5.00	1,275.00
NOVOSEL, FRANK J	1,244.00	1,244.00	-
HUNT, WILLIAM HERBERT TRUST ES	1,119.94	1,119.94	-

Oil and Gas Lessees
Listed in Order of Total Acreage Held

NAME	TOTAL ACRES	ONSHORE ACRES	OFFSHORE ACRES
HUNT, LAMAR TRUST ESTATE	1,077.41	1,077.41	-
HUNT, NELSON BUNKER TRUST ESTATE	1,077.41	1,077.41	-
GAFFI ZELLA	1,024.00	1,024.00	-
LUNDGREN (ESTATE OF), JAMES	1,013.33	-	1,013.33
WHITE, JAMES W.	718.17	87.34	630.83
COASTAL OIL & GAS CORPORATION	588.80	427.23	161.58
SUN OPERATING LIMITED PARTNERS	554.52	554.52	-
EVERETTE, KELLEY	512.00	512.00	-
COOK INLET REGION INC.	485.67	339.49	146.19
PARKER NANCY BLACK	317.50	317.50	-
FOREST OIL CORPORATION	268.66	194.94	73.73
MARATHON PETROLEUM COMPANY,	253.34	253.34	-
GUSTAFSON, MARY	202.67	-	202.67
BLOCKER, JOHN R. TRUSTEE	189.90	-	189.90
KLEINER, WALTER H	179.54	21.83	157.71
SEXTON, MICHAEL R	168.89	-	168.89
TIPPERARY OIL & GAS CORPORATIO	129.25	70.68	58.57
GIINTHER DOROTHY	128.00	128.00	-
BURGLIN, BRIAN	101.33	-	101.33
BURGLIN, BRUCE	101.33	-	101.33
BURGLIN, DAVID	101.33	-	101.33
BURGLIN, JOSEPH	101.33	-	101.33
RIMA, BARBARA C	101.33	-	101.33
GREMILLION, ANNE L	79.38	79.38	-
LOVICK, ROBERT G. JR.	79.38	79.38	-
READ, NANCY L	79.38	79.38	-
SPINKS, MARGARET L.	79.38	79.38	-
TRANSWORLD OIL & GAS LTD	68.04	49.37	18.67
TWO FOUR SIX EXPLORATION INC.	68.04	49.37	18.67
LEEDE, EDWARD H	64.62	35.34	29.28
NANA REGIONAL CORPORATION INC	64.50	-	64.50
BATTLE KENNETH W.	49.45	-	49.45
RYLANDER, MARIAN IRIS	35.00	35.00	-
PACIFIC LIGHTING GAS DEV CO,	32.00	17.50	14.50
DONNELLY, RICHARD	29.08	15.90	13.18
GRACE PETROLEUM CORPORATION,	27.22	19.75	7.47
SUNLITE INTERNATIONAL INC,	27.22	19.75	7.47
ARTUS, WILLIAM D.	23.54	-	23.54
HUGHES, KINGDON R	23.04	12.60	10.44
DOYON LIMITED	21.50	-	21.50
CHAPARRAL ROYALTY COMPANY	14.54	7.95	6.59
LEEDE AND PINE,	12.92	7.07	5.86
CHRISTIANSON, CABOT	9.42	-	9.42
PERRY (ESTATE OF), JOHN W	7.27	3.98	3.29
SEARLS, ROBERT JR	7.27	3.98	3.29
POPE, JOHN C	3.06	-	3.06
ROBERTS, CATHRYN	3.06	-	3.06
WOODBINE PETROLEUM, INC..	0.53	0.53	-
	2,810,888.29	1,745,718.48	1,084,169.76

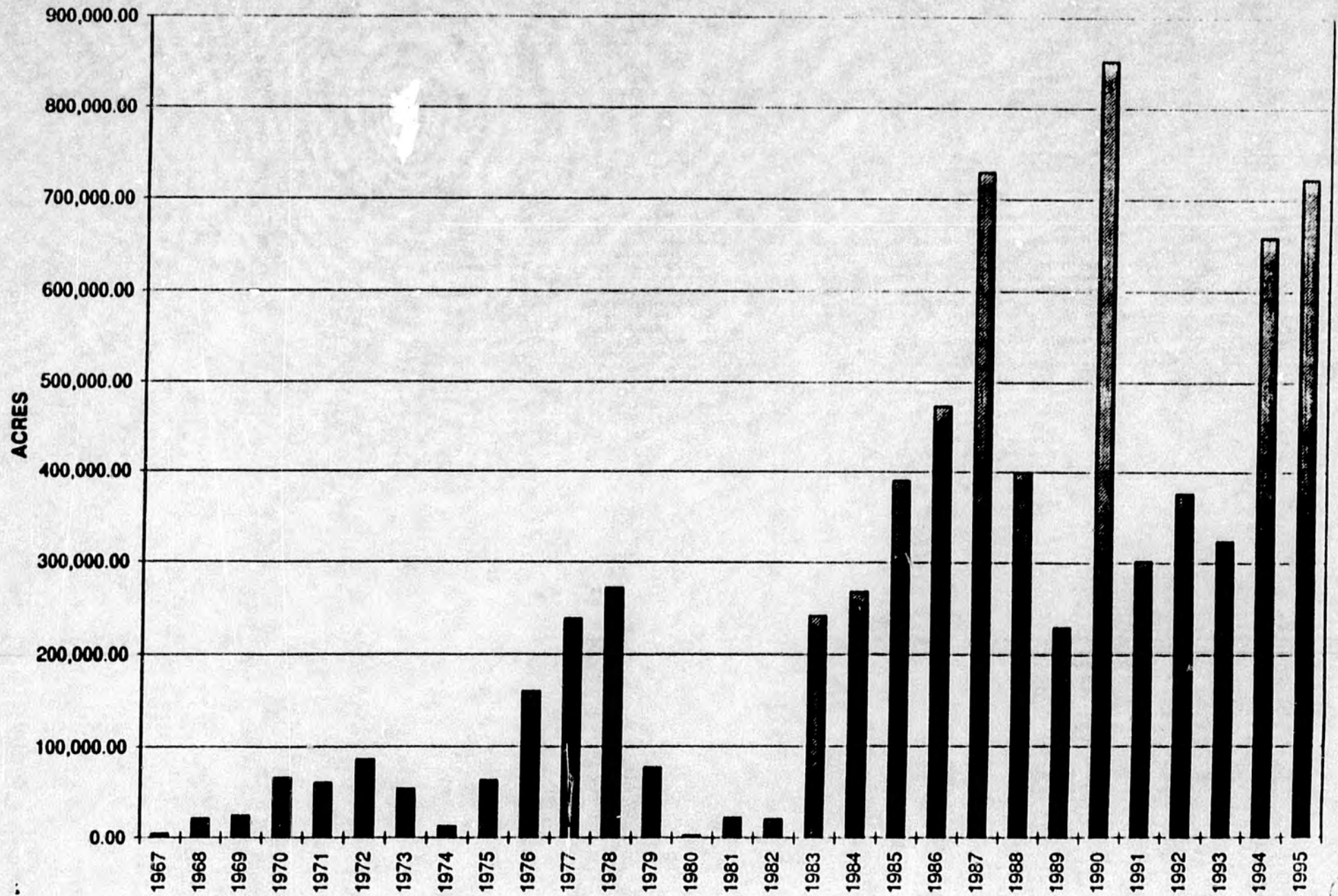
(1)

CLOSED LEASES

04-Jan-96

STATUS DATE	TOTAL ACRES
1967	4,329.99
1968	20,903.47
1969	23,897.48
1970	65,808.82
1971	60,223.79
1972	85,860.95
1973	53,372.48
1974	12,216.39
1975	62,976.83
1976	159,986.82
1977	238,493.74
1978	271,487.49
1979	76,702.83
1980	2,295.47
1981	21,614.33
1982	20,004.64
1983	241,923.74
1984	267,982.62
1985	390,081.28
1986	473,464.94
1987	730,063.63
1988	399,823.23
1989	229,143.08
1990	852,197.39
1991	301,659.43
1992	375,849.50
1993	323,774.58
1994	658,375.98
1995	722,643.15
Grand Total:	7,147,158.12

CLOSED ACREAGE PER YEAR



1/9/96

GRNDTTL.XLS

**ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS**

Proposed Sale Area & Date	1994				1995				1996				1997				1998				1999																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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C = Call for Comments:
 1 = New Sales and 5-Year Program Revisions.
 2 = Request for General Information.
 3 = Request for Socioeconomic and Environmental Information.
 4 = Request for New Information Made Available Since Last Finding.

E = End of Comment Period

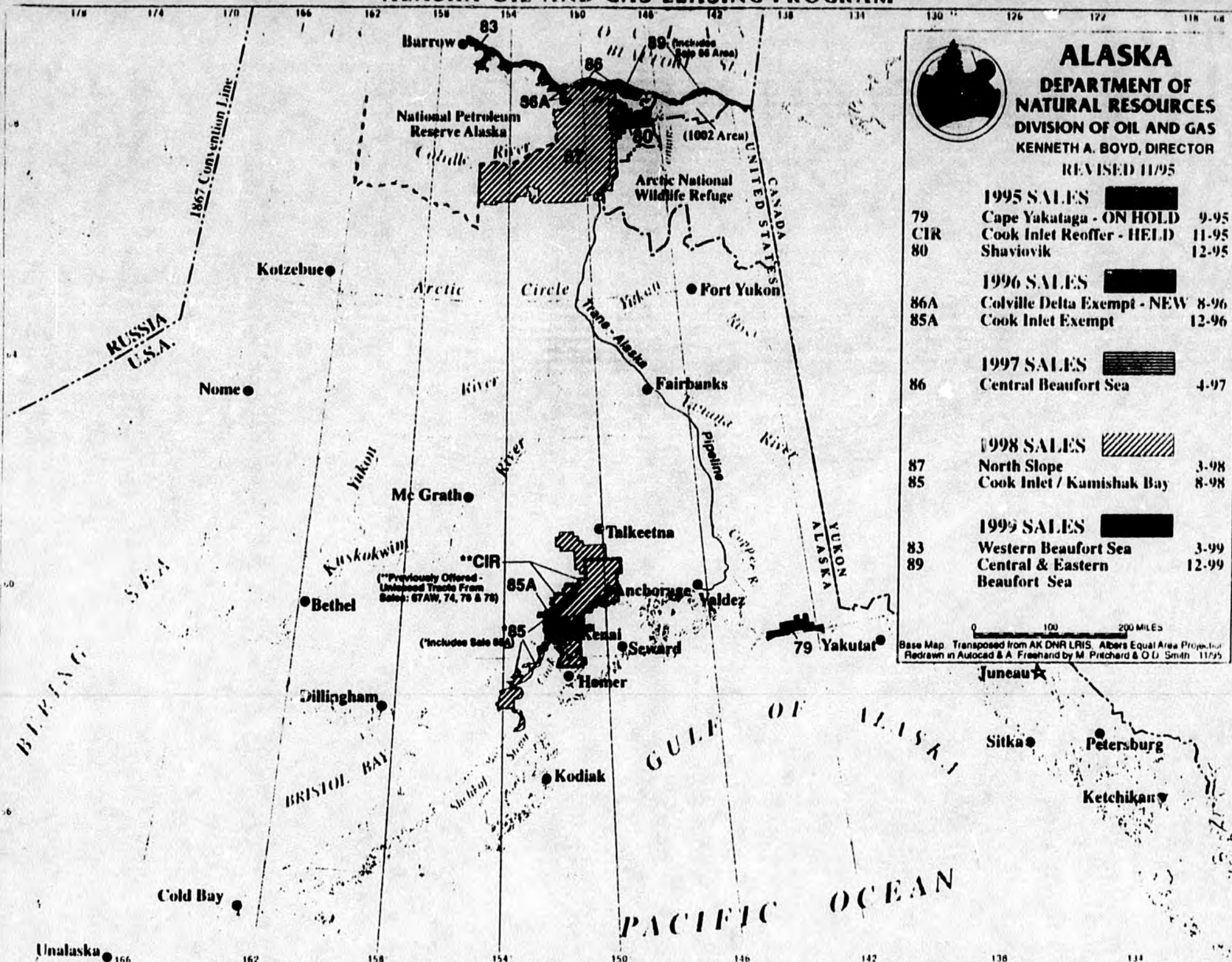
P = Preliminary Best Interest Finding /
ACMP Consistency Analysis. (If required.)
N = Notice of Intent to Issue Final Finding.
F = Final Finding and Notice of Sale and Terms.
S = Sale.

F = Revised Final Filing and/or Notice of Sale and Terms.

Best Interest Finding Process

Public Meetings may be held at any time.

ALASKA OIL AND GAS LEASING PROGRAM



ALASKA
DEPARTMENT OF
NATURAL RESOURCES
DIVISION OF OIL AND GAS
 KENNETH A. BOYD, DIRECTOR
 REVISED 11/95

1995 SALES

79	Cape Yakataga - ON HOLD	9-95
CIR	Cook Inlet Reoffer - HELD	11-95
80	Shaviovik	12-95

1996 SALES

86A	Colville Delta Exempt - NEW	8-96
85A	Cook Inlet Exempt	12-96

1997 SALES

86	Central Beaufort Sea	4-97
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1998 SALES

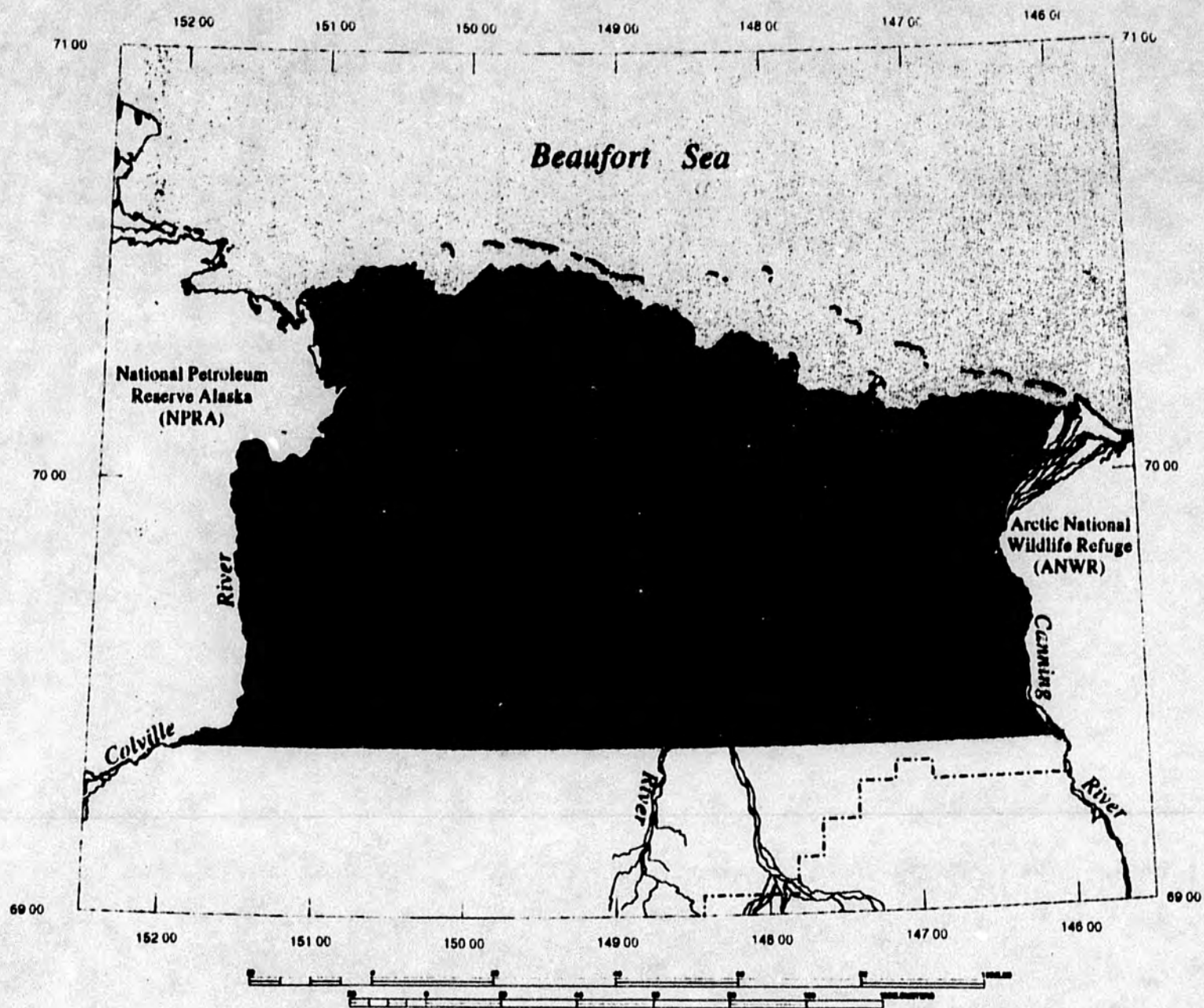
87	North Slope	3-98
85	Cook Inlet / Kamishak Bay	8-98

1999 SALES

83	Western Beaufort Sea	3-99
89	Central & Eastern Beaufort Sea	12-99

0 100 200 MILES

Base Map: Transposed from AK DNR LRIS. Albers Equal Area Projection.
 Redrawn in Autocad & A. Freehand by M. Prichard & O.U. Smith 11/95



AREAWIDE LEASING

AREAWIDE LEASING

Program Objectives

- Annual North Slope and Cook Inlet Areawide Lease Sales shall include those areas which are not subject to exploration licensing, provided the necessary Best Interest Finding for such areas supports such sales;
- The Five-Year Lease Sale Schedule presented to the Legislature shall include an annual North Slope areawide lease sale and an annual Cook Inlet areawide lease sale;
- North Slope Areawide Upland Lease Sale #1 shall occur in 1998 as DNR has currently scheduled for Sale 87 in March, 1998;
- Areawide Best Interest Finding's (BIF) for North Slope and Cook Inlet shall commence immediately;
- Areawide BIF's shall survive for 10 years;
- Areawide BIF's shall cover all lands within the geographic sale area, regardless of current lease status or ownership;
- Comments for new information shall be solicited annually for the Areawide BIF's;
- The commissioner of DNR shall be granted discretionary authority to determine if new information requires a new BIF, earlier than 10 years;
- All areawide lease sales, subsequent to the initial areawide lease sales, shall be subject to existing regulations affecting reoffer sales;
- Legislation should be self implementing under current regulations;
- Nothing in this program shall affect the current lease sale schedule approved under the current Five-Year Leasing Program.

The program can be shown as an example of Industry, Legislature, and the Administration working cooperatively to re-design a work process to make the Alaskan business environment more efficient and user friendly.

TRUSTEES FOR ALASKA v. STATE, DNR

Alaska 745

Cite as 863 P.2d 745 (Alaska 1998)

giving ordinances to provide economic protection for existing businesses."); *Sum-Brite Car Wash, Inc. v. Board of Zoning & Appeals*, 68 N.Y.2d 408, 515 N.Y.S.2d 418, 422, 689 N.E.2d 130, 135 (1997) ("Zoning laws do not exist to insure limited business competition.")

The second rationale courts use to support denying business competitors standing is a "vested rights" argument. Courts reason that "no person has a vested right to engage in business without competition.... Never having been possessed of a right to conduct a business free of competition, the landowner has lost nothing and cannot be said to have been aggrieved." 3 Arden H. Rathkopf & Daron A. Rathkopf, *The Law of Zoning and Planning* § 42.07, at 43-53 (1998). The Appellate Court of Illinois noted that "[a] person can have no vested or special property right in either the monopoly or competitive advantage accorded by zoning restrictions at a given time." *Swain*, 250 N.E.2d at 444.

We think both theories have merit. In the area of land use law, we thus adopt the majority rule and deny standing to a business competitor whose only alleged injury results from competition.⁹ Earth Movers argues that "[n]o one other than those with interests in lawfully operated gravel pits have greater interests in preserving the laws of gravel pits than those similarly situated to Earth Movers and Earth Movers itself." In terms of Earth Movers' interest in limiting competition in gravel sales, this may be correct. That interest is, however, irrelevant because it is not an interest meant to be protected by the zoning ordinance.

III. CONCLUSION

We interpret the applicable statutes and ordinance to require that a person be "aggrieved" in order to appeal a decision by a zoning board. We adopt the majority interpretation of "aggrieved" to deny standing in land use cases to a business competitor whose only alleged injury is potential increased competition. Therefore we AFFIRM the decision of the superior court which affirmed the decision of the Board of

9. Of course, a business competitor who can show other injury, such as a deleterious effect on traf-

fic patterns, parking, etc., should not be denied standing simply because he is also a competitor.



TRUSTEES FOR ALASKA, City of Naktovik, American Wilderness Alliance, Northern Alaska Environmental Center, Alaska Wildlife Alliance, The Sierra Club, The Wilderness Society, Alaska Center for the Environment, Appellants,

v.

STATE of Alaska, DEPARTMENT OF NATURAL RESOURCES; Judy Brady, Commissioner, State of Alaska Department of Natural Resources, and James Eason, Director, Division of Oil and Gas, State of Alaska, Department of Natural Resources, Appellees.

Arco Alaska, Inc., Chevron U.S.A., Inc., Phillips Petroleum Co., and Standard Alaska Petroleum Co., Intervenor-Appellees.

No. S-5375.

Supreme Court of Alaska.

Dec. 23, 1998.

Environmental groups and city challenged state's sale of offshore oil and gas lease, contending that Department of Natural Resources (DNR) failed to give adequate consideration to several issues when it determined that sale was in "best interests" of state. The Superior Court, Third Judicial District, Anchorage, Rene J. Gonzalez, J., affirmed DNR's best-interest determination and its decision to proceed with sale. Environmental groups and city appealed. The Supreme Court, Compton, J., held that DNR gave inadequate consideration to methods

for patrolling, parking, etc., should not be denied standing simply because he is also a competitor.

"Supplemental Finding"

SALE 55

Post-It brand fax transmittal system 7071 10 pages	SRP
ARDC	AA
ADGA	265-6329
28 B1M	265-6329

750 Alaska

955 PACIFIC REPORTER, 3d SERIES

copied—without alteration—from the Sale 50 Finding. More importantly, the Sale 55 Finding deals with transportation issues in a similar cursory manner.

Given the similarity between the Sale 50 and Sale 55 locations,⁴ as well as the two Findings' treatment of the transportation issue, this court's decision in *Camden Bay* is controlling.⁵ The best-interest Finding for Sale 55 failed to adequately address the methods and risks of transporting oil from the sale area to market. Accordingly, we reverse the decision of the superior court, and remand the case to DNR for a supplemental finding addressing this issue.

B. THE PORCUPINE CARIBOU HERD

[5] Trustees further argue that the Porcupine Caribou Herd is susceptible to adverse impacts from oil and gas development off the shore of ANWR, and that DNE must consider this impact in making its best-interest determination.⁶ Trustees contend that the caribou use areas within, and immediately adjacent to, the Sale 55 area as calving grounds and for insect relief. Trustees raise concerns that oil development may cause the caribou to avoid this important area. Further, caribou may be subject to oil spills. Accordingly, Trustees argue that DNR's best-interest Finding was deficient because it failed to consider the impact of Sale 55 on the caribou herd.

In response, DNR argues that it adequately addressed any impact development would have on the herd. DNE notes that Sale 55 is an offshore lease sale, and that Trustees have presented no evidence that "offshore activities themselves can interfere with caribou."

4. Remarkably, the Sale 55 area is considerably farther away from conventional land-based transportation facilities on the North Slope (80 miles) than the Camden Bay sale area (50 miles).

5. DNE attempts to limit the precedential value of *Camden Bay* by suggesting that this court's holding as to the transportation issue was "perhaps" a result of incomplete briefing.

6. Trustees argue that the herd is important to the State because (1) it has been recognized by the United States and Canada as "a unique and irreplaceable resource of great value," (2) many

Alaska Natives utilize the herd for subsistence purposes, and (3) the herd is used for recreation, scientific and sport hunting purposes by Alaska Natives.

Despite DNE's contention that it "considered volumes of information on caribou," the Finding does not suggest this level of consideration. In contrast to DNE's extensive discussion detailing the effects of the sale on whales, seals, polar bears, fish and birds, the Finding simply does not discuss the effects on caribou. DNE is required to take a "hard look" at the salient problems involved with a lease sale, and must engage in reasoned decision making. *Camden Bay*, 795 P.2d at 809. DNE's Finding indicates that it did not give the same level of consideration to the caribou herd that it gave to other wildlife.

In fact, DNE's Finding consists of little more than an assumption that, since Sale 55 is an offshore oil lease, it will not affect ANWR or the caribou that use ANWR.⁷ DNE's Finding states:

Sale 55 thus should not have a direct effect on ANWR lands themselves, although exploration and production activity within the sale area may be visible from ANWR.

Although DNE asserts that development "should not" affect ANWR or the caribou that utilize ANWR, DNE has made no finding to this effect. Rather, it has simply made the unsupported assumption that off-

Alaska Natives utilize the herd for subsistence purposes, and (3) the herd is used for recreation, scientific and sport hunting purposes by Alaska Natives.

7. If DNE had given this issue the same level of attention in its Finding that it gave the issue in the briefing before this court and the superior court, the Finding may have been sufficient. Nevertheless, the best-interest determination required by statute must take place before the lease decision is made, not as an after-the-fact exercise.

TRUSTEES FOR ALASKA v. STATE, DNR

Alaska 751

Cite as 843 P.2d 748 (Alaska 1988)

shore development cannot affect caribou.¹ This approach is evident in the following language of the Finding:

[While the Department recognizes the intent behind the creation of ANWR, the department does not believe it is necessary to establish yet another undeveloped area, or buffer zone, around the refuge to achieve an acceptable level of protection for fish and wildlife within ANWR. Regulatory agencies have designed lease terms, permit requirements and field monitoring to control industry exploration and production activities. The protection of ANWR lands will be a consideration when granting approval of design, siting and construction of exploration and production facilities.... [The department does not expect significant or permanent degradation to refuge wildlife, the environment, or the wilderness character of the refuge to occur.

Although DNR attempts to argue that it "carefully considered caribou-related issues," the Finding language indicates otherwise. What DNR is really arguing is that offshore development cannot affect onshore caribou. I.e., that the sale's effect on the Porcupine Caribou Herd does not represent a "salient problem" for purposes of AS 38.05.035(e). See *Cowden*, 795 P.2d at 809 (DNR must take a hard look at any salient prob-

lems associated with sale). This argument is equally unpersuasive. The caribou herd is an important resource for the State of Alaska and the Natives that rely on the caribou for subsistence. Since the State has a substantial interest in the continued health and viability of the herd, the impact of the sale on the herd is an important factor which DNR must consider when making its best-interest determination.

DNR failed to take a hard look at the impact of Sale 55 on the Porcupine Caribou Herd, and on the subsistence users of this herd. Accordingly, we reverse the superior court, and remand the case to DNR for a supplemental finding addressing these issues.

III. CONCLUSION

Trustees did not abandon or waive the transportation issue before the superior court. Since DNR failed to adequately consider the issue in making its best-interest finding, we REVERSE the decision of the superior court and REMAND the case for a supplemental finding.

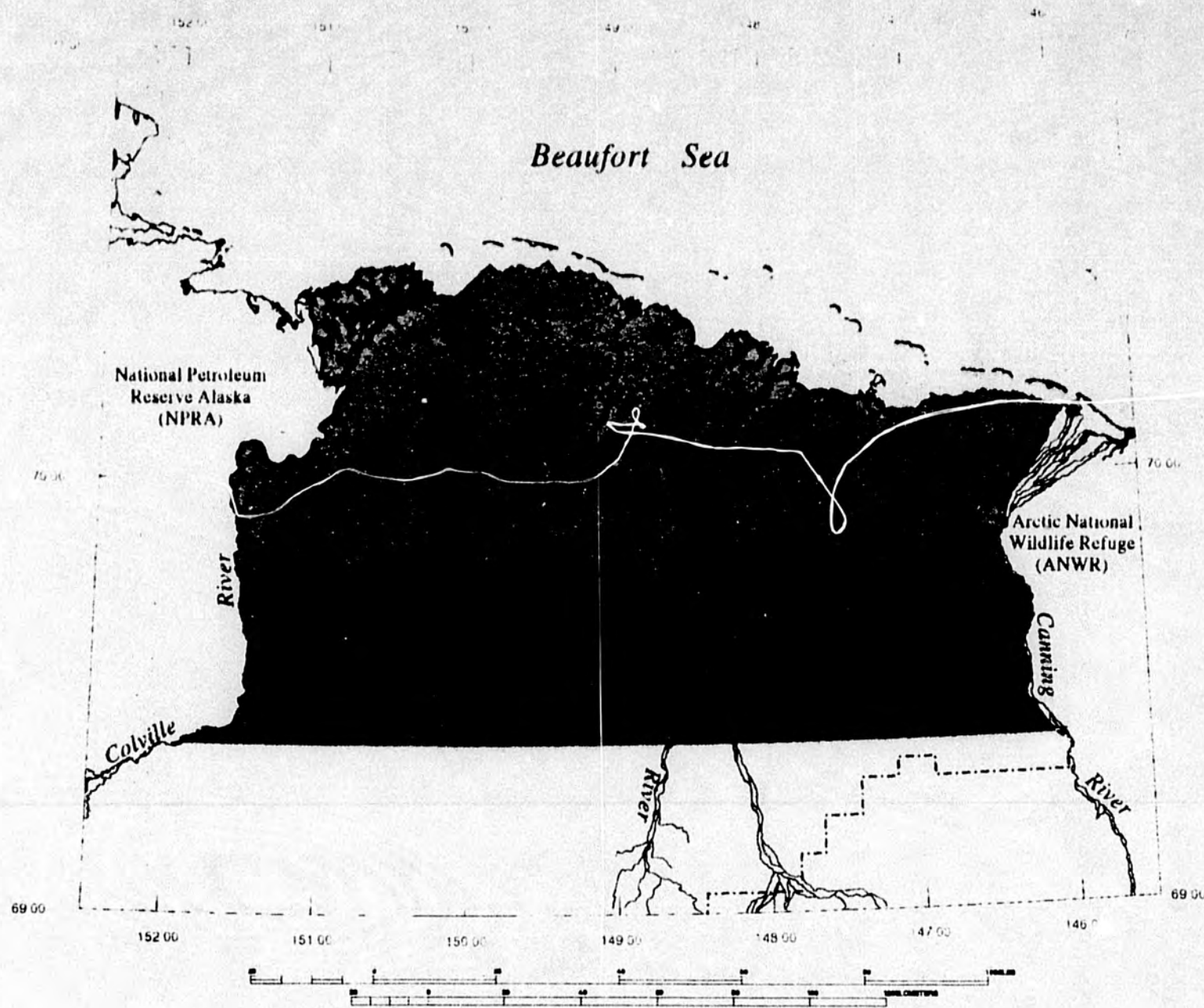
DNR failed to consider the effect of Sale 55 on the "important factor" of the Porcupine Caribou Herd. Accordingly, we also REVERSE and REMAND for a consideration of this issue.

8. Although DNR did not find it necessary to study the impact of the sale on adjacent ANWR lands, it did think it appropriate to cite ANWR's petroleum potential as a factor supporting its decision to lease the Sale 55 area. The Finding states:

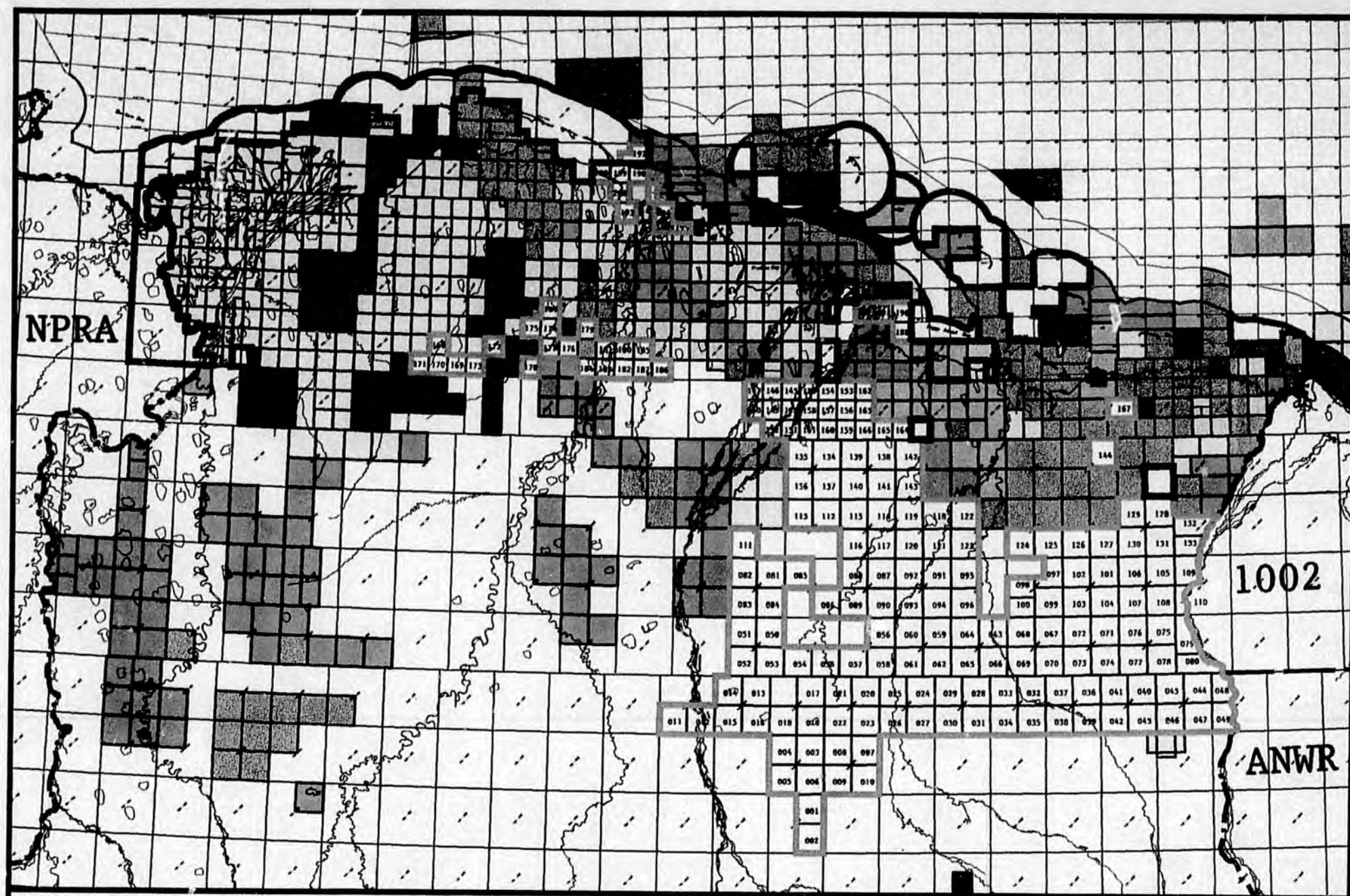
Petroleum industry interest in the [surrounding] region is significant.... Members of the oil industry as well as the U.S. Department of the Interior and State of Alaska have assessed the petroleum potential of the coastal plain of the Arctic National Wildlife Refuge (ANWR)

adjacent to the sale areas and indicated that it may be the most prospective unexplored region in North America. These facts in conjunction with the imminent decline of production from other North Slope oil fields... support the decision to lease new state lands in Sale 55.

DNR cannot use the surrounding ANWR lands as a factor justifying development, and at the same time refuse to consider the impact of the sale on these lands.



AREAWIDE LEASING



Sale 80



Sale 86

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

OIL & GAS, CHAIRMAN
LABOR & COMMERCE, VICE CHAIRMAN
ADMINISTRATIVE REGULATION REVIEW, VICE CHAIRMAN
HEALTH, EDUCATION & SOCIAL SERVICES, MEMBER
ECONOMIC DEVELOPMENT, MEMBER



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FAX: (907) 465-2040

Representative Norman Rokeberg

Sponsor Statement

HB 388 - An act relating to oil and gas leases and best interest findings

The current Oil and Gas Committee Substitute for HB 388 incorporates sections of HB 389 that extend the life of a best interest finding from 5 years to 10 years. This new version is a compromise between the Alaska Oil and Gas Association, the Department of Natural Resources and the sponsor. The oil industry requested that the original bill be modified to eliminate the creation of a new oil and gas leasing program as well as the language mandating annual lease sales.

CSHB 388(O&G) achieves the industry and state's objectives without creating a new program which would require creation of implementing regulations. By amending existing statutes there will be no delay in the current schedule of lease sales and also, eliminates the large fiscal note.

CSHB 388(O&G) contains language that changes the mandated annual leasing to annual leasing at the commissioner's discretion. The oil industry indicates that there are assurances by the department that annual lease sales will take place in cases where there are no significant problems preventing the sales, such as, poor market conditions. The new committee substitute includes language that would encourage the commissioner to follow through with annual sales.

In addition, I would like to emphasize that the goal of this legislation is to make more land available to the industry for leasing on a predictable schedule. This in turn benefits the State of Alaska by increasing the amount of oil produced. Thus, providing increased royalty revenues to fund programs critical to the people of the State of Alaska.

Simply stated the bill:

- (1) Is in the best interest of the State of Alaska to conduct annual areawide sales;
- (2) Provides the industry with some certainty about the timeline and the location of lands being made available for oil & gas leasing;
- (3) Accommodates the concerns expressed by the administration as well as the problems associated with setting up a new program of leasing for the State of Alaska;
- (4) Establishes a clear streamlined process for processing a "supplement" to an existing Best Interest Finding (BIF) while also including a reasonable time period for public notice and comment;
- (5) The AOGA member companies have endorsed the current concepts.

CS FOR HOUSE BILL NO. 388()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act revising laws relating to oil and gas leasing as related to land
2 previously the subject of a written best interest finding; amending provisions
3 setting out exceptions to sales, leases, or other disposals for which a revised
4 written best interest finding is not required; authorizing annual offer of land for
5 oil and gas leases if the land, or adjacent land, was the subject of a best
6 interest finding and if preparation of a supplement to the best interest finding
7 for that land is not justified; and modifying the statement of purpose in the
8 Alaska Land Act as it applies to oil and gas leasing."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 38.05.035(e) is amended to read:

11 (e) Upon a written finding that the interests of the state will be best served, the
12 director may, with the consent of the commissioner, approve contracts for the sale, lease,
13 or other disposal of available land, resources, property, or interests in them. In [, AND,

1 IN] addition to the conditions and limitations imposed by law, the director may impose
2 additional conditions or limitations in the contracts as the director determines, with the
3 consent of the commissioner, will best serve the interests of the state. The preparation
4 and issuance of the written finding by the director is subject to the following:

5 (1) with the consent of the commissioner and subject to the director's
6 discretion, for a specific proposed disposal of available land, resources, or property, or
7 of an interest in them, the director, in the written finding,

8 (A) shall establish the scope of the administrative review on
9 which the director's determination is based, and the scope of the written finding
10 supporting that determination; the scope of the review and finding may address only
11 reasonably foreseeable, significant effects of the uses proposed to be authorized by the
12 disposal;

13 (B) may limit the scope of an administrative review and finding
14 for a proposed disposal to

15 (i) applicable statutes and regulations;

16 (ii) the facts pertaining to the land, resources, or property,
17 or interest in them, that the director finds are material to the
18 determination and that are known to the director or knowledge of which
19 is made available to the director during the administrative review; and

20 (iii) issues that, based on the statutes and regulations
21 referred to in (i) of this subparagraph, on the facts as described in (ii) of
22 this subparagraph, and on the nature of the uses sought to be authorized,
23 the director finds are material to the determination of whether the
24 proposed disposal will best serve the interests of the state; and

25 (C) may, if the project for which the proposed disposal is sought
26 is a multiphased development, limit the scope of an administrative review and
27 finding for the proposed disposal to the applicable statutes and regulations, facts,
28 and issues identified in (B)(i) - (iii) of this paragraph that pertain solely to a
29 discrete phase of the project when

30 (i) the only uses to be authorized by the proposed disposal
31 are part of that discrete phase;

32 (ii) the department's approval is required before the next

1 phase of the project may proceed; and

2 (iii) the department describes its reasons for a decision to
3 phase and conditions its approval to ensure that any additional uses or
4 activities proposed for that or any later phase of the project will serve the
5 best interests of the state;

6 (2) the director shall discuss in the written finding prepared and issued
7 under this subsection the reasons that each of the following was not material to the
8 director's determination that the interests of the state will be best served:

9 (A) facts pertaining to the land, resources, or property, or an
10 interest in them other than those that the director finds material under (1)(B)(ii)
11 of this subsection; and

12 (B) issues based on the statutes and regulations referred to in
13 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
14 subsection;

15 (3) a written finding for an oil and gas lease sale under AS 38.05.180 is
16 subject to (g) of this section;

17 (4) a contract for the sale, lease, or other disposal of available land or an
18 interest in land is not legally binding on the state until the commissioner approves the
19 contract but if the appraised value is not greater than \$50,000 in the case of the sale of
20 land or an interest in land, or \$5,000 in the case of the annual rental of land or interest
21 in land, the director may execute the contract without the approval of the commissioner;

22 (5) public notice requirements relating to the sale, lease, or other disposal
23 of available land or an interest in land for oil and gas proposed to be scheduled in the
24 five-year oil and gas leasing program under AS 38.05.180(b), are as follows:

25 (A) before a public hearing, if held, or in any case not less than
26 180 days before the sale, lease, or other disposal of available land or an interest
27 in land, the director shall make available to the public a preliminary written
28 finding that states the scope of the review established under (1)(A) of this
29 subsection and includes the applicable statutes and regulations, the material facts
30 and issues in accordance with (1)(B) of this subsection, and information required
31 by (g) of this section, upon which the determination that the sale, lease, or other
32 disposal will serve the best interests of the state will be based; the director shall

1 provide opportunity for public comment on the preliminary written finding for
2 a period of not less than 60 days;

3 (B) after the public comment period for the preliminary written
4 finding and not less than 90 days before the sale, lease, or other disposal of
5 available land or an interest in land for oil and gas, the director shall make
6 available to the public a final written finding that states the scope of the review
7 established under (1)(A) of this subsection and includes the applicable statutes
8 and regulations, the material facts and issues in accordance with (1) of this
9 subsection, and information required by (g) of this section, upon which the
10 determination that the sale, lease, or other disposal will serve the best interests
11 of the state is based;

12 (6) before a public hearing, if held, or in any case not less than 21 days
13 before the sale, lease, or other disposal of available land, property, resources, or interests
14 in them other than a sale, lease, or other disposal of available land or an interest in land
15 for oil and gas under (5) of this subsection, the director shall make available to the
16 public a written finding that, in accordance with (1) of this subsection, sets out the
17 material facts and applicable statutes and regulations and any other information required
18 by statute or regulation to be considered upon which the determination that the sale,
19 lease, or other disposal will best serve the interests of the state was based; however, a
20 written finding is not required before the approval of

21 (A) a contract for a negotiated sale authorized under
22 AS 38.05.115;

23 (B) a lease of land for a shore fishery site under AS 38.05.082;

24 (C) a permit or other authorization revocable by the
25 commissioner;

26 (D) a mineral claim located under AS 38.05.195;

27 (E) a mineral lease issued under AS 38.05.205;

28 (F) a production license issued under AS 38.05.207; or

29 (G) an exempt oil and gas lease sale under AS 38.05.180(d) of
30 acreage subject to a best interest finding issued [OFFERED IN A SALE
31 THAT WAS HELD] within the previous 10 [FIVE] years [IF THE SALE WAS
32 SUBJECT TO A WRITTEN BEST INTEREST FINDING, UNLESS THE

1 COMMISSIONER DETERMINES THAT NEW INFORMATION HAS
2 BECOME AVAILABLE THAT JUSTIFIES A REVISION OF THE BEST
3 INTEREST FINDING;] or

4 [(H)] a reoffer oil and gas lease sale under AS 38.05.180(w) of
5 acreage subject to a best interest finding issued [OFFERED IN A SALE
6 THAT WAS HELD] within the previous 10 [FIVE] years, together with any
7 tract for which a written best interest finding has not been prepared if the
8 tract is located within and is entirely surrounded by acreage described in
9 this subparagraph for which a best interest finding was issued [IF THE
10 SALE WAS SUBJECT TO A BEST INTEREST FINDING], unless the
11 commissioner determines that substantial new information has become available
12 that justifies a supplement to [REVISION OF] the most recent best interest
13 finding for the exempt oil and gas lease sale acreage, for the reoffer oil and
14 gas lease sale acreage, and for the included tracts; however, for each oil and
15 gas lease sale described in this subparagraph, the director shall call for
16 comments from the public; the director's call for public comments must
17 provide opportunity for public comment for a period of not less than 30
18 days; if the director determines that a supplement to the most recent best
19 interest finding for the acreage is required under this subparagraph,

20 (i) the director shall issue the supplement to the best
21 interest finding not later than 90 days before the sale;

22 (ii) not later than 45 days before the sale, the director
23 shall issue a notice describing the interests to be offered, the location
24 and time of the sale, and the terms and conditions of the sale; and

25 (iii) the supplement has the status of a final written
26 best interest finding for purposes of AS 38.05.035(i) and (l);

27 (7) the director shall include in

28 (A) a preliminary written finding, if required, a summary of
29 agency and public comments, if any, obtained as a result of contacts with other
30 agencies concerning a proposed disposal or as a result of informal efforts
31 undertaken by the department to solicit public response to a proposed disposal,
32 and the department's preliminary responses to those comments; and

(B) the final written finding a summary of agency and public comments received and the department's responses to those comments.

* Sec. 2. AS 38.05.180(a) is amended to read:

(a) The legislature finds that

(1) the people of Alaska have an interest in the development of the state's oil and gas resources to

(A) maximize the economic and physical recovery of the resources;

(B) maximize competition among parties seeking to explore and develop the resources;

(C) maximize use of Alaska's human resources in the development of the resources;

(2) it is in the best interests of the state

(A) to encourage an assessment of its oil and gas resources and to allow the maximum flexibility in the methods of issuing leases to

(i) [(A)] recognize the many varied geographical regions of the state and the different costs of exploring for oil and gas in these regions;

(ii) [(B)] minimize the adverse impact of exploration, development, production, and transportation activity; and

(B) to offer acreage for oil and gas lease sales on an annual basis, specifically including annual areawide lease sales of state land that has been the subject of a best interest finding or that is adjacent to and surrounded by state land that has been the subject of a best interest finding.

* Sec. 3. AS 38.05.180(d) is amended to read:

(d) The commissioner

(1) may annually offer to issue oil and gas leases of the acreage described in AS 38.05.035(e)(6)(G) unless the commissioner determines that new information has become available that justifies preparation of a supplement to the best interest finding for the area proposed to be leased;

(2) may issue oil and gas leases in an area that has not been included in a leasing program submitted, in accordance with (b) of this section, to the legislature

1 if the land to be leased

2 (A) [(1)] was previously subject to a valid state or federal oil
3 and gas lease;

4 (B) [(2)] is contiguous to land already under state, federal or
5 private lease and the commissioner makes a written finding, after hearing, that
6 leasing of the land would result in a substantial probability of early evaluation
7 and development of the land to be leased;

8 (C) [(3)] is adjacent to land owned or controlled by another
9 party on which a discovery of commercial quantities of oil or gas has been
10 made, and the commissioner finds, after hearing, that there is a reasonable
11 probability that the land to be leased contains oil or gas in communication with
12 the oil or gas discovered on the land of the other party;

13 (D) [(4)] is adjacent to land included in the federal five-year
14 Outer Continental Shelf leasing program under 43 U.S.C. 1344, and the
15 commissioner makes a written finding, after hearing, that coordinated or
16 simultaneous leasing with the federal government is in the public interest; or

17 (E) [(5)] is the subject of an oil and gas exploration license
18 issued under AS 38.05.131 - 38.05.134.

19 * Sec. 4. AS 38.05.180(w) is amended to read:

20 (w) Notwithstanding any other provisions of this section, land that was subject
21 to a best interest finding issued within the previous 10 years [WHICH HAS BEEN
22 OFFERED FOR LEASE WITHIN THE PREVIOUS FIVE YEARS AND WHICH
23 RECEIVED NO BIDS AT COMPETITIVE SALE OR FOR WHICH NO BID WAS
24 ACCEPTED] may be, at the discretion of the commissioner, immediately offered for
25 lease, under regulations adopted by the commissioner, upon terms appearing most
26 advantageous to the state; however, noncompetitive leasing is prohibited. The
27 commissioner shall establish a royalty determined to be in the public interest but not less
28 than 12 1/2 percent. A lease must provide for payment to the state of rental but need
29 not adhere to the rental schedule in (n) of this section nor to the 5,760-acres-per-lease
30 limitation in (m) of this section. The lease term may not exceed 10 years, except as
31 provided in (o) of this section.

32 * Sec. 5. AS 38.05.945(a) is amended to read:

1 (a) This section establishes the requirements for notice given by the department
2 for the following actions:

3 (1) classification or reclassification of state land under AS 38.05.300 and
4 the closing of land to mineral leasing or entry under AS 38.05.185;

5 (2) zoning of land under applicable law;

6 (3) issuance of a

7 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
8 regarding the sale, lease, or disposal of an interest in state land or resources for
9 oil and gas subject to AS 38.05.180(b);

10 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
11 the sale, lease, or disposal of an interest in state land or resources for oil and gas
12 subject to AS 38.05.180(b);

13 (C) written finding for the sale, lease, or disposal of an interest
14 in state land or resources under AS 38.05.035(e)(6), except an oil or gas lease
15 sale described in AS 38.05.035(e)(6)(G) for which the director must provide
16 opportunity for public comment under the provisions of that subparagraph;

17 (4) a competitive disposal of an interest in state land or resources after
18 final decision under AS 38.05.035(e);

19 (5) a public hearing under AS 38.05.856(b);

20 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)
21 concerning sites for aquatic farms and related hatcheries;

22 (7) a decision under AS 38.05.132 - 38.05.134 regarding the sale, lease,
23 or disposal of an interest in state land or resources.

SCOMM

96:16

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB389

Revision Date: Original

Dept Affected Natural Resources

Title: An Act relating to best-interest findings
for oil and gas leases.

BRU: Resource Development

Component: Oil & Gas Development

Sponsor: Representative(s) Rokeberg, B. Davis

Requestor: House Oil & Gas

Component Serial No. 439

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*

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

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

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

ANALYSIS:

(Attach a separate page if necessary)

* Fiscal impact associated with implementation of this legislation is impossible to assess at this time and will be provided upon clarification of the bill.

Prepared by: Ken Boyd, Director

Phone: 269-8800

Division: Oil & Gas

Date: 1-Feb-96

Approved by Commissioner: [Signature]

Date: 1-Feb-96

Agency: Natural Resources

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

OIL & GAS, CHAIRMAN
LABOR & COMMERCE, VICE CHAIRMAN
ADMINISTRATIVE REGULATION REVIEW, VICE CHAIRMAN
HEALTH, EDUCATION & SOCIAL SERVICES, MEMBER
ECONOMIC DEVELOPMENT, MEMBER



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Representative Norman Rokeberg

Sponsor Statement HB 389

"An act relating to 'best-interest findings' for oil and gas leases"

A best-interest finding is a written determination by the Commissioner of the Department of Natural Resources on whether the "interests of the state will be best served" by leasing the area under consideration for proposed oil and gas activities. Best interest findings take into consideration all facts pertaining to the land, resources, property or interest in them and can take from six months to one or more years to complete. The period of time that a BIF is valid is unclear in statute.

HB 389 allows the Division of Oil and Gas to revise existing best interest findings when substantial new information is presented to the department. Currently, if there is new information, the division must spend the resources and time to revise the BIF. HB 389 calls for a revision only when the new information is substantial -- new information which is essential and critical in regards to the best interests of the state, and calls for a revision only when the new information will significantly impact the leasing tract. HB 389 also establishes a period of public comment on revised BIFs and provides for an extension on the life of a BIF.

HB 389 will reduce the time, effort, and funding required by the Division of Oil and Gas to meet its statutory mandate. It streamlines the leasing process.

I urge your support on HB 389.

Sec. 38.05.945. Notice. (a) This section establishes the requirements for notice given by the department for the following actions:

(1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;

(2) zoning of land under applicable law;

(3) issuance of a

(A) preliminary written finding under AS 38.05.035(e)(5)(A) regarding the sale, lease, or disposal of an interest in state land or resources for oil and gas subject to AS 38.05.180(b);

(B) final written finding under AS 38.05.035(e)(5)(B) regarding the sale, lease, or disposal of an interest in state land or resources for oil and gas subject to AS 38.05.180(b);

(C) written finding for the sale, lease, or disposal of an interest in state land or resources under AS 38.05.035(e)(6);

(4) a competitive disposal of an interest in state land or resources after final decision under AS 38.05.035(e);

(5) a public hearing under AS 38.05.856(b);

(6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c) concerning sites for aquatic farms and related hatcheries;

(7) a decision under AS 38.05.132 — 38.05.134 regarding the sale, lease, or disposal of an interest in state land or resources.

(b) When notice is required to be given under this section,

(1) the notice must contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on it;

(2) if the notice is of a preliminary written finding described in (a)(3)(A) of this section, the department shall give notice at the beginning of the public comment period for the preliminary written finding, notifying the public of the right to submit comments; the department shall give notice by

(A) publication of a legal notice in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action at least once a week for two consecutive weeks;

(B) publication of a notice in display advertising form in the newspapers described in (A) of this paragraph at least once a week for two consecutive weeks;

(C) public service announcements on the electronic media serving the area to be affected by the proposed action; and

(D) one or more of the following methods:

(i) posting in a conspicuous location in the vicinity of the action;

(ii) notification of parties known or likely to be affected by the action; or

(iii) another method calculated to reach affected parties;

(3) if the notice is of an action described in (a) of this section, other than notice of an action under (a)(3)(A) of this section, the department

shall give notice at least 30 days before the action by publication in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action and one or more of the following methods:

(A) publication through public service announcements on the electronic media serving the area affected by the action;

(B) posting in a conspicuous location in the vicinity of the action;

(C) notification of parties known or likely to be affected by the action; or

(D) another method calculated to reach affected persons.

(c) Notice at least 30 days before action under (a) of this section shall also be given to the following:

(1) to a municipality if the land is within the boundaries of the municipality, to a coordinating body established by community councils in a municipality if the coordinating body or a community council within the area served by a coordinating body requests notice in writing; if there is no coordinating body within the municipality, notice shall be provided to each community council established by the charter or ordinance of the municipality if the land is located within the boundaries of the municipality and if the community council requests notice in writing;

(2) to a regional corporation if the boundaries of the corporation as established by sec. 7(a) of the Alaska Native Claims Settlement Act encompass the land and the land is outside a municipality;

(3) to a village corporation organized under sec. 8(a) of the Alaska Native Claims Settlement Act if the land is within 25 miles of the village for which the corporation was established and the land is located outside a municipality;

(4) to the postmaster of a permanent settlement of more than 25 persons located within 25 miles of the land if the land is located outside a municipality, with a request that the notice be posted in a conspicuous location;

(5) to a nonprofit community organization or a governing body that has requested notification in writing and provided a map of its boundaries, if the land is within the boundaries.

(d) Notice at least 30 days before action under (a)(5) or (6) of this section shall be given to appropriate

(1) regional fish and game councils established under AS 16.05.260; and

(2) coastal resource service areas organized under AS 46.40.110 — 46.40.210.

(e) Notice is not required under this section for a permit or other authorization revocable by the department.

(f) The provisions of this section do not apply to a lease issued under AS 38.05.205.

(g) The provisions of this section do not apply to a production license issued under AS 38.05.207.

(h) Failure to give notice under this section to a community council, a coordinating body established by community council, or an organization listed in (c)(5) of this section does not constitute a legal basis for invalidation or delay of the action. (§ 10 art III ch 169 SLA 1959; am § 8 ch 61 SLA 1960; am § 2 ch 74 SLA 1961; am § 3 ch 117 SLA 1976; am § 14 ch 257 SLA 1976; am §§ 39, 40 ch 85 SLA 1979; am § 4 ch 108 SLA 1981; am § 36 ch 113 SLA 1981; am § 3 ch 87 SLA 1982; am §§ 44 — 46 ch 152 SLA 1984; am §§ 6, 7 ch 100 SLA 1988; am §§ 15, 16 ch 145 SLA 1988; am § 5 ch 124 SLA 1990; am § 7 ch 35 SLA 1994; am §§ 6, 7 ch 38 SLA 1994)

Revisor's notes. — Formerly AS 38.05.345. Renumbered in 1984. In 1994, paragraph (a)(7) was added to give effect to the amendment to (a)(3) made by § 7, ch. 35, SLA 1994, which paragraph was also amended by § 6, ch. 38, SLA 1994.

Cross references. — For legislative findings in connection with the 1994 amendments to this section, see § 1, ch. 38, SLA 1994 in the Temporary and Special Acts.

Effect of amendments. — The 1990 amendment deleted "Except for oil and gas leasing under AS 38.05.180 and geothermal leasing under AS 38.05.181" from the beginning of subsection (c).

The first 1994 amendment, effective

August 7, 1994, inserted a section reference in paragraph (a)(7).

The second 1994 amendment, effective August 7, 1994, in paragraph (a)(3), added "issuance of a" at the beginning, added present subparagraphs (A) and (B), designated the former provisions of the paragraph as subparagraph (C), and, in subparagraph (C), substituted "written finding for" for "A decision under AS 38.05.035(e) regarding" at the beginning and added "under AS 38.05.035(e)(6)" at the end; and, in subsection (b), added present paragraphs (1) and (2) and rewrote the former provisions of the subsection and redesignated those as paragraph (3).

NOTES TO DECISIONS

Quoted in Trustees for Alaska v. State, Dep't of Natural Resources, 795 P.2d 805 (Alaska 1990).

Cited in Kuitsarak Corp. v. Swope, 870 P.2d 387 (Alaska 1994).

Sec. 38.05.965. Definitions. In this chapter, unless the context otherwise requires,

(1) "acquired land" means land belonging to the state including tide, submerged and shoreland which has been obtained by escheat, purchase, or any means other than by general land grant;

(2) "agricultural land" means land chiefly valuable for agricultural purposes;

(3) "commissioner" means the commissioner of natural resources;

(4) "department" means the Department of Natural Resources;

(5) "director" means the director of the division of lands of the Department of Natural Resources;

(6) "geothermal resources" means the natural heat of the earth at temperatures greater than 120 degrees Celsius, measured at the point

where the highest-temperature resources encountered enter or contact a well or other resource extraction device, and includes

(A) the energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat;

(B) the material medium, including the geothermal fluid naturally present, as well as substances artificially introduced to serve as a heat transfer medium; and

(C) all dissolved or entrained minerals and gases that may be obtained from the material medium, but excluding hydrocarbon substances and helium;

(7) "grazing land" means land chiefly valuable for grazing purposes;

(8) "industrial and commercial land" means land chiefly valuable for industrial trade, manufacturing or business use;

(9) "lieu and indemnity land" means land which the state is entitled to select under the provisions of 38 Stat. 1214, as amended (48 USC 353) or a similar statute to compensate for land in place of surveyed rectangulars, which have been lost to the state by reason of deficient sections, prior rights, claims, withdrawals, reservations and other appropriations;

(10) "material" includes sand, stone, gravel, pumice, and common clay.

(11) "mineral land" means land prospectively valuable for mineral deposits;

(12) "multiple use" has the meaning given in AS 38.04.910;

(13) "navigable water" means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea or ocean, or any other body of water or waterway within the territorial limits of the state or subject to its jurisdiction, that is navigable in fact for any useful public purpose, including but not limited to water suitable for commercial navigation, floating of logs, landing and takeoff of aircraft, and public boating, trapping, hunting waterfowl and aquatic animals, fishing, or other public recreational purposes;

(14) "park and recreation land" means land chiefly valuable for public park and recreation use;

(15) "preference right forest lease" means a lease granted to a lessee whose United States Forest Service term special use permit was cancelled to allow the land under permit to be selected by the state;

(16) "preference right grazing lease" means a grazing lease granted to a lessee whose federal grazing lease was cancelled to allow the land under lease to be selected by the state;

(17) "public water" means navigable water and all other water, whether inland or coastal, fresh or salt, that is reasonably suitable for public use and utility, habitat for fish and wildlife in which there is a

9-LS1342\C ✓
Chenoweth
2/6/96

CS FOR HOUSE BILL NO. 389()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to 'best interest findings' for oil and gas leases."

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

3 * **Section 1.** AS 38.05.035(e)(6) is amended to read:

4 (6) before a public hearing, if held, or in any case not less than 21 days
5 before the sale, lease, or other disposal of available land, property, resources, or interests
6 in them other than a sale, lease, or other disposal of available land or an interest in land
7 for oil and gas under (5) of this subsection, the director shall make available to the
8 public a written finding that, in accordance with (1) of this subsection, sets out the
9 material facts and applicable statutes and regulations and any other information required
10 by statute or regulation to be considered upon which the determination that the sale,
11 lease, or other disposal will best serve the interests of the state was based; however, a
12 written finding is not required before the approval of

13 (A) a contract for a negotiated sale authorized under
14 AS 38.05.115;

15 (B) a lease of land for a shore fishery site under AS 38.05.082;

(C) a permit or other authorization revocable by the commissioner;

(D) a mineral claim located under AS 38.05.195;

(E) a mineral lease issued under AS 38.05.205;

(F) a production license issued under AS 38.05.207;

(G) an exempt oil and gas sale under AS 38.05.180(d) of acreage offered

(i) in a sale that was held within the previous five years if the sale was subject to a written best interest finding, unless the commissioner determines that substantial new information has become available that justifies a revision of the best interest finding; or

(ii) in a sale that was subject to the exemption set out in (i) of this subparagraph, for sale acreage that was previously subject to a written best interest finding; however, if the commissioner determines that substantial new information has become available that justifies a revision of the last best interest finding, the commissioner shall prepare a revised best interest finding under (g)(2) of this section; or

(H) a lease sale under AS 38.05.180(w) of acreage offered

(i) in a sale that was held within the previous five years if the sale was subject to a best interest finding, unless the commissioner determines that substantial new information has become available that justifies a revision of the best interest finding; or

(ii) in a sale that was subject to the exemption set out in (i) of this subparagraph, for sale acreage that was previously subject to a written best interest finding; however, if the commissioner determines that substantial new information has become available that justifies a revision of the last best interest finding, the commissioner shall prepare a revised best interest finding under (g)(2) of this section;

* Sec. 2. AS 38.05.035(g) is amended to read:

(g) Notwithstanding (e)(1)(A) and (B) of this section, when the director

1 prepares a written finding required under (e) of this section for an oil and gas lease
2 sale scheduled under AS 38.05.180, the director shall consider and discuss

3 (1) in a preliminary or final written finding facts that are known to the
4 director at the time of preparation of the finding and that are

5 (A) material to issues that were raised during the period allowed
6 for receipt of public comment, whether or not material to a matter set out in
7 (B) of this paragraph, and within the scope of the administrative review
8 established by the director under (e)(1) of this section; or

9 (B) material to the following matters:

10 (i) property descriptions and locations;

11 (ii) the petroleum potential of the sale area, in general
12 terms;

13 (iii) fish and wildlife species and their habitats in the
14 area;

15 (iv) the current and projected uses in the area, including
16 uses and value of fish and wildlife;

17 (v) the governmental powers to regulate oil and gas
18 exploration, development, production, and transportation;

19 (vi) the reasonably foreseeable cumulative effects of oil
20 and gas exploration, development, production, and transportation on the
21 sale area, including effects on subsistence uses, fish and wildlife habitat
22 and populations and their uses, and historic and cultural resources;

23 (vii) lease stipulations and mitigation measures,
24 including any measures to prevent and mitigate releases of oil and
25 hazardous substances, to be included in the leases, and a discussion of
26 the protections offered by these measures;

27 (viii) the method or methods most likely to be used to
28 transport oil or gas from the lease sale area, and the advantages,
29 disadvantages, and relative risks of each;

30 (ix) the reasonably foreseeable fiscal effects of the lease
31 sale and the subsequent activity on the state and affected municipalities

and communities, including the explicit and implicit subsidies associated with the lease sale, if any;

(x) the reasonably foreseeable effects of oil and gas exploration, development, production, and transportation on municipalities and communities within or adjacent to the lease sale area; and

(xi) the bidding method or methods adopted by the commissioner under AS 38.05.180; [AND]

(2) in a preliminary or final written finding that is revised as required by (e)(6)(G) or (H) of this section, facts that are known to the director at the time of preparation of the revised finding and that require discussion under (1) of this subsection; however, in making the revised finding, the director shall consider and discuss facts described in (1) of this subsection as to which substantial new information has become available that justifies a revision and need not consider and discuss facts described in (1) of this subsection for which substantial new information has not become available; and

(3) the basis for the director's preliminary or final finding, or the director's revised preliminary or final finding, as applicable, that, on balance, leasing the area would be in the state's best interest.

* Sec. 3. AS 38.05.180(w) is amended to read:

(w) Notwithstanding any other provisions of this section, land that [WHICH] has been offered for lease [WITHIN THE PREVIOUS FIVE YEARS] and that [WHICH] received no bids at competitive sale or for which no bid was accepted may be, at the discretion of the commissioner, immediately offered for lease, under regulations adopted by the commissioner, upon terms appearing most advantageous to the state; however, noncompetitive leasing is prohibited. The commissioner shall establish a royalty determined to be in the public interest but not less than 12 1/2 percent. A lease must provide for payment to the state of rental but need not adhere to the rental schedule in (n) of this section nor to the 5,760-acres-per-lease limitation in (m) of this section. The lease term may not exceed 10 years, except as provided in (o) of this section.

* Sec. 4. AS 38.05.945(a) is amended to read:

1 (a) This section establishes the requirements for notice given by the department
2 for the following actions:

3 (1) classification or reclassification of state land under AS 38.05.300 and
4 the closing of land to mineral leasing or entry under AS 38.05.185;

5 (2) zoning of land under applicable law;

6 (3) issuance of a

7 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
8 regarding the sale, lease, or disposal of an interest in state land or resources for
9 oil and gas subject to AS 38.05.180(b);

10 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
11 the sale, lease, or disposal of an interest in state land or resources for oil and gas
12 subject to AS 38.05.180(b);

13 (C) written finding for the sale, lease, or disposal of an interest
14 in state land or resources under AS 38.05.035(e)(6), including a preliminary or
15 final written finding that is revised as required by AS 38.05.035(e)(6)(G) or
16 (H) when preparation of the revised best interest finding is required by
17 AS 38.05.035(g)(2);

18 (4) a competitive disposal of an interest in state land or resources after
19 final decision under AS 38.05.035(e);

20 (5) a public hearing under AS 38.05.856(b);

21 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)
22 concerning sites for aquatic farms and related hatcheries;

23 (7) a decision under AS 38.05.132 - 38.05.134 regarding the sale, lease,
24 or disposal of an interest in state land or resources.

SCOMM

96:17

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 394

Revision Date: <u>Original</u>	Dept Affected <u>Natural Resources</u>
Title: <u>An Act authorizing a program of natural gas</u>	BRU: <u>Resource Development</u>
<u>and coal bed methane development licensing and leasing...</u>	Component: <u>Oil & Gas Development</u>
Sponsor: <u>Representative(s) Ogan, Rokeberg</u>	
Requestor: <u>House Oil & Gas</u>	Component Serial No. <u>439</u>

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	312.0	312.0	312.0	312.0	312.0	312.0
TRAVEL	11.0	11.0	11.0	11.0	11.0	11.0
CONTRACTUAL	15.0	15.0	15.0	15.0	15.0	15.0
SUPPLIES	8.0	8.0	8.0	8.0	8.0	8.0
EQUIPMENT	40.0	6.0	6.0	6.0	6.0	6.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	386.0	352.0	352.0	352.0	352.0	352.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF	386.0	352.0	352.0	352.0	352.0	352.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	386.0	352.0	352.0	352.0	352.0	352.0

Estimate of any current year (FY96) cost: \$ _____

POSITIONS

FULL-TIME	6	6	6	6	6	6
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Six new positions within DO&G will be required to implement the gas and coal bed methane licensing and leasing program.

One Geologist II to determine areas for gas/coal bed leasing and licensing, evaluate licensing proposals and the geologic justification for conversions of licenses to leases. Represent DNR before AOGCC in determinations of oil potential for lease/licensing areas.

One Petroleum Economist I to perform the economic analysis required under AS 38.05.180 and AS 38.05.035 for gas/coal bed methane licensing and leasing.

Prepared by: <u>Ken Boyd, Director</u>	Phone: <u>269-8800</u>
Division: <u>Oil & Gas</u>	Date: <u>6-Feb-96</u>
Approved by Commissioner: <u>[Signature]</u>	Date: <u>6-Feb-96</u>
Agency: <u>Natural Resources</u>	

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Analysis continued

HB394

One Cartographer II to prepare maps and graphics for the best interest findings and ACMP analyses, as well as for license offerings.

One Natural Resource Officer II to research, write and regularly revise best interest findings and Alaska Coastal Management Program (ACMP) analyses.

One Natural Resource Officer II to perform the land title and status reviews, assist in determining land ownership boundaries, determine tract acreage.

One Natural Resource Officer II to administer leases and licenses including the awarding and issuing of leases and licenses, adjudicating assignment of ownership, and the enforcement of lease and license terms.

Travel costs include costs for staff to attend public hearings, and public meetings concerning the issuing of leases and licenses.

Contractual costs include office space, printing and publishing of public notices and display ads.

Supplies costs include costs for paper, pens, computer disks and other misc. supplies.

Equipment costs include phones, desks, computers, and other misc. equipment.

** There are uncertainties in the bill which may change the fiscal impact, once clarified with the sponsor.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 394

Revision Date: _____
Title: An Act authorizing a program of natural gas and coal bed methane development...
Sponsor: Reps. Ogan and Rokeberg
Requestor: _____

Department Affected: Environmental Conservation
BRU: Environmental Health
Component: Solid Waste

COMPONENT SERIAL NO. 2067

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

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

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

The proposed change to AS 46.03.100(f) will not require a change in solid waste program activities, as permits are not now issued for on-site discharge or disposal of waste material from activities associated with coal bed methane exploration drilling.

Prepared by: Larry Jones
Division: Director, Division of Administrative Services

Phone: 465-5010
Date: 1/18/96

Approved by Commissioner: Lawrence Jones
Agency: Department of Environmental Conservation

Date: 1/18/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 394

Revision Date: _____
Title: An Act authorizing a program of natural gas and coal bed methane development...
Sponsor: Reps. Ogan and Rokeberg
Requestor: _____

Department Affected: Environmental Conservation
BRU: Air and Water Quality
Component: Water Quality

COMPONENT SERIAL NO. 2062

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

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

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill exempts from permitting under AS 43.03.100 solid and liquid wastes incidental to activities associated with coal bed methane exploration drilling. This is similar to an exemption in the existing statute. If permits are not required, there is no cost to the department.

Prepared by: Larry Jones
Division: Director, Division of Administrative Services

Phone: 465-5010
Date: 1/18/96

Approved by Commissioner: Lawrence Jones
Agency: Department of Environmental Conservation

Date: 1/18/96

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(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 8, 1996

FURTHER REFERRALS:

Resources
FinanceDate of Committee Action: 2/27/96The HOUSE SPECIAL COMMITTEE ON OIL AND GAS Committee considered:HB 394

HOUSE BILL NO. 394

GAS & COAL METHANE LICENSES & LEASES

"An Act authorizing a program of natural gas and coal bed methane development licensing and leasing; relating to regulation of certain natural gas exploration facilities and coal bed methane exploration facilities for purposes of preparation of discharge prevention and contingency plans and compliance with financial responsibility requirements; amending the duties of the Alaska Oil and Gas Conservation Commission as they relate to natural gas exploration activities and coal bed methane exploration activities; and amending the exemption from obtaining a waste disposal permit for disposal of waste produced from coal bed methane drilling."

recommends it be replaced

with the following committee substitute

OSHB 394 (0+6)☐ the same title☒ a new title☐ additional referral to _____ Committee☐ attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS:

(Dept/Date)

☒ fiscal note(s) DNR, DEC,☐ fiscal note(s) _____☐ zero fiscal note(s) _____☐ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Tom Bering</i>			☒	
<i>David Zink</i>				☒
<i>Betty Danner</i>			☒	
<i>Larry Danner</i>			☒	
<i>Ann Kelly</i>	☒			
<i>W. F. Walliant</i>			☒	
<i>Scott Ogan</i>	☒			

CHAIR'S SIGNATURE

*Ann Kelly*2/27/96

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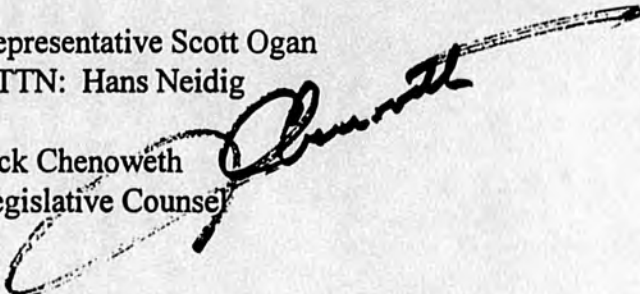
MEMORANDUM

February 26, 1996

SUBJECT: Draft CSHB 394 (), relating to shallow bed natural gas leasing -- sectional analysis (Work Order No. 9-LS1463\M)

TO: Representative Scott Ogan
ATTN: Hans Neidig

FROM: Jack Chenoweth
Legislative Counsel



This is a substantial revision of the bill as originally introduced.

The heart of the bill is its **section 2**, authorizing a shallow bed natural gas leasing program. Among the key features of the leasing program:

-- The program is made applicable to recovery of natural gas, from any source, located within 3000 feet of the surface at the drill site, but is inapplicable to (1) areas that cannot be leased under the oil and gas exploration licensing and leasing program (i.e. North Slope and Cook Inlet), (2) land under an exploration license or lease, or already leased under AS 38.05.180, or part of the state's five-year proposed oil and gas lease program, and (3) land under coal lease under the effective date of the Act;

-- The leases may be awarded to cover areas not less than 640 acres nor more than 23,040 acres, and lease applicants may not be required to pay a fee for the application or its processing;

-- The director is authorized to provide the lease applicant an initial shallow bed gas development lease giving the exclusive right, for a period of not more than two years, to explore for and develop shallow bed natural gas; that right may be extended for one additional two year period on a showing of diligent, albeit unsuccessful effort;

-- The holder of an initial shallow bed gas development lease may convert the lease to one for an indeterminate period upon showing of an ability to produce shallow bed natural gas from the lease in commercial quantity;

-- The shallow bed natural gas lessee is required to pay rent and royalty at the rates set out in AS 38.05.177(f) and (g);

-- There are several conditions and restrictions on the shallow bed gas development lease, including limitations on lease assignment and on insertion of the gas into the in-place transmission system generally serving the population centers of southcentral Alaska; the rights of the state and of the lessee to terminate or surrender the lease are spelled out;

-- The commissioner of natural resources is precluded from adopting regulations to interpret or make specific the provisions of the shallow bed natural gas leasing program.

Bill section 3 exempts from the requirement of a written best interest finding shallow bed gas development leases under AS 38.05.177.

Bill section 4 exempts shallow bed gas development leases from competitive bidding requirements based on the choice of leasing methods specified in that section for oil and gas leases.

Bill section 5 exempts shallow bed gas development leases from minimum work commitments otherwise imposable on oil and gas leases.

Bill section 6 substitutes, in the exemption from obtaining a waste disposal permit for disposal of waste produced from drilling, reference to shallow bed natural gas in place of an existing reference to coal bed methane.

Bill section 7: There is a general requirement in law that pipelines and exploration and production facilities may not be operated unless an oil discharge prevention and contingency plan has been developed and is in place for the pipeline and for the exploration and production facility. The amendment made by this section establishes an exception from that requirement for an onshore well drilling for shallow bed natural gas so long as that facility does not encounter a formation capable for producing oil.

Bill section 8 sets out the steps that the operator of a shallow bed natural gas operator must take if the operation encounters a formation capable of producing oil.

Bill section 9 sets the financial responsibility requirement applicable to an onshore exploration facility exploring for shallow bed natural gas at \$25,000.

Bill section 10 requires the operator of a shallow bed natural gas operator to cease operating, with exceptions, when the operator penetrates a formation capable of producing oil while exploring for gas.

Bill section 11: AS 46.04.050 sets out exemptions from the laws establishing oil discharge prevention and contingency plans and financial responsibility requirements. This bill section notes the additional exemption from these provisions for shallow bed natural gas exploration

Representative Scott Ogan
February 26, 1996
Page 3

facilities except as may be required when that well penetrates a formation capable of producing oil.

Bill section 12 prohibits use of the oil and hazardous substance release prevention and response fund ("470 fund") as a source of money to clean up a release attributable to a shallow bed natural gas development well.

*

There are three additional uncodified provisions:

Bill section 1 sets out legislative findings, a statement of purpose, and a statement of legislative intent for the measure.

Bill section 13 affirms that persons holding coal leases in effect on the effective date of this Act have the right to develop coal bed methane and related gas held in association with the coal.

Bill section 14 invites the commissioner of natural resources to suggests further legislation to implement the provisions of AS 38.05.177, the shallow bed gas development leasing provision.

JBC:klb
96-129.klb

FEB 13 1996

Alaska Oil and Gas Association



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

February 7, 1996

The Honorable Norman Rokeberg, Chairman
Special Committee on Oil and Gas
Alaska State House of Representatives
State Capitol
Juneau, Alaska

HB 394, Gas and Coal Methane Licenses and Leases

Dear Chairman Rokeberg:

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

The Association would like to express its concern about provisions in HB 394. Our comments are limited to those provisions in HB 394, which also are embodied in CSSB 176/CSHB334, exempting natural gas exploration facilities from preparation of discharge prevention and contingency plans and from compliance with financial responsibility requirements.

As stated in previous comments on CSSB 176/CSHB 334, AOGA believes that the state law requiring preparation and implementation of discharge prevention and contingency plans and the law requiring compliance with financial responsibility requirements for oil and natural gas exploration facilities should be consistent.

The Association believes it is in the state's best interest to require that consistent, equitable and adequate financial responsibility requirements be met by all persons/companies conducting oil and gas exploration operations in Alaska. The Association is aware of the state's interest to provide opportunities for smaller, independent oil and gas operators, however, the Association believes it is not in the state's best interest to assume financial liability for any operator.

The AOGA Lands, Exploration and Operations Committee is currently reviewing other provisions of the bill and may offer additional comments on the legislation at a later date.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judith M. Brady", is written over the typed name and title.

JUDITH M. BRADY
Executive Director

Calista Corporation

801 W. 5th Avenue, Suite 200 • Anchorage, AK 99501-2225 • (907) 279-5516 Facsimile (907) 272-5060

Norman Rokeberg
State Representative
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

February 26, 1996

Dear Representative Rokeberg,

Calista Corporation is writing this letter in support of CS for House Bill No. 394 which you and Representative Ogan have sponsored. We think it is a necessary measure to assist the development of cheap local energy sources for rural Alaska. Since over 20,000 of those rural residents live in the Calista Region we wholeheartedly support this concept.

We like it so much, we wish you would also make portions of the bill apply to more than just state land. Virtually all of the land surrounding our 50 villages is either private ANCSA land or Federal land.

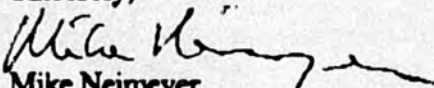
In Section 4 of your bill you have added a new subsection (5) to AS 46.03.100(f) and have removed the language OR COAL BED METHANE DRILLING from subsection (3). The new language would remove any protection that a private landowner would otherwise enjoy under the old version. We would suggest the following language which we think would provide this protection, that you are seeking on state leases, to activities on private and Federal land.

A new Subsection (5) would read:

(5) the discharge or disposal of waste material or water from activities associated with natural gas exploration drilling from shallow bed gas deposits as defined in AS 38.05.177
(a)(1) [UNDER A LEASE AUTHORIZED BY AS 38.05.177].

While this language may not be the most artful drafting, I do believe it would at least serve both of our purposes. We would be happy to work with you or a member of your staff to address this issue.

Sincerely,


Mike Neimeyer
VP Land and Natural Resources

c.c. Ivan M. Ivan

AMENDMENT TO CSHB 394

Representative Finkelstein

Page 3, Lines 19-21

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AMENDMENT TO CSHB 394

Representative Finkelstein

Page 5, Line 32- Page 6, Line 3

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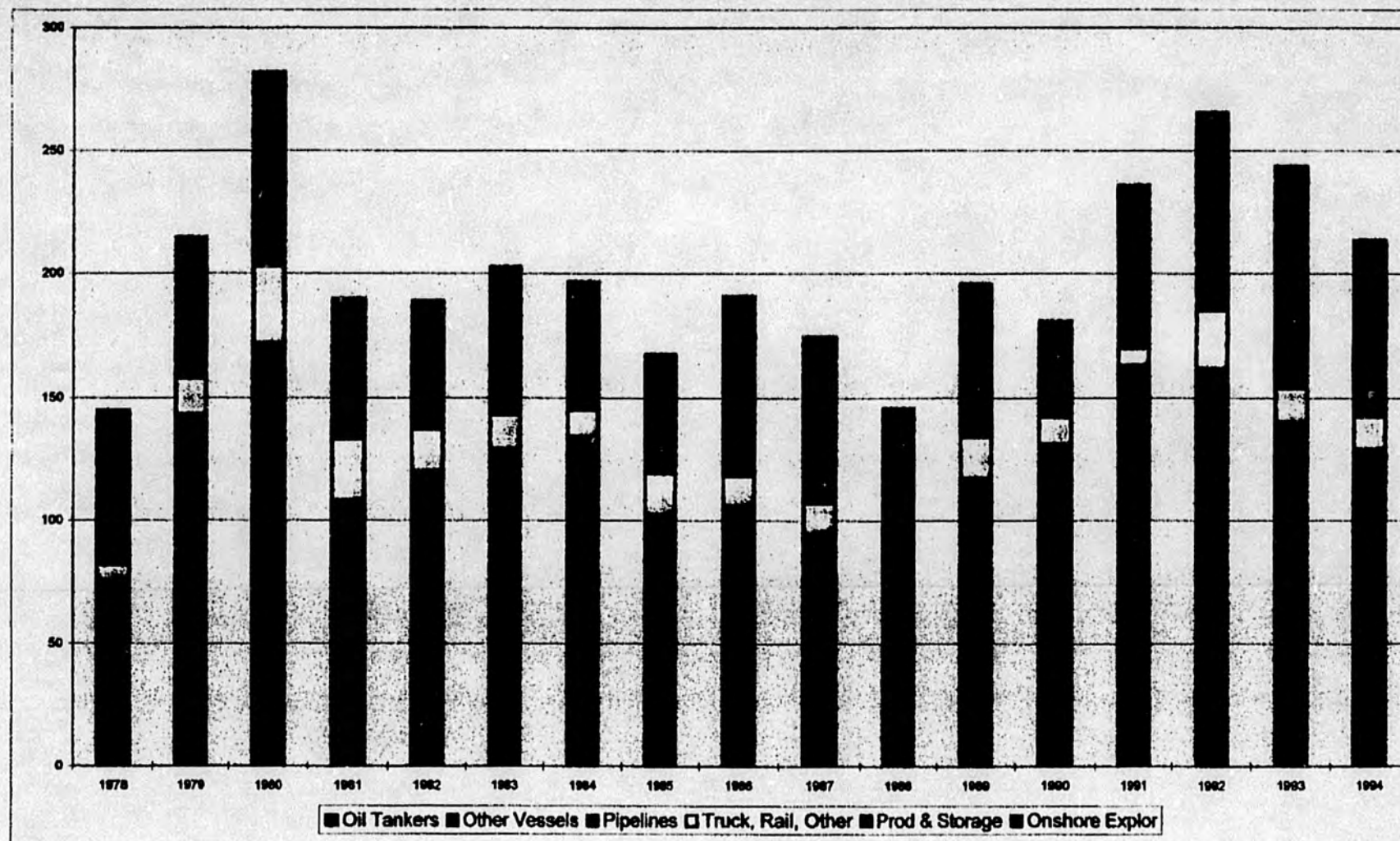
Page 2 Line 20-23
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Worldwide Numbers of Oil Spills

Greater than 10,000 gallons

Source: Cutter Information Corp's annual "Oil Spill Intelligence Report"

Year	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Oil Tankers	20	51	43	32	24	25	27	28	53	44	18	41	33	20	19	23	24
Other Vessels	33	47	44	36	50	53	37	22	27	32	27	45	45	36	22	21	28
Pipelines	22	45	85	40	46	51	70	52	26	19	26	31	53	107	121	96	77
Truck, Rail, Other	7	15	31	25	17	14	11	17	12	12	4	17	11	7	23	14	13
Prod & Storage	62	57	78	57	51	58	52	48	73	68	71	62	39	66	81	90	72
Onshore Explor	1	0	1	N/A	1	2	0	1	0	0	0	0	0	0	0	0	0
Totals:	145	215	262	190	189	203	197	168	191	175	146	196	181	236	266	244	214



Prepared by David W. Lappi 2/26/96

9-LS1463\G /
Chenoweth
2/26/96

CS FOR HOUSE BILL NO. 394()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES OGAN AND ROKEBERG, James

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing shallow bed natural gas leasing; relating to regulation of
2 natural gas exploration facilities for purposes of preparation of discharge
3 prevention and contingency plans and compliance with financial responsibility
4 requirements; exempting response and prevention activities associated with shallow
5 bed natural gas leasing as a use for which money in the oil and hazardous
6 substance release prevention and response fund is authorized; and substituting in
7 the exemption from obtaining a waste disposal permit for disposal of waste
8 produced from drilling a reference to shallow bed natural gas for a reference to
9 coal bed methane."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. LEGISLATIVE FINDINGS, PURPOSE, AND EXPRESSION OF INTENT.

12 (a) The legislature finds that

(1) there exist throughout the state sizeable reserves of coal and small but commercially significant amounts of natural gas located close to the earth's surface that are usually, though not always, associated with and emitted from coal reserves;

(2) the methane derived from these coal reserves and other shallow bed natural gas sources could be tapped to serve as a principal or a chief supplemental energy source of benefit to residents of areas in which they are found;

(3) the methane derived from these coal reserves and other shallow bed natural gas sources that are generally close to the surface could be developed without interfering with the development and transportation of the state's vast gas reserves available for interstate and foreign markets; and

(4) it is in the best interests of the state and its people that this natural gas should be identified and developed, especially to serve as a source of commercial quality natural gas for use in rural communities and remote locations within the state.

(b) In authorizing a program of leasing shallow bed natural gas from state land, it is the legislature's purpose to provide both a means and an incentive by which that gas may be identified and developed at low cost for the direct benefit of residents of remote or sparsely populated areas for which connection to the in-place gas pipeline transmission and distribution system serving population centers in Southcentral Alaska is not economically feasible.

(c) In enacting this Act, it is the intent of the legislature

(1) that the Department of Natural Resources implement this Act promptly and without adoption of administrative regulations to implement, interpret, or make specific this Act or to establish procedures to govern application of provisions of this Act; and

(2) that, to the extent it is necessary for the Department of Natural Resources to adopt constructions that implement, interpret, or make specific this Act or to establish procedures to govern application of provisions of this Act, the commissioner of natural resources may recommend legislation for consideration by the First Session of the Twentieth Alaska State Legislature to amend or add to the provisions of this Act that will adopt those constructions or establish those procedures.

* Sec. 2. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.177. SHALLOW BED NATURAL GAS. (a) The provisions of this section

(1) apply to gas, whether methane associated with and derived from coal

1 reserves or otherwise, developed from a source that is within 3,000 feet of the surface
2 at the drill site; and

3 (2) do not apply to authorize lease of

4 (A) land described in AS 38.05.131(b) in which oil and gas
5 exploration licenses and leases may not be issued;

6 (B) the land

7 (i) that is or becomes subject to an oil and gas exploration
8 license or lease issued under AS 38.05.131 - 38.05.134;

9 (ii) that is leased under AS 38.05.180; or

10 (iii) that is described in and is part of the proposed oil
11 and gas leasing program prepared under AS 38.05.180(b); or

12 (C) the land that, on the effective date of this Act, is held under
13 a coal lease entered into under AS 38.05.150.

14 (b) For the purpose of exploring for and developing shallow bed natural gas,
15 upon application, the director may lease to a person land of the state. A person applying
16 for a lease under this subsection

17 (1) shall specify the area to be leased; the area to be leased may not
18 exceed 23,040 acres and may not be less than 640 acres;

19 (2) may not be required to pay an application fee or any other form of
20 payment as a condition of submitting or processing the lease application or obtaining the
21 lease.

22 (c) Unless the lease application is for land described in (a)(2) of this section or
23 unless otherwise prevented by law from entering into a lease for land described in the
24 lease application, promptly after receipt of a lease application, the director shall enter into
25 an initial shallow bed gas development lease. The initial shallow bed gas development
26 lease entered into under this subsection gives the lessee

27 (1) the exclusive right to explore for, develop, and produce, for a term
28 not to exceed two years, shallow bed natural gas on the state land described in the lease;
29 the right to explore for, develop, and produce is limited to gas derived from shallow bed
30 natural gas within 3,000 feet of the surface at the drill site; and

31 (2) unless the lease is earlier terminated under (f) or (h)(1) of this section,
32 the option to convert the lease for all or part of the state land into a shallow bed gas

1 lease of unlimited duration.

2 (d) Upon application by the lessee, the director

3 (1) may once extend an initial shallow bed gas development lease issued
4 under (c) of this section for a period of not more than two years if the director
5 determines that during the period described in (c)(1) of this section, the lessee

6 (A) has conducted reasonably diligent exploration activities in the
7 area covered by the initial shallow bed gas development lease;

8 (B) has not been able to determine the commercial productivity
9 of the shallow bed natural gas occurring on the lease; and

10 (C) wishes to continue to conduct exploration activities in the
11 area described in the initial shallow bed gas development lease;

12 (2) may adjust the boundaries of a lease entered into under this section
13 as may be necessary to ensure development of shallow bed natural gas within a
14 reasonably compact area or as a single unit; a lease as adjusted under this paragraph
15 remains subject to the acreage limitations set out in (b)(1) of this section.

16 (e) Each lease established by conversion under (c)(2) of this section shall be for
17 an indeterminate period upon condition of diligent development and continued operation
18 for the purpose of producing shallow bed natural gas in commercial quantities. The
19 director shall annually make a determination under this subsection that the lessee has
20 diligently developed and continued to operate under the lease.

21 (f) For the privilege of exploring for and producing gas from a shallow bed gas
22 development lease, the lessee shall pay rent to the state in the amounts determined in this
23 subsection. The rent is due and payable on the dates determined in the lease. If rent is
24 not paid when due, the director shall mail the lessee written notice of nonpayment at the
25 end of each month, while the rent remains unpaid, for a period of two months. The
26 lessee may cure the failure to pay rent when due within 90 days after the rent payment
27 becomes due and payable by paying to the director the amount of rent due together with
28 a penalty of the greater of \$50 or five percent of the amount of rent in default. If the
29 lessee fails to remedy the lessee's failure to pay rent, the director shall terminate the
30 lease. The amount of annual rent payable to the state is

31 (1) until the initial commercial production of gas from the area within
32 the shallow bed gas development lease, 25 cents per acre; and

1 (2) after the initial commercial production of gas from the area within
2 the shallow bed gas development lease, 50 cents per acre.

3 (g) The royalty payable on natural gas produced from a shallow bed gas
4 development lease is 6.25 percent of the value of the production removed or sold from
5 the lease.

6 (h) A shallow bed gas development lease issued under this section is subject to
7 the following terms and conditions and may be terminated by the director in the event
8 of a breach of a term or condition:

9 (1) the lessee may surrender or relinquish the lease at any time;

10 (2) the lease may not be transferred or assigned until after the date of
11 initial commercial production of gas from the area within the lease; however, this
12 paragraph does not prohibit the lessee from entering into a farm out agreement or similar
13 arrangement with a third party under which the third party assists in exploration and
14 development of production from the lease if the agreement or arrangement does not
15 require a payment of consideration by the third party to the lessee, except that the lessee
16 may retain an overriding royalty interest in the lease or may retain a net profit or other
17 production payment;

18 (3) gas produced from the lease may not be sold or otherwise made
19 available for insertion into the in-place gas pipeline transmission or distribution system
20 serving population centers in Southcentral Alaska, except that the director may waive this
21 limitation to permit the exchange of the gas produced for other gas that may be
22 distributed in rural communities and remote locations within the state.

23 (i) When a search is required to verify a title to an area described in a shallow
24 bed gas development lease application, the applicant may conduct the title search.

25 (j) The acreage limitations of AS 38.05.140(c) and 38.05.180(m) do not apply
26 to a shallow bed gas development lease.

27 (k) A shallow bed gas development lease does not give the lessee the right to
28 produce oil or to produce gas from sources that are not within 3,000 feet of the surface
29 at the drilling site. If the lessee's operation under the lease results in the production of
30 oil or of gas in violation of this subsection, the director shall immediately suspend the
31 lessee's operation under the lease and may terminate the lease.

32 (l) Notwithstanding AS 38.05.020(b)(1) and AS 44.62.010 - 44.62.300, the

1 commissioner of natural resources may not adopt regulations to adopt constructions
2 that implement, interpret, or make specific the provisions of this section or to establish
3 procedures to govern application of the provisions of this section.

4 (m) In this section, "lease" means a shallow bed gas development lease
5 authorized by this section.

6 * Sec. 3. AS 38.05.035(e)(6) is amended to read:

7 (6) before a public hearing, if held, or in any case not less than 21 days
8 before the sale, lease, or other disposal of available land, property, resources, or
9 interests in them other than a sale, lease, or other disposal of available land or an
10 interest in land for oil and gas under (5) of this subsection, the director shall make
11 available to the public a written finding that, in accordance with (1) of this subsection,
12 sets out the material facts and applicable statutes and regulations and any other
13 information required by statute or regulation to be considered upon which the
14 determination that the sale, lease, or other disposal will best serve the interests of the
15 state was based; however, a written finding is not required before the approval of

16 (A) a contract for a negotiated sale authorized under
17 AS 38.05.115;

18 (B) a lease of land for a shore fishery site under AS 38.05.082;

19 (C) a permit or other authorization revocable by the
20 commissioner;

21 (D) a mineral claim located under AS 38.05.195;

22 (E) a mineral lease issued under AS 38.05.205;

23 (F) a production license issued under AS 38.05.207;

24 (G) an exempt oil and gas sale under AS 38.05.180(d) of
25 acreage offered in a sale that was held within the previous five years if the sale
26 was subject to a written best interest finding, unless the commissioner
27 determines that new information has become available that justifies a revision
28 of the best interest finding; [OR]

29 (H) a lease sale under AS 38.05.180(w) of acreage offered in
30 a sale that was held within the previous five years if the sale was subject to a
31 best interest finding, unless the commissioner determines that new information
32 has become available that justifies a revision of the best interest finding; or

(I) a shallow bed gas development lease authorized under
AS 38.05.177 in an area for which leasing is authorized under
AS 38.05.177;

* Sec. 4. AS 38.05.180(f) is amended to read:

(f) Except as provided by AS 38.05.131 - 38.05.134 and 38.05.177, the commissioner may issue oil and gas leases on state land to the highest responsible qualified bidder determined by competitive bidding under regulations adopted by the commissioner. Bidding may be by sealed bid or according to any other bidding procedure the commissioner determines is in the best interests of the state. Whenever, under any of the leasing methods listed in this subsection, a royalty share is reserved to the state, it shall be delivered in pipeline quality and free of all lease or unit expenses, including but not limited to separation, cleaning, dehydration, gathering, salt water disposal, and preparation for transportation off the lease or unit area. Following a pre-sale analysis, the commissioner may choose at least one of the following leasing methods:

(1) a cash bonus bid with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease;

(2) a cash bonus bid with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease and a fixed share of the net profit derived from the lease of not less than 30 percent reserved to the state;

(3) a fixed cash bonus with a royalty share reserved to the state as the bid variable but no less than 12.5 percent in amount or value of the production removed or sold from the lease;

(4) a fixed cash bonus with the share of the net profit derived from the lease reserved to the state as the bid variable;

(5) a fixed cash bonus with a fixed royalty share reserved to the state of not less than 12.5 percent in amount or value of the production removed or sold from the lease with the share of the net profit derived from the lease reserved to the state as the bid variable;

(6) a cash bonus bid with a fixed royalty share reserved to the state based on a sliding scale according to the volume of production or other factor but in no event less than 12.5 percent in amount or value of the production removed or sold from the lease;

(7) a fixed cash bonus with a royalty share reserved to the state based on a sliding scale according to the volume of production or other factor as the bid variable but not less than 12.5 percent in amount or value of the production removed or sold from the lease.

* Sec. 5. AS 38.05.180(h) is amended to read:

(h) The commissioner may include terms in any oil and gas lease, except a shallow bed gas development lease issued under AS 38.05.177, imposing a minimum work commitment on the lessee. These terms shall be made public before the sale, and may include appropriate penalty provisions to take effect in the event the lessee does not fulfill the minimum work commitment. If it is demonstrated that a lease has been proven unproductive by actions of adjacent lease holders, the commissioner may set aside a work commitment. The commissioner may waive for a period not to exceed one two-year period any term of a minimum work commitment if the commissioner makes a written finding either that conditions preventing drilling or exploration were beyond the lessee's reasonable ability to foresee or control or that the lessee has demonstrated through good faith efforts an intent and ability to drill or develop the lease during the term of the waiver.

* Sec. 6. AS 46.03.100(f) is amended to read:

(f) This section does not apply to discharges of solid or liquid waste material or water discharges from the following activities if the discharge is incidental to the activity and the activity does not produce a discharge from a point source, as that term is defined in regulations adopted under this chapter, directly into any surface water of the state:

- (1) mineral drilling, trenching, ditching, and similar activities;
- (2) landscaping;
- (3) water well drilling or [,] geophysical drilling [, OR COAL BED METHANE DRILLING]; [OR]

(4) drilling, ditching, trenching, and similar activities associated with facility construction and maintenance or with road or other transportation facility construction and maintenance; however, the exemption provided by this paragraph does not relieve a person from obtaining a permit under (a) of this section if

(A) the drilling, ditching, trenching, or similar activity will involve the removal of the groundwater, stormwater, or wastewater runoff that has accumulated and is present at an excavation site for facility, road, or other transportation construction or maintenance; and

(B) a permit is otherwise required by (a) of this section; or
(5) the discharge or disposal of waste material or water from activities associated with gas exploration drilling under a shallow bed gas development lease authorized by AS 38.05.177.

* Sec. 7. AS 46.04.030(b) is amended to read:

(b) A person may not cause or permit the operation of a pipeline or [AN EXPLORATION OR] production facility in the state or, except as provided in AS 46.04.050(c) for a well that has not penetrated a formation capable of producing oil, may not cause or permit the operation of an exploration facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan.

* Sec. 8. AS 46.04.030 is amended by adding a new subsection to read:

(s) If an onshore well drilling for gas under a lease authorized by AS 38.05.177 penetrates a formation capable of producing oil, the operator of the facility

(1) shall notify the department and the Alaska Oil and Gas Conservation Commission; and

(2) may not conduct further operations in the drilled well until the facility complies with all applicable laws and regulations relating to oil and gas production; however, this paragraph does not prevent the operator of the facility from conducting activities that may be required by the Alaska Oil and Gas Conservation Commission to plug and abandon a well.

1 * Sec. 9. AS 46.04.040(b) is amended to read:

2 (b) A person may not cause or permit the operation of a pipeline or an
3 exploration or production facility in the state unless the person has furnished to the
4 department, and the department has approved, proof of financial ability to respond in
5 damages. Proof of financial responsibility required for

6 (1) a pipeline or an offshore exploration or production facility is
7 \$50,000,000 per incident;

8 (2) an onshore production facility is

9 (A) \$20,000,000 per incident if the facility produces over
10 10,000 barrels per day of oil;

11 (B) \$10,000,000 per incident if the facility produces over 5,000
12 barrels per day but not more than 10,000 barrels per day of oil;

13 (C) \$5,000,000 per incident if the facility produces over 2,500
14 barrels per day but not more than 5,000 barrels per day of oil;

15 (D) \$1,000,000 per incident if the facility produces 2,500 barrels
16 per day or less of oil;

17 (3) an onshore exploration facility is

18 (A) \$25,000 per incident for a facility used solely to explore
19 for shallow bed natural gas by means of drilling a well when authorized
20 by AS 38.05.177; and

21 (B) except as provided by (A) of this paragraph, \$1,000,000
22 per incident.

23 * Sec. 10. AS 46.04.040 is amended by adding a new subsection to read:

24 (n) If an onshore well authorized under AS 38.05.177 to recover shallow bed
25 natural gas penetrates a formation capable of producing oil, the operator of the facility
26 may not conduct further exploration activity. However, this subsection does not
27 prevent the operator of the facility from conducting activities that may be required by
28 the Alaska Oil and Gas Conservation Commission to plug and abandon a well.

29 * Sec. 11. AS 46.04.050 is amended by adding a new subsection to read:

30 (c) Except as provided in AS 46.04.030(s), the provisions of AS 46.04.030(b)
31 do not apply to an onshore exploration facility used solely to explore for natural gas

1 by means of drilling a well when authorized under AS 38.05.177.

2 * Sec. 12. AS 46.08.040 is amended by adding a new subsection to read:

3 (e) Money from the fund may not be used to take action under (a) of this
4 section as to the release or threatened release of oil or a hazardous substance from a
5 shallow bed natural gas development well authorized under AS 38.05.177.

6 * Sec. 13. RELATION TO RIGHTS GRANTED UNDER EXISTING COAL LEASES.

7 The provisions of AS 38.05.177, added by sec. 2 of this Act, may not apply to impair or
8 infringe upon the rights of a lessee of a coal lease entered into under AS 38.05.150 on or
9 before the effective date of this Act and that is in effect on the effective date of this Act to
10 recover the coal bed methane and other gas held in association with the coal under the lease
11 unless recovery by the lessee of coal bed methane and other gas in association with the coal
12 is prohibited by the coal lease.

13 * Sec. 14. CORRECTIVE LEGISLATION INVITED. If the commissioner of natural
14 resources believes it is necessary to adopt constructions that implement, interpret, or make
15 specific the provisions of AS 38.05.177 or to establish procedures to govern application of
16 provisions of AS 38.05.177, the commissioner of natural resources may recommend legislation
17 for consideration by the First Session of the Twentieth Alaska State Legislature to amend or
18 add to the provisions of AS 38.05.177 that will adopt those constructions or establish those
19 procedures.

Alaska State Legislature

Resources, Vice Chair
State Affairs, Vice Chair
House Special Committee on Oil & Gas, Vice Chair
House Special Committee on Fisheries



State Capitol
Room 409
Juneau, Alaska 99801-1182
(907) 465-3878
Fax (907) 465-3265

Representative Scott Ogan
House District 27

Sponsor Statement HB 394

The purpose of this bill is to encourage shallow gas development for use within the state. HB 394 succeeds in this task by relieving the tremendous monetary and regulatory burdens that currently plague independent gas developers in Alaska.

HB 394 specifically addresses such issues as high bond requirements, lease issuance, application and processing fees, and royalties. It creates an economic environment where small independent gas companies can thrive, and be allowed to develop a resource that is truly important to the state.

Why is this bill so important to the state? In order to grasp the answer to this question, one must first look at our current situation. In June of 1995, the Department of Community and Regional Affairs presented an initiative known as the *Alaska Rural Energy Initiative* in which they report on the existing energy problems in the rural communities of Alaska.

The *Alaska Rural Energy Initiative* reports that it will cost \$200 million, excluding future inflation, to repair and renovate the fuel storage facilities of rural Alaska. In a report done by the *Rural Bulk Fuel Task Force* (1993), the cost of remediation of contaminated soil and ground water adds another \$200 million. The *Alaska Rural Energy Initiative* also states that another \$25 million will be needed for upgrading single-village electric utilities. An allowance of \$25 million more is needed for additional electric utility upgrades and for

inflation. Also, the state currently spends \$20 million annually on the power cost equalization program, a program that has cost the state \$200 million since its creation. All of these numbers point to one thing, and that is that Alaska has a serious energy problem in its rural communities, and it is going to cost a lot of money to fix.

In these days of budget cuts and reduced oil revenue, it is not reasonable to think that remediation, renovation, and power cost equalization will be easy to pay for in the future. This is why HB 394 is so important.

HB 394 would allow independent gas companies to explore for and develop shallow bed gas without being hindered by unreasonable regulations and requirements. With reasonable regulatory oversight, independent gas companies would be able to develop gas for use in rural communities. Communities with deposits of gas nearby would be able to pipe the gas directly to their converted generators, and they could use it to heat their homes.

Natural gas is a low-cost and environmentally safe form of energy that, in all likelihood, exists in many parts of the state. It could serve as an independent fuel source for many communities, but because of existing stringent regulations and bonding requirements, it is not economically feasible for independents to attempt to develop this valuable resource.

The merits of HB 394 are evident, and the benefits are far reaching. I ask for your support as we attempt to allow shallow natural gas to be used as an economically and environmentally sound alternative fuel source.

ALASKA RURAL ENERGY INITIATIVE



Division of Energy
Department of Community and Regional Affairs
State of Alaska

June 1995

EXECUTIVE SUMMARY

There are over 150 small villages in rural Alaska that are not accessible by road, that are characterized by severe climate and widespread poverty, and that are heavily dependent on fuel oil for power generation and heat. The average population per village is about 250 residents, mostly Alaska Natives.

Bulk Fuel Storage

In most cases, the village fuel supply must be delivered by barge during a brief ice-free shipping season and stored throughout the year. Every village relies on above-ground tank farms for essential fuel storage though few of these facilities presently meet minimum standards of safety or environmental protection. Most lack adequate foundations, dikes, and piping systems as well as basic security fences. Many are rusted, improperly sited, and violate electrical codes.

An increasing number of villages now face the possibility that fuel will not be delivered because of these deficiencies. Fuel carriers are threatened with liability for environmental damage if they fill village tanks that subsequently leak. Most recently, the U.S. Coast Guard, with regulatory jurisdiction over fuel transfer facilities between the delivery barge and the storage tank, has sent letters to the owners of nearly 80 fuel storage facilities threatening to deny fuel deliveries unless deficiencies are corrected.

The estimated cost for repair and renovation of fuel storage facilities in rural Alaska is \$200 million, excluding future inflation. This does not include remediation of contaminated soil and groundwater.

Electric Utilities

Approximately 80 communities in rural Alaska are served by small, single-village electric utilities; roughly the same number are served by larger, multi-village utilities. Most of these communities have no transmission link to any other community and are entirely dependent on local diesel generators for their power supply. The cost of power in rural Alaska is high, roughly 4 to 5 times the average elsewhere in the United States.

Particularly in the single-village utilities, power plant and distribution systems often do not meet accepted utility standards for safety, efficiency, reliability, and environmental protection. These villages require adequate electric service, however, for economic advancement and for support of other community facilities. Upgrading the physical plant of the electric utility to meet minimum standards is a pre-condition for utility self-reliance, as well as community self-reliance, in the future.

The estimated cost to upgrade the single-village utilities is \$25 million, excluding future inflation. Upgrade costs for the multi-village utilities have not been systematically estimated.

Proposal for Funding

Policies, programs, and expenditures of both the State and Federal governments have contributed over the years to the relative permanence of remote Native villages in Alaska. Resolving the problem of deteriorating fuel tanks and substandard electric utility systems

is beyond the means of village residents. A joint State/Federal effort is needed to bring these facilities to the point where they no longer represent a safety or environmental hazard, and can be maintained and replaced as necessary without further long-term government support. To this end, the following is proposed:

1. The State and Federal governments will together make available for expenditure \$25 million per year -- \$12.5 million each -- until, in combination with local match contributions, a total investment of \$250 million is reached. While the number of years required to reach this investment total will not exceed 10, the actual number of years may be less depending on the size of the local match contributions. The \$250 million total includes the estimate of \$200 million for bulk fuel storage, \$25 million for upgrading single-village electric utilities, and an allowance of \$25 million for additional electric utility upgrades and for inflation.

It is proposed that the Federal contribution be appropriated to the Rural Utilities Service in the U. S. Department of Agriculture and, from there, channeled to the Division of Energy in the Alaska Department of Community and Regional Affairs, which will administer the program.

2. The funds will be expended as grants. Cash or in-kind match from participants will be required. The Division of Energy will retain authority to approve project design.
3. For bulk fuel storage facilities, a key objective will be to consolidate existing tank farms into a smaller number of code-compliant fuel storage facilities. The Division of Energy will meet with tank farm owners to develop consolidation agreements which will identify, for each consolidated facility, a single entity to assume ownership and operating responsibility, and which will set out each participant's rights and obligations. Each participant will be assured the right to solicit competitive bids for fuel delivery in the future.

Grant agreements with the designated facility owners will incorporate the consolidation agreements, will provide assurances with regard to long-term operation and maintenance of the facilities, and will establish requirements for periodic facility inspection and reporting.

4. For electric utility upgrades, project approval will be contingent on local commitment to professional utility management in the future. The Division of Energy will meet with utility boards and managers to define the upgrade projects and to negotiate utility management agreements. In these agreements, utilities may commit to joining a consolidated utility organization or to other arrangements that will ensure capable utility management.

Grant agreements will incorporate the utility management agreements and will include a utility pledge not to seek additional State or Federal grants for ordinary capital improvements such as normal renewal and replacement of diesel generating plant.

5. For the first year of this initiative, the State is seeking \$16 million in federal funds to match a prior commitment of \$16 million in State funds: \$10 million for bulk fuel storage and \$6 million for electric utility upgrades.

3. REMOTE VILLAGE ELECTRIC UTILITIES

3.1 Electric Utilities in Rural Alaska

There are over 150 small communities in rural Alaska with electric utility service provided mostly by local diesel generators, and without any electrical interconnection outside the community. These communities are served by roughly 100 separate electric utility organizations. Some of these utilities have developed sufficient scale economies and expertise to operate with reasonable efficiency, to maintain accepted utility standards, and to be capable of financing their own plant requirements. These utilities typically serve a regional center or serve a number of small communities. In most rural Alaska communities, however, the electric utility operates generation and distribution plant that does not comply with accepted utility standards, and government assistance is required to finance capital improvements as well as on-going operations.

The cost of power provided by these village utilities is exceptionally high: median residential rates are in the range of 40-45 cents per kWh, 4 to 5 times the average elsewhere in the United States. For this reason, since 1981 the State has funded a power cost equalization program under which the State pays a portion of the monthly electric bill for customers of rural electric utilities, and has spent about \$200 million on the program to date. While this has enabled residents of remote villages to afford basic electrical service, the current annual program cost of \$20 million cannot be sustained by the State indefinitely as oil production from Prudhoe Bay and associated State revenues continue to decline.

Most of these isolated village utilities provide their own management, administrative services, maintenance and operations, constituting a very high burden of fixed costs per unit of electricity sold. Because competent mechanical and electrical expertise is often difficult to maintain in these organizations, generator maintenance is often sporadic and unorganized -- a situation which leads directly to catastrophic and expensive breakdowns. Merger with a larger utility organization offers the opportunity to benefit from sufficient scale economies to overcome some of these disadvantages. However, before such consolidation can be considered, the physical plant of the village utility must be improved to the point that it meets accepted industry standards.

Reliable electric service is needed in the villages not only as a prerequisite for economic advancement but also to support other necessary community infrastructure, including water and sewer systems. For the continuation of electrical service over the long-term in these isolated communities, electric utility plant and operations must be upgraded to the point that government support is no longer needed. Ideally, by bringing the physical plant up to standards either of the Rural Utilities Service (RUS, formerly the Rural Electrification Administration), or of the National Electrical Safety Code (NESC) and the National Electrical Code (NEC), the isolated village utilities can be merged into new or established regional utilities that are self-reliant with respect to operations and capital financing. These regional organizations may be cooperatives, investor-owned utilities, or regional governmental entities.

3.2 State Effort to Upgrade Rural Utilities

Since 1990, the State has expended over \$10 million for upgrade of electric utility systems in rural communities receiving power cost equalization payments, excluding expenditures for evaluation and construction of alternatives such as rural hydroelectric projects. Included in Attachment 3 is appropriation and expenditure detail for \$6 million committed by the State for this purpose in fiscal years 91-93.

3.3 Estimated Cost to Upgrade Rural Utility Systems to Industry Standards

Approximately 80 rural villages are each served by their own electric utility organization. For 52 of these villages, cost estimates totaling \$16.2 million have recently been prepared to upgrade generation and distribution systems in accordance with minimum accepted utility standards. Appendix B includes the system evaluation and cost estimate summaries for each of these 52 village electric utilities. Based on these results, the estimated upgrade cost for the 80 independent, single-village utility systems is approximately \$25 million, excluding any adjustment for future inflation. Detailed estimates of required upgrade costs have not been systematically prepared for the additional communities that are served by regional utility organizations, or for the larger communities that serve as regional centers.

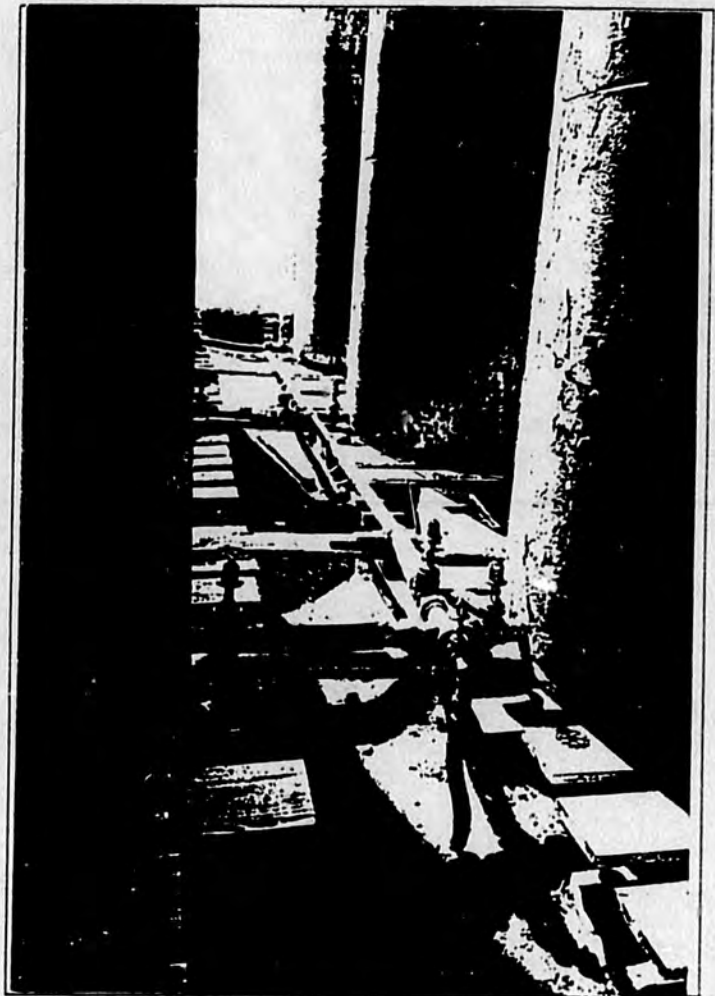
The estimates presented for the 52 single-village utilities in Appendix B provide only for code compliance of diesel dependent remote utilities, and do not include any additional amount for funding alternatives to local diesel generation such as small hydro or wind generation where appropriate resources are available, or transmission lines linking villages where feasible. Implementing these alternatives throughout rural Alaska is estimated to require considerably more capital resources. The State will continue to support such alternatives over the long term, but is seeking in this proposal the more limited objective of meeting basic utility standards as a prerequisite for energy self-reliance.

ALASKA ENERGY AUTHORITY
RURAL ALASKA BULK FUEL ASSESSMENT
SUMMARY REPORT AND RECOMMENDATIONS



Photograph A.1

Severely corroded tanks connected by rubber hose. Evidence of fuel spillage throughout area.



Photograph A.2

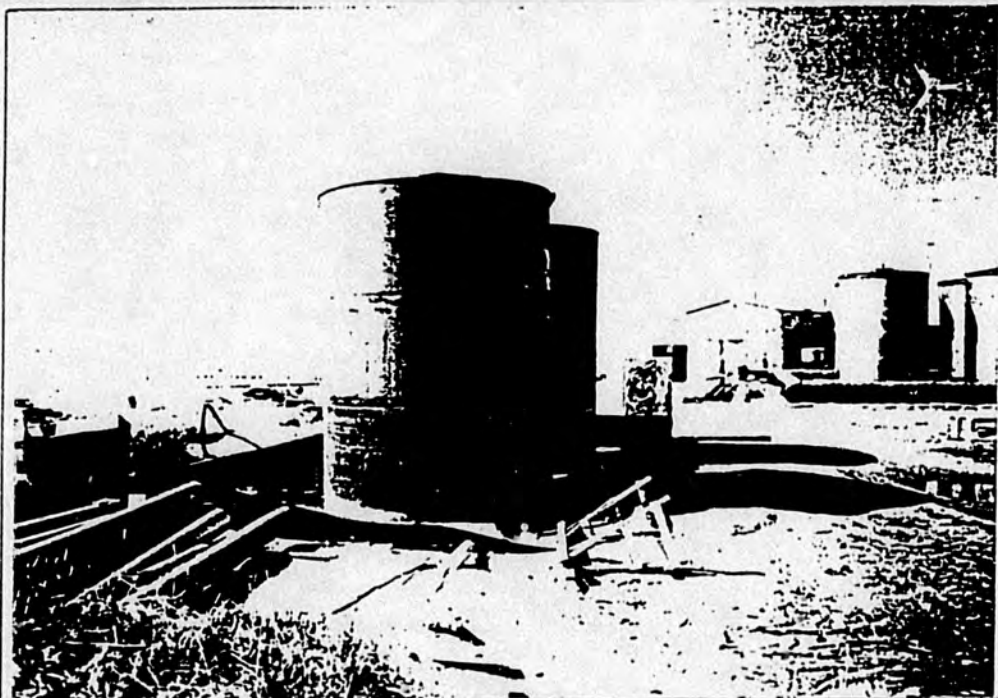
Severely corroded tanks on improper foundations (small dimension wood cribbing).

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RURAL ALASKA BULK FUEL ASSESSMENT
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Photograph A.3

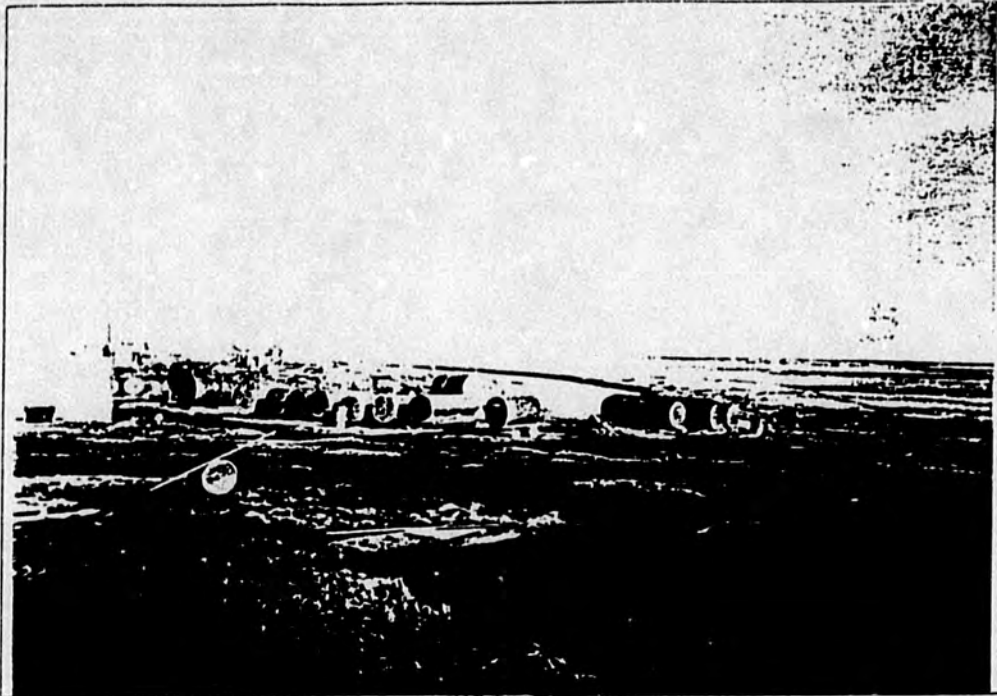
Tanks on improper foundations with no means of secondary containment. Facility located in close proximity to a river.



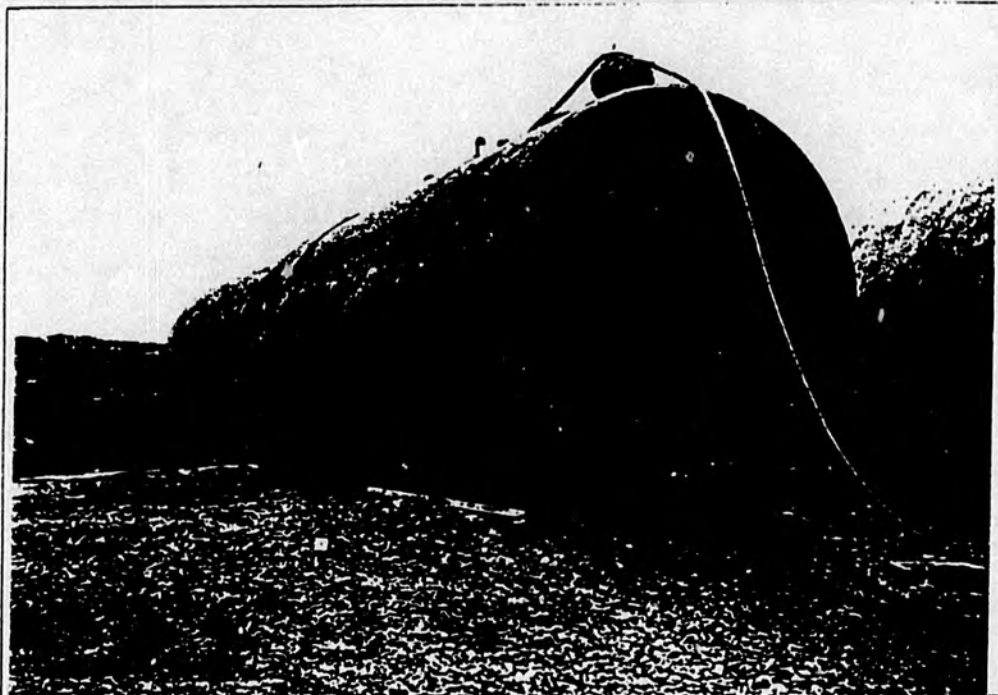
Photograph A.4

Corroded tanks located immediately adjacent to ocean. Steel dike completely rusted out and useless as secondary containment.

ALASKA ENERGY AUTHORITY
RURAL ALASKA BULK FUEL ASSESSMENT
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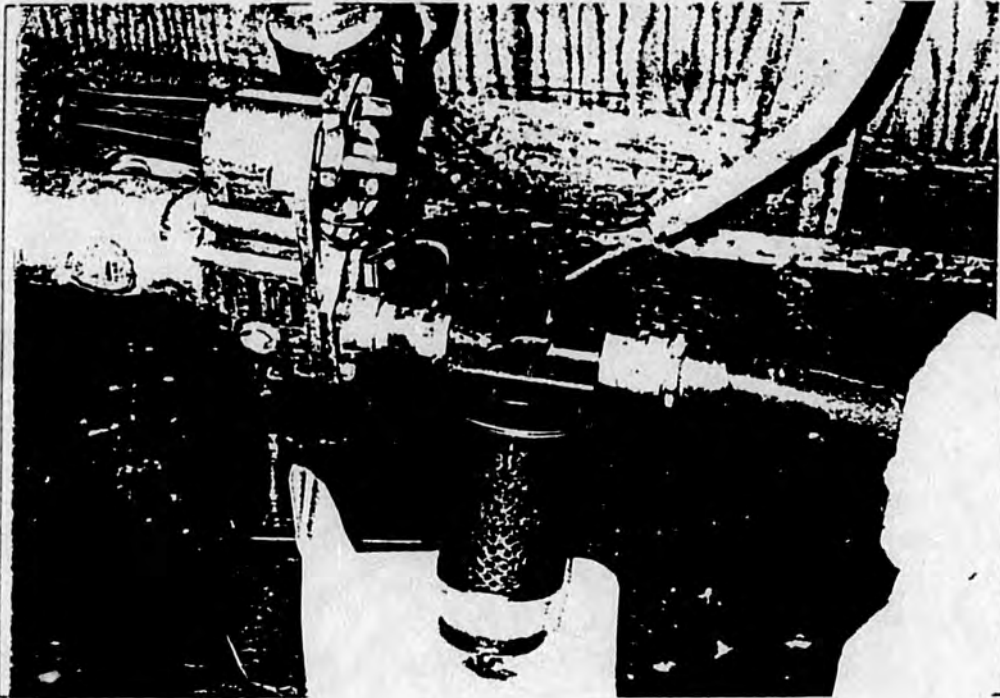


Photograph A.5
Tanks scattered along
river bank with no dikes,
no security, and improper
foundations.



Photograph A.6
Severely dented tank with
no foundation. Placed at
edge of beach with no
dike. Gravity dispensing
of fuel. No security.

ALASKA ENERGY AUTHORITY
RURAL ALASKA BULK FUEL ASSESSMENT
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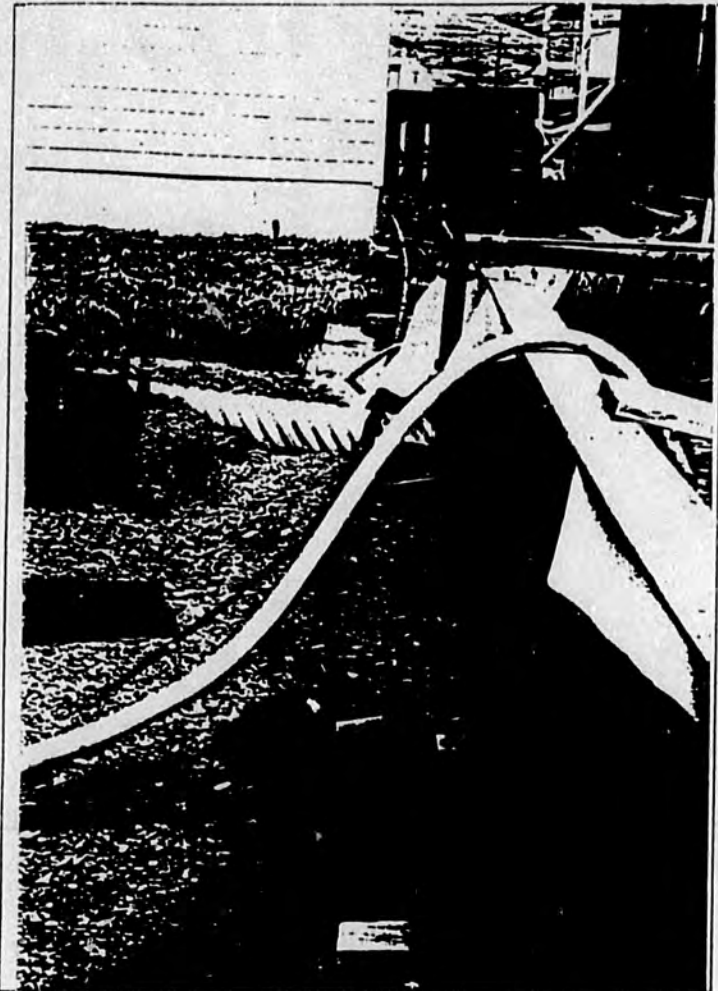


Photograph A.7
Improper wiring adjacent
to leaking gasoline piping.



Photograph A.8
Improper piping system
and poor operational
procedures resulted in
explosion of tank.

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RURAL ALASKA BULK FUEL ASSESSMENT
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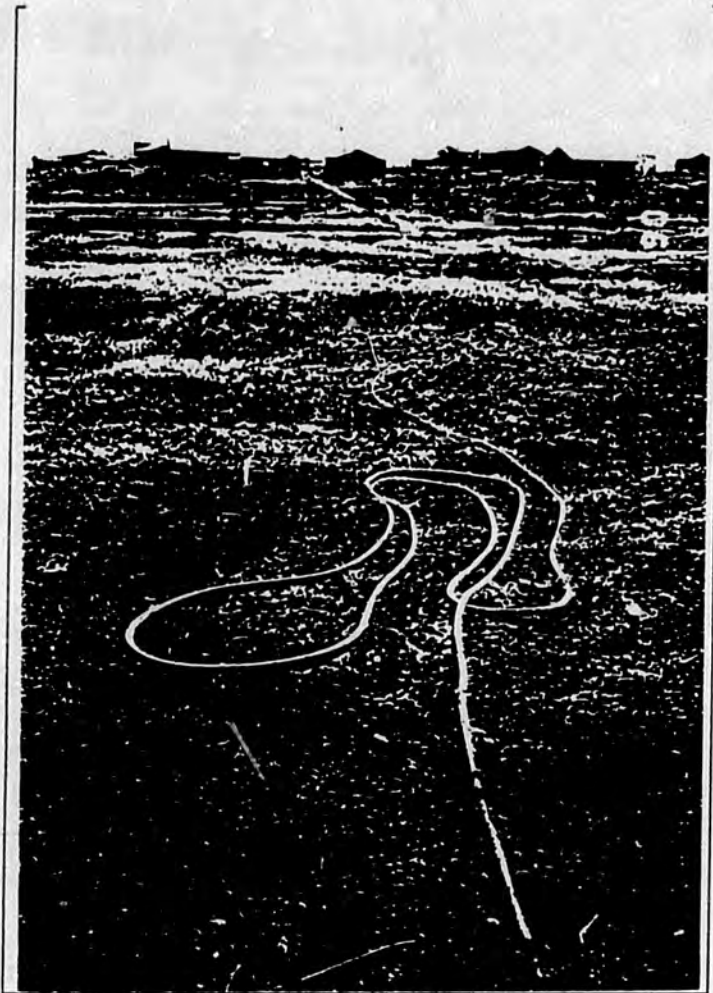


Photograph A.9
Fuel stain on ground caused by leaking
piping joints.

Photograph A.10
Faulty piping system
reportedly broke during
winter, spilling an
estimated 50 gallons of
fuel.



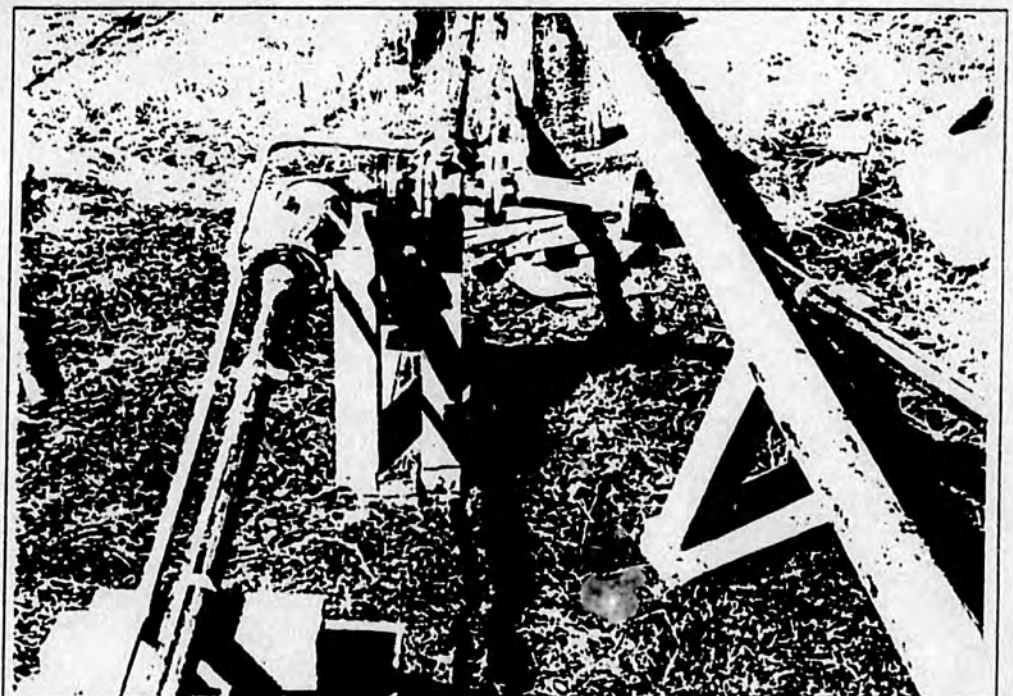
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Photograph A.11

1200' long hose used to transfer diesel fuel from storage tanks to power plant on a weekly basis.

Photograph A.12
Hose replaced with proper welded steel pipeline by AEA with Bulk Fuel Emergency Repair program funds.

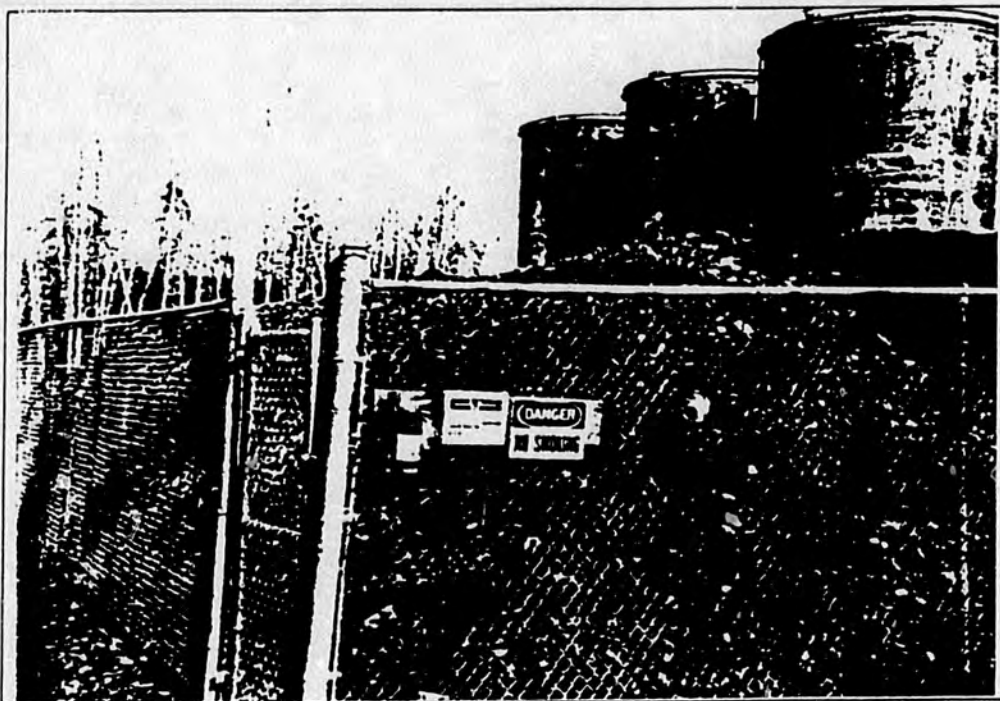


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Photograph A.13

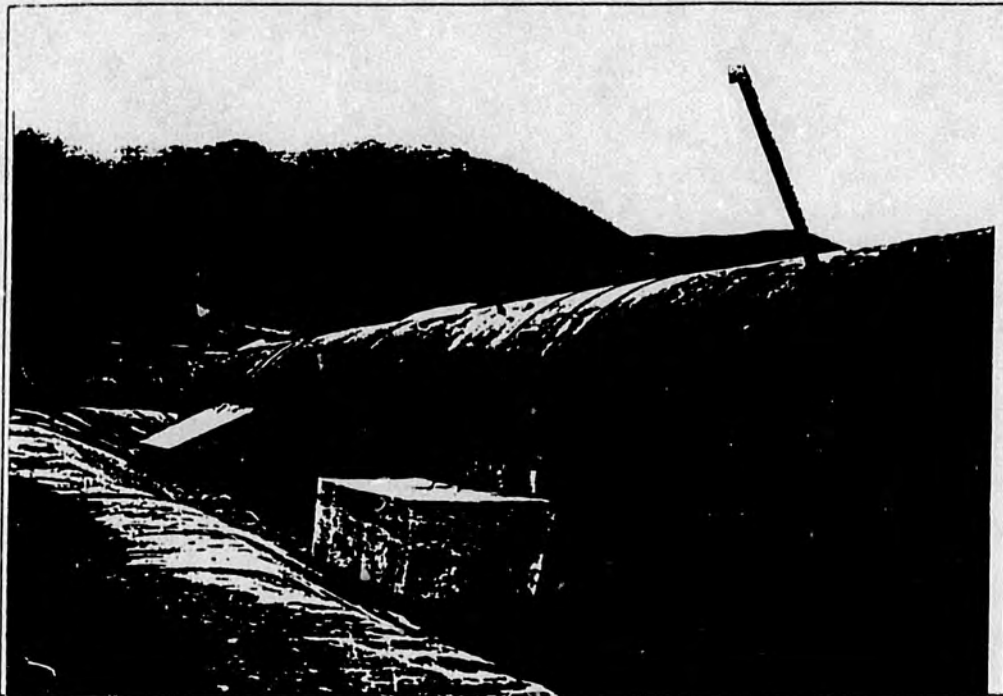
Tank farm located within a flood plain. Tanks tipped over and facility severely damaged by flood.



Photograph A.14

Tanks placed in new lined dike on gravel pad above flood stage. Facility repaired to meet applicable code and regulation requirements. Construction administered by AEA, supported by State and Federal disaster relief funds.

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Photograph A.15

Tank installed in improper dike with no foundation. Due to poor installation, facility was never used.



Photograph A.16

Tank refurbished and installed on proper foundations in new dike. Construction administered by AEA using capital appropriation funds.

JAN 7 1994

RURAL BULK FUEL TASK FORCE

Preliminary
Report to the Governor



Policy Recommendations

November 25, 1993

FINANCE

Issues:

- The *Rural Alaska Bulk Fuel Assessment Program, Summary Report and Recommendations*, March 1992, prepared by the Alaska Energy Authority, the *Noncrude Facility Survey, January 1992*, and the *Small Noncrude Oil Terminal Report, Task One: Facility Identification and Inventory*, November 1992, prepared for the State of Alaska, Department of Environmental Conservation, are testimony to the extreme costs related to repairs, improvements, new construction and remediation for Alaska's many rural bulk fuel storage facilities. Preliminary estimates range from between \$155.0 M to \$200.0 M for facility improvements and another \$200.0 M for remediation!
- Access to funding for communities is extremely limited and practically non-existent for small "for-profit" private sector operators.
- Funding that is available has few conditions attached for ensuring long range commitment by grantee or borrower for proper construction or continued facility maintenance or operator training programs.
- Remediation costs are often extraordinary. Existing funding programs require neither planning nor commitment to necessary facility clean up. Consequently, public health and safety are under continual threat.
- There is little access to federal funding, even when federal agencies acknowledge previous ownership of non-compliant facilities. The state receives no direct federal funding at this time for coordinated resolution of fuel storage problems.