

346

HCRA

HB

65

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HB

657

State of Alaska

LOCAL BOUNDARY COMMISSION

Petition from City of Petersburg)
Requesting annexation of)
remaining portion of Mitkof Island)

STATEMENT OF DECISION

Whereas, on November 22, 1977, the City of Petersburg submitted a petition to the Local Boundary Commission through the Department of Community and Regional Affairs in accordance with Title 29 of the Alaska Statutes requesting annexation of the area generally described as the balance of Mitkof Island; and

Whereas, on December 1, 1977, the Department found the petition in proper form with the requisite content and accompanying exhibits; and

Whereas, upon notification by the Department of the petition's sufficiency, the Local Boundary Commission scheduled a public hearing with notice as prescribed by law; and

Whereas, the Local Boundary Commission conducted a physical inspection of the proposed annexation territory and held a public hearing in the Petersburg City Council Chambers on Monday, January 9, 1978; and

Whereas, the Local Boundary Commission held a decisional meeting in Anchorage on January 16, 1978, to review the proceedings on the annexation petition;

NOW THEREFORE, the Local Boundary Commission makes the following findings of fact and enters its decision thereto:

The portion of the petition territory accepted by the Commission meets the regulatory standards for annexation as follows:

19 Alaska Administrative Code 05.010 (a) (3): The territory on either side of the Mitkof Highway within the recommended annexation extending southerly from the current City of Petersburg limits is generally being utilized and developed for residential and business purposes and such growth generally represents an extension of the Petersburg community beyond current city limits.

19 AAC 05.010 (a) (4): The territory recommended for inclusion in the city is in need of City of Petersburg general fund services such as fire and police protection, land use planning and zoning and the City is the most appropriate local government entity for providing such needed services. The City is capable of providing such services and has presented a differential taxation plan which the Commission finds appropriate for integrating the territory with the present city.

19 AAC 05.010 (a) (5): Both the scarcity of developable property and the suitability of property along the Mitkof Highway southerly from the present city limits has resulted in Petersburg community growth in this direction. The Commission foresees continued community growth in the area defined for inclusion in the City by the recommendation, and finds that such growth warrants City of Petersburg jurisdiction.

19 AAC 05.010 (a) (8): The Commission finds that both residents of and property owners in the territory recommended for inclusion within the city benefit from the existence of the adjacent city and by inclusion in the city will make tax contributions commensurate with benefits derived from provision of city services.

On the basis of the foregoing, the Local Boundary Commission affirms its decision to accept, with Commission modification, the City of Petersburg boundary change petition in accordance with Exhibit "A" attached hereto.

LOCAL BOUNDARY COMMISSION.

January 30, 1978

Approved:

s/ *Sigvald J. Strindberg*
Sigvald J. Strindberg, Chairman

s/ _____
Josephine Anderson

s/ _____
Edward Hopson

Dissenting:

s/ _____
James Dodson

Absent & Excused:

s/ _____
Sheila Gallagher

January 20, 1977

TO: Lisa Rudd

FROM: Annette Smith

RE: HB 657 Transfer of Tidelands to Municipalities

By the Statehood Act, Alaska was granted title to tide and submerged lands according to the Submerged Lands Act of 1953 (PL 31, 83rd Congress, first session; 67 Stat. 29) which governs all other states in the Union.

Tidelands are defined in AS 38.05 as lands between the mean high tide line and a line shown on a plat which shall be the pierhead line established under the Act of Sept. 7, 1957, or the harbor line established under the Act of March 3, 1899, or if no pierhead line or harbor line is established then a line subject to approval by the director, with the concurrence of the commissioner, which shall be seaward of all tidelands and submerged lands occupied or suitable for occupation and development without unreasonable interference with navigation. Needless to say, tidelands come in all difference sizes and shapes!

The state has dispersed some of its tidelands to individuals and municipalities according to a preference right system established in AS 38.05.320. Tidelands preference rights, as defined by 38.05.320, are granted by the state to: individuals claiming rights to the lands by virtue of having occupied the land prior to 1959; and to home rule or first class cities (not boroughs) where their municipal boundaries as of 1964 are contiguous to the tidelands. This leaves out any tidelands of property annexed since 1964.

All other tidelands may be leased to interested parties (cities or individuals) by the state according to state leasing procedures. Tidelands are leased only for proposed development. Development seems to be thought of in terms of structures on the tidelands. AS 38.05.315 provides for leasing of state lands to political subdivisions for less than fair market value and without going through the normal auction procedures.

HB 657 addresses a situation in Skagway. In 1931 the U.S. Government deeded to the City a parcel of land just across the river from the city. Part of that area was outside the city boundaries in 1964 and therefore not eligible for tideland conveyance under the statutes. The area is still outside the city boundaries and it will not be included under the present annexation proposal either.

The city has more or less used the area as a park and picnic area and plans to continue its use as a park. The deed from the Federal Government stipulates perpetual public use. The city has in mind to build a boat float at Smuggler's Cove for picnickers.

Lisa,

I spoke with the City Manager in Skagway to find out what they had in mind for the tidelands. He said the idea popped into their heads when Westours began to think about building a day boat landing in Smugglers Cove to accommodate their new smaller tour boats which they are planning to run from Burners Bay to Skagway. It became apparent that the city did not have authority over the tidelands,

He said the community decided they did not want a commercial facility there, but did think it would be a good idea to have a pleasure boat float facility there and develop the area as a park and picnic area.

The question arises why the city could not go to the state to lease sufficient tidelands for the facility. It seems to be a matter of preference on the city's part.

The DNR apparently has no problem with the bill. Pat Conheady said as much but he said the department does not wish to change its policy with regard to tidelands i.e., it does not wish to change the statutes at this time to allow municipalities to gain title to more tidelands say, on property annexed since 1964.

I wonder if any other community has a situation like Skagway would be if this bill passed. That is, controlling tidelands outside the city boundaries. Are we establishing a precedent that will require more special bills.

Would there be any other communities that would be able to benefit in a similar fashion if the bill were worded slightly differently?

HB657

FYI

February 3, 1978

The Honorable Joseph L. Crisini
Chairman, Senate Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Joe:

Thank you for your letter of January 17, 1978, concerning SB 374 relating to transfer of tidelands and submerged lands. As you probably noticed, since your letter, an identical bill has also been introduced in the House (HB 657).

I share the concern that enactment of this legislation would set an undesirable precedent for allowing any other coastal city to seek similar legislation authorizing conveyance of additional tidelands and submerged lands from the state. For this reason and that discussed below, I believe that close examination and careful consideration should be given to SB 374 and its companion.

These bills are drawn narrowly and would authorize application for further conveyance only of tidelands and submerged lands contiguous to land which has been used as a public park for at least 45 years, and which has been granted to a city for park purposes by the United States. This specificity appears to be directed at a particular parcel of land in northern Southeastern Alaska, though I do not know where. Therefore, it is likely that the bills would constitute a "local and special act" in violation of Article II, Section 19 of the Alaska Constitution.

This constitutional provision was discussed and applied by the Alaska Supreme Court in the "Cook Inlet Land Trade Case," State v. Lewis, 559 P.2d 630, 642-4, (Ak. 1977). The court stated that the test to be applied is whether the legislation examined bears a fair and substantial relationship to legitimate state purposes. In that case the court found that the land trade legislation was valid because it was "designed to facilitate statewide land

The Honorable Joseph L. Orisini
Chairman, Senate Community and
Regional Affairs Committee

-2-

February 3, 1973

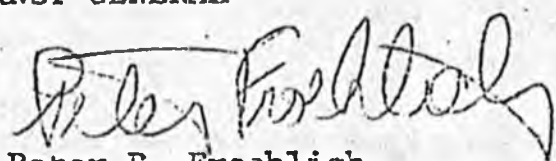
use management and to resolve a host of pressing legal issues arising in the context of ANCSA." It is doubtful that purposes of such statewide concern exist for SB 374 and HB 657.

I hope these comments are of some help to your consideration of SB 374. Please contact me if you have any further questions.

Sincerely,

AVRUM M. CROSS
ATTORNEY GENERAL

By:


Peter B. Froehlich
Assistant Attorney General

PBF:bvd

cc: Art Peterson

bcc: Pat Conheady - DNR-Juneau ✓
Dean Nation - DNR-Anchorage
Andy Pellowich - DNR-Juneau

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF '98"
P. O. BOX 415 SKAGWAY, ALASKA 99840

January 23, 1978

Senator Joe Orsini, Chairman
Senate Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

This is in response to your letter of 13 January 1978 concerning Senate Bills No. 374, No. 375 and No. 388. These proposed pieces of legislation have been reviewed by the City Council. The position of the City of Skagway on each bill is as follows:

Identical to HB 657
Bill No. 374: The City of Skagway strongly supports the enactment of this bill. This legislation will enable the City to obtain title to tide and submerged lands adjacent to City Park lands which were conveyed to the City by the Federal Government on 30 November 1931. Ownership of these tide lands will facilitate future development of the Park by the City. A copy of the Federal patent transferring the Park lands is enclosed for your information.

Bill No. 375: The City of Skagway supports passage of this bill. It is considered to be in the best interests of the State of Alaska and the Alaskan municipalities that a portion of the permanent fund principal and income be made available for development of municipal capital facilities.

Bill No. 388: The City of Skagway concurs in the goals and objectives of the Alaska Coastal Management Act and, therefore, supports changes which will facilitate the work of the Coastal Policy Council. The City Council, however, does have reservations with regard to the wording of Section 1.(d) of the proposed regulation. To explain:

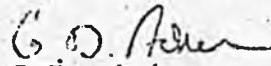
Although the need for alternates to the public members is justified, the method proposed for their selection is considered to be inadequate. It is suggested that, rather than having the principals select their alternates, the Assembly or Councils of the regions nominate alternates and that the Governor make the selections. In other words, alternates for public members be designated in the same manner as the principals.

There is one other point: Under the proposed legislation, it would be possible that alternates might constitute all or a majority of

January 23, 1978
Senator Joe Orsini
Page 2

the public participants in coastal policy actions. It is suggested that of the public members acting on coastal policy matters at least a majority be regular members.

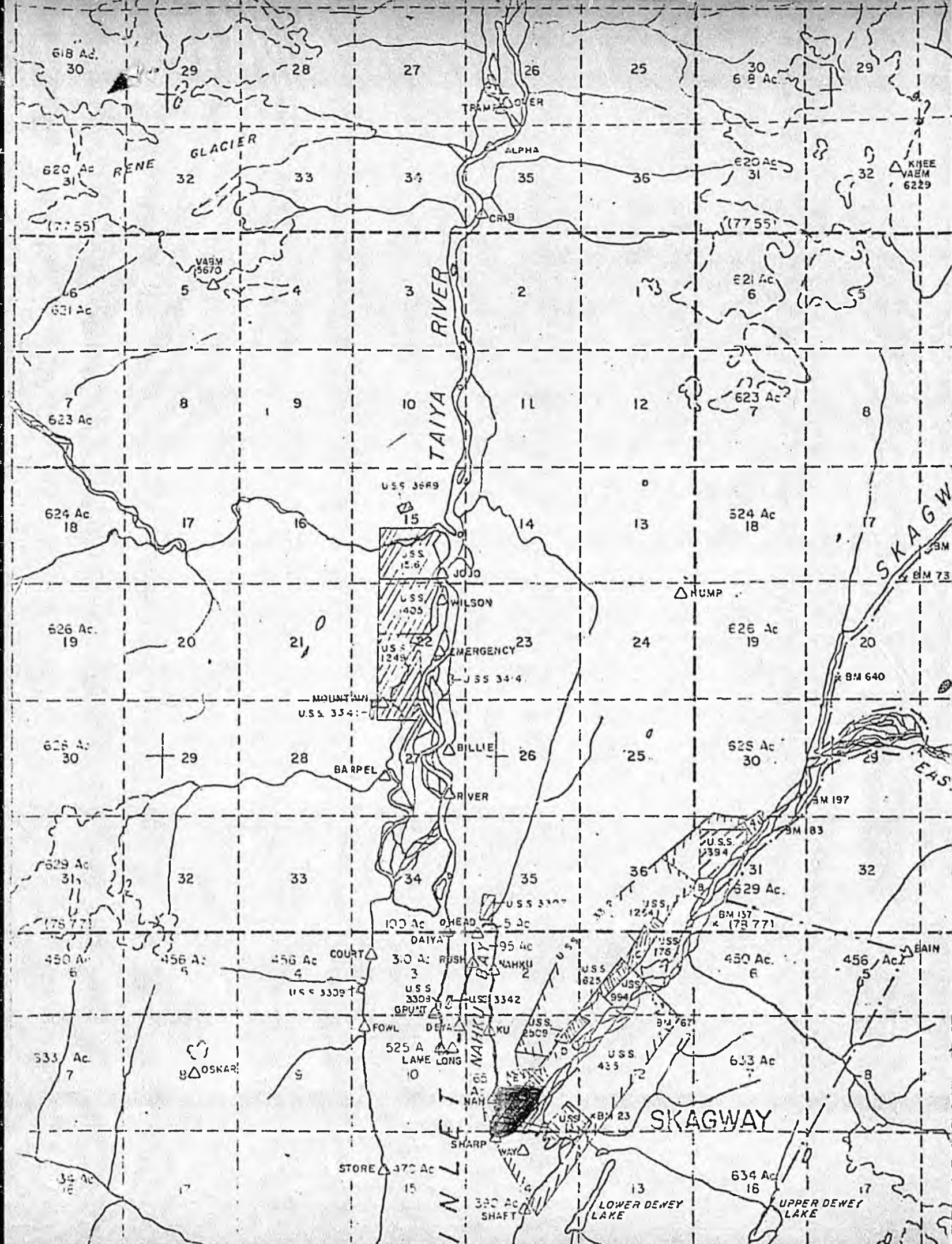
Sincerely,


G.D. Acker
City Manager

Enclosure

cc: Representative Rudd
Senator Ray
Representative Miller ✓
Representative Duncan
Roger Allington
City Attorney Ruddy

GDACP



618 Ac
30

29

28

27

26

25

29

620 Ac
31

RENE

GLACIER

TRAMP OVER

ALPHA

620 Ac
31

KNEE
VAEM
6229

620 Ac
31

32

33

34

35

36

32

621 Ac
31

VAEM
5670

5

3

2

621 Ac
6

32

623 Ac
7

8

9

10

11

12

8

TAIYA RIVER

624 Ac
18

17

16

15

14

13

624 Ac
18

17

USS 3689

USS 156

USS 1405

USS 1245

USS 344

USS 3341

USS 3307

USS 3308

USS 3342

USS 3309

USS 3309

USS 3309

USS 3309

USS 3309

USS 3309

USS 3309

USS 3309

USS 3309

USS 3309

USS 3309

JOJO

WILSON

EMERGENCY

BILLIE

RIVER

OHEAD

DAIYA

RUSH

NAHKU

NAHKU

NAHKU

NAHKU

NAHKU

NAHKU

NAHKU

NAHKU

NAHKU

NAHKU

HUMP

626 Ac
19

BM 640

625 Ac
30

29

28

27

26

25

625 Ac
30

29

BARPEL

BM 197

629 Ac
31

32

33

34

35

36

32

629 Ac

450 Ac
6

456 Ac

456 Ac

300 Ac

95 Ac

450 Ac

450 Ac

456 Ac

COURT

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

300 Ac

629 Ac

BM 83

BM 157

BM 177

BM 197

BM 197

BM 197

BM 197

BM 197

BM 197

BM 197

BM 197

BM 197

533 Ac
7

OSKAR

STORE

370 Ac

370 Ac

370 Ac

370 Ac

SHARP

WAY

WAY

WAY

SKAGWAY

LOWER DEWEY LAKE

UPPER DEWEY LAKE

EAST

EAST

EAST

EAST

EAST

Cartolina

West shore of
1/21 E 45° W.

Smuggler No 2
(Unsurveyed)

WEST 32.65 Chs.

M.C. Cor. No 2

W.C.M.C. No 150
M.C. Cor. No 31

Smuggler No 1
(Unsurveyed)

U.S. SUR No 1499
PUBLIC PARK

Area 87.02 Acres

Frame Buildings

Smuggler's Cove

S 44° 11' 09" W 50.76 Chs.
Trail

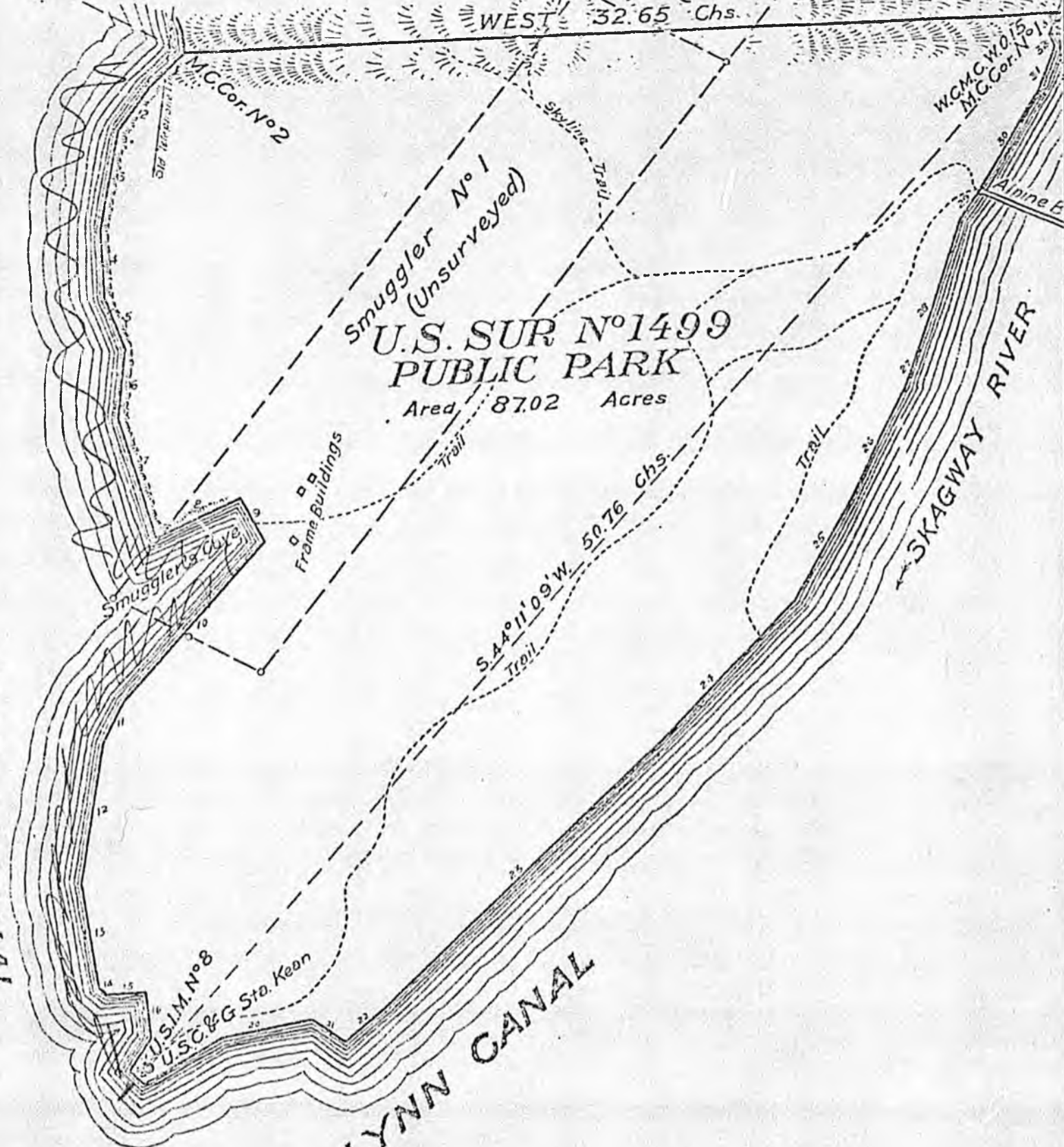
Trail

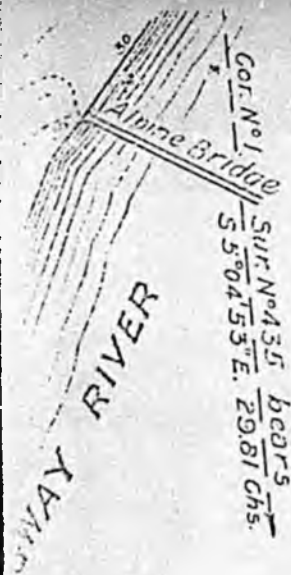
SKAGWAY RIVER

LYNN CANAL

U.S.I.M. No 8
U.S.C. & G. Sta. Keon

LYNN CANAL





Mag. Decr. 22 1923
Scale: 1 in. = 5

Latitude 59°26'56"N. Longitude

As surveyed under instruction
the U.S. Surveyor General, dated
1923, and approved by the Com.
the General Land Office, July

FRED DAHLQUIST

U.S. Cadastral Engineer

July 31 - August 6, 1923

MEANDERS

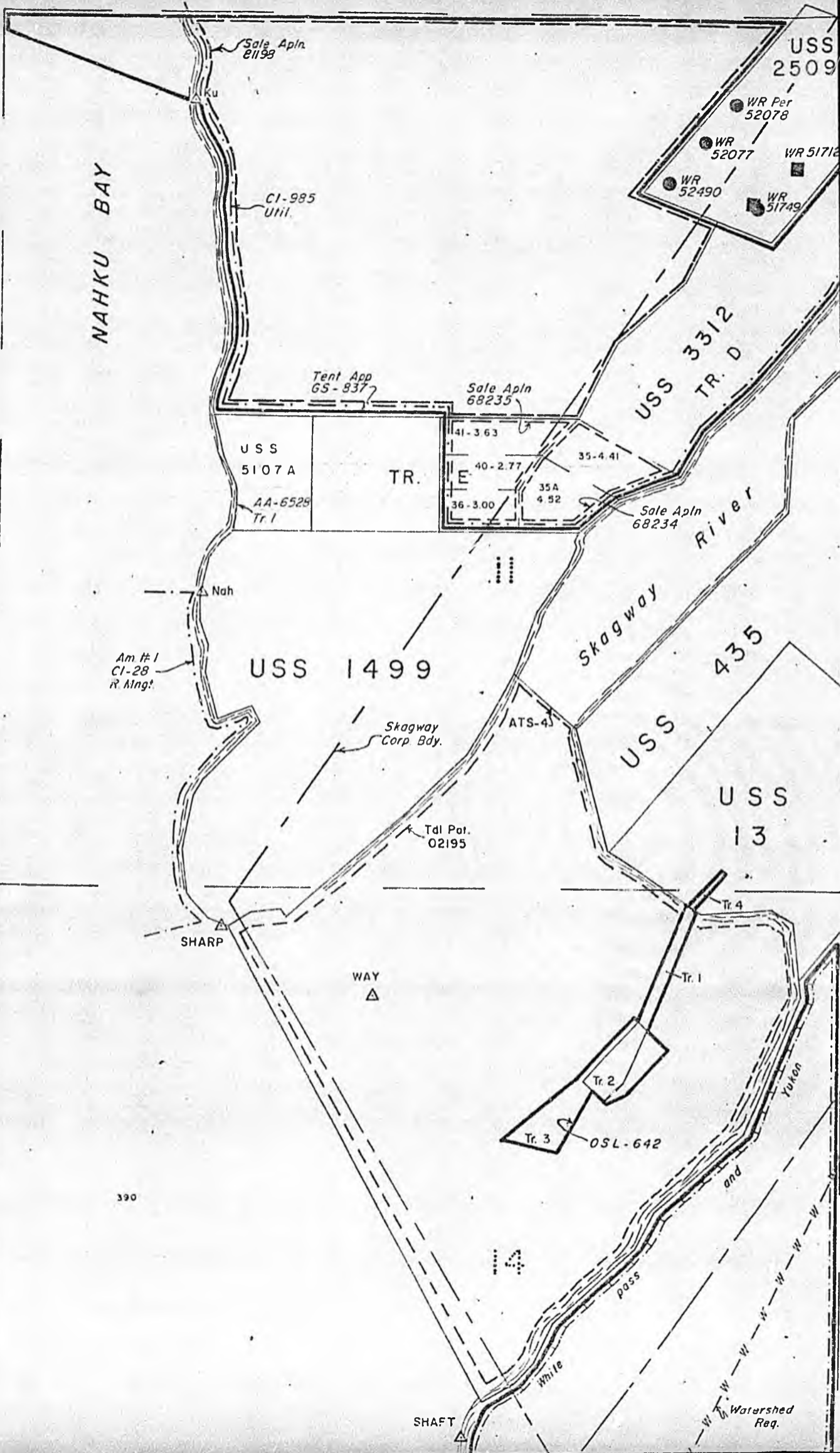
- 1. S.49°58'W., 1.67 chs.
- 2. S.38°56'W., 1.92 "
- 3. S.12°51'W., 3.70 "
- 4. S. 1°15'E., 2.29 "
- 5. S.20°48'E., 2.14 "
- 6. S. 7°35'W., 2.50 "
- 7. S.15°30'E., 4.44 "
- 8. N.68°03'E., 3.45 "
- 9. S.27°32'E., 1.79 "
- 10. S.45°15'W., 7.72 "
- 11. S.29°24'W., 1.69 "
- 12. S.11°30'W., 5.17 "
- 13. S. 7°09'E., 3.87 "
- 14. S.48°30'E., 0.40 "
- 15. N.69°00'E., 1.43 "
- 16. S. 4°28'E., 1.67 "
- 17. S.36°00'W., 1.51 "
- 18. S.45°00'E., 0.76 "
- 19. N.62°03'E., 3.35 "
- 20. N.81°05'E., 3.42 "
- 21. S.54°24'E., 1.57 "
- 22. N.52°00'E., 1.77 "
- 23. N.49°30'E., 14.00 "
- 24. N.46°35'E., 7.21 "
- 25. N.32°45'E., 4.26 "
- 26. N.29°12'E., 4.44 "
- 27. N.21°33'E., 1.69 "
- 28. N.20°25'E., 4.59 "
- 29. N.37°34'E., 1.15 "
- 30. N.34°51'E., 4.25 "
- 31. N.22°27'E., 1.81 "
- 32. N.18°48'W., 0.50 "
- 33. N.22°37'E., 0.91 "

OFFICE OF U.S. SURVEYOR

Juneau, Alaska, November

The map hereon delineated
No.1499, of the Public Park situated
Skagway, Alaska, is strictly in accordance
the field notes of the survey
in this office, which have been
approved.

[Signature]
U.S. Surveyor



HB

663

Coastal Council Coming Of Age

You don't hear much about the state's Coastal Zone Management Council right now, but that will be one of the hotter seats in town in coming years, predicts council member Fran Ulmer.

Ms. Ulmer, who is director of the governor's division of policy development and planning, told the Society of Petroleum Engineers here this week that the council isn't intended to be an extra step in the permit-granting process for oil operations.

Instead, she said, it sets guidelines for local areas to establish their own coastal management plans. The council will step in only when the local government and the state government disagree and the state decides the issue is of overriding public interest.

For example, she said, the state may determine a particular site is the best site for an onshore oil terminal but the local government says "no." Then the council will be called in as a tribunal. "I don't see that happening very often," she said.

The council is weighted in favor of local control, she said, with nine members representing local governments in nine areas of the state, and seven members representing state agencies.

In his introduction of Ms. Ulmer, Hob Iden of Atlantic Richfield Co. said oilmen from California are aware of the negative aspects of coastal zone management — its costs in time, manpower, money and, most of all, uncertainty.

"Hopefully, we can reduce that element of uncertainty," Ms. Ulmer said.

The council's guidelines for local plans were adopted last week, she said, and she urged the petroleum engineers to comment during the next 60 days while the guidelines are subject to public review.

"If you think the guidelines are unrealistic or too idealistic or inadequate, this is the time the council needs to hear from you," she said.

In order to qualify for federal funds under the Coastal Zone Management Act, the state's program must be approved by the federal government by December.

"What's in it for us?" she said. For one thing, \$3 million next year for scientific studies, in addition to coastal impact funds. For another, a clause in the act says the state plan, if approved by the federal government, will be binding on federal agencies operating within the state.

"Not only will you know the rules of the game for local and state agencies, but for federal as well," she told the oilmen.

The original state legislation for coastal zone management would have vested decision-making in the state, but lawmakers received "violent protests," she said. "The message came through loud and clear" that Alaskans prefer the decisions to be made at the level of government closest to them.

The state act "gives local governments incredible control," she said.

Ms. Ulmer said there is a serious problem with the ability of some local governments to formulate plans for management of their coastlines. While some local governments are sophisticated enough to handle such planning, others are not. "I'm very troubled," she said. "The money is available in grants to help them but not nearly enough. It's a problem for all of us, especially the council."

The coastal management program "stands or falls on the local communities' ability to do a good job of planning," Ms. Ulmer said.

The state's chief petroleum geologist, Tom Marshall, pointed out at the meeting that with oil and gas development, there is less certainty of the site of development than with other resources industries, such as timber or mining.

"People generally are deceived by whether there will be oil fields where they are expected to be found," Marshall said.

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF '98"

P. O. BOX 415 SKAGWAY, ALASKA 99840

January 23, 1978

Senator Joe Orsini, Chairman
Senate Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

This is in response to your letter of 13 January 1978 concerning Senate Bills No. 374, No. 375 and No. 388. These proposed pieces of legislation have been reviewed by the City Council. The position of the City of Skagway on each bill is as follows:

Bill No. 374: The City of Skagway strongly supports the enactment of this bill. This legislation will enable the City to obtain title to tide and submerged lands adjacent to City Park lands which were conveyed to the City by the Federal Government on 30 November 1931. Ownership of these tide lands will facilitate future development of the Park by the City. A copy of the Federal patent transferring the Park lands is enclosed for your information.

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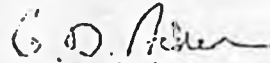
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January 23, 1978
Senator Joe Oresini
Page 2

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Sincerely,


G.D. Acker
City Manager

Enclosure

cc: Representative Rudd
Senator Ray
Representative Miller ✓
Representative Duncan
Roger Allington
City Attorney Ruddy

GDACP

STATE OF ALASKA

COASTAL POLICY COUNCIL

January 23, 1978

LOCAL MEMBERS:

Roger Allington,
Northern Southeast,
Co-Chairman
Roger Fagerstrom,
Bering Straits
Donald Gilman,
Lower Cook Inlet
Eben Hopson,
Northwest
Malcolm "Pete" Isleib,
Prince William Sound
Stan Pat'ian,
Southwest
Robert Sanderson,
Southern Southeast
Lidia Selkregg,
Upper Cook Inlet
Betty Wallin,
Kodiak-Aleutians

STATE MEMBERS:

Francis Ulmer,
Director of Policy
Development &
Planning,
Co-chairwoman
Donald Harris,
Commissioner of
Transportation &
Public Facilities
Phillip Hubbard,
Commissioner of
Commerce &
Economic
Development
Robert LeResche,
Commissioner of
Natural Resources
Lee McAnerney,
Commissioner of
Community &
Regional Affairs
Ernst Mueller,
Commissioner of
Environmental
Conservation
Ronald Skoog,
Commissioner of
Fish & Game

Representative Lisa Rudd
Pouch V
State Capital
Juneau, Alaska 99811

Dear Representative *Lisa* Rudd:

There are three essentially housekeeping items which should be considered by the State legislature insofar as amendments to the Alaska Coastal Management Act is concerned. Two of these housekeeping items are contained in two bills which have been introduced in the Second Session of the 10th Legislature. Senate Bill 388 addresses the legislative intent insofar as defining the qualifications of an alternate to the council is concerned. House Bill 663 addresses the housekeeping problem of a deadline set up in the original act which was impossible to meet by establishing a deadline of April 15, 1978. The third housekeeping item which is not addressed in either bill, has to do with the clarification as to whether the regulations adopted by the Alaska Coastal Management Policy Council are part of the Alaska Coastal Plan.

Senate Bill 388 rather clearly establishes that the public member alternates shall have the same qualifications as the public member appointed by the Governor. Assuming this was the intent of the legislature, that is that the alternates have the same qualification as the original appointee, I have no problem with SB 388 as it applies to public members. However, I believe that SB 388 should be modified slightly as it applies to cabinet members so that line 19 of Senate Bill 388 would read "of this section shall be a Deputy Commissioner or other high ranking employee (responsible officer or employee) of the Department".

House Bill 663 seems to answer the problem insofar as deadlines for adoption of the regulations are concerned.

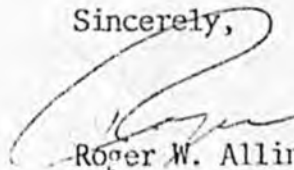
In addition to the above two housekeeping items, I believe that a third housekeeping item should be addressed by amending AS 46.35.080 as follows: "AS 46.35.080 is amended by adding a final sentence to the section as follows: Any regulations adopted by the Alaska Coastal Management Policy Council shall be considered part of the Alaska Coastal Management program."



Representative Lisa Rudd
January 23, 1978
Page 2

Inasmuch as all three of the above items are housekeeping items, it would appear to me that it would be beneficial if all three could be incorporated in a single bill so as to expedite hearings and final enactment. I will be available at the committee hearings and for personal contact with regard to these matters as you may see fit. Thank you for your consideration.

Sincerely,



Roger W. Allington, Co-Chairman
ACMPC

cc: Fran Ulmer
Glen Akin

STATE OF ALASKA

OFFICE OF THE GOVERNOR

STATE POLICY DEVELOPMENT AND PLANNING

JAY S. HAMMOND, GOVERNOR

POUCH AD - JUNEAU 99811
PHONE 463-3512

January 26, 1978

The Honorable Lisa Rudd
Alaska State House of Representatives
Chairperson, House Community and
Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Rudd:

I understand that your committee will be reviewing HB 663 on Friday, January 27. As I am committed to attending an all day meeting of the Growth Policy Council I will not be able to attend the committee hearing. However, I did want to share with you a comment on the bill.

The extension of the December 1977 deadline for the adoption of guidelines is probably not absolutely essential. However, to avoid any possible question about the legality of their adoption, I feel that it is advisable for the Legislature to change the deadline. I am quite confident that the entire Coastal Policy Council would feel reassured by such action.

Next week I will be in Washington, D.C., attending the White House Conference on Balanced Growth and Economic Development; so I will be unable to attend your meeting to review the guidelines. I know that Roger Allington and Glenn Akins will ably brief you on the guidelines and standards, but if there's any additional information or assistance which I can give upon my return, please let me know.

Sincerely,

Frances A. Ulmer
Frances A. Ulmer (AU)
Director

C&RA Committee Members;

The informational meeting on the Coastal Energy Impact Program (CEIP) which had been scheduled for this Monday, January 23rd has been rescheduled for Tuesday, January 31 at 11:15 a.m. in the Governor's Conference Room.

This will be an informal meeting with Ms. JoEllen Murphy, Director of Federal Programs and the State CEIP Coordinator, Doug Griffen,

COASTAL RESOURCE SERVICE AREA BOUNDARIES
A Determination Under Section 46.35.120(b) of the
Alaska Coastal Management Act (Ch. 84 SLA 1977)

December 2, 1977

Lee McAnerney
Commissioner
Alaska Department of
Community and Regional
Affairs

Kevin Waring

BY: Kevin Waring, Director
Division of Community
Planning

Debra E English
12/2/76

Introduction

Section 46.35.120(b) of the Alaska Coastal Management Act states that:

The Commission of the Department of Community and Regional Affairs may, after public hearings held in the area affected, consolidate two or more regional educational attendance areas as a single coastal resource service area

(1) if a substantial portion of the coastal area contains land and water area owned by the federal government over which it exercises exclusive jurisdiction or land held in trust by the federal government for Alaska Natives over which the state would not exercise control as to use; or

(2) if, after giving due consideration to the standards applicable to incorporation of borough governments and the likelihood that a borough will be incorporated within the area, the commissioner determines that the functions to be performed under this chapter could be undertaken more efficiently through the combination of two or more regional educational attendance areas as a single coastal resource service area.

All determinations under this section must be made by December 4, 1977.

Coastal resource service areas are areawide coastal planning districts that may be formed in portions of the unorganized borough outside of municipalities that have and exercise planning authority. Service area boundaries must parallel those of one or more existing regional educational attendance area (REAA); the area covered by an REAA cannot be subdivided in determining boundaries of units that might be organized as coastal resource service areas. No time limits are set for establishment of a coastal resource service area.

Actual organization may be initiated:

- (1) by submission to the (Alaska Coastal Policy) council of a petition signed by a number of registered voters equal to 15 per cent of the number of votes cast within the coastal resource service area at the last state general election;
- (2) by submission to the (Alaska Coastal Policy) council of a resolution approved by the city council or traditional village council of not less than 25 per cent of the number of cities and villages within the coastal resource service area; or
- (3) at the direction of a majority of the members of the (Alaska Coastal Policy) council when it appears that a major economic development activity will occur.

In all cases, organization must be preceded by an election in the affected area.

Proposal

On June 21, 1977, the Commissioner of Community and Regional Affairs proposed consideration of coastal resource service area boundary adjustments in four regions, which included the following regional educational attendance areas.

- (1) Regional educational attendance areas 3(Lower Yukon) and 4(Lower Kuskokwim).
- (2) Regional educational attendance areas 6(Nushagak-Bristol Bay) and 7(Lake/Peninsula-Bristol Bay).
- (3) Regional educational attendance areas 8(Aleutian Chain), 9(Pribilof), and 10(Adak).
- (4) Regional educational attendance areas 18(Northern Panhandle), 19(Southern Panhandle), and 20(Metlakatla/Annette).

Response

To obtain comments on boundary adjustments under consideration, the Department of Community and Regional Affairs:

- (1) scheduled and conducted public hearings in affected areas;
- (2) attended and participated in public workshops conducted by the Office of Coastal Management;
- (3) published a public notice in several newspapers of general circulation;
- (4) sent a cover letter (or memorandum) and information packet to mayors and city managers of coastal communities in affected areas, village council presidents, village corporation presidents, Coastal Policy members from affected areas, numerous state and federal agencies, and a variety of interest groups;
- (5) delivered presentations at meetings of organizations drawing individuals from throughout an affected area (e.g., the South-eastern Conference in Sitka, and a Bristol Bay Area Health Corporation Board of Directors meeting in King Salmon);
- (6) held informal meetings and discussions with people in affected areas; and
- (7) made a brief presentation to the Coastal Policy Council at their October, 1977 meeting in Kodiak.

Public hearings were held in Unalaska, Juneau, Dillingham, Ketchikan, and Craig. Hearings were also planned in Bethel, Emmonak, Naknek, St. Paul Island, and Petersburg, but were not conducted as a result of scheduling difficulties. Public sessions not actually conducted as formal hearings were held in Petersburg and King Salmon. Hearings were generally poorly attended, with members of the public present ranging from two to twelve.

Department of Community and Regional Affairs representatives attended coastal management workshops conducted in Kipnuk, Kotzebue, Juneau, Anchorage, Kodiak, Ketchikan, and Craig. Coastal resource service areas represented an item actively discussed at several of these workshops, as well as other workshops carried out in locations such as Bethel, Dillingham, and Unalaska.

Written comments were received from three state agencies, four federal agencies, and eight other individuals representing private corporations, non-profit associations, local governments, or no identifiable affiliation.

No clear consensus has emerged. Several comments received were not actually directed toward furnishing guidance on coastal resource service area boundaries. Many expressed a preference for creating coastal resource service areas smaller than existing REAA's. As previously noted, this is not allowed by statute.

Comments on the Nushagak-Bristol Bay and Lake/Peninsula-Bristol Bay REAA's (6 and 7) were mixed, but a majority of those presenting their views favored a single coastal resource service area for the Bristol Bay region.

Comments on the Northern Panhandle, Southern Panhandle and Metlakatla/Annette REAA's (18, 19, and 20) were predominantly in favor of maintaining separate areas, although many also supported a coastal resource service area that would include two or more REAA's.

Comments on the Aleutian Chain, Pribilof and Adak REAA's (8, 9, and 10) were also mixed, but a majority of commentators supported maintaining three separate areas.

Input on the Lower Yukon and Lower Kuskokwim REAA's (3 and 4) was limited by an inability to schedule a hearing there, but a majority of those who made recommendations expressed a preference for a single coastal resource service area in the Yukon/Kuskokwim Delta region.

Determination

() Section 46.35.120(c) of the Alaska Coastal Management Act, which requires a final determination on coastal resource service area boundaries by December 4, 1977, should be amended. A majority of citizens appearing at public hearings and expressing themselves through other means were unable to make an informed recommendation on territory that should be included in a coastal resource service area without a clearer understanding of what a coastal management program would entail. A determination by the Commissioner of Community and Regional Affairs without substantial input from affected residents is inconsistent with the Act's emphasis on a strong local role in coastal decision-making. Since no time frame is specified for service area organization, the problem could be rectified by revising Section 46.35.120(c) to read:

(c) a determination under (b) of this section shall be made before organization of the coastal resource service area.

Because expanded opportunities for better informed public input might result in preferences contrary to combinations recommended in this report, specific provision for "deconsolidating" REAA's combined should also be made, if the amendment suggested above is not interpreted to accommodate that option.

(2) We encourage that if a service area is organized in the Bristol Bay region, it should include both the Nushagak-Bristol Bay and Lake/Peninsula-Bristol Bay REAA's (6 and 7), and have therefore combined these REAA's. Although distinctions exist between these two portions of the region, these differences are outweighed by areawide commonalities.

(3) We support maintenance of two separate coastal resource service areas in northern and southern Southeast Alaska, and inclusion of the Metlakatla/Annette REAA (20) in a single service area with the Southern Panhandle REAA (19). Inclusion of REAA's 19 and 20 in a single service area is based on the criterion in AS 46.35.120(b)(1) concerning land held in trust by the Federal Government for Alaska Natives. While Southeast Alaska is a distinct region, significant differences between communities at northern and southern extremes of the region, as well as substantial distances involved, discourage formation of a single service area at this juncture. In addition, Southeast's unusual situation, with a number of small, dispersed first class cities, relatively few second class and unincorporated communities, and a majority of coastline under U.S. Forest Service jurisdiction, points out a need to consider special adaptations of the coastal resource service area, or alternatives to it, for responsive coastal

planning and management in this region.

(4) At this time, we encourage maintenance of three separate areas for the Aleutian, Pribilof and Adak REAA's (8, 9, and 10). The Pribilof Islands are linked to the Aleutian Chain by certain transportation, cultural and related ties, but remoteness makes the Pribilofs an independent entity in many respects. While Section 46.35.120(b)(1) of the Act provides grounds for including Adak in a combined Aleutian coastal resource service area, a disadvantage would be that the Adak Island population, which is solely military, contrasts sharply with that of civilian communities characterizing the remainder of the Aleutian Chain.

(5) We encourage that if a service area is organized in the Yukon/Kuskokwim Delta region, it should include both the Lower Yukon and Lower Kuskokwim REAA's (3 and 4), but consider it inappropriate to place these REAA's in a single service area prior to adequate public hearings.

Conclusion

The major question facing unorganized borough residents with respect to the Alaska Coastal Management Program is what form coastal management should take in their areas. Coastal resource service area boundaries represent only one aspect of this question, and one that cannot be responded to in an informed manner without considering what a coastal management

program might consist of, and how it should be carried out. These answers can only be furnished after a thoughtful educational and local involvement effort which was not possible in the constricted time frame and with the limited subject matter that applied to consideration of service area boundaries.

The Office of Coastal Management's recently completed extensive series of public workshops has provided a crucial first step in informing localities and their citizens about coastal management. With a Coastal Policy Council that is just becoming operational, and basic guidelines and standards that are only now being formulated, disseminated, and reviewed, final determination of service area boundaries at this time is premature, however.

We strongly encourage that the Coastal Policy Council devote careful attention to the complex question of coastal planning and management in the unorganized borough, and that service area boundaries be considered in the more appropriate context of but one component of broader questions involving the unorganized borough, before final boundary determinations are made. A minor amendment to the Alaska Coastal Management Act, as described in this report, is required to allow service area boundaries to be considered in this context, and we support such a change as a step which would strengthen Alaska Coastal Management Program effectiveness.

MEMO

TO: Lisa Rudd FROM: Arnette Smith

January 26, 1978

Subject: Approval of Coastal Management Guidelines and Standards

I asked Jack Chenoweth about the procedure for legislative approval of the guidelines and standards of the Coastal Management Policy Council and the possibility of amending them should the Committee feel this was necessary.

If we approach the guidelines as though they are part of the Coastal Management Program, then legislative approval is accomplished by concurrent resolution (46.35.080). In his opinion this precludes any amendment of the guidelines during the legislative process. It would be simply approval or rejection of the entire package. Therefore, any amending of the guidelines would have to be done to the hearing draft and submitted to the Council at its meeting in March when it deliberates on the final draft to be submitted to the Legislature.

Sec. 46.35.080 does not name the guidelines and standards specifically as part of the Program which is to be approved by concurrent resolution of the Legislature. It seems to include everything else which would logically make up the Alaska Coastal Management Program, i.e., each individual district program and any amendments or revisions will be submitted for approval by the Legislature as they appear.

Sec. 46.35.040 (p.7) identifies the guidelines and standards as "regulations" to be adopted under the provisions of the Administrative Procedures Act (AS 44.62). As regulations, they will eventually be reviewed by the Administrative Regulation Review Committee of the Legislature which can recommend annulment of certain regulations.

Section 6 of the CZM law provides that the Administrative Review Committee will review regulations adopted by the departments to insure conformity with the objectives and standards of the CZM Program.

Lisa:

Here's a copy of Joe Josephson's notes on CZM guidelines, given to the council in written form at the last meeting in Juneau.

Specifically, the problem we have is that an oil and gas lease is not specifically designated as a matter of "state concern", and although the guidelines and the statute clearly refer to "energy facilities" as matters of state concern, shouldn't the lease itself also be included under that definition? If it isn't, then there ~~exists~~ is vagueness in the law that will lead to litigation down the road...

You might raise the question, if you wish, at your meeting with CZM people on Friday. Otherwise, I'll keep you informed as to our progress with the council in getting the guidelines to clarify this matter....State DNR, incidentally, supports this inclusion of leases as matters of state concern...

Our intent ~~is~~ is to in no way limit local govt P&Z jurisdiction over surface uses, but rather require that local govt P&Z be required to justify their action with an analysis, procedure, etc. which they would be required to do ~~if~~ with all "land uses of state concern", e.g. ~~energy~~ energy facilities. If an oil and gas lease is not included as an "energy facility" or designated as a "use of state concern", then the local govt can do what it wishes with zoning decisions over ~~its~~ state oil and gas leases, with no requirement to justify their action.

Tim Bradner

NOTES FOR ALASKA COASTAL POLICY COUNCIL

Premise: Federal and state coastal zone management laws have as a principal goal the improvement of intergovernmental cooperation and coordination in the regulation and management of activities in the coastal zone.

Evidence for Premise: 1. Staff Comment #15: "The Council will determine if local programs are consistent with the guidelines and standards.

"The guidelines and standards will be the basic criteria for federal agencies to determine consistency..." (p. 5).

2. Staff Comment #25: "The purpose of coastal management is to coordinate efforts by different units of government, not establish new permits or layers of control..." (p. 16).

3. Staff Comment #2: "Standards will be implemented, primarily, by local zoning and existing state regulations..." (p. 22).

4. Staff Comment #36: "A basic concept leading to the development and approval of the Alaska Coastal Management Act was that no new coastal management permits would be created. The guidelines and standards may be applied as criteria for existing regulatory efforts, however." (p. 36).

5. Staff Comment #8: "The Act provides a test for the Council to apply to district programs when it is stated that a regional interest is being limited by local action." (p. 36)

6. Staff comment #25: "The state is responsible for siting decisions on a regional or statewide basis. The coastal management process will cause coordination with coastal districts. (p. 43).

7. Staff Comment #26: "District program guidelines and the standards encourage proper siting, not prohibition of (energy) facilities." (p. 43).

8. State statutes:

- a. AS 46.40.070: Local restrictions or exclusions on a use of statewide concern should be approved in a local management plan only if "the District has based its restriction or exclusion on an analysis

showing that the proposed use is incompatible with the proposed site."

- b. AS 46.40.020: Requires the adopted collection of local district plans to be "consistent" with "the recognition of the need for a continuing supply of energy to meet the requirements of the state and the contribution of a share of the state's resources to meet national energy needs".
 - c. AS 46.40.030: Requires district programs to be consistent with state guidelines and standards, and to include a description of the uses and activities which will be considered both proper and improper within the coastal area; a statement of policies to be applied, and the procedures to be used to determine whether specific proposals for land and water use activities shall be applied; and a designation of policies to be applied in coastal areas which merit "special attention".
 - d. AS 46.40.040: Requires the Alaska Coastal Policy Council to "initiate a process for identifying and managing uses of state concern within specific areas of the coast...". (State guidelines and standards must include policies and procedures to determine whether specific proposals for land and water use activities within a local district shall be allowed.)
 - e. AS 46.40.060: Requires the Council to find that local district programs are "substantially consistent" with all provisions of AS 46.40 and that the programs do not "arbitrarily or unreasonably restrict or exclude uses of state concern" before a local program can be approved. It also provides for mediation of disputes between the Council and local districts over elements of a local coastal plan.
 - f. AS 46.40.100: Provides for enforcement of local coastal programs and establishes a right to petition the state Council to show that a district coastal program is not being properly implemented or enforced.*
9. Legislative History of the Coastal Zone Management Act of 1972 (P.L. 92-583):

Admin. News 4776 (92d Cong.):

"The intent of this legislation is to enhance state authority...

"...At present, local governments do possess authority in the coastal zone...Local government needs financial, planning, political, and other assistance to avert damage to natural values in the coastal zone...

"...The American Law Institute has estimated that at least 90% of the current land use decisions being made by local governments have no major effects on state or national interests. Local governments should maintain control over a great majority of matters which are only of local concern. The range of problems that arise in the coastal zone, however, often calls for wider jurisdictional range...

"It is the intent of the Committee to recognize the need for expanding state participation in the control of land and water use decisions in the coastal zone..."

10. See also, e.g., Mandelker & Sherry, "The National Coastal Zone Management Act of 1972", 7 Urban Law Annual 119 (1974): "...CZMA also seems directed toward a centralized supervision of shoreland uses that require state control... The second additional development control requirement...requires that the state CZMA program provide for 'adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.'...Critics of the American land use control process have long argued for greater state involvement in the regulatory system and have called for greater assumption of state power over the land use decisions of local government. Though restricted in application to the coastal zones of the thirty coastal states, the Coastal Zone Management Act of 1972 represents the first national effort, through congressional initiative, to bring about a re-allocation of these land use control powers."

See also W. Brewer, "The Concept of State and Local Relations under the CZMA", 16 William & Mary L. Rev. 717 (1975): "One of the goals of the Coastal Zone Management Act of 1972 is to shift the focus of decisionmaking in certain

areas of regional and national interest from the local to the state level."

11. 15 CFR 923.14; 15 CFR 923.43 (requires that state programs provide "a method of assuring that local land and water uses regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit"); 15 CFR 923.52 (requires the state to "consult" with industry to "determine the potential regional, interstate, national and/or international demand for such facilities in each state" and says that "the adequacy of a state's consideration" during program development of national interest involved in the planning for or siting of facilities which may be more than local in nature" is very important in terms of obtaining federal approval of state programs.)

Query: With respect to energy development sites, and energy production areas leased by the state, do the proposed guidelines and standards adequately protect the national and state interest?

Relevant Provisions:

6 AAC 80.020 - would require the Division of Policy Development and Planning to determine the consistency of state actions with the Alaska Coastal Management Program and to respond to federal agency determinations of the consistency of federal actions therewith. DPDP would not have a like role with regard to local actions. However, "the Council shall identify specific uses of state concern (as defined in AS 46.40.210(6)) and areas of the coast where uses of state concern shall be sited and managed...". Also, the Council "shall direct the development of management policies and practices for uses of state concern by state agencies and coastal resource districts". Query: what is the definition in AS 46.40.210(6)? What does it mean to "direct the development of management policies and practices"? What authority is thereby given?

6 AAC 80.060 - "Sites suitable for the development of major nearshore and onshore petroleum-related facilities shall be identified by the state in cooperation with coastal resource districts. The siting and approval of these facilities shall be based on the policies of the State of Alaska concerning the onshore and nearshore aspects of

OCS development. Coastal resource districts may use and apply these policies in the preparation of district coastal management programs." Query: Why is the reference just to state "policies...concerning the onshore and nearshore aspects of OCS development"? Why does the paragraph say only that districts "may" use and apply these policies, instead of that they "must" or "shall" do so?

6 AAC 85.010 - Boundaries within a district coastal management program "may diverge from the interim boundaries (the requirements for which are set out in the same paragraph) but must "exclude those areas owned, leased, held in trust, or whose use is otherwise subject solely to the discretion of the federal government, its agents, and officers." Query: why is this exclusion only as to federally owned, controlled, or leased areas? What is the relationship intended as to state-leased lands, and the obvious state interests to be inferred, i.e., the attainment of production from the leased areas where the resource exists in commercial quantities?

6 AAC 85.010(7) - "Policies and regulations (of the district coastal management program) shall be consistent with the standards of the Alaska Coastal Management Program contained in 6 AAC 80 and shall meet...additional criteria..."

6 AAC 85.010(8) - (The district plan shall include) "a description "of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to the land and water within the coastal area. This description shall be based upon the district's statement of overall needs, objectives, or goals. or the district's comprehensive land and resource use plan, and shall be consistent with the standards of the Alaska Coastal Management Program contained in 6 AAC 80."

6 AAC 85.010(9) - "...It shall be the general policy of the coastal resource district to approve specific proposals for land and water uses and activities which are consistent with the district coastal management program."

6 AAC 85.040 - (Districts shall provide)"opportunities for coordination and review by governmental agencies and other parties with a significant interest in coastal resources..."

PROBLEM: Since federal regulations, and federal and state statutes, seek to promote coordination of government activities, and to recognize paramount national and state interests, the proposed new regulations should make manifest, as a matter of legislative housekeeping, that local coastal districts will not thwart state land management policy. This is obviously the intended policy, and indeed a goal of the Coastal Zone Management Act. (See above). But it must be an explicit regulatory standard governing the review of coastal district plans and plan implementation.

There are many ways to accomplish this correction of an oversight, or of the susceptibility of the existing draft to misinterpretation inviting dispute or litigation, including the following:

Add a provision saying that "coastal resource districts shall consider that the uses contemplated by the issuance of state leases for mineral and petroleum resource extraction are specific uses of state concern. District coastal management programs and plans shall be consistent with such uses."

Or/And

Add to proposed 6 AAC 85.010(7): "Policies and regulations (of the district) shall be consistent with the standards of the Alaska Coastal Management Program contained in 6 AAC 80 and shall meet...additional criteria, including consistency with uses contemplated by the issuance of state leases within the district for mineral and petroleum resource extraction or related purposes."

Or/And

Add to proposed 6 AAC 85.010(8): "The description of the uses and activities which will be considered proper within the coastal area shall not be inconsistent with established state policy as made manifest by the issuance of leases in effect for the exploration or extraction of mineral or petroleum resources of the state."

Or/And

Add to proposed 6 AAC 85.010(9): "...It shall be the general policy of the coastal resource district to approve specific proposals for land and water uses and activities which are consistent with the district coastal management program, and the classification and management policies governing state lands as otherwise established or promulgated."

RATIONALE

1. Protects paramount state interests and state policy governing state lands.
2. Creates a more favorable environment for business and investment, tending to increase bidding on state leases in a more predictable climate.
3. Avoids possibility of regulatory vagueness leading to (1) intergovernmental conflicts or (2) conflicts between private parties and government, or (3) litigation.
4. Proposed state preleasing procedures will provide ample opportunity for comment and input from districts and municipalities prior to state decision to lease.

J. P. J.

HB

707

LISA - This WAS DELIVERED BY NELS ANDERSON.

AS

5/15/78

Re: telephone conversation with Gordon Ryan, City Manager of Dillingham. I conveyed to him what was in the letter of May 15 from the Department of Environmental conservation - that the Commissioner doesn't see the need for HB 707.

Gordon Ryan said that they might have problems with the new site location. He says the site they're looking at now will probably be unacceptable by DEC because of the high water table therefore he still sees the need for HB 707.

5/16/78 - Sent copy of DEC's letter to Gordon Ryan asking for his response in writing as soon as possible.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

File
JAY S. HAMMOND, GOVERNOR

May 15, 1978

The Honorable Nels A. Anderson, Jr.
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Anderson:

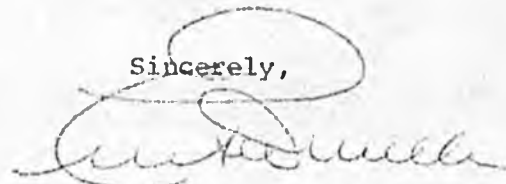
I understand that you may be interested in pursuing passage of HB-707. As progress is being made toward solving the Dillingham problem, you may wish to reconsider the need for this bill. It is my impression that the Dillingham situation is well on the way to a mutually acceptable solution.

As you probably know, Dillingham applied for a permit on or about April 1 as required by a compliance order. On April 12 Richard Williams and Gary Garthwait of our Department, and Mr. Don Caswell, Public Works Director, City of Dillingham visited the proposed site for a new landfill on Wood River Road. Mr. Williams and Mr. Garthwait were optimistic about the general potential of the site. Mr. Caswell confirmed the statement in Dillingham's permit application that soils and groundwater data would be available after the spring melt.

On April 19, 1978 Mr. Reinwand, our Deputy Commissioner reminded Mr. Ryan, Dillingham's City Manager, of the need for the soils and groundwater data. Mr. Reinwand also furnished Mr. Ryan with some sample development plans for the site.

Mr. Garthwait has maintained contact with Dillingham officials and is not aware of any real problems they are having meeting our requirements. If you are aware of something I am not aware of, I would greatly appreciate a telephone call.

Sincerely,



Ernst W. Mueller
Commissioner

Gordon Ryan - 542 - 5211

5/15/78

Gordon Ryan -

Enclosed a letter we've received
from DEC.

Please respond to the letter in
writing and send to our office as
soon as possible.

Thank you.

Sincerely,

Nels A. Anderson, Jr.
for NELS A. ANDERSON, JR.

NAA/ah
ENCLOSURE:



tax base - \$9 1/2 mil.
tax rate? - 17 mils
budget \$1.2 mil.

Introduced: 1/31/78
Referred: Community & Regional
Affairs

1 IN THE HOUSE

BY ANDERSON

2 HOUSE BILL NO. 707

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to sanitary landfills."

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

8 * Section 1. AS 46.03.020 is amended by adding a new paragraph to read:

9 (12) require relocation of municipal sanitary landfills; if
10 the municipality has not received patent to the total amount of land for
11 which it is eligible under AS 29.18.190 and 29.18.200, and if exercise
12 of the municipality's power of eminent domain would be required to
13 provide a suitable relocation site, the department may not require
14 relocation until a suitable relocation site becomes available without
15 requiring the use of the power of eminent domain.

16 * Sec. 2. AS 46.03.900 is amended by adding a new paragraph to read:

17 (25) "sanitary landfill" means a land area used for the dis-
18 posal of solid waste.

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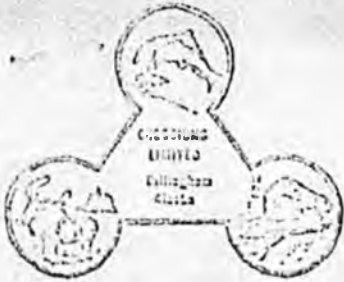
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HB7

RECEIVED OCT 14 1977



CHOGGIUNG LIMITED

P.O. BOX 247 • DILLINGHAM, ALASKA 99576 • PHONE (907) 842-3033

October 14, 1977

Mr. Gordon Ryan
City Manager
City of Dillingham
Box 191
Dillingham, AK 99576

Dear Mr. Ryan,

Concerning Choggiung's mile 7 gravel pit as a future solid waste disposal site, as you are aware per our discussion recently, Choggiung is developing the pit with a future dump site in mind. We are conforming to D.E.C. and B.L.M. guidelines in that we are not excavating below three feet to the water table and the pit is well concealed from the Dillingham Aleknagik road. This should be a suitable dump site for the City when the gravel is exhausted. This summer we uncovered a rich vein of clean aggregate which extends from the Northern portion of our current excavation. This deposit could supply Choggiung's construction company with superior quality gravel for 3-5 years depending upon market conditions. As you know, the mile 7 pit is the closest gravel source we have to town. Moving out the road to another site would be economically disastrous to our company. We are working to acquire gravel on Native allotments closer to town but as yet have had little success. We therefore regret to inform you that the mile 7 pit will not be available for solid waste disposal until the valuable material in the pit can be sold. We appreciate that the City recently made a large purchase of gravel from us to help deplete the pit, but there's still a long way to go. We're selling gravel at the lowest prices in town. We do intend to turn the pit over to a dump site, but as you can well understand, this cannot occur until the gravel is exhausted. I hope this clarification proves helpful to you and others who may not realize that both Choggiung and the City are doing all they can to solve the dump problem.

Sincerely,

J.P. Godfrey
General Manager

February 14, 1977

Mr. Widom
City Manager
Box 191
Dillingham, Ak. 99576

Dear Mr. Widom:

Any time that would be convenient you should schedule a meeting. The Chogglung board and the City council share a number of interests and we encourage a frank swapping of ideas, frustrations and proposals.

Concerning the gravel pit we hope to begin hauling from this site early this summer. The warm winter could make for an early start up for our construction season. At such time as we have reduced the floor of the pit to within four feet of the water table we will consider the development of a sanitary land fill site here. As you know we have been developing the site consonant with the development plan worked up by the people at DEC. So when this area is no longer economically useful to us we will certainly have you in mind. Our letter of September 21, 1976, spelled out our feelings on this matter rather clearly. A copy was sent to all council members at that time.

The Division of Aviation is probably pushing DEC hard. We respect their concerns but if your response must be immediate we suggest you find a new location.

Sincerely yours,

William Tennyson
President

WT/ET/AB

RECEIVED SEP 23 1976



CHOGGIUNG LIMITED

P.O. BOX 247 • DILLINGHAM, ALASKA 99576 • PHONE (907) 842-3083

September 21, 1976

Ivan Widom
City Manager
City of Dillingham
Dillingham, Alaska 99576

Dear Mr. Widom:

Choggiung Ltd. has worked diligently this summer to clear the 7 mile gravel pit for use as a sanitary land fill site for the City of Dillingham. Fortunately or unfortunately, depending on your view, the pit area still contains an impressive amount of gravel. The quality of the gravel is excellent and our best estimates indicate that at least 12' - 15' feet of gravel still remain in the two acre circular deposit.

Choggiung Ltd. sold gravel at a reasonable rate this summer from this area. We kept prices down so that gravel use would become common again in this area. We sold gravel to all corners, whether they be private, public, competitors, or what have you. But try as we might we did not lower the pit floor to the minimum three feet above the water table for which we were shooting.

Then we receive a letter from the City stating that the move into the pit is soon to occur. When Mrs. Schroeder and council members met with the Choggiung Board the board indicated their willingness to work towards a solution of the dump problem through use of the 7 mile pit. But this willingness was based on exhausting the gravel and developing and managing a pit satisfactory to the road residents. However, we do not believe that such a move is in the best interests of the community at this time. The result will drive up the price of gravel and waste an excellent deposit in mid-development. Further it will create strained feelings between the City and the Village at a time when these emotions are best bottled.

What it boils down to seems to be this. Since it selected 7 townships of land from the federal government under the provisions of ANCSA Choggiung has acted as the land sugar daddy in this community. Even though less than 1% of this land has been transferred to Choggiung ownership the village corporation has bent over backwards to meet the City's land needs. First it was land for the KDLG tower. Choggiung went out on a limb to make acres available but now the community has a functioning radio station that the entire region appreciates.

Ivan Widom
September 21, 1976
Page 2

The RCA antenna lease recently concluded by the City is another example of Choggiung's willingness to make land use decisions in the best interests of the community. The fragile conveyance arrangement we cooked up for that transaction was again above and beyond the limits of the land laws that control us. But Choggiung made these efforts in your behalf because a community value was at stake.

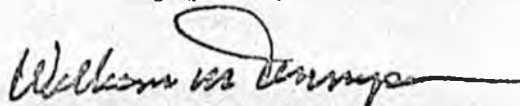
Yet another indication of this same attitude on Choggiung's part is the conveyance of land for the first City garbage dump project. When the City requested the acreage Choggiung manipulated the land laws so that this land would be under your management control. Unfortunately the road proved worthless because the area was unsuitable for land fill purposes. But Choggiung did not smirk or cast the City adrift even then. The village worked hard to convince the housing authority that this same tract could be used for housing purposes. The village even suggested that the Authority should purchase the road from the City as then the expenditures there would not be a total loss. You have copies of our correspondence on this matter.

We offer these examples of Choggiung's willingness to make land use decisions and to expend considerable effort that benefits the community as a defense of our unwillingness to put garbage over gravel at 7 mile. The airport pit has served the City well since the City began expending effort to control this situation. Rather than ruining the 7 mile pit or creating a marginal temporary site in this area we urge the City to postpone occupation of 7 mile until the gravel here has been substantially depleted. As any review of the 7 mile site will show, Choggiung has been working this deposit in accordance with the development plan prepared by the State DEC. Visual screening has been accomplished through the use of spoil berms. A constant eye has been peeled for the water table so that excavation does not go too deep. We have been playing ball to the best of our ability and now we request that you take these factors into account.

It should be remembered that garbage dumps and airports are good neighbors in Anchorage and other municipalities with much heavier air traffic than Dillingham. Another fact that springs to mind is that the City is not always so quick to take the advice and direction of the Division of Aviation in land use matters. Perhaps an extension of time will allow cogent land management in the 7 mile area to develop.

We appreciate your correspondence on this matter and look forward to a responsible land use decision from the City.

Sincerely yours,



William Tennyson
President

WT/TH/AB

cc: Freeman Roberts Orris Welch
David Carlson Perry Adkinson
Don Saqmoen Jim Bingman



P.O. BOX 191

DILLINGHAM, ALASKA 99576

TELEPHONE (907) 842-3493 or 842-3933

July 2, 1976

*Mr. William
Ask me
Laura*

Mr. William Tennyson, Sr.
President
Choggiung Limited
P.O. Box 247
Dillingham, Alaska 99576

Dear William:

The City Council discussed the 1280 acres which will be reconveyed to the city at last night's meeting. They appreciate your board's efforts to provide us with areas for such things as potential dump sites, gravel, sewer needs, etc.

They have requested I ask if it would be possible to square off the area marked 9 and change this amount to the Catholic Mission area, Survey 3699, for possible school or educational purposes. Twenty-five acres were mentioned. We realize the council has not given all of the input to your board on this matter that they perhaps could have, however, the Catholic Mission property has been discussed for some time as a school or college site. We are aware that some of the land has been already set aside for Prince, Jones, Franklin and the church.

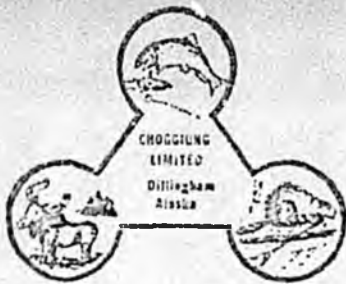
Would it be possible to have some of our council meet with your board at the next regular meeting to discuss both the 7 mile pit and this reconveyance?

Sincerely yours,

Laura

Laura M. Schroeder
Acting, City Manager

RECEIVED JUN 2 1976



CHOGGIUNG LIMITED

P.O. BOX 247 • DILLINGHAM, ALASKA 99576 • PHONE (907) 842-3083

May 28, 1976

Ms. Laura Schroeder
City of Dillingham
P.O. Box 191
Dillingham, Alaska 99576

RE: GARBAGE DUMP

Camai Laura:

Our meeting is scheduled for June 2. It begins at 7 but you will not come up until 8. We received a copy of a petition indicating that the road people and others were not happy with the Mile 7 alternative. I also received an indication that the folks at PHS figure that the land they manage will not support additional land fill activities. Has aviation softened their line? The dumps are at the airports in Anchorage and they certainly have a more active air transport industry there. The problem appears to be a thorny one and I believe that much care and preparations should precede any decision.

Sincerely,

Tom Hawkins

Tom Hawkins
Land Manager

TH/RMH

RECEIVED JUL 15 1975

CHOGGUING LIMITED

P. O. BOX 218
DILLINGHAM, ALASKA 99576

July 14, 1975

Mr. John Merrick
Bureau of Land Management
4700 East 72nd
Anchorage, Alaska 99507

Re: GARBAGE AA-6659A

Dear Mr. Merrick:

Sanitary land fill plans march forward. Gary Garthwart of the State's Department of Environmental Conservation visited Dillingham and gave us a go ahead on the site we described to you. We attach his letter to the City Manager.

Now the crunch. DEC cannot issue permits unless you assure the City's land tenure. Choggiung plans to reconvey all of the unsurveyed land in Section 16 T13S R55W S.M. to the City. We will also reconvey Lot 2 of USS 4974 to them. But as things go I.C. may never issue. So we need that interim action that will let us do what needs to be done.

We look forward to your response.

Sincerely,

Tom Hawkins

Tom Hawkins
Land Planner

TH/RH

cc: City of Dillingham/ Ray Kase
Bureau of Land Management/ Bob Sorenson

Fall, 1977 H

Attempts Made by the City of Dillingham to Relocate Landfill Site

I. SITE NORTH OF TOWN ON CHOGGIUNG LAND SELECTION

- A. Choggiung managed to secure permission for us to use this land, conveyed by quit claim deed, which they have not actually received by reconveyance yet themselves.
- B. Site approval given by DEC. *(They never say it was not approved)*
- C. All of our Local Service Roads and Trails monies for three years used to build a road to this site (Amount \$65,000+).
- D. Road was completed in fall of 1975.
- E. When crew began digging trench for solid waste, water level was too high and the hole filled with water after digging only a few feet. Difference of opinion on whether the area could be drained and used. Most people of the opinion that if drained it would take a year or more before it would be usable.

II. ATTEMPTS MADE TO SELECT A DIFFERENT SITE

- A. Worked closely with Tom Hawkins, Land Planner for Choggiung in attempt to select another site.
- B. After consideration of several different locations which had to be abandoned due to proximity to airport, in line of flight, no access, too near stream, etc., 7 mile gravel pit appeared to be best location found.
- C. Choggiung informally agreed to make this site available after gravel was removed. City paid to have a test boring done to determine how much gravel remained and how high the water table was. It was determined that an additional 15 feet of gravel was in the pit. Members of City Council met with Choggiung Board.
- D. Stockholders of Choggiung who live near the area of gravel pit drafted a petition signed by over 70 stockholders protesting the location of the landfill in this gravel pit.
- E. Choggiung Board reversed plan to make the pit available, stated it is doubtful that pit is located within city limits, said they had already given us one "dump site" and asked how many times they have to do this for the city.
- F. Relations became somewhat strained between city and village corporation.

III. FACTORS CONTRIBUTING TO PROBLEM

- A. Lack of continuity. Since the effort was begun in 1975 to relocate the landfill, the city has had 4 city managers and 2 acting city managers, 4 publ^{ic} works directors. Choggiung has had 3 managers.
- B. Everyone agrees the dump must be moved but nobody wants it

Dillingham Landfill (continued)

- C. City attempts to complete needed projects using its own labor force in order to stretch limited funds available as far as possible. For this reason, water and sewer work, road building, a city dock, cold storage plant remodelling, as well as normal maintenance tasks have been carried out by a public works director, foreman, and 5 general maintenance crew. The 5 man crew are CETA employees. Turnover has been rapid, many leave to go fishing during the summer and so training must be repeated frequently. Additional help is hired when special funding is available, such as for the cold storage remodelling.

IV. ATTEMPTS TO MAINTAIN PRESENT SITE IN BEST POSSIBLE CONDITION.

- A. Two landfill maintenance people are hired through the CETA program to control dumping and keep the area as clean as possible.
- B. D-7 Caterpillar was purchased at a cost of over \$30,000 to push back the garbage and compact daily.
- C. A permit was received to kill birds at the dump. This procedure broke down temporarily due to change of city personnel, but was reinstated with good results.

V. OTHER ATTEMPTS TO RELOCATE SINCE DEC HEARINGS JUNE 6, 1977.

- A. Other possible sites pursued with the following results:
1. Owner of abandoned gravel pit contacted about possible purchase by city. Owner not interested. He has sold lots nearby for new homes and some have been built. Pit is not too desirable because there are no screening trees and it was not developed in a way which would make it suitable.
 2. Owner of property contacted the city and offered to sell his land since he was leaving the area. Price requested was not to be divulged, but was in the 6 figure bracket. Site would also require great deal of development. *↓ too near airport.*
 3. Another abandoned gravel pit was investigated. It is on land selected for a native allotment, has not been granted yet. BLM was contacted by city to try to learn status. They said status was indefinite due to possible mineral availability, and would require several hearings before status could be resolved. Nothing had been started on these hearings and no plans to begin were prospective. This site had been considered several years ago and local residents protested because of a nearby stream. They secured support from Fish and Game in their protest, and the site was dropped at that time.
 4. Better relationship regained with Choggiung and further attempts made to secure Mile 7 pit. They have discovered a new vein of gravel and do not foresee its availability for several years.

Dillingham Landfill (Continued)

VI. ALTERNATIVES

- A. Attempt to drain original new site to which road was built. One problem involved is that road is already deteriorating and garbage trucks would have difficulty using it, especially during breakup. If road must be rebuilt, this would use a good portion of our LSR&T monies again, and streets are desperately needed in the townsite to open up building lots which are now locked in. If the town is to develop, these must be built.
- B. Wait for Choggiung to empty their pit and make every effort to maintain the present dump in a satisfactory manner to eliminate the bird hazard. Possibly a high fence could be built around the area to cut down on the unsightliness inherent in any landfill.

The City of Dillingham has not been indifferent to the need to move the landfill site. They have spent a considerable portion of the city's available resources, both monetary and manhours, toward that end. Now that a city manager and public works director have been secured who intend to stay for a long period of time, and as they have become knowledgeable about the problems existing, a solution is being actively sought.

An attempt was made to build roads this fall with LSR&T 2 years allocation of \$91,000. Originally we were told that none of the funds could be used for the purchase of gravel. Later this was clarified to state that if we could document that no free gravel was available to us from any source, we could purchase it. The city council appointed a committee to revise the priorities of the streets to be built and the Dept. of Transportation was contacted to clarify the procedure to be followed. The council hoped to help empty Choggiung's gravel pit by expending these monies for gravel for road building.

Procedure involved (see attached) was so lengthy and time consuming that it was doubtful if it could have been completed this fall unless very good weather was promised. This project, along with additional funds to bring the total to \$135,000 will be ready to begin in the spring of 1978.

Telecom Robert Haneline/Dept. Transportation 9/20/77 (243-1255)

Procedure for securing Local Service Roads and Trails Funds

1. Contract agreement signed by local governing body sent to Anchorage office. It will be forwarded to Juneau for action by their headquarters office.
2. Agreement includes the following:
 - a. Statement of intent
 - b. Cost estimate
 - c. Description of roads to be built.
 - d. Project location map.
 - e. Typical roadway cross-section showing width, slopes, etc.
3. Resolution signed by city council stating they want the funds authorized to be spent on this project.
4. Something to show that we have right-of-way easements. Could be a townsite map if adequate rights-of-way are shown.
5. Need backup statement showing that no free access gravel pits are available for our use and that we will have to purchase the gravel. Also stipulate the cost per yard which will be paid.

NO FUNDS CAN BE EXPENDED BEFORE APPROVAL OF THIS AGREEMENT IS REACHED OR WE WILL NOT BE REIMBURSED FOR THEM. Will take about 1 week to get this back.

Second step - After approval of agreement, can proceed with design and charge these costs to the project.

BEFORE ADVERTISING a list of bid items, contract plans and estimate of cost must be sent to Dept of Transportation for approval. After this approval is given, we can advertise for bids. Minimum bid period on small projects of this type is 15 days. At end of bid period, we can open the bids.

BEFORE AWARDING CONTRACTS the bids must be submitted to Dept of Transportation for their approval.

The specs can be written in such a way that alternates can be provided, perhaps each street listed separately and bid on as many as they want. This way can utilize the full amount of money available.

Priority list can be changed up until the time of the resolution, then must be followed.

Mr. Haneline will send a book of specs used on a job at Aleknagik which would be of help to us and perhaps eliminate need for engineering firm. He stated that starting on construction this late in the season would probably result in a waste of materials due to high moisture content and would be a drain on our funds.

RECEIVED JUN 27 1975

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

SOUTHCENTRAL REGIONAL OFFICE

JAY S. HAMMOND, Governor

SOUTHCENTRAL REGIONAL OFFICE
MACKAY BLDG.
338 DENALI STREET
ANCHORAGE 99501

June 25, 1975

Mr. Ray Case
City of Dillingham
P.O. Box 191
Dillingham, AK 99576

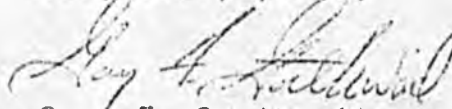
Dear Mr. Case:

Kyle Cherry informed me of the plans the City of Dillingham is making for operating a sanitary landfill. Needless to say, we are pleased to hear of your plans and will certainly assist you in planning and site selection. I have made many attempts the past three days to call you but have not succeeded in getting through. I would like to spend July 2nd in Dillingham and would like to meet with you to discuss your plans and look at the proposed site at that time. I plan to arrive on the morning Wien flight and leave in the afternoon if possible.

I will continue to try to call you to confirm this meeting and would appreciate hearing from you if I have not contacted you by the time this letter arrives.

I look forward to working with you on this project.

Very truly yours,



Gary F. Garthwait
Sanitary Engineer I

RECEIVED FEB 5 1975

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF ENVIRONMENTAL CONSERVATION

SOUTHCENTRAL REGIONAL OFFICE

338 DENALI STREET
MACKAY BUILDING ROOM 1050
ANCHORAGE 99501

February 3, 1975

Mr. Samuel Coxson
City Manager
City of Dillingham
P. O. Box 191
Dillingham, Alaska 99567

Dear Mr. Coxson:

Enclosed is information we discussed regarding Solid Waste Processing.

The cost data presented is not applicable to Dillingham because of several factors including recent escalating materials costs, these processes become more economical when dealing with large scale installations, and the remoteness of Dillingham from manufacturing sources. I also wish to restate that processes such as shredding and baling are only methods of reshaping Solid Waste and the problem of ultimate disposal still remains even though the waste goes through the processing stage.

I have reviewed past correspondence between you and our department and see that Lance Elphic has sent you some information on refuse incineration. You stated you found incineration to be too costly and therefore are investigating other alternatives. I believe you will discover that other methods of processing will be even more costly because unlike with incineration, you are still faced with landfilling a large volume of waste. Shredding has proven advantageous when it precedes resource recovery or when landfill space is very costly. Baling reduces volume but still requires landfilling. Processing of waste becomes economical when it reduces the cost of disposal. I would estimate that shredding or baling would only slightly effect your landfilling cost whereas incineration would effect that cost somewhat more. Our requirements for landfilling the shredded or baled material are basically the same as for landfilling the raw refuse and so these processes would not eliminate your landfill problems.

As Mr. Elphic stated, time is of the essence, and if processing is not presently feasible, a properly located and operated landfill needs to be developed. As you stated in our conversation, regardless of the processing method, a landfill for ultimate disposal is necessary.

Sincerely,

Gary F. Garthwait

Gary F. Garthwait
Sanitary Engineer

cc: Dick Stokes

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH 0 - JUNEAU 99811

February 10, 1978

The Honorable Lisa Rudd
Chairman
Community and Regional Affairs Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Madam Chairman:

On January 31, 1978, HB 707--relating to the solid waste management authority of the Department of Environmental Conservation--was introduced and referred to the House Community and Regional Affairs Committee. The immediate focus of the bill appears to be to assist the City of Dillingham in its opposition to the department's attempts to alleviate the public safety and environmental hazards created by that city's dump. That matter is now in the courts. In the long run, the bill could preclude approval of Alaska's solid waste management plan by the U.S. Environmental Protection Agency. Aside from being an embarrassment to a state trying to demonstrate its environmental responsibility, EPA disapproval would also involve a loss of federal solid waste management funds to the state, and, in the future, local governments, and may very well result in increased federal involvement in solid waste management in Alaska.

In analyzing the bill, it is important to understand the concept of a "sanitary landfill." A sanitary landfill has been universally defined as a solid waste facility sited to avoid safety, health and environmental hazards, confined to the smallest practicable area, and covered on a daily basis. Over the past several years, my department has worked closely with Alaska municipalities to convert their "dumps" to "sanitary landfills." Normally, this can be accomplished without requiring the closing of the existing facility. The program, I believe, has met with a substantial amount of success.

In some cases, however, cooperation has not been enough, and enforcement action is necessary. The City of Dillingham provides a case in point. Because of its location, the Dillingham dump creates both water pollution and public safety hazards. The proximity of the dump to the airport is

the department's greatest concern. Dumps--particularly poorly operated ones--attract birds, which in turn threaten air safety. A near catastrophe in Homer in September, 1976, which was disclosed at hearings on the Dillingham facility, illustrates well the magnitude of that threat. A Wien 737 jet with 52 passengers encountered a flock of sea gulls upon takeoff. One engine exploded and another stalled as several birds were ingested into the jet engines. Thankfully, the pilot was able to restart one engine and return to Homer before crashing into the sea. The cost to Wien from this one incident exceeded \$250,000.

Because of this hazard, dumps located close to airports must, in certain circumstances, be relocated. Dillingham has recognized that this is the case with their facility, but has been, in our view, less than aggressive in finding other sites. HB 707, by precluding the department from directing relocation in the event that eminent domain is necessary, would substantially impair the department's ability to reduce adverse impacts associated with local dumps. While we are confident that relocation of the Dillingham facility can be accomplished without the use of eminent domain, the bill may well thwart necessary remedial action in future cases.

This is particularly true in light of the Resource Conservation and Recovery Act, passed by Congress in 1976. (P.L. 94-580) The Act authorizes the establishment of minimum standards for both hazardous waste disposal and solid waste management in general (secs. 3004, 4002), and provides states with the opportunity to develop solid waste programs to implement those standards (secs. 3006, 4007). My department is working hard to develop such a state program. The primary consequences of failure to develop an adequate program are (1) loss of solid waste management grant funds (sec. 4007(b)); and (2) direct U.S. Environmental Protection Agency involvement in local solid waste management (secs. 3005, 3006). EPA, it should be noted, can directly enforce its guidelines for solid waste management if an imminent environmental or public health hazard is present (sec. 7003).

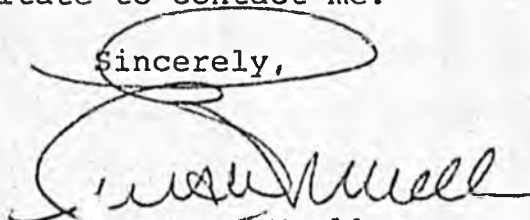
The fundamental goal of the federal act is to convert existing dump facilities to sanitary landfills--which have been defined by EPA in the manner stated at the outset of this letter (except for the cover requirements). The act also mandates the closure of open dumps. To accomplish this, relocation of municipal facilities will sometimes be

February 10, 1978

required. The draft EPA guidelines, for example, explicitly require relocation where the facility is in close proximity to an airport--as is the case in Dillingham. Because HB 707 would deny the department the enforcement authority necessary to carry out the federal guidelines, and because the bill defines "sanitary landfill" to include open dumps--no matter how great the hazards they pose to the environment and human life--the likely consequence of its enactment would be substantial direct federal control over Alaska's solid waste problems. This would not only make solid waste control substantially more onerous on Alaska's municipalities, but would add considerable ammunition to the assertion that Alaska is incapable of managing its own affairs.

If you or any member of the committee have questions on this matter, please do not hesitate to contact me.

Sincerely,



Ernst W. Mueller
Commissioner

cc: Mike Whitehead
Keith Specking
Jerry Reinwand
Dick Stokes
Dale Wallington
Jon Tillinghast

2

I'M PREPARED TO VOTE ON IT, NOT MOVE IT.

thanks -
J.

At - Will you move the amendment
on SB 388 (Capital mgmt - debt
1st Section) & then move the bill?

HB

733

DEVELOPMENT CITIES

Chapter 22 includes maximum participation by state agencies in review, guidance, financial and program assistance, but gives major control to the development city. The development city has all the powers of a regular general law city of its particular class.

There is no clear designation of the responsibilities of the developer, financial or otherwise, except that he must present an approved local hire agreement as a prerequisite to incorporation, and he must show satisfactory contracts for company products to show that the whole project should succeed.

State participation:

- 1) Council, membership includes Commissioner of DC&RA
Members appointed by Governor and serve at his pleasure.
- 2) State review of preliminary planning.
(Doesn't say anything about consistency with state regulations, though I suppose that is implied.
Doesn't say anything about the final comprehensive plan.
Doesn't say who will pay for either the preliminary plan or the comprehensive plan. Just says the city shall do it. So, it seems within the city's prerogative to approach the state for at least partial funding.)
- 3) State review of contracts for sale of company products before city can proceed with capital plans. This seems to be the major limitation on the city.
- 4) State to participate in local hire agreement with developer e.g., recruitment, vocational training, relocation assistance...
- 5) State agencies to look out for funds to help finance city's capital improvement program.
- 6) Revenue sharing program, state land selection.

Major control and options to City:

- 1) Time limits provided for all state action, but none designated for city.
- 2) All provisions of Title 29 apply where consistent with Chapt. 22
Thus city has all the powers and prerogatives of a general law city.
- 3) Council acts as own housing and urban renewal authority.
- 4) At least 2 council members represent the developer.

Differences from regular cities:

- 1) Council is 5 members instead of 6 or 7
Appointed by governor - 1 mbr = Commissioner of DC&RA
- 4 public members
- 2) Exec. Dir. appointed by Council instead of Mayor
Has all powers of executive under Title 29
so he can be manager and mayor
- 3) State keeps close review of city programs.
- 4) City gets preferential treatment for state funding in that state agencies are charged to keep an eye out for funds to help finance city's capital program.

DEVELOPMENT CITIES

- Sec. 29.18.220 Legislative findings. The legislature finds that the development of natural resources in isolated and relatively unpopulated areas requires a policy and procedure which will provide planning, financial and other assistance necessary for encouraging orderly development of well-planned, diversified and economically sound new cities necessary to support the sound development of the state's resources by both the private and public sector. It is the purpose of §§ 220-460 of this chapter to set out the mutual responsibilities of the private and public sectors to achieve these objectives with a view to securing information valuable to future legislatures so that general legislation applicable to the establishment of development cities may be perfected.
- Sec/ 29.18.230 Class of city is designated by DC&RA.
- Sec. 29.18.240 Incorporation is achieved by petition of industrial developer and decision by Local Boundary Commission, or by Act of the legislature.
Area must not be served by existing municipality or be reasonably practicable to be served by existing municipality.
- Sec. 29.18.250 Petition must include the usual (class, name, boundaries) plus "maps, documents, preliminary economic development projections preliminary population projections, outline of the industrial developer's investigative and development expenditures and its proposed capital program, and other information required by the DC&RA to show that the proposed city meets the standards for incorporation."
Petition also includes local hire agreement.
- Sec. 29.18.270 DC&RA to investigate petition and determine whether development expenditures and proposed capital program by developer serve the public interest and demonstrate probability of being carried forward to a successful conclusion.
DC&RA to report findings to LBC.
- Sec. 29.18.290 Decision on Incorporation by LBC. Must not be able to be served by existing municipality either by annexation, service area, etc. and must serve the public interest.
There is provision for borough to serve area under contract with developer and implement the proposed development program, but borough may decline to do so.
(preferential designation?)
LBC may dissolve city if development does not take place within 5 years, but decision may be appealed under Admin. Procedure Act.
- Sec. 29.18.300 Preliminary planning is to be done by the city and submitted to state. This is preliminary to the final comprehensive plan.
State review is by dev. of planning & research, DC&RA and DEC.
- There are time limits throughout pertaining to state action.
DC&RA report on petition -- w/in 60 days
LBC decision on inc. -- within 60 days
State agency review of preliminary plans --- within 60 days
- Sec. 29.18.320 City may not proceed with commitment of funds or formal undertakings for physical development until it produces contracts for sale of company products or other evidence to show it will succeed.
State review, but state must act or city can proceed.

Sec. 29.18.330 Local hire agreement and on-the-job training.
State to assist through its various programs, e.g., recruitment,
vocational training, relocation assistance...

DEVELOPMENT STAGE means that period of time extending from the
date of incorporation until the population
reaches 400 or 5 years has elapsed, whichever
is earlier.

Sec. 29.18.340 Council, appointed by Gov., Commissioner of DC&RA and 4 public
members (at least 2 members from developer's list of nominees)
Serves at the pleasure of the Gov. Councilmen need not be
residents.

Powers -- of school board, if outside a borough
-- of planning commission, with review by state

Sec. 29.18.370 City Executive Director appointed by council (may be a member)
Powers and duties of executives as set out in Title 29.

Sec. 29.18.390 State agencies to insure needs of development city are considered
in the allocation of funds for capital improvement projects.

Sec. 29.18.400 Transition. 400 permanent residents.
Gradual election of council members and increase in membership;
election of mayor (4th year) and at year 4 may elect to become
home rule.
If, after 5 years the population is not yet at 400, DC&RA will
order an election of city officials and designate a new class
city if appropriate.

Sec. 29.18.410 Council acts as its own housing and urban renewal authority
"if such powers have been granted to cities under applicable
provisions of law."

Sec. 29.18.420 Land Selection. DNR to get transfer of federal lands to state
and then city to select 10%. Cost of survey borne by city.

Sec. 29.18.430 Revenue Bonds may be issued without voter approval during
development stage -- just majority vote of the council.

Sec. 29.18.440 Shared Revenues. City is entitled to revenue sharing as per
other cities.

Sec. 29.18.450 All provisions of Title 29 apply to development cities.

HB

741

AMENDMENT

To: CSHB 741

Page 1, line 14: After "services," insert "(i)"

Page 1, line 22: After "service", delete the comma, insert a semicolon and the following new material:

"and

(ii) during the fiscal year in which a payment is made under (i) of this subparagraph, payment shall be made to the borough or unified municipality for the portion of the fiscal year during which police protection services are initiated, to be determined at the rate authorized in this paragraph on the basis of the ^{new} population ~~of the~~ ~~service area~~ served by the implementation of the police protection service and the fractional portion of the fiscal year in which police protection service is implemented."

Original sponsors: Rudd, Cotten
and Miller

IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 741

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing state aid for extending municipal police protection services; and providing for an effective date."

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

* Section 1. AS 43.18.010(a)(1) is amended by adding a new subparagraph to read:

(C) in addition to the payment authorized in this paragraph, to facilitate the extension of municipal police protection services, ^(d) payment shall be made to a unified municipality or organized borough assuming responsibility for police protection services areawide within the municipality, in the area of the borough outside cities, or within a service area of the municipality; the payment authorized by this subparagraph may be paid only in the fiscal year in which extension of police protection is implemented and shall be determined at the rate authorized in this paragraph on the basis of the population to be served by the extension of the service;

* Sec. 2. This Act takes effect July 1, 1978.

MEMORANDUM

TO: Lisa Rudd FROM: Annette Smith AS
REF: HB 741, revenue sharing for extension of police services.
Memo from Anchorage Municipality, May 15, 1978

The attached memo from the Municipality of Anchorage poses three questions. I checked with the DC&RA for the answers.

(1) When does it take effect?

July 1, 1978

(2) How long will the extra \$12/capita extend?

For the first year of operation.

(3) Will a unified municipality or organized borough receive the regular \$12/capita for operational costs of the extended service if those services begin on a date other than July 1?

No

Chugiak/Eagle River plans to begin service on April 1, 1979. They will be eligible to receive \$12/capita under HB 741 as soon as they apply, (providing the operation is in full swing, ie., providing 24 hour service).

This would be for the period of operation from April 1 to July 1, 1979. Under present statute this period from April to July 1, 1979 would not be eligible.

Then, on July 1, 1979, Chugiak/Eagle River will be eligible for the regular \$12/capita allowed under the regular revenue sharing program. The provisions of HB 741 do not come into play at this time.

If the service is begun on July 1 of a given year, then the municipality is entitled to the regular \$12/capita plus the extra \$12/capita of HB 741. At total of \$24/capita if thereby received if the service is begun on July 1.

Muldoon and Sand Lake expect to start July 1, 1978.

Anchorage would like to get the total of \$24/capita for the situation in Chugiak/Eagle River, where they expect to start police service in April instead of July.

Anchorage also would like to be given the extra \$24/capita when they start to hire personnel and not have to wait until they are providing the normally required 24 hour service.

I do not know how you wish to respond to the Municipality. I understand they have talked directly to the DC&RA. Also, last week at the teleconference they asked the same question. I believe they are only asking the questions as an introduction to their proposed amendment.

Annette - do I dope this out, we don't need amendment to my bill. We need amendment to present law, giving pro-rated payment for part of the year service. ~~only amendment~~ If I am right, pls. have Jack draft -

Municipality
of
Anchorage



POUCH 5-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MUNICIPAL MANAGER

May 15, 1978

Dear Legislator:

We have three basic questions concerning HB 741: (1) When does it take effect?; (2) How long will the extra \$12 per capita extend?; and (3) Will a unified municipality or organized borough receive the regular \$12 per capita for operational costs of the extended services if those services begin on a date other than July 1?

We have included suggested language which answers these questions as follows. HB 741 would take effect when the unified municipality or organized borough incurs start-up costs associated with the extension of services. Such start-up costs begin when the municipality or borough begins to select personnel for the extended services.

Under our suggested language the additional \$12 per capita would last for an entire year. For example, when the Municipality of Anchorage begins hiring personnel in January 1979, for extension of services to Chugiak/Eagle River in April of 1979, we would receive the additional \$12.00 per capita from January 1979 to January 1980.

Finally, because we would be operational in Chugiak/Eagle River in April 1979, and not eligible for the regular \$12 per capita for operational costs until July 1979, the suggested language would allow us to receive the regular \$12 per capita from April to July 1, 1979.

The suggested language is as follows:



Paragraph C

In addition to the payment authorized in this paragraph, to facilitate the extension of Municipal Police Protection services, payment at the rate of \$12 per capita on the basis of the population to be served by the extension of the services shall be made to a unified municipality or organized borough assuming responsibility for police protection services areawide within the municipality or within a service area of the municipality; the payment authorized by this subparagraph shall begin when the unified municipality or organized borough begins to incur start-up costs associated with the extension of municipal police protection services, and such payment shall continue for one full year. If the extension of municipal police protection services becomes operational on any date other than July 1, then the payment authorized in (a) of this paragraph shall begin on the date the services become operational.

*would require
new fiscal notes*

*departs
from gen trust
of existing
law*

This suggested language may present problems regarding appropriation for the regular \$12 per capita for operational costs for the extended service, e.g. an appropriation at the time of start-up and an appropriation on July 1.

I will be down in Juneau this week, and then will be ready to discuss this and any other problems with our suggested language for HB 741.

Sincerely,



Mitchell D. Gravo
Administrative Assistant
to the Municipal Manager

CC: Mayor Sullivan
Municipal Attorney
Management & Budget Officer
Police Chief

Representative Buchholdt
Representative Gruening
Representative Meekins
Representative Rahn
Representative Cotton
Representative Miller

Municipality of Anchorage
5/78

HB 741: AN ACT PROVIDING STATE AID FOR EXTENDING MUNICIPAL POLICE PROTECTION SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE, and SB 420: AN ACT MAKING A SPECIAL APPROPRIATION TO THE MUNICIPALITY OF ANCHORAGE FOR POLICE PROTECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

The Municipality of Anchorage strongly supports the approval of HB 741. The bill would provide for much needed assistance in helping to defray the start-up costs associated with extending municipal police protection services. Included in such initial costs are the acquisition and training of new police officers prior to the date the extended police protection can be provided, purchase of uniforms, vehicles, communications equipment and other equipment and supplies.

The State of Alaska will also benefit from passage of HB 741. Knowing that the State will assist in defraying the large start-up costs, municipalities may be more encouraged to establish or expand their own police protection services thereby dramatically reducing the state's responsibility for policing in those areas. This would permit a reduction in recurring state expenditures or enable the state to shift its police resources to other areas of the state.

With approval of HB 741, but only with the approval of HB 741, the Municipality of Anchorage would remove its request by SB 420 for supplemental appropriation to the Municipality for extending police protection into the Muldoon/Sand Lake areas effective July 1, 1978. However, we would recommend a supplemental appropriation to a municipality which has made previous commitments to expand police protection services at a time other than July 1st. This would be a pro-rata portion of the year's regular police services state shared revenues to help defray normal police operations (rather than initial start-up costs) from the date of provision of such services until the following July 1st. (In Anchorage's case, police services will be implemented in Eagle River/Chugiak on 4/1/79.)

**Municipality
of
Anchorage**



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Legislators
HB 741
May 15, 1978
Page 2

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This suggested language may present problems regarding appropriation for the regular \$12 per capita for operational costs for the extended service, e.g. an appropriation at the time of start-up and an appropriation on July 1.

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Sincerely,



Mitchell D. Gravo
Administrative Assistant
to the Municipal Manager

CC: Mayor Sullivan
Municipal Attorney
Management & Budget Officer
Police Chief

Representative Buchholdt
Representative Gruening
Representative Meekins
Representative Ruess
Representative Cotten
Representative Miller

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill no. 741
 Title "An Act providing state aid for extending municipal police protection services"
 Requested by House Community & Regional Affairs Date 2/14/78

II. FISCAL DETAIL

Agency Affected Department of Community and Regional Affairs
 Program Category Affected Development
 Budget Request Unit(s) Affected Municipal Revenue Sharing

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		680.4	0	585.4	0	
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		680.4	0	585.4	0	
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Assumptions

1. Municipal residents currently receiving state aid for police protection services would not be counted under this bill.
2. Populations have been upwardly adjusted at the annual compounded rate of 2 1/2%.
3. The Muldoon, Sand Lake, Chuqiak and Eagle River service areas of the Municipality of Anchorage will be eligible for payments during fiscal year 1979.

IV. DATE 2/15/78 PREPARED BY Bruce Aronson *Bruce Aronson*
 AGENCY Department of Community and Regional Affairs
 Original: Legislative Finance PHONE 465-4700
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

4. The population of the Fairbanks North Star Borough and the City and Borough of Juneau will be receiving municipal police protection services during fiscal year 1981.
5. No other boroughs will assume additional police protection services.
6. No major changes in the State's Department of Public Safety policies are anticipated.
7. Assumption of services may be areawide, nonareawide, or on a service area basis.

HB

760

Senate bill take off taxes - ?
 fiscal note -

Introduced: 2/27/78
 Referred: Finance

1 IN THE HOUSE

BY PHILLIPS, GRUENING AND
 MEEKINS

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 760

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the registration tax on motor
 7 vehicles."

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

9 * Section 1. AS 28.10.255(b) is amended to read:

10 (b) The tax is levied upon motor vehicles subject to the license
 11 tax under sec. 200 of this chapter, not including mobile homes, and is
 12 based upon the age of vehicles as determined by model year according to
 13 the following schedule:

14 Tax According to Age of

15 Vehicle

16 Since Model Year:

17	1st	2nd	3rd	4th	5th	<u>6th</u>	<u>7th</u>	<u>8th</u>
18					or over			<u>or over</u>
19					<u>(unless</u>			
20					<u>prescribed)</u>			

21 Motor Vehicle

22 (1) motorcycle \$ 8 \$ 7 \$ 6 \$ 5 \$ 4

23 (2) vehicles
 24 specified
 25 in sec.
 26 200(b)(2)

27	of this							
28	chapter	60	50	40	30	20	<u>\$15</u>	<u>\$10</u>
29	(3) vehicles							<u>\$ 5</u>