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(6) high energy coasts must be managed by assuring the adequate mix and transport of sediments and nutrients and avoiding redirection of transport processes and wave energy; and

(7) rivers, streams, and lakes must be managed to protect natural vegetation, water quality, important fish or wildlife habitat and natural water flow.

(d) Uses and activities in the coastal area which will not conform to the standards contained in (b) and (c) of this section may be allowed by the district or appropriate state agency if the following are established:

[PROVIDING]

(1) ~~there is~~ a significant public need for the proposed use or activity; *inserted*

(2) there is no feasible and prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in (b) and (c) of this section; and

(3) all feasible and prudent steps to maximize conformance with the standards contained in (b) and (c) of this section will be taken.

(e) In applying this section, districts and state agencies may use appropriate expertise, including regional programs referred to in sec. 30(b) of this chapter. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

no approval by legis.

6 AAC 80.140. AIR, LAND, AND WATER QUALITY. Notwithstanding any other provision of this chapter, the statutes pertaining to and the regulations and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the Alaska coastal management program and, as administered by that agency, constitute the components of the coastal management program with respect to those purposes. (Eff. ; Reg.)

Authority: AS 44.19.893
AS 46.40.040

6 AAC 80.150. HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES. Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory. (Eff. ; Reg.)

Authority: AS 44.14.893
AS 46.40.040

ARTICLE 4.
AREAS WHICH MERIT SPECIAL ATTENTION.

Section

160. Areas which merit special attention

6 AAC 80.160. AREAS WHICH MERIT SPECIAL ATTENTION. (a) Districts and appropriate state agencies shall recommend to the council areas to be designated as areas which merit special attention. Recommendations must include the following information:

footnote deleted

- (1) the basis or bases for designation under AS 46.40.210(1) or (b) of this section;
 - (2) a map showing the geographical location, surface area and where appropriate, bathymetry of the area;
 - (3) a description of the area which includes dominant physical and biological features;
 - (4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;
 - (5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;
 - (6) present and anticipated conflicts among uses and activities within or adjacent to the area, if any; and
 - (7) a proposed management scheme, consisting of the following:
 - (A) 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 land and water within the area;
 - (B) a summary or statement of the policies which will be applied in managing the area; and
 - (C) an identification of the authority which will be used to implement the proposed management scheme.
- (b) In addition to the categories contained in AS 46.40.210(1), areas which merit special attention may include the following:
- (1) areas important for subsistence hunting, fishing, food gathering, and foraging;
 - (2) areas with special scientific values or opportunities, including those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

(3) potential estuarine or marine sanctuaries.

(c) Management schemes for areas which merit special attention must preserve, protect, enhance, or restore the value or values for which the area was designated.

(d) As used in this section, "areas which merit special attention" has the same meaning as in AS 46.40.210(1).
(Eff. , Reg.)

*new section
to replace footnote
ref. on p.10.*

Authority: AS 44.19.893
AS 46.40.040

ARTICLE 5.
GENERAL PROVISIONS.

Section
900. Definitions

6 AAC 80.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "barrier islands and lagoons" means depositional coastal environments formed by deposits of sediment offshore or coastal remnants which form a barrier of low-lying islands and bars protecting a salt-water lagoon with free exchange of water to the sea;

(2) "coastal water" means all water bodies in the coastal area, including wetlands and the intertidal area; *} changed*

(3) "council" means the Alaska Coastal Policy Council;

(4) "district" means a coastal resource district as defined in AS 46.40.210(2);

(5) "district program" means a district coastal management program;

(6) "estuary" means a semi-closed coastal body of water which has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage;

(7) "exposed high-energy coasts" means open and unprotected sections of coastline with direct exposure to ocean generated wave impacts and usually characterized by coarse sand, gravel, boulder beaches, and well-mixed coastal water;

(8) "facilities related to commercial fishing and seafood processing" includes hatcheries and related facilities, seafood processing plants and support facilities, marine industrial and commercial facilities, and aquaculture facilities;

(9) "geophysical hazards" includes potential flooding, tsunami run-up, landslides, snowslides, severe faults, and ice hazards;

(10) "mining and mineral processing" means the development of mineral resources extracted in tidal rivers, coastal water, and on continental shelves of the open sea, and found in surface, subsurface, and aqueous deposits;

(11) "offshore areas" means submerged lands and waters seaward of the coastline;

(12) "rocky islands and seacliffs" means islands of volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky seafronts;

(13) "tideflats" means mostly unvegetated areas that are alternately exposed and inundated by the falling and rising of the tide;

(14) "transportation and utility routes and facilities" include power transmission lines, mineral slurry lines, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain the route or facility;

(15) "upland" means drainages, aquifers, and land, the use of which would have a direct and significant impact on coastal water;

(16) "uses of state concern" has the same meaning as in AS 46.40.210(6);

*New --
replaces
footnote*

(17) "water-dependent" means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body;

(18) "water-related" means a use or activity which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered;

(19) "wetlands" includes both freshwater and saltwater wetlands; "freshwater wetlands" means those environments characterized by rooted vegetation which is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth; "saltwater wetlands" means those coastal areas along sheltered shorelines characterized by halophytic

Register

GOVERNOR'S OFFICE

6 AAC 80.900

hydrophytes and macroalgae extending from extreme low tide to
an area above extreme high tide which is influenced by sea
spray or tidally-induced watertable changes.
(Eff. ; Reg.)

Authority: AS 44.19.893
AS 46.40.040

CHAPTER 85.
GUIDELINES FOR DISTRICT COASTAL MANAGEMENT PROGRAMS.

Article

1. Program Elements
2. Government Process
3. General Provisions

ARTICLE 1
PROGRAM ELEMENTS.

Section

10. Coverage of chapter
20. Needs, objectives, and goals
30. Organization
40. Boundaries
50. Resource inventory
60. Resource analysis
70. Subject uses
80. Proper and improper uses
90. Policies
100. Implementation
110. Public participation

NEW SECTION → 6 AAC 85.010. COVERAGE OF CHAPTER. (a) This chapter contains guidelines for the use of and application by districts in carrying out their responsibilities under the Alaska Coastal Management Act (AS 46.40 and AS 44.19.891--894).

(b) At a minimum, the council will review this chapter annually. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.020. NEEDS, OBJECTIVES, AND GOALS. Each district program must include a statement of the district's overall coastal management needs, objectives, or goals, or the district's comprehensive land and resource use plan.
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.030. ORGANIZATION. Each district program must include a description of the district program organization for coastal management. Budgetary and staff needs and, where appropriate, a schedule for necessary reorganization must be included. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.040. BOUNDARIES. (a) Each district program must include a map of the boundaries of the coastal area within the district subject to the district program. *(sheet)*

(b) *(Prints)* Before council approval of the district program, initial boundaries must be based on Biophysical Boundaries of Alaska's Coastal Zone (published by the Office of Coastal Management and the Alaska Department of Fish and Game, 1978, a copy of which is on file with the Office of the Lieutenant Governor, and which is available from the Office of Coastal Management) and must include the zone of direct interaction and the zone of direct influence. *formally a footnote*

(c) Final boundaries of the coastal area subject to the district program may diverge from the initial boundaries if the final boundaries:

(1) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on marine coastal water; and

(2) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands, and beaches.

(d) If the criteria in (c) of this section are met, final boundaries of the coastal area subject to the district program may be based on political jurisdiction, cultural features, planning areas, watersheds, topographic features, uniform setbacks, or the dependency of uses and activities on water access. *coastal mgmt*

(e) The boundaries of the district must be sufficiently compatible with those of adjoining areas to allow consistent administration of the Alaska coastal management program.
(EEF. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.050. RESOURCE INVENTORY. Each district program must include a resource inventory which describes, in a manner sufficient for program development and implementation:

(1) habitats listed in 6 AAC 80.130 that are found within or adjacent to the district;

(2) major cultural resources that are found within or adjacent to the district;

(3) major land and water uses and activities which are conducted within or adjacent to the district;

(4) major land and resource ownership and management responsibilities within or adjacent to the district; and

(5) major historic, prehistoric, and archaeological resources which are found within or adjacent to the district.
(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.060. RESOURCE ANALYSIS. Each district program must include a resource analysis which describes, in a manner sufficient for program development and implementation:

(1) significant anticipated changes in the matters identified under sec. 50 of this chapter;

(2) an evaluation of the environmental capability and sensitivity of resources and habitats, including cultural resources, for land and water uses and activities; and

(3) an assessment of the present and anticipated needs and demands for coastal habitats and resources. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.070. SUBJECT USES. Each district program must include a description of the land and water uses and activities which are subject to the district program. The uses and activities mentioned in ch. 80 of this title, ~~if applicable~~, if applicable, ~~be~~ subject to the district program. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.080. PROPER AND IMPROPER USES. Each district program must include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations. This description must be based on the district's statement of overall needs, objectives, or goals, or the district's comprehensive land and resource use plan, under sec. 20 of this chapter, and must be consistent with the standards contained in ch. 30 of this title. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

ARTICLE 2.
GOVERNMENT PROCESS.

Remembered
Section

- 120. Submittals to council
- 130. Public involvement
- 140. Coordination and review
- 150. Council review

6 AAC 85.120. SUBMITTALS TO COUNCIL. (a) During program development, districts shall submit brief annual progress reports concerning program development to the council.

(b) Following adoption of the final program, districts shall submit brief annual progress reports concerning program implementation to the council.

(c) All significant amendments to the district program must be submitted to the council for approval. The Office of Coastal Management shall review proposed amendments to determine if council approval is required. This determination is subject to council review when requested by a council member.

(d) Districts shall give conceptual approval to district programs and significant amendments to district programs before ^{prints} their submission to the council. The district program as approved by the council becomes effective upon adoption by the district. (Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.130. PUBLIC INVOLVEMENT. (a) No less than two public meetings must be held within the district during program development to inform the public and receive comments concerning the program. A brief summary or report of the matters considered at the public meeting held under this subsection must be prepared by the district, made available to the public, and retained for inclusion in the record file referred to in sec. 150(c) of this chapter.

(b) At least 30 days before giving conceptual approval to the district program or significant amendment to the district program, the district shall give public notice of the proposed action by conspicuous advertisement in a newspaper of general circulation within the district. The notice must specify the time and place of a public hearing on the proposed action. The public hearing under this subsection may be held not sooner than 10 days after publication of the notice. At the public hearing, each interested person must be given the opportunity to present statements, arguments, or contentions,

orally or in writing. Districts shall insure that, where reasonably requested, translation into the appropriate Native language is provided. The district shall consider all relevant matter presented to it. A written transcript or electronic recording of the public hearing must be submitted to the council.

(c) In addition to the ²⁹⁸requirements of (b) of this section, districts shall provide publically advertised opportunities for public involvement in the development of all program elements contained in secs. 20 -- 110 of this chapter.

(d) Districts shall provide the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, what information is available, and where that information may be obtained.

(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

6 AAC 85.140. COORDINATION AND REVIEW. Districts shall provide opportunities for coordination and review by federal, state, and local governmental agencies, including adjacent districts, and other persons with a significant interest in coastal resources or who are conducting or may conduct uses and activities that have or are likely to have a direct and significant impact on the district's coastal area.

(Eff. , Reg.)

Authority: AS 44.19.892
AS 46.40.030
AS 46.40.040

6 AAC 85.150. COUNCIL REVIEW. (a) When a district program or significant amendment to a district program is given conceptual approval by the district, the program or amendment, together with the transcript or recording of the public hearing held under sec. 130(b) of this chapter and all other material on which the district based its decision, must be submitted to the council.

gover - legis deleted!
(b) Within 30 days after submission of the district program or amendment under (a) of this section, the Office of Coastal Management shall issue its recommendation. The recommendation may be based, in whole or in part, on matters not submitted by the district under (a) of this section. Any matters so used must be identified in the recommendation and placed in the record file under (c) of this section. The recommendation must contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. The recommendation must be served on the

district, the council, and all persons who testified or submitted timely written statements at the public hearing held under sec. 130(b) of this chapter.

(c) A record file containing all matter submitted by the district under (a) of this section, the Office of Coastal Management's recommendation under (b) of this section, and all matters on which the recommendation was based must be maintained at the Office of Coastal Management and at a convenient location within the district.

(d) Within 30 days after service of the recommendation, any person served with the recommendation may serve upon the council comments on the recommendation. Within 10 days after the deadline for serving comments on the council under this subsection, the Office of Coastal Management may submit additional matter to the council in response to the comments. All comments served and all additional matter submitted under this subsection will be placed in the record file.

(e) Within 20 days after the deadline for the Office of Coastal Management's submission of additional matter to the council under (d) of this section, the council will approve or disapprove the district program, in whole or in part. The council's decision will contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. (The council's findings and conclusions will be based upon matters contained in the record file.) The council will, in its discretion, adopt the findings and conclusions of the Office of Coastal Management by reference. The council will serve its decision under this subsection on the district and on all persons who submitted timely comments on the staff recommendation under (d) of this section, and will place the decision in the record file.

(f) If the council's decision under (e) of this section disapproves, in whole or in part, the district program, the decision will specify the date and location for the initial mediation session under AS 46.40.060(b). Mediation sessions will be held within the district and will be scheduled with due regard for the convenience of the participants. Any person served with the council's decision under (e) of this section may attend mediation sessions.

(g) If the council and district reach accord in mediation sessions held under (f) of this section, the council will, within 20 days after reaching accord, serve its modified decision on the district and all persons who were served with the council's decision under (e) of this section, and will place the modified decision in the record file. The modified decision will contain findings and conclusions, based on the record file and additional matters adduced during mediation, necessary to demonstrate that the modified decision does not violate this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, or AS 46.40.070.

*will be contained
in same sentence.
Now a separate
sentence*

(h) If the council and the district do not reach an accord, the council will, within 20 days after its determination that an impasse has been reached, set the matter for an adjudicatory hearing under AS 46.40.060(c). Notice of the hearing under AS 44.62.370(c) will be served on the district and all persons who were served with the council's decision under (e) of this section. Any person served with notice of the hearing under this subsection may intervene as a party to the hearing.
(Eff. _____, Reg. _____)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

ARTICLE 3.
GENERAL PROVISIONS.

Section
900. Definitions

6 AAC 85.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "beaches" means the area affected by wave action directly from the sea;

new word

(2) "marine coastal water" means water adjacent to shorelines which contains a measurable quantity of seawater, including sounds, bays, lagoons, bayous, ponds and estuaries, and the living resources which are dependent on these bodies of water;

Taken from 6 AAC 80.170(2)

(3) "council" means the Alaska Coastal Policy Council;

(4) "district" means a coastal resource district as defined in AS 46.40.210(2);

(5) "district program" means a district coastal management program;

expected

(6) "islands" means bodies of land surrounded by water on all sides; interior portions of major islands may be excluded from the coastal area, if uses of these islands do not cause direct and significant impacts on coastal waters;

(7) "saltwater wetlands" has the same meaning as that contained in 6 AAC 80.900(19); and

(8) "transitional and intertidal areas" means areas subject to periodic or occasional inundation by tides, including coastal floodplains, storm surge areas, tsunami and hurricane zones, and washover channels. (Eff. _____, Reg. _____)

Authority: AS 44.19.893
AS 46.40.030
AS 46.40.040

Roger Allington, Co-Chairperson
Alaska Coastal Policy Council
Office of the Governor

May 8, 1978

J-99-074-78

AVRUM M. GROSS
ATTORNEY GENERAL

Regulations re coastal
management guide-
lines and standards
(6 AAC 80 and 6 AAC 85)

By:
Arthur H. Paterson
Assistant Attorney General
and Regulations Attorney

We have reviewed these regulations in accordance with AS 44.62.060, and approve them for filing by the lieutenant governor. A duplicate original of this memorandum is being furnished the lieutenant governor, along with your regulations and related documents.

Under AS 44.62.125(j)(6), "waters" has been corrected to read "water" in 6 AAC 80.100(b)(2) and 6 AAC 80.900(7), and "must be" has been corrected to read "are" in 6 AAC 85.070.

We note that a "pre-final" version of these regulations was submitted to the legislature April 7, 1978 and that this final version was delivered to Representative Lisa Rudd May 4; the corrected page 15, but not the three corrections mentioned above, was delivered to her May 5. Representative Rudd's Community and Regional Affairs Committee has favorably reported HCR 125, approving these regulations, but neither house of the legislature has yet voted on the matter. This means that, although all requirements of the Administrative Procedure Act (AS 44.62) have now been met and the lieutenant governor may file these regulations, he will not be able to note the effective date in appropriate places (assuming the constitutionality of the effective-date precondition in AS 46.40.030 and assuming that the word "program" in that section means or includes these regulations). You should make certain that, as soon as the legislature completes action on the matter, this information is relayed to the lieutenant governor.

AHP/pjg

cc: Representative Lisa Rudd
House Community & Regional Affairs Committee
Alaska State Legislature

Roger Allington
Alaska Coastal Policy Council
May 8, 1973
Page #2

cc: Senator Joe Orsini, Chairman
Senate Community & Regional Affairs Committee
Alaska State Legislature

Francis Ulmer, Co-Chairperson
Alaska Coastal Policy Council
Office of the Governor

MEMORANDUM

May 15, 1973

SUBJECT: Annulment of regulations affecting the state's
coastal management program: SCR 103

TO: Senator Joseph L. Orsini, Chairman
Senate Community and Regional Affairs Committee

FROM: John B. Chenoweth, Legislative Counsel

You have asked whether favorable action by the Legislature on a resolution approving regulations adopted by the Coastal Policy Council and filed with the Lieutenant Governor precludes subsequent annulment of any provision of those regulations. The Department of Law has provided you a memorandum opinion answering the question in the negative, and, though the basis for this opinion differs, I would agree with the conclusion reached in the memorandum from Mr. Peterson, the Assistant Attorney General.

Earlier, this Agency provided you an opinion concluding that the legislature need not give formal approval to the regulations adopted by the Coastal Policy Council as a condition of their taking effect. By that earlier opinion we suggest that legislative approval of the regulations presented adds nothing to their stature as guidelines and standards for the program. To give effect to the proposed regulations, all the Council is legally required to do is comply with those general provisions of the state's Administrative Procedure Act relating to preparation and adoption of regulations. Prior legislative approval not being specifically required, there is nothing to suggest that the Legislature may not review and disapprove a regulation of the Coastal Policy Council in the manner provided by AS 44.62.320.

JBC:hjd

The legislature has been informed
by the Attorney General's Office of
the State of Alaska that it will
have

must only approve or reject the
Coastal Management Regulations 6 AAC 80.010
et seq and 6 AAC 85.010 et seq. The
legislature has also been informed that
unless these regulations are approved
by this session of the legislature
that there will be severe problems will
result in the ability of the state and
local governments to receive funds
with which to develop plans to cope
with problems in the coastal zone.
The legislature is very dissatisfied
with 6 AAC 80.100 because it
is unclear as to what results is
really intended and because its
language is so over-broad ~~it~~

~~working with the~~
~~on the~~
~~copy of the~~ However since
the legislature may not amend this
section and since it is important
to ~~the~~ approve these regulations
in some form now, regulations 6 AAC 80.010

COASTAL ZONE MANAGEMENT

*and approved
by the
legislature*

~~Regulation 6 AAC 80.050 et. seq. are approved subject to the following comments and reservations.~~ It is the intent of the Legislature that Section 6 AAC 80.100 should not place additional burdens on the forest products industry until such time as additional or amended regulations can be adopted. It is also the intent of the Legislature that a Forest Practices Act adopted by the Legislature in the future shall set forth requirements and regulations governing forestry operations in coastal zone management areas and shall be in substitute of regulations set forth in 6 AAC 80.100. The Legislature recommends and, if such proposed regulations are adopted by the Council, hereby approves the following regulation in place of 6 AAC 80.100 as submitted to it:

6 AAC 80.100. TIMBER HARVEST AND PROCESSING.

(a) Commercial timber harvesting in the coastal area shall be conducted so as to meet the following standards:

(1) the facilities shall be located and logging operations conducted so as to minimize long term adverse environmental impacts;

(2) minimize impact on fish movement in coastal waters; and

(3) timber harvest and timber regeneration activities shall be implemented so as to protect streambanks and shorelines, minimize adverse impacts on fish resources and habitats, and minimize adverse long term impacts on wildlife resources and habitats.

(b) Commercial timber transport, storage, and processing in the coastal area shall be conducted so as to meet the following standards:

(1) onshore storage of logs shall be encouraged where compatible with the objectives of the Alaska Coastal Management Program;

(2) sites for in-water dumping and storage of logs shall be selected and these activities conducted so as to minimize adverse impacts on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access shall be designed and constructed so as to minimize mass wasting, erosion, sedimentation, interference with drainage, and ^{be}adequately maintained until such time as they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossing, including bridges and culverts, shall be kept to a minimum number, designed to withstand seasonal high water and flooding, and provide for ~~unrestricted~~ passage of fish.

(c) Upon the effective date of a Forestry Practices Act the coastal zone regulations will not be applicable *for timber harvesting and other forest practices.*

(d) Nothing in the coastal ~~zone~~ regulations shall prevent timber harvesting on private land, provided such harvesting meets the standards set forth in this section, ~~until additional regulations are~~ adopted.

What probs.
Encourage re-evaluation of
entire section
Re-define "adverse envir. impacts"
reappraise - "potential"



DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:

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16000

1 MAY 1978

Honorable Lisa Rudd
State of Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Ms. Rudd:

The Coast Guard appreciates the opportunity to correspond with your committee concerning the 13 April 1978 Standards and Guidelines for Alaska's Coastal Management Program (ACMP). These Standards and Guidelines represent a considerable departure from the previous drafts on which the Coast Guard was allowed to comment. The Coast Guard feels that this version of the Standards and Guidelines is severely deficient in the areas of participation, specificity, and priority of uses.

Participation. The Office of Coastal Zone Management in Alaska has attempted to provide federal agencies with the opportunity to participate in the development of Alaska's program. Section 923.51 of the federal regulations requires, however, that the State "provide for federal agency input on a timely basis." The Coast Guard feels that the State has been deficient in this regard due to the shortness of time allowed for agency comments between successive drafts of the Standards and Guidelines. This is the sixth occasion in the last six months that the Coast Guard has commented on a different draft of this document. This rapidity of drafts has not allowed sufficient time for coordination between the various agencies of the Department of Transportation, nor the opportunity to carefully evaluate the content of the Program. Furthermore, this "final" version of the Standards and Guidelines was approved by the Council and submitted to the legislature without an opportunity for federal review, even though it differed substantially from previous drafts. Written comments have yet to be received by the Coast Guard addressing our stated concerns. The Coast Guard feels therefore that this past history of short lead times for response combined with the lack of formal feedback from the State does not meet the federal requirements for participation.

Section 306(c)(1) of the Coastal Zone Management Act requires federal agency participation in the development of the Program at an early stage in the process. The Coast Guard recommends that a provision for this participation be included in section 6 AAC 80.020 of the Standards.

The Coast Guard has commented on several occasions that a mechanism is needed for government participation at the district level in the development of the local plans. The Coast Guard is concerned that each district may develop its own mechanism for government participation and then cite compliance or non-compliance with this mechanism as evidence of government participation. Because the actual decision concerning adequacy of participation will be made at the State level by the Council, the Coast Guard feels that it is very important that a well developed State mechanism for participation be defined as part of the ACMP. If this accomplished, the process will not vary from district to district and all parties will have a clear understanding of their responsibilities and opportunities. It is therefore recommended that Section 85.100 be expanded to detail exactly when, where, and how government agencies will be allowed to participate in the development process.

Priority of Uses.

Section 923.13 of the federal regulations requires that the State must: "(1) Identify what constitute uses of regional benefit; and (2) identify those methods that shall be used to assure that unreasonable restrictions or exclusions of such uses by local land and water use regulations shall not occur." The Coast Guard finds no mention of regional benefit, national interest, or defense considerations in the Guidelines and Standards. National Defense, including Coast Guard functions and responsibilities such as search and rescue and fisheries enforcement, should be identified in Chapter 80, Article 2 of the Standards as an important priority use of the Coastal Zone. This priority provides the basis for regulating future land and water use, provides a common reference point for resolving potential conflicts, and is important for future acquisition of areas not presently controlled by the Coast Guard.

Section 6 AAC 80.080 of the Standards addresses water based transportation routes. Under the Ports and Waterways Safety Act of 1972, the Coast Guard is authorized to establish vessel traffic services in ports, harbors, and other waters subject to congested vessel traffic. Any district plans dealing with the management and control of vessel traffic should be coordinated with the Coast Guard to insure such plans are compatible with Coast Guard traffic control responsibilities. There is also considerable regional and national interest connected with transportation and these considerations should be mentioned in this section.

Specificity. The present Standards and Guidelines are lacking in specificity and substance and, as a result, the plans developed and implemented by the Alaska Coastal Resource Districts may vary so widely that the Coast Guard may be compelled to operate under as many as 50 different

plans within Alaska rather than under one plan which is implemented by various local government units. This situation would present an unacceptable burden on the Coast Guard and other federal agencies and is therefore considered a serious defect which must be remedied.

The Coast Guard feels that the Standards and Guidelines are deficient in the following areas concerning specificity:

a. The standards and criteria upon which decisions pursuant to the program will be based are not sufficiently specific to provide "(i) a clear understanding of the content of the program, especially in identifying who will be affected by the program and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program." These provisions are required by section 923.3(a)(2) of the Federal Coastal Zone Management Approval Regulations.

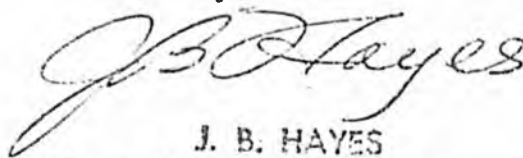
b. Section 923.12(a) requires the States to "develop policies and procedures by which uses determined to be subject to the management program will be permitted, conditioned, modified, and/or prohibited. These policies and procedures regarding management of uses and/or their impacts must be capable of effective implementation at the time of program approval." Alaska's section 6 AAC 85.070 and 6 AAC 85.080 delegates these functions to the districts. This creates a situation where each district's uses and policies may differ and is therefore not authorized under the federal regulations.

The effective implementation required under this section can not occur under Alaska's present Standards and Guidelines. If the State delegates the responsibilities of establishing uses and policies to the individual districts (85.070 and 85.080), and the district policies and uses are not submitted to NOAA with the ACMP (district plans will be developed later), it is impossible to implement meaningful management procedures regarding unknown uses and policies. It is therefore not clear what status the Program will have before the district plans are in place.

c. Section 923.12(e) of the Federal regulations states that "to the extent a state's government program policies are generalized, performance standards that will be used to enforce these policies will need to be sufficiently explicit and specific that persons affected by the management program will have a reasonable understanding of what uses would be permitted in which locations of the Coastal Zone and under what condition." The Coast Guard feels that the Standards are neither explicit nor specific and do not provide the required clear understanding as to what uses are permitted in any location.

The Coast Guard is very interested in coastal zone management and desires to work closely with the State of Alaska in implementing the ACMP. However, the mere opportunity to comment on the various stages of combined plan development when with the lack of response received concerning these comments, can not be considered real participation. The continued failure of the State to react to the concerns expressed herein is viewed as a matter of concern and is considered a serious continuing deficiency under the federal regulations. I am hopeful that these defects can be corrected before the ACMP is sent to NOAA, and am looking forward to continuing interaction with the State in coastal zone matters.

Sincerely,



J. B. HAYES

Rear Admiral, U. S. Coast Guard
Commander Seventeenth Coast Guard District

STATE OF ALASKA

COASTAL POLICY COUNCIL

LOCAL MEMBERS:

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

STATE MEMBERS:

Frances 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

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

Dear Mr. Malone:

The Coastal Policy Council met in Juneau May 4 and 5 to discuss a number of issues which we have had to ignore to date while developing and refining the guidelines and standards which were submitted to you in early April.

One of the issues discussed is coastal management in the unorganized borough. Staff prepared a series of thorny questions to stimulate discussion (see attached). Not surprisingly few of the questions were answered and several more were identified. However, the Council did reach consensus on several policy positions, two of which require legislative action for implementation.

The Council adopted the attached resolution supporting that provision of HCSSB 338 which extends the time for consolidation of coastal resource service areas.

The Council also requests funding from the Legislature to assist those areas of the unorganized borough which wish to engage in the organization and planning efforts associated with initial development of a district coastal management plan. The Council received testimony from a number of individuals, including Dan Branch (AVCP), John Shively (NANA), Ralph Amouaka (Aleutian/Pribilof), and George Allen (Rural Cap) indicating that although there are groups in the unorganized borough interested in assisting the organization of districts to do coastal planning, no resources currently exist for those groups to do the necessary travel, communication and education which would be essential. As you are aware, the Alaska Coastal Management Act provides that coastal planning must be done by local resource districts except in extreme situations when the Council may direct such planning. In the unorganized borough resource district planning can be accomplished only through the formation of a resource service area. Many areas want and/or need the benefits of coastal resource planning but need assistance in organizing a service area.

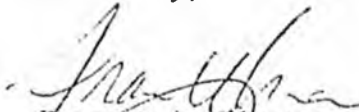


The Honorable Hugh Malone
May 12, 1978
Page 2

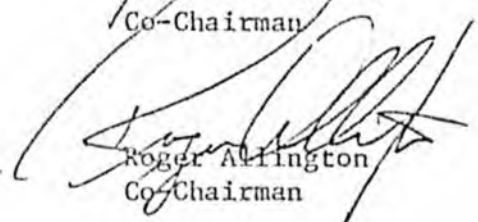
The Council made the policy decision that it would be desirable to assist those areas which are interested in organizing, and moved to request the Free Conference Committee on the Budget to consider an appropriation of \$500,000 to be used for pass through monies for organization efforts by local, public and native groups.

We understand that the lateness of the session and other funding priorities may preclude an appropriation for this purpose at this time. However, we feel it deserves your consideration.

Sincerely,



Frances A. Ulmer
Co-Chairman



Roger Allington
Co-Chairman

cc: Free Conference Committee: Senator John Rader
Senator John G. Sackett
Senator George H. Hohman
Representative Steve Cowper
Representative Clark Gruening
Representative E. J. Haugen

Senator Joseph L. Orsini
Senator Kay Poland
Representative Lisa Rudd

STATE OF ALASKA

COASTAL POLICY COUNCIL

May 11, 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 Paukan,
Southwest
Robert Sanderson,
Southern Southeast
Lidia Selkregg,
Upper Cook Inlet
Betty Wallin,
Kodiak-Aleutians

Honorable Joe Orsini
Chairman, Senate Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Orsini:

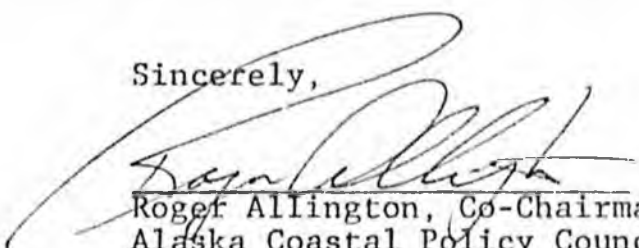
Thank you for the copies of the letter sent to you
by the U.S. Coast Guard on May 1, 1978.


The Office of Coastal Management has examined that
letter in detail at our request, and has prepared
the attached response.

We have reviewed OCM's response and generally concur
with it. Please advise us if you should receive any
additional communications of this type, and we will
be pleased to respond again.

We appreciate the opportunity to comment on this
matter, and we are at your disposal for any future
discussions on the ACMP Guidelines and Standards

Sincerely,


Roger Allington, Co-Chairman
Alaska Coastal Policy Council


Frances A. Ulmer, Co-Chairman,
Alaska Coastal Policy Council



ALASKA
COASTAL MANAGEMENT PROGRAM

May 10, 1978

OFFICE OF COASTAL MANAGEMENT.

Staff Response

To

May 1, 1978 Letter From

Admiral Hayes to Senator Joe Orsini.

We believe that the concerns expressed by the Coast Guard reflect a basic misunderstanding of the legal status of the guidelines and standards within the Alaska Coastal Management Program.

While the Coast Guard cites several sections of the guidelines and standards, federal Coastal Zone Management Act, and federal approval regulations in their letter, we can find no place in which the Alaska Coastal Management Act was cited. The guidelines and standards, as regulations, were never intended to stand alone from the statute under which they were promulgated. They can only be understood as implementing, interpreting, or making specific, but in no event repeating, the Alaska Act. See Drafting Manual for Administrative Regulations (State of Alaska Legislative Affairs Agency, 1976).

I. PARTICIPATION

The first major concern raised in the letter concerns "Participation". The problem cited here is lack of "a

It was, at all times, the intent of the Council to include federal agencies in the definition of the term "public". We believe that the above sections satisfy the concerns raised by the Coast Guard regarding participation.

Additionally, 6 AAC 85.130 specifically requires that "Districts shall provide opportunities for coordination and review required by federal...agencies..." (This would apply both before and after program approval).

6 AAC 85.140, provides that any party who participated in the district public hearing shall be served with and allowed the opportunity to comment on staff recommendations concerning the approval of district programs by the Council, as well as be served with the Council's decision, and allowed to attend mediation sessions. In the event of an adjudicatory hearing between the Council and a district, any such person may intervene as a party.

The internal guidelines of the Alaska Coastal Policy Council, adopted by the Council in March, 1978, contain other relevant provisions, as follows:

"(1) Opportunities shall be provided for participation of federal agencies in the development, review and approval of all parts of the Alaska Coastal Management Program. Notice of Council meetings, public hearings, and other Council activities shall be provided to allow federal agency review and comment on the guidelines and standards, district programs, and any changes or additions to the Alaska Coastal Management Program. Considerable opportunities for review of Alaska's coastal program will be provided, by the State and by the federal Office of Coastal Zone Management, after the program is submitted to the Secretary of Commerce for approval under the provisions of Section 306 of the federal Coastal Zone Management Act of 1972, as amended.

(2) The Council shall provide coastal districts with a specific listing of state and federal agencies having interests, expertise and responsibilities concerning coastal resources, habitats, and development.

(3) Detailed procedures for federal consultation and consistency shall be contained in the management program document to be submitted to the Secretary of Commerce in mid-1978..."

II. PRIORITY OF USES

The second major concern cited by the Coast Guard is the failure of the guidelines and standards to "mention...regional benefit, national interest, or defense considerations". (p. 2).

This comment has apparently resulted directly from a failure by the Coastal Guard to consider the provisions of the Alaska Coastal Management Act in conjunction with the guidelines and standards.

6 AAC 85.070 requires each district program to "include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations."

The definitions of the term "uses of state concern" is contained in AS 46.40.210(6) and includes "(A) uses of national interest, including...navigational facilities...and national defense and related security facilities..." and "(B) uses of more than local concern..."

In reviewing district programs, the Council is required to find that the district program does not "arbitrarily or unreasonably restrict or exclude uses of state concern". AS 46.40.060. The following section of the Act, AS 46.40.070(c), contains detailed criteria for making this finding.

In addition, the Council has specifically provided that the interagency (state) regional planning team "assist the Council and districts in identifying uses of state concern and developing management policies for these uses". 6 AAC 80.030(b)(3).

III. SPECIFICITY

The third major concern expressed by the Coast Guard is that "the present Standards and Guidelines are lacking in specificity and substance and, as a result, the plans developed and implemented by Alaska Coastal Resource Districts (sic) may vary so widely that the Coast Guard may be compelled to operate under as many as 50 different plans within Alaska rather than under one plan which is implemented by various local government units." (pps. 2 -- 3).

This concern suggests a misunderstanding of the federal (306) approval regulations as well as the Alaska Coastal Management Act.

Proposed federal Coastal Zone Management Approval regulation 923.42 concerns the "technique of control" which a state chooses to exercise its coastal management program. One such technique is "direct state control". Under this

technique, the state controls land and water uses through "direct state land and water use planning and regulation." This would, in fact, result in "one plan" statewide. However, the technique chosen by the State of Alaska, and reflected in the Alaska Coastal Management Act, is "local implementation". Under this technique, the state sets basic standards or criteria, while the local governments prepare local programs. Given the diversity and independence of communities in Alaska, any other plan would be unacceptable.

In our opinion, the Alaska Act and guidelines and standards provide the minimum amount of uniformity required for an implementable coastal management program while allowing the maximum amount of local discretion. The standards to be applied by the Council concerning uses of state concern, referred to above, provide the assurance to the Coast Guard and other federal agencies that they will not, in fact, have their functions impaired by local programs. Coordination can be assured if the Coast Guard will keep abreast of district program development and Council review of those programs.

This office understands that the Coast Guard, or any other federal agency, may have difficulty in monitoring the development of district programs. We have always responded to those concerns by committing the Office of Coastal Management and the Department of Community and Regional Affairs to assist in every way possible to assure adequate federal input to local programs (see Council's Internal Guidelines, above).

We will transmit information on national interests to the districts, provide districts with lists of contact people in federal agencies, inform federal agencies of pending events at the district level, send federal agencies' drafts of district materials when they are available, and, mount special efforts to involve federal agencies in the Council review of district programs. All of these services will be set forth in detail in the ACMP program document, but we do not believe that reporting these services in the Guidelines and Standards is appropriate.

The Coast Guard letter discusses a number of specific examples in which the guidelines and standards are allegedly not sufficiently specific (p. 3). The issue of improper delegation of authority from the Council to the districts is raised. In more than one case, the Coast Guard alleges non-compliance with federal regulations.

With respect to these matters, we would note that the State of Alaska Department of Law has determined, in approving the regulations under AS 44.62.060, that they meet basic "legality" and "constitutionality" requirements, and hence do not constitute an improper delegation. The basic philosophy of decentralization and maximum district control was decided by the legislature when it enacted the Alaska Coastal Management Act. The guidelines reflect this.

IV. TOO RAPID DEVELOPMENT

Finally, the Coast Guard notes the rapid pace at which the guidelines and standards were developed, and the lack of time on their part for adequate coordination and review

(p. 1). Parties who have been involved in the development of the guidelines and standards since the inception of the Council in September, 1977 are cognizant of this problem. Both the Alaska Coastal Management Act and the federal program approval requirements have had the effect of making time of the essence. During the six months in which it had to work on the guidelines and standards, the OCM staff distributed, according to the Coast Guard, six drafts for comment; this was done in an effort to maximize participation and coordination, not impair it. At some point, the comments had to end and a draft had to be submitted to the legislature. This was done in early April.

We would also note that the Hearing Draft, which preceded the final draft sent to the legislature, was made available to the Coast Guard in late January. The formal comment period ended in early March (nearly 60 days after publication). Another three weeks elapsed from the time of closing the formal comment period to the actual Council meeting at which the Hearing Draft was revised into the final Draft. The Coast Guard attended that meeting. The Council dealt with each section of the Guidelines and Standards individually, and provided an opportunity for public comment on each section as it came up for Council consideration. The Coast Guard made no effort to comment in this framework, although this was the appropriate time and place to bring up specific points to the Council.

We would note that the first section of the guidelines

and standards, 6 AAC 80.010, requires the Council to review the regulations annually. This reflects the Council's desire to continue refining and improving the guidelines and standards, in cooperation with the Coast Guard and all other interested parties, and its awareness that the version adopted in April is not cast in stone.

The Coast Guard did provide written comments on the January hearing draft of the guidelines and standards. We have not made individual replies to these comments or to any others since the final guidelines and standards themselves constitute our best response. The Coast Guard's comments were used along with dozens of others to prepare the final guidelines and standards that were sent to the legislature. We will respond to the individual comments as time permits, but given the shortness of time remaining, we feel that our primary duty is to prepare the ACMP program document and other tasks related to transmission of the final guidelines and standards to the legislature.

V. SUMMARY

Time continues to be of the essence. The Alaska Coastal Management Program is in its fourth year of program development. It must receive program approval from NOAA this year or it will be ineligible for further development funding. Any changes in the guidelines and standards at this point would require APA review and legislative approval, an impossibility before the legislature adjourns this summer. The effect of pressing for such changes at this time would not result in a correction of defects before submittal to NOAA, but rather result in a scuttling of the Alaska Coastal Management Program.

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

F. Curran
May 16, 1978

R. E. ROBERTSON (1985-1986)
F. O. EASTAUGH
J. B. BRADLEY
W. G. RUDDY
L. B. JACOBSON
P. B. BAKER (ANCHORAGE)
M. T. THOMAS
L. J. BARKER (ANCHORAGE)
J. F. CLARK
P. M. HOFFMAN
J. P. TANGEN
L. G. SERRY (ANCHORAGE)
C. R. RICH (ANCHORAGE)
D. A. HOLBROOK
J. D. MILLER (ANCHORAGE)
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OF COUNSEL
M. E. MONAGLE

May 16, 1978

The Honorable Joseph L. Orsini
Chairman, Senate Community & Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

Thank you for your letter to me of May 3, 1978 regarding the Coastal Management Regulations. I have specifically reviewed proposed section 6 AAC 80.100 dealing with timber harvest and processing. Due to the press of other business, most notably D-2 Legislation in Congress, I have not had an opportunity to focus on the Coastal Zone Regulations until now.

At ALP we have assumed that passage of SB-59, the Forest Practice Act, would supercede the Coastal Zone regulations. Upon reviewing 6 AAC 80.100 (d) we are not so sure. That section provides that Forest Practices legislation would be substituted for the Coastal Zone Management Act when the Forest Practices legislation is passed. An additional proviso of that subsection, however, requires that the Forest Practices Act establish a standard "corresponding to a standard in this section". A fast check of the Forest Practices Act shows that it will not establish such corresponding standards. Indeed, the Coastal Zone Regulations will establish much higher standards and, therefore, there will be no substitution. We find this to be a most alarming situation.

May 16, 1978

Hence, this will be a somewhat detailed letter dealing with a number of problems in the timber area.

1. Section 6 AAC 80.100 requires the siting of timber harvest activities in areas "where the management of reforestation, using the best available technology will result in producing a sustained yield of merchantable timber". There does not appear to be a definition of "sustained yield" in the Act. The Federal government has used the words "sustained yield", (as appear in the Multiple Use Sustained Yield Act of 1960) to mean non-declining yield. More recently, in 1976 in the National Forest Management Act, the long standing Forest Service interpretation of Multiple Use Sustained Yield Act was incorporated into law. Were there to be any lawsuit on this, it would seem to me that a Court would use the Federal definition to interpret the words "sustained yield".

If "sustained yield" means non-declining yield it will make it impossible for many Native corporations to operate. Testimony before the Natural Resources Committee, on the Forest Practices Act indicated that. Accordingly, the requirement in the proposed draft of S.B. 59 that timber harvesting be limited to areas that would produce a "sustained yield" of merchantable timber was deleted from that Act. (Compare draft of S.B. 59 Section 41.17.040(b)(1) with CSSB 59 Section 41.17.060(b). Accordingly, even though ALP does not operate on private land, we would urge that subsection (a) be eliminated entirely.

The reason for suggesting elimination is that reforestation is not the business of the Coastal Zone Management Act. What that Act is attempting to insure is that activities in the coastal region are done in a sound environmental way. That is, its purpose is protection of the environment, not reforestation. Accordingly, it is inappropriate for Subsection (a) to be included in these regulations.

2. Subsection (b)(2) requires an assurance of unrestricted fish movement in coastal waters. It would therefore appear that any causeway built in connection with a log dump, and perhaps even wet log storage areas would be

May 16, 1978

prohibited. Accordingly, we would recommend that the words "assure unrestricted" be deleted and that the words "minimize restriction of" be inserted instead. This would seem to achieve the desired result without unreasonably burdening the timber industry.

3. Subsection (b)(3) has the potential for stopping the entire timber industry in coastal Alaska. It requires that timber harvesting be conducted in a way to "prevent adverse impacts on fish resources and habitats". It may be impossible to do this, depending, of course, on what is meant by "adverse impacts". "Adverse impacts" is not defined in the regulations, and therefore will mean what a Court says it means. What are adverse impacts? No one really seems to know. There is concern for example that long-range, low-level amounts of sedimentation impact fish. We cannot disprove that this is so. Therefore, any group citing this fact could halt any timber operation in coastal Alaska. We would most strongly urge that the word "prevent" be deleted and that the word "minimize" be substituted in lieu thereof. This would make it consistent with impacts on wildlife or resources and their habitats.

Further, we would suggest that the words "minimize adverse impacts" be defined. The definition should be drafted so as not to prohibit logging where adequate streamside mitigation measures are utilized. Adequate streamside mitigation measures include presently accepted practices in Southeastern Alaska, as required in the Southeast Area Guides put out by the Forest Service.

In any event, please be assured that we are extremely concerned about this section and urge you to mitigate its clear possibility for great damage to the industry.

4. So that the definition for "minimize adverse impacts" is consistent throughout we would suggest that the word "effects" in the third line of Subsection (c)(2) be deleted, and the word "impacts" be substituted therefore.

5. Subsection (d) also should be altered. The words "establishing a standard corresponding to a standard

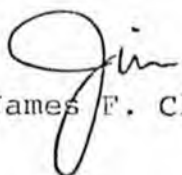
The Honorable Joseph L. Orsini
Page Four

May 16, 1978

in this section" should be deleted entirely. The Forest Practices Act should be the sole vehicle for determining what are and what are not appropriate forest practices. Operators should not be faced with dual sets of regulations emanating from different agencies of the State government. One of the principal reasons why we have worked so hard at ALP for the Forest Practices Act is to eliminate the nightmare of several State agencies using overlapping procedural requirements to regulate the same things. The words which we suggest for deletion would have just that effect. As the section is presently written a court somewhere would have to determine whether or not a standard in the Forest Practices Act was similar to that required in the Coastal Zone Management Act. This simply should not be allowed to happen.

Thank you again for providing us with a copy of these regulations, and the opportunity to respond. I am taking this opportunity to forward them to representative Lisa Rudd, who is Chairman of the House Community and Regional Affairs Committee for her consideration as well.

Yours very truly,


James F. Clark

JFC/pc

cc: Senator Robert Ziegler
Senator Kay Poland
Senator Pete Meland
Senator Bill Sumner
Representative Lisa Rudd
Mr. Clarence Kramer
Mr. David Wolfe
Mr. Pete Huberth
Mr. Roger Allington
Mr. Don Finney
Mr. Sam Demmert
Mr. Les Anderson

MARK G. COPELAND*
DAVID WOLF

*ALSO ADMITTED IN OREGON

LAW OFFICES OF
KEANE, HARPER, PEARLMAN AND COPELAND

909 WEST 9TH AVENUE
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May 23, 1978

OREGON OFFICE

3500 FIRST NATIONAL TOWER
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J. DAVID BENNETT
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DONALD H. PEARLMAN

RANDALL L. DUNN
ROBERT B. HOPKINS
RICHARD L. SADLER

Representative Lisa Rudd
House of Representatives
State Capitol Building
Juneau, Alaska 99801

Re: Coastal Zone Regulations

Dear Lisa:

Thank you very much for your interest in the concerns of our clients Yak-Tat Kwaan, Inc. and Koncor Forest Resource Management Co. We very much appreciate the meeting you set up concerning the Coastal Zone Regulations. At that meeting we submitted what we thought would be a better version of 6 AAC 80.100 along with some ideas for a letter of intent for the legislature. At that meeting you proposed that certain sections of 6 AAC 80.100 be deleted leaving other sections in for approval by the legislature. I indicated that under the practical constraints on every one, since the legislature does not seem to either have the power or is willing to challenge the opinion of the Attorney General that it does not have the power to amend the regulations, your proposal is the best one at this time. As we mentioned at the meeting, we still have problems with 6 AAC 80.100(b)(1) because it seems to refer to potential adverse environmental impacts as opposed to actual adverse environmental impacts. This will put a tremendous burden on the timber industry to show that they will not cause "potential" adverse environmental impacts. As I know you realize, it is very difficult to prove that you will not cause a potential adverse environmental impact and it was my understanding that you were going to refer to this problem in a letter of intent or instruction to the Alaska Coastal Policy Council with suggestions that it be corrected. Also we are concerned with the use of the word "planned" in 6 AAC 80.100 (c)(3), which is a section which you indicated you are going to recommend that the legislature approve. We hope that the council will see fit to delete this word in the future. As I indicated,

Page two
Lisa Rudd
May 23, 1978

our concern is that the regulations will be used to examine the management process of someone in the timber industry as opposed to being only concerned with the design and construction of roads. Fran Ulmer indicated that my concern was totally misplaced and that there was no intention to get into determining how a company involved in the timber industry would be managed. Therefore, there should be no problem in the deletion of the word "planned." I hope this will be contained in your recommendation to the Alaska Coastal Policy Council.

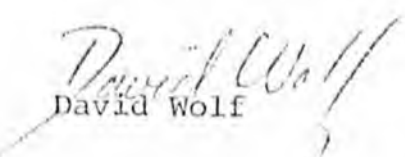
Also I indicated to you and to Murray Walsh that my clients still preserve their right to appear before the Council to make suggestions concerning any new regulations or changes in these regulations as they deem appropriate and that I did not expect to have them told at such time that our willingness to go along with the regulations with your changes because of the practical problems faced by the legislature should be deemed as somehow an acceptance that these regulations are in the best form possible.

Enclosed is a copy of my letter to Joe Orsini which transmits a copy of this letter to him. Because of Joe's birthday party last Friday, I did not have a chance to speak with him at length and told him that I would send him a copy of my letter to you, along with a letter to him concerning these regulations.

Again, thank you for your interest in the problems of these regulations and I hope that your suggestions as to how to solve the problems in the timber harvest and processing part of the regulations will be accepted by your committee and by the legislature.

Sincerely yours,

KEANE, HARPER, PEARLMAN AND
COPELAND


David Wolf

DW/arm
cc: Yak-Tat Kwaan, Inc.
Koncor Forest Resource Management Co.

MARK G. COPELAND*
DAVID WOLF

*ALSO ADMITTED IN OREGON

LAW OFFICES OF
KEANE, HARPER, PEARLMAN AND COPELAND

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ROBERT B. HOPKINS
RICHARD L. SADLER

May 23, 1978

The Honorable Joseph L. Orsini
Chairman, Senate Community & Regional
Affairs Committee

Pouch V
Juneau, Alaska 99811

Re: Coastal Zone Regulations

Dear Joe:

Thank you for the few minutes you had to spend with me last Friday.

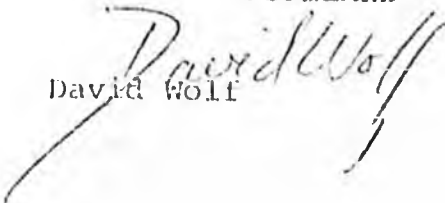
Enclosed is a copy of my letter to Lisa, which I said I would send to you.

The content of Lisa's proposal is not clear in my letter to Lisa. It was my understanding that Lisa's suggestion was that certain sections of the timber harvest and processing regulations in the Coastal Zone Regulation be deleted. These sections were 6 AAC 80.100(a), (b), (2)(b), (3), (c)(4), and (d). This will leave sections 6 AAC 80.100(b)(1), and (c)(1) through (3).

As you can tell from my letter to Lisa our attitude toward this proposal is that it seems the best political compromise at this time and we hope to be able to clean up the rest of the problems when new regulations are reviewed again by the Coastal Zone Council.

Sincerely yours,

KEANE, HARPER, PEARLMAN AND
COPELAND


David Wolf

DW/arm
cc: Lisa Rudd
Sam Demmert
Les Anderson

TELEGRAM

~~BOONVILLE~~ ALASKA COMMUNICATIONS, INC.

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BUREAU, ALASKA 99801

#

02088 NL ANCHORAGE AK 60 05-15 250P ADT

PMS REP LISA RUDD CHAIRMAN OF COMMUNITY AND REG. AFFAIRS

JUN

JUST LEARNED PROPOSED COASTAL ZONE REGULATIONS REWRITE SB59
MORE ADVERSLY TO PRIVATE LAND OWNERS THAN SB59 IS ITSELF.
ON BEHALF OF YAK-TAT KWAAN INC., AND KONCOR FORST RESEARCH
MANAGEMENT COMPANY WHICH IS A JOINT VENTURE OF THREE VILLAGE
COPORATION IN THE KONIAG REGION-OUZINKIE NATIVE CORPORATION,
NATIVES OF KODIAK INC, AND LEISNOE INC., WE REQUEST TIME FOR
REVIEW AND COMMENT.

DAVID WOLF, ATTORNEY FOR

KONCOR FOREST RESEARCH MANAGEMENT CO. AND YAK-TAT KWAAN INC.

COMMITTEE REPORT

HOUSE

5/12/78

FURTHER: _____

Date: 5-24-78

Mr. Speaker:

The Committee on C & RA has had HCR 125

Approving regulations adopted by the Alaska Coastal Policy Council.
a second time
under consideration /and (a majority of the committee) (the committee reports it back as follows)

- () recommends it do pass () recommends it do not pass
- () recommends it do pass with attached amendment(s)
- (X) recommends it be replaced with CS for HCR 125

and _____ () new title (X) same title

(X) AND attaches a Letter of Intent () New Fiscal Note

() reports it back without recommendation

() and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

P. Cole Do Pass

Merle A. Smith DO PASS

Eric Rudd " "

OTHER RECOMMENDATIONS:

Peter Linn NO REC

Yield Anderson Do Not Pass

Tom Kelly No Rec

D. Smith No Rec

Eric Rudd
Chairman



ALASKA HOUSE OF REPRESENTATIVES

Community and Regional Affairs Committee

LISA RUDD, Chair

LETTER OF INTENT - - CSHCR 125

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3870

By the Community and Regional Affairs Committee

Testimony received by the Community and Regional Affairs Committee identified three sections of the regulations submitted by the Alaska Coastal Policy Council for which change is suggested. The first two sections bear upon the desire of the members of the committee to maintain the broadest possible opportunity for public participation in the understanding of the process of developing district and state coastal management programs. Specifically,

(1) in 6 AAC 85.120(b), it is the intent of the committee that, in addition to giving of notice of public hearing by newspaper advertisement, where no newspaper of general circulation exists within a community or region, general notice should be given by radio;

(2) in 6 AAC 85.140, it is the intent of the committee that broad public circulation through general notice or radio broadcast be given to recommendations of the Coastal Policy Council in its review of district programs, that the public at-large (rather than only those persons specifically served a written copy of the Council's recommendations) have opportunity to respond with written comments, and that the public at-large enjoy the opportunity to attend all subsequent sessions, including mediation sessions.

Language adopted by the Coastal Policy Council in each of the sections cited complies with the letter of each underlying statute; the committee recommends reconsideration and change to more nearly accord with the spirit of public participation and understanding which is the basis of the coastal management program.

The third section of the regulations of concern to the committee is the standards for timber harvest and processing in the coastal area, 6 AAC 801100. The committee finds the language and intent of this section to be confusing and potentially detrimental to the development of timber harvest and processing in the coastal portions of the state.

Rather than disapprove the entirety of the section, leaving no standards for interim guidance to state agencies and local districts, the committee has chosen to disapprove only the paragraphs which give rise to confusion and protest, leaving those paragraphs which state broad policies for timber harvest and processing activity. They will serve as a guide for coastal management districts in the formulation of their respective programs, and to demonstrate to the federal government that the Coastal Policy Council is attempting to meet the threshold requirements of applicable federal laws in order to gain the benefits of federal program approval, federal financial assistance, and, most significantly, federal consistency with the state program ultimately adopted.

It is the intent of the committee, with respect to the timber harvest and processing section under review, that the Coastal Policy Council review the entire section and resubmit a comprehensive standard for consideration and approval by the next Legislature. A comprehensive policy statement should, at minimum,

- (1) Define the term "sustained yield" if the Council determines that "sustained yield" is an appropriate standard for timber harvest in coastal areas,
- (2) Eliminate absolute terminology with regard to the environmental impacts of timber harvest activity or define the term "adverse environmental impacts" to mitigate the absolute terminology;
- (3) Clarify the relationship between this section and a future Alaska forest practices act;
- (4) Establish a process for coordinating the efforts of the various state departments and federal agencies which have jurisdiction in the area of timber harvest and processing.

LISA RUDD, CHAIR
HOUSE C&RA COMMITTEE

6 AAC 80.100. TIMBER HARVEST AND PROCESSING. (a) Commercial timber harvest activities in the coastal area must be sited in areas where the management of reforestation, using the best available technology, will result in producing a sustained yield of merchantable timber unless the area is to be converted to a use other than timber harvest.

✓ (b) Commercial timber harvest activities in the coastal area must be conducted so as to meet the following standards:

✓ (1) the location of facilities and the layout of logging systems must be managed so as to minimize potential for adverse environmental impacts;

[Assure]
✓ (2) unrestricted fish movement in coastal waters must be assured; and

(3) timber harvest and timber management activities must be planned and implemented so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats as determined on a case-by-case basis by the Alaska Departments of Natural Resources, Environmental Conservation, and Fish and Game, districts, and appropriate federal agencies.

✓ (c) Commercial timber transport, storage, and processing in the coastal area must be conducted so as to meet the following standards:

✓ (1) onshore storage of logs must be encouraged where compatible with the objectives of the Alaska coastal management program;

✓ (2) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

✓ (3) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossings, including bridges and culverts, must be kept to a minimum number, designed to withstand seasonal high water and flooding, and must provide for unrestricted passage of fish.

(d) Upon the effective date of a regulation adopted under the authority of forest practices legislation establishing a standard corresponding to a standard in this section, the standard in this section will not be applicable.

(Eff. , Reg.)

Authority: AS 44.19.893
AS 46.40.040

Example: Paragraphs Approved

GOVERNOR'S OFFICE

Register

6 AAC 80.100.

6 AAC 80.100. TIMBER HARVEST AND PROCESSING. (a)
Commercial timber harvest activities in the coastal area
must be conducted so as to meet the following standards:

- (1) The location of facilities and the layout of logging systems must be managed so as to minimize potential for adverse environmental impacts;

(b) Commercial timber transport, storage, and processing in the coastal area must be conducted so as to meet the following standards:

- (1) Onshore storage of logs must be encouraged where compatible with the objectives of the Alaska coastal management program;
- (2) Sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;
- (3) Roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage pattern (put to bed).

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

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J. D. MILLER (ANCHORAGE)
T. A. SOFO
W. R. HULEN (ANCHORAGE)
D. E. CUADRA (ANCHORAGE)

OF COUNSEL
M. E. MONAGLE

May 16, 1978

The Honorable Joseph L. Orsini
Chairman, Senate Community & Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

Thank you for your letter to me of May 3, 1978 regarding the Coastal Management Regulations. I have specifically reviewed proposed section 6 AAC 80.100 dealing with timber harvest and processing. Due to the press of other business, most notably D-2 Legislation in Congress, I have not had an opportunity to focus on the Coastal Zone Regulations until now.

At ALP we have assumed that passage of SB-59, the Forest Practice Act, would supercede the Coastal Zone regulations. Upon reviewing 6 AAC 80.100 (d) we are not so sure. That section provides that Forest Practices legislation would be substituted for the Coastal Zone Management Act when the Forest Practices legislation is passed. An additional proviso of that subsection, however, requires that the Forest Practices Act establish a standard "corresponding to a standard in this section". A fast check of the Forest Practices Act shows that it will not establish such corresponding standards. Indeed, the Coastal Zone Regulations will establish much higher standards and, therefore, there will be no substitution. We find this to be a most alarming situation.

May 16, 1978

Hence, this will be a somewhat detailed letter dealing with a number of problems in the timber area.

1. Section 6 AAC 80.100 requires the siting of timber harvest activities in areas "where the management of reforestation, using the best available technology will result in producing a sustained yield of merchantable timber". There does not appear to be a definition of "sustained yield" in the Act. The Federal government has used the words "sustained yield", (as appear in the Multiple Use Sustained Yield Act of 1960) to mean non-declining yield. More recently, in 1976 in the National Forest Management Act, the long standing Forest Service interpretation of Multiple Use Sustained Yield Act was incorporated into law. Were there to be any lawsuit on this, it would seem to me that a Court would use the Federal definition to interpret the words "sustained yield".

If "sustained yield" means non-declining yield it will make it impossible for many Native corporations to operate. Testimony before the Natural Resources Committee, on the Forest Practices Act indicated that. Accordingly, the requirement in the proposed draft of S.B. 59 that timber harvesting be limited to areas that would produce a "sustained yield" of merchantable timber was deleted from that Act. (Compare draft of S.B. 59 Section 41.17.040(b)(1) with CSSB 59 Section 41.17.060(b). Accordingly, even though ALP does not operate on private land, we would urge that subsection (a) be eliminated entirely.

The reason for suggesting elimination is that reforestation is not the business of the Coastal Zone Management Act. What that Act is attempting to insure is that activities in the coastal region are done in a sound environmental way. That is, its purpose is protection of the environment, not reforestation. Accordingly, it is inappropriate for Subsection (a) to be included in these regulations.

2. Subsection (b)(2) requires an assurance of unrestricted fish movement in coastal waters. It would therefore appear that any causeway built in connection with a log dump, and perhaps even wet log storage areas would be

May 16, 1978

prohibited. Accordingly, we would recommend that the words "assure unrestricted" be deleted and that the words "minimize restriction of" be inserted instead. This would seem to achieve the desired result without unreasonably burdening the timber industry.

3. Subsection (b)(3) has the potential for stopping the entire timber industry in coastal Alaska. It requires that timber harvesting be conducted in a way to "prevent adverse impacts on fish resources and habitats". It may be impossible to do this, depending, of course, on what is meant by "adverse impacts". "Adverse impacts" is not defined in the regulations, and therefore will mean what a Court says it means. What are adverse impacts? No one really seems to know. There is concern for example that long-range, low-level amounts of sedimentation impact fish. We cannot disprove that this is so. Therefore, any group citing this fact could halt any timber operation in coastal Alaska. We would most strongly urge that the word "prevent" be deleted and that the word "minimize" be substituted in lieu thereof. This would make it consistent with impacts on wildlife or resources and their habitats.

Further, we would suggest that the words "minimize adverse impacts" be defined. The definition should be drafted so as not to prohibit logging where adequate streamside mitigation measures are utilized. Adequate streamside mitigation measures include presently accepted practices in Southeastern Alaska, as required in the Southeast Area Guides put out by the Forest Service.

In any event, please be assured that we are extremely concerned about this section and urge you to mitigate its clear possibility for great damage to the industry.

4. So that the definition for "minimize adverse impacts" is consistent throughout we would suggest that the word "effects" in the third line of Subsection (c)(2) be deleted, and the word "impacts" be substituted therefore.

5. Subsection (d) also should be altered. The words "establishing a standard corresponding to a standard

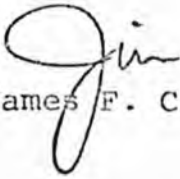
The Honorable Joseph L. Orsini
Page Four

May 16, 1978

in this section" should be deleted entirely. The Forest Practices Act should be the sole vehicle for determining what are and what are not appropriate forest practices. Operators should not be faced with dual sets of regulations emanating from different agencies of the State government. One of the principal reasons why we have worked so hard at ALP for the Forest Practices Act is to eliminate the nightmare of several State agencies using overlapping procedural requirements to regulate the same things. The words which we suggest for deletion would have just that effect. As the section is presently written a court somewhere would have to determine whether or not a standard in the Forest Practices Act was similar to that required in the Coastal Zone Management Act. This simply should not be allowed to happen.

Thank you again for providing us with a copy of these regulations, and the opportunity to respond. I am taking this opportunity to forward them to representative Lisa Rudd, who is Chairman of the House Community and Regional Affairs Committee for her consideration as well.

Yours very truly,


James F. Clark

JFC/pc

cc: Senator Robert Ziegler
Senator Kay Poland
Senator Pete Meland
Senator Bill Sumner
Representative Lisa Rudd
Mr. Clarence Kramer
Mr. David Wolfe
Mr. Pete Huberth
Mr. Roger Allington
Mr. Don Finney
Mr. Sam Demmert
Mr. Les Anderson

STATE OF ALASKA

COASTAL POLICY COUNCIL

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 Paukan,
Southwest
Robert Sanderson,
Southern Southeast
Lidia Selkregg,
Upper Cook Inlet
Betty Wallin,
Kodiak-Aleutians

STATE MEMBERS:

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

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

Dear Mr. Malone:

The Coastal Policy Council met in Juneau May 4 and 5 to discuss a number of issues which we have had to ignore to date while developing and refining the guidelines and standards which were submitted to you in early April.

One of the issues discussed is coastal management in the unorganized borough. Staff prepared a series of thorny questions to stimulate discussion (see attached). Not surprisingly few of the questions were answered and several more were identified. However, the Council did reach consensus on several policy positions, two of which require legislative action for implementation.

The Council adopted the attached resolution supporting that provision of HCSSB 338 which extends the time for consolidation of coastal resource service areas.

The Council also requests funding from the Legislature to assist those areas of the unorganized borough which wish to engage in the organization and planning efforts associated with initial development of a district coastal management plan. The Council received testimony from a number of individuals, including Dan Branch (AVCP), John Shively (NANA), Ralph Amouaka (Aleutian/Pribilof), and George Allen (Rural Cap) indicating that although there are groups in the unorganized borough interested in assisting the organization of districts to do coastal planning, no resources currently exist for those groups to do the necessary travel, communication and education which would be essential. As you are aware, the Alaska Coastal Management Act provides that coastal planning must be done by local resource districts except in extreme situations when the Council may direct such planning. In the unorganized borough resource district planning can be accomplished only through the formation of a resource service area. Many areas want and/or need the benefits of coastal resource planning but need assistance in organizing a service area.



ALASKA
COASTAL MANAGEMENT PROGRAM

STATE OF ALASKA

COASTAL POLICY COUNCIL

May 11, 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 Paukan,
Southwest
Robert Sanderson,
Southern Southeast
Lidia Selkregg,
Upper Cook Inlet
Patty Wallin,
Kodiak-Aleutians

Honorable Joe Orsini
Chairman, Senate Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Orsini:

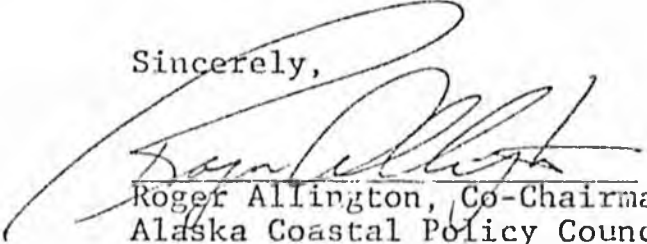
Thank you for the copies of the letter sent to you
by the U.S. Coast Guard on May 1, 1978.


The Office of Coastal Management has examined that
letter in detail at our request, and has prepared
the attached response.

We have reviewed OCM's response and generally concur
with it. Please advise us if you should receive any
additional communications of this type, and we will
be pleased to respond again.

We appreciate the opportunity to comment on this
matter, and we are at your disposal for any future
discussions on the ACMP Guidelines and Standards

Sincerely,


Roger Allington, Co-Chairman
Alaska Coastal Policy Council


Frances A. Ulmer, Co-Chairman,
Alaska Coastal Policy Council



ALASKA
COASTAL MANAGEMENT PROGRAM

May 10, 1978

OFFICE OF COASTAL MANAGEMENT.

Staff Response

To

May 1, 1978 Letter From
Admiral Hayes to Senator Joe Orsini.

We believe that the concerns expressed by the Coast Guard reflect a basic misunderstanding of the legal status of the guidelines and standards within the Alaska Coastal Management Program.

While the Coast Guard cites several sections of the guidelines and standards, federal Coastal Zone Management Act, and federal approval regulations in their letter, we can find no place in which the Alaska Coastal Management Act was cited. The guidelines and standards, as regulations, were never intended to stand alone from the statute under which they were promulgated. They can only be understood as implementing, interpreting, or making specific, but in no event repeating, the Alaska Act. See Drafting Manual for Administrative Regulations (State of Alaska Legislative Affairs Agency, 1976).

I. PARTICIPATION

The first major concern raised in the letter concerns "Participation". The problem cited here is lack of "a

... mechanism for public participation at the district level in the development of local plans." (p. 1). The Coast Guard requests that 6 AAC 85.100 be "expanded to detail exactly when, where, and how government agencies will be allowed to participate in the development process". (p. 2).

We believe that a thorough reading of the guidelines and standards will provide this guidance.

6 AAC 85.120 requires that each district hold no less than two public meetings during the course of program development. The purpose of these meetings is to "inform the public and receive comments concerning the program". Reports of these meetings must be kept in a public file. 85.120(a).

The same section then requires each district to hold a formal public hearing before giving conceptual approval to a district program. At the hearing, "each interested person" is given the opportunity to comment, orally or in writing. A transcript or recording of this meeting must be sent to the Council. 85.120(b).

In addition, districts are required to "provide publicly advertised opportunities for public involvement in the development of all program elements...". 85.120(c).

The district is required to "provide the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, what information is available, and where such information be obtained". 85.120(d).

It was, at all times, the intent of the Council to include federal agencies in the definition of the term "public". We believe that the above sections satisfy the concerns raised by the Coast Guard regarding participation.

Additionally, 6 AAC 85.130 specifically requires that "Districts shall provide opportunities for coordination and review required by federal...agencies..." (This would apply both before and after program approval).

6 AAC 85.140, provides that any party who participated in the district public hearing shall be served with and allowed the opportunity to comment on staff recommendations concerning the approval of district programs by the Council, as well as be served with the Council's decision, and allowed to attend mediator sessions. In the event of an adjudicatory hearing between the Council and a district, any such person may intervene as a party.

The internal guidelines of the Alaska Coastal Policy Council, adopted by the Council in March, 1978, contain other relevant provisions, as follows:

"(1) Opportunities shall be provided for participation of federal agencies in the development, review and approval of all parts of the Alaska Coastal Management Program. Notice of Council meetings, public hearings, and other Council activities shall be provided to allow federal agency review and comment on the guidelines and standards, district programs, and any changes or additions to the Alaska Coastal Management Program. Considerable opportunities for review of Alaska's coastal program will be provided, by the State and by the federal Office of Coastal Zone Management, after the program is submitted to the Secretary of Commerce for approval under the provisions of Section 306 of the federal Coastal Zone Management Act of 1972, as amended.

(2) The Council shall provide coastal districts with a specific listing of state and federal agencies having interests, expertise and responsibilities concerning coastal resources, habitats, and development.

(3) Detailed procedures for federal consultation and consistency shall be contained in the management program document to be submitted to the Secretary of Commerce in mid-1978..."

II. PRIORITY OF USES

The second major concern cited by the Coast Guard is the failure of the guidelines and standards to "mention...regional benefit, national interest, or defense considerations". (p. 2).

This comment has apparently resulted directly from a failure by the Coastal Guard to consider the provisions of the Alaska Coastal Management Act in conjunction with the guidelines and standards.

6 AAC 85.070 requires each district program to "include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations."

The definitions of the term "uses of state concern" is contained in AS 46.40.210(6) and includes "(A) uses of national interest, including...navigational facilities...and national defense and related security facilities..." and "(B) uses of more than local concern..."

In reviewing district programs, the Council is required to find that the district program does not "arbitrarily or unreasonably restrict or exclude uses of state concern". AS 46.40.060. The following section of the Act, AS 46.40.070(c), contains detailed criterial for making this finding.

In addition, the Council has specifically provided that the interagency (state) regional planning team "assist the Council and districts in identifying uses of state concern and developing management policies for these uses". 6 AAC 80.030(b)(3).

III. SPECIFICITY

The third major concern expressed by the Coast Guard is that "the present Standards and Guidelines are lacking in specificity and substance and, as a result, the plans developed and implemented by Alaska Coastal Resource Districts (sic) may vary so widely that the Coast Guard may be compelled to operate under as many as 50 different plans within Alaska rather than under one plan which is implemented by various local government units." (pps. 2 -- 3).

This concern suggests a misunderstanding of the federal (306) approval regulations as well as the Alaska Coastal Management Act.

Proposed federal Coastal Zone Management Approval regulation 923.42 concerns the "technique of control" which a state chooses to exercise its coastal management program. One such technique is "direct state control". Under this

technique, the state controls land and water uses through "direct state land and water use planning and regulation." This would, in fact, result in "one plan" statewide. However, the technique chosen by the State of Alaska, and reflected in the Alaska Coastal Management Act, is "local implementation". Under this technique, the state sets basic standards or criteria, while the local governments prepare local programs. Given the diversity and independence of communities in Alaska, any other plan would be unacceptable.

In our opinion, the Alaska Act and guidelines and standards provide the minimum amount of uniformity required for an implementable coastal management program while allowing the maximum amount of local discretion. The standards to be applied by the Council concerning uses of state concern, referred to above, provide the assurance to the Coast Guard and other federal agencies that they will not, in fact, have their functions impaired by local programs. Coordination can be assured if the Coast Guard will keep abreast of district program development and Council review of those programs.

This office understands that the Coast Guard, or any other federal agency, may have difficulty in monitoring the development of district programs. We have always responded to those concerns by committing the Office of Coastal Management and the Department of Community and Regional Affairs to assist in every way possible to assure adequate federal input to local programs (see Council's Internal Guidelines, above).

We will transmit information on national interests to the districts, provide districts with lists of contact people in federal agencies, inform federal agencies of pending events at the district level, send federal agencies' drafts of district materials when they are available, and, mount special efforts to involve federal agencies in the Council review of district programs. All of these services will be set forth in detail in the ACMP program document, but we do not believe that reporting these services in the Guidelines and Standards is appropriate.

The Coast Guard letter discusses a number of specific examples in which the guidelines and standards are allegedly not sufficiently specific (p. 3). The issue of improper delegation of authority from the Council to the districts is raised. In more than one case, the Coast Guard alleges non-compliance with federal regulations.

With respect to these matters, we would note that the State of Alaska Department of Law has determined, in approving the regulations under AS 44.62.060, that they meet basic "legality" and "constitutionality" requirements, and hence do not constitute an improper delegation. The basic philosophy of decentralization and maximum district control was decided by the legislature when it enacted the Alaska Coastal Management Act. The guidelines reflect this.

IV. TOO RAPID DEVELOPMENT

Finally, the Coast Guard notes the rapid pace at which the guidelines and standards were developed, and the lack of time on their part for adequate coordination and review

(p. 1): Parties who have been involved in the development of the guidelines and standards since the inception of the Council in September, 1977 are cognizant of this problem. Both the Alaska Coastal Management Act and the federal program approval requirements have had the effect of making time of the essence. During the six months in which it had to work on the guidelines and standards, the CCM staff distributed, according to the Coast Guard, six drafts for comment; this was done in an effort to maximize participation and coordination, not impair it. At some point, the comments had to end and a draft had to be submitted to the legislature. This was done in early April.

We would also note that the Hearing Draft, which preceded the final draft sent to the legislature, was made available to the Coast Guard in late January. The formal comment period ended in early March (nearly 60 days after publication). Another three weeks elapsed from the time of closing the formal comment period to the actual Council meeting at which the Hearing Draft was revised into the final Draft. The Coast Guard attended that meeting. The Council dealt with each section of the Guidelines and Standards individually, and provided an opportunity for public comment on each section as it came up for Council consideration. The Coast Guard made no effort to comment in this framework, although this was the appropriate time and place to bring up specific points to the Council.

We would note that the first section of the guidelines

and standards, 6 AAC 80.010, requires the Council to review the regulations annually. This reflects the Council's desire to continue refining and improving the guidelines and standards, in cooperation with the Coast Guard and all other interested parties, and its awareness that the version adopted in April is not cast in stone.

The Coast Guard did provide written comments on the January hearing draft of the guidelines and standards. We have not made individual replies to these comments or to any others since the final guidelines and standards themselves constitute our best response. The Coast Guard's comments were used along with dozens of others to prepare the final guidelines and standards that were sent to the legislature. We will respond to the individual comments as time permits, but given the shortness of time remaining, we feel that our primary duty is to prepare the ACMP program document and other tasks related to transmission of the final guidelines and standards to the legislature.

V. SUMMARY

Time continues to be of the essence. The Alaska Coastal Management Program is in its fourth year of program development. It must receive program approval from NOAA this year or it will be ineligible for further development funding. Any changes in the guidelines and standards at this point would require APA review and legislative approval, an impossibility before the legislature adjourns this summer. The effect of pressing for such changes at this time would not result in a correction of defects before submittal to NOAA, but rather result in a scuttling of the Alaska Coastal Management Program.

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

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M. T. THOMAS
L. J. BARKER (ANCHORAGE)
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J. P. TANGEN
L. G. BERRY (ANCHORAGE)
C. R. RICH (ANCHORAGE)
D. A. HOLBROOK
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May 16, 1978

The Honorable Joseph L. Orsini
Chairman, Senate Community & Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

Thank you for your letter to me of May 3, 1978 regarding the Coastal Management Regulations. I have specifically reviewed proposed section 6 AAC 80.100 dealing with timber harvest and processing. Due to the press of other business, most notably D-2 Legislation in Congress, I have not had an opportunity to focus on the Coastal Zone Regulations until now.

At ALP we have assumed that passage of SB-59, the Forest Practice Act, would supercede the Coastal Zone regulations. Upon reviewing 6 AAC 80.100 (d) we are not so sure. That section provides that Forest Practices legislation would be substituted for the Coastal Zone Management Act when the Forest Practices legislation is passed. An additional proviso of that subsection, however, requires that the Forest Practices Act establish a standard "corresponding to a standard in this section". A fast check of the Forest Practices Act shows that it will not establish such corresponding standards. Indeed, the Coastal Zone Regulations will establish much higher standards and, therefore, there will be no substitution. We find this to be a most alarming situation.

May 16, 1978

Hence, this will be a somewhat detailed letter dealing with a number of problems in the timber area.

1. Section 6 AAC 80.100 requires the siting of timber harvest activities in areas "where the management of reforestation, using the best available technology will result in producing a sustained yield of merchantable timber". There does not appear to be a definition of "sustained yield" in the Act. The Federal government has used the words "sustained yield", (as appear in the Multiple Use Sustained Yield Act of 1960) to mean non-declining yield. More recently, in 1976 in the National Forest Management Act, the long standing Forest Service interpretation of Multiple Use Sustained Yield Act was incorporated into law. Were there to be any lawsuit on this, it would seem to me that a Court would use the Federal definition to interpret the words "sustained yield".

If "sustained yield" means non-declining yield it will make it impossible for many Native corporations to operate. Testimony before the Natural Resources Committee, on the Forest Practices Act indicated that. Accordingly, the requirement in the proposed draft of S.B. 59 that timber harvesting be limited to areas that would produce a "sustained yield" of merchantable timber was deleted from that Act. (Compare draft of S.B. 59 Section 41.17.040(b)(1) with CSSB 59 Section 41.17.060(b). Accordingly, even though ALP does not operate on private land, we would urge that subsection (a) be eliminated entirely.

The reason for suggesting elimination is that reforestation is not the business of the Coastal Zone Management Act. What that Act is attempting to insure is that activities in the coastal region are done in a sound environmental way. That is, its purpose is protection of the environment, not reforestation. Accordingly, it is inappropriate for Subsection (a) to be included in these regulations.

2. Subsection (b)(2) requires an assurance of unrestricted fish movement in coastal waters. It would therefore appear that any causeway built in connection with a log dump, and perhaps even wet log storage areas would be

May 16, 1978

prohibited. Accordingly, we would recommend that the words "assure unrestricted" be deleted and that the words "minimize restriction of" be inserted instead. This would seem to achieve the desired result without unreasonably burdening the timber industry.

3. Subsection (b)(3) has the potential for stopping the entire timber industry in coastal Alaska. It requires that timber harvesting be conducted in a way to "prevent adverse impacts on fish resources and habitats". It may be impossible to do this, depending, of course, on what is meant by "adverse impacts". "Adverse impacts" is not defined in the regulations, and therefore will mean what a Court says it means. What are adverse impacts? No one really seems to know. There is concern for example that long-range, low-level amounts of sedimentation impact fish. We cannot disprove that this is so. Therefore, any group citing this fact could halt any timber operation in coastal Alaska. We would most strongly urge that the word "prevent" be deleted and that the word "minimize" be substituted in lieu thereof. This would make it consistent with impacts on wildlife or resources and their habitats.

Further, we would suggest that the words "minimize adverse impacts" be defined. The definition should be drafted so as not to prohibit logging where adequate streamside mitigation measures are utilized. Adequate streamside mitigation measures include presently accepted practices in Southeastern Alaska, as required in the Southeast Area Guides put out by the Forest Service.

In any event, please be assured that we are extremely concerned about this section and urge you to mitigate its clear possibility for great damage to the industry.

4. So that the definition for "minimize adverse impacts" is consistent throughout we would suggest that the word "effects" in the third line of Subsection (c)(2) be deleted, and the word "impacts" be substituted therefore.

5. Subsection (d) also should be altered. The words "establishing a standard corresponding to a standard

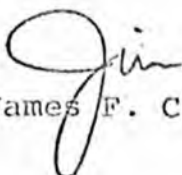
The Honorable Joseph L. Orsini
Page Four

May 16, 1978

in this section" should be deleted entirely. The Forest Practices Act should be the sole vehicle for determining what are and what are not appropriate forest practices. Operators should not be faced with dual sets of regulations emanating from different agencies of the State government. One of the principal reasons why we have worked so hard at ALP for the Forest Practices Act is to eliminate the nightmare of several State agencies using overlapping procedural requirements to regulate the same things. The words which we suggest for deletion would have just that effect. As the section is presently written a court somewhere would have to determine whether or not a standard in the Forest Practices Act was similar to that required in the Coastal Zone Management Act. This simply should not be allowed to happen.

Thank you again for providing us with a copy of these regulations, and the opportunity to respond. I am taking this opportunity to forward them to representative Lisa Rudd, who is Chairman of the House Community and Regional Affairs Committee for her consideration as well.

Yours very truly,


James F. Clark

JFC/pc

cc: Senator Robert Ziegler
Senator Kay Poland
Senator Pete Meland
Senator Bill Sumner
Representative Lisa Rudd
Mr. Clarence Kramer
Mr. David Wolfe
Mr. Pete Huberth
Mr. Roger Allington
Mr. Don Finney
Mr. Sam Demmert
Mr. Les Anderson



Louisiana-Pacific Corporation

Ketchikan Division

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Ketchikan, Alaska 99901, U.S.A

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Telex: 099-55-251

Answer back: KAYPULPCO KET

May 23, 1978

Honorable Joseph L. Orsini, Chairman
Senate Community & Regional Affairs
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

We have just recently been made aware of possible problems in the Coastal Zone Management Regulations concerning Section 6AAC 80.100 dealing with timber harvest and processing.

We had assumed that passage of SB-59, the Forest Practices Act, would take precedent over the Coastal Zone regulations. However, we are now concerned over the opposition given to SB-59 and do not see in this Bill the wording that would allow it to supersede the Coastal Zone regulations.

We are aware of the late date and the fact that the Senate is only in the position of pass or not pass on the regulations. What we would propose, would be an acceptance of the regulations in principle but a request to the Coastal Zone Council that they amend the regulations such that they do not exceed the requirements of the Forest Practices Act.

As we have previously expressed to you, our hope in getting a Forest Practices Act was to pull together the various State requirements and reduce the duplication of regulations and repetitive permits faced by timber operators.



Louisiana-Pacific Corporation

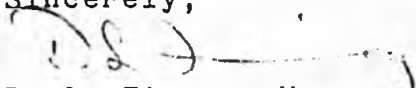
Honorable Joseph L. Orsini

-2-

May 23, 1978

Any attention you can give to this problem will be appreciated.

Sincerely,


D. L. Finney, Manager
Forestry & Government Affairs

hr

cc: Senator R. Ziegler
Senator K. Poland
Senator H. Meland
Representative L. Rudd

HJR

58

Bristol
Bay
Native
Corporation

P.O. BOX 237 / DILLINGHAM / ALASKA 99576 / PH. (907) 842-3070.

February 17, 1978

Representative Nels Anderson, Jr.
Pouch V
Juneau, Alaska 99811

Dear Nels:

Just received your letter you wrote to Ted Angasan dated 14
February, 1978.

I'm in full support of your Resolution #58. I don't want to
see you withdraw your Bill or quit working for a Regional
office for here. It's long overdue. Our people in the villages
and here have contiruously asked for a BIA office in the Bristol
Bay Region.

Things are okay here. Keep up the good work. Give Dorothy and
the kids my best regards.

Regards,

BRISTOL BAY NATIVE CORPORATION

Harvey

Harvey Samuelsen
President

HS:ms

Recommendation

The Bristol Bay Native Association and the Alaska Federation of Natives should secure the cooperation of BIA and the state's Congressional Delegation in obtaining Congressional authorization and appropriation of funds under PL 93-638 to enable villages to hire a village leader and to establish a village administrative office.

Meeting Local Needs — Three Examples

Communities should develop their priorities, then proceed to explore funding sources. A careful analysis of the project, both capital and operating costs and revenue, should be prepared. Alternative methods of accomplishing the objective should be evaluated. For example, the Alaska Village Electric Co-op, Inc. (AVEC) has found that it requires a village of 125 to 150 to economically justify the installation of a power system. Villages complain that if they receive their power from the local school, it is not available in the summer. Possibly AVEC could purchase the equipment from the school, add the necessary additional equipment and the school could purchase power from the community. In addition, if a community without power is located within 5-7 miles from a village with power, it may be economical for AVEC to install a transmission line. This additional load may also enable the village with power to better service and amortize their facilities.

A small village may desire a grocery store. Even if it is a co-op, analysis may indicate it is not economic in view of the capital requirements. However, a consumer buying co-op could be organized which would have many of the advantages of a store yet promise lower prices for food because of the absence of capital costs. A common desire of villages is to establish a bulk fuel storage tank. A word of caution — unless a careful analysis is prepared of the proposal, the resulting fuel may be more expensive than the present distribution system. Both Community Enterprise Development Corporation (CEDC) and Alaska Native Industries Co-operative Association (ANICA) are prepared to assist in evaluating the feasibility of a fuel oil operation. The feasibility of alternative methods of supplying fuel locally should be examined, with the attendant costs, before committing to a particular project.

Recommendations

- 1) There are many possible sources of funding for local projects. BBNA should designate one individual to gather information on funding sources and to keep current on changes in regulations and development of new sources. The availability of this resource person should be publicized among the villages.
- 2) Many federal and state agencies have considerable impact on the Natives of Bristol Bay; however, BIA has a special relationship. BIA has regional offices in Alaska to facilitate communication with Natives and Native organizations. The Bristol Bay region is served by Anchorage and communication has been difficult. It is expensive for Bristol Bay residents to personally pursue problems or projects with BIA in Anchorage when other forms of communication fail. It is therefore recommended that BIA establish a Regional Office in Dillingham.
- 3) The importance to economic development of political and social development of the Region and villages should not be underestimated. It is recommended that BBNA and BBAHC develop additional strategies to stimulate local initiative in these areas while continuing to provide important direct services and resource assistance.

velopment of para-professionals supervised by a Registered Nurse. This RN has considerable nursing experience and background. Other programs of BBAHC include innovative approaches to Alcoholism and Drug Abuse, village health planning and village planning. BBAHC also has a unique and "vibrant" Medical Department that produces video and audio media and an Emergency Medical Services Planner.

The above organizations are serving many of the needs of the Bristol Bay region which reduces the need to develop an areawide borough. The residents should maintain the initiative on this matter, with discussions and proper planning, rather than allowing the decision on formation of a borough to be made externally.

With the development of oil and gas resources in Bristol Bay, the question of a region-wide taxing authority should again be reviewed. The North Slope Borough has recognized the advantage to be gained from mineral development in remote areas.

- 2) **Community Development.** An earlier study produced under this Act, *Bristol Bay: The Fisheries and Its People*, detailed the needs and priorities of each village in the region. The above study was a "grass roots" planning document in which the people in each village indicated their needs. Implementation remains.

Most villagers have neither the training nor access to information, agencies, etc. to prepare grant requests. This could be an important function of the Bristol Bay Area Health Corporation and the Bristol Bay Native Association, who could serve the needs of villages by assisting them in initiating grants. The existence of the planning, no matter how well prepared, will not build any houses, develop water and sewer systems or meet any of the other desired goals. Someone or some group must initiate the process and push for its implementation. Federal and State Agencies will respond, but it is very unlikely that they will initiate any of the projects.

The Importance of Local Initiative

Probably the single most important ingredient in community development is local initiative and desire. An external group, such as a borough or BBNA, can assist the local community; however, the "driving force" needs to be the community leadership. An outside group does not want to be in the position of providing services to people who appear indifferent to the service. In addition, all outside agencies have more than enough to do without seeking to provide services to communities who do not really care.

Community leadership can be difficult when the planning, organizing and follow-through must depend entirely on volunteers who must support a family and where records are scattered in individual homes. Some villages are able to overcome these handicaps and effectively initiate and develop projects. Many other villages are not able to do so.

Public Law 93-638, the Indian Self Determination and Indian Education Assistance Act, was designed to encourage Natives to assume local control of many services previously provided directly by the federal government. An important contribution to local Native planning and implementing of projects would be the provision of funds under PL 93-638 to enable villages to employ a village leader and construction funds for a village office and meeting room. This leader would then have the time to coordinate planning and supervise implementation of projects.



STIMULATING POLITICAL AND SOCIAL DEVELOPMENT

Political and social development should ideally proceed prior to or concurrently with economic development if the residents of Bristol Bay are to fully realize the benefits of economic development. An important step in this development would be the establishment of a regional municipal government. The Bristol Bay region, however, presently has neither the population nor economic resources to support an effective borough government. Several villages have incorporated as second class cities, however, and every effort should be expended to assist them in developing an effective local government. As additional villages incorporate and gain experience in government, a borough may become feasible and desirable.

Planning and discussion of a borough government should not be delayed until a borough is forced upon the region by external circumstances. The thinking should be long range and the concepts discussed at the village level. The establishment of the borough should be delayed, however, until the need for its services is recognized and the costs and benefits are known.

- 1) **Present Regional Infrastructure.** At the present time there are three organizations assuming many of the functions ordinarily performed by an areawide borough.
 - a) **Bristol Bay Borough.** The Bristol Bay region currently has one borough — the Bristol Bay Borough. The Bristol Bay Borough, however, includes only the communities of Naknek, South Naknek and King Salmon. The remainder of the region is unorganized; however the present borough has initiated action to expand its boundaries.
 - b) **Bristol Bay Native Association.** The Bristol Bay Native Association (BBNA) is composed of the representatives of the 29 Native villages of Bristol Bay. The BBNA Board of Directors meets three times yearly to discuss issues of a political nature, as well as to hear reports on current activities and to plan for future activities. The Executive Committee meets more frequently.

in the social development area, BBNA has spearheaded a regional housing authority, is actively involved (in cooperation with the Rural Alaska Community Action Program) in winterizing homes in the South Peninsula area and has introduced grants of local assistance to a number of villages. Additionally, BBNA is actively involved in employment assistance, job development, post-secondary classroom training, limited skills development; BBNA Education is involved in the administration of a bilingual, bicultural education programs to 18 villages directly, and four more indirectly. The Association also has an Office of Community Advocacy, specifically for the purposes of village and community planning activities.

BBNA is also involved in planning and helping to spearhead and coordinate the development of an economic system. Planning activities include coordinating the development of an overall development plan with village corporation development. Programs include Economic Planning, with input from a regionally composed OEDP Committee; employment and training services, including a DOC prime contract and several subcontracts; a Johnson-O'Malley educational enrichment program; village advocacy, local government assistance, grantwriting for villages, and other like activities.

- c) **Bristol Bay Area Health Corporation.** The Bristol Bay Area Health Corporation (BBAHC) is composed of representatives of all 29 Native villages of Bristol Bay. The BBAHC Board of Directors meets four times annually, with the Executive Committee meeting more frequently.

The spheres of activity are social and economic, i.e., improving the health standards and medical service delivery in Bristol Bay. Programs of this organization include a Community Health Aid Program which is geared toward de-

SUMMARY OF RECOMMENDATIONS

This section abstracts the recommendations from each of the following sections and organizes them by the responsible agency.

FEDERAL GOVERNMENT

Department of Interior

It is strongly urged that D-2 legislation establishing future land use carry a provision that specifically guarantees traditional users the right to traditional usage of the land in federally withdrawn lands.

Bureau of Indian Affairs

It is urged that a Regional Office of BIA be established in Dillingham.

BIA is urged to request Congress to authorize and appropriate funds under PL 93-638, The Indian Self-Determination and Indian Educational Assistance Act, to allow small villages to hire a village leader and establish a village administrative office.

DEPARTMENT OF AGRICULTURE

U.S. Forest Service

The U.S. Forest Service is requested to make an inventory of timber resources of Bristol Bay and determine the maximum sustainable yield.

The Forest Sciences Laboratory in Juneau is requested to evaluate the grazing potential of forest lands in the Bristol Bay region when funds are available.

Soil Conservation Service

The Soil Conservation Service is requested to make an Environmental Impact Statement of the effect of reindeer herding in Bristol Bay including an estimate of the carrying capacity.

DEPARTMENT OF COMMERCE

Economic Development Administration

Funds should be sought from EDA to conduct a manpower assessment and training program to support a reindeer industry.

STATE OF ALASKA

Department of Natural Resources

It is strongly urged that specific legislation be enacted guaranteeing traditional usage of the

land for designated state restricted lands, for example, the proposed Wood-Tikchik State Park.

Department of Education

Bilingual and bicultural curriculums should be developed which include industrial arts training.

Local schools foster community pride in educational achievement. We recommend that local school programs be strengthened and that additional local high schools be established.

The Department of Education and the University of Alaska are urged to jointly develop a program of vocational education and training for the Bristol Bay region.

Department of Labor

The Department of Labor is urged to develop a training program for vocational skills needed in construction and in possible oil and gas development.

Department of Aviation

A projected construction schedule for upgrading airports in Bristol Bay villages should be prepared and funds requested. Priority should be given to those villages needing these improvements in order to develop their business potential.

Department of Fish and Game

The Department of Fish and Game is urged to develop and initiate projects to replenish the stock of salmon.

The Department is also requested to evaluate the impact of reindeer herding on the game resources of Bristol Bay.

Department of Public Works

The Department of Public Works is urged to build a boat harbor at Perryville and Chignik so that local fishermen can fish on a year-round basis. Naknek and South Naknek also need boat harbors.

University of Alaska

The University of Alaska should develop training programs designed to develop entrepreneurial and management talent among



ALASKA HOUSE OF REPRESENTATIVES

Community and Regional Affairs Committee

LISA RUDD, Chair

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3870

15 February 1978

TO: Representative Nels Anderson

FROM: Representative Lisa Rudd

RE: HJR 58 - Relating to the Bureau of Indian Affairs
and Bristol Bay.

Your resolution relating to the BIA and Bristol Bay, HJR 58, has been referred to our committee and we will need some backup information on the bill before it is considered in committee.

Some specific questions occurred to me as I reviewed the bill and I wish you would include information about them in the backup material which you provide for the committee:

- 1) What is the population of the region?
- 2) How many villages are involved?
- 3) What do the terms "village leader" and "village administration" mean in lines 25 and 26?
- 4) What governmental services are presently being delivered by the BIA in the Bristol Bay area?

Thanks, Nels, for clarifying these points for me.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Lisa Rudd".

Lisa Rudd

LR/vb

3. Continued - Village Administration - This would tie in with the village leader (Last 4 paragraphs). Having local control, the people would naturally need an administrative office set up to administer the programs previously done by the federal government.

4. Mrs. Williams, Secretary of the BIA Area Director's office, Juneau informed me of what governmental services are presently being delivered by the BIA in the Bristol Bay area.

- 1) Higher education, Employment Assistance
- 2) Realators
- 3) Social Services - welfare, food stamps
- 4) 93-638 Grant Program - Indian Self-Determination Act

If this is not enough information I can call the Anchorage Area office and get all the governmental services being delivered by BIA.

Also, I can research how effective the Bristol Bay Area people think these BIA services are.

Most of this information was taken from the Study - "Bristol Bay - Its Potential and Development". Enclosed are excerpts from the study.



Alaska State Legislature

House

JUNEAU ALASKA

February 28, 1978

MEMORANDUM

TO: REPRESENTATIVE LISA RUDD

FROM: REPRESENTATIVE NELS A. ANDERSON, JR.

SUBJECT: Backup material for HJR 58 - BIA in Bristol Bay

First, I will answer your questions in your memo of February 15, 1978.

1. The population of the Bristol Bay Region is approximately 5,000.
2. 29 villages are involved.
3. The Importance of Local Initiative - Probably the single most important ingredient in community development is local initiative and desire. An external group, such as a borough or BBNA, can assist the local community; however, the "driving force" needs to be the community leadership. An outside group does not want to be in the position of providing services to people who appear indifferent to the service. In addition, all outside agencies have more than enough to do without seeking to provide services to communities who do not really care.

Community Leadership can be difficult when the planning, organizing and follow-through must depend entirely on volunteers who must support a family and where records are scattered in individual homes. Some villages are able to overcome these handicaps and effectively initiate and develop projects. Many other villages are not able to do so.

Public Law 93-638, the Indian Self Determination and Indian Education Assistance Act, was designed to encourage Natives to assume local control of many services previously provided directly by the federal government. An important contribution to local Native planning and implementing of projects would be the provision of funds under PL 93-638 to enable villages to employ a village leader and construction funds for a village office and meeting room. This leader would then have the time to coordinate planning and supervise implementation of projects.

RECOMMENDATION - The Bristol Bay Native Association and the Alaska Federation of Natives should secure the cooperation of BIA and the state's Congressional Delegation in obtaining Congressional authorization and appropriation of funds under PL 93-638 to enable villages to hire a village leader and to establish a village administrative office.



ALASKA HOUSE OF REPRESENTATIVES

Community and Regional Affairs Committee

LISA RUDD, Chair

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3870

15 February 1978

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Lisa Rudd

LR/vb