

508

HRES

HB 821

-

HB 835

500

HB

821

COMMITTEE REPORT

HOUSE

2/14/78

FURTHER: FINANCE

Date: April 10, 1978

Mr. Speaker:

The Committee on RESOURCES has had HE 821

"An Act making a special appropriation to the Department of Fish and Game to plan for and construct a chum salmon demonstration hatchery on the Noatak River; eff. date."

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)
- () recommends it be replaced with CS for _____

and _____ new title change () same title

- 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:

J. Malone Do Pass
Mark H. Under Do Pass
DeLorenzo " "
Joe H. ...
W. H. ...

OTHER RECOMMENDATIONS:

_____ " "
 _____ " "

Chairman

LETTER OF INTENT

The Honorable Hugh Malone
Speaker of the House

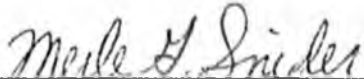
Dear Mr. Speaker:

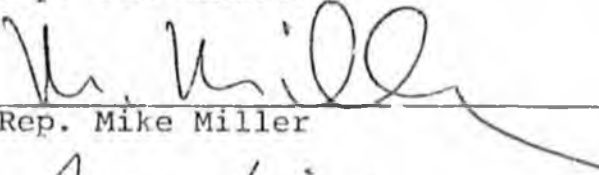
By reporting HB 821 out of the House Resources Committee it is the intent of the Committee that the State take immediate steps to develop fisheries rehabilitation programs in Northern and Western Alaska and that the best place to begin such a program is in the Kotzebue Sound area as referred to in HB 821.


The appropriation contains money for the studies required for the site and other environmental considerations in the construction of the hatchery, as well as an appropriation for an estimated amount to take approximately one year minimum. Due to this, the Finance Committee should consider the appropriateness of alternate funding, including a direct appropriation during this Legislative session, as contained in this bill, general obligation bonds, and possibly an appropriation during the next Legislature.

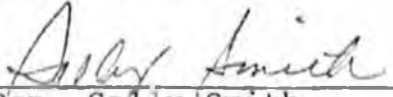
Regardless of the most appropriate funding source for the construction, the Department of Fish and Game and the Legislature must give attention to this area of the State in developing the fisheries resource to become a more significant element in the economy of the State.


Rep. Alvin Osterback, Chairman

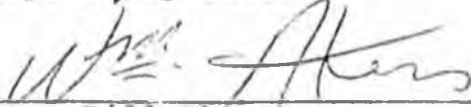

Rep. Merle Snider, Vice-Chairman

Rep. Don Bennett

Rep. Mike Miller

Rep. Dick Eliason

Rep. Rick Urion


Rep. Sally Smith

Rep. Hugh Malone


Rep. Bill Akers

Introduced: 2/14/78
Referred: Resources and
Finance

CS

1 IN THE HOUSE

BY SCHAEFFER

2 HOUSE BILL NO. 821

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Department
7 of Fish and Game to plan for and construct a chum salmon
8 demonstration hatchery on the ~~Noatak River~~ ^{in the Kaly Sound area}; and pro-
9 viding for an effective date."

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

11 * Section 1. The sum of ~~\$2,000,000~~ ^{\$3,750,000} is appropriated from the general fund
12 to the Department of Fish and Game for use by the division of fisheries
13 rehabilitation, enhancement and development to plan for and construct a chum
14 salmon demonstration hatchery on the ~~Noatak River~~ ^{in the Kaly Sound area}.

15 * Sec. 2. This Act takes effect ~~July 1, 1978,~~ ^{immediately}

Handwritten notes:
- "in the Kaly Sound area" (written above line 14)
- "immediately" (written above line 15)
- "Alternative / Construction" (written diagonally across lines 18-25)

29

#

CS

AMENDMENT #1 by Schaeffer

Amendment to House Bill #821

PAGE 1 LINE 6 Thru 15

Delete all material and insert the following:

: FOR AN ACT ENTITLED: "An Act making a special appropriation to the Department of Fish and Game and to the Department of Transportation and Public Facilities and providing for an effective date."

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

* Section 1. The sum of \$616,147 is appropriated from the general fund to the Department of Fish and Game for use by the Division of fisheries rehabilitation, enhancement and development to plan for a chum salmon hatchery in the Kotzebue Sound Area.

* Sec. 2. The sum of \$2,500,000 is appropriated from the general fund to the Department of Transportation and public facilities to design and construct a chum salmon hatchery in the Kotzebue Sound Area.

* Section 3. Sec. 2 shall lapse into the general fund if it is not incurred by June 30, 1979.

* Sec. 4. This act takes effect immediately in accordance with AS 01.10.-070 (c).

NORTHERN HATCHERY

1st year Investigation on Operational Budget for FY79

LEGISLATIVE INTENT: House Bill No. 821 amended

PAYROLL - 100

1 Range 20 Engineer-Salary + Benefits = \$ 44,773
1 Range 18 Fish Biologist III-Salary + Benefits = 41,596
24 man-months (FC II range) Temp.-Salary + Benefits-OT = 43,778
TOTAL.....\$130,147

TRAVEL -200

Airline Fares - 30 trips @\$500.00 = 15,000
120 days per diem for 2 people @50/day = 12,000
Charter flight for 4, 60 days @ \$200/day = 12,000
TOTAL..... 39,000

CONTRACTUAL - 300

Topographic Surveys, Geological and Hydraulic, Geothermal survey,
Land acquisition investigation. 2 sites @\$200,000 = 400,000
Office Space - 8 months @ \$1,000 and \$2000 rental
equipment = 10,000
TOTAL.....410,000

SUPPLIES -400

Office supplies plus arctic clothing, calculators and tape
recorders = 3,000
TOTAL..... 3,000

EQUIPMENT - 500

Instruments to measure water velocity and temperature,
soil type and temperature plus overland transport
vehicle or snow machine = 10,000
TOTAL..... 10,000

Handwritten notes:
7/10/79
K. J. ...
...

NORTHER HATCHERY

International symposium on the bio-economic aspects of a salmon
hatchery design and operation in arctic alaska to be held in Kotzebue
August 21,22,23,24,25 with participants from USA,Alaska,Japan,Canada,Russia

TRAVEL- 200

Travel and Per diem and lodging = 16,000
TOTAL..... 16,000

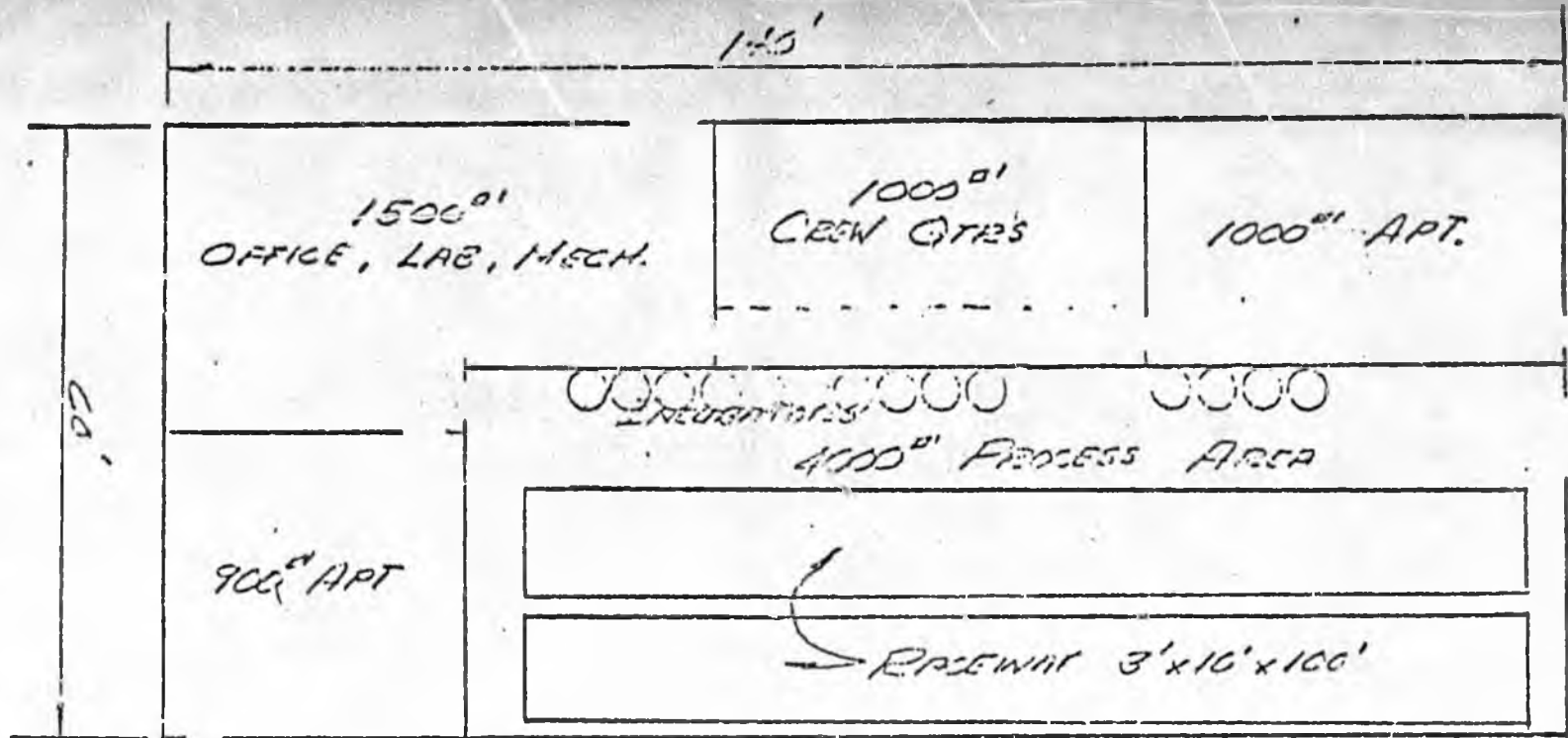
CONTRACTUAL -300

Consultant fees = 8,000
TOTAL.....8,000

TOTAL BUDGET \$616,147

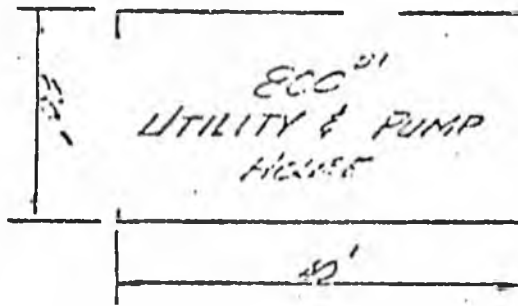
Legislative Intent:: House Bill No. 821 amended

It is the intent of the legislature that Sec. 2 , of the bill be used for design and construction of a Chum Hatchery at a site selected in consultation with the Division of Fisheries, rehabilitation, enhancement and development and in consultation with the recommendation of the International symposium on the bio-economic aspects of a salmon hatchery in arctic alaska. Any non-incumbered funds shall be lapsed into the general fund should it be found that the project is not feasible or practical. The design of the facility is to capture the best utilization of the facility for the rehabilitation, enhancement and development of the chum salmon and minimize facility space for staff & employees, office space, Lab., crew qtrs.



CONCEPT

- 10 Million Eggs
- 1200 gpm Spring Water for Incubation
- 14 FRED Incubators
- 2 - 100 x 10 x 3 Raceways
- 2500 gpm (desirable) for Rearing



HATCHERY LAYOUT

ALASKA DEPARTMENT OF FISH AND GAME			
SUPPORT BUILDING		JUNEAU, ALASKA	
<u>NORTHERN HATCHERY</u>			
DRAWN BY P.L.	CHECKED BY	DATE 3-10-78	SHEET OF
APPROVED BY		SCALE 1" = 20'	NUMBER

KOTZEBUE SOUND AREA FISHERIES COOPERATIVE
KOTZEBUE, ALASKA 99752

Please

HB 821

The Honorable Representative Al Osterback
Pouch V.
Juneau, Alaska

Dear Mr. Osterback,

The Kotzebue Sound Area Fisheries Cooperative would like to go on record supporting HB 821, an Act making a special appropriation to the Department of Fish and Game to plan and construct a chum salmon demonstration hatchery on the Noatak River.

The Board feels very strongly that a hatchery facility in this area would enhance stability in our commercial fishing industry, which I might add, is the only viable economic base in the Kotzebue Area. Since the beginning of our Commercial fishing in the summer of 1962, the numbers of fish caught have varied tremendously because of climatal conditions affecting the spawning areas. We cannot control the climate but we can control the future stock through the hatchery system.

The commercial fishing industry, although seasonal, is a million dollar industry in the Kotzebue area. When all the oil and minerals are extracted from this, the fish will always return to provide millions of dollars to the residents of the Kotzebue Area presently and in the years to come. Thank you for your concern and support for protecting and promoting our renewable resources.

Sincerely,

Bobby

Bobby Schaeffer, President

*Copied +
appropriately
filed*

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMILTON, GOVERNOR

SUPPORT BUILDING - JUNEAU 99801

March 29, 1978

The Honorable John C. Sackett
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

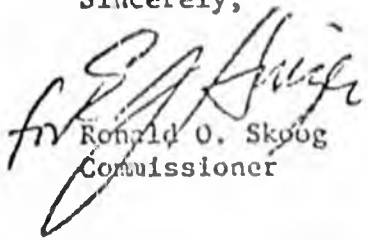
Dear Senator Sackett:

The cost estimates for salmon hatchery development in Northwestern Alaska are enclosed per your recent request. The estimate for site investigations is for one year's activity only, with a goal to select two of the best sites in the region. A second year of investigation at the two sites will be necessary prior to hatchery design and construction. The estimate of total development costs is for the hatchery layout shown. The total cost may vary drastically from this estimate because of unknowns at the site to be selected.

The funding of investigations for a chum salmon hatchery in Northwestern Alaska will indicate a major commitment for the State to fully assess the potential and to proceed with hatchery development as soon as artificial propagation appears economically feasible there.

The data necessary for an evaluation of the economic feasibility of chum salmon hatcheries in Northwestern Alaska is currently not available to us. The high value of the large chum salmon in the Kotzebue area together with potential spring water sources adjacent to the highway system near Nome are optimistic indicators for the feasibility of hatcheries in the area.

Sincerely,


for Ronald O. Skoog
Commissioner

HATCHERY PROJECT BUDGET

EY 79 OPERATIONAL FUNDS

Project Name: NORTHERN HATCHERY Number:

SITE INVESTIGATION

Notes: General investigation plus water studies for
2 chum salmon hatcheries in region from Kotzebue
Sound to Kaktovik Bay.

ACTIVITY	CODE	BUDGET	REMARKS
BIOLOGY		103,000	
Payroll	001-100	60,000	1-FB3 + temporaries...
Travel	001-200	20,000	per diem, airline, charter.
Fees	001-300	10,000	office + water samples.
Equipment	001-400	3,000	
	001-500	10,000	portable invest. equip.
ENGINEERING		490,000	
Payroll	002-100	70,000	1-CE 2 + temporaries
Travel	002-200	20,000	per diem, airline, charter.
Fees	002-300	400,000	2-water investigations
PROJECT TOTAL		593,000	

NORTHERN HATCHERY

1st Year Investigation on Operational Budget

Payroll - 100

1 Range 20 Engineer - Salary + Benefits	= \$ 44,773
1 Range 18 Fish Biologist III - Salary + Benefits	= 41,596
24 man-months (FC II range) Temp. - Salary, O.T. + Benefits	= <u>45,778</u>
Line 100 Total	= \$130,147
Say	\$130,000

Travel - 200

Airline Fares - 30 trips @ \$500.00	= \$ 15,000
120 days per diem for 2 people @ \$50/day	= 12,000
Charter flight for 4, 60 days @ \$200/day	= <u>12,000</u> ✓
Line 200 Total	= \$ 39,000
Say	\$ 40,000

Contractual - 300

⁵ Topographic Surveys, Geological and Hydraulic Investigations. 2 sites @ \$200,000	= \$400,000 <i>Geological Survey, Land Investigation.</i>
Office Space - 8 months @ \$1,000 and \$2,000 rental equipment	= <u>10,000</u>
Line 300 Total	= \$410,000

Supplies - 400

Office supplies plus arctic clothing, calculators, and tape recorders.....	\$ 3,000
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Equipment - 500

Instruments to measure water velocity and temperature, soil type and temperature plus overland transport vehicle or snow machine.....	\$ 10,000
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NORTHERN HATCHERY

10 MILLION F.P.Y.

Mobilization & Site Preparation	<u>400,000</u>
Incubation Space <u>4000</u> Sq.Ft. @ ^{\$} <u>120</u>	<u>480,000</u>
<u>14</u> Incubators @ ^{\$} <u>1500</u> plus OPERATING EQUIPMENT	<u>260,000</u>
Support Space <u>5200</u> Sq.Ft. @ ^{\$} <u>150</u>	<u>780,000</u>
Furnishing	<u>40,000</u>
Water Supply, Distribution & Waste	<u>800,000</u>
Power Generation	<u>300,000</u>

CONST INFLATION

Contract Total	<u>3,400,000</u>
Engineering & Contingencies @ <u>10%</u>	<u>340,000</u>
Design & Administration @ <u>10%</u>	<u>340,000</u>
Investigations <u>1st year</u> <u>2nd year</u>	<u>920,000</u>
593,000 327,000	
Total Project Cost	<u>\$ 5,000,000</u>

HB

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an application for extension is filed by the record title holder or an assignee whose assignment has been filed for approval, or an operator whose operating agreement has been filed for approval.

(d) The commissioner may provide for extension of the term of a lease whether competitive or noncompetitive, if all or part of the lease is included in an approved unit plan or program of secondary recovery operation to bring about or restore production.

(e) All noncompetitive oil or gas leases issued under this section shall be conditioned upon the payment by the lessee in advance of an annual rental of 50 cents an acre or fraction of an acre. All competitive oil and gas leases issued under this section shall be conditioned upon the payment of an annual rental, before discovery on the leased lands, of \$1 an acre or fraction of an acre. A minimum royalty of \$1 an acre in addition of rental is payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(f) Repealed by § 7 ch 30 SLA 1964.

(g) An offeror for a federal oil and gas lease whose lease was issued after January 2, 1959, or a qualified applicant for a preference right under the Act of July 3, 1958, (72 Stat. 322) whose application for a preference right was filed before January 3, 1959, has a preference right to a state lease on the shorelands included within the exterior boundaries of the federal lease.

(h) If lands described in the offer for a federal lease are covered by nontidal water and are excluded from the federal lease on the basis of navigability, the state shall, upon application within 60 days after notice of the exclusion, if not previously filed, grant a preference lease for the areas excluded, carrying the same provisions as an ordinary state lease on the same lands, except that the term of the state lease shall conform in all respects to that of the adjoining federal lease including extended terms. The state shall issue a shorelands preference lease where a federal lease has been issued before March 31, 1960, and application is made to the state before July 1, 1960. Where a federal lessee or offeror failed before January 3, 1959, to file a proper application for a preference right under the Act of July 3, 1958, he may apply for a state preference lease under this section, subject to the rights of intervening applicants.

(i) Where the lands are classified as competitive, they shall be leased by competitive bidding. The holder of the preference right has 10 days after receipt of notice in which to submit an amount equal to the highest bid plus the rental for the first year.

(j) Upon timely application as provided by regulation, the state shall issue to the holder of a federal lease a state shorelands lease covering land within the exterior boundaries of the federal lease which has been excluded on the basis of navigability or which are later administratively or judicially determined to be "shorelands." The term of every shoreland lease shall conform to that of the adjacent federal lease including

extended terms. The authority of the state to classify the lands as competitive or noncompetitive shall not be impaired.

(k) Instead of the foregoing procedure, the federal lessee or his assignee may, at his option, exercise his preference right for a state lease on the shorelands included within the exterior boundaries of his federal lease by applying to the division of lands, Department of Natural Resources. If, at the time of applying, the lands are classified as noncompetitive, the state shall, upon application, issue a lease covering whatever shorelands are included within the exterior boundaries of the federal lease. If, at the time of applying, the shorelands included in the federal lease are classified as competitive lands, the lands shall be leased by competitive bidding. The competitive lease shall be issued to the federal lessee or his assignee upon payment to the state of an amount equal to the highest bid for the lease, plus the rental for the first year, payment to be made within 10 days after the lessee's or assignee's receipt of written notice from the director of the division of lands of the amount of the highest bid. These leases, whether competitive or noncompetitive, shall carry the same conditions as an ordinary state lease on the same lands, except that the term of the state lease shall conform to that of the adjoining federal lease, including extended terms, and shall terminate if the federal lease is terminated for any reason. The lease shall provide for annual rental at the rate of \$100 a unit of 640 acres or part thereof of the lands included within the federal lease until agreement is reached between the state and the Secretary of the Interior of the United States, or his authorized representative, as to the actual area of the shorelands included in the federal lease, and as to the apportionment between the state and federal government of the rental theretofore paid under the federal lease.

(l) The lease of a record lessee of a federal oil and gas lease who filed, or whose predecessor in interest filed, between July 3, 1958, and January 3, 1959, a proper preference right application under the Act of July 3, 1958, (72 Stat. 322) to have included in the lease the shorelands within the exterior boundaries of the lease and which lease or any part of it has terminated or failed as to the shorelands due to mispayment of or failure to pay the required rental as to the shorelands in advance of the anniversary date of the federal lease, shall be revived and reinstated as to the shorelands upon payment to the Bureau of Land Management of the United States Department of the Interior or to the state of all rental payable as to the shorelands under the lease since January 3, 1959. The rights under this section terminate 60 days after receipt of notice from the director, but not later than March 31, 1961. Nothing herein operates to extend a lease beyond its stated term.

(m) To conserve the natural resources of all or a part of an oil or gas pool, field, or like area, (whether or not the part is then subject to a cooperative or unit plan of development or operation), lessees and their representatives may unite with each other, or jointly or separately with

AGD 935876

others, in collectively adopting or operating under a cooperative or a unit plan of development or operation of the pool, field, or like area, or a part of it, whenever determined and certified by the commissioner to be necessary or advisable in the public interest. The commissioner may, with the consent of the holders of leases involved, establish, alter, change, or revoke drilling, producing, rental minimum royalty, and royalty requirements of the leases and make regulations with reference to the leases, with like consent on the part of the lessees, in connection with the institution and operation of a cooperative or unit plan as he determines necessary or proper to secure the proper protection of the public interest. The commissioner may provide that oil and gas leases issued under this section shall contain a provision requiring the lessee to operate under a reasonable cooperative or unit plan, and he may prescribe a plan under which the lessee shall operate. The plan shall adequately protect all parties in interest, including the state.

(n) A plan authorized by (m) of this section, which includes lands owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency with authority to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under § 140 of this chapter. The provisions of this section concerning cooperative or unit plans are in addition to, and do not affect AS 31.05

(o) Producing acreage on a known geologic structure of a producing oil or gas field is excluded from chargeability as against the acreage limitation provisions of § 140 of this chapter.

(p) When separate tracts cannot be individually developed and operated in conformity with an established well-spacing or development program, a lease, or a portion of a lease, may be pooled with other lands, whether or not owned by the state, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the commissioner to be in the public interest. Operations or production under the agreement shall be considered as operations or production as to each lease committed to the agreement.

(q) The commissioner may, on conditions which he prescribes, approve drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, whenever, in his discretion, the conservation of natural products or the public convenience or necessity requires it or the interests of the state are best served. All leases operated under approved drilling, or development contracts, and interests under them are excepted in determining holding or control under § 140 of this chapter.

(r) To avoid waste or to promote conservation of natural resources, the commissioner may authorize the subsurface storage of oil or gas

whether or not produced from state lands, in lands leased or subject to lease under this section. This authorization may provide for the payment of a storage fee or rental on the stored oil or gas, or, instead of the fee or rental, for a royalty other than that prescribed in the lease when the stored oil or gas is produced in conjunction with oil or gas not previously produced. A lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(s) Each oil or gas lease issued by the state shall contain a provision requiring the lessee to furnish the Department of Labor a quarterly report regarding the employment on the leased property of state residents. The commissioner of labor shall promulgate regulations necessary to carry out the provisions of this subsection. (§ 3(7) art VIII ch 169 SLA 1959; am § 18 ch 61 SLA 1960; am § 1 ch 124 SLA 1962; am §§ 4—7 ch 30 SLA 1964; am § 20 ch 70 SLA 1964; am § 2 ch 91 SLA 1967; am § 1 ch 65 SLA 1969; am § 1 ch 86 SLA 1970)

Revisor's note (1970). — In ch. 86, SLA 1970, subsection (s) of AS 38.05.180 was incorrectly designated (t).

Cross references. — See note to AS 38.05.020. As to establishment of drilling units for pools, see AS 31.05.10. As to gross production tax, see AS 43.55.010.

Purpose of subsection (a). — The provisions of subsection (a) of this section were intended to insure that leases on valuable oil and gas producing state lands will be made available to the public on a fair and equitable basis, that the state will be adequately compensated for its natural resources, and that the state's resources are developed in an orderly fashion. For the commissioner to decide that these purposes are furthered by providing for bidding by cash bonus cannot be said to be unreasonable. *Kelly v. Zamarelo*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

And construction thereof. — The only reasonable construction that can be placed on subsection (a) of this section is that the legislature intended to give the commissioner broad authority to determine the kind of bonus he will accept. The legislature at the time it passed subsection (a) was undoubtedly aware that under competitive bidding procedures different forms of bonuses might be offered. It did not itself prescribe a particular form, but instead provided that competitive bidding shall be "under general regulations," and that lands shall be leased upon the payment of "such bonus as may be accepted by the commissioner." The plain language of the statute shows that royalties were to be

fixed independently of the acceptance of the highest bonus. *Kelly v. Zamarelo*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Power to change law respecting lease extensions is vested in state. — The governmental power to change the law respecting the granting of lease extensions, vested in Congress prior to statehood and preserved by § 6(k) of the Alaska Statehood Act, became vested in the state when the lands subject to the lease were granted to the state as its property. *Kirkpatrick v. Commissioner, Dep't of Natural Resources*, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

And has been exercised by the Alaska Land Act. — The state has exercised its power to change the law respecting lease extensions by the Alaska Land Act and by regulations adopted under its authority. *Kirkpatrick v. Commissioner, Dep't of Natural Resources*, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Subsection (c) has no application to pre-statehood federal leases. — Read in the context of article 6 of this chapter, it becomes apparent that subsection (c) of this section, as to extensions, relates only to leases issued by the state under the authority of the Alaska Land Act, and is not pertinent with respect to pre-statehood federal leases. *Kirkpatrick v. Commissioner, Dep't of Natural Resources*, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Subsection (c) of this section, relating to extensions of state oil and gas leases, has no application to federal leases of lands

Editor's note. — Section 10, ch. 136, SLA 1977, provides, in subsection (a): "If a court of competent jurisdiction invalidates the differential economic limit factor computation under AS 43.55.013(a) and (b), the economic limit factor contained in (b) of

that section shall be used for computation of the economic limit for all oil." Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the month of July, 1977 and succeeding months."

Sec. 43.55.015. Tax per barrel of oil.

Repealed by § 9 ch 136 SLA 1977.

Editor's note. — The repealed section derived from § 4, ch. 101, SLA 1972; § 2, ch. 4, FSSLA 1973.

Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the

month of July, 1977 and succeeding months."

Legislative committee report. — For report on ch. 101, SLA 1972 (FCS HCSSB 168), see 1972 House Journal, p. 963.

Sec. 43.55.016. Gas production tax. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation. The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under § 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals \$.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by § 12 of this chapter. (§ 1 ch 136 SLA 1977)

Editor's note. — Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the month of July, 1977 and succeeding months."

Sec. 43.55.017. Relation to other taxes. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

- (1) producing oil or gas leases;
- (2) oil or gas produced or extracted in the state;
- (3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place of nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products. (§ 1 ch 136 SLA 1977)

Editor's note. — Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the month of July, 1977 and succeeding months."

Sec. 43.55.018. Credit against tax. (a) There shall be allowed as a credit against the taxes levied under this chapter for a lease or property the early development incentive credit accrued for that lease or property under AS 43.58.180. In no event may the credit allowed for a lease or property exceed 50 per cent of the taxes levied under this chapter for that lease or property.

(b) The credit shall be allowed on a monthly basis. (§ 2 ch 159 SLA 1975)

Editor's note. — Section 8, ch. 159, SLA 1975, contains a severability clause.

Section 9, ch. 159, SLA 1975, effective June 26, 1975, provides: "AS 43.58.030, 43.58.180, and AS 43.55.018 are included in this Act so as to avoid double taxation of the same interest in oil and gas and as an incentive for the early production of oil and gas discovered in the state. The legislature believes that the inclusion of these sections

granting tax credits does not in any manner change the intent, validity or enforceability of the basic ad valorem tax imposed by the Act. If the inclusion of these sections results in a judicial decision that the ad valorem tax imposed by AS 43.58.010 is invalid, these sections shall be void and of no effect whatsoever and the Act shall be read as if these sections had never been included."

Sec. 43.55.020. Payment of tax. (a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

(b) The gross production tax on oil or gas shall be paid by or on behalf of the producer

(c) Repealed by § 7 ch 101 SLA 1972, effective July 1, 1972.

(d) In making settlement with the royalty owner the producer may deduct the amount of the tax paid on royalty oil or gas, or may deduct royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid.

(e) Gas produced in excess of that needed for safety purposes, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter and in the amount used, as gas produced from a lease or property. Gas flared beyond the amount authorized for safety by the Department of Natural Resources under AS 31.05.170(11)(H) is considered as gas produced, except that it is subject to a penalty equal to the tax computed under § 16 of this chapter as adjusted by § 12 of this chapter per thousand cubic feet of gas for the month in which the gas was flared.

AGD 935878

STATE OF ALASKA
THE LEGISLATURE

POUCH V, STATE CAPITOL
JUNEAU, ALASKA 99811

HOUSE OF REPRESENTATIVES

TO RESOURCES

REMARKS:

Please return HB 830. We now have
a Sponsor Substitute for this bill.

FROM edith

DATE 3/13/78

LAA 25-H

AGO 935879 +

Alaska Statutes

Title 31. Oil and Gas.

Chapter

- 05. Conservation (§§ 31.05.010—31.05.170)
- 15. Common Purchasers of Oil (§§ 31.15.010—31.15.050)
- 30. Miscellaneous Provisions (§§ 31.30.010—31.30.070)

Chapter 05. Conservation.

Article

- 1. Administration (§§ 31.05.010—31.05.080)
- 2. Regulation of Operations (§§ 31.05.090—31.05.120)
- 3. Levy of Tax and Disposition of Funds (Repealed)
- 4. General Provisions (§§ 31.05.150—31.05.170)

Article 1. Administration.

Section

- 10. Application
- 20. Waste prohibited
- 30. Powers and duties of department
- 35. Confidential reports
- 40. Rules and regulations of department

Section

- 50. Notice
- 60. Action by department
- 70. Attendance and testimony of witnesses
- 80. Rehearings and appeals

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THE STATE OF ALASKA

Sec. 31.05.010. Application. This chapter applies to all lands in the state lawfully subject to its police powers. It applies to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands fails to carry out the intent and purposes of this chapter and otherwise applies to federal lands so far as an officer of the United States having jurisdiction, or his authorized representative, shall approve any of the provisions of this chapter or orders of the department which affect lands. (§ 14 ch 40 SLA 1955)

Am. Jur., ALR and C.J.S. references. — 58 C.J.S. Mines and Minerals §§ 1 to 3.
34 Am. Jur., Gas and Oil, §§ 1 to 157.
Constitutionality of statute regulating petroleum production, 86 ALR 418.

Sec. 31.05.020. Waste prohibited. The waste of oil and gas in the state is prohibited. (§ 1 ch 40 SLA 1955)

ALR and C.J.S. references. — Construction and effect of statutes regulating production of oil or gas in a manner or under conditions constituting waste, 86 ALR 431.
Constitutionality of statute, ordinance, or regulation limiting rights of surface owner in respect of oil or gas, 67 ALR 1346; 99 ALR 1119. 58 C.J.S. Mines and Minerals § 234.

Sec. 31.05.030. Powers and duties of department. (a) The department has jurisdiction and authority over all persons and property, public and private, necessary to carry out the purposes and intent of this chapter.

(b) The department shall investigate to determine whether or not waste exists or is imminent, or whether or not other facts exist which justify or require action by it.

(c) The department shall adopt rules, regulations and orders and take other appropriate action to carry out the purposes of this chapter.

(d) The department may require

(1) identification of ownership of wells, producing leases, tanks, plants and drilling structures;

(2) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information, and the required reports and information shall be filed within 30 days after the completion, abandonment, or suspension of the well;

(3) the drilling, casing and plugging of wells in a manner which will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and prevent blowouts, cavings, seepages and fires;

(4) the furnishing of a reasonable bond with sufficient surety conditions for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste;

(5) the operation of wells with efficient gas-oil and water-oil ratios, and may fix these ratios;

(6) the gauging or other measuring of oil and gas to determine the quality and quantity of oil and gas;

(7) every person who produces oil or gas in the state to keep and maintain for a period of five years in the state complete and accurate records of the quantities of oil and gas produced, which shall be available for examination by the department or its agents at all reasonable times.

(e) The department may regulate, for conservation purposes

(1) the drilling, producing and plugging of wells;

(2) the shooting and chemical treatment of wells;

(3) the spacing of wells;

(4) the disposal of salt water, nonpotable water and oil field wastes;

(5) the contamination or waste of underground water.

(f) The department may classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter. (§ 4 ch 40 SLA 1955; am § 2 ch 75 SLA 1960; am § 1 ch 209 SLA 1970)

Applied in *Bradley v. State*, 2 Alaska L.J. No. 6, pg. 88 (June-July, 1964).

Sec. 31.05.035. Confidential reports. (a) For all wells for which a permit to drill has been issued by the department since January 3, 1959, the department may require:

(1) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information; and

(2) the filing of all logs, except experimental logs, dipmeter surveys, and velocity surveys run on a well and not required by (1) of this subsection.

(b) Reports and information required under (a)(1) and (2) of this section shall be filed within 30 days after the completion, abandonment, or suspension of a well. However, under (a)(1) of this section, the department may not require the making of a log on a well completed, abandoned or suspended before June 19, 1970.

(c) The reports and information marked confidential shall be kept confidential for 24 months following the 30-day filing period unless the owner of the well gives written permission to release the reports and information at an earlier date. Well location, depth, status and production data and production reports required by the department to be filed subsequent to the 30-day filing period shall be considered public information and shall not be classified confidential. Production data, as used in this subsection, means volume, gravity and gas-oil ratio of all production of oil or gas after the well begins regular production. (§ 2 ch 209 SLA 1970)

Sec. 31.05.040. Rules and regulations of department. (a) The department shall prescribe rules and regulations governing practice and procedure before it under this chapter.

(b) All orders issued by the department shall be in writing, shall be entered in full and indexed in books kept by the department for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of an order certified by the department, under its seal, shall be received in evidence in all courts of the state with the same effect as the original. (§ 9 1, 5 ch 40 SLA 1955)

Revisor's note. — Subsection (b) of this section and AS 31.05.060—31.05.080 are generally superseded by the Administrative Procedure Act (AS 44.62).

However, the department seems to have power to hold hearings and make orders relating to "pooling," etc. (AS 31.05.100 and 31.05.110), which may or may not fall under the Administrative Procedure Act. If those

hearings and orders do not fall under the Administrative Procedure Act, then the procedure in (b) of this section and in AS 31.05.050—31.05.080 would apply.

Sec. 31.05.050. Notice. (a) A notice required by this chapter shall be given in accordance with the Administrative Procedure Act (AS 44.62).

(b) Procedures to be followed under (a) of this section do not apply if the nature of the notice is not of a statewide or general application but is concerned only with operations on a single well or within a single field and the modification of procedure is within the authority delegated to the department under § 30 of this chapter. A notice required by this chapter shall be given by one publication in a newspaper published in the borough in which the hearing is to be held, or if none is published in the borough, in a newspaper published in this state and circulating within the borough, and posted in at least one public place within the borough, at least 10 days before the date of the hearing. The notice shall be issued in the name of the state, shall be signed by the department, and shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. The department may also give, or require the giving of, additional notice in a proceeding, or class of proceeding, which it considers necessary or desirable. (§ 9 4 ch 40 SLA 1955; am § 1 ch 190 SLA 1968; am § 1 ch 87 SLA 1969)

Revisor's note. — See Revisor's note to AS 31.05.040.
Legislative committee reports. — For report on ch. 190, SLA 1968 (CS HB 595), see

1968 House Journal, p. 748. For report on ch. 87, SLA 1969 (HB 49 am S), see 1969 Senate Journal, p. 897.

Sec. 31.05.060. Action by department. The department may act upon its own motion, or upon the petition of an interested person. On the filing of a petition concerning a matter within the jurisdiction of the department under this chapter, the department shall promptly fix a date for a hearing, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The department shall enter its order within 30 days after the hearing. (§ 9 6 ch 40 SLA 1955)

Revisor's note. — See Revisor's note to AS 31.05.040.

C.J.S. reference. — 58 C.J.S. Mines and Minerals § 242.

Sec. 31.05.070. Attendance and testimony of witnesses. (a) The department may summon witnesses, administer oaths, and require the production of records, books and documents for examination at a hearing or investigation conducted by it. No person may be excused from attending and testifying, or from producing books, papers and

records before the department or a court, or from obedience to the subpoena of the department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. This section does not require a person to produce books, papers or records, or to testify in response to an inquiry not pertinent to some question lawfully before the department or court for determination. No natural person is subject to criminal prosecution or to a penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise, before the department or court, or in obedience to its subpoena. However, no person testifying is exempt from prosecution and punishment for perjury committed in so testifying.

(b) If a person fails or refuses to comply with the subpoena issued by the department, or refuses to testify as to any matter regarding which he may be interrogated, any court of record in the state, upon application of the department, may issue an attachment for the person and compel him to comply with the subpoena, and attend before the department and produce the records, books, and documents for examination, and give his testimony. The court may punish for contempt as in the case of disobedience to a subpoena issued by the court, or for refusal to testify in court. (§ 10 ch 40 SLA 1955)

Revisor's note. — See Revisor's note to AS 31.05.040.

Sec. 31.05.080. Rehearings and appeals. (a) Within 20 days after written notice of the entry of an order or decision of the department, or such further time as the department grants for good cause shown, a person affected by it may file with the department an application for the rehearing in respect of the matter determined by the order or decision, setting forth the respect in which the order or decision is believed to be erroneous. The department shall grant or refuse the application in whole or in part within 10 days after it is filed, and failure to act on it within this period is a refusal of it and a final disposition of the application. If the hearing is granted, the department may enter a new order or decision after rehearing as may be required under the circumstances.

(b) A party to the rehearing proceeding, dissatisfied with the disposition of the application for rehearing, may appeal from it to the superior court in the judicial district in which any property affected by the decision of the department is located, by filing a petition for the review of the action of the department within 20 days after the entry of the order following rehearing or after the refusal of rehearing as the case may be. The petition shall state briefly the nature of the proceedings before the department and shall set out the order or decision of the department complained of and the grounds of invalidity of it upon

which the applicant will rely. However, the questions reviewed on appeal shall be only questions presented to the department by the application for rehearing. Notice of appeal shall be served upon the adverse parties and the department in the manner provided for the service of summons in civil proceedings. The trial upon appeal shall be without a jury, and the transcript of proceedings before the department, including the evidence taken in hearings by the department, shall be received in evidence by the court in whole or in part upon offer by either party, subject to legal objections to evidence, in the same manner as if the evidence was originally offered in the superior court. The department's action complained of is prima facie valid and the burden is upon the party seeking review to establish the invalidity of the action of the department. The court shall determine the issues of fact and of law and shall, upon a preponderance of the evidence introduced before the court, which may include evidence in addition to the transcript of proceedings before the department, and the applicable law, enter its order either affirming or vacating the order of the department. Appeals may be taken from the judgment or decision of the superior court in the same manner as provided for appeals from any other final judgment entered by a superior court.

(c) The pendency of proceedings to review does not of itself stay or suspend operation of the order or decision being reviewed, but during the pendency of the proceedings, the superior court may, upon its own motion or upon proper application of a party, stay or suspend, in whole or in part, operation of the order or decision pending review, on the terms the court considers just and proper and in accordance with the rules of civil procedure. The court, as a condition to staying or suspension of operation of an order or decision, may require that one or more parties secure, in the form and amount as the court considers just and proper, one or more other parties against loss or damage due to the staying or suspension of the department's order or decision, if the action of the department is affirmed.

(d) The rules of practice and procedure in civil cases govern the proceedings for review and appeal to the extent they are consistent with this chapter. (§ 11 ch 40 SLA 1955)

Revisor's note. — See Revisor's note to AS 31.05.040.

Article 2. Regulation of Operations.

Section	Section
90. Permits and fees to drill wells	120. Use of gas from well to manufacture carbon products without permit is prima facie waste
100. Establishment of drilling units for pools	
110. Unitization and unitized operation of pools and integration of interests by agreement	

Sec. 31.05.090. Permits and fees to drill wells. A person desiring to drill a well in search of oil or gas shall notify the department of his intent on a form prescribed by the department and shall pay a fee of \$100 for a permit for each well sought to be drilled. Upon receipt of notification and fee, the department shall promptly issue a permit to drill, unless the drilling of the well is contrary to law or a regulation or order of the department, or unless the person is in violation of a department regulation, order or stipulation pertaining to drilling, plugging or abandonment of a well. The drilling of a well is prohibited until a permit to drill is obtained in accordance with this chapter. (§ 5 ch 40 SLA 1955; am § 1 ch 120 SLA 1970)

Sec. 31.05.100. Establishment of drilling units for pools. (a) For the prevention of waste, to protect and enforce the correlative rights of lessees in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, or the reduced recovery which might result from too small a number of wells, the department shall, after a hearing, establish a drilling unit or units for each pool. The establishment of a unit for gas shall be limited to the production of gas.

(b) Each well permitted to be drilled on a drilling unit shall be drilled under the rules and regulations and in accordance with the spacing pattern as the department prescribes for the pool in which the well is located. Exceptions to the rules and spacing pattern may be granted where it is shown, after notice and hearing, that the unit is partly outside the pool, or for some other reason a well so located on the unit would be nonproductive, or topographical conditions are such as to make the drilling at such a location unduly burdensome. If an exception is granted, the department shall take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized, and the producer of the well drilled as an exception will be allowed to produce no more than a just and equitable share of the oil and gas in the pool.

(c) When two or more separately owned tracts of land are embraced within an established drilling unit, persons owning the drilling rights in it and the right to share in the production from it may agree to pool their interests and develop their lands as a drilling unit. If the persons do not agree to pool their interests, the department may enter an order pooling and integrating their interests for the development of their lands as a drilling unit for the prevention of waste, for the protection of correlative rights, or to avoid the drilling of unnecessary wells. Orders effectuating such pooling shall be made after notice and hearing, and shall be upon terms and conditions which will afford to the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense. Operations incident to

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the drilling of a well upon a portion of a unit covered by a pooling order shall be considered for all purposes to be the conduct of the operation upon each separately owned tract in the unit by the several lessees of it. The portion of the production allocated to the lessee of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from the tract by a well drilled on it. If pooling is effectuated, the cost of development and operation of the pooled unit chargeable by the operator to the other interested lessee is limited to the actual and reasonable expenditures for this purpose, including a reasonable charge for supervision. As to lessees who refuse to agree upon pooling, the order shall provide for reimbursement for costs chargeable to each lessee out of, and only out of, production from the unit belonging to such lessee. In the event of a dispute relative to the costs, the department shall determine the proper costs upon notice to all interested parties and hearing. Appeals may be taken from the determination as from any other order of the department. If a lessee drills and operates, or pays the expense of drilling and operating the well for the benefit of others, then in addition to any other right conferred by the pooling order, the lessee drilling or operating has a lien on the share of production from the unit accruing to the interest of each of the other lessees for the payment of his proportionate share of such expenses. All the oil and gas subject to the lien, or so much of the oil and gas subject to the lien as is necessary shall be marketed and sold by the creditor, and the proceeds applied in payment of the expenses secured by the lien, with the balance, if any, payable to the debtor.

(d) The department shall, in all instances where a unit has been formed out of lands or areas of more than one ownership, require the operator, upon request of a lessee, but subject to the right of the operator to market production and collect the proceeds with respect to a lessee in default, as provided in (c) of this section, to deliver to the lessee or his assigns his proportionate share of the production from the well common to the drilling unit. The lessee receiving his share shall provide at his own expense proper receptacles for the receipt and storage of it.

(e) If persons owning the drilling or other rights in separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and the drilling of the well on the unit, and if the department is without authority to require pooling as provided by this section, then, subject to all other applicable provisions of this chapter, the lessee of each tract embraced within the drilling unit may drill on his tract, but the allowable production from the tract shall be the proportion of the allowable production for the full drilling unit as the area of the separately owned tract bears to the full drilling unit. (§ 6 ch 40 SLA 1955)

Cross reference. — As to oil and gas, see adjoining owners as to pumping oil, 5 ALR AS 38.05.180. 421.

ALL references — Respective rights of

Sec. 31.05.110. Unitization and unitized operation of pools and integration of interests by agreement. (a) To prevent, or to assist in preventing waste, to insure a greater ultimate recovery of oil and gas, and to protect the correlative rights of persons owning interests in the tracts of land affected, these persons may validly integrate their interests to provide for the unitized management, development, and operation of such tracts of land as a unit. Where, however, they have not agreed to integrate their interests, the department, upon proper petition, after notice and hearing, has jurisdiction, power and authority, and it is its duty to make and enforce orders and do the things necessary or proper to carry out the purposes of this section.

(b) If upon the filing of a petition by the department and after notice and hearing, all in the form and manner and in accordance with the procedure and requirements provided in this section, the department finds that (1) the unitized management, operation and further development of a pool or portion of a pool is reasonably necessary in order to effectively carry on pressure control, pressure-maintenance or repressuring operations, cycling operations, water flooding operations, or any combination of these, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the pool; (2) one or more of the unitized methods of operation as applied to the pool or portion of it is feasible, and will prevent waste and will with reasonable probability result in the increased recovery of substantially more oil and gas from the pool than would otherwise be recovered; (3) the estimated additional cost, if any, of conducting such operations will not exceed the value of the additional oil and gas so recovered; and (4) the unitization and adoption of one or more of the unitized methods of operation is for the common good and will result in the general advantage of the owners of the oil and gas rights within the pool or portion of it directly affected, it shall make a finding to that effect and make an order creating the unit and providing for the unitization and unitized operation of the pool or portion of it described in the order, upon the terms and conditions, as may be shown by the evidence to be fair, reasonable, equitable, and which are necessary or proper to protect, safeguard and adjust the respective rights and obligations of the several persons affected, including royalty owner, owners of overriding royalties, oil and gas payments, carried interests, mortgages, lien claimants and others, as well as the lessees. The petition shall set out a description of the proposed unit area with a map or plat of it attached, shall allege the existence of the facts required to be found by the department as provided in this paragraph and shall have attached to it a recommended plan of unitization applicable to the proposed unit area and which the petitioner considers to be fair, reasonable and equitable.

(c) The order of the department shall define the area of the pool or

portion of it to be included within the unit area and prescribe with reasonable detail the plan of unitization applicable to it. Each unit and unit area shall be limited to all or a portion of a single pool. Only so much of a pool as has been defined and determined to be productive of oil and gas by actual drilling operations may be so included within the unit area. A unit may be created to embrace less than the whole of a pool only where it is shown by the evidence that the area to be so included within the unit area is of a size and shape as may be reasonably required for the successful and efficient conduct of the unitized method of operation for which the unit is created, and that the conduct of it will have no material adverse effect upon the remainder of the pool. The plan of unitization for each unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect to it. In addition to other terms, provisions, conditions and requirements found by the department to be reasonably necessary or proper to carry out the purpose of this chapter, and subject to the further requirements of this section, each plan of unitization shall contain fair, reasonable and equitable provisions for

(1) the efficient unitized management or control of the further development and operation of the unit area for the recovery of oil and gas from the pool affected; under such a plan the actual operations within the unit area may be carried on in whole or in part by the unit itself, or by one or more of the lessees within the unit area as the unit operator subject to the supervision and direction of the unit, dependent upon what is most beneficial or expedient; the designation of the unit operator shall be by vote of the lessees in the unit in a manner provided in the plan of unitization and not by the department;

(2) the division of interest or formula for the apportionment and allocation of the unit production, among and to the several separately owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately owned tracts to produce and receive, instead thereof, their fair, equitable and reasonable share of the unit production or other benefits of it; a separately owned tract's fair, equitable, and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable from it, location on the structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operations to which the tract will or is likely to be subjected, or so many of these factors, or such other pertinent engineering, geological or operating factors as may be reasonably susceptible of determination; unit production as that term is used in this chapter means all oil and gas produced from a unit area from the effective date of the order of the department creating the unit

regardless of the well or tract within the unit area from which the same is produced;

(3) the manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms and conditions on which the cost and expense of it shall be apportioned among and assessed against the tracts and interests made chargeable with it, including a detailed accounting procedure governing all charges and credits incident to such operations; upon terms and conditions as to time and rate of interest as may be fair to all concerned, reasonable provision shall be made in the plan of unitization for carrying or otherwise financing lessees who are unable to promptly meet their financial obligations in connection with the unit;

(4) the procedure and basis upon which wells, equipment and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation for it, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of unit operation;

(5) the creation of an operating committee to have general overall management and control of the unit and the conduct of its business and affairs and the operations carried on by it, together with the creation or designation of other subcommittees, boards or officers to function under the authority of the operating committee as may be necessary, proper or convenient in the efficient management of the unit, defining the powers and duties of all the committees, boards and officers, and prescribing their tenure and time and method for their selection;

(6) the time when the plan of unitization becomes effective;

(7) the time when and the conditions under which and the method by which the unit shall or may be dissolved and its affairs wound up.

(d) No order of the department creating a unit and prescribing the plan of unitization applicable to it becomes effective until the plan of unitization has been signed or ratified in writing, or approved by the lessees of record of not less than 62.5 per cent of the unit area affected by it and by the owners of record of not less than 62.5 per cent (exclusive of royalty interests owned by lessees or by subsidiaries of any lessee) of the normal one-eighth landowners' royalty interest in and to the unit area, and the department has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area. Where the plan of unitization has not been signed, ratified or approved by the lessees and royalty owners owning the required percentage interest in and to the unit area at the time the order creating the unit is made, the department shall, upon petition and notice, hold additional and supplemental

hearings as may be requested or required to determine if and when the plan of unitization has been signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area and shall, in respect to the hearing, make and enter a finding of its determination in this regard. If the lessees and royalty owners, or either, owning the required percentage interest in and to the unit area have not signed, ratified or approved the plan of unitization within a period of six months from the date on which the order creating the unit is made, the order creating the unit ceases to be of further force and effect and shall be revoked by the department.

(e) Except as otherwise expressly provided in this section, all proceedings held under this chapter, including the filing of petitions, the giving of notices, the conduct of hearings and other action taken by the department shall be in the form and manner and in accordance with the procedure provided in §§ 40—60 of this chapter. Additional notice shall be given as the department requires.

(f) From the effective date of an order of the department creating a unit and prescribing the plan of unitization applicable to it, the operation of a well producing from the pool or portion of it within the unit area defined in the order by persons others than the unit or persons acting under its authority or except in the manner and to the extent provided in the plan of unitization is unlawful and is prohibited.

(g) The obligation or liability of the lessees or other owners of the oil and gas rights in the several separately owned tracts for the payment of unit expense shall at all times be several and not joint or collective and in no event shall a lessee or other owner of the oil and gas rights in the separately owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately owned tract under the plan of unitization and then only to the extent of the lien provided for in this chapter.

(h) Subject to such reasonable limitations as may be set out in the plan of unitization, the unit has a first and prior lien upon the leasehold estate and all other oil and gas rights (exclusive of a one-eighth landowners' royalty interest) in and to each separately owned tract, the interest of the owners in and to the unit production and all equipment in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract. The interest of the lessee or other persons who by lease, contract or otherwise are obligated or responsible for the cost and expense of developing and operating a separately owned tract for oil and gas in the absence of unitization shall, however, be primarily responsible for and charged with any assessment for unit expense made against the tract and resort may be had to overriding royalties, oil and gas payments, royalty interests in excess of one-eighth of the production, or other interests which otherwise are not chargeable with these costs, only in

the event the owner of interest primarily responsible fails to pay the assessment of the production to the credit thereof, or production is insufficient for that purpose. If the owner of any royalty interest, overriding royalty, oil or gas payment, or any other interest which under the plan of unitization is not primarily responsible for it pays in whole or in part the amount of an assessment for unit expense for the purpose of protecting such interest, or the amount of the assessment in whole or in part is deducted from the unit production to the credit of such interest, the owner of it is to the extent of the payment or deduction subrogated to all the rights of the unit with respect to the interest or interests primarily responsible for the assessment. A one-eighth part of the unit production allocated to each separately owned tract shall be regarded as royalty to be distributed to and among, or the proceeds of it paid to, the royalty owners free and clear of all unit expense and free of any lien for it.

(i) Property rights, leases, contracts and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of this chapter and to any valid and applicable plan of unitization or order of the department made and adopted under this chapter, but otherwise remain in effect.

(j) Nothing contained in this chapter shall be construed to require a transfer to or vesting in the unit of title to the separately owned tracts or leases on them within the unit area, other than the right to use and operate them to the extent set out in the plan of unitization; nor shall the unit be regarded as owning the unit production. The unit production and the proceeds from the sale of it shall be owned by the several persons to whom it is allocated under the plan of unitization. All property, whether real or personal, which the unit may in any way acquire, hold or possess, shall not be acquired, held or possessed by the unit for its own account but shall be acquired, held and possessed by the unit for the account and as agent of the several lessees and shall be the property of the lessees as their interests appear under the plan of unitization, subject, however, to the right of the unit to the possession, management, use or disposal of the same in the proper conduct of its affairs, and subject to any lien the unit may have on it to secure the payment of unit expense. Neither the unit production or proceeds of the sale of it, nor the other receipts shall be treated, regarded, or taxed as income or profits of the unit; but instead, all such receipts shall be the income of the several persons to whom or to whose credit the same are payable under the plan of unitization. To the extent the unit may receive or disburse the receipts it shall only do so as a common administrative agent of the persons to whom the receipts are payable.

(k) The amount of the unit production allocated to each separately owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced and regardless

of whether it is more or less than the amount of the production from the well or wells, if any, on any such separately owned tract, shall for all intents, uses and purposes be regarded and considered as production from the separately owned tract, and, except as may be otherwise authorized in this chapter, or in the plan of unitization approved by the department, shall be distributed among or the proceeds of it paid to the persons entitled to share in the production from the separately owned tract in the same manner, in the same proportions, and upon the same condition that they would have participated and shared in the production or proceeds of it from such separately owned tract had not the unit been organized, and with the same legal effect. If adequate provisions are made for the receipt of it, the share of the unit production allocated to each separately owned tract shall be delivered in kind to the persons entitled to it by virtue of ownership of oil and gas rights in it or by purchase from the owners subject to the rights of the unit to withhold and sell the same in payment of unit expense under the plan of unitization, and subject further to the call of the unit on such portions of the gas for operating purposes as may be provided in the plan of unitization.

(l) No agreement or plan for the development and operation of a field or pool of oil or gas as a unit, if approved by the department for the purpose of conserving oil or gas, violates a statute of the state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

(m) Operations carried on under and in accordance with the plan of unitization shall be regarded and considered as a fulfillment of a compliance with all of the provisions, covenants and conditions, express or implied, of the several oil and gas leases upon lands included within the unit area, or other contracts pertaining to the development of it insofar as the leases or other contracts may relate to the pool or portion of it included in the unit area. Wells drilled or operated on any part of the unit area no matter where located shall for all purposes be regarded as wells drilled on each separately owned tract within the unit area.

(n) Nothing in this section or in any plan of unitization shall be construed as increasing or decreasing the implied covenants of a lease in respect to a common source of supply or lands not included within the unit area of a unit.

(o) The unit area of a unit may be enlarged to include adjoining portions of the same pool, including the unit area of another unit, and a new unit created for the unitized management, operation and further development of the enlarged unit area, or the plan of unitization may be otherwise amended, all in the same manner, upon the same conditions and subject to the same limitations as provided with respect to the creation of a unit in the first instance; except that where the amendment to the plan of unitization relates only to the rights and obligations as between lessees the requirement that it be signed, ratified, and approved by royalty owners of record of not less than 62.5 per cent of the unit area

AGD 935887

ALR reference. — Operator's or lessee's responsibility for production of oil or gas in excess of allowance as affected by his ignorance of excess production or his failure to profit thereby, 150 ALR 1149.

Sec. 31.05.120. Use of gas from well to manufacture carbon products without permit is prima facie waste. The use of gas from a well producing gas only, or from a well which is primarily a gas well for the manufacture of carbon black or similar products predominantly carbon is declared to constitute waste prima facie, and the gas well shall not be used for this purpose unless it is clearly shown at a public hearing held by the department, on application of the person desiring to use the gas, that waste would not take place by the use of the gas for the purpose applied for, and that gas which would otherwise be lost is now available for such purpose, and that the gas to be used cannot be used for a more beneficial purpose, such as for light or fuel purposes, except at prohibitive cost, and that it would be in the public interest to grant the permit. If the department finds that the applicant has clearly shown a right to use the gas for the purpose applied for, it shall issue a permit upon terms and conditions it finds necessary in order to permit the use of the gas and at the same time require compliance with the intent of this section. (§ 8 ch 40 SLA 1955)

Article 3. Levy of Tax and Disposition of Funds.

Section

130 — 140. [Repealed]

Secs. 31.05.130 — 31.05.140.

Repealed by § 2 ch 247 SLA 1970.

Editor's note. — Section 2, ch. 247, SLA 1970, effective July 1, 1970, provides that this repeal does not prevent the expenditure of funds authorized by other disaster relief legislation. The repealed article derived from §§ 151, 152, ch. 40, SLA 1955.

Article 4. General Provisions.

Section

150. Penalties
160. Injunctive relief

Section

170. Definitions

Sec. 31.05.150. Penalties. (a) A person who wilfully violates a provision of this chapter, or a rule, regulation or order of the department adopted under this chapter is subject to a penalty of not more than \$1,000 for each act of violation and for each day that the violation continues, unless the penalty for violation is otherwise provided for and made exclusive in this chapter.

(b) If a person, for the purpose of evading this chapter, or any rule, regulation or order of the department adopted under this chapter, wilfully makes or has made a false entry in a record, account or memorandum required by this chapter, or by a rule, regulation or order, or wilfully omits, or causes to be omitted, from a record, account or memorandum, full, true and correct entries as required by this chapter, or by a rule, regulation or order, or removes from the state or destroys, mutilates, alters or falsifies such record, account or memorandum, the person is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5 000, or by imprisonment in jail for not more than six months, or by both.

(c) A person who knowingly aids or abets another person in the violation of any provision of this chapter, or a rule, regulation or order of the department adopted under this chapter is subject to the same penalty as that prescribed by this chapter for the violation by the other person.

(d) The penalties provided in this section are recoverable by suit filed by the attorney general in the name and on behalf of the department in the superior court of the judicial district in which the defendant resides or in which any defendant resides, if there is more than one defendant, or in the superior court of the judicial district in which the violation occurs. The payment of a penalty does not relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation.

(e) The commissioner of natural resources may impose a penalty payment on every 1,000 cubic feet of natural gas flared, vented or otherwise determined to be waste as defined in § 170(11) of this chapter. The penalty shall be the fair market value of the natural gas at the point of waste. (§ 12 ch 40 SLA 1955; am § 1 ch 195 SLA 1968)

C.J.S. reference. — 58 C.J.S. Mines and Minerals § 241.

Sec. 31.05.160. Injunctive relief. (a) Whenever it appears that a person is violating or threatening to violate any provision of this chapter, or any rule, regulation or order of the department, the department shall bring suit against that person in the superior court of the judicial district where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. In the suit, the court shall have jurisdiction to grant to the department, without bond or otherwise undertaking, such prohibitory and mandatory injunctions as the facts warrant.

(b) If the department fails to bring suit to enjoin a violation or threatened violation within 10 days after receipt of written request to do so by a person who is or will be adversely affected by the violation, the person making the request may bring suit in his own behalf to restrain the violation or threatened violation in the court in which the department

may bring suit. If the court finds that injunctive relief should be granted, the department shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the department had at all times been the plaintiff. (§ 13 ch 40 SLA 1955)

Sec. 31.05.170. Definitions. In this chapter, unless the context otherwise requires

(1) "and" includes "or" and "or" includes "and";

(2) "correlative rights" mean the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool; being an amount, so far as can be practically determined, and so far as can practicably be obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both under the property bears to the total recoverable oil or gas or both in the pool, and for such purposes to use his just and equitable share of the reservoir energy;

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

(4) "field" means a general area which is underlain or appears to be underlain by at least one pool, and includes the underground reservoir containing oil or gas; and the words "pool" and "field" mean the same thing when only one underground reservoir is involved, but "field" unlike "pool" may relate to two or more pools;

(5) "gas" includes all natural gas and all hydrocarbons produced at the wellhead not defined as oil;

(6) "oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;

(7) "owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil and gas he produces from a pool for himself and others;

(8) "person" includes a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes a department, agency or instrumentality of the state or a governmental subdivision of the state;

(9) "pool" means an underground reservoir containing, or appearing to contain, a common accumulation of oil or gas. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool";

(10) "producer" means the owner of a well or wells capable of producing oil or gas or both;

(11) "waste" means, in addition to its ordinary meaning, "physical waste" and includes

(A) the inefficient, excessive, or improper use of, or unnecessary dissipation of, reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well in a manner which results or tends to result in reducing the quantity of oil or gas to be recovered from a pool in this state under operations conducted in accordance with good oil field engineering practices;

(B) the inefficient above-ground storage of oil; and the locating, spacing, drilling, equipping, operating or producing of an oil or gas well in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas;

(C) producing oil or gas in a manner causing unnecessary water channeling or coning;

(D) the operation of an oil well with an inefficient gas-oil ratio;

(E) the drowning with water of a pool or part of a pool capable of producing oil or gas, except in so far as and to the extent authorized by the department;

(F) underground waste;

(G) the creation of unnecessary fire hazards;

(H) the release, burning, or escape into the open air of gas, from a well producing oil or gas, except to the extent authorized by the department;

(I) the use of gas for the manufacture of carbon black, except as provided in this chapter;

(12) "cubic foot" of natural gas means the volume of gas contained in one cubic foot of space measured at a pressure base of 14.65 pounds per square inch absolute and a temperature base of 60 degrees Fahrenheit. (§ 2 ch 40 SLA 1955; am §§ 2, 3 ch 195 SLA 1968)

Chapter 15. Common Purchasers of Oil.

Section	Section
10. Hearing on question of discrimination	40. Penalty
20. Determination of common purchaser	50. Definitions
30. Responsibility of common purchaser	

Sec. 31.15.010. Hearing on question of discrimination. (a) Upon the complaint of a person having an interest in the production of oil from a field, the commission shall hold a hearing or hearings, or, at the commission's own discretion, the commission may hold a hearing or hearings to determine if there has been unjust and unreasonable discrimination in purchases of oil offered for purchase within the state,

(1) in favor of one or more owners of oil produced as against another owner in the same field; or

(2) in favor of one or more fields in reasonably close proximity to each other.

(b) In determining whether there has been unjust and unreasonable discrimination in favor of one or more owners of oil produced from a field, the commission shall consider the kind and quality of the oil, the sales prices of the oil, and other related matters.

(c) In determining whether there has been unjust and unreasonable discrimination in favor of one or more fields in reasonably close proximity to each other, the commission shall consider the kind and quality of the oil, the sales prices of the oil, the size and location of the fields, the maximum efficient rate of production from the pools, the cost and mode of transporting the oil from the fields, the term of the offerings, and other related matters. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.020. Determination of common purchaser. (a) Where a purchaser is purchasing from a field and the commission finds that the purchaser has unjustly and unreasonably discriminated in purchases with regard to oil offered for sale in favor of one or more owners of oil produced in the field, he shall order the purchaser to be a common purchaser with respect to oil offered for sale from the field.

(b) Where a purchaser is purchasing from fields in reasonably close proximity to each other and the commission finds that the purchaser has unjustly and unreasonably discriminated in purchases with regard to oil offered for sale in favor of one or more of the fields, he shall order the purchaser to be a common purchaser with respect to oil offered for sale from each field involved.

(c) A purchaser cannot be ordered to be a common purchaser on the basis of purchases of oil taken in kind by the United States or the State of Alaska, or on the basis of the payment of royalties, overriding royalties, net profits, carried interests or similar interests, whether in kind or in value or on the basis of a producer taking its own production. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.030. Responsibility of common purchaser. (a) A common purchaser purchasing in this state shall purchase ratably without unjust and unreasonable discrimination in favor of any owner or producer over any other owner or producer offering to sell oil produced from a field where it is a common purchaser or from fields in reasonably close proximity to each other where it is a common purchaser.

(b) If a purchaser is a common purchaser in more than one field in reasonably close proximity to each other, the commission may order the purchaser to purchase ratably from the fields involved in proportions which will prevent unjust and unreasonable discrimination among the fields.

(c) The commission may make inquiry in each field concerning the connections of the various producers and when unjust and unreasonable discrimination is found to be practiced by any common purchaser as defined in this chapter the commission shall issue an order to the common purchaser to make reasonable extensions of their lines and reasonable connections as will prevent the discrimination. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.040. Penalty. A person violating an order issued under this chapter shall be assessed by the commission a civil penalty of not less

than \$1,000 nor more than \$10,000. Each day a violation continues constitutes a separate offense. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.050. Definitions. In this chapter

- (1) "commission" means the Alaska Pipeline Commission;
- (2) "field" means a general area which is underlain or appears to be underlain by at least one pool, and includes the underground reservoir containing oil or gas; and the words "pool" and "field" mean the same thing when only one underground reservoir is involved, but "field" unlike "pool" may relate to two or more pools;
- (3) "oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;
- (4) "pool" means an underground reservoir containing oil; each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool";
- (5) "purchaser" means a person who purchases oil in the state. (§ 1 ch 7 FSSLA 1973)

Chapter 30. Miscellaneous Provisions.

Section	Section
10. Damages for wrongful extraction of oil or gas	40-70. [Repealed]

Sec. 31.30.010. Damages for wrongful extraction of oil or gas. (a) If oil or gas has been or is extracted from any existing or subsequently drilled well by any person without right but who asserts a claim of right in good faith or who is acting under an honest belief as to the law or the facts, the measure of damages, if there is any right of recovery under existing law, shall be the value of the oil or gas at the time of extraction, without interest, after deducting all costs of development, operation, and production. The costs shall include taxes and interest on all expenditures from the date of the expenditures.

(b) In this section "oil or gas" includes all hydrocarbon minerals. (§ 1 ch 73 SLA 1964)

Secs. 31.30.040—31.30.070.

Repealed by § 4 ch 170 SLA 1975.

Editor's note. — The repealed sections derived from § 1, ch. 170, SLA 1975. report on ch. 170, SLA 1975 (CSHB 258 4m S), see 1975 House Journal, p. 524.
Legislative committee report. — For

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 21, 1978

SUBJECT: Draft Resources Committee Substitute for SSHB 830

TO: The Honorable C. V. "Chat" Chatterton

FROM: Gregg K. Erickson
Director of Research

As you directed, we have engrossed the language you presented us yesterday into a work draft committee substitute for SSHB 830. The draft committee substitute is attached herewith.

Although we have incorporated your language into SSHB 830, as you specifically directed, we would caution that doing this has introduced a number of uncertainties into the bill. Among these are the following:

1. Sec. 31.05.015 COMPENSATION OF MEMBERS OF THE COMMISSION. By deleting the phrase "equal to that of a commissioner of a principal executive department" after the word "salary", you are presumably reserving to later legislative action the establishment of commissioners' salaries. If this is to be done in the course of the budgetary process, I would suggest that the staff of the Legislative Finance Division be contacted to insure that the salary allocation is made a separate line item, or that other appropriate steps are taken to insure that legislative intent with respect to salaries, whatever it might be, is fulfilled. If it is the legislative desire to have the members of this commission treated for salary purposes the same way as members of all other regulatory commissions, then it will be necessary to amend the Alaska Salary Commission Act (AS 39.23.060) in order to include the commission in the purview of the salary review body.
2. Sec. 31.05.023(b) and (c). The effect of your change to subsection (b) is to place the professional staff of the commission and the personal secretaries of each commissioner in the exempt service. If this is your intention, it would be desirable, although not strictly required, that a conforming amendment to AS 39.25.110 be adopted as well. The effect of your change will be to give the commission pretty much complete discretion with respect to establishing the salaries of its

professional staff members (with the exception of the executive director) and the commissioner's personal secretaries, subject only to the overall constraint of having to live within their budget. Since you did not delete (d), we assume you wish to leave the executive director's salary pegged to that of a commissioner of a principal executive department.

3. Sec. 31.05.025 CONFLICT OF INTEREST. The language you provided would make employees, consultants and members of the commission subject to AS 39.50 and AS 39.51. We would call your attention to the fact that *Sec. 2 of the bill already brings the commissioners under chapter 50. If it is desired to bring the employees and consultants of the department under this chapter, amendment to AS 39.50 will be required. Bringing consultants and employees under AS 39.50 will, of course, mean that they will be subject to the full public disclosure requirements now imposed on legislators and other "public officials" as defined in that chapter.

Subsection (1) of this section gives the governor authority to determine whether a conflict of interest exists, presumably based on the disclosures required under AS 39.50. It is not clear, however, what action the governor would take if he determines such a conflict exists, or what authority the governor would have in the event a member, consultant or employee of the commission disagreed with the governor's determination that a particular holding would impair the person's ability to act in the "best interests of the people of Alaska".

AS 31.51 will need to be amended if it is desired to bring consultants under its provisions.

4. Sec. 31.05.026 RELATIONSHIP TO DEPARTMENT OF NATURAL RESOURCES. We are not clear as to your intent in adding subsection (d). If subsection (c) is to be superseded, then it probably should be deleted as well. It would appear that your intent in (d) is to vest all information gathering responsibility in the commission. This could create difficulties for the department if it attempts to require persons conducting geophysical exploration or drilling on state lands to provide it with information to assist the state in planning for and conducting the leasing of oil and gas lands. Furthermore, it is not clear what exemptions would be allowed to "the general rule" that is described in subsection (d).

With respect to subsection (e) we are not clear as to the intent or effect of the first sentence. The second sentence of this subsection appears to encourage interagency agreements, but by enumerating the areas to which such agreements may be

entered into, and by specifying that they may be only for "the sole purpose of efficiency" the sentence could be construed as limiting such agreements to the areas enumerated, and for the purpose specified. Subsection (f) seems to speak to the same material as contained in subsections (a) and (b). We cannot judge what its effect would be, either taken together with 'a) and (b) or standing alone.

A prior scheduling commitment to another committee will prevent us from attending your markup hearing this afternoon, but we hope these comments may be helpful.

CKE:jm
Attachment

CC: The Hon. Hugh Malone (co-sponsor)

A M E N D M E N T

OFFERED IN THE HOUSE:

By: _____

To: Sponsor Substitute for HOUSE BILL No. 830

SENATE BILL No. _____

PAGE: 4

LINE: Between lines 4 and 5

*Sec. 1 of SSHB 830 is amended by the addition of a new section to read as follows:

Sec. 31.05.026. RELATIONSHIP TO DEPARTMENT OF NATURAL RESOURCES.

(a) The department shall have standing before the commission to raise all issues relating to state owned land without regard to the type of proprietary interest held by the state in that land.

(b) With respect to federal land from which the state or any subdivision of the state is entitled under federal law to receive a share of the federal royalty interest, the department shall have the same standing before the commission as if it were the holder of the equivalent royalty interest.

(c) When both the department and the commission have the authority to require, and do require, the submission of substantially the same information from persons subject to this chapter, the commission, in order to alleviate the administrative burdens placed on those persons, may by regulation enter into an agreement with the department whereby either the commission or the department shall have the responsibility to collect the information lawfully required by both.

+



Official Business

Alaska State Legislature

House of Representatives

Committee on Resources

Pouch V
State Capitol
Juneau, Alaska 99811

March 16, 1978

AGENDA

8:00 a.m., Room 118, Capitol Building

Milton Lipton will address the Committee on:

SSHB 830 Alaska Oil and Gas Conservation Commission
HB 878 Oil and gas taxes; effective date

1:30 p.m., Court Room A, Court Building

HB 854 Leasing of State land for oil & gas development

Persons requesting to give testimony:

Robert LeResche, Commissioner, Department of Natural Resources
John Roderick, Chief of Special Projects, Dept. of Natural Resources
Ed Phillips, economist, Department of Natural Resources
Milton Lipton, consultant
(Mark Singletary, Arco, if time permits)

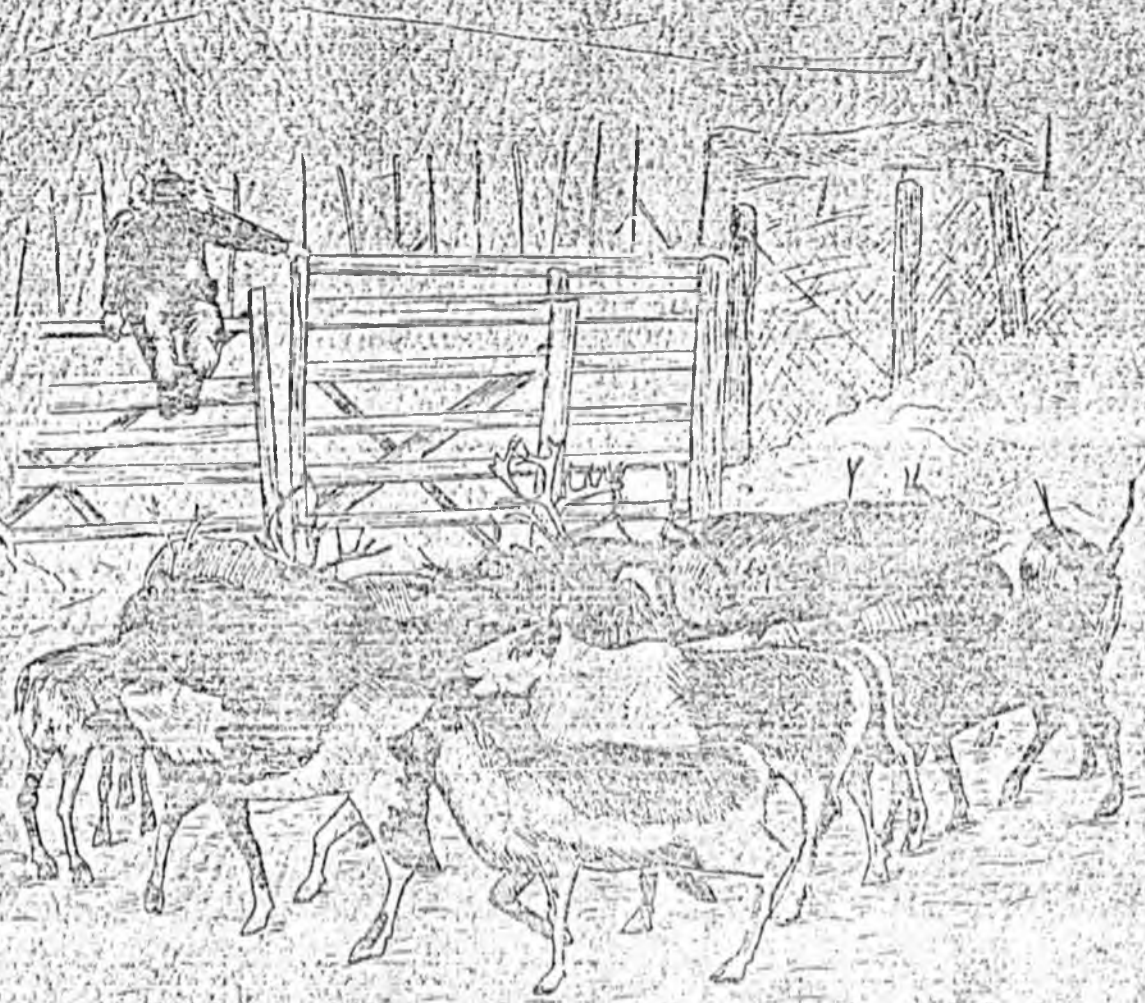
To be continued tomorrow at the same time and location.

(HB 878 - add to it)

HB

835

**Socio-Economic Evaluation of Reindeer Herding in
Relation to Proposed National Interest
(d) 2 Lands in Northwestern Alaska**



Final Report for National Park Service

**Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska**

1122 7/10/78

FINAL REPORT: Socio-Economic Evaluation of Reindeer Herding in
Relation to Proposed National Interest Lands (d)2
in Northwestern Alaska

RESEARCH CONTRACT: CX - 9000-6-0098, National Park Service,
Pacific Northwest Region, U.S. Department
of the Interior, Institute of Arctic Biology,
University of Alaska

Fairbanks, Alaska
November 31, 1977

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CHAPTER VI - CONCLUSIONS AND RECOMMENDATIONS

Conclusions

1. The legislative histories of Congressional debates, appropriations, legislation, rules, and regulations pertaining to reindeer grazing and cooperative agreements between state and federal agencies indicate that in general the U.S. Government has supported the establishment, development, and perpetuation of reindeer grazing in Alaska.

Change in this policy at this time, based on our research data, would not be supported by the reindeer herders, the Reindeer Herders Association, Village and Regional Corporations, nor, most importantly, by the people of the Seward Peninsula. Furthermore, change in this policy without providing alternatives would deprive the people of the region of an important food resource and would take away an enterprise that some individuals have spent many years of their lives developing.

One alternative suggestion has been to disallow reindeer herding on Seward Peninsula d(2) lands and to re-introduce caribou. We find this to probably be an unworkable plan for the following reasons. Caribou cannot be managed with the same degree of control as reindeer. If one is controlling caribou movements (which would be necessary to keep them off adjacent reindeer ranges) then a truly wild caribou herd does not

result. In addition, the practical problems of securing permission from the Alaska Department of Fish and Game to stock the area with caribou, moving them across adjacent reindeer ranges, and starting condemnation procedures for the current permit holders and their herd and facilities are so obvious that they do not even need to be discussed further. We would argue that this alternative should not be seriously considered. Furthermore, it is doubtful that a free-ranging caribou herd on d(2) lands could provide sufficient numbers of animals available for local harvest compared to well-managed reindeer herds.

2. Reindeer herding has been part of the social and economic environment on the Seward Peninsula for 85 years. This historical dimension cannot be erased without evoking bitterness and opposition on the part of the herders and the village residents. The contemporary reindeer herding situation is a product of previous historical and cultural forces and the current socio-economic milieu of the Seward Peninsula. Policy regarding reindeer herding must be formulated with a firm understanding of the biology and ecology of reindeer and of the social and economic aspects of Native village life. Reindeer herding management practices have changed as the social and economic conditions, of which herding is a part, have changed.

When reindeer herding was first introduced, it appears to have been attractive only to those men who were unable to make a living in the traditional way. As the herds increased during the 1920's, herding

became an acceptable lifestyle alternative. When the herds declined prior to World War II and other employment opportunities became available, interest in herding declined correspondingly. As the potential rewards from reindeer herding have increased since the 1950's, so too has interest and involvement in herding again increased. A legacy of inadequate government services to the herders does exist, including: incomplete feedback between baseline reindeer research and the herders; conflicting federal and state policies; bureaucratic specialization of areas of technical expertise, which has confused the exact role which the agencies and their personnel should play; and inadequate levels of funding for personnel, travel, research, and administration.

3. Reindeer provide a source of meat, by-products, income, and employment. Local markets for reindeer meat have been developed by the Native herders. There is currently no known alternative industry or activity that has been shown to be biologically compatible, economically feasible, or socially acceptable to replace or co-exist with reindeer herding. The presence of a reindeer herd or herds at a village means that there are employment opportunities which would probably otherwise not be available to the villagers. The herder serves to stimulate the village and regional economy with his herding operation by spending and investing his income in the village and region. The reindeer industry provides private sector employment in a region of the United States where little non-public sector employment is available.

The marketing and production practices of the reindeer herders are rational within the context of the social and economic systems of north-western Alaska. Some herds have demonstrated stability in numbers of animals over the years. Regular slaughterings of the relatively same numbers of animals have taken place. The price received for the meat has increased, however, due to increasing income levels of the consumer population, a cultural preference for reindeer meat over other imported meat products, and increased prices of reindeer meat substitutes, coupled with rising production costs for labor, fuel, snow-machines, and food. Cooperative management agreements between the herders and the federal agencies would allow the herders to maintain stable herd sizes, as the agencies conduct range surveys to determine optimal carrying capacities, monitor range utilization, and protect range resources through a rotational grazing plan.

4. After 85 years on the Seward Peninsula, reindeer herding is part of the contemporary Native lifestyle. Herding provides personal satisfaction and prestige for the herd owners/operators. The reindeer herders have integrated the prerequisites for successful herding into their social organization, value system, and seasonal round of activities. This does not mean that there are not occasional conflicts in scheduling and priorities. Instead, by making use of most of the available resources and opportunities, reindeer herding reflects one aspect of the total individual, household, and village adaptation to the arctic environment.

In general, economic specialization for Native peoples does not appear like a viable, long-term adaptive alternative in arctic conditions.

5. The reindeer industry provides a high-quality red meat protein source as an alternative to imported meat products and local wildlife species. During times of low caribou numbers in regions adjacent to Seward Peninsula, the reindeer industry may be a crucial source of inexpensive meat for people. If restrictions on the harvest of caribou from the Western Arctic Caribou Herd are continued in the future, the reindeer herds will continue to provide the most inexpensive, locally available, and culturally preferred meat alternative. While all herders and their families participate in other resource extraction and processing activities, and in the cash/wage economy to a greater or lesser degree, reindeer herding remains a primary source of income for them through the sale of meat, velvet antlers, and other by-products.

Conflicts between reindeer herding activities and other subsistence activities occur most often during the spring and summer. Fawning and the post-partum period are the most crucial times of year for the reindeer. Yet this is precisely the same time of year (mid-April to late May) when an intensification of subsistence activities traditionally takes place. Seal and beluga hunting, fishing, and bird hunting begin to occupy more and more of people's time, after a winter of relative inactivity. The conflict in the past was resolved by one of several means. The reindeer were brought near the coast where they could be watched on a rotational

basis as men hunted on the sea ice. A few designated people were placed in charge of the herd. As is sometimes the case now, the reindeer were simply left to fend for themselves during fawning season. Increased herding and guarding of the herd during fawning season and immediately afterward should be encouraged to improve fawning percentages survival and to protect the herd against predators.

6. Native foods, including reindeer meat, make up a significant portion of the Native diet on the Seward Peninsula. There is currently an increasing demand for reindeer meat. This is evidenced by the increases in price received by the herders for reindeer meat since 1969. If reindeer numbers continue to remain stable on the Seward Peninsula, the price received by herders, and therefore paid by the local consumers, may continue to increase in the near future.

7. Large reindeer herds can be operated successfully (in a business sense) on the Seward Peninsula. Herds of 4,000 reindeer, using part-time herding, have been successful in the past, and the preceding scenarios suggest that large herds, using full-time herding, can be successful in the future. There is room for improvement. The scenarios presented demonstrate that production can increase with the application of a few basic animal science practices. The decreased slaughter of productive females and increased fawn survival can help in the short run. In the long run, improved bull selection and better age-sex composition of the

herds could serve to increase production. Additional possibilities include the marketing of fawn meat and a sustained slaughter of between 20 and 25 percent of the herds yearly, once sufficient herd size and composition are developed. These changes in herd management practices, including year-round herding of large herds, could generate revenues from the herds greater than the costs of implementing the changes. The net result would be an increase in herder income, labor income, and the probability that reindeer meat would be available throughout the year. Increased production could lead to penetration of already identified markets, both within and beyond the state of Alaska. Local cultural preferences for steer meat and biases against fawn meat would have to be resolved.

8. Government policies, rules, and regulations which reduce herd sizes, reduce the incentive or potential for increased herd productivity, or limit marketing of reindeer products, would have undesirable impacts. There is a good possibility that reindeer meat availability would be reduced. The same could be true of income from herding and its contribution to the local economy and employment. The herders would face a loss in prestige and social standing in their village. Very closely tied to this is that most villagers do not appear to understand the basic thrust of the Alaska Native Claims Settlement Act. While ANCSA was intended to be a vehicle for "a fair and just settlement of all ... aboriginal land claims" (Section 2(a)), the Section 17d(2) provisions of

ANCSA are viewed often as interference with traditional activities on the public lands. For most village-oriented Native people, a change in land management practices is not understandable. Villagers ask why they cannot continue to do the things they have always done when all that appears to happen is that the land will be called a Reserve or Refuge. The personnel of all agencies concerned will have to establish close working ties with the affected villages in order to explain why public lands previously managed under multiple-use guidelines will in the future be managed within narrower NPS or USF&WS management mandates. Public meetings, informal socializing, brochures, radio and television broadcasts, or other media approaches can be employed to provide explanations. The opinions of the villagers should be considered in the course of the development of management plans for the area.

9. The production and marketing of velvet antler is likely to increase in importance to the herders in the next few years. Price received by the herders for this product has increased steadily since 1972. With the interest expressed by new buyers in entering this market, the trend of increasing price received will likely continue (because of competition for the product). Potential conflicts between Reserve or Refuge management and the herders are inherent in velvet antler harvesting practices. These currently involve the use of powerboats, airplanes, and a small helicopter for transporting labor and supplies and for shipping the velvet antler harvested to Nome for shipment out of state.

10. The acculturation process is an abstract, general notion which refers to the economic, social, and psychological accommodations made by the members of one culture to the technology, economics, and values of another culture. The acculturative process will continue on the Seward Peninsula in the near future and is currently giving rise to a class system among Natives, with an upwardly mobile Native elite. Accordingly, as the reindeer herders gain experience in dealing with the federal and state agencies which are concerned with reindeer, the Reindeer Herders Association may increase its operating efficiency. Although the federal agencies may believe that they are not contributing to culture change and the acculturation process, in fact they are. The very presence of National Park Service and/or U.S. Fish and Wildlife Service personnel and their activities cannot but affect the lives of the Native peoples of northwestern Alaska. The acculturative trend is towards increasing extra-village and regional orientations to problem solving on the part of the people of northwestern Alaska.

11. Increased tourism or visitor use of the Reserve or Refuge due to reindeer herding is unlikely. Since summer is the peak (and virtually the only) tourist season, the only opportunities for herd visitation are when the animals are corralled, unless the visitor wishes to seek them out on the open range. Velvet antler harvesting, castrating, and slaughtering activities will likely be unappealing to most tourists. When the animals are on the open range in summer, they are difficult to locate

from the ground. The expense of locating them from the air is high relative to the reward that might be gained from seeing a herd on the tundra or shore. Aircraft operating restrictions may also preclude this activity. The mere presence of reindeer on the Seward Peninsula utilizing a Reserve or Refuge area may come as an unwanted surprise to many tourists on a group tour. The attraction of reindeer comes from their historical associations on the Seward Peninsula, the possibility of tasting reindeer meat at one of the hotels or restaurants in Nome and Kotzebue, and the thematic role of reindeer at Christmas time. Small parties might be welcomed at the corrallings, especially if they are interested in participating in the corralling activities. There are, however, potential conflicts between visitors, reindeer, and the reindeer herders.

Prominent among the expected conflicts is the annoyance or disturbance which back-country users may inflict on grazing reindeer. The use of visitor access points may also serve to disturb the animals when float planes, wheeled planes, or trucks utilize the access area. The presence of back-country users, their camps, and their food may attract the curious reindeer as well as predators, with resulting unpleasant and possibly serious encounters.

Recommendations

1. d(2) legislation for the Seward Peninsula and surrounding areas of ecological concern should allow the continuation of reindeer grazing on federally managed lands, subject to the terms and provisions of the Act of September 1, 1937 (50 Stat. 902; 48 U.S.C. 250k) and the regulations contained thereunder in 43 CFR 4132. We fully recognize the potential conflicts with other land uses and values which may arise from this recommendation, particularly with management plans for other wildlife such as caribou and migratory waterfowl. However, it would seem more important to allow local residents to remain as locally self-sufficient as possible in the production and procurement of their food.

2. d(2) legislation for the Cape Krusenstern national interest lands, the Noatak River basin national interest lands, and the Selawik River area national interest lands, and all the adjoining areas of ecological concern should not expressly prohibit the use of these lands for reindeer grazing. At some point in the future, it may become necessary and desirable to permit reindeer grazing on any or all of these lands. Advances in the management of reindeer herds, reindeer husbandry, or any disastrous decline in the availability of other wildlife food resources (particularly caribou) may make it locally desirable, and in the national interest, to permit the use of these lands for reindeer grazing, given the historical precedent for herding on these lands. The

local interest may be best served by allowing local residents to operate reindeer herds for their local consumption. The national interest may be best served by allowing local residents to use national interest lands for the production of their food, rather than resorting to the distribution of transfer payments (unearned income) to artificially support the human population.

3. The federal land managing agency(ies) on Seward Peninsula should develop strong working relations with the Reindeer Herders Association. The individual reindeer herder's activities should be allowed to the extent that they legally can be within the Congressional mandate. Range surveys and calculations of carrying capacities of the ranges should be conducted with all possible speed in order to develop efficient management plans for reindeer herding that are compatible with the goals of the local people, reindeer herders, and the agencies of the state and federal governments. Long range baseline research programs on reindeer physiology, biology, and ecology should be encouraged and supported by the state and federal government.

Assuming that reindeer herding is to continue on the Seward Peninsula d(2) lands, several management considerations arise. First it will be necessary for the federal land managing agency(ies) to conduct range surveys and to calculate the reindeer carrying capacity of the areas. Adequate biological information is virtually completely lacking from the Seward Peninsula to determine the role of reindeer in the ecosystem.

This report has indicated the extent and importance of reindeer in the economic and social system of the people on the Seward Peninsula. Without an adequate understanding of the role of reindeer in the tundra ecosystem, an adequate management plan for reindeer cannot be developed. Second, by utilizing the data from such range surveys, the federal agency(ies) will be able to determine, and if necessary regulate, herd sizes, movements, and seasonal range utilization to best protect the range. This is in the agency(ies) interest because it contributes to the preservation of the values which are found in the lands and associated resources on the Seward Peninsula. It might also indirectly benefit the herders because it will enable them to avoid under utilization of the range, or over-utilization, with consequent range damage or depletion.

4. The federal land managing agency(ies) on the Seward Peninsula should develop management plans covering the operations of the individual reindeer herders on federal lands in consultation with the herders and other interested parties. The use of atv's, snow-machines, powerboats, airplanes, and helicopters should be permitted under legislative authority and regulation where the agency(ies) concerned can permit their use. As the herders are currently entitled to do, herd operators should be allowed to continue to construct, maintain, and utilize fences, buildings, corrals, reservoirs, wells, and other improvements by permit, as are found necessary for successful reindeer grazing and as are compatible with the goals of the land managing agency(ies) and the values for which

the Reserve or Refuge is established. Denying the use of mechanized transportation for reindeer production, particularly in connection with velvet antler harvesting, would probably force the reindeer herders to forego herding because alternative methods of harvesting antler are either uneconomical or impossible to implement. We recommend that agency personnel attend handlings to insure compliance with rules and regulations regarding mechanized vehicle use, camp fires, waste disposal, and other activities by the herders and antler purchasers.

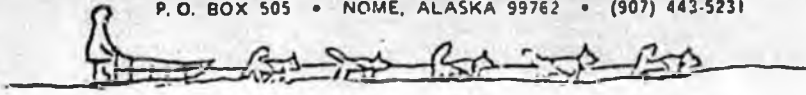
5. In public relations and publicity materials concerning the Seward Peninsula national interest lands, the federal agency(ies) concerned should stress the local socio-economic importance of reindeer herding. This could be accomplished through the positive presentation of the history of reindeer herding, its current practice, products and their value, and monitoring of range conditions by the managing agency. Interpretive sites, brochures, pamphlets, and visitor guides can all be used as vehicles to explain reindeer herding to the visitor. The potential for unpleasant interactions between visitors, reindeer, wildlife, and the local residents should be carefully presented to avoid visitor-herder-reindeer conflicts. Since visitor-use-days are projected to be low during the first few years of Reserve or Refuge operation, this can give the agency concerned and the herders time to work out the nature of their relationship before visitor use has the opportunity to become a problem.

6. In attempting to minimize visitor and reindeer operation conflicts, agency management plans and orientations for visitors should emphasize the nature of reindeer, their probable and possible reactions to humans, and appropriate mitigating measures to avoid conflicts. These measures could include, but are not limited to: avoiding reindeer whenever they are encountered, not deliberately feeding reindeer (or any wildlife), camping at designated points away from reindeer summering areas (particularly along bodies of water and the coast), and caching food supplies away from tents. In addition, the careful handling of campfires to avoid starting tundra fires and destroying habitat, and the respecting of the private property of reindeer herders such as cabins, corrals, and fences are desirable. Since these improvements are often located on Native Allotment tracts, attention to the property rights of the owners should be given. An apparently abandoned cabin in summertime may in fact be a critical haven for shelter during a winter storm when people are travelling. Entry and the appropriation of any items contained therein is, of course, already prohibited by state statutes, as well as by courtesy.

KAWERAK, INC.

BERING STRAITS NATIVE ASSOCIATION

P. O. BOX 505 • NOME, ALASKA 99762 • (907) 443-5231



January 30, 1978

Representative Alfred C. Nakak
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Handwritten: Reply
Handwritten: Feb. 7th

Representative Nakak:

The Reindeer Herders Association is interested in continuing the reindeer grazing survey in the Seward Peninsula, using the E.R.T. Satellite system.

The RHA board met with Soil Conservation January 17, 1978 at Anchorage with State, Federal and U of A agency personnel. The attendance of those present is enclosed.

I am enclosing documents pertinent to our interest in getting grazing survey done. If there is any possibility of getting a supplemental funding to assist, it would be greatly appreciated.

Bearing in mind also of our contact with Mr. Stell Newman, National Park Service and Mr. Fran Mauer U.S.F.&W.S. both with offices at Anchorage in trying to involve their respective agencies to assist us with dollars, since they have D-2 withdrawals within Seward Peninsula. Both gentlemen are out at Washington D.C. involved in the make-up of D-2 legislation. I did call Mr. Newman of the RHA meeting with Soil Conservation of our intent. Mr. Newman said he would check with N.P.S. at D.C. if any assistance would be available.

The following is the cost of the survey of 4½ million acres.
cost per S.C.S. 150,000.00

S.C.S. commitment 1/3 - 50,000.00

B.I.A. commitment 20,000.00

funds available

70,000.00

Short

80,000.00

In discussions with herders and various State/Federal agencies suggestions have been made that agencies involved in Agriculture within the Administration should seek means of funneling Federal dollars towards Reindeer Agricultural Program. Since reindeer is a renewable resource and has great potential with proper application of assistance can be relied upon to cut the cost of living in this area.

Sincerely,

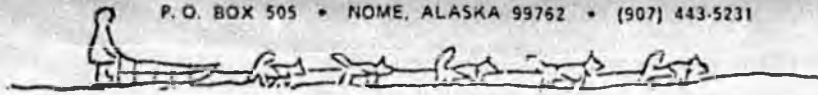
Danny Karmua, Coordinator
Reindeer Contract

DZ/bd

KAWERAK, INC.

BERING STRAITS NATIVE ASSOCIATION

P. O. BOX 505 • NOME, ALASKA 99762 • (907) 443-5231



REINDEER HERDERS ASSOCIATION MEETING ANCHORAGE, ALASKA JANUARY 17, 1978

On January 17, 1978, at 10:00 a.m. the Executive Board Members of the Reindeer Herders Association met with representatives from State and Federal Agencies concerning range survey. Those in attendance were: Mr. Ted Freeman, Mr. Burt Clifford and Mr. Jim Preston from S.C.S.; Mr. Pete Scorup and Mr. Bob Mitchell from Agricultural Experimental Station; Mr. Edward Kern, Division of Agriculture; Mr. Earl Bracewell, U of A Extension Service; Mr. Bob Leedy, USFWS; Mr. H.P. Gazaway, USDI BIA; Mr. Dave Scott and Mr. Sal DeLeonardis, USDI BLM; and Dallas Cross from NANA. The meeting took place in the conference room of the S.C.S. building.

After welcoming everyone to the meeting, Mr. Karmun asked Mr. Preston to explain how the range survey was made. Mr. Preston stated that in 1976, 4½ million acres were surveyed. He explained in detail how the land sat imagery was used and how through this they try to figure out how much lichen is on the land and how much the reindeer eat per day. It was estimated that the reindeer eat 5-15 pounds per day, but they couldn't be sure of this figure because of trampling and they couldn't be sure that the deer were eating only the top 1/3 of the lichen. Mr. Preston mentioned that Professor Andreyof, Russian scientist determined regrowth takes 3 years for lichen based on a 6 month winter range use and breaking winter range use into 5 units.

Clifford Weylouanna brought up the importance of studies like this because each herder knows how many deer their range can handle, but don't say exactly how many on their annual report because the present grazing permit states an estimated number of head on a given range. With the grazing survey each herd can be given an actual carrying capacity and work towards the maximum.

Mr. Sal DeLeonardis stated that something the Association should look at carefully is the type of operation going on now and what the advantages are to the cow/calf operation. He felt that it would be better for mass production. He also stressed the social and economic factor placed on the individual herders. He felt that the two should not be mixed.

Mr. Gazaway stated that the Bureau would like to see the survey continued and intensified. He stated that there are funds now available of \$20,000.00. He also suggested that a letter be written with strong endorsement from Gary Longley BIA-Nome, for justification of receiving extra monies. Mr. Karmun stated that it is important and his feeling that this survey be conducted with established agencies that have expertise in this field.

Mr. Freeman stated he was sure that if some monies were allotted for range survey, S.C.S. would be able to come up with 1/3 of the monies to help out.

Mr. Sal DeLeonardis stated that if the herders were interested in expanding to maximum operation there were some questions that they would have to answer in order to make some headway.

1. What are the problems?
2. What is the solution?
3. What is the out come going to be, disaster?

The range survey needs to be justified. What is the urgency and need?

Mr. Karmun responded to questions put forth by Mr. DeLeonardis. In the RHA efforts to assist the Reindeer Industry the grazing survey is one of the vital steps to attain viability and steps once determined on carrying capacity to work towards increasing herds by proper husbandry methods. The Reindeer Industry at the present level are unable to meet the regions demands for meat. With the highest costs of living in the nation, our dependence in these renewable resource is heavily relied upon for a more reasonable meat source.

Once determined on actual carrying capacity of each range, interest by herders is to maximise their herds. Once this is realized other methods of support would be towards creating facilities such as slaughter/freezer plants an outset at Nome for marketing. During my 2½ years with the Reindeer Industry there has been demand for practically every by-product of the reindeer, but we are hampered due to lack of proper facilities to meet the demand.

Those in attendance representing State and Federal agencies all agreed an interest in the grazing survey. Like any State or Federal agency pre-planning and budget requests need to be submitted year in advance. Availability of funds at this time is nil. The RHA representative will check with State and Federal within the Seward Peninsula withdrawel if they would support this venture. It was agreed by the principal agency S.C.S. that they would have to know by February 15th if \$150,000.00 can be obtained for this current year. If we are unable to obtain this goal that concerted efforts be made for 1979.

Mr. Dave Scott BLM brought out some facts for the industry to consider. Pressure is mounting that environmental impact statements be accomplished. This applies to the reindeer grazing lands as well. The Reindeer Industry should approach the State to agree to dedicate 160° parallel line for the protection of reindeer and grazing from competing caribou on reindeer grazing lands. This office is interested in the survey and will submit proposal for 1979.

Mr. Gazaway, BIA posed a question to Mr. Freeman S.C.S. if they could do the survey for \$75,000.00? Mr. Freeman responded with experience in the NANA survey it could not be done for less than \$150,000.00 for 4½ million acres.

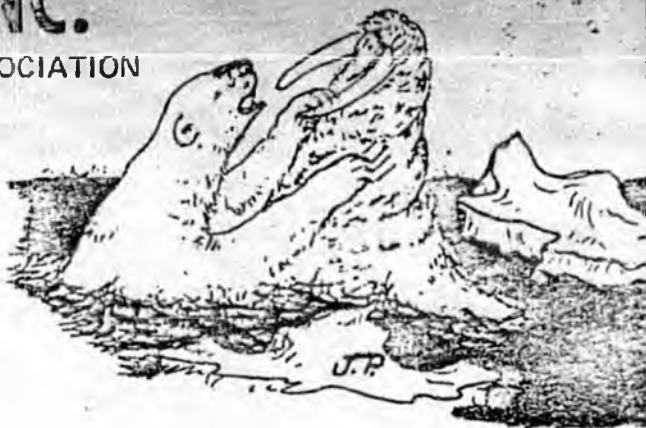
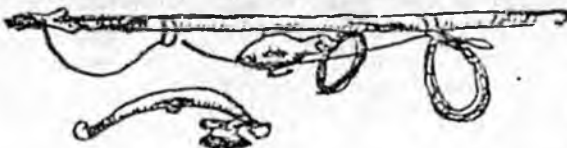
S.C.S. reiterated the importance of making use of the satellite

imagery done by U of A Fairbanks, both with Tom George and Dr. Kliens, both have had past experience in this field.

Both S.C.S. and RFA agreed to make contacts with agencies for possible support in funds and report our findings.

KAWERAK, INC.

BERING STRAITS NATIVE ASSOCIATION



November 11, 1976

Mr. Edward L. Nygard
Environmental Impact Analyst
Bureau of Indian Affairs
P.O. Box 3-8000
Juneau, Alaska 99802

Dear Ed:

This is a follow up to our telephone conversation regarding the seeking of additional funds towards the agriculture program. The Reindeer Herders Association interests is to continue the inventory and soil survey of reindeer grazing area leases held by the herders.

The NANA Corp. just completed a survey of the grazing areas of Kotzebue, Buckland and Deering. This was in joint efforts with B.I.A., University of Alaska, NANA, State of Alaska and Soil Conservation, funded by these agencies making use of the satellite.

Through this process, grazing area potentials are determined. A herder can also through this process determine the carrying capacity of reindeer.

The Reindeer Herders Association feels this to be an important step in maintaining a level to benefit the herder.

The RHA efforts, if funding is made available, is to initiate a 5-year program. And start with the Goodhope and Weylouanna range in Espenberg and Shishmaref.

My records show Goodhope as having 1,157,120 acres and Weylouanna 832,663 acres for a total of 1,989,783 acres.

In checking with NANA, they estimate the cost coming to .03¢ an acre. Based on this figure the cost would be \$59,693.49, plus adding

10% for unforeseen inflation.

The following will be the 5-year plan of survey and inventory:

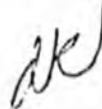
1977	Goodhope/Weyiousma Espenberg/Shishmaref	1,989,783 Acres
1978	Ongtowsruk/Olanna/Tocktoo Wales/Brevig/Brevig	2,007,394 Acres
1979	Kakarak/BIA/Davis Teller/None/None	1,885,406 Acres
1980	Johnson/Aukongak/Trigg Kougrok/Golovin/Death Valley	3,100,040 Acres
1981	Henry/Sagoonick/Stebbins Koyuk/Shaktoolik/Stebbins	2,117,960 Acres

I am sending a copy to Mr. Freeman of U.S. Soil Conservation since that department was involved with the NANA survey.

Any assistance in seeking funding is important. I am open to suggestions.

Thank you.

Sincerely,


Danny Kaman, Coordinator
Reindeer Contract

DK/lb

cc: Mr. Ted Freeman

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

2221 E. Northern Lights Blvd., Suite 129, Anchorage, Alaska 99504

December 2, 1977

Mr. Danny Karmun
Coordinator, Reindeer Contract
Kawerak, Inc.
Bering Straits Native Association
P.O. Box 505
Nome, Alaska 99762

Dear Mr. Karmun:

In a letter to the Bureau of Indian Affairs some time ago, you requested that the range surveys begun on the Seward Peninsula be continued to cover all of the reindeer range land in your area. The BIA has since contacted the USDA Soil Conservation Service (SCS) to explore the possibility of carrying on further range work next summer.

As you know, SCS was the agency that conducted the range surveys on the reindeer grazing lands within the NANA Regional Corporation's boundaries. The maps and the plant information developed are now being used by the herders, BLM, and SCS in preparing individual range management plans.

If range surveys are to be carried out next summer, several arrangements need to be made as early as possible. We would suggest that Kawerak, Inc. or the Reindeer Herders Association call a meeting of agencies and individuals who have interests in the Seward Peninsula to determine the priority ranges and the support that could be provided. The NANA Corporation and agencies such as BLM, BIA, National Park Service, Fish and Wild Life Service, SCS, and the State Division of Lands may want to participate in such a meeting.

We would appreciate hearing if you are interested in requesting further range surveys and if you think a meeting should be called to discuss the proposal. A January meeting would probably be as early as we could expect to get people together.

Sincerely,

Ted Freeman

Ted Freeman
State Resource Conservationist

*Rec'd
12/5/77
Meeting 12/13 & 14/77
Meeting 12/15/77*

cc: Clifford Weyionana, President, Reindeer Herders Association
Ed Nygard, Bureau of Indian Affairs, Juneau, Alaska
John Schaeffer, President, NANA Regional Native Corporation, Kotzebue, AK
Jim Preston, State Range Conservationist, SCS, Homer, Alaska
Dave Scott, Bureau of Land Management, Anchorage, Alaska



KAWERAK, INC.
P.O. BOX 505
NOME, ALASKA 99762

January 6, 1978

Mr. Ted Freeman
State Resource Conservationist
221 E. Northern Lights Blvd, Suite 129
Anchorage, AK. 99504

Dear Mr. Freeman:

In reply to your letter of December 2, 1977 regarding range survey on the Seward Peninsula, I have contacted all the principal agencies and the Reindeer Herders Association board officers.

This is to reconfirm our telephone conversation in which all agency personnel concurred to meet January 17, 1978 at your conference room, 221 E. Northern Lights Blvd., Anchorage at 9:30 a.m.

The following association officers and myself will arrive in Anchorage on January 16, 1978: Clifford Weylouanna, president; Alfred Karmun, vice-president; and Palmer Sagoonick, secretary.

I will send separate letters of invitations to Mr. Stell Newman, National Park Service; Mr. Fran Mauer, U.S. Fish & Wildlife Service; and Mr. Ted Smith, Chief State Land Resource.

If there is anything that you might require from us for information prior to the meeting please don't hesitate to call or write.

Sincerely,

Danny Karmun, Coordinator
Reindeer Contract

DK/lb

cc: C. Weylouanna, Shishmaref
Ed Nygard, BIA, Juneau
Dave Scott, BLM, Fairbanks
Jim Preston, SCS, Homer
C. Lonley, BIA, Nome

SOIL CONSERVATION MEETING

JAN 17, 1978

ANCHORAGE

Reindeer Herders Assoc. Meeting

Name	Affiliation	Address
1 Ted Freeman	SCS	2221 E Northern Lights Rd
2 x Pete Scornap	Ag. Exp Sta	P.O. Box AE Palmer
3 Dallas Cross	RHA	Box 4-11 Anch, AK 99508
4 Bill Mitchell	Ag. Exp. Sta.	Head Byron. Box AE, Palmer
5 BURT CLIFFORD	SCS	Anchorage
6 Edward Kern	DIV OF AG	PALMER
7 EARL BRACEWELL	UGA Extension Serv.	P.O. 869 Palmer
8 Bob Leedy	U.S. Fish + Wildlife Serv.	813 D St Anchorage, AK
9 H P. Lazaway	USDI, BIA	Box 3-8000 Juneau, AK 99807
10 David O. Scott, Jr.	USDI BLM	Box 1150 Fairbanks, AK. 99707
11 CLIFFORD WEYBURN	RHA	Shishmaref, Ak.
12 Gabriel G. Casselman	RHA	Worce, AK
13 Helen Nelson	RHA	Nome, Ak
14 Palmer Soyuzits	RHA	Shaktolik, Ak.
15 Alfred K Karmun	RHA	Deering, ak 99736
16 Sal De Leonardis	BLM	Anchorage
17 Jim Preston	SCS	Nome
18		
19		
20		

KAWERAK, INC.

BERING STRAITS NATIVE ASSOCIATION



REINDEER HERDERS ASSOCIATION



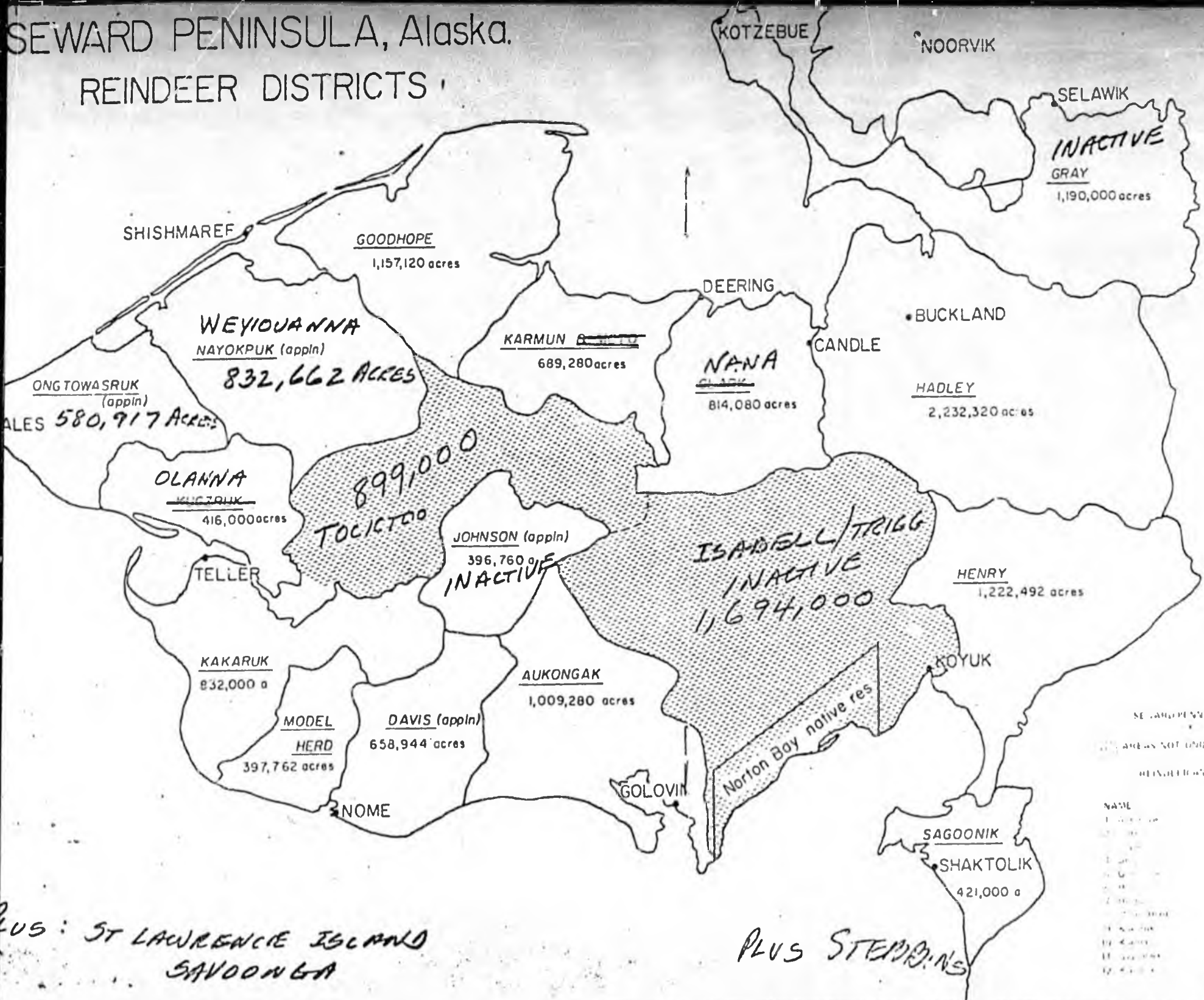
APRIL 25, 1977

SUBJECT: CURRENT HERDERS LIST SEWARD PENINSULA

<u>HERDER</u>		<u>ADDRESS</u>
AUKONGAK, SIG JR.		GOLOVIN, ALASKA 99762
DAVIS, LARRY T.	BOX 172	NOME, ALASKA 99762
GOODHOPE, FRED		SHISHMAREF, AK 99772
HADLEY, PAUL		BUCKLAND, ALASKA 99727
HENRY, ARCHIE		KOYUK, ALASKA 99753
KAKARAK, WILFRED		TELLER, ALASKA 99778
KARMUN, ALFRED		DEERING, ALASKA 99736
NANA CORP. HERD (DOUG SHELDON)	BOX 49	KOTZEBUE, AK 99752
OLANNA, WARD		BREVIK MISSION 99785
ONGTOWASRAK, CLARENCE		WALES, ALASKA 99783
SAGOONICK, PALMER		SHAKTOOLIK, AK 99771
SAVOONGA REINDEER CO. (PAT GOLOGERGEN)		SAVOONGA, ALASKA 99769
STEBBINS REINDEER CO. (TED KATCHEAK)		STEBBINS, ALASKA 99761
TOCKTOO, ARTHUR		BREVIK MISSION 99785
WEYIOUANNA, CLIFFORD		SHISHMAREF, AK 99772

SEWARD PENINSULA, Alaska.

REINDEER DISTRICTS



PLUS: ST LAURENCE ISLAND
SAVOONGA

PLUS STEPPINGS

SEWARD PENINSULA - APRIL 1954

ACRES NOT UNDER REINDEER DISTRICTS

REINDEER DISTRICTS

NAME	ACRES
1. INACTIVE GRAY	1,190,000
2. GOODHOPE	1,157,120
3. WYIQUANNA	832,662
4. ONGTOWASRUK	580,917
5. OLANNA	416,000
6. TOCICTOO	899,000
7. JOHNSON	396,760
8. ISABELL/TRIGG	1,694,000
9. HENRY	1,222,492
10. DAVIS	658,944
11. AUKONGAK	1,009,280
12. MODEL HERD	397,762
13. KAKARUK	832,000
14. NORTON BAY NATIVE RES.	-
15. SAGOONIK	421,000
TOTAL	-

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 835
 Title Special Appropriation to DNR for Reindeer Range Survey
 Requested by _____ Date 3/1/78

II. FISCAL DETAIL

Agency Affected Natural Resources
 Program Category Affected Economic Development-Agriculture
 Budget Request Unit(s) Affected Administration and Support - Agriculture

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		80.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		80.0				

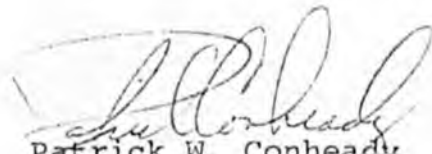
FUNDING (Thousands of Dollars)

GENERAL FUND		80.0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 3/1/78 PREPARED BY 
 AGENCY Department of Natural Resources
 PHONE 465-2400
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)