Association of Village Council Presidents
Nunam Kitlutsisti
Box 267
Bethel, Alaska 99559
December 28, 1976

Senator Kay Poland
Pouch V
Juneau, Alaska 99811

Dear Senator Poland,

We have finally received a copy of the work draft copy of Bill proposed for coastal zone management for the 1978 legislature. Representative Anderson asked that our comments be made known to the committee prior to January 5. The Association of Village Council Presidents will not meet until January 19th in Bethel, and at that time, the AVCP will decide on its position concerningthe establishment of REAA zones as Coastal Resource Districts, and the mechanism proposed for election of district representatives.

However, we are able to address at this time several parts of the bill that have been discussed within the region. The proposed legislation is considerably better then the administration's original draft. The creation of policy making Coastal Resource Districts is appropriate with the Governor's themes of de-centralizing government where local areasare capable of self-management, and in line with rural Alaska's opposition to a single state-wide board managing the State's vast coastal zone. In that the unorganized borough will comprise the major portion of lands included in the coastal zone. we would recommend that the Alaska Coastal Policy Council be expanded to include 3 additional public members from the unincorporated communities or boroughs in the State. An expansion in rural representation is the best way to guarantee adaquate analysis of the coastal management plans submitted from districts or from DCRA by the Council. As currently proposed, there would be very little expertise among members of the Council to judge rural land practices or current or proposed uses.

A second major change would involve the specific language of subsistence utilization. Rural Alaskans were recently informed by the Commissioner of Economic Development that our way of life is an embarrassment for econometrics. The rural subsistence lifestyle is difficult to value in cash terms or in market terms, and has been just ignored. We do not believe that it is being ignored so that subsistence will go away, but that it is too difficult to manage from a state-wide mechanism of government. We therefore propose that in Sec. 46.35.020 and again in Sec. 46.35.200, that subsistence utilization be considered as a use of the coastal zone. Each alternate word employed by the drafters of the bill imply subsistence, but only by clearly stating the word, and by describing the activity can the subject be properly covered.

The third major change we would recommend concerns districts managing their own programs. In Sections 46.35.040(2) and 44.47.035, a state-wide technical advisory system is proposed, with staff members from the DCRA being assigned different districts. In line with the revisions that guarantee local policy making, provisions should be made for the Coastal Resource District to mange its own funds, and hire its own staff. The bill correctly defines a policy, and a mechnism to assure local input, but expects a growing state bureaucracy to properly handle the input of both elder natives and the political decisions of both the district and the unincorporated communities. We feel that the

Alaska Policy Coastal Council should have the authority to pass-through Federal appropriations to the Districts to develop their own technical and financial programs, and aid in the growth of local ability to develop policy and manpower.

The problem of timing the lease sales brings on the fourth major problem. Delays in leasing may take us well past the 30 month maximum proposed by the bill in regard to designation of Districts within the REAA mechanism. In our own region, the Navarin Basin is a future possibility for OCS leasing, yet in the establishment of Districts the State may not want to create a District and thereby spread both finances and manpower as a hedge against future development while trying to fit within the election and designation mechanism of the Act. In Sections 46.35.050, and again in 46.35.110(c) specific time tables are created that may be unrealistic. The formation of a Disrict within the Lower Kuskokwim REAA to handle proposed activ ites brought on by the future Navarin Basin lease sale should be based on the expectation of a committment to lease by the Secretary of the Interior.

In unrelated topics, it would be important to include the subject of timing of development:intensive, moderate, or slow; as a condition of Sec. 45.35.030 with interest given to the seasonal nature of activities, particularly the timing of activities to conform to local environmental and biological conditions. Section 46.35.170(b) speaks of time limits established in this section(page 19, line 14-15) yet there is no mention of a time limit in the section. Section 46.35.130(d) does not mention the duration of the Council. If the District is to stay in existence after approval of its plan by the Council, this should be explicitly stated, and our region approves of the continuation of the Districts. We would also like to request that some review mechanism be made available to the Districts once organized to review the Council's authority under Sec. 46.35.040.

We hope that a representative from our region will be in Juneau after AVCP meets in mid-January to inform you of our region's decision on the mechanism of designation and election.

Sincerely yours,

[signature] /for

David Friday, Chairman
Nunam Kitlutsisti

cc: Representative Nels Anderson
Representative Phillip Guy
Representative William Akers
Senator George Hohman
Senator John Sackett
Governor Jay Hammond

RR 6 Box 3491
Juneau, AK 99803
January 3, 1977

Senator Kay Poland
c/o Legislative Affairs Agency
State of Alaska
Juneau, AK 99802

Dear Senator Poland:

I have reviewed the Draft of the "Act Relating to the Management of the Coastal Resources of the State" that is to be presented to the tenth Legislature. This appears to be a fine Act and should do much to prevent the loss of public values and the degradation of coastal communities that has blighted so much of the coast "outside". I do have two suggestions:

1. The Council appears to be too narrow with only selected local officials or the Governor's cabinet permitted. I would suggest that the Council should contain three, at large, voting members appointed by the Governor so that the State can have the benefit of some of the vast knowledge of industry people, University people, coastal residents or others who might have expertize in coastal planning matters.

2. Public hearings should be required by any entity submitting District Coastal Management Plans. These hearings should be recorded, transcribed and all questions raised at these hearings should be answered and all opinions and proposals should be discussed and their validity ascertained. The hearing records and evaluation should accompany any Plan submitted to the Council. In this way the Council and the citizens of the future will have a record of both majority and minority opinions within the community and the hearing records can serve as a valuable source of information in the years ahead as the value of the program is assessed and modified. The provision should be in the Act as local ordinances often have no such requirements.

   All hearings of the Council should likewise be recorded, transcribed, evaluated and made available as appropriate.

Thank you very much for the consideration of these proposals.

Yours truly,

Jim King

James G. King

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Rockville, Maryland 20852

January 5, 1977

Jack d'Ake

Mr. Robert LeResche
Director, Department of Policy
Development & Planning
State of Alaska
Pouch AD
Juneau, Alaska 99811

Dear Bob:

At the request of Glenn Akins, the Office of Coastal Zone Management has reviewed the draft bill on coastal management for Alaska, prepared by the Interim Committee established by HCR 123.

We have evaluated this bill in light of the standards established by the Coastal Zone Management Act of 1972, as amended, and of the experience provided by other existing state coastal management programs.

Our preliminary assessment of this bill is that it will establish the foundation for a coastal management program which is unique to Alaska. While the management program should meet many of the requirements of the Federal Coastal Zone Management Act, there are a number of areas outlined below where further provisions and clarifications appear to be needed. Our assessment assumes a demonstration in the completed management program that Alaska's existing land and water use controls will be adequate to carry out the state role envisioned by this bill, and that the standards, guidelines and procedures to be adopted pursuant to the final legislation will be sufficient to meet the minimum standards imposed by Congress in passing the Coastal Zone Management Act. We are anxious to work with your staff and the HCR 123 Committee as needed to insure that this very innovative approach to coastal management, which is sensitively designed to meet the needs of Alaska, can also fully meet the requirements of the Coastal Zone Management Act and implementing regulations.

As a first step in this process, which we hope will continue over the next few months while the bill is being further revised and considered, we offer the following comments and raise certain questions about the draft bill. First, there are three general issues which we would like to raise for your consideration, which could have a major effect on the timing and acceptability of the Alaska coastal management program in terms of the approval under Section 306 of the Federal Act.

1. <u>What interim controls would the state use to implement the Alaska coastal management program prior to completion and approval of district coastal management programs?</u> Prior to granting approval of a management program submitted by a coastal state, the Secretary of Commerce must find, among other things, that the state has the authority necessary to implement the program, including the authority required under Section 306(d).

If the state is to seek approval of its management program prior to completion of the district coastal management programs, the legislation should establish the authority and the mechanism for the state to carry out the management program, at the time the program is approved. This authority should insure that the objectives, policies and guidelines established in the management program will guide land and water use decisions by state agencies, local governments, and other Federal and regional agencies, while the district coastal programs are being prepared.

In other states with existing coastal management programs, the objectives and policies established in state legislation and rules and regulations are controlling at the time the program is approved. An appeals mechanism through an administrative body (such as the proposed Alaska Coastal Policy Council) and/or the courts can insure that land and water use decisions will be carried out in accordance with the management program.

2. What agency of the state will be designated to administer grants for implementing the program? The bill in its current form establishes responsibilities for several state agencies for approving and implementing a coastal management program. The Alaska Coastal Policy Council appears to have overall responsibility for carrying out the management program. This Council is representative of several state agencies and local officials. The staff Office of Coastal Zone Management within the Division of Policy Development and Planning may be utilized as staff to the Council. The Department of Community and Regional Affairs (CRA) has major responsibilities for assisting coastal resource districts, conducting a program of research and training and technical assistance, and for preparing coastal resource district management programs in certain situations. The bill does not make it clear which of these state entities would have the lead agency responsibility under Section 306(c)(5) of the Federal Act. This bill could clarify the fiscal and programmatic responsibilities of the lead agency for purposes outlined in the Coastal Zone Management Act and NOAA regulations.

3. What form will the standards and guidelines have, and what legal function will be served? Section 46.35.040 provides for the adoption by regulation of guidelines and standards covering major elements of the Alaska coastal management program. It is not clear from the language of this section whether these are procedural guidelines or standards for "identifying," "determining," "developing," "describing," and "designating," the policies of the management program, or whether these are to be substantive guidelines and standards of the program establishing the boundaries, uses, and other policies guiding land and water use decisions.

It is not clear whether state and local agencies in resource districts would be bound by substantive land and water use standards and guidelines at the time these regulations are adopted, or only whether a process of developing the substantive policies would be in place. Section 46.35.070 suggests that it is the intent of the bill for these guidelines and standards to provide the substantive basis for decisions. If the state is to seek 306 approval prior to completion of the district coastal management programs, these standards and guidelines should establish the substantive land and water use policies of the management program and should be enforceable at the time of approval. This might be accomplished by omission of the first words of subsection (A) through (G). These guidelines and standards should be specific enough for the lead agency to determine (1) the compliance of district coastal resource programs,

(2) the compliance of major development activities or projects in the interim, or those not covered by the approved programs, and (3) the consistency of Federal programs and policies affecting the state's coastal area.

The following comments are offered on the specific sections of the bill:

44.19.891(b):

Several other pieces of legislation similar to HCR 123 have expanded this section to include time constraints for actually making the appointments (i.e. "governor shall appoint within ___ months after enactment", or "by June ___,1977"). It appears that there is no actual date which would officially start the Council's performance of their duties.

44.19.892:

It is not clear why (4) limits the powers of the Council to take any reasonable action to carry out the provisions of Sections 891-894 only, rather than the entire bill, especially Chapter 35.

44.19.893:

To be in conformity with the Federal Coastal Zone Management Act, as stated in this section, the Council should also have the duty for administrative review of compliance with the guidelines and standards and the objectives of the program by state and local agencies and districts, provided under subparagraph (1). This assumes that the Alaska coastal management program will rely, in large part, upon the techniques for control of land and water uses specified in Section 305(e)(1)(a) of the Federal Act.

The Council might also have the duty to establish continuing coordination among the local units of government or coastal resource districts to facilitate implementation of the Alaska coastal management program, as paragraph (2) provides among state agencies.

The way item (3) is worded can perhaps be misunderstood. It sounds like the state will do all the supplying of data and information to the locals. While this may be appropriate for some of the unorganized boroughs or villages, some of the larger cities may be capable of generating their own data on a scale appropriate to their needs. The current local program development grant preliminary guidelines require inventories and analyses work to be performed by the locals. This line might read, "to help them carry out their planning and management functions" or "to provide technical and financial assistance to coastal resource districts . . ."

44.19.894:

This section should be more specific regarding the duties and responsibilities of the staff to the Council. The administrative staff of the Council should have more than a coordination function as implied in the title, "Coordinator," and should be capable of handling the fiscal and programmatic responsibilities and executive functions as the lead staff agency. If the Council or DPDP is to be the lead agency designated by the Governor, perhaps a title of "Director" or

"Manager" would be more appropriate. The term "may utilize" implies that the Council is not bound to utilize the staff agency for its lead administrative support. As indicated earlier, the duties and responsibilities of the lead staff agency should be clarified.

46.35.010(c):

We suggest that the Council should maintain the flexibility to review and evaluate the Alaska coastal management program, whenever appropriate, rather than restricting this to an annual review and revision. We also suggest that the eligible purposes for review and revision established by section (c)1-4 be broadened to allow general purpose revisions at the discretion of the state, which at a minimum, would allow for revisions in response to Federal performance evaluations under Section 312 of the Federal Act and for revisions in response to amendments to the Federal Act and implementing regulations.

46.35.030(7):

The term "special attention" should probably be defined under Sec. 46.35.200 or in the guidelines and standards pursuant to Sec. 44.19.893(1).

46.35.040(1):

As stated above, the guidelines and standards developed in response to this section should be substantive as well as procedural. This would be assured by omitting the first words of (A) through (G). These standards and guidelines should also apply to state agencies in addition to the coastal resource districts, and should be adopted with the force of regulation by the time the state seeks approval of their program under Section 306 of the Federal Act. If the state wishes to seek Federal approval under Section 306 prior to the adoption of such regulations, the objectives of the program in Sec. 46.35.020 would need to be much more specific, and provide an adequate standard for interim land and water use controls before district coastal resource programs are approved.

46.35.040(2):

Subsection 5 should include as well reference to Federal funding assistance programs which also are subject to the Federal consistency regulations of Section 307. We would recommend revising the sentence so it reads, ". . . managing land, conducting activities, or providing Federal assistance . . ."

46.35.080:

This section provides for implementation of district coastal management programs for a coastal resource district which does not exercise zoning, and for a municipality which has zoning and other controls. Are there units of local government with zoning or other controls other than municipalities which are not covered by either (a) or (b) of this section? Would subsection (b) more appropriately begin, "A coastal resource district which has and exercises zoning or other controls . . . ," if this is the case, to insure implementation of all district coastal resource programs?

46.35.060(b):

You may want to look at the use of the term "mediation of deficiencies." This implies that there may be a compromise of state guidelines and standards especially after the Council has found the program not approvable. Perhaps something like "the Council will advise and consult with the district on program inadequacies prior to going to the step outlined in (c)" would be another way of approaching it.

46.35.090:

This section seems to require compliance with the management program by coastal resource districts and state agencies only after completion and approval of district coastal resource programs. Unless this section also requires interim compliance by state agencies and coastal resource districts and other unorganized units of government, all of the district coastal resource programs would need to be completed prior to approval of the state program under Section 306 of the Federal Act.

If this section could be expanded to also provide for compliance and enforcement of the objectives of the chapter and the standards and guidelines promulgated under section 46.35.040, in place of coastal management programs until such programs are approved, the state could qualify for 306 funding much earlier. This enhanced funding could be used by coastal resource districts completing their programs.

Let me bring to your attention two statements made in the California Coastal Act of 1976 which deal with compliance and conflict resolution:

> "The legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The legislature therefore declares that in carrying out the provisions of this division, such conflict be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies."

This gives clear recognition that policies may be conflicting especially within a given resource area, but that in the event of conflict, the decision to be most protective of significant coastal resources should prevail. This, of course, is just one type of priority-setting that can be used as a means to resolve conflict. The second statement says that "all state agencies shall carry out their duties and responsibilities in conformity with this decision." This means that they must comply with the policies of the Act prior to local coastal program certification.

46.35.150:

This section and section 46.35.160 seem to limit the ability of the state to control land and water uses in unorganized districts to situations where major economic development activity has or will occur. This does not appear to be consistent with the Federal law and would seem to be contradictory to the objective of developing management programs in advance of such development activities occurring.

OCZM is concerned with the limitation on the definition of "major economic development activity" to OCS and other significant industrial and commercial development activities only. How would the coastal program developed as a result of this bill control other uses which might have direct and significant impacts on coastal waters of the state, such as residential and recreation development, or major public works such as highways, utilities and other civic and educational facilities? Could "major economic development activity" be changed to "major development activity" to include all uses with a direct and significant impact on coastal waters?

46.35.160(a):

The subsection states that the Council may direct the Department of Community and Regional Affairs to prepare a district coastal management program. The bill or the management program prepared for submission for Federal approval should describe the circumstances under which the Council might not direct CRA to prepare such a program, and what alternative courses of action might be taken by the Council to insure compliance with the management program.

46.35.170:

This section appears to provide a mechanism for local governments, village and citizen involvement in the development and approval of district coastal resource programs, while insuring compliance with the management program guidelines and criteria. However, this would require that the Coastal Policy Council have the final administrative authority to determine whether "new matters" submitted by a city or village under (b) are "substantially consistent" or not. This provision should allow the Council to disapprove the "new matter" or require modification as needed, after considering the views of the coastal area board.

If, however, a city or village is able to block approval of the district coastal resource program through this provision, this section could become a major obstacle to Federal approval of Alaska's coastal management program.

46.35.190:

We read this section to require state agencies to comply with the Alaska coastal management program within 6 months of approval, and assume it is not meant to give 6 months to establish a process to put the requirement for operation at some future date. The bill should also make clear its intent to expand the basis of decision-making under existing statutes to allow purposes, objectives, policies and standards of the Alaska coastal management program to be taken into account in decisions of other state agencies.

As it appears that the state agency enforcement of the Alaska coastal management program is an integral and major part of this bill, it would be difficult to obtain 306 approval of the program prior to completion of this 6 month compliance by state agencies. However, this period roughly corresponds to the period necessary for Federal review of the management program and environmental impact statement, so it might be possible to begin the review process prior to full state compliance.

What mechanism is provided for administrative review of the state's activities for enforcement of compliance with the state program? The key provision of coastal legislation in other states is an appeals mechanism and standing for affected parties, and units of government to appeal land and water use decisions to an administrative agency and/or the courts.

46.35.200:

The definition of the Alaska coastal management program would be desirable since several places in the bill refer to compliance or consistency with this program. The definitions of the uses of national interest is very important to meeting the concerns of Federal agencies and the Federal Act's requirements. We recommend that you take a close look at this since it may save you a lot of controversy. Our Section 305 regulations would suggest that there are other items that deserve mention (i.e. resource preservation of Federal lands such as parks and ther recreation facilities, historic sites, etc., and production of food and fiber such as fisheries, agricultural or forest lands). Therefore, you might want to expand the list or make it non-exclusive by saying "such as the use of resources . . ." and further refine it in the guidelines.

Finally, of some concern is the frequent use of the word "may" in connection with the exercise of authority by one or another entity and in relation to one or another subject matters. Thus, under Section 46.35.069(c), page 10, the Council "may require" certain actions in relation to a district coastal management program. Under Section 46.35.090(b), page 12, the Council "may" order certain actions. Under Section 46.35.110, page 13, a regional educational attendance area "may be organized into a coastal resource service area." When used in these sections and others elsewhere in the bill, is "may" also meant to imply "may not?" On the basis of its plain meaning, the word clearly implies discretion, ergo clearly also implies may not.

We hope these comments will help in your revision of the proposed coastal bill. If we can be of further assistance or if you have any questions in this regard, please call me at 202/634-4235.

Sincerely,

Richard B. [illegible] (for)

H. Grant Dehart
Pacific Regional Coordinator
Office of Coastal Zone Management

3/9/77

COMMITTEE REPORT

SENATE

4/11/77 Date

Mr. President:

The Committee on RESOURCES has had SB 227
[...]gulating procedures on applications for permits for use of state's air, land, or water resources
under consideration. A majority of the members of the Committee

/_7 recommends it do pass

/_7 recommends it do not pass

/_7 recommends it do pass with attached amendment(s)

/X7 recommends it be replaced with CS for SB 227 and that CS for SB 227 do pass

/_7 (and) recommends it be referred to the ________ committee

/_7 reports it back without recommendation

/_7 AND attaches a report of its intent

/_7 (other) ________

MEMBERS SIGNING THE MAJORITY REPORT:

[illegible]	Do Pass	
[illegible]	No Rec	
[illegible]	[illegible]	
[illegible]	Do Pass	

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

Collotta recommends: Do Pass

________ recommends: ________

________ recommends: ________

R. Poland
Chairman
Do Pass

S 60

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH O – JUNEAU 99811

May 17, 1977

SB 227

The Honorable Kay Poland
Alaska State Senate
Capitol Building
Juneau, Alaska 99811

Dear Senator Poland:

We have been tracking the progress of SB 227, the bill whose goal is to expedite the State's permit process by providing the "one stop shopping" for permits and to provide a permit information system. As one of the bill's original sponsors, I know that you share my commitment to make certain that the bill is implemented successfully.

As you know, HCS CSSB 227 mandates the Department of Environmental Conservation to be the "lead" agency for coordination of applications for State permits. However, apparently due to an oversight the bill was not referred to the Finance Committee of either house, and as a result I am informed that the funding of the fiscal note needed to implement the bill may not be provided. If no funds are appropriated, this means that the Department will be unable to implement the bill within the time frame established in it. We would be required to delay implementation until fiscal year 1979, and then only if the budget process results in funding for that fiscal year.

As you can see, the Department faces a serious dilemma. To implement HCS CSSB 227 we will need funding from the Legislature. The Department complied fully with the Legislature's administrative procedures by supplying fiscal notes to the appropriate committees. Therefore, I hope that you will be able to obtain funding, perhaps by ensuring that the Conference Committee on the Budget appropriates moneys to implement this bill.

If you have any questions on this matter, please do not hesitate to contact me.

Sincerely,

Ernst W. Mueller
Commissioner

Enclosure: Fiscal Note

CSSB 227 "PERMITTING"

SB 227, the proposed "Environmental Coordination Procedures Act" (ECPA) is designed largely around a bill passed by the Washington State Legislature in 1973. The bill is designed to facilitate communications between the public, including applicants for permits, and state agencies which have jurisdiction over various permits. The bill establishes a procedure, optional with the applicant, by which all permits necessary for a particular project may be applied for, and processed, as a single unit. A single, joint public hearing on all permits is provided for, as well as a single public notice procedure.

As envisioned, the bill has the following objectives:

1. To provide a regularly, accessible local office where information on the requirements for federal, State, and local permits may be acquired. These, the so-called "Permit Requirements Information Centers," are to be established in the Office of the Commissioner of Environmental Conservation, and each regional office of the Department of Environmental Conservation.

2. To provide a single master application form, which is submitted to the Department, and circulated by it directly to other State agencies. The other agencies must declare, within 15 days, whether they require permits of the applicant and, if so, which permits. Agencies which do not so declare may not subsequently require a permit of the applicant for that project.

3. To provide for an expedited process by which all permit applications, as identified by State agencies, are transmitted by the Department to the applicant, are returned by him to the Department, which subsequently coordinates the permit processes of other agencies. Thus, the contacts between an individual and a potentially large number of State agencies can be limited to a single contact with one agency. In the event of problems with a particular project, communications between all agencies and the applicant are facilitated, but if no such problems arise, the applicant contacts only the Department of Environmental Conservation.

4. ECPA would help coordinate the decision-making process for all State agencies, through a mandated information flow, but it would not remove or alter an individual agency's decision-making authority.

5. If a public hearing is found to be required after polling all affected agencies, ECPA would require a single public hearing at which all the various views of the agencies, the applicant, and the public can be heard.

6. The ECPA process would eliminate guesswork and undue delays in permit processing; a firm time sequence is established by law, this sequence can be extended only for overriding considerations.

7. The Department of Environmental Conservation would be the administrator of the program, coordinating the efforts of the various State agencies. ECPA would not give DEC any new jurisdiction or new power over other State agencies. ECPA specifically retains the existing authorities of State agencies.

8. ECPA would provide for proof of conformance with local government requirements before State permits are issued. In a real sense, local governments would then have a "veto" or certification power over a project through denial of certification.

9. The committee substitute allows for the withholding of the final permit until ownership of the land is established, but requires the application process to continue concurrently with acquisition. As a practical matter, any state land involved is usually a part of the application process.

It should be understood that the ECPA process does not, necessarily, expedite the permit process. An applicant can choose to handle each required permit on an individual basis, although this could potentially be more time consuming. Most permits for small projects are handled routinely by State agencies, many simple ones in a matter of days or hours. The ECPA process, in that it has a minimum time requirement of 150 or so days between master application filing and permit issuance, would not be chosen by a project sponsor which had only a few, simple permits needed.

More complex projects, such as oil refineries, power plants, ~~pipelines~~, etc., would be required to have a much larger number of permits, some of which, because of legal requirements or built-in delay factors, may take 180 days or more for processing. For example, the discharge permit issued by the Environmental Protection Agency under the National Pollutant Discharge Elimination System requires that permits be applied for 180 days prior to discharge. State requirements vary; many have mandatory 30- or 60-day waiting periods, although extensions for cause are allowed. Many State permit processes do not mandate time schedules, and potentially the applicant could suffer undue delays without recourse. By mandating a maximum time schedule by which all permits must be processed and issued, ECPA would assure the applicant of an answer within a time certain.

The ECPA permit process is by no means without cost to the public. Costs previously borne by the applicant, and his consultants, if any, would be partly borne by the State in copying permit applications, distribution, and coordination costs. Many State permit and approval programs are conducted at no cost to the applicant, and those that do not always relate actual costs of permit processing to the fee. In addition, the establishment of the Permit Requirements Information Center would entail costs, both in manpower and material.

Existing fee schedules are retained, and nothing in the Act prohibits amending the fee schedules, if necessary, to meet any added costs.

3/14/77 Rep. Strong Com. Mueller

Re: SB 227

An Act regulating the procedure on applications for permits for the use of the state's air, land, or water resources. (construction projects)

Summary:

Establishes a simplified procedure and a degree of certainty for the processing of permit applications.

1. Master application is made to Department of Environmental Conservation. 46.30.030.

2. D.E.C. circularizes all other state agencies which must respond within 15 days or lose their option to participate further. 46.30.030 (b) (c)

3. D.E.C. gathers all agency requirements and submits to applicant for completion. 46.30.030 (e)

4. D.E.C. returns completed forms to agencies and within 30 days makes notice of public hearing, unless none of the agencies have requested a hearing. If no public hearing is requested, public shall have 30 days to submit views in writing. 46.30.030 (f) and 46.30.050 (a) (b)

5. If hearing is required it shall be held not less than 20 days, nor more than 30 days following last publication of notice of hearing. 46.30.050

6. Final decisions from the state agencies must be forwarded to D.E.C. within 60 days following hearing. 46.30.070 (a)

7. If any agency denies the permit it must state its reasons and also present an alternate means for completion of the project. If the agency believes no alternate means is feasible, it must provide written reasons for that conclusion. 46.30.070 (c)

8. Any person denied a permit by a state agency may appeal to the Superior Court. 46.30.090

9. The Bill is also a repealer, in effect, because the procedures described are in lieu of any regulations enacted before or after the legislation. 46.30.110 (a)

10. All local and federal laws must be complied with before final permit is issued. 46.30.130

11. Establishes public information centers in all regions. 46.30.160

12. Excludes ATC and APUC. 46.30.200 (4)

13. Does not include applications to lease, purchase, or otherwise acquire state land. However, if the permit application is for construction on land to be acquired from the state, the Bill requires that the state agency or municipality promptly abjudicate the application for the land or water filed by the applicant. 46.30.040

14. Maintains fee schedules. 46.30.120

15. See all definitions. 46.30.200 (1) - (8)

16. Passage of Bill would be a public service.

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

CLINTON T. ANDREWS JR.
Managing Editor

Page A-4 Sunday, February 27, 1977

Re: Difficulty of obtaining permits

Unwelcome Mat

SOMETHING HAPPENED in California recently that deserves the attention of thoughtful Alaskans. The Dow Chemical Co., after spending more than two years and millions of dollars attempting to get clearance for construction of a petrochemical complex on the Sacramento River, folded its tent and pulled up stakes. The $500 million it had set aside for investment in California now will be allocated to projects in other states.

Those who don't like corporate growth will cheer. The environmentalists who scattered thorns in Dow's path can hail their victory. But there is much more to this than such a simple reaction.

In a report in the Seattle Times on Feb. 17, staff reporter Paul Andrews, who is on leave attending Stanford University, wrote:

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THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 227
Title Procedure on applications for permits for state air, land, water.
Requested by Poland & Tillion Date

II. FISCAL DETAIL
Agency Affected Environmental Conservation
Program Category Affected NRM & EC
Budget Request Unit(s) Affected Program Coordination

EXPENDITURES (Thousands of Dollars) Inflation at 6%

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		56,725	60,128	63,736	67,560	71,614
200 TRAVEL		15,000	15,900	16,854	17,865	18,937
300 CONTRACTUAL		21,500	27,790	24,157	25,607	27,143
400 COMMODITIES		1,200	1,272	1,348	1,429	1,515
500 EQUIPMENT		4,000	--	--	--	--
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		98,425	100,090	106,095	112,461	119,209

FUNDING (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
GENERAL FUND		98,425	100,090	106,095	112,461	119,209
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
FULL TIME		4	4	4	4	4
PART TIME						
TEMPORARY						

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

See attached

IV. DATE 4-15-77 PREPARED BY A. L. Eagle
AGENCY Environmental Conservation
PHONE 465-2684

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

FISCAL ANALYSIS SB 2[illegible]7

The difficulty in preparing a fiscal analysis for this bill stems from it's optional nature. We are not sure how often this procedure will be utilized by the public. Washington State established a similar optional system in 1973. By [illegible] of the 119 applications received, 10 were active, 25 permits had been issued and 84 were withdrawn. Basically their system is used in determining the various agency positions on a permit prior to withdrawal. Assuming similar usage in Alaska, say for the purposes of this analysis, 30 permits per year for major projects; the tasks required by this bill and their associated costs are:

1. Develop master application format, print and distribute.

Object Code	Item	Cost
300	development, printing and distribution	$2,000.00

2. Local government certification of project proposals

   Fiscal impact on local governments only

3. Receive screen and process master applications

   Costs can be absorbed in Field Office and Permit Information Centers.

4. Establish a tracking mechanism. Once established, log and process master applications to other agencies.

Object Code	Item	Cost
100	Clerk IV	$15,270

5. Process agency responses to master applications

   Costs included in #4 above.

6. Mail necessary applications to applicant. Send complete applications to other agencies.

   Costs included in #4 above.

7. Verify land and water ownership

   Costs may increase for applicant but can probably be absorbed by the Department. The applicant would be required to submit the proof of ownership.

8. The Department must cause an advertisement to be placed at the applicants expense in the local papers, once a week for three weeks.

   To avoid costs here the applicant would be required to show proof of publication. Therefore State costs can be absorbed into the position established under item #4 above.

9. Public hearings must be held on controversial permits. Assuming half of the 30 permits per year require hearings at a cost of $1,500.00 per hearing costs become $22,500.00

Object Code	Item	Cost
200	travel	$15,000.00
300	hearing and transcription	$7,500.00

10. Hearing information must be summarized and distributed.

Because this activityis already done to some extent, the cost to summarize the additional hearings can probably be absorbed by existing and new positions and associated costs discussed above.

11. Final decisions by other agencies must be received and processed through to the applicant as a final permit.

Costs included in #4, above.

12. Information Centers are required at each regional office and in the Commissioners Office in Juneau. Assuming a contractual arrangement with a municipality where Regional Offices exist to be just as expensive as establishing these centers "inhouse", the costs become.

Object Code	Item	Cost
100	Ad. Assistant I - Anchorage	$18,465.00
100	Ad. Assistant I - Valdez	$21,885.00
100	Ad. Assistant I - Fairbanks	$21,105.00
100	*Ad Assistant I - Juneau	-0-
	Total	$41,455.00

* Costs for Juneau position can be absorbed in #4 above.

13. Contracts for Local Permit Information Centers may be initiated with outlying communities. Assuming no additional personnel would be hired, the costs should be minimal. Estimate 1,000/year support costs for perhaps a dozen centers

Object Code	Item	Cost
300	12 Local Information Centers	$12,000.00

14. Miscellaneous support costs for each center and new position

Object Code	Item	Cost
400	Commodities	$1,200.00
500	Equipment for new positions	$4,000.00

3/14/77

Re: SB 227

An Act regulating the procedure on applications for permits for the use of the state's air, land, or water resources. (construction projects)

Summary:

Establishes a simplified procedure and a degree of certainty for the processing of permit applications.

1. Master application is made to Department of Environmental Conservation. 46.30.030.

2. D.E.C. circularizes all other state agencies which must respond within 15 days or lose their option to participate further. 46.30.030 (b) (c)

3. D.E.C. gathers all agency requirements and submits to applicant for completion. 46.30.030 (e)

4. D.E.C. returns completed forms to agencies and within 30 days makes notice of public hearing, unless none of the agencies have requested a hearing. If no public hearing is requested, public shall have 30 days to submit views in writing. 46.30.030 (f) and 46.30.050 (a) (b)

5. If hearing is required it shall be held not less than 20 days, nor more than 30 days following last publication of notice of hearing. 46.30.050

6. Final decisions from the state agencies must be forwarded to D.E.C. within 60 days following hearing. 46.30.070 (a)

7. If any agency denies the permit it must state its reasons and also present an alternate means for completion of the project. If the agency believes no alternate means is feasible, it must provide written reasons for that conclusion. 46.30.070 (c)

8. Any person denied a permit by a state agency may appeal to the Superior Court. 46.30.090

9. The Bill is also a repealer, in effect, because the procedures described are in lieu of any regulations enacted before or after the legislation. 46.30.110 (a)

10. All local and federal laws must be complied with before final permit is issued. 46.30.130

11. Establishes public information centers in all regions. 46.30.160

12. Excludes ATC and APUC. 46.30.200 (4)

13. Does not include applications to lease, purchase, or otherwise acquire state land. However, if the permit application is for construction on land to be acquired from the state, the Bill requires that the state agency or municipality promptly abjudicate the application for the land or water filed by the applicant. 46.30.040

14. Maintains fee schedules. 46.30.120

15. See all definitions. 46.30.200 (1) - (8)

16. Passage of Bill would be a public service.

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

CLINTON T. ANDREWS JR.
Managing Editor

Re: Difficulty of obtaining permits

Unwelcome Mat

SOMETHING HAPPENED in California recently that deserves the attention of thoughtful Alaskans. The Dow Chemical Co., after spending more than two years and millions of dollars attempting to get clearance for construction of a petrochemical complex on the Sacramento River, folded its tent and pulled up stakes. The $500 million it had set aside for investment in California now will be allocated to projects in other states.

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COMMITTEE REPORT

3/11/77

SENATE **Finance

5/2/77 Date

Mr. President:

The Committee on Resources has had SB 238
oil & gas prperties production tax
under consideration. A majority of the members of the Committee

/_7 recommends it do pass

/_7 recommends it do not pass

/_7 recommends it do pass with attached amendment(s)

/X7 recommends it be replaced with CS for SB 238 and that CS for SB 238 do pass

/_7 (and) recommends it be referred to the ______ committee

/_7 reports it back without recommendation

/_7 AND attaches a report of its intent

/X7 (other) INDIVIDUAL RECOMMENDATIONS

MEMBERS SIGNING THE MAJORITY REPORT:

Tillion	Do Pass	
[illegible]	No Rec	
John [illegible]	NO REC	
[illegible]	[illegible]	

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

______ recommends: ______

______ recommends: ______

______ recommends: ______

R. Poland
Chairman

No Rec

S 60

AGO 547858

AMENDMENT

OFFERED IN THE SENATE: BY: ____________

TO: ____________ SENATE BILL NO. 238

HOUSE BILL NO. ____________

PAGE: 2 LINE: 27-29

Delete everything after the word "equals", and substitute the following:

":

(1-[PEL/TP]) exp ([300 x WD]/PEL)

Where: PEL = The production rate at the economic limit;

TP = Total production during the month for which the tax is to be paid;

WD = The total number of well days in the month for which the tax is to be paid; and

Where "exp" indicates that the expression following it is an exponent."

AGO 547860

AMENDMENT

OFFERED IN THE SENATE: BY: ____________

TO: ____________ SENATE BILL No. 238

HOUSE BILL No. ____________

PAGE: 3 LINE: 1-5

Delete the first sentence

Page 3, Line 7:

Delete everything after the word "during", and substitute the following material:

"the month for which the tax is to be paid,"

AGO 547861

Poland

EFFECTIVE SEVERANCE TAX RATES IN PERCENT
FOR PRESENT LAW, HB 144/SB 103, HB 321, AND PROPOSED CHANGE, BY UNITS
FISCAL YEAR 1978

Int. Com — Admin

Field Units	Present Law	HB 144/SB 103	HB 321/SB 238	Proposed
Beaver Creek	8.3	5.6	10.2	5.2
Granite Point				
280001	7.7	5.8	10.5	6.7
280002	7.5	5.1	9.3	4.3
280012	7.0	0	0	0
280022	8.0	6.8	10.9	5.5
McArthur River				
520001	10.5	11.7	14.8	12.7
520002	9.0	7.5	13.3	7.5
520003	8.8	7.4	13.1	9.0
Middle Ground Shoal				
524001	5.6	4.2	7.7	3.9
524002	6.0	5.3	8.7	5.0
524003	5.8	4.9	8.5	5.5
524013	5.6	4.4	8.2	4.8
Swanson River				
772001	10.4	7.7	10.5	4.[illegible]
772002	0	0	0	[illegible]
Trading Bay				
800001	7.6	5.3	12.0	4.3
800002	7.2	0	0	0
800003	0	0	0	0
800004	8.5	5.7	11.4	2.1
800005	7.1	2.2	3.5	0
PRODUCTION WEIGHTED COOK INLET COMPOSITE	8.9	8.3	12.3	8.7
PRUDHOE BAY	7.7	12.3	9.6*	10.3*

* Assuming an economic limit of 750 bbl/day

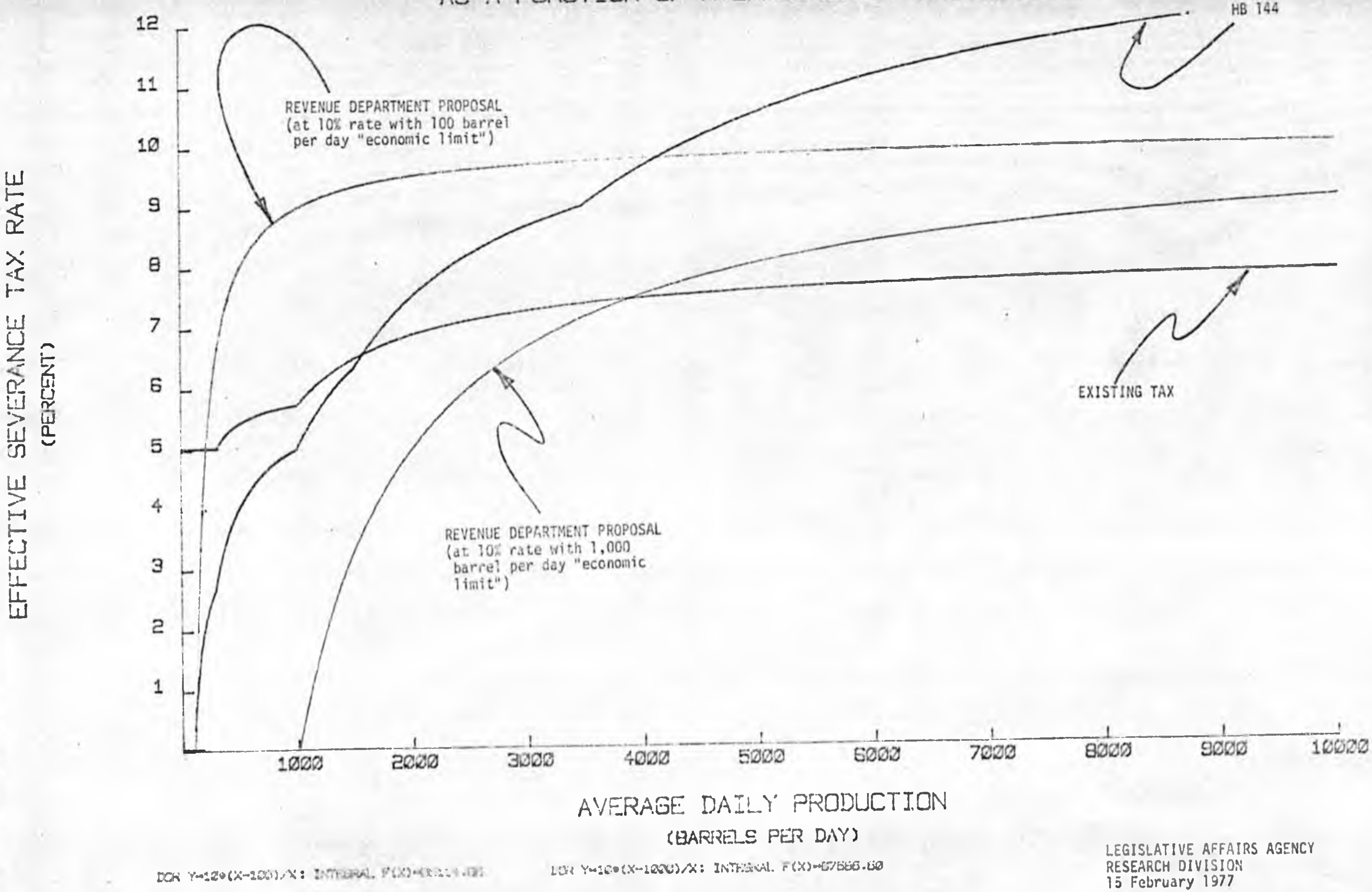
Prepared for Senator Poland by:
Legislative Affairs Agency
Research Division
13 April 1977

AGO 547862

No. 2

EFFECTIVE SEVERANCE TAX RATE

AS A FUNCTION OF AVERAGE DAILY PRODUCTION



LEGISLATIVE AFFAIRS AGENCY
RESEARCH DIVISION
15 February 1977

AGO 547811

Alaska State Legislature

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

SENATE RESOURCES COMMITTEE

KAY POLAND CHAIRMAN

Wed.
~~TUESDAY,~~ APRIL 13 ROOM 126, CAPITOL 3:00 P.M.

DISCUSSION AND WORK SESSION ON COMPOSITE COMMITTEE SUBSTITUTE FOR

SB 103 - OIL & GAS PROPERTIES PRODUCTION TAX

SB 238 - OIL & GAS PROPERTIES PRODUCTION TAX

SB 306 - CABINS WITHIN STATE PARKS & GAME REFUGES

HB 195 - DRILLING OF DEEP WELLS

HJR 15 - OFFSHORE AREAS, GEOLOGICAL & GEOGRAPHICAL DATA

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

RICHARD KILGORE - Okay, I would then like to turn to the severance tax. As I said in my general remarks, if you're interested in raising the severance tax, both of these bills that we're going to consider seem to in general follow our guidelines, and has to do with more the specifics of how each one of them works. We'll start with HB 144, SB 103. This bill does several things. One is it moves to lease averaging rather than wells in the calculation, and we think that makes an awful lot of sense from the administrative standpoint, and probably should be done even if you don't raise the severance tax, probably even amending your present severance tax would do that, and would make sense. Page 1, Line 11 of the bill moves the point of tax from the wellhead to a new point of production which is later defined.

SENATOR HUBER - How is this defined?

RICHARD KILGORE - It's defined back on Page 4, line 9, gross value at the point of production means for oil, the value of the oil at the point where it is metered or measured in a condition of pipeline quality on the premises of the lease or property from which it is recovered. So in come cases it would change the point of taxation from the wellhead to somewhere beyond up to a point where it was meter measured and made put in pipeline conditions, so it clearly, and this is pointed out by someone else, moves the point of taxation and in a sense in certain situations it would tend to tax the transportation and upgrading of the crude oil. That's clearly the case.

SENATOR HUBER - I think it had another reason for being in there. I think it was on account of that Kenai deal to where if they transferred our royalty share portion that went into resale that they were subject to the APUC, and doing it this way, while they pushed their royalty share through our line, they were not subject to our APUC. There was quite a problem on that in Kenai, it happens to be in gas, but we're talking jointly here and I think this was done for the company's benefit.

RICHARD KILGORE - Well, I think also in Cook Inlet, as I understand it, there have been continuing disputes about questions of wellhead and where one taxes, and I think this is all intended to straighten this matter out by legislation. This is where it is, and we don't have to argue about backing out transportation or whatever, this is what they're talking about. This makes administration of it easier, clearly, I think that some of the testimony yesterday it was complained that there would be a cost to the companies in a sense that they wouldn't be taxed on transporting and upgrading. I think that if it's administratively easier and there is a cost, perhaps what you should do here is get a better idea of what you're really talking about in terms of cost and dollars and cents. What is really the extra costs that companies would bear by doing this, or some idea. I think that's how you would have to assess that. Now lets look at the tax rates in this bill. I think you are all familiar with the fact that it adds higher well brackets and puts in these higher brackets at higher tax rates than exist in the present legislation, and it also lowers the tax rates, both the cents per barrel tax and the percentage tax for lower productivity wells. Now, just to give you a rough idea of what this does, and I'd like to just give you some numbers on how it would seem to us to effect, say, Prudhoe Bay, and then look at the Cook Inlet situation under this bill. All the numbers I'm going to use are ease of comperability for 27 gravity crude oil. Now, in Prudhoe Bay, and I'm assuming for purposes of this calculation that the wellhead value on Prudhoe Bay is say $7.50 per barrel just as illustriative. Under the present tax for a 5,000 barrel a day well in Prudhoe Bay, and these figures are cents per barrel of gross production not of taxable production, but you still get an idea of the relative increase in the tax. The present tax for 5,000 barrel a day well at $7.50 is 49 and 1/2 cents per barrel of gross production. This tax for the same well, a 5,000 barrel a day well would raise the tax to 68.9 cents. That's about a 37% increase in taxation of a 5,000 barrel a day well in Prudhoe Bay. If you went to a 10,000 barrel a day well, the percentage increase and the tax is greater. As against about 51 cents at the present time, this tax would raise it to about 80 cents, so on a very productive 10,000 barrel a day well at Prudhoe Bay, the increase there would be about 58%, increased through this tax over what you have today. The effective rate on gross barrels produced would go from about 7.8% on a 10,000 barrel a day well to about 12.2% under the new tax, so this is what it does to Prudhoe Bay, very significant increases. And the percentage as I gave you were really the effective rate on taxable barrels going from 7.8 to 12.2. So you are ending up on the very productive well, you end up with an average effective rate or taxable barrels of just under 12 and 1/2 percent in Louisiana. I think that's what was intended. So that's the impact it has on Cook Inlet, I mean on Prudhoe Bay. Now, lets look at Cook Inlet, and particularly the old oil because we've always been worried about effective taxation of old oil. Now, this bill does retain the cents per barrel feature that exists in the present bill, and it retains the cents per barrel feature with basically the same floor price as you have today. It works out for 27 gravity crude to about $6.10 today. So it retains that, but what it does at the same time is that it does lower the rates of taxation both percentage and the cents per barrel taxes in the lower well brackets, so despite the cents per barrel feature still being in there, it does lower taxes on low productivity wells below what they are today. I'll again give you some examples, and they'll again be on the same basis as before. 27 gravity crude, and these are figures on a gross barrel basis. At the present time a 100 barrel a day well in Cook Inlet would be on the cents per barrel tax and it would pay 26.6 cents per barrel. This bill on a 100 barrel a day well would eliminate the tax. It would go to zero, and a very substantial gain for a 100 barrel per day well. For a 300 barrel a day well, would also pay under the present tax, 26.6 cents. Under this bill, under our calculations, it would drop that 26.6 to 14.2 cents per barrel. So you have about a 12 and 1/2 cent reduction for a 300 barrel a day well, and if you move up to a 500 barrel a day well, you still get a reduction. Under the present tax it would be 28.7 cents. Under SB 103 it would be 21.2. So even for a 500 barrel per day well, you're going down by about 7 and 1/2 cents per barrel, and in fact this new tax as compared with the present lowers the tax up to somewhere wells in the range of 1,000 to 2,000 barrels a day. Somewhere in that range, the new tax gets higher than the old tax, so it does provide very significant relief for low productivity wells.

SENATOR HUBER - Madam Chairman - the figures which we have in the committee they are open to him now, I think, I just wonder when he finishes there. If you have any dispute with those, I think that they confirmed his testimony.

RICHARD KILGORE - Yes Senator, we did do our own homework on this obviously, and we have had a chance to look at what legislative affairs has, and they coincide with what I'm testifying here.

SENATOR HUBER - I was wondering. It would help us a lot to know that they do or don't or if there are differences.

RICHARD KILGORE - No they don't they calculate the same way we do.

Now, so this bill does, I think, meet our objections really to the present taxation of old oil at Cook Inlet which has the high effective rates because of the cents per barrel feature. At least its present operation would reduce the tax substantially for low productivity wells, and we think that's a good feature of this bill. I should point out though, this bill does retain cents per barrel and it does retain escalation of that cents per barrel, so it is possible that under this bill we would again be back in the same problem that we have today. If the escalation manages to raise the cents per barrel tax high enough, we could be back in this problem again of taxing old oil in Cook Inlet at high prices, it's possible. The potential is still in this bill.

SENATOR HUBER - This evades it from present time, and we might have to look at it again in future years if we don't do something with cents per barrel.

RICHARD KILGORE - Yes, it may be back again.

SENATOR HUBER - Well, I'd sure look at it again, Madam Chairman, than I would to have Tom Fink for Governor.

RICHARD KILGORE - I think I was on record the first time I testified as saying that if you do retain a cents per barrel that perhaps what you do is at least consider no further escalation in cents per barrel, and perhaps that could be in this bill too. I don't know. I want to only point out that it could happen again. So that's basically what this tax does. It raises fairly significantly, the tax in Prudhoe Bay, but it does lower the tax considerably on low productivity old oil priced wells in Cook Inlet. It also has a severance tax for gas that is flaired, and a very substantial one, five times the rate. I think before you do this kind of thing and add such a tax, you ought to look very carefully at where gas is being flaired and why. There has been testimony yesterday about safety flairs and so on. I think you ought to look very carefully at what it is that you would be taxing and why the flairing is going on at the present time. Now, if what you're really trying to do is tell companies to find a use for this flaired gas and find markets for it, I think that at the very least if there is gas being flaired now which you think you could find markets for, therefore you're going to try to compel people through this tax, somebody used the word incentive the other day, but you're compelling them through this tax that at least you ought to provide somebody with a grace p riod before they would pay this tax. That is, you wo ı't start right away. You would make it clear to then that they had certain time within which to find markets for this. You wouldn't penalize them in the meantime, but if you don't find gas for which it's logical to find markets, that you would say at some point in the future you're going to start paying a tax on this, so you had better get busy and look for markets. I don't think I.......

SENATOR HUBER - I think, Madam Chairman, that we should make sure in there. I think we should find out the required safety flair of no more than a certain amount except during an emergency blowout or something like that. The idea was, as long as it's economically unfeasible to take small amounts of gas and reinject them, the State loses its royalty share on it, and the nation loses the energy strictly because at a given space in time, using if you will excuse me, a cash discounting flow and everything else, that we determine its value and we say it's nothing, and what's nothing is moving down the pike another twenty or thirty years may be all we have, and Prudhoe Bay, in spite of an absolute no flair restriction has been allowed to flair and everybody knows it. Somehow or other, it does have to be stopped, and if you make it so it isn't economically feasible to flair, then it becomes economically feasible to build a small compressor system for saving.

GEORGE SILIDES - Madam Chairman, I know that the flairing ___________ as Huber pointed out, ________ that the flairing of course, and the word allowed is important, they get permission from the State, and we have to do something about the bill, that we don't have competition between the taxing department and the Department of Oil and Gas Conservation. They are the ones that give the permission, and you have to apply and you have to point out that it's being done with safety and so on. I don't think that the bill intended to penalize somebody for entering into a safety feature, and so am I correct Mr. Kilgore?

RICHARD KILGORE - I would assume that that's the intent. You'r not really interested in taxing gas........

SENATOR HUBER - But that board still has the power and makes the exemptions and has been constantly making the exemptions, and it's a matter of record, both at Prudhoe Bay and elsewhere, they make the exemptions, they're legally made, but the product is gone, the resource is gone, it is flaired, and so at least putting in a fairly stiff recovery there, does at least give us something off of our severance tax that went up in flair too.

GEORGE SILIDES - Madam Chairman, I might make another comment. I think that in view of the comments being made, we're going to have to look into the legality of being able to tax a safety feature.

SENATOR HUBER - No, we don't tax the safety feature. Let's not get crossways on that. We should put an exemption in here for the safety flair only, and somewhere we need to come up with a figure of what is the amount that may be flaired to date per well or per safety flair. We definitely shouldn't tax them on what is a safety requirement. But there isn't a provision. The gas that's being burned in significant, is not being burned in so called legal actual safety flairs. It's being flaired otherwise by legal permits by the board.

CHAIRMAN POLAND - I think we have to check with the Board as to why they are giving the tax.

SENATOR HUBER - That's why the Governor's bills has it in it. That's why committee's bills has had this for two years, and we should certainly, like Dick says, make sure that we don't tax the necessary safety flairs. I asked yesterday what was, and they said a million cubic feet. That's a thousand MCF's a day. I'm not sure that that isn't considerably over what's needed to burn there in case, I need a good definition of a safety flair.

RICHARD KILGORE - I think also you might consider if you really feel the gas is being flaired that you don't want to be flaired other than as safety purposes or whatever, that's something you might consider as an alternative just tightening up your regulatory bill and your regulations rather than do it through a taxing approach.

SENATOR HUBER - We've done everything but tar and feather the board.

REPRESENTATIVE OSTERBACK - Madam Chairman, could anybody tell us how much gas they will be flairing at Prudhoe Bay? Anything that burns is energy. We're talking about we're running short of energy. Somebody talked about the railroad. If they took it in there, they could take out about a hundred tanks of gas a day, and they didn't think it would be enough to pack that out with flairing, and that would be an awful lot of energy, but most of us don't really know what this gas is with the flairing, but I know anything that burns is energy, and we're talking we're running out of energy. So I think there should be something done about it. Anything that you can save as energy, you can sell. There's no problem in that.

RICHARD KILGORE - Well, I agree with you, if what we're really talking about is waste, then I think we should eliminate that. It is energy, and you're absolutely right, and I think you should look very carefully at what's going to happen at Prudhoe Bay, and how your regulatory people will handle it.

SENATOR HUBER - Might we, Madam Chairman, Al brought it up and it's very important. I think that it's understood that they have stopped flairing or are to stop flairing. It was only for that refinery that they flaired at Prudhoe Bay, and they didn't pump it back down the gas well even though they were drawing gas out to run the refinery because it would have cost more money than the gas was worth, so naturally the gas was worth nothing, so it wouldn't cost money to pump it back down into the ground. If it had a value of 20 cents an MCF, it would have been a lot cheaper to pump it back down into the ground, but just so that the record is straight, we aren't really looking for flairing at Prudhoe Bay, but if you will take a look at the Valdez terminal, you will find that we don't flair no more, but we've got three huge oxidizers there, and there's going to be a tremendous amount of energy unless the LPG's that are in that gas and the vapors that are in the gas at Valdez, unless there's a plant built to recover those and use them which is not in the plan, it is going to effectively flair trillions of BTU's before Valdez is over with. That's because the plant and the tanks will not stand the pressure in the storage.

GEORGE SILIDES - Madam Chairman, I think the point is well made that something's got to be done about defining what is meant by safety gas, what is being wasted, and I think also that the bill had intended to address the bottom of the possible wasting of carbon dioxide. There was a considerable amount in this particular natural gas, and I suppose what we're getting to is that we have to do something about those things, either by definition or by amending the bill. I think this is a point that we're going to have to look into. I don't think we're going to get it solved right here.

SENATOR HUBER - I think they're willing, George, not to flair the carbon dioxide, but I'm not sure if they will get rid of it.

GEORGE SILIDES - It doesn't burn anyway, Senator.

CHAIRMAN POLAND - We'll be checking on this flairing part.

SENATOR HUBER - Well, it's important on both ends. I think that the bill needs to not penalize them, but by all means should be retained in the bill, and we may of course have to put it in in some other places. I don't think this is going to effect it when it comes to the flairs in Valdez.

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RICHARD KILGORE - I'd like to move on the the second severance tax bill, and that's HB 321, SB 238. Now, basically this tax changes the tax rate to 10%, but it also has a cents per barrel feature of 75 cents per barrel, so it has an effective floor price of $7.50, and it also has what ________ for an economic limit factor built into it, and I think Mr. Wilson yesterday did quite a good job explaining how the mechanics of this worked, and he also provided an example for you that I think was probably quite useful. Basically what the bill does is give you the first hundred barrels a day as an allowance for operating costs is what it amounts to, and wells producing more than 100 barrels a day, they pay then an increasing fraction of the 10% for the 75 cent tax is the way it works, and it's a continually increasing thing as well productivity moves above average well productivity moves above loo barrels a day. Very roughly, a 100 barrel a day well would pay no tax under this bill. A 200 barrel a day well would pay about 43% of the tax. It isn't 50% because as you might think by taking 100 to 200 because it's taxable barrels only that count. That is the 200 barrel a day doesn't produce 200 barrels that are entirely income to the company. Twelve and a half percent of those go to the State.

GEORGE SILIDES - Mr. Kilgore, it's 43%.

RICHARD KILGORE - It's 43%, 200 is 43% of either 10% of value or 75 cents a barrel depending on which it is.

GEORGE SILIDES - That's what I wanted you to say.

RICHARD KILGORE - For a 300 barrel a day well it would be 62% of these basic rates and on a 4,000 barrel a day well, it would be up to 89% of this. This is the way it works, and it amounts to a continuous function as against the step schedule that you have in your present legislation. As I said, it amounts to a continuous function and in principal we find it as kind of an appealing concept as against the step schedule. Now the other feature of it is that one can't apply for an economic limit factor greater than 100 barrels per day well average if you can prove it, and what you basically have to prove is that your operating costs that you require, out of pocket operating costs are greater than what you would get with 100 barrels of production per well. You would need more than this to recover your operating costs. Now, there appear to us to be a couple problems with how this actually works. First of all on Page 3 Line.........

SENATOR HUBER - Madam Chairman, I would note that we've got John Messenger here, too. This is the same problem that came up yesterday in talking with the industries. We might want John to answer some of these.

RICHARD KILGORE - It has to do first of all with how costs are defined, and that starts on Page 3, Line 16, subsection C here, and as was pointed out in testimony yesterday, it is not clear that the cost category specifically allowed here really provide for all the kind of out of pocket expenses that a producer might have, and basically that's the concept that you're trying to get at, whatever is out of pocket expenses, and it's not clear to us that that is the case and some questions were raised yesterday and I think you ought to consider those too, but what I think is more important is that after calculating the costs here, you then have to determine how many barrels are necessary to recover, that is if more than the hundred that you are allowed anyway. Now the problem with it is that the way that the bill was written, you don't take your costs and divide through by the price of oil that you as a producer receive. That is your actual price, if you're an old oil producer and getting $5.00 per barrel, you don't divide through by $5.00 to see how many barrels you need to recover your costs, but you use another deemed price to do this, and the deemed price is acquisition, this is Page 3, Line 29, its acquisition costs CIF at westcoast refineries for imported oil of like quality and then you net this back to Alaska, so you're not doing it on the price you actually receive, you're doing it on a deemed price that you may not be receiving, and it seems to us this causes problems.

SENATOR HUBER - Could we at this point if it's convenient, I wonder, Sterling isn't here, but John is and this was the question yesterday, I understood from the testimony by the State that as of starting in December or sometime like that that these wells that were in economic trouble shall we say, that these figures that you have put in here talking about ______ price are actually what's happened. They are now being allowed, these higher prices on the producer's share, but not upon the State's royalty share. The argument yesterday, and I think we're right into it again today, is whether we're just talking about a possible deemed price working it back from San Francisco or whether we're truly talking about what they're going to get, and the industry said no this was unfair that wasn't what they were going to get, so we're right at the nitty gritty, and I think you can help us John.

RICHARD KILGORE - Perhaps, Senator, I'm going to give an example, maybe I ought to do this and then we can talk about it.

SENATOR HUBER - Okay, just so that John, he wasn't here yesterday, so he's alerted. My stand was or what I saw was that you fellows put this in here because that's actually what the oil companies are getting, and so you were getting right to the nitty gritty, and they said no this is what they might give them, but I understood Sterling to say that this had actually started in December, and I don't think this was in testimony, I believe this was talking in the afterwards that it actually had started in December and the State had been denied that increase, but the producer's share had been allowed, so if that predicates it and as he goes on if you can straighten this out, it will help me a lot.

RICHARD KILGORE - I'd like to just give a little example of what we're talking about here. If we had an operating cost for a well or wells whatever the unit or something, and say $2,800 a day, and these were direct operating expenses defined properly however, and if you didn't get these revenue enough to do this, you would shut down. Now, if one looked at the foreign price and then netted back to Alaska, let's say you came up with $14 just to make the arithmetic easy, you came up with $14. Now in calculating your economic limit factor here, you would divide through by that, and that would give you $2,800 divided by $14 is 200 barrels a day. You're economic limit you could then justify is 200, rather than the 100 which you had presumed. That means you're getting more, but let's say that the producer only gets $5 a barrel for oil because he's receiving the old oil price in Cook Inlet. He doesn't bet $14, he gets $5. Well for him to actually recover the

$2,800 his total expenses at $5 he's actually receiving for his oil, his real economic limit factor is $2,800 divided by $5 or 560 barrels, so that in fact, his limit factor, that is the number of barrels he needs before he's got to shut down, because he doesn't make it out of pocket cost of 560 under this bill it appears to me, he would only get 200. I don't think it really gives you the results that you intend. The result that you intend is to provide relief for marginal wells. It doesn't appear to really serve the intended purpose.

SENATOR HUBER - That's at $5.61?

RICHARD KILGORE - That's at $5.00 even.

SENATOR HUBER - But doesn't this other deal work to raise that?

RICHARD KILGORE - Well, the other thing we're talking about is price relief under FEA regulations. I think that's really something different here. I'm addressing........

SENATOR HUBER - That's not five dollar oil. You know, if we're talking about his economical limit on the well then we assume it to be $5 00 oil, but he is actually receiving $10.95 for it because it's below a certain economic limit already established, then we're dealing with something that doesn't exist, and that's what I'm trying to get into this, and I thought that that was why the State had drafted it.

RICHARD KILGORE - Because it assumes that the Federal government will always bail out people, is what you're saying, other than royalty owners.

SENATOR HUBER - My information was, it didn't only assume, it was based on what was happening. Can you clarify that John?

JOHN MESSENGER - Let me just make a couple comments. I guess it's true that one position that we've taken on this bill that our taxes should not be based on the artificial price set by the Federal government, and the Federal government set a price of $5.00. Our position is that we shouldn't be content with the tax based on that artificial price, and that's why, one, we've set the cents per barrel floor, likewise when you're figuring the economic limit factor, again, we say the true economic limit is not how many barrel are produced at the artificial price, but the amount of barrels they would produce using the true value of that oil, pre-market oil. We should insure ourselves that so many cents to so many percent of that pre-market oil because that is our resource and we should get at least that percent out of it. Secondly, is that producers are reaching their break even point which they will stop producing. There is a procedure by which they can make application to the FEA and get price relief and with that higher price they can produce longer, but the FEA has said that they will give price relief only to the producers, and not to royalty owners, so if a company is reaching its economic limit in Cook Inlet, and they go in for price relief, they are given that price relief. They will raise their price, but they will not raise that price in the terms of the amount of royalties which ______________________. So, it's two things, one is the tax rate and the economic limit factor should be based upon the true value of the oil, and secondly that producers are protected through FEA regulations, but the State is not.

SENATOR HUBER - Then I guess what he's saying is that if someone's going to shut down the production there, by it being below economic limit on $5.00 oil, the State is advocating that we put the monkey on the fed's back and say you did it, you set an artificial price, we're going to set our tax based on free market price, and if you want to save that resource, save that company, you can turn around and do likewise what's reasonable. I'd say it's what I call putting the monkey on the Fed's back. They caused the problem. I happen to be strongly in agreement with the State's stand on that, and compliment them for it because why should we throw away our royalty share and our taxing ability because somebody forced an artificial price down our throut, and is forcing that same artificial price down the throat of the oil companies.

RICHARD KILGORE - Look, I'm going to address myself to the question of the artificial price, that's part of what I'm doing here, and I think the Commissioner took issue with earlier testimony I made when I said I thought this was a flaw in the thing, and it certainly was, I thought, a flaw in terms of its purpose of providing relief, and now I do understand why they do this which is another objective, than what appeared to be the intent of the bill and I'm going to come back to the whole question of the artificial price. It's very clear they did this by design. I'd like to again, as you asked, talk about just very roughly what it does to Prudhoe Bay and then to Cook Inlet, and then discuss the consequences of that. Again, for Prudhoe Bay, looking at 5,000 and 10,000 barrel a day wells at Prudhoe Bay, this bill also raises taxes significantly on those wells as does the other bill, as does HB 321 that we looked at before, excuse me HB 144, that we looked at before, but it does not raise them as sharply as the other tax. If we take a 5,000 barrel a day well, I said that, and I'm not going to run through all the numbers here, I think but that the other tax for a 5,000 barrel a day well raised the tax about 39% on a 5,000 barrel a day well. This tax would raise it about 29% it appears to us using the presumed hundred barrel figure. The discrepancy between the two gets larger at very productive wells because of the steep rates near the end of the schedule in the other bill, and for a 10,000 barrel a day well, HB 144 raised it 58%, this would raise it about 27% on the very productive wells, so if it both increased taxes on Prudhoe Bay, clearly the one, HB 144 would increase them significantly.

SENATOR HUBER - That would be effective of what of 5 and 10.

RICHARD KILGORE - Okay, the effective rate would be very close to, on taxable barrels it would be very close to 10%. On 5,000, it would be 9.8% and 9.9% on the 10,000. It approaches 10%.

SENATOR HUBER - Just slightly under ten percent for a total maximum. Or fully 2 and 1/2 percent, a little over 2 and 1/2 percent below Louisiana. Using the Administration's bill.

RICHARD KILGORE - That's correct.

SENATOR HUBER - And it would be right at Louisiana with the other bill.

RICHARD KILGORE - Close to it. That's correct.

Now, let's look at what happens to the Cook Inlet old oil price here. This bill as the other one for a 100 barrel a day well eliminates the tax altogether. It does exactly the same thing, but what we find troublesome is that is you go to 300 barrel a day wells, these are the wells that we're concerned with because of their productivity and the old oil price they have to bare, they get the tax there doesn't go down, but it increases. It goes up from 26.6 cents on gross barrels to 40.6 cents. It goes up by 14 cents a barrel. This tax raises it that much. On a 500 barrel a day well, it raises it by about 13 and 1/2 cents, and on a 1,000 barrel a day well. I'm sorry 14 cents increase on a 300 barrel a day well, 22 cents on a five hundred barrel a day well, and 28 cents on a 1,000 barrel a day well. What I think are particularly disturbing are the increases on the lower productivity wells. A well as low as 300 barrels a day which we already have some concern for because of the effective rate on the old oil thing has actually a fairly substantial increase in its tax burden. As Commissioner Gallagher stated correctly, you get this result because of raising the floor price essentially. You are raising the floor price from $6.10 to $7.50 and you have higher tax rates at the same time, and it's deliberately designed to do this. Now, we really feel that this kind of goes against what we feel are good principals of severance taxation. What you're saying is the producer in Cook Inlet he received a relatively low old oil price established by the Federal government. This in turn restricts his own profitability, but then the State adds to his burden by taxing him as if he received $7.50, and it seems to us that rather than help his producing situation, this only makes the situation worse. One of the reasons given for doing this is that the Federal government is following an unwise, or I think it was described as a foolish price policy. Now, this may or may not be the case. I'm not willing to pass a judgement on that, but they're, you should know that the Federal government does have reasons for doing this. It's not capricious, they do have reasons. They have concern over the effect. What they're concerned with is this, we've had a fantastic increase in the oil prices outside the United States by the OPEC nations and if one frees the oil, the old oil price, it will go up very, very sharply. It will, perhaps in some cases, close to triple in price, and the people are concerned about the consequences of this. Rightly or wrongly, they are concerned about the inflationary impact on consumers. They're concerned about when ______________ producers, because these are on old oil wells, wells production which is established at old costs and so on and therefore you have to question whether you want to give them huge increases in the price and windfalls. There is concern over that. So there are reasons, and you can argue one way or another, but there are reasons for this.

SENATOR HUBER - Would it be fair to say that those reasons are exactly on a par with the same reasons for having controlled gas prices as would be in inter-state commerce as well as setting a free-market price. It's the same principal in both cases.

RICHARD KILGORE - As deregulation of natural gas prices. Yes.

SENATOR HUBER - Deregulation of natural gas. Deregulation of petroleum would do the same thing, it would increase the price at the burner or the price at the gas tank as it comes in out of the nozel, but all of the other factors of pro and con are the same.

RICHARD KILGORE - Yes, that's right, and the concern is that if you let it go up to, and I really object to the word free-market price because we're not talking about free-market price, what we're talking about is it goes to a price administered by OPEC. That's what we're talking about going from price administered by the Federal government to a price administered by OPEC. This is by no means a free-market price. It's a market price, but one set by OPEC, and set by political reasons as much as for economic reasons.

SENATOR HUBER - Some of us are referring to free-market price though as to this free-market price that exists that we talk about what the price would be if OPEC were not controling it. Some of us are talking about a true free-market price ____________________.

RICHARD KILGORE - Senator, I don't know what the price would be if OPEC were not controling it.

SENATOR HUBER - We don't know. We have projections just like we do on what Prudhoe Bay is going to cost.

RICHARD KILGORE - One the one hand, if OPEC did not exist one would certainly expect over time that the price would rise at some point in time to the level of alternative energy sources which are quite high in the \$20 - \$25 range. On the other hand, in the short run, you do have an overhang of surplus productive capacity in the world, and if there were no OPEC, and it were perfectly free market, there's no reason why the price couldn't drop to less than \$1.00 per barrel, because that's what costs are in their surplus capacity. If there were truly competitive free market, one would have \$1.00 a barrel oil or less because that's what the costs are in the middle east, less than that so but as time went on, and this surplus which overhangs the market now, and which would push it down, gets eaten up and it will, one would then have prices moving off in the other direction. I don't know what the price would be. But anyway, we're talking about not letting the price, the U.S.

government as a matter of policy, not letting it go to a price set outside its own borders by an orgnaization of petroleum exporting companies, and that's what we're talking about. It's the intent apparently of the Congress not to do this because basically the idea is concerned with price impacts, concerned with windfalls, and also that there's no way of assuring that the price that would be set by OPEC is an appropriate price for our internal markets for our own costs and so forth. There's no way of knowing whether they will set a price appropriate to our cost circumstances in the United States or a price that may be very much higher than people think it is now or maybe even a price lower. Not good enough for development of our domestic resources. So this is a matter of national policy and people can quarrel.

SENATOR HUBER - Feable minded or otherwise........

RICHARD KILGORE - Well, I don't want to characterize it. I'm trying to give you a few of the reasons for doing this, and this is a matter of federal policy. Now, but even if it is a foolish policy, or at least if Alaska views it as one, or the people who did this legislation think it is, I think that you have to ask, if that is the case, still, why do you want to then punish producers for this price policy basically. They already suffer enough from it in terms of the revenues they receive, why do you want to go an added step and raise their taxes because of this. I don't think it's reasonable to assume that if you do this you will force national policy to change by what you do in the way of taxation here in Alaska. That seems to be reasonable.

GEORGE SILIDES - Madam Chairman, may I ask a question?

In addition to your comment of being unable to force national policy, would you think that this kind of tax is counter-productive?

RICHARD KILGORE - I suppose it's possible, I don't really know the answer to that, but I suppose there are reasons that might want to lead one to that result, and if the FEA has procedures for relief of these kinds of situations , then it sees the State of Alaska in fact imposing higher and higher taxes on such low productivity wells. I don't know. It's not inconceivable that it would enter into their thinking in this matter Rather than providing relief, it seems that the State of Alaska goes in the other direction in this situation.

SENATOR HUBER - George brought something up here. Isn't this the fact that it effects these 300 barrel wells just because of the total tax maximum that we pay and then how we apply the mechanics of the formula. They could for instance, modify, and the mathematics of it I would have to find out from somebody else how, so that that point would hit, maybe, more on a five or six hundred barrel a day well and maybe give as much as 10.3% or 10.4% out of Prudhoe Bay instead of an even 10%, and the formula diddled with enough to change that point to where it would be correct. Couldn't that be done?

RICHARD KILGORE - Yes it could be. If you like the basic approach of the continuous formula ....

SENATOR HUBER - Apparently you do, and I do too, and we might consider, and George's question pointed up that we might consider something from being John Messender is here, that they might give us an alternative is that reasonable Madam Chairman?

CHAIRMAN POLAND - Well yes, except today we have Mr. Kilgore with us. He's leaving on a plane and we want to take advantage of this. We can bring this up.

SENATOR HUBER - I have considered this, Madam Chairman, to be a work session with him, and it's more valuable to me, the way we've been conducting it here today, than anything that we've had.

CHAIRMAN POLAND - Well fine. Let's give him a chance to get with it.

RICHARD KILGORE - Okay, we really are concerned with how this aspect works. There are two parts where Alaska is attempting to impose its own view of what the proper price policy should be, that is if they want the OPEC price. It comes on the floor, and it also comes as I said before in this calculation of the economic limit factor again. It enters in two places, and we have serious questions about this and what you really want to do. If the basic intent of the legislation is to provide relief that you don't go off in the other direction simply because you're unhappy with the prices because this throws all the burden on the producer, and then you're going exactly against what you really want to do, and you could have economic consequences to this.

I understand your concern with the prices that you get for your oil, and you'd rather get higher prices than lower prices, and that's fine, but the question is if the price is not set at a level that you think is appropriate then what do you do about it, and I guess, it's just bothersome to us that what you do about it is throw a burden back on a producer here. That's what you're doing about it, and that then goes against what we feel is an appropriate kind of severance tax because then you run into all the kind of economic problems with this gross tax and that's our concern, and we appreciate why you think in terms of floors and why you want to get an adequate value for your oil, and so forth, and we understand why you do it, it's the consequences.

This tax also raises the tax on natural gas. If you'll recall our testimony before, we were always pointing out to you that if you did this you would have an impact on Alaskan consumers, that would flow through to Alaskan consumers. I noticed that there is another bill which is HB 329, SB 239 which is a residential fuel credit, and I presume that the intent of this is to mitigate to some extent the impact that raising the gas tax would have on Alaska. Consumers - we're not really in a position to know how adequately it does this because this has to do with what fuel bills really are in Anchorage and so on. We really don't have the information to calculate how adequately that does that, but obviously, you are concerned with that aspect to it, and the balance of the increase of course would be assessed against exports. I think that the other thing I should point out is that here you have in this not only an increase in the tax rate from 4% to 10%, but also introduce a floor price here, that is a minimum 6.4% per MCF, which is an effective floor price of 64 cents per MCF, and I think we have the same reservations here about this as you do on the oil side. If you have oil flowing, producers getting less than 64 cents, someone mentioned 42 cents the other day, but less than 64 cents, then you start to raise the effective rate of it, and I think we have the same problems with it here as we would anywhere else, and this also has a gas flaired feature taxation, but it's only double, not five times, and all my comments on that go for this too.

SENATOR HUBER - That is in the equalization deal?

RICHARD KILGORE - No, it's in the severance tax, itself. There's a provision.

In the end, I'd like to talk a little bit about this whole question of the overall tax burden and how you assess it, the kind of questions that Senator Rader has been talking about, but I would first just like to make a few comments on the property tax bill, unless there are some other questions here on the severance tax.

CHAIRMAN POLAND - No. I was going to suggest that when you are finished on the bill, and before you kind of wrap up, that we take a five minute break.

RICHARD KILGORE - Okay, shall I just say a few things about the property tax. I have relatively limited comments here. HB 323, SB 237, now, this extends the property tax to some other areas as you know to refineries, gas plants, and also to marine transportation, and L & G liquifaction facilities, and so forth. So it extends the kinds of things that you would tax with your property tax. Now, the only real comments that we have here are that for each of these areas that you're thinking of proposing a property tax on, you think carefully about where that tax will actually be borne. You're talking about taxing properties for crude oil production that largely obviously is borne by producers. They realize prices in the lower '48 that are set for them, and the tax you impose is a tax which they have to bare in terms of their own profitability, but that's not necessarily the case with each of these other areas that you are extending, and what I think you ought to think about what you are doing, because if you're looking at property taxes on refining in Alaska, we would expect that most of the refining capacity in Alaska for some time to come would be basically capacity oriented to supplying low markets so that the tax that you impose on those refineries presumably would over the long run be borne by Alaskan consumers. You're assessing a tax which goes to the treasury, but eventually that tax would have to be borne by consumers if the refineries are to operate properly. So you have to worry about the incidence of the tax. If you're looking at L & G facilities you have to worry again about the consequences of this and what will happen, and who will actually bare this. Will it be a cost that will simply be passed along because the facilities under an FPC jurisdiction will be passed along as probably may be the case. It's not clear that if it's L & G or export to foreign countries whether this would be the case. Who would bare it, it's not entirely clear.

GEORGE SILIDES - Would it not also have an effect on a decision as to whether to locate in Alaska.

RICHARD KILGORE - Yes, it could under certain circumstances. If it's a cost which basically the person thinking of putting in the facility has to bare himself because he hasn't got an automatic pass along or he can't pass along to Alaskan consumers, or he can't through his regulatory process, pass it along, then surely, it would be one of those tax entering into his decision as to whether to locate in Alaska. Noone can say whether this is the thing that would swing it in the balance, but obviously, it's part of the package of doing business, if it's a higher cost, it could have some effect, yes.

The last one is marine transportation, and there, well there's a question of legality, I guess, but we can't address ourselves to those, but it seems to me you might have some concern about this one too, because you already face a problem where you are concerned with the fact that your oil may have to move to quite distant markets, for example the U. S. gulf and the eastcoast, and you're very much rightly concerned about that long haul and those high transportation costs and what it may do to your wellhead value, and if you go this route of taxing marine transportation, you obviously add to the cost of transportation, I don't know how much would be thrown up by this tax, but you are in principal anyway adding to the cost of transporting your oil which certainly works in the direction of lowering the value of your oil, so I think that you ought to consider this as well, as I say, in each case consider the consequences, but here you're putting an added cost on transportation and it may be small, but it certainly works in the direction of lowering your wellhead value. Basically that concludes my remarks on the specifics of the bill.

I would like to conclude with a few remarks about this old question of the total tax burden in Alaska. What fair share is, and at what point do you destroy incentives, undermine profitability and the like, and of course Senator Rader has been pressing a number of people for answers to this, but as he himself in asking the question admits, there obviously is no easy answer to this question. If there were, somebody would have given it, and I can't give you an easy answer. A number of things have been suggested, all of which make a certain amount of sense. What kind of activity is there in the State has been suggested. A number of people have suggested looking at the total tax burden in Alaska, relative to other states. I have a few comments on that aspect too. It clearly is important what the total tax burden is on the oil and gas industry, there's just no doubt about that and how it compares with other states. It certainly is not just the absolute amount of dollars being paid or dollars per

THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL FILE.

SB

274

COMMITTEE REPORT

SENATE

3/23/77

3/28/77 Date

Mr. President:

The Committee on Resources has had SB 274 taking oil oil & gas royalty-in-kind under consideration. A majority of the members of the Committee

/X/ 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 that CS for ________ do pass

/ / (and) recommends it be referred to the ________ committee

/ / reports it back without recommendation

/ / AND attaches a report of its intent

/ / (other) ________

MEMBERS SIGNING THE MAJORITY REPORT:

[illegible]	[illegible]	
[illegible]	[illegible]	
[illegible]	Do Pass	
[illegible]	[illegible]	

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

Tillian recommends: No Rec.

Collette recommends: [illegible]

________ recommends: ________

[illegible]
Chairman

Do Pass

S 60

AGO 785679

AMENDMENT

OFFERED IN THE SENATE: BY: POLAND

TO: ______ SENATE BILL No. 274

HOUSE BILL No. ______

PAGE: 1 LINE: 23

ADD NEW SECTION 2

A purchase of royalty oil on a one year non-renewable basis remains eligible to negotiate a long term purchase agreement in accordance with all the other provision of AS 38.06.182, AS 38.05.183, and AS 38.06.055

Number Section 3 accordingly

AGO 785680

Original sponsor: Resources Committee

Offered: 3/19/75
Referred: Rules

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE BILL NO. 174

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the taking of oil and gas royalty-in-kind; and providing for an effective date."

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

* Section 1. AS 38.05.182 is amended to read:

Sec. 38.05.182. ROYALTY ON NATURAL RESOURCES. Any royalty provided for in secs. 135 - 181 of this chapter <u>shall</u> [MAY] be taken in kind rather than in money <u>unless</u> [IF] the commissioner, with the consent of the board, determines that the taking in <u>money</u> [KIND] would be in the best interest of the state. The consent of the board is required only with respect to oil and gas royalty-in-kind under sec. 183 of this chapter. <u>The action of the commissioner and the board with respect to oil and gas royalty-in-kind under sec. 183 of this chapter is subject to the prior approval of the legislature in accordance with AS 38.06.055, except for nonrenewable contracts not exceeding one year in duration which may be entered into to relieve a shortage of storage capacity.</u>

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Re: attached

CS SB174 Passed Senate 18-2
Died in the House because
of vigorous opposition by
Guy Martin.

AGO 785682

Resource Dept. wants flexibility

State seeks pledge on its royalty oil

JUNEAU (AP)—State officials are seeking an unusual written pledge from Prudhoe Bay producers to guarantee Alaska's right to switch from taking its North Slope royalty oil in-value to in-kind, the Royalty Oil and Gas Advisory Board was told Tuesday.

In a memo to the board, outgoing Natural Resources Commissioner Guy Martin said he has written to all North Slope leaseholders, asking them to sign an agreement by March 15 to give the state advance written permission to take back its royalty oil with one month's notice.

The action was prompted by the recent revelation that Federal Energy Administration regulations prevent any producer from terminating contracts for the sale of their oil without the consent of the purchasers.

Since taking its oil in value through cash royalty payments is interpreted by the FEA as a contract sale, the state would not be able to later take its oil in-kind unless the purchasers concur.

Alaska's congressional delegation also dispatched letters to the board, urging that the state take all of its royalty oil in-kind as soon as production begins.

Sen. Mike Gravel said he has analyzed the federal energy law and has "concluded that state control of its royalty oil may be lost if the state at any time elect to take its royalty oil in value, rather than in-kind."

Sen. Ted Stevens said that his reading of the federal Mandatory Petroleum Allocation Act indicates "a great threat to Alaska's future welfare exists."

Rep. Don Young joined Stevens and Gravel in urging the board to make a quick decision on what to do with the state's royalty oil.

"Our best hope," Stevens said, "resides in taking our oil in-kind from the initial drop pumped" and selling it to bidders who will give the state "maximum assurances that we can withdraw our oil without opposition from them or the Federal Energy Administration."

Oil production from Prudhoe Bay is scheduled to begin upon completion of the trans-Alaska pipeline in July.

And since the state is required under its oil leases to give the leaseholders six months notice prior to taking its royalty oil or gas in-kind, the opportunity to take oil in-kind from initial North Slope production already has been lost unless the producers agree to sign the pledge proposed by Martin.

In a related issue, the board received a revised proposal for a $400 million petroleum refinery in Alaska based on a commitment for the sale of Alaska's royalty oil, the second such offer the board has received in as many weeks.

The proposal by Alaska Petroleum Co. was submitted in competition with a similar deal offered by Alaska Consolidated Shipping, Inc., a Native corporation-backed firm.

Officials of Alaska Consolidated also appeared before the board to modify their deal, and representatives for both firms exchanged verbal blows over the relative merits of the competing proposals.

The Alaska Petroleum proposal would call for the purchase of 150,000 barrels a day of the state's royalty share of Prudhoe Bay crude to use in a "world-scale refinery," which would take five years to plan and develop, company officials said.

Alaska Petroleum is a Houston-based subsidiary of the Coastal States Gas Corp., which owns three refineries with production capacity of nearly 300,000 barrels of oil a day.

A key to the Alaska Petroleum proposal is a provision to purchase all of the state's royalty oil for the first month or two that it flows, countering worries about the adverse FEA regulations.

George H. Shipley, a director and consultant for Alaska Petroleum, declined to say where the proposed refinery might be located, but added that his company has examined "six to eight" sites, including Valdez, Point MacKenzie near Anchorage and Tyonek on Cook Inlet.

Shipley attacked the refinery proposal offered last month by Alaska Consolidated, saying the company had underestimated its costs and overestimated its benefits.

But Alaska Consolidated Vice President Jim Stupp disputed Shipley's claims and said he would present a point-by-point rebuttal to the board later.

In its revised proposal, Stupp said he was "75 to 80 per cent certain" his company's plans for a $225 million refinery would prove economically feasible.

The Alaska Consolidated proposal calls for a refinery which would use 150,000 barrels of state royalty oil per day. It also calls for the state to sell the firm 100,000 barrels of royalty oil a day during the three to five-year period before the refinery would be operational.

AGO 785683

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

1/10/78

Date: ~~1/10/78~~ [illegible]

Mr. President:

The Committee on RESOURCES has had SB 393 relating to state assumption of the national pollutant discharge elimination system

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 ( ) same title

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

(X) reports it back without recommendation

( ) and recommends it be referred to the __________ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[illegible]

[illegible]

[illegible]

C. Fillion No Rec

[illegible]

Chairman

S 60 (rev. 6/77)

AMENDMENT

OFFERED IN THE SENATE: BY: [illegible]

To: ______ SENATE BILL No. 323

HOUSE BILL No. ______

PAGE: 9 LINE: 29

10 1

Delete [or [illegible], electromagnetic or particulate radiation, or a noise, interference, or other wave]

and substitute the following language in its place [, x-ray, or other [illegible] radiation]

January 10, 1978

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill to provide the Department of Environmental Conservation with sufficient statutory authority to assume responsibility for implementing the National Pollutant Discharge Elimination System ("NPDES") within Alaska.

The NPDES is established under sec. 402 of the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.). It requires that any person discharging a pollutant into water obtain a permit from the United States Environmental Protection Agency ("EPA"). The section also provides, however, that state environmental departments with sufficient authority may implement the NPDES program within their jurisdictions. So far, twenty-seven states and the Virgin Islands have assumed the program.

In 1976, the legislature urged me to direct the Department of Environmental Conservation to assume the NPDES program "as quickly as possible." HCR 122, 9th Leg., 2nd Sess. I share the legislature's belief that water pollution control is a state responsibility, and that our citizens should be able to deal with their own state officials, rather than distant federal bureaucrats, in obtaining water pollution control permits. The primary constraint, until now, has been a lack of funding to properly administer the program. However, under amendments to the federal Act now in Congressional Conference Committee, it is likely that sufficient federal funds will be available to remove this fiscal stumbling block. Given the probable availability of sufficient federal program grants, the time is ripe for equipping the department with the statutory tools necessary to obtain EPA approval.

The bill will not take effect until EPA has actually delegated the NPDES program to the state, and the department will petition for delegation only when sufficient program funds are secured. By meeting statutory deficiencies in advance, I am confident that the department will be able to assume the program at a far earlier date than if legislation were deferred pending sufficient funding.

The transmitted bill borrows heavily from the model state NPDES bill prepared by the Council of State Governments in 1973. The bill confers upon the department the authority to establish discharge standards according to the criteria established in the federal Act, and provides for permit procedures, and the imposition of permit terms consistent with federal requirements. The bill was also drafted to provide for delegation to the department of the federal dredge and fill permit program contained in sec. 404 of the federal Act. Under pending amendments to the federal Act, this program, as well as the NPDES program, can be delegated to the states, and, certainly, the same considerations warranting a delegation of the NPDES program apply to delegation of the dredge and fill program as well. The bill also allows the department to issue general permits for minor discharges, obviating the need for small operations to become enmeshed in regulatory details when their activities pose no real environmental consequences.

Passage of this legislation will not bring with it a weakening of water pollution control efforts. Under the federal Act, standards established by the department must be as stringent as federal requirements. The bill will, however, make the drafting and monitoring of permits a state function, and will provide for state establishment of standards for those operations for which no federal standard has been adopted.

The bill does pose a legal uncertainty. To gain EPA approval, state programs must provide that permittees consent to inspections of the discharging facilities. 40 C.F.R. § 124.45(c). In Woods and Rhode, Inc. v. Department of Labor (No. 1433, June 2, 1977), the Alaska Supreme Court ruled that the