

ALABAMA LEGISLATIVE COMMISSION FILES, BOX 20020072

1745 HLC 2/17/82 HB 159 - 2/19/82 SB 84



CHAPTER 5. SAVINGS ASSOCIATIONS

ARTICLE 2. ASSOCIATION PRACTICES

Section

- 110. Communication between members
- 120. Service charges on dormant accounts
- 130. Redemption of savings accounts
- 140. General reserve account
- 150. Net worth requirements
- 160. Alternative mortgage instruments
- 170. NOW accounts
- 180. Participation in first mortgages where  
property is located outside of State

3 AAC 05 is amended by adding one new section to read:

3 AAC 05.180. PARTICIPATION IN FIRST MORTGAGES WHERE MORTGAGED  
PROPERTY IS LOCATED OUTSIDE OF STATE. An association may participate  
in conventional loans or pools of conventional loans secured by a  
mortgage on a one-to-four family residence where the mortgaged  
property is located outside the State.  
(Eff. / / , Reg. )

Authority: AS 06.01.020  
AS 06.30.030  
AS 06.30.500(3)  
AS 06.30.330

# ADVERTISING ORDER

## NOTICE TO PUBLISHER

INVOICE MUST BE IN TRIPPLICATE SHOWING ADVERTISING ORDER NO., CERTIFIED AFFIDAVIT OF PUBLICATION (PART 2 OF THIS FORM) WITH ATTACHED COPY OF ADVERTISEMENT MUST BE SUBMITTED WITH INVOICE.

DEPT. NO.	A.O. NO.
AO- 08	2141

PUBLISHER	Juneau Empire 235 Second Street Juneau, Alaska 99801	VENDOR NO.	DATE OF A.O. December 24 '81
	FROM	Department of Commerce & Economic Development Division of Banking & Securities	DATES ADVERTISEMENT REQUIRED: Two times. Once immediately, and then again one week later. In legal section.  THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS ENTIRETY ON THE DATES SHOWN.
		BILLING ADDRESS: DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT ADMINISTRATIVE SERVICES, FISCAL Pouch D, Juneau, Alaska 99811-0800	

ADVERTISEMENT

STATE OF ALASKA

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Notice is hereby given that the Department of Commerce and Economic Development, under authority vested by AS 06.05.005, AS 06.15.010, AS 06.20.340, AS 06.25.315, AS 06.30.025, AS 06.30.030, AS 06.40.180 and AS 06.45.010, proposes to adopt regulations to Title 3, Chapter 1 of the Alaska Administrative Code to implement AS 06.05.060 as follows:

3 AAC is amended by adding new provisions that provide for the confidentiality of the records, reports and correspondence files of the Division of Banking, Department of Commerce & Economic Development.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held in the Conference Room of the Commissioner of Commerce & Economic Development, Room 203, Michael Building, 610 East Tenth Street, Anchorage, Alaska, at 10:00 a.m., Tuesday, February 16, 1982.

Written testimony may also be submitted to the Division of Banking and Securities so long as it is received by 4:30 on February 16, 1982.

Copies of the proposed regulations may be obtained by writing to:

Division of Banking & Securities  
 Pouch D  
 Juneau, Alaska 99811-0800

TO BE COMPLETED BY ORDERING DEPARTMENT									PAGE NO. 1 OF 2 PAGES	TOTAL ALL PAGES
TRANS.	DEPT.	DIV. & PROG.	FUNCT.	SUB FUNCT.	OBJECT RECEIPT	HWY. FUNCT.	PROJECT LEDGER	PER CENT OR ITEM NO.	I HEREBY CERTIFY THAT THE UNENCUMBERED BALANCE IN THE APPROPRIATION CITED HEREON IS SUFFICIENT TO COVER THIS PURCHASE AND THAT THIS PURCHASE IS AUTHORIZED HEREUNDER.	
	08	53	2	001	325					
									CERTIFYING OFFICER _____ VOUCHER NUMBER _____	

# ADVERTISING ORDER

## NOTICE TO PUBLISHER

INVOICE MUST BE IN TRIPLICATE SHOWING ADVERTISING ORDER NO., CERTIFIED AFFIDAVIT OF PUBLICATION (PART 2 OF THIS FORM) WITH ATTACHED COPY OF ADVERTISE-  
MENT MUST BE SUBMITTED WITH INVOICE.

### 1. PUBLISHER

DEPT. NO.

A.O. NO.

**A0- 08**

**2141**

VENDOR NO.

DATE OF A.O.

**December 24, 1981**

DATES ADVERTISEMENT REQUIRED:

Two times. Once immediately, and then again one week later. In legal section.

THE MATERIAL BETWEEN THE DOUBLE LINES MUST BE PRINTED IN ITS ENTIRETY ON THE DATES SHOWN.

BILLING ADDRESS:

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT  
ADMINISTRATIVE SERVICES, FISCAL  
Pouch D, Juneau, Alaska 99811-0800

PUBLISHER

Juneau Empire  
235 Second Street  
Juneau, Alaska 99801

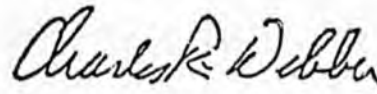
FROM

Department of Commerce & Economic  
Development  
Division of Banking & Securities

### ADVERTISEMENT

### STATE OF ALASKA

The Department of Commerce and Economic Development, upon its own motion or at the insistence of any interested person, may, at the hearing or after it, adopt the proposals substantially as described above without further notice or may decide to take no action on them.



Charles R. Webber, Commissioner

Date: 12/24/81

#### TO BE COMPLETED BY ORDERING DEPARTMENT

TRANS.	DEPT.	DIV. & PROG.	FUNC. TION	SUB FUNC. TION	OBJECT RECEIPT	HWY. FUNCT.	PROJECT LEDGER	PER CENT OR ITEM NO.
	08	53	2	001	325			

PAGE NO. **2** OF **2** PAGES

TOTAL ALL PAGES **5**

REQUISITIONED BY

I HEREBY CERTIFY THAT THE UN-ENCUMBERED BALANCE IN THE APPROPRIATION CITED HEREON IS SUFFICIENT TO COVER THIS PURCHASE AND THAT THIS PURCHASE IS AUTHORIZED HERELUNDER.

DIVISIONAL APPROVAL  
DATE ENTERED

CERTIFYING OFFICER  
VOUCHER NUMBER

CHAPTER 1. FINANCIAL INSTITUTION  
GENERAL ADMINISTRATION

ARTICLE 4. GENERAL PROVISIONS

Section

905. Records; disclosure and limitation on disclosure

910. Definitions

3 AAC 01 is amended by adding one new section to read:

3 AAC 01.905. RECORDS; DISCLOSURE AND LIMITATION ON DISCLOSURE. (a) The records, reports and correspondence files of the division shall not be public documents, shall not be subject to subpoena nor shall they be open for inspection by the public. Neither the commissioner, the director nor any member of their respective staffs may disclose any information obtained in the discharge of official duties to any person not connected with the division, except that the commissioner may disclose such information:

(1) to representatives of federal agencies insuring accounts in the financial institution;

(2) to representatives of federal agencies, other states and foreign countries having supervisory authority over the activities of the financial institution or enterprises or similar financial institutions or enterprises if such representatives are permitted to and do upon request of the commissioner disclose similar information respecting those financial institutions under their supervision;

(3) to the attorney general of this state; and

(4) to a select committee of the legislature of this state appointed for the purpose of inspecting such records, but this paragraph shall not permit disclosure of information as to the condition of any particular financial institution or enterprise, or disclosure of information which has been disclosed to a financial institution or enterprise by or on behalf of any person in connection with a transaction or proposed transaction with such financial institution or enterprise.

(b) The commissioner may:

(1) disclose the fact of filing applications by financial institutions, give notice of hearings, if any, of such applications, and his actions thereon, as provided by law;

(2) prepare and circulate reports reflecting the assets and liabilities of financial institutions, including such other information considered pertinent to the purpose of each report for general statistical information; and

(3) prepare and circulate reports provided by law.

(c) Nothing in this section shall prevent any person or a financial institution covered under this chapter from access to records, reports and correspondence which apply to him or the institution to the extent that those portions of the records, reports and correspondence which do so apply are reasonably segregable from the portions of the records, reports and correspondence which do not apply to him or the institution and also to the extent that federal laws and statutes do not proscribe the disclosure. (Eff. / / , Reg. )

Authority:	AS 06.05.005	AS 06.30.025
	AS 06.05.060	AS 06.30.030
	AS 06.15.010	AS 06.40.180
	AS 06.20.340	AS 06.45.010
	AS 06.25.315	

3 AAC 01.910 is amended by adding new sections to read:

(6) "director" means the director of banking, securities, small loans and corporations or his designee;

(7) "division" means the Division of Banking, Securities, Small Loans and Corporations. (Eff. / / , Reg. )

Authority:	AS 06.05.005	AS 06.30.025
	AS 06.15.010	AS 06.40.180
	AS 06.20.340	AS 06.45.010
	AS 06.25.315	

David Cottrell, P.A. Special Master  
 3301 Denali  
 Anchorage, Alaska 99503

January 31, 1982

Dear Mr. Cottrell:

As advised by my attorney, I am submitting to you a claim for compensation for the settlement as a former employee of the Southcentral Regional Resource Center in the amount of \$7,826.63.

Salary: bounced payroll check, October wages, 30 day difference in pay	\$4,175.32
Tax sheltered annuities - payroll deduction	1,604.00
Attorney fees, to collect wages	603.31
ISA interest @ 14.00% - Gen. Mutual	336.84
Salary interest @ 17.38 Merrill Lynch Realty	1,034.76
Assets Annualized Interest Rate.	72.40
Lawyers fee interest @ 10.00%	87,826.63

Christine O'Leary

Christine O'Leary  
 4101 Resurrection Dr.  
 Anchorage, Alaska 99524  
 (332-5528 home)

Joe Montgomery, Representative  
 Terry Martin, Representative  
 Arliss Sturgulewski, Senator

Although the legislature has appropriated \$300,000 for "there isn't enough" the amount the gotten no fair as he been offered \$4,000 as the money to pay me my claim. I don't agree the release, I may never be released. In fact, I don't agree in the letter. I may not get any money. Since the claim in the letter is low.

just a portion of my loss, I don't feel I should  
accept any less. (I wonder where all the  
money has gone??) There will be a hearing to  
try to settle outstanding employee claims  
which will be on either Feb. 18<sup>th</sup> or 19<sup>th</sup>  
in Anchorage. I'm ready to do battle!  
Wish me luck. Do you have any other suggestions  
on how I can get my money?

Chris

2-18-82

HB/59

HOUSE LABOR & COMMERCE  
STANDING COMMITTEE  
February 18, 1982  
1:10 p.m.

Members Present: Rep. Martin, Chairman  
Rep. Bylsma, Vice-Chairman  
Rep. Randolph  
Rep. Rogers  
Rep. Gardiner

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 159 An Act relating to workers' compensation,  
and providing for an effective date.

WITNESS REGISTER

Jacquelyn McClintock, Director  
Division of Workers Compensation  
Department of Labor  
PO Box 1149  
Juneau, Alaska 99811  
465-2790  
Position Statement: Presented fiscal note.

Dick Block, President  
Alaska National Insurance Company  
PO Box 3440  
Anchorage, Alaska  
248-2642  
Position Statement: Commented on various draft versions of HB  
159.

William Reeves  
Associated General Contractors  
Anchorage, Alaska  
276-5354  
Position Statement: Comments on bill.

PREVIOUS ACTION

HB 159 See minutes of meetings of January 25-28,  
and 2/17.

Statutory Reference: AS 18.20.220; AS 23.30

Action Taken: No action taken during this  
meeting.

ACTION NARRATIVE

Tape #19  
Recording  
Number 005

The meeting was called to order by Chairman Martin at 1:10 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, Randolph, and Rogers. There were no members absent. Before the committee was HB 159, dealing with workers compensation.

Number 013

Rep. Rogers said he was told that a Finance subcommittee was considering eliminating a position in the Division of Insurance that deals with workers compensation. He asked that the committee request the Finance subcommittee to ensure that the position is not eliminated, and gave his reasons. There was discussion.

Number 039

Rep. Martin asked Jackie McClintock, Director of the Division of Workers Compensation, to go over the fiscal note. McClintock said that approximately \$320,000 was needed to fund wages, travel, and other expenses. Rep. Rogers requests costs of computer changes and printing costs. He noted that the Finance Committee may have problems with the fiscal note, and suggested the committee go over the fiscal note before referral. There was discussion.

Number 081

Rep. Martin requested of McClintock an estimate of savings in premiums and rehabilitation. Rep. Bylsma commented on the savings resulting from the bill. There was discussion. Rep. Rogers felt the immediate savings would be in rehabilitation. He thought carriers might not reduce their rates for several years. McClintock said the Workers Compensation Board supports the bill.

Number 110

Dick Block, president of Alaska National Insurance Company, commented on HB 159. He addressed his comments to the labor/management draft committee substitute (see minutes of 2/17/82).

Number 140

Block felt that Section 1 of the draft bill does not belong in the labor code, but should be in the insurance code. He said the section sets out no standards to guide the director as to allowable deductible

policies. Rep. Rogers asked if a carrier would issue a policy without checking the risk. Block felt it depended on the carrier, and reiterated the need for standards. Block said he felt the last sentence of Section 1 was unclear.

Number 195

Regarding Section 2 of the labor/management draft, Block asked for clarification of what the \$200 referenced in (e)(1) was to be used for, and noted that financial hardship is not defined. William Reeves, Associated General Contractors, said the \$200 is in addition to total permanent disability, and that extreme hardship is up to the discretion of the Board. There was discussion of this section.

Number 278

Block went over the rehabilitation sections. He said Section 3 sets forth appropriate guidelines, but he was concerned about Section 4, which he felt should be more specific. There was discussion. Block urged the committee to consider that the rehabilitation sections, as structured, would encourage the creation of a substantial new bureaucracy. He felt these things could be done within the existing Division of Workers Compensation. Rep. Rogers said it could have been done by vocational rehabilitation, but based on studies, without new authority, there is no chance of getting rehabilitation. With the new authority, there should be a significant decrease in time to get people back to work. There was discussion of the roles of the Workers Compensation Board, the state government, employers, employees, etc.

Number 576

Block said that, if rehabilitation is to be effective, it is to the carrier's/self insured's best interest; also, the employee's lawyer will work toward this as well. Rep. Rogers commented that lawyers tend to work for a lump sum payment so they get a larger award of attorney's fees. He also felt that part of the intent was to eliminate the need for attorneys to get involved. There was a discussion of lawyers in the rehabilitation process.

Number 647

There was discussion among the committee, Block, Reeves, and McClintock about overpayments.

- Side B, Number 007      Block felt the amount of offset for leaving the state should be adjusted annually. He commented on average weekly wages in Alaska as compared to other places. There was discussion.
- Number 103              Block said, regarding Section 31, that an employee would reject unemployment insurance and take workers compensation. Rep. Rogers pointed out that this section applies only to total disability, and that one who is totally disabled cannot draw unemployment.
- Number 113              Block commented on savings versus new costs. He observed that there is a shift of responsibility from the carrier to workers compensation, which may not be in the best interest of those involved. He elaborated on his reasons for thinking this. Block said he supports the need for data, and thought this should be done through 1) notice of injury; and, 2) closing report. He said current requirements are to report any change in circumstances, which adds to administrative costs.
- Number 162              There was discussion about the amendments before the committee. Rep. Martin asked Reps. Bylsma and Rogers to work with Jeff Barry on the bill.
- Number 205              As there was no further business to come before the committee, the meeting was adjourned at 2:14 p.m.

HB 159  
005  
~~000~~

2/18/82

1:10

Call to order, all members present

013

Rep. Rogers - last couple yrs, tried to make sure of adequate budget (Dw Ins + Div WC) for Wks Comp. Was told Finance subcomm considering eliminating pool in Div of Ins. Asked that comm. request Fin subcomm to ensure pool is not eliminated. Have ~~to~~ reasons.

Discussion.

039

Martin asked McClintock to go over fiscal note

042

McC - Approx \$320,000: ~~4 staff members rehab, rehab~~  
went over what this wd fund: wages, travel, expenses

062

Rogers - ~~how much will be for~~ computer charge & printing costs.  
requested costs of

Noted that Finance may have probs w/ fn. Suggested comm. of over note before referral. Have reasons.

Discussion.

081

Martin requested est. of savings in premiums & rehab of McC.

085

Byloma commented on savings resulting from bill.

Discussion. Rogers felt <sup>immediate</sup> savings wd be in rehab; felt carriers might not reduce rates for sev. yrs.

107

McC said Board supports bill.

110

Dick Block, Pres, AK Natl Ins Co - commented on HB 159. -  
addressed  
labor/mgmt draft CS (see yesterday's minutes).

140

Sec 1 - suggested:

1) d n't belong in labor code; shd be in ins. code

156

2) no standards to guide directn as to allowable deductive policies.

169

Rogers asked if carriers wd issue policy w/o ckg risk

Block - depends on carrier. Need standard.

Block, cont'd

189 3) referred to last sentence of sec 1; felt this language was unclear.

195 Sec. 2: ~~add'l~~ (e)(1) - unclear if \$200 is add'l, in lieu of, etc. wording unclear; financial hardship not defined.

205 Reeves - in addn to TPD; extreme hardship up to discretion of board; explained language.

225 Block - ~~taking poor~~ ~~that~~ ~~any~~ if making add'l allowances. legis. is providing income in excess of wages before injury, which is disincentive to rehab.

Discussion.

~~246 State currently provides TPD TTD 1/2~~

246 Discussion of Temp Total Disability & add'l \$200.

(McClintock & Reeves joined Block for discussion w/committee)

278 Block - re rehab sections

Sec 3 - sets forth appropriate guidelines. Concerned abt

# 4 - ~~litigation~~ shd be more specific

re last sentence, Sec 3 - giving tremendous latitude to

Dept of Labor to develop regns; need more specific guidelines.

308 Discussion - ~~Martin asked if he preferred it be legislated~~

~~Block responded that add'l obligation imposed~~

357 Block urged comm to consider, re secs 4, 5, & other rehab sections:  
was as structured, invites creation of substantial new bureaucracy.  
Can be done w/in existing Div of WC.

380 Rogers - Cd have been done by voc. rehab, but based on  
studies, w/o new auth, no chance of getting rehab; with it,  
there shd be signif decrease in time to get people back to work.  
Discussion of Roles of Board, state govt, employers, employees, etc.

491 Reeves... commented on Block's position. ~~Re Reeves~~  
~~Block~~

539 Discussion.

576 Block - if rehab is to be effective, it is in carrier's / self-insured's  
best interest; also, employee's lawyer will wk ~~for~~ towards him  
as well. Rogers commented that lawyers tend to wk for lump  
sum pymt so they'd get larger atty's fees. Also felt that part  
of intent was to eliminate need for attys to get involved.

615 Block said until there is dispute, state agency need not be  
involved.

Discussion of worth of lawyers in rehab.

647 Block - p. 7, sec 17 - re overpymts - support concept, but  
doesn't understand need for Board's approval. Rogers

Rogers commented.

654 Discussion

698 The Clentock - <sup>sometimes</sup> carrier overpays, then stops pymt completely until  
excess pd up.

Reeves added that Bd has often stipulated that, in case of  
overpymt, a percentage is deducted until overpymt is repaid.  
Discussion.

Side B

- 007 Block - p. 8, sec 21 (1) - amt of offset for lvy state shd be adjusted annually. ~~the language~~ last sentence - "rate" shd be chngd to "ratio."  
 Commented on average wkly wages in ak compared to other places. There was general agrmt that word shd be chngd (Reves, McC, comm)
- 036 Block - spendable wkly wage - not sure affect will be <sup>u</sup>intended. Rogers commented.  
 Block - <sup>referred to</sup> income tax implications  
 Discussion.
- 053 Block - p. 13 sec 30 (3) - unnecessary.  
 (5) - fixes salary at what paid fireman, etc, wd get; doesn't take into acct that most volunteers get other wages. Rogers - felt subsec (5) shd be added to (3).
- 069 Reves - (3) (4) + (5) are in essence fm current act. Felt (3) incorporates (4) + (5).
- 086 Rogers - commented; not convinced (3) takes care of prob, but allows some flexibility.  
 Discussion.
- 103 Block - p. 13, sec 31 - re unempnt ins - felt employer wd reject unemp + take WC.  
 Rogers <sup>pointed</sup> commented out it only applies to total<sup>?</sup> disability, can't draw unemp.
- 113 Block - comments on savings v. new costs. Observed that shift of responsibility fm carrier to wkr comp ~~has been~~ may not be in best int. est of those involved. Expanded.

138 Supports need for data; shd be done through:

- 1) notice of injury
- 2) closing report

Currently required to report any change in circumstances;  
adds to admin. costs. Asked <sup>that explain</sup> Mc C. value of info. He  
felt reporting shd be cut off to just opening & closing  
report. <sup>asked if he cd</sup> Prop~~s~~ amendments to address this.

162 Action & discussion abt amendments before committee.

179 Martin said he was hoping to ask some of com. to form  
subcomm to wk w/ researchers on amendments.

191 Martin asked Rogers & Dyloma to wk w/ Barry on bill.  
Hope to pass bill by Thurs.

198 Barry - re reporting procedures - q's.

Martin said to contact McC.

205 2:14 mtg adjourned.

LABOR & COMMERCE COMMITTEE  
DAILY COMMITTEE HEARING

Date: 2/18/82

Place: \_\_\_\_\_

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:03	
Rep. D. Randolph	✓		1:07	
Rep. B. Rogers	✓		1:07	
Rep. T. Gardiner	✓		1:07	
Rep. T. Martin, Chair	✓		12:59	

Subject Matter:

House Bill No. 159 \_\_\_\_\_

Senate Bill No. \_\_\_\_\_

Special Orders:





S B S  
H 8 8 4

2-19-82

Testimony by

Max D. Nalley

Exxon Company USA  
February 19, 1982

before the

House Labor and Commerce Committee

regarding

2nd HCS CSSB 84 (L&C)

MR. CHAIRMAN, I AM MAX NALLEY, ALASKA PUBLIC AFFAIRS MANAGER FOR EXXON COMPANY, U.S.A. I AM PRESENTING THE COMMENTS OF MR. RICHARD H. WEAVER, EXXON'S ALASKA OPERATIONS MANAGER, WHO IS NOT ABLE TO BE HERE TODAY DUE TO A PRIOR COMMITMENT TO MEET WITH COMMISSIONER KATZ.

EXXON APPRECIATES THIS OPPORTUNITY TO COMMENT ON THIS DRAFT BILL WHICH WE VIEW TO BE OF GREAT IMPORTANCE TO THE STATE, ITS PEOPLE AND THE INDUSTRIES CONCERNED WITH RESOURCE DEVELOPMENT. EXXON SUPPORTS THE DRAFT COMMITTEE SUBSTITUTE FOR THE LATEST VERSION OF SB-84 (2nd HCS CSSB 84 (L&C)). IN THE INTEREST OF TIME, OUR COMMENTS TODAY WILL BE LIMITED TO THE SPECIFIC PORTIONS OF THE DRAFT BILL THAT RELATE TO THE TIME PERIODS REQUIRED FOR STATE RESOURCE AGENCIES TO RENDER FINAL DECISIONS ON PERMIT APPLICATIONS.

IT IS OUR BELIEF THAT THE TIME CONSTRAINTS ESTABLISHED IN THIS LEGISLATION ARE ADEQUATE AND WORKABLE. WE WOULD FURTHER OBSERVE THAT THIS LEGISLATION PROVIDES THE PROCEDURE FOR THE GOVERNMENT TO BALANCE THE LEGITIMATE INTERESTS OF THE PERMIT APPLICANT WITH THE INTERESTS OF THOSE WHO MAY BE IMPACTED BY THE ISSUANCE OF THE PERMIT. THIS LEGISLATION MAKES A REAL, CONCERTED, AND WELL DEFINED EFFORT TO INSURE THAT LEGITIMATE AND JUSTIFIABLE CONCERNS ARE CONSIDERED AND THAT THOSE CONCERNS INFLUENCE THE DECISION MAKING PROCESS.

LET ME JUST QUICKLY OUTLINE HOW THE TIME FRAMES CONTAINED IN THE BILL COULD WORK IN THE PERMITTING PROCESS:

THE DRAFT BILL REQUIRES THAT EACH STATE RESOURCE AGENCY MUST CLASSIFY THE PERMITS WITH WHICH IT DEALS INTO ONE OF TWO CLASSIFICATIONS AND ADOPT PROCEDURAL REGULATIONS RELATING TO THE PROCESSING OF EACH CLASS OF PERMITS.

CLASS I PERMITS ARE THOSE WHICH REQUIRE A FINAL DECISION WITHIN 30 DAYS, WHILE

CLASS II PERMITS - THOSE WHICH, BECAUSE OF REQUIREMENTS FOR PUBLIC NOTICE OR PUBLIC HEARING OR INTERAGENCY REVIEWS, DEMAND MORE TIME - REQUIRE A DECISION WITHIN 65 DAYS.

IT IS OUR BELIEF THAT THE GREAT MAJORITY OF PERMITS WHICH THE RESOURCE AGENCIES ISSUE ARE OF A RECURRING AND ROUTINE NATURE WITH WHICH THE AGENCIES HAVE CONSIDERABLE PRIOR EXPERIENCE. THESE PERMITS SHOULD EASILY BE PROCESSED WITHIN EITHER THE 30-DAY OR 65-DAY TIME FRAME.

ADDITIONALLY, A VERY KEY COMPONENT OF THE DRAFT BILL FOR THOSE CONCERNED THAT THE TIME FRAMES ARE TOO SHORT IS THE PROVISION THAT ALLOWS THE LEAD AGENCY TO EXTEND THE TIME PERIOD BY AS MUCH AS 120 DAYS IN THOSE INSTANCES WHERE THE PERMIT INVOLVES UNUSUALLY COMPLEX ISSUES. WE NOTE THAT THERE HAS BEEN NO ATTEMPT TO DEFINE "UNUSUALLY COMPLEX ISSUES" IN THE LEGISLATION AND THAT IS PROPER, BECAUSE THIS IS A DECISION THE AGENCY SHOULD HAVE THE AUTHORITY TO MAKE ON A CASE-BY-CASE BASIS.

THE TOTAL ELAPSED TIME FOR PERMIT DECISIONS ON COMPLEX, CLASS II APPLICATIONS CONCEIVABLY COULD THEN BECOME 185 DAYS-- MORE THAN SIX MONTHS. THAT IS ENOUGH TIME, FOR EXAMPLE, FOR THE LEAD AGENCY TO SPEND ONE MONTH TO DETERMINE THAT THE PERMIT IS, IN FACT, COMPLEX; A MONTH TO GET THE INFORMATION OUT TO ANY AFFECTED COMMUNITIES AND OTHER RESOURCE AGENCIES; A MONTH TO GO OUT AND HOLD HEARINGS IN THE COMMUNITIES; ANOTHER MONTH TO COME BACK AND RECEIVE COMMENTS FROM ALL CONCERNED; AND TWO MORE MONTHS FOR THE LEAD AGENCY TO DIGEST ALL THE COMMENTS AND MAKE A DECISION ON ISSUANCE OF THE PERMIT.

WE FEEL THESE TIME FRAMES ARE ADEQUATE AND ALLOW AMPLE OPPORTUNITY FOR GATHERING INFORMATION FROM OTHER AGENCIES AND AFFECTED LOCAL AREAS, AS WELL AS TIME FOR SERIOUS CONSIDERATION BY THE PERMITTING AGENCY OF ALL THE FACTS PRESENTED, BEFORE MAKING A PERMIT DECISION.

THERE ARE TWO ADDITIONAL OBSERVATIONS WE WOULD MAKE CONCERNING THE TIME FRAME SPECIFIED IN THE DRAFT BILL:

FIRST, THE TIME CONSTRAINTS DICTATE THAT THE PERMITTEE PREPARE HIS APPLICATION IN A COMPLETE AND THOROUGH FASHION SO THAT HE HAS SOME DEGREE OF ASSURANCE THAT THE APPLICATION CAN BE REVIEWED AND APPROVED WITHIN THE TIME ALLOWED, SINCE THE ALTERNATIVE FOR THE APPLICANT IS DENIAL OF THE PERMIT

AS A MATTER OF PRACTICE, WITH CRITICAL PERMITS EXPERIENCE SHOWS THAT APPLICANTS AND AGENCIES WORK IN CONCERT LONG BEFORE THE PERMIT IS OFFICIALLY FILED TO DEFINE THE POINTS THAT NEED TO BE ADDRESSED AND TO PROPERLY COVER THEM IN THE INITIAL SUBMITTAL. THUS, THERE IS A DISCIPLINE IMPOSED UPON THE PERMITEE AS WELL AS THE AGENCY TO ASSURE THAT THE INFORMATION THAT IS PROVIDED IS ADEQUATE TO THE REQUIREMENTS FOR ISSUANCE OF THE PERMIT AND TO PRECEDE THE FORMAL PERMIT APPLICATION WITH DISCUSSIONS WITH THE APPROPRIATE RESOURCE AGENCIES IN ORDER TO STREAMLINE THE DECISION MAKING PROCESS BY THE LEAD AGENCY.

SECOND, IN RESPONSE TO WORRIES THAT HAVE BEEN RAISED THAT THIS DRAFT BILL WOULD ALLOW THE STATE TO RUN ROUGHSHOD OVER LOCAL CONCERNS, I EMPHASIZE THE DISTINCTION BETWEEN THIS BILL, WHICH RELATES TO PERMIT ISSUANCE, AND THE COMPLETELY SEPARATE PROCESS THAT ADDRESSES THE POLICY QUESTION OF WHETHER OR NOT A MAJOR PROJECT SHOULD BE UNDERTAKEN IN THE FIRST PLACE. FOR EXAMPLE, THE ISSUE OF EXPLORATION IN A PARTICULAR FRONTIER AREA WILL BE STUDIED LONG BEFORE THE FIRST PERMIT APPLICATION IS MADE. THERE ARE REQUIREMENTS FOR STUDIES, HEARINGS AND OTHER SUCH ACTIVITIES WHICH PROVIDE INFORMATION TO AND IDENTIFY CONCERNS OF LOCAL COMMUNITIES THAT MAY BE IMPACTED BY THE PROPOSED DEVELOPMENT. FROM THE INFORMATION GAINED IN THIS LENGTHY AND DELIBERATE PROCESS

THE STATE WILL MAKE ITS POLICY DECISION REGARDING OIL AND GAS EXPLORATION AND DEVELOPMENT IN A GIVEN AREA. ONCE THAT OVERALL POLICY DECISION HAS BEEN MADE BY THE STATE, FROM THAT POINT ON THE ISSUE SHOULD BE HOW SPECIFIC PERMIT ACTIVITIES (BOTH INDIVIDUALLY AND COLLECTIVELY) AFFECT LOCAL AREAS, NOT WHETHER DEVELOPMENT IS GOING TO OCCUR. THE PERMIT PROCESS ESTABLISHED IN THIS DRAFT BILL IS NOT THE VEHICLE FOR THE STATE TO DECIDE ON BROAD POLICY QUESTIONS. RATHER IT ALLOWS FOR ORDERLY DEVELOPMENT TO PROCEED ONCE THE DEVELOPMENT QUESTION HAS BEEN RESOLVED.

IN SUMMARY, MR. CHAIRMAN, EXXON STRONGLY SUPPORTS THE DRAFT BILL BEFORE YOU TODAY. IN OUR VIEW, IT REPRESENTS A BALANCED APPROACH WHICH PROTECTS THE INTERESTS OF THE STATE OF ALASKA, ITS PEOPLE, AND THE RESOURCE INDUSTRIES. WE URGE ITS PROMPT ADOPTION.

THANK YOU VERY MUCH.

RHW/SPEECH/066/es

TESTIMONY OF

O. K. GILBRETH, JR.

BEFORE THE HOUSE LABOR AND COMMERCE COMMITTEE

February 19, 1982

Juneau, Alaska

Mr. Chairman, my name is O. K. Gilbreth and I'm representing the Alaska Oil and Gas Association. I have previously testified before this committee on SB 84. I would like to briefly point out the importance of achieving regulatory reform through legislation.

First, Mr. Chairman, I would like to clarify some misconceptions about the draft of SB 84 which is the subject of discussion of this committee. That draft has been dubbed by the Attorney General as an AOGA draft. I would like to point out that it is not an AOGA draft. There are some very important differences in what we would suggest as the best bill and what this bill contains. Realizing that most legislation represents compromises, however, the members of AOGA are willing to compromise and recommend passage of the draft in order to accomplish some type of regulatory reform.

There are imperative needs for changes to the permitting process in this state. Let us look for a moment at how this may affect the future of the state and state income.

First, you must keep in mind that we are still importing a very large portion of our nation's petroleum requirements. We are using roughly sixteen million barrels of petroleum each day in the U.S. and as of the week ending February 5, 1982 we were producing 8,628,000 barrels per day. Our nation's deficiency is great and our problems many.

Closer to home, since Alaska and its offshore areas hold from one-fourth to more than one-half of the estimated undiscovered oil and gas resources for the entire nation, it is becoming imperative that unnecessary road blocks to these resources in Alaska be removed. Testimony from many sources has indicated that the future state income will decline significantly as Prudhoe Bay production declines. There is a long lead time to bring a field on production, and the oil and gas industry is virtually helpless to accelerate and bring discoveries on line because of continuing permitting problems.

At a meeting of the Senate Resources Committee a couple of weeks ago, concerns were expressed by State senators and legislators on the revenue reductions which the state will be facing in the next few years. Illustrating their concern were several questions which were asked of DNR Commissioner Katz on how development could be accelerated to maintain state income.

Mr. Chairman, for industry to move any faster, there are changes that have to be made. For example, for a company to drill a well

into the offshore area of the Beaufort Sea, it is necessary to get about 42 permits from state and federal agencies. The operator must start to get permits a year in advance of the drilling season. He must order steel and tubular goods for the sea lift many months before his permits are approved and must commit millions of dollars before he knows whether or not he can drill as he has proposed. Any of his permits can be disapproved by any one of a myriad of state, federal and local agencies. More certainty has to be built into the system.

Let me give you one example of permit problems that delay development and delay eventual income. As you know, <sup>operators are trying</sup> ~~the Kuperuk~~ <sup>to get all of the Prudhoe Bay Field on production</sup> ~~Field which is a major field by any standard, has just started production.~~ One company has an application to lay a gathering line across the Kuperuk River to carry production from one pad to another and then to a gathering center. This line would account for about 20,000 barrels per day of production. The application was filed in October 1981 and approval still hasn't been received.

In the meantime, the state's income is being pushed further into the future. <sup>There is a danger of losing a complete construction season and the operator still can't get permit approval.</sup> Mr. Chairman, the legislature should be asking the bureaucrats responsible for this delay why this has happened and what demands they have levied on the operator. It should also be determined if state agencies are trying to design installations without expertise and experience.

In the meantime, there are leases nearby that will be expiring

soon and interest in trying to develop them has waned because of of the state's delay in issuing permits for the pipelines. Wells will not be drilled and income will not be coming to the State. All of this is occurring because the regulators have thus far been able to delay these projects through the permitting process. The State must correct problems like these if state income is to be maintained in the future.

The chart marked AOGA Exhibit A shows several of the agencies that must approve just one of the 42 permits mentioned earlier. You will see evidence of multiple handling and duplication shown on this chart. This is a web of governmental handling that boggles the mind.

Too many state permitters always seem to have plenty of fears to suggest and few suggestions that will permit practical, beneficial development to proceed. I would like to point out that every penny of royalty and tax income which this state is receiving <sup>today</sup> comes from production discovered thirteen or more years ago. The more recent discoveries are being held up through a laborious permitting and political process. Nothing is moving very fast under current permits and policies.

Mr. Chairman, we have been called "mulish and obstinate" in testimony before this Committee for our steadfast position in trying to get the law changed so that we can get permits in a

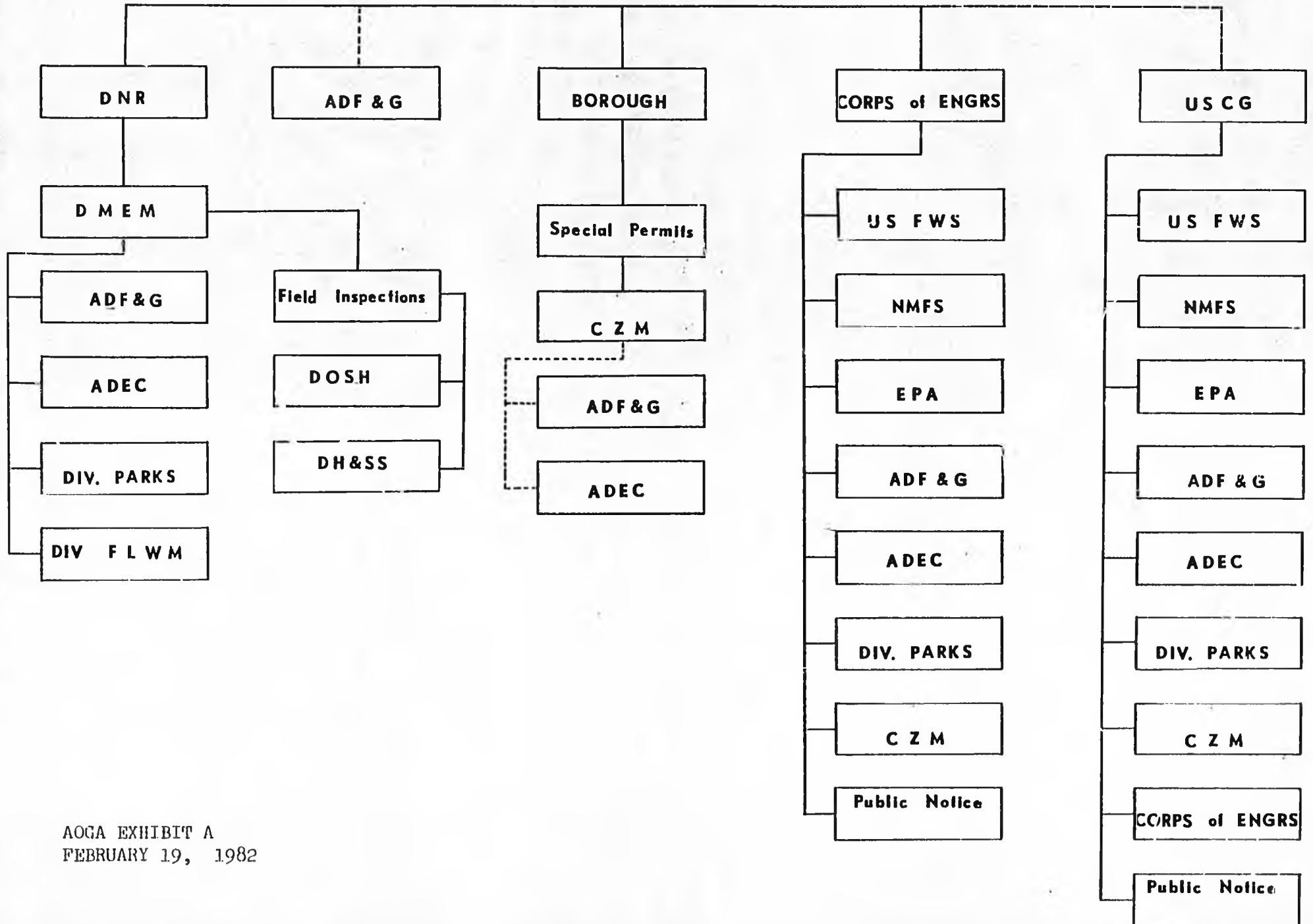
reasonable time. We have seen bills on regulatory reform before the legislature for three years in a row only to be sidetracked by the bureaucrats who don't want the system changed.

I suspect that the organized opposition to the bill before you is being orchestrated by those who want to stop or delay development. I recommend to you that you ask every opponent of this bill who testifies to describe to you how his proposal will minimize duplication and enhance permit processing.

Most of the opponents to development will be advocating more public input, more opportunity to object, longer approval periods, more appeal procedures, and no mandatory action. We have spent several years analyzing the laborious permitting process and in the main the present process represents a nonproductive and costly drain on the public which begets more and more bureaucrats. The State of Alaska and this legislature are the key to many of these problems. The members of AOGA are unanimous in urging this committee to adopt the draft of the bill before you to assure that the public can obtain permits in a reasonable time.

Mr. Marc Bond will discuss AOGA's position on changes which the Administration has recommended to the draft of SB 84 which is before you.

# AGENCIES INVOLVED IN OPERATING PERMITS ON STATE LANDS



SB 84 - MARATHON TESTIMONY  
HOUSE LABOR AND COMMERCE COMMITTEE  
HEARING

FEBRUARY 19, 1982

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS JAMIE LINXWILER AND I AM PRESENTING MARATHON OIL COMPANY'S TESTIMONY IN SUPPORT OF SENATE BILL 84 (SB 84). COPIES OF THIS TESTIMONY HAVE BEEN PROVIDED TO THE COMMITTEE.

MARATHON DIRECTS ITS TESTIMONY, NOT TO THE BILL PER SE, BUT RATHER TO THE HISTORY OF SB 84. MARATHON BELIEVES THIS HISTORY IS IMPORTANT IN SETTING THE STAGE FOR THE COMMITTEE'S DELIBERATIONS.

MARATHON HAS FOLLOWED THIS LEGISLATION, NOW CALLED SB 84, SINCE ITS ORIGINAL INTRODUCTION AS SB 548 IN MARCH 1980. THE CONCEPTS DETAILED IN THE BILL ARE A DIRECT OUTGROWTH OF A SIGNIFICANT PROBLEM THAT AROSE IN 1978 AND 1979 WHEN THE CORPS OF ENGINEERS ASSERTED JURISDICTION OVER DEVELOPMENT OF STATE LANDS UNDER THEIR WETLANDS PROGRAM. AS A RESULT, THE AGENCIES PRIMARILY RESPONSIBLE FOR MANAGING DEVELOPMENT OF STATE LANDS CEASED MAKING FINAL DECISIONS ON THESE MATTERS AND OTHER STATE AGENCIES SUDDENLY BECAME CENTRAL IN THE PROCESS. WHEN ADDED TO ALREADY SIGNIFICANT PROBLEMS IN THE STATE REGULATORY ARENA, THE

RESULT WAS SIGNIFICANT DELAY, DUPLICATION, AND A LACK OF CLEAR RESPONSIBILITY IN THE STATE GOVERNMENT.

TWO PROJECTS AROSE IN RESPONSE. THE FIRST PROJECT WAS GOVERNOR HAMMOND'S REGULATORY REFORM EFFORT INITIATED IN THE SPRING OF 1979. THE SECOND PROJECT WAS A RESULT OF THE FIRST, IN THAT, THE ALASKA OIL AND GAS ASSOCIATION CREATED A SPECIAL GROUP CALLED THE REGULATORY REFORM COORDINATING COMMITTEE TO ASSIST IN AN IN-HOUSE REVIEW OF REGULATORY MATTERS AND THE GOVERNOR'S REGULATORY REFORM PROJECT.

THROUGHOUT 1979, BOTH PROJECTS REVIEWED REGULATIONS AND THE EFFECTIVENESS OF THOSE REGULATIONS IN THE REAL WORLD. DURING THE SPRING OF 1980, TWO SIGNIFICANT EVENTS OCCURRED THAT STARTED US ON OUR PATH TO TODAY'S HEARING. THE FIRST EVENT WAS THE ALASKA SUPREME COURT'S DECISION STATE V. A.L.I.V.E. VOLUNTARY, 606 P.2D 769 (ALASKA 1980). THIS DECISION EFFECTIVELY ELIMINATED THE LEGISLATURE'S RIGHT TO ANNUL REGULATIONS. THE SECOND SIGNIFICANT EVENT WAS THE LEAVING OF THE ADMINISTRATION'S REGULATORY REFORM PROJECT LEADER AND THE OUTSIDE APPEARANCE THAT THE GOVERNOR'S REGULATORY REFORM PROJECT HAD COME TO AN END.

THESE EVENTS LED TO THE REALIZATION, BY THOSE IN INDUSTRY AND GOVERNMENT INVOLVED IN THE REGULATORY REFORM EFFORT THAT DIRECT INVOLVEMENT BY THE LEGISLATURE WOULD BE REQUIRED FOR REGULATORY REFORM TO ACTUALLY OCCUR. IN REVIEWING WHAT ACTION

COULD BE TAKEN BY THE LEGISLATURE TO SOLVE SOME - NOT ALL - OF THE REGULATORY PROBLEMS, THE CONCLUSION WAS REACHED THAT A COMMON THREAD IN THESE PROBLEMS WAS THE LACK OF A TIME LIMIT ON THE DECISION-MAKING PROCESS. VIA A TIME LIMIT, ACTION WOULD BE TAKEN AND A DECISION WOULD BE MADE. FROM THIS PROSPECTIVE, YOU HAVE THE BASIC BACKGROUND IN WHICH SB 84 WAS CREATED.

AS STATED, LEGISLATION, SB 548, WAS INTRODUCED IN THE ELEVENTH LEGISLATURE IN MARCH, 1980. IT WAS REVIEWED BY THE LEGISLATURE AND THE ADMINISTRATION, BUT FAILED TO REACH THE FLOOR OF THE HOUSE FOR FINAL LEGISLATIVE APPROVAL IN THE LAST MINUTES OF THE SESSION. DURING THE LEGISLATIVE PROCESS, THE ADMINISTRATION PLAYED AN INTEGRAL ROLE IN THE REDRAFTS OF THE LEGISLATION AND THE ADMINISTRATION'S CONCEPTS WERE CONTINUED IN WHAT CAME NEXT -- THE UNIFORM PERMITTING PROCEDURE REGULATIONS.

ON DECEMBER 5, 1980, GOVERNOR HAMMOND ANNOUNCED THE UNIFORM REGULATIONS. THE GOVERNOR STATED THESE REGULATIONS WOULD ESTABLISH FIRM, REASONABLE DEADLINES AND WOULD MAKE THE REGULATORY PROCESS CLEAR, SO THAT INDIVIDUALS OR BUSINESSES WOULD NOT WASTE TIME AS A RESULT OF PROCEDURAL DELAYS. A PRESS RELEASE IN THE DECEMBER 2 ANCHORAGE TIMES STATED THE UNIFORM REGULATIONS: "ACCOMPLISHED THROUGH ADMINISTRATIVE LAW WHAT HAMMOND COULDN'T GET THROUGH THE LEGISLATURE." THAT IS,

REGULATORY REFORM LEGISLATION WAS GOING TO OCCUR THROUGH THE PROMULGATION OF REGULATIONS. IN THIS REGARD, IT IS IMPORTANT TO RECALL THAT BECAUSE OF THE A.L.I.V.E. DECISION, THE LEGISLATURE WOULD BE OUTSIDE THE PROCESS.

THE ATTORNEY GENERAL'S OFFICE ACTUALLY BEGAN DRAFTING THE UNIFORM REGULATIONS SIX MONTHS PRIOR TO THE DECEMBER 5 ANNOUNCEMENT, OR RATHER, JUST AFTER THE LEGISLATIVE SESSION HAD COME TO AN END. MARATHON BELIEVES EVERYONE INVOLVED IN THIS UNIFORM REGULATION PROCESS WORKED IN GOOD FAITH. THE UNIFORM REGULATIONS, HOWEVER, CREATED AN UNUSUAL SITUATION, IN THAT, THEY CREATED RARE AGREEMENT - BETWEEN GENERALLY DIAMETRICALLY OPPOSED GROUPS - THAT THE REGULATIONS WERE UNWORKABLE. FOR EXAMPLE, BOTH AOGA AND TRUSTEES FOR ALASKA OPPOSED THE ADOPTION OF THE REGULATIONS. TO THIS DATE, THE UNIFORM REGULATIONS ARE STILL AWAITING IMPLEMENTATION.

ABOUT THE SAME TIME AS THE GOVERNOR ANNOUNCED THE UNIFORM REGULATIONS, A COMMITTEE REPORT WAS ISSUED TO THE LEGISLATURE ON REGULATORY REFORM. THE REPORT RECOMMENDED EXTENSIVE REVISION OF THE REGULATORY PROCESS, INCLUDING, IN PARTICULAR, THE ADOPTION OF LEGISLATION ESTABLISHING PERMITTING TIME LIMITS, SUCH AS THOSE CONTAINED IN THE PRESENT VERSION OF SB 84. WITH THIS RECOMMENDATION IN MIND AND IN RESPONSE TO THE CONCERN OVER THE UNIFORM REGULATIONS, A MUCH TOUGHER VERSION OF SB 84 THAN WHAT

THE COMMITTEE HAS BEFORE IT TODAY WAS INTRODUCED LAST SESSION.  
THE BILL PASSED THE SENATE LAST SESSION ON A 17 TO 2 VOTE.  
SINCE SB 84 HAS BEEN IN THE HOUSE, AND ESPECIALLY SO DURING THE  
INTERIM LAST FALL, SB 84 HAS GONE THROUGH A NUMBER OF DRAFTING  
REVISIONS TO ANSWER THE CONCERNS OF VARIOUS GROUPS. THE BILL  
BEFORE YOU REPRESENTS INPUT FROM ALL AREAS OF CONCERN.

MR. CHAIRMAN, COMMITTEE MEMBERS, THIS TRACING OF THE  
HISTORY OF SB 84 NOW BRINGS US TO THIS HEARING. SB 84  
INCORPORATES A NUMBER OF THE RECOMMENDATIONS MADE TO THE  
LEGISLATURE IN THE DECEMBER, 1980 REGULATORY REFORM REPORT. SB  
84 REPRESENTS THE LEGISLATURE'S FIRST STEP TOWARD REGULATORY  
REFORM AND ENSURES THE LEGISLATURE'S INVOLVEMENT IN THE  
REGULATORY REFORM EFFORT.

MARATHON STRONGLY SUPPORTS THE BILL AND STRONGLY  
RECOMMENDS COMMITTEE APPROVAL.

STATEMENT OF JAMES K. BARNETT

ATTORNEY FOR

SOHIO ALASKA PETROLEUM COMPANY

TO

HOUSE LABOR AND COMMERCE COMMITTEE

FEBRUARY 19, 1982

My name is James K. Barnett, Attorney for Sohio Alaska Petroleum Company. As you know, Sohio Alaska Petroleum Company has been intimately and continuously involved in various proposals for State permit reform over the past several years. Last year Tim Bradner and Roger Herrera of our offices testified before your committee on our company's concern regarding permit reform. Today I would like to bring you up to date on our general position.

Each member company in the Alaska Oil and Gas Association probably has a slightly different emphasis on the State permit reform effort. Sohio's major concern has always been with a lead agency portion of the bill, as we believe this concept will streamline and simplify decision making among the various State agencies in Coastal Zone Management consistency determinations and on comments made by the State concerning a federal permit application.

Tim and Roger spoke to you last year about the time delays experienced and what we call "the Saga of Sag 7 and 8." This situation arose in 1980 when Sohio sought Corps of Engineer permits for the construction of two gravel islands in the Beaufort Sea. In that case, conflict between State agencies pursuing their legitimate, legislatively prescribed interests, led to extensive delays in developing an overall State policy on the construction of these islands. The delays were so extensive that it took a longer time for the final permits to be issued than it did for us to drill the wells on the islands once the islands were constructed!

We at Sohio do not want to single out any one agency or any one person for criticism or concern. We are certain that each individual involved in the permitting decisions then and now exercised his own best judgment in making a good faith decision about the permit applications based on the laws surrounding his agency's existence. The difficulty is that no one person or agency has been given the legislative mandate to speak for the State. Instead, consistency determinations sometimes are concluded only after lengthy discussion between a variety of concerned agencies and, in some cases, the applicant becomes responsible to mediate differences to bring a consistency determination to a prompt conclusion.

Further, when a federal permit action is under consideration, besides the mandatory requirement of a State consistency determination, a federal agency like the Corps of Engineers may also receive

separate comments from individual State agencies. In some cases in the past, these comments have been issued from State agencies entirely separate from the State consistency determination, and have included different and more stringent comments and recommendations than those issued in the formal consistency determination. This of course can cause even further delay and, once again, the applicant assumes a large role in mediating differences between agencies, and sometimes this requires that the applicant accept harsher permit stipulations than the State consistency determination might require.

This permit reform legislation will correct these problems through the lead agency process. In the cases most relevant to Sohio, the Department of Natural Resources will be designated as the lead agency for review of all State agency comments in anticipation of a consistency determination and the issuance of formal State comments to the Corps of Engineers. The Department of Natural Resources will accept comments from all relevant agencies and local municipalities with approved coastal management plans or, where such plans do not exist, from the Office of Coastal Management. These comments must be given to the Department in a specified time, and the Department in turn must issue them in a further specified time. Delays experienced in the past will therefore be held to a minimum.

Much has been said about the role of local governments in this process. We believe the State's coastal zone law has established a good mechanism for viable local government input, and the draft permit reform legislation before you today gives much credence to the comments of the local coastal resource districts established pursuant to this law. In the draft bill, "substantive consideration" is given by the Department of Natural Resources to all factual statements issued, not only from the various commenting State agencies, but also from the comments of the local coastal resource districts. If no local resource district has yet been established in the locality, then such substantive consideration is given to the Office of Coastal Management, the State body which speaks for the local governments pursuant to the State's coastal zone management law if there is no approved plan in that locality.

The Department of Natural Resources cannot arbitrarily reject the factual statements or recommendations of the agencies or local governments. Instead the draft bill gives significant credence to those comments. However, as the "lead agency", the Department of Natural Resources does have the final say in balancing all the comments in reaching the overall premitting decision. This is essential to avoid lengthy delay and cumbersome premitting processes which have been experienced by Sohio and others in previous situations.

The Saga of Sag 7 and 8 occurred two years ago and I would like to tell you that the situation has markedly improved. In most

cases it has and I must continue to emphasize that we believe that each person and each agency exercises their best judgment in making a good faith determination about our permit applications based on the law that they must enforce. But even today Sohio has had a permit application pending since September 1981 dealing with the West End development of the Prudhoe Bay oil field. This permit needs a State consistency determination, and as of today, February 19--five months later--it's still has not been issued. It is admittedly a controversial permit, and we have been assured by the relevant agency that the consistency finding will soon issue. But this permit reform legislation, if it were in effect, would have required a more expeditious process than we are now experiencing.

I thank you for the opportunity to comment. In closing, I would like to add Sohio's full endorsement to the latest draft of Senate Bill 84 now before your Committee. We urge the passage of this bill today to the full House so that it may become law as soon as possible.

HOUSE LABOR & COMMERCE  
STANDING COMMITTEE  
February 19, 1982  
1:07 p.m.

Members Present: Rep. Martin, Chairman  
Rep. Bylsma, Vice-Chairman  
Rep. Rogers  
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

SB 84 An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Managements program.

WITNESS REGISTER

O.K. Gilbreth  
AOGA  
Anchorage, Alaska  
Position Statement: Clarifications regarding draft committee substitute.

Jamie Linxwiler  
Marathon Oil Company  
Anchorage, Alaska  
Position Statement: Gave history of SB 84.

Max D. Nalley  
Alaska Public Affairs Manager  
Exxon Company USA  
Anchorage, Alaska  
Position Statement: Supported draft committee substitute.

James K. Barnett, Attorney  
Sohio Alaska Petroleum Company  
Anchorage, Alaska  
Position Statement: Gave position on permit reform.

Ethel Nelson  
Exploration Land Representative  
Texaco, Inc.  
Anchorage, Alaska  
Position Statement: Supported bill.

Marc Bond, Attorney  
Chevron USA  
Anchorage, Alaska  
Position Statement: Discussed proposed amendments to SB 84.

PREVIOUS ACTION

SB 84

See minutes of 2/12/82.

Statutory Reference: AS 44.62

Action Taken: Rep. Randolph moved to accept 2d HCS CSSB 84 (L&C) for amendment.

Rep. Rogers moved to accept 2d HCS CSSB 84 (L&C) with all the governor's proposed amendments. Question, Rogers motion: for--Rogers, Gardiner; opposed--Randolph, Bylsma, Martin. Motion failed.

Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #4. Motion passed unanimously.

Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #11. On the question: for--Rogers, Gardiner; opposed--Bylsma, Martin, Randolph. Motion failed.

Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #10. Rep. Bylsma objected, and withdrew his objection. Motion passed unanimously.

Rep. Rogers moved, page 6, lines 12-13, to amend the main motion by deleting the sentence "right to appeal ...637". There was objection. On the question: for--Rogers, Gardiner, Bylsma; opposed--Randolph, Martin. Motion passed.

Rep. Rogers moved to amend the main motion by adding, on page 5, line 24 "except when applicable, due process rights...within 45 days" (see governor's proposed amendments). On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Rep. Rogers moved to amend motion on page 5, lines 16 and 17, by deleting "for up to an additional 30 days." and inserting, after word "section", the language: ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Motion passed

without objection.

Rep. Rogers moved to amend motion on page 2, line 12, after word "application.", by deleting the period, and inserting: ", unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt." On the question: for--Rogers, Gardiner, Bylsma; opposed--Randolph, Martin. Motion passed.

Rep. Rogers moved to amend motion on page 2, line 26, by adding: ", unless the applicant otherwise agrees." Motion passed unanimously.

Rep. Rogers moved to amend motion on page 4, line 6, by deleting the first sentence and inserting the first sentence of the governor's proposed amendment #3. On the question: for--Rogers, Gardiner; opposed--Randolph, Martin, Bylsma. Motion failed.

Rep. Rogers moved to amend motion by accepting the governor's proposed amendment #3. On the question: for--Gardiner, Rogers; opposed--Randolph, Martin, Bylsma. Motion failed.

Rep. Rogers moved to amend motion on page 5, lines 3-5, by deleting subsection (d), and inserting new subsection (3). There being no objection, the motion passed.

Rep. Rogers moved to amend motion on page 5, lines 22-23, by accepting the governor's proposed amendment #7, as revised. On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Rep. Rogers moved to rescind the committee's action in failing to adopt the amendment. Rep. Rogers withdrew the motion after discussion.

Rep. Gardiner moved to amend motion on page 1, line 11, by deleting word "being" and inserting "many times". On the question: for--Rogers, Gardiner; opposed--Bylsma, Randolph, Martin. Motion failed.

Rep. Gardiner moved to amend motion on page 1, line 15, by deleting all of line 15 and

inserting "the unjustified delay of permits by". After discussion, Rep. Gardiner withdrew the motion.

Rep. Gardiner moved to amend motion on page 1, line 15, by beginning the sentence with the language, "The unjustified delay of permits caused by". On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Rep. Gardiner moved to amend motion on page 1, line 20, by deleting word "protracted" and inserting word "unnecessary". On the question: for--Gardiner; opposed--Bylsma, Randolph, Martin.

Rep. Randolph moved to report 2d HCS CSSB 84 (L&C) out of committee. He withdrew that motion.

On the question on the main motion to adopt 2d HCS CSSB 84 (L&C): for--Martin, Bylsma, Randolph; opposed--Gardiner. Motion passed.

Rep. Randolph moved to report 2d HCS CSSB 84 (L&C), as amended, out of committee. There being no objection, motion passed.

#### ACTION NARRATIVE

Tape #20 and 21  
Recording  
Number 000

The meeting was called to order by Chairman Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, Randolph, Gardiner, and Rogers. There were no members absent. This meeting was a continuation of the hearing on SB 84. The committee was considering the draft Labor & Commerce committee substitute, and amendments proposed by the administration. Rep. Martin limited testimony to ten minutes.

Number 031

O.K. "Easy" Gilbreth, Alaska Oil & Gas Association (AOGA), wanted to clarify misconceptions of the draft committee substitute. (Gilbreth spoke from prepared testimony, which is available from the committee.) Gilbreth said the Attorney General called it the "AOGA draft", but it isn't. He said it's a compromise AOGA can accept. Gilbreth said there is a need for

changes. He spoke of the future of the state and the state's income. He passed out a chart dated 2/19/82 which showed agencies an operator must go through to get a permit on state land. He felt the present permit process to be non-productive. There was discussion.

Number 142

Jamie Linxwiler, Marathon Oil Company, said they support SB 84. He spoke of the history of the bill, and past attempts at permit reform. (Linxwiler spoke from prepared testimony, which is available from the committee.) He said SB 84 incorporates a number of recommendations made in past regulation reform attempts.

Number 241

Max D. Nalley, Alaska Public Affairs Manager, Exxon Company USA, said they supported the draft committee substitute. (Nalley spoke from prepared testimony, which is available from the committee.) He said the time constraints established in the bill are workable. He felt it makes a real effort to ensure justifiable concerns are considered. Nalley went over how the proposed timeframes would work. He felt the timeframes are adequate to obtain and evaluate all input before making decisions. He said the bill also addresses local concerns through the public hearing process, studies, etc. There was discussion.

Number 397

James Barnett, attorney for Sohio Alaska Petroleum Company, gave their general position. He said their major concern is with the lead agency portion of the bill. (Barnett spoke from prepared testimony, which is available from the committee.) Barnett spoke of time delays experienced in the past. He said the difficulty is that no one person or agency has been given legislative mandate to speak for the state. He said the applicant assumes a large role in mediating differences between agencies. Barnett felt this legislation would correct those problems through the lead agency process. He felt local coastal zone laws establish a good mechanism for viable local government input. He gave an example of a permit processing problem. There was discussion about various aspects of the bill.

- Side B, Number 048 Ethel Nelson, Exploration Land Representative, Texaco, Inc., supported the bill. She said comments made in the past have been selectively ignored by the administration. Regarding the governor's amendments, she said that some do not promote orderly development. She said they are willing to accept the bill as drafted as a good faith compromise. She said she agreed with the testimony that would be given by Marc Bond. Nelson went over the impact of the bill. She said that Alaska's wealth is almost entirely dependent on production of natural resources.
- Number 104 Marc Bond, attorney for Chevron USA, and also representing AOGA, supported the Labor & Commerce committee substitute. He discussed the governor's proposed amendments and gave comments on each amendment. He felt, in proposed amendment #1, that the extra 20 days is not needed. He said it is the opinion of AOGA that 65 days is more than enough time. There was discussion.
- Number 252 Bond said that the lead agency is the key provision of the bill. He felt the lead agency must have the authority to make decisions, and said that non-lead agencies should not be allowed to give input to federal agencies. He opposed amendment #3. There was discussion about who should make decisions, what data would be considered, and how decisions should be handled.
- Number 529 Bond said, regarding proposed amendment #4, that he believed federal law requiring comments of an agency would override this provision. He supported the section.
- Number 560 Rep. Randolph moved to accept 2d HCS CSSB 84 (L&C) for discussion. Rep. Rogers moved to amend Rep. Randolph's motion to accept the draft with all the governor's proposed amendments. On the question on Rep. Rogers' motion: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.
- Number 575 Rep. Rogers moved the governor's proposed amendment #4 as an amendment to Rep. Randolph's motion. Motion passed unanimously.
- Number 613 Rep. Rogers moved to amend the main motion

by accepting the governor's proposed amendment #11. On the question: for--Rogers and Gardiner; opposed--Randolph, Bylsma, Martin. Motion failed.

Number 624

Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #10. Rep. Bylsma objected. There was discussion. Motion passed unanimously.

Number 700

Rep. Rogers moved to amend the main motion, on page 6, lines 12-13, by deleting sentence "right to appeal...637". There was objection. Discussion followed. On the question: for--Rogers, Gardiner, Bylsma; opposed--Randolph, Martin. Motion passed.

Tape 21, Number 030

Rep. Rogers moved to amend the main motion, on page 5, line 24, by adding "except when applicable, due process rights...within 45 days." (See governor's proposed amendment #8). There was discussion. On the question: for--Rogers, Gardiner; opposed--Randolph, Bylsma, Martin. Motion failed.

Number 050

Rep. Rogers moved to amend the main motion, on page 5, lines 16 and 17, by deleting language "for up to an additional 30 days." and inserting: ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." He asked unanimous consent. There being no objection, the motion passed.

Number 091

Rep. Rogers moved to amend the main motion, on page 2, line 12, by adding a comma and inserting the governor's proposed amendment #1, with one change: delete 85 and insert 75. There was discussion. On the question: for--Bylsma, Rogers, Gardiner; opposed--Martin, Randolph. Motion passed.

Number 151

Rep. Rogers moved to amend the main motion, page 2, line 26, by adding, ", unless the applicant otherwise agrees." There being no objection, the motion passed unanimously.

Number 172

Rep. Rogers moved to amend the main motion, page 4, line 6, by deleting the first sentence and inserting the first sentence of the governor's proposed amendment #1. On the question: for--Rogers, Gardiner;

opposed--Randolph, Martin, Bylsma. Motion failed.

- Number 188 Rep. Rogers moved to amend the main motion by adopting the governor's proposed amendment #3. On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.
- Number 190 Rep. Rogers moved to amend the main motion, page 5, lines 3-5, by deleting subsection (d) and inserting new subsection (d), using language from governor's proposed amendment #5. Rep. Randolph asked unanimous consent. There being no objection, the motion passed.
- Number 210 Rep. Rogers moved to amend the main motion, page 5, lines 22-23, by accepting the governor's proposed amendment #7, as revised. Rep. Gardiner asked unanimous consent. On the question: for--Gardiner, Rogers; opposed--Randolph, Bylsma, Martin. Motion failed.
- Number 233 Rep. Rogers moved that the committee rescind its action in not adopting the previous amendment. There was discussion. Rep. Rogers withdrew the motion.
- Number 303 Rep. Gardiner moved to amend the main motion, page 1, line 11, by deleting the word "being" and inserting "many times". There was discussion. On the question: for--Gardiner, Rogers; opposed--Bylsma, Martin, Randolph. Motion failed.
- Number 335 Rep. Gardiner moved to amend the main motion, page 1, line 15, by deleting all of line 15 and inserting "The unjustified delay of permits by". There was discussion. Rep. Gardiner withdrew the amendment.
- Number 365 Rep. Gardiner moved to amend the main motion, page 1, line 15, by beginning the sentence with: "The unjustified delay of permits caused by". On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.
- Number 375 Rep. Gardiner moved to amend the main motion, page 1, line 20, by deleting the word "protracted" and inserting the word "unnecessary". There was discussion. On the question: for--Gardiner; opposed--

Randolph, Bylsma, Martin. Motion failed.

Number 441

Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) from committee. He withdrew that amendment.

Number 447

On the question of the main motion by Randolph to accept 2d HCS CSSB 84 (L&C): for--Randolph, Bylsma, Martin; opposed--Gardiner.

Number 459

Rep. Randolph moved to report 2d HCS CSSB 84 (L&C), as amended, from committee. There being no objection, motion passed.

Number 474

There being no further business to come before the committee, the meeting was adjourned at 3:13 p.m.





CSBB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Easy Gilbroth	<del>AK</del> Anchorage	ADGA	Yes	
Jamie Luxwiler	Anchorage	Marathon	Yes	
Max Nally	Anchorage	Exxon	Yes	
Jim Barnett	Anchorage	Solo	Yes	
<del>Edul Nelson</del>	Anchorage	Texaco	Yes	
<del>J. Mary Bond</del>	Anchorage	<del>Exxon</del> Chevron	Yes	
Jim Posey	Anchorage	ARCO	Yes	
Milton Byrd	Anchorage	A S I A	yes	
Mollie Dent	Juneau	Sierra Club Legal Defense Fund	Yes	
MARY HALLORAN	DNR-COMMISSIONER'S OFFICE	DNR	NO	
George Kruss	Juneau	AK State Chamber of Commerce	Yes	
Dave Harbour	Anchorage	ARCO	NO	

Amendment #8

Rep. Rogers moved, p. 2, line 12, after word "application.", delete period, and insert ", unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt." Discussion.

For: Rogers, Gardiner, Bylsma      Against: Randolph, Martin  
Amendment passed.

Amendment #9

Rep. Rogers moved, p. 2, line ~~13~~<sup>26?</sup>, add ", unless the applicant otherwise agrees."

No objection.

Motion passed unanimously. ~~Should be 26?~~

Amendment #10

Rep. Rogers moved, p. 4, line 6, delete first sentence and insert, after (a), "There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or a least one class II permit."

For: Gardiner, Rogers      Against: Randolph, Martin, Bylsma  
Motion failed.

Amendment #11

Rep. Rogers moved the governor's proposed amendment #3.

For: Gardiner, Rogers      Against: Bylsma, Randolph, Martin  
Motion failed.

Amendment #12

Rep. Rogers moved, p. 5, lines 3-5, to delete subsection (d) and insert new subsection (d), using language from governor's proposed amendment

#5. Rep. Randolph asked unanimous consent.

No objections.

Motion passed unanimously. ~~Should be lines 1-2, subsection (d)~~

Amendment #13

Rep. Rogers moved, p. 5, lines 22-23, to accept the governor's proposed amendment #7, as revised (see sheet entitled Changes to Proposed Administration Amendments to SB 84): Delete language "Except as provided in this section the procedure is", and insert "Administrative appeals" conducted under "this section are not subject to the procedures in" AS 44.62.330-44.62.630. Rep. Gardiner asked unanimous consent.

For: Rogers, Gardiner      Against: Bylsma, Martin, Randolph  
Motion failed.

Amendment #14

AMENDMENTS PROPOSED DURING HL&C COMMITTEE MEETING 2/19/82

Re: SB 84

Amendment #1

Main motion (amendment)

Rep. Randolph moved to amend SB 84 by accepting the draft entitled 2d House CS for ~~CS~~ for Senate Bill No. 84 (L&C).

Amendment #2

amendments to amendment

Rep. Rogers moved to amend the amendment to accept the bill with all the governor's proposed amendments.

OK

For: Rogers, Gardiner Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #3

OK

Rep. Rogers moved to accept the governor's proposed amendment #4. (p. 5, lines 1-2)  
Motion passed unanimously.

OK

Amendment adopted.

Amendment #4

OK

Rep. Rogers moved to accept the governor's proposed amendment #11.  
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #5

OK

Rep. Rogers moved to accept the governor's proposed amendment #10, Rep. Bylsma objected. Discussion. (p. 6, lines 15-17)  
Motion passed unanimously.

Amendment adopted.

Amendment #6

A

Rep. Rogers moved, p. 6, lines 12-13 of draft CS, delete sentence, "The right to appeal is not affected by the failure to seek further review under AS 44.62.637." There was objection. Discussion.

For: Rogers, Gardiner Against: Martin, Bylsma, Randolph  
Amendment ~~failed~~

Passed

Amendment #7

OK

Rep. Rogers moved, p. 5, lines 16 and 17, delete "up to an additional 30 days." and insert, after word "section", ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Asked unanimous consent.

No objection.

+

Amendment passed.

Rep. Rogers moved the committee rescind its action in failing to adopt previous amendment. Discussion.  
Rep. Rogers withdrew his motion.

Amendment #15

Rep. Gardiner moved, p. 1, line 11, the delete word "being" and insert "many times". Discussion.  
For: Gardiner, Rogers                      Against: Bylsma, Randolph, Martin  
Motion failed.

Amendment #16

Rep. Gardiner moved, p. 1, line 15, delete all of line 15 and insert "the unjustified delay of permits by". Discussion.  
Rep. Gardiner withdrew his amendment.

Amendment #17

Rep. Gardiner moved, p. 1, line 15, begin sentence with language, "The unjustified delay of permits caused by".  
For: Gardiner, Rogers                      Against: Martin, Bylsma, Randolph  
Motion failed.

Amendment #18

Rep. Gardiner moved, p. 1, line 10, delete word "protracted", insert word "unnecessary". Discussion.  
For: Gardiner                                      Against: Randolph, Bylsma, Martin  
Motion failed.

Amendment #19

Rep. Randolph moved to pass 2d HCS CSSB84 (L&C) out of committee; motion was withdrawn.

Amendment #20

*main amendment*  
Question was called on main amendment to accept 2d HCS CSSB 84 (L&C) as amended by committee.  
For: Martin, Bylsma, Randolph                      Against: Gardiner  
Motion passed.

Amendment #21

*motion*  
Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) out of committee. Rep. Gardiner asked unanimous consent.  
There was no objection.  
Motion passed unanimously.

\* AMENDMENT 5

Page 5, ls. 3-5.



Delete existing subsection (d) and insert the following:

(d) For activities involving both a disposal of interest in land, or plan of operations approval under a previous disposal, and a certification under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall be the Department of Natural Resources.

Roller left  
3:08

~~339~~ Gard - p. 1, line 11 - delete "being" insert "many times"

303 Discussion

320 Estn Gard R for; B, Ra, M against

335 Gard: line 15 delete ~~"the unjustified delay~~ also of line 15,  
ins "The unjustified delay of permits by"

350 Discussion

362 Gard w/drew amend

365 Gard: add "The unjustified delay of permits  
caused by;  
B M Ra opp'd R + Ga for

375 Gard - p. 1  
line 20 delete "protracted", ins "unnecessary"  
Discussion. (405) for, B & Ra M opp'd

406 ~~Hardin~~ Discussion of <sup>general</sup> language in bill.

441 Rand moved to pass out of comm ad CS CSSB 84 (L & C); w/drew

447 main amend to accept ad HCSCSSB 84 L & C  
opp'd: Gard fav: M, B, Ra

459 Rand moved to pass HCSCSSB 84 out of comm.  
Gard asked unan consent.

No objection, & no passed. File will be passed from comm  
w/ amendments passed.

474 Adj. 3:13

2/19/82

SB 84

Gardiner absent

000

START

1107

Call to order; continuation of hrg on SB 84 - considering draft of Lt. CS, & amendments prop'd by admin. Limited testimony to 10 minutes.

022

Rogers asked abt ~~content~~ <sup>prop's</sup> of Clark testimony & reqs for comm. use

031

OK Galbraith, AK Oil & Gas Assoc,

& clarify misconceptions of draft CS; ~~AK~~ AG called it AOGA draft, but it isn't. It's a compromise AOGA can accept.

Need for change; spoke of ~~the~~ future of state & state's income.

(Spoke from prepared testimony.) Passed out chart dated 2/19/82

showing agencies operator must go th/ to get permit on state land.

145

Present permit process non-productive. ~~-----~~

135

Galbraith said Mark Bond wd speak to amend.

Discussion.

142

Jamie Linkweiler, Marathon Oil Co - support SB 84. Spoke <sup>attempts at</sup> of history of bill & permit reform. (Spoke from prepared testimony.)

SB 84 incorporates a number of recommendations made in past reg reform attempts.

241

Max D. Nalley, ~~AK~~ AK Pub Affairs Mgr, Exxon Co USA --

supports draft CS. (Spoke from prepared testimony) Time constraints estab'd in bill are workable. Makes real effort to ensure justifiable concerns are considered. Went over how prop'd time frames wd work. Time frames are adequate to ~~go~~ obtain & go over all input before making decision.

Bill also addresses local concern th/public hrg process, studies, etc.

Vaska joined mtg around 1:30. (observed)  
former legislator Red Swanson in audience.

330 Roger asked what permits he wd classify as complex

334 Dalley said most aren't, but it wd be up to agency  
discussion.

356 Gardiner - <sup>gates</sup> are chart passed out previously

Linville - wetlands are approx 1/2 N. Slope & require fed permit;  
expanded on problems dealing w/ Corps of Engineers; legislation  
wd address this prob.

377 James Barnett, atty for Sohio, <sup>Alaska</sup> Petroleum Co - general pos'n.

Major concern is w/ lead agency portion of bill (spoke from prepared  
testimony.) Spoke of time delays experienced in past.

Difficulty is no one person or agency has been given legis. mandate  
to speak for the state. Applicant assumes large role in

mediating differences bet. agencies. <sup>this</sup> Legislation will correct

these problems through lead agency process. Went through

process. Felt local coastal zone laws establish good

mechanism for viable local govt input. Have example of permit <sup>processing</sup> <sub>prob.</sub>

512 Gardiner asked him to give specifics of the problem.

Discussion.

529 Resumed testimony - Sohio supports bill.

537 Roger asked went over differences in gov's mandate w/ respect to  
lead agency. Asked if 1 lead agency or 1 for <sup>all projects</sup> ~~each dist~~ -

Barnett felt shd be 1 lead agency for each class of activity.

Roger - next diff is govt of how state or data submitted by

coastal resource dist's are handled - draft gives substantive

consideration; gov's doesn't say. ~~state~~

Barnett - data should be given consideration; gives local  
govts plenty of input.

Discussed

of conflict w/

618 ~~Rogers~~ gov's ~~also says~~ provisions in case local CZM recommends.

(Rogers/Barnett) Rogers felt w/o gov's aid, you wd veto bill.

If can't compromise, bill shd be moved fm comm.

673 Randolph so moved, Rog asked unan consent. R wdrew nas, Rog wd

690 Gardiner asked Barnett, if Corps is causing prob, <sup>unan</sup> consent

how can state law affect Corps regmt?

~~Barnett~~ Discussion - Barnett said Corps expanded jurisdiction;

they're spending time trying to affect resolution w/ Corps;

being wk'd on in Cong. Need lead agency; also, Corps asks

everyone for input in permit process; want this funneled th/ lead agency.

Side B  
000

012 Rogers - then you blr lead agency, <sup>to solve</sup> consistency determination  
is most imp pt of bill - more imp than time limits?

Barnett - yes

R asked which permits are most complex

B - eg, Waterflood project

R - no one class is first-time case where there's no precedent -  
waterflooding, gas pipeline

B - yes

R - & which permits wd you class as Class I or II <sup>Class</sup>

B - II defined here is for to ins where pub hrs req'd  
plan of operations permit is example of one that doesn't  
require pub hrs.

043 Martin - comments

048 Ethel Nelson, exploration land rep, Texaco Inc -  
~~has been in past~~ supports bill. Comments made in  
past have been selectively ignored by admin.

Re amendments: some do not promote orderly developmt.

Willing to accept bill as drafted as good faith comp. Agree  
w/ testimony that will be given by Mark Bond.

Went over impact of bill - opp to implement uniform  
permit process; gives local research agencies right to be  
heard & input considered by it; process time & employees  
needed will be reduced. A's wealth almost entirely  
dependent on production of nat'l resources. Will leave  
copy of testimony later.

104 Mark Bond, atty on behalf of Chevron USA; today rep'g AOGA.

Support 2d HCS CS SB 84 (1+C). Discussing amendments:

Amndmt #1 (85 days for class II permit) - ~~seems to be~~ this provision  
unnecessary & unwarranted, don't need it's 70 days

134 Rogers - 65 days could be difficult, not enough time - gave example

155 Bond - opinion of AOGA that 65 days more than enough time. Could  
get extension if they have problems. ~~Permit to obtain funds~~

169 Gard - if agencies have situ Rogers described, <sup>with</sup> 65 day limit  
bureaucracy  
may be forced to hold hqs on everything to avoid getting into  
time-crunch situ. Gave reasons this may be true in ~~order~~  
order for bureaucracy to protect itself.

190 Bond - depends on how long you wait to determine if pub  
lig is necess.

196 Martin - ~~can't~~ can't agencies/industry usually <sup>initially</sup> tell which  
ones wd need lig process; Bond thought so.

Martin spoke of comm. system in state, didn't agree w/ extension  
provision

Bylsma - first prob dealt w/ by agency shd be pub lig gstr  
also felt ext<sup>lang</sup> shd not be in bill

005 # 2 (?) do not want extension expressly stated in bill.  
Discussion, Rogers/Bond

Bond  
252 #3 lead agency - key provision of bill. Went over objectives  
of section. Lead agency must have authority to make decisions;  
non-lead agencies shdnt be allowed to give input to fedl agencies.  
Went over problems w/ amendt & affects. (see written testimony)  
Oppose this amendt.

333 Rogers - don't understand diff bet 1 lead agency for CZM & consis-  
tency determinations, & having various agencies give determ depending  
on class of activity

Bond - w/ either, variety of agencies wd give input

R. - agree "comments" not defined; shd be changed to "documented  
comments" or supported, & add that "conjectural info wd not be considered"

B - not adequate solution. Save reasons

- 371 Rogers gave example of possible setn + etc how it wd be dealt with,  
R - ~~gave possible setn at various requests suggestions, etc~~  
~~by an agency; went~~
- B - commented on how he saw the setn.
- 400 Discussion about who makes decisions, & what data wd be considered,  
how decisions shd be handled.
- 432 Martin - don't need to research every setn; developmt has been  
going on for abt 20 yrs now, most data needed exists.
- 450 Gardiner - better example - is Borax mine - happened in BC,  
didn't work out well. State is looking at <sup>finding</sup> a better method instead  
of just saying project won't work. Somebody will have to make  
a judgment that is a prediction; not provable irrefutably. Issue  
is what agency is most likely to have best info.
- 485 Bond - also doesn't lock out considering conjectural info; agreed  
that all decisions can't be made based on facts.
- 496 Gardiner ~~also~~ clarified his example of how the facts ~~could~~  
~~preclude~~ force negative decision on the mine, where ~~longer~~  
predictions will allow it.
- 523 Bond - commented. ~~The text~~
- 529 #4 allowing agency other than lead agency to comment to a  
federal agency - b/c fed law requiring comments of an  
agency wd override this. Support ~~amendment~~ section.
- 560 Randolph prop'd accepting draft CE for wkg amendt.  
So moved (to accept 2d HCS CSSB 84 L.C.)  
Rogers moved to amend to accept w/ all of gov's amendts.
- 575 Question - ~~was~~ Rogers amendt: for: Rog Gard  
Against: Paul, Brysma Martin
- 603 ~~Rogers~~ Rogers mov'd gov amend 4 as amend to amend  
accepted unan.

613 Rog mod gov # 11: R & G for, BM & R against

624 " " " " 10: Bylaw rejected.

Rogers said amendmt has effect of changing rules of ct, & wd require 2/3 vote & amendmt of bill title. Legis shd not tell ct what cases have preference; unwarranted interference in ct affairs  
Discussion.

Qstrn: No objections, passed unan.

700 Rog mod p 6, lines 12-13 (on Randolphs no)

delete sentence - "right to appeal . . . .637" ; objection.

721 Rogers - section has effect of requiring more litigation & more delay in process. Puts more policy qstns in ct than w/ lead agency.

000  
Tape 2

Discussion.

026 Qstrn Oppd Ran, Martin for - R, G, & Bylaw - passed

the  
Je →

030 Rogers - p. 5, line <sup>24</sup> - add "except when applicable due process rights . . . <sup>within</sup> 45 days." (See gov's amants) #8

036 Discussion

043 Qstrn: For: Rog, G Against: Ran, M, B

050 Rogers: p. 5, lines 16+17: delete "upto.. 30 days" & insert ", if the time period is extended, the extension should leave at least 30 d."

→ " However, comments submitted under this subsec "

086  
~~088~~

Asked unan consent. No objection, amendmt passed.

091 Rogers moved ~~gov amend #~~, p. 2, line 12, add comma  
← same as gov amend #1 except delete 85, ins 75

115 ~~Rand~~ ~~approved~~ discussion

146 For: Bylsma, Rog, Gard  
against: M, Rand

listen to record here

151 Rogers moved p 2 lines 26, "unless the applicant  
otherwise agrees."

169 passed unan.

172 Rog - p. 4 6

delete 1st sent + insert 1st sent of gov ~~pa~~ and 3  
for G, Rog against Ran M B

188 Rog moved Gov #3

for R G against B, Ra, M

190 Rog p 5, 3-5, moved gov #5 (delete subsec (d) &  
insert new (d)) Rand asked unan consent

206 no objections, passed

210 Rog moved ~~#~~ <sup>revised</sup> 7, p. 5, lines 22-23; Gard asked unan consent

226 vote for: G, Ro against: B, M, Ra

233 Rog moved to rescind action in failing to adopt amendt.

241 Discussion

283 Rog withdrew mo.

LABOR & COMMERCE COMMITTEE  
DAILY COMMITTEE HEARING

Date: 2/19/82

Place: \_\_\_\_\_

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:00	
Rep. B. Rogers	✓		1:00	
Rep. T. Gardiner	✓		1:12	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. \_\_\_\_\_

Senate Bill No. 84 \_\_\_\_\_

Special Orders:

Press the ENTER key to return to primary menu.

INPUT LINE =====>

MSG 82-00009774 PRTY 1 02/23/82 15:32:51 ORIG: LR00 IN= 0007 OUT= 0001  
FROM: FLORENCE IN BARROW TO: JOAN MATTHEWS, (H) L&C  
TARGET: LJHY SUBJ: REQUEST - SB84 PAGE 0001

I HAVE JUST HAD A COUPLE OF REQUESTS FOR THE "MOST RECENT COPY OF SB84, YOU KNOW, THE PERMITTING BILL." I EXPLAINED THAT IT HAD PASSED OUT OF THE (H) L&C WITH AMENDMENTS. COULD YOU PLEASE SEND ME THE AMENDMENTS? IF IT LOOKS LIKE IT MIGHT TAKE A COUPLE OF DAYS WITH THE NAILS AND THE WEATHER, COULD YOU GET IT TO THE JUNEAU LIO AND PERHAPS THEY COULD TELECOPY IT TO ME. THANKS VERY MUCH, JOAN, AND GREETINGS FROM A WONDERFULLY SUNNY, BUT COLD, BARROW!

MSG 82-00009779 PRTY 1 02/23/82 15:41:41 ORIG: LJE1 IN= 0001 OUT= 0002  
FROM: JOAN, U LABOR & COMMERCE TO: FLORENCE, BARROW  
TARGET: LJHY SUBJ: SB 84 PAGE 0001

FLORENCE--

WILL PASS THE AMENDMENTS ALONG AS SOON AS WE'VE CHECKED THEM AGAIN AGAINST THE TAPE OF THE MEETING. WHEN THEY STARTED AMENDING, THINGS GOT CONFUSING. I TYPED UP WHAT I HEARD: APPARENTLY NOT EVERYONE HEARD WHAT I DID, SO WE'RE CHECKING IT, AND SHOULD HAVE A REAL ROUGH DRAFT BY TOMORROW, WHICH I WILL SEND. WILL ALSO FORWARD THE COMMITTEE SUBSTITUTE WHEN THAT'S READY.

WISH I WERE IN BARROW--WE'VE GOT SUN HERE, BUT WINDS ARE GUSTING TO 50 AND 60 MPH--NASTY! WILL GET THE INFORMATION TO YOU ASAP...JOAN



AMENDMENTS PROPOSED DURING HL&C COMMITTEE MEETING 2/19/82

Re: SB 84

Amendment #1

Main motion (amendment)

Rep. Randolph moved to amend SB 84 by accepting the draft entitled 2d House CS for CS for Senate Bill No. 84 (L&C).

Amendment #2

amendments to amendment

Rep. Rogers moved to amend the amendment to accept the bill with all the governor's proposed amendments.

For: Rogers, Gardiner      Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #3

✓ Rep. Rogers moved to accept the governor's proposed amendment #4. (p.5, lines 1-2)  
Motion passed unanimously.

✗ Amendment adopted.

Amendment #4

Rep. Rogers moved to accept the governor's proposed amendment #11.

For: Rogers, Gardiner      Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #5

✓ Rep. Rogers moved to accept the governor's proposed amendment #10; Rep. Bylsma objected. Discussion. (p.6, lines 15-17)

Motion passed unanimously.

✗ Amendment adopted.

Amendment #6

Rep. Rogers moved, p. 6, lines 12-13 of draft CS, delete sentence, "The right to appeal is not affected by the failure to seek further review under AS 44.62.637." There was objection. Discussion.

For: Rogers, Gardiner      Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #7

Rep. Rogers moved, p. 5, lines 16 and 17, delete "up" <sup>for</sup> to an additional 30 days." and insert, after word "section", ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Asked unanimous consent.

No objection.

Amendment passed.

+

Amendment #8

Rep. Rogers moved, p. 2, line 12, after word "application.", delete period, and insert ", unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt." Discussion.

For: Rogers, Gardiner, Bylsma      Against: Randolph, Martin  
Amendment passed.

Amendment #9

Rep. Rogers moved, p. 2, line 28, add, ", unless the applicant otherwise agrees."

No objection.

Motion passed unanimously.

*should be after line 28*

Amendment #10

Rep. Rogers moved, p. 4, line 6, delete first sentence and insert, after (a), "There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or a least one class II permit."

For: Gardiner, Rogers      Against: Randolph, Martin, Bylsma  
Motion failed.

Amendment #11

Rep. Rogers moved the governor's proposed amendment #3.

For: Gardiner, Rogers      Against: Bylsma, Randolph, Martin  
Motion failed.

Amendment #12

Rep. Rogers moved, p. 5, lines 3-5, to delete subsection (d) and insert new subsection (d), using language from governor's proposed amendment #5. Rep. Randolph asked unanimous consent.

No objections.

Motion passed unanimously.

~~Should be lines 1-2, subsection (c)~~

Amendment #13

Rep. Rogers moved, p. 5, lines 22-23, to accept the governor's proposed amendment #7, as revised (see sheet entitled Changes to Proposed Administration Amendments to SB 84): Delete language "Except as provided in this section the procedure is", and insert "Administrative appeals" conducted under "this section are not subject to the procedures in" AS 44.62.330-44.62.630. Rep. Gardiner asked unanimous consent.

For: Rogers, Gardiner      Against: Bylsma, Martin, Randolph  
Motion failed.

Amendment #14

Rep. Rogers moved the committee rescind its action in failing to adopt previous amendment. Discussion.  
Rep. Rogers withdrew his motion.

Amendment #15

Rep. Gardiner moved, p. 1, line 11, the delete word "being" and insert "many times". Discussion.  
For: Gardiner, Rogers                      Against: Bylsma, Randolph, Martin  
Motion failed.

Amendment #16

Rep. Gardiner moved, p. 1, line 15, delete all of line 15 and insert "the unjustified delay of permits by". Discussion.  
Rep. Gardiner withdrew his amendment.

Amendment #17

Rep. Gardiner moved, p. 1, line 15, begin sentence with language, "The unjustified delay of permits caused by".  
For: Gardiner, Rogers                      Against: Martin, Bylsma, Randolph  
Motion failed.

Amendment #18

Rep. Gardiner moved, p. 1, line 10, delete word "protracted", insert word "unnecessary". Discussion.  
For: Gardiner                                      Against: Randolph, Bylsma, Martin  
Motion failed.

Amendment #19

Rep. Randolph moved to pass 2d HCS CSSB84 (L&C) out of committee; motion was withdrawn.

Amendment #20

*main  
amendment*

Question was called on main amendment to accept 2d HCS CSSB 84 (L&C) as amended by committee.  
For: Martin, Bylsma, Randolph                      Against: Gardiner  
Motion passed.

Amendment #21

*motion*

Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) out of committee. Rep. Gardiner asked unanimous consent.  
There was no objection.  
Motion passed unanimously.

AMENDMENTS PROPOSED DURING HL&C COMMITTEE MEETING 2/19/82

Re: SB 84

Amendment #1

Main  
motion  
(amendment)

Rep. Randolph moved to amend SB 84 by accepting the draft entitled 2d House CS for CS for Senate Bill No. 84 (L&C).

Amendment #2

amendments  
to amendment

Rep. Rogers moved to amend the amendment to accept the bill with all the governor's proposed amendments.

For: Rogers, Gardiner      Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #3

✓ Rep. Rogers moved to accept the governor's proposed amendment #4. (p. 5, lines 1-2)  
Motion passed unanimously.  
✗ Amendment adopted.

Amendment #4

Rep. Rogers moved to accept the governor's proposed amendment #11.  
For: Rogers, Gardiner      Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #5

✓ Rep. Rogers moved to accept the governor's proposed amendment #10; Rep. Bylsma objected. Discussion. (p. 6, lines 15-17)  
Motion passed unanimously.  
✗ Amendment adopted.

Amendment #6

Rep. Rogers moved, p. 6, lines 12-13 of draft CS, delete sentence, "The right to appeal is not affected by the failure to seek further review under AS 44.62.637." There was objection. Discussion.  
For: Rogers, Gardiner      Against: Martin, Bylsma, Randolph  
Amendment failed.

Amendment #7

✗ Rep. Rogers moved, p. 5, lines 16 and 17, delete "up to an additional 30 days." and insert, after word "section", ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Asked unanimous consent.  
No objection.  
Amendment passed.

Amendment #8

Rep. Rogers moved, p. 2, line 12, after word "application.", delete period, and insert ", unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt." Discussion.

For: Rogers, Gardiner, Bylsma      Against: Randolph, Martin  
Amendment passed.

Amendment #9

Rep. Rogers moved, p. 2, line 28, add, ", unless the applicant otherwise agrees."

No objection.

Motion passed unanimously.

*should be after line 28*

Amendment #10

Rep. Rogers moved, p. 4, line 6, delete first sentence and insert, after (a), "There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or a least one class II permit."

For: Gardiner, Rogers      Against: Randolph, Martin, Bylsma  
Motion failed.

Amendment #11

Rep. Rogers moved the governor's proposed amendment #3.

For: Gardiner, Rogers      Against: Bylsma, Randolph, Martin  
Motion failed.

Amendment #12

Rep. Rogers moved, p. 5, lines 3-5, to delete subsection (d) and insert new subsection (d), using language from governor's proposed amendment #5. Rep. Randolph asked unanimous consent.

No objections.

Motion passed unanimously.

~~Subsection (d) is to be inserted after subsection (c)~~

Amendment #13

Rep. Rogers moved, p. 5, lines 22-23, to accept the governor's proposed amendment #7, as revised (see sheet entitled Changes to Proposed Administration Amendments to SB 84): Delete language "Except as provided in this section the procedure is", and insert "Administrative appeals" conducted under "this section are not subject to the procedures in" AS 44.62.330-44.62.630. Rep. Gardiner asked unanimous consent.

For: Rogers, Gardiner      Against: Bylsma, Martin, Randolph  
Motion failed.

Amendment #14

Rep. Rogers moved the committee rescind its action in failing to adopt previous amendment. Discussion.  
Rep. Rogers withdrew his motion.

Amendment #15

Rep. Gardiner moved, p. 1, line 11, the delete word "being" and insert "many times". Discussion.  
For: Gardiner, Rogers                      Against: Bylsma, Randolph, Martin  
Motion failed.

Amendment #16

Rep. Gardiner moved, p. 1, line 15, delete ~~all~~ of line 15 and insert "the unjustified delay of permits by". Discussion.  
Rep. Gardiner withdrew his amendment.

Amendment #17

Rep. Gardiner moved, p. 1, line 15, begin sentence with language, "The unjustified delay of permits caused by".  
For: Gardiner, Rogers                      Against: Martin, Bylsma, Randolph  
Motion failed.

Amendment #18

Rep. Gardiner moved, p. 1, line 10, delete word "protracted", insert word "unnecessary". Discussion.  
For: Gardiner                                      Against: Randolph, Bylsma, Martin  
Motion failed.

Amendment #19

Rep. Randolph moved to pass 2d HCS CSSB84 (L&C) out of committee; motion was withdrawn.

Amendment #20

*main amendment*

Question was called on main amendment to accept 2d HCS CSSB 84 (L&C) as amended by committee.  
For: Martin, Bylsma, Randolph                      Against: Gardiner  
Motion passed.

Amendment #21

*motion*

Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) out of committee. Rep. Gardiner asked unanimous consent.  
There was no objection.  
Motion passed unanimously.

Amended - see pages 2, 5, 6 f

Original sponsors: Bennett, Parr and  
Fahrenkamp

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (LEC)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state  
7 agencies, and to administration of the Alaska Coastal  
8 Management program."

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

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employ-  
19 ment and higher prices;

20 (3) the public interest has not been advanced by protracted delay  
21 in the processing of permit applications by state agencies;

22 (4) by reducing the number of agencies and agency reviews in-  
23 volved in the permit process, and by requiring state agencies to process  
24 permit applications in an expeditious manner, the social, economic, and  
25 environmental health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

29 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

1 ARTICLE 84. PERMIT PROCESSING.

2 Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource  
3 agency shall by regulation classify each of the permits issued by that  
4 agency within one of the two following categories:

5 (1) class I permits, for which the state agency must issue a  
6 final decision within 30 days after the date of receipt of a completed  
7 permit application; and

8 (2) class II permits, for which, because of a necessary  
9 public notice or interagency review period, a final decision cannot be  
10 issued within 30 days. A final decision on a class II permit must be  
11 issued within 65 days after the date of receipt of a completed permit  
12 application, *unless a public hearing is held on the application, in which case a final decision*  
13 *must be issued within 75 days after the date of receipt.*

14 (b) Final regulations classifying its permits, and uniform proce-  
15 dural regulations providing for the processing of these permits, shall  
16 be adopted by each state resource agency by October 1, 1982, following  
17 appropriate notice and hearing. Permits applied for after October 1,  
18 1982 must be issued in accordance with the time periods specified in  
19 (a) of this section, and the provisions of the implementing regulations.

20 Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESS-  
21 ING. (a) Upon a finding by the head of a resource agency that a  
22 permit being considered involves unusually complex issues so that the  
23 agency cannot render a final decision within the time period specified  
24 in AS 44.62.632(a), the head of the agency may prescribe a time period  
25 within which the final decision will be made. The finding of the head  
26 of the agency may be appealed by the applicant to the superior court  
27 under the Appellate Rules of Procedure. The time period may not be  
28 extended more than 120 days beyond the time period specified in AS 44.-  
29 62.632(a), *unless the applicant otherwise agrees.*

(b) The time period specified in AS 44.62.632(a) may be extended

1 if necessary to facilitate joint processing of a permit application by  
2 state and federal agencies, but only if adherence to the time periods  
3 established in AS 44.62.632(a) would cause an irreconcilable conflict  
4 with a federal statute or regulation.

5 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
6 failure of a resource agency to make a final decision within 30 days  
7 after the receipt of a completed permit application for a class I  
8 permit, or within 65 days after the receipt of a completed permit  
9 application for a class II permit, is approval of the application. In  
10 an appeal of a permit issued by operation of this subsection, the  
11 record shall be considered in the light most favorable to the applicant,  
12 and the permit shall be accorded a presumption of regularity.

13 (d) A state agency may not condition the issuance of a permit  
14 upon the issuance of a permit from another governmental agency.

15 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
16 cy receives a completed permit application that does not contain suf-  
17 ficient information concerning the project's compliance with the agency's  
18 statutes and regulations, the agency shall notify the applicant within  
19 15 days after receipt of a completed permit application for a class I  
20 permit, and within 30 days after receipt for a class II permit.

21 (b) The notification must specify those particular facts or  
22 issues concerning the proposal upon which the agency requires additional  
23 information in order to determine whether the project will conform to  
24 the agency's statutes and regulations.

25 (c) If a timely request under (a) and (b) of this section is  
26 made, the time period specified in AS 44.62.632 is suspended from the  
27 date of request to the date of full compliance with the request.  
28 Subsequent requests for additional information may be made, but must  
29 relate only to new issues raised by the response to the initial noti-

1       fication. Subsequent requests do not extend the time periods specified  
2       in AS 44.62.632.

3       (d) Nothing in this section grants a resource agency the authority  
4       to request information beyond the authority given to it by other sta-  
5       tutes.

6       Sec. 44.62.635. LEAD AGENCY. (e) There is established a lead  
7       agency that is solely responsible for issuing coastal management consis-  
8       tency determinations under AS 46.40 and for preparing and submitting  
9       state comments on federal permit applications. The lead agency is that  
10      resource agency that has principal responsibility for authorizing the  
11      overall activity, including instances where an activity requires permits  
12      from more than one resource agency. For classes of activities for  
13      which no agency with principal responsibility exists the governor shall  
14      designate a resource agency to be a lead agency for each class by  
15      administrative order no later than October 1, 1982. In performing its  
16      functions under this section, the lead agency shall consult with other  
17      resource agencies and with coastal resource districts under AS 46.40.

18      (b) Substantive consideration shall be given to the documented  
19      factual statements or data submitted by resource agencies and to the  
20      office of coastal management within their primary areas of expertise,  
21      and to the documented factual statements or data submitted by coastal  
22      resource districts made under an approved district coastal management  
23      program. The lead agency shall consider opinions, conclusions or  
24      recommendations submitted by the commenting agency, but may, in its  
25      discretion, reach contrary opinions, conclusions or recommendations  
26      according to the evidence received. The lead agency shall then balance  
27      competing factors in reaching its final decision. No resource agency  
28      other than the lead agency has primary expertise in the balancing of  
29      competing factors.

Except as otherwise required by federal law,

(c) <sup>n</sup> No state agency other than the lead agency may comment to a federal permitting agency.

~~(d) An agency's completion of a review under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341) does not constitute that agency as a lead agency under this section.~~  
*delete this subsection; replace with attached \* (entitled Amendment 5)*

Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or state agency that receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit these comments in accordance with the following schedule:

(1) comments on class I permits shall be submitted within 15 days after the agency's receipt of the request;

(2) comments on class II permits and federal permits shall be submitted within 30 days after the agency's receipt of the request;

(3) when under AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section. *However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the 30-day lead agency must issue a final decision.*

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations adopted under AS 44.62.632(b) must provide for an administrative appeal from a final decision on a permit application. The administrative appeal is to the head of the resource agency involved. Except as provided in this section the procedure is conducted under AS 44.62.330 - 44.62.630.

(b) The administrative appeal must be resolved within 45 days after the final decision on a permit application, or, if a hearing is held on the administrative appeal, within 65 days after the final decision on the permit application.

(c) An appeal taken from a decision granting a permit may, but need not, stay the issuance of the permit.

1 (d) The head of the agency may summarily dismiss an appeal before  
2 the time established in this section, and the dismissal is the final  
3 agency action on the matter.

4 (e) In an appeal from the denial or conditioning of a permit the  
5 head of the agency may, if he determines that the public interest would  
6 be served, grant the permit or remove conditions of the permit until  
7 the appeal is determined.

8 Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
9 review by the superior court of a final decision issued under AS 44.-  
10 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
11 superior court in accordance with the applicable Rules of Appellate  
12 Procedure. The right to appeal is not affected by the failure to seek  
13 further review under AS 44.62.637. The review is governed by the  
14 provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

15 (b) An appeal taken under this section <sup>should have</sup> ~~has~~ preference on the  
16 calendar of civil actions before the court and <sup>should</sup> ~~shall~~ be decided without  
17 unnecessary delay.

18 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

19 (c) As used in AS 44.62.632 - 44.62.638,

20 (1) "date of receipt" means the date on which a state agency  
21 actually receives a completed application filed in accordance with  
22 agency regulations and at a place identified as appropriate for filing  
23 in the agency's regulations;

24 (2) "permit" means a permit, license, certification, consis-  
25 tency determination, or other authorization or approval issued by a  
26 resource agency as a written document that is required to be obtained  
27 or is solicited from a state agency before the construction or opera-  
28 tion of a project; "permit"

29 (A) does not include the approval of a unit agreement,