

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1873 SRES COASTAL ZONE MANAGEMENT, SUP-COMMITTEE 1873

AGENDA ATTACHMENT D

ACMP Improvements Package

1
2
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 the coastal management program;
7 providing for the membership and duties of the Coastal
8 Policy Council and coastal resource service area
9 boards; and providing for the staff to the council."

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

11 * Section 1. AS 44.19.155(a) is amended to read:

12 (a) There is created in the Department of Community and Regional
13 Affairs [OFFICE OF THE GOVERNOR] the Alaska Coastal Policy Council.

14 The council consists of the following:

15 (1) nine public members appointed from a list comprised of
16 at least three names from each region, nominated by the municipalities
17 of each region; the nominees shall be the mayor or member of the
18 assembly or council of a municipality, or member of a coastal resource
19 service area board for a coastal resource district within the region;
20 one public member shall be appointed from each of the following regions:

21 (A) northwest Alaska, including, generally, the area
22 the North Slope Borough and the Northwest Arctic regional educa-
23 tional attendance area;

24 (B) Bering Straits, including, generally, the area of
25 the Bering Straits regional educational attendance area;

26 (C) southwest Alaska, including, generally, the area
27 within the Lower Yukon, Lower Kuskokwim, Southwest, and Lake-Per
28 sula regional educational attendance areas and the Bristol Bay

1 (D) Kodiak-Aleutian, Adak and Pribilof regions, educa-
2 tional attendance areas;

3 (E) Upper Cook Inlet, including the Municipality of
4 Anchorage and the Matanuska-Susitna Borough;

5 (F) Lower Cook Inlet, including, generally, the area
6 within the Kenai Peninsula Borough;

7 (G) Prince William Sound, including, generally, the
8 area east of the Kenai Peninsula Borough to 141° W. longitude;

9 (H) northern Southeast Alaska, including the area south
10 west of 141° W. longitude and north of 57° N. latitude, including
11 the entirety of the City and Borough of Sitka; and

12 (I) southern Southeast Alaska, including that portion
13 of southeastern Alaska not contained within the area described in
14 (H) of this paragraph;

15 (2) each of the following:

16 (A) the director of the division of policy development
17 and planning;

18 (B) the commissioner of the Department of Commerce and
19 Economic Development;

20 (C) the commissioner of the Department of Community and
21 Regional Affairs;

22 (D) the commissioner of the Department of Environmental
23 Conservation;

24 (E) the commissioner of the Department of Fish and Game;

25 (F) the commissioner of the Department of Natural
26 Resources; and

27 (G) the commissioner of the Department of Transporta-
28 tion and Public Facilities [PUBLIC WORKS].

1 (2) establish continuing coordination among state agencies
2 to facilitate the development and implementation of the Alaska Coastal
3 management program; [IN CARRYING OUT ITS DUTIES UNDER THIS PARAGRAPH,
4 THE COUNCIL SHALL INITIATE AN INTERAGENCY PROGRAM OF COMPREHENSIVE
5 COASTAL RESOURCE PLANNING FOR EACH GEOGRAPHIC REGION DESCRIBED IN
6 AS 44.19.155(a)(1);]

7 * Sec. 3. AS 44.19.155(d) is amended to read:

8 (d) Each member of the council shall select one person to serve
9 as a permanent alternate at meetings of the council. If a member of the
10 council is unable to attend, he shall advise the alternate who may
11 attend and act in the place of the member. The alternate for a public
12 member appointed [AFTER JULY 9, 1978] under (a)(1) of this section shall
13 at the time of his designation and throughout the period of his service
14 as a permanent alternate, be the mayor or member of the assembly or
15 council of a municipality, or member of a coastal resource service area
16 board, within the region from which the permanent member is appointed.
17 The alternate for a designated member serving under (a)(2) of this sec-
18 tion shall be a deputy commissioner of the department, [OR] the director
19 of a division in the department or, for the division of policy develop-
20 ment and planning, the deputy director of the division. The names
21 of alternates shall be filed with the council.

22 * Sec. 4. AS 44.19.162 is amended to read:

23 Sec. 44.19.162. COUNCIL STAFF. The council shall utilize the
24 staff of the office of coastal management within the Department of Com-
25 munity and Regional Affairs [DIVISION OF POLICY DEVELOPMENT AND PLAN-
26 NING] in discharging its powers and duties. The commissioner of the
27 Department of Community and Regional Affairs shall employ the coordina-
28 tor of the office, with the concurrence of the council. The coordinator
29 of the office, with the concurrence of the commissioner [COUNCIL], may

1 contract with or employ personnel or consultants [HE CONSIDERS] neces-
2 sary to carry out the powers and duties of the council. The commis-
3 sioner and the council shall enter into an agreement for the joint
4 supervision of the office of coastal management.

5 * Sec. 5. AS 46.40.040 is amended by adding a new subsection to read:

6 (6) by regulation, adopt under the provisions of the Admin-
7 istrative Procedure Act (AS 44.62), consistency review procedures, in-
8 cluding time limitations, for use by state agencies in determining
9 whether specific proposals for land and water uses and activities which
10 are subject to state agency approvals are consistent with the applic-
11 able standards and guidelines adopted by the council under this
12 chapter and any applicable district coastal management program.

13 * Sec. 6. AS 46.40.050 is repealed and reenacted to read.

14 Sec. 46.40.050. ACTION AND SUBMISSION BY COASTAL RESOURCE DIS-
15 TRICTS. Each coastal resource district which, on the effective date
16 of this section, has not yet submitted to the council a district coast
17 management program and received the council's approval of the district
18 program shall, within six months of the effective date of this section
19 or within six months of the certification of the results of the first
20 coastal resource service area board election under AS 46.40.140, which
21 ever is later, submit to the council a schedule for the development
22 of the district coastal management program. The schedule shall in-
23 clude dates for the completion and submission of the district program
24 to the council. After consultation with the district, the council
25 shall determine whether to approve, reject, or modify the district's
26 schedule for development of the district program. The district shall
27 submit progress reports to the council during the development of the
28 district coastal management program annually or more frequently as
29 determined by the council.

1 * Sec. 7. AS 46.40.060(a) is amended to read:

2 (a) If, upon submission of a district coastal management program
3 for approval, the council finds that the program is substantially con-
4 sistent with the provisions of this chapter and the guidelines and
5 standards adopted by the council and does not arbitrarily or unreason-
6 ably restrict or exclude uses of state concern, the council may grant
7 summary or conditional approval of the district coastal management
8 program, or may approve portions of the district program which are
9 consistent.

10 * Sec. 8. AS 46.40.140(a) is amended to read:

11 (a) Each coastal resource service area, upon organization, shall
12 have an elected board representing the population of the service area.
13 The board shall have the powers and duties and perform the functions
14 prescribed for or required of coastal resource districts in the devel-
15 opment and submittal of the district coastal management program, or an
16 amendments to the district program, to the council for its approval.
17 The board shall assist state agencies in their implementation of the
18 approved district program under AS 46.40.090(a). Where public notice
19 is otherwise required by law or regulation, a state agency initiating
20 or reviewing land and water uses and activities within the coastal are
21 shall notify the board of the proposed use or activity and provide a
22 reasonable opportunity for comments and recommendations by the board
23 concerning the application of the district program to the use or
24 activity. The board will, in its discretion, respond with comments an
25 recommendations to the state agency on the proposed use or activity.

26 * Sec. 9. AS 46.40.140(b) is repealed and reenacted to read:

27 (b) Coastal resource service area board members shall be elected
28 at large by the qualified voters of the coastal resource service area.
29 The board shall consist of five, seven, nine or eleven members. The
30

1 commissioner of the Department of Community and Regional Affairs shall
2 determine the number of board members before the first board election,
3 in consultation with the residents of the coastal resource service area

4 * Sec. 10. AS 46.40.170(b) is amended to read:

5 (b) At the request of the council, the Department of Community and
6 Regional Affairs shall complete the district coastal management program
7 in accordance with this chapter and the guidelines and standards adopted
8 by the council for a coastal resource service area which has been organized
9 but which has failed to make substantial progress in the preparation
10 of an approvable district coastal management program within the
11 time limitations approved by the council for completion and submission
12 of the district program under AS 46.40.050 [18 MONTHS OF CERTIFICATION
13 OF THE RESULTS OF AN ORGANIZATION ELECTION OR WHICH HAS NOT SUBMITTED
14 FOR APPROVAL TO THE COUNCIL A PROGRAM WITHIN 30 MONTHS OF CERTIFICATION
15 OF THE RESULTS OF ITS ORGANIZATION ELECTION]. Preparation of the program
16 shall be conducted in consultation with the coastal resource service
17 area and shall, to the maximum extent consistent with this chapter
18 reflect the expressed concerns of the residents of the service area.

19 * Sec. 11. AS 46.40.170(c) is amended to read:

20 (c) Before requesting the department to complete the district
21 coastal management program under (b) of this section, the council shall
22 meet with the members of the coastal resource service area board to
23 determine whether the board is able to complete a district coastal management
24 program within the time limitations established by the council
25 [IN THIS SECTION].

26 * Sec. 12. AS 46.40.190(b) is amended to read:

27 (b) Nothing in this chapter restricts or prohibits cooperative or
28 joint administration of functions between a municipality and a coastal
29 resource service area organized under the provisions of this chapter

1 upon initiation of a mutual agreement for the purpose. A city which
2 elects to be excluded from an adjacent coastal resource service area
3 under (a) of this section shall establish procedures, as appropriate,
4 for the mutual exchange of information concerning the development and
5 implementation of the district program [ENTER INTO A MUTUAL AGREEMENT
6 FOR COOPERATIVE OR JOINT ADMINISTRATION OF FUNCTIONS] with the coastal
7 resource service area board from the adjacent coastal resource service
8 area.

9 * Sec. 13. AS 46.40. is amended by adding a new section to read:

10 Sec. 46.40.195. CONTINUANCE OF DISTRICT PROGRAMS. A district
11 coastal management program which is approved by the council continues
12 in effect as the district coastal management program for the coastal
13 resource district, or a portion of the district, which organizes as a
14 new local government under AS 29.18 which has and exercises planning
15 powers, is reclassified to assume planning powers in accordance with
16 AS 29.08.040, or alters its municipal boundaries in accordance with
17 AS 29.68 or other lawful means. However, nothing in this section pro-
18 hibits a new local government which is formed from all or a portion of
19 a coastal resource district from amending the district program for the
20 coastal area contained within its boundaries in accordance with this
21 chapter and the standards and guidelines adopted by the council.

22 * Sec. 14. Coastal resource service areas which have organized and
23 elected a coastal resource service area board as of the effective date of
24 AS 46.40.140(b), enacted in sec. 9 of this Act shall, within six months of
25 the effective date of this Act, choose whether to decrease or increase the
26 existing number of board members to five, nine, or eleven members. If
27 proposed by the board, the reduction or expansion of the number of board
28 members is subject to approval by a majority of the qualified voters voting
29 on the question in the coastal resource service area at the next regular
30

election or at a special election called for that purpose. If approved by the voters, the change in the number of board members takes effect at the next regular election of members of the coastal resource service area board. Notwithstanding AS 46.40.140(d), if the number of board members is to be increased or decreased under this section, the terms of office for all board members shall expire upon the election and qualification of their successors at the board election following a decision to increase or decrease the number of board members. However, nothing in this section prohibits the reelection of board members at the election held following a decision to increase or decrease the number of board members under this section.

ACMP Improvements Package

Summary of Proposed Changes to Regulations

November 1981

Several significant problems with the Alaska Coastal Management Program (ACMP) have been identified by the Legislature and the Coastal Policy Council. Some of these problems are best addressed through changes to the ACMP regulations. This paper lists problems with the ACMP, states objectives to be met by changing regulations, and describes proposed changes to the regulations.

I. Time Required for Consistency Reviews -

Some people feel that it currently takes the State too long to complete consistency determinations and that this causes delays in proposed projects.

Objective - To ensure that consistency reviews are conducted in a responsible manner and completed in a timely fashion without imposing delays on proposed projects.

Proposed change - Add a new section to the regulations containing procedures for consistency reviews, including workable deadlines. (Such a section could also include clarification of the role of the Office of Coastal Management (OCM) and the Coastal Policy Council (CPC) in monitoring the consistency review process.)

II. Local Control Over Uses of State Concern -

The ACMP provides for consideration of both state and local interests in the development of district programs and requires districts to consider, and not unreasonably restrict, uses of state concern. Yet, there is no provision requiring consideration of new or unanticipated uses of state concern that are discovered after district program approval.

Objective - To ensure that new or unanticipated uses of state concern are addressed by districts, when appropriate, after completion and approval of local programs.

Proposed change - Add a new section that would outline (1) an ongoing process by which the State may identify uses of state concern; (2) a mechanism by which the State could inform the CPC of new or unanticipated uses of state concern. The CPC would then determine whether the uses needed to be addressed by districts, which could potentially result in amendments to district programs. Districts would develop the amendments and submit them to the CPC.

III. Impacts of the ACMP on Title 29 Authorities -

Title 29 offers powers to local government that are different from those available under the ACMP. Title 29 powers are, in general, exercised solely by the local government, without the requirements for coordination and consultation that are part of the ACMP. At the same time, the scope of Title 29 is more limited than that of Title 46 and is oriented only toward restricting land use, rather than encouraging appropriate land uses.

Some local governments have been concerned that participation in the ACMP could jeopardize their autonomy under Title 29.

Objective - To ensure that coastal districts may develop and implement their coastal management programs without subjecting actions under other authorities to state scrutiny.

Proposed Changes - Revise provisions for implementation of district programs to ensure that districts clearly declare what their coastal rules are and how they will administer those rules. Adoption of a "coastal ordinance" by each district to house its coastal rules would be encouraged. Use of special ordinances dedicated only to coastal management rules ensures that districts' other ordinances would not be subject to CPC review in the event of changes to those ordinances that might occur after the district program has been approved. (The option of using existing ordinances, such as zoning ordinances, as the coastal rules would still be available to the districts.)

IV. Increasing the Focus of District Programs on Significant Land and Water Use Issues -

Some district programs have been criticized for vagueness and for not focusing on the key land and water use issues that are at the heart of the ACMP.

Objective - To increase the extent to which districts are able to focus their resources and efforts on the issues that are important in their areas by allowing each district, when initiating a new program or an amendment, to adopt an approach specifically suited to its own needs.

Proposed Change - Revise the steps comprising the district program development process to add an opportunity for districts to specify the issues it seeks to focus on and to communicate this to the CPC early in the program development or amendment process.

V. Local Administrative Control After District Program Approval -

Under the ACMP, coastal districts may adopt locally-controlled administrative systems to implement their approved programs.

Current regulations provide for CPC review of the substantive provisions of these programs to ensure that an acceptable balance between State and local interests is achieved. Current regulations do not require that the CPC review procedural systems to ensure that they are not unduly cumbersome or prone to delay.

Objective - To define guidelines for acceptable local administrative and regulatory procedures to prevent arbitrary or unreasonable impacts on developmental proposals, including uses of State concern, after local programs have been approved.

Proposed changes - Expand and clarify the regulations on implementation of district programs to require that any direct administrative control mechanism created by districts under the ACMP, such as a local permit system, provides for timely deadlines for decisions, limits discretion of local officials, and is conducted pursuant to clear and specific regulations set forth in the district program.

VI. Responsibilities of state agencies to districts and to the ACMP -

The responsibilities of state agencies to respond to districts developing programs and to participate in the ACMP are not clearly stated in the regulations. References are scattered, and some functions outlined in the ACMA are omitted.

Objective - Clarify state agency responsibilities in coastal management so that ACMP participants, as well as the individual agencies themselves, clearly know what is expected of them.

Proposed change - Gather the existing duties and tasks that are presently located in several places in the regulations, the Alaska Coastal Management Act, and that exist in practice, and provide a complete and coherent list of the responsibilities in a new section.

VII. Organization of the Regulations -

While using the AMCP regulations since they were adopted in 1979, OCM staff and other ACMP participants have identified ways in which the organization and structure of the regulations could be improved.

Objective - To make the ACMP regulations easier to understand and to use.

Proposed changes -

- A. Place all requirements currently in the standards that pertain to district program development in the chapter containing the guidelines. Also move the requirements placed on districts for designation of Areas Meriting Special Attention to the guidelines chapter.

AGENDA ATTACHMENT E

Revised Findings and Conclusions
on
Sitka Coastal Management Program

OFFICE OF COASTAL MANAGEMENT

Summary of Revised Findings & Conclusions

November 25, 1981

District Program: City & Borough of Sitka

This summary of OCM's revised findings and conclusions is based on comments received during the review period from October 1, 1981 thru November 16, 1981, and certain actions of the City & Borough of Sitka, as well as anticipated official Borough Assembly action on certain program changes. All comments postmarked by November 16, 1981 were considered in this review.

Attached to this summary is a chart form display of each ACMP standard and guideline together with findings of fact on the district program and OCM's recommendations. The format presents the preliminary findings and conclusions followed by the revised findings and conclusions. Also attached is a synopsis of comments received and OCM's responses. Readers should refer to specific standards or guidelines for exact wording of recommendations OCM is suggesting the Coastal Policy Council adopt. Below is OCM's summary of these findings and conclusions.

OCM concludes that the district program is substantially consistent with the ACMP Statutes and Regulations and hereby recommends approval of the program. This recommendation of approval is contingent on the expected Sitka Borough Assembly action officially amending the policy section with the addition of a policy to indicate the intent of the district to use the recommendations and policies of the document in its entirety when making consistency recommendations and when issuing local permits and other approvals, to the greatest extent practicable; and a change in the policy on public access to assure that access is maintained and future access encouraged. As well, Assembly action is expected on the adoption by reference of Title 19, Building Code, the 1981 Parks and Recreation Plan, and the addition of the ACMP standards to be used in conjunction with TLMP in evaluating land and water uses and activities outside Urban Sitka. It is highly probable that these changes will be approved by the local governing body prior to CPC action on the proposed program, and in light of this expectation, OCM recommends approval.

OCM, in its preliminary Findings and Conclusions, concluded that the district program has not adequately addressed the standard on Mining and Mineral Processing, 6 AAC 80.110. This conclusion remains unchanged. To resolve this inadequacy, OCM recommends the district fulfill its intent to develop an in-depth gravel resource study and management plan to be completed within eight months from the date of CPC approval of the district program. In the interim, 6 AAC 80.100 shall remain the applicable authority. It should be noted that the district has prepared a draft work program to complete this study which they are reviewing. It is expected this draft will be finalized and submitted to the Department of Community & Regional Affairs prior to December 14, 1981. It should also be noted that the district has agreed to include OCM's

recommendation, pg. 8 of these Revised Findings and Conclusions attached, in the work program the timeline for completion of this effort will be finalized at the time the grant contract is negotiated between the district and DCRA and may be modified at that time within reason. OCM will provide periodic status reports to the Council.

Upon approval of the Coastal Policy Council, the concept approved draft together with a transcript of the actions of the Coastal Policy Council shall be forwarded to the district. Within 90 days of Coastal Policy Council approval, the district is requested to adopt the district program by ordinance.

OCM also strongly recommends the district prepare a detailed summary of applicable ordinances, regulations, policies and other enforceable provisions of the program that are intended to be used to implement the district program. The district has incorporated into its district program several documents in which the provisions are intended to be used to implement the district program. Additionally, the district intends to use the recommendations and policies contained throughout the district program itself. As a result, OCM believes that the program would be enhanced through improved clarity and ease in reference by preparing a summary document of the applicable provisions.

Readers should note that the changes since the distribution of the concept approved document will be developed into an addendum and distributed to interested persons.

OCM views the Sitka program as a commendable effort and appreciates the cooperative spirit in which it was developed. OCM also thanks the district for the time spent over the past few weeks to resolve concerns resulting in, what we believe, is an approvable program of high quality. OCM has previously stated its support in Sitka's attempts to attain certain General Permits from the Corps of Engineers. We reiterate this support here and offer whatever assistance we can provide to result in the issuance of these permits.

Sitka Coastal Management Program

Revised Findings & Conclusions

Exhibits

November 25, 1981

- I. Exhibit I Concept Approval of City & Borough of Sitka, Appendix A of Exhibit II
- II. Exhibit II Sitka Coastal Management Program Phase I Report, including Coastal Habitat Evaluation of the City & Borough of Sitka
- III. Exhibit III Sitka Coastal Management Program, including Sitka Coastal Habitat Evaluation Final Project Summary with Management Recommendations
- IV. Exhibit IV Sitka District Record File
- V. Exhibit V Title 22, Land Use Zoning Code, City & Borough of Sitka
- VI. Exhibit VI Title 21, Subdivision Code, City & Borough of Sitka
- VII. Exhibit VII Department of Fish & Game Site Specific Studies
 - a. Wetland Habitat Investigations in Sitka Sound, Alaska
 - b. Marine Biology and Circulation Investigations of Sitka Sound, Alaska
- VIII. Exhibit VIII Swan Lake Recreational Area, a proposal for an AMSA, prepared by Department of Fish & Game

COMMENT SUMMARY

OCM RESPONSE

GENERAL - Information provided district not earlier expressed.

Some comments received during this review period provided information & agency viewpoints not earlier brought to the attention of this office or the district. This information has been forwarded to the district to be considered in future planning efforts; however, it should be pointed out that the draft currently being reviewed is the district's concept approved draft, not a draft of a program in its development stage. OCM encourages participants in the ACMP to increase their involvement in district programs at earlier stages in order for districts to adequately consider the information and viewpoints expressed. At this point in the development of a district program, the district should have received all input from interested parties and the review of this document should only be considering two points: (1) the manner in which the district treated information provided to it earlier; and (2) the recommendations of the Office of Coastal Management.

Department of Transportation & Public Facilities,
Morton J. Cook, P.E., Regional Planning Manager,
Southeast Region, 10/26/81

Indicate Sitka Program (Habitat Evaluation Report) contradicts the Sitka Dock & Port Facility Reconnaissance Report (May '81) in the recommendation in the Reconnaissance Report that a site at Tarrigavan Bay be reserved for port and marine industrial development. DOT/PF recommends Sitka consider designating a marine industrial area in the Tarrigavan Bay area in the vicinity of the ferry terminal.

Comments forwarded to the district for their use in future coastal management program amendments or other planning efforts.

DOT/PF also recommends the incorporation of Rodman Bay road as a use of state concern.

Nothing in the district program restricts or excludes a use of state concern.

COMMENT SUMMARY

OCM RESPONSE

National Marine Fisheries Service, U.S. Dept. of Commerce, NOAA
Robert W. McVey, Director, Alaska Region, 11/4/81

Well done program. Referencing objectives, page 96 to be consistent with ACMP, deepwater frontage must be maintained for water dependent and water related uses.

Comments accepted & forwarded to district. See Revised Findings & Conclusions for 6 AAC 80.040.

Suggest rewarding Policy #8, page 99: Whenever previous construction activities have made a stream unusable or unsuitable for aquatic life, the problem must be considered for correction whenever routine maintenance is scheduled.

Comments forwarded to district.

Referencing Sitka's application for General Permits, NMFS recommends exclusion of areas within 100 foot distance from any water body for the placement of rock fill material, rather than 50 feet (page 102).

Comments regarding criteria for General Permits will be considered at time of the General Permits' public review.

U.S. Coast Guard, H.E. Stanley, Captain, District Planning Officer, 11/5/81

Provided current status of oil spill contingency planning efforts, and information on permitting requirements for float houses.

Comments accepted & forwarded to district.

Department of Commerce & Economic Development, Division fo Economic Enterprise, Office of Minerals Development, John Sims, Director, 11/12/81

Provided information on mineral potential of Sitka Borough and stresses opinion that level of future mineral activity has been underestimated as well the contribution to be made to the community.

Comments forwarded to district for their use in future coastal management program amendments or other planning efforts.

COMMENT SUMMARY

OCM RESPONSE

U.S. Dept. of Commerce, NOAA, OCZM, William Brah,
Acting Pacific Regional Manager, 11/13/81

Commend Sitka for undertaking the difficult task of developing a coastal management program tailored to Sitka's unique needs. Recommend revision prior to State approval of the program to include policies & authorities that are sufficiently comprehensive to cover all areas and uses in need of management; that are sufficiently specific to provide an adequate level of predictability in permit decisions; and that authorities and organizations are adequate to implement and balance the enforceable rules of the program.

See revised findings & conclusions for 6 AAC 85.090. and 6 AAC 85.100.

Alaska Oil & Gas Assn., William W. Hopkins, Exec.
Director, 11/12/81

Commends district in developing a program which reflects the intent of both state and federal coastal management laws and regulations.

Comment accepted.

U.S. Fish & Wildlife Service, Department of the Interior,
Melvin A. Monson, Acting Regional Director, 11/13/81

Compliment district for excellent compilation and inventory of fish and wildlife resource information.

Comment accepted.

Recommend clarification on intent of habitat recommendations as to their use in decision making process.

Comment accepted. See revised Findings and Conclusions for 6 AAC 85.090. and 6AAC 85.100.

Indicate proposal to obtain General Permits from COE has merit and can be used to reduce time and effort required by both applicants and agencies who must review individual permit applications.

Comments regards General Permits will be considered at time of the General Permits' public review.

District Program: Sitka

Date: November 23, 1981 Page: 4

COMMENT SUMMARY

OCM RESPONSE

Recommend Program clearly state priority use of waterfront land should be given to water dependent and water related activities.

Department of Community & Regional Affairs, Lee McInerney, Commissioner, 11/20/81

Find program consistent with standards and guidelines.

Believe inconsistencies cited in preliminary findings and conclusions of a technical nature and should not hinder approval of the program.

Comments accepted. See Revised Findings and Conclusions for 6 AAC 80.040.

See Revised Findings and Conclusions.

See Revised Findings and Conclusions.

051



City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

RECEIVED

OCT 15 1981

O.C.M.

October 13, 1981

Murray Walsh, Director
Office of Coastal Management
Pouch AP
Juneau, AK 99811

RE: OCM FINDINGS AND CONCLUSIONS

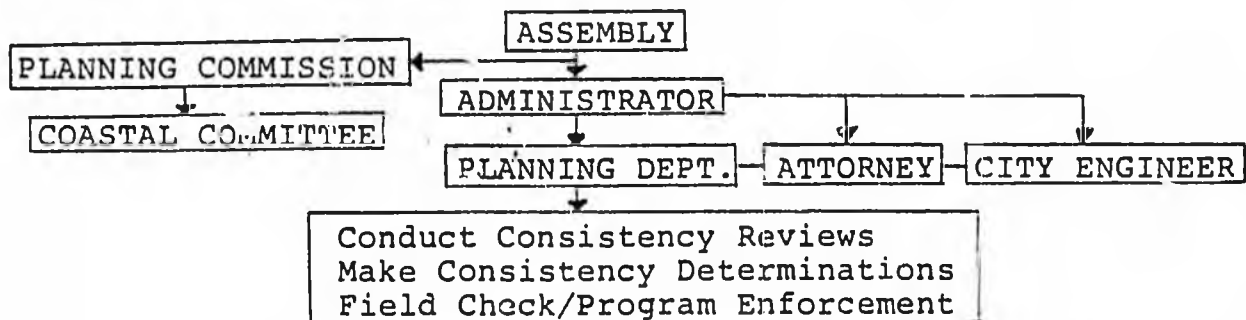
Dear Mr. Walsh:

The enclosed is the Municipality's response to the findings and conclusions prepared by Michelle Shook, of your office. For the most part, we have no problems and have enclosed our proposed corrections or additions.

I look forward to working with your office in any manner to allieviate major problems.

6 AAC 85.030 ORGANIZATION

We had neglected to actually include or indicate an organizational chart although the program document did state we anticipated no additional staff. Below is a proposed chart I feel would be relevant to this item.



Mr. Murray Walsh
Office of Coastal Management
OCM FINDINGS & CONCLUSIONS
October 13, 1981
Page 2

The paper work flow would also be arranged as follows:

- A. Material to Administrator
- B. Route to Planning Department
- C. Determination of Process
 - 1. In house review
 - 2. Public hearing
- D. Notices
 - 1. Hearing Date
 - 2. Field Review
 - 3. Recommendations
- E. Action
 - 1. Appeal
- F. Response to Agency
Applicant

HOPED FOR TIMEFRAME OF 30 - 45 DAYS SIMILAR TO
GENERAL PERMITS PROPOSED

6 AAC 80.040 COASTAL MANAGEMENT

Pages 96 and 99 include our objectives and policies which address coastal development. OCM is concerned that #2 "encourage water dependant and water related uses of urban land with deep water frontage" - does not really say anything or detail how we are going to accomplish this goal.

While I understand your concern, many other policies also state words like encourage. A policy is just that. It is not a regulation, a section in our code or any other rule of law.

I agree with the proposed changes in the Act that would require districts to present their implimentation methodology. I also agree, we can indicate which portions of our Zoning, Subdivison, Building Codes, etc., we will amend.

We still basically have a problem with Policies do not impliment a plan, but codes or ordinances do.

6 AAC 85.090 POLICIES

OCM has concluded that our policies, overall, do not reflect specificity and enforceability. The regulations state that our policies and procedures must be consistant and meet said criteria.

Mr. Murray Walsh
Office of Coastal Management
OCM FINDINGS & CONCLUSIONS
October 13, 1981
Page 3

The last policy on page 99 states "to utilize existing governmental structures, authorities and regulations to the maximum extent feasible to achieve the objectives of this district coastal management program."

Our subdivision, zoning and building code revisions are therefore, our specific procedures and the actual documents that provide the comprehensiveness, specificity and enforceability desired to impliment our program.

Same comment as above under .040.

In terms of protecting public access (page 99), I believe OCM has a good point. Change to read:

- ° Existing points of public access to the shoreline and tidelands shall be maintained by the appropriate government unit of ownership. Additional access shall be obtained wherever feasible.

6 AAC 85.100 IMPLIMENTATION

CCM has prepared a list of recommended actions which they feel will make our program consistant and approvable.

1. Prepare a summary of all applicable ordinances, regulations, policies and other enforceable rules intended to apply to land and water uses and activities:

Ordinances/Regulations

Subdivision Ordinance
Zoning Ordinance
Uniform Building Code 1979
Uniform Fire Code 1979
Uniform Plumbing Code 1979
National Electrical Code 1981

Policies - those included in the

Comprehensive Plan
Park & Recreation Plan
Coastal Management Program

2. Prepare procedures that describe when proposal will require consistency review/manner to be evaluated:
 - A. State initiated activities and regulatory permits.
 - B. Local activities where written findings prepared.
 - C. Check list to be used/program rules applicable.

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While our consultant is working on this at present, I do have the following observations:

Written Findings

1. Federal actions/actions on Federal Lands - consistent with TLMP.
 2. State or state initiated actions.
 3. Tidelands permits/actions by DNR - especially for float home coverage.
 4. Pavitt/Kyle working on check list at present.
1. OCM has also asked for a specific clarification as to the status of the recommendations of the habitat study.

Comments: Mr. Sundberg himself, on page 53, specifically states that the 25 to 50 foot stream buffers are general guidelines and should be followed by site specific evaluations. I do not believe we can adequately enforce this general recommendation and have asked Kim for a budget/time breakdown for the site specific studies. The majority of the rest of his recommendations are listed in the policies (page 99) on other areas.

This ties in strongly with the recommendation on Page 114 for a fund to purchase properties, where public benefits outweigh private use.

The Coastal Policy Council specifically needs to address the State fund question.

2. Need clarification on status of Building Code and Park and Recreation Plan. I recommend adding the following changes:

- ° Title 19, City and Borough of Sitka Code, the Uniform Building Code, 1979 version, along with local amendments, is hereby adopted, by reference, as a part of the Sitka Coastal Management District Program.
- ° The 1981 Sitka Parks and Recreation Plan, is hereby adopted, by reference, as a part of the Sitka Coastal Management District Program.

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OCM then asks us to prioritize the various studies recommended in the SCMP, either by time or some other manner for clarification.

I have gone through all the various suggested studies and have listed them as follows:

Studies/Projects

<u>Page</u>	<u>Study</u>	<u>Priority</u>
108	Landfill/Incinerator Project	Funding DEC Assistance - Underway
109	Sand Gravel Study/Management Plan	Funding DCRA Assistance - III
110	(Staff) Float Housing Study & Requirements	DNR Assistance
111	Zoning Ordinance Update a. No. dev. at anadromous streams b. Oil spills on wetlands c. Flood plain	II
111	ADF&G Site Specific Stream Studies	A.D.F.&G.
111	Subdivision Ordinance Update a. Flood plain b. Geo. hazards c. Clearcuts	Funding DCRA Assistance - I
112	Swan Lake Biological Studies (See 119/120)	
113	Urban Forestry Plan a. Clearcuts b. Tie into subdivision/zoning ordinance.	Funding DNR Assistance - I, II
113	Water Availability Study - Indian River	Underway
114	Oil Spill Contingency Plan	DEC Assistance

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<u>Page</u>	<u>Study</u>	<u>Priority</u>
114	Comprehensive Plan Update (Staff disagrees - would like to eliminate this one.)	DCRA Assistance
114	State Fund for Property Purchase	Actively Lobby AML Policy
119/120	Swan Lake AMSA	ADF&G Assistance

6 AAC 80.110 MINING AND MINERAL PROCESSING

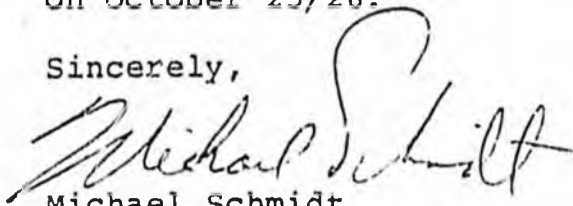
OCM appears concerned about mining and our proposed gravel study.

For 99% of the entire Municipality - Federal mining regulations, fully controlled by EPA and USFS are the standards which must be met.

1. The results of the Comprehensive Sand and Gravel Study, shall be presented to the Planning Commission and Assembly for approval.
2. As adopted, the recommendations contained for study shall become a part of the Sitka Coastal Management District Program and further gravel leases or other implimentation shall follow said guidelines.
3. Existing upland source at Granite Creek as well as any identified upland sources shall be carefully viewed and given priority over wetland and intertidal sources whenever practicable.

I look forward to discussing the above proposals with you on October 25/26.

Sincerely,



Michael Schmidt
Planning Director

MS:glb

cc: Gutierrez
Hallgren

057



City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

November 17, 1981

Murray Walsh, Executive Director
Office of Coastal Management
Pouch AP
Juneau, Ak. 99811

Dear Mr. Walsh,

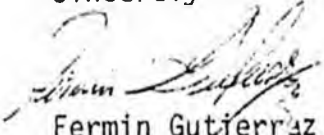
On Tuesday, November 17, 1981, the City and Borough of Sitka was verbally requested to comment on ~~the~~ items. OCM has asked for clarification of the role of the objectives and policies contained in the Sitka Coastal Management Program.

In terms of judging proposals for development, the policies are geographically broader and stringent, and are to be used in conjunction with existing regulatory codes and ordinances to determine consistency with the district program. The objectives are principally statements of intent and are to be utilized to give direction toward capital improvements, planning for future development and serve as a guide for incorporating needed language into our codes. They would indicate areas of concern and of interest on the part of the Municipality for further action.

OCM has also been requested to comment on equal weight being given to both water dependent and water related uses and activities. Specifically the question relates to our program position regarding residential uses.

It is the position of the City and Borough of Sitka that minimal upland alternatives exist with the urban area of the City and Borough of Sitka. Therefore both water dependent and water related uses and activities, including residential uses, are to be considered appropriate within the urban coastal area of Sitka.

Sincerely


Fermin Gutierrez
Administrator

cc: Michael Schmidt

FG:gh

RECEIVED

NOV 20 1981

O.C.M.

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.040. COASTAL DEVELOPMENT. (a) In planning for an approving development in coastal areas, districts and state agencies shall give, in the following order, priority to</p> <ul style="list-style-type: none"> (1) water-dependent uses and activities; (2) water-related uses and activities; and (3) uses and activities which are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity. <p>(b) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with the standards contained in Parts 320-323, Title 33, Code of Federal Regulations, (Vol. 42 of the Federal Register, pp. 37133--47 (July 19, 1977)).</p>	<p>Ex. III, pg. 96 and pg. 99 include objectives and policies addressing this standard:</p> <p>Objectives:</p> <ul style="list-style-type: none"> 1. Develop & improve Sitka's port facilities including boat harbors & water related tourist facilities. 2. Encourage water-dependent & water related uses of urban land with deep-water frontage. 3. Maintain opportunities for residential use of waterfront lands. <p>Policies:</p> <ul style="list-style-type: none"> 4. To give priority to water-dependent and water-related uses 5. To not arbitrarily or unreasonably exclude or restrict residential use of private waterfront land. <p><u>SUPPLEMENTAL INFORMATION</u></p> <p>Correspondence dated 11/17/81, Gutierrez to Walsh, provides clarification of relationship of water dependent/related objective and water dependent/related policy, the former to be used "to give direction toward capital improvement planning for future development and serve as a guide for incorporating needed language into our codes." The policies are "to be used in conjunction with existing regulatory codes and ordinances to determine consistency with district program."</p>	<p>OCM concludes that the district program is not consistent with 6 AAC 80.040. Any inconsistency may be resolved by rewording objective # 2 in Findings to require uses of urban land with deepwater frontage to be water-dependent or water-related.</p> <p><u>REVISED CONCLUSION</u></p> <p>OCM concludes that the district program is substantially consistent with 6 AAC 80.040.</p>

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11/25/91

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
090	Due to limited upland alternatives available, water dependent and related uses, including residential, are to be considered appropriate uses within the urban coastal area of the district.	

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.050. GEOPHYSICAL HAZARD AREAS.</p> <p>(a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.</p> <p>(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided.</p>	<p>(a) Ex. II, pg. 6-7 describe geophysical hazards prevalent in the area which are further described on pgs. 34-35 of this exhibit.</p> <p>Ex. III, pgs. 18-21 provides additional description & analysis of the risk to life & property of those hazards identified.</p> <p>(b) Ex. III, pg. 111 indicates the district intends to further address potential geophysical hazard problems:</p> <ul style="list-style-type: none"> - that the Flood Insurance Study, City & Borough of Sitka be incorporated into the Subdivision Regulations to guide the development of new land subdivision design in areas of flood hazard. - that in light of the geophysical hazards present in the community, the local building code will be reviewed to assure that it reflects Uniform Building Code requirements for seismic zones, prohibition of building construction on stump fills; and engineering design of foundations in areas of muskeg or volcanic ash. <p>Ex. III, pg. 103 states that Title 21 & 22 of the Code of the City & Borough of Sitka are elements of implementation strategy of the district program. Ex. V (Title 21) and Ex. VI (Title 22) require "compliance with all applicable laws" and impose the more restrictive standards when requirements differ, respectively.</p> <p>Title 19, Building & Construction Code, requires a permit of land excavation under</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.050.</p> <p>The following recommendation is cross-referenced with 6 AAC 85.100 and will be considered under that guideline:</p> <ol style="list-style-type: none"> 1. Include Title 19, Building Code, within the implementation strategy of the district program. This action will provide an adequate structure to implement 6 AAC 80.050 (b).

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FINDINGS AND CONCLUSIONS Prepared By: Office of Coastal Management

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
6 AAC. 80.050. Geophysical Hazards (Cont'd)	certain conditions (19.24.020). Within this permitting structure, applicants are required "to make adequate provision for safety of persons & property affected." (19.24.050). Title 19 (19.04.010) also adopts the 1979 Edition of the Uniform Building Code by reference, save certain modifications noted, none of which relate to the UBC's coverage of construction in hazard areas. Title 19, however, is not specifically referenced in the district program.	

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.060. RECREATION. (a) Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are</p> <p>(1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or</p> <p>(2) the area has potential for high quality recreational use because of physical, biological, or cultural features.</p> <p>(b) Districts and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal water.</p>	<p>(a) Ex. II, pg. 31 includes discussion of existing recreation facilities & other recreation opportunities available in the district as well as proposed development of recreation facilities. Further discussion of future demands & needs for recreation facilities is found on pgs. 37-38 of Ex. II.</p> <p>(a)(b) Ex. III, pgs. 92-93 references an adopted Parks & Recreation Plan (1981) & states that "the majority of the significant outdoor recreation...are under the jurisdiction of the US Forest Service" & "urges cooperation among governmental agencies in the protection of areas for dispersed & wilderness recreation, & in the development of such facilities as cabins, mooring buoys and marine parks."</p> <p>(b) Program objectives, pg. 96 of Ex. III, assures the maintenance of adequate public access to the shoreline & tidelands; & policies, pg. 99, declare the intent of the district to develop means of protecting points of public access to the shoreline & tidelands. *</p> <p>"As a prime recreational area", the district program designates Swan Lake as an AMSA (see 6 AAC 80.160 findings for further discussion.)</p> <p>Ex. III, Urban Area Map (back of document) plots points of existing public access to the shoreline.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.060. However, it is not clear how the 1981 Parks & Recreation Plan interfaces with this district program. Clarification is recommended.</p> <p>The following recommendation is cross-referenced with 6 AAC 85.090 and will be considered under that guideline:</p> <p>1. In order to meet the criteria of 6 AAC 85.090, the means of protecting points of public access (policy referenced*) needs to be addressed.</p> <p>The following recommendation is cross-referenced with 6 AAC 85.100 and will be considered under that guideline:</p> <p>2. Consider incorporating pertinent portions of the 1981 Parks & Recreation Plan in this document, if applicable; or incorporating Plan by reference. At a minimum, a statement to clarify the relationship of this Plan with the district program is needed.</p>

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FINDINGS AND CONCLUSIONS Prepared By: Office of Coastal Management

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.070. ENERGY FACILITIES. (a) Sites suitable for the development of major energy facilities must be identified by districts and the state in cooperation with districts.</p> <p>(b) The siting and approval of major energy facilities by districts and state agencies must be based, to the extent feasible and prudent, on the following standards:</p> <ol style="list-style-type: none"> (1) site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements; (2) site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs; (3) consolidate facilities; (4) consider the concurrent use of facilities for public or economic reasons; (5) cooperate with landowners, developers, and federal agencies in the development of facilities; (6) select sites with sufficient acreage to allow for reasonable expansion of facilities; (7) site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements; (8) select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions; (9) encourage the use of vessel traffic control and collision avoidance systems; (10) select sites where development will require minimal site clearing, dredging and construction in productive habitats. 	<p>Ex. III, pg. 90 describes the Green Lake Hydroelectric project presently under construction. Map on page 91, Ex. III identifies existing & potential hydroelectric developments in the district.</p>	<p>No other facilities, other than hydroelectric power generation, are planned or anticipated within the foreseeable future that will directly or significantly affect the district.</p> <p>OCM concludes that the district program is substantially consistent with 6 AAC 80.070</p>

FINDINGS AND CONCLUSIONS

Prepared By: Office of Coastal Management

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.070 (continued)</p> <p>(11) site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable habitats, including marine mammal rookeries and hauling out grounds and waterfowl nesting areas;</p> <p>(12) site facilities so that the design and construction of those facilities and support infrastructures in coastal areas of Alaska will allow for the free passage and movement of fish and wildlife with due consideration for historic migratory patterns and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;</p> <p>(13) site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained;</p> <p>(14) site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;</p> <p>(15) select sites in areas which are designated for industrial purposes and where industrial traffic is minimized through population centers; and</p> <p>(16) select sites where vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.</p> <p>(c) Districts shall consider that the uses authorized by the issuance of state and federal leases for mineral and petroleum resource extraction are uses of state concern.</p>		

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.080. TRANSPORTATION AND UTILITIES. (a) Transportation and utility routes and facilities in the coastal area must be sited, designed, and constructed so as to be compatible with district programs.</p> <p>(b) Transportation and utility routes and facilities must be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility.</p>	<p>Ex. III, pg. 76-83 addresses current & future transportation & utility routes and facilities in the district. Objectives on pg. 96 support improved port facilities.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.080.</p>
<p>6 AAC 80.090. FISH AND SEAFOOD PROCESSING. Districts shall identify and may designate areas of the coast suitable for the location or development of facilities related to commercial fishing and seafood processing.</p>	<p>Ex. III, pg. 88-89, addresses existing fish & seafood processing industry & potential for a bottomfish industry located within the district. Pg. 88 states the processing industry will continue to be a contributor to the local economy, but growth of any significance cannot be determined at this time. Two seafood processors currently operate in the district.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.090.</p>

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.110. MINING AND MINERAL PROCESSING. (a) Mining and mineral processing in the coastal area must be regulated, designed, and conducted so as to be compatible with the standards contained in this chapter, adjacent uses and activities, statewide and national needs, and district programs.</p> <p>(b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits, when there is no feasible and prudent alternative to coastal extraction which will meet the public need for the sand and gravel.</p>	<p>Ex. II, pg. 87 states "with the exception of sand and gravel extraction, there is presently no significant mining activity in the Sitka area."</p> <p>The issue of supply & demand of sand and gravel resources is discussed in Ex. III, pgs. 13-14, stressing the limited availability of gravel sources within the district.</p> <p>Pg. 109 indicates the intent of the district to pursue an in-depth planning/engineering/economic survey & inventory of all possible sand & gravel sources available in the area in order to develop a comprehensive program of resource allocation & coastal resource protection. A management plan will be included in this project that will address (pg. 109):</p> <ol style="list-style-type: none"> 1. Operating plan that will prevent sediment flow into streams; 2. Recontouring plan showing "beginning" and finished topography; and 3. Land re-use plan for further beneficial use of the site following resource extraction. <p>Discussions with DCRA (9/25/81) indicate a work program and contract are currently being prepared to allow the district to proceed with this study.</p>	<p>OCM concludes that the district program has not adequately addressed 6 AAC 80.110, however that nothing in the district program negates or detracts from this standard.</p> <p>Any inadequacy may be resolved by fulfilling the district's intent to develop an in-depth gravel resource study and management plan to be completed within 8 months from the date of Coastal Policy Council approval of the district program. In the interim, 6 AAC 80.100 shall remain the authority applicable to mining and mineral processing in the district.</p> <p>OCM recommends the inclusion of the following in the work program to assure compliance with this standard:</p> <ol style="list-style-type: none"> 1. A statement that the resulting product will comply with ACMP standards, in particular 6 AAC 80.110 (a) & (b); 2. A statement that this project, once completed and approved by the district, will be a part of this district program, and duly adopted by the district; and 3. The work program require that upland gravel sources be addressed prior to other sources.

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FINDINGS AND CONCLUSIONS

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.120. SUBSISTENCE. (a) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.</p> <p>(b) Districts shall identify areas in which subsistence is the dominant use of coastal resources.</p> <p>(c) Districts may, after consultation with appropriate state agencies, Native corporations, and any other persons or groups, designate areas identified under (b) of this section as subsistence zones in which subsistence uses and activities have priority over all nonsubsistence uses and activities.</p> <p>(d) Before a potentially conflicting use or activity may be authorized within areas designated under (c) of this section, a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage must be conducted and appropriate safeguards to assure subsistence usage must be provided.</p> <p>(e) Districts sharing migratory fish and game resources must submit compatible plans for habitat management.</p>	<p>Ex. III, pg. 90 addresses subsistence activities in the district. Pg. 96 includes an objective to maintain opportunities for subsistence harvest of fish & game resources.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.120.</p>

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.130. HABITATS. (a) Habitats in the coastal area which are subject to the Alaska coastal management program include</p> <ul style="list-style-type: none"> (1) offshore areas; (2) estuaries; (3) wetlands and tidelands; (4) rocky islands and seacliffs; (5) barrier islands and lagoons; (6) exposed high energy coasts; (7) rivers, streams, and lakes; and (8) important upland habitat. <p>(b) The habitats contained in (a) of this section must be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources.</p> <p>(c) In addition to the standard contained in (b) of this section, the following standards apply to the management of the following habitats:</p> <ul style="list-style-type: none"> (1) offshore areas must be managed as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial, and subsistence fishery; <p>069</p>	<p>(a) Ex. II, App. A states that all the habitats listed in 80.130 are found within the district with the exception of (5), barrier islands & lagoons.</p> <p>(b) & (c) Ex. III, pg. 96 provides general objectives which address management of habitat types.</p> <p>Ex. II, III, VII & VIII provide data & management recommendations for habitat management.</p> <p>Ex. III, pg. 100-101 states that "the <u>Final Project Summary with Management Recommendations of the Sitka Coastal Habitat Evaluation</u> is an integral part of this Phase II Report (pgs. 22-72) and provides the data needed for the district organization to make informed coastal management decisions in the overall public interest."</p> <p>(see 6 AAC 85.050, Resource Inventory for further discussion relating to habitats)</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.130.</p> <p>The following recommendation is cross-referenced with 6 AAC 85.100 and will be considered under that guideline:</p> <ul style="list-style-type: none"> - Clarification of the status of the 'Final Project Summary with Management Recommendations of the Sitka Habitat Evaluation as an implementation tool.

FINDINGS AND CONCLUSIONS

Prepared By: Office of Coastal Management

ACMP REQUIREMENTS

FINDINGS

CONCLUSIONS

6 AAC 80.130 (continued)

(2) estuaries must be managed so as to assure adequate water flow, natural circulation patterns, nutrients, and oxygen levels, and avoid the discharge of toxic wastes, silt, and destruction of productive habitat;

(3) wetlands and tidelands must be managed so as to assure adequate water flow, nutrients, and oxygen levels and avoid adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;

(4) rocky islands and seacliffs must be managed so as to avoid the harassment of wildlife, destruction of important habitat, and the introduction of competing or destructive species and predators;

(5) barrier islands and lagoons must be managed so as to maintain adequate flows of sediments, detritus, and water, avoid the alteration or redirection of wave energy which would lead to the filling in of lagoons or the erosion of barrier islands, and discourage activities which would decrease the use of barrier islands by coastal species, including polar bears and nesting birds;

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

070

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>5 AAC 80.130 (continued)</p> <p>(7) rivers, streams, and lakes must be managed to protect natural vegetation, water quality, important fish or wildlife habitat and natural water flow.</p> <p>(d) Uses and activities in the coastal area which will not conform to the standards contained in (b) and (c) of this section may be allowed by the district or appropriate state agency if the following are established:</p> <p>(1) there is a significant public need for the proposed use or activity;</p> <p>(2) there is no feasible prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in (b) and (c) of this section; and</p> <p>(3) all feasible and prudent steps to maximize conformance with the standards contained in (b) and (c) of this section will be taken.</p> <p>(e) In applying this section, districts and state agencies may use appropriate expertise, including regional programs referred to in sec. 30(b) of this chapter.</p>		

FINDINGS AND CONCLUSIONS

Prepared By: Office of Coastal Management

ACMP REQUIREMENTS

FINDINGS

CONCLUSIONS

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

Ex. III, pg. 96 includes an objective to:
 - maintain a high standard of air and water quality.

OCM concludes that the district program is substantially consistent with 6 AAC 80.140.

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.150. HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES. Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory.</p>	<p>Ex. II, pgs. 10-12 includes identification of sites listed on the state's Heritage Resource Survey and those sites listed on the National Register of Historic Places.</p> <p>Ex. III; pgs. 93-94 provides discussion of sites of historic importance in the district. Urban Area Map (back of document) maps 12 historic areas within urban Sitka currently listed on National Register of Historic Places.</p> <p>Objectives, pg. 96 of Ex. III, encourage preservation, protection & interpretation of Sitka's rich historical heritage.</p> <p>Policies, pg. 99 Ex. III, places high value on historic and cultural resources and encourages economic enterprises that are consistent with the historic & cultural interests of the district.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.150.</p>

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 80.160. AREAS WHICH MERIT SPECIAL ATTENTION. (a) Any person may recommend to a district or to the council areas to be designated as areas which merit special attention. Districts shall designate in district programs areas which merit special attention. Areas which are not in districts and which merit special attention shall be designated by the council with the concurrence of appropriate state agencies, municipalities, and villages affected by the designation. Designations must include the following information:</p> <p>(1) the basis or bases for designation under AS 46.40.210(1) or (b) of this section;</p> <p>(2) a map showing the geographical location, surface area and, where appropriate, bathymetry of the area;</p> <p>(3) a description of the area which includes dominant physical and biological features;</p> <p>(4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;</p> <p>(5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;</p> <p>(6) present and anticipated conflicts among uses and activities within or adjacent to the area, if any; and</p>	<p>Swan Lake, a 22.25 acre freshwater lake located in the urban Sitka area, has been designated an AMSA in this district program, Ex. III, pg. 115-120.</p> <p>(a)(1) Bases for designation (pg. 115) as "...unique, and contains fragile & vulnerable habitat of significant cultural value & social importance..." and as "a prime recreational area."</p> <p>(a)(2) pg. 116 provides a map indicating the geographic area of the AMSA.</p> <p>(a)(3) pg. 117 provides a narrative description of the AMSA boundary & a brief description of the physical features. Ex. VIII, <u>Swan Lake Recreational Area</u>, a proposal for an AMSA prepared by DF&G, pgs. 6-9 provides a further description of the physical & biological features.</p> <p>(a)(4) pg. 117 and Fig. 2, pg. 118 include description of land ownership & jurisdiction & the management practices applicable to the AMSA. Ex. VIII, pgs. 10-11 provides additional information on existing management status, & pgs. 12-13, Ex. VIII, provides description of existing uses & activities within the AMSA.</p> <p>(a)(5) Fig. 2, pg. 118, Ex. III, indicates the ownership & jurisdiction of adjacent lands, and Ex. VIII, pg. 13 provides a description of adjacent uses & activities.</p> <p>(a)(6) Ex. VIII, pgs. 15-16 discusses present & anticipated conflicts within the AMSA designation. Development surrounding the Lake has resulted in biological conflicts with the lake's values.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 80.160.</p> <p>OCM strongly supports the district's intent to further study Swan Lake to design an effective rehabilitation program and to define sites contributing unacceptable pollutant loads to the Lake and its tributaries.</p> <p>In order to provide the public & decision makers with specificity and predictability in the management of uses & activities within the designated AMSA, the following items are recommended to be addressed in the intended study:</p> <p>1. Detailed map delineating the AMSA boundary within which this management scheme applies.</p> <p>2. Site specific enforceable rules that would lead to fair and balanced management decisions, rather than policies that may be open to interpretation.</p>

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>3 AAC 80.160 (continued)</p> <p>(7) a proposed management scheme, consisting of the following:</p> <p>(A) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;</p> <p>(B) a summary or statement of the policies which will be applied in managing the area; and</p> <p>(C) an identification of the authority which will be used to implement the proposed management scheme.</p> <p>(b) In addition to the categories contained in AS 46.40.210(1), areas which merit special attention may include the following:</p> <p>(1) areas important for subsistence hunting, fishing, food gathering, and foraging;</p> <p>(2) area with special scientific values or opportunities, including those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and</p> <p>(3) potential estuarine or marine sanctuaries.</p> <p>(c) Management schemes for areas which merit special attention must preserve, protect, enhance, or restore the value or values for which the area was designated.</p> <p>(d) As used in this section, "areas which merit special attention" has the same meaning as in AS 46.40.210(1).</p>	<p>i.e., degraded water quality, loss of fish & wildlife, and reduction in the overall aesthetic beauty of the Lake & creek system.</p> <p>The goal of this AMSA designation, pg. 115, Ex. III, states: "...to insure that this valuable lake will continue to support healthy fish & wildlife populations, as well as providing esthetic & recreational enjoyment for the people of Sitka.</p> <p>(C) Ex. III, pgs. 119-120 identifies the Sitka Zoning Ordinance and Corps of Engineers Sec. 10/404 permitting processes as implementing authorities.</p> <p>Ex. VIII, pgs. 26-31 provides additional recommendations for enhancement alternatives for the AMSA.</p> <p>Ex. III, pg. 112 adopts an intent to pursue further study of Swan Lake prior to initiation of capital projects intended to rehabilitate the Lake's aquatic values.</p>	

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>AAC 85.020. NEEDS, OBJECTIVES, AND GOALS. Each district program must include a statement of the district's overall coastal management needs, objectives, or goals, or the district's comprehensive land and resource use plan.</p> <p>6 AAC 85.030. ORGANIZATION. Each district program must include a description of the district program organization for coastal management. Budgetary and staff needs and, where appropriate, a schedule for necessary reorganization must be included.</p>	<p>Ex. III, pg. 95 states overall goal of the district program:</p> <p>"It is the goal of the Sitka Coastal Management Program to achieve wise use of the land and water resources of the coastal area -- balancing ecological, cultural and economic values so as to maintain and protect Sitka's coastal resources for the beneficial use and enjoyment of this and future generations."</p> <p>Program objectives are listed on pg. 96, Ex. III.</p> <p>Ex. III, pg. 2-3 describes general organizational structure of the district. Pg. 3 states that no additional personnel are anticipated to be needed to administer the district program.</p> <p><u>SUPPLEMENTAL INFORMATION</u></p> <p>Correspondence dated 10/13/81, Schmidt to Walsh, includes organization chart together with an indication of who is responsible for functions requested in OCM's preliminary conclusions. A description of the paper flow for consistency reviews is also provided.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.020.</p> <p>OCM concludes that the district program has not adequately addressed 6 AAC 85.030. Any inadequacy may be resolved by including the following within 30 days of Coastal Policy Council approval of the program:</p> <ol style="list-style-type: none"> 1. An organization chart or description that clearly identifies who in the district is responsible for <ul style="list-style-type: none"> - conducting consistency reviews - making the consistency determinations - field checking & program enforcement 2. A flow chart or description of the paper flow involved in local, state and federal consistency reviews. <p><u>REVISED CONCLUSION</u></p> <p>OCM concludes that the district program is substantially consistent with 6 AAC 85.030.</p>

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.040. BOUNDARIES. (a) Each district must include a map of the boundaries of the coastal area within the district subject to the district program. Boundaries must enclose those lands which would reasonably be included in the coastal area subject to the district program if they were not subject to the exclusive jurisdiction of the federal government.</p> <p>(b) Before council approval of the district program, initial boundaries must be based on <i>Biophysical Boundaries of Alaska's Coastal Zone</i> (published by the Office of Coastal Management and the Alaska Department of Fish and Game, 1978, a copy of which is on file with the Office of the Lieutenant Governor, and which is available from the Office of Coastal Management) and must include the zone of direct interaction and the zone of direct influence.</p> <p>(c) Final boundaries of the coastal area subject to the district program may diverge from the initial boundaries if the final boundaries</p> <p>(1) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on marine coastal water; and</p> <p>(2) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands, and beaches.</p> <p>(d) If the criteria in (c) of this section are met, final boundaries of the coastal area subject to the district program may be based on political jurisdiction, cultural features, planning areas, watersheds, topographic features, uniform setbacks, or the dependency of uses and activities on water access.</p> <p>(e) The boundaries of the district must be sufficiently compatible with those of adjoining areas to allow consistent administration of the Alaska coastal management program.</p>	<p>Ex. III, pg. 97 describes landward and seaward boundaries of the district program. Map provided follows pg. 97. The boundaries delineated include the zones of direct interaction & direct influence as provided in <u>Biophysical Boundaries of Alaska's Coastal Zone</u>.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.040.</p>

FINDINGS AND CONCLUSIONS

Prepared By: Office of Coastal Management

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.050. RESOURCE INVENTORY. Each district program must include a resource inventory which describes, in a manner sufficient for program development and implementation</p> <p>(1) habitats listed in 6 AAC 80.130 that are found within or adjacent to the district;</p> <p>(2) major cultural resources that are found within or adjacent to the district;</p> <p>(3) major land and water uses and activities which are conducted within or adjacent to the district;</p> <p>(4) major land and resource ownership and management responsibilities within or adjacent to the district; and</p> <p>(5) major historic, prehistoric, and archaeological resources which are found within or adjacent to the district.</p> <p>078</p>	<p>(1) Ex. II, App. A states that all the habitats in 80.130(a) are found within the district with the exception of barrier islands & lagoons. These habitats are depicted for the entire district on Fig. 4 on a map scale of 1:250,000 and for the district urban area on Fig. 5 on a map scale of 1:1/2 mile. Distribution of wildlife & fish & shellfish populations are depicted on Fig. 2 & 3 c. a 1:250,000 map scale. (These maps are located in the pocket behind Appendix A, Ex. II.)</p> <p>A narrative description of the habitats within the district is also provided in Ex. II, App. A, including identification of each habitat & analysis based on habitat characteristics and past, present & potential future impacts, together with recommendations for mitigating negative impacts on habitats. Site specific data & analysis including recommendations of the wetlands & marine & estuarine habitats of Sitka Sound is provided in Ex. VII.</p> <p>(2) Ex. III, pgs. 73-94 addresses the cultural inventory for the district, including data on population, industry, employment, services, & recreation & historic resources.</p> <p>(3) Descriptions of major land uses & activities is provided in Ex. III, pgs. 76, 81-94, including timber harvesting & processing, gravel extraction, government facilities, seafood processing, & recreation.</p> <p>(4) Ex. III, pg. 101 describes land</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.050.</p>

FINDINGS AND CONCLUSIONS

Prepared By: Office of Coastal Management

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.050. Resource Inventory (cont'd)</p>	<p>ownership & jurisdiction of the district: "With the exception of several small state selections & a few private tracts, land ownership and control ... outside of the urban area is exclusively federal, and is managed under the officially adopted Tongass National Forest Land Management Plan."</p> <p>(5) Ex. II, pgs. 10-12 includes inventory & sites listed on the state's Heritage Resource Survey & those sites listed on the National Register of Historic Places. An Urban Area Map (back of Ex. III) plots general location of National Register Historic sites.</p> <p>Ex. III, pg. 93-94 provides additional discussion on sites of historic importance in the district.</p>	

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.060. RESOURCE ANALYSIS. Each district program must include a resource analysis which describes, in a manner sufficient for program development and implementation</p> <p>(1) significant anticipated changes in the matters identified under sec. 50 of this chapter;</p> <p>(2) an evaluation of the environmental capability and sensivity of resources and habitats, including cultural resources, for land and water uses and activities; and</p> <p>(3) an assessment of the present and anticipated needs and demands for coastal habitats and resources.</p> <p>030</p>	<p>(1-3) Ex. II, App. A provides analysis of past & present impacts on habitat types present within the district. Recommendations are also included for mitigating measures to decrease negative impacts. Detailed site specific data was gathered through a special contractual effort with the Department of Fish & Game for Sitka Sound and Swan Lake. The resulting products, Ex. VII and VIII, contain this data together with evaluation of the environmental capabilities & sensitivities of the resources & recommendations for management of uses & activities for sites within these areas. A summary of the results of these studies and specific recommendations for habitat management is contained in Ex. III, pgs. 22-72. These recommendations are based on general guidelines for protecting habitat values and on present & potential future demands on these habitats.</p> <p>Ex. III, pg. 73-94 provides analysis of expected change in community growth and economic outlook including industrial activities, and discusses increased needs and demands on facilities and resources of the district.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.060.</p>

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.070. SUBJECT USES. Each district program must include a description of the land and water uses and activities which are subject to the district program. The uses and activities mentioned in ch. 80 of this title are, if applicable, subject to the district program.</p>	<p>Ex. II, pg. 13-14 describes land uses in the district.</p> <p>Ex. III, pg. 98 states:</p> <p>"All residential, commercial, industrial & governmental uses of land & water within the coastal area, whether public or private property, shall be subject to the provisions and policies of the Sitka Coastal Management Program."</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.070.</p>
<p>6 AAC 85.080. PROPER AND IMPROPER USES. Each district program must include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations. This description must be based on the district's statement of overall needs, objectives, or goals, or the district's comprehensive land and resource use plan, under sec. 20 of this chapter, and must be consistent with the standards contained in ch. 90 of this title.</p>	<p>Ex. III, pg. 100 addresses proper & improper uses and states:</p> <p>Proper uses are "those land & water uses and activities which are compatible with the goals, objectives & policies of the Sitka Coastal Management Program & which comply with the regulations of the federal and/or state agencies...and with the applicable ordinances and regulations of the City & Borough of Sitka."</p> <p>Improper uses are "those uses...which are found to be incompatible with the goals, objectives or policies...or which cannot be modified to meet the lawful requirements of agencies..."</p> <p>Ex. V, Chaps. 22.20 - 22.70 classifies urban land use districts for the district and details permitted and prohibited uses within each district.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.080.</p>

FINDINGS AND CONCLUSIONS

Prepared By: Office of Coastal Management

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.090. POLICIES. Each district program must include a summary or statement of the policies that will be applied to land and water uses and activities subject to the district program and the process which will be used to determine whether specific proposals for land and water uses and activities will be allowed. It shall be the general policy of the district to approve specific proposals for uses and activities within areas designated for those uses and activities under sec. 80 of this chapter. Districts shall use existing means appropriate for the evaluation of specific proposals to the greatest extent feasible and prudent. Policies and procedures under this section must be consistent with the standards contained in ch. 80 of this title and must meet the following criteria:</p> <p>(1) comprehensiveness, so as to apply to all uses, activities and areas in need of management;</p> <p>(2) specificity, so as to allow clear understanding of who will be affected by the district program, how they will be affected, and whether specific proposals for land and water uses and activities will be allowed; and</p> <p>(3) enforceability, so as to insure implementation of and adherence to the district program.</p>	<p>Ex. III, pg. 99 lists the policies applicable to the district program.</p> <p>Pg. 106-107. Ex. III describes the procedures to be used for review of proposed projects.</p> <p>Ex. III, pgs. 100-101 discusses the Habitat Evaluation Project undertaken by the district under a MOCU with DF&G (pgs. 22-72 provides Final Project Summary of this project) and indicates that this Summary "provides the data needed for the district organization to make informed coastal management decisions in the overall public interest."</p> <p>For areas outside the urban area of the district, pg. 101 states that the district adopts by reference the Tongass National Forest Land Management Plan "for purposes of evaluating land & water uses & activities" for areas outside urban Sitka.</p> <p><u>SUPPLEMENTAL INFORMATION</u></p> <p>Correspondence dated 10/13/81, Schmidt to Walsh and other discussions between Sitka and OCM staff indicate two policy changes, subject to adoption by the district Assembly. These are:</p> <p>* Existing points of public access to the shoreline and tidelands shall be maintained by the appropriate government unit of ownership. Additional access shall be obtained wherever feasible.</p>	<p>OCM concludes that the district program is not consistent with 6 AAC 85.090; in that the included policies and procedures do not meet the criteria required in (1) thru (3) of this standard. Any inconsistency may be resolved by the following:</p> <p>1. Review, and where appropriate, reword policies to provide enforceability and specificity as stated in (2) & (3) of this standard.</p> <p>OCM also concludes that certain portions of the district program have not adequately addressed 6 AAC 85.090. Any inadequacy may be resolved by the following:</p> <p>1. In order to meet the criteria of 6 AAC 85.090, the means of protecting points of public access need to be addressed within 8 months of approval of the district program. (cross-referenced with 6 AAC 80.060)</p> <p>See 6 AAC 85.100 for further conclusions relating to this guideline.</p> <p><u>REVISED CONCLUSION</u></p> <p>OCM concludes that the district program is substantially consistent with 6 AAC 85.090, conditioned on Assembly adoption of policy changes referenced in findings.</p>

ALASKA COASTAL MANAGEMENT PROGRAM

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FINDINGS AND CONCLUSIONS

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p style="text-align: right; margin-right: 10px;">083</p>	<ul style="list-style-type: none"> * to maximum extent practicable, the recommendations and policies contained in the district program will be utilized in conjunction with applicable existing codes and regulations when making all consistency determinations and issuing local permits and other approvals. * Add "and ACMP standards" to page 101 to be used with the TLMP in evaluating land and water uses & activities outside urban Sitka. 	

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.100. IMPLEMENTATION. Each district program must include a description of the methods and authority which will be used to implement the district program. Methods and authority must be adequate to insure program implementation, and any additional methods or authority which are required must be specified. Methods and authority include land and water use plans, municipal ordinances and resolutions, (including shoreline, zoning, and subdivision ordinances and building codes), state and federal statutes and regulations, capital improvement programs, the purchase, sale, lease, or exchange of coastal land and water resources, cooperative agreements, tax exemption for nondevelopment purchase of development rights, memoranda of understanding, and coordinated project or permit review procedures.</p>	<p>Ex. III, pgs. 100-114 discusses implementation methods and authorities. To implement the district program, the district states it will use the following:</p> <ul style="list-style-type: none"> - Final Project Summary with Management Recommendations of the Sitka Habitat Evaluation (pg. 100) - Tongass National Forest Land Management Plan (pg. 101) - Local regulatory ordinances (zoning, subdivision, building permit regulations, & mobile home park regulations) (pg. 102) - (once approved) US Army Corps of Engineers General Permit covering six uses & activities (pg. 102; see detailed discussion pg. 104-105) - Participation in coordinated review consistency procedures (pg. 102) <p>Additional measures intended to address specific district issues to achieve program goals & objectives are addressed on pgs. 107-114. These issues include solid waste disposal; sand & gravel resources; floathomes; zoning ordinance, subdivision regulation and building code review; beach logs; Swan Lake; urban forestry; Indian River Management Plan; oil pollution; Comprehensive Plan update.</p>	<p>OCM concludes that the district program is not consistent with 6 AAC 85.100. Any inconsistency may be resolved by the following:</p> <ol style="list-style-type: none"> 1. Prepare a summary of applicable ordinances, regulations, policies and other enforceable rules of the program that are intended to apply to land and water uses and activities within the district. (See 6 AAC 85.090) 2. Prepare detailed procedures that describe when specific proposals will require a consistency review and the manner in which proposals will be evaluated, including (a) identification of state initiated activities and state regulatory permits for which the district desires to participate in the consistency review process; (b) identification of the threshold of local activities for which written findings on the consistency of the project will be prepared; and (c) a checklist to be used to determine if a project requires written findings, and if so against which program rules the project will be reviewed. (see 6 AAC 85.090) 3. Indicate in district program the methods the district intends to use to monitor & enforce the district program. <p>In addressing this standard, OCM recommends the district refer to <u>Implementing the District Program</u>, a document prepared by OCM to guide the effective implementation of district programs (this document in draft form is currently before the CPC for endorsement).</p>

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.100. Implementation (cont'd)</p>	<p><u>SUPPLEMENTAL INFORMATION</u></p> <p>Correspondence dated 10/13/81, Schmidt to Walsh, provides:</p> <ol style="list-style-type: none"> (1) Summary list of applicable ordinances, regulations, policies and other enforceable rules intended to apply to land and water uses and activities; (2) identification of the threshold for review for consistency for state and local actions and an indication of when written findings will be prepared; (3) inclusion of Title 19, Building Code, 1979 version, along with local amendments within implementation strategy (pg. 103 of document), subject to Assembly adoption by reference; (4) adoption by reference of the 1981 Sitka Parks & Recreation Plan as a part of the district program, subject to action by Assembly; (5) prioritization of various studies recommended in district program. <p>Subsequent discussions between OCM and the district has resulted in the preparation of material providing greater detail than provided in the 10/13/81 correspondence, discussed above, on the following:</p> <ol style="list-style-type: none"> (1) consistency review process; (2) monitoring procedures; (3) enforcement procedures; (4) checklist for making consistency recommendations. 	<p>OCM also concludes that certain portions of the district program have not adequately addressed 6 AAC 85.100. Any inadequacy may be resolved by the following:</p> <ol style="list-style-type: none"> 1. Clarifying the status of the Final Project Summary with Management Recommendations of the Sitka Habitat Evaluation as an implementation tool within 30 days of the approval of the district program. (cross-referenced with 6 AAC 80.130) 2. Although included in the list on pg. 102, pg. 103 only describes Subdivision Regulations & Land Use Zoning Code as elements of local implementing strategy. Clarification of status of building permit regulations & mobile home park regulations is needed. In order to provide adequate structure to implement 6 AAC 80.050(b), Geophysical Hazards specific inclusion of Title 19, Building Code, within the implementation strategy (pg. 103) is needed within 30 days of the approval of the district program. (cross-referenced with 6 AAC 80.050) 3. Consider incorporation of pertinent portions of the 1981 Parks & Recreation Plan in the district program, if applicable; or incorporating the Plan by reference. At a minimum, a statement to clarify the relationship of this Plan with the district program is needed within 30 days of the approval of the district program. (cross-referenced with 6 AAC 80.060)

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ALASKA COASTAL MANAGEMENT PROGRAM

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<div style="position: absolute; left: -50px; top: 50%; transform: translateY(-50%); font-weight: bold;">980</div>	<p>Additionally, subject to Assembly adoption, the policy is to be included in the district program which states the intent of the district to use all policies and recommendations in the document in the decision making process (see 6 AAC 85.090 Findings).</p>	<p>As it is the intent of the district to address program goals & objectives by several issue specific studies or other actions, OCM recommends the district prioritize, in a timetable or some other form, these various intent items. This prioritization will provide planning guidance to not only the district, but also state & federal agencies, who are participants in many of those intent items. Additionally, it will provide a general structure as to the future direction of this district segment of the ACMP.</p> <p><u>REVISED CONCLUSION</u></p> <p>OCM concludes that the district program is substantially consistent with 6 AAC 85.100. OCM, however, strongly recommends the district prepare a detailed summary of applicable ordinances, regulations, policies and other enforceable rules of the program that are intended to apply to land and water uses and activities within the district. With the multiple documents that are intended to be used to implement the district program, such a summary would be of benefit to local as well as state decision makers in applying the applicable parts of the district program to land and water use decisions.</p>

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.110. PUBLIC PARTICIPATION. Each district program must include evidence of effective and significant opportunities for public participation in program development under sec. 130 of this chapter.</p> <p>087</p>	<p>Refer to 6 AAC 85.130 for findings and conclusions relative to this standard.</p>	

ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.130. PUBLIC INVOLVEMENT. (a) No less than two public meetings must be held within the district during program development to inform the public and receive comments concerning the program. A brief summary or report of the matters considered at the public meeting held under this subsection must be prepared by the district, made available to the public, and retained for inclusion in the record file referred to in sec. 150(c) of this chapter.</p> <p>(b) At least 60 days before giving conceptual approval to the district program or significant amendment to the district program, the district shall give written notice to the council and any person who has requested notice in writing, as well as public notice of the proposed action by conspicuous advertisement in a newspaper of general circulation within the district. In addition, notice must be given by radio and by posting in villages and municipalities within the district. The notice must specify the time and place of a public hearing on the proposed action and the availability for review of the proposed district program document or significant amendment to the district program. The public hearing under this subsection may be held not sooner than 30 days after notice is given. At the public hearing, each person must be given the opportunity to present statements, arguments, or contentions, orally or in writing. Districts shall insure that, where appropriate, translation into the appropriate Native language(s) is provided. The district shall consider all relevant matter presented to it. A written transcript or electronic recording of the public hearing must be submitted to the council.</p> <p>(c) In addition to the requirements of (b) of this section, districts shall provide publicly advertised opportunities for public involvement in the development of all program elements contained in secs. 20 - 110 of this chapter.</p>	<p>Ex. II, App. B and Ex. III, App. A document the public participation efforts of the district.</p> <p>A 7-member Coastal Management Committee representing the various interests of the community was appointed by the Assembly. This committee held 14 public meetings during the development of the district program, other meetings with community civic organizations, and conducted two mail surveys.</p> <p>Ex. IV includes public meeting announcements and summaries of meetings held as well as minutes.</p> <p>Written public notification of proposed conceptual approval action was published in the <u>Sitka Sentinel</u> on 5/13/81 and periodically throughout the months of May, June & July, 1981. Notice was received at OCM on 5/15/81.</p> <p>Public hearings considering conceptual approval were held by the Citizens' Coastal Management Committee on 5/21/81 and 6/22/81, by the Planning & Zoning Commission on 7/8/81, and by the City & Borough Assembly on 8/11/81. Ex. IV contains minutes of these public hearings and a recording from the 8/11/81 Assembly hearing.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.130.</p>

ALASKA COASTAL MANAGEMENT PROGRAM

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.130 (continued)</p> <p>(d) Districts shall provide the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, what information is available, and where that information may be obtained.</p> <p>680</p>		

ALASKA COASTAL MANAGEMENT PROGRAM

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ACMP REQUIREMENTS	FINDINGS	CONCLUSIONS
<p>6 AAC 85.140. COORDINATION AND REVIEW. Districts shall provide opportunities for coordination and review by federal, state, and local governmental agencies, including adjacent districts, and other persons with a significant interest in coastal resources or who are conducting or may conduct activities that have or are likely to have a direct and significant impact on the district's coastal area.</p>	<p>Ex. IV includes list of individuals, federal & state agencies, private corporations, environmental groups & affected native landholders that indicated an interest in the development of Sitka's coastal management program to whom notification of public hearings & draft programs were distributed.</p> <p>Ex. III, App. A contains documentation of coordination.</p> <p>On 6/5/81, a meeting of federal & state agencies was held with the district to discuss any concerns those agencies present had with the district program.</p>	<p>OCM concludes that the district program is substantially consistent with 6 AAC 85.140.</p>

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AGENDA ATTACHMENT H

Memo from Murray Walsh

to

Council regarding OCM Move to DCRA

MEMORANDUM

State of Alaska

TO The Alaska Coastal Policy Council
and ACMP Participants

DATE Nov. 24, 1981

FILE NO

TELEPHONE NO

FROM Murray Walsh
Coordinator

SUBJECT Moving OCM and the Coastal Policy
Council to DCRA.

You will have noticed the proposed language in Agenda Item D, which would move both OCM and the CPC over to DCRA by statutory amendment. A question which remains is the idea of using an executive order of the Governor to accomplish the same purpose, and whether we should continue to pursue this avenue or not.

We believe that a proposed executive order should be devised and that it should provide as follows:

1. Reiterate the proposed provisions for moving OCM and the CPC that are now in the legislative package.
2. Provide that the positions in OCM will become classified and thus covered by the Alaska State Employees Union, except for the Coordinator and Deputy Coordinator positions.
3. Provide that all current employees in OCM have preferential rights in filling the newly classified positions.

The first item above would simply accomplish the move, in a manner agreed to by the CPC if, for some reason, the legislative improvements bill moves slowly in the Legislature. The second and third items are personnel matters that could not be dealt with in an agreement between the CPC and the Commissioner of Community and Regional Affairs, but which the Governor does have the authority to require, if the executive order technique is used.

Coastal Policy Council Location

AS 44.19.891(a) is amended to read:

(a) There is created in the Department of Community and Regional Affairs [OFFICE OF THE GOVERNOR] the Alaska Coastal Policy Council. The Council consists of the following:

Office of Coastal Management Location

AS 44.19.894 is amended to read:

The council shall utilize the staff of the Office of Coastal Management within the Department of Community and Regional Affairs [DIVISION OF POLICY DEVELOPMENT AND PLANNING] in discharging its duties and powers. The Commissioner of the Department of Community and Regional Affairs shall employ the coordinator of the office, with the concurrence of the Council. The Coordinator of the office, with the concurrence of the commissioner, [COUNCIL] may contract with or employ personnel or consultants [HE CONSIDERS] necessary to carry out the powers and duties of the council. The commissioner and the council

shall enter into an agreement for the joint supervision of the Office of Coastal Management.

Conditional Approval of District Coastal Management Programs

AS 46.40.060(a) is amended to read:

If, upon submission of a district coastal management program for approval, the council finds that the program is substantially consistent with the provisions of this chapter and the guidelines and standards adopted by the council and does not arbitrarily or unreasonably restrict or exclude uses of state concern, the council may grant summary or conditional approval of the district coastal management program, or may approve portions of the district program which are consistent.

Consistency Review Procedures

AS 46.40.040 (6) is amended by adding a new subsection to read:

(6) by regulation develop consistency review procedures including timeframes for use by state agencies to determine whether specific proposals for coastal land or water uses or activities are consistent with any applicable district coastal management program and applicable standards adopted by the Council under this section.

Negotiated District Program Completion Deadlines

AS 46.40.050 is repealed and reenacted to read:

Each coastal resource district without an approved district coastal management program shall, within six months of the effective date of this section, or within six months of certification of the results of the district's initial coastal Resource Service Area Board elections, whichever is later, submit to the council for its consideration and approval a schedule including dates for the completion and submission of the district coastal management program to the council. During the development of its coastal management program, each district shall submit progress reports concerning program development to the council annually, or more frequently, as determined by the council.

AS 46.40.170(b) and (c) are amended to read:

(b) At the request of the council, the Department of Community and Regional Affairs shall complete the district coastal management program in accordance with this chapter and the guidelines and standards adopted by the council for a coastal resource service area which has been organized but which has failed to make substantial progress in the preparation of an approvable district coastal management program within the time limitations approved by the council for

completion and submission of the district program under AS 46.40.050.

[18 MONTHS OF CERTIFICATION OF THE RESULTS OF AN ORGANIZATION ELECTION
OR WHICH HAS NOT SUBMITTED FOR APPROVAL OF THE COUNCIL A PROGRAM WITHIN
30 MONTHS OF CERTIFICATION OF THE RESULTS OF ITS ORGANIZATION ELECTION.]

Preparation of the program shall be conducted in consultation with the coastal resource service area and shall, to the maximum extent consistent with this chapter, reflect the expressed concerns of the residents of the service area.

(c) Before requesting the department to complete the district coastal management program under (b) of this section, the council shall meet with the members of the coastal resource service area board to determine whether the board is able to complete a district coastal management program within the time limitations established by the council [THIS SECTION].

Regional Planning

AS 44.19.161(2) is amended to read:

(2) establish continuing coordination among state agencies to facilitate the development and implementation of the Alaska coastal management program; [IN CARRYING OUT ITS DUTIES UNDER THIS PARAGRAPH, THE COUNCIL SHALL INITIATE AN INTERAGENCY PROGRAM OF COMPREHENSIVE COASTAL RESOURCE PLANNING FOR EACH GEOGRAPHIC REGION DESCRIBED IN AS 44.19.155(a)(1);]

Coastal Resource Service Area Boards

AS 46.40.140(a) is amended to read:

(a) Each coastal resource service area, upon organization, shall have an elected board representing the population of the service area. The board shall have the powers and duties and perform the functions prescribed for or required of coastal resource districts. Once the district coastal management program for a coastal resource service area is approved by the council and in effect, the board shall be given notice of and may provide comments and recommendations on the interpretation of the district program as it applies to specific land and water uses and activities subject to approval by a state agency

implementing the district program in accordance with AS 46.40.090(a).

If the coastal resource service area, or a portion of the area, included within an approved district coastal management program organizes to assume planning powers as a unified municipality, borough, or home rule or first class city, as set out in AS 46.40.210(2)(A)-(C), or as a second class city which meets the requirements of AS 46.40.210(2)(D), the district program continues in effect as the district program of the new local government, subject to amendments adopted by the governing body in accordance with this chapter.

AS 46.40.140(b) is repealed and reenacted to read:

(b) Board members shall be elected at large by the qualified voters of the coastal resource service area. The board shall consist of five, seven, nine, or eleven members. The Commissioner of the Department of Community and Regional Affairs shall determine the number of board members in consultation with the residents in the coastal resource service area. Within six months from the effective date of this section, coastal resource service area boards for coastal resource service areas organized as of the effective date of this section may propose, to the Director of Elections, reduction of the seven-member board to five members, or expansion to nine or eleven members. Any reduction or expansion of the number of board members is subject to approval by a majority of qualified voters voting on the question in the coastal resource service area at the next regular election or at a special election called for that purpose and, if approved, takes effect

at the next regular election of members of the coastal resource service area board.

AS 44.19.155(a)(1) is amended to read:

(1) nine public members appointed by the governor from a list comprised of at least three names from each region, nominated by the municipalities of each region; the nominees shall be the mayor or member of the assembly or council of a municipality, or member of a coastal resource service area board in the region; one public member shall be appointed from each of the following general regions:

AS 44.19.155(d) is amended to read:

(d) Each member of the council shall select one person to serve as a permanent alternate at meetings of the council. If a member of the council is unable to attend, he shall advise the alternate who may attend and act in place of the member. The alternate for a public member appointed after July 9, 1978, under (a)(1) of this section shall, at the time of his designation and throughout the period of his service as a permanent alternate, be the mayor or member of the assembly or council of a municipality, or member of a coastal resource service area board, within the region from which the permanent member is appointed. The alternate for a designated member serving under (a)(2) of this

section shall be a deputy commissioner of the department, [OR] the director of a division in the department or, in the case of the division of policy development and planning, the deputy director of the division. The names of alternates shall be filed with the council.

AS 46.40.190(b) is amended to read:

(b) Nothing in this chapter restricts or prohibits cooperation or joint administration of functions between a municipality and a coastal resource service area organized under the provision of this chapter upon initiation of a mutual agreement for the purpose. A city which elects to be excluded from an adjacent coastal resource service area under (a) of this section shall establish procedures, as appropriate, for the mutual exchange of information concerning the development and implementation of the district program [ENTER INTO A MUTUAL AGREEMENT FOR COOPERATIVE OR JOINT ADMINISTRATION OF FUNCTIONS] with the coastal resource service area board from the adjacent coastal resource service area.

A SUMMARY OF THE
ANCHORAGE COASTAL MANAGEMENT PROGRAM

November 18, 1981

Prepared by the
Alaska Office
of Coastal
Management

Developing the Program and Improvements

Anchorage was one of the first coastal cities to begin development of a district coastal management program. An initial grant totalling \$38,500 signed in July 1977 was awarded by the Department of Community and Regional Affairs to start the program. The first year's effort (FY 77) was directed toward the design of a planning methodology and a conceptual framework that would adequately address the standards and guidelines of the Alaska Coastal Management Act. Both the planning methodology and conceptual framework permitted development of a biophysical/cultural inventory of the designated planning area which in turn permitted the identification of (1) coastal zone boundaries (2) permissible uses in the coastal zone (3) Areas which Merit Special Attention (AMSA) (4) recommendations and suggested objectives, policies and criteria for coastal management. This initial effort was completed for Turnagain Arm and for a portion of Eagle River.

The FY 1978 Work Program (total amount of grant: \$63,957) utilized the same methodology and conceptual framework and applied them throughout the remainder of the Municipality's coastal area. This effort included a biophysical/cultural inventory of metropolitan Anchorage and the lands occupied by the communities of Eagle River, Chugiak, Peters Creek and Eklutna. The developed methodology was then applied to those planning areas to identify (1) the coastal boundaries; (2) permissible uses; (3) AMSAs; and, (4) recommended objectives, policies and criteria for coastal management. Implementation mechanisms were also addressed.

The FY 78 grant effort culminated in a draft coastal program which was conceptually approved via resolution of the Anchorage Assembly in early fall of 1979. The program was subsequently approved by the Alaska Coastal Policy Council in January 1980 and by the Legislature in April 1980.

Included as part of the Anchorage Coastal Management program effort, was the development of a series of maps for the entire Municipality depicting physical, biological and cultural resources at a common map scale. The methodology developed allowed the landscape of the Municipality to be divided into a series of specific resource units - referred to as coastal resource policy units. A resource analysis was conducted for each of these resource policy units to determine its land use suitability. A thorough legal review was then conducted to identify major federal and state laws and regulations and Municipal ordinances and regulations applicable to each resource unit. Where deficiencies occurred, in terms of meeting the requirements of the Alaska Coastal

Management Act, new ordinances were proposed and areas in need of further study were further identified in the Anchorage Coastal Management Plan Hearing Draft. Anchorage subsequently received an FY 80 grant (total amount: \$450,810) to carry out the findings and recommendations of the public hearing on the draft program. These projects included:

- * Preparation and printing of the final Anchorage Coastal Management Program. The final Anchorage program was printed and distributed to all interested parties.
- * Formal adoption of the Anchorage Coastal Program by the Municipal Assembly. The Anchorage Coastal Management Program was adopted by ordinance by the Anchorage Municipal Assembly, and federally approved by the U.S. Department of Commerce, NOAA, Office of Coastal Management, in early 1981.
- * Federal and State A-95/ACMP Consistency and Compliance Reviews. Several joint meetings were held with appropriate federal and state agencies to set out procedures for conducting ACMP reviews using the Anchorage Program. Reviews have been ongoing.
- * Creation of an Urban Waterfront/Port District. The creation of an urban waterfront zone was accomplished when the Municipal Assembly adopted the Coastal Program. Changes have been made to the zoning ordinance as work has progressed on the Port Comprehensive Plan. The Port of Anchorage was designated an "Area Meriting Special Attention." In order to facilitate better planning for the urban waterfront area, the intent of the coastal management program was to create a zoning classification called "Port District." This designation would specify water-dependent and water-related uses. Again, however, because the Port Marketing and Planning Study is not complete, it is premature to designate and delineate a specific boundary for a Port District. This will be done following the study.
- * Coastal Access and Scenic Preservation Study. A comprehensive coastal access plan was prepared for the Anchorage Bowl. The plan includes a visual resource analysis and natural resource analysis, including the identification of locations for various activities. Site plans and a coastal trail plan were also included. The plan was completed and will soon be distributed for review.
- * Wetlands. The Planning Department contracted with ERTEC consultants for a wetlands management plan. The project was funded both with CZM grant funds and EPA funds. The plan is now in the final review stages. All wetlands have been mapped, classified and management strategies prepared for each wetland.

- * Coastal Resource Atlas. The Anchorage Bowl Coastal Resource Atlas was completed and distributed to the State for distribution. A set of 13 maps with appropriate text are included at a scale of 1:25,000.
- * Seward Highway Scenic Corridor Plan. A contract was let to a planning and architectural firm to prepare a Scenic Corridor Management Plan for the Turnagain Arm. The final draft was prepared and printed. Distribution was made to the State.
- * Municipal Coastal Management Compliance Manual. To facilitate a better understanding of coastal management by Municipal departments and to ensure that all departments are aware of Coastal Management policies, procedures and plans, a compliance manual was prepared, the purpose of which is: (1) to provide a means of identifying permitted and non-permitted uses; (2) to allow identification of direct and significant impacts that could occur so that they may be mitigated; and (3) to set forth both federal and state consistency and compliance provisions of the ACMP to allow municipal-wide overview of projects. The manual was distributed to the State.
- * Hazardous Lands Study. Mayor Sullivan created a municipal task force to research the issue of development in hazardous areas and requested preparation of a series of alternative approaches necessary to meet state requirements. A report was prepared and submitted to Mayor Sullivan for action, however, no decision was made as to which alternative approach should be taken. The Public Works Department prepared a report outlining existing regulations and methods for dealing specifically with seismic risk. The Anchorage Geotechnical Advisory Commission has participated in identifying approaches and methods for implementing this standard. As of this date no single approach has been selected or approved by the present administration, but efforts are ongoing to satisfy the requirements of the hazards standard.

Not all of the recommendations for improvement of the Anchorage Coastal Program were accomplished under the FY 80 grant. Consequently a subsequent FY 81 grant (total amount \$259,893) was received in the spring of 1981. The tasks included:

- * Preparation of a Coastal Resource Atlas for the Turnagain Arm from Potter Marsh to the Kenai Peninsula Borough boundary. This is a continuation project in that the Anchorage Bowl Atlas has been completed and the Eagle River Atlas is now in production. Since Fire Island is being transferred to Cook Inlet Region, Inc. and will no longer be in federal ownership, an atlas for Fire Island will also be produced as part of this effort. The atlas will include the following: surficial geology, soils, habitats, slope, slope stability, vegetation, wetlands, land use and the coastal management resource policy units.

- * Revision of maps for the Eagle River Atlas. Base maps supplied by U.S.G.S. for the Eagle River Atlas Project were found to be inaccurate. In order to provide adequate base mapping it will be necessary to compile new maps. This task will permit completion of base maps for the Atlas.
- * Eagle River Coastal Access Plan. The Municipality is presently completing the Anchorage Bowl Coastal Access Plan and the Seward Highway Scenic Corridor Plan. This task will permit completion of an areawide coastal access plan. The area covered by this plan will be from Ship Creek to Eklutna.
- * Site Design and Engineering Plans for the Potter Marsh Nature Center. Specific site plans, engineering specifications and construction plans for the proposed Potter Marsh Nature Center will be conducted.
- * Avalanche Study. The Anchorage Planning and Zoning Commission has requested that an avalanche study be conducted to identify the exact run-out zones, wind blast zones, and frequency of avalanches in various locations throughout the Municipality.
- * Natural Resource (Gravel) Extraction Study. The Municipality's gravel resources are limited, and increased pressure has occurred over the past year to continue to develop those sources that remain. Concurrently, strong pressures exist to minimize both the development of new sources of supply and to continue existing gravel pits/gravel resource areas. Many of these extraction areas are near or adjacent to sensitive residential, natural environment, and institutional areas. A need exists to inventory the current resources and prepare a 10-15 year management plan for their usage and/or discontinuance. This plan will analyze current natural resources, develop projections of potential use, identify alternative mitigation measures and design techniques for gravel extraction, and establish a management plan for future extraction activities.

It is the understanding of the Office of Coastal Management that the Anchorage Wetlands Plan, Coastal Scenic Resources and Public Access Plan, Seward Highway Scenic Corridor Plan, and the Port of Anchorage Strategic Marketing Plan will be submitted to the Coastal Policy Council as amendments to the Anchorage Program in January 1982.

The total amount of funds utilized by Anchorage for coastal management purposes to date is \$813,160 which includes a 20% match contribution by Anchorage of \$152,632. The 80% contribution comes from the State Coastal Management Program through a grants program administered by the Department of Community and Regional Affairs.

Implementation of Anchorage Coastal Management Program

The major thrust of the Alaska Coastal Management Act was to assist local governments in the development and implementation of coastal

management plans. Once a district program such as the Anchorage Coastal Program has been approved by the Coastal Policy Council and the federal Office of Coastal Zone Management, State and federal agency activities must be consistent with the district program.

As local, state and federal levels of government gain experience in operating under the Alaska Coastal Management Program, it is becoming apparent that local coastal management planning can resolve problems if district programs clearly describe what they want to achieve in managing their coastal areas and are willing to work with other governmental and private interests to accomplish the task. Implementation of the Anchorage Coastal Management Program has shown that problems can be resolved within the Municipality of Anchorage using the processes established in its program and in the ACMP.

Anchorage chose not to have a formal consistency review mechanism or an autonomous permit system, and instead sought to rely on commenting through existing State procedures. The Coastal Policy Council was assured that the Municipality would implement its program through the use of existing State and local procedures. As currently authorized by State law, the State makes consistency decisions on proposed State and federal activities with due consultation with the affected local government. Organizational changes have been made within the Municipality to accommodate comments and to present consolidated municipal responses to the State. If the local government is aggrieved, it may take its case to the Coastal Policy Council.

The following case examples demonstrate how the local coastal management planning process has been used to resolve problems in Anchorage.

Seward Highway Reconstruction:

This project occurring within the Anchorage Coastal Zone Boundaries involved rerouting the highway as it crossed an area which receives heavy recreational use. The Municipality and the State Division of Parks (the major land manager in the project area) expressed concern over maintaining the recreational usage which was specifically detailed in the approved Anchorage Coastal Management Program. The Department of Transportation and Public Facilities (DOT/PF) had applied for the Corps permit to do the reconstruction work but the public notice reflected none of the above concerns. The consistency process reinforced the Municipality's objections and the result was issuance of a Corps permit requiring the work to proceed with appropriate stipulations. Those stipulations and other agreements between the concerned parties, allowed the project to proceed while lessening the impact to a local sport fishery and maintaining recreational access. Thus, while it resulted in DOT/PF doing redesign work, the direction of the Anchorage Coastal Management Program was followed.

Viewpoint Ventures

This housing development was projected to occur in an area which the Anchorage Coastal Management Program designated as suitable for coastal development. However, the access road to the subdivision required a

Corps permit since it crossed wetlands. The wetlands were to be crossed in close proximity to Potter's Marsh, a state game refuge. After much interagency discussion, the State agencies certified the project based on the guidance for stipulations provided by Anchorage which would have allowed the project to proceed consistent with their program. Federal agencies, however, objected to the project. Due to the presence of the Anchorage Program and the Municipality's findings that the project as stipulated was consistent, the federal agencies eventually withdrew their objections and the project was allowed to proceed.

Knik Arm 62, Knik Arm 63, and Cook Inlet 250

These three subdivisions were projected to occur in an area in Turnagain Bog that was depicted in the Anchorage Coastal Management Program as a "preservation environment". The Municipality determined the projects were consistent and presented analysis supporting the interpretation of their program. However, the U.S. Environmental Protection Agency, who has the final jurisdiction over issuance of Corps permits disagreed with that interpretation and asked the Office of Coastal Management for a determination. OCM determined that Anchorage's interpretation of its program was both legally and environmentally supportable. As a result of OCM's letter, EPA withdrew its objection. The State agencies agreed to our certification of the projects because mitigation measures intended to reduce adverse environmental impacts and ensure protection of all the essential public interests were developed by the Municipality. Again, due to the presence of the Anchorage Coastal Program and the Municipality's findings that the projects, as stipulated, were consistent, all agencies, except one federal agency, eventually withdrew their objections and allowed the projects to proceed.

There is another situation pending which is illustrative of the State-Municipal relationship that exists under coastal management. This is generally known as the "Fish Creek Replat." The Anchorage Planning and Zoning Commission and Assembly approved the replatting of four lots bordering the mouth of Fish Creek. A strip of property was added to the rear of each lot. A group of nearby property owners believe the replat to be inconsistent with the Anchorage Coastal Management Program and has appealed the Municipalities Action to the Coastal Policy Council. The Council is obliged by Section 46.40.100 of the Alaska Coastal Management Act to hold a hearing on such appeals. As of the date of this report, the Governor is in the process of selecting a hearing officer to act for the Council and make a recommendation. The Council itself will make the final decision.

OCM will gladly provide more information, if needed, on the Fish Creek Replat or other matters described in this report.

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI



Senate

Committee on Resources

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then
my
assist
file / Arch*

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
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October 21, 1981

Mr. Murray Walsh
Coordinator
Office of Coastal Management
Pouch AP
Juneau, Alaska 99811

Dear Murray,

I have been following most of the interactions you've had with my staff during those times I have been out of the state. Res. King has informed me that you would appreciate resolving any difficulties between the Resource Committee, the Community and Regional Affairs Committee and your office prior to the discussion of the proposed amendments at the Municipal League meeting in November. I would like nothing more than that myself; however, I do not believe it will be possible since the proposed amendments do not fully address the problems which have been identified.

Generally, the amendments add more specific language (.030(4)), eliminate deadlines (.050), allow modification and conditions to local plans by the Council (.060), allow "less than comprehensive" planning (.035), and change provisions for C&RA planning for areas which choose not to organize (.170 (b) and (c)). But I do not find where the amendments actually correct any of the problems which have been identified throughout the hearings and the interim work on the coastal management program. Some of those problems, identified at our August meeting included: lengthy consistency review, statewide community planning vs. resource planning, too little or too much local control over land use decisions, and department affiliation for the office of coastal management. I don't see that any of these problems are addressed by the proposed amendments. In fact, the amendments appear to be housekeeping issues which may help the program run more smoothly but will not necessarily correct the complaints we've been hearing.

I am a firm believer in the need for planning. I believe it is essential that Alaska plan for the utilization and development of our resources. Coastal zone management may indeed be the answer to some of

these issues, but I find myself listening while people are getting bogged down with "great weight" and "consistency" and ignoring the basic issue. To me, the issue is how can we best plan for the future development of our resources without destroying those resources and the communities which neighbor them?

One of the initial purposes of the coastal management program, and one which has been voiced at many meetings, was to help communities plan for the impacts of offshore oil and gas leasing. It is evident that that purpose has not seen fruition, and, instead, we are faced with even greater amounts of federal interference than before.

Arguments for supporting the program are made without considering the real issue. One argument that has been raised in support of coastal zone management has been that sometimes these funds are the first a small community might see for planning of any kind. While this may be true, it is an argument for planning, not necessarily for the coastal management program. One benefit which was listed by the interim subcommittee report is that "ACMP can resolve resource management conflicts between competing users and different levels of government". Yet testimony before other committees has indicated great time gaps which were not prevented. We have to face coastal management in light of no SB 84. The complaints by local communities and agencies and industry cannot be ignored. Coastal zone management was not designed as a tool to stop oil and gas development, but as one to help local communities plan for growth in the event of some type of resource development.

Murray, I do not believe our differences are irreconcilable. I believe that we are basically searching for the same answer. However, I do not believe that the proposed amendments achieve that goal. If you are interested, I would be happy to ask Resa to send you a copy of my comments on the specific amendments. In the meantime, she and the rest of my staff will continue to work on resolving the issue of the problem in which we are all concerned.

Thank you for the opportunity to discuss this with you.

Sincerely,

Bettye Fahrenkamp by phone
Chairman

cc: Resource Committee ✓
Lidia Selkregg
Jim Souby
Jon Holliwill