

ALASKA LEGISLATURE COMMITTEE REPORTS

2761

HRES

HB 576

-

HB 600

2761

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

RECEIVED JAN 19 1984  
BILL SHEFFIELD, GOVERNOR

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-485-2400

January 11, 1984

Mr. Paul Mullenix  
City Manager  
City of Whittier  
P.O. Box 608  
Whittier, Alaska 99693

Dear Mr. Mullenix:

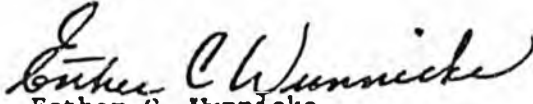
I appreciated your visit in November with Mr. Wheelright, Ms. Brown, Mr. Wootten, and Mr. Wardlow to discuss the possible conveyance of State lands to the City of Whittier. I have reviewed some of the issues and am able now to respond to your inquiries.

The City of Whittier, as you know, has no municipal entitlement, and I do not see any way that the City can become eligible for entitlement lands without major legislative action. Therefore, the options available include State land offerings in the Whittier area and public purpose conveyances of lands to the City for retention. If the City is able to pay for survey costs, the City could conduct an offering of State lands similar to the one at McGrath as we discussed.

The four proposed State land offerings in and near Whittier would expand Whittier's available land base for private ownership, and the State is willing to consider other nominations for State offerings. However, if the City proposes conducting the offerings itself, it will be necessary for you to seek funding for associated costs from the Legislature.

I suggest that you maintain your contacts with the staff of the Division of Land and Water Management, Southcentral District Office. Please contact me if there is anything further I can do.

Sincerely,

  
Esther C. Wunnicke  
Commissioner

cc: Tom Hawkins, Director,  
Division of Land and Water Management

RECEIVED DEC 16 1983

# Alaska State Legislature

## COMMITTEES

- Co-Chairman — House Resources Committee
- Chairman — REAA Budget Oversight Committee
- Member — House State Affairs
- DOT — Finance Sub Committee

While in Session  
 Pouch 7  
 State Capitol  
 Juneau Alaska 99511  
 Phone (907) 465-1951  
 465-1940

## House of Representatives

Home - PC Box 355  
 Delta Junction Alaska 99737

### Dick Shultz

December 15, 1983

Ms. Margaret J. Hayes, District Manager  
 Alaska Department of Natural Resources  
 Division of Land Management  
 3601 C Street, Pouch 7-005  
 Anchorage, Alaska 99510

Dear Ms. Hayes,

As you may or may not be aware, I have, as Co-Chairman of the House Resources Committee, been a constant and outspoken critic of Alaska's Land Disposal efforts. As a rural legislator, I have seen lands opened and ultimately placed in the hands of people from far outside the area in which the lands are located. This creates a multitude of problems for the local community, including a lack of planning ability due to the fact that much of this land is acquired for speculation. Additionally, those lands which are occupied put strong demands on local resources for the provision of services such as roads and power.

The City of Whittier is unique to all of Alaska. Whittier has virtually NO LAND BASE and what little land they do have has already been developed or is in the hands of the State, the U.S. Army or the Department of Transportation (for the Alaska Railroad). Even if the State were to acquire the railroad, this would have little effect on Whittier's ability to determine their own destiny.

I STRONGLY support Whittier's request to have all lands within the Whittier Subdivision and all remaining lands in Shotgun Cove transferred to City ownership. A municipal land disposal program would be in the best interests of all concerned, including the State, as it would allow for zoning, road development, power, etc.

Please feel free to contact me should you have questions concerning my position on Land Disposals; in general, or concerning Whittier in particular.

Sincerely,

DICK SHULTZ  
 District 17

DS/bh:A23

- cc: 1.) Esther Wunnicke, Commissioner  
 Dept. of Natural Resources  
 2.) ~~Paul Mullenix~~, City Manager  
 City of Whittier

#### McGrath Area

The Division of Municipal and Regional Assistance has been working with the City of McGrath and other communities along the Upper Kuskokwim in response to their concern about coordinating on issues of mutual interest. With them, we are in the early stages of developing a regional strategy for the area which would address, among other things, land disposals and other land management decisions. As the project becomes fully operational, the strategy effort may provide an opportunity for DNR to obtain additional input on the disposal areas and to benefit from a more coordinated regional response with respect to State lands and resource management decisions. This would seem especially true if DNR initiates an Upper Kuskokwim Basin Plan in FY 84-85.

Regardless of the progress of this planning effort, we would like to stress the importance of public hearings to review disposal projects. Although there has been considerable interest in State land disposals in McGrath, there have also been a number of concerns expressed throughout the area. There should be ample opportunity for local input.

#### Whittier Area

For the past year, the Division has been working with the City of Whittier to develop a comprehensive plan. Development of the plan has involved frequent discussions on future land use with the Whittier Planning Commission, City administration and local residents. The plan, projected to be submitted to the Whittier City Council for adoption by October, 1983, will provide direction on future land use. The comments offered below only reflect policies identified in the draft comprehensive plan and concerns expressed by Whittier residents during development of the plan. The comments do not reflect formal action taken by the City Council.

All lands within the proposed Whittier Subdivision disposal and the majority of and potentially all land within the Shotgun Cove disposal are within Whittier's municipal boundaries. The Poe Bay disposal is approximately 3 1/2 - 4 miles east of Whittier's municipal boundaries. Although the City is concerned with potential service delivery and secondary impacts on the City from the Poe Bay disposal, the majority of concern is focused on the Whittier Subdivision and Shotgun Cove disposals.

With the exception of lands in the Shotgun Cove and Section 18 areas (approximately 500 acres) that have been selected by Chugach Regional Native Corporation, lands identified by DNR

Ms. Hayes  
September 20, 1983  
Page 3

for disposal comprise virtually all remaining lands within Whittier's municipal boundaries that are suitable for residential development. As such, the City is very concerned that maximum beneficial use of this limited land base occurs to enable desired community expansion. The Division recommends that the following issues/actions receive consideration for any land disposals within Whittier's municipal boundaries.

As indicated, Whittier has an extremely limited land base to enable future community growth. With the exception of several small tracts of land (less than 15 acres), all available lands in the Whittier core area have been developed or are under the restrictive ownership of the Alaska Railroad. In addition, the majority of land within Whittier's boundaries is unsuitable for development because of extremely steep slopes, poor soils, poor drainage, and glaciation. These conditions underscore the need for the City to have maximum possible control over the remaining land base to provide avenues for future growth.

To assist in accomplishing this goal, we understand the City intends to request that the State transfer ownership of lands within the Whittier Subdivision and Shotgun Cove disposals to the City. If this transfer were to occur, the City would be able to establish a municipal land disposal program to guide disposal of these lands. Through ownership of these lands, the City could best determine timing, size and nature of the land disposals and would be able to use revenues generated through municipal land disposals to help offset future costs of providing municipal services to these areas, e.g., road maintenance, utilities and fire protection.

Whittier is very concerned with the potential future costs to the City for providing municipal services to these areas, and is particularly concerned that offering virtually all developable lands through these two simultaneous disposals will severely restrict the City's ability to accommodate future growth. The timing of these two disposals may encourage speculative and seasonal recreational development, as current housing, community development, and economic growth demands may not require disposal of this amount of acreage in 1986 to accommodate existing needs. The City's goal is to establish single family year-round residential development as the primary use for these areas, and Whittier is not sure this interest will be accommodated by the proposed disposals.

The only lands owned by the City were obtained through municipal purchase of GSA excess property when the U.S. Army terminated its interests in the Whittier area. The City conducted a municipal bond sale to generate sufficient revenues to purchase these lands in the Whittier core. In the

mid-1970's, the City annexed lands east of the core (including the majority of land within these two disposals) in an attempt to provide more lands for community growth. However, the City did not receive a municipal entitlement of lands in conjunction with this annexation and to date, has received no municipal entitlements from the State. The only lands projected to be transferred from the State to the municipality are approximately 100 acres in the Shotgun Cove area and these lands contain a covenant restricting use of public services related to the proposed Shotgun Cove small boat harbor. In addition, Whittier does not have a Native village corporation in its area. If a village corporation were in Whittier, 14(c)(3) provisions of ANCSA would mandate transfer of a maximum of 1,280 acres to the municipality. In short, Whittier has never received any land entitlements and has virtually no lands available to it to encourage or accommodate community expansion.

As a second overall concern, the Division supports use of the adopted Whittier Comprehensive Plan, Land Use Plan, and Zoning Ordinance as guides for land disposals in the Whittier Subdivision and Shotgun Cove areas, whether or not the land is transferred to the City. At present, these areas are designated as R-1 and R-2 zones. The R-1 zone allows single family homes on 3-acre minimum size lots. The R-2 zone allows single family homes on 1 1/2 acre minimum size lots or cluster development of two homes on 2 acre minimum size lots. The City recognizes that higher density may be necessary in the future, but prefers this density at present. Concerns with density are best addressed at the local level. The Division requests that DNR recognize the applicability of City plans and ordinances on land use and density within the municipal boundaries.

The Whittier Comprehensive Plan draft has also identified the desirability of a landward buffer zone a minimum of 50 feet in width from the mean high water level. This buffer zone would enable public access to the coastline in all areas. The Division requests this City draft policy receive consideration in DNR's disposal plans.

Consideration should also be given to scheduling the Whittier Subdivision disposal before the Shotgun Cove disposal. Access to much of the Whittier Subdivision disposal is available at present via the uncompleted Shotgun Cove road and would facilitate its development as a residential area. Access to the Shotgun Cove disposal area at present is possible only by boat, although road access may be possible in the future with construction of the Shotgun Cove road. Timing of the Shotgun Cove disposal should be coordinated with completion of the proposed Shotgun Cove small boat harbor and road projects.

Ms. Hayes  
September 20, 1983  
Page 5

In summary, the Division requests that the following receive consideration in relation to the Whittier Subdivision and Shotgun Cove proposals:

Transfer to ownership of the City of Whittier

Applicable zoning and planning powers of the City of Whittier

A landward buffer zone a minimum of 50 feet in width from the mean high water level

The Whittier Subdivision disposal occur prior to the Shotgun Cove disposal and both be coordinated with the Shotgun Cove road and harbor projects

A requirement for low density year-round residential use

The impact on municipal services

The Department has minimal comments on the Poe Bay disposal. Major concerns are potential service delivery and secondary impacts on Whittier and potential conflicts with high recreational use of this area.

We appreciate the opportunity to comment and would request some indication by phone or letter as to your thoughts on the views presented here. We look forward to coordinating with you in the near future.

Sincerely,



Nelda Markentin  
Acting Planning Supervisor

cc: ✓ Department of Natural Resources

Linda Freed, Community Planning Department  
Kodiak Island Borough

Paul Mollinex, City Manager  
City of Whittier

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 2/29/84

REQUEST

Bill/Resolution No.: HB 576  
 Title: An Act... Grant of State Land  
 to... Whittier  
 Sponsor: Rep. Cato  
 Requestor: House Resources  
 Date of Request:

FISCAL DETAIL

Agency Affected: DNR  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected:  
 Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL	1.0					
300 CONTRACTUAL	.5					
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	1.5	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	1.5					
FEDERAL FUNDS	-0-					
OTHER	-0-					
TOTAL	1.5					

POSITIONS:

FULL-TIME	-0-					
PART-TIME	-0-					
TEMPORARY	-0-					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar *NF* Phone: 465-2400  
 Division: Commissioners' Office Date: 2/29/84

Approved by Commissioner: *William D Smith Deane* Date: 2/29/84  
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

1 IN THE HOUSE

BY CATO

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a grant of state land to the City  
7 of Whittier."

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

9 \* Section 1. ~~STATEMENT OF LEGISLATIVE INTENT~~ <sup>FINDINGS</sup> finding It is the intent of the  
10 legislature in enacting sec. 2 of this Act that ~~a more equitable land base~~ the City of Whittier is uniquely  
11 ~~be established for the City of Whittier beyond its present 15 acres of~~ lacking in the availability of private lands. The legislature seeks to correct this  
12 ~~privately owned property.~~ had planned to offer for private ownership.

13 \* Sec. 2. (a) The commissioner of natural resources shall grant 600  
14 acres of state land to the City of Whittier. The grant shall include no  
15 less than 400 acres of state land from Shotgun Cove and no less than 200  
16 acres from the Whittier Subdivision.

17 (b) As used in (a) of this section,

18 (1) "Shotgun Cove" means land within sections 11, 14, 15, and  
19 16, Township 8 North, Range 5 East, Seward Meridian;

20 (2) "Whittier Subdivision" means land within sections 8, 9, and  
21 18, Township 8 North, Range 5 East, Seward Meridian.

22 (c) Any land conveyed <sup>under</sup> by this <sup>section</sup> grant and not sold by the City of Whittier, except for  
23 lands retained by the City for critical public purposes [in a sale area] shall revert to  
24 the State 10 years after the enactment of this Act. If the City has diligently prepared  
25 ~~for the eventual~~ <sup>to</sup> ~~sale~~ <sup>sell</sup> of the land, the commissioner may extend this deadline.

26 (d) ~~Any~~ sales of land <sup>under this section</sup> conveyed by this grant shall be subject to public notice and  
27 by a competitive method.

1 IN THE HOUSE

BY CATO

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

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25 for the eventual sale of the land, the commissioner may extend this deadline.

26 (d) Any sales of land conveyed by this grant shall be subject to public notice and  
27 by a competitive method.

CITY OF WHITTIER

RESOLUTION NO. 1-19-84

A Resolution requesting the State Legislature act to convey certain lands to the City of Whittier.

WHEREAS: Whittier has an extremely limited land base to enable future community growth, (with exception of several small tracts of land less than fifteen acres). All available lands have been developed or are in the hands and restrictive ownership of the Alaska Railroad or U.S. Army, and

WHEREAS: The City needs to have maximum possible control over the remaining developable land to provide any growth, and

WHEREAS: The only land base the City has is lands purchased from the GSA at the time the Army terminated their interest in the area, and

WHEREAS: The State Department of Natural Resources is planning a land disposal of two tracts of land, (the only developable lands within the City limits) in a manner that would take the only remaining lands and put that land in the hands of speculators, and

WHEREAS: The City has a Master Plan for a Planned Community in the areas of the proposed land disposal,

NOW THEREFORE BE IT RESOLVED that the State legislature act to transfer these lands to the City of Whittier to develop into a Planned Community to enhance the Harbor areas and the beautiful Gateway to Prince William Sound.

PASSED AND APPROVED by a duly constituted quorum of the City Council of Whittier, Alaska this 19 day of January, 1984.

ATTEST:

*[Signature]*  
Mayor

*[Signature]*  
Acting City Clerk

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

RECEIVED JAN 19 1984  
BILL SHEFFIELD, GOVERNOR

POUCH M  
JUNEAU, ALASKA 99811  
PHONE: 907-485-2400

January 11, 1984

Mr. Paul Mullenix  
City Manager  
City of Whittier  
P.O. Box 608  
Whittier, Alaska 99693

Dear Mr. Mullenix:


I appreciated your visit in November with Mr. Wheelright, Ms. Brown, Mr. Wootten, and Mr. Wardlow to discuss the possible conveyance of State lands to the City of Whittier. I have reviewed some of the issues and am able now to respond to your inquiries.

The City of Whittier, as you know, has no municipal entitlement, and I do not see any way that the City can become eligible for entitlement lands without major legislative action. Therefore, the options available include State land offerings in the Whittier area and public purpose conveyances of lands to the City for retention. If the City is able to pay for survey costs, the City could conduct an offering of State lands similar to the one at McGrath as we discussed.

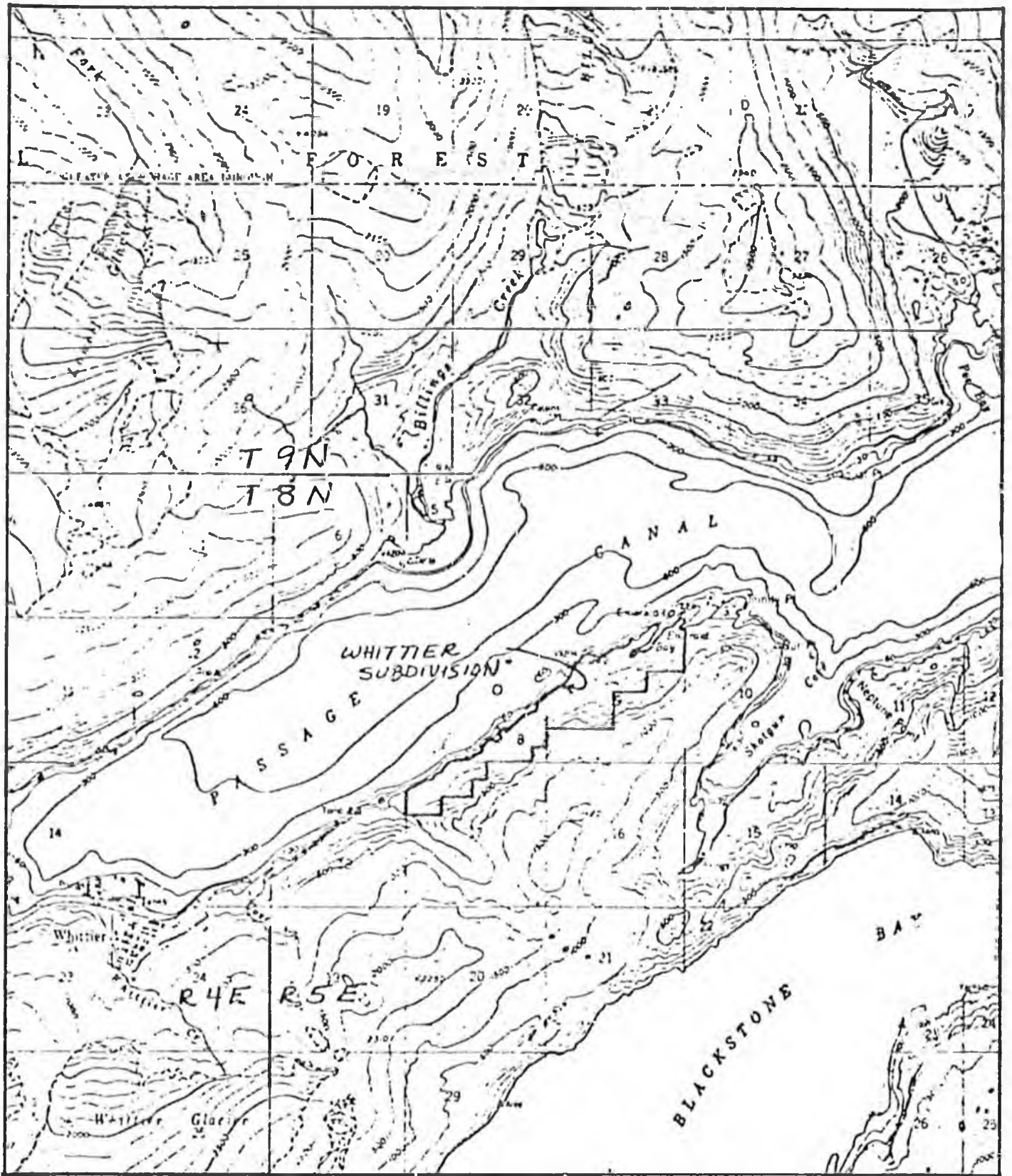
The four proposed State land offerings in and near Whittier would expand Whittier's available land base for private ownership, and the State is willing to consider other nominations for State offerings. However, if the City proposes conducting the offerings itself, it will be necessary for you to seek funding for associated costs from the Legislature.

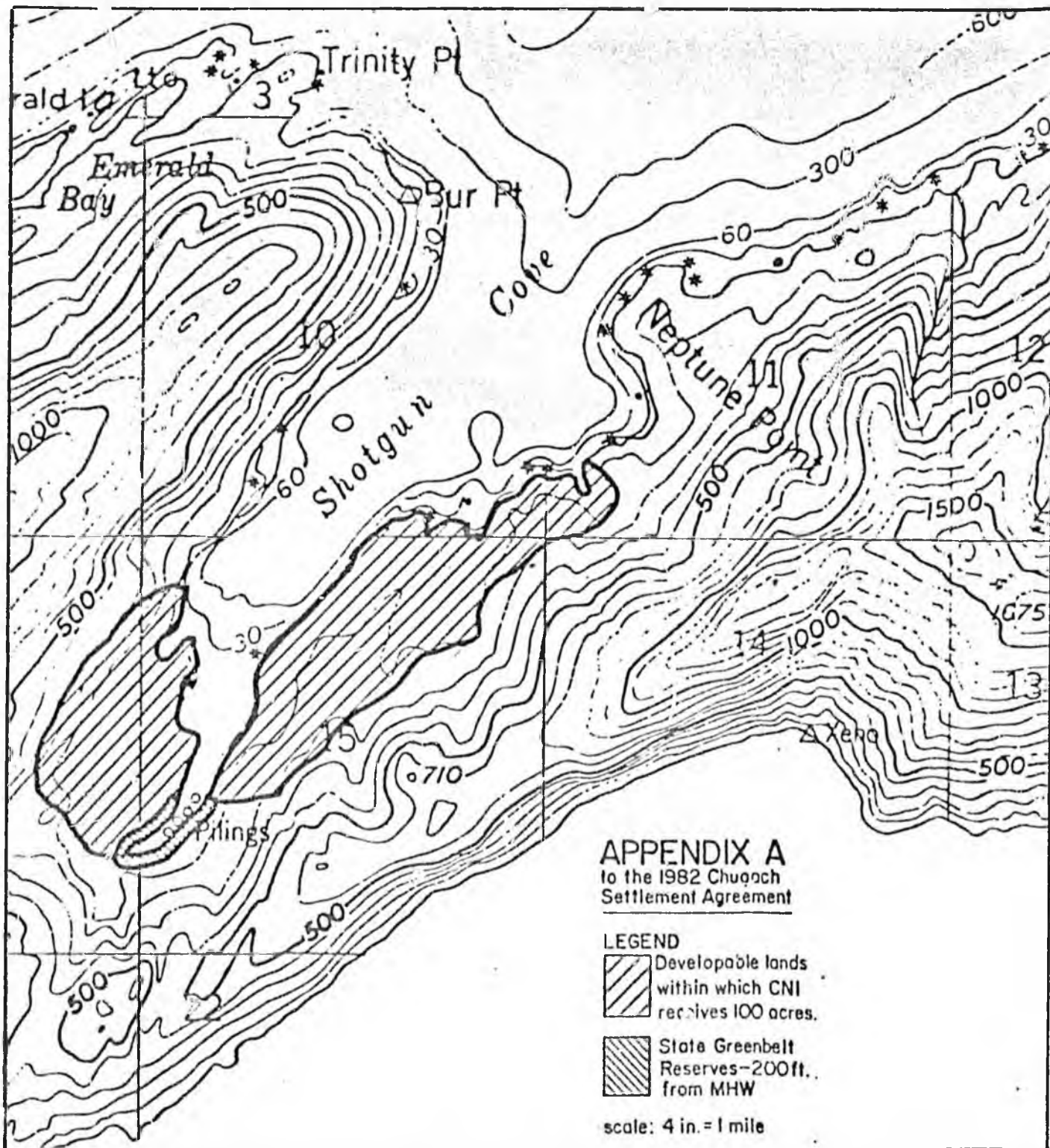
I suggest that you maintain your contacts with the staff of the Division of Land and Water Management, Southcentral District Office. Please contact me if there is anything further I can do.

Sincerely,

  
Esther C. Wunnicke  
Commissioner

cc: Tom Hawkins, Director,  
Division of Land and Water Management





Bradley  
2/29/84✓

Original sponsors: Cato, Lindauer,  
McBride and Shultz

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 576 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a grant of state land to the City  
7 of Whittier."

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

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10 ture in enacting sec. 2 of this Act that the City of Whittier is uniquely  
11 lacking in available private land. The legislature seeks to correct this  
12 situation by providing a grant of land to the City of Whittier that the  
13 state had planned to offer for private ownership.

14 \* Sec. 2. (a) The commissioner of natural resources shall grant 600  
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21 (2) "Whittier Subdivision" means land within sections 8, 9, and  
22 18, Township 8 North, Range 5 East, Seward Meridian.

23 (c) Except for land retained by the City of Whittier for critical  
24 public purposes, land conveyed to the city under this section and not sold  
25 within 10 years of the enactment of this Act reverts to the state unless  
26 the commissioner of natural resources finds that the City of Whittier has  
27 diligently prepared for a sale of the land. If the commissioner finds that  
28 the city has diligently prepared for a sale of the land, the commissioner  
29 may extend the deadline for a period determined proper by the commissioner.

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(d) Sale of land under this section shall occur after public notice and by a competitive method.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 2/29/84

REQUEST

Bill/Resolution No.: HB 576  
Title: An Act...Grant of State Land to...Whittier  
Sponsor: Rep. Cato  
Requestor: House Resources  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DNR  
Program Category Affected: NRMEC  
BRU, Program or Subprogram(s) Affected: Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL	1.0					
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600 LAND & STRUCTURES						
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800 MISCELLANEOUS						
TOTAL OPERATING	1.5	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	1.5					
FEDERAL FUNDS	-0-					
OTHER	-0-					
TOTAL	1.5					

POSITIONS:

FULL-TIME	-0-					
PART-TIME	-0-					
TEMPORARY	-0-					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar NF Phone: 465-2400  
Division: Commissioners' Office Date: 2/29/84

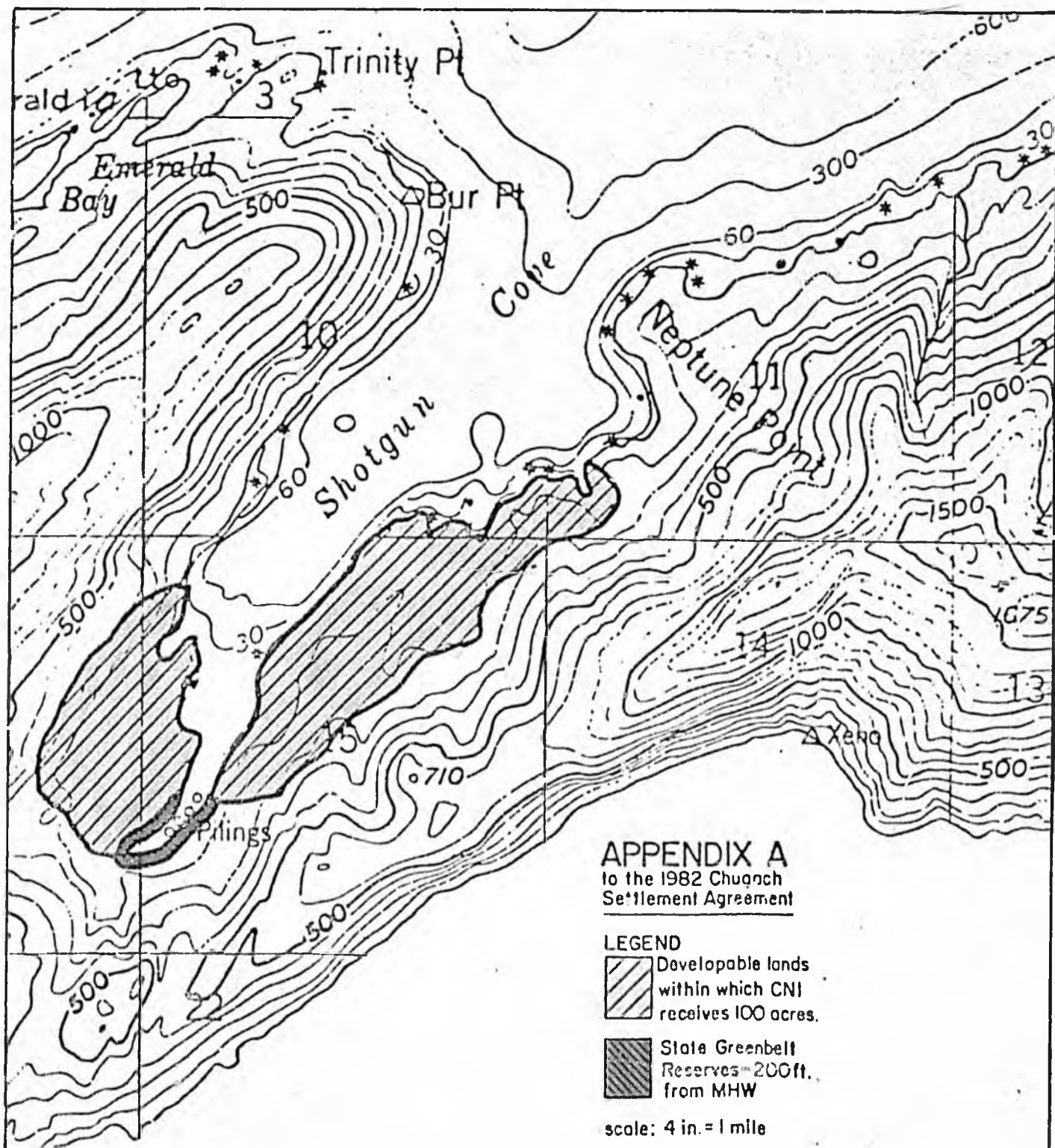
MH Approved by Commissioner: Wm D Arnold Degulis Date: 2/29/84  
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):



Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

12/1/83





**APPENDIX A**  
to the 1982 Chuquch  
Settlement Agreement

- LEGEND**
-  Developable lands within which CNI receives 100 acres.
  -  State Greenbelt Reserves 200ft. from MHW

scale: 4 in. = 1 mile

HB

589



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

TO: House Resource Committee Members  
FROM: Committee Staff  
DATE: March 5, 1984  
RE: CS HB 589, APA CLEAN-UP BILL, SECTIONAL ANALYSIS

---

## SECTION 1.

Eliminates restrictions on industrial power rates.

Also provides for the combination of the Lake Tye, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric projects into one power project for purposes of the wholesale power rate calculation.

## SECTION 2.

Describes the method for determining the wholesale power rate for the projects of the authority. As the four dams are combined into project, they would share the debt service for the entire "initial project", and there is a single cents-per-kilowatt-hour rate for debt service. The rate to cover costs of maintenance, operation, equipment replacement, safety inspections and investigations is determined separately for each facility.

In the original bill, Section 2 repealed the "Susitna Blackmail Clause." This has been reversed in the CS, and the blackmail clause is addressed in section 8.

## SECTION 3.

Adds a sentence to AS 44.83.398(e) to allow the power authority to contractually limit the amount of debt service payable by power purchasers as a consequence of the later of new projects to the energy program for Alaska.

## SECTION 4 and SECTION 5.

Refer to the "Susitna Blackmail Clause" and would be repealed by Sec. 8.

SECTION 6.

Repeals AS 44.83.398(d) upon immediate effective date. Section refers to wholesale power rates amended in Section 1 of the bill.

SECTION 7.

Provides immediate effective date for Sections 1-3 and 6.

SECTION 8.

Provides that sections 4 and 5 take effect upon approval of a constitutional amendment creating the major projects fund, which would require the financing of Watana portion of the Susitna Project.

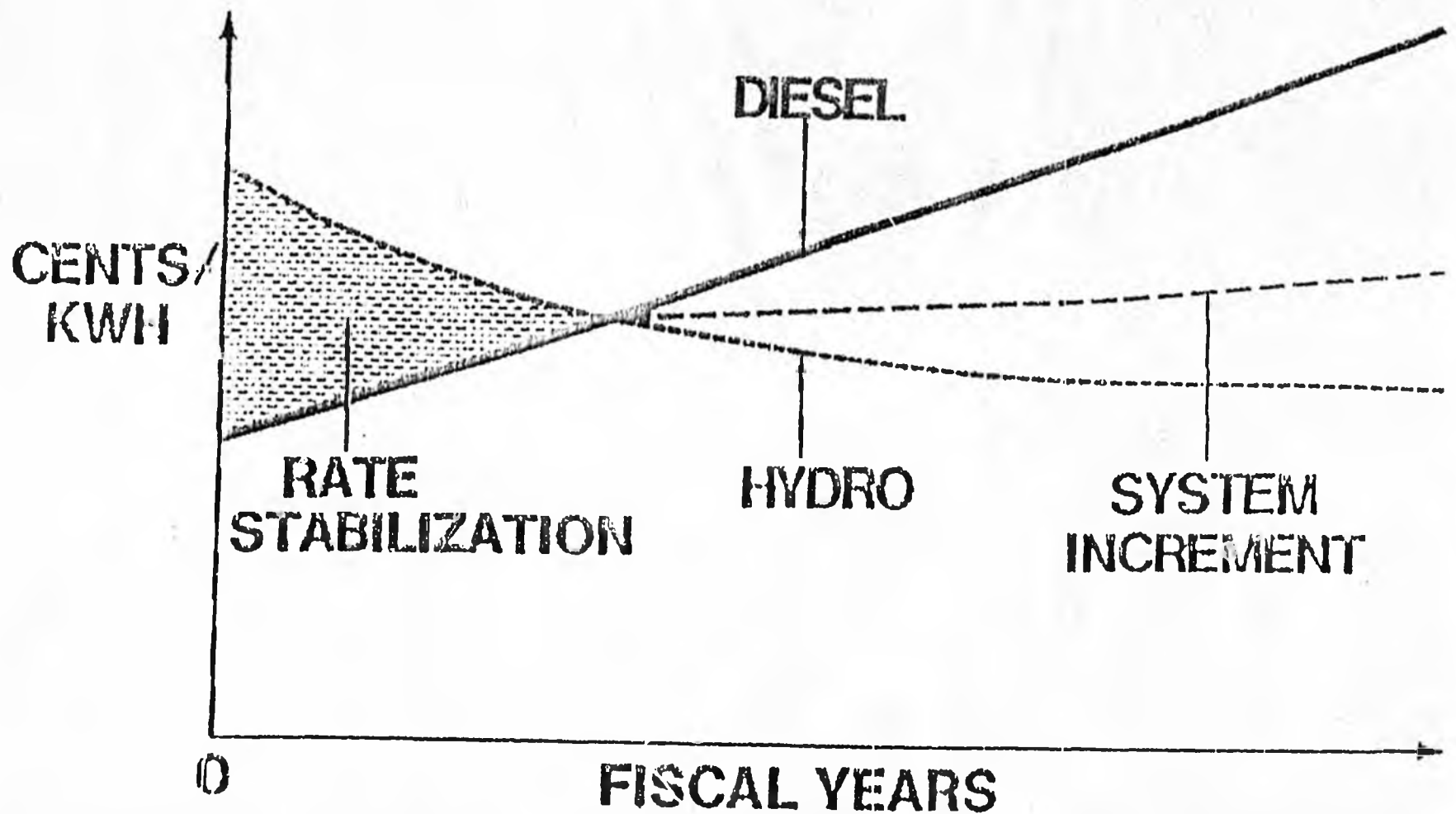
EXHIBIT H

RATE STABILIZATION FUND SCHEDULE\*\*

<u>Fiscal Year</u>	<u>Copper Valley</u>	<u>Ketchikan</u>	<u>Kodiak</u>	<u>Petersburg</u>	<u>Wrangell</u>	<u>Total</u>
1985	\$3,167,486	\$3,114,153	\$4,701,936	\$1,115,967	\$1,160,650	\$13,260,192
1986	2,795,816	2,900,562	5,173,937	1,047,279	922,701	12,840,295
1987	2,464,771	2,607,345	4,474,900	471,433	1,134,154	11,152,603
1988	2,203,183	2,321,229	3,749,084	473,619	922,711	9,669,826
1989	1,560,540	1,920,336	2,776,647	354,398	826,998	7,438,919
1990	1,267,577	1,444,022	1,708,624	270,913	682,829	5,373,965
1991	975,502	890,397	546,722	---	511,810	2,924,431
1992	657,130	205,299	---	---	259,105	1,121,534
1993	298,906	---	---	---	54,142	353,048
1994	---	---	---	---	---	---
1995	---	---	---	---	---	---
	<u>\$15,390,911</u>	<u>\$15,403,343</u>	<u>\$23,131,850</u>	<u>\$3,733,609</u>	<u>\$6,475,100</u>	<u>\$64,134,813</u>

Subject to change to reflect actual par value of bonds and interest rates.

# ALASKA POWER AUTHORITY COMPARATIVE COST OF POWER





ALASKA RURAL ELECTRIC COOPERATIVE  
ASSOCIATION, INC.

237 E. FIREWEED LANE • SUITE 301  
ANCHORAGE, ALASKA 99503 • (907) 276-3235

February 29, 1984

The Honorable John Cowdery  
Chairman, House Labor and Commerce Committee  
Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99811

RE: House Bill 684 and House Bill 589

Dear Representative Cowdery:

The statutory changes in House Bill 589 and the appropriation in House Bill 684 are both essential to resolving the problems which exist in relation to "the four dam pool."

It is the position of our association, established by a unanimous vote of the directors on February 21, 1984, that both of these bills should be enacted as a part of a comprehensive package which also includes:

1. A major projects fund which assures funding of Watana and Bradley Lake, and
2. A permanent funding mechanism for the power cost assistance program for the high cost rural utilities.

We urge your committee to advance these bills to House Resources where such a package can be assembled.

Sincerely,

David Hutchens  
Executive Director

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

Page 1 of 2

REQUEST

Bill/Resolution No.: HB 589  
Title: Relating to the Alaska Power

Authority: \_\_\_\_\_  
Sponsor: Governor  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Commerce & Economic Development  
Program Category Affected: Development

BRU, Program or Subprogram(s) Affected:  
Alaska Power Authority

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: George Matz Phone: 465-2079  
Division: Dept. of Commerce & Economic Development Date: 1/6/84

Approved by Commissioner: Richard A. Lyon Date: 2/6/84  
Agency: Dept. of Commerce & Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Analysis:

HB 589

Page 2 of 2

Repeal of the "Susitna Clause" will remove the obligation that the State must appropriate \$5 billion to the Power Development Fund by 1991 in order to prevent triggering of a requirement that there be a 10 percent rate of return on power project investments.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 8, 1984

The Honorable Jalmar Kerttula  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the sale of power by the Alaska Power Authority. The bill amends portions of AS 44.83.398, which governs sale of power from projects in the energy program for Alaska. The amendments are necessary before power sales agreements can be signed and long-term financing can be put in place for the Lake Tyee, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric projects -- the "four dam pool."

A section-by-section analysis follows.

Sections 1 (by amending AS 44.83.398(a)) and 5 (by repealing AS 44.83.398(d)) of the bill eliminate restrictions on industrial power rates that may be charged by utilities purchasing power from projects in the energy program for Alaska. The statute currently prohibits utilities from charging a retail power rate to industrial consumers that is less than the rate charged to residential consumers. The change allows utilities to offer a lower rate to large-volume consumers, or consumers who currently use their own generation sources, which should reduce the overall rate to all consumers. The authority has discussed with the utilities the use of fixed-term supply contracts with industrial users with the length of the contract limited so that, when usage of power from the hydroelectric facilities approaches capacity, more power will be available to residential consumers and they will not end up subsidizing industrial power rates.

Section 1 also provides for the combination of the Lake Tyee, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric projects into one power project for the purposes of the wholesale power rate calculation in AS 44.83.398-(b)(1). This power project is referred to as the "initial project."

Section 2 deletes the "Susitna clause" in AS 44.83.398-(b)(2). Repeal of this provision is desired by both the authority and the purchasing utilities because of the potential effect on rates. It is also viewed as crucial to the long-term financing of the initial project and future projects in the energy program for Alaska. The rating services are reluctant to give a favorable rating to revenue bonds issued with this provision in place because of the possibility that ratepayers' rates could increase substantially in 1991. The rates could be high enough to reduce demand and revenues, thus jeopardizing the ability of the utilities to meet their payment obligations under the power sales contracts.


Section 2 also describes the method for determining the amounts to be allocated to each hydroelectric facility in the initial project. Under this combined system the facilities share the debt service for the entire project and there is a single cents-per-kilowatt-hour rate for debt service applicable to all four hydroelectric facilities in the initial project. The rate for costs of operations, maintenance, equipment replacement, safety inspections, and investigations is determined separately for each facility. The result is a different wholesale rate for each facility in the initial project, but a sharing of debt service which substantially reduces the wholesale rate for projects such as Lake Tyee.

Section 3 adds a sentence to AS 44.83.398(e) to allow the power authority to contractually limit the amount of debt service payable by power purchasers as a consequence of the later addition of new projects to the energy program for Alaska.

Section 4 removes the reference to the "Susitna clause" from AS 44.83.398(g).

Section 6 provides for an immediate effective date.

Sincerely,

  
Bill Sheffield  
Governor

HB 589: "An act relating to the Alaska Power Authority; and providing for an effective date."

My name is George Matz. I am Special Assistant to Commissioner Richard A. Lyon for the Department of Commerce and Economic Development. I am representing Commissioner Lyon who regrets that he is not able to attend this hearing because of previous commitments in Washington, D.C.

There are four points that I want to make in my testimony:

- o First, HB 589 is essential to the power sales agreements and the long-term financing of the "Four Dam Pool."
- o Second, the long-term financing of the "Four Dam Pool" is essential to the Energy Program for Alaska.
- o Third, the power sales agreements now being negotiated by the Alaska Power Authority (APA) should be financable.
- o Fourth, the Department of Commerce and Economic Development supports the terms and conditions of the power sales agreements being negotiated by the APA.

To elaborate on these points, the Energy Program for Alaska was conceived by the Legislature in 1981 when it enacted Chapter 118, SLA 1981 (SB 25). After nearly three years of gestation, we are about to witness its birth as an operating power supply system. However, nearly \$200 million of interim financing must first be converted to long-term financing. How the financing occurs will determine the long-term health of the Energy Program for Alaska.

If revenue bonds are used for long-term financing, the Energy Program for Alaska will have overcome some prenatal illness and can look forward to a healthy life with ever more attractive power rates. Also, these initial projects can expect to be the parents of a family of power projects that serve the electrical needs of Alaska. Hopefully, with our improved diagnostic skills, we will prevent a recurrence of the problems previously experienced.

If long-term financing is based on additional State appropriations, the Energy Program for Alaska will draw nourishment from other State needs. Also, the program will not have demonstrated the ability to exist without 100% financial support from the State. This is not a good precedent for propagating additional power projects.

If the Energy Program for Alaska has neither revenue bond financing nor State appropriation, it will be stillborn. In financial terms that means the State would default on repayments of the interim financing.

As we approach the term of this gestation, we know that some assistance is needed to assure completion of long-term financing. Our bond counsel and underwriters warned us of some statutory problems that could impede the sale of revenue bonds. Also, the respective communities and utilities have stated that their participation is contingent on certain statutory changes.

As a result of this advice, the Governor has introduced HB 589 which includes the statutory changes required to meet the demands of both the bond buyer and the wholesale power buyer. The Administration considers each section of this bill to be essential.

The highlights of HB 589 are as follows:

1. Section 1 repeals the existing statutory requirement that industrial retail power rates can be no less than retail power rates to residential customers. This allows utilities to offer, if they wish, lower rates to large volume customers.
2. Section 1 and 2 allows the four projects that are part of the "Four Dam Pool" (Solomo Gulch, Swan Lake, Lake Tyee and Terror Lake) to be considered as one project. The significance of this is that the debt service portion of the wholesale power rate for each project will be unified rather than project-specific as currently required by the statutes. Project-specific allocation of debt service results in higher wholesale power rates for projects which are more costly and/or have unused capacity relative to other projects in the pool. However, new projects added to the Energy Program for Alaska will have project-specific rates.
3. Section 2 deletes the "Susitna clause" which otherwise would trigger substantial wholesale power rate increases for projects included in the Energy Program for Alaska. The possibility of this rate increase and the reduction that could occur in demand and revenues will have a decidedly negative effect on the ratings and interest rates of revenue bonds used for long-term financing of the "Four Dam Pool."
4. Section 2 includes a technical amendments which deletes "at the bus-bar" in order to remove ambiguity.
5. Section 3 protects the "Four Dam Pool" from the addition of new projects to the Energy Program for Alaska which could substantially increase their wholesale power rate.
6. Section 4 removes reference to the "Susitna clause" from definitions that apply to the Energy Program for Alaska.
7. Section 5, similar to Section 1, allows utilities to establish retail industrial rates that are less than residential rates.
8. Section 6 provides an immediate effective date.

HB 589 represents a tremendous amount of analysis and negotiating. All communities or utilities that are part of the "Four Dam Pool" have had extensive opportunity to partake in drafting the concept and the language of this bill. The Administration firmly believes that HB 589 represents the best resolution to a difficult problem and the best approach for leveraging further development of power projects in Alaska.

**DRAFT**

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 589 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."

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

9 \* Section 1. AS 44.83.398(a) is amended to read:

10 (a) The authority shall sell power produced from power projects  
11 acquired or constructed under the energy program for Alaska. For  
12 purposes of this section, Lake Tvee, Swan Lake, Solomon Gulch, and  
13 Terror Lake hydroelectric facilities are considered to be one power  
14 project. This power project is referred to as the initial project [A  
15 UTILITY THAT PURCHASES POWER PRODUCED BY A POWER PROJECT OF THE AU-  
16 THORITY SHALL AGREE WITH THE AUTHORITY

17 (1) TO GIVE PREFERENCE IN THE SALE OF POWER AT RETAIL TO  
18 ALL CLASSES OF CONSUMERS OF POWER EXCEPT INDUSTRIAL CONSUMERS;

19 (2) TO CHARGE INDUSTRIAL CONSUMERS OF POWER A RATE DE-  
20 TERMINED BY THE AUTHORITY IN ACCORDANCE WITH (d) OF THIS SECTION].

21 \* Sec. 2. AS 44.83.398(b) is amended to read:

22 (b) The authority shall establish a wholesale power rate struc-  
23 ture applicable to sales of power to the [ITS] customers [AT THE  
24 BUSBAR] of a power project as follows:

25 (1) The authority shall establish and maintain a separate  
26 wholesale power rate applicable to each power project that it has  
27 acquired or constructed under the energy program for Alaska, other  
28 than a project described in (f) of this section. The wholesale power  
29 rate established by the authority for the initial project shall be a

1 rate calculated under this paragraph except that the portion of the  
2 rate applicable to (A) and (C) of this paragraph shall be adjusted for  
3 the hydroelectric facilities in the initial project as set out in (2)  
4 of this subsection. The wholesale power rate shall be computed by the  
5 authority annually, or more frequently as may be necessary, and shall  
6 equal the rate that the authority estimates is necessary to produce  
7 revenue that is sufficient to pay

8 (A) operation, maintenance, and equipment replacement  
9 costs of the power project;

10 (B) the power project's proportionate share of the  
11 debt service on state loans and bonds for all power projects in  
12 the energy program for Alaska, determined in accordance with (g)  
13 of this section;

14 (C) safety inspections and investigations of the power  
15 project by the authority.

16 (2) If, by July 1, 1991, the legislature has not appropri-  
17 ated at least \$5,000,000,000 to the fund, in addition to appropria-  
18 tions to the fund of interest earned on money in the fund, the author-  
19 ity shall, beginning on that date, establish and maintain a separate  
20 wholesale power rate applicable to each power project that is acquired  
21 or constructed under the energy program for Alaska. The wholesale  
22 power rate shall be computed by the authority annually, or more fre-  
23 quently as may be necessary, and shall be the greater of

24 (A) 10 percent of the amount the authority has in-  
25 vested in the power project, including loans and grants made by  
26 the state; or

27 (B) the rate that the authority estimates is necessary  
28 to produce revenue sufficient to pay

29 (i) operation, maintenance, and equipment

1 replacement costs of the power project;

2 (ii) the power project's proportionate share of  
3 debt service on state loans and bonds for all power projects  
4 in the energy program for Alaska, determined in accordance  
5 with (g) of this section; and

6 (iii) safety inspections and investigations of the  
7 power project by the authority.

8 (3) For the purposes of determining amounts to be allocated  
9 to each hydroelectric facility in the initial project under (1)(A) and  
10 (1)(C) of this subsection, the authority shall determine for each  
11 hydroelectric facility its individual operation, maintenance, equip-  
12 ment replacement, safety inspection, and investigation costs.

13 \* Sec. 3. AS 44.83.393(e) is amended to read:

14 (e) After determining the wholesale power rate for a power  
15 project under the provisions of this section, the authority may adjust  
16 the rate or change the rate provisions to insure that the revenue  
17 derived from that power project and the aggregate revenues of the  
18 authority will be adequate to comply with the rate covenants and other  
19 agreements contained in any trust indenture or trust agreement entered  
20 into by the authority for the security of the holders of bonds issued  
21 to finance power projects in the energy program [ENERGY PROGRAM] for  
22 Alaska. The authority may agree with a purchaser of power to limit  
23 rate increases caused by debt service payable by the authority on  
24 subsequent projects.

25 \* Sec. 4. AS 44.83.398(g) is amended to read:

26 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this  
27 section, a power project's proportionate share of debt service on  
28 state loans and bonds for all power projects in the energy program for  
29 Alaska is equal to the state's investment in the power project divided

1 by the state's investment in all power projects in the energy program  
2 for Alaska and multiplied by the debt service on state loans and bonds  
3 for all power projects in the energy program for Alaska. In this  
4 subsection

5 (1) "state's investment in the power project" includes all  
6 state money invested in a power project, including loans, grants, and  
7 proceeds from bonds, less the principal repayments on the project's  
8 proportionate share of debt service on state loans and bonds;

9 (2) "state's investment in all power projects in the energy  
10 program for Alaska" includes all state money invested in the power  
11 projects, other than interties, in the energy program for Alaska,  
12 including loans, grants, and proceeds from bonds, less the principal  
13 repayments on bonds and state loans issued for the power projects.

14 \* Sec. 5. AS 44.83.398(b)(2) is repealed.

15 \* Sec. 6. AS 44.83.398(d) is repealed.

16 \* Sec. 7. Sections 1 - 3 and 6 of this Act take effect immediately in  
17 accordance with AS 01.10.070(c).

18 \* Sec. 8. Sections 4 and 5 of this Act take effect upon approval by the  
19 qualified voters of the state of an amendment to the constitution of the  
20 State of Alaska that establishes a major projects fund and requires that a  
21 portion of the major projects fund be used to finance construction of the  
22 Watana Dam in the Susitna River hydroelectric project before any other  
23 capital project is financed from the major projects fund.  
24  
25  
26  
27  
28  
29

HB

594





9

**KAWERAK, INC.**



P.O. BOX 948 • NOME, ALASKA 99762

(907) 443-5231

Mr. Caleb Pungowiyi  
President  
Kawerak, Inc.

Dear Caleb:

Attached is a proposal in which we requested to study the Reindeer/  
Caribou conflict. We talked this over with the Reindeer Sub-Committee  
of the Alaska Land Use Council, The RHA, Alaska Department of Fish  
and Game, University of Alaska and some of the Area hunters.

All agreed that this should be done as soon as possible. The process  
took about 18 months to develop, from discussion to the Proposal.

Would you present this to the State Legislatures so it can be included  
in this years Legislative action.

My suggestion is for Direct Appropriation from the Legislature.

Thank you,

Sincerely,

  
Vernon Kugzruk  
Director, RHA

January, 30, 1983

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF FISH AND GAME

P.O. BOX 1148  
NOME, ALASKA 99762-1148

January 26, 1984

Mr. Vernon Kugzruk, Director  
Reindeer Herders' Association  
P.O. Box 948  
Nome, Alaska 99762

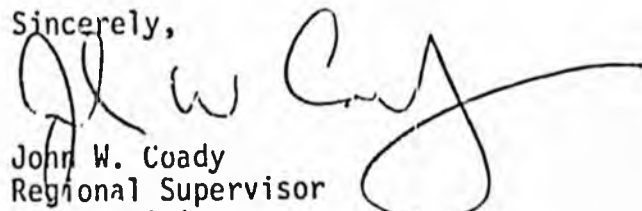
Dear Vernon:

Enclosed is a proposal which the Reindeer Herder's Association (RHA) asked the Department of Fish and Game to prepare. As you know, I discussed this work with the RHA Executive Committee in mid-December 1983, and you reviewed two earlier drafts of the proposal in January 1984. I believe the project would yield information requested by the Committee to help reduce losses of reindeer to caribou. Intensive work such as this should provide a basis for developing long-term solutions to the caribou - reindeer problem.

I must emphasize that the expected Game Division budget is fully committed to other priority projects for the next few years. Therefore, if this study were conducted, funds in addition to our normal Game Division budget would be required. The proposal contains estimated salary funds for a new project position (1 permanent/seasonal Game Technician III) plus operating money for equipment, air charter, and commodities. The work would take place during a 3-year period beginning in FY-85. The Game Technician III would be recruited locally. Should the proposal not be funded, my staff will continue conducting occasional reconnaissance flights as in the past two years.

If I can answer questions or explain any aspect of the proposal, please do not hesitate to contact me.

Sincerely,

  
John W. Coady  
Regional Supervisor  
Game Division

cc: L. Pamplin, Director  
Game Division

DISTRIBUTION AND MOVEMENTS OF CARIBOU NEAR REINDEER  
HERDS ON THE SEWARD PENINSULA

Principal Investigators:

David A. Anderson, Game Biologist  
Alaska Department of Fish and Game,  
Nome

Tim E. Smith, Game Biologist  
Alaska Department of Fish and Game,  
Nome

Submitted by invitation  
to the Reindeer Herders'  
Association by:

John W. Coady, Regional Supervisor  
Game Division,  
Alaska Department of Fish and Game  
P.O. Box 1148  
Nome, Alaska 99762  
Ph.: 443-2825

23 January 1984

## Introduction and Statement of Problem

Western Arctic Herd (WAH) caribou (Rangifer tarandus) are one of the most important wildlife resources in northwestern Alaska. An estimated 10,000 caribou are harvested annually, most of which are taken by subsistence hunters living within the range of the herd. The herd rapidly declined from an estimated 240,000 caribou in 1970 to 75,000 in 1976. Since that time, largely because of close cooperation between the Department of Fish and Game and user groups, the herd has steadily increased in size. In summer 1983 the WAH was estimated to number 190,000 caribou, and a census planned for summer of 1984 is expected to reveal over 200,000 animals.

Although most of the WAH migrates to the foothills of the western North Slope to calve during summer, it disperses widely both north and south of the Brooks Range during winter. The size of the range used by caribou during winter increases or decreases as the size of the herd increases or decreases. Historically, when the herd was large, caribou were widely distributed and available to hunters in more villages than when the herd was small. Recent public comment and Fish and Game Advisory Committee recommendations from throughout the range of the WAH have strongly favored allowing the herd to continue increasing in size to promote a wider distribution of caribou.

Although continued growth of the WAH is viewed favorably by most members of the public, it has caused serious problems for the reindeer industry on the Seward Peninsula. Reindeer and caribou are members of the same

species, are both gregarious herd animals and have identical habitat requirements. Consequently, during caribou migrations reindeer tend to join passing caribou bands and become separated and lost from domestic herds. During the past 3 winters WAH caribou have migrated onto the Seward Peninsula and associated with reindeer in increasing numbers. In 1981-82 several thousand caribou wintered south and southwest of Candle, and a smaller but unknown number wintered south of Deering. In 1982-83 several thousand caribou again inhabited the same area. In mid-January 1983 approximately 10,000 caribou were observed in the Kugruk River drainage south of Deering. Survey flights in November 1983 revealed as many as 20,000 caribou on the eastern Seward Peninsula. The industry reported losses of 3,000 reindeer in 1981-82 and at least 1,500 in 1982-83. In December 1983 Department biologists observed 1,500-2,000 reindeer south of Candle which were incorporated into a band of migrating caribou. As the WAH continues to grow it will probably continue to migrate further west and move in increasing numbers onto the Seward Peninsula during winter. Therefore, intermingling and loss of reindeer to caribou are likely to continue and perhaps intensify.

Although these conflicts cannot be eliminated at this time, they can be minimized. In particular, the Department has conducted periodic reconnaissance flights on the eastern Seward Peninsula during winter 1982-83 and 1983-84. A member of the Reindeer Herders' Association (RHA) usually accompanies the flights as observer. The purpose of the flights is to search for caribou in the vicinity of reindeer herds, and to notify herd owners of impending conflict. The frequency and coverage of these flights are inadequate to detect many approaching caribou

bands. However, the RHA reported that on several occasions observations during flights allowed reindeer to be moved or more closely herded in anticipation of approaching caribou. The RHA reported that these occasional flights helped minimize losses of reindeer to caribou.

Both the RHA and the Department of Fish and Game believe that more frequent and comprehensive flights to provide timely and complete information on the distribution and movement patterns of caribou on and adjacent to the Seward Peninsula would reduce losses of reindeer to caribou bands. Because of the wide distribution and continually changing movement patterns of caribou, the only feasible method to improve the effectiveness of monitoring animals is by using radio telemetry.

#### OBJECTIVES

- 1) To determine distribution and movement patterns of caribou wintering on the Seward Peninsula, and to inform reindeer herders and the RHA of developing conflicts between caribou and reindeer.
- 2) To determine the timing of caribou movements to and from the Seward Peninsula.
- 3) To determine the fidelity of individual caribou to Seward Peninsula winter ranges.

- 4) To estimate the total number of caribou wintering on the Seward Peninsula.
- 5) To recommend methods which would further minimize loss of reindeer to caribou on the Seward Peninsula.

#### BACKGROUND

The WAH returns each spring to its traditional calving ground on the western North Slope. However, winter distribution is less predictable. During the past several years large concentrations of caribou have wintered in the Selawik Hills and Buckland River lowlands, in the Central Brooks Range, on the Arctic Coastal Plain, and on the Seward Peninsula. Radio-telemetry data gathered during the past 8 years (Valkenburg et al. 1983) indicate that individual caribou do not necessarily return to the same winter range in successive years. It appears, however, that 25-50% of the animals captured at a given winter location will return to that location the following winter. Virtually all caribou instrumented with radio collars in early winter on the Seward Peninsula will continue to provide useful data during that winter; up to one-half of the radio-collared animals will probably return to the Seward Peninsula and provide essential information the following year.

The Department is currently monitoring approximately 40 radio-collared caribou throughout the range of the herd, none of which were collared on the Seward Peninsula. These animals are routinely and effectively used

for locating bands of caribou during calving ground surveys, for rapidly locating large post-calving aggregations when the herd is counted in July, and for determining winter distribution of the herd. Additional caribou (radio-collared on the Seward Peninsula) will be useful in the conduct of these routine operations. To date only 2 collared animals have occupied the Seward Peninsula. This has not provided a sufficient sample for monitoring caribou movements on the Peninsula. Collaring caribou when they first arrive on the Seward Peninsula in early winter will greatly assist in monitoring distribution and movement patterns of caribou near reindeer herds.

A small number of reindeer will also be radio collared to help readily locate reindeer herds and to help determine the time and extent to which reindeer intermingle with caribou. The greatest loss of reindeer to caribou has occurred from the NANA Regional Corporation herd on the northeastern Seward Peninsula. Therefore, if acceptable to NANA, most radio collars will be allocated to that herd.

#### METHODS

Fifty adult caribou on the eastern Seward Peninsula will be captured in late October or November 1984 using standard helicopter-darting techniques. Twenty-five adult caribou will be similarly captured in 1985. Up to 10 NANA herd reindeer will be instrumented with radio collars (presently available and surplus to previous Department projects) during routine handling in May and June 1984. Caribou will be selected from all major bands known from reconnaissance flights to be

present on the Peninsula. The number of animals captured from each band will be proportional to its size. Caribou will be instrumented with the same type of radio collar successfully used in caribou studies by the Department for the past 10 years. Because each radio collar transmits on a different frequency, individual collared caribou can be electronically identified. Numbered canvas collars will also be placed on captured caribou so that individuals can be visually identified from the air or from the ground.

All instrumented caribou will be located weekly while on or near the Seward Peninsula using standard homing techniques from a fixed-wing aircraft. The process of locating radio-collared caribou will be especially useful to provide distribution and movement data on all other caribou associated with collared individuals. Other areas, especially those near reindeer herds, without radio-collared caribou will be visually searched during flights to insure that major caribou bands are detected.

Timely information about potential conflicts will be provided by landing at reindeer herders' field camps if possible or calling herd owners immediately upon returning to Nome or Kotzebue. A narrative summary and map showing caribou observations will be prepared following each flight, and a copy provided to the RHA. A member of the RHA will be invited to accompany flights as an observer.

LITERATURE CITED

Valkenburg, P., J. L. Davis, and R. D. Boertje. 1983. Social organization and seasonal range fidelity of Alaska's Western Arctic caribou -- preliminary findings. Proc. 3rd Int. Reindeer/Caribou Symp., Helsinki, Finland. Acta. Zool. Fennica. 175:125-126.

SCHEDULE

FY-84

May-June                      Radio collar 10 reindeer

FY-85

July - Sept.                  Purchase equipment; prepare for work

Oct.                              Hire G/T III

Oct. - Dec.                    Radio collar 50 caribou

Oct. - Feb.                    Conduct radio-locating and reconnaissance  
flights

31 March                        Annual report due

FY-86

July - Sept.                  Purchase equipment; prepare for work

Oct.                              Hire G/T III

Oct. - Dec.                    Radio collar 25 caribou

Oct. - Feb.                    Conduct radio-locating and reconnaissance  
flights

31 March                        Annual report due

FY-87

Oct.                              Hire G/T III

Oct. - Feb.                    Conduct radio-locating and reconnaissance  
flights

31 May                            Final report due

MAN-MONTHS

FY-85

Permanent Game Division Staff	3 months
Game Technician III (P/S Project position)	6 months

FY-86

Permanent Game Division Staff	3 months
Game Technician III (P/S Project position)	6 months

FY-87

Permanent Game Division Staff	3 months
Game Technician III (P/S Project position)	8 months

BUDGET

<u>Capture</u>	<u>FY-85</u>	<u>FY-86</u>	<u>FY-87</u>
a) 50 radios @ \$325.	\$16,250	\$ 8,125 (25 radios)	-
b) Receiver, Scanner, Antennas	3,000	-	-
c) Helicopter - 35 hrs. @ \$625	21,875	12,500 (20 hrs)	-
d) PA-12 50 hrs. @ \$20	1,000	500 (25 hrs)	-
e) C-185 20 hrs. @ \$130	2,600	2,600 (20 hrs)	-
f) Immobilizing Drugs	<u>2,000</u>	<u>1,000</u>	-
Subtotal	\$46,725	\$24,725	-
 <u>Location</u>			
a) C-185 99 hrs @ \$130 [18 flights btwn 15 Oct.- 28 Feb.; 5.5 hrs./flight]	\$12,870	\$12,870	\$12,870
b) Maps, misc. commodities	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>
Subtotal	\$13,870	\$13,870	\$13,870
 <u>Assistant</u>			
a) Game Tech 3 @ \$3300/mo.	<u>\$19,800(6 mos.)</u>	<u>\$19,800(6 mos.)</u>	<u>\$26,400(8 mos.)</u>
Total	\$80,395	\$58,395	\$40,270
7% Annual inflation factor	-	\$ 4,088	\$ 3,835
Grand Total	<u>\$80,395</u>	<u>\$62,483</u>	<u>\$46,105</u>

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~~DRAFT~~

Sofa  
3/12/84 ✓ ✓

Original sponsors: Cowdery, Lindauer,  
Bussell and Bettisworth

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IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 600 (Resources)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - SECOND SESSION  
A BILL

For an Act entitled: "An Act relating to royalty oil; and providing for an effective date."

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

\* Section 1. AS 38.05.183 is amended to read:

Sec. 38.05.183. SALE OF ROYALTY. (a) The sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182, or the sale, exchange or other disposal in whole or in part of a right to receive future mineral production under a state lease under AS 38.05.005 - 38.05.370, shall be by competitive bid and the sale, exchange or other disposal made to the highest responsible bidder. Competitive [, EXCEPT THAT COMPETITIVE] bidding is not required for the sale, exchange, or other disposition of royalty gas when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development [ADVISORY] Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists.

(b) When competitive bids are required, the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development [ADVISORY] Board, may reject all bids if the commissioner [HE] determines that because of the amount of the bids, the lack of responsibility on the part of the bidders, or for reasons consistent with the criteria set out in AS 38.06.070, the acceptance of the bids would not be in the best interest of the state.

(c) If the commissioner determines that a sale, exchange or

1 other disposal of a mineral obtained by the state as a royalty under  
2 AS 38.05.182 or of a right to receive future mineral production under  
3 a state lease under AS 38.05.005 - 38.05.370 shall be made otherwise  
4 than by competitive bid, and the Alaska Royalty Oil and Gas Develop-  
5 ment [ADVISORY] Board has been notified in writing of that determina-  
6 tion, the commissioner shall make public in writing the specific  
7 findings and conclusions upon which that determination is based.

8 (d) Oil or gas taken in kind by the state as its royalty share  
9 may [NOT] be sold or otherwise disposed of for export from the state  
10 unless [UNTIL] the commissioner determines that the royalty-in-kind  
11 oil or gas is needed under (f) of this section [SURPLUS] to meet the  
12 present [AND PROJECTED] intrastate domestic and industrial needs of an  
13 in-state refiner or processor and the legislature approves of the  
14 negotiated export sale. The commissioner shall make public, in writ-  
15 ing, the specific findings and reasons on which the commissioner's  
16 [HIS] determination is based [AND SHALL, WITHIN 10 DAYS OF THE CONVEN-  
17 ING OF A REGULAR SESSION OF THE LEGISLATURE, SUBMIT A REPORT SHOWING  
18 THE IMMEDIATE AND LONG-RANGE DOMESTIC AND INDUSTRIAL NEEDS OF THE  
19 STATE FOR OIL AND GAS AND AN ANALYSIS OF HOW THESE NEEDS ARE TO BE  
20 MET].

21 (e) When a sale, exchange or other disposal of oil or gas taken  
22 in kind by the state as its royalty share, or a sale, exchange or  
23 other disposal in whole or in part of a right to receive future roy-  
24 alty oil or gas, under a state lease under AS 38.05.005 - 38.05.370 is  
25 made other than by competitive bid, the sale, exchange or other dis-  
26 posal shall be awarded by the commissioner to the prospective buyer  
27 whose proposal offers the maximum benefits to citizens of the state.  
28 The commissioner shall consider

29 (1) the cash value offered;

1 (2) the projected effects of the sale, exchange or other  
2 disposal on the economy of the state;

3 (3) the projected benefits of refining or processing the  
4 oil or gas in the state;

5 (4) the ability of the prospective buyer to provide refined  
6 products or by-products for distribution and sale in the state with  
7 price or supply benefits to the citizens of the state; and

8 (5) the criteria listed in AS 38.06.070(a).

9 (f) The commissioner may make a negotiated sale of royalty oil  
10 under (a) of this section if the Royalty Oil and Gas Development Board  
11 and the legislature approve of the sale and the commissioner finds  
12 that the proposed purchaser is an in-state refiner or processor with  
13 no other source of crude oil available to it at the prevailing market  
14 price of like crude oil disposed of in Allocation Defense District  
15 No. 5, other than a negotiated purchase of state royalty oil, and a  
16 negotiated sale would be in the best interest of the state based on  
17 the criteria contained in AS 38.06.070.

18 (g) Within 10 days of the convening of a regular session of the  
19 legislature the commissioner shall submit a report showing the immedi-  
20 ate and long-range domestic and industrial needs of the state for oil  
21 and gas and an analysis of how these needs are to be met.

22 \* Sec. 2. AS 38.05.020 is amended to read:

23 Sec. 38.06.020. ESTABLISHMENT. There is established in the  
24 Department of Commerce and Economic Development the Alaska Royalty Oil  
25 and Gas Development [ADVISORY] Board.

26 \* Sec. 3. AS 38.06.025(a) is amended to read:

27 (a) The board consists of two members of the senate appointed by  
28 the president of the senate, two members of the house of representa-  
29 tives appointed by the speaker of the house, [THE COMMISSIONER OF

1 COMMERCE AND ECONOMIC DEVELOPMENT; THE COMMISSIONER OF REVENUE;] the  
2 commissioner of natural resources, who is a nonvoting member, [;] and  
3 two [THREE] public members with oil and gas marketing experience.

4 \* Sec. 4. AS 38.06.040 is repealed and reenacted to read:

5 Sec. 38.06.040. POWERS AND DUTIES OF THE BOARD. (a) The board  
6 shall examine proposed sales, exchanges or other disposal of, and  
7 approve or disapprove a proposed sale, exchange or other disposal of

8 (1) the oil or gas that is obtained by the state as royalty  
9 under AS 38.05.182; or

10 (2) the rights to receive future oil or gas production  
11 under state leases; and

12 (3) recommend to the commissioner of natural resources the  
13 conditions relating to the sale, delivery, transportation, refining or  
14 processing of oil or gas which the commissioner may include in the  
15 offer and sale of oil or gas obtained by the state as royalty under  
16 AS 38.05.182.

17 (b) The board may not approve a contract for the sale, exchange,  
18 or other disposition of royalty oil not by competitive bid unless the  
19 contract provides that the price of the oil is equal to or greater  
20 than the average or prevailing net value of like crude oil disposed of  
21 in Allocation Defense District No. 5.

22 (c) Notwithstanding (b) of this section, the board may approve a  
23 contract for the sale, exchange, or other disposition of royalty oil  
24 only if:

25 (1) the contract price is not less than the highest posted  
26 price at Pump Station No. 1 for equivalent crude, the weighted average  
27 netback value of North Slope crude, or the weighted average netback  
28 value of North Slope crude sold in Allocation Defense District No. 5,  
29 whichever is higher;

1 (2) the contract contains a provision for the hiring of  
2 residents of the state;

3 (3) the contract contains penalties for nonperformance;

4 (4) the contract includes a provision establishing a pref-  
5 erence for refiners and processors operating in the state; and

6 (5) a material amendment to the contract may be made only  
7 with the approval of the legislature.

8 (d) Approval by the board of a negotiated sale or the method of  
9 disposal under this section may be rescinded by the legislature within  
10 60 days if the legislature is in session when the board makes its  
11 decision, within 60 days after convening the next regular session if  
12 the legislature is not in session when the board makes its decision,  
13 or within 10 days after convening a special session called for the  
14 purposes of considering the board's decision, whichever is the earlier  
15 date.

16 \* Sec. 5. AS 38.06.050 is amended to read:

17 Sec. 38.06.050. BOARD REVIEW [AND RECOMMENDATION] REQUIRED. (a)  
18 If board [LEGISLATIVE] approval is required by AS 38.06.055, a sale,  
19 exchange, encumbrance, or other disposition of oil or gas or of the  
20 rights or waiver of the rights to receive future production of royalty  
21 oil or gas may not be made by the commissioner of natural resources  
22 under AS 38.05.183 without prior approval [REVIEW] of the proposed  
23 sale, exchange, encumbrance or other disposition by the board. [A  
24 WRITTEN RECOMMENDATION OF THE BOARD ON THE PROPOSED SALE, EXCHANGE,  
25 ENCUMBRANCE OR OTHER DISPOSITION OF OIL OR GAS OR OF THE RIGHTS OR  
26 WAIVER OF THE RIGHTS TO RECEIVE FUTURE PRODUCTION OF ROYALTY OIL OR  
27 GAS SHALL BE SUBMITTED TO THE LEGISLATURE AT THE TIME A RESOLUTION  
28 APPROVING THE PROPOSED SALE, EXCHANGE, ENCUMBRANCE OR OTHER DISPOSI-  
29 TION IS INTRODUCED IN THE LEGISLATURE.]

1 (b) Bids or applications for the purchase of royalty oil or gas  
2 may be rejected by the [COMMISSIONER OF NATURAL RESOURCES IF PRIOR  
3 WRITTEN NOTICE OF THE PROPOSED DISAPPROVAL IS GIVEN TO THE] board.

4 (c) Competitive bidding in a sale, exchange or other disposition  
5 described in (a) of this section may not be waived by the [COMMIS-  
6 SIONER OF NATURAL RESOURCES UNDER AS 38.05.183 UNLESS PRIOR WRITTEN  
7 NOTICE OF PROPOSED WAIVER IS GIVEN TO THE] board except in the case of  
8 negotiated foreign sale that requires legislative approval.

9 (d) (Repealed).

10 (e) Notwithstanding (a) - (c) of this section, the commissioner  
11 of natural resources may dispose of royalty oil or gas for a period of  
12 30 days without approval of the board in the case of a marketing  
13 emergency. The 30-day period may be extended by 30 additional days  
14 with the approval of the board.

15 \* Sec. 6. AS 38.06.055(a) is amended to read:

16 (a) The [IN ADDITION TO THE RECOMMENDATION BY THE BOARD REQUIRED  
17 UNDER AS 38.06.050, THE] commissioner of natural resources may not  
18 enter into a sale, exchange, or other disposition of oil or gas or of  
19 the rights or waiver of the rights to receive future production of  
20 royalty oil or gas under AS 38.05.183 without the prior approval of  
21 the board [LEGISLATURE. THE LEGISLATURE MAY APPROVE A SALE, EXCHANGE,  
22 OR OTHER DISPOSITION OF OIL OR GAS OR OF THE RIGHTS OR OF A WAIVER OF  
23 THE RIGHTS TO RECEIVE FUTURE PRODUCTION OF ROYALTY OIL OR GAS ONLY BY  
24 ENACTING LEGISLATION].

25 \* Sec. 7. AS 38.06.055(c) is amended to read:

26 (c) A sale, exchange, or other disposition of oil or gas made  
27 under (b)(1) of this section may not be continued after the end of one  
28 year or renewed with the same party to provide relief for market or  
29 storage conditions without the prior approval of the board

1 [LEGISLATURE] under (a) of this section.

2 \* Sec. 8. AS 38.06.060 is amended to read:

3 Sec. 38.06.060. CONFIDENTIALITY. Notwithstanding AS 09.25.110 -  
4 09.25.120, the board may provide by regulation for the confidentiality  
5 of those documents and records in its possession or control that  
6 [WHICH] contain confidential business or marketing information the  
7 protection of which is essential to the person who has submitted them  
8 to the board or in the judgment of the board is essential to the best  
9 interest of the state. [SUCH CONFIDENTIALITY, HOWEVER, SHALL NOT  
10 PRECLUDE THE PROPER REVIEW BY THE LEGISLATURE.]

11 \* Sec. 9. AS 38.06.080(1) is amended to read:

12 (1) "board" means the Alaska Royalty Oil and Gas Develop-  
13 ment [ADVISORY] Board; and

14 \* Sec. 10. AS 38.05.182(b) and 38.05.183(b) are repealed.

15 \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
16 10.070(c).

## ANALYSIS

CSHB#600

9 March, 1984

The bill would allow for sale of royalty gas by other than competitive bidding if the commissioner determines that the best interest of the state does not require it or that no competition exists. The sale would require approval by the Royalty Oil & Gas Development Board and the Legislature.

When competitive bids are required, the commissioner would have the ability to reject a bid consistent with state statutes.

The basic procedures for public notice of specific findings and conclusions have remained the same.

The bill would allow for negotiated export sale, if the royalty oil or gas was not needed to meet intrastate domestic and industrial needs, and if the legislature approved of the sale.

Sale of royalty oil other than by a competitive bid would be allowed to in-state refiners, if the commissioner found that the refiner had no other source of crude oil available to it at the prevailing west coast market price, and the terms of the negotiated sale were approved by the Board and the Legislature.

The bill restructures the present Royalty Oil & Gas Development Advisory Board, calling for the new 7 member board to be made up of 4 members of the legislature, 2 from the Senate and 2 from the House, the Commissioner of the DNR, as a non voting member, and two public members with oil & gas marketing expertise. The board would then have authority to approve or veto all sales and methods of dispositions of royalty oil and gas. The Legislature would have the ability to rescind any proposed sale within the first 60 days of a regular session, or 10 days of a special session. The board would not be able to approve a contract unless the price was equal to or greater than the average or prevailing net value of a like crude sold on the west coast. Likewise, in a competitive bid sale, the lowest acceptable bid would be either the weighted average in-value price, or the average netback value of a like crude sold on the west coast, or the posted price at Pump Station No. 1 for equivalent crude, whichever is higher.

Any material amendments to a contract would require legislative approval. The contract would have to include provisions for local hiring, penalties for nonperformance, and preference for refiners and processors operating in the state.

The bill would allow the commissioner the authority, in case of a marketing emergency, to dispose of royalty oil for a period of 30 days without the approval of the board or the legislature, and could extend the period another 30 days with board approval.

A confidentiality provision is provided for confidential business or marketing information obtained by the board or the legislature.

ANALYSIS OF NEW CS FOR HB#600

Date: 19 March, 1984

The major changes in the new draft of CSHB#600 from the original CS, heard by the Resources Committee Monday March 12th, deal with changes in the organization and language of the bill in order that the method and conditions for disposal of the states royalty minerals may be clearly understood and easily referenced by all concerned. The substantive content of the bill is unchanged, however, overlapping and repetitive sections have been deleted. A sectional analysis follows:

Section 1 of the bill requires that the sale exchange or other disposal of minerals obtained as royalties under AS 38.05.182, shall be by competitive bid to the highest responsible bidder. Subsection (a) then lists all the exceptions when bidding shall not be required when the Commissioner finds that it's in the best interest of the state.

- 1.) For a negotiated export sale of royalty crude oil to a foreign country or corporation.
- 2.) A negotiated sale to an in-state refiner under (f) of this section.
- 3.) In the case of a marketing or storage emergency.
- 4.) For the sale of mineral royalties other than crude oil.

Subsection (b) allows the Commissioner with approval of the board to reject any bid that lacks responsibility, or for reasons that are consistent with the criteria of AS 38.06.070.

Subsection (c) calls for the commissioner to notify the board in writing if the commissioner determines that competitive bidding should be waved, and to make public the specific findings and conclusions upon which the determinations are based.

Subsection (d) allows for the export sale of royalty oil or gas taken in-kind, unless the commissioner determines that it is needed to meet present in-state domestic and industrial needs of an in-state refiner, and requires public notification of such findings.

Subsection (e) lists the considerations for the commissioner for a sale of royalty oil or gas other than by competitive bid, for maximizing benefits to citizens of the state.

- 1.) The cash value offered;
- 2.) The projected effects of the sale on the economy of the state;
- 3.) The projected benefits of in-state refining or processing;
- 4.) The ability of the buyer to supply a price benefit of the refined product for the citizens of the state;
- 5.) The projected social and environmental impacts of the sale.

Subsection (f) is the criteria under which the commissioner may make a negotiated sale of royalty oil with the approval of the Royalty Oil & Gas Development Board, to an in-state refiner. The subsection states that

before a sale may be negotiated that the commissioner shall find that the in-state refiner has no other source of crude oil available to it at the prevailing west coast market price other than a negotiated purchase of state royalty oil, and that the sale would be in the best interests of the state according to the considerations of (e) in the same section. The commissioner is given 10 days from the signing of the contract to submit the terms of sale to the board for approval. The legislature maintains authority to rescind a sale under this section as provided in AS. 38.06.055 (d), which is amended in Section 8 of this bill.

Subsection (g) stipulates conditions for the sale of royalty oil. Requiring the price to be not less than the highest posted price at Pump Station #1 for equivalent crude, the weighted average netback value of North Slope crude, or the weighted average value of North Slope crude sold on the west coast. Provisions are also included in this subsection that provide for hiring state residents, penalties for nonperformance, and legislative approval of any material amendments to the contract.

Subsection (h) calls for the commissioner to submit a report showing the immediate and long range domestic and industrial needs of the state for oil and gas, and an analysis of how the needs are to be met, within 10 days of the convening of a regular session of the legislature.

Subsection (i) removes AS. 38.05.035 (a) (14), Powers and duties of the director from applying to a sale of oil or gas under this section. This eliminates overlapping authority found in this statute.

Section 2, drops the term advisory from the Alaska Royalty Oil and Gas Development [Advisory] Board.

Section 3, reconstructs the Board to consist of two members of the Senate, two members of the House, the commissioner of natural resources as a nonvoting member, and two public members.

Section 4, amends AS 38.06.025 Membership, (b), by adding the word marketing to the list of petroleum related experience that public members of the board are to possess, and replaces the word [HIS] with "the governor's pleasure for three year staggered terms and confirmed by a vote of a majority of the members of the legislature in joint session".

Section 5, gives the board authority to examine, and approve or disapprove all proposed sales, exchanges or other disposal of royalty oil or gas, by repealing AS 38.06.040, and reenacting it to have such powers.

Section 6, repeals AS 38.06.050 BOARD APPROVAL, and reenacts it providing for board approval of all disposition of oil or gas, and adding an emergency provision that allows the commissioner to dispose of royalty oil or gas for a period of 30 days without approval of the board or legislature in the case of a marketing or storage emergency. Also allows the 30 day period to be extended with approval of the board.

Section 7, allows the board to approve a negotiated sale of royalty oil or gas to a foreign country or corporation as long as it is approved by an act of the legislature.

Section 8, adds a new subsection to AS 38.05.055 that allows the legislature to rescind a negotiated sale to an in-state refiner within 60 days during a regular session, and within 10 days of a special session called for such purpose.

Section 9, provides for confidentiality of business or marketing information essential to the person who has submitted them to the board.

Section 10, drops the word advisory from the definition of the "board".

Section 11, amends AS 38.06 by adding a section to read: "Sec. 38.06.090 APPLICABILITY OF OTHER LAW. AS 38.05.035 (a) (14) does not apply to a sale, exchange, or other disposal of oil or gas under this chapter." In order to clarify the statutes.

Section 12, repeals statutes that are no longer necessary.

DRAFT

Original sponsors: Cowdery, Lindauer,  
Bussell and Bettisworth

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 600 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to royalty oil; and providing for an  
7 effective date."

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9 \* Section 1. AS 38.05.183 is amended to read:

10 Sec. 38.05.183. SALE OF ROYALTY. (a) The sale, exchange or  
11 other disposal of a mineral obtained by the state as a royalty under  
12 AS 38.05.182, or the sale, exchange or other disposal in whole or in  
13 part of a right to receive future mineral production under a state  
14 lease under AS 38.05.005 - 38.05.370, shall be by competitive bid and  
15 the sale, exchange or other disposal made to the highest responsible  
16 bidder. Competitive [, EXCEPT THAT COMPETITIVE] bidding is not re-  
17 quired when the commissioner, after prior written notice to the Alaska  
18 Royalty Oil and Gas Development [ADVISORY] Board under AS 38.06.050,  
19 determines that the best interest of the state does not require it and  
20 the sale is:

- 21 (1) a negotiated <sup>for export</sup> export sale of oil to a foreign country or
- 22 corporation;
- 23 (2) a sale of oil to an in-state refiner or processor under
- 24 (f) of this section;
- 25 (3) an emergency sale of oil under AS 38.06.050(b); or
- 26 (4) a sale of mineral royalties other than oil [OR THAT NO
- 27 COMPETITION EXISTS].

28 (b) When competitive bids are required, the commissioner, after  
29 prior written notice to the Alaska Royalty Oil and Gas Development

1 [ADVISORY] Board, may reject all bids if the commissioner with the  
2 approval of the board [HE] determines that because of the amount of  
3 the bids, the lack of responsibility on the part of the bidders, or  
4 for reasons consistent with the criteria set out in AS 38.06.070, the  
5 acceptance of the bids would not be in the best interest of the state.

6 (c) If the commissioner determines that a sale, exchange or  
7 other disposal of a mineral obtained by the state as a royalty under  
8 AS 38.05.182 or of a right to receive future mineral production under  
9 a state lease under AS 38.05.005 - 38.05.370 shall be made otherwise  
10 than by competitive bid, and in the case of a sale of oil or gas the  
11 Alaska Royalty Oil and Gas Development [ADVISORY] Board has been  
12 notified in writing of that determination, the commissioner shall make  
13 public in writing the specific findings and conclusions upon which  
14 that determination is based.

15 (d) Oil or gas taken in kind by the state as its royalty share  
16 may [NOT] be sold or otherwise disposed of for export from the state  
17 unless [UNTIL] the commissioner determines that the royalty-in-kind  
18 oil or gas is needed under (f) of this section [SURPLUS] to meet the  
19 present [AND PROJECTED] intrastate domestic and industrial needs of an  
20 in-state refiner or processor. The commissioner shall make public, in  
21 writing, the specific findings and reasons on which the commissioner's  
22 [HIS] determination is based [AND SHALL, WITHIN 10 DAYS OF THE CONVEN-  
23 ING OF A REGULAR SESSION OF THE LEGISLATURE, SUBMIT A REPORT SHOWING  
24 THE IMMEDIATE AND LONG-RANGE DOMESTIC AND INDUSTRIAL NEEDS OF THE  
25 STATE FOR OIL AND GAS AND AN ANALYSIS OF HOW THESE NEEDS ARE TO BE  
26 MET].

27 (e) When a sale, exchange or other disposal of oil or gas taken  
28 in kind by the state as its royalty share, or a sale, exchange or  
29 other disposal in whole or in part of a right to receive future

1 royalty oil or gas, under a state lease under AS 38.05.005 - 38.05.370  
2 is made other than by competitive bid, the sale, exchange or other  
3 disposal shall be awarded by the commissioner to the prospective buyer  
4 whose proposal offers the maximum benefits to citizens of the state.  
5 The commissioner shall consider

6 (1) the cash value offered;

7 (2) the projected effects of the sale, exchange or other  
8 disposal on the economy of the state;

9 (3) the projected benefits of refining or processing the  
10 oil or gas in the state;

11 (4) the ability of the prospective buyer to provide refined  
12 products or by-products for distribution and sale in the state with  
13 price or supply benefits to the citizens of the state; and

14 (5) the projected social and environmental impacts of the  
15 transaction [CRITERIA LISTED IN AS 38.06.070(a)].

16 (f) The commissioner may make a negotiated sale of royalty oil  
17 under (a) of this section if the Royalty Oil and Gas Development Board  
18 approves of the sale and the commissioner finds that the proposed  
19 purchaser is an in-state refiner or processor with no other source of  
20 crude oil available to it at the prevailing market price of like crude  
21 oil disposed of in Petroleum Allocation Defense District No. 5, other  
22 than a negotiated purchase of state royalty oil, and a negotiated sale  
23 would be in the best interest of the state based on the criteria  
24 contained in (e) of this section. The commissioner shall submit to  
25 the board the terms of a proposed sale under this subsection within 10  
26 days after the signing of a contract for that sale. The legislature  
27 may rescind a sale under this subsection as provided in AS 38.06.-  
28 055(d).

29 (g) The commissioner may enter a contract for the sale,

1 exchange, or other disposition of royalty oil only if: (1) the con-  
2 tract price is not less than the highest posted price at Pump Station  
3 No. 1 for equivalent crude, the weighted average netback value of  
4 North Slope crude, or the weighted average netback value of North  
5 Slope crude sold in Petroleum Allocation Defense District No. 5,  
6 whichever is higher; (2) the contract contains a provision for the  
7 hiring of residents of the state; (3) the contract contains penalties  
8 for nonperformance; (4) a material amendment to the contract may be  
9 made only with the approval of the legislature. The commissioner  
10 shall give a preference to refiners and processors operating in the  
11 state.

12 (h) Within 10 days of the convening of a regular session of the  
13 legislature the commissioner shall submit a report showing the immedi-  
14 ate and long-range domestic and industrial needs of the state for oil  
15 and gas and an analysis of how these needs are to be met.

16 (i) AS 38.05.035(a)(14) does not apply to a sale, exchange, or  
17 other disposal of oil or gas under this section.

18 \* Sec. 2. AS 38.06.020 is amended to read:

19 Sec. 38.06.020. ESTABLISHMENT. There is established in the  
20 Department of Commerce and Economic Development the Alaska Royalty Oil  
21 and Gas Development [ADVISORY] Board.

22 \* Sec. 3. AS 38.06.025(a) is amended to read:

23 (a) The board consists of two members of the senate appointed by  
24 the president of the senate, two members of the house of representa-  
25 tives appointed by the speaker of the house, [THE COMMISSIONER OF  
26 COMMERCE AND ECONOMIC DEVELOPMENT; THE COMMISSIONER OF REVENUE;] the  
27 commissioner of natural resources, who is a nonvoting member, [;] and  
28 two [THREE] public members.

29 \* Sec. 4. AS 38.06.025(b) is amended to read:

1 (b) Each of the public members shall possess experience in  
2 petroleum-related fields in such areas as marketing exploration,  
3 development, production and economics, and shall be appointed by the  
4 governor to serve at the governor's [HIS] pleasure for three-year  
5 staggered terms and confirmed by a vote of a majority of the members  
6 of the legislature in joint session. The public members may not be  
7 state officers or employees.

8 \* Sec. 5. AS 38.06.040 is repealed and reenacted to read:

9 Sec. 38.06.040. POWERS AND DUTIES OF THE BOARD. The board  
10 shall examine proposed sales, exchanges or other disposal of, and  
11 approve or disapprove a proposed sale, exchange or other disposal of  
12 (1) the oil or gas that is obtained by the state as royalty under  
13 AS 38.05.182 or (2) the rights to receive future oil or gas production  
14 under state leases. The board shall recommend to the commissioner of  
15 natural resources the conditions relating to the sale, delivery,  
16 transportation, refining or processing of oil or gas which the  
17 commissioner may include in the offer and sale of oil or gas obtained  
18 by the state as royalty under AS 38.05.182.

19 \* Sec. 6. AS 38.06.050 is repealed and reenacted to read:

20 Sec. 38.06.050. BOARD APPROVAL. (a) A sale, exchange, encum-  
21 brance, or other disposition of oil or gas or of the rights or waiver  
22 of the rights to receive future production of royalty oil or gas may  
23 not be made by the commissioner of natural resources under AS 38.05.-  
24 183 without prior approval of the proposed sale, exchange, encumbrance  
25 or other disposition by the board.

26 (b) Notwithstanding (a) of this section, the commissioner of  
27 natural resources may dispose of royalty oil or gas for a period of <sup>90</sup>~~30~~  
28 days without approval of the board or legislature in the case of a  
29 marketing or storage emergency. The <sup>90</sup>~~30~~-day period may be extended

1 with the approval of the board.

2 \* Sec. 7. AS 38.06.055(a) is amended to read:

3 (a) In addition to the approval [RECOMMENDATION] by the board  
4 required under AS 38.06.050, the commissioner of natural resources  
5 may not enter into a sale, exchange, or other disposition of oil or  
6 gas or of the rights or waiver of the rights to receive future  
7 production of royalty oil or gas with a foreign country or corporation  
8 under AS 38.05.183 without the prior approval of the legislature. The  
9 legislature may approve a sale, exchange, or other disposition of oil  
10 or gas or of the rights or of a waiver of the rights to receive future  
11 production of royalty oil or gas only by enacting legislation.

12 \* Sec. 8. AS 38.06.055 is amended by adding a new subsection to read:

13 (d) Rescission by the legislature of a sale to an in-state  
14 refiner under AS 38.05.183(f) shall occur within 60 days of when the  
15 board makes its decision if the legislature is in session when the  
16 board makes its decision, within 60 days after convening the next  
17 regular session if the legislature is not in session when the board  
18 makes its decision, or within 10 days after convening a special  
19 session called for the purposes of considering the board's decision,  
20 whichever is the earlier date.

21 \* Sec. 9. AS 38.06.060 is amended to read:

22 Sec. 38.06.060. CONFIDENTIALITY. Notwithstanding AS 09.25.110 -  
23 09.25.120, the board may provide by regulation for the confidentiality  
24 of these documents and records in its possession or control that  
25 [WHICH] contain confidential business or marketing information the  
26 protection of which is essential to the person who has submitted them  
27 to the board or in the judgment of the board is essential to the best  
28 interest of the state. [SUCH CONFIDENTIALITY, HOWEVER, SHALL NOT  
29 PRECLUDE THE PROPER REVIEW BY THE LEGISLATURE.]

1 \* Sec. 10. AS 38.06.080(1) is amended to read:

2 (1) "board" means the Alaska Royalty Oil and Gas Develop-  
3 ment [ADVISORY] Board; and

4 \* Sec. 11. AS 38.06 is amended by adding a new section to read:

5 Sec. 38.06.090. APPLICABILITY OF OTHER LAW. AS 38.05.035(a)(14)  
6 does not apply to a sale, exchange, or other disposal of oil or gas  
7 under this chapter.

8 \* Sec. 12. AS 38.05.182(b) and AS 38.06.055(b) and (c) are repealed.

9 \* Sec. 13. This Act takes effect immediately in accordance with AS 01.-  
10 10.070(c).

gas shall be taken in kind unless the commissioner determines that the taking in money would be in the best interest of the state.

(b) The commissioner shall submit a determination to take royalty in money to the legislature at the first opportunity during a current session or, if the legislature is not in session, at the next regular session. The legislature, within 60 days or by the adjournment of the session, whichever comes sooner, may revoke the determination by concurrent resolution. (§ 1 ch 56 SLA 1970; am § 7 ch 71 SLA 1971; am § 1 ch 9 SSSLA 1974; am § 5 ch 218 SLA 1976; am § 1 ch 146 SLA 1977; am § 8 ch 112 SLA 1980)

**Effect of amendments.** — The 1980 amendment deleted "(1)" following "in kind unless," and deleted "and (2) the Alaska Royalty Oil and Gas Development Advisory Board approves the taking in

money" following "best interest of the state," and in subsection (b), deleted "approved under (a) of this section" following "to take royalty in money."

#### NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*,  
Sup. Ct. Op. No. 2413 (File No. 5546), 633  
P.2d 281 (1981).

**Sec. 38.05.183. Sale of royalty.** (a) The sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182, or the sale, exchange or other disposal in whole or in part of a right to receive future mineral production under a state lease under AS 38.05.005 — 38.05.370, shall be by competitive bid and the sale, exchange or other disposal made to the highest responsible bidder, except that competitive bidding is not required when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists.

(b) When competitive bids are required, the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board, may reject all bids if he determines that because of the amount of the bids, the lack of responsibility on the part of the bidders, or for reasons consistent with the criteria set out in AS 38.06.070, the acceptance of the bids would not be in the best interest of the state.

(c) If the commissioner determines that a sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182 or a right to receive future mineral production under a state lease under AS 38.05.005 — 38.05.370 shall be made otherwise than by competitive bid, and the Alaska Royalty Oil and Gas Development Advisory Board has been notified in writing of that determination, the commissioner shall make public in writing the specific findings and conclusions upon which that determination is based.

(d) Oil or gas taken in kind by the state as its royalty share may not be sold or otherwise disposed of for export from the state until the commissioner determines that the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs. The commissioner shall make public, in writing, the specific findings and reasons on which his determination is based and shall, within 10 days of the convening of a regular session of the legislature, submit a report showing the immediate and long-range domestic and industrial needs of the state for oil and gas and an analysis of how these needs are to be met.

(e) When a sale, exchange or other disposal of oil or gas taken in kind by the state as its royalty share, or a sale, exchange or other disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under AS § 38.005 — 38.05.370 is made other than by competitive bid, the sale, exchange or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider:

- (1) the cash value offered;
- (2) the projected effects of the sale, exchange or other disposal on the economy of the state;
- (3) the projected benefits of refining or processing the oil or gas in the state;
- (4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state; and
- (5) the criteria listed in AS 38.06.070(a). (§ 1 ch 56 SLA 1970; am § 3 ch 9 SSSLA 1974; am §§ 9, 10 ch 112 SLA 1986.)

**Effect of amendments.** — The 1980 amendment, in subsection (a), substituted "after prior written notice to" for "with the prior written approval of" and "under AS 38.06.050" for "where applicable," near the end of the subsection; in subsection (b), substituted "after prior written notice to" for "with the prior written approval of"; in

subsection (c), substituted "has been notified in writing of" for "where applicable has approved"; in subsection (d), deleted "with the approval of the Alaska Royalty Oil and Gas Development Advisory Board" following "until the commissioner"; and added subsection (e).

#### NOTES TO DECISIONS

**Waiver of competitive bidding.** — An initial waiver of competitive bidding and a second waiver at the time of amendment removed any obligation to open the

contract to competitive bidding. *McKinnon v. Alpetco Co.*, Sup. Ct. Op. No. 2413 (File No. 55-46), 633 P.2d 281 (1981).

**Sec. 38.06.020. Establishment.** There is established in the Department of Commerce and Economic Development the Alaska Royalty Oil and Gas Development Advisory Board. (§ 2 ch 9 SSSLA 1974; am § 1 ch 112 SLA 1980)

**Effect of amendments.** — The 1980 Economic Development" for "Natural amendment substituted "Commerce and Resources."

**Sec. 38.06.025. Membership.** (a) The board consists of the commissioner of commerce and economic development; the commissioner of revenue; the commissioner of natural resources, who is a nonvoting member; and three public members.

(b) Each of the public members shall possess experience in petroleum-related fields in such areas as exploration, development, production and economics, and shall be appointed by the governor to serve at his pleasure for three-year staggered terms and confirmed by a vote of a majority of the members of the legislature in joint session. The public members may not be state officers or employees.

(c) A chairman shall be elected by the board from among the public members.

(d) A public member, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualifies.

(e) Vacancies in public membership shall be filled in the same manner as original appointment. An appointee to fill a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. A vacancy in board membership does not impair the authority of a quorum of the board members to exercise all the powers and duties of the board. (§ 2 ch 9 SSSLA 1974; am § 8 ch 207 SLA 1975; am § 2 ch 112 SLA 1980)

**Effect of amendments.** — The 1980 amendment restructured the section into present subsections (a) — (e); in subsection (a), substituted "commerce and economic development" for "natural resources, who is chairman," substituted a semi-colon for a comma following "commissioner of revenue," and inserted "the commissioner of natural resources, who is a nonvoting member"; added the provisions of subsection (e); and substituted "until" for "under" in subsection (d).

**Sec. 38.06.035. Meetings, rules, quorum, votes required; conflict of interest.** (a) The board shall prescribe its own rules of procedure. It shall meet at a time and place determined by the chairman, and at other times and places as the chairman, or a majority of the board members, considers necessary. A quorum is a majority of the voting members of the board. The votes of the board members shall be recorded. Effective action to carry out the powers granted under AS 38.06.010 — 38.06.080 requires the affirmative vote of a majority of the board members. No board member may, with respect to a matter before the board, vote for or on behalf of another member of the board.

(b) No member of the board may act upon a matter in which his relationship with any person creates a conflict of interest. No board member may have an official connection with or hold stock or securities in, or have a pecuniary interest in, a corporation, company or association engaged in the production or transportation of oil or gas. (§ 2 ch 9 SSSLA 1974; am § 3 ch 112 SLA 1980)

**Effect of amendments.** — The 1980 "voting" preceding "members" in the third amendment, in subsection (a), inserted sentence.

**Sec. 38.06.040. Powers and duties of the board.** (a) The board shall

(1) in accordance with the criteria set out in AS 38.06.070, develop a plan for the wise development of the state's oil and gas royalty interests; the plan of development shall be consistent with

- (A) growth of the private sector of the economy;
- (B) environmental standards required by law; and
- (C) public fiscal stability;

(2) hold public hearings on proposed sales, exchanges, or other disposals of royalty oil or gas to determine whether the proposals comply with AS 38.06.070;

(3) examine proposed sales, exchanges or other disposal of, and recommend to the legislature that it approve or disapprove a proposed sale, exchange or other disposal of

(A) the oil or gas that is obtained by the state as royalty under AS 38.05.182; or

(B) the rights to receive future oil or gas production under state leases; and

(4) recommend to the commissioner of natural resources the conditions relating to the sale, delivery, transportation, refining or processing of oil or gas which he may include in the offer and sale of oil or gas obtained by the state as royalty under AS 38.05.182.

(b) The board may

(1) direct the commissioner of natural resources to solicit development plans or bids consistent with the criteria set out in AS 38.06.070 for

(A) the sale, exchange or other disposal of oil or gas obtained by the state as royalty under AS 38.05.182; or

(B) the sale, exchange or other disposal of all or a portion of the rights to receive future oil or gas production under a state lease;

(2) employ an executive director, and contract for the services of professionals, persons with knowledge of economics and other disciplines, and persons with technical skills who may be necessary to assist the board in the exercise of its powers and duties; and

(3) adopt regulations under the Administrative Procedure Act (AS 44.62.010 — 44.62.650) that are necessary for the exercise of its powers and duties. (§ 2 ch 9 SSSLA 1974; am § 4 ch 112 SLA 1980)

**Effect of amendments.** — The 1980 amendment rewrote the section.

**Sec. 38.06.050. Board review and recommendation required.** (a) If legislative approval is required by AS 38.06.055, a sale, exchange, encumbrance, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas may not be made by the commissioner of natural resources under AS 38.05.183 without prior review of the proposed sale, exchange, encumbrance or other disposition by the board. A written recommendation of the board on the proposed sale, exchange, encumbrance or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas shall be submitted to the legislature at the time a resolution approving the proposed sale, exchange, encumbrance or other disposition is introduced in the legislature.

(b) Bids or applications for the purchase of royalty oil or gas may be rejected by the commissioner of natural resources if prior written notice of the proposed disapproval is given to the board.

(c) Competitive bidding in a sale, exchange or other disposition described in (a) of this section may not be waived by the commissioner of natural resources under AS 38.05.183 unless prior written notice of proposed waiver is given to the board.

(d) (Repealed). (§ 2 ch 9 SSSLA 1974; am § 5 ch 112 SLA 1980)

**Effect of amendments.** — The 1980 amendment, in subsection (a), substituted "If legislative approval is required by AS 38.06.055, a" for "No" at the beginning of the subsection, inserted "not" preceding "be made by" near the middle of the first sentence, deleted "the" following "AS 38.05.183 without" near the middle of the first sentence, substituted "review of the proposed sale, exchange, encumbrance or other disposition by" for "written approval of" in the first sentence, and added the second sentence; in subsection (b), deleted "not" following "oil or gas may," substituted "if" for "without the" preceding

"prior written," and substituted "notice of the proposed disapproval is given to" for "approval of"; in subsection (c), substituted "unless" for "without the" preceding "prior written," and substituted "notice of proposed waiver is given to" for "approval of"; and deleted former subsection (d), which read: "The board may require conditions relating to the sale, delivery, transportation, or refining or processing within the state to be included by the commissioner of natural resources in the offer of and sale by competitive bidding of oil or gas obtained by the state as royalty under AS 38.05.182."

#### NOTES TO DECISIONS

Stated in *McKinnon v. Alpetco Co.*,  
Sup. Ct. Op. No. 2413 (File No. 5546), 633  
P.2d 281 (1981).

**Sec. 38.06.055. Legislative approval.** (a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner of natural resources may not enter into a sale, exchange, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas under AS 38.05.183 without the

prior approval of the legislature. The legislature may approve a sale, exchange, or other disposition of oil or gas or of the rights or of a waiver of the rights to receive future production of royalty oil or gas only by enacting legislation.

(b) The provisions of (a) of this section do not apply to

(1) the sale, exchange, or other disposition of oil or gas for one year or less if the sale, exchange, or other disposition is entered into to relieve storage or market conditions;

(2) contracts for the sale of state-owned royalty gas or oil that specify the sale and delivery of not more than

(A) 400 barrels of crude oil per day;

(B) 460 barrels of natural gas liquids per day; and

(C) 2,400 Mcf of natural gas per day.

(c) A sale, exchange, or other disposition of oil or gas made under (b)(1) of this section may not be continued after the end of one year or renewed with the same party to provide relief for market or storage conditions without the prior approval of the legislature under (a) of this section. (§ 2 ch 9 SSSLA 1974; am § 2 ch 146 SLA 1977; am § 1 ch 131 SLA 1978; am § 6 ch 112 SLA 1980)

**Effect of amendments.** — The 1978 amendment substituted "storage or market conditions" for "a shortage of storage capacity" at the end of the first sentence of subsection (a), added the second sentence of that subsection, and deleted "Until July 1, 1975" from the beginning of subsection (b).

The 1980 amendment rewrote the section.

**Opinions of attorney general.** — The legislature may not conditionally approve a contract since such conditional acceptance is in law a rejection of the offer and the contract would have to be returned for renegotiation. February 23, 1977, Op. Att'y Gen.

NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*, Sup. Ct. Op. No. 2413 (File No. 5546), 633 P.2d 251 (1981).

**Sec. 38.06.060. Confidentiality.**

**Opinions of attorney general.** — The chairman of the Alaska Royalty Oil and Gas Development Advisory Board may accurately represent to various private companies that documents they provide to the board may be held confidential and will not be subject to public disclosure, pro-

vided that the board determines that they should remain confidential, and in addition, the commissioner may advise the companies that documents which the board determines will not be kept confidential will be returned to them. September 26, 1977, Op. Att'y Gen.

**Sec. 38.06.070. Criteria.** (a) In the exercise of its powers under AS 38.06.040(1) — (2) and 38.06.050 the board shall consider

(1) the revenue needs and projected fiscal condition of the state;

(2) the existence and extent of present and projected local and regional needs for oil and gas products and by-products, the effect of state or federal commodity allocation requirements which might be applicable to those products and by-products, and the priorities among competing needs;

(3) the desirability of localized capital investment, increased payroll, secondary development and other possible effects of the sale, exchange or other disposition of oil and gas or both;

(4) the projected social impacts of the transaction;

(5) the projected additional costs and responsibilities which could be imposed upon the state and affected political subdivisions by development related to the transaction;

(6) the existence of specific local or regional labor or consumption markets or both which should be met by the transaction;

(7) the projected positive and negative environmental effects related to the transaction; and

(8) the projected effects of the proposed transaction upon existing private commercial enterprise and patterns of investments.

(b) When it is economically feasible and in the public interest, the board may recommend to the commissioner of natural resources, as a condition of the sale of oil or gas obtained by the state as royalty, that

(1) the oil or gas be refined or processed in the state;

(2) the purchaser be a refiner who supplies products to the Alaska market with price or supply benefits to state citizens; or

(3) the purchaser construct a processing or refining facility in the state.

(c) The board shall make a full report to the legislature on each criterion specified in (a) or (b) of this section for any disposition of royalty oil or gas which requires legislative approval. The board's report shall be submitted for legislative review at the time of resolution for legislative approval of a proposed disposition of royalty oil or gas is introduced in the legislature. (§ 2 ch 9 SSSLA 1974; am § 2 ch 131 SLA 1978; am § 7 ch 112 SLA 1980)

Effect of amendments. — The 1978 amendment added subsection (c).

The 1980 amendment rewrote subsection (b).

#### NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*,  
Sup. Ct. Op. No. 2413 (File No. 5546), 633  
P.2d 281 (1981).

REMARKS BY KAY BROWN, DIRECTOR  
Division of Oil and Gas  
Department of Natural Resources

on  
Proposed CS for HB 600 (Resources)  
March 13, 1984

Mr. Chairmen, members of the Committee - For the record I'm Kay Brown, director of the Division of Oil and Gas, Department of Natural Resources. Thank you for this opportunity to address the proposed Resources Committee Substitute for House Bill 600, which revises the royalty disposition statutes.

I'd like to address in more detail the general concepts Commissioner Wunnicke has outlined. Most of my comments today are focused on the changes proposed in the CS, but, as Commissioner Wunnicke mentioned, there are a number of other changes we would like to see if a comprehensive rewrite of these statutes is undertaken.

We believe the statutes could be improved by consolidating and clarifying procedural requirements for royalty sales. As written, the proposed CS does not accomplish this goal. Generally, I believe we could rely on the general Title 38 disposition procedures in AS 38.05.035 and .345, which apply to all disposals of interest in State land or resources, and that many of the separate procedural requirements in AS 38.05.182, .183 and AS 38.06 could be consolidated, or eliminated. Alternatively, royalty dispositions could be exempted from .035 and .345. Whichever approach is preferred, these conflicting and overlapping procedural requirements should be reconciled.

The statute should clearly state when competitive bidding is or is not required. The proposed CS addresses the determination to sell royalty resources by competitive bid or negotiated sale in several places. For clarity, the exemptions from competitive bidding should be consolidated into a single section. We believe it is appropriate and desirable to allow negotiated sales in at least four circumstances:

1. royalty oil sales to in-state refiners with no other sources of crude available at the prevailing West Coast price;

2. royalty oil sales to foreign countries, should these be permitted by federal law;
3. sales of royalty resources other than royalty oil; and
4. emergencies.

It should be noted that several subsections of AS 38.05.183 apply to royalty sales of coal, geothermal, phosphates, oil shale, sodium, sulphur, potassium, placer gold and hardrock minerals, as well as oil and gas. The change proposed in Section 1, subsection (a) of the proposed CS, read in conjunction with the other proposals in the CS, apparently would require competitive bidding in all cases for royalty resources other than oil and gas.

We think it is preferable to leave more flexibility for royalties other than oil and gas as it is difficult to foresee at this time what situations might arise in the future that would affect the marketing and sale of non-oil and gas royalty resources.

With respect to restructuring the royalty board, as a policy matter we oppose the board having decision-making authority and we recommend that it remain an advisory board. I understand that the Department of Law has some comments to offer on this point, and Bob Maynard will be discussing this in his testimony.

I'd now like to provide some brief section-by-section comments:

The changes proposed in Section 1 of the proposed CS are generally an improvement over the existing statute, if the competitive bidding v. negotiated sale criteria are clarified as I have discussed.

In subsection (e) beginning at page 2, line 21, we suggest that you drop the fifth item, which references the royalty board criteria in AS 38.06.070(a).

In Section 3 subsection (a) of the proposed CS, the new expertise required of public board members - oil and gas marketing experience - seems to conflict with the existing criteria in subsection (b).

The new subsection (a) in Section 4 of the bill has a structural problem in item (3).

The price change proposed in subsections (b) and (c) of Section 4 seem to be in conflict. The provision in subsection (c)(1) needs to be clarified as to whether it

applies both to negotiated and competitive sales, since if it does apply to both, then (b) apparently would not be applicable. As a policy matter, we think it is workable and appropriate to establish a floor for both competitive and negotiated sales, as long as the floor is flexible enough to accommodate changing circumstances over time. We believe the contract price provision is more properly placed in AS 38.05.183.

With respect to Subsection (c)(2) relating to the hiring of Alaska residents, as you are probably aware court challenges continue on the constitutionality of local hire provisions. Bob Maynard will be addressing this issue in his testimony. Is Subsection (c)(2) intended to apply to competitive sales? We don't think that it is workable to require companies exporting oil out of the State to hire Alaskans if there is no work in Alaska associated with the sale. As you know, however, we have included local hire provisions in negotiated sales to in-State refiners, and we will continue to do so to the extent legally possible.

Subsection (c)(4) relating to a preference for in-state refiners seems appropriate as a policy but inappropriate and unworkable as a contract term, particularly if it applies to competitive sales, and should be dropped from this section.

Subsection (c)(5) should be revised to provide that material amendments which reduce the State's price or other consideration will be subject to legislative review, rather than all material amendments. This provision as written could discourage the Commissioner from seeking a higher price in contracts with price reopeners, since the status quo or current price would be the only circumstance not requiring legislative approval.

Throughout the proposed CS, it should be clearly stated when a royalty contract is subject to board approval and legislative review. As now written, the proposed CS is confusing on this point.

Section 5, subsection (b), as now written conflicts with AS 38.05.183(b), which gives the commissioner of DNR the authority to reject bids. We think this function is more appropriate for the commissioner than the board.

Section 5, subsection (c), as revised in the CS conflicts with AS 38.05.183(a). Competitive bidding should be waived by the commissioner, with prior written notice to the board.

With regard to the emergency marketing provisions of Section 5 of the CS (p. 6, line 7), we recommend that in an emergency the commissioner be given the authority to dispose of royalty oil or gas for up to six months without board or legislative approval, since 6 months is the time required to

revert to in-value taking under the terms of state leases and unit agreements. It should be noted that under the proposed CS as written, the emergency marketing provisions in Section 5 of the bill seem to conflict with the existing exemptions in AS 30.06.055(b), which under the proposed CS become exemptions from board, rather than legislative, approval. In other words, if you leave in the proposed changes in Section 6 of the bill, the emergency marketing provisions of Section 5 are unnecessary.

Generally, we like the changes proposed in Sections 6 and 7 of the CS.

In Section 10 of the CS, we agree that AS 38.05.182(b) should be repealed. Do you really intend to repeal .183(b), as this section is retained in Section 1 of the bill?

Thank you for the opportunity to comment. I would be happy to work with you on specific language to implement these suggestions.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: March 20, '84

REQUEST

Bill/Resolution No.: HB#600  
Title: Relating to royalty oil

Sponsor: Cowdery  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Dept. of Commerce  
Program Category Affected: Royalty Oil & Gas Development Advisory Board  
BRU, Program or Subprogram(s) Affected: BRU, Royalty Oil & Gas Development Advisory Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		10.0				
300 CONTRACTUAL		50.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		60.0				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Merrill Sikorski Phone: 465-4455  
Division: Joint Oil & Gas Committee Date: 3/20/84

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

AGO 786808

ALALYSIS

FISCAL NOTE: HB#600

Travel assumes 10 meetings at \$1,000.00 each, and is variable depending on the need for the board to meet.

Contractual allows for the board to contract for special analysis when and if needed, and to cover such expenses as phone calls, postage, secretarial services etc. when needed.

Figures were derived from expenditures of the Royalty Oil and Gas Development Advisory Board thus far in 1984, and past budgets of the board.



Official Business

Alaska State Legislature  
House Resources Committee

**SIGN-IN**

MAR. 13, 1984

HB 600  
ROYALTY OIL

**NAME**

**ADDRESS**

**PHONE**

**REPRESENTING**

NAME	ADDRESS	PHONE	REPRESENTING
Esther Wunniche Gay Brown	Pouch M Juneau	465-2400	DNR
Bob Maynard	Pouch K	3600	Law

AGD 786810

3.03 Busst Lar's Lisk Slutz, Rings  
Goll, Uehl.

HB 594

005 - Jack Fuller - loss up to 4900 reindeer to  
~~Seward~~ caribou - New migrations to  
Seward Pen.

029 Liska - how will 30K solve problem -  
↳ Migration habits, so herders can track own  
herds & not lose

060 Bussell - buffalo? - enough problems, don't  
need buffalo.

067 Shultz, moved, asked v/c indiv. rec. no obj.

072 - HB 624 -

078 Larson - CS adds ED Clause, background  
on problem -

110 Ned Farquar - DNR supports bill -

114 Larson moved adopt CS, v/c no obj.

118 Larson moved, asked v/c HB 624 out

133 Esther Wernicke -

165 Suggested changes to proposal.

Kay Brown

200 - Rep. Goll, wants section-by-section objections so  
he knows what dept supports or doesn't

202 - Kay Brown - discussed departments  
positions.

(2)

## Kay Brown (cont)

- 373 Cowdery - 6 mos. notice - emergency -  
- Disposition of oil to revert to in-value  
taking - 30 days - what if Board disapproves
- 416 Rep. Cowdery asked for hard copy of Kay  
Brown's remarks.
- 420 Ringstad - Other than Oil & Gas  
A KB.
- 440 Liska - Saying board shouldn't have input -  
- In emerg. comm's makes decision to get  
back to in-value.
- 494 Bush - What constitutes Emergency & why would  
board not okay?  
- long term purchaser defaults - we arrange best  
disposal to new purchaser - until revert to in-value
- 592 - Bob Maynard - AG  
Other problems besides KB's examples  
Related 1981 incident - Can shut down pipeline  
if state ~~sees~~ does something wrong
- 690 Bush - What provisions in contract to ~~financial~~ deal  
with situation - ^ Mayn. - in final analysis  
contract just paper
- 735 Cowdery - financial penalties in contract -  
x Mayn. - bonds, 3rd party guarantees - situation  
precarious - Companies up against wall.
- 744 Cowdery - Now other industry people solve -  
- In mkt day to day, able to dispose of oil efficiently.

744  
Tape chg.