

ALASKA LEGISLATURE, COMMITTEE FILES 1983-1984 8672

2811 SRES SB 45 - SB 51

S

B

4

5

Introduced: 1/18/83
Referred: Resources and
Finance

1 IN THE SENATE

BY MOSS

2

SENATE BILL NO. 45

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska Agricultural Action Council and transferring the administration of the agricultural revolving loan fund to that council; and providing for an effective date."

7

8

9

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

11

* Section 1. AS 03.10.020 is amended to read:

12

Sec. 03.10.020. POWERS OF THE COUNCIL [DEPARTMENT]. The council

13

[DEPARTMENT] may

14

(1) make loans to individual resident farmers, homestead-

15

ers, and partnerships or corporations composed of farmers and home-

16

stead-ers, for clearing land for agricultural purposes, development of

17

farms, storage and processing of farm produce, livestock and machinery

18

and to individuals, partnerships or corporations, for storage and

19

processing plants for agricultural products;

20

(2) designate agents and delegate its powers to them as

21

necessary;

22

(3) adopt rules and regulations necessary to carry out its

23

functions;

24

(4) establish amortization plans for repayment of loans,

25

which may include delayed payments of principal and interest for not

26

to exceed five years;

27

(5) enter into agreements with private lending institu-

28

tions, other state agencies or agencies of the federal government, to

29

carry out the purposes of this chapter.

1 * Sec. 2. AS 03.10.030(h) is amended to read:

2 (h) The council [COMMISSIONER] shall adopt regulations to estab-
3 lish other terms for loans made under this chapter, consistent with
4 the provisions of this section, and may establish interest rates for
5 loans under (a)(4) of this section that

6 (1) encourage agricultural development;

7 (2) do not subsidize nonviable agricultural enterprises;

8 and

9 (3) do not discriminate against viable existing agricultur-
10 al enterprises.

11 * Sec. 3. AS 03.10.035(a)(1) is amended to read:

12 (1) pays the outstanding balance of the loan in a lump sum
13 or under other terms agreed to by the council [COMMISSIONER] which
14 accelerate payment of the loan; or

15 * Sec. 4. AS 03.10.050(a) is repealed and reenacted to read:

16 (a) The council shall administer the loan fund.

17 * Sec. 5. AS 03.10.050(c) is amended to read:

18 (c) A meeting of the council [AGRICULTURAL REVOLVING LOAN FUND
19 BOARD] to act on applications for loans is exempt from the public
20 meeting requirements of AS 44.62.310.

21 * Sec. 6. AS 03.10 is amended by adding a new section to read:

22 Sec. 03.10.055. DEFINITION. In this chapter "council" means the
23 Alaska Agricultural Action Council (AS 44.33.450).

24 * Sec. 7. AS 44.33.470(a) is amended by adding a new paragraph to read:

25 (12) administer the agricultural revolving loan fund
26 (AS 03.10).

27 * Sec. 8. AS 03.10.050(b) and sec. 4, ch. 75, SLA 1979 are repealed.

28 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
29 10.070(c).

RELATING TO THE ALASKA AGRICULTURAL ACTION COUNCIL AND TRANSFERRING
THE ADMINISTRATION OF THE AGRICULTURAL REVOLVING LOAN FUND TO THAT
COUNCIL.

SB 45

MOSS

Transfers the administration of the agriculture revolving loan fund from the Department of Natural Resources to the Alaska Agricultural Action Council, effective immediately.

Repeals present law that would terminate the AAAC 7/1/84.

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

5, 2
RECEIVED

FEB 7 1983

FISCAL NOTE

LEGISLATIVE FINANCE

I. REQUEST
Bill/Resolution No. SB 45
Title An Act relating to the Agricultural Action Council
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Development
BRU, Program, Or Subprogram(s) Affected Division of Loans & Veterans' Affairs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0	0	0		

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 1-25-83 PREPARED BY [Signature]
AGENCY Commerce and Economic Development
Original: Legislative Finance PHONE 465-2505
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Guy Bell [Signature]

SSSB 45

RELATING TO THE ALASKA AGRICULTURAL ACTION COUNCIL,
SPONSOR: MOSS

Transfers the Ag. Action Council from Dept. of Commerce and Economic Development to Dept. of Natural Resources.

Repeals Sec. 4, Ch. 75 SLA 1979, which would have terminated the Ag. Action Council effective 7/1/84.

APR 29 1983

Alaska State Legislature

SENATOR
H. PAPPY MOSS
PO BOX 182
DELTA JUNCTION ALASKA 99737
(907) 895-4384



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99911
(907) 465-4921

State Senate

MEMORANDUM

April 29, 1983

SUBJECT: SSSB 45

TO: The Honorable Bettye Fahrenkamp, Chair
Senate Resources Committee

FROM: H. Pappy Moss, Chair
Senate Special Committee on Agriculture

In the course of this legislative session, it has become very apparent that the future of agriculture in the state of Alaska is in jeopardy as long as control of its development rests with the Department of Commerce and Economic Development. To avert that situation, I have introduced Sponsor Substitute for Senate Bill 45, which removes the Agricultural Action Council from the jurisdiction of the Department of Commerce and Economic Development and places it within the Department of Natural Resources. In the interests of the responsible and timely development of the agricultural industry in this state, I would ask that you consider waiving the five-day rule and hearing SSSB 45 in the Senate Resources Committee as soon as possible.

Thank you for your consideration.

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: *2d SSSB 45*
BILL NAME: *MOSS - An Act establishing an agricultural land
sale payment moratorium; et al*
SPONSOR(S): *MOSS* RELATED BILLS PENDING:
DATE INTRODUCED: *5/22/34*
REFERRALS: *Resources
Finance*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED: SUMMARY BY LEGAL DIVISION:
SPONSOR CONTACTED FOR DEPT. OF LAW SUMMARY:
BACKUP MATERIALS: FISCAL NOTE:
AGENCY RESPONSE: OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:
RESPONSES FROM INTERESTED PERSONS/GROUPS:
OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED: DATE AND PLACE SET:
STAFF MEMO TO COMMITTEE: TELECONFERENCE:
BACKGROUND MATERIAL DISTRIBUTED: PSA/PRESS RELEASE:
LIST OF WITNESSES: SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

SPONSORED BY MOSS.

AUTHORIZES DNR TO DECLARE A MORATORIUM OF UP TO 5 YEARS ON AGRICULTURAL LAND PURCHASE PAYMENTS IF CERTAIN CONDITIONS ARE MET. MAKES NO DIFFERENCE IN THE AMOUNT OF THE TOTAL LOAN PAYMENT (MERELY A POSTPONEMENT OF PAYMENTS); ACCRUAL OF INTEREST WILL CEASE.

IS TO ALLOW MORE TIME TO DEVELOP FARMS AND MARKETS.

Introduced: 3/22/84
Referred: Resources and
Finance

1 IN THE SENATE

BY MOSS

2

2d SPONSOR SUBSTITUTE FOR SENATE BILL NO. 45

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act establishing an agricultural land sale
7 payment moratorium; and providing for an effective
8 date."

9

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

10

* Section 1. AS 38.05.065 is amended by adding a new subsection to
11 read:

12

(d) The commissioner may declare a moratorium of up to five
13 years on principal payments and the accrual of interest on a sale of
14 agricultural land under this section if

15

(1) the commissioner determines that the moratorium is in
16 the best interest of the state;

17

(2) the commissioner certifies and the contract purchaser
18 agrees to perform farm development, crop production, and harvesting,
19 not including land clearing or related activity, requiring the
20 expenditure of amounts equivalent to the payments that would otherwise
21 be made during the moratorium;

22

(3) the sale of the agricultural land takes place after
23 July 1, 1979; and *→ date the original Homestead Entry*

24

(4) the contract purchaser is in compliance with the devel- *was*
25 opment plan specified in the purchase contract at the time the per- *repealed*
26 chaser applies for a moratorium under this subsection. *So those*

27

* Sec. 2. This Act takes effect immediately in accordance with AS 01.- *who got*
28 10.070(c). *ag. land*

*through sweat
equity won't
benefit from the
purchase payment
moratorium.*

2d SS for SB 45: "An Act relating to an emergency farm relief program;
and providing for an effective date."

The Department of Commerce and Economic Development finds that this bill
brings the land purchase contracts into a logical parallel with similar
agriculture loan programs.



3/30/84

Richard A. Lyon, Commissioner

CHAIRMAN
SENATE TRANSPORTATION
COMMITTEE
SENATE SPECIAL AGRICULTURE
COMMITTEE

MEMBER
HEALTH, EDUCATION AND
SOCIAL SERVICES
COMMITTEE
LEGISLATIVE COUNCIL
REAA BUDGET OVERSIGHT
COMMITTEE

Alaska State Legislature



State Senate

SENATOR
H. PAPPY MOSS
P.O. BOX 182
DELTA JUNCTION, ALASKA 99737
(907) 895-4384

JUNEAU OFFICE
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

SENATE SPECIAL COMMITTEE ON AGRICULTURE

M E M O R A N D U M

March 20, 1984

TO: Senator Bettye Fahrenkamp, Chair
Senate Resources Committee

FROM: Senator H. Pappy Moss, Chair
Senate Special Committee on Agriculture *H. P. Moss*

RE: 2nd Sponsor Substitute for Senate Bill 45

This sponsor substitute for Senate Bill 45 provides relief to farmers of the State of Alaska who are actually working on developing their farms. This legislation makes no significant changes in the terms of the original contract for land payments, and makes no difference in the amount of the total payment. The state is paid in full by the farmers for the amount specified at the time of the land sale.

The 2nd sponsor substitute for SB 45 provides for the postponement of principal payments and the ceasing of interest accrual, for a period not to exceed five years, if the commissioner determines it to be in the best interest of the state, and if the following conditions are met:

The farmer must have invested an amount equal to his payment which would otherwise be due in farm development, crop production, and harvesting expenses. Expenses involved in land clearing or related activities would not be considered in the application for this moratorium.

The expenses must be certified by the commissioner.

The sales of agricultural land were made after the repeal of AS 38.05.325 Homestead Entry which occurred in 1979.

The contract purchaser must be in compliance with the development plan as specified in the contract before applying for this postponement of payments.

This legislation was developed with help from the Division of Forest, Land and Water Management, who administer the sale of these lands and is supported by the Department of Natural Resources. This bill does not ask for money--only for time to enable Alaska's farmers to develop their farms.

This legislation is not offered to assist poor business managers in the area of farming to continue where they are failing. This legislation is offered to support the successful, producing farmer who is contributing to agricultural development in the state of Alaska.

SB4'S

NRN

March 22, 1984

Senator Bettye Fahrenkamp
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp;

This week you were so kind in sharing your precious time with our farm group from Delta II. We want to take this opportunity to thank you for lending your support to our cause.

We need more time to develop our farms and markets, and having the payments and interest on our land payments tolled for a few years will help us get this accomplished. The sponsor substitute for Senate Bill 45 will give us that opportunity without reducing the purchase price or changing the terms of our original contracts.

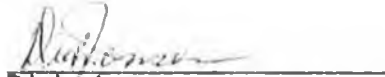
We are actively involved in promoting the dairy industry and beef and hog production, and are working to supply grain to these groups at a lower cost so our agriculture base will expand and as it grows we all hope to become successfully self-supporting.


There is a real future for Agriculture here in Alaska and we feel that it makes a valuable contribution to our way of life here. We are excited about farming here and are engaged in making Alaska a better place to live and raise our families. Isn't this really what life is all about?

Thank you again, our visit with you was delightful.

Yours very truly,


Charles Trowbridge


Dick Jensen


Tom Krause


Mike Schultz


Scott Schultz

MAR 28 1984

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 30, 1984
3:55 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Paul Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 225, Creating the Matanuska Valley Moose Range.

2dSSSB 45, Establishing an agricultural land sale payment moratorium.

SB 369, An Act relating to the planning, designing, and construction of agriculture and forestry facilities by the Department of Natural Resources.

SCR 42, Relating to sport fishing of salmon and underutilized species.

SB 225

Ned Farquhar, Special Assistant to the Commissioner of the Department of Natural Resources, testified in support of the Committee Substitute, and proposed an amendment that would clarify that coal and mineral entry and development would be allowed within the Range.

Leborah Heidecker, Aide to Senator Kerttula, explained that the Committee Substitute, a result of negotiations with the Department of Natural Resources and the Department of Fish and Game, contains specifics on management responsibility, multiple use definitions, and boundaries.

Senator Kerttula explained why the proposed Chickaloon Bench subdivision should remain within the Moose Range and not be disposed.

John Clark, Habitat Division, Department of Fish and Game, spoke in support of the Committee Substitute.

Senator Mulcahy moved to adopt DNR's proposed amendment. There was no objection.

Ron Sommerville, Alaska Outdoor Council, spoke in support of the Committee Substitute.

Jay Nelson, Alaska Environmental Lobby, spoke in support of the Committee Substitute and recommended that a timetable for implementing the management plan be included in the bill.

Senator Sturqulewski moved to adopt the proposed amendment regarding the timetable for a management plan. There was no objection.

Senator Mulcahy moved CS SB 215 from Committee with individual recommendations. There was no objection.

2dSSSB 45

Senator Moss explained that this bill would authorize the Department of Natural Resources to declare a moratorium of up to five years on agricultural land purchase payments if certain conditions are met.

Senator Mulcahy moved 2dSSSB 45 from Committee with individual recommendations. There was no objection.

SB 369

Senator Kerttula reviewed the history of construction cost overruns at the Department of Natural Resources plant materials center. SB 369 would begin to solve those problems by transferring construction responsibilities from the Department of Transportation and Public Facilities to DNR.

Senator Mulcahy moved SB 369 from Committee with individual recommendations. There was no objection.

SCR 42

Phil Daniel, United Fishermen of Alaska (UFA), spoke in support of the resolution, recommending aquaculture as a way of guaranteeing sportsfishermen an adequate supply of fish, and resolving user group conflicts.

Ron Sommerville, Alaska Outdoor Council offered no formal position on the bill, but supported enhancement of sportfishing stocks as a way of resolving user group conflicts.

Senator Mulcahy moved SCR 42 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 4:40 pm.

	<u>1983</u> Acres Actually in Production	<u>1984</u> Acres to be in Production
Charles Trowbridge Owner of Tract 4, Delta II sale.	600	1200
Dick Jensen Owner of Tract 12, Delta II sale.	1140	1940
Scott Schultz and Mike Schultz, Owners of Tract 5, Delta II sale.	600	1200
Tom Krause, Owner of Tract 11, Delta II sale.	710	1200

In 1983, we produced over 50 percent of the barley produced in the state of Alaska. Our estimated production for 1984 will bring that figure to 75 percent.

Our personal investment, per farm, is in the range of \$200,000

FACT: Our wives all work to support us!!

contracts with public or private agencies, organizations, or individuals,

(1) to improve sanitation practices in the processing of fish and fisheries products; and

(2) to develop improved techniques for surveillance and inspection activities under this chapter. (§ 3 ch 57 SLA 1982)

Effective dates. — Section 7, ch. 57, May 28, 1982 in accordance with AS SLA 1982, makes this section effective 01.19.070(c).

Sec. 03.05.090. Penalty for violation. A person who violates this chapter or a regulation, order, or quarantine made under authority of this chapter, or violates a provision of a permit issued under this chapter, or sells seeds failing to meet the labeling requirements, standards, and tests provided for by regulation of the commissioner of natural resources or the commissioner of environmental conservation is guilty of a class A misdemeanor for each offense. (§ 33-1-3 ACLA 1949; am Executive Order No. 51, § 10 (1981); am § 4 ch 57 SLA 1982)

Cross references. — For sentences of imprisonment for misdemeanors, see AS 12.55.135.

Effect of amendments. — The 1981 amendment added "of natural resources or the commissioner of environmental conservation" following "regulation of the commissioner."

The 1982 amendment, effective May 28, 1982, substituted "a" for "any," deleted

"rule" preceding "regulation," inserted "or violates a provision of a permit issued under this chapter" preceding "or sells seeds," substituted "guilty of a class A misdemeanor for each offense" for "upon conviction, punishable for each offense by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both" and made other minor changes.

Sec. 03.05.100. Definitions. In AS 03.05.010 — 03.05.100,

(1) "agricultural products" does not include fish or fisheries products;

(2) "fish or fisheries products" means any aquatic animal, including amphibians, or aquatic plants or parts of those plants, animals or amphibians that are usable as human food. (§ 5 ch 58 SLA 1978)

Chapter 10. Alaska Agricultural Loan Act.

Section	Section
20. Powers of the department	40. Creation of fund
30. Limitations on loans	50. Administration of fund
35. Use or disposal of mortgaged farm land	54. [Repealed]

Sec. 03.10.020. Powers of the department. The department may

(1) make loans to individual resident farmers, homesteaders, and partnerships or corporations composed of farmers and homesteaders, for clearing land for agricultural purposes, development of farms, storage and processing of farm produce, livestock and machinery and to individuals, partnerships or corporations, for storage and processing plants for agricultural products;

(2) desi

(3) adop

(4) estal

include de

five years;

(5) enter

state agenc

purposes of

1955; am §

Effect of an amendment.

Sec. 03.10.020. Chattel, or in

(1) may n

(2) may n

made under

\$1,000,000;

(3) shall b

priority, exce

added to prior

be secured by

(4) shall be

percent or mo

is eight perce

prevailing rat

for loans simi

(b) Repealed

(c) A short t

\$200,000 to ar

(d) Repealed

(e) An insta

borrower on or

in the loan agr

before the 30th

agreement. If a

assess a delinq

amount equal t

combined delinq

percent.

(f) A farm pro

gage which sec

priority if the t

secured farm pro

product processi

- (2) designate agents and delegate its powers to them as necessary;
- (3) adopt rules and regulations necessary to carry out its functions;
- (4) establish amortization plans for repayment of loans, which may include delayed payments of principal and interest for not to exceed five years;
- (5) enter into agreements with private lending institutions, other state agencies or agencies of the federal government, to carry out the purposes of this chapter. (§ 4 ch 122 SLA 1953; am § 1 ch 156 SLA 1955; am § 1 ch 41 SLA 1961; am § 1 ch 113 SLA 1982)

Effect of amendments. — The 1982 inserted "clearing land for agricultural amendment, effective June 25, 1982, purposes" in paragraph (1).

Sec. 03.10.030. Limitations on loans. (a) A farm development, chattel, or irrigation loan made under this chapter

- (1) may not exceed a term of 30 years;
- (2) may not, when added to the outstanding balance of other loans made under this chapter, exceed a total outstanding balance of \$1,000,000;

(3) shall be secured by a real estate or chattel mortgage of any priority, except that the portion of a loan that exceeds \$500,000, when added to prior indebtedness that is secured by the same property, must be secured by a first mortgage;

(4) shall bear interest at a rate that may not be less than eight percent or more than the commercial rate, unless the commercial rate is eight percent or less; in this paragraph "commercial rate" means the prevailing rate of interest at private lending institutions in the state for loans similar to those referred to in this subsection.

(b) Repealed by § 72 ch 113 SLA 1982.

(c) A short term loan, to be amortized within one year, not to exceed \$200,000 to any one borrower may be made for operating purposes.

(d) Repealed by § 72 ch 113 SLA 1982.

(e) An installment payment is delinquent unless it is mailed by the borrower on or before the 30th day after the date specified for payment in the loan agreement or unless it is received by the department on or before the 30th day after the date specified for payment in the loan agreement. If an installment payment is delinquent, the director may assess a delinquency penalty. The delinquency penalty shall be an amount equal to seven percent of the delinquent payment, but the combined delinquency penalty and loan interest may not exceed 15 percent.

(f) A farm product processing loan may not exceed \$250,000. A mortgage which secures a farm product processing loan may be of any priority if the total indebtedness on the real estate, including the secured farm product processing loan, does not exceed \$250,000. A farm product processing loan which, if made, would raise the existing

indebtedness on the real estate securing the loan above \$250,000, or a farm product processing loan on real estate which has a prior indebtedness of \$250,000 or more, may be made only if all prior mortgagees agree to subordinate their mortgages to that of the state for the amount of the farm product processing loan which exceeds the \$250,000 indebtedness limit on the real estate. A farm product processing loan may not exceed a term of 30 years or bear interest that is less than eight percent a year and shall be secured by a real estate or chattel mortgage or both.

(g) A loan for clearing land may not

- (1) exceed \$250,000;
- (2) bear interest that is less than eight percent;
- (3) have a term in excess of 20 years; or
- (4) be made for clearing land that is not classified as class III or better by the United States Soil Conservation Service under the land classification system used by the United States Soil Conservation Service.

(h) The commissioner shall adopt regulations to establish other terms for loans made under this chapter, consistent with the provisions of this section, and may establish interest rates for loans under (a)(4) of this section that

- (1) encourage agricultural development;
- (2) do not subsidize nonviable agricultural enterprises; and
- (3) do not discriminate against viable existing agricultural enterprises.

(§ 4 ch 122 SLA 1953; am § 1 ch 156 SLA 1955; am § 1 ch 41 SLA 1961; am § 1 ch 144 SLA 1966; am § 1 ch 78 SLA 1967; am § 1 ch 135 SLA 1970; am § 1 ch 22 SLA 1974; am § 1 ch 18 SLA 1975; am §§ 1-4 ch 50 SLA 1979; am § 74 ch 106 SLA 1980; am §§ 1-3 ch 7 SLA 1982; §§ 2-5, 72 ch 113 SLA 1982)

Effect of amendments. — The 1974 amendment, in subsection (c), substituted "\$25,000" for "\$15,000" and "operating" for "emergency."

The 1975 amendment increased the farm development loan and indebtedness limit in subsection (a) from \$150,000 to \$200,000.

The 1979 amendment increased the farm development loan and indebtedness limit in subsection (a) from \$200,000 to \$500,000, increased the loan limit for chattel loans from \$100,000 to \$300,000 in former subsection (b), substituted "\$200,000" for "\$25,000" in subsection (c), and added subsection (e).

The 1980 amendment added subsection (f).

The first 1982 amendment, effective February 2, 1982, raised the interest rate limit from six to eight percent in subsections (a) and (f) and in former subsection (b).

The second 1982 amendment, effective June 25, 1982, rewrote subsection (a); repealed subsections (b) and (d), which read, respectively, "Except for loans for irrigation systems as provided in this subsection, a chattel loan may not exceed \$300,000 for each farm unit and may not run longer than seven years or the useful life of the chattel if more than seven years. It may not bear interest exceeding six percent. It shall be secured by real estate or chattel mortgage, or both. Loans and the real estate and chattel mortgage security on them for irrigation systems may be in amounts and for terms as determined by the commissioner" and "Farm development and chattel loans for irrigation systems may be for terms as determined by the commissioner"; substituted "30th day" for "15th day" in two places in the first sentence and "may assess" for "shall assess" in the second sentence, both in subsection (e); added the language

beginning "the penalty" to the subsection (e) "\$2,500,000"

Sec. 03.10

borrower may otherwise be given a mortgage given irrigation systems borrower either

(1) pays the other terms of the loan;

(2) pays the loan at the special banks in the amount received of the farm

(b) In this the product including for and livestock

Editor's note 1979 provides 03.10.030(e) en. and AS 03.10.0

Sec. 03.10

revolving loan purpose of the am § 1 ch 81

Effect of an amendment substituted "\$5,000,000."

Sec. 03.10

shall administered revolving loan by the commissioner

(b) The board and confirmed by the persons who Members of the board of the board of but shall receive for boards and

beginning "but the combined delinquency penalty" to the end of the third sentence of subsection (e); substituted "\$250,000" for "\$2,500,000" throughout subsection (f);

substituted "that is less than eight percent" for "exceeding eight percent" in the last sentence of subsection (f); and added subsections (g) and (h).

Sec. 03.10.035. Use or disposal of mortgaged farm land. (a) A borrower may not use farm land for a non-farm use or sell, lease or otherwise dispose of farm land if that land is encumbered by a mortgage given to secure the payment of a farm development, chattel, or irrigation system loan under AS 03.10.010 — 03.10.060 unless the borrower either

(1) pays the outstanding balance of the loan in a lump sum or under other terms agreed to by the commissioner which accelerate payment of the loan; or

(2) pays the outstanding principal balance for the remaining term of the loan at the prevailing rate of interest which is charged by commercial banks in the state during the calendar quarter in which the department receives notice of the change of use, sale, lease or other disposal of the farm land.

(b) In this section, "non-farm use" means a use of land other than for the production of domesticated plants and animals useful to man, including forage and sod crops, grain and feed crops, fruits, vegetables and livestock. (§ 5 ch 50 SLA 1979)

Editor's notes. — Section 7, ch. 50, SLA 1979 provides: "The provisions of AS 03.10.030(e) enacted in sec. 1 of this Act and AS 03.10.035 enacted in sec. 5 of this

Act applied to farm development, chattel, and irrigation system loans made after July 1, 1979."

Sec. 03.10.040. Creation of fund. There is an agricultural revolving loan fund which shall not exceed \$75,000,000 to carry out the purpose of this chapter. (§ 5 ch 122 SLA 1953; am § 2 ch 41 SLA 1961; am § 1 ch 81 SLA 1970; am § 6 ch 50 SLA 1979; am § 4 ch 7 SLA 1982)

Effect of amendments. — The 1979 amendment substituted "\$20,000,000" for "\$5,000,000."

The 1982 amendment, effective February 2, 1982, substituted "\$75,000,000" for "\$20,000,000."

Sec. 03.10.050. Administration of fund. (a) The commissioner shall administer the loan fund in conjunction with the agricultural revolving loan fund board. No loan in excess of \$25,000 may be made by the commissioner without the approval of a majority of the board.

(b) The board is composed of five members appointed by the governor and confirmed by the legislature in joint session. Three members shall be persons with background and experience in Alaska agriculture. Members of the board serve for overlapping three-year terms. Members of the board are not entitled to receive compensation for their services, but shall receive the same travel pay and per diem as provided by law for boards and commissions.

(c) A meeting of the agricultural revolving loan fund board to act on applications for loans is exempt from the public meeting requirements of AS 44.62.310. (§ 6 ch 122 SLA 1953; am § 1 ch 119 SLA 1976; am § 6 ch 113 SLA 1982)

Effect of amendments. — The 1976 amendment rewrote this section.

The 1982 amendment, effective June 25, 1982, added subsection (c).

Editor's notes. — Section 5, ch. 7, SLA 1982 added a subsection (c) to this section

but the provision of that subsection have been transferred to AS 03.15.052 by the revisor of statutes pursuant to AS 01.05.031(b). Consequently, the subsection added by § 6, ch. 113, SLA 1982, has been redesignated "(c)."

Sec. 03.10.054. Sale or transfer of mortgages and notes.

Repealed by § 14 ch 122 SLA 1980.

Editor's notes. — The repealed section derived from § 1, ch. 4, SLA 1964.

Chapter 15. Agriculture Pest and Disease Control Fund.

Section

- 20. Purpose of appropriations
- 52. Limitation on board members

Sec. 03.15.020. Purpose of appropriations. Appropriations available to the Department of Natural Resources or to the Department of Environmental Conservation may be used

(1) to buy materials or equipment needed to control agricultural pests when the persons directly affected cannot bear the total cost and the pest is one that is or may become a public problem;

(2) to charter or hire on a custom basis equipment and operators necessary for pest-control work when the persons directly affected cannot provide the service and the pest is one that is or may become a public problem;

(3) to match federal indemnity payments to livestock owners for livestock slaughtered under any cooperating livestock health program.

(4) to maintain a supply of vaccines, serums and chemicals needed for emergency pest control, that are not commercially available in the state. (§ 2 ch 90 SLA 1955; am § 3 ch 34 SLA 1968; am Executive Order No. 51, § 11 (1981))

Effect of amendments. — The 1981 amendment substituted "Department of Natural Resources or to the Department of

Environmental Conservation" for "department" in the introductory language.

Sec. 03.15.052. Limitation on board members. A member of the agricultural revolving loan fund board may not, during the member's

term of of board. ob; under AS

Effective 1962, made 2, 1982. 01.10.070(c) **Editor's** originally en

Chap

Section
10. State aid
20. Amount
80. Definition

Sec. 03.:
and indust
state, to ass
and (2) pro
and indust
am § 20 ch

Effect of a
amendment ii
the middle of t

Sec. 03.2
held each ye
the operatio
grant of \$10
receive an in
to a maximu
are not eligi
own funds fo
aid and have
for the oper.
sta: aid is o
provision sh:

(b) An agr
applying for
capital impr

(c) For the
whose local r
in preparing
value on don
struction, req

S

B

4

6

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SB 46

BILL NAME: Disposal of state in kind royalty oil + gas.

SPONSOR(S): Moss

RELATED BILLS PENDING:

DATE INTRODUCED: 1-18-83

REFERRALS: Resources
Finance

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELE CONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

June 5, 1981

The Honorables H. Pappy Moss
and Robert H. Bettisworth
House of Representatives
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Representatives Moss and Bettisworth:

You have asked for a review of HB 589, "An Act relating to the disposal of state in-kind royalty oil and gas," concerning possible constitutional problems. Although at this time we cannot unequivocally say that the proposed bill is either constitutional or unconstitutional, we can identify a number of areas in which a serious constitutional challenge might be successfully based. You should also be aware that a novel legislative idea such as this one often carries with it additional potential problems because it gives the court an opportunity to make "new law" in the area. An example in a previous piece of proposed legislation, albeit by initiative, is the Beirne Homestead Initiative. That scheme was overturned on a basis which would have been difficult to predict solely upon a review of the state of the law up until that point; namely, that disposal of land was an "appropriation" under the Alaska Constitution. Thomas v. Bailey, 595 P2d 1 (Alaska 1979).

A similar concern exists with the scheme proposed by HB 589. For example, there are a number of provisions in the natural resources article of the Alaska Constitution which create general principles of constitutional law applicable to disposal of natural resources. Chief among these are Article VIII, section 1:

It is the policy of the state to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest;

June 5, 1981

Article VIII, section 2:

The legislature shall provide for the utilization, development, and conservation of natural resources belonging to the state, including land and waters, for the maximum benefit of its people; and

Article VIII, section 17:

Laws and regulations governing the use and disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

A court could use these general principles as a basis for striking down a particular piece of legislation if the court decides that such legislation does not provide for the maximum benefit to the people, or does not meet some other application of a general standard set forth in our constitution. And, it is ultimately the court which sets forth the particular constitutional standard to be applied to individual pieces of legislation.

Unfortunately, there has been little judicial interpretation or application of these natural resources sections. This would not, however, prevent someone from challenging legislation based upon those section, or the court from using those sections of the constitution as a means of analyzing particular legislation. For example, in the Superior Court case of State v. Amerada Hess (No. CA 77-847, Superior Court of the State of Alaska, First Judicial District at Juneau), the court relied upon one of these general sections as one basis for reaching its preliminary decision. After quoting Article VIII, section 2, of the Alaska Constitution, the Superior Court stated:

However, pursuant to constitutional mandate, the state may not take royalty 'in-kind' unless, after said deductions, it will be in the best interests of the state to do so, which presumably means that it will be receiving an amount at least as great as it would if the royalty was taken "in-value." This is the only interpretation which would comport with the Constitutional requirement that the legislature develop the natural resources "for the maximum benefit of its people." This interpretation is now codified in AS 38.05.182.

June 5, 1981

Memorandum of Decision and Order, April 6, 1979. Although the Superior Court in that case found a constitutional bias in favor of selling royalty oil taken in-kind for at least the in-value price (which would presumably be outweighed if the best interest of the state would require otherwise), its decision was unpublished, and was never considered by the Alaska Supreme Court. Therefore, it is of little precedential value. Cf., Warwick v. State, 548 P2d 384 (Alaska 1976). The decision, however, does point out that a court may use the general natural resource sections of the Alaska Constitution as a basis for analyzing particular legislative schemes. Since there is little judicial precedent for determining how a court would perform that analysis, we may only point out that a novel scheme such as this one would be subject to such scrutiny.

In addition, there are a couple of other areas upon which a potentially successful constitutional challenge to the proposed legislation could be based. One such area is the absolute preference for selling oil to persons who would resell the oil in-state (e.g., "royalty oil and gas . . . shall be given . . . to a person who contracts to process and distribute the oil or gas in the state . . ."). The in-state preference, or the in-state processing requirement, is of doubtful constitutional validity under the United States Constitution. In Reeves v. Stake, ___ U.S. ___, 100 S. Ct. 2271 (1980), the United States Supreme Court indicated that such preference may violate the Commerce Clause of the United States Constitution. More recently, the United States District Court for the District of Alaska ruled that the in-state processing requirement of Department of Natural Resources timber sales was unconstitutional. South-Central Timber Development, Inc. v. LeResche, Case No. A-80-3117 Civil (D.C. Alaska, January 9, 1981). This case is now on appeal. South-Central Timber Development, Inc. v. LeResche. 9th Cir., Case Nos. 81-3053, 81-3081.

At the very least, these cases put in-state processing preference requirements in serious jeopardy. It should be noted, however, that similar, although possibly not as serious, problems exist under current law. See, AS 38.05.183(d).

Finally, Article IX, section 6 of the Alaska Constitution states:

No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose. [emphasis added]

June 5, 1981

A transfer or appropriation that serves essentially private benefits violates the provision. See, City of Yakima v. Huza, 407 P2d 815 (Wash. 1965); In re Skinner's Estate, 303 P2d 745 (Cal. 1956); in re Stanford's Estate, 58 P2d 462 (Cal. 1899). Like a retroactive refund of validly imposed and collected taxes, the giving away of state royalty oil to benefit instate consumers of oil products could be seen as a violation of Article IX, section 6. See Formal Opinions of the Attorney General, September 22, 1980.

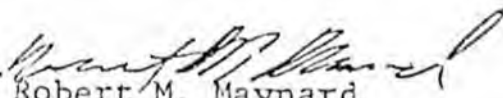
These are the primary constitutional objections which we would foresee could be raised in opposition to HB 589. We have not, obviously, had an opportunity to research each of these questions in any extensive detail. We have also not addressed possible nonconstitutional problems, such as violations of the antitrust laws (particularly the application of those laws to the requirement that subsequent purchasers restrict the price of products made from the royalty oil).

In conclusion, there is no presently existing decision which would clearly say that HB 589 is unconstitutional under either the Alaska Constitution or the United States Constitution. On the other hand particularly because of the unique nature of the proposed scheme, we believe that there are substantial grounds upon which a person could mount serious constitutional challenge to the provisions set forth in HB 589. And, as in any novel area of constitutional law, it is impracticable to predict the odds concerning the ultimate resolution of that litigation.

If you have any questions, please do not hesitate to call.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Robert M. Maynard
Assistant Attorney General

RMM:mr .



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 11, 1981

Mr. Charles P. Rees
P.O. Box 60389
Fairbanks, Alaska 99706

Dear Chuck:

I have reviewed your "Alaskan Oil for Alaskans Now" policy paper and find it most provocative. However, before such a royalty sale could be undertaken, certain questions would have to be answered. For example, should we provide the oil refinery with some, say, 100 million dollars worth of free oil, I would want to see at least a major portion of that 100 million conveyed back to the public in the form of lower product cost. Your paper suggests that they could convey even more than 100 million back. I do not understand how this could possibly be true? Perhaps you'd elaborate.

At any rate, if a comparable savings could be passed on to the consumers, then it should be passed on in such a way as to benefit, as equitably as possible, all Alaskans.

I do not believe it best meets the equity to take royalty oil or any "revenues" which belong to all the citizens of the State, and provide benefits only to those who are able to avail themselves of the program through geographical location or that the amount of benefits should relate to the magnitude of usage.

To make such a program acceptable, perhaps we could assure that all Alaskans would have an option to buy the same amount of cut-rate products. For example, if it were possible to reduce the price of a barrel of gasoline or fuel oil to one-half its current cost through such a program, then the number of barrels available might be divided by the total number of Alaskans and each could be granted an option to purchase a like amount. Those who chose not to do so would, of course, have a negotiable instrument which others could purchase from them.

Unfortunately, experience to date does not indicate that the conveyance of lower cost royalty oil necessarily translates into a savings to Alaskan consumers. For example, the \$7.00 per barrel oil now available for Tesoro's refinery has not been reflected into any significant price differential

Mr. Charles P. Rees

-2-

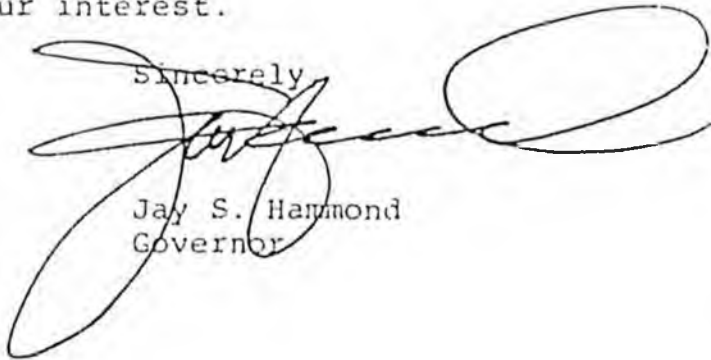
May 11, 1981

between their product costs and those of companies which must ship that royalty crude elsewhere and then the refined product back to the State. One would assume that those transportation charges could be deducted. Similarly, the oil refined at North Pole has not, to my knowledge, made products substantially less costly to the consumer in the Fairbanks area.

I'm enclosing a copy of a recently revised paper sent to all the mayors in relation to the last royalty oil sale pointing out some facts of life which I believe are most pertinent. At the time of that sale, I urged anyone desirous of refining royalty oil here in the State to present me with a proposal which would indicate that anything like a comparable benefits could be conveyed equitably to Alaskans as I had proposed be done with the royalty premium. No suggestions were even forthcoming. Therefore, until I see the particulars of some plan which better meets the equity test and provides a far more discernible benefit to Alaskan citizens than any seen to date, I must remain skeptical that the conveyance of lower cost royalty crude to in-state refineries will materially improve the lot of the average Alaskan consumer.

Many thanks for your interest.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Jay Hammond', is written over the typed name and title.

Jay S. Hammond
Governor

Enclosure

AGO 787079



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

I appreciate your expression of interest in the bidding procedures for the competitive oil sales. Unfortunately, there appears to be a good deal of misinformation about the procedures and the sale. First, let me clear up some of your apprehension about preference for instate refiners. The bidding procedures do set up a priority system for qualified instate refiners and suppliers, giving them right of first refusal on the lowest priced lots offered at the sale. Chevron, Shell, Union and Tesoro lots all received priority designations for varying amounts of royalty oil; the amounts are based on amounts they actually process, or will process, in Alaska, or supply in refined products to Alaska.

A look at the existing refiners discloses some interesting facts. Alaska has three refineries -- Mapco-Alaska (formerly Earth Resources) at North Pole, Tesoro Petroleum and Chevron at Nikiski. Mapco-Alaska has an existing long-term contract with the State for up to 15 percent of Prudhoe Bay royalty oil. At current production levels, Mapco's royalty crude share is 28,125 barrels per day, and the company has nominated the full entitlement.

Tesoro Petroleum has a long-term contract for all the State's royalty share of Cook Inlet oil production, a one-year contract, which ends June 30, 1981, for about 4,600 barrels per day of Prudhoe Bay royalty crude, and another one-year contract, which runs from July 1, 1981 through June 30, 1982, for 4,963 barrels per day of Prudhoe Bay royalty crude. Tesoro can technically process only about 5,000 barrels per day of Prudhoe Bay oil at this time, so the royalty contract covers the full amount of high sulfur Prudhoe Bay crude the refinery can currently handle.

This spring Chevron converted to the use of 100 percent Prudhoe Bay crude as feedstock, and now processes about 12,000 barrels per day. It, too, has a short-term contract, which ends June 30, 1981, for 4,600 barrels per day of Prudhoe Bay royalty oil. In addition, Chevron owns about 12,000 barrels per day of North Slope crude and about 7,500 barrels per day of Cook Inlet crude. All three refineries process a total of approximately 100,000 barrels per day, of which 50,000 barrels are exported from the state either as unrefined or as residual oil for further refining outside, or for fuel for outside utilities.

It appears then that additional short-term sales to these facilities would not automatically result in any meaningful price or supply relief to Alaskan residents. I am encouraged, however, that these instate refiners are examining the possibility of modifying their plants to increase their utilization of North Slope crude oil. Accordingly, in the coming year, the State of Alaska intends to consider means of making its royalty oil available to these companies on a longer-term basis than is practical at this time.

The breakdown of the 50,000 barrels per day of refined products is also interesting. About 10,000 barrels become gasoline and some 14,000 become heating fuels for Alaskan use. The major production, some 24,000 barrels, is for jet fuel used mainly for foreign and military aircraft. About 1,000 barrels are made into asphalt and other products. Thus, if we were to subsidize these refiners by providing crude oil for less than its market value, we could expect, at the most, return benefits of no more than 24 cents for every dollar of subsidies, and then those benefits would go only to those who consumed the refineries' particular petroleum product. The other 76 cents of benefits would go to the refiner or outside purchaser.

Alaska's Constitution, however, obligates us to maximize usage of our natural resources in the public interest, not that of the government's or the interest of one select group. It should be remembered that bid premiums are monies which the State would not have received at all if it were not for the competitive sale which requires that the royalty oil be sold for a price greater than the current in-value price.

By distributing the added value dollars directly and equitably to all Alaskans, we will inject millions of dollars into the collective private economy rather than into State coffers or corporate accounts. This money will flow directly into citizens' hands and thence into the private economy, not into more government or some subsidized industry.

I am happy to have had this occasion to present you with some more pieces of the picture.

Jay S. Hammond
Governor

TO The Honorable Jay S. Hammond
Governor of Alaska

DATE: June 1, 1981

FILE NO:

TELEPHONE NO. 465-2400

FROM: Robert E. LeResche
Commissioner
Department of Natural Resources

SUBJECT: Analysis of Royalty Oil
Proposal by Alaska Oil
for Alaskans Now

In response to your request, attached is an analysis of the proposal for distribution of royalty oil advanced by Alaska Oil for Alaskans Now (a.k.a. "61 for 66").

Analysis - Proposal for Royalty Oil Distribution
by Alaska Oil for Alaskans Now

A group known as Alaska Oil for Alaskans Now has made public a proposal for distribution of Alaska's royalty oil, which is embodied (with some differences) in HB 589 (hereafter "Proposal").

In summary, the Proposal envisions that the State would contract with persons to refine and distribute royalty oil, passing on to consumers only the cost of processing and distribution after deduction of a "reasonable profit". The State would be responsible for insuring that prices charged consumers by distributors did not exceed the price authorized by the State in accordance with the above formula. Consumers operating only partially in the State would receive proportioned discounts; e.g., airlines would be credited with discounts only for fuel burned in Alaskan airspace. Contracts would be terminated by the State for violations of its regulations governing allowable costs, reasonable profits, pricing, and other provisions.

Although HB 589 authorizes distribution of royalty gas in the same fashion, the Proposal is primarily directed at royalty oil. The drafters contend that prices would be reduced for gasoline and heating fuel by 66¢/gallon, along with reduced rates from 2% to 35% for electricity and for truck, rail, and air transportation.

The Proposal also recommends a Termination Fund to cushion the effects of returning to world oil prices when the royalty oil runs out. The Fund would be constituted with the proceeds of price increases once US retail prices exceeded \$10/gallon over the Alaskan price.

There are a number of very serious drawbacks to this concept which far outweigh the benefits described by the authors. These defects render the Proposal not only unworkable but contrary to the interests of the vast majority of Alaskans. There are no apparent practical modifications which could be made to the Proposal to eliminate these deficiencies. A summary of the principal problems is as follows:

1. Inequitable Distribution of Benefits

Under the Proposal, the State would be giving away the public's royalty oil exclusively to instate refineries on the condition that the consumer would pay only the cost of processing and distribution plus a "reasonable profit". This would be inherently unfair to those areas of Alaska (e.g., Southeast, Western Alaska) which presently import all of their refined fuel products from the lower 48. Even if the Proposal eventually allowed instate refineries to displace the existing suppliers of imported products, it would not be until substantial expansion and retrofitting of these refineries had been completed. Thus, some Alaskans would realize benefits immediately while others would go unrewarded for a number of years.

Moreover, even if all demand were met by products refined instate, the relative benefit received by each citizen would vary by several orders of magnitude, depending on fuel consumption. The resident of a Pioneer's Home, for example, would realize virtually no benefit compared to the owner of a poorly insulated six bedroom house with two large cars and assorted recreational vehicles. While conceptually many persons may favor the idea of reduced fuel costs, any consensus will vanish when the specifics of refining and distribution contracts are taken up. The complaints which would be visited on legislators and administrators would rival those accompanying institution of a new graduated income tax or gasoline rationing, reaching greater intensity after the system were established and the disparities noted. Remedial legislation would be demanded annually to rectify the inequities complained of.

2. Conservation/National Image

The prevailing factor stabilizing fuel costs at the present time is an international glut of oil supplies. While this can be partially attributed to Saudi Arabian pricing and production policies, the primary cause has been a dramatic decline in fuel consumption by the United States and other oil importers which exceeded all forecasts. Any reduction in fuel prices of more than 60¢ per gallon is bound to have some adverse effect on fuel conservation by creating an artificial demand. Furthermore, while one can argue about the amount of additional consumption which would be stimulated, Alaska would create the appearance of flaunting its oil wealth and undermining a national effort to encourage energy conservation and maximize strategic hydrocarbon reserves. This can only facilitate potential Federal schemes to capture and redistribute Alaska's oil revenues.

3. Creation of False Economy

The OPEC cartel has succeeded in making oil the most valuable commodity in the world. It also controls the price. That price in turn dictates the relative health of Western economies and the operating constraints of any business that is fuel dependent. While an artificial reduction in fuel prices may generate new fuel dependent businesses that otherwise would not be profitmaking, it cannot change the fact that the business is fuel dependent. Consequently, those new businesses exist solely because of a State oil giveaway. When the demand for subsidized royalty oil exceeds the supply, or the royalty oil supply inevitably declines, those businesses will experience a very high failure rate. Unless oil discoveries on State land in the next few years are sufficient to offset the demise of the Prudhoe Bay reservoir (a promise no geologist would make), that decline will begin in the next 10-15 years. One can imagine the chaos which would ensue in the Western economy if OPEC were to suddenly slash prices to \$15 per barrel, stimulate a substantial increase in growth based on fuel consumption, and then begin cutting off production. Unless one is willing to

assume a continuous volume of royalty oil for decades, implementing the Proposal would lead to a similar chain of events.

The Termination Fund contained in the Proposal purports to soften the effects of an eventual return to world oil prices when royalty oil runs out. However, contributions to the Fund do not even begin until the world price exceeds the subsidized Alaskan price by \$10 per gallon. Expecting the Fund to "cushion" what would then be a 1000% price increase is like suggesting that Anchorage could have tolerated the Good Friday earthquake if it had been spread out over a couple of weeks.

Moreover, since fuel dependence is characteristic of many businesses in Alaska, the cumulative effect would be to create an economy which is not based on reality, and aggravated by the fact that its false premise would concern the world's most sought after commodity. Once created, it could not be neatly dismantled when subsidized royalty oil ultimately disappeared. Many businesses (especially so-called spinoff enterprises from direct recipients of subsidized oil) would not realize their dependence on continued royalty oil, particularly since the program carried a State endorsement. The inevitable crash would be severe; it would also coincide with a substantial decline in State revenues, leaving no source for assistance.

4. Reward for Inefficiency

The Proposal would penalize those businesses which have undertaken capital expenditures to improve long term fuel efficiency. For example, an airline which had upgraded its fleet to aircraft with improved fuel consumption would receive a smaller benefit than one which continued to fly antiquated, consumption-intensive planes. Encouraging fuel inefficiency is antithetical to the Proposal's objective of reducing the effects of fuel costs on consumers.

5. Administrative Cost/Government Intervention

While the authors seem to marvel at the sophistication of State contracting techniques, a contract merely sets out the rules and understandings between the parties; it cannot make duties perform under the contract any less complicated than they actually are. It would require a virtual army of bureaucrats in green eyeshades to monitor, audit, and enforce the type of contracts which the Proposal envisions.

In order to insure that cost savings subsidized by the State were actually passed on to consumers, the State would have to be intimately familiar with each refiner's production, amortization, debt service, taxation, labor, and transportation costs. The calculation would be complicated given that the proportion of operating costs attributable to different refined products varies considerably. Presumably, the State would also pass judgment on operating procedures, debt packages, plant modifications, and other matters which affected

consumer costs. Wholesale and retail distributors would require similar scrutiny, and owners of gas stations selling tires and equipment, repair services, and groceries could expect lengthy sessions with State inspectors to determine which operating expenses could be rolled into gasoline prices. The ultimate result would, of course, be government price fixing (specifically authorized by Section 7 of HB 589), a concept seldom greeted with enthusiasm in Alaska. This specifically includes a determination of "reasonable profit".

Monitoring consumer costs for transportation entities would also be complex, requiring auditors specializing in the procedures used by the Civil Aeronautics Board, the Interstate Commerce Commission, and other agencies with jurisdiction over rail, truck, and air commerce. It is difficult to imagine obtaining an accurate calculation of aviation fuel burned in Alaska airspace on interstate/international flights short of monitoring the fuel consumption and payload of each flight leaving the State.

Furthermore, the State will be responsible for keeping track of all subsidized fuel produced and distributed in the State to prevent unlawful resale in excess of the government authorized price (either through cash or in kind payments).

Therefore, regardless of the method of contracting used, execution of the Proposal would be logistically impractical, expensive, and lead to an unacceptable level of government involvement in private affairs. It would make refineries, in essence, public utilities.

6. Inequitable Availability

While the Proposal envisions contractual guarantees insuring that cost savings are passed on to consumers, there is nothing to prevent refiners and distributors from entering into contracts with consumers for assured supplies, or otherwise granting preferred customer status. Certainly, it would be to the advantage of any business to tie up supplies of subsidized royalty oil. When, however, the supply of subsidized oil failed to meet instate demand, any new business would have to obtain fuel at world prices, placing it at a substantial (and probably fatal) competitive disadvantage. The alternative would be government controls insuring that all consumers were treated with equality regarding both volume and price.

7. Effect on Existing Refineries

The Proposal might well attract new refineries to the State, but the circumstances under which they would arrive would be questionable at best. Given the provision for "reasonable profit" and the apparent first come, first served basis of contracting anticipated by the Proposal, those rewarded would be those first on line notwithstanding their relative emphasis

on cost effectiveness, desirability of product slate, and percentage utilization per barrel. Existing refineries would be forced to either enter the race or risk being put out of business, modifying at least portions of their current plans for expansion for the sake of speed.

However, if the authors of the Proposal desire to maximize cost savings to the consumer, they would probably support a large, sophisticated refinery along the lines of that being designed by the Alaska Oil Company (formerly Alpetco), which could come on line sooner than a massive retrofit of existing refineries and would provide more than 90% utilization per barrel (as opposed to the current average 49% by existing refineries). This would likely insure the disappearance of the refinery at North Pole and the two at Nikiski.

8. Effect on Existing Businesses

It must be remembered that many current Alaska businesses have designed their operations and products based on the price of oil versus alternative fuels, or simply the price of oil itself. Were there a sudden and dramatic change in oil prices, the effects could be considerable. For example, the coal-fired powerplant at Healy might find it economic to convert to oil, leaving Usibelli Coal Mines with no domestic market. Automobile dealers who have ordered small, fuel efficient cars might find demand returning instead for larger models not in stock. Consequences of this nature would be common if a basic element of the economy is changed on short notice.

9. Reduction of State Revenues

The three refineries presently in Alaska average only 49% per barrel actually processed into refined products; the remainder is residual oil. A recent report by the House Research Agency estimates instate demand for refined products at somewhere between 57,000 and 89,000 b/d. Assuming 75,000 b/d of demand, it would require approximately 150,000 b/d of royalty crude given away to produce 75,000 b/d of refined product to meet instate demand (even assuming that the combined product slate would correspond to the demand for each product, which is highly unlikely). Giving this much royalty crude to refineries would not leave enough to bank the 25% of all royalties in the Permanent Fund, as required by the Alaska Constitution. However, producing anything less than current instate demand with subsidized royalty crude would create severe problems in equitable availability, described in Paragraph 6 above.

The revenue loss to the State would be extremely significant. Using the March, 1981, price of \$25.90 per barrel, losses would be \$3,886,000 per day and \$1,418,403,000 annually. The losses

are large because royalty revenues constitute about 35% of the State's income. Energy development projects, capital improvements projects, loan programs, the capital move, and/or contributions to the Permanent Fund would have to be scaled down or eliminated to offset the loss.

10. Elimination of Import Distribution Systems

The Proposal assumes that, within a relatively short period, all fuel products consumed in Alaska would emanate from instate refineries because of subsidized royalty oil. It also assumes that royalty oil supplies will, at some point, come to an end. If national oil supplies are short at that time and existing suppliers are squeezed out in the interim, reinstating imports and the accompanying distribution system may be neither easy nor inexpensive. The House Research Agency Report on Petroleum Refining details the import distribution network that would be eliminated.

11. Reduced Interest in Alternative Energy

Alaska has exercised considerable leadership in the national effort to develop alternative energy sources. Programs are under way in the areas of geothermal energy, wind and tidal power, coal development, large and small scale hydroelectric projects, fiber and biomass utilization, and energy conservation. Many of these programs are State operated or supported (e.g., leasing and inventory programs, loans, grants, Energy Center, home energy conservation, etc.). The incentive for these programs as well as businesses which have already emerged to develop them would be severely dampened by the sudden availability of inexpensive hydrocarbon fuel, yet the ultimate need for them is inevitable.

SUMMARY

Ultimately, the Proposal is unacceptable because, aside from its impracticality, it is dissimilar in principle from other programs either implemented or under serious consideration involving using or distributing the State's wealth for the benefit of its citizens.

First, it represents a massive distribution of the State's finite capital assets rather than merely the proceeds from the investment of those assets (e.g., Permanent Fund dividends) or singular benefits from the sale thereof (royalty auction premium distribution).

Second, it constitutes a distribution which is inherently inequitable for the reasons stated above. A distribution of this size must be fair given that the resource is owned equally by all Alaskans.

Third, it is not specifically directed at identifiable capital improvements projects or other programs calculated to augment shortcomings in the State's infrastructure. In particular, it does not resemble State programs to front-end the development of

7

new industries (e.g., bottomfishing, agriculture) with the expectation that they eventually will become self-sufficient and pay their own way. Rather, it only subsidizes fuel dependence, and a business which owes its existence to such a subsidy has little chance to survive and become self-sufficient unless it can somehow eliminate its fuel dependence, an unlikely prospect.

11/14
Rebuttal to Le Resche - Analysis of Royalty Oil Proposal by "Alaska
Oil for Alaskans Now"
Reference HB 589

The first few paragraphs summarize to some degree the proposal as written in HB 589. The fifth paragraph notes "serious drawbacks which far outweigh the benefits described by the author". It also indicates it is "contrary to the interests of the vast majority of Alaskans."

I disagree that it is contrary to the interests of a vast majority of Alaskans. How much is a majority - 200,000 or 300,000? Every Alaskan that eats, drives a car, rides the ferry, flies in an aircraft, rides a train, rides a bus, heats his home, uses any machinery that operates on fossil fuel will benefit. The statement that the vast majority will not benefit is hogwash. We are discriminating against a vast majority of Alaskans at this very moment. We have loan programs, health programs, welfare programs and many other programs we are spending millions on that certainly do not address the needs of a vast majority of Alaskans.

One group gets a lions share of a particular program not all Alaskans. Another group gets the lions share of another program and so on. The "Alaska Oil for Alaskans Now" proposal in HB 589 will give something to every Alaskan without it costing them a single cent in Federal income tax. All the other programs will sooner or later have an effect on a persons Federal income tax. If you don't take the money out of a persons pocket in the first place, the Feds can't take you.

Page 2, first paragraph: This indicates the benefits will be inequitable. I have noted above some of my thoughts on this paragraph. They mention a person in the Pioneers Home would not have the relative benefit of a citizen who has a home and cars. I dispute that by pointing out that if the cost of fuel is lower, it won't cost as much to operate the home and the extra funds can be used to provide better living conditions for those in the homes.

Page 2, second paragraph: I think they are all wet by saying a decrease in the cost of fuel will cause waste. Who are we to say the folks will deliberately waste our energy? They are not asking for more energy - they just want us to cut the cost so they can afford to stay warm and eat at the same time.

LeResche says that by reducing our energy costs, "Alaska would create the appearance of flaunting its oil wealth and undermining a national effort to encourage energy conservation and maximize strategic hydrocarbon reserves." Hog wash. I might point out that business about strategic hydrocarbon reserves is a smoke screen too. Our newly nominated Commissioner of Resources, Mr. Katz, has just come out with the deal that we should put our oil in a hole somewhere in a Federal Oil Reserve. I say to heck with them. They get over 40% of the income from the Prudhoe oil field now. If they want to put in a reserve system, let them use their 40%.

Page 2, third paragraph: This indicates we would create a false economy with our proposal. He says the result sometime in the future would cause chaos in the western world. He refers to the decline in royalty oil productions. I personally think this is incorrect anytime in our lifetime. By using some of our royalty oil now, we can defray some of the cost savings in developing our coal industry. This energy resource has barely been looked at.

He refers to the possibility that OPEC would reduce oil prices to fifteen dollars a barrel then raise them again. I feel our proposal would not be affected by this maneuver.

Page 2, paragraph 4: Le Resche refers to rewards for inefficiency. It says that it would penalize those businesses that have undertaken capital expenditures to improve long range fuel efficiency. The fact these more efficient operations will all benefit by lower cost fuel is completely overlooked by throwing sticks at those businesses who haven't had sufficient funds to develop more energy efficient operations, mainly because of the present excessive cost of energy.

Page 2, paragraph 5: He refers to "a veritable army of bureaucrats in green eye shades to monitor and enforce the type of contracts the proposals envision." That could be true because every program that is in operation seems to encompass exactly the army he refers to. I think that the proposal is straight forward and could be operated within the present "Veritable army of bureaucrats with green eye shades" without adding any more green eye shades. This fact alone could create some savings.

He worries about follow-up by the State to see that the savings are properly passed on. He envisions more work to do this. I think we will have over 400,000 people doing this to make sure the prices are in line.

Page 2, paragraph 6: This states there will be inequitable availability. It is not the intent of the proposal to prevent any retailer from having access to the energy. If this is not clear, I'm sure it can be corrected if the Legislature will just get going on this proposal.

Page 2, paragraph 7: He indicates that this proposal could make the refinery at North Pole and Nikiski disappear. Hog wash. This is not what I hear. These refineries could be on line in a short time producing low cost energy.

He refers to a super refinery such as Alpetco being the best. Again, I would point out that the past efforts of the Resources Department to initiate this sort of thing is indicative of the type of bungling we have encountered that has delayed cheaper energy for Alaskians.

Paragraph 8: He refers to the effect on existing businesses and uses the Usibelli Coal Mine as an example where a domestic market could be lost. Here again, I say hogwash. He is just grasping at straws when he says they would consider converting to oil for the generation of electricity. This is just another smoke screen.

Paragraph 9: This indicates a reduction in state revenues. He refers to a significant revenue loss to the state. Here again a smoke screen arises. Just: who is the state? A bunch of bureaucrats or the people? There will be absolutely no loss to the state because the state is the people and they will receive the benefits of their revenue in a more direct manner without having to wait for bureaucrats to pass on some little bit of the states revenue at the bureaucrats convenience. He refers to losses of \$3,886,000 per day. Again, I say there is no loss because the people will have a direct benefit.

Paragraph 10: This refers to elimination of ~~import~~ distribution systems. I don't see how we will eliminate any of the distribution system. The only difference I see is the use of the same distribution system filled with lower cost energy rather than the present higher cost energy.

Paragraph 11: This indicates a reduced interest in alternative energy. He states the "sudden availability of inexpensive hydrocarbon fuel" would eliminate the interest to continue the efforts to create renewable energy. I don't think this is so because inexpensive hydrocarbon fuel would provide lower costs in obtaining these renewable resources at an earlier date.

The summary states "the proposal is unacceptable"; "it is dissimilar in principal from other programs"; "under serious consideration". Now I have taken these statements out of context but they are the core of Mr. Le Resche's objections to HB 589 and "Alaska Oil for Alaskans Now" proposals. It seems to me that if the bureaucrats didn't think of it, then it must be no good.

To sum up myself, I will be the first to admit that proposal may have some rough edges, but when twenty thousand voices speak out, it is time the burcearcracy should listen.

I congratulate those who have spent a lot of their time and sustinance to bring this proposal to the forefront. We must not be discouraged by the apparent lack of concern of those of the bureaucracy. Sooner or later they will have to listen. The roar of the voice of the people will drown out the bureaucrats voices of opposition.

must observe a dress code this year in order to be admitted to the Senate floor.

Meanwhile Linda Wild, aide to House Rules Chairman, Jack Fuller, D-Nome, said that chamber will require only that reporters supply their names and organizations before being admitted to the floor. On the Senate side, photographers will not be required to dress "decently" Faiks said, because they must work with heavy equipment.

The dress code will require men to wear shirts with collars, ties and slacks. Women must wear dresses, or blouses or sweaters with skirts. Slacks also will be allowed. "T-shirts, denims or blue jeans are not acceptable," Faiks said.

Reporters and photographers will be required to get special identification cards in order to be admitted to the Senate floor, Faiks said. The cards will cost reporters \$5, and newspeople also must have I.D. pictures taken at the Department of Motor Vehicles.

Joe La Rocca, a press corps veteran who supplies news and commentary to several newspapers and broadcast organizations, said, "I object to that."

"So noted," replied Faiks.

La Rocca said he objected to the \$5 fee as well as the specially issued identification cards as reporters have other forms of press ID available.

Moss Bill Resurrects Plan To Reduce Oil Costs

A plan to set aside a portion of state royalty oil for free distribution to Alaska refiners has been resurrected by an Interior legislator.

Newly elected Sen. Pappy Moss, D-Delta Junction, has refiled a bill (SB 46) to create a program that could lead to substantially cheaper oil products for Alaskans. However, similar proposals introduced last year by Moss (a member of the House then) and Sen. Don Bennett, R-Fairbanks, received only one hearing and died when the legislature adjourned.

The plan, authored and pushed last year by the Fairbanks-based group "Alaska Oil for Alaskans Now," could save Alaskans 66 cents a gallon off the current price of petroleum products sold in the state, according to proponents.

Under the plan, part of the state's royalty oil would be distributed free to in-state refineries. They would then process the oil into heating oil and for auto, boat and aviation fuel. The fuel products would then be sold to Alaskans at the cost of refining it, leading to substantial savings over current prices, the backers of the plan said.

State Offices to Change Hours

Gov. Bill Sheffield has ordered the state work day shifted one hour later in Southeast Alaska in an effort to make the capital more accessible to the rest of the state.

Sheffield's order took effect Jan. 10, when normal work hours in the Southeast became 9 a.m. to 5:30 p.m. Pacific time — 7 a.m. to 3:30 p.m. Alaska time — a change from an 8 a.m. to 4 p.m. work day.

Sheffield also ordered state telephone switchboards to be opened from 8 a.m. to 5:30 p.m. PST (6 a.m. to 3:30 p.m. AST).

This change is more convenient for the railbelt and western Alaska to do business with Juneau and vice versa, Sheffield told Commonwealth North in Anchorage. Because Southeast is two time zones away from Anchorage and Fairbanks, when state employees in Juneau leave work at 4:30 p.m., it is only 2:30 for most Alaskans. He said he knew this was a sacrifice for state employees in Southeast Alaska but they sincerely want to heal the wounds of the capital-inove fight and they want to do their part to make the capital more accessible.

Access to state government, which is headquartered in Juneau, was the focus of the debate this fall over whether the capital should be moved at a cost of \$2.8 million to Willow, 80 miles north of Anchorage. The change of work hours is just one of several moves the Sheffield administration is studying.

Other plans include expanded use of telephone conference calls — known as teleconferencing — and setting up a toll-free telephone number information service, said Lisa Rudd, commissioner of administration. There also has been some discussion of changing time zones, she said.

Sen-elect Rich Halford, R-Chugiak, wants to replace the Permanent Fund Dividend program with an "energy Dividend Fund" to help pay the capital costs of power projects and reduce monthly electric bills.

Halford has drafted a bill that would establish the fund and provide a means for forming electric service areas to tap it. The measure also would spell out how capital cost-savings resulting from the funding must be passed along to the consumer. The fund, half of Permanent Fund earnings, would this year contain about \$150 million with substantial increases in future years as the Permanent Fund fattens from oil revenues.

The energy fund would pay only a part of a given project's capital cost, with the remainder coming from revenue bonds, Halford explained, adding that the fund's "stable revenue stream" would make it easier to issue bonds.

In a related development Gov. Bill Sheffield is examining the possibility of using permanent fund earnings to help finance the \$5.1 billion Susitna Hydroelectric Project and it was said by the governor's press secretary, Pete Spivey, the governor wants more study on the idea.

Freeman Sued by Campaign Chief

Former State Rep. Oral Freeman of Ketchikan is being sued by the man who managed his brief and unsuccessful bid for the Democratic nomination for governor.

In a suit filed in Anchorage Superior Court, Bill Weimar alleges that Freeman owes him more than \$3000 in salary and expenses.

According to court papers, Freeman hired Weimar last December to run the campaign. Freeman said he offered Weimar \$2000 a month as long as his campaign funds lasted. But the financially strapped campaign collapsed June 1st because there wasn't enough money to continue.

Weimar's attorneys contend he should have been paid \$14,000 but he got little more than half of that and he is also asking reimbursement for \$16,8000 in expenses.

Judge Rejected by Voters Accepts Legislative Post

An Anchorage district court judge who was turned out of office by the voters in November has been hired as staff counsel for the House Judiciary Committee.

Joseph Brewer was one of two judges deemed not qualified by the Alaska Judiciary Council, which recommended he not be retained on the bench.

The Judiciary Committee controls the budget for the council, and acting director Buooy Troxell said he is concerned that Brewer might take advantage of his position to retaliate against the council. In an advertising campaign to retain his seat, Brewer questioned whether council expenditures to inform the public of judges ratings was another boondoggle.

Brewer said he had no ax to grind, that he was tired of controversy and he was going to be a work horse on laws people want. Brewer had been a judge for 17 years.

Hammond Aide Considers Taking Murkowski Post

Jerry Reinwand, former Gov. Jay Hammond's top aide, might go to work for the state's junior senator, Frank Murkowski, to avoid the unemployment line.

Reinwand said he talked to Sen. Murkowski about a job in the nation's capital. Sen. Murkowski said he had talked with Reinwand about it but unfortunately, like so many Alaskans, Reinwand wants to establish his future in Alaska.

Murkowski said he is looking for someone to manage his Washington office. He added he and Reinwand had not reached any agreement and didn't think they would. Reinwand, who shuns the public limelight, said he is continuing discussions with Murkowski and with other people.

AGO 787093

Reappointment of Deputy

RELATING TO THE DISPOSAL OF STATE IN KIND ROYALTY OIL AND GAS.

SB 46

MOSS

Allows DNR to give royalty oil and gas taken in kind by the state to contractors who will process and distribute the oil or gas within the state. Only the costs of processing and distributing plus "a reasonable profit" can be charged the consumer. DNR is to adopt regulations for the implementation of this act.

(Basically the same as the Alaskans for Alaska Oil Now proposal.)

PETITION FOR THE PROMULGATION AND
ENACTMENT OF REGULATIONS CONCERNING
THE USE, REFINING, PROCESSING AND
DISTRIBUTION OF "ROYALTY" OIL AND
GAS AND THEIR PRODUCTS WHICH ARE UL-
TIMATELY USED AND CONSUMED WITHIN
THE STATE OF ALASKA

TO THE HON. JAY HAMMOND, GOVERNOR OF THE STATE OF ALASKA:

THE UNDERSIGNED RESIDENT CITIZENS OF THE STATE OF ALASKA,
In order to provide the Citizens of Alaska with less expensive
fuel, automobile and aviation gasoline, diesel and jet fuel, fer-
tilizer and other petroleum products, and thereby make the cost
of living and transportation in Alaska more reasonable, and

In order to encourage the building of oil refineries,
propane and butane liquification plants, petrochemical and fertil-
izer plants within Alaska, and to provide employment for Alaskans
in said plants and in the distribution of the products so produced
and refined, and

In order to provide the citizens of Alaska with an adequate
supply of natural gas, heating oil, propane, butane, automobile and
aviation gasoline, diesel and jet fuel, fertilizer and other petro-
chemical products at reasonable prices where said products are sold
and consumed within Alaska,

Petition and demand that you promulgate and enact the fol-
lowing rules and regulations for the disposition and use of the
"Royalty" gas and oil which belongs to the State of Alaska under any
lease, agreement or law, as and when it is produced and available,
from oil and gas produced in Alaska or its territorial waters or
navigable streams:

PROPOSED RULES AND REGULATIONS

1. The first and prior right to use the oil and/or gas
produced and belonging to the State of Alaska known
as "Royalty" oil or gas under any lease, agreement,
rule, regulation or law from any land, or territor-
ial waters, or navigable streams of said State, shall
be to use said oil, gas, or their products, for in-
state use as defined in these rules and regulations.

2. The State of Alaska shall agree to contract to furnish as and when produced and available free "Royalty" crude oil or natural gas to any:

- (a) oil refiner,
- (b) natural gas processor,
- (c) natural gas distributor, and/or
- (d) any petrochemical company using petroleum or natural gas as a raw material for the production of petrochemical products

whose refinery, processing plants and equipment, distribution equipment and/or petrochemical plants and facilities necessary for the processing, refining, manufacture and distribution of said products to the ultimate user in Alaska are physically located in Alaska. Said refined, processed and distributed products are defined as any said petroleum product which is

- (a) produced, refined, processed and is ultimately used and consumed within the State of Alaska or
- (b) within it's air space, or
- (c) territorial waters, or
- (d) adjacent Federally designated Fishing Waters when used in Alaskan owned, registered and ported vessels manned by Alaskan residents,
- (e) upon it's streams and lakes.

"Royalty" oil or gas, as used herein, means oil and/or gas said State receives as "Royalty" from oil or gas production as and when produced and available, sufficient to produce or furnish such refined or processed products to the ultimate customer users in said State, provided said saving resulting from use of said free "Royalty" oil or gas is passed directly on to the said ultimate user and consumer by a price reduction of said product comparable with the savings realized by receiving such free "Royalty" oil or gas.

3. Said agreement and contract with each said refiner, processor and distributor shall provide:

- (a) that said recipient of said "Royalty" crude oil or gas shall keep adequate and accurate records for all of the said "Royalty" oil and gas that is received by said recipient and the amount and product that is refined, processed, produced and sold from the same;
- (b) shall show the amount charged for and quantity sold and to whom sold and distributed;

- (c) shall require each recipient to file monthly reports, signed and sworn to by the person processing the same and the highest official of said refinery, plant or retailer, to the effect that all the requirements of said contract are being met and complied with by such refiner, distributor and/or retailer;
- (d) providing that upon failure of any such processor, refiner, distributor or retailer to comply with the material terms of such contract that the State can cancel such contract and cut off free "Royalty" oil or gas to such refiner, processor, distributor or retailer;
- (f) providing that any such refiner, processor, distributor or retailer who fails to pass on to the ultimate consumer and user of said product the saving realized by the use of said free "Royalty" oil or gas or sells said products refined and produced from such "Royalty" oil or gas for consumption outside the State of Alaska as defined herein, shall be liable for treble damages in any suit brought for the recovery of improper profit, and that the officials signing and swearing to false reports concerning the use of such products shall be criminally liable for such perjury and providing further that no person, firm or corporation who has violated the terms of such agreement shall be permitted thereafter to refine, process, distribute or sell any such "Royalty" oil or gas product in Alaska thereafter.

DATED on this the 13th day of May, 1981

S

B

4

7

MEMORANDUM

State of Alaska

TO: The Honorable Bettye Fahrenkamp
Alaska State Senate

DATE: March 21, 1984

FILE NO:

TELEPHONE NO:

FROM: Sharon L. Barton *B*
Special Assistant
Department of Natural Resources

SUBJECT: SB 297 and SB 298
Requested
Information

The following is a summary of the AAAC loans made to date:

Delta I - 22 tracts with 21 loans made to date, 5-year moratorium on payments, 40-year contract, 6% interest on loans from the original appropriation and 8% on the 1983 supplemental, first payments due in July 1984.

Delta II - 15 tracts with 15 loans to date, 4-year moratorium on payments, 40-year contract, 8% interest, first payments due in 1986.

Pt. MacKenzie - 31 tracts with 30 loans made to date, 4-year moratorium on payments, 40-year contract, 8% interest, first payments due in 1986.

During 1984 a total of \$25,000 is scheduled for repayment. DNR does not have a breakdown of payment schedules beyond 1984. That information is available through the AAAC.

Financial summary of AAAC loans:

	<u>Funds encumbered</u>	<u>Drawn to date</u>
Total Clearing Funds	\$16,048,154.00	\$11,837,980.00
Delta I Original Loan	8,964,170.00	8,547,716.00
Delta I Supplemental	370,168.00	68,609.00
Delta II	4,125,600.00	2,241,207.00
Pt. MacKenzie	2,958,384.00	1,049,054.00

If you have further questions, please let me know.

What is the original schedule for repayment on the land clearing?

The first land clearing reimbursements are due to the state on May 31st, 1984. These payments would be from the 22 Delta I farmers, who entered their contracts with the state in 1978. There are 15 Delta II farmers and 31 Pt. McKenzie farmers that entered their contracts in 1982, whose first payments will not be due until 1986.

There is 40 year payback period from the date the contracts were signed. The three year moratorium does not extend that 40 year period. The entire amount will still have to be paid back by the end of forty years from the signing of the contract. In effect, the moratorium makes the land clearing reimbursement due over a 37 year payback period by pushing back the starting date for repayment. The yearly payments will be slightly increased, while the amount of interest paid will be slightly reduced.

Is 40 years an excessively long loan period?

No. In the lower 48, most agricultural land loans have a term of 30 years. On Delta I and II, the buyers were given an 20 year term on their land payments. To balance their payments to equal the 30 year national average, the Agricultural Action Council decided on a 40 year term for their land clearing payments.

How will a three more moratorium help?

Three more years will give the farmers more time to get their land into good condition, and to get their farms into production. There have been unanticipated problems in getting the land cleared. Among them is the difficulty in obtaining burning permits to remove the berms of logs and organic matter that are piled up in the clearing process. This problem is now being worked out. More effective controls and new burning processes are being developed which will allow more efficient burning in the summer season, rather than in winter as is now required.

Another problem where improvement can be foreseen in the next few years is the area of marketing. Last year the establishment of the Grain Reserve Loan Program created a back-up market for grain producers. The state, through that program, can accept grain as collateral for a loan for \$100 per ton of grain. If the farmer has not been able to find a better price than that within three years, the state becomes the owner of the grain, and the farmer has in effect sold his grain to the state.

Meanwhile, the increase in hog farms and dairy farming within the

state is creating an increased in-state market. Within three years the in-state demand for grain will have increased to reflect, for example, the fact that where there is one dairy farm at Pt. McKenzie in production today, by 1985 it is estimated that there will be 19 in production.

Meanwhile, the foreign market is also available for Alaskan grain marketing as soon as a marketing system is in place. The legislature has previously provided for a grain transfer facility at North Pole and a grain terminal at Seward. While these projects are currently on hold, their completion seems to be just a matter of time.

How does SB 47 fit into the original plan for the Ag projects?

The intent of the original legislation funding the Alaska Agricultural Action Council was for the purpose of administering the agricultural projects in the best possible way to develop an agricultural industry in Alaska while at the same time protecting the state's investment. An extension of three years before land clearing payments become due does not deviate from the intent of that legislation.

This legislation is designed to assist the working farmers who are actually producing crops on their land. A high level of production is required for the farmer to be eligible for this moratorium. Senate Bill 47 will provide no assistance to farmers who are not working their land, and by doing so, improving both their, and the state's, investment in Alaska's developing agriculture industry.

CHANGES MADE IN THE HOUSE TO SB 47

(HOUSE) HCS CSSSSB 47(Res)

(SENATE) CSSSSB 47 (Fin)am
5-10-84 Passed 19-01-00

SECTION 1

Page 1, Line 13
moratorium up to three years on reimbursement payments
by applying to the

moratorium up to three years on the payment of
principal on the reimbursement

Page 1, Line 23
remain in compliance with the development plan during
the moratorium.

continue to remain in compliance with the
development plan during the moratorium granted
under this subsection.

Page 1, Lines 24-27
(d) Payments of interest on a contract for reimbursement
to the state of the cost of clearing, draining, and breaking
of land are subject to a moratorium under (a) of this section
but interest continues to accrue during the moratorium.

Not in Senate Version.

COMMITTEE REPORT

SENATE

FURTHER:

FINANCE

4/2/84

Date _____

Mr. President

The Committee on RESOURCES considered SSSB 47

reimbursement for the cost of land clearing; and.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

William Stapp

MEMBERS HAVING
OTHER RECOMMENDATIONS

William Stapp
Bill Maloney

FILE- 2-1
Chairman DO PASS

Chairman recommendation _____

y. public
facility,
completion
structure
which

section,
development
in the
with AS

in the
and plan
h finan-

orce and
activities

council
projects

in the
Alaska
members
to be

States
r from
council

es are
ember
ember

Editor's note. — Section 2, ch. 75, SLA 1979, terminating July 1, 1984, provides: "Notwithstanding the terms of office specified for members of the Alaska Agricultural Action Council in AS 44.33.450(c), enacted in sec. 1 of this Act, the terms of the first appointees shall be one member serving a term ending June 30, 1980, one member serving a term ending June 30, 1981, one member serving a term ending June 30, 1982, one member

serving a term ending June 30, 1983, and one member serving a term ending June 30, 1984."

Section 4 of ch. 75 provides that this article terminates July 1, 1984.

Legislative history report. — For adoption of the Free Conference Committee letter of intent on Senate Bill No. 14 (ch. 75, SLA 1979), see 1979 Senate Journal, p. 1135; 1979 House Journal, p. 1373.

Sec. 44.33.455. Compensation of members. (a) Members of the council who are not state officers or employees are entitled to per diem and travel expenses provided for boards and commissions under AS 39.20.

(b) State officers or employees appointed as members of the council serve without compensation but are entitled to receive per diem and travel expenses from council funds. (§ 1 ch 75 SLA 1979)

Editor's note. — Section 4 of ch. 75 provides that this article terminates July 1, 1984.

Sec. 44.33.460. Meetings. The council shall schedule regular meetings during the year, and may hold special meetings upon the call of the chairman or four members of the council. (§ 1 ch 75 SLA 1979)

Editor's note. — Section 4 of ch. 75 provides that this article terminates July 1, 1984.

Sec. 44.33.465. Quorum. Three members of the council constitute a quorum. An affirmative vote of at least three members is necessary to approve any action of the council. (§ 1 ch 75 SLA 1979)

Editor's note. — Section 4 of ch. 75 provides that this article terminates July 1, 1984.

Sec. 44.33.470. Powers and duties of the council. (a) The council has the power to

(1) adopt and amend bylaws for the management and regulation of its affairs; and

(2) maintain an office at any place or places in the state.

(b) The council has the duty to

(1) hold public hearings in areas of the state considered for agricultural development;

(2) evaluate the need for farm conservation plans for land under agricultural production in the state;

- (3) serve as coordinator for gathering information and data relating to agriculture;
- (4) recommend appropriate activities for the promotion of agriculture in the state;
- (5) provide technical information and make recommendations to the commissioner of natural resources regarding the classification of state land having a potential for agricultural use;
- (6) act as administrator of the Delta agricultural development project and any other agricultural development project authorized under AS 44.33.475;
- (7) contract for the clearing, draining and breaking of agricultural land located in the Delta agricultural development project;
- (8) contract with the owners of land prepared for agricultural use under (7) of this subsection for reimbursement to the state of the cost of the clearing, draining and breaking of the land;
- (9) contract for the construction of access roads in the Delta agricultural development project;
- (10) conduct studies and carry out experimental and pilot projects to develop markets for agricultural products produced in the state; and
- (11) recommend legislation to the governor to improve agricultural development in the state. (§ 1 ch 75 SLA 1979)

Editor's note. — Section 4 of ch. 75 provides that this article terminates July 1, 1984.

Sec. 44.33.475. Agricultural development projects. (a) Before January 15 of each year the council shall report to the governor and the legislature concerning the activities of the council during the current fiscal year. The report shall contain recommendations for the development of agriculture in the state during the next fiscal year.

(b) An agricultural development project recommended under (a) of this section may not be implemented unless authorized by law. The report required by (a) of this section shall include recommended legislation which

- (1) sets out the type of agricultural development to be accomplished and, if state land is to be developed for agricultural production, describes the boundaries of the land to be developed;
- (2) defines specific tasks to be performed by appropriate state agencies to the extent the tasks are identifiable at that time; and
- (3) grants to the council sufficient authority to insure cooperation of all state agencies involved in the implementation of the agricultural development project. (§ 1 ch 75 SLA 1979)

Editor's note. — Section 4 of ch. 75 provides that this article terminates July 1, 1984.

Sec. 4
 (1) "ce
 (2) "D
 program
 Loop res
 agricultu

Editor's
 provides th
 1, 1984.

Section
 501. Progra
 502. Region
 503. Place o
 504. Judge-

Revisor's
 for the comp
 the director
 responsibilit
 Department
 and Plannin
 transferred

Sec. 44.
 Commerce
 gram of co
 select out
 (b) The I
 consulting
 Sisterhood
 those orga
 providing f
 (1) eligib
 (2) catego
 stone work,
 (3) criteri
 (4) transp
 (5) prizes
 ribbons, cup
 (6) prepar
 (A) give t

CHAIRMAN
SENATE TRANSPORTATION
COMMITTEE
SENATE SPECIAL AGRICULTURE
COMMITTEE

MEMBER
HEALTH, EDUCATION AND
SOCIAL SERVICES
COMMITTEE
LEGISLATIVE COUNCIL
REAA BUDGET OVERSIGHT
COMMITTEE

Alaska State Legislature



State Senate

SENATOR
H. PAPPY MOSS
P.O. BOX 162
DELTA JUNCTION, ALASKA 99737
(907) 895-4384

JUNEAU OFFICE:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

SENATE SPECIAL COMMITTEE ON AGRICULTURE

MEMORANDUM

April 12, 1984

TO: Senator Bettye Fahrenkamp, Chair
Senate Resources Committee

FROM: Senator H. Pappy Moss, Chair
Senate Special Committee on Agriculture *ARM*

RE: Sponsor Substitute for Senate Bill 47

Sponsor Substitute for Senate Bill 47 is offered to assist those farmers who have actually gotten their farms into production to preserve their, and the state's, investment in time, money, and energy in Alaska's developing agricultural industry.

SSSB 47 provides for a three year moratorium on payments of principal and interest to the state on the cost of land clearing activities as contracted by the Alaska Agricultural Action Council. The land owners must have entered contracts before January 1st, 1984.

In order to qualify for the moratorium, the land owner must have at least 1,000 acres, or 50 percent of the land owner's tillable acreage, whichever is less, in production at the time of application.

The original schedule of payment on land clearing was based on the premise that there would be an adequate market for the barley produced on the projects by 1984, when the first payments became due. This prediction was based on a plan which assumed large-scale export production of the grain. However, in the absence of the marketing, transfer and export facilities that had been promised by the state, project farmers have not been able to move into large-scale crop production, and are now unable to make their payments. It has since been seen that there is not adequate in-state demand for the barley to support the planting of the amount of acreage that is necessary for economical farm operation.

Delta I was a test project, and as a learning experience, it has shown that more time is required to clear and prepare land for production and for farmers to get mobilized than was originally considered. It has also shown that the state's original plans to develop a marketing infrastructure may have been overly ambitious for such a young industry. In any case, the state has been unable to meet its end of the bargain, and SSSB 47 is in response to that situation. A three year moratorium on payments will allow the farmers more time to find a solution to their dilemma.

The attached amendment to SSSB 47 proposes that the land owner shall be granted a moratorium provided the specified qualifications are met, and specifies that the application for the moratorium would be made to the Department of Natural Resources Agricultural Revolving Loan Board rather than the Alaska Agricultural Action Council.

SSSB 47 - AN ACT RELATING TO REIMBURSEMENT FOR THE COST OF LAND CLEARING: PROVIDING FOR AN EFFECTIVE DATE.

SPONSOR: MOSS

AUTHORIZES THE AG REVOLVING LOAN FUND BOARD TO GRANT A THREE YEAR PAYMENT MORATORIUM ON LAND CLEARING LOANS MADE BY THE ALASKA AG ACTION COUNCIL BEFORE JANUARY 1, 1984. TO QUALIFY, A LAND OWNER MUST HAVE AT LEAST 1000 ACRES OR 50% OF HIS TILLABLE ACREAGE IN PRODUCTION.

THERE IS A 40 YEAR PAYBACK PERIOD FROM THE DATE THE CONTRACTS WERE SIGNED. THE THREE YEAR MORATORIUM DOES NOT EXTEND THAT 40 YEAR PERIOD. IN EFFECT, THE MORATORIUM MAKES THE LAND CLEARING REIMBURSEMENT DUE OVER A 37 YEAR PAYBACK PERIOD BY PUSHING BACK THE STARTING DATE FOR REPAYMENT. THE YEARLY PAYMENTS WILL BE SLIGHTLY INCREASED WHILE INTEREST PAID WILL BE SLIGHTLY REDUCED.

JUSTIFICATION

WILL ALLOW FARMERS MORE TIME TO GET THEIR LAND INTO PRODUCTION. WILL ALLOW MORE TIME TO DEVELOP AN ADEQUATE MARKETING INFRASTRUCTURE WHICH IS NOT YET IN PLACE.

FINANCE CS

In Section 1 (c), the Finance CS language says the applicant must "be in compliance with the development plan set out in the owner's contract".

The Resource CS says the applicant must "be in compliance with the development plan set out in the owner's contract WITH THE AK AG ACTION COUNCIL." The development plan is established by DNR, not AK AG ACTION

COUNCIL.

SO O.K.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 4/16/84

REQUEST

Bill/Resolution No.: SSSB 47
Title: Reimbursement for land clearing
Sponsor: Sen. Hoss
Requestor:
Date of Request:

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NRMEC
BRU, Program or Subprogram(s) Affected: Agriculture Management

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	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

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:

The delay in payments will reduce revenues in near term but all loans will remain payable in full.

ANALYSIS: Attach a separate page for analysis

Prepared By: Ed Kern Phone: 745-7200
Division: Agriculture Date: 4/16/84

MH Approved by Commissioner: *Mimi D. Hansen, Deputy* Date: 4/16/84
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

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, April 16, 1984

DATE: April 13, 1984

On Monday, April 16th at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bill:

SSSB 47, An Act relating to reimbursement for the cost of land clearing.

SSSB 47 would authorize the Alaska Agricultural Action Council to grant a three year payment moratorium on land clearing loans made by the Council. To qualify for the moratorium the land owner must have at least 1000 acres or 50% of his tillable acreage in production.

Senator Moss will propose an amendment to:

- 1) Grant this authority to the Agricultural Revolving Loan Fund Board rather than to the Alaska Agricultural Action Council.
- 2) Require that the Board grant the moratorium to any qualified landowner.

S

B

5

1

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SB 51

BILL NAME: Establishing Shuyak Island State Park.

SPONSOR(S): Mulcahy

RELATED BILLS PENDING:

DATE INTRODUCED: 1-18-83

REFERRALS: Resources
Finance

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

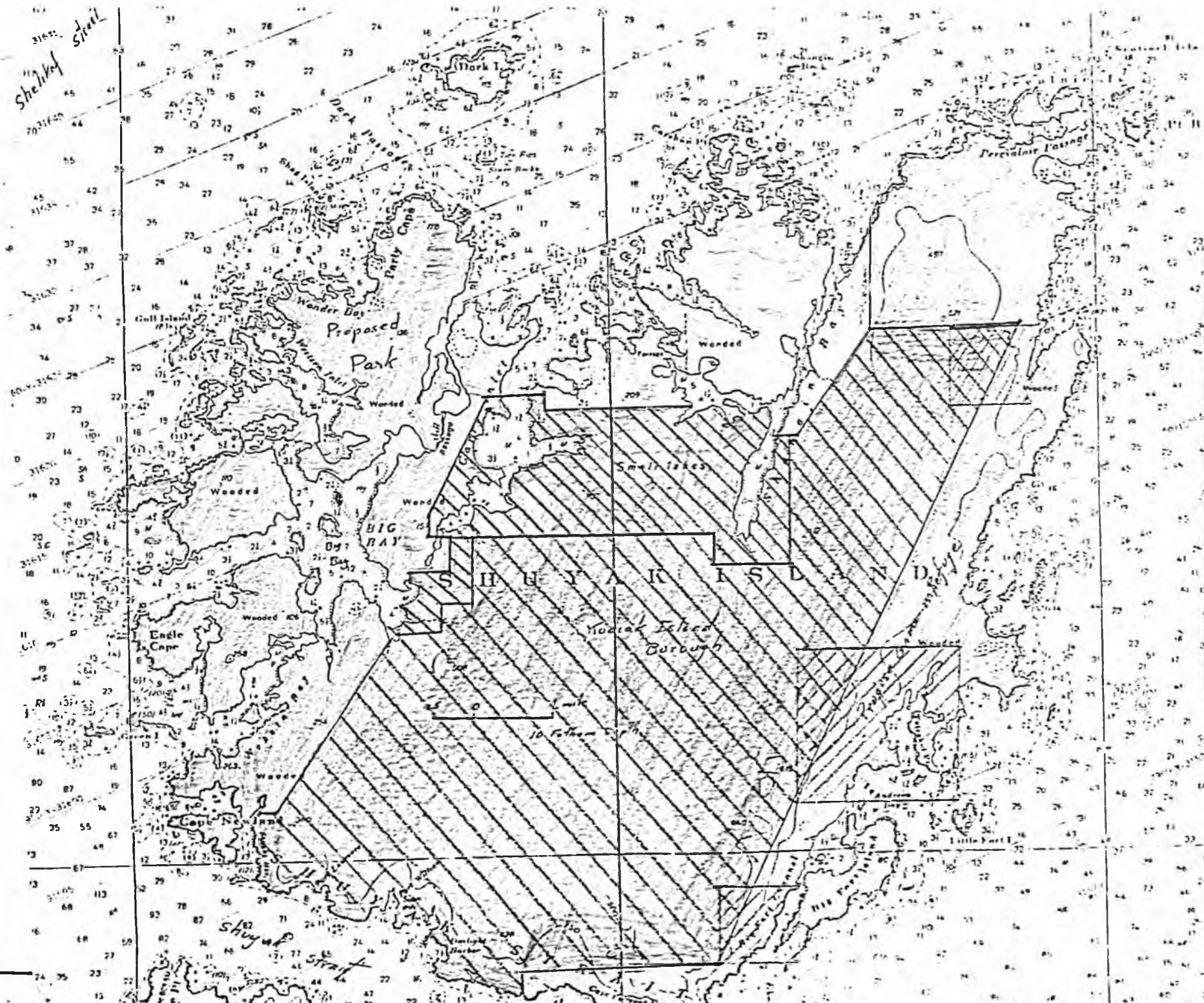
SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

Jay Nelson, Environmental Lobby
Hilton Wolfe, Div Parks or Neal Johanssen, State Director
Bob Hinman or Bruce Baker, ADFG

Notified - Sen. Mulcahy
Sharon Burton, DUK - 2400
Rena LaFond, ADFG - 4100
Joe Mapramith, Dept. Public Safety - 4336

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES

31600
30-31-40
Sheikof Strait



Map

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES



TO: Bettye

FROM: Sandra

RE: SB 51 An Act establishing the Shuyak Island State Park.

This bill, which is the result of negotiations between the Kodiak Island Borough and DNR as part of the Borough's municipal entitlement settlement, is being heard at the request of Senator Mulcahy. A similar bill (SB 731) passed out of Senate Resources Committee last year, and passed the full Senate, but failed to pass the House.

The following people have stated they will testify:

- Hilton Wolfe or Neil Johanssen, Division of Parks, DNR
- Bob Hinman or Bruce Baker, Dept. of Fish and Game
- Jay Nelson, Environmental Lobby

Possible Questions:

— Are all the lands proposed for inclusion in the park State-owned lands?

— Are any private inholdings located within the proposed park area? If so, is access guaranteed?

— Will establishment of the park preclude any land uses that are currently ongoing?

— I understand that hunting and fishing will be allowed in the park. Is that correct? (yes)

— Does the proposed park include any tidal or submerged lands? (Last year the Borough opposed inclusion of tidal and submerged lands; the Division of Parks and Dept. of Fish and Game supported inclusion.)

— What will be the total acreage of the park? (12,000 acres)

— The fiscal note on the bill is zero through FY 85. I understand this is because the park will be passively managed with no facilities or staff on site. Will a management plan be developed for the park's future use? What do you foresee as funding needs on down the road?

— The Borough is to maintain the core portion of the island and be provided with an easement. Last session, when a similar bill was before this committee, there was concern over payment for survey work. How has this been resolved? (Zero fiscal note easement platted on paper only and not constructed.)

— Last session we had a companion bill that would have

page 2

established a State game refuge on the east side of the island.
Will the game refuge be proposed gain this year? (Mulcahy
does not plan to introduce legislation.)

Alaska State Legislature

BETTYE FAHRENKAMP
CHAIRMAN
ROBERT H. ZIEGLER, SR.
VICE-CHAIRMAN
DICK ELIASON - PAUL FISCHER
VIC FISCHER - BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

TO: Senate Resources Committee
FROM: Senate Resources Committee Staff
RE: February 23rd Committee Hearing
DATE: February 21, 1983

Please find attached background information on SB 51, An Act establishing the Shuyak Island State Park, which will be heard by the Senate Resources Committee Wednesday, February 23 at 3:00 p.m. in the Senate Finance Room.

The proposed Shuyak Island State Park would encompass approximately 12,000 acres consisting of State-owned uplands and freshwater bodies shown in green on the attached map. Fiscal notes and the Shuyak Island Land Planning Report are attached.

It is hoped that final committee action could be taken on the bill at this time.

Immediately following action on SB 51 the committee will be briefed by U.S. Borax on their Quartz Hill molybdenum project.

NOV - 5 1981

7 | 8 | 9 | 10 | 11 | 12 | 1 | 2 | 3 | 4 | 5 | 6

AGREEMENT OF SETTLEMENT

and

CONSENT DECREE

The parties to this agreement are the State of Alaska, Department of Natural Resources, through its Division of Forest, Land and Water Management ("the State") and the Kodiak Island Borough ("KIB").

Whereas, pursuant to AS 29.18.201-.213 KIB is entitled to select 56,500 acres from state general grant land within its boundaries, and has filed such selections in the manner provided by statute; and

Whereas, a considerable portion of the land selections filed by KIB were rejected by the State on the grounds that the lands selected had been previously classified by the State for a use or purpose which disqualified those lands for conveyance to KIB pursuant to AS 29.18.201 et seq., or had been designated as state interest lands pursuant to AS 38.05.047; and

Whereas, by reason of said selections by KIB and rejections by the State, the parties are currently involved in three separate judicial appeals from administrative decisions which are now pending in the Superior Court, Third Judicial District under case numbers JAN-80-3070 (Woody Island), JAN-80-6710 (Land Classification); and JAN-81-1385 (Shuyak Island); and

Whereas, both parties desire to settle finally the question of those lands which will be conveyed to KIB in satisfaction of its statutory land entitlement, and further desire to resolve this question in the near future without extended litigation, and to resolve pending litigation.

Now, therefore, the parties agree as follows:

1. a. The State agrees to convey to KIB, as soon as practicable, the lands now owned by the State or hereafter acquired pursuant to Section 6 of the Alaska Statehood Act and which are described in Exhibit A (Shuyak Island) and Exhibit B (other lands). Open to Entry parcels under lease within lands described in Exhibit B which expire shall be conveyed to KIB upon expiration. All conveyances shall be completed not later than nine (9) months after execution of this agreement, except that, with respect to lands as to which the state has not yet received tentative approval, within nine (9) months after tentative approval.

b. KIB agrees that it will invoke its land regulatory powers, including zoning powers, to disallow in the west one-half of Section 10, T. 19 S., R. 20. W., S.M. fronting on Big Bay on Shuyak Island heavy industrial uses incompatible with use and enjoyment of adjacent park or public recreation lands. The Borough agrees to guarantee reasonable public access through the above described parcel for the purpose of utilizing adjacent park or public recreation lands. The State may reserve in the patent to these lands the right to re-enter and take possession upon the determination, by a court of competent jurisdiction, that KIB has breached this paragraph.

2. KIB agrees to execute a quitclaim deed to the State for the property described in Exhibit C (Pillar Creek Watershed and Woody Island).

3. In the event that at any time in the future the state-selected or state-tentatively approved lands described in Exhibit D are finally determined not to be subject to conveyance under the Alaska Native Claims Settlement Act (P.L. 92-201, 43 U.S.C. Sec. 1601 et. seq.), as amended for any reason, the State agrees that it will convey those lands to KIB upon receipt

of written notice from KIB of its election to receive such lands.

4. In the event that all or part of the lands described in Exhibit D are conveyed to KIB, KIB agrees to reconvey to the State, (in sequence from an easterly to a westerly direction), an equal number of acres from lands on Shuyak Island previously conveyed by the State to KIB pursuant to Paragraph 1.a. of this Agreement. Such reconveyance by KIB to the State shall be made first from Area I, and then from Area II, which are described below:

Area I. The area within protracted Sections 29, 30, 31, and 32, T. 19. S., R. 19 W., S.M. lying west of the agreed-upon proposed Aleksandr Baranov Game Refuge described in Paragraph 6 below.

Area II. Those lands lying within T. 18 S., R. 19 W. and T. 18 S., R. 20 W., S.M. which are east of Carry Inlet and west of Shangin Bay.

5. If lands described in Exhibit D and which are conveyed by the State to KIB pursuant to paragraph 3 of this Agreement exceed in acreage the lands designated as Area I and Area II in Paragraph 4 above, KIB agrees to reconvey to the State additional sections of land on Shuyak Island until such reconveyances within Area I and Area II are equal in total acreage to the acreage of the lands described in Exhibit D which have been conveyed to KIB. Such additional conveyances shall be designated by KIB from any lands on Shuyak Island then owned by KIB, or designated for transfer to KIB pursuant to this Agreement, provided that such lands are compact and contiguous with other lands on Shuyak Island which are then in state ownership.

6. KIB agrees to attempt to obtain introduction and passage of legislation in the Alaska State Legislature which

would create a state game refuge denominated the "Aleksandr Baranov State Game Refuge" consisting of the lands described in Exhibit E. KIB agrees to support introduction of such legislation beginning with the 1981 legislative session, and to support early passage of such legislation, provided that KIB is not obligated to support inclusion of tide or submerged lands except upon mutual agreement with the state with respect to the regulatory implications of such inclusion. The State agrees to support such legislation in good faith, by such oral and written testimony as may be appropriate.

7. KIB agrees to attempt to obtain introduction and passage of legislation in the Alaska State Legislature creating a state park denominated the "Shuyak Island State Park" and consisting of all lands described in Exhibit F. KIB agrees to support introduction of such legislation beginning with the 1981 legislative session, and to support early passage of such legislation, provided that KIB is not obligated to support inclusion of tide or submerged lands except upon mutual agreement with the state with respect to the regulatory implications of such inclusion. The State agrees to support such legislation in good faith, by such oral and written testimony as may be appropriate.

8. In the event that lands to be included in the proposed "Aleksandr Baranov State Game Refuge" or the proposed "Shuyak Island State Park", referred to in Paragraph 6 and 7 respectively, are not finally included by legislation in the proposed game refuge or park, such lands shall be at all times classified and managed by the State in a manner maintaining and enhancing such lands for wildlife habitat and public recreation purposes. Otherwise KIB shall be entitled to select those lands not so classified and managed, and the State shall thereupon promptly transfer the selected lands to KIB. Upon transfer of such lands to KIB, KIB shall reconvey equivalent acreage to the State from Shuyak Island in the manner provided in Paragraph 4, and thereafter in the manner provided in Paragraph 5.

9. The State will designate, on lands owned by it, public easements for the benefit of KIB and the public, each of which shall be 200 feet in width, to provide public access from the line of mean high tide westerly to lands on Shuyak Island which have been conveyed to KIB pursuant to Paragraph 1 of this agreement. The easements will be in the following areas, as more specifically indicated on the attached map entitled Exhibit H, and further subject to exact location in the field:

- A. Traversing Section 26, T. 18 S., R. 19 W., S.M.;
- B. Traversing Sections 15 and 16,
21 and 22, of T. 19 S., R. 19 W., S.M.;
- C. Traversing Section 32, T. 19 S., R. 19 W., S.M..

In the event that lands are conveyed to the State pursuant to paragraphs 4 and 5 above, those easements designated in subparagraphs A, B, and C of this paragraph shall be reserved so as to continue through such lands.

10. The State shall reserve the easements described in Exhibit G. With respect to easements reserved pursuant to AS 38.05.127 or other applicable provision of law, on all other lands conveyed to KIB, their location shall be determined by the borough, subject to approval by the Department of Natural Resources, prior to conveyance by the borough to a private third party.

11. The State and KIB agree that this Agreement is intended by the parties to resolve all outstanding legal and factual differences between them concerning the application of the Municipal Land Selection Act (AS 29.18.201-.213), including particularly, pending Superior Court lawsuits numbered JAN-80-3070, JAN-80-6710, and JAN-81-1385. To achieve this result, the parties agree to accomplish the following actions promptly upon execution of this Agreement:

- a. KIB agrees to relinquish its nominations, selections, and selection approvals not designated for transfer to KIB in this Agreement and further:

agrees not to litigate or otherwise challenge the retention by the State of such lands.

- b. KIB agrees not to litigate or otherwise challenge retention by the State of those public easements depicted in Exhibit G.
- c. The State agrees to accept from KIB the relinquishment of those nominations, selections, and approved selections required by this Agreement, and to accept future selections and reconveyances by KIB pursuant to Paragraphs 4, 5, and 8.
- d. All previous transfers of land from the State to KIB are hereby affirmed. Nothing herein affects KIB's right to apply for land under AS 38.05.315 or other applicable law, excluding AS 29.18.201-213.
- e. The State and KIB agree that the terms of this Agreement shall constitute a consent decree and judgment to be presented to the Superior Court for entry in final settlement and dismissal of all pending litigation between the parties with respect to KIB land selections under AS 29.18.201-.213, such pending litigation consisting of the following pending judicial appeals from administrative decisions:
- JAN-80-3070 (Woody Island)
 - JAN-80-6710 (Land Classification)
 - JAN-81-1385 (Shuyak Island)
- f. All such litigation shall be dismissed upon execution and court approval of this Agreement and Consent Decree, with each party to bear its own costs and attorney's fees.

12. The State and KIB agree that this Agreement, together with its Exhibits A through H, embodies all of the terms and conditions of the Agreement for settlement of pending litigation and for conveyance of all lands due to KIB pursuant to AS 29.18.201-.213, and that no additional enforceable agreements or commitments exist between them with regard to this subject which are not contained in the text of this Agreement and its Exhibits. The parties reserve the right, by mutual consultation and agreement, to correct if necessary any technical errors or omissions in the specific land descriptions comprising Exhibits A through H herein, so as to more nearly conform to the mutual intentions of the parties with regard to implementation of this Agreement

DATED this 19th day of June, 1981.

DEPARTMENT OF NATURAL RESOURCES

KODIAK ISLAND BOROUGH

[Signature]
Commissioner

[Signature]
Borough Mayor

STATE OF ALASKA

Attest: [Signature]
Borough Clerk

[Signature]
Director, Division of Forest,
Land & Water Management

Attest: [Signature]
Municipal Land
Selections Officer

APPROVED AS TO FORM:

[Signature]
Thomas E. DeCham
Assistant Attorney General
State of Alaska

[Signature]
Richard W. Garnett III
Attorney, Kodiak Island
Borough

ORDER

IT IS ORDERED, that the foregoing Agreement of Settlement and Consent Decree is hereby adopted and approved and

shall be enforceable as a judgment of the court.

DATED this 12 day of August, 1981 at
Anchorage, Alaska.

s/ Daniel A. Moore Jr.
Judge of the Superior Court

KODIAK ISLAND BOROUGH

Telephones 486-5736 - 486-5737 — Box 1246

KODIAK, ALASKA 99615

October 7, 1981

The Honorable Bob Mulcahy
The State Senate
State of Alaska
Box 246
Kodiak, Alaska 99615

Dear Senator Mulcahy:

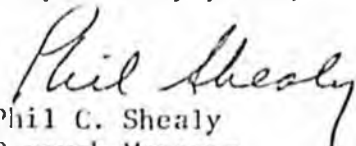
Enclosed find a certified copy of Kodiak Island Borough Resolution No. 81-71-R requesting state legislation to create the Aleksandr Baranov State Game Refuge as well as Resolution No. 81-72-R requesting state legislation to create the Shuyak Island State Park. Both resolutions were unanimously passed at the regular Borough Assembly meeting on October 1, 1981 and are accompanied by proposed language for the text of the act. We have also enclosed a copy of a letter from Dale P. Tubbs, Land Management Consultant for the Kodiak Island Borough, dated August 17, 1981 outlining the steps necessary to effect the Agreement of Settlement and Consent Decree between the Borough and the State of Alaska.

As you can see from the letter, the Kodiak Island Borough is to use its best efforts to have legislation introduced to create the state park and state game refuge on Shuyak Island for those portions not be conveyed to the Kodiak Island Borough.

We hope that you would be able to assist in the adoption of the proposed legislation and would urge you to contact either myself or the mayo and Borough Assembly for further particulars on this matter.

Thanking you in advance for your assistance in this matter, I remain,

Respectfully yours,


Phil C. Shealy
Borough Manager

Enclosures

mdc

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY REQUESTING STATE LEGISLATION TO CREATE THE ALEKSANDR BARANOV STATE GAME REFUGE.

WHEREAS, on August 14, 1981 the Superior Court ordered the Agreement of Consent Decree to effectively dismiss the appeals the Kodiak Island Borough brought against the Alaska Department of Natural Resources in regards to its lands selections, and

WHEREAS, a condition in the Agreement of Settlement and Consent Decree is that the Kodiak Island Borough is to use its best efforts to have legislation introduced to create a State Park and State Game Refuge on Shuyak Island for those portions not to be conveyed to the Kodiak Island Borough, and

WHEREAS, the Aleksandr Baranov State Game Refuge is established to protect fish and wildlife habitats and population of all fish and wildlife species, particularly deer and brown bear, feeding, wintering and migration areas as well as to provide public uses of fish and wildlife in their habitat for hunting, viewing, photography and general recreation in a high quality environment, and

WHEREAS, the Kodiak Island Borough has caused to be prepared a proposed bill entitled "An Act Creating the Aleksandr Baranov State Game Refuge".

NOW, THEREFORE, BE IT RESOLVED by the Kodiak Island Borough Assembly that legislation entitled "An Act Creating the Aleksandr Baranov State Game Refuge" be introduced and assigned a number providing for the creation of said state game refuge.

BE IT FURTHER RESOLVED by the Kodiak Island Borough Assembly that the Borough administration be directed to send this resolution to Senator Mulcahy and Representatives Sutcliffe and Zharoff and implore their assistance in the successful adoption of this legislation.

PASSED AND APPROVED this 1st day of October, 1981 by the Borough Assembly.

KODIAK ISLAND BOROUGH

By A. D. [Signature]
Borough Mayor

ATTEST:

By [Signature]
Borough Clerk

I, Margaret D. Duros, do certify this to be a true and correct copy of Resolution No. 81-71-R passed and approved by the Kodiak Island Borough Assembly on October 1, 1981.

[Signature]
Notary Public in and for the State of Alaska
My Commission Expires: October 14, 1984

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

BILL SHEFFIELD, GOVERNOR

Kodiak District
S.R. Box 3800
Kodiak, Alaska 99615

Ph# 486-6339

January 30, 1983

Bob Mulcahy, Senator
State Senate Building
Juneau, Alaska

Dear Senator Mulcahy:

As chairperson of the Kodiak State Parks Advisory Board, I would like to inform you of a resolution passed unanimously by that board concerning support for the formation of Shuyak Island State Park. A copy of the resolution is attached.

The formation of Shuyak Island State Park is number three on our legislative priorities list only behind requests to maintain and operate effectively the park lands that already exist in Kodiak. Our board sees a Shuyak State Park as an investment in the recreational future of Kodiak residents and of the State's population as a whole.

Thank you for your introduction and continued support of this legislation. If we can be of any further assistance please feel free to contact us.

Sincerely,

Bill

Bill Herman, Chairperson
Kodiak State Parks Advisory Board

cc. Commissioner of Department of Natural Resources
cc. Director of State Parks
cc. Representative Fred Zharoff

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST

Bill/Resolution No. SB 51
Title Act Establishing the Shuyak Island State Park
Requested by Senate Resources Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety
Program Category Affected Fish & Wildlife Protection
BRU, Program, Or Subprogram(s) Affected Fish & Wildlife Protection
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact.

RECEIVED

FEB 7 1983

LEGISLATIVE FINANCE

IV. DATE January 27, 1983 PREPARED BY Robert Stickles Phone 269-5535

Original: Legislative Finance DIVISION F&W Protection Initials _____

cc: Budget and Management DEPARTMENT OF PUBLIC SAFETY Initials RM/21

Prime Sponsor (First Legislator Named) _____

33-001 (Rev. 12/82) OMB Reviewed by: Eric Laschever

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

BILL SHEFFIELD, GOVERNOR

Robert J. Sundberg
Commissioner

P. O. BOX 6188, ANNEX
ANCHORAGE, ALASKA 99502

January 27, 1983

FEB 1 1983

Senator Bettye Fahrenkamp
Chairman, Senate Resources Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I would like to present the following positions which the Division of Fish & Wildlife Protection, Department of Public Safety hold with regard to the subsequent Senate Bills under proposal:

S.B. 2 - Opposed

- (1) Would be nearly impossible to enforce as it would require vessels be measured while fishing, generally hard to do under most water conditions.
- (2) Would also negate 16.05.520 which establishes a vessel identification number which is required to be displayed, thus making all effected vessels unidentifiable from any distance.
 - (a) Would negate 5 AAC 06.342, 09.342, 15.342, 21.342, 39.120(3)(c),(3), 39.120(4)(c); 39.120(5), 39.270(c), 39.381(b) and 39.374.
 - (b) Would make those sections in (a) above unenforceable as these sections all require a number emanating from a vessel license.

S.B. 5 - Neutral (with amendment)

Proposed Amendment:

Require all nonresidents to be guided or
in the company of 2nd degree kindred.

As written the bill will invite an increase in residency falsification on hunting licenses. These are not usually identified until after the season is over and consequently the people are already out of state.