

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

2837 SRES • SB 202 - SB 219

Commissioner John Katz
July 23, 1982
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efforts. Also, please bear in mind that on that same day (June 9, 1982), Mr. Chaplin was informed by Mr. Ken Hudson (DMEM) that our application had been adjudicated and approved and that it was in word processing and would be issued that afternoon or the following day.

We are aware that the Division of Forestry is attempting to correct their position from a basis of error and we have made numerous attempts and concessions to help them do so, including honoring their request to maintain negotiations beneath the Commissioner level. However, in light of continuing delays, accumulating stipulations to our detriment, and the lack of good faith negotiations on their part, we can no longer honor their request and feel compelled to petition your assistance for a resolution to the problem in lieu of other recourse. We must also inform you that stipulations tentatively agreed to by NCMi for inclusion in the MLUP as negotiated to date are hereby being reconsidered. In addition, we request a "standard" MLUP as issued to the greater percentage of placer miners and demonstrated by the attached example, as furnished by DMEM, with a priority activity provision.

We sincerely hope that you will give this matter your urgent attention, for we continue to accrue accelerating expenses and lost time, and the process to date has served only to jeopardize our agreements with other concerned entities.

Sincerely,

Larry D. Chaplin
President

Roger Eichman
Vice-President

David Allison
Secretary-Treasurer

LDC:RE:DA:pc

cc: Ken Hudson, DMEM
Richard "Skip" Harding, DOF
Stephen Pearson, Esquire
Douglas Gregg, Esquire

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINERALS & ENERGY MANAGEMENT

State of Alaska

TO: Chuck Doyle
Natural Resource Officer

DATE: January 17, 1983

FILE NO:

TELEPHONE NO:

FROM: Robert Butts *R. Butts*
Natural Resource Officer

SUBJECT: ACMP Consistency of
MLUP/MC 15113 and
MLUP/MC 15111

As requested, I have reviewed the two MLUPs referenced above for consistency with the Alaska Coastal Management Program (ACMP). From the information in the file, I cannot adequately assess the scope and location of activity that will be allowed if the MLUP is approved, and therefore cannot assess whether the MLUP approval would be consistent with the ACMP standards. In addition, there is information within the permit application that raises concern, specifically statements regarding the proper treatment of wastewater and the amount of overburden that will be removed.

I would like to recommend that these permits not be approved until the applicant provides information on:

- 1) the number of acres to be mined,
- 2) the location where the mining is to occur,
- 3) the proposed method of wastewater treatment,
- 4) the number of additional drill holes to be completed, and
- 5) access routes within the claim area.

The applicant does say that he will supply this type of information after we issue the MLUPs. This is not acceptable as we need this information before we approve the MLUPs.

Please call if you have any questions.

LAW OFFICES OF

STEPHEN J. PEARSON
A PROFESSIONAL CORPORATION

STEPHEN J. PEARSON

SUITE 101
209 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801
TELEPHONE (907) 586-2601

MAY 6 - 1983

GENERAL PRACTICE

May 3, 1983

The Honorable Bettye Fahrenkamp, Chairman
Senate Resources Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 202

Dear Senator Fahrenkamp:

This firm represents North Coast Mining, Inc., which currently owns or controls approximately 6,000 acres of mining claims in the Cape Yakutaga area. The history relating to efforts to obtain MLUP's over the opposition of Division of Forestry has been previously relayed in summary form. Problems with that Division appear to continue.

At this time, we are deeply concerned with the implications of Senate Bill No. 202. Although the Bill, as is the case with most land classifications, would not prevent or disallow the maintenance of a mining claim as such, rights accruing to a locator are essentially valueless if actual operations are effectively disallowed through excessive stipulations or demands. That is the problem which we have been facing throughout: demands for advance bonding on the part of the Division of Forestry exceeding \$1,600,000.00; demands that incidental injuries to hemlock trees be reimbursed to the state at rates far exceeding amounts at which the timber is offered for sale to third persons; etc. Designation of the area as a "state forest" would not only continue the problems which we are currently facing, but would remove the prospect of seeking reclassification should that prove to be the only viable route in our efforts to commence development and operations.

In the foregoing respect, the Division of Forestry was able to substantially purge its files prior to allowing our inspection. However, information was obtained from non-purged files of the Division of Mineral and Energy Management. In relevant part, it does not appear that any realistic evaluation of the respective resources in the Cape Yakutaga area occurred prior to its classification as forest lands in or about 1980. Indeed, readily available data regarding mineral or past mineral activities in the area, as well as memoranda from DMEM to Forestry noting that

May 3, 1983

minerals were by far the most valuable resource in the area, were effectively ignored. Similarly, based upon our assay results, it appears that mineral values, including strategic minerals, vastly exceed any conceivable value of the lands for forest resources.

In short, during the original classification process, it appears that the provisions of 11 AAC 55.010 et. seq. were not followed, much less the evident intendment of AS 38.05.365 which contemplates that "mineral land" classification is appropriate if the lands are prospectively valuable in mineral deposits, whereas a "timber land" classification must be predicated upon a finding that the lands are chiefly valuable for timber.

If, as currently appears likely, the Division of Forestry continues to delay and impose impediments in the development of the mineral interests in these lands, we will ultimately need to seek reclassification under 11 AAC 55.240, and following denial of that reclassification (which, based on prior history, is likely to occur) to appeal that ruling through the courts. We do, however, need that option. It is probably the only way by which mineral development will be reasonably allowed in this area.

The essential purpose for this letter is to request that we be notified well in advance of any potential hearings as to Senate Bill 202. Besides our comments and the history which we can provide, both as to the area and our particular problems in seeking to develop and operate in the face of opposition by the Division of Forestry, we are prepared to produce data as to the highly significant mineral values, if a mechanism is available whereby the results of our assays may be kept confidential at this time.

As an ancillary note, I might mention that the current land classification processes present inherent risks to mineral development to the extent substantive analysis of relative resource values does not occur. In part, timber is a far more visible resource, even though subsurface values may in fact be far more valuable. At the same time, generalized publication of proposed classifications is not likely to be effective in eliciting information as to subsurface resource values. Few persons, other than attorneys, actually read legal classifications. Locators and miners working in the field are quite unlikely to even receive regular newspaper service. It is suggested that some amendment would be appropriate to require actual notice to persons who have duly recorded and filed mining claims within an area proposed for "nonmineral" classification, and, to the extent possible, some form of realistic examination and

May 3, 1983

consideration as to subsurface values. Needless to say, classification does not prevent other multiple uses. However, inherent in the classification scheme is an emphasis upon the particular resource highlighted by the classification. Following classification, the relevant division, if past history is a guide, would tend to view other resource values as "poor cousins" and subordinate any efforts to develop those other resources to management of the "primary" resource. Needless to say, such a result is justifiable if predicated upon a realistic weighing of values. However, in the nature of things, and at least in our particular situation, the classification appears to have simply reflected which agency got to the lands first.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen J. Pearson". The signature is written in dark ink and is positioned above the printed name.

Stephen J. Pearson

cc: North Coast Mining

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

May 25, 1963

Re: Your letter of May 2, 1963 to Senator J. Scarborough in regard
to North Coast Mining

Stephen J. Pearson
209 E. Franklin Street
Denver, AT 98301

Dear Mr. Pearson:

I have received a copy of your letter to Senator Curtis Scarborough dated May 3, 1963, regarding Senate Bill 102. This response is primarily predicated upon my dissatisfaction with both the applications and allegations in your letter regarding the actions and intentions of the Division of Forestry.

I feel the charges suggested in your letter are without basis and inappropriate under the circumstances. The statement that you obtained title "over the objection of the Division of Forestry" is nonsense. The Division has worked jointly with North Coast Mining, Inc. and the Division of Minerals and Energy Management to arrive at satisfactory stipulations for the mine. The only real deterrent to effectively accomplishing that task was the lack of adequate information regarding proposed mining operations in the Coy Cape area supplied by North Coast Mining.

The statement made that the Division of Forestry was sole in "purge its files" is totally false and without basis. The Division of Forestry does not purge files under any circumstances. Because the Division of Forestry and the Division of Minerals and Energy Management files do not contain exactly the same material is no indication of purging or anyone's part. I suggest you substantiate the facts before making such conclusions accusations.

No data has been presented to the Division, to my knowledge, concerning exceptionally high mineral values in the area and, in any case, that is not the basis. Your third paragraph's subject that North Coast Mining considered the area to be valuable for minerals only other resource values are not recognized. The view of the Division of Forestry and DE&M is that the land has current viability for the forest industry which is also important to protect. We hope to coordinate timber harvest, land management activities, and mineral extraction in such a way as to maximize the total flow of benefits and maintain the productivity, as is appropriate in any multiple use concept. My site

May 25, 1983

productivity, we meet the capability of the land to grow trees, and produce the usual variety of forest benefits, after minerals are removed. Forestry classification accures, rather than precludes, this land of multiple-use. North Coast Mining should realize that the State must make its decision based on a long-term perspective and must balance the use of all resources as much as possible.

I must take the exception to your statement that the Division of Forestry "continues to delay and impose impediments in the development of mineral interests in these lands." The Division has in no way taken any action to impede your development of mineral interests in the area. Our intent is to accommodate both forestry and mining in the area in an orderly manner, to what DNR considers to be in the best interest of the State.

I would like to reiterate the position of the Division of Forestry in this matter. It is our intent to accommodate the multiple-use of resources in the Icy Cape area so as to maximize benefits to the citizens of the State while protecting long-term resource values. I suggest the most effective way to accomplish this is by working together to develop operational plans and coordinated activities in the area. Adversarial rhetoric and one-sided statements such as those exhibited in your letter to Senator Fairbank are not conducive to achieving these results.

Sincerely,

John L. Sturgeon
State Forester

cc: Senator Bettye Fairbank
Commissioner Esther Munnicks
Deputy Commissioner James Burnett
Deputy Commissioner Bob Arnold
David Sudderly-Smith
Russell J. Harding

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Fluctuating Timber Supply Deters Private Investors

Alaska's state forester, John Sturgeon, believes the state's vast forest land is one of its greatest assets — but an asset that receives too little attention.

Speaking to a group of business leaders at a Resource Development Council for Alaska meeting earlier this year, Sturgeon said, "We do not now have a wood products industry that can supply the raw material at a reasonable cost. It is essential to have a system of state forests and dedicated lands for timbering or no self-respecting investor will lay out the capital necessary to buy several million acres of timber sales in Alaska. Nor would they establish milling facilities. The economics just don't permit it."

There are many natural barriers to a sound wood products industry in Alaska, Sturgeon said. "The size of the initial investment coupled with rotation periods of 80 and 100 years, inaccessibility, remoteness, plus risk of fire, insect damage and disease all add up to a great deterrent for private industry to invest in Alaska timbering."

Sturgeon noted the Tongass and Chugach national forests constitute the major land base for the wood products industry, along with Native-owned timberland. But the state Division of Forestry, which he heads under the Department of Natural Resources, has a good start in establishing a forest land base of its own for industry development.

"We have 1.8 million acres of commercial forest land," Sturgeon said. This is defined as lands producing a minimum of 20 cu. ft. of wood fiber per acre per year. In addition, there are about 4.6 million acres in the Interior capable of producing 15 to 20 cu. ft. per acre per year.

A state forest system was initiated in 1982. Today, the state forestlands inventory includes:

Forest	Acres	Estimated commercial forest acres
Yakataga	460,000	137,000
Haines	229,000	90,000
Tanana Valley	1,700,000	950,000
Delta		
West	195,000	65,000

The state's whole classified forest land base actually amounts to 14.5 million acres which is divided as:

Forest	3,422,083
Water Resources	127,555
Resource Management	8,161,224
Wildlife Habitat	1,327,995
Wildlife Habitat/ Water Resources	48,348
Forest/Wildlife Habitat	56,638
Public Recreation	1,358,421

Sturgeon said the number of acres dedicated to the state forest system will depend on whether the state wants to be self-sufficient in meeting its wood requirements.

Currently, about 85 percent of the wood used in Alaska, except for firewood and houselogs, is imported. The question of export volume, job opportunities and wood products values all hinge on how much land is dedicated to forestry in Alaska, Sturgeon said. About two-thirds of the commercial forest lands in Southeast are now dedicated to uses other than timbering. Timber harvesting is not allowed in national parks and monuments.

During 1983, about \$400,000 was generated from the harvest of some 35 mmbf of timber products from state forest land. Included in this revenue figure was the sale of 40,000 cords of fuelwood (at nominal permit fees for individuals) and 135,000 lin. ft. of houselogs, an increase in volume of more than 10 percent over 1982.

This forest products program included the administration of about 80 commercial timber sales, 3,900 personal-use sales, and 20 beach log salvage licenses. In addition, the division sold 49.2 mmbf of Sitka spruce and western hemlock sawtimber in the Icy Bay area, a sale which brought a record high bid of \$5.9 million.

Sturgeon said, "During the recent construction boom years, millions of board feet of lumber and square feet of plywood have been imported into Alaska. Why weren't these products produced locally? The answer is because the economy is scaled to a small domestic market and cannot justify the large capital investment required for processing facilities to manufacture products to meet a need that has far outstripped supply capabilities.

"We sent out questionnaires to 500 people in the wood products industry asking them why the industry isn't expanding in Alaska. The respondents all said the same thing: 'We don't have a steady supply of timber. When we go to banks for equipment and processing facilities loans, the bankers want to know where our raw material is coming from this year, next year and in the future.'"

Sturgeon likens the history of timber sales in Alaska to a rollercoaster ride over the last 10 years, blaming a fluctuating land base for the inconsistency. "Until we get a dedicated land base and take forestry seriously here in Alaska, the future will be no different," he predicted.

Current projections show that six million acres of manageable forests should be included in the state forest system. This year the Alaska Legislature created the 1.7-million-acre Tanana State Forest. "That's going to do a lot for the very active forest products industry in that area," Sturgeon

said. "Every sale we offer there has been bid up to double or sometimes triple the base price. This state forest will help satisfy a real demand for forest products in the Interior region."

In addition, the Division of Forestry has been looking at forested areas in the Susitna and Copper valleys plus the Kuskokwim River area. A major objective of a state forest lands system is to develop a forest products industry capable of meeting domestic needs by the year 2000 for dimensional lumber, firewood and houselogs, Sturgeon said. "The wood products industry in Alaska could amount to a multi-million-dollar proposition," he said.

Other countries in the northern latitudes are doing it right now. Finland, for example, is on the same latitude as Alaska and has similar climate, soils and vegetation types. Finnish foresters depend greatly on climate-controlled greenhouses for growing genetically improved seedlings started from superior seeds. They control humidity, temperature, carbon dioxide and fertilizer and they water on a strict schedule. The result is strong seedlings in six months, compared to the same degree of growth taking years outdoors, Sturgeon said.

"They are doing a lot of work with alder, which we in Alaska think of as a narrow, twisty species. Well, it is not like that in Finland. Not by accident, alder is a commercial tree species in Finland, grown for use in furniture and other household products."

'When we go to the banks for equipment and processing facilities loans, the bankers want to know where our raw material is coming from this year, next year and in the future.'

Alder is a nitrogen fixing plant, Sturgeon said, which would aid the naturally cool, nitrogen-deficient soils of Alaska. In Finland this species grows to rotation age within 20 years and shows an increased wood fiber content of 20 to 30 percent over its naturally occurring cousins.

A Scotch pine in Finland is straight and tall at 55 years and lacks limbs on the lower portion. Prior to pollination, the branch tips are protected with plastic bags to prevent natural pollination from undesirable species.

And in Scotland, what would be a black spruce swamp in Alaska, is a producing forest. The soil, high in organic matter, is trenched; the water is drained and trees are planted between the trenches. The soil gets a high nitrogen concentrated fertilizer and what would be swampland becomes forestland.

Alaska can learn from these and other operations to help create its own commercial wood products industry. Sturgeon foresees an exciting and prosperous future for the state forest system.

But right now, the Forestry Division has some short-term goals to lay the groundwork. Objectives for 1984 include:

- Contribute to Alaska's economy with an increase of 10 percent in sale of forest products.
- Expand the state forest system to establish a dedicated forestland base for the production and protection of forest resources on a multiple-use, sustained-yield basis.
- Intensify management of public lands for long-term productivity and the continuous availability of forest products.
- Educate the public and legislators on the importance and potential of forest resource development.
- Publish the state's first Forest Land Resources Plan under the Federal Resources Planning Act of 1976.
- Conduct operational level inventories on 2.3 million acres of state forest lands.
- Finish the Haines State Forest Resource Management Area Plan and start work on the management plan for the Tanana Valley State Forest.
- Promote the Division of Forestry resource management training program.
- Produce 150,000 seedlings at the new State Forestry Nursery at Eagle River.
- Grow 10,000 hardwood cuttings and 8,000 seedlings for research and collect and process 16 kilograms of seed.
- Grow 205,000 seedlings for reforestation of the Rosie Creek burn. (A June 1983 fire southwest of Fairbanks left 2,300 acres in need of reforestation. The Division of Forestry paid the public to collect cones and received 1,700 bushels.) □

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Alaska State Legislature

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



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

Senate

Committee on Resources

MINUTES

March 19, 1984
3:08 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

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

CALENDAR

SB 202, An Act establishing the Yakataga State Forest.

SB 225, An Act creating the Matanuska Valley Moose Range.

SB 297, An Act establishing the land clearing account in the agricultural revolving loan fund; and providing for an effective date.

SB 298, An Act making a continuing appropriation of repayments of the principal and interest on loans made by the Alaska Agricultural Action Council for land clearing to the land clearing account in the agricultural revolving loan fund; and providing for an effective date.

SB 473, An Act establishing the Alaska Fisheries Council; and providing for an effective date.

SB 479, An Act relating to a forest products business loan guarantee program; and providing for an effective date.

SB 202

Gary Gustafson, Division of Land and Water Management, Department of Natural Resources, explained the Department's proposed amendment that would provide an opportunity to trade up to 3000 acres of land within the proposed Yakataga State Forest to the Seldovia Native Corporation.

Senator Eliason moved to adopt the Committee Substitute and the proposed DNR amendment. There was no objection. He then moved CS SB 202 from committee with individual recommendations, noting Senator Sturgulewski's abstention for possible conflict of interest. There was no objection.

SB 473

Carol Derfner, Special Assistant to the Governor, Boards and Commissions, testified that the Governor did not encourage the creation of another advisory board on fishery issues, and cited the existence of the mini-cabinet on fisheries, the fisheries task force, and many other local, regional, and federal advisory boards and commissions.

Steve Pennoyer, Deputy Commissioner, Department of Fish and Game, testified that there are already 72 advisory committees that advise the Board of Fisheries on policy issues. The department is opposed to this bill.

Greg Baker, Director, Office of Commercial Fisheries Division, Department of Commerce and Economic Development, testified that the Department agrees with the needs outlined in the bill, but feels the Governor's mini-cabinet on fisheries is serving that function.

Phil Daniel, United Fishermen of Alaska, spoke in support of the bill, citing the need for more industry participation in the Governor's mini-cabinet.

SB 479

Milt Barker, Deputy Commissioner, Treasury Division, Department of Revenue, spoke in support of the Committee Substitute that incorporates the changes recommended by the Department.

Senator Ziegler moved CS SB 479 from committee with individual recommendations. There was no objection.

SB 225

Chuck Hawley, owner of coal leases within the proposed Moose Range, asked for assurances that his leases would not be affected by establishment of the Moose Range.

Richard Ramsey, Aide to Senator Kerttula, testified to the loss of moose habitat due to development, and stressed the support of local residents. The existing language in the bill is intended to include coal mining.

Bob Arnold, Deputy Commissioner, Department of Natural Resources, speaking for the Department of Fish and Game also, spoke in general support of the bill, but indicated that the Department's are not agreed on the boundaries and management for the proposal.

Dill Beaty, Chief of Resource Allocation, Division of Land and Water Management, Department of Natural Resources, explained that the proposed area is currently undergoing an extensive planning and public review process as part of the Susitna area plan, and that several issues in the plan remain unresolved.

SB 297

SE 298

Senator Moss, sponsor of the bills, explained that they would provide for a separate land clearing account within the Agricultural Revolving Loan Fund and allow repayment of outstanding clearing loans to the account. He proposed an amendment that would grant a 5 year moratorium on repayment of outstanding clearing loans.

The meeting adjourned at 4:27 pm.

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) 485-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

March 16, 1984
3:05 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

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

CALENDAR

SB 202, An Act establishing the Yakutat State Forest.

SB 479, An Act relating to a forest products business loan guarantee program.

TELECONFERENCED TO: Haines, Sitka, Yakutat, Cordova, Ketchikan, Fairbanks, Petersburg, and Anchorage.

SB 202

John Sturgeon, State Forester, Department of Natural Resources, spoke in support of the Committee Substitute, emphasizing the advantages with respect to timber sales. He also discussed the DNR amendment that would allow a land exchange.

Senator Eliason moved to adopt the Committee Substitute. There was no objection.

Phil Holdsworth, Alaska Miners Association, Juneau, testified in support of the Committee Substitute, and stressed the need for a management plan.

Oliver Osborn, President, Cordova Lands Coalition, spoke in support of the bill but objected to DNR's proposed amendment.

Dick Groff, Cordova, spoke in support of the bill.

Larry Powell, Mayor, City of Yakutat, spoke in support of the bill, urging the protection of the fisheries while providing for a greater variety of resource development.

Don Bell, Manager, Alaska Loggers Association, Ketchikan, testified in support of the bill.

Cal Kerr, North Coast Mining, Anchorage, spoke in support of the bill. He recommended an inventory of minerals in the area be done and additional acreage be included.

Jerry McCutcheon, Anchorage, suggested an amendment to require that timber from the forest be processed in-state.

Al Harris, Alaska Society of American Foresters, Juneau, testified in support of the bill.

Larry Revell, Yakutat, spoke in support of the bill.

Wolfgang Falke, Fairbanks, pointed out a technical error in the statute citations referenced in the bill.

SB 479

Richard Ramsey, Aide to Senator Kerttula, explained that Forest Products Business Loan Guarantee Fund money could be used to guarantee a loan for financing the purchase of a forest products business.

Vincent O'Reilly, Deputy Commissioner, Department of Commerce and Economic Development, supported the concept of the bill.

Milt Barker, Division of Treasury, Department of Revenue, proposed an amendment to the bill to ensure that the net cash flow from the forest products business provide adequate coverage of the debt service on the loan.

Wally Kubley, representing Louisiana-Pacific, Ketchikan (LPK), explained that the \$25 million state guarantee needed to allow employee purchase of the Louisiana-Pacific Ketchikan mill may be included in the operating budget.

Martin Pihl, Comptroller and Assistant Manager, LPK, Rick Benner and Dick Robb, LPK employees, spoke in support of the bill and discussed how employee purchase of the mill would work and the economic projections the financing plan is based on.

Tom Cashen, AFL-CIO, spoke in support of the bill.

The meeting adjourned at 4:45 pm.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 3/8/84

REQUEST

Bill/Resolution No.: SB 202
Title: Yakataga State Forest

Sponsor: Eliason
Requestor:
Date of Request: 2/8/84

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: NRM & EC

BRU, Program or Subprogram(s) Affected:
Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		46.4	46.4	46.4		
200 TRAVEL		15.0	15.0	15.0		
300 CONTRACTUAL		10.0	10.0	10.0		
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		71.4	71.4	71.4		

CAPITAL						
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REVENUE		71.4	71.4	71.4		
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FUNDING: (Thousands of Dollars)

GENERAL FUND		71.4	71.4	71.4		
FEDERAL FUNDS						
OTHER						
TOTAL		71.4	71.4	71.4		

POSITIONS:

FULL-TIME		1.0	1.0	1.0		
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: George Hollett Phone: 276-2653
Division: Forestry Date: 3/8/84

MH Approved by Commissioner: Wm D Adams, Deputy Date: 3/8/84
Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

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

12/1/83

The establishment of a Yakataga State Forest will commit State-owned lands between Cape Suckling and Icy Bay to long term public retention to be managed for multiple use and sustained yields. There are about 560,000 acres within the area, of which an estimated 80,000 acres have more than 20,000 board feet per acre. These are among the most productive forest lands owned by the State and the timber resources are already being managed on a sustained yield basis. Commitment of the natural resources will have a beneficial effect on the economies of Yakutat and Cordova and will likely stimulate long term industrial and commercial development based on the estimated potential yield of the area of 20 million board feet per year. The annual revenue to the State at today's prices would be one to two million dollars with a total product value of 5 to 10 million dollars. Establishment of a State Forest will cost the State an additional 71 thousand dollars per year for planning and forest development of the area.

Cordova Lands Coalition
Box 1183
Cordova, Alaska 99574

Feb. 26, 1984

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason,

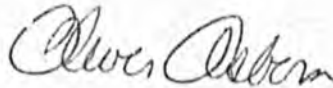
We have recently heard that you have introduced a bill to create a State Forest in the Yakataga area. We would like to express our strong support for this action.

The Cordova Lands Coalition wrote you last year supporting the establishment of a Yakataga State Forest. We appreciate your continued efforts this year as well.

The Yakataga area is the best timber area remaining in State hands. It is also an area of rich wildlife and fisheries resources. So far, the bulk of the area has been little impacted by human use. This area would make a major impact on the State Forest timber base, helping to allow sustained commercial levels of timber harvest. At the same time, State Forest designation would promote multiple use management with protection of key wildlife and fisheries resources.

Thank you for sponsoring this bill to designate a Yakataga State Forest.

Sincerely,



Oliver Osborn
President

League of Women Voters of Alaska

March 14, 1984

The Honorable Bettye Fahrenkamp, Chairman
Senate Resources Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 202: Yakataga State Forest

Dear Senator Fahrenkamp:

Please make the attached statement a part of your Committee's record in considering the subject legislation.

Sincerely,



Elizabeth Cuadra
Natural Resources Portfolio
9151 Skywood Lane
Juneau, Alaska 99801

DEC:sd
Enclosure

MAR 14 1984

League of Women Voters of Alaska

COMMENTS ON SB 202: ESTABLISHING THE YAKATAGA STATE FOREST

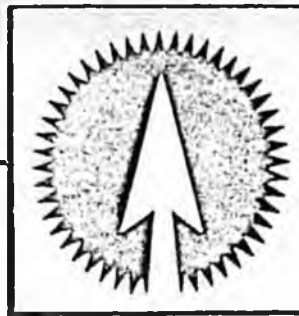
The League of Women Voters of Alaska supports (in principle) SB 202 to establish a Yakataga State Forest.

In the last session of the Legislature, we supported SB 108, which became law as Chapter 91 SLA 1983 (establishing the structural framework for a state forest system and beginning that system by establishing the Tanana Valley State Forest).

The League adopted a land use position in 1975 and a land disposal position in 1980. We have taken a continuous interest in major land use issues before the Legislature, because we believe that use of land affects most aspects of life in our communities, as well as the long range economic future of the State.

Elizabeth Cuadra
Natural Resources Portfolio
9151 Skywood Lane
Juneau, Alaska 99801

Alaska Loggers Association, Inc.



SB 202

February 24, 1984

111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

Honorable Bettye Fahrenkamp
Alaska State Senate
Pouch V State Capitol Building
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The Alaska Loggers Association supports the establishment of Yakataga State Forest as proposed in Senate Bill 202. Inclusion of this area into the State Forest system will greatly benefit all the people of Alaska as well as the forest products industry.

The 460,000 acres in the proposed forest are among the most productive forest lands owned by the State of Alaska. These forest lands are already being managed on a sustained yield basis. Since 1970, 190 million board feet have been harvested. An additional 49 million board feet were sold in 1983. This will be harvested over the next five years. A commitment of this forest land to long term timber management will most likely stimulate more development in Yakutat and Cordova. The standing sawtimber volume of 4.3 billion board feet and estimated potential yield of 20 million board feet of timber per year would have a beneficial effect on the economies of both communities.

Establishment of a Yakataga State Forest would greatly benefit the people of Alaska by adding one more source of steady income to the State's income. The annual revenue to the State at today's prices would be one to two million dollars with a total annual product value of 5 to 10 million dollars.

An additional benefit of committing this land to long term public retention to be managed for multiple use and sustained yield is the assurance of a continuous source of timber to the forest products industry. At the present time, it is difficult for the State Division of Forestry to project an annual allowable cut since the timber land base has been so variable. Classifying this land as a State Forest would insure that this prime State owned timber land will be managed for its best possible uses and would allow the Division of Forestry to do more long range planning.

Again, Alaska Loggers Association fully supports the establishment of Yakataga State Forest and would appreciate your support of Senate Bill 202. Thank you for your consideration of this bill.

Sincerely,

Donald A. Bell
General Manager
ALASKA LOGGERS ASSOCIATION

DAB/mjh

cc: Alaska State Senators

SERVING ALASKA'S TIMBER INDUSTRY



CHUGACH NATIVES, INC.

903 WEST NORTHERN LIGHTS, SUITE 201 • ANCHORAGE, ALASKA 99503
(907) 276-1080 TELEX 26-497

March 22, 1984

Mr. Max Gifford, Staff Assistant
Senate Finance Committee
Pouch V
Juneau, AK 99811

re: CSSB 202 Yakataga State Forest

Dear Mr. Gifford:

Thank you for taking time with me yesterday. CNI is requesting that the following amendments to CSSB 202 be included through the auspices of your office when the Bill comes before the Finance Committee:

- (1) after "Kachemak Bay State Park" add "or other private lands or interests therein"; and
- (2) Change "1985" to "1986".

The effect of our proposed amendments would be to enable the Commissioner of DNR to exchange up to 3,000 acres in the State forest for lands or interests in lands owned by CNI or its Village Corporations. When CNI was negotiating its land exchange agreement, we were repeatedly denied nominations on 60,000 acres in the Yakataga area. If the State is now agreeable to such exchange rights, we feel we should have some opportunity to participate if Seldovia Native Association chooses not to up to 3,000 acres. In addition, if an exchange agreement is to be negotiated between CNI & DNR, we feel that an additional year will be necessary.

Sincerely,

CHUGACH NATIVES, INC.

Samuel J. Bacino
Vice President of Lands & Natural Resources

SJB:jdc

cc: Seldovia Native Association
Reed Stoops
Fred Boness



City and Borough of Sitka

P.O. BOX 79 · SITKA, ALASKA · 99835

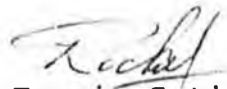
March 17, 1983

Senator Richard Eliason
Alaska State Legislature
Pouch V
Juneau Alaska 99811

Dear Dick:

Due to the fact that Sitka's economy is dependent on a healthy woods industry, you are encouraged to work with the Department of Natural Resources in order to define boundaries for a state forest in the Yakataga area.

Sincerely,



Fermin Gutierrez
Administrator

cc: Peter M. Huberth, ALP

DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF FOREST, LAND AND WATER MANAGEMENT

LAND CLASSIFICATION ORDER
 AS 38.05.300

No. SC-80-62

1. The following classifications are based on information contained in Land Planning Report Number SC-80-62, and dated August 12, 1980.

2. Description of Lands	Acreage	Acquisition Authority	Classification
✓ T23S, R21E, C.R.H.	28	MH-135	Forest
✓ T23S, R22E, C.R.H.	345.24	MH-135	Forest
✓ T22S, R24E, C.R.H., that portion on the westside of Icy Bay	240	GS-1422	Forest
✓ T22S, R19E, C.R.H.	2134.13	MH-1313	Forest
✓ T22S, R20E, C.R.H.	6901	MH-132	Forest
✓ T22S, R21E, C.R.H.	16,738	MH-133	Forest
✓ T22S, R22E, C.R.H.	22,248.1	MH-134	Forest
✓ T22S, R23E, C.R.H.	13,080	GS-1271	Forest
✓ T21S, R29E, C.R.H. East of Chugach National Forest	18,985	GS-1420	Forest
✓ T21S, R10E, C.R.H.	15,329	GS-1419	Forest

3. The above described lands are hereby designated and classified as indicated. Nothing shall prevent the reclassification of these lands if warranted in the public interest.

Submitted: [Signature]
 District Classification Officer

Approved: [Signature] 10/2/80
 District Manager

Classification Recommended: [Signature] 10/13/80
 Division Classification Officer

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

Classified: [Signature]
 Commissioner, Department of Natural Resources

10/22/80
 Effective Date

MA
 16 Dec 50/pek
 IR [Signature] 12/24/80

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FOREST, LAND AND WATER MANAGEMENT

LAND CLASSIFICATION ORDER
AS 38.05.300

No. SC-80-62

1. The following classifications are based on information contained in Land Planning Report Number SC-80-62, and dated August 12, 1980.

2. Description of Lands	Acreage	Acquisition Authority	Classification
✓ T21S, R11E, C.R.#1	10,796	GS-1418	Forest
✓ T21S, R11E, C.R.#1 <i>ml</i>	2,095	GS-1417	Forest
✓ T21S, R12E, C.R.#1	6,645	GS-1416	Forest
✓ T21S, R13E, C.R.#1	19,862	GS-1415	Forest
✓ T21S, R14E, C.R.#1	15,772	GS-1413	Forest
✓ T21S, R15E, C.R.#1	10,503	GS-1411	Forest
✓ T21S, R16E, C.R.#1	9,544	GS-1409	Forest
✓ T21S, R19E, C.R.#1	22,252.79	GS-1270	Forest
✓ T22S, R13E, C.R.#1	23,040	GS-1414	Forest
✓ T22S, R14E, C.R.#1 <i>ml</i>	23,040	GS-1412	Forest
✓ T20S, R15E, C.R.#1	23,040	GS-1410	Forest
✓ T20S, R16E, C.R.#1	23,040	GS-1408	Forest

3. The above described lands are hereby designated and classified as indicated. Nothing shall prevent the reclassification of these lands if warranted in the public interest.

Submitted: *[Signature]*
District Classification Officer

Approved: *[Signature]* 10/7/80
District Manager

Classification Recommended: *[Signature]*
Division Classification Officer

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

Classified: *[Signature]*
Commissioner, Department of Natural Resources

10/22/80
Effective Date

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FOREST, LAND AND WATER MANAGEMENT

LAND CLASSIFICATION ORDER
AS 38.05.300

No. SC-80-62

1. The following classifications are based on information contained in Land Planning Report Number SC-80-62, and dated August 12, 1980.

2. Description of Lands	Acreage	Acquisition Authority	Classification
<u>T20S, R17E, C.R.11</u>	<u>23,040</u>	<u>GS-1267</u>	<u>Forest</u>
TOTAL:	308,524.26		

3. The above described lands are hereby designated and classified as indicated. Nothing shall prevent the reclassification of these lands if warranted in the public interest.

Submitted: [Signature]
District Classification Officer

Approved: [Signature] 10/7/80
District Manager

Classification Recommended: [Signature]
Division Classification Officer

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

Classified: [Signature] 10/22/80
Commissioner, Department of Natural Resources Effective Date



GREATER SITKA

APR 4 1983

Chamber of Commerce, Inc.

March 29, 1983

Senator Richard Eliason
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Senator Eliason:

The Greater Sitka Chamber of Commerce supports SB 202 and is appreciative of such efforts on behalf of the wood products industry. We encourage you to work with the Department of Natural Resources in order to define the boundaries of a State forest in the Yakataga area.

Sincerely,

Ernestine Griffin
Ernestine Griffin,
President

EG:kf

cc:
Senator Bettye Fahrenkamp
Senator Robert Ziegler
Senator Bob Mulcahy
Senator Vic Fischer
Senator Arliss Sturgulewski

MEMORANDUM

State of Alaska

TO: Senate Resources Committee

DATE: March 14, 1984

FILE NO:

TELEPHONE NO:

FROM:

Robert D. Arnold

Robert D. Arnold
Deputy Commissioner

SUBJECT:

SB 202

To provide the Department of Natural Resources with as much latitude as possible for proposing lands for exchanges, we request the addition of the following amendment to the Yakataga State Forest bill, SB 202.

Section 2. Notwithstanding AS 41.17.210 as enacted in Section 1 of this Act, the Commissioner may, before July 1, 1985, exchange for private inholdings within Kachemak Bay State Park a portion of the land up to 3000 acres within one or more sites described in Section 1.

cc: Senator Richard I. Eliason

SB 202

SB 202 YAKATAGA STATE FOREST

SB 202 EXPANDS THE EXISTING STATE FOREST SYSTEM, ESTABLISHED LAST YEAR, BY

DESIGNATING 460,000 ACRES OF STATE-OWNED LAND BETWEEN CAPE SUCKLING AND ICY BAY AS THE YAKATAGA STATE FOREST. DNR SAYS THESE ARE AMONG THE MOST PRODUCTIVE FOREST LANDS OWNED BY THE STATE

-THE FOREST WOULD BE MANAGED FOR MULTIPLE USE

-A MANAGEMENT PLAN WILL BE ADOPTED, IMPLEMENTED, AND MAINTAINED WITHIN 3 YEARS.

AN EXCHANGE OF UP TO 3000 ACRES IN THE PARK WILL BE ALLOWED BEFORE JULY 1, 1985

FOR PRIVATE INHOLDINGS WITHIN THE KACHEMAK BAY STATE PARK OR FOR OTHER PRIVATE LAND OR INTERESTS IN LAND.

Finance CS is offered. Resource CS allows for an exchange of land for private holdings within the Kachemak Bay State Park. The Finance CS expands this by including "or for other private land or interest in land."

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SB 207

RELATING TO COMPENSATION OF MEMBERS OF THE BOARD OF FISHERIES
AND THE BOARD OF GAME.

SPONSOR: FERGUSON BY REQUEST

Establishes salaries for members of the Board of Fisheries and Board of Game at Step 7, Range 28 of the salary schedule (currently \$5,843 monthly).

Under current statute, board members receive travel expenses and \$150 per diem per day.

Issuance of permits based on verbal instructions to agents held improper. — The issuance of permits for the killing of caribou in certain specified areas of the state based on verbal instructions to the permit agents as to the need of individual applicants does not conform to requirements of the Administrative Procedure Act (AS 44.62). *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Nothing in the Administrative Procedure Act (AS 44.62) authorizes the Board

of Game to impose requirements not contained in written regulations by means of oral instructions to agents. Such verbal additions to regulations involving requirements of substance are unauthorized and unenforceable. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Reasonable basis for Board of Game's quota of caribou to be killed. — See *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Sec. 16.05.260. Advisory committees.

NOTES TO DECISIONS

Establishment of use priorities. — While the Board of Fisheries did have the authority to establish priorities of use between recreational and commercial fisheries of the salmon stocks in the Upper Cook Inlet, the policy and option establishing these priorities were regulations which should have been adopted pursuant

to the provisions of the Administrative Procedure Act, AS 44.62.010 — 44.62.650. *Kenai Peninsula Fisherman's Coop. Ass'n v. State*, Sup. Ct. Op. No. 2358 (File No. 5072), 628 P.2d 897 (1981).

Cited in *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Sec. 16.05.290. Compensation of board members. Each member of a board is entitled to travel expenses and \$150 per diem for each day going to and from and for each day in actual attendance at board meetings. For other meetings or conferences authorized by a board a member shall receive \$100 per day. (§ 8 art I ch 94 SLA 1959; am § 6 ch 206 SLA 1975; am § 1 ch 81 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "\$150" for "\$100" near the beginning of the first sentence, substituted "For" for "and" at the end of

the present first sentence to create the present second sentence, and added "a member shall receive \$100 per day" at the end of the present second sentence.

Article 3. Licensing of Sport Fishing and Hunting.

- Section**
 340 License and tag fees
 341. Free license for disabled veterans
 345. [Repealed]
 346. Permit applications
 390. Fees and compensation for issuance of licenses and tags

- Section**
 400 Persons exempt from license requirement
 407. Nonresident hunting game animals must be accompanied by guides
 408. Nonresident alien hunter to be accompanied by guide

Sec. 16.05.340. License and tag fees. (a) Fees for licenses and tags are as follows:

- (1) Resident sport fishing license \$10

Title 14
Education

has an established probable date of termination. (§ 4 ch 67 SLA 1979; am § 79 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, deleted "and labor relations" following "division of personnel" in paragraph (2).

Chapter 27. Pay Plan for State Employees.

Section

11. Salary schedule

Sec. 39.27.011. Salary schedule. (a) The following monthly basic salary schedule is approved as the pay plan for classified and partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of the Public Employment Relations Act:

Range No.	Step A	Step B	Step C	Step D	Step E	Step F
05	1,258	1,292	1,330	1,367	1,408	1,445
06	1,330	1,367	1,408	1,445	1,487	1,530
07	1,408	1,445	1,487	1,530	1,578	1,627
08	1,487	1,530	1,578	1,627	1,673	1,726
09	1,578	1,627	1,673	1,726	1,782	1,832
10	1,673	1,726	1,782	1,832	1,889	1,946
11	1,782	1,832	1,889	1,946	2,010	2,073
12	1,889	1,946	2,010	2,073	2,145	2,218
13	2,010	2,073	2,145	2,218	2,295	2,379
14	2,145	2,218	2,295	2,379	2,463	2,556
15	2,295	2,379	2,463	2,556	2,639	2,739
16	2,463	2,556	2,639	2,739	2,838	2,941
17	2,639	2,739	2,838	2,941	3,041	3,146
18	2,838	2,941	3,041	3,146	3,249	3,371
19	3,041	3,146	3,249	3,371	3,475	3,605
20	3,249	3,371	3,475	3,605	3,714	3,851
21	3,475	3,605	3,714	3,851	3,971	4,115
22	3,714	3,851	3,971	4,115	4,251	4,408
23	3,971	4,115	4,251	4,408	4,554	4,725
24	4,251	4,408	4,554	4,725	4,885	5,050
25	4,554	4,725	4,885	5,050	5,236	5,433
26	4,725	4,885	5,050	5,236	5,433	5,629
27	4,885	5,050	5,236	5,433	5,629	5,843
28	5,050	5,236	5,433	5,629	5,843	6,047
29	5,236	5,433	5,629	5,843	6,047	6,259
30	5,433	5,629	5,843	6,047	6,259	6,480

(b) Repealed by § 38 ch 3 SLA 1980.

(c) If a state officer or employee is appointed a deputy department head or a division director and, at the time of appointment, the officer

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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

April 18, 1983
3:03 p.m.

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chair
Senator Ziegler, Vice Chair
Senator Eliason

Senator P. Fischer
Senator V. Fischer
Senator Sturgulewski

CALENDAR

- SB 216 An Act relating to mining lease locations.
- SB 11 An Act making special appropriations to the Alaska Power Authority; and providing for an effective date.
- SJR 24 Requesting that Alaska be exempted from legislation allowing abrogation of existing natural gas contracts.
- Oversight hearing on AS 46.15.145, reservation of instream water; and proposed DNR regulations.

SB 216

Senator Sturgulewski moved to consider the committee substitute for SB 216.

Bob Arnold, Deputy Commissioner of the Department of Natural Resources, said the extension of time for lease hold locations is needed, and is supported by the mining community.

Phil Holdsworth, representing the Alaska Miners Association, concurred with the committee substitute.

Senator Sturgulewski moved the committee substitute with individual recommendations, subject to a title change. The motion passed without objection.

SB 11

Senator Fahrenkamp noted that mark-up work is being done on SB 11, and that she did not plan to move the bill this date.

Senator Eliason offered two amendments to SB 11: \$3,074,000 for the Pelican Hydroelectric project, and \$130,000 for a loan to the City of Thorne Bay for a hydro facility.

Senator Ziegler requested that staff report on the status of the Tyee and Swan Lake projects.

Senator V. Fischer submitted three proposed amendments: \$2.9 million for a feasibility study of the Chakachamna hydro project, \$1.6 million for other railbelt energy studies, and a reduction from \$22 million to \$17.5 million for Susitna studies and licensing.

SJR 24

Jim Palmer, Committee staff, said the resolution addresses a bill before the US Senate which would deregulate the natural gas industry. Alaska has little ability to compete among pipelines, and if the state is required to renegotiate contracts, the price of energy to consumers may increase over 100%.

Senator V. Fischer moved SJR 24 with individual recommendations. There being no objection, the motion passed.

Oversight Hearing on Reservation of Instream Water

Tom Hawkins, director of the Division of Land and Water, Department of Natural Resources, referred to a memorandum prepared by his division. The Department supports the goals of the instream flow law and regulations. He explained the need for the 1980 amendments and stated that the DNR regulations would allow adjudication of federal reserved water rights by the state. Hawkins explained the miners' concerns with the regulations, and why the department felt their concerns were probably unfounded.

Joe Cladouhos, Department of Environmental Conservation, referred to the department's position paper, which had been submitted to the committee. The department supports the regulations.

Bruce Baker, of the Habitat Division of the Department of Fish and Game, stated that the regulations are essential to maintain stream flows and for fish habitat and production. He

further stated that the regulations would help the Department to accurately develop statistics and techniques for measuring stream conditions, which would be useful in developing proposals to DNR for water flow reservations.

Tom Koester, Assistant Attorney General, discussed the conflicting views of the Reagan and Carter administrations on federal water rights and stated that the proposed regulations would give the department the right to adjudicate with the federal government to determine the amount of water necessary to fulfill federal needs.

Phil Holdsworth, Alaska Miners Association, noted the stream reclassification process the Department of Fish & Game completed in compliance with the current statute. Holdsworth said the miners are concerned with the Attorney General's interpretation of "person" in the current statute. He further stated that the miners feel the four categories in the current statute used to apply for a reservation are too restrictive as they do not mention hydroelectric or other industrial uses.

Al Stein, United Southeast Alaska Gillnetters Association, expressed support for the regulations, as the streams are the industrial base of the fishing industry.

Tom Koester explained the Attorney General's interpretation of "person" as a question of what right is being conveyed: whether it is a reservation belonging to an individual or a reservation that resides in the public interest. He stated that hydroelectric development and irrigation would be diversionary uses, which are not addressed in the 1980 amendments. Rather, the amendments create an additional competing use of water by allowing for reservation of instream flow. He concluded by explaining the State's prior appropriations doctrine, which grants priority to the first permit granted.

Jay Nelson, Alaska Environmental Lobby, said the environmental community supports the legislation and the regulations.

The meeting was adjourned at 4:16 p.m.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE:

April 13, 1983

APR 14 1983

The Honorable Bettye Fahrenkamp
Chairman, Senate Resources
Alaska State Senate
Pouch "V"
Juneau, AK 99801

Dear Senator Fahrenkamp:


Please consider this amendment to SB 216. We have discussed the matter with Pat Pourchot, of your staff, and we will be available to testify on the necessity for this change in the Senate Resource hearing on Monday.

* Sec. 2. As 38.04.020(c) is amended to read:

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.05.300. [LAND WITHIN A MUNICIPALITY RETAINED IN STATE OWNERSHIP CONSISTS OF LAND CLASSIFIED FOR RETENTION IN STATE OWNERSHIP AS OF DECEMBER 31, 1980.] Land outside a municipality to be retained in state ownership consists of land classified for retention in state ownership by the commissioner by July 1, 1985 [1983]. Land conveyed to the state by the federal government that is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by the municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

If you have any questions, please let me know.

Sincerely,


Esther C. Wunnicke
Commissioner

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

April 15, 1983

Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Hearing, Instream Flow Oversight; SB 216, Mineral leasehold extension; SJR 24, Natural Gas Deregulation and Contract Abrogation.

Background information on Instream Flow is being sent under separate cover.

SB 216

AS 38.05.185 provides that on state lands of mineral character or lands where significant land use conflicts exist mining claims would convert to leases prior to production. Because of the numbers of claims on such lands going into the production of placer gold and the inability of the Department of Natural Resources to convert the claims to leases, in 1981 the Legislature passed a bill to permit production on regular claims to proceed until December 31, 1983 without having to convert to a lease.

Attached is a memorandum from Kay Brown, Director of DMEM, explaining the difficulties the Department is having in complying with the lease provisions for the large number of claims by the 1983 deadline. SB 216 would move the deadline for such conversions to December 31, 1985 to enable the Department to prepare the lease form and procedures, to process the mining claims on affected state lands, and to study the entire leasehold system and recommend possible changes in existing law and regulation.

Amendment to SB 216

Another provision of Title 38 dealing with land issues which involves a deadline which can not be administratively met is AS 38.04.020(c). This section requires the Department to classify all state lands to be retained in state ownership by July 1, 1983. Lands not so classified would be included in the land disposal bank for possible disposal.

The classification process is lengthy and normally done in conjunction with land use plans for certain regions or areas of the state. This planning and classification process is not yet completed for several areas of the state and the identification of all lands which might be recommended for retention in state ownership has not been done nor will it be done by July of this year.

The attached letter from the DNR requests an amendment to SB 216 to extend the deadline for the classification of land to be retained in state ownership from July 1, 1983 to July 1, 1985. In addition, it is recommended that language pertaining to state lands recommended for retention in municipalities be deleted. This work has already been completed and the language is moot.

SJR 24

The Reagan Administration has introduced legislation (S 615) amending the Natural Gas Policy Act of 1978. The Administration's proposal attempts to combine phased decontrol of gas prices with measures enabling pipelines and producers to get out of long-term contracts that are believed to be keeping gas prices high. A summary of the key points of this legislation is attached.

SJR 24 requests that Congress exempt the State of Alaska from section 316 of the Administration bill. Section 316 allows the abrogation of existing natural gas supply contracts. Section 316 is also attached for your information.

The current price of gas sold to Chugach Electric for example is 26¢. It is estimated that if the Administration's proposal passed intact as now drafted, this price could increase to \$2.50 and above. The Department of Natural Resources has stated that the request for this exemption is consistent and in accord with official State position.

Additional attachments have been included for your information.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: SB 216
 Title: Extending deadline for leasehold locations
 Sponsor: Fahrenkamp and Bennett
 Requestor: Senate Resources

II. FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: Mgmt. of Min. Res.
 BRU, Program of Subprogram(s) Affected: Mineral Development

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0			

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	0	0	0			

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mark Wittow *Mark Wittow* Phone: 465-2400
 Division: Commissioner's Office Date: 4/13/83
 Approved by Commissioner: Manu Hallman Date: 4/13/83
 Department: Natural Resources

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Alaska State Legislature

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Senate

Committee on Resources

May 27, 1983

Memo

To: Rep. Jack Fuller, Chairman House Rules Committee

From: Senator Bettye Fahrenkamp

Subject: SB 216, Mining Lease, Land Classification Extensions

You now have SB 216 in your Committee which, as originally drafted and passed by the Senate, would simply extend two deadlines contained in AS 38.05 for converting to a mining lease system and for classifying land to be retained in state ownership. Because of staff and funding limitations and legal complications, these deadlines simply can not be met this year in a responsible way.

However, in the House Resources Committee two amendments to the bill were adopted which make substantial changes in the bill. I am strongly opposed to these amendments and recommend that they be deleted.

The first amendment is contained on page 1, line 28, and would shorten the deadline for classifying state lands from the Senate version of July 1, 1985, to December 1 of this year. This deadline would barely give the DNR sufficient time to hold required public hearings and simply do a pro forma statewide classification not based on planning and resource evaluation. Additionally, considerable manpower would be diverted from programmed activities, including land disposals. I believe two years is a reasonable time to accomplish this task without adversely affecting other programs. Because the current acreage in the land disposal bank is well over a million acres already, the extension of the deadline to retain land by the state will in no way affect land disposals.

The second amendment is contained in the new Section 3 on page 2. It would require the opening up of all lands in the disposal bank slated for remote parcels after three years under the remote parcel program. Although I agree that the land disposal program needs improvement, this should be a product of much more study--study which I intend to do over the interim. This bill is simply not the vehicle to launch a new, unstudied approach to land disposal on a piecemeal basis.

I hope that the Rules Committee would review these amendments and remove them prior to passing this needed legislation.

Recinded
23-14
adoption
motion to
adopt
rec. GS for SB
216
28-12

1 ownership consists of land classified by the commissioner within two
2 years of receipt of tentative approval or patent, whichever occurs
3 first. State land not classified for retention in state ownership or
4 selected by the municipality under this section shall be classified
5 and included in the land disposal bank. The commissioner shall ensure
6 that the bank includes at least 500,000 acres.

7 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
8 10.070(c).

Add new Section 3 Remember remaining section

*38.040.020 add new (e) committee minutes
to reflect addition*

*(e.) Notwithstanding other provisions of this
title there is within the disposal bank not
proposed for disposal under (d) 2-4 of this
section within the following three years
shall be available for staking under the
state parcel program provided that staking
under this provision not be allowed within
the miles of any existing private land or
state parcel entry.*

SB 216, MINING LEASE LOCATION MORATORIUM EXTENSION

BACKGROUND

STATE LAW PROVIDES THAT ^{ON} STATE LANDS OF MINERAL CHARACTER OR WHERE LAND USE CONFLICTS EXIST MINING CLAIMS WHICH ARE STAKED WOULD CONVERT TO MINING LEASES PRIOR TO PRODUCTION.

IN 1981 THE LEGISLATURE EXTENDED THE DEADLINE FOR CONVERSION OF CLAIMS TO LEASES UNTIL DEC. 31, 1983 BECAUSE OF THE DRAMATIC INCREASE IN PLACER GOLD CLAIMS ENTERING PRODUCTION WITH THE RISE IN GOLD PRICES AND THE ABSENCE OF MINERAL LEASE PROCEDURES AT THAT TIME.

CURRENT SITUATION

DNR REPORTS THAT WITH THE PROSPECTS OF HAVING TO CONVERT HUNDREDS, IF NOT THOUSANDS OF CLAIMS, AND THE TECHNICAL PROBLEMS WHICH STILL EXIST WITH THE MINERAL LEASE LOCATION SYSTEM, THE DEPARTMENT WOULD BE UNABLE TO MEET THE ^{December} DEADLINE THIS YEAR. THEY ARE REQUESTING AN EXTENSION TO FURTHER STUDY AND EXPLORE THE PROBLEMS AND PROCEDURES OF MINERAL LEASE LOCATION SYSTEM AND POSSIBLY TO RECOMMEND CHANGES IN THE LAW.

ADDITIONALLY, ANOTHER PROVISION OF TITLE 38 REQUIRES DNR TO CLASSIFY ALL STATE LANDS TO BE RETAINED IN STATE OWNERSHIP BY JULY 1, 1983. LANDS NOT SO CLASSIFIED WOULD BE INCLUDED IN THE LAND DISPOSAL BANK FOR POSSIBLE DISPOSAL. BECAUSE OF DNR'S PLANNING PROCESS PRIOR TO CLASSIFICATION, THIS DEADLINE IS NOT GOING TO BE MET. HAVING THE LANDS GO TO THE DISPOSAL BANK SERVES NO USEFUL PURPOSE AND IN NO WAY WOULD REDUCE THE ANNUAL LAND DISPOSALS (THERE ARE OVER 600,000 ACRES IN THE DISPOSAL BANK CURRENTLY FROM WHICH 60,000 WILL BE DISPOSED THIS YEAR).

BILL'S PROVISIONS

THE BILL EXTENDS THE LEASE CONVERSION MORATORIUM FOR TWO MORE YEARS UNTIL DEC. 1985. THE BILL ALSO EXTENDS THE LAND CLASSIFICATION DEADLINE TWO YEARS UNTIL JULY 1, 1985.

added in Committee Substitute

Sen. Bettye Fahrenkamp

TESTIMONY BEFORE THE HOUSE RESOURCES COMMITTEE

SB 216, MAY 13, 1983

Mr. Chairmen, members of the Committee, I apologize for not being able to testify today in person but I am chairing a meeting of the Senate Resources Committee during this same time period.

However, I would like^x give my strong endorsement to SB 216 and urge the Committee to take swift action on this measure. The bill simply extends the moratorium currently in existence for converting mining claims to mineral leases for another two years. This extension is necessary for the Department of Natural Resources to continue to develop the leasehold system prescribed by law and to identify additional legal and technical problems which have surfaced. Within two years it is quite possible that the Department will recommend to the legislature changes which may be needed in current law regarding the leasehold system.

In addition, the Senate Resources Committee adopted an amendment to the bill which would also extend another deadline in Title 38 for an additional two years. Current statutes call for the state to identify all state lands to be retained in state ownership by July 1, of this year. Lands not identified would fall automatically into the land disposal bank. Land identification by the state has preceded after land use planning has been completed which has taken some time. There simply is not sufficient time to complete the planning and the subsequent classification process by the July 1, 1983 deadline. Rather than interrupting this reasoned, phased process to land classification, an extension is warranted. Such an extension will have no impact on the amount of land to be disposed of as current lands in the disposal bank far exceed annual disposals well into the future.

Thank you for this opportunity to present my views on this legislation.

(Handwritten mark)

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Whom?
date? 9-16-83

MEMORANDUM OF UNDERSTANDING
INTERAGENCY PERMIT REVIEW PROCESS

THIS MEMORANDUM OF UNDERSTANDING (MOU) SETS OUT THE AGREEMENT REACHED BY THE DEPARTMENTS OF ENVIRONMENTAL CONSERVATION, FISH AND GAME, AND NATURAL RESOURCES, AND THE OFFICE OF MANAGEMENT AND BUDGET, REGARDING PROCEDURES FOR A UNIFIED INTER-AGENCY REVIEW OF DEVELOPMENT ACTIVITIES REQUIRING PERMITS FROM MORE THAN ONE STATE AGENCY. THE DEPARTMENTS WHICH ARE PARTY TO THIS MOU ARE HEREAFTER REFERRED TO AS RESOURCE AGENCIES. THIS MOU IS IN FURTHERANCE OF AND IMPLEMENTS THE GOVERNOR'S REGULATORY REFORM OBJECTIVES, WHICH FOLLOW, AND IS INTENDED TO STREAMLINE INTERAGENCY COMMUNICATION AND COORDINATION. IT IS NOT INTENDED TO BE BINDING ON OR CREATE ANY RIGHTS, LEGAL OR OTHERWISE, IN ANY PARTY OR TO ALLOW SUCH PARTY TO ENFORCE THIS AGREEMENT IN ANY ADMINISTRATIVE PROCEEDING OR THE COURTS.

OBJECTIVES OF PERMIT REFORM

1. STREAMLINE AND EXPEDITE STATE REVIEWS AND DECISIONS ON DEVELOPMENT ACTIVITIES CONSISTENT WITH VARIOUS PERMIT OBJECTIVES ALREADY ESTABLISHED.

2. ESTABLISH UNIFORMITY IN THE STATE'S COMMENTS AND DECISIONS ON FEDERAL ACTIVITIES OR FEDERALLY PERMITTED ACTIVITIES AFFECTING THE COASTAL ZONE AND/OR ACTIVITIES WHICH REQUIRE MORE THAN ONE COASTAL MANAGEMENT CONSISTENCY DETERMINATION.

3. ASSURE CERTAINTY AND FINALITY IN THE STATE'S RESPONSES TO PERMIT APPLICANTS BY ELIMINATING REPETITIVE REVIEWS AND DECISION MAKING ON THE SAME ACTIVITY BY STATE AGENCIES.
4. PROVIDE ADEQUATE OPPORTUNITIES FOR PUBLIC AND LOCAL (INCLUDING COASTAL RESOURCE DISTRICTS AND MUNICIPALITIES) PARTICIPATION IN STATE DECISIONS.
5. PROVIDE PROJECT INFORMATION TO THE PUBLIC AND CLEARINGHOUSE ASSISTANCE TO APPLICANTS REGARDING PERMITS INCLUDING INFORMATION, APPLICATION AND PROCESSING OF PERMITS AS WELL AS, TO THE EXTENT POSSIBLE, ASSISTANCE WITH NECESSARY FEDERAL PERMITS.
6. ACHIEVE BALANCED, FACTUALLY DOCUMENTED STATE DECISIONS WHICH RECOGNIZE THE FULL RANGE OF STATE INTERESTS INVOLVED WITH A PROPOSED ACTIVITY, INCLUDING BROAD CONSIDERATION OF THE COSTS AND BENEFITS OF REQUIRING PARTICULAR STIPULATIONS.
7. PROVIDE AN INTERAGENCY CONFLICT RESOLUTION MECHANISM WHICH ALL AGENCIES SHALL ABIDE BY AND WHICH RESULTS IN A UNIFIED STATE POSITION BEING TRANSMITTED TO THE APPLICANT AND OTHER INTERESTED PARTIES.

POINTS OF AGREEMENT

1. OMB ON BEHALF OF THE STATE AND IN COOPERATION WITH THE RESOURCE AGENCIES SHALL RENDER ALL FEDERAL CONSISTENCY DETERMINATIONS AND CERTIFICATIONS AS WELL AS CONCLUSIVE STATE CONSISTENCY DETERMINATIONS IF A PROJECT REQUIRES TWO OR MORE STATE OR FEDERAL PERMITS, LEASES, OR AUTHORIZATIONS. INTERAGENCY REVIEW PROCEDURES INVOLVING THE PARTICIPATION OF APPROPRIATE COASTAL DISTRICTS SHALL BE ESTABLISHED WITHIN THE GUIDELINES OF THIS MEMORANDUM.

2. IF AN ACTIVITY IN THE COASTAL ZONE REQUIRES A SINGLE STATE PERMIT, LEASE OR AUTHORIZATION, A PROCEDURE SHALL BE ESTABLISHED TO INVOLVE THE APPROPRIATE COASTAL DISTRICTS IN THE CONSISTENCY REVIEW.

3. DEFINITE REVIEW TIME FRAMES INTENDED TO EXPEDITE PERMIT PROCESSING, SHALL BE ESTABLISHED BY REGULATION AND ADHERED TO BY OMB IN ISSUING THE CONCLUSIVE CONSISTENCY DETERMINATION AND ALL RESOURCE AGENCIES IN THE ISSUANCE OF PERMITS. APPLICANTS WILL BE REQUIRED TO PROVIDE SUFFICIENTLY DETAILED INFORMATION AT THE TIME THE INTERAGENCY REVIEW IS INITIATED TO ENABLE THE STATE TO COMPLETE A SINGLE COMPREHENSIVE REVIEW OF THE ACTIVITY IN AN EXPEDITIOUS MANNER. PROCEDURES WHICH ALLOW REASONABLE EXTENSIONS OF THESE ESTABLISHED TIME FRAMES DURING THE REVIEW OF UNUSUALLY COMPLEX ACTIVITIES WILL BE ESTABLISHED.

4. OMB SHALL MAINTAIN A RECORD AND PROJECT TRACKING SYSTEM WHICH WILL ENABLE REQUIRED COMMENTS TO BE PROVIDED AND FINAL DECISIONS TO BE ISSUED IN A TIMELY MANNER.

5. NO STATUTORY AUTHORITY OF ANY RESOURCE AGENCY, COASTAL RESOURCE DISTRICT OR THE COASTAL POLICY COUNCIL IS DIMINISHED, OR EXPANDED BY OMB'S ROLE IN THE PERMITTING PROCESS OR BY THIS MOU.

6. EACH AGENCY, COASTAL DISTRICT, LOCAL GOVERNMENT, AND ANY OTHER INTERESTED PARTY WILL HAVE AN OPPORTUNITY TO PARTICIPATE IN THE SINGLE REVIEW FOR WHAT EVER LEVEL OF PROJECT REVIEW A CONSISTENCY DETERMINATION IS MADE THROUGH THE INTERAGENCY PROCEDURES.

7. NO SINGLE RESOURCE AGENCY MAY OVERRIDE ANOTHER DURING THE INTERAGENCY REVIEW PROCESS. OMB SHALL SERVE AS A FACILITATOR AND MEDIATOR DURING THIS INTERAGENCY REVIEW PROCESS. TO IMPROVE THE ACCESSIBILITY OF THAT OFFICE TO PERFORM THE FACILITATION AND MEDIATION ROLE, OMB SHALL MAINTAIN A REGIONAL PRESENCE IN ANCHORAGE, FAIRBANKS AND JUNEAU IN ASSOCIATION WITH THE RESOURCE AGENCIES. OMB MAY CALL INTERAGENCY MEETINGS AS APPROPRIATE.

8. IF THE AGENCIES THROUGH THE REVIEW PROCESS ARE UNABLE TO AGREE ON A SINGLE POSITION AT THE REGIONAL STAFF LEVEL, THE UNRESOLVED ISSUES SHALL BE ELEVATED TO THE DIVISION DIRECTORS AND

TO HIGHER LEVELS, IF NECESSARY, FOR RESOLUTION. COASTAL RESOURCE DISTRICTS WITH APPROVED COASTAL MANAGEMENT PLANS ARE ALSO AUTHORIZED TO ELEVATE UNRESOLVED ISSUES TO SUCH HIGHER LEVELS FOR RESOLUTION. IN THE EVENT AN UNRESOLVED ISSUE IS PRESENTED TO THE COMMISSIONERS OF THE RESOURCE AGENCIES, OMB WILL COORDINATE THE PRESENTATION, REVIEW AND RESOLUTION OF THE ISSUE.

9. A JOINT INTERNAL SIGN OFF ON THE SINGLE CONCLUSIVE CONSISTENCY DETERMINATION WILL BE ESTABLISHED TO ENSURE THAT ALL RESOURCE AGENCIES ARE SATISFIED WITH THE CONSISTENCY DETERMINATION BEFORE ISSUANCE.

10. AN ADMINISTRATIVE ORDER ESTABLISHING THE SPECIFIC STEPS OF THE INTERAGENCY REVIEW PROCESS WILL BE DEVELOPED FOR OMB AND THE RESOURCE AGENCIES NOT LATER THAN SEPTEMBER 30, 1983. UNIFORM REGULATIONS IMPLEMENTING THESE PROCEDURES SHALL BE PRESENTED FOR PUBLIC NOTICE AND COMMENT NOT LATER THAN NOVEMBER 15, 1983.

11. THESE PROCEDURES WILL BE REVIEWED ON OR BEFORE SEPTEMBER 30, 1984 TO DETERMINE WHETHER THE OBJECTIVES OF PERMIT REFORM REFERENCED ABOVE ARE FULFILLED. AT THE REQUEST OF ANY RESOURCE AGENCY OR APPLICANT AND WITH THE APPROVAL OF EACH RESOURCE AGENCY THE INTERAGENCY REVIEW PROCEDURES ESTABLISHED THROUGH THIS MOU WILL BE EXPANDED TO REVIEW ACTIVITIES OUTSIDE THE SCOPE OF THIS AGREEMENT.

Richard A. Neve

RICHARD A. NEVE
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

9/2/83

DATED

Don Collinsworth

DON COLLINSWORTH
COMMISSIONER
DEPARTMENT OF FISH AND GAME

9-6-83

DATED

Esther P. Wunnicke

ESTHER WUNNICKE
COMMISSIONER
DEPARTMENT OF NATURAL RESOURCES

9-6-83

DATED

Peter B. McDowell

PETER B. MCDOWELL
DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF THE GOVERNOR

9-6-83

DATED

issues

lead agency concept
review times - rigidity
automatic approval after time elapses

SB 219

PROPOSED COMMITTEE SUBSTITUTE #2

BILL DRAFT

*Section 1. FINDINGS. The legislature finds that

(1) the orderly development of state resources is being delayed unnecessarily by the length of time required to obtain a permit from a state agency, by the complexity of the permit process, and by the number of agencies involved in the permit process;

(2) the uncertainties created by the absence of specific time limits, the proliferation of state agency review, the number of state agencies involved in the permit process, and duplicative state agency requirements for the processing of permit applications have resulted in excessive costs to the public in lost employment and higher prices;

(3) unnecessarily delay in the processing of permit applications by state agencies is not in the public interest; and

(4) a reduction in the number of state agency reviews and review time required in the permit process would promote the social, economic and environmental health and well-being of state residents.

*Section 2. AS 44.62 is amended by adding new sections to read:

ARTICLE 8A PERMIT PROCESSING

Section 44.62.632. PERMIT CLASSIFICATION. (1) A state resource agency shall by regulation classify each permit issued by that agency in one of the following categories:

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

(2) class II, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days; a final decision on a class II permit must be issued

1 within 65 days after the date of receipt of a complete permit applica-
2 tion, unless a public hearing is held on the permit, in which case a
3 final decision must be issued within 65 days of the date of receipt.

4 Section 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT
5 PROCESSING. (a) An applicant and a resource agency may agree to
6 waive the time limit under AS 44.62.632 (a).

7 (b) Upon a finding by the head of a resource agency that a
8 permit being considered by the agency involves unusually complex
9 issues so that the agency cannot render a final decision within the
10 time period specified in AS 44.62.632, the head of the agency may
11 prescribe a time period within which the final decision will be made.
12 The finding of the head of the agency may be appealed by the applicant
13 to the superior court under the Appellate Rules of procedure.

14 (c) Subject to the provisions of (a) and (b) of this section and
15 AS 44.62.632, if the resource agency fails to make a final decision
16 within 30 days after the receipt of an application for a class I
17 permit or within the time specified in AS 44.62.632(a)(2) for class II
18 permit, the permit application is approved.

19 (d) Consistent with existing statute, a state agency may not
20 condition the issuance of a permit upon the issuance of a permit from
21 another governmental agency.

22 (e) The time period specified in AS 44.62.632(a) may be extended
23 at the request of the applicant or if necessary to facilitate joint
24 processing of a permit application by state and federal agencies, but
25 only if adherence to the time periods established in AS 44.62.632(a)
26 would cause a conflict with federal statute or regulation.

27 (f) In performing its functions under this section, the lead
28 agency shall consult with other resource agencies and with coastal
29 resource districts under AS 46.40. The lead agency shall consider
30 documented facts, data, opinion, conclusions, or recommendations

1 submitted by the commenting agency and the coastal resource districts
2 with an approved district coastal management program, within their
3 areas of expertise, but may, in its discretion, reach contrary opin-
4 ions, conclusions or recommendations according to the weight of the
5 evidence received. The lead agency shall then balance competing
6 factors in reaching its final decision. No resource agency other than
7 the lead agency has primary expertise in the balancing of competitors.
8 Except as required by federal law no state agency other than the lead
9 agency may comment to a federal permitting agency.

10 Section 44.62.634. ADDITIONAL INFORMATION. (a) If a resource
11 agency receives a permit application that does not contain sufficient
12 information concerning compliance with the agency's statutes and
13 regulations, the agency shall notify the applicant within 15 days
14 after receipt of a permit application for a class I permit, and within
15 30 days after receipt for a class II permit.

16 (b) The notification must specify those particular facts or
17 issues concerning the proposal upon which the agency requires addi-
18 tional information in order to determine whether the project will
19 conform to the agency's statutes and regulations.

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

26 Section 44.62.635. LEAD AGENCY. (a) There is established a
27 lead agency that is solely responsible for issuing coastal management
28 consistency determinations under AS 46.40. For resource development
29 activities on state and federal lands, water and submerged lands, the
30 lead agency is the Department of Natural Resources. In all other

1 cases, the lead agency is that resource agency that has principal
2 administrative responsibility for the type of development for which
3 the consistency determination is required, even though the development
4 may require permits from more than one resource agency. The lead
5 agency is solely responsible for preparing and submitting state
6 comments on federal permit applications. For classes of activities
7 for which no agency with principal responsibility exists the governor
8 shall designate a resource agency to be a lead agency for each class
9 by administrative order no later than October 1, 1983.

10 (b) Each state resource agency shall adopt final regulations
11 classifying its permits by October 1, 1983, following appropriate
12 notice and hearing. Permits applied for after October 1, 1983, must
13 be issued in accordance with the time periods specified in (a) of this
14 section, and the provisions of the implementing regulations.

15 (c) Except as required by federal law no state agency other than
16 the lead agency may comment to a federal permitting agency.

17 (d) For activities involving approval of a plan of operation and
18 a certificate under 33 U.S.C. 1341 (sec. 401 of the Clean Water Act),
19 the lead agency shall be the Department of Natural Resources.

20 (e) For activities occurring on privately owned land, and for
21 which one or more state permits or a disposal of interest in state
22 land is required to provide access to the privately owned land, or for
23 purposes otherwise ancillary to the activity, the lead agency shall be
24 the Department of Natural Resources.

25 (f) Nothing in this section or AS 46.40 authorizes a lead agency
26 or any resource agency to deny or condition a consistency determina-
27 tion because of impacts which may be caused by activities not them-
28 selves requiring a state or federal permit or disposal of interest in
29 state land.

1 (g) In making a consistency determination under this section for
2 an activity occurring outside the boundaries of a coastal resource
3 district with an approved district plan, the lead agency or any
4 resource agency may consider only those statewide standards and
5 guidelines adopted by the Alaska Coastal Policy Council under AS
6 46.40.040(1).

7 *Section 3. AS 44.62.640 is amended by adding a new subsection
8 to read:

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

10 (1) "date of receipt" means the date on which a state
11 agency physically receives an application filed in accordance with
12 agency regulations and at a place identified as appropriate for filing
13 the agency's regulations;

14 (2) "permit" means a permit, license, certification,
15 consistency determination, comments on pending permit application
16 before other governmental entities, or other authorization or approval
17 issued by a resource agency as a written document that is required to
18 be obtained or is solicited from a state agency before the construc-
19 tion operation of a project; "permit"

20 (A) does not include the approval of a unit agreement,
21 a unit development plan, or a unit exploration plan, or convey-
22 ances on interest in state land or water;

23 (B) does include all authorizations and approvals,
24 whether proprietary or regulatory, necessary to undertake a
25 project under a previously conveyed property interest; provided,
26 however, the term permit does apply to disposals or conveyances
27 of interests in lands and waters reasonably necessary to the use
28 or development of land and water previously conveyed by the
29 state, including, but not limited to, rights-of-way, easements,
30 interest in material and water permits.

April 8, 1983

The Honorable Bettye Fahrenkamp
Chairman of the Senate Resources
Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Enclosed Coastal Management Legislation

Dear Senator Fahrenkamp:

The purpose of this letter is to transmit and recommend for your consideration legislation which would make certain changes to the Alaska Coastal Management Act (AS 46.40).

The changes are sought because of several problems with the Alaska coastal management program which are shared by Sealaska and Alaskan industry as a whole. These problems are, to a degree, the same which have been raised over the past four years in the course of "permit reform" debate. As you quite are aware, permit reform legislation has become quite controversial, with little likelihood that comprehensive legislation will be enacted in the near future. There are, however, certain problems in existing state regulation over which there is little disagreement. Rather than await the uncertain resolution of the larger "permit reform" controversy, Sealaska believes that real and substantial progress in regulatory reform can be made by addressing a few specific problems at this point in time.

The first problem addressed by the enclosed legislation is perhaps the most notorious--the duplicative and potentially conflicting "consistency determinations" which are authorized by existing law. As you know, any number of state agencies are

Senator Fahrenkamp
April 8, 1983
Page 2

required to make a "consistency determination" on the same project. The administration long ago acknowledged that there was absolutely no justification for this state of affairs. Yet while everyone recognizes a need for having but one "consistency determination" for each project, the pitfall has been agreeing on the agency to make that decision. While many industry groups advocate that the decision be made by the Department of Natural Resources, environmental organizations have not surprisingly recommended the Department of Environmental Conservation.

The proposed legislation strikes a middle ground by providing that one consistency determination will be made for each project by the Division of Policy Development and Planning. The division is already the agency primarily responsible for coastal management matters, and, as a result, this bill does not make revolutionary changes from the existing law. It would, however, solve the problem of overlapping consistency determinations immediately, leaving for later, more comprehensive legislation, the issue of where that authority should ultimately reside.

There is an equally important issue addressed by the bill, one of which some legislators may be unaware. When the Coastal Management Act was enacted in 1977, it was the intent of the legislature that the program be implemented through existing agency authorities. The last thing the legislature wanted was to expand the jurisdiction of any state bureaucracy.

However, earlier this year, Judge Walter Carpeneti of the State Superior Court in Juneau ruled that the coastal management program had the effect of expanding agency jurisdiction. The problem is essentially this: if the Department of Environmental Conservation has permit jurisdiction over a particular dock, Judge Carpeneti believes that DEC may deny the permit for that dock if it concludes that the activities which that dock will facilitate will violate the coastal management program--even if those activities themselves do not require a DEC permit. To carry Judge Carpeneti's ruling to its logical extreme, when DEC reviews the first transfer dock for a new major oil development--such as the Beaufort Sea--it may acquire jurisdiction over all field operations by virtue of the coastal management act.

A copy of Judge Carpeneti's decision is enclosed. While we believe that the court was mistaken, clarifying legislation is necessary. Under the enclosed bill, for example, if a coastal management consistency determination is needed for a dock, a determination will be made on that dock, and not on every single activity which will in any manner be aided by the construction of the dock.

Senator Fahrenkamp
April 8, 1933
Page 3

Third, there is a developing problem of extraterritorial regulation by Alaska cities under the guise of the coastal management program. Some small cities have prepared coastal management plans which include standards and guidelines for lands outside the city limits. While the Office of Coastal Management is technically calling these extraterritorial zoning laws "advisory," it is apparent that as a practical matter, state agencies may begin to adopt and apply them. It is Sealaska's view that if a particular city wishes to control land use outside its existing borders, it should seek to expand those borders, rather than using the coastal management act as a means of indirect annexation.

Finally, under the Alaska coastal management program, the Coastal Policy Council may designate "areas which merit special attention" outside existing district limits--zones in which development is severely restricted or perhaps precluded. Some have proposed to designate large tracts of privately-owned land as "AMSA's." Sealaska believes that private land owner consent should be required before an AMSA is designated over privately owned land outside existing district boundaries. Under this proposal, the Council will be required to accomodate the private land owner before the AMSA may be designated.

I realize that it is late in the session, and that your committee has many matters before it. On the other hand, most of the issues addressed by the enclosed legislation have been aired and debated in committee after committee for some four years. At the present time, absolutely nothing has come from the time consuming and acrimonious debate over permit reform. This bill would at least resolve some of the most obvious problems with the existing coastal management program without endless and repetitive debate.

I would appreciate it, if at your earliest convenience, you could discuss this legislation with Jon Tillinghast. I have also requested Sam Kito and Robert Loescher to work with Mr. Tillinghast on this legislation.

Sincerely,

Byron I. Mallott
Byron I. Mallott

cc: Representative Terry Martin
Robert Loescher
Sam Kito



IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

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CITY OF ANGOON and SIERRA)
CLUB,)
)
 Petitioners,)
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 vs.)
)
 ALASKA DEPARTMENT OF)
 ENVIRONMENTAL CONSERVATION)
 and SHEE ATIKA, INC.,)
)
 Respondents.)
 (C))

FILED IN THE FIRST JUDICIAL DISTRICT
STATE OF ALASKA
AT JUNEAU

FEB 10 1983

By SAW

No. 1JU-82-1919 Civil

MEMORANDUM OF DECISION AND ORDER

Upon hearing oral arguments of counsel and testimony of three witnesses, and upon consideration of the pleadings and memoranda, the court has arrived at the following conclusions.

1. Petition for Review

The Petition for Review is granted, pursuant to App. R. 610(b)(1). Postponement of review of the November 8, 1982 decision of the Commissioner of the Department of Environmental Conservation (DEC) on petitioners' emergency motion for stay would result in injustice. The injustice consists of petitioners inability to obtain a ruling from the Commissioner of DEC on their request for a stay before clearcutting takes place.

The Petition for Review raises the question of whether the Commissioner of DEC erred in concluding he had no jurisdiction to enjoin the clearcutting at issue. The court finds in favor of the petitioners on this question. The Commissioner himself recognized that he should consider standards for protection of the coastal zone under the Alaska Coastal Management Act when reviewing respondent's plans to construct a log transfer facility. However, the Commissioner did not feel that the proposed clearcutting was a proper subject of his permitting authority. Therefore, he held he had no power to enjoin the clearcut.

The Coastal Management Act should be given a broader reading

1 The Commissioner's authority is not delineated by the activity
2 on the face of the application for a Certificate of Reasonable
3 Assurance. The Act envisions a comprehensive review by agencies
4 of impacts to coastal land and water. Consequently, activities
5 closely associated with uses specifically mentioned in permit
6 applications must also be considered.

7 The court finds no compelling reason to treat the clearcut
8 separately from the log transfer facility. The cutting, by
9 respondents' own testimony, will serve a variety of functions,
10 all related to the sorting, storage, and transfer facilities of
11 this project. The fact that some of the cut acreage is in-
12 tended for a log sort yard does not alter the court's reasoning.
13 No persuasive evidence was presented to require that a sort yard
14 must receive separate consideration. Since the Commissioner has
15 the authority, and is in fact mandated, to determine consistency
16 with the ACMP for the entire project at Cube Cove, he has the
17 jurisdiction to issue a stay if warranted.

18 The case is remanded to the Commissioner of DEC to determine
19 whether the clearcutting should be enjoined pending the
20 adjudicatory hearing. The interests of judicial and adminis-
21 trative economy dictate that DEC make this decision, not the
22 court, given the extensive record before the department in this
23 case already. In remanding, this court is not making any
24 judgment on the merits of petitioners' emergency motion for stay.
25 The court is only confirming the Commissioner's authority, and
26 directing that he exercise that authority as soon as possible.

27 2. Preliminary Injunction

28 Ordinarily, the function of a preliminary injunction is to
29 preserve the status quo -- or establish a new status -- while an
30 underlying action is pending. The showing for an injunction
31 involves three factors: irreparable harm to petitioners, little
32 or no harm to respondents, and the existence of a substantial

1 question presented on the merits.

2 In this case, the underlying action before the court is a
3 Petition for Review. The question presented by the Petition has
4 been decided, in favor of the petitioners, so the traditional
5 purpose of an injunction does not exist. However, since a TRO
6 has been in effect for almost three months, and the Commissioner
7 will shortly be deciding the propriety of a stay, this court
8 finds further temporary injunctive relief appropriate. The
9 current injunctive order will be extended only until such time
10 as the Commissioner issues a ruling on petitioner's emergency
11 motion for stay. The court urges that this action take place
12 in the very near future, so that the duration of its injunctive
13 order is extremely short-lived.

14 For the reasons stated above, the Petition for Review is
15 granted and decided in favor of petitioners. The Motion for
16 Preliminary Injunction is granted only insofar as it extends
17 the court's current injunctive order until the Commissioner of
18 DEC rules on the merits of petitioners' emergency motion for stay.
19 The Commissioner is directed to handle this matter expeditiously.

20 IT IS SO ORDERED.

21 DONE at Juneau, Alaska, this 10th day of February, 1983.

22 *Walter L. Carpeneti*

23 _____
24 Walter L. Carpeneti
25 Superior Court Judge

26 CERTIFICATION

27 This is to certify that on the above date I provided a copy
28 of the above Memorandum of Decision and Order to:

29 Barbara Malcnick, Esq.
30 Douglas Mertz, Esq.
31 Jacquelyn R. Luke, Esq.

32 *Sharon L. Walker*
Secretary to the Judge



APR 19 1983

Alaska Court System
State of Alaska

KARLA L. FORSYTHE
General Counsel

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street
Anchorage, AK 99501

April 13, 1983

Senator Bettye Fahrenkamp
Chairperson, Senate Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I am writing to bring to your attention a concern of the court system about SB 219, "An Act relating to the processing of permits by state agencies."

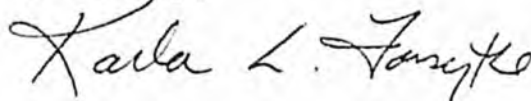
Proposed Section 44.62.636(c) provides that "an appeal taken under this section has preference on the calendar of civil actions before the court and shall be decided without unnecessary delay."

Expediting the permit process is a worthy goal. The court's role in speeding up the process is outlined in the Alaska Constitution which allocates to the supreme court the authority to make and promulgate rules governing practice and procedure in civil and criminal cases in all courts (Article IV, Section 15). The calendaring of matters before the courts of the state is included within the rules of practice and procedure.

The chief justice of the supreme court has indicated that upon passage of the legislation, the court would consider a request to adopt a rule to give calendaring preference to permit appeals. Approaching this matter through a court rule rather than through a legislative enactment would recognize the supreme court's constitutional responsibility in determining appropriate procedural rules, while continuing to meet the legislative intent.

The court system will be glad to provide additional information or to answer any questions which may arise relating to the concerns expressed in this letter.

Sincerely,

A handwritten signature in cursive script that reads "Karla L. Forsythe". The signature is written in dark ink and is positioned above the typed name.

Karla L. Forsythe
General Counsel

KLF:smh

cc: Chief Justice Edmond W. Burke
Arthur H. Snowden, II
Presiding Judge Mark Rowland



Cenaliulriit

The Yukon-Kuskokwim Coastal Resource Service Area Board

P.O. Box 1169

Barrow, Alaska 99559

(907) 543-2243

May 17, 1983

Public Opinion Message for Senate Resources Committee:

Senator Bettye M. Pahrenkamp, Chairman
Senator Robert H. Ziegler, Sr., Vice-Chairman
Senator Richard I. Eliason
Senator Paul A. Fischer
Senator Vic Fischer
Senator Bob Mulcahy
Senator Arliss Sturgulewski

MAY 18 1983

Dear Senators:

I understand that the Senate Resources Committee has scheduled a hearing on SB 219 for Friday afternoon. I have also heard that before that time a Committee Substitute will be coming out, and that the CS will contain much the same language as the most recent CS for HB 34. That bill closely resembles last year's SB 84.

Cenaliulriit (the Yukon-Kuskokwim Coastal Resource Service Area Board) favors permit reform. The present permitting process is complicated and time-consuming, hindering not only the efficient processing of permits but also the effective involvement of coastal resource districts, local governments, and the public in the permitting process. However, these problems are best solved by the executive branch. Consequently, we support the current efforts of Governor Sheffield to solve these problems administratively.

Generally speaking, we have several objections to the bills currently before the legislature. First, they set up unreasonably short time periods for state decisions on permits, thereby frustrating local involvement in the permitting process. Second, they give too much power to a lead agency. Third, judicial review provisions are biased in favor of the permit applicant, i.e., against coastal resource districts and local governments. Fourth, key phrases in the bills are nebulous and undefined.

Cenaliulriit would very much like to testify in detail about our concerns, but we are unable to come to Juneau for the hearing. Therefore, we request that your committee schedule a statewide teleconference on this subject so those of us in rural Alaska who are interested in this bill can present our testimony. Thank you for your consideration of this request.

Sincerely,

CENALIULRIIT

Janet A. Kaiser

XEROX TELECOPIER 453718-2-83, 1-23 2074323073 90-453700, A 2

MEMORANDUM
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: Members of the Senate Resources Committee DATE: May 15, 1983
FROM: Mary Beth Juday, Natural Resources Chair
SUBJECT: Comments on SB 219 for May 16 Hearing

The League of Women Voters of Alaska has followed the issue of processing of permits for several legislative sessions. We do not have a particular interest in the outcome of most permits, but we do have a great interest in the process of granting permits. We believe that the public interest in our air, water, and land resources must be protected and that the public must have adequate and appropriate opportunities to participate in the process.

The League of Women Voters of Alaska opposes SB 219. There has been no outpouring of public demand for this type of legislation. In addition, we do not believe that rigid schedules should be established by statute. We believe that any perceived problems with the permitting process have been and will continue to be corrected administratively. Administrative changes rather than statutory changes can provide the necessary flexibility to accommodate a variety of permits while providing for efficient processing.

We do have some specific complaints about this bill. The time limits are likely to limit public participation in state permit decisions. It is likely to limit local government and state agency participation as well. The rigid schedule outlined in the bill allows no flexibility for unusually complex permits that may take longer than the designated time schedules. The lack of flexibility as well as the "automatic" approval section, which provides that approval is granted if the agency fails to make a decision within the specific period of time, are likely to result in costly and time consuming litigation. This will have an effect opposite to that which is intended.

This bill is both unnecessary and unwise. There is no compelling need at this time to make statutory changes in the permitting process. This bill would have an effect opposite to the legitimate public interest in the process. We believe that other avenues of reform are more appropriate when necessary.

prepared by Mary Beth Juday
4837 Palo Verde
Fairbanks, AK 99701
479-3765

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NUNAM KITLUTSISTI

Protectors of the Land, Inc.
P.O. Box 2633 • Bethel, Alaska 99559
907/543-2856

May 18, 1982

Senator Bettye Fahrenkamp
Chairman
Senate Resources Committee
Pouch V
Juneau, Alaska 99559

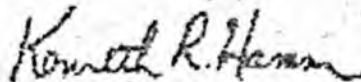
Dear Senator Fahrenkamp:

We have just reviewed a copy of the draft for CS SB 219 (Res), and are opposed to several of its provisions. First, the time periods set forth in Section 2 of the bill are too short, and will frustrate the involvement of local governments, coastal resource districts, regional organizations, and the general public in the permitting process. Second, we are opposed to the establishment of DNR as the lead agency for consistency decisions on development projects. The bill contains provisions making it virtually impossible for local governments or coastal resource districts to challenge decisions made by DNR which ignore their comments. Third, we are especially concerned about the provision allowing the applicant and the resource agency to waive the time limits. How can the public's interest possibly be furthered by this provision?

We feel that the Governor should be taking care of this problem administratively, and we support his current efforts to do this. We feel that the legislature should wait to see what the Governor does before it considers legislation in this area.

We have other objections to CS SB 219(Res) in addition to those listed above. We would appreciate the opportunity to present detailed testimony to you on this subject via the state's teleconferencing network. Please schedule a teleconference on this subject so we can present our testimony.

Sincerely,



Kenneth R. Hamm
OCS Technical Advisor

cc: Senators Robert Ziegler, Richard Eliason,
Paul Fischer, Vic Fischer, Bob Mulcahy,
and Arliss Sturgulewski

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Resource Development Council

for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501
Box 100516, Anchorage, Alaska 99510 — 907/278-9615

EXECUTIVE DIRECTOR
Paula P. Easley

April 8, 1983

APR 14 1983

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John Kelsey
Ethel H. "Pete" Nelson
E. Thomas Pargeter

William Sheffield, Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

RE: REGULATORY REFORM

Dear Governor Sheffield:

The Resource Development Council has had serious concerns about regulatory reform for the past four years and each year has encouraged the administration to do something about permitting problems. We have recently learned your administration intends to do something about it, and for this we commend you.

However, we understand administration "working groups" are nearing a final conceptual decision to have one lead agency, OMB, act for all state permits. We also understand your staff has been informed that industry has no problem with OMB's having this authority. Our industry contacts indicate exactly the opposite to be true. For this reason, we urge you to not finalize any position until there has been representative input from the various industries affected.

Attached is a copy of the new RDC policy statement on regulatory reform which was passed unanimously by the Executive Committee. As you can see, we are advocating changes in permit handling and attitudes. We think the direction your staff is heading will not only result in longer permit times, but will require more regulations, statutory and contractual changes. Also it perpetuates an unnecessary layer of bureaucracy which used to be in DPDP and has been given new life under a different name in OMB.

Comments indicate one of the selling points in having OMB issue the permits is that it is "neutral" and "capable of conflict resolution." Governor, industry doesn't really need someone who is "neutral." It needs to deal with people who are knowledgeable and can understand business problems and the free enterprise system.

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Government employees need to understand that each stipulation costs money and many stipulations discourage development. Alaska is rapidly pricing itself out of the market because of the gold-plated stipulations being imposed by multilayers of government. The cost to the state in jobs and money due to "lost opportunity" runs into the hundreds of millions of dollars each year. It's too bad business can't take advantage of these opportunities and create new jobs, as bad as our state needs them.

Most of industry's problems in permitting do not come from the permitting agency charged by law to issue the permits. These agencies generally have enough expertise to understand industry's problems; permits and changes can be negotiated.

By far, most of the problems come from other agencies who have no statutory authority to act on the permit but who have gained authority under MOU's between agencies. These latter agencies insist that industry construct the project their way. They try to design many parts of the project, but having little or no expertise, they cannot conceive of the problems they cause and the costs that result. In most cases they don't care. Their lack of experience can result in permit provisions which are near fatal to a project. Unfortunately, these requirements seem to be in the majority of permits. Most of the problems could be eliminated by the agency setting standards and letting industry determine how to meet those standards.

State agencies that issue permits are required to show that the proposed operation is consistent with the state or locally approved CZM plan before they issue a permit. Who is better qualified than that permitting agency to make such a determination and why must the determination be made twice? In other words, why does the added layer of OMB have to be in the picture at all?

We need a system which significantly speeds up the permitting process. The new proposal sounds much like the earlier proposal for Uniform Procedures Regulations which would have been a disaster if they had been implemented. We urge you and your staff to abandon any thoughts along that line. We don't need new regulations to implement regulatory reform.

No amount of change in law or regulations can accomplish regulatory reform without complete backing by you. On the other hand, we are not sure that any change is required in law or regulations. We believe the main change needed is one of employee attitude and that only you can bring that about.

To accomplish regulatory reform, the main thing needed is for you, the Governor, to issue a command to all of your troops that you want the permit time and stipulations reduced by 50% within a year, and that after one year you will personally challenge any supervisor who has not accomplished this objective. With strict enforcement, this approach would be very effective.

Gov. Sheffield
4/8/83
Page 3

The prior administration never gave state employees the feeling that it was serious and intended to accomplish reform; we are confident you can.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

A handwritten signature in cursive script that reads "Mano Frey". The signature is written in dark ink and is positioned above the typed name and title.

Mano Frey
President

encl.



Resource Development Council

for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501
Box 516, Anchorage, Alaska 99510 - 907/278-9615

DRAFT

POLICY STATEMENT NO. 11

REGULATORY REFORM

EXECUTIVE DIRECTOR
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Dorothy Jones, Vice President
Bill Sumner, Vice President
Bob Swetnam, Secretary
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The Resource Development Council recognizes the need for certain regulations to implement statutes to protect the public health, safety and welfare. However, the proliferation of applications, stipulations, regulations and permits is overwhelming to Alaskans and has resulted in, and continues to have an increasingly negative effect on the economy. Everyone including labor and business suffers and the helpless consumer ends up paying the bill. Many promises of reform have been made with few tangible results.

Regulations should facilitate and maintain orderly administration of policy where the broad public interest is at issue. However, when the power of the government to regulate becomes such a burden to the private sector that it creates economic hardship, suffering or negation of individual liberties and rights of property, then the Council concludes that regulatory powers have been over-extended. When regulations multiply and overlap, the power may be abused and it becomes counter-productive and in need of reform.

The Resource Development Council recommends the following:

I

That governments draw up a test of standards by which any regulation will be measured, such as:

- 1) Is it duplicative?
- 2) is it truly calculated to protect only the broad public interest?
- 3) does it violate individual personal or property rights?
- 4) does it create undue financial burden which will translate to negative shift in the overall economy?
- 5) when individual and personal rights are subjected to threat, then full burden of proof of need, as well as financial responsibility, will be borne by the agency or agencies responsible for promulgation of the regulation,
- 6) that a clear distinction be made between established laws of the land and government regulation as created at will within government agencies and bureaus.

continued...

II

That local, state and federal governments make a positive commitment to an effective regulatory reform program that eliminates duplication of permits, multiple handling of permits, duplication of statutory authorities, "networking," and prohibits employees from writing law through "stipulations." These various governments should require their employees to adhere to this commitment of regulatory reform and should stringently enforce that commitment.

III

That government allow its employees to add stipulations only when there is a proven need and then only if required by statute.

IV

That, as public policy, the resource agency responsible for issuing a permit should be the lead agency and be responsible for all provisions of the permit. The lead agency should be able to override the recommendations of any agency furnishing advice and should not include stipulations of other agencies not provided for under the law authorizing the permit and should establish and enforce reasonable time limits for input by other agencies.

V

That the state and local governments eliminate the subtle "networking" process which functions without statutory authority and results in delays, re-work and non-issuance of permits.

VI

That the burden of proof be placed on the government to show why a permit does not comply with law.

VII

That the federal, state and local governments require agencies to review their regulations and work toward elimination of those that are archaic and not absolutely required by law; and that legislature and Congress annually review administrative progress in achieving regulatory reform.

VIII

That legislation be enacted to require disclosure of the costs, both public and private, related to permit processing and administration of regulations and that testimony at public hearings on cost/benefits be required prior to agency adoption of any regulation.

continued...

IX

That legislation be enacted to require fiscal notes on the external economic effect as well as environmental impact of each proposed statute and a cost/benefit review be included in the fiscal note.

X

That to minimize frivolous lawsuits, many of which are based on ill-founded regulations and stipulations, legislation should be enacted to require the loser in each lawsuit to pay the court costs, all attorney fees, the cost of delays, plus interest on all of these funds.

XI

That prior to adoption of regulations, public hearings be held as required by the Alaska Administrative Procedure Act (AS 44.62.190-210.)

Adopted -----

Passed.
4/28/8

ALASKA MINER'S ASSOCIATION

RESOLUTION

WHEREAS, the orderly development of state resources is being unnecessarily delayed by the length of time required to obtain permits from state agencies, by the complexity of the permitting process;

WHEREAS, the uncertainties created by the lack of specific time limits, the proliferation of agency reviews, the number of agencies involved in the permit process, and unjustified agency requirements upon processing, permit applications have cost Alaskans millions of dollars in lost unemployment and higher prices;

WHEREAS, the social, economic and environmental health and well-being of Alaskans will be promoted by reducing the number of agencies and agency reviews involved in the permit process and by requiring state agencies to process permit applications in an expeditious manner;

BE IT RESOLVED:

1. The Alaska Miner's Association supports and advocates the orderly development of state resources.
2. The Alaska Miner's Association supports and advocates the removal of all unnecessary and duplicative regulations impeding the orderly development of the state's resources.
3. The Alaska Miner's Association supports and advocates legislation's streamlining the state's regulatory and permitting processes.
4. The Alaska Miner's Association calls upon the Alaska executive and legislative branches to actively pursue and support regulatory reform.

STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

I. REQUEST

Page 1 of 2
Bill/Resolution No.: HB 14 701
Title: "...processing of permits..."
Sponsor: Rep. Martin
Requestor: House Labor & Commerce

II. FISCAL DETAIL

Agency Affected: Department of Law
Program Category Affected: General Govt.
BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Poulos Director
Division: Administrative Services Division Phone: 65-367
Date: April 13, 1983
Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: April 13, 1983
Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

HR 14 *no 1. page 272*
Fiscal Note
Analysis

This bill greatly shortens the permitting process time of state agencies. Although this will cause us to assist with some new regulations necessary for a shortened permit process for the permitting agencies, this additional work will not be time consuming or burdcing. Therefore, the bill will have a fiscal impact on the Department of Law's operations. Considerable fiscal impact will occur on the part of agencies responsible for permits, such as Fish & Game, DEC and Natural Resources, as they gear up to review and issue permits in shortened times provided by the bill.

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

February 7, 1983

POSITION PAPER

RE: HB 14

SPONSOR: Representative Martin

Program Effects of Bill

The bill deals with permit reform and provides for a "fast tracking" of all permit applications requiring agency decisions within certain timeframes. The measure also provides for a "Lead Agency" concept for the issuance of coastal management consistency determinations.

Comments

The proposed revisions to regulatory procedures are considerable; some of the changes are probably desirable and others have no direct bearing upon this Department or its concerns. Section 44.62.635 "Lead Agency" is of particular interest, as it deals with Alaska Coastal Management Program (ACMP) consistency determinations. One of the foremost selling points of the National Coastal Management Program is the requirement that federal coastal actions must be consistent with approved State programs. In Alaska that concept has been expanded upon to require that proposed State and Federal coastal activities be consistent with ACMP approved local programs. HB 14 and Executive Order 53 are in opposition in that the latter would continue to vest consistency review authority in the Governor's Office, while the former would disperse this responsibility to individual line agencies. Moreover, subsection (b) would weaken the consideration afforded to approved local programs to an extent rendering them little more than advisory. Communities and regions that have Coastal Management Programs in place or in the works have proceeded under the expectation that local programs would have more than advisory powers.



STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 14 Date on Bill: 1/18/83
 Title: Permit Processing/Alaska Coastal Management Program
 Sponsor: Representative Martin
 Requestor: _____

1. Estimated fiscal impacts on: Department of Community & Regional Affairs

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital				-0-	-0-	-0-		
Operating				-0-	-0-	-0-		
Total				-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

The reshuffling of permit authority would have no impact upon the Department. No fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Richard Rainery *RR* Phone: 465-4703
 Division: Commissioner's Office Date: 2/15/83
 Approved by Commissioner: *[Signature]* Date: 2/18/83
 Department: Community & Regional Affairs

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/8/83

2 PROPOSED COMMITTEE SUBSTITUTE

3 BILL DRAFT

4
5 *Section 1. FINDINGS. The legislature finds that

6 (1) the orderly development of state resources is
7 being delayed unnecessarily by the length of time required to
8 obtain a permit from a state agency, by the complexity of the
9 permit process, and by the number of agencies involved in the
10 permit process;

11 (2) the uncertainties created by the absence of
12 specific time limits, the proliferation of state agency
13 review, the number of state agencies involved in the permit
14 process, and duplicative state agency requirements for the
15 processing of permit applications have resulted in excessive
16 costs to the public in lost employment and higher prices;

17 (3) unnecessary delay in the processing of permit
18 applications by state agencies is not in the public interest;
19 and

20 (4) a reduction in the number of state agency
21 reviews and review time required in the permit process would
22 promote the social, economic and environmental health and
23 well-being of state residents.

24 *Section 2. AS 44.62 is amended by adding new sections
25 to read:

26 ARTICLE 8A PERMIT PROCESSING

27 Section 44.62.632. PERMIT CLASSIFICATION. (a) A state
28 resource agency shall by regulation classify each permit
29 issued by that agency in one of the following categories:

30 (1) class I, for which the state agency must issue
31 a final decision within 30 days after the date of receipt of a
32 completed application; and