

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3600 HRES SB 349 - SCR 18


476

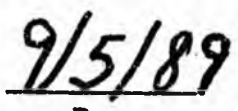


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Signature of Camera Operator


Date

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3 4 9

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-4921

Box 55028
North Pole, Alaska 99705
(907) 488-7332



M E M O R A N D U M

TO: Representative Dick Shultz
FROM: Senator Coghill
RE: Background information SB 349
DATE: April 22, 1986

A handwritten signature in black ink, appearing to be "JBC", with a long horizontal line extending to the right.

Attached you will find a set of figures that show what typical farmers debt load consists of. These figures are representative of Delta I and Delta II farms. I am also including a packet of pertinent information.

Senate Bill 349 will give the State an opportunity to start divesting itself from the Delta project. One thing that all parties will agree with is that the project should stand or fall on its own merits. There are two alternatives to a solution for the woes of the Delta project: one is to restructure the debt load in realistic terms of what can be produced considering the present in State market; the other is to devise a plan to dismantle the project. The years of toll that the farmers have put into the project cannot be disregarded by our lack of action.

When we talk about dismantling the Delta project, the amount of investment that has been made in infrastructures (about 26 million dollars) would be lost. The loss would be magnified because we are not likely to ever see the time again when the State can make those kinds of investments. Re-growth will mean that the time and money put into clearing vast amounts of land will all go to waste. This bill will put into motion a plan to salvage investment and minimize loss.

Rather than arguing about who is responsible for the problems of the past, this is a way for the State to recover investments made into the agriculture industry. This bill doesn't forgive debt but it does restructure the debt to reflect a manageable debt load that a "good" farmer could service.

Representative Shultz
Page 2
April 22, 1986

Dealing with this dilemma in realistic terms will mean that as the market increases the farmers will be able to expand on their own. The State market presently is between 13,000 and 17,000 tons per year. As this grows, grain production can expand spurred on by the law of supply and demand in the private sector, not by State involvement or direction. The whole picture of the Delta project can be brought into perspective in an analogy with any other business. You don't start out big and hope to create market with a minimal cash flow; you start out small and expand as you are able to.

The concept of how the reorganizational bill will work is that a farmer who has an unmanageable debt load will relinquish a percentage of his land back to the State and the State would then credit the land clearing loans the same percentage. Using an example of what a typical farmer can expect to gross between \$125,000 and \$150,000. After paying back operating loans at \$110,000, the farmer has \$15,000 to \$40,000 to service debt with. At the present time a farmer would need roughly \$96,000. By turning back 50% of his land and re-negotiating the chattel and farm development loans, the farmer would need \$49,000. This is close to what he could expect to service. The figures that I just mentioned don't reflect that the farmer and his family still have to eat. With a lower operating cost, a per acre production increase and production credits, the farmer could make it.

The Committee Substitute to SB 349 is intended to spell out how this restructuring process will work. A zero fiscal note would accompany this bill since there are no survey costs and no appraisals of land to be made.

Section 3 of SB 349 prohibits farmers from participating in federal programs that would provide monetary incentives for keeping agricultural land out of production. This just doesn't make sense. As I mentioned before the intent of this bill should be to get farmers out on their own. Being able to participate in a federal program that farmers across the country are taking advantage of puts these farmers closer to becoming self sufficient instead of being just components of a state agricultural project. The additional money that could be generated from participation in these programs could also help insure the return on the states investment in the project.

Representative Shultz
page 3
April 22, 1986

Also attached is a description of federal programs that farmers in the state could participate in. The Commodity Price Support Program addresses the problems in a depressed market that have caused the price of grain to go down. The average number of acres that would be taken out of production would be 66. Because of the short planting window most farmers now can't plant their whole farm so this won't take land out of production but it will help to stabilize the situation. The Conservation Acreage Reserve Program only removes land that is highly erodible or poses an off-farm environmental hazard. This program at the most will only effect two farms in the Delta area and by the very nature of the program only takes land out of production for sound reasons.

I urge you to remove this section from the bill in the best interest of farming and the state.

Offered: 3/4/86
Referred: Rules

Original sponsors: Coghill and
Kerttula

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 349 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the reorganization of private
7 debt at a Delta Project."

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

9 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that the
10 large grain farms that were developed on state agricultural land in the
11 Delta Projects are subject to a personal debt load that is unmanageable
12 because of a coincidence of unique and unforeseen circumstances:

13 (1) the unforeseen difficulties with the limited growing seasons
14 including the extremely short period in which the crops may be planted;

15 (2) conflicts with the herds of bison located in the area;

16 (3) the inadequate agricultural infrastructure in the area of
17 the Delta Projects and in the state;

18 (4) the depressed grain prices nationwide;

19 (5) the unexpected problems with economic farm size.

20 * Sec. 2. (a) The commissioner of natural resources shall, at the re-
21 quest of an individual who holds agricultural rights to land purchased from
22 the state in a Delta Project,

23 (1) accept the relinquishment of agricultural land purchased
24 from the state in a Delta Project and credit the percentage of the debt
25 owed to the state on land purchased and land clearing loans that equals the
26 percentage of land relinquished under this section, either by acreage or by
27 value, as determined by the commissioner;

28 (2) enter into an agreement with the individual for the lease
29 for agricultural purposes only of a portion of or all of the land

1 relinquished for a term of 20 years at the full fair market value of the
2 land; a survey under this paragraph, if required, shall be at the expense
3 of the individual.

4 (b) If an individual who has relinquished land under this section
5 applies before July 1, 1987 for a lease on all or part of the land relin-
6 quished, the lease shall provide the lessee an option to purchase the land
7 leased under sec. 2(a)(2) of this Act at full fair market value at the time
8 of purchase without reduction to reflect the remaining lease term.

9 (c) The commissioner of natural resources in consultation with the
10 Agricultural Revolving Loan Board may renegotiate with the individual loans
11 for chattels or farm improvements located on the agricultural land in a
12 Delta Project if the commissioner determines that renegotiation is neces-
13 sary to minimize financial losses to the state and that it is in the best
14 interest of the state.

15 * Sec. 3. The provisions of this Act are not available to an individual
16 participating in a federal farm program that provides monetary or other
17 incentives for keeping agricultural land in a Delta Project out of produc-
18 tion.

19 * Sec. 4. This Act is repealed July 1, 1988.

ACTUAL DELTA I FARMER

<u>Loan Type</u>	<u>Total Loan</u>	<u>Annual Loan Payment</u>	<u>Principal Payment</u>	<u>Interest Payment</u>
Land Purchase	\$ 0	\$ 0	\$ 0	\$ 0
Land Clearing	370,600	24,590	3,018	21,572
Chattel	300,000	57,621	45,741	11,879
Farm Development	154,000	15,685	4,578	11,106
Operating	<u>101,000</u>	<u>109,080</u>	<u>101,000</u>	<u>8,080</u>
TOTAL	\$925,600	\$206,976	\$154,337	\$52,637

ACTUAL DELTA II FARMER

Land Purchase	\$324,000	\$ 43,376	\$ 4,496	\$38,880
Land Clearing	307,000	25,745	1,612	24,132
Chattel	181,000	34,765	27,597	7,167
Farm Development	95,000	9,675	2,824	6,851
Operating	<u>117,000</u>	<u>126,360</u>	<u>117,000</u>	<u>9,360</u>
TOTAL	\$1,024,000	\$239,921	\$153,529	\$86,390

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : 2-4-86

REQUEST

Bill/Resolution No. : CSSB 349
Title : Reorganization of Delta Debt

Sponsor : Sen. Cognill, Sen. Kerttula
Requestor : Senate Resources Committee
Date of Request : February 4, 1986

FISCAL DETAIL

Agency Affected : Natural Resources
BRU: Land and Water Management
Agricultural Management

Components : Public Use
ARLF

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

CAPITAL						
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REVENUE	**					
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FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

**See attached explanation.

Prepared by : Carol Wilson
Division : Commissioner's Office

Phone : 465-2400
Date : 2-4-86

Approved by Commissioner : Thomas D. Kinnel, Deputy
Agency : Natural Resources

Date : 2/4/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

Analysis for Fiscal Note, Senate Bill 349
Reorganization of Delta Agricultural Project Debt

Revenue

A paper loss of as much as \$14,800,000 could be realized if 37 parcels of 2000 acres each are relinquished to the State.

37 parcels x 2,000 acres per parcel x \$200 per acre =
\$14,800,000.

However, since the clearing loans and land contract payments may not be collectable under current Delta financial conditions, and because the State would receive cleared land in lieu of land and loan payments under this bill, it could also be argued that no revenue loss would occur.

In addition, renegotiating ARLF chattel and farm improvement loans could result in reductions in loan principal and interest due the State. However, since foreclosure and resale of farm chattel and improvements could generate less income than could be realized from loan renegotiations, it could be argued that no revenue loss would occur.

FEDERAL AGRICULTURAL PROGRAMS IN ALASKA

1. Commodity Price Support Programs

Administration of farm commodity programs is the responsibility of the Agricultural Stabilization and Conservation Service (ASCS), a part of the USDA. These farm commodity programs are generally price support programs that allow farmers to receive payments equal to the difference between current commodity prices and federally established target prices. These payments are called deficiency payments. In order to participate in deficiency payment programs, a farmer must have a history of farm production. Farmers do not receive payments for land that is not planted, although this is often the public's perception of deficiency payment programs. Participation in a particular program may, however, require the farmer to limit the total number of acres planted in order to reduce the amount of the commodity that is marketed.

Alaska farmers could participate in barley, oat, and wheat deficiency payment programs. In 1985, the only Alaska participation was in the barley program and twelve Delta farmers received approximately \$180,000 in deficiency payments. On a per bushel basis, the deficiency payment equaled 52¢ per bushel. The 12 farmers planted a total of 7,179 acres of barley in 1985, an average of 598 acres per

farm. In order to participate, these farmers had to reduce production from their previous two-year average by an average of 66 acres per farm.

The new federal farm bill has made some changes in the deficiency payment program for the period 1986-90. The acreage base for eligible farmers, (the maximum acres for which deficiency payments could be made), now equals the average of planted acres during the preceding five years. Previously, the base acreage average was determined by the preceding two years. The number of farmers from Delta participating in the program will now be reduced because most have not produced crops for the required five years. The yield for which a farmer can now receive deficiency payments is the average of the 1981-85 program yield minus the high and low years.

2. Conservation Acreage Reserve Program

The Conservation Acreage Reserve (CAS) program is new and was created by the 1985 farm bill. Its purpose is to remove from production land that is highly erodible, land that poses an off-farm environmental hazard, or land that should not be continually used because of soil salinity.

The CAS program allows the Secretary of Agriculture to contract with farmers to place highly erodible land in the

reserve for ten years. To be eligible for the reserve, the land must meet certain criteria. Farmers must submit bids for land eligible for the reserve and the Secretary accepts or rejects the bid. Generally, the lowest bids will be accepted first.

Land in the CAS must be planted with a vegetative cover, which can consist of permanent grasses, legumes, shrubs, trees, windbreaks, or shelterbelts. Land in the CAS cannot be used for grazing or harvested without approval of the Secretary, and approval will be granted only if a drought or similar emergency exists. There is a \$50,000 limit per year per person on CAS rental payments.

Only 25% of the cropland in a county may be in the CAS. The State of Alaska has been divided into two counties. Delta Junction is considered one county and the remainder of the state the other. Eleven farmers from Delta Junction have recently submitted bids for approximately 5,000 acres to be included in the CAS. However, only one bid has been accepted by the Secretary. One additional bid, that was rejected because it failed to meet land qualification criteria, has been appealed. If the appeal is successful, the land may be accepted into the CAS. At most, land from two Delta farms will be included in the CAS in 1986.

3. Marketing and Inspection Programs

A. Animal and Plant Health Inspection Services (APHIS) - This agency is primarily concerned with animal and plant disease, pest control, and animal welfare issues. APHIS is also responsible for plant and animal quarantines. In Alaska, APHIS has cooperated in the development of a plant quarantine station in southcentral Alaska. A federal APHIS veterinarian is stationed in Alaska to prevent importation of diseased animals.

B. Food Safety and Inspection Services (FSIS) - Under the 1967 U.S. Wholesome Meat Act, the federal government establishes minimum standards for meat that is processed for interstate and intrastate trade and also inspects the meat. State governments are permitted to maintain a state inspection service for meat that remains in the state, and the federal government pays part of the cost of the program. Alaska maintains a state meat inspection service.

~~-----~~C. ~~Agricultural Marketing Service~~ (AMS) - The AMS provides crop and livestock market news service to all states. The Alaska Division of Agriculture obtains information from this service. The AMS also has a state marketing grant program and the Division of Agriculture has been a recipient of its grants. The AMS provides terminal market inspections for fruits and vegetables. The Division of Agriculture has a

federally licensed inspector to provide this service in Alaska. Farms requesting an inspection are charged a fee for the service. The Division of Agriculture also conducts shell egg surveillance. This is a federal program for which the state is reimbursed.

4. Small Community and Rural Development Program

A. Farmers Home Administration (FmHA) - Farmers who cannot obtain credit from other organizations can be successful loan applicants with FmHA. Unfortunately, the FmHA has been reluctant to accept land as collateral if the land title is limited to only the agricultural interest. FmHA loans in Alaska currently total \$1,000,000. About 15 farmers have loans from the FmHA.

B. Federal Crop Insurance Corporation (FCIC) - Farmers may purchase crop insurance from the FCIC for their barley crops. Although the state pays a portion of the insurance premium, the insurance is expensive in Alaska and few, if any, farmers were covered in 1985.

5. Natural Resources, Research, and Education Programs

A. Agricultural Research Service (ARS) - This is the chief research agency of the USDA. In Alaska, it conducts research

on conservation tillage. There are two ARS staff in Alaska. Both are researchers and are stationed in Fairbanks.

B. Statistical Reporting Service (SRS) - SRS is responsible for providing data on U.S. agriculture. The SRS provides information on Alaska agriculture through the Alaska Crop and Livestock Reporting Service.

C. Cooperative State Research Service (CSRS) - Formula research funds are provided to state agricultural experiment stations from the CSRS. The Agricultural and Forestry Experiment Station, University of Alaska, administers these funds in Alaska.

D. Extension Service (ES) - This is the federal arm of the Cooperative Extension Service, University of Alaska (CES). The ES provides formula funding and technical support to CES.

E. Soil Conservation Service (SCS) - Nationwide, SCS conducts soil surveys and provides technical help for soil erosion problems. The SCS is the major source for technical services and soils information.



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Date

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HOUSE
COMMITTEE REPORT

4/14

(9)

Date referred: 3/10/86

FURTHER REFERRALS: JUDICIARY

DATE: 4/14/86

The RESOURCES Committee has considered SSSB 368

"An Act relating to the sale of inherited remote parcels."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with H CS for SSSB 368 (Resources) same title
- new title

and recommends do pass

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

Shultz Dick Shultz

Cato W. Cato

Sund Thomas Sund

Thompson Howard W. Thompson

Miller (NP) H. W. Miller

Wallis F. Kay Wallis

Pearce Robert Pearce

SIGNING OTHER RECOMMENDATIONS:

Dick Shultz
Co-Chairman Shultz

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/20/86

REQUEST

Bill/Resolution No. SS SB 368
 Title: Sale of Inherited Remote
Parcels
 Sponsor: Senator Bennett
 Requestor: Senate Resources
 Date of Request: 2/20/86

FISCAL DETAIL

Agency Affected: Natural Resources
 BRU: Land & Water Management
 Components: Land Disposals/Fee

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

No Fiscal Impact

Prepared by: Michael E. Vediner *RMV* Phone: 465-2400
 Division: Division of Land & Water Management Date: 2/20/86

Approved by Commissioner: Thomas D. Arnold, Deputy Date: 2/21/86
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

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

DORIS LOENNIG
A PROFESSIONAL CORPORATION
ATTORNEY AT LAW

SUITE 120, 515 SEVENTH AVENUE - FAIRBANKS, ALASKA 99701
907 452-2005

December 16, 1985
(Dictated 12-9-85)

Sen. Don Bennett
P.O. Box 2801
Fairbanks, Alaska 99707

Recently I have been probating estates for persons in Manley Hot Springs, Alaska. The man and wife had each applied under the remote parcel provisions for land and had been awarded leases by the State. Tragically they both died in a more or less simultaneous accident leaving the husband's interest to his parents and the wife's interest to her parents. The parents do not reside in the State of Alaska, and have no means of actually proving up on the property. However, each is a valuable asset of the estates since there have been improvements placed on the property by the parties before their death and the remote parcel provisions have been withdrawn by the State so those parcels are no longer available to the public.

I make reference to A.S. 38.05.077(e):

"A remote parcel lease may not be assigned, conveyed, or otherwise transferred, but rights under the lease may devolve by testate or intestate succession. An attempt to assign, convey, or otherwise transfer the lease is void and terminates the lease."

Likewise, under A.S. 38.05.078(d):

"In addition to the terms specified in A.S. 38.05.065(b) a contract of sale for land in a remote parcel shall contain the following conditions: 1) the land may not be sold, leased, or otherwise conveyed before ten years after the date that the contract of sale is signed by the purchaser, but title to the land may devolve by testate or intestate succession."

Interior Delagation
Re: Remote Parcel

Dec. 16, 1985
Page two

My problem is, and one that I have discussed with the Department of Natural Resources, is whether once the property becomes vested in heirs or has devolved by testate or intestate succession, can those heirs then proceed to dispose of their interest? It appears to me that if the answer is otherwise, the State is running into a constitutional problem of depriving persons of property without due process of law; secondly, it is my understanding that this provision was placed in there by those who were afraid that the original bidders would obtain a speculative profit by immediately re-selling the parcel.

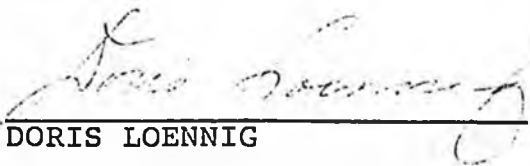
My purpose in writing you is since DNR does not agree with me that possibly once property has devolved to an heir that the restriction against sale no longer pertains; would the legislature would consider amending the acts to make it clear that once property has devolved the properties can then be sold since to do otherwise in many cases, and particularly in these cases, would result in the heirs losing the property. In this case the parents are older, they do not reside in the State and they have no way, nor desire really, of trying prove up on the property. On the other hand their children did place improvements on the property which are of some value.

Please review my letter, if you have any questions, do not hesitate to contact me.

Very truly yours,

DORIS LOENNIG, P.C.

By:


DORIS LOENNIG

DL: dcm

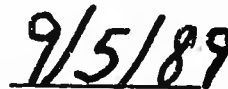


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Signature of Camera Operator


Date

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ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

RESOLUTION

ESTABLISHMENT OF THE ALASKA MINERALS COMMISSION AND CONCERNING MAJOR CONSTRAINTS TO DEVELOPMENT IN ALASKA - 1986

WHEREAS: The minerals industries, which include metallic minerals, industrial minerals, and hydrocarbons, have traditionally and continue to be the major source of wealth and income in Alaska, and


WHEREAS: There are major constraints to continued development of a diverse mineral industry in Alaska, including: EPA effluent guidelines; state water quality standards and improperly classified streams and rivers; restrictions to surface access; complex and numerous permitting requirements; limited access to mineral rights through mineral closing orders and restrictions to multiple use through state and federal land use plans, therefore,

BE IT RESOLVED that the State of Alaska establish an omnibus Commission entitled the Alaska Minerals Commission to make recommendations to the Governor and to the Legislature on ways to mitigate the constraints to mineral development in Alaska, and be it further

RESOLVED that the 11 members of the Commission be nominated from the Alaska mineral industry, appointed by the Governor and confirmed by the Senate for a period of three years, and be it further

RESOLVED that the Commission be directed to define the major constraints (including government impact) to mineral development in Alaska and to make preliminary recommendations to the legislature and the Governor by the beginning of the 1987 legislative session, with a final report due by the beginning of the 1989 legislative session.

Dated this 24th day of January, 1986.



Rose Rybachek, President

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 4/7/86

REQUEST

Bill/Resolution No. : CSSB 418
 Title : An Act relating to the Alaska Minerals Commission
 Sponsor : Bennett, et al.
 Requestor : Sturqulewski
 Date of Request : 3/14/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Ned Farquhar
 Division : Commissioner's Office

Phone : 465-2400
 Date : 4/7/86

Approved by Commissioner : *Thomas D. Amundson, Deputy*
 Agency : Natural Resources

Date : 4/7/86

Distribution (by Agency preparing fiscal note) :

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

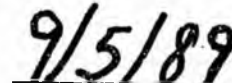


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Signature of Camera Operator


Date

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COMMITTEE REPORT

4/22

(9)

Date referred: 4/18/86

FURTHER REFERRALS: FINANCE

DATE: April 21, 1986

The RESOURCES Committee has considered CSSSSB 430(R1s)

"An Act relating to the reduction or revocation by the commissioner of the Department of Natural Resources of oil or gas royalty obligation increases made in connection with the institution or operation of a cooperative or unit plan; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCS CSSSB 430 (res) same title
- new title

and recommends do pass

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

Shultz Dick Shultz

Miller M.W. Miller

Thompson Frank Thompson

Jenkins Roger Jenkins

Cato Bette Cato

SIGNING OTHER RECOMMENDATIONS:

[Signature]

Sund

Dick Shultz

co-Chairman Shultz

Bannister
4/13/86✓

Original sponsor: Fahrenkamp

1 IN THE SENATE BY THE RESOURCES COMMITTEE
 2 HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 430 (Resources)
 3 IN THE LEGISLATURE OF THE STATE OF ALASKA
 4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the reduction or revocation by
 7 the commissioner of the Department of Natural Re-
 8 sources of oil or gas royalty obligation increases
 9 made in connection with the institution or operation
 10 of a cooperative or unit plan; and providing for an
 11 effective date."

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

13 * Section 1. AS 38.05.180(p) is amended to read:

14 (p) To conserve the natural resources of all or a part of an oil
 15 or gas pool, field, or like area, the lessees and their representa-
 16 tives may unite with each other, or jointly or separately with others,
 17 in collectively adopting or operating under a cooperative or a unit
 18 plan of development or operation of the pool, field, or like area, or
 19 a part of it, when determined and certified by the commissioner to be
 20 necessary or advisable in the public interest. The commissioner may,
 21 with the consent of the holders of leases involved, establish, change,
 22 or revoke drilling, producing, and royalty requirements of the leases
 23 and adopt regulations with reference to the leases, with like consent
 24 on the part of the lessees, in connection with the institution and
 25 operation of a cooperative or unit plan as the commissioner determines
 26 necessary or proper to secure the proper protection of the public
 27 interest. The commissioner may require oil and gas leases issued
 28 under this section to contain a provision requiring the lessee to
 29 operate under a reasonable cooperative or unit plan, and may prescribe

1 a plan under which the lessee must operate. The plan must adequately
2 protect all parties in interest, including the state. Notwithstanding
3 (j) of this section, (if the commissioner determines that the public
4 interest warrants the reduction or revocation,) ¹ the commissioner may
5 reduce or revoke a royalty obligation increase that was made by the
6 commissioner in connection with the institution or operation of a co-
7 operative or unit plan; ^{if the commissioner} however, the reduction or revocation must
8 contain a mechanism to provide that if a lessee's market conditions
9 improve or if the profitability of a lessee's operation increases to a
10 specified level after the commissioner makes the reduction or revoca-
11 tion, the commissioner shall increase the royalty obligation of the
12 lessee to a level not exceeding the amount of the royalty obligation
13 increase that the commissioner reduced or revoked. ^{and} As a condition of
14 the reduction or revocation of a royalty obligation, the commissioner
15 shall require the lessee to comply with all valid and applicable laws
16 and regulations of the state

17 (1) that concern the hiring of state residents; and

18 (2) that are in effect or take effect during the term of
19 the lease.

20 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

TESTIMONY OF AL HASTINGS
BEFORE THE HOUSE RESOURCES COMMITTEE
REGARDING CSSSSB 430 (APRIL 21, 1986)

CONOCO IS THE OPERATOR OF THE MILNE POINT UNIT, WHICH IS THE THIRD PRODUCING UNIT ON THE NORTH SLOPE. IT BEGAN PRODUCTION LAST FALL, AND IS CURRENTLY PRODUCING ONLY 18,000 BARRELS PER DAY--THIS IN COMPARISON TO PRUDHOE BAY'S 1.5 MILLION BARRELS PER DAY, AND 260,000 BARRELS PER DAY FROM THE KUPARUK UNIT. BY ANY DEFINITION, MILNE POINT IS A MARGINAL UNIT.

DESPITE ITS MARGINAL NATURE, MILNE POINT, AND MILNE POINT ALONE, IS REQUIRED TO PAY A SPECIAL ROYALTY SURCHARGE. AT THE STATE'S 1969 COMPETITIVE SALE, THE SUCCESSFUL BIDDERS STRUCK AN AGREEMENT UNDER WHICH THEY AGREED TO PAY A 12.5% ROYALTY. HOWEVER, IN 1979, WHEN THE MILNE POINT COMPANIES SOUGHT APPROVAL OF THEIR UNIT, THE STATE REFUSED UNLESS THE COMPANIES AGREED TO PAY A ROYALTY SURCHARGE OF 7½%, THUS INCREASING THE ROYALTY TO 20%. SINCE REJECTION OF THE UNIT WOULD CAUSE THE COMPANIES TO LOSE THEIR LEASES, WE HAD LITTLE CHOICE BUT TO ACCEPT.

IN 1979, THE STATE BELIEVED THAT THIS ROYALTY SURCHARGE WAS IN THE PUBLIC INTEREST, BECAUSE IT ALSO BELIEVED THAT WELLHEAD OIL PRICES IN 1985 WOULD BE NEARLY \$35 PER BARREL. AS EVENTS HAVE TRANSPIRED, AND CRUDE IS SELLING ON THE WEST COAST SPOT MARKET AT \$12-\$14/BBL., AND TRANSPORTATION COSTS FROM MILNE POINT TO MARKET ARE \$11-\$12/BBL. AS A

RESULT, INSTEAD OF INCREASING STATE REVENUES, THE ROYALTY SURCHARGE THREATENS TO FORCE PREMATURE ABANDONMENT OF THE UNIT.

LAST NOVEMBER, CONOCO SUBMITTED A FORMAL REQUEST TO THE DEPARTMENT OF NATURAL RESOURCES TO RECONSIDER THE ROYALTY SURCHARGE IN THE MILNE POINT UNIT AGREEMENT. ON FEBRUARY 5th OF THIS YEAR, WE RECEIVED A LETTER FROM COMMISSIONER WUNNICKE, WHICH INDICATED THAT EXISTING LAW COULD PRECLUDE HER FROM REDUCING OR REVOKING THE ROYALTY SURCHARGE.

AT THAT POINT, AND IN LIGHT OF DNR'S CONCERNS OVER THE STATUTE, IT BECAME OBVIOUS THAT LEGISLATION WAS NECESSARY IF DNR WAS TO CONSIDER REVOKING OR REDUCING THE SURCHARGE, AS OPPOSED TO SIMPLY CHANGING ITS FORM. THIS BILL WOULD ACCOMPLISH PRECISELY THAT.

THERE ARE A FEW POINTS THAT I WOULD LIKE TO BRIEFLY MAKE WITH RESPECT TO THE BILL AND THE URGENCY BEHIND IT. FIRST, THE BILL IS VERY NARROWLY DRAFTED. IT WOULD ONLY AUTHORIZE THE COMMISSIONER TO REDUCE OR REVOKE ROYALTY SURCHARGES IMPOSED AT THE TIME OF UNIT FORMATION. THIS BILL DOES NOT GIVE THE COMMISSIONER ANY AUTHORITY WHATSOEVER TO REDUCE ROYALTIES BID UPON OR AGREED TO AT A COMPETITIVE SALE. IT ALSO REQUIRES THE COMMISSIONER TO PROVIDE A MECHANISM TO INCREASE THE ROYALTY IF THE COMPANIES' SHOULD EVER MAKE WINDFALL PROFIT. THE MILNE POINT UNIT IS CURRENTLY OPERATING AT A SUBSTANTIAL CASH LOSS. THE PROBABILITY OF MAKING ANY PROFIT IN THE NEXT 2-3 YEARS IS VERY UNLIKELY EVEN WITH MODEST CRUDE PRICE INCREASES.

NEXT, THE BILL DOES NOT GRANT CONOCO, OR ANYONE ELSE, ROYALTY RELIEF. IT MERELY AUTHORIZES THE COMMISSIONER TO RECONSIDER ROYALTY SURCHARGES IN UNIT AGREEMENTS WHEN THE PUBLIC INTEREST WARRANTS. CONOCO WILL STILL HAVE TO PROVE ITS CASE BEFORE THE DEPARTMENT. THE ISSUE BEFORE THIS COMMITTEE IS NOT WHAT CONOCO'S ROYALTY SHOULD BE; THAT ISSUE WILL HAVE TO BE RESOLVED BY DNR, BASED ON THE CONSIDERATION OF FINANCIAL DATA, SOME OF IT CONFIDENTIAL. THE ONLY RELIEF CONOCO IS ASKING HERE IS TO REMOVE A PERCEIVED, DISCRIMINATORY, AND VERY UNINTENTIONAL IMPEDIMENT TO DNR'S ABILITY TO RECONSIDER THE SURCHARGE.

THERE IS URGENCY TO THIS LEGISLATION. AS YOU KNOW, THE UNIT HAS ALREADY HAD TO SUSPEND NEW DRILLING AT MILNE POINT, AND IN LIGHT OF THE RECENT DRAMATIC DECLINE IN OIL PRICES THE SURCHARGE IS JEOPARDIZING NOT ONLY FUTURE DEVELOPMENT, BUT EXISTING PRODUCTION AS WELL. IN A LETTER TO SENATOR STURGULEWSKI, COMMISSIONER WUNNICKE STATED (AND I QUOTE) "IT IS ALSO VERY LIKELY THAT IF CURRENT CONDITIONS PERSIST (OR GET WORSE), THE FIELD WILL BE SHUT IN IF THE ROYALTY REMAINS AT 20%."

CONOCO'S INTENT IS A LONG-TERM COMMITMENT TO REMAIN AN OPERATOR IN ALASKA. WE HAVE CONTINUED TO BE ACTIVE IN BOTH STATE AND FEDERAL LEASE SALES, AND MILNE POINT IS AN IMPORTANT KEY TO THIS COMMITMENT. WITH THE CURRENT CRUDE PRICES, WE ARE NOT MEETING OUR OPERATING COSTS. PASSAGE OF THIS BILL WILL PROVIDE SUBSTANTIAL ENCOURAGEMENT FOR CONOCO AND ITS PARTNERS TO STAY IN OPERATION DURING THESE DIFFICULT ECONOMIC TIMES.

THANK YOU FOR THE OPPORTUNITY TO TALK WITH YOU TODAY REGARDING SB 430,
AND I WOULD BE DELIGHTED TO TRY TO ANSWER ANY QUESTIONS YOU MIGHT
HAVE.

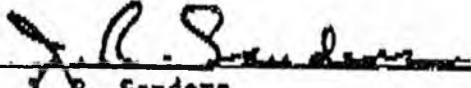
referring hereto and shall be binding upon all those parties who have executed such a counterpart, ratification or consent hereto with the same force and effect as if all such parties had signed the same document and regardless of whether or not it is executed by all other parties owning or claiming an interest in the lands within the above described unit area.

30. ALASKA RESIDENT HIRE. All State of Alaska leases committed to said agreement are hereby altered to require that the lessee and unit operator shall comply with all valid and applicable laws and regulations with regard to hire of Alaska residents. Qualified Alaska residents shall be hired as required in AS 38.40; lessee shall not discriminate against Alaska residents, as prohibited by AS 38.40 and other applicable laws and regulations of the State of Alaska.

CONOCO INC.

Attest

By


J. R. Sanders
Attorney-in-Fact
Unit Operator

Offered: 4/18/86
Referred: Resources and
Finance

Original sponsor: Fahrenkamp

1 IN THE SENATE
2 HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 430 (Oil & Gas)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL
COMMITTEE ON OIL AND GAS

5 A BILL

6 For an Act entitled: "An Act relating to the reduction or revocation by
7 the commissioner of the Department of Natural Re-
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15 or gas pool, field, or like area, the lessees and their representa-
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17 in collectively adopting or operating under a cooperative or a unit
18 plan of development or operation of the pool, field, or like area, or
19 a part of it, when determined and certified by the commissioner to be
20 necessary or advisable in the public interest. The commissioner may,
21 with the consent of the holders of leases involved, establish, change,
22 or revoke drilling, producing, and royalty requirements of the leases
23 and adopt regulations with reference to the leases, with like consent
24 on the part of the lessees, in connection with the institution and
25 operation of a cooperative or unit plan as the commissioner determines
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1 a plan under which the lessee must operate. The plan must adequately
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6 commissioner in connection with the institution or operation of a co-
7 operative or unit plan; however, the reduction or revocation must
8 contain a mechanism to provide that if a lessee's market conditions
9 improve or if the profitability of a lessee's operation increases to a
10 specified level after the commissioner makes the reduction or revoca-
11 tion, the commissioner shall increase the royalty obligation of the
12 lessee to a level not exceeding the amount of the royalty obligation
13 increase that the commissioner reduced or revoked. The commissioner
14 may reduce or revoke a royalty obligation only after the commissioner
15 of labor finds that the level of resident hire on a subject lease is
16 consistent with the lessee's stated objectives and applicable laws and
17 regulations in effect at the time the reduction or revocation is
18 requested. The lessee shall agree that the percentage of state resi-
19 dents employed on the lease is not less than the average percentage
20 employed by other North Slope operators as reported to the Department
21 of Labor.

22 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

TESTIMONY OF AL HASTINGS

BEFORE THE HOUSE OIL & GAS COMMITTEE

REGARDING CS SS SB 430 (APRIL 16, 1986)

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CONOCO AND DNR HAVE ATTEMPTED TO RESOLVE THIS MATTER THROUGH NEGOTIATIONS. IN THOSE NEGOTIATIONS, COMMISSIONER WUNNICKE AND

HER STAFF HAVE USED THEIR BEST EFFORTS TO WORK WITHIN THE PERCEIVED CONSTRAINTS. SPECIFICALLY, DNR HAS DONE AS WELL AS ANYONE COULD TO CHANGE THE NATURE OF THE SURCHARGE WITHOUT REDUCING IT, AND AT THE SAME TIME AFFORD SOME MEANINGFUL RELIEF TO CONOCO. WE COMMEND DNR FOR THE EFFORTS THEY HAVE MADE IN THIS REGARD; HOWEVER, THEIR JOB MAY BE AN IMPOSSIBLE ONE UNDER THEIR VIEW OF THE STATUTE, FOR IT IS VERY HARD TO REDUCE A ROYALTY WITHOUT IN FACT REDUCING IT.

CONOCO'S INTENT IS A LONG-TERM COMMITMENT TO REMAIN AN OPERATOR IN ALASKA. WE HAVE CONTINUED TO BE ACTIVE IN BOTH STATE AND FEDERAL LEASE SALES, AND MILNE POINT IS AN IMPORTANT KEY TO THIS COMMITMENT. WITH THE CURRENT CRUDE PRICES, WE ARE NOT MEETING OUR OPERATING COSTS. PASSAGE OF THIS BILL WILL PROVIDE SUBSTANTIAL ENCOURAGEMENT FOR THE CONOCO AND ITS PARTNERS TO STAY IN OPERATION DURING THESE DIFFICULT ECONOMIC TIMES.

THANK YOU FOR THE OPPORTUNITY TO TALK WITH YOU TODAY REGARDING SB 430, AND I WOULD BE DELIGHTED TO TRY TO ANSWER ANY

QUESTIONS YOU MIGHT HAVE.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 03-21-86

REQUEST

Bill/Resolution No. CSSSSB 430 (B11)
 Title : Revoke/Reduce Royalty Increase

Sponsor : Fahrenkamp
 Requestor : Senate Finance
 Date of Request : 03-21-86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Petroleum Management

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	(2260.0)	(2150.0)	(1900.0)	(1660.0)	(1460.0)	
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

See Attached Explanation

Revenue reduction figures are based on a calendar year, not a fiscal year.

Prepared by : Kay Brown Phone : 762-4241
 Division : Oil and Gas Date : 03-21-86

Approved by Commissioner : Norm D. Ammel, Deputy Date : 03-21-86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

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

Attachment Fiscal Note for SSSB 430

This amended fiscal note is necessary because CONOCO last week revised downward their projected rate of production. This fiscal impact (Revenue) is estimated on the basis of several assumptions:

... The bill would affect only Milne Point unit production;

... Milne Point Unit production at:

1986	18,500 bpd
1987	17,600 bpd
1988	15,500 bpd
1989	13,600 bpd
1990	11,900 bpd

... Royalty reduction from 20% to 12.5% under SSSB 430;

... Wellhead price is assumed to be \$5.45/barrel

STATE OF ALASKA



POUCH V
JUNEAU, ALASKA 99811
(907) 485-4941

HOUSE SPECIAL COMMITTEE ON OIL AND GAS

CSSSSB 430 (Rules)

CSSSSB 430 (Rules) would allow the commissioner of the Department of Natural Resources to reduce or revoke a royalty increase that was made in connection with the institution or operation of a cooperative or unit plan. Such a reduction or revocation would also have to contain a mechanism to provide that if the profitability of a lessee's operation increases to a specified level after the reduction or revocation is made, the commissioner shall increase the royalty obligation to a level not exceeding the amount of the royalty increase that the commissioner reduced or revoked.

This legislation is directed specifically toward Conoco's Milne Point Unit. The renegotiation of lease terms in 1979 between Conoco and DNR occurred as a result of the unitization of the Milne Point field. One condition of unitization was a royalty increase from 12.5 to 20 percent. Milne Point is the only producing unit that has been subjected to a royalty increase. Non-producing units that have been subjected to similar royalty increases are Gwydyr Bay and Duck Island.

It is the view of DNR that present law prevents the commissioner from making the royalty reduction or revocation sought by the operator of the Milne Point Unit. DNR believes that the specific royalty reduction limitations stated in AS 38.05.180(j) control the general royalty reduction powers granted in AS 38.05.180(p).

AS 38.05.180(j) states that "To prolong the economic life of an oil and gas field, the commissioner shall adopt regulations for all bidding methods to allow reduction of royalty on leases within the field to compensate for increasing costs in the later stages of production decline. The commissioner may not grant a reduction of royalty until two years' initial production from the field has occurred and each lessee requesting the reduction has made a clear showing that the revenue from all hydrocarbons produced from the field is insufficient to produce a reasonable rate of return with respect to that lessee's total investment in the field."

SSSB 430 started to move actively through the Senate after Conoco and DNR failed to negotiate an agreement to alter the royalty obligation at Milne Point. The most hopeful attempt at resolving this issue was DNR's offer of a royalty reduction to 12.5 percent, in combination with a 12.5 percent royalty and a 35 percent net profit share from the Shallow Sands reservoirs at Milne Point. This would have provided the state with revenues equivalent to a 20 percent royalty, while allowing Conoco to defer payment of 7.5 percent of its royalty obligation. Negotiations broke down, however, when Conoco stated that the company must have a real reduction in its royalty obligation rather than simply the deferring of a share of this obligation.

Conoco's request for a royalty reduction derives from the company's unfortunate economic timing. The Milne Point Unit and the consequent royalty increase were established at a time when the price for crude oil was near its record high. Profitability projections at the time were sufficient to warrant the commencement of production activities, notwithstanding the 20 percent royalty.

Because of the lower current price for crude oil, however, Conoco claims that the life of the Milne Point field will be terminated prematurely unless the company is provided with some measure of royalty relief. Conoco further states that the reduction or revocation of its Milne Point royalty obligation will enhance the company's opportunity to develop the nearby Shallow Sands reservoir. However, the costs of field development are expected to far exceed the revenues retained by Conoco through a reduction in its royalty obligation.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

March 17, 1986

The Honorable Arliss Sturgulewski
Chair, Senate Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski:

The Department of Natural Resources supports SS SB 430, which is scheduled for a hearing today in the Senate Resources Committee. The bill would authorize the commissioner of the Department of Natural Resources under certain circumstances to reduce or revoke oil or gas royalty obligation increases made in connection with the institution or operation of a cooperative or unit plan.

The bill primarily would affect the Milne Point Unit, a small North Slope oil field which began production last fall.

Conoco, Inc., the Milne Point Unit operator, has been seeking for several years to roll back a 20% royalty on certain Milne Point leases. The royalty obligation on those leases was increased from 12.5% to 20% under an agreement required by the department in 1979 as a condition of approval of the Milne Point Unit.

As a result of an application for royalty relief filed last fall by Conoco and Milne Point Unit working interest owners Reading and Bates Petroleum Company, Champlin Petroleum Company and Cities Oil and Gas Corporation, the department has examined confidential economic, geological, geophysical and engineering data supplied by the companies. Based upon that review, the department believes that rescinding the royalty increase would encourage continued production and further development of oil reservoirs within the Milne Point Unit.

Under existing and forecasted economic conditions, there is a high likelihood that both the economic and physical recovery of oil and gas at Milne Point will not be maximized for either the companies or the state at a royalty rate of 20%. Production of oil and gas from the developed reservoir (i.e., the Kuparuk River formation) will not be maximized, and development and production of oil and gas from yet to be

developed reservoirs (i.e., the Shallow Sands - heavy oil and gas reservoirs, geologically equivalent to ARCO's West Sak-Ugnu reservoirs at Kuparuk Unit) likely will not occur at all. The companies have made a persuasive case that they cannot be reasonably assured an adequate rate of return on any future or incremental investment under the existing 20% royalty. Given the further erosion of crude oil prices since the application was filed with the state last October, it is possible that current production will be halted if the royalty rate on the leases remains at 20 percent.

A careful review by staff of the data and analyses supplied by the companies confirms that, under current and expected market conditions, the companies likely will not receive an adequate rate of return on their current investments, and that future investments in the Milne Point Unit also would yield a less than satisfactory return. It is also very likely that if current conditions persist (or get worse), the field will be shut-in if the royalty remains at 20%. In addition, future development of the Milne Point Unit Shallow Sands is almost certain not to occur at a 20% royalty.

A reduction in the royalty rate from 20% to 12.5% would result in a revenue decrease to the State of approximately \$4.5 million a year from the Milne Point Unit. (See attached fiscal note.)

The department has tried to address the need for royalty relief within the current statutory framework, and earlier this year proposed that the royalty obligation be changed (not reduced) to a 12.5% royalty and a 35% Net Profit Share in lieu of the current 20% royalty. The companies have not accepted this proposal, even though it would have the effect of an immediate reduction in the royalty obligation, and would leave open the opportunity for the companies to apply for further relief after two years of field production based on the facts and circumstances at that time.

The department has been constrained from considering an outright royalty reduction by AS 38.05.180(j), which precludes the commissioner from granting a reduction of a lease royalty "until two years' initial production from the field has occurred and each lessee requesting the reduction has made a clear showing that the revenue from all hydrocarbons produced from the field is insufficient to produce a reasonable rate of return with respect to that lessee's total investment in that field."

The department's proposal to change the existing royalty rate was based on the authority of AS 38.05.180(p), which authorizes the commissioner to change royalty requirements of unitized leases "as the commissioner determines necessary

or proper to secure the proper protection of the public interest." Under the department's proposal, the state likely would have been compensated for the near-term revenue losses resulting from a reduction to a 12.5% royalty rate by the further receipt of revenues from the development of the Shallow Sands reservoirs at Milne Point and the application of the 35% Net Profit Share and the 12.5% royalty to that production. Revenues to the state over time likely would have been equivalent or greater under the department's proposal, but the income would have been delayed.

The department believes that it is not authorized to reduce the royalty obligation under AS 38.05.180(p), because of the limitation AS 38.05.180(j) appears to place on the commissioner's powers. If AS 38.05.180(j) applied only to leases that had not yet been unitized, AS 38.05.180(j) would be a nullity because, as a practical matter, unitization always precedes production. Related statutes should not be construed to make one statute a nullity.

Further, the general rule of statutory construction is that specific provisions control general provisions. Under this rule, the specific royalty reduction provisions of AS 38.05.180(j) would control the general provisions of AS 38.05.180(p).

Further, the legislative history of AS 38.05.180(j) argues against using AS 38.05.180(p) to circumvent the royalty reduction limitations stated in AS 38.05.180(j).

Testimony before the Legislature in 1978 focused on royalty reductions in conjunction with the increased flexibility given to the commissioner to select bidding methods. A prime concern was to prevent royalty bid manipulation, where a bidder obtains a tract by bidding an unreasonably high royalty counting on a subsequent royalty reduction to make the lease profitable. Although the companies obtained their leases at a fixed royalty sale, the policy against royalty bidding is arguably still applicable. The companies' leases were about to expire, causing the companies to agree to increase royalties in order to keep from losing the leases which were about to expire.

The bill that created AS 38.05.180(j) went through several committee substitutes. One committee, the House Resources Committee, voted to place an express limit on the commissioner's powers under AS 38.05.180(p) by adding the language: "however, the commissioner may not reduce the state's royalty within any unit except as provided in [j] of this section." A subsequent committee reviewing the bill, the Senate Resources Committee, deleted that language, but its sole motive was that the language was unnecessary since that committee had already decided to delete AS 38.05.180(j) altogether.

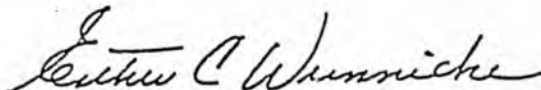
The Honorable Arliss Sturgulewski -4- March 17, 1986

Later in the Senate Resources hearing, DNR pointed out that AS 38.05.180(j) granted the commissioner less power to reduce royalties than existed at that time under AS 38.05.140. The committee then voted to amend AS 38.05.140 to delete the commissioner's royalty reduction powers for oil and gas, and voted to reinstate AS 38.05.180(j). The committee immediately adjourned, without taking up the question of whether the previous committee's limitation of AS 38.05.180(p) should be retained.

In view of this legislative history, the department concluded that the specific royalty reduction limitations stated in AS 38.05.180(j) control the general royalty reduction powers granted in AS 38.05.180(p).

Thank you for the opportunity to comment on SS SB 430.

Sincerely,


Esther C. Wunnicke
Commissioner

Attachment

cc: Senator Bettye Fahrenkamp



Conoco Inc.
3201 C Street
Suite 200
Anchorage, Ak
(907) 564-7600

December 23, 1985

The Honorable Mike Davis
Representative, Alaska
315 Barnette Street
Suite 101
Fairbanks, Alaska 99701

Re: Enclosed Request for Unit
Agreement Amendment

Dear Representative Davis:

Enclosed is a copy of a request by Conoco Inc. and other Milne Point Unit working interest owners to amend the Milne Point Unit Agreement. The companies submitted the request to DNR on November 4, 1985. The amendment would remove a 7½% royalty surcharge that was imposed upon these companies by DNR Commissioner Robert LeResche in September, 1979.

Granting the companies' request for removal of the surcharge will have a negligible effect on current state revenues. Indeed, the surcharge will net the state only some \$8 million in additional royalties in 1986. However, if the surcharge results in premature field abandonment, the state will suffer a foreseeable \$1.1 billion net loss in taxes and royalties. Moreover, the subsequent production at Milne Point which is jeopardized by the surcharge is critical to the state. For example, if the surcharge is removed, and the unit is fully developed, the state's projected FY 1996 oil production decline will be reduced by 31%.

Either inaction by DNR, or DNR's refusal to acknowledge its authority to grant the companies' request, may necessitate a legislative response in order to prevent premature abandonment of the only currently-active marginal field on the North Slope, and the resultant loss in state revenue. As a result, we hope that you, and your staff, will have the opportunity to review the companies' papers.

This matter arose in 1979, when the Milne Point companies applied to Commissioner LeResche for approval of the Milne Point Unit. The commissioner refused to approve the unit unless the companies consented to pay a 20% royalty, rather than the 12½% that had been agreed to at the 1969 competitive sale. The companies, of course, had little choice but to accept the commissioner's demands, since a rejection of the unit

application would mean that the companies would lose their leases, and no production would occur at Milne Point at all.

Commissioner LeResche was motivated, at the time, by his assumption that wellhead prices in the mid-1980's would be about \$34 per barrel, and that the market could therefore bear this royalty surcharge. In fact, wellhead prices are now about \$14 per barrel. As a result, the effect of the surcharge will, in all probability, not be to increase state revenues, but rather to substantially reduce overall state taxes and royalties because of a premature field abandonment. Indeed, as the enclosed papers indicate, with the surcharge the Milne Point Unit may have as little as an 8-year field life.

Conoco recognizes that, in 1978, the legislature limited the commissioner's ability to reduce royalties on individual leases in order to prevent irresponsible royalty bidding at competitive sales. The limitation was intended to guard against abuses when the royalty was a bid variable -- a situation not present here. As our brief demonstrates, that limitation does not prevent the commissioner from amending her own unit agreements. And, an amendment to the unit agreement is all that is needed, and all that is asked for here. The 12½% royalty in the companies' leases will remain intact.

The companies are hoping that DNR will recognize its authority, and act upon the companies' request quickly. If the agency decides that it does not have authority to amend its own unit agreements, the companies will have two options. The first, of course, is to litigate. And, while the companies are confident that they would ultimately prevail in that litigation, that option will be costly and time consuming. As our brief indicates, it is very important that a final decision on the royalty surcharge be made shortly. Therefore, delaying resolution of this issue for 2-3 years of litigation may bring about the early abandonment of Milne Point irrespective of the ultimate outcome.

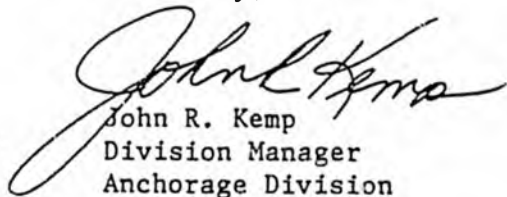
The other option is legislation that would even more clearly direct the commissioner to act in the very limited and compelling circumstances present here. We had hoped that DNR would process our request in a way that would allow the legislature to consider this matter, if it needs to consider it at all, responsibly and in due course. We therefore asked DNR to decide the companies' request well prior to the convening of the upcoming legislative session; and, to that end, we submitted our request more than two months before the session was to commence. If the agency delays our request, the legislature may find itself facing a new oil and gas issue in mid-session. We are therefore deeply concerned that DNR has yet to act on our request even at the staff level -- particularly in light of the fact that DNR has known of this issue, and the need to resolve it, since October, 1983.

At this point, then, we would appreciate whatever efforts you feel appropriate toward encouraging Commissioner Wunnicke to make her final

decision before your next session commences. And, we will certainly keep you advised of the progress of our request.

Thank you in advance for the attention which I know that you, and your staff, will give to this matter.

Sincerely,



John R. Kemp
Division Manager
Anchorage Division

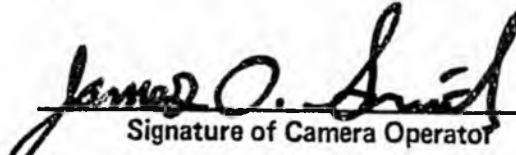
vv



RECORDS CERTIFICATION



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Signature of Camera Operator


Date

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HOUSE
COMMITTEE REPORT

5/8

(9)

Date referred: 5/7/86

FURTHER REFERRALS: FINANCE

DATE: May 8, 1986

The RESOURCES Committee has considered CSSB 467 (C&RA)
"An Act relating to the operation of campgrounds."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- replace with _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

Shultz *Dink Shultz*

Wallis *Kybalis*

Miller (NP) *M.W. Miller*

Herrmann *Adelheid Herrmann*

John Sund
SUND

SIGNING OTHER RECOMMENDATIONS:

Wm. Lance - No Rec

Roger Pearce *John Jenkins* *No Rec*

Dink Shultz
Co-Chairman Shultz

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 4/17/86

REQUEST

Bill/Resolution No. : CSSB 467 (C&RA)
 Title : Operation of Campgrounds

 Sponsor : Senate CSRA Committee
 Requestor : Senate CSRA Committee
 Date of Request : 4/17/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Parks and Recreation Management

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		33.6	33.6	22.4	22.4	22.4
TRAVEL		2.0	2.0	-0-	-0-	-0-
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	35.6	35.6	22.4	22.4	22.4

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING : (Thousands of Dollars)

GENERAL FUND		35.6	35.6	22.4	22.4	22.4
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	35.6	35.6	22.4	22.4	22.4

POSITIONS :

FULL-TIME	-0-	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The department would need a Natural Resources Technician to help prepare and administer requests for proposals, contracts, and processing of revenues related to private operation of selected state campgrounds. The position would be full time for the first two years, and become seasonal thereafter. The department will realize an overall savings in contractual and commodities expenditures.

Prepared by : Rod Aurant Phone : 465-2424
 Division : Division of Management Date : 4/17/86

Approved by Commissioner : Thomas D. Amundson, Secretary Date : 4/17/86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

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

Continuation of Analysis CSSB 467 (C&RA)

Position Information:

	Annual Gross	Annual Benefits	Annual Total
NRT II (Perm. Full-time)	24.8	8.8	33.6
NRT II (Seasonal)	16.5	5.9	22.4

Additional Information:

Concessionaires would be required to reinvest a percentage of profit into the campground. This program will succeed only with close supervision by staff of tightly written contracts for campground operation. Supervision can be relaxed as concessionaires become established and routinely adhere to contract performance standards and stipulations. The savings realized by this program will grow each year, as additional campgrounds are contracted to the private sector for management. The department could forego the modest revenues available from the concessionaire during the first few years of operations if the money were used to enhance visitor services and the capital value of the campground.

Operational Savings Under This Program:

	FY 87	FY 88	FY 89	FY 90	FY 91
Contractual	30.0	35.0	40.0	45.0	50.0
Commodities	10.0	15.0	15.0	20.0	20.0
Total	<u>40.0</u>	<u>50.0</u>	<u>55.0</u>	<u>65.0</u>	<u>70.0</u>



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James O. Smith
Signature of Camera Operator

9/5/89
Date

SCR

18

HOUSE
COMMITTEE REPORT

4/23
Rules

(9)

Date referred: 4/8/86

FURTHER REFERRALS:

DATE: April 23, 1986

The RESOURCES Committee has considered SCR 18

Relating to the Guide Licensing and Control Board.

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ same title
- replace with _____ new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Shultz Dick Shultz

Miller Mr. Miller

Adelheid Herrmann No Rec.
Herrmann

Jenkins Roger Jenkins

Pearce W. Pearce

Thompson David W. Thompson

Cato Bette Cato

Dick Shultz
co- Chairman Shultz

Alaska State Legislature

CO-CHAIRMAN
FINANCE COMMITTEE

907-465-3740



JAN FAIKS
POUCH V
CAPITOL BUILDING
JUNEAU, ALASKA 99811

Senate

February 3, 1986

MEMORANDUM

TO: Senator Arliss Sturgulewski, Chairman
Senate Resources Committee

FROM: Senator Jan Faiks

SUBJECT: Background on Senate Concurrent Resolution No. 18

The Guide Licensing and Control Board governs a system that controls entry into the big game guiding industry in Alaska. The Board assigns exclusive and joint-use guide areas in the state, and thereby confers upon a few persons a substantial benefit that is derived from a public resource.

For these reasons, and because the Board is composed of former guides and other persons having direct interest in the guiding industry, it is important that the actions of this Board be governed by objective standards. In order to avoid an appearance of conflict of interest, it is also important that these standards be strictly comply with.

From complaints of my constituents and an investigation by my staff, however, I believe that the Board is not operating by such standards. I have identified the following problem areas, and they are the focus of this resolution.

After SCR 18 was introduced, the Division of Legislative Audit published a performance report on this Board which confirms many of my observations.

1. The Board has failed to timely publish notice of its meetings and has failed to strictly follow accepted rules of order for conducting these meetings.

OUT OF SESSION

The audit report observes that, "Publication of meeting information does not always precede the meeting by a reasonable time period." and "Teleconference meetings are not being noticed publicly". (Please see Section IV, page 17.)

2. Concerning exclusive and joint-use guiding areas, the Board lacks objective criteria for determining the maximum number of guides who can be licensed for an area and lacks criteria for issuing, reassigning, and placing conditions on guide area permits.

According to the auditors, "(the Guide Board) does not act consistently when considering the assignment of exclusive and joint-use guiding areas. The criteria on which any given area assignment decision is made varies from decision to decision." (page 7) They conclude, "Essentially, the (Guide Board) has not fully met its statutory responsibility to adopt an equitable and reasonable procedure for the assignment of guide areas." (page 8)

Senate Concurrent Resolution 18 urges the Guide Board to adopt regulations that address these problems. I believe that these actions are needed to restore and maintain public confidence in the integrity of this Board.

Thank you.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SCR 18
 Title : Relating to Guide Licensing and Control Board
 Sponsor : Sen. Faiks
 Requestor : Senate Resources
 Date of Request : 4/2/86

FISCAL DETAIL

Agency Affected : Commerce
 BRU : _____
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
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REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
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FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Senate Resources Committee Phone : 465-4907
 Division : *Senator Arliss Sturculewski* Date : 4/2/86

Approved by ~~Commissioner~~ Senator Arliss Sturculewski Date : 4/2/86
 Agency : Chairman, Senate Resources Committee

Distribution (by Agency preparing fiscal note) :

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