

ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

4257 SRES SB 232 - SB 237 2133

If to Seller: State of Alaska
Commissioner of Natural Resources
Pouch "M"
Juneau, Alaska 99811

and

Commissioner of Revenue
Pouch "S"
Juneau, Alaska 99811

and

Director, Division of Oil and Gas
Pouch 7-034
Anchorage, Alaska 99510

If to Purchaser:

GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.
P.O. Box 1249
Fairbanks, Alaska 99707

and (as long as the right to Oil is assigned thereto)

Vice President-Supply
MAPCO PETROLEUM Inc.
P.O. Box 645
Tulsa, Oklahoma 74101-0645

12.2 Change of Address. Each party may change its address for notice by giving notice of the change.

ARTICLE XIII
RULES AND REGULATIONS

This Agreement is subject to all present and future valid laws, orders, rules and regulations of the United States, the State of Alaska, and any duly constituted agency thereof.

ARTICLE XIV
SOVEREIGN POWER OF THE STATE

This Agreement and its covenants shall not be interpreted as a limit on the exercise by the State of Alaska of any of its sovereign or regulatory powers, whether conferred on the State by constitution, statute or regulation, including but not limited to, its regulatory power over the Leases. The exercise by the State of Alaska of any sovereign or regulatory power will not operate or be deemed to enlarge any rights of Purchaser or to limit or impair any obligations or liability of Purchaser under this Agreement, except for state statutes enacted after the effective date of this Agreement which have a direct and significant adverse effect on the ability of Purchaser to perform an obligation under this Agreement other than the obligations to accept, dispose, and pay for Royalty Oil tendered under this Agreement.

ARTICLE XV
SECURITY

Thirty (30) days prior to the Date of First Delivery, Purchaser shall cause to be furnished to Seller evidence that an irrevocable stand-by letter of credit for the benefit of Seller effective by Date of Delivery, will be issued by a state or national banking institution of the United States which is a member of the Federal Deposit Insurance Corporation and has an aggregate capital and surplus of not less than One Hundred Million Dollars (\$100,000,000), or other banking institution acceptable to Seller in its sole discretion. The principal face amount of the letter of credit shall initially be Five Million, Three Hundred Sixteen Thousand Dollars (\$5,316,000). The letter of credit shall be substantially in a form satisfactory to the Commissioner, but in any event shall not require any documents to be submitted in support of drafts drawn against this letter of credit other than the certified statement of the Commissioner or her designee and the Attorney General of the State of Alaska or his designee that Purchaser is liable to Seller for a sum equal to the amount of such draft, and that that sum is due and payable in full and has not been timely paid. In the event that Seller should have reasonable grounds for asserting any claims against Purchaser

under this Agreement and does assert those claims in an aggregate amount in excess of the aggregate principal face amount of the letter of credit then in effect, Purchaser shall upon Seller's request (whether or not Purchaser may deny, reject or otherwise resist such claims) cause the principal face amount of the letter of credit to be increased by an amount equal to the excess. The principal face amount of the letter of credit shall also be automatically increased by Purchaser without request from Seller whenever the face amount is less than the expected Purchase Price of sixty (60) days of Oil tendered under this Agreement, to an amount equal to the expected Purchase Price of sixty (60) days of Oil tendered. The principal face amount of the letter of credit may be decreased by Purchaser upon approval of Seller (which approval will not be unreasonably withheld) if the face amount is more than the expected Purchase Price of sixty (60) days of Royalty Oil tendered under this Agreement, to an amount equal to the expected Purchase Price of sixty (60) days of Royalty Oil tendered. The Commissioner may accept such other or additional security as she, in her sole discretion, considers adequate to protect Seller.

ARTICLE XVI

PREFERENTIAL HIRING AND NON-DISCRIMINATION

Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent they are available, willing and qualified for all work performed in Alaska that is performed under or in connection with this agreement. As used in this agreement "Alaska resident" means an individual who has resided in the State for one year at the time of hiring or employment and "Alaska companies" means those companies who are incorporated in the State of Alaska or whose principal place of business is in Alaska.

If this provision is determined to be unconstitutional by a court of competent jurisdiction, then Purchaser agrees to hire and employ Alaska residents and Alaska companies to the extent such preferential hiring is determined to be constitutional.

ARTICLE XVII
APPLICABLE LAW

17.1 Alaska Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska, excluding any conflict-of-law rule or principle which might refer such construction to the laws of another state or country.

17.2 Submission to Jurisdiction. Any legal action or proceeding arising out of or relating to this Agreement or for the enforcement of the covenants or obligation of either party must be instituted in a State court of general jurisdiction sitting in the State of Alaska, and Purchaser hereby irrevocably submits to the jurisdiction of that court in any such action or proceeding.

ARTICLE XVIII
WARRANTIES

The purchase and sale of Royalty Oil under this Agreement is subject only to the warranties of Seller expressly set forth in this Agreement and Seller disclaims and Purchaser waives all other warranties, expressed or implied in law, whatsoever.

ARTICLE XIX
AMENDMENT

This Agreement may be supplemented, amended or modified at any time, but only by written instrument duly executed by the parties to this Agreement. Any material amendment to the contract which appreciably reduces the consideration received by the State requires prior approval of the Legislature of the State of Alaska.

ARTICLE XX
SUCCESSORS AND ASSIGNS

No assignment, pledge or encumbrance of this Agreement shall be made by either party without first obtaining the written consent of the other party. The Commissioner may grant such consent on behalf of the Seller. The Commissioner shall have sole and complete discretion in granting or denying a proposed assignment, pledge or encumbrance. Subject to the above requirements in this Article, this Agreement will be binding upon and inure to the benefit of each of the parties and its successors and permitted assignees. In addition, if Purchaser gains or acquires a controlling interest in an entity which has an agreement with Seller for the sale of Royalty Oil ("Other Agreement"), then Seller, at its option and on one year's notice, may require Purchaser to terminate either this Agreement or the Other Agreement. The choice of which Agreement to terminate will be Purchaser's. Purchaser may request that Seller waive this option in advance of Purchaser gaining a controlling interest in an entity which has an agreement with Seller for the sale of Royalty Oil. The Commissioner has sole and complete discretion in granting or denying the requested waiver.

ARTICLE XXI
HEADINGS

Headings used in this Agreement are for convenience only and shall not affect the construction of this Agreement.

ARTICLE XXII
RECORDS

22.1 Preservation of Records. Purchaser will preserve and maintain all books, accounts, and records relating to or arising out of the performance of this Agreement, including but not limited to the purchase or sale of Royalty Oil and its refined products, for a period of six (6) years. Purchaser will also maintain and preserve all similar books, accounts, and records of which

it has possession belonging to those third parties with whom it contracts for the performance of various parts of this Agreement. Neither Purchaser nor Seller shall be required to retain any records for more than six (6) years unless retention of such records is specifically required by applicable law or regulation. Purchaser shall either maintain its records within the State of Alaska or make such records available to Seller at Purchaser's principal office in the State of Alaska within thirty (30) days after written request by Seller.

22.2 Inspection of Records of Parties. Purchaser and Seller will accord to each other and to their authorized agents, attorneys, and auditors during reasonable business hours access to any and all property, records, books, documents, and indexes directly relating to Purchaser's or Seller's performance of this Agreement and which are under the control of the party from which access is desired so that the other party may inspect, photograph and make copies of that property, records, books, documents and indexes. In no event, however, shall Seller be required to disclose any information, data, or records which are required to be held confidential by state law or regulation. If the information obtained by Seller may be held confidential under state or federal law or regulation, Purchaser may request that that information be held confidential by Seller.

ARTICLE XXIII

INTERPRETATION OF TERMS AND CONDITIONS

In the event that there is a disagreement about the meaning or application of a word, term, or condition in this Agreement, Purchaser will present the arguments supporting its view in writing to the Commissioner for her consideration. The Commissioner will subsequently, within a reasonable time, issue a finding on the meaning or application of the disputed word, term, or condition, setting forth the basis for her conclusions. Purchaser agrees to accept findings by the Commissioner under this Article as long as there is substantial evidence supporting the Commissioner's findings. None of the above shall empower the Commissioner to set the price of the Oil should such price become subject to renegotiation pursuant to Section 2.3.

DATED this 8th day of February 1985.

SELLER: THE STATE OF ALASKA

Commissioner,
Department of Natural Resources

PURCHASER: GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.

By _____
Michael P. Kelly
General Manager

EXHIBIT A

THIS AGREEMENT is entered into this 8th day of February, 1985 by and between the State of Alaska (State), and MAPCO PETROLEUM Inc. (MAPCO), and Golden Valley Electric Association, Inc. (GVEA).

ARTICLE I
DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 "MAPCO" includes MAPCO PETROLEUM Inc. and its predecessors in interest, MAPCO Alaska Inc. and Earth Resources Company of Alaska, including the North Pole Refining Division of Earth Resources Company of Alaska.

1.2 "GVEA Royalty Oil Contract" means the Agreement for the Sale and Purchase of Royalty Oil dated February 8, 1985 between the State and Golden Valley Electric Association Inc. (GVEA).

1.3 "Assignment" means the Assignment and Product Sales Agreement between MAPCO and GVEA executed May 27, 1980. That Assignment provides for the assignment to MAPCO of GVEA's rights under the GVEA Royalty Oil Contract in exchange for GVEA paying MAPCO a reduced processing fee for turbine fuel.

1.4 "Petroleum Products Agreement" means the ~~Petroleum Products Agreement between GVEA and MAPCO executed May 27, 1980.~~ That Petroleum Products Agreement provides for MAPCO's sale of processed turbine fuel to GVEA at a price based on MAPCO's net acquisition cost for ANS crude plus a fixed margin.

ARTICLE II
APPROVAL OF ASSIGNMENT

The State consents to the Assignment and to the Petroleum Products Agreement in their present forms as modified by the terms of this Agreement, to include amending the term of said agreements to run as long as MAPCO receives Royalty Oil in the quantities specified under the GVEA Royalty Oil Contract. MAPCO and GVEA agree to notify the State of any modifications to those agreements; provided, that changes in price do not constitute a modification so long as the actual pricing mechanism (as compared to the price itself) contained in the Assignment is not changed and the price charged GVEA for fuel under the Assignment remains equal to or less than the price that would then be in effect calculated under the pricing mechanism contained in the Assignment. MAPCO agrees that modifications to the Assignment (or to the quality, price, or escalation provisions of the Petroleum Products Agreement) which materially reduce GVEA's benefits will give the State the right, in its discretion, to terminate the GVEA Royalty Oil Contract and/or the State's approval of the Assignment.

ARTICLE III
DESIGNATION OF ROYALTY OIL VOLUMES

The Assignment states that ~~MAPCO is entitled to designate the volume of Royalty Oil that GVEA will take under the GVEA Royalty Oil Contract.~~ However, GVEA can only reduce the quantity of Royalty Oil it takes under the GVEA Royalty Oil Contract by giving the State nine (9) Months written notice. In consideration of these facts MAPCO agrees that it will give GVEA nine (9) Months' written notice before exercising any rights it may have to decrease the amount of Royalty Oil it requires GVEA to designate under the GVEA Royalty Oil Contract, which nine (9) Month notice will be concurrent with the nine (9) Months' written notice GVEA gives the State (which notice GVEA agrees to give the State immediately upon receipt of any such notice from MAPCO).

ARTICLE IV
SUBSEQUENT AMERADA HESS ADJUSTMENTS

Except as provided herein, MAPCO agrees that the retroactive price adjustment provisions contained in Paragraph IV of the Petroleum Products Agreement; as it applies to the Assignment, shall not extend to adjustments made upon final non-appealable resolution of each of the issues in the Amerada Hess litigation pursuant to Section 2.3 of the GVEA Royalty Oil Contract. GVEA agrees to pay that portion of the Amerada Hess adjustment based on the ratio of the barrels of product purchased by GVEA under the assignment to the total barrels of Royalty Oil purchased under the GVEA Royalty Oil Contract during the twelve-month period immediately preceding the final non-appealable resolution of each of the issues of the Amerada Hess litigation. With the exception of the twelve-month period immediately preceding the final non-appealable resolution of each of the issues in the Amerada Hess litigation, MAPCO agrees to pay to the State any such adjustments owed by GVEA or MAPCO as a result of purchases made by MAPCO under the GVEA Royalty Oil Contract; provided, however, that ~~if GVEA exercises its right to terminate the Assignment and/or Petroleum Products Agreement under Paragraph X of the Petroleum Products Agreement, or if the State terminates the GVEA Royalty Oil Contract and/or this Agreement approving the Assignment as a result of a breach of either agreement by GVEA, GVEA will pay to the State a percentage of the Amerada Hess adjustment, with the percentage based on the ratio of the barrels of product purchased by GVEA under the assignment to the total barrels of royalty oil purchased under the GVEA Royalty Oil Contract during the period in which the Amerada Hess adjustment applies. Within ten days of being notified by the State that there has been a final non-appealable resolution of each of the issues in the Amerada Hess litigation, GVEA and MAPCO shall discuss with each other and advise the State of the percentage of the adjustment by month and year each is to pay the State.~~

ARTICLE V
OPTION ON RETURN OIL

MAPCO acknowledges that the State has reserved an option to purchase all Return Oil resulting from the sale of Royalty Oil under the GVEA Royalty Oil Contract. In consideration of MAPCO's agreements in Article IV of this Agreement concerning subsequent Amerada Hess adjustments, the State agrees to not exercise its return oil option so long as MAPCO receives Royalty Oil under the GVEA Royalty Oil Contract.

NOTES: [Illegible text]

By _____
Commissioner,
Department of Natural Resources

GOLDEN VALLEY ELECTRIC ASSOCIATION

By _____
Michael P. Kelly
General Manager

MAPCO PETROLEUM INC.

Robert M. Howe
President



K. L. ... 15 Feb 80

North Pole Refining P.O. Box 5028, North Pole, Alaska 99705

DIVISION OF EARTH RESOURCES COMPANY OF ALASKA

907/488-2741
907/488-2742

PETROLEUM PRODUCTS AGREEMENT

This Agreement, dated the 1st day of May 1980, by and between:

NORTH POLE REFINING (NPR), Division of Earth Resources Company of Alaska, an Alaskan Corporation, and GOLDEN VALLEY ELECTRIC ASSOCIATION, INC. (GVEA).

Witnesseth

The Agreement, when duly executed, shall constitute an agreement under which NPR, shall sell and deliver to GVEA, and GVEA shall purchase and receive from NPR, processed turbine fuel, as per Section I below, at GVEA's North Pole and Zhender generating plants effective the date of first delivery at GVEA's meter station of Royalty crude oil as provided for in BUYER's Assignment and Product Sales Agreement, by NPR under terms and conditions as follows:

I QUANTITY AND QUALITY

NPR shall sell and deliver to GVEA hereunder Industrial Turbine Fuel (including HF/DF #1 and HF/DF #2) meeting G. E. specification GE141047H for Heavy True Distillate and all petroleum products identified herein as "Turbine Fuel" for use at the GVEA's gas turbine and/or diesel generator facilities located at North Pole and Fairbanks (Zhender), Exhibit I, II(A), and II(B). Said Industrial Turbine Fuel (heavy true distillate) shall be delivered by pipeline from NPR, at his expense, into the GVEA's Turbine Fuel storage tanks located at the North Pole Facility. Deliveries to Fairbanks (Zhender) locations will be by rail tank car or transport

I QUANTITY AND QUALITY (CONTINUED)

truck in full capacity of the conveyance as determined by GVEA. GVEA and NPR recognize highway weight restrictions in the fall and spring of each year may require scheduling of liftings to avoid this period with deliveries by transport truck. Deliveries shall be made during each month of the term hereof on GVEA's orders. GVEA will furnish NPR with estimated annual projections of all monthly petroleum fuel requirements to be updated at three (3) months intervals. GVEA hereby recognizes that product requirements in excess of one-hundred-ten percent (110%) of original monthly nominations (Exhibit III) may not, at NPR's option, be available. GVEA will confirm estimates of the quantities to be delivered during each month at least forty-five (45) days prior to the first day of the month in which said quantities are to be delivered. Exhibit IV formats the required data (modifications may be made that are mutually acceptable). Scheduling for deliveries of volumes specified will be coordinated on a weekly basis between NPR and GVEA's designated agent(s).

II MEASUREMENT AND TEST

Quantity and quality of Turbine Fuel sold and purchased hereunder shall be determined from NPR's recording flow meters and from samples taken at NPR's facility. Observed volume shall be corrected to sixty (60) degrees Fahrenheit by use of API Table 6. All sampling and testing shall be done as mutually agreed. Claims for errors, deficiencies or imperfections will not be entertained by NPR unless notice in writing is given by GVEA to NPR within ten (10) days of discover.

III TITLE

Title to the Turbine Fuel sold and delivered hereunder shall pass to GVEA when the Turbine Fuel enters GVEA's storage tanks or truck transport,

III TITLE (CONTINUED)

and risk of loss shall follow title. All Turbine Fuel sold hereunder shall be deemed to be in the entire custody and control of GVEA, immediately upon delivery into GVEA's terminal (GVEA's intake headers or storage tanks at North Pole or Zhender) or into GVEA's truck transport; GVEA shall indemnify and hold NPR harmless from any and all liability (including reasonable attorney's fees) for loss, damage, injury or other casualty to persons or property caused or occasioned by any leakage, fire, explosion and/or any other damage caused directly or indirectly by the Turbine Fuel sold hereunder when the said Turbine Fuel is in the custody of GVEA as aforesaid.

IV PRICE

For each net barrel of forty-two (42) U.S. gallons sold and purchased hereunder of Industrial Turbine Fuel only (heavy true distillate), GVEA agrees to pay and NPR agrees to accept a price equal to NPR's net acquisition cost for each barrel of forty-two (42) U.S. gallons of North Slope Alaskan crude oil plus a fixed margin of ~~27~~ per barrel. NPR's net acquisition cost shall include all tariffs for transportation of said crude oil, the effects of any programs of any governmental agencies and 67.67 percent of the cost associated with any specific gravity adjustments; Sulphur and B S & W relative to oil returned to the TAPS, excluding any impurities introduced into the return crude stream which was not an element of the acquired crude or generic to that portion of said return penalty shall be excluded when calculating GVEA's price of turbine fuel as it relates to NPR's total acquisition cost). NPR will certify to GVEA, within sixty (60) days following the end of the month in question, the actual acquisition cost of crude received during said month and will at that time issue any resulting retro-active adjustments to the selling prices for all deliveries made during the month in question. It is understood by both parties that certain components of

North Pole Refining

IV PRICE (CONTINUED)

the final cost of crude oil purchased by NPR may not be finalized until an indeterminate time in the future. It is therefore, agreed between both parties that any adjustments to the final crude cost for any months in question irrespective of the timing of these adjustments, will be handled retro-actively to the month in question in accordance with the pricing terms herein notwithstanding any limitations to the contrary contained elsewhere in this agreement.

For billing purposes, sales will be expressed in gallons. The price which GVEA shall pay NPR for delivery of the following Turbine Fuel products hereunder shall be as follows:

North Pole Refining Plant Posted Prices, F. O. B. NPR, at the time of each delivery for the particular product involved, less a discount equal to the maximum discount per gallon given to any other buyer of the particular product.

Diesel Fuel #1

Diesel Fuel #2

Notice of a change in discount for the above products will be given to GVEA by NPR ten (10) calendar days prior to change.

NPR will notify GVEA, in writing, within five (5) working days of the effective date of the posting change for the above products.

Transportation fee to be agreed upon by separate agreement.

V ESCALATION

Price of Industrial Turbine Fuel (heavy true distillate) will escalate/de-escalate relative to the August 1977 U.S. Bureau of Labor Statistics Wholesale Price Index for Major Commodity and Special Groupings (Table 1 Manufacture Goods) times eighty-seven percent (87%) of the fixed margin (\$2.62 per barrel). Examples are shown in Exhibit II. Price escalations are to be computed at the end of each calendar quarter commencing on December 31, 1977 and quarterly thereafter, and be effective on purchases made during following quarters.

Escalator to be reviewed annually upon written request by either party no later than sixty (60) days prior to the anniversary date of this agreement.

VI PAYMENT

All payments for Turbine Fuel sold and delivered to GVEA hereunder during each calendar week shall be billed on the following Monday, payment terms net four (4) days from date of invoice.

VII TAXES

All taxes, fees, assessments and charges now or in the future assessed, levied and charged by any State, Federal and local government against or upon the Turbine Fuel covered hereby and against or upon the selling and transportation thereof shall be paid by GVEA; and if NPR has paid or shall hereafter pay any such tax, fee, assessment and charge; GVEA agrees to promptly reimburse NPR the full amount therefore, together with all penalties, interest and costs there on. Any such payments shall be in addition to the price otherwise provided for.

VIII FORCE MAJEURE

Except as to payments due hereunder, each of the parties hereto shall be excused from performance under this agreement as long as to the extent that performance may be prevented in whole or in part by reason of strike, fires, washouts, breakage of pipeline or tankage, acts of God, war, sabotage, the elements, earthquakes, differences of disputes with workmen (however arising or from whatever cause) inability to obtain labor or personnel service, shortages of supplies of crude oil, scheduled or unscheduled shutdown of plants, or any other cause, except financial, beyond its control, whether of a similar or dissimilar class, including specifically acts, orders or recommendations of Government officers, bodies or committees acting under claim of authority.

IX MUTUAL AGREEMENT

Any details of this agreement not specified herein shall be resolved by mutual agreement of the parties hereto.

X CONDITIONS/TERMS

This Agreement shall become effective on May 1, 1980. This Agreement shall remain in full force and effect for seven (7) years and thereafter until terminated. Either party may, at any time, terminate this Agreement upon three (3) year's written notice to the other.

XI NON-ASSIGNMENT: MODIFICATION

This Agreement may not be assigned to any third party except the administrator of the Rural Electrification Administration without the written

XI NON-ASSIGNMENT: MODIFICATION (CONTINUED)

consent of NPR. This agreement may not be modified or terminated except by instrument in writing, signed by the parties hereto.

XII GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Alaska. All terms and provisions hereof are subject to the applicable orders, rules, and regulations of all governmental authorities.

XIII SUPERSEDING AGREEMENTS

This Agreement supersedes any previous Petroleum Product Agreement effective the date NPR receives first delivery of GVEA's State Royalty crude oil as provided for in GVEA's Assignment and Product Sales Agreement dated May 1, 1980.

ACCEPTED AND AGREED TO:

GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.

NORTH POLE REFINING.

By: *P. L. Hoffman*

By: *Dwenda L. Moe*

Title: *Gen. Mgr.*

Title: *Asst. Marketing Manager*

Date: *5-27-80*

Date: *May 27, 1980*

North Pole Refining

((EXHIBIT B ((



North Pole Refining P.O. Box 5028, North Pole, Alaska 99705

DIVISION OF EARTH RESOURCES COMPANY OF ALASKA

907/488-2741
907/488-2742

ASSIGNMENT AND PRODUCT SALES AGREEMENT

This Agreement, dated the 1st day of May 1980, by and between:

NORTH POLE REFINING, Division of Earth Resources Company of Alaska, an Alaskan Corporation, (NPR) and GOLDEN VALLEY ELECTRIC ASSOCIATION, INC., (GVEA)

shall be as follows:

1. GVEA, holder of certain rights to crude oil under a State Royalty Oil Contract, does hereby assign, transfer and convey its rights under said contract (as well as any future similar contracts) to NPR, effective on May 1, 1980, subject to the following terms and conditions:
 - a. GVEA shall make request for State crude oil under its contract immediately upon receipt of written notice by NPR for the volumes so designated by NPR.
 - b. NPR shall assume and be responsible for all obligations and duties of GVEA under its State Royalty Oil Contract for the volumes so designated.
 - c. Certain provisions of the current GVEA Royalty Oil Contract and any future contracts may be excepted and modified as

dictated by any State declared GVEA/State Royalty contract relationships if mutually agreed to by NPR and GVEA.

- d. NPR agrees that so long as GVEA State Royalty Oil is being delivered to NPR per the terms of this agreement, NPR will not issue notice of cancellation to the Petroleum Products Agreement referenced herein.
2. NPR, in consideration of this Agreement, agrees to sell GVEA and GVEA agrees to purchase quantities of turbine fuel to 12.5 volume percent of those barrels of crude oil acquired by NPR under this assignment at a cost equal to NPR's net acquisition cost as defined in the attached Petroleum Products Agreement between the parties plus a processing fee of \$~~1.00~~/barrel. This fee shall escalate only as set forth in the Petroleum Products Agreement effective between the parties except for base period. Base period for the escalation of the \$~~1.00~~ processing fee shall be concurrent with the reporting period of the Bureau of Labor and Statistics Wholesale Price Index for Major Commodities and Special Groupings on May 1, 1930. Due to cyclic seasonal requirements and the limitations of GVEA storage facilities, the difference in quantities of turbine fuel available to GVEA and the amount purchased by GVEA under the 12.5% provision of this paragraph, shall accumulate month by month for annual periods and be available for purchase by GVEA until the end of each annual period. At the end of the annual period, that turbine fuel not purchased by GVEA shall not be carried forward into the next annual period. The annual period shall commence sixty (60) days after the anniversary date of the date of delivery of Royalty crude oil to NPR provided for in this agreement, and annually thereafter. The purpose of this accumulation statement is to guarantee GVEA the option of purchasing turbine fuel equal to 12.5 volume percent of the total crude oil acquired by NPR under this agreement during the annual period. It is understood by both

parties that NPR has limited storage for turbine fuel at the refinery (a usable amount of approximately 20,000 barrels) and that transfer of quantities in any short period of time and in great excess of this amount, would be impractical.

3. It is further agreed by NPR and GVEA that no part of this agreement constitutes an obligation by NPR to nominate any or all of the State Royalty Oil rights assigned herein.
4. GVEA and NPR specifically agree that in the event any court shall decree or determine that NPR's acquisition of crude oil under this agreement shall be in any way unlawful, then the terms and conditions of this Assignment and Product Sales Agreement shall be null and void and no longer binding on either party.

ACCEPTED AND AGREED TO:

GOLDEN VALLEY ELECTRIC ASSOCIATION, INC.

NORTH POLE REFINING

By: DR L. Ashman

By: Diana L. Meyer

Title: Gen. Mgr.

Title: Asst. Marketing Manager

Date: 5-27-80

Date: May 27, 1980

JUNE 9, 1983

IRREVOCABLE LETTER OF CREDIT
NO. W-78702-S

COMMISSIONER OF NATURAL RESOURCES
STATE OF ALASKA
POUCH M
JUNEAU, ALASKA 99811

GENTLEMEN:

WE HEREBY ISSUE IN YOUR FAVOR OUR IRREVOCABLE LETTER OF CREDIT FOR ACCOUNT OF GOLDEN VALLEY ELECTRIC ASSN. (GVEA) , P.O. BOX 1249, FAIRBANKS, ALASKA 99701 FOR A SUM NOT TO EXCEED U.S. DOLLARS FIVE MILLION FOUR HUNDRED THOUSAND AND 00/100 **\$5,400,000.00** WHICH IS AVAILABLE AGAINST PRESENTATION OF YOUR SIGHT DRAFT(S) DRAWN ON US WHEN ACCOMPANIED BY:

- 1) COPY OF UNPAID INVOICE REFERRED TO IN DOCUMENTARY REQUIREMENT NO. 2 IN THE AMOUNT PAYABLE TO THE STATE OF ALASKA BY GVEA FOR THEIR PURCHASE OF THE STATE OF ALASKA ROYALTY CRUDE OIL.
- 2) A STATEMENT PURPORTEDLY SIGNED BY THE COMMISSIONER OF NATURAL RESOURCES FOR THE STATE OF ALASKA OR HIS DESIGNEE, INDICATING NAME AND TITLE OF SIGNATOR READING AS FOLLOWS:

"THE UNDERSIGNED HEREBY CERTIFIES THAT:

- A) THE ROYALTY OIL COVERED BY THE ACCOMPANYING INVOICE HAS BEEN DELIVERED TO GVEA AND THE AMOUNT COVERED BY THE INVOICE IS PAST DUE AND REMAINS UNPAID TO THE STATE OF ALASKA AT THE TIME OF DRAWING.
- B) AN AUTHORIZED REPRESENTATIVE OF THE STATE OF ALASKA HAS DISCUSSED THE NON-PAYMENT OF SUCH INVOICE WITH AN OFFICER OF GVEA AND AN OFFICER OF MAPCO PETROLEUM, INC. (OF ALASKA).
- C) THE TERMS OF PAYMENT DEFINED IN ARTICLE VIII, CLAUSES 8.1, 8.2, 8.4, 8.5 IN THE "AGREEMENT FOR THE SALE AND PURCHASE OF STATE ROYALTY OIL" BETWEEN GVEA AND THE STATE OF ALASKA DATED 4/12/77, HAVE NOT BEEN COMPLIED WITH; AND
- D) A WRITTEN NOTICE OF DEFAULT PER CLAUSE 6.1 OF ARTICLE XVI HAS BEEN GIVEN BY THE STATE OF ALASKA TO GVEA.

BY _____

(*COMMISSIONER OF NATURAL RESOURCES FOR STATE OF ALASKA) OR (*DESIGNEE FOR COMMISSIONER OF NATURAL RESOURCES FOR STATE OF ALASKA)"

*APPROPRIATE DESIGNATION TO BE USED TO IDENTIFY PARTY SIGNING THE CERTIFICATE

This credit advice is subject to the Uniform Customs and Practice for Documentary Credits (1974 Revision), International Chamber of Commerce Publication No. 290.

- C O N T I N U E D -

7

Bankers Trust Company
LETTER OF CREDIT DIVISION
1 BANKERS TRUST PLAZA • NEW YORK

MAILING ADDRESS
P.O. BOX 318—CHURCH ST. STA
NEW YORK, N.Y. 10015

- 2 -

RE: L/C W-78702-S

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS OR REFERENCES IN SUCH OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS TO THIS LETTER OF CREDIT, THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT AMONG THE ACCOUNT PARTY, BENEFICIARY AND THE ISSUER HEREUNDER RELATING TO THE OBLIGATIONS OF THE ISSUER HEREUNDER.

ALL DRAFTS MUST BE MARKED "DRAWN UNDER BANKERS TRUST CO. CREDIT NO. W-78702-S".

DRAFTS AND ACCOMPANYING DOCUMENTS MUST BE PRESENTED TO THE DRAWEE NOT LATER THAN JUNE 30, 1984.

WE HEREBY AGREE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT SHALL BE DULY HONORED ON DUE PRESENTATION TO THE DRAWEE.

VERY TRULY YOURS,

M. A. Orlando

AUTHORIZED SIGNATURE

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7

LETTER OF CREDIT DIVISION
1 BANKERS TRUST PLAZA • NEW YORK

MAILING ADDRESS:
P.O. BOX 318 - CHURCH ST. STA.
NEW YORK, N.Y. 10012

ADVISE OF AMENDMENT
OUR CREDIT NO. #787029

NEW YORK, APRIL 17, 1984

----- NOTE -----
THIS CONFIRMS OUR CABLE OF TODAY

Handwritten signature and initials
TO

BENEFICIARY:
COMMISSIONER OF NATURAL RESOURCES
STATE OF ALASKA
PO BOX #
JUNEAU, ALASKA 99811

APPLICANT:
GOLDEN VALLEY ELECTRIC
ASSN. (GVEA)
P. O. BOX 1249
FAIRBANKS, ALASKA 99701

ADVISING BANK:

RECEIVED

APR 26 1984

DIVISION OF OIL & GAS
ANCHORAGE, ALASKA

GENTLEMEN:

THIS CREDIT HAS BEEN AMENDED AS FOLLOWS.

IN REFERENCE TO ITEM 28 THAT PART READING: "...AN OFFICER OF MAPCO
PETROLEUM INC. (OF ALASKA)..." NOW TO READ "...AN OFFICER OF MAPCO
PETROLEUM INC. (ALASKA)..."

IN REFERENCE TO ITEM 2D AFTER "... BY THE STATE OF GVEA". ADD "AND
MAPCO PETROLEUM INC. (ALASKA)"

DRAFTS MUST BE PRESENTED TO THE DRAWEE NOT LATER THAN JUNE 30, 1985.

ALL OTHER TERMS AND CONDITIONS AS PREVIOUSLY ADVISED REMAIN UNCHANGED.

IMMEDIATE NOTIFICATION MUST BE GIVEN TO US IF THIS AMENDMENT IS NOT
ACCEPTED.

VERY TRULY YOURS,
Lorraine Gordon
AUTHORIZED SIGNATURE

Kathleen West
541-5521



Foley
orig. by
Co. King, from Sam,
Steve, filed 7. 8. 84
1/4
Clifford Grah

RECEIVED

JAN 4 1985

DIVISION OF OIL & GAS
ANCHORAGE, ALASKA

Ewell A. Clarke
Vice President
Domestic Crude Oil

December 28, 1984

Alaska Department of Natural Resources
Attn: Ms. Kay Brown, Director
Division of Oil & Gas
Pouch 7-034
Anchorage, Alaska 99510

Dear Ms. Brown:

In response to your December 7 notice, we offer herewith our comment on the proposed royalty oil sale to Golden Valley Electric Association (GVEA). The purpose of our remarks is not to discourage the awarding of a contract which will benefit consumers of electric power in Fairbanks; but rather to suggest improvements in the clarity and definition of the agreements which would better assure that indeed it will be the consumers who benefit from the royalty oil sale.

It is clear that GVEA cannot employ the crude oil directly in its power generation facilities and therefore must rely on Mapco's adjacent refinery to process the crude, extracting a gas oil fraction which GVEA can use. Therefore, it is incumbent upon the State to assure that such processing and extraction results in the maximum benefit to GVEA rather than a windfall to Mapco. This is particularly important since the Commissioner's Preliminary Findings state (on page 7) that:

"No profits accrue to persons who are not both residing in Alaska and utilizing the GVEA services in-state."

Before addressing the question "Who benefits?", we should like to turn briefly to the situation referred to in Paragraph 2.11 of the Agreement where GVEA would utilize directly the crude oil sold thereunder. We believe that the words "prompt conversion of Purchaser's generating units" may be misleading. There are a number of substantial problems which do not lend themselves to promptness, the least of which is the REA financing. Design of the facilities, ordering and delivery of materials, and construction are time-consuming. Far more difficult to resolve promptly, however, are the approval and permitting required by regulatory agencies to construct and operate facilities which would burn unprocessed crude oil with low flash point and high sulfur content. We believe that the facility conversion referred to in the Agreement represents a project which can be completed at best in many months to several years, and at worst, never. Furthermore, the cost of such conversion, together with interest cost of the financing, could eliminate any cost advantage of burning crude oil vs burning coal.

Alaska Dept. of Natural Resources
Division of Oil & Gas
December 28, 1984
Page 2

Turning now to the question of who benefits from this sale of royalty oil to GVEA, we note on page 4 of the Preliminary Findings that the "benefit" to the consumers will be about \$0.00095/kwh and that the benefit results entirely from a "discount" which Mapco gives GVEA on the price of the gas oil extracted from the royalty crude.

It is unclear just what this discount is — a discount below what? Paragraph 2.11 of the Agreement refers to it as a "lower refining charge" but does not indicate lower than what? The Preliminary Findings shed some light on the question, Paragraph IV, page 3, where it states that the Mapco/GVEA agreement provides fuel "at a price lower than what GVEA would pay otherwise." We conclude that GVEA gets a lower-priced gas oil from Mapco when Mapco buys GVEA's royalty oil than when Mapco buys its royalty oil from other sources.

If that is the correct conclusion, the obvious question is: Why does Mapco give GVEA the discount? One explanation might be that Mapco pays less for GVEA's crude than for crude acquired from others. However, we believe that such is not the case. The price which Mapco pays the State for its long-term royalty oil is within pennies of the price which GVEA pays the State (and assigns to Mapco). Therefore, if Mapco's costs are essentially the same when running its own royalty crude and when running GVEA's royalty crude, how is the "discount" justified? Or one could ask: how is Mapco's undiscounted price to GVEA justified? Or how is the amount of the discount determined?

Nothing in the Preliminary Findings or the Agreement speaks to the amount of the discount, although this amount is the heart of the justification for the royalty oil sale. Reference is made in the Preliminary Findings that:

"Mapco's discount to GVEA would reduce GVEA's average power generation cost by about \$0.00095/kwh."


This hardly seems to be a bonanza for the electric power consumer. A typical residential user on GVEA's system pays about \$0.09/kwh; so the cost saving resulting from the Mapco discount amounts to about 1% of the price which the consumer pays for his electricity.

We suggest that there may be several alternatives available to GVEA which are more beneficial to consumers than a "discount" on 12% of the crude barrel. There are options which could result in GVEA's utilization of substantially more than 12% of the crude, at lower cost to GVEA than that of conventional refinery fractionation. We will be happy to discuss such options with you at your convenience.

Alaska Dept. of Natural Resources
Division of Oil & Gas
December 28, 1984
Page 3

In summary, since GVEA cannot use the crude oil to generate power, the State's proposed sale of royalty oil is really a sale to Mapco, contingent upon Mapco's agreement to sell to GVEA the gas oil which is extracted from the crude; and contingent upon Mapco's selling the gas oil at some unspecified "discount" below some unspecified price level. Viewed in this context, and recognizing that GVEA may have other available options which will yield greater benefits from the State royalty oil, we suggest that the awarding of a long-term crude contract to GVEA be deferred until the State is satisfied that the royalty oil being committed to GVEA is indeed being employed in the best interests of the GVEA consumer; and that GVEA's current needs be satisfied by short-term commitments not exceeding two years.

Very truly yours,

A handwritten signature in dark ink, appearing to read "E. M. Allard", with a horizontal line extending to the right.

EAC/ml

LAW OFFICES OF
GROH, EGGERS & PRICE
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TELEPHONES
(907) 272-6474
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March 27, 1985

Representative Mike Davis
Chairman
House Special Committee on Oil and Gas
Pouch V
Juneau, Alaska 99811

MAR 28 RECD

Dear Representative Davis:

Your committee has inquired about the options to which our client, Tesoro Alaska Petroleum Company, referred in its December 28, 1984 letter to the Department of Natural Resources, regarding the GVEA royalty oil contract being considered by your committee.

Since that time, at DNR's suggestion, we have met with representatives of GVEA and have discussed the alternatives we had in mind. We suggested that in order to utilize more effectively the State royalty oil, GVEA might construct adjacent to its North Pole generating station a crude oil extraction unit from which turbine fuel could be produced, perhaps in quantities greater than that provided from Mapco's processing agreement.

Energy-efficient design might utilize waste heat from GVEA's turbines, and operating costs might be minimized through the use of common maintenance and management personnel. The unused portion of the crude could be returned to the pipeline in return for which GVEA - or the State - would receive crude oil at Valdez.

After consideration of our suggestions, GVEA told us that investment of capital resources in such facilities was not in accordance with its management policy.

Very truly yours,

GROH, EGGERS & PRICE

Clifford J. Groh /ff.

Clifford J. Groh

cc: Rep. John Sund
Rep. Sam Cotten
Rep. Mike Szymanski
Rep. Pat Pourchot
Rep. Marco Pignalberi
Rep. Andre Marrou



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

May 19, 1983

MEMORANDUM

TO: Representative John Cowdery

FROM: David Teal *Teal*
Research Staff

RE: MAPCO Contract for Alaska Royalty Oil
Research Request 83-158

You asked this agency to review the contract for the sale of State royalty oil to the North Pole Refinery (MAPCO) and to describe significant details of the contract, particularly as they differ from provisions of the proposed Tesoro and Chevron contracts. This memorandum responds to your request.

The contract in question was originally with the Earth Resources Company of Alaska, who operated the North Pole refinery until it was sold to MAPCO in 1981. The contract was approved by the Legislature in May of 1978. It provides royalty oil from the Prudhoe Bay Unit to the North Pole refinery through the year 2003. Some specific provisions of the contract are discussed below.

Quantity of Oil

The contract specifies that no more than 15 percent of the State's share of oil from the Prudhoe Bay leases is to be sold to MAPCO. Note, however, that 15 percent of current production levels is about 28,000 barrels per day while MAPCO is actually receiving about 35,000 barrels of royalty oil per day. This apparent discrepancy can be explained by a careful reading of sections 2.1.1 through 2.1.3. Section 2.1.1 allows MAPCO to nominate additional oil from the Prudhoe Bay leases as long as "such oil is unobligated and available." Section 2.1.3 limits the total amount of oil supplied by the State under this contract to 35,000 barrels per day. In addition, section 2.1.2 of the contract gives MAPCO an option on royalty oil from other leases (including future discoveries) so that the refinery can nominate up to 35,000 barrels of oil per day through 2003.

Representative Cowdery
May 19, 1983
Page 2

NOTE * INTERESTING CONSIDERATION. MAPCO HAS
STATED IN WRITTEN TESTIMONY THAT THE PRICE
THEY PAY FOR ROYALTY IS HIGHER THAN WHAT
THEY COULD BUY IT FROM PRODUCERS

The North Pole refinery is not only purchasing the full 15 percent share of Prudhoe Bay oil to which it is entitled, but is also exercising its option to purchase an additional 7,000 barrels per day to bring its total purchase to the contractual ceiling of 35,000 barrels per day. According to the contract, North Pole could nominate as little as 5,000 barrels per day without paying a penalty or endangering the contract. The continued high level of nomination is probably due to a combination of uncertainty in oil markets and the 7-month lag from date of notification of a change in volume to implementation of that change. * NOTE

The fixed volume provision (35,000 barrels per day) in the MAPCO contract could allow the North Pole refinery to claim nearly half of all State royalty oil by 2003, when the contract terminates. (Unless additional discoveries are made, the State's share of crude oil is expected to decline to about 75,000 barrels per day in the year 2000.) The proposed Tesoro and Chevron contracts specify a proportion of Prudhoe Bay royalty oil (13.867 percent and 9.6 percent, respectively) so that the amount of oil delivered to them would decline as production from Prudhoe Bay declines.

Price of Oil

As you know, the proposed Tesoro and Chevron contracts call for a 30¢ per barrel premium over the in-value price of oil. North Pole does not pay a premium for royalty oil, but it does pay the "Exhibit B" price, which is about 50¢ per barrel above the average in-value price.¹ The price differential is due to different ways of making the price of royalty oil subject to resolution of the Almerada Hess litigation. The MAPCO contract specifies that the Exhibit B price will be paid, with the differential refunded if the State loses the case. The Tesoro and Chevron contracts specify that the average in-value price will be paid, with additional payments to be made if the State's arguments prevail.

¹The Exhibit B price for a hypothetical Company X is defined as the higher of 1) the average price received by all producers including Company X and 2) the average price received by all producers except Company X.

Residual Oil

One of the more controversial aspects of the MAPCO contract is the disposition of residual oil. The North Pole refinery currently reinjects its residual oil into the pipeline. North Pole pays a fee for degradation of the virgin crude in the line and reclaims the oil at Valdez, where it is indistinguishable from any other oil that comes through the pipeline. ~~Section 2.4 of the contract gave the State an option on the residual oil, but the option expired (unused) on September 1, 1978.~~ The Tesoro and Chevron contracts would give the State an option on the residual oil for the life of the contracts.

Other Provisions

The 25-year term of the MAPCO contract, the lack of a premium over the in-value price, the option on future reserves, and the lack of a claim on residual oil have been discussed above. Other points of interest are briefly discussed below.

- The contract ~~fails to impose in-state processing requirements.~~ The proposed Tesoro and Chevron contracts specify that all royalty oil must be processed in-state and that 32 percent and 34.44 percent, respectively, of royalty oil must be refined into usable products.
- The contract ~~fails to restrict exports~~ of the petroleum products. The proposed Tesoro and Chevron contracts specify that the refiners must use their best efforts to market all royalty oil products in Alaska and require the purchasers to submit reports on performance. The MAPCO contract merely states that the refinery will notify the Commissioner of the Department of Natural Resources if products are exported.
- The contract does not impose a reservation fee if North Pole elects to claim less than the maximum quantity allowed by the contract. The proposed Tesoro and Chevron contracts specify that the purchaser shall pay a fee of .75 percent of the purchase price (about 15¢ per barrel at current prices) for each barrel difference between the maximum quantity and the quantity actually nominated.
- The contract has a much weaker security agreement, than the proposed Tesoro and Chevron contracts. MAPCO is required to grant a security interest in all oil delivered or to provide security in the form of a bond. Under the proposed contracts, Tesoro and Chevron must furnish an irrevocable letter-of-credit, that can be drawn upon by unilateral action of the State.

Representative Cowdery
May 19, 1983
Page 4

- The contract does not include a provision on disagreements. Section 23 of the proposed Tesoro and Chevron contracts says that, in the event of disagreement over the meaning or application of terms or conditions of the contract, the purchaser shall agree to accept the findings of the Commissioner of Natural Resources unless there is clear evidence for a contrary interpretation.

The conclusion of our review of the MAPCO contract is that it has significant disadvantages (to the State) relative to the proposed Tesoro and Chevron contracts. In addition to the differences listed in this section, the term of the MAPCO contract is longer, the price the State obtains for its royalty oil is lower, it gives options on future oil discoveries, and it gives the State no option on the residual product of the refinery. There is some possibility that these provisions could be renegotiated if the North Pole refinery wished to expand and if additional supplies of royalty oil were required to support that expansion.

* * *

I hope this review of the MAPCO contract is useful in your deliberation of the proposed contracts for royalty oil. If you have additional information requests, please contact the agency.

DT

TESTIMONY
BY DIRECTOR, DIVISION OF OIL & GAS
TO HOUSE RESOURCES COMMITTEE & HOUSE SPECIAL COMMITTEE ON OIL & GAS
ON HB 287
ROYALTY OIL CONTRACT WITH GOLDEN VALLEY ELECTRIC ASSOCIATION
MARCH 20, 1985

Thank you Mr. Chairman. For the record, I'm Kay Brown, Director of the Division of Oil and Gas for the Alaska Department of Natural Resources. With me is Assistant Attorney General Steve Porter. I appreciate this opportunity to discuss the proposed long-term royalty oil contract with the Golden Valley Electric Association, also known as GVEA.

Contract Terms

The proposed contract would sell about 2.6% of the state's daily royalty oil from Prudhoe Bay Unit -- currently about 5,000 barrels a day -- to GVEA for 10 years.

The contract price is the monthly volume weighted average of the producers' current reported netback prices, plus field costs, plus adjustments for the final outcome of the Amerada Hess litigation, plus a 30¢ premium, with a price reopener in July 1987 and every two years thereafter.

I would refer the committee to the one-page sheet of background information we have provided on SB 232/HB 287, which summarizes the major

provisions of the contract.

Background

Golden Valley Electric Association is a cooperative which generates electricity for sale to its members. It uses a variety of fuels to generate the electricity, including turbine fuel. Some of the turbine fuel GVEA purchases is refined directly from royalty oil purchased under the cooperative's present state contract. GVEA purchases additional turbine fuel directly from the Mapco refinery.

Under its present and former state royalty oil contracts, GVEA assigns the royalty oil to Mapco, which processes the oil at its North Pole Refinery and sells Golden Valley turbine fuel at a discount. The discount on those purchases amounts to about \$550,000 annually in savings to GVEA. When measured from the consumer's perspective, this discount translates to a savings of about 1.5% on the average consumer bill.

History of GVEA Sales and Negotiations

I would like to briefly give the committee some history on the state's royalty oil sales with Golden Valley Electric Association. The first contract with Golden Valley was signed in April 1977, shortly after establishment of the Royalty Oil and Gas Development Advisory Board and the adoption of new statutory procedures governing royalty oil sales. Golden Valley did not commence taking under the contract until June 1981, when it began purchasing 5,000 barrels per day and assigning it to Mapco.

That contract expired in June 1984.

In November 1982, well in advance of the expiration of Golden Valley's original contract, GVEA requested a 10-year extension of the contract. No action was taken by the outgoing administration in 1982, and the new administration began negotiations with Golden Valley in March 1983. In November 1983, the department published a public notice of its intention to adopt a new contract with Golden Valley. The royalty board reviewed the contract in December 1983, and that review revealed specific concerns by both the public and the board members with respect to the state's option on residual oil and the relationship between Mapco and GVEA. In view of those reservations and the limited time for further negotiation, the long-term GVEA contract was not presented for legislative approval in 1984. Instead, an interim contract not requiring legislative approval was put into effect pending contract revisions responsive to the issues raised at the meeting of December 7, 1983. That interim contract expires June 30, 1985.

Intermittent negotiations were held on the proposed long-term contract during 1984. We had planned to complete negotiations so that approval legislation for the long-term contract could be introduced on the first day of the 1985 session.

Our timeline called for a preliminary contract and findings to be completed and a preliminary notice to be published in early October 1984. The final contract and findings were to be available November 16, 1984, Royalty Board review was scheduled for December 7, 1984, and approval

legislation was to be introduced on the first day of the session. Due to denomination deadlines, it was apparent to all the parties that if legislative approval did not occur by March 29, 1985, oil deliveries would have to be interrupted.

During September 1984, I informed Golden Valley and Mapco of the time pressure under this timeline, and had numerous negotiation sessions with representatives of both Golden Valley and Mapco. Draft agreements were exchanged, and we believed that agreement had been reached in early October 1984. However, at the conclusion of a negotiation session on October 9, 1984, Bert Sharp of Golden Valley stated his severe reservations about Golden Valley's liability for retroactive adjustments to the royalty oil price based on the Amerada Hess litigation. His primary objection was that as a regulated public utility, Golden Valley could only pass on to its customers retroactive adjustments for a one-year period. Amerada Hess adjustments for purchases older than one year could not be passed on to Golden Valley's customers, and would cause Golden Valley severe financial difficulty. Mr. Sharp proposed that the state charge an increased price premium but that it waive Amerada Hess adjustments. This price term offer was unacceptable to the state, and we suggested contract terms that would require Mapco to pay the Amerada Hess adjustments.

Negotiations stalled for almost two months at this deadlock. However, on November 23, 1984, I wrote to Bert Sharp and stated that an agreement among the state, Golden Valley and Mapco looked unlikely. I suggested commencing negotiations towards a contract between Golden Valley and the

state, without any assignment of the oil to Mapco. Negotiations resumed immediately, and on November 29, 1984, an agreement was reached on the terms now found in the proposed long-term contract. We immediately prepared findings and a final contract, and worked to get the contract before the royalty board and the legislature as soon as possible. However, due to the negotiation stalemate, legislation approving the long-term contract could not even be introduced in the legislature until mid-March 1985.

Unless a new contract with Golden Valley is approved prior to March 29, 1985, - or unless the present contract is extended - we will denominate the oil and return it to in-value. CSSS 152 would give the commissioner the authority to extend the existing Golden Valley contract for up to three months to avoid a lapse in taking by GVEA during the summer of 1985.

I want to briefly discuss two concerns that have been raised with the contract that were originally identified at the royalty board meeting of December 1983.

Consumer Benefits

The sale is premised on providing benefits to Alaska consumers. These consumer benefits depend on GVEA's assignment agreement with Mapco, which provides turbine fuel at a price lower than what GVEA would otherwise pay. Under GVEA's current contract, the state is unable to enforce the degree of advantage afforded to GVEA since that agreement is between GVEA and Mapco only.

Exhibit A to the new contract is a three-party agreement signed by the state, GVEA and Mapco. Exhibit A recognizes existing agreements between GVEA and Mapco. In Exhibit A, the state consents to those agreements so long as they are not modified to reduce the benefits to GVEA's consumers. The state retains the option to terminate the contract should the relationship between GVEA and Mapco change materially.

Thus, the modest consumer benefit that I described earlier will continue over the life of the contract, or the state will have the option to cancel the contract.

Return Oil

A second issue of concern involves the return oil provision of the contract. The Mapco refinery, because of its location near the Trans Alaska Pipeline, is able to reinject the heavy and lightest ends of the barrel which are not converted into products back into the pipeline. This so-called "return oil" then reemerges as whole oil at Valdez, with Mapco paying a \$.10 per degree quality bank differential penalty.

We did negotiate an option to purchase the return oil into the new GVEA contract. However, although the option to purchase return oil is embodied in Section 3.4 of the new GVEA contract, the state has agreed in Exhibit A that we will not exercise that option in return for Mapco paying Amerada Hess adjustments on the portion of the royalty oil that is converted into turbine fuel used by GVEA.

As I mentioned a moment ago, the negotiations were deadlocked for several months, and foregoing the return oil option was a concession we made to break the deadlock.

Refinery Profits

Another issue of concern raised by legislators during consideration of the three-month extension bill, CSSB 152, involves the amount of profits made by Mapco off of the Golden Valley contract.

For a number of reasons, it is difficult to calculate the profitability of a refinery based on information in the public record. Although the Department of Natural Resources has access to some confidential information provided by Mapco, we are obligated to hold this information confidential under AS 38.05.035 at Mapco's request. However, considering those constraints, we have attempted to provide some general information about refining profits.

Mapco's refining profits were examined in the February 1983 report entitled Alaska Petroleum Product Pricing prepared for the Senate Resources Committee. That document was authored by Messers. Pernela and Delong, both of whom are former employees of North Pole Refining. As can be seen in the report and the responses of Mapco and Tesoro to that document, the profitability of a refiner is nearly impossible to infer without access to certain cost data which is normally held confidential. This has proven true even though the authors, as former employees of

Mapco, may have had access to such data. This information gap largely accounts for the difference in the return to investment calculated in the report - 46% - and Mapco's stated return to investment of 15% to 17% (see Mapco's letter to Sen. Fahrenkamp of April 8, 1983).

Like most refiners, Mapco does not make available to the public separate accounts of its various operations such as the North Pole refinery. While Mapco's overall profitability is stated in its annual reports, the profits of a particular refinery cannot be deduced from those reports. The operating costs of a refinery are not normally available to the public since such knowledge would be of considerable advantage to a competitor.

For this reason Messers. Pernal and Celong were forced to rely on a variety of unsatisfactory proxy figures which included the original cost of the North Pole refinery, a supposed cost of capital, and the adjusted operating costs of refiners in the continental United States, among other things. These shortcomings enabled Mapco to handily rebut the report by mentioning such items as investment which occurred after the initial construction, interest during construction, the original investment risk, the irrelevance of operating costs in other parts of the U.S. and the vagaries of the federal crude oil entitlement program, which was in effect over part of the study period.

Although Mapco's apparent markup can be found by comparing their wholesale prices with the acquisition cost of crude oil, a net profit per barrel cannot be arrived at without knowing all the capital and operating costs of the refinery as well as the method of amortization. Mapco has not

volunteered this information to date.

Summary

In summary, Mr. Chairman, this contract is intended to provide a modest amount of consumer benefit to the Alaska citizens living in the Interior and served by the Golden Valley Electric Association cooperative, and also to provide the state with a market price for the royalty oil. I believe that the state's interest is served by pursuing this alternative, compared to the alternative of not making a sale and leaving the oil in-value. It could be argued that this contract does not maximize the value of royalty oil relative to what could be obtained by selling the oil competitively. However, the statutes do not require competitive sales and, in fact, the statutes clearly contemplate negotiated sales that provide ancillary benefits from using the royalty oil within the State of Alaska. I think you could view this contract as maintaining the status quo between the in-state refiners, as it does not increase Mapco's benefit relative to the present situation. In fact, Mapco's benefit is slightly decreased under the new GVEA contract.

Mr. Chairman, I believe this contract complies with all requirements of the statute and the regulations, and that it is consistent with the state's policy of obtaining market value for its royalty oil.

For these reasons, the administration supports the contract and we urge your approval of HB 287.

Sam Murray, a petroleum economist on my staff, is standing by in Anchorage

to assist us with answering any questions the committee may have. That concludes my formal remarks, Mr. Chairman. Thank you.

1623K

TESTIMONY BY DIRECTOR, DIVISION OF OIL AND GAS
TO HOUSE RESOURCES COMMITTEE AND
HOUSE SPECIAL COMMITTEE ON OIL AND GAS
ON HOUSE BILL 287

ROYALTY OIL CONTRACT WITH
GOLDEN VALLEY ELECTRIC ASSOCIATION

March 21, 1985

Thank you Mr. Chairman. For the record, I'm Kay Brown, Director of the Division of Oil and Gas for the Alaska Department of Natural Resources.

Several issues and questions were raised at the hearing yesterday, and I'd like to provide the committee with some additional information on those points.

Many of the questions at the hearing yesterday centered on the benefits to be derived from the proposed contract -- what those benefits are and who receives them. Three parties would receive benefits -- the State, GVEA, and Mapco.

I'd like to briefly summarize those benefits as we perceive them, Mr. Chairman.

Benefits to the State of Alaska

The benefits to the State are described in our final finding of January 16, 1985. Under the statutes governing royalty oil and gas sales, the commissioner is obligated to maximize benefits to the citizens in a negotiated sale.

The price received is a benefit to the State. The State will receive a 30¢ premium above in-value, which makes this sale roughly equivalent to the Tesoro and Chevron royalty oil contracts approved by the Legislature last session. There is no price subsidy to GVEA, and to the extent that Mapco gets the oil, it pays more for this oil than it does for the oil it buys directly from the State.

Other benefits to the State are explained in detail in the final findings, but they include cheaper electricity rates for Fairbanks consumers, a dependable electricity supply, and protection of existing investments in the North Pole refinery and the utility's turbines.

Benefits to GVEA

GVEA's benefits come not from a reduced sale price, but from the reduced turbine fuel price Mapco gives GVEA on the turbine fuel Mapco produces from GVEA's royalty oil.

GVEA's benefit can be calculated by comparing two prices. Those prices are Mapco's general turbine fuel price to GVEA (which covers roughly half of GVEA's turbine fuel needs) and Mapco's reduced price to GVEA for turbine fuel processed from GVEA's royalty oil (which covers the other half of GVEA's turbine fuel needs). Specifically, the 1980 Petroleum Products Agreement

between GVEA and Mapco generally obligates Mapco to sell turbine fuel to GVEA at a price of Mapco's acquisition cost plus a processing fee; Mapco has requested that we keep that exact processing fee confidential. A second 1980 agreement between GVEA and Mapco obligates Mapco to sell GVEA turbine fuel processed from GVEA's royalty oil at a reduced processing fee. Mapco has also requested that we keep that exact fee confidential.

Although the exact processing fees charged by Mapco are confidential, GVEA manager Bert Sharp testified yesterday that the difference is between 5 and 6 cents a gallon. Multiplying that savings by 42 gallons per barrel, by 625 barrels per day, and by 365 days per year, GVEA achieves a yearly savings of between \$479,000 and \$575,000. In our final sale findings, our petroleum economist projected an annual savings to GVEA of approximately \$550,000.

This \$550,000 yearly savings translates into a benefit to GVEA's consumers of .1446¢ per kilowatt hour. (This number is obtained by dividing the \$550,000 yearly benefit by the 380,412,000 kwh that GVEA produces each year.)

Benefits to Mapco

The committee's third area of concern is the amount of benefits to Mapco under this contract. Mapco does benefit since it gets 87.5%

of each barrel, either as non-turbine fuel products or as return oil.

The profitability figures for Mapco shown on the chart prepared by staff that you received yesterday are basically accurate. However, the six-million dollar gross profit figure does not include the expenses Mapco incurs in refining the oil.

A more relevant comparison could be made by looking at the price that Mapco would otherwise have to pay the producers to obtain oil if it did not receive royalty oil on assignment from GVEA. For example, the January, 1985 Pump Station 1 in-value price is \$16.90. Thus Mapco's Pump 1 price would be \$17.20. By way of comparison, Pump 1 prices in January were reported as \$18.13 for British Petroleum, \$17.16 for Phillips and \$16.95 for Sohio. Thus, it is not clear that Mapco would pay less for State royalty oil than it would for producers oil.

A similar comparison can be made with regard to the return oil. The value of the return oil to Mapco at Valdez would roughly be the Pump 1 price of \$17.20, plus tariffs of about ^{\$6.10,} ~~\$6.01~~, plus a \$1.22 quality differential penalty, for a Valdez price of \$24.52. By comparison, Valdez prices for producers oil would be \$24.14 for BP, \$23.17 for Phillips and \$22.96 for Sohio. Again, this does not appear to be a windfall for Mapco.

To the extent that committee members feel that Mapco is getting a "good deal" from the State, I would suggest that the "good deal" does not come from this contract. Rather, Mapco's competitive advantage comes from Mapco's own royalty oil contract, which contains terms significantly more attractive than those found in Alaska's other royalty oil contracts, and from Mapco's geographical location, which insulates it from the competition of other refiners.

Since the information available to DNR concerning Mapco's profitability must by statute be held confidential, I would suggest that your specific questions about the relationship between GVEA and Mapco, and about Mapco's profits from this sale, be addressed to either GVEA or Mapco.

I'd like to correct one number that I gave to the committee yesterday. The amount of return oil barrels from the GVEA contract is roughly 3,300 bpd, rather than 1,500 to 1,600 bpd.

Thank you, Mr. Chairman. That concludes my remarks.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James A. Smith
Signature of Camera Operator

11/24/89
Date

S B

2 3 7

Alaska State Legislature

ARLISS STURGULEWSKI, Chairman
BETTYE FAHRENKAMP, Vice Chairman
JACK COGHILL
DICK ELIASON
VIC FISCHER
RICK HALFORD
FRED ZHAROFF



POUCH V
JUNEAU, ALASKA. 99811
(907) 485-4807

Senate Committee on Resources

M E M O R A N D U M

April 1, 1985

TO: Senate Resource Committee Members

FROM: Senate Resource Committee Staff *MEL*

RE: Senate CS for CS for HB 273 (Resources)
"An Act relating to extralateral rights of federal lode
mining claims; and providing for an effective date"

The doctrine of extralateral rights was first codified under federal law in the Federal Mining Law of 1872. It provides that the owner of a federal lode mining claims is entitled to follow a vein downward outside the vertical boundaries of his claim if the top or apex of the vein is within his claim.

The doctrine only relates to the title to the minerals contained in the specific vein. It does not entitle the owner to any surface use outside his claim, does not relieve the owner from obtaining all the necessary permits required by law before conducting operations, and does not apply to placer claims.

Extralateral rights are clearly applicable to all uplands in the United States, including Alaska. The law is not clear, however, on whether the doctrine applies to lands underneath navigable waters, such as tidelands and submerged lands.

The purpose of the proposed legislation is to clarify the law in Alaska and confirm that owners of federal lode mining claims located prior to statehood, are entitled to extralateral rights under shorelands, tidelands, and submerged lands. This will ensure that the owners of such claims have secure title to these deposits so that they may obtain development financing.

The principal areas in the State which will be affected by this legislation are Southeast and Prince William Sound, although the legislation will also have some impact on the Interior and other regions where veins may trend under bodies of navigable water.

The proposed Senate CS would replace the house bill's language with wording from SB 237 plus an immediate effective date. SB 237 is an extralateral rights companion bill that this committee introduced and it is believed to possess slightly superior wording. A letter in this packet from Legislative Counsel speaks to this issue.

Also in this packet, is a zero fiscal note from the Department of Natural Resources; the section of federal law dealing with extralateral rights; a five page discussion of extralateral rights furnished by supporters of the bill; and, the relevant section of a 1901 court case that is the only known court case to deal with this issue.

CS HB 273 (Resources) passed the House this past Thursday with forty votes.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY


POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

March 28, 1985

SUBJECT: Extralateral rights
(CSHB 273 (Resources))

TO: Senator Arliss Sturgulewski
Chair, Senate Resources Committee

FROM: Randall J. Moen 
Legislative Counsel

Upon review of CSHB 273 (Resources) I recommend deleting from page 1, line 15 the following phrase: "subject to AS 38.05.275". This is necessary because AS 38.05.275 applies only to mining locations made on state land and CSHB 273 (Resources) applies only to mining locations on federal land.

RJM:ojb
J13/033

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

DS

Revision Date: _____

REQUEST
 CS (RES)
 Bill/Resolution No.: HB 273
 Title: Extralateral rights of
 lode mining claims
 Sponsor: Duncan
 Requestor:
 Date of Request:

FISCAL DETAIL
 Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected:
 Minerals and Energy Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
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

No fiscal impact.

Prepared By: Ned Farguhar *file 7/20* Phone: 465-2400
 Division: Commissioner's Office Date: March 18, 1985

Approved by Commissioner: *Kathleen D. Amund* Date: March 18, 1985
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

FEDERAL LAW REGARDING
EXTRA-LATERAL RIGHTS

30 USC § 26

§ 26. Locators' rights of possession and enjoyment

The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. Nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

R.S. § 2322.

Purpose and Effect of Proposed
Extralateral Rights Legislation

SUMMARY

The purpose of the proposed extralateral rights legislation is to clarify the law in Alaska and confirm that the owners of federal lode mining claims located prior to statehood may pursue their extralateral rights into lands under navigable waters which are owned by the State ("submerged lands"). The effect of the proposed legislation will be to remove a potential cloud on the title to many lode claims located prior to statehood in Alaska, thereby facilitating additional private investment in the exploration and development of such claims.

DISCUSSION

Extralateral rights are the rights granted to the owner of a lode mining claim located under the federal mining laws to follow and mine any vein or lode the apex of which lies within the surface boundaries of his claim, notwithstanding that the down-dip course of the vein of lode may so far depart from the perpendicular as to extend into lands outside of and beyond the sidelines of his claim.

Not all federal mining claims are entitled to extralateral rights. Extralateral rights attach only to a lode deposit contained within an identifiable vein or lode structure having (1) a definite downward dip and (2) its apex within a properly located federal lode claim. Extralateral rights do not exist in connection with placer deposits, flat-lying lode deposits, or disseminated lode deposits not contained within an identifiable vein or lode structure.

It is important to note that the doctrine of extralateral rights relates only to the title to the minerals contained in the vein or lode structure. A claimowner who is entitled to extralateral rights is not entitled to use the surface of any lands outside his claim, nor is he relieved from obtaining all necessary permits required by law before conducting operations.

The current extralateral rights provision of the federal mining laws was enacted as part of the General Mining Law of 1872, and has been in effect for over 100 years. Even before this, the early mining laws and customs of England, Germany, France, Spain, and Mexico recognized extralateral rights in one form or another. Extralateral rights were also recognized in the miners' rules and customs adopted in California in the mid-1800's prior to the enactment of the federal mining laws. That Congress saw fit to recognize

extralateral rights when it enacted the General Mining Law of 1872 shows that Congress believed extralateral rights to be an important attribute of federal lode mining claims.

For the most part, the lode claims and mines which have utilized the doctrine of extralateral rights have been situated on federal land well removed from the coastlines and navigable rivers of our country. This especially has been the case in the Rocky Mountain states, where hardrock mines have been developed entirely on uplands. The applicability of the doctrine of extralateral rights on uplands is clear and not disputed.

In Alaska, many hardrock mines are situated immediately adjacent to navigable waters along Alaska's extensive coasts. The owners of these mines have consistently held and developed their claims with the understanding and belief that the federal mining laws afforded them extralateral rights, regardless of the direction their lode deposits may take in their downward course. Naturally, some of these lode deposits extend into submerged lands, and in the years prior to statehood a great deal of mining was conducted in Alaska under submerged lands by miners exercising their extralateral rights (e.g., Treadwell Mine at Juneau).

The good faith activities and beliefs of these claimowners notwithstanding, the law is unclear on whether extralateral rights can be asserted in submerged lands. In the only case addressing the issue, the Federal District Court for the Territory of Alaska stated that:

the law giving a party the right to follow all veins, the apices of which are within the limits of his claim, even outside of the sidelines thereof, (should) permit him to go below the waters of the sea in following such vein without trespassing any law of property existing in the United States.

Alaska United Gold Mine. Co. v. Barbridge, 1 Alaska 311, 329 (1901). This early lower court decision has not been overruled, but it is inadequate assurance of the current state of the law for any claimowner seeking to make a substantial investment in developing a mine where ownership of the valuable minerals may depend in part on the existence of extralateral rights.

The Legislature is in a position today to clarify this uncertainty in the Law because on January 3, 1959, title to all submerged lands in Alaska vested in the State. In 1960 the Legislature enacted similar legislation which confirmed and granted title to the surface of submerged lands to those persons who in good faith had occupied or developed the lands before statehood. AS 38.05.820 (1984). Now with lode mining

making a significant comeback in Alaska, the Legislature can enact a comparable law governing extralateral rights. By enacting the proposed legislation the State will recognize that the owners of federal lode mining claims located prior to statehood are entitled to extralateral rights under state-owned submerged lands.

The areas of the State which will be most affected by this legislation are Southeast and Prince William Sound, although the Interior and other regions of the State where veins or lodes may trend into submerged lands also may be affected if federal lode claims were located on the veins or lodes prior to statehood.

THE ALASKA GOLD MIN. CO. V. BARBRIDGE. 311

Section 16, subd. 1, of C. C. A. 1900 Fed. also provides that the respondent must docket the case in the Circuit Court of Appeals and file a copy of the record there, any time after the appeal has been perfected in the lower court and before the case is heard upon its merits. The court would not enjoin the plaintiff in this cause to have determined the question of the appealable nature of the order complained of upon the failure of the appellants to perfect their appeal within the 30 days. The attorneys who now seek to vacate the order allowed the appeal to be the respondent's attorney since April 5th, and could have adopted the correct practice during the open season, but did not do so. The reason for the cause has been regularly appealed to the Circuit Court of Appeals, and for the want of jurisdiction to do so this court is not competent to overrule the action to vacate, and leave the respondent without his remedy in the Circuit Court of Appeals. The motion to vacate is denied.

THE ALASKA GOLD MIN. CO. V. BARBRIDGE et al.

(First Division. Juneau. December Term, 1901.)

No. 49a.

1. TIDE LANDS—MINES AND MINING.

Lands lying below ordinary high tide on the shore of the ocean and arms of the sea in the District of Alaska are not subject to location under the mining laws of the United States.

2. MINES AND MINERALS—EVIDENCE—PATENT.

As a general rule the recitals in a mining patent are conclusive evidence of the extent and boundaries of the claim; other evidence may be admitted to determine the location of the monuments and boundaries called for by the patent.

3. INJUNCTION—TRESPASS.

One who, within the District of Alaska, trespasses upon the tide lands not subject to location under the mineral laws of the United States, may be enjoined from sinking shafts thereon, and

case, the court is compelled to the conclusion that the defendants should be restrained and enjoined from further continuing the sinking of their shaft, or further interfering in this behalf with the rights of the plaintiff.

It may be said in this connection that the situation of the parties plaintiff and defendant are not the same. The plaintiff has a lawful location, and, under the mining laws of the United States, a lawful right to pursue its vein on its dips beyond the side lines of its claim and wherever it may run; and while, as before observed, the lands below mean high tide are reserved from sale, it is believed that the law giving a party the right to follow all veins, the apices of which are within the limits of his claim, even outside of the side lines thereof, would permit him to go below the waters of the sea in following such vein, without trespassing any law of property existing in the United States.

The temporary injunction heretofore issued under the order of this court will therefore be made perpetual, and the plaintiffs are awarded their costs and disbursements.

=====

~~FOX, Administrator, et al. v. MACKAY et al.~~

~~(Second Division, Supreme Court, December Term, 1901.)~~

~~No. _____~~

~~1. ABATEMENT—ADMINISTRATOR—ADVERSE POSSESSION.~~

~~Under section 2309, Rev. St. (U. S. Comp. St. 1901, p. 697), an action may be commenced by one claiming plaintiff against a surface defendant with respect to abatement of an administrative proceeding, and the plaintiff can neither sue nor defend in an action of this character.~~

~~MINES AND MINING—ADVERSE POSSESSION—PUBLIC LANDS.~~

~~When an application is made to the United States Land Department for a patent to a mining claim and an adverse claim~~

*
* DELIVER TO: JFOM *
* *
* ORIGINAL *
* SENT: 04/22/85 TIME: 12:03 *
* FROM: FLORENCE CARNAHAN *
* SUBJECT: POM *
* PRINT DATE: 04/22/85 TIME: 12:03 *
*

TO: ALL LEGISLATORS

FROM: VI JERREL, BOX 938, HOMER, ALASKA 99603 (H)349-9695

RE: HB280 - CRITICAL HABITAT

VOTE NO HB280 WHICH WOULD CREATE 19,000 ACRE CRITICAL HABITAT AREA HOMER, KENAI PENINSULA. FISH/GAME HAVE NOT DECLARED ACRES ALREADY HABITAT OR NUMBER MOOSE. JANUARY FISH/GAME TOLD SMALL NUMBER OF PEOPLE WAY TO KEEP UNIVERSITY FROM GETTING 3,000 ACRES FOR KOREAN BEEF PROJECT WAS GET 19,000 HABITAT. PEOPLE NOT HEARD.

*
* DELIVER TO: JPOM *
* *
* ORIGINAL *
* SENT: 04/25/85 TIME: 18:49 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/25/85 TIME: 18:50 *
* *

TO: ALL SENATORS

FROM: BRAD GAMBLE, BOX 15128 FCB HOMER, AK. 99603 235-6753

SUBJECT: HB 280

I URGE YOUR QUICK CONSIDERATION, SUPPORT AND PASSAGE OF THIS CRITICAL HABITAT BILL. I'VE BEEN INVOLVED WITH GATHERING PETITIONS IN SUPPORT OF THIS BILL. WE HAVE ABOUT 1100 SIGNATURES NOW. WITH THE QUICK AND UNANIMOUS VOTE ON THAT BILL IN THE HOUSE, I URGE ALL SENATORS TO SUPPORT THIS BILL.

EQM*****

*
* DELIVER TO: JPOM *
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* *
* ORIGINAL *
* SENT: 05/01/85 TIME: 15:10 *
* FROM: VERNITA VESTAL *
* SUBJECT: POM *
* PRINT DATE: 05/02/85 TIME: 08:07 *
* *

TO: SENATORS JOSEPHSON, V. FISCHER, HALFORD, KELLY,
STURGULEWSKI, FAIKS, AND P. FISCHER

FROM: DORIS PRATT
P.O. BOX 102428
ANCHORAGE, ALASKA 99510 (H) 274-7606

RE: HB 280-ANCHOR RIVER, MOOSE CREEK HABITAT

PLEASE SUPPORT THE HB 280-ANCHOR RIVER, MOOSE CREEK HABITAT, FOR
BETTER TOURISM, ALASKANS AND ITS WILDLIFE.

Continuous Interfolded © MER © MBF v Patent 7,013,222

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 * DELIVER TO: JFOM *
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 * ORIGINAL *
 * SENT: 04/30/85 TIME: 11:08 *
 * FROM: TCHOM *
 * SUBJECT: POM *
 * PRINT DATE: 04/30/85 TIME: 11:09 *
 *

29

TO: SENATE RESOURCES COMMITTEE
 SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
 VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: MAX CHAPA, BOX 15241 FCB, HOMER, AK. 99603 235-8723

PLEASE DO NOT AMEND HB 280 TO INCLUDE A REPEAL CLAUSE.

EQM*****

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* DELIVER TO: JPOM *
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* ORIGINAL *
* SENT: 04/30/85 TIME: 11:13 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:14 *
* *

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC. FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: JOANNA MANWILLER, 6611 SHERWOOD CIRC., ANCHORAGE, AK.
99504 333-8242

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE DO NOT AMEND HB 280. THE FACT THAT THE MOOSE WINTER HERE
WILL NOT CHANGE IN FIFTEEN YEARS. THE PURPOSE OF THE BILL IS TO
PROTECT THE MOOSE. PLEASE PASS OUT HB 280 ON WEDNESDAY. THANK
YOU.

EOM*****

FROM: JOANNA MANWILLER, 6611 SHERWOOD CIRC., ANCHORAGE, AK.
99504 333-8242

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE DO NOT AMEND HB 280. THE FACT THAT THE MOOSE WINTER HERE
WILL NOT CHANGE IN FIFTEEN YEARS. THE PURPOSE OF THE BILL IS TO
PROTECT THE MOOSE. PLEASE PASS OUT HB 280 ON WEDNESDAY. THANK
YOU.

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* DELIVER TO: JFOM *
*
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:00 *
* FROM: TCHOM *
* SUBJECT: FOM *
* PRINT DATE: 04/30/85 TIME: 11:02 *
*

9

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: MICHAEL SHEPPARD, 15316 FCB, HOMER, AK. 99603 235-7486

PLEASE DO NOT AMEND HB 280 TO INCLUDE A REPEAL CLAUSE. DO NOT
AMEND HB 280 IN ANY FASHION.
EQM*****

Copyright 1985 by IBM Corp. 015, 200, 1, 475, 697

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* DELIVER TO: JPOM *
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* ORIGINAL *
* SENT: 04/29/85 TIME: 09:55 *
* FROM: LANA TRUJILLO *
* SUBJECT: FOM *
* PRINT DATE: 04/29/85 TIME: 09:55 *
* *
*****8*****

TO: SENATE RESOURCES

SEN. STURGULEWSKI, FAHRENKAMP, ELIASON, ZHAROFF, HALFORD,
COGHILL, V. FISCHER

FROM: VIOLA JERRELL, BOX 938, HOMER, 99603, 349-9695(ANCHORAGE)

RE: HB 280, ANCHOR RIVER/FRITZ CREEK CRITICAL HABITAT

HUSBAND DAN/I SINCE EARLY 1960'S DEVELOPED GRAZING LEASES WITHIN
AREA BEFORE HABITAT WAS EVER WANTED. OUR LEASES ARE WITHIN
HABITAT AREA. FISH/GAME NEVER BEEN FRIEND TO GRAZING. UNDER
HABITAT FISH/GAME WILL NOT ALLOW HAY FIELDS, BETTER GRASS
PLANTING, FENCING OR MANAGING FOR GRAZING. REQUEST EXCLUDE
GRAZING LEASES FROM HB 280 HABITAT.

*
* DELIVER TO: JFOM *
*
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:04 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:05 *
*

9

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: MICHAEL SHEPPARD, 15316 FCB, HOMER, AK. 99603 235-7486

PLEASE DO NOT AMEND HB 280 TO INCLUDE A REPEAL CLAUSE. DO NOT
AMEND HB 280 IN ANY FASHION.

EOM*****

*
* DELIVER TO: JPOM *
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* *
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:13 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:14 *
* *

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC. FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: JOANNA MANWILLER, 6611 SHERWOOD CIRC., ANCHORAGE, AK.
99504 333-8242

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE DO NOT AMEND HB 280. THE FACT THAT THE MOOSE WINTER HERE
WILL NOT CHANGE IN FIFTEEN YEARS. THE PURPOSE OF THE BILL IS TO
PROTECT THE MOOSE. PLEASE PASS OUT HB 280 ON WEDNESDAY. THANK
YOU.

EOM*****

FROM: JOANNA MANWILLER, 6611 SHERWOOD CIRC., ANCHORAGE, AK.
99504 333-8242

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE DO NOT AMEND HB 280. THE FACT THAT THE MOOSE WINTER HERE
WILL NOT CHANGE IN FIFTEEN YEARS. THE PURPOSE OF THE BILL IS TO
PROTECT THE MOOSE. PLEASE PASS OUT HB 280 ON WEDNESDAY. THANK
YOU.

FROM*****

*
* DELIVER TO: JPOM
*
* ORIGINAL
* SENT: 04/30/85 TIME: 11:28
* FROM: TCHOM
* SUBJECT: POM
* PRINT DATE: 04/30/85 TIME: 11:29
*

TO: SENATE RESOURCES COMMITTEE
~~SEN. STURGOLEWSKI~~, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD AND ZHAROFF

FROM: ROBERTA HIGHLAND, BOX 15312 FCB, HOMER, AK. 99603 235-8214

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE DO NOT AMEND HB 280 TO INCLUDE A REPEAL CLAUSE. THERE HAS BEEN OVERWHELMING SUPPORT FOR THE CRITICAL MOOSE HABITAT. TIME IS OF ESSENCE.

.....
* DELIVER TO: JPOM *
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:24 *
* FROM: TCHOM *
* SUBJECT: FOM *
* PRINT DATE: 04/30/85 TIME: 11:24 *
* *

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: PAUL A. AND BARBARA J. CARLSON, BOX 15001 FCB, HOMER, AK.
99603 235-6489

SUBJECT: HB 280 CRITICAL HABITAT

DO NOT PLACE ANY AMENDMENT TO HB 280. A FIFTEEN YEAR REPEALER
ATTACHED TO BILL WILL ACCOMPLISH NOTHING BUT STOPPING IT. PLEASE
PASS HB 280 AS IS WEDNESDAY MORNING.

FROM *****

*
* DELIVER TO: JPOM *
*
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:21 * 9
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:21 *
*

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: NANCY LORD, BOX 558, HOMER, AK. 99603 235-8252

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE OPPOSE AMENDMENTS TO HB 280 INCLUDING ANY REPEAL
PROVISION. HB 280 HAS STRONG STATEWIDE SUPPORT AND WILL CONTINUE
TO PROVIDE CRUCIAL HABITAT ON LOWER KENAI. THERE ARE NO
CONFLICTING USES THAT WOULD REQUIRE SUNSET. PLEASE CALL IF ANY
QUESTIONS.

*
* DELIVER TO: JPOM *
* *
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:08 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:09 *
* *

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: MAX CHAPA, BOX 15241 FCB, HOMER, AK. 99603 235-8723

PLEASE DO NOT AMEND HB 280 TO INCLUDE A REPEAL CLAUSE.

EOM*****

*
* DELIVER TO: JFOM *
*
* ORIGINAL *
* SENT: 04/30/85 TIME: 14:35 *
* FROM: BARBARA NORRELL *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 14:35 *
*

8

TO: SENATE RESOURCES
SENS. STURGULEWSKI, FAHRENKAMP, ELIASON, ZHAROFF, HALFORD,
COGHILL, V. FISCHER
FROM: VI JERREL, BOX 938, HOMER, ALASKA, 99603, (ANC #)349-9695
SUBJECT: HB 280, ANCHOR RIVER/MOOSE CREEK CRITICAL HABITAT AREA

URGENT! DELETE LEASED AREA FROM HABITAT DESIGNATION. ADD TO HB
280: DELETE LEASED AREA FROM HABITAT DISIGNATION. OR START ALL
OVER. PUT: DELETE LEASED AREA FROM HBITAT DESIGNATION.
HUSBAND DAN/I SINCE EARLY 1960'S DEVELOPED GRASING LEASE AREA
BEFORE HABITAT. WANT DECENT HEARINGS. NOT BEEN HEARD.
FISH/GAME NOT FRIEND TO GRASING.

*
* DELIVER TO: JFOM *
* *
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:18 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:18 *
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TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: PAUL C. MANWILLER, 6611 SHERWOOD CIRC., ANCHORAGE, AK.
99504 333-8242

SUBJECT: HB 280 CRITICAL HABITAT

HOUSE BILL 280 SHOULD BE PASSED IMMEDIATELY. PLEASE DO NOT DELAY THIS IMPORTANT BILL BY AMENDING IT. THE MOOSE WILL CONTINUE TO WINTER IN THIS AREA UNLESS THE FRITZ CREEK VALLEY IS NOT PROTECTED. PLEASE PASS THIS BILL DURING YOUR WEDNESDAY MEETING. THANK YOU.

EDM*****

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* DELIVER TO: JPOM *
* ORIGINAL *
* SENT: 04/30/85 TIME: 11:24 *
* FROM: TCHOM *
* SUBJECT: FOM *
* PRINT DATE: 04/30/85 TIME: 11:24 *

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: PAUL A. AND BARBARA J. CARLSON, BOX 15001 FCB, HOMER, AK.
99603 235-6489

SUBJECT: HB 280 CRITICAL HABITAT

DO NOT PLACE ANY AMENDMENT TO HB 280. A FIFTEEN YEAR REPEALER
ATTACHED TO BILL WILL ACCOMPLISH NOTHING BUT STOPPING IT. PLEASE
PASS P² 280 AS IS WEDNESDAY MORNING.

FOM*****

Continuous Infringement v. MCI 89 MBF v. Patent 1016,369, 3,429,877

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* DELIVER TO: JPOM *
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* ORIGINAL *
* SENT: 04/30/85 TIME: 11:28 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:29 *
* *

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD AND ZHAROFF

FROM: ROBERTA HIGHLAND, BOX 15312 FCB, HOMER, AK. 99603 235-8214

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE DO NOT AMEND HB 280 TO INCLUDE A REPEAL CLAUSE. THERE HAS BEEN OVERWHELMING SUPPORT FOR THE CRITICAL MOOSE HABITAT. TIME IS OF ESSENCE.

WAF * PAPER 3 010 308 3 429 072

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* DELIVER TO: JPOM *
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* ORIGINAL *
* SENT: 04/30/85 TIME: 11:21 *
* FROM: TCHOM *
* SUBJECT: POM *
* PRINT DATE: 04/30/85 TIME: 11:21 *
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9

TO: SENATE RESOURCES COMMITTEE
SEN. STURGULEWSKI, FAHRENKAMP, COGHILL, ELIASON
VIC FISCHER, HALFORD, ZHAROFF AND PAUL FISCHER

FROM: NANCY LORD, BOX 558, HOMER, AK. 99603 235-8252

SUBJECT: HB 280 CRITICAL HABITAT

PLEASE OPPOSE AMENDMENTS TO HB 280 INCLUDING ANY REPEAL
PROVISION. HB 280 HAS STRONG STATEWIDE SUPPORT AND WILL CONTINUE
TO PROVIDE CRUCIAL HABITAT ON LOWER KENAI. THERE ARE NO
CONFLICTING USES THAT WOULD REQUIRE SUNSET. PLEASE CALL IF ANY
QUESTIONS.

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* DELIVER TO: JFOM *
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* ORIGINAL *
* SENT: 05/02/85 TIME: 15:41 *
* FROM: VERNITA VESTAL *
* SUBJECT: FOM *
* PRINT DATE: 05/02/85 TIME: 15:43 *
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8

TO: SENATE RESOURCES COMMITTEE:
SENATORS SPURGELEWSKI, FAHRENKAMP, ELIASON, ZHAROFF,
HALFORD, COGHILL, AND V. FISCHER

FROM: MARY LIGHT
6611 SHERWOOD CIRCLE
ANCHORAGE, ALASKA 99504 (H) 333-8242 (W) NONE

RE: HB 280-ANCHOR RIVER

PLEASE DO NOT AMMEND HB 280, THE ANCHOR RIVER, FRITZ CREEK
HABITAT AREA. PLEASE IT OUT OF COMMITTEE FRIDAY AS IT IS.

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* DELIVER TO: JFOM *
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* ORIGINAL *
* SENT: 05/02/85 TIME: 12:45 *
* FROM: VERNITA VESTAL *
* SUBJECT: FOM *
* PRINT DATE: 05/02/85 TIME: 12:45 *
*

TO: SENATORS FAIKS, SACKETT, KERTTULA, ELIASON, P. FISCHER,
HALFORD, STURGULEWSKI, FAHRENKAMP, V. FISCHER, ZHAROFF

FROM: SCOT RICHARDS
P.O. BOX 111753
ANCHORAGE, ALASKA 99511 (H) 345-3227 (W) SAME

RE: SB 269-CABINS ON STATE LAND

I DO NOT THINK THAT THIS BILL IS IN ALASKA'S BEST INTEREST. THE PUBLIC LANDS IN QUESTION ARE CHOSEN BY USERS FOR THEIR RECREATIONAL VALUE TODAY AND FOR GENERATIONS TO COME. FUTURE PUBLIC INTEREST COULD BETTER BE SERVED BY REQUIRING INCOME GENERATING LEASE PAYMENTS OR THE REMOVAL OF THE TRESPASSING STRUCTURE.

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* DELIVER TO: JPOM
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* ORIGINAL
* SENT: 05/02/85 TIME: 15:11
* FROM: BECKY GERMAIN
* SUBJECT: POMS
* PRINT DATE: 05/02/85 TIME: 15:11
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18

POM

FROM: MIKE GIANNINO, 9205 JAMES BLVD., #220, JNU 99801 789-5664
TO: REFS CATO, DUNCAN, GOLL, GRUSSENDORF, HERRMANN, M.M.MILLER,
RINGSTAD, SUND, JENKINS, PEARCE
SENS. ELIASON, HALFORD, RAY, RODEY, ~~STURGENWISKI~~, ZIEGLER,
BENNETT

I URGE SUPPORT OF HB 44 - THE MARINE PARKS BILL. ESPECIALLY CRAB
COVE, TAKU HARBOR, AND FUNTER BAY.

*
* DELIVER TO: JFOM *
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* ORIGINAL *
* SENT: 05/02/85 TIME: 15:11 *
* FROM: VERNITA VESTAL *
* SUBJECT: FOM *
* PRINT DATE: 05/02/85 TIME: 15:12 *
*

J

TO: SENATE RESOURCE COMMITTEE:
SENATORS ~~WILSON~~, FAHRENKAMP, ELIASON, ZHAROFF,
HALFORD, COGHILL, AND V. FISCHER

FROM: SALLY WAGNER
5705 STERLING WAY
ANCHORAGE, ALASKA 99504 (H) 338-2037 (W) SAME

RE: HB 280-ANCHOR RIVER-MOOSE CREEK HABITAT AREA

PLEASE DO NOT AMMEND HB 280, ANCHOR RIVER, FRITZ CREEK CRITICAL
HABITAT AREA. PLEASE PASS IT OUT OF COMMITTEE FRIDAY AS IT IS
WRITTEN. THANK YOU.