

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4863 HRES ANWR GENERAL

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TESTIMONY OF DENNIS D. KELSO  
BEFORE THE HOUSE SUBCOMMITTEE ON  
WATER AND POWER RESOURCES  
October 8, 1987

Salm -  
You can bet on a lot  
of questions about environmental  
issues + DEC budget at the  
ANWR hearings in D.C.  
So here's a beginning to look  
at. Also you can meet w/  
Amy Kyle + Kay next week  
to get briefed.

Mr. Chairman and Members of the Subcommittee:

My name is Dennis Kelso. I am Commissioner of the Alaska Department of Environmental Conservation. With me today is Larry Dietrick, Director of our Division of Environmental Quality.

The Department of Environmental Conservation is responsible for protecting public health and the environment. We enforce regulations governing air quality, water pollution control, solid waste management, hazardous waste management, and oil spill prevention and response. We write permits specifying emission levels and disposal methods, monitor activities under permits, and take enforcement actions when needed. The Department has considerable experience with the effects of oil and gas related activities.

On Alaska's North Slope, the Department has developed stipulations for oil and gas lease sales, helped with siting of disposal facilities, and carried out the full range of environmental protection activities. We also participate in the design and review of environmental studies, collect monitoring data, and maintain a field office at Prudhoe Bay in Deadhorse.

Effective waste stream management for oil and gas activities in the Arctic National Wildlife Refuge (ANWR) requires the following steps:

1. Evaluation of past practices and operating procedures at other fields on the North Slope.
2. Advance planning for effective waste disposal facilities and practices.
3. Development and application of specific, effective requirements for industry as lease stipulations and permit conditions.
4. Coordination of efforts among agencies with authority to regulate oil and gas exploration and development.
5. Monitoring of impacts and compliance with environmental requirements.

I will briefly discuss each of these steps and will illustrate them with examples drawn from our experience with solid waste management. In addition to solid waste, key areas for adequate environmental protection measures include air quality, liquid wastes, hazardous wastes, spill prevention and response, and area of impact. I have included an overview of these issues as an attachment to my written testimony.

REVIEW OF WASTE MANAGEMENT PRACTICES IN ALASKA'S NORTH SLOPE OIL FIELDS

Decisions on the exploration and development of ANWR should reflect the experience and information gained by the State and the industry during operations at the National Petroleum Reserve in Alaska (where exploration began in the mid 1940's), Prudhoe Bay (where exploration confirmed the field in the late 1960's), Milne Point, Lisburne, Endicott, and the Kuparuk River oil fields. The technology and operating

methods used in oil and gas development have evolved considerably since the early days of Prudhoe Bay. Both the industry and the agencies have learned a great deal in the process. Operations in the newer fields at Endicott and Kuparuk differ substantially from those at Prudhoe. Some waste disposal practices have proven effective while others can and should be improved.

The Department is currently reviewing North Slope waste disposal practices. A technical accounting of these practices, a description of their evolution, and an assessment of potential impacts will help identify the most appropriate management regime for each waste stream for ANWR.

Moreover, there is a role for Congress in designing the waste stream management regime for ANWR by setting the standards to be met. If Congress concludes that some areas of ANWR warrant a particularly high degree of environmental protection, it may be appropriate, for example, to require removal of wastes from those areas. The level of protection deemed necessary by Congress can best be met through lease stipulations or permit conditions, evaluation of the effectiveness of these measures, and modification of the requirements if field experience warrants.

The State's waste stream management requirements have evolved in response to the North Slope oil development experience. During the past year the State developed new regulations for handling solid waste, particularly drilling muds. Those regulations are now in effect. They establish requirements for disposal of drilling muds and for water quality monitoring to ensure that the disposal techniques used will protect the environment.

#### PLANNING FOR ADEQUATE WASTE STREAM MANAGEMENT

Planning before start-up is essential for proper management of waste streams in ANWR. Inadequate planning before start-up was a major reason why some North Slope development occurred without the best technology. Similarly, inadequate planning led to the absence of sufficient waste disposal facilities for the oil field support industry, which does not have access to the same disposal facilities as the field operators. This has contributed to the abandonment of drums and dumping of other waste materials on vacant sites in the Deadhorse area.

Solid waste management provides numerous examples of the advantages of careful planning for disposal facilities and methods. Major sources of solid waste are garbage, drilling wastes, scrap metal, oily wastes, construction debris, drums, junked vehicles, tires and a host of other materials. Comprehensive waste material management plans could minimize the amount of waste and incorporate salvaging, reusing, and recycling as waste management tools. Backhauling scrap metal and crushed drums is an additional technique which could make most landfills in ANWR unnecessary. Ash and residue from incinerator operation could easily be consolidated into a single facility.

Comprehensive planning could also lead to regional disposal facilities. This would prevent unnecessary proliferation of landfills while enabling the support service industry to have access to proper disposal facilities. Ultimate disposal of pipelines, flow stations, camps, and related facilities should also be addressed at the outset of ANWR planning so that a financial mechanism is in place to provide for proper disposal upon completion of use.

Plans for management of drums should be required as a condition of operation. They should include inventory and tracking, cleaning, crushing, backhaul, and disposal of waste liquids or residues from cleaning.

#### PERMIT CONDITIONS AND LEASE STIPULATIONS

Stipulations placed in leases and conditions written into permits provide a means to address site-specific factors. Lease stipulations apply to the tracts to be explored and developed; they should be tailored to the conditions found there. An example of a solid waste issue that could be addressed by stipulation is the collection of litter and other debris.

Litter, including construction materials and other debris, can be a persistent problem near the arctic coast where flat terrain and strong winds combine to carry these materials considerable distances. Once "offsite", it is often difficult to determine their source. Consequently, it may be desirable to implement a "no fault" requirement in stipulations applied to successful tract bidders, so that litter and other debris are routinely collected regardless of their origin.

Permits are written to govern specific activities of the permit applicant, often in a particular location. They are useful in fine tuning the waste stream management system and in preventing undesirable side effects of disposal. For example, solid waste disposal facilities such as landfills require a permit from the Alaska Department of Environmental Conservation. By taking account of the site configuration and other circumstances, conditions written into the permit can help prevent air and water pollution which might otherwise result from an improperly placed or operated landfill. However, the site-specific characteristics of most permits also limit their ability to deal with area-wide problems involving many different activities. Waste management problems often affect large areas and several operators or industries. Consequently, permits are no substitute for area-wide planning for disposal needs.

Effective use of lease stipulations and permit conditions requires flexibility. Otherwise, new circumstances may undercut their appropriateness. Changes in available technology, legal requirements, or new scientific data may dictate corresponding changes in the way a particular waste is managed. In order to determine whether stipulations or permit conditions are having the intended effect, it is also necessary to monitor on a continuing basis.

#### COORDINATION AND REVIEW

To achieve the optimum level of environmental protection, State and Federal agencies and industry must coordinate their efforts. They must share data in order to ensure that the best available information is brought to bear on ANWR waste management issues. Agency requirements should also be consistent and flexible enough to respond to changing circumstances. Congress should establish a formal consultation process involving these parties. If developed properly, this would also allow the opportunity for the participating agencies to clarify their respective authorities and to avoid duplication.

Among the issues which this process would address are the timing of the various phases of development; the need for studies; and the coordination of permitting, operating plan reviews, field monitoring, and field approvals. In all aspects of this process, it is essential that State and Federal regulatory agencies maintain their own oversight responsibilities.

## MONITORING

Monitoring provides data to evaluate the effectiveness of permit conditions and lease stipulations. It may demonstrate the need to modify environmental requirements or operating methods and may help identify areas where additional study is needed. Monitoring also allows determination of whether operations are in compliance with these requirements and with other environmental standards. For example, data from water quality monitoring under the new drilling mud disposal regulations will show whether contamination is occurring. If it is, the regulations require corrective measures.

## CONCLUSION

Governor Cowper has taken a firm position that ANWR exploration and development must be done right, that the environment and the special values of ANWR must be protected. I have outlined some of the steps that can be taken to achieve this goal. These are just highlights, of course. Oil and gas development in the Arctic is a complicated business and I have only touched on the major environmental issues to be addressed.

Mr. Chairman, the Department of Environmental Conservation is available to the members and staff to discuss the details of environmental matters affecting your decision about ANWR. Thank you for the opportunity to testify. We look forward to working with you.

Attachment

SUMMARY OF WASTE STREAM MANAGEMENT  
AND OTHER ENVIRONMENTAL PROTECTION ISSUES  
RELEVANT TO OIL AND GAS DEVELOPMENT  
IN THE ARCTIC NATIONAL WILDLIFE REFUGE

AIR QUALITY

The principal air pollutants discharged during oil and gas development are sulphur dioxide, suspended particulate matter, carbon monoxide, and nitrogen oxides. Concentrations of these four types of emissions depend, in large part, on the type and volume of fuel burned in the turbines, generators, and other internal combustion engines, the and the amount of flaring in the area.

Flaring is a significant contributor to visibility impairment. Flaring during exploratory flow testing and operational phases is potentially a major source of emission of soot -- primarily unburned hydrocarbons -- and other materials. Technology exists to prevent such problems in future developments.

The primary source of NOx at Prudhoe Bay is the more than 100 gas turbines, each rated at more than 10,000 horsepower. This may be the greatest concentration of large turbines in the world. Approximately 20 air quality permits have been issued, and three are pending. The cumulative annual discharge allowed under these permits is more than 90,000 tons of NOx. Actual emissions are approximately 70 to 90 percent of the permitted values. Modeling has been used to predict the ground level concentrations of NOx and ground level monitoring is now underway to verify the modeling effort and measure ambient levels.

LIQUID WASTE MANAGEMENT

Liquid waste discharges include domestic wastewater, reserve pit fluids, brine discharges, hydrostatic test discharges, vessel rinsates, radiographic wastes, excavation discharges, oily wastewater streams, equipment washing runoff, workover fluids, waste oil solvents, and a wide range of other wastewater streams. Each needs to be identified with a provision made for proper disposal.

Zero discharge of non-domestic (industrial) wastewater streams, with the possible exception of excavation dewatering, should be carefully considered for ANWR. Based upon current experience on the North Slope, alternatives to dewatering of reserve pits should be used in ANWR. The management regime selected for drilling wastes could eliminate the need to discharge to the tundra or roads. Conventional dust control measures or water should be used instead of wastewater. The planning stage should identify specific disposal methods for liquid waste streams classified under the Federal Resource Conservation and Recovery Act (RCRA) and non-RCRA liquid oily-waste streams. Rinsates from tank, vessel and truck cleaning also must be disposed properly. Consequently, both the oil field operators, and the oil field support service industry must have access to appropriate facilities. Underground injection, potentially an acceptable disposal solution for many of these waste streams, should be considered. Produced water disposal should be limited to subsurface techniques.

Unlined gravel impoundments have been used in other North Slope oil and gas developments to contain various wastewater streams. This technique may not be appropriate in ANWR because of its limited effectiveness and its requirement for large amounts of gravel.

Comprehensive planning is needed to ensure that liquid waste disposal solutions are available for all users. This would allow all liquid waste streams to be accurately identified, characterized, and quantified along with an acceptable method for disposal. For example, subsurface disposal options should be available for use by the support service industry.

#### SOLID WASTE MANAGEMENT

Major sources of solid waste are drilling wastes, scrap metal, oily wastes, construction debris, drums, junked vehicles, tires and a host of other materials. It is critical that proper management of all these wastes be addressed from the beginning. Drilling wastes are of particular concern. The State's new regulations governing drilling waste disposal provide an appropriate starting point.

Disposal of solid waste is another area for which careful planning can lead to development of proper facilities at the outset. Provisions for picking up "off-site" litter and other debris should be addressed by stipulation placed on successful tract bidders. Because it is often difficult to determine the source of off-site litter or debris, it may be desirable to implement a "no fault" policy by which litter and debris are routinely collected regardless of origin.

Plans for management of drums should be required as condition of operation. They should include inventory and tracking, cleaning, crushing, backhaul and disposal of waste liquids or residues from cleaning.

Garbage and other wastes which may attract wildlife should be incinerated. Collection and storage of such wastes must also avoid attracting wildlife. Plans for collection of these wastes and for central incineration should be prepared and adopted as a condition of field exploration and development.

Disposal methods for solid oily wastes from tank bottoms, sludges, hydrocarbon waxes, oil contaminated muds and cuttings and spill debris require very careful evaluation. At Prudhoe, the North Slope Borough operates one of two permitted non-RCRA solid oily waste disposal sites in Alaska. Results from the operation of this site are mixed.

Additional work and technology review are needed to develop acceptable solutions for this very difficult waste stream management issue. Incineration would provide the most reliable and complete solution to the problem. However, this is also more costly to the operators.

Comprehensive waste material management plans could minimize the amount of waste to be disposed and could incorporate salvaging, reusing, and recycling materials. Backhaul of scrap metal and crushed drums are additional tools which could make most landfills in ANWR unnecessary. Ash and residue from incinerator operation could easily be consolidated into a single facility.

Comprehensive planning to develop solutions for solid waste disposal must also enable the support service industry to have access to proper disposal options. Regional disposal facilities can also help prevent unnecessary proliferation of landfills. Ultimate disposal of pipelines, flow stations, camps and related facilities should be addressed at the outset of ANWR planning so that a financial mechanism is in place to provide for proper disposal upon completion of use.

## HAZARDOUS WASTE MANAGEMENT

Hazardous waste management is governed by stringent requirements under the Federal Resource Conservation and Recovery Act (RCRA). Transportation of hazardous substances is regulated by the Federal Department of Transportation. The State has adopted hazardous waste regulations and is currently in the process of implementing them through a cooperative agreement with the Environmental Protection Agency.

As with other waste streams, it is essential that acceptable disposal methods be available both to the oil field operators and to the support service industry. Comprehensive planning is needed to develop appropriate management facilities at the outset.

## OIL SPILL PREVENTION AND RESPONSE

Coordinated response capability should be required. Adequate oil spill contingency plans and secondary containment requirements for drums and small facilities are also important. Buffer zones should be established to isolate these facilities from sensitive areas.

If field gas or refining capacity is available to supply fuels it should be made available to the support service industry. This will significantly reduce the occurrence of spills by eliminating fuel storage and piping for space heating and electrical generation. Local availability of refined products to all users would eliminate haul road tanker spills.

## AREA OF IMPACT

Many of the tools developed in other North Slope fields are directly applicable to minimize the "footprint" of individual drill sites and of the overall production effort. Appropriate facility siting criteria and buffer distances will also help maintain adequate levels of environmental protection.

Development plans should include the following: a design to minimize the number of drill sites and production facilities while optimizing the layout of roads and pipelines; provisions for a limited number of intensive use material sites; and plans to centralize and consolidate support facilities. Consolidation of the service industry at Kuparuk provides an example of centralized support services in planning for ANWR.

Ice pads should be considered for all exploratory drilling. Ice pads may also be used for temporary stockpiling of overburden and muds and cuttings.

Restoration of the site at each stage from exploration through production can reduce the cumulative impact of development activities. Adequate drainage must be provided for all facilities to prevent impoundments.

A.E. Hastings



To NED,

Date 10/26/87

A COPY OF CONOCO'S  
COMMENTS TO SENATOR  
JOHNSTON CONCERNING LEASING  
AND OTHER QUESTIONS ABOUT  
THE 100% AREA. HOPE THIS  
IS HELPFUL, AND LET ME  
KNOW IF YOU NEED ADDITIONAL  
INFORMATION

AL HASTINGS



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October 21, 1987

The Honorable J. Bennett Johnston  
U.S. Senate  
Senate Hart Office Building  
Room 136  
Washington, DC 20510

Subject: Comments on Arctic National Wildlife Refuge Leasing System

Dear Senator Johnston:

It was a pleasure to appear before the Senate Energy Committee on October 14, 1987, to present Conoco's views on an appropriate leasing system to govern the "1002 Area" of the Arctic National Wildlife Refuge. All of us in the petroleum industry appreciate your interest and leadership in pursuing legislation to open this area to oil and gas activities.

During our discussion, however, I believe some confusion arose over our recommendation that the 1002 Area be leased in its entirety. The point I was attempting to make was that the whole area should be offered for consideration during each lease sale. It is highly unlikely, however, that this approach would result in every tract contained in the 1002 Area actually being leased at one time. The following comments are intended to further clarify this matter.

Conoco believes that offering the entire 1002 Area for lease in each lease sale held will lead to the most efficient energy development, without reducing the extensive existing environmental safeguards that would apply to 1002 oil and gas operations.

As we envision it, the leasing process would begin with the designation of the 1.5 million acre region as a "planning area" on which federal and state governments, oil companies, environmental groups and all other concerned parties can focus their attention. Prior to a lease sale, oil companies would be invited to indicate which parts of the planning area they might be interested in leasing. The State of Alaska, federal agencies, environmentalists and others are invited to say which portions they think should or should not be leased.

After weighing all pertinent comments, the Interior Department could eliminate areas particularly inappropriate for leasing from consideration and offer the remainder for competitive bidding. This is commonly the practice, for example, in preparation for OCS lease sales. Companies then would submit sealed bids for the areas they most want to lease, and the Secretary would award leases to the companies offering the highest bids. However, the Secretary could reject bids with bonuses determined to be inadequate.

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Although this approach to leasing would make the entire 1002 Area available for leasing, it does not suggest in any way that entire areas will be leased -- only that the entire area will be considered as part of the planning process. It also means that the NEPA review prepared as part of the leasing procedure will consider all areas.

The lease offerings held under the OCS leasing program illustrate how the narrowing-down process works. In five offerings, the government started by considering a total of more than 300 million offshore acres. They included the central, eastern and western portions of the Gulf of Mexico and the middle and southern sectors of the Atlantic coastal area. By the time negotiations with all concerned parties were concluded, nearly half of the acreage in the five planning areas had been dropped from consideration. That left 164 million acres that were offered for lease. Oil companies submitted bids on a total of 6.8 million acres and actually leased 6.5 million acres. Thus, the acreage leased amounted to 2.1 percent of the lands originally considered for leasing. Reference June, 1984, American Petroleum Institute booklet entitled "Should Offshore Oil Be Off Limits?", page 33.

Clearly, the offering of all 1002 tracts in one sale will not result in leasing the entire 1002 Area, as some fear. The oil companies invest their funds only in those tracts that they think offer good chances for significant oil and natural gas discoveries. Having paid millions of dollars for those leases, the companies have every incentive to move ahead rapidly to explore them within the limited terms of the lease, usually 10 years in deep water and frontier areas like Alaska. If they fail to do so, the companies will lose both their investments and their leases.

Finally, experience with the OCS leasing system has shown that of the offshore acreage actually leased, only a small fraction is likely to prove to contain commercially producible reserves. We expect this to be the case in the 1002 Area also.

This country will need to rely on oil and natural gas as its principal energy sources for many years to come. To protect national security, to shield the economy from sudden supply interruptions and to prevent shortages to consumers, the United States should try to produce these supplies within its own territory. Under the best of circumstances, however, it will take at least 10 to 15 years to lease and explore the promising 1002 Area and to develop any oil and gas found there.

American oil companies have demonstrated for years that they can search for and develop oil and gas in ways that are compatible with protecting the Arctic environment. We believe this record can be extended successfully to the 1002 Area.

It is clearly in the national interest for 1002 exploration, drilling and production to proceed at an accelerated, but orderly pace. It is clearly detrimental to the consumer when large amounts of prospective acres are ruled out of bounds and their energy potential cannot be determined. We look forward to working with you and your fellow Committee members on the legislation under consideration.

The Honorable C. Bennett Johnston  
 U.S. Senate  
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In an attempt to quickly answer the seventeen issues set out in your "Issue List For ANWR Leasing Bill", we offer the following responses. I shall be happy to answer any follow up questions which you or your staff may have regarding any of these answers.

QUESTION:

1. How much of the coastal plain should be leased at any one time? Should there be one large lease sale or several smaller sales spread over time?

ANSWER:

The entire coastal plain should be offered for lease in the first lease sale. Each subsequent lease offering should make every unleased tract available for leasing. This is representative of the existing offshore leasing system where a very small percentage of the blocks offered and available for leases were actually leased. The chart below was derived from TABLE 10, page 24 of OCS Information Report MMS-85-0083. This table shows the number of tracts leased and the number of tracts offered in six lease sales in the Gulf of Mexico.

<u>Year</u>	<u>Sale Number</u>	<u>Planning Area</u>	<u>Blocks Offered</u>	<u>Blocks Leased</u>	<u>Acres Offered</u>	<u>Acres Leased</u>
1983	72	Central Gulf	7,050	623	37,867,762	3,089,872
1983	74	Western Gulf	5,848	436	32,620,248	2,246,005
1984	79	Eastern Gulf	8,868	156	50,631,513	897,786
1984	81	Central Gulf	6,502	529	34,743,780	2,278,179
1984	84	Western Gulf	5,441	361	30,038,593	1,949,213
1985	98	Central Gulf	4,567	409	24,100,000	2,076,907
			38,276	329	210,001,896	12,537,962

From OCS Information Report MMS 87-0026, we find examples of the application of this type of leasing system in Alaskan OCS lease sales shown below:

<u>Year</u>	<u>Sale Number</u>	<u>Region</u>	<u>Blocks Offered</u>	<u>Blocks Leased</u>	<u>Acres Offered</u>	<u>Acres Leased</u>	<u>Wells Drilled</u>
1984	87	Beaufort Sea	1,475	227	7,773,447	1,207,714	4
1983	57	Norton Basin	418	59	2,379,751	335,898	6
1984	83	Navarin Basin	5,036	163	28,048,995	927,989	8
1983	70	St. George Basin	479	97	2,688,787	540,917	10
			7,408	545	40,890,980	3,012,518	28

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We believe that these sales will show that fears that the entire 1002 Area, if opened to leasing, would be leased down to the last acre are unjustified.

Industry will be willing to put up bonus money only on the most prospective leases. Then exploratory drilling will be conducted only on the most prospective of those tracts leased. If these exploratory wells are extremely disappointing, then little further drilling would be expected. If the wells are very encouraging, then delineation wells and later development wells could be drilled from well pads to begin a coordinated, planned development of the field.

To break the lease offering process up into several smaller sales would impede the coordination and planning of the development phase because the lease operators would have to proceed in development without having properly tested offset leases which had not yet been offered for lease, but were held back for several small sales. Also, the Federal Government takes a large risk for the taxpayers when it leases only a few tracts allowing possible condemnation of the entire area by conclusively dry wells. If the first few wells are extremely disappointing, then subsequent lease offerings are likely to bring disappointing bonus bids.

QUESTION:

2. Should certain areas, e.g. all weather springs and core caribou calving areas, be totally off limits to leasing, leased later, or at the same time as other areas?

ANSWER:

The subsurface of all weather springs and so-called core caribou calving areas should be offered for lease, but subject to appropriate leasing stipulations. These areas can be tested without significant risk of any damage to their environmental values. Stipulations could include limitations on when, how and where drilling activity could be conducted, honoring environmental sensitivities and the particular unique characteristics of the area. We already honor such values in our operations in the Aransas National Wildlife Refuge in South Texas where we suspend certain kinds of operations during the period that the endangered whooping cranes winter on our leases there. We operate in the Eastern Gulf of Mexico in rotating drilling windows to allow for joint use of the area by the U.S. Air Force and Navy. We suspend drilling operations in the Beaufort Sea when the Bowhead whales migrate through our leases there. These examples point out that we are already successfully operating in areas of special environmental concern and other areas where joint use concerns must be dealt with, and the Secretary of Interior should be charged with the responsibility of developing similar reasonable regulations for operations in the 1002 Area.

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QUESTION:

3. Should there be an "exploration only" option? Should the government do any or all of the exploration?

ANSWER:

We must not adopt an "exploration only" option. Nor should the government do any of the exploration. These concepts represent a change in the basic entrepreneurial system which has served the Nation well. The risks inherent in exploration should be borne by the private sector. This provides for a more efficient exploration program at almost no cost to the taxpayer and keeps government out of the risk taking business which the private sector is willing and able to bear.

QUESTION:

4. What general standard of mitigation/protection should be used, e.g. "no unnecessary adverse effect"; "no significant adverse impact," etc?

ANSWER:

The general standard for mitigation/protection suggested by Assistant Secretary Horn ("no unnecessary adverse effect") seems to be an acceptable standard to use. Almost any standard must have some measure of subjectivity. We believe that the Department of Interior's study of the various standards which could have applied is extensive enough and provides a fair and practical standard.

QUESTION:

5. Should the LEIS for the Secretary's ANWR report be considered sufficient as a programmatic EIS for a leasing program?

ANSWER:

The LEIS for the Secretary's ANWR report should be considered as a programmatic EIS for the 1002 Area leasing program. The LEIS in addition to the 1002 Report sufficiently discusses the impact of oil and gas operations on this area. The 1002 Area is a relatively small and homogeneous area by OCS planning area standards. A requirement for a further "Programmatic" EIS is simply redundant.

QUESTION:

6. How should NEPA apply to and interact with the leasing program beyond this initial stage?

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ANSWER:

The requirements of NEPA will continue to apply to the leasing program in every stage of the exploration and development phase without special Congressional exemption.

QUESTION:

7. Is there a need for additional authority with regard to the issuance of rights-of-way in the 1002 Area?

ANSWER:

We urge Congress to grant legislative authority to the Secretary of Interior for the issuance of rights-of-way in the 1002 Area. When this authority was not granted for the TransAlaska Pipeline System, new legislation from Congress was needed to proceed with the development of the North Slope discovery at Prudhoe Bay. Congress should do all it can to avoid having to go through the process again. The delay would mean greater cost to the consumer and industry and would take up more Congressional time than is warranted.

QUESTION:

8. What kind of leasing model is most appropriate for ANWR - the onshore leasing program, the OCS program, or some combination of the two?

ANSWER:

We recommend that Congress direct the Secretary of Interior to develop a new leasing system based upon the OCS program, but tailored for the 1002 program.

QUESTION:

9. What kinds of environmental stipulations, mitigation measures, etc., should the legislation contain? How specific should the legislation be in this regard? Some areas of concern include
- availability of water and gravel
  - air and water quality concerns including monitoring
  - protection of fish and wildlife and their habitat
  - various types of waste disposal
  - consolidation of facilities.

ANSWER:

Environmental stipulations and mitigation measures should not be part of the legislation opening the 1002 Area to oil and gas exploration and development because the use of such stipulations and measures by the leasing authority needs to be specifically tailored to particular areas of

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concern which cannot be handled well in enabling legislation. The Secretary of Interior should be granted the authority to impose whatever reasonable stipulations and mitigation measures are necessary to protect environmental values of the 1002 Area. North Slope operators already conduct their operations pursuant to extensive and far reaching, existing environmental laws and regulations. New legislation is unnecessary to deal with availability of water and gravel, air and water quality concerns including monitoring, protection of fish and wildlife and their habitat, various types of waste disposal and the consolidation of facilities. These concerns should be left to the administrative agencies already charged with those concerns. Well-meaning legislation would only compound and confuse the existing complex mix of State and Federal laws and regulations which adequately cover these subjects

QUESTION:

10. What type(s) of leasing systems should be used?

ANSWER:

The leasing system should be a competitive, sealed bid, fixed bonus system with a 1/8 fixed royalty. This is the system generally used for OCS frontier areas.

QUESTION:

11. What should be the maximum size of the lease tracts in this area?

ANSWER:

The maximum size of lease tracts should be 5,760 acres which is the same size as tracts in the Federal waters of the Beaufort Sea.

QUESTION:

12. What should the lease term be and under what circumstances should such term, be extended?

ANSWER:

The lease term should be a 10 year term. Extensions should be provided for by the Secretary's leasing program, and not as a part of the legislation opening the 1002 Area to oil and gas operations. The term could be extended by the Secretary if he determines that the lessee has made a good faith effort to explore the lease within the primary term, and that as provided for in the leasing program it is in the best interests of the Nation to extend the lease. Specifically, a lease could be extended if it has been unitized, and the Secretary has approved a plan of development for the unit. The lease should also be extended if the lease is producing, or the lessee is drilling at the time the lease term expires. A reasonable time between cessation of drilling, or production, and resumption of

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drilling, or production should be provided for in the lease. If a lease has been unitized or a discovery has been made on the lease, but production cannot be commenced because a pipeline has not been constructed, then some extension should be permitted in such a case. Other extensions should be available if circumstances warrant, and the Secretary of Interior should have the discretion to determine when such extensions are in the Nation's interest.

QUESTION:

13. How should revenues from leasing in this area be distributed?

ANSWER:

Revenues from leasing should be distributed just as they are under the OCS leasing program.

QUESTION:

14. Is there a need for expedited judicial review or special liability provisions?

ANSWER:

Expedited judicial review is necessary because opponents of leasing will tie up the exploration and development of 1002 reserves for years with legal challenges to every step in the process. Added delay is not in the best interests of the Nation because it will ultimately cost the consumer more for the product, and will impede the assurance of a stable domestic oil supply, thereby threatening the national security.

QUESTION:

15. Should a new state/federal interdisciplinary team be created to deal with leasing, production and development in ANWR?

ANSWER:

A new state/federal interdisciplinary team need not be created to deal with leasing, production and development in ANWR. This approach exists already and will operate under existing law in any case.

QUESTION:

16. Should there be a requirement for unitization of leases on the coastal plain?

ANSWER:

Voluntary unitization must be allowed in the coastal plain. In certain cases, the Secretary of Interior should have the authority to compel

The Honorable J. Bennett Johnston  
U.S. Senate  
Leasing 1002 Area  
October 21, 1987

unitization just as he has under the existing OCS leasing program. Unitization rules should be developed by the Secretary of Interior in his leasing program. Legislation opening the 1002 Area to oil and gas operations should not attempt to deal with unitization other than to grant the Secretary the authority to approve or compel unitization when it is in the Nation's interest to assure the efficient development of oil and gas reserves and to promote conservation.

QUESTION:

17. Should the Secretary of the Interior have lease cancellation authority in this area?

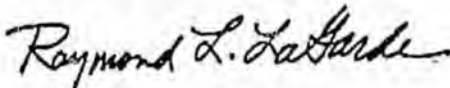
ANSWER:

The Secretary of Interior should have the same rights to cancel a lease that he has under the existing OCS leasing system.

With regard to the question of whether or not summer drilling should be required in the core calving area to test whether drilling operations really have an adverse effect upon the caribou, we only wish to make a short comment. We are convinced that the record already shows without contradiction that industry can drill in the North Slope during the summer with no long term adverse effect on the environment. The so-called core calving area will have to face such a test in any case if production in paying quantities is discovered there. Whether the test occurs early in the exploration process or later in the development process is the question. It would appear that to have such a test during the exploratory phase would be best because the future of development operations would not be at risk if the test proves again that the caribou are adaptable animals who will tend to move slightly away from roads and facilities as was the case at Milne Point. The problem with the proposal is that the added cost of building a pad and gravel road for support of summer drilling would tend to be more expensive than winter drilling. Therefore, we probably would not choose to drill any first exploratory well in the core calving area in the summer if given a choice. Summer drilling tests would be best saved after a significant discovery is made on the core calving area to save costs and to assure the most limited surface effect possible.

Should you or your staff wish to discuss any of these comments further, please contact the undersigned at (713) 293-2291.

Very truly yours,



Raymond L. LaGarde

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 SIXTH AVENUE  
SEATTLE WASHINGTON 98101



REP. 10-100

WD-136

June 1, 1987

Honorable William P. Horn  
Assistant Secretary for Fish and Wildlife and Parks  
United States Department of the Interior  
18th and C Streets, NW  
Washington, D.C. 20240

Re: Arctic National Wildlife Refuge Report  
Final Legislative Environmental Impact Statement

Dear Mr. Horn:

The Environmental Protection Agency (EPA) has reviewed the final Legislative Environmental Impact Statement (LEIS) and Report to Congress concerning the proposal to allow oil exploration, development, and production within the Arctic National Wildlife Refuge (ANWR). This letter, with its enclosure, provides EPA's comments on the recommended action and alternatives that were considered.

On February 6, 1987, EPA commented on the draft LEIS and recommended that several elements of the document were in need of revision or expansion. The final LEIS has undergone significant revision since the draft LEIS. Although additional discussion has been provided in response to many of our comments, the majority of EPA's concerns have not been adequately addressed in the final LEIS. In several important instances, EPA's level of concern has been increased by the revisions made to the document.

In reviewing the final LEIS, EPA found a document incomplete in its presentation of scientific data that would support the impact conclusions and the Secretary's recommendation. A large body of scientific information on the 1002 area's resources has been collected in recent years by the U.S. Fish and Wildlife Service (FWS). Likewise, information specific to the existing environmental regulatory program (including monitoring information) is available. Yet, this information does not appear to be reflected in the final LEIS.

The final LEIS constitutes the first step in the Secretary's recommendation for Congressional decision-making that must balance economic needs and environmental risks. Greater attention to, and better use of, the

resource data that have been generated in ANWR and elsewhere on Alaska's North Slope can provide for a better understanding of the following environmental priorities:

Assurance that the overall significance of environmental impacts, including cumulative impacts, and the ability to mitigate them are properly stated. In particular, we do not believe it appropriate to suggest that the Prudhoe Bay experience would be duplicated in ANWR. The data in the LEIS are insufficient to support such a conclusion.

A wider range of limited exploration/development leasing alternatives are developed and considered. The impacts of the limited leasing alternative (Alternative B) as analyzed in the final LEIS are now of the same high level of concern as for full leasing (Alternative A).

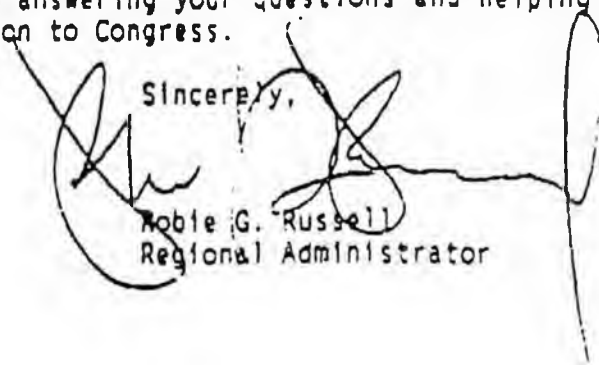
Identify potential regulatory conflicts which may involve interagency coordination. We are concerned about potential regulatory conflicts if, for example, leasing were proposed in environmentally sensitive areas for which the granting of other necessary permits would be inconsistent with existing laws and policies.

These and other concerns are discussed further in the enclosure which represents a summary of our more detailed technical review comments.

Based upon the inadequacy of the information presented in the final LEIS, EPA would normally recommend that a revised document be prepared. The final LEIS remains in need of corrective measures that require substantial changes, including the expansion of the range of alternatives, in order for it to be an adequate basis for any Congressional action. Since Congressional hearings have already begun, EPA recommends that the Secretary of the Interior's final recommendation to Congress be modified to better reflect the available scientific information.

Thank you for the opportunity to review the final LEIS. If the Department of Interior has questions about EPA's comments, please feel free to contact me directly or Mr. Alvin L. Ewing, EPA's Assistant Regional Administrator in Anchorage. We look forward to answering your questions and helping you prepare the final recommendation to Congress.

Sincerely,

  
Roble G. Russell  
Regional Administrator

Enclosure

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

Sum -  
The handouts ARCO  
used w/ Gov. Comper  
on 1/27. They are  
being analyzed by DNR.  
Not very convincing.

## ANWR LAND TRADES

### State Concerns

N

- Negative impact on ANWR access.
- Negative impact on state revenues, economy.
- Poor public policy:
  1. Benefits accrue to a select few.
  2. Valuation of Native surface.
  3. Valuation of ANWR subsurface (giveaway).
  4. Competitive leasing would be much superior.
- Best ANWR tracts have been selected and little remains. Natives have taken the cream.

STATE RECEIPTS

REVENUE SHARING - 50% FEDERAL/50% STATE

TRADE ACREAGE ONLY (STATE ≈ NATIVE)

	<u>Federal Leasing</u>	<u>Native Trade</u>	<u>State Trade</u>	<u>Total</u>
Bonus	50%	0	100%	50%
Royalty	50%	0	100%	50%
Severance	100%	114%	100%	107%
State Income Tax	100%	100% plus Tax on native Royalty	100%	100%+

Other Benefits:

- Realize revenue and jobs creation at least 2-4 years early
- Native trades mean that bonus & royalties that would have gone to Washington, D.C. staying in the state creating:
  1. Economic activity
  2. Personal wealth
  3. Jobs
  4. Recycle benefits
- Increased competition in subsequent federal sale

SUMMARY:

- The state has much to gain by participation in the ANWR land trades:
  - Improved chances of ANWR access.
  - Improved state economy and higher royalty and tax receipts.
  - Acceleration of timing of ANWR exploration and (hopefully) development. This means earlier revenue receipts and earlier job creation.
  
- An objective should be to capture as much of the ANWR access "environmental payment" as possible in the state. Trades are a natural mechanism to accomplish this.
  
- Downside to this position is low:
  - Access will likely be driven by national security concerns and world events.
  - If Congress will not accept these trades, the final ANWR vote will not include them.
  
- Downside to the state's active opposition to the trades is high:
  - Discrediting DOI hurts access.
  - Discrediting DOI and harming that relationship may carry future costs.
  - Demotivating other advocates hurts access.
  - Attacking land values is not in state's interest.
  - "Environmental payment" and benefits likely to go outside the state.
  
- The access issue needs state leadership to unite the conflicting voices.

"Approved: Trigg Twichell, Representative, United States of America.

"Attest: Willard B. Mills, Secretary."

Sec. 2. In order to carry out the purposes of this Act, and the purposes of article XIII of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party litigant in any litigation in the United States Supreme Court, if the United States of America as an indispensable party to such litigation, and if the litigation arises out of this compact, or its application, and if a signatory State to this compact is a party litigant, in the litigation.

Sec. 3. The right to alter, amend, or repeal this Act, is expressly reserved.

Approved Nov. 13, 1973.

## TRANS-ALASKA PIPELINE AUTHORIZATION ACT

*For Legislative History of Act, see p. 2417*

PUBLIC LAW 93-153; 87 STAT. 576

[S. 1081]

An Act to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil pipeline, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

### TITLE I

Section 101. Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185),<sup>92</sup> is further amended to read as follows:

#### "Grant of Authority

"Sec. 28. (a) Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 1 of this Act, as amended, in accordance with the provisions of this section.

#### "Definitions

"(b)(1) For the purposes of this section 'Federal lands' means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head

92. 30 U.S.C.A. § 185.

holders of rights-of-way and permits under this Act shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way or permit. Where the right-of-way or permit involves lands which are under the exclusive jurisdiction of the Federal Government, the Secretary or agency head shall promulgate regulations specifying the extent to which holders shall be liable to third parties for injuries incurred in connection with the right-of-way or permit.

"(2) The Secretary or agency head may, by regulation or stipulation, impose a standard of strict liability to govern activities taking place on a right-of-way or permit area which the Secretary or agency head determines, in his discretion, to present a foreseeable hazard or risk of danger to the United States.

"(3) Regulations and stipulations pursuant to this subsection shall not impose strict liability for damage or injury resulting from (A) an act of war, or (B) negligence of the United States.

"(4) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

"(5) The regulations and stipulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liability, damage, or claims arising in connection with the right-of-way or permit.

"(6) Any regulation or stipulation promulgated or imposed pursuant to this section shall provide that all owners of any interest in, and all affiliates or subsidiaries of any holder of, a right-of-way or permit shall be liable to the United States in the event that a claim for damage or injury cannot be collected from the holder.

"(7) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

#### "Antitrust Laws

"(y) The grant of a right-of-way or permit pursuant to this section shall grant no immunity from the operation of the Federal antitrust laws."

## TITLE II

### SHORT TITLE

Sec. 201. This title may be cited as the "Trans-Alaska Pipeline Authorization Act".

### CONGRESSIONAL FINDINGS

Sec. 202. The Congress finds and declares that:

(a) The early development and delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest be-

cause of growing domestic shortages and increasing dependence upon insecure foreign sources.

(b) The Department of the Interior and other Federal agencies, have, over a long period of time, conducted extensive studies of the technical aspects and of the environmental, social, and economic impacts of the proposed trans-Alaska oil pipeline, including consideration of a trans-Canada pipeline.

(c) The earliest possible construction of a trans-Alaska oil pipeline from the North Slope of Alaska to Port Valdez in that State will make the extensive proven and potential reserves of low-sulfur oil available for domestic use and will best serve the national interest.

(d) A supplemental pipeline to connect the North Slope with a trans-Canada pipeline may be needed later and it should be studied now, but it should not be regarded as an alternative for a trans-Alaska pipeline that does not traverse a foreign country.

#### CONGRESSIONAL AUTHORIZATION

Sec. 203. (a) The purpose of this title is to insure that, because of the extensive governmental studies already made of this project and the national interest in early delivery of North Slope oil to domestic markets, the trans-Alaska oil pipeline be constructed promptly without further administrative or judicial delay or impediment. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made and in limiting judicial review of the actions taken pursuant thereto.

(b) The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce rights-of-way, permits, leases, and other authorizations that are necessary for or related to the construction, operation, and maintenance of the trans-Alaska oil pipeline system, including roads and airstrips, as that system is generally described in the Final Environmental Impact Statement issued by the Department of the Interior on March 20, 1972. The route of the pipeline may be modified by the Secretary to provide during construction greater environmental protection.

(c) Rights-of-way, permits, leases, and other authorizations issued pursuant to this title by the Secretary shall be subject to the provisions of section 28 of the Mineral Leasing Act of 1920, as amended by title I of this Act (except the provisions of subsections (h)(1), (k), (q), (w)(2), and (x)); all authorizations issued by the Secretary and other Federal officers and agencies pursuant to this title shall include the terms and conditions required, and may include the terms and conditions permitted, by the provisions of law that would otherwise be applicable if this title had not been enacted, and they may waive any procedural requirements of law or regulation which they deem desirable to waive in order to accomplish the purposes of this title. The direction contained in section 203(b) shall supersede the provisions of any law or regulation relating to

Dennis  
President

an administrative determination as to whether the authorizations for construction of the trans-Alaska oil pipeline shall be issued.

(d) The actions taken pursuant to this title which relate to the construction and completion of the pipeline system, and to the applications filed in connection therewith necessary to the pipeline's operation at full capacity, as described in the Final Environmental Impact Statement of the Department of the Interior, shall be taken without further action under the National Environmental Policy Act of 1969; and the actions of the Federal officers concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for construction and initial operation at full capacity of said pipeline system shall not be subject to judicial review under any law except that claims alleging the invalidity of this section may be brought within sixty days following its enactment, and claim alleging that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by this title, may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

(e) The Secretary of the Interior and the other Federal officers and agencies are authorized at any time when necessary to protect the public interest, pursuant to the authority of this section and in accordance with its provisions, to amend or modify any right-of-way, permit, lease, or other authorization issued under this title.

LIABILITY

Sec. 204. (a)(1) Except when the holder of the pipeline right-of-way granted pursuant to this title can prove that damages in connection with or resulting from activities along or in the vicinity of the proposed trans-Alaskan pipeline right-of-way were caused by an act of war or negligence of the United States, other government entity, or the damaged party, such holder shall be strictly liable to all damaged parties, public or private, without regard to fault for

*General*

such damages, and without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by Alaska Natives, Native organizations, or others for subsistence or economic purposes. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Liability under paragraph (1) of this subsection shall be limited to \$50,000,000 for any one incident, and the holders of the right-of-way or permit shall be liable for any claim allowed in proportion to their ownership interest in the right-of-way or permit. Liability of such holders for damages in excess of \$50,000,000 shall be in accord with ordinary rules of negligence.

(3) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(4) Upon order of the Secretary, the holder of a right-of-way or permit shall provide emergency subsistence and other aid to an affected Alaska Native, Native organization, or other person pending expeditious filing of, and determination of, a claim under this subsection.

(5) Where the State of Alaska is the holder of a right-of-way or permit under this title, the State shall not be subject to the provisions of subsection 204(a), but the holder of the permit or right-of-way for the trans-Alaska pipeline shall be subject to that subsection with respect to facilities constructed or activities conducted under rights-of-way or permits issued to the State to the extent that such holder engages in the construction, operation, maintenance, and termination of facilities, or in other activities under rights-of-way or permits issued to the State.

(b) If any area within or without the right-of-way or permit area granted under this title is polluted by any activities conducted by or on behalf of the holder to whom such right-of-way or permit was granted, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and total removal of the pollutant shall be at the expense of such holder, including any administrative and other costs incurred by the Secretary or any other Federal officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of such holder.

(c)(1) Notwithstanding the provisions of any other law, if oil that has been transported through the trans-Alaska pipeline is loaded on a vessel at the terminal facilities of the pipeline, the owner and operator of the vessel (jointly and severally) and the Trans-Alaska Pipeline Liability Fund established by this subsection, shall be strictly liable without regard to fault in accordance with the provisions of this subsection for all damages, including clean-up

*Pollution  
control &  
cleanup*

costs, sustained by any person or entity, public or private, including residents of Canada, as the result of discharges of oil from such vessel.

(2) Strict liability shall not be imposed under this subsection if the owner or operator of the vessel, or the Fund, can prove that the damages were caused by an act of war or by the negligence of the United States or other governmental agency. Strict liability shall not be imposed under this subsection with respect to the claim of a damaged party if the owner or operator of the vessel, or the Fund, can prove that the damage was caused by the negligence of such party.

(3) Strict liability for all claims arising out of any one incident shall not exceed \$100,000,000. The owner and operator of the vessel shall be jointly and severally liable for the first \$14,000,000 of such claims that are allowed. Financial responsibility for \$14,000,000 shall be demonstrated in accordance with the provisions of section 311(p) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(p)) before the oil is loaded. The Fund shall be liable for the balance of the claims that are allowed up to \$100,000,000. If the total claims allowed exceed \$100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or state law.

(4) The Trans-Alaska Pipeline Liability Fund is hereby established as a non-profit corporate entity that may sue and be sued in its own name. The Fund shall be administered by the holders of the trans-Alaska pipeline right-of-way under regulations prescribed by the Secretary. The Fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress.

(5) The operator of the pipeline shall collect from the owner of the oil at the time it is loaded on the vessel a fee of five cents per barrel. The collection shall cease when \$100,000,000 has been accumulated in the Fund, and it shall be resumed when the accumulation in the Fund falls below \$100,000,000.

(6) The collections under paragraph (5) shall be delivered to the Fund. Costs of administration shall be paid from the money paid to the Fund, and all sums not needed for administration and the satisfaction of claims shall be invested prudently in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Fund.

(7) The provisions of this subsection shall apply only to vessels engaged in transportation between the terminal facilities of the pipeline and ports under the jurisdiction of the United States. Strict liability under this subsection shall cease when the oil has first been brought ashore at a port under the jurisdiction of the United States.

(8) In any case where liability without regard to fault is imposed pursuant to this subsection and the damages involved were caused by the unseaworthiness of the vessel or by negligence, the owner and

operator of the vessel, and the Fund, as the case may be, shall be subrogated under applicable State and Federal laws to the rights under said laws of any person entitled to recovery hereunder. If any subrogee brings an action based on unseaworthiness of the vessel or negligence of its owner or operator, it may recover from any affiliate of the owner or operator, if the respective owner or operator fails to satisfy any claim by the subrogee allowed under this paragraph.

(9) This subsection shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements.

(10) If the Fund is unable to satisfy a claim asserted and finally determined under this subsection, the Fund may borrow the money needed to satisfy the claim from any commercial credit source, at the lowest available rate of interest, subject to approval of the Secretary.

(11) For purposes of this subsection only, the term "affiliate" includes—

(A) Any person owned or effectively controlled by the vessel owner or operator; or

(B) Any person that effectively controls or has the power effectively to control the vessel owner or operator by—

(i) stock interest, or

(ii) representation on a board of directors or similar body, or

(iii) contract or other agreement with other stockholders, or

(iv) otherwise; or

(C) any person which is under common ownership or control with the vessel owner or operator.

(12) The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

#### ANTITRUST LAWS

Sec. 205. The grant of a right-of-way, permit, lease, or other authorization pursuant to this title shall grant no immunity from the operation of the Federal anti-trust laws.

#### ROADS AND AIRPORTS

Sec. 206. A right-of-way, permit, lease, or other authorization granted under section 203(b) for a road or airstrip as a related facility of the trans-Alaska pipeline may provide for the construction of a public road or airstrip.

#### TITLE III—NEGOTIATIONS WITH CANADA

Sec. 301. The President of the United States is authorized and requested to enter into negotiations with the Government of Canada to determine—

# UNITED STATES CODE ANNOTATED

**Title 43**

**Public Lands**

**§§ 931 to End**

Comprising All Laws of a General and Permanent Nature  
Under Arrangement of Official Code of  
the Laws of the United States  
with  
Annotations from Federal and State Courts

ST. PAUL, MINN.  
WEST PUBLISHING CO.

## CHAPTER 34—TRANS-ALASKA PIPELINE

### Sec.

1651. Congressional findings and declaration.
1652. Authorizations for construction.
- (a) Congressional declaration of purpose.
  - (b) Issuance, administration, and enforcement of rights-of-way, permits, leases, and other authorizations.
  - (c) Applicability of statutes governing rights-of-way for pipelines through Federal lands; other statutory terms and conditions; waiver of procedural requirements; supersedure of administrative authorizations for construction.
  - (d) National Environmental Policy Act of 1969 by-passed; issuance of authorizations for construction and operation not to be subject to judicial review; time limits on charges of invalidity or unconstitutionality; jurisdiction; hearings; review.
  - (e) Amendment or modification of rights-of-way, permits, leases, or other authorizations.
1653. Liability for damages.
- (a) Activities along or in vicinity of pipeline right-of-way; strict liability limitation on liability; subrogation; emergency subsistence and other aid; exemption for State of Alaska.
  - (b) Control and removal of pollutants at expense of right-of-way holder.
  - (c) Discharges of oil from vessels loaded at terminal facilities of pipeline; strict liability; limitation on liability; apportionment of liability; establishment and operation of Trans-Alaska Pipeline Liability Fund.
1654. Antitrust laws.
1655. Roads and airports.

### § 1651. Congressional findings and declaration

The Congress finds and declares that:

(a) The early development and delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest because of growing domestic shortages and increasing dependence upon insecure foreign sources.

(b) The Department of the Interior and other Federal agencies, have, over a long period of time, conducted extensive studies of the technical aspects and of the environmental, social, and economic impacts of the proposed trans-Alaska oil pipeline, including consideration of a trans-Canada pipeline.

(c) The earliest possible construction of a trans-Alaska oil pipeline from the North Slope of Alaska to Port Valdez in that State will make the extensive proven and potential reserves of low-sulfur oil available for domestic use and will best serve the national interest.

(d) A supplemental pipeline to connect the North Slope with a trans-Canada pipeline may be needed later and it should be studied now, but it should not be regarded as an alternative for a trans-Alaska pipeline that does not traverse a foreign country.

(Pub.L. 93-153, Title II, § 202, Nov. 16, 1973, 87 Stat. 584.)

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Juneau, Alaska 99811

Short supply controls, domestically produced crude oil, see section 2406 of the Appendix Title 50, War and National Defense.

#### Federal Practice and Procedure

Relationship to lower federal court jurisdiction, see Wright, Miller & Cooper: Jurisdiction § 3526.

#### West's Federal Forms

Preliminary injunctions and temporary restraining orders, matters pertaining to, see § 527B seq.

Supreme Court jurisdiction on appeal, see § 121 et seq.

#### West's Federal Practice Manual

Rights-of-way, see § 5449.

#### Notes of Decisions

##### 1. Purpose

The intent of this section which vests exclusive jurisdiction over certain disputes in the United States district courts was to limit

litigation that would delay construction of pipeline. *Alaska Pipeline Service Co. v. U.S.*, 1980, 624 F.2d 1005, 224 Ct.Cl. 2

### § 1653. Liability for damages

(a) Activities along or in vicinity of pipeline right-of-way; strict liability; limitation on liability; subrogation; emergency subsistence and other aid; exemption for State of Alaska

(1) Except when the holder of the pipeline right-of-way granted pursuant to this chapter can prove that damages in connection with or resulting from activities along or in the vicinity of the proposed trans-Alaskan pipeline right-of-way were caused by an act of war or negligence of the United States, other government entity, or the damaged party, such holder shall be strictly liable to all damaged parties, public or private, without regard to fault for such damages, and without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by Alaska Natives, Native organizations, or others for subsistence-economic purposes. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Liability under paragraph (1) of this subsection shall be limited to \$50,000,000 for any one incident, and the holders of the right-of-way or permit shall be liable for any claim allowed in proportion to their ownership interest in the right-of-way or permit. Liability of such holders for damages in excess of \$50,000,000 shall be in accord with ordinary rules of negligence.

(3) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(4) Upon order of the Secretary, the holder of a right-of-way or permit shall provide emergency subsistence and other aid to an affected Alaska Native, Native organization, or other person pending expeditious filing and determination of, a claim under this subsection.

(5) Where the State of Alaska is the holder of a right-of-way or permit under this chapter, the State shall not be subject to the provisions of this subsection, but the holder of the permit or right-of-way for the trans-Alaska pipeline shall be subject to this subsection with respect to facilities constructed or activities conducted under rights-of-way or permits issued to the State to the extent that such holder engages in the construction, operation, maintenance, and termination of facilities, or in other activities under rights-of-way or permits issued to the State.

**(b) Control and removal of pollutants at expense of right-of-way holder**

If any area within or without the right-of-way or permit area granted under this chapter is polluted by any activities conducted by or on behalf of the holder to whom such right-of-way or permit was granted, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and total removal of the pollutant shall be at the expense of such holder, including any administrative and other costs incurred by the Secretary or any other Federal officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of such holder.

**(c) Discharges of oil from vessels loaded at terminal facilities of pipeline; strict liability; limitation on liability; apportionment of liability; establishment and operation of Trans-Alaska Pipeline Liability Fund**

(1) Notwithstanding the provisions of any other law, if oil that has been transported through the trans-Alaska pipeline is loaded on a vessel at the terminal facilities of the pipeline, the owner and operator of the vessel (jointly and severally) and the Trans-Alaska Pipeline Liability Fund established by this subsection, shall be strictly liable without regard to fault in accordance with the provisions of this subsection for all damages, including clean-up costs, sustained by any person or entity, public or private, including residents of Canada, as the result of discharges of oil from such vessel.

(2) Strict liability shall not be imposed under this subsection if the owner or operator of the vessel, or the Fund, can prove that the damages were caused by an act of war or by the negligence of the United States or other governmental agency. Strict liability shall not be imposed under this subsection with respect to the claim of a damaged party if the owner or operator of the vessel, or the Fund, can prove that the damage was caused by the negligence of such party.

(3) Strict liability for all claims arising out of any one incident shall not exceed \$100,000,000. The owner and operator of the vessel shall be jointly and severally liable for the first \$14,000,000 of such claims that are allowed. Financial responsibility for \$14,000,000 shall be demonstrated in accordance with the provisions of section 1321(p) of Title 33 before the oil is loaded. The Fund shall be liable for the balance of the claims that are allowed up to \$100,000,000. If the total claims allowed exceed \$100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or state law.

(4) The Trans-Alaska Pipeline Liability Fund is hereby established as a non-profit corporate entity that may sue and be sued in its own name. The Fund shall be administered by the holders of the trans-Alaska pipeline right-of-way under regulations prescribed by the Secretary. The Fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress.

(5) The operator of the pipeline shall collect from the owner of the oil at the time it is loaded on the vessel a fee of five cents per barrel. The collection shall cease when \$100,000,000 has been accumulated in the Fund, and it shall be resumed when the accumulation in the Fund falls below \$100,000,000.

(6) The collections under paragraph (5) shall be delivered to the Fund. Costs of administration shall be paid from the money paid to the Fund, and all sums not needed for administration and the satisfaction of claims shall be invested prudently in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Fund.

(7) The provisions of this subsection shall apply only to vessels engaged in transportation between the terminal facilities of the pipeline and ports under the jurisdiction of the United States. Strict liability under this subsection shall cease when the oil has first been brought ashore at a port under the jurisdiction of the United States.

(8) In any case where liability without regard to fault is imposed pursuant to this subsection and the damages involved were caused by the unseaworthiness of the vessel or by negligence, the owner and operator of the vessel, and the Fund, as the case may be shall be subrogated under applicable State and Federal laws to the rights under said laws of any person entitled to recovery hereunder. If any subrogee brings an action based on unseaworthiness of the vessel or negligence of its owner or operator, it may recover from any affiliate of the owner or operator, if the respective owner or operator fails to satisfy any claim by the subrogee allowed under this paragraph.

(9) This subsection shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements.

(10) If the Fund is unable to satisfy a claim asserted and finally determined under this subsection, the Fund may borrow the money needed to satisfy the claim from any commercial credit source, at the lowest available rate of interest, subject to approval of the Secretary.

(11) For purposes of this subsection only, the term "affiliate" includes—

(A) Any person owned or effectively controlled by the vessel owner or operator; or

(B) Any person that effectively controls or has the power effectively to control the vessel owner or operator by—

(i) stock interest, or

(ii) representation on a board of directors or similar body,

(iii) contract or other agreement with other stockholders.

(iv) otherwise; or

(C) Any person which is the vessel owner or operator.

(12) The term "person" means an individual, a partnership, a corporation, a ship, an association, a joint-stock company, a trust, a partnership, a joint-venture, a syndicate, a group, a pooled organization.

(Pub.L. 93-153, Title II, § 204.

Delegation of Functions. Function of the President under section 1321(p)(1) of Title 33, Navigation and Navigable Waters, as incorporated by reference in subsection (b) of this section, relating to the demonstration of financial responsibility for vessels engaged in the loading of oil from the Trans-Alaska Pipeline System delegated to the Secretary of the Department of the Interior.

West's

Rights-of-way, see § 5449.

Code

Liability fund, see 43 CFR 29.1 et seq.  
Oil pollution, financial responsibility.

L

Health and Environment § 25.5(3).  
C.J.S. Health and Environment § 50 et seq., 106 et seq., 129 et seq.

N

Claims within section 1

Strict liability

Generally 2

Construction accidents 3

Pollution clean-up 4

1. Claims within section

This section was intended to deal with environmental risks of the pipeline but does not cover ordinary personal injury or wrongful death claims unconnected with environmental injury, in view of fact that although literal interpretation indicated contrary result, overwhelming evidence of legislative history indicated that chapter was intended to deal with environmental accidents other than ordinary torts. *Heppner v. Alaska Pipeline Service Co.*, C.A.Alaska 1981, F.2d 868.

2. Strict liability—Generally

Provisions of this chapter were designed to establish the permit holders of the pipeline right-of-way as strictly liable for a

ALASKA DEPARTMENT OF THE INTERIOR  
 P.O. BOX 7, STATE CAPITAL  
 JUNEAU, ALASKA 99811

(iv) otherwise; or

(C) Any person which is under common ownership or control with the vessel owner or operator.

(12) The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

(Pub.L. 93-153, Title II, § 204, Nov. 16, 1973, 87 Stat. 586.)

Historical Note

Delegation of Functions. Functions of the President under section 1321(p)(1) to (2) of Title 33, Navigation and Navigable Waters, as incorporated by reference in subsec. (c)(3) of this section, relating to the demonstration of financial responsibility for vessels carrying oil loaded from the Trans-Alaska pipeline, delegated to the Secretary of the Department

in which the Coast Guard is operating, see Ex.Ord. No. 12418, § 4, May 5, 1983, 48 F.R. 20891, set out as a note under section 1321 of Title 33.

Legislative History. For legislative history and purpose of Pub.L. 93-153, see 1973 U.S. Code Cong. and Adm. News, p. 2417.

West's Federal Practice Manual

Rights-of-way, see § 5449.

Code of Federal Regulations

Liability fund, see 43 CFR 29.1 et seq.  
Oil pollution, financial responsibility, see 33 CFR 131.1 et seq.

Library References

Health and Environment §25.5(3).  
C.J.S. Health and Environment §§ 91 et seq., 106 et seq., 129 et seq.

Notes of Decisions

- Claims within section 1
- Strict liability
- Generally 2
- Construction accidents 3
- Pollution clean-up 4

1. Claims within section  
This section was intended to deal with environmental risks of the pipeline but did not cover ordinary personal injury and wrongful death claims unconnected with any environmental injury, in view of fact that, although literal interpretation indicated contrary result, overwhelming evidence of legislative history indicated that chapter was intended to deal with environmental accidents rather than ordinary torts. *Heppner v. Alyeska Pipeline Service Co.*, C.A.Alaska 1981, 665 F.2d 868.

2. Strict liability—Generally  
Provisions of this chapter were designed to establish the permit holders of the pipeline right-of-way as strictly liable for a broad

range of damages to the land, fish, wildlife, air, water, and the subsistence lifestyle of the Alaskan Native. *Jordan v. Amerada Hess Corp.*, D.C.Alaska 1979, 479 F.Supp. 573.

3. — Construction accidents  
This section was intended to render permit holders strictly liable for environmental harm, but was not intended to hold permit holders strictly liable for all damages of any kind that occurred "in connection with" or "in the vicinity of the proposed trans-Alaska pipeline right-of-way," and, hence, was not a basis for holding defendant oil companies strictly liable in action arising from injuries allegedly sustained in an automobile accident that occurred in vicinity of Alaska pipeline or in wrongful death action arising as a result of a construction accident in Alaska pipeline right-of-way. *Jordan v. Amerada Hess Corp.*, D.C.Alaska 1979, 479 F.Supp. 573.

4. — Pollution clean-up  
This chapter barred pipeline service company from recovering from the United States for

Index

Public Lands

# UNITED STATES CODE ANNOTATED

**Title 43**  
**Public Lands**  
**§ 931 to End**

**1987**  
**Cumulative Annual Pocket Part**  
Replacing 1986 pocket part in back of volume

Includes the Laws of the  
99th CONGRESS, SECOND SESSION (1986)

For close of Notes of Decisions  
See page III

For Later Laws and Cases  
Consult  
USCA

Supplementary Pamphlet Service

ST. PAUL, MINN.

WEST PUBLISHING CO.



This committee has had more than a dozen hearings on the ANWR issue. We tried to look at all the angles last session: Alaska hire, environmental protection, subsistence, revenue sharing, and land trades. Our record is fairly complete. Here are the minutes. They're quite thick.

At the end of last session the Senate passed SJR 7 with implied support for the ANWR land trades. I just could not accept putting the State on record in that position. So I talked to some key senators, hoping we'd get the land trade issue settled and send a resolution back to Washington before the summer. But they were adamant in their support of the trades, and there wasn't time to resolve the issue. It was classic pressure politics.

Now that there's more information about the trades I am glad we held this resolution over. I believe the State can't afford to endorse the trades. I think all Alaskans -- including the congressional delegation, which has been so supportive of the trades -- need to focus on the central issue, and drop the land trades. That's the only way we can possibly defuse the controversy in Congress and hope for action this year. If you want to know more about the trade issue, call me anytime.

I've checked with the Senate Energy Committee in Congress and it's timely for Alaska to go on record supporting the

opening of the coastal plain. That is what the Legislature really needs to do. Rep. Sund was just back in Washington and might be able to tell the committee about the mood in Washington. And we have John Katz on the phone from the Governor's Office in Washington.

So this resolution says that the nation and Alaska will be served by opening the coastal plain. It also recommends a fairly high standard of environmental protection, although it is silent on the core calving area question we heard so much about last session. The resolution urges Congress to treat us fairly on the revenue issues. Our revenue entitlement shouldn't be reduced.

Chairman Herrmann has added some language to this draft CS about subsistence. It doesn't give me any problem for now, and I look forward to hearing the committee's discussion of it. But I do hope that we can get the resolution out of committee at this meeting.

Now, if Chairman Herrmann and Rep. Sund have any comments, and Senator Sturgulewski, and then we'll go to Mr. Katz if he has anything to add.

DRAFT

Amendment to HCS CS SJR 7 (Res) am  
by Rep. Adelheid Herrmann

INSERT on Page 1, line 29

WHEREAS the long-term effects on the Porcupine Caribou Herd  
from oil development and exploration are not fully understood,

INSERT on Page 2, line 25

(5) the United States Congress should recognize the Alaska  
Governor's position and continue caribou studies for seven  
years.

- Sen. James McClure, Senate Energy and Natural Resources  
Committee
- Sen. Quentin Burdick, Chair, Senate Environment and Public  
Works Committee
- Sen. Robert Stafford, Senate Environment and Public Works  
Committee
- Sen. George Mitchell, Chair, Subcommittee on Environmental  
Protection
- Sen. John Chaffee, Subcommittee on Environmental Protection
- Rep. George Miller, Chair, Subcommittee on Water and Power  
Resources
- Rep. Charles Pashayan, Subcommittee on Water and Power  
Resources
- Rep. Walter Jones, Chair, Merchant Marine and Fisheries  
Committee
- Rep. Robert Davis, Merchant Marine and Fisheries Committee
- Rep. Gerry Studds, Chair, Subcommittee on Fisheries and  
Wildlife Conservation and the Environment

January 28, 1988

ANWR HEARINGS IN STATE HOUSE

JUNEAU -- The Resources Committee of the Alaska State House is expected Friday to pass out a resolution urging Congress to allow oil and gas exploration and development in the Arctic Refuge.

The resolution will ask Congress to allow environmentally responsible oil and gas development on ANWR's coastal plain. It will also call for Alaska hire provisions in any federal oil and gas leasing.

The resolution is not expected to mention the proposed ANWR land trades that have stirred controversy in Washington. However, the resolution will seek equal treatment for Alaska on revenue issues, including the state's existing entitlement to 90% of revenues from federal oil and gas leasing.

Last year the Alaska Senate passed a resolution near the end of the legislative session, but the resolution included an implied endorsement of the then-secret land exchanges. As a result the resolution was considered too controversial for action in the waning days of the session.

"Now it's important for Alaskans -- including our congressional delegation -- to get off the land trade topic and work toward the single objective of opening the coastal plain," said Rep. Sam Cotten, co-chair of the Resources Committee. "The highly negative reaction of Congress against these exchanges should be a lesson for those who've said the trades might help get passage of a coastal plain bill. That's just wrong."

The original resolution, SJR 7, was introduced by Senator Arliss Sturgulewski. "I've talked to Senator Sturgulewski. She didn't include any mention of the trades in her original resolution because of her concern that we need to focus on the central issue of opening ANWR and because of the lack of consensus on the trade issue. I think the new version of the resolution gets back to her original intent and gets the issue moving toward Congress," said Cotten.

Immediate action is necessary for Alaska to have an impact on Capitol Hill. "My office has been in contact with Senator Johnston's Energy Committee in Congress, which is taking up the ANWR legislation. Senator Johnston is planning to mark up a bill in Congress next month, and he continues to oppose the land trade idea. We just have to hope he remains friendly to the idea of opening the coastal plain," Cotten said.

"On the other hand, if some legislators still insist on the inclusion of pro-trade language, we might end up in a conference committee and the resolution might not reach Washington," Cotten stated.

The hearing is scheduled for Friday January 29 at 8:30 a.m. in Room 124 of the Capitol building.

The Resources Committee is also expected to join the Senate Resources Committee for a joint hearing on ANWR land trade issues next week. Senator Jack Coghill has invited Assistant Interior Secretary Bill Horn to address the joint committees, and Commissioner Judy Brady of the Alaska Department of Natural Resources will explain the State of Alaska's opposition to the land trades.

30 - 30 - 30 - 30

FOR MORE INFORMATION CONTACT:

Sam Cotten, Ned Farquhar (465-3711)

Ned, let me know where you think these whereas clauses should be inserted.

WHEREAS, even when the strictest standards of environmental safety are applied there is still some risk to the land, water, and wildlife resources from oil exploration and drilling, and

WHEREAS, many individuals depend upon the land, water, and wildlife for subsistence, and,

WHEREAS, subsistence users should be protected in the event that oil exploration and drilling result in damage to subsistence resources,

-----  
Insert as (3) on page 3, line 12, of CSSJR (Res) am  
or similar place in your CS.

THREFORE BE IT RESOLVED[or BE IT FURTHER RESOLVED] that in any Act authorizing the opening of the Arctic National Wildlife Refuge to oil exploaration or drilling that the Congress include language similar to the language in the Trans Alaska Pipeline Authorization Act Section 204 addressing indemnification to subsistence users of the resource.

*Shultz =  
Who calls Coghlin?*

DRAFT

JOINT RESOLUTION

WHEREAS in 1980 the U.S. Congress suspended the operation of the Mineral Leasing Act of 1920 on the coastal plain of the Arctic National Wildlife Refuge to allow for the study of management alternatives; and

WHEREAS the coastal plain has been found to have the best potential for onshore oil and gas discoveries in the United States; and

WHEREAS Congress recognized the environmental importance of the coastal plain by placing it in the national wildlife refuge system in 1980, and the wildlife and habitat deserve a high standard of protection should oil exploration and development proceed;

WHEREAS exploration and development of oil and gas on the coastal plain could reduce the nation's trade deficit, increase energy security, prevent erosion of our oil and gas industry, improve the national and state economies, and occur with full environmental protection and safeguards; and

WHEREAS the people of Alaska <sup>*based on the provisions of the Statehood compact*</sup> ~~are~~ deserve to be treated equally and fairly in the legislative and administrative

decisions of the U.S. government regarding revenue sharing,  
leasing, ownership, and development <sup>of public lands including</sup> on the coastal plain;  
and

WHEREAS Alaska's economy is in bad condition, with high unemployment, property foreclosures, and shrinking investment;

BE IT RESOLVED that the Alaska State Legislature adopts the following consensus points on management of the coastal plain, and strongly urges Congress to act on them:

(1) the U.S. Congress should open the coastal plain to environmentally responsible oil and gas exploration, development, and production under the authority of the Mineral Leasing Act of 1920;

(2) the U.S. Congress should provide for maximum participation and job opportunity for Alaska residents in coastal plain exploration and development; and

(3) the U.S. Congress should carefully review any legislative or administrative proposal that <sup>may</sup> ~~would~~ diverge from established oil and gas law or policy, <sup>or the spirit of the Statehood compact</sup> ~~and should treat~~ Alaskans ~~fairly and equally~~.

Send copies to ...

DRAFT

JOINT RESOLUTION

WHEREAS in 1980 the U.S. Congress suspended the operation of the Mineral Leasing Act of 1920 on the coastal plain of the Arctic National Wildlife Refuge to allow for the study of management alternatives; and

WHEREAS the coastal plain has been found to have the best potential for onshore oil and gas discoveries in the United States; and

WHEREAS Congress recognized the environmental importance of the coastal plain by placing it in the national wildlife refuge system in 1980, and the wildlife and habitat deserve a high standard of protection should oil exploration and development proceed;

WHEREAS exploration and development of oil and gas on the coastal plain could reduce the nation's trade deficit, increase energy security, prevent erosion of our oil and gas industry, improve the national and state economies, and occur with full environmental protection and safeguards; and

WHEREAS the people of Alaska deserve to be treated equally and fairly in the legislative and administrative

decisions of the U.S. government, regarding revenue sharing,  
leasing, [ownership], and development on the coastal plain;  
and

WHEREAS Alaska's economy is in bad condition, with high  
unemployment, property foreclosures, and shrinking  
investment;

BE IT RESOLVED that the Alaska State Legislature adopts  
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development, and production under the authority of the  
Mineral Leasing Act of 1920;

(2) the U.S. Congress should provide for maximum  
participation and job opportunity for Alaska residents in  
coastal plain exploration and development; and

(3) the U.S. Congress should carefully review any  
legislative or administrative proposal that would diverge  
from established oil and gas law or policy, and should treat  
Alaskans fairly and equally.

Send copies to ...

*file - ANWR - Resolution  
Sam  
my draft that  
I handed around  
Ned  
(Loghill / Swager / Ac  
got it)*

DRAFT

JOINT RESOLUTION

ARCTIC NATIONAL WILDLIFE REFUGE  
EXPLORATION AND DEVELOPMENT

WHEREAS in 1980 the U.S. Congress suspended the operation of the Mineral Leasing Act of 1920 on the coastal plain of the Arctic National Wildlife Refuge to allow for study of management alternatives; and

WHEREAS the coastal plain has the best potential for onshore oil and gas discoveries in the United States; and

WHEREAS exploration and development of hydrocarbons in the Arctic Refuge could reduce the nation's trade deficit, increase energy security, prevent continued erosion of our oil and gas industry, improve the national and state economies, and occur with full environmental protection and safeguards;

BE IT RESOLVED that the Alaska State Legislature finds that the State of Alaska supports opening the coastal plain of the Arctic National Wildlife Refuge to environmentally responsible oil and gas exploration, development, and production.

COPIES of this resolution shall be sent to the Honorable Ronald Reagan, President of the United States; the Honorable George Bush, Vice-President of the United States and President of the Senate; the Honorable Jim Wright, Speaker of the House of Representatives; the Honorable Robert Byrd, Senate Majority Leader; and to members of the Alaska congressional delegation.

PROPOSED RESOLUTION NO. LE-14

URGING THE FEDERAL GOVERNMENT TO ENCOURAGE THE  
PRUDENT USE OF DOMESTIC ENERGY RESOURCES

(Introduced by the Land and Energy Committee)

WHEREAS, in 1986 the United States' reliance on imported oil increased to thirty-seven percent, the highest percentage in seven years, and while the United States' demand for oil increased at a rate of two percent per year, exploration and production capacity has been crippled by predatory pricing on the world oil market; and

WHEREAS, national energy security depends on the development and transportation of domestic oil and gas resources <sup>and ~~oil~~ fuels,</sup> to replace depleted U.S. reserves; and the United States must prepare to develop domestic resources if it is to prevent overwhelming dependence on foreign energy sources in the 21st century; and

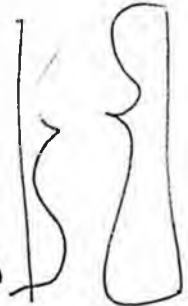
WHEREAS, natural gas consistently provided one-fourth of the United States' energy mix since the late 1960's; and

①

WHEREAS, the nation's current level of dependence on foreign energy sources poses a threat to the national energy security, balance of trade, and the general economic well-being of the United States. This is partly a result of constrained natural gas pipeline capacity in the northeastern U.S., unused capacity in the Western States, and the inability to transport natural gas <sup>and oil</sup> from the North Slope of Alaska to wherever markets may be economically found; and

WHEREAS, a large proportion of the nation's undiscovered oil and gas deposits are likely to be found offshore on the outer continental shelf where exploration and development is risky and capital intensive. The risks in high cost, high potential areas, such as the deep water outer continental shelf and Alaskan arctic waters, are unacceptable because of current world market conditions and federal tax structures;

NOW, THEREFORE, BE IT RESOLVED that the Western Legislative Conference of the Council of State Governments encourages Congress, Administrative and Executive Branch Agencies to develop a consistent federal policy maximizing the efficient, environmentally sound exploration, development, and production of domestic energy resources, including:



③

use  
Approval of exploration, development, and production of oil and gas resources located in the <sup>- Coastal Plain -</sup> (non-wilderness areas) of the Arctic National Wildlife Refuge;

*timely*  
(Expedited) review of open-access pipeline applications under the Federal Energy Regulatory Commission Order 436 with resolution of take or pay issue in the final rule as mandated by the Washington, D.C. Court of Appeals;

Options to make available unused pipeline capacity and encourage new domestic capacity through projects to stimulate enhanced oil recovery;

Action to ensure that foreign gas producers and gas transporters do not undercut domestic producers through government subsidies;

Incentives [and tax credits] to encourage oil and gas exploration and development in high cost areas;

Approval of construction of a gas transportation system to bring Alaska North Slope natural gas to world markets; and

Consider the formation of a Pan American Energy Alliance to provide reciprocal aid among the U.S., Canada, Mexico, Venezuela, and other American nations to counter future disruptions in the world oil market.

*conserve + alternative*

*Where is this?*  
*This may be the answer to Ann*

1 IN THE SENATE

BY COGHILL

2

SENATE BILL NO. 289

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Arctic National Wildlife

7

Refuge Policy Council; and providing for an effective *Sen Fin c*

8

date."

*was added*

9

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

10

\* Section 1. FINDINGS. The legislature finds that

11

(1) state policy supports *opening* ~~the recommendation to the United~~

12

~~States Congress by the Secretary of the United States Department of the~~

13

~~Interior to open the coastal plain of the Arctic National Wildlife Refuge~~

14

to oil and gas exploration, development, and production *under the 1920 act.*

15

*environmentally responsible* (2) the long term effects that Congressional action will have on

16

the citizens of Alaska requires that the state properly monitor the federal

17

public process through a special ad hoc group established for that purpose.

18

\* Sec. 2. ARCTIC NATIONAL WILDLIFE REFUGE POLICY COUNCIL. (a) The

19

Arctic National Wildlife Refuge Policy Council is established and consists

20

of the governor, the commissioner of natural resources, one person ap-

21

pointed by the governor, the president of the senate, the chairman of the

22

senate resources committee, one person appointed by the president of the

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senate, the speaker of the house of representatives, the chairman of the

24

house resources committee, and one person appointed by the speaker of the

25

house of representatives.

26

(b) The Arctic National Wildlife Refuge Policy Council shall seek to

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achieve a consensus in the state on issues relating to the Arctic National

28

Wildlife Refuge and advocate those positions before the Congress and other

29

forums that the council considers desirable.

DRAFT FOUR 5/13/87

ANWR Resolution

WHEREAS, the U.S. Congress has reserved the right to permit further exploration for, and development of, oil and gas within the coastal plain of the Arctic National Wildlife Refuge; and

WHEREAS, the U.S. Department of the Interior, the State of Alaska, and the oil industry consider the coastal plain to have the highest potential for discovery of very large oil and gas accumulations in North America; and

WHEREAS, the nation will benefit from oil and gas exploration and development on the North Slope, because the trade deficit can be reduced, employment created, and energy security enhanced;

WHEREAS, the biological and recreational resources of the Arctic Refuge are highly valuable and protection of them with adequate development safeguards is in the national and Alaskan interest;

WHEREAS, a decision to permit oil and gas exploration, development, and production on the coastal plain will

facilitate the development of other highly prospective lands on the North Slope, extending the economic life of the Trans-Alaska pipeline and reducing tariffs which are expected to balloon in about twenty years; and

WHEREAS, any development of oil and gas in the Arctic National Wildlife Refuge should and will be subject to strict environmental safeguards, including those protecting water, land, air, and important wildlife habitat which supports subsistence resources used by Alaska and Yukon residents; and

WHEREAS, the permanent protection of large areas of Arctic Alaska is assured by park, reserve, and refuge designations encompassing over 35 million acres of federal land in arctic areas;

WHEREAS, land trades with private corporations, as proposed by the Interior Department, need further review and discussion by Alaskans and Congress before a consensus policy can be reached; and

WHEREAS, Congress may consider reducing the State of Alaska's existing entitlement to oil and gas revenues within the Refuge, even though this might violate the Statehood compact, discriminate against Alaska as compared to other states, and reverse decades-long policies of the federal

government regarding the management of public domain lands within the states;

WHEREAS, the State of Alaska is a vast and underserved state with basic needs for education, improvements, and public services, and any reduction in revenues is a serious matter for the state's citizens; and

WHEREAS, any development of coastal plain oil and gas resources can and should be conducted by Alaska corporations and workers, who have the expertise to bring the resources to market; and

WHEREAS, Alaska's oil and gas industry and employment have been severely affected by reduced activity in recent years, with broad implications for the Alaska economy as a whole;

BE IT THEREFORE RESOLVED that the Legislature of the State of Alaska adopts the following consensus points regarding management of the coastal plain of the Arctic National Wildlife Refuge:

1. Under the terms of the Mineral Leasing Act, the United States Congress should promptly open the coastal plain of the Arctic National Refuge to oil exploration, production, and transportation, directing the Department of

Interior to defer any leasing activity in the core caribou calving area for ten years to allow further study;

2. The U.S. Congress should require the protection of ANWR's environmental and subsistence resources, including wildlife habitat, air, and water, in the event of oil and gas development on the coastal plain;

3. In recognition of Alaska's economic situation and the need for long-term economic development in Alaska, the Congress should require that exploration and development activity in the Refuge shall be conducted by Alaska work forces.

BE IT FURTHER RESOLVED that copies of this resolution be sent to President Ronald Reagan, Secretary of the Interior Donald Hodel, Governor Steve Cowper, Senator Ted Stevens, Senator Frank Murkowski, Congressman Don Young, and all other members of the 100th Congress of the United States.



file -  
ANWR - resolution

TOWARD A CONSENSUS ON  
THE ARCTIC NATIONAL WILDLIFE REFUGE

A proposal by the Commonwealth North  
ANWR Committee

1. It is in the best interest of both Alaska and the nation to permit responsible oil and gas exploration and development of the Coastal Plain of ANWR.
  - Nationally, oil and natural gas imports have risen 37% from last year, contributing to the nation's \$60 billion trade deficit and making the U.S. increasingly vulnerable to foreign oil suppliers.
  - ANWR is universally recognized as the most promising onshore oil and gas frontier in North America. At least 26 identified geological structures in ANWR have oil and gas potential which may rival Prudhoe Bay's giant field.
  
2. The Arctic Coastal Plain must be developed, as Prudhoe Bay has been, with utmost care for environmental and wildlife values.
  - Alaskans are rightfully proud of the record established on the North Slope whereby resource development and the care and protection of wildlife, including the Central Arctic Caribou herd, have gone hand in hand.
  
3. Time is of the essence. Congress must be encouraged to act.
  - The Secretary of the Interior, after a 5 year study by the U.S. Fish & Wildlife Service, has recommended to Congress that oil and gas exploration and development be allowed in ANWR's 1002H area (roughly 8% of the 18 million acre Refuge).

*Founding Co-Chairmen • Governor William A. Egan • Governor Walter J. Hickel  
Bertram B. Beneville, President • Richard F. Barnes, Vice President  
David Chatfield, Vice President • Harold Heuze, Vice President  
Robert E. Bulmer, Secretary • Paul Wilcox, Treasurer  
Carl F. Brady, Sr. • Julius J. Brecht • John Cairns • Archbishop Francis Thibault  
Millett Keller • Mayor Tony Knowles • Sue Luford • Jeff Lowentels  
Judge Ralph Moody • George N. Nelson • Malcolm Roberts • William J. Tolun  
Frank G. Turpin • Connie Yoshimura*

(2)

- Once Congress gives the "go-ahead" and if oil is discovered, it will take approximately 10 years to produce ANWR oil.
4. Exchanges of public or privately owned inholdings in Federal Conservation System Units for leases in ANWR should be encouraged as part of an open, competitive bidding process.
  5. The state should encourage a high level of Alaska hire and a fair wage during ANWR exploration and development.
  6. The State of Alaska, with the Governor taking the lead, must mount a major educational campaign to inform Congress and the American people about ANWR.
    - The citizens of the State should be encouraged to participate in this campaign by rallying support among their friends and contacts across the nation.

RESOLUTION: Be it resolved that Commonwealth North will actively solicit support for this consensus from the Governor of Alaska, the state's congressional delegation, the state legislature, concerned interest groups and all citizens of the state.

The above resolution was approved by the Commonwealth North Board of Directors on June 2, 1987.

ANWR -  
resolution

June 11, 1987

Mr. V. M. Withington  
2840 Pelican Drive  
Anchorage, AK 99515

Dear Mr. Withington:

I am writing on behalf of Governor Cowper in response to your letter of June 4 regarding the exploration and development of ANWR.

Unfortunately, you have been seriously misinformed. I was personally involved in working with both the Senate and House Resources Committee in support of House Joint Resolution 7. With exception of the language pertaining to land exchanges, we were very supportive of the resolution.

Since your source of information is apparently not reliable, I would strongly encourage you to contact Representative Sam Cotton regarding the facts in this matter. You can also contact Ms. Becky Gay, Executive President of the Resource Development Council, or Mr. Al Fleetwood, Chairman of the Alaska Energy Coalition, who I worked closely with in support of this legislation during the final days of the legislative session.

Sincerely,

Rod Swope  
Special Staff Assistant  
to the Governor

cc: Representative Sam Cotton

Becky Gay  
Resource Development Council

Al Fleetwood  
Alaska Energy Coalition

RS:MW:tb

1016

June 4, 1987

V.M. Withington  
2840 Pelican Dr  
Anchorage, Alaska 99515

Steve Cowper, Governor  
Office of the Governor  
Third Floor, State Capital  
P.O. Box A  
Juneau, Alaska 99811

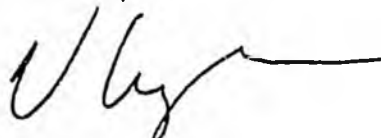
RECEIVED  
JUN 08 1987  
GOVERNOR'S OFFICE

Dear Steve Cowper,

I understand that Senate passed resolutions supporting the exploration and development of ANWR have been (at your direction) held up in the House by Sam Cotton's House Resource Committee. I am sure that you must realize that presenting anything less than a united front on this subject to the U.S. Congress only serves to delay if not jeopardies the opening of ANWR to oil and gas exploration.

I have written you in the past promoting economic development in the state. Those resolutions promote broadening Alaska's economic base. I strongly urge you to rethink your position and promote the passage of the Senate passed resolutions supporting the exploration and development of ANWR.

Sincerely



V.M. Withington

From: GASCCAB --JDCVM1  
To: GASCMRW --JDCVM1 Michele Watts

Date and time 06/16/87 17:02:43

From: Lynn Bartlett  
Office of the Governor  
465-3500  
Subject: SJR-7: Pierce and ANWR

Rod-

At today's coalition meeting, Al Fleetwood read the letter you wrote to the guy (Wimpsey?) re the Governor blocking passage of SJR-7.

Drew Pierce was attending the meeting, and in the course of the discussion following the letter reading she said that the source of the rumor about the Governor's opposition to any ANWR resolution passage was Sam Cotten who told the House Resources Committee in the last hours of the session that the "third floor" was not interested in such a resolution.

I told her that you had worked with Cotten and his staff on getting an acceptable resolution passed, that we were opposed to the land swap concept, and that Cotten had told the coalition that Coghill refused Cotten's request to delete that section.

So the rumor marches on.

Also, Al Fleetwood wants to invite you officially to talk to the group. He said he would be happy to send you a letter if you like. ????

I'll send you a separate message on today's meeting, which was primarily a report by Roger Herrera on his Washington DC trip.

Ben

cc: GASCTMC --JDCVM1  
Lynn

GASCCLG --JDCVM1

*Ned,  
Also, here's a copy of  
message from Ben Harding in  
our Wash. D.C. office relating  
to this issue.  
Rod*

Ned Farquhar  
c/o J. Katz  
Governor's Office

November 16, 1987

Staffing Levels for  
ADEC's North Slope  
District Office

Larry Dietrick, Director  
Division of Environmental Quality

As requested following are estimates of the Department's current and needed spending levels for North Slope activities. The North Slope is generally defined as the area north of the Brooks Range. Cost estimates in each category includes personnel, rotational travel, office supplies, sampling equipment, ground and air transportation, maintenance of a field office at Prudhoe Bay and training. Costs for legal support or clean-ups are not included. The needed funding level category is an estimate of what is necessary to carry out our real workload. As shown we currently have about half of the resources actually needed to carry out our workload under existing statutes.

The Needed Funding Level does not include resources necessary to conduct additional work for ANWR.

Current Funding Level

<u>Staff</u>	<u>Total Estimated Dollar Cost</u>
4.0 FTE Professional Staff	\$315,000
<u>.5</u>	
4.5 Total Staff	

Needed Funding Level

<u>Staff</u>	<u>Total Estimated Dollar Cost</u>
8.0 FTE Professional Staff	\$800,000
<u>2.0 Clerical</u>	
10.0 Total Staff	

Please contact me if you have any questions.

The Division of Environmental Quality (DEQ) has the broadest responsibilities for protection of public health and the environment. It is responsible for environmental programs ranging from disposal of sewage to regulation of toxic substances. These are the most technically complex programs in the agency. The sophistication of environmental programs dealing with hazardous waste, site cleanup, toxics, and complex chemicals in drinking water has increased tremendously over the last five years. Moreover, increased public awareness that Alaska has real environmental problems has led to increased demands on the agency.

The Division as a whole is extremely strapped. The staff available is far from adequate to carry out all responsibilities. One acute example is the solid waste program, solely a state responsibility, which is supposed to permit and oversee all solid waste disposal facilities in the state. It has the equivalent of six personnel statewide. As a result, only a small percentage of sites are getting the kind of attention they should. For others, disposal practices today will likely create sites that will require cleanup in the future, with associated drinking water and groundwater problems.

Another example is emergency response capability. The department has never had funding available to develop an emergency response capability. Instead, emergency response is accomplished by taking personnel from other programs.

Following is a brief discussion of the key needs.

Douglas Laboratory - The Douglas Laboratory analyzes wastes and suspected hazardous substances for all DEC programs. The laboratory needs additional technical and support staff to perform the needed analyses quickly enough for the agency to address threats to the public health and the environment. Funds necessary to properly train staff are also essential. During the last year, the laboratory has designed and implemented quality assurance and safety programs to ensure that data are reliable and employees are safe. These essential tasks have taken resources from analytic work.

The laboratory is housed in a grossly substandard facility originally constructed in the 1930's to serve as a school. The move to this facility ten years ago was intended to be temporary. Physical space, layout, and ventilation are all inadequate. Structural problems with the building pose long-term liability threats to the state, as the safety of the building is

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

# MEMORANDUM

# State of Alaska

TO: Jay Hogan  
Director  
Division of Budget Review

DATE: September 21, 1987

FILE NO:

TELEPHONE NO: 465-2600

FROM: Dennis D. Kelso  
Commissioner  
Department of Environmental  
Conservation

SUBJECT: Agency Budget Issues  
Memorandum (A-4)

## I. Agency Goal

3  
The Department of Environmental Conservation (DEC) is a technical and enforcement agency. Our fundamental goals are to protect the public health and the environment by preventing or responding to air, land or water pollution; assuring wholesome fish, meat, and dairy products for consumers; enforcing basic standards of sanitation for Alaskans and tourists in public facilities; and providing technical and financial assistance to municipalities and communities for water, sewer and solid waste facilities. The department is responsible for both fundamental health programs and the complex regulatory needs associated with advanced industrial development.

My approach is to emphasize a positive working relationship with regulated communities and the public while insisting on a technically competent approach to fulfilling our mandate. I believe that an effective DEC is essential to sound development in Alaska, so that needed permitting may be conducted in a timely fashion and so that the public may be confident that environmental impacts will be properly managed.

## II. Key Policy Issues Facing the Department--Short-Term

Alaska has strong environmental and public health statutes and a strong commitment to providing sanitation facilities. The key challenge facing this department is to balance the job we are expected to do with the resources available to do it. Most programs are inadequately funded to uphold the legal responsibilities set out in the statutes. This has serious repercussions for this agency and the administration from policy, liability, and management perspectives.

This memorandum lays out the major areas of need for the agency.

Structural  
long-term liability  
Division of Environmental Quality building

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The laboratory is housed in a grossly substandard facility originally constructed in the 1930's to serve as a school. The move to this facility ten years ago was intended to be temporary. Physical space, layout, and ventilation are all inadequate. Structural problems with the building pose long-term liability threats to the state, as the safety of the building is

in question. It is essential that the laboratory be moved from the present facility.

A capital request of about \$5.8 million will be proposed for a new laboratory.

Air Quality - We are responsible for permitting and monitoring sources of air pollution, monitoring ambient air quality, and developing strategies to address areas where federal standards are not met. A critical need is to develop a program to manage large scale burning to prevent health effects from smoke inhalation. Current staffing levels do not allow inspections of all stationary sources each year, issuance of permits within statutory time limits, compliance actions for all facilities not meeting standards, control of toxic air contaminants, or development of a management system for emissions from areawide burning.

Hazardous Waste - DEC currently operates under a cooperative agreement with EPA; the state does not yet have federal approval to manage this program. Additional demands are placed on the agency for FY 89 by the statutory requirement that the state assume the federal hazardous waste program and by the need for additional effort to find sites in-state for hazardous waste management facilities. Moreover, if the state is truly to assume responsibility for the program, a greater inspection and enforcement presence will be needed. Also, industry's need to obtain permits would not be met for five to ten years at the continuation level. There will likely also be increased needs for assistance to the regulated community.

Emergency Response - DEC has never had a budget for staff to respond to emergencies like the Cook Inlet oil spill and the chemical release from the tank car at Crown Point. Time spent in performing response activities comes from programs budgeted for other purposes. An emergency response capability should be planned and budgeted for. These responsibilities simply cannot be sandwiched in between and taken from all other agency functions. The result is inadequate response and the exposure of Alaskans to needless risks.

In addition, it will be necessary to request in the operating budget continuation of the reappropriation for the statewide emergency response commission to coordinate an emergency planning function between the state, local, and federal government levels; citizen groups; and affected industrial facilities.

Drinking Water - Safe drinking water is essential to public health. In Alaska, responsibility for ensuring that providers of drinking water supply pure water is performed by the state. (In other states, this function rests with county health departments.) Alaska has more than 1600 water systems which require monitoring, proper operation, and safe design and construction. Many are in remote areas and operated by employees with minimal training. Alaska has the lowest rate of compliance with drinking water requirements in the nation.

We are only able to ensure that a portion of the monitoring needed to ensure safe water is done. Critical parameters simply have not received the necessary attention. Moreover, essential activities are plainly inadequate: surveys of drinking water systems to ensure integrity, review of plans for drinking water systems, follow-up to contaminated systems, training for operators, and technical assistance. Some systems are not addressed at all. The discrepancy between the needed level of effort and the state's capability at the continuation level will increase with the implementation of new standards for toxic compounds established under the federal Safe Drinking Water Act.

Oil Pollution Control - The oil pollution control program is responsible for ensuring that facilities storing or transporting large quantities of petroleum products have adequate facilities, plans to minimize the potential for oil spills and to respond to them when they do occur, and adequate resources to address spills. The program also addresses underground storage tanks in concert with the federal program. Originally, the program funding was adequate to meet the needs. However, funding has eroded by about fifty percent over the last eight years, and the number of facilities affected has increased. This has resulted in inadequate staffing to review oil spill contingency plans and to perform needed field work. (Lack of staff directly contributed to our ability to respond to the problem at the MAPCO refinery).

Solid Waste - The level of effort devoted to the solid waste program is far from what is required to provide sound disposal methods and to avoid creating environmental and health problems in the future. Of particular concern are the serious inadequacies in rural Alaska, increased demands from the disposal of hazardous materials cleaned up as a result of Superfund or other

site cleanups, and the workload that will result from recently-adopted regulations addressing the disposal of drilling wastes. There is no federal counterpart program.

Site Investigation and Cleanup - A large number of past improper disposal sites have been identified over the last two years. The department has addressed some of these--such as the Alaska Gold site in Nome and the Childs Equipment site in Deadhorse--by working with the owner or another party to achieve a cleanup. This approach saves the state considerable expense over the long term, because the state does not have to directly pay for remedial action and then attempt to recover costs. However, it requires substantial staff time to oversee or conduct any needed site investigations, identify needed cleanup actions, negotiate an agreement with the responsible party and oversee the cleanup operation. (At times, site investigations can be paid using Superfund dollars.) At least 120 known sites cannot be quickly addressed with existing staff. Roughly 40 new sites are being identified each year. Some sites receive considerable public concern. Staff time, except to the limited extent associated with the Oil and Hazardous Substances Release Response Fund, has never been budgeted for this purpose

Quality Assurance - As the complexity of the agency's technical responsibilities has grown, a need for an in-house capability to address field sampling protocols and methods has become clear. This must be budgeted so that field sampling can achieve the results needed to address environmental and public health problems.

Water Pollution Control - DEC's programs to control water pollution from a variety of sources have limitations. We are not now able to work with the timber industry in monitoring and correcting non-point source problems. Disposal of sewage from homes in areas without sewer systems is being addressed to varying degrees around the state. In some areas, such as Ketchikan and Homer, improper sewage disposal has resulted in surface contamination.

Placer Mining - The Governor has requested a briefing on our progress in addressing his seven point plan for placer mining. His policy decisions in response to that briefing will determine what budget will be needed.

STAFF...  
A program that would meet SOA's recommended minimum...  
the Division of Environmental Health requires...

The Division of Environmental Health (DEH) is responsible for inspection programs for the dairy, meat, seafood, and shellfish industries. It inspects public facilities and implements the pesticide program. The sanitation and shellfish programs are of most concern because of acute shortfall in program capacity.

Sanitation in public facilities - The sanitation program is responsible for inspecting public facilities to ensure that public health standards are met. In the Fairbanks area and the Matanuska Susitna Borough, inspection levels have declined to one inspection every two years. This is well below the minimum needed to ensure that public health can be protected. This has serious implications for the Alaskan public, as well as for the tourism industry.

The rest of the State falls below minimum inspection rates with approximately one inspection per year. In order to achieve even this level of inspection the sanitation component has excluded 1259 facilities from the regular inspection program and responds only in case of complaints. In another 526 public accommodations, the statutorily required inspection and permit processes are simply not implemented.

For purposes of comparison, the Municipality of Anchorage and the State of California inspect food service facilities four times per year and the State of Washington three to four times per year. The federal Food and Drug Administration (FDA) recommends a minimum of two inspections per year. The greater effectiveness of higher inspection rates is clearly demonstrated by contrasting the results of the state's program with those of the Municipality of Anchorage. In a city with a population base of 250,000 people and 1780 public facilities, there were no disease outbreaks in the last year. By contrast, in the Fairbanks and Matanuska-Susitna Borough areas, there were three disease outbreaks in tour groups, an outbreak in a pool/spa facility and one in a day care facility. The Municipality of Anchorage has 197 facilities per inspector in contrast to the state which has 435 per inspector and a greater geographical area to cover. The municipality spends \$604,000 per year to conduct its inspection program versus the \$920,000 the state expends for about 5000 facilities.

assistance - ...  
constructed - may be needed to keep community systems  
functioning - program that would meet FDA's recommended minimum  
dollars. inspection level of twice per year would require nine

new positions at approximately \$531,000. For the State to reach the more effective level of quarterly inspections, 15 new positions would be required at \$884,000 per year.

Support of the Shellfish Industry - The shellfish industry is experiencing major growth. Under federal Food and Drug Administration regulations, shellfish cannot be sold in interstate commerce unless the state has a federally approved program for shellfish. This requires review and certification of harvest areas, supervision of the catch, and testing of product for paralytic shellfish poisoning (PSP.) Since 1981, the number of certified harvest areas has increased from 5 to 13. An additional 38 areas have been proposed and are in some stage of review. The department has only one position for all work associated with shellfish. The workload already exceeds the capacity of this one position. The federal program review confirms that the existing staff has reached full capacity. Additional resources are essential to allow more areas to be certified and eligible to participate in interstate commerce, thereby enabling this industry to develop.

In addition, growers have expressed strong interest in obtaining more laboratory facilities to test for paralytic shellfish poisoning (PSP). This is required before shellfish can be sold. The department has determined that it is possible to certify private laboratories for this purpose. The certification process would require limited additional resources.

C. Division of Facility Construction and Operation -

The Division provides technical and financial management of capital grants to communities for sanitation projects. Specialized assistance is available for villages. (The capital budget is addressed in the attachment.)

Core Programs - For the Division to accomplish its core program, funds are needed to allow staff working with rural villages to travel; timely auditing of projects and payment to communities; timely award of funds for projects, particularly to the Municipality of Anchorage; and timely implementation of the revolving loan fund.

Rural Water and Wastewater System Management - More assistance in managing projects after they are constructed may be needed to keep community systems functioning during the decline in available state dollars. This issue is being discussed at the Economic

Dislocation Task Force. Utility management assistance to communities would help them effectively run their utilities to reduce the potential for system failure resulting from lack of resources like fuel oil. This would ultimately save the state money. We will pursue this through the task force.

The Governor has asked that DEC determine what would be required to provide maintenance assistance to rural water and wastewater systems and to protect the state's investment. Several elements are needed to accomplish this on a statewide basis. The Legislature has also asked that we assess the need for remote maintenance workers statewide. This report is due on January 1. I would anticipate that the report, when completed, could result in a proposal for additional funding.

D. Administrative Services/Commissioner's Office

Budget reductions and new statutory responsibilities during recent years have led to erosion of administrative functions and the department's ability to inform the public. In order to support field operations and new programs, these functions have been cut so severely that the department's overall performance is impaired. In addition, funds are not available to address safety of our employees as they work in potentially risky areas as with hazardous materials, toxic substances, and site cleanup.

Administrative and Clerical Support - Two issues exist for administrative and support services within the agency. First is the need to budget administrative support commensurate with increases in programs. Second is the need to budget for clerical support commensurate with the needs of the professional staff. The urgency of these needs reflects prolonged losses from successive budget reductions.

Public Information - The Department addresses a large number of issues and implements a large number of requirements that interest and affect the public. Only a very low level of funding remains for the public information office. This has considerable effects on the ability of the agency to design and implement workable public participation programs and to help the public understand the issues affecting them.

Safety - The Department has no organized safety program, even though activities undertaken by the employees, particularly in field investigations and in working with hazardous materials, may pose substantial risks. The State also has increased responsibility to

employees, as a result of OSHA regulations and requirements under the federal Superfund bill. It is essential that a safety program be designed and implemented to minimize both risks to employees and liability of the State.

Underfunding of Personnel Costs - The budget process over the last several years has not allowed the full costs of authorized positions to be budgeted. This is due in large part to the failure to budget increases provided in union contracts. In all divisions, this has created chronic "underfunding." Needed positions are left vacant for extended periods to adjust for this shortfall. It would be advisable for your office to address this on a statewide basis.

### III. Long Term Key Policy Issues Facing the Department -

- A. Mariculture - The State's approach to mariculture could have a major impact on the budget. The department is working with the fisheries mini-cabinet on this issue. The development of mariculture would have substantial effects on the seafood program. A site certification process similar to that employed for shellfish growing areas would likely be needed. Monitoring of chemicals used in operations would be needed as would a regulatory approach to discharges.
- B. Pesticides - The state is reviewing its pesticide program. New regulations will be proposed this fall. There is increasing public awareness of issues related to pesticide application and use. Additional effort may be needed in the future for this program.
- C. Indoor Air Quality - Research is increasingly demonstrating that indoor air quality may have greater impacts on public health than previously thought. Especially in cold climates, where buildings are well sealed and insulated, levels of carbon monoxide and other pollutants may reach unacceptable levels. There is no state program to address this issue at present, but initiatives may be appropriate in the future.
- D. Groundwater - Groundwater is a crucial water resource that has never received the kind of attention from environmental agencies that surface water has. National initiatives are being proposed for groundwater. Moreover, experience in Alaska is revealing that current programs do not provide a full measure of protection, as well as administrative

In FY 88, the State will prepare a strategy on how to address groundwater issues, based on analyses of current problems and the present regulatory structure. The approach will be to rely upon existing authorities to maximum extent. This may have implications for future budget years.

- E. Risk Assessment - Increasingly, decisions on how to manage environmental problems are incorporating consideration of levels of risk actually posed to the public by various alternatives. The state has little current technical capacity to participate in risk assessments. This capacity may need to be developed in the future.
- F. Hazardous Waste Disposal - The department is continuing with its process to identify possible sites for hazardous waste facilities. If a decision is made for the state to select and then operate a site, considerably more funds will be needed.
- G. Assistance to Rural Sanitation Projects - As mentioned briefly under short term issues, the role of the state in providing technical operational and management assistance to small communities with sanitation projects is an important issue. Experience has shown that projects without maintenance assistance experience catastrophic failures that may destroy the state's investment. Experience is also showing that management assistance on how to run facilities as utilities can result in better operational resources. A policy decision on the role the state should play in these areas, to protect its multi-million dollar investment and the public, is needed.
- H. Emergency Response Planning for Hazardous Materials Spills - In FY 88, the State will begin to address the requirements in the federal Superfund bill for local planning for emergency response. This may require additional resources in the future.
- I. Quality Assurance - Increasing attention is being paid nationally to the accuracy of data generated by environmental agencies. States and EPA are reviewing and improving quality assurance and quality control procedures. The State has begun to address this issue. Further enhancements and improvements will be needed in future years.

Administrative Support  
Legal Assistance - Legal assistance available to the Department for legal actions, as well as administrative Officer

and regulatory proceedings, must be adequate to support agency actions. This issue needs to be addressed.

- K. Arctic National Wildlife Refuge - Additional resources would be needed to address any detailed environmental review on development associated with this area.

IV. Approximate Additional Funding Needed for Core Programs

A. Division of Environmental Quality

Douglas Laboratory Operations	750.0	
Quality Assurance	200.0	
Air Quality Control & Monitoring	1,400.0	
Hazardous Waste -		
Facility Siting and Regulation	860.0	
Emergency Response Capability	484.0	
Emergency Response Commission	94.0	
Drinking Water	1,200.0	
Oil Pollution Control	550.0	
Solid Waste	750.0	
Site Investigation/Cleanup	580.0	
Water Pollution Control	1,500.0	
Placer Mining	**	
Clerical and Contractual	500.0	
Subtotal		8,868,000

B. Division of Environmental Health

Environmental Sanitation	536.0	
Shellfish Program	68.0	
Subtotal		604,000

C. Facility Construction and Operation

Core Program Support	122.0	
Operational Assistance to Systems	**	
Subtotal		122,000

D. Administrative Services/Commissioner's Office

Administrative Support (Fiscal)	60.0	
Clerical Support	40.0	
Public Information	50.0	
Safety Officer	80.0	

Jay Hogan

-12-

September 21, 1987

Subtotal	230,000
TOTAL	9,824,000

\*\* Policy decisions to be made in other forums will prescribe any budget needs here.

Attachments

cc: Janet Clarke  
Amy D. Kyle  
Division Directors

DDK/ADK/pc/mt  
a4/a3

Advantage:

... percent grant program includes:

## ATTACHMENT

## CAPITAL BUDGET ISSUES

Three issues should be considered in the development of the capital budget and the appropriation process for the Facility Construction and Operation Division:

- ° Use of the Alaska Department of Environmental Conservation (DEC) grant programs as the funding mechanism for sanitation projects,
- ° Matching federal funds for the Alaska Clean Water Fund, and
- ° Funding for the Capital Improvement Project component in the operating budget.

Use of DEC grant programs -

The primary funding avenues to send state capital monies to local governments to meet their sanitation needs are:

1. Direct grants administered by the Department of Administration (AS 37.05).
2. Fifty percent Matching Construction Grants Program administered by DEC (AS 46.03).
3. Village Safe Water Program administered by DEC (AS 46.07).

During the last six years, \$431,000,000 in State money has been appropriated for water, sewer, and solid waste projects. Approximately eighty percent has been in the form of direct grants (AS 37.05) and only twenty percent has been administered by DEC.

At a time when state revenues have declined, it is necessary for state capital dollars to be used to the greatest advantage of both the State and local governments. To fund sanitation utility development and to stretch the state's dollars and assure attention to the most pressing needs, the state should use the fifty percent Matching Grants and Village Safe Water programs.

Advantages of the fifty percent grant program include:

- °Local participation in financing;
- °Technical assistance;
- °Payment scheduling;
- °Project auditing;
- °Local financial planning.

Advantages and services of the Village Safe Water Program include:

- °Project planning;
- °Technical assistance;
- °Varying construction techniques (force account labor);
- °Negotiating agreements;
- °Financial accountability;

This approach is consistent with past policy of Governor Cowper. This will require local financial participation in projects (fifty percent Matching Grants Program), or if the community is not financially capable of paying a percentage, that the grant project go through a systematic process with direct assistance from VSW Program staff.

#### b. Alaska Clean Water Fund

With passage of SB 167, the Alaska Clean Water Fund was established. This revolving loan fund will be capitalized from both federal and State sources. The federal government is making money available to Alaska; however, the state must provide twenty percent match. The Department's FY 89 capital budget will contain a request for this necessary match. With state match, the fund could be as much as \$83 million over an eight-year period.

#### c. CIP Component revenue

The capital budget request will propose necessary revenue to fund the CIP component in the Facility Construction and Operation Division. This division administers both the fifty percent Matching Grants Program and the Village Safe Water Program. The FY 89 capital budget proposal will request monies that will be the revenue source for the component.

DATE: January 7, 1987

Mr. Robert Grogan  
Associate Director  
Division of Conservation  
Coordination  
Office of Management  
and Budget

FILE NO

TELEPHONE NO. 485-4100

SUBJECT: 1987 Research

FROM: Don W. Collinsworth  
Commissioner  
Department of Fish and Game

As part of the State's initiative on a positive energy policy and gas development in the ANWR 1002 area, the Governor has requested that the Department determine if there is sufficient information on the effects of oil and gas development on fish and wildlife resources in ANWR for the state to recommend appropriate use of the alternatives in the draft 1002 report. The Department has expressed particular interest in the area of water, the effect of oil and gas development on use of the 1002 area as a water source by the Porcupine caribou herd, and the potential effects on the fish and wildlife resources in the area which were adversely impacted.

The Department has completed an initial review of the available information on the effects of oil and gas development on fish and wildlife resources in the 1002 area. This review has been completed and a report is being prepared. The Department is currently conducting a study of the effects of oil and gas development on the fish and wildlife resources in the 1002 area. The Department is currently conducting a study of the effects of oil and gas development on the fish and wildlife resources in the 1002 area. The Department is currently conducting a study of the effects of oil and gas development on the fish and wildlife resources in the 1002 area. The Department is currently conducting a study of the effects of oil and gas development on the fish and wildlife resources in the 1002 area.

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Robert Grogan

January 7, 1987

With regard to the more subtle threat, it is the professional judgement of staff members based on experience with caribou in general and with the Central Arctic Herd (CAH) in the Prudhoe Bay region of Alaska in particular, that development of the four mining areas will result in the displacement of caribou herds to other areas, and that such displacement may eventually result in a decline in the RCH. Moreover, a growing 1986 workshop organized by the U.S. Fish and Wildlife Service on the topic of the potential effects of oil development as described in ANWR the same conclusion was reached by 11 of the 14 agency and industry caribou biologists invited to the workshop. This conclusion was reached by reference to data from other research. To be most conclusive, a research program should ideally be conducted on the RCH herds as the focus of national debate. One of the most appropriate ways to answer the question of what would happen to the RCH core caribou area as developed oil and gas development is proposed and to monitor the effects, however, that may result is the development of a research program designed to prevent, or at least delay, a decline in the population of the RCH over time. It is for this reason that I recommend that the North Slope Herd, especially the RCH, be given the highest priority in the RCH.

The Department of the Interior, Bureau of Land Management, and the Department of the Interior, Bureau of Reclamation, should coordinate a research program on the RCH herds, including the RCH core caribou area, to determine the effects of development on the RCH herds, and to develop a research program to prevent, or at least delay, a decline in the population of the RCH over time.

With regard to the more subtle threat, it is the professional judgement of staff members based on experience with caribou in general and with the Central Arctic Herd (CAH) in the Prudhoe Bay region of Alaska in particular, that development of the four mining areas will result in the displacement of caribou herds to other areas, and that such displacement may eventually result in a decline in the RCH. Moreover, a growing 1986 workshop organized by the U.S. Fish and Wildlife Service on the topic of the potential effects of oil development as described in ANWR the same conclusion was reached by 11 of the 14 agency and industry caribou biologists invited to the workshop. This conclusion was reached by reference to data from other research. To be most conclusive, a research program should ideally be conducted on the RCH herds as the focus of national debate. One of the most appropriate ways to answer the question of what would happen to the RCH core caribou area as developed oil and gas development is proposed and to monitor the effects, however, that may result is the development of a research program designed to prevent, or at least delay, a decline in the population of the RCH over time. It is for this reason that I recommend that the North Slope Herd, especially the RCH, be given the highest priority in the RCH.

In the discussion that follows, a research program is outlined that should provide the most realistic level of





Robert Grogan

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January 7, 1987

I. Mammography

... mammography ...  
... weacher

Budget: 5 years, \$225,000

II. Mammography: Core vs. Peripheral Salving

A. Areas and Methods of Salving

... areas and methods of salving ...  
... peripheral salving ...  
... 3-5 years ...

B. Areas and Methods of Salving

... areas and methods of salving ...  
... peripheral salving ...

Budget: 5 years, \$100,000

III. Mammography: Core vs. Peripheral Salving

A. Areas and Methods of Salving

... areas and methods of salving ...  
... peripheral salving ...

B. Areas and Methods of Salving

... areas and methods of salving ...  
... peripheral salving ...  
... 3-5 years ...

Budget: 5 years, \$100,000

IV. Mammography: Core vs. Peripheral Salving

... areas and methods of salving ...  
... peripheral salving ...  
... areas



Robert Green

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January 7, 1937

Dear Mr. Green: I am pleased to hear that you  
are still in the office. I hope you are well.  
I am sure you are.

I am sure you are well. I hope you are  
well. I am sure you are well.

I am sure you are well. I hope you are  
well. I am sure you are well.

I am sure you are well. I hope you are  
well. I am sure you are well.

TESTIMONY  
OF  
TRUSTEES FOR ALASKA,  
NATURAL RESOURCES DEFENSE COUNCIL  
AND  
NATIONAL WILDLIFE FEDERATION

Before the  
Subcommittee on Water and Power Resources  
Committee on Interior and Insular Affairs  
U.S. House of Representatives  
on  
Environmental Issues Related to  
Oil and Gas Development Activities on  
Alaska's North Slope

October 8, 1987

Prepared by:

Robert W. Adler, Executive Director  
Trustees for Alaska

Lisa Speer, Senior Project Scientist  
Natural Resources Defense Council