

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4961 HRES HB 212 - HB 226

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At this point we seem to be in the position of not being able to get approval from DPDP until DEC issues to public notice and issues a Certificate of Reasonable Assurance that the project will be in compliance with Section 401 of the Federal Water Pollution Control Act even though this is stipulated by the Corps as a general condition of the permit.

We next received a letter from the Corps dated February 21, 1980 (Exhibit X) and relaying to us a letter they received from NMFS and indicating they had made two on-site inspections of the area to be covered by this application. They state, "As a result of these investigations, we believe that the proposed action will not significantly harm marine, estuarine, or anadromous fisheries resources if the following stipulations are incorporated into the permit:

1. Log transfer methods should be non violent. This will reduce the amount of bark debris knocked off in the transfer process.
2. This permit shall expire in five years.
3. A sufficient amount of clean shot rock shall be placed over all fill material so that erosion and leaching of fill material will not occur".

We were not copied on this letter, necessitating the Corps send us a copy and request our comments to NMFS who must then contact the Corps of our agreement. Also, had this agency read either the original or second application for this facility they, too, would have noted it was specifically for a lift-off (non violent) type and was to be filled entirely by shot rock. They also deemed a five year limitation on the permit without any explanation of the necessity or inquiry of the applicant.

Also on February 21, 1980 we wrote DPDP (Exhibit Y) agreeing to a non violent dump, even though this was the intention from the original application for this permit on April 26, 1977.

On March 3, 1980 we received from the DEC by Certified Mail, Return Receipt Requested (Exhibit Z) a cover letter transmitting to us a State of Alaska Department of Environmental Conservation Certificate of Reasonable Assurance. This document states the log transfer facility consisting of 1,000 cubic yards of shot rock fill and an A-frame lift-off device will be constructed along with other facilities. It then stipulates the following provisions:

1. A spill prevention control and counter measures plan in accordance with 40 CFR 112.4(c)*has been prepared by the applicant and submitted to ADEC.



OVERKILL

-8-

2. A non-violent log transfer facility is employed.
3. A clean shot rock cap is placed over all fill material to prevent surface erosion.
4. ADEC 401 certification expires in five (5) years.

Copies of this letter were sent to Corps, EPA, ADL(DNR), ADF&G, NMFS, USF&WS, SERO(?), OCM and State Clearinghouse.

Although we do not understand why a spill prevention control and counter-measure plan is needed for approval of this permit we will submit one to DEC because to argue it would be time consuming and it will be required by the Coast Guard, FS and EPA prior to fuel being stored in the area. We will agree to a non violent log transfer as stipulated on both plans and description of our permits since April 26, 1977 and we will agree to a clean shot rock cap because all of the fill material will be clean shot rock as stated in application. We are still curious as to why so many agencies (or is it really one agency with a lot of shadows?) insist on a five-year limit without inquiring of us how long we will need the facility. In this case, we will most likely agree to the five year stipulation, only so we can commence the project and hope for an extension if we need the facility longer.

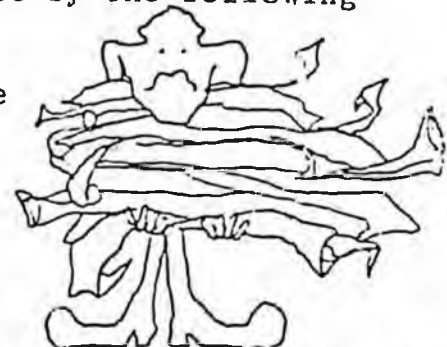
On March 3, 1980 we also received a copy of a letter from DPDP to the Corps (Exhibit AA) informing them they had received a Certificate of Reasonable Assurance from DEC stating that the subject project will comply with the requirements of Section 401 of the Federal Water Pollution Control Act. They further state they have now completed their ACMP review of the subject proposal and find it consistent with ACMP. Copies of this letter were sent to OCM, two recipients at ADF&G, DEC and Commissioner McAnerney of Regional Affairs (CRA).

As of this writing, on March 10, 1980, we do not have our permit and we do not have a DNR tideland permit. Our construction season has started and our construction people are on the ground constructing the road and developing quarry sites and are badly in need of this permit to properly schedule their work.

Neets Bay 12, NPACO-RF-P, No. 071-OYD-2-790398, State I. D. No. FD280-79121111FP and ADL No. 100073 has been reviewed by two FS multi-discipline team reviews including participants from other State and Federal agencies, been included within two Environmental Impact Reports in which all agencies could (and most did) make comments, as well as any private citizen and has now been reviewed by, or copied with, some correspondence by the following agencies in relation to this application:

FS

U.S. Forest Service



Corps	Corps of Engineers, Dept. of Army
EPA	U.S. Environmental Protection Agency
DNR	Alaska Department of Natural Resources
DPDP	Office of the Governor, Division of Policy Development and Planning
ADF&G	Alaska Department of Fish & Game
DEC	Alaska Department of Environmental Conservation
ADL	Alaska Department of Law
CRA	Commissioner of Regional Affairs State Clearinghouse
OCM	Alaska Department of Coastal Management
SERO	Unable to identify
NMFS	National Marine Fisheries Service
USF&WS	U.S. Fish & Wildlife Service

The question needing an answer is, why so much duplication, delay and totally unnecessary paperwork is required for a routine non-controversial permit such as this? Is it really necessary for nine State Departments or Agencies and probably twice that number of State employees along with five Federal Agencies and their employees to review, make comments and shuffle the paper? This chronology illustrates how rapidly the bureaucracy has come upon us when one reviews the rather direct route to the permit received in 1977 as compared to the frightening growth and duplication that has sprung up by 1979, even when applied to an area for which there had been a previous permit issued.

We do not fault the Corps, as their practice is to be helpful in notifying the applicants of agency input, but their regulations force them to respond to each and every comment, no matter how duplicative, until all participants are satisfied. We also think that if all agencies would read and analyze the General Conditions an applicant must consent to in order to get a permit they would realize many of their concerns are already well protected and much of their review and comments unnecessary. Attached is a current copy of the Corps General Conditions for a permit, for your information.

We sincerely feel this process is non productive, wasteful, inflationary and in need of review, particularly in respect to the State's duplicative reviews. It is only for this purpose this review has been written and circulated. If it accomplishes some reduction in what we consider a decided OVERKILL the effort will have been worthwhile.



I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit, and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-503) (36 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implemental plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim to damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

This permit does not authorize the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

p. That this permit does not authorize the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee transfers his interests herein to a third party pursuant to General Condition 1 hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

II. Special Conditions: Here list conditions relating specifically to the proposed structure or work authorized by this permit.

The following Special Conditions will be applicable when appropriate:

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for _____ years from the date of issuance of this permit (ten years unless otherwise indicated);

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published in 40 CFR 230.

b. That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

c. That the fill created by the discharge will be properly maintained to prevent erosion and other non point sources of pollution; and

d. That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

DUMPING OF DREDGED MATERIAL INTO OCEAN WATERS:

a. That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220.228.

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

EXHIBITS INCLUDED*

Exhibit A	Application to Corps	4/26/77
Exhibit B	Corps letter	6/15/77
Exhibit C	Corps letter w/EPA letter	7/19/77
Exhibit D	KPC to Corps & EPA	7/29/77
Exhibit E	Corps to KPC	8/29/77
Exhibit F	Corps permit	9/15/77
Exhibit G	DNR letter	4/16/79
Exhibit H	LP to DNR	4/20/79
Exhibit I	LP to Corps	8/8/79
Exhibit J	Corps denying extension	10/4/79
Exhibit K	Letter & application to Corps	10/16/79
Exhibit L	Letter from Corps recognizing application	Undated
Exhibit M	Notice of DNR tideland ad.	11/30/79
Exhibit N	Corps Public Notice + DPDP and DEC	12/7/79
Exhibit O	DPDP to Corps	12/12/79
Exhibit P	ADF&G to Corps	1/2/80
Exhibit Q	DPDP to Corps	1/4/80
Exhibit R	EPA to Corps	1/14/80
Exhibit S	Corps to NMFS	1/18/80
Exhibit T	DNR to LP	1/25/80
Exhibit U	EPA to Corps	2/5/80
Exhibit V	Corps to KPC(ADF&G)	2/15/80
Exhibit W	DPDP to KPC	2/19/80
Exhibit X	Corps to KPC(on NMFS)	2/21/80
Exhibit Y	KPC to DPDP	2/21/80
Exhibit Z	DEC to KPC	3/3/80
Exhibit AA	DPDP to Corps	3/3/80

3/80

*Available upon request

Louisiana-Pacific Corporation

1000 Lakeside Drive
Kodiak, Alaska 99587
Telephone 907-335-2100
Telex 01-45020
Answerback 44-0000-117

April 1, 1980

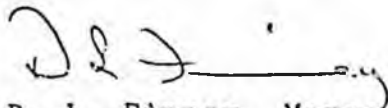
Mr. James E. Caruth, Chief
Regulatory Functions Branch
Department of the Army
Alaska District, Corps of Engineers
P.O. Box 7002
Anchorage, Alaska 99510

Re: NPACO-RF-P, Ward Cove 23
071-OYD-2-790391

Dear Mr. Caruth:

Enclosed is a self-explanatory letter we have sent to the Division of Parks of the Alaska Department of Natural Resources. We hope we are able to convince the ADP there is a better way and trust our letter will permit continued processing of our application.

Sincerely,



D. L. Finney, Manager
Forestry & Government Affairs

hr
Enclosure

Louisiana-Pacific Corporation

REASONABLE
KING
TELEPHONE
TELETYPE
ADDRESS

April 1, 1980

Mr. Chip Dennerlein, Director
Division of Parks, State of Alaska
Department of Natural Resources
619 Warehouse Drive, Suite 210
Anchorage, Alaska 99501

Re: Ward Cove 23

Dear Chip:

Our first reaction to your comment on our Corps permit is that you have read the "Overkill" paper and felt left out by not having your agency mentioned. If this is the case, please accept our apologies as we had no intention of slighting you or your department. Just in case you haven't seen the "Overkill" paper, one is enclosed, so you can see how we have come to develop a prejudice toward any agency feeling it necessary to comment on Corps permits.

There are several things about your request for assurance on which we would like to comment. First, by writing the Corps without copying us, you necessitate the Corps writing to us (copy enclosed), us writing you and giving you assurance, then you writing the Corps and telling them it's all right, then the Corps writing us and telling us it's all right, before the processing of our permit can continue. If you really feel you must continue to be involved, please have the courtesy of sending us a copy of your request. Or, if you really intend to join the ranks of the "overkillers", you could let us know you intend to so respond to all permits and we can head off a lot of nonsense by notifying the Corps we will abide by your every wish at the time we apply. This would save you, us and the Corps a lot of letter writing, postage and, most importantly to us, valuable time.

77.
Louisiana-Pacific Corporation

Mr. Chip Dennerlein

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April 1, 1980

Another observation we have is that the cultural resources you wish to protect are already covered by the American Antiquities Act of 1906 (16 USC 431-433), National Historic Preservation Act of 1966 (16 USC 470) and Executive Order 11593(1971). Provisions of a Corps permit require an applicant to be in compliance with all Federal, State and Municipal laws. Also, our long term timber sale with the Forest Service has been recently modified to include an obligation for us to report any historic cultural resources immediately. Your added request for assurance does seem to be an "overkill".

One last observation is, if you have read the permit application we submitted, you will have noted it is for placing fill material and setting piling. It strikes us that there is not even the remotest possibility of discovering cultural resources with these activities.

Chip, as you can probably tell, you rattled our chain. We have decided to take head-on all unnecessary State Agency involvement in Corps permits because it really is coming to the point where we can no longer get there from here. Your agency just happens to be the first new customer since we wrote our exposé. Hopefully, our efforts will be rewarded by getting some logic in to the system and if such is the case, it will be well worth the time spent.

Now, so our application for NPACO-RF-P Ward Cove 23 Reference No. 071-OYD-2-790391 to Construct Berm and Place Piling in Ward Cove, Ketchikan, Alaska may proceed, we hereby notify you we agree, if any cultural resources are uncovered during the period of construction, our project engineer will halt all work that may disturb such resources and contact the Division of Parks (and probably the Guinness Book of Records) at once.

We shall, by copy of this letter, notify the Corps of our agreement but respectfully request that you also contact the Corps at the soonest possible time, informing them you have our assurance and have no objection to the further processing of our permit.

57
Louisiana-Pacific Corporation

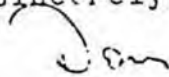
Mr. Chip Dennerlein

-3-

April 1, 1980

We would be most interested in any comments you might have concerning your continued involvement in Corps permits.

Sincerely,


D. L. Finney, Manager
Forestry & Government Affairs

hr
Enclosure

cc: J. Hammond - w/cc of Corps & Parks letters
T. Miller "
J. Reinwand "
R. LeResche "
W. McConkey "
& a host of others



DEPARTMENT OF THE ARMY
ALASKA DISTRICT, CORPS OF ENGINEERS
P O BOX 7002
ANCHORAGE ALASKA 99510

REPLY TO
ATTENTION OF
NPRCO-REF-P
Ward Cove 23

MAR 11 1980

Ketchikan Pulp Company
P.O. Box 6600
Ketchikan, Alaska 99901

Reference: 071-OYD-2-790391
Construct Berm & Piling
Ward Cove
Ketchikan, Alaska

Gentlemen:

Inclosed is a copy of a letter dated 12 March 1980 concerning your application for a Department of the Army permit for the referenced work.

It is the policy of the Department of the Army to provide an applicant the opportunity for a resolution or rebuttal to all objections and/or recommendations received on a proposed project. In this regard, the Alaska Division of Parks (ADP) has reviewed your proposal and requested that if any cultural resources are uncovered during the period of construction, your project engineer halt all work that may disturb such resources and contact them at once.

I would appreciate receiving any comments that you may have on the request by ADP. If you intend to comment, please give your immediate attention to this matter so processing of your permit application can be expedited.

Sincerely,

Larry L. Reeder
for JAMES E. CARUTH
Chief, Regulatory Functions Branch

1 Incl
As stated

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

619 Warehouse Dr., Suite 210
Anchorage, Alaska 99501

March 12, 1980

File No.: 1130-2-1

Subject: Ward Cove 23

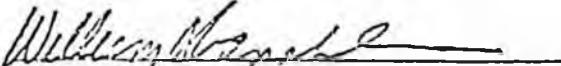
Mr. D. L. Robbins, Chief
Construction/Operations Division
Corps of Engineers
Box 7002
Anchorage, AK 99510

Dear Mr. Robbins:

We have reviewed the subject proposal and would like to offer the following comments:

STATE HISTORIC PRESERVATION OFFICER

No probable impacts. -Should cultural resources be found during the construction, we request that the project engineer halt all work which may disturb such resources and contact us immediately.


William S. Hanable
State Historic Preservation Officer

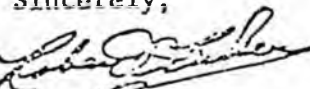
STATE PARK PLANNING

Consistent with ACNP.

LWCF

No comment.

Sincerely,



for Chip Dennerlein
Director

CD/cw

TO: ~~Representative Drue Pearce~~
FROM: Don Finney/U.S. Borax, Ketchikan
SUBJECT: HB 212

Excellent Bill--will greatly improve the process by consolidating and unifying the State's response and should expedite the permitting process with substantial savings in time and money.

You may want to consider specifically including the State's response to Department of Army Corps of Engineers permits under this legislation. Presently, the Corps advertises an applicant's request for a permit and sends it to each separate State agency for comment. In answering, each State agency writes their independent comments to the Corps without consultation with the other State agencies and often times this results in conflicts between the agencies.

The Corps then sends the permittee the individual comments and instructs the permittee to work out any problems they have with the State agencies and inform the Corps of their solution. This is time consuming and duplicative.

As with the consistency reviews, this process could be greatly improved by having one lead agency for the State that consolidates and represents the State's position.

It appears the necessary change to include the Corps permit response could be included in this legislation by the following changes:

On Page 3 under (11) add sub-paragraph:

(C) each State response to Department of the Army Corps of Engineers permits for navigable waters.

On Page 3 under (e) add the underlined as follows:

(e) The Department of Natural Resources is designated as the lead agency for consistency determinations and response to Department of Army Corps of Engineers permits for navigable waters that involve resource development activities on State land, water and submerged lands, and federal land, water, and the Outer Continental Shelf.

TESTIMONY OF
D. E. CORNETT
FOR
EXXON COMPANY, U.S.A.
BEFORE THE
HOUSE RESOURCES COMMITTEE
APRIL 13, 1987
HB 212

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I AM DON CORNETT, THE ALASKA COORDINATOR FOR EXXON COMPANY, U.S.A. WE APPRECIATE THIS OPPORTUNITY TO OFFER OUR SUPPORT OF HOUSE BILL 212. THIS IMPORTANT BILL WOULD ESTABLISH THE DEPARTMENT OF NATURAL RESOURCES AS THE LEAD AGENCY FOR PERMITS AND COASTAL ZONE MANAGEMENT CONSISTENCY DETERMINATIONS FOR RESOURCES UNDER THE AUTHORITY OF THE DEPARTMENT. THE LEGISLATION WOULD ALSO ESTABLISH THE REQUIREMENT FOR THE BALANCING OF COMPETING FACTORS IN REACHING A DECISION ON BOTH PERMITS AND CONSISTENCY DETERMINATIONS.

LET ME SAY AT THE OUTSET THAT EXXON'S SUPPORT OF THIS LEGISLATION IS NOT INTENDED TO DOWNPLAY THE PROGRESS MADE UNDER FORMER GOVERNOR SHEFFIELD'S ADMINISTRATIVE ORDER 78, NOR IS IT A REFLECTION ON THE WORK OF THE DIVISION OF GOVERNMENTAL COORDINATION. INDEED, WE AT EXXON HAVE HAD FAVORABLE EXPERIENCE WITH THE DIVISION'S ACTIVITIES IN THIS REGARD SINCE THEY TOOK OVER THESE RESPONSIBILITIES SOME THREE YEARS AGO.

IT IS SIMPLY THAT WE BELIEVE THAT THE BEST INTERESTS OF BOTH THE INDUSTRY AND THE STATE WILL BE SERVED BY FIXING IN LAW THESE RESPONSIBILITIES WHERE THEY BEST BELONG: WITH THE DEPARTMENT WHICH HAS THE RESPONSIBILITY FOR, AND THE TECHNICAL KNOWLEDGE OF, THE DEVELOPMENT OF THE STATE'S RESOURCES. EXXON BELIEVES NOW, AS IT HAS IN THE PAST, THAT THE DEPARTMENT OF NATURAL RESOURCES IS THE PROPER AGENCY TO ADMINISTER PERMITS RELATED TO THE DEVELOPMENT OF THE STATE'S RESOURCES FOR WHICH IT HAS STATUTORY RESPONSIBILITY. WE ALSO BELIEVE THAT THE DEPARTMENT'S TECHNICAL ORIENTATION AND EXPERTISE MAKE IT THE APPROPRIATE AGENCY TO LEAD THE FORMULATION OF STATE CONSISTENCY DETERMINATIONS FOR ACTIVITIES ON STATE AND FEDERAL LANDS AND WATERS.

EQUALLY IMPORTANT, IN OUR VIEW, IS THE REQUIREMENT CONTAINED IN THIS LEGISLATION THAT THE LEAD AGENCY BALANCE COMPETING FACTORS IN REACHING ITS DECISION ON PERMITS AND CONSISTENCY DETERMINATIONS. EXXON STRONGLY SUPPORTS THIS BALANCING CONCEPT AND FURTHER BELIEVES THAT THE DEPARTMENT OF NATURAL RESOURCES HAS THE TECHNICAL EXPERTISE TO UNDERSTAND THE IMPLICATIONS OF BOTH PERMITS AND CONSISTENCY DETERMINATIONS AND TO BRING THE BENEFITS OF THEIR KNOWLEDGE TO THE PROCESS OF BALANCING THE COMPETING ARGUMENTS AND COMMENTS IN ORDER TO ASSURE THE BEST POSSIBLE DECISION.

IN SUMMARY, LET ME NOTE THAT THE ORDERLY, SAFE AND EFFICIENT DEVELOPMENT OF ALASKA'S NATURAL RESOURCES IS VITAL TO THE WELL-BEING OF THE STATE AND ITS PEOPLE. THIS LEGISLATION BEFORE YOU TODAY WILL HELP FOSTER THAT DEVELOPMENT BY PROVIDING PERMANENT, CONSISTENT PERMIT PROCEDURES AND BY PLACING COORDINATION AND APPROVAL RESPONSIBILITY WITH THE AGENCY WHICH HAS THE TECHNICAL EXPERTISE NECESSARY TO BEST PROTECT THE STATE'S VARIED INTERESTS. I URGE YOUR APPROVAL OF THIS LEGISLATION.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET DIVISION OF GOVERNMENTAL COORDINATION

STEVE COWPER, GOVERNOR

CENTRAL OFFICE

P.O. BOX AW
JUNEAU, ALASKA 99811-0165
PHONE (907) 465-3562

SOUTHEAST REGIONAL OFFICE

431 NORTH FRANKLIN
P.O. BOX AW, SUITE 101
JUNEAU, ALASKA 99811-0165
PHONE (907) 465-3562

SOUTHCENTRAL REGIONAL OFFICE

2600 DENALI STREET
SUITE 700
ANCHORAGE, ALASKA 99503-2798
PHONE (907) 274-1581

NORTHERN REGIONAL OFFICE

675 SEVENTH AVENUE
STATION H
FAIRBANKS, ALASKA 99701-4596
PHONE (907) 456-3084

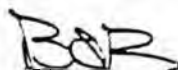
April 6, 1987

The Honorable Drue Pearce
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Pearce:

I appreciate the opportunity you have provided the Cowper administration to comment on House Bill (HB) 212 relating to the issuance of state permits and coastal consistency determinations. The enclosed paper describes the state's current consistency review process and position with respect to the underlying need for changes proposed in HB 212. I believe that after reviewing the factual discussion in the enclosure, you will conclude that there is little need for the statutory and regulatory changes proposed in HB 212. I would be happy to answer any questions you might have regarding this matter or arrange meetings with other agency representatives if you desire.

Sincerely,



Robert L. Grogan
Director

Enclosure

cc: Commissioner Kelso, DEC, Juneau
Commissioner Collinsworth, DFG, Juneau
Commissioner Brady, DNR, Juneau
Rod Swope, Office of the Governor, Juneau
Joe Geldhof, Law, Juneau

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ALASKA CONSISTENCY REVIEW PROCESS

Since adoption of the coastal consistency review regulations in early 1984, major progress has been made to achieve the following permit reform goals:

- ° establish regulatory deadlines for state permit decisions,
- ° eliminate repetitive state reviews and decisions on the same project,
- ° expedite state permit reviews and decisions,
- ° ensure uniformity in state agency comments on federal permit decisions,
- ° assist applicants in the processing of state and federal permits,
- ° provide adequate opportunity for public and local government participation in state permit decisions, and
- ° achieve a balanced, factually documented decision including consideration of the costs and benefits of requiring particular stipulations.

The state's system for reviewing and processing most project related permits, leases, and other legal approvals is governed by regulations adopted in March 1984, entitled Project Consistency with the Alaska Coastal Management Program (6 AAC 50). The regulation: require that coastal projects only be reviewed one time for approvals required by the Departments of Environmental Conservation, Fish and Game, and Natural Resources and for consistency reviews conducted by the Division of Governmental Coordination (DGC). These regulations, provide for (1) easy access to and participation in the decision making process by applicants, (2) expedient decisions on project consistency and (3) quick issuance of permits by the state resource agencies. Features of the existing regulations and additional efforts being taken by the state to improve the permitting process include the following:

- ° All appropriate permits and certificates for a project are evaluated in a single review. This eliminates duplicative and time consuming review of individual permits necessary for the same project.
- ° When a project requires permits of two or more state agencies or a federal permit, DGC coordinates the project review and renders a conclusive consistency determination on behalf of all the state resource agencies. This provides applicants with a single state agency contact (DGC) to coordinate the project review and, if necessary, resolve any outstanding conflicts. It also provides a single state voice for communicating the state's position on a project to federal permitting agencies.

- ° The consistency review regulations have streamlined the permitting process. Consistency determinations are completed in an average of 47 days. State resource agency permits are required to be issued within 5 days of the consistency determination. Previously, the state could take six months or longer to complete the review of a project for federal consistency with the Alaska Coastal Management Program (ACMP).
- ° If an applicant considers a decision by the State of Alaska to be unacceptable, opportunities exist to elevate a decision to policy makers of the state resource agencies for their reconsideration. Applicants are encouraged to participate in discussions of their project at each level of review.
- ° On request, DGC will assist applicants schedule pre-application meetings with all the concerned agencies (state, federal and local) to discuss their project prior to filing permit applications. At these pre-application meetings, agencies provide recommendations to an applicant for designing a project that will meet review criteria and ensure compliance with state, federal, and local requirements. Also, the applicant learns how the permit process works, who to contact for information, and what to expect during the review process. These pre-application meetings also provide a forum for informal agency contact to assess regulatory requirements for projects.
- ° A brochure which describes the state's consistency review to potential applicants has been mailed to approximately 5,000 potential applicants listed in business directories prepared by the Department of Commerce and Economic Development (attached). Part of the brochure includes a survey form which the applicant can return by mail to request additional assistance from DGC in dealing with the consistency review process.

Since January 1984, this office has processed 1,541 project reviews. Of this total, more than 98% were found consistent. The average review period for these projects was 47 days. The vast majority of projects reviewed under the current system are approved, and the average project review is completed in less than 50 days. Following the review, all state and most federal permits are promptly issued.

A review of the state's current consistency review record does not support the need for the statutory and regulatory changes contained in HB 212. To the contrary, HB 212 could conceivably result in a less efficient review process due to overlapping responsibilities, multiple lead agencies and increased variations in the review process compared to the existing system.

Division of Governmental Coordination
 Office of the Governor, State of Alaska
 P.O. Box AW
 Juneau, Alaska 99811

**30-Day and 50-Day
 Review Schedules**

Federal and state public notice requirements determine the review schedule for your project. A 30-day review schedule will be used if a public notice is not required and all associated state permits can be issued in 30 days. A 50-day review schedule will be used for projects with approvals requiring a public notice. These schedules limit the amount of time state agencies have to review your project and issue state permits if the project is found consistent with Alaska Coastal Management Program standards.*

	30-Day Review	50-Day Review
Consistency review begins	Day 1	Day 1
Deadline for regional reviewers to request additional information	Day 15	Day 25
Public and agency reviewer comments due	Day 17	Day 34
Notification of preliminary determination	Day 24	Day 44
Request for elevation	Day 29	Day 49
Conclusive consistency determination issued (unless elevation requested)	Day 30	Day 50
If elevated, director's determination	Day 45	Day 65
If elevated again, commissioner's determination	Day 60	Day 80

* These schedules may be extended only under circumstances outlined in 6 AAC 50.110.



Elevation (Appeal) Process

If you do not concur with the proposed determination on your project, you may request *elevation*, or further review by division directors within the state resource agencies. The directors review the proposed determination and any additional information included in the elevation request, then issue a second proposed determination.

You may then elevate the review to the commissioners of the resource agencies if the director-level review does not satisfy your interests. This is the final step in the administrative appeal process.

Each elevation review can take no longer than 15 days. State resource agencies and coastal districts may also request elevation. In actual practice, elevation has rarely been required.

For More Information

About a specific project, contact the DGC office nearest you:

Southeast Regional Office
 Division of Governmental
 Coordination
 P.O. Box AW, Suite 101
 431 North Franklin Street
 Juneau, AK 99811-0165
 Phone: (907) 465-3562

Southcentral Regional Office
 Division of Governmental
 Coordination
 2600 Denali Street, Suite 700
 Anchorage, AK 99503-2798
 Phone: (907) 274-1581

Northern Regional Office
 Division of Governmental
 Coordination
 Station H
 675 Seventh Avenue
 Fairbanks, AK 99701-4596
 Phone: (907) 456-3084

If you have any questions about the *Consistency Review Process* or the *Alaska Coastal Management Program*, contact:

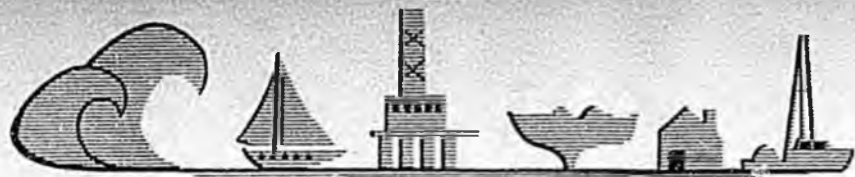
Division of Governmental
 Coordination
 P.O. Box AW
 431 North Franklin Street
 Juneau, AK 99811-0165
 Phone: (907) 465-3562

Division of Governmental Coordination
 Office of the Governor, State of Alaska
 P.O. Box AW
 Juneau, Alaska 99811

How To Apply For State Permits In Alaska's Coastal Zone



Stamp



The State of Alaska has a streamlined, coordinated system for reviewing applications and issuing permits for proposed projects that would affect natural resources in Alaska's coastal zone. It's called the *consistency review process*.

This brochure briefly outlines the consistency review process for applicants seeking resource-related state and federal permits.* The review process is more fully explained in state regulation 6 AAC 50. The consistency review process does not cover business licenses, municipal authorizations, or projects outside the coastal zone.

The Consistency Review Process Provides

- Quick answers to whether your project is in the coastal zone and what permits you need.
- A one-stop, consolidated state response to coastal development projects and related state and federal permit applications.
- Specific timeframes and deadlines for permit issuance.
- A fast appeal process.

* Federal agencies, please contact the Division of Governmental Coordination regarding procedures for direct federal actions.

The State Permitting Process

The consistency review process is based on the Alaska Coastal Management Program and is designed to improve management of Alaska's coastal land and water uses. Project proposals are reviewed to:

- Determine the project's consistency with the Alaska Coastal Management Program.
- Identify permits required by the state resource agencies, that is, the Alaska Departments of Environmental Conservation, Fish and Game, and Natural Resources.
- Trigger the issuance of necessary permits and other authorizations by state resource agencies.

Who Handles The Consistency Review Process?

If a federal permit or permits from more than one state agency are required, the consistency review process is coordinated by a regional office of the Division of Governmental Coordination in the Office of the Governor. If permits from only one state agency are required, the state agency responsible for issuing those permits coordinates the review.

To Start

Project applicants should complete the *Coastal Project Questionnaire* to determine which permits are needed. *Note: Placer miners see below.*

Copies of the questionnaire are available from the Division of Governmental Coordination (DGC), the resource agencies, or the U.S. Army Corps of Engineers (COE). Regional DGC contacts are shown on the back of this brochure. The COE has a toll-free telephone number: 1-800-478-2712.

Filling out the questionnaire properly is important and will help agencies process your project application without delays. If you have any questions or need assistance, contact a regional DGC or state agency office (listed on the questionnaire). The questionnaire includes a *Certification of Consistency* which must be completed and signed by you to meet federal requirements.

The Coastal Project Questionnaire will help identify which permits are needed, your contacts for the consistency review process and the DGC regional office that will be working with you.

Placer miners should submit a *Triagency Application* to the Department of Natural Resources (DNR) instead of completing the Coastal Project Questionnaire. Contact the DNR, Division of Mining and Geology, or the nearest DGC regional office for more information.

Preapplication Meetings Can Save You Time

Before you settle on your final project plans and submit your application, the state can arrange for meetings between you and state agency representatives. These can help identify concerns and information needs, and encourage a mutual understanding of the project. To arrange for a preapplication meeting, call or write the coordinating agency contact.

Review Begins When The Application Packet Is Complete

Consistency review begins upon receipt of your complete application packet, which will be prepared by you and the agencies. A complete packet includes:

- The Coastal Project Questionnaire and signed Certification of Consistency.
- Copies of any state permit applications needed for the project (originals go to the state agency issuing the permit).
- Copies of any federal permit applications needed for the project (originals go to the federal agency issuing the permit).
- Any additional pertinent information including public notices from agencies.

Who Reviews The Project ?

The participants in the review process include:

1. You, the applicant
2. State resource agencies and the Division of Governmental Coordination
3. The affected local coastal community
4. Other interested members of the public

Steps in the Review Process

Start-up

You will be notified when the review starts. You will receive your project's assigned review number, review schedule, and other information.

Information Requests

Agencies may request additional information from you up to the 25th day of the review. The coordinating agency may stop the review until that information is received.

Proposed Determination

After reviewing comments on the packet, the coordinating agency will develop a proposed consistency determination. It will be discussed with you, state resource agencies, and coastal districts.

Conclusive Determination

A conclusive consistency determination will be issued upon agreement of the proposed determination.

Permits

Agencies will issue state permits covered by the determination within five days after the conclusive consistency determination is issued.

see other side →

Name _____
 Organization _____
 Street (or Box #) _____
 City _____ State _____ Zip _____

Please send more detailed information on:

- Alaska Consistency Review Process
 The Alaska Coastal Management Program

I would attend a consistency review process workshop scheduled in my area.

Yes _____ No _____

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF GOVERNMENTAL COORDINATION

STEVE COWPER, GOVERNOR

CENTRAL OFFICE

P.O. BOX AW
JUNEAU, ALASKA 99811-0165
PHONE: (907) 465-3562

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PHONE: (907) 465-3562

SOUTHCENTRAL REGIONAL OFFICE

2600 DENALI STREET
SUITE 700
ANCHORAGE, ALASKA 99503-2798
PHONE: (907) 274-1581

NORTHERN REGIONAL OFFICE

675 SEVENTH AVENUE
STATION H
FAIRBANKS, ALASKA 99701-4596
PHONE: (907) 456-3084

April 10, 1987

The Honorable Adelheid Herrmann
Cochair Alaska House Resources
Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representatives Herrmann and Cotton:

I appreciate the opportunity to provide the administration's position on House Bill (HB) 212 regarding the issuance of state permits and coastal consistency determinations. The enclosed paper describes the state's current consistency review process and position with respect to the underlying need for changes proposed in HB 212. I believe that after reviewing the factual discussion in the enclosure, you will conclude that there is little need for the statutory and regulatory changes proposed in HB 212. I would be happy to answer any questions you might have regarding this matter.

Sincerely,

BOB

Robert L. Grogan
Director

Enclosure

cc: Alaska House Resources Committee

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ALASKA CONSISTENCY REVIEW PROCESS

Since adoption of the coastal consistency review regulations in early 1984, major progress has been made to achieve the following permit reform goals:

- ° establish regulatory deadlines for state permit decisions,
- ° eliminate repetitive state reviews and decisions on the same project,
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- ° achieve a balanced, factually documented decision including consideration of the costs and benefits of requiring particular stipulations.

The state's system for reviewing and processing most project related permits, leases, and other legal approvals is governed by regulations adopted in March 1984, entitled Project Consistency with the Alaska Coastal Management Program (6 AAC 50). The regulations require that coastal projects only be reviewed one time for approvals required by the Departments of Environmental Conservation, Fish and Game, and Natural Resources and for consistency reviews conducted by the Division of Governmental Coordination (DGC). These regulations, provide for (1) easy access to and participation in the decision making process by applicants, (2) expedient decisions on project consistency and (3) quick issuance of permits by the state resource agencies. Features of the existing regulations and additional efforts being taken by the state to improve the permitting process include the following:

- ° All appropriate permits and certificates for a project are evaluated in a single review. This eliminates duplicative and time consuming review of individual permits necessary for the same project.
- ° When a project requires permits of two or more state agencies or a federal permit, DGC coordinates the project review and renders a conclusive consistency determination on behalf of all the state resource agencies. This provides applicants with a single state agency contact (DGC) to coordinate the project review and, if necessary, resolve any outstanding conflicts. It also provides a single state voice for communicating the state's position on a project to federal permitting agencies.

- ° The consistency review regulations have streamlined the permitting process. Consistency determinations are completed in an average of 47 days. State resource agency permits are required to be issued within 5 days of the consistency determination. Previously, the state could take six months or longer to complete the review of a project for federal consistency with the Alaska Coastal Management Program (ACMP).
- ° If an applicant considers a decision by the State of Alaska to be unacceptable, opportunities exist to elevate a decision to policy makers of the state resource agencies for their reconsideration. Applicants are encouraged to participate in discussions of their project at each level of review.
- ° On request, DGC will assist applicants schedule pre-application meetings with all the concerned agencies (state, federal, and local) to discuss their project prior to filing permit applications. At these pre-application meetings, agencies provide recommendations to an applicant for designing a project that will meet review criteria and ensure compliance with state, federal, and local requirements. Also, the applicant learns how the permit process works, who to contact for information, and what to expect during the review process. These pre-application meetings also provide a forum for informal agency contact to assess regulatory requirements for projects.
- ° A brochure which describes the state's consistency review to potential applicants has been mailed to approximately 5,000 potential applicants listed in business directories prepared by the Department of Commerce and Economic Development (enclosed). Part of the brochure includes a survey form which the applicant can return by mail to request additional assistance from DGC in dealing with the consistency review process.

Since January 1984, DGC has processed 1,541 project reviews. Of this total, more than 98% were found consistent. The average review period for these projects was 47 days. The vast majority of projects reviewed under the current system are approved, and the average project review is completed in less than 50 days. Following the review, all state and most federal permits are promptly issued.

A review of the state's current consistency review record does not support the need for the statutory and regulatory changes contained in HB 212. To the contrary, HB 212 could conceivably result in a less efficient review process due to overlapping responsibilities, multiply lead agencies, and increased variations in the review process compared to the existing system.

AL EUTIANS EAST COASTAL RESOURCE SERVICE AREA
P.O. BOX 90
SAND POINT, ALASKA 99661
(907) 383-2699

April 10, 1987

The Honorable Sam Cotten, Co-Chairman
House Resources Committee
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Subject: House Bill 212

Dear Representative Cotten:

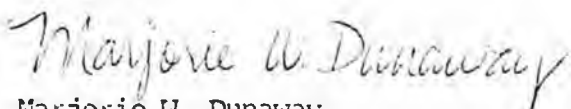
I am writing on behalf of the Aleutians East Coastal Resource Service Area (CRSA) Board to voice our adamant opposition to House Bill 212 which would designate the Department of Natural Resources (DNR) as the lead agency for consistency determinations on state or federal lands and waters. We are particularly concerned about this in relation to coastal consistency determinations.

Contrary to what is stated in the findings of the bill, we do not believe that the development of state resources is being unnecessarily delayed by the number of agencies involved in the permitting process. Rather, the process works smoothly and without undue delays, as the record clearly shows. Coastal consistency determinations, coordinated by the Division of Governmental Coordination, are under a review timeframe of 30 to 50 days. The vast majority of permit reviews are completed within this time. This does not constitute an unreasonable delay.

While some may believe that the efficiency of state permitting procedures would be enhanced by using state resource agencies as lead agencies, the impartiality of the current system would not. House Bill 212 would only require DNR to consider pertinent information and recommendations, not strive for a consensus among interested agencies and individuals. The responsibility to compile comments from agencies and coastal districts in order to prepare the state's consistency determination must be done by an objective party, not one of the resource agencies. The process of determining coastal consistency should be a state and district consensus, not a single agency perspective.

Thank you for your consideration of our comments.

Sincerely,



Marjorie W. Dunaway
Program Coordinator

ALASKA MINERS ASSOCIATION
COASTAL ZONE MANAGEMENT
POLICY STATEMENT
1985

The development and implementation of the Alaska Coastal Management program has far exceeded the intent of the original program established by the legislature in 1977. While the objectives stated in AS 46.40.020 clearly require both protection and balanced utilization of coastal resources, there has been a trend in recent years to use the Alaska Coastal Management Program as a tool to restrict or prohibit any type of development. We have watched Coastal Service Resource Areas, with the approval of the Coastal Policy Council, expand their jurisdiction hundreds of miles inland and claim that local subsistence uses have a priority over all other state, federal, and public uses. In effect, the State is giving up its regulatory authority over resource development to regional powers that are not accountable to state and federal concerns. This has resulted in far reaching unilateral decisions affecting resource development and subverting the intent of the original statute which was to promote the development of resources considered to be matters of state concern.

The Alaska Coastal Management Program has also resulted in the creation of additional bureaucracy within an already overgrown state government. Under the so-called "Permit Reform" regulations adopted by the Governor's Office (6AAC 50), the Office of Management and Budget coordinates consistency determination in the coastal zones. At least eight full-time state employees now "coordinate"--not review, comment, or mediate--but just coordinate state agencies. The net effect has been to add paperwork, delay decisions, and allow the permit process to be subject to political pressure by controlling it in an area of the Governor's Office. This burdensome cost of an additional layer of government can, at its sole discretion, negate the work of numerous state and federal agencies already vested with the authority to review and approve permit applications.

The Alaska Miners Association supports the following actions to bring the Alaska Coastal Management Program into a balanced, fair program:

- 1) Legislative approval of all coastal management plans.
- 2) Legislative affirmation of coastal zone boundaries

as originally defined in 1978 by the Alaska Department of Fish & Game.

3) Allow limited boundary extensions only where clear and convincing arguments can be made that activity in the uplands poses a serious impact on coastal resources.

4) The state must re-assert that mining, oil and gas development and other resource developments are Uses of State Concern and, as such, cannot be unduly restricted by local coastal plans. [ACC 85.900(D)]

5) The AMA supports HB 73 entitled "An Act Relating to Processing of Permits by State Agencies and to Administration of the Alaska Coastal Management Program."

6) The AMA supports legislation aimed at reducing the cost of government at a time of declining state revenues.

EXCERPT FROM MINERALS COMMISSION WORKING PAPER
November 1986

COASTAL ZONE MANAGEMENT

ISSUE #2:

District coastal management programs are being challenged by the federal government for going far beyond the intent of the law; one program stands rejected as written. The objectionable portions of these programs have been:

- 1) unwarranted extension of program boundaries;
- 2) plans are not balanced as required by the federal act and AMP; subsistence and fisheries are designated as primary uses and all other uses are subservient even if those uses are Uses of State Concern and National Interest;
- 3) even though modified, some policies still remain absolute prohibitions to certain activities i.e., use of explosives in marine environment and no offshore petroleum storage.

RECOMMENDATIONS:

- a) Because the coastal zone regions have expanded far beyond reasonable definition of coastal areas, the legislature should affirm coastal zone boundaries as originally defined in 1978 by the Alaska Department of Fish and Game by biophysical areas and approved by the legislature in 1979.
- b) The legislature should again take action to pass legislation requiring legislative oversight of district management programs as originally stated in the ACMP.
- c) Limited boundary extensions should be allowed only where clear and convincing arguments can be made that activity in the uplands poses a serious impact on coastal resources.

ISSUE #3:

The CRSA's, with the approval of the Coastal Policy Council, have expanded their jurisdiction hundreds of miles inland and claim that local subsistence uses have a priority over all other state, federal and public uses. In effect, the state is giving up its regulatory authority over resource development, subverting the intent of the original statute which was, in part, to promote the development of resources considered to be matters of state concern.

RECOMMENDATION:

The state must re-assert that mining, oil and gas development and other resource developments are "Uses of State Concern", and as such, cannot be unduly restricted by local coastal programs.

ISSUE #4:

The Alaska Coastal Management Program has also resulted in the creation of additional bureaucracy within an already overgrown state government. Under the so-called "Permit Reform" regulations adopted by the governor's office, the Office of Management and Budget coordinates consistency determinations in the coastal zone. The net effect has been to add paperwork, delay decisions, and allow the permit process to be subject to political pressure by controlling it in an area of the governor's office. This burdensome cost of an additional layer of government can, at its sole discretion, negate the work of numerous state and federal agencies already vested with the authority to review and approve permit applications.

RECOMMENDATION:

Establish lead agency authority for permit processing under DNR and revoke Administrative Order 78 re: OMB/DGC in order to return CZM consistency determinations to the resource agencies.

Untangling a Legal Web

Conflicting Goals Block Efforts to Speed Permitting, Cut Costs

It has been said many times, in many ways: Alaska's future depends on the wise and prudent use of the state's natural resources. Nearly every dollar ever made or lost here is tied directly to the land and water.

That's why government at all levels puts so much effort into regulating the private industry which puts so much effort into bringing Alaska's natural resources into use.

Legislators point the way by enacting laws, but government agencies set the course of resource development by administering regulations under the law. Then the judicial branch is often called upon to interpret the regulations.

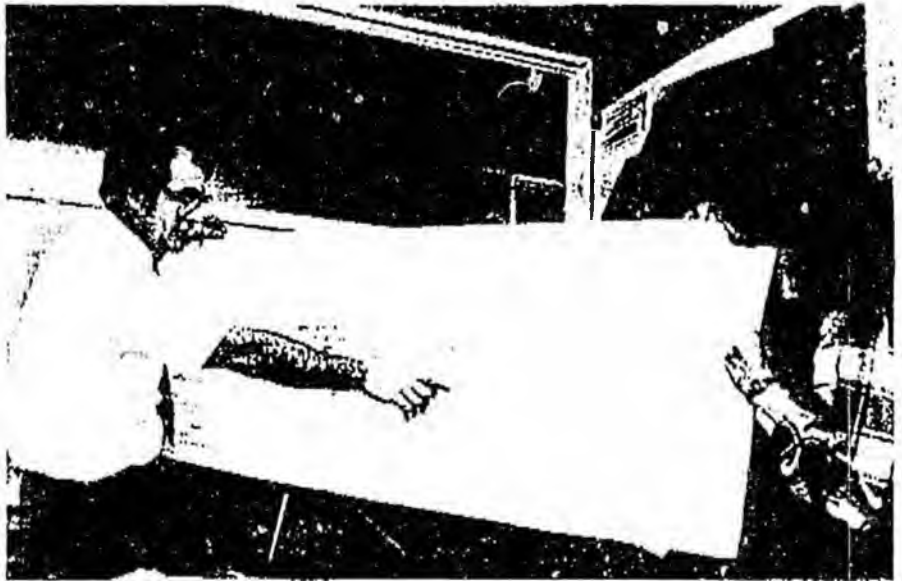
In no arena has this issue of "regulation" raged more fiercely than oil and gas development. Alaska, as a frontier region, has numerous built-in hurdles to overcome in getting profitable oil and gas projects on line. Not much can be done about climate, distance from market and variable reservoir characteristics.

A 300-million-bbl. field anywhere in the Lower 48 would be a major find. In Alaska today, the industry must walk away from such a marginal field if everything doesn't fall perfectly into place.

The way government taxes and regulates the oil industry here can make all the difference. That's why so many people have spent so much time trying to write, rewrite, reform and repeal so many regulations.

The regulation of any industry is an interlocking web of federal, state and local government jurisdictions nationwide. In Alaska, Native corporations, private inholders and foreign law and treaties (when product export is involved) must also be considered.

For example, if you wanted to drill an exploratory well, you would go to a book called *Directory of Permits* (available through the Alaska Department of Environmental Conservation). Looking under "Oil or Gas Exploration and Development Activities (Onshore and



Pat Metz and Barbara Byrne of Arco Alaska Inc.'s Permits & Compliance Section review a chart showing stops in obtaining federal oil well drilling permits. There are 133 blocks indicating operator requirements and government paperwork stops. Permitting periods extend anywhere from seven days to three years within the flow chart. The operator concurrently goes through a state of Alaska permitting process in which 20 agencies have review privileges.

Offshore), you would see a list of 98 permits, licenses and authorizations that apply. This would mean dealing with 12 state administrative departments or divisions, 15 federal agencies and possibly half a dozen boards and commissions within boroughs and municipalities.

You would need a work camp to support the drilling activity. Thirty-seven permits could apply here, not counting those from local government.

If you hit oil and wanted to run pipelines to production facilities, you would need 67 state and federal permits. How about building a natural gas conditioning plant for enhanced oil recovery of your new field? You could expect to go after 60 permits from state and federal officials. The local government would have some paperwork for you first, however. Permit requirements for an oil refinery at tidewater? — Don't ask!

The Cost of Concern

It will cost Standard Alaska Produc-

tion Co. \$2 billion to put the Endicott field on the North Slope into production by 1988. Not a small portion of that cost is tied up in meeting government regulations, gaining permits and doing studies on fish and wildlife impacts.

George Nelson, president of SAPC, said, "We went before 13 reviewing agencies in three levels of government. We went through 25 review processes plus a two-year EIS (environmental impact statement) process. We filed 2,800 pounds of paper in applying for 40 permits and providing information required by the EIS process.

"More than 50 people devoted 172 man-years of effort in the four-plus years we were seeking government approval to bring 100,000 bbl. per day of domestic oil to American consumers. We could have spent 10 minutes on the phone to arrange for the delivery of a similar amount of foreign import oil!"

Pat Metz refers to the permitting process as the "cost of concern." He heads a staff of 20 in Arco Alaska Inc.'s per-

mits and compliance section. Metz echoes the thoughts of many in saying the mushrooming regulatory movement is choking resource development without significantly enhancing environmental protection. "We're forced to spend a lot of money to reduce a tiny bit of harm to a tiny bit less. The cost benefit ratio is out of whack."

Metz said part of the problem with the permitting process is the uncertainty it creates within the industry. "You never know whether a particular agency is going to give you a permit or not. You never know what they are going to ask you to do in order to secure that permit."

A regulatory roadblock can occur at any phase of a project, from seismic work to core drilling to exploratory drilling to development drilling.

Metz tells of one geological field program that was thwarted by permit denial: "The National Park Service had no objections to our geologists being on remote park land but refused to let a helicopter land within park boundaries. We were told we were welcome to walk in."

Another Arco geological party set off to work in the eastern Brooks Range. The project area was to include a corner of ANWR (Arctic National Wildlife Reserve). "The U.S. Fish and Wildlife Service said go ahead but be prepared to pay about \$2,500 to cover costs of a F&WS staff member to come along and monitor your operations in ANWR," Metz said. "After weighing the costs against the probable advantage of gaining data from that small corner of federal land, we told the Fish and Wildlife service we would stay off the reserve."

It is easy to show how the permit and regulatory process can redirect resource development efforts, slow them or even stop them cold. It is harder to define why well-intentioned environmental controls are causing so many problems and harder still to come up with reforms that work.

Those involved in resource development agree that until clear-cut jurisdiction and oversight authority is established, industry regulation will continue to be a jungle of federal, state and local rules, regulations, permit requirements and stipulations.

"The state of Alaska can do just an ab-

solutely terrific job of regulatory reform and not solve regulatory problems," Metz said.

"Even if the project is on state land, it's a sure bet some kind of federal permit will be needed, too."

Battle of the Agencies

Conflict and confusion reign supreme when industry seeks permits to work in coastal areas. Since most of Alaska's commerce and industry hinges on tide-water access, the conflict is virtually constant.

Two major policies — one state and one federal — meet in this arena like rival thunder clouds. One is the Alaska Coastal Management Program. The other is Section 404 of the Clean Water Act, administered by the U.S. Army Corps of Engineers.

Charlie Elder, longtime construction manager for Standard Alaska Production Co., gave a good example of the regulatory complexity of these laws in writing for the *Juneau Report*, an SAIC publication that tracks state government activities.

"Two new developments in recent years have seriously complicated state permits procedures," he said, "leading to even greater confusion and delay in the system."

"One is the Alaska Coastal Management Program (ACMP). This sets up a series of very general goals — for example, 'protecting subsistence' — and gives the Office of the Governor authority to rule whether a particular construction project is 'consistent' with the coastal management goals.

"The second is a federal regulation extending Corps of Engineers permit authority into wetlands. The adopted definition of 'wetlands' results in a mammoth expansion of federal permitting authority over Alaska's private, state and federally owned lands, far beyond the Corps' traditional authority in navigable waters or coastal offshore areas.

"The problem comes when these two acts are implemented. The Corps' permit, needed to do any construction on wetlands, cannot be issued without the state coastal zone consistency determination. This effectively puts veto authority over large and small Alaska construction projects into the hands of a

small group of planners in the governor's office in Juneau."

Lack of guidelines on how ACMP consistency is determined places every project on the "negotiating table" and leads to unreasonable and expensive environmental stipulations. Elder and others say

As if ACMP certification weren't enough. Corps permit applicants must go on to satisfy a gamut of other concerns. Water quality, state and local floodplain standards, cultural resources, endangered species, federal species of concern and special area designations are among review categories. Other factors include conservation, economics, aesthetics, fish and wildlife values, land use, navigation, shore erosion, recreation, water supply and conservation, energy needs, safety, food and fiber production, mineral needs, property ownership and the general needs and welfare of the people.

All these are just for dredging or placing fill on wetlands. When it comes to putting something on that fill, such as facilities for an Endicott or Lisburne oil field, another round of permit authorization is required.

The Gauntlet

For land-based Arctic work, the permitting process starts with the North Slope Borough. If permits cannot be issued under existing borough codes (as was the case with Lisburne), new ordinances must be enacted. This requires work from the borough planning department and public hearings, drafting new legislation and public hearings, consideration by the borough assembly and public hearings, then enactment and codification.

With borough permits in hand, the oil company goes to the state of Alaska. Here, the application winds through the departments of Natural Resources, Environmental Conservation and Fish and Game and then to the Office of the Governor.

Next, enter the federal government: Corps of Engineers, Fish and Wildlife Service, Environmental Protection Agency and sometimes the National Marine Fisheries Service.

It takes only one agency in that whole batch to stifle the process. The choice then is to compromise the program or

abandon it. The permit and compliance process is nothing more than the fine art of compromise, and compromise inevitably leads to higher project costs. The more spent on permits, studies, surveys, assessments, research, previews, reviews and post-study evaluations, the less money available for bringing oil out of the ground.

"Government is not good at sorting out good stipulations from bad stipulations or at assigning priority to requirements within the permit process," said George Wuerch, general manager of Fluor Alaska Inc.

Wuerch spent five years heading up government affairs for Northwest Alaskan Pipeline Co. (the company sponsoring a gas line project across Alaska and Canada to the Lower 48 which never came about) in Washington, D.C., and Alaska. "At the end of those five years, I reviewed my log books and found I had actually signed and transmitted 980 pieces of correspondence on permitting to various government agencies."

Engineers like Wuerch and Metz are the project participants who work most closely with government agencies because the ultimate project stipulations and mitigation measures government mandates often mean project design changes long before construction starts. Wuerch offers an example of how a simple permit application can snowball into a serious problem for the project.

"Agency people involved in the permit process are honorable people who want to do a good job," Wuerch said, "but they try to get all the players together at one time. Now, suddenly, instead of a permit applicant dealing with one agency or one staff, he gets a roomful of 20 or 30 people from a variety of agencies."

"Over the years, it has been common practice for an agency that does have statutory authority to issue a permit to allow other agencies with no say in this particular permit to sit in on negotiations with the applicant. They are extended the courtesy of contributing to the dialogue."

"In order to justify his presence, each feels he must contribute input. All this goes on the record, and permitting requirements on the application become cumulative because there is no mechanism for establishing priority or degree of relevance of all this input. The concern of any agency can turn into a stipulation in the permit without regard to the relevance, environmental

benefit or implementation cost to the applicant.

"I can think of no case where the lead agency said, 'That's a dumb idea. That doesn't belong here,' or 'What's your statutory authority for making that contribution?' Never did any agency say, 'Stop, that's not right,' or 'No, that doesn't fit.' They would invariably write in a comment as additional permit requirements for the applicant."

Roger Herrers, formerly Alaska lands and exploration manager for SAPC, put the compound stipulations problem in focus for the oil industry in a *Juneau Report* article:

"There is no overall state oil and gas policy, no one balancing of the state's overall interests. Yes, the permits get

Bills are introduced, but a real reform package has not yet been enacted.

issued more quickly than in the past, but they're issued with stipulations that are unnecessary, expensive and which serve to discourage exploration.

"In the Beaufort Sea, each well is different from a regulatory standpoint, and is, therefore, perceived to be risky and controversial. The agencies are quite able to handle routine wells in a speedy and practical manner. Unfortunately, it's the non-routine wells, the new-area wildcats, that are so important. It's difficult for the agencies to deal with these because there is no overall state policy."

"One only has to look back at the record to see that wells could be permitted faster without adversely affecting the environment. Five or six years ago, wells on offshore state Beaufort Sea leases were permitted in a matter of a month or so. If one goes back to those locations today, it's very difficult to find where the wellsite was. So, the impact on the environment is acceptably small whether the permits take one month or one year."

Easier Said Than Done

The state government has worked to

ward permit streamlining and meaningful reform over the past few years. Bills are introduced each session, but a real reform package had not yet been enacted (See the accompanying report by Rep. Marco Pignatelli).

During a period of strong economy, with high oil prices and low unemployment, industry can put up with regulatory compliance costs and government feels little pressure for change. Such is not the case today and the pressure is on.

The state is scrounging for new money to feed its operating and public works budget through court actions and tax law change proposals directed at industry. Many feel that instead of boosting revenue through tax, fee and royalty increases to industry, the state should provide incentives for investment in Alaska. Regulatory reform is such an incentive.

However, changing the course of a bureaucratic juggernaut is far from easy. Tim Bradner, a frequent contributor to *AC&O* and student of government workings, focused on this challenge in an article for an oil industry newsletter:

"Unfortunately, it was easy to establish the regulatory mechanisms, but reforming them to excise the component that is 'excessive' is much more complex, and raises troubling moral and institutional questions. It is one thing to legislate a goal of maximum environmental or safety protection using the 'best available technology,' a term that became defined by regulators as the most sophisticated technology regardless of cost. It is quite another thing to try to modify this idea to inject the element of economic feasibility."

"While this implants the notion of economic constraint in the law of regulation, it leaves the problem of requiring regulators and industry to negotiate some standard of protection in either a quasi-regulatory setting or the political environment of a legislature, environments often charged with emotional advocacy and a lack of clear scientific or technical data supporting one position or the other."

Alaska's Legislature continues to struggle with regulatory reform, but the state has made some progress in the administrative arena. There exists the Division of Governmental Coordination within the Office of the Governor. This body acts as a clearinghouse and lead

agency that can get other resource agencies to make a simultaneous review of their respective permit and certification requirements of a project. The DGC deals only with projects that need permits, leases and approvals under the Alaska Coastal Management Program — in other words, most major projects statewide.

A paper outlining the features of DGC states, "When projects require the permits of two or more state agencies or a federal permit, DGC coordinates the review and renders a conclusive consis-

tency determination. This provides applicants with a single state contact which will facilitate the project review and, if necessary, the resolution of conflicts."

This sounds good on paper, but people like Pat Metz know it often falls short of true facilitation in practice.

Metz said it is a continual educational process as new or transferred agency people come in contact with permit applications. "We constantly are explaining what we want to do, how we want to do it and why. At the same time,

the agencies explain their problems and guidelines to us and we work together to reach compromises that achieve the aims of both parties. It's not an adversarial situation, but a constant negotiating process.

"There are a lot of good agency people who sit down with you and work hard to solve problems. But, there are always a few oddballs out there who have got it in for you and do what they can to mess up things. That's unfortunate, but this is where the importance of the upper levels of departments and commissions

Battling for Reform

Failed Bill Would Have Curbed Flow of Regulations By Requiring Justification of Costs Versus Benefits



By MARCO A. PIGNATELLI

Regardless of the reasons, regulations are issued with dismayed frequency. State agencies issue regulations for many reasons, often to comply with a new or revised federal or state law. Other times, agencies introduce regulations to change a procedure, alleviate an onerous situation or "improve" their ability to fulfill their mission.

Regulations have the same effect on citizens as law. In fact, they are called "administrative laws." Some attorneys specialize in administrative law because there is so much of it.

Recent controversial regulations include the subsistence issue, boat motor limits on the Kenai River, abolition of truck lift-axes, royalty oil and gas sales, access to state parks, local hire implementation and dividend and longevity bonus eligibility. Clearly, regulations are omnipresent in all aspects of our lives.

Legislators often complain that regulations tend to distort or subvert the intent of their legislation. There is an imbalance, some say, because it is easier for Alaska bureaucrats to issue regulations than for the Legislature to repeal them. In fact, it is just as easy to pass a constitutional proposition as it is to repeal an administrative regulation.

The imbalance comes about because the administrative branch can issue, change or repeal regulations by following the steps in Alaska's Administrative Procedures Act, without legislative enactment of a law.

Passing a law is much more difficult, especially considering a law must be signed by the governor.

Consequently, if the governor vetoes a bill repealing a regulation, the only legislative recourse is a two-thirds plurality vote to override his veto — a difficult proposition.

Past legislatures have sought to correct the imbalance by increasing legislative power to veto or repeal regulations. In 1980 and again in 1984, Alaskan voters rejected ballot propositions to give this added power to the Legislature.

In the most recent legislature, a different approach surfaced. House Bill 458 would have required government agencies to give the public two kinds of information to justify proposed regulations.

Sponsoring agencies would be required to publish a Justification of Need paper describing the problem the regulation was intended to address, explaining how the regulation would solve the problem, identifying the documents upon which the agency relied for its decision, and describing

the practical alternatives to the proposed regulation.

HB 458 would have also required a Financial Impact Analysis identifying who would bear the cost of new regulations and who would benefit from them, estimating the financial impact of the proposed regulations, discussing the least expensive alternative proposal, and disclosing the consequences of foregoing the regulation.

The bill would also have allowed the courts to invalidate regulations for which the agencies did not make good faith efforts to publish the information required above.

HB 458 underwent changes and was improved in the public hearing process with the assistance of Mike Abbott of the Resource Development Council and George Krusz of the Alaska State Chamber of Commerce.

But opposition to the bill was strong and swift. Though most of the key provisions were lifted from model legislation approved by the National Conference of Commissioners on Uniform State Laws, Alaska's commissioner strongly opposed it, saying it would make imposing regulations too time consuming and costly.

For now, at least, it appears government agencies will continue cranking out regulations with little to stand in their way.

Editor's Note: Alaska Rep. Marco A. Pignatelli, R-Anchorage, was the prime sponsor of HB 458, a regulatory reform measure in the Legislature this year. The bill met strong opposition and died for lack of support in the House Judiciary Committee.

Regulatory Roadblocks

come into play. This is where the understanding comes in and the control necessary to deal with those situations that are punitive in nature."

Metz is talking about a system whereby a decision can be "bumped up" to higher levels — from agency staff to division head to commissioner to the governor, if necessary.

This happened when SAPC sought permission to use Primacord rope explosive in tidal waters seismic work in

Bristol Bay two years ago. Commissioner of Natural Resources Esther Wunnicke eventually denied the permit because of strong objections from the Department of Fish and Game, backed by commercial fishing interests and environmental organizations.

Now the Alaska Oil and Gas Association is funding a \$120,000 field test of linear explosive in tidal zones that will result in a final report on sealife impacts late this year. Armed with this in-

formation, the state will re-evaluate its prohibition of the use of explosives.

Just such a re-evaluation this spring led to a relaxation of drilling restrictions in the Beaufort Sea during the bowhead whale migration. This may save oil companies millions of dollars by allowing well completions in one season instead of requiring drillers to pull off a well, then re-enter and finish drilling months later.

The DGC operates under state statutes that have limited opportunities for review period extensions. A program description states, "Unless a public hearing is held, a field survey is undertaken, additional information is required, an applicant requests additional time, or some other highly unusual circumstances exist, no project can take longer than 65 days to review."

Industry people who work on permitting for a living will tell you those "highly unusual circumstances" are actually highly usual circumstances in the vast majority of cases. Metz said his department likes to have nine months to a year of advance notice of a proposed project just to get ready to apply for permits. Herrera speaks of "the 12-month period it takes to permit new exploration wells in unexplored offshore areas in both federal- and state-owned acreage."

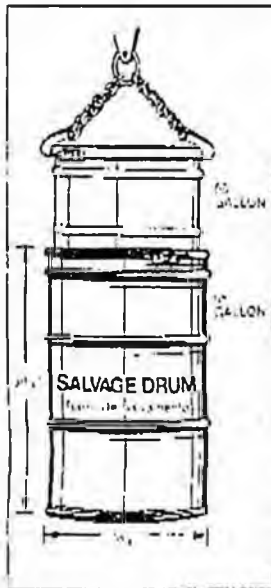
Herrera adds, "Had a six-month permit timeline instead of one-year period been adhered to (with no less scrutiny of environmental issues, only more concentrated in terms of time), there would probably be new oil production from state-owned lands coming on line in 1986 or 1987, as Prudhoe Bay production downturns become an issue."

Truly effective regulatory reform may never be achieved — certainly not to the satisfaction of all parties concerned. Tim Bradner believes this is because, "We have asked political institutions conceived for other purposes to undertake this intervention in a complex, decentralized, private economy. We should not be surprised at the distortions that result."

"Overall, this effort to reconcile continued economic growth in an increasingly competitive world with the important social and political goals of our times — environmental protection, health and safety — will remain one of the central problems in late 20th century American political life. The political rhetoric may change from time to time, but the issues will remain."

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April 8, 1983

APR 14 1983

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

RE: REGULATORY REFORM

Dear Governor Sheffield:

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

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

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

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

Gov. Sheffield.

4/8/83

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

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

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

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

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

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

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

Gov. Sheffield

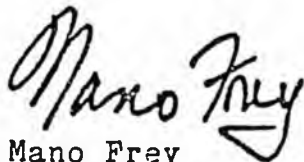
4/8/83

Page 3

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

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

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

Mano Frey
President

encl.



Resource Development Council

for Alaska, Inc.

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Box 516, Anchorage, Alaska 99510 - 907/278-9615

DRAFT

POLICY STATEMENT NO. 11

REGULATORY REFORM

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

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

The Resource Development Council recommends the following:

I

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

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

continued...

II

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

III

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

IV

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

V

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

VI

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

VII

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

VIII

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

continued...

IX

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

X

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

XI

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

Adopted -----

ALASKA CONSISTENCY REVIEW PROCESS

Since adoption of the coastal consistency review regulations in early 1984, major progress has been made to achieve the following permit reform goals:

- ° establish regulatory deadlines for state permit decisions,
- ° eliminate repetitive state reviews and decisions on the same project,
- ° expedite state permit reviews and decisions,
- ° ensure uniformity in state agency comments on federal permit decisions,
- ° assist applicants in the processing of state and federal permits,
- ° provide adequate opportunity for public and local government participation in state permit decisions, and
- ° achieve a balanced, factually documented decision including consideration of the costs and benefits of requiring particular stipulations.

The state's system for reviewing and processing most project related permits, leases, and other legal approvals is governed by regulations adopted in March 1984, entitled Project Consistency with the Alaska Coastal Management Program (6 AAC 50). The regulations require that coastal projects only be reviewed one time for approvals required by the Departments of Environmental Conservation, Fish and Game, and Natural Resources and for consistency reviews conducted by the Division of Governmental Coordination (DGC). These regulations, provide for (1) easy access to and participation in the decision making process by applicants, (2) expedient decisions on project consistency and (3) quick issuance of permits by the state resource agencies. Features of the existing regulations and additional efforts being taken by the state to improve the permitting process include the following:

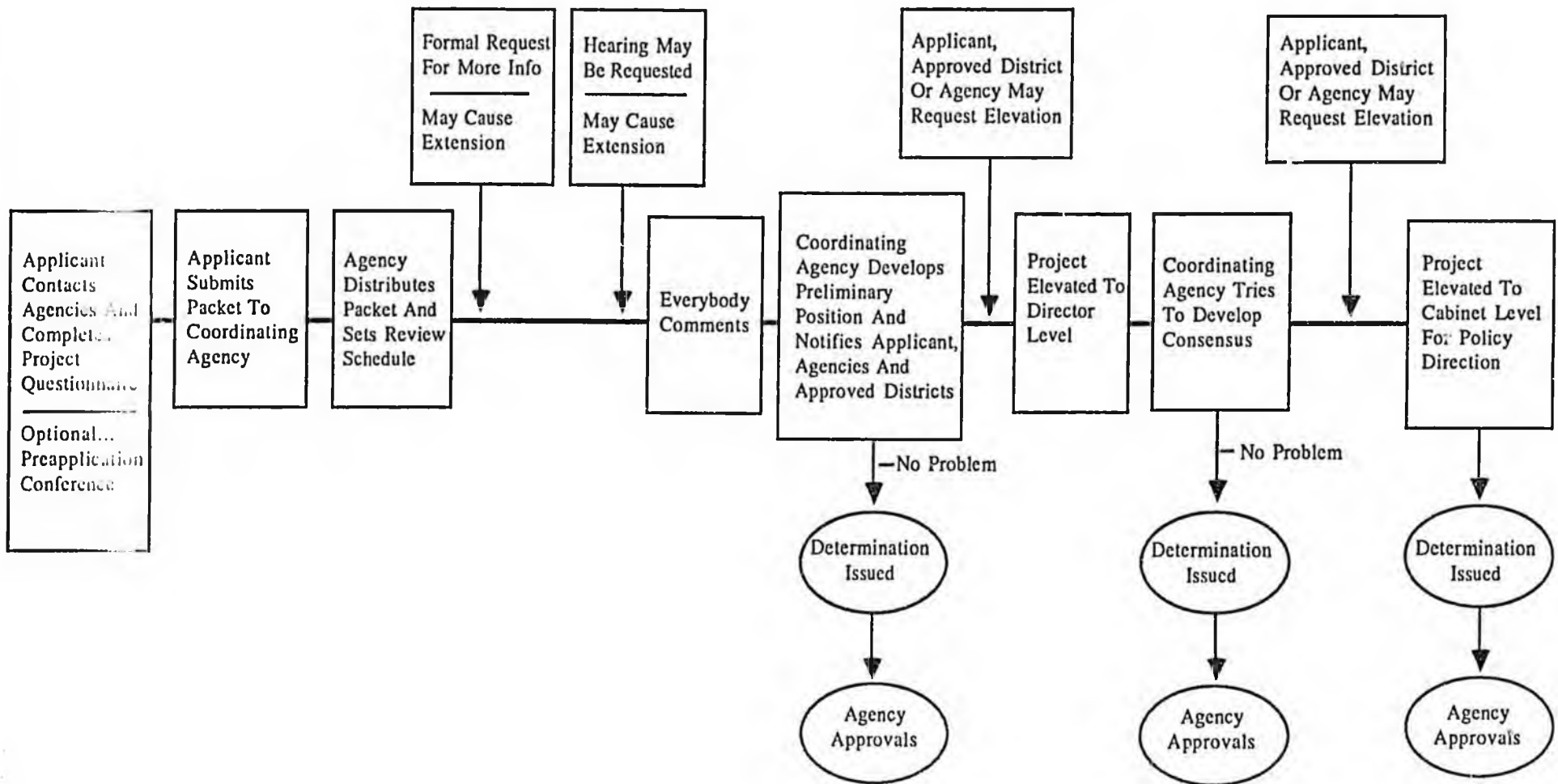
- ° All appropriate permits and certificates for a project are evaluated in a single review. This eliminates duplicative and time consuming review of individual permits necessary for the same project.
- ° When a project requires permits of two or more state agencies or a federal permit, DGC coordinates the project review and renders a conclusive consistency determination on behalf of all the state resource agencies. This provides applicants with a single state agency contact (DGC) to coordinate the project review and, if necessary, resolve any outstanding conflicts. It also provides a single state voice for communicating the state's position on a project to federal permitting agencies.

- ° The consistency review regulations have streamlined the permitting process. Consistency determinations are completed in an average of 47 days. State resource agency permits are required to be issued within 5 days of the consistency determination. Previously, the state could take six months or longer to complete the review of a project for federal consistency with the Alaska Coastal Management Program (ACMP).
- ° If an applicant considers a decision by the State of Alaska to be unacceptable, opportunities exist to elevate a decision to policy makers of the state resource agencies for their reconsideration. Applicants are encouraged to participate in discussions of their project at each level of review.
- ° On request, DGC will assist applicants schedule pre-application meetings with all the concerned agencies (state, federal, and local) to discuss their project prior to filing permit applications. At these pre-application meetings, agencies provide recommendations to an applicant for designing a project that will meet review criteria and ensure compliance with state, federal, and local requirements. Also, the applicant learns how the permit process works, who to contact for information, and what to expect during the review process. These pre-application meetings also provide a forum for informal agency contact to assess regulatory requirements for projects.
- ° A brochure which describes the state's consistency review to potential applicants has been mailed to approximately 5,000 potential applicants listed in business directories prepared by the Department of Commerce and Economic Development (enclosed). Part of the brochure includes a survey form which the applicant can return by mail to request additional assistance from DGC in dealing with the consistency review process.

Since January 1984, DGC has processed 1,541 project reviews. Of this total, more than 98% were found consistent. The average review period for these projects was 47 days. The vast majority of projects reviewed under the current system are approved, and the average project review is completed in less than 50 days. Following the review, all state and most federal permits are promptly issued.

A review of the state's current consistency review record does not support the need for the statutory and regulatory changes contained in HB 212. To the contrary, HB 212 could conceivably result in a less efficient review process due to overlapping responsibilities, multiply lead agencies, and increased variations in the review process compared to the existing system.

PROJECT CONSISTENCY REVIEW PROCEDURES



4/13 SSHB 212

Dave: Min's Comm - DNR as lead agency

current prog process → unnecy cond'ns, exp'v

MOU gives auth' to agencies that they don't hv under state
streamlining for cost - and time-effectiveness

Roy Gardner: Ave. Chamber

major leg'v prog - reg'y permit reform

take OMB out of the process - DNR the appropriate agency

power struggles under MOU -

prev. add'n of bad steps

DNR with prot. pub. interest

Bob Grogan: DGC

1540 applications under new process, 7 commit levels elev'ns, 16
reviews in all

1) diff't lead agcy - confusing

2) hv explained state process to fed'l agcies & don't want to
redo

3) use dev't shdn't be only trigger

4) defin of how to select lead agcy

5) does OMB hv auth'y to direct state agcies?

6) lead ageny - doesn't hv auth'y over others -

Mike Abbott, Jenny Hanley, Tim Hostedler, Tom Barnes, Martin Peal

Pete Metz ARCO - bill needs to give auth'y to DNR to override
other agencies -

Pete Hanley SAFC -

→

AOGA analysis of reg'y process - 3/87, will send

Roy M. Michael - At Minerals Assn -

Rick Harris - Sealaska

must DGC to be lead w/ > auth'y to deal w/ agencies

HB

216

HOUSE COMMITTEE REPORT

(9)
Date referred: 3/27/87

FURTHER REFERRALS: Finance

DATE: _____

The Resources Committee has considered HB 216
"An Act relating to game farming."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Jim G.T.
Mike Starnes
John R.
Cliff Davidson
Dick Starnes
Kevin Sprung

SIGNING OTHER RECOMMENDATIONS:

Lyne H. R.

Jim G.T.
 Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: HB 216
Publish Date: _____

Revision Date: _____
Title: An Act relating to game farming
Sponsor: Larson and Menard
Requestor: _____

Agency Affected: Fish and Game
BRU: Game
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

REVENUE		1.0	1.0	1.1	1.2	1.2
---------	--	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) Indications are that approximately 50-60 people are presently farming birds without a valid license. Assumes most of these people (40) would buy a license if fee were lower and that an additional 20 people who presently do not farm birds because fee is too high would buy license and farm birds. Biennial revenues would be \$1,200--presently they are \$200.

Prepared by: Lew Pamplin, Director Phone: 465-4190
Division: Game Date: 4/24/87

Approved by Commissioner: *Donnell* Date: 4-24-87
Agency: Fish and Game

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary



Official Business

COMMITTEE:

House Resources

DATE: APRIL 23, 1987

SIGN-IN

Subject of meeting:

HB 216 ✓ HB 259
 HB 34 ✓ HJR 27
 HB 82 ✓
 HB 110

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?	WHICH BILL?
LT. CONRAD SEIBEL	2700 Sherwood Lane Tombay 79801	767-2161	Alaska Dept. Public Safety	Yes	344 82
Laura Ostromsky	400 W. Harding	465-2400	DNR	Yes	HB 259
Carol Wilson	444 W. Harding	8420	ADFS	Yes	259
John Rosebery	204 N Franklin	586-230	Alaska Environmental Lobby	Yes	31 110
Amy Kyle	PO Box 0 JNU	5-2600	DEL	If questions arise	259 HJR 27
Kenneth...	UFD	Yes	...
Gail Gatton	JNU	6-2345	AEL	Yes/Maybe	HB 259 HJR 27
Bob Herman	PO Box 3-2000 Juneau	5-4190	ADFE	Yes	34-216 110-82

*
* DELIVER TO: LTCCGTG *
* *
* *
* ORIGINAL *
* SENT: 04/23/87 TIME: 08:31 *
* FROM: LTCCSOLDOTNA *
* SUBJECT: GAME FARMING, PARTICIPANTS #1 *
* PRINT DATE: 04/23/87 TIME: 08:31 *
*

* * * PARTICIPANT LIST * * *

HB-216: GAME FARMING

MODERATOR: SHANNA

* * * UNDECIDED * * *

1. DONALD WOODARD

TO TESTIFY:

- 1.
- 2.
- 3.

TO OBSERVE:

- 1.
- 2.
- 3.


```

*****
*
* DELIVER TO: LTCCGTC
*
* ORIGINAL
* SENT: 04/23/87 TIME: 09:03
* FROM: LIOCM6T
* SUBJECT: HRES - HB216
* PRINT DATE: 04/23/87 TIME: 09:03
*
*****

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*** FINAL T/C STATS ***

```

DATE: _____ 4/23/87 _____
SITE: _____ MAT-SU _____
SPONSOR: _____ HOUSE RESOURCES _____
SUBJECT: _____ HB216 - GAME BIRD FARM LICENSE _____
LOCAL
MODERATOR: _____ MARY _____

```

```

*****
TESTIFIED:
1. LINDA S. DELLINGER, AK GAME BIRD ASSN, P O BOX 33, SUTTON
   99674 745-2839
2. JUDITH A RIVARD, P O BOX 871842, WASSILLA 99687, 376-2140
*****
OBSERVED:

```

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*****
TESTIFIED: _____ 2 _____ TIME START: _____
OBSERVED: _____ 0 _____ TIME ENDING: _____
TOTAL: _____ 2 _____

```

 *
 * DELIVER TO: LTCCGTG
 *
 * ORIGINAL
 * SENT: 04/23/87 TIME: 09:59
 * FROM: LIOCKOD
 * SUBJECT: KODIAK FINAL STATS
 * PRINT DATE: 04/23/87 TIME: 09:03
 *

*** FINAL T/C STATS ***

DATE: APRIL 25, 1987
 SITE: KODIAK L.I.O.
 SPONSOR: HOUSE RESOURCES
 SUBJECT: HB 216 - GAME FARMING
 LOCAL MODERATOR: LORNA STEELMAN

TESTIFIED:

NAME/REPRESENTING	ADDRESS	PHONE
-------------------	---------	-------

1. LOUIS DRUMM,	SR BOX 9230 KODIAK 99615,	487-2293
-----------------	---------------------------	----------

TESTIFIED: 1	TIME START: 8:30 AM
OBSERVED: 0	TIME END: 8:50 AM
TOTAL: 1	

*** FINAL STATS ***

DATE: 4/23/87
 SITE: SOLDOTNA
 SPONSOR: HOUSE RESOURCES
 SUBJECT: HB-216 GAME FARMING
 MODERATOR: SHANNA

TO TESTIFY:

1.

TO OBSERVE:

1. DONALD L. WOODARD P.O. BOX 521 SOLDOTNA 262-4370
 2. THOMAS H. MAHAN P.O. BOX 262 STERLING 262-9780

This is the one (to move)
we haven't got a
fiscal note on - the
Committee can do a
zero if you want
to move it today

ALASKA GAMEBIRD ASSOCIATION



House Resource Committee
Box V
Juneau, Alaska

April 18, 1987

Dear Representative *Herman*

We have been working on the issue of the Gamebird Farming License since June of 1985. It was at that time that Phil Koehl, a game biologist in the Commissioner's office at Juneau, made us aware of AS 16.05.330 & 340(14)a. which requires that a Game Farming License for a biennial fee \$200.00 must be purchased for the business of breeding, propagating, raising, or producing of gamebirds in captivity, for the purpose of marketing gamebirds or their products.

The business/and or hobby of propagating gamebirds has been popular in the U.S.A. since the turn of the century. I have seen a marked and steady increase of people raising gamebirds in Alaska, during the last 5 years, you would be surprised at the numbers!

A pair of Quail costs approximately \$10.00 on the Alaskan market. The License to breed them or propagate and raise up their chicks costs \$200.00 biennially, plus a Business License of \$25.00 a year. This statute, as written in 1957, is cost prohibative to the raising and propagating of upland gamebirds and waterfowl today.

Another point, on viewing the Gamebird Industry in Alaska is that, being isolated from the other states as we are, this business is completely state-efficient. Birds climatized to our state weather produce a stronger, well-feathered chick. The off-spring, either eggs or chicks, must be housed and fed properly. This perpetually stimulates the economy of Feed Stores, Hardware Suppliers, Building Suppliers where wire and lumber and additional materials are purchased.

House Bill 216 would change the amount of money people would have to pay for selling gamebirds in Alaska. We feel \$250.00 every two years is far to much for every gamebird breeder/and or hobbyist to pay. If House Bill 216 becomes law it shouldn't substantially reduce the gross receipts to the General Fund, nor should the costs of administering the license exceed the licensing revenue. The costs of administering the Game Licensing program are minimal and will remain that way. The only costs to the State is the time and material necessary to issue the license. Data needed for a Game Farming License required by statute are as follows: Name, Address, Phone, Physical Location, Applicant Description, Years of Residency, Birthdate, and Social Security Number.

Enclosed you will find a copy of the new Regulation and Aviculturists Permit cooperatively drafted by the Alaska Gamebird Assoc. and the Alaska Dept. of Fish and Game. The Regulation and Permit was voted on and judiciously accepted by the Board of Game as of April 14, 1987. Both will be published by ADF&G in their

ALASKA GAMEBIRD ASSOCIATION



-2-

new regulation booklet available later this year. You will note that both the Regulation and Permit allow the buying, selling, trading, importing and exporting of upland gamebirds and waterfowl.

However, after a legal interpretation of this Regulation and Permit by Mr. Ed Hein, Attorney-at-Law on the Legal Staff at Juneau, he stated that indeed a Game Farming License is still necessary for the business of breeding, selling or marketing these birds until the wording of the statute is changed.

Once again we urge you to support House Bill 216 and pass this Bill on to the House Finance Committee.

Sincerely,

Judith A. Rivard
Judith A. Rivard, Secretary

Johnnie M. Dellinger
Johnnie M. Dellinger, President

Linda S. Dellinger
Linda S. Dellinger, Treasurer

cc: Board of Directors, AGA
Representative Ron Larson

ALASKA GAMEBIRD ASSOCIATION



5AAC92.XXX. AVICULTURIST'S PERMIT

- (1) A biennial Aviculturist's Permit is required to hold bird species defined in (4) below, in captivity.
- (2) A permit may be issued if the applicant meets the following criteria:
 - (a) the applicant can provide wing clipping, facilities to house, breed, and maintain, in clean and healthy condition, permitted birds. Such facilities shall include provisions for adequate food, water, shelter, sanitation, protection from injury, predation and prevention of overcrowding.
- (3) Permits are valid from the date issued through the 31st day of January of the second calendar year following the year of issue. An annual report must be made concerning birds held during the previous year. A permit may be rescinded if a report containing the following information has not been received by the department not later than January 31 of each year:
 - (a) live and in possession;
 - (b) mortalities, including probable cause;
 - (c) any sale, gift or trade, including name and address of recipient, and if sold, given or traded within Alaska, the Aviculturist's Permit number of the recipient.
- (4) The following captive bred, nonendangered birds may, under possession of such a permit be possessed, sold, or imported provided that a licensed veterinarian's certificate of health accompanies all such importation, or if exported, are done in compliance with appropriate regulations required by the recipient's state or country; no birds may be released into the wild.

WITHIN THE ORDER GALLIFORMES:

 - a) Family Megapodidae (Megapodes, 10 spp.)
 - b) Family Cracidae (Curassow family, 44 spp.)
 - c) Within the Family Phasianidae:

Any member of the genus *Alectoris* (Rock, Barbary, Red-Legged, etc. Partridge), except *Alectoris Chukar*, the Chukar partridge, for which no permit is required.

Any member of the genus *Francolinus* (Francolins)

Within the Family Tetraonidae, *Tetrao urogallus* (Capercaillie).
- (5) A representative of the department may, at any reasonable hour, inspect the birds and/or facilities of a permit holder. If such inspection reveals the birds to be in poor condition as a result of the permittee's negligence, if facilities are deemed inadequate, or if for any other reason the permittee is found to be in violation of provisions set forth in this manual, the permit may be revoked.
- (6) A permittee may not kill any bird or prey in defense of the permittee's birds. A permittee may, with prior permission, be allowed to trap a bird of prey, in defense of the permittee's birds.

ALASKA GAMEBIRD ASSOCIATION



5AAC92.029. PERMIT FOR POSSESSING LIVE GAME.

- (a) Except as otherwise permitted in this chapter, or in AS 16, no person may possess, import, release, export, or assist importing, releasing, or exporting, live game, unless the person holds a permit issued by the department.
- (b) The following species may be possessed, imported, exported, bought, sold, or traded without a permit from the department, but may not be released into the wild:

<u>Common Name</u>	<u>Scientific Name</u>
Dog	Canis familiaris
Cat	Felis catus
etc.	same
etc.	same
Pigeon	Columbia livea Var.
Any Turkey species	Sub-family Meleagridinae (Gallopavo Var)
Any Pheasant species	Sub-family Phasianinae
Canary	serinus canaria Var.
Parrot, etc.	Any of various genera and species not prohibited by federal law
Toucan	Including Colinus, Coturnix, etc.
Any Quail species	Acridotheres spp.
Mynah	Pavo cristatus
Any Peafowl species	Alectoris alectoris chukar
Chukar Partridge	Family Turnicidae in the order Gruiformes
Button "quail"	Sub-family Numidinae
Guinea fowl	
Ducks, geese, swans and other migratory waterfowl which the U.S. Fish and Wildlife Service, Department of the Interior, determines do not require federal permit.	
Horse	Equus caballus
Guinea Pig	Cavia porcellus
etc.	same
etc.	same

Any duck, goose, swan or other migratory waterfowl, which the USF&W Service determines does not require a federal permit for private ownership. Any species of bird, mammal, reptile, etc. that is considered endangered may not be held in private ownership without a permit from the USF&W Service.

Member of the bird families	same
Any nonvenomous	same

- (c) same
- (d) same

TELECONFERENCE PARTICIPATION

SPONSOR _____

DATE/TIME _____

SUBJECT _____

LIO

ANCHORAGE	PETERSBURG*
BARROW*	SITKA
BETHEL	SOLDOTNA Donald Woodard
DELTA JUNCTION*	VALDEZ*
DILLINGHAM*	LTC
FAIRBANKS	FT. YUKON
	GALENA
GLENNALLEN*	HOMER
	NAKNEK
JUNEAU	NEWHALEN
KETCHIKAN	SAINT PAUL
	SAND POINT
KODIAK Louis Drumm	TOGIAK
KOTZEBUE*	UNALASKA
MAT-SU Linda Bellinger testify Judy Rivard testify	WRANGELL
NOME*	

200
260
460

H B

2 2 6

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

Senate Labor + Commerce	3-18-87
House C+RA	4-8-87

HOUSE COMMITTEE REPORT

6 HB 226

(5)

Date referred: 3/27/87

FURTHER REFERRALS: Resources Finance

DATE: 04/08/87

The Community and Regional Affairs Committee has considered HB 226

"An Act relating to fisheries business tax refunds to local government; and providing for an effective date."

RECOMMENDS:

- [] replace with [] the same title
[] attached amendment(s) [] a new title
[XXX] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the Committee

ADOPTS: [] letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact [] same as previous fiscal note published
[XXX] zero fiscal note S (DCRA & REV)
[] zero with analysis [] same as previous zero fiscal note published

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Handwritten signatures and names: Betty Cato, Ursula Mallin, James... ZAWACKI, Adelheid Herrmann, Herrmann, Heinrich Springer, SPRINGER

Handwritten signature: Heinrich Springer
Chairman's signature

ATTACHMENT II

The tables below illustrate how revenues would be shared with the individual cities in the new borough if SB 220/5B 102 is adopted. If this bill is not adopted, revenues would immediately be shared as indicated in year 5 of these tables. This sharp one year drop in revenues would seriously affect each city's ability to deliver services, and may negatively affect potential borough formation.

AKUTAN - \$355,000 in FY 87
approximately 50% of Akutan's Budget

	City	Borough
Year 1	\$320,400 (45%)	\$ 35,600 (5%)
Year 2	284,800 (40%)	71,200 (10%)
Year 3	249,200 (35%)	106,800 (15%)
Year 4	213,600 (30%)	142,400 (20%)
Year 5	178,000 (25%)	178,000 (25%)

COLD BAY - \$7,200 in FY 87
approximately 10% of Cold Bay's Budget

	City	Borough
Year 1	\$ 5,340 (45%)	\$ 720 (5%)
Year 2	5,760 (40%)	1,440 (10%)
Year 3	5,040 (35%)	2,160 (15%)
Year 4	4,320 (30%)	2,880 (20%)
Year 5	3,600 (25%)	3,600 (25%)

KING COVE - \$327,000 in FY 87
approximately 35% of King Cove's budget

	City	Borough
Year 1	\$294,300 (45%)	\$ 32,700 (5%)
Year 2	261,600 (40%)	65,400 (10%)
Year 3	228,900 (35%)	98,100 (15%)
Year 4	196,200 (30%)	130,800 (20%)
Year 5	163,500 (25%)	163,500 (25%)

SAND POINT - \$114,000 in FY 87
approximately 10% of Sand Point's budget

	City	Borough
Year 1	\$102,600 (45%)	\$ 11,400 (5%)
Year 2	91,200 (40%)	22,800 (10%)
Year 3	79,800 (35%)	34,200 (15%)
Year 4	68,400 (30%)	45,600 (20%)
Year 5	57,000 (25%)	57,000 (25%)

The communities of False Pass and Nelson Lagoon, which are also in the Aleutians East area, do not presently receive State Fish Business Tax revenues because they are unincorporated. The State only shares these revenues with incorporated cities.

CITY OF KING COVE

P.O. Box 37 • King Cove, Alaska 99612 • (907) 497-2340

April 7, 1987

Dear Honorable Members of the Senate and House Community and Regional Affairs Committees

The communities of the Aleutians East region, Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon and Sand Point, ask for your support of SB 162/HB 226, an Act relating to Fisheries Business Tax refunds. Our region is presently circulating the petition required to establish a borough government, and we view passage of SB 162/HB 226 as critical to formation of the new Aleutians East borough.

SB 162/HB 226 will enable the phased transfer of fish tax revenues between existing cities and newly established boroughs. This transition would occur over a period of five years and would allow the cities to adjust existing service delivery to the decrease in the amount and percentage of fish tax revenues they will receive.

Alaska Statutes stipulate that the State equally share its fish tax revenues with cities in the unorganized borough for fish delivered to processors in city boundaries. However, if a borough exists, the State retains its 50% share, but the cities (25%) and the borough (25%) equally share the other 50%. Thus, under existing statutes, when the Aleutians East Borough is established, the cities will lose one-half of the fish tax revenues they have traditionally received.

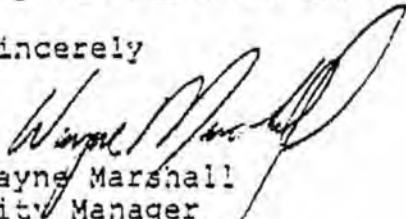
The amount of fish tax the cities receive varies each year, but the loss of one-half of this tax would generally result in a 15% - 20% decrease in Akutan's and King Cove's annual operating revenues, and a 5% - 10% decrease in Sand Point's and Cold Bay's revenues. Simply stated, this revenue loss, when coupled with losses in State Revenue Sharing, Municipal Assistance, Federal Revenue Sharing and other traditional sources of city revenues, is difficult to adjust to in one year. SB 162/HB 226 would provide cities a phased five year adjustment period by reducing the percentage of city fish tax revenues each year by 5% until the equal sharing of revenues with the borough is obtained. Attachment I illustrates the total amount of revenues to be shared between the borough and cities, and Attachment II illustrates this sharing of revenues with each city.

Also, this legislation will not negatively affect the newly established borough's ability to meet service delivery expenses. The borough, because of its larger boundaries, will be receiving fish tax revenues that the State has not previously shared with cities. These revenues will be collected from the area that was in the unorganized borough. SB 162/HB 226 structures the phase in of revenues so that as the borough undertakes delivering service which were previously done by the Cities, its percentage of revenues will increase and the city share of revenues will decrease. In year five, the borough will receive its full share. Attachment I identifies new revenues that will be available to the Aleutians East Borough.

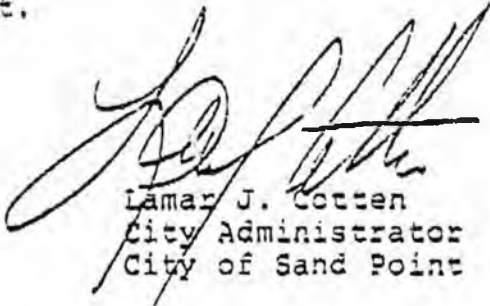
In addition, as SB 162/HB 226 addresses one of the disincentives that affects borough formation, its passage may encourage cities in areas other than the Aleutians East to consider establishing a borough. The Aleutians East region is pursuing Borough formation because of decreases in State and Federal expenditures, and the region's desire to continue good quality service delivery. Other areas may need to pursue borough government for similar reasons.

We ask for your support of SB 162/HB 226 to remove one of the disincentives affecting borough organization, particularly in the Aleutians East region. This bill will not affect the new borough's ability to deliver quality services, does not affect fish tax revenues existing boroughs receive and does not affect State revenues. In addition, it does not require any new State monies to implement.

Sincerely



Wayne Marshall
City Manager
City of King Cove



Lamar J. Cotten
City Administrator
City of Sand Point

On behalf of the Aleutians East communities.

ATTACHMENT I

In Fiscal Year 1987, the total amount of State Fisheries Business Tax revenues shared with the four incorporated cities (State tax on fish delivered to processors within City boundaries) in the Aleutians East region was \$805,000. This tax represents 10%-50% of each of the cities general operating revenues. Under existing statutes, if a borough is established, these cities must equally share these revenues with the borough.

HB 226/SB 162 which the Aleutians East communities support, would allow a phased transfer of fish tax revenues between cities and the new borough. Table I, below, illustrates this revenue transition. This revenue transition will allow cities to adjust service delivery to the decreased revenues, and will not negatively affect the borough's ability to deliver services.

TABLE I
HB 226/SB 162 Formula for Shared Revenues

	<u>City Share</u>	<u>Borough Share</u>
Year 1	\$734,500 (45%)	\$ 80,500 (5%)
Year 2	644,000 (40%)	161,000 (10%)
Year 3	563,500 (35%)	241,500 (15%)
Year 4	482,000 (30%)	322,000 (20%)
Year 5	402,500 (25%)	402,500 (25%)

Starting in year 5 and each year thereafter, the borough and cities will equally share State Fish Business Tax revenues for fish delivered within City limits.

Also, the Borough will annually receive about \$1,200,000 in new revenues that none of the existing cities receive. These revenues, when combined with the borough's share of fish tax revenues identified in Table I, will be adequate to meet anticipated borough expenditures. The \$1,200,000 mainly consists of the following revenue sources:

- o \$400,000 in State Fish Business Tax Revenues for fish delivered to processors within borough boundaries, but outside City limits. The State is the only entity that presently receives these funds.
- o \$700,000 in sales/use tax revenues. The Borough plans to levy a 2% sales/use tax as its main method of local taxation.
- o \$100,000 in State revenue sharing and municipal assistance monies and other shared revenues.

ATTACHMENT II

The tables below illustrate how revenues would be shared with the individual cities in the new borough if SB 220/SD 102 is adopted. If this bill is not adopted, revenues would immediately be shared as indicated in year 5 of these tables. This sharp one year drop in revenues would seriously affect each city's ability to deliver services, and may negatively effect potential borough formation.

AKUTAN - \$356,000 in FY 87
approximately 50% of Akutan's Budget

	City	Borough
Year 1	\$320,400 (45%)	\$ 35,600 (5%)
Year 2	284,800 (40%)	71,200 (10%)
Year 3	249,200 (35%)	106,800 (15%)
Year 4	213,600 (30%)	142,400 (20%)
Year 5	178,000 (25%)	178,000 (25%)

COLD BAY - \$7,200 in FY 87
approximately 10% of Cold Bay's Budget

	City	Borough
Year 1	\$ 5,340 (45%)	\$ 720 (5%)
Year 2	5,760 (40%)	1,440 (10%)
Year 3	5,040 (35%)	2,160 (15%)
Year 4	4,320 (30%)	2,880 (20%)
Year 5	3,600 (25%)	3,600 (25%)

KING COVE - \$327,000 in FY 87
approximately 35% of King Cove's budget

	City	Borough
Year 1	\$294,300 (45%)	\$ 32,700 (5%)
Year 2	261,600 (40%)	65,400 (10%)
Year 3	228,900 (35%)	98,100 (15%)
Year 4	196,200 (30%)	130,800 (20%)
Year 5	163,500 (25%)	163,500 (25%)

SAND POINT - \$114,000 in FY 87
approximately 10% of Sand Point's budget

	City	Borough
Year 1	\$102,600 (45%)	\$ 11,400 (5%)
Year 2	91,200 (40%)	22,800 (10%)
Year 3	79,800 (35%)	34,200 (15%)
Year 4	68,400 (30%)	45,600 (20%)
Year 5	57,000 (25%)	57,000 (25%)

The communities of False Pass and Nelson Lagoon, which are also in the Aleutians East area, do not presently receive State Fish Business Tax revenues because they are unincorporated. The State only shares these revenues with incorporated cities.

CITY OF KING COVE

P.O. Box 37 • King Cove, Alaska 99612 • (907) 487-2340

April 7, 1987

Dear Honorable Members of the Senate and House Community and Regional Affairs Committees

The communities of the Aleutians East region, Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon and Sand Point, ask for your support of SB 162/HB 226, an Act relating to Fisheries Business Tax refunds. Our region is presently circulating the petition required to establish a borough government, and we view passage of SB 162/HB 226 as critical to formation of the new Aleutians East borough.

SB 162/HB 226 will enable the phased transfer of fish tax revenues between existing cities and newly established boroughs. This transition would occur over a period of five years and would allow the cities to adjust existing service delivery to the decrease in the amount and percentage of fish tax revenues they will receive.

Alaska Statutes stipulate that the State equally share its fish tax revenues with cities in the unorganized borough for fish delivered to processors in city boundaries. However, if a borough exists, the State retains its 50% share, but the cities (25%) and the borough (25%) equally share the other 50%. Thus, under existing statutes, when the Aleutians East Borough is established, the cities will lose one-half of the fish tax revenues they have traditionally received.

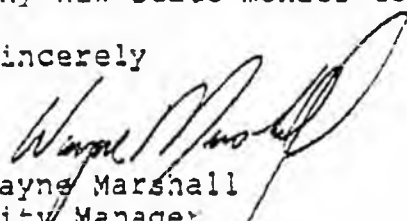
The amount of fish tax the cities receive varies each year, but the loss of one-half of this tax would generally result in a 15% - 20% decrease in Akutan's and King Cove's annual operating revenues, and a 5% - 10% decrease in Sand Point's and Cold Bay's revenues. Simply stated, this revenue loss, when coupled with losses in State Revenue Sharing, Municipal Assistance, Federal Revenue Sharing and other traditional sources of city revenues, is difficult to adjust to in one year. SB 162/HB 226 would provide cities a phased five year adjustment period by reducing the percentage of city fish tax revenues each year by 5% until the equal sharing of revenues with the borough is obtained. Attachment I illustrates the total amount of revenues to be shared between the borough and cities, and Attachment II illustrates this sharing of revenues with each city.

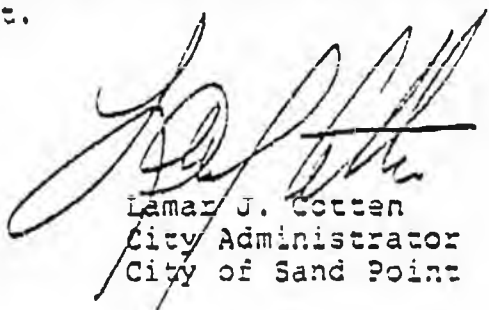
Also, this legislation will not negatively affect the newly established borough's ability to meet service delivery expenses. The borough, because of its larger boundaries, will be receiving fish tax revenues that the State has not previously shared with cities. These revenues will be collected from the area that was in the unorganized borough. SB 162/HB 226 structures the phase in of revenues so that as the borough undertakes delivering service which were previously done by the Cities, its percentage of revenues will increase and the city share of revenues will decrease. In year five, the borough will receive its full share. Attachment I identifies new revenues that will be available to the Aleutians East Borough.

In addition, as SB 162/HB 226 addresses one of the disincentives that affects borough formation, its passage may encourage cities in areas other than the Aleutians East to consider establishing a borough. The Aleutians East region is pursuing Borough formation because of decreases in State and Federal expenditures, and the region's desire to continue good quality service delivery. Other areas may need to pursue borough government for similar reasons.

We ask for your support of SB 162/HB 226 to remove one of the disincentives affecting borough organization, particularly in the Aleutians East region. This bill will not affect the new borough's ability to deliver quality services, does not affect fish tax revenues existing boroughs receive and does not affect State revenues. In addition, it does not require any new State monies to implement.

Sincerely


Wayne Marshall
City Manager
City of King Cove


Lamar J. Cotten
City Administrator
City of Sand Point

On behalf of the Aleutians East communities.

ATTACHMENT I

In Fiscal Year 1987, the total amount of State Fisheries Business Tax revenues shared with the four incorporated cities (State tax on fish delivered to processors within City boundaries) in the Aleutians East region was \$805,000. This tax represents 10%-50% of each of the cities general operating revenues. Under existing statutes, if a borough is established, these cities must equally share these revenues with the borough.

HB 226/SB 162 which the Aleutians East communities support, would allow a phased transfer of fish tax revenues between cities and the new borough. Table I, below, illustrates this revenue transition. This revenue transition will allow cities to adjust service delivery to the decreased revenues, and will not negatively affect the borough's ability to deliver services.

TABLE I
HB 226/SB 162 Formula For Shared Revenues

	<u>City Share</u>	<u>Borough Share</u>
Year 1	\$734,500 (45%)	\$ 30,500 (5%)
Year 2	644,000 (40%)	161,000 (10%)
Year 3	563,500 (35%)	241,500 (15%)
Year 4	483,000 (30%)	322,000 (20%)
Year 5	402,500 (25%)	402,500 (25%)

Starting in year 5 and each year thereafter, the borough and cities will equally share State Fish Business Tax revenues for fish delivered within City limits.

Also, the Borough will annually receive about \$1,200,000 in new revenues that none of the existing cities receive. These revenues, when combined with the borough's share of fish tax revenues identified in Table I, will be adequate to meet anticipated borough expenditures. The \$1,200,000 mainly consists of the following revenue sources:

- o \$400,000 in State Fish Business Tax Revenues for fish delivered to processors within borough boundaries, but outside City limits. The State is the only entity that presently receives these funds.

- o \$700,000 in sales/use tax revenues. The Borough plans to levy a 2% sales/use tax as its main method of local taxation.

- o \$100,000 in State revenue sharing and municipal assistance monies and other shared revenues.

ATTACHMENT II

The tables below illustrate how revenues would be shared with the individual cities in the new borough if HB 220/50 102' is adopted. If this bill is not adopted, revenues would immediately be shared as indicated in year 5 of these tables. This sharp one year drop in revenues would seriously affect each city's ability to deliver services, and may negatively affect potential borough formation.

AKUTAN - \$356,000 in FY 87
approximately 50% of Akutan's Budget

	City	Borough
Year 1	\$320,400 (45%)	\$ 35,600 (5%)
Year 2	284,800 (40%)	71,200 (10%)
Year 3	249,200 (35%)	106,800 (15%)
Year 4	213,600 (30%)	142,400 (20%)
Year 5	178,000 (25%)	178,000 (25%)

COLD BAY - \$7,200 in FY 87
approximately 10% of Cold Bay's Budget

	City	Borough
Year 1	\$ 5,340 (45%)	\$ 720 (5%)
Year 2	5,760 (40%)	1,440 (10%)
Year 3	5,040 (35%)	2,160 (15%)
Year 4	4,320 (30%)	2,880 (20%)
Year 5	3,600 (25%)	3,600 (25%)

KING COVE - \$327,000 in FY 87
approximately 35% of King Cove's budget

	City	Borough
Year 1	\$294,300 (45%)	\$ 32,700 (5%)
Year 2	261,600 (40%)	65,400 (10%)
Year 3	228,900 (35%)	98,100 (15%)
Year 4	196,200 (30%)	130,800 (20%)
Year 5	163,500 (25%)	163,500 (25%)

SAND POINT - \$114,000 in FY 87
approximately 10% of Sand Point's budget

	City	Borough
Year 1	\$102,600 (45%)	\$ 11,400 (5%)
Year 2	91,200 (40%)	22,800 (10%)
Year 3	79,800 (35%)	34,200 (15%)
Year 4	68,400 (30%)	45,600 (20%)
Year 5	57,000 (25%)	57,000 (25%)

The communities of False Pass and Nelson Lagoon, which are also in the Aleutians East area, do not presently receive State Fish Business Tax revenues because they are unincorporated. The State only shares these revenues with incorporated cities.

§ 43.75.032

§ 43.75.034

REVENUE AND TAXATION

§ 43.75.130

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contributions com-
business tax liabil-

under this section

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§ 43.75.015; for purposes
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application.

Sec. 43.75.034. Tax credit report [Repealed effective Febru-
ary 15, 1992]. Not later than the 15th legislative day of each regular
legislative session the Department of Revenue, in conjunction with
the Department of Commerce and Economic Development, shall sub-
mit to the legislature a report on the fisheries business tax credit
program under AS 43.75.032. The report shall describe the expendi-
tures for which a credit was approved during the previous tax year
and, if possible, the increase in employment and processing capacity
by the fisheries businesses for which the credit was approved. (S 2 ch
79 SLA 1986; r § 3 ch 79 SLA 1986)

Postponed repeal. Section 3, ch. 79,
SLA 1986 repeals this section, effective
February 15, 1992.

Effective dates. — Section 3, ch. 79,
SLA 1986 makes this section effective
July 1, 1986.

Editor's notes. — Section 6, ch. 79,
SLA 1986 provides that the first tax credit
report under this section is due February
2, 1987 and shall describe the expendi-
tures for which credit was approved dur-
ing 1986 for the 1987 tax year.

Article 3. General Provisions.

Section

- 130. Refund to local governments
- 140. Definitions

Sec. 43.75.130. Refund to local governments. (a) The commis-
sioner of revenue shall pay

(1) to each unified municipality and to each city located in the unor-
ganized borough, 50 percent of the amount of tax revenue collected in
the municipality from taxes levied by this chapter;

(2) to each city located within a borough, 25 percent of the amount
of tax revenue collected in the city from taxes levied by this chapter;
and

(3) to each borough

(A) 50 percent of the amount of tax revenue collected in the area of
the borough outside cities from taxes levied by this chapter; and

(B) 25 percent of the amount of tax revenue collected in cities lo-
cated within the borough from taxes levied by this chapter.

(b) For purposes of this section, tax revenue collected under AS
43.75.015 from a person entitled to a credit under AS 43.75.032 shall
be calculated as if the person's tax had been collected without apply-
ing the credit.

(c) [Repealed effective January 1, 1992] Within 60 days after a
credit is approved under AS 43.75.032 for a capital expenditure in-
volving a shore-based fisheries business facility or cooperative seafood
industrial park located or to be located in a municipality, the munici-
pality may adopt an ordinance directing the department to reduce the
municipality's refund under this section over a period of not more

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1073

April 2, 1987

POSITION PAPER

RE: HB 226 -- "An Act relating to fisheries business tax refunds to local government; and providing for an effective date."

SPONSOR: Representative Herrmann By Request

Program Effects of Bill:

Section 1 of the bill amends existing language in AS 43.75.130(a) to provide for a new subsection (d) as well as several minor "house cleaning" wording changes.

Section 2 of the bill amends AS 43.75.130 by adding a new subsection (d) which provides for a five-year phasing in of the sharing of fish tax revenues between cities and boroughs in the instance of new borough formation.

Section 3 of the bill provides for an immediate effective date for the Act.

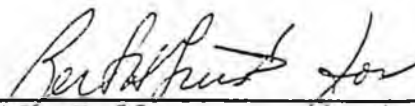
Comments:

The existing State Fisheries Business Tax law provides for a "refund" of this state tax to municipalities in whose jurisdiction the tax was collected. In the case of unified municipalities and cities in the unorganized borough, 50 percent of the tax revenue collected within municipal boundaries is returned. However, cities located within a borough must in turn share 50 percent of their fish tax refund with the surrounding borough. In other words, such a city would receive only 25 percent of the fish tax collected within its jurisdiction; the other 25 percent would go to the borough.

HB 226
April 2, 1987
Page Two

The state fish tax provides a significant and relatively stable portion of total revenues for many cities presently located outside of organized boroughs. The formation of a borough which would include such cities would result in sudden and substantial revenue losses for these cities. Cities located within the new borough have no guarantee of receiving any of this funding back from the borough. The prospect of such a revenue shock represents a clear disincentive to borough formation. Providing for a phased transition into the sharing of fish tax revenues from cities to new boroughs would reduce the severity of the shock to city operations; consequently, reducing the disincentive to borough formation.

The establishment of strong, self-sufficient, local and regional government throughout Alaska is a longstanding goal of the Department of Community and Regional Affairs. The Department endorses practical measures which provide incentives, or reduce existing disincentives, with regard to borough formation. The measures provided for in this bill appear to be straightforward in effect and relatively simple in their implementation. The Department therefore supports the expeditious passage of this bill.



David G. Hoffman, Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version : HB 226
Publish Date : _____

REQUEST: _____
Revision Date: _____
Title: "An Act.. fisheries business tax refunds etc"
Sponsor: Rep. Herrmann
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Michael Cushing, Planner
Division: Municipal & Regional Assistance

Phone: 465-4750
Date: 4/2/87

Approved by Commissioner: *Ben Herrmann*
Agency: Community & Regional Affairs

Date: 4/3/87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

Fiscal Note Analysis
House Bill 226
Prepared 4/3/87

The communities of Sand Point, King Cove, Akutan, False Pass and Nelson Lagoon will soon be incorporating to form a new borough within the state. AS 43.75.130(a) currently provides that to each unified municipality and to each city located within an unorganized borough, 50 percent of the amount of fisheries business tax revenue collected in the municipality will be refunded by the Commissioner of Revenue to these agencies. The cities named above have in past years received this 50 percent share. However, when a city lies within an organized borough, the city and borough each receive a 25 percent share. Therefore, in order to phase in an anticipated reduction in shared revenues to these areas, HB 226 amends AS 43.75.130 by adding a new subsection (d) to minimize the revenue impact on the impacted cities.

AS 43.75.130(d) provides that the Commissioner of Revenue shall pay to each city in a borough that is incorporated after the effective date of this Act: 45 percent of the taxes collected during the calendar year in which incorporation occurs; 40 percent of the taxes collected during the first calendar year following the year of incorporation; 35 percent of the taxes collected during the second calendar year; and 30 percent of the taxes collected during the third calendar year.

Subsection (d) also provides that the Commissioner shall pay to each borough that is incorporated after the effective date of this Act; 5 percent of the taxes collected during the calendar year in which the borough is incorporated; 10 percent during the first calendar year after incorporation; 15 percent during the second calendar year; and 20 percent during the third calendar year.

The Act is to take effect immediately under AS 01.10.070(c).

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST _____

Bill Version: HE 226

Publish Date: _____

Revision Date: 4/3/87

Agency Affected: Revenue

Title: An act relating to fisheries

BRU: Audit

business refunds to local governments

Sponsor: Herrmann

Components: _____

Requestor: C&RA

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: See attached.

Prepared By: Steven E. Kettel *Stu*

Phone: 465-2320

Division: Audit

Date: 4/3/87

Approved by Commissioner: *H. Malone*

Date: 9/3/87

Agency: _____

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: HB 226

Publish Date: _____

REQUEST

Revision Date: _____

Title: An act relating to fisheries
business tax refunds to local gov't.

Sponsor: Herrmann

Requestor: Community & Regional Affairs

Agency Affected: Revenue

BRU: Administrative Services

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

There is no measurable administrative impact on this division.
The accounting for shared taxes will be made slightly more complex.

Prepared By: Ervin B. Jones
Division: Administrative Services

Phone: 465-2313
Date: 4/2/87

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 4/3/87

Distribution (by Agency preparing fiscal note):

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

BILL WORKSHEET

Bill #: HB 226
Date Sched.: HCRA Committee, Wednesday April 8, 1987
Title: "An Act relating to fisheries business tax refunds to local government"
Sponsors: Rep. Herrmann and Sen. Zharoff (SR 152)

Info Attached: Copy of Bill
Position paper from Dept. of Community and Regional Affairs
Fiscal Note
Letter to Senate Labor and Commerce from 2 Aleutians East cities
Aleutians East borough brochure - Aleutians East Coastal Resource Service Area

Sponsor's Briefing, Intent/Purpose:
To remove a disincentive to borough formation.

Effect of Bill:
Sec. 1 -- Technical Changes
Makes 5 minor technical language changes in existing statute.
Sec. 2 -- Tax Apportionment
Provides for a phased-in reapportionment of municipal raw fish tax receipts in newly formed boroughs (not retroactive). Currently, State law provides that cities in the unorganized borough receive a 50% share of raw fish tax receipts collected within their boundaries. Upon incorporation, extant law provides that the local 50% share of raw fish tax receipts be divided equally between a municipality and the borough, each receiving a 25% share.

This bill phases in this reapportionment over a five year period. The borough would receive less than it's eventual entitlement during those early years when it will receive organizational grant monies from the State.

YEAR	BOROUGH	CITY
1.	5%	45%
2.	10%	40%
3.	15%	35%
4.	20%	30%
5.	25%	25%

Fiscal Impact:
Zero

Proponents:

Proponents of the Aleutians East borough plan, Sen. Sharoff,
Rep. Herrmann.

Opponents:

None apparent

Analysis of Bill's effect, by staff:

The bill was introduced particularly to remove disincentives to borough formation in the Aleutians East Area. Proponents of the legislation hold that municipalities will not suffer through organization; that areawide taxes available to the borough will capture new fish taxes from outside municipalities, thus enlarging the pie.

This bill conveniently phases in increments to borough revenues as organizational grants from the State phase out.

The bill will favorably affect other coastal areas of the State which may eventually choose to organize (Prince William Sound, for example).

Committee Report:

HB 226



AN ALEUTIANS EAST BOROUGH—
WHY IS IT BEING CONSIDERED?

JANUARY, 1987