

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
5950 HOUSE RESOURCES

354

L.A.S. C.I.D.	Owner Name	Total Claims
168811	MITCHELL, JOHN R	216
173514	MITCHELL, JOSEPH D	19
143874	MITCHELL, KEITH R	2
174277	MITCHELL, MICHAEL R	18
173515	MITCHELL, MONA	19
115785	MITCHELL, RODNEY D	57
173398	MITCHELL, VICTORIA	1
103345	MOEN, DENNIS JEFFERY	6
143940	MOERLEIN, GEORGE A	1
10328	MOFFITT, DOUG	29
169506	MOHAWK RESOURCES AK INC	138
160604	MOHRE, BRADFORD RAY	2
170755	MOLLING, L C	2
115473	MONAHAN, HAROLD E	8
11228	MONLUX, LANE	1
11229	MONLUX JR, GEORGE	1
154383	MONNETT, DANNY	1
173148	MONNETT, JAY	1
143994	MONNETT, JIM H	5
170563	MONNETT, JIM H	8
160664	MONROE, DEMPS GILBERT	2
144002	MONROE, GILBERT	14
169523	MONROE, JOHN B	37
171962	MONROE, JOHN	7
166609	MONTGOMERY, LAVELLE	1
167099	MONZULLA, LINDA G	3
187966	MONZULLA, LINDA	17
115817	MONZULLA, VINCENT C	25
8904	MOORE, JOHN L	4
116423	MOORE, ROGER B	9
174252	MOORE, ROGER L	8
187924	MOORE, ROGER B	9
8960	MORGAN, CHRIS	5
9901	MORGAN, TRACY	3
171056	MORGAN, WAYNE F	5
173316	MORIARTY, JOHN	1
9754	MORRIS, FAYE MARIE	6
103646	MORRIS, GEORGE ALLEN	4
8927	MORRIS, MARY D	6
10430	MORRIS, RYAN D	2
7254	MORRIS, WILLIAM H	6
11379	MORRISON, DON	1
11380	MORRISON, DORTHY	1
154525	MORROW, LYLE W	2
9678	MORTERUD, WILLIAM C	27
144331	MORTVEDT, ARTHUR D	1
8029	MOSBY, B.P.	6
174110	MOSS, ANNE LISE	1
174108	MOSS JR, WILLIAM BERT	1
11960	MOTO, GEORGE	1
173914	MOTSCHMAN, GEORGE R	3
173896	MRAK, ELEANOR	13
126709	MRAK, WILLIAM	10
126711	MRAK SR, WILLIAM	15
115095	MUCKEY, GREGORY L	2
114731	MUD CREEK MINING CO INC	115
171148	MUEHLENKAMP, CHUCK	5
171147	MUEHLENKAMP, WILLIAM J	5
173295	MULLIGAN, HANK	7
157261	MUNSELL, JAMES	32
115713	MUNZ, WILLIAM	7
115533	MURPHY, BRETT DALE	1
3576	MURPHY, JACK V	6
9987	MURPHY, JOHN D	5
100665	MURPHY, LYNNE L	1
109778	MURPHY, WAYNE ARTHUR	1
171018	MURRAY, BARRY G	75
163177	MURTO, ARNE W	48
170960	MURTO, ARNE W	160
6044	MURTO, INGRID	48
101923	MUSGROVE, J W	2
6045	MUTO, MARIANNE R	32
1038	MYERS, MICHAEL R	1

L.A.S. C.I.D.	Owner Name	Total Claims
4774	MYERS, RAY W	1
126737	MYSTIC MTN MINING CO	27
170631	NASON, RONALD P	37
171803	NEBEKER, ROBERT L	1
144347	NEGUS, FREDERICK W	8
126775	NELCHINA MINES	3
173807	NELIUS JR, FRED W	1
8898	NELLES, BRUCE I	3
170227	NELSON, CLIFFORD D	8
11075	NELSON, FOREST C	2
9430	NELSON, GREGORY J	1
168494	NELSON, LARRY CRAIG	12
7161	NELSON, MARTIN J	3
4707	NELSON, PAUL W	8
105327	NELSON, SIDNEY ARTHUR	1
171991	NEMEC, WILLIAM J	3
155299	NERCO EXPLORATION COMPANY	2973
144769	NESHEIM, JOHN G	2
173902	NEW AND USED EQUIPMENT	3
173484	NEW DYNASTY MINES (US) INC	10
170986	NEWMAN, CLEM	6
4036	NEWTON, DICK	4
173997	NICHOLSON, DOUGLAS C	48
9988	NICK, EVAN	4
172589	NICKLES, L S	3
161811	NIELSEN, DANIEL C	1
170556	NIELSEN, NICKI J	1
170555	NIELSEN, ROBERT J	1
144913	NIETUPSKI, WILLIAM N	1
126825	NORANDA EXPLORATION INC	204
109263	NORCROSS, IRENE E	11
144971	NORCROSS, JAMES H	18
168458	NORDLUM, ROGER	28
5423	NORMAN, BETTY J	12
155432	NORTH COAST MINING INC	116
169537	NORTHERN BONANZAS	44
171416	NORTHERN MINING AND MINERALS	131
170584	NORTHERN RESOURCES COMPANY	31
173809	NORTHERN VENTURES	10
170368	NORTHWEST EXPLORATION INC	48
8704	NOVAK, ROSS	3
173526	NUTTING, JACK L	4
11682	NYE, DANIEL A	83
145086	O'BRIEN, JACK I	3
145094	O'BRIEN, STEPHEN F	5
145104	O'CARROLL, ELLEN M	4
145103	O'CARROLL, JOHN J	47
145105	O'CARROLL, MICHAEL J	4
172798	O'CONNOR, BONETA M	1
145119	O'CONNOR, FRANCIS D	1
9191	O'DOCHARTY, RAY	22
113651	O'DONNELL, FRANKLIN L	6
145142	O'KELLEY, LONZO L	39
145145	O'LEARY, EDWARD	4
159940	O'MEARA, ROBERT MATTHEW	11
9999	O'RILEY, ROGER	77
155920	OAKES, PATRICIA A	2
180936	OATES, ALICE SARAH	1
145204	ODEGAARD, GLENN L	23
173397	OGDEN, EDNA CHRISTINE	1
11622	OGDEN, WILLIAM	6
170407	OGG, CHARLES J	37
170408	OGG, MARK P	15
173279	OHLY JR, JOHN H	3
115783	OHMAN, BILL	33
171874	OLDS, MONTE C	5
11713	OLIVAS, HARRY L	2
11712	OLIVAS, ROBERTA G	2
169662	OLIVERS, CLARENCE	11
115800	OLSON, ALAN G	8
170598	OLSON, DENNIS L	15
10076	OLSON, GUSTAF W	3
155544	OLSON, LESLIE A	1

L.A.S. C.I.D.	Owner Name	Total Claims
169420	OLSON, NICHOLAS D	9
170136	OLSON, NICHOLAS	2
10075	OLSON, STEPHEN G	3
170599	OLSON, STEVEN L	38
169419	OLSON, VERNON J	7
170137	OLSON, VERNON J	2
10416	OLVER, FELIX EUGENE	1
115678	OMLIN, PAUL M	1
169407	ON-LINE EXPLORATION SVCS INC	159
9084	ORDIWAY, CLIPPER Z	5
9085	ORDIWAY, LLOYD R	2
126958	ORO FINO MINING CO	3
165163	OSBORN, LLOYD J	2
161295	OSBORNE, RICHARD HAZELET	96
172717	OSTRANDER, JOHN W	18
145456	OTT, RICHARD K	1
170188	OUELLETTE, ROLAND J	6
9143	OWEN, WESLEY T.	1
9190	OWNSBEY, BILLEY J.	22
170367	OX CO	40
165422	PACIFIC RIM MINING CO	38
166805	PAGEL, DONALD W	5
8889	PALKOVITCH, Y	98
169615	PALMER, DAVID R	5
9303	PANCOAST, PETER J	15
10078	PANICK, HARRY A	6
145589	PANKRATZ, CLAYTON F	2
145592	PANNICK, HARRY A	4
179984	PANNONE, MICHAEL L	4
10792	PANOLA ENERGY CORP.	34
116215	PARENT, DAVID B	23
169956	PARENT, VERN	4
127027	PARISH, DOUG E	6
171993	PARKER, CURTIS C	2
105296	PARKER, DAVID L	4
170131	PARKER, DAVE	24
173578	PARKER, DAVID L (BAKER)	9
145628	PARKER, HAROLD F	29
158790	PARKER, HAROLD F	55
11674	PARKER, JANIN	2
154488	PARR, GLEN C	6
170513	PARR, GLEN C	33
145683	PARR, SHIRLEY B	17
115505	PARRY, JAMES M	11
9521	PARRY, NANCY	20
186339	PARSONS, ANTHONY C	3
11701	PARTEE, BEVERLY	3330
101204	PARTEE, TOMMY S	3493
161665	PASKVAN, CHARLES A	8
172442	PASKVAN, STEPHEN T	8
10215	PATRICK, WILLIAM A	25
11578	PATTY, OLIN	1
11886	PAUKSTYS, RAY	1
173123	PAUL, DOLORES M	1
145775	PAUL, FRANK E	1
167220	PAVEY, MARION A	26
116156	PAXTON, DAVID E	54
171904	PAYNE, DUANE K	9
169921	PAYNE, KELLY	20
171032	PAYTON, CHARLES J	3
171031	PAYTON, GRACE L	3
101651	PAYTON, PETIE EUGENIE	3
171030	PAYTON, WILLIAM C	3
145847	PEARSON, CHARLES L	9
8991	PECK, ART	1
9819	PECK, JEFF	10
11678	PECOS RESOURCES, INC.	2
115793	PEEDE, PATRICK D	24
169755	PEEDE, PATRICK D	63
145906	PEET, LEE A	1
9897	PELKEY, ALICE	3
9898	PELKEY, CECIL	3
9899	PELKEY, DALE	3

L.A.S. C.I.D.	Owner Name	Total Claims
170865	PELKEY, DARRELL	47
9900	PELKEY, PENNY	3
172921	PELLETIER, RONALD M	1
115743	PEPPLER, WAYNE M	16
170377	PEPPLER, WAYNE M	57
170535	PERRY, WALLACE C	6
116364	PETERSEN, DONALD E	6
170425	PETERSEN, JANICE D	5
157566	PETERSON, DONALD E	1
186726	PETERSON, FRANCES	6
165860	PETERSON, GARY J	271
169859	PETERSON, GREGORY A	39
171190	PETERSON, JOSEPH	181
186806	PETERSON, JOHN R	5
174040	PETERSON, PETE	1
9427	PETERSON, RICK	17
146092	PETERSON JR, OTTO WILSON	10
146076	PETERSON SR, JOSEPH	112
9230	PETTIGREW, BERT	9
9229	PETTIGREW, CARLA	9
115658	PETTIT, ARGILE E	10
115819	PETTY, JACK	8
170514	PETTY, NETTIE L	1
146147	PETTY, PATRICK M	4
173114	PHELPS DODGE CORP	142
169285	PHILLIPS, C J	1
101336	PHILLIPS, DENNIS R	4
170934	PHILLIPS, GAIL	10
170959	PHILLIPS, GERALD C	5
169286	PHILLIPS, ROSEMARY	1
11432	PHILLIPS, WANDA FAY	5
115017	PHILLIPS JR, NORMAN L	12
170936	PHILLIPS JR, WALTER T	15
159322	PHILLIPS PETROLEUM COMPANY	3
172999	PHILLIPS SR, NORMAN L	12
115039	PHILO, ANNA B	83
160873	PIKE, GARY R	7
9428	PIKE, JOHN K	6
9429	PIKE, SARALYN	6
9138	PINNEY, JOAN	3
171112	PIONEER PLACER COMPANY	29
112153	PISZCZEK, CARL P	1
171302	PISZCZEK, CARL P	8
9892	PITTMAN, CHARLES I.	4
11903	PITTS, ROY	1
154510	PLACID OIL COMPANY	21
167701	PLACK, PAUL WALTER	1
167700	PLACK, PHILIP EARL	2
164062	PLENINGER, STANLEY B	11
5210	PLESSINGER, LAWRENCE R	1
8720	PLOCKWIETZ, CARL	2
170666	POLAND, JONATHAN L	15
180105	POLAR MINING INC	13
9325	POPE-MURPHY, LINDA ANN	6
158773	PORTEN, STEVEN GEORGE	1
172435	PORTER, CLARA MARIE	4
146470	PORTER, GENE	12
173889	POTEET, PETE	1
146525	POULSON, CHARLES W	1
146526	POULSON, DONALD W	1
171170	POWELL, ANNA L	2
171171	POWELL, CALVIN S	2
169591	POWERS, WILLARD B	182
9345	POWERS JR., WILLARD B.	11
174038	PRESLEY, J T	4
8612	PRESTON, JOHN HENRY	1167
146628	PREVOST, RICHARD T	6
184669	PRICE, JUDY M	11
10130	PRITCHARD, JOHN	8
171370	PRITCHETT, FRANCES	2
171369	PRITCHETT, JERRY L	2
178904	PROBERT, BRUCE	3
170820	PROBERT, GARY LEE	4

L.A.S. C.I.D.	Owner Name	Total Claims
175072	FROMERSBERGER, DAROLD	1
146693	FRUITT, JACK H	1
8870	PRYSE, BETTY	1
169847	PUDDICOMBE, CRAIG R	13
169792	PUSHCAR, JERRY	31
169793	PUSHCAR, MARILYN	31
180938	PUTNAM, WILLIAM G	1
8878	PYNE, ERIC	24
9089	QUAIL HILL MINING CO	2
174017	QUALLEY, RUSSELL N	1
179876	QUIMBY, ROLAND L	1
115772	QUINTON, GRIFFIN E	13
115774	QUINTON, GREGORY J	13
172643	R&M CONSULTANTS INC	5
171897	RADDER, LOWELL G	1
11673	RADER, GLORIA B	2
174259	RAHOI, RICHARD P	3
174260	RAHOI, TACEY	2
146839	RAINES, RICHARD LYLE	20
160296	RAMEIER, BRAD D	5
146861	RAMSEY, JOHN P	179
9432	RAMSTAD, S G	45
127196	RANGE MINERALS CORP	237
167119	RANKEL, GENNY W	24
9753	RANSOM, TODD	1
112545	RANSY, DENIS	11
170543	RATAJ, JEANNE	1
9140	RATCLIFF, JOHN	1
9141	RATCLIFF, LORETTA	1
5194	RAWHIDE EXPLORATION	10
187273	RAYBELL, STEVEN R	2
11551	RC MINING	11
172960	READ, DONALD M	18
169514	RECOVERY SYSTEMS INC	51
11675	RED ARROW RESOURCES, INC.	4
172388	REDCO BUILDERS INC	2
172046	REDMON, ALLEN	13
9958	REED, GEORGE L	1
11658	REEDER, EDWARD	16
171003	REESE, DELLA	21
106968	REESE, ELDEN L	18
147046	REESE, ELDEN L	15
170477	REESE, NANCY	6
171002	REESE, WADE	33
9805	REEVES, ARCHIE	1
115792	REGAN, JAMES L	70
180108	REGAN, JOHN E	62
105806	REID, MARY C	1
179869	REINDL, PATRICIA	2
169396	REINER, DENNIS E	4
169588	REINHARDT, ROBERT G	16
170644	REINHARDT, RONALD	13
169320	RENDICH, SCOTT H	14
9101	RENSHAW, KATHERINE L	2
157680	RENSHAW JR, ANSON L	29
187836	REYNOLDS, SHERMAN GEORGE	31
7287	RICH VALLEY RESOURCES LTD	248
173282	RICHERT, DALE D	5
10427	RICHERT, GLORIA J	1
170756	RICHTER, RICK D	1
180087	RIDER, GARY	1
11716	RIEM, DEBRA	8
147379	RIEM, HERBERT	8
11715	RIEM, MARGARET	8
171065	RIENDL, JOSEPH R	22
9847	RIES, JOHN P	1
7517	RILEY, KENNETH R	48
110423	RINGSTAD, MARK B	46
9018	RISTAU, MELVIN C	2
10082	RJARK, RICHARD A	1
170757	ROBERTS, DON O	7
147507	ROBERTS, ROBERT H	22
169478	ROBERTS, ROGER L	69

L.A.S. C.I.D.	Owner Name	Total Claims
9755	ROBERTSON, TIMOTHY D	8
105118	ROBESON, VICKI LEA	45
171328	ROBINETT, JOHN T	71
147569	ROBINSON, RAYMOND F	1
9083	ROBINSON, ROBERT M	3
101006	ROCKSTAD, RONALD D	13
186807	ROCKSTAD, RONALD D	36
147633	ROELLEKE, HERMAN J	2
114867	ROHLOFF, FRANK R	8
180906	ROHLOFF, TOM	2
147677	ROHRBAUGH, V M	3
5990	ROLAND, JAMES G	10
165468	ROMAN, ROBERT I	32
165469	ROMAN, RONALD	32
165467	ROMAN, RUTH A	32
115858	ROMAN, WALTER E	32
184301	ROMILLY, EUGENE	6
170675	ROSANDER, RONALD	23
170997	ROSS, EDWARD T	25
11574	ROSS, JOHN	6
147834	ROUTH, GENE	6
108702	ROWLEY, DONALD R	67
171319	RUBEL, JOHN D	227
11067	RUE, DALE	1
158164	RUMLEY, DONNA M	1
147908	RUMLEY, PAUL G	1
169592	RUPPERT, HAROLD H	125
174020	RUSHING, WILLIAM F	14
5141	RUSSELL, CARL A	59
3740	RUSSELL, ERNEST C	71
171740	RUSSELL, GENE	3
10079	RUSSELL, T L	4
6218	RUSSELL, TERRY L	3
170856	RUSSELL'S IRREVOCABLE TRUST *	1
127315	RY-J MINING CO	8
170478	RYBACHEK, ROSALIE A	107
147984	RYBACHEK, STANLEY C	107
172268	RYERSON, JAMES G	179
173619	S & B MINING COMPANY	38
11668	SABO, BARBARA	3
115454	SACKETT, LLOYD J	3
148014	SADOWSKI, DONALD E	1
170483	SAEED, EDWARD	10
180884	SALBURG, VIC	1
148046	SALOMON, ROBERT L	5
116345	SALTER, EDWARD	7
173903	SALTZ, EDWIN	1
173904	SALTZ, MARIANNE	1
115574	SANCHEZ, JOSEPH H	2
173341	SANDERS, ANDRE REX	10
173600	SANDERS, SHIRLEY P	1
127353	SANDFORD RESOURCES INC	35
7071	SANFORD, JAMES R	1
173215	SARCHET, DAVID E	11
101941	SAUNBY, JOHN HENRY	16
11800	SAUNDERS, BUDDY M	19
173360	SAUNDERS, C J	2
115088	SAVAGE, BRUCE D	9
3767	SAVAGE, DWAYNE	6
114831	SAYER, PHILIP	55
173974	SCANLON, MICHAEL	10
9518	SCARBOROUGH II, TRUETT L	10
148219	SCARBOROUGH, TRUETT L	10
169393	SCHASTEEN, DOLLY	7
170651	SCHENK, KATHLEEN	1
9850	SCHENKER, ROBERT A	4
148293	SCHLAHT, THEODORE H	3
173634	SCHMIDT, WILLIAM A	1
170628	SCHMIT, DENNIS VICTOR	2
173124	SCHMITZ, RICHARD C	2
172626	SCHMOYER, ED WILLIAM	6
115205	SCHNABEL, JOHN J	1
9703	SCHNESE, CALVIN	5

L.A.S. C.I.D.	Owner Name	Total Claims
174261	SCHOENBORN, HOWARD J	2
174262	SCHOENBORN, S	2
9442	SCHRADER, WILLIAM EUGENE	3
173385	SCHURR, JOHN	10
11997	SCHUSTER, GAIL	8
10209	SCHUSTER, WERNER E.	11
11929	SCHWEGEL, DAVID	1
11889	SCHWENGEL, RAY	1
173703	SCOFIELD, WALTER P	10
157324	SCOTT, ARTHUR G	8
148501	SCOTT, BRYAN LEE	14
10997	SCOTT, DAVID HUGH	8
174223	SCOTT, FRED	21
7096	SEAMAN, GARY D	2
9905	SELDOM SEEN MINING COMPANY	2
4633	SELMAN, EVERETT A	3
171606	SESSKIN, NEIL	832
102304	SEUFFERT JR, GEORGE W	27
11799	SEVERANCE, GARY L.	2
11797	SEVERANCE, MARJORIE E.	2
106830	SEXTON, WILLIAM D	3
170532	SHARP, PAUL R	13
170857	SHAW, GILBERT A	49
172801	SHAWCROFT, ROBERT A	1
148759	SHEARDOWN, RONALD C	171
172603	SHEMEL, STEVEN E	11
170990	SHEPARD, DENNIS M	18
161932	SHEPARD, M DENNIS	101
164573	SHERHART, THOMAS VICTOR	3
9309	SHERIDAN, CAROL L	31
148837	SHERRER, DOUGLAS	19
170912	SHERRER, GAIL	11
114750	SHILLING, JOHN ARTHUR	12
170677	SHIMAKONIS, DORIS E	2
108392	SHIMAKONIS JR, PAUL	2
170678	SHIMAKONIS SR, PAUL	2
173614	SHIPLEY, ROBERT C	4
170018	SHOPE, WES	42
170495	SHORE, CONNIE	19
11121	SHUMEFF, GREGORY	17
173226	SIDES, DANNY MAX	11
9993	SIFSOF, LAWRENCE	3
173420	SILFVEN, J E	2
187388	SILVERADO MINES INC	94
9060	SIMMONS, TOM	4
157232	SIMON, HERBERT P	1
116071	SIMPSON, DONVAL R	3
171268	SIMPSON, DONVAL R	1
174323	SIMPSON, FRANK A	1
149106	SINKOLA, GARY L	81
173171	SINKOLA, PRISCILLA DIANE	2
149114	SIPES, AUSTIN L	1
149113	SIPES, JOHN WESLEY	10
172572	SKIDMORE, DONNA GENE	73
170226	SKIDMORE JR, SAMUEL C	79
3729	SLAMBROUJCK, THOMAS VAN	11
162987	SLAUGHTER, BOB F	11
185961	SLAVIK, RICHARD H	1
154629	SLAYTON, VERN W	59
149205	SLOAN, BOB	1
169369	SMART, DOYLE	1
171341	SMART, WILLIAM DOYLE	2
171790	SMITH, CURT	12
106959	SMITH, JOSEPH MICHAEL	39
171327	SMITH, JOSEPH R	45
173019	SMITH, JOSEPH D	1
9579	SMITH, KATHLEEN M	2
173009	SMITH, LARRY L	1
176478	SMITH, PHILIP N	19
9250	SMITH, ROSE	2
149426	SMITH, SHERMAN CLAYTON	3
149428	SMITH, SHERYL O	2
173007	SMITH, TIMOTHY J	1

L.A.S. C.I.D.	Owner Name	Total Claims
102854	SMITH, WILLIAM J	2
116327	SMITH JR, JESSE G	22
167692	SNEED, STEVEN ERIC	4
115618	SNELL, PAUL V	2
170720	SNOW JR, PETER T	32
172109	SNOW-ROSANDER, JUDITH	6
172145	SNYDER, DONALD L	58
171754	SOLOY, JAN	2
171756	SOLOY, L CHRIS	2
162111	SOPER, CLIFF A	4
173400	SOPER, SANDY K	4
10950	SORENSEN, RICHARD L	1
10951	SORENSEN, RUSSELL G	1
172324	SORSBY, MICHAEL A MASON	4
115323	SOULE, BETTY M	2
176357	SOULE, HAROLD L	2
173492	SOUTH, LAWRENCE L	14
128199	SOUTH CENTRAL TIMBER DEV INC	3
10390	SOUTHERN, RON	77
169243	SOUTHWELL, JOSEPH HOWARD	6
6816	SOUTHWOOD, ROBERT L	7
149645	SOWL, JERRY L	22
170816	SPAIN, JOE ALFORD	2
181470	SPARKS, JAMES W	5
180919	SPARKS, TESS BRONSON	1
149663	SPARKS SR, H W	6
10444	SPAULDING, RONALD L	9
9998	SPEAKER, THERESA ANNETTE	8
154276	SPECK, RAYMOND S	1
161206	SPEERSTRA, HARRY FRED	1
149686	SPEGEL, HERMANN A	2
173587	SPEGEL, MARGARET R	2
170946	SPENCER, SYLVIA E	1
170059	SPENST, DORAN	2
9808	SPHINK AMERICA INC	503
149780	SROUFE, JOHN A	1
172881	SROUFE, RUSSELL W	1
9338	ST. GERMAINE, CLIFF	3
170656	STARLIGHT COMPANY	30
159522	STARLING, MICHAEL THOMAS	1
173441	STARNER, ALAN E	1
173291	STARNER, LORA L	1
170496	STARR, GRETCHEN L	2
164527	STATIS, DEHETRIOS	1
173628	STATON, MARY A	3
173627	STATON, TIMOTHY L	3
11055	STAUFFER, JUDITH A.	15
173612	STEEG, PHILLIP S	6
112358	STEFANOWSKI, JAMES W	1
112359	STEFANOWSKI, LINDA L	2
170799	STEGER, EDWARD J	2
173591	STEIN, DONALD	5
149943	STEIN, EVELYN J	8
149958	STEINHACKER, PAUL	31
170485	STEPHENS, CHESTER E	4
11094	STERN, D. T.	6
171257	STEVENS, BEVERLY A	1
169940	STEVENS, DONALD R	6
171255	STEVENS, MILTON N	1
150028	STEVENS, VIRGINIA M	1
105584	STEVENSON, DALE V	15
105542	STEVENSON, RONALD S	2
6638	STEVES, HAROLD CARLETON	1
156596	STEWART JR, JAMES E	11
169698	STEWART, ALBERT H	1
150069	STEWART, B CHARLENE	2
170417	STEWART, JACK	3
150075	STEWART, ROBERT L	24
171093	STEWART, W B	2
127595	STILL, VERN T	8
154201	STINEHOWER, DOUGLAS C	96
11497	STOCKBRIDGE, JOYCE	1
104332	STOCKBRIDGE, OWEN B	25

L.A.S. C.I.D.	Owner Name	Total Claims
169884	STOCKMAN EXPLORATION & DEV CO	308
150160	STONEBURG, NEAL C	5
7849	STONY RIVER VENTURES	8
11550	STORRS, PAMELA R.	2
114196	STOWELL, CHARLES W	24
114226	STOWELL, ROSALYN ELAINE	3
182581	STRANGE, JOHN D	3
104163	STRANGE, PHILIP D	29
9907	STRAUB, MICHAEL W	2
112167	STRAUB, SANDRA C	2
172965	STREET, W BRUCE	4
11900	STRINGFELLOW, LAWRENCE R.	1
170773	STRINGFELLOW, MARC	10
9585	STRUTHERS, LORN	4
161039	STUBBLEFIELD, JOHN T	2
150307	STUBBLEFIELD, Y R	2
184594	STUDEBAKER, WILLIAM C.	39
7597	STUDINAK, GERALD	4
150319	STUGART, EDWARD R	29
170739	STULL, DENNIS LEON	8
150349	SUIKKI, RAIMO P	1
104530	SUME, RONALD K	2
150391	SUMNER, DOUGLAS	11
150394	SUMNER, RICHARD P	12
9431	SUMPTER, DAVID J	2
184665	SUNRISE EXPLORATION	6
127627	SUNSHINE MINING CO	5
169337	SUPERDOCK, ELEANOR H	6
169336	SUPERDOCK, GEORGE G	25
11498	SUPERDOCK, SAUNDRA L.	1
173592	SWAINBANK, DONALD C	2
4773	SWANATROM SR, SUEDE	3
115674	SWARTHOUT, RALPH	48
170923	SWEETSIR, J MATSON	6
150493	SWEETSIR, MICHAEL A	39
161572	SWENSON, LLOYD D	10
150499	SWENSON, RICHARD A	18
173734	SWENSON, SHIRLEY	4
162707	SWINGLE, FRED L	5
4680	SWINGLE, JUNE	5
150531	SYREN JR, ROY N	6
127791	T W S S	2
170097	TAFT, JOE	1
174166	TAKU MINING CO J-V	2
150567	TALBOT, MARION L	1
162875	TALLMAN, HENRY E	1
105358	TANDY, GARY A	1
7865	TATE, JOHN S	1
160285	TATE, MYRON C	4
8992	TAYLOR, A J	1
114970	TAYLOR, ARLEY R	67
150689	TAYLOR, BOB F	1
150692	TAYLOR, JANICE E	3
6451	TAYLOR, JILL M	6
157403	TAYLOR, JOSEPH	374
165415	TAYLOR, JUNE M	52
11381	TAYLOR, KENNETH E.	1
150660	TAYLOR, LARRY R	31
9284	TAYLOR, RENA NELL	12
159458	TAYLOR, TOMI B	30
150656	TAYLOR JR, JOSEPH F	11
173150	TEEL, MARY LOU	1
157389	TEEUWEN, WALTER L	125
10077	TEPASTE, GLENN	3
157762	TERRIEN, VALERIE M	1
172807	THIES, MARTHA A	1
150782	THIES, WILLIAM J	1
172207	THISTLE CREEK MINING CO	35
171209	THOENNES, MARK R	11
173100	THOMAS, DANIEL A	11
4781	THOMAS, JOHN S	1
10184	THOMAS, SYLVAN J.	1
11490	THOMAS, TOM	8

L.A.S. C.I.D.	Owner Name	Total Claims
169310	THOMPSON, BRIAN D	5
11730	THOMPSON, LOWELL	5
173517	THOMPSON, ROY M	1
173594	THORNLEY JR, ROY S	1
169371	THREE D INC	14
151024	THURNEAU, CAROL	2
173259	THURNEAU, JOSIE	78
151022	THURNEAU, NEIL	117
151025	THURNEAU, VERNON A	2
157619	TILTON, BERKLEY H	12
9344	TIMINSKIS, WILLIAM L	3
173016	TINDELL, JAN	2
170262	TINGLEY, JEFFREY B	83
169325	TITCHENAL, ROBERT L	16
151098	TITCHENAL, SHIRLEY J	2
171794	TML EXPLORATION	1
7751	TOLMAN, GARY	7
151153	TOMPKINS, ROBERT W	1
9189	TONKIN, GARY	2
174090	TOPS, BRUCE	3
10791	TORI MINES, INC.	34
4182	TORSON, EUGENE	6
115862	TOWSE, COLIN W	6
116224	TRAXLER, ROY E	5
168222	TREB, KENNETH R	1
9658	TRI-VALLEY CORP	701
173442	TRIGG, ROBERT W	1
173290	TRIGG, SHARON L	1
174275	TRINITY MINING CO	18
169389	TRUDEAU, JOE	16
151328	TRYCK, JAMES W	3
115972	TRYCK, KEITH E	31
178988	TUFTS, JAMES L	16
116137	TUNDRA EXPS	25
11765	TUNGSTEN INC.	51
187279	TURNER, JEAN E	10
151395	TURNER, JOHN L	29
173043	TURNER, REBECCA L	4
161601	TURNER II, WALLACE O	10
11320	TWEET, BRUCE H	1
7894	TWEET, ELIZABETH S	66
151423	TWEET, N B & SONS	44
10202	TWOGOOD, ALEX	55
151495	UNSDERFER, TONY	15
170926	UNSDERFER, TONY	2
172735	UPPER SUSITNA MINERALS INC	85
10788	VAN MINING, INC.	34
172436	VAN OSTRAND, SHANNON D	6
115734	VAN OSTRAND JR, TOM C	21
172471	VAN OSTRAND, TOM C	6
168146	VANDERPOOL, ROBERT I	30
11890	VATKE, LINDA L	2
6354	VEIT, MARK D	1
4064	VEIT, MELVIN D	1
171855	VELARDE, JUANA N	1
164670	VENTURES NORTH MINING CO LTD	2
10108	VESTAL, KAREN A	1
157388	VETTER, ADOLPH	477
157387	VETTER, GRACE E	521
157378	VETTER, ROUDOLPH	347
163426	VIDAL, ANGEL	5
10301	VIKING EXPLORATION, INC.	112
169616	VINYARD, BROOKS	1
115503	VOGLER, JOSEPH E	30
151790	VOLF, EDWARD J	19
164988	VOLLENDORF, WILLIAM A	8
171795	VOSS, DON	24
157706	VOSS, JAMES W	282
157621	VOSS, JEREMY	12
151823	VOURNAS, GEORGE	2
8877	VOURNAS, PETE	12
4619	W. MARTIN EXPLORATION, INC.	21
151862	WAGAR, JIM	9

L. A. S. C. I. D.	Owner Name	Total Claims
151894	WAHTO, DENNIS A	2
10952	WALKER, DARRELL	2
11956	WALKER, GERALD F.	7
9702	WALKER, MALCOLM	9
11973	WALKER, MARABELLE	7
173214	WALKER, MILES	15
11487	WALKER, ROBERT M	2
154532	WALKER, TOM	24
11679	WALSH, BRIAN K	1
172633	WALSH, JOHN D	28
164510	WALSH, PEARSE M	2
165883	WALTER, CAROL L	17
165882	WALTER, FRANK	17
152042	WALTON, ROSS	1
114892	WANN, ELINOR	1
170264	WARD, DAYLON	6
170265	WARD, LAHUNTA JUNE	6
11286	WARING, BRIAN R	7
114715	WARNER, HELEN	132
116145	WATTS, DONALD L	31
155466	WAY, RONALD M	19
173589	WEATHERWAX, RONALD E	2
170640	WEAVER, VERNON	2
173581	WEBB, MICHAEL K	2
154297	WEILAND, LAURENCE	96
9557	WEINARD, BRIAN	3
8673	WELCOME, ROBERT	7
169716	WELLS, CLAYTON	7
152386	WELLS, JEANNE	1
152396	WELLS, JEANNE	1
11671	WENDLER, RUTH	2
165748	WENTZ, JOHN B	17
157898	WESCOTT, ANDREW GEORGE	2
172521	WESCOTT, PAMELA S	3
152441	WESEMAN, AIMEE	11
12437	WESEN, CLINTON D	1
173579	WEST, GEORGE W	3
172091	WEST, JERRY C	4
10218	WESTERN GOLD EXPL & MINING CO	508
8757	WESTERN SURVEYS, INC.	5
173040	WESTMAR, SANDRA LOWRY	1
152495	WESTWOOD, EDWARD A	2
10881	WETLESEN, LILY	3
171242	WETLESEN, STEPHEN W	5
164612	WETLESEN, THORLEIF B	51
157303	WGM INC	703
152510	WHEAT, D MICHAEL	19
171026	WHEAT, DAVID S	5
9975	WHEAT, MIKE	16
115715	WHEELER, JAMES P	35
9204	WHEELER, RICHARD	11
4176	WHITE, FRED	1
4344	WHITE, KATHIE S.	5
128071	WHITE, MICHAEL P.	5
157671	WHITE, PAUL W	24
169754	WHITE, PAUL W	63
8486	WHITE RIVER PLACERS, INC	16
169483	WHITING, EUGENE	3
152703	WIETCHY, DANIEL M	48
170406	WIETCHY, DANIEL M	8
171177	WIETCHY, THOMAS	11
10081	WILCOX, DOROTHY	4
172968	WILCOX, EDWARD C	1
170239	WILKES, FRED M	61
155996	WILKINS, DENNIS D	11
157243	WILKINS, NORMAN	23
172410	WILKINS, SYLVIA	4
115231	WILKINSON, FRED D	47
169257	WILKINSON, TERRY	2
162715	WILKS, RONALD DOUGLAS	4
6432	WILLFORD, FRANK E	16
8670	WILLIAMS, ANN J	5
171183	WILLIAMS, ANGIE	4

L.A.S. C.I.D.	Owner Name	Total Claims
179893	WILLIAMS, ANTHONY	29
157319	WILLIAMS, BILL RUSSELL	8
115739	WILLIAMS, DOVER T	8
171184	WILLIAMS, HERMIE JEAN	4
11120	WILLIAMS, KAREN M.	2
9846	WILLIAMS, MARVIN E	1
9522	WILLIAMS, PAM	20
10663	WILLIAMS, RICHARD W.	31
152889	WILLIAMS, RUSSELL H	2
169505	WILLIAMS, THOMAS P	2
152902	WILLIAMS, WILBUR A	5
169338	WILLIS, DEAN L	3
115660	WILMARTH, RICHARD C	59
187221	WILSON, DEAN E	11
115097	WILSON, DON	5
164893	WILSON, GEORGE R	1
812	WILSON, HARRY W	14
9767	WILSON, JOHN BRYAN	1
186832	WILSON, MILLARD	3
116032	WILSON, ROBERTA L	1
153016	WILSON, STARKEY A	31
173013	WINEGAR, LARRY J	17
173845	WINGATE, JEAN M	2
116424	WINKLER, MARVIN	14
173708	WISE, KENNETH G	10
9359	WISE, RON	1
9283	WISWELL, AUSTIN	11
172092	WITHROW, DONALD EARL	5
170941	WJN MINING	4
11656	WOBEL, HERTA	1
174018	WOELLERT, DAVID ALLEN	4
173472	WOELLERT, LAWANA J	4
173471	WOELLERT, ROBERT D	4
115983	WOLF, RAY D	24
160340	WOLFF, ROBERT VICTOR	24
170735	WOOD, ELLEN	15
173586	WOOD, MARI B	4
157795	WOODALL, CLARENCE R	5
153293	WOODRUFF, CHARLES B	102
170243	WOODS, FERREL LEE	29
180488	WOOTEN, DONNA J	21
115042	WOOTEN, KENNETH E	21
7838	WORTMAN, DEBRA J.	25
153364	WORTMAN, JOHN E	10
7836	WORTMAN, MARTIN D.	50
169907	WORTMAN, ROBERT E	11
171912	WREDE, RONALD J	8
169808	WRIGHT, BERNARD D	28
169809	WRIGHT, BETTY D	28
9769	WRIGHT, BONNIE T	5
171304	WRIGHT, DEBORAH A	2
9553	WRIGHT, JEAN S.	1
170021	WRIGHT, JULES	1
9768	WRIGHT, RICHARD L	5
169232	WYATT, LINDSAY R	1
173503	WYLDE, MICHAEL D	4
153446	WYLIE, JAMES R	61
161412	WYMAN, LEWIS B	14
163927	WYRICK, L E	6
163928	WYRICK, MARILYN A	4
9749	YODER, GEORGE	1
180599	YOUNG, DENNIS	6
153572	YOUNG, DONALD E	1
153573	YOUNG, EDWARD J	6
10450	YOUNG, JEAN F	6
170940	YOUNG, ROBERT V	24
178156	YOUNG, ROBIN ANN	1
153581	YOUNGBERG, ARLYN L	15
9279	YOUNKER, PHIL A.	49
128164	YRJANA, ALBERT M	13
11920	YUKON ENT.	15
7048	YUKON VALLEY MINES, INC.	142
11110	YUPIK LAND & EXPLORATION	94

L.A.S. C.I.D.	Owner Name	Total Claims
11128	ZAISER, BERTHA M .....	34
171893	ZANONA, MAGORIANO E .....	14
157772	ZERBE, LES PAUL .....	19
157112	ZERKEL, JOYCE E .....	1
157111	ZERKEL, KENNETH GENE .....	1
174022	ZIMMERMAN, ARTHUR D .....	2
170886	ZIMMERMAN, JOSEPH D .....	34
10501	ZIMMERMAN, VON .....	16
170427	ZOLTON, JERRY L .....	5
115062	ZUCCHINI, ALBERT A .....	5

SUMMARY OF MINING LICENSE TAX REVENUE  
By Industry Group

	<u>1987</u>	<u>1986</u>	<u>1985</u>
"Locatable Minerals"	\$34,179	\$6,627	\$7,258
Coal	\$206,328	\$212,325	\$16,554
Rock, Sand & Gravel	\$19,142	\$86,418	\$42,774

\* Information provided by Dept. of Revenue

# Alaska Statutes

## Title 43. Revenue and Taxation.

### Part 1. Administration.

#### Chapter 65. Mining License Tax.

**Sec. 43.65.010. Mining license.** (a) A person prosecuting or attempting to prosecute, or engaging in the business of mining in the state shall obtain a license from the department. All new mining operations are exempt from the tax levied by this chapter for three and one-half years after production begins. The tax exemption granted to new mining operations does not extend or apply to the mining of sand and gravel.

(b) The Department of Natural Resources shall certify to the department the date upon which production begins, and the department shall issue a certificate of exemption to the producer accordingly.

(c) The license tax on mining is as follows: upon the net income of the taxpayer from the property in the state, computed with allowable depletion, plus royalty received in connection with mining property in the state

over \$40,000 and not over \$50,000 . . . . .	3 per cent
over \$50,000 and not over \$100,000 . . . . .	\$1,500 plus 5 per cent of the excess over \$50,000
over \$100,000 . . . . .	\$4,000 plus 7 per cent of the excess over \$100,000.

(d) Where mining operations are conducted in two or more places by one person the operations are considered a single mining operation and the tax under this chapter is computed upon the aggregate income derived from all the mining operations. The lessor of a mine operated under a lease is considered to be engaged in mining within this chapter, and the royalties received by the lessor are considered to be the net income of the lessor's mining operations. If the lessor receives royalties from more than one mine or mining operation, the tax payable under this chapter by the lessor is computed upon the aggregate royalties received by the lessor from all the mines or mining operations as though they were a single mining operation.

(e) The allowance for depletion included as an allowable deduction from gross income is a percentage of the gross income from the property during the taxable year, excluding from the gross income an amount equal to the rents or royalties paid by the taxpayer in respect to the property, as follows: (1) coal mines: 10 per cent; (2) metal mines, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, varite, ball and sagger clay, or rock asphalt mines and potash mines or deposits: 15 per cent; and (3) sulphur mines or deposits: 23 per cent.

(f) The allowance for depletion may not exceed 50 per cent of the net income of the taxpayer, computed without allowance for depletion, from the property, except that in no case may the depletion allowable be less than it would be if computed on a reasonable cost basis.

(g) Deductions which are not directly attributable to particular properties or processes shall be fairly allocated. To illustrate: If the taxpayer engages in activities in addition to mineral extraction in the state and to ordinary treatment processes, deductions for depreciation, taxes, general expenses, and overhead, which cannot be directly attributed to a specific activity, shall be fairly apportioned between (1) the mineral extraction and ordinary treatment processes, and (2) the additional activities, taking into account the ratio which the operating expenses directly attributable to the mineral extraction and ordinary treatment processes bear to the operating expenses directly attributable to the additional activities. If more than one mineral property is involved, the deductions apportioned to the mineral extraction and ordinary treatment processes shall, in turn, be fairly apportioned to the several properties taking into account their relative production.

(h) Tax on royalties shall be paid by the taxpayer receiving the royalties and no deduction, excepting depletion, is allowed.

(i) A license issued under this section shall include

(1) the name and address of the licensee;

(2) the nature or type of mining activity to be conducted; and

(3) the year for which the license is issued. (§ 35-1-31 (a) — (c) (e)

(f) ACLA 1949; am § 1 ch 64 SLA 1951; §§ 1, 2 ch 26 SLA 1953; am § 1 ch 78 SLA 1955; am § 1 ch 14 SLA 1962; am § 43 ch 113 SLA 1980)

**Sec. 43.65.020. Taxpayer's duties.** (a) A person subject to tax under this chapter shall make a return stating specifically the items of gross income from the property, including royalty received and the deductions and credits allowed by this chapter, and other information for carrying out this chapter which the department prescribes. The return shall show the mining license number and shall be signed by the taxpayer or an authorized agent of the taxpayer, under penalty of perjury. If receivers, trustees, or assigns are operating the property or business, they shall make returns for the person engaged in mining, or the recipient of royalty in connection with mining property. The tax due on the basis of the returns shall be collected in the same manner as if collected from the person of whose business they have custody and control.

(b) A return made on the basis of the calendar year shall be made before May 1 of the next year. A return made on the basis of a fiscal year shall be made before the first day of the fifth month of the next fiscal year.

(c) The department may grant a reasonable extension of time for filing returns, under regulations prescribed by it. Except in the case of a taxpayer going abroad, no extension may be made for more than six months.

(d) A taxpayer's return shall be made to the department at Juneau. A taxpayer shall make a return either on a calendar year or fiscal year basis, in conformance with the basis used in making the taxpayer's return for federal income tax purposes.

(e) The total amount of tax imposed by this chapter shall be paid on the 30th day of April of the next calendar year, or, if the return is made on the basis of the fiscal year, then on the last day of the fourth month of the next fiscal year.

(f) Every person prosecuting or attempting to prosecute or engaging in the business of mining in the state shall comply with the department's regulations and shall keep such records, give such statements under oath, and make such returns as the department prescribes.

(g) When the department considers it necessary, it may require a person, by notice served upon the person, to make a return, give statements under oath, or keep records as it considers sufficient to show whether or not the person is liable to tax under this chapter. If a person fails to file a return at the time prescribed by law or regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from its own knowledge and from such information as it can obtain through testimony or otherwise. A return so made and subscribed by the department is prima facie good and sufficient for all legal purposes. (§ 35-1-32 ACLA 1949)

**Sec. 43.65.030. Application for renewals.** Application for renewal of a mining license shall be made before May 1 of each year. (§ 35-1-35 ACLA 1949)

**Sec. 43.65.040. Limitation.** [Repealed, § 4 ch 94 SLA 1976. For current law, see AS 43.05.260.]

**Sec. 43.65.050. Violations and penalties.** [Repealed, § 4 ch 94 SLA 1976; § 3 ch 166 SLA 1976; §§ 45, 46 ch 113 SLA 1980. For current law, see AS 43.05.220 and 43.05.290.]

**Sec. 43.65.060. Definitions.** In this chapter, unless the context otherwise requires,

(1) "gross income from property" means the gross income from mining in the state;

(2) "mining" means an operation by which valuable metals, ores, minerals, asbestos, gypsum, coal, marketable earth, or stone, or any of them are extracted, mined, or taken from the earth; "mining" includes the ordinary treatment processes normally applied by mine owners or operators to obtain the commercially marketable product, but does not include the extraction or production of oil and gas;

(3) "net income of the taxpayer (computed without allowances for depletion) from the property" means the gross income from the property, less allowable deductions attributable to the mineral property upon which the depletion is claimed and the allowable deductions attributable to ordinary treatment processes insofar as they relate to the product of the property, including overhead and operating expenses, development costs properly charged to expense, depreciation, taxes, losses sustained, etc., but excluding allowances for depletion, and deductions for federal income taxes, or for the tax imposed by this chapter;

(4) "new mining operations" means mining operations which began production after January 1, 1953, or which have not been liable to pay a mining license tax under this chapter on net income since January 1, 1948;

(5) "ordinary treatment processes" includes

(A) in the case of coal: cleaning, breaking, sizing, and loading for shipment,

(B) in the case of sulphur: pumping to vats, cooling, breaking and loading for shipment,

(C) in the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and minerals which are customarily sold in the form of crude mineral product: sorting, concentrating and sintering to bring to shipping grade and form, and loading for shipment, and

(D) in the case of lead, zinc, copper, gold, silver, platinum metals or fluorspar ores, potash and ores which are not customarily sold in the form of the crude mineral product: crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but excluding electrolytic deposition roasting, thermal or electric smelting or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of a product from the ore, including the furnacing or quicksilver ore;

(6) "production" means the date on which the initial shipment of products from mining operations is made. (§ 35-1-31(a) (d) (e) ACLA 1949; am § 1 ch 64 SLA 1951; am §§ 1, 2 ch 26 SLA 1953; am § 1 ch 14 SLA 1962)

THE FOLLOWING DOCUMENT HAS  
NOT BEEN FILMED BUT IS  
AVAILABLE IN THE ORIGINAL  
FILE

# LOCATABLE MINERAL LEASING SYSTEMS

LEASE ISSUANCE		LEASE SIZE (Acres)	LEASE DURATION (Years)	LEASE RENEWAL	LEASE RENTAL (Annual)	LEASE ROYALTY (Annual)	REMARKS DEL
Competitive	Noncompetitive						
Never	Always	Unlimited	20	Yes	Year 1 to 5 -\$10.00/acre Year 6 to 10 -\$15.00/acre Year 11 to 20 -\$20.00/acre	None	
Never	Always	640 or less	20	Yes	\$1.00/acre	5% net	
Seldomly	Usually	640	20	Yes	Negotiable	20% adjusted gross or 5% net	
Occasionally	Usually	Negotiated	10	Yes	\$1.00/acre	Sliding Scale Based on Ore Value per ton \$0 to \$100.00/ton -4% net \$100.00 to \$200.00/ton -5% net \$200.00 to \$300.00/ton -6% net \$300.00 up/ton -7% net	F T I S
Seldomly	Usually	640	10	Yes	\$1.00/acre	Sliding Scale Based on Ore Value Per Ton \$50.00 ore is 5% of net smelter return	F T
Always	Never	40-640	20	Yes	Year 1 to 5 -\$3.00/acre Year 6 to 10 -\$6.00/acre	Minimum Royalty Year 1 to 10 - no royalty Year 11 to 20 - \$10.00/acre for year 11, plus \$5.00/acre/year for each year after 11. Minimum royalty at year 20 is \$65.00/acre/year and each year thereafter.	Adjusted s by multipl

**BRIEFING -  
NASHAGAK &  
MALCHATNA  
RIVERS  
RECREATION  
MANAGEMENT  
PLAN AND  
N.W. MANAGE-  
MENT PLAN**

# **NORTHWEST ARCTIC BOROUGH**

**P.O. BOX 1110  
KOTZEBUE, AK 99752  
(907) 442-2500 / FAX 442-2530**

## **STATEMENT OF THE HONORABLE CHUCK GREENE, MAYOR NORTHWEST ARCTIC BOROUGH, BEFORE THE SENATE & HOUSE COMMITTEES ON NATURAL RESOURCES, FEBRUARY 24, 1989**

**MADAM CHAIR:**

On behalf of the citizens of the Northwest Arctic Borough, I appreciate this opportunity to discuss the Northwest Area Plan.

I have been advised of your continuing concern regarding these area plans and desire for both public input and legislative review. I understand the purpose of this hearing is to familiarize the legislature with the substantive aspects of the Plan and hear public comment.

The laws and procedures governing the development of these area plans are quite explicit and are an attempt to resolve some of the emotionalism involved. There is no doubt that the legislature has a role in reviewing these plans and being aware of their content.

I understand that some groups are upset with the Plan and may use this opportunity as a means to manipulate the public process. We object to such actions. The thought that over three years of work may be trashed due to political considerations, whether real or not, is seen as a threat, especially since the Plan has not been approved by the Commissioner.

Both the Department and the Legislature should take pride in the level of public participation in the development of the Plan. It not only involved people with interests of statewide concerns; IT ALSO INVOLVED LOCAL PEOPLE WITH LOCAL CONCERNS.

A procedural issue involves the plan and the municipal selection process. I understand that others are concerned that the Northwest Arctic Borough is trying <sup>to</sup> lay claim to 700,000 acres for its municipal selection.

Factually, the Borough is entitled to 133,000 acres of state land as its municipal entitlement. This is provided to all new municipalities. The borough has charged the Planning Commission to identify the 133,000 acres of entitlement. The Planning Commission has gone through two rounds of public hearings.

It is anticipated that they will go through two more rounds of hearings prior to identifying the Borough selections.

This planning process, as any such process, starts out large. If you are going to select something, it is logical that you provide for a choice. As you try to identify your needs, entitlements, and requirements - for example, the Northwest Arctic Borough does have a Coastal Zone Management Plan which the selections have to be compared against, State law requires that municipal selections meet certain eligible purposes, and provisions for access must also be met - your selections become more limited. That is the process we are now involved with. It is anticipated that our request for selections will be made in a timely and proper manner.

The Northwest Arctic Borough is now almost three years old. In that time we have been organized, developed a home rule charter, dealt with disasters, spent a year appealing an initial municipal entitlement decision, until the legislature enacted appropriate and fair legislation. We are now involved in the selection process. We are making selections that both met the eligible criteria and also fulfill the needs identified by our citizens. We are proceeding in both a public and expeditious manner. This requires time, which cannot exceed one year from the date of entitlement.

### SUBSTANTIVE PROBLEMS WITH THE PLAN

DNR'S literature states that subsistence uses are protected by the Plan. That is clearly one of the objectives. It is our hope that at some point the classification system will recognize both the importance of subsistence and the multi use of such lands.

The issue of remote cabin sites has been specifically addressed. We support the fact that no remote cabin sales are allowed by the Plan, within the Northwest Arctic Borough. Essentially, there are enough problems we are confronted with than having to deal with this one too. The potential problems created far outweigh any benefits. The planning process does not require an analysis of local services available for such sites. Even though it is anticipated that such remote areas will not receive services, they still have rights to them and make claims for such services. At this point in time the Northwest Arctic Borough is unable to deal with those potential demand for services. As the borough develops and services and

resources become available, the question of remote cabin sites will receive continuing review by both the Department and the Borough.

What you have before you, the Northwest Area Plan, is the best that could be accomplished. It is the result of three years of public scrutiny & local involvement that we feel adequately met both local and statewide interests. It is our hope that the Commissioner will approve the Plan.

I am available to answer your questions.

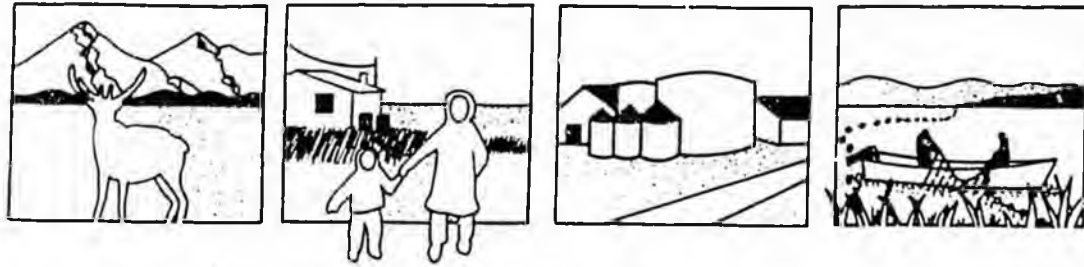
Respectfully submitted,



Chuck Greene

Mayor

# NORTHWEST AREA PLAN



**BRIEFING PAPER**

**February 1989**

## **Purpose of the Plan**

The Northwest Area Plan describes how the Department of Natural Resources (DNR) will manage state land on the Seward Peninsula and Norton Sound, the Lisburne Peninsula up to Icy Cape, and the Kobuk River Valley. The plan determines land-sale offering locations, remote cabin areas, land classifications, land selections and relinquishments, areas open to mineral entry and guidelines for leases and permits on state lands. The plan may make recommendations for interagency memoranda of agreement, cooperative agreements with other landowners, research, or recommendations to the state legislature for legislative designations or changes in legislation. The plan does not make decisions on federal, Native, or private lands.

## **Description of Planning Area**

The Northwest Planning area includes the Lisburne Peninsula up to Icy Cape, the Kobuk River Valley, the Seward Peninsula and Norton Sound. One-fourth of the area within this region, or 10 million acres of uplands and about 4 million acres of tide and submerged lands, has been selected by or conveyed to the state. Federal lands include portions administered by the Bureau of Land Management and the following conservation units: Cape Krusenstern National Monument, Kobuk Valley National Park, Bering Land Bridge National Preserve, Selawik National Wildlife Refuge, and portions of the Noatak National Preserve, Gates of the Arctic National Park and Preserve, and Alaska National Maritime Refuge. Native regional and village corporations are major landowners who own or have selected over 4.16 million acres. In addition, about 280,000 acres or 2300 parcels have been selected or patented under federal land conveyance programs such as Native allotments, mineral patents, and homesites. There are 26 communities within the Northwest plan area with a total population of about 14,000.

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Alaska Department of Natural Resources

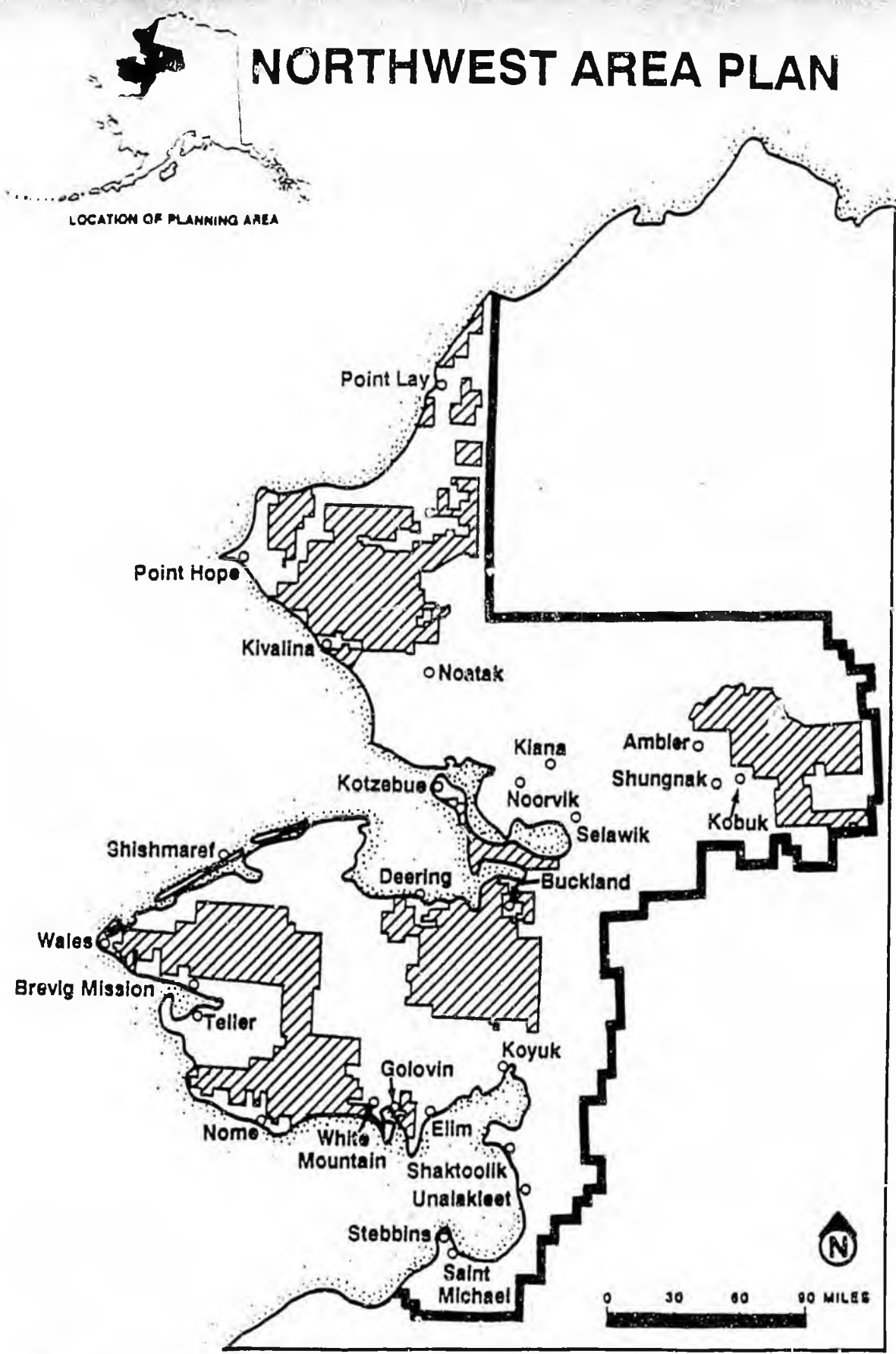
Resource Allocation Section

3700 Airport Way  
Fairbanks, Alaska 99709  
(907) 451-2742



Alaska Department of  
**NATURAL  
RESOURCES**

# NORTHWEST AREA PLAN



 STATE-OWNED AND STATE SELECTED LANDS\*

 AREA PLAN BOUNDARY

\* Detailed land status is not shown because of the complex land ownership pattern and the small scale of the map. Some private lands and Native-selected lands exist within the areas shown. More detailed land ownership maps are available at the DNR office.

## **How the Plan Was Developed**

The Northwest Area Plan is the product of three-and-a half years of work by state agencies, coastal program and local government representatives, interest groups, and the general public. Over 75 public meetings and workshops have been held throughout the planning area and in Anchorage and Fairbanks to gather public comments and ideas.

The plan was developed by the Northwest Area Plan Planning Team. The planning team is made up of representatives from state agencies, coastal districts or local governments, and Native regional corporations. When consensus is not reached among planning team members, the advisory committee is consulted. The representatives on the planning team and the advisory committee are listed below.

The agency review draft, prepared in December 1987, was the first draft of the plan. Comments from 16 agencies were received in January 1988 on the agency review draft. The planning team resolved the remaining issues and revised the draft for public review.

Following the public meetings during the fall of 1988 and the end of the public comment period, the draft plan was revised. The final 30-day public notice was held in late 1988. Final issues were resolved in early 1989, and upon signature by the Commissioners of DNR and ADF&G, the Northwest Area Plan will guide state land management within the planning area.

## **Major Issues**

**Land Sales and Remote Cabins:** Land sale areas and remote cabin permits have been a controversial issue in northwest Alaska. The number and density of the offerings proposed in the plan are very low, and special guidelines are developed to meet concerns of settlement impacts. For the Seward Peninsula, three land sale areas, about 900 acres, are proposed along the road system north of Nome, and two areas for about 14 remote cabin permits. For the Northwest Arctic Borough, about 300 acres are proposed for sale in two areas on tributaries of the upper Kobuk River. No remote cabin areas are proposed in the Northwest Arctic Borough. No land sales or remote cabins are proposed for the North Slope Borough (Lisburne Peninsula) area.

**Mineral Entry:** Nearly all state land will remain open for new mineral entry. In areas open to mineral entry, existing laws, regulations, and guidelines in the plan are used to protect surface resources and anadromous fish habitat.

Certain important habitat lands will be closed to mineral entry. Thirteen important seabird rookeries along the northwest coastline with state uplands or mineralized tideland areas are proposed for closure within a 1/4 mile radius of the rookery, about 6,500 acres total. Additionally, new mineral entry would be prohibited in seven important sheefish spawning sites and on state lands within 200 feet either side of the sites on the upper Kobuk River, about 3,000 acres total.

**Municipal Entitlements:** The municipal entitlement act establishes the classification categories that are available for conveyance to municipalities. Although the area plan proposes the classifications for state lands, the municipal selection process will analyze resources in greater detail, separately from the area plan. Language will be included in the plan that will emphasize keeping options open for land selection for future local governments.

The Northwest Arctic Borough and the North Slope Borough are entitled to state land selections within the planning area. In order to minimize the effect of plan classifications on municipal selections, the plan proposes to defer implementation of classifications for certain areas of borough interest. This will allow the municipal selection process to occur without requiring large scale changes to the plan. The plan will include language that recognizes the deferred classifications and borough selections.

**Reindeer Grazing:** Reindeer grazing is an important use of state lands on the Seward Peninsula and will continue to be allowed. Plan policies and guidelines will promote multiple use of state lands and serve to minimize conflicts among the various users. The plan recommends development of long-term grazing operations plans and a coordinated application process.

**Leases and Permits:** The Department of Natural Resources may issue permits for some temporary uses of state land such as trapping cabins and commercial tent camps. DNR may also issue leases for more permanent uses of state land, such as lodges or communication sites. The Northwest Area Plan will continue to allow leases and permits in most of the planning area. Leases for commercial recreation facilities will not be allowed in high value habitat areas. Trapping cabin construction permits should not be issued if the cabin conflicts with existing trapping and subsistence activities. Each request will be reviewed to see if it complies with the plan's management guidelines and policies.

**Subsistence:** Subsistence uses and traditional activities are one of the principal uses of state land within the planning area. Although the allocation of fish and wildlife resources among competing users is managed through the Alaska Boards of Fisheries and Game, DNR manages state lands which support subsistence resources and uses. The importance of subsistence activities and traditional uses in Northwest Alaska is recognized through plan policies and guidelines. The plan will provide opportunities for economic development that are in balance with the region's mixed cash-subsistence economy.

**Other Issues:** Other issues, in general, are relatively non-controversial. The plan will manage almost all lands for multiple use, open for mineral entry and available for leasing for coal, oil and gas. Plan guidelines will be consistent with coastal policies in effect for the area. There are no recommendations for legislative designations. The plan recommends further study for management of lands in the Kobuk River area by the agencies with jurisdiction along the river.

## Planning Team and Advisory Committee Members

<u>Agency/Organization</u>	<u>Team Member</u>	<u>Advisory Member</u>
Department of Natural Resources Chairperson	Anna Plager (451-2700)	Tom Hawkins
Division of: Oil & Gas	Kris O'Connor (762-2548)	Jim Eason
Mining	Judd Peterson (451-2791)	Jerry Gallagher
Agriculture	Ed Arobio (451-5692)	Frank Mielke
Land & Water Management	Bill Copeland (451-2715)	Jerry Brossia
Parks & Outdoor Recreation	Mike Lee (451-2698)	Neil Johannsen
Forestry	Steve Clautice (451-2678)	Bob Dick
Dept. of Transportation & Public Facilities	Norm Piispanen (474-2423)	John Martin
Dept. of Environmental Conservation	Joyce Beelman (452-1714)	William D. (Pete) McGee
Dept. of Fish & Game	Matt Robus (451-6192)	Al Ott
Dept. of Community & Regional Affairs	Ike Waits or Bert Greist (561-8586)	Marty Rutherford

(Continued)

<u>Agency Organization</u>	<u>Team Member</u>	<u>Advisory Member</u>
North Slope Borough	Karla Kolash Dep. Dir., Planning P.O. Box 169 Barrow, AK 99723 (852-2611)	Arnold Brower, Jr.
Arctic Slope Regional Corporation	William Thomas Land Manager P.O. Box 129 Barrow, AK 99723 (852-8633)	William Thomas
Bering Straits Native Corporation	Guy Martin Director of Lands P.O. Box 1008 Nome, AK 99762 (443-5252)	Guy Martin
Bering Straits Coastal Management Program	Bryan MacLean Program Director Box 28 Unalakleet, AK 99684 (624-3062)	Johnson Eningowuk
NANA Regional Corporation	Walter Sampson Director of Lands P.O. Box 49 Kotzebue, AK 99752 (442-3301)	John Rense
Northwest Arctic Borough	Jason Jessup Planning Director P.O. Box 1110 Kotzebue, AK 99752 (442-2500)	Charles Greene
City of Nome	Tom Abrams Planning Commission Box 932 Nome, AK 99762 (443-5340)	Tom Abrams

Northwest Alaska Area Plan - Project Staff

Anna Plager, Project Manager	Ed Fogels, Natural Resource Officer
Roselynn Smith, Natural Resource Tech	Kay Zito, Clerk Typist

# NUSHAGAK & MULCHATNA RIVERS

## Recreation Management Plan

P.O. Box 849 • Dillingham, Alaska 99576 • (907) 842-2666



BRIEFING PAPER

February 1989

### Origin of Plan

The Bristol Bay Area Plan (1983) and the Bristol Bay Coastal Management Plan (1987) each recommended that more detailed planning be done to guide recreation management in the region. The legislature appropriated \$40,000 per year in FY 88 and 89 with the intent that the Alaska Department of Natural Resources (DNR) should work with the Alaska Department of Fish and Game (ADFG) and the Bristol Bay Coastal Resource Service Area (BBCRSA) in the preparation of this plan.

### Purpose of the Plan

The major points the plan will address are:

The number and location of lodges and spike camps that should be allowed.

Protection of public access sites, easements and campsites.

Other issues which the plan may address are options for managing recreational use, trespass on private land, land exchanges and legislative designations. The plan will not make regulations for fish and game management, since these are the responsibilities of the Boards of Fisheries and Game.

### Summary of Plan Process

A planning team is responsible for developing the plan. The team consists of staff from DNR, ADFG, and BBCRSA. The advisory board is consulted by the team and is made up of representatives from major public interests. A project manager acts as staff to the planning team and is based at the BBCRSA office in Dillingham.

Fall 1987: Public issues and concerns identified.

Fall 1987 to Fall 1988: Resource Assessment prepared and printed.

August to December 1988: Management Alternatives prepared and distributed.

Reviewed prior to publication by planning team and advisory board. Mailed to 700 person mailing list including all commercial recreation operators known to work near the planning area, 2,200 local residents and advisory board members. 4,400 were distributed in total. Public meetings held in Anchorage, Iliamna, Dillingham, Ekwok, New Stuyuhok and Koliganek.

January to February 1989: Summary of Public Response to Management Alternatives prepared and distributed to agencies and the public.

March 1989: Draft plan prepared.

Draft is prepared based on public and agency response to alternatives.

April 1989: Agencies review draft plan.

Agencies resolve differences in opinion and the draft is modified.

May 1989: Public reviews draft plan.

Draft plan or summary of draft plan is prepared and distributed. Public meetings are held in above communities and Fairbanks.

Summer 1989: Final Plan is prepared, adopted and implemented.

Coastal consistency review will take longer.

## PLANNING TEAM

### Alaska Department of Fish and Game

Division of Commercial Fish

Division of Game

Habitat Division

Division of Sport Fish

Subsistence Division

Wes Bucher

Ken Taylor

Lance Trasky

Paul Krasnowski

Jim Fall

### Alaska Department of Natural Resources

Division of Forestry

Division Land and Water Management

Division of Parks & Outdoor Recreation

Resource Allocation Section

Joe Stam

Helen Nienheuser

Dan Hourihan

Rob Walkinshaw

### Bristol Bay Coastal Resource Service Area

Susan Flensburg

## ADVISORY BOARD

Air Taxi Operator, Iliamna Air Taxi

Alaska Center for the Environment

Alaska Outdoors Council

Alaska Professional Hunters Assoc.

Alaska Professional Sportfishing Assoc.

Alaska Sportfishing Association

Bureau of Land Management

Choggiung Ltd.

Ekwok Natives Ltd.

Koliganek Natives Ltd.

National Park Service

Nushagak Fish and Game Advisory Comm.

Stuyahok Ltd.

Togiak National Wildlife Refuge

Tim La Porte

Cliff Eames

Ward Jones

James Harrower

Chris Goll

Jeff Parker

Laun Buoy

Robin Samuelson

Luki Akelkok

Jerry Liboff

Jack Mosby

Donald Sagmoen

Peter Andrew Jr.

Dave Fisher/

Pete Jerome

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# Alaska State Legislature

Please send me a copy of my testimony to the \_\_\_\_\_ Committee.

Committee on \_\_\_\_\_ bill/subject

Witness to this proceeding is required \_\_\_\_\_

The State Board of \_\_\_\_\_

\_\_\_\_\_

What is your \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*A. J. ...*

Testifier

*Self*

Address

907-455-6151

Phone No

Richard H. Bishop on the Northwest Area 01 1950 Page 2

a carefully selected and protected

to the Northwest... of the... Native... areas are... and... That... only for local... residents.

WHAT ARE THE SUBJECT RESOURCES OF THE AREA?

(1) Access -- To public lands... for... retained interests, such as...

(2) Hopes of public... areas... fish and game.

(3) Private... corridors to...

(4) Private... for such uses.

(5) Commercial... law.

HOW CAN THE AREA BE BETTER MANAGED?

(1) Better... laws...

(2) Better... planning...

(3) Possible... to their... completely done

18) - J. D. Bishop on the Northwest Area - Page

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# NUSHAGAK & MULCHATNA RIVERS

## Recreation Management Plan



How will state land near the Nushagak and Mulchatna Rivers be managed?

You can help decide.



BULK MAIL  
PERMIT # 34  
Dillingham, AK

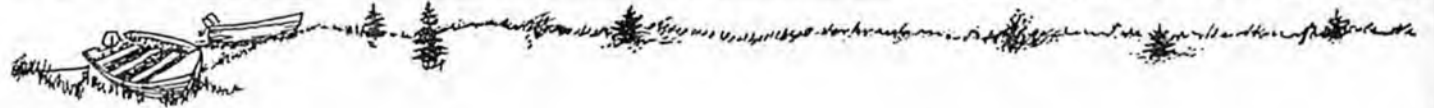
11/87

NUSHAGAK & MULCHATNA RIVERS

Recreation Management Plan

P.O. Box 840 • Dillingham, Alaska 99576

The preparation of this document was financed in part by funds from the Alaska Coastal Management Program which is funded by the State of Alaska and the Office of Ocean and Coastal Management, National Oceanic and Atmospheric Administration, US Department of Commerce, administered by the Department of Community and Regional Affairs, Municipal and Regional Assistance Division.



### HOW WILL STATE LAND NEAR THE NUSHAGAK AND MULCHATNA RIVERS BE MANAGED?

#### YOU CAN HELP DECIDE.

The Alaska Department of Natural Resources, Alaska Department of Fish and Game, and the Bristol Bay Coastal Resource Service Area are cooperating to prepare a management plan for state lands near the Nushagak and Mulchatna Rivers. This plan will affect the way the public uses these rivers. You are invited to help out in this process--whether you live or work in the area or use the resources of the rivers in any way.

#### WHY A PLAN?

This plan will build on the work done for the Bristol Bay Area Plan and address in more detail management issues for the Nushagak and Mulchatna Rivers. The Nushagak and Mulchatna Rivers are two of the most heavily used rivers in the Bristol Bay area. Over the years conflicts among people using the rivers have increased. A detailed management plan is needed to resolve these conflicts in a fair and open manner.

#### WHAT WILL THE PLAN DO?

The plan will describe in detail how the state intends to manage its land in the Nushagak and Mulchatna drainages. Points that the plan will address include:

- \* How many lodges and commercial recreation camps will be allowed in different areas of the drainages.
- \* Types of access to and wildlife resources. For example, should additional airstrips be allowed?
- \* How increasing trespass will be avoided on public and private lands.
- \* If and where land exchanges and legislative designations should take place.

#### WHAT WILL THE PLAN NOT DO?

Many decisions concerning land use have already been made in the Bristol Bay Area Plan and the Bristol Bay Coastal Management Plan. This plan will not address topics already addressed in earlier plans, including:

- \* Land disposals and remote cabins.
- \* Mineral management.
- \* Oil and gas leasing.
- \* Agriculture and grazing.



#### WHO WILL PREPARE THE PLAN?

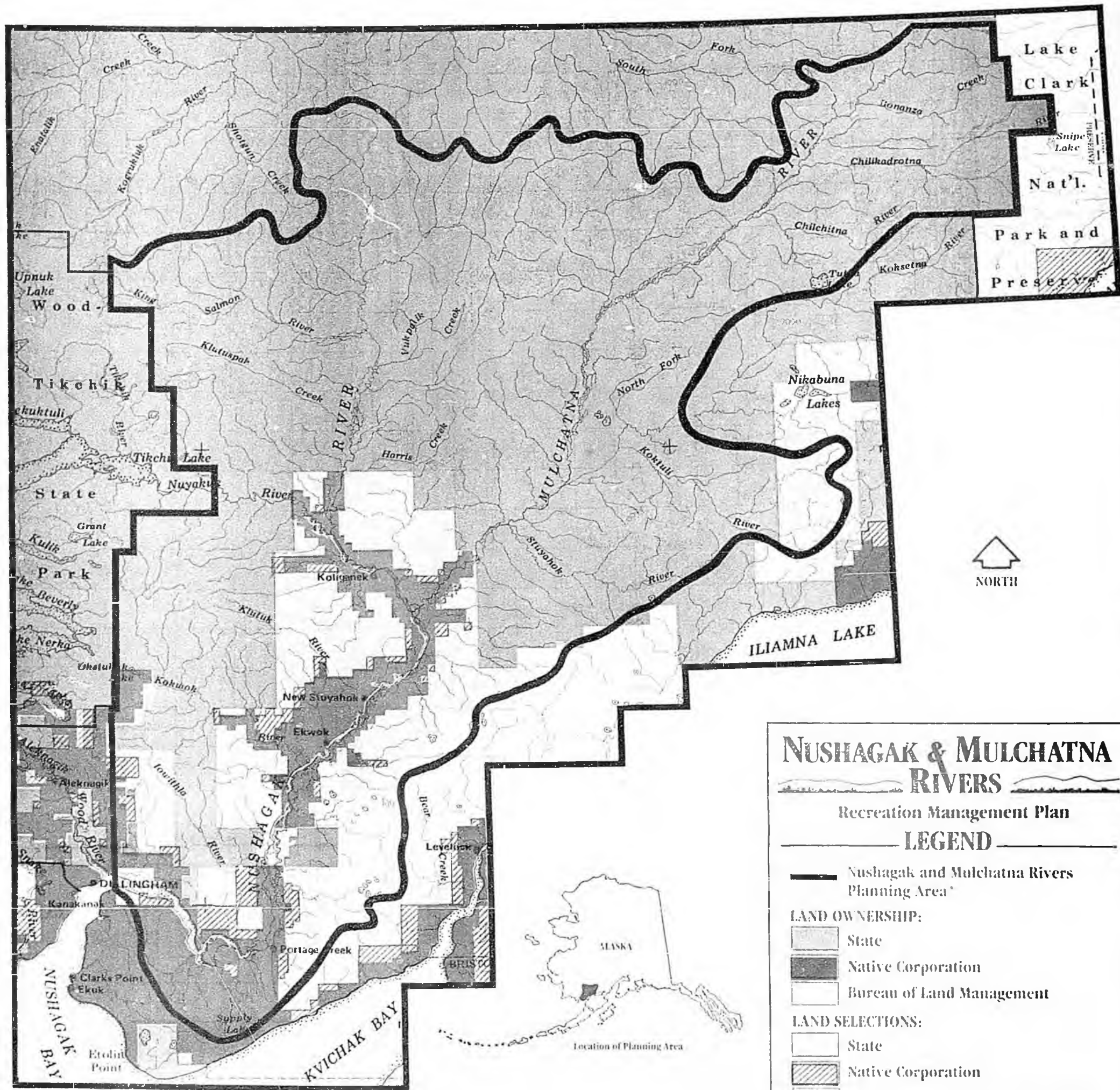
The plan will be prepared by a planning team from the Department of Natural Resources, Department of Fish and Game, and Bristol Bay Coastal Resource Service Area.

An advisory board will help the planning team decide which issues the plan should address and will recommend how these issues should be resolved. The board will include representatives from Native corporations, public and commercial sport hunting and fishing interests, the local fish and game advisory committee and other people concerned with the use of the river.

#### THE PLANNING PROCESS

The planning process will take about a year and a half to complete and will follow these steps:

1. **Issues are Identified.** Questions that the plan can and should address are identified. (Fall 1987)
2. **Information is Collected.** Information needed to answer these questions is gathered. (Winter 1987-1988)
3. **Alternatives are Prepared.** Alternative methods for managing the land are described and their effects are weighed. (Winter 1987-1988)
4. **Alternatives are Reviewed by the Public.** Public meetings are held to review the land use alternatives and identify the choices that people prefer. (Spring 1988)
5. **Draft Plan is Prepared.** The planning team creates a draft plan using agency and public comments on the alternatives. (Summer 1988)
6. **Draft Plan is Reviewed by the Public.** Public hearings are held to review the draft plan. (Fall 1988)
7. **Final Plan is Prepared.** The planning team creates a final plan based on public comments on the draft plan. (Winter 1988-1989)
8. **Plan is Adopted and Implemented.** The Commissioners of the Department of Natural Resources and Department of Fish and Game and the Board of the Bristol Bay Coastal Resource Service Area approve the plan. The plan then guides the management of land in the area. (Winter 1988-1989)



## NUSHAGAK & MULCHATNA RIVERS

Recreation Management Plan

### LEGEND

**Nushagak and Mulchatna Rivers Planning Area\***

**LAND OWNERSHIP:**

- State
- Native Corporation
- Bureau of Land Management

**LAND SELECTIONS:**

- State
- Native Corporation
- Land Selection by both Native Corp. and State

Scale: 1:1,000,000

50 KILOMETERS

30 MILES

\*The Planning Area

This map shows the Nushagak and Mulchatna drainages -- not necessarily the final boundaries of the planning area. The final boundaries will be determined after the planning team identifies where most of the land use conflicts are likely to take place. This will most likely be land near the rivers, which receive the most use.

**Land Ownership**

More than 40% of the land fronting the Nushagak and Mulchatna Rivers is owned by four Native Corporations; most of the remaining land is owned by the state. In addition, there are more than 200 Native allotments on the rivers. How the state, corporations or allottees manage their land holdings has a large effect on how the public uses all land near the rivers. The success of this plan will depend in part on cooperation between the private landowners and the state in guiding use of the land near the rivers.

### HOW CAN YOU BE INVOLVED?

You can be involved in the process by sharing your knowledge and opinions directly with the planning team or by expressing your views to the plan advisory board. Steps in the planning process where your participation would be most helpful are:

- \* Identifying issues and collecting information (Fall 1987). You can let the planning team or advisory council know what concerns they should consider in the plan and give them information which will help them make the right decisions.
- \* Reviewing management alternatives (Winter 1987-1988). You can attend public meetings to give your views on the various ways the plan can handle these issues.
- \* Reviewing the draft plan (Summer 1988). You can attend public meetings to give your opinion on the contents of the draft plan.

to make sure that it remains up-to-date. The planning team and advisory board will ask for your help again at that time.

### FOR MORE INFORMATION, CONTACT:

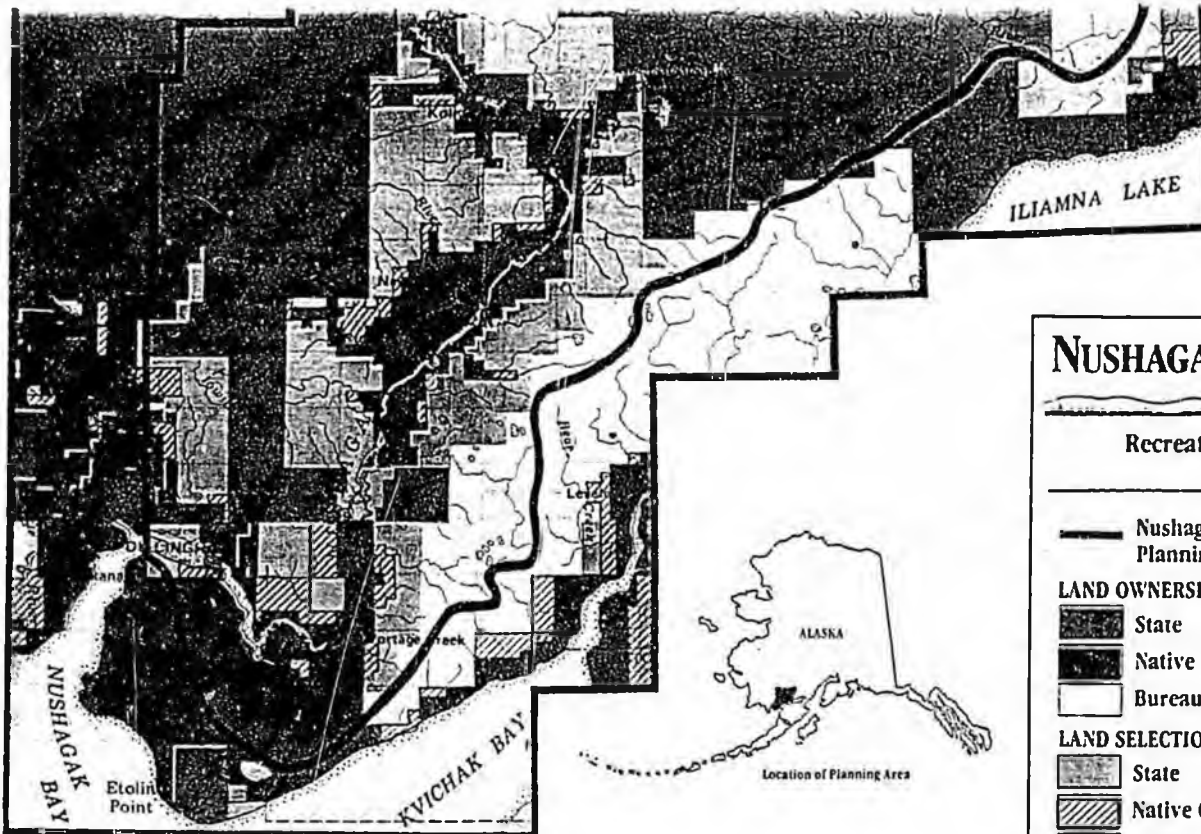
Peter Crimp, Project Manager  
Nushagak and Mulchatna Rivers  
Recreation Management Plan  
P.O. Box 849  
Dillingham, AK 99576  
Phone (907)842-2666

Susan Flensburg  
Bristol Bay Coastal Resource Service Area  
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Dillingham, AK 99576  
(907)842-2666

Rob Walkinshaw  
Alaska Dept. of Natural Resources  
Div. of Land & Water Management  
P.O. Box 107005  
Anchorage, AK 99510-7005  
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Paul Krasnowski  
Alaska Dept. of Fish and Game  
Div. of Sport Fish  
333 Raspberry Road  
Anchorage, AK 99518-1599  
Phone (907) 276-2218

The plan will be reviewed and amended in five to ten years after it is adopted



## NUSHAGAK & MULCHATNA RIVERS

Recreation Management Plan

### LEGEND

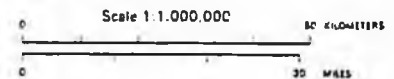
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The plan will be reviewed and amended in five to ten years after it is adopted

to make sure that it remains up-to-date. The planning team and advisory board will ask for your help again at that time.

### FOR MORE INFORMATION, CONTACT:

Peter Crimp, Project Manager  
Nushagak and Mulchatna Rivers  
Recreation Management Plan  
P.O. Box 849  
Dillingham, AK 99576  
Phone (907)842-2666

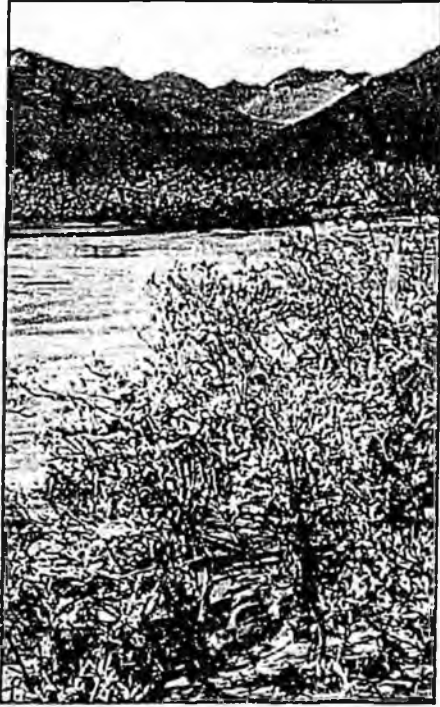
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# NUSHAGAK & MULCHATNA RIVERS

## Recreation Management Plan



How will state land near the Nushagak and Mulchatna Rivers be managed?

You can help decide.



BULK MAIL  
PERMIT #34  
Dillingham, AK

11/87

### HOW WILL STATE LAND NEAR THE NUSHAGAK AND MULCHATNA RIVERS BE MANAGED?

#### YOU CAN HELP DECIDE.

The Alaska Department of Natural Resources, Alaska Department of Fish and Game, and the Bristol Bay Coastal Resource Service Area are cooperating to prepare a management plan for state lands near the Nushagak and Mulchatna Rivers. This plan will affect the way the public uses these rivers. You are invited to help out in this process--whether you live or work in the area or use the resources of the rivers in any way.

#### WHY A PLAN?

This plan will build on the work done for the Bristol Bay Area Plan and address in more detail management issues for the Nushagak and Mulchatna Rivers. The Nushagak and Mulchatna Rivers are two of the most heavily used rivers in the Bristol Bay area. Over the years conflicts among people using the rivers have increased. A detailed management plan is needed to resolve these conflicts in a fair and open manner.

#### WHAT WILL THE PLAN DO?

The plan will describe in detail how the state intends to manage its land in the Nushagak and Mulchatna drainages. Points that the plan will address include:

- How many lodges and commercial recreation camps will be allowed in different areas of the drainages.
- Types of access to fish and wildlife resources. For example, should additional airstrips be allowed?
- How increasing trespass will be avoided on public and private lands.
- If and where land exchanges and legislative designations should take place.

### WHO WILL PREPARE THE PLAN?

The plan will be prepared by a planning team from the Department of Natural Resources, Department of Fish and Game, and Bristol Bay Coastal Resource Service Area.

An advisory board will help the planning team decide which issues the plan should address and will recommend how these issues should be resolved. The board will include representatives from Native corporations, public and commercial sport hunting and fishing interests, the local fish and game advisory committee and other people concerned with the use of the river.

### THE PLANNING PROCESS

The planning process will take about a year and a half to complete and will follow these steps:

1. Issues are Identified. Questions that the plan can and should address are identified. (Fall 1987)
2. Information is Collected. Information needed to answer these questions is gathered. (Winter 1987-1988)
3. Alternatives are Prepared. Alternative methods for managing the land are described and their effects are weighed. (Winter 1987-1988)
4. Alternatives are Reviewed by the Public. Public meetings are held to review the land use alternatives and identify the choices that people prefer. (Spring 1988)
5. Draft Plan is Prepared. The planning team creates a draft plan using agency and public comments on the alternatives. (Summer 1988)



How will state land near the Nushagak and Mulchatna Rivers be managed?

You can help decide.



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### WHAT WILL THE PLAN NOT DO?

Many decisions concerning land use have already been made in the Bristol Bay Area Plan and the Bristol Bay Coastal Management Plan. This plan will not address topics already addressed in earlier plans, including:

- Land disposals and remote cabins.
- Mineral management.
- Oil and gas leasing.
- Agriculture and grazing.



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4. Alternatives are reviewed by the public. Public meetings are held to review the land use alternatives and identify the choices that people prefer. (Spring 1988)

5. Draft Plan is Prepared. The planning team creates a draft plan using agency and public comments on the alternatives. (Summer 1988)

6. Draft Plan is Reviewed by the Public. Public hearings are held to review the draft plan. (Fall 1988)

7. Final Plan is Prepared. The planning team creates a final plan based on public comments on the draft plan. (Winter 1988-1989)

8. Plan is Adopted and Implemented. The Commissioners of the Department of Natural Resources and Department of Fish and Game and the Board of the Bristol Bay Coastal Resource Service Area approve the plan. The plan then guides the management of land in the area. (Winter 1988-1989)

# NUSHAGAK & MULCHATNA RIVERS

## Recreation Management Plan

P.O. Box 819 • Dillingham, Alaska 99576

The preparation of this document was financed in part by funds from the Alaska Coastal Management Program which is funded by the State of Alaska and the Office of Area and Coastal Management, National Oceanic and Atmospheric Administration, US Department of Commerce, administered by the Department of Community and Regional Affairs, Municipal and Regional Assistance Division.

11/87

**BRIEFING -  
RS 2477**

# Alaska State Legislature

SENATOR BETTYE FAHRENKAMP  
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CHAIRMAN, OIL AND GAS COMMITTEE  
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FAIRBANKS, ALASKA 99701  
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## MEMORANDUM

TO: Committee Members, Senate Resources Committee  
Senate Transportation Committee  
House Resources Committee  
House Transportation Committee

FROM: Committee Staff

RE: Committee Meeting, January 20, 1989

DATE: January 19, 1989

On Friday, January 20th, at 1:30 p.m. in the Senate Finance Room, the Senate Resources Committee will meet jointly with House Resources, Senate Transportation and House Transportation for a briefing on RS 2477.

RS 2477 refers to Federal Revised Statute 2477 (Repealed), Granting Rights-of-way for Public Highways. At issue is the resolution of a dispute over the 1866 law that granted rights-of-way for the construction of highways over unreserved public lands. The law was repealed in 1976, but numerous highways exist in western states, including Alaska, as a result of the law.

The Department of the Interior issued a memorandum dated December 7, 1988, from Secretary of the Interior Hodel, which outlines their policies and procedures. The memorandum is a result of cooperation between our state, the federal government and the Alaska Congressional delegation.

The policy is especially important for miners and recreationists who require access to remote areas of Alaska.

John Katz, Director of State/Federal Relations and Special Counsel to the Governor, will brief the committees on the coordination between the U.S. Department of the Interior and the State of Alaska and will discuss their policies.

Commissioner Mark Hickey, Alaska Department of Transportation and Public Facilities, will brief the committees on state policy relating to asserting RS 2477 Rights-of-Way.

Also before the committees will be:  
Clyde Stoltzfus, Special Assistant to the Commissioner, DOT;  
Tom Hawkins, Assistant Commissioner, Department of Natural Resources; and  
Jack McGee, Department of Law



THE SECRETARY OF THE INTERIOR  
WASHINGTON

Memorandum

To: Secretary.

From: <sup>acting</sup> Assistant Secretary for Fish and Wildlife and Parks  
Assistant Secretary for Land and Minerals Management

(S33) Susan Recce

Subject: Departmental Policy on Section 8 of the Act of  
July 26, 1866, Revised Statute 2477 (Repealed),  
Grant of Right-of-Way for Public Highways (RS 2477)

Although RS 2477 was repealed nearly 12 years ago, controversies periodically arise regarding whether a public highway was established pursuant to the congressional grant under RS 2477 and the extent of rights obtained under that grant. Under RS 2477, the United States had (has) no duty or authority to adjudicate an assertion or application. However, it is necessary in the proper management of Federal lands to be able to recognize with some certainty the existence, or lack thereof, of public highway grants obtained under RS 2477.

With the passage of the Federal Land Policy and Management Act, the Bureau of Land Management (BLM) developed procedures, policy, and criteria for recognition, in cooperation with local governments, of the existence of such public highways and notation to the BLM's land records. This has allowed the BLM to develop land use plans and to make appropriate management decisions that consider the existence of these highway rights.

Issues have recently been raised by the State of Alaska and others which question not only the BLM policy but also the management actions by other bureaus within the Department. We have had the BLM review and report on the various issues and concerns (Attachment 2) and consulted with the State of Alaska, the BLM, the Fish and Wildlife Service, and the National Park Service.

We believe that the land management objectives of the Department will be improved with adoption of a Departmental policy and recommend that the attached policy (Attachment 1) be adopted for Departmentwide use.

Approve: Donald Paul Hodel

Disapprove: \_\_\_\_\_

Date: DEC 07 1988

Date: \_\_\_\_\_

Attachments: 1-RS 2477 Policy  
2-BLM Report

cc: Secretary's Reading File (2)

ES (8): MIB Rm. 6221

LN (2)

FW (2)

330 Official

330 Reading File, MIB 3660

LLM-330:Bingham:3/4/88, IB Rm. 3660:343-5441:0434B09

Revised: FW-Wyman:10/4/88:343-9211:RS2477.1

RS 2477

Section 8 of the Act of July 26, 1866  
Revised Statute 2477 (43 U.S.C. 932)  
Repealed October 21, 1976

Section 8 of the Act of July 26, 1866, provided:

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

Although this statute, 43 U.S.C. 932 (RS 2477), was repealed by Title VII of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2793, many rights-of-way (R/W) for public highways obtained under the statute exist or may exist on lands administered by the Department and other Federal agencies. The existence or lack of existence of such highway R/W has material bearing on the development and implementation of management plans for conservation system units and other areas of Federal lands. Land managing Bureaus of the Department should develop, as appropriate, internal procedures for administratively recognizing those highways meeting the following criteria and recording such recognized highways on the land status records for the area managed by that Bureau.

Acceptance:

To constitute acceptance, all three conditions must have been met:

1. The lands involved must have been public lands, not reserved for public uses, at the time of acceptance.
2. Some form of construction of the highway must have occurred.
3. The highway so constructed must be considered a public highway.

Public lands, not reserved for public uses:

Public lands were those lands of the United States that were open to the operation of the various public land laws enacted by Congress.

Public lands, not reserved for public uses, do not include public lands reserved or dedicated by Act of Congress, Executive Order, Secretarial Order, or, in some cases, classification actions authorized by statute, during the existence of that reservation or dedication.

Public lands, not reserved for public uses, do not include public lands pre-empted or entered by settlers under the public land laws or located under the mining laws which ceased to be public lands during the pendency of the entry, claim, or other.

Construction:

Construction must have occurred while the lands were public lands, not reserved for public uses.

Construction is a physical act of readying the highway for use by the public according to the available or intended mode of transportation - foot, horse, vehicle, etc. Removing high vegetation, moving large rocks out of the way, or filling low spots, etc., may be sufficient as construction for a particular case.

Survey, planning, or pronouncement by public authorities may initiate construction but does not, by itself, constitute construction. Construction must have been initiated prior to the repeal of RS 2477 and actual construction must have followed within a reasonable time.

Road maintenance over several years may equal actual construction.

The passage of vehicles by users over time may equal actual construction.

#### Public Highway:

A public highway is a definitive route or way that is freely open for all to use. It need not necessarily be open to vehicular traffic for a pedestrian or pack animal trail may qualify. A toll road or trail is still a public highway if the only limitation is the payment of the toll by all users. Multiple ways through a general area may not qualify as a definite route, however, evidence may show that one or another of the ways may qualify.

The inclusion of a highway in a State, county, or municipal road system constitutes being a public highway.

Expenditure of construction or maintenance money by an appropriate public body is evidence of the highway being a public highway.

Absent evidence to the contrary, a statement by an appropriate public body that the highway was and still is considered a public highway will be accepted.

#### Ancillary uses or facilities usual to public highways:

Facilities such as road drainage ditches, back and front slopes, turnouts, rest areas, and the like, that facilitate use of the highway by the public are considered part of the public highway R/W grant.

Other facilities such as telephone lines, electric lines, etc., that were often placed along highways do not facilitate use of the highway and are not considered part of the public highway R/W grant. An exception is the placement of such facilities along such R/W grants on lands administered by the Bureau of Land Management prior to November 7, 1974. Prior to this date, the requirement of filing an application for such facilities was waived. Any new facility, addition, modification of route, etc., after that date requires the filing of an application/permit for such facility. Facilities that were constructed, with permission of the R/W holder, between November 7, 1974, and the effective date of this policy, should, except in rare and unusual circumstances, be accommodated by issuance of a R/W or permit authorizing the continuance of such facility.

Width:

For those highway R/Ws in the State, county, or municipal road system, i.e., the R/W is held and maintained by the appropriate government body, the width of the R/W is as specified for the type of highway under State law, if any, in force at the time the grant could be accepted.

In some cases, the specific R/W may have been given a lesser or greater width at the time of creation of the public highway than that provided in State law.

Where State law does not exist or is not applicable to the specific highway R/W, the width will be determined in the same manner as non-governmentally controlled highways.

Where the highway R/W is not held by a local government or State law does not apply, the width is determined from the area, including appropriate back slopes, drainage ditches, etc., actually in use for the highway at the later of (1) acceptance of the grant or (2) loss of grant authority under RS 2477, e.g., repeal of RS 2477 on October 21, 1976, or an earlier removal of the land from the status of public lands not reserved for public uses.

Abandonment:

Abandonment, including relinquishment by proper authority, occurs in accordance with State, local or common law or Judicial precedence.

Responsibilities of Agency and Right-of-Way Holders

This policy addresses the creation and abandonment of property interests under RS 2477 and the respective property rights of the holder of a R/W and the owner of the servient estate.

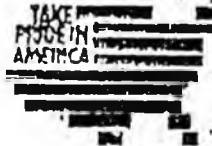
Under the grant offered by RS 2477 and validly accepted, the interests of the Department are that of owner of the servient estate and adjacent lands/resources. In this context, the Department has no management control under RS 2477 over proper uses of the highway and highway R/W unless we can demonstrate unnecessary degradation of the servient estate. It should be noted, however, that this policy does not deal with the applicability, if any, of other federal, state, and/or local laws on the management or regulation of R/Ws reserved pursuant to RS 2477.

Reasonable activities within the highway R/W are within the jurisdiction of the holder. As such, the Department has no authority under RS 2477 to review and/or approve such reasonable activities. However, review and approval may or may not occur, depending upon the applicability, if any, of other federal, state, or local laws or general relevance to the use of a R/W.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20240



INDICIES REFER TO

APR 1977

2801 (330)  
RS 2477

Memorandum

To: Assistant Secretary - Land and Minerals Management

From: Director, Bureau of Land Management

Subject: Departmental Policy on Section 8 of the Act of July 26, 1866, Revised Statute 2477 (Repealed), Grant of Right-of-Way for Public Highways (RS 2477)

Issue: Department Policy on the Recognition of Public Highway Rights-of-Way Granted Under RS 2477 and the Administration of such Recognized Grants.

Need:

Significant issues have been raised, principally in Alaska, regarding the Department's interpretation and position as to the acceptance of the right-of-way (R/W) grant offered by Congress by Section 8 of the Act of July 26, 1866, RS 2477, repealed by Title VII of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2793 (FLPMA). For those grants recognized issues exist as to the extent of the grant, i.e., terms and conditions such as the width, allowable uses, and Federal oversight.

Historically, such issues have generally affected only the Bureau of Land Management (BLM), with minor impact on other Federal land managing agencies. Two relatively recent events have heightened the need for expressed policy at the Departmental or higher level. First the repeal of RS 2477 in 1976 closed the door to the acceptance of the grant for new highways or corrections to existing road situations to perfect acceptance of the grant. Secondly, the addition of extensive acreages in Alaska to the National Park and National Wildlife Refuge Systems by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) requires the managing agency to consider the possible existence of RS 2477 highways on these Conservation System Units. Other Federal land managing agencies in Alaska, principally the Forest Service, U.S. Department of Agriculture, are also involved but to a lesser extent than the three Interior Bureaus.

Historical:

RS 2477 provided:

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

In the past, the Department paid little attention to such public highways on the public lands since if the grant was not accepted today it could be tomorrow. In disposing of the public lands, the General Land Office and, subsequently, the BLM did not even include the existence of such public highways in the patent document; the agency had no duty to adjudicate the acceptance or non-acceptance of the highway grant. As with other "open" offers by Congress, such as the railroad grants, the existence of such rights were considered factual matters that the settler or enterer of public lands should recognize as existing at the time of settlement or entry. Disputes between the holder of the highway and the patentee were left for settlement in local court under the laws of the State or Territory.

As a result, there is lacking any quantity of administrative or judicial decisions at the Federal level to provide such assistance in setting Federal policy and a plethora of local judicial decisions, often conflicting between States or Territories. Attachment 8 is a summary of published administrative decisions regarding RS 2477.

#### Regulations:

Regulations promulgated by the Department in 1938 provided:

"The grant . . . becomes effective upon the construction or establishing of highways in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under said R.S. 2477 as no action on the part of the Federal Government is necessary." See 43 CFR 244.55 (1938) (Par. 55, Circ. 1237a, May 23, 1938).

In 1949, regulations were added to provide for a highway applicant to petition the BLM to modify a "public use" reservation to allow application of RS 2477. See 43 CFR 244.47 (1949).

In 1952, the regulations were modified to exclude from the RS 2477 grant any R/Ws for facilities with respect to which any other provision of law specifically required the filing of an application for R/W. These regulations also waived the requirement of filing an application for all facilities usual to or along a highway R/W (certain specific exceptions) where the holder of the highway R/W consented. These regulations also provided that the R/W granted under RS 2477 would be subject to certain terms and conditions—clearing, soil and resource conservation, prevent and suppress fires, build or repair facilities damaged in construction of highway, restoration upon termination, nondiscrimination, and reservation of certain minerals. Where the highway holder consented to construction of related facilities, such holder was responsible for compliance with appropriate terms and conditions of the Department for the type of facility. See 43 CFR 244.58 (1953 Supp).

In 1974, the regulations were modified to remove the waiver provided in 1952 and required applications to be filed for facilities usual to a highway. See 43 CFR 2822.2-2 (1979).

With the repeal of RS 2477 in 1976, regulations were adopted allowing any person or State or local government which has constructed public highways under RS 2477 to file a map showing the location of such highway with the BLM. See 43 CFR 2802.5(b) (1985). This action was taken to facilitate the management of the public lands under the FLPMA.

#### BLM Policy:

Current policy is contained in BLM Manual 2801.488 (1986). It provides:

- Grant became fixed when constructed and accepted as a public highway.
- Construction must be actual; survey and planning are not construction. Road maintenance over several years may equal construction. Incremental maintenance over several years may equal construction. Construction on public lands must have occurred prior to 10/21/76. Where history is unknown or questionable, its existence in condition suitable for public use is evidence that sufficient construction has taken place.
- Highway must be public, an access road restricted by locked gates is not a public highway. Expenditure of public funds on a road will equate to a public highway. State in which road is located must have a procedure to confirm the road as a public highway, i.e., a public highway may not be created contrary to local law.
- RS 2477 did not specify the extent, width, or nature of rights conveyed. State law specifying highway width(s) that is specific to RS 2477 highways shall be used. Where State law does not apply, width is that required for the road uses existing at the time of acceptance or repeal of RS 2477.
- Holder has right to maintain, including realignment and reconstruction within the R/W width; activities outside require permit.
- Facilities usual to public highways, i.e., telephone and electric lines, are to be authorized by separate R/Ws granted under FLPMA; grandfather clause for those established during application waiver period.
- Field Offices are directed to work with each State, county, and municipality to identify all existing highways; acknowledge, serialize, and note Master Title Plates of those meeting criteria.

#### Concern in Alaska:

By 1985 many issues were raised in Alaska concerning possible RS 2477 R/Ws and management plans being prepared for the individual Conservation System Units created under the ANILCA. Positions and concerns expressed by the State (both administrative and legislative), Native entities, minerals industry, conservation groups, and others illustrated a need for a single Departmental or Federal Government position on RS 2477. In 1986, the BLM State Director, Alaska, was asked to chair an interagency group consisting of the regional heads of the BLM, Fish and Wildlife Service, National Park Service, and the

Forest Service to formulate a policy acceptable to these regional heads. A proposed policy was submitted by that group, together with comments by the State of Alaska, to the Director, BLM, in August 1987 requesting agency approval (Attachment 1). This proposed policy deviates from existing BLM policy in two areas: (1) establishing the width as that which was necessary for the use involved at the time the land was reserved for a public use or the repeal of RS 2477 (ignoring State statutes) and (2) providing that the Federal land managing agency had administrative control over use of the public highway.

Expressing reservations with the proposed policy, the Governor of Alaska's Washington representative requested meetings with the Assistant Secretaries for Land and Minerals Management and for Fish and Wildlife and Parks to present the State's views and seek a policy acceptable to both the State and the Department. As a result of such a meeting on November 24, 1987, the Governor's representative submitted four issues needing resolution, including the State's reasoning for its position on the issues. These issues and our response are contained in Attachments 5 and 6. With some clarification, BLM's existing policy is acceptable to the Governor's representative on all but one issue--legislative acceptance of RS 2477 on section lines.

Interior's Position is critical:

As the steward of the public lands, not reserved for public purposes, the Department's past and current policy and rulings on the acceptance of the grant of R/Ws for public highways can have impacts on the management of Federal lands in the 30 "public land" States--basically those west of the Mississippi River. RS 2477 issues involving the creation of "Federal reserves - Forests, Parks, Refuges" at the turn of the century and the early 1900's have, generally, been long resolved either through Federal recognition, abandonment, or judicial decisions, although some issues such as utility lines usual to a public highway still occur. Federal reserves created from unreserved public lands in the near past, especially the Conservation System Units in Alaska established under the ANILCA, contain or possibly contain numerous RS 2477 issues.

The one remaining issue involving recognition of acceptance of the congressional grant by State/Territorial law or local government ordinance not diligently followed by actual construction is an issue that has a potential effect on many Federal reserves in the public domain States as well as the remaining public lands under BLM jurisdiction.

In addition there is a perception, with some reality, that decisions made reflecting Federal lands will carry over into the private realty area. Concern has been expressed here by the Alaska Federation of Natives.

### Section Line RS 2477 R/Ws:

Alaska contends, as do some other States, that a positive act by the public authorities, i.e., State/Territory legislative branch; county or municipal authorities pursuant to State law, declaring a public highway along all section/township lines is acceptance of the grant offered by Congress under RS 2477. It is contended that such a covenant runs with the land, whether a highway is actually constructed or not, until there is appropriate action taken to abandon or otherwise terminate the R/W pursuant to State law or judicial action. To mollify private landowners who received title from the United States subsequent to such section line legislation, the Alaska Governor's representative has indicated that the State would compensate such owners prior to actual construction of a section line highway.

While section line statutes constitute the primary discussion issue, this issue would also include those cases where the appropriate local authority, counties, for example, by resolution or other appropriate action declared the establishment of a public highway along a route which, for some reason, was never actually constructed.

Western States which have/had section line statutes include Alaska (Territorial and State), Arizona (however State law requires a road to be adopted by the county or other jurisdiction after it has been constructed to become a public highway), North and South Dakota (Dakota Territorial law), and Kansas. Montana, although it does not have a section line statute, has interpreted RS 2477 as requiring construction. Various counties in California, Colorado, and Washington are known to have enacted section line ordinances. Local courts have held that, once dedicated, the highway may only be terminated according to the procedures of the local jurisdiction which, depending on the local jurisdiction, may be only through a public procedure of intent to abandon, hearing, and final abandonment or may occur through non-use and/or adverse possession.

As early as 1898 the Department held that such section line statutes or ordinances did not apply unless the highway was actually constructed (26 LD 446) (Attachment 2). In 1980, the Deputy Solicitor provided a lengthy and detailed position on RS 2477 to the Department of Justice (Attachment 3). Included in this letter was the requirement that construction must have occurred for acceptance of the RS 2477 grant. At the request of the District Court, Alaska, the United States submitted an Amicus Curiae brief to the Court in 1986, which included detailed reasoning that RS 2477 requires construction in order to establish a R/W (Attachment 4).

### Problems if Section Lines Adopted:

A number of issues arise if such section line legislation/ordinances are considered acceptance of the grant under RS 2477. Among these are:

#### When/What does it attach?

If the land was covered by a rectangular survey our position would be that the grant would have become effective on the date of the legislation or ordinance.

If the land is subsequently surveyed, does the effective date of the grant relate back to the date of the legislation or ordinance or to the date of survey? We believe the later would be the answer.

If the land is reserved for public use prior to survey but subsequent to the legislation or ordinance, does the effect of the legislation or ordinance attach upon survey? We believe that it would not.

Are officially accepted protraction diagrams, which are used for resource sale/lease and from which subsequent surveys conform as to the location of township and section corners, considered as establishing section lines for which the grant becomes effective? We would not concur with such a proposition.

In Alaska, departures from the usual rectangular survey system are authorized, especially for conveyances to the State and to Native Corporations. Since these surveys are based on the township grid (identified as T.-N., R.-E., -M) but do not necessarily identify sections, i.e., the interior of the township is designated Tract A or Tracts A & B, would the surveyed lines that would otherwise correspond to section lines be impressed with the R/W grant? We think they would.

- Alaska. Depending on the answers to the above questions, only a small amount of federally owned land would be subject to a R/W grant if applied to only actually surveyed section lines (by 1976 only about 15 percent of the State had been surveyed) and most all Federal lands if applied to protracted survey lines.

#### Impacts outside of Alaska

Assume that the R/W grant attaches to the section line where such land was public land, not reserved for public use, at the time of the legislative act or subsequent date when actually surveyed.

North and South Dakota. All surveyed public land, not reserved for public use, in these two States in 1872 would be impressed with a section line R/W grant. At time of subsequent survey, such public lands not entered would also be impressed with the R/W grant.

In 1872, little public lands had been set aside for public uses; Forest Reserves, the forerunners to National Forests, and National Parks, came into existence in the 1890's and later. In these two States, 9.5 million acres are owned by the Federal Government (1981 Public Land Statistics), including some 4.0 million reacquired acres. Acres by agency are: Forest Service 3.0 millions acres, Corps of Engineers 1.1 million, Fish and Wildlife Service 0.5 million, and BLM, National Park Service, Bureau of Reclamation, and Bureau of Indian Affairs at 0.2 million each.

Kansas. All surveyed public land, not reserved for public use, in this State in 1907 would be impressed with a section line R/W grant. At time of subsequent survey, such public lands not entered would also be impressed with the R/W grant. By 1976 all lands in the State had been surveyed.

Only some 750,000 acres are owned by Federal agencies—Corps of Engineers 320,000; Army 125,000; and Forest Service 105,000. The majority of this acreage is acquired land.

Other Western States. Arizona had (has) section line legislation, however, the courts there ruled that Arizona law also required an acceptance action after construction for the road to become a public highway.

In Washington, California, and Colorado, there are published cases involving section line ordinances enacted by county government, i.e., the Douglas County, Washington, ordinance of April 6, 1897. To identify the extent of such county ordinances would require a historical search of individual County actions.

It is our recommendation that we do not modify our interpretation of the Statute that construction must have occurred in order for a R/W grant under R5 2477 to attach.

Federalism - Executive Order 12612:

With the possible exception of the section line issue, existing BLM policy and the action we are herein recommending comport with the principles of Executive Order 12612. The section line issue involves interpretation of a Federal statute and the property rights of the United States and various States, including Alaska. To accede to the position of the State of Alaska would have adverse impact on numerous properties of the Federal Government, including the possibility of having to reacquire such property interests to protect Federal interests.

Recommendation:

It is recommended that the Department retain the policy established in BLM Manual 2801.48B (1986) and adopt it as Departmental policy for use by other land managing Bureaus in the Department.

8 Attachments

- 1 - SD AR BLM Memo of 8/1/87 + Attachment
- 2 - 26 L.D. 466
- 3 - SOL letter of 4/23/80
- 4 - Pgs 1 & 16-26 of US Amicus Brief in Greenhouse
- 5 - Katz letter of 12/4/87
- 6 - BLM response
- 7 - Katz letter of 2-29-88
- 8 - Summary of Published Administrative Decisions

# Right-of-way policy development key

A formal policy on public highway rights-of-way obtained on public lands under an 1866 Act of Congress has been signed by Secretary of Interior Donald P. Hodel. The policy will guide the actions of federal land managers and improve coordination with state and local governments.

The 1866 law included a section granting rights-of-way for the construction of highways over unreserved public lands. The highway routes are commonly referred to as RS 2477 rights-of-way since this section of the act was codified as Revised Statutes (RS), Section 2477. Numerous highways exist in the western U.S. as a result of the act which was repealed in 1976 with Congress' adoption of the Federal Land Policy and Management Act.

The new policy ends three years of negotiation with the BLM by state interests, principally the mining industry and Sen. Jack Coghill (R-Nenana), who chaired an RS 2477 task force in 1987.

The policy directs the agencies of the Department of Interior to develop procedures for administratively recognizing these highways and formally recording those recognized on the agency's land records. The BLM has had such procedures in effect for more than five years, but has not until this policy recognized the state's claims.

These efforts will improve the agency's ability to complete and administer comprehensive land use plans, assist other land owners in planning for the use of their land and assist state and local governments in their responsibilities in land use and transportation, said BLM.

There are three principal elements necessary for the administrative recognition of an RS 2477 highway right-of-way. First, the public lands could not have been reserved for other uses at the time the congressional grant of right-of-way was ac-

cepted. Second, some form of construction or otherwise readying the highway for use must have occurred.

Construction, as defined in the policy, is a physical act of readying the highway for use by the public according to the available or intended mode

of transportation, i.e. foot, horse, vehicle, etc. This could include actions such as removing high vegetation, moving rocks out of the way or filling low spots. The act of road maintenance over several years may meet the test for actual construction and the passage of vehicles by users over time may also meet the test.

Finally, the constructed highway must have been considered a public highway. Refusal to administratively recognize the highway right-of-way does not necessarily mean one does not exist, since that determination may only be made by a court of competent jurisdiction.

While highways today envision automobiles and trucks, such did not exist in 1866. Thus, the policy recognizes that RS 2477 highways may have been for such use as pedestrian, pack animal and oxen-drawn wagon traffic. The policy also recognizes the applicability of certain state and local laws such as the abandonment of RS 2477 highway rights-of-way.

Gov. Steve Cowper and Sen. Ted Stevens said they were pleased with the policy agreement.

"This policy should make it easier for many Alaskan homesteaders, miners and other users of federal land who need access to remote areas," said Cowper.

Under the policy, the width of the rights-of-way is measured from backslope to backslope unless different widths have been established under local or state law. Facilities such as drainage ditches and turnouts are considered part of the rights-of-way, but improvements such as telephone or electric lines or pipelines are not.

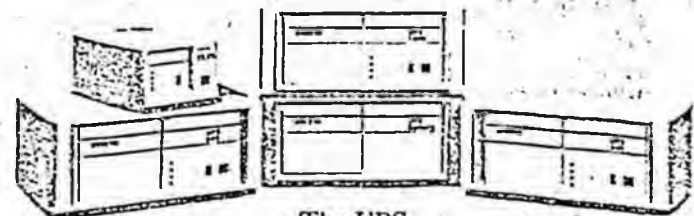
Hodel signed off on the policy Dec. 7.

## PROPOSED R.S. 2477 CORRIDORS



Indicated above are eight key corridors identified by a 1987 task force that looked at the RS 2477 issue. There are, says the Bureau of Land Management, hundreds of rights-of-way that fall within the RS 2477 category.

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FOR IMMEDIATE RELEASE  
No. 88-171  
Dec. 9, 1988

## COWPER, STEVENS HAIL INTERIOR'S RIGHT-OF-WAY POLICY

JUNEAU--Gov. Steve Cowper and Alaska Sen. Ted Stevens today praised the U.S. Interior Department's approval of a policy that permits Alaskans to use traditional rights-of-way across federal land in the state.

The so-called "RS 2477 policy," named after an 1866 federal law, outlines how traditional rights-of-way may be used by Alaskans. The policy is especially important for miners and recreationists who require access to remote areas of Alaska.

"This policy should make it easier for many Alaskan homesteaders, miners and other users of federal land who need access to remote areas," Cowper said. "The policy is the product of a joint effort between the state, Senator Stevens and the Interior department."

"This is an important step forward in preserving traditional access across federal lands in Alaska," Stevens said. "It is also a fine example of cooperation between the federal government, the state government and the Alaska congressional delegation - cooperation is the key to resolving many disputes over land in our state."

-MORE-

"Although we don't agree with Interior on everything, we're confident the policy doesn't limit the state's options in areas where we disagree, such as the establishment of section line rights-of-way," the Governor added. "I hope this policy will usher in a better relationship between the federal government and those requiring access across federal lands in Alaska."

At issue is the resolution of a dispute over the 1866 law that granted rights-of-way for the construction of highways over unreserved public lands. The law was repealed in 1976, but numerous highways exist in western states, including Alaska as a result of the law.

The policy directs Interior Department agencies to develop procedures for recognizing these rights-of-way - usually roads and trails - and formally recording them on federal land records. The policy makes clear that such rights-of-way may not necessarily have been constructed for vehicle use, but could have been used by pack animals, pedestrian traffic or other uses.

Under the policy, adjoining land owners must recognize and not interfere with valid access rights. Users of the rights-of-way also must use them in a way to minimize any possible damage to adjacent land. The policy provides that state law take jurisdiction unless there is a federal court decision on a particular issue.

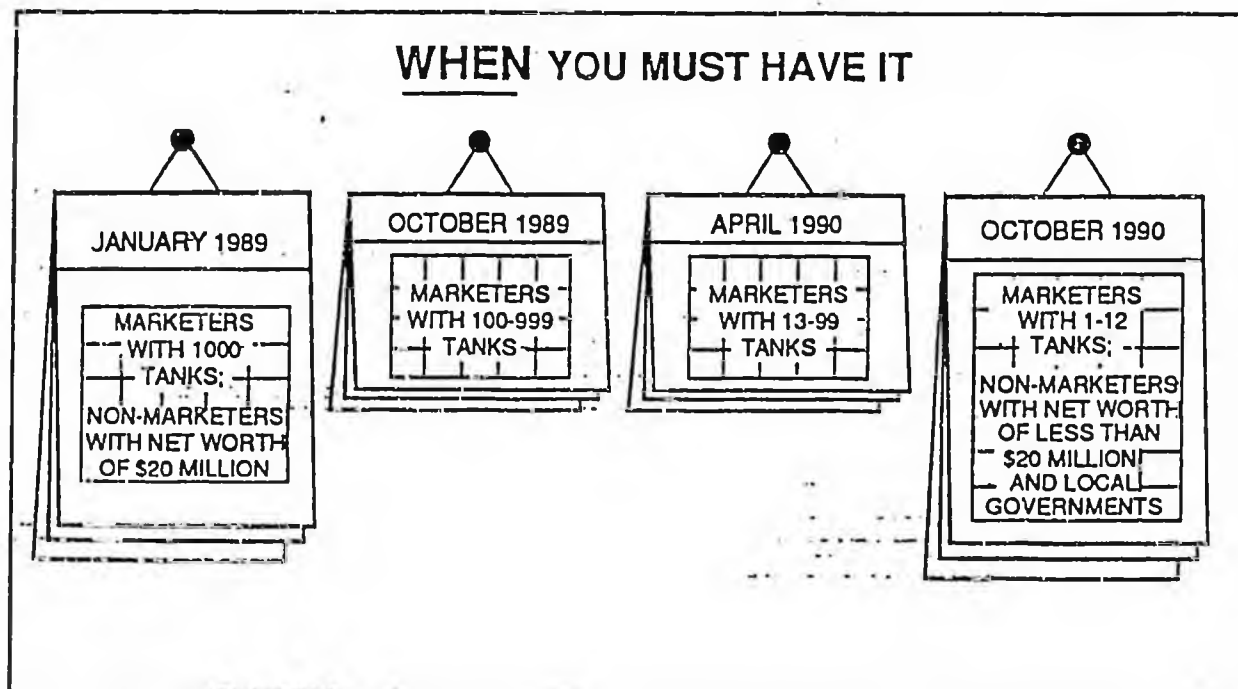
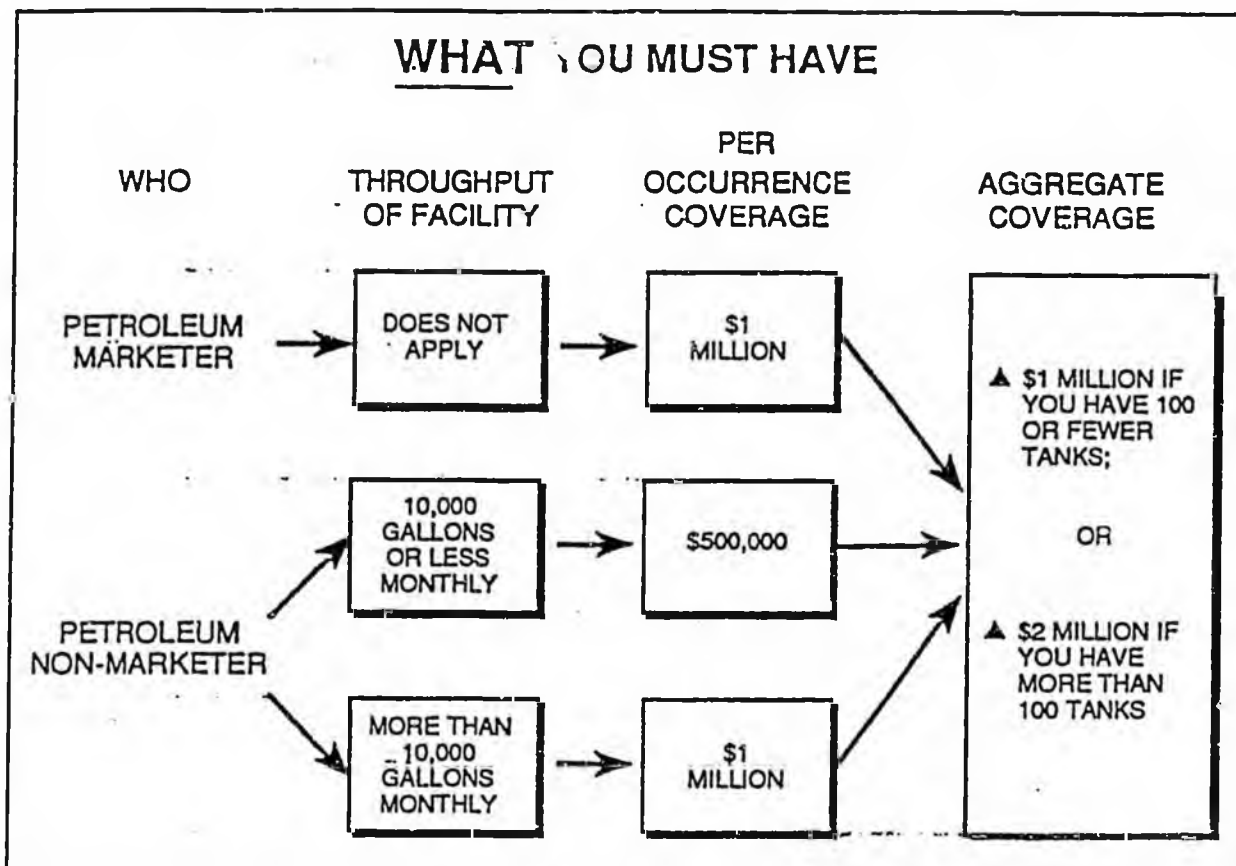
-MORE-

Under the policy, the width of the right-of-ways are measured from backslope to backslope unless different widths have been established under local or state law. Facilities such as drainage ditches and turnouts are considered part of the right-of-ways but improvements such as telephone or electric lines or pipelines are not.

The policy was approved by Interior Secretary Don Hodel Dec. 7 after years of work by Cowper and Stevens' offices.

**BRIEFING -  
UNDERGROUND  
STORAGE  
TANK  
TELECONFER  
-ENCE**

# IMPORTANT REQUIREMENTS AND MINIMUM DEADLINES FOR YOUR FINANCIAL RESPONSIBILITY





ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

P.O. Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

January 31, 1989

MEMORANDUM

TO: Representative Mike Davis

FROM: Brad Pierce *BP*  
Legislative Analyst

RE: Underground Petroleum Storage Tanks: Financial Responsibility  
Research Request 89.120

Recent Environmental Protection Agency (EPA) regulations require owner/operators of underground storage tanks (USTs) to demonstrate one million dollars worth of financial responsibility to cover potential damage caused by leaks. You expressed concern that these rules could drive many gas station owners in Alaska out of business. You asked what other states are doing to comply with these rules and what could be done in Alaska to help owners of small businesses comply with these regulations.

We begin with a brief background discussion of the national UST situation, then explain enabling federal legislation and EPA financial responsibility regulations. Pollution insurance and other means of compliance, including a range of potential state assurance programs, are described. The final section focuses on the situation in Alaska and alternative means to fund a state financial assurance program to comply with EPA rules.

Attachment A contains summary descriptions of various state loan or grant programs to assist owner/operators of USTs to meet EPA technical requirements. Attachment B summarizes existing and proposed state financial assurance programs to cover the costs of cleaning up petroleum releases. Attachment C contains a series of letters and memorandums from various Alaska insurance and petroleum companies to DEC officials and legislators on the petroleum UST insurance situation in the state.

## SUMMARY

Leaking underground storage tanks are a serious national problem. EPA financial responsibility rules will require small businesses (1 - 12 tanks) and municipal owner/operators of USTs to meet liability standards by October 24, 1990. Large petroleum firms will have little difficulty meeting financial assurance requirements. The EPA has not yet issued self-insurance requirements for municipalities, so their ability to meet requirements is unknown. The private UST insurance market for small owner/operators in Alaska may require some form of state financial assurance program.

States are allowed wide latitude in designing financial assurance programs. At least eight states have proposed or established loan or grant funds to assist UST owner/operators to meet technical requirements and make their tanks more insurable. The structure of a state financial assurance program influences the degree of compliance with federal requirements and will impose varying financial burdens on owner/operators and the general public. The two basic types of state assurance programs are insurance and guarantee programs. In general, guarantee programs that cover costs owner/operators cannot pay are the least expensive to the state and easiest to administer. Minnesota has a model guarantee program that provides incentives for insurers to enter the market by limiting their risk and for UST owner/operators to upgrade their tanks.

There are 4,954 recorded USTs in Alaska. Of the 72.3 million gallon UST volume in the state, the federal government owns 49 million gallons. Who pays for a state financial assurance program involves thorny public policy and political issues. Per tank or volume registration fees place the financial burden on UST owner/operators, while a motor fuels tax or general appropriation places the burden on the public. A per tank registration fee of \$100 (on eligible tanks) would generate \$430,000, a tank volume fee of one cent per gallon would generate approximately \$712,000, and a one cent increase in motor fuels tax would generate about \$475,000. There is a great deal of uncertainty in the UST situation in Alaska and a state financial assurance program deserves careful study and assessment of potential public costs.

## General Background

Leaking underground storage tanks (USTs) are a significant source of hazardous waste contamination and pose a serious threat to groundwater quality.<sup>1</sup> Since over one-half of the U.S. population depends on groundwater for its primary source of drinking water, protection of the resource has become a national

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<sup>1</sup>Larry Morandi, "Underground Storage Tanks: State-Federal Relationship in Protecting Groundwater Quality," State Legislative Report, National Conference of State Legislatures, Vol. 13, No. 32, October 1988, p. 1.

issue. Gasoline and chemicals that leak from USTs have become one of the largest sources of groundwater pollution.<sup>2</sup> Overall, there are three to five million underground tanks in the U.S. that contain some type of hazardous substance. Of the 1.4 million USTs containing gasoline at nearly 500,000 facilities nationwide, about 80 percent are constructed of unprotected bare steel.<sup>3</sup> The Congressional Research Service estimates that 75,000 - 100,000 of these tanks and their piping may be leaking and up to 350,000 could begin leaking within the next five years.

### Federal Legislation

In 1984, Congress added a new section to the Resource Conservation and Recovery Act (RCRA) requiring the EPA to develop a comprehensive regulatory program for USTs. The program covers all USTs that store petroleum and substances defined as hazardous under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as Superfund). The RCRA provisions apply to any combination of tanks and pipes with 10 percent or more of their volume underground. Farm or residential tanks containing heating oil and USTs of 1,100 gallons or less used for storing motor fuel for noncommercial purposes are exempt.

Subtitle I of RCRA requires the EPA to establish UST regulations for tank notification, leak detection, record maintenance, reporting tank releases, corrective action, tank closure, financial responsibility and new tank performance standards. States can assume regulation of USTs from EPA by certifying that their program is no less stringent than federal requirements and provides for adequate enforcement. In 1986, Congress expanded the scope of the UST program with adoption of the Superfund Amendments and Reauthorization Act (SARA) that provides federal funds to clean up leaking USTs (commonly

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<sup>2</sup>EPA experts have testified before Congress that one gallon of gasoline per day leaking into a groundwater source can pollute the water supply of a community of 50,000.

<sup>3</sup>Rena I. Steinzor, "Local Governments Must Comply with Tank Financial Responsibility Rules," Resource Recovery, Vol. 2, No. 5, December 1988, p. 28.

referred to as LUSTS). The act establishes a \$500 million, five-year LUST-Trust Fund to be financed via a 1/10 of one cent per gallon federal tax on motor fuels. The act requires the EPA to distribute the money to the states over a five-year period which began in the spring of 1987. Congress intended that the combination of a financial responsibility requirement and a fund to pay costs exceeding the amount of insurance coverage would encourage early reporting of releases and reduce financial uncertainty.<sup>4</sup>

#### EPA Financial Responsibility Requirements

Financial responsibility regulations for USTs containing petroleum products were published in the Federal Register on October 26, 1988 and become effective January 24, 1989.<sup>5</sup> The new rules "require UST owners or operators to demonstrate financial responsibility for the costs of corrective action and compensation of third parties arising from release of petroleum from USTs." Owner/operators of USTs at facilities engaged in petroleum production, refining, or marketing with an average monthly throughput of more than 10,000 gallons must obtain financial assurance of at least \$1 million per occurrence.<sup>6</sup> Those with USTs at facilities not engaged in petroleum marketing, etc. and with a monthly throughput of less than 10,000 gallons must obtain financial assurance of \$500,000 per occurrence. All owner/operators must maintain an annual aggregate of \$1 million or \$2 million, depending on the number of USTs assured.

The EPA recognizes that requiring all tank owners to comply with financial responsibility rules three months after their promulgation would result in massive noncompliance and create a heavy administrative burden on the agency. Pollution insurance is not yet available to a majority of tank owners. To allow time for states to develop funds, for insurers to develop and market policies aimed at different classes of tank owners, and for tank owners to meet insurers' criteria for coverage, the EPA is offering the following phased-in compliance schedule by category of tank owner:

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<sup>4</sup>"SUPERFUND: Insuring Underground Petroleum Tanks," United States General Accounting Office Report to the Congress, January 1988, GAO/RCD -88-39, p. 13.

<sup>5</sup> Environmental Protection Agency, "Underground Storage Tanks Containing Petroleum-Financial Responsibility Requirements and State Program Approval Objective; Final Rule," Federal Register, Wednesday, October 26, 1988.

<sup>6</sup>Two classes of owner/operators of petroleum USTs are exempt from financial responsibility requirements. These are 1) federal or state entities, and 2) those who are excluded from technical standards, e.g., farm or residential tanks of 1,100 gallons or less.

Table 1

Category of Tank Owner	Compliance Time After October 26, 1988 Promulgation			
	3 Months	12 Months	18 Months	24 Months
Petroleum Marketers by Number of Tanks	> 1,000	100 - 999	13 - 99	1 - 12
Other Businesses by Net Worth	> \$20 million	--	--	< \$20 million
Municipalities	--	--	--	All

UST owner/operators must submit documentation of financial responsibility if requested by the implementing agency (state agency or EPA). Additionally, they must notify the agency of their methods to demonstrate financial responsibility upon installation of new tanks and maintain records of their financial assurance methods on-site or at their place of business. Self-insurance criteria for municipalities will be issued at some unspecified future date. The EPA administrator may suspend enforcement of financial responsibility in certain states if owner/operators of USTs can demonstrate that 1) methods of financial responsibility are not generally available for USTs in their class or category, and 2) steps are being taken to establish either a risk retention group (RRG) or a corrective action and compensation fund. A suspension of enforcement may not exceed 180 days.

#### General Discussion of Insurance and Other Means of Compliance

Nationwide, approximately 52 percent of petroleum USTs (695,000 tanks) are located at retail motor fuel facilities. Of these, 24 percent are owned by major oil companies, 24 percent are jobber owned outlets, 8 percent convenience stores and 44 percent open dealers and independent gas station outlets. Large corporate owners of USTs should have little difficulty in self-insuring as reflected in the compliance schedule above. The EPA is in the process of developing a self-insurance test for municipalities. For most small businesses, pollution insurance and state financial assurance programs are expected to be the most feasible mechanisms to comply with the regulations. As a precondition of coverage, some insurers require that USTs be in compliance

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<sup>7</sup>"Proposed Rules on Underground Storage Tanks Containing Petroleum: Financial Responsibility Requirements," Federal Register, Vol. 52, No. 74, Friday, April 17, 1987.

Representative Davis  
January 31, 1989  
Page 6

with federal and state technical requirements (e.g., have leak detection and monitoring systems). At least eight states have established or proposed state loan or grant funds to assist UST owner/operators upgrade or replace old or deficient USTs to meet new federal technical requirements. Attachment A contains a summary description of these state UST loan and/or grant funds.

The National Association of Insurance Commissioners (NAIC) reports that as of October 1, 1988, there were six active UST insurers nationwide. The availability of insurance coverage in each state is dependent upon a variety of factors, e.g., geography, state environmental and insurance regulations, state legal decisions, tank population characteristics, etc. It is very unlikely that owner/operators of petroleum USTs over 20 years old will be able to obtain insurance on the open market. Most estimates appear to place the annual premium cost of UST insurance coverage for an average gas station in the \$2,000 - \$5,000 range, depending on the extent of coverage. The EPA expects markets for UST insurance to increase as states come into compliance with technical requirements, leaking tanks are identified and cleaned up, and insurers become more familiar with risks.

The EPA rules provide for a number of alternative methods (other than insurance) to assure financial responsibility. Alternatives are listed in Table 2.

Table 2

Methods Other Than Insurance to Demonstrate  
Financial Responsibility

<u>Method</u>	<u>Definition</u>
Financial test of self-insurance	A firm must demonstrate that it has a large reserve of assets adequate to meet its obligations.
Risk-retention groups	Groups or associations of individuals who have a similar risk profile form a pool to provide liability coverage for members, usually because insurance coverage is otherwise unavailable.
State cleanup funds and other assurances	State-financed programs are permitted under financial responsibility rules if they are approved by EPA.
State-required mechanism	UST owner/operators may use a means that does not resemble any federally required mechanism if EPA determines it provides sufficient assurance of financial responsibility.
Letter of credit	A bank or other financial institution may issue a line of credit (or other financial instrument) to meet liability obligations of the customer.
Guarantee	One firm promises to pay scheduled debts or perform specified obligations of another firm, should the first party fail to perform.
Indemnity contract	A contract between two firms in which one firm promises to pay actual losses or damages which might be sustained by the other firm in the future.
Surety bond	A surety company makes an agreement with a tank owner guaranteeing that if the owner fails to perform corrective action or compensate injured third parties, the surety will perform.

### The Range of State Assurance Program Options<sup>8</sup>

Under EPA financial assurance rules, states are allowed wide latitude in designing assurance programs. The structure of a state's program may influence the degree of compliance with financial responsibility requirements. It can also impose varying financial burdens on UST owner/operators, create incentives to prevent leaks and will affect taxpayers to differing degrees. The EPA has identified five main components of state assurance programs. Each of these components is briefly discussed below. Figure 1 shows how the various components relate to each other. Attachment B contains a national survey of state financial assurance programs for petroleum USTs.

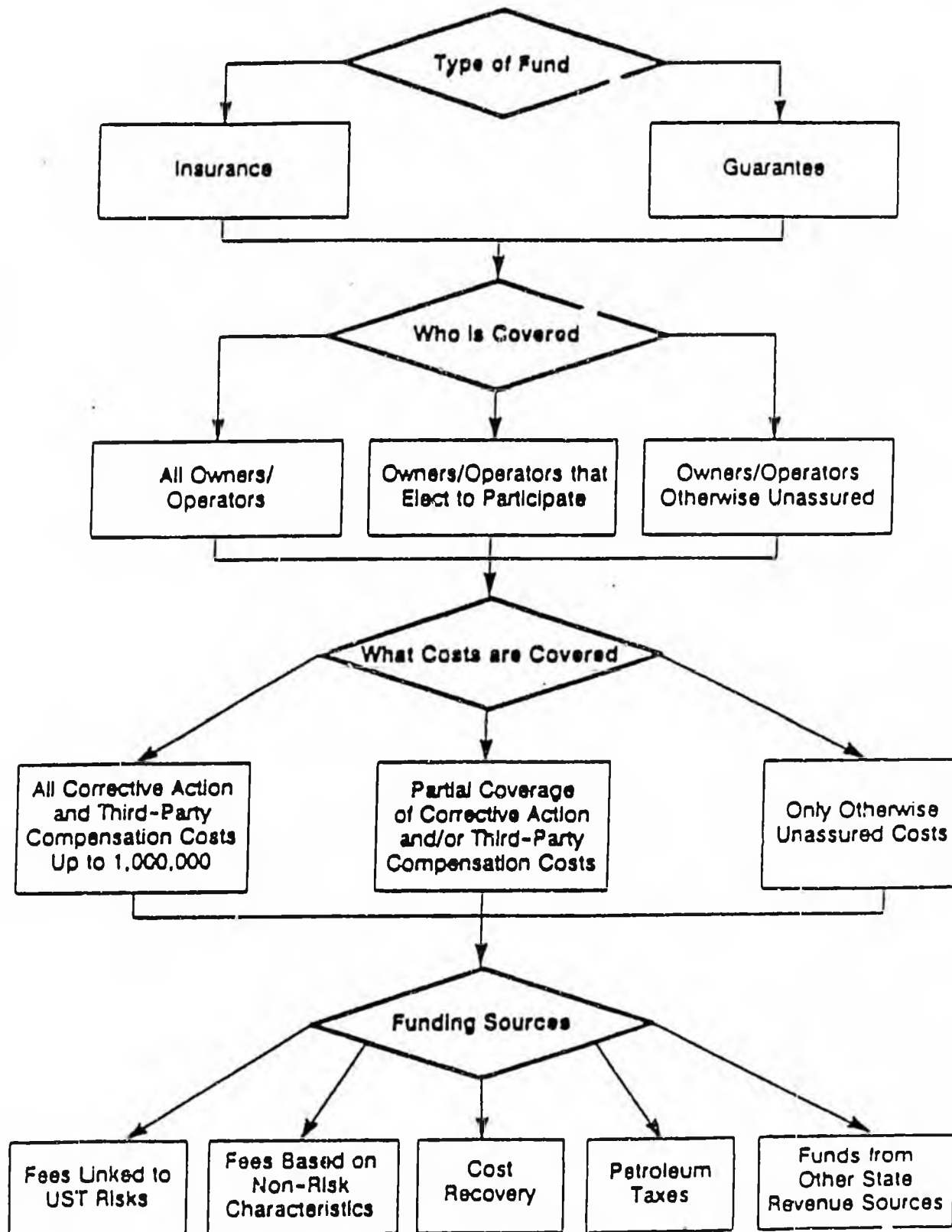
1) Type of assurance. The two basic types of state assurance programs are insurance and guarantee programs. As an insurer, a state program pays for corrective costs and/or third-party compensation regardless of an owner/operator's ability to pay. A state insurance program could pay for all corrective action costs above a certain amount (e.g., \$100,000). Alternatively, the state could act as a reinsurer for private insurance companies and limit their liability to a certain amount (e.g., \$300,000). A guarantee program pays only if the owner/operator is unwilling or unable to pay. As a guarantor, the state could have the right to recover costs from the owner/operator.

2) Who participates in the program. The EPA has identified three broad approaches to who could participate in a state assurance program. First, the state may require all UST owner/operators to participate in the program. This would relieve owner/operators of locating and obtaining other financial assurance mechanisms for costs covered by the program. Where a program does not cover all requisite costs under federal rules (e.g., third-party compensation), owner/operators would have to obtain additional coverage. A second option is voluntary participation, where owner/operators have a choice of participating in the state program or utilizing other mechanisms to comply with federal rules. A third approach is allowing only those UST owner/operators who are otherwise unassured to join a state program. Thus, the state program might cover owner/operators who have coverage for third-party compensation but not for corrective action costs, or if an owner/operator could obtain only \$500,000 of coverage, the state program might cover the remaining liability up to \$1 million.

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<sup>8</sup>Much of this section is taken directly from "Financial Assurance Programs: A Handbook for States," EPA, Office of Underground Storage Tanks, October 1988.

FIGURE 1  
**Potential Components of State Funds**



Source: U.S. E.P.A. Office of Underground Storage Tanks, "Financial Responsibility for Underground Storage Tanks: A Handbook for State Financial Assurance Programs" October 1988

3) Costs covered by the program. There are several options for determining which costs should be covered by a state assurance program. In the most encompassing case, the state could cover all financial responsibility costs required by federal regulations including corrective action and third-party compensation costs. In the early years of the UST program when other mechanisms may not be available, this type of state assurance may be the only means that some owner/operators will have of complying with federal requirements. Some states (e.g., California) may offer an initial grace period during which all corrective action costs are covered to encourage cleanup of existing problems. The grace period and amount of coverage could be dependent on state receipt of LUST-Trust funds.

Another option would be for the state program to provide partial coverage for corrective action and/or third-party compensation costs greater than a set amount (perhaps \$100,000) and less than some ceiling (e.g., \$1 million). Figure 2 shows how this option could work with available state and federal funds to pay for clean up of a major discharge. A final option would be for a state program to cover only those costs that are otherwise unassured. Under this approach, the UST owner/operator would have to obtain coverage on his/her own and turn to the state program as a last resort, e.g., an owner/operator might be able to obtain \$500,000 coverage for corrective action and third-party liability costs and the state could provide the remaining amount of financial responsibility coverage. Several combinations and variations of these basic options for covering costs are possible.

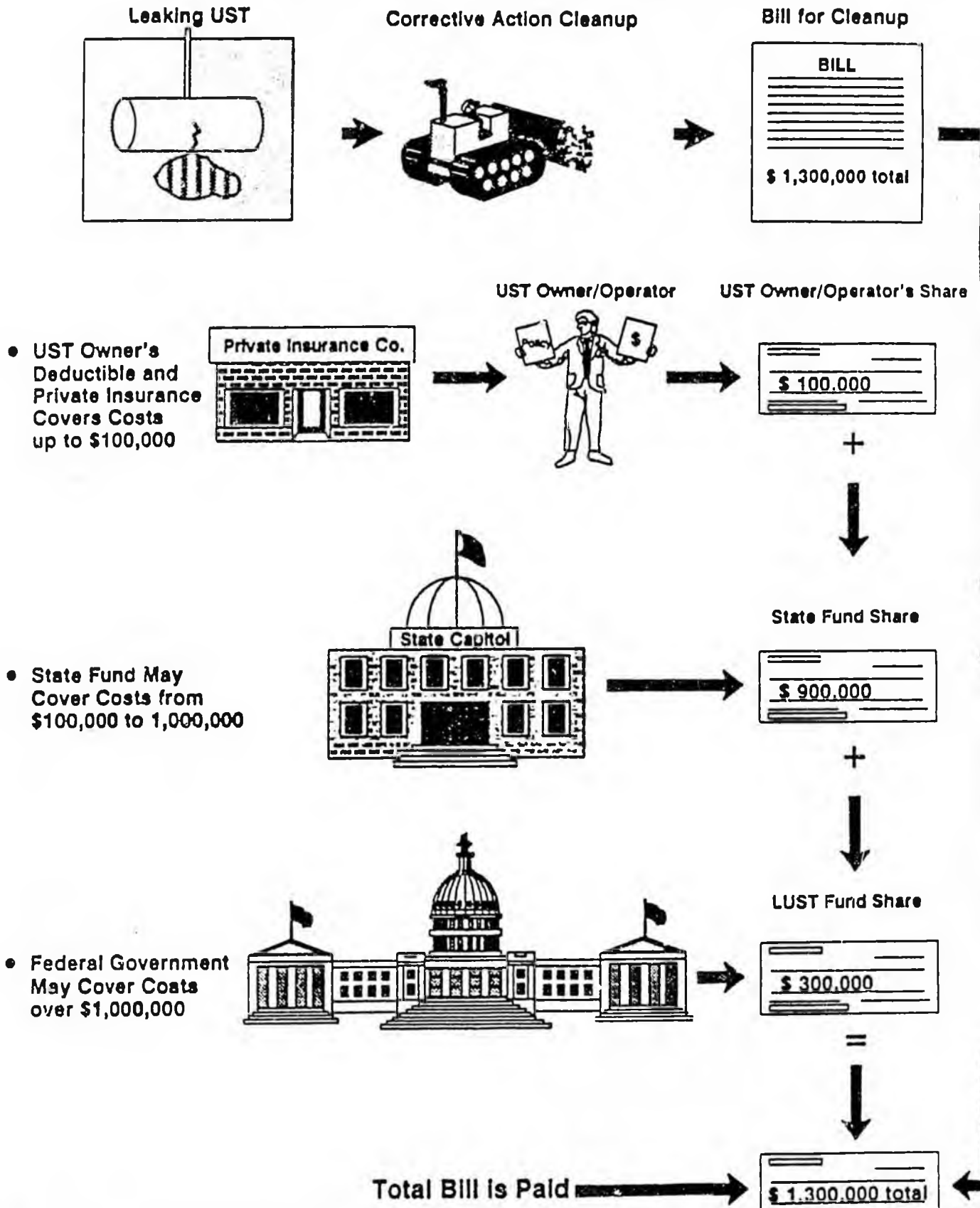
4) The method of financing the program. Funding sources to pay for state assurance programs can be separated into four categories. These are:

- risk-based fees;
- nonrisk based UST fees;
- petroleum taxes; and
- state general funds.

These options can be used in combination or at different times to finance a state assurance program. For example, a fund could be financed 1) by a combination of general fund appropriations and fees assessed on UST owner/operators or 2) initially by general revenues and later replaced by risk-based fees.

FIGURE 2

## Paying for Corrective Action (assuming cleanup qualifies for State and Federal funds)



Under a risk-based fee approach, UST owner/operators could pay fees based on the risk posed by their tanks--based on volume, age, construction material, internal and external protection, piping material of the tank as well as the substance it contains--much like a regular insurance program. The state could charge participants an initial capitalization fee to build up the fund's reserves, similar to the charges necessary to set up a risk retention group. The advantage to this approach is that owner/operators with higher risk USTs would pay higher fees.

Under a nonrisk based approach, several financing sources could be used. These include tank registration fees, license fees, inspection fees and taxes on revenues of owner/operators of USTs. Alternatively, a state assurance program could be financed via taxes on petroleum production, distribution and/or sales. Finally, general appropriations, bond issues, property taxes or other state general funds not tied to petroleum or a UST owner/operator's activities could be used to finance an assurance program.

5) Duration of the program. It is likely that a state would want to scale-down or phase-out its financial assurance program as private insurance and other mechanisms become increasingly available. One means would be to have the amount of state financial assurance coverage decrease over a given period, (e.g., by increasing the deductible from \$100,000 to \$500,000 over five years) or have it end completely at a given date. Through a phase-out or sunset, a state can minimize its involvement in the UST insurance market.

The major concerns to state government of offering a financial assurance program to UST owner/operators is the program cost and ease of administration. In general, guarantee programs that cover costs the owner/operator cannot pay are likely to be the least expensive to the state and easiest to administer. Costs are also dependent on the type of financial method selected, with those financed primarily by owner/operators via tank or petroleum fees being less expensive to the state than general revenues or bonds.

Owner/operators of USTs are no less concerned with costs of the various approaches to state financial assurance programs. Approximately 90,000 firms nationwide operate retail motor fuel businesses from only one outlet.<sup>9</sup> For these firms, insurance and other financial assurance mechanisms are not widely available at the present time. Generally speaking, the more UST owner/operators share in the costs of an assurance program, the greater the incentive

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<sup>9</sup>"Financial Responsibility for Underground Storage Tank Releases: Financial Profile of Retail Motor Fuel Marketing Sector, Meridian Research, Inc. and Versar, Inc., (EPA Contract No. 68-01-7053).

they will have to control the risks posed by their tanks. Thus, guarantee programs, cost-recovery requirements and programs that require payments from tank owners (e.g., premiums paid to state-run insurance programs) are likely to be incentives for proper tank management.

An additional consideration is the fairness of a state assurance program. A program that is financed via fees levied only on UST owner/operators (e.g., tank fees) may be viewed as more equitable by the public than a petroleum tax, although consumers pay for the program (through higher petroleum product prices) under both options.<sup>10</sup> Among different categories of UST owner/operators there may be disagreement over the fairness of various financing mechanisms. A fee based on petroleum volume might be opposed as unfair by large marketers because they may be able to self-insure rather than rely on a state fund. Conversely, smaller marketers and dealers might favor such a fee because the burden of financing the state fund would be spread across a larger group.

Finally, the design of a state assurance fund may affect the current and future availability of private UST insurance. If a mandatory state assurance fund acts as an insurer, UST owner/operators may be able to obtain coverage at attractive rates and the state could become highly competitive with private insurers. This could raise public policy questions about the proper role of government. On the other hand, if an assurance program acts only as a guarantor, competition with insurers may be low. Where states establish limited coverage funds (e.g., to pay corrective costs above \$100,000), private insurers will have their liability limited and may offer complementary coverage (i.e., for amounts up to \$100,000). This increases the predictability of expected losses, reduces capitalization costs, and provides an incentive for private insurers to enter the market.

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<sup>10</sup>Note that with declining crude oil prices, the margins of petroleum refiners and wholesalers have increased in recent years as they have not passed on their lower input costs to consumers of motor fuels at the retail level. Thus, a petroleum tax applied at the wholesale level might be at least partially absorbed by primary distributors and not completely passed along to consumers, depending on the competitive environment in the state.

### The Situation in Alaska

According to the DEC, there are 4,954 recorded USTs in Alaska, located at 1,836 facilities statewide.<sup>11</sup> The average site has 2.6 tanks. Of the 72.3 million gallon total UST volume in Alaska, the federal government owns 49 million gallons and state government owns 1.2 million gallons of tank volume. Both are exempt from EPA financial responsibility requirements. Table 3 provides a statistical summary of the characteristics of USTs in the state. The DEC is presently in the initial stages of developing a comprehensive statewide UST program. The Governor plans to introduce legislation which provides the DEC with authority to regulate USTs.

As in other states, large petroleum UST owner/operators in Alaska should have little difficulty meeting financial assurance criteria. It is also likely that municipalities in the state could organize to form some kind of risk retention group, depending on the final formulation of EPA self-insurance rules. According to Stan Osborne, UST Program Manager, the market for affordable private UST insurance for small owner/operators in Alaska is dismal. To meet the EPA compliance schedule for small owner/operators, some form of state assurance program will almost certainly be necessary.<sup>12</sup> Additionally, the legislature may decide that a loan or grant program is needed to assist small UST owner/operators in upgrading and retrofitting their tanks to meet technical requirements (and make them insurable).

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<sup>11</sup>DEC officials speculate that their records account for approximately 70 percent of UST owners in Alaska. Source: Stan Osborne, UST Program Manager, January 1988.

<sup>12</sup>From the comments received by EPA on the financial responsibility regulations, it is likely that the compliance schedule for small UST owner/operators will have to be lengthened beyond October 24, 1990. However, Alaska cannot count on this and the DEC must demonstrate that it is developing a state assurance program (even if the agency can prove that private insurance is unavailable) to get an extension on compliance from EPA.

TABLE 3

-WARNING- No rows satisfy the WHERE clause

UST DATABASE SUMMARY STATISTICS REPORT as of 16:19:40 13 JAN 1989

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Type of Owner:	Current:	1,822
	Former:	5
	State/Local Govt:	350
	Fed Govt:	165
	Private/Corp:	1,320
	Uncertain:	8

Number of Facilities:	1,836
Number of Tanks:	4,954

Number of Facilities on Indian Reservations:	7
Number of Amended or Subsequent Forms:	16

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Tank Status:	Currently In Use:	4,393
	Temp Out of Use:	257
	Perm Out of Use:	301
	Brought Into Use After 5/8/86:	136

Average Age:	12.2 Years	Tanks with Unknown Age:	395
Average Capacity:	96,998 Gallons	Tanks with Unknown Capacity:	84

## Tank Age Distribution:

0 to less than 5 years:	1,196	25 to less than 30 years:	202
5 to less than 10 years:	1,031	30 to less than 40 years:	349
10 to less than 15 years:	827	40 to less than 50 years:	106
15 to less than 20 years:	445	50 to less than 75 years:	7
20 to less than 25 years:	389	75 to less than 99 years:	5
Missing Age	2		

## Material of Construction:

Steel:	4,463
Concrete:	36
Fiber Glass-Plastic:	123
Unknown:	341
Other:	70

## Internal Protection:

Cathodic Protection:	125
Interior Lining:	206
None:	1,875
Unknown:	2,698
Other:	73

## External Protection:

Cathodic Protection:	325
Painted:	2,530
Fiberglas-Plastic:	120
None:	564
Unknown:	1,506
Other:	144

## Piping Material:

Bare Steel:	1,403
Galvanized Steel:	1,879
Fiberglas-Plastic:	98
Cathodic Protection:	138
Unknown:	1,158
Other:	593

## Substance:

Empty:	223
Petroleum-Diesel:	1,545
Petroleum-Kerosene:	86
Petroleum-Gasoline:	2,377
Petroleum-Used Oil:	352
Other:	592
Hazardous:	25
Unknown:	77
Mixture of Products:	14

**Availability of insurance.** From a private insurer's viewpoint, Alaska's geographic location and small market makes servicing accounts difficult and costly. At least one insurer lists the state's legal climate as a significant deterrent (see Attachment C). Secondary insurers such as Lloyd's of London have (understandably) shown little inclination to get involved in the pollution insurance market in the U.S., which means that a primary insurer of USTs must bear the entire policy risk with little actuarial information upon which to measure the extent of their exposure. This makes private insurers very cautious about entering the UST market, particularly in Alaska, where climatological factors add to the uncertainty. For a UST owner/operator, the cost of extensive engineering inspection and adjustment fees required by even a willing insurer (in addition to policy premiums) can be prohibitive.

Mr. Osborne thinks that a program similar to the Minnesota Petroleum Tank Release Cleanup Fund might be the best approach for a state assurance fund in Alaska (see Attachment A for a summary description of the Minnesota program). This fund provides for reimbursement of 75 percent of eligible corrective action costs greater than \$10,000 but less than \$100,000.<sup>13</sup> It does not cover third-party damages or releases that occurred before a specified date. To qualify for reimbursement, UST owner/operators must be in compliance with state and federal technical requirements at the time of the release.

The Minnesota program is very well conceived. By providing state coverage for the type and range of corrective action costs that most closely correspond to average claims experienced by existing private insurers, it provides a substantial hedge against risk and an incentive for insurance companies to enter the market. It also provides incentives for UST owner/operators to comply with technical requirements in a timely manner. The Alaska legislature might direct the DEC and Division of Insurance to draft regulations for a similar guarantee program (based on experience to date with UST clean up costs in the state) and solicit responses from private insurers.

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<sup>13</sup> According to the GAO, the two major U.S. insurers of USTs report that claims incurred against them have averaged less than \$30,000 for one and between \$80,000 and \$100,000 for the other; most were under \$25,000. As of August 1987, the largest claim incurred by one was \$3.5 million and \$500,000 by the other. Virtually all claims have been paid for clean up and only a few claims have been for third-party damages. Source: "SUPERFUND", p. 24.

Existing funds. Any state assurance program would complement existing clean up funding. Presently, the DEC administers three special cleanup funds which could be used for corrective action costs of UST spills not otherwise covered under a financial assurance program. These are described below.

- LUST-Trust federal funding may be used for UST problems only. During FY 87 and 88, the DEC received \$1.158 million and expended approximately \$830,000 to clean up 11 sites. The DEC expects to receive another \$1,63,000 during (federal) FY 89.
- The Oil and Hazardous Substance Response Relief Fund can be used for cleaning up all hazardous wastes and has a current balance of \$1.593 million after expending approximately \$330,000 in FY 88 to clean up 11 large spills and 51 smaller spills.
- The FY 89 Kenai Special Projects Fund was a \$851,000 appropriation to clean up hazardous waste contamination of all types in the Kenai Peninsula area. The money was used for an inventory of potential sites, investigation and clean-up of three major spills. DEC is seeking \$1.292 million to continue this project in FY 90.

Financing a state assurance fund. Who pays for a state assurance program presents thorny political and public policy issues. An argument can be made that UST pollution is everyone's problem and therefore a state clean-up assurance fund should be paid for via general appropriations or a petroleum tax. Small UST owner/operators would clearly favor this approach because it would not cost them anything and would not favor larger operators who could self-insure. Since there is no individual income or state sales tax in Alaska, the public might favor general appropriations over use taxes that would affect them personally. On the other hand, an argument can be made that UST leaks are primarily caused by irresponsible tank operating practices and that the burden of financing an assurance program should fall on owner/operators.

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The DEC may be able to charge a permit or registration fee on tanks that are exempt from financial responsibility requirements. Since the federal government owns 68 percent of the volume of USTs in Alaska, this could shift some of the burden of financing an assurance program off of small operators and onto the federal government. The DEC presently has no means to collect or administer a fee program. Administration and collection of fees or taxes for an assurance program could be performed by another state agency.

There appear to be three basic funding options to capitalize and/or operate a state assurance fund. Excluding 347 state-owned tanks from the 4,650 USTs statewide currently in use (or temporarily out of use), a per tank registration fee of \$100 would generate about \$430,000. Another option is a volume-based registration fee. The average statewide tank capacity recorded by DEC is 96,998 gallons. Excluding state tank volume of 1.2 million gallons, a penny per gallon fee would generate approximately \$711,000. (Gas stations generally have three tanks of 10,000 - 12,000 gallons each, which would cost \$300-\$360 to register under this fee schedule.) A UST motor fuels tax could be applied on top of existing motor fuel taxes. According to the Department of Revenue, the total taxable distribution of motor fuels in FY 88 was 47.5 million gallons. Thus, a one cent per gallon increase in the motor fuel tax would have generated approximately \$475,000.<sup>14</sup>

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<sup>14</sup>Under As 43.40.010, motor fuel taxes are charged on gasoline used in aircraft -4 cents per gallon, other fuel used in aircraft -2.5 cents per gallon, fuel used in or on watercraft -5 cents per gallon, and fuel used in an internal combustion engine other than marine and aviation engines -8 cents per gallon. Sixty percent of aviation fuel taxes collected each year are shared with municipalities having airport facilities, with the remainder paid into the aviation fuel tax account of the general fund. Other fuel taxes are deposited into separate accounts of the state general fund.

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The appropriate level of funding for a state assurance program will depend on the extent of coverage. We have offered a variety of program options in this memorandum. Among states with existing assurance programs, there have been some notable failures (e.g., Florida) where state government has offered a comprehensive insurance type program and been overwhelmed with corrective action costs. It is likely that an initial capitalization of an assurance program fund (perhaps several million dollars) could be used up fairly quickly if the DEC were to adopt strict enforcement and inspection procedures. The DEC may not even be aware of some of the highest risk USTs. There is a great deal of uncertainty about the magnitude of the LUST problem in Alaska. An extensive assurance program could potentially incur large public liabilities.

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The issues involved for state governments in meeting EPA financial assurance requirements are extremely complex and deserve careful consideration. The federal rules and their implications are new to DEC personnel and will take time to understand. There are many unanswered questions at this time. The Governor's Office is in the final stages of drafting a bill to allow the DEC to regulate USTs. The figures provided in this memorandum should allow any number of potential funding scenarios to be developed. I regret that I have not been able to fully articulate the state's options in this memorandum because of time constraints. I urge you and your staff to contact Karen Paulick or Stan Osborne at DEC (465-2630) if you have questions.

Attachments