

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990

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SENATE RESOURCES

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Ocean thermal energy conversion can be utilized to generate electricity by exploiting ocean temperature gradients between surface to deep waters. This process is called Ocean Thermal Energy Conversion (OTEC). It holds promise for island areas and the Gulf of Mexico. Not surprisingly, U.S. OTEC projects to date have been demonstrated off the coast of Hawaii.

Ocean thermal energy provides additional benefits when considered as an energy system. Desalination processes may be integrated into OTEC technology. Also, the colder water brought from the deep ocean is free of micro-organisms and rich in nutrients making it an attractive resource for aquaculture projects.<sup>6</sup> Ocean energy is also available in the form of wave energy and tidal power. Table 3 summarizes major renewable energy sources with end-uses.

**TABLE 3**  
**MATCHING UP MAJOR RENEWABLE ENERGY SOURCES WITH END-USES**

RESOURCE	TECHNOLOGY	ENERGY TYPE
HYDRO	HYDROPOWER	ELECTRICITY
SOLAR RADIATION	BUILDINGS: ACTIVE, PASSIVE	HEATING, LIGHTING, COOLING
	SOLAR THERMAL: CENTRAL RECEIVER, DISHES, TROUGH	ELECTRICITY, HEAT
	PHOTOVOLTAICS: THIN FILM, CRYSTALLINE MULTI-JUNCTION, CONCENTRATORS	ELECTRICITY
BIOMASS	DIRECT COMBUSTION, BIOCHEMICAL THERMOCHEMICAL	HEAT, ELECTRICITY, FUELS
WIND	HORIZONTAL, AND VERTICAL AXIS TURBINES	ELECTRICITY
OCEAN	OCEAN THERMAL ENERGY CONVERSION (OPEN CYCLE)	ELECTRICITY
GEOHERMAL	DIRECT DRY STEAM, SINGLE- AND MULTI-STATE FLASH BINARY HYBRID BINARY	ELECTRICITY, HEAT GASEOUS FUELS

Source: From U.S. DOE/S - 0057, p. 199

<sup>6</sup>Takahashi, p. 2.

Various lists of renewable energy sources often include technologies that may make renewable energy resources more efficient and, therefore, cost effective. Cogeneration, energy storage systems (e.g. batteries, molten salt), and superconductivity are all frequently mentioned. These technologies would also help integrate renewable energy systems into present, "conventional" energy systems.

Renewable energy captured the imagination of the U.S. after the oil crisis of the mid-1970s. Touted as a group of resources that would help wean America off oil, government support for renewable energy was largely abandoned in the face of lower oil prices and the mounting federal deficit. Despite the inconsistent treatment under federal energy policy, renewable energy systems made remarkable strides in the past decade and a half.

Because of the broad range of renewable energy technologies, federal support requirements vary widely. Some technologies need basic research and development to make a renewable resource feasible, others need demonstration efforts, while some need commercialization incentives to promote market acceptance.

The renewable energy research commitment since the late 1970s has contributed to great efficiency and cost improvements. DOE cites the reduction, over 10 years, of the cost of photovoltaics from more than \$600 per peak watt to less than \$5 per peak watt, with doubled efficiencies. Likewise the cost of ethanol processes have been reduced from \$4 per gallon to less than \$1.50 per gallon.<sup>7</sup>

Wind energy cost have dropped from \$3000 to \$900 per installed kilowatt. Solar thermal generated electricity costs have fallen from 45 cents/kilowatt-hour for a demonstration central receiver plant in 1978 (Solar One) to less than 12 cents/kwh for The LCU Solar Electric Generation Systems (SEGS IV and V), a commercial parabolic trough system installed in 1988.

However, during the 1980s, concern about the federal budget deficit and a change in DOE's research and development policies led to a dramatic decline in federal research and development funding. The DOE's policy has restricted federal funding to long-term, high risk areas, cutting or removing support for demonstration and commercialization projects. Consequently, renewable energy received substantially less federal support in 1988 than it had in the mid-1970s.

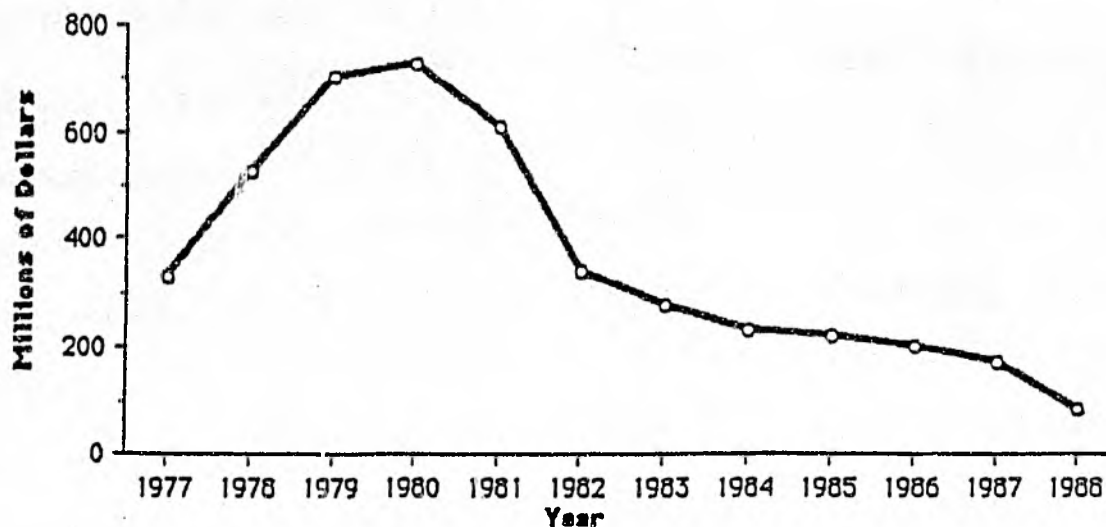
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<sup>7</sup>Martin, p. 4.

Figure 2 illustrates federal research and development commitments to renewable energy from 1976 to 1988. The federal budget for renewable energy research and development has fallen 87 percent since 1960.

FIGURE 2

TOTAL FEDERAL RENEWABLE ENERGY BUDGET  
1977 - 1988



Source: Potter, p. 180.

Other events have hindered development of renewable energy as well. Most notably, low world oil prices have made alternatives less attractive economically. In addition to directly affecting the market for ethanol fuel, low oil prices have dissipated consumer interest in solar and other technologies. Finally, the low price of oil has affected the price utilities are willing to pay for renewable energy generated electricity.

In 1978, Congress passed the Public Utility Regulatory Policies Act (PURPA), as part of the National Energy Act. It provided that utilities must interconnect with independent cogenerators and small power production facilities. PURPA required utilities to buy surplus electricity from the cogenerators and small power producers at the utility's marginal or avoided cost and to sell the facilities back-up power.

PURPA has been a very important legislative incentive for renewable energy small power facilities. However, the low price of oil, which in turn influences the price of other fossil fuels, has kept utilities' avoided costs down as well, reducing the price paid to independent renewable energy projects.

Renewable energy received another set back in the Tax Reform Act of 1986 which phased out all renewable energy tax credits by December 31, 1988. Solar, geothermal, ocean thermal and biomass energy investments had all been subject to investment tax credits ranging from 10 to 15 percent. Wind energy investment tax credits and residential solar tax credits, which had originally been enacted in the National Energy Act of 1978, were not extended in the Tax Reform Act.

One positive development for renewable energy in the 1980s was formation of the Committee on Renewable Energy Commerce and Trade (CORECT). An interagency committee including the Departments of State, Commerce, Energy, Defense, the Agency for International Development, the U.S. Trade representative and others, was formed as part of the Renewable Energy Industry Development Act of 1983. The purpose of CORECT is to facilitate exports of U.S. renewable energy equipment. CORECT plays an important role in assisting small renewable energy firms and in coordinating the development efforts of various government agencies.

In the mid-1980s the American share of the world photovoltaic market fell, in three years time, to less than 50 percent. Other nations are vigorously pursuing technological research, development, demonstration and commercialization strategies in photovoltaics and other alternative energy areas. Although nations like Japan and those in Europe build on U.S. technology, American researchers and entrepreneurs are limited by language and information distribution constraints from benefitting from foreign advancements.

Current federal support for renewable energy is insufficient to allow renewable resources to reach their potential in the long term. As the Congressional Office of Technology Assessment points out, the low price of oil has provided the nation with a window of opportunity to bring these technologies to the market place. The nation has benefitted from low oil prices, "buying" time for development of renewable energy, a luxury that would disappear with another world oil crisis.<sup>8</sup>

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<sup>8</sup>Blair, p. 2.

The government's goal of lessening dependence on imported oil and relieving environmental pressures cannot be assumed to be the concerns of the private sector. Those concerns, basic to development of renewable energy, are national ones.

## RENEWABLE ENERGY STRATEGY STATEMENT

Renewable energy sources are characterized by a broad range of technologies, costs, efficiencies and environmental concerns. Recognizing this spectrum of resources, it shall be the strategy of the U. S. to institute a long range, stable Renewable Energy Development Program which identifies and assists renewable energy sources from research and development through demonstration projects and commercialization in a cooperative effort among industry, higher education and national laboratories.

Renewable energy resource development must be ranked and funded on the basis of factors including energy efficiency, economic competitiveness, environmental impacts and technological adaptability. Part of this program, and critical to its success, is federal development of alternative technologies that improve renewable energy efficiencies, cut costs and assist in integrating renewable energy into existing energy systems. Also needed is a translation and distribution system for international technical and marketing papers on renewable energy.

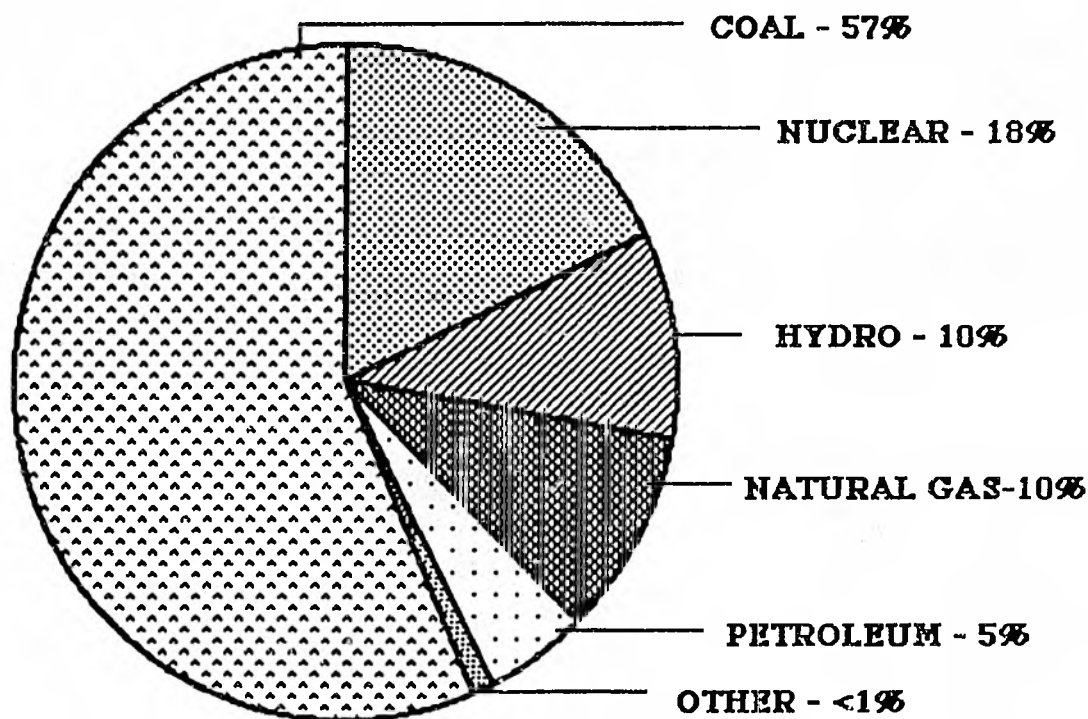
## ELECTRICITY

There are three phases to the U.S. electricity industry: generation, transmission and distribution. Traditionally, electric utilities have been integrated and involved in all three phases of the industry. However, transmission and distribution functions may be separated from generation in some cases.

Electricity generation in the U.S. is quite diversified. Powerplants are fueled by coal, nuclear, hydropower, natural gas, petroleum and other energy sources. However, coal fired more utility powerplants in 1987 than all other fuels combined. Figure 1 shows U.S. electric generation by utilities by fuel source for 1987.

FIGURE 1

### 1987 ELECTRICITY GENERATION BY UTILITIES BY FUEL SOURCE



Source: South/West Energy Council From DOE-EIA - 0348 (87) p. 13.

Not surprisingly, coal is the most important generating fuel to states in the Eastern coal belt -- Ohio, Pennsylvania, West Virginia and Indiana. Texas also uses a lot of coal, much of it lignite mined in the state. There are 108 nuclear units in the U.S. and more than fifty percent of the electricity in New Jersey, Connecticut, South Carolina, Maine and Vermont is supplied by nuclear powerplants.

Hydropower is a significant source of generation on the West Coast (Washington, Oregon and California) as well as in New York State and Arizona. Over 85 percent of the natural gas used for electricity generation is burned in Texas, California, Louisiana, Oklahoma and Florida.

Petroleum is a significant source of power generation for areas of New England (Massachusetts and Connecticut), certain Middle Atlantic states (New York and Pennsylvania) and Florida. Almost 90 percent of U.S. generation from "other fuels" (including geothermal, wood, waste and solar) is located in California.

A utility has a responsibility to provide reliable power. Thus it must stand ready to supply the peak power requirements of its customers. This means having enough power available to meet the highest demand level, or the "peak demand," of the year.

Unlike other forms of energy or fuel, electricity cannot be stored. Consequently, it must be produced as needed. "Baseload" plants run continuously to meet average electricity needs. However, daily peak demands on a utility system may be met by "peaking" plants. Such plants are often more expensive to run and smaller than baseload plants but their electricity production levels may be increased quickly to meet rising demand.

Utilities employ computerized economic dispatch programs which constantly monitor electric power demand on the system. The dispatch program calls up additional generation on the basis of plant efficiency, power economics and transmission limitations.

Capacity to produce electricity beyond that required in peak usage periods is called the reserve margin. Reserve margins of 15 to 25 percent are considered an industry norm. Reserve margins cover contingencies such as having a generating unit down for emergency repairs during a peak demand period.

Peak demand varies by consumption sector. Cost of service also varies by sector. Residential consumers have well-defined daily and seasonal peaking patterns. Daily peaks occur in the late afternoon when consumers come home from work, watch the news and prepare supper.

The second distinguishing characteristic of residential consumers is the high cost of service per consumer. The peaking nature of residential demand is expensive since it requires additional generation units for brief periods of excessive demand. Also, residential are expensive to serve since each unit must be connected, metered and billed separately.

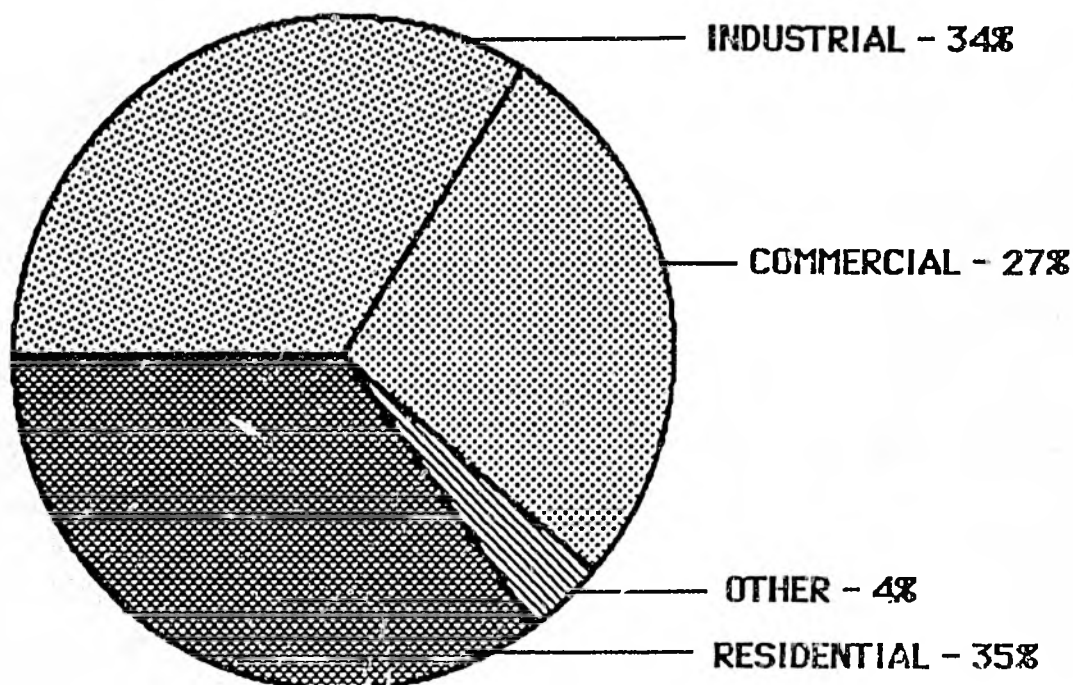
Industrial consumers represent a relatively constant load (demand) for electricity since many industrial processes run continuously, 24 hours a day, 365 days a year. Many industrials use large amounts of electric power at high voltage levels. They require a limited number of connections to the system and often represent a single or limited number of metering and billing operations. All these factors make industry less expensive, on a per kilowatt/hour basis, for an electric utility to supply.

The third consumer group is the commercial sector which includes businesses, hospitals, schools, government buildings and such large electricity consumers as shopping malls. Although system reliability is obviously critical to institutional consumers like hospitals, it is becoming increasingly important to the business sector in general. The pervasive integration of electronic data processing and computers into office operations underscores the need for a reliable supply of electricity.

Electricity consumption by sector for 1987 is illustrated in Figure 2. The "other" category is defined by DOE as including street lighting and sales to public authorities, railroads and interdepartmental sales by utilities.

**FIGURE 2**

**1987 ELECTRICITY CONSUMPTION BY SECTOR**



Source: South/West Energy Council From DOE-EIA - 0348 (87).

Transmission systems tie the source of electric power, the generation sector, to the consuming sector. The transmission systems of individual companies are usually linked together at points called interconnects. The transmission systems of a region may be connected in a "pool". This permits companies to buy and sell power to assure reliability and economy, as well as to share power in emergency situations.

Distribution systems "deliver" electricity to consumers. There are three main types of utilities providing generation, transmission and distribution services in the U.S. today. They are investor-owned utilities serving over three-quarters of the consumers; municipally-owned utilities serving 13 percent; and the electric co-operatives, known as co-ops, serving 11 percent of the nation's consumers. Additionally, there are federal power authorities like the Tennessee Valley Authority, Bonneville Power Authority and others which sell wholesale power to utilities for distribution.

Largely on the basis of completion or abandonment of major generating projects during this decade, generating capacity varies greatly from region to region in the U. S. Some regions, like the Northeast, experienced brown-outs (power reductions) during the summer of 1988. In other areas, where large generating units came on line at roughly the same time demand slacked off, reserve margins may exceed 50 percent.

Regions with excess capacity have been particularly affected by the requirement to purchase PURPA power, which has been enforced even though additional capacity was clearly not needed. This means further increases to utility bills which had recently been increased to pay for new generating capacity.

Regional regulation, in light of the regional nature of electricity markets, has been suggested by policy makers like the National Governors Association. Such efforts have proved unsuccessful largely because of a fear of adding another regulatory layer to an already complex regulatory system.

Improved interconnects and transmission technology, as well as regional capacity differences, have led to tremendous growth in bulk power sales between utilities. Other bulk power sales have come from independent power producers and Canadian imports. Increases in long term contract sales, spot power exchanges, contract power pooling, shared facility ownership, and economic dispatch are all related, at least in part, to the growth in the bulk power market.

Canadian electricity imports, primarily generated by Canada's vast hydro-resources, provide up to 10 percent of New York's and New England's electricity consumption. Proponents of Canadian electricity imports point to cheaper rates for U.S. consumers, a reduction of air pollutants by backing out coal-powered generation and a decrease in imported oil for generation. Opponents cite increased trade deficits and question reliability, dependence on foreign power, and subsidies granted Canadian utilities by that government.

Additions to utility capacity have definitely decreased from their peak in the early 1970s. Figure 4 shows capacity additions made and planned.

Construction schedules were disrupted when regulatory agencies responded to the Three Mile Island Nuclear Plant accident with revised safety requirements. Further, nuclear plants were built on an unprecedented scale and often ran into construction problems and delays because of unforeseen technical difficulties. Finally, organized legal challenges slowed many projects significantly.

In the political arena, the oil embargoes of the seventies provided the impetus for the National Energy Act (NEA) which included the Fuel Use Act (FUA) and the Public Utility Regulatory Policies Act (PURPA). In an effort to temper U.S. dependence on what was perceived to be limited domestic oil and natural gas resources, the FUA prohibited the construction of new oil and gas utility powerplants and industrial boilers. Those prohibitions were removed in 1988, but by that time a number of coal-fired generating units had been built in lieu of natural gas plants.

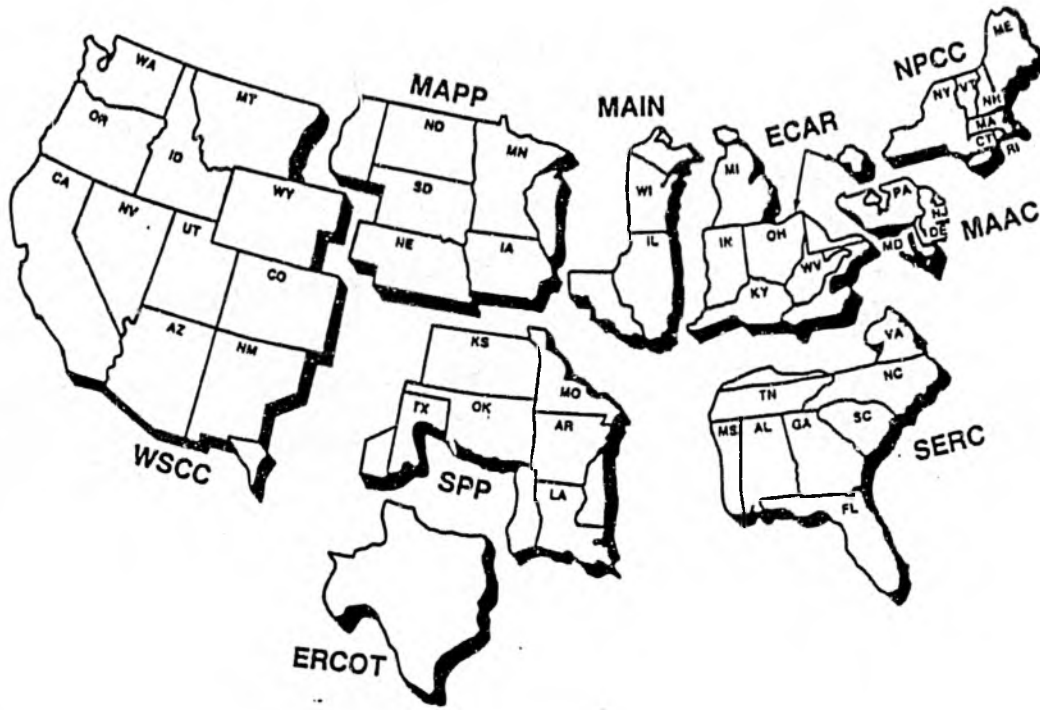
PURPA attempted to conserve energy by encouraging small alternative fuel generation and cogeneration units. Cogeneration, practiced by industry since early this century, is the simultaneous generation of electric power and heat for industrial processes. PURPA directed that utilities must buy power if offered for sale by small power producers and cogenerators at rates no higher than the purchasing utility's avoided cost.

During the upheaval of the late seventies and early eighties, the public became politicized as utility rates climbed with higher fuel costs and plant construction overruns. Unfortunately, during this same period, demand growth which had averaged 10 percent per year, dropped precipitously and settled at an annual rate of two to five percent.

Once under construction, large-scale power generation stations afforded utilities little flexibility in completion or financing (e.g. utilities were faced with completing plants no longer needed or abandoning their sunk investments). Prudence reviews, alternatively viewed as witch hunts or management accountability tools, were conducted by PUCs facing rate increase requests from cash-strapped utilities.

FIGURE 3

NORTH AMERICAN ELECTRIC RELIABILITY COUNCIL REGION MAP



Regional Electric Reliability Council Areas

- ECAR—East Central Area Reliability Coordination Agreement
- MAIN—Mid-American Interpool Network
- MAAC—Mid-Atlantic Area Council
- MAPP—Mid-Continent Area Power Pool
- NPCC—Northeast Power Coordinating Council
- SERC—Southeastern Electric Reliability Council
- SPP—Southwest Power Pool
- ERCOT—Electric Reliability Council of Texas
- WSCC—Western Systems Coordinating Council

Source: DOE-EIA, Electric Power Annual, 1986

The post-war period of utility growth and prosperity came to an end in the 1970s. Foreign oil embargoes caused energy costs to rise in an unprecedented manner. Since fuel costs average 50 percent of a utility's operating and maintenance costs, PUCs allowed automatic fuel adjustments to consumer's bills.

Secondly, utility construction programs, based on previous demand growth rates, ran into cost-of-capital problems with high inflation. Many of these new construction projects were large nuclear plants.

Utilities are generally either publicly regulated or publicly-owned. Regulation at the federal level is by the Federal Energy Regulatory Commission (FERC). FERC's authority extends to all sales for resale, whether intrastate or interstate, and all transmission transactions except most in the state of Texas.

State regulation usually includes the regulation of most or all retail sales to consumers of electricity. Much of state regulation is related to the monopolistic status granted the utility by the state.

The traditional regulatory compact grants utilities a geographical service franchise in exchange for meeting the obligation to provide service on reasonable terms to all those who request it. Further, earnings are limited on opportunity to earn a "fair" return on invested capital, as set by the regulatory body.

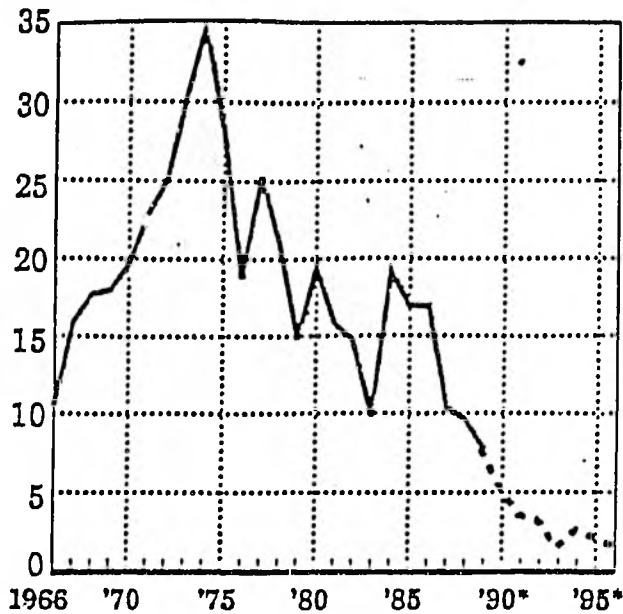
Most states have utility regulatory bodies, commonly called public utility commissions (PUCs) or public service commissions (PSCs). Their members may be elected by the public or appointed by the governor. State PUCs or PSCs normally regulate rate schedules, security offerings and certain contractual relationships, as well as other matters, under state statutory or constitutional grants of authority.

In some cases such authority may be withheld in favor of local government regulation. Local regulation normally takes one of two forms; the granting of franchises to locate distribution facilities (poles and wires) on public right-of-ways, and the regulation (or actual operation) of a municipal utility.

In retrospect, the period from the close of World War II to the mid-1970s was a golden one for electric utilities in the United States. Technological improvements meant declining costs while demand grew steadily at rates as high as 10 percent per year.

One exception to this generally trouble-free era was the so-called "New York City Black-Out" which occurred in November, 1965 and plunged 30 million people on the Eastern seaboard into darkness. That incident led to the formation of the National Electric Reliability Council, composed of 10 Regional Reliability Councils as illustrated in Figure 3. Interconnects and pooling arrangements within the regional reliability councils improved system reliability and the ability to make bulk (wholesale) power sales between utilities.

**FIGURE 4**  
**ELECTRIC GENERATING CAPACITY ADDITIONS BY U.S. UTILITIES**  
**MADE AND PLANNED, 1966 - 1996**  
**(Thousands of Megawatts)**



\* = Forecast

Source: Wall Street Journal from Utility Data Institute

Finally, the residential electricity consumer movement, born of the rate battles waged earlier this decade, is promoting "least-cost alternatives" to new generating construction. Least-cost planning is recommended by its advocates as a process to assure that electric utilities meet future load growth with reliable and adequate energy services by employing demand management, as well as supply-side options.

Least cost proponents want a voice in the utility's planning process. They say that if state PUCs and public advocates become involved in front-end "management decisions" relative to new generation, they will share responsibility for the decision with the utility after the powerplant is built.

One least-cost approach, called integrated resource planning,<sup>1</sup> has been outlined for PUCs. It would consider a number of factors including utility protection from prudence reviews, standardized means of evaluating demand-side programs, expensing of utility conservation program costs and a review of automatic adjustment rates to account for lost revenues associated with conservation programs. Integrated resource planning would also require the development of appropriate funding and staffing levels at state PUCs to properly review utility plans.

Ordered to buy PURPA power and able to buy bulk power, many utilities are looking at new generation construction long and hard. Powerplant conversion (e.g. conversion of incomplete nuclear plants to natural gas) and refurbishing existing powerplants also look less risky than construction. However, all these alternatives raise questions of system reliability.

Regardless of who builds the next generation of power stations, environmental factors will play a significant role in the type of facility selected. The so-called "greenhouse effect" may impact future power production decisions in two regards. First, it may influence the choice of fuel and secondly, an increase in the earth's temperature might increase electric utility capacity needs.

Coal and fossil fuel combustion has also been linked to acid rain. Regional differences arise when utility generators using "compliance coal" (low sulfur coal), low sulfur oil, natural gas or nuclear power are threatened with paying for the clean up of older, high sulfur coal facilities. Many recent coal-burning utilities, forced off of indigenous oil and gas by the FUA, built more expensive compliance coal generation units. Such utilities fear double jeopardy now with regard to the cost of cleaning up acid rain problems.

Although there are over a hundred nuclear generating plants in this country, it is unlikely that new plants will be considered until matters of licensing reform, uniform design and disposal of spent nuclear fuel are settled. Regulation of nuclear plant construction has been greatly simplified by European nations relying on an approved, standardized plant design.

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<sup>1</sup> Hurst.

Another nuclear concern relates to the disposal of spent nuclear powerplant fuel, presently being stored on the plant site. Finalization of federal policy regulating disposal of spent fuel is a pressing energy policy need.

Industries, seeking to buy power from generators other than the franchised utility, have long sought wheeling (transmission) privileges in the name of economy and efficiency. Utilities generally oppose wheeling on the grounds that transmission systems, designed to handle power generated by the utility, are unable to move specific blocks of power from point to point but rather must be balanced systematically and could become overloaded with wheeling demands. Further, according to utilities, wheeling-off system power to the utility's industrial consumers would mean a loss of baseload consumption, and consequently, higher rates to the utility's remaining customers.

Utilities feel beleaguered by increasing competition from PURPA power generators, pressure to wheel from industrials, regional capacity problems which pit utilities against one another (under excess or shortage conditions), and least-cost planning processes enforced by state PUCs. They voice grave concerns over the status of their service obligation, loss of control of transmission systems and system failure due to unreliable generation.

It is in this environment that FERC has issued Notices of Proposed Rulemaking (NOPRs) which in the words of electricity industry analysts, "Could change forever both the structure of the utility industry and the regulatory framework within which it operates."<sup>2</sup>

In an effort to reform electric power regulation, FERC's notices label traditional cost-based regulation as flawed because it provides insufficient incentives to utilities to minimize costs to consumers. FERC also feels that the present regulatory scheme holds utilities accountable for failures, but fails to reward utility successes proportionately. As a result, utilities may minimize capital expenditures. This may also result in a bias toward less fuel diversity and a reduction in technological innovation.

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<sup>2</sup> Smartt.

Citing the terms of PURPA, the first phase of FERC's efforts are to target near term decisions in meeting new capacity needs. Subsequent phases of reform regulation will focus on pricing for bulk power markets, utility wholesale sales and transmission.

The current NOPRs, issued in March, 1988, clarify federal rules relative to state PUC administrative determinations of "full avoided cost" for PURPA power purchased by utilities. They also eliminate unnecessary capacity purchases. The second part of the NOPRs provides for a bidding program as an alternative to administrative determinations of full avoided cost. Coincidentally, PUCs in states like New York are pursuing bidding programs as well.

The third set of NOPRs establishes a framework free of regulation for Independent Power Producers (IPPs) who do not qualify for benefits under PURPA and also do not have market power sufficient to fix or maintain prices. Utilities charge that this NOPR would create an unregulated class of generators with an unfair competitive advantage. This proposal will no doubt be challenged in court as exceeding FERC's authority under the Federal Power Act and PURPA.

Although FERC's policy changes may be considered dramatic, the NOPRs are no match for the excitement generated by physicists pursuing superconductivity as the subject of private, as well as public, research efforts. Fully 25 percent of the primary energy consumed in the United States is attributable to electricity generation and transmission losses; superconductivity has the potential to greatly reduce those losses and provide storage technology to levelize electricity demand peaks.

Although now largely limited to the laboratory, concerted research on superconductivity may be expected to impact power generation, transmission and storage, shortly after the turn of the century. Other energy, or specifically, electricity storage systems, are also under development. The potential for electricity conservation is tremendous.

## ELECTRICITY STRATEGY STATEMENT

It shall be the strategy of the United States to promote the development of sources of electric energy that are sufficient to meet national needs, secure from external threat, reliable in availability and delivery, safe relative to people and the environment and efficient for use in homes, businesses and industries.

The electricity sector today is marked by tremendous regional diversity, especially with regard to capacity. Fuel usage also varies widely. Implementation of federal legislation that fails to recognize this diversity inevitably penalizes one region or another.

State regulatory bodies are close to consumers, utilities, industries, and concerned for state economic well-being. State regulatory bodies are in the best position to evaluate consumer needs, questions relative to fuel choice, economic development implications, and system reliability.

A federal government program for storage and disposal of spent nuclear fuel shall be finalized as quickly as is safely possible. Federally-acceptable, standardized nuclear powerplant designs must also be established.

Electricity research and development efforts shall be intensified with regard to energy efficiency, superconductivity, advanced and reasonable environmental controls in power generation, and development of cost-effective renewable supply technologies. The development of electric vehicles shall also be pursued.

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The Honorable Bettye Fahrenkamp  
The Senate of Alaska  
119 North Cushman #201  
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Dear Senator Fahrenkamp:

The South/West Energy Council and South/West Energy Research Foundation's National Energy Strategy and Background Paper are complete and I have submitted a photo-ready copy of each to Pat Raffaniello for duplication and distribution. I deeply appreciate your assistance on the project and I am pleased with our final product.

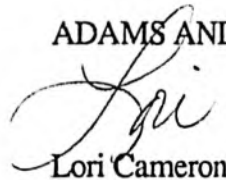
Enclosed you will find a speech that explains who S/WEC and the Foundation are, why we undertook the project, the process we employed to draft the Strategy, the contents of the Strategy, and the means by which the Council will pursue its implementation. I drafted it with a luncheon presentation to lay people (e.g. Rotary, Kiwanis, etc.) in mind. It runs slightly less than 20 minutes and there are many opportunities to personalize it. I hope it proves useful in apprising your constituents of your efforts with regard to the National Energy Strategy.

My contract with the Council and the Foundation concludes this week and I want you to know how much I have enjoyed working with you and how much I value S/WEC's comraderie. It is so unusual to assemble such a hard working, productive and pleasant group.

Please don't hesitate to contact me if you have any questions on the National Energy Strategy, the Background Paper or the speech. With best wishes for a healthy, happy and prosperous 1989, I remain

Sincerely yours,

ADAMS AND REESE



Lori Cameron

LAC/dm  
Enclosure

## S/WEC NATIONAL ENERGY STRATEGY SPEECH

I'd like you to think for a minute and see if you can name two or three elements of our national energy policy. What are the guiding principles that assure the U.S. will have energy to move its people, produce its products, and maintain critical communications?

There are many of us feel that there is no such policy, no sense of purpose with regard to this crucial element of our economy, our lifestyle and our national security. But what better time to propose a strategy than with the inauguration of a new President and a new Congress?

Basically for those of us so interested in energy and its impact on our state and our nation, it is time to quit pointing to deficiencies and offer an alternative. What I want to talk a little bit about today is that alternative -- a National Energy Strategy.

Our state is a member of the South/West Energy Council and I am privileged to serve on its Executive Committee. The Council consists of legislators from Alabama, Louisiana, Arkansas, Oklahoma, Texas, New Mexico, Colorado and Alaska. In case you're wondering about the name, it's South - slash - West, and we stretch from southern Mobile Bay to western Prudhoe Bay!

In any case, the Council and its research affiliate, the South/West Energy Research Foundation, embarked last summer on a project to draft a comprehensive national energy strategy, addressing the energy needs of the entire nation, not just the producing states. We held a series of workshops and heard everyone from the President of the Renewable Energy Institute to the President of Mobil Exploration; and from the New York State Energy Officer to the Chairman of the California Energy Commission.

As I participated in these workshops, I came to clearly recognize the environmental impacts of energy policy decisions; implications for world financial markets; and our national security interests related to energy.

The Council also commissioned a background paper, a sort of primer on U.S. energy issues, that laid out concerns and possibilities, supporting the conclusions we reached in our National Energy Strategy. The Strategy itself is three pages long, and addresses energy conservation, crude oil, coal, natural gas, renewable energy and electricity. It was adopted unanimously by the Council in December.

The goal of our Strategy is to provide a stable supply of reasonably-priced energy in an efficient and environmentally-sound manner to meet the needs of U.S. citizens, the economy and national security interests. We feel that the long-term goal of the U.S. should be energy independence.

However, in our discussions, it became clear that a policy that would rely today solely on domestic energy production simply can't live up to its promise. This nation now sends four billion dollars a month abroad for oil. We're heading quickly for a 50 percent dependence level on foreign crude.

Relative to crude oil, a three point policy approach emerged: conservation, domestic production, and import management. Energy conservation is key; not only does it make economic sense to use our energy resources efficiently, it makes environmental sense as well.

Conservation efforts have been one of the bright spots relative to energy over the last decade. All sectors - residential, industrial, commercial and transportation - have seen substantial gains in energy efficiency. Americans use roughly the same amount of energy as we did in 1973 but our national economy has grown by 30 percent in the intervening years.

We propose that the U.S. continue to promote energy conservation, improving efficiency by setting or strengthening: Corporate Average Fuel Efficiency Standards for automobiles; energy efficiency provisions in buildings; home appliance, heating and cooling unit efficiency standards; and waste recycling or reduction standards for industrial manufacturing. Basic energy conservation research, on topics like superconductivity, needs to be funded.

Also essential to American energy policy is a strong domestic energy industry. After hearing from the experts, I believe that this industry can and must operate in an environmentally-sound manner to develop the resources we have in this nation. We need to support domestic oil and gas exploration with tax incentives, just as we need to support enhanced oil and gas recovery to assure maximum recovery of those resources already identified.

The third point with regard to crude oil is the management of imports. By this we do not mean direct federal intervention in purchasing foreign crude but rather common sense tactics to lessen dependency.

One means of doing this is by encouraging a Pan American Energy Alliance. Canada, Mexico, and especially Venezuela, all have substantial reserves right here in this hemisphere.

Two years ago the Council met in New Orleans with representatives of Petroleos de Venezuela, Petroleos de Mexico, the Canadian government and the federal Department Of Energy to discuss the concept of a Pan American Energy Alliance. We were honored to have 15 Ambassadors from the Organization of American States join us.

The Council felt that steps should be taken to assure security of supply in the Western Hemisphere. Demonstrating the effectiveness of grassroots policy making, the Pan American Energy Alliance concept was part of both the Republican and Democratic party platforms in 1988.

Another proposal relative to imports is as simple as opening a dialogue with suppliers worldwide. The U. S. represents 30 percent of world crude oil consumption but 4 percent of world reserves. OPEC represents three-quarters of the world's reserves. We should be talking to OPEC, as well as other suppliers around the globe.

If the U. S. has an energy insurance policy, it is the Strategic Petroleum Reserve. The Council recommends that the SPR be filled at least to its current goal of 750 million barrels.

It is also the recommended policy of the Council to pursue active management of federal lands and Outer Continental Shelf areas in accordance with principals of multiple use. One of every three acres in this country belongs to the federal government. Federal lands, particularly those in Alaska, hold great promise for the environmentally-sound development of energy resources.

So far, I've focused on relatively short-term policies dealing with conservation and crude oil. However, it will take a combination of other fuels and technologies to meet our long-term goal of energy independence. For instance, coal is America's leading fuel in terms of reserves.

Coal holds the promise of long-term energy security. But, today its use is constrained by aged technology and environmental concerns. The Clean Coal Technology Program is a demonstration program, funded by federal and private dollars, to dramatically reduce emissions while improving the efficiency of coal use. The Clean Coal Technology Program is supported wholeheartedly in the National Energy Strategy.

Natural gas is an extremely important component of our energy mix. This domestic resource is more plentiful than recently thought. Importantly, it is clean burning and efficient.

The Council recommends promoting the domestic production and use of natural gas and pursuing the development of natural gas-fueled vehicles. Also, access to natural gas in the Northeast could alleviate that region's residential dependence on heating oil.

Renewable energy sources are characterized by a broad range of technologies, costs, efficiencies and environmental concerns. Hydroenergy supplies more electricity than either crude oil or natural gas does in the U.S. and is a renewable energy source.

Another source of renewable energy is biomass. Wood is biomass, agricultural wastes are biomass, municipal solid waste is considered biomass. Solar power, whether used to heat fluids for electricity production or employed in architectural design, is renewable energy. Wind is renewable energy.

Each of these energy sources involves different technologies, some of which are mature, others of which are still on the drawing board. Each involves different environmental considerations; each produces power at differing costs. In short, renewables represent a very diverse group of energy sources that need a long-term, stable program to research, develop, demonstrate and commercialize the most promising of these resources.

In addition to research, development, demonstration and commercialization of energy sources, there are a number of energy technologies that require similar attention. For instance, cogeneration is extremely efficient when powered by natural gas. It can be adapted to renewable fuels as well.

Energy storage system technologies would improve efficiencies by leveling out peak energy demand periods. However, superconductivity is the most enticing technological prospect from an efficiency point of view. The National Energy Strategy recommends that work on these technologies be pursued as a cooperative effort among industry, higher education and the national laboratories.

Although not an energy source, electricity is also addressed in our energy strategy. We urge that regulation of electric power companies with regard to questions like fuel choice, rates and system reliability be maintained at the state level, where the regulators are closer to the consuming public.

Further, we specifically addressed two important points with regard to nuclear power. First, that a federally-acceptable, standardized nuclear powerplant design be established and, second that a federal program for storage and disposal of spent nuclear fuel be finalized as quickly as is safely possible.

The question of nuclear power is tied, at least popularly, to environment impacts. One of the points that was brought home to me during the workshops was the inseparable nature of virtually all energy and environmental issues.

Just as long term planning or strategizing is critical to assuring sufficient energy supplies, so also is it key to avoiding or minimizing environmental impacts. In fact, that's why energy conservation was given premier billing in our Energy Strategy. By saving energy, we avoid environmental impacts. Environmental impacts are minimized by fuel choices, improved technology and careful project siting.

In the final section of our Energy Strategy, entitled "Implementation," we note that the development of environmentally-sound energy conservation, supply and distribution systems require long-range planning and sustained effort. Our National Energy Strategy is a starting point for federal consideration. We don't expect it to be accepted in its entirety, unchanged, but we recognize that it is much easier to edit a proposal than to start from scratch.

The Council's National Energy Strategy has already been transmitted directly to President-elect George Bush and is now being distributed to key members of both the House and the Senate. As a bipartisan effort, we are seeking the support of leadership of both parties. We are briefing our Congressional delegation so that they might promote the National Energy Strategy within both Houses.

On the state level, the National Energy Strategy is being presented to a number of legislatures, some which are not members of the Council, for resolutions of support.

It's a satisfying experience to be part of such a positive effort and I'm proud that our state could make a real contribution to a strategy so important to this nation.

**S J R**

**28**

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/23/89  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FIN

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035  
2/15/89

DATE TURNED INTO OFFICE 2/27/89

Mr. President:

RES Committee considered SJR 28

oil and gas exploration, development, and production within the  
Arctic National Wildlife Refuge

and recommended:

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S) attached  zero  
 appropriation no FN attached

fiscal impact  
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO-PASS

OTHER RECOMMENDATIONS

*[Handwritten signatures]*

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*[Handwritten signature]* do Pass  
Chairman signature and recommendation

Committee backup attached

# Senator Rick Uehling

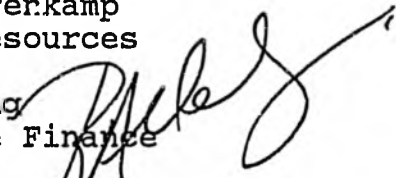
Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee  
International Trade & Tourism Committee  
State Affairs Committee

## MEMORANDUM

To: Senator Bettye Fahrenkamp  
Chairman, Senate Resources

From: Senator Rick Uehling   
Co-Chairman, Senate Finance

Subject: SJR 28, relating to oil and gas exploration,  
development and production within the Arctic  
National Wildlife Refuge

Date: February 22, 1989

I would appreciate your scheduling SJR 28 for a hearing before the Senate Resource Committee at the earliest possible time.

Senate Joint Resolution 28 to reaffirm the Alaska Legislature's strong support of President Bush's intention to see ANWR's Coastal Plain opened to oil and gas activity.

Discovery of oil could mean a tremendous boost to the Alaska economy. Even the pre-lease and exploration activity would generate revenue for the state and jobs and economic activity for Alaska workers and businesses.

Dangerously high U.S. oil import levels mandate an aggressive domestic exploration policy. ANWR's Coastal Plain is widely regarded as America's best chance to find very large quantities of crude oil.

The U.S. Department of the Interior conducted one of the most rigorous series of environmental studies on the Coastal Plain and determined that oil and gas activity would not significantly impact the wildlife populations of the area.

I have attached backup material for your committee files.

Thank you for your consideration.

RU/ma

attachments

Attachments:

- 1) Reference map of Northern Alaska  
Source: U.S. Department of Interior
- 2) Summary of Arctic National Wildlife Refuge Coastal Plain  
Resource Assessment, U.S. Department of Interior
- 3) Copy of President Bush's Budget Message
- 4) Copies of legislation introduced to date in Congress

*Address  
to Congress  
101st Congress  
First Session*



*President George Bush*

*February 9, 1989      Washington, D.C.*

In some cases, the gulfs and oceans off our shores hold the promise of oil and gas reserves which can make our Nation more secure and less dependent on foreign oil. When those with the most promise can be tapped safely, as with much of the Alaska National Wildlife Refuge, we should proceed. But we must use caution and we must respect the environment.

So tonight I am calling for the indefinite postponement of three lease sales which have raised troubling questions—two off the coast of California, and one which could threaten the Everglades in Florida.

Action on those three lease sales will await the conclusions of a special task force set up to measure the potential for environmental damage.

I am directing the Attorney General and the Administrator of the Environmental Protection Agency to use every tool at their disposal to speed and toughen the enforcement of our laws against toxic waste dumpers. I want faster cleanups and tougher enforcement of penalties against polluters.

In addition to caring for our future, we must care for those around us. A decent society shows compassion for the young, the elderly, the vulnerable, and the poor.

Our first obligation is to the most vulnerable—infants, poor mothers, children living in poverty—and my proposed budget recognizes this. I ask for full funding of medic-aid—an increase of over \$3 billion—and an expansion of the program to include coverage of pregnant women who are near the poverty line.

I believe we should help working families cope with the burden of child care.

Our help should be aimed at those who need it most—low-income families with young children. I support a new child care tax credit that will aim our efforts at exactly those families—without discriminating against mothers who choose to stay at home.

Now, I know there are competing proposals. But remember this: The overwhelming majority of all preschool child care is now provided by relatives and neighbors, churches, and community groups. Families who choose these options should remain eligible for help. Parents should have choice.

And for those children who are unwanted or abused, or whose parents are deceased, we should encourage adoption. I propose to re-enact the tax deduction for adoption expenses, and to double it to \$3,000. Let us make it easier for those kids who have parents who love them.

We have a moral contract with our senior citizens. In this budget, Social Security is fully funded, including a full cost-of-living adjustment. We must honor our contract.

We must care about those in "the shadows of life," and I, like many Americans, am deeply troubled by the plight of the homeless. The causes of homelessness are many, the history is long, but the moral imperative to act is clear.

Thanks to the deep well of generosity in this great land, many organizations already contribute. But we in Government cannot stand on the sidelines. In my budget, I ask for greater support for emergency food and shelter, for health services and measures to prevent substance abuse, and for clinics for the mentally ill—and I

## THE WHITE HOUSE

Office of the Press Secretary

EMBARGOED FOR RELEASE  
UNTIL 9:40 AM (L)  
1:40 PM EST  
WEDNESDAY, FEBRUARY 22, 1989

TEXT OF REMARKS BY THE PRESIDENT  
AT ANCHORAGE WELCOME

Hangar #1  
Elmendorf AFB  
Anchorage, Alaska

February 22, 1989

I am pleased to have this opportunity, however brief, to speak here at Elmendorf, to members of our Armed Forces and their families, and to the people of Alaska.

I also want to wish a belated but nevertheless happy birthday to Alaska, this "great land." What you have accomplished in your thirty years of statehood is something all Alaskans can be proud of.

Elmendorf has long served as the departure point for Presidents en route to the Far East. As I make my first journey to Asia as President, I am especially pleased to draw on your support and your good wishes.

My only regret is that I will not have an opportunity to see Alaska in all its glory. After all, there's nothing quite like the "Far Ron'dy."

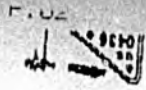
I know that it has been a bitter winter -- even by Alaskan standards. As one Alaskan put it, "It's not too bad at forty-five below, but sixty below takes it out of you."

But from what I've heard, any battle between Alaskans and the elements is no contest: the cold is no match for the vibrant sense of community that all Alaskans share. We often think of frontier values as being summed up in the phrase "rugged individualism." Now, I'm sure Alaskans possess plenty of both. But the real frontier creed, as all of you know, is community. That's the key. Whether it's the Alaskan native, or the families whose forebears came here generations ago, or the last-arriving newcomer from the "lower forty-eight," you stand ready to welcome all into the family of Alaskans.

Adverse conditions bring out the best in Alaskans. When the temperature drops, you close ranks, pull together, and pitch in. That's the American spirit at its best, and it is an inspiration to us all.

In the minds of most Americans, Alaska is our last frontier -- vast, untamed, with plenty of room for opportunity and optimism. At the same time, Alaska is a vital source of energy for the nation as a whole.

Alaska's abundant resources -- in all their diversity -- are a sacred trust. I am convinced that our natural resources can be developed without spoiling our environment. The plan to open the coastal plain of the Arctic National Wildlife Refuge meets these twin objectives. As a businessman, I know that we can and must develop our energy resources for the sake of economic



development, and national security. As a sportsman, with a love and respect for this country's unparalleled natural beauty, I could never support development that failed to provide adequate safeguards for land and wildlife.

Alaska, so rich in resources, also serves as the American gateway to Asia. Let me speak for a moment about what I hope to achieve on my trip to the Far East. I am here on my way to Japan for the funeral of the late Emperor; it was here -- at Hangar 5 at Elmendorf -- that he became the first Emperor in Japan's long history to set foot outside his homeland, eighteen years ago.

Alaskans understand that America is as much a Pacific nation as it is an Atlantic one -- and that the Pacific region is of great and growing importance in international affairs. The timing of my trip is dictated by the passing of the Japanese Emperor, to whom I and other heads of government will pay our final respects. It is, as well, a measure of our respect for a valued ally and fellow democracy that I make this trip. In China -- a nation whose path I have long found fascinating -- I hope to build on the friendly, stable and enduring relationship that now exists. In Korea, I'll meet with leaders of a nation that is rapidly joining the ranks of the world's first-tier economies, and one where democratic institutions are gaining strength each day. At each stop, I aim to strengthen key relationships with our friends and partners in the Pacific region.

Finally, a word of thanks to the Airmen and their families who serve here at Elmendorf, and the soldiers and their families who are here today from "Fort Rich." Your service and sacrifice deserve special notice. Your duty is demanding, but the reward is great: the respect and gratitude of your country.

And make no mistake about the importance of your task. Alaska's strategic position -- at the point where the Far East, the Western Hemisphere and the Arctic meet, is proof enough that the missions you perform here are vital to our national security.

You are the forward edge of our national defense. We rely on you to keep the watch, to hold the line.

Your dedication, your vigilance, your sense of duty help our nation remain safe and secure. As your Commander-in-Chief, as a veteran who served proudly in America's Armed Forces, I salute you. Rest assured that I will do everything in my power to see that the United States continues to prosper, and remains free and at peace.

# / #

## Legislators for ANWR

**THERE IS** a new resolution in the legislature citing Alaska's support for the opening of the coastal plain of the Arctic National Wildlife Refuge and urging Congress to approve oil and gas exploration and development within this small slice of the North Slope.

It will be fascinating to see whether the ladies and gentlemen in Juneau speed this through the legislative process, as they should, or whether they will go into contortions over the issue as they did a year ago.

The issue is so simple it hardly is worth a moment's discussion.

**THE RESOLUTION**, sponsored by Republican Sen. Rick Uehling of Anchorage, says all the good things that Alaskans already know about ANWR and the need to develop its suspected resources. And then, speaking on behalf of the Alaska Legislature, it urges Congress to open the coastal plain "to environmentally responsible oil and gas exploration, development and production."

Who could possibly object to that?

Well, let's wait and see.

Last year some members

of the legislature — including, if you can believe it, some representatives from Anchorage — responded to a similar resolution as though it proposed burning down the redwood forests. They danced and dodged and did everything possible to delay a vote on the matter, before finally — after a lot of excess verbage was added — a statement of ANWR support finally and belatedly was sent to Congress.

It's hard to believe that will happen again. But anything, as we all know, is possible in the rarefied atmosphere of Juneau's Capitol Hill.

**TEN OTHER** senators have signed on the resolution as co-sponsors with Mr. Uehling.

They are Republicans Tim Kelly, Rick Halford, Jan Faiks, Steve Frank, Drue Pearce, all of Anchorage; Jack Coghill of Nenana, Paul Fischer of Soldotna and Lloyd Jones of Ketchikan, and Democrats Fred Zharoff of Kodiak and Pat Rodey of Ketchikan.

The measure reaffirms Alaskan support for ANWR. It should pass unanimously — and very, very quickly.



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

## AEL ISSUE PAPER - SJR 28 -

### WILLIAM O. DOUGLAS ARCTIC NATIONAL WILDLIFE REFUGE

The Alaska Environmental Lobby firmly opposes SJR 28.

The resolution states that "the oil industry, the state, and the United States Department of the Interior consider the coastal plain of the refuge to have the **highest potential** for discovery of very large oil and gas accumulations on the continent of North America." We are puzzled by this assertion, when the Department of the Interior states in its U.S. Geological Survey report on the 1002 area that it projects only a 19% chance of finding economically recoverable oil, at a price of \$33 per barrel.

Reducing the nation's future needs for imported oil and balancing the nation's trade deficit are also cited in the resolution as reasons for opening the Arctic Refuge to oil and gas exploration. These two problems are easily answered with the development and use of conservation technologies. Conservation is widely recognized as the most cost-effective, socially responsible, and environmentally sound strategy for reducing the consumption of non-renewable energy resources.

The resolution also states that the coastal plain area comprises only a small fraction of the Arctic Refuge. While in a physical sense this statement is true, it ignores the importance of the coastal plain to the rest of the Refuge. Not only would drilling in the coastal plain interfere with the recognized calving ground and key habitat of the Porcupine Caribou Herd, but (as documented in the 1002 Report) the coastal plain "is the most biologically productive part of the Arctic Refuge for wildlife and is the center of wildlife activity on the Refuge." The Porcupine Herd is one of the United States' two large caribou herds, and is the continent's only significant international herd. Our neighboring Yukon territorial government is on record as opposing the opening of the Arctic Refuge to oil exploration.

Finally, as Alaska State Legislators are quite aware, the state must pursue the development of a sustainable, diversified economy, rather than seeking yet another oil boom to pull us out of our bust years. Sending more oil through the Alaska Pipeline is not going to solve our long-term economic woes; the Environmental Lobby believes that the chance of a short-term bandaid offered by exploitation of the Arctic Refuge is not worth the loss of the habitat, subsistence, and wilderness values offered by the Arctic Refuge.

### Senate Resources Committee

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB  
 KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY  
 DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY  
 KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDLIFE ALLIANCE  
 SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL  
 KNIK KANOERS AND K. YAKERS

February 27, 1989  
Karen Wood



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

## MEMORANDUM

To: Rep. Sam Cotten, Co-Chair  
Rep. Adelheid Herrmann, Co-Chair  
Resources Committee members

From: Ned Farquhar, Staff *Ned Farquhar*

Subject: ANWR revenue issues

Date: March 2, 1987

## BACKGROUND

This memorandum treats state-federal revenue issues related to proposed oil and gas activity in the Arctic National Wildlife Refuge (ANWR). The State of Alaska is entitled to 90% of the revenue derived by the federal government from mineral leasing activity (including oil and gas) on public lands in Alaska, including national wildlife refuge lands. Because of ANWR's oil and gas potential, the State of Alaska has a large stake in the federal decision regarding ANWR's status. Alaska's revenue entitlement is being discussed in Alaska and in Washington, and is mentioned in HJR 9 by the Resources Committee.

## ISSUES

1. The coastal plain is presently closed to oil and gas leasing. Section 1002(i) of ANILCA closed the coastal plain of ANWR to oil and gas exploration and drilling by withdrawing it from the operation of mineral leasing laws, including the Mineral Leasing Act of 1920. Until Congress acts to reopen the coastal plain, public lands within ANWR cannot be made available for oil and gas leasing. (Attachment One - ANILCA Sec 1002(i).)

Rep. Cotten - ANWR revenues

2. Congress intends to return 90% of the mineral leasing revenue from public lands to all states. During the early 1900's, when the federal government adopted policies favoring retention of public lands, Congress decided that the States and their political subdivisions should benefit fiscally from the presence of retained federal land not subject to property taxation. The Mineral Leasing Act of 1920, as amended, implemented this policy by requiring that 90% of leasable mineral revenues would be returned to the States. (Attachment Two - pertinent sections of the Mineral Leasing Act.)

3. Alaska and the other western states receive 90% of mineral leasing revenues, but on a different formulation. Western states participating in the Reclamation Fund, created by the Reclamation Act of 1902, receive 50% of leasable mineral revenues directly, and another 40% is invested in the Reclamation Fund. Alaska is not contiguous and has less need for irrigation/impoundment development; thus it does not participate in the Reclamation Fund and receives 90% of mineral leasing revenues directly.

4. Alaska receives 90% of public land mineral leasing revenues as part of the solemn compact between the United States and Alaska at Statehood. When Congress enacted the Alaska Statehood Act, it included a "major provision" (according to the Legislative History) returning 90% of the mineral leasing revenues from federal public land directly to the new State of Alaska. This was in the form of an amendment to the Mineral Leasing Act of 1920. According to the Attorney General, such provisions of a Statehood Act are "obligatory" upon the United States. Based on the nature of the Statehood compact, Alaska would have a "very strong (legal) argument" if Congress were to attempt to amend the formula unilaterally. (Attachment Three - Attorney General's opinion on ANWR issues.)

Rep. Cotten - ANWR revenues

5. Participation in the Reclamation Fund has directly benefited the western states, except Alaska. The Reclamation Fund is a token mechanism for funding irrigation and impoundment projects in western states. In 1982, for instance, public land revenues to the Fund (mineral leasing, land and timber sales) from the participating western states totalled about \$450 million, but expenditures on reclamation projects in the same states were about \$800 million (including some general fund payments and revenue from reclamation projects). Through its history the Reclamation Fund has been fortified by large contributions of general fund dollars, in addition to public land and reclamation project revenues. (Attachment Four - Map showing western states Reclamation Fund contributions/receipts for 1982.)

6. Alaska public lands subject to 90% revenue-sharing include ANWR. In the Kenai Moose Range case (1981), the United States Supreme Court held that "(r)evenues generated by oil and gas leases on federal wildlife refuges consisting of reserved public lands...must be distributed according to the formula provided in...the Mineral Leasing Act of 1920." Thus ANWR public lands, if not closed to leasing by ANILCA 1002(i), would be subject to the Mineral Leasing Act of 1920, including the 90% revenue sharing provision.

7. The former Naval Petroleum Reserve No. 4 ("Pet-4") was exempt from the 90% revenue sharing provision; Alaska has never had a 90% entitlement on the Pet-4/NPRA acreage. In his recent speech before the Alaska Legislature, Senator Stevens stated: "Many in Congress remember that reduction of Alaska's share to 50% was part of the price of opening the 23 million acre National Petroleum Reserve-Alaska." In fact, naval petroleum reserves (including the former Pet-4) are specifically exempted from the leasing and revenue-sharing provisions of the Mineral Leasing Act of 1920. The State of

Rep. Cotten - ANWR revenues

Alaska never enjoyed a 90% entitlement to revenues from production on Pet-4/NPRA acreage; thus there was never a "reduction of Alaska's share to 50%." Only if Pet-4 had been turned over to the Department of the Interior without special legislation affecting Alaska's revenue share could NPRA have been public land subject to the usual 90% revenue-sharing arrangement.

8. When Congress established the National Petroleum Reserve - Alaska (NPRA) in 1976, it raised Alaska's revenue share from 0% to 50%. Appearing before the Committee, U.S. Fish and Wildlife Service Alaska Region Director Bob Gilmore said that the Interior Department expects Congress to use the NPRA model (a 50% entitlement for Alaska) as a basis for opening ANWR, and that the Interior Department would use a similar mechanism if it agreed to an overriding revenue retention provision in the pending land trade contracts. In fact, the legislation which opened Pet-4 to oil and gas leasing, including revenue sharing, is a poor example for reduction of the State of Alaska's revenue share from ANWR. The State's revenue expectations for the affected acreage jumped from 0% to 50% with the passage of the NPRA Act in 1976, which removed the land from its exempt status under the Mineral Leasing Act of 1920.

9. If the United States proceeds with land trades affecting Alaska's 90% entitlement, would the State be able to challenge the exchanges on the basis of its prior existing right? In a recent letter to Asst. Interior Secretary Bill Horn, Rep. Cotten asked whether the Interior Department believes that it may trade Alaska's existing right without Alaska's concurrence. No response has been received. However, in the attached opinion, the Attorney General indicates little faith that the courts would accept the argument that the 90% entitlement in the Statehood compact

Rep. Cotten - ANWR revenues

"also constituted an implied promise not to convey federal lands to third parties..."

10. Congress must generally treat the States equally; can it create a new leasing mechanism, or segregate ANWR lands, with the purpose of reducing or eliminating Alaska's rightful share of mineral leasing revenues from ANWR? Rep. Cotten has asked the Attorney General whether there are "foreseeable circumstances under which federal lands in the coastal plain could be considered other than 'public land' subject to the Mineral Leasing Act and the 90/10 federal-state revenue-sharing arrangement."

#### SUMMARY

The State of Alaska has a strong case to support its contention that the 90% revenue sharing entitlement is part of the Statehood compact and that any oil and gas revenues derived from federal lands in ANWR must be subject to this provision as it exists. If Congress decides to open ANWR, and wishes to do so in a manner that will not be susceptible to legal challenge, Alaska's concurrence will be necessary on any reduction in the existing 90% entitlement.

Attachments

findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty against him under paragraph (1) after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection unless the matter is pending in court for judicial review or recovery of assessment.

(h) REPORT TO CONGRESS.—Not earlier than five years after the enactment date of this Act and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing—

(1) the identification by means other than drilling of exploratory wells of those areas within the coastal plain that have oil and gas production potential and estimate of the volume of the oil and gas concerned;

(2) the description of the fish and wildlife, their habitats, and other resources that are within the areas identified under paragraph (1);

(3) an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the resources referred to in paragraph (2);

(4) a description of how such oil and gas, if produced within such areas, may be transported to processing facilities;

(5) an evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and

(6) the recommendations of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the coastal plain should be permitted and, if so, what additional legal authority is necessary to ensure that the adverse effects of such activities on fish and wildlife, their habitats, and other resources are avoided or minimized.

(i) EFFECT OF OTHER LAWS.—Until otherwise provided for in law enacted after the enactment date of this Act, all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

PROHIBITION ON DEVELOPMENT

Sec. 1003. Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the refuge shall be undertaken until authorized by an Act of Congress.

WILDERNESS PORTION OF STUDY

Sec. 1004. (a) As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness or the

Federal lands described in section 1001 and report his findings to the President.

(b) The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries.

(c) Subject to valid existing rights and the provisions of section 1002 of this Act, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on the date of enactment of this Act.

WILDLIFE RESOURCES PORTION OF STUDY

Sec. 1005. The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, gizzly bear, wolf, wolverine, seabirds, shore birds, and migratory waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd.

TRANSPORTATION ALTERNATIVES PORTION OF STUDY

Sec. 1006. In studying oil and gas alternative transportation systems, the Secretary shall consult with the State of Alaska and shall consider—

- (1) the extent to which environmentally feasible alternative routes could be established;
- (2) the prospective oil and gas production of Alaska for each alternative transportation route;
- (3) the environmental and economic impacts associated with such alternative routes.

ARCTIC RESEARCH

Sec. 1007. (a) The Secretary, the Secretary of Energy shall initiate and support the research, facilities and administration of the National Arctic Research Laboratory (NARL), at Point Barrow, Alaska, and the historical responsibilities carried out by the NARL shall be transferred to the NARL. The Secretary shall make provision for the NARL to be applied and basic Arctic research and the Secretary shall make provision for the NARL to be applied and basic Arctic research and the Secretary shall make provision for the NARL to be applied and basic Arctic research.

- (b) The Secretaries shall assess the need for redirecting the United States Arctic research and the Secretary shall make provision for the NARL to be applied and basic Arctic research.
- (1) developing relevant scientific information and utilizing applied research to address the unique problems the Arctic presents;
- (2) minimize the impact of resource development.

Presidential recommendation to Congress

16 USC 3146

Consultation with Canadian Government

16 USC 3146

16 USC 3147

ATTACHMENT ONE  
ANILCA Sec. 1002 (1), 1003

Arctic research and development.

16 USC 3143.

Report to President.  
16 USC 3144.

Reservation of helium gas bearing land on the public domain, see section 167.. of Title 50 U.S.C. National Defense.

Reversion of land (for Navajo tribe, transfer of interests of United States as lessor under this chapter, see section 640d-10 of Title 25, Indians.

Review of withdrawals in the 48 states which closed lands to appropriation under this chapter, see section 1714 of Title 43, Public Lands.

Revocation of reservation of certain lands in and around Laguna Head and restoration to public lands, except that such lands be withdrawn from entry under this chapter, see section 1714 of Title 43.

Status of offers for noncompetitive oil and gas leases on lands conveyed to Alaska native corporations or Indian land Alaska natives, see section 1633 of Title 43.

Steele National Conservation Area, mineral exploration and development, see section 460mm of Title 16, Conservation.

## SUBCHAPTER I--GENERAL PROVISIONS

### § 181. Lands subject to disposition; persons entitled to benefits; reciprocal privileges; helium rights reserved

Deposits of coal, phosphate, sodium, potassium, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Appalachian Forest Act, approved March 1, 1911 (36 Stat. 961), and those in incorporated cities, towns, and villages and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this chapter to citizens of the United States, or to associations of such citizens, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, or in the case of coal, oil, oil shale, or gas, to municipalities. Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this chapter.

The term "oil" shall embrace all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).

The term "combined hydrocarbon lease" shall refer to a lease issued in a special tar sand area pursuant to section 226 of this title after November 16, 1981.

The term "special tar sand area" means (1) an area designated by the Secretary of the Interior's orders of November 20, 1980 (45 FR 76800-76801) and January 21, 1981 (46 FR 6077-6078) as containing substantial deposits of tar sand.

The United States reserves the ownership of and the right to extract helium from all gas produced from lands leased or otherwise granted under the provisions of this chapter, under such rules and regulations as shall be prescribed by the Secretary of the Interior: *Provided further*, That in the extraction of helium from gas produced from such lands it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof.

(Feb. 25, 1920, c. 85, § 1, 41 Stat. 437; Feb. 7, 1927, c. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, c. 916, § 1, 60 Stat. 950; Sept. 2, 1960, Pub.L. 86-705, § 7(a), 74 Stat. 790; Nov. 16, 1981, Pub.L. 97-78, § 1(1), (4), 95 Stat. 1070.)

## Historical Note

Reference in Text. The Appalachian Forest Act, referred to in the first undesignated paragraph, is Act Mar. 1, 1911, c. 186, 36 Stat. 961, as amended, also known as the "Weeks law" which is classified to sections 480, 500, 513 to 519, 521, 552 and 563 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables volume.

1981 Amendment. Pub.L. 97-78, in first par., substituted "gilsonite (including all vein-type solid hydrocarbons)," for "native asphalt, solid and semisolid bitumen, and bituminous rock (including oil impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried)," and added, following first par., three paragraphs which defined "oil", "combined hydrocarbon lease", and "special tar sand area", respectively.

1960 Amendment. Pub.L. 86-705 included deposits of native asphalt, solid and semisolid bitumen, and bituminous rock.

1946 Amendment. Act Aug. 8, 1946, reenacted existing par., less three provisos, as first sentence of first par., inserting "potassium" after "sodium", which was also included in the 1927 amendment, and substituting provision for disposition of deposits "in incorporated cities, towns, and villages, and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil shale reserves" for such disposition "in national parks, and in lands withdrawn or reserved for military or naval uses or purposes" and phrase "associations of such citizens" for "any association of such persons"; former third proviso as second sentence of first par.; former first proviso, as second par. inserting reservation of ownership provision and deleting "permitted" preceding "leased" or otherwise granted"; and former second proviso as proviso in second par.

1927 Amendment. Act Feb. 7, 1927, included deposits of potassium.

Short Title of 1981 Amendment. Pub.L. 97-78, Nov. 16, 1981, 95 Stat. 1070, which generally made provision for a combined hydrocarbon lease through an amendment of this section and sections 182, 184, 209, 226, 241, 351, and 352 of this title and the enactment of provisions set out as a note under this section, is popularly known as the Combined Hydrocarbon Leasing Act of 1981.

Short Title of 1976 Amendment. Pub.L. 94-377, § 7(a), Aug. 4, 1976, 90 Stat. 1083, as amended by Pub.L. 95-554, § 8, Oct. 30, 1978, 92 Stat. 2075, provided that: "This Act [enacting sections 202a, 208-1 and 208-2 of this title, amending sections 184, 191, 201, 203, 207, 209 and 252 of this title, repealing sections 201-1 and 204 of this title, and enacting provisions set out as notes under sections 184, 201, 201-1,

203, and 204 of this title] may be cited as the 'Federal Coal Leasing Amendments Act of 1976'."

Short Title of 1960 Amendment. Section 1 of Pub.L. 86-705 provided that Pub.L. 86-705, which amended sections 181, 182, 184, 187a, 226, 226-1, 226-2, and 241 of this title, and enacted provisions set out as notes under sections 187a and 226 of this title may be cited as the "Mineral Leasing Act Revision of 1960."

Short Title of 1946 Amendment. Act Aug. 8, 1946, c. 916, 60 Stat. 950, as amended, which enacted sections 187a, 187b, 226c, and 236b of this title, amended sections 181, 184, 188, 193, 209, 225, 226, and 285 of this title, repealed sections 223, 226a, and 226b of this title, and enacted a provision set out as a note under section 181 of this title, is popularly known as the O'Malley-Hatch Act.

Short Title of 1927 Amendment. Act Feb. 7, 1927, c. 66, 44 Stat. 1057, as amended, which enacted sections 281 to 287 of this title, amended sections 181 and 193 of this title, and repealed sections 141 to 152 of this title, is popularly known as the Potash Leasing Act of 1927 and the Potassium Act of 1927.

Short Title. This chapter is popularly known as the General Leasing Act, the Mineral Lands Leasing Act, the Mineral Lands Leasing Act of 1920, the Mineral Leasing Act, the Mineral Leasing Act of 1920, and the Oil Lands Leasing Act.

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ATTACHMENT TWO  
Mineral Leasing Act,  
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on the amount of such taxes, and there was nothing in the language or legislative history of this section to support an assertion that Congress intended to maximize and capture through royalties all "economic rents" from the mining of federal coal, and then to divide

the proceeds with the state in accordance with formula. *Commonwealth Edison Co. v. Montana*, Mont.1981, 101 S.Ct. 2946, 453 U.S. 609, 69 L.Ed2d 884, rehearing denied 102 S.Ct. 889, 453 U.S. 927, 69 L.Ed2d 1023.

### § 190. Oath; requirement; form; blanks

All statements, representations, or reports required by the Secretary of the Interior under this chapter shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

(Feb. 25, 1920, c. 85, § 33, 41 Stat. 450.)

#### Cross References

Foreign interests in leases of public lands made under this section, see section 7435 of Title 10, Armed Forces.

Jurisdiction and control over naval petroleum reserves covered by leases granted under this section, see section 7421 of Title 10.

Laws applicable, see sections 275 and 285 of this title.

#### West's Federal Forms

Jurat, see § 1487.

### § 191. Disposition of moneys received

All money received from sales, bonuses, royalties including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C.A. § 1701 et seq.], and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [30 U.S.C.A. § 1001 et seq.], notwithstanding the provisions of section 20 thereof [30 U.S.C.A. § 1019], shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this chapter and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as "miscellaneous receipts", as provided by section 7433(b) of Title 10. All moneys received under the provisions of this chapter and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts. Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States

Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.

(Feb. 25, 1920, c. 85, § 35, 41 Stat. 450; May 27, 1947, c. 83 61 Stat. 119; Aug. 3, 1950, c. 527, 64 Stat. 402; July 10, 1957, Pub.L. 85-88, § 2, 71 Stat. 282; July 7, 1958, Pub.L. 85-508, §§ 6(k), 28(b), 72 Stat. 343, 351; Apr. 21, 1976, Pub.L. 94-273, § 6(2), 90 Stat. 377; Aug. 4, 1976, Pub.L. 94-377, § 9, 90 Stat. 1090; Sept. 28, 1976, Pub.L. 94-422, Title III, § 301, 90 Stat. 1323; Oct. 21, 1976, Pub.L. 94-579, Title III, § 317(a), 90 Stat. 2770; Jan. 12, 1983, Pub.L. 97-451, Title I, § 104(a), 111(g), 96 Stat. 2451, 2456.)

#### Historical Note

**References in Text.** The Federal Oil and Gas Royalty Management Act of 1982, referred to in text, is Pub.L. 97-451, Jan. 12, 1983, 96 Stat. 2447, which is classified generally to chapter 29 (section 1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables volume.

The Geothermal Steam Act of 1970, referred to in text, is Pub.L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (section 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables volume.

The Reclamation Act, referred to in text, is Act June 17, 1902, c. 1093, 32 Stat. 388, as amended, which is classified generally to chapter 12 (section 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables volume.

**Codification.** "Section 7433(b) of Title 10" was substituted for "the Act of June 4, 1920 (52 Stat. 813), as amended June 30, 1938 (52 Stat. 1252)", which was classified to section 24 of former Title 34, Navy, on authority of Act Aug. 10, 1956, c. 1041, § 49(b), 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

Provisions of this section which authorized the payment of monies to the Territory of Alaska were omitted as superseded by the provisions authorizing the payment of monies to the State of Alaska.

1983 Amendment. Pub.L. 97-451, § 104(a), struck out "as soon as practicable after March 31 and September 30 of each year" after "Secretary of the Treasury" and "of those from Alaska", and added at the end provisions directing that payments to States be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, that warrants be issued by

the Treasury not later than 10 days after receipt of the money by the Treasury, that moneys placed in a suspense account which are determined to be payable to a State be made not later than the last business day of the month in which a dispute is resolved, and that amounts placed in a suspense account pending resolution bear interest until the dispute is resolved.

Pub.L. 97-451, § 111(c), inserted reference to interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982.

1976 Amendment. Pub.L. 94-579 substituted provision setting forth determination of

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ATTACHMENT TWO, CONT.  
Mineral Leasing Act,  
revenue disposition

## MEMORANDUM

Attorney General's opinion on  
Alaska's 90% revenue entitlement  
in ANWR

TO: Honorable Bill Sheffield Governor State of Alaska  Harold M. Brown Attorney General	DATE: April 28, 1986  FILE NO: 663-86-0339  TELEPHONE NO: 465-3600
FROM: G. Thomas Koester <i>GTK</i> By: Assistant Attorney General Department of Law	SUBJECT: ANWR issues -- federal 90 percent revenue sharing

As part of an overall analysis of potential oil and gas leasing in the Arctic National Wildlife Refuge ("ANWR"), you asked this department to prepare a preliminary analysis of two specific issues: (1) the effect of a possible land trade on the state's 90 percent royalty share of oil and gas production from federal lands in wildlife refuges; and (2) legal arguments which might be raised with respect to possible congressional consideration of a reduction in the state's current 90 percent royalty share.

In brief, we believe (1) a land trade would eliminate the state's 90 percent royalty share of production from the lands traded by the United States to third parties and probably would result in the state receiving no royalty from oil and gas produced on the exchange lands received by the federal government, and (2) there are both legal and policy arguments the state can make against a congressional reduction of the state's royalty share, but we cannot be certain that they would prevail.

### I. Background

When the United States issues oil and gas leases for lands within wildlife refuges, distribution of the revenues received by the United States from that leasing depends on whether the refuge lands from which the revenues are derived are acquired lands or reserved public domain lands. "[A]cquired lands are those granted or sold to the United States by a State or citizen and public domain lands were usually never in state or private ownership." Wallis v. Pan American Petroleum Corp., 384 U.S. 63, 65 n.2 (1966).

Oil and gas leasing on acquired lands is governed by the Mineral Leasing Act for Acquired Lands, 30 U.S.C. §§ 351 et seq. Under that Act, revenues from oil and gas leases on acquired lands are to be "distributed in the same manner as prescribed for other receipts from the lands affected by the lease." 30 U.S.C. § 355. As applied to wildlife refuges created from acquired lands, this provision requires that oil and gas revenues be distributed according to the formula contained in the Wildlife

The Honorable Bill Sheffield  
Governor, State of Alaska  
663-86-0339

April 23, 1986  
Page 2

Refuge Revenue Sharing Act, 16 U.S.C. § 715s, which provides that 75 percent of the revenues go to the federal government and 25 percent of the revenues go to the county in which the wildlife refuge is located.

Oil and gas leasing on public domain lands reserved for wildlife refuge purposes, on the other hand, is governed by the Mineral Leasing Act of 1920, 30 U.S.C. §§ 191 et seq. Under that Act, the state is entitled to 90 percent of the revenues from such lands in refuges in Alaska and 10 percent is paid into the United States Treasury. \*/ See generally Watt v. Alaska, 451 U.S. 259 (1981).

Congress extended the Mineral Leasing Act distribution formula for revenues from public domain lands, including reserved public domain lands in wildlife refuges, to Alaska in section 28(b) of the Alaska Statehood Act. Congress considered this one of the "major provisions" of the Act. H.R. Rep. No. 624, 85th Cong., 1st Sess. 3 (June 25, 1957) ("House Report"). Congress did so, in large part, because so much of Alaska was "tied up in the status of Federal reservations and withdrawals for various purposes," stating that this "practice has been carried to extreme lengths in Alaska." House Report at 7. One result of that "unhealthy situation," id. at 8, is that substantial mineral leasing revenues in Alaska are derived from public lands in federal withdrawals and reservations, including wildlife refuges, a situation unique to Alaska. See Watt, 451 U.S. at 261, n.1.

The Mineral Leasing Act, and its revenue distribution formula under which 90 percent of the revenues are dedicated to the state, represented a historic tradeoff in the history of public land law. In enacting it, Congress terminated its historic policy of disposing of the public lands. Instead, it determined

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\*/ States other than Alaska receive only 50 percent of public domain land mineral revenues. However, an additional 40 percent of those revenues are paid into the Reclamation Fund established under the Reclamation Act of 1902. Those funds, in turn, are used to fund reclamation projects in those states. Alaska is not covered by the Reclamation Act and receives no benefits under it. Congress considered it only fair that the additional 40 percent share of public domain land revenues be paid to Alaska "in return for Alaska not being covered by the Reclamation Act of 1902." See H.R. Rep. No. 624 (to accompany H.R. 7999), 85th Cong., 1st Sess. 23 (June 25, 1957).

The Honorable Bill Sheffield  
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663-86-0339

April 28, 1986  
Page 3

that the federal government should retain those public lands remaining in the states, but should use most of the mineral revenues from those lands for the states' benefit. The 90-10 revenue distribution formula in the Mineral Leasing Act "was to compensate for the states' inability to tax the lands to pay for governmental services." Fairfax and Yale, The Financial Interest of Western States in Non-tax Revenues from the Federal Public Lands 19, published by the Western Legislative Conference, Council of State Governments, and the Lincoln Institute of Land Policy (1985).

In contrast, the Wildlife Refuge Revenue Sharing Act, under which 25 percent of certain wildlife refuge revenues are shared with the counties in which the refuges lie, was intended to reduce local opposition to federal acquisition of land for refuge purposes. The revenue sharing formula was intended to compensate localities for the loss of property tax revenue when the federal government acquired the land and, as a result, it was removed from the local tax rolls. As a general proposition, this rationale would not fit federal acquisition of large tracts of either state land or undeveloped Native corporation land, neither of which currently are subject to local property taxes. See Alaska Const. art. IX, § 4; 43 U.S.C. § 1620(d).

Nonetheless, the distinction between acquired land in wildlife refuges and public domain land reserved for refuge purposes is central to resolution of the first question you asked us to discuss. The fact that Congress extended the Mineral Leasing Act to Alaska in the Statehood Act bears directly on your second question.

## II. The Effect of a Land Trade on the State's 90 Percent Royalty Share

We understand that the Department of the Interior is contemplating certain land trades under which federal lands in ANWR would be exchanged for privately-owned Native corporation lands constituting inholdings in other federal conservation system units in Alaska. If such exchanges take place, and the exchanged ANWR lands are offered for oil and gas leasing, the Native corporations would be the lessors entitled to receive the revenues. The revenues would not be received by the federal government as result of leasing under the Mineral Leasing Act, and those revenues would not be subject to the Mineral Leasing Act's 90-10 distribution formula. Accordingly, there would be no basis for the state to claim any portion of the revenues derived. In other words, land trades would totally eliminate the state's 90 percent royalty share from such ANWR lands.

The Honorable Bill Sheffield  
Governor, State of Alaska  
663-86-0339

April 23, 1986  
Page 4

In addition, it should be noted that the state would have no right to any federal oil and gas revenues derived from the lands obtained by the United States from the Native corporations. Those lands would be acquired lands, not reserved public domain lands, and the revenue distribution from federal oil and gas leases on those lands would be governed by the Mineral Leasing Act for Acquired Lands. As noted earlier, revenues from oil and gas leasing of acquired lands in wildlife refuges are governed by Wildlife Refuge Revenue Sharing Act, which provides that 25 percent of any such revenues are to go to the county in which the refuge is located and 75 percent to the federal government. None of the revenues go to the state.

The state could argue that this should not be the result. The rationale for the Wildlife Refuge Revenue Sharing Act distribution scheme -- i.e., compensating municipalities for lost property tax receipts -- does not apply to undeveloped Native corporation lands, which are not subject to local property taxes under the Alaska Native Claims Settlement Act (at least until 1991). See 43 U.S.C. § 1620(d). Moreover, the state can argue that the United States cannot eliminate its 90 percent share of revenues from reserved public domain lands by trading them on the ground that doing so would violate the solemn compact memorialized in the Alaska Statehood Act.

However, we believe both arguments probably would be unavailing in court. The first argument appears to be more of a policy argument than a legal argument, more appropriately directed to Congress and not the courts. The second argument would require the court to find that the extension of the Mineral Leasing Act to Alaska also constituted an implied promise not to convey federal lands to third parties, which simply is not supported by the legislative history of section 28(b) of the Statehood Act.

### III. Congressional Reduction of the State's 90 Percent Royalty Share

As noted in section I above, Congress extended the Mineral Leasing Act distribution formula for revenues from public domain lands, including reserved public domain lands in wildlife refuges, to Alaska in section 28(b) of the Alaska Statehood Act. Alaska accepted the provisions of the Statehood Act in article XII, section 13, of the Alaska Constitution. Provisions of a Statehood Act become obligatory on the United States upon acceptance of those provisions by the new state. See, e.g., Cooper v. Roberts, 59 U.S. (18 How.) 173 (1856); see generally 1981 Op. Att'y Gen. No. 3, at 3-5 (April 2). Particularly in light of

ATTACHMENT THREE, cont.

The Honorable Bill Sheffield  
Governor, State of Alaska  
663-86-0339

April 23, 1986  
Page 3

Congress' characterization of the extension of the Mineral Leasing Act to Alaska as one of the "major provisions" of the Alaska Statehood Act, the state has a very strong argument that continued application of the Mineral Leasing Act's distribution formula to oil and gas leasing revenues from reserved Federal public domain lands in ANWR is required as part of Alaska's statehood compact (at least as long as those lands remain federally-owned).

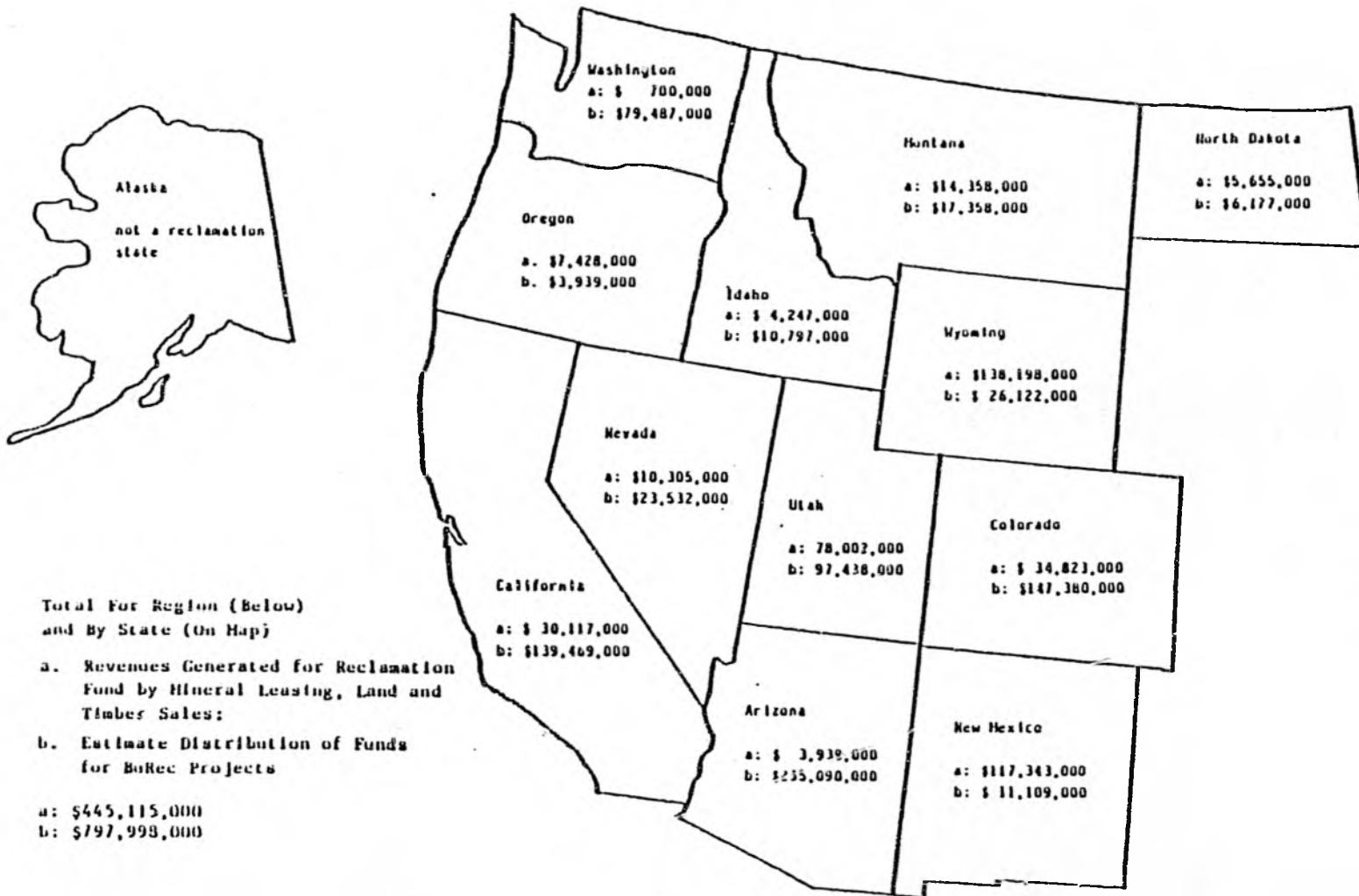
At the same time, we must point out that the United States might successfully argue that Congress has the plenary authority to modify the distribution formula for oil and gas revenues from ANWR. In Watt v. Alaska, Justice Stevens (concurring in the Court's decision that the Mineral Leasing Act's 90-10 distribution formula applied to oil and gas revenues from the Kenai National Moose Range) stated:

The question of how to divide the revenues from oil and gas leases on public lands in the Kenai Peninsula is clearly a matter for Congress to decide. If Congress is displeased with the decisions of this Court and the Court of Appeals [i.e., the decisions that Alaska is entitled to 90 percent of the revenues], it may promptly reverse them by revising the relevant statutes.

451 U.S. at 274. We did not make a statehood compact argument in that case and it was not before the Court. Nonetheless, Justice Stevens' comment undoubtedly will be cited by the United States in the event Congress changes the current 90-10 distribution formula in the Mineral Leasing Act or establishes a different distribution formula specifically for revenues from ANWR.

We hope this responds to your request. If we can provide additional information, please contact us at your convenience.

GTK:dln  
cc: John Katz  
Office of the Governor  
Washington, D.C.



Total For Region (Below)  
and By State (On Map)

a. Revenues Generated for Reclamation  
Fund by Mineral Leasing, Land and  
Timber Sales:

b. Estimate Distribution of Funds  
for BuRec Projects

a: \$445,115,000  
b: \$197,998,000

Figure 11. Revenues Generated for Reclamation Fund, and Estimated  
Distribution of Funds for Bureau of Reclamation Projects (1982)

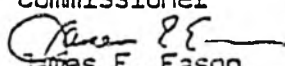
ATTACHMENT FOUR  
Reclamation funding for the  
western states, 1982  
From Fairfax and Yale, 1985


# MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL AND GAS

TO: Judith M. Brady  
Commissioner

THRU:   
James E. Eason  
Director

FROM:   
Edward Phillips  
Petroleum Economist

DATE: January 12, 1987

FILE NO:

TELEPHONE NO: 561-2020

SUBJECT: Arctic National  
Wildlife Refuge (ANWR)  
Land Trades and  
Potential State Revenue

DNR geologists and geophysists are in unanimous agreement that lands within the coastal plain of ANWR represent the best remaining potential for major oil and gas discoveries in Alaska. This estimated potential substantially exceeds that of remaining unleased state lands. Under current law, federal leasing of ANWR lands for oil and gas development would yield 90 percent of any bonuses, rentals and royalty income to the state. In addition, the state would receive severance, corporate, property and conservation taxes from development of ANWR leases. However, the royalty share alone could constitute upwards of 70 percent of total state revenue from potential ANWR development.

Both past and proposed ANWR land trades with native corporations reduce the revenue potential to the state by eliminating the state's share of potential federal bonuses, rentals and royalties, but not state taxes. Although the state's overall severance tax revenues would increase from development of ANWR regardless of whether or not the royalty share is reduced by exchanges, this gain is inconsequential by comparison to the state's potential royalty loss from additional federal exchanges with third parties.

Given ANWR's oil and gas potential, these losses could be substantial. The attached table reflects the staff estimates of the relative state revenue impacts of ANWR development assuming no additional exchanges and no legislative reduction in the state's 90 percent share of revenues from leasing in ANWR. The revenue projections contained in Table 1 are derived from the geological, geophysical and economic information contained in the Draft ANWR Coastal Plain Resource Assessment (1002 Report). The draft report data and assumptions were used by the federal government to compute the Net National Economic Benefits (NNEB) from leasing ANWR and to provide the justification for the policy recommendations contained within the report.

Specific assumptions underlying the attached revenue projections are not crucial to the basic issue, which is one of relative shares, or how the potential pie is sliced rather than absolute amount(s) involved. No revenue projection or forecast that has the year 2000 as a base year can be treated as a likely outcome. It is more properly viewed as "one possible outcome." The use of federal revenue numbers just assures us that we are all speaking the same language.

Judith M. Brady, Commissioner  
January 12, 1987  
Page 2

The assumptions underlying the estimates of potential land trade-related revenue gains and losses to the state have geological, geophysical and economic components. ~~X~~The 1002 Report indicates that if oil is discovered, the average recoverable reserves are estimated at 3.2 billion barrels. This quantity was used for the NNEB estimate derived by ELM for the draft 1002 report, and provides the "assumed" reserve base or recoverable reserves for this discussion. ~~X~~In our analysis, production would commence (from two fields) in 2000 at a 1984 dollar price of \$33.00 per barrel, and escalate at one percent per year in real terms (production from one of the fields could be delayed for a year or two without substantially affecting the results). ~~X~~All estimates are in 1984 dollars, hence they are net of inflation, but they are not discounted to reflect the time value (time preference) of funds to the state.

The estimates are for the years 2000 through 2010. Production cannot realistically be expected much before that time, and the Department of Revenue currently does not provide estimates of Prudhoe Bay revenues embodying the federal price assumptions for periods beyond 2010.

As Table I illustrates, potential ANWR revenues to the state (even given current ASRC/KIC inholdings) could be substantial, exceeding those of Prudhoe Bay by the year 2005. By the year 2010, ANWR's revenue potential is almost double that of Prudhoe Bay using the federal price assumptions. This would be true of almost any set of prices exceeding the development threshold for ANWR. Based upon the assumptions we have analyzed, any further transfers of prospective ANWR lands from federal jurisdiction reduces the state's per-barrel revenue potential by about 70 percent as a result of loss to the state of potential royalties, bonuses and rentals. As can be seen from Table 1, the potential royalty revenue at stake exceeds six billion dollars.

We believe a significant transfer of revenue potential has already occurred by virtue of ASRC's receipt of subsurface title to the two inholdings near Kaktovik. The Oil and Gas Section of DMGGS has estimated that up to 25% of ANWR's oil and gas reserve potential may be contained in lands already received by ASRC. Thus, this land trade could cost the state as much as \$1.6 billion (1984 \$) in lost royalty revenues if the assumptions used in the draft 1002 report and in this analysis are assumed. The volume of oil and gas discovered and its relative locations will ultimately determine the extent of the revenue "loss" associated with the previous ASRC/KIC land trades and any future land trades.

Attachment

0274P

TABLE I  
ESTIMATED POTENTIAL INCOME 2000 TO 2010\*  
(10<sup>6</sup> 1984\$)

Year	Prudhoe Bay			ANWR (with current ASRC Inholding)			ANWR Revenue as % of P.B. Revenue
	Royalty	Severance	Total	Royalty	Severance	Total	
2000	1056	670	1726	155	0 <sup>?</sup>	155	9
2001	923	573	1496	528	234	762	51
2002	814	488	1302	767	412	1179	85
2003	711	419	1130	779	418	1197	106
2004	625	362	987	790	425	1215	123
2005	534	313	847	711	431	1142	135
2006	430	266	696	629	341	970	139
2007	359	223	582	560	266	826	142
2008	294	179	473	506	206	712	151
2009	235	138	373	448	148	596	160
2010	159	100	259	406	105	511	197
	<u>6140</u>	<u>3731</u>	<u>9871</u>	<u>6279</u>	<u>2986</u>	<u>9265</u>	

Ass →  
700

3495      2986      6485

\* using federal price assumptions

this reduction to 50% results in  
a total revenue reduction of 30%  
over this period of time

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
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PHONE: (907) 276-3550

1st NATIONAL CENTER  
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SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

P.O. BOX K-STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

March 2, 1987

The Honorable Sam Cotten  
Co-Chairman  
Resources Committee  
P.O. Box V  
Juneau, AK 99811

Re: 90-10 Revenue distribution  
for federal lands

Dear Representative Cotten:

In a February 26, 1987 memorandum, you asked a number of questions regarding federal-state sharing of oil and gas revenues in the event of oil and gas leasing in the Arctic National Wildlife Refuge ("ANWR"). You asked:

1) If the Congress were to repeal the provisions of ANILCA closing the ANWR coastal plain to oil and gas exploration and drilling, without amending the Mineral Leasing Act of 1920 or the Statehood Act, would the State be entitled to 90 percent of the federal oil and gas revenues derived from Refuge lands? Are there foreseeable circumstances under which federal lands in the coastal plain could be considered other than "public land" subject to the Mineral Leasing Act and the 90-10 federal-state revenue sharing arrangement?

2) Was PET 4 (the former Naval Petroleum Reserve) "public land" subject to the same 90-10 revenue sharing arrangement as other public land in Alaska? When the NPRA Act passed in 1976, did it reduce or expand the state's revenue entitlement from the affected acreage?

Before answering your specific questions, it may be helpful briefly to review the background of the 90-10 revenue sharing arrangement which currently exists. The distribution of oil and gas revenues from federal lands depends on whether they are "acquired lands" or "public domain lands." In general, "acquired lands are those granted or sold to the United States by a State or citizen and public domain lands were usually never in state or private ownership." Wallis v. Pan American Pet. Corp., 384 U.S. 63, 65 n.2 (1966).

Oil and gas leasing on acquired lands is governed by the Mineral Leasing Act for acquired lands, 30 U.S.C. §§ 351 et seq. Under that Act, revenues from oil and gas leases on acquired lands are to be "distributed in the same manner as prescribed for other receipts from the lands affected by the lease." 30 U.S.C. § 355. As applied to wildlife refuges created from acquired lands, this provision requires that oil and gas revenues be distributed according to the formula contained in the Wildlife Refuge Revenue Sharing Act, 16 U.S.C. § 715s, which provides that 75 percent of the revenues go to the federal government and 25 percent of the revenues go to the county in which the wildlife refuge is located. The rationale for this distribution formula is that the lands were on local tax roles while in private ownership, and giving some of the receipts from the lands to the local county compensates the county for the loss of those property tax revenues.

Oil and gas leasing on public domain lands is governed by the Mineral Leasing Act of 1920, 30 U.S.C. §§ 181 et seq. Under that Act, 90 percent of the revenues are dedicated to the benefit of the states \*/ and 10 percent are paid into the United States Treasury.

This 90-10 revenue distribution formula applies to both vacant, unappropriated and unreserved public domain

---

\*/ For lower 48 states, 50 percent of federal oil and gas revenues from public domain lands are paid directly to the states and 40 percent is deposited into the Reclamation Fund created by the Reclamation Act of 1902. Because Alaska is not covered by the Reclamation Act and receive no benefits from the Reclamation Fund, we receive the full 90 percent of such revenues from federal public domain lands in Alaska.

lands and (with limited exceptions not applicable here) public domain lands withdrawn and reserved for specific purposes, including withdrawals and reservations for wildlife refuges. I represented Alaska in Watt v. Alaska, 451 U.S. 259 (1981), in the United States Supreme Court. The precise issue in that case was whether the 90-10 revenue distribution formula applied to the withdrawn and reserved lands of the Kenai National Moose Range. The Supreme Court, over the United States' objection, held that it did.

Like the lands in the Moose Range, the lands in ANWR were withdrawn and reserved from the public domain for refuge purposes; they are not acquired lands. There is no substantive distinction between the Moose Range lands and the lands in ANWR, and there is no substantive legal basis for concluding that federal oil and gas leasing revenues from ANWR would be distributed differently than those from the Moose Range under existing law.

The revenue distribution formula in the Mineral Leasing Act represented an historic trade-off in the history of public land law. In enacting it, Congress terminated its historic policy of disposing of the public lands. Instead, it determined that the federal government should retain those public lands remaining in the states, but should use most of the mineral revenues from those lands for the state's benefit. See generally, Fairfax and Yale, The Financial Interest of Western States in Non-Tax Revenues From the Federal Public Lands (manuscript copy published by the Western Legislative Conference, Council of State Governments, and the Lincoln Institute of Land Policy in 1985). This historic compromise has governed distribution of mineral revenues from federal lands, particularly in the western states, since 1920, and we can see no foreseeable circumstances under which that fundamental compromise would be changed at this time.

Accordingly, the answers to your first set of questions are: (1) The state would be entitled to 90 percent of the federal oil and gas revenues derived from ANWR lands if Congress repealed the closure of the ANWR coastal plain in ANILCA without amending the Mineral Leasing Act of 1920 or the Statehood Act; and (2) we see no foreseeable circumstances under which the ANWR coastal plain would not be subject to the Mineral Leasing Act.

As noted briefly above, there are a few limited exceptions in the Mineral Leasing Act. One of these is for

"lands within the naval petroleum and oil-shale reserves." 30 U.S.C. § 181. The revenue distribution provisions of the Mineral Leasing Act provide that all monies which may accrue to the United States "from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous receipts' ..." 33 U.S.C. § 191.

In other words, at the time of the historic compromise when the United States decided to retain large tracts of lands and share the benefits of mineral development with the states in which those lands were located, it expressly exempted from that sharing any benefits deriving from the naval petroleum and oil-shale reserves. Former Naval Petroleum Reserve No. 4 ("PET 4"), now known as the National Petroleum Reserve in Alaska ("NPRA"), accordingly has never been subject to the Mineral Leasing Act of 1920 and the 90-10 revenue distribution formula had no application to any revenues from NPRA. In section 11 of the Alaska Statehood Act, Congress retained the exclusive legislative authority over PET 4 as long as it remained a naval reserve, so its status as far as federal-state relations has always been somewhat different than other federal lands. When Congress finally opened NPRA to competitive leasing in 1980, it did so independently of the Mineral Leasing Act. It was that separate congressional action in 1980 -- not the Mineral Leasing Act -- which resulted in the state receiving 50 percent of revenues from oil and gas leasing in NPRA. See 42 U.S.C. § 6508. Absent that congressional action, the state would have been entitled to none of the revenues from NPRA.

Summarizing, the answers to your second set of questions are: (1) PET 4 was never subject to the same 90-10 revenue sharing arrangement; instead, it was a specific (and single) exception to the 90-10 revenue sharing formula; and (2) when Congress authorized leasing in NPRA, it provided that the state was to receive 50 percent of the revenues instead of none of those revenues which is what the current law at that time would have provided in the absence of congressional action.

The Honorable Sam Cotten  
Co-Chairman, Resources Committee

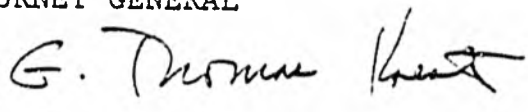
March 2, 1987  
Page 5

I hope this answers your questions. If we can be of further assistance, please contact us at your convenience.

Sincerely,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:

  
G. Thomas Koester  
Assistant Attorney General

GTK/dlm

cc: Lieutenant Governor Stephen McAlpine  
Commissioner Judy Brady, DNR  
Commissioner Don W. Collinsworth, F&G  
Commissioner Dennis Kelso, DEC  
John Katz, Office of the Governor  
Bob Grogan, Office of the Governor  
Rod Swope, Office of the Governor



THE SECRETARY OF THE INTERIOR  
WASHINGTON

February 17, 1987

His Excellency Allan Gottlieb  
Ambassador of Canada  
Washington, D.C. 20036

Dear Mr. *Allan* Ambassador:

Your February 12 letter understandably responds to press reports of my remarks regarding the conduct of Canada with regard to two matters: acid rain and the Arctic National Wildlife Refuge, Alaska. I would have welcomed the opportunity for a personal discussion with you on these matters, at the very least to provide the facts before your letter was released or leaked to the press.

On the subject of acid rain, whether or not it is the intention of the Canadian government to persuade the United States to adopt a high-cost emissions control program for the purpose of raising U.S. domestic costs so that we would buy more energy, and at higher prices, from Canada -- it is the effect of such a program. Canadian electricity producers already have entered into contracts with American companies in which the price of electricity has been tied to the cost of coal-fired generation in the United States. This is a fact that cannot be denied and about which I repeatedly have expressed concern.

I also am concerned about the Canadian government's position with regard to whether the Arctic National Wildlife Refuge (ANWR), Alaska, should be explored for oil and gas.

Both Canada and the United States have developed, and I believe can continue to explore for and develop, important energy resources without jeopardizing the wildlife resources shared by our two countries. The United States is bound by statutory obligations to protect these wildlife resources. No United States proposal for exploration or development in ANWR would be acceptable to us unless it was compatible with wildlife and native subsistence interests.

Although I have not yet made a decision on our final report and recommendation to the U.S. Congress on this issue, I have been advised that the draft report recognizes the sensitivity of potential development activities in Porcupine Caribou calving areas. The United States has made bold efforts to negotiate an agreement with Canada on the protection of the Porcupine Caribou herd and to seek assurances that the herd will remain a productive and renewable resource, especially for those who depend on it for preservation of their cultural and traditional way of life.

I am astonished at the Canadian position supporting Wilderness designation for ANWR in light of Canada's own exploration and development activities on the Arctic North Slope and in the Beaufort Sea. I regret that you did not acknowledge America's ability to seek and develop vital energy resources while protecting the environment.

I also am surprised that your Government has taken exception to the draft ANWR report because of uncertainty involved in estimating the resource potential of ANWR which is likely to be 300 million to 10 billion barrels of oil, and could possibly be up to 29 billion barrels -- an amount approximately equal to the entire U.S. proven oil reserves. The only way we know to be sure of what resources are available is through exploration.

We agree that the Alaska National Interest Lands Conservation Act (ANILCA) with regard to ANWR intended that the U.S. consult with Canada on ANILCA interests which affect Canada. However, our Solicitor advises that Section 1005 of ANILCA does not address specifically the Section 1002(h) report nor does it establish a timetable for when consultation should take place. We believe strongly that a draft report which affects directly the interests, people and resources of the U.S. should not be reviewed and evaluated by Canada alone and in advance of review by our own citizens.

The Government of Canada has had full, concurrent opportunity -- and has used that opportunity -- to comment on the draft report's findings and conclusion. Your comments will be analyzed with care along with those of other interested parties.

I must mention, however, that oil and gas exploration, development and related activities have been conducted in Canada, which affect our internationally-shared resources, in the absence of consultation with the United States. We were not consulted when Canada drilled oil and gas exploratory wells near concentrated calving areas of the Porcupine Caribou herd east of the Firth River. We were not consulted about construction of the Dempster Highway and had to initiate discussion with your Government about our concerns over the potential impact on the Porcupine Caribou herd of a highway that bisects the herd's migration route. In addition, we had to approach Canada with concerns raised by Kaktovik, Alaska, Natives about possible effects on the Bowhead Whale from energy development in the Beaufort Sea. Consultation should not operate in one direction; it must be a two-way street.

I hope the Government of Canada will review its position on ANWR in light of its own activities and experiences and I look forward to the opportunity to discuss these matters in the future.

Sincerely,



DONALD PAUL HODEL

cc: Secretary of State Shultz  
Secretary of Energy Herrington

Page 3



Official Business

# Alaska State Legislature

Senate

~~FEB 4 1987~~

FEB 5 1987

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

DATE: February 4, 1987  
SUBJECT: 90-10 - ANWR  
TO: Governor Steve Cowper  
Alaska State Senate  
FROM: Senator Jay Kerttula *J. Kerttula*

Congress considered the extension of the Mineral Leasing Act to Alaska in Sec. 28(b) of the Alaska Statehood Act to be a major provision of that act. These provisions are obligatory on the United States.<sup>1</sup>

The Mineral Leasing Act represented a historic tradeoff in the history of public land law when Congress terminated the policy of disposing of public lands. It determined to retain the public lands in federal ownership but to use the revenues from those lands for the benefit of the states and all their residents in which the lands were located. Allowing private corporations to acquire title to these public land areas seriously compromises the statehood effort and the federal determination to provide Alaska an opportunity to catch up with other states. As an obvious example, we have almost no road system compared to other states. Until basics are equalized, we must not let the federal legacy be eroded.

<sup>1</sup>Information obtained from memo from Attorney General's office.

f. STR 28  
(Resumes)

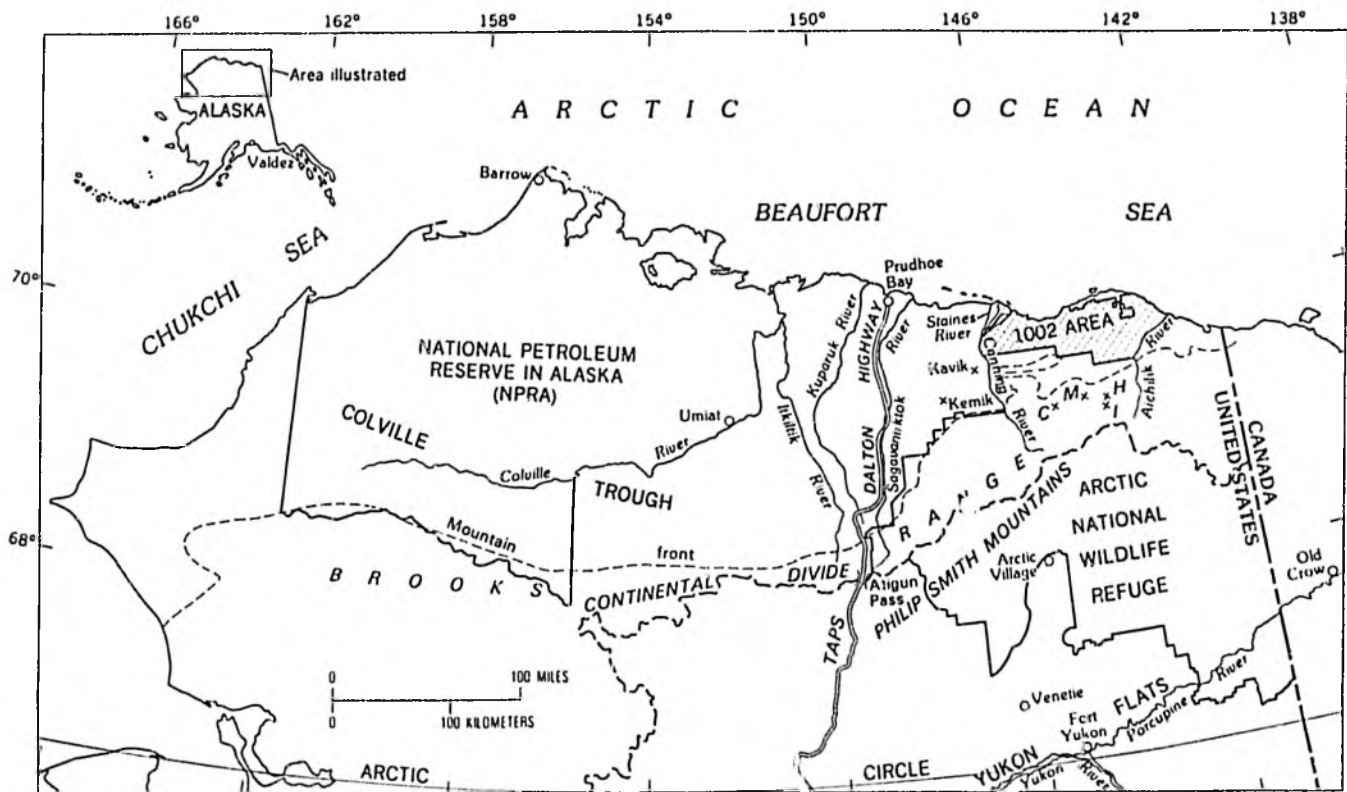


Figure I-1.--Index map of northern Alaska showing location of 1002 area in relation to the Arctic National Wildlife Refuge (Arctic Refuge), the National Petroleum Reserve in Alaska (NPR), and Prudhoe Bay. Four highest peaks in the Brooks Range: C, Mt. Chamberlin; I, Mt. Isto; H, Mt. Hubley; M, Mt. Michelson.

## SUMMARY

### ARCTIC NATIONAL WILDLIFE REFUGE, ALASKA, COASTAL PLAIN RESOURCE ASSESSMENT Report and Recommendation to the Congress/Final Legislative Environmental Impact Statement APRIL 1987

Prepared by the U.S. Fish and Wildlife Service, in cooperation with the U.S. Geological Survey and the Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

#### TYPE OF ACTION

Recommendation for legislative action concerning future management of the 1.5-million-acre coastal plain of the 19-million-acre Arctic National Wildlife Refuge (referred to herein as the "1002 area"), located in northeastern Alaska.

#### DESCRIPTION OF THE PROPOSED ACTION

The Secretary of the Interior recommends to the Congress of the United States that it enact legislation directing the Secretary to conduct an orderly oil and gas leasing program for the 1002 area at such pace and in such circumstances as he determines will avoid unnecessary adverse effect on the environment.

The 1002 area is the Nation's best single opportunity to increase significantly domestic oil production. It is rated by geologists as the most outstanding petroleum exploration target in the onshore United States. Data from nearby wells in the Prudhoe Bay area and in the Canadian Beaufort Sea and Mackenzie Delta, combined with promising seismic data gathered on the 1002 area, indicate extensions of producing trends and other geologic conditions exceptionally favorable for discovery of one or more supergiant fields (larger than 500 million barrels).

There is a 19-percent chance that economically recoverable oil occurs on the 1002 area. The average of all estimates of conditional economically recoverable oil resources (the "mean") is 3.2 billion barrels. Based on this estimate, 1002 area production by the year 2005 could provide 4 percent of total U.S. demand; provide 8 percent of U.S. production (about 660,000 barrels/day); and reduce imports by nearly 9 percent. This production could provide net national economic benefits of \$79.4 billion, including Federal revenues of \$38.0 billion.

#### ENVIRONMENTAL EFFECTS

Potential impacts were assessed for exploration, development drilling, and production. Impacts predicted for exploration and development drilling were minor or negligible on all wildlife resources on the 1002 area. Production of oil is expected to directly affect only 12,650 acres or 0.8 percent of the 1002 area. Consequences on species such as brown bears, snow geese, wolves, moose, and the Central Arctic caribou herd are expected to be negligible, minor, or moderate.

Potential major effects on wildlife from production are limited to the Porcupine caribou herd and reintroduced muskoxen. "Major biological effects" were defined as: "widespread, long-term change in habitat availability or quality which would likely modify natural abundance or distribution of species. Modification will persist at least as long as modifying influences exist."

The Porcupine caribou herd has shown some preference for calving on the 1002 area including the upper Jago River area (84,000 acres or 5.4 percent of the 1002 area). A potential consequence would be displacement of portions of the herd seeking to calve in the upper Jago River area—the case only if the area were the site of a major producing oil field. It is unlikely, though possible, that such displacement would result in any appreciable decline in herd size.

The potential effects of oil and gas activities on the area's muskoxen are unknown, although biologists predict that major effects could be: (1) substantial displacement from currently used habitat and (2) a slowing of the herd's growth rate, as distinguished from a diminution in herd size.

Potential effects on Native subsistence fall into two categories: the village of Kaktovik and villages outside the 1002 area. In the case of Kaktovik, a major restriction of subsistence activities could occur. This would likely result from the physical changes proximate to Kaktovik which could interfere with traditional activities. Subsistence effects on villages outside the 1002 area, including those in Canada, are expected to be minimal.

#### ALTERNATIVES TO THE PROPOSED ACTION

Alternatives for the Congress that were discussed in the report and legislative environmental impact statement include: (1) Authorize leasing limited to a part of the 1002 area based on environmental considerations (Alternative B); (2) authorize further exploration only, including exploratory drilling (Alternative C); (3) continue current refuge status with no further oil and gas activity allowed (Alternative D); and (4) designate the area as wilderness (Alternative E). For purposes of environmental impact statement analysis, Alternative D is considered the "no action" alternative.

#### CONTACTS

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Robert Schrott 202-653-2263  
Division of Geology and Mineral Resources  
Bureau of Land Management  
18th and C Streets, NW  
Washington, D.C. 20240

ON TOP OF

# ANWR

January 1989, Issue 9

## NEW CONGRESS TO CONSIDER COASTAL PLAIN ACTIVITY

Legislation to open the Coastal Plain of Alaska's Arctic National Wildlife Refuge (ANWR) was one of the first bills introduced in the new 101st Congress.

Rep. Don Young (R-AK), shortly after the new session began, introduced H.R. 49 which is identical to legislation he introduced in 1987. H.R. 49 would, "authorize the Secretary of Interior to lease, in an expeditious and environmentally sound manner, lands in the Coastal Plain of the Arctic National Wildlife Refuge for oil and gas exploration, development and production." The bill was referred jointly to the House committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

Young is optimistic and thinks ANWR legislation has a very good chance of passage. "We made significant progress on ANWR legislation last session, and I'm

confident the House will move an ANWR development bill through this Congress," Young said. The ANWR Coastal Plain is considered this nation's best hope for a major oil discovery.

Rep. Morris Udall (D-AZ) again introduced H.R. 39 which would designate the Coastal Plain a wilderness area, closing it to all oil and gas activities. Nearly half of ANWR's 19 million acres already is closed to development, and has been designated wilderness.

During the last Congress, ANWR legislation to open the 1.5-million-acre Coastal Plain to oil development was approved by the House Merchant Marine and Fisheries Committee and the Senate Energy Committee.

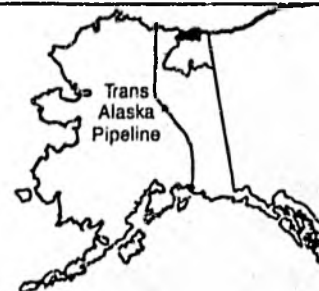
The 101st Congress has 11 new Senators and 33 new House members. There are 55 Democrats and 45 Republicans in the Senate, and 260 Democrats and 175

Republicans in the House.

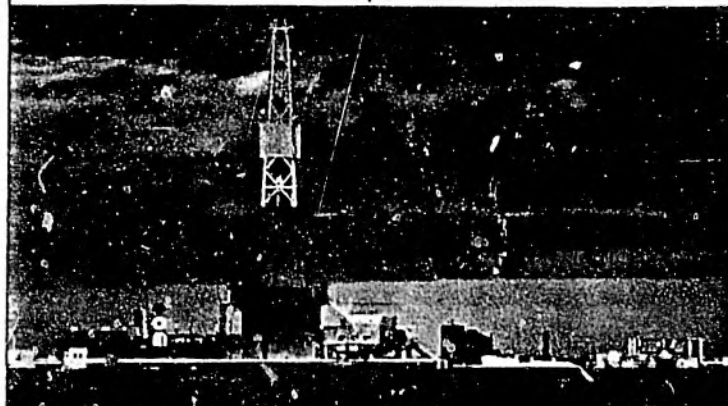
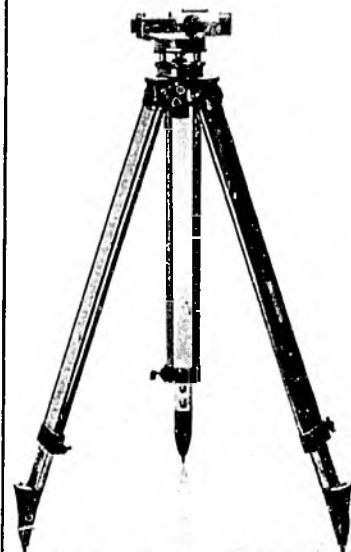
The ranks of the new Congress have at least one new congressional leadership position. George Mitchell (D-ME) has been elected the new Senate Majority Leader. Mitchell, who has eight years in the Senate, defeated Senate Energy Committee Chairman J. Bennett Johnston (D-LA) and Chairman of the Senate Select Committee on Indian Affairs Daniel Inouye (D-HI) for the leadership post. Johnston has served in the Senate for 16 years, and Inouye has been on Capitol Hill for 27 years.

Mitchell replaced Sen. Robert Byrd (D-W.V.), who stepped down. Republicans re-elected Bob Dole (R-KS) as Senate Minority Leader.

In the House of Representatives, Jim Wright (D-TX) continues as Speaker. Tom Foley (D-WA) will stay on as Majority Leader and Bob Michel (R-IL) has returned as Minority Leader.



■ Coastal Plain    □ Arctic National Wildlife Refuge



# READERS SUPPORT COASTAL PLAIN OIL DEVELOPMENT

Support for opening the Coastal Plain of Alaska's Arctic National Wildlife Refuge (ANWR) to oil exploration and development received the highest marks in a recent survey of "On Top of ANWR" newsletter readers. The results showed that 92 percent favored ANWR development.

Readers reported that the newsletter has helped them understand the ANWR issue. Sixty-three (63) percent said it helped very much, while 34 percent noted it helped somewhat.

Many of the newsletter readers have contacted their congressman and/or senators about supporting ANWR development. Forty-eight (48) percent said they had made contact, either by writing (23%), calling (5%), visiting (7%), or other (3%).

Of the 48 percent who contacted their congressional representative, 34 percent said it was a direct result of reading the ANWR newsletter.

Forty-five percent of the

readers said they get most of their information about ANWR from the newsletter.

Other sources included newspaper/magazine (30%), electronic media (8%), environmental organizations (6%), and other (11%).

The survey also showed that readers share their copy of the newsletter. Thirty-nine (39) percent said more than three people read their copy.

The survey showed that the audience comes from a variety of professions. Twenty (20) percent said they worked for the government, 61 percent for the private sector, 3 percent for the media, 2 percent for environmental groups, and 15 percent said other.

Newsletter readers were also encouraged to comment on their views about ANWR. Here's what some of them had to say:

"It's (ANWR development) for the country, the state (Alaska) and the industry. And we've proven it can be done without damage to the

environment."

"Past experience and new technology is proof that energy needs and wildlife can coexist. We need to develop our own resources."

"I am convinced we can have both the needed oil reserves and a clean environment through modern drilling technology and careful operating practices."

"In order for us to maintain and control our own destiny, it is quite crucial to be as self sufficient as possible and not rely on foreign supply."

"We cannot afford to allow a valuable resource to remain untapped while increasing oil imports."

"We need to develop our own energy sources so as not to be dependent on other countries."

"Industry has proven its capability to safely develop in environmentally sensitive areas. It makes economic sense to spend our money where the potential for oil development is the highest."

## NEW PRESIDENT CITES NEED FOR U.S. OIL

President George Bush says that while he's determined to be an environmentalist, he favors "prudent development" of the Coastal Plain of the Arctic National Wildlife Refuge (ANWR). "We can find the balance between environmental interests and national security interests to permit drilling on the Coastal Plain," Bush said.

"We have some national security interests at stake here," in terms of making the country less reliant on imported energy supplies, Bush also noted.

Bush's support for ANWR drilling came the day after environmentalists tried to gain his backing to make the ANWR Coastal Plain a wilderness area, closing it to any oil and gas activities.

Bush referred to Prudhoe Bay, the largest oil field ever discovered in North America, and the trans Alaska Pipeline when he discussed ANWR development. The pipeline carries North Slope oil 800 miles from Prudhoe Bay to the port of Valdez.

"I remember the pipeline," Bush said. "I remember the arguments against it. And I also remember the effect it did not have on the caribou."

Environmentalists appealed to Bush and Manuel Lujan, his appointment as Secretary of Interior, to review the Interior Department's position on ANWR development. The Department of Interior has recommended to Congress that the Coastal Plain be open to oil exploration and development.

During his confirmation hearings, Lujan addressed opening the ANWR Coastal Plain to oil activities. He said, "We do not have to choose between them" (environmental protection and oil development).

Some environmentalists want the 1.5-million-acre Coastal Plain designated a wilderness area. Almost half of ANWR's 19 million acres

(continued on back page)

## Readership Survey Results

Do you support the opening of ANWR Coastal Plain to oil exploration and development?

YES 92% NO 8%

Have you contacted your Congressman/Senator about the ANWR issue?

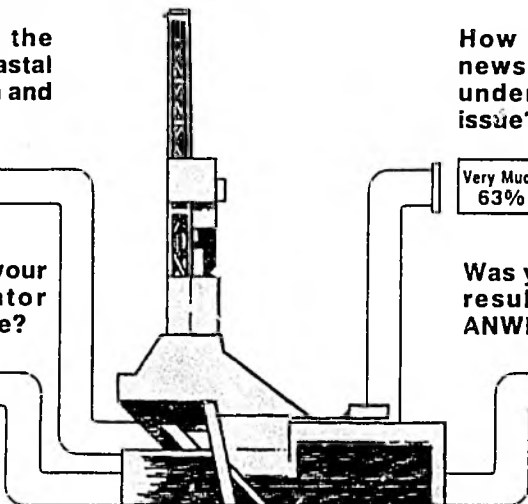
YES 48% NO 52%

How well has ANWR newsletter helped you understand the ANWR issue?

Very Much 63% Somewhat 34% Very Little 3%

Was your contact a direct result of reading the ANWR newsletter?

YES 34% NO 66%



# IMPORTS ARE ON THE RISE

U.S. oil imports hit their highest level last year since 1979, while domestic oil production sank to a 12-year low.

When comparing December 1987 with December 1988, the American Petroleum Institute (API) reports that oil imports increased 15 percent to a rate of 8.0 million barrels a day. Imports were at their highest in 1977, when the U.S. imported 8.8 million barrels per day.

As oil imports climbed, domestic oil production continued to fall. During the same period, production decreased nearly 5 percent, to a daily rate of 7.9 million barrels. Last year's production rate was the lowest since 1976, the year before production began at Alaska's Prudhoe Bay oil field. Prudhoe Bay, the largest oil field in North America, produces approximately 1.5 million barrels of oil per day.

Oil production in the Lower 48 states for 1988 was the lowest since 1950, API said. Even though oil production continued to fall,

energy consumption was on the rise. API said that Americans used more energy in 1988 than any other year in history. U.S. consumption rose six percent last year to 18.4 million barrels a day.

Because of falling energy prices and the glut of oil on world markets, Americans have become complacent about the energy supply. Foreign oil now makes up 43 percent of U.S. consumption. Only three years ago, the nation was importing just 31 percent. Imports from the Persian Gulf area tripled in 1986 and continued to rise in 1987 and 1988.

Active drilling rigs, a key indicator of U.S. petroleum development activity, totaled only 921 in mid-1988. In 1981, there were 4,000 active drilling rigs.

If these demand and production trends continue, the U.S. will have to rely even more on foreign oil. To help offset the imbalance of foreign oil, Congress is reviewing legislation to open the Coastal Plain of Alaska's

Arctic National Wildlife Refuge (ANWR) to oil exploration and development. The Coastal Plain is considered this nation's best hope to significantly increase domestic oil production, according to a 1987 Department of Interior report.

The 1.5-million-acre Coastal Plain lies between the oil-rich Prudhoe Bay field and Canada's Mackenzie Delta. It accounts for only 8 percent of ANWR's 19 million acres.

Even if oil exploration in ANWR began today, it would take 10 to 15 years before actual production began. Long lead times are needed to obtain regulatory permits, plan, design and construct production facilities and deliver them to the North Slope.

The entire North Slope of Alaska provides about 25 percent of all domestic oil production. In the next century, oil from ANWR could play a crucial role in maintaining this nation's domestic supply.

## LETTERS ARE EFFECTIVE TOOL FOR LOBBYING

One way to get the attention of your congressional representative is to write a personal letter.

Personal letters receive attention, and are by far the most effective in getting your legislator to listen to your point of view, according to congressional staffers. Form letters are answered, but most congressmen/senators do not take them seriously.

Letters are considered one form of grassroots lobbying. The best lobbyist is one who takes pen in hand, writes his or her congressional representative and says, "This is a good bill because it will do this for me," according to John Thomas with the U.S. Chamber of Commerce.

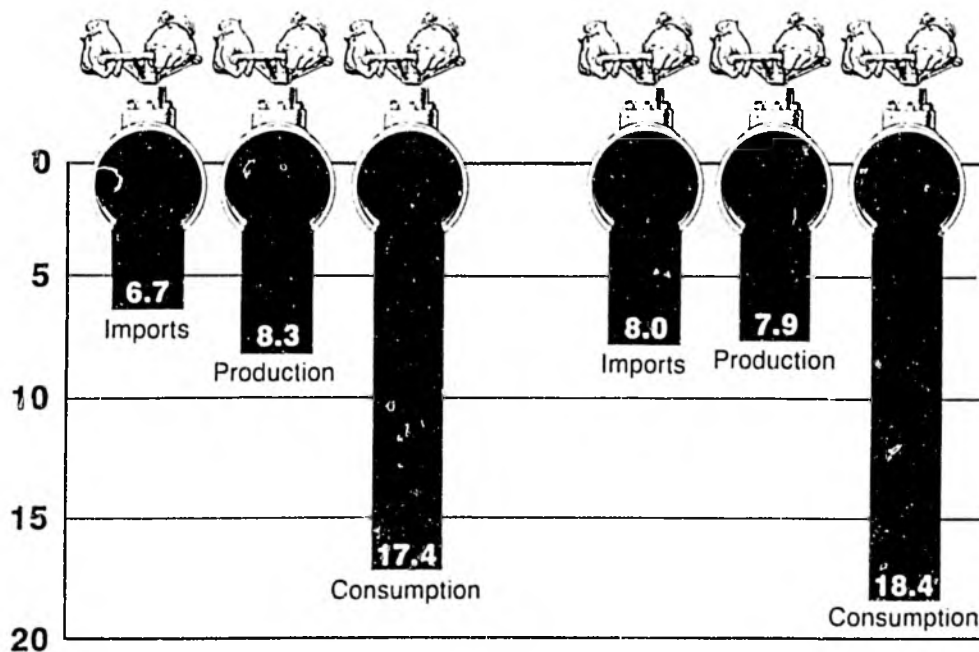
Of all the pressures on a member of Congress, "None weighs more heavily than the pressure you get from the people back home," says former representative Robert Giaimo of Connecticut.

The key to successful lobbying through letter writing is contacting the right people at the right time.

In the near future, the Senate Energy Committee will be reviewing legislation on whether to allow oil exploration and development on the Coastal Plain of Alaska's Arctic National Wildlife Refuge (ANWR).

There are several committee members who are undecided about the ANWR issue. You can help by contacting relatives, friends and business acquaintances in those states and ask them to contact their member of Congress in support of legislation to allow oil development on the ANWR

(continued on back page)



December 1987

December 1988

SOURCE: American Petroleum Institute's Monthly Statistical Report, December 1988.

Natural gas liquid and existing inventories provide the remaining energy for consumption.

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**NEW PRESIDENT**

*(continued from page 2)*

have already been designated as wilderness.

Wilderness Society President George T. Frampton said, "We have resolved that this place (ANWR Coastal Plain) is one where we won't compromise. We are drawing a line in the sand — no exploration, no development in this place now."

Secretary Lujan assumes his post after a successful 20-year career as a member of Congress from New Mexico.

Bush said that with the Lujan appointment, he was trying to strike "a careful balance between environmental protection and sound development of this nation's many natural resources."

**CONGRESSIONAL LEADERSHIP  
KEY TO ANWR BILL**

**SENATE**

George Mitchell (D-ME)	Majority Leader
Robert Dole (R-KS)	Minority Leader

**Committee on Energy & Natural Resources**

J. Bennett Johnston (D-LA)	Chairman
James McClure (R-ID)	Ranking Member

**Committee on Environment & Public Works**

Quentin Burdick (D-ND)	Chairman
John Chafee (R-RI)	Ranking Member

**HOUSE OF REPRESENTATIVES**

Jim Wright (D-TX)	Speaker of the House
Thomas Foley (D-WA)	Majority Leader
Robert Michel (R-IL)	Minority Leader

**Committee on Energy & Commerce**

John Dingell (D-MI)	Chairman
Norman Lent (R-NY)	Ranking Member

**Committee on Interior & Insular Affairs**

Morris Udall (D-AZ)	Chairman
Don Young (R-AK)	Ranking Member

**Committee on Merchant Marine & Fisheries**

Walter Jones (D-NC)	Chairman
Robert Davis (R-MI)	Ranking Member

**LETTERS ARE  
EFFECTIVE TOOL**

*(continued from page 3)*

Coastal Plain. A letter which comes from a member's own constituent is much more convincing than those from individuals in other states.

The members of the Senate Energy Committee who are understood to be undecided about the ANWR issue are Sen. Jeff Bingaman (D-NM), Sen. Kent Conrad (D-ND), Sen. John Rockefeller (D-WV), Sen. Mitch McConnell (R-KY), Sen. Wendell Ford (D-KY), Sen. Conrad Burns (R-MT) and Sen. Howell Heflin (D-AL).

The addresses to write members of Congress are:

The Honorable \_\_\_\_\_  
United States Senate  
Washington, D.C. 20510

The Honorable \_\_\_\_\_  
United States House  
of Representatives  
Washington, D.C. 20515



STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: SJR 28  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 2/24/89 Agency Affected: Natural Resources  
Title: Relating to oil & gas exploration, development, and production within the Arctic National Wildlife refuge. BRU: Management and Administration  
Sponsor: Uehling, Kelly, Halford, Faiks, Frank, Pearce, Coghill, Fischer, Jones, Zharoff and Rodey Components: Commissioners Office  
Requestor: Senate Resources

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

\_\_\_\_\_

Prepared by: Carol Wilson Phone: 465-2400  
Division: Commissioner's Office Date: 24-Feb-89  
Approved by Commissioner: Lennie Garsuch Date: 24-Feb-89  
Agency: Department of Natural Resources

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