

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8019 HOUSE RESOURCES

284

U.S. Army Corps of Engineers and U.S. Environmental Protection Agency

Wetlands Roundtable Sessions
Anchorage, AK

AGENDA
11/5/93

- 8:30-8:45am Introduction
- 8:45-9:30am High value wetlands
- what are they (coastal/riparian/tundra)
 - how should they be addressed
 - prioritize inventory
- 9:30-10:10am Rural Regional Issues
- abundant low value wetlands
 - village location in wetlands
 - wetlands access
 - Togiak to Southeast
 - Kenai
- 10:10-10:30am Break
- 10:30-11:50am Compensatory mitigation
- high value wetlands
 - exemptions
 - * ANCSA land except high value
 - * abundant low value
 - * cities
 - mitigation banking
 - accelerated rehabilitation
 - codify MOA language
- 11:50-1:15 Lunch
- 1:15-1:45 pm Watershed/wetlands planning
- pre-planning
 - result: develop and preserve
 - special area management planning
- 1:45-2:40pm Improving permit process
- coordinated pre-application process
 - public notice procedures (elevate notice categories)
 - time-frames
 - local input/decision making
 - APP's
 - appeals
 - exit interviews
- 2:40-3:00pm Break

- 3:00-3:45pm General permits
- what types
 - greater use
 - public notice and comment
 - cumulative impact
- 3:45-4:15pm Wetlands classification
- permit processing usefulness
 - hemlock
 - permafrost
 - spruce bogs
- 4:15-4:50pm EPA/Corps funding
- increase regional/field presence
 - permit review
 - monitoring and enforcement
- 4:30-5:00pm Public comment and closing comments



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January 31, 1994

TO: AFN Land Managers
Julie Kitka, AFN President
Nelson Angapak, AFN Wetland Coordinator

FROM: Robert W. Loeschner
Co-chair AFN Land Managers

RE: Comparison Between AFN and State of Alaska Positions on Wetland Management

On January 28, 1994 I provided a paper comparing the wetland position of AFN and the State of Alaska. This comparison delineates those areas where AFN and the State may disagree on philosophy or approach to wetlands management in Alaska. The areas of potentially contradictory positions are:

- Use of the Alaska Coastal Zone Management Program (ACMP) as an administrative vehicle to implement a wetlands management program.
- Use of core-township or circle general permits for administration of programs in rural Alaska.
- State support of the National Wetlands Inventory (NWI).
- Mitigation banking as a vehicle to ameliorate wetlands compensation and sequencing requirements.
- Continued support for the 1% exemption.
- State assumption of the wetlands management program.

On January 31, 1994 Mr. Harris and I met with Dr. Paul Rusanowski and Bill Lawrence, of his staff to discuss the State's position on these issues. Dr. Rusanowski and he provided clarification on the State's position. Briefly the State's position with respect to the issues are:

Use of the Alaska Coastal Zone Management Program (ACMP) as an administrative vehicle to implement a wetlands management program.

The State believes that the ACMP could be a model but not a vehicle to develop a wetlands management program in Alaska. He recognized that the ACMP program has short comings and that the relationship between CZM and Native corporations has been awkward in the past.

Use of core-township or circle general permits (GPs) for administration of programs in rural Alaska.

The state believes that circle permits would provide relief to wetlands permitting in rural Alaska. Our concern is that this approach either grants local governments with extra-territorial wetlands regulatory jurisdiction (i.e. outside their regulatory boundaries) or will require creation of a new quasi governmental body. In either case the concerns are: 1) the cost to administer these functions 2) there is no promise of Native corporation representation in these organizational structures and 3). creation of a new quasi government entities gaining governance over ANCSA lands. These entities may not be inclined to recognize the intent and objectives of ANCSA.

The creation of numerous quasi governmental entities poses additional problems for the regional corporation. Each corporation may have to coordinate with 10 or more entities each with distinct policies and objectives. The effect is fractionalization of land management administration and significant increase in costs for ANCSA corporation to manage their lands.

The use of circle GPs permits would involve over 4.6 million acres (23,000 ac. x 200 villages). The creations of these GPs may involve more wetland acreage than the Federal government is willing to tolerate. Second the circle GP is not sensitive to the places where use of wetlands may need to occur. Dr. Rusanowski suggested the circle GP could be delineated as an area comprising approximately 23,000 acres that would be defined in each GP. Although this maybe an improvement the administrative organizational structure fails to address the issue of representation and feasibility of representation of the private landowners within the boundaries of the GP. The circle GP does not appear to address the needs of ANCSA regional corporation whose land and potential economic development resource anomalies would be outside the circle GP.

State support of the National Wetlands Inventory (NWI).

The State's position on the NWI is consistent with the position taken by AFN. Specifically there needs to be significant changes in the NWI if it is going to be useful in Alaska.

Support of mitigation banking as a vehicle to ameliorate wetlands compensation and sequencing requirements.

The State is initiating EPA funded studies to evaluate the practicality of mitigation banking in Alaska. They believe that since mitigation banking is part of the National agenda they must evaluate its potential in Alaska. However, his preliminary opinion is that its use will be limited to the major urban areas of Alaska and then only if it makes sense to that urban center. Generally application to all of Alaska is unlikely.

Continued support for the 1% exemption.

Although the 1% initiative has lost favor in Washington DC, there is still a political advocacy within the State and some or all of the congressional delegation to perpetuate the 1% position. The 1% argument will continue until the representative political body concludes that there is no support for the 1% exemption. Until that realization occurs the 1% argument will be a part of the State's position. The Governor's Division of Governmental Coordination (DGC) is cognizant of the situation in Washington D.C., but is constrained to change the State's position at this point. We pointed out to DGC that this continuing position could create problems as we forward new amendments to the Clean Water Act (CWA) related to wetlands and could effect our credibility as we work in Washington D.C.

State assumption of the wetlands management program.

The State has received funding from EPA to further evaluate the assumption of the 404 wetlands permitting program. However, as the Clean Water Act (CWA) is written the assumption of the wetland program is not in the interest of the State or its citizens. There would have to be several amendments to the CWA before it would be palatable to the State. Amendments required include:

- Granting management and permitting authority over all wetlands. Current assumption authorities limit State assumption to freshwater and upland wetlands. Coastal wetlands (e.g. all of Southeast Alaska, and Prince William Sound) would not be covered by the State assumption).
- Shift the burden on permitting decisions from the State to the Federal government. Currently the State must prove its permit decisions are consistent with Federal law. The State's amendment would require the Federal agencies to prove that a State permit decision is contrary to Federal law.
- Eliminate the Federal requirement that a State program must be as restrictive or more restrictive than the Federal standards. The State wants the option to have the opportunity for less restrictive and more restrictive standards than Federal requirements.
- Authority to regionalize the wetlands delineation manual.

Conclusions:

We discussed the State's formal position regarding the Clinton wetlands initiative and the lack of substantive written material on this issue (the most definitive comments are from the oral hearing record). We have learned that the State is just now beginning the preparation of its comments and that they will not be as detailed as those submitted by AFN. We concluded:

- The State is hampered by diverse interagency opinions, consequently it is impossible to develop a comprehensive State position.
- The commissioners of DNR, DFG, DEC, and DOTPF are focusing on more immediate short term issues and do not have a pressing concern for the outcome of this long range issue.
- The State will use an ad-hoc strategy to address discrete issues but will not publish a comprehensive wetland strategy. The ad-hoc approach enable the State to avoid internal conflicts in the resource cabinet.
- The State has both a conceptual legislative and administrative strategy that is still in the formative phase. The two strategies and elements of those strategies are:

LEGISLATIVE STRATEGY

1. Amend the Clean Water Act to remove hurdles to State assumption of the 404 wetlands permitting program
2. Coordinate with Native Corporations wetland legislative initiatives.
3. Coordinate with other interests who may be advancing legislative solutions.

ADMINISTRATIVE STRATEGY

1. Seek appointment of a State of Alaska and an Alaska Native representative to the White House wetland policy task force. The State's believes that Alaska's program will be decided by the White House task force.
2. Low level participation in the Clinton EPA/COE Alaska Wetland initiative.
3. Use back-channel communication with EPA/COE to advance the State's position in the Alaska Wetlands initiative.

4. Follow the legislative lead of the congressional delegation, to secure a 1% exemption for Alaska on the Senate floor.

4. Continue a parallel process with COE/EPA to encourage them to use existing authorities to develop GPs, Circle GPs, and other friendly permitting processes and administration of those programs.

5. Cooperate with third parties by lending State support to positions advanced by third parties (e.g. oil & gas, Natives, RDC, communities) but not to take a public leadership or coordinating role.

6. Initiate various studies that use Federal moneys and address priority initiatives in the National wetland policy (e.g. wetland assumption, mitigation banking, etc.).

7. Provide funding to AFN to help coordinate Alaska Native wetlands position development.

The State has a limited legislative agenda focusing on the 1% argument and amendments for assumption of the 404 program. The congressional delegation remains committed to securing a 1% exemption for Alaska through the floor debate on the CWA. Consequently the State is reluctant to advance other equally valid legislative solutions. To that extent they are willing to go "shoulder to shoulder" to support other legislative approaches but their support is likely to be limited so that their position does not cross the congressional delegation strategy.

The State's administrative and legislative strategy will result in direct or indirect assumption of the management of wetlands in Alaska. My January 28 memo raised a specific concern:

"The State expects to pursue the assumption of the program over all wetlands within its administrative control. The AFN land managers would like to maintain control over ANCSA lands in this regard. We have postulated the idea of having a direct relationship with the federal government under tribal status which would allow ANCSA corporations federal recognition, and for funding, planning,

inventory and administration - leaving final permitting to the Army Corps of Engineers."

If the State is successful in assumption of the program, the thread between ANCSA corporations and the Federal government is broken. The federal governments contract with ANCSA corporations would become subservient to the policies of the State. Before we can endorse any State assumption of the 4C4 program, there must be some statutory protections for ANCSA corporations. Some initial thoughts and ideas are:

- recognition of regional delineation manuals.
- a wetland management system that allows use of both abundant and low value wetlands.
- a legislated leadership role in the management of wetlands on ANCSA lands by recognizing ANCSA corporations as tribal entities for the purposes of wetlands.
- the State management system, must be regionalized to avoid multiple jurisdictions within the boundaries of each region directing ANCSA wetland land management practices.
- no mitigation or compensatory mitigation on ANCSA lands.
- use ANCSA land mitigation practices as marketable mitigation credits that can be sold to third parties to meet compensation requirements.

Please advise me of your thoughts in this regard.

RWL:ph

c.c.

Leo Barlow

Rick Harris

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Gail Oba

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VIA FAX

January 28, 1994

TO: AFN Land Managers
Julie Kitka, AFN President
Nelson Angapak - Wetlands Coordinator

FROM: Robert W. Loescher
Co-chair AFN Land Managers

RE: Comparisor: Between AFN and State of Alaska
Positions on Wetlands Management

Please find enclosed a copy of a comparison between AFN and State of Alaska positions on Wetlands management. Under separate cover I will transmit by overnight mail a summary of remarks by Dr. Paul Rusanowski, Alaska Division of Governmental Coordination at the stake holders meeting in Bethel, Fairbanks and Anchorage October and November 1993.

As I had commented before the AFN Land Managers, I felt that the State's position has not been detailed out in a comprehensive manner. It is difficult to decipher Dr. Rusanowski's remarks into an administrative or legislative initiative framework. Mr. Harris and I intend to meet with Bill Lawrence and Roger Snippen and if possible Dr. Rusanowski (he is on travel status to Barrow, Alaska) of the State OGC to discuss the State's position prior to the Legislatures Joint Natural Resources Committee hearing on Wetlands, February 2, 1994.

I would like you to look carefully at Dr. Rusanowski's remarks, on behalf of the State, in the following areas:

- o 1) The State supports regionalization and even sub-regionalization to properly administer wetlands. The State advances the idea that the CZMP's across the State of Alaska would be a good administrative vehicle.

We endorse the regionalization of wetlands delineation and management. However, my experience is that the CZM plans do

not cover all areas of the State. Secondly, the State and local governments have opposed Native interests in the CZM process; and even opposed our legislation, previously advanced that would have provided major private landowners (ANCSA corporations) on the State's Coastal Policy Council. Lastly, in this regard the AFN Land Managers have observed that there are at least four (4) geographical ecologic wetland types in Alaska: 1) Arctic plain; 2) Interior; 3) Western Alaska and; 4) Coastal forest.

I believe we must convince the State of Alaska that the administrative system for wetlands should not be linked to the State CZM program.

- o The State still has it in their thoughts the business of protecting the "core townships".

As you are aware, the AFN land managers are concerned that this focus on the "core townships" is too limiting in some respects and too big and/or ill placed in other respects (ie one township or 23,040 acres in the wrong place). Our direction in this regard is to propose a law that:

- 1) protects public and private development(s) within the existing boundaries of traditional communities and established local government areas; and

- 2) allows for development of land and natural resource anomalies on ANCSA lands and adjacent State lands. Our view is that significant economic projects will probably occur on ANCSA lands and infrastructure development will most likely occur as close to the project area as possible due to costs of development and an effort to limit the "foot print" of development and impacts to the environment (including wetlands).

- o The State partially supports the National Wetlands inventory (NWI) as a mechanism to classify wetlands so that values can be assigned.

The AFN land managers see no value in the NWI project unless major changes can be implemented. Our problems with the NWI target:

- 1) errors in inventory;
- 2) the NWI is not done in digital format so we can use on state of the art GIS systems;
- 3) the governments lack of use of the best available information including higher resolution photography;
- 4) the inventory is not using the wetlands jurisdictional definition.

AFN Land Managers
Julie Kitka
Nelson Angapak
Page 3

I believe we must urge the State of Alaska to stand firm with AFN land managers with regard to the NWI.

- o The State feels that mitigation banking has some place, especially in areas such as Anchorage and Juneau.

AFN land managers feel that mitigation banking should not be applied to ANCSA lands; or for that matter be a practice anywhere in Alaska.

I believe we should work to persuade the State to abandon these thoughts at the outset.

- o The State still advances the concept of the 1% exemption.

AFN land managers have assessed this concept and our political intelligence is that this proposition is unacceptable and difficult in Washington, D.C.

I believe we should work to persuade the State to abandon the 1% proposition and ask them to work with AFN land managers on alternative legislative solutions.

- o The State expects to pursue the assumption of the program over wetlands within its administrative control.

The AFN land managers would like to maintain control over ANCSA lands in this regard. We have postulated the idea of having a direct relationship with the federal government under tribal status which would allow ANCSA corporations federal recognition, and for funding, planning, inventory, and administration - leaving final permitting to the Army Corp. of Engineers.

I believe we must clarify our respective approaches.

* * *

Please advise me or Mr. Harris of your thoughts on these matters. Our fax number is (907) 586-2304.

cc: Leo Barlow
Rick Harris
Sam Kito

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Paul
SC

MEMORANDUM

January 27, 1994

To: Robert W. Loescher, Executive Vice President- Resource Management

From: Peter M Huberth *P. M. Huberth*

Subject: Companson Between AFN and State of Alaska Positions on Wetlands Management

Copy: Richard P. Hams, Vice President - Resources Planning and Administration

I have been directed to point out differences between the goals and objectives of wetlands management as presented by the State of Alaska in comparison with Sealaska/AFN positions as presented in the joint letter to be cosigned by yourself and John Rense. There are differences, however, all are relatively small or inconsequential because the philosophical approaches are relatively the same.

Currently, Sealaska does not have in its possession a formal document that details the State's position. Sealaska has relied on the testimony and remarks of Dr. Paul C. Rusanowski, Division of Governmental Coordination in the Governor's office, at the Stakeholders meetings in Bethel, Fairbanks, and Anchorage during October and November, 1993. Sealaska does not have the benefit of any revisions he may have made during the follow-up meetings in January, 1994. However, on November 4, 1993, in his opening remarks, Dr. Rusanowski succinctly outlined 14 points that express the State's position. Dr. Rusanowski did not enumerate the 14 points. Sealaska counted that number when it analyzed his remarks. There is no reason to believe that any of the State's positions have changed since his remarks were made during round 1.

Further analysis shows that Dr. Rusanowski failed to remark about many issues. Therefore, AFN is unable to determine if the State has, or will have, a position for each one. This analysis mentions several of the more important ones, but not all of the issues. One must expect (hope) that the State will have a very comprehensive paper addressing each issue, and that it will be similar in scope to the joint letter.

The State's remarks are broader than those expressed in the joint letter largely because the State is representing a broader spectrum of Stakeholders.

- The State feels strongly that prior laws must be honored in any wetlands management implementation. The laws most mentioned are: Statehood Act and the Alaska Native Claims Settlement Act. Once or twice, ANILCA was mentioned, too. The State strongly supports the Native reliance on ANCSA as taking priority over the CWA, but feels the Statehood Act should receive similar treatment.

Comparison Between AFN & State of Alaska Positions on Wetlands Management
January 27, 1994

- The State strongly feels that State and Federal reserves, refuges, etc. must be assumed to be part of any banking arrangement that can be used to offset future development activity on wetlands. The joint letter mentions areas, such as buffer strips, eagle tree buffers, habitat restoration and enhancement projects.
- The State supports regionalization, and even subregionalization to properly administer wetlands administration. For much of the State, the CZMP areas are supported as the best vehicle. The joint letter maintains its focus on Natives having full control of their lands. The CZMP is not mentioned, probably largely because Native corporation land managers are sometimes at odds with CZMP requirements in specific sub regions and see the CZMP as placing restrictions on their land stewardship opportunities.
- The State feels that the lowest common denominator, in terms of over 300 villages must exercise substantial authority over the administration of wetlands in the immediate vicinity of each entity. The State feels that local rural people have the best knowledge of their wetlands and should exercise quite a bit of control. At times this can be at odds with the purposes of Native Corporation's land management goals in the same township
- Both parties support a 60 day period for processing applications for permit. The State goes beyond this and advocates that the Federal time frames be the same as each State's time frame and that there be one central processing entity. By implication, this would be the State, because the mechanism is in place such as CZM, etc. In fact, one remark mentions that the State should assume administering the process.
- Both parties support an appeals process. The State is silent regarding the ability of 3rd parties to appeal and participate in the appeals process.

Areas of difference between the Joint Letter and the State include:

- The State partially supports the National Wetlands Inventory as a mechanism to classify wetlands so that values can be assigned. However, the State says that the NWI is imperfect. Also, a classification system must be chosen up front and that is the system that everybody will recognize. The joint letter does not support the NWI and feels that it in no way should be used to assist the regulatory process.
- The joint letter expresses that mitigation banking should not be applied to Native lands. The State feels that mitigation banking has some place, especially in urban areas such as Anchorage and Juneau. There may not be a difference here.
- The State still advances the concept of the 1% exemption. They support this argument with the analogy to the 53 million acres of farmland exempted. The joint letter does not directly address the 1% concept.
- The State has a goal to track wetlands disturbance. The joint letter is silent on this idea.

Comparison Between AFN & State of Alaska Positions on Wetlands Management
January 27, 1994

- The State expects to pursue assumption of the program over wetlands within its administrative control. By implication, the State feels that it should have control over much of the navigable waters currently reserved to administration by the Corps. The joint letter is silent regarding this issue.
- The State is very concerned that wetlands regulations diminish property values. The Joint letter does not address this issue.
- Neither party discusses preplanning as something that should be encouraged. However, most participants supported some idea of preplanning.
- The joint letter addresses sequencing; the State remarks do not.
- The State discusses special permitting and efficiency be given to CIP projects in the bush. The joint letter is silent.
- The Joint letter discusses "isolated wetlands." There is no record of State remarks.
- The joint letter discusses some of the problems with using Facultative species to classify wetlands; hemlock is the prime example used. The State does not remark about this issue.
- The joint letter discusses planning by using watersheds as the basic unit. There is no record of the State addressing this issue.

*Paul
SC*

SUMMARY OF REMARKS

BY

DR. PAUL C. RUSANOWSKI

**ALASKA DIV. OF GOVERNMENTAL
COORDINATION**

**AT STAKEHOLDERS MEETINGS IN
BETHEL, FAIRBANKS & ANCHORAGE**

OCTOBER & NOVEMBER, 1993

SEALASKA CORPORATION

January 25, 1994

FIC

Following is a summary of remarks and discussions in which Dr. Paul Rusanowski participated at Stakeholders meetings held in Bethel, Fairbanks, and Anchorage in October and November, 1993.

- State goals as stated in a formal presentation in Anchorage include:
 1. Maximize local decision making within the wetlands permitting process
 2. Identify and protect critical wetlands.
 3. Preclear the state's wetlands for protection and management
 4. Create a tracking system to account for wetlands disturbance
 5. Maximize GP's; develop abbreviated permit processing (APP)
 6. Develop an umbrella mitigation banking plan
 7. Implement a uniform classification system for Alaska wetlands.
 8. The function and value system must be extended across jurisdictions, political boundaries, cultures, and lifestyles.
 9. Pursue CWA changes allowing States to assume the permitting program.
 10. Allow exemptions for various activities and land status.
 11. An exemption for Alaska similar to the farm exemption.
 12. GP's and APP's need to incorporate local values and needs.
 13. State and ANCSA lands must have their guarantees under the laws that created these entities. The wetlands permitting law must be built on the existing law
 14. Local and State consultation must be recognized by the Federal government

- Throughout the meetings the State emphasized local input, control, and authority.

- Great emphasis on recognizing the Statehood and ANCSA laws. The compacts and agreements that are in place have to be the starting points for the solutions, not an afterthought. Ask what was the intent, what are the solutions? Where Natives were forced to select lands, those areas should be exempt from everything. This is no different than exempting 53 million acres of farm land.

- CZM is a logical vehicle to assist in much of the planning and permitting. This takes into account the needs of sub regions

- In the permitting process, in terms of time, the State time frames should dictate the time frames in wetlands permitting

- Strong emphasis on increasing GP's and APP's. Allows time for higher priorities.

- It is too early to beat up on the NWI. However, everybody must know what classification system will be used. Maybe some definitions need to be changed. We can define wetlands any way we please because the definitions are societal driven, not scientifically driven

- State assumption is on hold until the CWA is reauthorized.

- Must have an appeals process. The appeals process needs to be codified in some manner. It should allow for negotiation. Applicants and others need to have their rights guaranteed

State of Alaska - Department of Governmental Coordination Presentations
Paul Rusanowski

Bethel, Alaska, October 28, 1993

- Need to deal with the duplication of State and Federal processes on different timelines. Results in not a coordinated response in the permitting cycle. P 59
- Inadequate local input and deference to local knowledge within the permitting process. P 59
- Lack of respect for previous agreements and contracts, ANCSA and State lands. P 59
- The compacts and agreements that are in place have to be the starting points for the solutions, not an afterthought. Ask what was the intent; what are the solutions? Where Natives were forced to select lands, those areas should be exempt from everything. This is no different than exempting 53 million acres of farm land. P 145
- The permitting process does not address priorities. Need to address issues that are truly significant and relevant where we can make a difference. There are too many trivial solutions that dilute efforts to conserve and preserve environment. P 60
- We need to deal with balance. We can not hide behind our authorities. All issues must be treated. We can not preserve lands at all costs without looking at other values, etc. P 60
- We need to endorse and incorporate a consensus type processes such as the State CZM program. P 60
- One of the first issues that needs focus is the use of some sort of exemption for resolving particular issues. These might be in the form of land status exemption, ownership exemption, use exemptions, or whatever. P 116
- Also, need permit mechanisms to reduce the trivial evaluation of projects, such as GP's and abbreviated permitting. These would cover minor impact projects and projects of no significant impact. P 116
- Exemptions can mean that the permitting process could recognize projects with potential impact on areas of high subsistence or cultural value that would be exempted to a higher level of review requiring more full scrutiny. In Alaska, many areas bearing special attention cover such sensitive issues. Therefore, the statutory authority is in place. P 136
- Where should there be absolute exemptions? Where should exemptions be limited to compensation? Where does it make sense to look at ownership as some form of exemption? P 146
- We are not looking at what is being brought to the table. We are looking at what is and saying how do we fit what you want into it. P 146

- We are adding encumbrances to conveyed lands by additional regulation. Also the permit process adds time and costs to projects. In SE Alaska water has to be crossed to develop lands for timber. The permitting should have been handled at the time of the compact. P 158
- Perhaps a variation to the general permit process would be that a threshold would have to be met. The threshold might be a certain type of low value wetlands being affected activities on which would be exempted until the limit was reached. This makes better use of agency time. P 175
- Probably the exemption issue can only work within a sub region of Alaska. There is a greater opportunity to achieve consensus at such a level (Said in context of high versus low value wetlands). P 193
- The CZMP represents the best integration of total information, local decision making, and local knowledge. The threshold concept would work where CZM has been implemented. P 194
- Community input is directly related to interest in a project. Very little interest means very little input. No amount of requirements will change the amount of input; the community may feel it is being imposed upon. Big interest means lots of comments. Pre notification can help a community decide the level of interest. If they choose not to comment, that really is support for a project. If, after 2 years, the project should not have been done, then monitoring will discover it and the information is available for the future. P 229
- Agencies have not tried to maximize the values of GP's in allocating time, effort and expediting. P 233
- Maybe there should be regional GP's as opposed to community in order to make sure the whole population is covered. P 240
- The permit process should be a one stop shop with one permit that serves the needs of all the Federal and State agencies. P 250
- The preplanning process sounds nice, but it is voluntary on the part of the agency. Sometimes the agency still reserves judgment which does not benefit the applicant. P 264
- CIP's do not need the extra burden of lots of review. Water, sewage, schools, etc are going to be built right in the community so compensatory mitigation makes no sense. P 300+
- Regionalization of permits makes the most sense because Alaska is so large and diverse - but, not within regions. P 367
- When it comes to subsistence we need to focus on much more than the FWS mandates of species needing protection. Need to watch way of life, cultural

centage, etc. We can't get stuck in western thinking habits when thinking about subsistence. P 386

- NWI can address abundance and scarcity of wetland types. Wetlands need to be classified before assigning value. P 460 We are being a bit premature in beating up on the NWI. The accuracy is suspect. However once a definition and classification are in place then locating it on the ground is easier. P 411
- Salt marshes should not be an issue because they are just about completely protected. In Cook Inlet every acre of salt marsh is either in a refuge, reserve or has been identified as a special area in the coastal zone process. P 422
- We have to agree right at the beginning what classification system will be used. NWI or another system. P 434
- Also, the state needs to have an umbrella mechanism for mitigation banking. It should be used where appropriate. P 437 It might be appropriate in Juneau and Anchorage where further development probably will erode the base of high value wetlands. Communities would not have to develop their own programs because the state program would be in place and available. P 434
- The state is pursuing maximizing the benefits of GPs and APPs. P 434
- The state is putting together a system of information transfers so that everyone will have the opportunity to know what everyone else is doing. P 434

State of Alaska - Department of Governmental Coordination Presentations
Paul Rusanowski

Fairbanks, Alaska, November 2, 1993

- Introduced Harvey Marlin who pointed out problems with developing lands for commercial and residential purposes. Felt that ground truthing needed besides aerial photos that classify tree species. P 87
- Introduced Scott Grundy, former habitat supervisor with ADF&G, discussed how a wetlands designation reduces the value of raw, developable land. The small individual can not cope with the permit process. Expand GP's. It is a Federal taking to convey homestead land and then deny cleaning and utilization of the ground. P 93
- Commences a series of questions following up on property value decreases. In one case the denial for a individual Permit contained 16 pages, but the material did not provide meaningful direction regarding mitigation and minimization. Permitting does not necessarily conform to Fairbanks master plan for an area. P 152
- State Assumption - on hold pending passage (re authorization) of the CWA in 1994. Alaska needs clear messages where the program is going and the rights of States in that program P174
- The state has entered into an agreement with COE to look at developing general permits for activities that make sense throughout the State and looking at geographical locations for those activities that make sense. Some activities will fall into an Abbreviated Permit Process (APP) P174
- Starting developing a uniform classification system to address the functions and values component. Trying to develop a consensus on what wetlands look like. Trying for systematic approach starting with identification. P175 The plan should cover the State. It should not infringe on Native lands, community rights, rural Alaskans. If the Feds do it, too, then the two programs will have to mated. etc. P 322 The principles to be applied here are different from the other states. P 326
- Developing a conceptual plan for mitigation banking that will umbrella the communities for which such an approach is useful. P175
- Asked that the appeals process be discussed. P 183
- Mentioned the 360,000 acres of very high value coastal wetlands that with practically no exception are in refuges, etc. However, only a biological decision making matrix was applied to determining the areas for refuges, etc. A cultural matrix needs to be included P 220
- During the permitting process, there is a need to look at the exact location, circumstances impacting it, and fashion remedies that meet those circumstances.

The agency can not cookbook remedies across vast areas of the State for similar applications. (Used house locations for the example.) P 136

- We can define wetlands any way we please because the definitions are societal driven, not scientifically driven. P 247
- The definition of wetlands may change, but the classification system should remain intact. Under 404, change the definition and wetlands acres will change, using the same classification system. P 251
- Restoration - the State's perspective is not to return land back to a point where it exactly matches its original character. Make it something more productive that fits a wetlands use. P 289
- When you look at compensatory mitigation for Alaska, mitigation banking as a concept should be kept in mind. It involves land and money. P 293
- Mitigation banking is a broad concept. It is establishing a line of credit for services provided for wetlands values. You can enhance, restore, reclaim, modify to improve an impacted wetland or change the value of a wetland. The credit can apply to losses of wetlands in another location. Or you can put dollars into the bank to accomplish the same thing. In addition by banking, the effort can be directed to a specific area. Juneau is working on what may be the first plan. P 310+
- CIP project problems apply to rural Alaska where the need for facilities and services is tremendous. Some high value wetlands will be impacted. But the people's needs must be remedied. The high value wetlands must be looked at from the eyes of the local people, not western values. P 332
- Communities in western Alaska have their locations fixed by western standards. People are not free to roam as they have in the past. ANILCA 7 ANCSA fixed them and basically fixed the purposes for them. We must make sure that basic rights conveyed to people are not being denied as relates to their futures. Bush Alaska is different. P 355
- Perhaps private lands that have held that status for many years need to have a different status for development. It usually is in communities. (By implication, he seems to be saying that there should be fewer restrictions.) P 375
- Incorporate more long range planning into the permitting process. If a project is phased, everything should be reviewed up front as is the case in CZMP. P 394+
- Mentioned maniculture that has very specific permitted areas, time frames, and other restrictions. P 406
- Suggested more outreach by having COE employees living in other communities. P 431. Also, outreach by the Federal agencies should include the schools - the citizens of tomorrow.

- Delineation and classification, if done right, can help focus and expedite the 404 program on the areas of real need. P 444 This includes better communications as to what is needed in applications for permits. P 450
- Must have an appeals process. The appeals process needs to be codified in some manner. It should allow for negotiation. Applicants and others need to have their rights guaranteed. It has to be a system that is not abused such as the high number of appeals of Forest Service actions taking place now. P 463

State of Alaska - Department of Governmental Coordination Presentations
Paul Rusanowski

Anchorage, Alaska, November 4, 1993

- The State supports the 5 principles for wetlands as stated by the Clinton administration, but they can not be applied uniformly to all 50 states. The principles must be guides to policy. NNL has no practical value in Alaska. A huge proportion of existing wetlands are protected now - 37%. Much of the high value coastal wetlands are protected. CZMP provides additional protection. The 404 process is held with suspicion by the public; mostly Juneau examples cited. P 78+
- State goals include: P 86+
 1. Maximize local decision making within the wetlands permitting process.
 2. Identify and protect critical wetlands.
 3. Preclear the state's wetlands for protection and management.
 4. Create a tracking system to account for wetlands disturbance.
 5. Maximize GP's, develop abbreviated permit processing (APP)
 6. Develop an umbrella mitigation banking plan
 7. Implement a uniform classification system for Alaska wetlands.
 8. The function and value system must be extended across jurisdictions, political boundaries, cultures, and lifestyles.
 9. Pursue CWA changes allowing States to assume the permitting program.
 10. Allow exemptions for various activities and land status.
 11. An exemption for Alaska similar to the farm exemption.
 12. GP's and APP's need to incorporate local values and needs.
 13. State and ANCSA lands must have their guarantees under the laws that created these entities. The wetlands permitting law must be built on the existing law
 14. Local and State consultation must be recognized by the Federal government
- Does the Corps account for compensatory mitigation required by other agencies in side negotiations, etc. The answer was "No, only Corps enforceable requirements." P169 The COE waffled a bit on P 391
- Points out that 37% of wetlands are already in protected systems. If more need protection, then each instance must be justified regarding having such high value. If lands are put in a refuge, you have assigned a value to them. Judgments have been made on acreage, relationships with off-refuge lands, and values. P 225+
- ANCSA village problems of being situated in one place as opposed to moving around within the region for better subsistence, etc. Local communities must have more input to decisions. Differences of opinion are unilaterally resolved by the Corps. Local values and issues must be addressed and satisfied. P 265+ Although most permit applications are approved, it would be better to have local control so that the Corps could concentrate on more important issues. P 282 The local people in rural areas will make sure that their long-term self interest is met. P 286. More emphasis P 289 If Federal agencies encourage more local planning, then

there must be a commensurate increase in local control. P 354 Planning must have authority, too.

- CZMP has the only money available to help fund community planning. When a plan is in place, the Federal government is required to follow it in the permitting process. P 362
- The State permitting process and Federal permitting process must get into sync. P 379 The Corps should manage their timelines to fit those in each state.
- If one does not want to move the authority to the bush, then move some of the COE people to the bush. They should be located down to sub regions. P 412
- GP's are important. They are a tool to take care of problems of the people. We need the number of GP's necessary to serve the people. P 440 The GP process goes through extensive review including a major assessment every 5 years. P 447

ALASKA FEDERATION OF NATIVES
LAND MANAGERS COMMITTEE

January 31, 1994

Mr. Al Ewing
Assistant Regional Administrator
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Mr. Robert K. Oja
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Re: Response to Alaska Wetlands Initiative 12/17/93 Draft Issues Paper.

Dear Messrs. Ewing and Oja:

The Alaska Federation of Natives (AFN) Land Managers Committee is submitting the following comments on the Alaska Wetlands Initiative. The AFN land managers are a committee of AFN and represent their respective corporations' views on issues of common interest. The AFN land managers committee includes representatives of eleven Alaska Native Claims Settlement Act (ANCSA) Regional Corporations who manage over 40 million acres of Native land throughout Alaska. Attached is a list of the AFN land managers.

Throughout the Alaska Initiative process, the AFN Land Managers Committee has participated through the representation of Mr. Robert Loescher, Executive Vice President, Resource Management, Sealaska Corporation; Mr. Nelson Angapak Sr., AFN Wetlands Coordinator; and Mr. Nathan Bergerbest, Legal Counsel, Doyon Ltd. This issue is of vital importance to AFN because individual ANCSA Corporations have between 45% to almost 100% of their land base currently categorized as wetlands.

The AFN Land Managers appreciate the opportunity to participate in the Alaska Wetlands Initiative. Our experience with the wetlands permitting program in Alaska has been frustrating at times, but overall we would grade the program as effective. The program, as we interface with its requirements, is generally successful because we have been able to clearly delineate issues and advance those to the Corps, EPA, State

and the public. Usually these groups have been open to change and willing to find solutions. Successes include the predictability of the log transfer facility permitting program, the 404(f) exemptions, and general permits for minor activities. Contrary to the comments of some uninformed critics, we voluntarily testified that our experience is that the program is performing satisfactorily, although some continuing corrections could occur.

Although the program has been working well in Alaska, the change in the National policy and the President's wetlands goal of "no overall net loss of the Nations wetlands" creates extreme anxiety that major changes to Alaska's successful wetlands regulatory program are imminent. Our concerns are justifiable when wetlands protection advocates attack the Alaska program. They maintain that it is too lenient, demand stricter application of the law, less flexibility and slavish adherence to a "no net loss" policy regardless of the function or value of the wetland or the human impact of such irrational pronouncements.

Our comments are in two parts. Part I is a general response to the Alaska Wetlands Strategy. Part II responds to the recommendations of the December 17, 1993 issues papers.

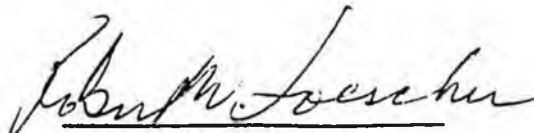
There are several fundamental policies that must be included in any National wetlands policy effecting ANCSA Corporations

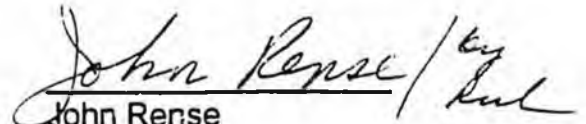
- A National wetlands policy should not diminish the intent and objectives of ANCSA.
- A National wetlands policy must ensure **maximum participation by, and deference to the statutorily-protected needs of Alaska Natives in decisions affecting their ANCSA rights and property.**
- ANCSA conveyed lands should be exempt from wetlands restrictions, including no-net-loss. ANCSA Corporations should receive additional compensation should wetlands policies diminish the land and resource values authorized by Congress to fulfill the intent of ANCSA.
- Involved agencies must recognize the different functional or productive values of wetlands and allow the use of Alaska's abundant and low value wetlands by developing realistic definitions and flexible criteria for use of wetlands.
- Wetlands policy must allow development of regional systems for wetlands classification and definition of function and value, and must provide regulatory flexibility based on regional options and opportunities. That policy must also recognize the programs of ANCSA Corporations that protect, restore or enhance wetlands use and productivity.

Thank you for the opportunity to comment and your sincere consideration of our comments.

Sincerely,

Co Chairma.:
Alaska Federation of Natives
Land Managers


Robert W. Loescher


John Rense

AFN
LAND COMMITTEE

November 9, 1993

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COMMITTEE FUNCTIONS

Purpose / Responsibilities:

To advise the AFN Board on policy issues affecting ANCSA/ANILCA and/or other land management issues.

Membership/Meetings: Membership is composed of regional land managers; meetings will be held at least quarterly.

ALASKA FEDERATION OF NATIVES
LAND MANAGERS COMMITTEE
COMMENTS TO
THE ALASKA WETLANDS INITIATIVE
PUBLIC REVIEW DRAFT ISSUE PAPERS
DECEMBER 17, 1993

PART I

Alaska's Wetlands Regulatory Program Should Provide Flexibility for Use and Management of Alaska's Wetlands

The abundance of wetlands in Alaska would suggest that there is little justification for the "no net loss goal" in Alaska. Advocating a policy of wetlands regulatory flexibility does not imply that abuse of wetlands will be tolerated, or that regulatory control over wetlands use will disappear into a regulatory void. The State, Federal and local governments current wetlands regulatory programs should continue. We believe that there are important "surgical" corrections that can be made to the program to improve its efficiency, predictability and continued protection of wetlands. These modifications can be accomplished without a quantum change in Alaska wetlands regulatory/permitting program advocated by the proposed "no overall net loss" policy.

Alaska Wetlands Policy and Regulations Must be Consistent with Congressional Objectives of ANCSA. Exempt ANCSA Corporations from Compensatory Mitigation and Provide Credits for Wetland Protection, Restoration and Enhancement

The underlying Congressional intent of the Alaska Native Claims Settlement Act is to assist Native people in their bid for self-determination and for regional corporations to be the economic foundation which would allow Alaska Natives to build upon the settlement to meet their cultural, social and economic needs. Consequently, governmental bodies contemplating regulatory actions that may erode the fundamental intent of the Act would be contrary to the carefully-crafted relationships between Alaska Natives and the Federal government. The relationship between ANCSA and other Federal laws, which we believe include Section 404 of the CWA, is established by ANCSA itself:

"To the extent that there is a conflict between any provision of this act and any other federal laws applicable to Alaska, the provisions of this Act shall govern."

The relationship between the government and ANCSA Corporations is further clarified by Section 2(b) of the Act

" the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with

maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions ..."

The relationship between ANCSA and Section 404 needs more attention than it has received in the current wetlands debate. Under ANCSA, village corporations and regional corporations were required to select lands from a very limited geographical area. At the same time, Congress intended that Alaska's Natives realize their pressing social and economic needs from that limited land menu. Materially restricting development of those lands--lands which the federal government itself often forced Natives to select--would seriously undercut ANCSA, and create a statutory conflict with, at best, a highly uncertain outcome. Moreover, both ANCSA and court decisions under it require the Secretary of Interior to manage withdrawn and pre-conveyance lands with the maximum participation of Natives in decisions affecting their rights and property. Similarly, the Corps and EPA must ensure maximum participation of Native Corporations in decisions under the Corps and EPA's domain. The agencies must not cross the line that negates the intent and purpose of ANCSA.

The reconciliation between the objectives of ANCSA and the National desire to protect wetlands does not have to be confrontational. An Alaska wetland management program should establish partnerships with ANCSA Corporations and provide maximum participation in decisions effecting Native rights and property. Alaska wetlands policy must exempt Native corporations from any compensatory mitigation. It would be a serious breach of the ANCSA covenants to require Natives to pay to use their own lands when there are no practicable alternatives. Further, Corporations must be given credits for land and resource management practices that protect and enhance wetlands (e.g. riparian buffers, and fish and waterfowl habitat restoration and enhancement projects). **The recognition of these contributions to maintaining the Nation's wetlands has thus far been ignored by the Alaska Wetlands initiative and must be incorporated into any final recommendations.**

Alaska's Size and Diversity Requires Regionalization of the Classification and Functional Value System. Permit Decisions Should Recognize Functional Value and Provide Permitting Flexibility for Abundant and Low Value Wetland

There is a strong consensus that Alaska must have flexibility in regulation and management of its wetlands. This flexibility must extend from permit decisions regarding use of wetlands through determination of wetland functional value to the fundamental delineation of wetlands. True wetland management flexibility requires regionalization of wetlands delineation (responsive to regional vegetation, hydrology and soils) and functional value determinations based on those delineations. Regionalization of wetland delineation and functional value will be more responsive to permit decisions and provide flexibility for abundant and low value wetlands. Regionalization will encourage and be more responsive to local wetlands planning and management efforts.

The Current Individual Permit Process is Working. Procedural Modifications to Establish More Definitive Timelines and Applicant Appeals Will Improve the Permit Process.

We support a 60 day timeline for permit decisions. The applicant should have some flexibility to request a permit processing pause, enabling the applicant to submit additional information and to resolve interagency or inter-governmental disputes. Conversely the applicant must have the right to a quick decision and further appeal if resolution cannot be achieved within the required timelines. The applicant should have ready access to an appeals process limited to applicant concerns—including permit denials, questionable conditions, jurisdictional and functional value determinations.

Alternative Permit Processing Procedures is a Substantive Reason Why Alaska's Wetlands Regulatory Program is Working.

We strongly endorse the efforts of the Corps and EPA to develop administratively efficient and environmentally responsible programs to streamline the wetlands permitting process. The agency willingness to issue more General Permits is a fundamental underpinning of any flexible Alaska regulatory program. Our primary criticism of General Permits is that it takes an extraordinary amount of time to decide if a GP is appropriate and to issue the initial General Permit. We urge that the procedures to issue a GP be evaluated and a more efficient process to determine what activities warrant a GP and issuance of the GP be expedited.

We agree with General Permits critics that periodic audits of various General Permits are in order. These audits should determine if 1) the conditions of the GP are reasonable, 2) the GP is meeting its intended objective, 3) the GP is providing the flexibility to manage wetlands and 4) the GP is not creating significant environmental impacts.

The Mitigation Sequencing of Avoidance, Minimization and Compensation is Unrealistic in Alaska. Alaska's Regulatory Process Must Eliminate Redundant, Meaningless and Costly Administrative Processes

Rigid application of the sequencing process in Alaska is the single most egregious element of the wetlands regulatory program. Emphasis should be on minimization. Compensatory mitigation should not be required. Further, local governments, the State and land owners should receive minimization and avoidance credits for land and resource management practices that protect and enhance wetlands (e.g. riparian buffers, and fish and waterfowl habitat restoration and enhancement projects and greenbelts). These contributions to maintain the Nation's wetlands have been ignored by the Alaska Wetlands initiative. These conservation contributions must be incorporated into any final recommendations.

Partnerships for Wetlands Delineation, Functional Value Determination, Planning and Management is One Vehicle to Provide ANCSA Corporations with Maximum Participation in Decisions Effecting Their Rights and Property

We encourage the Corps and EPA to be receptive to developing partnerships with the respective ANCSA Corporations or consortium of Corporations to manage wetlands and meet the intent of ANCSA. These partnerships must recognize ANCSA corporations as full and equal participants, and should provide cooperative funding to assist Corporations in the development of these partnership resource management efforts. These partnerships must be endorsed and supported at the highest levels of the respective agencies. The partnerships should be flexible and responsive to the technical and financial capabilities of Native Corporation participants. Each Corporation should have the opportunity to participate in such partnerships or to opt-out.

Wetlands Permitting and Regulatory Decisions Should not Use the National Wetland Inventory. Development of Regional Classification Systems Should Occur to Provide Predictability in Delineation and Permitting.

The anxiety associated with 404 wetland permitting is due to the uncertainty of wetland delineation, functional value determination and sequencing requirements. The Corps and EPA throughout this process are advocating numerous preplanning initiatives to eliminate the uncertainty of permitting. However, suggestions that classification be delayed until "permitting decisions" are made flies directly in the face of those management efforts to simplify and improve the predictability of permitting. A philosophy that delays classification decisions until the permit decisions, is a disincentive for any private or government entity to enter into advance planning, and partnerships.

The management and protection of wetlands will succeed or fail on the efficiency and predictability of the administrative process. We suggest that a joint effort be undertaken to develop regional delineation procedures, establish functional value determinations and use GIS based technology and other local knowledge to make wetlands classifications. Lands classified as Upland would not be required to undergo any further wetlands determination. Abundant and low value wetlands would be regulated under GP or other expedited permitting procedures. The remaining wetlands would be managed directly under individual permits following procedures that would allow reclassification based on specific information, permitting practicability and flexibility.

Partnerships with Native Corporations and Local governments Will Advance Outreach and Education Programs.

We fully endorse a wetlands management program that uses local knowledge in evaluating resource values, and use of GIS based land management systems in use by Native Corporations, local governments and other State and Federal Agencies.

PART II

RESPONSE TO ALASKA INITIATIVE PUBLIC REVIEW DRAFT ISSUES PAPERS

Issue #1 How can the goal of "no overall net loss" of the Nation's wetlands be fairly applied in Alaska?

The "National Wetlands Policy Forum" offers guidance to implementing the "no net loss" goal. The Forum advises that "the goal does not imply that ... the no-net-loss standard should be applied on an individual permits basis" and that "the goal may have to be implemented at different rates in various regions of the country to reflect regional wetlands needs, conditions, and types." We applaud the Forum's recommendation for temperance when implementing the no-net loss policy, but also recognize that the Forum's guidance will require continuing change to the management of wetlands in Alaska. We believe that quantum change to the Alaska wetlands permitting program is necessary only when there is a reasonable finding that Alaska's wetland use and management is significantly affecting either regional or Statewide wetlands.

We endorse the Administration Plan to develop improved analytical tools for wetlands functional assessment. Both the Administration and the Alaska Specific Actions suggest use of the Hydrogeomorphic Classification System (HGM). We have not had an opportunity to review the HGM but request that the Administration keep an open mind to alternative functional value assessment methodologies.

We remain uncertain about the Administration's mitigation banking proposals under the Section 404 regulatory program. Mitigation banking guidance and mitigation planning guidance may or may not be appropriate to Alaska. Our position is: 1) there should be no compensatory mitigation, particularly on ANCSA lands and; 2) credits should be granted for wetlands protection, enhancement and restoration (e.g. riparian buffers, riparian or coastal eagle nest tree buffers, fish and waterfowl habitat improvement and enhancement projects).

Issue 1: Alaska Specific Actions:

o Develop interagency guidance to clarify how physical circumstances in Alaska such as the extent and type of wetlands affect the determination of "practicability" under the Guidelines mitigation requirements.

We endorse the Alaska action recommendation including the recognition that "minimization" is the primary mitigation tool and determination of "practicable alternatives" will consider the extent of wetlands and relative opportunities to restore wetlands. We believe that the Alaska actions should exclude ANCSA lands from

compensatory mitigation and grant credits for other land management activities which provide wetland protection and enhancement. The Alaska actions recommendation frequently advocates participation by non-Federal parties. However, when policies are being considered, the recommendations fail to include participation by Native Corporations. Any actions that effect ANCSA lands must occur in conformity with ANCSA including maximum participation by Natives in decisions affecting their rights and property.

- o **Recommend that the Executive Order on wetlands articulate flexibility in implementing the Administration's goal of no overall net loss of the Nation's wetlands to reflect particular circumstances in Alaska.**

We support the proposed action and recommend that it be incorporated as an Administration sponsored amendment to the CWA.

- o **Develop Interagency Guidance to Clarify how Circumstances in Alaska such as the Abundance of Wetlands can Reduce Opportunities to Avoid Impacts to Wetlands and Affect how Rigorously Alternatives are Evaluated.**

The August 24 flexibility guidance has not been provided; consequently, it is difficult to provide meaningful comment. However, we endorse the one excerpt provided. Any guidance development should make special effort to ensure maximum participation by Natives in decisions affecting their rights and property.

- o **Develop accelerated restoration program for oil and gas projects.**

This is a responsible approach to minimizing the effects of wetland use. Similar considerations should be included for mining operations where reclamation is required after use. These temporary uses of wetlands should not be treated as "net losses" and should be viewed as part of the minimization strategy. The final Alaska Strategy recommendations should recognize reclamation in addition to the concept of accelerated restoration.

- o **Recommend written partnerships be established between the Corps and all interested stakeholders on Section 404.**

We strongly endorse this concept and remind the parties that there is a special relationship with ANCSA Corporations that necessitates that the Corps and EPA take the extra step to ensure maximum participation by Natives in decisions affecting their rights and property.

Issue #2 How can the Section 404 program be best implemented in light of the Alaska Native Claims Settlement Act (ANCSA), Alaska National Interest Lands Conservation Act (ANILCA), and Statehood Acts?

The Administration's August 24, 1993, Wetlands Plan established five principles to guide the specific provisions of the Plan. Two principles pertinent to this issue are: 1) Regulatory programs must be efficient, fair, flexible, and predictable; and 2) the Federal

government should expand partnerships with State, Tribal and local governments. Although the Administration's plan does not specifically recognize ANCSA Corporations the Act requires **maximum participation by Natives in decisions affecting their rights and property.** The provisions of ANCSA are not inconsistent with the Administration's partnership objectives.

Issue 2: Alaska Specific Actions:

The Alaska specific actions are:

- Increase use of Alternate Permit Procedures (APP).
- Propose the development of additional General Permits (GP).
- Continue to consider the public interest in Section 404 permit actions.
- Continue to develop regionalized general Permits based on comprehensive wetlands plans.

These proposed actions fail to address the issue! The Administration's programs can not selectively choose which laws and regulations it must apply, nor can they simply put on blinders and attempt to ignore other potentially conflicting legal requirements. As previously cited, the relationship between ANCSA and other Federal laws is established by the Act:

"To the extent that there is a conflict between any provision of this act and any other federal laws applicable to Alaska, the provisions of this Act shall govern."

Under ANCSA, the Federal government has a responsibility to ensure maximum participation of Natives in decisions affecting their rights and property. The Corps and EPA must ensure maximum participation of Native corporations in decisions and not cross the line that negates the intent and purpose of ANCSA. The proposed Alaska actions do not ensure **maximum participation by Natives in decisions affecting their rights and property.** Major changes to this section are necessary to address the issues of reconciliation of ANCSA objectives with National wetlands policies.

The National desire to protect wetlands and meet ANCSA objectives does not have to be confrontational. An Alaska wetland management program that establishes partnerships with ANCSA Corporations, provides maximum participation in decisions effecting Native rights and property; and provides those Corporations with the flexibility to use and manage their resources consistent with ANCSA will serve to meet the intent of ANCSA and the Nation's wetlands policy. This philosophy does not suggest that wetlands can be willingly abused. In previous testimony Sealaska has offered detailed alternatives to establish management relationships, including:

- Exempt ANCSA lands from wetlands management restrictions or provide additional compensation to ameliorate for the impacts of wetlands restrictions.
- Allow ANCSA Corporations to assume management of wetlands.
- Exempt ANCSA Corporations from wetland restrictions except uncommon wetlands.

- Create ANCSA Corporation delineation manuals for Alaska's major geographic regions.
- Exempt ANCSA from unreasonable avoidance and compensation strategies.

These recommendations must be revisited and become part of the final recommendations to the Administration.

Issue #3 How can the Section 404 program be best implemented to reflect the physical environment and wetland characteristics in Alaska?

The Administration's wetland plan proposes:

- Develop improved analytical tools for wetlands functional assessments.
- Issue Section 404(b) (1) Flexibility Guidance.
- Encourage Advance Planning Efforts.
- Regionalize General Permits for Activities in Defined Categories of Waters.
- Support the use of the 1987 Wetland Delineation Manual by the Corps., EPA, Soil Conservation Service, and USFWS pending evaluation of the NAS study.
- Recommend that Congress add examples of isolated water to the statutory definition of wetlands.
- Increase state, local, and tribal roles in wetlands protection and regulation.

We conceptually endorse the Administration's proposals, with three exceptions: 1) failure to maximize Native corporation involvement, 2) the addition of "isolated wetlands" to the wetland statutory definition, and 3) failure to recognize the abundance of wetlands in Alaska.

Without the advantage of seeing the proposed "isolated wetland" definition, we are concerned that this definition will not recognize the problems that an overly broad definition will have in Alaska. Wetlands that are isolated due to geomorphic conditions or permafrost do not always provide habitat for waterfowl and fish or provide other wetland benefits. These situations (depending on the Administration's proposed definition) would require expenditure of limited funds and staff time to administer a regulatory program that provides a marginal return. These resources could be better utilized managing higher value wetlands. Any definition must be narrowly constructed to eliminate those wetlands that have limited value.

The problems that precipitated the "no-net loss" strategy were caused by the long-term abuse of wetlands in the continental United States. The Administration's strategy does not recognize abundance of Alaska's wetlands whose function and value are intact. If other States could make the same claim it is unlikely that the "no-net loss" initiative would have even been considered. The Administration's plan needs to include specific direction for Alaska with a strong recognition of the abundance of Alaska's wetlands, that use of wetlands will be necessary for basic needs and commerce and a higher degree of flexibility in the 404(b)(1) guidelines for States with abundant wetlands.

Issue 3: Alaska Specific Actions:

- o **Evaluate the need for further Alaska specific regionalization of the 1987 wetlands delineation manual.**

The agency analysis finds fault with the recommendation that Hemlock forests exhibiting medium to high vigor should not be delineated as wetlands. The agency analysis attempts to side-step problems with wetland plant associations, and offers solace that western hemlock forests must still meet the other two wetland delineation requirements (hydrology and soils) before western hemlock forests are wetlands. This conclusion creates extraordinary costs to administer the wetlands management program. Vegetation is an expedient way of eliminating large tracts from further wetlands consideration because vegetation interpretation can be done by relatively inexpensive remote sensing techniques. The failure to remove hemlock from a facultative species list leaves large tracts of land in wetland categories until more extensive and very costly field verification of hydrology and soils can occur. Further, it is ironic that the Washington State delineation manual lists western hemlock as a facultative upland species, which further supports our observations that the Alaska facultative vegetation category is overly broad.

We believe the only effective way to resolve these issues is to develop specific regionalization of the delineation manual.

- o **Continue to develop regionalized general permits (GP) and Develop the Hydrogeomorphic Classification System within Alaska for wetland functional assessments.**

We support GPs. We recommend that the procedures to develop and issue the initial GP permits be streamlined.

Conceptually we endorse the objective of finding methods to efficiently and predictably determine the functional value of wetlands. We are unaware of the HGM procedures. We have some reservations regarding HGM use in Alaska because it appears to be a National initiative, which will then lack regional sensitivity. The Alaska strategy should develop its own regionalized functional value systems. Vegetation should not be eliminated as an indicator of wetlands functional values.

- o **Provide Alaska priority status in terms of funding for development of Wetland Conservation Plans. Supplementary fund acceleration of the NWI mapping efforts in certain areas.**

We are perplexed by the continuing emphasis on the NWI. The Corps and EPA have already stated that the inventory is not for regulatory purposes, yet it continues to become a primary strategy to address Alaska's wetland problems. Priority should be given to regionalization of wetlands delineation and functional value analysis and regional mapping that can address the regulatory aspects of Alaska's wetland management. If the NWI continues to be used it must be modified by using improved

mapping techniques, using higher resolution photography, producing digitized mapping products and delineating wetlands using the jurisdictional definition.

Issue # 4 *How can the role of State and local governments, and Native interests be improved in the protection and regulation of Alaska's wetlands?*

The Administration Plan offers numerous suggestions to address this specific issue including:

- Assist States, Tribes, and Local Governments in Taking a Stronger Role in Wetlands Protection.
- Provide Incentives for States, Tribes, and Regional and Local Governments to Integrate Watershed and Wetlands Planning.
- Increase Deference to State, Tribal, Regional, and Local Wetlands Decision Making.
- Endorse State/Tribal Wetland Conservation Plans.
- Encourage State/Tribal Assumption of Section 404.
- Provide State/Tribes with access to Wetlands Delineation Training.

We can conceptually endorse the objective of the administration and believe that incentives, assistance and cooperation offered tribal groups should be also extended to ANCSA corporations. We disagree with the Administration's exclusive focus on wetlands protection. The resolution of this issue in Alaska will require flexibility.

Issue 4: Alaska Specific Actions:

The Alaska specific action include:

- Develop Regional General Permits.
- Develop Circle General Permits for Alaskan communities.
- Conduct Monitoring of Existing and Future Cumulative Wetland Impacts of General Permits.
- Provide Technical Assistance for State Assumption.
- Recommend written partnerships be established between the Corps and all interested stakeholders on Section 404.

The Alaska specific actions do not fully address the issue. The comments on Issue #2 are germane to this section.

Issue #5 *How can the Section 404 individual permit process be best implemented in a fair, flexible, and efficient manner in Alaska?*

The Administration Plan includes:

- Establish Deadlines for Permit Action.
- Adopt an Appeals Process for jurisdictional determinations, permit denials, and administrative penalties.
- Issue Section 404(b) (1) Flexibility Guidance.

We endorse the Administration's position to establish timelines for permit decisions. However, we believe there is a need to allow the applicant to "toll" the timelines in order to resolve any questions that would lead to precipitous permit decisions. We strongly disagree with the Administration's position that third parties should have equal standing in any permit denial appeals unless there is an obligation by the government to process such appeals in a timely manner. Moreover, third parties must participate in permit denial appeals to retain standing in any judicial action.

Issue 5: Alaska Specific Actions:

- o **Develop Interagency Guidance to Clarify how Circumstances in Alaska such as the Abundance of Wetlands can Reduce Opportunities to Avoid Impacts to Wetlands and Affect how Rigorously Alternatives are Evaluated.**

We support the proposed Alaska actions with three caveats. First, we have not had an opportunity to review the August 24 flexibility guidance and must withhold comment. However, we reiterate that Federal actions must ensure **maximum participation by Natives in decisions affecting their rights and property**. Second, compensatory mitigation should not be required on ANCSA lands. Third, the Alaska actions recommend that compensatory mitigation would not be required for areas with abundant low value aquatic areas. We believe that it more correctly stated that compensatory mitigation will not be necessary in "areas with abundant or low value wetlands".

- o **Conduct Exit Polls or Interviews with Permit Applicants.**

We continue to support this effort.

- o **Ensure Sufficient Regulatory Resources.**

We support this effort.

Issue #6 *How can alternative permit processing procedures be best implemented in a fair, flexible, and efficient manner in Alaska?*

Issue 6: Alaska Specific Action:

- Expedite Development of Abbreviated Processing Procedures (APP).
- Propose the Development of Additional General Permits.
- Conduct Cumulative Impacts Evaluations for General Permits.
- Develop Circle General Permits for Alaskan communities.
- Conduct Exit Polls or Interviews with Permit Applicants.

We endorse the Alaska specific recommendations. We offer that the proposed "impact evaluations" should be redefined as audits and that the scope be expanded to a critical review of the general permit. These audits should include evaluation to determine if a

GP is administratively efficient, the special conditions are reasonable, the GP is applicant friendly and meets the environmental protection objective.

Issue #7 **How can the mitigation sequence best be applied in Alaska?**

Issue 7: Alaska Specific Actions:

- o **Develop interagency guidance to clarify how physical circumstances in Alaska such as the extent and type of wetlands affect the determination of "practicability" under the Guidelines mitigation requirements.**

We conceptually endorse the proposal, but stress that any program should consider regionalization in-order to be responsive to regional conditions and ensure **maximum participation by Natives in decisions affecting their rights and property.**

- o **Recommend that the Executive Order on wetlands articulate the flexibility in implementing the Administration's goal of no overall net loss of the Nation's wetlands to reflect particular circumstances in Alaska.**

We suggest that the proposal be changed to recommending amendments to the CWA to provide flexibility to accommodate Alaska's circumstances. There needs to be a clear statement that mitigation sequencing will not work in Alaska. Rigid application of the sequencing process in Alaska is the single most egregious element of the wetlands regulatory program. Emphasis should be on minimization. Compensatory mitigation should not be required. Further, local governments, the State and land owners should receive minimization and avoidance credits for land and resource management practices that protect and enhance wetlands (e.g. riparian buffers, and fish and waterfowl habitat restoration and enhancement projects and greenbelts). The contributions of these efforts to maintain the Nations wetlands has thus far been ignored by the Alaska Wetlands initiative and must be incorporated into any final recommendations.

- o **Issue a Special Public Notice (or Local Supplement to the "Mitigation MOA") on application of the mitigation sequence in Alaska.**

We have not been provided with a copy of this MOA and withhold any comment. Conceptually we endorse the proposal provided that the agencies provide for **maximum participation by Natives in developing and implementation of the MOA to the extent decisions affect their rights and property.** This request is not unreasonable. Sealaska and the U.S. Fish and Wildlife Service cooperatively prepared a manual for management of Bald Eagle habitat. Similar benefits will result from further cooperation with ANCSA Corporations.

- o **Acknowledge pre-application avoidance and minimization efforts.**

We fully endorse the proposal and request that it be modified to include credits for management practices that protect, restore and enhance wetlands (e.g. riparian

buffers, and fish and waterfowl habitat restoration and enhancement projects). The recognition of these contributions to maintaining the Nation's wetlands has thus far been ignored by the Alaska Wetlands initiative and must be incorporated into any final recommendations

Issue #8 *How can compensatory mitigation be best implemented in Alaska?*

Issue 8: Alaska Specific Actions:

- o **Develop interagency guidance to clarify how physical circumstances in Alaska such as the extent and type of wetlands affect the determination of "practicability" under the Guidelines mitigation requirements.**

The development of any guidance regarding compensatory mitigation, if it will effect Alaska Native lands and resources, must ensure **maximum participation by Natives in decisions affecting their rights and property**. This is not an unreasonable request. Native Corporations have shown leadership in developing responsible forest practices, cooperating with EPA to undertake TMDL assessments and developing guidelines with USFWS to develop Bald Eagle Habitat management brochures.

- o **Recommend that the Executive Order on wetlands articulate the flexibility in implementing the Administration's goal of no overall net loss of the Nation's wetlands to reflect particular circumstances in Alaska.**

We concur with the recommendation but suggest that it should be included in legislation as an amendment to the Clean Water Act.

- o **Incorporate mitigation into advance planning efforts.**

We endorse the proposal but are concerned that it ignores the potential contributions of Native Corporations. Further, the proposal is narrowly focused and fails to recognize the ability to enhance wetlands use. For example Sealaska, Kivilco and the USFS entered into a partnership to provide fish passes past two barrier falls on Old Franks Lake. The effect will be to increase the natural production of Coho from the system by over 12,000 fish annually. In allowing the pass to be constructed on its lands, Sealaska incurs the mandatory obligation to retain riparian buffers around the entire lake and tributary streams. The administration speaks about incentives for private landowners to participate in wetland restoration but ignores the enhancement opportunities. A successful program will require recognition of the effort of private land owners to not only protect, but enhance and restore valuable wetlands.

- o **Develop mine site reclamation guidelines.**

We support the effort and particularly commend the recognition that the agencies need to work with the affected parties and other regulators to find a mutually satisfactory solution. Before embarking on a "new" initiative we recommend that the current state and federal reclamation requirements be evaluated to determine the degree to which they meet wetlands requirements.

- o **Develop accelerated restoration program for oil and gas projects.**

We support accelerated restoration as a vehicle for minimizing wetlands impacts.

- o **Develop and implement bonding procedures for restoration/reclamation projects.**

Bonding should not be a program of first resort. Only if there is a question regarding permittee abilities, lack of tangible assets, lack of insurance and no contribution to form other bonding pools (e.g. mining reclamation bond pool) should bonds be required.

- o **Establish mitigation banking pilot project.**

We endorse this proposal. The mitigation banking concept is a regulatory void that has varied meaning to each person involved. A pilot program would be beneficial. We would encourage that such efforts be regionalized to achieve the special opportunities in each area.

- o **Assess the effectiveness of mitigation efforts in Alaska.**

We fully support this effort. Alaska and the lower 48 are covered with well meaning mitigation and restoration efforts that were expensive, but which did not achieve their purpose and in some cases were detrimental to aquatic ecosystems. An intelligent scientific approach that undertakes mitigation pilot projects and continues to monitor such projects will benefit everyone.

Issue #9 *How can advance planning and watershed management be best implemented to improve the predictability and effectiveness of the Section 404 permitting process and the protection of wetland resources?*

Issue 9: Alaska Specific Actions:

The following tactics are useful to develop a model watershed management program in Alaska. However, there must be a recommendation in this section that the Administration recognize these efforts and allow Alaska the time and funding necessary to accomplish the tactics. Further, the tactics do not adequately address the issue of improving predictability and effectiveness of the 404 process. Instead, there is encouragement for locals to do more, but the experience of Juneau raises questions regarding what local groups will be allowed to accomplish. Further, the tactics do not show how they will be integrated with ongoing regulatory programs and the level of flexibility that will be given to develop these programs.

- o **Provide greater emphasis on the use of advanced planning mechanisms.**

We support this proposal and are heartened by the recommendation to involve Natives. ANCSA corporations have developed large land and resource data bases and in several instances very sophisticated analytical tools. We encourage close cooperation with each Native Corporation to the degree they wish to participate.

- o **Continue efforts to provide technical assistance for wetland planning.**

Technical assistance can flow both ways. We encourage close cooperation and coordination with ANCSA Corporations to achieve a synergy between the parties to develop model demonstration programs. Where Corporations have not yet developed complex land and resource data bases and management systems, outreach assistance from the Corps and EPA will be beneficial.

- o **Develop a watershed-based demonstration project.**

We encourage that demonstration projects be regionalized. In some instances in Southeast Alaska extensive efforts are underway to develop watershed management plans. We strongly suggest that the Corps and EPA cooperate with the ongoing USFS and Sealaska efforts.

Issue #10 *How can wetlands inventory, classification, and categorization be best implemented to improve the predictability and effectiveness of the Section 404 permitting process and to protect wetland resources?*

Issue 10: Alaska Specific Actions:

- o **Support efforts to identify and collect wetlands data in focus areas (watersheds) where development is likely to occur.**

Conceptually we endorse this proposal, but stress that these efforts must include participation by ANCSA Corporations and use of alternatives to the NWI. We have already shown that the NWI is not up to the job. We recommend that the focus should be in those areas where there is a strong interest in partnerships to develop regionalized programs and to use the extensive resources that may be available.

- o **Investigate the feasibility of centralizing wetlands information.**

It is appropriate to centralize wetland information; however, we strongly disagree if the centralization fosters a "one-size-fits-all" approach to Alaska wetlands management. The only way to have a successful Alaska wetlands program is to maintain a high degree of regional flexibility in planning, delineation, valuation and regulation.

- o **Accelerate the National Wetlands Inventory mapping project.**

NO! Before we can support further effort in the NWI for the Alaska strategy there must be an explanation of how it fits into the Alaska strategy.

- o **Continue to support the State's effort to select and apply a wetland classification method.**

We are happy to see that there is a willingness of the Corps and EPA to work with the State to support an agreed upon wetland classification system. We are concerned that State's flexibility is being constrained by the caveats of this strategy such as

requirements to include the Cowardin system used in the NWI mapping effort. Any system must be regionalized using the jurisdictional definition.

- o **Continue to support activities related to comprehensive wetlands planning.**

We endorse this strategy.

Issue #11 *How can education and outreach efforts be improved to best inform the public of the value of wetlands and the provisions of Section 404?*

Issue 11: Alaska Specific Actions

Issue 11 suggests a series of Administrative processes to clarify and facilitate the permitting process. We support these administrative efforts. We also recommend that the Agencies review the process for development of general permits and offer recommendations to speed the development of general permits. We strongly endorse recommendations to establish partnerships.

Alaska Wetlands Initiative Briefing
Alaska Senate Resources Committee
Alaska House Resources Committee
February 2, 1994

By Alvin L. Ewing
Assistant Regional Administrator
U.S. Environmental Protection Agency

Mr. Chairman, Committee Members, ladies and gentlemen, my name is Al Ewing. I am the Director of Operations for the U.S. Environmental Protection Agency in the State of Alaska. I appreciate the invitation to brief your Committee on the process which is currently underway to consider environmentally appropriate means to assure regulatory flexibility and the feasibility of alternative permitting procedures for the Clean Water Act Section 404 wetlands regulatory program in Alaska.

The Clinton Administration's August 24, 1993 Wetlands Plan stated the intent to withdraw the proposed "Alaska 1% rule". The Plan further directs the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) to meet with interest groups in the State of Alaska to identify and address concerns with the Clean Water Act Section 404 program in Alaska. Specifically, the Plan states that the agencies will "initiate meetings with the Federal resource agencies, State and local government agencies, representatives of native villages, industry groups including oil and fishing interests, and environmental groups, to consider other environmentally appropriate means to

assure regulatory flexibility and the feasibility of alternative permitting procedures in Alaska."

On October 12, 1993, the agencies in Alaska (EPA and the Corps) invited a diverse and comprehensive group of Stakeholders to participate in a series of independently facilitated meetings in Juneau, Bethel, Fairbanks, and Anchorage. These meetings took place in late October and early November. The two-day meetings provided the opportunity for Stakeholders to present oral testimony as well as to discuss concerns in a roundtable format. The public was invited to attend these meetings, to submit written comments, and to participate in a Statewide teleconference linking 20 locations throughout Alaska. Approximately 75 Alaskans took advantage of these public comment opportunities. Furthermore, approximately 1,500 letters were mailed to Alaskans who, over the last five years, had applied for Section 404 permits, to survey their opinion regarding experience with the regulatory program.

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At the conclusion of the first round of meetings, EPA and the Corps, with assistance from the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), and with oversight by the White House Interagency Wetlands Working Group, developed a set of 11 Issue Papers. The Alaska Wetlands Initiative Issue Papers have been available for public comment since December 17. In response to your request, we

extended the closing date for comments on the Issue Papers from January 21, 1994 to February 4, 1994.

During the month of January, we held a second round of Stakeholder meetings in Juneau, Bethel, Fairbanks, and Anchorage specifically to garner feedback on the issue papers. These meetings were also managed by an independent facilitator and resulted in a summary report, prepared by the facilitator, which will be used as we refine the Issue Papers and prepare an action plan. All meetings, throughout the process, were recorded, and written transcripts are available.

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Upon conclusion of the public comment period we will summarize and analyze public comments. The public comments, in conjunction with results of the roundtable meetings, and public meetings will serve as guidance as we revise the Issue Papers and develop an action plan for implementation of recommendations. EPA and the Corps will have the lead in this refinement process and we will be assisted by FWS and NMFS with oversight from the White House Interagency Wetlands Working Group. We expect the process to be concluded in March 1994. Implementation of the action plan is expected to begin immediately thereafter, and depending on the nature of the actions, could take up to several years to complete.

We have made available to you copies of the December 17, 1993 public review draft of the Issue Papers. Topics covered by the Issue Papers are:

1. No Overall Net Loss of Wetlands Goal
2. Alaska Legal Issues
3. Alaska Physical Environment
4. State, Local, and Native Roles
5. Individual Permit Process
6. Alternative Permit Processing Procedures
7. Mitigation Sequence
8. Compensatory Mitigation
9. Advanced Planning and Watershed Management
10. Wetlands Inventory, Classification, and Categorization
11. Outreach and Education.

Each Issue Paper contains background information, a summary of Stakeholder and public comments and analysis, and proposed recommendations. Proposed recommendations are in two categories -- those applicable actions contained in the Clinton Administration's August 24, 1993 Wetlands Plan and Alaska specific actions.

In the interest of time, I will not recapitulate what is contained in the Issue Papers, but I will be happy to respond to any questions you may have regarding either the process we are engaged in or the substance of the Issue Papers.

Again, thank you for this opportunity to discuss the Alaska Wetlands Initiative Process.

STATEMENT OF DR. PAUL RUSANOWSKI
DIRECTOR
DIVISION OF GOVERNMENTAL COORDINATION

BEFORE

ALASKA STATE LEGISLATURE

SENATE
AND
HOUSE OF REPRESENTATIVES

RESOURCE COMMITTEES

2/2/94

INTRODUCTION

The State of Alaska commends the Clinton Administration for recognizing and addressing the climatological, physiographical and demographical circumstances which make wetlands management in Alaska unique. These circumstances led to the exemption policy of the previous administration and the Alaska Wetlands Initiative of the Clinton Administration.

The State further commends the federal government for its diligent effort in addressing wetland issues critical to Alaska. We are therefore looking forward to seeing the Action Plan that results from the Alaska Wetlands Initiative.

The Alaska Wetlands Initiative and Action Plan must deal with the many truly unique features of the State in establishing a fair, flexible and effective Action Plan.

- State has nearly 175 million acres of wetlands; with historical cumulative losses of less than 200 thousand acres.
- Most wetlands are still in public ownership. Of that 175 million acres, the Federal Government itself owns nearly 115 million acres. That's 65%. The State of Alaska owns 40 million acres; Native wetlands comprise about 20 million acres, and private non-native wetlands less than 200 thousand acres.
- Of the 115 million acres of federally owned wetlands, over half are in highly protected status. Specifically, 18.4 million acres are in federally designated wilderness areas, and an additional 40 million acres are in national parks and refuges. Another 56.4 million acres are in federal multiple use areas.
- When the protected wetlands owned by the State of Alaska are added, the protected area totals 63 million acres. That's 36% of all wetlands in Alaska now being in a protected status.

- The State is dominated by Arctic and subarctic climatic zones which occur nowhere else in the U.S. Permafrost is common throughout most parts of the State and is the dominant lowland feature in Northern and Western Alaska.
- Most communities in the State are small, rural and widely dispersed throughout the State. A few communities account for most of the 550 thousand population; with 75% of the people living in 38 communities, and almost 50% living in the Municipality of Anchorage; only 25% of the population lives in the approximately 300 remaining communities.
- Most communities are not connected by roads depending instead on water and air transportation modes. Small community size, remoteness, lack of easy access and harsh climates make the costs of providing basic services extremely expensive.
- The State is highly dependent on natural resources for both its economic welfare and that of its citizens. Most rural areas are highly dependent on subsistence for both economic and cultural survival. Native lands must be used to support both traditional lifestyles and to generate income to provide basic health and community services to shareholders.

PROCESS

The process to carry out the Clinton Administration wetland plan has been rapid. The national plan was announced on August 24. Meetings were initiated last fall and concluded early this month. We approve of the concept of getting the Alaska Initiative completed as soon as possible, but this accelerated process has come with a cost. The State of Alaska was allowed to participate as "Stakeholder" only, not as a full State partner. There has been very limited opportunity for public participation. The issue papers were released for review and comment on December 17, over the holidays, when many people typically are on vacation. Meetings were scheduled for the first workdays in January.

Clearly, the State believes there should have been more appropriate opportunities for public participation. We have continually asked for more public participation and involvement, and have asked that the process be broadened. We do appreciate that the Corps and EPA adjusted the process to accommodate more public input, were able to extend the public comment period, and that the State Legislature, the elected representative of the public, have been allowed to review the actions to date.

ISSUES

On December 17, the Corps of Engineers and EPA released a set of 11 issue papers with draft recommendations. Several of the recommendations are encouraging. The State of Alaska genuinely

believes that if these recommendations are implemented, major progress will be made in implementing and addressing wetlands issues and concerns that are highly important to all Alaskans.

- We are encouraged that the federal government recognizes that there must be a flexible implementation of the National "No Net Loss" goal. Specifically implementation of "No Net Loss" will be attained through avoidance and minimization rather than restoration and creation of wetlands.
- We are concerned that only federal agencies are now specified as developing guidance to implement "No Net Loss." Policy should be developed with state and stakeholder participation, not solely by the federal government for the State. Moreover, if the guidance is truly going to reflect unique regional circumstances, then the stakeholders who live and work in the regions must be brought into the process too.
- Recognition that experience in Alaska shows that minimization of impacts is the primary tool in mitigation sequencing. Compensation should be used for those truly remarkable wetlands, many of which are already in protected status, where avoidance and minimization fail to adequately address wetlands concerns.
- The Corps and EPA state they will recommend that the Executive Order on Wetlands will articulate flexibility in implementing the Administration's goal of no overall net loss of the Nation's wetlands to reflect special Alaska circumstances.
- With some reservations the State of Alaska can support minimization as the primary tool of mitigation sequencing. It is important that the federal government and other Outside interests recognize that in many Alaska towns and villages, basic services are lacking. Many towns and villages in Alaska are located in wetlands or are totally surrounded by wetlands and therefore are under federal jurisdiction. Facilities which many Americans take for granted, like water and sewer services do not exist. There are few roads and transportation networks. To complete the kinds of development and basic infrastructure commonplace in the rest of the country, some wetlands are going to be developed. To force these communities to create more wetlands as compensatory mitigation, such as replacing or creating additional wetlands is a poor solution.
- Also, the State of Alaska expects to be involved in developing and implementing policy specifying when and where compensatory mitigation will be required. As presently proposed, the effort will be conducted entirely by the federal government.
- We support the emphasis on alternative permitting procedures, general permits and circle permits. These measures recognize

the unique circumstances that exist in the State. Where appropriate, their use should be maximized. These general permits should focus on logical regional, traditional, local existing government and management boundaries. However, the paperwork associated with obtaining and administering such programs is beyond the reach of many communities without financial and technical assistance. It is critical that the federal Action Plan, which is forthcoming, provide for this assistance.

- Wetlands management plans may be appropriate in some areas, but are not practical or within reach of many smaller, remote and less sophisticated villages or regions of the State where wetlands are abundant. In fact in many of these locations wetlands are the predominant landform. It is precisely these kinds of places that need general permits the most. In fact in some of these locations, GPs may be more burdensome than necessary to protect and safeguard wetlands. We ask that wetlands planning in Alaska focus on protecting wetlands of critical value and their functions, not all wetlands regardless of function and value.
- The practicality and expense of complex and sophisticated planning efforts is not commensurate with the level of wetlands development or conservation activities that would occur in the near future. The State believes that decisions affecting local communities need to be made at the lowest practical level, preferably at the local community level.
- Recognition of the need for a regionalized wetlands delineation manual, perhaps for several regions in Alaska, along with support for inventory and classification, are longer term solutions which will do much to reduce wetlands controversy in the State. More emphasis should be placed on this aspect to ensure that necessary tools are available to all parties as part of the Alaska Wetlands Initiative. Any wetlands delineation manual must be comprehensive and must be linked directly to the wetlands permitting process, and must be applicable on a program basis thus avoiding case by case delineation of wetland.

A good example of a costly federal program not working for the wetland permitting program is the National Wetlands Inventory of the U.S. Fish and Wildlife Service. The federal government has continued to carry out this program for many years; the Fish and Wildlife Service has a major role in the wetlands permitting process. The program has errors in inventory, is not state of the art, uses less than the best available information and is not used for any jurisdictional or delineation determinations. Unless these problems are corrected NWI cannot be used to support a wetlands regulatory program.

- The State is looking forward to continued productive dialogue and interaction with the Corps and EPA as the Action Plan is developed for the Alaska Wetlands Initiative.

PARTNERSHIP

One of the five principles for federal wetlands policy issued on August 24, states "The federal government should expand partnerships with State, Tribal, and local governments, the private sector and individual citizens...." While there has been a good start on recognizing and discussing important issues on wetlands, an essential component that must be fully realized in the federal Action Plan is development of an effective partnership between federal and Alaska permitting authorities, as well as the Native community.

The success of this initiative and current recommendations is critically dependent on full participation by both State and Native interests. We embrace the "partnership" concept, but believe we thus far have been limited to a participant stakeholder rather than a full partner. The State has continually asked to participate as a full partner in developing the Action Plan for the Alaska Wetlands Initiative and sharing in the responsibility for its success. The Corps and EPA have developed the issue papers; and, the State is available to participate in development of the Action Plan.

- The partnering agreement now in place between the Corps and Division of Governmental Coordination is a good example. More use of this type of regulatory flexibility would go a long ways to solving problems of Alaskans. The Corps' and EPA's commitment to expedite action on Public Health Service and Village Safe Water projects will significantly contribute to improve the infrastructure and the standard of life in many Alaska villages.

The commitment to propose additional general permits statewide and circle general permits to communities will greatly improve the regulatory process. The State of Alaska should be a partner in developing any regulatory scheme for Alaskan communities. Programs, such as advanced identification of wetlands, circle general permits, and watershed planning, incorporate local and regional values, and accommodate community needs to be successful. There must be a balancing of community needs, resource values, and environmental management that is supported by consideration of multiple issues, rather than a single issue, no matter how compelling that issue might be. The balancing and consideration of all relevant issues and points of view in this process will foster cooperation and public support for requisite regulatory programs and overall success of the Alaska Wetlands Initiative.



HOUSE RESOURCES COMMITTEE

SUBJECT OF MEETING:

WETLANDS BRIEFING

DATE: 2/2/94

PLACE: Capitol, Room 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Paul Rusanowski	STATE -	DAC				<input checked="" type="radio"/> Y	<input type="radio"/> N	wetlands
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

Executive

Order

83

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 20, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 1/29/93

The RESOURCES Committee considered:

EO 83

EXECUTIVE ORDER NO. 83 Re: GEOGRAPHIC BOARD & HISTORIC SITES ADVISORY COMM.

Merging the State Geographic Board and the Historic Sites Advisory Committee into the Alaska Historical Commission in the Department of Natural Resources.

RECOMMENDATIONS: the same title
 be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: House Resources letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) DNR/1-11-93, DCPA/1-11-93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Car Bunde</i> Bunde	<input checked="" type="checkbox"/>	<i>David Finkelstein</i> Finkelstein		<input checked="" type="checkbox"/>	
<i>John N. Davies</i> Davies	<input checked="" type="checkbox"/>	<i>Pat Carney</i> Carney		<input checked="" type="checkbox"/>	
<i>James James</i> James	<input checked="" type="checkbox"/>				
<i>Green</i> Green	<input type="checkbox"/>				
<i>Hudson</i> Hudson	<input checked="" type="checkbox"/>				
<i>W.F. Williams</i> Williams	<input checked="" type="checkbox"/>				

W.F. Williams
 CHAIRMAN'S SIGNATURE



Official Business

Alaska State Legislature

HOUSE RESOURCES COMMITTEE

State Capitol

Juneau, Alaska 99801-1182

HOUSE RESOURCES COMMITTEE
LETTER OF INTENT
REGARDING EXECUTIVE ORDER NO. 83

The House Resources Committee has considered Executive Order Number 83 and has voted to move it out of Committee. However, the committee wishes to express its concern about a legal issue which was brought to the committee's attention by attorney Terri Lauterbach of the Legislative Legal Services Division. According to Ms. Lauterbach, "It concerns whether an executive order can validly remove from partially exempt service an employee put there by the legislature through statute. Executive Order No. 83 attempts to do so."

As Lauterbach explains, "Section 9 of the order repeals AS 41.35.375 and AS 39.25.120(c)(9)(G). These statutory sections placed the executive director of the Alaska Historical Commission in the partially exempt service. Section 15 of the order enacts new language relating to the hiring of staff without any reference to the partially exempt service. This would have the effect of placing the executive director in the classified service."

The House Resources Committee recognizes that the Governor could probably accomplish this personnel reclassification without the executive order or legislative action through other means. However, the fact remains that Executive Order 83 appears to go beyond constitutionally determined limits of what can be accomplished in an executive order. The Committee wants to state for the record that its approval of Executive Order 83 in no way implies approval of violation of the legal parameters of executive orders, nor should it be construed to mean that any inappropriate substantive changes proposed by executive order in the future will be accepted.

A handwritten signature in cursive script, appearing to read "Bill Williams".

Rep. Bill Williams, Chairman
January 29, 1993

FISCAL NOTE

No. 1

Bill Version: EO 83

(S) Publish Date: 1-11-93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: E.O. merging Historical Commission,
 Geographic Names Board, Historical Sites Advisory
 Commission Governor Hickel
 Sponsor: Commission Governor Hickel
 Requestor: Governor Hickel

Dept. Affected: Community and Regional Affairs
 BRU: Administration and Support
 Component: Office of the Commissioner

COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE:	0	0	0	0	0	0

FUNDING:

(Thousands of Dollars)

FUNDING	FY94	FY95	FY96	FY97	FY98	FY99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

POSITIONS	FY94	FY95	FY96	FY97	FY98	FY99
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact \$ 0

ANALYSIS: (Attach a separate page if necessary) This proposed legislation has no fiscal impact on DCRM. All staff work and occasional travel expenses for the Geographic Names Board are covered within the operating budget of the Office of the Commissioner. Staff time and minimal expenses are considered to be part of normal operating functions and obligations. No separate budget has ever been set up for AGNB operations/business.

Prepared by: Bruce Geraghty, Deputy Commissioner
 Division: Office of the Commissioner
 Approved by Commissioner: [Signature]
 Agency: Department of Community and Regional Affairs

Phone: 465-4700
 Date: December 9, 1992
 Date: 12-9-92

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FISCAL NOTE

No. 2
 Bill Version: EC 83
 (S) Publish Date: 1-11-93

STATE OF ALASKA 1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: Alaska Historical Commission
 Sponsor: _____
 Requestor: Governor

Department Affected: Natural Resources
 BRU: Parks Management
 Components: State Historic Preservation Program
 COMPONENT SERIAL NO. 451

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 fund source:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Nico Busillo Phone: 485-2406
 Division: Commissioner's Office Date: Nov. 8, 1992
 Approved by Commissioner: Glenn A. Oida Date: 11/7/92
 Agency: Department of Natural Resources

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Please file EO 83

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY

STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

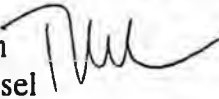
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 18, 1993

SUBJECT: Executive Order No.83
Alaska Historical Commission
(Work Order No. 8-GS1006.A)

TO: Chairs and Co-Chairs
House and Senate
Committees of Referral for E.O. 83

FROM: Terri Lauterbach 
Legislative Counsel

JAN 19 1993

For the purpose of determining if there are legal or technical drafting issues to bring to your attention, our office has reviewed Executive Order No. 83, which merges the State Geographic Board and the Historic Sites Advisory Committee into the Alaska Historical Commission in the Department of Natural Resources.

There is only one potential legal issue to bring to your attention about this order. It concerns whether an executive order can validly remove from the partially exempt service an employee put there by the legislature through statute. Executive Order No. 83 attempts to do so.

Section 9 of the order repeals AS 41.35.375 and AS 39.25.120(c)(9)(G). These statutory sections placed the executive director of the Alaska Historical Commission in the partially exempt service. Section 15 of the order enacts new language relating to the hiring of staff without any reference to the partially exempt service. This would have the effect of placing the executive director in the classified service.

It could be argued that this change in classification of an employee goes beyond what the state constitution says can be accomplished in an executive order, i.e., the transferring of an agency's duties. However, the committee could choose to view this as an insignificant extension of an executive order since AS 39.25.130(c) already allows a position in the partially exempt service to be moved to the classified service by the personnel board upon recommendation of the commissioner of administration. This means that the governor indirectly could probably accomplish the personnel reclassification without the executive order or legislative action anyway.

Committees of Referral for E.O. 83

January 18, 1993

Page 2

Your options are to

(1) recommend disapproval of the executive order, citing the attempt to accomplish more than the transfer of duties;

(2) recommend approval of the executive order but note that this approval should not be construed in the future as precedent for acquiescing to other types of substantive changes that go beyond the transferring of agency functions;

(3) recommend approval of the executive order.

Please let me know if this memo prompts further questions or if I can be of other assistance.

TML:mi
93-007.mai

Alaska Constitution

Article III

The Executive

Section 19 - Military Authority.

The governor is commander-in-chief of the armed forces of the State. He may call out these forces to execute the laws, suppress or prevent insurrection or lawless violence, or repel invasion. The governor, as provided by law, shall appoint all general and flag officers of the armed forces of the State, subject to confirmation by a majority of the members of the legislature in joint session. He shall appoint and commission all other officers.

Section 20 - Martial Law.

The governor may proclaim martial law when the public safety requires in case of rebellion or actual or imminent invasion. Martial law shall not continue for longer than twenty days without the approval of a majority of the members of the legislature in joint session.

Section 21 - Executive Clemency.

Subject to procedure prescribed by law, the governor may grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures. This power shall not extend to impeachment. A parole system shall be provided by law.

Section 22 - Executive Branch.

All executive and administrative offices, departments, and agencies of the state government and their respective functions, powers, and duties shall be allocated by law among and within not more than twenty principal departments, so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may be established by law and need not be allocated within a principal department.

Section 23 - Reorganization.

The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

The Executive

Section 24 - Supervision.

Each principal department shall be supervised by the governor.

Section 25 - Department Heads.

The head of each principal department shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, as otherwise provided in this article with heads of all principal departments.

Revisor's note - Senate Joint Resolution to lieutenant governor in 16 section voters August 25, 1970, inadvertently omitted.

Section 26 - Boards and Commissions.

When a board or commission is established by law, the governor, subject to confirmation by a majority of the members of the legislature in joint session, and they shall be citizens of the United States. They shall be appointed by the governor, and their appointment shall be subject to the confirmation of the legislature.

Section 27 - Recess Appointments.

The governor may make appointments during a recess of the legislature, in office during the recess. The duration of such appointments shall be limited to the recess.

Executive
Orders

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1993

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1183

Dear President Halford:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an Executive Order merging the State Geographic Board (AS 44.19.054 - 44.19.062) and the Historic Sites Advisory Committee (AS 41.35.110 - 41.35.190) into the Alaska Historical Commission (AS 41.35.300 - 41.35.380). The commission will remain in the Department of Natural Resources, where the Historic Sites Advisory Committee is also located.

I believe that this change will have several benefits to the state. First, it will place in one entity, instead of three, the closely related functions of recognizing and presenting Alaska's history, evaluating and approving historical sites in the state, and naming geographic places, which often involves names of historical figures, places, and events. Second, it will increase public access because the public will know that any historical concerns can be addressed to the merged entity; the public will not have to figure out which of three entities is the appropriate one for a specific matter. Finally, the consolidation will save money because the single resulting entity will have far fewer members than do the three existing ones combined.

Sec. 8 of the Order repeals and reenacts AS 41.35.310(5) which is identical in substance to existing AS 41.35.320.

Sincerely,

A large, stylized handwritten signature of Walter J. Hickel in dark ink.

Walter J. Hickel
Governor

OFFICE OF THE GOVERNOR

FACT SHEET

EXECUTIVE ORDER NO. 83: ALASKA HISTORICAL COMMISSION

Executive Order No. 83 combines the State Geographic Board and the Historic Sites Advisory Committee into the Alaska Historical Commission. It maintains the Alaska Historical Commission in the Department of Natural Resources, where the Office of History and Archaeology is located.

There has been wide support for this consolidation. The Governor's Task Force on Boards and Commissions, a legislative, executive, and public forum, recommended unanimously the consolidation of the Alaska Historical Commission, the Historical Sites Advisory Committee, and the Geographic Board.

In addition, a task force with representatives from the Alaska Historical Commission and the Historic Sites Advisory Committee, two private statewide groups (the Alaska Historical Society and the Alaska Association for Historic Preservation), and the Office of History and Archaeology reviewed the purposes of two of these boards. The Historical Commission and the Historic Sites Advisory Committee voted in support of their merger.

The functions and duties of the former boards will remain the same under the new commission. A membership of nine members is described on pages three and four of the Executive Order. Requirements such as having certain members nominated by the Alaska Historical Society, and having persons with professionally relevant backgrounds from the fields of history, architecture, or archaeology remain the same. Membership decreases from a total of 21 to 9.

We see several benefits to this consolidation:

1. Provides a coordinated effort between recognizing and presenting Alaska history, evaluating and approving historical sites, and naming geographic places, which often involves names of historical figures, places, and events.
2. Increases public accessibility as there will be one entity, instead of three, that deals with historical and geographical concerns of the public.
3. Saves money because of the decrease in total membership and lower administrative costs associated with one commission.

No additional funds are needed for this consolidation. The Department of Natural Resources and the Department of Community and Regional Affairs reflect zero fiscal notes.

The effective date for this merger is July 1, 1993.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS AND OUTDOOR RECREATION
Alaska Historical Commission

WALTER J. HICKEL, GOVERNOR

3601 C STREET, Suite 1278
ANCHORAGE, ALASKA 99503
PHONE: (907) 762-2622

MAILING ADDRESS:
P.O. Box 107001
ANCHORAGE, ALASKA 99510-7000

November 30, 1992

Re: 1060-6 Annual Report

The Honorable Walter J. Hickel
P.O. Box 110001
Juneau, Alaska 99811-0001

RECEIVED

DEC 02 1992

HAND DELIVERED
GOVERNOR'S OFFICE

DWR
cc: WSAH
cc: L.O.
cc: Patty
cc: SAC
K-X
L-X

Dear Governor Hickel:

AS 41.35.360 directs the Alaska Historical Commission to submit to you an annual report of its activities. I am pleased to submit the following report for the period January 1 to December 31, 1992.

The Commission is charged with promoting the study and understanding of Alaska's history. It is the only agency with such a charge. It serves as a forum for citizens' voices in the development of State history policy.

Lieutenant Governor John B. Coghill chairs the Alaska Historical Commission. Public members include Marilyn R. Knapp of Sitka, Elizabeth A. Tower, M.D. of Anchorage, and Molly C. Tryck of Anchorage. The fourth seat is not filled. The terms of Ms. Knapp and Dr. Tower have expired, but according to statute they continue to serve until reappointed or until new appointments are made. I serve as ex-officio member of the Commission.

Commission members met once, on October 28, 1992, in Anchorage with the Historic Sites Advisory Committee. Earlier in the year, a task force with representatives from the two boards drafted legislation for merging the two entities. No action was taken during the 1992 legislative session, but the Department of Law has prepared an executive order for your consideration for the 1993 legislative session. It would merge the Alaska Historical Commission, the Historic Sites Advisory Committee, and the State Geographic Names Board into a single entity that would retain the name Alaska Historical Commission.

A major accomplishment this past year was reprinting Alaska's Heritage, the secondary level history textbook prepared by the Commission in 1986. The funds to print the book came from the receipts of sales of previous Commission-supported publications. In other news, between 1987 and September 1, 1992, 5,847 copies of the Commission's video Alaska At War have been sold.

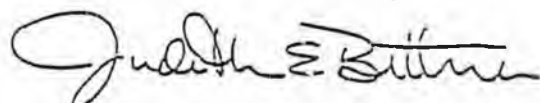
For several years, Commission members have been concerned about the haphazard organization of centennial commemorations. They sponsored a workshop on planning centennial commissions and proposed creation of a State task force to oversee coordination of activities. In October, the Tourism Coordinating Council created a Gold Rush Centennial Task Force and invited Judy Bittner to be co-chair with Wendy Wolf of the Division of Tourism. Commission member Elizabeth Tower will be a member of the task force as well. A survey has been sent out to interested members so that a meeting can be held early in 1993.

At their meeting in October, Commission members approved preparation of a gold rush time line, and authorized expending funds from its special receipts account for the project. The project reflects the members' continuing interest in preparing materials to supplement the textbook and their interest in having commemorative activities make a lasting contribution to our understanding of the past.

For the twelve month period of this report, the Commission expended \$4,200 in general funds and \$60,000 in special receipts account funds. During the period covered by this report, the Commission received \$2,368 in royalties. These will be used for future projects.

Much reduced from the 1980s, commission programs continue to assist Alaskans, historians, and groups including local historical societies, pioneer groups, students, and tourism groups.

Sincerely,

A handwritten signature in cursive script that reads "Judith E. Bittner".

Judith E. Bittner
State Historic Preservation Officer

BOARD: GEOGRAPHIC BOARD, STATE

BOARD IDENTIFICATION NUMBER: 41

TITLE: State Geographic Board

DEPT: Department of Community and Regional Affairs

AUTHORITY: AS 44.19.054

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: No term

DESCRIPTION: 8 members - 1 public appointed by Governor; plus 7 officials: Commissioner of the Dept. of Community and Regional Affairs, state museum curator, state historical librarian, Commissioners of the Dept. of Transportation and Public Facilities, Dept. of Natural Resources, the Dept. of Education, and Director of the Division of Lands in the Dept. of Natural Resources.

SPECIAL FACTS:

FUNCTION: Determines names and changes names of geographic features; prepares dictionary of geographic names; state representatives on U.S. Geographic Board.

COMPENSATION: Standard travel/per diem.

MEETINGS: 3 times per year; 3 days maximum.

*FOR FURTHER INFORMATION CONTACT: Commissioner, Dept. of
Community and Regional Affairs, P.O. Box 112100, Juneau, AK
99811-2100 PHONE: 465-4700 (Revised 3/24/92)

BOARD: HISTORIC SITES ADVISORY COMMITTEE

BOARD IDENTIFICATION NUMBER: 44

TITLE: Historic Sites Advisory Committee

DEPT: Department of Natural Resources

AUTHORITY: AS 41.35.110

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: 3 years

DESCRIPTION: 7 members appointed by Governor: 3 with professionally relevant backgrounds from each of the following fields: history, architecture, archeology; 2 representing indigenous ethnic groups; plus state museum director and state liaison officer (appointed under National Historic Preservation Act of 1966) with no terms; serve at the pleasure of Governor; committee elects chair.

SPECIAL FACTS: Quorum - 5 members. Serve at the pleasure of the Governor.

FUNCTION: Develops criteria for evaluation of monuments and historic sites, formulates and reviews surveys, approves recommendations to National Register; recommends historic preservation grant project for funding.

COMPENSATION: Standard travel/per diem.

MEETINGS: At least three times a year; two days maximum. Possibly one meeting a year via telconference.

*FOR FURTHER INFORMATION CONTACT: Chief, Office of History/
Archaeology, Division of Parks, Dept. of Natural Resources,
Box 107001, Anchorage, AK 99510-7001 PHONE: 762-2626
(Revised 10/27/92)

BOARD: HISTORICAL COMMISSION, ALASKA

BOARD IDENTIFICATION NUMBER: 45

TITLE: Alaska Historical Commission

DEPT: Department of Natural Resources

AUTHORITY: AS 41.35.300

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: 2 years

DESCRIPTION: 6 members: 4 appointed by Governor from nominees submitted each year by the Alaska Historical Society (persons who have served on the commission may be renominated); Lieutenant Governor (ex-officio) serves as chair; and the Executive Director (ex-officio) who may not vote.

SPECIAL FACTS: Annual report to Governor.

FUNCTION: Surveys, evaluates, and catalogs printed prehistory/history materials; registers work in progress; identifies sources; coordinates production and publication of works to present Alaska's past.

COMPENSATION: Standard travel/per diem.

MEETINGS: 2-3 times per year; 16 days maximum.

*FOR FURTHER INFORMATION CONTACT: Chief, Office of History/
Archaeology, Dept. of Natural Resources, P.O. Box 107001,
Anchorage, AK 99510-7001 PHONE: 762-2626 (Revised 3/24/92)

BOARDS & COMMISSIONS TASK FORCE: Individual Fiscal Notes

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

Geographic Names Board

OPERATING	FY 93	
Personal Services		10.7 PS includes 20% of the salary & benef
Travel		1.3 for an Executive Sec. position.
Contractual		5.3
Supplies		0.4
Equipment		
Land & Structures		
Grants, Claims		
Miscellaneous		
TOTAL OPERATING		17.7

CAPITAL

REVENUE FUND SOURCE: 1004

FUNDING		
General Fund		17.7
Federal Funds		
Other Fund Source	GF/PR	
TOTAL		17.7

POSITIONS
Full-Time
Part-Time
Temporary

BOARDS & COMMISSIONS TASK FORCE: Individual Fiscal Notes

Historic Sites Advisory Commission

OPERATING	FY 93	
Personal Services		6.0
Travel		3.6
Contractual		1.0
Supplies		1.0
Equipment		
Land & Structures		
Grants, Claims		
Miscellaneous		
TOTAL OPERATING		11.6

CAPITAL

REVENUE FUND SOURCE:

FUNDING	
General Fund	11.6
Federal Funds	
Other Fund Source:	
TOTAL	11.6

POSITIONS
Full-Time
Part-Time
Temporary

BOARDS & COMMISSIONS TASK FORCE: Individual Fiscal Notes

Historical Commission

OPERATING FY 93

Personal Services	
Travel	3.4
Contractual	1.0
Supplies	0.8
Equipment	
Land & Structures	
Grants, Claims	
Miscellaneous	
TOTAL OPERATING	5.2

CAPITAL

REVENUE FUND SOURCE:

FUNDING	
General Fund	5.2
Federal Funds	
Other Fund Source:	
TOTAL	5.2

POSITIONS
Full-Time
Part-Time
Temporary

BOARD: HISTORICAL COMMISSION ALASKA

BOARD IDENTIFICATION NUMBER: 45

TITLE: Alaska Historical Commission

DEPT: Department of Natural Resources

AUTHORITY: AS 41.35.300

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS:

TERM: 2 years

DESCRIPTION: 6 members: 4 appointed by Governor from nominees submitted each year by the Alaska Historical Society (persons who have served on the commission may be renominated); Lieutenant Governor (ex-officio) serves as chair; and the Executive Director (ex-officio) who may not vote.

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Archaeology, Dept. of Natural Resources, P.O. Box 107001,
Anchorage, AK 99510-7001 PHONE: 762-2626 (Revised 3/24/92)

BOARDS & COMMISSIONS TASK FORCE: Individual Fiscal Notes

Historical Commission

OPERATING	FY 93
Personal Services	
Travel	3.4
Contractual	1.0
Supplies	0.8
Equipment	
Land & Structures	
Grants, Claims	
Miscellaneous	
TOTAL OPERATING	5.2

CAPITAL

REVENUE FUND SOURCE:

FUNDING	
General Fund	5.2
Federal Funds	
Other Fund Source:	
TOTAL	5.2

POSITIONS
Full-Time
Part-Time
Temporary



HOUSE RESOURCES COMMITTEE

DATE: 1-29-93

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 EO 83: Geographic Bad & Historic Sites Advisory
 EO 85: Fisheries Labor Bonding Program
 EO 86: Div. of Fisheries Rehab., Enhance., & Develop.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
① Kristel Leaf	Gov. Ofc.	P.O. Box 110001	99811	35	3500	(Y) N	EO 83
② Leo A Land	Self	Box 122 Haines AK	99837	766-2466		(Y) N	Sec. 4 & 3 archeologic sites
⑦ John McMullen Prince Wm Sound Aquaculture	(PWSAC) aquaculture	Box 110 Cordova AK	99574	424-4334	424-2511	(Y) N	EO 86 (FRED)
⑤ Geron Bruce	ADFG				6143	(Y) N	EO 86
③ Donald G. Studg	DOL	PO Box 21149 Juneau	99802	465-4855	465-4855	(Y) N	EO 85
④ Rod Mountain	REVENUE					Y (N)	QUESTIONS EO 85
PAUL DICK	"					Y (N)	" EO 85
⑥ Jeff Koenigs	ADFG					(Y) N	EO 86 (FRED)
⑧ Bob Clasky	ADFG	Central Fisheries				Y N	EO 86
						Y N	
						Y N	