

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8021 HOUSE RESOURCES

HB

76

(9)

Date Referred: March 24, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/29/93

The RESOURCES Committee considered:

HB 76

HOUSE BILL NO. 76

APPROP: KACHEMAK BAY ST. PK. TIMBER RIGHTS

"An Act making a special appropriation to the Department of Natural Resources for the purchase of the inholdings of the Seldovia Native Association and the Cook Inlet Region, Inc., and the timber rights of the Timber Trading Company, within the Kachemak Bay State Park; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____ | | the same title
| | a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dep./Date)

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) Fish & Game 3/24/93

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bob Hudson</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			
<i>John J. Jones</i>	<input checked="" type="checkbox"/>				
<i>Monette Jones</i>	<input checked="" type="checkbox"/>	<i>W.K. William</i>		<input checked="" type="checkbox"/>	
<i>David Hatte</i>	<input checked="" type="checkbox"/>				
<i>John H. Jones</i>	<input checked="" type="checkbox"/>				
<i>Alan Brenden</i>	<input checked="" type="checkbox"/>				

W.K. William

CHAIRMAN'S SIGNATURE

Alaska State Legislature

House of Representatives

Official Business



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

-----SPONSOR STATEMENT-----

HOUSE BILL 76 (Purchase of inholdings and timber rights in
Kachemak Bay State Park)

HISTORY OF KACHEMAK BAY BUYBACK

In 1970 the Alaska State Legislature set aside 250,000 acres across from Homer, creating Kachemak Bay State Park in order to protect these pristine lands and waters for their unique and exceptional scenic beauty and recreational use.....

During the years 1971 thru 1974, the Alaska Native Claims Settlement Act allowed the Seldovia Native Association (SNA) to make a selection of 69,000 acres of land in the Seldovia area; however, the state protested two of SNA's selections leaving them no alternative but to select the remaining 30,000 acres within Kachemak Bay State Park.

In 1975, then Governor Jay Hammond agreed that the State would work with the Seldovia Native Association to attain a land trade for SNA's park inholdings.

Four years later, SNA signs a Memorandum of Understanding to exchange its inholdings for state lands of equivalent value.

Four more years go by, and during the period of 1982 thru 1986, only two small land trades take place totaling 5,000 acres and further negotiations failed to trade the remaining inholdings due to a shrinking pool of state lands and disagreements over land values.

In 1987 land trade negotiations failed again with the state and the Seldovia Native Association sells its timber rights to Timber Trading Company (TTC).

The State in 1988 approaches Timber Trading and the Seldovia Native Association with an offer of a trees-for-trees and a land-for-land trade.

A year later, the state, SNA and (TTC) sign a preliminary exchange agreement outlining the process for conducting appraisals and creating replacement pools for land and timber. That same year, SNA's land value is appraised by separate appraisers at different amounts and a three party review panel makes a determination as to a land cash value. Timber Trading receives appraisal figure for the Seldovia area timber while a combined state and TTC arbitrator sets the value at a different level for exchange purposes.

Former Governor Steve Cowper, in 1990, introduces an appropriations bill to provide for the cash purchase of SNA's park inholdings and TTC's timber in lieu of the state presenting any timber or land exchange package. Four days before the close of the legislative session, Cook Inlet Region, Inc. (CIRI) enters the proposed purchase for subsurface rights within the park. The appropriations bill fails the House on a 20-20 vote.

Following the bill's failure, TTC begins the application process to secure the necessary permits to begin timber harvesting.

In 1991, legislation is introduced in both the House and Senate to purchase land, timber and subsurface rights within Kachemak Bay State Park. Neither bill is enacted and TTC formally submits preliminary permit applications to the State of Alaska. The state holds public hearings in Anchorage, Homer and Seldovia.

Major focus is on the Kachemak Bay Buyback during 1992. SNA, TTC and CIRI agree to a \$22 million cash buyout package. Legislation is introduced in both the House and Senate for the purchase from Exxon Oil Spill monies and/or through a contingent appropriation from the Restoration Endowment. Legislation fails to pass the 17th Legislature.

Before the 18th Legislature convenes on January 11, 1993, the following events occurred: \$20,500,000 is deposited in the Alyeska Settlement Fund from an Agreement & Consent decree (civil settlement) entered November 25, 1992 which includes an allocation of \$7,500,000 for the purchase of the inholdings in Kachemak Bay State Park; additionally the Exxon Oil Spill Trust Council okays a \$7,500,000 appropriation from Exxon Settlement Funds for Kachemak purchase and House Bill 76, which Representative Gail Phillips introduces on January 22, provides for the remaining appropriation of \$7,000,000 from the criminal fines levied against Exxon to complete the funding package for the purchase.

On March 4, Governor Hickel formally announces an agreement between all concerned parties to buyback the private inholdings in Kachemak Bay State Park. The agreement is formally signed by the Seldovia Native Association, Cook Inlet Region, Inc., Timber Trading Company, Inc., and the State of Alaska.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 76

Revision Date: _____

Department Affected: Fish and Game

Title: Purchase of Inholdings and Timber

BRU: Habitat & Restoration and Commissioner's Office

Rights in Kachemak Bay State Park

Component: Habitat & Restoration & Commissioner's Office

Sponsor: Gail Phillips

Requestor: Community and Regional Affairs

COMPONENT SERIAL NO. 04860477

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Frank Rue *Frank Rue*

Phone: 465-4105

Division: Habitat and Restoration

Date: _____

Approved by Commissioner: Carl F. Rosier

Agency: Department of Fish and Game

Date: 2/21/93

PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 22, 1993

FURTHER REFERRALS: Resources
Finance

Date of Committee Action: 3-23-93

The COMMUNITY AND REGIONAL AFFAIRS Committee considered: HB 76

HOUSE BILL NO. 76

APPROP: KACHEMAK BAY ST. PK. TIMBER RIGHTS

"An Act making a special appropriation to the Department of Natural Resources for the purchase of the inholdings of the Seldovia Native Association and the Cook Inlet Region, Inc., and the timber rights of the Timber Trading Company, within the Kachemak Bay State Park; and providing for an effective date."

RFCOMMENDATIONS: 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: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Fish & Game

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>De N. P. Tim</i>	<input checked="" type="checkbox"/>	<i>Jerry Sanders</i>		<input checked="" type="checkbox"/>	
<i>Auley Olberg</i>	<input checked="" type="checkbox"/>	<i>Clay Brendo</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>W.R. Williams</i>		<input checked="" type="checkbox"/>	

Auley Olberg
CHAIRMAN'S SIGNATURE

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

HOUSE BILL 76 (Purchase of inholdings and timber rights in
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sgn
3-22-93

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AGREEMENT FOR SALE AND PURCHASE OF LANDS AND INTERESTS WITHIN
KACHEMAK BAY STATE PARK

THIS AGREEMENT is made by and between the Seldovia Native Association (SNA), Timber Trading Company (TTC), Cook Inlet Region, Inc. (CIRI), as "Sellers", and the State of Alaska as "Purchaser" (collectively, the "Parties").

1. GRANT OF OPTION. Sellers hereby each grant to Purchaser the exclusive option to purchase all Sellers' property rights within the Kachemak Bay State Park, as more particularly described in Attachment A ("the Property"), such purchase to be made in accordance with the terms and conditions of this Agreement.
2. EXERCISE OF OPTION. Purchaser hereby agrees, subject to all appropriations required to be made by the Alaska Legislature to provide for payment of the purchase price and subsequent approval of such appropriations by the Governor of Alaska, to exercise its exclusive option to purchase the Property in accordance with the terms and conditions of this Agreement.
3. OPTION TERMS. The option payment is Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged by Sellers. The option may be exercised during the period beginning with Purchaser's execution of this Agreement and ending December 31, 1993 unless extended in writing by the parties. This option shall be exercised by written notice from Purchaser to Sellers at the below provided addresses.
4. PURCHASE PRICE. The purchase price for the Property is \$22 million, with agreed upon payments of \$15.5 million to SNA, \$4.5 million to TTC, and \$2 million to CIRI.
5. INTEREST CONVEYED. At closing, Sellers each shall execute and deliver to Purchaser such deeds or assignment documents as may be necessary to convey their respective interests to the property. SNA and CIRI do hereby warrant and represent to Purchaser as follows: (1) that SNA and CIRI are vested with title to the property to the extent conveyed to SNA and CIRI pursuant to BLM Interim Conveyance Numbers 139, 304 and 372 with respect to SNA and Interim Conveyance Numbers 102, 140, 305 and 373 with respect to CIRI, and (2) that no liens, encumbrances, defects or third party interests have been created in the Property, except that SNA has conveyed certain timber rights on the Property to TTC pursuant to the Timber Sale Agreement dated May 30, 1987 ("Timber Agreement"). TTC does hereby warrant and represent to Purchaser as follows: (1) that TTC holds all interests in the Property conveyed by the Timber Agreement; and (2) that no liens, encumbrances, defects or third party interests have been created in the interest conveyed to TTC by the Timber Agreement. At closing, Sellers each shall execute and deliver to Purchaser such deeds or assignment documents warranted as above described as may be necessary to convey their respective interests to the Property. If any Seller fails to convey title or other interest as required by this Agreement, Purchaser is no longer bound by this Agreement with respect to any Seller. No Seller shall be liable for the acts or inability of another Seller to convey title.
6. RIGHT TO ENTER PROPERTY. Sellers agree that from the date this Agreement is fully executed by the Parties, Purchaser and its agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with this Agreement, including environmental audit purposes, provided Purchaser provides sufficient indemnification to the Sellers.
7. CLOSING PLACE AND DATE. The Parties agree to endeavor in good faith to close on or before 60 days after all appropriations made by the Alaska Legislature have been made and approved by the Governor, including those related to funds provided by the Alyeska settlement and the Exxon Valdez Trustee Council; provided, however, if documents that are required to be provided or completed and executed by the Parties have not been rendered by that date, the closing shall

AGREEMENT FOR SALE: KACHEMAK BAY

take place within 60 days after receipt of such documentation. The date, time and location of closing shall be set by Purchaser.

8. OTHER AGREEMENTS AND ACTIONS. The Parties agree to take other action or enter into other agreement, reasonably necessary to the exercise and closing of this Agreement, including Attachment C.

9. TERMINATION. Unless otherwise agreed to in writing by each of the parties, this Agreement shall terminate upon closing or on December 31, 1993, whichever is earlier; provided, however, this Agreement shall automatically terminate if, during its 1993 session, the Legislature does not appropriate all funds required to be appropriated to provide for payment of the purchase price, or if the Governor vetoes such appropriation by the Legislature.

10. SEVERABILITY. In the event any of the provisions of this Agreement are deemed to be unenforceable, the enforceability of the remaining provisions of this Agreement shall not be affected.

11. SIGNATURE AUTHORITY. Each signatory to this Agreement represents that he has the authority to bind his principal to this Agreement. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute the same instrument.

12. NOTICE. Written notices shall be provided to the parties at the following addresses:

Seldovia Native Association
P.O. Drawer L
Seldovia, AK 99663-0250

State of Alaska
Department of Natural Resources
Director, Division of Land
P.O. Box 107005
Anchorage, AK 99510-7005

Cook Inlet Region, Inc.
P.O. Box 93330
Anchorage, AK 99509-3330

Craig Tillery
State of Alaska
Attorney General's Office
1031 West 4th Ave. Suite 200
Anchorage, AK 99501

Timber Trading Company, Inc.
3501 Denali St., Suite 202
Anchorage, AK 99503

Seldovia Native Association

By: Fred H. Ehsan

Its: PRESIDENT

Date: 3-10-93

Timber Trading Company, Inc.

By: John L. Sturgeon

Its: President

Date: 3/15/93

Cook Inlet Region, Inc.

By: Margaret L. Brown

Its: Senior Vice President

Date: 3/17/93

State of Alaska

By: Craig Tillery

Its: Attorney General

Date: 3-10-93

ATTACHMENT A

SNA LANDS TO BE ACQUIRED BY STATE

* All land described below is within Seward Meridian and is identified in BLM Interim Conveyances 139, 304, 372

<u>Legal Description</u>	<u>Approximate Acreage</u>
Township 7 South, Range 12 West	
A. Section 13 (fractional): S $\frac{1}{2}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$	575
B. Sections 22 (fractional): excluding Lot 1 of USS 3606	370
C. Section 29: excluding ADL 41084-41085 located in NW $\frac{1}{4}$ SW $\frac{1}{4}$	410
D. Section 30: excluding USS 2912, USS 2977, Tracts A, C, and D of AELC 76-114, ADL 41704, located in SW $\frac{1}{4}$ SW $\frac{1}{4}$	408
E. Sections 19 (fractional), 20 (fractional), 21 (fractional), 23 (fractional), 24 (fractional) 25 (fractional), 26, 27 (fractional), 28, 31, 32, 33, 34, 35, 36: All	7,629
Township 8 South, Range 12 West	
A. Sections 1, 2, 3, 4, 7, (fractional), 8 (fractional), 9, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 28: All	12,385
B. Section 5 (fractional); excluding ADL 49431 located in the W $\frac{1}{2}$ W $\frac{1}{4}$ SW $\frac{1}{4}$	615
C. Section 6 (fractional): excluding ADL 48787 and ADL 49431 located in the E $\frac{1}{2}$ SW $\frac{1}{4}$; ADL 46149, ADL 46150, ADL 46151, ADL 46152, ADL 46153, and ADL 46650 located in the N $\frac{1}{2}$ SE $\frac{1}{4}$; and ADL 41043 located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$	300
D. Section 16 (fractional); excluding ADL 46773 located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$	615
E. Section 21 (fractional); excluding ADL 47665 located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, ADL 41036 located in the N $\frac{1}{2}$ SW $\frac{1}{4}$, ADL 41300 located in the S $\frac{1}{2}$ SW $\frac{1}{4}$	495
Cumulative Total	23,802

Attachment C

AGREEMENT REGARDING TIMBER HARVEST RIGHTS

ON LANDS ADJACENT TO PETERSON BAY

State of Alaska agrees that nothing in that Agreement for Sale and Purchase of Lands and Interests Within Kachemak Bay State Park (the "Agreement") shall restrict the ability of Timber Trading Company, Inc. ("TTC") to pursue the permits necessary for timber harvest operations on lands subject to the Agreement provided, however, TTC shall not commence timber harvest operations on such lands until such time that the Agreement has terminated. TTC agrees not to exercise its timber harvest rights on lands adjacent to Peterson Bay, including Island Peninsula, before April 30, 1999, as more particularly described in Attachment B to the Agreement or to convey such harvest rights to any other entity except to Seldovia Native Association ("SNA"), provided if the transfer is to SNA it will be subject to this restriction against harvest prior to April 30, 1999.

Timber Trading Company, Inc.

State of Alaska

By: [Signature]

By: [Signature]

Its: President

Its: Attorney General

Date: 3/15/93

Date: 3.10.93

Revised and Acknowledged

Seldovia Native Association

By: [Signature]

Its: PRESIDENT

Date: 3-10-93

ATTACHMENT B

Any and all property in which Timber Trading Company has an interest in the following described Seldovia Native Association land outside Kachemak Bay State Park - Peterson Bay and Island Peninsula.

Township 7 South, Range 12 West, Seward Meridian.

Section 10: USS 4737, Lots 1, 2, and 3
 : That portion of Tract "A" excluding: USS 1539

Section 11: That portion of Tract "A" excluding: USS 1557
 USS 3362 - Tract B, Lots 1 and 2

Section 14 & 15: That portion of Tract "A" excluding:

USS 1539

USS 2893

Tract A of USS 3362

USS 3908

USS 3918

Lots 1, 2, 3, and 4 of USS 3973

Lots 1 and 2 of USS 4736

Lots 1 and 3 of USS 4737

Lots 1-13 inclusive, Block 1, Harbor Heights Subdivision

Lots 1-11 inclusive, Block 2, Harbor Heights Subdivision

Attachment A

CIRI Lands Remaining w/in Kachemak Bay State Park

Seward Meridian, Alaska

Township 7 South, Range 12 West

Sec. 12, W2, SE4, S2NE4;
 Sec. 31, all;
 Sec. 33-34, all.

Containing 2,469.00 acres, more or less.

Township 8 South, Range 12 West

Sec. 2, W2;
 Sec. 3-4, all;
 Sec. 5, (fractional), excluding ADL 49431;
 Sec. 6, (fractional), excluding ADL 48787, ADL 49431, ADL 46149, ADL 46150, ADL 46151, ADL 46152 ADL 46153, ADL 46650 and ADL 41043;
 Sec. 7-8, (fractional), all;
 Sec. 9-11, all;
 Sec. 13-15, all;
 Sec. 16, (fractional), excluding ADL 46773;
 Sec. 21, (fractional), excluding ADL 47665, ADL 41036 and ADL 41300;
 Sec. 22-27, all;
 Sec. 28-29, (fractional), all;
 Sec. 30, (fractional), excluding U. S. Survey 3605;
 Sec. 31-33, (fractional), all;
 Sec. 34, all.

Containing 15,408.93 acres, more or less.

Township 8 South, Range 13 West

Sec. 24, Lot 8 of U. S. Survey 4742.

Containing 5.00 acres.

Township 9 South, Range 13 West

Sec. 1, (fractional), all;
 Sec. 2, E2, NW4;
 Sec 11, NE4.

Containing 1,275.00 acres, more or less.

Aggregating 19,157.83 acres, more or less.

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
Post Office Box 110001
Juneau, Alaska 99811-0001

WALTER J. HICKEL
Governor

JOSEF P. HOLBERT
Director of Communications



JOHN MANLY
Press Secretary

JOHN HENDRICKSON
Deputy Press Secretary
Anchorage Office: 561-4228

BRIAN HART
Assistant Press Secretary

907-465-3500
FAX: 907-586-8369

FOR RELEASE: March 4, 1993
No. 93-053

GOVERNOR HICKEL ANNOUNCES KACHEMAK BUYBACK

JUNEAU--Kachemak Bay State Park will be made whole again under an agreement to buyback private inholdings announced today by Governor Walter J. Hickel.

The purchase agreement between the State of Alaska and the Seldovia Native Association, Timber Trading Company and Cook Inlet Region Inc., would transfer all rights to 23,802 acres of timberland within the park back to the state. The purchase price is \$22 million.

"This has taken a long time to put together, but I think we have a workable agreement where everybody wins," Governor Hickel said. "I want to thank all the interested parties for their patience and perseverance. And I hope the Legislature will look the agreement over and act quickly to approve it."

Of the \$22 million purchase price, \$15.5 million will go to SNA, \$4.5 to TTC, and \$2 million to CIRI. The agreement is subject to the Legislature appropriating \$7 million from the \$50 million criminal restitution fund resulting from the Exxon Valdez spill and endorsing the Alyeska settlement, which provides another \$7.5 million. The Exxon Valdez settlement trustees have agreed to fund the final \$7.5 million.

House Majority Leader Gail Phillips, R-Homer, commented, "Many, many Alaskans have worked for years to get to this day. My appreciation goes to the Governor and the A.G. and all Alaskans for achieving this finality. I'm very, very pleased for the Seldovia Native Association for their lands issue finally to be resolved."

Rep. Mike Navarre, D-Kenai, who's been working on the issue for many years, said, "I was always confident this would eventually be

accomplished, and I'm glad to see it's finally been resolved. I'm hopeful the Legislature and the SNA board will approve the components of the agreement. My congratulations to Governor Hickel and Charlie Cole and to the Citizens' Coalition for all their help."

Senator Suzanne Little, D-Soldotna, added, "While the progress we've made is terrific, there's much remaining to be done. There are three bills currently in, but a lot needs to be done to put together the legislation. I'm looking forward to working on it."

All three legislators expressed their thanks to SNA President Fred Elvsaas for his tenacity on the issue.

####

KACHEMAK BAY CITIZENS COALITION PROFILE

In October 1988, a broad-based group of Homer and Anchorage residents met in Homer to discuss a response to a timber sale on Seldovia Native Association land within Kachemak Bay State Park. From the initial group of about 15, the Kachemak Bay Citizens Coalition increased in numbers as news of the problem spread. Efforts were made to contact potentially concerned people through mailings and meetings.

Currently, over 7000 people have signed petitions in support of a buyback of inholdings of Seldovia Native Association, Timber Trading Company, and Cook Inlet Region, Inc. within Kachemak Bay State Park. These people want the State of Alaska to purchase these private inholdings for inclusion in Kachemak Bay State Park. Additionally, citizens do not want to see logging take place just outside the park on the Island Peninsula separating Peterson and China Poot bays, or in the Rocky River-Red Mountain area.

The largest number of petition signers from Alaska, about 39%, are from the Anchorage-Girdwood-Chugiak area. About 31% are from the Homer-Anchor Point area, and 29% are from 66 other cities, towns, and villages in Alaska, from Barrow to Ketchikan. Additionally, over 1000 persons from all 50 states, the District of Columbia, and 15 countries have also signed KBCC petitions, tourists who are drawn to the Kachemak Bay area's scenic beauty, recreation and fishing opportunities. Interest in the issue has continued to grow, especially in the last three years.

The Homer-Anchor Point petition signers represent a cross section of area residents, with many working within tourism or commercial and charter fishing industries. Many people there feel very strongly about this issue and adamantly oppose commercial logging in the Kachemak Bay State Park area. Some own or work for businesses that may be jeopardized if commercial-scale logging were to take place within Kachemak Bay State Park. Still others were involved in the Exxon Valdez oil spill cleanup effort.

There are many visitors to Homer from Anchorage, the Kenai Peninsula, the Matanuska-Susitna Valley, and Fairbanks as well as elsewhere who want to see the area preserved for its unique scenic beauty and as a popular tourist and fishing destination. There are petition signers who own recreational or investment property in Homer or have summer homes or cabins in Bear Cove, Halibut Cove, Sadie Cove, Peterson, China Poot, Jakolof, and Tutka bays.

Buyback supporters include teachers, students and volunteer naturalists who visit the area to take part in marine science education programs such as the ones offered by the Center for Alaska Coastal Studies or are involved in adult education in the natural resources field. The students are from public and private schools and come in the

spring or fall to study the rich marine intertidal zone and sea life, forest ecology, etc., from the central Kenai Peninsula, Anchorage, and Matanuska-Susitna Valley to as far away as Talkeetna, Healy and even Juneau.

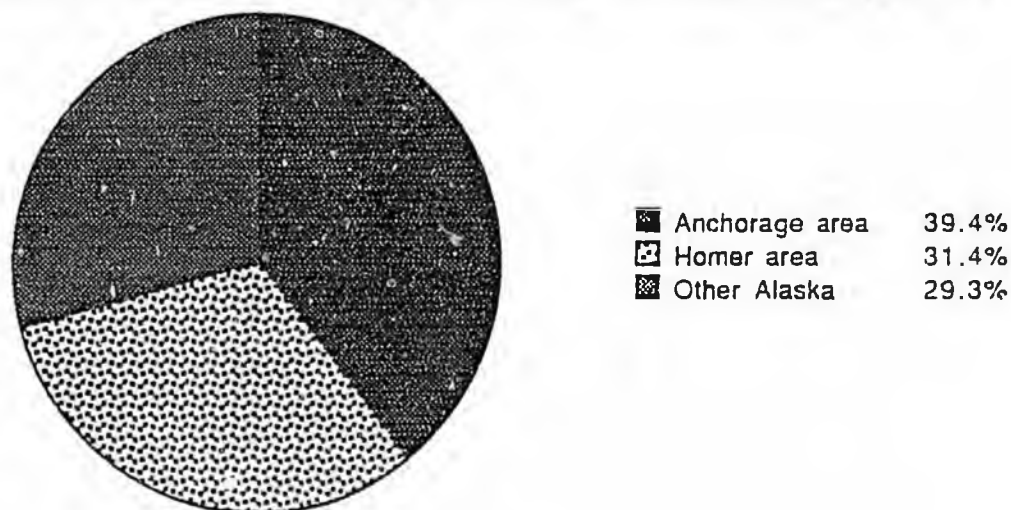
Among petition signers are sport fishermen who launch their boats at Homer harbor while waiting for a space to moor them there permanently. Others already have a boat stall in the harbor. Commercial fishermen from Anchorage are also involved with the buyback effort, as are members of conservation groups.

The Institute for Marine Science at the University of Alaska Fairbanks has a facility at Kasitsna Bay involved in marine science research, and is concerned about the future of the Kachemak Bay ecosystem. The UAF School of Education has used the Center for Alaskan Coastal Studies facility as a site for Sea Week and other teacher training.

These concerned individuals have participated largely by writing letters to the Governor and to the legislators, also by making telephone calls during the legislative sessions. Many have taken part in teleconferences with legislators, and several have travelled to Juneau at their own expense to give input to the legislators on the buyback. Others have written letters to various news media. A public awareness and education program has come out of Homer and Anchorage. Because of strong feelings about this issue, it is likely that many individuals will continue to participate in the public debate in the future.

Revised 3/93

State-wide Distribution of Kachemak Bay State Park Buyback Supporters



KACHEMAK BAY STATE PARK BUYBACK ISSUE

Fact sheet

1971 - Kachemak Bay State Park (KBSP) receives temporary approval.

1974 - Under the Alaska Native Claims Settlement Act (ANCSA), Seldovia Native Association (SNA) receives nearly 30,000 acres within KBSP.

1979 - Memorandum of Understanding signed which, among other things, commits the State and SNA to exchange SNA's KBSP holdings for state land of equal value.

1983, 1985 - Two small land exchanges complete, SNA still owns 23,642 acres within the Park.

1987 - SNA signs 12 year timber harvest contract with Timber Trading Co.(TTC) on its lands inside KBSP and on the Island Peninsula directly across Kachemak Bay from Homer, and Jakolof Rocky River/Red Mountain area.

1988 - Kachemak Bay Citizens Coalition forms to facilitate the reunification of KBSP and to prevent logging within KBSP. To date, over 7,000 people have signed petitions to support these objectives.

1990 - Land and timber trade ideas are abandoned in favor of a \$20 million cash buyout that does not address Cook Inlet Region, Inc. (CIRI's) subsurface inholdings. A bill introduced by Rep. Mike Navarre fails in the House on a 20-20 vote.

1990-1991 - TTC unveils a logging plan on SNA land across from Homer using helicopters and barges. Many people testify in objection to this plan in Homer and Anchorage. Another buyback bill, HB 83 introduced by Rep. Mike Navarre passes the House but is not voted on in the Senate.

February, 1992 - SNA, TTC, and CIRI sign a statement of intent to sell their collective property rights within KBSP to the State for \$22 million. This would be divided roughly with \$15.4 million for SNA, \$4.3 million for TTC, and \$2.3 million for CIRI. The agreement expires after July 15, 1992.

Spring 1992 - HB 411, using \$50 Exxon Valdez Oil Spill (EVOS) criminal penalty money and including about \$11 million for the buyback of inholdings in KBSP passes the House and Senate, but is vetoed by Governor Hickel on July 15.

August, 1992 - After the Governor's veto, TTC and SNA announce suspensions of their discount prices to the State and return to earlier appraisers' higher valuations. CIRI does not comment.

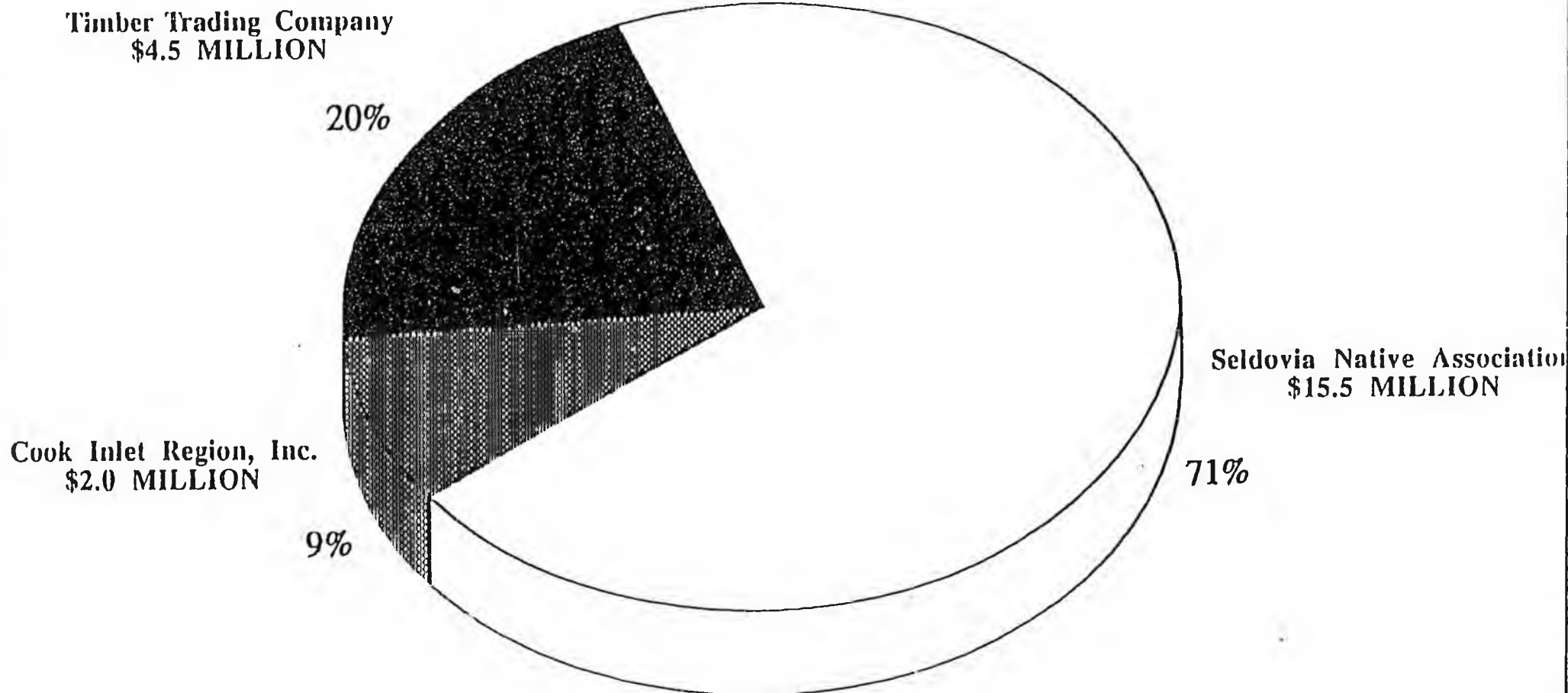
September, 1992- EVOS Trustee Council hears testimony from the public favoring the use of civil penalty money for habitat acquisition.

November, 1992 - Gov. Hickel announces a \$32 million settlement with Alyeska Pipeline Corporation for their role in the Exxon Valdez Oil Spill. The settlement language includes \$7.5 million for the purchase of SNA, TTC, and CIRI's inholdings within Kachemak Bay State Park.

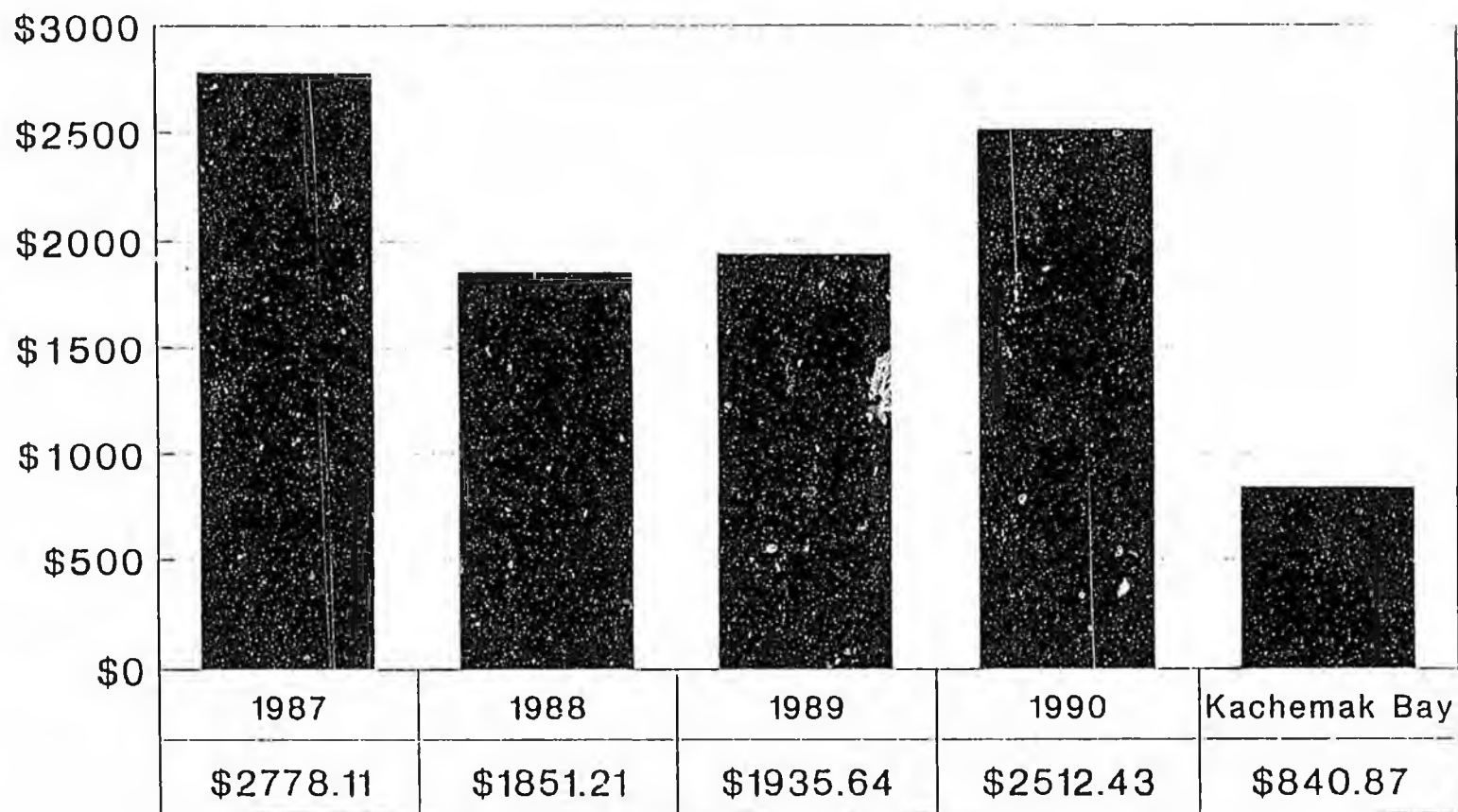
January 19, 1993 - EVOS Trustee Council approves expenditure of \$7.5 million civil penalty money for acquisition of imminently threatened habitat within Kachemak Bay State Park from SNA, TTC, and CIRI, bringing to \$15 million the funds already identified for the purchase of their inholdings.

March 4, 1993 - The Governor's office announces the signing of a purchase agreement between SNA, TTC, CIRI, and the State. The three native groups agree to sell their inholdings to the State for inclusion in Kachemak Bay State Park for \$22 million, the same amount as in 1992.

KACHEMAK BAY \$22 MILLION PURCHASE



AVERAGE COST PER ACRE STATE PARK LAND ACQUISITIONS ALL STATES COMBINED



Excludes Texas for 1990 due to skewing



United States
Department of
Agriculture

Forest
Service

Alaska Region
S&PF

201 E. 9th Ave.
Suite 206
Anchorage, AK 99501
907-271-2575

Reply to: 3400

Date: March 12, 1993

Kimberley Benton, President
Communication Essentials
621 W. 90th Ave.
Anchorage, AK 99515

Dear Kimberley:

Thanks for your letter of February 28. Hopefully the following information will help clarify the spruce bark beetle/Kachemak Bay situation:

(1) Large areas of blowdown occurred in 1981 near the Aurora Spit/Mallard Bay areas. Approximately 2-3 years later, spruce bark beetle activity increased in these areas and has increased up through 1988. The following table shows, by year, the number of acres infested (also depicted in the enclosed graph), the general area(s) of the infestation, the number of acres infested that occur within the proposed Seldovia Native Association "Buy-out" lands and the percentage of the total infested area that occurs within or close to the proposed "Buy-out" lands.

YEAR	TOTAL ACRES INFEST.	AREAS	SNLA ACRES	% OF TOTAL
1992	12,454	AURORA SPIT; HALIBUT	100	0.8
1991	6,820	AURORA SPIT--BATTLE	15	0.2
1990	10,000	AURORA SPIT--BATTLE	275	3.0
1989	10,000	AURORA SPIT--BATTLE	10	0.1
1988	10,000	AURORA SPIT--BATTLE	55	0.5
1987	2,587	MALLARD BAY	20	0.7
1986	3,660	MALLARD BAY/BEAR COVE	0	0.0
1985	200	MALLARD EAY	25	12.5
1984	312	AURORA SPIT--MALLARD	30	10.0
1983	0		0	0.0
1982	0		0	0.0
1981	0	BLOWDOWN OCCURRED		

As you can see, very few of the infested areas have and are occurring in the proposed "buy-out" area. The majority of the infestation has occurred in the Halibut Cove/Aurora Spit and Mallard Bay areas. The infestation has gradually spread towards Battle Creek and not towards Seldovia.





Kimberley Benton

2

(2) Even though the number of acres infested in 1992 is 12,454 vs. 6,820 in 1991, I don't believe this represents a significant increase in spruce beetle activity. These differences probably represent mapping errors brought about by weather conditions that affect visibility when mapping and different aerial survey crews. Aerial sketch mapping is not meant to be a precise tool but rather a method of obtaining a good estimate.

(3) The species of spruce occurring on Seldovia Native Association lands is Sitka spruce (Picea sitchensis). Research studies have demonstrated that white spruce is the "best" host in terms of progeny production followed by the hybrid, Lutz spruce, followed by Sitka spruce. Black spruce is rarely attacked. The majority of past spruce beetle outbreaks have occurred in the white and Lutz spruce stands of south-central and interior Alaska. Sitka spruce stands are less susceptible to spruce beetle outbreaks. This is primarily due to the suitability differences noted above and the harsher climatic conditions associated with maritime Sitka spruce stands which moderate spruce beetle dispersal and developmental times. However, spruce beetle outbreaks in Sitka spruce have and are occurring as is evident in the Kachemak Bay, Haines, and Glacier Bay National Park areas.

I hope this answers your questions. If you need further clarification or information, please give me a call at 271-2573.

Sincerely,

EDWARD H. HOLSTEN
Forest Entomologist

Enclosure

cc:
R. Burnside-DOF/State of Alaska



Timber Trading Company

March 23, 1993

CONTACT: Kim Benton
(907) 522-2163

KACHEMAK BAY POSITION STATEMENT

In 1987, Timber Trading Company (TTC) purchased timber harvesting rights from Seldovia Native Association (SNA) for selected SNA lands south of Kachemak Bay. In addition to the Seldovia area purchase, substantial timber was acquired elsewhere in the state including Montague and Knight Island in Prince William Sound, on the Kuskokwim River and at Tyonek.

In 1988, following the Seldovia area purchase, Timber Trading Company and Seldovia Native Association were approached by the State of Alaska with an offer to attempt a trees-for-trees, land-for-land trade.

In 1989, a Preliminary Exchange Agreement was signed by SNA, TTC and the state outlining the process for conducting appraisals and creating replacement pools for land and timber. TTC's completed timber cruise appraised the Seldovia area timber at \$7.5 million. A state/TTC arbitrated value was set at \$6.4 million for exchange purposes.

In early 1990, failing to present any timber or land exchange package, Governor Steve Cowper introduced an appropriations bill providing for a cash purchase of SNA's park holdings and TTC's timber. TTC and the state agreed to a \$4.51 million cash buyout. Rationale that allowed TTC to accept a less than appraised market value included TTC's recognition of the high public interest in acquiring this inholding and a strong desire to assist a fellow Native corporation in resolving their eighteen year-long dilemma of ownership. Upon reconsideration by the House a bill introduced by Rep. Mike Navarre failed in a 20-20 vote.

Following the failed appropriations bill, TTC began the permit application process to secure necessary permits for timber harvesting.

In 1991, Representative Mike Navarre introduced House Bill 83, an appropriations bill to purchase land, timber and subsurface rights within Kachemak Bay State Park. HB 83 passed the House with a 30-9 vote, but was not voted on in the Senate.

In 1992, Rep. Cliff Davidson introduced HB 411, using the \$50 million Exxon Valdez Oil Spill (EVOS) criminal penalty money as a funding source. HB 411, which included approximately \$11 million for the Kachemak Bay purchase, passed both the House and Senate but was vetoed by Governor Hickel.

In late 1992, Governor Hickel announced a \$32 million settlement with Alyeska Pipeline Corporation for their role in the Exxon Valdez Oil Spill. The settlement includes \$7.5 million for the purchase of SNA, TTC and CIRI inholdings in Kachemak Bay State Park, but the settlement is subject to final legislative approval.

In January 1993, the EVOS Trustee Council approved \$7.5 million from the \$900 million civil penalty monies for acquisition of imminently threatened habitat within Kachemak Bay State Park.

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(907) 562-3335
FAX (907) 562-0599

Marketing Div.: Transpacific Trade Center, Suite 418
3700 Pacific Highway East
Tacoma, Washington 98424
(206) 922-5510 FAX (206) 922-8044

TTC Kachemak Bay Position Statement
March 23, 1993 Page 2

It has been the position of Timber Trading Company to cooperate with governmental, environmental and citizen's groups in their efforts to obtain a state purchase of Kachemak Bay State Park inholdings. It is in that spirit of cooperation that TTC appreciates the recognition of Kachemak Bay's importance by the State of Alaska through the introduction of HB 76 and SB 63. In that these bills would complete the \$22 million funding necessary to purchase land, timber and subsurface rights within Kachemak Bay State Park, we are supportive. However, TTC recognizes and supports the intent of other bills as vehicles for the purchase of Kachemak Bay inholdings as well. TTC remains committed to working with those parties interested in the purchase of this unique area with the ultimate goal of securing \$22 million for all three parties as agreed to and supported by Seldovia Native Association, Cook Inlet Region, Inc. and TTC.

However, as Timber Trading Company Native shareholders are due a return on their investment that a state-approved appraised timber value as well as a substantially higher timber market represents, TTC has moved forward with timber harvesting plans. We presently have completed an initial public comment aspect of the permit application process, have hired the independent engineering firm of Peratrovich, Nottingham & Drage, Inc. and remain active in aggressively pursuing the permits necessary to commence timber harvesting. Permit application status information may be obtained through the Division of Governmental Coordination Anchorage Office.

While timber harvesting of this area has consistently been a focus, it is Timber Trading Company's position that this is not a timber harvesting issue but rather an issue of what the people of Alaska determine the highest and best use of this land to be. If the people determine, through the Legislature, the best use to be parkland, Timber Trading Company, Seldovia Native Association and Cook Inlet Region, Inc. have given the people an opportunity to purchase this timber well below present market value. If the people decide the best use to be development by not appropriating the purchase, then Timber Trading Company is prepared to commence timber harvesting in compliance with all existing laws.

KACHEMAK BAY \$22 MILLION FUNDING



November 1992 - \$32 million Alyeska Settlement announced. \$7.5 million included in settlement for the purchase of Seldovia Native Association, Timber Trading Company and Cook Inlet Region, Inc. inholdings in Kachemak Bay State Park.

January 1993- Exxon Valdez Oil Spill Trustee Council approved \$7.5 million from the \$900 million civil penalty monies for acquisition of imminently threatened habitat within Kachemak Bay State Park.

January 1993- House Bill 76 and Senate Bill 63 introduced appropriating \$7 million from \$50 million Exxon criminal penalty monies for purchase of inholdings of Seldovia Native Association, Timber Trading Company and Cook Inlet Region, Inc. within Kachemak Bay State Park.

HOMER

alaska



Source: WACI Digital, 1988

©Janice Schofield, 1988

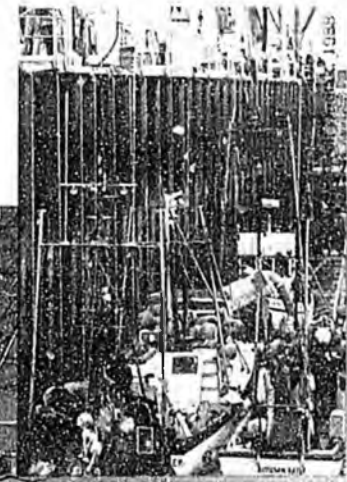


Inhaus, Loischer

This brochure is courtesy of the Homer Chamber of Commerce.
Funded in part by the State of Alaska Division of Tourism.
Designed by Chris Miller Kent



Janice Schofield, 1988



1988



HOMER

Homer—It's a humble name for a little town that is anything but ordinary. Named for Homer Pennock, a gold miner who established the first development on the Homer Spit in 1896, today's Homer is a thriving community of roughly 4,000 residents, most of whom came to this area for one main reason: It is one of the most beautiful places in the world.

Located near the southern tip of Alaska's Kenai Peninsula, Homer is blessed with a view to the south that is stunning in its beauty and grandeur. Across the sparkling waters of Kachemak Bay, the rugged Kenai Mountains spread east, west, and south. Soaring snow-capped peaks overlook massive glaciers crawling toward the sea. Along the coastline, the steep mountain valleys form narrow fjords. The waters within rise and fall with the tides—witnessed at times only by

a bald eagle soaring overhead, or a black bear prowling the shore. The mountains have a thousand moods, depending on the time of day, the sun, the clouds, rain, snow, and wind. Because of this, people who have lived all their lives here still find themselves awestruck when a bend in the road suddenly reveals a glimpse of this panorama.

But what about this side of the bay? Is there anything special about Homer besides the view? Yes—the people who live here. Over the years, Homer has become a mecca for artists, craftspeople, and creative minds of all types. These people have come from all over to find a place where the natural beauty refreshes and inspires them, and where they can share their ideas and talents with others who flourish in this stimulating environment. Consequently, Homer has a wealth of

talent and cultural awareness in the arts— from pottery, weaving, and painting to music, dance, and theatre—typical of a much larger town. This is not to suggest that everyone in Homer is an artist. On the contrary—part of what gives this community its rich texture is the diversity of folk who live here. Fishermen and women abound, along with ranchers and homesteaders, small business owners, guides and outfitters, professionals of all kinds, and kids of all ages. Religious and political views come from left, right, and center. But one thing virtually every visitor to Homer will notice is that the people in this area are warm, enthusiastic, and friendly. The sense that we are all neighbors working to preserve the quality of life here is what holds the community together and provides us with a common identity. Homerites are proud of Homer, and

are happy to show visitors from outside the area what a special place this is, whether it's with a tour of the local museums and galleries or a day spent fishing for those world-renowned halibut.

On the high bluffs surrounding Homer, the fireweed bloom in red-violet profusion, catching the light of the setting sun on a late summer's night. A cow moose leads her calf across a grassy field, pausing at the sight of a child on horseback exploring a trail along the ridge. Out on the bay, some fishermen are just returning with their catch of halibut and salmon, as a lone kayaker rounds the tip of the Spit, lured perhaps by a teasing sea otter. This is Homer, the little community of Kachemak Bay which has come to be called the "hamlet by the sea." Come see for yourselves.





HOUSE RESOURCES COMMITTEE

DATE: *March 2, 1976*

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
HB 76
HB 432
HB 201 Mental Health Care for Seniors

Please Print									
NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?	
<i>Rick Schramm</i>	<i>Coalition for Alaska Seniors</i>	<i>1029 W. Third Ave Sack 300 Anchorage AK 99501</i>	<i>99501</i>	<i>581-1111</i>	<i>277-0221</i>	<input checked="" type="checkbox"/>	<i>N</i>	<i>AT 201</i>	
<i>Alvin ...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<input type="checkbox"/>	<i>N</i>	<i>HB 76</i>	
<i>Brian ...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>750-1232</i>	<i>...</i>	<input type="checkbox"/>	<i>N</i>	<i>HB 201 / Question 2</i>	
<i>Russell ...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>463-3300</i>	<i>463-3300</i>	<input type="checkbox"/>	<i>N</i>	<i>HB 76</i>	
<i>Tom Wald</i>	<i>...</i>	<i>325 4th St. Juneau</i>	<i>99801</i>	<i>...</i>	<i>586-2351</i>	<input type="checkbox"/>	<i>N</i>	<i>HB 201 / Question</i>	
<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<input type="checkbox"/>	<i>N</i>	<i>...</i>	
<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<input type="checkbox"/>	<i>N</i>	<i>112 23-1</i>	
<i>Bruce Phelps</i>	<i>Director ...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>762-3339</i>	<input type="checkbox"/>	<i>N</i>	<i>...</i>	
<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<input type="checkbox"/>	<i>N</i>	<i>...</i>	
<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<input type="checkbox"/>	<i>N</i>	<i>...</i>	
<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<input type="checkbox"/>	<i>N</i>	<i>...</i>	



HOUSE RESOURCES COMMITTEE

DATE: March 29, 93

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 76
 HB 132
 HB 201 - mental Health Laws Amendments

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Rick Johnson	Coalition for Alternative Settlement	1029 W Third Ave. Suite 300 Anchorage, AK	99501	561-0406	279-8561	(Y) N	HB 201
Anate Wieland	Kachemak Bay Fisheries Coalition	1421 W St Anch	99501	276-5477	-	(Y) N	HB 76
BRIAN ANDREWS	DOR			465-7880		Y N	HB 201 / Questions
Russell Heath	ALASKA ENVIRONMENT	PO Box 22151 Juneau AK	99801	463-3366	463-3366	(Y) N	HB 76
TOM WALDS	SCLDF - Public Interest Litigation	325 4th St Juneau	99801		586-2751	Y N	HB 201 / Questions
Pauline Jones	Log Millers	3rd St Anchorage			463-5111	Y N	HB 201
Pauline Jones		3rd St Anchorage				Y N	HB 201
Grace Phelps	Div of the Land	3661 C St. Suite 814 Anchorage			762-2239	Y N	
Pauline Jones						Y N	
						Y N	
						Y N	

HB

99

HOUSE COMMITTEE REPORT

(9) Date Referred: February 5, 1993 FURTHER REFERRALS: Judiciary

Date of Committee Action: 2/15/93

The RESOURCES Committee considered: HB 99

HOUSE BILL NO. 99 REPEAL 65-DAY DEADLINE: OIL SPILL PLANS

"An Act repealing the 65-day time limit for approval or disapproval of a proposed oil discharge contingency plan by the Department of Environmental Conservation; and providing for an effective date."

- 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: _____ 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) DEC. / 2-5-93

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE

Sponsor Summary

HB 99

House Special Committee on Oil & Gas

House Bill 99 is an attempt to clarify the time-line requirements for approving oil discharge prevention and contingency plans.

Currently, AS 46.04.030(p) requires the Department of Environmental Conservation to "...approve or disapprove a proposed contingency plan within 65 days after it receives a complete application...". However, the time-line necessitated by the 65-day statutory requirement conflicts with the time-line set out in the Alaska Coastal Management Plan (ACMP) regulations carried out by the Division of Governmental Coordination (DGC).

While DEC is limited to 65-days to make a decision on a plan, DGC follows a 55-day time-line. In order to meet their current statutory requirement, the DEC time-line does not begin until well into the DGC process. The conflicts between the two time-lines make the process cumbersome for both the applicant and members of the public wishing to participate in the review process.

Removal of the 65-day statutory requirement allows DEC and DGC to coordinate their time-lines for approving contingency plans.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 99

Revision Date: _____
Title: Repeal of 65 day limit to approve or
disapprove contingency plans
Sponsor: House Oil & Gas
Requestor: Senate Oil & Gas

Department Affected: Environmental
Conservation
BRU: Spill Prevention & Response
Componen Prevention & Planning Management

COMPONENT SERIAL NO. 1430

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

1002 FEDERAL RECEIPTS	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF MATCH	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECPT	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS: NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
Division: Commissioner's Office

Phone: 465-5010
Date: 2/3/93

Approved by Commissioner: *Janice Adair*
Agency: Department of Environmental Conservation

Date: 2/3/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

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

February 1, 1993

SUBJECT: Oil Discharge Contingency Plans (HB 99)

TO: Representative Joe Green
ATTN: Jeff

FROM: Terri Lauterbach 
Legislative Counsel

You have asked two questions about HB 99, an Act that would repeal a statute that currently sets a 65-day deadline on DEC's consideration of a complete application for approval of an oil discharge contingency plan:

(1) How would this repeal affect 6 AAC 50.070(g), a regulation that sets some time limits related to consistency determinations by the division of governmental coordination under its Coastal Zone Management program responsibilities, and 18 AAC 75.455, a regulation that sets a 65-day time limit for DEC's action on a complete contingency plan application?

(2) Whose plans are affected by the current 65-day time limit in AS 46.04.030(p)?

Question (1). Repealing AS 46.04.030(p) would have no direct effect on either regulation you have asked about. AS 46.04.030(p) is a time limit imposed by statute. However, either agency would be free to impose the same deadlines it already has in its regulations even if the statutory deadline is repealed. That's because each agency has the power to adopt regulations to implement their respective programs. To the extent that the statutory deadline may have affected the deadlines that have been set by the agencies in their regulations, then its repeal would allow the agencies to choose other deadlines. However, the repeal of AS 46.04.030(p) would not force a change in the regulations you have asked about.

Question (2). The persons whose plans are affected by AS 46.04.030 are the persons who are required to have oil discharge contingency plans under (a) - (c) of that section: operators of oil terminal facilities, pipelines, exploration facilities, production

facilities, tank vessels, and oil barges. These terms are defined in AS 46.04.900 as follows:

(8) "exploration facility" means a platform, vessel, or other facility used to explore for hydrocarbons in or on the waters of the state or in or on land in the state; the term does not include platforms or vessels used for stratigraphic drilling or other operations that are not authorized or intended to drill to a producing formation;

* * *

(10) "oil" means oil of any kind and in any form, whether crude, refined, or a petroleum by-product, including but not limited to petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes, crude oils, liquefied natural gas, propane, butane, or other liquid hydrocarbons regardless of specific gravity;

(11) "oil barge" means a vessel which is not self-propelled and which is constructed or converted to carry oil as cargo in bulk;

(12) "oil terminal facility" means an onshore or offshore facility of any kind, and related appurtenances, including but not limited to a deepwater port, bulk storage facility or marina, located in, on, or under the surface of the land or waters of the state, including tide and submerged land, which is used for the purpose of transferring, processing, refining, or storing oil; a vessel is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility;

(13) "operator" means the person who, through contract, lease, sublease, or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, a prime or general contractor, the master of a vessel and the master's employer, or any other person who, personally or through an agent or contractor, undertakes the general functioning of the facility;

(14) "person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, partnership, association, firm, trust, estate, or any other entity;

(15) "pipeline" means the facilities, including piping, compressors, pump stations, and storage tanks, used to transport crude oil and associated hydrocarbons between production facilities or from one or more production facilities to marine vessels;

(16) "production facility" means a drilling rig, drill site, flow station, gathering center, pump station, storage tank, well, and related appurtenances on other facilities to produce, gather, clean, dehydrate, condition, or store crude oil and associated hydrocarbons in or on the

Representative Joe Green
February 1, 1993
Page 3

water of the state or on land in the state, and gathering and flow lines used to transport crude oil and associated hydrocarbons to the inlet of a pipeline system for delivery to a marine facility, refinery, or other production facility;

* * *

(18) "self-propelled" means propelled either by machinery aboard the vessel, or by a tug or other vessel secured into the cargo-carrying vessel through special hull design;

* * *

(20) "tank vessel" means a self-propelled waterborne vessel that is constructed or converted to carry liquid bulk cargo in tanks and includes tankers, tankships, and combination carriers when carrying oil; the term does not include vessels carrying oil in drums, barrels, or other packages, or vessels carrying oil as fuel or stores for that vessel;

(21) "vessel" includes tank vessels and oil barges;

I hope you find this information helpful. Please let me know if I can be of further assistance.

TML:pl:mi
93-054.plm



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

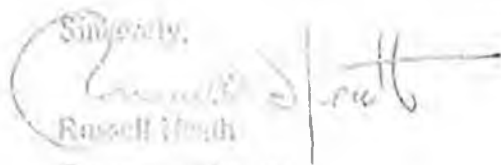
January 25, 1993

To the Members of the Alaska State Legislature:

The Alaska Environmental Lobby (AEL) presents the environmental concerns of 19 Alaskan environmental groups to the Alaska state legislature.

The Alaska Environmental Lobby opposes the draft legislation repealing AS 46.04.030(p), which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed emergency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes which presently exist in AS 46.04.020 and 6A.A.C.50. AEL requests that a representative of the environmental organizations be involved in the revisions to these regulations.

AEL will withhold its support of this draft legislation if any substantive changes or amendments are necessary. We urge prompt passage of this legislation as worded.

Sincerely,

Russell Smith
Executive Director

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU, GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
KNIK GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL

Alaska Oil and Gas Association



121 West Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907) 272-1481 Fax: (907) 279-8114

January 22, 1993

To the Members of the Alaska State Legislature:

The Alaska Oil and Gas Association (AOGA) is a trade association whose member companies account for the majority of oil and gas exploration, production, transportation and marketing activities in Alaska.

AOGA supports the attached draft legislation repealing AS 46.04.030(p), which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes which presently exist in 18AAC75 and 6AAC50.

AOGA's support of this draft legislation is contingent upon no substantives changes or amendments being made. We urge prompt passage of this legislation as worded.

Sincerely,

WILLIAM W. HOPKINS
Executive Director

Attachment

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

January 21, 1993

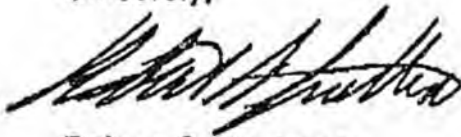
Representative Carl Moses
P.O. Box V
Juneau, AK 99803

Dear Representative Moses:

The Aleutians East Borough supports the repeal of AS 46.04.030(p). The attached draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support.

Sincerely,



Robert S. Juettner
Borough Administrator

RSJ:emn

CLERK/PLANNER
P.O. BOX 348
SAND POINT, ALASKA 99661
(907) 383-2899
(907) 383-3488 FAX

BOROUGH ADMINISTRATOR
1800 A STREET, SUITE 103
ANCHORAGE, ALASKA 99501-5148
(907) 274-7555
(907) 276-7568 FAX

FINANCE DIRECTOR
P.O. BOX 40
KING COVE, ALASKA 99812
(907) 497-2588
(907) 497-2388 FAX

A LEUTIANS WEST T

COASTAL RESOURCE SERVICE AREA

January 21, 1993

Dear Member of the 1993 Legislature:

The Aleutians West CRSA supports the attached draft legislation to repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. This time frame has proved to be problematic and its deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75 which the AWCERSA supports. We strongly urge the introduction and prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Sincerely,



Darcy Richards
Program Director

cc: AWCERSA Board of Directors

January 22, 1993

Dear Member of the Legislature:

The Lake and Peninsula Borough and the Bristol Bay Coastal Resource Service Area (CRSA) understand that draft legislation has been prepared which would repeal AS 46.04.030(p), and want you to know that we fully support this proposal.

The effect of the draft legislation would be to delete the requirement for the Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Repealing this statutory provision will enable DEC to revise the implementing regulations in 18 AAC 75 to address problems with the review process for contingency plans that have been identified by coastal districts, industry, and other organizations.

We hope the draft legislation is introduced and passed this session provided that no substantive changes or amendments are made. If changes are made we will withdraw our support.

Thank you for consideration of our letter.

Sincerely,

Glen Vernon (SF)

Glen Vernon, Borough Manager
Lake and Peninsula Borough

Alice J. Ruby

Alice J. Ruby, Chair
Bristol Bay CRSA Board



Cenaliulriit

Coastal
Management
District

For the Yukon-Kuskokwim Coastal Resource Service Area
P.O. Box 1169 • Bethel, Alaska 99559 • 907/543-2243

January 21, 1993

Alaska State Legislature
State Capitol
Juneau, Ak. 99801-1182

Dear Member of the Legislature:

The Cenaliulriit Coastal Management District supports amendment of HB 567 in the attached draft legislation which would repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in improved efficiency of the review process identified in the implementing regulations of 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of its sensitive nature, we request that no substantive changes or amendments be made to this legislation. If such changes are made we will withdraw our support.

Sincerely,

MOSES PAUKAN/CHAIRMAN, CENALIULRIIT COASTAL ZONE MANAGEMENT DISTRICT


John J. Oscar
Program Coordinator

CIRI PRODUCTION COMPANY

January 22, 1993

Mr. Steve Porter
Arco Alaska, Inc.
P.O. Box 100360
Anchorage, AK 99519-0360

Dear Mr. Porter:

CIRI Production Company (CPC) is aware of the effort being made by a number of organizations to repeal AS 46.04.030(p). Such legislation, if adopted, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove proposed oil discharge prevention and contingency plans within sixty five days. CPC supports the repeal of the sixty five day requirement.

While CPC is not currently a holder of a contingency plan, CPC has held contingency plans in the past for certain exploratory drilling activities. Moreover, both CPC and Cook Inlet Region, Inc. are active participants in the oil and gas industry on the Kenai Peninsula and the North Slope.

Contingency plans are required to undergo review through the Alaska coastal management program. The sixty five day requirement in AS 46.04.030(p) does not mesh with this process and is unnecessarily burdensome. We understand this view is shared by regional citizens advisory councils, environmental interests, state agencies and industry. CPC, therefore, supports a simple, targeted repeal of AS 46.04.030(p).

Sincerely,

CIRI PRODUCTION COMPANY

Kevin A. Brown
Vice President

KAB:CD:lsg:3001
File: 061,001



Office of Community Development

January 20, 1993

Dear Member of the Legislature:

I support the attached draft legislation which would repeal as 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days.

Deleting this statutory provision would result in the improved efficiency of the review process identified in implementing regulations in 18 AAC 75, which I support.

I urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, I request that no substantive changes or amendments be made. If changes are made we will withdraw my support.

Thank you for your consideration of this matter.

Sincerely,

David Dengel
Director of Community Development

**Doyon, Limited**

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Tel: (907) 452-4755 Fax: (907) 456-8785
Toll Free in Alaska: 1-800-478-4756

January 28, 1993

To Members of the Alaska State Legislature:

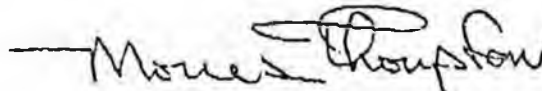
Doyon, Limited, the Regional Native Corporation for Alaska's Interior, is pleased to join with a wide range of organizations, including the Alaska Oil and Gas Association and the Alaska Environmental Lobby, Inc., in asking your support to expeditiously adopt the enclosed draft legislation which repeals Alaska Statutes 46.04.030(p).

The proposed legislation repeals a provision of Alaska Statutes which require the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes mandated by 18 Alaska Admin. Code 75 and 6 Alaska Admin. Code 50.

Doyon urges that the proposed legislation be adopted in its present form without further amendment.

We appreciate your consideration of Doyon's position.

Sincerely,


Morris Thompson,
President & CEO



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 282-4441

DON GILMAN
MAYOR

January 19, 1993

Mr. Steven B. Porter
ARCO Alaska, Inc.
PO Box 100360
Anchorage, AK. 99510-0360

Subject: Repeal of AS 46.04-030(p)

Dear Mr. Porter:

The Kenai Peninsula Borough Coastal Management Program supports the attached legislation which repeals AS 46.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within sixty-five days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75 which we support.

The oil and gas industry encompass a large portion of resource development activities which are located within the Kenai Peninsula Borough. We encourage passage of this legislation.

Sincerely,

Richard P. Troeger
Planning Director

RPT/nj

c: Don Gilman, Mayor
Mary Pearsall, KPB Planner



Kodiak Island Borough

710 MILL BAY ROAD
KODIAK, ALASKA 99615-6340
PHONE (907) 486-5736

January 26, 1993

VIA FAX 265-1502

Steven B. Porter
ARCO Alaska Inc.
P.O. Box 100360
Anchorage, Alaska 99510-0360

Dear Mr. Porter:

The Kodiak Island Borough is aware of your efforts to obtain repeal of AS46.04.030(p).

We support legislation that would repeal the statute section referenced above, which mandates that the Alaska Department of Environmental Conservation approve or disapprove a submitted, complete oil discharge prevention and contingency plan within sixty-five (65) days.

The Kodiak Island Borough believes that repeal of AS46.04.030(p) will result in improved efficiency of the review process contained in 18AAC75. The Kodiak Island Borough supports this review process.

We further support speedy passage of legislation to effect the repeal of AS46.04.030(p). Please call me if I can provide additional information.

Sincerely,

Linda L. Freed, Director
Community Development Department

c.c. Senator Fred Zharoff
Representative Cliff Davidson
Prince William Sound Regional Citizen's Advisory Council
Cook Inlet Citizen's Advisory Council

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

Jeslie Kaleak, Sr., Mayor



January 20, 1993

Steve Porter
ARCO Alaska, Inc.
P.O. Box 100360
Anchorage, Alaska 99519-0360

Re: Proposed Legislation on Oil Spill Contingency Plan Review

You have asked for our comments on the attached proposed bill. This proposed bill is the result of a statewide committee of coastal zone management representatives, including the North Slope Borough Planning Department. It is my understanding that if enacted the proposed bill would result in more efficient review and approval of oil spill contingency plans by correcting a current oversight in state law [AS 46.04.030(p)] which sets a different review time line than the regulations of the Department of Environmental Conservation and the Division of Governmental Coordination.

More efficient review and approval of oil spill contingency plans would not only be beneficial to operators involved in the exploration, production, transportation and distribution of hydrocarbons, but would also streamline administrative efforts of federal, state and local government regulators. As a distributor and regulator, the North Slope Borough fits into both categories.

We would support the repeal of AS 46.04.030(p) if the attached bill is introduced.

Sincerely,


Jeslie Kaleak, Sr.
Mayor

cc: Rena Bukovich, Representative Eileen MacLean's Office
Rebecca Brower, Eskimos, Inc.
Dennis Alt, UIC Construction
Forrest D. Olemaun, NSB Fuel Manager



Northern Alaska Environmental Center

218 DRIVEWAY
FAIRBANKS, ALASKA 99701
(907) 452 5021

January 29, 1993

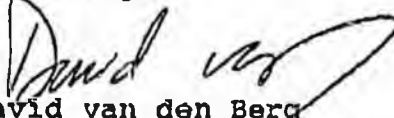
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Member of the Legislature:

The Northern Alaska Environmental Center supports the proposed amendment to HB 567 which would repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in improved efficiency of the review process identified in the implementing regulations of 18 AAC 75, and would extend the public comment if needed.

Because of the sensitive nature of this legislation, our support is conditional: if substantive changes or amendments are made to this legislation, we will withdraw our support.

Sincerely,



David van den Berg
Arctic Issues Director





Resource Development Council

for Alaska, Inc.

121 West Firwood Lane, Suite 250, Anchorage, Alaska 99503-2035
 Phone 907/276-0700 Fax 276-3887

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Becky L. Gay

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James L. Cloud, Vice Pres.

Scott L. Thomson, Secretary

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Heinrich "Henry" Springer

John Sturgeon

Barry Thomson

Mich Usbell

George P. Wuerch

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Phil R. Holdsworth

William R. Wood

EX-OFFICIO MEMBERS

Senator Ted Stevens

Senator Frank Murkowski

Congressman Don Young

January 22, 1993

Dear Members of the Alaska Legislature:

The Resource Development Council for Alaska, Inc. (RDC) supports the attached draft legislation that would repeal AS 46.04.030(p). This legislation relates to the time period for approval or disapproval of oil discharge prevention and contingency plans. Specifically, it would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days.

The deletion would allow necessary regulatory changes to be made to resolve the conflicting review requirements which now exist in 18 AAC 75 and 6 AAC 50. This action would result in the improved efficiency of the review process.

RDC urges prompt passage of this legislation as worded. Because of the sensitive nature of the legislation, RDC requests that no substantive changes or amendments be made.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
 for Alaska, Inc.

Becky Gay
 Executive Director



Southeast Alaska Petroleum Resource Organization, Inc.

540 Water Street Suite 202 • Kodiak, Alaska 99601
(907) 225-7802 • Fax (907) 247-1117

January 20, 1993

Steven B. Porter
ARCO Alaska, Inc.
P.O. Box 100360
Anchorage, AK 99516-0360

Dear Mr. Porter,

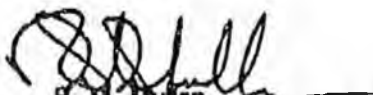
Pursuant to our conversation, and the proposed legislation which you faxed this afternoon, I have polled my Board of Directors and established that SEAPRO supports this legislative proposal as offered.

Many of our member companies have serious concerns regarding ACMP review, especially the extraordinary costs associated with document submission to the numerous coastal jurisdictions where our transient operations may take us. However, the inefficiency of the current plan review process, or lack of process, being utilized by ADEC has been clearly demonstrated to many of our members since August 1992. Clearly, adoption of a more efficient and reasonable review process is necessary.

As offered, the proposed legislation would repeal AS 48.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove oil spill prevention and response contingency plans within 65 days. This deletion will result in the improved efficiency of the implementing regulations in 18AAC75. We urge prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Please contact me if I can provide any further assistance.

Respectfully,


R. M. Mullen
Manager



Southwest Alaska Municipal Conference

Putting Resources to Work For People

3300 Arctic Blvd., Suite 203 • Anchorage, Alaska 99503 • (907) 562-7380 • FAX (907) 562-0438

RESOLUTION 93 - 01

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE IN SUPPORT OF DELETING THE TIME PERIOD FOR APPROVAL OR DISAPPROVAL OF OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS FROM THE OIL AND HAZARDOUS POLLUTION CONTROL STATUTE

WHEREAS, in 1990 the Alaska State Legislature enacted House Bill 567 relating to Oil and Hazardous Pollution Control; and

WHEREAS, one of the provisions of HB 567, AS 46.04.030(p), requires that the Department of Environmental Conservation approve or disapprove a proposed oil discharge prevention and contingency plan within 65 days after it receives a complete application for approval; and

WHEREAS, the Department of Environmental Conservation (DEC) promulgated regulatory revisions pursuant to HB 567; and

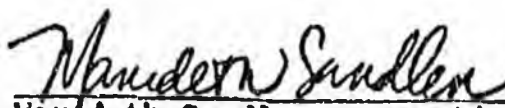
WHEREAS, proposed oil discharge prevention and contingency plans must also be reviewed under the Alaska Coastal Management Program (ACMP) regulations; and

WHEREAS, the review provisions of the ACMP regulations and the review provisions of the DEC regulations are in conflict and cannot be reconciled without deleting the 65-day statutory review provision.

NOW, THEREFORE, BE IT RESOLVED, that the Southwest Alaska Municipal Conference supports repealing the 65-day review provision found at AS 46.04.030(p) in order to allow the DEC the opportunity to resolve its regulatory conflicts with the ACMP.

PASSED AND APPROVED BY THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE THIS 24th DAY OF JANUARY, 1993.


Richard G. Wilson, President


Marjeth Sandler, Executive Director



Working for the Nature of Tomorrow,

NATIONAL WILDLIFE FEDERATION

750 W. Second Ave., Suite 200, Anchorage, AK 99501 (907) 258-4800

January 26, 1993

Members of the Alaska State Legislature:

The National Wildlife Federation and the Wildlife Federation of Alaska urge prompt passage of House Bill 99. This bill repeals AS 46.04.030(p) which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days of receipt. Repeal of this statutory requirement would eliminate the conflict that presently exists between this requirement and the review process mandated under the Alaska Coastal Management Program (18 AAC 75 and 6 AAC 50.)

Please be aware that we support passage of this bill only so long as no substantive changes or amendments are made.

Respectfully,

Ann L. Rothe
Alaska Regional Representative
National Wildlife Federation

Bill Mans, Jr.
President
Wildlife Federation of Alaska



"The mission of the Council is to ensure the safe operation of the oil terminals, tankers, and facilities in Cook Inlet so that environmental impacts associated with the oil industry are minimized."

February 8, 1993

The Honorable Ramona Barnes
Speaker of the House
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

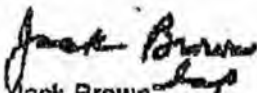
Dear Representative Barnes:

Cook Inlet Regional Citizens' Advisory Council (Cook Inlet RCAC) recommends the legislature seriously consider enactment of HB99, Repealing 65 Day Time Limit Approval/Disapproval of Contingency Plans, which would repeal AS 46.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations (18 AAC 75).

Cook Inlet RCAC would recommend prompt passage of this legislation. If the Alaska State Legislature feels there is a need for substantive modifications to the proposed legislation then Cook Inlet RCAC would withdraw the recommendation for adoption of this legislation.

Should you have any questions please feel free to contact me or Lisa Parker, Executive Director, at 907-283-7222.

Sincerely yours,


Jack Brown
President

cc: Representative Joe Green, Chair, House Special Committee on Oil & Gas
Cook Inlet RCAC Board of Directors
Charter Funding Companies
Mr. Larry Smith

Cook Inlet Regional Citizens Advisory Council

11335 Frontage Rd. • Suite 228 • Kenai, Alaska 99611 • (907) 283-7222 • FAX (907) 283-8102



A HARBOR ENTERPRISES COMPANY

1800 A Street, Suite 307 • Anchorage, Alaska 99503 • (907) 278-7586

Second
224-3130

January 26, 1993

The Honorable Rick Halford
President, Alaska State Senate
Alaska State Capitol
Juneau, AK 99811-1182

Mills
776-8800

Dear Senator Halford:

Petro Marine Services supports the attached draft legislation which repeals AS 46.04.030(p). This legislation, if passed would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18AAC75 which we support. We urge prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Kodlak
485-3621

Sincerely,

W.B. Schoephoester
Manager Projects and Planning

WBS:ng

Dutch Harbor
591-1150

A Pioneer Alaskan Company Specializing in Petroleum Marketing to the Marine Industry.



HOUSE RESOURCES COMMITTEE

SUBJECT OF MEETING:

HB 99 Repealing 65-day deadline
for Oil Spill Plans

DATE: Mon. 2/15/93

PLACE: Capitol, Room 124

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Bob Kerthula	DEPT LAW					Y	N	IF needed HB 99
Russell North	AK ENV LOBBY	PO Box 22151 Juneau AK	99802	586- 1841	463- 3366	(Y)	N	HB 99
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

HB

116

HOUSE COMMITTEE REPORT

(9)

Date Referred: February 3, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/24/93

The RESOURCES Committee considered:

HB 116

HOUSE BILL NO. 116

STATE SHARE OF FEDERAL GAS ROYALTIES

"An Act directing the commissioner of natural resources to accept, under certain circumstances, the contract price agreed to between a lessee of federal land and a gas or electric utility as the value of the federal government's royalty share from natural gas production when royalty is payable to the state under applicable federal law; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CSAB 116 (RES) the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

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

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note DNR / 2-23-93

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>David J. Inhoff</i>	<input checked="" type="checkbox"/>	<i>Bill Hudson</i>		<input checked="" type="checkbox"/>	
<i>Bill Kasper</i>	<input checked="" type="checkbox"/>	<i>Donnette James</i>		<input checked="" type="checkbox"/>	
<i>Joseph P. ...</i>	<input checked="" type="checkbox"/>	<i>Del N. ...</i>	<input checked="" type="checkbox"/>		
<i>Gen Bunde</i>	<input checked="" type="checkbox"/>	<i>W.R. Williams</i>		<input checked="" type="checkbox"/>	

W.R. Williams
CHAIRMAN'S SIGNATURE

DRAFT

CS adopted 2/24/93
1 passed
8-LS0442J

CS FOR HOUSE BILL NO. 116(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HANLEY, Phillips, Larson, Green, Parnell, Navarre

A BILL

FOR AN ACT ENTITLED

1 "An Act directing the commissioner of natural resources to accept, under certain
2 circumstances, the contract price agreed to between a lessee of federal land and
3 a gas or electric utility as the value of the federal government's royalty share
4 from natural gas production on federal land from which the state is entitled
5 under applicable federal law to receive a share of the royalty on gas production;
6 and providing for an effective date."

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

8 * Section 1. AS 38.05.180(aa) is amended to read:
9 (aa) Within 90 days after the written request of a lessee of a lease issued under
10 this section or of a lessee of federal land from which the state is entitled under
11 applicable federal law to receive a share of the royalty on gas production, the
12 commissioner shall enter into an agreement with the lessee to use or accept the price
13 for the gas established in the contract between the lessee and a gas or electric utility

1 as the value of the state's royalty share of gas production sold by the lessee under the
2 contract unless the commissioner makes a written finding, based on clear and
3 convincing evidence, that

4 (1) the contract price is unreasonably low;

5 (2) the prospective reduction in royalty receipts would not be balanced
6 by increased benefits to in-state gas and electric consumers;

7 (3) the lessee and the utility are related in management, ownership, or
8 other aspect; and

9 (4) the contract price is not in the best interest of the state.

10 * Sec. 2. AS 38.05.180(bb) is amended to read:

11 (bb) In (aa) of this section,

12 (1) "gas or electric utility" includes an electric cooperative organized
13 under AS 10.25, a municipal utility, and a gas or electric utility regulated under
14 AS 42.05; provided that if the contract gas is transmitted to consumers through a
15 pipeline and the gas utility either owns the pipeline or is related in ownership to the
16 owner of the pipeline, then the gas utility qualifies as a "gas or electric utility" within
17 the meaning of this paragraph only if it is bound or agrees to be bound by the
18 covenants set out in AS 38.35.120;

19 (2) "price for the gas established in the contract" includes tax
20 reimbursement amounts, deliverability and other charges, and other forms of
21 consideration paid by the gas or electric utility under the contract;

22 (3) "state's royalty share of gas production"

23 (A) includes payments on federal leases made to the state
24 under 30 U.S.C. 191;

25 (B) does not include the state's royalty share of gas production
26 from land patented to the state under

27 (i) [(A)] P.L. 84-830, 70 Stat. 709 (Alaska Mental
28 Health Enabling Act);

29 (ii) [(B)] 38 Stat. 1214 (Act of March 4, 1915); or

30 (iii) [(C)] 43 U.S.C. 1635 in settlement of the claims of
31 the state under 38 Stat. 1214.

1 * Sec. 3. APPLICATION TO ROYALTY FROM EXISTING FEDERAL LEASES. (a)
2 Notwithstanding AS 38.05.180(aa) and 38.05.180(bb), the provisions of this section apply to
3 the state's share of royalty production of gas produced after January 2, 1959, and before the
4 effective date of this section from a lease of oil or gas rights entered into under applicable
5 federal law.

6 (b) If a lessee of a lease for federal land from which the state is entitled under
7 applicable federal law to receive a share of the royalty on gas production makes a written
8 request within 90 days of the effective date of this section, the commissioner shall enter into
9 an agreement with the lessee to accept the price for the gas established in the contract between
10 the lessee and a gas or electric utility as the value of the state's royalty share of gas
11 production sold by the lessee under the contract unless the commissioner makes a written
12 finding, based on clear and convincing evidence, that

13 (1) the contract price is unreasonably low;

14 (2) the reduction in royalty receipts is not balanced by increased benefits to
15 in-state gas and electric consumers;

16 (3) the lessee and the utility are related in management, ownership, or other
17 aspect; and

18 (4) the contract price is not in the best interest of the state.

19 (c) In this section,

20 (1) "gas or electric utility" includes an electric cooperative organized under
21 AS 10.25, a municipal utility, and a gas or electric utility regulated under AS 42.05; however,
22 if the contract gas is transmitted to consumers through a pipeline and the gas utility either
23 owns the pipeline or is related in ownership to the owner of the pipeline, then the gas utility
24 qualifies as a "gas or electric utility" within the meaning of this paragraph only if the gas
25 utility is bound or agrees to be bound by the covenants set out in AS 38.35.120;

26 (2) "price for the gas established in the contract" includes tax reimbursement
27 amounts, deliverability and other charges, and other forms of consideration paid by the gas
28 or electric utility under the contract;

29 (3) "state's royalty share of gas production" includes payments on federal
30 leases made to the state under 30 U.S.C. 191.

31 * Sec. 4. RETROSPECTIVE EFFECT OF SECTION 3. Section 3 of this Act is

1 retroactive to January 3, 1959, and applies to the federal government's royalty share from
2 natural gas production due the state after January 2, 1959.

3 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

BILL NO. CSHB116 (RES)

Revision Date 23-Feb-93 Department Affected: Natural Resources
 Title: "State Share of Federal Gas Royalties" BRU: Resource Development
 Components: Oil & Gas Development
 Sponsor: Representative Hanley
 Requestor: House Resources Committee Component Serial No. 439

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						
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REVENUE fund source:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 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: \$ See attached page

ANALYSIS: (Attach a separate page if necessary)
 SEE ATTACHED PAGE

Prepared by: Jim Eason, Director Phone: 762-2547
 Division: Oil & Gas Date: 18-Feb-93
 Approved by: Commissioner: Glenn A. Olds Date: 23-Feb-93
 Agency: Department of Natural Resources

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 For further distribution information call the Governor's Legislative Office

The retroactive application provisions of the bill make it difficult to evaluate the fiscal impact of the bill. It is not known, at this time, if any refunds, except for the one described below, will be due the federal lessees because of the proposed retroactive change in state policy. An audit of past federal/state royalty collection policies beginning in 1959, which will require a considerable amount of time and resources, would have to be completed in order to determine the full fiscal impact of this bill.

What is known today is that if the bill becomes law, the state will be barred from advocating for higher royalty values for gas production from federal leases in the Beluga River field for past production periods. The state believes that as of April 15, 1992, approximately \$10.4 million is owed for the audit period between October 1, 1984 through June 30, 1987. Because interest continues to accrue on the past due principle, the amount of the claim continues to grow.

As to the allocation of any royalty revenues which may be foregone as a result of the application of this proposed legislation, for leases issued on or before December 1, 1979, 74.5% would be allocated to the General Fund, 25% to the Permanent Fund, and 0.5% to the Public School Trust Fund. In the event of leases issued after December 1, 1979, 49.5% would be allocated to the General Fund, 50% to the Permanent Fund, and 0.5% to the Public School Trust Fund.

At this point in time, the amount owed is based on a claim by the state. However, the state's position in support of the area pricing theory or median value pricing theory, and the amount sought may or may not be sustained by a court with jurisdiction for this issue.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE HANLEY

TO: HB 116

Page 1, lines 9 - 10:

Delete "for which state royalty share of gas production is payable under applicable federal law"

Insert "from which the state is entitled under applicable federal law to receive a share of the royalty on gas production"

Page 3, lines 4 - 5:

Delete "for which state royalty share of gas production is payable under applicable federal law"

Insert "from which the state is entitled under applicable federal law to receive a share of the royalty on gas production"

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

February 23, 1993

The Honorable Bill Williams, Chairman
House Resources Committee
Alaska State Legislature
State Capitol Building, Room 128
Juneau, Alaska 99801-1182

Dear Representative Williams:

I am responding to your request for additional information concerning whether HB 116 is precedential in any nature and how any royalty revenues that might be foregone through implementation of that legislation would otherwise have been distributed.

The proposed legislation is precedential on at least two points. First, passage of this legislation would result in the requirement that the department accept contract prices for certain gas produced from federal leases regardless of whether or not those values represent the full royalty value to which the state would otherwise be entitled absent this legislation. Secondly, to the best of my knowledge, making the effective date of HB 116 retroactive to January 3, 1959 would also be precedential.

The 1986 amendments to AS 38.05.180 were similar to the proposed legislation in their effect on the royalty valuation for production from state-owned lands. However, the 1986 amendments differ in the timing of their applicability. Unlike the proposed amendments, the 1986 amendments were not retroactive. The contract price for the gas was not binding for royalty purposes until a new contract was negotiated, in this case after 1986. The 21 cents per MCF contract price in effect in 1985 was not accepted as the royalty value. Rather, a settlement value of 75 cents per MCF was used as the royalty value until 1989 when Chugach negotiated a new contract with the Beluga River field lessees.

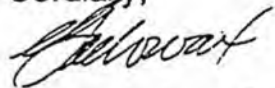
The Honorable Bill Williams, Chairman
House Resources Committee

February 23, 1993
Page 2

Finally, as to the allocation of any royalty revenues which may be foregone as a result of the application of those proposed legislation, 74.5% would be allocated to the General Fund, 25% to the Permanent Fund, and 0.5% to the School Fund.

Please feel free to call if you have any additional questions.

Cordially,



Glenn A. Olds
Commissioner *for*

GAO/sf

cc: House Resource Committee members
Representative Mark Hanley



Representative Mark Hanley

Alaska State Legislature

Memorandum

To: Rep. Bill Williams
Chairman, House Resources Committee

From: Rep. Mark Hanley *MH*

Re: Request to schedule a hearing for HB 116, "An act directing the commissioner of natural resources to accept, under certain circumstances, the contract price agreed to between a lessee of federal land and a gas or electric utility as the value of the federal government's royalty share from natural gas production when royalty is payable to the state under applicable federal law; and providing for an effective date."

Date: February 9, 1993

This memo is to respectfully request that House Bill 116 be scheduled for a hearing in the Resources Committee at your earliest possible convenience.

HB 116 is necessary because the Department of Natural Resources is pressuring the federal government to retroactively increase the value of the gas it sold to a level above the price agreed to in long term contracts signed by the utilities. The higher price would immediately be passed along to consumers in the form of higher utility rates.

This bill will require the Department of Natural Resources to use the same standards for valuation of natural gas from federal lands as it currently uses on gas from state lands. Under existing law, the Department uses the contract price of natural gas sold to a gas or electric utility as the value for figuring the state's royalty on production from state leases. This bill would require the Department to also use the contract price when determining the value of gas sold to utilities from federal leases.

Attached with this memo is a copy of the bill, a brief sectional analysis, and a comprehensive briefing paper prepared by Chugach Electric. Also included is a copy of all the attachments for the briefing paper.

I would appreciate your consideration on scheduling this bill for a hearing as promptly as possible.

Section-by-Section Analysis of HB 116

Section 1. In 1986, the legislature directed the Department of Natural Resources ("DNR") to use, except in certain circumstances, the contract price of natural gas sold by a lessee to a gas or electric utility as the value of the state's royalty share of production from that lessee. AS 38.05.180(aa). Cook Inlet lessees sell natural gas to these utilities, and have historically paid royalties based upon that contract price. In March, 1985, DNR demanded that its lessees begin paying additional gas royalties, on the theory that the contract price did not represent the gas' "value." Had DNR prevailed, the liability for those additional royalties would have fallen on the utilities. That's because the utilities, as part of their contracts with the lessees, agreed to pay any additional royalty assessment made by the state.

Ultimately, of course, that would have meant that any additional royalties would be paid by the utility's customers.

The possibility of additional royalty demands therefore created considerable uncertainty and threatened to impose substantial burdens on consumers. These burdens, the legislature believed, outweighed any revenues the state might receive from a higher valuation of these royalties. Even DNR, which supported the 1986 legislation, concluded that "it is appropriate to accept a contract price as the royalty value for arms-length sales to regulated utilities...because Alaska consumers would be the direct beneficiaries of the certainty of the price provided by such a contract..." but felt that legislation was necessary to permit it to use the utility contract price.

The 1986 law was intended to remove these uncertainties and potential burdens by establishing (except in limited circumstances) the utility contract price as the "value" of the state's royalty share. The law, however, applied only to *state* leases. The state also receives 90% of natural gas royalties paid under *federal* leases, and the 1986 law neglected to resolve the problem with respect to the state's share of federal royalties. As a result, DNR currently feels obligated to encourage the federal government to reject the utility contract price as the "value" of federal royalty gas, even though the agency is compelled (absent special circumstances) to accept that price for state lease purposes.

Since substantial quantities of gas are sold to utilities from federal leases, this has created precisely the uncertainty and potential consumer liability that the 1986 law was intended to prevent.

Section 1 of HB 116 closes that unintended loophole by extending the reach of the 1986 legislation to the state's share of federal royalty gas. The

inserted words "*or a lessee of federal land for which state royalty share of gas production is payable under applicable federal law*" extend the section's protections to federal lessees. The inserted words "or accept" reflect the fact that the federal government will ultimately set the royalty "value" for its leases; DNR, however, would be required (under the standards of the section) to "accept" the federal government's use of the utility contract as the measure of "value," if the federal government itself proposed to use that value.

In fact, the Department of Interior's Minerals Management Service ("MMS"), in two recent audit decisions, decided to use arms-length utility contract prices as the value of Beluga River Field gas for the period 1984-87. DNR is attempting to appeal those rulings, claiming a higher "value" exists. Under Section 1 of the bill, and upon the lessee's application, DNR would be required (except in the circumstances articulated in existing §180(aa)) to withdraw those appeals and "accept" MMS' decision.

Section 2. AS 38.05.180(aa) requires the use of the utility contract price as the value of "the state's royalty share of gas production," a term defined in existing §180(bb)(3). In order to extend that valuation rule to the state's share of federal royalties, it is necessary to amend that definition to include "payments on federal leases under 30 U.S.C. 191." 30 U.S.C. §191 is the federal statute under which 90% of federal gas royalties are distributed to the state.

Sections 3. Section 5 of the 1986 law (Ch. 55, SLA 1986) made it clear that, as to state leases, DNR was only required to use *new* utility contracts as the royalty "value." This was done for three reasons: (1) DNR, in its March, 1985 announcement, proposed to reject utility contracts as the royalty value only prospectively--beginning April 15, 1985; (2) DNR, during the 1986 session, had already settled with all its lessees under the then-existing utility contracts, pending passage of the law; and (3) even though the law applied prospectively only, DNR assured the legislature that it would use enactment of the law as statutory justification for completing its settlements under existing utility contracts.

In other words, the "valuation" issue with respect to then-existing utility contracts had already been taken care of amicably, and there was no need to reopen those matters.

None of those considerations exist with respect to the valuation of federal royalties. DNR is currently attempting to compel MMS to retroactively reject utility contract prices as far back as 1984. It has engaged in no settlement discussions that might amicably dispose of prior-year valuation issues. And, it has taken the position that, unless AS 38.05.180(aa) is amended to require use of the utility contract price for prior year federal royalties, it must continue to urge rejection of that price for those years.

As a result, Section 3 of HB 116 applies the rules of AS 38.05.180(aa) (as amended by Sections 1 and 2 of this bill) to gas production from federal leases that occurred prior to the effective date of this legislation. The wording used in Section 3 is identical to amended §180(aa) and (bb), except that

(1) the word "prospective" is deleted from subsection (b)(2). That's because this section is concerned not with prospective reductions in royalty due to accepting new contract prices, but rather with acceptance of the contract price for prior production from federal leases; and

(2) the definition of "state's royalty share of gas production" references only the federal revenue sharing provision of 30 U.S.C. §191, rather than also referencing revenues from state leases, because this special section is concerned solely with prior production from *federal* leases.

Section 3 has a very limited reach. It does not affect prior production from state leases at all--the introductory language of the section makes this clear by stating that it applies solely to leases "entered into under applicable federal law." Moreover, all significant federal royalty disputes involving Cook Inlet gas have already settled, and this legislation will not have any effect on binding settlement agreements. As a practical matter, the effect of Section 3 will be confined to federal royalty gas from the Beluga River Field that is sold to Chugach Electric Assn., Inc. for "belt power generation.

Section 4. Under AS 01.10.090, "no statute is retrospective unless expressly declared therein." Because Section 3 is intended to define what the state must accept (under certain conditions) as its share of *past* federal royalty production; an explicit retroactivity clause is necessary.

Section 4 should create no legal problems. Governmental policies towards defining royalty "value" have changed over the years, without any serious argument that the changes constitute unilateral amendments to pre-existing leases. Moreover, here the use of the utility contract price is at the lessee's option.

Section 5. This section gives the legislation an immediate effective date.

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

July 16, 1992

David L. Highers, General Manager
Chugach Electric Assn., Inc.
5601 Minnesota Drive
P.O. Box 196300
Anchorage, Alaska 99519-6300

Dear Mr. Highers:

Thank you for your letter dated May 27, 1992 requesting my help and intervention on behalf of Chugach. Assuring a reliable and affordable power supply for interior and south central Alaska benefits all of us in the short term and in the long term. I have assigned Commissioner Olds to prepare a detailed response to your letter and to continue to work with Chugach to better understand its concerns and hopefully resolve our differences.

Administration of oil and gas leases and valuation of gas royalties is a complicated matter. There will always be a natural tension between the lessor and the lessee concerning the royalty value, but, if the two sides are willing, they should be able to reach an acceptable compromise. I hope that will be the case in this instance.

Sincerely,

Walter J. Hickel
Governor

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, ^{fil} GOVERNOR

400 WILLOUGHBY AVENUE
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July 9, 1992

David L. Eighers, General Manager
Chugach Electric Assn., Inc.
5601 Minnesota Drive
P.O. Box 196300
Anchorage, Alaska 99519-6300

Dear Mr. Eighers:

Thank you for your letters of May 27 and June 15, 1992 to the Governor and me expressing concern regarding the impact of the State of Alaska's (State) decision to seek additional royalties derived from federal oil and gas leases located in the Beluga River gas field. Governor Fickel asked me to prepare a detailed response to your letter. I have discussed the issue with the Governor, and have given the matter a great deal of thought.

Your letter of May 27, 1992 asked that the Department of Natural Resources (DNR) withdraw an appeal filed with the federal government seeking to recover royalties due the State. These royalties are from federal leases located in the Beluga River gas field and indirectly affect Chugach Electric Association, Inc. (Chugach). The withdrawal of this appeal would not be in the best interest of the State. Essentially, the DNR believes that the federal government has ignored its own statutes and regulations to deprive the State of over \$5,198,883 in lost royalties and \$5,236,002 in interest.

Under the Minerals Leasing Act and the Alaska Statehood Act, the State is entitled to ninety percent of all royalties received from federal oil and gas leases in Alaska. The federal government, however, initially determines the amount of royalties due, collects the monies, and then forwards the State's share to the State. Under the applicable statutes and regulations, royalties are to be paid on the "value of production." Although Chugach believes that the production is valued according to the contract price received by a lessee on the sale of gas, this is not the law. The contract price sets a minimum value according to the statutes and regulations. Where the contract price is not a fair value, a reasonable value will be determined by looking to the median price paid by other purchasers of gas

David L. Highers

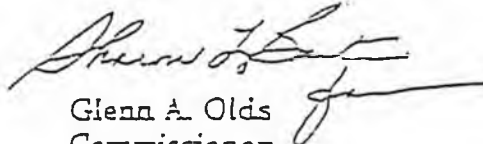
- 3 -

July 9, 1992

spent as part of a public process and review. Thank you for sharing your views and concerns.

I realize that this will not be a popular decision with southcentral and interior power users and that it will place an additional burden on Chugach Electric. In the past, Chugach and the State have been able to successfully resolve their differences concerning Beluga River gas royalties. I hope that spirit of cooperation can be continued.

Sincerely,



Glenn A. Olds
Commissioner