

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8058 HOUSE RESOURCES

FY 1987

A REPORT TO THE 15th ALASKA LEGISLATURE  
ON THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND  
by the  
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
May 1988

STATE OF ALASKA  
STEVE COWPER - GOVERNOR  
DENNIS D. KELSO - COMMISSIONER

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## Section 1. Executive Summary

The Oil and Hazardous Substances Release Response Fund was established to enable the State to respond to spills and clean up hazardous sites. The legislation requires an annual report to the Legislature on the use of the fund.

A total of \$520,665 was available in the Oil and Hazardous Substance Release Response Fund for FY 87. As of June 30, 1987, FY 87 expenditures amounted to \$428,815, leaving a balance of \$101,850.

During FY 87, the Department reached settlement agreements for damages from five oil spills. These settlements were deposited to the Oil and Hazardous Substance Release Mitigation Account. Total revenue recovered in the Mitigation Account from these five spills was \$304,856. As provided for in HB 470, these funds were appropriated to the Response Fund for FY 88.

The Department allocated monies from the Fund for several significant oil and hazardous substance spill investigations during FY 87. These included:

Kotzebue underground spill	\$ 75,342
Nome underground spill	1,345
West Poppy Lane gravel pit (in Soldotna)	37,198
Iron's Subdivision groundwater contamination (in Soldotna)	1,159
Peters Creek groundwater contamination in Chugiak (near Anchorage)	258,847
Anchor Point underground spill	10,770
Crown Point chemical release (at Moose Pass)	17,000
M/V Vashon grounding (near Prince of Wales Island)	2,067
Buckingham Well contamination (in Soldotna)	5,299
Toppers Station # 2 underground spill investigation (in Anchorage)	5,486
Child's Pad (in Prudhoe Bay)	3,877
Shoup Property storage of hazardous materials (near Fairbanks)	4,100
Misc. Spills	<u>6,325</u>
Total	\$ 428,815

A REPORT TO THE 16TH ALASKA LEGISLATURE  
ON THE OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

by the

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

May, 1989

STATE OF ALASKA

STEVE COWPER - GOVERNOR

DENNIS D. KELSO - COMMISSIONER

ACE 1222846 <sup>1/11/89</sup>

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## SECTION 1. Executive Summary

In 1986 the Legislature passed HB 470, a bill relating to the release of oil and hazardous substances. This legislation established the Oil and Hazardous Substance Release Response Fund. The Department uses the Response Fund to investigate, respond to and clean up releases of oil and hazardous substances. Normally, a balance of \$1,000,000 is needed in the fund to be available to respond to emergency events.

Section 46.08.060 of the law requires the Department to submit an annual report to the Legislature summarizing information on spill response activities during the preceding fiscal year; expenditures from the fund; monies recovered from spillers; and projected costs of cleanup for the next fiscal year. FY 88 was the second year of the fund's existence. This report covers FY 88 and the first half of FY 89.

### FY 88

A total of \$1,381,169 was available in the Oil and Hazardous Substance Release Response Fund at the beginning of FY 88. FY 88 expenditures amounted to \$329,977, leaving a balance of \$1,051,192.

During FY 88, the Department reached settlement agreements for damages from three oil spills. These settlements were deposited in the Oil and Hazardous Substance Mitigation Account. Total revenue recovered in the Mitigation Account from these three spills was \$136,479. As provided for in HB 470, these funds were appropriated to the Response Fund for FY 89.

### FIRST HALF FY 89

Authorized funds for FY 89 amounted to \$1,687,671. Expenditures during the first half of FY 89 to January 1, 1989 were \$94,131, leaving a \$1,593,540 balance of all accounts as of January 1, 1989.

A total of \$2,607.00, recovered from two spills, has been deposited in the Mitigation Account during the first half of FY 89.

### LAST HALF FY 89

Costs for cleanup work for the remainder of FY 89 are projected to be \$170,500 for a total project FY 89 expenditure of \$264,631.

SECTION 2. Summary of Funds Expended and Recovered

This section summarizes the account's funds using two methods. The first summary presents, by fiscal year, the account balance, appropriations to the account, expenditures from the account and funds that were recovered and returned to the account.

The second summary lists specific sites where Departmental expenditures were greater than \$1,000 each. A list is shown for each fiscal year. Totals for small spills and other expenditures are shown by fiscal year as well as costs recovered during FY 88 and the first half of FY 89. More information about these sites is presented in Section 4, which is organized by regions of the state.

FISCAL SUMMARY - EXPENDITURES, APPROPRIATIONS AND BALANCES  
(BY FISCAL YEAR)

FY 88

Authorized Funds for FY 88

July 1, 1987 Balance of Fund	\$ 101,850
FY 87 Mitigation Account (CHP.#95 SLA 1987)	304,319
FY 87 Capital Appropriation (CHP.#28 SLA 1986)	150,000
FY 88 Capital Appropriation(CHP.#3 FSSLA 1987)	825,000
Total Beginning Authorization for FY 1988	<u>\$1,381,169</u>

Expenditures During FY 88

From July 1, 1987 Balance of Fund	\$ 101,850
From FY 87 Mitigation Account	228,127
Total FY 1988 Expenditures	<u>\$ 329,977</u>

Ending Balances for FY 88

July 1, 1987 Balance of Fund Remaining	\$ 0
FY 87 Mitigation Account Remaining	76,192
FY 87 Capital Appropriation	150,000
FY 88 Capital Appropriation	825,000
Total Ending Balance for FY 1988	<u>\$1,051,192</u>

FY 89

Authorized Funds for FY 89

FY 88 Total Ending Balance	\$1,051,192
FY 88 Mitigation Account (CHP. 154 SLA 1988)	136,479
FY 89 Capital Appropriation (CHP. 172 SLA 1988)	500,000

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Total Beginning Authorization for FY 1989	\$1,687,671
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Expenditures During First Half FY 89

FY 87 Mitigation Account	\$ 69,031
FY 87 Capital Appropriation	25,100

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Total FY 89 Expenditures to January 1, 1989	\$ 94,131
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Mid-Year Balance for FY 89

FY 87 Capital Appropriation	\$ 124,900
FY 87 Mitigation Account	7,161
FY 88 Capital Appropriation	825,000
FY 88 Mitigation Account	136,479
FY 89 Capital Appropriation	500,000

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Total Mid-Year Balance for FY 89	\$1,593,540
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Expenditures and Recoveries by Spill (By Fiscal Year)

FY 88

Expenditures/Spills Over \$1,000.00 Each

City of Kotzebue Oil Spill	\$ 1,070
Poppy Lane Gravel Pit	16,531
Service Station at Peters Creek	22,519
Anchor Point Drinking Water	58,971
O'Malley Rd & Old Seward Hwy	5,037
T/V Glacier Bay Oil Spill	127,715
Fenced Property N. of Farmers Loop	4,890
Water & Soil Contamination-Hooper Bay	2,261
Coast Guard Station Oil Spill-St. Paul	2,610
F/V Tae Woong Oil Spill	2,611

Fish Processing Plant-Togiak	3,5
Mining Company - Wasilla	1,61
Boniface and N. Lights Solvent Spill	3,258
Logging Camp Oil Spill-Hydaburg	1,179
Underground Contaminated Water-Fairbanks	7,057

Total Expenditures for Spills Over \$1,000.00 Each FY 88	\$ 260,855
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Other Miscellaneous Expenditures/Spills

51 Small Spills and Other

Expenditures Totaled	\$ 69,122
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Total All Spills/Expenditures For FY 1988	\$ 329,977
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FY 88 Funds Recovered

F/V Tae Woong Oil Spill	\$ 8,804
Chena River Spill	2,675
Mining Company - Wasilla	125,000

Total Funds Recovered In FY 1988	\$136,479
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FY 89

Mid-Year FY 89 Expenditures/Spills Over \$1,000 Each to  
January 1, 1989

Service Station at Peters Creek	\$ 1,044
Underground Contaminated Water-Fairbanks	6,822
Mining Company - Wasilla	2,282
Anchor Point Drinking Water	40,516
Battery Manufacturer	1,325
Crude Oil Topping Unit in Prudhoe	7,596
King Salmon AFS - Tank Farm	1,049
Cook Inlet Spill	1,811
Ore Terminal at Skagway	6,586

Total Expenditures for Spills over \$1,000.00 Each Mid-Year FY 89	\$ 69,031
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Other Miscellaneous Expenditures/Spills

30 Small Spills and Other

Expenditures Totalled \$ 25,100

Total All Spills/Expenditures \$ 94,131  
Mid-Year FY 89

FY 89 Funds Recovered to January 1, 1989

Service Station on Boniface and  
Northern Lights Blvd. (Diesel) \$ 107

Service Station on Boniface and  
Northern Lights (Gas & Diesel) 2,500

Total Funds Recovered in \$ 2,607  
FY 1989 to January 1, 1989

FY 1989

**ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
RESPONSE FUND ANNUAL REPORT**

**PRESENTED TO THE  
SECOND SESSION OF THE SIXTEENTH ALASKA LEGISLATURE**

**APRIL 1990**

**STEVE COWPER - GOVERNOR**

**DENNIS D. KELSO - COMMISSIONER**

# RESPONSE FUND ANNUAL REPORT

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## DEPARTMENT OF ENVIRONMENTAL CONSERVATION

### RESPONSE FUND ANNUAL REPORT

#### EXECUTIVE SUMMARY

In 1986, the Legislature passed House Bill 470, relating to the release of oil and hazardous substances. This law established the Oil and Hazardous Substance Release Response Fund, known as the Response Fund. The Department of Environmental Conservation (DEC) uses the Response Fund to investigate, respond to, and clean up spills of oil and hazardous substances. In 1989, the Legislature amended this act by passing several laws. Now, the Response Fund may also be used for State and Regional contingency planning, a response office, training for local response corps, and equipment depots.

Section 46.03.060 of the Response Fund law requires the Department to submit an annual report to the Legislature summarizing information on spill response activities during the preceding fiscal year; expenditures from the fund; monies recovered from spillers; and projected costs of cleanup for the next fiscal year. This report covers FY 89 and the first half of FY 90. The report also projects fund activities for the second half of FY 90.

In FY 89, \$21,687,700 was authorized of which \$10,000,000 in general funds and \$10,000,000 in program receipts was specifically earmarked for the EXXON Valdez spill response. A total of \$6,592,500 was expended during FY 89 including \$6,271,600 for DEC, other agency, and local response to the EXXON Valdez spill. The FY 89 end-of-year Response Fund balance was \$15,095,200.

In FY 90, \$67,892,900 was authorized including \$20,000,000 in program receipts for the EXXON Valdez spill response. During the first half of FY 90, \$19,753,100 was expended of which \$19,368,800 was for DEC, other agency, and local response to the EXXON Valdez spill. The mid-year balance was \$48,139,800. The report projects that \$35,786,600 will be expended during the second half of FY 90 including \$30,848,400 for DEC, other agency, and local response to the EXXON Valdez spill. The FY 90 end-of-year Response Fund Balance is currently projected at \$12,353,200.

In FY 89 and the first half of FY 90, DEC investigated and cleaned up 19 spills or contaminated sites where expenditures exceeded \$1,000. This includes the EXXON Valdez spill. The report projects that 10 more spills or sites will be addressed during the second half of FY 90.

## INTRODUCTION

In 1986, the Legislature passed HB 470, a bill relating to the release of oil and hazardous substances. In 1989, the Legislature amended this act. This law establishes the Oil and Hazardous Substance Release Response Fund, known as the Response Fund. The Department of Environmental Conservation (DEC) uses the Fund to investigate, respond to and clean up spills of oil and hazardous substances. Section 46.08.060 of the law requires the Department to submit an annual report to the Legislature summarizing information on spill response activities during the preceding fiscal year; expenditures from the fund; monies recovered from spillers; and projected costs of cleanup for the next fiscal year. This report covers FY 89 and the first half of FY 90. The report also projects fund activities for the second half of FY 90.

Typically, DEC uses the Response Fund for the following types of response activities.

*Sampling and Testing* The type and toxicity of spilled oils and chemical wastes is not always immediately known. DEC must have this information to respond further and to determine what advice should be given to people affected by the spill.

*Evidence Collection* To find the source and cause of a spill, DEC's lab has sophisticated methods to "fingerprint" spilled oil and compare it to known sources.

*Identifying the Responsible Party* Many times, the spiller's identity is unknown at first—especially for underground spills in populated areas or for spills at sea. Understandably, people are reluctant to clean up a spill until their responsibility is clearly known. However, most spillers will begin cleanup if DEC's evidence and testing proves them to be the responsible party.

*Oversight of Cleanups* For responsible party cleanups, DEC provides help and guidance and issues certain permits for disposal. More than 90% of spill cleanups in Alaska are done by the responsible party in negotiated agreements, sometimes formalized as Compliance Orders by Consent.

*Cleanup* If no responsible party can be identified or if the responsible party is unwilling or unable to clean up, DEC can use the Response Fund to clean up a spill.

*Impact Investigation* Sometimes DEC may use the fund to determine the effects of spills to human health or the environment, such as blood testing for lead.

*Recovery of Expenses* DEC is obliged to seek recovery of spill expenses to replenish the Response Fund. The recovery action itself may require use of the Fund, especially for complicated legal proceedings.

The 1989 Legislature passed several laws which related to the Response Fund and response to spills.

*Senate Bill 260*

*Conservation Surcharge*

This law imposes a conservation surcharge of \$.05 per barrel on oil subject to the oil and gas properties production tax. Proceeds from the surcharge may then be appropriated to the Response Fund. The surcharge is imposed when the balance of the Response Fund drops below \$50,000,000.

*Senate Bill 261*

*State and Regional Contingency Plans*

This law requires DEC to prepare and annually review plans by which the state agencies and local governments respond to spills, both statewide and regionally.

*Senate Bill 264*

*State Response Office, Corps, and Depots*

This law requires DEC to set up an office and staff with special training for containment and cleanup of spills of oil and hazardous substances. Local response corps would be registered and trained through this office. Depots of cleanup equipment would be cached in certain areas.

RESPONSE FUNDS AUTHORIZED AND EXPENDED

BY FISCAL YEAR

This section summarizes the appropriations to, and expenditures from the Response Fund in FY 89 and the first half of FY 90. Expenditures are also projected for the second half of FY 90.

FY 89

Authorizations for FY 89

July 1, 1988 Fund Balance		\$ 1,051.2
FY 88 Mitigation Account	(CHP154, SLA88)	\$ 136.5
FY 89 Capital Appropriation	(CHP172, SLA88)	\$ 500.0
EXXON Valdez GF Appropriation	(CHP13, SLA89)	\$10,000.0
EXXON Valdez PR Appropriation	(CHP13, SLA89)	\$10,000.0

Total FY 89 Authorization \$21,687.7

Expenditures During FY 89

Site Cleanup and Spill Response	\$ 320.9
EXXON Valdez DEC Response	\$ 5,456.3
EXXON Valdez RSAs	\$ 609.7
EXXON Valdez Local Response	\$ 205.6

Total FY 89 Expenditures \$ 6,592.5

Ending Balance for FY 89 \$15,095.2

FY 90

Authorizations for FY 90

July 1, 1989 Fund Balance		\$15,095.2
FY 89 Mitigation Account	(CHP116, SLA89)	\$ 197.7
FY 90 Capital Appropriation	(CHP117, SLA89)	\$ 600.0
FY 90 GF Appropriation	(CHP117, SLA89)	\$32,000.0
EXXON Valdez PR Appropriation	(RP 1890-0041)	\$20,000.0

Total FY 90 Authorization \$67,892.9

Expenditures During First Half FY 90

Site Cleanup and Spill Response	\$ 277.4
SB 261/SB 264	\$ 106.9
EXXON Valdez Response	\$18,547.0
EXXON Valdez RSAs	\$ 429.5
EXXON Valdez Local Response	\$ 392.3

Total First Half FY 90 Expenditures \$19,753.1

Mid-Year Balance for FY 90 \$48,139.8

Projected Expenditures During Second Half FY 90

Site Cleanup and Spill Response	\$ 673.3
SB 261/SB 264	\$ 4,264.9
EXXON Valdez Response	\$13,800.0
EXXON Valdez RSAs	\$ 9,443.3
EXXON Valdez Local Response	\$ 7,605.1

Total Projected Expenditures During Second Half FY 90 \$35,786.6

Projected Ending Balance for FY 90 \$12,353.2\*

\*This is an estimate. Actual expenditures could vary considerably.

RESPONSE FUNDS RECOVERED  
BY FISCAL YEAR

Following is a summary of Response Fund costs recovered in FY 89 and the first half of FY 90.

FY 89

Mapco # 7, Anchorage	\$ 2.5
Gas Station, Anchorage	\$ 0.1
Togiak Fisheries	\$180.1
Chugach Electric	\$ 15.0
<u>Total</u>	<u>\$197.7</u>

FIRST HALF OF FY 90

White Pass & Yukon	\$ 0.7
Peters Creek Tesoro	\$ 483.4
Trident, Akutan	\$ 50.0
AMOCO East Forelands	\$ 60.0
AMOCO Platform Anna	\$ 6.5
<u>Total</u>	<u>\$ 600.6</u>

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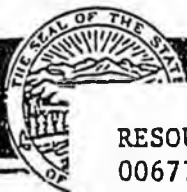
Department of Environmental Conservation • Oil and Hazardous Substance Release

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**RESPONSE FUND ANNUAL REPORT**

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FISCAL YEAR 1990



RESOURCES  
006772

*Presented to the* First Session of the Seventeenth Alaska Legislature  
0, 1991 • Walter J. Hickel, Governor • John A. Sandor, Commissioner

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## I. INTRODUCTION

The Oil and Hazardous Substance Release Response Fund, generally referred to as the "Response Fund," is administered by the Alaska Department of Environmental Conservation (DEC). Each year, the department is required to submit a report to the Legislature summarizing information on fund expenditures for the prior fiscal year, monies recovered from spillers, and projected uses of the fund in the next fiscal year. This report covers FY 1990, and projected uses of the fund for FY 1991.

The Response Fund was originally established by the Legislature to ensure that DEC had adequate funding to investigate, respond to and cleanup spills of oil and hazardous substances. More recent legislation has broadened the uses of the fund to emphasize planning, prevention and response preparedness. In accordance with the purposes of the Response Fund defined in AS 46.08.040, the fund supported the following activities in FY 90 :

1. Planning: The Response Fund is used to improve the state's planning for spills of oil and hazardous substances. In FY 90, Response Funds were used to prepare state and regional contingency plans for spill response.
2. Response Preparedness and Equipment: The Response Fund is used to improve the state's preparedness for spill response. In FY 90, an oil and hazardous substance Spill Response Office was established and given the responsibility to respond to major spills and establish spill response equipment depots and local response corps.
3. Response and Cleanup: The Response Fund is used by DEC for responses to spills of oil and other hazardous substances, from small spills to those the magnitude of the *Exxon Valdez*, and to investigate and cleanup sites previously contaminated by hazardous substances. A Spill Reserve is maintained to ensure adequate funds are available for emergency responses. The types of activities DEC might undertake in spill response and contaminated site cleanup include:
  - Sampling and Testing: The type and toxicity of spilled oils and chemical wastes are not always immediately known. DEC must have this information to respond further and to determine what advice should be given to people affected by the spill.
  - Evidence Collection: To find the source and cause of a spill, DEC's lab has sophisticated methods to "fingerprint" spilled oil and compare it to known sources.
  - Identifying the Responsible Party: Frequently, the spiller's identity is uncertain, at first — especially for underground spills in populated areas or spills at sea. Understandably, people are reluctant to cleanup a spill until their responsibility is clearly known. However, most spillers will begin cleanup if DEC's evidence and testing proves them to be the responsible party.
  - Oversight of Cleanups: For cleanups conducted by the responsible party, DEC provides help and guidance, and issues certain permits for disposal. More than 90 percent of spill cleanups in Alaska are done by the responsible party in negotiated agreements, sometimes formalized as Compliance Orders by Consent.
  - Cleanup: If no responsible party can be identified or if the responsible party is unwilling or unable to cleanup,

**TABLE 1**  
**RESPONSE FUNDS AUTHORIZED AND EXPENDED**  
**FISCAL YEAR 1990**  
(In Thousands)

<u>Authorizations for FY 90:</u>		<u>Totals</u>
Fund Balance	\$15,095.2	
Mitigation Account (CHP116, SLA89)	\$ 197.7	
FY 90 Capital Appropriation (CHP117, SLA89)	\$ 600.0	
FY 90 GF Appropriation (CHP117, SLA89)	\$32,000.0	
Exxon Valdez PR Appropriation (RP 1890-0041)	\$20,000.0	
 <u>Total FY 90 Authorization</u>		 <u>\$67,892.9</u>
 <u>Actual Expenditures for FY 90:</u>		
State & Regional Contingency Plans	\$ 158.4	
Spill Response Office, Depots & Corps	\$ 199.8	
Spill Response Containment, Safety, Cleanup and Cost Recovery	\$ 211.0	
Exxon Valdez Project		
• DEC Response	\$24,005.4	
• Interagency Response	\$ 4,560.0	
• Local Response	\$ 3,210.2*	
Contaminated Site Investigation, Safety, Cleanup and Cost Recovery	\$ 774.5	
Other	\$ 112.8**	
Spill Reserve	\$ 245.5	
 <u>Total FY 90 Actual Expenditures</u>		 <u>\$33,477.6</u>
 <u>FY 90 Obligations</u>		 <u>\$13,788.5***</u>
 <u>Ending Balance for FY 90</u>		 <u>\$20,626.8</u>

\*In FY 90, municipal participation in the Response Fund was comprised of Local Response in the Exxon Valdez Project, described in Section III.

\*\*Includes expenditures not readily assigned to remaining categories. See Section III, "Discussion of Response Funds Expended in Fiscal Year 1990" for detail.

\*\*\*FY 90 Response Fund encumbrances as of 9/1/90.

# OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

## FISCAL YEAR 1991 ANNUAL REPORT

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# OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

## FISCAL YEAR 1991 ANNUAL REPORT

### Section I. INTRODUCTION

The Oil and Hazardous Substance Release Response Fund, generally referred to as the "Response Fund", or "470 Fund" was created by the Legislature to provide a readily available fund for the payment of the expenses incurred by the State in the protection of the environment from the release, or threatened release of oil or hazardous substances" (AS 46.08.005). Each year the Department of Environmental Conservation (DEC), the Response Fund administrator, submits a report to the Legislature summarizing information on Response Fund expenditures, costs recovered, DEC response activities, projected expenditures, and any other information considered significant by the Commissioner (AS 46.08.060).

In May 1991, an internal DEC management audit of the Response Fund was completed which included recommendations for improving administrative procedures governing the Response Fund. Consistent with the recommendations in the audit report, a number of steps were taken in FY 92 to improve DEC's management of the Response Fund. Actions taken by DEC in FY 92 to resolve specific audit issues are described in Section II of this report.

A status report on Alaska's oil and hazardous substance spill response preparedness is given in Section III. Section IV provides information on FY 91 Response Fund allocations. FY 91 Response Funded activities are described in Section V.

## **Section II. RESPONSE FUND MANAGEMENT AUDIT UPDATE**

Since the release of the May 1991 audit report, DEC has taken several actions to improve management of the Response Fund. Although some issues continue to need improvement, many audit recommendations have been implemented and there are ongoing efforts to improve management of the Response Fund. The conditions described in the audit report, and corrective actions taken by DEC are outlined below.

### **USE OF THE FUND BY OTHER AGENCIES**

#### **Audit Issue:**

By statute, DEC is the State's designated Response Fund administrator (AS 46.08.010). However, DEC does not have full management and accounting control over Response Funds directly appropriated to other State agencies by the Legislature. There are no requirements to provide DEC with Response Fund accounting information from agencies receiving direct Response Fund appropriations. DEC can only manage, account, and report on Response Fund appropriations made directly to DEC.

#### **Actions Taken by DEC:**

DEC took the following actions to facilitate management control and to ensure statutory reporting requirements could be met:

1. Developed and incorporated standard reporting requirements into FY 92 RSAs between DEC and other agencies that use the Response Fund. Servicing agencies are now required to provide DEC with information that meets DEC's Response Fund reporting requirements, including contracts in excess of \$20,000, purchases in excess of \$10,000, and personal services expenditures.
2. DEC worked with the Department of Administration on fiscal controls to prevent other agencies from increasing an authorization to the Response Fund and "double booking" an appropriation from two Departments.
3. DEC requested that FY 92 Response Funds be appropriated to DEC instead of directly to other agencies. With the exception of two appropriations, all Response Funds went to DEC in FY 92. Direct appropriations were made to the Citizens Oversight Council and the Department of Transportation and Public Facilities.

### **CLARIFICATION OF DEC ROLES**

#### **Audit Issue:**

There is no single manager of the Response Fund. Too many people are charged with making decisions that impact the Response Fund. Management and internal control functions are not clearly assigned within DEC's Divisions, and Regional Offices. Uniform policies and procedures for the use and recovery of Response Funds have not been developed.

#### Actions Taken by DEC:

The Spill Prevention and Response Division (SPAR) was established effective July, 1991. In FY 92, the Commissioner designated the Director of SPAR as DEC's Response Fund Manager. The Division of Administrative Services is responsible for internal fiscal control and Response Fund accounting reports. In FY 92 SPAR and Administrative Services will establish policies and procedures for use of the Response Fund by DEC and other State agencies. As the Response Fund Administrator, the Commissioner maintains ultimate oversight and control of the Response Fund.

#### COST RECOVERY

##### Audit Issue:

Full cost recovery on the majority of incidents does not occur. Procedures for pursuing and monitoring cost recovery do not exist. Cost recovery information is difficult to obtain since revenue is not tracked by type, multiple identifiers are assigned to the same project, and revenue is not reconciled to incident cost. Cost recovery has not been fully pursued by DEC and information about recovery is difficult to analyze.

##### Actions Taken by DEC:

Procedures for cost recovery by DEC's regional office response staff are being developed by SPAR and Administrative Services. Current efforts to resolve accounting problems with cost recovery include:

1. Billing legal costs by incident.
2. Charging staff time to incidents.
3. Tracking revenue by recovery, penalty, settlement, interest.
4. Establishing one program and one administrative identifier.
5. Coding recovery to the incident where the cost originated.

#### EQUIPMENT POLICY AND PROCEDURES

##### Audit Issue:

The condition, location, and current value of equipment purchased with Response Funds cannot be accurately documented. Ultimate ownership of the equipment is not clear. There are no procedures for managing Response Fund property. The State does not have a central listing of what equipment purchased with Response Funds is available to respond to an oil and hazardous substance release emergency.

##### Action Taken by DEC:

Equipment purchased by DEC with Response Funds is being identified on the state property system by a special fund coding. In addition, special Response Fund tags

are put on equipment purchased with Response Funds. The Division of Administrative Services maintains a master list of all equipment purchased with Response Funds, and will conduct an audit of the location, condition, and estimated value of Response Fund equipment during the second half of FY 92.

ATTACHMENT B  
Sections from  
*A Strategic Plan for the Oil & Hazardous Substance Release Response Fund*  
(DRAFT REPORT)

Alaska Department of Environmental Conservation

Oil and Hazardous Substance Release Response Fund

• Establishment of Response Fund

Prior to 1986 the Department of Environmental Conservation (DEC) utilized the Spill Expense Reserve Account (Reserve Account) to pay costs directly involved in the abatement, containment, and removal of a discharge of oil or hazardous substances. The initial appropriation to this account was \$1,000,000 in FY81. Subsequent appropriations were made in FY82 and FY84, each totalling \$250,000. During the period FY81 through FY86, \$1,278,000 was expended.

In 1986, the Alaska Legislature established the Oil and Hazardous Substance Release Response Fund (Response Fund). The Response Fund was to provide a readily available source to pay expenses incurred by DEC in the protection of the environment from the release of oil or hazardous substances. It was the intent of the Legislature and declared to be public policy of the State that funds for the abatement of a release of oil or a hazardous substance will always be available.

• Funding History

The remaining balance in the Reserve Account (\$222,000), the balance in the mitigation account (\$159,000) and the FY87 appropriation (\$300,000) provided the initial funding for the Response Fund of \$681,000. Table 1 provides a funding history.

Table 1  
Summary of Funding by Fiscal Year  
(In Thousands)

FY87	681.0
FY88	1,129.3
FY89	20,636.5
FY90	52,797.6
FY91	28,696.1
FY92	28,500.0

Until FY89, funding came from general fund appropriations and appropriations of cost recovered monies deposited in the mitigation account. In March 89, the Exxon Valdez incident occurred and special appropriations were made to the response fund. Of those appropriations 10 million was program receipts. This was the first time program receipts authority was granted to the Response Fund. Additional program receipts were authorized in FY90. Beginning in FY91, the primary funding for the Response Fund has been a conservation surcharge of \$.05 per barrel on oil subject to the oil and gas properties production act.

- Use of the Response Fund

Initially, use of the Response Fund was limited to:

Containment, cleanup and other necessary action such as monitoring, assessing, investigating, and evaluating the release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment.

Provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1990).

Recover the cost to the state or to a municipality of a containment and cleanup resulting from the release or the threatened release of oil or a hazardous substance.

- Changes in Use of the Response Fund

Subsequent legislation added to the uses of the Response Fund. Two types of uses were established; those where legislative appropriation for the purpose is expressly required and a second where legislative appropriation is not directly required. The latter uses are summarized first:

Transfer money to the commissioner of Community and Regional Affairs to make grants. (Chapter 83 SLA81 Section 15) (Reference 29.80.510 and 29.80.500)

Investigate, evaluate, contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment (Chapter 90 SLA88 Section 3)

Upon request of Legislature, fund Citizens' Oversight Council (Chapter 189 SLA90 Section 3) (Reference 24.20.600)

When the Governor declares a disaster related to an oil or hazardous substance discharge emergency use money from the fund to respond to the disaster emergency (Chapter 19C SLA90 Section 15) (Reference 23.23.020(c))

Other uses which may not be funded unless funds are available from an appropriation made specifically for that purpose are [Chapter 48 SLA91 Section 4]:

Establish and maintain the response office [Chapter 113 SLA89 Section 2]

Review oil discharge prevention and contingency plans [Chapter 191 SLA90 Section 3] (Reference 48.04.030)

Conduct training, response exercises, inspections, and tests in order to verify equipment inventories and ability to prevent and respond to oil and hazardous substance release emergencies, other activities to verify or establish the preparedness of the state, a municipality, or a party required to have an approved contingency plan to act in accordance with that plan [Chapter 191 SLA90 Section 28] (Reference 48.04.030)

Verify or establish proof of financial responsibility [Chapter 191 SLA90 Section 28] (Reference 48.04.040)

Pay the expenses incurred by the Alaska division of emergency services for response corps and response depots when presented with appropriate documentation [Chapter 190 SLA90 Section 14]

Provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9601-9657 (CERCLA Act of 1980) [Chapter 59 SLA89 Section 1]

Recover the costs to the state, municipality, or to a village of a containment and cleanup [Chapter 83 SLA91 Section 15]

Prepare, review, and revise the state's master or a regional oil and hazardous substance discharge prevention and contingency plan [Chapter 90 SLA89 Section 3] (Reference 48.04.200 and 48.04.210)

Restore the environment by addressing the effects of an oil or hazardous substance release [Chapter 90 SLA89 Section 3]

Upon request from the commissioner of DOTPF transfer monies to DOT to fund construction or refurbishment of one or more vessels that have the capability of responding to spills of oil or hazardous substances [Chapter 48 SLA91 Section 5] (Reference 19.85.025)

- Types of Use of the Response Fund

Response Fund expenditures can be categorized in four types:

Operating:

These costs are the on going costs of operation of the Division of Spill Prevention and Response within the Department of Environmental Conservation. With the exception of costs for specific spill response and contaminated site projects, these costs are generally not recoverable. Until FY90, these costs were primarily funded by appropriations from the general fund. Beginning in FY91, the operating costs were mostly converted from general fund to the Response Fund. In addition, costs of the Department of Law are included in on going operating costs, particularly regulation review, legal opinions and guidance. Law's efforts at cost recovery for specific spill response and contaminated site projects are generally recoverable.

Cost Recoverable:

Costs for specific spill response and contaminated site projects, these costs are generally recoverable. Law's efforts at cost recovery for specific spill response and contaminated site projects are generally recoverable. Exceptions occur when a responsible party can not be identified, is not financially able to reimburse the State for its costs, or when the State is the property owner.

Spill Reserve:

Spill Reserve is a reserve of funds with two primary purposes. DEC has a goal of depositing and maintaining 30 million in Spill Reserve to be used 10 million for Communities, Municipalities and Villages and 20 million in reserve for the State costs in response to major incidents. The State will continue to fund on going minor and medium spill response efforts from Spill Reserve.

Other:

One time expenditures and special projects can be classified as other. Examples of these type of expenditures are funding for Regional Citizen's Advisory Councils, Air Monitoring, Volcanic Eruptions, Construction of Oil Response Ferries, One Time Contracts or Surveys and the Storage Tank Assistance Program. While some of the projects may receive funding in multiple years, typically these are not on going operational costs, cost recoverable or eligible for spill reserve funding. Technological costs, such as the funding costs of the Oil and Hazardous Substance Spill Technology Review Council and its staff are also categorized as other costs.

## • Operating Costs

### Prevention

Reduce the potential for oil and hazardous substance spills through design, development, planning, coordination, implementation and administration of Statewide programs to reduce the potential and severity of spills, leaks and releases of oil and other hazardous substances. Included in the prevention activities are education, training, information distribution, analysis of contingency plans, inspections, discharge exercises, and financial responsibility.

### Planning

DEC will complete a ten-year cleanup management plan for approximately 1100 reported sites. The plan will lay out a systematic process for closing out all sites by the year 2002. That process will include a detailed review to confirm reported sites are contaminated, and remove reported sites from the list that are found not to pose a risk. The remaining confirmed sites will be ranked based on risk. The list will be further subdivided based on whether the responsible party for the spill is able to cleanup the site, or if the State must assume responsibility by default of the responsible party.

Fund the State Emergency Response Commission (SERC); composed of nine State agency commissioners and seven public members. Implement local emergency planning and community right-to-know programs as mandated by state and federal laws. Assist the State and local governments with the development of oil and hazardous substance spill contingency planning by conducting training workshops and providing information to local communities.

Develop and annually revise Statewide and regional plans to coordinate State and other parties involved in response to hazardous substance incidents including oil spills. Regional plans provide detailed information regarding spill hazards, risk to humans and the environment, and response capability.

### Regulation Development and Enforcement

Establish regulations to protect public health and resources; issue authorizations such as plan approval or certificates in accordance with regulations; and monitor and maintain compliance with environmental standards. Provide assistance and guidance to industry and the public on spill response matters.

### Preparedness (Training, Drills, Medical Monitoring and Equipment)

Maintain a highly trained group responsible for immediate response to catastrophic spills, declared emergency discharges of oil and hazardous substance releases anywhere in Alaska.

Prepare all State responders for such events by improving the State's overall oil and hazardous substance spill response capabilities through education, training on response techniques, equipping responders, addressing life, health, safety issues prior to an incident.

Drills, including unannounced drills, shall be conducted to verify that industry, the State, local government and contractors can perform response activities as planned.

In 1990, the Hazardous Waste Operations and Emergency Response regulations (29 CFR 1910.120) were adopted at the Federal Level. In Alaska, a parallel worker health and safety statute and regulations were implemented. Employees who work in situations which present potential exposure to hazardous substances above permissible limits are required to have comprehensive medical examinations. Preparation for response requires employees be medically evaluated prior to exposure and monitored on a going basis to locate and mitigate any effects of exposure.

The State shall purchase equipment with Response Funds. Equipment purchases shall be limited to the equipment needed for first response to control and contain the spill while the responsible party mounts a response effort or a State response action contractor arrives on scene with resources to assume control. This equipment shall be compatible with federal response equipment and located in high risk areas. Local responders shall have access and training in equipment operations.

#### Legal Costs, Investigation and Cost Recovery

Costs of the Department of Law are included in on going operating costs, particularly regulation review, legal opinions and guidance. Law's efforts at cost recovery for specific spill response and contaminated site projects are generally recoverable.

Investigation costs are also an operating costs. DEC participates with Law and the State Troopers in criminal investigations which are the precursor to identification, cleanup and restorations resulting in a civil action to recover the State's costs.

#### Administration and Management

Provides overall management and administrative functions for operating programs. Program development and supervision; budget and work plan development; regulation development oversight; regional work plan review; and overall program responsibility. Serve as Response Fund Manager. Collect and distribute legislative, management and public information reports on the Response Fund.

- Recoverable Activities

- Contaminated Sites

- Response Funds will be used to pay for staff to oversee responsible party cleanups, and pay for cleanups directly managed by the DEC using response action contractors. An action schedule will be developed for both the responsible party and state-lead category cleanups. The actual cleanup costs incurred by DEC or its contractors shall be considered cost recoverable where a responsible party is identified and able to reimburse the State.

- Spill Response

- Response Funds are used to hire contractors to initiate responses, or continue clean-up of spills when the spiller (responsible party) is unable or unwilling to respond. The Response Fund supports local response efforts to manage and monitor response efforts of the spiller(s) or other responsible parties. The spill response program responds to approximately 3,000 non-catastrophic oil and hazardous substance spills reported to DEC each year. DEC operates on a "first day is free" policy for minor spills. Thus, spill reserve is used on minor spills for costs in excess of that amount and for medium and major spills.

- Spill Reserve

- Communities

- It is the intent of the Legislature and declared to be public policy of the State that funds for the reimbursement of costs of abatement of a release of oil or a hazardous substance which will always be available for municipalities and villages and that in certain instances the State should have monies available to defray the costs of social and economic effects on municipalities and villages arising from a major release and resultant cleanup activities. Those funds are in Spill Reserve. DEC plans to maintain 10 million dollars in spill reserve to fund those expenditures.

- Emergency Response

- It is the intent of the Legislature and declared to be public policy of the State that funds for the abatement of a release of oil or a hazardous substance will always be available. Those funds are in Spill Reserve. DEC plans that 20 million dollars shall be maintained in Spill Reserve for emergency first response on catastrophic spills. This amount is not sufficient to fund all of the State costs in response, containment and clean up of a catastrophic spill, but, provides funding for the time needed to allow the Legislature to consider, approve and appropriate additional funds for catastrophic response.

- Oversight Councils, RCACs

Response Funds are used for the Citizen's Oversight Council on Oil and Hazardous Substance Releases. The council is responsible for determining whether state and federal agencies responsible for the prevention of and response to releases are carrying out their duties. The council recommends to the Legislature, Governor, agencies and private entities policies to prevent release. The council assists the Legislature and Governor in the development of interstate compacts and policy recommendations to the federal government regarding prevention.

Response Funds have been used as an initial funding source for the formation of Regional Citizen Advisory Councils such as the Arctic Marine Resource Commission in FY92.

- Tank Program

Protect the public from contamination resulting from leaking underground storage tanks through regulatory and assistance program which includes prevention, education and cleanup. With guidance from the Board of Storage Tank Assistance, State provide financial assistance for conducting site assessments and testing tanks for leaks, cleanup from leaking tanks, and upgrading or removing tanks. Regulations govern certification of tank workers and site assessors. Installation, registration, maintenance, leak detection, site assessment, upgrade, cleanup and closure of tanks and tanks systems is also governed by regulations under this project.

- Technological

Provide staff assistance to the Oil and Hazardous Substance Technology Review Council which is composed of the commissioner of DEC, the adjutant general of the Department of Military and Veterans Affairs, a representative from the University of Alaska, the Governor's senior science advisor, a representative of the Prince William Sound Science Center, and four public members appointed by the Governor. The council assists in the identification of containment and cleanup products and procedures for arctic and sub-arctic hazardous substance releases. The council reviews oil and hazardous substance spill cleanup technology research and development activities undertaken by other government agencies and industry spill response groups. The council also makes recommendations to the Department and agencies of the state regarding the use and deployment of these products and procedures.

- Oil Response Ferries

Response funds are used to pay for the construction or refurbishment of one or more vessels of the Alaska marine highway system that have the capability to assist in responding to spills of oil and hazardous substances.

Oil and Hazardous Substance Release Response Fund  
Revised: August 1991  
Summary of Legislation and Statutory Effect

**DRAFT**

Alaska Statute Title 46, Chapter 08

The effect of bills passed in this last session SLA91 are NOT reflected in a statute supplement. Chapter 83 SLA 91 CSSSSB 25 (CRA) (effective 6/28/91) and Chapter 48 SLA 91 (effective 9/13/91) CSSB 165 (TRA) were signed and do effect AS 46.08. The effect of those acts are included in the summary.

The summary is provided for general guidance only. It will direct you to the appropriate section or legislation. When being asked to provide an opinion, the statute, supplement or legislation should be consulted.

Key terms are defined within the statute and legislation, thus, this should be reviewed by all fund users. Those terms are listed in the summary.

Statutes: AS46.08 September 1987  
AS46.08 1990 Cumulative Supplement, October 1990

Legislation:	Chapter 59	SLA86	SCSCSHB	470	(Fin)
	Chapter 29	SLA89	CSSB	256	(CRA)
	Chapter 39	SLA89	SCSCSHB	68	(Jud)
	Chapter 90	SLA89	CSSB	261	(Fin)
	Chapter 113	SLA89	HCSCSSB	264	(Fin)
	Chapter 190	SLA90	SCSCSHB	566	(Fin)
	Chapter 191	SLA90	SCSCSHB	567	(Fin)
	Chapter 199	SLA90	SCSCSHB	578	(Fin)
(Eff 9/13/91)	Chapter 48	SLA91	CSSB	165	(Tra)
	Chapter 83	SLA91	CSSSSB	25	(CRA)

46.08.005 Purpose

Acknowledges threat to public health, welfare and economy on release and need for fund to pay ADEC and Department of Transportation and Public Facilities COSTS [Chapter 48 SLA91 Section 2]

46.08.010 Fund established

OHSRRF in General Fund. Administered by Commissioner. Money is continuing. Except as provided in 46.08.040, (DOTPF portion) no capital improvements [Chapter 48 SLA91 Section 3]

46.08.020 Financing of the fund

Legislature may appropriate money from federal, state, other sources or private donor or from mitigation to the OHSRRF. Money received and recovered from responsible parties is put in the mitigation account [Chapter 59 SLA88 Section 1]

Due to addition of 46.08.100 thru 46.08.190 language had to be changed from "chapter" to limit the scope of source for fines, penalties and damages to 46.08.005 thru 48.06.080 [SLA88]

46.08.030 Financing the abatement of oil or hazardous substance releases

Funds for abatement will always be available [Chapter 59 SLA88 Section 1]

46.08.040 Purposes of the fund

Transfer money to the commissioner of CRA to make grants and to pay for impact assessments. [Chapter 83 SLA91 Section 15] [Reference 29.90.510 and 29.60.580]

Investigate, evaluate, contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment [Chapter 90 SLA88 Section 3]

Upon request of Legislature, fund Citizens' Oversight Council [Chapter 199 SLA90 Section 3] [Reference 24.20.600]

When the Governor declares a disaster related to an oil or hazardous substance discharge emergency use money from the fund to respond to the disaster emergency [Chapter 190 SLA90 Section 15] [Reference 23.23.020(c)]

May not be used for the purposes below unless money is available from an appropriation made SPECIFICALLY FOR THAT PURPOSE [Chapter 48 SLA91 Section 4]

Establish and maintain the response office [Chapter 113 SLA88 Section 2]

Review oil discharge prevention and contingency plans [Chapter 191 SLA90 Section 28] [Reference 48.04.030]

Conduct training, response exercises, inspections, and tests in order to verify equipment inventories and ability to prevent and response to oil and hazardous substance release emergencies, other activities to verify or establish the preparedness of the state, a municipality, or a party required to have an approved contingency plan to act in accordance with that plan [Chapter 191 SLA90 Section 28] [Reference 48.04.030]

Verify or establish proof of financial responsibility [Chapter 191 SLA90 Section 28] [Reference 48.04.040]

Pay the expenses incurred by the Alaska division of emergency services for response corps and response depots when presented with appropriate documentation [Chapter 190 SLA90 Section 14]

Provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9601-9657 (CERCLA Act of 1980) [Chapter 59 SLA88 Section 1]

Recover the costs to the state, municipality or to a village of a containment and cleanup [Chapter 83 SLA91 Section 15]

Prepare, review, and revise the state's master or a regional oil and hazardous substance discharge prevention and contingency plan [Chapter 90 SLA88 Section 3] [Reference 48.04.200 and 48.04.210]

Restore the environment by addressing the effects of an oil or hazardous substance release [Chapter 90 SLA88 Section 3]

Upon request from the commissioner of DOTPF transfer monies to DOT to fund construction or refurbishment of one or more vessels that have the capability of responding to spills of oil or hazardous substances [Chapter 48 SLA91 Section 5] [Reference 19.05.025]

#### 46.08.050 Records of the fund

Maintain accounting records of income and expenses, Develop procedures governing expenditure and accounting [Chapter 59 SLA88 Section 1]

46.08.060 Report to the legislature

No later than 10 days after convening regular session  
[Chapter 59 SLA 86 Section 1]

Amount expended by department [Chapter 190 SLA90 Section 18]

Amount, source of money received & recovered on behalf  
of department [Chapter 190 SLA90 Section 18]

Summary of municipal participation in department  
response [Chapter 190 SLA90 Section 18]

Detailed summary of department activity prior FY  
including response and nature including each personal  
services position and total compensation, each contract  
in excess of \$20,000 and each purchase in excess of  
\$10,000 [Chapter 191 SLA90 Section 29]

Projected costs to department for activity continuing  
next year [Chapter 190 SLA90 Section 18]

Summary of sites identified [Chapter 59 SLA86 Section 1]

Immediate and long term threat [Chapter 59 SLA86 Section 1]

Actions needed to abate threat and estimated cost [Chapter 59  
SLA86 Section 1]

Governor's Office is required to report on expenditures  
incurred under its' authority [Chapter 190 SLA90 Section 17]

46.08.070 Reimbursement for containment and cleanup

Shall seek reimbursement for clean up and containment  
[Chapter 59 SLA88 Section 1] [Reference 46.03.760(e)]

AG office shall immediately seek, at request of  
Commissioner, to recover monies [Chapter 29 SLA89 Section 1]

Shall reimburse municipality or village for actual  
expenses other than normal operating and may advance  
money if municipality or village has agreement and  
expenditures were for emergency first response at the  
time of the release or threatened release and a need  
for advance financial assistance is demonstrated and  
expenditures reimbursed or advanced were consistent  
with the region master plan where the municipality or  
village is located if plan exists [Chapter 83 SLA91 Section 18] [Reference  
46.04.020(e), 46.09.020(e), 46.04.210]

46.08.075 Liens against property as a security for state expenditures

The state has a lien for expenditures from all sources against all property owned by a person determined by the Commissioner to be liable (Chapter 39 SLA 89 Section 7)

Lien not effective until certificate is filed and copy sent to all interested parties (Chapter 39 SLA89 Section 7)

Certificate of discharge or reduction shall be issued on request on payment (Chapter 39 SLA89 Section 7)

Lien may be reduced (full or partially) or discharged at Commissioner's discretion if a bond or other security is posted. May not be done if contrary to public interest (Chapter 39 SLA89 Section 7)

Person with ownership may file action in court to have lien released (Chapter 39 SLA89 Section 7)

46.08.080 Regulations

Periodically review minimum quantity under federal law and adopt minimums for application of this law. Others only as expressly required to implement (Chapter 59 SLA88 Section 1)

Scope changed to limit to Article 1 (SLA89)

46.08.900 Definitions

The following terms are defined:

capital improvement  
commissioner  
containment and cleanup  
department  
fund  
hazardous substance  
oil  
permitted release  
release  
threatened release  
service  
village

Article 2. Oil and Hazardous Substance Response Office

46.08.100 Office established

Establish office with director and employees trained in programs and technologies related to containment and clean up (Chapter 113 SLA89 Section 3)

#### 46.08.110 Response corps

DES (DMVA) shall establish corps. Registered volunteers trained in techniques for cleanup and containment, available on short notice, consistent with roles and responsibilities under an ICS activation. May be paid per diem and expenses while training or in service

[Chapter 190 SLA90 Section 18]

#### 46.08.120 Response depots

DES (DMVA) shall maintain emergency response depots in areas determined in plans. Equipped and staffed to ensure prompt response when containment and clean up are necessary [Chapter 190 SLA90 Section 19] [Reference 48.04.200-210].

#### 46.08.130 Duties of the office

Response ONLY if the incident is catastrophic, emergency or the commissioner believes it poses an imminent and substantial threat to the public health or welfare, or to the environment. Must be guided by the use of ICS [Chapter 190 SLA90 Section 20]

Serve as staff for the State Emergency Response Commission and for the Hazardous Substance Spill Technology Review Council within the State Emergency Response Commission [Chapter 190 SLA90 Section 24]

#### 46.08.140 Emergency powers

When the office has reasonable grounds to believe release has occurred or is threatened which presents an imminent or present danger to health, welfare, irreversible or irreparable damage to natural resources or environment, and delay would be prejudicial to public interest may enter private property without prior hearing or permission for containment and cleanup

[Chapter 113 SLA89 Section 3]

Property owner has right to be heard and to present proof that containment or cleanup is unnecessary and that it is not necessary to enter [Chapter 113 SLA89 Section 3]

#### 46.08.150 Contracts

Contract for (the office or DES, as applicable) personnel, equipment or services to establish and maintain depots; train corps; treatment technology research including topics recommended by the hazardous substance spill technology review council [Chapter 190 SLA90 Section 21]

46.08.160 Limitation of liability

State, its' employee and members of corps are not  
liable unless gross negligence or intentional  
misconduct [Chapter 113 SLA88 Section 3]

46.08.190 Definitions

The following terms are defined:

corps  
depots  
division  
office

ATTACHMENT C  
Memo from Charles Cole to Shelby Stastny  
January 21, 1992  
RE: *Exxon Valdez* Litigation Costs Payment

# MORANDUM.

State of Alaska

Department of Law

January 21, 1992

TO: Shelby Stastny  
Director  
Office of Management and Budget

DATE:

FILE NO:

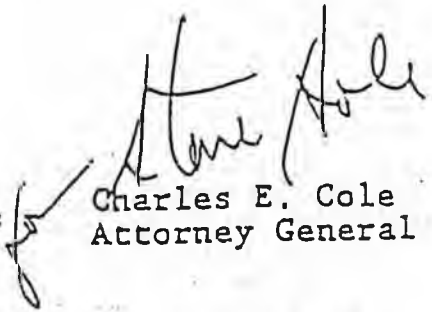
TEL NO:

SUBJECT:

465-3600

EXXON VALDEZ Litigation  
Costs Payment

FROM:

  
Charles E. Cole  
Attorney General

On December 17, 1991, the State of Alaska received a payment of \$29,267,841.58 (\$29,000,000 in principal and \$267,841.58 in interest incurred between October 3, 1991, and December 13, 1991) from the Exxon Corporation. This payment was received pursuant to Paragraph 10 of the EXXON VALDEZ oil spill settlement agreement and Section VI(B) of the Memorandum of Understanding between the governments. The payment represents a partial payment of the principal amount of \$38,180,000.00 due to the state for damage assessment costs, attorneys fees, experts' fees, and other costs, collectively known as "litigation and assessment costs," incurred by the state on or before March 12, 1991. Future payments will be made in accordance with the schedule of payments of the settlement agreement. The balance of unpaid litigation and settlement costs (incurred on or before March 12, 1991) yet to be reimbursed to the state is now \$8,912,159.00.

According to the attached schedule, prepared by the state's oil spill cost accounting firm Peterson and Company, the principal amount due the state for litigation and assessment costs prior to March 12, 1991, is \$38,180,000.00. Of this amount, \$33,020,000.00, or 86.49 percent of the total amount, is for unreimbursed costs from the state's general fund, and \$5,160,000.00, or 13.51 percent of the total amount, is for unreimbursed costs from the state's oil and hazardous substance response fund. Accordingly, 86.49 percent of the current payment, or \$25,313,756.18, should be deposited in the general fund as unrestricted receipts, and 13.51 percent of payment, or \$3,954,085.40, should be returned to the oil and hazardous substance response fund as restricted receipts.

cc: Max Hodel, Chief of Staff  
Darrel J. Rexwinkel, Commissioner,  
Dept. of Revenue  
John A. Sandor, Commissioner,  
Dept. of Environmental Conservation  
Don Wanie, Director, Div. of Finance  
Craig Tillery, Assistant Attorney General

Attachment

STATE OF ALASKA  
 EXXON VALDEZ OIL SPILL  
 ESTIMATED UNREIMBURSED DAMAGE ASSESSMENT AND LITIGATION COSTS  
 BY FUNDING SOURCE  
 THROUGH MARCH 12, 1991

	<u>ESTIMATED RECORDED COSTS</u>	<u>ESTIMATED OVERHEAD AND FINANCING COSTS(1)</u>	<u>ESTIMATED TOTAL</u>	<u>LESS REIMBURSEMENTS</u>	<u>ESTIMATED UNREIMBURSED COSTS</u>
<b>DAMAGE ASSESSMENT</b>					
470 Funding	4.93	0.00	4.93	0.00	4.93
Other Funding	<u>16.82</u>	<u>4.57(1)</u>	<u>21.39</u>	<u>5.74(2)</u>	<u>15.65</u>
TOTAL	<u>21.75</u>	<u>4.57</u>	<u>26.32</u>	<u>5.74</u>	<u>20.58</u>
<b>LITIGATION</b>					
470 Funding	0.23	0.00	0.23	0.00	0.23
Other Funding	<u>17.37</u>	<u>0.00</u>	<u>17.37</u>	<u>0.00</u>	<u>17.37</u>
TOTAL	<u>17.60</u>	<u>0.00</u>	<u>17.60</u>	<u>0.00</u>	<u>17.60</u>
<b>TOTAL ESTIMATED UNREIMBURSED DAMAGE ASSESSMENT AND LITIGATION COSTS</b>					
470 Funding					5.16
Other Funding					<u>33.</u>
TOTAL					<u>\$38.18</u>

**NOTES:**

- (1) Overhead and financing costs were allocated in total to other funding. These amounts are not recorded on the state accounting system (AKSAS).
- (2) CERCLA Reimbursements
- (3) Costs from March 1-12, 1991, were estimated based upon 12/31 of total March costs.

**ATTACHMENT D**  
**Session Law Relating to the Exxon Valdez Settlement**  
**(Section 1 Chapter 1 FSSLA 1992)**



# LAWS OF ALASKA

1992

First Special Session

Source  
SB 478

Chapter No.

1

## AN ACT

Recognizing the trust established under the Memorandum of Agreement and Consent Decree entered into by the United States and the state in settlement of the parties' claims to money received for injury, loss, or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez oil spill; relating to the requirement of an appropriation before a state agency may expend money received from that trust; relating to a budget and reports to be submitted by the trustees of that trust; relating to the records of that trust; relating to meetings involving trustees of that trust; relating to the definition of "program receipts" in regard to money received by or from that trust; relating to the circumstances under which the trustees of that trust may agree to an expenditure from the trust to a person or entity other than a state or federal agency; placing the state trustees of that trust and certain persons to whom trust duties are delegated in the Alaska Executive Branch Ethics Act; relating to the requirements that money received by the state as reimbursement for state expenses related to the Exxon Valdez oil spill be deposited in the general fund; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 18, 1992  
Actual Effective Date: June 19, 1992

AN ACT

1 Recognizing the trust established under the Memorandum of Agreement and Consent Decree entered into  
2 by the United States and the state in settlement of the parties' claims to money received for injury, loss,  
3 or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez oil spill; relating  
4 to the requirement of an appropriation before a state agency may expend money received from that trust;  
5 relating to a budget and reports to be submitted by the trustees of that trust; relating to the records of  
6 that trust; relating to meetings involving trustees of that trust; relating to the definition of "pro- m  
7 receipts" in regard to money received by or from that trust; relating to the circumstances un- such  
8 the trustees of that trust may agree to an expenditure from the trust to a person or entity other than a  
9 state or federal agency; placing the state trustees of that trust and certain persons to whom trust duties  
10 are delegated in the Alaska Executive Branch Ethics Act; relating to the requirements that money  
11 received by the state as reimbursement for state expenses related to the Exxon Valdez oil spill be  
12 deposited in the general fund; and providing for an effective date.

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Section 1. AS 37.14 is amended by adding new sections to read:

ARTICLE 5. EXXON VALDEZ OIL SPILL TRUST.

Sec. 37.14.400. TRUST RECOGNIZED. The trust established under the Memorandum of Agreement and Consent Decree entered into by the United States and the state in settlement of claims to money received for injury, loss, or destruction of the natural resources affected by the March 24, 1989, Exxon Valdez oil spill, and approved by the United States District Court on August 28, 1991, is recognized. It shall be managed as provided in the Memorandum of Agreement and Consent Decree that established it.

Sec. 37.14.405. APPROPRIATIONS REQUIRED. (a) Notwithstanding any other provision of law, a state agency may not expend money received from the trust unless the expenditure is in accordance with an appropriation made by law.

(b) Appropriations made to satisfy the requirement of (a) of this section may be made by general appropriations of program receipts conditioned on compliance with the program review provisions of AS 37.07.080(h).

(c) The provisions of (b) of this section do not apply to amounts paid as reimbursements to the state, as authorized by the Memorandum of Agreement and Consent Decree establishing the trust, for expenses that are

- (1) related to the Exxon Valdez oil spill; and
- (2) incurred by the state on or before December 31, 1992.

Sec. 37.14.410. REIMBURSED EXPENDITURES. (a) Amounts received by the state as reimbursement for expenses related to the Exxon Valdez oil spill incurred by the state on or before December 31, 1992, shall be deposited in the general fund and, except as required under (b) of this section, may not be credited to the oil and hazardous substance release mitigation account under AS 46.04.010 or AS 46.08.020.

(b) A percentage of each payment deposited in the general fund under (a) of this section shall be credited to the oil and hazardous substance release mitigation account under AS 46.04.010 or AS 46.08.020. That percentage is determined by dividing

- (1) the amount of the expenses for which the state may be reimbursed under (a) of this section that were paid from the oil and hazardous substance release response fund established under AS 46.08.010, by

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(2) the total amount of expenses for which the state may be reimbursed under (a) of this section.

Sec. 37.14.415. BUDGET AND REPORTS. The state trustees shall

(1) submit to the governor and the legislature by December 15 of each year a report setting out, for each object or purpose of expenditure, the amounts approved for expenditure from the trust during the preceding fiscal year and the amounts actually expended during the preceding fiscal year;

(2) prepare and submit, under AS 37.07, a budget for the next fiscal year, out, for each object or purpose of expenditure, the trustees' estimate of the amounts that, during the next fiscal year, to be funded by the trust and expended by state agencies; and

(3) prepare and submit to the legislature at the same time the budget for state agency expenditures is submitted under (2) of this section, a proposal setting out, for each object or purpose of expenditure, the trustees' estimate of the amounts that are to be funded by the trust in the next fiscal year and that are not included in the budget submitted under (2) of this section.

Sec. 37.14.420. PAYMENTS TO PERSONS OTHER THAN GOVERNMENTS. The state trustees may not agree to an expenditure of money from the trust to a person or entity other than an agency of the state or federal government unless the expenditure is for administrative expenses of the trust and is consistent with the competitive principles of AS 36.30 (State Procurement Code). This section does not prevent an agency receiving trust money from expending the money in accordance with procurement or other law applicable to that agency.

Sec. 37.14.425. PUBLIC RECORDS. For purposes of AS 39.25.120, records of the trust in the custody of or subject to the control of state officers and agencies are public records.

Sec. 37.14.430. APPLICABILITY OF OPEN MEETINGS LAW. (a) The provisions of AS 44.62.310 and 44.62.312 apply to a meeting related to the trust in which

(1) one or more of the state trustees and one or more of the federal trustees participate, except to the extent that applicable federal law conflicts with AS 44.62.310 or 44.62.312, in which case the applicable federal law governs; or

(2) two or more of the state trustees, but none of the federal trustees, participate.

(b) Notwithstanding (a) of this section, the provisions of AS 44.62.310 and 44.62.312 do not apply to a discussion between the trustees outside of a formal meeting about matters related to the trust if, during the discussion, no decision is made and none of the trustees agrees to vote

1 in a particular way.

2 (c) The state trustees may discuss the establishment of an official common state position  
3 regarding the trust in executive session under AS 44.62.310(b) and (c)(1).

4 (d) For the purposes of this section,

5 (1) a person to whom a state trustee has delegated any of the trustee's authority  
6 related to the trust is considered a state trustee; and

7 (2) a person to whom a federal trustee has delegated any of the trustee's authority  
8 related to the trust is considered a federal trustee.

9 Sec. 37.14.450. DEFINITIONS. In AS 37.14.400 - 37.14.450,

10 (1) "federal trustee" means a person appointed by the President of the United  
11 States to serve as a co-trustee of the trust;

12 (2) "state trustee" means a state officer designated by the governor to serve as a  
13 co-trustee of the trust;

14 (3) "trust" means the trust established for natural resource damage recoveries  
15 under the Memorandum of Agreement and Consent Decree entered into by the United States and  
16 the state in settlement of claims to money received by the state and federal governments for  
17 injury, loss, or destruction to the natural resources affected by the March 24, 1989, Exxon Valdez  
18 oil spill, and approved by the court on August 28, 1991.

19 \* Sec. 2. AS 24.20.206 is amended to read:

20 Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Committee shall

21 (1) report to the legislature its recommendations relating to the confirmation of  
22 appointees to the Board of Trustees of the Alaska Permanent Fund Corporation;

23 (2) annually review the long-range operating plans of all agencies of the state  
24 which perform lending or investment functions;

25 (3) review periodic reports from all agencies of the state which perform lending  
26 or investment functions;

27 (4) present a complete report of investment programs, plans, performance, and  
28 policies of all agencies of the state which perform lending or investment functions to the  
29 legislature within 30 days after the convening of each regular session;

30 (5) present to the legislature within 30 days after the convening of each regular  
31 session a review of the report of the governor under AS 37.07.020(d) with recommendations for

1 needed legislation;

2 (6) in conjunction with the finance committee of each house recommend annually  
3 to the legislature the investment policy for the general fund surplus and for the income from the  
4 permanent fund;

5 (7) provide for an annual post audit and annual operational and performance  
6 evaluation of the Alaska Permanent Fund Corporation investments and investment programs;

7 (8) provide for an annual operational and performance evaluation of the Alaska  
8 Housing Finance Corporation and the Alaska Industrial Development and Export Authority  
9 performance evaluation shall include, but is not limited to, a comparison of the effect on various  
10 sectors of the economy by public and private lending, the effect on resident and nonresident  
11 employment, the effect on real wages, and the effect on state and local operating and capital  
12 budgets of the programs of the Alaska Housing Finance Corporation and the Alaska Industrial  
13 Development and Export Authority;

14 (9) provide assistance to the trustees of the trust established in AS 37.14.400 -  
15 37.14.450 in carrying out their duties under AS 37.14.415.

16 \* Sec. 3. AS 37.05.146 is amended to read:

17 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146  
18 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other  
19 state money received by a state agency in connection with the performance of its functions; all  
20 program receipts except the following are general fund program receipts:

21 (1) federal receipts;

22 (2) University of Alaska receipts (AS 14.40.491);

23 (3) individual, foundation, or corporation gifts, grants, or bequests that by  
24 terms are restricted to a specific purpose;

25 (4) receipts of the following funds:

26 (A) highway working capital fund (AS 44.68.210);

27 (B) correctional industries fund (AS 33.32.020);

28 (C) loan funds;

29 (D) international airports revenue fund (AS 37.15.430);

30 (E) funds managed by the Alaska Aerospace Development Corporation  
31 (AS 14.40.821), the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing

Chapter 1

1 Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010),  
2 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial  
3 Development and Export Authority (AS 44.88.020);

4 (F) fish and game fund (AS 16.05.100);

5 (G) school fund (AS 43.50.140);

6 (H) training and building fund (AS 23.20.130);

7 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and  
8 former AS 39.37);

9 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

10 (K) public school trust fund (AS 37.14.110);

11 (L) second injury fund (AS 23.30.040);

12 (M) fishermen's fund (AS 23.35.060);

13 (N) FICA administration fund (AS 39.30.050);

14 (O) mental health trust fund (AS 37.14.031);

15 (5) receipts of or from the trust established by AS 37.14.400 - 37.14.450,  
16 except reimbursements described in AS 37.14.410.

17 • Sec. 4. AS 39.52.960(21) is amended to read:

18 (21) "public officer" or "officer" means

19 (A) a public employee; [AND]

20 (B) a member of a board or commission; and

21 (C) a state officer designated by the governor to act as trustee of the  
22 trust or a person to whom the trustee has delegated trust duties; In this paragraph,  
23 "trust" has the meaning given in AS 37.14.450;

24 • Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

239

HB

# HOUSE COMMITTEE REPORT

(9) Date Referred: March 19, 1993 FURTHER REFERRALS: Finance

Date of Committee Action: 3/31/93

The RESOURCES Committee considered: HB 239

HOUSE BILL NO. 239 RAFFLE OR AUCTION OF BIG GAME PERMITS

"An Act relating to raffles and auctions of certain permits to take big game; and providing for an effective date."

RECOMMENDATIONS:  the same title  
 be replaced with CS HB 239 (Res)  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 Fish and Game 3/30/93  fiscal note(s) \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill Hudson</i>	✓	<i>Joseph P. ...</i>		✓	
<i>Tom ...</i>	✓	<i>Wm ...</i>		✓	
<i>Joe N. ...</i>	✓	<i>...</i>			
<i>Chon ...</i>	✓				
<i>Don B ...</i>	✓				
<i>W.K. Williams</i>	✓				

*W.K. Williams*  
 CHAIRMAN'S SIGNATURE

CS FOR HOUSE BILL NO. 239(RES)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:  
 Referred:

Sponsor(s): REPRESENTATIVES BUNDE, Brice

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to raffles and auctions of certain permits to take big game;  
 2 and providing for an effective date."

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

4 \* Section 1. AS 16.05.343 is repealed and reenacted to read:

5           Sec. 16.05.343. AUCTIONS OR RAFFLES FOR BIG GAME HARVEST  
 6 PERMITS. (a) The department, subject to regulations adopted by the Board of Game,  
 7 may issue one bison harvest permit each year for a bison from the Delta bison herd  
 8 through a competitive auction or raffle. Notwithstanding AS 36.30, the department  
 9 may authorize a qualified organization to conduct the auction or raffle on behalf of the  
 10 department. If the auction or raffle is conducted by a qualified organization, the  
 11 organization may retain an amount from the gross proceeds of the auction or raffle  
 12 equal to the administrative cost of the auction or raffle plus an amount not to exceed  
 13 10 percent of the net proceeds. All remaining proceeds from the auction or raffle of  
 14 the bison harvest permit whether conducted by the department or as otherwise

1 authorized by the department shall be deposited in the fish and game fund under  
2 AS 16.05.100. The exercise of a privilege conferred by a bison harvest permit issued  
3 under this subsection is subject to laws relating to the time, place, and manner of  
4 taking bison from the Delta bison herd. In this subsection, "qualified organization"  
5 means a nonprofit corporation established to promote fish and game law enforcement  
6 that complies with applicable laws governing activities under this section.

7 (b) The department, subject to regulations adopted by the commissioner, may  
8 issue, through a competitive auction or raffle, up to two harvest permits each year for  
9 each of the following big game species: Dall sheep, bison, musk ox, brown or grizzly  
10 bear, moose, caribou, and wolf. Notwithstanding AS 36.30, the department may  
11 authorize a qualified organization to conduct the auction or raffle on behalf of the  
12 department. If the auction or raffle is conducted by a qualified organization, the  
13 organization may retain an amount from the gross proceeds of the auction or raffle  
14 equal to the administrative cost of the auction or raffle plus an amount not to exceed  
15 10 percent of the net proceeds. The proceeds from the auction or raffle of a big game  
16 harvest permit may not be used to support candidates for political office. All proceeds  
17 from the auction or raffle of the big game harvest permit less the amount that is  
18 retained by a qualified organization under this subsection shall be deposited in the fish  
19 and game fund under AS 16.05.100. A person who is issued a big game harvest  
20 permit under this subsection shall receive upon the person's request a complimentary  
21 hunting license and a big game tag for the big game species for which the big game  
22 harvest permit is issued. A hunting license issued under this subsection must bear the  
23 inscription "Governor's license" or a similar designation. A person who receives a big  
24 game harvest permit, hunting license, or big game tag under this subsection may  
25 exercise the privileges conveyed by the permit, license, or tag only in accordance with  
26 applicable law. In this subsection, "qualified organization" means a nonprofit  
27 organization that is established to promote management of big game species or ethical  
28 use of big game populations for hunting and that complies with applicable laws  
29 governing activities under this subsection.

30 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

House of Representatives

Sponsor Statement

HB 239

"An Act Relating to Raffles and Auctions of Certain  
Permits to Take Big Game; Providing For an Effective Date"

Section 1 (a) of this bill repeals and reenacts AS 16.05.343. Its contents are unchanged.

Section 1 (b) would allow the Department of Fish and Game to issue, through a competitive auction or raffle, up to two harvest permits each year for each of the following species: Dall sheep, bison, musk ox, brown or grizzly bear, moose, caribou, and wolf. The auction or raffle would be conducted by a qualified organization that may retain no more than ten percent of the auction or raffle profits. The remaining amount will be deposited into the Fish and Game fund under AS 16.05.100.

The person who receives a permit shall receive a complimentary hunting license which will bear the inscription "Governor's license" and a big game tag. It is required that the person who receives the permit, license or tag must act in accordance with applicable law.

There are at least 11 Western states that have within their statutes provisions for auctioning or raffling big game harvest permits. The positive impact on their budgets has been significant.

In light of Department of Fish and Game budget cuts, the additional revenue injected into the fund will enable the Department to continue delivering programs that are integral to the Department's success.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSHB 239(RES) am

Revision Date: 12/17/93  
 Title: An Act relating to raffles and auctions of certain permits to take big game  
 Sponsor: Representative Bunde  
 Requestor: House Resources

Dept. Affected: Fish and Game  
 BRU: Wildlife Conservation  
 Component: Wildlife Conservation  
 COMPONENT SERIAL NO. 0473

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1.0	0.0	1.0	0.0	1.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (1024)</b>	<b>25.0</b>	<b>25.0</b>	<b>50.0</b>	<b>50.0</b>	<b>100.0</b>	<b>100.0</b>

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (1024 Fish & Game Fund)	1.0	0.0	1.0	0.0	1.0	0.0
<b>TOTAL</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>

Estimate of any current year (FY 94) cost: \$ 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

**ANALYSIS:** (Attach a separate page if necessary)

See attached page for assumptions used in revenue fund source estimates.

Prepared By: Wayne Regelin, Deputy Director *WR* Phone: 465-4190  
 Division: Wildlife Conservation Date: 12/17/93  
 Approved by Commissioner: *[Signature]*  
 Agency: Alaska Department of Fish and Game Date: 12/20/93

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## Assumptions:

Operating Expenditures:

Approximately \$1.0 in contracting, advertising, and postage costs would be spent biennially to establish, develop, and provide opportunities for qualified organizations to participate in the program.

Revenue:

The department anticipates that the Fish & Game Fund will earn between 25.0 and 100.0 annually from the auction/raffle of big game hunting permits, depending on the number of permits offered, state of the economy, other variables.

Anticipated earnings are based on experience of other states and raffle of the Delta bison permit. The single Delta bison permit currently raffled in support of the Alaska Fish & Wildlife Safeguard program earns the F&G Fund between 15.0 and 20.0 per annum. The auction of bighorn sheep permits in different western states has raised amounts ranging from 20.0 to 250.0. Permits for other species (e.g., moose, bison, deer, elk, antelope) have earned from 3.0 to 16.0 at auction.

Because of the possibilities Alaska has to offer in the way of hunting opportunity and combination hunts, we expect that as the program develops and becomes established, the long-term potential for revenue will increase.

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

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

Department/Agency: Fish and Game

Title: Raffle or Auction of Big Game Permits

BRU: Wildlife Conservation

Component: Wildlife Conservation

Sponsor: Representative Bunde

Requestor: House Resources

COMPONENT SERIAL NO. 0473

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1.0	0.0	1.0	0.0	1.0	0.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>

CAPITAL						
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REVENUE FUND SOURCE: 1024	25.0	25.0	50.0	50.0	100.0	100.0
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (1024 Fish & Game Fund)	1.0	0.0	1.0	0.0	1.0	0.0
<b>TOTAL</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>	<b>1.0</b>	<b>0.0</b>

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.)

See attached page for assumptions used in revenue fund source estimates.

Prepared By: Wayne Hegelin

Phone: 465-4190

Division: Wildlife Conservation

Date: March 25, 1993

Approved by Commissioner: 

Agency: Department of Fish and Game

Date: 3/30/93

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## Assumptions:

Operating Expenditures:

Approximately \$1.0 in contracting, advertising, and postage costs would be spent biennially to establish, develop, and provide opportunities for qualified organizations to participate in the program.

Revenue:

The department anticipates that the Fish & Game Fund will earn between 25.0 and 100.0 annually from the auction/raffle of big game hunting permits, depending on the number of permits offered, state of the economy, other variables.

Anticipated earnings are based on experience of other states and raffle of the Delta bison permit. The single Delta bison permit currently raffled in support of the Alaska Fish & Wildlife Safeguard program earns the F&G Fund between 15.0 and 20.0 per annum. The auction of bighorn sheep permits in different western states has raised amounts varying between 20.0 and 250.0. Permits for other species (e.g., moose, bison, deer, elk, antelope) have earned from 3.0 to 16.0 at auction.

Because of the possibilities Alaska has to offer in the way of hunting opportunity and combination hunts, we expect that as the program develops and becomes well-known, the long-term potential for revenue will increase.

paragraphs (a)(14) and (a)(15), and added paragraphs (a)(19)-(a)(22); and rewrote subsection (c).

The 1991 amendment, effective June 11, 1991, in item (a)(17)(A)(iii), substituted "and is a resident" for "and has been a resident for at least one year."

The first 1992 amendment, effective July 1, 1993, repealed subsection (f).

The second 1992 amendment, effective January 1, 1993, in subsection (a), increased the fees in paragraphs (1)-(6) and added paragraphs (23) and (24).

**Legislative history reports.** — For legislative letter of intent in connection with the amendment to (a)(6) of this section by § 1, ch. 28, SLA 1990 (HCS CSSB 30(Fin)), see 1990 House Journal 2733.

**Opinions of attorney general.** — Construing subsection (d) with federal law (10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is required to obtain an Alaska sport fishing license to engage in sport fishing on military lands. 1977 Op. Att'y Gen. No. 21.

Construing AS 16.05.330 and this section with federal law (10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is not required to obtain an Alaska trapping license to trap on military lands. 1977 Op. Att'y Gen. No. 21.

The special small game hunting license for military personnel authorized by subsection (d) may not be used for hunting all game (including big game) once the holder achieves resident status. 1977 Op. Att'y Gen. No. 21.

The terms "scientific," "propagative," and "educational" in this statute should be read as addressing purposes similar to those in AS 16.05.050(6), and the term "propagative," in the context of "scientific" or "educational" purposes, does not appear to include the holding of game animals as pets. Apr. 2, 1987 Op. Att'y Gen.

**Collateral references.** — Constitutionality of state laws which discriminate against nonresidents or aliens as to fishing and hunting rights, 52 L. Ed. 2d 824.

**Sec. 16.05.341. Free license for disabled veterans.** A person may receive a resident hunting and sport fishing license under AS 16.05.340(a)(5) without charge if the person

(1) has been discharged from military service under honorable conditions, is eligible for a loan under AS 18.56.101, and is certified by the United States Veterans' Administration as having incurred a 50 percent or greater disability during military service; or

(2) served in the Alaska Territorial Guard, is eligible for a loan under AS 18.56.101, and incurred a 50 percent or greater disability while serving in the Alaska Territorial Guard. (§ 1 ch 21 SLA 1982; am § 3 ch 93 SLA 1991)

**Revisor's notes.** — Enacted as the second sentence of former AS 16.05.340(a)(4). Renumbered in 1982.

**Effect of amendments.** — The 1991 amendment, effective September 30, 1991,

combined former paragraphs (1) through (3) into present paragraph (1), making punctuation changes, and added present paragraph (2) and made a related stylistic change.

**Sec. 16.05.343. Auctions or raffles for bison harvest permits.** (a) The department, subject to regulations adopted by the Board of Game, may issue one bison harvest permit each year for a bison from the Delta bison herd through a competitive auction or raffle. Notwithstanding AS 36.30, the department may authorize a qualified organization to conduct the auction or raffle on behalf of the department. If the auction or raffle is conducted by a qualified organization, the organization may retain an amount from the gross proceeds of the

auction or raffle equal to the administrative cost of the auction or raffle plus an amount not to exceed 10 percent of the net proceeds. All remaining proceeds from the auction or raffle of the bison harvest permit whether conducted by the department or as otherwise authorized by the department shall be deposited in the fish and game fund under AS 16.05.100.

(b) The exercise of a privilege conferred by a bison harvest permit issued under this section is subject to laws relating to the time, place, and manner of taking bison from the Delta bison herd.

(c) In this section "qualified organization" means a nonprofit corporation established to promote fish and game law enforcement that complies with applicable laws governing activities under this section. (§ 1 ch 30 SLA 1989)

*Sec. 16.05.345. Musk oxen. [Repealed, § 4 ch 57 SLA 1980.]*

**Sec. 16.05.346. Permit applications.** (a) If the Board of Game establishes an open season for musk oxen and has not reduced or eliminated the \$500 resident tag fee under AS 16.05.340(a)(16), the department shall conduct a drawing for permits to take the musk oxen. If the Board of Game establishes an open season for musk oxen for which the Board of Game has reduced or eliminated the resident tag fee, the department shall issue permits to take the musk oxen in the order in which applications are received by the department. A person is not eligible for more than one musk oxen permit a year. The department may not charge a fee for an application for a musk oxen permit for an open season in which the Board of Game has reduced or eliminated the resident tag fee under AS 16.05.340(a)(16). In all other cases the application fee for a musk oxen permit is \$10.

(b) The application fee for a drawing permit issued by the department for the hunting of bison is \$10.

(c) Except as provided in (a) and (b) of this section, the permit application fee for all species for which a limited drawing is conducted is \$5. (§ 3 ch 57 SLA 1980; am § 1 ch 118 SLA 1984; am § 1 ch 5 SLA 1992)

**Revisor's notes.** — Enacted as AS 16.05.345. Renumbered in 1980.

**Effect of amendments.** — The 1992 amendment, effective April 3, 1992, deleted "in the Delta Junction bison range area" following "hunting of bison" in subsection (b).

**Editor's notes.** — Section 2, ch. 118, SLA 1984, which repealed and reenacted this section effective August 1, 1989, was repealed by § 2, ch. 149, SLA 1988.

**Revisor's notes.** — In 1987, "recognize" was substituted for "reorganize" in subsection (7), to correct a manifest error in the original enactment.

**Cross references.** — For legislative intent, see § 1, ch. 151, SLA 1978, in the Temporary and Special Acts; for Commission on Subsistence Use of Fish and Game, see ch. 1, FSSLA 1990 in the Temporary and Special Acts.

**Editor's notes.** — In a memorandum signed April 14, 1981, the governor approved the commissioner's conferral of full division status on the section of subsistence hunting and fishing.

**Legislative history reports.** — For letter of intent of the House Special Committee on Subsistence in connection with ch. 151, SLA 1978 (HB 960), see 1978 House Journal, p. 1154.

#### NOTES TO DECISIONS

Cited in *State v. Eluska*, 698 P.2d 174 (Alaska Ct. / pp. 1985).

**Sec. 16.05.100. Fish and game fund established.** There is created a revolving "fish and game fund," which shall be used exclusively for the following:

(1) to carry out the purposes and provisions of this title, except AS 16.51 and AS 16.52, or other duties that may be delegated by the legislature to the commissioner or the department; and

(2) to carry out such purposes and objectives within the scope of this title except AS 16.51 and AS 16.52 as may be directed by the donor of any such funds. (§ 17 art I ch 94 SLA 1959; am § 3 ch 132 SLA 1984)

**Opinions of attorney general.** — The dedication under this section was created subsequent to the date of the ratification of the Alaska Constitution, art. IX, § 7; hence, there was no protection for the fund under the grandfather clause. However, the fund was protected by the fact that federal law requires dedication of fishing and hunting licenses. 1959 Op. Att'y Gen. No. 14.

The dedication of proceeds of fishing and hunting licenses to the operation of the Department of Fish and Game is required by federal law for participation in federal programs and is therefore authorized by § 7, art. IX, of the state constitution. November 30, 1982 Op. Att'y Gen.

**Sec. 16.05.110. Composition of fund.** The fish and game fund shall be made up of the following money and other money the legislature appropriates, which shall be deposited and retained in the fund until expended:

(1) money received from the sale of state sport fishing, hunting, and trapping licenses, special permits, and waterfowl conservation tags purchased by hunters;

(2) proceeds received from the sale of furs, skins, and specimens taken by predator hunters and other employees;

(3) money received in settlement of a claim or loss caused by damage to the fish and game resources of the state;

(4) money received from federal, state, or other governmental unit, or from a private donor for fish and game purposes;

(6) money from any other § 1 ch 41 SLA 1979; am §

**Opinions of attorney general.** discussion of constitutionality under art. IX of the state constitution of

**Sec. 16.05.120. Disburse** the commissioner, disburse paid by the proper state officer the commissioner or an authorized the proper state officer. (§

**Sec. 16.05.130. Diversion** provided in (c) of this section fishing, hunting, and trapping diverted to a purpose other than regulation, and restoration of sports expenses of administering the department.

(b) Money accruing to the fees from hunters may not be conservation and enhancement lease or otherwise of wetland public use of waterfowl in approved by the commissioner conservation program; and (c) by the governor. The department fee account within the fish and game records for the receipt or sale of waterfowl tags. The amount annually to the public and the from waterfowl conservation

(c) Money accruing to the licenses may only be used for shall maintain a furbearer management game fund under AS 16.05.1 expenditure of money from Furbearer management shall population, increase the price useful furbearer research, a goal to provide for an optimum

(d) Revenue from the sale licenses and tags together with man — Robertson, Dingell shall be all the revenue from

## Organizations That Auction or Raffle Big Game Permits

### Foundation for North American Wild Sheep

		Sheep	Moose	Goat
Nevada	1984-1993	\$415,000		
Montana	1986-1993	\$789,000	\$35,000	
Arizona	1984-1993	\$742,000		
Wyoming	1983-1993	\$480,000		
Utah	1983-1993	\$192,000		
North Dakota	1986-1993	\$209,000		
Idaho	1988-1993	\$216,000		
California	1988-1993	\$339,000		
Colorado	1989-1993	\$195,000		\$45,000
New Mexico	1990-1993	\$238,000		
Oregon	1992-1993	\$159,000		

### Safari Club International

Wyoming	Sheep Permit	1990	\$36,000
	Mountain Moose	1990	\$10,000
	Sheep Permit	1991	\$24,500

The Safari Club has been auctioning and raffling permits for many years. Only data from recent years was available.

### Rocky Mountain Elk Foundation

Nevada	Elk Tag	1993	\$12,000
California	Elk Tag	1993	\$20,000
Arizona	Elk Tag	1993	\$42,000

The Rocky Mountain has been auctioning and raffling permits for many years. Only data from recent years was available.

States That Have Game Permits Auctioned or Ruffed

Nevada, Montana, Arizona, Utah, North Dakota, Texas, Idaho, California.

		Sheep	Moose	Goat	Elk	Buffalo
Nevada	1981-1993	\$549,552			\$12,000'93	
Montana	1986-1993	\$789,000	\$35,000			
Arizona	1984-1993	\$742,000			\$79,250	\$2,100
Wyoming	1983-1993	\$540,000	\$10,000			
Utah	1980-1993	\$296,500	\$30,356		\$23,187	\$6,500
North Dakota	1986-1993	\$209,000				
Idaho	1988-1993	\$216,000				
California	1987-1993	\$409,000			\$20,000 '93	
Colorado	1989-1993	\$195,000		\$45,000		
New Mexico	1990-1993	\$238,000				
Oregon	1987-1993	\$215,000				

These numbers are from various sources including: Wildlife Conservation, Foundation For North American Wild Sheep, Safari Club International and the Rocky Mountain Elk Foundation. The dollar amounts listed are an approximation of the actual amount received by the states. The amounts approximated are believed to be quite a bit lower than the actual totals.

Example of a State that auctions the permits to several types of species.

Arizona                    \$1,169,000 since 1984      Average per year \$129,777  
     Antelope, Elk, Buffalo, Mule Deer, Bear and Sheep



HOUSE RESOURCES COMMITTEE

DATE: March 31, 1993

PLACE: Capitol, Room 124

SUBJECT OF MEETING:  
 HB 197 - Alyeska Appropriation  
 HB 239 - Raffle/Auction Big Game Permit

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Chip Thoma	Self	#2 Marine Way #204	99801			(Y) N	HB 197
Anne Wieland	Kachemak Bay Citizens Coalition	1431 N. St Anch.	99501	276-5477		(Y) N	HB 197
Dave Kelleyhouse	ADFG	Box 25526 Juneau	99802	465-4190		(Y) N	HB 239
Russell Heath	AK Environmental Lobby	P.O. Box 22151 Juneau AK 99802			463-3766	(Y) N	HB 197
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

**HB**

**259**

(9)

Date Referred: February 9, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/23/94

The RESOURCES Committee considered:

HB 259

HOUSE BILL NO. 259

GENERAL GRANT LAND ENTITLEMENT

"An Act relating to general grant land entitlements for certain boroughs and unified municipalities; 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) DNR/2-1-94, CRA/1-31-94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill Hudson</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>			

*W.K. Williams*  
CHAIRMAN'S SIGNATURE

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

## DEPARTMENT OF FISH AND GAME

333 RASPBERRY ROAD  
ANCHORAGE, ALASKA 99518-1599  
PHONE (907) 344-0541

BOARDS SUPPORT SECTION

Anchorage Advisory  
Committee  
Box 454  
Girdwood, AK 99587

March 4, 1994

Members of the Alaska State Senate  
Members of the Alaska State House of Representatives  
State Capitol  
Juneau, Alaska

- Re: (1) Our Opposition to SB 217 (Expansion of University Land Entitlement),  
(2) Our Opposition to HB 259 (Expansion of Lake and Peninsula Borough Land Entitlement)  
(3) Mental Health Lands

Dear Senators and Representatives:

The Anchorage Fish and Game Advisory Committee, like other such committees in the state, is a publicly elected entity established by the Alaska Legislature. It provides advice to the Board of Fisheries and the Board of Game and other agencies on matters concerning fish and wildlife and the uses of them. Pursuant to regulations of the Department of Fish and Game, the committee is broadly representative. It is composed of recreational and commercial fishers, hunters, guides, lodge owners and others in the tourism industry, trappers, conservationists, non-consumptive users, and a variety of members who have worked for various state and federal resource agencies and natural resource law enforcement agencies. We represent the fish and wildlife interests of approximately half the state's population.

SB 217 and HB 259 are both land selection bills. Like the proposed Mental Health Settlement, they would result in

disposal of vast tracts of state land. The Anchorage Fish and Game Advisory Committee is strongly opposed to both SB 217 and HB 259 for the reasons set forth below.

A. Summary of SB 217 and HB 259, and Relation to Mental Health Settlement

SB 217 and HB 259, as well as the recently proposed Mental Health Lands Settlement (that will be submitted to the Legislature), hold the prospect of severely altering state land ownership in Southwest Alaska. The resources and the uses of resources in that region -- particularly in the drainages of the Kvichak River, Iliamna Lake, the Nushagak River and the Mulchatna River -- are very likely to be severely affected if land ownership changes because of these bills and the mental health settlement proposal.

We are addressing this letter jointly to members of both the House and the Senate because bills in both houses are involved.

SB 217 would allow the University to select an additional one million acres anywhere in the state. The bill provides that those lands would cease to be public lands and would be managed for income production. Sale by the University, charges for recreational and subsistence use, additional leasing for commercial development which only threatens existing businesses and invites further conflicts, as discussed below, all will result from this income production obligation.

HB 259 would raise the Lake and Peninsula Borough's land selection entitlement from approximately 29,000 acres, established pursuant to AS 29.65.030, to 187,000 acres. Arguably, the Borough is entitled to far less than 29,000 acres because the northwestern boundary of the Borough is the subject of current litigation.<sup>1</sup> The matter is now on appeal to the Alaska Supreme Court.

Nevertheless, the Borough has tentatively identified more than 100,000 acres that it would like to obtain. The lands include all the remaining state land around Lake Iliamna, Lower Talarik Creek, Copper River, Dream Creek, and most of the remaining state lands along the Mulchatna River and the Kvichak River. In short, the remaining state lands in the most productive salmon habitat in the world would cease to be state-owned.

The recent Mental Health settlement proposal would convey about 17,000 acres in the Iliamna area to the Mental Health Lands

---

<sup>1</sup> Villages that use the Nushagak/Mulchatna drainages sued successfully to overturn the election that ratified the boundary. They seek to exclude from the Borough, those lands in the Mulchatna drainage that they assert are within their traditional area.

Trust Corporation. Those lands would have to be managed for income production to the Trust. Again, sale by the Mental Health Trust, changes for use, and other dispositions are likely to result from this income production obligation.

B. Our Position

The Anchorage Fish and Game Advisory Committee opposes in the strongest possible terms SB 217 and HB 259. Both bills would result in further fragmenting ownership of the most important fish and wildlife habitat in Alaska -- the Bristol Bay drainages. Those drainages are the most productive in the world of commercial salmon, bar none. They produce on the order of 30 million sockeye salmon harvested each year with an escapement on the order of 10 million fish. By comparison, the Kenai River produces on the order of 5 million sockeye harvested with an escapement of 400,000 to 700,000. The lands are vitally important for subsistence. They provide world class recreation and support a valuable recreation industry. They contain the third largest caribou herd in Alaska -- the Mulchatna herd that is important for local subsistence and recreational hunting. The lands support the highest brown bear densities in Alaska -- in fact higher than Kodiak and Admiralty Island. They support the greatest rainbow trout fisheries in the world. They are widely recognized as essential to the recreation industry, as fragile due to small population size and late age of reproductivity, and are substantially managed as catch-and-release fisheries.

Presently the major land owners are the State, Native Corporations and the Federal Government. Further fragmentation of ownership -- by adding the University and Mental Health Lands Trust Corporation, and by increasing the Borough entitlement -- only invites problems, such as:

- (a) subdivision and sales of land title, as the pool of potential land sellers expands from the state and Native Corporations to include the University, the Mental Health Trust Corporation and the Borough;
- (b) increased allocation disputes between commercial fishing, subsistence and recreational interests, as more nonresidents come into the area as new property owners, permittees and users; and
- (c) increased regulatory costs for many agencies, such as DEC, ADF&G, DNR, the Boards of Fisheries and Game, as well as various federal agencies.

These problems already exist throughout the Cook Inlet region. They arise in the context of fisheries allocation disputes, game allocation disputes, and regulatory expenses involving fish habitat protection in the context of private

ownership of waterfront and riparian zone land. These problems should absolutely never be created in the Bristol Bay drainages.

The Committee strongly supports protecting existing uses (commercial fishing, subsistence and recreational businesses and use) and strongly oppose both bills as threats to those uses.

The purported purpose of SB 217 is supposedly to support the University. However, not one of the proponents of SB 217 advocates that the income would be substantial. For example, timber lands currently owned by the University contribute about two percent to the cost of the University and when amortized over a timber rotation, they contribute on the order of two-hundredths of one percent of those costs. In short, the bill simply uses (in our opinion abuses) the University as a vehicle for privatizing state land.

With respect to HB 259, we see no justification for the Legislature abrogating the statutory entitlement of the Borough, increasing it by six times, thereby threatening existing uses (subsistence, recreational and commercial), inexorably creating conflicts over allocation, and threatening habitat.

The history of land selection statutes is that they are poor public policy, do not accomplish their goals, and are costly and counter productive. Land available for selection is high-graded. Whatever is best becomes private. That land tends to be river-frontage, riparian zones, floodplain, and other riverain land important for fish, wildlife, subsistence, hunting, fishing and recreation and recreation business. Whatever is worst is left to the public who owned the land in the first place.

Far too frequently, therefore, the government simply ends up buying back what little it can afford. For example, much of our land acquisition budget in Alaska comes from federal taxes on recreational equipment and marine fuels (Dingle-Johnson and Wallop-Breaux accounts) that are partially matched with state monies from the Fish and Game Fund (derived from license sales). Almost without exception that land acquisition budget goes to buy parcels on riverfronts that should never have gone out of public ownership in the first place but went out under federal homestead laws during the territorial days. Those statutes essentially operated as land selection statutes. The fact that the public has to spend state and federal monies to buy back lands demonstrates the fallibility of land selection statutes. Similarly, current expenditures of Exxon Valdez monies for land acquisition is simply a testimonial of how land selection statutes lead to problems that should have been avoided if legislation had been drafted differently in the first place. In short, to the best of our knowledge, Alaska is the only state in the Union still enacting land selection statutes. That they are poor public policy has been historically demonstrated.

Furthermore, given that the State has spent nearly twenty years and untold litigation costs trying to resolve the Mental Health Lands controversy, one can only conclude that these similar dispositions of state land will only create the similar conflicts when public land ceases to be public. We urge you to learn from history, rather than repeat it. Keep Alaska's public lands public.

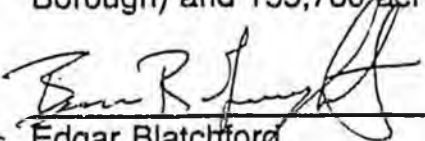
Sincerely yours,

*for Larry Holmes*  
Laurence (Larry) Holmes  
Chairman  
Anchorage Fish and Game  
Advisory Committee

cc: All Alaska State Senators and Representatives  
Harry Noah, Commissioner, DNR  
Carl Rosier, Commissioner, ADF&G  
Iliamna Fish and Game Advisory Committee  
Nushagak Advisory Committee  
Dillingham Advisory Committee



In summary, the Department does not consider the Lake and Peninsula Borough's entitlement of 34,000 acres, under the existing statute, to be equitable. By comparison, two other boroughs similar in area to the Lake and Peninsula Borough have entitlements of 355,210 acres (Matanuska-Susitna Borough) and 155,780 acres (Kenai Peninsula Borough).

*For*   
Edgar Blatchford  
Commissioner

~~4~~ 4/2/93  
Date

Revision Date: 1/31/94 Dept. Affected: Community & Regional Affairs  
 Title: "An Act relating to general grant land entitlements ....." BRU: \_\_\_\_\_  
 Sponsor: Rulos by Request Component: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

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

Estimate of current (FY94) Impact \$ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Crinard Henderson Director Phone: 465-4708  
 Division: Administrative Services Date: 1/31/94  
 Approved by Commissioner: [Signature] Deputy Commissioner Date: 1/31/94  
 Agency: Community & Regional Affairs

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# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. IIB259**

Revision Date: Original Dept Affected: Natural Resources  
 Title: "An Act relating to general grant land entitlements BRU: Resource Development  
for certain boroughs and unified municipalities..." Component: Land Development  
 Sponsor: Rules by Request  
 Requestor: \_\_\_\_\_ Component Serial No. 431

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

**POSITIONS**

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

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

Prepared by: Ron Swanson, Director Phone: 762-2692  
 Division: Land Date: 1-Feb-94  
 Approved by Commissioner: Harry A. Noah Date: 1-Feb-94  
 Agency: Natural Resources

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## HB 259 Attachment

The department supports this bill in concept. We have not, however, been able to complete a land analysis. The borough's entitlement under law would be calculated as 10% of the maximum amount of vacant, unappropriated, and unreserved (VUU) state land within the boundaries between the date of incorporation and two years thereafter. Passage of Chapter 51, SLA 1991 delayed the certification until no earlier than January 1, 1994, following completion of the state's land selections. An estimate of entitlement was prepared for the Department of Community and Regional Affairs in 1988 for the proposed incorporation report and based on estimates of the classification, the entitlement would have been about 29,000 acres. There is a considerable amount of state land within the boundaries of the borough and department analysis is needed to determine whether 187,000 acres is a fulfillable entitlement.

Since the department has between January 1, 1994, and January 1, 1996, to certify entitlements for newly incorporated municipalities, this selection deadline could severely impact municipalities that are certified near the January 1996 deadline. In order to correct this inequity, we recommend, in Section 2, line 12, deleting "any time before October 1, 1996" and replacing with "within two years of the date that the certification of entitlement is final."

UNPROCESSED SELECTIONS PENDING

SCRO

<u>New</u>	
Aleutians East Borough	7,633
Lake and Peninsula Borough	≈80,000 (uncertified)
City of Seward	3
City of Valdez	<u>2,788</u>
SCRO Total	90,424

NRO

<u>New</u>	
North Slope Borough	89,850
Northwest Arctic Borough -	≈285,000 (recertify)
Denali Borough	≈85,000 (uncertified)
City of Delta Junction	82
City of Anderson	<u>1,182</u>
NRO Subtotal	≈461,114

<u>From 1978</u>	
Fairbanks North Slope Borough	<u>17,500</u>
NRO Subtotal	17,500
NRO Total	≈478,614

SERO

<u>New</u>	
City and Borough of Yakutat	<100 (uncertified)
City of Port Alexander	52
City of Skagway	7,477
City of Thorne Bay	63
City of Ketchikan	<u>4</u>
SERO Subtotal	7,696

<u>From 1978</u>	
Haines Borough	118
City and Borough of Juneau	1,520
Ketchikan Gateway Borough	1,000
City of Sitka	<u>774</u>
SERO Subtotal	3,412

SERO Total 11,108

statewide Total 580,146

\*\*\*\*\*  
F A X T R A N S M I T T A L M E M O

TO: Roma Bulovich  
 DEPT: \_\_\_\_\_ FAX #: 258-4051  
 FROM: D. Higgins PHONE: 762-2667  
 CO: \_\_\_\_\_ FAX #: \_\_\_\_\_

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