

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8066 HOUSE RESOURCES

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lding leases on March 1,
nd 3, ch. 31, SLA 1976 in
and Special Acts.

Sec. 16.20.600. Copper River Delta Critical Habitat Area established. The following described area is established as the Copper River Delta Critical Habitat Area:

All public land, tideland, submerged land, and water contained in the following description: Beginning at a point on the south edge of the Copper River Highway right-of-way 200' west of its intersection with the Eyak Trail trailhead; thence southwesterly 200' west of the Eyak Trail and parallel to it approximately 4 miles to the mean high tide line; thence southwesterly along the mean high tide line to Point Whitshed; thence northwesterly along the mean high tide line to a point of intersection at the west edge of Section 21, T16S, R4W, C.R.M. and the mean high tide line at the mouth of Orca Inlet; thence westerly a distance of approximately 3 miles to the northeast tip of Little Mummy Island; thence southwesterly a distance of approximately 4 miles to the intersection of the south edge of Section 33, T16S, R5W, C.R.M. and the mean high tide line; thence along the mean high tide line on the east portion of Hinchinbrook Island, including Boswell Bay to Point Bentinck; thence S.68°E. approximately 57 miles to a point of intersection with the protracted boundary line common between R4E and R5E, C.R.M.; thence N.13°E. approximately 10 miles to Palm Point; thence northwesterly along the mean high tide line to a point of intersection with the west boundary line of Section 25, T19S, R4E, C.R.M. to a point of intersection with the mean high tide line on the north shore of Softuk Bar; thence northwesterly to Windy Point; thence due east approximately 1.1 miles to the 200 foot contour; thence northerly along the 200 foot contour around Ragged Mountain, easterly and northerly along the eastern shore of Martin and Little Martin lakes to a point 4 miles due south of Bridge No. 227 on the Proposed Bering River Highway; thence north to Bridge No 227; thence westerly along the south edge of the Bering River Highway to its junction with the Copper River Highway; thence, westerly along the south edge of the Copper River Highway to the point beginning; excluding all areas within the Cordova Airport Boundaries. (§ 2 ch 93 SLA 1978)

Revisor's notes. — Formerly AS
16.20.230(a)(11). Renumbered in 1987.

Sec. 16.20.605. Anchor River and Fritz Creek Critical Habitat Area established. (a) All state land and water contained in the following described areas is established as the Anchor River and Fritz Creek Critical Habitat Area:

- (1) Township 4 South, Range 13 West, Seward Meridian
 - Section 25
 - Section 35
 - Section 36;

- (2) Township 5 South, Range 12 West, Seward Meridian
Sections 17 — 20;
- (3) Township 5 South, Range 13 West, Seward Meridian
Section 2
Section 3
Section 4 E¹/₂
Section 8 S¹/₂
Sections 9 — 11
Sections 13 — 20
Section 21 W¹/₂
Section 24;
- (4) Township 5 South, Range 14 West, Seward Meridian
Section 13
Section 20 NE¹/₄
Sections 21 — 24
Section 26 N¹/₂
Section 27 N¹/₂
Section 28 N¹/₂.

(b) Notwithstanding AS 16.20.500 and the establishment of the Anchor River and Fritz Creek Critical Habitat Area under (a) of this section,

(1) the use of and appropriation of water rights from Fritz Creek for a municipal and community water source is protected within the Anchor River and Fritz Creek Critical Habitat Area;

(2) the possibility of the construction of a dam and reservoir on Fritz Creek is reserved within the Anchor River and Fritz Creek Critical Habitat Area.

(c) The use and enjoyment of valid existing rights and interests within the Anchor River and Fritz Creek Critical Habitat Area are protected. Future conveyances, including but not limited to rights-of-way, timber sales, municipal entitlements, grazing leases, and oil and gas leases, may occur.

(d) A management plan for the Anchor River and Fritz Creek Critical Habitat Area shall be adopted and may be revised by the Department of Fish and Game in consultation with the Department of Natural Resources under AS 44.62 (Administrative Procedure Act). The management plan shall reflect the concurrence of the Kenai Peninsula Borough as it applies to land committed by the borough to the Anchor River and Fritz Creek Critical Habitat Area.

(e) The department shall establish a citizens' advisory committee to work with the department and advise on implementation and revisions of the management plan for the Anchor River and Fritz Creek Critical Habitat Area.

(f) Appointments to the citizens' advisory committee shall be recommended by the Kenai Peninsula Borough and the City of Homer and shall include representatives from

- (1) industry and commercial users;
- (2) hunters, trappers, fishermen, and recreational users; and
- (3) officials representing the Kenai Peninsula Borough and the City of Homer. (§§ 1, 2 ch 47 SLA 1985; am §§ 1, 2 ch 170 SLA 1990)

Revisor's notes. — Formerly AS 16.20.230(a)(12), (b), (c), and (d). Renumbered in 1987.

Effect of amendments. — The 1990 amendment, effective June 22, 1990, substituted "adopted and may be revised" for "completed by July 1, 1989" and "under the Administrative Procedure Act (AS 44.62)" for "and the management plan shall be submitted to the legislature for

review" in the first sentence of subsection (d); deleted the former second sentence of subsection (d), which read "The management plan shall take effect when approved by act of the legislature"; and added subsections (e) and (f).

Editor's notes. — Section 3, ch. 170, SLA 1990 approves the management plan dated June, 1989, for the Anchor River and Fritz Creek Critical Habitat Area.

Sec. 16.20.610. Dude Creek Critical Habitat Area. (a) The purpose of the Dude Creek Critical Habitat Area is the protection and enhancement of the wet meadow habitat that is the key roosting area for migrating lesser sandhill cranes, for the protection of lesser sandhill cranes, and for the continued public use and enjoyment of the area.

(b) The following described area is established as the Dude Creek Critical Habitat Area:

Township 40 South, Range 58 East, Copper River Meridian

Section 2: W¹/₂

Section 3

Sections 9 — 10

Section 11: W¹/₂NE¹/₄, W¹/₂

Section 14: Lot 3, NW¹/₄, N¹/₂SW¹/₄, SW¹/₄SW¹/₄

Section 15

Section 16: N¹/₂, SE¹/₄.

(c) The Dude Creek Critical Habitat Area described in (b) of this section shall be managed under a management plan prepared and implemented by the department in consultation with the community of Gustavus and the Board of Game.

(d) The department shall allow public uses, including fishing, hunting, trapping, mechanized and nonmechanized public access, grazing, firewood harvesting, wildlife, viewing, hiking, and berry picking under the management plan adopted under (c) of this section to the extent that the activities are compatible with (a) of this section.

(e) The legislature understands that a portion of the state land described in (b) of this section is mental health trust land of the state and the legislature intends that the land retain its status as mental health trust land, notwithstanding its inclusion in the Dude Creek Critical Habitat Area. (§ 1 ch 31 SLA 1988)

Editor's notes. — Section 2, ch. 31, SLA 1988 provides that the commissioner of fish and game shall allow public use of the Dude Creek Critical Habitat Area compatible with AS 16.20.610(a) until a management plan has been adopted under AS 16.20.610(c).

Legislative history reports. — For legislative letter of intent on ch. 31, SLA 1988, see the Senate letter of intent on CSSB 362 (Res), 1988 Senate Journal 2691-2692.

Sec. 16.20.615. Tugidak Island Critical Habitat Area. (a) The state land above the mean high tide line within the following described area is established as the Tugidak Island Critical Habitat Area:

- (1) Township 41 South, Ranges 33 — 34 West, Seward Meridian;
- (2) Township 42 South, Range 33 West, Seward Meridian
Sections 1 — 11
Section 14 — 23
Sections 25 — 36;
- (3) Township 42 South, Ranges 34 — 35 West, Seward Meridian;
- (4) Township 43 South, Ranges 34 — 35 West, Seward Meridian.

(b) In addition to the area described in (a) of this section, the water and the land below the mean high tide line in the lagoon at the north-east end of Tugidak Island are included within the Tugidak Island Critical Habitat Area.

(c) The Tugidak Island Critical Habitat Area described in (a) and (b) of this section shall be managed under a management plan prepared by the department.

(d) The department shall permit exiting cabins to remain, subsistence and recreational uses to continue, and commercial uses such as seal hunting and placer mining to continue, if appropriate under the management plan adopted under (c) of this section to the extent that the activities are compatible with the establishment of the Tugidak Island Critical Habitat Area.

(e) The department shall permit entry within the Tugidak Island Critical Habitat Area for the exploration and development of oil and gas resources when compatible with the purposes for which the critical habitat area was established. An oil and gas lease of state land within the Tugidak Island Critical Habitat Area is valid and continues in full force according to its terms. (§ 2 ch 116 SLA 1988)

Revisor's notes. — Enacted as AS 16.20.610. Renumbered in 1988.

Cross references. — For statement of legislative purpose, see § 1, ch. 116, SLA 1988 in the Temporary and Special Acts.

Editor's notes. — Section 3, ch. 116, SLA 1988 provides: "After completion of

plans for the area including the Tugidak Island Critical Habitat Area as enacted in sec. 2 of this Act, the commissioners of natural resources and fish and game may recommend an adjustment in the boundaries of the critical habitat area to the legislature."

Sec. 16.20.620. Willow Mountain Critical Habitat Area established. (a) The following described area is established as the Willow Mountain Critical Habitat Area:

- (1) Township 20 North, Range 2 West, Seward Meridian
Section 7
Sections 18 — 19;
- (2) Township 20 North, Range 3 West, Seward Meridian
Sections 1 — 2
Sections 11 — 14
Sections 23 — 24;
- (3) Township 21 North, Range 2 West, Seward Meridian
Sections 4 — 7
Section 18: W¹/₂;
- (4) Township 21 North, Range 3 West, Seward Meridian
Section 1
Sections 11 — 14
Sections 23 — 26
Sections 35 — 36;
- (5) Township 22 North, Range 2 West, Seward Meridian
Sections 19 — 21
Sections 28 — 33.

(b) Notwithstanding AS 16.20.510 — 16.20.530, the commissioner of fish and game, in consultation with the commissioner of natural resources, shall prepare a management plan for the Willow Mountain Critical Habitat Area. The commissioner of fish and game and the commissioner of natural resources shall exercise their respective authorities over the area in a manner consistent with the management plan. (§ 2 ch 28 SLA 1989)

Cross references. — For statement of legislative purpose, see § 1, ch. 28, SLA 1989 in the Temporary and Special Acts.

Editor's notes. — Section 3, ch. 28, SLA 1989, provides: "Until a management plan is developed under AS

16.20.620(b), enacted by § 2 of this Act, management decisions for the Willow Mountain Critical Habitat Area must reflect the intent of the Willow Mountain Subunit of the Hatcher Pass Management Plan adopted in October, 1986."

Sec. 16.20.625. Redoubt Bay Critical Habitat Area. (a) The state-owned land and water above mean lower low water contained in the following described parcels is designated as the Redoubt Bay Critical Habitat Area:

- (1) Township 6 North, Range 16 West, Seward Meridian
Sections 1 — 12: North of the south bank of Drift River
Sections 14 — 18: North of the south bank of Drift River
Sections 20 — 22: North of the south bank of Drift River;
- (2) Township 6 North, Range 17 West, Seward Meridian
Sections 1 — 6: North of the south bank of Drift River
Sections 10 — 12: North of the south bank of Drift River;

- (3) Township 7 North, Range 14 West, Seward Meridian
Section 5: S $\frac{1}{2}$
Sections 6 — 8
Section 18;
- (4) Township 7 North, Range 15 West, Seward Meridian
Sections 1 — 21
Sections 29 — 31;
- (5) Township 7 North, Range 16 West, Seward Meridian;
- (6) Township 7 North, Range 17 West, Seward Meridian
Sections 1 — 4
Section 8: E $\frac{1}{2}$
Sections 9 — 17
Sections 19 — 27
Section 30
Sections 34 — 36;
- (7) Township 8 North, Range 15 West, Seward Meridian
Section 1: S $\frac{1}{2}$
Section 2: S $\frac{1}{2}$
Section 3: W $\frac{1}{2}$
Sections 4 — 11
Section 12: N $\frac{1}{2}$
Sections 13 — 36;
- (8) Township 8 North, Range 16 West, Seward Meridian;
- (9) Township 8 North, Range 17 West, Seward Meridian
Sections 1 — 17
Sections 20 — 29
Sections 32 — 36;
- (10) Township 8 North, Range 18 West, Seward Meridian
Sections 1 — 12;
- (11) Township 9 North, Range 15 West, Seward Meridian
Sections 29 — 30;
- (12) Township 9 North, Range 16 West, Seward Meridian
Sections 19 — 36;
- (13) Township 9 North, Range 17 West, Seward Meridian
Sections 21 — 36.
- (b) Notwithstanding AS 16.20.500 and the establishment of the Redoubt Bay Critical Habitat Area under (a) of this section, egress and ingress to and from private property within the Redoubt Bay Critical Habitat Area shall be permitted through access corridors established through agreement between the state and the private property owners involved.
- (c) The state may not acquire by eminent domain privately owned land within the Redoubt Bay Critical Habitat Area but may acquire privately owned land within the Redoubt Bay Critical Habitat Area by purchase, exchange, or otherwise for inclusion in the Redoubt Bay Critical Habitat Area.

(d) The department shall permit entry within the Redoubt Bay Critical Habitat Area for the exploration and development of oil and gas resources when it is compatible with the purposes for which the critical habitat area is established. An oil and gas lease of state land and existing oil and gas pipeline rights-of-way within the critical habitat area are valid and continue in full force according to their terms. The commissioner shall permit inspection and maintenance activities necessary to ensure the integrity of oil and gas pipelines on existing leases and pipeline rights-of-way in a manner that is compatible with the purposes for which the Redoubt Bay Critical Habitat Area was established.

(e) The department shall permit uses of the Redoubt Bay Critical Habitat Area in a manner that is compatible with the purposes for which the critical habitat area is established. The department shall permit the following public uses to continue without further approval by the department unless the department determines that the use is not compatible with the purposes for which the Redoubt Bay Critical Habitat Area is established:

(1) hunting, including subsistence hunting, trapping, and subsistence, commercial, and sport fishing, including the continued use of cabins for the purpose of hunting, trapping, and fishing;

(2) hiking, backpacking, and camping, including the use of campfires;

(3) cross-country skiing, snowmachining, boating, and the landing of aircraft; and

(4) other related uses that are temporary in duration and have no foreseeable adverse effects on vegetation, drainage, soil stability, or fish and game and their habitat.

(f) The Kenai Peninsula Borough shall establish a citizens' advisory committee to work with the department and the Department of Natural Resources and advise on the development of policies and regulations that affect the Redoubt Bay Critical Habitat Area.

(g) Appointments to the citizens' advisory committee shall be made by the Kenai Peninsula Borough and shall include representatives from

(1) industry and commercial users including the oil and gas industry, timber, mining, and commercial fishing;

(2) hunters, trappers, fishermen, cabin owners, and recreational users; and

(3) officials representing the Kenai Peninsula Borough. (§ 2 ch 111 SLA 1989)

Revisor's notes. — Enacted as AS 16.20.620. Renumbered in 1989.
Cross references. — For legislative purpose in establishing the Redoubt Bay Critical Habitat Area, see § 1, ch. 111, SLA 1989 in the Temporary and Special Acts.

HB

436

Alaska State Legislature



While in Session:
State Capitol Building
Juneau, Alaska 99801-11-2
907-465-3719

Interim:
119 N. Cushman
Suite 211
Fairbanks, Alaska 99701
907-456-5081

Representative Al Vezey

SPONSOR STATEMENT HB 436

"An act prohibiting the Department of Environmental Conservation from adopting or enforcing a regulation that establishes an ambient air quality standard or emission standard that is more stringent than a corresponding federal standard; and providing for an effective date."

This bill will preclude the DEC from adopting by regulation any ambient air quality or emission standard that is more stringent than the federal standard. This bill will limit that authority to the legislature which can adopt by statute any standard deemed in the state's best interest.



*Department of Environmental
Conservation*

POSITION PAPER

BILL NO: HB436

APPROVED: John A. Tinkler

DATE: 2/22/94

TITLE: An Act prohibiting the Department of Environmental Conservation from adopting or enforcing a regulation that establishes an ambient air quality standard or emission standard that is more stringent than a corresponding federal standard; and providing for an effective date.

During the 1993 legislative session the Alaska Department of Environmental Conservation (ADEC) was one of several partners involved with the Alaska Legislature in deliberating HB 167, the Air Bill, sponsored by Representative Mark Hanley. Obtaining new state legislation to meet the federal requirements has been a demanding multi-year effort not only for this agency, but for numerous industry and public interest groups in Alaska. HB 167 was successful in striking a very workable compromise among a wide range of Alaska's divergent interest groups. ADEC finds that it must now oppose HB 436 for several reasons; foremost because it breaks the balance of the compromises achieved last year with HB 167.

The Department's air quality mission of protecting health also comes with the responsibility to foster an environment that enables economic expansion for our businesses and industries, while safeguarding our health. Although, the intentions of HB 436 may be to better position state law for economic expansion through less environmental oversight, the effects of this proposed legislation could be quite different. For example, in a locale where existing air pollution levels are just slightly within accepted health standards, it may be possible to allow a new industrial activity, but only if ADEC has the ability to set out-of-stack emission standards that are more stringent than federal emission standards. To not have this tool of more stringent standards would close the opportunity to employ technology that would otherwise enable the enterprise to occur while also protecting the health of nearby Alaskans. This is not an uncommon example. Recently, this tool has become essential in enabling the agency to approve construction of the new Healy Clean Coal Project. This project expands interior power generating capacity by using new technology to offset air pollutant emission increases that minimize impacts to nearby Denali National Park.

In the Port of Valdez, Alaska has the nation's largest single source of organic vapor emissions due to tanker operations at Alyeska's Valdez Marine Terminal. EPA is in the final stages of setting emissions standards for this activity. Adopting state standards in conjunction with the federal action, could potentially provide greater flexibility for Alaska and our industry, but also meet the federal goal of reduced emissions.

Furthermore, the Environmental Protection Agency (EPA) does not always have a full grasp of what may or may not be safe health criteria in arctic and subarctic climates of Alaska. As we have learned recently from the people of Fairbanks, through the events of last winter's use of oxygenated automobile fuel, climatic conditions in our northern regions can result in unique public health concerns. Retaining authority to responsibly address pollution issues of local concern is, at its center, a state's rights issue. The inability to set more restrictive ground level ambient standards not only fails to respond to our citizen's needs, but could generate a localized public resentment to the business community that could stymie economic expansion.

In 1991, the department adopted a public health ambient standard for exposure to ammonia gas. Trees near the industry plants were dying and public concern was high. Federal standards for ammonia discharges have not been set, and are not under immediate consideration. Our action was supported by the regulated industry because it was done only after conclusion of both agency and industry review of the scientific information about the health and welfare impacts of this pollutant. Because citizens of north Kenai were very much a part of this process, there is now a stronger business-neighbor climate in that locale which will better serve the economy of that area.

For further information contact Leonard Verrelli or Tom Chapple at 465-5100.

ADDENDUM TO DEC POSITION PAPER
Dated February 22, 1994
Air Quality Management Component

Change To Fiscal Note

The information in the Original Position Paper is still valid. The Department aired in its evaluation of the impacts of the bill on the Air Quality Management Component. In addition, the Air Quality Management Increment was reduced by the House Sub-Finance Committee by \$200,000 which resulted in the loss of two positions.

Closer examination of the impacts of HB436 revealed that staff had not taken into account the impacts of what is called PSD AVOIDANCE. PSD Avoidance is when a source elects emission standards more stringent than the Federal New Source Performance Standards (NSPS) in order to avoid the more costly PSD permit process. This is very common for a source such as large turbine, utilities and boilers to be considered PSD however the permittee has a choice. HB436 would preclude that choice forcing source through the PSD process.

The Department estimates it processes between 13 and 25 PSD Avoidance permits annually. The permittees are usually Rural Electric Utilities, Soil Remediation Units, Exploratory Wells, Seafood Processors and Hospitals.

The fiscal note before the committee is based on half of the avoiders falling under the NSPS emission standards resulting in 6 or more PSD applications being processed by Air Quality Management. The PSD process depending on the complexity takes 6 months to one year to process. To provide additional service the regulated community would require additional staff and funds for contracting some of the Best Available Control Technology work for modeling and source evaluation as an example.

The cost to industry will increase significantly. PSD permit application cost in the hundreds of thousands of dollars to prepare depending on the complexity. The PSD Avoidance Permits can be processed quickly (two or three months) by our Regional Offices however as stated earlier full blown PSD Reviews can take up to a year or more.

The most obvious example of the effects of the bill, would be the Healy Permit being processed by the department. This permit has emission limits that are more stringent than the Federal counterpart. If the bill passes in its current form the Healy Project could not be permitted. The bill could result in EPA denying primacy (delegation) of the Title V Program to the state, since the bill would limit the department in being able to apply BEST AVAILABLE CONTROL TECHNOLOGY as required by the Clean Air Act 1990.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 436

Revision Date: 22-Feb-94
 Title: An Act Prohibiting ADEC from adopting or enforcing standards more stringent than federal air standards
 Sponsor: Representative Vezey
 Requestor: Representative Vezey

Department Affected: Environmental Conservation
 BRU: Environmental Quality
 Component: Air Quality Management

COMPONENT SERIAL NO. _____

Expenditures/Revenues:	(Thousands of Dollars)					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

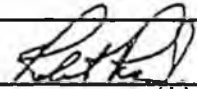
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTLA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ 0.0


POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 Should this become law, the department's preliminary analysis indicated there to be no fiscal impact to ADEC. Setting standards which are more stringent than federal standards is a relatively unique event driven frequently by very localized conditions. It is very difficult to estimate the fiscal consequences of these unique events.

Prepared by: Bob Poe, Director 
 Division: Information and Administrative Services

Phone: 465-5010
 Date: 2/22/94

Approved by Commissioner: 
 Agency: Department of Environmental Conservation

2
 Date: 2/22/94

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(7)

Date Referred: February 4, 1994

FURTHER REFERRALS:

Resources

Date of Committee Action: 2-24-94

The STATE AFFAIRS Committee considered:

HB 436

HOUSE BILL NO. 436

STRICTNESS OF AIR QUALITY REGS

"An Act prohibiting the Department of Environmental Conservation from adopting or enforcing a regulation that establishes an ambient air quality standard or emission standard that is more stringent than a corresponding federal standard; 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 DEC

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Al Vesey</i>	x	<i>Pete Fox</i>		<input checked="" type="checkbox"/>	
<i>Hailey Olberg</i>	✓	<i>Jeff Sogohian</i>		<input checked="" type="checkbox"/>	
		<i>Ferg L. Dean</i>		<input checked="" type="checkbox"/>	

Al Vesey
CHAIRMAN'S SIGNATURE

11:40-101
02/28/94
LEGISLATIVE TELECONFERENCE NETWORK
PAGE 01
DATE & TIME: 02/28/94 08:15 TO 10:00 STATUS:6 ADJOURNED

*** ORDER SUMMARY ***
STONOR HRS: HOST RESOURCES
STONOR: PUB PUBLIC HEARING
LEGISLATIVE
MARY MCCOBBELL TEL#: (907)465-3715
CAPITOL
CHAIRS: WILLIAMS

STONOR REMARKS(PUB): TESTIMONY 1 ALLOTTED
TESTIMONY WILL BE TAKEN WITH A 5 MINUTE LIMIT
3 MINUTE LIMIT
TO BE MOUNTED ON 02/28/94 AND HAS 9 REBATE'S

*** AGENDA ***

1. HB 286 ACTIVITIES IN ANADROMOUS FISH STREAMS
2. HB 428 STRICTNESS OF AIR QUALITY REGS

*** PARTICIPATING BLDG ***

ANC ANCHORAGE	716 W 4TH. #200	LOCATION STAFF
COR CORDOVA	705 2ND STREET	LOCATION STAFF
FBX FAIRBANKS	119 N CUSHMAN ST	LOCATION STAFF
JNU JUNEAU	CAPITOL	LOCATION STAFF
PAT NAISU	165 E PARKS HWY.	LOCATION STAFF
SIT SITKA	210 LAKE STREET	LOCATION STAFF
SOL KEN/SOL	34824 PALIFONSKY	LOCATION STAFF
VAL VALDEZ	STATE BLDG. #13	LOCATION STAFF

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1	BEN	ELLIS	KENAI RIVER	3POK TSEY, HB 286
	PO BOX 1228		SOLDOTNA	AK 99659 (907)232-8568
2	GREG	BELL		TSEY, HB 286
	2048 ESQUIRE DR		ANCHORAGE	AK 99517 (907)533-3938
3	CARL	LONDON		TSEY, HB 286
	6231 OLD SEDAWD HWY		ANCHORAGE	AK 99518 (907)274-6560
4	PAUL	MCLAUGHLIN		TSEY, HB 286
	4916 CASTLE CRT		ANCHORAGE	AK 99508 (907)333-5485
5	JOE	DEHRMAN		TSEY, HB 286
	3527 VASSAR DR		ANCHORAGE	AK 99508 (907)276-6852
6	JEFF	PARKER	ANCH F&C ADVIS	TSEY, HB 286
	1207 HYPER		ANCHORAGE	AK 99507 (907)274-5418
	LAPOL	TRUSKEY	F&C	OBSV, HB 286
	333 RASPBERRY RD		ANCHORAGE	AK 99507 (907)267-7391

PARTICIPANTS IN: CORDOVA COR

1 MS.	DORN	HAWKHURST	CDFU	TSEY, HB 286
	PO BOX 939		CORDOVA	AK 99574 (907)424-3447

PARTICIPANTS IN: FAIRBANKS FBX

1 MR.	PAUL	HEADLEE	TCC	TSEY, HB 286
	122 1ST AVE.		FAIRBANKS	AK 99701 (907)452-8251
2 MR.	FRED	PRATT		OBSV, ALL ITEMS
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PARTICIPANTS IN: JUNEAU JNU

1 REP	BILL	WILLIAMS		TSEY, ALL ITEMS
				AK (907)000-0000
2 REP	ELDON	MULDER		TSEY, ALL ITEMS

LTM100-R01
03/28/94

LEGISLATIVE TELECONFERENCE NETWORK

PAGE 02
11:28:23

TEN: 40578 DATE & TIME: 03/28/94 08:15 TO 10:00 STATUS:6 ADJOURNED

PARTICIPANTS IN: JUNEAU JNU

				AK (907)000-0000
3 REP	JEANNETTE	JAMES		TSEY, ALL ITEMS
				AK (907)000-0000
4 REP	JOE	GREEN		TSEY, ALL ITEMS
				AK (907)000-0000
5 REP	CON	BURDE		TSEY, ALL ITEMS
				AK (907)000-0000
6 REP	BILL	HUDSON		TSEY, ALL ITEMS

7	REP	DAVID	FINKELSTEIN	AK	(907)000-0000
					TSFY, ALL ITEMS
8	REP	PAT	CARNEY	AK	(907)000-0000
					TSFY, ALL ITEMS
9	SEP	JOHN	DAVIES	AK	(907)000-0000
					TSFY, ALL ITEMS
10		TO	OBSERVE	AK	(907)000-0000
					OBSV, ALL ITEMS
11		TO	OBSERVE		OBSV, ALL ITEMS
12		TO	OBSERVE		OBSV, ALL ITEMS
13		TO	OBSERVE		OBSV, ALL ITEMS
14		TO	OBSERVE		OBSV, ALL ITEMS
15		TO	OBSERVE		OBSV, ALL ITEMS
16		TO	OBSERVE		OBSV, ALL ITEMS
17		TO	OBSERVE		OBSV, ALL ITEMS
18		TO	OBSERVE		OBSV, ALL ITEMS
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20		TO	OBSERVE		OBSV, ALL ITEMS
21		TO	OBSERVE		OBSV, ALL ITEMS
22		TO	OBSERVE		OBSV, ALL ITEMS
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25		TO	OBSERVE		OBSV, ALL ITEMS
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27		TO	OBSERVE		OBSV, ALL ITEMS
28		TO	OBSERVE		OBSV, ALL ITEMS
29		TO	TESTIFY		TSFY, ALL ITEMS
30		TO	TESTIFY		TSFY, ALL ITEMS
31		TO	TESTIFY		TSFY, ALL ITEMS
32		TO	TESTIFY		TSFY, ALL ITEMS
33		TO	TESTIFY		TSFY, ALL ITEMS
34		TO	TESTIFY		TSFY, ALL ITEMS
35		TO	TESTIFY		TSFY, ALL ITEMS
36		TO	TESTIFY		TSFY, ALL ITEMS

PARTICIPANTS IN: NATSU NAT

1	MR.	TED	SMITH		TSFY, HB 286
		PO BOX 1026		WILLIW	AK 99688 (907)495-6627
2	MR.	DAVE	CRUZ		TSFY, HB 286
		PO BOX 2027		WASILLA	AK 99645 (907)736-3144
3	MR.	STEVE	STRUBE		OBSV, HB 286
		PO BOX 521155		HIG LAKE	AK 99652 (907)892-7760

PARTICIPANTS IN: SITKA SIT

1		DOM	MULLER		TSFY, HB 436
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LTN1100-R01 LEGISLATIVE TELECONFERENCE NETWORK PAGE 03
03/28/94 11:28:23
ICR: 40578 DATE & TIME: 03/28/94 08:15 TO 10:00 STATUS:6 ADJOURNED

PARTICIPANTS IN: SITKA SIT

		BOX 1042		SITKA	AK 99835 (907)747-8808
--	--	----------	--	-------	------------------------

PARTICIPANTS IN: KEN/SOL SOL

1	MR.	DAVID	ANDERSON	SELF	OBSV, HB 286
		PO BOX 1548		KENAI	AK 99611 (907)283-7125
2	MR.	DALE	BONDURANI	SELF	TSFY, HB 286
		HC1 BOX 1197		SOLDOTNA	AK 99669 (907)262-1691
3	MR.	ROBERT	BONDURANI	SELF	OBSV, HB 286
		HC1 BOX 1197		SOLDOTNA	AK 99669 (907)000-0000

PARTICIPANTS IN: VALDEZ VAL

1	MR.	STAN	STEPHANS		TSFY, HB 436
		PO BOX 1297		VALDEZ	AK 99686 (907)835-4731
2	MS.	LEANN	FERRY		OBSV, HB 436
		PO BOX 633		VALDEZ	AK 99686 (907)835-5260
3	MR.	GREG	WILLIAMS	KCHU	OBSV, ALL ITEMS
		PO BOX 457		VALDEZ	AK 99686 (907)835-4667



HOUSE RESOURCES COMMITTEE

DATE: 3/28/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 286 - Activities In Anadromous Fish Streams
 HB 436 - Strictness of Air Quality Regs.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Michael Menge	DEC				5260	Y	N	HB 436
Frank Rue	✓ ADF&G				4105	Y	N	HB 286
Kate Troll	✓ Southeast Ak. Seiners.				787-5117	(Y)	N	HB 286
John George	✓ AOC	9515 MORaine Way Juneau	99801	9140	9-0172	(Y)	N	HB 286
Jay McLeod	9/48 UFA				586 2820	(Y)	N	HB 286
Joseph Epstein Jr.	R-P Veery	State Capitol				Y	N	HB 436
Troy Reinhart	95/ ✓ AFA	111 STEPMAN, #200	99901		225- 6114	(Y)	N	HB 286
Rick Leuber	PSPA	321 Highland Dr. Juneau	99801		586- 6366	(Y)	N	HB 436
						Y	N	
						Y	N	
						Y	N	

HB

443

DRAFT AMENDMENT FOR HB 443

Page 1, line 7, after "(2)":

delete: [WHEN THE KNOWLEDGE MAY BE DETRIMENTAL TO THE FISH OR WILDLIFE POPULATION]

insert: "when in the opinion of the commissioner, the knowledge may be detrimental to fish, wildlife, human safety, or research or management programs being conducted by the department or authorized by the department,"

Page 2, line 2, following "population.":

insert: "The department may also release records and information that are kept confidential under this subsection, except for telemetry radio frequencies and other electronic locating information, to a requestor conducting scientific research or other specific activities if the requestor agrees to use the records and information only as provided under terms of a contract or agreement with the department."

3/24/94

AMENDMENT

OFFERED IN THE HOUSE RESOURCES COMMITTEE
TO: HB 443

BY ADF&G

Page 1, line 14:

Delete "or"

Page 2, line 2:

Insert ",or if the requestor has been authorized by the department to perform specific activities, and the requestor agrees to use the information only for purposes as provided under contract or agreement."

GOVERNOR HICKEL'S RADIO-TELEMETRY BILL (SB 277 & HB 443)

Governor Hickel has introduced legislation which will allow the Department of Fish and Game (ADF&G) to keep radio-frequency information confidential. It is in the state's best interest and essential for good wildlife management to keep this information confidential.

The release of radio-frequencies and other information that reveals the specific location of wildlife has the potential to: compromise ADF&G studies or approved research projects of authorized permittees through removal of animals from the wild, displacement of animals by disturbance, or alteration of their behavior; lead to disturbance of wildlife-sensitive locations (e.g., dens, breeding areas, rendezvous sites); facilitate harassment of ADF&G research and management programs by individuals or organizations that may oppose them; and lead to increased vulnerability of collared animals and associated animals to hunting or harassment by people.

AS 16.05.815 was amended in 1990 to allow ADF&G to keep frequencies of radio-collared animals confidential. Exact wording of the statute now reads, "the department shall keep confidential...when the knowledge may be detrimental to the fish or wildlife population, the records of the department concerning telemetry radio-frequencies of monitored species..." The use of the words "when the knowledge may be detrimental to the fish or wildlife populations" have caused a problem.

The department was sued in the summer of 1993 for refusing to release radio-frequency information on wolves to a private individual wishing to track the animals. We were required by the court to release the information because we could not prove that release of the information would be detrimental to the population. It will be nearly impossible to ever prove population level damages because only small numbers of animals are collared and damage or death to a few individuals would rarely damage the population.

This bill will allow these records to be kept confidential by removing the words, "When the knowledge may be detrimental to the fish and wildlife population." Present wording in AS 16.05.815 allows release of this information to state or federal agencies. This legislation adds the provision for the release of information if the requestor is under contract with the state to conduct research on a fish or wildlife population. This provision would allow ADF&G to cooperate on projects with University researchers and private consultants through cooperative agreements when such cooperation is mutually beneficial.



THE WILDLIFE SOCIETY

5410 Grosvenor Lane • Bethesda, MD 20814-2197
Tel: (301) 897-9770 • Fax: (301) 530-2471

Jamaa M. Peek
Northwest Section Representative
Dept. of Fish & Wildlife Resources
University of Idaho
Moscow, ID 83843
(208) 885-7120
(208) 885-6226 Fax

24 June 93

Harry Hodgdon, Executive Director
The Wildlife Society
5410 Grosvenor Lane
Bethesda, MD 20814

Dear Harry:

I believe the Freedom of Information Act requests that Gordon Haber provided to the Superintendent of Denali Park and Preserve warrant our close attention because of the possible precedent they set if approved. Enclosed are the FOIA requests. One specifies that the radio frequencies of certain instrumented wolves should be provided, and the other requests a limited amount of data in the form of relocations of collared wolves. Haber was not a part of the project that spent the money and effort to collar the wolves, but he is working with the same packs when they appear outside of DNPP. There is apparently no firm guidance for the administrators concerning the legitimacy of these requests and whether to honor them or not.

A similar request to Alaska Dep of Fish & Game, under the state of Alaska FOIA, was honored and Haber was given the signals. I am informed by Dave Kelleyhouse of ADFG that they are highly concerned and are considering options, since a private trapper, an ecotourism group, and a private consulting firm also were going to request the frequencies until they were persuaded not to.

There are obviously serious consequences to making the radio signals available. First the safety of the study animals and their associates cannot be guaranteed. This means that use of telemetry may be precluded on certain species. Additionally, study animals may be subject to interference and alter their behavior, which makes the information obtained from them questionable.

There are equally serious consequences to requiring research people to provide raw data of any sort to the public, regardless of what they investigate. This compromises the integrity of the research by not allowing the researcher to analyze and interpret the information prior to its dissemination. Raw data is fraught with biases of many kinds and one problem for the researcher is to detect the biases and interpret the information in their light. Many times a project is designed to account for such problems which the raw data do not reflect. There are analytical tools provided by biometricians and wildlife researchers which are useful in interpreting radiotelemetry data. These tools, and the careful documentation of the environment in which the relocations are obtained in the field, require diligent efforts to make a database useful. The researcher who has designed the project and has an understanding of the environment in which the research is conducted deserves to carry out a project to its logical conclusion and present the data in a form which he or she can be comfortable with and can defend before a group of peers. If FOIA can be used to obtain raw scientific data, no matter how limited, from a researcher by another person engaged in research, then there is the possibility that the same data will have to be made public.

I have been involved in situations where our radiofrequencies were requested. I was able to discuss this with individuals and we provided maps showing the home ranges of instrumented animals, a satisfactory arrangement in that case. Many wildlife researchers routinely provide informal reports showing locations of animals, mortality, and other pertinent information, as a matter of public interest. However, most such reports are given with the proviso that information may be modified pending further analysis, and not infrequently there is a reinterpretation of the information when a more adequate analysis and more data becomes available. But such interim reports generally provide information the researcher is comfortable with in giving out and of his or her own volition. When one is dealing with wolves or other species of economic value, location data needs to be provided with extreme caution lest animals become hunted or specifically sought out.

However, I know of many instances where a researcher has located a signal from a study animal not a part of his own project. Typically, phone calls are made and the locations are turned over to the people involved. In other instances, researchers have cooperated in locating radiocollared animals of different species, or of the same species in different areas, to increase the information base or alternatively to reduce costs. In one instance I cooperated with other researchers at the same time with the same instrumented animals with little problem. There are a lot of ways people may cooperate to enhance the data base where radiocollared animals are concerned, when the atmosphere for cooperation is present.

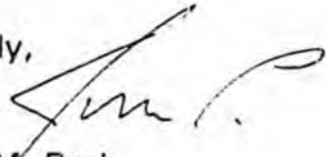
In the DNPP situation, an attempt is being made to force researchers to provide unanalyzed information, a quite different situation. Also, the instrumented wolves are the legitimate study animals of an NPS-financed research project with which Haber is not associated. Essentially he is trying to obtain information from someone else's study animals without consent. However, I was able to visit with Steve Welles of the Alaska Wildlife Coalition and Paul Joslin of Wolf Haven, who are supporting Haber's research. They have agreed to encourage Haber to withdraw his federal FOIA requests if the researchers who have the data and the marked wolves agree to provide him with knowledge of where the wolves in question are. While Haber's research has been questioned, and he has apparently made statements which make it difficult for others to want to cooperate with him, both Joslin and Welles strongly support his efforts and consider them to be of value. Haber investigated wolf ecology in the 1970s in DNPP, and is familiar with the area and lives nearby. All considered, I would conclude that there is reason for all concerned to try to work out some means of cooperating. There is the potential for enhancing the total amount of information obtained in the process. I do believe that any cooperation should be worked out and agreed to in writing in this instance, given the degree to which relationships have deteriorated.

I have been personally involved in research in DNPP and have some lifetime experiences to remember from it. When I was there ten years ago, it was obvious that research into bears and wolves was needed. Since then, an excellent research program on the entire large mammal complex has been developed, with researchers from several agencies involved. This park provides a unique opportunity to understand more about the large mammals in a relatively undisturbed setting. It is not surprising that controversy will creep into the situation given the species involved. I am hoping that we may recognize the 'big picture', and that we not get mired in conflicts which threaten the research.

This situation has broad implications beyond the boundaries of DNPP that TWS needs to address. TWS members are working on these projects and need our support. Telemetry is a very important means by which we collect information. Issues concerning what may be done with scientific data prior to the time researchers are ready to present it are of concern to the entire scientific community. Accordingly, I am requesting that we obtain a clear opinion from the Department of Justice or a federal court concerning whether raw scientific information collected by federal employees or with federal support falls within the purview of FOIA. We also need to find out whether signals from radio-frequency marked individuals fall under the provisions of FOIA, and whether regulations of the Federal Communications Commission have application. If we can be provided information on these

items by the fall Council meeting we can take action then, but we really need it as soon as possible. While the DNPP situation may well work itself out, it illustrates a situation which threatens the integrity of research of all kinds, including wildlife research.

Sincerely,



James M. Peek

- cc: R. Berry, DNPP
- G. Haber
- P. Joslin, Wolf Haven
- D. Kelleyhouse, Alaska Dep. Fish & Game
- D. Mech
- J. Morehead, Alaska Region NPS
- H. Salwasser, TWS
- S. Welles, Alaska Wildlife Alliance
- TWS Council members

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 463 3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to amend AS 16.05.815(d) to better protect the confidentiality of certain Department of Fish and Game records regarding the location of fish and wildlife. The existing language was enacted at the request of the Department of Fish and Game in 1990. However, as demonstrated by a recent court case, the existing language is subject to an interpretation not anticipated by the department.

An Anchorage superior court recently found that the current statute places the burden on the department to prove to the court that the particular request for those records poses a detriment to the fish or wildlife population. While a single specific request for records might not be overly burdensome, the cumulative effect of several such requests might cause a severe impact on the limited staff of the department. Existing AS 16.05.815(d) leaves the door open for requests entirely unrelated to legitimate scientific research or management goals.

This bill will not disrupt critical scientific research and management efforts. Government agencies, both state and federal, sometimes need the information to complement or verify similar research studies or to further management and conservation responsibilities. This bill will leave the department with discretion to share the information with other government agencies that might have legitimate need for those records, as well as with researchers under contract with the state.

I urge your support of this important bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel".

Walter J. Hickel
Governor

FISCAL NOTE

BILL NO.

STATE OF ALASKA
 1994 LEGISLATIVE SESSION

Revision Date _____
 Title Confidentiality of radio frequencies/
 tracking wildlife
 Sponsor _____
 Requestor: Governor

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

Expenditures/Revenues	(Thousands of Dollars)					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	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						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ None

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Geron Bruce
 Division: Commissioner's Office
 Approved by Commissioner: [Signature]
 Agency: Alaska Department of Fish and Game

Phone: 465-6143
 Date: 12/16/93
 Date: 12/16/93

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COMMITTEE COPY

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
DIVISION OF WILDLIFE CONSERVATION

MEMORANDUM

TO: Dave Kelleyhouse
Director

DATE: February 22, 1994

FILE NO:

TELEPHONE NO: 465-4190

FROM: Wayne Regelin *wregelin*
Deputy Director

SUBJECT: Gordon Haber's Scientific
Permit

We issued Gordon Haber a scientific permit to radio-track wolves and conduct ungulate surveys in GMUs 13, 20A and 20E on February 4, 1994. The permit conditions were similar to those in his 1993 permit, with three additional stipulations. We added a requirement that a minimum altitude of 500 feet above ground level (AGL) be maintained when flying over wolves or ungulates. We further stipulated that continued observation of animals exceeding 5 minutes be at a minimum of 1000 feet AGL. We added these stipulations because a photograph taken by Haber, published in the Fairbanks Newsminer on December 22, 1993, clearly showed he was approaching wolves at very low altitudes. Also, radio-collared packs in Unit 20E are showing unusually evasive behavior to fixed-wing aircraft flying over 1000 feet AGL. The unusual wolf behavior is indication of severe harassment from aircraft and has occurred in seven widely distributed packs (see Boertje memo to Regelin of January 24, 1994). Haber's annual report indicates he located these wolf packs on 18 days between June 20 and November 17, 1993. Some observation periods were likely of long duration based on comments made in the report.

On February 16, 1994, at 10:30am Gordon Haber called me. He was very upset about the new stipulations in his permit prohibiting observation of wolves and ungulates below 500 feet AGL. He said he routinely flew between 200 and 300 feet AGL and such low altitudes were required for his observations on wolf behavior. Haber said he frequently observed wolves continuously for 1 to 2 hours at 200 to 300 feet AGL. He said he had flown as low as 50 feet above wolves and could observe "facial expressions" and reproductive status. He demanded that we allow him to fly lower than 500 feet. I told him to put his request in writing and I would consider it as soon as possible.

Haber faxed me a letter within an hour (see letter to Regelin from Haber dated February 16). In his letter Haber said he took the photograph published in the Fairbanks Newsminer on December 22, 1993, at 2-300 feet from the wolves and that such low level flights are essential to his research effort and that he has to fly at low elevations to carry out **prolonged** observation.

RECEIVED
FEB 23 1994

DEPARTMENT OF FISH AND GAME

Haber requested that we add language to his permit saying if there is a sustained flight response for more than 5 minutes that he be required to maintain a 500 foot elevation AGL.

It is obvious from my discussion with Haber and his letter that he has been flying at very low levels and harassing wolves if they have a sustained flight response.

Haber's 1993 permit did not specify minimum elevation for his surveys, but his report did say, "Nothing in this permit waives any FAA regulation or relieves the permittee from compliance with other applicable state or federal regulations. FAA regulation prohibits flying below 500 feet AGL. Also Haber may have violated the Federal Airborne Hunting Act and state regulations prohibiting harassment of animals from aircraft.

Gordon Haber called me again on February 18, 1994, at about 11:00am. He asked that I ignore his request to fly lower than 500 feet AGL when surveying wolves and other ungulates. He said he had learned that FAA rules prohibiting lower level flights. He went on to claim that he had never flown below 500 feet AGL, that he had been mistaken about his altitude because he sits in the backseat during surveys and cannot see the altimeter. This is surprising because most of his survey flights have occurred in a M-5-235 Maule aircraft. The passenger sits besides the pilot in this plane and there is no backseat.

Gordon Haber filed an affidavit in the lawsuit filed by Sierra Club Legal Defense Fund regarding same day airborne hunting of wolves. In the affidavit, signed February 15, 1994, Haber discusses flying as low as 50 feet above wolves during his research. In the same affidavit, Haber states he has flown over 1200 hours of aerial surveys as a passenger and 50-75 hours as a student pilot (see attached affidavit). Anyone with this much experience would know if he were 50 vs. 500 feet AGL.

I did not respond to Mr. Haber during this phone call except to say I would consider his request.

cc: Jeff Killup, Dept. of Law
McKie Campbell
Chris Smith
Phil Koehl

MEMORANDUM


State of Alaska

Department of Fish and Game


TO: Wayne L. Regelin
Deputy Director

DATE: January 24, 1994

FILE NO:

THRU: Christian A. Smith 
Regional Supervisor

TELEPHONE NO: 456-5156

FROM: Rodney D. Boertje 
Wildlife Biologist
Division of Wildlife Conservation
FairbanksSUBJECT: Possible Wolf
Harassment

The purpose of this memo is to document the unusual behavior of 9 of 10 radio-collared wolf packs in Subunits 20B, 30D, and 30E that I radio-tracked January 14-19, 1994. These nine packs exhibited strong reaction to fixed-wing aircraft including running and hiding under the nearest tall spruce available following initial approach of high-altitude (> 1000' above ground level) radio-tracking aircraft. I've radio-tracked seven of these packs for two winters and three packs for one winter and have not observed this behavior in so many packs. One or two packs may exhibit this behavior occasionally, but it is unprecedented that so many packs are attempting to avoid being approached by aircraft. This behavior is indicative of harassment by aircraft, because most wolves are not innately afraid of aircraft.

In my own experience, harassment during darting can temporarily (up to 1 or 2 months) cause this behavior but I doubt that anyone is attempting to dart wolves in this area. We darted three of these packs in November 1992, and the remainder during winter 1991-92. An alternative hypothesis is that the wolves are being subject to harassment by fixed-wing aircraft to obtain photographs, to obtain aerial-shot wolves, and/or to count wolves in dense cover. Patrick Valkenburg and Ken Whitten have experience in attempting to obtain aerial photography of wolves from fixed-wing aircraft and report that high-magnification lenses (200-300mm) are inadequate because images are blurred. Low-level flights, using low-power magnification (50-100mm lenses), can cause harassment. Attempts at aerial gunning would also likely cause the observed behavior. Until we again observe the packs, we will not know if wolf numbers observed in November 1993 have declined. Department staff encountering wolves in dense cover do not harass wolves in attempts to count them. The result of harassment is that packs split up resulting in poor total counts.

The short-term effect of this unusual behavior on our research and management programs is that we will not be able to accurately count

Wayne L. Regelin

2

January 24, 1994

wolves in radio-collared packs unless tracking conditions are suitable. We will also not be able to monitor pack associations based on colors of the wolves. Based on prior experience with darting and radio-tracking wolves, wolves readily become accustomed to the overflights necessary to radio-track and count wolves when aerial harassment ceases (e.g., darting).

I bring this to your attention because it is possible that someone is using radio-frequencies to harass collared packs. The collared packs exhibiting harassed behavior are spread too widely and snow conditions have been inadequate for pilots to locate these packs without telemetry. Our disclosure of these radio-frequencies and this simultaneous unprecedented wolf behavior suggest that disclosure may not be in the best interest of the state or its wildlife.

cc: DuBois, S.
Eagan, R.
Gardner, C.
McNay, M.
Reed, D.
Taylor, K.

P.O. Box 64
Denali Park, Alaska 99755
February 16, 1994

Wayne Regegin, Deputy Director
Division of Wildlife Conservation
Alaska Department of Fish and Game
P.O. Box 25526
Juneau, Alaska 99802-5526

Dear Wayne:

Today I received ADFG Scientific Research Permit 94-25, signed by you on February 4. This permit contains several new provisions that are unreasonable, unnecessary, and which would seriously hinder my ability to carry out this research in a high quality way.

1 The most problematic of the new provisions is the one requiring me to maintain a minimum altitude of 500 feet above ground level (AGL) during my wolf-ungulate surveys and observations, or 1,000 feet AGL for observations lasting more than five minutes. My research over the past 28 years - which to date includes approximately 1,200 hours of low level aerial wolf-ungulate surveys and observations - is unique in terms of the high quality detail that it has produced particularly on the natural behavior of wolves (e.g., Haber, 1977, 1988). In order to maintain this high standard in my present research (e.g., Haber, 1993, 1994), it is essential that I be allowed to carry out the same kind of close, prolonged aerial observations, to the extent (as in the past) that this does not result in any major problems for the study animals. I can assure you that I am as concerned as anyone about potential problems; your agency should understand that by now, as, apparently, do other agencies with which I continue to work closely on wildlife protection matters (e.g., Alaska State Troopers [F&W], U.S. Fish and Wildlife Service [law enforcement], National Park Service).

Regularly, as an integral part of my research, I observe the response of wolves (and other species) to airplanes, and have done so since 1966. This response varies considerably. In many cases, wolves do not show any obvious response to a closely approaching airplane, for example as can be seen from the attached December 22, 1993 Fairbanks Daily News-Miner front page photograph of nine wolves, which I took while conducting aerial surveys in Game Management Unit 20A recently, while flying less than 2-300 feet from the wolves. I can produce much additional photographic evidence showing this same behavior, from the permit areas and Denali National Park. (I'm not sure that I understand the "concern about the level of disturbance to wolves" that you say you and your ADFG colleagues are feeling about wolves in GMU 20A and elsewhere, given that ADFG personnel recently killed all of the wolves in the foregoing photo, along with at least 75 others in GMU 20A, and that ADFG is currently undertaking more wolf killing in this permit area).

Thus, a rigid restriction on the way I conduct my aerial observations would be inappropriate. I would like to replace this with a formalization of essentially the operating procedure that I already use without problems, per the following passage (this should be inserted between the first and fourth sentences of the second paragraph, page 1, of Permit No. 94-25, replacing your present sentences 2-3:

[If there is a sustained flight response to permittee's aircraft by wolves or ungulates (i.e., for more than approximately 5 minutes and over a ground distance of approximately 50 yards), permittee will then maintain a minimum altitude of 500 feet AGL over these wolves and ungulates, if further observations are needed. Permittee may resume observations from a lower altitude over these wolves and ungulates if the flight response ceases. If more than 15 minutes of observation time is needed and there is a continuing flight response, permittee will then maintain a minimum altitude of 1,000 feet.]

I emphasize that, since my observations usually feature natural or near-natural behavior, there is usually no point in persisting when the wolves flee, beyond obtaining important basic information such as on numbers and identities. Generally I am able to do this within about 15 minutes, and then I leave, if the wolves are still showing a flight response. It is important to remember that virtually any non-permittee/pilot can legally fly 500 feet AGL over wolves, ungulates, and other wildlife in these study areas and elsewhere, and, as you know, many commonly do.

-2-

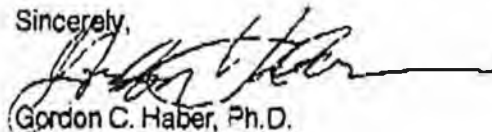
2. In your second sentence (par. 1), you indicate that I am authorized to conduct ungulate surveys "to determine their distribution within the tracking area." Note from my first two project reports (Haber, 1993, 1994), among other reports, that my ungulate surveys emphasize much more than just their "distribution." Therefore, I ask that the last eight words of this sentence be deleted (i.e., the sentence should end with the word "populations."

3. Regarding the last sentence on p. 1: "The permittee may not approach from the ground within 1/4 mile of any home site or den (sic) that was located with the use of radio-telemetry." Again this is an unnecessarily and unreasonably rigid restriction. Observing wolves from the ground at their homesites has been a major feature of my research in Alaska for the past 28 years (more than 3,600 hours of such observations to date - Haber, 1968, 1977, 1994, in prep), and it is from this research and my related recommendations that the current National Park Service protective measures against wolf homesite disturbances in Denali National Park originated 22 years ago (NPS files). As with the response of wolves to airplanes, their responses and response distances to ground observers can vary widely. Accordingly, I ask that the permit provision read as follows: "The permittee may not approach from the ground any occupied wolf homesite that was located with the use of telemetry in a manner that causes the wolves to abandon this site. The permittee will immediately leave the area if the occupying wolves display an obvious adverse response to his presence." I emphasize that I am currently operating in this manner without problems in Denali National Park, where potential disturbance to wolves is a matter of utmost concern to the National Park Service and many others.

4. With regard to the January 31, 1995 report (p. 2), I will be happy to provide details as to the locations and identities of my non-telemetry-assisted wolf pack observations in GMU 20A (as I am already doing for the other areas), if the ADFG wolf control program in 20A has ended by that time or if ADFG can provide assurances that my information will in no way, directly or indirectly, contribute to this ill-conceived control effort (e.g., Haber, 1993). I omitted all such 20A wolf information from my January 31, 1994 report. Recall that in the legal action I took against the state last June, it was emphasized that I would not provide information that could be used to hunt or trap the wolves I am studying.

I hope these problems can be resolved quickly, as I may be departing for my next block of aerial surveys/observations as early as sometime next week. I thank you.

Sincerely,



Gordon C. Haber, Ph.D.

Attachment (copy of newspaper photo)

References cited:

- Haber, G.C. 1968. The social structure and behavior of an Alaskan wolf population. M.A. thesis, Northern Michigan Univ., Marquette, Mich. 235 pp.
- Haber, G.C. 1977. Socio-ecological dynamics of wolves and prey in a subarctic ecosystem. Ph.D. dissertation, Univ. of British Columbia, Vancouver. 817 pp. Published as a Special Report, 1978, by the Federal-State Land Use Planning Commission for Alaska.
- Haber, G.C. 1988. Wildlife management in northern British Columbia: Kechika-Muskwa wolf control and related issues. Wolf Haven International, Tenino, Washington. 194 pp. Available from Arctic Environmental Information and Data Center, Univ. of Alaska, Anchorage.
- Haber, G.C. 1993. Wolves and wolf-prey-human interactions, Interior and southcentral Alaska. Res. Rep. No. 1. The Alaska Wildlife Alliance, Anchorage; Friends of Animals, Darien, CT; Wolf Haven International, Tenino, WA. 44 pp. (provided to ADFG, July 1993)
- Haber, G.C. 1994. Wolves and wolf-prey-human interactions, Interior and southcentral Alaska. Summary of research activities, June-December 1993. 10 pp. Available from Alaska Dept. of Fish and Game, Juneau.



UNDER CONTROL—A pack of nine wolves rests in a forest in Game Management Unit 20A, where a state wolf-control program is in progress. The photo was taken by independent wildlife scientist Gordon Haber, who is conducting aerial surveys in the area. Haber

claims some of the wolves in the photo have been killed in the control program. More than 150 wolves could be killed in the control program this winter.

Gordon Haber photo

Insurance rule draws lawsuit

Doctors sue to block hospital requirement

By TIM P. RAKER
Staff Writer

A group of doctors filed a lawsuit Tuesday against Fairbanks Memorial Hospital hoping to delay or stop a requirement that the doctors carry a minimum of \$1 million in medical malpractice insurance.

Without a temporary restraining order, the \$1 million minimum would start Jan. 1.

Twelve of the 105 doctors now practicing at the hospital do not carry the \$1 million minimum, said Dr. Keith Gianni.

However, even if the 12 doctors are barred from working at the hospital, their patients will continue to receive care. The doctors have made arrangements to continue care as long as necessary, Gianni said.

The hospital wants all doctors to carry the minimum amount of insurance to protect the hospital and patients from malpractice judgments, said Sally DeWitt, a hospital spokeswoman.

In addition, the requirement would also save the hospital money. The hospital has paid about \$100,000 per year since 1987 into a self-insurance program run by Lutheran Health Systems, the company hired to run the hospital.

But doctors at the hospital don't see it that way. Continued into a second column on the medical

P.O. Box 64
Denali Park, Alaska 99755
February 21, 1994

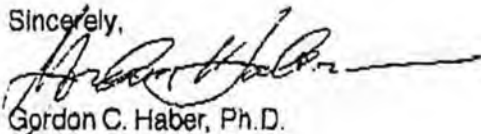
Wayne Regelin, Deputy Director
Division of Wildlife Conservation
Alaska Department of Fish and Game
P.O. Box 25526
Juneau, Alaska 99802-5526

Dear Wayne,

Per our phone conversation on February 18, I am withdrawing the request that I made in my letter of February 16 to conduct observations below 500 feet AGL. My pilots inform me that FAA regulations would not allow you to authorize such a request. Therefore, with regard to the discussion of aircraft altitudes (p.1) in my February 16 letter, I ask only that you substitute the last sentence of the insert I provided (i.e., "If more than 15 minutes of observation time is needed and there is a continuing flight response, permittee will then maintain a minimum altitude of 1,000 feet.") in place of sentence #3 of paragraph #2 of the permit, for the reasons given in my letter. My other (p. 2) requests for changes in the permit remain the same.

Thank you.

Sincerely,



Gordon C. Haber, Ph.D.

Eric P. Jorgensen
Thomas S. Waldo
Jeanne M. Cochran
SIERRA CLUB LEGAL
DEFENSE FUND, INC.
325 Fourth Street
Juneau, AK 99801
(907) 586-2751

IN SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT

DEFENDERS OF WILDLIFE, ALASKA WILDLIFE)
ALLIANCE and WOLF HAVEN INTERNATIONAL)

Plaintiffs,)

v.)

ALASKA BOARD OF GAME, ALASKA DEPARTMENT)
OF FISH AND GAME and STATE OF ALASKA)

Defendants.)

No. _____

AFFIDAVIT OF DR. GORDON C. HABER

AFFIDAVIT OF DR. GORDON C. HABER

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Gordon C. Haber, being duly sworn upon oath, deposes and states as follows:

1. I am a professional wildlife scientist and a resident of Alaska. My permanent residence is located in Game Management Unit 20A, Interior Alaska. I also have a residence in Anchorage.

2. I am presently beginning my 29th year of research as a professional wildlife scientist on the ecology and behavior of wolves and the dynamics of wolf-prey systems in Alaska. I have also conducted field research as a professional wildlife scientist on the ecology and behavior of wolves and the dynamics of wolf-prey systems in northern British Columbia and, informally, in Isle Royale National Park, Michigan.

3. I have a Ph.D. in Zoology which I received from the University of British Columbia in 1977. I also have a Masters in Biology from Northern Michigan University that I received in 1969. Both my Ph.D. and Masters dissertations were written from field research that I did in Alaska on the ecology and behavior of wolves and the dynamics of wolf-prey systems. I received a B.S. in Biological Sciences from Michigan Technological University in 1966,

where I also majored in Geophysical Engineering for three and a half years.

4. I am currently conducting field research on the ecology and behavior of wolves and the dynamics of wolf-prey systems in areas of Alaska where same day airborne hunting is authorized under the state trapping regulations, including Game Management Units 12, 13A, 13B, 13C, 13D, 13E, 20A, 20B, 20C, 20D, and 20E. I am collecting extensive information on the ecology and behavior of 21 wolf packs via aerial radio tracking and on other wolf packs using non-telemetry aerial and ground methods.

5. Since 1966, I have conducted approximately 1200 hours of aerial wolf-prey surveys and observations (with a pilot) in Alaska as a professional wildlife scientist. I have also flown approximately 50-75 hours by myself - as a student pilot - in and near the areas where I am conducting wolf-prey research.

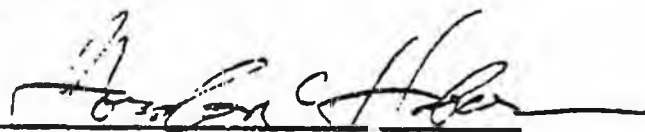
6. Regularly, as an integral part of my research, I observe the response of wolves to airplanes, and have done so since 1966. Their response to airplanes varies considerably. Some wolves begin running in response to an approaching airplane flying at low to moderate altitudes while it is still several miles away. Some wolves begin running in response to an approaching airplane when it is at lesser distances. Some allow an airplane to approach within fifty feet overhead without any obvious response. However, in

almost all cases when an airplane lands within a few hundred yards of wolves, the wolves are likely to run away. Some wolves run away when an airplane lands at a greater distance, if the airplane is within view and/or earshot of the wolves.

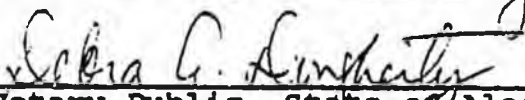
7. February, March and April are the best times of the year for same day airborne taking of wolves. I make this statement based on my extensive experience in directly tracking and observing wolves with airplanes as part of my field research and on my extensive knowledge of weather conditions, snow conditions, tracking conditions and flying conditions as these variables relate to finding and observing wolves. Same day airborne taking of wolves is best during this period primarily because the air is typically calm, which makes flying ideal, and the snow and light conditions are typically good for aerial tracking of wolves and for associated ski landings. The pleasant, long, sunny days at this time of the year both encourage and allow pilots and hunters to venture into remote areas for same day airborne taking.

8. On February 12, 1994, while conducting aerial wolf surveys in the Fortymile region of eastcentral Alaska (in Game Management Unit 20E), I observed fresh evidence of what appeared to be a land and shoot or attempted land and shoot taking of wolves. A ski-equipped Super Cub had landed at two locations approximately three miles apart on the North Fork of the Fortymile River, directly atop the tracks of approximately 8-10 wolves that had been traveling along the same river. The wolf tracks and the Super Cub

tracks appeared to be of the same age; both were likely made on February 10, one day after an excellent tracking snow had fallen over this region. In my opinion, these tracks indicated that the 1-2 occupants of the Super Cub may have successfully taken wolves in this area by pursuing them along the river and landing at least twice to shoot at them. In neither case was there any tracks to indicate that the occupant(s) moved at least 100 yards from the airplane. One of the landings (about three miles upstream from the other) was on a difficult bend in the river. In my opinion, there would have been no reason to land at this difficult location -- directly atop the wolf tracks -- except for the purpose of attempting to take wolves. I was flying in a ski-equipped Super Cub at the time of this observation on February 12 but due to turbulence was unable to land at these sites myself.


Gordon C. Haber, Ph. D.

Subscribed and sworn to before this 15th day of February,
1994.


Notary Public, State of Alaska
My commission expires: 1-5-98

JUL 27 1993

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

GORDON C. HABER, Ph.D.,
ALASKA WILDLIFE ALLIANCE,
ALASKA CENTER FOR THE
ENVIRONMENT,

Plaintiffs,

vs.

CARL L. ROSIER, COMMISSIONER
ALASKA DEPARTMENT OF FISH &
GAME, and THE ALASKA DEPART-
MENT OF FISH & GAME,

Defendants.

Case No. 3AN-93-04671 CI


ORDER GRANTING PRELIMINARY INJUNCTION

This matter having come on for hearing before the Honorable Peter Michalski and the Court being duly advised in the premises, the Court makes the following Findings of Fact and Conclusions of Law, and orders as follows:

1. Plaintiffs have shown they will suffer irreparable harm by delay in granting the injunction in that the lack of access to radio telemetry frequencies for the radio-collared wolves will, in large part, preclude meaningful scientific studies during a critical period of the biological year. Further, plaintiffs have shown irreparable harm in that they seek the results of said studies in order to prepare public comments for presentation to the Board of Game at a meeting scheduled for June 26-July 1, 1993.

2. Defendants have failed to demonstrate that they will suffer harm from the release of the radio frequencies in that

JUN 25 1993


LAW OFFICES OF
RICE, VOLLAND
AND GLEASON
A PROFESSIONAL CORPORATION
213 N STREET
ANCHORAGE, AK 99501
(907) 278-5231

plaintiffs will be subject to a strict confidentiality order which will preclude any further dissemination of the frequencies. Further, defendants' concern that other parties or individuals may seek access to radio frequencies for scientific studies in sufficient numbers to pose a potential detriment to the wildlife involved is a future and speculative issue and may be resolved by the Department through the drafting of appropriate regulations.

3. Plaintiffs have demonstrated a probability of success on the merits in that the regulation relied upon by the state is inconsistent with the enabling legislation and overbroad in that it limits release of the radio frequencies to state or federal agencies. Further, there has been no showing that the scientific studies proposed by plaintiffs may pose a detriment to the wildlife.

4. The court finds that the Commissioner of the Department of Fish & Game has authority, pursuant to the statute, to impose reasonable restrictions on the release of said frequencies, including, but not limited to, the authority to require confidentiality orders enforceable pursuant to the contempt powers of the court; the authority to limit the release of said frequencies to private individuals, government agencies, or other parties engaged in valid scientific studies and observations; and the authority to impose reasonable restriction by permit or other processes which will preclude studies, which, by their number, intensity or other criteria, may prove detrimental to the wildlife.

NOW, THEREFORE, this Court orders as follows:

1. The Alaska Department of Fish & Game shall immediately release to Dr. Haber the radio frequencies for those radio-collared wolves which are, or may be located, in Game Management Unit 20A, the Upper Tanana Forty-Mile Region, and Game Management Unit 13.

2. The Alaska Department of Fish & Game shall immediately release to Dr. Haber the identifying characteristics of each of said radio-collared wolves, including information on sex, age, color of each wolf, its pack affiliation, territory location and other characteristics which shall help correlate the radio-collar frequencies to the identified wolves.

3. The radio frequencies shall be released solely to Dr. Haber and shall not be released to the plaintiff organizations. Dr. Haber is hereby ordered to not release said frequencies to any other individual or organizations other than the manufacturer of the receiver. It is understood by the Court and the parties that Dr. Haber will be using a private pilot who has adequate credentials in the use of aerial telemetry tracking. The Department may, should it so choose, require a confidentiality agreement from Dr. Haber's pilot. The confidentiality provisions of this order shall, if violated, be enforced by the contempt power of the court.

4. Dr. Haber shall apply for, and the Department shall issue in a prompt and reasonable manner, a scientific-educational permit providing, *inter alia*, requirements of reasonable notice to

the Department of the overall study plan and of specific flight plans as well as such other cooperative arrangements as may be necessary to coordinate the respective parties' use of said frequencies.

5. The subject frequencies are to be used only in conjunction with Dr. Haber's scientific studies and observations. No commercial or recreational use of said frequencies is authorized by this order.

DATED: July 26, 1993, at Anchorage, Alaska.

eff. June 9, 1993.

Peter A. Michalski
PETER A. MICHALSKI
JUDGE OF THE SUPERIOR COURT

7-26-93
a copy of the above was mailed to each of the following at their addresses of record: Rice/AFB-Nelson
R. S. [Signature]
Secretary/Deputy Clerk



* PLEASE PRINT AND INCLUDE *
COMPLETE MAILING ADDRESS

HOUSE RESOURCES COMMITTEE

DATE: 3/25/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 498 - MINERAL EXPLORATION INCENTIVE CREDITS
 HB 443 - FISH AND WILDLIFE CONFIDENTIAL RECORDS
 HJR 61 - COMMUNITY DEVELOPMENT FISHING QUOTAS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Wayne Regelin	Fish & Game	PO Box 25526 Juneau	99801			<input checked="" type="radio"/>	<input type="radio"/>	HB 443
Carl Meyer	Revenue	PO Box 110420 Juneau	99801	465-2343		<input type="radio"/>	<input checked="" type="radio"/>	HB 498
KAREN BRAND	Rep MOSES	Rm 204		321	3765	<input checked="" type="radio"/>	<input type="radio"/>	HJR 61
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
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						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

HB

446

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 2, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/18/94

The RESOURCES Committee considered:

HB 446

HOUSE BILL NO. 446

ENVIRONMENTAL CONSERVATION AGREEMENTS

"An Act relating to community agreements for environmental conservation purposes; and providing for an effective date."

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

[] have attached amendments(s)

do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

zero fiscal note(s) DEC/2-4-94

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill Hudson</i> Hudson	<input checked="" type="checkbox"/>	<i>John Green</i> Green		<input checked="" type="checkbox"/>	
<i>Annette James</i> James	<input checked="" type="checkbox"/>	<i>Paul Finkelstein</i> Finkelstein		<input checked="" type="checkbox"/>	
<i>Car. Bunde</i> Bunde	<input checked="" type="checkbox"/>	<i>Gordon Mulder</i> Mulder		<input checked="" type="checkbox"/>	
<i>W.R. Williams</i> Williams	<input checked="" type="checkbox"/>				

W.R. Williams
 CHAIRMAN'S SIGNATURE

**GOVERNOR HICKEL'S
LOCAL ENVIRONMENTAL PRIORITIES
INITIATIVE
(HB 446)**

Governor Hickel's Local Environmental Priorities Initiative Bill provides communities, regions or organizations with a formal mechanism to identify and address environmental issues.

The legislation consolidates the Department of Environmental Conservation's (DEC) authorities in one place in order to provide legislative impetus to the department's efforts in addressing environmental needs at the local level.

Through a formal "Community Agreement" communities and the Department of Environmental Conservation jointly prioritized environmental needs on the basis of comparative risk. All environmental issues do not present the same risks to humans, ecosystems or the quality of life. Therefore, it is important that environmental risks be prioritized according to the risk they present to communities.

Additionally, through this legislation, communities and DEC would jointly assess the availability of funds to address federal and state environmental mandates. There are over 40 environmental programs dealing with environmental protection. A rural community located in the interior may have the administrative and financial capacity to deal with only three of these programs. Therefore, it makes sense for DEC and local communities to cooperatively prioritize environmental needs at the community or regional level in order to focus our limited resources on the most important issues.

Large communities are faced with the same environmental protection responsibilities as small rural communities. Communities in rural Alaska may have very different environmental needs than urban communities. Some communities have far fewer financial and technical resources to meet state and federal environmental mandates.

Through Community Agreements, DEC and local communities or regions of the state can focus their combined resources on issues that make the most sense in terms of highest risk and cost-effectiveness. A common ground can be developed between DEC and local communities in addressing environmental needs of a community.

WALTER J. HICKEL
GOVERNOR



P. O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1994

*The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to community agreements for environmental conservation purposes. The bill would provide the Department of Environmental Conservation with specific authority to enter into agreements with local governing bodies, Native regional corporations, Native village councils, other similar organizations, and, as appropriate, federal agencies, to jointly assess and prioritize local environmental needs and funding.

The bill amends the powers of the Department of Environmental Conservation found in AS 46.03.020 to expressly authorize the department to enter into community agreements to best allocate environmental resources. These community agreements have three basic components. First, the community agreement would provide for the joint assessment of environmental needs within a local community or region and the establishment of indicators to track progress in meeting those needs. Second, the parties to the agreement would jointly assess and prioritize those needs by comparative risk to human health and the environment. Third, the parties would work cooperatively to resolve those needs through delegation and cooperative management, to the extent allowable under the law, using local, state, and federal authorities and funding available to meet those identified environmental needs. The bill would allow a federal agency, such as the Environmental Protection Agency (EPA), to join as a party to the community agreement. Federal government participation would be voluntary and would not prevent the community agreement process from going forward. However, recent policy announcements by the EPA suggest that it may be interested in joining with the state and local communities in fashioning cost-effective cooperative solutions to the local environmental problems envisioned by these agreements.

THE WHITE HOUSE
WASHINGTON

November 18, 1993

The Honorable Walter J. Hickel
Governor of Alaska
Juneau, Alaska 99811-0001

Dear Wally:

As part of our efforts to forge a more responsible and coordinated intergovernmental relationship, it gave me great pleasure to sign Executive Order No. 12875 on October 26, 1993. This directive marks the beginning of our efforts to relieve state and local governments from the imposition of unfunded mandates, to increase the flexibility of federal programs, and to create a meaningful consultation process.

Under this executive order, federal agencies and departments are required to provide state and local governments with adequate funding to cover the cost of compliance with federal regulations. Otherwise, agencies must justify to the Office of Management and Budget the imposition of the mandate, including an account of the affected governmental entities' concerns. In addition, this order directs agencies to look favorably upon requests for waivers of federal statutory or regulatory requirements and compels them to issue timely decisions on such requests.

In conjunction with my recently issued executive order on Regulatory Planning and Review, Executive Order No. 12875 is a significant step toward building a more effective intergovernmental partnership. With your continued support for these critical efforts, we will achieve this goal.

Sincerely,

Bill Clinton

RECEIVED

NOV 24 1993

OFFICE OF
CONSERVATION
OFFICE

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 4, 1994

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Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

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The Honorable Ramona Barnes

February 4, 1994

Page 2

Alaska communities face "unfunded mandates" from the federal government that often exceed a community's financial capabilities. Prioritization is necessary. The information exchange and other activities contemplated by the bill would be structured in law and regulations, to meet legal requirements that may not presently be met.

Given the serious unmet environmental needs of the villages, local communities, and rural areas throughout our state, I urge prompt passage of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

Walter J. Hickel
Governor

THE WHITE HOUSE
WASHINGTON

November 18, 1993

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Governor of Alaska
Juneau, Alaska 99811-0001

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Sincerely,

Bill Clinton

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OFFICE OF
CONSERVATION
OFFICE

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 26, 1993

EXECUTIVE ORDER
(#12875)

ENHANCING THE INTERGOVERNMENTAL PARTNERSHIP

The Federal Government is charged with protecting the health and safety, as well as promoting other national interests, of the American people. However, the cumulative effect of unfunded Federal mandates has increasingly strained the budgets of State, local, and tribal governments. In addition, the cost, complexity, and delay in applying for and receiving waivers from Federal requirements in appropriate cases have hindered State, local, and tribal governments from tailoring Federal programs to meet the specific or unique needs of their communities. These governments should have more flexibility to design solutions to the problems faced by citizens in this country without excessive micromanagement and unnecessary regulation from the Federal Government.

THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reduce the imposition of unfunded mandates upon State, local, and tribal governments; to streamline the application process for and increase the availability of waivers to State, local, and tribal governments; and to establish regular and meaningful consultation and collaboration with State, local, and tribal governments on Federal matters that significantly or uniquely affect their communities, it is hereby ordered as follows:

Section 1. Reduction of Unfunded Mandates. (a) To the extent feasible and permitted by law, no executive department or agency ("agency") shall promulgate any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless:

(1) funds necessary to pay the direct costs incurred by the State, local, or tribal government in complying with the mandate are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of regulations containing the proposed mandate, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications submitted to the agency by such units of government, and the agency's position supporting the need to issue the regulation containing the mandate.

(b) Each agency shall develop an effective process to permit elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

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(OVER)

GOVERNOR'S OFFICE

Sec. 2. Increasing Flexibility for State and Local Waivers. (a) Each agency shall review its waiver application process and take appropriate steps to streamline that process.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by a State, local, or tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the State, local, and tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the fullest extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. If the application for a waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements of the programs that are discretionary and subject to waiver by the agency.

Sec. 3. Responsibility for Agency Implementation. The Chief Operating Officer of each agency shall be responsible for ensuring the implementation of and compliance with this order.

Sec. 4. Executive Order No. 12866. This order shall supplement but not supersede the requirements contained in Executive Order No. 12866 ("Regulatory Planning and Review").

Sec. 5. Scope. (a) Executive agency means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(b) Independent agencies are requested to comply with the provisions of this order.

Sec. 6. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. Effective Date. This order shall be effective 90 days after the date of this order.

WILLIAM J. CLINTON

THE WHITE HOUSE,
October 26, 1993.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER
410 Willoughby Avenue, Suite 105
Juneau, AK 99801-1795

Phone: (907) 465-5050
Fax: (907) 465-5070

March 8, 1994

Jonathan Z. Cannon, Assistant Administrator
Office of Administration and Resources Management
United States Environmental Protection Agency
401 M St., S.W.
Washington, DC 20460

BY FEDERAL EXPRESS

Dear Mr. Cannon,

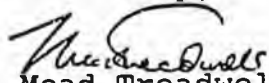
Thank you for the opportunity to join the Environmental Protection Agency's Executive Steering Committee for Information Resources Management. I am sorry I can only attend the March meeting by phone.

Attached is a copy of the Alaska Department of Environmental Conservation's Cooperative Environmental Community Agreement 1993 Program Report. It explains our agency's attempt to go beyond the "stovepipe" approach to address environmental priorities on a local basis. It is modeled somewhat after Oregon's similar initiative.

Governor Hickel proposed legislation this year to further strengthen our community agreements program. We have also begun to configure our many program databases to be able to print out a single annual "report card" for each participating community showing its progress on key environmental indicators, and comparing the record to the state as a whole, other communities, and previous years. We believe that this kind of feedback, in addition to regular consultation with local officials, can improve environmental protection and help reduce the frustration local governments feel from unfunded state and federal requirements.

We propose the EPA and IRM include this kind of basic interchange, with agreements and "report cards" with the states for communities, in its strategic plan. Such a move would be well in line with President Clinton's Executive Order 12875 aimed at building more effective intergovernmental partnerships.

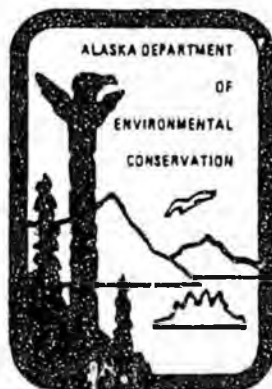
Sincerely,


Mead Treadwell
Deputy Commissioner

Attachments

cc: Commissioner John Sandor
Members of the IRM Strategic Plan T. F. & Exec. Steering Comm.

**Alaska Department of Environmental Conservation
Division of Environmental Quality**



**Cooperative Environmental Community Agreement
1993 Program Report**

**Cooperative Environmental Community Agreement
1993 Program Report
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PART ONE Why Community Agreements?

Background

In 1991 the Department of Environmental Conservation recognized a need to strengthen communications with local communities and the commitment to solving problems at the community level. There was also a recognition that environmental issues at the local level should be identified and prioritized jointly with the communities. On a more basic level, there was a need to improve trust and develop a common agenda.

On April 20, 1991, the Department and the City of Unalaska signed the first Community Agreement. Since that time 23 agreements have been entered into. There are more than 22 in draft form. Each of these agreements contains a list of the most important environmental issues, developed jointly by the community and the Department. These agreements formally commit the Department and the community or regional organization to a strategy and goals for addressing each of the communities' issues.

Timeliness of Program

The Community Agreement Program comes at a critical time considering the cost of unfunded federal mandates, the development of environmental indicators, the upcoming statewide comparative risk project and the need to focus local, state and federal resources.

Unfunded Federal Mandates

President Clinton's November 18, 1993, letter to Governor Hickel and Executive Order Number 12875 issued October 26, 1993, recognize the problem of unfunded mandates and initiatives. These documents propose to initiate "...efforts to forge a more responsible and coordinated intergovernmental relationship ... to relieve state and local governments from the imposition of unfunded mandates, to increase the flexibility of federal programs, and to create a meaningful consultation process."¹ Partnerships with local communities, such as the Community Agreements, provide a mechanism to identify the most important issues that can be addressed and foster collaborative problem solving.

¹ Commissioner Sandor's December 12 memorandum.

Small communities in Alaska have the same environmental protection responsibilities that apply to larger communities, but they have far fewer financial and technical resources to meet the federally mandated requirements. Communities of all sizes generally lack the permanent staff qualified to help them plan and comply with federal and state regulations.

Some of the largest cities are fortunate to have professional staff who are able to write permit and grant applications. The larger communities also interact more easily with the Department of Environmental Conservation's staff, Regional and District Offices, and understand agency regulatory procedures. However, in contrast to the very few large communities, most communities in Alaska lack the resources to create a staff of environmental professionals. Consequently, it is extremely difficult for them to comply with many environmental regulations.

Alaska's communities, both large and small, must comply with several concurrent environmental regulations. These may include:

- Drinking water monitoring and system upgrades, including wellhead protection;
- Wastewater treatment, sludge disposal and aquifer protection;
- Developing, upgrading, or closing solid waste landfills;
- Implementing air quality attainment programs;
- Underground and aboveground storage tanks;
- Stormwater management; and
- Wetland development and protection.

A community may need to work on compliance with several regulations at once, and many communities are unable to generate the resources needed to comply with the multiple environmental protection mandates.

The most common problems are related to drinking water and wastewater treatment. Drinking water and wastewater treatment standards apply to all communities regardless of technical or financial resources. The burden to meet the standards is disproportionate for small communities because it creates a reverse economy of scale. A water quality monitoring program for a small city represents a bigger percentage of its budget and mission than for a larger community or borough.

There are over 350 communities in Alaska. The majority of these communities have 300 residents or less. Most of these communities have a village leader, and possibly an administrator and a clerk. Because many communities cannot keep up financially with requirements, they face being out of compliance with federal and state regulations. A major impact of the regulations, in addition to the capital and operating costs of meeting standards, are the penalties and sanctions for noncompliance. Communities do not choose to be in noncompliance. Noncompliance is the result of overwhelming infrastructure needs without the technical or financial wherewithal to address them. It is clear that communities, especially small communities, have special problems including multiple regulatory burdens. These special problems must be considered and addressed in innovative ways.

Community Agreements ("Short-Hand" Comparative Risk)

There are more than 40 environmental programs in DEC. A small community in Alaska may be concerned with three to five of these programs; however, it may be asked to expend resources to comply with regulations for a dozen of these programs under state or federal law.

Nationally, EPA regions, five states and a few cities have conducted comparative risk analyses. Comparative risk is a process that ranks the highest environmental risks to humans, the ecosystem and quality of life. In determining the highest risks, the public is involved and available science is gathered to determine the ranking. This process has helped states and communities to prioritize environmental issues.

The Community Agreement Program is a "short-hand" comparative risk process. The community leaders determine what the most important issues are in their community, and DEC brings to them what professional judgment they have on these issues. Together they establish a common agenda that includes a list of the most important issues, a strategy for addressing these issues, and a goal. This list is part of an agreement that is signed by the Department and the community leader. Through these agreements small communities can address their most pressing environmental problems jointly with DEC.

PART TWO

Cooperative Environmental Community Agreements

Program Goals

The goal of the Cooperative Environmental Community Agreement is to establish a framework for the department and the communities to work together to find solutions to locally defined environmental problems. Through the commitments made in the agreements, trust can be achieved, which can enable local officials, Department and other state agencies and the communities to cooperatively solve environmental issues.

The Community Agreements formalize the commitment of DEC and a local community to solving environmental problems. The Community Agreements identify and prioritize major environmental issues and strategies for resolving them. They provide the state with a mechanism for direct community involvement and feedback about state and federally delegated environmental programs

Objectives

The objectives of the Community Agreements Program are to:

- Strengthen the Department's working relationship with communities, Native organizations and regional organizations.
- Identify environmental issues and actions that the community and DEC consider significant and willing to jointly address.
- Improve communication between DEC and the community by establishing a working list and persons responsible for implementing the commitments,
- Establish a point of contact between the community and DEC,
- Encourage meetings on a more regular basic between DEC's District and Regional Office representatives and community officials.
- Build a trust relationship between the community and DEC.

PART THREE Regional Reports

The progress and status reports on the Community Agreement Program were developed by the Division of Environmental Quality's statewide program coordinator and from information from the regional coordinators. The reports also reflect the comments from a recent meeting between the Regions and the statewide program coordinator. Below is a summary of this discussion with recommendations for improving the program.

For a quick status of the agreements that have been signed and drafted, please refer to the attachment.

Common Issues Among the Regions

a. Accomplishments

The agreements that have been successful in meeting the goals of the program are the agreements with organizations that cover more than one community or regional organizations. The high performers among the agreements are Tanana Chiefs Conference, Southeast Conference and Fairbanks Area Agreements. These bright stars in the program are encouraging to DEC staff and managers. Specific accomplishments can be found in the regional reports. These agreements have fostered innovative approaches and collaborative problem solving between DEC staff, communities and regional organizations.

Also, the regional staff supports the proactive planning of the agreements that have allowed communities to avoid costly problems.

There has been an impressive amount of time spent on Community Agreements this past year considering the reduced resources in the Department. Until the agreements become more a part of the day-to-day operation of the District and Regional Offices they will require a capital investment in time. However, there have been accomplishments that have already occurred that will net the state cost savings in the future.

Specific examples of why these agreements are successful are outlined under the regional reports.

b. Areas for Improvement

The Department has been able to enter into many agreements; however, only a portion of these have been formally updated. In order that district and regional personnel keep the agreements current, it has been suggested that the Central Office needs to demonstrate that this program has a high priority and integrate

it into the core programs. Otherwise the day-to-day crises that occur in the District Offices will push the Community Agreement to a lower priority. The staff can only respond to the highest priorities due to reductions in resources.

The Central Office plans to assist in keeping this program a high priority during the coming year by using management and tracking tools. These include:

- ensuring the integration of the core DEC programs into the list of issues and goals in the agreements;
- quarterly reports; and
- frequent contact with Regional and District Offices about the program.

One of the common criticisms from the regional staff is that there still is not a clear understanding of the process for signing the agreements. There is not one process for tracking or processing the agreements. The program plans on addressing these issues as outlined in the "Implementation Plan for 1994," which is included toward the end of this report.

NORTHERN REGION

High Performance Agreements:

1. **Tanana Chiefs Conference (TCC):** The TCC Community Agreement is different from most other Community Agreements in that it is signed with a Native organization instead of a village or borough official. By working cooperatively with TCC, the Department can efficiently use its resources through coordinating travel, sharing information, and jointly prioritizing the major issues in the TCC region.

This agreement has been signed by the President of TCC and the U.S. Public Health Service Director of Environmental Health Services Unit within TCC. The U.S. Public Health Service has a mission similar to DEC's and visits its 43 villages more frequently than DEC.

This agreement was renegotiated this summer. As the TCC communities are located in both the Northern and Southcentral Regions, this agreement has been signed by both NRO and SCRO. One of the many important aspects of this agreement is the establishment of regular meetings to discuss common issues. Some of the high points of this agreement are: established standards for above-ground fuel tanks, connection to DEC e-mail, improved coordination

of travel to villages and a common ground approach to the most important issues in the Region.

2. **FNSB, City of Fairbanks, and City of North Pole:** This agreement is unique in that it includes the City of Fairbanks, the Fairbanks North Star Borough (FNSB) and the City of North Pole. All of these organizations have signed the agreement. This agreement was also unique in that it incorporates the results of a series of town meetings that listed the important environmental issues of the Fairbanks area. The town meetings included such groups as industry, interest groups and state and federal agencies.

Currently, the list of concerns in the agreement is being addressed with the partners in the agreement. The Regional Office is currently working with FNSB on the recently proposed solid waste regulations.

Agreements Signed:

1. **North Slope Borough (NSB):** The Regional Office has been working with Chris Mello of the NSB Office and expects to renegotiate the agreement within the next few months. The Regional Office has been very active with NSB representatives, particularly on the issue of management of radioactivity which is included in the agreement.
2. **White Mountain, Unalakleet, and Kotzebue:** There has been a lot of activity with city managers and council managers based on the items on the agreements. All the communities are willing to re-sign the agreement. They are considering a five-year agreement.

Draft Agreements and Interested Communities:

1. **Nome:** Mildly interested.
2. **Northwest Arctic Borough:** The DEC district manager recently spoke to the city administrators of all the villages from the Northwest Arctic Borough and provided a generic agreement. The district manager will be following up on the offer.
3. **Alaska Village Electric Coop:** See the Southcentral Regional Report.

SOUTHCENTRAL REGION

By far, the Southcentral Region is the most complex and has the largest number of communities of the three Regional Offices. The Southcentral Region has the largest population center, Anchorage, and is consequently faced with the most complex environmental problems and governmental infrastructure.

A large part of the Southcentral Region is western Alaska and is in the unorganized borough and has undeveloped governmental structures other than individual villages. DEC will be evaluating the possibility of developing agreements with organizations like the U.S. Public Health Service regional offices and with quasi-governmental organizations like the Local Coastal District Offices and perhaps Regional Development Organizations.

During the past two years SCRO has been actively developing agreements. Approximately half of the agreements within the last six months have expired and the others are being drafted.

Agreements signed:

1. **Unalaska, Sand Point, and St. Paul:** These agreements were the first agreements signed by the Department, in April 1991. They are agreements with extremely remote communities and are currently being reviewed. Because of the remote location the Department has had a rapid turn over in staff at these locations.
2. **Kenai Peninsula Borough:** This is one of the largest boroughs in the state. The agreement has no expiration date.
3. **Tatitlek:** This agreement was signed last year and is being revised.
4. **Old Harbor:** expires 1996
5. **Whitter:** expires 1997
6. **Karluk:** expires 1996
7. **Nightmute:** This agreement was signed on May 31, 1993 and is a four year agreement set to expire in 1997.

Draft Agreements:

1. **King Cove:** A final draft has been reviewed by DEC and expected to be signed in early 1994.

2. **Alaska Village Electric Cooperative (AVEC):** This organization supplies power to 49 villages in the northern and southcentral part of Alaska. This organization is interested in an agreement with the Department to develop fuel handling practices and improve their overall environmental practices. A draft has been completed and approved by the AVEC. The Department is working toward obtaining the necessary signatures. NRO is working with SCRO in developing this agreement.
3. **Valdez, St. Mary's, Kwethluk, Kotlik:** Draft agreements are being developed with all these communities.
4. **City of Kodiak:** The city has declined to sign the agreement.
5. **Chenega Bay and Cordova:** Agreements were drafted, but not perfected.

Interested Communities:

1. **Anchorage:** An initial draft was being developed but there is only mild interest.
2. **Akutan:** An initial contact was made and they mentioned they would like to work through the Aleutians East Borough.

SOUTHEAST REGION

The Southeast Region has signed eight agreements and has five additional agreements in draft.

HIGH PERFORMANCE AGREEMENT:

- **Southeast Conference Partnership Agreement:** Perhaps the most distinctive agreement is with the Southeast Conference, an organization which provides services to most of the communities in the Southeast region of Alaska. The Southeast Conference is a quasi-governmental organization funded by each of these communities and the Alaska Department of Commerce and Economic Development.

Through this partnership agreement with the Southeast Conference a regional approach was developed to collect hazardous wastes from communities. Without this collection hazardous wastes would have remained in the communities and created potential health problems in the future. This agreement is also becoming a catalyst for long-term planning for the region. It

is currently being updated, and the Department has requested that the U.S. Environmental Protection Agency (EPA) become a co-signer of the agreement.

The most recent agreement includes the following issues: solid waste management, hazardous waste collection, and used oil and other recyclable material. The agreement has also led to other partnerships and cooperation in the participating communities. One of these is a regional approach to sustainable development.

Agreements Signed:

1. **Ketchikan Gateway Borough:** This agreement was one of the first agreements to be signed by the Department. It is currently being updated.
2. **City of Ketchikan, City of Haines, Haines Borough, Klawock, Thorne Bay, Angoon:** All these agreements were signed within the last year.

Draft Agreements:

1. **Petersburg, Wrangell:** A draft agreement has been signed for these communities.
2. **Saxman:** The drafting process is starting over.

Interested Communities:

1. **Kake:** The city is interested, as indicated in a letter that was sent to DEC this past September.
2. **Juneau:** The city has been connected to DEC's e-mail system. The District Office is working with Juneau to assess the city's interest.

Communities Not Interested:

1. **Skagway:** They declined to participate.
2. **Craig:** The city rejected the draft agreement.

PART FOUR Implementation Plan for 1994 and Future Objectives

1994 Objectives and Tasks (January 1994- January 1995)

a. TOP PRIORITIES

1. **Maintain existing commitments:** The most important objective is to review the commitments contained in each of the existing agreements. Each needs to be reviewed to determine the degree of progress made on each commitment and to ascertain whether the community contact person has changed. Each agreement will then be considered for re-signing.
2. **Community Environmental Progress Report:** A Community Environmental Progress Report will be developed for each community and region that has entered into a Community Agreement. The report will include a community profile that contains key environmental indicators and a progress report on the issues listed in the agreements. This report will be connected to the Department's Geographic Information System (GIS) effort which is currently underway.
3. **Additional Agreements:** Because all the high performing agreements are regional agreements (agreements that included more than one community, or Native organizations, boroughs, or private organizations), additional attention will be given to developing regional partnerships.

b. ADMINISTRATIVE PRIORITIES

1. **1994 Tasks:** A work plan for 1994 with measurable tasks will be developed by the Program Coordinator in consultation with the Regional Coordinators.
2. **Quarterly Teleconferences:** The Central Office will play a more active role by initiating quarterly teleconference with regional offices. A review of the progress made by the regional and district offices will be discussed and progress toward the top priorities.
3. **Internal Program Review:** The Central Office will conduct an internal Program Review, which will consist of interviewing community contact persons in the Regional Offices
4. **External Program Review:** The Central Office will do an external Program Review to assess the perceived effectiveness of the program by interviewing community officials or leaders of organizations that have agreements with the Department.

5. Central Office Program Coordination: The Central Office staff will receive a copy of the agreements. However, as agreed by the Regional Offices, the regional program managers will be responsible for ensuring that program concerns are reflected in the agreements.

c. RESOURCES

Priority Placed on Community Agreement Issues

The Regional Offices expressed reservations about the Department's ability to fulfill the commitments of the Department's core programs. In order to address this concern a clear priority must be given to the issues listed in the agreements. A priority to perform the work identified in the agreements must be allowed if the District and Regional Offices are to fulfill the commitments in the agreements.

Part-time Central Office Coordinator

The Division of Environmental Quality Central Office has given priority to this project by assigning an existing position to 10-15 hours per week to work on Community Agreements. The division is also seeking additional federal funds to coordinate the agreements with the Regional Offices as well as integrate the agreements with GIS, and develop community environmental progress reports.

Future Objectives

a. Community Environmental Progress Report

Communities that sign agreements or participate through regional agreements will receive an annual "Community Environmental Progress Report." This report provides the community with an update on the progress made on the issues the community identified as priorities. The report is currently being developed by the Department. The Community Environmental Progress Report is envisioned to contain general environmental quality information about Alaska's environment, and will also contain a community profile including five to 12 local environmental indicators.

These reports will be connected to the GIS that is being developed by the Department.

b. Interagency Coordination for Sustainable Communities

It is also envisioned that the Alaska Departments of Commerce and Economic Development (DCED) and Community and Regional Affairs (DCRA) will become partners in the Community Agreements. DCED's Alaska Regional Development Organizations Programs (ARDOR) are a logical partner in these agreements, considering their missions and similar programs. DCRA's "Community Profile" currently includes a map of ownership and other details about the community. Combining our efforts can result in enhanced efficiency.

The EPA has been asked to become a co-signer of the agreements. This should improve the communication between the local communities and the EPA, particularly on the current issue of unfunded federal mandates and reduced funding.

PART FIVE Conclusion

In a time when communities are unable to comply with basic environmental federal and state environmental mandates, partnerships with communities and regional organizations can play a critical role. Community Agreements identify the environmental issues most important to local communities and also identify what the local and state agencies can realistically achieve, considering limited resources.

The coming year will challenge DEC District, Regional and Central Office staff to provide their traditional services to the public. To ensure that the Community Agreement Program does not overextend itself, the agreements already signed will be reviewed and updated before new agreements are signed.

After the existing agreements are updated new agreements will be considered and other agencies will be considered as partners to these agreements. Also, an annual report "Community Environmental Progress Report" will be provided to communities. In order that the Community Agreement Program sustain itself and eventually decrease the workload of the Department, it will require time and eventual integration into the basic programs of the Department. This will require capital investment; however, the long-term benefits will net time savings through better communications, focusing on the most important issues and coordination among the partners.

FISCAL NOTE

STATE OF ALASKA

BILL NO. _____

1993 LEGISLATIVE SESSION

Revision Date: 23-Dec-93
 Title: Community Agreements for
Environmental Conservation Purposes
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Environmental Conservation
 BRU: Division of Environmental Quality
 Component: EQ Program Development

COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES:

(Thousands of Dollars)

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

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING:

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary.)

Amends the powers of the Department to expressly authorize the department to enter into community agreements to best allocate environmental resources.

Prepared by: Robert Poe, Director
 Division: Division of Administrative Services

Phone: 465-5010
 Date: 12/23/93

Approved by Commissioner: John Sandor
 Agency: Department of Environmental Conservation

Date: 12/23/93

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



HOUSE RESOURCES COMMITTEE

DATE: 3-18-94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:
 HB 446 - Environmental Conservation Agreements
 HB 462 - Mining Requirements: Recording/Laba/Size
 HB 352 - Subdivision Plat Approval: Unorganized Bor.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Mead Treadwell	ADEC	910 Willoughby Ave, Ste 105/Annex	99801	364 3430	465-5065	(Y)	N 446.
JERRY GALLAGHER	DWR				465-2400	(Y)	N 462
Don Swanson	DWR				262-2692	(Y)	N 352
Rick Harris	SEAFISHA	ONE SEALASKA PLAZA SUITE 400	99801	586-1512 746-3909	586-1512	(Y)	N 352
Mary A. Narasacke	AMA	P.O. Box 21211 JUNEAU 99802			586-3340	(Y)	N 462
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N