

**ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672**

**9017 SENATE RESOURCES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

16. AS 43.77 is in direct conflict with economic and resource management policies and purposes of the United States government as set forth in 16 U.S.C. sections 1801 et seq. (the Magnuson Act), and therefore void as in violation of Article VI of the United States Constitution (the Supremacy Clause).

17. AS 43.77 violates the equal protection clauses of Article I, sec. 1, of the Alaska Constitution and Amendment XIV, sec. 1, of the United States Constitution.

WHEREFORE, AFTA requests that this court issue a judgment:

- (a) declaring AS 43.77 invalid and unconstitutional;
- (b) permanently enjoining each and every defendant and their agents from taking any action to enforce collection of the tax;
- (c) awarding AFTA its costs and attorneys fees;
- (d) for such other relief as the court deems appropriate in the circumstances.

DATED this 17th day of February, 1994 at Juneau, Alaska.

GROSS & BURKE

  
Avrum M. Gross

  
Susan A. Burke

COUNSEL FOR AMERICAN  
FACTORY TRAWLER ASSOCIATION

THIS MATTER IS FORMALLY  
ASSIGNED TO  
LARRY R. WEEKS  
SUPERIOR COURT JUDGE

GROSS & BURKE  
PROFESSIONAL CORPORATION  
424 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801  
(907) 586-2177

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FIRST JUDICIAL DISTRICT AT JUNEAU

AMERICAN FACTORY TRAWLER  
ASSOCIATION,

Plaintiff,

v.

STATE OF ALASKA, WALTER J. NICKEL  
Governor of the State of Alaska,  
CARREL J. REXWINKEL, Commissioner  
of Revenue of the State of Alaska,

Defendants.

Case No. 1-JU-94-177 Civil

REPLY MEMORANDUM AND OPPOSITION TO DEFENDANTS'  
CROSS-MOTION FOR SUMMARY JUDGMENT

Most of the arguments raised in the State's Memorandum have already been extensively discussed in our opening memorandum. There is no need to repeat that discussion here. This reply will first address the procedural arguments raised by the State -- standing and exhaustion of administrative remedies. We will then review the substantive constitutional issues, focusing on only a few aspects of the State's arguments -- those that we believe demonstrate in and by themselves the complete lack of merit to the State's position.

1. AFTA HAS STANDING TO CHALLENGE THE CONSTITUTIONALITY OF AS 43.77 AND NEED NOT FIRST PURSUE ADMINISTRATIVE REMEDIES.

The State initially claims, as a procedural matter, that AFTA has no standing to raise the constitutional issues and

1-800-333-3333  
CROSS & BROWN  
ATTORNEYS AT LAW  
1000 W. 10TH AVENUE  
JUNEAU, ALASKA 99801

1           Instead, the State argues that the Landing Tax is not a tax on  
2 goods or property at all; it is a tax on an "occupation."  
3 (State's Memorandum at 16.) The State goes on to claim that,  
4 "A trawler that only moves property through the jurisdiction is  
5 not subject to the landing tax." (Id.)

6           At the outset, one might ask just what "occupation" is  
7 being taxed here. The Landing Tax is imposed upon the owner of  
8 fisheries products that are being "landed" in the state; there  
9 is no provision of AS 43.77 that even refers to an  
10 "occupation," much less imposes a tax on one. The owner of the  
11 fish "landed" need not have caught them or processed them  
12 himself; so long as the fish are owned by him when they come  
13 into the State, he must pay a tax on them if he transfers them  
14 for further transportation, whether his "occupation" is  
15 fisherman, processor, fish broker, or what have you. The  
16 reason the statute does not seek to tax an "occupation" and  
17 specifically, the occupation of plaintiff's members is, of  
18 course, obvious: all of the crucial elements of that occupation  
19 -- the catching of fish, the processing of fish and the sale of  
20 fish take place outside of Alaska. The state cannot tax an  
21 occupation that occurs outside of its borders and AS 43.77, on  
22 its face at least, makes no effort to do so.

23           A comparison with Alaska v. Arctic Maid, 366 U.S. 199  
24 (1961), cited as support for the State's argument, is  
25 instructive. The tax in Arctic Maid was specifically placed by  
26 statute on those "prosecuting or attempting to prosecute . . .  
lines of business in connection with Alaska's commercial

1 eastern markets." 1/ Yet the State, nonetheless, claims that  
2 the Landing Tax "does not tax property moving through the  
3 State." It is hard even to understand this position. If, for  
4 instance, a catcher/processor vessel comes in from the high  
5 seas, anchors in the "protected waters of Southeast Alaska" for  
6 a few days and continues with its cargo to Seattle, the State  
7 would apparently recognize that the taxpayer is "only moving  
8 property through the jurisdiction" and is "not subject to tax."  
9 If the same vessel, however, anchors in the same protected  
10 waters and unloads its cargo to a tramp steamer through  
11 stevedoring (which is uniformly recognized as an integral part  
12 of the shipment of goods in interstate commerce) 2/ that  
13 activity apparently makes some kind of difference and confers  
14 power on the State to tax an entire "occupation" which, of  
15 course, is not defined in the act and which the State makes no  
16 real effort to define even in its memorandum.

17 The Landing Tax is clearly not an occupation tax. It is  
18 not defined as one and it could not reach the occupation of  
19 offshore harvesting and processing even if it purported to do  
20 so. It is, plainly and simply, a tax on property being

21  
22 1/ (State's Memorandum at p.1.) Actually, as noted in  
23 our opening memorandum and supporting affidavit, the fisheries  
24 products are either loaded on tramp steamers or delivered to a  
25 common carrier. In either case, the transportation to  
26 interstate and foreign destinations continues and the fisheries  
products are immediately removed from the State.

2/ Puget Sound Stevedoring Co. v. State Tax Commission,  
302 U.S. 90, 82 L.Ed. 48 (1937); Joseph v. Carter & Weeks  
Stevedoring Co., 330 U.S. 442, 91 L.Ed. 992 (1947); Washington  
Revenue Department v. Association of Washington Stevedoring  
Co., 425 U.S. 734, 55 L.Ed.2d 402 (1974).

1 transported by a series of vessels through the state to other  
2 states and foreign countries. 10/ The State itself recognizes  
3 that goods purely in transit were never meant to be subject to  
4 the Landing Tax. We emphasize here that the immunity of such  
5 goods from taxation is not simply a matter of legislative  
6 choice; it is a matter of constitutional necessity.

7 B. Nexus.

8 The State spends such of its argument on nexus seeking to  
9 demonstrate that the AFTA members' vessels that enter Alaskan  
10 waters for a few days a year cause sufficient impact to create  
11 adequate nexus for the State to impose the Landing Tax on them.

12 As we noted in our opening memorandum, if the State believes  
13 that through occasional contacts, various vessels have  
14 established some sort of nexus with Alaska, it can seek to

15  
16  
17 10/ This is exactly the kind of tax that the Supreme  
18 Court distinguished in Arctic Maid from the local occupation  
19 tax imposed there. As opposed to a tax on a local business,  
20 the court noted, "[a] tax on an integral part of an interstate  
21 movement might be imposed by other states, with the net effect  
22 of unduly burdening commerce". . . . The "integral part of  
23 interstate movement" referred to in Arctic Maid was  
24 stevedoring. And while subsequent decisions have recognized  
25 stevedoring as a local business that may be taxed as such, no  
26 court has ever held that a state may tax goods that are merely  
transferred during the course of their interstate shipment.  
This is because the mere act of transferring goods from one  
mode of transportation to another in the course of interstate  
shipment is not a purely local event. It can be repeated again  
and again during the course of interstate shipment. It is  
important to keep in mind here that unlike the business tax  
imposed on stevedoring companies in Association of Washington  
Stevedores (whose local business was unloading for hire), the  
Landing Tax is not imposed on the person doing the unloading or  
transferring -- it is imposed on the goods of the fisheries  
products, who may never even touch the products while they are  
being transferred within Alaska and may continue to own them as  
they are shipped through and "landed" in many states.

1 equal right that is the source of concern over multiple  
2 taxation. Whatever tax the state imposes (which, incidentally,  
3 must be imposed on intra-state commerce as well) must be  
4 apportioned to reflect the portion of business activity  
5 attributable to the State. No effort was made to do that here.

6  
7 D. The Landing Tax Discriminates Against Interstate  
Commerce.

8 The State's claim that the Landing Tax does not  
9 discriminate against interstate commerce is based on a series  
10 of arguments. First, the State argues that its "unified tax  
11 scheme" (comprised in the State's view of the Landing Tax and  
12 the fisheries business tax imposed under AS 43.75) provides no  
13 economic advantage to local processors; second, the State  
14 argues that the Landing Tax validly compensates for the  
15 fisheries business tax imposed under AS 43.75; third, the State  
16 claims that the tax rates under both taxes are actually  
17 identical; finally, the State argues that the State's failure  
18 to have provided Landing Tax taxpayers with tax rate reductions  
19 for developing species (available to AS 43.75 taxpayers) and  
20 the State's failure to have provided Landing Tax taxpayers with  
21 tax credits of comparable magnitude to those available under AS  
22 43.75 is of no constitutional significance. None of these  
23 arguments has merit.

24 The State initially attempts to justify the clear  
25 discrimination here by arguing that the Landing Tax and the  
26 fisheries business tax under AS 43.75 are nothing more than  
parts of a single "unified tax scheme" -- one that imposes

1 essentially the same tax on any entity that "conducts a  
2 substantial fishery business in Alaska, subsequent to the  
3 actual catching of the fish." In the State's view, the  
4 legislature could just as well have expanded the definition of  
5 "fisheries business" under AS 43.75 to include the mere  
6 activity of offloading or transferring fish caught and  
7 processed outside the state. In that case, under the State's  
8 view, there would be no discrimination at all since all  
9 "fisheries businesses" would be taxed at exactly the same rate.  
10 The flaw in this argument is that the activities that are  
11 conducted within Alaska by AFTA's members are of a vastly  
12 different nature and vastly different magnitude from those  
13 conducted by local processors subject to taxation under AS  
14 43.75 and cannot rationally be stretched to cover an entire  
15 "fisheries business" conducted within the state. The State  
16 cites Alaska v. Arctic Maid, 366 U.S. 199, 6 L.Ed.2d 227  
17 (1961), as being dispositive of this issue. But as noted  
18 earlier in this memorandum, the critical fact in that case was  
19 that the fish caught by the processors who were challenging the  
20 tax were all caught in Alaska waters, and the Court made it  
21 crystal clear that Alaska could not impose a "fisheries  
22 business" tax on persons who neither catch nor process fish  
23 within the state. Id., 366 U.S. at 203.

24 It is unquestionably for this reason, rather than an  
25 arbitrary choice on the legislature's part (or as the State  
26 suggests at p. 28 of its memorandum some "historical anomaly"),  
that the Landing Tax was enacted as a separate and distinct tax

1 and not included within the fisheries business tax. What we  
2 are left with, then, is a clearly discriminatory landing tax  
3 imposed on persons who catch and process fish outside Alaska  
4 and from which local processors are exempt. Moreover, there is  
5 a distinct and very real element of protectionism at play here,  
6 for as the State itself argues, the Landing Tax is intended to  
7 compensate for the 3 percent fisheries business tax and the 0.3  
8 percent ASMI assessment that local processors pay -- a way of  
9 attempting to ensure that local businesses are not placed at a  
10 competitive disadvantage to interstate commerce.

11 This leads, of course, to the State's argument concerning  
12 compensating taxes. While it may be a legitimate goal for a  
13 State to insure that its local businesses are not disadvantaged  
14 by lower taxes paid by interstate competitors, there are three  
15 tests that must be met before such a compensating tax will be  
16 held valid. There must be an identifiable local burden for  
17 which the State has an interest in compensating; the local tax  
18 and the alleged compensating tax must be on "substantially  
19 equivalent" activities; and the tax rates on interstate  
20 commerce may not exceed those imposed on local business.

21 Oregon Waste Systems, Inc. v. Oregon, Department of  
22 Environmental Quality, 62 U.S.L.W. 4209 (April 4, 1994). The  
23 Landing Tax meets none of these tests.

24 The State identifies as the "local burden" the fisheries  
25 business tax imposed on local processors under AS 43.75. While  
26 the State attempts to characterize AS 43.75 as simply a tax on  
one who "utilizes Alaska resources and infrastructure," there

1 is in fact no real question that the fisheries business tax is  
2 an occupation tax imposed on those who actually conduct a  
3 fisheries business within Alaska -- catching and processing  
4 fish within Alaska. 20/ Since AFTA's members neither catch nor  
5 process any fish within Alaska, it is difficult to understand  
6 why they should be required to compensate for the burden placed  
7 on local processors who do engage in that activity within  
8 Alaska and whose operations are heavily dependent on  
9 significant state and local resources and infrastructure. Just  
10 as Oregon could not, in Oregon Waste Systems, justify  
11 differential rates on out of state businesses that used  
12 Oregon's waste disposal sites on the basis that local waste  
13 disposal businesses paid income taxes to Oregon, Alaska cannot  
14 justify a landing tax imposed only on out of state processors  
15 simply because its local processors pay a state processing tax.  
16 And just as Louisiana "had no interest" in offshore gas such  
17 that a discriminatory tax on in-state uses of that gas could be  
18 justified as compensating for state severance taxes on locally  
19 produced gas, Alaska has no interest in either the resources  
20 that are taken from the high seas or in the processing  
21 activities that take place there. Maryland v. Louisiana, 451  
22 U.S. 725, 68 L.Ed.2d 576 (1981).

23 As we noted in our opening memorandum, the Landing Tax  
24 rates are higher both nominally and effectively than those  
25 imposed under the fisheries business tax. The Landing Tax, of  
26

---

20/ See, Alaska v. Arctic Maid, 166 U.S. at 202.

1 course, is imposed at a rate of 3.3 percent, while the  
2 fisheries business tax is imposed at the rate of 3 percent.  
3 The State contends that the nominal tax rates imposed on AFTA  
4 members and local processors are actually identical, since AFTA  
5 failed to take into account the fact that local Alaska  
6 processors pay a 0.3 percent assessment levied to finance the  
7 Alaska Seafood Marketing Institute ("ASMI"). (State's  
8 memorandum at 24.) AFTA is perfectly aware of the 0.3 percent  
9 ASMI assessment imposed under AS 16.51.120 on Alaska processors  
10 who purchase and process fish within Alaska. AFTA is also  
11 aware of the fact that this is a self-imposed assessment -- one  
12 that is imposed at all only if a majority of Alaska processors  
13 vote to impose it on themselves. See, AS 16.51.120 (a). AFTA  
14 members do not serve on the ASMI Board and have no say over how  
15 ASMI funds are spent. Similarly, AFTA members are not eligible  
16 to vote in elections to determine whether the assessment will  
17 be terminated or the rate of the assessment increased or  
18 decreased. See, AS 16.51.120. Although the State claims on  
19 page 10 of its memorandum that the fisheries products produced  
20 by AFTA members are "extensively marketed as "Alaska  
21 Seafood," the State has not offered one whit of evidence to  
22 support that claim. AFTA members do not catch "Alaska fish"  
23 and reap little, if any, benefits from ASMI's promotions, the  
24  
25  
26

GROSS & BURKE  
A PROFESSIONAL CORPORATION  
438 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801  
(907) 588-2777

1 vast majority of which feature salmon. 21/ Equally important,  
2 the ASMI assessment is not part of the State's fisheries  
3 business occupation tax, but a special assessment for a  
4 specific and limited purpose -- providing reimbursement from  
5 Alaska processors to the State for state expenditures on ASMI  
6 to promote the marketing of their products. 22/ Forcing AFTA  
7 members to contribute to ASMI is tantamount to requiring Juneau  
8 property owners to pay additional property taxes to help  
9 Anchorage retire its municipal bonded indebtedness. Even under  
10 the State's expansive and totally unjustified characterization  
11 of the "substantial fisheries activities" that AFTA members  
12 conduct in Alaska, the proper comparison of tax rates is  
13 between the Landing Tax at 3.3 percent and the fisheries  
14 business tax under AS 43.75 at 3 percent. There is no  
15 justification for imposing a Landing Tax that is 0.3 percent  
16 higher than the tax imposed under the fisheries business tax in

17  
18 21/ See, 1993 ASMI annual report, attached to the State's  
19 memorandum. AFTA members may, of course, derive some indirect  
20 benefit from ASMI's promotions to the extent that they promote  
21 the general consumption of fish products; but that benefit is  
22 no different from that received by any processor of fish  
23 anywhere in the world that ASMI conducts Alaska seafood  
24 promotions.

25 22/ The legislative findings adopted as part of the  
26 enactment establishing ASMI expressly articulate this purpose.  
See, secs. 1 and 2, Ch. 106, SLA 1981.

Moreover, the ASMI assessment is as close to creating a  
dedicated fund as Article IX, sec. 7, would permit. While the  
money collected from the assessments is subject to annual  
appropriation and technically could be used for any state  
purpose, there is no question that if the legislature  
appropriated the money received from those assessments for  
purposes other than to fund ASMI, there would be a quick and  
decisive vote by the processor; to terminate the assessments.

1 AS 43.75, and the State's argument concerning the ASMI  
2 assessment provides none.

3 The State's memorandum does not really even address the  
4 argument in our opening memorandum that the tax rates under the  
5 Landing Tax are effectively even more than 0.3 percent higher  
6 than the AS 43.75 tax rate because of the vastly reduced  
7 credits allowable under the Landing Tax. The State merely  
8 argues that it does not matter in "economic terms" whether a  
9 taxpayer contributes \$10,000, for instance, to an educational  
10 institution or pays the same amount to the Department of  
11 Revenue in taxes. However, the State confuses "monetary terms"  
12 with "economic terms." A taxpayer is likely to view a  
13 contribution to an educational institution as a form of  
14 business investment for training future employees or for  
15 advancing technical or scientific knowledge that will benefit  
16 the industry. A taxpayer is not likely to view payment of tax  
17 to the state as any kind of investment. But more important,  
18 the State totally ignores the major thrust of our argument --  
19 that even the educational credits under the Landing Tax are  
20 allowed only for those taxpayers who enter into joint ventures  
21 with local Alaska communities in the federal Community  
22 Development Quota program. This limitation not only involves a  
23 clear and flagrant discrimination against interstate commerce  
24 (as we pointed out at p. 57 of our opening memorandum); it  
25 results in a vast reduction in the total amount of available  
26 contribution tax credits under the Landing Tax as compared to  
similar credits under AS 43.75. Such a vast reduction in

CROSS & BURKE  
PROFESSIONAL CORPORATION  
424 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801  
(907) 586 2777

1 allowable credits of necessity increases the effective tax rate  
2 under the Landing Tax. 23/

3 Similarly, the State's memorandum never really comes to  
4 terms with the obvious discrimination against the offshore  
5 catcher/processor fleet found in the legislature's failure to  
6 provide in the Landing Tax for the same reduction in tax rates  
7 for developing species as is provided under AS 43.75. 24/ The  
8 State's only argument is that the legislature legitimately did  
9 not afford offshore catcher/processors a rate reduction for  
10 developing species because they catch and process too much of  
11 those species to be considered "developing." The basis for  
12 this argument is to compare the 84,000 metric tons of  
13 developing species caught last year by AFTA members with

14  
15 23/ The restriction of the Landing Tax educational and  
16 infrastructure credits to fisheries products produced under a  
17 Community Development Quota results in precisely the kind of  
18 economic protectionism that the Court in Maryland v. Louisiana  
19 found so discriminatory. Landing Tax taxpayers can obtain a  
20 credit only if they participate with a local Alaska community  
21 and only if they invest in training and infrastructure that  
22 will benefit Alaska based processors. This credit system  
23 clearly discriminates against the majority of the offshore  
24 catcher/processor fleet who do not participate in the Community  
25 Development Quota program by subsidizing the operations of  
26 those who do through tax credits for employee training and  
capital improvements in shore based facilities.

24/ The State's argument that this claim is not ripe  
because no taxpayer has actually been denied such a reduction  
is meritless. The discrimination is clear on the face of the  
two statutes. Any Landing Tax taxpayer who has harvested  
species on the list of "developing species" is clearly harmed  
by the obvious discrimination. The State does not dispute the  
fact presented in the Affidavit of Joseph R. Blum that AFTA  
taxpayers indeed harvest species that are on the list that  
applies during 1994 -- the current Landing Tax tax year. And  
the State cannot seriously dispute the fact that the Department  
of Revenue would have absolutely no statutory authority to  
grant the rate reduction even if an AFTA member applied for it.

1 "minimal" amount of revenue the Department received from in-  
2 state processors for developing species. However, as the 1993  
3 Revenue Report cited by the State indicates at p. 12, the State  
4 received last year \$200,628 in tax revenues from shore based  
5 processors for developing species. Since those fish are taxed  
6 at only 1 percent of value, it means that in-state processors  
7 processed developing species having an unprocessed value of  
8 \$20,062,800 -- hardly a "minimal amount."

9 The State makes two other claims with respect to the  
10 clearly discriminatory tax credits. The first is that there is  
11 no discrimination because taxpayers under the Landing Tax will  
12 never pay more than the 3 percent reduced tax for developing  
13 species paid by floating processors. This argument was  
14 addressed in our opening memorandum in a slightly different  
15 context, but it applies with equal force to the State's  
16 argument here. 25/ The higher tax rate imposed on in-state  
17 floating processors is justified only as a means of encouraging  
18 floating processors to move their operations on shore. See,  
19 State v. Reefer King, 559 P.2d 56, 66 (Alaska 1977). While a  
20 state may have differential tax rates to encourage local  
21 businesses to conduct their businesses in certain ways that  
22 inure to that state's overall economic well being, it may not  
23 do so with respect to interstate businesses. 26/ The State  
24 here may not, therefore, justify the higher tax rates under the  
25

26 25/ See, AFTA's opening memorandum at 54 n. 37.

26/ See, Halliburton Oil Well Co. v. Reilly, 373 U.S. 64,  
72, 10 L.Ed.2d 202 (1963).

CARRISS & BURKE  
A PROFESSIONAL CORPORATION  
510 NORTH PRINCETON STREET  
MOBILE, ALABAMA 36681  
(907) 568-2777

1 Landing Tax for developing species on the basis that the  
2 Landing Tax, without the reduced rate for developing species,  
3 will never exceed the lowest possible tax rate imposed on  
4 floating processors. 27/

5 The most serious flaw in the State's argument that the  
6 Landing Tax is a valid compensating tax for the fisheries  
7 business tax is its claim that the two taxes are imposed on  
8 "substantially equivalent" events. The sole argument that the  
9 State makes is that the "substantially equivalent" event taxed  
10 under both the Landing Tax and the fisheries business tax is  
11 utilizing "Alaska's infrastructure to conduct a fisheries  
12 business." The State's argument never comes to grips with the  
13 palpably obvious differences between the two taxable events or  
14 with the fact that it cannot impose a tax on conducting a

15  
16 27/ The State also argues that even if the failure to  
17 provide a reduced rate for developing species under the Landing  
18 Tax is held discriminatory, the court need not declare the  
19 entire act unconstitutional because the State can "cure" the  
20 defect. The only case cited for this remarkable proposition is  
21 McKesson Corporation v. Division of Alcoholic Beverages,  
22 Department of Business Regulation of Florida, 496 U.S. 18, 110  
23 L.Ed. 2d. 17 (1990), and the case in no way supports the  
24 State's argument. The only issue before the United States  
25 Supreme Court was whether the taxpayer was entitled to relief  
26 retroactively for taxes already paid under a tax that the state  
court had invalidated. At issue before the state court was a  
reduced tax rate under Florida's alcoholic beverage tax for  
alcoholic beverages made from products grown in Florida. The  
state court allowed the overall beverage tax to stand, and  
apparently severed the offending rate reduction section. That  
sort of "surgery" is not possible here since the court is faced  
with two wholly separate taxes imposed on two entirely  
different activities -- one that grants the reduction and one  
that does not. In any event, there is no possible way that the  
court could simply instruct the Department of Revenue to "cure"  
the discrimination. The Department may have the authority to  
interpret tax laws, but it does not have the authority to amend  
them. Only the legislature has that authority.

LAW OFFICES  
GRUBS & BURKE  
A PROFESSIONAL CORPORATION  
404 NORTH FRANKLIN STREET  
JUNEAU ALASKA 99801  
(907) 586-2777

1 "fisheries business" that does not take place in Alaska. 28/  
2 The fisheries business tax under AS 43.75 is an occupation tax  
3 on conducting a fisheries business in the state -- that is,  
4 processing fish. The Landing Tax is imposed on the mere act of  
5 transferring fisheries products that have been caught and  
6 processed elsewhere, not necessarily by the same person who  
7 "owns" the fish products brought through Alaska and "landed"  
8 there. The activity of processing fish is no more equivalent  
9 to the activity of transferring already processed fisheries  
10 products than manufacturing is to wholesaling. 29/

11 In summary, the State has offered no justification for the  
12 obvious and clear discriminatory treatment that the Landing Tax  
13 imposes on interstate commerce.

14 E. The Rate of Taxation Under the Landing Tax is Not  
15 Fairly Related to the Services Provided by the  
16 State.

17 The State claims that on page 16 of our opening  
18 memorandum, AFTA "concedes that they cannot prevail on the

19 28/ As noted earlier, the State cannot, under Arctic  
20 Maid, impose a fisheries business tax on persons who neither  
21 catch nor process fish in Alaska.

22 29/ The weakness in the State's attempt to characterize  
23 transferring fisheries products as "utilizing Alaska's  
24 infrastructure to conduct a fisheries business" is best  
25 demonstrated by the State's admission on pages 15 and 16 of its  
26 memorandum that the Landing Tax is not imposed on an offshore  
catcher/processor who merely transports its products through  
Alaska without unloading or transferring them here -- even  
though that same vessel may, during the course of transporting  
its products to some interstate or foreign destination, enter  
an Alaska port, take on fuel, make emergency repairs, and  
transfer crew members prior to continuing its transportation of  
the products. Under the State's analysis, then, so long as the  
fisheries products remain in the vessel's hold, the vessel is  
not conducting a "fisheries business" in Alaska.



# Alaska State Legislature


## HOUSE OF REPRESENTATIVES

Official Business

State Capitol  
Juneau, AK 99801-1182

### Memorandum

TO: Senator Loren Leman, Chairman  
Senate Resources Committee

FROM: Representative Alan Austerman 

DATE: March 11, 1996

RE: SS HB 397 - Relating to the fisheries resource landing tax  
and to the seafood marketing assessment

.....

I respectfully request that a hearing for my bill, CS SSIB 397 (FIN), be scheduled in Senate Resources, at your earliest possible convenience.

My staff will be providing the referral file which includes backup and a fiscal note by the Department of Commerce and Economic Development and a zero fiscal note by the Department of Revenue.

Your assistance with this matter is appreciated.

DEPARTMENT OF REVENUE

INCOME AND EXCISE AUDIT  
P O BOX 110420  
JUNEAU, AK 99811-0420  
FAX (907) 465-2375

DEPARTMENT OF REVENUE POSITION PAPER  
ON CSSSHB 397(FIN)

FISHERY RESOURCE LANDING TAX/SEAFOOD MARKETING ASSESSMENT

CSSSHB 397(FIN) addresses a number of the issues raised by the offshore trawler fleet in the litigation over the constitutionality of the Fishery Resource Landing Tax ("FRLT"). The FRLT was enacted by the legislature in 1994. The amendments to the FRLT provisions resulting from the bill would resolve those issues and strengthen the state case in the litigation.

Specifically, CSSSHB 397(FIN) contains a legislative findings, intent, and purpose provision to clarify that the FRLT is an occupation tax to complement the Fisheries Business Tax. These findings are consistent with the intent of the legislature in enacting the FRLT. In complementing the Fisheries Business Tax, the bill makes it clear that the tax applies to a person who engages in a fisheries business in the state which includes any part of the business of harvesting, processing, transportation, or delivery of a fishery resource. This amendment specifically rejects the argument of the offshore trawler fleet that the FRLT is an unconstitutional property tax on the mere movement of processed fisheries resources through the state.

CSSSHB 397(FIN) also reduces the FRLT rate from 3.3% to 3%. The .3% rate reduction is the Alaska Seafood Marketing Institute ("ASMI") levy which is moved to the ASMI provisions in AS 16.51. Since the amendments are to have retroactive application, the only effect is to reallocate the levy of the total 3.3% between the FRLT and ASMI provisions. No new tax or tax liabilities are imposed by this change. This amendment extinguishes the argument of the offshore trawler fleet that the FRLT rate of 3.3% unconstitutionally discriminates against interstate commerce because it exceeds the 3% shore based rate applicable to instate fisheries business. It also addresses the argument that the .3% rate cannot be comparable to the tax paid by shore based fisheries businesses to ASMI because the offshore trawler fleet has no representation or voice in ASMI. The amendment gives the offshore trawler fleet the same representation and voice as possessed by other fisheries businesses.

CSSSHB 397(FIN) reduces the FRLT rate on developing species to 1%, and provides an education credit and Winn-Brindle credit. These changes have a minimal

revenue impact. This rate reduction and credit scheme is already a part of the Fisheries Business Tax, bringing the FRLT into alignment with those provisions, and defeats the argument of the offshore trawler fleet that the failure to provide these provisions under the FRLT is an unconstitutional discrimination.

CSSSHB 397(FIN) also moves the due date of the ASMI return to March 31 to conform to the Fisheries Business Tax and FRLT return due dates. In addition to this technical change, the bill makes a number of housecleaning amendments to harmonize the ASMI provisions. However, the ASMI tax base is unchanged and a FRLT taxpayer would use the value determined under the FRLT provisions and a Fisheries Business taxpayer would use the value determined under the Fisheries Business provisions. In both instances, the values are unprocessed or raw fish values. The word "produce" in the bill does not effect a change to the use of a value based on a processed product.

The Department concurs with the bill sponsor that this legislation will resolve serious legal questions as well as add a measure of fairness to the FRLT. The Department strongly supports CSSSHB 397(FIN) and urges its passage.

Revision Date: 2/20/98 Dept. Affected: Revenue  
 Title: Revises Resource Landing Tax & ASM BPU Audit Operations  
 Component: Income and Excise Aug.  
 Sponsor: Rep. Autumn  
 Requisite: 06 FFA Committee COMPONENT SERIAL NO. 111

Line Item/Description	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
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
<b>CAPITAL EXPENDITURES</b>						

CHANGE IN REVENUES ( )      -130.0      -130.0      -130.0      -130.0      -130.0      -130.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	
1003 Cf Match	
1004 Cf	
1005 Cf/Program Receipts	
1007 Cf/Mental Health	
Other	
TOTAL	0.0

Estimate of any current year (FY00) cost: 0

POSITIONS

FULL-TIME	PART-TIME	TEMPORARY

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

The statutory amendments requested in CS33HB 397 have no financial impact on the operating budget of the Department of Revenue. There may be a impact on revenues. Section 21 of the bill amends the fishery Resource Landing Tax to change the tax rate on developing species from 2% to 1%. This change impacts a very small portion of seafood products taxed and could reduce revenues by less than 2 cents of 1% (approximately \$8,000). Sections 22 and 23 add two new tax credits (Education Tax Credit and Winn-Bride Scholarship Fund) to be taken against the landing tax. The estimated loss of revenues from addition of these two credits ranges from \$95,000 to \$130,000. The total potential loss from the bill is estimated \$130,000.

Prepared by: Walter J. ... Date: 08-23-98  
 Division: Revenue Date: 2/20/98  
 Approved by Commissioner: [Signature] Date: 2/20/98  
 Agency: Department of Revenue

REPLACES TO PROVIDE A DISTRIBUTION COPY TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information call the Governor's Legislative Office

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO. SS (w/ HB 397)

Revision Date: January 29, 1996 Department: Commerce and Economic Development  
 Title: An Act relating to the fisheries resource landing and the seafood marketing institute Bill: Alaska Seafood Marketing Institute  
 and the seafood marketing assessment. Component: Alaska Seafood Marketing Institute  
 Sponsor: Auphayan  
 Revisor: House Special Committee on Fisheries COMPONENT SERIAL NO. 393

Expenditure/Revenues	(Thousands of Dollars)					
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	1,300.0	700.0	700.0	700.0	700.0	700.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,300.0	700.0	700.0	700.0	700.0	700.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES						

FUND SOURCE	(Thousands of Dollars)					
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 OF MARIU						
1004 General Fund						
1005 OF Program Receipts	1,300.0	700.0	700.0	700.0	700.0	700.0
1006 OF MARIU						
Other						
TOTAL	1,300.0	700.0	700.0	700.0	700.0	700.0

Estimate of any current year (FY 96) cost: \$ \_\_\_\_\_

POSITIONS	FULL-TIME	PART-TIME	TEMPORARY

ANALYSIS (Attach a separate page if necessary)  
 SS HB 387 amends AS 16.5 . 120(a) to include fishing processors in the seafood marketing assessment. This assessment will generate up to \$700,000 of additional program receipts per year for the Alaska Seafood Marketing Institute to utilize in marketing Alaska seafood products.

Prepared by: Dwaine Peeples Phone: 485-6571  
 Division: Alaska Seafood Marketing Institute Date: January 29, 1996  
 Approved by: Commissioner William L. Soper WLS Date: 1-29-96  
 Agency: Commerce and Economic Development

ANALYSIS (continued)

**DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT**

Fiscal Note Calculations for SS HB 397

The seafood marketing assessment is a tax levied on the value of seafood products produced in Alaska to be utilized for promoting seafood consumption. The assessment is a voluntary tax which can be terminated by the Commissioner of the Department of Revenue with approval of the eligible processors who together purchase 51 percent of the value of the products, or by a vote of two thirds of the Alaska Seafood Marketing Institute (ASMI) Board of Directors as specified in AS 16.51.130.

The funds generated from this assessment are collected by the Department of Revenue and transferred to ASMI to be use in generic promotion of Alaskan seafood products. In order to comply with the statutory intent for these funds, ASMI is requesting program receipt authority of \$1,300,000 in FY 97 to expend those fund collected in 1994 and 1995 as prescribed by Section 28 of SS HB 397. In addition, ASMI is requesting \$700,000 authority in the subsequent years for the same purposes.

**CONTRACTUAL:** Purchase of advertising, and printing services to promote the consumption of Alaskan seafood products.

**SELECTED MATERIAL FROM COURT DOCUMENTS  
REGARDING CHALLENGE TO LANDING TAX  
BY AFTA**

**AFTA SUPERIOR COURT COMPLAINT**

p. 4, Paragraph 9      AFTA alleges the landing tax is not an occupation tax nor is it a compensating tax, that it imposes a higher tax rate than under the fisheries business tax, that it imposes a higher tax rate on developing species compared to the fisheries business tax, and that it fails to provide credits found in the fisheries business tax.

**AFTA REPLY MEMORANDUM**

p. 12 and 14      AFTA argues the landing tax is a tax directly on goods or property rather than an occupation tax as argued by the state.

p. 23-33      AFTA argues that the landing tax discriminates against interstate commerce in that the landing tax does not complement the fisheries business tax, that the tax rates are higher under the landing tax, that the landing tax levies a higher tax on developing species, and that the landing tax fails to grant tax credits granted to fisheries business taxpayers.

**CURRENT STATUS**

AFTA members filed suit directly in Superior Court asking the court to rule that AS 43.77 is unconstitutional. On September 26, 1994, the Superior Court concluded that AFTA members must first exhaust administrative remedies with the Department of Revenue before the court will hear the case. The Alaska Supreme Court affirmed the Superior Court decision on May 10, 1995. The AFTA members are currently pursuing administrative remedies within the Department of Revenue with depositions scheduled to begin in February leading to a formal hearing this summer.

**DEPARTMENT OF REVENUE  
INCOME & EXCISE AUDIT DIVISION  
SECTIONAL ANALYSIS OF  
CS FOR SPONSOR SUBSTITUTE FOR HB NO. 397(FIN)  
A BILL FOR AN ACT ENTITLED**

*"An Act relating to the fishery resource landing tax and to the seafood marketing assessment; and providing for an effective date."*

Section 1 provides a statement of the legislative findings, intent, and purpose for the imposition of the landing tax. The proviso confirms those findings made by the Department of Revenue in regulations adopted contemporaneous in time with the enactment of the landing tax legislation. This section will make it clear that the landing tax is a compensatory fisheries occupation tax on in-state activities that is intended to complement the fisheries business tax under AS 43.75. Section 1 will strengthen the state position in litigation since it encompasses findings that are currently being disputed by the trawler industry.

Sections 2 through 6 amend AS 16.51.120 to substitute the word "produce" for "purchase". Currently, the seafood marketing assessment is levied on the value of products purchased in Alaska. A processor pays the assessment on a percentage of the value the processor paid for the seafood products. The levy of the assessment on seafood products purchased based on value paid by the processor arguably might not encompass the custom processor and exporter situations where the purchase is not made by the processor. It also would not fit the landing of fishery resources. The value of seafood products produced is addressed in Section 11 to include all these situations.

Section 7 amends AS 16.51.120 by adding a subsection to exempt from the assessment processors, as defined in Section 13, who produce less than \$50,000 in value of seafood products. The tax liability under AS 43 would be unaffected by this exemption. This exemption is consistent with current law.

Sections 8, 9 and 10 are conforming amendments to AS 16.51.130 and AS 16.51.150 to substitute the word "produce" for "purchase".

Section 11 amends AS 16.51.150 by adding new subsections to provide that the value of seafood products produced is the sum of the values under AS 43.75.015 (fisheries business tax), AS 43.75.100 (export and custom processor situations under fisheries business tax), and AS 43.77 (landing tax). Thus, the value used for purposes of the Alaska Seafood Marketing Institute ("ASMI") assessment will be the identical value used for purposes of AS 43.

Section 12 amends AS 16.51.160 to correspond with the change from purchase to produce. In addition, a technical correction is made to move the return due date from April 1 to March 31 to correspond to the due dates for fisheries business and landing tax returns.

Section 13 repeals and reenacts AS 16.51.180(3) to define a processor as a person who processes, custom processes, or exports fishery resources and is liable for the fisheries business tax under AS 43.75, or who is liable for the landing tax under AS 43.77.

Section 14 amends AS 16.51.180 by adding a new paragraph to define "produce" as an activity upon which a fisheries business or landing tax liability is imposed. In conjunction with taxpayers other than those subject to the tax under AS 43.75.015 being made subject to AS

16.51, an "eligible processor" is defined as a person liable for the assessment levied under AS 16.51.120. This gives equal voting and other rights under AS 16.51 to all persons liable for the ASMI assessment.

Sections 15 through 20 make technical amendments to the education credit provisions throughout AS 43 to include the landing tax education credit in the combined \$150,000 limitation.

Section 21 amends AS 43.77.010 by using language similar to that found in AS 43.75 to articulate that the tax applies to a person who engages or attempts to engage in a fisheries business in the state. This provision corroborates the Department of Revenue position that the tax is a business occupation tax, as opposed to a property tax on the resource as argued by the trawler industry.

This section also reduces the tax rate from 3.3% to 3% to coincide with the fisheries business shore based tax rate under AS 43.75. As originally enacted, the 3.3% tax rate was composed of a 3% tax and a .3% ASMI levy. The trawler industry attacked the 3.3% as imposing a higher rate under AS 43.77 than is imposed under AS 43.75. This amendment extinguishes that argument by removing the ASMI levy from AS 43.77 to achieve equal tax rates under both AS 43.77 and AS 43.75.

The tax rate for a developing commercial fish species is established at 1% of the value of the fishery resource. Developing fish species are those species designated by Fish and Game under AS 16.05.050. These developing species are eligible for a 1% tax rate under the fisheries business tax provisions. The trawler industry argued that AS 43.77 imposed an unconstitutionally higher tax burden than was imposed under AS 43.75 for these species. The amendment addresses that argument and corrects an unintended consequence of the original legislation.

Section 22 amends AS 43.77 by adding a new provision to provide a tax credit for certain contributions to the A.W. Winn Brindle memorial scholarship account. This credit is identical to the credit allowed under the Fisheries Business Tax provisions in AS 43.75. The dollar for dollar credit may not exceed 5% of the Landing Tax liability.

Section 23 amends AS 43.77 by adding a new provision to provide an education credit identical to that contained in AS 43.75 and other state tax provisions. The trawler industry argued that the failure to provide equal credits in AS 43.77 was unconstitutional. The amendment addresses that argument and corrects an unintended consequence of the original legislation.

Sections 24 and 28 amend the revenue sharing provision in AS 43.77.050 to repeal the ASMI allocation under AS 43.77 consistent with the amendments in Section 21. All tax revenue will continue to be deposited into the general fund with Community Development Quota tax credits paid from revenue otherwise shared with municipalities.

Section 28 would also repeal, in conformity with value under Section 11, the present definition of value in AS 16.51.180(6).

Section 25 amends AS 43.77.060 to add a new provision to provide that tax revenue collected shall be calculated as if the tax had been collected without application of the education and Winn Brindle credits. The effect of this provision is to hold the municipalities harmless from the effect of the credit in determining revenue sharing. The state will absorb the revenue impact of the credits.

Section 26 amends AS 43.77.200 to define "engages or attempts to engage in a floating fisheries business in the state" as any part of the comprehensive occupation of harvesting or taking, processing, transportation, or delivery of a fishery resource.

Section 27 provides that the ASMI portion of the current landing tax is to be applied by the Department as a credit against the ASMI assessment that is retroactively imposed under Sec. 27. In practice, the retroactive imposition of the ASMI assessment under AS 16 will only amount to a reallocation of monies paid under AS 43.77 to AS 16.51.

Section 29 provides that the act is retroactive to January 1, 1994. This retroactive application does not create an additional tax liability on any person and effectively averts some of the constitutional arguments advanced by the trawler industry.

Section 30 provides that the act takes effect immediately.

**HB**

**447**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/28/96

FURTHER:

DATE TURNED INTO OFFICE: 4-18-96

The Resources Committee considered CS FOR HOUSE BILL NO. 447(RES)

"An Act relating to traditional means of access for traditional outdoor uses and to the classification and the sale, lease, or other disposal of state land, water, or land and water."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Rich Halford</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>Deane</i>	✓				
CHAIR: <i>Loren D. Skuman</i>	✓	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>(H) Res</i>	<i>3/14/96</i>	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



## Alaska Sportfishing Association

P. O. Box 24-1847

Anchorage, AK 99524-1847

April 13, 1996

Senator Loren Loman  
State Capitol  
Juneau, Alaska 99801

FAX 465-3810

RE: HB 447

Dear Senator Loman:

I have not had an opportunity to discuss CSHB 447 with the Alaska Sportfishing Association board or its president, Phil Cutler. I will do so today with Phil and with as many board members as possible.

Given that, I'll raise some questions.

Does HB 447 overturn elements of timber sale plans by DNR's Division of Forestry which provide that non-permanent roads will be closed after timber harvest? Most state timber sale plans provide that nearly all seasonal, non-permanent, timber roads will be closed after harvest. It keeps them from becoming ATV ruts. It appears to me that HB 447 will require that they be left open to motorized use, because HB 447 says DNR cannot close an area to all-terrain vehicles (ATVs), etc. unless authorized by the Legislature or unless the closure is temporary. I would think about the Division of Forestry and its processes. Unless redrafted, this bill will prompt further opposition to timber sales.

Does HB 447 overturn elements of the Nushagak/Mulchatna Recreational Management Plan and the Susitna Valley Recreational Rivers Plan. Those DNR plans limit the length that a person can camp on a popular spot without a permit. As I recall both plans set the limit at about 14 days. Those limits were designed to prevent guides and "fish-hogs" from season-long "camping" that occupies areas which should be left open to the public. It appears HB 447 overturns such restrictions which protect sport fishers. It appears so, because "camping for sport fishing" is within the generic kinds of activities listed in HB 447's definitions of "traditional means of access" and "traditional outdoor activities."

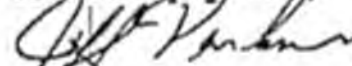
Is guiding implicitly within the either of the definitions of "traditional means of access" or "traditional outdoor activities?" I guide somewhat, and I hope I am accurate to say that the sport fishing community has diverse views about guides. Some of us love 'em; some of us hate 'em; and a lot of us are in between and pretty situation-specific (which I think is the best approach), depending on various situations. But HB 447 arguably overturns DNR's

authority to classify lands to restrict levels of guiding to an amount that is acceptable, given that views within the sport community are pretty diverse.

Although not a fishing issue, HB 447 appears to overturn provisions of DNR's Hatcher Pass Plan that identify some areas as closed to snowmachines. If so, does the sponsor intend that? Similarly, does HB 447 overturn requirements of DNR that snowmachines in Chugach State Park (e.g. Powerline Pass) stay on certain trails?

Finally, thank you for letting me testify on short notice. I hope the issue I raised of requiring DNR to close illegal trespass roads will be included in the bill. As I explained, I raised the issue because the traditional means of access to the North Fork of the Kashwitna River is by an old 4.5-mile mining trail, used by hiker-fishers, and then two years ago someone bulldozed an illegal, trespass road, taking a new route, across two miles of state land to the mouth of the creek. The Anchorage Fish and Game Advisory Committee has been trying to get DNR to close the illegal, trespass road, but DNR has a backlog of such trespass roads and does not process them because of budget cuts. The coho run is small, not in jeopardy, but if the road is not closed, the coho fishery may have to be restricted by time and area, or closed, just as most small runs of coho generally are restricted or closed when road accessible.

Sincerely yours,



Jeff Parker

Legal Advisor and Board Member,  
Alaska Sportfishing Association



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

### Beverly Masek

Official Business

State Capitol  
Juneau, AK 99801-1182

### CSHB - 447 (Res) SPONSOR STATEMENT

#### "ACCESS PROTECTION BILL"

Access to lands and waters is of paramount importance to all who participate in outdoor activities. HB-447 establishes a broad based policy of access protection for traditional outdoor activities on all Title 38 lands and waters.

It is important to understand both what CSHB-447 does and does not do.

By citing only Title 38 lands and waters, CSHB-447 in no way affects the authority of the Division of Parks (Title 41), or the Fish and Game Boards (Title 16), to limit or prohibit incompatible outdoor activities. Neither does CSHB-447, in any way, interfere with the Division of Lands normal management of Title 38 lands and waters.

HB-447 requires Legislative approval only in those instances when the Administrator recommends eliminating traditional access to Title 38 lands and waters for extensive periods of time (more than 8 months in a three year period).

CSHB-447 was careful to include subsistence hunting fishing and gathering on both an individual, family, and community basis. (Please note: the term "recreation" was replaced with "outdoor" throughout the entire CS to make it clear that subsistence is not a recreational activity.)

CSHB-447 is carefully crafted to not impede in any way, land disposal, mining, timber harvest, or other resource development. CSHB-447 specifically includes the language "reasonable access alternatives" as approved by the Department, and for reasons of safety allows development interests to "control and direct public access" through developed properties."

In addition to enthusiastic individual support, the following groups representing in excess of 25,000 Alaskan outdoor users support HB-447: Alaska Marine Dealers, Resource Development Council, Alaska Visitors Association, Alaska Air Carriers, Alaska Airmen's Association, The Aircraft and Pilots Association, The Alaska Bow hunters Association, Alaska Snowmobile Assoc., Anchorage Snowmobile Assoc. Anchorage Boating Association, Mat-Su Motor Musers, Mat-Su Boaters, Alaska Outdoor Council, Territorial Sportsmen and the Anchorage Times editorial board.

## CSHB-447 / SECTION BY SECTION

**SECTION 1.** INTENT LANGUAGE TO ALLEVIATE ANY FEARS OF PRIVATE PROPERTY BEING AFFECTED BY THIS BILL.

**SECTION 2.** EXISTING LANGUAGE IN STATUTE WHICH IS TECHNICALLY AMENDED TO ACCEPT BODY OF CSHB-447.

**SECTION 3.** BODY OF BILL. REQUIRES LEGISLATIVE APPROVAL IF THE COMMISSIONER OF RESOURCES INTENDS, THROUGH LAND CLASSIFICATION, TO BLOCK ACCESS FOR LONG PERIODS OF TIME, INCLUDING BLOCKAGES FOR DEVELOPMENT OR INTRINSIC VALUES. (PARK TYPE MANAGEMENT)

MAKES EXCEPTIONS TO THIS POLICY FOR: TEMPORARY CLOSURES OF ACCESS, AND DEVELOPMENT OF RESOURCES AS LONG AS SUCH DEVELOPMENT DOES NOT BLOCK ACCESS, OR WHEN A REASONABLE ALTERNATIVE FOR ACCESS CAN BE PROVIDED TO THE PUBLIC.

DEFINITIONS: DEFINES INTRINSIC VALUES AS BASICALLY BEING A NATURAL ENVIRONMENT. ALSO DEFINES THE TYPE OF ACTIVITIES AND MEANS OF ACCESS THE BILL PERTAINS TO.

**SECTION 4.** ADDS LANGUAGE TO STATUTE WHICH PROTECTS DEVELOPMENT INTERESTS BY ALLOWING REASONABLE ALTERNATIVES AROUND DEVELOPED PARCELS, OR ALLOWS THE DEVELOPER TO CONTROL THE ROUTE OF ACCESS THROUGH THE DEVELOPMENT PARCEL.

Revised

Latest

# FISCAL NOTE

by DNR

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB447(RES)

Revision Date: 14-Mar-96 Dept Affected: Natural Resources  
 Title: State land and water may not be classified so as BRU: Parks & Recreation Management  
to preclude or restrict traditional means of access for trad'l rec. use Component: Parks Management  
 Sponsor: Representative Masak  
 Requestor: House Rules Component Serial No.: 452

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02	
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	00	00	00	00	00	00	
CAPITAL EXPENDITURES	00	00	00	00	00	00	
CHANGE IN REVENUES ( )	00	00	00	00	00	00	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1008 GF/UNTA							
Other							
TOTAL	00	00	00	00	00	00	

Estimate of any current year (FY96) cost: \$ \_\_\_\_\_

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

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the Division of Parks associated with passage of this committee substitute

Prepared by: Jim Stratton Phone: 283-2800  
 Division: Parks Date: 14-Mar-96  
 Approved by Commissioner: [Signature] Date: 14-Mar-96  
 Agency: Natural Resources

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

# FISCAL NOTE

No. 1

Bill Version: CSHD 447(RRS)

(H) Publication Date: 3/14/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Title: Restrictions on traditional recreational lands  
Sponsor: Rep. Masek  
Requestor: House Resources Committee

Dept. Affected: Dept. of Nat. Res.  
BRU: Parks & Rec. Mgt.  
Components: Parks Mgt.  
Serial #: \_\_\_\_\_

**EXPENDITURES/REVENUES (THOUSANDS OF DOLLARS)**

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING</b>						
Personal Services	001	001	001	001	001	001
Travel	001	001	001	001	001	001
Contractual	001	001	001	001	001	001
Supplies	001	001	001	001	001	001
Equipment	001	001	001	001	001	001
Land & Structures	001	001	001	001	001	001
Grants, Claims	001	001	001	001	001	001
Miscellaneous	001	001	001	001	001	001
<b>TOTAL OPERATING</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>
<b>CAPITAL</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>
<b>REVENUE</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>

**FUNDING (THOUSANDS OF DOLLARS)**

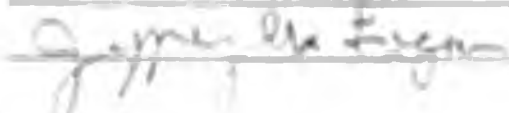
General Fund	001	001	001	001	001	001
Federal Fund	001	001	001	001	001	001
Other	001	001	001	001	001	001
<b>TOTAL</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>	<b>001</b>

**POSITIONS:**

Full Time	01	01	01	01	01	01
Part Time	01	01	01	01	01	01
Temporary	01	01	01	01	01	01

ANALYSIS (ATTACH A SEPARATE PAGE IF NECESSARY)

See attached analysis

Prepared by: Jeffrey Logan  
House Resources Committee  


Date: 14 March 96

Phone: 481-4141

Fax: \_\_\_\_\_

**COMMITTEE COPY**

**HB**

**456**

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB 456

Revision Date: 5-Mar-96  
Title: Board of Storage Tank Assistance

Department Affected: Environmental Conservation

Sponsor: Labor and Commerce  
Requestor: House Labor and Commerce

BRU: Spill Prevention and Response  
Component: Storage Tanks Program

COMPONENT SERIAL NO. 2063

Expenditures/Revenues:

(Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	00	00	00	00	00	00
TRAVEL	00	00	00	00	00	00
CONTRACTUAL	00	00	00	00	00	00
SUPPLIES	00	00	30	00	00	00
EQUIPMENT	00	00	00	00	00	00
LAND/STRUCTURES	00	00	00	00	00	00
GRANTS/CLAIMS	00	00	00	00	00	00
MISCELLANEOUS	00	00	00	00	00	00
<b>TOTAL OPERATING</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>

CAPITAL EXPENDITURES	00	00	00	00	00	00
----------------------	----	----	----	----	----	----

CHANGE IN REVENUES ( )	00	00	00	00	00	00
------------------------	----	----	----	----	----	----

FUND SOURCE

1002 Federal Receipts	00	00	00	00	00	00
1003 GF Match	00	00	00	00	00	00
1104 GF	00	00	00	00	00	00
1005 GF Program Receipts	00	00	00	00	00	00
1006 GF ADTTA	00	00	00	00	00	00
Other	00	00	00	00	00	00
<b>TOTAL</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>

Amount of any current year (FY96) cost: \$ 0.0

POSITIONS

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

ANALYSIS (Attach a separate page if necessary.)

Prepared by: Lynn J Tomich Kent  
Division: Spill Prevention and Response

Phone: 465-5390  
Date: 3/5/96

Approved by Commissioner: *Kent Lueders*  
Agency: Department of Environmental Conservation

Date: 3/5/96

PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information, call the Governor's Legislative Office

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/22/96

FURTHER: FINANCE

DATE TURNED INTO OFFICE: 4-29-96

The Resources Committee considered CS FOR HOUSE BILL NO. 456(L&C)

Relating to the Board of Storage Tank Assistance, etd.

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

Senate Bill:

- same title
- new title
- House Bill:
- same title
- technical title
- new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
		<i>Rick Helford</i>	<input checked="" type="checkbox"/>		
		<i>Thomas L. Taylor</i>	<input checked="" type="checkbox"/>		
		<i>Deance</i>	<input checked="" type="checkbox"/>		
<b>CHAIR:</b>		<i>Chairman [Signature]</i>	<input checked="" type="checkbox"/>		

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>NCT</i>	<i>4/29/96</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# House Labor & Commerce Committee

State Capitol  
Juneau, Alaska 99801-1182  
907-465-4954

## SPONSOR STATEMENT CS HB 456 (L&C)

The Board of Storage Tank Assistance is scheduled to sunset on June 30, 1996 unless it is statutorily extended. This board, as stated by a recent Legislative Audit Report:

"... works in conjunction with the State's Department of Environmental Conservation (DEC) to carry out the various requirements of the UST (underground storage tank) statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program."

CS HB 456(L&C), as sponsored by the House Labor and Commerce Committee, would extend the Board of Storage Tank Assistance to June 30, 2000, as recommended by the Legislative Audit Report. In addition, also as recommended by the auditors, CS HB 456 (L&C) would add a public member to the Board who has no financial or commercial interest in retrofitting or replacing underground storage tanks. Finally, to prevent an even-numbered Board, the Commissioner of the Department of Transportation and Public Facilities is removed.

I urge your support.

# House Labor & Commerce Committee

State Capitol  
Juneau, Alaska 99801-1182  
907-465-4954

## CS HB 456 L&C) SECTIONAL ANALYSIS

**Section 1** extends the Board of Storage Tank Assistance to June 30, 2000.

**Section 2** removes the Commissioner of Transportation and Public Facilities from the Board and adds a public member to the Board.

**Section 3** creates an effective date of July 1, 1996.

STATE OF ALASKA  
Boards and Commissions

---

STORAGE TANK ASSISTANCE

BOARD: Board of Storage Tank Assistance

BOARD IDENTIFICATION NUMBER: 152

DEPARTMENT: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

AUTHORITY: AS 46.03.360

STATUS: Active

SUNSET DATE: June 30, 1996

TERM: 4 years

DESCRIPTION: 7 members: Commissioners of Environmental Conservation and Transportation and Public Facilities, or their designees; and 5 members appointed by the Governor: 1 engineer registered under AS 08.48 and 1 general contractor registered under AS 08.18 who are knowledgeable about installing, upgrading, repairing, or closing underground petroleum storage tank system; 2 persons who own or operate an underground petroleum storage tank system, at least 1 of whom does not own or operate more than 10 underground petroleum storage tanks; and 1 member of the insurance industry.

FUNCTION: To adopt regulations to determine costs of tightness testing, site assessment, tank upgrading, and closure, and cleanup of contamination related to USTS; rank requests for assistance; determine eligibility costs; resolve department and owner/operator eligibility disputes. Approves department regulations on allowable technologies for testing, containment, cleanup or corrective action. Reviews department regulations on cleanup levels.

CHAIR: Board selects.

SPECIAL FACTS: The board may employ a full-time director and no more than 1 other employee. Chair is selected by the members from among the members. Must submit a report to the Legislature not later than the 10th day following the convening of each regular session.

COMPENSATION: Standard Travel and Per Diem.

MEETINGS: Approximately 4 meetings per year, 6 days total; and approx. 8 teleconferences/year, ½ day each.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Barnett, Executive Director, Board of Storage Tank Assistance, DEC, 410 Willoughby Avenue M/S 1800, Juneau, AK, 99801, Phone: 907 465 5219, Fax: 907 465 5218

**STATE OF ALASKA**  
**Boards and Commissions**

---

**Membership Roster**  
**STORAGE TANK ASSISTANCE (152)**

Member	Appointed	Reappointed	Term Exp.
Judy E. Chadwick Insurance Industry P.O. Box 90913 Anchorage, AK 99509	10/01/92		09/05 95
Kurt Fredriksson Commissioner/Environmental Conservation/or designee Director, Div. of Spill Prev. & Res Dept. of Environmental Conservation 410 Willoughby Avenue, Suite 105 Juneau, AK 99601	03/03/95		
Robert M. Haines Registered General Contractor President B.C. Excavating, Inc. 2251 Cinnabar Loop Anchorage, AK 99507	01/21/94	09/05/94	09/05/98
Steven A. Johnson Registered Engineer Harding Lawson Associates 601 East 57 Place Anchorage, AK 99518	06/30/93	09/05/94	09/05/98
Nate Johnson Commissioner/DOTPF/or designee Statewide Environmental Coordinator Division of Engineering & Operation Dept. of Transportation & Pub. Far. 3132 Channel Drive Juneau, AK 99801-7898	02/21/95		
James Weymiller Owner/operator Tank System/10 or more P.O. Box 70890 Fairbanks, AK 99707	07/10/95		09/05/96
H. Dale Young, Jr. Owner/operator Tank System/Under 10 P.O. Box 167 Tok, AK 99780	09/05/92	09/05/93	09/05/97

**STATE LEGISLATURE**  
**LEGISLATIVE BUDGET AND AUDIT COMMITTEE**  
Division of Legislative Audit

P. O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

OF: A Sunset Report on the Department of Environmental Conservation, Board  
of Storage Tank Assistance, September 19, 1995.

SCOPE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Storage Tank Assistance. In assessing the operations and performance of the board, we utilized the criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

As required by statute, this report shall be considered during the legislative oversight process followed in determining if the board should be reestablished. The law currently specifies that the Board of Storage Tank Assistance will terminate on June 30, 1996 and will have one year from that date to conclude its affairs.

BACKGROUND INFORMATION

Underground tanks often contain petroleum and other hazardous substances. Typically, these tanks invariably develop leaks which allow the substances stored in them to leak into the surrounding soil, contaminating the groundwater, which in turn could contaminate a drinking water source. The U.S. Congress directed the Environmental Protection Agency to develop regulations for the design, construction, and installation of new tanks. Additionally, new stricter standards were established for the retrofitting of existing tanks. Tanks will be required to be upgraded to provide for leak detection, corrosion prevention, and spill and overflow protection.

In 1990, the legislature created a program to provide both financial and technical advisory assistance to the owners and operators of underground petroleum storage tanks (UST). The assistance was to help UST owners and operators comply with current and prospective state and federal regulations. These regulatory requirements address numerous design and operational aspects of USTs. In addition, UST owners are required to demonstrate they are capable of assuming financial responsibility for the costs involved in taking corrective action and cleaning up releases from their tanks.

The 1990 legislation also established the Board of Storage Tank Assistance. The board works in conjunction with the State's Department of Environmental Conservation (DEC) to

carry out the various requirements of the UST statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program.

### REPORT CONCLUSION

In our opinion, the Board of Storage Tank Assistance should be reestablished. The board plays an integral role in the State's underground storage tank program. The board acts as a mediator, sets regulations, and acts as a sounding board for owners and operators of USTs.

The board acts as an independent body in settling disputes between DEC and owners and operators of USTs. Since the board's inception, they have mediated over 11 formal appeal cases. The board has been involved in numerous cases on an informal basis. Owners and operators can call on board staff to informally discuss the applicability of state statutes and regulations to their specific situation.

The board actively participates in the making of statutes and regulations pertaining to USTs. The board is statutorily required to adopt regulations to be used by DEC to administer the UST program. Regulations originally adopted have been amended and are currently in the process of being revised. The board also reviews all regulations pertaining to USTs that are proposed by DEC.

We believe the board should continue until June 30, 2000. The intent of legislation establishing the board was to assist owners and operators of USTs to comply with federal and state laws and regulations. U.S. Environmental Protection Agency (EPA) regulations require USTs to meet new, stricter federal standards by December 22, 1998. The "need" or demand for funding to bring operating USTs into compliance has far outstripped the appropriations made to date.

Prospectively, it is unlikely that the amount of the appropriations will substantially increase over the next few fiscal years. Additionally, it is currently unclear what enforcement actions EPA will take in Alaska against UST owners that are not in compliance with the new regulations. Given these circumstances, we foresee there may be an ongoing public policy role for the board beyond the EPA implementation deadline. Extending the board to June 30, 2000, would result in a reevaluation of board activities and operations through the summer of 1999. A review conducted at that time could evaluate the continuing necessity for the board in the context of how the stricter federal UST regulations are being imposed and enforced.

### FINDINGS AND RECOMMENDATION

1. The legislature should consider changing the statute to require the appointment of one public member to the Board of Storage Tank Assistance, and to require commercial or financial responsibility for the management and maintenance of underground storage tanks.

# Board of Storage Tank Assistance



- 1 The Board is a seven member board comprised of two Commissioners and five citizens from the private sector.
- 2 Board members serve without compensation and have one employee.
- 3 The Board is a judicial appeal board that resolves disputes between the regulated community and the Department of Environmental Conservation thereby saving the state thousands of dollars in potential legal costs.
- 4 The Board mediates disputes regarding eligibility for financial assistance, eligible costs, priority ranking positions and contaminated site cleanup plans.
- 5 The Board provides technical and educational assistance to petroleum storage tank owners and operators throughout Alaska
- 6 There are over 800 unfunded requests for assistance currently on file. The total amount requested is presently over \$50 million. Limited annual funding requires applications to be priority ranked annually using a Board scoring system that emphasizes imminent threats to public health. Additional criteria including size of business, proximity to alternate fuel, rural or urban location and other factors determined relevant to the Board.

## Board of Storage Tank Assistance

The 1990 Legislature established the seven-member Board of Storage Tank Assistance with two government members and five public members. The commissioners of the Departments of Environmental Conservation and Transportation and Public Facilities are the government members. Each of the five public members are required to have special knowledge pertaining to underground storage tanks. A registered engineer familiar with tank cleanups, a general contractor familiar with tank installations and closures, a person from the insurance industry that is knowledgeable about pollution liability insurance for underground storage tanks, a owner of more than 10 tanks, and an owner of 10 or less tanks. Former Governor Cowper appointed the original seven board members on September 5, 1990. Members serve without compensation other than per diem and expenses when traveling. They have an Executive Director, who is their sole employee.

The Board of Storage Tank Assistance is an Appeal Board to mediate disputes between the Department of Environmental Conservation and regulated underground petroleum storage tank owners and operators. In regard to disputes arising over eligibility, priority rankings and eligible costs, the Board's decisions are binding upon the department and the owner or operator. For corrective action plan disputes, or denials for payment under the retroactive reimbursement program (sec. 7, ch.96, SLA 1990), the board may only issue recommendations. In addition, the Board works directly with the legislature on funding issues and determines the program distribution of the annual legislative appropriations.

The first duty of the Board was to write regulations relating to financial assistance for UST owners and operators. The Board also jointly developed regulations with DEC pertaining to cleanup standards and allowable technologies to be used in the cleanup of contamination resulting from leaking tanks. The Department of Environmental Conservation is responsible for administering the Storage Tank Assistance Fund. The Department is tasked with advertising the application periods, receiving the applications, processing the requests, administering the grants and auditing project costs. The Division of Investments in the Department of Commerce and Economic Development works in partnership with the DEC to provide cleanup loans for eligible UST owners and operators.

Although the Board developed the financial assistance regulations, the Department of Environmental Conservation actually implements those regulations by physically processing each applicant's request for financial assistance. This enables the Board to remain objective and unbiased when a dispute arises. The Board is then tasked with resolving the matter in a prompt and conscientious manner.

carry out the various requirements of the UST statutes. The board is involved in the making of regulations pertaining to USTs and DEC is responsible for administering the UST program.

### REPORT CONCLUSION

In our opinion, the Board of Storage Tank Assistance should be reestablished. The board plays an integral role in the State's underground storage tank program. The board acts as a mediator, sets regulations, and acts as a sounding board for owners and operators of USTs.

The board acts as an independent body in settling disputes between DEC and owners and operators of USTs. Since the board's inception, they have mediated over 11 formal appeal cases. The board has been involved in numerous cases on an informal basis. Owners and operators can call on board staff to informally discuss the applicability of state statutes and regulations to their specific situation.

The board actively participates in the making of statutes and regulations pertaining to USTs. The board is statutorily required to adopt regulations to be used by DEC to administer the UST program. Regulations originally adopted have been amended and are currently in the process of being revised. The board also reviews all regulations pertaining to USTs that are proposed by DEC.

We believe the board should continue until June 30, 2000. The intent of legislation establishing the board was to assist owners and operators of USTs to comply with federal and state laws and regulations. U.S. Environmental Protection Agency (EPA) regulations require USTs to meet new, stricter federal standards by December 22, 1998. The "need" or demand for funding to bring operating USTs into compliance has far outstripped the appropriations made to date.

Prospectively, it is unlikely that the amount of the appropriations will substantially increase over the next few fiscal years. Additionally, it is currently unclear what enforcement actions EPA will take in Alaska against UST owners that are not in compliance with the new regulations. Given these circumstances, we foresee there may be an ongoing public policy role for the board beyond the EPA implementation deadline. Extending the board to June 30, 2000, would result in a reevaluation of board activities and operations through the summer of 1999. A review conducted at that time could evaluate the continuing necessity for the board in the context of how the stricter federal UST regulations are being imposed and enforced.

### FINDINGS AND RECOMMENDATION

1. The legislature should consider changing the statute to require the appointment of one public member to the Board of Storage Tank Assistance with no commercial or financial interest in the ownership and operation of underground storage tanks.

**HB**

**538**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/25/96

FURTHER:

DATE TURNED INTO OFFICE: 4-29-96

The Resources Committee considered CS FOR HOUSE BILL NO. 538(2d FSH)

Relating to vessels participating in the Bering Sea Korean hair crab fishery; efd.

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_

adopt previous \_\_\_\_\_ CS \_\_\_\_\_

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR<sup>o</sup> \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John L. Taylor</i>	<input checked="" type="checkbox"/>				
		<i>Grace</i>	<input checked="" type="checkbox"/>		
		<i>Rick Halford</i>	<input checked="" type="checkbox"/>		
CHAIR: <i>John L. Taylor</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>F.G./C.F.C.</i>	<i>5/10/96</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



4/20/96

SPONSOR STATEMENT FOR  
HB 538  
KOREAN HAIR CRAB MORATORIUM

History

In the 1980's, the Alaska Department of Fish and Game (ADFG) conducted an experimental fishery for Korean Hair Crab. Due to many unknown at that time about this extremely fragile species and the delicate habitat in which it exists, the stocks were quickly depleted and the fishery closed.

By 1991, stocks had rebounded and two Alaskan-owned vessels were able to conduct another experimental fishery in the immediate vicinity of the Pribilof Islands. Alaska fishermen, working cooperatively with ADFG, established permit guidelines pertaining to the configuration and size of the pots used, as well as handling techniques to ensure that these delicate animals are not harmed by the fishing effort. To limit the effort, ADFG has ensured the fishery is open simultaneously with other crab fisheries in the Bering Sea.

Problem This Bill Addresses

Recently, however, dramatic declines in harvest guidelines for the other crab stocks has resulted in additional effort entering the Korean Hair Crab fishery. The 15-20 vessels currently participating the fishery have already marginalized the opportunities for the Alaskans who pioneered this fishery. If this fishery, created by Alaskans, is to remain viable, a moratorium must be implemented as soon as possible.

Changes Since Original Bill

The CS modified the original bill by setting aside a five mile zone around the Pribilof Islands for vessels 58 feet or smaller to fish the Bering Sea Korean Hair Crab. This change triggered an adjustment of the findings section and other modifications throughout the bill. The findings now state that this fishery provides for some entry level opportunities for fishermen. To protect our crab resources, there has also been intent language added which requests keeping the 100 percent observer coverage for all vessels engaged in this fishery.

From 1974 Westward to  
Shulfish

## BERING SEA KOREAN HAIR CRAB

### *Introduction*

The Bering Sea hair crab registration area includes all Bering Sea waters north of 54° 36' North latitude, south of 58° 39' North latitude, and east of the U.S.-Russian Convention Line of 1867 (Figure 1). The area is divided into the Pribilof District (west of 168° West longitude), and the Bristol Bay District (east of 168° West longitude).

### *Historic Background*

Korean hair crab, *Erimacrus isenbeckii*, sold commercially as "kegani" by the Japanese, was fished commercially for the first time by the U.S. fleet in 1978/79. Most of the fishing effort has been concentrated in the waters adjacent to the Pribilof Islands. When interest was first expressed by fishermen and processors in this species the season was opened by emergency order and ran concurrently with the Tanner crab fishery. During the 1980 Board of Fisheries meeting, a year long season was established under the terms of a permit issued by the Alaska Department of Fish and Game. Between 1979 and 1991, the majority of hair crab landed were reported as incidental catch in the Bering Sea Tanner crab fisheries.

### *1993 Fishery (Spring)*

In the spring of 1993, many fishermen who participated in the fall 1992 hair crab fishery around the Pribilof Islands expressed interest in fishing the area east of 168° West longitude. According to the 1992 NMFS summer survey the Area T king crab management area contained a harvestable surplus of 1 million pounds of hair crab. However, the longlining of pots, the standard method to fish the high numbers of small pots traditionally used, was not legal in the Area T management area.

On March 22 an emergency order was issued opening the Area T management area to hair crab fishing from April 1 to May 15 under conditions of a permit. Then on March 26 another emergency regulation was issued allowing the longlining of pots in Area T. Once again, only small, light weight hair crab pots were permitted. Due to concerns over king crab bycatch, 100 percent observer coverage was also required. A total of seven vessels obtained observers and were registered for the Spring hair crab fishery in Area T.

Possibly due to inaccuracies in the survey, or a dramatic shift in crab distribution from when the survey was conducted, few vessels found much evidence of the one million pounds of hair crab reported by the survey to be available east of 168° West longitude. Four vessels delivered a total of 3,038 pounds of hair crab over a two week period. By the third week of



# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB 538

Revision Date:	Dept. Affected: <u>Fish and Game</u>
Title: <u>Establishment of a moratorium for vessels in the Bering Sea Korean hair crab fishery</u>	BRU: <u>Commercial Fisheries (Limited) Entry Commission</u>
Sponsor: <u>House Special Committee on Fisheries</u>	Component: <u>Limited Entry Program Administration</u>
Requester: <u>House Special Committee on Fisheries</u>	COMPONENT SERIAL NO. <u>0471</u>

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	00	00	00	00	00	00

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts	00	00	00	00	00	00
1006 GF MMTIA						
Other						
<b>TOTAL</b>	00	00	00	00	00	00

Estimate of any current year (FY98) cost: 00

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)  
This bill establishes a moratorium for vessels fishing Bering Sea hair crab, a rapidly expanding fishery with a limited resource base. There are approximately 33 vessels eligible under the moratorium.

Prepared By:	<u>Roger Keiden</u>	Phone:	<u>749-6160</u>
Agency:	<u>Commercial Fisheries (Limited) Entry Commission</u>	Date:	<u>3-5-98</u>

Approved by Commissioner:	<u>Frank Hoffman</u>	Date:	<u>3-5-98</u>
Agency:	<u>Commercial Fisheries (Limited) Entry Commission</u>		

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

For further distribution information call the Governor's Legislative Office

# MEMORANDUM

State of Alaska

DEPARTMENT OF FISH AND GAME

TO Amy Daugherty  
Assistant to Representative Austerman  
Alaska State Legislature

DATE March 6, 1996

FAX NO 465-2444

TELEPHONE NO 465-6112

FROM Earl E. Krygier  
EJ Program Manager  
Division of Commercial Fisheries  
Management & Development

SUBJECT Vessel Moratorium in  
the Korean Hair Crab  
Fishery

You have requested information regarding state authority to manage hair crab which pertain to the draft bill for a moratorium on vessel permits for the Bering Sea Korean hair crab fishery.

Under the Magnuson Act, a State has the authority to manage vessels outside its boundaries only if a vessel is registered under the laws of that State. An exception to this rule is when the bulk of the fishing occurs in the EEZ and is managed under a federal fishery management plan. Though the Korean hair crab fishery predominantly occurs in federal waters of the Bering Sea, there is no federal fishery management plan.

There has been no interest by the North Pacific Fishery Management Council or the National Marine Fisheries Service to include Korean hair crab within the current federal fishery management plan for king and Tanner crab in the Bering Sea. In the absence of a federal management plan, state regulations will apply to state registered vessels. Any vessel utilizing state facilities (docks, airports, etc.) to mount a operation must be registered under state laws. No Korean hair crab fisherman will remain unregistered, since they would not be access facilities in state waters. Nor would they forego the other fishing opportunities, such as Tanner crab, which requires state registration. I.e., this is not a Mr. Big situation, where he only relied on scallops in the Gulf of Alaska, with fisheries support from the state of Washington.

Additionally, new language is expected to be in the reauthorization of the Magnuson Act which will allow state authority over all vessels fishing in the EEZ, in fisheries which are managed by the state either under delegated authority of a Council or in the lack of a federal plan.

Boring Sea Hair Crab

Summary of observer data from 1993, 1994, and 1995 Boring Sea Korean hair crab seasons.

"Total Observed" is for sampling from total fishery.

"Win 5 nm Observed" is for sampling within 5 nm buffer around the Pribilof Islands (including Walrus and Other Islands)

"Percent win 5 nm" is the percent of total within the 5 nm buffer around the Pribilof Islands.

Win 5 nm statistics obtained by selecting sample pot lift data on basis of 5 nm buffer/region created in Macro program using "SW\_250" base map.

Same goes for "Win 3 nm".

Season	Total Observed			Percent of Total			CPUE Total		
	Potlifts	Ret'd hair	RKC	Potlifts	Ret'd hair	RKC	Ret'd hair	RKC	BIKC
1993	12,775	2,491	3,002	100.00%	100.00%	100.00%	3.71	0.20	0.24
1994	6,306	2,775	2,011	100.00%	100.00%	100.00%	3.28	0.33	0.24
1995	10,120	30,615	5,612	100.00%	100.00%	100.00%	3.32	0.55	0.60

Season	Win 5 nm Observed			Percent win 5 nm			CPUE win 5 nm		
	Potlifts	Ret'd hair	RKC	Potlifts	Ret'd hair	RKC	Ret'd hair	RKC	BIKC
1993	2,118	6,300	145	17.25%	16.89%	5.82%	3.93	0.07	0.10
1994	725	2,191	888	8.70%	8.01%	32.00%	3.02	1.22	0.19
1995	2,047	7,343	2,776	20.23%	21.84%	49.50%	3.59	1.36	0.27

Season	Win 3 nm Observed			Percent win 3 nm			CPUE win 3 nm		
	Potlifts	Ret'd hair	RKC	Potlifts	Ret'd hair	RKC	Ret'd hair	RKC	BIKC
1993	218	943	9	1.76%	2.0%	0.36%	4.20	0.04	0.01
1994	20	35	20	0.31%	0.13%	0.72%	1.26	0.77	0.04
1995	185	266	105	1.80%	0.89%	1.87%	1.54	0.57	0.06

Page 1  
 C:\fishery\obs\obsdata\summary\_95  
 12 Apr 96

Pnblol Hair Crab % by Stat Area					from fish ticket data	
Stat Area	1995		1994		1993	
	Pounds	%	Pounds	%	Pounds	%
685700	4,183	0.20%	-	0.00%	1	0.00%
685730	537	0.03%	-	0.00%	-	0.00%
695631	140,664	6.83%	224,804	18.75%	219,287	9.40%
695632	407	0.02%	-	0.00%	2,485	0.11%
695700	1,083,539	52.60%	295,079	24.61%	1,475,774	63.29%
695730	448	0.02%	-	0.00%	-	0.00%
705630	176,568	8.57%	52,990	4.42%	58,487	2.51%
705701	438,480	21.29%	408,925	34.10%	397,039	17.03%
705702	214,754	10.43%	217,448	18.13%	123,772	5.31%
705730	-	0.00%	-	0.00%	54,970	2.36%
715630	408	0.02%	-	0.00%	-	0.00%
	2,059,988	100.00%	1,199,246	100.00%	2,331,815	100.00%

**MEMORANDUM JM****STATE OF ALASKA  
COMMERCIAL FISHERIES ENTRY COMMISSION**

**TO:** Bruce Twomley  
Frank Homan  
Dale Anderson  
Kurt Schelle  
Susan Haymes

**DATE:** February 23, 1996

**FILE:** BSVESSEL.MEM

**PHONE:** 789-6160/Voice  
789-6170/FAX

**FROM:** Susan M. Shirley *MS*  
Research Analyst

**SUBJECT:** Bering Sea Hair Crab  
Vessel Participation Data

Attached are three tables on vessel participation in the Bering Sea hair crab fishery. The tables provide basic data which could be useful for developing a limited vessel permit program in this fishery.

Table 1 contains information on number of vessels fished, harvest and estimated gross earnings per vessel in the years 1988 through 1995. The cumulative number of unique vessels fished over time is given in Table 2. To provide some background on participation patterns and turnover of vessels in the fishery, the number of years fished and the years fished by each vessel since 1988 are given in Table 3.

Table 1  
Bering Sea Korean Hair Crab Fishery  
Total, Mean and Median Pounds and Earnings per Vessel

Year	Vessels	Average Pounds	Median Pounds	Total Pounds	Average Earnings	Median Earnings	Total Earnings	Ex-Vessel Price/Lb
88	1	** harvest and earnings data are confidential **						
89	No fishing							
90	No fishing							
91	6	63,286	6,502	379,715	\$206,249	\$21,190	\$1,237,491	\$3.259
92	17	78,754	30,119	1,338,818	\$165,620	\$63,340	\$2,815,534	\$2.103
93	20	71,713	39,369	1,434,253	\$154,971	\$85,076	\$3,099,421	\$2.161
94	14	135,855	95,499	1,901,969	\$411,640	\$289,362	\$5,762,966	\$3.030
95	21	94,576	102,373	1,986,106	\$236,294	\$254,556	\$4,962,181	\$2.498

Note: Gross earnings estimates and ex-vessel price for 1995 are preliminary

Table 2  
Bering Sea Korean Hair Crab Fishery  
Number of Unique Vessels Fished During the Given Time Period

Year Combination	Cumulative Unique Vessels
Jan 1, 1996 to Jan 1, 1995	21
Jan 1, 1996 to Jan 1, 1994	23
Jan 1, 1996 to Jan 1, 1993	33
Jan 1, 1996 to Jan 1, 1992	43
Jan 1, 1996 to Jan 1, 1991	45
Jan 1, 1996 to Jan 1, 1988	46

Table 3  
 Bering Sea Korean Hair Crab Fishery  
 Participation History  
 Number of Years Fished and Year Combinations

Years Fished	Total Vessels	Year Combinations	Years							
			95	94	93	92	91	90	89	88
5	3	95-94-93-92-91-	3	3	3	3	3	0	0	0
4	3	95-94-93-92-	3	3	3	3	0	0	0	0
3	2	95-94-93-	2	2	2	0	0	0	0	0
2	8	95-94-	4	4	0	0	0	0	0	0
		95-92-	1	0	0	1	0	0	0	0
		94-93-	0	2	2	0	0	0	0	0
		93-91-	0	0	1	0	1	0	0	0
1	30	95-	8	0	0	0	0	0	0	0
		93-	0	0	9	0	0	0	0	0
		92-	0	0	0	10	0	0	0	0
		91-	0	0	0	0	2	0	0	0
		88-	0	0	0	0	0	0	0	1
Total Unique Vessels = 46		Year Totals	21	14	20	17	6	0	0	1

**KODIAK  
VESSEL  
OWNERS'  
ASSOCIATION**



326 Center Avenue, Suite 202  
P.O. Box 135  
(907) 486-3781  
Fax (907) 486-2470

---

**HALIBUT • SABLEFISH • PACIFIC COD • CRAB**

March 6, 1996

Representative Alan Austerman  
Alaska State Legislature  
Juneau, Alaska 99801

RE: House Bill 538

Dear Representative Austerman,

We are writing in support of HB 538. We believe that without this measure, the Korean hair crab fishery will be closed in 1996, as a result of increased participation beyond the level considered safe by the Alaska Department of Fish & Game, who manage this resource. Closing this fishery would harm Alaskan vessel owners and crew members who have pioneered this fishery.

The Korean hair crab resource has a very small guideline harvest level, with about a million pounds harvested each year. It is a winter time fishery, which makes it difficult for many vessels to participate in the harvest. This fishery has been managed by the Alaska Department of Fish & Game with an emphasis on conservation. For several years, the fishery could only be conducted with a special experimental fisheries permit, with the vessel carrying an observer 100% of the time, and the use of special pots. The very fragile nature of the crab is unusual and the handling methods which are required to reduce mortality are very different than that of other crab fisheries.

With the recent decline in the red king crab, bairdi tanner crab and opilio tanner crab stocks, it is apparent that this fishery is already being considered to be an option by Seattle interests. Because the special pots require a substantial investment, it would not be fair to delay action on the moratorium. ADF&G has increased great concern that the fishery is already overcapitalized and any further increase in participation would likely cause them to simply close the entire fishery.

With this in mind, the only option is to ask for an immediate moratorium on entry to the Korean hair crab fishery. We believe this is in the best interest of the resource and those Alaskans who currently participate in and depend on this fishery.

Sincerely,

A handwritten signature in cursive script that reads "Linda Kozak".

Linda Kozak  
Special Projects

**HB**

**539**

# FISCAL NOTE

No. 1  
 Bill Version: HB 539  
 (H) Publish Date: 3/18/96

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

Revision Date: Original Dept Affected Natural Resources  
 Title: An act changing the name of the Alaska BRU: Agricultural Development  
Soil and Water Conservation Board. Component: Agricultural Development  
 Sponsor: House Resources  
 Requestor: House Resources Component Serial No. 455

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY96) cost: \$ none

POSITIONS

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

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

There is no fiscal impact associated with implementation of this legislation.

Prepared by: Jeff Hanman, Executive Director, S&W Board Phone: 485-2495  
 Division: Agriculture Date: 12-Mar-96  
 Approved by Commissioner: [Signature] Date: 12-Mar-96  
 Agency: Natural Resources

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

# -SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/27/96

FURTHER:

DATE TURNED INTO OFFICE: 4-1-96

The Resources Committee considered HOUSE BILL NO. 539

"An Act changing the name of the Alaska Soil and Water Conservation Board."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:

- same title
  - new title
- House Bill:
- same title
  - technical title
  - new: SCR<sup>o</sup> \_\_\_\_\_

SIGNING/DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Peace</i>	✓				
<i>Adrian L. Taylor</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>					
<i>[Signature]</i>					
<b>CHAIR:</b> <i>[Signature]</i>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>DNR</i>	<i>3/1/96</i>	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill



---

ALASKA DEPARTMENT OF NATURAL RESOURCES  
SOIL & WATER CONSERVATION  
**DIRECTORY**

---

SEPTEMBER 1995



Alaska Department of  
**NATURAL  
RESOURCES**

---

# **Alaska Department of Natural Resources**

## **OFFICE OF THE COMMISSIONER**

**John Shively, Commissioner**  
400 Willoughby Avenue, 5th Floor  
Juneau, AK 99801  
Phone: (907) 465-2400  
Fax: (907) 465-3886

3601 "C" Street, Suite 1210  
Anchorage, AK 99503-5921  
Phone: (907) 762-2483  
Fax: (907) 562-4871

## **ALASKA SOIL & WATER CONSERVATION BOARD**

**Jeffrey D. Hartman,**  
**Executive Director**  
400 Willoughby Ave, 5th Floor  
Juneau, AK 99801  
Phone: (907) 465-2495  
Fax: (907) 465-3886

## **Alaska Soil & Water Conservation Board Members**

**Marcia Ward, Chair**  
PO Box 356  
Soldotna, AK 99669  
Phone: (907) 262-5135

**James Carter**  
PO Box 286  
Willow, AK 99688  
Phone: (907) 495-6823

**Don Clothier**  
131 Front Street  
Ketchikan, AK 99901  
Phone: (907) 225-6616  
Fax: (907) 225-4250

**Norman Cosgrove**  
PO Box 861  
Delta Junction, AK 99737  
Phone: (907) 895-4578

**Tom Gray**  
PO Box 24  
White Mountain, AK 99784  
Phone: (907) 638-3971

**John Shively, Commissioner**  
Ex-Officio Member

## Fairbanks Soil & Water Conservation District

### BOARD OF SUPERVISORS

**Maribeth Crick, Chair (97)**  
PO Box 56505  
North Pole, AK 99705  
Phone: (907) 488-2215

**Robert Tsigonis (95)**  
PO Box 73726  
Fairbanks, AK 99707  
Work: (907) 452-4653

**Kristine Jenkins (97)**  
1190 Vickie Lane  
Fairbanks, AK 99705  
Phone: (907) 488-7361

**Charles Boddy, (Alt)**  
122 First Avenue, #302  
Fairbanks, AK 99705  
Phone: (907) 452-2625

**Gena Delucchi (Alt)**  
PO Box 82692  
Fairbanks, AK 99707  
Phone: (907) 455-6229  
Work: (907) 452-8251  
x 3248  
Fax: (907) 459-3851

**Michele Hebert, (Assoc.)**  
c/o Alaska Cooperative  
Extension Service  
1514 S. Cushman, #303  
Fairbanks, AK 99701

**Lucy Knoll (Alt)**  
6983 No Name Lane  
Fairbanks, AK 99712  
Phone: (907) 488-9036

**Doug Welton (Alt)**  
6810 Steese Highway  
Fairbanks, AK 99712

## Homer Soil & Water Conservation District

### BOARD OF SUPERVISORS

**Shirley Schollenberg,**  
**Chair (96)**  
HC 67, Box 250  
Anchor Point, AK 99556  
Phone & Fax: (907) 567-3467

**Jim Van Oss (95)**  
HCR 48750 East End Road  
Homer, AK 99603  
Phone: (907) 235-7591

**Al Poindexter (96)**  
4267 Shirley Court  
Homer, AK 99603  
Phone: (907) 235-8320

**Chris Rainwater (98)**  
48250 East End Road  
Homer, AK 99603  
Phone: (907) 235-6278

**Pete Roberts (96)**  
PO Box 1134  
Homer, AK 99603  
Phone: (907) 235-4113

**Steve Gibson (Alt)**  
1622 Hiland  
Homer, AK 99603  
Phone: (907) 235-6487

## **Kenai Soil & Water Conservation District**

### **BOARD OF SUPERVISORS**

**Mike Swan, Chair (98)**  
PO Box 987  
Soldotna, AK 99669  
Phone: (907) 262-1014

**Billie Hardy (96)**  
PO Box 3391  
Soldotna, AK 99669  
Phone: (907) 262-9881

**Bill McDermid (96)**  
HC 1 Box 1416  
Soldotna, AK 99669  
Phone: (907) 262-9670

**Calvin Mott (96)**  
PO Box 1065  
Soldotna, AK 99669  
Phone: (907) 262-6208

**Bill Ward (96)**  
PO Box 290  
Soldotna, AK 99669

**Abby Ala (Alt)**  
PO Box 1863  
Soldotna, AK 99669  
Phone: (907) 262-4616

**Marcia Ward (Alt)**  
PO Box 290  
Soldotna, AK 99669

## **Kenny Lake Soil & Water Conservation District**

### **BOARD OF SUPERVISORS**

**John Wenger, Chair (95)**  
HC 60 Box 280  
Kenny Lake, AK 99573  
Phone: (907) 822-5802

**John Devens (98)**  
PO Box 266  
Copper Center, AK 99573

**Sam Lightwood (96)**  
HC 60 Box 229  
Kenny Lake, AK 99573  
Phone: (907) 822-3927

**Al Roig (98)**  
HC 60 Box 274  
Kenny Lake, AK 99573  
Phone: (907) 822-3731

**Marlene Wenger (98)**  
HC 60 Box 280  
Kenny Lake, AK 99573  
Phone: (907) 822-5802

**E. J. Nashlund (Alt)**  
HC 60 Box 271  
Kenny Lake, AK 99573

## **Kodiak Soil & Water Conservation District**

### **BOARD OF SUPERVISORS**

**Jim Burton, Chair (96)**  
PO Box 1805  
Kodiak, AK 99615  
Phone: (907) 486-6202

**Bill Burton (95)**  
PO Box 1608  
Kodiak, AK 99615  
Phone: (907) 487-2436

**Bud Cassidy (98)**  
710 Mill Bay Road  
Kodiak, AK 99615  
Phone: (907) 486-9302

**Charles Dorman (96)**  
524 Willow  
Kodiak, AK 99615  
Phone: (907) 486-5395

**Omar Stratman (98)**  
PO Box 2376  
Kodiak, AK 99615  
Phone: (907) 486-5578

**DeWitt Fields (Alt)**  
PO Box 25  
Kodiak, AK 99615  
Phone: (907) 486-3949

## Palmer Soil & Water Conservation District

### BOARD OF SUPERVISORS

**Ray DePriest, Chair (96)**  
PO Box 2581  
Palmer, AK 99645  
Phone: (907) 745-6753  
(907) 746-9550  
(907) 746-9565

**Wayne Bouwens (95)**  
PO Box 1274  
Palmer, AK 99645  
Phone: (907) 745-3681

**Tracy Moffitt (95)**  
PO Box 3337  
Palmer, AK 99645  
Phone: (907) 745-2993

**Teri Weiland (96)**  
HC 02 Box 7463  
Palmer, AK 99645  
Phone: (907) 745-3071

**Wick Sunderland (Alt)**  
HC 04 Box 9260  
Palmer, AK 99645  
Phone: (907) 745-6276

**Bill Long (Alt)**  
PO Box 1831  
Palmer, AK 99645  
Phone: (907) 745-5948

**Myrtle Moline (Alt)**  
PO Box 3572  
Palmer, AK 99645  
Phone: (907) 745-7767

## **Salcha-Big Delta Soil & Water Conservation District**

### **BOARD OF SUPERVISORS**

**Mike Carlson, Chair (95)**  
PO Box 953  
Delta Junction, AK 99737  
Phone: (907) 895-4819

**Doug Grant (96)**  
PO Box 4554  
Eielson AFB, AK 99702  
Phone: (907) 488-4032

**Charles Forck (95)**  
PO Box 929  
Delta Junction, AK 99737  
Phone: (907) 895-4533

**Phil Kaspari (95)**  
PO Box 177  
Delta Junction, AK 99737  
Phone: (907) 895-4384

**Scott Schultz (96)**  
HC 62 Box 5446  
Delta Junction, AK 99737  
Phone: (907) 895-4865

**Scott Miller (Alt)**  
HC 60 Box 4465  
Delta Junction, AK 99737

**Keith Price (Alt)**  
PO Box 0019  
Salcha, AK 99714  
Phone: (907) 488-2925

**Bill Ridder (Alt)**  
PO Box 605  
Delta Junction, AK 99737  
Phone: (907) 895-4952

**Steve Fields (Alt)**  
PO Box 1013  
Delta Junction, AK 99737  
Phone: (907) 895-1950

**Art Lawrence**  
PO Box 118  
Delta Junction, AK 99737  
Phone: (907) 895-4172

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/91

Central Microfilm Services  
Department of Education  
State of Alaska

**BOARD OF SUPERVISORS**

**Mike Carlson, Chair (95)**  
PO Box 953  
Delta Junction, AK 99737  
Phone: (907) 895-4819

**Doug Grant (96)**  
PO Box 4554  
Eielson AFB, AK 99702  
Phone: (907) 488-4032

**Charles Forck (95)**  
PO Box 929  
Delta Junction, AK 99737  
Phone: (907) 895-4533

**Phil Kaspari (95)**  
PO Box 177  
Delta Junction, AK 99737  
Phone: (907) 895-4384

**Scott Schultz (96)**  
HC 62 Box 5446  
Delta Junction, AK 99737  
Phone: (907) 895-4865

**Scott Miller (Alt)**  
HC 60 Box 4465  
Delta Junction, AK 99737

**Keith Price (Alt)**  
PO Box 0019  
Salcha, AK 99714  
Phone: (907) 488-2925

**Bill Ridder (Alt)**  
PO Box 605  
Delta Junction, AK 99737  
Phone: (907) 895-4952

**Steve Fields (Alt)**  
PO Box 1013  
Delta Junction, AK 99737  
Phone: (907) 895-1950

**Art Lawrence**  
PO Box 118  
Delta Junction, AK 99737  
Phone: (907) 895-4172

## Upper Susitna Soil & Water Conservation District

### BOARD OF SUPERVISORS

Alan Kingsbury, Chair (96)  
HC 89 Box 8100  
Talkeetna, AK 99676

Kelly Lankford-Ladere (95)  
PO Box 13304  
Trapper Creek, AK 99683  
Phone: (907) 733-1450  
Fax: (907) 733-1002

Art Peterson (97)  
HC 89 Box 562  
Willow, AK 99688  
Phone: (907) 733-2372

Gerald Robson (97)  
PO Box 13114  
Trapper Creek, AK 99683  
Phone: (907) 733-2468

Steve Strong (95)  
PO Box 13022  
Trapper Creek, AK 99683

Linda Burns (Alt)  
HC 89 Box 702  
Willow, AK 99688-9706

Sari Turner (Alt)  
PO Box 13125  
Trapper Creek, AK 99683  
Phone: (907) 733-2581

## **Wasilla Soil & Water Conservation District**

### **BOARD OF SUPERVISORS**

**Meg Burgett, Chair (97)**  
PO Box 874554  
Wasilla, AK 99687  
Phone: (907) 373-0885

**Harold Olsen (96)**  
PO Box 870269  
Wasilla, AK 99687  
Phone: (907) 373-1092

**John Ward (96)**  
PO Box 877455  
Wasilla, AK 99687  
Phone: (907) 373-6394

**Dick Zobel (95)**  
PO Box 872683  
Wasilla, AK 99687  
Phone: (907) 376-5640 (hm)  
Phone: (907) 337-6813 (wk)

**Claud Oxford (Alt)**  
PO Box 872061  
Wasilla, AK 99687  
Phone: (907) 373 1702

## Alaska Association of Soil & Water Conservation Districts

### BOARD OF DIRECTORS

(the 10 district chairs sit as the Board)

<b>Board Officers:</b>	<b>Districts:</b>
Mike Swan, President	Kenai
Shirley Schollenberg, First V.P.	Homer
Omar Stratman, Second V.P.	Kodiak
Meg Burgett, Sec.-Treasurer	Wasilla
Mike Carlson, NACD Council Member	Salcha-Big Delta
Tommy Corr, lifetime alternate (non-voting)	Kenai

## National Association of Conservation Districts

### **President:**

Gerald Digemess  
5155 Rock Road  
Sumas, WA  
Phone: (206) 988-5522

### **Pacific Region Director:**

Delbert Winterfeld  
PO Box 99  
Swan Valley, ID 83449  
Phone: (208) 483-3683

### **Pacific Region Representative:**

Ray Ledgerwood  
NACD Pacific Region Office  
N.E. 1615 Eastgate Blvd.-Ste B  
Pullman, WA 99163  
Phone: (509) 334-1823

**United States Department of Agriculture  
Natural Resources Conservation Service**

**ALASKA STATE OFFICE**

949 East 36th Avenue, Ste 400  
Anchorage, AK 99508-4362  
Phone: (907) 271-2424  
Fax: (907) 271-3951

State Conservationist:  
Steve Probst  
Asst. State Conservationist  
(programs):  
James Schmidt  
Asst. State Conservationist  
(operations):  
Dennis Loreth

**FIELD OFFICES**

**Anchorage Field Office**

PO Box 203136  
Anchorage, AK 99520  
Phone: (907) 272-4119  
Fax: (907) 272-0524

District Conservationist:

Dwane Coffey

Soil Conservationist:

Joseph White

Serves: Alaska SWCD,  
Anchorage

**Delta Junction Field  
Office**

PO Box 547  
Delta Junction, AK 99737  
Phone: (907) 895-4241  
Fax: (907) 895-5003

District Conservationist:

Joanne Kuykendall

Serves: Salcha-Big Delta  
SWCD

### **Fairbanks Field Office**

1760 Westwood Way  
Fairbanks, AK 99709  
Phone: (907) 479-2657  
Fax: (907) 479-6998

District Conservationist:  
Joyce Swartzendruber

Conservation Agronomist:  
Ann Rippy

Soil Scientist:  
David K. Swanson

Civil Engineer:  
Ronald Krogstad

Serves: Fairbanks SWCD

### **Homer Field Office**

PO Box 400  
Homer, AK 99603  
Phone: (907) 235-8177  
Fax: (907) 235-2364

District Conservationist:  
Mark Kinney

Soil Scientist:  
Doug Van Patten

Serves: Homer, Kodiak SWCD

### **Kenai Field Office**

PO Box 800  
Kenai, AK 99611  
Phone: (907) 283-8732  
Fax: (907) 283-8158

District Conservationist:  
Debra Swanson

Serves: Kenai SWCD

### **Palmer Field Office**

268 East Fireweed, #3  
Palmer, AK 99645  
Phone: (907) 745-4274  
Fax: (907) 746-5182

District Conservationist:  
Calvin Steele

Soil Conservationist:  
Ted Cox

Soil Scientist:  
Mark Clark

Range Conservationist:  
Daryl Kautz

Serves: Kenny Lake, Palmer,  
Upper Susitna, Wasilla  
SWCD

## Soil and Water Conservation District

### Schedule of Monthly Meetings

#### **Fairbanks:**

- third Tuesday of every month

#### **Homer:**

- second Thursday of every month

#### **Kenai**

- third Thursday of every month

#### **Kenny Lake**

- first Thursday of every month

#### **Kodiak**

- meets every other month

#### **Palmer**

- second Wednesday of every month

#### **Salcha-Big Delta**

- first Wednesday or Thursday each month

#### **Upper Susitna**

- third Monday of every month

#### **Wasilla**

- last Wednesday of every month

## **Alaska Resource Conservation & Development Offices**

### **Kenai Peninsula RC&D Office**

P.O. Box 800  
Kenai, AK 99611  
Phone: (907) 283-4793  
Fax: (907) 283-8158

RC&D Coordinator:  
Al Poindexter (Interim)

### **Mat-Su RC&D Office**

351 Parks Highway, Suite 100  
Wasilla, AK 99687  
Phone: (907) 373-1062  
Fax: (907) 373-1064

RC&D Coordinator: Diane  
Holcomb

Office Automation Clerk:  
Linda Giani

### **Middle Yukon Kuskokwim RC&D Office**

P.O. Box 309  
Aniak, AK 99557  
Phone: (907) 675-4578  
Fax: (907) 675-4579

RC&D Coordinator: Phil  
Naegele

### **Southeast Conference RC &D Office**

124 West 5th Street  
Juneau, AK 99801  
Phone: (907) 463-3445  
Fax: (907) 463-4425

RC&D Coordinator: Wilt  
Sheridan (Interim)

### **Yukon Flats RC &D Office**

P.O. Box 33  
Fort Yukon, AK 99740  
Phone: (907) 662-2597  
Fax: (907) 662-2222

RC &D Coordinator:  
Pat Stanley (Interim)

# Alaska State Legislature



Committees:  
House Resources  
Co-Chairman  
World Trade &  
State Federal Relations  
Transportation  
Rules  
Oil & Gas

Representative William K. Williams

During Session:  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3424  
Fax (907) 465-3793

In Ketchikan:  
352 Front Street  
Ketchikan, AK 99901  
(907) 247-4672  
Fax (907) 225-8546

## SPONSOR STATEMENT

### House Bill 539

#### **An Act changing the name of the Alaska Soil and Water Conservation Board.**

House Bill 539 was introduced by request of the Soil and Water Conservation Board. It simply changes the name of the Board to the Natural Resources Conservation and Development Board. This request has been made for the following reasons:

- The declaration of policy for the board is to provide for the development, use and conservation of the farm, forest and grazing land of the state. The present name does not reflect adequately that the board has a resource development as well as a conservation mission.
- This name change is in agreement with that of the major federal player in the partnership -- the Natural Resources Conservation Service. This organization changed its name from the Soil Conservation Service in the Department of Agriculture.
- The board, as well as the local Soil and Water districts, has a close tie with the NRCS Alaska Resource Conservation and Development offices in assisting rural regions of the state in adding value to their available resources.

The name change will not affect any of the statutory responsibilities of the board.

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

### SOIL AND WATER CONSERVATION BOARD

400 WILLOUGHBY AVE,  
5TH FLOOR  
JUNEAU, ALASKA 99801  
PHONE (907) 465-2495  
FAX (907) 465-3886

March 1, 1996

The Honorable Loren Leman  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Senator Leman:

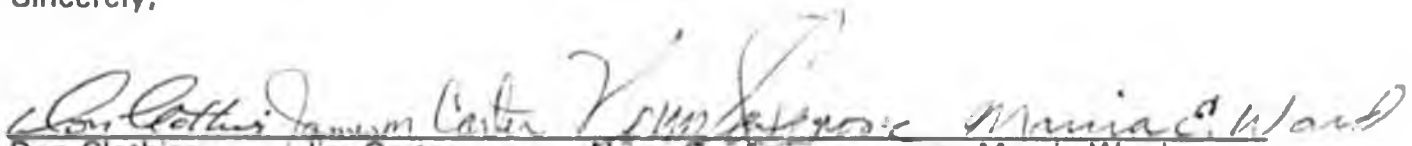
The Soil and Water Conservation Board feels that it would be more indicative of their objectives if their name were changed to the **Natural Resources Conservation and development Board**.

This is in keeping with the federal portion of the soil and water partnership wherein the Soil Conservation Service changed their agencies name to the **Natural Resources Conservation Service**.

Adding the word "development" to the board's title reflects the value added resource based capability that the partnership of board-districts-NRCS Alaska Resource Conservation & Development Offices brings to the state's economy.

As we discussed with you and Annette we would appreciate your introduction of a Committee Bill that would accomplish the board name change in Sec 41.10.040 and sec 41.10.140. Representative Williams will be introducing a companion bill in the House Resources Committee.

Sincerely,

  
Don Clothier      Jim Carter      Norm Cosgrove      Marcia Ward  
Chair, SWCB      Member, SWCB      Member, SWCB      Member, SWCB

  
Jeff Hartman  
Executive Director

## The State - Federal - Soil & Water Conservation District Partnership

- The Soil & Water Conservation program traces its roots to the great dust bowl era of the 1930s. In 1937, President Roosevelt wrote each state recommending the legislation that led to the State Soil & Water conservation programs. The Alaska Soil Conservation District Law was passed in 1947 during our territorial days.
- The Alaska Soil and Water Conservation Board consists of five members appointed by the Governor. The board elects a chairman and serves without compensation except that they receive the same per diem and travel expenses authorized for members of state boards.
- Each board member is a land user and represents a major land areas of the state with one each from the Arctic and northwest Alaska, the Yukon and Tanana Valleys, southwest Alaska and the Kenai Peninsula, Southcentral Alaska, and southeast Alaska.
- The members serve for three years as an advisory board to the Commissioner of Natural Resources who appoints an Executive Director to support the Board.
- The Board coordinates the Soil and Water Conservation Districts in the state. Districts are comprised of 25 or more land users who have petitioned the Commissioner with the Board's recommendation to form a district. The Commissioner after holding public hearings fixes the boundaries of the district.
- At the present time there are nine local districts in Alaska with approximately 780 members who are resource users within the districts. Each district elects five supervisors from its membership in annual elections supervised by the Board. All areas of the state not in a local district are in the Alaska District administered by the Soil & Water Board. Districts are members of the National Association of Conservation Districts of which there are 3,000 districts.
- The districts represent the local land owners of a grass roots partnership of local owners, state and federal resource management agencies that work together to manage, conserve and develop resources. The districts provide volunteer expertise of 45 supervisors averaging 15 hours a month. This amounts to 8000 volunteers hours annually.
- The state resource management agencies within the Department of Natural Resources of Agriculture, Forestry, Geological and Geophysical Survey, Land, Mining and Water, Oil and Gas, and Parks have signed memorandums of Agreements with the districts that they will be consulted in resource decisions and area plans for their regions.
- The federal partner in this relationship is principally the Natural Resource Conservation Service in the Department of Agriculture. NRCS provides federally funded conservationists, agronomists, soil scientists, and civil engineers in field offices in Anchorage, Delta Junction, Fairbanks, Homer, Kenai, and Palmer.
- The NRCS also funds Resource Conservation and Development Offices maned by RC&D Coordinators in Kenai, Southeast Conference, Mat-Su, Yukon Flats, and Middle Yukon Kuskowim. The USDA federal budget in Alaska for FY95 was \$242 million and is programmed for \$248 million in FY 1996.
- The value added part of the partnership is land conservation plans requested by local owners, erosion control projects, water quality projects, best management practices, educational programs on conservation in our local schools, resource development expertise and the synergy that results when all those having a responsibility for the Alaska resources work together for the common good.

For more Information or questions, contact:

**Jeff Hartman**  
Executive Director, SWCB  
Department of Natural Resources  
400 Willoughby 5th Floor  
Juneau AK 99801  
(907)465-2495, fax 465-3886

**THE STATE - FEDERAL - SOIL & WATER CONSERVATION DISTRICTS PARTNERSHIP**

**Memorandum of Understanding  
Establishes State/Federal/District Partnership  
Initiates AS 41.10/PL 46 requirements**

**DNR Commissioner  
Div of Agriculture  
Div of Forestry  
Div of Geological and Geophysical Survey  
Div of Land  
Div of Mining and Water  
Div of Oil & Gas  
Div of Parks  
Alaska Soil & Water Conservation Board**

**Secretary, US Dept of Agriculture  
Natural Resource Conservation Service  
Resource Conservation & Development Offices  
US Forest Service  
Ag Stabilization and Conservation Service  
Cooperative Extension Service**

**Outlines State/District  
partnership specific to state  
programs and administrative  
assistance in the area of:**

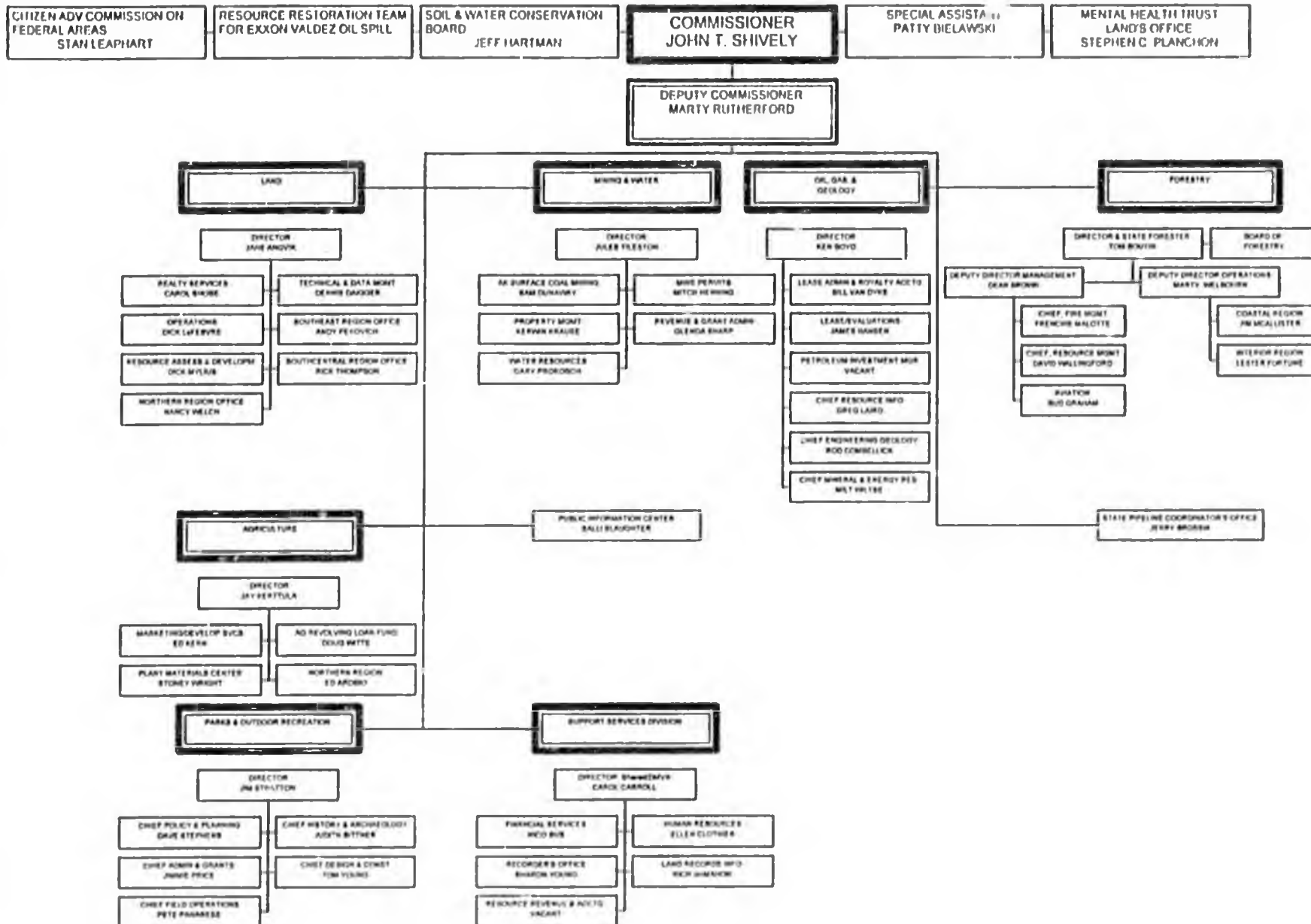
- District authorization
- Budget/Financial mgmt
- Contract Administration
- Personnel Mgmt
- Property Mgmt

**Outlines NRCS/District  
partnership specific to  
federal programs &  
technical assistance in:**

- Conservation Planning
- Range science
- Soil science
- Hydrology
- Engineering
- Wildlife biology
- Forestry

**Soil & Water Conservation Dist  
Alaska(SWCB)  
Fairbanks  
Salcha - Big Delta  
Kenny Lake  
Kenai  
Homer  
Upper susitna  
Kodiak  
Palmer  
Wasilla**

# FY 97 ALASKA DEPARTMENT OF NATURAL RESOURCES



## OVERVIEW

Public private partnership that provides grass roots access to 10 Alaskan Soil & Water Conservation Districts with 760 cooperators in state and 3,000 districts nation wide.

Five Resource Conservation and Development districts focusing on value added resource development contributing \$550,000 of federal money.

- RC&Ds are federally manned under the direction of local Alaskan leadership.

### Example projects:

- Delta Clearwater project \$5.2 non state dollars
- Kodiak Clean Lakes project \$200,000 non state dollars
- private and native land coordination such as the Land managers forum in Nome with the Reindeer Herders association and Native land owners

### Benefits:

Public private partnership for 5 million acres of private land and 104 million acres of Native land.

Volunteerism fosters value added resource development in tight budget situations.

**STATE OF ALASKA**  
**Boards and Commissions**

---

**SOIL AND WATER CONSERVATION**

**BOARD:** Alaska Soil and Water Conservation Board

**BOARD IDENTIFICATION NUMBER:** 097

**DEPARTMENT:** Department of Natural Resources

**AUTHORITY:** AS 41.10.040

**STATUS:** Active

**PROHIBITIONS:** Must be bona fide users of land selected from the five major land areas of the state.

**TERM:** 3 years

**DESCRIPTION:** 6 members: 5 appointed by the Governor; resident bona fide users of land (producers of renewable resources) selected from the five major land areas of the state: Arctic and northwest AK, Yukon and Tanana Valleys, southwest AK and Kenai Peninsula, southcentral AK, and southeast AK. In addition, the Commissioner of Natural Resources or, in Commissioner's absence, the Director of the Division of Agriculture, serves ex-officio but without a vote.

**FUNCTION:** Meets and advises Commissioner in the exercise of powers, duties, functions of the Commissioner. Receives/reviews reports regarding the use of soil resources. Holds public hearings/meetings to determine if land is being used in a manner consistent with sound soil and water conservation practices. Recommends action to provide for the effective and orderly development of agricultural, forest, and grazing land. Reviews appeals by an applicant/lessee from decisions of directors of other Dept. Natural Resources divisions regarding a sale/lease of agricultural/grazing land and submits recommendations to the commissioner/hearing officer. Serves in advisory capacity to the soil and water conservation districts. Advises the Commissioner of Natural Resources and Director of Div. of Agriculture in review of farm conservation plans for all agricultural land sales in the Alaska District. Represents state of Alaska in local, federal, and state soil and water conservation programs for sound resource development and conservation of resources.

**CHAIR:** No provision.

**SPECIAL FACTS:** Serve at the pleasure of the Governor.

**COMPENSATION:** Standard Travel and Per Diem.

**MEETINGS:** 1 regular meeting annually at state capital; approximately 4 times per year plus special meetings.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hartman, Executive Director, Alaska Soil and Water Conservation Board, DNR, 400 Willoughby Avenue M/S 1000, Juneau, AK, 99801 1724, Phone: 907 465 2495, Fax: 907 465 3886

**STATE OF ALASKA**  
**Boards and Commissions**

---

**Membership Roster**  
**SOIL AND WATER CONSERVATION (097)**

Member	Appointed	Reappointed	Term Exp.
James Carter Southcentral P.O. Box 286 Willow, AK 99688	09/30/91	06/30/93	06/30/96
Don C. Clothier Jr. Southeast P.O. Box 7656 Ketchikan, AK 99901	08/17/92	06/30/93	06/30/96
Norman A. Cosgrove Yukon/Tanana P.O. Box 861 Delta Junction, AK 99737	08/05/84	10/12/95	06/30/98
Tom Gray NW/Arctic P.O. Box 24 White Mountain, AK 99784	02/19/92	06/30/94	06/30/97
John Shively Commissioner/Natural Resources Commissioner Department of Natural Resources 400 Willoughby Avenue Juneau, AK 99801-1724	02/08/95		
Marcia E. Word SW/Kenai Peninsula P.O. Box 350 Soldotna, AK 99669	06/30/92	10/12/95	06/30/98

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

### SOIL AND WATER CONSERVATION BOARD

400 WILLOUGHBY AVE,  
5TH FLOOR  
JUNEAU, ALASKA 99801  
PHONE (907) 465-2495  
FAX (907) 465-3888

March 1, 1996

The Honorable Loren Leman  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

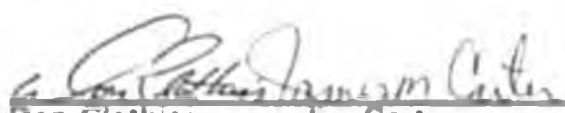
Dear Senator Leman:

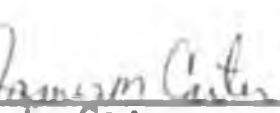
The Soil and Water Conservation Board wishes to express our appreciation for the time you took out of your busy schedule to meet with us during our annual Capital Meeting. We especially appreciate your recognition of the board during the Senate Resources Committee hearing on Navigability.


As we discussed, we feel that the state - federal - local soil and water conservation district partnership provides a unique, and valuable grass roots model. This model can be used for the two way passing of information, for the conservation of our valuable resources, and the strengthening of our economy through the development of value added resource based economic development.

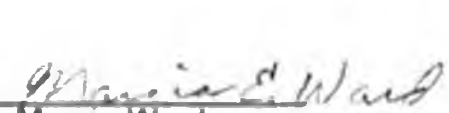
We appreciate your support and we will keep you informed of activities of the SWCD program that might be of interest to you. We will anticipate making a presentation before your committee at our next year's meeting.

Sincerely,

  
Don Clothier  
Chair, SWCB

  
Jim Carter  
Member, SWCB

  
Norm Cosgrove  
Member, SWCB

  
Marcia Ward  
Member, SWCB

  
Jeff Hartman  
Executive Director