

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8072

9975 HOUSE RESOURCES

1 (1) protect, ~~enhance~~, and preserve fish and wildlife habitat and the fish
2 and wildlife that use the habitat;

3 (2) protect, develop, and preserve traditional public uses of fish and
4 wildlife, including fishing, hunting, trapping, viewing, and photography;

5 (3) perpetuate and enhance general public recreation in a quality
6 environment; and

7 (4) allow additional public uses of the area that are compatible with the
8 purposes specified in this subsection.

9 * Sec. 15. AS 41.23.140 is repealed and reenacted to read:

10 Sec. 41.23.140. Purpose of AS 41.23.140 - 41.23.170. The purpose of
11 AS 41.23.140 - 41.23.170 is to establish the area described in AS 41.23.170 as the
12 Goldstream Public Use Area. The Goldstream Public Use Area is established to

13 (1) protect, develop, and preserve fish and wildlife habitat and the fish
14 and wildlife that use the habitat;

15 (2) protect, enhance, and preserve traditional public uses of fish and
16 wildlife, including fishing, hunting, trapping, viewing, and photography;

17 (3) perpetuate and enhance general public recreation in a quality
18 environment; and

19 (4) allow additional public uses of the area that are compatible with the
20 purposes specified in this section.

21 * Sec. 16. AS 41.23.150(c) is amended to read:

22 (c) Consistent with the purposes of AS 41.23.140(1) - (4) [AS 41.23.140(1) -
23 (3)], the commissioner shall allow uses within the Goldstream Public Use Area,
24 including but not limited to horseback riding, hiking, mining, all terrain vehicle
25 driving, bicycling, dog sledding, cross-country skiing, skijoring, snowmachining,
26 camping, and other traditional public uses of fish stocks and wildlife populations such
27 as fishing, hunting, trapping, viewing, and photographing of moose, trumpeter swan
28 and other waterfowl, otter, beaver, mink, muskrat, and fox.

29 * Sec. 17. AS 41.23.150(d) is amended to read:

30 (d) The Goldstream Public Use Area is open to mineral entry under
31 AS 38.05.185 - 38.05.275, and the commissioner may adopt regulations to achieve the

1 purposes specified in AS 41.23.140(1) - (3) [AS 41.23.140(1) - (2)]. Each valid
2 existing right or permit remains valid and continues in full force and effect according
3 to its terms. The commissioner shall permit the exploration, development, and
4 extraction of subsurface resources in a manner that is compatible with the purposes
5 specified in AS 41.23.140(1) - (3) [AS 41.23.140(1) - (2)].

6 * Sec. 18. AS 41.23.160(a) is amended to read:

7 (a) Except as provided in this section, the commissioner may prohibit or
8 restrict uses determined to be incompatible with the purposes of the Goldstream Public
9 Use Area under AS 41.23.140(1) - (3) [AS 41.23.140(1) - (2)] within the state-owned
10 land and water described in AS 41.23.170.

11 * Sec. 19. AS 41.23.160(d) is amended to read:

12 (d) The commissioner shall allow access to the Goldstream Public Use Area
13 by motorized or nonmotorized means of transportation to private land, interests in
14 private land, and for hunting, fishing, trapping, mining, and recreational purposes in
15 a manner that is compatible with purposes specified in AS 41.23.140(1) - (3)
16 [AS 41.23.140(1) - (2)]. Existing trails remain open to public use.



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HB 349 ~ Fish and Game / Refuges / Habitat and Use Areas

Revised Position Statement

TO: House Resources Committee Members
FROM: Susan Schrader, Conservation Advocate
DATE: February 28, 2000

Alaska Conservation Voters, formerly Alaska Conservation Voice, is a not-for-profit organization dedicated to protecting Alaska's environment through public education and advocacy. Our 40 Alaskan organizations and business members represent over 22,000 registered Alaskan voters. Our members can be found in all user groups of Alaska's wildlife, including subsistence users, recreational hunters, wildlife viewers, and photographers. We respect and appreciate the long, rich tradition held by Alaskans, Native and non-Native alike, that surrounds our state's wildlife resources. We also acknowledge that opportunities to use and appreciate our wildlife belong to all Americans and to visitors to our state from other countries.

Alaska Conservation Voters supports wildlife management actions that are based on unbiased scientific studies and that reflect the values of most Alaskans. We are greatly concerned by the continued positions taken by the State Legislature that fail to recognize the legislators' responsibilities under the Alaska Constitution and the public trust doctrine to care for our wildlife for the benefit of *all* Alaskans.

We are opposed to HB 349 for the following reasons:

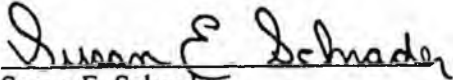
- In Sections 1 and 2 of the bill, the substitution of "enhancement" for "development" appears to be an effort to enshrine the near-sighted principles of intensive game management more deeply into Alaska statutes. Whereas "development" embodies a range of policies that address the long-term benefits of wildlife resources for all user groups, "enhancement" clearly mandates policies aimed, single-mindedly, at increasing populations of wildlife without consideration of other biologic principles.
- Section 3 represents yet another attempt to restrict members of the Boards of Fisheries and of Game as well as the biologists at ADF&G in their efforts to protect wildlife and their habitat. We cannot support any further restrictions on the ability of the Boards or the Department to regulate access.
- Section 5 markedly and dangerously expands ADF&G's management mandate of many of Alaska's premier wildlife refuges. Refuges such as Creamers Field, McNeil River, Anchorage Coastal, and Mendenhall Wetlands are highly-prized by many Alaskans for their values as sanctuaries for wildlife and people alike. To statutorily mandate that activities such as hunting, trapping, and motorized recreation should be permitted in all refuges clearly fails to recognize that some areas must be managed for viewing, photography, or other non-consumptive, quiet uses.

OVER

Conserve Alaska. It's Only Natural.

- In Section 9, the restriction of ADF&G's authority to make grants to those nonprofit organizations advocating for consumptive uses of our wildlife resources reflects an unbalanced approach that clearly excludes the interests of the many Alaskans who are nonconsumptive users of this resource. If the legislature is concerned that advocacy-based environmental groups might be recipients of ADF&G grant money, then, rather than restricting grants to groups advocating consumptive use, consider authorizing grants to the many educational organizations that do not engage in advocacy work. Examples of such groups include The Nature Conservancy, the Alaska Natural Heritage Program, and the Alaska Bird Observatory.

Clearly recognizing the volatile and divisive nature of issues surrounding wildlife management, the members of Alaska Conservation Voters join with other Alaskans who are calling for balanced, fair and far-sighted wildlife management decisions based upon the best, most comprehensive, unbiased scientific data available. Many of the provisions in HB 349 run counter to this approach, and we therefore cannot support this bill.


Susan E. Schrader



About C.A.S.H.

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C.A.S.H. Courier

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C.A.S.H. Courier - Spring 1999

THE END OF TRAPPING IN THE UNITED STATES

By Peter Muller

That could be a headline you'll see in papers from sea to shining sea - if a bill introduced by New York Representative Nita Lowey passes the House of Representatives and the Senate and is signed into law by our beloved President William Jefferson Clinton. Representative Lowey introduced H.R. 1581 in the House on April 27, 1999. The bill is currently in committee and we'll be watching and reporting on its progress.

So far, 62 additional representatives have signed on as co-sponsors.

The Bill starts out:

SECTION 1. DECLARATION OF POLICY.

It is the policy of the United States to end the needless maiming and suffering inflicted upon animals through the use of steel-jawed leghold traps by prohibiting the import or export of, and the shipment in interstate commerce of, such traps and of articles of fur from animals that were trapped in such traps.

The penalty provided for in this bill is a fine and a prison term of not more than two years for each violation.

C.A.S.H, as well as many other organizations, has been struggling to encourage various legislative bodies to pass local or state laws outlawing or restricting trapping. In some states that have ballot initiatives, they have succeeded in banning trapping.

If H.R. 1581 passes, then trapping will be prohibited nationwide overnight. This may well be the most important animal protective legislation ever proposed.

Let's all urge our federal representatives to support this bill.

Incidentally, Representative Lowey is considered by many observers of the New York political scene to have the "inside track" as the Democratic Party nominee for senator if Hillary Clinton decides not to run for that position. Best news we've had in a long time.

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By Dr. Sam Harbo:

Environmental Sanity: -- Think Globally, Act Locally

A presentation by Dr. Samuel Harbo, Jr., Emeritus Professor of Wildlife Management & Biometrics University of Alaska, Fairbanks representing the Alaska Outdoor Council at the Wolf Summit Fairbanks, Alaska, January 16 - 18, 1993

At the core of many of our environmental problems is our profligate use of cheap energy, energy that allows us to utilize distant resources in far-flung economies. No longer is consumption constrained by the sustainable limits of local resources.

The distancing of consumption from the source seems to have made us myopic, diminishing our sense of stewardship. We seem unable to visualize the effects an action taken in one geographic area might have on the environmental health of more distant areas. The current controversy is a case in point. To fully assess the environmental impacts of the proposed management plans, one must look beyond the three Alaskan areas proposed for wolf management. I am going to do so, relating the finding to our Alaskan situation.

U.S. food production requires enormous amounts of energy, with nearly all from fossil fuels. As the slide shows, the food system uses nearly 17 percent of the total U.S. energy budget. Within the food system, food processing and distribution account for 40 per cent of the energy use, reflecting the fact that no longer do we depend on local sources for our food. On average, a morsel of food travels 1300 miles from point of production to point of consumption.

Agriculture itself -- the on farm component -- is energy consumptive and energy dependent, with nearly all coming from fossil fuels. Most activities on the farm depend on energy consumptive machinery. As you can see from the slide, fertilizers and pesticides account for nearly one-third of the on farm energy use. We are using up nature's capital -- fossil fuels -- to produce and market agricultural products.

The relationship of energy used to production is mind boggling. For example, one gallon of gasoline is used per bushel of corn produced. On average, nearly 10 calories of energy are expended per calorie of food consumed. This dependence on fossil fuels to produce food cannot be sustained.

The dependence on nonrenewable energy has other serious consequences. Our farms have steadily increased in size to provide the capitalization needed for the large, expensive equipment now used in agribusiness. Individual fields have grown larger to accommodate the large, heavy equipment. In the process, we have lost the fencerows, marshes and small natural drainage systems that helped conserve soil and water and that provided wildlife habitat. Heavy equipment compacts soil and decreases soil friability. The most damaging consequence, however, has been the increase in land degradation.

The problem of land degradation is not restricted to the U.S. The amount of arable land surface suffering moderate or severe degradation in the late 1997's ranged from 27 per cent in South America to 52 per cent in Australia. And the situation has worsened.

Soil erosion in the U.S. is worse now than ever before. Current losses are 25 to 50 per cent greater than when the Soil Conservation Service was established in the 1930's. Currently, for every bushel of Iowa corn produced, 5 bushels of Iowa topsoil are lost. At current rates, by 2015 Iowa's topsoil will be no more. In Eastern Washington, 20 bushels of top soil are lost for every bushel of wheat harvested. Much of current agriculture is not sustainable; we are mining our soils.

Having larger farms and fewer farmers also causes social ramifications. No longer do we have cohesive rural communities with strong local economies based on local resources. The soybean futures on the Chicago Exchange in early September may be influenced less by the harvest prospects in the midwest than by the state of the seed bed preparation in Argentina. We have lost our sense of local economies, and with it our strong ties to the land and our sense of stewardship.

The connections between reliance on local resources, attitudes toward the environment, and energy conservation are being increasingly recognized in conservation and environmental thinking.

Cheap energy has also changed animal husbandry in the U.S. No longer do we have small operations using local resources with the objective of serving local needs. Rather, we have very large operations that cannot be supported only with local resources: operations that are designed to satisfy distant markets. The associated transportation, processing, storage and distribution are energy intensive.

An added environmental insult is that most of the large dairy and beef operations involve penned animals. No longer do we allow those plant eaters to be efficient solar energy converters. Rather we grow and harvest the hay and grains, using energy intensive and soil destroying methods, and then transport those feeds to the penned animals. And then comes the problem of concentrated animal wastes; a problem we attempt to solve using energy intensive methods.

Our reliance on energy intensive methodology is the root cause of many of our environmental problems. Air pollution, soil erosion, ozone problems and water pollution all relate to our demand for energy.

Some of our ground water pollution is directly related to agriculture, particularly our use of commercial fertilizers. My brother in the corn and soybean area of the midwest no longer drinks water directly from his 80-foot well, but distills the water first due to the dangerous levels of nitrates in solution.

What is the relevance of all this to our current topic? I will use a moose management example for Game Management Subunit 20A to show the relevance.

Subunit 20A lies immediately to the south of Fairbanks, and consists of between 16 and 17 thousand square kilometers of moose habitat. The moose population has varied greatly in size, with a high of about 23,000 animals in the early sixties and a current population of about 11,000 animals.

I will describe a plausible scenario showing the potential for Subunit 20A. A temporary reduction in wolf numbers would allow the moose population to increase. Naturally occurring wildfires and modest habitat manipulation consisting of small-scale prescription burning, could provide additional high quality habitat for moose -- habitat that could support a very productive moose population of 20,000 animals. Let's suppose we decide to maintain a wolf population of 350 wolves in 20A. In a nearly pure moose-wolf system, a ratio of one wolf to 30 moose results in nearly stable moose numbers. Subunit 20A is not a pure system. Other predators of note are black and grizzly bears. However, 20A also has other large prey -- caribou and Dall sheep. For ease of presentation I am assuming that, so far as the effects on moose numbers are concerned, the additional predator species are offset by the additional prey species. A more sophisticated analytic approach indicates that this simplistic approach is warranted.

Using the 1 wolf to 30 moose ratio, the 350 wolves could be supported by 10,500 moose, leaving 9,500 moose to produce a surplus for take by humans. In a productive situation a harvest rate of 25 per cent is sustainable. Hence, the 9,500 moose could produce a harvestable surplus of 2,375 moose annually, more than 2,000 animals greater than the current average harvest of about 350 moose. Assuming an average of 500 pounds of meat per moose, the increased harvest is more than one million pounds greater than our

current harvest. In addition, the wolf population would have increased by more than 20 per cent.

All of this could be done solely through predator management and modest habitat manipulation. Both are ecologically and environmentally safe.

Comparing the energy inputs of the 20A moose scenario with that of beef production in the Lower 48 is revealing. In the Managed Wildlife System, the integrity of the natural ecosystem and the efficiency of the system's solar energy converters -- the moose -- remain intact. The system runs almost entirely on solar energy, without significant inputs of fossil fuel energy, without tillage that leads to soil erosion, and without using fertilizers, herbicides, pesticides or growth hormones. In addition, most benefits accrue directly to the local residents, providing strong incentives to manage the system in a healthy, sustainable manner.

[In contrast,] the Managed Domestic Meat Production System is fossil fuels dependent. In most beef operations, energy intensive cropping and haying operations separate the primary producers from the primary consumers. The entire marketing effort, which includes processing, storage and distribution, also is energy intensive, since most products from such systems are destined for distant markets. Without substantial inputs of fossil fuels, fertilizers, herbicides and pesticides, the Managed Domestic Meat Production System would collapse.

>From an Alaskan conservationist's perspective, the choice of System is clear.

A closing comment about value systems is appropriate.

One of the most important and cherished attributes in our society is our cultural and value system diversity. I don't believe any single value system or viewpoint should be imposed on everyone, everywhere, at all times. It is doubly important that such not occur if elements of that value system fly in the face of environmental sanity, undermining the creed "think globally, act locally."

I also believe an ethical question is raised if individuals pursue a course of action that they know to be environmentally damaging.

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Representative Beverly Masek

HB 349

"An Act relating to the powers of the Board of Game"

SECTIONAL ANALYSIS

Sec. 1. Deletes the term [DEVELOPMENT] and inserts the term enhancement in AS 16.05.221(b)

Sec. 2. Deletes the term [DEVELOPMENT] and inserts the term enhancement in AS 16.05.255(a) (3) and (a) (10).

Sec. 3. Adds a new section that provides direction to the Board of Game in relation to the regulation of traditional means of access for hunting and trapping. The new section, AS 16.05.911 would allow the Board to restrict access under the proscribed circumstances in (1) - (5) on page 3, lines 5 - 21.

Sec. 4. AS 16.05.940 is amended to include a definition of means and methods.

Sec. 5. Changes the statutory language in AS 16.20.020 so as to make clear that fishing, hunting and trapping are protected uses of state wildlife refuges.

Sec. 6. Changes AS 16.20.500 adds traditional uses of fish and wildlife as a purpose of critical habitat areas.

Sec. 7. Amends AS 16.55.010 so as to clarify that it is the duty of the Department to assist non-profit organizations interested in preserving fishing, hunting and trapping to develop hunter education and wildlife conservation education programs.

Sec. 8. Changes the Department's granting authority under AS 16.55 by directing that any grants given by the department for hunter education, or wildlife conservation education must go to an organization whose purpose it is to preserve fishing, hunting and trapping as described in AS 16.55.030.

- Sec. 9. Amends AS 16.05.030 so that only non-profit organizations established to preserve fishing, hunting and trapping are eligible to receive grant moneys under this section.
- Sec. 10. Amends AS 41.23.010 to clarify the Nelchina Public Use Area has as its purposes the enhancement and preservation of wildlife and wildlife habitat, and the protection of traditional uses of fish and wildlife.
- Sec. 11. Amends AS 41.23.020(c) to make it compatible with the new language in AS 41.23.010.
- Sec. 12. Amends AS 41.23.020(d) to make it compatible with the new language in AS 41.23.010.
- Sec. 13. Amends AS 41.23.050 to clarify the Ernie Haugen Public Use Area has as its purposes the enhancement and preservation of wildlife and wildlife habitat, and the protection of traditional uses of fish and wildlife.
- Sec. 14. Amends AS 41.23.100(b) to clarify the Hatcher Pass Public Use Area has as its purposes the enhancement and preservation of wildlife and wildlife habitat, and the protection of traditional uses of fish and wildlife.
- Sec. 15. Amends AS 41.23.140 to clarify the Goldstream Public Use Area has as its purposes the enhancement and preservation of wildlife and wildlife habitat, and the protection of traditional uses of fish and wildlife.
- Sec. 16. Amends AS 41.23.150(c) to make it consistent with AS 41.23.140 (1) – (4) and adds the term stocks after the term fish.
- Sec. 17. Amends AS 41.23.150(d) so that it is consistent with AS 41.23.140(1) – (3).
- Sec. 18. Amends AS 41.23.160(a) so that it is consistent with AS 41.23.140(1) – (3).
- Sec. 19. Amends AS 41.23.160(d) so that it is consistent with AS 41.23.140(1) – (3).



Alaska State Legislature

Information from Representative Beverly Masek

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Sponsor Statment for HB 349

Fish and Game/Refuges/Habitat & Use Areas

An Act relating to powers of the Board of Game, means of access for hunting, trapping, and fishing, the definition of 'means' and 'methods', and hunting safety education and game conservation education programs; relating to the purposes of game refuges, fish and game critical habitat areas, and public use areas.

Posted: February, 2000

HB 349 was introduced, along with HJR 53, to alleviate the problems many Alaskans face due to the inability of the State to provide adequate management and protection to those traditional uses of wildlife that have sustained many Alaskans, including Native Alaskans throughout time.

Since the mid-1970's, the imposition of "urban" values on those Alaskans who choose to remain in a culture that is tied closely to the land has escalated. Although little or no scientific evidence exists to discredit traditional management techniques of wildlife resources for human consumptive uses, the zealots in the environmental movement continue to try and force their belief system on the rest of society by denying access to proven remedies supportive of human consumptive values.

Although Alaskans who fish, hunt and trap may not be able to agree upon specific allocation remedies due to competition inherent among all consumptive users of the resource, including non-human predators, we should be able to agree on the necessity of protecting those cultural values from constant attack by those whose values differ. HJR 53 and HB 349 is part of the plan to move us back towards rules that require respect for differing values. I have never heard of a fisher, hunter, or trapper speak in front of the Board of Fish or Board of Game requesting non-consumptive uses be eliminated in any part of Alaska; however we constantly hear from the environmental community about how their beliefs are somehow superior to the beliefs of others and

should therefore be imposed upon the rest of us.

Mankind has been competing with non-human predators for thousands of years and part of that competitive struggle has included a variety of measures intended to lessen the competition. With the advent of modern wildlife conservation sciences, we reached a stage where we could insure the health of all species and sustain meaningful levels of human harvests. That is until recently when animal rights activists essentially eliminated sustained yield management.

HJR 53 and HB 349 should mark the beginning of our attempt to fight back by once again allowing for proven management techniques to take place. Sound scientific measures minus the emotional hysteria will insure that the important cultural values attendant to fishing, hunting and trapping are protected. It is also important to make sure that we continue the prohibition against using the government to impose personal values held by one segment of the population on others. And make no mistake about it, the use of government processes by environmentalists has only one intended goal, and that is to impose their values on the rest of society regardless of the facts.

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HB 349 ~ Fish and Game / Refuges / Habitat and Use Areas

TO: House Resources Committee Members
FROM: Susan Schrader, Conservation Advocate
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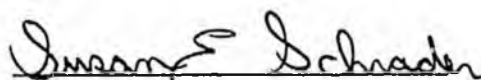
We are opposed to HB 349 for the following reasons:

- In Sections 1 and 2 of the bill, the substitution of "enhancement" for "development" appears to be an effort to enshrine the near-sighted principles of intensive game management more deeply into Alaska statutes. Whereas "development" embodies a range of policies that address the long-term benefits of wildlife resources for all user groups, "enhancement" clearly mandates policies aimed, single-mindedly, at increasing populations of wildlife without consideration of other biologic principles.
- Section 3 represents yet another attempt to restrict members of the Boards of Fisheries and of Game as well as the biologists at ADF&G in their efforts to protect wildlife and their habitat. We cannot support any further restrictions on the ability of the Boards or the Department to regulate access.
- In Section 9, the restriction of ADF&G's authority to make grants to those nonprofit organizations advocating for consumptive uses of our wildlife resources reflects an unbalanced approach that clearly excludes the interests of the many Alaskans who are nonconsumptive users of this resource. If the legislature is concerned that advocacy-based environmental groups might be recipients of ADF&G grant money, then, rather than restricting grants to groups advocating consumptive use, consider authorizing grants to the many educational organizations that do not engage in advocacy work. Examples of such groups include The Nature Conservancy, the Alaska Natural Heritage Program, and the Alaska Bird Observatory.

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Susan E. Schrader

HB

359

HB359

TONY KNOWLES
GOVERNOR
GOVERNOR OF THE STATE OF ALASKA

Public Bill
Hutcheon, Alaska 2000
1997, 2000
Law 1997, 4054
1998, 2000

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 8, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

The Department of Natural Resources appeal process is overly complex, confusing, and even frustrating to the public and department staff. Seemingly similar decisions have different appeal tracks with different requirements and timelines. Appellants are sometimes required to make multiple appeals on the same issue. This bill I transmit today simplifies and makes consistent the department's appeal process to better serve the public.

The bill eliminates the redundant process for non-disposal decisions in which a person now must appeal to the director, then the commissioner, then, through reconsideration, to the commissioner again. Instead, appellants would be allowed only one opportunity to make their case to the commissioner. The next step is to go to court. This process was implemented in 1994 disposal legislation and should be extended to all department decisions.

The bill corrects another confusing result of the 1994 law, which set different appeal deadlines based on whether the case was a disposal or non-disposal decision, or a reconsideration request (as opposed to an appeal). The public cannot figure out in which category an action belongs and, therefore, by which deadline to abide. This bill eliminates the confusion by setting a 20-day deadline on all appeals and reconsideration requests. Decisions rendered under the Alaska Right-of-Way Leasing Act and the Alaska Stranded Gas Development Act are specifically exempt from this new provision.


Finally, the bill makes it clear that department decisions may be challenged in court, despite the fact most department decisions are exempt from portions of the Administrative Procedure Act.

HB 359

The Honorable Brian Porter
February 8, 2000
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This bill will correct many aspects of the Department of Natural Resources appeal process that are confusing and cumbersome for the public. I urge your support.

Sincerely,



Tony Knowles
Governor

FISCAL NOTE

Bill Version: HB 359

BI (H) Publish Date: 2/9/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time: _____ Dept Affected: Natural Resources
 Title: Notice Requirements for Oil and Gas Final BRU: Minerals, Land & Water Development
 Findings: Administrative Appeals Component: Director's Office
 Sponsor: Rules Committee
 Requestor: Governor Component No: 2440

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ N/A

POSITIONS

	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
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)

This bill can be implemented without cost. Secs. 1-3 apply to appeals of decisions by all divisions in DNR, including the Division of Mining, Land and Water. They allow an aggrieved person to ask for the commissioner's review, but only one time (either by appealing to the commissioner, or by requesting the commissioner's reconsideration). Previously some aggrieved parties have appealed to the commissioner, received an adverse decision from the commissioner, then immediately asked him to reconsider that decision. In the meantime, the decision was put on hold. Eliminating the duplicative review might not save appreciable staff time, as the reconsideration decision was usually very similar to the appeal decision, but will shave 30 days off the permit process in controversial cases.

Prepared by: Robert M. Loeffler Phone: 269-8600
 Division: Mining, Land and Water Date: 31-Jan-00
 Approved by Commissioner: John Shively Date: 1-31-2000
 Agency: Natural Resources

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Department of Natural Resources
HB 359 Notice and Administrative Appeals

HB 359 is "An Act relating to notice requirements for certain final findings concerning the disposal of an interest in state land or resources for oil and gas; relating to administrative appeals and petitions for reconsideration of decisions of the Department of Natural Resources; and providing for an effective date."

HB 359 will create a uniform procedure for appeals of decisions made by the Department of Natural Resources. These changes will simplify the appeal process for applicants, departmental employees, and the public, reducing the risk of errors. The uniform appeal process will also confirm that people have the right to challenge DNR's appeal decision in court.

The bill's uniform appeal process is modeled on legislation already in place for DNR "disposal" decisions. (These are the written findings DNR must issue for public comment before it can make a final decision to sell state land or interests in land, such as oil and gas leases or timber contracts.) It provides for disputes over DNR decisions to be taken straight to the DNR commissioner. However, it allows only one administrative review by the commissioner: a person who disagrees with DNR's action will file either an appeal or a reconsideration request, but not both. The filing period for a reconsideration request will be 20 days, the same period allowed to request reconsideration of a disposal decision under AS 38.05.035, instead of the 15-day deadline generally applicable under AS 44.62.540. A person who is still aggrieved by the commissioner's final decision on the appeal or reconsideration request can then challenge it in Superior Court.

Under existing law for DNR actions other than disposal decisions, there can be as many as three layers of administrative review: first an appeal to a division director, then an appeal to the commissioner, and finally a reconsideration request, which must be filed within 15 days instead of 20. HB 359 will replace this duplicative, complex process with one that has been successfully used for major DNR disposal actions since 1994.

HB 359 will also correct a flaw in DNR's public notice law, AS 38.05.945, by removing a special requirement for final decisions on oil and gas lease sales. The change will leave intact two other public notice provisions relating to oil and gas lease sales:

- When DNR issues a proposed oil and gas lease sale decision, AS 38.05.945 directs DNR to give public notice at the beginning of the comment period, notifying the public of its right to comment. This requirement will not change.
- After the final lease sale decision has been made (including the resolution of any administrative appeals), AS 38.05.945 directs DNR to give notice of the lease sale itself, so that prospective bidders may prepare for the sale. This requirement will not change.

However, between these two stages, AS 38.05.945 literally requires DNR to give notice of the issuance of the final decision "at least 30 days before the action." Advance notice that DNR plans to issue a final decision a month later does not serve any apparent purpose. More importantly, if the comment period is still underway when this "notice of final decision" appears in the newspaper, the public may be confused into thinking that the decision has already been made, and that there is no point in commenting or testifying on the proposed lease sale. HB 359 will correct this problem by removing the separate requirement for

notice of the final decision. (Under other applicable law, AS 38.05.035(e)(5), DNR must make the final disposal decision available to the public at least 90 days before the lease sale. As part of this duty, DNR gives notice to everyone who timely commented or testified on the proposal. Only those who timely commented or testified have the right to appeal the final decision under AS 38.05.035(i).)

HB359

TONY KNOWLES
GOVERNOR
GOVERNOR OF THE STATE OF ALASKA

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

Post Box 1100
Juneau, Alaska 99801
(907) 465-4300
Fax (907) 465-4302
www.governor.alaska.gov

February 8, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

The Department of Natural Resources appeal process is overly complex, confusing, and even frustrating to the public and department staff. Seemingly similar decisions have different appeal tracks with different requirements and timelines. Appellants are sometimes required to make multiple appeals on the same issue. This bill I transmit today simplifies and makes consistent the department's appeal process to better serve the public.

The bill eliminates the redundant process for non-disposal decisions in which a person now must appeal to the director, then the commissioner, then, through reconsideration, to the commissioner again. Instead, appellants would be allowed only one opportunity to make their case to the commissioner. The next step is to go to court. This process was implemented in 1994 disposal legislation and should be extended to all department decisions.

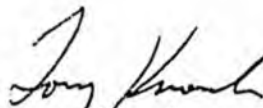
The bill corrects another confusing result of the 1994 law, which set different appeal deadlines based on whether the case was a disposal or non-disposal decision, or a reconsideration request (as opposed to an appeal). The public cannot figure out in which category an action belongs and, therefore, by which deadline to abide. This bill eliminates the confusion by setting a 20-day deadline on all appeals and reconsideration requests. Decisions rendered under the Alaska Right-of-Way Leasing Act and the Alaska Stranded Gas Development Act are specifically exempt from this new provision.

Finally, the bill makes it clear that department decisions may be challenged in court, despite the fact most department decisions are exempt from portions of the Administrative Procedure Act.

The Honorable Brian Porter
February 8, 2000
Page 2

This bill will correct many aspects of the Department of Natural Resources appeal process that are confusing and cumbersome for the public. I urge your support.

Sincerely,



Tony Knowles
Governor

HB

426

ADOT&PF Projects in/near Chugach State Park

- Seward Highway, MP 97-99 Bird Point to Bird Passing Lanes
Construction 2002
\$10,000,000
- Seward Highway, MP 101.5 Bird Creek Parking Lot
Construction 2002
\$4,250,000
- Seward Highway, MP 101.5 Bird Creek Safety Project
Construction 2002 (Public Lands Discretionary Funding)
\$1,000,000 (to be completed with the Parking Lot Project)
- Seward Highway, MP 99-104 Bird and Indian Bypass
Construction 2004
\$22,000,000
- Seward Highway, MP 104-115 Indian to Potter Passing Lanes
Construction 2003
\$22,000,000

These are the projects that will be affected by House Bill 426 in the next four years.

HB426

TONY KNOWLES
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

2/25/00

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

The Seward Highway south of Anchorage through Chugach State Park has been reconstructed and realigned over the past few years to promote greater safety and ease for the traveling public. Some of these improvements and further planned projects also involve adjacent railroad and utility rights-of-way. Because the laws creating Chugach State Park prohibit transfer of park lands, land exchanges for realignments and relocations of the highway and railroad require specific statutory authority.

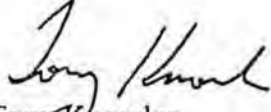
This bill allows for the exchanges of property interests between Chugach State Park, the Department of Transportation, the Alaska Railroad and utilities needed for widening or relocating the highway or railroad through the Park. All land exchanges would be subject to a finding by the commissioner of the Department of Natural Resources that they would not significantly affect the purposes of the Park.

The transferred park land would be limited to the amount necessary for the relocation. All lands received in exchange for the relocation needs would become part of Chugach State Park.

This bill will provide for the continued upgrading and increased safety along one of our state's most traveled highways. At the same time, the scenic and recreational values of Chugach State Park will be protected and enhanced through continued close cooperation and project planning between state agencies and the Alaska Railroad.

I urge your prompt and favorable action on this measure.

Sincerely,


Tony Knowles
Governor

FISCAL NOTE

Bill Version: HB 426

BIL (H) Publish Date: 2/28/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time: _____ Dept Affected: Natural Resources
 Title: An Act relating to transfers of public land or BRU: Parks & Recreation Management
grants or conveyances of interest in public land among... Component: Parks Management
 Sponsor: Rules
 Requestor: Governor Component No. #452

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) 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 anticipated fiscal impact associated with implementation of this legislation.

Prepared by: Jim Stratton, Director *[Signature]* Phone: 269-8701
 Division: Parks Date: 22-Feb-00
 Approved by Commissioner: John Shively *[Signature]* Date: 22-Feb-00
 Agency: Natural Resources

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COMMITTEE COPY

FISCAL NOTE

Bill Version: HB 426
 (H) Publish Date: 2/28/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected DOT&PF
 Title Land Exchange: Seward Highway BRU Design and Engineering Services
Transportation Corridor Component Central Reg Design and Eng Svcs
 Sponsor Rules
 Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) 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)

Prepared by: Dennis Poshard Phone 465-3904
 Division Commissioner's Office Date/Time 2/22/00 4:58 PM
 Approved by Commissioner Joseph L. Perkins Date 2/22/00
 Agency Joseph L. Perkins, DOT&PF

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HB

429

Alaska State Legislature

House Resources Committee

Co-Chair Beverly Masek
(907) 465-3715
FAX (907) 465-4822

Capitol Building, Room 124
Juneau, Alaska 99801



Co-Chair Bill Hudson
(907) 465-6890
FAX (907) 465-2273

Committee Meetings:
M/W/F 1 - 3 p.m.

Members: Vice Chair John Cowdery, Representatives: Ramona Barnes, John Harris, Carl Morgan, Jim Whitaker, Reggie Joule, and Mary Kapsner

HB 429 Moratoria: Hair Crab & Scallop Fisheries

HB 429 extends the current vessel moratoria on the Korean hair crab (AS 16.43.901) and Weathervane Scallop (AS 16.43.906) fisheries for three years. These moratoria were enacted by the Legislature in 1996 and 1997, respectively.

These extensions are necessary because the Legislature has not yet created a viable limited entry or moratorium program for the Commercial Fisheries Entry Commission to use after these vessel moratoria expire. Without some type of program in place, these fisheries will likely have to be reopened to a potential influx of new participants or be closed entirely. In addition, the state risks federal preemption of state management of these fisheries.

When the Legislature enacted these moratoria, it recognized that these fisheries might not lend themselves to limited entry under existing state statute. With that in mind, the Legislature implemented the moratoria and directed CFEC to submit legislation for a vessel-based limited entry program the following year. Legislation authorizing a vessel permit limitation system was introduced in the House and Senate but neither bill has moved out of its first committee of referral. It appears that legislation will not be passed in time to implement vessel limitation programs in these two fisheries prior to the expiration of the moratoria.

The Weathervane scallop and Korean hair crab fisheries occur in both state waters and in adjacent federal waters of the Exclusive Economic Zone (EEZ) but the State has assumed management of both fisheries.

Frequently Asked Questions

HB 429 Moratoria: Hair Crab and Scallop Fisheries

1. Where do these fisheries occur?

The hair crab and weathervane scallop fisheries occur in both state water and in adjacent federal waters of the Exclusive Economic Zone (EEZ). The hair crab fishery occurs in the Bering Sea near St. Paul Island. The 1999 fishery began on October 30th and had a guideline harvest level of 283,000 pounds. The total harvest for 1999 was 230,000 pounds with an average ex-vessel price of \$4.00 therefore the total ex-vessel value was \$920,000.

The weathervane scallop fishery occurs in the Gulf of Alaska from the eastern Aleutian Islands to Yakutat. Product is harvested and processed (shucked) on board the vessel. The fishery opens on July 1 with each area or district having its own guideline harvest range and bycatch limits. The Cook Inlet fishery (Area H) is a separately managed fishery with the beds in federal waters. The guideline harvest level for Cook Inlet is between 10,000 and 20,000 pounds.

2. How are scallops harvested?

Fishing gear for scallops consists of a dredge made up of a rectangular metal frame approximately 12 feet wide. Steel rings connected together by chain links and webbing along the top form a net. Generally, a vessel will fish two such dredges, which may weigh around a ton each, and are towed through the beds. Due to the sea conditions associated with offshore scallop beds, vessels average around 83 feet in length. Mounted on the foremast are two booms, which are used in hauling the dredges. The statewide fishery has 100% observer coverage. The Cook Inlet fishery is a smaller fishery and its gear is limited to one six-foot dredge.

3. How many vessels are eligible to participate under the moratoria?

25 vessels are eligible to participate under the moratorium in the Korean Hair Crab fishery. In the Weathervane Scallop fishery, there are 10 vessels eligible statewide and 3 vessels eligible to participate specifically in the Cook Inlet fishery (Area H).

4. Why did the Legislature implement these moratoria?

Alaskan fishers petitioned the CFEC to limit entry in the two fisheries, but the commission was not authorized to implement a program that limited vessels in a fishery instead of persons. The Legislature responded to the fishers' requests by establishing a four-year vessel moratorium in each fishery. The vessel moratorium for the Bering Sea Korean hair crab fishery is due to expire on June 30, 2000. The vessel moratorium for the Weathervane scallop fishery expires on June 30, 2001.

5. Why is traditional limited entry not a good option for these fisheries?

Under the current limited entry statute, AS 16.43, the Commercial Fisheries Entry Commission (CFEC) issues limited entry permits to persons who are gear operators in a fishery, but not to vessels or vessel owners unless the vessel owner is also the gear operator. This type of limited entry system, based on an "owner-operator" model, is appropriate for such fisheries as salmon and herring where vessels are typically fished by only one person in

a season. Vessels in these fisheries tend to be small and are usually fished in near-shore waters and the fisherman is usually the vessel-owner.

Other fisheries in Alaska, especially those in the Gulf of Alaska and Bering Sea, are characterized by larger vessels that operate in offshore waters. In these fisheries, the gear operator may not own the vessel he fishes, but may be a skipper hired by the vessel owner. Larger vessels in these fisheries may move from area to area, hiring replacement skippers as necessary to continue fishing throughout the season.

A limited entry system under AS 16.43 may not be appropriate or workable for this kind of fishery because the number of vessels in the fishery could increase after the fishery was limited if each skipper, i.e. each limited entry permit holder, then decided to fish from his own vessel. Thus, limited entry under AS 16.43 could potentially increase the units of gear in such fisheries instead of limiting the number, and therefore would not achieve the resource conservation and economic viability purposes of the Limited Entry Act. Furthermore, under traditional limited entry, some permits would be issued to those who had been hired skippers (i.e. employees) while those who have made the financial investment in vessels which have actively participated in the fishery may be left owning vessels without legal fishing privileges

6. Why can't CFEC extend these moratoria?

Current statute does not authorize the CFEC to implement vessel-based moratorium or extend an existing moratorium. Last session, the House Fisheries Committee introduced legislation, HB 104, to give CFEC this authority. HB 104 passed the House unanimously but is unlikely to move out of the Senate.

7. What happens if the Legislature does not take action to extend these moratoria?

With no limitation action, these two fisheries will revert to open access at the end of the moratorium. Fisheries managers would then have two options. One would be to open the fishery knowing that there will likely be an influx of new participants with the possibility of a resource conservation concern. If managers feel the risk is too high, and that the fisheries cannot be managed to ensure sustained yield under open access, they could choose to not open the fisheries at all or significantly reduce fishing time. This would result in economic harm to the vessel owners, skippers, crew, processors and coastal communities. Additionally, closure of the fisheries would mean the loss of fisheries business tax revenue to the state's General Fund.

8. Are these permits transferable?

No. Moratorium permits are temporary or "interim use" permits that may not be transferred to another vessel owner. These temporary permits have no "value" beyond the ability of the vessel to continue participating during the moratorium.

HOUSE BILL NO. 429

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced: 3/3/00

Referred: Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the termination date for the vessel permit moratoria for the
2 Bering Sea Korean hair crab fishery and the weathervane scallop fishery; and
3 providing for an effective date."

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

5 * Section 1. AS 16.43.901(d) is amended to read:

6 (d) After July 1, 1996, and through June 30, 2003 [2000], the commission may
7 not issue a vessel permit under this section to a commercial fishing vessel [,] unless
8 the vessel either had legally participated in a directed Korean hair crab fishery in the
9 Bering Sea and landed Korean hair crab in at least one calendar year during 1993
10 through 1995, inclusive, or was acquired between 1993 and 1995, inclusive, as a
11 replacement for a vessel that would be eligible to receive a vessel permit but is no
12 longer used in the fishery. Use of a vessel in the Bering Sea Korean hair crab fishery
13 after July 1, 1996, may not be used to establish eligibility for a vessel permit for the
14 Bering Sea Korean hair crab fishery that occurs beyond five miles from shore that may

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB429

Revision Date/Time (Note if correction) _____ Dept. Affected Fish and Game
 Title An Act extending the termination date for the BRU Commercial Fisheries Entry Comm
vessel permit moratoria for the Bering Sea Korean hair crab Component Commercial Fisheries Entry Comm
 Sponsor House Resources
 Requester House Resources Component No. 471

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact

Prepared by: Roger Kolden Phone 790-6950
 Division Commercial Fisheries (Limited) Entry Commission Date/Time 3/7/00 3:12 PM
 Approved by Commissioner Mary McDowell Date 3/7/00
 Agency Fish and Game, Commercial Fisheries (Limited) Entry Commission

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Pacific Associates, Inc.

234 Gold Street • Juneau, Alaska 99801

March 16, 2000

The Honorable Bill Hudson
Alaska State Legislature
Capitol Building
Juneau, Alaska 99801

Re: HB - 429

Dear Representative Hudson:

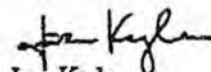
Thank you for the opportunity to comment on HB - 429. I am the co - owner of a public affairs consultancy (Pacific Associates), which represents numerous clients in the commercial fishing and marine transportation industries. One of my clients is John Winther, from Petersburg, Alaska, who leads an informal group of Korean Hair Crab fishermen who support HB - 429.

HB - 429 extends the current moratorium for hair crab and scallop fishermen so they are not flooded with new entrants who have been displaced from other fisheries. The majority of the Bering Sea commercial fisheries are currently moving into one form or another of limited entry. Displaced fishermen (most of whom are non Alaskan) are shopping for new fisheries. The hair crab and scallop fisheries still have significant Alaskan participation.

Our home grown fishermen will be disadvantaged if these fisheries are thrown back into an open access status.

I urge you to move HB - 429 as expeditiously as possible

Sincerely,


Joe Kyle

United Aleut Nation
4000 Old Seward Hwy. Suite 300
Anchorage, Alaska 99503
Tel.# (907) 561-4300

March 17, 2000

The Honorable Bill Hudson
Chairman
House Resources Committee
The Alaska Legislature
Juneau, Alaska

Re: HB 429-For Hearing Record 3-17-00

Dear Chairman Hudson:

I have reviewed the proposed legislation, HB 429, referencing Korean Hair Crab and the weathervane scallop fishery. I am opposed to the legislation as in its present form; it adversely affects the Aleut residents of St. Paul and St. George Islands. I am an Aleut from St. Paul Island.

The following questions should be answered before we go to a limited entry system for Korean Hair Crab, as proposed.

- 1.) What economic and social impacts will this have on the communities of St. Paul and St. George?
- 2.) How does the fishery for scallop's affect or have anything to do with hair crab? We must separate the two fisheries and not mix them together. How many scallop permits are issued each year by NMFS or the State and for what areas of the State?
- 3.) What is the health of the Korean Hair Crab stocks near the Pribilof Islands?
- 4.) How many permits were issued for the hair crab fishery near the Pribilof Islands? Vessel sizes? Pounds delivered?
- 5.) How will this moratorium affect the CDQ program?
- 6.) What vessel sizes or class is this legislation targeting?

The effect of this legislation, in present form, are to create a problem in the near shore fisheries surrounding the Pribilof Islands where none exists today? The present quota's are not large and we believe are managed to insure stock strength and health.

The significant impact of this legislation is to deny the Aleut People of the Pribilofs the opportunity to participate in this fishery and further discriminate against the Aleut's for economic reasons. We need not detail the reasons why this is true today, but can state for the record that we can demonstrate how economic factors have impeded our efforts. Given this, this legislation is unfair and takes away a valuable resource from the Aleut People. While we can also discuss our CDQ fishery operations, we believe that because we are still developing our options in the fisheries, we must not allow for programs that exclude us from future potential. We are making progress and want our people to be able to purchase vessels of the size necessary to harvest hair crab economically and safely. We are moving in that direction towards larger vessels. If this legislation is enacted, it will freeze us out of this important fishery for local operators.

We recognize that the crab fishery in Alaska is under strain today. We see the industry struggling with buy-back programs and other issues such as co-ops to harvest available quotas. The Pribilof communities are seeking emergency declarations because of the crash in the opilio fisheries. Crab fisheries obviously have a significant impact on our communities. Thus far and until we can diversify, crab is our economic mainstay.

We are mindful that the State encourages local development and participation. There is very good reason for this. Communities can only sustain themselves with local development. We all have heard about the problems of salmon permits owned by outside interests. We know that most of the vessel participant in the crab fisheries today is owned by non-Alaska interests. This legislation would give what is essentially a local fishery around the Pribilof's to outside interests. This is wrong and poor policy for the residents of Alaska.

If the State wishes to establish a moratorium for the hair crab fishery, and we would encourage this sometime in the future, it must be for vessel's under 60 feet in length. As each member of this committee must be aware, most local fleets in our State are vessels 60 feet and under. The hair crab is and must be considered a local near shore fishery. The question of 5 miles out from shore is not material to any moratorium. What we must concentrate on is the health of the stocks as well as careful quota harvest levels.

We ask that this legislation be tabled for this session until we can develop a program that takes into consideration the impact on the Pribilof communities where most of the hair crab is harvested. We must be fair and apply our resources on an equitable basis. We must give people an opportunity to develop and not freeze them out of any development potential.

Thank you for your time and consideration. We want to work with the State to develop our resources carefully and in consideration of our communities and our residents.

Sincerely,
S/s

R. George Pletnikoff
Executive Director

Patrick Pletnikoff
St. Paul Island, Alaska 99660
Tel.# (907) 272-1233

March 17, 2000

The Honorable Bill Hudson
Chairman
House Resources Committee
The Alaska Legislature
Juneau, Alaska

Re: HB 429-For Hearing Record 3-17-00

Dear Chairman Hudson:

I have reviewed the proposed legislation, HB 429, referencing Korean Hair Crab and the weathervane scallop fishery. I am opposed to the legislation as in its present form; it adversely affects the Aleut residents of St. Paul and St. George Islands. I am an Aleut from St. Paul Island.

The following questions should be answered before we go to a limited entry system for Korean Hair Crab, as proposed.

- 1.) What economic and social impacts will this have on the communities of St. Paul and St. George?
- 2.) How does the fishery for scallop's affect or have anything to do with hair crab? We must separate the two fisheries and not mix them together. How many scallop permits are issued each year by NMFS or the State and for what areas of the State?
- 3.) What is the health of the Korean Hair Crab stocks near the Pribilof Islands?
- 4.) How many permits were issued for the hair crab fishery near the Pribilof Islands? Vessel sizes? Pounds delivered?
- 5.) How will this moratorium affect the CDQ program?
- 6.) What vessel sizes or class is this legislation targeting?

The effect of this legislation, in present form, are to create a problem in the near shore fisheries surrounding the Pribilof Islands where none exists today? The present quota's are not large and we believe are managed to insure stock strength and health.

The significant impact of this legislation is to deny the Aleut People of the Pribilofs the opportunity to participate in this fishery and further discriminate against the Aleut's for economic reasons. We need not detail the reasons why this is true today, but can state for the record that we can demonstrate how economic factors have impeded our efforts. Given this, this legislation is unfair and takes away a valuable resource from the Aleut People. While we can also discuss our CDQ fishery operations, we believe that because we are still developing our options in the fisheries, we must not allow for programs that exclude us from future potential. We are making progress and want our people to be able to purchase vessels of the size necessary to harvest hair crab economically and safely. We are moving in that direction towards larger vessels. If this legislation is enacted, it will freeze us out of this important fishery for local operators.

We recognize that the crab fishery in Alaska is under strain today. We see the industry struggling with buy-back programs and other issues such as co-ops to harvest available quotas. The Pribilof communities are seeking emergency declarations because of the crash in the opilio fisheries. Crab fisheries obviously have a significant impact on our communities. Thus far and until we can diversify, crab is our economic mainstay.

We are mindful that the State encourages local development and participation. There is very good reason for this. Communities can only sustain themselves with local development. We all have heard about the problems of salmon permits owned by outside interests. We know that most of the vessel participant in the crab fisheries today is owned by non-Alaska interests. This legislation would give what is essentially a local fishery around the Pribilof's to outside interests. This is wrong and poor policy for the residents of Alaska.

If the State wishes to establish a moratorium for the hair crab fishery, and we would encourage this sometime in the future, it must be for vessel's under 60 feet in length. As each member of this committee must be aware, most local fleets in our State are vessels 60 feet and under. The hair crab is and must be considered a local near shore fishery. The question of 5 miles out from shore is not material to any moratorium. What we must concentrate on is the health of the stocks as well as careful quota harvest levels.

We ask that this legislation be tabled for this session until we can develop a program that takes into consideration the impact on the Pribilof communities where most of the hair crab is harvested. We must be fair and apply our resources on an equitable basis. We must give people an opportunity to develop and not freeze them out of any development potential.

Thank you for your time and consideration. We want to work with the State to develop our resources carefully and in consideration of our communities and our residents.

Sincerely,

Bill History/Action Display



BILL: HB 141 SHORT TITLE: SCALLOP FISHERY/ VESSEL MORATORIUM
 BILL VERSION: SCS CSHB 141(RES)
 SPONSOR(S): REPRESENTATIVES(S) AUSTERMAN

CURRENT STATUS: CHAPTER 97 SLA 97 STATUS DATE: 6/20/97
 EFFECTIVE DATE OF LAW 6/21/97

TITLE: "An Act relating to a vessel permit moratorium for the Alaska weathervane scallop fishery; relating to management of the scallop fisheries; and providing for an effective date."

Full Text Detailed 2000 fiscal note information currently not available on-line.

Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
2/17/97	<u>374</u>	(H) READ THE FIRST TIME - REFERRAL(S)
2/17/97	<u>374</u>	(H) FSH, RESOURCES
2/27/97	<u>508</u>	(H) FSH RPT CS(FSH) 5DP
2/27/97	<u>508</u>	(H) DP: AUSTERMAN, KUBINA, HODGINS, IVAN,
2/27/97	<u>508</u>	(H) OGAN
2/27/97	<u>508</u>	(H) ZERO FISCAL NOTE (F&G)
4/01/97	<u>895</u>	(H) RES RPT CS(RES) 3DP 4NR
4/01/97	<u>895</u>	(H) DP: DYSON, GREEN, HUDSON
4/01/97	<u>895</u>	(H) NR: MASEK, OGAN, NICHOLIA, JOULE
4/01/97	<u>896</u>	(H) ZERO FISCAL NOTE (F&G) 2/27/97
4/11/97	<u>1081</u>	(H) RULES TO CALENDAR 4/11/97
4/11/97	<u>1081</u>	(H) READ THE SECOND TIME
4/11/97	<u>1081</u>	(H) RES CS ADOPTED UNAN CONSENT
4/11/97	<u>1081</u>	(H) AM NO 1 ADOPTED UNAN CONSENT
4/11/97	<u>1081</u>	(H) ADVANCED TO THIRD READING UNAN CONSENT
4/11/97	<u>1081</u>	(H) READ THE THIRD TIME CSHB 141(RES) AM
4/11/97	<u>1082</u>	(H) PASSED Y35 E3 A2
4/11/97	<u>1082</u>	(H) EFFECTIVE DATE(S) SAME AS PASSAGE
4/11/97	<u>1086</u>	(H) TRANSMITTED TO (S)
4/14/97	<u>1122</u>	(S) READ THE FIRST TIME - REFERRAL(S)
4/14/97	<u>1122</u>	(S) RESOURCES
5/08/97	<u>1818</u>	(S) RES RPT SCS 2DP 3NR SAME TITLE
5/08/97	<u>1818</u>	(S) DP: TORGERSON, LEMAN
5/08/97	<u>1818</u>	(S) NR: HALFORD, GREEN, LINCOLN
5/08/97	<u>1818</u>	(H) ZERO FN APPLIES TO SCS (F&G)
5/09/97	<u>1892</u>	(S) RULES TO CALENDAR 5/9/97
5/09/97	<u>1899</u>	(S) READ THE SECOND TIME
5/09/97	<u>1900</u>	(S) RES SCS ADOPTED UNAN CONSENT
5/09/97	<u>1900</u>	(S) ADVANCE TO THIRD READING FLD Y14 N5 E1
5/09/97	<u>1900</u>	(S) THIRD READING 5/10 CALENDAR
5/10/97	<u>1957</u>	(S) READ THE THIRD TIME SCS CSHB 141(RES)
5/10/97	<u>1957</u>	(S) PASSED Y17 N- E1 A2
5/10/97	<u>1958</u>	(S) EFFECTIVE DATE(S) SAME AS PASSAGE
5/10/97	<u>1971</u>	(S) TRANSMITTED TO (H) AS AMENDED
5/10/97	<u>1832</u>	(H) CONCUR AM OF (S) Y37 A3
5/10/97	<u>1833</u>	(H) EFFECTIVE DATE(S) SAME AS PASSAGE
7/10/97	<u>1966</u>	(H) 11:50 AM 6/9/97 TRANSMITTED TO GOVERNOR
7/10/97	<u>1983</u>	(H) SIGNED INTO LAW 6/20 CHAPTER 97 SLA 97
7/10/97	<u>1983</u>	(H) EFFECTIVE DATE OF LAW 6/21/97

Similar Subject Match or Exact Subject Match



SENATE CS FOR CS FOR HOUSE BILL NO. 141(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 5/8/97

Referred: Rules

Sponsor(s): REPRESENTATIVE AUSTERMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a vessel permit moratorium for the Alaska weathervane
2 scallop fishery; relating to management of the scallop fisheries; and providing for
3 an effective date."

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

5 * **Section 1. LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that
6 (1) the scallop fishing fleet in Alaska is overcapitalized;
7 (2) fishing effort in the Alaska weathervane scallop fishery has reached levels
8 that may threaten the sustained yield management of the fishery;
9 (3) weathervane scallops are long-lived animals with few natural predators;
10 these attributes are common to species that are the most susceptible to overfishing;
11 (4) the status of many Alaska weathervane scallop stocks is largely unknown,
12 and the stocks are susceptible to localized depletion and general overfishing;
13 (5) scallop fisheries around the world have collapsed after relatively short
14 periods of intense fishing;

1 (6) scallop dredges may adversely affect important bottom-dwelling species,
2 such as king crab and Tanner crab, and without careful management may threaten the
3 conservation of these other fishery resources;

4 (7) the conventional limited entry and moratorium system under AS 16.43
5 cannot adequately protect the economic health and stability of the Alaska weathervane scallop
6 fishery or adequately promote the sustained yield management of the Alaska weathervane
7 scallop fishery;

8 (8) the United States Department of Commerce has taken action to restrict
9 access to the Alaska weathervane scallop fishery in the waters of the United States exclusive
10 economic zone adjacent to Alaska;

11 (9) state management of the entire Alaska weathervane scallop fishery will
12 provide a uniform and comprehensive management regime for the fishery, protect the
13 economic health and stability of the fishery, and promote sustained yield management of the
14 fishery;

15 (10) establishment of a moratorium on the issuance of vessel permits to new
16 vessels seeking to enter the Alaska weathervane scallop fishery promotes the purposes of art.
17 VIII, sec. 15, Constitution of the State of Alaska, and AS 16.43 while providing an
18 opportunity to study and evaluate the feasibility of a permanent vessel permit limited entry
19 system for the Alaska weathervane scallop fishery.

20 (b) It is the intent of the legislature that the Board of Fisheries maintain 100 percent
21 observer coverage for all vessels engaged in the Alaska weathervane scallop fishery.

22 * Sec. 2. AS 16.05 is amended by adding a new section to article 5 to read:

23 **Sec. 16.05.735. Management of offshore fisheries.** The state may assume
24 management of the scallop fisheries in offshore water adjacent to the state in the
25 absence of a federal fishery management plan for scallops or in the event that a federal
26 fishery management plan for scallops delegates authority to the state to manage scallop
27 fisheries in the United States exclusive economic zone.

28 * Sec. 3. AS 16.43 is amended by adding a new section to read:

29 **Sec. 16.43.906. Vessel permits for weathervane scallop fishery.** (a) The
30 commission shall issue annual vessel permits for commercial fishing vessels used in
31 the weathervane scallop fishery. The commission shall issue vessel permits to the

1 vessel upon application by the vessel owner. The commission shall issue separate
2 vessel permits for each registration area. The weathervane scallop fishery registration
3 areas are the statewide Alaska weathervane scallop fishery registration area and the
4 area H weathervane scallop fishery registration area.

5 (b) A vessel permit is a use privilege authorizing the vessel to take
6 weathervane scallops in the registration area for which the vessel permit is issued. The
7 use privilege conveyed by a vessel permit may be modified or revoked by the
8 legislature without compensation.

9 (c) On or after July 1, 1997, a commercial fishing vessel may not be used to
10 take weathervane scallops in a registration area unless a vessel permit for that
11 registration area has been issued under this section for the vessel.

12 (d) The commission may not issue a vessel permit under this section to a
13 commercial fishing vessel for the statewide Alaska weathervane scallop fishery
14 registration area for the period from June 30, 1997, through June 30, 2001, inclusive,
15 unless

16 (1) the vessel has landed at least 1,000 pounds of weathervane scallops
17 that were legally taken in the statewide Alaska weathervane scallop fishery registration
18 area

19 (A) during calendar year 1995 or 1996; and

20 (B) during each of at least four calendar years between 1984
21 and 1996, inclusive; or

22 (2) the vessel qualifies for a vessel permit for the area H weathervane
23 scallop fishery registration area under (e) of this section.

24 (e) The commission may not issue a vessel permit under this section to a
25 commercial fishing vessel for the area H weathervane scallop fishery registration area
26 for the period from July 1, 1997, through June 30, 2001, inclusive, unless the vessel
27 has landed at least 1,000 pounds of weathervane scallops that were legally taken in the
28 area H weathervane scallop fishery registration area

29 (1) during calendar year 1994 or 1996; and

30 (2) during each of at least three calendar years between 1984 and 1996,
31 inclusive.

1 (f) Notwithstanding (d) and (e) of this section, a vessel owner who does not
2 own a commercial fishing vessel that qualifies for a vessel permit for a scallop fishery
3 registration area may receive a vessel permit for that registration area if the vessel
4 owner owned two or more commercial fishing vessels whose combined participation
5 in the scallop fishery for that registration area would satisfy the requirements for a
6 vessel permit for that registration area under this section. The commission shall issue
7 a vessel permit under this subsection to the last commercial fishing vessel that the
8 vessel owner owned to satisfy the requirements for the vessel permit for the
9 registration area if the vessel owner still owned that commercial fishing vessel on
10 July 1, 1997.

11 (g) Notwithstanding (d) - (f) of this section, the commission shall reissue a
12 vessel permit upon request of a person who is the owner of a vessel for which a vessel
13 permit has been issued under this section to another vessel owned by the person if the
14 vessel to which the vessel permit is to be reissued does not have an overall length or
15 horsepower rating exceeding the length or horsepower rating of the vessel for which
16 the vessel permit was initially issued. The vessel from which the vessel permit was
17 transferred may no longer be used in the fishery for which the vessel permit was
18 issued unless another vessel permit is reissued to the vessel. This subsection does not
19 authorize the issuance of more vessel permits than are authorized under (d) - (f) of this
20 section.

21 (h) Use of a vessel in a weathervane scallop fishery on or after July 1, 1997,
22 may not be used to establish eligibility for a vessel permit for a weathervane scallop
23 fishery that may be issued after June 30, 2001.

24 (i) Subsections (d) - (h) of this section may be superseded by regulations
25 adopted by the commission under subsequent legislation enacted by the legislature
26 authorizing

27 (1) a permanent vessel permit limited entry system for the weathervane
28 scallop fishery; or

29 (2) termination of the temporary moratorium on issuance of new vessel
30 permits established by this subsection.

31 (j) An application for a vessel permit under this section must contain the name

1 of each permit holder authorized to operate the vessel in the weathervane scallop
2 fishery and other information the commission may require to implement this section.
3 The owner of a vessel for which a vessel permit is issued shall notify the commission
4 in writing of a change in the permit holders who are authorized to operate the vessel
5 in the weathervane scallop fishery. In this subsection, "permit holder" means a person
6 who holds an entry permit or interim-use permit issued under this chapter for the
7 weathervane scallop fishery.

8 (k) If a commercial fishing vessel that qualifies for a vessel permit under this
9 section or that is issued a vessel permit under this section is sunk, destroyed, or
10 damaged to the extent that the vessel is inoperable for a weathervane scallop fishing
11 season, the commission may, upon the request of the owner of the vessel, reissue the
12 vessel permit for that fishing season to another commercial fishing vessel with an
13 overall length and horsepower rating that does not exceed the overall length and
14 horsepower rating of the vessel that was sunk, destroyed, or damaged.

15 (l) The fee for the annual vessel permit is \$1,000. A vessel permit is valid for
16 the calendar year that is inscribed on the license.

17 (m) The commission shall, in cooperation with the Department of Fish and
18 Game, conduct investigations to determine whether an alternative form of
19 nontransferable vessel or limited entry permit system or other management program
20 is appropriate for weathervane scallop fisheries in the state.

21 (n) The commission may adopt regulations that the commission considers
22 necessary to implement this section.

23 (o) In this section,

24 (1) "area H weathervane scallop fishery registration area" means the
25 marine waters of Cook Inlet north of the latitude of Cape Douglas (58 degrees 52
26 minutes North latitude) and west of the longitude of Cape Fairfield (148 degrees 50
27 minutes West longitude);

28 (2) "landed" includes catching or catching and processing of
29 weathervane scallops taken in state waters or the adjacent United States exclusive
30 economic zone for sale as evidenced by a Department of Fish and Game fish ticket;

31 (3) "statewide Alaska weathervane scallop fishery registration area"

1 means the marine waters of the state and the adjacent United States exclusive
2 economic zone, outside of the area H weathervane scallop fishery registration area.

3 * Sec. 4. AS 16.43.911(c) is amended to read:

4 (c) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
5 release to the owner of a vessel information on the vessel's history of harvests in a
6 [THE KOREAN HAIR CRAB] fishery that is necessary to apply for a vessel permit
7 under AS 16.43.901 - 16.43.906.

8 * Sec. 5. Section 5, ch. 126, SLA 1996, is amended to read:

9 Sec. 5. AS 16.43.901 [AND 16.43.911], added by sec. 3 of this Act, is [ARE]
10 repealed July 1, 2000.

11 * Sec. 6. AS 16.43.906, added by sec. 3 of this Act, and AS 16.43.911 are repealed July 1,
12 2001.

13 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

Bill History/Action Display



BILL: HB 538 SHORT TITLE: HAIR CRAB VESSELS; LTD ENTRY FOR VESSELS
 BILL VERSION: CSHB 538(2D FSH)
 SPONSOR(S): COMMUNITY AND REGIONAL AFFAIRS

CURRENT STATUS: CHAPTER 126 SLA 96 STATUS DATE: 7/03/96
 EFFECTIVE DATE OF LAW 7/4/96

TITLE: "An Act relating to vessels participating in the Bering Sea Korean hair crab fishery; relating to a vessel permit limited entry system; and providing for an effective date."

[Full Text](#) Detailed 2000 fiscal note information currently not available on-line.

Committee Action With Bill History

Jrn-Date	Jrn-Page	Action
3/06/96	<u>2995</u>	(H) READ THE FIRST TIME - REFERRAL(S)
3/06/96	<u>2995</u>	(H) FISHERIES
3/13/96	<u>3113</u>	(H) FSH RPT CS(FSH) 2DP 3NR
3/13/96	<u>3113</u>	(H) DP: AUSTERMAN, ELTON
3/13/96	<u>3113</u>	(H) NR: G.DAVIS, OGAN, MOSES
3/13/96	<u>3113</u>	(H) ZERO FISCAL NOTE (F&G)
4/17/96	<u>3826</u>	(H) RETURN TO FSH COMMITTEE
4/19/96	<u>3878</u>	(H) FSH RPT CS(2D FSH) NT 2DP 3NR
4/19/96	<u>3879</u>	(H) DP: ELTON, AUSTERMAN
4/19/96	<u>3879</u>	(H) NR: G.DAVIS, MOSES, OGAN
4/19/96	<u>3879</u>	(H) ZERO FISCAL NOTE (F&G) 3/13/96
4/24/96	<u>4000</u>	(H) RULES TO CALENDAR 4/24/96
4/24/96	<u>4000</u>	(H) READ THE SECOND TIME
4/24/96	<u>4001</u>	(H) 2D FSH CS ADOPTED UNAN CONSENT
4/24/96	<u>4001</u>	(H) ADVANCED TO THIRD READING UNAN CONSENT
4/24/96	<u>4001</u>	(H) READ THE THIRD TIME CSHB 538(2D FSH)
4/24/96	<u>4001</u>	(H) PASSED Y37 E2 A1
4/24/96	<u>4002</u>	(H) EFFECTIVE DATE(S) SAME AS PASSAGE
4/24/96	<u>4020</u>	(H) TRANSMITTED TO (S)
4/25/96	<u>3549</u>	(S) READ THE FIRST TIME - REFERRAL(S)
4/25/96	<u>3550</u>	(S) RESOURCES
4/29/96	<u>3704</u>	(S) RES RPT 2DP 2NR 1DNP
4/29/96	<u>3704</u>	(S) PREVIOUS H ZERO FN (F&G)
5/03/96	<u>3875</u>	(S) RULES TO CALENDAR 5/3/96
5/03/96	<u>3887</u>	(S) READ THE SECOND TIME
5/03/96	<u>3887</u>	(S) ADVANCED TO THIRD READING UNAN CONSENT
5/03/96	<u>3887</u>	(S) READ THE THIRD TIME CSHB 538(2D FSH)
5/03/96	<u>3888</u>	(S) PASSED Y13 N5 E2
5/03/96	<u>3888</u>	(S) EFFECTIVE DATE PASSED Y18 N- E1 A1
5/03/96	<u>3888</u>	(S) PEARCE NOTICE OF RECONSIDERATION
5/04/96	<u>3945</u>	(S) RECONSIDERATION NOT TAKEN UP
5/04/96	<u>3945</u>	(S) RETURN TO (H), TRANSMIT TO GOVERNOR NEXT
10/21/96	<u>4799</u>	(H) 10:10 AM 6/18/96 TRANSMITTED TO GOVERNOR
10/21/96	<u>4840</u>	(H) SIGNED INTO LAW 7/3 CHAPTER 126 SLA 96
10/21/96	<u>4840</u>	(H) EFFECTIVE DATE OF LAW 7/4/96

Similar Subject Match or Exact Subject Match

BOARDS & COMMISSIONS

FISH & GAME (FISH)

LICENSING



CS FOR HOUSE BILL NO. 538(2d FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 4/19/96

Referred: Rules

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to vessels participating in the Bering Sea Korean hair crab
2 fishery; relating to a vessel permit limited entry system; and providing for an
3 effective date."

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

5 * **Section 1. LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that

6 (1) fishing effort in the Bering Sea Korean hair crab fishery has reached levels
7 that may threaten the economic welfare of the fishery, the overall efficiency of the fishery,
8 and the sustained yield management of the Bering Sea Korean hair crab resource;

9 (2) the conventional limited entry system under AS 16.43 will not adequately
10 protect the economic health and stability of the fishery or promote the sustained yield
11 management of the Bering Sea Korean hair crab fishery resource;

12 (3) the Bering Sea Korean hair crab fishery should provide for some entry
13 level opportunities for fishermen;

14 (4) establishment of a vessel permit system for the Bering Sea Korean hair

1 crab fishery that occurs beyond five miles from shore will promote the purposes of art. VIII,
2 sec. 15, Constitution of the State of Alaska, and of AS 16.43, if the system maintains the
3 current levels of fishing capacity in the fishery;

4 (5) establishment of a moratorium on the issuance of vessel permits to new
5 vessels seeking to enter the Bering Sea Korean hair crab fishery that occurs beyond five miles
6 from shore promotes the purposes of art. VIII, sec. 15, Constitution of the State of Alaska, and
7 of AS 16.43 while providing an opportunity to study and evaluate the feasibility of a
8 permanent vessel permit limited entry system for the Bering Sea Korean hair crab fishery and
9 other fisheries;

10 (6) a limitation on the size of vessels engaged in the near shore fishery for
11 Bering Sea Korean hair crab is necessary to provide an opportunity for the small boat fleet
12 of the state to participate in the fishery, allow increased participation in the fishery without
13 jeopardizing sustained yield management and viability of the Bering Sea Korean hair crab
14 resource and fishery, and foster economic development.

15 (b) It is the intent of the legislature that the Board of Fisheries maintain 100 percent
16 observer coverage for all vessels engaged in taking Bering Sea Korean hair crab.

17 * **Sec. 2.** AS 16.05.835 is amended to read:

18 Sec. 16.05.835. MAXIMUM LENGTH OF SALMON SEINE AND
19 CERTAIN KOREAN HAIR CRAB VESSELS. (a) A salmon seine vessel may not
20 be longer than 58 feet overall length except vessels that have fished for salmon with
21 seines in waters of the state before January 1, 1962, as 50-foot, official Coast Guard
22 register length vessels.

23 (b) A vessel engaged in the Bering Sea Korean hair crab fishery within
24 five miles of the shore may not be longer than 58 feet overall length.

25 (c) In this section, "overall length" means the straight line length between the
26 extremities of the vessel excluding anchor rollers.

27 * **Sec. 3.** AS 16.43 is amended by adding new sections to read:

28 ARTICLE 6A. VESSEL PERMITS FOR THE HIGH SEA BERING
29 SEA KOREAN HAIR CRAB FISHERY.

30 Sec. 16.43.901. VESSEL PERMITS. (a) The commission shall issue annual
31 vessel permits for commercial fishing vessels used in the Bering Sea Korean hair crab

1 fishery that occurs beyond five miles from shore. The commission shall issue vessel
2 permits to the vessel upon application by the vessel owner. The commission may
3 establish administrative areas for the Bering Sea Korean hair crab fishery that occurs
4 beyond five miles from shore and issue separate vessel permits for each administrative
5 area.

6 (b) A vessel permit is a use privilege authorizing the vessel to take Bering Sea
7 Korean hair crab beyond five miles from shore in the administrative area for which the
8 vessel permit is issued. The use privilege conveyed by a vessel permit may be
9 modified or revoked by the legislature without compensation.

10 (c) After July 1, 1996, a commercial fishing vessel may not be used to take
11 Korean hair crab in the Bering Sea beyond five miles from shore unless a vessel
12 permit has been issued under this section for the vessel.

13 (d) After July 1, 1996, and through June 30, 2000, the commission may not
14 issue a vessel permit under this section to a commercial fishing vessel, unless the
15 vessel either had legally participated in a directed Korean hair crab fishery in the
16 Bering Sea and landed Korean hair crab in at least one calendar year during 1993
17 through 1995, inclusive, or was acquired between 1993 and 1995, inclusive, as a
18 replacement for a vessel that would be eligible to receive a vessel permit but is no
19 longer used in the fishery. Use of a vessel in the Bering Sea Korean hair crab fishery
20 after July 1, 1996, may not be used to establish eligibility for a vessel permit for the
21 Bering Sea Korean hair crab fishery that occurs beyond five miles from shore that may
22 be issued after June 30, 2000. This subsection may be superseded by regulations
23 adopted by the commission under subsequent legislation enacted by the legislature
24 authorizing

25 (1) a permanent vessel permit limited entry system; or

26 (2) termination of the temporary moratorium on issuance of new vessel
27 permits established by this subsection.

28 (e) An application for a vessel permit under this section must contain the
29 names of the interim-use permit holders authorized to operate the vessel in the Bering
30 Sea Korean hair crab fishery that occurs beyond five miles from shore and other
31 information the commission may require to implement this section. The owner of a

1 vessel for which a vessel permit is issued shall notify the commission in writing of a
2 change in the interim-use permit holders who are authorized to operate the vessel in
3 the Bering Sea Korean hair crab fishery that occurs beyond five miles from shore.

4 (f) If a commercial fishing vessel that qualifies for a vessel permit under this
5 section is sunk, destroyed, or damaged to the extent that the vessel is inoperable for
6 a Bering Sea Korean hair crab fishing season, the commission may, upon the request
7 of the owner of the vessel, reissue the vessel permit to another commercial fishing
8 vessel with an overall length that does not exceed the overall length of the vessel that
9 was sunk, destroyed, or damaged.

10 (g) The fee for the use privileges conveyed by the vessel permit is \$1,000.

11 (h) The commission may adopt regulations to implement AS 16.43.901 -
12 16.43.911.

13 Sec. 16.43.911. APPLICABILITY OF OTHER STATUTES. (a) In addition
14 to the penalties imposed under AS 16.43.960, the commission may also revoke,
15 suspend, or transfer all vessel permits for violations under AS 16.43.960(a).

16 (b) In addition to the penalties imposed under AS 16.43.970(a), upon a first
17 or second conviction under AS 16.43.970, the court may in its discretion order a
18 forfeiture of vessel permits, as well as a loss of eligibility for future issuance of vessel
19 permits, or order a suspension of fishing rights under vessel permits held or to be held
20 for a period of not more than three years. Upon a third conviction under
21 AS 16.43.970, all vessel permits held are forfeited, and the vessels for which the
22 permits are issued lose eligibility for future issuance of vessel permits for a period of
23 three years.

24 (c) Notwithstanding AS 16.05.815 and AS 16.43.975, the commission may
25 release to the owner of a vessel information on the vessel's history of harvests in the
26 Korean hair crab fishery that is necessary to apply for a vessel permit.

27 (d) AS 16.43.901 - 16.43.911 do not alter the requirement for an interim-use
28 permit or entry permit under AS 16.43.140 or a vessel license under AS 16.05.490 -
29 16.05.530.

30 (e) Nothing in AS 16.43.901 - 16.43.911 limits the powers of the Board of
31 Fisheries or the Alaska Department of Fish and Game.

1 * **Sec. 4.** The Department of Law shall prepare on behalf of and under the policy direction
2 of the Alaska Commercial Fisheries Entry Commission draft legislation establishing a vessel
3 permit limited entry program that may be used for fisheries in which the current limited entry
4 program under AS 16.43 will not effectively achieve the purposes of that chapter. The draft
5 legislation shall be submitted to the resource committees of the Alaska Senate and the Alaska
6 House of Representatives on or before the 10th legislative day of the First Session of the
7 Twenty-First Alaska State Legislature.

8 * **Sec. 5.** AS 16.43.901 and 16.43.911, added by sec. 3 of this Act, are repealed July 1,
9 2000.

10 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).

HB

432

Alaska State Legislature

House Resources Committee

Co-Chair Beverly Masek
(907) 465-3715
FAX (907) 465-4822
Capitol Building, Room 124
Juneau, Alaska 99801



Co-Chair Bill Hudson
(907) 465-6890
FAX (907) 465-2273
Committee Meetings
M/W/F 1 - 3 p.m.

Members: Vice Chair John Cowdery, Representatives: Ramona Barnes, John Harris, Carl Morgan, Jim Whitaker, Reggie Joule, and Mary Kapsner

SPONSOR STATEMENT

HB 432 Board of Storage Tank Assistance

The Board of Storage Tank Assistance was created in 1990 in response to a clean up program initiated by increased federal regulations and aggressive Environmental Protection Agency (EPA) enforcement actions. Many Alaska underground storage tank owners were forced out of business because they could not afford the high cost of cleanup of contamination from their leaking tanks.

The Storage Tank Assistance Program was established to protect Alaska's drinking water supplies and to help Alaska's regulated underground storage tank owners and operators meet EPA's tough new environmental laws and regulations pertaining to underground petroleum storage tanks. The goals of the program were simple: cleanup existing leaks, prevent future leaks, and help Alaska's tank owners and operators through educational, technical, and financial assistance. Although originally established as a financial assistance grant program, the program was restructured in 1999 as predominately a loan program.

HB 432 extends the termination date of the Board of Storage Tank Assistance to June 30, 2003. It is necessary to extend the termination date because many sites have just initiated cleanup or are in the midst of a long term cleanup process which are not expected to be completed for a few years. Furthermore, as the new loan program is expected to be implemented this upcoming construction season, it is imperative that the Board remain available to mediate and resolve disputes between the Department of Environmental Conservation (DEC) and Alaska's underground storage tank owners.

HB 432 also expands the authority of the Board. Historically, there has been a delay by DEC in sending final cleanup decisions to businesses. Cleanup decisions, (no further action) provide evidence that the contaminated site has been cleaned up. Many sites are pending sale or are waiting on bank financing. The transactions cannot proceed until final cleanup decision letters are distributed by DEC. By expanding the Board's authority to issue recommendations concerning cleanup decisions it is expected that many new cleanup decisions will be issued that in the past have been delayed or simply overlooked. This expansion of authority will not be binding authority; it will simply provide a forum for the Board, businesses, and DEC to discuss final decision letters.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 432

Revision Date/Time (Note if correction) _____ Dept. Affected Environmental Conservation
 Title Board of Storage Tank Assistance BRU Contaminated Sites Program
 Component Contaminated Sites Program
 Sponsor House Resources Committee
 Requester House Resources Committee Component No. 2386

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel	11.2	11.2	11.2	11.2		
Contractual	40.2	40.2	40.2	40.2		
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	51.4	51.4	51.4	51.4	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	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						
1037 GF/Mental Health						
1079 Storage Tank Assistance Fund	51.4	51.4	51.4	51.4		
TOTAL	51.4	51.4	51.4	51.4	0.0	0.0

Estimate of any current year (FY2000) 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:

Travel – The Board is likely to hold one meeting in Juneau and three in Anchorage each year. Approximately five people will travel to each meeting, including Department staff, at an average cost of \$560 per person.
 Contractual – Executive administration of the Board will be privatized, as it was during FY 00. Costs to organize the Board meetings and interact with stakeholders and the Department are based on past Board activities while recognizing that the program was cut significantly in FY 00. Board administration during FY 00 was approximately 100.0. The work to revise the program as required by the FY 00 cuts as well as completion of new loan regulations has been accomplished. It is anticipated that work for the Board in FY 01 will be minimal and focused on the four meetings that will be held throughout the year. The administrator will interact with the Department and tank owners and operators concerning questions and appeals on eligible costs and new appeals under the new authority for review of the Department's cleanup decisions.

Prepared by: Larry Dietrick Phone (907) 465-5250
 Division Spill Prevention and Response Date/Time 3/17/00 10:32 AM
 Approved by: [Signature] Date 3-17-00
 Agency Department of Environmental Conservation

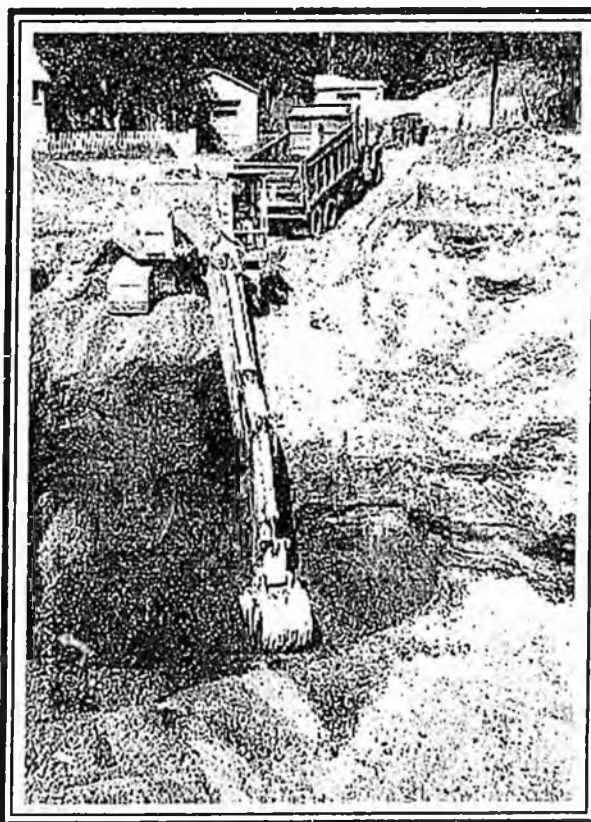
PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office

The Storage Tank Assistance Fund

and the Alaska Storage Tank Program

Questions and Answers



Cleanup activities at an Anchorage gas station.

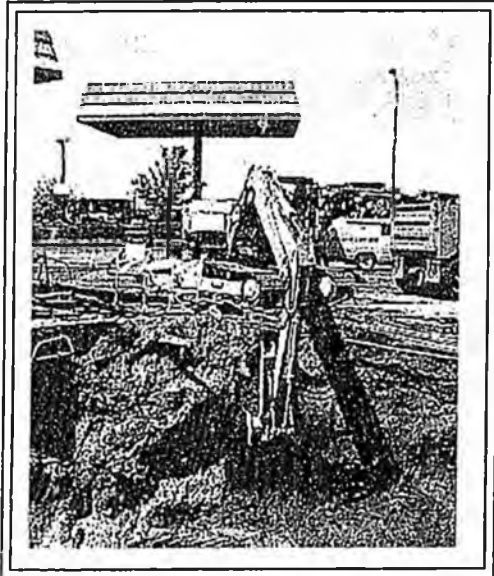
During the years 1986 through 1990, increased federal regulations and aggressive EPA enforcement action forced numerous Alaska underground storage tank owners out of business. Many of these tank owners could not afford the high cost of cleanup of contamination from their leaking tanks. The 1990 Legislature determined that the State should have an assistance-based tank program to keep these affected businesses "in business" as productive members of the Alaska economic community.



The Problem

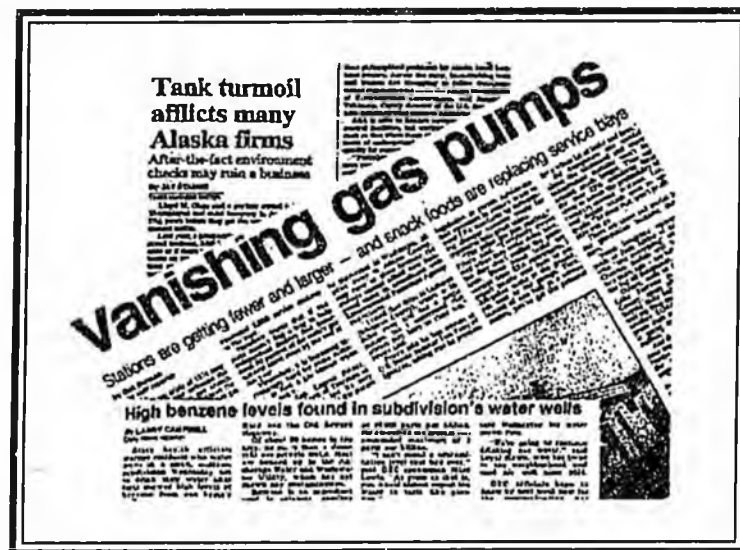
Headlines are commonplace throughout the state concerning underground storage tank owner problems and pollution resulting from leaking underground storage tanks. Many tank owners are reducing their liability and cutting back on services while others have simply gone out of business altogether.

The Storage Tank Assistance Program was established to protect Alaska's drinking water supplies and to help Alaska's regulated underground storage tank owners and operators meet EPA's tough new environmental laws and regulations pertaining to underground petroleum storage tanks.



The goals of the program were simple:

- * cleanup existing leaks,*
- * prevent future leaks, and*
- * help Alaska's tank owners and operators through educational, technical and financial assistance.*



Questions and Answers

WHAT IS A REGULATED UNDERGROUND STORAGE TANK?

- * Regulated tanks are predominantly motor fuel tanks.
- * In general, gasoline, diesel and waste oil tanks greater than 110 gallons are regulated, although there are exemptions.
- * Heating oil tanks are NOT regulated.
- * Residential motor fuel tanks less than 1100 gallons for farm or residential use are NOT regulated.
- * Several other types of tanks are not regulated depending upon their use.

WHO REGULATES UNDERGROUND STORAGE TANKS?

- * EPA regulates tanks under 40 CFR 280 and 40 CFR 281.
- * State of Alaska regulates tanks under Title 46 and 18 AAC 78 and 18 AAC 75.
- * Local governments may regulate tanks under the Uniform Fire Code and the National Fire Protection Association.

WHO IS ELIGIBLE FOR FINANCIAL ASSISTANCE?

- * Any commercial or private owner or operator of underground storage tanks regulated by the Underground Storage Tank Regulations, 18 AAC 78, is eligible for some form of financial assistance. Essentially, if a tank owner pays into the program, through a registration fee, then the tank is eligible for assistance. Only certain owners and operators qualify for grants, while all owners and operators can qualify for loans.
- * Village, City, Borough or municipally owned tanks are NOT eligible, although specific appropriations can be legislatively granted to these entities from the Fund.
- * State and Federal owned tanks are NOT eligible.

WHAT KIND OF TANKS ARE ELIGIBLE?

- * Industrial, Contracting, Auto Dealerships, Car Rental Agencies, Trucking and Transportation firms comprise 26% of the eligible tanks.
- * Nearly 20% of the eligible tanks are used for aircraft refueling, both commercial and private.
- * Utilities, Fire Stations, Police and Ambulance services total another 19% of the eligible tanks.
- * Less than 30% of the eligible tanks are fuel retailers such as gas and service stations.

WHAT KIND OF ASSISTANCE IS AVAILABLE?

- * Technical assistance is available through the Department of Environmental Conservation. Staff provide guidance documents and technical assistance on the proper handling of stored products, system upgrading or closing and cleanup of contamination resulting from leaking tanks.
- * Educational Assistance is provided by both the Department of Environmental Conservation and the Board of Storage Tank Assistance. Workshops are conducted annually and staff are provided to assist nationally recognized training courses for presentation in Alaska. A quarterly newsletter "Alaska Underground", is published by the Department to provide timely information on technical and regulatory aspects of tank ownership and maintenance, installation and closure, as well as the latest developments in cleanup and remediation techniques. The newsletter also provides information to contractors and consultants actually conducting tank work.
- * Financial Assistance is provided in the form of grants and loans to offset the high cost of tank upgrades to meet EPA standards and to cover proper closure and release investigation, corrective action and cleanup costs.

WHAT TYPE OF FINANCIAL ASSISTANCE DOES THE PROGRAM PROVIDE?

- * The Storage Tank Assistance Fund provides grants for upgrading or closing up to 60% of the eligible costs with a maximum combined grant of \$60,000 per facility for owners for operators that can demonstrate total assets of \$250,000 after deducting the estimated cost to upgrade and cleanup their tanks.
- * Grants for cleanup of petroleum contamination are provided for a maximum of \$250,000 for owners or operators that can demonstrate total assets of \$1,000,000 after deducting the estimated cost to upgrade and cleanup their tanks. The owner is responsible for 10% of the cost up to a maximum of \$25,000.
- * Loans are available for the 10% not covered by the cleanup grant up to a maximum of \$25,000. Owners receiving loans must pay back the loan to the state over five years.
- * For owners and operators that cannot qualify for a cleanup grant, a loan may be obtained to a maximum of \$500,000. Owners and operators that exceed the cleanup grant cap may also apply for loans. The total allowable combined grant and loan cannot exceed \$500,000.

DOES THE PROGRAM ENCOURAGE PRIVATE PARTICIPATION?

- * Most upgrades involve multiple tanks and costs usually range from \$120,000 to well over \$200,000. Typically a grant from the Storage Tank Assistance Fund actually covers only 30% to 40% of the owners cost. The owner must pay the majority of costs involved.
- * The balance of the upgrading cost is provided by banks in the form of direct loans to the tank owner or operator. Many banks require that an owner or operator be eligible to receive funds from the Storage Tank Assistance Fund and that a letter be provided from the Department stating that the owner will be receiving financial assistance. The banks are then assured that the work will be conducted according to standard practice and in compliance with applicable laws and regulations.

* The tank owner or operator actually receives the funds and is directly responsible for supervising the funded activity and for insuring that the work is conducted in accordance with applicable laws and regulations. The Department of Environmental Conservation only provides guidance and oversight to insure all work is completed properly and consistent with customary practice and costs. Private sector consulting firms that are approved by the Department or contractors certified by the State conduct work for the owners and operators. The owner or operator contracts directly with the contractors and consultants.

DON'T LARGE FIRMS GET MOST OF THE FUNDS THAT ARE AVAILABLE?

* No. Since the program was changed in 1999, only small companies are eligible for grants from the program. Larger companies with assets exceeding \$1,000,000 are only eligible for Cleanup Loans. Upgrade grants are only issued to those owners and operators that can demonstrate total assets under \$250,000. All applicants are priority ranked for funding according to regulations and criteria established by the Board of Storage Tank Assistance. The ranking system emphasizes public health threat foremost followed by numerous other considerations such as nearest alternative fuel source and whether the facility is in a rural location. Several other criteria are used to rank applications with an emphasis on small rural tank owners that pose an imminent public health threat and have acted in good faith to undertake as much of the work as possible on their own. This usually means that unless an imminent public health threat exists, larger companies tend to rank lower on priority ranking lists.

WHY CAN'T OWNERS AND OPERATORS JUST GET A BANK LOAN?

* Banks do provide loans for certain activities such as closure or upgrading of a facility. The cost of an upgrade ranges from \$120,000 to \$200,000 or more to meet the federal standards. Banks will provide loans to cover that portion of the upgrade that is not covered by a grant from the Storage Tank Assistance Fund. Without assistance from the state, many small tank owners would not have sufficient resources to undertake an upgrade even with bank financing.

* Banks do not generally provide loans for cleanup purposes. The total cost of a cleanup is not known until the actual cleanup is complete and extremely difficult to estimate. Most Alaska tank owner's principal asset is the actual property that requires cleanup. A parcel of land that is contaminated essentially has no value until clean and actually represent a significant liability. Since collateral is required for nearly all loans, tank owners with contaminated sites normally cannot provide sufficient collateral to back a loan large enough to undertake the cleanup. The average cost of cleanup in Alaska is presently \$140,000 per site with some cleanups currently approaching \$500,000. These very high cleanup costs are virtually impossible to cover for the average Alaska tank owner.

* Joint and several liability laws also provide a detriment to bank financing for cleanup activities. Banks that foreclose on contaminated property become liable for completion of the cleanup. Many times the cost of the cleanup will be 3 or 4 times the clean site value of the property. Banks also will not provide a loan to a tank owner if the business itself must be shutdown to conduct the cleanup. If a business has no income, it cannot repay a loan. Many businesses have been closed for a year or more while cleanup activities are completed. In numerous cases, the loss of revenues has caused bankruptcy and foreclosure, a fact that banks understand all too well.

WHY DO TANK OWNERS HAVE TO UPGRADE THEIR TANKS?

* In 1984, federal law (Subtitle I of the Resource Conservation and Recovery Act) mandated that owners of certain kinds of underground storage tanks (USTs) containing petroleum products and other regulated substances meet standards which would prevent leaks and assure adequate cleanup where leaks occurred. That law was followed by federal UST regulations in December of 1988.

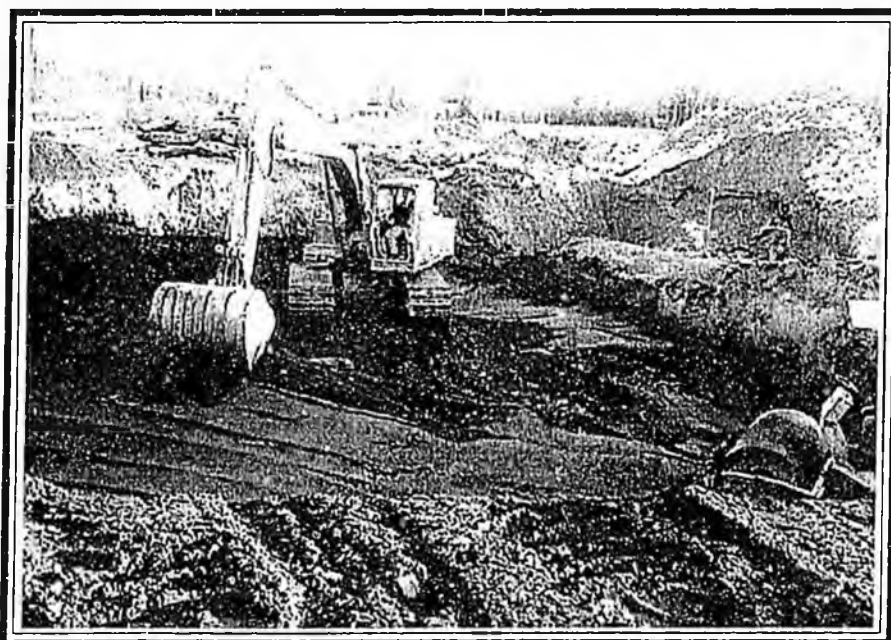
* 7,247 underground petroleum storage tanks have been identified in the State of Alaska. Of that total, 1,193 tanks are currently in use. Other tanks probably exist which have not been reported. Most of these tanks are not protected from leaks and spills. These tanks may be unknowingly damaging the State's drinking water supplies. Since groundwater provides drinking supplies for nearly 70% of the population in Alaska, any contamination that reaches groundwater could cause a serious public health threat. Additionally, the vapors from leaks may seep into basements of homes and buildings and may cause other safety and health hazards.

WHY DO WE HAVE CONTAMINATION FROM TANKS?

* Piping leaks, overfills and spillage during deliveries are common problems.

* Leaking tanks or piping can be nearly impossible to detect without special equipment. A considerable number of leaks occur due to failed fittings between the tank and piping, spillage during filling, overfilling or corrosion.

* Corrosion holes in steel tanks cannot be seen until the tank or piping has been removed or exposed. A corrosion hole that causes a tenth of a gallon per hour leak would release over 800 gallons of fuel per year into the lands of the state. The leak could go unnoticed for years, slowly percolating through the soil and possibly into the water table. This leaking fuel can eventually migrate toward a private or municipal drinking water well.



Sterling facility undergoing cleanup activities.

AREN'T THESE PROBLEMS THE TANK OWNERS FAULT?

* Although the leak originates from an owner's facility, the leak is very rarely caused by negligence on the owners part. The facility was usually installed and operated to a standard of practice that was considered sound and conscientious at the time of installation. Many times the facility owner or operator is treated as a criminal, when in fact the leak or spill might have been caused by natural processes such as corrosion over time or by an accident caused by a passerby. Just a simple case of accidentally spilling waste oil on the ground or repeated overfilling of vehicle gas tanks by customers can add up to a serious contamination problem for a facility owner.

* It is worth noting that petroleum contamination was not considered a serious health hazard until just a few years ago, long after these facilities had been installed. The State of Alaska only recently halted routine oiling of roads, now considered dangerous to public health and critical habitats. The underground storage tank rules imposed by EPA are "after the fact" environmental regulations that have caused a notable and detrimental economic impact to small businesses.



AREN'T THESE PROBLEMS JUST THE "COST OF DOING BUSINESS"?

* The requirements to upgrade or clean up contamination from leaking tanks are relatively new "after the fact" regulations from EPA that did not exist when these businesses started nor during most of their existence. Many businesses acquired facilities with existing contamination. These owners are now faced with the formidable task of "making right what wasn't a problem before". The cost to clean these contaminated sites has skyrocketed beyond the reach of an average business in Alaska. The cost can easily reach several hundred thousand dollars per site. Investigating the extent of contamination, soil and water sampling, excavation, contaminated soil disposal, total tank and piping system replacement, interim business shutdown, loss of revenues and threats of penalties regarding contamination that occurs through natural corrosion, customer negligence and accidents were not a consideration when these businesses began.

WHY DID THE STATE GET INVOLVED?

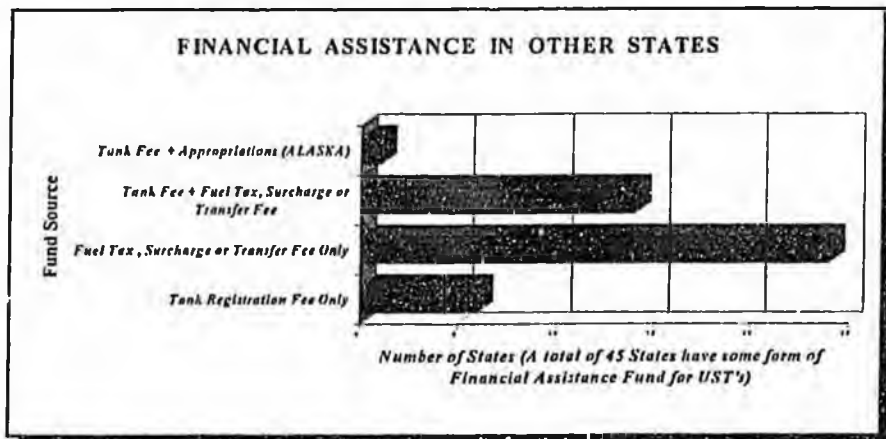
* During the years 1986 through 1990, increased federal regulations and aggressive EPA enforcement action forced numerous Alaska tank owners out of business. Many of these tank owners could not afford the high cost of cleanup of contamination from their leaking tanks. If an owner cannot pay the cost of cleanup, the State actually undertakes the task using Response Funds. The 1990 Legislature determined that the State should have an assistance-based tank program to keep these affected businesses "in business" as productive members of the Alaska economic community.

* Many of the facilities affected by the EPA requirements are in outlying areas of the State, on the Alaska Highway, remote lodges, rural community airstrips and remote fishing villages. Although protecting drinking water supplies in urban areas such as Anchorage and Fairbanks is critical, maintaining essential fuel services for the State is undeniably an important consideration for stable economic growth, tourism and access.

* Since December 31, 1993, most tank owners have been required to demonstrate \$1 million of financial responsibility per occurrence and \$2 million aggregate. Failure to comply may result in \$10,000 daily fines from EPA. Alaskan tank owners can meet the financial responsibility requirement by purchasing pollution liability insurance. Pollution liability insurance is available but very expensive for most small tank owners. The problem still involves the question of eligibility for insurance. Is a facility actually insurable? Many insurance plans call for a clean site to be demonstrated. However, most of these facilities have had numerous incidents of overfilling and spillage during fuel deliveries or in some cases, actual leaks. The Storage Tank Assistance Fund helps owners help themselves by assisting owners of contaminated sites to undertake proper cleanup and become insurable. Insurance policies can then be purchased from the private sector, thereby allowing a tank owner to meet the federal financial responsibility requirement.

* Developing an assistance-based program was considered to be the best way to promote strong pollution prevention practices to avoid future contamination of drinking water supplies. By providing assistance to tank owners to cleanup contamination and to promote the upgrade of their facilities to federal standards, the regulated community was more willing to step forward and report old spills or leaks without the fear of fines and penalties from the EPA. Although the "big stick" approach from EPA got attention, the State's "white hat" approach got results.

* Alaska was not the only state that recognized the problem tank owners were facing with the new federal requirements. Currently, forty-five states have financial assistance programs for underground storage tanks. Seventeen of these states have recently expanded their programs to include aboveground tanks as well.



AREN'T MOST OF THE LEAKING TANKS OWNED BY BIG COMPANIES?

* Just because a facility is named "Alaska Chevron" does not mean it is owned by Chevron. The name usually signifies the brand of product sold. Most businesses covered by the EPA's underground storage tank regulations are small, "Mom-and-Pop" businesses. DEC estimates that of the 7,247 tanks that have been identified in Alaska, there are 1,193 presently in use of which most are privately owned. It is estimated that over two-thirds of the privately owned tanks in Alaska are owned by small, independent companies.

IS THERE MUCH DEMAND FOR FINANCIAL ASSISTANCE?

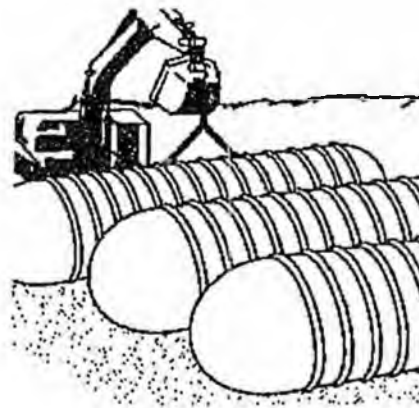
* Presently, there are nearly 60 unfunded requests for financial assistance for testing, closure, upgrade or cleanup activities in the State of Alaska.

* Over \$27 million has been expended, encumbered or obligated through fiscal year 99.

HOW MUCH MONEY HAS THE PROGRAM RECEIVED SO FAR?

* The Storage Tank Assistance Fund received an initial capitalization of \$6 million in fiscal year 1991. In fiscal year 1992, no new monies were appropriated to the Fund. For fiscal year 1993, the Alaska Legislature appropriated \$5 million to the Storage Tank Assistance Fund. The Alaska Legislature appropriated \$4.5 million to the UST Financial Assistance Program for fiscal year 1994 and \$2.9 million for fiscal year 1995. For fiscal years 1996 & 1997 the Program received \$1.9 million each year and in Fiscal Year 1998 the Fund received \$5 million. In FY 99, the program received \$5 Million and a statutory change directing the department and the Board to establish a Cleanup Loan program as well as new standards for eligibility for grants.

* Funds appropriated by the Alaska State Legislature to the Storage Tank Assistance Fund are allocated annually by the Board of Storage Tank Assistance to different financial assistance programs, the tank cleanup program, the tank cleanup Loan program the tank upgrading program and the tank closure program. The Board of Storage Tank Assistance makes the annual allocations after taking into consideration the amount of money in the Fund, the money required to meet the needs for each program, as supported by approved applications and the requirement that the greatest priority be given to funding UST's that present the greatest threat or potential threat to human health.



WHAT AGENCY ADMINISTERS THE STORAGE TANK ASSISTANCE FUND?

* The Department of Environmental Conservation administers the Storage Tank Assistance Fund. The Department is responsible for advertising the application periods, receiving the applications, processing the requests, administering the grants and auditing the 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.

* The Department of Environmental Conservation has a staff of three Environmental Specialists in Anchorage to process the actual grant applications. A Grants Administrator and a Clerk Typist provide additional support for the program.

* The 1990 Legislature established the seven-member Board of Storage Tank Assistance with one government member and six public members. Members are appointed by the Governor and serve without compensation other than per diem and expenses when traveling. They have an Executive Director, contracted from the private sector, who is their sole employee. 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 Board 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 the board may only issue recommendations.

* 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.



For Further Information Contact the Board of Storage Tank Assistance at (907)364-2514 or the Department of Environmental Conservation, Storage Tank Program, at (907) 465-5203.

Key Factors in the Development of the Storage Tank Assistance Fund

- * Federal Mandates from Congress / EPA
- * Significant Environmental Impact
- * Specific Deadlines for Upgrading to New Tank Standards
- * High Visibility Enforcement by EPA on Small Business Owners
- * Major Leaks from UST's in Anchorage and Fairbanks
- * Response Fund Actions on UST Owners Forcing Owners Out of Business
- * Essential Services Threatened
- * Major Economic Impact on Small Companies
- * Strong Private Sector Voice (Alaska Underground Tank Owners & Operators Assoc.)



Cleanups from leaking tanks can be traumatic on Alaska's small businesses, such as this "mom and pop" facility on the Kenai Peninsula.

Key Factors in the Success of the Storage Tank Assistance Fund

- * State Regulatory and Enforcement Program
- * State UST Registration Program
- * Program Linked to State & Federal UST/LUST Programs through DEC
- * Emphasis and Priorities on Environmental Concerns
- * Strong Public Outreach Program - Bulletins, Quarterly Newsletter, Workshops
- * Cost Controls & Detailed Project Oversight and Auditing Practices
- * Active Board to Mediate Disputes and Provide Oversight to the Program
- * UST Worker Certification Program
- * Consulting Firm Approval Program (QAPP)
- * Joint Public & Private Sector Technical Working Groups
- * Strong Private Sector Voice (Alaska Underground Tank Owners & Operators Assoc.)



THE STORAGE TANK ASSISTANCE PROGRAM

The Storage Tank Assistance Fund -- What is it all about?

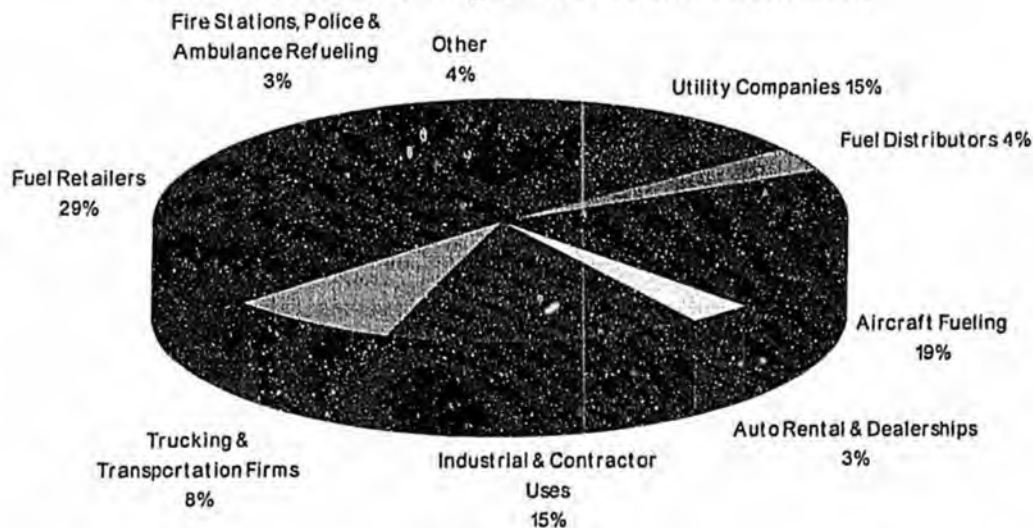
- * AN ENVIRONMENTAL CLEANUP PROGRAM RESTORING ALASKA'S DRINKING WATER SUPPLIES.
- * Providing grants and loans to Alaskan businesses to offset the high cost of environmental cleanups to keep Alaskan businesses in business.
- * A POLLUTION PREVENTION PROGRAM FOR UNDERGROUND PETROLEUM STORAGE TANKS.
- * Providing incentives and grants to tank owners and operators to upgrade or close their tanks to prevent future leaks.
- * AN ALASKAN BUSINESS ASSISTANCE PROGRAM.
- * Providing relief to Alaskan businesses and private individuals faced with the high cost of environmental compliance.



Since Program Inception in 1991

- * Over \$27 Million has been expended, encumbered or obligated for financial assistance grants and loans through Fiscal Year 00.
- * Over 1000 financial assistance requests for tank tightness testing, site assessments, soil or groundwater cleanup or to upgrade tanks to new EPA standards and prevent future leaks have been funded or encumbered.
- * Over 2000 Financial Assistance Requests have been received to-date.

Tank Uses for USTs Eligible for Financial Assistance



How the *Storage Tank Assistance Fund* affects environmental cleanups in Alaska

*** Because there is an Assistance Program -**



Public Health Threats from petroleum contamination are addressed through not only a Priority Ranking System that is based primarily upon the Alaska Hazard Ranking Model but also through a unique Emergency Grant system that provides for emergency cleanup assistance almost immediately after an imminent public health threat is identified.

*** Because there is an Assistance Program -**



UST owners and operators do not fear legal action and have stepped forward to cooperate with DEC to undertake soil and groundwater cleanup.

*** Because there is an Assistance Program -**

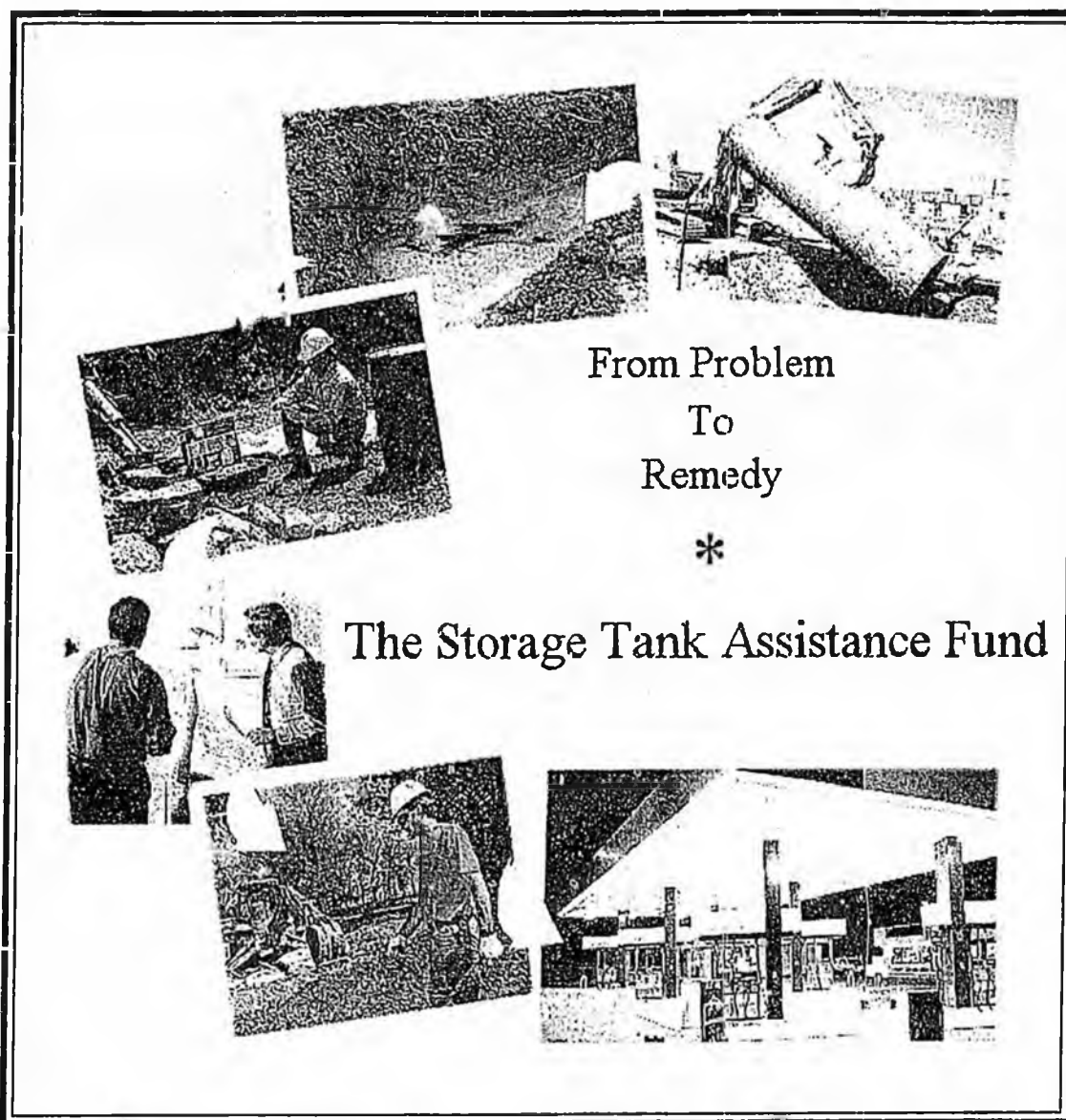


Litigation has been avoided thereby saving the State of Alaska millions of dollars in legal costs.

*** Because there is an Assistance Program -**



Cleanup activities directly involve the owner or operator and reduce the need for State lead actions and oversight. This approach further reduces both higher cost State contractors as well as the number of State staff required to oversee the cleanup activities.



From Problem
To
Remedy

*

The Storage Tank Assistance Fund

The Storage Tank Assistance Fund

*Board of Storage Tank Assistance
410 Willoughby Ave.
Juneau, Alaska 99801
Phone (907) 364-2514
Fax (907) 364-2518
cresolve@eagle.ptialaska.net*

Web: http://www.state.ak.us/dec/dspar/stp_home.htm