

**ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672**

**10143.1 SENATE RESOURCES**

**HB**

**344**

# FISCAL NOT

Bill Version: HB 344

BIL (H) Publish Date: 2/7/00

## STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: Independence Mine Land Exchange between BRU: Parks & Recreation Management  
DNR and Alaska Hard Rock, Inc. 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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: \$ n/a

### 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)

This land exchange will have no immediate fiscal impact on the Division's budget. It will provide an opportunity to seek a viable concession contract for a private operator to manage and maintain all of the historic buildings at Independence Mine State Historical Park. This exchange would allow for the concessionaire to operate underground mine tours.

A concession contract would eventually generate some revenue to the state. A revenue stream is at a minimum four years away. The land exchange is just the first step in the process.

Prepared by: Jim Stratton Phone: 269-8701  
 Division: Parks & Outdoor Recreation Date: 19-Jan-00  
 Approved by Commissioner: John Shively Date: 1-19-2000  
 Agency: Natural Resources

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HB 344

JOEY KNOWLES

Public  
Alaska  
1997  
1998

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 3, 2000

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

Dear Speaker Porter:

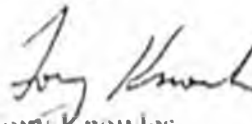
This bill I transmit today would provide legislative approval of a land exchange agreement between the state Department of Natural Resources, and Alaska Hard Rock, Inc. The purpose of the land exchange is for the state to acquire private land located within and adjacent to Independence Mine State Historical Park, near Hatcher Pass. The land to be acquired would be developed to enhance the interpretive and recreational uses of the park. The land the state is exchanging is also located in the Hatcher Pass area and is presently under permit to Alaska Hard Rock, Inc., which is interested in receiving title.

State law requires legislative approval of land exchanges involving lands of unequal appraised value. In this proposed exchange, the state will receive land appraised at \$87,000 while conveying land appraised at \$66,500. Alaska Hard Rock, Inc. is agreeable to this unequal exchange and will be receiving a federal tax credit for the difference.

Adding this land to the Independence Mine State Historical Park, particularly the underground mine tunnels, will greatly add to the tourism potential of the park. The DNR expects to contract with a private concession to run tours and maintain the historic buildings in the park, saving a part of Alaska's history while increasing economic activity in the area.

A copy of the land exchange agreement between the DNR and Hard Rock, Inc., is being provided to the legislature. The DNR has available a report that explains the proposed exchange in more detail.

Sincerely,



Joey Knowles  
Governor

## **Need for Legislative Action Regarding the Tri-Valley Subdivision in Healy, Alaska**

On behalf of over 100 Healy, Alaska families, Usibelli Coal Mine, with the full concurrence of the Alaska Railroad Corporation, requests that the Alaska Legislature address a problem that affects the homeowners of the Tri-Valley Subdivision.

### **History of the Tri-Valley Subdivision**

The Tri-Valley Subdivision was created in 1977 when the Alaska Railroad leased about 500 acres of railroad land to Usibelli Coal Mine (UCM) for residential development. At the time, there was little land available for building sites needed by employees of the railroad, Golden Valley Electric Association, the State of Alaska and other area residents.

The problem was especially critical for UCM employees as the mine had been advised by the Federal Mining Enforcement and Safety Administration that employees residing on land leased for coal mining must relocate. As had been the case since the 1920's, most of the miners and their families lived on federal (eventually to become state) coal leases near the mine sites.

The federal act that created the railroad specifically authorized the use of railroad land for townsite purposes as well as railroad operations. A Presidential Act in 1928 withdrew the section of land in which the Tri-Valley subdivision is located for all authorized railroad purposes including use as a townsite. In the 1970's, the railroad recognized the need for additional residential land, but did not have the funds to develop a subdivision. As UCM was willing to fund the development costs, a 55-year lease agreement was signed with UCM in 1977.

Currently there are about 120 residences and 3 churches located in the subdivision. Additionally, the Tri-Valley Volunteer Fire Department, the Tri-Valley Community Center, the offices of the Denali Borough, the community hockey rink and a non-profit day care center are located in the subdivision.

There are two fundamental requirements in the master lease that underline the intent of both the Alaska Railroad and UCM to develop the subdivision for the benefit of the community as opposed to any commercial gain for UCM.

- The residential lots were to be equally available for sublease to all persons, whether they were employees of the Alaska Railroad, UCM or not.
- The rent charged by UCM to sublessees could not exceed UCM's costs to lease and develop the property.

### **Subdivision Homeowners and Buyers Now Face Financing Problems**

Beginning in the early 1990's, problems began to occur when residents applied for mortgages to build or buy homes in the subdivision. Accepted banking policy precludes lenders' from issuing to sublessees a deed of trust with a maturity date that is within 10 years of the termination date of their sublease. The term of the homeowner's subleases are concurrent with the term of the master lease.

Tri-Valley Subdivision Lease Extension  
March 9, 2000

In short, as the current expiration date of UCM's master lease is 2032, lenders will not structure mortgages longer than a maximum of 22 years, much shorter than a typical 30-year mortgage. In effect, the longest mortgage most lenders will currently issue is 20 years. This shorter term makes the borrower's monthly payments much higher and reduces the affordability and saleability of subdivision homes.

In recent years, potential home sales have fallen through because some buyers were unable to afford the shorter term mortgages. In other cases, would be buyers who could afford the shorter term loans were not willing to purchase because when the time came for them to sell, the problem would be even worse.

As the available amortization period shrinks with each passing year, the problem grows more acute. When combined with rising interest rates, the ability of new sublessees to afford or to obtain financing for new construction (or for existing sublessees to sell to new buyers) will diminish to the point where only cash transactions are possible. This will greatly reduce the market value of any home located in the subdivision.

### **The Legislative Solution**

The railroad has been willing to address this problem by extending UCM's master lease using a provision in the lease for a 35-year renewal. When added to the remaining 32 years, this would have the effect of extending the master lease by 67 years, well beyond the 40 years needed by lenders.

However, in the 1980's when the Alaska Railroad was transferred from the federal government to the State of Alaska, the legislation establishing the Alaska Railroad Corporation (ARRC) included additional conditions governing long-term leases of railroad land.

Alaska Statute 42.40.285 (4) requires that, unless exempted by action of law, the ARRC must reserve the unilateral right to terminate any lease with a term in excess of 35 years in the event the land is ever needed for railroad use.

Even though all parties recognize there is no chance that the railroad would ever need the subdivision land for railroad use, this unilateral right of the ARRC to terminate the master lease undermines the tenancy of UCM and its sublessees. Any extension of the master lease which contains such a termination clause will preclude lenders from offering long-term financing to homeowners and buyers in the Tri-Valley Subdivision.

The most expedient way to solve the current problem would be for the legislature to take action to exempt the current lease agreement (Contract #65-25-003-4779) between the ARRC and UCM from the provisions of AS 42.40.285 (4). With this done, the master lease could then be extended in a manner that would allow homebuilders and buyers to secure traditional mortgages.

Charlie Green  
Vice President Real Estate  
Usibelli Coal Mine, Inc.

# DENALI BOROUGH

P. O. Box 480 • Healy, Alaska 99743  
Phone (907) 683-1330 • FAX (907) 683-1340



March 30, 2000

Senator Rick Halford  
Chairman, State Resource Committee  
State Capitol, Room 121  
Juneau, Alaska 99801

*John C. Gonzales, Mayor*  
*P.O. Box 3137*  
*Anderson, AK 99744*  
*(907) 582-2346*

Re: CSHB 344

Dear Senator Halford:

APR 03 2000

I would like to join the Alaska Railroad Corporation (ARRC) and Usibelli Coal Mine (UCM) in recognizing the need for a legislative solution that impacts more than 100 families in Healy.

I have read the letters that the National Bank of Alaska and Mt. McKinley Bank, major lenders for our area, have written of their concern to Mr. Charlie Green, Vice-President Real Estate for UCM. Both of these letters strongly emphasize the requirements mortgage companies have for long term home loans. I recognize the lenders concern over the termination clause in the lease terms between ARRC and UCM.

Currently the homes in the Tri-Valley Subdivision can only be purchased on a 20-22 year mortgage loan or cash. The typical mortgage is 30 years. There aren't many families that can qualify for a shorter-term loan. If a seller was lucky enough to find a cash buyer, why would anyone purchase a home in the subdivision when there is no guarantee they will be able to sell it in the future?

Most of the families that reside in Healy are, or intend to be, long term residents. In the Healy area, there continues to be a shortage of fee simple land available for our residents. They invest their money in homes that are built upon lands they have no title to. They have relied on the fact that the State of Alaska, ARRC and Usibelli Coal Mine will protect their interests.

This is a great concern for the families who reside in the subdivision as well as the local employers. It would be difficult to hire new employees if there is a shortage of housing.

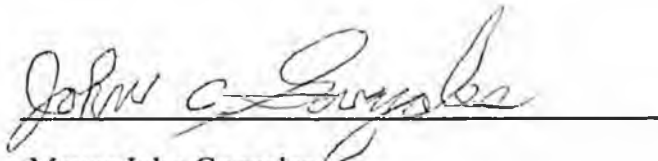
Mayor John Gonzales  
Denali Borough  
CSHB 344  
Page 1 of 2

I support the recommendations of ARRC and UCM to exempt the current lease agreement (contract #69-25-003-4779) from the provision of AS 42.40.285.

Senator, if you feel that you need a Resolution from the Denali Borough Assembly, I would be glad to acquire that for you.

Thank you for your help in this matter. If you need further assistance, please feel free to contact me.

Sincerely:

A handwritten signature in cursive script, reading "John C. Gonzales", written over a horizontal line.

Mayor John Gonzales  
Denali Borough

Cc: Mr. Charlie Boddy  
Usibelli Coal Mine  
Fairbanks, Alaska

# ALASKA RAILROAD CORPORATION



Corporate Address: P.O. Box 107500, Anchorage, Alaska 99510  
327 W. Ship Creek Avenue, Anchorage, Alaska 99501

March 21, 2000

The Honorable John Torgerson  
Alaska State Legislature  
Room 516  
State Capitol  
Juneau, AK 99801

Dear Senator Torgerson:

The Alaska Railroad Corporation (ARRC) recognizes the need for a legislative solution on behalf of more than 100 Healy, Alaska families. We are in support of Usibelli Coal Mine's effort to seek legislative approval to create an exception to the ARRC's real estate policies for the Tri-Valley Subdivision land in Healy.

Alaska Statute 42.40 prohibits the ARRC from selling, exchanging, or otherwise conveying its land unless the legislature approves the action. By law, the ARRC can lease land for up to 35 years, but must reserve the unilateral right to terminate any lease with a term in excess of 35 years in the event the land is ever needed for railroad use.

This termination clause is currently affecting some 120 families in the Tri-Valley Subdivision in Healy, Alaska. The longest mortgage most lenders will issue to these families is 20 years due to the termination language. Accepted banking policy precludes lenders' from issuing to sublessees a deed of trust with a maturity date that is within 10 years of the termination date of their sublease. This shorter term makes the borrower's monthly payments much higher and reduces the affordability and saleability of subdivision homes.

Usibelli Coal Mine, who leases the Healy property from the Alaska Railroad and subleases lots to residents, is currently working on an amendment to legislation in both the Senate and House Finance committees. This amendment would authorize the Railroad to lease Tri-Valley Subdivision land for a period in excess of 35 years without reserving the right to terminate the lease.

Again, the ARRC supports Usibelli's goal to attain an exemption from the 35 year lease limit. However, looking at the big picture, the Alaska Railroad would also like to work with the state legislature toward a more comprehensive solution that would allow us address other real estate concerns which arise on occasion.

We believe many of our real estate issues could be solved if the ARRC were given the authority to issue longer term leases. Residents and businesses along the rail belt would be able to qualify for more affordable mortgage rates and would gain more freedom to plan long term.

Along that line, we would like to work with legislators this summer to study issues relating to the ARRC's real estate policies. The goal would be to create legislation for the 2001 session enabling the Alaska Railroad to better address our customer's needs.

As we begin this process, it is important to note that the ARRC is approached periodically by individual leaseholders who would prefer to purchase the railroad land they currently lease. Approximately 50 percent of the Alaska Railroad's net earnings are derived from real estate leases much like other railroad's in the Lower 48. For that reason, selling Railroad land could jeopardize the ARRC's long term ability to remain a self-sustaining state corporation. We trust that this issue will be taken into account when examining the ARRC's real estate policies.

The ARRC has approximately 218 tenants. Our current policy is adequate for most of our tenants but leaves little room for flexibility. Longer lease options combined with other ideas that may surface from the study group could help the Alaska Railroad better serve Alaskans.

Sincerely,



Governor Bill Sheffield  
President and CEO, Alaska Railroad Corporation



MEMBER FDIC

530 Fourth Avenue • P.O. Box 73880 • Fairbanks, Alaska 99707 • (907) 452-1751 • FAX (907) 450-5982  
1380 University Avenue • Fairbanks, Alaska 99709 • (907) 474-1770 • FAX (907) 474-1771

February 16, 2000

Mr. Charlie Green  
Vice President Real Estate  
Usibelli Coal Mine, Inc.  
100 Cushman Street, Suite 210  
Fairbanks, AK 99701

Dear Charlie,

Mt. McKinley Bank (MMB) was one of the first banks to make mortgages available for residential construction in Healy in the late 1970's. Since then, we have originated hundreds of home loans in the Healy, Clear and McKinley Village areas and probably carry about half of the mortgages in the Tri-Valley Subdivision. I understand that there are currently about 120 residences and 3 churches located in this subdivision.

As you know, mortgages for residences situated on leased land, rather than fee simple land, are subject to a different set of lending policies. Usibelli Coal Mine (UCM) leases the Tri-Valley Subdivision from the Alaska Railroad (ARR), and in turn subleases lots to area residents and organizations. As the term of the sublease can be no longer than the term of the master lease, lenders must be concerned with the length of UCM's master lease when making mortgages to sublessees.

As we have discussed, the problem that MMB, other banks and credit unions currently have with originating mortgage loans in the Tri-Valley Subdivision results from accepted banking policy that precludes lenders from issuing to sublessees a deed of trust with a maturity date that is within ten years of the termination date of the lease. In short, as the current expiration date of the UCM's master lease is 2032, lenders will not structure mortgages longer than a maximum of 22 years which is considerably shorter than a typical 30-year mortgage. In effect, the longest mortgage most lenders will currently issue is 20 years. This shorter term makes the borrower's monthly payments considerably higher and reduces the affordability of homes located in the Tri-Valley Subdivision.

I am not surprised to learn that potential home sales have recently fallen through because the buyers were unable to afford the shorter term mortgages. As the available amortization period continues to shrink, combined with the potential for rising interest rates, the ability of new sublessees to afford or obtain financing for new construction (and for existing sublessees to sell to new buyers) will diminish to the point where only cash transactions are possible. This will greatly reduce the market value of any home located in the subdivision.

Charlie Green  
February 17, 2000  
Page Two

I understand that the ARR is willing to extend UCM's master lease to address this problem. However, for any ARR land that is leased for a period longer than 35 years, Alaska law requires that the ARR must reserve the unilateral right to terminate the master lease in the event the land is ever needed for railroad use. Even though all parties recognize there is little chance that the master lease would ever be terminated, this unilateral right to terminate undermines the tenancy of sublessees. Any extension of the master lease containing such a termination clause will preclude lenders from offering long-term financing in the Tri-Valley Subdivision.

I am aware that the parties involved are working to help address this situation, and I would be pleased to offer any support that might be helpful in solving the problem. This would include bringing it to the Alaska Bankers Association to help support any legislative action that might be required to remedy the situation.

Thank you for your help in this matter.

Sincerely,



Craig Ingham  
President and  
Chief Executive Officer

CI:grs

# National Bank of Alaska



February 25, 2000

Mortgage Loan Department  
P.O. Box 107025  
1500 W. Benson Blvd., 4th Floor  
Anchorage, AK 99510-7025  
Phone (907) 257-3434 / Fax 257-3412

Mr. Charlie Green  
Vice President, Real Estate  
Usibelli Coal Mine, Inc.  
100 Cushman Street, Suite 210  
Fairbanks, Alaska 99701

Dear Charlie:

National Bank of Alaska, as the largest originator and servicer of mortgage loans in the state, expresses our concern over the inability of potential home buyers in the Tri-Valley Subdivision to obtain thirty year mortgages.

The predominant investor in rural Alaska is Alaska Housing Finance Corporation (Alaska Housing). National Bank of Alaska originates loans for sale to Alaska Housing. Alaska Housing requires the remaining term on any leasehold estate to be for a period of not less than ten years from and after the maturity of the mortgage loan. Usibelli Coal Mine leases the Tri-Valley Subdivision land from the Alaska Railroad. The expiration date of this lease is 2032. This date forces us to reduce the term of the mortgage to 22 years to be in compliance with Alaska Housing requirements. The reduced term results in a higher payment for the qualifying borrower which impacts the affordability of properties in the Tri-Valley Subdivision.

I understand from our conversation that the Alaska Railroad is willing to extend the lease with the provision that they may unilaterally terminate the lease if subsequently the Alaska Railroad needs the land. Alaska Housing, other secondary market investors, and National Bank of Alaska cannot lend long-term funds with this termination provision.

National Bank of Alaska, on behalf of our borrowers in Tri-Valley Subdivision, strongly supports any action necessary, including legislation, to enable us to offer thirty year mortgages to the current and future owners in this subdivision. We also advocate a speedy solution to this issue as current property owners may begin to experience a deterioration of the value of their homes if financing is limited.

I appreciate you bringing this to my attention and will be available at any time to provide you with further assistance.

Sincerely,

Judy Kemplen  
Senior Vice President



# SENATE COMMITTEE REPORT

DATE: 3/28/00

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 4/5/00

Resources Committee considered

CS FOR HOUSE BILL NO. 344(FIN)

"An Act authorizing a land exchange between the Department of Natural Resources and Alaska Hardrock, Inc.; approving a long-term lease of certain Alaska Railroad Corporation land at Healy; and providing for an effective date."

and recommends:

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

Senate Bill:

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Christine Taylor</i>	✓				
<i>Heath Samuels</i>	✓				
<i>Victor Kelly</i>	✓				
<i>James [unclear]</i>	✓				
<i>Lynne Green</i>	✓				
<b>CHAIR:</b> <i>Rick Helford</i>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

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

Department	Date	Zero	Fiscal
DNR	4/19/00	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# CORRECTION

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



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# SENATE COMMITTEE REPORT

DATE: 3/28/00

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 4/5/00

Resources Committee considered

CS FOR HOUSE BILL NO. 344(FIN)

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- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John Taylor</i>	✓				
<i>Heath Samuels</i>	✓				
<i>John Kelly</i>	✓				
<i>Richard Green</i>	✓				
<b>CHAIR: <i>Rich Helford</i></b>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


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

Department                      Date      Zero      Fiscal

DNR	4/19/00	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**HB**

**414**

# Title 31. Oil and Gas.

## Chapter

- 05. Alaska Oil and Gas Conservation Act (§§ 31.05.005 — 31.05.170)
- 15. Common Purchasers of Oil (§§ 31.15.010 — 31.15.050)
- 30. Miscellaneous Provisions (§ 31.30.010)

**Revisor's notes.** — The provisions of this title were redrafted in 1985 to remove personal pronouns pursuant to § 4, ch. 58 SLA 1985, and to make other minor word changes.

## Chapter 05. Alaska Oil and Gas Conservation Act.

### Article

- 1. Administration (§§ 31.05.005 — 31.05.080)
- 2. Regulation of Operations (§§ 31.05.090 — 31.05.120)
- 3. General Provisions (§§ 31.05.150 — 31.05.170)

**Revisor's notes.** — Under § 5, ch. 158, SLA 1978, references in this chapter to the Department of Natural Resources have been changed to Alaska Oil and Gas Conservation Commission, except in AS 31.05.026. which mandates the conservation of oil and gas and prohibits their waste, would not be contravened by a local coastal management plan which comports with the Alaska Coastal Management Program, May 12, 1980, Op. Att'y Gen.

**Opinions of attorney general.** — This chapter,

## Article 1. Administration.

### Section

- 05. Alaska Oil and Gas Conservation Commission created
- 07. Term of office; vacancy; removal
- 09. Qualifications of members
- 11. Quorum
- 13. Oath of office
- 15. Compensation of members of the commission
- 17. Principal office; seal
- 21. Legal counsel
- 23. Commission staff
- 25. Conflict of interest

### Section

- 26. Relationship to Department of Natural Resources
- 27. Land subject to commission's authority
- 30. Powers and duties of commission
- 35. Confidential reports
- 40. Regulations and orders
- 50. Notice
- 60. Action by commission
- 70. Attendance and testimony of witnesses
- 80. Hearings and appeals

### Sec. 31.05.005. Alaska Oil and Gas Conservation Commission created.

(a) There is created as an independent quasi-judicial agency of the state the Alaska Oil and Gas Conservation Commission, composed of three commissioners appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chair of the commission. This member shall serve as chair for a term of four years, but may not be appointed for successive terms as chair of the commission. ( § 1 ch 158 SLA 1978; am § 1 ch 61 SLA 1992)

**Cross references.** — For initial application of the amendment to (b) of this section by § 1, ch. 61, SLA 1992, see § 2, ch. 61, SLA 1992 in the Temporary and Special Acts.

**Effect of amendments.** — The 1992 amendment, effective September 10, 1992, in subsection (b), substituted "chair" for "chairman" in two places, and, in

# Alaska State Legislature

1995-1996 LEGISLATIVE YEAR  
STATE OF ALASKA  
LEGISLATIVE COUNCIL  
1000 EAST 14TH AVENUE  
ANCHORAGE, ALASKA 99515  
PHONE: 465-1000  
FAX: 465-1000



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LEGISLATIVE COUNCIL

Representative Joe Green  
District 10  
House Majority Leader

## Sponsor Statement

### HB 414 – Qualifications for AOGCC

From statehood until November 1995, the group responsible for oil and gas conservation in Alaska included a petroleum engineer. Performance of the core functions for which the present-day Alaska Oil & Gas Conservation Commission (AOGCC) is charged – prevention of waste, protection of correlative rights, and maximization of recovery – requires among other things, a thorough understanding of porosity, permeability, stratigraphy, faulting, reservoir pressure, and reservoir drive mechanism(s). These are the core disciplines of petroleum engineering, and require the technical analysis that only a qualified petroleum engineer can provide. Unfortunately, since November 1995, the commission, which represents the people of the State of Alaska, has not had the benefit of a qualified petroleum engineer to participate in the oversight of these types of conservation operations.

HB 414 clarifies the statutory requirements for service on the AOGCC. As written, one member of the commission will be required to be registered as a petroleum engineer, or have education in the field of petroleum engineering along with subsurface experience in drilling, well operations, production process operations, reservoir engineering, or a combination thereof. Additionally, one member will be required to hold a certificate as a petroleum geologist, have earned a degree in the field of geology from an accredited university, and have field experience in the field of geology.

Alaska has been blessed with wealth derived from our hydrocarbon resources. In order to continue this flow of wealth, we must have qualified, capable people to properly conserve and manage our resources to the highest possible standards.

FISCAL NOTE

Version: CSHB 414 (O&G)  
(H) Publish Date: 3/15/00

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

Revision Date: 3/8/00  
Title: Oil & Gas Conservation Commission  
Sponsor: Rep. Joe Green  
Requester: House Special Committee on Oil & Gas

Dept. Affected: None  
BRU: \_\_\_\_\_  
Component: \_\_\_\_\_  
Component Serial No.: \_\_\_\_\_

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY00) cost: \_\_\_\_\_

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Janis A. Beckler - Oil Gas Committee Aide

Phone: 465-2283

Phone: \_\_\_\_\_

Date: 3/8/00

the second sentence, inserted "not" following "may" and added "as chair of the commission" to the end.

**Sec. 31.05.007. Term of office; vacancy; removal.** (a) The term of office of each member is six years. A commissioner, upon the expiration of a term, shall continue to hold office until a successor is appointed and qualified.

(b) A vacancy arising in the office of a commissioner shall be filled by appointment by the governor and confirmed by the legislature in joint session, and, except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall hold office for the balance of the full term for which the predecessor on the commission was appointed.

(c) A vacancy in the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission.

(d) The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges and afforded an opportunity to be publicly heard in person or by counsel in the commissioner's own defense upon not less than 10 days' notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and the governor's finding based on the charges, together with a complete record of the proceedings. (§ 1 ch 158 SLA 1978; am § 10 ch 168 SLA 1990; am § 10 ch 80 SLA 1996)

**Effect of amendments.** — The 1990 amendment, effective June 22, 1990, deleted the former second sentence of subsection (a), which related to the terms of initial appointees.

The 1996 amendment, effective January 1, 1997, in

subsection (b), inserted ". except as provided in AS 39.05.080(4)". For provisions of subsection (b) in effect before January 1, 1997, see the October 1995 Supplement for AS 31.

**Sec. 31.05.009. Qualifications of members.** Members shall be qualified as follows: one member shall be a licensed professional engineer with educational and professional background in the field of petroleum engineering; one member shall be a geologist with educational and professional background in the field of petroleum geology; one member need not be trained and experienced in the fields of petroleum engineering or petroleum geology. (§ 1 ch 158 SLA 1978)

*Sec. 31.05.010. Application. [Repealed by § 4 ch 158 SLA 1978.]*

**Sec. 31.05.011. Quorum.** Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty, or for the exercise of a power of the commission. (§ 1 ch 158 SLA 1978)

**Sec. 31.05.013. Oath of office.** Each commissioner, before entering upon the duties of office, shall take and subscribe to the oath prescribed for principal officers of the state. (§ 1 ch 158 SLA 1978)

**Sec. 31.05.015. Compensation of members of the commission.** Members of the commission are in the exempt service and shall receive an annual salary. (§ 1 ch 158 SLA 1978)

**Sec. 31.05.017. Principal office; seal.** (a) The commission shall establish a principal office and branch office: necessary to discharge its business efficiently. For the convenience of the public or of parties to a proceeding the commission may hold meetings, hearings or other proceedings at other locations.

(b) The commission shall have an official seal. (§ 1 ch 158 SLA 1978)

*Sec. 31.05.020. [Renumbered as AS 31.05.095.]*

## **oil and gas conservation commission**

### **Commission History**

The Alaska Oil and Gas Conservation Act (1955) created the Alaska Oil and Gas Conservation Commission (AOGCC or Commission). The Commission was composed of the Governor of the Territory of Alaska, the Territorial Commissioner of Mines, and the Territorial Highway Engineer. Rules and regulations governing Commission activities became effective on October 1, 1958.

Under the State Organization Act of 1959, the Oil and Gas Conservation Commission was abolished, its function and authority transferred to the Department of Natural Resources, Division of Mines and Minerals. A group within the department was designated to hold hearings and issue decisions on oil and gas matters. This group was the Alaska Oil and Gas Conservation Committee which consisted of the Director of the Division of Mines and Minerals (Chairman), the State Petroleum Geologist, the State Petroleum Engineer, and the Deputy Commissioner of the Department of Natural Resources.

In 1968 the Division of Oil and Gas was created within the Department on Natural Resources. The new division arose from the Petroleum Branch of the Division of Mines and Minerals. The Alaska Oil and Gas Committee was placed within the new division, and consisted of the Director, Chief Petroleum Geologist, and Chief Petroleum Engineer. In 1976 the word "conservation" was added to the division's title, and it became the Division of Oil and Gas Conservation.

With the advent of production from Prudhoe Bay in 1977, the Legislature became concerned that there was the appearance of a conflict of interest with the Department of Natural Resources, an owner of oil and gas rights, also acting as the regulator of other owners of oil and gas rights. To obviate its concern, the Legislature amended AS 31.05 by Chapter 158, SLA 1978 to restore the Commission, effective January 1, 1979, as an independent quasi-judicial agency within the executive branch of the state. Initially, the new Commission was housed within the Department of Natural Resources, but in 1980 it was transferred to the Department of Commerce and Economic Development. More recently, Governor Hickel transferred the Commission to the Department of Administration on February 17, 1994.

#### **Commissioner Terms of Office**

**[AOGCC Home Page](#)**

**[AOGCC Webmaster](#)**

[howard\\_okland@admin.state.ak.us](mailto:howard_okland@admin.state.ak.us)

## oil and gas conservation commission

### COMMISSIONERS - TERMS IN OFFICE

<b>Petroleum Engineer</b>	<b>Geologist</b>	<b>Public Member</b>
<b>Hoyle H. Hamilton</b>	<b>Harry W. Kugler</b>	<b>Lonnie C. Smith</b>
Jan 1, 1979 to Dec 31, 1981	Jan 1, 1979 to May 15, 1986	Jan 1, 1979 to Jul 1, 1992
<b>C. V. "Chat" Chatterton</b>	<b>William W. Barnwell</b>	<b>Leigh Griffin</b>
Jan 18, 1982 to Aug 1, 1990	Jul 1, 1986 to Aug 11, 1988	Sep 9, 1992 to Feb 6, 1993
<b>Russell A. Douglass</b>	<b>David W. Johnston</b>	<b>Tuckerman Babcock</b>
Nov 26, 1990 to Nov 17, 1995	Jan 19, 1989 to Jan 12, 2000	Jun 1, 1993 to Dec 31, 1996
<b>J. David Norton, P.E.</b>	<b>Dan Seamount</b>	<b>Mary Marshburn</b>
Nov 20, 1995 to May 7, 1996	Jan 13, 2000 to Present	Jan 1, 1997 to May 9, 1997
<b>Robert Christenson</b>		<b>Camille Oechsli Taylor</b>
May 9, 1997 to Present		Sep 1, 1997 to Present

[Staff Directory](#)

[Commission History](#)

[AOGCC Home Page](#)

[AOGCC Webmaster](#)

howard\_okland@admin.state.ak.us

March 28, 2000

Senate Resources Committee  
Legislature of the State of Alaska

**RE: HB 414(CS) "An Act relating to the qualifications of the members of the Alaska Oil and Gas Conservation Commission"**

Dear Chairman Halford:

I am writing in reference to HB 414 (CS) that is currently before your committee. I oppose the bill because:

- The bill dilutes the requirement that the engineer appointed to the Commission be a licensed Professional Engineer, which would imply that the Legislature does not support the code of ethical conduct and the commitment to uphold standards that provide safeguards to the public that is implicit in the licensing of Professional Engineers.
- The bill excludes Professional Engineers with applicable experience in the Alaskan oil and gas industry from qualification as Commissioner.
- The bill narrows the requirements of the position to a limited area of the Commission's charter, namely requiring "downhole" subsurface engineering experience only, which limits qualified candidates to the detriment of the best interest of the people of Alaska.

Requirements for the engineer seat should be clear and plain, and leave room for discretion in future appointments and confirmations. The candidate should have broad experience in the Alaskan oil and gas industry. Only in this way will the best and brightest available candidates be available to serve the public.

The following information expands on my opinion that this bill is overly prescriptive to the detriment of the public interest, tries to fix something that is not broken, and should not be enacted.

**The Commissioner is not required to be a licensed Professional Engineer**

A licensed Professional Engineer connotes a level of public trust and ethical behavior that is key to public service. Allowing non-licensed engineers to be qualified is a step backwards and dilutes the level of competency, code of ethics, and commitment to upholding standards that safeguard the people of the State that mark the licensing of Professional Engineers.

Professional staff at the Commission are required to be licensed Professional Engineers in the state of Alaska. The Commissioner position should require no less a qualification.

**Professional Engineers with a background in Alaskan oil and gas are not qualified**

The existing qualification is that the commissioner be a licensed Professional Engineer with a background in petroleum engineering. This requirement is sufficiently broad to allow licensed Professional Engineers with an oil and gas background to qualify.

Changing the requirement to limit the position to a licensed petroleum engineer would likely not provide a better or more comprehensive pool of candidates. Conversely, it would most likely result in a smaller pool of candidates no better qualified than the those currently qualified and probably would result in the best available candidates excluded.

It is significant to note that the current Commission chairman holding the engineer seat would not qualify under this bill.

Petroleum engineering is a broad field populated with practitioners from a variety of technical disciplines, including mechanical, chemical and civil engineering, and from the sciences of physics, geology, chemistry and materials science. Many practicing petroleum engineers have degrees in these areas and may be licensed in other fields of engineering. For example, my alma mater, Rice University, is one of the top engineering schools in the nation and it does not even offer a degree program in petroleum engineering. I am a licensed Professional Engineer in civil engineering, and my career and background has been in oil and gas.

The field of petroleum engineering covers a spectrum of technical areas including drilling, reservoir mechanics, and surface equipment, processes and delivery. Practicing petroleum engineers are usually specialists in only one of these areas and it is unlikely that a licensed petroleum engineer would have expertise in all of these areas.

**The Commissioner is limited to narrow technical qualifications**

Overly prescriptive "downhole" experience requirements focus on only one area of the Commission's broad responsibilities. While the Commission does deal with subsurface matters, this area of expertise should not be the sole criteria for qualifying an individual. This bill would restrict the focus of the appointment to only one area of the Commission's purview and would result in an inappropriately narrow view represented on the Commission that is not in the State's best interest.

The Commission is responsible for a wide variety of matters related to oil and gas exploration and development. Given the broad range of the Commission's functions, an individual with an engineering background in the design and operation of oil and gas production facilities would be as well suited as a reservoir specialist.

I use a personal experience to illustrate my point. I served as an appointed commissioner to the Alaska Oil and Gas Conservation Commission for seven months in 1995/1996. During my tenure the Commission held hearings on further unitization of the Prudhoe Bay Field. This issue was probably the most important issue the Commission has ever taken up, as it went to the heart of the matter as to the best way to deplete the largest oil field in North America. The issue turned not only on drilling or reservoir mechanics, but substantially on surface facilities and the optimum use of oil and gas facilities for ultimate maximum resource recovery.

On this issue, I believe my expertise and background, as a former engineering manager for Alyeska Pipeline Service Company, was uniquely beneficial for the State's interest. In my previous positions, I had direct exposure to conflicting North Slope oil company priorities regarding production allocations, metering, and crude stream composition. I was able to bring a broad view of each oil company's motivations and culture to the deliberations that helped bring the issue into focus for the Commission. I was able to provide a technical understanding of the challenges of field development, based on my background in design and operation of surface facilities and transportation of oil and gas.

#### Summary

Today, more than ever, the Commission's efforts are focused on the challenges of managing a mature industry where sharing of common facilities to best utilize multiple fields create new issues. Restricting qualifications for commissioners more narrowly than required only reduces the pool of talented people willing to serve the State and ultimately provides a disservice to the people of Alaska, who rely on government to look after their interests in the development of the State's oil and gas resources.

Respectfully submitted,



J. David Norton, P.E.

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Anchorage, AK 99501

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fax (907) 274 8023  
email dnorton@alaska.net

Copies to:

AOGCC Commissioners Oechsli, Christenson, Seamount  
Members, Board of Registration for Engineers, Architects, and Land Surveyors



## *Alaska Society of Professional Engineers*

Anchorage Chapter P.O. Box 244123 Anchorage, AK 99524

April 14, 2000

Senate Resources Committee  
Legislature of the State of Alaska  
State Capital Building  
Juneau, AK  
99801

APR 15 2000

**RE: HB 414(CS) "An Act relating to the qualifications of the members of the Alaska Oil and Gas Conservation Commission"**

Dear Chairman Halford:

I am the president of the Anchorage Chapter of the Alaska Society of Professional Engineers (ASPE). During our April 13, 2000 meeting, we discussed at length the referenced bill. By vote of a motion, I am writing this letter to inform you that Anchorage Chapter of ASPE does not support this bill as proposed. We object to the language of the bill that enables non-registered engineers, that is engineers who are not certified by the State of Alaska as Professional Engineers, to hold the engineer's seat on the commission.

ASPE is a statewide organization under the National Society of Professional Engineers. As such, one of our missions is to promote registration of engineers. However, we recognize that not all engineers need be registered to perform their jobs.

In this case though, we believe that there is a conflict between the language of the proposed bill and the commission's role, which is to represent the public interest's in matters of oil and gas. The primary responsibility of professional engineers, and the reason the State licenses professional engineers is to protect the public's health safety and welfare. The commission's engineering member must be registered as a professional engineer in order to assure that the public's health, safety, and welfare are held paramount. Failure to require a registered professional for the engineering member of the commission would also be contrary to the intent of the licensing regulations.

We ask that you rewrite the proposed bill to require that the commission's engineering member be a professional engineer registered in the State of Alaska.

Thank you for considering our request.

Arnold N. Harder, P.E.  
President, Anchorage Chapter ASPE

CC: Mark Musial, Secretary/Treasurer ASPE  
anhletterhead.doc

# SENATE COMMITTEE REPORT

DATE: 3/23/00

FURTHER:

DATE TURNED  
IN TO OFFICE: 4/19/00

Resources Committee considered

CS FOR HOUSE BILL NO. 414(O&G)

"An Act relating to the appointment and qualifications of the members of the Alaska Oil and Gas Conservation Commission; and providing for an effective date."

and recommends:

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

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

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>John L. Taylor</i>	✓		
		<i>Lydia H. Hessel</i>	✓		
		<i>Pat Kelly</i>	✓		
		<i>Deanna Lind</i>	✓		
CHAIR:		CHAIR: <i>Rich Halford</i>	✓		

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

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

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
H/O&G Cmte	3/8/00	0	

#2 HOUSE

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill