

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10394 HOUSE RESOURCES

HB

519

Alaska State Legislature

House of Representatives

RULES COMMITTEE, CHAIR
COMMITTEE ON COMMITTEES
LABOR & COMMERCE COMMITTEE
MILITARY & VETERANS AFFAIRS
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER RD., SUITE 141
EAGLE RIVER, AK 99577

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

House Bill 519 Sponsor Statement Version: 22-LS1651J

The time has come for Alaska to engage in the development of a natural gas pipeline. With declining production from Alaska's large oil fields, the scaling back in exploration efforts by some of Alaska's largest producers, apparent substantial delays in any work that might come from exploration and hopefully production on the coastal plain of ANWR, layoffs of oil industry employees, and problems in other resource industries such as fishing, mining, and timber. The gas pipeline offers the only hope for substantial near-term work for Alaska's oil and support industries. In our fiscal crisis, it is imperative the legislature enact legislation this session to encourage construction of a natural gas pipeline before this opportunity for our economy disappears for perhaps another decade or longer.

HB 519 provides an encouragement to the producers that helps diminish the huge risks in this largest of construction projects. In exchange, it also contains provisions, important to the State of Alaska, as conditions for obtaining the benefit of such incentive, such as the pipeline follow the "southern" route, and provisions for Alaska hire, buy, and build. Of course, the major benefits to the State, if this incentive results in construction of the line, will be a substantially positive effect on the economy with jobs and construction activity, and taxes and royalties from the production and sale of natural gas. These benefits may never come to be, or may not come from decades, if this window of opportunity is missed.

HB 519 offers an incentive in temporary relief from the ad valorem tax that would be imposed on the pipeline for the period, from before construction through the second year of commercial operations. This would provide tax relief in an important period of the project when a large amount of cost is experienced but no income is yet being generated, and early into commercial operations of the project. The project entails very substantial financial risk as to price, and the cost of this mega-project through a federal income tax credit. This would provide important risk protection, but possibly leave the project developers at risk for project construction cost overruns. The tax relief in HB 519 could provide a means of reducing one element of the costs during construction and thereby reduce the risk. This would not effect any other taxes or royalties the state collects. After the relief period has expired, the State and local governments will have a natural gas pipeline upon which to collect property taxes. If the project does not go forward, these benefits to the State will not be realized.

The gas pipeline must be constructed along the "southern" route. All the companies involved in the engineering, construction, and operation of the pipeline must pledge their best effort to hire Alaskans, buy from Alaskans, and build facilities in Alaska.

HB 519 also reopens the Alaska Stranded Gas Development Act, AS 43.82, enacted in 1998. It contains important provisions regarding Alaska hire and contracting with Alaska businesses, making gas available to meet reasonably foreseeable demand for in-state use, and provides a mechanism for the state and project sponsors to reach agreement or clarify certainty on fiscal terms and on other issues important to the parties.

HB 519 has the advantages of offering an incentive rather than threatening a disincentive. It will demonstrate that the State wants a natural gas pipeline to be constructed, is prepared to help this risky and enormous project be less risky, and will work with the current producers to their and the State's mutual advantage. At least one producer has indicated a willingness to go forward if the State makes this showing.

Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us
<http://www.akRepublicans.org/Kott.html>



VECO Corporation, Inc.

3601 C Street, Suite 1000

Anchorage, Alaska 99503

Testimony of Bill Allen
Before the House Oil and Gas Committee Hearing (HB 519)
April 19, 2002

Thank you Mr. Chairman and members of the committee.

For the record my name is Bill Allen, I am Chairman and CEO of VECO Corporation, an Alaskan company with its headquarters in Anchorage.

Before I begin, I would ask the committee to please bear with me. Because of an accident I suffered last summer, my speech is sometimes broken and I must speak slowly. I will do my best, and submit written testimony to fill in any gaps.

With your permission I will have my Vice President Rick Smith read my testimony. These are my words, but it will go much quicker if Rick reads them for me.

Testimony:

Mr. Chairman, and members of the committee, it is a pleasure to be here with you today and I appreciate the opportunity to speak with you on an issue of utmost importance to Alaska.

I know each of you personally. Over the years, we have had the chance to work together on many issues important to Alaskans. Creating jobs and local hire, improving education, encouraging business and economic development – to name just a few.

I'm here today to tell you that, in my opinion, no single issue is more important to Alaska's future – than the legislation you now have before you.

Alaska is truly at a cross-roads. Many of our traditional industries are struggling – often through no fault of their own. Our oil resources are declining, our timber, mining and fishing industries are on the ropes – because of factors largely beyond their control.

But the bottom line is that as those traditional mainstay Alaskan industries struggle – Alaska struggles – and Alaskans find themselves out of work and unable to provide for their families.

Testimony of Bill Allen
· VECO Corporation, Inc.
House Oil & Gas Committee
4/19/02

In addition, as our state's economy shrinks, so does your ability to ensure better schools, better communities and a better quality of life for all Alaskans.

Mr. Chairman, I believe the legislation before you offers an opportunity for Alaska to control its own destiny. We know that the North Slope has enough proven reserves of natural gas to fill a pipeline to capacity for the next 50 years. 35 trillion cubic feet – and that's just the known reserves. Estimates suggest there may be much more – perhaps enough to keep the pipeline – and the jobs and revenues it will create – operating for the next 100 years.

Unfortunately, before Alaska can realize any of those benefits, a pipeline must be built.

A few years ago, like most Alaskans I was enthusiastic about the prospects for the gas line. With prices soaring – it looked as if the pipeline was just around the corner.

Well, we all know what happened next. Just as quickly – prices dropped – and the economics suddenly changed.

After months of study, it's now clear that without some economic incentives, private industry is not going to be willing to risk the billions of dollars necessary to construct the gas line at this time. The project simply does not math out at current and foreseeable prices -- unless some of the construction and start-up risks are offset.

We know that we have some of the largest known gas reserves in the world. We know that we have reliable, private sector partners who can help Alaska develop and market our vast, untapped resource.

But we also know that Alaska is not the only place in the world where natural gas exists. And as with our other industries, international competition increases every year.

I guess more than anything, I am here today to urge you to act quickly to seize a unique opportunity that can help ensure Alaska's future.

I believe the window of opportunity is still open – if we act now to help make this project a reality. I also strongly suspect that if that window shuts – it may never open again.

In the past several weeks, I have talked with senior officials from the production companies. They have indicated a willingness to proceed providing federal and state legislation is passed to help offset some of the project's tremendous risk. They also seek reasonable assurances of stability in our tax and economic climate.

In that regard, for the past several months members of our Congressional delegation have worked hard to enact federal incentives to help make the gas line a reality. But as with

Testimony of Bill Allen
VECO Corporation, Inc.
House Oil & Gas Committee
4/19/02

any Alaska resource development issue, they are fighting a difficult uphill fight – and they need our help.

Last week Senator Murkowski called me and said that opponents of the gas line are now pointing out the absence of state action on the issue – and using that point to try to defeat our delegation's efforts in D.C. “If Alaska does not care enough to offer incentives,” they say, “why should we?”

Senator Murkowski and the rest of our delegation have indicated that passage of HB 519 will go a long way toward demonstrating Alaska's commitment to this project. It will send a clear signal to Washington and the producing companies that Alaska is ready to step up to the plate and invest, along with them, in Alaska's future.

I have been asked what this legislation will cost Alaska. My answer has been very simple. Absolutely nothing. Because without this legislation, the gas line will likely never be built.

You can't tax something that doesn't exist.

So any taxes potentially deferred by this legislation – would never have been realized anyway.

On the other hand, I believe the true cost to Alaska – lies in doing nothing. If this legislation does not pass, and the gas line is not built, what will that cost Alaska?

The gas line will create thousands of new jobs and billions in new revenue and economic activity. It can help provide a stable economic climate for Alaska at least well into this century – and long after you and I are gone.

At a time when Alaska is desperately seeking new economic opportunities – I suggest to you – that the best opportunity is very close at hand, if we will simply reach out and grasp it.

Thank you again for the opportunity to testify. I would be happy to answer any questions you may have.

Testimony of Ken Konrad
Senior Vice President - BP Exploration (Alaska) Inc.

House Oil & Gas Committee
Friday, April 19, 2002

My name is, Ken Konrad, Vice President Gas for BP Exploration (Alaska) Inc. I am here this morning to testify in support of HB 519.

Creating a supportive government framework is an essential ingredient toward developing a successful ANS gas project. An international project of this magnitude brings many inherent risks. Governments, working constructively with industry, can play a major role in reducing these risks by setting clear and predictable rules under which a project would be undertaken.

BP, with our partners, has previously laid out key government actions that would facilitate future investment on this massive undertaking. Specifically –

- A clear and efficient US federal regulatory process. Progress is being made with Alaska gas provisions currently part of the pending US Senate energy bill.
- An efficient and predictable Canada / First Nations regulatory process. BP remains very active working in Canada to establish such a process and progress is being made.
- A simple, clear, and predictable fiscal framework in Alaska such that the massive long payout investments being contemplated can be undertaken with the knowledge that the rules won't change.

HB 519 would be a positive step toward achieving the necessary fiscal framework in Alaska. The bill is modeled after HB 393, which was passed in 1998. As we did in 1998, we continue to support the content and approach inherent in the Stranded Gas Act, which this legislation refreshes, updates, and makes available for a gas pipeline project.

HB 519 and the Stranded Gas Act would:

- Demonstrate leadership and an intent by the legislature to provide stable fiscal terms that encourage development of ANS gas while fully and fairly compensating the people of the state.
- Establish a protocol, beginning with an application, and followed by a process to exchange information between investors and the state.

- Empower the state to enter into a contract negotiation to achieve clear and simple tax and royalty terms. These terms would need to be subsequently approved by both the executive branch and the legislature.
- Provide a process with the state and investors while providing for municipal input.
- Provide for contract review, approval, and termination provisions, inclusive of municipal input, legislative authorization, and judicial review.
- Provide for prioritization of state agency support for a qualifying project.

In aggregate, it would set out a thoughtful and workable framework to work through important fiscal issues subject to subsequent approval by the legislature.

The bill also encourages Alaska hire, training, and purchasing. BP has and continues to support the use of in-state capability. However, some technical modifications should be considered to ensure the bill's language does not draw legal challenge.

Passage of HB 519 would send a positive message to investors and provide a framework to achieve fiscal clarity and predictability. BP is fully supportive.

Thank you. I would be happy to answer any questions at this time.

**Phillips Petroleum Company
House Oil and Gas Committee April 19, 2002
HB-519 Testimony**

Good morning Mr. Chairman, and members of the Committee. For the record, my name is Joe Marshack. I am Vice President of ANS Gas Commercialization for Phillips Alaska. My primary responsibility is the development of Phillips' ANS gas resources and Phillips' is committed to achieving our goal in a timely and economic fashion. We appreciate the opportunity today to testify in support of HB-519.

As you know, we have been focusing this year on those areas that we believe are most likely to result in an economically viable gas pipeline project to the Lower 48. We have completed our joint analysis of the work the producers initiated last year and will be setting up a time to brief you on the results of that work. For the past several months however, most of Phillips gas emphasis has been directed at the federal level to achieve congressional legislative changes to advance the project. These include:

1. New Federal Legislation that creates permitting certainty. I believe you are well aware of the current federal legislation in the Senate Energy bill.
2. A Federal tax mechanism that would help mitigate the unacceptable market risk of a project of this magnitude. I understand you are aware of current drafts of this mechanism that provides down-side mitigation but also provides for repayment of any credit if used, and that is currently assessed by the U.S. government as having a zero cost. This piece of legislation is in Phillips' view a most critical element in moving our project forward. It shares the benefits the Lower 48 consumers will see from ANS gas coming to market while addressing the risk inherent in such a large and costly project.

Given achievement of the federal legislation (at this point it is not a certainty), it is important to the economic viability of the project to progress fiscal matters at the state level.

Fiscal matters include fiscal certainty, and what we really mean is that we need to know, with a fair degree of specificity, how our taxes and royalties will be calculated and administered. We would also like to address potential opportunities to gain assurance that those taxes and royalties won't change once we've made our investment. We also believe that strategic participation by the State in mechanisms to improve the economic viability of the project are important.

While there may be a need for minor clarifying language, we are encouraged by the committees' consideration of HB-519 that proposes both a temporary property tax abatement and the revival of an existing statutory process by which pipeline project sponsors can work with the state to gain the kind of fiscal certainty and clarity which will reduce the risks and help the project move forward. The temporary property tax abatement is an important signal to the US Congress that Alaska has stepped up to try to make a project happen. By itself, an ad valorem holiday is not of sufficient size that it can singularly make a challenged project economic. However it is an important step in a series that along with other actions at the state and federal level, and potential technological improvements, can reduce the risks and improve the economics of the project.

Thank you for this opportunity to testify today and express our support of HB-519. I'll be happy to try to answer any questions you may have.

ALASKA STATE CHAMBER OF COMMERCE

Testimony on HB 519
by Pamela LaBolle

Good morning, I am Pam LaBolle, President of the Alaska State Chamber of Commerce. The Alaska State Chamber represents 35 local chambers and 700 businesses, most of whom are small businesses deeply concerned with the economic future of Alaska. As the Voice of Alaska Business and the leading advocate for business headquartered here in Juneau, we always appreciate the opportunity to address bills of importance to the economic development of the state. Our legislative priorities are developed at the grassroots level by our membership through a several month long process of proposal, review and debate. Our top five priorities include urging the legislature and the governor to encourage the producers to proceed with development of a southern gas line route through Alaska.

The Chamber speaks in favor of HB 519 and urges its passage. Alaska absolutely needs a gas pipeline. For our members to have their businesses thrive or even just stay viable Alaska's resources must be developed. It sometimes seems that people outside our state have a much greater say in what happens in our state than we do. With the defeat of ANWR in Congress just yesterday, there are no other large developments on the horizon that will spur the growth of our economy in the near term. Our executive committee meets monthly around the state often in smaller communities. As a result, we are very concerned about the state's economy. What is the state doing to encourage economic growth, to try to have a hand in our own destiny.

While the final results of the producers' study haven't been released yet, it should be apparent to everyone that this is a project of enormous cost and risk. The state and local governments would benefit greatly for years to come if we can encourage the producers to take the risks inherent in this huge project and develop the North Slope gas resources by building a project through Alaska. The temporary tax exemption provided by this bill should be looked upon as an investment by the state and municipalities to encourage the producers to go forward with a project that will create jobs, benefit municipalities, spur economic opportunity for businesses and start a whole new industry - a gas industry. By revitalizing the Alaska Stranded Gas Development Act and having it apply to this project, the state and producers can create a contract that will assure tax clarity and certainty and protect vital interests of the state and affected municipalities. How often does the state have an opportunity to take such a bold step to encourage large-scale economic growth. Several states and cities around our nation have offered to businesses tax incentives to encourage them to invest. The state should be less concerned with perhaps giving away too much and more concerned with not missing a significant opportunity for economic growth, perhaps the only one in the next few decades. Thank you.

Testimony of David Marquez in support of HB 519
House Oil and Gas Committee
April 19, 2002

I am David Marquez. My address is 18546 Osprey Circle in Anchorage. I am an attorney in Anchorage and today I represent VECO Corporation, an Alaska company headquartered in Anchorage. I speak in support of HB 519 and urge its passage.

VECO Corporation is an engineering, construction, and oil and gas service company that has been active in the Alaska oil patch for several decades. It has also been a good employer and an active member of the greater Alaska community participating vigorously in philanthropic and community activities. VECO urges passage of this bill because it believes that Alaska desperately needs a gas pipeline for its economy. VECO has seen and experienced over the last 15 years, significant reductions in the oil industry workforce in this state with the most recent one being announced within the last few weeks by Alyeska Pipeline Service Company. Coincident with all these reductions have been the elimination of contractor positions staffed by employees of VECO. VECO needs a gas pipeline to keep its Alaska employees employed and hopefully even to increase its workforce.

Despite the high costs and risks of the huge project for the development and construction of the Alaska North Slope natural gas pipeline, VECO believes that it is still possible to achieve this dream. Some producers have indicated that work will continue when three legislative actions are taken: (1) federal enabling legislation (2) federal legislation that

helps reduce the risk of gas prices cycling to low levels and (3) Alaska legislation that provides both an incentive, and tax and royalty certainty and clarity. As to the federal legislation, some have questioned why any federal assistance should be provided if the state of Alaska is unwilling to step forward. HB 519 will send a clear signal that the state is willing to participate. It grants a temporary exemption to the project from local and state property taxation under the 20-mill property tax (AS 43.56) for a period from commencement of the project's construction through the first two years of operation of the pipeline. The bill calls for expeditious priority treatment by state officials and agencies in support of development and construction of the project.

The Bill puts back into action the Alaska Stranded Gas Development Act that expired last June. This legislation was enacted after very substantial effort by the legislature, the administration and the industry to encourage the development of an LNG project to commercialize Alaska North Slope Gas. HB 519 makes it applicable to a North Slope gas line as well as an LNG project and extends until June 2005 the deadline for filing an application for a contract with the State. Such a contract would be approved by the legislature and would contain provisions addressing the issues of tax and royalty clarity and certainty, and other fiscal issues important to the parties.

A little more on the temporary property tax exemption provided in the Bill. It does not apply to any taxes currently being collected so present revenues will not be affected by this bill. Only if a pipeline is built and the state enjoys the benefits of that development will the investment of this temporary tax exemption be made. It is temporary and lasts

only for the period of construction and the first two years of operations. At its expiration, if this Bill in fact encourage. the producers and a pipeline is built, the state and local governments will have a pipeline on which to levy taxes for many years, a new industry - a gas industry - will have been created, in-state use of gas will be possible, and Alaskans will be employed. If it is not built, there will not be any of that.

Just a year or so ago when gas prices were very high, everyone thought the pipeline was just around the corner. Now reality has set in and the project's enormous costs and risks make it very doubtful that it will be built unless action is taken to keep the project alive. VECO together with Fluor performed the recent study for the producers. VECO recognizes the great risks involved with the project, but believes that if the state takes action to reduce the risks and costs, we can make it happen. There may be concern that this will be seen as a give away and that, instead, the state should negotiate with the gas owners before any incentives are given. VECO feels a great sense of urgency. If action is not taken this year, the only opportunity for a significant boost to the state economy may be lost. If we take a year or two or three to negotiate any incentives, the opportunity may be lost as the producers move on to other projects. There will be time in the coming years under the Alaska Stranded Gas Development Act to negotiate a total fiscal regime. but VECO believes concrete action must be taken this year to keep the project going.

Further, the Bill requires that the producers must meet certain conditions to be eligible for the temporary tax exemption. First, it must be a pipeline that follows the southern route. The Bill lists six other conditions, including compliance with the federal acts relating to

natural gas pipelines. Amendments to those acts that would be favorable to Alaska are being considered as part of the currently pending federal enabling legislation. Also included as requirements are Alaska hire, buy and build.

The Alaska Stranded Gas Development Act, which this bill reopens, provides the opportunity for tax and royalty certainty and clarity that will benefit both the state and the producers. The state and the oil owners were locked in long, costly and antagonistic disputes over issues relating to the determination of the taxpayers liability for severance tax and royalty. VECO has been informed that the producers strongly desire that such disputes be avoided as to gas and that the risk associated with tax and royalty uncertainty and lack of clarity is one more risk that burdens this already risky project. The Stranded Gas Act provides a good process for the state and producers to negotiate such clarity and certainty and in fact the opportunity to negotiate what fiscal regime would be in the long-term fiscal interest of the state, while accommodating affected municipalities, and the project sponsors under a wide range of economic conditions, potential project structures and marketing arrangements. The legislature retains the power to authorize execution of the contract. The Act gives the municipalities an important role through the formation of a municipal advisory group.

There has been testimony today that reflects basic agreement on certain issues. First, there is the recognition that some incentive will be necessary for this project. Second, there is acknowledgment that a property tax exemption would be the most leveraging of the available incentives. Where there is disagreement is at what point the incentive

should be granted. VECO feels strongly that the incentive should be granted now, and then negotiations between the state and producers can address the total fiscal regime that would apply.

In summary HB 519 is crucial and contains perhaps the only chance left to try to keep the possibility of a gas line project alive for the next few years or it may be decades before the opportunity arises again. VECO also wants to make it very clear that it does not consider this to be a producer bill. This is an Alaska bill that provides for a short-term investment by Alaska that will pay off in a project that could be shipping gas for a hundred years.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

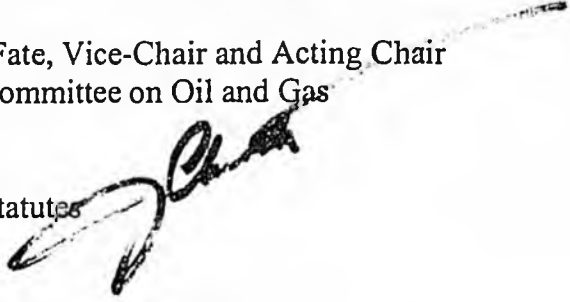
MEMORANDUM

April 18, 2002

SUBJECT: House Bill 519 -- response to inquiry (22LS-1651J)

TO: Representative Hugh Fate, Vice-Chair and Acting Chair
Attn: House Special Committee on Oil and Gas

FROM: Jack Chenoweth
Assistant Revisor of Statutes



To the question of the second paragraph of your Wednesday memo:

The second clause of the bill title, "expanding the scope for the kinds of gas development projects that may become qualified projects under the Alaska Stranded Gas Development Act", is sufficiently broad to allow gas-to-liquids to be added to the definition of "qualified project" under the measure's bill section 9. This definition of "qualified project" operates with respect to AS 43.82, the Stranded Gas Development Act, but not necessarily as to the tax relief and other provisions that constitute the remainder of the measure. The definition of "Alaska North Slope natural gas project," set out at page 6, lines 5 - 9 of the bill, is more generally applicable to this measure. This definition speaks in terms of a project "to transport natural gas," so conversion of gas to liquid for purposes of its transportation may not technically fit the language of that key definition.

This is a bill that is being considered in its house of origin. You may conform -- by broadening or narrowing -- the measure's title to cover the content of the bill as the committee may choose to redraft it.

JBC:bjc
02-044.pjc

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

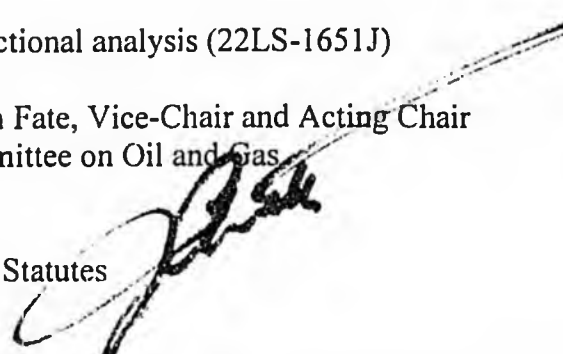
MEMORANDUM

April 18, 2002

SUBJECT: House Bill 519 -- sectional analysis (22LS-1651J)

TO: Representative Hugh Fate, Vice-Chair and Acting Chair
House Special Committee on Oil and Gas

FROM: Jack Chenoweth
Assistant Revisor of Statutes



House Bill 519 amends various statutes in furtherance of the construction and operation of the Alaska North Slope natural gas project. For purposes of the bill, the project is identified, in proposed AS 38.35.240(b), added by sec. 2 of the measure, as

[the] project [that] has the meaning given to "North Slope natural gas pipeline" in AS 38.35.120(a)(1)(B), and related facilities, constructed to follow generally a route that parallels the Trans Alaska Pipeline System and the Alaska Highway to the Canadian border to transport natural gas derived from the area of the state lying north of 64 degrees North latitude.

Bill section 1, an uncodified provision, sets out a set of findings and intent for the measure.

Bill section 2. This bill section amends AS 29.45.030(a), adding oil and gas related property to the general municipal tax exemption.¹ The exemption that is added by this

¹ The addition of new paragraph (10) mentions "property exempted from municipal taxation under AS 43.55.017, AS 43.56.020, or [AS] 43.56.030." The texts of AS 43.56.020 and 43.56.030 are set out later in the bill. The text of AS 43.55.017 reads:

Relation to other taxes. (a) Except as provided in this chapter, the taxes imposed by this chapter *[the oil and gas production taxes and associated surcharge -- generally, the "severance" tax]* are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

- (1) producing oil or gas leases;
- (2) oil or gas produced or extracted in the state;

Representative Hugh Fate

April 18, 2002

Page 2

bill section is *not* limited to property or production associated with the Alaska North Slope natural gas project. Inclusion of this provision, I note, is not covered in the title for the bill as introduced; if the provision is retained, the bill title should be amended.

Bill section 3. This provision adds a new section to the Alaska Right-of-Way Leasing Act, AS 38.35, defining the "project" and directing state officials and agencies to take expedited action for the project "consistent with the provisions of the law administered by the official or agency, by issuing or granting necessary permits, certificates, authorizations, and similar actions required to be taken at the earliest practicable date."

AS 43.56.020(a) exempts from *local* property taxation under the 20-mill property tax certain property used in the exploration, production, and pipeline transportation of oil and gas property. **Bill section 4** extends that tax exemption to an interest in property used in the project for a period that begins on the project's construction commencement date and runs through December 31 of the second full calendar year after the project is placed in service. The exemption is conditioned upon the project's complying with the requirements of new AS 43.56.020(d), set out in bill section 6.

AS 43.56.020(b) exempts from *state* property taxation under the 20-mill property tax certain property used in the exploration, production, and pipeline transportation of oil and gas property. Like the preceding provision, **bill section 5** extends that tax exemption to an interest in property used in the project for a period from the project's construction commencement date to December 31 of the second full calendar year after the project is placed in service. The exemption is conditioned upon the project's complying with the requirements of new AS 43.56.020(d), set out in the next following bill section.

Bill section 6. This provision adds a new subsection setting out conditions under which the tax exemptions provided under the preceding two bill sections may operate. To gain the benefit of the exemptions, the taxpayer or project sponsor, or the contractor of one of them, must meet each of the six requirements identified in the subsection.

AS 43.56.030 asserts that the taxes that are levied under the 20-mill property tax of AS 43.56 are levied in place of all other ad valorem taxes on property subject to the tax and all taxes that may be levied by a municipality on property subject to the tax. As a limited exception, existing law allows a municipality to levy and collect a limited sales and use tax on sales or use of goods and services in conjunction with the taxable property

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of oil or gas products.

Representative Hugh Fate
April 18, 2002
Page 3

up to "the first \$1,000 of each sale". The amendment set out in **bill section 7** deletes that limited exception for taxable property used or committed by contract to the project.

Taxable property subject to AS 43.56 becomes subject to the 20-mill levy on and after the "construction commencement date." The existing language defining "construction commencement date" contemplates the Trans Alaska Pipeline System project for exploration, production, and pipeline transportation of crude oil. The amendment made by **bill section 8** limits that definition as it applies to the TAPS oil pipeline and revises the definition as applicable to the natural gas pipeline project.

Bill sections 9 and 10 amend provisions of the Alaska Stranded Gas Development Act (AS 43.82).²

The amendment made in **bill section 9** amends the definition of "qualified project" for which the provisions of that Act may operate by adding the natural gas pipeline project.

The amendment made by **bill section 10** extends the deadline under which the Alaska Stranded Gas Development Act may operate; the deadline in existing law has already passed.

Bill section 11 declares that the amendments proposed in bill sections 9 and 10 are retroactive to the day following the deadline for applications under the Alaska Stranded Gas Development Act as set out in existing law.³

Bill sections 12 and 13 are effective date provisions. **Bill section 12** makes provisions applicable to taxation effective January 1, 2003. **Bill section 13** gives the remainder of the bill an immediate effective date.

JBC:pjc
02-045.pjc

² The Alaska Stranded Gas Act, a 1998 enactment, authorizes the commissioner of revenue to negotiate proposed contracts with private entities for the commercialization of natural gas resources. The contracts, which require future legislation to become binding, may propose periodic payments in lieu of certain taxes and other payments, as well as other terms to induce stable fiscal policies to encourage development of natural gas resources. The Act sets out procedures under which an application may be considered. Under existing law, applications would have had to be filed by June 30, 2001, and is limited to use in development of a project "for the export of liquefied natural gas (LNG)."

³ Inclusion of the provision is made consistent with AS 01.10.090:

Retrospective statutes. No statute is retrospective unless expressly declared therein.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 519
 () Publish Date: _____
 Dept. Affected: Natural Resources
 BRU: Oil and Gas Developmen
 Component: Oil and Gas Developmen
 Component Number: 439

Revision Date/Time (Note if correction): _____
 Title: Natural Gas Pipeline: Special Provisions
 Sponsor: House Rules Committee
 Requester: House Oil and Gas

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	<i>See Note on Page 2:</i>					
Travel	40.0	40.0				
Contractual	125.0	125.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	165.0	165.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()			*See Below			
-------------------------------	--	--	-------------------	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	40.0	40.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat. Des. Prog. Receipts	125.0	125.0				
TOTAL	165.0	165.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: none

Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill, in reviving the Alaska Stranded Gas Development Act, allows the state, with the concurrence of its North Slope oil and gas lessees, to: (1) establish a valuation methodology for the state's royalty share of gas production, and (2) modify existing requirements regarding the timing and notice of the state's right to take royalty in-kind or in-value.

Continued on next page.

Prepared by: Bonnie Robson Phone 269-8800
 Division: Oil and Gas Date/Time 18-Apr-02
 Approved by: Pat Pourchot Date 18-Apr-02
 Agency: Natural Resources

ANALYSIS: (continued)

* HB 519, by extending the Stranded Gas Act, authorizes negotiations to "establish" a valuation method for the state's royalty share of gas production from an approved qualified project. Actually, a valuation methodology already exists in the state's oil and gas leases. Generally, that methodology requires the payment of royalties on the highest of: (1) the market value of the gas; (2) the lessee's actual proceeds from the sale of its own gas; or (3) an average of the actual proceeds of other proximate lessees from the sale of their own gas. Consequently, any valuation methodology agreed to through negotiations conducted under HB 519 may result in the collection of lower royalties than would be available under the existing valuation methodology. In fact, every \$0.01 difference in royalties due under alternative valuation methodologies results in a \$36.5 million impact on the state treasury over 20 years for a 4 bcfd pipeline, and a \$54.7 million impact for a 6 bcfd pipeline. However, it is impossible to determine at this time whether a new valuation methodology would be agreed to under HB 519 and, if so, whether and to what extent it would reduce royalty payments to the state.

DNR estimates that HB 519, if passed, would require at least \$330,000 in expenditures to address any application to "establish" a royalty valuation method, \$250,000 of which would be reimbursed over a 2-year period by the applicant for change in methodology. DNR will need to obtain access to and review extensive documentation pertaining to the economics of any proposal, then engage in complex negotiations with multiple sophisticated oil and gas corporations. This effort will require diversion of existing and proposed staff from their currently assigned duties, the retention of one or more experts, and travel. Currently, we anticipate that much of the work envisioned by this bill would fall on the Division's Petroleum Investments Manager, Petroleum Market Analyst, and a Commercial Analyst, as well as an additional Pipeline Commercial Analyst, requested in the FY03 budget. One or more experts would need to be retained to assure that royalty relief is not inadvertently or imprudently given, though the cost of that expert or those experts is to be borne by the applicant. Finally, significant sums would be needed for travel and document reproduction and indexing expenses.

The cost of the independent consultants allowed under AS 43.82.240 to assist in the evaluation of a request to change the royalty valuation methodology could be reimbursed by the applicant. The statute allows the state to condition any contract on agreement by the applicant to reimburse the state for the expenses of the independent contractors. Those funds are requested as authority to receive and expend statutorily designated program receipts. Those costs are \$125,000 each in Fiscal 2003 and Fiscal 2004.

NOTE:

The estimated costs are split into two years for purposes of this fiscal note, however it is difficult to determine how much would actually be required in each year. The solution is to fund the full amount (\$330,000) as a single appropriation with a two-year lapse date.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB519
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Natural Gas Pipeline BRU Administration and Support
Special Provisions Component Office of the Commissioner
 Sponsor House Rules Committee
 Requester House Oil and Gas Committee Component No. 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	83.0	83.0				
Travel	30.0	30.0				
Contractual	250.0	250.0				
Supplies	5.0	5.0				
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	374.0	368.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()			(1,000.0)	(22,000.0)	(35,000.0)	(53,000.0)
-------------------------------	--	--	------------------	-------------------	-------------------	-------------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	124.0	118.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Statutorily Designated Receipts	250.0	250.0				
TOTAL	374.0	368.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached pages.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 4/18/02 12:34 PM
 Approved by: Wilson Condon, Commissioner Date 4/18/2002
 Agency Department of Revenue

HB 519
Department of Revenue

OVERVIEW

This legislation would reauthorize the Alaska Stranded Gas Development Act under AS 43.82. The act expired June 30, 2001, and this legislation would extend the application date for a project sponsor from June 30, 2001 to June 30, 2005.

The Stranded Gas Development Act, adopted by the 1998 Legislature, authorized the Commissioner of Revenue to negotiate a contract for payments in lieu of taxes with the developer of an LNG project to commercialize Alaska's North Slope natural gas reserves. No project sponsor applied under the act before it expired last year. The intent of the legislation was to provide a mechanism whereby the state could help promote commercialization of its natural gas reserves by structuring payments in lieu of taxes to help relieve the burden on a project sponsor in the early years, when cash flow is not positive, and in return receive a larger share of the revenues in later years after the project sponsor had recovered its heavy development costs. This also would allow the state to receive a greater share of the revenues in later years if gas prices increased.

The act allows for a negotiated contract for payments in lieu of one or some or all of the following taxes:

- Production taxes and surcharges
- Oil and gas production property taxes (state and municipal portions) under AS 43.56)
- Municipal property taxes
- Municipal special assessments
- Corporate income taxes
- Municipal sales and use taxes

This legislation (HB 519) also expands the definition of a qualifying project under the Stranded Gas Act to include a natural gas pipeline to serve markets outside Alaska. In addition, this legislation clarifies the definition of a qualifying LNG project to include one that serves Lower 48 states or overseas markets.

A negotiated contract would make it possible to tailor the fiscal arrangements to meet the needs of the proposed project while, at the same time, ensuring that the public benefits from the project. A set of arrangements providing for contractual payments in lieu of taxes could provide fiscal terms that potential investors will believe are likely to remain permanently in place over the life of the project.

HB 519
Department of Revenue

COST OF LEGISLATION

The fiscal note for this legislation includes the following costs and assumptions leading up to the costs:

- We assume the state would receive a project application early in Fiscal 2003.
- Negotiating the contract for payments in lieu of taxes would start immediately, and would be completed at the conclusion of the 2004 legislative session.
- Project construction would start in Fiscal 2005 and continue through Fiscal 2008.
- Natural gas production would start in Fiscal 2009.
- A special assistant to the commissioner would be hired for Fiscal 2003 and 2004 to coordinate the Department of Revenue's work with the project sponsor and the affected communities.
- Travel, supplies and equipment costs would be associated with the new position and with the department's overall effort to meet with the project applicant and officials of the affected communities.
- The contractual expenses would be incurred in two areas:
 1. Oil and gas economic and tax consultants to advise the department in negotiating with the project applicant and structuring a contract for payment in lieu of taxes that is both advantageous to the project and provides for a fair return to the state on the publicly owned resource.
 2. Additional consultants to help the department prepare socioeconomic impact studies on the affected communities, to be used in determining the financial needs of the communities and negotiating with the project applicant.

The cost of the new position, travel, contractual and supplies is requested from the general fund. That total is \$116,000 in Fiscal 2003 and \$110,000 in Fiscal 2004.

The cost of the independent consultants allowed under AS 43.82.240 to assist in the department's evaluation of the project application and in developing terms of the contract could be reimbursed by the applicant. The statute allows the commissioner to condition the contract on agreement by the applicant to reimburse the state for the expenses of the independent contractors. Those funds are requested as authority to receive and expend statutorily designated program receipts. Those costs are \$250,000 each in Fiscal 2003 and Fiscal 2004.

HB 519
Department of Revenue

PROPERTY TAX WAIVER

Although the Stranded Gas Development Act calls for the commissioner to negotiate a contract for payments in lieu of taxes, including property taxes, Sections 4 and 5 of this legislation waive all state and municipal property taxes on the project during construction and the first two full years of project operation. This would be imposed upon the municipalities, which would not have any option in accepting or rejecting the property tax waiver.

The Department of Revenue believes it is premature to waive an estimated \$500 million in state and municipal property taxes without first determining if the tax relief would in fact be needed to make the project economical.

The Stranded Gas Act allows tax relief or deferral, but the explicit mandate of the Stranded Gas Act was to tailor the state's fiscal terms to the particular economics of the project and to maximize the benefit to the people of the state from the development. For example, the Stranded Gas Act enables the state to give tax relief where needed to make the project economic, but then recoup its foregone revenue — or more — when the project economics improved.

Under this bill, however, the state would get nothing in exchange for property tax relief. What happens if the price of gas goes up to \$5 or more per mcf? The project developers would profit enormously from the upside, and the state would lose out on sharing in that additional profit potential as "repayment" for any tax relief granted early in the development. Yes, the legislature could then raise taxes, but this is not the fiscal certainty that the state and potential project sponsors seek from this legislation.

The department strongly recommends a change in the property tax waiver provision of this legislation to (1) include an opportunity for the state to share in the potential benefits from a highly profitable project as part of the package for any tax relief, (2) provide an opportunity for the affected communities to participate in the tax relief discussions, and (3) a needs test for the tax relief.

HB 519

Department of Revenue

DECREASE IN STATE and MUNICIPAL REVENUES

Under Sections 4 and 5 of this legislation:

- The state would lose an estimated \$212 million in property tax revenues during construction and through the second full year of project operation.
- The Fairbanks North Star Borough and North Slope Borough would lose an estimated \$302 million in property tax revenues during construction and through the second year of production.
- Although the state and the municipalities would never receive this property tax revenue if the project is not built, there is no opportunity to determine whether the tax relief provided by this bill is needed to make the project economic.
- This bill does not provide a mechanism to provide funding to affected municipalities that experience additional costs because of the impact of the project on the community.
- The above estimates are based on a natural gas project carrying North Slope gas to Alberta, for distribution to markets in the Lower 48 states. The estimate of lost revenues would be different and would include additional municipalities if the project was an LNG line to tidewater at Valdez or Cook Inlet.
- The affected municipalities would face higher expenses during the influx of construction workers and the resulting demand for increased school, police, road and various other public services. Meeting those demands without the ability to tax the project itself would put a severe strain on local resources.
- One option for localities would be raise property taxes on all other property within their jurisdiction. The state's share of property taxes on the Trans-Alaska Oil Pipeline and other oil and gas facilities already in place is reduced dollar for dollar by property taxes paid to local communities. Therefore increased municipal property taxes in the affected municipalities would reduce the state's oil and gas property tax receipts.

Section 7 of this legislation would exempt the natural gas project from municipal sales and use taxes. The department is unable to estimate the fiscal impact of this provision on municipalities.

Alaska State Legislature

House of Representatives

RULES COMMITTEE, CHAIR
COMMITTEE ON COMMITTEES
LABOR & COMMERCE COMMITTEE
MILITARY & VETERANS AFFAIRS
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER RD., SUITE 141
EAGLE RIVER, AK 99577

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801

House Bill 519 Sponsor Statement Version: 22-LS1651V

The time has come for Alaska to engage in the development of a natural gas pipeline. With declining production from Alaska's large oil fields, the scaling back in exploration efforts by some of Alaska's largest producers, apparent substantial delays in any work that might come from exploration and hopefully production on the coastal plain of ANWR, layoffs of oil industry employees, and problems in other resource industries such as fishing, mining, and timber. The gas pipeline offers the only hope for substantial near-term work for Alaska's oil and support industries. In our fiscal crisis, it is imperative the legislature enact legislation this session to encourage construction of a natural gas pipeline before this opportunity for our economy disappears for perhaps another decade or longer.

HB 519 provides an encouragement to the producers that helps diminish the huge risks in this largest of construction projects. In exchange, it also contains provisions, important to the State of Alaska, as conditions for obtaining the benefit of such incentive, such as the pipeline follow the "southern" route, and provisions for Alaska hire, buy, and build. Of course, the major benefits to the State, if this incentive results in construction of the line, will be a substantially positive effect on the economy with jobs and construction activity, and taxes and royalties from the production and sale of natural gas. These benefits may never come to be, or may not come from decades, if this window of opportunity is missed.

HB 519 offers an incentive in temporary relief from the ad valorem tax that would be imposed on the pipeline for the period, from before construction through the second year of commercial operations. This would provide tax relief in an important period of the project when a large amount of cost is experienced but no income is yet being generated, and early into commercial operations of the project. The project entails very substantial financial risk as to price, and the cost of this mega-project through a federal income tax credit. This would provide important risk protection, but possibly leave the project developers at risk for project construction cost overruns. The tax relief in HB 519 could provide a means of reducing one element of the costs during construction and thereby reduce the risk. This would not effect any other taxes or royalties the state collects. After the relief period has expired, the State and local governments will have a natural gas pipeline upon which to collect property taxes. If the project does not go forward, these - benefits to the State will not be realized.

The gas pipeline must be constructed along the "southern" route. All the companies involved in the engineering, construction, and operation of the pipeline must pledge their best effort to hire Alaskans, buy from Alaskans, and build facilities in Alaska.

HB 519 also reopens the Alaska Stranded Gas Development Act, AS 43.82, enacted in 1998. It contains important provisions regarding Alaska hire and contracting with Alaska businesses, making gas available to meet reasonably foreseeable demand for in-state use, and provides a mechanism for the state and project sponsors to reach agreement or clarify certainty on fiscal terms and on other issues important to the parties.

HB 519 has the advantages of offering an incentive rather than threatening a disincentive. It will demonstrate that the State wants a natural gas pipeline to be constructed, is prepared to help this risky and enormous project be less risky, and will work with the current producers to their and the State's mutual advantage. At least one producer has indicated a willingness to go forward if the State makes this showing.



Representative Pete Kott

JUNEAU OFFICE (907) 465-3777 TOLL FREE 1-800-861-KOTT(5688) FAX (907) 465-2819
EAGLE RIVER OFFICE (907) 694-8944 FAX (907) 694-8945 E-MAIL: representative_pete_kott@legis.state.ak.us
<http://www.akrepublicans.org/Kott.htm>



VECO Corporation, Inc.
3601 C Street, Suite 1000
Anchorage, Alaska 99503

Testimony of Bill Allen
Before the House Oil and Gas Committee Hearing (HB 519)
April 19, 2002

Thank you Mr. Chairman and members of the committee.

For the record my name is Bill Allen, I am Chairman and CEO of VECO Corporation, an Alaskan company with its headquarters in Anchorage.

Before I begin, I would ask the committee to please bear with me. Because of an accident I suffered last summer, my speech is sometimes broken and I must speak slowly. I will do my best, and submit written testimony to fill in any gaps.

With your permission I will have my Vice President Rick Smith read my testimony. These are my words, but it will go much quicker if Rick reads them for me.

Testimony:

Mr. Chairman, and members of the committee, it is a pleasure to be here with you today and I appreciate the opportunity to speak with you on an issue of utmost importance to Alaska.

I know each of you personally. Over the years, we have had the chance to work together on many issues important to Alaskans. Creating jobs and local hire, improving education, encouraging business and economic development – to name just a few.

I'm here today to tell you that, in my opinion, no single issue is more important to Alaska's future – than the legislation you now have before you.

Alaska is truly at a cross-roads. Many of our traditional industries are struggling – often through no fault of their own. Our oil resources are declining, our timber, mining and fishing industries are on the ropes – because of factors largely beyond their control.

But the bottom line is that as those traditional mainstay Alaskan industries struggle – Alaska struggles – and Alaskans find themselves out of work and unable to provide for their families.

Testimony of Bill Allen
· VECO Corporation, Inc.
House Oil & Gas Committee
4/19/02

In addition, as our state's economy shrinks, so does your ability to ensure better schools, better communities and a better quality of life for all Alaskans.

Mr. Chairman, I believe the legislation before you offers an opportunity for Alaska to control its own destiny. We know that the North Slope has enough proven reserves of natural gas to fill a pipeline to capacity for the next 50 years. 35 trillion cubic feet – and that's just the known reserves. Estimates suggest there may be much more – perhaps enough to keep the pipeline – and the jobs and revenues it will create – operating for the next 100 years.

Unfortunately, before Alaska can realize any of those benefits, a pipeline must be built.

A few years ago, like most Alaskans I was enthusiastic about the prospects for the gas line. With prices soaring – it looked as if the pipeline was just around the corner.

Well, we all know what happened next. Just as quickly – prices dropped – and the economics suddenly changed.

After months of study, it's now clear that without some economic incentives, private industry is not going to be willing to risk the billions of dollars necessary to construct the gas line at this time. The project simply does not math out at current and foreseeable prices -- unless some of the construction and start-up risks are offset.

We know that we have some of the largest known gas reserves in the world. We know that we have reliable, private sector partners who can help Alaska develop and market our vast, untapped resource.

But we also know that Alaska is not the only place in the world where natural gas exists. And as with our other industries, international competition increases every year.

I guess more than anything, I am here today to urge you to act quickly to seize a unique opportunity that can help ensure Alaska's future.

I believe the window of opportunity is still open – if we act now to help make this project a reality. I also strongly suspect that if that window shuts – it may never open again.

In the past several weeks, I have talked with senior officials from the production companies. They have indicated a willingness to proceed providing federal and state legislation is passed to help offset some of the project's tremendous risk. They also seek reasonable assurances of stability in our tax and economic climate.

In that regard, for the past several months members of our Congressional delegation have worked hard to enact federal incentives to help make the gas line a reality. But as with

Testimony of Bill Allen
VECO Corporation, Inc.
House Oil & Gas Committee
4/19/02

any Alaska resource development issue, they are fighting a difficult uphill fight – and they need our help.

Last week Senator Murkowski called me and said that opponents of the gas line are now pointing out the absence of state action on the issue – and using that point to try to defeat our delegation's efforts in D.C. “If Alaska does not care enough to offer incentives,” they say, “why should we?”

Senator Murkowski and the rest of our delegation have indicated that passage of HB 519 will go a long way toward demonstrating Alaska's commitment to this project. It will send a clear signal to Washington and the producing companies that Alaska is ready to step up to the plate and invest, along with them, in Alaska's future.

I have been asked what this legislation will cost Alaska. My answer has been very simple. Absolutely nothing. Because without this legislation, the gas line will likely never be built.

You can't tax something that doesn't exist.

So any taxes potentially deferred by this legislation – would never have been realized anyway.

On the other hand, I believe the true cost to Alaska – lies in doing nothing. If this legislation does not pass, and the gas line is not built, what will that cost Alaska?

The gas line will create thousands of new jobs and billions in new revenue and economic activity. It can help provide a stable economic climate for Alaska at least well into this century – and long after you and I are gone.

At a time when Alaska is desperately seeking new economic opportunities – I suggest to you – that the best opportunity is very close at hand, if we will simply reach out and grasp it.

Thank you again for the opportunity to testify. I would be happy to answer any questions you may have.

Testimony of Ken Konrad
Senior Vice President - BP Exploration (Alaska) Inc.

House Oil & Gas Committee
Friday, April 19, 2002

My name is, Ken Konrad, Vice President Gas for BP Exploration (Alaska) Inc. I am here this morning to testify in support of HB 519.

Creating a supportive government framework is an essential ingredient toward developing a successful ANS gas project. An international project of this magnitude brings many inherent risks. Governments, working constructively with industry, can play a major role in reducing these risks by setting clear and predictable rules under which a project would be undertaken.

BP, with our partners, has previously laid out key government actions that would facilitate future investment on this massive undertaking. Specifically –

- A clear and efficient US federal regulatory process. Progress is being made with Alaska gas provisions currently part of the pending US Senate energy bill.
- An efficient and predictable Canada / First Nations regulatory process. BP remains very active working in Canada to establish such a process and progress is being made.
- A simple, clear, and predictable fiscal framework in Alaska such that the massive long payout investments being contemplated can be undertaken with the knowledge that the rules won't change.

HB 519 would be a positive step toward achieving the necessary fiscal framework in Alaska. The bill is modeled after HB 393, which was passed in 1998. As we did in 1998, we continue to support the content and approach inherent in the Stranded Gas Act, which this legislation refreshes, updates, and makes available for a gas pipeline project.

HB 519 and the Stranded Gas Act would:

- Demonstrate leadership and an intent by the legislature to provide stable fiscal terms that encourage development of ANS gas while fully and fairly compensating the people of the state.
- Establish a protocol, beginning with an application, and followed by a process to exchange information between investors and the state.

- Empower the state to enter into a contract negotiation to achieve clear and simple tax and royalty terms. These terms would need to be subsequently approved by both the executive branch and the legislature.
- Provide a process with the state and investors while providing for municipal input.
- Provide for contract review, approval, and termination provisions, inclusive of municipal input, legislative authorization, and judicial review.
- Provide for prioritization of state agency support for a qualifying project.

In aggregate, it would set out a thoughtful and workable framework to work through important fiscal issues subject to subsequent approval by the legislature.

The bill also encourages Alaska hire, training, and purchasing. BP has and continues to support the use of in-state capability. However, some technical modifications should be considered to ensure the bill's language does not draw legal challenge.

Passage of HB 519 would send a positive message to investors and provide a framework to achieve fiscal clarity and predictability. BP is fully supportive.

Thank you. I would be happy to answer any questions at this time.

Phillips Petroleum Company
House Oil and Gas Committee April 19, 2002
HB-519 Testimony

Good morning Mr. Chairman, and members of the Committee. For the record, my name is Joe Marushack. I am Vice President of ANS Gas Commercialization for Phillips Alaska. My primary responsibility is the development of Phillips' ANS gas resources and Phillips' is committed to achieving our goal in a timely and economic fashion. We appreciate the opportunity today to testify in support of HB-519.

As you know, we have been focusing this year on those areas that we believe are most likely to result in an economically viable gas pipeline project to the Lower 48. We have completed our joint analysis of the work the producers initiated last year and will be setting up a time to brief you on the results of that work. For the past several months however, most of Phillips gas emphasis has been directed at the federal level to achieve congressional legislative changes to advance the project. These include:

1. New Federal Legislation that creates permitting certainty. I believe you are well aware of the current federal legislation in the Senate Energy bill.
2. A Federal tax mechanism that would help mitigate the unacceptable market risk of a project of this magnitude. I understand you are aware of current drafts of this mechanism that provides down-side mitigation but also provides for repayment of any credit if used, and that is currently assessed by the U.S. government as having a zero cost. This piece of legislation is in Phillips' view a most critical element in moving our project forward. It shares the benefits the Lower 48 consumers will see from ANS gas coming to market while addressing the risk inherent in such a large and costly project.

Given achievement of the federal legislation (at this point it is not a certainty), it is important to the economic viability of the project to progress fiscal matters at the state level.

Fiscal matters include fiscal certainty, and what we really mean is that we need to know, with a fair degree of specificity, how our taxes and royalties will be calculated and administered. We would also like to address potential opportunities to gain assurance that those taxes and royalties won't change once we've made our investment. We also believe that strategic participation by the State in mechanisms to improve the economic viability of the project are important.

While there may be a need for minor clarifying language, we are encouraged by the committees' consideration of HB-519 that proposes both a temporary property tax abatement and the revival of an existing statutory process by which pipeline project sponsors can work with the state to gain the kind of fiscal certainty and clarity which will reduce the risks and help the project move forward. The temporary property tax abatement is an important signal to the US Congress that Alaska has stepped up to try to make a project happen. By itself, an ad valorem holiday is not of sufficient size that it can singularly make a challenged project economic. However it is an important step in a series that along with other actions at the state and federal level, and potential technological improvements, can reduce the risks and improve the economics of the project.

Thank you for this opportunity to testify today and express our support of HB-519. I'll be happy to try to answer any questions you may have.

ALASKA STATE CHAMBER OF COMMERCE

Testimony on HB 519
by Pamela LaBolle

Good morning, I am Pam LaBolle, President of the Alaska State Chamber of Commerce. The Alaska State Chamber represents 35 local chambers and 700 businesses, most of whom are small businesses deeply concerned with the economic future of Alaska. As the Voice of Alaska Business and the leading advocate for business headquartered here in Juneau, we always appreciate the opportunity to address bills of importance to the economic development of the state. Our legislative priorities are developed at the grassroots level by our membership through a several month long process of proposal, review and debate. Our top five priorities include urging the legislature and the governor to encourage the producers to proceed with development of a southern gas line route through Alaska.

The Chamber speaks in favor of HB 519 and urges its passage. Alaska absolutely needs a gas pipeline. For our members to have their businesses thrive or even just stay viable Alaska's resources must be developed. It sometimes seems that people outside our state have a much greater say in what happens in our state than we do. With the defeat of ANWR in Congress just yesterday, there are no other large developments on the horizon that will spur the growth of our economy in the near term. Our executive committee meets monthly around the state often in smaller communities. As a result, we are very concerned about the state's economy. What is the state doing to encourage economic growth, to try to have a hand in our own destiny.

While the final results of the producers' study haven't been released yet, it should be apparent to everyone that this is a project of enormous cost and risk. The state and local governments would benefit greatly for years to come if we can encourage the producers to take the risks inherent in this huge project and develop the North Slope gas resources by building a project through Alaska. The temporary tax exemption provided by this bill should be looked upon as an investment by the state and municipalities to encourage the producers to go forward with a project that will create jobs, benefit municipalities, spur economic opportunity for businesses and start a whole new industry - a gas industry. By revitalizing the Alaska Stranded Gas Development Act and having it apply to this project, the state and producers can create a contract that will assure tax clarity and certainty and protect vital interests of the state and affected municipalities. How often does the state have an opportunity to take such a bold step to encourage large-scale economic growth. Several states and cities around our nation have offered to businesses tax incentives to encourage them to invest. The state should be less concerned with perhaps giving away too much and more concerned with not missing a significant opportunity for economic growth, perhaps the only one in the next few decades. Thank you.

Testimony of David Marquez in support of HB 519
House Oil and Gas Committee
April 19, 2002

I am David Marquez. My address is 18546 Osprey Circle in Anchorage. I am an attorney in Anchorage and today I represent VECO Corporation, an Alaska company headquartered in Anchorage. I speak in support of HB 519 and urge its passage.

VECO Corporation is an engineering, construction, and oil and gas service company that has been active in the Alaska oil patch for several decades. It has also been a good employer and an active member of the greater Alaska community participating vigorously in philanthropic and community activities. VECO urges passage of this bill because it believes that Alaska desperately needs a gas pipeline for its economy. VECO has seen and experienced over the last 15 years, significant reductions in the oil industry workforce in this state with the most recent one being announced within the last few weeks by Alyeska Pipeline Service Company. Coincident with all these reductions have been the elimination of contractor positions staffed by employees of VECO. VECO needs a gas pipeline to keep its Alaska employees employed and hopefully even to increase its workforce.

Despite the high costs and risks of the huge project for the development and construction of the Alaska North Slope natural gas pipeline, VECO believes that it is still possible to achieve this dream. Some producers have indicated that work will continue when three legislative actions are taken: (1) federal enabling legislation (2) federal legislation that

helps reduce the risk of gas prices cycling to low levels and (3) Alaska legislation that provides both an incentive, and tax and royalty certainty and clarity. As to the federal legislation, some have questioned why any federal assistance should be provided if the state of Alaska is unwilling to step forward. HB 519 will send a clear signal that the state is willing to participate. It grants a temporary exemption to the project from local and state property taxation under the 20-mill property tax (AS 43.56) for a period from commencement of the project's construction through the first two years of operation of the pipeline. The bill calls for expeditious priority treatment by state officials and agencies in support of development and construction of the project.

The Bill puts back into action the Alaska Stranded Gas Development Act that expired last June. This legislation was enacted after very substantial effort by the legislature, the administration and the industry to encourage the development of an LNG project to commercialize Alaska North Slope Gas. HB 519 makes it applicable to a North Slope gas line as well as an LNG project and extends until June 2005 the deadline for filing an application for a contract with the State. Such a contract would be approved by the legislature and would contain provisions addressing the issues of tax and royalty clarity and certainty, and other fiscal issues important to the parties.

A little more on the temporary property tax exemption provided in the Bill. It does not apply to any taxes currently being collected so present revenues will not be affected by this bill. Only if a pipeline is built and the state enjoys the benefits of that development will the investment of this temporary tax exemption be made. It is temporary and lasts

only for the period of construction and the first two years of operations. At its expiration, if this Bill in fact encourages the producers and a pipeline is built, the state and local governments will have a pipeline on which to levy taxes for many years, a new industry - a gas industry - will have been created, in-state use of gas will be possible, and Alaskans will be employed. If it is not built, there will not be any of that.

Just a year or so ago when gas prices were very high, everyone thought the pipeline was just around the corner. Now reality has set in and the project's enormous costs and risks make it very doubtful that it will be built unless action is taken to keep the project alive. VECO together with Fluor performed the recent study for the producers. VECO recognizes the great risks involved with the project, but believes that if the state takes action to reduce the risks and costs, we can make it happen. There may be concern that this will be seen as a give away and that, instead, the state should negotiate with the gas owners before any incentives are given. VECO feels a great sense of urgency. If action is not taken this year, the only opportunity for a significant boost to the state economy may be lost. If we take a year or two or three to negotiate any incentives, the opportunity may be lost as the producers move on to other projects. There will be time in the coming years under the Alaska Stranded Gas Development Act to negotiate a total fiscal regime, but VECO believes concrete action must be taken this year to keep the project going.

Further, the Bill requires that the producers must meet certain conditions to be eligible for the temporary tax exemption. First, it must be a pipeline that follows the southern route. The Bill lists six other conditions, including compliance with the federal acts relating to

natural gas pipelines. Amendments to those acts that would be favorable to Alaska are being considered as part of the currently pending federal enabling legislation. Also included as requirements are Alaska hire, buy and build.

The Alaska Stranded Gas Development Act, which this bill reopens, provides the opportunity for tax and royalty certainty and clarity that will benefit both the state and the producers. The state and the oil owners were locked in long, costly and antagonistic disputes over issues relating to the determination of the taxpayers liability for severance tax and royalty. VECO has been informed that the producers strongly desire that such disputes be avoided as to gas and that the risk associated with tax and royalty uncertainty and lack of clarity is one more risk that burdens this already risky project. The Stranded Gas Act provides a good process for the state and producers to negotiate such clarity and certainty and in fact the opportunity to negotiate what fiscal regime would be in the long-term fiscal interest of the state, while accommodating affected municipalities, and the project sponsors under a wide range of economic conditions, potential project structures and marketing arrangements. The legislature retains the power to authorize execution of the contract. The Act gives the municipalities an important role through the formation of a municipal advisory group.

There has been testimony today that reflects basic agreement on certain issues. First, there is the recognition that some incentive will be necessary for this project. Second, there is acknowledgment that a property tax exemption would be the most leveraging of the available incentives. Where there is disagreement is at what point the incentive

should be granted. VECO feels strongly that the incentive should be granted now, and then negotiations between the state and producers can address the total fiscal regime that would apply.

In summary HB 519 is crucial and contains perhaps the only chance left to try to keep the possibility of a gas line project alive for the next few years or it may be decades before the opportunity arises again. VECO also wants to make it very clear that it does not consider this to be a producer bill. This is an Alaska bill that provides for a short-term investment by Alaska that will pay off in a project that could be shipping gas for a hundred years.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

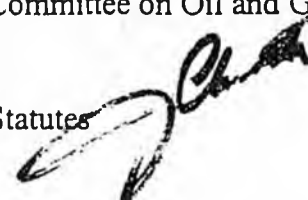
MEMORANDUM

April 18, 2002

SUBJECT: House Bill 519 -- response to inquiry (22LS-1651J)

TO: Representative Hugh Fate, Vice-Chair and Acting Chair
Attn: House Special Committee on Oil and Gas

FROM: Jack Chenoweth
Assistant Revisor of Statutes



To the question of the second paragraph of your Wednesday memo:

The second clause of the bill title, "expanding the scope for the kinds of gas development projects that may become qualified projects under the Alaska Stranded Gas Development Act", is sufficiently broad to allow gas-to-liquids to be added to the definition of "qualified project" under the measure's bill section 9. This definition of "qualified project" operates with respect to AS 43.82, the Stranded Gas Development Act, but not necessarily as to the tax relief and other provisions that constitute the remainder of the measure. The definition of "Alaska North Slope natural gas project," set out at page 6, lines 5 - 9 of the bill, is more generally applicable to this measure. This definition speaks in terms of a project "to transport natural gas," so conversion of gas to liquid for purposes of its transportation may not technically fit the language of that key definition.

This is a bill that is being considered in its house of origin. You may conform -- by broadening or narrowing -- the measure's title to cover the content of the bill as the committee may choose to redraft it.

JBC:pjc
02-044.pjc

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

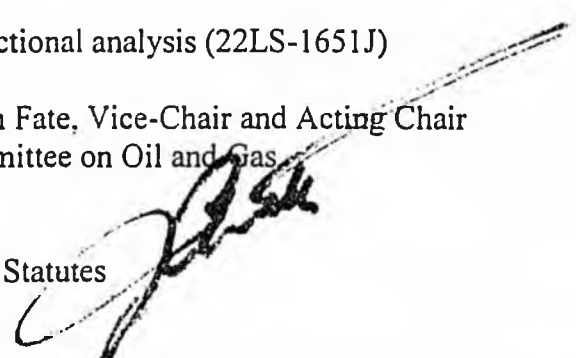
MEMORANDUM

April 18, 2002

SUBJECT: House Bill 519 -- sectional analysis (22LS-1651J)

TO: Representative Hugh Fate, Vice-Chair and Acting Chair
House Special Committee on Oil and Gas

FROM: Jack Chenoweth
Assistant Revisor of Statutes



House Bill 519 amends various statutes in furtherance of the construction and operation of the Alaska North Slope natural gas project. For purposes of the bill, the project is identified, in proposed AS 38.35.240(b), added by sec. 2 of the measure, as

[the] project [that] has the meaning given to "North Slope natural gas pipeline" in AS 38.35.120(a)(1)(B), and related facilities, constructed to follow generally a route that parallels the Trans Alaska Pipeline System and the Alaska Highway to the Canadian border to transport natural gas derived from the area of the state lying north of 64 degrees North latitude.

Bill section 1, an uncodified provision, sets out a set of findings and intent for the measure.

Bill section 2. This bill section amends AS 29.45.030(a), adding oil and gas related property to the general municipal tax exemption.¹ The exemption that is added by this

¹ The addition of new paragraph (10) mentions "property exempted from municipal taxation under AS 43.55.017, AS 43.56.020, or [AS] 43.56.030." The texts of AS 43.56.020 and 43.56.030 are set out later in the bill. The text of AS 43.55.017 reads:

Relation to other taxes. (a) Except as provided in this chapter, the taxes imposed by this chapter [*the oil and gas production taxes and associated surcharge -- generally, the "severance" tax*] are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

- (1) producing oil or gas leases;
- (2) oil or gas produced or extracted in the state;

bill section is *not* limited to property or production associated with the Alaska North Slope natural gas project. Inclusion of this provision, I note, is not covered in the title for the bill as introduced; if the provision is retained, the bill title should be amended.

Bill section 3. This provision adds a new section to the Alaska Right-of-Way Leasing Act, AS 38.35, defining the "project" and directing state officials and agencies to take expedited action for the project "consistent with the provisions of the law administered by the official or agency, by issuing or granting necessary permits, certificates, authorizations, and similar actions required to be taken at the earliest practicable date."

AS 43.56.020(a) exempts from *local* property taxation under the 20-mill property tax certain property used in the exploration, production, and pipeline transportation of oil and gas property. **Bill section 4** extends that tax exemption to an interest in property used in the project for a period that begins on the project's construction commencement date and runs through December 31 of the second full calendar year after the project is placed in service. The exemption is conditioned upon the project's complying with the requirements of new AS 43.56.020(d), set out in bill section 6.

AS 43.56.020(b) exempts from *state* property taxation under the 20-mill property tax certain property used in the exploration, production, and pipeline transportation of oil and gas property. Like the preceding provision, **bill section 5** extends that tax exemption to an interest in property used in the project for a period from the project's construction commencement date to December 31 of the second full calendar year after the project is placed in service. The exemption is conditioned upon the project's complying with the requirements of new AS 43.56.020(d), set out in the next following bill section.

Bill section 6. This provision adds a new subsection setting out conditions under which the tax exemptions provided under the preceding two bill sections may operate. To gain the benefit of the exemptions, the taxpayer or project sponsor, or the contractor of one of them, must meet each of the six requirements identified in the subsection.

AS 43.56.030 asserts that the taxes that are levied under the 20-mill property tax of AS 43.56 are levied in place of all other ad valorem taxes on property subject to the tax and all taxes that may be levied by a municipality on property subject to the tax. As a limited exception, existing law allows a municipality to levy and collect a limited sales and use tax on sales or use of goods and services in conjunction with the taxable property

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of oil or gas products.

up to "the first \$1,000 of each sale". The amendment set out in **bill section 7** deletes that limited exception for taxable property used or committed by contract to the project.

Taxable property subject to AS 43.56 becomes subject to the 20-mill levy on and after the "construction commencement date." The existing language defining "construction commencement date" contemplates the Trans Alaska Pipeline System project for exploration, production, and pipeline transportation of crude oil. The amendment made by **bill section 8** limits that definition as it applies to the TAPS oil pipeline and revises the definition as applicable to the natural gas pipeline project.

Bill sections 9 and 10 amend provisions of the Alaska Stranded Gas Development Act (AS 43.82).²

The amendment made in **bill section 9** amends the definition of "qualified project" for which the provisions of that Act may operate by adding the natural gas pipeline project.

The amendment made by **bill section 10** extends the deadline under which the Alaska Stranded Gas Development Act may operate; the deadline in existing law has already passed.

Bill section 11 declares that the amendments proposed in bill sections 9 and 10 are retroactive to the day following the deadline for applications under the Alaska Stranded Gas Development Act as set out in existing law.³

Bill sections 12 and 13 are effective date provisions. **Bill section 12** makes provisions applicable to taxation effective January 1, 2003. **Bill section 13** gives the remainder of the bill an immediate effective date.

JBC:pjc
02-045.pjc

² The Alaska Stranded Gas Act, a 1998 enactment, authorizes the commissioner of revenue to negotiate proposed contracts with private entities for the commercialization of natural gas resources. The contracts, which require future legislation to become binding, may propose periodic payments in lieu of certain taxes and other payments, as well as other terms to induce stable fiscal policies to encourage development of natural gas resources. The Act sets out procedures under which an application may be considered. Under existing law, applications would have had to be filed by June 30, 2001, and is limited to use in development of a project "for the export of liquefied natural gas (LNG)."

³ Inclusion of the provision is made consistent with AS 01.10.090:

Retrospective statutes. No statute is retrospective unless expressly declared therein.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 519
 () Publish Date: _____
 Dept. Affected: Natural Resources
 BRU: Oil and Gas Development
 Component: Oil and Gas Development
 Component Number: 439

Revision Date/Time (Note if correction): _____
 Title: Natural Gas Pipeline: Special Provisions
 Sponsor: House Rules Committee
 Requester: House Oil and Gas

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	See Note on Page 2:					
Travel	40.0	40.0				
Contractual	125.0	125.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	165.0	165.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()			*See Below			
------------------------	--	--	------------	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	40.0	40.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat. Des. Prog. Receipts	125.0	125.0				
TOTAL	165.0	165.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: none

Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill, in reviving the Alaska Stranded Gas Development Act, allows the state, with the concurrence of its North Slope oil and gas lessees, to: (1) establish a valuation methodology for the state's royalty share of gas production, and (2) modify existing requirements regarding the timing and notice of the state's right to take royalty in-kind or in-value.

Continued on next page.

Prepared by: Bonnie Robson Phone 269-8800
 Division Oil and Gas Date/Time 18-Apr-02
 Approved by: Pat Pourchot Date 18-Apr-02
 Agency Natural Resources

ANALYSIS: (continued)

* HB 519, by extending the Stranded Gas Act, authorizes negotiations to "establish" a valuation method for the state's royalty share of gas production from an approved qualified project. Actually, a valuation methodology already exists in the state's oil and gas leases. Generally, that methodology requires the payment of royalties on the highest of: (1) the market value of the gas; (2) the lessee's actual proceeds from the sale of its own gas; or (3) an average of the actual proceeds of other proximate lessees from the sale of their own gas. Consequently, any valuation methodology agreed to through negotiations conducted under HB 519 may result in the collection of lower royalties than would be available under the existing valuation methodology. In fact, every \$0.01/mcf difference in royalties due under alternative valuation methodologies results in a \$36.5 million impact on the state treasury over 20 years for a 4 bcf pipeline, and a \$54.7 million impact for a 6 bcf pipeline. However, it is impossible to determine at this time whether a new valuation methodology would be agreed to under HB 519 and, if so, whether and to what extent it would reduce royalty payments to the state.

DNR estimates that HB 519, if passed, would require at least \$330,000 in expenditures to address any application to "establish" a royalty valuation method, \$250,000 of which would be reimbursed over a 2-year period by the applicant for change in methodology. DNR will need to obtain access to and review extensive documentation pertaining to the economics of any proposal, then engage in complex negotiations with multiple sophisticated oil and gas corporations. This effort will require diversion of existing and proposed staff from their currently assigned duties, the retention of one or more experts, and travel. Currently, we anticipate that much of the work envisioned by this bill would fall on the Division's Petroleum Investments Manager, Petroleum Market Analyst, and a Commercial Analyst, as well as an additional Pipeline Commercial Analyst requested in the FY03 budget. One or more experts would need to be retained to assure that royalty relief is not inadvertently or imprudently given, though the cost of that expert or those experts is to be borne by the applicant. Finally, significant sums would be needed for travel and document reproduction and indexing expenses.

The cost of the independent consultants allowed under AS 43.82.240 to assist in the evaluation of a request to change the royalty valuation methodology could be reimbursed by the applicant. The statute allows the state to condition any contract on agreement by the applicant to reimburse the state for the expenses of the independent contractors. Those funds are requested as authority to receive and expend statutorily designated program receipts. Those costs are \$125,000 each in Fiscal 2003 and Fiscal 2004.

NOTE:

The estimated costs are split into two years for purposes of this fiscal note, however it is difficult to determine how much would actually be required in each year. The solution is to fund the full amount (\$330,000) as a single appropriation with a two-year lapse date.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB519
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Natural Gas Pipeline BRU Administration and Support
Special Provisions Component Office of the Commissioner
Sponsor House Rules Committee
Requester House Oil and Gas Committee Component No. 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	83.0	83.0				
Travel	30.0	30.0				
Contractual	250.0	250.0				
Supplies	5.0	5.0				
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	374.0	368.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()			(1,000.0)	(22,000.0)	(35,000.0)	(53,000.0)
-------------------------------	--	--	------------------	-------------------	-------------------	-------------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	124.0	118.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Statutorily Designated Receipts	250.0	250.0				
TOTAL	374.0	368.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached pages.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
Division: Department of Revenue Date/Time 4/18/02 12:34 PM
Approved by: Wilson Condon, Commissioner Date 4/18/2002
Agency: Department of Revenue

HB 519
Department of Revenue

OVERVIEW

This legislation would reauthorize the Alaska Stranded Gas Development Act under AS 43.82. The act expired June 30, 2001, and this legislation would extend the application date for a project sponsor from June 30, 2001 to June 30, 2005.

The Stranded Gas Development Act, adopted by the 1998 Legislature, authorized the Commissioner of Revenue to negotiate a contract for payments in lieu of taxes with the developer of an LNG project to commercialize Alaska's North Slope natural gas reserves. No project sponsor applied under the act before it expired last year. The intent of the legislation was to provide a mechanism whereby the state could help promote commercialization of its natural gas reserves by structuring payments in lieu of taxes to help relieve the burden on a project sponsor in the early years, when cash flow is not positive, and in return receive a larger share of the revenues in later years after the project sponsor had recovered its heavy development costs. This also would allow the state to receive a greater share of the revenues in later years if gas prices increased.

The act allows for a negotiated contract for payments in lieu of one or some or all of the following taxes:

- Production taxes and surcharges
- Oil and gas production property taxes (state and municipal portions) under AS 43.56)
- Municipal property taxes
- Municipal special assessments
- Corporate income taxes
- Municipal sales and use taxes

This legislation (HB 519) also expands the definition of a qualifying project under the Stranded Gas Act to include a natural gas pipeline to serve markets outside Alaska. In addition, this legislation clarifies the definition of a qualifying LNG project to include one that serves Lower 48 states or overseas markets.

A negotiated contract would make it possible to tailor the fiscal arrangements to meet the needs of the proposed project while, at the same time, ensuring that the public benefits from the project. A set of arrangements providing for contractual payments in lieu of taxes could provide fiscal terms that potential investors will believe are likely to remain permanently in place over the life of the project.

HB 519
Department of Revenue

COST OF LEGISLATION

The fiscal note for this legislation includes the following costs and assumptions leading up to the costs:

- We assume the state would receive a project application early in Fiscal 2003.
- Negotiating the contract for payments in lieu of taxes would start immediately, and would be completed at the conclusion of the 2004 legislative session.
- Project construction would start in Fiscal 2005 and continue through Fiscal 2008.
- Natural gas production would start in Fiscal 2009.
- A special assistant to the commissioner would be hired for Fiscal 2003 and 2004 to coordinate the Department of Revenue's work with the project sponsor and the affected communities.
- Travel, supplies and equipment costs would be associated with the new position and with the department's overall effort to meet with the project applicant and officials of the affected communities.
- The contractual expenses would be incurred in two areas:
 1. Oil and gas economic and tax consultants to advise the department in negotiating with the project applicant and structuring a contract for payment in lieu of taxes that is both advantageous to the project and provides for a fair return to the state on the publicly owned resource.
 2. Additional consultants to help the department prepare socioeconomic impact studies on the affected communities, to be used in determining the financial needs of the communities and negotiating with the project applicant.

The cost of the new position, travel, contractual and supplies is requested from the general fund. That total is \$116,000 in Fiscal 2003 and \$110,000 in Fiscal 2004.

The cost of the independent consultants allowed under AS 43.82.240 to assist in the department's evaluation of the project application and in developing terms of the contract could be reimbursed by the applicant. The statute allows the commissioner to condition the contract on agreement by the applicant to reimburse the state for the expenses of the independent contractors. Those funds are requested as authority to receive and expend statutorily designated program receipts. Those costs are \$250,000 each in Fiscal 2003 and Fiscal 2004.

HB 519
Department of Revenue

PROPERTY TAX WAIVER

Although the Stranded Gas Development Act calls for the commissioner to negotiate a contract for payments in lieu of taxes, including property taxes, Sections 4 and 5 of this legislation waive all state and municipal property taxes on the project during construction and the first two full years of project operation. This would be imposed upon the municipalities, which would not have any option in accepting or rejecting the property tax waiver.

The Department of Revenue believes it is premature to waive an estimated \$500 million in state and municipal property taxes without first determining if the tax relief would in fact be needed to make the project economical.

The Stranded Gas Act allows tax relief or deferral, but the explicit mandate of the Stranded Gas Act was to tailor the state's fiscal terms to the particular economics of the project and to maximize the benefit to the people of the state from the development. For example, the Stranded Gas Act enables the state to give tax relief where needed to make the project economic, but then recoup its foregone revenue — or more — when the project economics improved.

Under this bill, however, the state would get nothing in exchange for property tax relief. What happens if the price of gas goes up to \$5 or more per mcf? The project developers would profit enormously from the upside, and the state would lose out on sharing in that additional profit potential as "repayment" for any tax relief granted early in the development. Yes, the legislature could then raise taxes, but this is not the fiscal certainty that the state and potential project sponsors seek from this legislation.

The department strongly recommends a change in the property tax waiver provision of this legislation to (1) include an opportunity for the state to share in the potential benefits from a highly profitable project as part of the package for any tax relief, (2) provide an opportunity for the affected communities to participate in the tax relief discussions, and (3) a needs test for the tax relief.

HB 519
Department of Revenue

DECREASE IN STATE and MUNICIPAL REVENUES

Under Sections 4 and 5 of this legislation:

- The state would lose an estimated \$212 million in property tax revenues during construction and through the second full year of project operation.
- The Fairbanks North Star Borough and North Slope Borough would lose an estimated \$302 million in property tax revenues during construction and through the second year of production.
- Although the state and the municipalities would never receive this property tax revenue if the project is not built, there is no opportunity to determine whether the tax relief provided by this bill is needed to make the project economic.
- This bill does not provide a mechanism to provide funding to affected municipalities that experience additional costs because of the impact of the project on the community.
- The above estimates are based on a natural gas project carrying North Slope gas to Alberta, for distribution to markets in the Lower 48 states. The estimate of lost revenues would be different and would include additional municipalities if the project was an LNG line to tidewater at Valdez or Cook Inlet.
- The affected municipalities would face higher expenses during the influx of construction workers and the resulting demand for increased school, police, road and various other public services. Meeting those demands without the ability to tax the project itself would put a severe strain on local resources.
- One option for localities would be raise property taxes on all other property within their jurisdiction. The state's share of property taxes on the Trans-Alaska Oil Pipeline and other oil and gas facilities already in place is reduced dollar for dollar by property taxes paid to local communities. Therefore increased municipal property taxes in the affected municipalities would reduce the state's oil and gas property tax receipts.

Section 7 of this legislation would exempt the natural gas project from municipal sales and use taxes. The department is unable to estimate the fiscal impact of this provision on municipalities.

HB

527

HOUSE BILL NO. 527

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Introduced: 4/30/02

Referred: House Special Committee on Oil and Gas, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to entry into the Minto Flats State Game Refuge for purposes of
2 exploration and development of oil and gas resources."

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

4 * Section 1. AS 16.20.037 is amended by adding a new subsection to read:

5 (h) Entry upon the Minto Flats State Game Refuge for purposes of exploration
6 and development of oil and gas resources shall be permitted when compatible with the
7 purposes specified in (b) of this section.

Alaska State Legislature

Representative Beverly Masek
Co-Chair
State Capitol
Juneau, AK 99801-1182
(907) 465-3715
Fax: 465-4822
1-800-505-2678



Representative Drew Scalzi
Co-Chair
State Capitol
Juneau, AK 99801-1182
(907) 465-6890
Fax: 465-4822
1-800-665-2689

House Resources Committee

Sponsor Statement

HB527: An Act relating to entry into the Minto Flats State Game Refuge for purposes of exploration and development of oil and gas resources.

This bill will facilitate economic development in the state of Alaska by allowing for the responsible exploration and development of oil and gas resources within the Minto Flats Game Refuge.

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

Commissioner's Office

RECEIVED

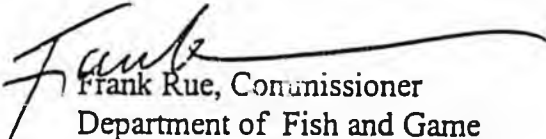
MAY 01 2002

TONY KNOWLES, GOVERNOR

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

MEMORANDUM

TO: Pat Pourchot, Commissioner
Department of Natural Resources

FROM:  Frank Rue, Commissioner
Department of Fish and Game

DATE: May 1, 2002

SUBJECT: Oil and Gas Exploration in the Minto Flats State Game Refuge

RECEIVED
MAY 01 2002

This memo clarifies the Department of Fish and Game's position regarding oil and gas exploration and development in the Minto Flats State Game Refuge (MFSGR). In the absence of sufficient site-specific information to render a compatibility determination at this time, the department's position was summarized in our March 15, 2002, recommended Licensee Advisory. That advisory stated in part,

Licensees are advised that ADF&G may require additional mitigation measures for activities within the refuge and may, in some instances, not find all oil and gas development compatible with the refuge's purposes and management plan. Licensees must coordinate closely with ADF&G early in the exploration and development process to ensure that proposed activities are consistent with the refuge management plan and can be developed in a manner that protects core refuge habitats and public use values.

We remain committed to working with the Department of Natural Resources, the project proponents, and the affected public to find ways to advance this project consistent with the MFSGR's statutory purposes, management plan, and public use values. Final decisions regarding the compatibility of gas resource development in the MFSGR will be made on their own merits once project siting and design information is available.

Regional staff will be submitting additional resource and public use information to DNR during the open public review and comment period. We will continue to work with DNR and the

project proponents to identify alternative mitigation measures to avoid or minimize impacts. We encourage DNR to maintain open channels of communication between all affected interests.

cc: Representative Hugh Fate
Representative Scott Ogan, Chair, House Special Committee on Oil and Gas
Senator John Torgerson, Chair, Senate Resources Committee
Chip Dennerlein, ADF&G, Habitat and Restoration
Mark Meyers, ADNR, Division of Oil and Gas
Jim Hansen, ADNR, Division of Oil and Gas
Al Ott, ADF&G, Habitat and Restoration
Jim Mery, Doyon, 1 Doyon Place, Suite 200, Fairbanks, AK 99701
Jim Dodson, Andex, 1720 S. Bellaire St., Suite 807, Denver, CO 80222

HB

529

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 529
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title Permit Exemption for Munitions Use BRU Administrative Services
Component Office of the Commissioner
Sponsor House State Affairs
Requester House Resources Component No. 633

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
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						
-----------------------------	--	--	--	--	--	--

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--Do not abbreviate)	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 (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

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 bill is intended solely to clarify that the military is not required to obtain a permit under AS 46.03.100 to fire or otherwise use munitions in training activities conducted on active ranges. This bill does not affect any authority that the state may have under other federal or state laws to require the cleanup or remediation of contamination or unexploded ordnance at a military range, whether active or closed, under AS 46.03.100, or to require a disposal permit, such as a closure plan, once a range is no longer in active use. Therefore there is no fiscal impact to the department.

Prepared by: Mary Siroky, Legislative Liaison Phone (907) 465-5355
Division Statewide Public Services Date/Time 5/1/02 3:51 PM
Approved by: Kurt Fredriksson Date 5/1/02
Agency Department of Environmental Conservation

Subject: HB 529 Testimony

Date: Thu, 2 May 2002 09:36:49 -0800

From: "Janet Daniels" <jdaniels@alaska.net>

To: <jennifer_yuhas@legis.state.ak.us>

Jennifer, Please include my testimony in the packet for the House Resources Committee Hearing on HB 529.

Thank you,
Janet Daniels

Testimony of Janet Daniels, Chickaloon Village Traditional Council
spokesperson


House Resources Committee Hearing
On HB 529

Good afternoon and thank you for the opportunity to testify on House Bill 529. My name is Janet Daniels. I am a member of the Chickaloon Tribe and the designated spokesperson for the Traditional Council on matters relating to military contamination.

It is my understanding that HB 529 asks exemption from certain State environmental statutes for the military. It is the position of the Chickaloon Tribe that the military should be held accountable for compliance with environmental law in the same manner as any other organization or business.

We do not wish to interfere with national security, but would like to protect the health of the same citizens the military is sworn to defend. For thousands of years, the native peoples of Alaska have fished and hunted this land. Scientists are now finding elevated levels of contaminants in subsistence foods all over Alaska. Cancer rates are rising all over the state. Those numbers cannot all be related to lifestyle. The entire population of the State of Alaska is at increased risk for disease and death due to contaminants that migrate north from all over the world. Any reduction in laws protecting the health of the people of Alaska would only add to that risk.

Environmental laws were designed to protect the health of citizens while allowing businesses and organizations to carry on their operations. In no way do environmental laws threaten military readiness. The federal government has the power to exempt installations on a case-by-case basis. What greater protection could the military ask?

 winmail.dat	Name: winmail.dat Type: Word File (application/ms-tnef) Encoding: base64
---	---

Testimony of Tom Chapple - Director of the Division of Air and Water Quality in the Department of Environmental Conservation before Senate Resources Committee concerning HB 529 Permit Exemptions for Munitions Use.

Thank you Madame Chairwoman, members of the Committee, for the opportunity to testify on HB 529. For the record my name is Tom Chapple and I am the Director of the Division of Air and Water Quality in the Department of Environmental Conservation.

The Department has 3 significant points we wish to make about the bill before you

First: This legislation makes changes to the Department's permitting authority for an activity that already in our view does not need a permit. DEC has never, nor does it intend to require a permit for current activities on active military firing/training ranges. Our reading of the law is that current practices do not constitute the disposal of a solid waste and thus does not require a permit. However, once the site is closed, the department may require a site closure plan for disposal of any remaining waste. ①

Second: While we do not require a permit for this activity, we do have responsibilities in two other areas. First, if the range activity causes pollution, even if the site is still active, we will address the problem with the Army. Secondly, upon closure of the range, we will ensure that the site poses no going risk to health or the environment. It needs to be clear that this legislation is NOT intended to affect the department's ability to deal with contamination at active firing ranges should contamination pose a risk to the environment or public health. DEC worked with the Army to determine that it was the ingestion of white phosphorous that was killing waterfowl on the Eagle River Flats range. As a result, the Army stopped using white phosphorous nationwide at wetland impact areas. Additionally, at Eagle River Flats, firing only occurs when the ground is frozen. ② ③ ④

Due to historic hazardous substance releases, in 1994 Fort Richardson was put on the Superfund list (the list of the most contaminated sites in the country). The Army, the state and the EPA signed a 3-way agreement that detailed how the facility was going to be investigated and cleaned up. Through communication and cooperation between the 3 parties, a Record of Decision was signed. This document requires that the Army continue to clean up the concentrated white phosphorous areas, monitor to ensure continued reduction of the contaminant and limit access to prevent exposure to unexploded ordnances. Additionally, the 3 parties agreed that corrective action would not occur until the range closes unless there are contaminants needing immediate abatement.

Third: There is a significant national effort underway by the Department of Defense to address what, if any, exemptions from national and state environmental laws are necessary for national security and combat readiness. The Department of Defense addressed all states just last week in Wisconsin when all state environmental agency commissioners met. The Department of Defense promised the states that the limitations they are requesting will be:

- surgical
- specifically limited to combat training issues
- will be taken at a national level
- Will not result in 50 separate fixes - one in each state.

In closing, I also want to make clear that this bill is not the result of a problem that the Army is having with the department.

As stated earlier, DEC has worked positively with the Army on Eagle River Flats range, has not required permits for this range, does not intend to require permits for this range and has no intention of impeding the continued use of the Eagle River Range. More recently, the Army has worked cooperatively with DEC and the bill's sponsor to have the language of the bill meet the Army's needs while not jeopardizing other important work done under this same law. While we have worked cooperatively with the Army, the department is concerned that the purpose of the change is only to buttress the state law to provide a legal advantage in a pending court case. Because there have been no rulings in the case as yet, nor an injunction granted to preclude continued use of the range, we think it is fair to ask if there is a real problem that must be addressed today.

We urge the Committee to give serious consideration to the question of whether it is more appropriate for this policy issue to be dealt with at the national level first as suggested by the Department of Defense.

Thank you for the opportunity to provide testimony today.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY - 1 2002

Alaska Governor Tony Knowles
Office of the Governor
P. O. Box 110001
Juneau, AK 99811-0001

Dear Governor Knowles:

We must provide our military forces the most realistic training possible. Over the years though, a number of federal, state, and local actions have restricted the use of our military training facilities. Congress is considering legislation to ease some of these restrictions and I wanted you to be aware of it.

The Readiness and Range Preservation Initiative is a narrowly focused proposal intended to clarify the reach of several environmental laws. These laws increasingly have been applied to military testing and training activities in novel ways that threaten readiness without a commensurate benefit to the environment.

Enclosed are two short papers that summarize these provisions as well as the full text of the proposal. You will see that these provisions apply to a narrow, unique category of Defense Department activities—those that directly involve military readiness. They do not affect the wide range of our activities that do not directly relate to combat, such as our wastewater treatment plants, power generation facilities, construction projects and routine transportation. Our proposals do not affect our cleanup obligations at our closed bases, or those bases that may close in the future. As you know, these non-readiness activities—which our proposal does not affect—comprise the vast majority of our interactions with state and local environmental regulators and with citizen groups.

Passage of this legislation will improve the ability of our military forces to train for war. Our point of contact is the Deputy Under Secretary of Defense for Installations and Environment, Raymond F. DuBois, 703-695-2880, should you desire more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray F. DuBois".



The Washington Times

www.washtimes.com

Republicans push to free military from green laws

Audrey Hudson
THE WASHINGTON TIMES

Published 5/3/2002

House Republicans are set to exempt the military from stringent environmental laws for the war on terrorism, angering Democrats and green groups who say the Defense Department should not be above the law.

The exemption language was contained in the National Defense Authorization Act for 2003, which overwhelmingly passed the House Armed Services Committee 57-1 late Wednesday and was expected to pass the full House next week.

The provision prevents future designations of critical habitat for rare species on military installations where protection plans are already in place. In areas where such restrictions are under consideration, the secretary of the Interior Department would have to first weigh the impact on national security.

The measure also allows the military to accidentally kill any bird species protected under the Migratory Bird Treaty Act while engaged in training activities.

"The ability of the Department of Defense to fulfill its primary mission to safeguard national security has been dramatically challenged — and in some instances diminished — due to its obligations to satisfy several important federal environmental laws," said Rep. Joel Hefley, Colorado Republican and sponsor of the measure.

Examples of conflicts between environmental laws and military training include:

- A federal court issued a 30-day injunction banning the military from conducting any kind of training on Farallon de Medinilla in the Northern Marianas Islands, the Guam Pacific Daily News reported last night. The Center for Biological Diversity filed suit in 2000 against the Navy and the Department of Defense to end live-fire training exercises, claiming it violated the Migratory Bird Treaty Act.
- Marines can train in California's Mojave Desert only during the daytime so as not to trample tortoises. Live or simulated fire is off-limits, and vehicles must stay on the roads.
- Training for amphibious landing is severely restricted at Camp Lejeune in North Carolina because of beach restrictions during turtle-nesting season, and a rare species of woodpecker makes inland training nearly impossible.
- Lawsuits to protect a tree snail shut down Hawaii's Makua Military Reservation in 1998, and the snowy plover has severely restricted Navy SEAL training on Coronado Island in California.

"I have tried to strike the balance between compliance with these important environmental laws and the need to allow our troops to adequately prepare and train. I am confident that these provisions will provide meaningful assistance to the department, while still ensuring that existing safeguards to the environment are not adversely impacted," Mr. Hefley said.

While supporting the overall defense authorization, Democrats will announce their opposition to the environmental exemption next week.

Environmental groups and several House Democrats led by Rep. John D. Dingell of Michigan are planning a Tuesday press conference.

They say President Bush already has the power to waive environmental requirements when necessary to protect national security, and will offer an amendment to strike the provision.

The Natural Resources Defense Council has initiated a letter-writing campaign to Congress, saying the Bush administration wants a blanket exemption from environmental laws, even when national security is not an issue.

Earthjustice also opposes the exemption, saying it will result in "irreparable harm to the environment."

"While we support U.S. military efforts to prepare for military action and to protect national security, additional exemptions are not necessary to accomplish this goal," said spokeswoman Sandra Schubert.

"We firmly believe no government should be above the law — including the laws that protect America's wildlife and public lands," Miss Schubert said.

The bill language specifies that nothing will diminish the obligation of the Defense Department to comply with the Endangered Species Act, which makes it illegal to harm or cause the extinction of a threatened or endangered species.

Copyright © 2002 News World Communications, Inc. All rights reserved.

[Return to the article](#)

RECORD VERSION

STATEMENT BY

COLONEL ANTHONY M. COROALLES
COMMANDER, US ARMY GARRISON ALASKA

BEFORE THE

READINESS AND MANAGEMENT SUPPORT SUBCOMMITTEE
COMMITTEE ON ARMED SERVICES

UNITED STATES SENATE

FIRST SESSION, 106th CONGRESS

13 APRIL 1999

COLONEL ANTHONY M. COROALLES

Colonel Anthony M. Coroalles was born in Havana, Cuba on 14 October 1952. He graduated from the University of San Francisco and was commissioned as a Second Lieutenant, Infantry on 1 June 1974. Upon completion of the Infantry Basic Course, he was assigned to the 82nd Airborne Division, Fort Bragg, North Carolina. Colonel Coroalles has completed degree programs from the University of San Francisco, Bachelor of Sciences in Biology; University of Southern California, Master of Sciences Systems Management; Army Command and Staff College, Master of Military Arts and Sciences; the Industrial College of the Armed Forces, Master in Defense Resource and Acquisition Strategy. In addition, Colonel Coroalles has completed Infantry Officers Basic Course, US Marine Corps Amphibious Warfare School, the US Army Command and General Staff College, the School of Advanced Military Studies and the National Defense University.

Colonel Coroalles assumed his current assignment as Commander, US Army Garrison Alaska on 6 June 1998. His previous commands and assignments include Commander, 6th Ranger Training Battalion; Executive Officer, 1st Brigade, 25th Infantry Division (Light); Executive Officer, 5th Battalion, 14th Infantry, Operations Officer, 25th Infantry Division (Light); Plans Officer, 75th Infantry Regiment (Ranger); Operations Officer, 1st Squadron, 10th Cavalry; and Company Commander, Company A, 2nd Battalion, 2nd Infantry. His other assignments include Aide-de-Camp to the

Deputy Commanding General, US Army Combined Arms Combat Development Activity; Aide-de-Camp to the Commander, 4th Infantry Division (Mech); Chief, Small Unit Tactics Branch, US Army Infantry School; Chief, War Plans Division, US Army Pacific; Special Assistant to the Chief of Staff of the Army; and Chief, International Plans and Policy Integration Division, Office of the Deputy Under Secretary of the Army for International Affairs.

His Military decorations and awards include the Legion of Merit, the Defense Meritorious Service Medal, the Meritorious service Medal (4OLC), the Army Commendation Medal (1OLC) and the Army Achievement Medal (1OLC). Colonel Corcoalles wears the Ranger Tab, Master Parachutist Badge, and Expert Infantryman Badge.

Colonel Corcoalles is married to the former Patricia Ann Mooney of Columbus, Ohio.

Mr. Chairman, Distinguished Members of the Committee, Members of the public, I'm honored to provide this testimony before this committee. My name is Colonel Anthony M. Coroalles. I am the garrison commander of the US Army Garrison Alaska and I am here to provide you information on the importance of the current and future uses of withdrawn military lands in Alaska as it pertains to military training.

I believe I am well qualified to discuss the importance of the Alaska Training Lands to the Department of Army, the Reserves of all branches, the Department of Defense and the defense of our Nation. As Garrison Commander, I am responsible for the management of 1.2 million acres on three Army posts—909,000 acres of which are affected by this withdrawal.

The three U.S. Army posts in Alaska are Fort Richardson near Anchorage, Ft. Wainwright near Fairbanks, and Ft. Greely in Delta Junction. The withdrawal only affects maneuver areas at Ft. Wainwright and at Ft. Greely. Maneuver areas at Fort Richardson are not covered by this action. Also, you may recall that Ft. Greely will be realigned under BRAC in 2001. However, only a small part of Ft. Greely was affected by the BRAC realignment decision. All of the maneuver training areas at Ft. Greely were deemed to be essential to the Army's mission, and therefore are to be retained for military use.

There are approximately 623,000 acres on Ft. Greely and 247,000 acres on Ft. Wainwright withdrawn for military use. The East Training Area on Ft. Greely and the Yukon Maneuver area on Fort Wainwright are usable year-round. Therefore, the Army trains on these areas more than any other parcel of military land in Alaska. These training areas offer maneuver training over realistic distances and terrain unmatched at any other Army installation. Additionally, the arctic conditions present during a great part of the year offer a training environment that no other training area can duplicate. In Alaska, air and ground units train in arctic conditions, over realistic distances and frontages, at optimum speeds and tempo.

The withdrawn lands in Alaska are essential to the Army and the Air Force. Both the strategic location of Alaska and the availability of adequate training space provide a unique location from which well-trained air and ground forces can rapidly deploy to the Pacific Rim or Europe. The lands under discussion not only provide the real estate necessary to generate these trained and ready forces, but are ideal because of their size, sub-arctic location, and remoteness from urban areas. Nowhere else in the United States can this combination be found.

Furthermore, as the range and accuracy of our weapons systems continue to increase, the value of the ranges and impact areas in Alaska will also

continue to grow. Modern military forces are equipped with long-range weapons and require large impact areas and long distances to replicate battlefield conditions. The withdrawn lands contain our principal weapons ranges and the two most heavily used impact areas. These areas, which provide a combination of restricted airspace over impact areas, negotiated Military Operations Areas (MOAs), long-range distances, and large impact areas, are ideal for employing all Army weapons systems and most Air Force systems. These large impact areas are also capable of safely containing all conventional explosive ordnance including, the Hellfire missile, Multiple Launched Rockets, and 2000 pound bombs.

Additionally, the U.S. Army Cold Region Test Center at Fort Greely is the Department of Defense Cold Environment Testing Center. This critically important DoD activity requires the withdrawn training lands to test DoD weapons and equipment in a cold environment to ensure our soldiers, sailors, airmen, and marines have the most capable equipment now, and in the future. The withdrawn lands are unique, since no other region of the United States has the same number of consecutive cold days necessary to ensure that required cold temperature testing parameters are achieved in a cost-effective manner. The practical effect of this is that testers do not have to wait as long at Ft. Greely for extreme cold weather, therefore reducing the cost of testing.

Another key factor is the airspace available over these withdrawn lands. The airspace surrounding these lands is key to the Army and the Air Force. Upon the withdrawal of U.S. forces from the Philippines, the Air Force relocated their Cope Thunder Training Program to Alaska. This fully instrumented facility is the premier training site for Air Force units from throughout the Pacific Command. Also, two Air Force wings stationed in Alaska, as well as the Alaska Air National Guard take advantage of this facility on a regular basis. A principal attraction of this complex is the large ranges available for ordnance delivery and the unencumbered restricted air space surrounding the impact areas. The Army, Navy, Air Force, and allied Air Forces use the Restricted Airspace and Military Operations Areas to extensively train and conduct realistic maneuvers and tactics. Army infantry and aviation units also routinely use these lands to conduct air assault operations over realistic distances and fire the total array of weapons and ordnance organic to Army units. Without the withdrawn lands and the restricted airspace above them, the quality of air training would be greatly degraded.

These withdrawn lands are not just Army lands, but truly joint-use lands. Besides Cope Thunder, perhaps the best example of the joint aspect of these lands is Exercise Northern Edge. This is a yearly joint exercise conducted in the winter involving Army, Navy, Air Force, and allied forces. The exercise also serves to support our regional engagement strategy by

inviting foreign armies and air forces to train with U.S. forces in Alaska. Recently, Canadian forces, the Japanese Self-Defense force, and elements of the Russian Far East Military District have deployed to the Alaska for Northern Edge Exercises and trained on the withdrawn lands and the airspace above them.

However, military training is not the only activity that takes place on these lands. We have been good stewards of the land and good neighbors to the surrounding civilian communities. The withdrawn lands are made available to recreational users much of the time. US Army Alaska in conjunction with the Bureau of Land Management accommodates hunters, fishermen, boaters, cross-country skiers, snowmobilers, and hikers on a routine and predictable basis. We work most training exercises around the major hunting seasons and actively patrol our training lands with military game wardens and military policemen to keep them safe for everyone.

Also, US Army Alaska has exceptionally effective conservation and reclamation programs. Considerable effort and money have been spent on an examination of the environment and the interactions of that environment with military training. Army stewardship is accomplished through the Integrated Training Area Management program and Natural Resource plans. These model programs and procedures ensure the long-term viability of the training and public uses on the lands entrusted to the Army.

In closing, I believe that these lands are essential to the training of our armed forces. They cannot be replaced or replicated anywhere else in the United States. These unique, multi-use training lands will remain a vital part of our training platform for the long-term and will remain essential to the military's ability to defend our Nation. As such, the continued value of these lands to the military combined with the need to wisely use the resources entrusted to us warrant an extensive renewal period.

I thank you for the opportunity to provide you with this statement and I am prepared to answer any of the committee members' questions.



750 West Second Ave., Suite 109, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177
P.O. Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.aevoters.org

HB 529 ~ Permit Exemption for Munitions Use

TO: House Resource Committee Members

DATE: May 3, 2002

Alaska Conservation Voters is a not-for-profit organization dedicated to protecting Alaska's environment through public education and advocacy. We are concerned that, without the oversight provided by permits, the military's activities at artillery ranges, such as Eagle River Flats, will continue to cause degradation of water quality and wildlife habitat in and around these ranges. Over 130 Department of Defense waste sites throughout the country, including Alaska, qualify as Superfund sites. It is in Alaska's best interest to require all government agencies, including the military, to comply with water quality and waste disposal regulations for the continued protection of human health and safety.

Leaving a legacy of pollution should not be the price of freedom

House Bill 529 will exempt the US Department of Defense or US military from needing waste disposal permits for munitions training on active ranges. At Eagle River Flats on Fort Richardson (which was declared a Superfund site in 1994), the Army has refused to address proper clean up and disposal of toxic unexploded munitions. These munitions contain heavy metals, cancer-causing compounds, and highly explosive propellants that will continue to threaten water quality, wildlife and people that enter the Eagle River Flats area for years to come unless the military takes responsibility for its toxic waste.

National Security is not the target

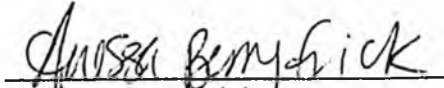
While recognizing the need for a well-trained military, efforts to protect our national security should also protect our nation's environment and public health. No agency should be above the laws and granted the freedom to pollute. Homeland security should encompass the right to be secure in the knowledge that our air and water are free of toxics.

DEC should provide for monitoring of activities at artillery and gun ranges

While we understand that the Department of Environmental Conservation (DEC), because of inadequate staff and financial resources, has not required waste disposal permits for activities at ranges, the fact remains that such ranges are very likely to be sources of significant contamination. To comply with their mission to protect Alaskans' health, DEC should be appropriated the funding necessary to carry out an efficient permit program that provides for oversight of these activities.

OVER

Alaska Conservation Voters encourage legislators to oppose HB 529 because there is no need to exempt the military from laws that protect Alaskans' rights to clean water and a safe environment.


Anissa Berry-Frick

**Alaska Community Action on Toxics
505 West Northern Lights Blvd., Suite 205
Anchorage, Alaska 99503**

**Testimony of Pamela Miller, Director, Alaska Community Action on Toxics
House Bill 529
House Resources Committee
May 3, 2002**

Thank you for the opportunity to provide comments on House Bill 529. My name is Pamela Miller, Director of Alaska Community Action on Toxics (ACAT). Alaska Community Action on Toxics is a non-profit environmental health research and advocacy organization based in Anchorage. ACAT is currently a co-plaintiff, along with the Chickaloon Village Traditional Council, Cook Inlet Keeper, and Military Toxics Project, in the litigation designed to bring the Army into compliance with existing state and federal laws at Fort Richardson's Eagle River Flats. Our litigation apparently compelled the military to request this Legislature to exempt "the use of munitions in certain areas from a waste disposal permit requirement of the Department of Environmental Conservation."

For the record, I will provide some background on the reasoning and history behind our litigation. Due to a high level of environmental pollution, the Environmental Protection Agency placed Fort Richardson on the National Priorities (Superfund) List of polluted sites in 1994. I have participated for four years as a member of the Fort Richardson Restoration Advisory Board (RAB), a citizens' advisory committee that meets on a quarterly basis. Throughout this time as a RAB member, I have consistently expressed my concern that the Army has failed to address the public health and safety hazards of the unexploded munitions in and around Eagle River Flats. ACAT provided formal public comments during the development of the Army's proposed cleanup plan as required under CERCLA (Superfund law). We viewed litigation as a last resort after the Army failed to address our legitimate concerns.

The plaintiffs filed a Notice of Intent to Sue on June 15, 2001, citing violations by the Army of the federal Clean Water Act; Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); the Federal Facility Agreement for Fort Richardson; and the Solid Waste Disposal Act. In August, the plaintiffs sent a letter to the Department of Defense proposing settlement terms. At the request of the Defendants and after September 11, settlement discussions commenced with all parties trying in good faith to negotiate a mutually agreeable settlement. Plaintiffs expressed a willingness to forego injunctive relief while the military obtained permits necessary for legal operation of bombing operations on Eagle River Flats. From September 2001 to April 10, 2002, parties communicated and tried to reach agreeable settlement terms.

The major points of the negotiation for the plaintiffs were: 1) compliance with the federal Clean Water Act; 2) cleanup of unexploded ordnance as required under CERCLA (Superfund law). The plaintiffs did not file a complaint or seek injunctive relief during

this time. We believed that the Defense Department was serious about trying to settle and held off filing the lawsuit with the hope that settlement could be reached. During negotiations, plaintiffs offered to forego injunctive relief for a reasonable period and suggested two years as a sufficient time for the military to remedy its operations without a permit. The military demanded that plaintiffs forego the right to request injunctive relief forever. On April 10, the military informed plaintiffs that it was terminating settlement discussions. The need for the military to obtain a state permit under AS 46.03.100 was not discussed during settlement talks. On April 12, 2002, the plaintiffs filed a complaint to protect our legal position. The plaintiffs have not filed a motion for preliminary injunctive relief. Filing of the complaint does not preclude settlement. The Defense Department has not indicated any willingness to reinstate settlement discussions that it terminated.

The Army's past and present discharge of munitions into the Eagle River Flats releases harmful chemicals such as RDX, 2,4-DNT, heavy metals, and other high explosive and propellant compounds. The presence of such toxic chemicals and the safety hazards of unexploded ordnance present a substantial danger to wildlife and people—this has been demonstrated at other military bases around the country such as the Massachusetts Military Reservation, Jefferson Proving Ground, and Makua Military Reservation. Some of these chemicals are known carcinogens (cancer-causing). These munitions are "toxic time bombs" that threaten human health and wildlife. Army documents reveal that hunters and other persons enter the Eagle River Flats impact area because no physical barriers prevent access. After thousands of waterfowl deaths, the Army began to remediate white phosphorus contamination from their use of incendiary weapons on Eagle River Flats (the Army also implemented a nationwide ban on the use of white phosphorus), but they have failed to address the larger problem of continuing pollution from the more than 10,000 unexploded bombs and other munitions. Not only did the Army create one of the most polluted sites in the country, but also they have stated their refusal to take responsibility in cleaning up a serious health and safety hazard. Our litigation seeks cleanup of the unexploded munitions within the estuary at Eagle River Flats and proper permits for discharge of additional munitions.

Unexploded ordnance may also exist in, on, and/or under lands and waters outside the current boundaries of Fort Richardson, including the waters of Knik Arm. For example, the Army historically used approximately 2 million acres in the vicinity of Fort Richardson (the Fort currently consists of about 60,000 acres) for military training, including munitions training. Much of those 2 million acres are likely to contain unexploded ordnance. The Army has never made a systematic effort to identify areas likely to contain unexploded ordnance (UXO) or to remediate the dangers posed by the presence of UXO.

While we support U.S. military efforts to protect national security, an exemption from existing state law is not necessary to accomplish this goal. This exemption would undermine the state's authority to administer pollution control laws and endanger state program certification. The Department of Defense is also seeking sweeping exemptions from important federal laws designed to protect public health and the environment,

including the Clean Air Act, Resource Conservation and Recovery Act, Superfund (CERCLA), the Endangered Species Act, the Migratory Bird Treaty Act, and Marine Mammal Protection Act.

No federal agency should be given special exemptions from state or federal laws that businesses and individuals must follow. No agency should be above the law. The Defense Department is seeking to exempt their activities from laws long supported by Alaskans and the larger American public, including laws that protect air quality, water quality, and the health of people living around our military facilities. If our decision-makers grant military exemptions, this will only undermine our national security. Americans depend on the democratic process of public involvement and oversight that is ensured by many of these laws. The Department of Defense cannot compromise the health and safety of its own citizens without compromising national security. The President already has the authority to waive environmental rules for national security. President Bush stated during his campaign that the Defense Department is one of the nation's biggest toxic polluters and that the agency should not be exempted from environmental standards.

A national poll of voters (by Zogby America Polling/Market Research) in all demographic groups, including Republicans and those who voted for President Bush, soundly rejected the argument that environmental laws interfere with our ability to maintain military readiness and protect national security. Seventy-eight percent of the people agreed with the statement that "no government agency should be above the law—including the laws that protect the environment around military facilities and the health of the people who live nearby. U.S. laws already provide the flexibility needed to balance environmental protection and military readiness by allowing exemptions on a case-by-case basis in the interest of national security." The Defense Department can readily achieve its military readiness objectives while complying with state and federal laws.

Testimony of Tom Chapple - Director of the Division of Air and Water Quality in the Department of Environmental Conservation before Senate Resources Committee concerning HB 529 Permit Exemptions for Munitions Use.

Thank you Madame Chairwoman, members of the Committee, for the opportunity to testify on HB 529. For the record my name is Tom Chapple and I am the Director of the Division of Air and Water Quality in the Department of Environmental Conservation.

The Department has 3 significant points we wish to make about the bill before you

First: This legislation makes changes to the Department's permitting authority for an activity that already in our view does not need a permit. DEC has never, nor does it intend to require a permit for current activities on active military firing/training ranges. Our reading of the law is that current practices do not constitute the disposal of a solid waste and thus does not require a permit. However, once the site is closed, the department may require a site closure plan for disposal of any remaining waste.

Second: While we do not require a permit for this activity, we do have responsibilities in two other areas. First, if the range activity causes pollution, even if the site is still active, we will address the problem with the Army. Secondly, upon closure of the range, we will ensure that the site poses no ongoing risk to health or the environment. It needs to be clear that this legislation is NOT intended to affect the department's ability to deal with contamination at active firing ranges should contamination pose a risk to the environment or public health. DEC worked with the Army to determine that it was the ingestion of white phosphorous that was killing waterfowl on the Eagle River Flats range. As a result, the Army stopped using white phosphorous nationwide at wetland impact areas. Additionally, at Eagle River Flats, firing only occurs when the ground is frozen.

Due to historic hazardous substance releases, in 1994 Fort Richardson was put on the Superfund list (the list of the most contaminated sites in the country). The Army, the state and the EPA signed a 3-way agreement that detailed how the facility was going to be investigated and cleaned up. Through communication and cooperation between the 3 parties, a Record of Decision was signed. This document requires that the Army continue to clean up the concentrated white phosphorous areas, monitor to ensure continued reduction of the contaminant and limit access to prevent exposure to unexploded ordnances. Additionally, the 3 parties agreed that corrective action would not occur until the range closes unless there are contaminants needing immediate abatement.

Third: There is a significant national effort underway by the Department of Defense to address what, if any, exemptions from national and state environmental laws are necessary for national security and combat readiness. The Department of Defense addressed all states just last week in Wisconsin when all state environmental agency commissioners met. The Department of Defense promised the states that the limitations they are requesting will be:

- surgical
- specifically limited to combat training issues
- will be taken at a national level
- Will not result in 50 separate fixes - one in each state.

In closing, I also want to make clear that this bill is not the result of a problem that the Army is having with the department.

As stated earlier, DEC has worked positively with the Army on Eagle River Flats range, has not required permits for this range, does not intend to require permits for this range and has no intention of impeding the continued use of the Eagle River Range. More recently, the Army has worked cooperatively with DEC and the bill's sponsor to have the language of the bill meet the Army's needs while not jeopardizing other important work done under this same law. While we have worked cooperatively with the Army, the department is concerned that the purpose of the change is only to buttress the state law to provide a legal advantage in a pending court case. Because there have been no rulings in the case as yet, nor an injunction granted to preclude continued use of the range, we think it is fair to ask if there is a real problem that must be addressed today.

We urge the Committee to give serious consideration to the question of whether it is more appropriate for this policy issue to be dealt with at the national level first as suggested by the Department of Defense.

Thank you for the opportunity to provide testimony today.

Testimony of Tom Chapple - Director of the Division of Air and Water Quality in the Department of Environmental Conservation before Senate Resources Committee concerning HB 529 Permit Exemptions for Munitions Use.

Thank you Madame Chairwoman, members of the Committee, for the opportunity to testify on HB 529. For the record my name is Tom Chapple and I am the Director of the Division of Air and Water Quality in the Department of Environmental Conservation.

The Department has 3 significant points we wish to make about the bill before you

First: This legislation makes changes to the Department's permitting authority for an activity that already in our view does not need a permit. DEC has never, nor does it intend to require a permit for current activities on active military firing/training ranges. Our reading of the law is that current practices do not constitute the disposal of a solid waste and thus does not require a permit. However, once the site is closed, the department may require a site closure plan for disposal of any remaining waste.

Second: While we do not require a permit for this activity, we do have responsibilities in two other areas. First, if the range activity causes pollution, even if the site is still active, we will address the problem with the Army. Secondly, upon closure of the range, we will ensure that the site poses no ongoing risk to health or the environment. It needs to be clear that this legislation is NOT intended to affect the department's ability to deal with contamination at active firing ranges should contamination pose a risk to the environment or public health. DEC worked with the Army to determine that it was the ingestion of white phosphorous that was killing waterfowl on the Eagle River Flats range. As a result, the Army stopped using white phosphorous nationwide at wetland impact areas. Additionally, at Eagle River Flats, firing only occurs when the ground is frozen.

Due to historic hazardous substance releases, in 1994 Fort Richardson was put on the Superfund list (the list of the most contaminated sites in the country). The Army, the state and the EPA signed a 3-way agreement that detailed how the facility was going to be investigated and cleaned up. Through communication and cooperation between the 3 parties, a Record of Decision was signed. This document requires that the Army continue to clean up the concentrated white phosphorous areas, monitor to ensure continued reduction of the contaminant and limit access to prevent exposure to unexploded ordnances. Additionally, the 3 parties agreed that corrective action would not occur until the range closes unless there are contaminants needing immediate abatement.

Third: There is a significant national effort underway by the Department of Defense to address what, if any, exemptions from national and state environmental laws are necessary for national security and combat readiness. The Department of Defense addressed all states just last week in Wisconsin when all state environmental agency commissioners met. The Department of Defense promised the states that the limitations they are requesting will be:

- surgical
- specifically limited to combat training issues
- will be taken at a national level
- Will not result in 50 separate fixes - one in each state.

In closing, I also want to make clear that this bill is not the result of a problem that the Army is having with the department.

As stated earlier, DEC has worked positively with the Army on Eagle River Flats range, has not required permits for this range, does not intend to require permits for this range and has no intention of impeding the continued use of the Eagle River Range. More recently, the Army has worked cooperatively with DEC and the bill's sponsor to have the language of the bill meet the Army's needs while not jeopardizing other important work done under this same law. While we have worked cooperatively with the Army, the department is concerned that the purpose of the change is only to buttress the state law to provide a legal advantage in a pending court case. Because there have been no rulings in the case as yet, nor an injunction granted to preclude continued use of the range, we think it is fair to ask if there is a real problem that must be addressed today.

We urge the Committee to give serious consideration to the question of whether it is more appropriate for this policy issue to be dealt with at the national level first as suggested by the Department of Defense.

Thank you for the opportunity to provide testimony today.