

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10653 SENATE RESOURCES

498



Alaska State Legislature

Please enter into the record my testimony to the Senate Resource

committee on SB 353 dated 4/3/02
bill/subject committee name

April 3, 2002

Alaska State Legislators
State Capitol(AS 3100)
Juneau, Alaska 99801-1182

Dear Representatives,

I urge you to support Bills HB432 and SB353 which will establish a position to help prevent wide spread habitat destruction from noxious and invasive plants. The funding of this is vital to Alaska's future.

As a Delta farmer we have spent thousands of dollars on chemicals, time and equipment to try and control and eradicate this problem in our area. It is impossible for a few of us in the area to control this problem without the assistance of the legislators. The plants are aggressive and highly competitive and if left unattended they can destroy state and public lands.

The current infestations in Alaska are still at a manageable level where immediate eradication and prevention efforts can dramatically reduce the future financial burden of controlling widespread infestations. Prevention is much cheaper than control. The funding of this position is vital to Alaska's future. Identifying outbreaks early and responding to them quickly will greatly reduce the substantial economic loss and ecological damage that puts our agricultural lands at risk and also detrimental to our forests, wilderness areas, parks and recreational sites.

Recreational vehicles, horseback riding can spread the noxious weed at a very high rate.

Signed: E. L. Sillert
Testifier
A Delta Farmer
Representing (Optional)
HS Ln Box 4210 Delta Junction AK 99737
Address
907-895-4338
Phone No.
FAX-907-895-5481
gipaw@williams.net

TOTAL P.02

TOTAL P.02

Subject: SB- HB 432

Date: Tue, 02 Apr 2002 14:50:59 -0900

From: Mitch Michaud <mitchm@gci.net>

To: Senator_John_Torgerson@legis.state.ak.us

Senator_John_Torgerson

I am contacting you, asking your support for SB- ³⁵³~~HB-432~~, Ag. Prog. Coord/Animal Feed. The name of this bill is misleading but let me tell you a bit about myself.

I am a forester that works for USDA and both live and work on the kenai peninsula and I am also a dog musher the wife and i are also on the boards of the PSDRA and the T-200 dog racing committees.

As a forester, who worked in new england for 20 years, I see a threat from the introduction of noxious and invasive plants on the forest of alaska, as an employee of the USDA working in a farm office I also see the threat as it is expressed in the potential need for treatment for weeds that are already entering alaska that show up in hay field on the peninsula. We already have a few here..

Now for the dog musher part. The introduction of some weeds are a threat to dogs, really and reactive weed policies are damaging to. Jon Little, Kasilof resident had a dog that died last year during the iditarod, as you remember. I know Jon quite well and know the impact the death of Carhart had on him, but what provided closure to Jon was finally figuring out that a weed that was growing in his dog yard was the probably cause of the infection that killed the dog. Jon found out about this through the NRCS-USDA office and I think Dr. May from fairbanks confirmed what the UR infection was typical of what was caused by that weed, once inhaled.

Now one dead dog is nothing in the grand scheme of things, but the reaction to weed threats is great. I have heard that the nation parks service will be introducing a no weeds policy that will eliminate bedding and potential weed vector into Denali park. that will have a significant impact on horse people and dog musher.

I am suggesting that a state run weed program will slow the advent of new weeds, save farmers/hay growers some money, reduce restrictions to horse and dog musher.

mitch michaud
907 262-4977 907 252-5350 cell

S B

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 354
 () Publish Date: _____
 Dept. Affected: Natural Resources
 BRU: Agriculture Development
 Component: Agriculture Development
 Component Number: 455

Revision Date/Time (Note if correction): _____
 Title: Prices Paid by Milk Processing Plants
 Sponsor: (S) HESS
 Requester: (S) RES

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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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)

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

Prepared by: Robert Wells Phone 907-761-3867
 Division: Agriculture Date/Time 1-Apr-02
 Approved by: Pat Pourchot Date 2-Apr-02
 Agency: Natural Resources

ALASKA STATE LEGISLATURE



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Juneau, Alaska 99801-1182
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SENATOR LYDA GREEN
SENATE DISTRICT N

SPONSOR STATEMENT

SB 354

“An Act relating to the prices paid by milk processing plants to suppliers of fluid milk.”

SB 354 will help dairy farmers receive fair pricing for the milk they supply to processing plants. Milk pricing has become fairly complex in today's marketplace and is based on a combination of factors including protein, butterfat, non-fat solids and bacteria content of the product. Milk fat, because it is used in high-value products such as ice cream, is more valuable to the processor.

Farmers should be encouraged to manage their herds for higher milk fat content. In Alaska, if the fat content of a particular dairy farmer's milk drops below a rate established by the processor, the creamery reduces the amount the farmer is paid. On the other hand, if the fat content rises above the established rate, the creamery does not increase the payment to the farmer.

In the Lower 48, federal and state laws have devised a system of milk marketing orders which guarantee the farmer gets a fair price for the milk he produced. Milk fat content is an important part of those marketing orders and, for example, when Matanuska Maid purchases bulk milk (from other states or from Canada) for its processing plant in Anchorage, the percentage of milk fat is a consideration.

SB 354 simply injects this fairness into the milk marketplace in Alaska by stipulating that if a milk processor opts to penalize a dairy farmer for low milk fat content, it must also reward those farmers whose product has a high milk fat content.



Reissue Date:
January 1, 2001

**To: All Matanuska/Susitna Area Producers Selling Milk to
Matanuska Maid Dairy**

Subject: Milk Quality Program

This notice defines the current policies concerning quality bonus, butterfat, antibiotics and added water.

QUALITY BONUS

Every pickup at producing farms will be tested for bacteria using both Standard Plate Count and Coliform Count methods. We will discard the highest and lowest test results of both SPC and Coliform testing during each semi-monthly pay period and your quality performance will be measured on the arithmetic average of the remaining tests during the half-month period.

Quality Bonus payments for milk will be as follows:

1. Twenty-five cents (\$0.25) per cwt bonus if your SPC averages 20,000 or under AND your Coliform Count averages 200 or under.
2. Fifty cents (\$0.50) per cwt total bonus if your SPC averages 15,000 or under AND your Coliform Count averages 150 or under.
3. Seventy-five cents (\$0.75) per cwt total bonus if your SPC averages 10,000 or under AND your Coliform Count averages 100 or under.
4. One dollar (\$1.00) per cwt total bonus if your SPC averages 6,000 or under AND your Coliform Count averages 50 or under.

The Quality Bonus is available only to full-time producers who supply us with raw milk through a complete semi-monthly pay period. A new producer will be eligible at the start of the first regular pay period after he/she is on a regularly scheduled daily or every other day pickup.

In addition to the quality bonus program, we have established a minimum acceptable bacterial standard for Grade A milk purchased by Matanuska Maid. That minimum acceptable standard is 70,000 Standard Plate Count and/or 750 Coliform Count. As with the Quality Bonus testing, we will drop the high and low test, each pay period, and quality will be measured by the arithmetic average of the remaining tests.

We will make the following deductions from our base price for Grade A raw milk if the minimum acceptable standard is not met during a pay period:

1. Fifty cents (\$0.50) per cwt deduction if your SPC averages over 85,000 OR if your Coliform Count averages over 1,000.
2. One dollar (\$1.00) per cwt deduction if your SPC averages over 100,000 OR your Coliform Count averages over 1,500.

In addition, if a producer's average count is in excess of 70,000 SPC or 750 Coliform through two consecutive pay periods, that producer's milk will be refused by Matanuska Maid until there has been sufficient improvement at the farm to assure us continued milk quality.

Raw milk quality is a must for Matanuska Maid to be able to produce extended shelf-life products. The lower the bacteria and coliform counts in the raw milk, the longer the product will retain its integrity, and the less chance of an off-flavor product. We are constantly striving, with good results, to improve finished product quality. Unfortunately, even though we can pasteurize the bacterial load from the milk, any off-flavor imparted or other negative conditions caused by high pre-pasteurization counts cannot be eliminated.

We hope to see every producer consistently earn the \$1.00 per cwt Quality Bonus. It is our intent to provide assistance with working a quality problem as long as we see sincere desire at the farm to improve quality.

This Quality Bonus Plan has been in effect since April 1, 1986.

BUTTERFATS

The base price for Grade A milk with 3.3% or higher butterfat content currently is \$19.75 per cwt FOB your farm. We will assess a penalty for each 1/10th of 1% butterfat content under 3.2%. The charge will be based on the market cost of butterfat, FOB Anchorage, from the previous month's USDA Market Report. We will discard the highest and lowest butterfat tests each pay period and calculate butterfat content for the period by the arithmetic average of the remaining tests.

This Butterfat Plan has been in effect since October 1, 1985.

ANTIBIOTICS/INHIBITORS

In order to provide maximum assurance that our raw milk supply is free from antibiotics/inhibitors and to provide incentive to producers to prevent pickup of contamination milk:

It will be the producer's responsibility to prevent antibiotic/inhibitor-contaminated milk from being loaded into the transport tanker at the farm that would contaminate milk from other farms. If you suspect a mistake has been made at your farm, you must not let your milk be picked up until it has been tested. If you do not already have the equipment and training to do your own testing, we will make the equipment available to you at cost.

If your milk tests positive for antibiotic/inhibitor content at the farm, and we have verified your test either through our lab or the state lab in Palmer, the contaminated milk must be dumped. The milk transport driver or telephone agreement with management at the plant can provide the record for us of the quantity to be dumped. Not to exceed once in six months, we will pay one half the current base price per cwt for milk that you dumped if such a mistake occurs and you catch it before it contaminates other milk.

In the event you do ship antibiotic/inhibitor-contaminated milk, and we discover it through routine tests run at our lab, the following penalties will be assessed:

1. You will not be paid for your contaminated milk.
2. You will be charged for the freight we pay on your contaminated milk.
3. You will be charged our cost, including freight, on any other producer's milk that has been contaminated by your milk in the transport vehicle. It is not our intent that milk from a single producer be transported in more than one trailer so the maximum quantity that such a mistake can contaminate and be a producer liability is one 45,000 lb. (approximate) trailer load.
4. You will not be eligible for Quality Bonus payment for the half-month pay period during which you shipped antibiotic-contaminated milk. Conversely, if you do have a mistake that you catch and do not ship per the intent of this program, your uncontaminated shipments during that pay period will not be disqualified from the Quality Bonus Program.

We sincerely hope you never have an accidental antibiotic contamination. If you should, we trust you will be able to avoid the major mistake of shipping it. We sample from each farm and test each trailer load before combining it with other milk. None of us can afford to risk antibiotics in our product.

We'll do everything we reasonably can to work with you if you should have an antibiotic/inhibitor problem - or problems of any kind.

This Antibiotic Plan has been in effect since October 1, 1985.

ADDED WATER

The legal definition for Grade A raw milk includes the following requirements:

- Butterfat 3.25% minimum by weight
- Milk non-fat solids 8.25% minimum by weight
- Somatic cell count < 750,000 / ml.
- Standard Plate count < 100,000 / ml.
- Antibiotic/Inhibitor residue negative
- Added water 0%

Because of herd and testing variations, the State of Alaska recognizes 0-3%-added water by test to be acceptable. Should we see regular incidents of added water, we will reduce the milk weight by the percentage of added water over 3%. Additionally, DEC routinely monitors for added water. Consistent results over 3% will trigger the DEC into a compliance mode that possibly could include suspension of the Grade A permit.

This Added Water Plan has been in effect since October 1, 1985.

If you have any questions about these programs, please contact Lab Technician Arethia Hudson or Plant Manager Gary Nel: on.

Regular lab hours are Sunday - Thursday, 9:00 a.m. - 6:00 p.m.

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: SB 356
 Bill Version: _____
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
 Title "An Act relating to the authority of the Dept. of BRU Multiple
Env. Conservation to issue general and individual permits. . ." Component Multiple
 Sponsor Senate State affairs Committee
 Requester 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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (f 2002) 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)

Prepared by: Mary Siroky Phone 465-5312
 Division Statewide Public Services Date/Time 3/29/02 12:00 AM
 Approved by: Kurt Fredriksson, Deputy Commissioner Date 3/29/2002
 Agency Department of Environmental Conservation

Alaska State Legislature

SENATOR
GENE THERRIAULT

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Senate

While in session
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Senate District Q

WHAT ARE GENERAL PERMITS?

- General permits (GPs) apply to a class or group of operations that are similar—from an operational and waste discharge perspective. GPs contain specific performance or operational requirements, and can be applied statewide or limited to a specific geographic or environmental setting. Some GPs incorporate site-specific requirements relevant to a location or receiving environment.
- GPs go through public review at the time they are proposed. In most cases, operators who wish to discharge or dispose of waste under the terms of a GP are required to receive written authorization from DEC in order to proceed.
- GPs are widely used by both federal and state agencies. DEC, like most other states, has used GPs for years, however state law regarding discharges of wastewater and solid waste does not specify procedures for general permits.

WHAT TYPE OF OPERATION USES A GENERAL PERMIT?

- Remote camps and lodges
- Fish hatcheries
- Sewage treatment for communities with fewer than 1,000 people
- Oil well drilling operations

WHY ARE GENERAL PERMITS VALUABLE?

- GPs allow DEC to avoid duplication by creating one permit instead of multiple identical permits for activities where the risk and impact to the environment is either low or can be easily mitigated with common treatment practices.
- GPs save DEC and the regulated community time and money while accomplishing the goal of environmental protection. GPs go hand in hand with the permit fees structure created by the Legislature in 1999 with HB361 by allowing the resource agencies to establish fixed fees for GPs.
- GPs allow DEC to allocate more resources to field site visits and inspections — the agency's best opportunity to make sure the permits are working as designed and that the public health and environment are being protected.

WHAT DOES SB 356 ACCOMPLISH?

- The bill establishes procedures for developing and issuing GPs in DEC's water and solid waste divisions.
- The bill requires clear public access to information about which facilities and activities are operating under the terms of a GP.



Resource Development Council for Alaska, Inc.

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(907) 276-0700 Fax: (907) 276-3887 e-mail: Resources@akrdc.org

Founded 1975

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Thaddeus J. Owens

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April 2, 2002

Senator John Torgerson
Chair, Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

Re: SB356 — General Permit for Water/Waste Disposal

Dear Senator Torgerson:

On behalf of the Resource Development Council for Alaska, Inc. (RDC), I am writing to express our strong support for SB356 — General Permit for Water/Waste Disposal. This legislation affirms the Department of Environmental Conservation's (DEC) authority to issue general permits for water and solid waste disposal. Essentially a housekeeping measure, this bill demonstrates the Legislature's commitment to permit streamlining and strikes a balance between environmental protection and economic and community development.

As you know, RDC is a private, membership-funded, non-profit trade association. Our members include companies from the mining, timber, oil and gas, tourism and fishing industries. Also within our ranks are local communities, Native corporations, organized labor and industry support firms. Our mission is to expand Alaska's economic base through the responsible development of the state's natural resources.

General permits (GPs) are widely used by both federal and state agencies. DEC currently issues GPs for fish hatcheries, remote camps and lodges, sewage treatment facilities in small communities and oil and gas drilling operations among other activities. GPs allow DEC to avoid duplication by creating one permit, instead of multiple identical permits, for activities where the risk and impact to the environment is either low or can be easily mitigated with common treatment practices. GPs save DEC and the regulated community time and money while accomplishing the goal of environmental protection.

In addition, GPs go hand in hand with the extremely successful permit fees structure created by the Legislature in 1999 with HB361— Fees for State Services. An important aspect of HB361 was the support it provided the state's resource agencies in establishing fixed fees for GPs. Both the resources agencies and the regulated community have fared well under the new permit fees structure and SB356 is an important step toward ensuring its continued success.

RDC appreciates your consideration of this issue and we urge the Senate Resources Committee to move SB356 forward. Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Tadd Owens".

Tadd Owens
Executive Director

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF AIR AND WATER QUALITY DIRECTOR'S OFFICE

TONY KNOWLES, GOVERNOR

555 Cordova Street
Anchorage, AK 99501-2617
PHONE: (907) 269-7634
FAX: (907) 269-3098
<http://www.state.ak.us/dec/>

April 2, 2002

The Honorable John Torgerson
Chairman, Senate Resources Committee
State Capitol
Room 427
Juneau, AK 99801-1182

Re: Senate Bill 356

Dear Senator Torgerson:

At the request of the Senate State Affairs Committee, Department of Environmental Conservation is providing the following information to the Senate Resources Committee regarding SB 356, an act clarifying DEC's authority to issue general permits for certain solid waste disposal and wastewater discharges.

General permits are widely used by the Environmental Protection Agency and U.S. Army Corp of Engineers in implementing the federal Clean Water Act and other federal laws. They are also commonly used by most, if not all, states, including Alaska. However, existing state law does not specify the procedures for issuing general permits. Our understanding is that SB 356 seeks to clarify that issue, following on the passage of HB 361 two years ago which sets permit fees for individual and general permits.

General permits are used for similar operations where the discharge effluent or solid waste can and should be managed in the same way at each location. They avoid duplication of work by creating one permit instead of multiple identical permits. This allows the department to use the time saved in permit review to enhance our field presence. Field site visits and inspections are the best opportunity to make sure permits are working as designed. In short, general permits save money and time while still accomplishing the environmental and public health protection goals.

In 1999, the department sponsored a work group to provide recommendations on how to rebuild DEC's wastewater permitting functions following budget cuts. A majority of the work group members recommended that general permits should be used where feasible and practical. A few members expressed reservations, preferring individual permits.

If the legislature is interested in clarifying the procedures for the issuance of general permits, it is important that two key points be addressed. First, general permits, in our view, are appropriate only when the risk and impact to the environment is either low or can be readily and fully mitigated with common treatment practices. General permit use should not be expanded to activities that pose a potential for serious impact or require rigorous treatment.

Clean Air, Clean Water

The Honorable John Torgerson

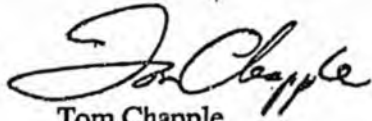
-2-

April 2, 2002

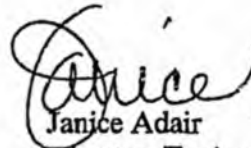
Second, the procedures for developing and issuing general permits set out in statute, must describe how the public can comment on a proposed general permit and must provide for a reasonable dissemination of information on which facilities or activities are operating under a general permit.

We thank you for considering our comments and would be pleased to answer any questions from the Committee.

Sincerely,



Tom Chapple
Director, Air & Water Quality



Janice Adair
Director, Environmental Health



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic #202, Anchorage, Alaska 99503 • (907) 563-9279 • FAX (907) 563-9225 • www.alaskaminers.org

April 2, 2002

Honorable Gene Therriault
Alaska State Senate
State Capitol
Juneau, AK 99801

RE: Senate Bill 356, General Permits

Dear Senator Therriault,

Thank you for the opportunity to comment on Senate Bill 356 regarding General Permits issued by the Department of Environmental Conservation. We support this bill and urge its passage at the earliest possible date.

SB-356 will establish authority in statute regarding the promulgation of General Permits for solid and water discharges. This bill will ensure that there is no question that DEC has the proper legal basis for issuing General Permits.

General Permits are important for both the mining industry and the DEC. GPs allow industry, the public and the agency to establish a permit that can be used by many different operations without the time and cost of individual permits. If the miner or explorationist can accept the terms of the GP, he can obtain the permit in short order. GPs reduce uncertainty because the miner knows from the start exactly what the terms will be and can utilize these during planning and mine design. GPs also ensure equal treatment for all operators.

GPs are also important for controlling costs while the DEC works to meet its regulatory requirements. It is much more cost effective to establish a GP that can then be used for several years, versus issuing individual permits to each operator.

Thank you again for the opportunity to comment on this bill and we urge its passage at the earliest possible date.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Commissioner Michelle Brown

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF AIR AND WATER QUALITY DIRECTOR'S OFFICE

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April 2, 2002

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In 1999, the department sponsored a work group to provide recommendations on how to rebuild DEC's wastewater permitting functions following budget cuts. A majority of the work group members recommended that general permits should be used where feasible and practical. A few members expressed reservations, preferring individual permits.

If the legislature is interested in clarifying the procedures for the issuance of general permits, it is important that two key points be addressed. First, general permits, in our view, are appropriate only when the risk and impact to the environment is either low or can be readily and fully mitigated with common treatment practices. General permit use should not be expanded to activities that pose a potential for serious impact or require rigorous treatment.

Clean Air, Clean Water

The Honorable John Torgerson

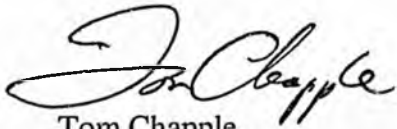
-2-

April 2, 2002

Second, the procedures for developing and issuing general permits set out in statute, must describe how the public can comment on a proposed general permit and must provide for a reasonable dissemination of information on which facilities or activities are operating under a general permit.

We thank you for considering our comments and would be pleased to answer any questions from the Committee.

Sincerely,



Tom Chapple
Director, Air & Water Quality



Janice Adair
Director, Environmental Health

SB

360

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 360
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DNR
 Title Alaska Natural Gas Project Act BRU Oil & Gas Development
 Component Gas Pipeline Office
 Sponsor Senate Resources
 Requester Torgerson Component No. 2594

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	25.0					
Travel	5.0					
Contractual						
Supplies	2.0					
Equipment	1.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTA' OPERATING	33.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	33.0					
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	33.0	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						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Gas Pipeline Office (GPO) would likely not have a role in administering any portion of Sections 1-4 of SB 360 beyond consultation as requested by the commissioner.

For Section 5, the GPO would likely: receive and review plans and studies developed pursuant to the proposed AS 38.35.240(a); receive and review the certificates by the commissioner of labor and workforce development and the Regulatory Commission of Alaska (RCA) developed pursuant to the proposed AS 38.35.240(b)and(c); work with the Division of Oil and Gas, the RCA, the Department of Law, and the applicant to craft and negotiate lease stipulations that would satisfy the proposed AS 38.35.240(d); work with the Division of Governmental Coordination, the applicant, and others to determine appropriate phasing of project under the proposed AS 38.35.245.

Prepared by: William G. Britt, Jr., Gas Pipeline Coordinator Phone 907-334-2363
 Division Gas Pipeline Office Date/Time 4/15/02 10:37 AM
 Approved by: Pat Pourchot Date 4/15/2002
 Agency Natural Resources

FISCAL NOTE

**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

BILL NO. SB 360

ANALYSIS CONTINUATION

All of these tasks are beyond those that presently exist in adjudicating a right-of-way (ROW) lease under the ROW Leasing Act and other existing policies and procedures.

The GPO would likely not have a role in administering any portion of Sections 6-10 and 12-14 of SB 360 beyond consultation as requested by the commissioner.

For Section 11, the GPO would work with the Division of Governmental Coordination, the applicant, and others to determine appropriate phasing of project under the proposed AS 46.40.094(d). This work would be essentially the same as that necessary under the proposed AS 38.35.245.

The estimate above is based on the assumptions that the majority of the work identified would be performed by a Natural Resource Manager III with supervision by the Gas Pipeline Coordinator, and that the work would take approximately 0.25 of that position during FY03. Minimal travel, supplies, and equipment associated with the effort are included. The cost of these efforts should be reimbursable under AS 38.35.140(b).

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 360
 () 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: Alaska Natural Gas Project Act
 Sponsor: Senate Resources
 Requester: Senate Resources

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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	165.0	165.0				
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CHANGE IN REVENUES ()			*See Below			
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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 would authorize DNR to waive, reduce, or defer royalties on North Slope gas if: 1) an applicant provides clear and convincing evidence that royalty relief will make an uneconomic project economic; 2) the applicant and DNR Commissioner have entered into an agreement to begin pipeline construction by a certain date; 3) DNR has considered any other financial incentives granted by other jurisdictions; 4) the applicant has obtained certain certificates including certificates from the Dept. of Labor and the Regulatory Commission of Alaska; and 5) the Legislature approves the royalty relief.

Continued on next page.

Prepared by: Bonnie Robson Phone 269-8800
 Division Oil and Gas Date/Time 12-Apr-02
 Approved by: Pat Pourchot Date 15-Apr-02
 Agency Natural Resources

ANALYSIS: (continued)

* It is impossible to determine at this time whether the state will waive, reduce, or defer any royalties on North Slope gas. However, because waiver, reduction, and deferral are only authorized if and to the extent necessary to make an uneconomic project economic, any waiver, reduction, or deferral should not result in the loss of royalties that would have otherwise been received. Otherwise stated, if there is no project and hence no marketing of North Slope gas, no royalties will be paid; hence, if royalty relief enables a project, any royalties received from that project--even reduced royalties--would exceed royalties received in the absence of a project. The only danger exists in granting royalty relief where none is actually needed. In that case, the fiscal impact could be substantial. For example, if royalties are waived when they would otherwise be \$1 per mcf, over the course of 20 years the state could lose up to \$3.65 billion. However, the bill contains safeguards designed to minimize the risk of unnecessary waiver of royalties.

Unfortunately, the safeguards are not self-executing. If an applicant seeks royalty relief, DNR will need to obtain access to and review extensive documentation pertaining to the economics of the project, as well as financial incentives being offered by other jurisdictions, 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 at an estimated cost of \$250,000 to assure that royalty relief is kept to the bare minimum necessary. Additionally, DO&G estimates that \$80,000 would be needed for staff and expert travel related expenses (\$2,500 per trip x 4 people x 4 trips x 2 years = \$80,000). These sums could be appropriated by the legislature, or SB 360 could be modified to allow recoupment of at least the expert expenses from the applicant(s).

The Division has spread the capital costs identified above (\$250,000 + \$80,000 = \$330,000) over two fiscal years to reflect not only the duration of investigation and negotiations contemplated, but also that a preliminary investigation in a single year might establish that royalty relief is not needed to make an uneconomic project economic, in which case a second year of expenses might be avoided.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 360
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Alaska Natural Gas Project Act BRU Regulatory Commission of Alaska (399)
 Component Regulatory Commission of Alaska
 Sponsor Senate Resources
 Requester Senate Resources Component No. 2417

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						
Travel						
Contractual		100.0	100.0			
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	100.0	100.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1141 Regulatory Commission of Alaska Receipts		100.0	100.0			
TOTAL	0.0	100.0	100.0	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)

Assuming that the project gets underway in FY04, \$100.0 in contractual monies will be needed for a contractual Administrative Law Judge to conduct the required public hearing(s), and for technical support to provide additional engineering and economic expertise in evaluating the application. The RCA's budget is funded through the Regulatory Cost Charge (RCC) and direct charge mechanisms. No general funds are allocated for support of the agency.

Prepared by: Dawn Bishop-Kleweno, Special Assistant Phone (907) 276-6222
 Division Regulatory Commission of Alaska Date/Time 4/12/02 5:02 PM
 Approved by: Deborah B. Sedwick, Commissioner Date 4/12/2002
 Agency Department of Community & Economic Development

FISCAL NOTE

**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: SB 360
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Alaska Natural Gas Project BRU: Office of the Commissioner
 Component: Commissioner's Office
 Sponsor: Senate Resources
 Requester: Senate Resources Component Number: 340

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						
Travel	3.0					
Contractual	21.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	24.5	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	24.5	0.0	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 FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This act would require the department to hold at least one public hearing prior to making a finding regarding if an application for a natural gas project ensures employment of Alaskans and the use of Alaskan firms in the construction and operation of the project. The department proposes to hold public hearings in Anchorage, Fairbanks and Juneau as well as a statewide teleconference. Costs associated with this bill include travel to attend the hearings, the costs to advertise and hold the hearings and costs to obtain legal advice regarding the finding.

Prepared by: Remond Henderson, Director Phone: 465-2720
 Division: Administrative Services Date/Time: 4/12/02 4:39 PM
 Approved by: Ed Flanagan, Commissioner Date: 04/12/02
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 360
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Alaska Natural Gas Project Act BRU Administration & Support
 Component Office of the Commissioner
 Sponsor Senate Resources
 Requester Senate Resources 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						
Travel						
Contractual	260.0	160.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	260.0	160.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	260.0	160.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	260.0	160.0	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 Page 2 for analysis.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 4/15/02 11:52 AM
 Approved by: Wilson Condon, Commissioner Date 4/15/2002
 Agency Department of Revenue

SB 360 - Department of Revenue

Alaska Railroad Project Bonds

Sections 6 through 9 of this legislation authorize the Alaska Railroad Corporation to issue up to \$18 billion in bonds for construction of a natural gas pipeline to commercialize North Slope natural gas resources. Because of the importance of this project to the state's public finances, the complexity of the bond issuance and the large amount of bonds to be sold, it is important that the Railroad Corporation receive expert advice from the beginning. It also is important that the Executive Branch be involved in the discussions to represent the state's independent interests.

To meet the needs stated above, the department proposes to transfer to the Railroad Corporation, via a Reimbursable Services Agreement, up to \$50,000 per year for the first two years to ensure that the corporation can contract with a financial adviser and bond counsel for this project. The Commissioner's Office also requests \$10,000 per year to cover the expenses of contracting with the state's financial adviser and bond counsel to make certain that the state's own interests, separate from those of the Railroad Corporation, are adequately considered and protected.

Property Taxes

Section 10 of this legislation authorizes the Commissioner of Revenue to propose a waiver, reduction or deferral in property taxes owed under AS 43.56 on an Alaska North Slope Natural Gas Project, but only under specific conditions:

- The project applicant has obtained all necessary certificates under AS 38.35.240.
- The project applicant must show, "by clear and convincing evidence," that the project would not be economically feasible without the property tax relief.
- The applicant and Commissioner of Revenue must enter into an agreement to begin construction of the project by a date certain.
- The Commissioner shall consult with any municipality that could be affected by the property tax relief allowed under this section, and shall prepare a report on the socioeconomic effects of the project on the affected municipalities.
- And any waiver, reduction or deferral of taxes under this section is not effective until approved by the legislature.

For purposes of this fiscal note, the department assumes a project applicant will fulfill the requirements of this legislation sometime in FY03, requiring the Commissioner to begin reviewing the need for property tax relief, preparing the socioeconomic studies, and then negotiating property tax relief with the project applicant. The \$200,000 in requested contractual funds in FY03 and \$100,000 in FY04 would help pay for the community impact studies, the economic feasible review (in conjunction with the Department of Natural Resources), and the financial and tax advisers needed to prepare recommendations for the Legislature.

ALASKA STATE LEGISLATURE

Chairman: Senator John Torgerson
Vice Chair: Senator Gary Wilken
Senator Rick Halford
Senator Ben Stevens
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln



Official Business

State Capitol, Room 427
Juneau, AK 99801
Phone: (907) 465-4907
Fax: (907) 465-4779

SENATE RESOURCES COMMITTEE

SPONSOR STATEMENT

SB 360

ALASKA NATURAL GAS PROJECT ACT

SB 360 seeks to expedite the construction and operation of an Alaska gas line from the North Slope south through Canada to the lower 48 or to Alaska tidewater for shipment as LNG ("project"). It provides fiscal incentives and permitting benefits to those project sponsors who are willing to work with the State of Alaska to ensure: (1) opportunities for employment of Alaskans and Alaskan businesses are maximized; (2) potential in-state demand for gas from the project can be satisfied; and (3) competition in the exploration and development of northern Alaska gas is promoted.

Currently, a project sponsor for a pipeline Right-of-Way (ROW) lease to construct a pipeline from the North Slope can proceed under the provisions of the Alaska Pipeline Right-of-Way Leasing Act. However, those provisions and other provisions of Alaska law will be modified for a sponsor who agrees to do the following:

1. Train and hire Alaskans and use Alaska businesses in the construction and operation of the Project consistent with constitutional provisions.
2. Complete a study on in-state demand and submit a plan that must be approved by the RCA to meet that demand.
3. Complete a study on natural gas resources in northern Alaska and submit a plan that must be approved by the RCA to maximize access to the Project so that competition in the Alaska oil and gas industry is promoted.
4. Update those demand and resources studies ten years after construction of the Project starts.
5. Agree to provisions in the ROW lease providing for in-state use of royalty gas and expansion of the Project.

If a project sponsor gets certifications from the appropriate agencies that the sponsor will or has done all of the above, the sponsor gets the following expeditious treatment in obtaining authorizations to construct and operate the Project:

1. The Project may be phased under both the ROW leasing act and the Coastal Zone Management act.
2. All agencies must give full cooperation to the DNR commissioner on Project matters by providing information and by issuing any necessary authorizations at the earliest practicable date, on an expedited basis, and with precedence over any like matter pending before the agency.
3. Any authorization may be amended as necessary to further the purposes of the Act.
4. If the governor finds a provision of law that impedes the Project, he may propose a waiver of law.
5. Any decisions by the commissioner and other agencies shall be subject to limited judicial review only and such claims must be brought within 60 days.
6. The DOR commissioner may waive, reduce, or defer all or a portion of the property tax payments relating to the project and the DNR commissioner can do the same for the royalty payments. The commissioners can only offer these incentives if;
 - a) the project would not otherwise be economically feasible,
 - b) an agreement is made to begin construction by a certain date, and
 - c) the legislature approves.
7. The Alaska Railroad Corporation may provide tax exempt financing for the project

Any project sponsor can proceed to apply for a ROW lease under the current Alaska Pipeline Right-of-Way Leasing Act without obtaining the certificates outlined in this bill. They will not, however, be eligible for any of the incentives this legislation offers.

ALASKA STATE LEGISLATURE

Chairman: Senator John Torgerson
Vice Chair: Senator Gary Wilken
Senator Rick Halford
Senator Ben Stevens
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln



Official Business

State Capitol, Room 427
Juneau, AK 99801
Phone: (907) 465-4907
Fax: (907) 465-4779

SENATE RESOURCES COMMITTEE

SB 360 SECTIONAL ANALYSIS

General Provisions – Sections 1-3

Section 1. Short Title.

The Act is the "Alaska Natural Gas Project Act."

Section 2. Findings Regarding Amendments To The Right-Of-Way Leasing Act.

This section sets forth legislative findings regarding:

- (1) The various pipeline proposals;
- (2) The benefits to Alaska from in-state use of gas and from hiring Alaskans and contracting with Alaskan businesses to work on a pipeline; and
- (3) The need for competition in the upstream portion of the Alaska gas industry.

Section 3. Findings Regarding Amendments To The Alaska Railroad Corporation Act.

This section sets forth legislative findings regarding the appropriateness of the Alaska Railroad Corporation's issuance of financing to benefit an Alaska natural gas project.

Alaska Land Act Provisions (AS 38.05) – Section 4

Section 4. Changes to Lease Provisions and Royalty Reduction.

If an applicant/lessee obtains the certificates required by AS 38.35.240, then the DNR commissioner may modify any provision in the oil and gas lease that impedes the project. Additionally, the commissioner may reduce the royalty if:

- (1) The commissioner considers what incentives other jurisdictions are providing to the project;
- (2) The applicant demonstrates by clear and convincing evidence that the project would not otherwise be economically feasible; and
- (3) The applicant has agreed to a date certain to begin construction of the project. However, the royalty reduction would only be effective if approved by the legislature.

Right-of-Way Leasing Act Provisions (AS 38.35) – Section 5

Section 5. Purpose of the Act, Required Plans and Agreements, and Special Provisions for an Approved Project

AS 38.35.235 sets forth the Act's purposes. They are to:

- (1) Expedite a project consistent with ensuring that the people of Alaska get the maximum benefits possible;
- (2) Ensure access to the project by oil and gas companies that do not have an ownership interest in the project and to promote competition in the exploration and development of northern Alaska natural gas;
- (3) Ensure access to the state's royalty gas for Alaskans and Alaskan businesses; and
- (4) Ensure employment of Alaskans and the use of Alaska firms in connection with the project.

AS 38.35.240 describes the actions that an applicant must take before the applicant is eligible for the benefits provided by the Act. If the applicant's actions met certain standards, then the applicable agency will issue a certificate of approval. To expedite the process, the agency must conduct a hearing and act within 90 days of receiving a request for a certificate. The required actions are:

- (1) The applicant must submit a plan showing how the applicant will use best efforts to train and employ state residents and, whenever feasible, will contract with firms in the state in connection with the project;
- (2) The applicant must study in-state demand and submit a plan showing how the plan will maximize the opportunities for access to state royalty gas transported in the project;
- (3) The applicant must study potential gas resources in northern Alaska and submit a plan showing how the applicant's plan and design of the

project will maximize the opportunities for access to initial and expansion capacity on the project;

- (4) The applicant must update the demand and supply studies ten years after construction of the project starts;
- (5) The applicant must agree to lease stipulations that:
 - (a) The applicant will provide access to the state to ship the state's royalty gas for use within the state and will use best efforts to get appropriate authorizations to effectuate such shipments;
 - (b) The applicant must seek expansion of the pipeline from the appropriate federal agency if the Regulatory Commission of Alaska determines that expansion of the pipeline is in the best interests of the state and that other criteria are met.

AS 38.35.245 provides that if an applicant/lessee obtains the certificates required by AS 38.35.240, then the DNR commissioner may phase the lease application process.

AS 38.35.250 provides that if an applicant/lessee obtains the certificates required by AS 38.35.240, then all other agencies involved in the permitting of the project must give their full cooperation to the DNR commissioner. They must do this by:

- (1) Assembling and furnishing all requested information;
- (2) Issue necessary authorizations at the earliest practicable date, on an expedited basis, and, notwithstanding any other provision of law, with precedence over any like matter;
- (3) Amend any authorization as necessary except changing the basic nature or general route or otherwise impairing the expeditious construction of the project.

AS 38.35.255 provides that the governor may ask for a waiver of law if any applicable provision of law constitutes an obstacle to the expeditious construction of the project.

AS 38.35.257 provides that if an applicant/lessee has obtained the certificates required by AS 38.35.240, then judicial review of decisions made or actions taken under the Act is limited to claims that can be brought under AS 38.35.200 (b) and such claims must be brought within 60 days after the decision or act.

AS 38.35.259 defines various terms used throughout the Act.

Alaska Railroad Corporation Provisions (AS 42.40) – Sec. 6 - 9

Section 6. Powers of the Alaska Railroad.

This section amends the general powers of the Alaska Railroad Corporation to give it authority to provide financing for the project within and outside the state whether or not the Railroad owns the project.

Section 7. Public Purpose of Bonds.

This section provides that bonds issued by the Railroad for the project are for an essential public and governmental purpose.

Section 8. Payment of Bonds.

This section provides that before issuing bonds for the project, the Railroad must enter into an agreement to ensure that the bond's principal and interest will be timely paid, reserves will be sufficient for the required payments, and all costs relating to the bonds will be paid by an entity other than the corporation.

Section 9. Issuance of Bonds.

This section provides that if an applicant/lessee obtains the certificates required by AS 38.35.240, then the Railroad may issue bonds to an applicant to finance the construction of the project and related facilities. The maximum amount of the bonds is \$18,000,000 and they may be issued in several issuances.

Oil and Gas Taxes Provisions (AS 43.56) – Section 10

Section 10. Reduction of Taxes.

This section provides that if an applicant/lessee obtains the certificates required by AS 38.35.240, then the DOR commissioner may reduce taxes levied by the state or municipality if:

1. The commissioner has consulted with any affected municipality, prepares a report on socioeconomic effects of the project on any affected municipality, and has considered whether other jurisdictions have granted incentives;

2. The applicant demonstrates by clear and convincing evidence that the project would not otherwise be economically feasible; and
3. The applicant has agreed to a date certain to begin construction of the project.

However, any tax reduction would only be effective if approved by the legislature.

Alaska Coastal Management Program Provision (AS 46.40) – Section 11

Section 11. Phasing under the Coastal Management Program.

This section provides that if an applicant/lessee obtains the certificates required by AS 38.35.240, then any agency responsible for the consistency determination for a project may phase review of the project.

Uncodified Provisions – Sections 12 – 14

Section 12. Limitation of Certain Actions.

This section provides that constitutional challenges to this Act must be brought within 60 days after the Act's effective date.

Section 13. Legislative Authorization and Approval.

This section provides that, by passing this Act, the legislature is granting the approval required by AS 42.40.285 for the Railroad to issue bonds to the project.

Section 14. Effective Date.

The Act takes effect immediately.



**Testimony on Senate Bill 360
Before the Senate Resources Committee
April 15, 2002**

**Mark Hanley
Alaska Public Affairs Manager
Anadarko Petroleum Corporation**

Chairman Torgerson, Anadarko would like to express our thanks for the time you have taken and the effort you have made to understand the issues surrounding north slope gas commercialization. We would also like to thank you for the input you gave to Congress on behalf of the Joint Committee on Natural Gas regarding the energy bill, particularly on promoting exploration by encouraging fair and reasonable pipeline access for gas from currently undiscovered reserves.

As many of you are aware, Anadarko is one of the largest independent oil and gas exploration and production companies in the world. We have been very active in Alaska over the past few years and we have one of the largest portfolios of exploration acreage in Alaska. We are excited about the gas potential of a large portion of our exploration acreage, particularly in the Foothills region.

The North Slope has tremendous gas potential in addition to already discovered reserves. Last year's Foothills area wide lease sale saw an all time record for the number of acres leased at a single sale. In addition to Anadarko and EnCana (formerly Alberta Energy), the Foothills sale attracted companies like Unocal, Chevron, Burlington Resources and Petro-Canada, who are also interested in gas exploration in Alaska. The United States Geological Survey, in a 1995 report, estimated that undiscovered gas reserves on Alaska's north slope could be more than double the already identified gas reserves of about 33 trillion cubic feet. In the Foothills area, wells with gas shows were drilled years ago while looking for oil and we are completing our second season of seismic work trying to identify the best gas prospects.

Typically in exploration for oil and gas, the greatest risk is in finding commercial reserves. In the case of North Slope gas, at least as great a risk is actually in obtaining fair and reasonable pipeline access. Without reasonable assurance that gas can be transported to market, explorers are unlikely to invest the considerable up front dollars to explore for something that can't be sold.

Similar to the energy legislation currently being considered in Congress, Senate Bill 360 encourages exploration competition and helps provide reasonable and fair pipeline access for "new" gas. We agree with purposes stated in the bill, which are "to ensure access to the project by oil and gas companies that do not have an ownership interest in the project on an equal and nondiscriminatory basis, and to promote competition in the exploration, development, and production of northern Alaska natural gas."

Anadarko and EnCana recently outbid three other proposals, in an effort to buy state royalty gas, which would help us acquire pipeline capacity. If our offer to buy royalty gas is eventually approved by the legislature, this, along with access provisions in SB 360, will encourage our continued investment in exploring for and developing North Slope gas.

Anadarko supports Senate Bill 360 because it helps provide fair and reasonable pipeline access, and it should help attract companies who are interested in investing in Alaskan gas exploration.

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 366
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Chitina Dip Net Fishery Permit Fee BRU Sport Fisheries
 Component Sport Fisheries
 Sponsor Senate Judiciary
 Requester Senate Resources Component No. 464

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						
Travel						
Contractual	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)

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

CHANGE IN REVENUES (1024 F&G)	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)
---	----------------	----------------	----------------	----------------	----------------	----------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1024 Fish and Game Fund	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)
TOTAL	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)	(115.9)

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)

For the past two years (2000 and 2001) the cost of a Chitina dip net fishing permit has been \$25.

- \$5 from each permit went to pay for site services including portable restrooms and garbage receptacles;
- \$2 from each permit went to pay for administration of the permit program and services; and
- \$18 from each permit went to the Chitina and Ahtna Corporations for guaranteed access on corporation lands by permit holders and eligible family members

Passage of SB 366 would reduce the cost of a Chitina dip net permit from \$25 to \$10.

Prepared by: Kelly Hepler, Director Phone 465-4180
 Division Sport Fish Date/Time 5/4/02 4:00 PM
 Approved by: Frank Rue, Commissioner Date 5/6/2002
 Agency Alaska Department of Fish and Game

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 366

ANALYSIS CONTINUATION

The average number of permits sold during 2000 and 2001 is 7,729. Funds generated from the sale of 7,729 permits totals \$193.2.

If the cost of a permit is reduced to \$10, the funds generated from the sale of 7,729 permits will be reduced by \$115.9.

The reduced revenues will not provide a funding level that allows for guaranteed access contracts for the corporation lands. All funds generated from the sale of the \$10 fishing permit will be transferred by RSA to the Department of Natural Resources (DNR), Division of Parks and Outdoor Recreation. DNR will use these funds to upgrade and expand the site services for fishery participants.

The passage of this legislation will result in a decrease of \$115.9 in revenue, and contractual expenditures will be reduced by a commensurate amount of \$115.9. There is no fiscal impact to the operation of the Division of Sport Fish.

ALASKA STATE LEGISLATURE

Sen. Robin Taylor, Chair
Sen. Dave Donley, Vice-Chair
Sen. John Cowdery
Sen. Gene Therriault
Sen. Johnny Ellis



State Capitol
Juneau, AK 99801-1182
(907) 465-3717
Fax: 465-3922

Senate Judiciary Committee

SPONSOR STATEMENT SB 366

"An Act relating to the fee for the Chitina dip net fishing permit; and providing for an effective date."

The Chitina Dip Net Fishery is the largest dip net fishery in the State of Alaska. It has experienced a number of problems in terms of ownership of access to the fishery. Last year, the legislature appropriated \$100,000 to survey lands in and near Chitina to determine public access points. The intent, then, and now, was to erase the ambiguity surrounding public and private ownership in an effort to rescind the trespass portion of the \$25 fee. It is our understanding that \$18 of the \$25 fee went to pay for trespass and the remainder would be used for services such as trash removal and waste disposal.

The survey of the state right of way along the Copper River has been completed on paper. In addition, the Department of Fish and Game has developed a brochure including a map of public and private ownership to assist fishers in determining public access points. Although DOT has not marked on the ground the places where the public can reach the river to dipnet without crossing private lands, that should be completed this Spring. It is, therefore, inappropriate to continue to charge \$25, when the purpose of the increased fee was to pay trespass fees, when it was thought any access to the fishery was over private land. That is not the case.

There is not another subsistence or personal use fishery in the state that charges a service fee for fishing. Services such as boat landing sites, trash removal and waste disposal are normally paid for from general funds, and a service fee is charged by DOT or DNT to offset costs to the State. Although it may be appropriate to charge what is basically a service fee, it should be reduced from the current \$25 to \$10, as the reduced amount would be more than adequate to cover the cost of services.

2001 Chitina Subsistence Fishery by Alaskan Resident City

Mailing address	# permits issued
AKIAECHAK	1
ANCHOR POINT	1
ANCHORAGE	2543
ANDERSON	2
AUKE BAY	1
BARROW	12
BETHEL	1
BIG LAKE	55
CANTWELL	1
CENTRAL	6
CHICKALOON	10
CHICKEN	1
CHITINA	9
CHUGIAK	188
CLEAR	5
COLDFOOT	1
COLLEGE	1
COOPER LANDING	1
COPPER CENTER	16
CORDOVA	2
DELTA JUNCTION	326
DENALI NATIONAL PARK	12
DENALI PARK	1
DOT LAKE	2
EAGLE	1
EAGLE RIVER	467
EIELSON	1
EIELSON AFB	192
ELMENDORF AFB	29
ESTER	62
FAIRBANKS	2456
FORT RICHARDSON	32
FORT WAINWRIGHT	30
FORT YUKON	3
FT WAINWRIGHT	125
GAKONA	1
GIRDWOOD	29
GLENNALLEN	29
HALIBUT COVE	1
HEALY	36
HOLY CROSS	2
HOMER	12
HOPE	1
HOUSTON	13
HUGHES	1
HUSLIA	1
INDIAN	7
JUNEAU	8
KAKE	1

2001 Chitina Subsistence Fishery by Alaskan Resident City

KASILOF	1
KENAI	4
KETCHIKAN	3
KIANA	1
KODIAK	1
KOTZEBUE	5
LAKE MINCHUMINA	1
MANLEY HOT SPRINGS	1
MCCARTHY	1
MENTASTA LAKE	1
METLAKATLA	1
MINTO	2
MOOSE PASS	3
NENANA	21
NIKISKI	4
NIKOLAEVSK	1
NINILCHIK	6
NOME	2
NOORVIK	1
NORTH POLE	716
NORTHWAY	1
PALMER	542
PAXSON	1
POINT LAY	1
SALCHA	54
SELDOVIA	2
SEWARD	9
SITKA	1
SLANA	1
SOLDOTNA	16
STERLING	2
SUTTON	36
TALKEETNA	25
TATITLEK	1
TENAKEE SPRINGS	1
TETLIN	1
TOK	24
TRAPPER CREEK	6
TWO RIVERS	26
VALDEZ	258
VENETIE	1
WAINWRIGHT	1
WARD COVE	1
WASILLA	828
WILLOW	55



Alaska Outdoor Council

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Fairbanks, AK 99707-3902
Ph: (907) 455-4262 / FAX: 455-6447
outdoor@polarnet.com
www.alaskaoutdoorcouncil.org

RECEIVED
MAY 6 2002
Ans'd.....

Board of Directors

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Jerry Burnett
Juneau

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Susan Grasser
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Soldotna

2nd Vice Pres.
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Jesse Vander-
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Fairbanks

April 30, 2002

The Honorable Gary Wilken
Senate Finance Committee
Alaska State Capitol Room 514
Juneau, AK 99801

The Honorable John Davies
House Finance Committee
Alaska State Capitol Room 415
Juneau, AK 99801

Dear Senator Wilken and Representative Davies:

On behalf of the Board of Directors and at the unanimous direction from Delegates to the Annual Meeting, I am writing to encourage your support of rescinding the \$25 Chitina Subdistrict subsistence salmon fishing permit and to implement an alternative funding source to pay for trash removal and waste disposal at Chitina. I am also writing to bring to your attention SB 366, which seeks to eliminate the trespass fee and implement a service fee for dipnetting at Chitina. Our thanks to Senator Taylor for introducing this legislation.

We greatly appreciated your past efforts to implement a \$25 fee and secure \$100,000 to survey lands in and near Chitina to determine public access points. The intent then, and now, was to erase the ambiguity surrounding public and private ownership in an effort to rescind the trespass portion of the \$25 fee. Our understanding was that \$18 of the original \$25 fee went to pay for trespass and the remainder was used for administration and for services such as trash removal and waste disposal. The fee was also required of fishers who used boats, despite their ability to reach state public lands without trespassing potential. Erasing the inequity between "boat" and "foot" fishers was also part of the intent of identifying public access and reassessing the fee at a later date.

AOC supported these efforts as an interim measure until the State right-of-way along the Copper River could be surveyed and identified. That survey has been completed. In addition, the ADFG has developed a brochure including a map of public and private ownership to assist fishers in determining public access points. Although DOT has not marked on the ground the places where the public can reach the river to dipnet without crossing private lands, we understand they intend to do so this Spring.

With completion of the on the ground survey before dipnetting begins, there appears to be no reason to continue charging a "trespass" fee as part of the dipnet permit. In fact, should the trespass fee continue in effect upon identification of accurate and well marked public access points, it would raise serious concerns about the legal and practical precedent of burdening public land access in Alaska with a fee related to adjacent private lands. Under these circumstances, it seems inappropriate for ADFG to negotiate with private landowners about a trespass that affects access to public lands.

Regarding a service fee, it should be noted that no other subsistence or personal use fishery charges a service fee for *fishing*. Services such as boat landing sites, trash removal and waste disposal are normally paid for from General Funds and a service fee is charged by DOT or DNR to offset costs to the State. Such a fee may be appropriate for providing services at Chitina, and we believe that most dipnetters are willing to pay a nominal fee to cover such services.

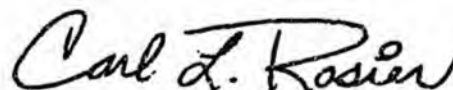
We appreciate your collective efforts to find a long-term solution to this important matter. Any assistance you could provide in the following areas would be greatly appreciated: 1) ensuring the on-the-ground survey and good public access marking is completed this spring, 2) rescinding that portion of the \$25 fee associated with trespass, and 3) establishing a long-term funding mechanism for trash and human waste disposal administered by the DOT or DNR.

We look forward to hearing from you soon and please don't hesitate to contact us if we can be of assistance.

Sincerely,



Jerry Burnett
President



Carl Rosier
Chair, Fisheries Committee

cc: Interior Delegation
Senator Robin Taylor
Representative John Harris
Chitina Dipnetters Association

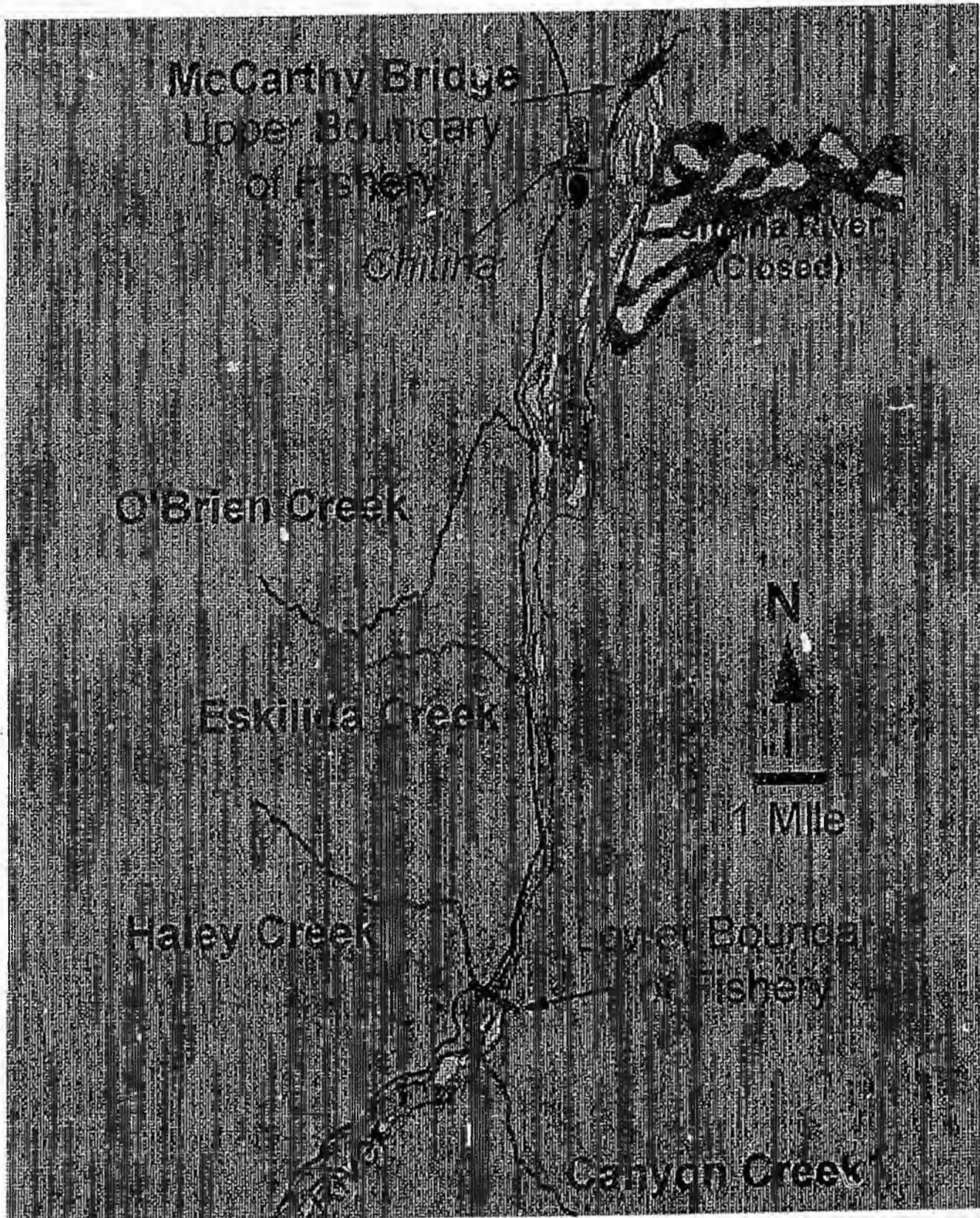


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Map of the Chitina Subdistrict Dipnet Fishery

[Chitina Home](#)



SB

371

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 371
 () 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 Senate State Affairs
 Requester Senate 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						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (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 3:52 PM
 Approved by: Kurt Fredriksson Date 5/1/02
 Agency: Department of Environmental Conservation

ALASKA STATE LEGISLATURE

SENATOR
Gene Therriault
119 N. Cushman Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
FAX (907) 465-3884

Senate
Senate District Q

Senate Bill 371

Permit Exemption for Munitions Use

SPONSOR STATEMENT:

Since the purchase of Alaska by the United States in the middle of the 19th century from the Czar of Russia, the U. S. Military has gone to great effort—and expense—to maintain a strong presence in Alaska. Today, Alaska is home to some of the largest reserves of military land in the United States. The opportunity for advanced training across all branches of the armed forces offered by these reserves has made Alaska home to premiere training exercises, such as Northern Edge, Cope Thunder, and in the near future, national missile defense testing facilities. Senate Bill 371 seeks to ensure that presence continues well into the 21st century.

On April 12, 2002, a variety of individuals and groups sued the U.S. Army, the Department of Defense, and Secretary Rumsfeld in federal court. In their suit, plaintiffs have asked the court to order the Army to stop discharging munitions at the Eagle River Flats (ERF) artillery training range at Ft. Richardson. The ERF range is the only location south of the Alaska Range where soldiers can conduct live fire heavy artillery training. The Army's ability to continue live fire artillery training at ERF is critical to Ft. Richardson's national defense mission. Without the ERF range, Ft. Richardson's future could be at risk.

One of the counts brought by the plaintiffs alleges the Army violated state law by failing to obtain a waste disposal permit under AS 46.03.100 for the firing and other use of munitions on the ERF range. The State of Alaska has never interpreted AS 46.03.100 to require a waste disposal permit for munitions firing on active military ranges. SB 371 makes Alaska's statutes clear in this regard. SB 371 would not affect the State's authority to review and certify National Pollution Discharge Elimination System permits under the Clean Water Act. Nor would SB 371 affect the State's authority to address range clean-up and unexploded ordinance issues that might exist after closure of the active military range.

The future of Alaska's military bases is dependent upon their utilization as training grounds that offer opportunities not presented elsewhere in the United States. SB 371 ensures that the State's own statutes aren't used to threaten the future viability of our bases.

U.S. Army, Alaska Proposed Amendment to SB 356 am
Background Summary

Background: On 12 April 2002, a group of national and local environmental organizations sued the United States Army and the Department of Defense in an attempt to close down Ft. Richardson's only artillery training range, Eagle River Flats (ERF).

- The Army's ability to continue live fire artillery training at ERF is critical to Ft. Richardson's national defense mission. It's a matter of troop readiness: "We must train like we fight." In practice, this means that our soldiers must engage in regular training exercises that include the use of live munitions--e.g., artillery, explosives, high-caliber weaponry, etc.
- ERF is the only location south of the Alaska Range where soldiers can conduct live fire heavy artillery training. Without the ERF range, Ft. Richardson's future could be at risk. And it won't stop there. If the environmental plaintiffs are successful in stopping training at FRA, other military training ranges in Alaska are likely to come under similar attack.

Request for Assistance: The U.S. Army, Alaska needs your help.

- The plaintiffs argue, among other things, that the Federal court should force the Army to close the ERF range because the Army has not obtained an ADEC water and solid waste discharge permit (i.e., an "AS 46.03.100 permit") for the firing of artillery munitions into ERF.
- ADEC has never required a state discharge permit for munitions firing on active military ranges. Traditionally, the AS 46.03.100 permit requirement has applied to activities such as discharges of wastewater from an industrial facility or construction of solid waste landfills.
- Expanding the ADEC permit requirement to cover live-fire military training activities on active military ranges sets an unacceptable precedent. If the effort succeeds, ADEC may well be pressured into attempting to regulate critical aspects of training exercises, such as the type of munitions used, firing locations, firing times and parameters, etc. ADEC is not equipped to do this, and we have no reason to believe that ADEC wishes to assume this role. It's a bad idea all around.

What we seek: A bill, SB 356 am, is pending in the House Resources Committee and is scheduled for hearing this Friday afternoon. SB 356 deals with ADEC's authority to issue disposal permits under AS 46.03.100. AS 46.03.100 already contains a list of exceptions to the permit requirement (*see* AS 46.03.100(d)). The U.S. Army, Alaska seeks a short, simple amendment to AS 356 am to that would add *discharges resulting from the firing of munitions in training activities conducted on active military ranges* to the list of activities exempted from the AS 46.03.100 permit requirement. A proposed version of the amendment is attached.

Proposed Amendment to SB 356 am

SB 356 am shall be amended to add a new section that reads as follows:

Sec. __. AS 46.03.100(d) is amended to read:

(d) This section does not apply to

(1) disposals subject to regulation under AS 31.05.030(e)(2); [OR]

(2) injection projects permitted under AS 31.05.030(h) [.] or

(3) discharges resulting from the firing or other use of munitions in training activities conducted on active ranges operated by the United States Department of Defense or a United States military agency.

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 29, 2002

SUBJECT: Permit exemption relating to military ranges
(Work Order No. 22-LS1748\A)

TO: Senator Gene Therriault
Attn: Joe Balash

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is the new bill you requested. My instructions were to make no changes in the new language but to add it in the statute where, in my judgment, it best fits.

I have placed the language in its own new subsection because I do not think it relates to other exemptions in AS 46.03.100 and, therefore, belongs by itself as a separate exemption. As you can see in the attached copy of AS 46.03.100, the exemption in AS 46.03.100(c) relates to domestic sewage, the exemptions in AS 46.03.100(d) relate to oil and gas operations, the exemptions in AS 46.03.100(f) relate to various types of drilling and to landscaping, and the exemption in AS 46.03.100(g) relates to certain discharges from vessels. Under the enclosed bill, an exemption relating to discharges on "active ranges" would be in a new subsection, AS 46.03.100(h).

As for the language, I'm not sure what exactly it covers, so I don't know if your intent is being met or not. According to the dictionary I consulted, the word "munitions" is a very broad term that includes anything used for offense or defense. This goes far beyond the bullets one normally associates with firing ranges, and would probably be construed to include testing of biological and chemical weapons, whether in shell form or otherwise. Is that your intent or were you just trying to cover things like the firing of ordinary bullets? The inclusion of the phrase "or other use of" (along with "firing") suggests that more than bullets were intended to be covered, but I'm not sure what.

A second issue about the language is that the phrase "active ranges" is used, not the phrase "active firing ranges." The language seems to leave it up to the Department of Defense and military agencies to designate what an "active range" is. It may, or may not, be what you normally consider to be a "firing range." If you would like to define the phrase further or involve the Department of Environmental Conservation in a process of determining what an "active range" is, let me know.

Senator Gene Therriault
April 29, 2002
Page 2

A third issue about the language is whether it is intended to cover (A) the firing of weapons or (B) the disposal of contaminated land when the ranges are eventually cleaned up, or both (A) and (B). I think, as written, the language probably only applies to the initial weapons use, and any eventual disposal of contaminated land would still need a permit, but I'm not sure. What is your intent?

If you would like to make changes to clarify the language as to any of the above issues, or if I can be of other assistance, just let me know.

TML:med
02-439.med

Enclosure

FILED
U.S. DISTRICT COURT
DISTRICT OF ALASKA

RECEIVED
ATTORNEY OFF.

COX & MOYER

Scott J. Allen (California State Bar #178925) 1-5 Pro Hac Vice Motion 2004 Apr 12 PM 3:15
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TRUSTEES FOR ALASKA

Valerie Brown (Alaska Bar Number 9712099)
1026 W. 4th Avenue, Ste. 200
Anchorage, Alaska 99501
Tel: (907) 276-2422 ext. 107
Fax: (907) 276-7110

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA AT ANCHORAGE

ALASKA COMMUNITY ACTION ON
TOXICS, COOK INLET KEEPER, THE
CHICKALOON VILLAGE TRADITIONAL
COUNCIL, JANET DANIELS, RICHARD
MARTIN, and THE MILITARY TOXICS
PROJECT

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF THE
ARMY, UNITED STATES DEPARTMENT OF
DEFENSE, and DONALD RUMSFELD IN HIS
OFFICIAL CAPACITY AS UNITED STATES
SECRETARY OF DEFENSE,

Defendants.

Civil Action No:

A 0 2 - 0 0 8 3 CV

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs allege as follows:

NATURE OF THE CASE

1. This is a citizens' suit brought pursuant to the provisions of Clean Water Act 33 U.S.C. §1251, *et seq.*, the Solid Waste Disposal Act, 42 U.S.C. §6901, *et seq.*, and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, *et seq.*

JURISDICTION

2. This Court has jurisdiction over the subject matter of the First Count herein pursuant to 33 U.S.C. §1365(a)(1). Defendants have waived sovereign immunity to the First Count pursuant to 33 U.S.C. §§1323(a) and 1365(a)(1).

3. This Court has jurisdiction over the subject matter of the Second Count pursuant to 42 U.S.C. §6972(a)(1)(A). The Defendants have waived sovereign immunity to the Second Count pursuant to 42 U.S.C. §§6961(a) and 6972(a)(1)(A).

4. This Court has jurisdiction over the subject matter of the Third Count pursuant to 42 U.S.C. §9659(a)(1). The Defendants have waived sovereign immunity to the Third Count pursuant to 42 U.S.C. § 9659(a)(1).

5. By letter dated June 15, 2001, the Plaintiffs gave notice of their intent to commence this action as required by 33 U.S.C. § 1365(b)(1) and 42 U.S.C. §§ 6972(b)(1) and 9659(d)(1). Shortly following the Defendants' receipt of said letter, the Plaintiffs and Defendants commenced negotiations aimed at reaching a settlement of the claims asserted herein.

At the request of the Defendants, Plaintiffs agreed that they would not commence this action

until such time as the Plaintiffs and Defendants ceased their negotiations. By letter dated about April 10, 2002, the Defendants terminated said negotiations. Plaintiffs commenced this action as soon as possible thereafter.

FIRST COUNT

VIOLATIONS OF CLEAN WATER ACT

6. Each of the Plaintiffs is a "citizen" as said term is defined in 33 U.S.C. § 1365(g), in that they are persons having an interest which is or may be adversely affected by the actions of the Defendants described in this First Count. Each of the Plaintiffs likewise has one or more interests that are or may be adversely affected by the actions or inactions of the Defendants described in the Second and Third Counts below.

7. This First Count is brought against Defendants, United States Department of the Army and the United States Department of Defense only.

8. Defendants, United States Department of the Army and United States Department of Defense, maintain jurisdiction and/or control over an installation consisting of approximately 60,000 acres known as Fort Richardson, located north of Anchorage, Alaska. Fort Richardson lies within this district.

9. Beginning at a time currently unknown to the Plaintiffs and continuing to the present, the Army has and/or continues to and/or plans to discharge munitions, and the constituents and/or by-products and/or residues of munitions, in to and on various lands and waters on and/or in the vicinity of Fort Richardson.

10. The Army has and/or continues to and/or plans to discharge munitions, and the constituents and/or by-products and/or residues of munitions, into waters and/or on to lands on or

in the vicinity of Fort Richardson, using cannons, rifles, artillery and/or other sources.

11. The waters into which the Army has and continues to discharge munitions include the waters of the Eagle River, Eagle River Flats and/or Knik Arm.

12. The Army has not applied for, nor has it been issued, a permit from the United States Environmental Protection Agency ("EPA") authorizing the discharge of munitions into waters as described in this First Count.

13. The Army therefore has violated, continues to violate and/or threatens to violate 33 U.S.C. §§1311(a) and 1323(a), as well as 40 C.F.R. §122.21.

14. The waters of the Eagle River on and in the vicinity of Fort Richardson violate the water quality standards established by 18 Alaska Administrative Code 070.20(b). The Army's actions described in this First Count have caused and/or contributed, and continue to cause and/or contribute, to this violation of water quality standards in the Eagle River. The Army's actions therefore have violated and continue to violate 18 Alaska Administrative Code 070.10 and 33 U.S.C. §1323(a).

15. The Army's actions described in this First Count have polluted and/or added to the pollution of the land and/or waters on and/or in the vicinity of Fort Richardson. Said lands and/or waters include lands and/or waters in, on and/or under the Eagle River, Eagle River Flats, and/or the Knik Arm. The Army's actions therefore have violated and continue to violate Alaska Statutes 46.03.710 and 33 U.S.C. §1323(a).

16. The Army's actions described in this First Count have resulted in the disposal of solid and/or liquid waste material into the waters and/or on to land on or in the vicinity of Fort Richardson. The Army does not have, nor has it applied for, a permit, from the Alaska

Department of Environmental Quality authorizing said discharge into waters and/or on to land. The Army's actions therefore have violated and continue to violate Alaska Statutes 46.03.100(a) and 33 U.S.C. §1323(a).

SECOND COUNT

VIOLATIONS OF SOLID WASTE DISPOSAL ACT

17. This Second Count is brought against Defendants, United States Department of the Army and the United States Department of Defense only.

18. As described in the First Count above, the Army has violated and continues to violate Alaska Statutes §§46.03.710 and 46.03.100(a).

19. The Army's violations of Alaska Statutes §§46.03.710 and 46.03.100(a) constitute a violation of 42 U.S.C. §6961(a).

THIRD COUNT

VIOLATIONS OF CERCLA

20. This Third Count is brought against all of the Defendants named above.

21. In 1994, due to a high level of pollution, the Environmental Protection Agency placed Fort Richardson on the National Priorities List, a list of the nation's most polluted facilities that are to be given priority for cleanup.

22. Shortly thereafter, the EPA, the State of Alaska, and the Army entered into an "interagency agreement" (as that term is used in 42 U.S.C. §9620(e)) entitled "Federal Facility Agreement Under CERCLA Section 120 Administrative Docket Number 1092-05-02-120" (hereinafter the "FFA") regarding Fort Richardson.

23. Live, unexploded ordnance exists in, on, and/or under the lands and/or water on or

in the vicinity of Fort Richardson, including without limitation the lands and/or waters of the Eagle River, Eagle River Flats and/or the Knik Arm, as well as the land and/or waters in an area referred to by the Army as the OB/OD pad. Unexploded ordnance may also exist in, on, and/or under other lands and/or waters on or in the vicinity of Fort Richardson.

24. This unexploded ordnance constitutes and contains "hazardous substances" and/or "pollutants or contaminants" as those terms are defined in 42 U.S.C. §§9601(17) and 9601(33). The Army, however, has taken, and continues to take, the position that this unexploded ordnance neither constitutes nor contains "hazardous substances" and/or "pollutants or contaminants" as those terms are defined in 42 U.S.C. §§9601(17) and 9601(33).

25. The Army has never commenced, nor has it performed, a remedial investigation or feasibility study (RI/FS) regarding unexploded ordnance or the constituents of such ordnance on Fort Richardson.

26. The Army's failure to commence or perform such an RI/FS violates and continues to violate 42 U.S.C. §9620(e)(i) as well as paragraphs 8.8 and 8.9 and Attachment 1 of the FFA (including without limitation section 3.1 of Attachment 1).

27. The Army has never adopted a plan for remediation of the unexploded ordnance described above; nor has the Army commenced or performed remediation of such ordnance. The Army therefore has violated and continues to violate 42 U.S.C. §§9620(e)(2)-(e)(4) as well as ¶8.10 and Attachment 1 to the FFA.

REQUEST FOR RELIEF

Plaintiffs respectfully request the following relief:

28. Declare that the Army's discharge of munitions into waters as described in the

First Count herein has violated and continues to violate 33 U.S.C. §§1311(a) and/or 1323(a).

29. Order the Army to stop discharging munitions into the waters of the Eagle River, Eagle River Flats and/or the Knik Arm until such time as the Army obtains a permit authorizing the discharge from the EPA.

30. Declare that the Army's actions described in the First and Second Counts herein have violated and/or continue to violate 18 A.A.C. §070.10, Alaska Statutes §§46.03.710 and 46.03.100(a), and/or 33 U.S.C. §1323(a) and/or 42 U.S.C. §6961(a).

31. Issue appropriate injunctive relief prohibiting the Army from continuing to conduct the activities described in the First and Second Counts herein in violation of 18 A.A.C. §070.10, AS §§46.03.710 and 46.03.100(a) and/or 33 U.S.C. §1323(a) and/or 42 U.S.C. §6961(a).

32. Declare that the unexploded ordnance in, on, and/or under the lands and waters on Fort Richardson constitutes and contains "hazardous substances" and/or "pollutants or contaminants" as those terms are defined in CERCLA, 42 U.S.C. §§9601(17) and 9601(33).

33. Order the Army to commence and fully perform an RI/FS regarding unexploded ordnance on Fort Richardson.

34. Order the Army to pay the Plaintiffs' costs and attorneys fees as provided by statute, including 33 U.S.C. §1365(d) and 42 U.S. §§ 6972(e) and 9659(f).

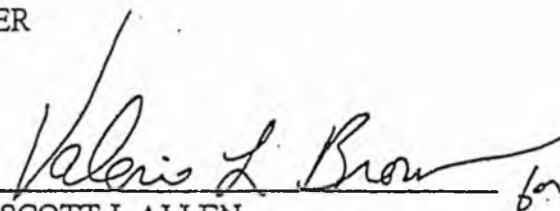
35. Order the Army to pay appropriate civil penalties as provided by 33 U.S.C. § 1319(d), 42 U.S. C. § 6928(g), 42 U.S.C. §§ 9609(a)(1)(E), 9609(b)(5), 9622(l), and/or 9659(c).

36. Issue other and further relief as the court deems just and proper.

Dated: April 12, 2002

COX & MOYER

By:

 for

SCOTT J. ALLEN
Attorneys for Plaintiffs

Fort Rich Complaint.wpd

Rec'd cert mail 4/15/02

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Alaska Community Action On Toxics,
Cook Inlet Keeper, The Chickaloon
Village Traditional Council, Janet
Daniels, Richard Martin, and The
Military Toxics Project,

SUMMONS IN A CIVIL ACTION

v.
United States Department Of The Army,
United States Department Of Defense,
and Donald Rumsfeld In His Official
Capacity As United States Secretary
Of Defense.

CASE NUMBER:

A 0 2 - 0 0 8 3 CV

TO: (Name & Address of Delendant)
Donald Rumsfeld
United States Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)
Valerie L. Brown Scott J. Allen
Trustees For Alaska Cox & Moyer
1026 W. 4th Ave., Ste. 201 703 Market St., Ste. 1800
Anchorage, AK 99501 San Francisco, CA 94103-2128

an answer to the complaint which is herewith served upon you, within 60 days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken
against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court
within a reasonable period of time after service.

MICHAEL HALL

APR 12 2002

CLERK

DATE

CMC 58ALC
(BY) DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUMMONS IN A CIVIL ACTION

Alaska Community Action On Toxics,
Cook Inlet Keeper, The Chickaloon
Village Traditional Council, Janet
Daniels, Richard Martin, and The
Military Toxics Project,

v.

United States Department Of The Army,
United States Department Of Defense,
and Donald Rumsfeld In His Official
Capacity As United States Secretary
Of Defense.

CASE NUMBER:

A 0 2 - 0 0 8 3 CV

TO: (Name & Address of Defendant)

Timothy M. Connelly, Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
P.O. Box 23986, L'Enfant Plaza Station
Washington, DC 20026

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Valerie L. Brown
Trustees For Alaska
1026 W. 4th Ave., Ste. 201
Anchorage, AK 99501

Scott J. Allen
Cox & Moyer
703 Market St., Ste. 1800
San Francisco, CA 94103-2128

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summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken
against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court
within a reasonable period of time after service.

MICHAEL HALL

APR 12 2002

CLERK

DATE

C.M.L.
(BY) DEPUTY CLERK

SEAL

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Alaska Community Action On Toxics,
Cook Inlet Keeper, The Chickaloon
Village Traditional Council, Janet
Daniels, Richard Martin, and The
Military Toxics Project,

SUMMONS IN A CIVIL ACTION

v.

United States Department Of The Army,
United States Department Of Defense,
and Donald Rumsfeld In His Official
Capacity As United States Secretary
Of Defense.

CASE NUMBER:

A 0 2 - 0 0 8 3 CV

T.O: (Name & Address of Delendant)

United States Dept. of the Army
Office of the Chief of Public Affairs
1500 Army Pentagon
Washington, DC 20310-1500

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Valerie L. Brown
Trustees For Alaska
1026 W. 4th Ave., Ste. 201
Anchorage, AK 99501

Scott J. Allen
Cox & Moyer
703 Market St., Ste. 1800
San Francisco, CA 94103-2128

an answer to the complaint which is herewith served upon you, within 60 days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken
against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court
within a reasonable period of time after service.

MICHAEL HALL

APR 12 2002

CLERK

DATE

CPAC SEARCHED
(BY) DEPUTY CLERK

Subject: RE: Military & Environment SB 371

Date: Tue, 30 Apr 2002 12:13:37 -0800

From: "Grant Writer" <starplan@gci.net>

To: <Senator_Kim_Elton@legis.state.ak.us>, <Senator_Robin_Taylor@legis.state.ak.us>, <Senator_Georgianna_Lincoln@legis.state.ak.us>, <Senator_Rick_Halford@legis.state.ak.us>, <Senator_John_Torgerson@legis.state.ak.us>, <Senator_Ben_Stevens@legis.state.ak.us>, <Senatorgary_Wilken@legis.state.ak.us>

CC: <terryh@bbna.com>, <tangansan@BBNC.NET>, <jterrell@beesc.com>, "Godden, Ron" <rgodden@beesc.com>, <jstonebraker@beesc.com>, "Roy Matsuno" <ugashik@gci.net>, <Matsuno.Fred@epamail.epa.gov>, <hattieutvenv@starband.net>

Greetings Senators of Alaska:

My Name is Lucy Goode, and I am responding to the SB 371 Bill that will come before you all for review tomorrow on whether to take action to give the Military Exemptions from environmental statues in the State of Alaska.

I was raised in Rural Alaska from a fishing community called Egegik, which is located in the Bristol Bay Region. I have served my community as the Tribal Council President of Egegik, Ak and recently moved to the Chugiak Area. I now write grants for the Ugashik Traditional Village Council and received this email on the SB 371. I hope that you will do the job that we voted and entrusted you all with for the Good of our Great State and our Alaskans citizens and vote against this Bill to allow the Military to be exempt from environmental statue.

Government Agencies especially Military should have to abide by the laws which govern and protect our people and the environment with no special favors and follow the environmental statues, the same as everyone else. There have been to many chemical spills and Hazardous dumps in our State by the Military already and there has been damage to the environment and people from this negligent action.

I do not see how Military Readiness will be threatened by this Action. They need to be held responsible for their actions as the rest of the country is. Please let me know what your decision to do on this bill will be. Thank you for your consideration in this serious Issue.

Sincerely, Lucy Goode

Subject: SB 371

Date: Tue, 30 Apr 2002 12:42:11 -0800

From: "Patti Saunders" <psaunders@arc-anchorage.org>

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

2/

Dear Sen. Torgerson:

I believe it is wrong to allow the military to avoid cleaning up the messes it has made. The Eagle River Flats is a good example of land poisoned by military practice exercises that will not get cleaned up if this bill passes . . . and that means, at the very least, birds will keep dying . . . and who knows what in the future.

Please vote against this bill. It is bad for Alaska and Alaskans.

Patti Saunders
psaunders@arc-anchorage.org
7023 Henderson Lp.
Anchorage, AK 99507

Subject: sb371

Date: Tue, 30 Apr 2002 13:24:52 -0800

From: Brian Hirsch <hirsch@earthsys.org>

To: Senator_John_Torgerson@legis.state.ak.us

Dear Senator Torgerson:

I oppose SB 371, and I believe you should, too. The military does not need exemptions from environmental laws that protect human health and natural resources in Alaska. If there is any entity that can afford to comply with environmental regulations, and who have the track record that demonstrates that they need to be held to such standards as the rest of us, it is the US military. Nearly 85% of the public supports holding the military accountable to environmental laws. Please vote with the majority of the people on this bill.

Thank you,

Brian Hirsch, Ph.D.
Homer, Alaska

Subject: RE: Military & Environment SB 371

Date: Tue, 30 Apr 2002 13:36:02 -0800

From: "Godden, Ron" <rgodden@beesc.com>

To: <Senator_Kim_Elton@legis.state.ak.us>, <Senator_Robin_Taylor@legis.state.ak.us>, <Senator_Georgianna_Lincoln@legis.state.ak.us>, <Senator_Rick_Halford@legis.state.ak.us>, <Senator_John_Torgerson@legis.state.ak.us>, <Senator_Ben_Stevens@legis.state.ak.us>, <Senatorgary_Wilken@legis.state.ak.us>

CC: "Godden, Ron" <rgodden@beesc.com>, <rgodden@customcpu.com>

D

Greetings:

My Name is Ron Godden, and I am responding to the SB 371 Bill. I do not recommend the legislature take any action, what so ever, to give the military exemptions from environmental statues in the State of Alaska.

I served 21 years in the military and have been in Alaska since 1974. I am a civil and environmental engineer and am not a member of any green organization. Nor, do I support any such organizations or causes. I believe we can live, build, and work in Alaska and be responsible for protecting the environment.

I have observed first hand the activities of the military. After my military service, I worked for ADEC for 7 years and further observed the military's efforts to ignore both state and federal regulations. Back in the 90's, the EPA was asked by congress: Who are your largest group of offenders? EPA's response was the federal government and the military. Congress wrote a law, which specifically required the federal facilities be responsible for all environmental laws. The law provided for criminal penalties for individuals and civil penalties for organizations. This law has been responsible for the military's compliance with both state and federal regulations. To exempt the military from environmental statues in Alaska is not in the best interest of the state and the environment.

All government agencies, especially the military, should have to abide by the laws which govern and protect our people and the environment and follow the environmental statues, the same as everyone else. There have been to many instances in Alaska where the military has damaged the environment and people from their negligent action. Every military base and many former bases are superfund sites and will never be cleaned up. To allow the military to further damage the environment is simply foolhardy and should not be tolerated.

I do not understand how military readiness will be threatened by requiring the military to abide by our environmental statues and regulations. The military has to obey federal laws and until congress exempts them, they need to be held responsible for their action and abide by the laws of the State of Alaska. Please let me know what your decision to do on this bill will be. Thank you for your consideration in this serious Issue.

Sincerely

Ronald E. Godden,
23254 Northwoods Dr.
Chugiak, Alaska 99567

Testimony of Janet Daniels, Chickaloon Village Traditional Council spokesperson

**Senate Resources Committee Hearing.
On SB 371**

Good afternoon and thank you for the opportunity to testify on Senate Bill 371. 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 SB 371 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 the 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?



Aleutian/Pribilof Islands Association, Inc.

201 E. 3rd Avenue
Anchorage, Alaska 99501
Phone (907) 276-2700
Fax (907) 279-4351

April 30, 2002

Dear Senator John Torgerson,

I work for the Aleutian/Pribilof Islands Association, Inc. (A/PIA), a non-profit Native consortium that works for the tribes of the Aleutian/Pribilof Region. My role with A/PIA is the Federal Sites Restoration Coordinator for the tribes of our Region.

I am very concerned about the proposal for the military to be given an exemption from environmental cleanup laws and regulations! I am shocked that it is even being considered. This is a move backwards that jeopardizes all progress we have made in getting the U.S. government and DoD organizations to cleanup the mess left behind at so many sites in Alaska, and, of concern to us, particularly the over 60 federal sites in our Aleutian/Pribilof Region.

We are concerned about the health impacts from military contaminants to our traditional foods - the salmon, halibut, pollock, cod, birds, ducks, geese, mussels, sea lions, seals, and other resources upon which our way of life depends. We are disgusted that so many federal sites in our region remain untouched by any cleanup efforts. We are frustrated at the slow pace of cleanup. We feel angry that our lands have been mistreated, abused, blown up, and dumped upon with very little respect for the people or wildlife living there. Why give the military exemption status when they have such a terrible record of abuse of the land and still haven't cleaned up the mess remaining behind?

There are many sites contaminated by spilled or leaked petroleum products, PCBs, heavy metals, unexploded ordnance (on Attu, Kiska, and other islands in our Region), fuel tanks and drums, radionuclides (as is the case on Amchitka Island and possible other unknown sites), military equipment and debris, among other things. In addition, much of this debris is unsightly, and is a safety hazard to people and wildlife. DoD has not met any of our criteria for site restoration of most

federal sites in our region as presented in our draft Tribal Policy for Restoration of Federal Sites in the Aleutian/Pribilof Region.

The Aleuts have waited over 60 years - 60 YEARS! - for DoD and the Government to clean up many of these military sites, and waited many years for cleanup of many of the military Cold War era sites. Making the military exempt from environmental laws will likely result in many of these sites never being cleaned up in our lifetime, or in our children's.

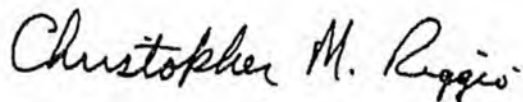
Military readiness is NOT being adversely affected by environmental cleanup requirements. Using the September 11th tragedy and possible impact of environmental requirements on military readiness are poor excuses for avoiding military and U.S. Government environmental obligations to the people they protect and work for. Let us not be fooled by the military taking advantage of the September 11th tragedy and the current administration's position on environmental issues to return to the old dark days when the military was exempt and our communities and environment suffered; there are reasons for these laws and regulations which protect us, the people.

PLEASE HONOR THE LAND AND THE PEOPLE WHO LIVE HERE BY NOT SUPPORTING ANY MILITARY EXEMPTION FROM ENVIRONMENTAL CLEANUP LAWS!

Please feel free to contact me at 907-245-1967 if you wish to discuss my concerns farther, or e-mail me at christ@apiai.com.

Thank you for your time.

Respectfully,



Christopher M. Riggio, PE
Federal Sites Restoration Coordinator

**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
SB 371
Senate Resources Committee Hearing
April 30, 2002**

Good afternoon Chairman Torgerson and Members of the Committee. Thank you for the opportunity to provide comments on Senate Bill 371. 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.