

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10965 HOUSE RESOURCES

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## How coastal management began in Alaska

*"This one act may have done more than anything else to promote responsible development in Alaska and to help diversify and stabilize a fluctuating economy."*

**-Dave Hanna, 1997**  
Fifth Generation Alaskan  
Self employed in Construction  
and Resource Development

The State of Alaska began considering coastal management in the mid-1970s, after passage of the federal Coastal Zone Management Act (CZMA) in 1972. The CZMA encourages coastal states to develop, implement and enforce coastal management programs that achieve the wise use of coastal resources.

### **Coastal Management is voluntary**

Unlike other national environmental laws, state participation in CZMA is completely voluntary. One of the challenges faced by those who crafted this act was trying to address effective coastal management at the national as well as the local level. The diversity of coastal areas across the U.S. made this impossible. As a result, incentives such as grant programs and expanded state power along the coast were used to gain state participation.

### **Coastal Management allows states more control over federal actions proposed in the coastal zone**

The increase in state power gained through the CZMA is particularly compelling in Alaska where the federal government owns over 60% of Alaska's land, much of which lies along the coast. Once a state coastal management plan has been approved, federal agencies, who are normally able to preempt state authority, must now secure a finding of consistency with these plans before taking action in the coastal zone. This provision represents one of the most effective ways state and local governments can formally affect federal actions in the coastal zone. Powerful incentives for participation, increased state power, growing development pressures and ambitious federal plans to lease several areas off Alaska's coast for oil and gas development, all served to propel the passage of the Alaska Coastal Management Act (ACMA) in 1977.





*"The Alaska Coastal Management Program is the only regulatory program which recognizes, in its statutes and regulations as well as the routine operations of DGC, that there is a public interest in developing as well as in protecting the environment.*

*No other state system contains this balance."*

**-Murray Walsh, 1997**  
Project Development Consultant

Canada Geese

## **The Alaska Coastal Management Program is approved**

The ACMA established the Coastal Policy Council (the CPC) to oversee development and implementation of coastal management in Alaska. It also established 33 original coastal districts to undertake detailed coastal planning in municipalities and unorganized boroughs.

The CPC is composed of nine elected local government officials appointed by the Governor, six state agency commissioners, and the director of the Office of Management and Budget. Coastal districts are comprised of boroughs, cities, and coastal resource service areas (CRSAs). The ACMA provided for the creation of CRSAs to serve the planning needs of rural areas that were not under the jurisdiction of an organized borough government.

The first issue the state grappled with was delineation of the coastal zone boundary which, due to Alaska's size and diversity, required a three-step process:

- 1) identification of boundaries based on biological and physical relationships of the marine and terrestrial environments by the Alaska Department of Fish and Game;
- 2) identification of an interim coastal zone boundary by the CPC; and
- 3) adoption of final coastal zone boundaries by coastal districts for areas within their jurisdiction, subject to guidelines set out by the CPC.

This multiple step approach may be unique to Alaska; few states have given local districts a major role in delineating a state coastal zone boundary. The final inland boundary of Alaska's coastal zone ranges from less than 2000 feet to up to 250 miles from the shoreline along important anadromous streams.

Soon after adoption of the interim coastal zone boundary, regulations to provide statewide standards for coastal development, and guidelines for the creation of coastal

district management programs (CMPs) were adopted. These standards, guidelines, and approved CMPs collectively constitute the Alaska Coastal Management Program (ACMP). In 1979, the ACMP gained federal approval from the National Oceanic and Atmospheric Administration (NOAA).

### **Coastal district management programs are voluntary**

Like the national CZMA, Alaska's coastal management program is voluntary. Coastal districts are offered powerful incentives to gain their participation. Incentives include the ability to formally participate in the state review of coastal development projects and eligibility for federal funds that support coastal program activities.

Once a CMP is developed, it must be approved by the CPC and NOAA. Upon approval, CMP policies become an enforceable component of the ACMP and have the same status as the statewide standards. The first local coastal district program was approved in 1980. Today 33 of 35 eligible coastal districts have approved programs.

### **The Alaska Coastal Management Program is networked**

Rather than establish a new coastal agency and a separate permit process, Alaska developed what is called a "networked program." As such, the ACMP relies on the existing regulatory authority of state agencies and coastal districts to implement and enforce the program. The coordinating agency for this networked program is the Division of Governmental Coordination (DGC) in the Office of the Governor.

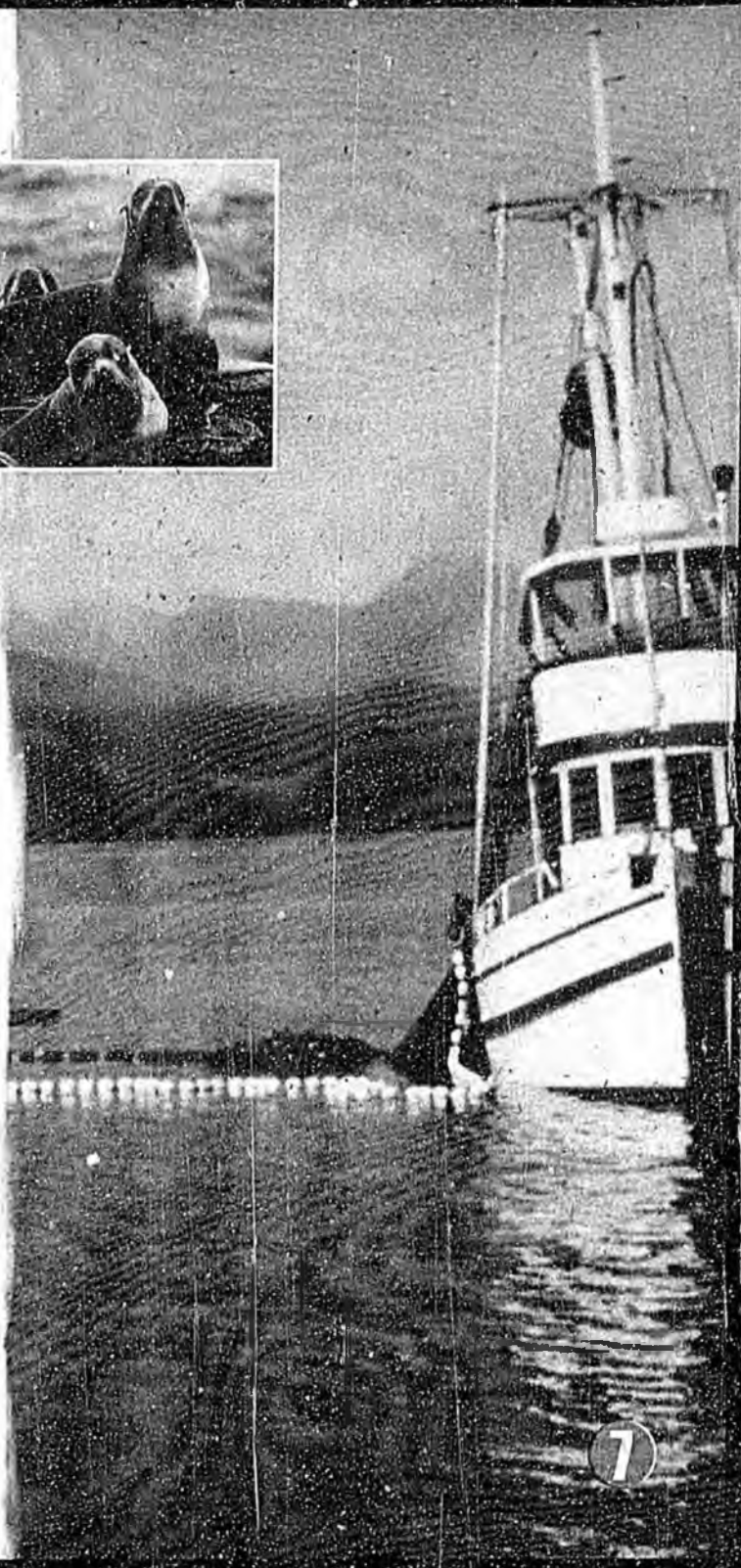
*Small Photo*  
Stellar sea lions



*Big Photo*  
A commercial fishing vessel in a Southeast Harbor

*"Our fish processing facility was in need of an alternate fresh water source in a very short time frame. With the help of DGC, we were able to secure the needed permits in a timely manner and avoided... closing... during the peak of the salmon run."*

*-Patrick Wilson, 1987  
Icicle Seafoods, Petersburg*





## How coastal management has improved since 1977

*"Your office (DGC) provides the necessary coordination with all state agencies to insure that, not only is the applicant treated fairly, but also that other interested parties receive an adequate voice."*

-Daniel R. Rosser, 1998  
President, Sunrise Marine

### Evolution of the ACMP

The original ACMP did not include a specific process to determine whether development proposals were consistent with statewide standards and local enforceable policies. State agencies conducted independent reviews, which occasionally resulted in different findings of consistency for the same project. Development interests criticized the state consistency review process as complex, duplicative, and lengthy. By 1980 it was clear that Alaska's networked approach, without a coordinated review process, was not working very effectively.

### Steps toward improvement

In 1984, Governor Sheffield signed legislation designed to move coastal development projects through a single clearinghouse in an expedited fashion and the coastal consistency review process was born. The Administration wanted to provide *"more service and less sorrow"* to development applicants and that is exactly what they did.

Key to this new consistency review process was the "one-stop permit shopping" provided through DGC for projects requiring a federal permit, permits from two or more state agencies, or for direct federal actions.

During the thirteen-plus years the consistency review regulations have been in place, they have provided an effective and predictable process for coastal development activities that has been well-received by state agencies, coastal districts and developers.

### Assessment of the ACMP

In 1994, DGC initiated a formal assessment of the program's ability to meet Alaska's needs through the 1990s and beyond. Work sessions, focus groups, surveys, interviews and research projects were conducted across the state. Weaknesses of the ACMP and ways to strengthen the program were identified.

## **"Mending the Net"**

As a result of the dialogue among assessment participants, the CPC decided to continue with a networked state program. Consequently, DGC, state resource agencies, coastal districts and the CPC are "mending the net" to strengthen and improve Alaska's Coastal Management Program.

According to assessment participants, mending the net will require an increase in district responsibility for the ACMP. This effort will also require a commitment to update coastal district plans, to further streamline the permit review and appeal processes, and to provide more effective program enforcement.

## **DGC: administrator of the ACMP**

In order to effectively administer the ACMP, DGC's functions are divided into two broad areas: coastal program development and project review. Program development includes providing guidance, training and hands-on assistance to coastal districts as well as state and federal agency personnel. In addition, this "side" of DGC secures funding for developing and updating state and local programs on an annual basis.

The project review "side" of DGC provides project analysis, consistency review and coordination of stakeholders for developments proposed in the coastal zone. It is important to note that DGC does not make decisions regarding permits required by other state agencies nor does it have independent permitting authority. Rather DGC builds consensus and fosters communication among the stakeholders so mutually agreeable solutions can be achieved.

*"For rural Alaskans it (the ACMP) is an important opportunity for meaningful participation in federal and state decisions affecting their lives."*

**—Chuck Degnan, 1997**  
Program Director,  
Bering Straits Coastal  
Resource Area

*Small Photo*  
Mining operation  
in the Southeast

*Large Photo*  
Native Alaskan  
drying salmon



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## How coastal management works in coastal districts

*"The ACMP allows the district to have local input in the decisions made about what happens within our coastal zone."*

-Frank Stein  
Planning Director  
Northwest Arctic Borough

All but two of Alaska's 35 coastal districts have an approved coastal management program (CMP). Each program is tailored to address local needs and resources within the broader framework of the Alaska Coastal Management Program. Issues commonly addressed include:

- transportation & utilities
- subsistence
- archaeological resources
- recreation
- geophysical hazards
- public access

### Who develops and updates local coastal management programs?

CMPs are developed through a partnership between the coastal district, Division of Governmental Coordination (DGC), Department of Community and Regional Affairs (DCRA), state resource management agencies, the National Oceanic and Atmospheric Administration (NOAA), and other stakeholders. Funding for district coastal management program development and implementation is secured by DGC and district grant awards are administered jointly by DGC and DCRA.

Most districts have a municipal governing body and staff that spearhead the development of the CMP. However, if a coastal district lacks an organized government, the ACMP provides for the creation of a Coastal Resource Service Area (CRSA). CRSAs can develop a program but they must rely solely on the state for implementation and enforcement.

Since passage of the ACMA, this provision for CRSAs has served as a stepping stone for the formation of three new boroughs, each of which can now implement and enforce their own coastal management programs.

These programs must be reviewed by the public, as well as state and federal agencies before they receive approval from the local government, the CPC and NOAA.

As with any good plan, periodic updates are conducted by the coastal district, usually with the assistance of

DGC's district program coordinators. DGC assists in many ways, most recently by publishing guidelines for drafting local policies which are enforceable in the 'real' world. Through this ongoing process of plan revision, the CMP remains relevant to current district needs.

### How are local coastal management programs implemented?

The policies in approved district programs become an enforceable component of the ACMP. Development proposals within the district, including federal actions, must be reviewed for consistency with these policies and with the ACMP standards. This process is referred to as a 'consistency review' and it results in one of three outcomes:

1. a finding of consistency.
2. a finding of consistency with stipulations, or
3. a finding of inconsistency.

### Who conducts the consistency review for coastal projects?

If a project proposed in the coastal zone requires only local permits, the coastal district staff conduct the consistency review and make the final determination of consistency. Any stipulations are implemented and enforced through municipal ordinances.

If a proposal requires state or federal permits, the consistency review is conducted at the state level. If permits are required from only one state agency, that agency coordinates the consistency review. If a project requires permits from more than one state agency, or requires a federal permit, the Division of Governmental Coordination coordinates the consistency review. DGC also coordinates the review for actions proposed by the federal government in Alaska's coastal zone. Stipulations are implemented and enforced by the appropriate state or federal permitting agency.

### DGC's consistency review process

DGC's review is initiated when a project developer or federal agency submits a complete application packet. This packet includes a Coastal Project Questionnaire (CPQ), copies of any necessary state and federal permit applications, and any other pertinent information. Once the packet has been determined to be complete, the consistency review begins.

In some cases, a project may not need to undergo an individual consistency review. Certain routine activities and permits have already been found to be consistent with the ACMP. The state maintains a list identifying permits and projects that qualify for these categories of expedited review. This list is known as the "Classification of State Approvals" (ABC List).

In actuality, many developers, both small and large, receive pre-application assistance from DGC long before the application packet is turned in. Questions on coastal zone boundaries are answered, state and federal permits are identified up front, and in some cases meetings are held to clarify what needs to be included in a successful application.

Upon receipt of a complete packet, DGC provides the developer with specific time frames for the consistency determination and one point of contact during the review process.

### Three ways DGC helps coastal districts

#### 1. Funding

DGC secures between \$2.5 and \$3.5 million dollars every year to support coastal management in Alaska. This funding is divided among coastal districts, DGC and other state agencies involved in coastal management, with coastal districts consistently receiving the largest share.

#### 2. Training and technical support

DGC provides technical support and training for the CPC, coastal district staff, and state and federal agen-



Frank Stein, representing the Northwest Arctic Borough, accepts a Certificate of Approval from DGC and NOAA for the revision of their Coastal Management Program.

cies charged with coastal resource management. DGC district program coordinators are assigned to coastal districts. DGC staff work with the district representatives to make sure the local coastal management program is up-to-date, to make sure the coordinators receive the training necessary to put their program to work, and to serve as a conduit for communication between local, state, and national levels of coastal management.

#### 3. Project Review and Analysis

DGC's project review coordinators and project analysts work to insure that projects proposed in the coastal zone are consistent with the ACMP. They enforce approved local and statewide policies and evaluate proposed projects against the guidance provided by the local coastal management program. If a project has no impact, this team of DGC professionals expedite the project review. If the project has an impact, they work with developers, districts and state and federal agencies to come up with mutually agreeable solutions.

Most projects are found "consistent with stipulations" to ensure wise management of Alaska's coastal resources.

*In FY97 DGC secured almost \$3 million dollars to support coastal management in Alaska. DGC has secured over \$2.5 million dollars for FY98.*

*DGC's work with developers, state agencies and local governments has resulted in a determination of consistency for 99.5% of all projects over the last five years.*

The United States Congress passes the Coastal Zone Management Act (CZMA) into law. States are offered incentives for their participation.



Alaska State Legislature considers the value of coastal management.

Alaska receives the first federal coastal management development grant.

The Office of Coastal Management is established in the Governor's Office.

The Alaska Department of Fish and Game identifies biophysical boundaries, including important anadromous streams, for Alaska's coastal zone.



Alaska State Capitol Building in Juneau

Alaska passes the Alaska Coastal Management Act in 1977.

The Governor appoints the first Coastal Policy Council.

Alaska wins federal approval of the Alaska Coastal Management Program in 1979.

Local Coastal Management Plans are developed for each of Alaska's Coastal Districts.

Alaska adopts the consistency review regulations to offer coastal developers "more service and less sorrow" in 1984.



The Office of Coastal Management is renamed the Division of Governmental Coordination (DGC).

DGC spearheads the new coordinated, streamlined review of coastal development projects.

U.S. Congress reauthorizes the CZMA. States gain the power to review outer continental shelf leases.



Marty Rutherford, CPC Alternate in 1997 and Deputy Commissioner for the Department of Natural Resources

The Coastal Policy Council approves 34 out of 35 coastal management plans in 1992.

The first coastal district management plan is approved in 1980.



A brown bear sow and her cubs fish for salmon

1974 77 84 90



This Harbor Seal pup is one of many species dependent on a healthy ocean and coast.

Gabrielle LaRoche, Coastal Program Coordinator for DGC, tells kids about the Alaska Coastal Management Program at the first annual coastal cleanup held in Juneau on September 21, 1997.



With the whole program in place, opportunities for positive change are identified. DGC begins a formal assessment of the ACMP.

Assessment meetings and surveys are conducted throughout the state to gather feedback on how effective the ACMP is.

As a result of statewide dialogue during the assessment, the CPC decides to continue with a networked state program.

Assessment input is synthesized into recommendations for improvement. The ACMP is reworked to maximize coastal district involvement, to improve coastal district planning, to streamline permitting and appeals, and to improve state and local enforcement capabilities.

Assessment recommendations are implemented within the framework of budget discipline and customer service.

Governor Tony Knowles proclaims 1998 the Year of the Ocean for the State of Alaska during the Annual ACMP Conference held in Juneau April 9-10.

DGC and the Coastal Services Center of NOAA host a "Coastal Partnerships Workshop" in Kotzebue, Alaska. Participants include representatives from state and federal resource management agencies, coastal district coordinators, CRSA board members, and two Coastal Policy Council members. Participants develop collaborative skills that address the schism between rural and urban Alaska as well as Alaskan Native and non-native perspectives.



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## PUBLICATION PRODUCTION

This ACMP Handbook has been prepared by DGC to provide an overview of the Alaska Coastal Management Program. It was produced at a cost of .71 per copy and was printed in Juneau, Alaska in June of 1998.

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*Come surf Alaska's  
coastal zone at:*

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**Local Coastal District Office**

*Thank you for  
your interest in the  
Alaska Coastal  
Management  
Program.*

*If you would like  
more information  
or you would like  
to subscribe to  
our bi-monthly  
newsletter, Coastal  
Currents, please  
contact the  
Division of  
Governmental  
Coordination.*



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**CS FOR HOUSE BILL NO. 191(RES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY**

**Introduced:**

**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the Alaska coastal management program and to policies and  
 2 procedures for consistency reviews and the rendering of consistency determinations  
 3 under that program; eliminating the Alaska Coastal Policy Council; annulling certain  
 4 regulations relating to the Alaska coastal management program; and providing for an  
 5 effective date."

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

7 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
 8 to read:

9 **FINDINGS.** The legislature finds that

10 (1) the Alaska coastal management program (ACMP) is intended to function  
 11 with a minimum of delay and avoid regulatory confusion, costly litigation, and uncertainty  
 12 regarding the feasibility of new investment;

13 (2) there is a need to update and reform the existing statewide standards of the

1 ACMP so that they are clear and concise and provide needed predictability as to the  
2 applicability, scope, and timing of the consistency review process under the program;

3 (3) there is a need to update and reform the district coastal management plans  
4 under the ACMP so that the local enforceable policies within those plans are clear and  
5 concise, provide greater uniformity in coastal management throughout the state, relate to  
6 matters of local concern, and do not duplicate state and federal requirements;

7 (4) there is a need to coordinate state consistency reviews under the ACMP  
8 with the federal environmental reviews conducted under 42 U.S.C. 4321 - 4370 (National  
9 Environmental Policy Act of 1969, as amended), recognizing that the ACMP is not intended  
10 to act as or take the place of those federal reviews, but acknowledging that the coordination of  
11 state consistency reviews and federal environmental reviews is necessary to ensure a  
12 predictable, efficient, and timely permitting process for needed investment in this state;

13 (5) to achieve these goals, statutory reform is needed; and

14 (6) to implement these needed reforms at the administrative level, it is in the  
15 best interest of the state for the development and implementation of the ACMP to be  
16 transferred from the Alaska Coastal Policy Council to the Department of Natural Resources.

17 \* Sec. 2. AS 38.05.825(a) is amended to read:

18 (a) Unless the commissioner finds that the public interest in retaining state  
19 ownership of the land clearly outweighs the municipality's interest in obtaining the  
20 land, the commissioner shall convey to a municipality tide or submerged land  
21 requested by the municipality that is occupied or suitable for occupation and  
22 development if the

23 (1) land is within or contiguous to the boundaries of the municipality;

24 (2) use of the land would not unreasonably interfere with navigation or  
25 public access;

26 (3) municipality has applied to the commissioner for conveyance of the  
27 land under this section;

28 (4) land is not subject to a shore fisheries lease under AS 38.05.082,  
29 or, if the land is subject to a shore fisheries lease, the commissioner determines it is in  
30 the best interests of the state to convey the land;

31 (5) land is classified for waterfront development or for another use that

1 is consistent or compatible with the use proposed by the municipality, or the proposed  
 2 use of the land is consistent or compatible with a land use plan adopted by the  
 3 municipality or [,] the department [, OR THE ALASKA COASTAL POLICY  
 4 COUNCIL]; and

5 (6) land

6 (A) is required for the accomplishment of a public or private  
 7 development approved by the municipality;

8 (B) is the subject of a lease from the state to the municipality;

9 or

10 (C) has been approved for lease to the municipality.

11 \* Sec. 3. AS 44.33.781 is amended to read:

12 **Sec. 44.33.781. Planning assistance for development and maintenance of**  
 13 **district coastal management plans [PROGRAMS].** The department shall conduct a  
 14 program of research, training, and technical assistance to coastal resource districts  
 15 necessary for the development and implementation of district coastal management  
 16 plans [PROGRAMS] under AS 46.40. The technical assistance shall include the  
 17 direct granting to the coastal resource districts of a portion of any funds received by  
 18 the state from the federal coastal zone management program, in amounts to be  
 19 individually determined for each coastal resource district by the commissioner of  
 20 community and economic development. State agencies shall assist the department in  
 21 carrying out the purposes of this section.

22 \* Sec. 4. AS 44.62.800(1) is amended to read:

23 (1) "agency" means a department, an institution, or a division or other  
 24 administrative unit of the executive branch of state government authorized or required  
 25 by law to make regulations, except that "agency" does not include

26 (A) a board, [;] a commission, [;] a council, [EXCEPT THE  
 27 ALASKA COASTAL POLICY COUNCIL ESTABLISHED IN  
 28 AS 46.39.020;] an authority, [;] or a public corporation of the executive branch  
 29 of state government authorized or required by law to make regulations; or

30 (B) the Department of Corrections;

31 \* Sec. 5. AS 46.39.010 is amended by adding a new subsection to read:

1 (c) The department may adopt regulations necessary to implement this  
2 chapter.

3 \* Sec. 6. AS 46.39.030 is amended to read:

4 Sec. 46.39.030. Powers of the department [COUNCIL]. The department  
5 [COUNCIL] may

6 (1) apply for and accept grants, contributions, and appropriations,  
7 including application for and acceptance of federal funds that may become available  
8 for coastal planning and management;

9 (2) contract for necessary services;

10 (3) consult and cooperate with

11 (A) persons, organizations, and groups, public or private,  
12 interested in, affected by, or concerned with coastal area planning and  
13 management;

14 (B) agents and officials of the coastal resource districts of the  
15 state, and federal and state agencies concerned with or having jurisdiction over  
16 coastal planning and management;

17 (4) take any reasonable action necessary to carry out the provisions of  
18 this chapter or AS 46.40 [AS 46.39.020 - 46.39.050].

19 \* Sec. 7. AS 46.39.040 is amended to read:

20 Sec. 46.39.040. Duties of the department [COUNCIL]. In conformity with  
21 16 U.S.C. 1451-1464 (Coastal Zone Management Act of 1972), as amended, the  
22 department [COUNCIL] shall

23 (1) [THROUGH THE PUBLIC HEARING PROCESS AND THE  
24 RECORDING OF THE MINUTES OF THE HEARINGS,] develop statewide  
25 [GUIDELINES AND] standards for the Alaska coastal management program, and  
26 criteria for the preparation [OF,] and approval of district coastal management  
27 plans [APPROVE,] in accordance with AS 46.40 [, THE ALASKA COASTAL  
28 MANAGEMENT PROGRAM];

29 (2) establish continuing coordination among state agencies to facilitate  
30 the development and implementation of the Alaska coastal management program; in  
31 carrying out its duties under this paragraph, the department [COUNCIL] shall initiate

AS 46.40.2. P10

1 an interagency program of comprehensive coastal resource planning for each  
2 geographic region of the state [DESCRIBED IN AS 46.39.020(a)(1)];

3 (3) assure continued provision of data and information to coastal  
4 resource districts to carry out their planning and management functions under the  
5 program.

6 \* Sec. 8. AS 46.40.010 is amended to read:

7 **Sec. 46.40.010. Development of Alaska coastal management program.** (a)  
8 The department [ALASKA COASTAL POLICY COUNCIL ESTABLISHED IN  
9 AS 46.39.020] shall approve, in accordance with this chapter, the Alaska coastal  
10 management program.

11 (b) The department [COUNCIL] may approve the Alaska coastal  
12 management program for a portion or portions of the coastal area before approving the  
13 complete program under (a) of this section. Portions of the program approved under  
14 this subsection shall be incorporated into the Alaska coastal management program.

15 (c) The Alaska coastal management program shall be reviewed by the  
16 department [COUNCIL] and, when appropriate, revised to

17 (1) add newly approved district coastal management plans  
18 [PROGRAMS], or revisions and amendments to the Alaska coastal management  
19 program;

20 (2) integrate newly approved district coastal management plans  
21 [PROGRAMS], or revisions and amendments of district coastal management plans  
22 [PROGRAMS], with existing approved plans [PROGRAMS] and with plans  
23 developed by state agencies;

24 (3) add new or revised state statutes, policies, regulations, or other  
25 appropriate material;

26 (4) review the effectiveness of implementation of district coastal  
27 management plans [PROGRAMS]; and

28 (5) consider new information acquired by the state and coastal resource  
29 districts.

30 (d) All reviews and revisions shall be in accordance with the statewide  
31 [GUIDELINES AND] standards and district plan criteria adopted [BY THE

1 COUNCIL] under AS 46.40.040.

2 \* Sec. 9. AS 46.40.030 is amended to read:

3 Sec. 46.40.030. Development of district coastal management plans  
4 [PROGRAMS]. (a) Coastal resource districts shall develop and adopt district coastal  
5 management plans [PROGRAMS] in accordance with the provisions of this chapter.  
6 The plan [PROGRAM] adopted by a coastal resource district shall be based upon a  
7 municipality's existing comprehensive plan or a new comprehensive resource use plan  
8 or comprehensive statement of needs, policies, objectives, and standards governing the  
9 use of resources within the coastal area of the district. The plan [PROGRAM] must  
10 meet [BE CONSISTENT WITH] the statewide [GUIDELINES AND] standards and  
11 district plan criteria adopted [BY THE COUNCIL] under AS 46.40.040 and must  
12 include

13 (1) a delineation within the district of the boundaries of the coastal area  
14 subject to the district coastal management plan [PROGRAM];

15 (2) a statement, list, or definition of the land and water uses and  
16 activities subject to the district coastal management plan [PROGRAM];

17 (3) a statement of policies to be applied to the land and water uses  
18 subject to the district coastal management plan [PROGRAM];

19 (4) [REGULATIONS, AS APPROPRIATE, TO BE APPLIED TO  
20 THE LAND AND WATER USES SUBJECT TO THE DISTRICT COASTAL  
21 MANAGEMENT PROGRAM;

22 (5)] a description of the uses and activities which will be considered  
23 proper and the uses and activities which will be considered improper with respect to  
24 the land and water within the coastal area;

25 [(6) A SUMMARY OR STATEMENT OF THE POLICIES WHICH  
26 WILL BE APPLIED AND THE PROCEDURES WHICH WILL BE USED TO  
27 DETERMINE WHETHER SPECIFIC PROPOSALS FOR LAND OR WATER USES  
28 OR ACTIVITIES SHALL BE ALLOWED;] and

29 (5) [(7)] a designation of, and the policies which will be applied to the  
30 use of, areas within the coastal resource district which merit special attention.

31 (b) In developing enforceable policies in its coastal management plan

1 [STATEMENTS OF POLICIES AND REGULATIONS] under (a) of this section, a  
2 coastal resource district shall meet the requirements of AS 46.40.070, and may not  
3 duplicate, restate, or incorporate by reference statutes and administrative regulations  
4 adopted by state or federal agencies.

5 \* Sec. 10. AS 46.40.040 is amended to read:

6 Sec. 46.40.040. Statewide standards and district plan criteria [DUTIES  
7 OF THE ALASKA COASTAL POLICY COUNCIL]. Except as provided in (b)  
8 of this section and AS 41.17, the department [THROUGH THE PUBLIC  
9 HEARING PROCESS AND THE RECORDING OF THE MINUTES OF THE  
10 HEARINGS, THE ALASKA COASTAL POLICY COUNCIL] shall

11 (1) by regulation, adopt under the provisions of AS 44.62  
12 (Administrative Procedure Act) for the use of and application by coastal resource  
13 districts and state agencies for carrying out their responsibilities under this chapter,  
14 statewide [GUIDELINES AND] standards and district coastal management plan  
15 criteria for

16 (A) identifying the boundaries of the coastal area subject to the  
17 Alaska [DISTRICT] coastal management program;

18 (B) determining the land and water uses and activities subject  
19 to the Alaska [DISTRICT] coastal management program;

20 (C) developing policies applicable to the land and water uses  
21 subject to the Alaska [DISTRICT] coastal management program;

22 (D) developing regulations applicable to the land and water  
23 uses subject to the Alaska [DISTRICT] coastal management program;

24 (E) developing policies and procedures to determine whether  
25 specific proposals for the land and water uses or activities subject to the  
26 Alaska [DISTRICT] coastal management program shall be allowed;

27 (F) designating and developing policies for the use of areas of  
28 the coast which merit special attention; and

29 (G) measuring the progress of a coastal resource district in  
30 meeting its responsibilities under this chapter;

31 (2) develop and maintain a program of technical and financial

1 assistance to aid coastal resource districts in the development and implementation of  
2 district coastal management plans [PROGRAMS];

3 (3) undertake review and approval of district coastal management  
4 plans [PROGRAMS] in accordance with this chapter;

5 (4) initiate a process for identifying and managing uses of state  
6 concern within specific areas of the coast;

7 (5) develop procedures or guidelines for consultation and coordination  
8 with federal agencies managing land or conducting activities potentially affecting the  
9 coastal area of the state;

10 (6) by regulation, establish a consistency review and determination or  
11 certification process that conforms to the requirements of AS 46.40.096.

12 \* Sec. 11. AS 46.40.040 is amended by adding a new subsection to read:

13 (b) For purposes of this chapter, the statutes and regulations of the Department  
14 of Environmental Conservation with respect to the protection of air, land, and water  
15 quality constitute the exclusive enforceable policies of the Alaska coastal management  
16 program for those purposes. The issuance of permits, certifications, approvals, and  
17 authorizations by the Department of Environmental Conservation constitute a  
18 determination of consistency with the Alaska coastal management program for those  
19 purposes and for those components of a proposed development project subject to those  
20 permits, certifications, approvals, and authorizations.

21 \* Sec. 12. AS 46.40.050 is repealed and reenacted to read:

22 **Sec. 46.40.050. Submission of district plans by coastal resource districts.**

23 (a) A coastal resource district must review and resubmit its coastal management plan  
24 for reapproval every five years after its approval by the department under  
25 AS 46.40.060.

26 (b) Within 30 months after certification of the organization of a new coastal  
27 resource district, the coastal resource district shall complete and submit to the  
28 department a proposed district coastal management plan. If, after receipt of a written  
29 request for extension from the coastal resource district, the department considers an  
30 extension proper, the department may grant an extension to a date that is within 54  
31 months after certification of the results of the coastal resource district's organization.

Limits  
Development

1 A request under this subsection must include the reasons for the extension.

2 \* Sec. 13. AS 46.40.060 is amended to read:

3 **Sec. 46.40.060. Review and approval by the department [COUNCIL].** (a)

4 If, upon submission of a district coastal management plan [PROGRAM] for approval,  
5 the department [COUNCIL] finds that the plan [PROGRAM] meets [IS  
6 SUBSTANTIALLY CONSISTENT WITH] the provisions of this chapter and the  
7 statewide [GUIDELINES AND] standards and district plan criteria adopted by the  
8 department [COUNCIL] and does not arbitrarily, [OR] unreasonably, or unduly  
9 restrict or exclude uses of state concern, the department [COUNCIL] may approve  
10 [GRANT SUMMARY APPROVAL OF] the district coastal management plan  
11 [PROGRAM], or may approve portions of the district plan that meet those  
12 requirements [PROGRAM WHICH ARE CONSISTENT].

13 (b) If the department [COUNCIL] finds that a district coastal management  
14 plan [PROGRAM] is not approvable or is approvable only in part under (a) of this  
15 section, it shall direct that deficiencies in the plan [PROGRAM] submitted by the  
16 coastal resource district be mediated. In mediating the deficiencies, the department  
17 [COUNCIL] may call for one or more public hearings in the district. The department  
18 [COUNCIL] shall meet with officials of the coastal resource district in order to resolve  
19 differences.

20 (c) If, after mediation, the differences have not been resolved [TO THE  
21 MUTUAL AGREEMENT OF THE COASTAL RESOURCE DISTRICT AND THE  
22 COUNCIL, THE COUNCIL SHALL CALL FOR A PUBLIC HEARING AND  
23 SHALL RESOLVE THE DIFFERENCES IN ACCORDANCE WITH AS 44.62  
24 (ADMINISTRATIVE PROCEDURE ACT). AFTER A PUBLIC HEARING HELD  
25 UNDER THIS SUBSECTION], the department [COUNCIL] shall enter findings  
26 and, by order, may require

27 (1) that the district coastal management plan [PROGRAM] be  
28 amended to satisfy [MAKE IT CONSISTENT WITH] the provisions of this chapter  
29 or meet the statewide [GUIDELINES AND] standards and district plan criteria  
30 adopted by the department [COUNCIL];

31 (2) that the district coastal management plan [PROGRAM] be revised

1 to accommodate a use of state concern; or

2 (3) any other action be taken by the coastal resource district as  
3 appropriate.

4 (d) The superior courts of the state have jurisdiction to enforce orders of the  
5 department [COUNCIL] entered under (c) of this section.

6 \* Sec. 14. AS 46.40.070 is repealed and reenacted to read:

7 **Sec. 46.40.070. Requirements for department review and approval.** (a)

8 The department may approve a district coastal management plan submitted for review  
9 and approval if

10 (1) the district coastal management plan meets the requirements of this  
11 chapter and the statewide standards and district plan criteria adopted by the  
12 department; and

13 (2) the enforceable policies of the district coastal management plan

14 (A) are clear and concise as to the activities and persons  
15 affected by the policies, and the requirements of the policies;

16 (B) are not susceptible to inconsistent application to different  
17 projects or regulated persons;

18 (C) use precise, prescriptive, and enforceable language; and

19 (D) do not address a matter regulated or authorized by state or  
20 federal law unless the enforceable policies relate specifically to a matter of  
21 local concern; for purposes of this subparagraph, "matter of local concern"  
22 means a specific coastal use or resource, or geographical area within the  
23 coastal zone, that is

24 (i) identified as sensitive to development;

25 (ii) not adequately addressed or contemplated by state  
26 or federal law; and

27 (iii) of unique concern to the coastal resource district as  
28 demonstrated by usage or scientific evidence.

29 (b) A decision by the department under this section shall be given within 90  
30 days after submission of the district coastal management plan to the department.

31 \* Sec. 15. AS 46.40.090 is amended to read:

1           **Sec. 46.40.090. Implementation of district coastal management plans**  
2           **[PROGRAMS].** (a) A district coastal management plan [PROGRAM] approved  
3           under this chapter [BY THE COUNCIL AND THE LEGISLATURE] for a coastal  
4           resource district that [WHICH] does not have and exercise zoning or other controls on  
5           the use of resources within the coastal area shall be implemented by appropriate state  
6           agencies as provided in AS 46.40.096. Implementation shall be in accordance with  
7           the comprehensive use plan or the statement of needs, policies, objectives, and  
8           standards adopted by the district.

9           (b) A coastal resource district that [WHICH] has and exercises zoning or  
10          other controls on the use of resources within the coastal area shall implement its  
11          district coastal management plan [PROGRAM]. Implementation shall be in  
12          accordance with the comprehensive use plan or the statement of needs, policies,  
13          objectives, and standards adopted by the district.

14       \* **Sec. 16.** AS 46.40.094(a) is amended to read:

15           (a) The provisions of this section apply to a use or activity for which a  
16           consistency determination is required if

17               (1) at the time the proposed use or activity is initiated, there is  
18               insufficient information to evaluate and render a consistency determination for the  
19               entirety of the proposed use or activity;

20               (2) the proposed use or activity is capable of proceeding in discrete  
21               phases based upon developing information that was not available to the project  
22               applicant at the time of the previous [OBTAINED IN THE COURSE OF A] phase;  
23               and

24               (3) each subsequent phase of the proposed use or activity is subject to  
25               discretion to implement alternative decisions based upon the developing information.

26       \* **Sec. 17.** AS 46.40.096(a) is amended to read:

27           (a) The department [COUNCIL] shall, by regulation, establish a consistency  
28           review and determination process that conforms to the requirements of this section.

29       \* **Sec. 18.** AS 46.40.096(b) is amended to read:

30           (b) If a consistency review is not subject to AS 46.39.010 because the project  
31           for which a consistency review is made requires a permit, lease, or authorization from

1 only one state resource agency, that state resource agency shall coordinate the  
2 consistency review of the project. The state resource agency shall coordinate the  
3 consistency review according to the requirements of the regulations adopted by the  
4 department [COUNCIL] under this section.

5 \* Sec. 19. AS 46.40.096(c) is amended to read:

6 (c) The regulations adopted by the department [COUNCIL] under this  
7 section must include provisions for public notice and provide the opportunity for  
8 public comment. <sup>under AS 44.62 -</sup> The regulations adopted under this subsection may make  
9 distinctions relating to notice based upon differences in project type, anticipated effect  
10 of the project on coastal resources and uses, other state or federal notice requirements,  
11 and time constraints. However, a notice given under this subsection must contain  
12 sufficient information, expressed in commonly understood terms, to inform the public  
13 of the nature of the proposed project for which a consistency determination is sought,  
14 and must explain how the public may comment on the proposed project.

15 \* Sec. 20. AS 46.40.096(d) is amended to read:

16 (d) In preparing a consistency review and determination for a proposed  
17 project, the reviewing entity shall

18 (1) request consistency review comments for the proposed project  
19 from state resource agencies, affected coastal resource districts, and other interested  
20 parties as determined by regulation adopted by the department [COUNCIL];

21 (2) prepare proposed consistency determinations;

22 (3) coordinate subsequent reviews of proposed consistency  
23 determinations prepared under (2) of this subsection; a subsequent review of a  
24 proposed consistency determination under this paragraph

25 (A) is limited to a review by the department [STATE  
26 RESOURCE AGENCIES]; [AND]

27 (B) may occur only if requested by

28 (i) the project applicant;

29 (ii) a state resource agency; or

30 (iii) an affected coastal resource district; and

31 (C) shall be completed by the department within 45 days

1 after the initial request for subsequent review under this paragraph:

2 (4) render the final consistency determination and certification.

3 \* Sec. 21. AS 46.40.096(g) is amended to read:

4 (g) The reviewing entity shall [MAY] exclude from the consistency review  
5 and determination process [FOR A PROJECT]

6 (1) an activity that is authorized

7 (A) under a general or nationwide permit that has previously  
8 been determined to be consistent with the Alaska [APPLICABLE] coastal  
9 management program [PROGRAMS]; or

10 (B) by the Department of Environmental Conservation  
11 under its air, land, and water quality requirements as provided in  
12 AS 46.40.040(b);

13 (2) activities excluded from a consistency review under AS 41.17;

14 and

15 (3) the issuance of an authorization or permit issued by the Alaska Oil  
16 and Gas Conservation Commission.

17 \* Sec. 22. AS 46.40.096 is amended to add new subsections to read:

18 (i) Except as provided in (g) of this section, AS 41.17, AS 46.40.040(b),  
19 16 U.S.C. 1456, and 15 C.F.R. Part 930, a consistency review of a project under this  
20 section is triggered by an activity within the areas described in (k) of this section that  
21 is subject to a state resource agency permit, lease, authorization, approval, or  
22 certification.

23 (j) Except as provided in (g) of this section, AS 41.17, AS 46.40.040(b), and  
24 AS 46.40.094, the scope of a consistency review of a project, once triggered under (i)  
25 of this section, is limited to activities within the areas described in (k) of this section  
26 that are subject to a state resource agency permit, lease, authorization, approval, or  
27 certification, or to a coastal resource district enforceable policy approved by the  
28 department under this chapter. The scope of a consistency review subject to 16 U.S.C.  
29 1456 is determined under 16 U.S.C. 1456 and 15 C.F.R. Part 930.

30 (k) The regulations adopted under (a) of this section apply, as authorized by  
31 16 U.S.C. 1456(c), to

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(1) activities within the coastal zone; and

(2) activities on federal lands, including the federal outer continental shelf, that would affect any land or water use or natural resource of the state's coastal zone; for purposes of this paragraph those activities consist of any activity on the federal outer continental shelf and any activity on federal lands that are within the geographic boundaries of the state's coastal zone notwithstanding the exclusion of federal lands in 16 U.S.C. 1453(l).

(l) As part of the regulations adopted under (a) of this section, the department shall establish categories and descriptions of uses and activities that, for purposes of evaluating consistency with the Alaska coastal management program, are determined to be categorically consistent or generally consistent after the inclusion of standard alternative measures. These categories of uses and activities must be as broad as possible so as to minimize the number of projects that must undergo an individualized consistency review under this section.

*Should be in statute*

\* Sec. 23. AS 46.40.100(a) is amended to read:

(a) As provided in AS 46.40.090 and 46.40.096, municipalities [MUNICIPALITIES] and state resource agencies shall administer land and water use regulations or controls in conformity with district coastal management plans [PROGRAMS] approved under this chapter [BY THE COUNCIL] and in effect.

\* Sec. 24. AS 46.40.100(b) is amended to read:

(b) A party that is authorized under (g) of this section may file a petition showing that a district coastal management plan [PROGRAM] is not being implemented. A petition filed under this subsection may not seek review of a proposed or final consistency determination regarding a specific project. On receipt of a petition, the department [COUNCIL], after giving public notice in the manner required by (f) of this section, <sup>may</sup> shall convene a hearing to consider the matter. A hearing called under this subsection shall be held in accordance with regulations adopted under this chapter [BY THE COUNCIL]. After hearing, the department [COUNCIL] may order that the coastal resource district or a state resource agency take any action with respect to future implementation of the district coastal management plan [PROGRAM] that the department [COUNCIL] considers

*Define a party*

1 necessary, except that the department [COUNCIL] may not order that the coastal  
2 resource district or a state agency take any action with respect to a proposed or final  
3 consistency determination that has been issued.

4 \* Sec. 25. AS 46.40.100(c) is amended to read:

5 (c) In determining whether an approved district coastal management plan  
6 [PROGRAM] is being implemented by a coastal resource district that exercises zoning  
7 authority or controls on the use of resources within the coastal area or by a state  
8 resource agency, the department [COUNCIL] shall find in favor of the district or the  
9 state resource agency, unless the department [COUNCIL] finds a pattern of  
10 nonimplementation.

11 \* Sec. 26. AS 46.40.100(e) is amended to read:

12 (e) The superior courts of the state have jurisdiction to enforce lawful orders  
13 of the department [COUNCIL].

14 \* Sec. 27. AS 46.40.100(f) is amended to read:

15 (f) Upon receipt of a petition under (b) of this section, the department  
16 [COUNCIL] shall give notice of the hearing at least 10 days before the scheduled date  
17 of the hearing. The notice must

18 (1) contain sufficient information in commonly understood terms to  
19 inform the public of the nature of the petition; and

20 (2) indicate the manner in which the public may comment on the  
21 petition.

22 \* Sec. 28. AS 46.40.100(h) is amended to read:

23 (h) If the department [COUNCIL] finds a pattern of nonimplementation  
24 under (c) of this section, the department [COUNCIL] may order a coastal resource  
25 district or a state resource agency to take action with respect to future implementation  
26 of the district coastal management plan [PROGRAM] that the department  
27 [COUNCIL] considers necessary to implement the district coastal management plan  
28 [PROGRAM]. The department's [COUNCIL'S] determination under (c) of this  
29 section and any order issued under this subsection shall be considered a final  
30 administrative order for purposes of judicial review under AS 44.62.560.

31 \* Sec. 29. AS 46.40.110 is repealed and reenacted to read:

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**Sec. 46.40.110. Authority in the unorganized borough.** A coastal resource service area in the unorganized borough organized under AS 29.03.020 and AS 46.40.110 - 46.40.180 before the effective date of this bill section shall exercise those authorities and perform those duties required under this chapter.

*Allows  
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\* **Sec. 30.** AS 46.40.140(a) is amended to read:

(a) Each coastal resource service area [, UPON ORGANIZATION,] shall have an elected board representing the population of the service area. The board shall have the powers and duties and perform the functions prescribed for or required of coastal resource districts.

*elected  
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\* **Sec. 31.** AS 46.40.140(d) is amended to read:

(d) The term of office of a member of a coastal resource service area board is three years [, EXCEPT THAT THE TERMS OF THE MEMBERS OF THE FIRST BOARD ELECTED AFTER ORGANIZATION OF A COASTAL RESOURCE SERVICE AREA SHALL BE DETERMINED BY LOT, WITH TWO MEMBERS SERVING ONE-YEAR TERMS, TWO MEMBERS SERVING TWO-YEAR TERMS, AND THREE MEMBERS SERVING THREE-YEAR TERMS]. Members serve until their successors are elected and have qualified. This section does not prohibit the reelection of a board member.

\* **Sec. 32.** AS 46.40.140(e) is amended to read:

(e) The lieutenant governor shall provide for the election of the members of coastal resource service area boards. [THE FIRST ELECTION OF BOARD MEMBERS SHALL OCCUR AT THE SAME TIME AS THE ORGANIZATION ELECTION UNDER AS 46.40.130(b)].

\* **Sec. 33.** AS 46.40.140(f) is amended to read:

(f) Election [EXCEPT FOR THE FIRST ELECTION] of members of coastal resource service area boards [, ELECTIONS] shall be held annually on the date of election of members of regional educational attendance area boards under AS 14.08.071(b). [FOR AN ELECTION UNDER THIS SUBSECTION OR UNDER (e) OF THIS SECTION, A NEWLY ELECTED BOARD MEMBER TAKES OFFICE AT THE FIRST COASTAL RESOURCE SERVICE AREA BOARD MEETING AFTER CERTIFICATION OF THE ELECTION.] If no candidate files

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Boro/City*

1 for election to a seat on the coastal resource service area board, the seat is considered  
2 vacant at the time a newly elected member would have taken office.

3 \* Sec. 34. AS 46.40.150 is amended to read:

4 Sec. 46.40.150. Elections in coastal resource service areas. Elections  
5 [ORGANIZATION ELECTIONS] under AS 46.40.110 - 46.40.180 [AS 46.40.130  
6 AND OTHER ELECTIONS, INCLUDING RECALL ELECTIONS CONDUCTED  
7 UNDER AS 46.40.140,] shall be administered by the lieutenant governor in the  
8 general manner provided in AS 15 (Election Code). In addition, the lieutenant  
9 governor may adopt regulations necessary to the conduct of coastal resource service  
10 area board elections. The state shall pay all election costs.

11 \* Sec. 35. AS 46.40.180(a) is amended to read:

12 (a) Before adoption by a coastal resource service area board, [OR BY THE  
13 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT UNDER  
14 AS 46.40.170,] a district coastal management plan [PROGRAM] shall be submitted  
15 for review to each city or village within the coastal resource service area. The council  
16 of a city or traditional village council shall consider the plan [PROGRAM] submitted  
17 for review. Within 60 days of submission, the council of a city or traditional village  
18 council shall either approve the plan [PROGRAM] or enter objections to all or any  
19 portion of the plan [PROGRAM].

20 \* Sec. 36. AS 46.40.180(b) is amended to read:

21 (b) If a city or village within a coastal resource service area fails to approve a  
22 portion of the district coastal management plan [PROGRAM] prepared and submitted  
23 for approval under (a) of this section, the governing body shall advise the coastal  
24 resource service area board [OR THE DEPARTMENT, AS APPLICABLE,] of its  
25 objections to the proposed plan [PROGRAM] and suggest alternative elements or  
26 components for inclusion in the district coastal management plan [PROGRAM]. New  
27 matter submitted by a city or village which meets [IS SUBSTANTIALLY  
28 CONSISTENT WITH] the statewide [GUIDELINES AND] standards and district  
29 plan criteria adopted under this chapter [BY THE COUNCIL] shall be accepted  
30 and the district coastal management plan [PROGRAM] modified accordingly. If a  
31 city or village fails to provide objections and suggested alternatives within the time

1 limits established in this section, the coastal resource service area board [OR THE  
2 DEPARTMENT, AS APPLICABLE,] may adopt the district coastal management  
3 plan [PROGRAM] as initially offered.

4 \* Sec. 37. AS 46.40.180(c) is amended to read:

5 (c) Objection by a city council under (b) of this section is limited to objection  
6 to elements of the plan [PROGRAM] affecting resources or the use of resources  
7 within the corporate limits of the city. Objection by a traditional village council under  
8 (b) of this section is limited to objection to elements of the plan [PROGRAM]  
9 affecting resources or the use of resources within the village or within two miles of the  
10 village.

11 \* Sec. 38. AS 46.40 is amended by adding a new section to read:

12 **Sec. 46.40.195. Construction with other laws.** Nothing in this chapter shall  
13 be construed to

14 (1) diminish state jurisdiction, responsibility, or rights in the field of  
15 planning, development, or control of land or water resources, submerged lands, or  
16 navigable waters;

17 (2) affect in any way any state requirement imposed under a federal  
18 authorization or federal waiver of sovereign immunity; or

19 (3) diminish the zoning or planning authority of municipalities under  
20 AS 29.

21 \* Sec. 39. AS 46.40.210(2) is amended to read:

22 (2) "coastal resource district" means each of the following that  
23 contains a portion of the coastal area of the state:

24 (A) unified municipalities;

25 (B) organized boroughs of any class that exercise planning and  
26 zoning authority;

27 (C) home rule and first class cities of the unorganized borough  
28 or within boroughs that do not exercise planning and zoning authority;

29 (D) second class cities of the unorganized borough, or within  
30 boroughs that do not exercise planning and zoning authority, that have  
31 established a planning commission, and that, in the opinion of the

1 commissioner of community and economic development, have the capability  
2 of preparing and implementing a comprehensive district coastal management  
3 plan [PROGRAM] under AS 46.40.030;

4 (E) coastal resource service areas established and organized  
5 under AS 29.03.020 and AS 46.40.110 - 46.40.180;

6 \* Sec. 40. AS 46.40.210(3) is amended to read:

7 (3) "consistency review" means the evaluation of a proposed  
8 development project, the scope of which is determined under AS 46.40.094 and  
9 46.40.096, against the statewide standards adopted [BY THE COUNCIL] under  
10 AS 46.40.040 for those evaluations and the enforceable policies in an applicable  
11 [A] district coastal management plan [PROGRAM] approved [BY THE COUNCIL]  
12 under AS 46.40.060;

13 \* Sec. 41. AS 46.40.210(5) is amended to read:

14 (5) "department" means the Department of Natural Resources  
15 [COMMUNITY AND ECONOMIC DEVELOPMENT];

16 \* Sec. 42. AS 46.40.210(8) is amended to read:

17 (8) "uses of state concern" means those land and water uses that  
18 [WHICH] would significantly affect the long-term public interest; "uses of state  
19 concern" [THESE USES, SUBJECT TO COUNCIL DEFINITION OF THEIR  
20 EXTENT,] include

21 (A) uses of national interest, including the use of resources for  
22 the siting of ports and major facilities that [WHICH] contribute to meeting  
23 national energy needs, construction and maintenance of navigational facilities  
24 and systems, resource development of federal land, and national defense and  
25 related security facilities that are dependent upon coastal locations;

26 (B) uses of more than local concern, including those land and  
27 water uses that confer significant environmental, social, cultural, or economic  
28 benefits or burdens beyond a single coastal resource district;

29 (C) the siting of major energy facilities, activities pursuant to a  
30 state or federal oil and gas lease, or large-scale industrial or commercial  
31 development activities that [WHICH] are dependent on a coastal location and

1           that [WHICH], because of their magnitude or the magnitude of their effect on  
2           the economy of the state or the surrounding area, are reasonably likely to  
3           present issues of more than local significance;

4                         (D) facilities serving statewide or interregional transportation  
5                         and communication needs; and

6                         (E) uses in areas established as state parks or recreational areas  
7                         under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat  
8                         areas under AS 16.20;

9   \* **Sec. 43.** AS 46.40.210 is amended by adding new paragraphs to read:

10                        (10) "coastal use or resource" means a land or water use or natural  
11                        resource of the coastal zone; "coastal use or resource" includes subsistence, recreation,  
12                        public access, fishing, historic or archaeological resources, geophysical resources, and  
13                        biological or physical resources found in the coastal zone on a regular or cyclical  
14                        basis;

15                        (11) "coastal zone" means the coastal waters including lands within  
16                        and under those waters, and adjacent shorelands, including the waters within and  
17                        under those shorelands, within the boundaries approved by the former Alaska Coastal  
18                        Policy Council and by the United States Secretary of Commerce under 16 U.S.C.  
19                        1451 - 1465 (Coastal Zone Management Act of 1972, as amended); "coastal zone"  
20                        includes areas added as a result of any boundary changes approved by the department  
21                        and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465;  
22                        "coastal zone" does not include

23                                 (A) those lands excluded under 16 U.S.C. 1453(1); or

24                                 (B) areas deleted as a result of any boundary changes by the  
25                        department in conformance with 16 U.S.C. 1451 - 1465;

26                        (12) "district coastal management plan" means a plan developed by a  
27                        coastal resource district, including enforceable policies of that plan, setting out  
28                        policies and standards to guide public and private uses of land and waters within that  
29                        district and approved by the department as meeting the requirements of this chapter  
30                        and the regulations adopted under this chapter;

31                        (13) "enforceable policy" means a policy established by this chapter or

1 approved by the department as a legally binding policy of the Alaska coastal  
2 management program applicable to public and private activities.

3 \* Sec. 44. AS 38.05.037(b)(2); AS 39.50.200(b)(38); AS 44.62.800(2)(B); AS 46.39.020,  
4 46.39.050; AS 46.40.080, 46.40.120, 46.40.130, 46.40.140(c), 46.40.160, 46.40.170,  
5 46.40.200, and 46.40.210(4) are repealed.

6 \* Sec. 45. The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 ANNULMENT OF CERTAIN REGULATIONS. The following regulations are  
9 annulled:

10 (1) 6 AAC 80.010 - 6 AAC 80.900;

11 (2) 6 AAC 85.020 - 6 AAC 85.900.

12 \* Sec. 46. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 TRANSITION: GENERAL PROVISIONS. (a) The Department of Natural  
15 Resources shall adopt regulations under AS 44.62 (Administrative Procedure Act)  
16 implementing this Act in order that the regulations are effective no later than July 1, 2004.

17 (b) Until sec. 45 of this Act takes effect or the regulations attorney removes the  
18 regulations under sec. 48(c) of this Act, whichever occurs first, the Department of Natural  
19 Resources may implement and enforce the regulations in 6 AAC 80 and 6 AAC 85, to the  
20 extent that the regulations are not inconsistent with this Act.

21 (c) Notwithstanding the repeal of the Alaska Coastal Policy Council enacted by  
22 sec. 44 of this Act, and the repeal of the Alaska Coastal Policy Council's duties in  
23 AS 46.40.040, enacted in sec. 10 of this Act, a district coastal management program,  
24 including its enforceable policies, approved by the former Alaska Coastal Policy Council that  
25 is not otherwise inconsistent with this Act or AS 46.40 as amended by this Act, remains in  
26 effect for purposes of AS 46.39 and AS 46.40 until July 1, 2006, unless the Department of  
27 Natural Resources disapproves or modifies all or part of the program before July 1, 2006.

28 (d) Consistency reviews pending on the day before the effective date of secs. 17 - 22  
29 of this Act and initiated under the provisions of AS 46.40.096, as that section existed before  
30 the changes made by secs. 17 - 22 of this Act, may, at the applicant's option exercised no  
31 more than 60 days after the effective date of secs. 17 - 22 of this Act, be continued and

1 completed under the procedures and enforceable policies under the provisions of AS 46.39  
2 and AS 46.40 as they existed before the changes made by this Act.

3 (e) Except as provided in (d) of this section, contracts, rights, liabilities, and  
4 obligations created by or under a law repealed by this Act remain in effect notwithstanding  
5 this Act's taking effect.

6 \* Sec. 47. The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 TRANSITION AND APPLICABILITY OF CERTAIN PROVISIONS:  
9 SUBMISSION OF DISTRICT PLANS BY COASTAL RESOURCE DISTRICTS FOR  
10 INITIAL IMPLEMENTATION OF THIS ACT. (a) Within six months after the effective  
11 date of regulations adopted by the Department of Natural Resources implementing changes to  
12 AS 46.40.010 - 46.40.090, enacted by secs. 8 - 15 of this Act, coastal resource districts that  
13 are a home rule municipality or a first class city shall review their existing district coastal  
14 management programs and submit to the Department of Natural Resources for review and  
15 approval revised district coastal management plans meeting the requirements of AS 46.40, as  
16 amended by this Act, and the implementing regulations.

17 (b) Within one year after the effective date of regulations adopted by the Department  
18 of Natural Resources implementing changes to AS 46.40.010 - AS 46.40.090, enacted by  
19 secs. 8 - 15 of this Act, coastal resource districts other than those described in (a) of this  
20 section shall review their existing district coastal management programs and submit to the  
21 Department of Natural Resources for review and approval revised district coastal management  
22 plans meeting the requirements of AS 46.40, as amended by this Act, and the implementing  
23 regulations.

24 (c) AS 46.40.070(b), enacted by sec. 14 of this Act, does not apply to a revised  
25 district coastal management plan submitted under (a) or (b) of this section.

26 \* Sec. 48. The uncodified law of the State of Alaska is amended by adding a new section to  
27 read:

28 REVISOR'S INSTRUCTIONS. (a) The revisor of statutes is instructed to

29 (1) change the heading of

30 (A) AS 46.39 from "Coastal Management Administration; Alaska  
31 Coastal Policy Council" to "Coastal Management Administration";

1 (B) article 2 of AS 46.40 from "Coastal Management Programs in the  
2 Unorganized Borough" to "Coastal Management Plans in the Unorganized Borough";

3 (C) AS 46.40.180 from "Approval of programs in coastal resource  
4 service areas" to "Approval of plans in coastal resource service areas";

5 (2) delete the heading of article 2 of AS 46.39 and renumber article 3 of  
6 AS 46.39 as article 2.

7 (b) Wherever in the Alaska Administrative Code the terms "Alaska Coastal Policy  
8 Council" or "Coastal Policy Council" are used, or the term "council" is used to refer to the  
9 Alaska Coastal Policy Council, the regulations attorney is instructed to change those terms to  
10 read as "Department of Natural Resources," "DNR," "department" or "commissioner of  
11 natural resources" when to do so would be consistent with AS 44.62.125(b)(6) and the  
12 changes made by this Act.

13 (c) If regulations adopted by the Department of Natural Resources under sec. 46 of  
14 this Act take effect before the effective date of sec. 45 of this Act, the regulations attorney is  
15 instructed to remove from the Alaska Administrative Code the regulations listed in sec. 45 of  
16 this Act, as being obsolete. The lieutenant governor shall notify the regulations attorney of  
17 the effective date of the regulations adopted by the Department of Natural Resources under  
18 sec. 46 of this Act.

19 \* Sec. 49. Section 45 of this Act takes effect July 1, 2005.

20 \* Sec. 50. Except as provided in sec. 49 of this Act, this Act takes effect immediately under  
21 AS 01.10.070(c).

**HB-191**  
**STATEMENT OF PURPOSE**

HOUSE BILL NO. 191

Under the authority of article III, sec. 18, of the Alaska Constitution, the Governor has transmitted this bill to reform and streamline the Alaska Coastal Management Program (ACMP). This legislation is premised upon the statutory changes contained in Executive Order 106, which was presented to you on February 12, 2003. Executive Order 106 would transfer responsibility for the ACMP program from the division of governmental coordination in the office of management and budget to the Department of Natural Resources.

The Alaska Coastal Management Program was first enacted in 1977 in order to participate in the federal Coastal Zone Management Act of 1972. The federal program is voluntary, and encourages states to receive funds and the opportunity for federal consistency review. Federal consistency review enables the state to apply its authorities to projects located on federal land and the federal outer continental shelf where otherwise it would be preempted by federal law.

The goal of this legislation is to create a new coastal management program that retains the benefits of the federal act but eliminates the duplication and complexity built into the present ACMP. This bill would achieve this goal by choosing the simplest of the three management techniques allowed by the federal act. The bill provides certainty and predictability to the ACMP process by clarifying the standards and responsibilities for program implementation.

The central streamlining concept of the bill is the reliance on existing state statutes and regulations as the enforceable policies of the ACMP. The current duplicative consistency review process in AS 46.40.096 and 6 AAC 50 is eliminated by simply relying on the issuance of current state permits by the resource agencies as the means of determining whether an activity is consistent with the ACMP. The bill would eliminate district coastal management enforceable policies but retains a local role in three ways. First, AS 29 municipalities would retain their existing land use authorities to regulate private activity within their jurisdiction. Second, the bill authorizes

the Department of Natural Resources (DNR), as the implementing agency, to adopt local ordinances as enforceable policies to be applied in consistency reviews of federal projects and Outer Continental Shelf (OCS) development. The DNR would consult with the local government when interpreting and applying the local ordinance as part of a consistency review. Third, the bill would specifically adopt certain existing coastal district policies for federal OCS development as state enforceable policies. Coastal resource service areas in the unorganized borough would no longer exist. However, municipalities within the unorganized borough could participate in both the funding and regulatory aspects of the program. The way coastal communities participate in the program will now focus on sustainable resource and economic development.

The bill would also eliminate the Coastal Policy Council, but would create a Coastal Program Evaluation Council to submit a report to the Governor on the implementation of these reforms. The council would sunset July 1, 2005.

**NORTH SLOPE BOROUGH  
ISSUES - THE ALASKA COASTAL MANAGEMENT PROGRAM (ACMP)  
JANUARY 24, 2003**

**Local Control** – Within bounds and within reason, management decisions are better made at the local level. That is at the heart of the unique partnership created by the federal Coastal Zone Management Act (CZMA). Federal supremacy is yielded to states that adopt coastal programs that comply with basic federal standards. Our state frequently makes that argument when the federal government acts to control resources and development within Alaska. Under our state program, authority is further yielded to local entities (coastal districts or coastal resource service areas) that have adopted programs consistent with basic state standards. Before adoption, district programs are subject to both state and federal review and approval. The essential concept that local control is preferable should not be abandoned at the state level. Isn't it hypocritical for the Administration to argue that the state knows better than local governments and districts how to manage and balance competing uses at the local and regional level? The continuing integrity of local district coastal management programs, which embody local expertise and a local vision of future development, must be maintained under a meaningful Alaska Coastal Management Program (ACMP).

**Federal Consistency/State Deference** - Loss of the ACMP would mean loss of the requirement that federal activities be consistent with state standards. The federal government controls great areas of Alaska's coastal zone. It also conducts or authorizes a great range of activities which affect the coastal zone, coastal resources, and coastal uses, including oil and gas leasing and operations on the North Slope and in adjacent waters. The CZMA requires that in states with federally approved coastal management programs, federal activities and activities authorized by the federal government must be conducted in a manner consistent with those state programs. Correspondingly, the local policies and standards of state and federally approved district programs are to be given due deference under the state program. A project, therefore, that is within the coastal zone, or is outside the coastal zone, but is a federal activity or a federally permitted activity with reasonably foreseeable coastal effects, must be conducted consistent with state and district policies and standards.

**No Identified Significant Problem** – Even before recent legislative and regulatory changes which greatly limited the power and reach of the ACMP, there was no significant problem with the implementation of the Alaska and North Slope programs on the North Slope. No project has been cancelled as the result of a coastal management consistency review. Some delays of individual projects have occurred, but they were mostly due to public appeals and not actions by the North Slope Borough implementing its coastal management program. That problem for companies could have been solved by adjustments to the timing requirements of an appeal. Instead, the legislature completely eliminated the ability to appeal the consistency review of an individual project. In any event, that problem for industry has been completely dealt with. Additionally, revisions to the consistency review regulations of the ACMP that just took effect on January 20, 2003 further clarify and narrow the reach of the program. The oil industry has argued that

it needs predictability, in terms of what projects are subject to consistency review and the timing of reviews, in order for projects to be planned and economically viable. The new regulations provide that predictability to a great extent.

**Investment of Resources** – Districts all over the state have invested significant resources and effort to develop and implement local coastal management programs. All of that investment would be lost if the program were eliminated. A significant level of expertise and experience, as well as a sense of local ownership in the process, has been developed through these programs in identifying local concerns, balancing local, state, federal, and industry interests, and working with agencies, project applicants, and the public. The resulting working relationships cannot be duplicated by reliance only on state and federal permit review processes. Significant federal dollars that now support the state and local programs would also be lost.

**Standing to Participate in OCS Decisions** - The Borough's land management authority under Alaska's Title 29 only applies within the boundaries of the state, and not beyond the three-mile limit of state waters. The subsistence harvest of bowhead whales and other marine resources is central to the Inupiat culture and the nutritional well-being of the people of the North Slope. The Coastal Management Program provides our only direct standing to participate in and influence oil and gas lease sales and activities proposed in federal OCS waters. Elimination or further weakening of the ACMP would reduce our role in reviewing offshore proposals in federal waters to that only of every other member of the general public. To deny us this more formal voice in an area so critical to our culture would be a tremendous insult to our residents and extremely poor public policy.

**The Virginia Model** – There has been some discussion of modifying the ACMP in line with the State of Virginia Coastal Management Program. I am not sure how that would work in Alaska. The central elements of the Virginia model are 1) coordination of multiple resource agency coastal management reviews being handled by staff within one agency (their Department of Environmental Quality), and 2) that no new laws would be adopted as a coastal management program independent of existing state laws which embodied coastal protective policies and standards. In other words, with respect to the first of these elements, the functions of Alaska's Division of Governmental Coordination would be moved into one of the state resource agencies (the Governor has identified DNR). With respect to the second element, modifying the ACMP to follow the Virginia model would apparently mean repealing the ACMP policies and standards, leaving the district programs in place, identifying other existing state laws which, when bundled together, would be identified as the new ACMP, and concurrently amending the regulations governing appeals and other administrative functions to reflect the new structure. The "bundle" of existing state laws would have to meet the basic requirements for federal approval of a program under the CZMA and its regulations. The argument would be that each agency's review and approval of a project under its relevant statutes and regulations would, to the extent some or all of them are identified as part of the ACMP, would be concurrent with and not duplicative of an ACMP review. If the entire state program were starting from scratch, the model may be as effective as the current Alaska model which included adoption of independent program statutes, regulations,

Alaska Coastal Management Program

Page 3

policies, and standards. The difficulty in wiping the slate clean, if your goal is also to maintain the strength of the program, would be in ensuring that the statutes and regulations residing within each resource agency adequately embody the protections now enforceable under the current ACMP. All of the district programs, which have been written to track and be consistent with the existing state ACMP policies and standards would likely also have to undergo significant revision. Those revisions would take significant planning efforts, time, and money to obtain necessary local, state, and federal approvals.

# *Akiak Native Community*

## *Akiak IRA Council*

*P.O. Box 52127*

*PH (907) 765-7112*

*Akiak, Ak 99552*

*FAX (907) 765-7512*

*March 26, 2003*

*Representative Hugh Fate, Chair  
House Resources Committee  
State House of Representatives  
State Capitol  
Juneau, Alaska 99801-1182*

*Dear Representative Fate:*

*The Akiak IRA Council is the tribal governing body for the Native Village of Akiak, located near Bethel on the Kuskokwim River in Southwest Alaska. This letter will serve as our testimony and ask that you include this letter as part of the record for the hearing of the House Resources Committee on House Bill 191 that would make drastic changes to the Alaska Coastal Management Program. We are opposed to this bill and respectfully ask that you not allow this bill to pass out of your committee.*

*The negative impact of this bill would erase what little input our people and villages of our region have provided to the regional planning authority over land and water resources here in our village area and the Yukon-Kuskokwim delta region. If this bill passes, we will have no opportunity for input into regional planning for projects that directly affect our people and resources important to sustain our way of life. This is not the intent of a democratic form of government where the governed do not have a way to have meaningful and important input to project planning activities. We believe that our Cenaliurliit Coastal Resource Service Area, Alaska Coastal Management Program have had significant input to resource development planning in the few years of its existence and their work have helped us to prioritize resource development.*

*The need for regional planning for resource development is beginning to become critical at this time as State fund resources are beginning to shrink and our communities need tools as the Coastal Resource Service Area to protect our subsistence resources and also to properly plan to use natural gas for heating and electricity generation. We believe that this important state recognized agency will become more important in the future to protect subsistence resources and depending on some areas, may want to explore for natural resources to improve our way of life in this area. The CSRA will be a tool used in planning at the regional level for how our lands and water should be best managed to protect our subsistence resources and other important values as our natural resources that can be tapped in the near future.*

*Page 2. HB 131 Comments/Testimony*

*Finally, we oppose House Bill 191 and ask that you to oppose this bill and vote to preserve and allow our planning input to the coastal zone management authority in Alaska and other communities that depend on subsistence resources for survival and commercial fisheries.*

*Sincerely,*

*MOSES OWEN, CHIEF*



*Ivan M. Ivan  
Executive Director*

*cc: Representative Mary Kapsner  
Representative Carl Morgan  
Representative Richard Foster  
Senator Lyman Hoffman  
Senator Georgianna Lincoln  
Senator Donny Olson*



# Alaska State Legislature

Please enter into the record my testimony to the House Special Committee on Fisheries Committee name  
 Committee on HR 191 Bill/Subject, dated 3/26/2003

6 pages

Signed: Dona L Olson  
 Testifier

Representing (Optional)  
HC-30 box 5438 Utsilla, AK 99654  
 Address

373-4612  
 Phone number

1

I live in a coastal community of Alaska, in MSB coastal district, and request public meetings before further changes or passage of this bill. Citing an enforceable policy "Land Use Plans" 15 U.S.C.A. § 1453(a), as 38.04105. And the public process for changes. The governor can not bypass public process. This is attempt at significant program change not approved by Secretary of Commerce through the National Oceanic and Atmospheric Administration (NOAA); Office of Ocean and Coastal Resources Management (OCRM). No determination was made whether the new program would meet the requirements of Section 1455.

HB 191 is proposed is too broad in scope to comment on at this time. It appears on its face to be changing the administration of the state, which is outside the scope of Federal Act.

To Governor Frank Murkowski, Alaska  
 And legislature. HB 191  
 Please include with this bill.  
 DAN L. OLSON  
 HE-30 box 538  
 Wasilla, Alaska 99654  
 373-4612  
 MARS5,0003

The Court in American Petroleum Institute v. Ichniok (C.D. Cal. 1978) reject the argument that adequate consideration of national interest, entitled "Affirmative Accommodation of energy facilities [as] a guide pro quo for [program] approval."

The governor has failed to comply with ASU's 03.03.DVD State environmental plan.

Program approval must include a determination that the uses of federal agencies affected by the program have been adequate considered. I see no such finding. I require a finding before commenting. (Freedom of Information Request to Governor Frank Muthowski) The program change/revision is not in the form of environmental impact statement as required. There is no need to comment on something that has no enforceable standard. The governor is acting is outside his authority.

In California v Mach (N.D. Cal. 1988)  
 the federal district court held that  
 NOAA does not have the authority  
 to revisit the provisions of approved  
 plan or to coerce through its power  
 over funding an alteration of  
 approved program itself.  
 (Judicial decisions are enforceable  
 policies, as defined 15 U.S.C. § 1453(a).)

In Mach, California v Mach (N.D. Cal. 1988)  
 The court rejected NOAA argument  
 that program changes it required  
 were merely routine programs  
 implementation rather than  
 Amendments.

In 14 U.S.C. § 1455 (d)(1),  
 the Act directed Alaska to  
 implement land + water use  
 planning and regulation.  
 This format was prior approved.  
 HB 191 is not consistent with  
 federal approval and no  
 presumptions can be made.

3

enforceable.

lines 5 and 6 HB 191 311  
is not defined; as to be

those decisions

~~determiner. does not make~~  
The issue is that consistency

... coastal zone

to give public and private uses of  
objectives, policies and standards  
that the program set forth

program "which emphasized

Congress definition of a management  
Knecht (D. Cal. 1978) considered  
American Petroleum Institute v  
The Federal district court in

will provide or deny my request.

Amsts. Please determine who

legislative hearing on my chase  
1984

process". I am requesting a

and I am still awaiting my due

statute of limitation is not expired

entitled to legislative findings of fact,

directive and I am aggrieved. I am

SB 196 (1987) was legislative

Sec 19

4

If there is no disclosure at earlier stages, then standing to challenge is not curtailed. This is a major component of due process with Amendment U.S. Constitution. No Federal Preclusion, and Supremacy Clause.

I cite VIII Sec 16 AK Constitution as not being complied with as no means to address it is in <sup>local</sup> the proposed policies. Where there is no remedy; there is no need for public comment or public participation.

I claim Supremacy Clause and full faith and credit clause cannot be ignored and over-ruled by governor or the legislature. Public trust cannot be rationalized by government or the legislature! <sup>Not governor</sup> AS its common law. enforceable policy AK Constitution and 15 U.S.C.A. § 1453(a).

5

I cite local policy was  
 prior established in (97a19cu) (Federal)  
 I raise stopped claim, Against  
 State of Alaska, who was a  
 party. Sorry but I'm not buying into  
 your bill. MSB comprehensive  
 plan is Kirk Fairview (comprehensive  
 plan was ruled to be zoning  
 implementation plan only. no transportation  
 and the holding of that case (and imply  
~~to~~ since all of MSB  
 comprehensive plans were  
 implemented in the same  
 manner and authority, they are  
 invalid for local policy.  
 MSB (970 Comprehensive Plan is out of date.

The public interest was not  
 considered in the proposed rule-  
 making.

I cite AK Survival US DNR is  
 enforceable policy standard. (Judicial)  
 I cite no rational basis for its  
 departure exists, and I require  
 "equal protection" under laws,  
 programs.

9

Sincerely,  
Diana J. O'Leary  
Mar 25, 2003

STANDARDS  
NUTRITION CAN NOT BE ESTABLISHED  
BY LOCAL POLICIES, WHEN  
STATE IMPLEMENTS FEDERAL LEGISLATION.  
IF LOCAL POLICIES ARE USED,  
THERE IS CONVICTION OF ANY  
1984 BASE AGRICULTURAL STANDARDS?



**LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE INFORMATION OFFICE**  
210 LAKE STREET, SITKA, AK 99835  
Phone: 747-6276 Fax: 747-5807  
Email: sitka\_lio@legis.state.ak.us

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**DATE: March 26, 2003**

**TO: HFSH Committee RE: HB 191**

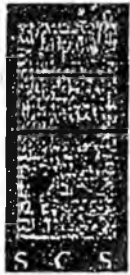
**FAX: 465-3472**

**# pages, including cover sheet—2**

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**FROM: Page Else, Participant at HFSH Meeting at 8:30am at Sitka LIO**

**MESSAGE: Find written testimony of one page that follows.**



## Sitka Conservation Society

PO Box 6533

Sitka, Alaska 99835

(907)747-7509

(907)747-6105 fax

home.gci.net/~sitkawild

### Testimony on HB 191 & SB 143

This testimony is provided by Page Else, Acting Director of the Sitka Conservation Society. The Sitka Conservation Society has worked for the last 30 years to protect the resources of Southeast Alaska. We believe that economic health depends on healthy land and waters. Our members include commercial fishermen, hunters, tour operators, and many others who rely on the bounty of our surroundings for their living and their enjoyment.

In the early 1980's I lived in Wrangell, Alaska. At that time I had a grant from the Governor's office to work with local oyster farmers studying plankton supplies. Later I edited A Manual for Oyster Farmers in Alaska, published by the SeaGrant Program. During that period the biggest startup obstacle for the oyster farmers was the difficulty in identifying what permits were necessary for operation, and gridlock in getting the agencies to actually process and move applications forward. The agencies were unsure of what process to follow with these multi-jurisdictional applications. The Division of Governmental Coordination (DGC) was formed precisely because these development applications needed the clarity and streamlining provided by DGC. The system allows integration of the missions of different agencies and a system of checks and balances, with a clear resolution process. DNR does not have the staff or expertise to determine if a certain species of shellfish should be prohibited for import and culture because it might carry a dangerous parasite. Nor does DNR have the expertise or site-specific knowledge to determine if a mariculture operation will unnecessarily conflict with local subsistence users or commercial fisheries operations, and should be moved.

There is no evidence that the ACMP consistency review process unnecessarily delays important development projects. In fact it does the opposite by coordinating review. When delays occur, it is either because the proposed project could impact important fisheries or coastal resources and design adjustments are necessary, or because the project applicant has failed to provide the reviewing agency with sufficient information to conduct the review.

These bills are meant to streamline government but in fact they create more bureaucratic inefficiency. The State recently spent hundreds of thousands of dollars in a 3 year effort to amend ACMP consistency review rules; this legislation will waste that effort. Additionally, the federal oversight agency, NOAA, has indicated that such sweeping program changes will likely require a new Environmental Impacts Statement under NEPA, which is a costly and time consuming endeavor. Finally, the new process envisioned by the legislation will create much confusion and delay because DNR is not staffed or equipped to such a comprehensive, coordinated permitting role.

These bills undermine local control over local resources. The ACMP was originally passed because the state felt they needed more input and local control over federal actions in the coastal zone. The ACMP created local Coastal Districts because policymakers understood that locals have the most at stake and the best wisdom when making local resource decisions. These bills will strip away policies developed and enacted by local districts. These enforceable policies are the core of our Alaska Coastal Management Program and provide a way for local knowledge and priorities to be heard. Alaska's fish and subsistence resources deserve protection. Alaska has received high marks for its fisheries management programs, due in large part to the ACMP's fish and habitat protection provisions. While the ACMP may need some fine tuning, it does not need to be gutted.

Page Else  
Page Else, Acting Director

MAR-26-03 WED 10:35 AM MATSU LIO

FAX NO. 9073766180

P. 01

FROM : Chickaloon Village

FAX NO. : 907 745 0763

Mar. 26 2003 09:58AM P1  
M. U.

MAR-26-03 WED 06:37 AM MATSU LIO

FAX NO. 9073766180



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE FISHERIES COMMITTEE  
committee name

committee on HB 191 & SB 143, dated 3/24/03,  
bill/subject

Chickaloon Native Village hereby voices is opposition to HB 191 and SB 143. These bills will remove an important means of protecting subsistence resources and will undermine local control of resource use decisions.

As I understand it, this legislation will delete all enforceable policies for the Mat-Su Borough coastal district, including policies that protect fish and fish habitat. This includes the Subsistence Standard (6 AAC 80.120) and the Fish and Wildlife Habitat Standard (6 AAC 80.130). These standards allow coastal districts to manage for the protection of fish populations and to identify areas where subsistence uses take priority over non-subsistence uses. These are crucial tools to balance development and habitat conflicts. To throw this out of balance is a short-sighted, unwise decision which may have the long-term result of damaging our fish populations.

The Alaska Coastal Zone Management Plan created local districts because at the time policymakers rightfully understood that when it comes to making local resource decisions, local governments and citizens are the people most affected. As I understand it, these bills will remove enforceable policies already developed by local districts and leave the decision-making authority to the state. This will be a dangerous precedent in removing local control and input into decisions that directly affect local areas. And as you know, when citizens feel powerless over decisions that directly affect them, the result is resentment and conflict. This is not a positive for the citizens of Alaska. It appears to be a sellout to industry and other large development interests. This is not just "streamlining". It is strip mining fish and habitat protections and creating top down management.

I am sure that you, as citizens of Alaska and representatives of the citizens of Alaska, see the wisdom and justice in affording local residents as much control over local resources as possible, and I am sure that you also see the wisdom in continuing to protect our fish and fish habitat so that our future generations can benefit as we all have.

Signed: Mervin G. McGill, Environmental Specialist  
Testifier

CHICKALOON NATIVE VILLAGE

Representing (Optional)

P.O. Box 1105, CHICKALOON, AK 99674

Address

(907) 745-0737

Phone No.

Bill Legislative Information Office

LIO FAX 376-6180

Page 1 of 2



## Kachemak Bay Conservation Society

3734 Ben Walters Lane, Suite 202

Homer, AK 99603

Phone: (907)235-2062 • Fax: (907)235-4069 • [kbcsc@xyz.net](mailto:kbcsc@xyz.net)

March 26, 2003

House Special Committee on Fisheries  
Alaska Legislature  
Juneau, AK

Dear Committee Members:

The Kachemak Bay Conservation Society is a membership organization whose mission is to protect the environment of the Kachemak Bay region and encourage sustainable use and stewardship of resources through advocacy, education/information, and collaboration. Over the years KBCS has commented on many different natural resources related issues in our community. We have found the Alaska Coastal Management Plan and its enforceable policies important in properly guiding local development projects so that they can be done with the least effects on our fisheries, wildlife, and habitat.

HB 191 & SB 143 and the accompanying Executive Order will create a "rubber stamp" ACMP by eliminating most of the "enforceable policies." Many coastal communities have adopted enforceable policies to protect the important sustainable resources that tourism and fishing require. Hours of public participation have gone into creating and using these local plans, and these bills and E.O. 106 will virtually undo all this work.

Local communities have come to expect that projects affecting local natural resources will be "consistent" with the existing state and local enforceable policies. KBCS feels that the proposed bills and E.O. 106 will undermine this local authority and so weaken the enforceable standards that our fisheries, wildlife and habitat will be in jeopardy. We can understand some minor adjustments to the ACMP, but there is no evidence to warrant a wholesale scrapping of protections that have given Alaska such a good reputation for stewardship of its fisheries.

ACMP consistency reviews do not unnecessarily delay development projects. If a proposed project is deemed to have an adverse impact on important fisheries or coastal resources a delay is warranted to fix the problems. Sometimes a simple lack of information needed to conduct a review may delay a project. These requirements often result in a better project that will have less impact on the environment.

KBCS firmly believes that coastal communities will be the biggest losers if the ACMP is gutted. These communities have the most to lose because their economies are so entwined in their natural resources. Homer's economy is in great part fisheries

*Page 2 of 2*

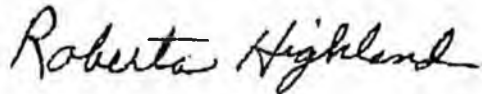
dependent. There has to be a balance between protecting fisheries and coastal development. Faster development does not guarantee better development or protection of natural resources and habitats. Protection of natural resources should be primary since these are the sustainable bases of so many coastal communities.

Of particular concern to KBCS is the elimination of the public from the review process. Furthermore, the imposition of development projects that do not have to go through a regulatory review is especially troubling. Citizen oversight is key to protecting coastal communities.

KBCS does not understand the Governor's reasoning in scraping a program that has just recently been reviewed and amended to improve it. Certainly this is a waste of taxpayer's money. Also, the drastic changes proposed in the Governor's E.O. 106 would likely require a new Environmental Impact Statement, which is extremely expensive. This is not in the best interests of the State of Alaska.

KBCS respectfully urges this committee to recommend that these bills not pass. The ACMP has been implemented by local communities and is working. Please do not dismantle a good system. Protection of our coastal communities, local and statewide economies, and Alaska's natural resources deserve our best stewardship and continued public oversight.

Sincerely,



Roberta Highland  
President, KBCS



# Alaska State Legislature

Please enter into the record my testimony to the HFSH  
committee name  
 committee on HB 191, dated 03/26/03  
bill/subject

I HAVE REVIEWED HB 191 AND I HAVE LISTENED TO THE HFSH COMMITTEE HEARING TESTIMONY CONCERNING THIS BILL. PLEASE DO NOT ADOPT THE PROVISIONS OF HB 191 THAT ELIMINATE "HABITAT STANDARDS". THIS BILL, AS PROPOSED, REMOVES ALL MEANINGFUL AND LAWFULL LOCAL CONTROLL, OPINION, AND INSIGHT OVER COASTAL NATURAL RESOURCE AND ECONOMIC ISSUES THAT DIRECTLY AFFECT OUR LIVELYHOODS, OUR HOMES, AND OUR COMMUNITIES. I AM A VERY LONG-TERM RESIDENT AND PROPERTY OWNER OF THE KACHEMAK BAY AREA. I ACTIVELY FOLLOW LOCAL AND STATEWIDE ISSUES. DO NOT ELIMINATE ANOTHER PUBLIC-OPINION AND DEMOCRATIC VENUE AVAILABLE TO STATE RESIDENTS.

Signed: Michael W. Skimma  
Testifier

SELF  
Representing (Optional)

P.O. Box 15163/54210 WILDERNESS LN., FITZ CREEK, AK.  
Address

(907) 235-2552  
Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the House Fisheries Committee  
 committee name  
 committee on HB 191 / SB 143, dated March 26 03  
 bill/subject

These bills undermine local control over local resources. These bills will effectively cut the public out of the process. These bills are meant to streamline government; in fact they create more red tape. Alaska's fish and subsistence resources deserve protection. These bills remove the balance between fish protection and coastal development.

I am a subsistence + commercial fisherman on the Alaska Peninsula and I oppose these bills.

Signed: Michael B. Lauck Michael B. LAUCK 1775  
 Testifier

Representing (Optional)  
33 Stonewall Place False Pass AK 99583  
 Address  
907-299-0112  
 Phone No.

House Special Committee on Fisheries  
Rep. Paul Seaton, Chair  
Alaska State Legislature  
Juneau, AK 99801

Dear Committee members,

March 25, 2003

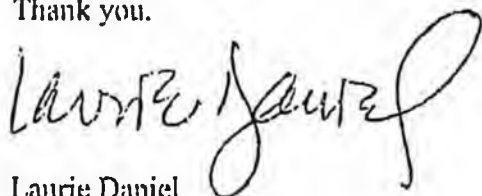
I am writing to ask you to oppose passage of HB 191 and SB 143 and to overturn E.O. 106. The Alaska constitution mandates a balanced approach to resource management for the maximum benefit of all Alaskans. The intent of this Executive Order and these proposed bills undermines local control over coastal natural resources, strips Alaska's fish and subsistence resources of both direct and habitat protections, diminishes the viable and wisely-established role of public in the coastal permitting process, and removes the balance between coastal resource protections and coastal development, especially regarding fish.

The idea that these bills will streamline state government, improve administrative efficiency, and carry a zero fiscal note is based on a false premise. This legislation effectively requires the state to start over in developing a coastal management program, to retool DNR in yet another facet to take on this role of coastal permitting, and very likely brings the need for a federal Environmental Impact Statement to evaluate compliance with federal coastal policy.

There is no legitimate evidence the existing system need such wholesale change. There is not evidence that the ACMP consistency review process unnecessarily delays important development projects. There is plenty of evidence that the Alaska Coastal Management Plan effectively protects our coastal natural resources from detrimental effects of development projects.

These bills, HB 191 and SB 143, and E.O. 106 toss the integral protections to our coastal natural resources out and erases virtually all state and local enforceable policies under the false pretense of permit streamlining and administrative efficiency. We cannot afford to no longer provide state and local stewardship and protection to our coastal and subsistence natural resources. I ask that you please strongly recommend that these bills do not pass into legislation and overturn E.O. 106.

Thank you.



Laurie Daniel  
PO Box 3713  
Homer, AK 99603

Hearing Officer, *HFSH*  
Legislative hearings for HB 191 and SB 143  
March 26, 2003  
Juneau, Alaska

I am a resident of Homer, Alaska, where the coastal habitat and its wildlife are the most important part of the quality of life for all our local residents as well as visitors who come all year around to fish, watch the wildlife, and take boat and airplane rides to view and photograph the landscape and seascape. Commercial fishing is also still an important part of our economy also, although it is not as robust as it was in the early days while the coastal habitat was still pristine and before the resource was overharvested. It may still look pristine to some who do not look too closely, but as with all oceans of the world, it's waters are no longer pristine.

The reasons for the deterioration of the ocean habitats are many, but all are related to human carelessness and abuse of the lands and waters that feed into the oceans around the world. Industrial effluents in the form of smoke as well as polluted water contribute to the pollution in many subtle ways from thousands of watersheds and airsheds all over the seven continents. The quantity of pollution from one small source may not seem like much, but when thousands of small sources are added together they result in such insults as mercury poisoning from eating ocean fish, smothering algae blooms, invasions of exotic species transported with ship ballast, smothering of marine life by tree bark, eutrophication, or nutrient pollution from sewage, farm fertilizer runoff and other non-point sources of myriads of pesticides and chemicals not to mention oil spills and petroleum products all of which add up to world-wide ocean pollution.

Some states and countries, especially the European Union, are attempting to stop this ongoing pollution and degradation of coastal habitats by regulating the sources of the pollution. Alaska is fortunate in that its coastal waters are still in relatively good condition compared to others around the world. This relatively pristine condition can continue far into the future if we keep our regulations in place to prevent further degradation. This won't happen if we don't make it happen by maintaining the site-specific policies that have been put in place so laboriously over many years.

Any temporary increase in economic benefit from resource development that might result from removing environmental controls would not be worth the damage that would most certainly result from the loss of those regulations. I urge the legislature to reject HB 191 and SB 143 and any other attempt to relax the Alaska Coastal Management Program. The well being of Alaska's environment and long term economy as well as the quality of the oceans of the world depend on it.

Duane Howe  
58991 Gladys Ct  
Homer, AK 99603  
907-235-9477



**Date: March 26, 2003**

**Subject: HB191**

**To: Alaska State House of Representatives House Fisheries Committee**

**From: Gerald R. Brookman, 715 Muir Avenue, Kenai, Alaska 99611-8816**

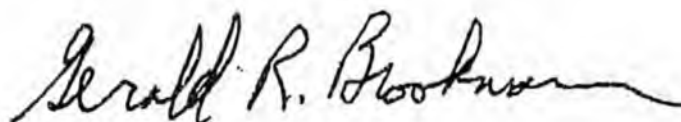
**First, I believe that this bill would do much harm to Alaska's fisheries, and do little, if anything, to help them or their management.**

**We need to take a balanced approach to the management of Alaska's fisheries. The ACMP, while it may appear cumbersome to some people with a limited view of the issues involved or who are only concerned with a single issue, is a very important tool to assist the state in achieving balanced management, where all affected parties have an opportunity to voice their concerns and have them considered by an impartial body (or one that is, in theory if not always in practice, impartial). To throw it out would be tragic.**

**HB191 would deny the public an opportunity to have input into issues that affect their vital interests. It would deny local communities the opportunity to have input into how their areas are developed. Alaskans have, in the past, criticized management decisions made at the federal level without taking into consideration state interests; ironically, this bill would transfer management decisions from local to state level. While the final decision would continue to be made at the state level, retaining the ACMP as it is presently constituted would at least continue to allow local input into the final decisions.**

**In summary: HB191 is one of the most important that will be considered by this legislature. It's effects would be disastrous to our fisheries. I urge that you vote against it.**

**Sincerely,**



P.O. Box 2994  
Homer, AK 99603

March 25, 2003

House Special Fisheries Committee  
Alaska State House  
Juneau, AK

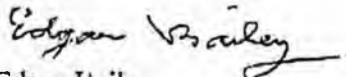
Dear Committee Members:

The Kenai Peninsula Borough has gone through a lengthy public process and developed a good set of "enforceable standards" under the Alaska Coastal Management Plan (ACMP). These enforceable standards help Borough citizens protect the natural resources of their communities by providing guidelines for carefully reviewing development projects to have the least effect on fisheries, wildlife, and habitat.

I urge you not to pass HB 191 and SB 143. These bills represent a rollback to standards that will likely be more like a "rubber stamp" that will effectively provide very little oversight to new development. I do not think this is what Kenai Peninsula communities want. People have come to expect projects to be consistent with the existing state and local enforceable policies because they see that these standards help protect important natural resources valuable to local economies. Furthermore, these bills will undermine local authority and lessen public input by eliminating the Alaska Coastal Policy Court.

Please keep the ACMP as it is presently constituted. If it needs to be tweaked, that is one thing. However, wholesale gutting of the program, which will likely cause NEPA to require an Environmental Impact Statement, is not the prudent thing to do. I urge you to turn down these bills.

Sincerely,



Edgar Itailley



# Alaska State Legislature

Please enter into the record my testimony to the HFSH  
committee name

committee on HB 191 & SB 143, dated MARCH 26 2003  
bill/subject

I AM OPPOSED TO THESE BILLS, I BELIEVE IN KEEPING LOCAL CONTROL. IF THESE BILLS PASS IT WILL BE A SUBSTANTIAL STEP BACKWARD. DNR SHOULD NOT HAVE THE 'OLE DISCRETION OVER THESE LOCAL RESOURCE DECISIONS. THE PUBLIC & LOCAL COMMUNITIES NEED TO HAVE A VOICE IN THIS PROCESS. REGULATORY REVIEW IS ESSENTIAL. IT WOULD BE A WASTE OF TIME, MONEY & ENERGY TO MAKE THESE & IMPLEMENT THESE PROPOSED CHANGES. THE ACOMP'S FISH & HABITAT PROTECTION PROVISIONS ARE VITAL TO LOCAL COMMUNITIES LONG-TERM ECONOMIC BALANCE AND WISE RESOURCE MANAGEMENT.

I AM VERY CONCERNED ABOUT NEGATIVE REPARATION ZONE IMPACTS IF THESE BILLS ARE TO PASS. IT IS IMPERATIVE THAT THE PUBLIC & LOCAL GOVERNMENTS BE ABLE TO CONSIDER & PROTECT OUR FISH HABITAT BY CONSIDERING (+KNOWING) ALL FACTORS OUTSIDE ONE STREAM/RIVER/COASTAL ZONE THAT IMPACT THE STREAM AND FISH & WETLAND HABITAT. REPARATION ZONES - HEALTHY REPARATION ZONES MUST BE PLANNED FOR & KEPT INTACT, SO MUCH MUST BE TAKEN INTO CONSIDERATION. WE MUST CONSIDER ALL IMPACTS OF DEVELOPMENT IN ORDER TO KEEP OUR SALMON STREAMS & WATER RESOURCES. RESOURCE EXTRACTION & ECONOMIC DEVELOPMENT IS IMPORTANT, HOWEVER, IF WE DO NOT USE GOOD, VALID, NEAR

Signed: REBECCA L. GATES Rebecca L. Gates  
Testifier

SELF  
Representing (Optional)

P.O. BOX 376 HOMER, AK 99603  
Address

(907) 235-9188  
Phone No.

SCIENCE THEN WE WILL RUIN OUR RESOURCES AND OUR ECONOMIC & PERHAPS <sup>9/01 Legislative Information Office</sup> PHYSICAL HEALTH. WE MUST NOT DESTROY OUR RENEWABLE RESOURCES BY QUICK & ILL-CONSIDERED DECISIONS. WE MUST KEEP OUR FISHERIES HEALTHY, WE MUST CONSIDER EVERYTHING.



# Alaska State Legislature

House.

Please enter into the record my testimony to the Special Committee on Fisheries committee name

committee on HB 191 & SB 143, dated 3/26/2003 bill/subject

I am writing this letter to express my concerns on the bills mentioned above. There seems to be several problems with these bills as they are now proposed.

- 1) Loss of local control. Local people have taken the time to develop management guidelines that will best serve their local area. This process is gutted by this bill.
  - 2) This bill creates a need for an environmental impact study which would cost millions of dollars. <sup>thus</sup> there is no cost savings.
  - 3) These bills remove the balance between resource development and resource protection.
- For these reasons I would request that these bills not advance.

Signed: Larsen A. Klingel  
Testifier Larsen A. Klingel

Self  
Representing (Optional)

P.O. Box 937 Homer, Alaska 99603  
Address

(907) 235-7012  
Phone No.

P.O. Box 2994  
Homer, AK 99603  
March 25, 2003

House Special Fisheries Committee  
Alaska State House  
Juneau, AK

Dear Committee Members:

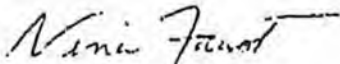
Coastal communities throughout Alaska have worked hard to develop a good Alaska Coastal Management Plan with effective "enforceable policies. The Kenai Peninsula is no exception. HB 191 and SB 143 would dismantle a good system that protects sensitive coastal habitats and their fisheries and wildlife. I urge you not to pass these bills.

- Development projects that receive the careful oversight provided by the ACMP are probably better projects in the end. Discovering environmental problems beforehand saves money and can make a project much more welcome in a community. By being open to the scrutiny provided by ACMP and fixing problems beforehand, a company demonstrates its willingness to be a good neighbor within a coastal area.

I do not want to see the carefully adopted enforceable policies gutted, nor do I want to see public input curtailed by eliminating the Coastal Policy Council. Overall, I see no reason to make the sweeping changes called for in these bills. Furthermore, they are not fiscally responsible since they will likely require an Environmental Impact Statement, a very expensive document.

- Please allow communities to continue in their local stewardship for the sake of their economics and their natural resources. Do not pass HB 191 or SB 143. Thank you.

Sincerely,



Nina Faust

# KODIAK ISLAND BOROUGH

OFFICE OF THE MANAGER  
710 MILL BAY ROAD  
KODIAK, AK 99615  
(907)486-9300 (907)486-9374 FAX

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## FACSIMILE TRANSMITTAL SHEET

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TO:	Rep. Seaton, Chairman	FROM:	Pat Carlson, Manager
COMPANY:	Fisheries Comm.	DATE:	3/26/2003
FAX NUMBER:	(907) 465-3472	TOTAL NO. OF PAGES INCLUDING COVER:	3
PHONE NUMBER:		SENDER'S REFERENCE NUMBER:	
RE:		YOUR REFERENCE NUMBER:	

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URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

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**NOTE/COMMENTS:**

Dear Rep. Seaton:

Attached please find for your review the letter you requested. I recognize this applies to State Airport property, but is indicative of our concern regarding the ability of local ordinances being recognized by the State. Clarification or clear language to address this concern is needed to minimize the conflicts over jurisdiction. Please let me know if you have any questions or need further information.

Pat Carlson

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# STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

CENTRAL REGION - LEASING AND PROPERTY MANAGEMENT

TONY KNOWLES, GOVERNOR

4111 AVIATION AVENUE  
P.O. BOX 196800  
ANCHORAGE, ALASKA 99519-6900  
(907) 269-0740 (FAX 269-0489)  
(TDD 269-0473)

July 10, 2002

RE: Kodiak Airport

Duane Dvorak, Director  
Kodiak Island Borough  
710 Mill Bay Road  
Kodiak, Alaska 99615



Dear Mr. Dvorak:

Thank you for your letter of June 10, 2002, where you discussed the Borough's zoning and platting codes as they pertain to the airport in general and a tenant on the Kodiak Airport in particular. You expressed concern with a particular tenant on the airport and that their use of airport land does not meet Borough codes.

→ The State appreciates the Borough's concern. It is the intent of the Department that while State airports are not subject to local governments jurisdiction for platting or zoning, we do require our tenants to uphold the State fire and building codes and regulations and reasonable business practices.

With respect to Lot 5A Block 1400, we have required the tenant to remove the trailer and clean up their site. We also require, before watchman's quarters are allowed on site, to obtain the Kodiak Fire Chief's approval. The State Fire Marshall's office informs us that they have relegated this responsibility to the local Fire Chief. Until this approval is given, no living quarters are allowed.

On June 18<sup>th</sup>-20<sup>th</sup>, I met with representatives of the USCG, Captain Lachowsky, Base Commander, Dan Gunthner, Chief of the Environmental Branch, and Lt. Commander Raney, and Chief Russ Toms, Base Fire Commander to perform a joint inspection of the airport. This inspection was perform to determine each tenants compliance with environmental requirements, fire safety, and lease obligations. The results of the inspection will be made available in the near future.

While the department appreciates the Borough's efforts to obtain a higher level of zoning and building code compliance for developers of Borough lands it is the responsibility of the department to oversee development of and compliance with applicable State and federal regulations. We appreciate the offer of the Borough to

Duane Dvorak

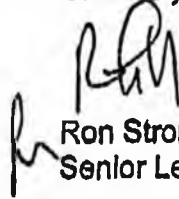
2

July 10, 2002

oversee compliance by airport users with Borough codes but we must respectfully decline the offer. The State will continue to oversee development and operations on State airport lands and insure compliance with applicable State and Federal laws, rules, and regulations.

If you have any questions please call me at (907) 269-0742. Thank you.

Sincerely,



Ron Stroman  
Senior Leasing Officer

RAS/wlc

cc: Rob Greene, Kodiak Airport Manager  
Patrick Carlson, Borough Manager



# Alaska State Legislature

Please enter into the record my testimony to the HFSH  
 committee name  
 committee on HB 191, dated 3-17-03  
 bill/subject

3. PAGES

Signed: KAROL KOHLHATNEN  
 Testifier

Representing (Optional)  
PO BOX 1074 PALMER 99645  
 Address

Phone No.

# A LEUTIANS WEST T

COASTAL RESOURCE SERVICE AREA

Good Morning

My name is Karol Kolehmainen and I am the Program Coordinator for the Aleutians West Coastal Resource Service Area. Having said that I can surmise that many of you may think that I am speaking to you today to save my job. In fact, that is not why I am here. I am here because of the seven elected officials of the Aleutians West Board and all that they represent.

Geographically, they represent the entire western Aleutian area from Unalaska Island west to Attu Island, an area that is 20 to 60 miles in width and roughly 1000 miles long. It is bounded by the Pacific Ocean to the south and the Bering sea to the north and has a wealth of natural resources including some of the richest fishing grounds in the state. Like the geography the communities of the region are also diverse. Unalaska, the only Title 29 community and the number one seafood processing port in the nation for many years, has a population of over 4000 people, and Nikolski, a tribal government, has 39. Both of these communities contribute members to the AWCRSA Board.

Article 2 of Alaska Statute 46.40 provides the authority for coastal management in the unorganized borough and allowed the people of the western Aleutians to form a CRSA. Sixteen years ago, in 1987, the AWCRSA was established by a vote of the people of the unorganized western Aleutian area. They went through the process and gave of their time to develop a coastal management plan for the region. The plan was signed into law and provides representation of the local interest in state and federal permitting decisions. The plan has procedures and policies, not to prevent development, but to guide development activities within the coastal zone boundary. Recently we have been updating the plan, a massive undertaking, involving mapping of the resources of the entire area, collection of census data and cultural, historic, and economic information and the development of goals and objectives for the region, culminating in the development of coastal policies. All of this work was accomplished by a volunteer Board and using federal funding. Because the CRSA exists in the unorganized area it serves as a local authority for the entire area and the plan is the recognized information source for prospective developers and oil spill contingency planning.

If I have gone on at length about the area, it is because I care deeply about the region and respect the efforts of the AWCRSA Board. As previously stated, the board is strictly voluntary and its members have contributed many hours over many years to develop what it has become. I would like to add that I am the sole employee and the entire program is federally funded with monies passed through the state. Now, with a stroke of the pen, this political subdivision of the state will cease to exist.

I have reviewed the proposed legislation, and some of the supporting material, and wish to continue by specifically addressing some of the assertions. First, to

state that Title 29 municipalities will retain their existing land use authorities and regulate private land use activities is correct but doesn't provide the complete picture. In the AWCRSA, the Title 29 municipality, Unalaska, does not have a coastal management program, that role is provided by the CRSA. I suspect this is true in the other unorganized borough areas as well. Any one who has been involved with the rewrite of a comprehensive plan knows that it does not happen overnight and it will take much time and effort for a community to develop a coastal program and be eligible for the financial benefits of participation. Unalaska represents a mere 116 square miles of a much, much larger area.

Next, to say that DNR is authorized to adopt local ordinances as state enforceable policies for Federal reviews also seems to gloss over the very real concern of elimination of a local presence in permit decisions. I guess that is the ultimate in streamlining—the state makes the decision. I believe another word for that is centralization, but then that word is much less palatable.

And last, to say that the adoption of certain coastal policies for state decisions will continue to recognize a local input is just the second point made in an only slightly different way. When that happens, you no longer have local policies, you have state policies, and only the ones that were deemed acceptable apparently.

Now that I have said all of this, I would like to conclude by admitting that we recognize that passage of this legislation appears inevitable given the current political climate. In HB 191, Section 10, the legislation purports to provide a program of research, training, and technical assistance to coastal resource districts, including the direct granting to the districts. However, Section 16 repeals 46.40.120 through 180 eliminating the coastal resource districts, the CRSA's, which allow huge political subdivisions of the state, and includes many of the communities that could benefit the most from coastal grants. We respectfully request that the legislation be modified to allow the CRSA's to exist, permanently as coastal district areas or a similar functional area, or for a period of time long enough to allow the work that has been done to be redirected in a way that will let the areas develop meaningful authority in an acceptable and beneficial form.

Thank you for your time.



03/17/03

### Key Components of the ACMP Bill

- Streamlines the permitting process by almost exclusively relying on existing permit requirements to establish the ACMP standards
  - Except for federally sponsored projects and projects in the OCS, the bill eliminates the need for a separate consistency review beyond the individual state permit decisions
- Significantly reduces the ACMP enforceable policies
  - Eliminates the statewide standards found in 6 AAC 80
  - Significantly reduces the number of local enforceable policies
  - Only applies local enforceable policies to federally sponsored projects and projects in the OCS
- Emphasizes local governments' use of their own local land use controls
  - No state application of local policies except on federally sponsored projects and projects in the OCS, where local land use controls would normally be pre-empted by federal law
- Eliminates CRSA's
  - Since application of local policies is very rare, there is little justification for financially supporting these entities, future support for coastal communities should focus on responsible resource development and sustainable economic development
- Eliminates CPC
  - Without local plans to approve, or the proper implementation of local plans to ensure (petition process), there is little justification for retaining this body

# Alaska State Legislature

**Chair**  
Seaton

**Vice Chair**  
Wilson

**Members**  
Berkowitz  
Guttenberg  
Heinze  
Kott  
Samuels



State Capitol  
Juneau, AK 99801  
(907) 465-3306  
(907) 465-3472

## House Special Committee on Fisheries

### MEMORANDUM

**TO:** All Fisheries Committee Members

**FM:** Representative Paul Seaton, Chair  
House Fisheries Committee

**DATE:** March 26th, 2003

**RE:** Add to HB 191 file

**Please add this to your HB 191 file.**

Public Testimony on HB 191 received by the House Fisheries Committee

Please feel free to contact me with questions anytime x2689, or you can contact my Committee Aide, Cameron Yourkowski, x3306. Thank you.

Bering Straits Coastal Resource Service Area Board  
P. O. Box 190  
Unalakleet, Alaska 99684  
(907) 624-3062  
FAX 624-3811

March 18, 2003.

Representative Paul Seaton, Chair  
House Fisheries Committee  
State Capitol Building  
Juneau, Alaska 99801-1182

Subject: House Bill 191

Dear Representative Seaton:

The Bering Straits Coastal Resource Service Area Board opposes House Bill 191. Our Service Area is composed of nineteen communities from Shishmaref on the north, Stebbins on the south, Gambell on the west, and Unalakleet on eastern Norton Sound. All of our communities are heavily dependent on fish and other wildlife. All of our communities are located near or on the seashore or on a riverbank. Healthy fish and wildlife and clean air, water, and healthy land are very important to all our citizens! The Bering Straits Coastal Management Program assists local, state, and federal officials plan projects that will be beneficial to all citizens, including the applicant for a permit.

HB 191 terminates Coastal Resource Service Areas. We oppose this bill! HB 191 transfers the Alaska Coastal Management Program to the Department of Natural Resources, makes the Alaska Coastal Policy Council subservient to the Department of Natural Resources, and annuls the recently adopted consistency review regulations. The current Alaska Coastal Management Program is a valuable planning tool for permit reviewers, applicants, and our citizens.

All of our communities use vast areas of land and waters to hunt and fish. HB 191 eliminates vast areas from participation.

We enclose BSCRSA Resolutions 2003-01 and 2003-02 and urge you to keep the CRSAs intact.

Sincerely,



Johnson Eningowuk, Chairman 

Bering Straits Coastal Resource Service Area Board  
P. O. Box 190  
Unalakleet, Alaska 99684  
(907) 624-3062  
FAX 624-3833

**RESOLUTION 2003 - 01**

**A RESOLUTION OF THE BERING STRAITS COASTAL RESOURCE SERVICE  
AREA BOARD OPPOSING THE TRANSFER OF THE ALASKA COASTAL  
MANAGEMENT PROGRAM TO THE DEPARTMENT OF NATURAL RESOURCES.**

**WHEREAS the Alaska Coastal Management Program is a networked program of the Federal, State and Local Governments and**

**WHEREAS the Alaska Coastal Management Program involves all levels of government in a public setting and**

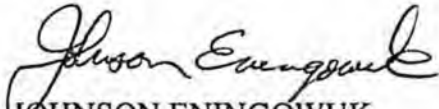
**WHEREAS the Governor of Alaska appoints senior public officials from local and state government and**

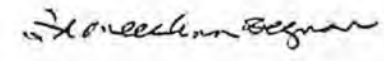
**WHEREAS the Governor appoints the Director of Office of Management & Budget, the Commissioner of Community & Economic Development, the Commissioner of Environmental Conservation, the Commissioner of Fish & Game, the Commissioner of Natural Resources, and the Commissioner of Transportation & Public Facilities and or alternates and**

**WHEREAS the Division of Governmental Coordination is under the supervision of the Office of Management and Budget and serve as staff to the Alaska Coastal Policy Council.**

**NOW THEREFORE BE IT RESOLVED that the Bering Straits Coastal Resource Area Board respectfully urges the Governor of Alaska to withdraw executive orders that change this excellent public oriented network program.**

PASSED by a vote of 4 AYES 0 NAYS on JANUARY 18, 2003.

  
JOHNSON ENINGOWUK  
Chairman

  
FRANCES ANN DEGNAN  
Secretary/ Treasurer

Bering Straits Coastal Resource Service Area Board  
P. O. Box 190  
Unalakleet, Alaska 99684  
(907) 624-3062  
FAX 624-3811

RESOLUTION 2003 – 02

A RESOLUTION OF THE  
BERING STRAITS COASTAL RESOURCE SERVICE AREA BOARD  
OPPOSING THE ELIMINATION OF  
COASTAL RESOURCE SERVICE AREAS.

WHEREAS the ALASKA COASTAL MANAGEMENT PROGRAM provides a voice for the rural areas of the State of Alaska and

WHEREAS the ALASKA COASTAL MANAGEMENT PROGRAM allows citizens of Coastal Resource Service Areas to comment on projects requiring Federal, State or local permits and

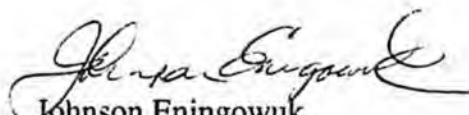
WHEREAS the citizens of the Coastal Resource Service Areas provide important local knowledge to State and Federal officials and

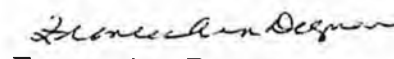
WHEREAS the citizens of the Coastal Resource Service Areas are experts in living in their own local areas

NOW THEREFORE BE IT RESOLVED that the Bering Straits Coastal Resource Service Area Board opposes the termination of Coastal Resource Service Areas.

BE IT FURTHER RESOLVED THAT the Alaska Coastal Management Program be left intact with the current regulations which were recently adopted by the State of Alaska and the U.S. Department of Commerce.

PASSED by a vote of 6 AYES and 0 NAYS on March 18, 2003.

  
Johnson Eningowuk  
Chairman

  
Frances Ann Degnan  
Secretary/Treasurer



HB191



## Kachemak Bay Conservation Society

3734 Ben Walters Lane, Suite 202

Homer, AK 99603

Phone: (907)235-2062 • Fax: (907)235-4069 • [kbcso@xyz.net](mailto:kbcso@xyz.net)

March 18, 2003

Representative Paul Seaton

Mallstop: 3100

State Capitol

Juneau, AK 99801-1182

Dear Paul,

The Kachemak Bay Conservation Society has always worked to protect the environment of the Kachemak Bay region and encourage sustainable use and stewardship of resources. The Alaska Coastal Policy Act is an important tool for coastal communities to use in reviewing development projects. H.R. 191 will reduce the value of this tool to coastal communities in protecting their areas by eliminating the Alaska Coastal Policy Council and removing some of the public review process.

KBCS objects to the dissolution of the Alaska Coastal Policy Council because this will reduce citizen and community oversight of projects. Furthermore, we believe it is a mistake to take out language requiring public notice, consistency review, and opportunities to comment. Taking out local comment reduces the opportunity of communities to have an effect on projects that have an impact in their region.

Coastal areas are some of the State's most sensitive habitats and many are important to our fisheries. Reduced citizen participation and oversight is a mistake. Please do not support the proposed H.B. 191.

Sincerely,

Roberta Highland, President

cc Gary Stevens

HB191

Bering Straits Coastal Resource Service Area Board  
P. O. Box 190  
Unalakleet, Alaska 99034  
(907) 624-3062  
FAX 624-3811

March 18, 2003.

Representative Paul Seaton, Chair  
House Fisheries Committee  
State Capitol Building  
Juneau, Alaska 99801-1182

Subject: House Bill 191

Dear Representative Seaton:

The Bering Straits Coastal Resource Service Area Board opposes House Bill 191. Our Service Area is composed of nineteen communities from Shishmaref on the north, Stebbins on the south, Gambell on the west, and Unalakleet on eastern Norton Sound. All of our communities are heavily dependent on fish and other wildlife. All of our communities are located near or on the seashore or on a riverbank. Healthy fish and wildlife and clean air, water, and healthy land are very important to all our citizens! The Bering Straits Coastal Management Program assists local, state, and federal officials plan projects that will be beneficial to all citizens, including the applicant for a permit.

HB 191 terminates Coastal Resource Service Areas. We oppose this bill! HB 191 transfers the Alaska Coastal Management Program to the Department of Natural Resources, makes the Alaska Coastal Policy Council subservient to the Department of Natural Resources, and annuls the recently adopted consistency review regulations. The current Alaska Coastal Management Program is a valuable planning tool for permit reviewers, applicants, and our citizens.

All of our communities use vast areas of land and waters to hunt and fish. HB 191 eliminates vast areas from participation.

We enclose BSCRSA Resolutions 2003-01 and 2003-02 and urge you to keep the CRSAs intact.

Sincerely,



Johnson Eningowuk, Chairman

## **Cenaliulriit CRSA**

Serving the Yukon-Kuskokwim Delta  
PO Box 69, Mekoryuk, AK 99630 / 907-827-8748

To the Honorable 23<sup>rd</sup> Legislature:

Subject: House Bill 143 – Alaska Coastal Management Program

Cenaliulriit Coastal Resource Service Area serves 35,168 square miles of the Yukon-Kuskokwim Delta, the largest refuge in Alaska, comprising 8,993 miles of shoreline, with 39 listed communities. Cenaliulriit has a history dating back to the early 1980's, and is one of the first Coastal Management Plans since 1985.

Cenaliulriit numbers the largest dependents, on a daily basis, to fish and wildlife, than any other part of the State of Alaska. Cenaliulriit has worked hard over the last 18 years to provide program improvement and opportunity of village participation and successful permitting. And to help the permitting process, the program is in its final year of mapping Customary Use Areas of fish and wildlife resources. The preliminary data indicate wide-ranging areas of overlap between villages, in all areas of coastal waters, inland rivers, fresh water areas, headwaters and land mass.

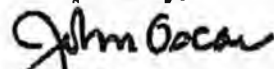
In the Cenaliulriit district, mining operations have not stopped, local infrastructure improvement continues, water and sewer, road, new facilities, and upgrade of bulk fuel facilities, airport improvements, and erosion control, to name a few and operating and permitting successfully.

The Association of Village Council presidents serving 56 villages passed a resolution at their mid-year annual convention requesting the legislature to oppose House Bill 191 and Senate Bill 143. The delegates of the convention were not aware of these new bills and very concerned that it eliminates a concerted effort to provide meaningful opportunity to participate in permitting. The delegates convey that fish and wildlife do not honor postage stamp municipal boundaries.

These bills require proper input from villages that are impacted by this new proposed process under the Department of Natural Resources. We honorably request the legislature to allow for meaningful review and opportunity for communities to assess the proposed changes to the Alaska Coastal Management Program.

Thank you for this opportunity to comment,

Respectfully,

  
John Oscar  
Program Director

Northwest Arctic Borough  
P.O. Box 1110  
Kotzebue, AK  
Ph: (907) 442-2500 or (800) 478-1110  
Fax: (907) 442-3740

**FACSIMILE**

To: Paul Seaton Fm: NOAH WANKOR

Fax: 465-3472 Date: \_\_\_\_\_

Pgs: \_\_\_\_\_ CC: \_\_\_\_\_

Re: \_\_\_\_\_

Urgent     For Review     Please Comment     Please Reply

Comments: Bill 191  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

If we look at the intent of the CZM Program, Congress strived for wise use of land and water resources of the coastal zone, which took into account the ecological, cultural, recreational, historical and aesthetic values, as well as the need for economic development.

The Northwest Arctic Borough and the North Slope Borough can serve as models where our district plans, which strive to protect our subsistence resources, upon which we still depend on today, can allow for major economic development and for the protection of our resources. Our district plans, coupled with our title 29 planning authority, allowed the leverage needed to promote and mitigate for responsible economic development.

The ACMP provides us with a program based on a partnership of shared state and local management responsibility. Our district coastal programs were developed on a local level and address our unique local issues, resources and policies. Our locally adopted district coastal programs were subject to an extensive public review, which was approved by both our Assembly as well as the Alaska Coastal Policy Council and the federal government.

By adopting a state wide "one size fits all" set of enforceable policies, you will take away, what we feel is the heart of our district plan, a set of policies that address the unique circumstances in each of our districts. Simply adding a paragraph of each of our plans cannot, and should not be viewed as an implementation policy that will address our local needs. By adopting these policies you will take away, a very strong tool provided to us in our district plan. The ability for local due diligence, expertise, experience and control.

This bill, hurts us in several separate ways, it takes away our unique enforceable policies, it removes the vital role for local involvement, expertise and government, and it will result in the loss of federal, state, and borough invested resources, time and expertise in developing and implementing the Borough CMP.

This bill, if passed will force us to look at our Municipal authority and title 9 zoning code to protect our subsistence resources, unique coastal environments and borough/local coastal management concerns.



# Alaska State Legislature

Please enter into the record my testimony to the HFSH  
committee name  
committee on HB 191, dated 3-17-03  
bill/subject

3. PAGES

Signed: KAROL KOHLHATNEN  
Testifier

Representing (Optional)  
PO BOX 1074 PALMER 99645  
Address

Phone No.

# ALEUTIANS WEST

COASTAL RESOURCE SERVICE AREA

Good Morning

My name is Karol Kolehmainen and I am the Program Coordinator for the Aleutians West Coastal Resource Service Area. Having said that I can surmise that many of you may think that I am speaking to you today to save my job. In fact, that is not why I am here. I am here because of the seven elected officials of the Aleutians West Board and all that they represent.

Geographically, they represent the entire western Aleutian area from Unalaska Island west to Attu Island, an area that is 20 to 60 miles in width and roughly 1000 miles long. It is bounded by the Pacific Ocean to the south and the Bering sea to the north and has a wealth of natural resources including some of the richest fishing grounds in the state. Like the geography the communities of the region are also diverse. Unalaska, the only Title 29 community and the number one seafood processing port in the nation for many years, has a population of over 4000 people, and Nikolski, a tribal government, has 39. Both of these communities contribute members to the AWCRSA Board.

Article 2 of Alaska Statute 46.40 provides the authority for coastal management in the unorganized borough and allowed the people of the western Aleutians to form a CRSA. Sixteen years ago, in 1987, the AWCRSA was established by a vote of the people of the unorganized western Aleutian area. They went through the process and gave of their time to develop a coastal management plan for the region. The plan was signed into law and provides representation of the local interest in state and federal permitting decisions. The plan has procedures and policies, not to prevent development, but to guide development activities within the coastal zone boundary. Recently we have been updating the plan, a massive undertaking, involving mapping of the resources of the entire area, collection of census data and cultural, historic, and economic information and the development of goals and objectives for the region, culminating in the development of coastal policies. All of this work was accomplished by a volunteer Board and using federal funding. Because the CRSA exists in the unorganized area it serves as a local authority for the entire area and the plan is the recognized information source for prospective developers and oil spill contingency planning.

If I have gone on at length about the area, it is because I care deeply about the region and respect the efforts of the AWCRSA Board. As previously stated, the board is strictly voluntary and its members have contributed many hours over many years to develop what it has become. I would like to add that I am the sole employee and the entire program is federally funded with monies passed through the state. Now, with a stroke of the pen, this political subdivision of the state will cease to exist.

I have reviewed the proposed legislation, and some of the supporting material, and wish to continue by specifically addressing some of the assertions. First, to

state that Title 29 municipalities will retain their existing land use authorities and regulate private land use activities is correct but doesn't provide the complete picture. In the AWCRSA, the Title 29 municipality, Unalaska, does not have a coastal management program, that role is provided by the CRSA. I suspect this is true in the other unorganized borough areas as well. Any one who has been involved with the rewrite of a comprehensive plan knows that it does not happen overnight and it will take much time and effort for a community to develop a coastal program and be eligible for the financial benefits of participation. Unalaska represents a mere 116 square miles of a much, much larger area.

Next, to say that DNR is authorized to adopt local ordinances as state enforceable policies for Federal reviews also seems to gloss over the very real concern of elimination of a local presence in permit decisions. I guess that is the ultimate in streamlining—the state makes the decision. I believe another word for that is centralization, but then that word is much less palatable.

And last, to say that the adoption of certain coastal policies for state decisions will continue to recognize a local input is just the second point made in an only slightly different way. When that happens, you no longer have local policies, you have state policies, and only the ones that were deemed acceptable apparently.

Now that I have said all of this, I would like to conclude by admitting that we recognize that passage of this legislation appears inevitable given the current political climate. In HB 191, Section 10, the legislation purports to provide a program of research, training, and technical assistance to coastal resource districts, including the direct granting to the districts. However, Section 16 repeals 46.40.120 through 180 eliminating the coastal resource districts, the CRSA's, which allow huge political subdivisions of the state, and includes many of the communities that could benefit the most from coastal grants. We respectfully request that the legislation be modified to allow the CRSA's to exist, permanently as coastal district areas or a similar functional area, or for a period of time long enough to allow the work that has been done to be redirected in a way that will let the areas develop meaningful authority in an acceptable and beneficial form.

Thank you for your time.

A handwritten signature in cursive script, appearing to read "John M. ...", written in dark ink.

Bering Straits Coastal Resource Service Area Board  
P. O. Box 190  
Unalakleet, Alaska 99684  
(907) 624-3062  
FAX 624-3833

**RESOLUTION 2003 - 01**

**A RESOLUTION OF THE BERING STRAITS COASTAL RESOURCE SERVICE  
AREA BOARD OPPOSING THE TRANSFER OF THE ALASKA COASTAL  
MANAGEMENT PROGRAM TO THE DEPARTMENT OF NATURAL RESOURCES.**

**WHEREAS** the Alaska Coastal Management Program is a networked program of the Federal, State and Local Governments and

**WHEREAS** the Alaska Coastal Management Program involves all levels of government in a public setting and

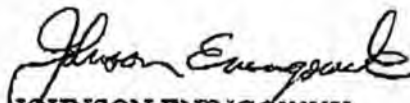
**WHEREAS** the Governor of Alaska appoints senior public officials from local and state government and


**WHEREAS** the Governor appoints the Director of Office of Management & Budget, the Commissioner of Community & Economic Development, the Commissioner of Environmental Conservation, the Commissioner of Fish & Game, the Commissioner of Natural Resources, and the Commissioner of Transportation & Public Facilities and or alternates and

**WHEREAS** the Division of Governmental Coordination is under the supervision of the Office of Management and Budget and serve as staff to the Alaska Coastal Policy Council.

**NOW THEREFORE BE IT RESOLVED** that the Bering Straits Coastal Resource Area Board respectfully urges the Governor of Alaska to withdraw executive orders that change this excellent public oriented network program.

PASSED by a vote of 4 AYES 0 NAYS on JANUARY 18, 2003.

  
JOHNSON ENINGOWUK  
Chairman

  
FRANCES ANN DEGNAN  
Secretary/ Treasurer

Bering Straits Coastal Resource Service Area Board  
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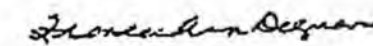
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