

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10971 HOUSE RESOURCES

HB

341

Alaska State Legislature

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House Finance Committee
Subcommittee Chair
Environmental Conservation
Courts



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Representative William K. Williams

Sponsor Statement for HB 341 Dive Fishery Management Assessment

“An Act relating to the dive fishery management assessment.”

House Bill 341 is a housekeeping measure requested by the Southeast Alaska Dive Fishery Association (SARDFA) to provide more flexibility in its operations.

SARDFA was formed in 1998, under AS 43.76.150-210. SARDFA works in partnership with the Alaska Department of Fish & Game and the Department of Environmental Conservation in developing its Annual Operating Plan. The Annual Operating Plan determines how the dive assessments, a self-imposed tax on the value of harvested dive resources, will be spent. The creation of SARDFA provided an innovative approach to the development of biologically and economically sustainable fishery resources. SARDFA partners industry, government, and local communities in successful fishery resource development.

The association has been extremely successful managing existing dive fisheries and at working to develop new fisheries in southeast Alaska using revenues collected from the self-imposed tax of its members. Under AS 43.76.150 and AS 43.76.160, association members elect to tax themselves by species at a rate of one percent, three percent, five percent or seven percent of the value of their landings in a particular dive fishery. HB 341 would give association members the option to elect to tax themselves at the two percent, four percent or six percent rates. The additional rates provide flexibility for the association members to determine what rate is necessary for a particular species. HB 341 does not alter any other portions of AS 43.76.150-210. The election and management process remains the same.

Contact: Tim Barry, Aide to Representative Bill Williams at (907) 465-3424

Coffman Cove

Hollis

SPONSOR STATEMENT

Ketchikan

Meyers Chuck

Saxman

Thorne Bay

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LEGAL SERVICES

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MEMORANDUM

January 29, 2004

SUBJECT: Sectional summary of HB 341; An Act relating to the dive fishery management assessment (Work Order No. 23-LS1280\A)

TO: Representative Bill Williarns
Attn: Tim Barry

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of HB 341, an Act relating to the dive fishery management assessment.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 43.76.150 by adding three new subsections. Each new subsection authorizes the members of a regional dive fishery development association to approve the levy of a dive fishery management assessment at a different rate. Under current law a dive fishery management assessment may be levied at the rate of one, three, five, or seven percent of the value of specified dive fishery resources. The new subsections added to AS 43.76.150 would allow for the levy of an assessment at the rate of two, four, or six percent. If this bill is enacted, the members of a dive fishery development association could vote to levy an assessment of one, two, three, four, five, six, or seven percent on the value of dive fishery resources that they sell or remove from the state.

Sections 2 - 7 of the bill make technical amendments to AS 43.76.160(b), AS 43.76.160(c), AS 43.76.170, AS 43.76.180(a), AS 43.76.190(a), and AS 43.76.190(c), respectively, to conform to the new assessment rates and subsections added in AS 43.76.150, as amended by sec. 1 of the bill.

If I may be of further assistance, please advise.

GU:med
04-111.med

SECTIONAL ANALYSIS

Annual Operating Plan FY2001

Written by:

Alaska Department of Fish & Game

And

**Southeast Alaska Regional Dive
Fisheries Association**

Introduction

This Annual Operating Plan (AOP) is an agreement between the Alaska Department of Fish and Game (ADF&G) and the Southeast Alaska Regional Dive Fisheries Association (SARDFA) for the expenditure of dive fishery assessment funds for fiscal year 2001, beginning July 1, 2000, and ending June 30, 2001. The development of this plan is directed by Alaska Statute 43.76.200(b):

The Department of Fish and Game shall develop an annual operating plan with the cooperation of the regional dive fishery development association on or before a date specified by the Department of Fish and Game. The qualified regional dive fishery development association shall cooperate with the Department of Fish and Game in the development of the annual operating plan. The annual operating plan must describe the activities for which the funding will be expended, including identification of species and areas for which bioassessment surveys will be conducted, a description of management and research activities to be performed, planning for dive fisheries, and administrative activities of the association. Funds appropriated to the Department of Fish and Game for funding of qualified regional dive fishery development associations may not be disbursed by the department or expended by the association, except for administration of the association, unless the annual operating plan has been approved by the association and the Department of Fish and Game.

Available Funding

SARDFA members approved assessments of 7% of the landed value of red sea urchins, and 5% for sea cucumbers and geoducks, effective April 1, 1999. During the fiscal year beginning July 1st, 1999, and ending June 30th, 2000, \$71,489.96 was deposited into the State of Alaska's General Fund from landings in the sea urchin fishery. During that same period, \$136,715.90 was deposited from the sea cucumber fishery, and \$19,778.69 from the geoduck fishery. The total assessments available for fiscal year 2001 for the three dive fisheries is \$227,985.55.

During this past legislative session, the above available funds were appropriated by the Alaska State Legislature in the Operating Budget, HB312. The appropriation occurs in the language section of the Operating Budget, HB312:

Sec. 12. Dive Fishery Management Assessment. The dive fishery management assessment collected under AS 43.76.150 - 43.76.210 in fiscal year 2000 and deposited into the general fund under AS 43.76.190(d) is appropriated from the general fund to the Department of Fish and Game for disbursement under AS 43.76.200 in fiscal year 2001 of the amount collected in each administrative area to the qualified regional dive fishery development association operating within the administrative area in which the assessment was collected.

Budget Plan

In accordance with SARDFA policy, these assessment revenues will be allocated to expenses related to the specific fishery from which the assessments were generated. For example, the sea cucumber assessments will be used to pay for surveys, research, and other expenses related only to the sea cucumber fishery, and an equal percentage of the SARDFA administration, based on the Fluctuating Guideline Ratio. The sea urchin and geoduck fisheries will do the same.

The Fluctuating Guideline Ratio (FGR) is the term designated by the SARDFA Board of Directors to describe the systematic way in which the SARDFA Administration is to be paid by the dive fishery assessment. The FGR is the total SARDFA Administration costs as a percentage of the total dive fishery assessments. This percentage is then taken from each species' assessment and rounded to the nearest dollar to pay for the cost of the SARDFA administration. For this AOP, the FGR is 29.254%.

$$\begin{aligned} & \text{Fluctuating Guideline Ratio} \\ & (\text{Total SARDFA Administration costs} / \text{Total Assessments}) = \\ & (\$66,695 / \$227,984.55) = \\ & \quad \quad \quad 29.254\% \end{aligned}$$

The following budgets (Sea Cucumber, Sea Urchin, and Geoduck Assessment Budgets) outline how the dive assessments are to be used during the fiscal year 2001.

Sea Cucumber Assessment Budget

1) SARDFA Administration*	\$ 39,995.00
2) New Area Assessments by ADF&G (3 areas)	\$ 20,000.00
3) New Control Areas (3 areas)	\$ 20,000.00
4) Genetic, Growth, & Recruitment Studies	\$ 5,000.00
5) Reconnaissance Surveying	\$ 26,000.00
6) Reserve & Development Fund*	\$ 25,720.90
Total	\$136,715.90

In the Sea Cucumber Assessment Budget above, Line 1, SARDFA Administration, will be used by SARDFA as detailed in the Approved SARDFA Administration Budget. Line 2, New Area Assessments, will be used by ADF&G to survey and set quotas in three new areas; those areas will be agreed upon by SARDFA and ADF&G. Line 3, New Control Areas, will be used by ADF&G to begin research on three new areas that have never been harvested. Line 4, Genetic, Growth and Recruitment Studies, will be used by ADF&G to supplement federally funded research. Line 5, Reconnaissance Surveying, will be used by ADF&G to contract SARDFA members to pre-survey new areas in order to determine if the area has commercial quantities of sea cucumbers. Line 6, Reserve and Development Fund, will be used by SARDFA for projects that will help develop the sea cucumber fishery. For example, the Reserve and Development Fund could be used for

further Reconnaissance Surveying, beginning an enhancement project, marketing, or any project that may further develop the fishery and is agreed upon by the SARDFA Board of Directors.

Sea Urchin Assessment Budget

1) SARDFA Administration*	\$ 20,914.00
2) ADF&G Management	\$ 35,000.00
3) ADF&G Surveys to increase precision	\$ 15,575.96
Total	\$ 71,489.96

In the Sea Urchin Assessment Budget above, Line 1, SARDFA Administration, will be used by SARDFA as detailed in the Approved SARDFA Administration Budget. Line 2, ADF&G Management, will be used by ADF&G to fund the management of the fishery. In the past, this cost was paid by the processors, divers, and municipalities. Line 3, ADF&G Surveys to increase precision, will be used by ADF&G to conduct further surveys in some areas already open for harvest, which will increase the precision of the data and increase the quota.

Geoduck Assessment Budget

1) SARDFA Administration*	\$ 5,786.00
2) PSP & Water Testing*	\$ 13,992.69
Total	\$ 19,778.69

In the Geoduck Assessment Budget above, Line 1, SARDFA Administration, will be used by SARDFA as detailed in the Approved SARDFA Administration Budget. Line 2, PSP and Water Testing, will be used by SARDFA to pay the costs associated with water certification of new and old areas, sampling geoducks for PSP levels, administering the 7% assessment vote, and attorney fees regarding the Alaska Trademark Shellfish lawsuit against the State of Alaska.

The funds to be transferred to SARDFA from ADF&G are marked with asterisks above. They include the amounts listed for SARDFA Administration for all three species (\$39,995 + \$20,914 + \$5,786 = \$66,695), the Sea Cucumber Reserve & Development Fund (\$25,720.90), and the Geoduck PSP & Water Testing (\$13,992.69). The total to be received by SARDFA from ADF&G is \$106,408.59.

Approved SARDFFA Administration Budget

The Approved SARDFFA Administration Budget below outlines the administrative activities for which SARDFFA will be using the assessments.

<u>Office Expenses Subtotal</u>		<u>\$4,325</u>
Postage	\$240	
Long Distance Charges	\$1,200	
Misc. Office Supplies	\$360	
Filing Fee	\$25	
Legislative Newsletter	\$300	
Web Site Construction & Maintenance	\$2,200	
<u>Conference Expenses Subtotal</u>		<u>\$9,600</u>
Travel	\$6,000	
Teleconference	\$3,600	
<u>Accountant/Lawyer Expenses Subtotal</u>		<u>\$7,200</u>
Annual Directors' Election	\$1,500	
Annual Reports	\$500	
Biennial Report	\$500	
Quarterly Financial Reports	\$1,000	
Lawyer Consultation	\$3,700	
<u>Salary, Rents, Memberships Subtotal</u>		<u>\$40,600</u>
Executive Directors' Salary	\$35,000	
Office Rents	\$5,000	
AK Fisheries Dev. Foundation Membership	\$300	
Southeast Conference Membership	\$300	
<u>Outstanding FY2000 Administration</u>		<u>\$4,970</u>
<u>Grand Total SARDFFA Admin. Budget</u>		<u>\$66,695</u>

Strategy to Deal with Future Stock Assessment Needs

If ADF&G and SARDFa continue to be successful in reaching their goal of developing the dive fisheries in the future, a potential problem can be foreseen in supplying enough stock assessment hours to meet the need of the fisheries. ADF&G and SARDFa will work on a strategy in the next fiscal year to deal with this potential problem.

Timeline

ADF&G will transfer the total amount to SARDFa on or before July 31st, 2000.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Mission Statement: To develop, expand, and enhance new and existing dive fisheries in Southeast Alaska.

Julie Decker, Executive Director
Box 2138, Wrangell, AK 99929
Ph: 907-874-3110; Fax: 907-874-4270
info@sardfa.org
www.sardfa.org

Legislative Priorities for SARDFA 2004

- HB 341
- 1) **Amending SARDFA Legislation:** SARDFA would like the ability to assess ourselves at 2, 4, or 6% (in addition to the options of 1, 3, 5, or 7%). Also, SARDFA would like to give DOR the authority to disclose tax receipts by species to SARDFA for purposes of allocating revenues to our respective programs.
 - 2) **Re-Appropriating Past Dive Assessments:** SARDFA was notified by ADF&G that \$188,000 of dive assessments have been collected in the general fund but not appropriated. These funds were not accounted for in any Annual Operating Plans (AOPs). ADF&G does not have expenditure authority to legally access these funds. ADF&G and SARDFA are looking for appropriation of these funds for use under the FY05 AOP, or another suitable way to access the funds.
 - 3) **Uniform Geoduck Standards:** SARDFA is still in pursuit of implementing uniform geoduck standards within DEC. We have made a significant step in the right direction this season. However, Alaska is still not able to compete with other geoduck suppliers in Washington and British Columbia on equal footing.
 - 4) **Support Funding for Commercial Fisheries:** SARDFA supports no more cuts to Commercial Fisheries funding. SARDFA was established to bring more funding to increase management activities in our fisheries in an effort to create more quota and economic activity. Further cuts, at this point, will undermine our efforts to "put our money where our mouth is" by directly resulting in reductions of quota. This will only continue a downward spiral for the local economy; this is NOT resource development.
 - 5) **Improved Seafood Transportation:** Transportation in SE continues to be a bottleneck for the seafood industry and SARDFA supports efforts to increase transportation efficiency and opportunities.
 - 6) **Pilot Projects for Geoduck and Sea Cucumber Enhancement:** SARDFA is in the beginning stages of the creation of a pilot project to enhance, or re-seed, geoduck and sea cucumber in specific areas.

Members of:
Southeast Conference
United Fishermen of Alaska
Pacific Coast Shellfish Growers' Assoc.
Interstate Shellfish Sanitation Conference

LETTERS OF SUPPORT

HB341

House Special Committee on Fisheries

Hearing Wednesday, February 4th, 2004

Witness List:

Tim Barry, Aide to Representative Williams (Bill Sponsor)

Julie Decker, Executive Director, Southeast Alaska Regional Dive Fisheries Association (SARDFA) - (907) 874-3110

X Pat Cassin, Commercial Diver and SARDFA member, Ketchikan -
(907) 225-0809

Chuck Harlamert, Department of Revenue Tax Division (in person) - He'll be available to answer questions, if people have them

CLAY BERENEK : COMMERCIAL DIVER : (907) 723-7554

HB

345

Representative

Representative
HUGH "BUD" FATE
Finance Committee

Energy Council- Executive Committee
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Alaska State Legislature



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Rep_Hugh_Fate@legis.state.ak.us
House District 7

House of Representatives

To: Representative Nancy Dahistrom -Co-Chair, House Resources Committee
Fm: Jim Pound, Chief of Staff
Cc: Representative Beverly Masek
Date: January 27, 2004
Re: HB 345 "CAMPSITE FEES: DISABLED VETERANS/SENIORS"

Please accept this memo and attached documents as a request for the House Resources Committee to schedule for hearing House Bill 345 "CAMPSITE FEES: DISABLED VETERANS/SENIORS."

The bill will allow Alaska Resident Senior Citizens and Disabled Veterans to use State Park developed Campsites for a one-time annual fee of \$10.

Thank you for your consideration of HB 345.

Attached: Sponsor Statement, HB 345, Current statutory language

Representative
HUGH "BUD" FATE
House Finance Committee,
Executive Board, Energy
Council

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Alaska State Legislature



House of Representatives

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House District 7

Sponsor Statement for HB 345

"An act relating to fees for state park developed campsites; and providing for an effective date."

House Bill 345 adds and deletes language from existing statute (AS 41.21.026 (d)) to give senior citizens and disabled veterans a developed campsite in non-urban Alaska state parks for a fee of \$10 annually.

Non-urban campsites are those that do not fall within or immediately adjacent to an urban city.

Currently, senior citizens are required to pay a \$100 annual fee in order to camp in Alaska's state parks.

HB 345 provides an incentive for disabled veterans and seniors that are Alaska state residents to travel throughout the state for a discounted price.

Through House Bill 345, the department will be required to provide a season pass for use by a disabled veteran or senior citizen when applying for a permit under this section. HB 345 also requires the department to prepare a report on the number of permits issued to disabled veterans and senior citizens during the previous calendar year and notify the legislature that the report is available.

Representative
HUGH "BUD" FATE
Finance Committee

Energy Council-Executive Committee
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Alaska State Legislature



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House District 7

House of Representatives Memorandum

To: Representative Nancy Dahlstrom
Fm: Jim Pound
Cc: Representative Beverly Masek
Date: January 27, 2004
Re: Amendments to HB 345

We would like to propose two associated amendments to HB 345 having to do with campsite location. In the urban areas of Alaska private campsites are often available. It is somewhat unfair for the State to compete directly with these private for profit companies.

Therefore:

Amendment 1 for HB 345

Page 1, Line 9 add the word "non-urban"

The permit shall allow a disabled veteran or senior citizen to use a non-urban state park....

Amendment 2 for HB 345

*Sec. 2 (f) In this section "non-urban" is defined as a state park developed campsite located outside of a ten-mile radius of a city center.

The information attached to this memo is **CONFIDENTIAL** and/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memo is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

Sec. 41.21.026. Fees for the use of state park system facilities.

(a) Notwithstanding (b) of this section, the department may charge or collect a fee in a park unit for

- (1) rental of public use cabins or other overnight lodgings;
- (2) overnight use of a developed campsite;
- (3) special park use permits;
- (4) competitive and exclusive commercial use permits;
- (5) noncompetitive and nonexclusive commercial use permits;
- (6) use of a sewage holding tank dump station;
- (7) admission to or guided tours of visitor centers and historic sites;
- (8) use of an improved boat ramp in a park facility developed principally for boat launching;
- (9) sale of firewood;
- (10) sale of merchandise for informational or educational purposes related to public use and understanding of parks, including maps, plans, and other graphic materials;
- (11) use of a developed facility that has developed parking and rest rooms; and
- (12) presentation or attendance at programs related to natural or cultural history, outdoor skills or education, or other topics concerned with public use, enjoyment, or understanding of parks.

(b) The department may not charge or collect a fee for an ordinary use of a park unit or the use of a restroom in a park unit.

(c) The department shall establish the fees that may be charged or collected under (a) of this section by regulation. Before setting the fees, the department shall consider at public hearings

- (1) the cost to the state of operating the facility or managing the activity;
- (2) the normal fees charged for similar facilities or activities by governmental and nongovernmental entities;
- (3) the cost of administering a fee collection program for the facility or activity; and
- (4) the public interest.

(d) The department shall issue free of charge to disabled veterans of this country an annual state park developed campsite permit. The permit shall allow a disabled veteran to use a state park developed campsite for personal recreation use without a charge or fee under (a)(2) of this section. While utilizing a developed campsite without charge under this subsection, the disabled veteran shall comply with all other statutes or regulations pertaining to the use of the developed campsite. The department shall provide a form for use by a disabled veteran when applying for a permit under this section. Not later than February 1 of each year, the department shall prepare a report on the number of permits issued to disabled veterans under this subsection during the previous calendar year and notify the legislature that the report is available.

(e) In this section, "developed campsite" means a campsite having access to the following public facilities:

- (1) restrooms;
- (2) a picnic table;
- (3) an outdoor cooking facility; and
- (4) an approved water source.

HB

364

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

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SSHB 364

"An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, modifying the authority to extend certain shallow natural gas leases, and precluding the director of the division of lands from reissuing or otherwise extending shallow natural gas leases within the Kachemak Bay area if the leases fail to produce gas in paying quantities within the terms of the lease or if there is a breach of a term or condition of the lease; and providing for an effective date."

Sponsor Statement

The Sponsor Substitute for HB 364 (SSHB 364) accomplishes three goals. First, it establishes a moratorium on future shallow natural gas leases (as defined by AS 38.05.177) in the Homer area. Second, it precludes the Commissioner of the Department of Natural Resources (DNR) from reissuing the current shallow natural gas leases in the Homer area if the leases do not produce gas in paying quantities within the terms of the lease (three years) or if there is a breach of contract. Third, SSHB 364 gives the Director of the Oil and Gas Division of DNR criteria to judge the merits of using his/her discretion to extend shallow natural gas leases. The Director would now have to consider the likelihood that extension of the lease would "expedite or lead to shallow natural gas development." This bill would in no way complicate future gas leasing in the Homer area through the Area Wide Lease Sale process, or some other leasing program.

The shallow natural gas leases recently let in the Homer area have created two major problems. First, the public is very concerned about the streamlined process under which these leases were let. The current shallow natural gas program provides for over-the-counter type leases; lacking a best-interest-finding, effective public notice, and regulatory provisions, and also decreasing fees and royalties paid to the state, this program has left local residents critical of the gas development in general.



Second, the gas formation underneath Homer follows the same geologic trend currently supporting the conventional natural gas industry on the Kenai Peninsula. To Homer's immediate north, conventional gas projects are underway in Ninilchik and on the North Fork Road. The industry incentives offered under the shallow natural gas lease program are not necessary to coerce the natural gas industry to the region. Homer was left out of the Cook Inlet Area Wide Lease Sale Program, and thus made available for leases under the Shallow Natural Gas Program, because of a political decision made by a previous administration. There is no geologic or economic reason that the gas in the Homer area should be developed differently than the rest of the Kenai Peninsula.

I ask for your support for this extremely important legislation.

ALASKA STATE LEGISLATURE

Chair
FISHERIES

Vice-Chair
EDUCATION

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

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SPONSOR SUBSTITUTE HOUSE BILL 364

"An Act prohibiting the issuance of state shallow natural gas leases in the vicinity of Kachemak Bay, modifying the authority to extend certain shallow natural gas leases, and precluding the director of the division of lands from reissuing or otherwise extending shallow natural gas leases within the Kachemak Bay area if the leases fail to produce gas in paying quantities within the terms of the lease or if there is a breach of a term or condition of the lease; and providing for an effective date."

Sectional Analysis

Section 1 amends AS 38.05.177(a) to exclude "land and water within the Kenai Peninsula Borough east of Cook Inlet and south of the north boundary of Township 5 South, Seward Meridian" from shallow natural gas leasing.

Section 2 amends AS 38.05.177(d) to give the Director of the DNR Division of Oil and Gas discretionary guidelines in making the decision to extend shallow natural gas leases that have not yet produced gas. The Director would now be required to consider the likelihood that extension of the lease will "expedite or lead to shallow natural gas development."

Section 3 amends the uncodified law of the State of Alaska to prohibit the issuance or reissuance of a shallow natural gas lease entered into before the effective date of this Act in the area described in Section 1 of this act, if the lease terminates because of failure to produce under AS 38.05.177(d), as modified by Section 2 of this act, or if part of the lease is relinquished or illegally transferred under AS 38.05.177(h).

Section 4 gives this act an immediate effective date.



ALASKA STATE LEGISLATURE

Chair
FISHERIES

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EDUCATION

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HEALTH, EDUCATION AND SOCIAL SERVICES

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MEMORANDUM

April 2nd, 2003

TO: Representative Beverly Masek, Co-Chair
House Resources Committee

FM: Representative Paul Seaton

RE: Hearing Schedule CSSSHB 364 (O&G)

Please schedule CSSSHB 364 (O&G) for a committee hearing in the House Resources Committee at your earliest convenience. You will find the latest version of the bill and pertinent background materials attached. Thank you.



Withdrawn

*ornamentals
2 ea carpenter's*

23-LS1464\S.1
Chenoweth
4/19/04

CONCEPTUAL AMENDMENT

#1



OFFERED IN THE HOUSE
TO: CSSSHB 364(O&G)

1 Page 1, line 5 following "lease;":

TITLE

2 Insert "directing the commissioner of natural resources to reacquire shallow
3 natural gas leases in the Matanuska-Susitna Borough;"

4
5 Page 3, following line ¹⁷~~30~~:

6 Insert a new bill section to read:

A

7 **** Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 REACQUISITION OF CERTAIN SHALLOW NATURAL GAS LEASES. (a) The
10 commissioner of natural resources shall enter into negotiations to reacquire, by purchase in
11 the name of the state, the title to or accountable interests in shallow natural gas leases entered
12 into under AS 38.05.177 before the effective date of this Act within the boundaries described
13 in (d) of this section.

14 (b) In lieu of cash payment for a negotiated repurchase of a leasehold interest
15 described in (a) of this section, the commissioner of natural resources may authorize a credit
16 of the purchase price plus interest at the rate prescribed in AS 09.30.070 to be granted to the
17 seller, to be applied against future lease bonus or rental payments, permit fees, royalties, or oil
18 and gas taxes that may become owing on new production from other leases or property held
19 by the seller for oil and gas development, including shallow natural gas development. The
20 commissioner may also negotiate to reimburse, in like manner by credit provision a
21 reasonable amount to compensate the lessee for expenses and other costs incurred by the
22 lessee.

23 (c) If the commissioner of natural resources is unable to negotiate a satisfactory price

1 for repurchase of a leasehold interest described in (a) of this section, the commissioner may
2 acquire a leasehold interest described in (a) of this section through exercise of the power of
3 eminent domain.

4 (d) The provisions of this section apply to shallow natural gas leases issued under
5 AS 38.05.177 before the effective date of this Act on land and water described in the
6 Matanuska-Susitna Borough."

7

8 Renumber the following bill section accordingly.

AS 38.05.177 Shallow Natural Gas Program (current)

(d) A lease shall be automatically extended if and for so long thereafter as gas is produced in paying quantities from the lease and the lessee continues to meet all requirements of the lease. A lease issued under this section covering land on which there is a well capable of producing gas in paying quantities does not expire because the lessee fails to produce gas unless the lessee is allowed reasonable time to place the well on a producing status. If drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, including such operations as redrilling, sidetracking, or other means necessary to reach the originally proposed bottom hole location, the lease is extended for one year and for so long thereafter as gas is produced in paying quantities. A gas lease issued under this section that is subject to termination by reason of cessation of production does not terminate if, within 90 days after production ceases or a longer period determined at the discretion of the director, reworking or drilling operations are commenced on the land under lease and are thereafter conducted with reasonable diligence during the period of nonproduction. In addition, upon application by the lessee, the director may once extend a lease issued under (c) of this section for a period of not more than three years.

(h) A lease issued under this section is subject to the following terms and conditions and may be terminated by the director in the event of a breach of a term or condition:

(1) the lessee may surrender the lease or relinquish part of the lease at any time;

(2) the lease may not be transferred or assigned until a well capable of production of gas in paying quantities has been drilled on the lease; however, this paragraph does not prohibit the lessee from entering into a farm out agreement or similar arrangement with a third party under which the third party assists in exploration and development of production from the lease if the agreement or arrangement does not require a payment of consideration by the third party to the lessee, except that the lessee may retain an overriding royalty interest in the lease or may retain a net profit or other production payment.

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Alaska State Legislature

Please enter into the record by testimony to the HOUSE RESOURCES
COMMITTEE NAME
 committee on HB364 / GAS LEASES, dated 4/23/04
BILL / SUBJECT TODAY'S DATE

SEC. I - THIS SECTION ON EXCLUSIONS AND EXCEPTIONS TO EXCLUSIONS IS CONFUSING. IT IS DIFFICULT TO TELL FOR SURE WHAT LANDS ARE AND ARE NOT AFFECTED AND WHAT EXCEPTIONS APPLY. PERHAPS YOU CAN USE BETTER LANGUAGE.

SEC. II - REISSUANCE LANGUAGE IS MUDDY. IT SOUNDS LIKE LEASES CAN BE EXTENDED PRETTY MUCH AT THE DIRECTOR'S WHIM. THAT'S NOT GOING TO HELP US OUT OF THE FIX WE'RE IN.

SEC. III - LEASES TERMINATE AND CANNOT BE REISSUED UPON DETERMINATION BY THE DIRECTOR OF CESSATION OF USE, IS IT REALISTIC THAT HE/SHE WILL EVER MAKE SUCH A DETERMINATION?

THIS BILL IS WELL INTENDED BUT IT FAILS TO RESOLVE THE MANY DEEP PROBLEMS OF THE SHALLOW GAS LEASING PROGRAM. THE STATE NEEDS TO REACQUIRE THE PRESENT LEASIS AND TERMINATE THE EXISTING SHALLOW GAS PROGRAM. IT IS A SOCIAL, ECONOMIC, AND ENVIRONMENTAL DISASTER AND NEEDS TO BE REDESIGNED TO SERVE THE PUBLIC INTEREST. ESTIMATES OF BUYBACK COST FROM MARK MYER WERE SPECULATIVE AND EXCESSIVE. RECENT ANALYSIS BY ECONOMIST MARK FOSTER INDICATES THE PROBABILITY OF MUCH LOWER COSTS. I URGE YOU TO REVIEW HIS WORK AND RECONSIDER A BUYBACK.

Signed: MIKE O'MEARA

TESTIFIER

SELF

REPRESENTING

P.O. BOX 361, HOMER, AK 99603

ADDRESS

907-235-8635 X 30

PHONE NO.

NOW WE GOT TO GO BACK TO WORK.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB364SS-DNR-O&G-03-08
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
Title Natural Gas Leases on the Kenai Peninsula RDU Resource Development
Component Oil and Gas Development
Sponsor Rep. Seaton
Requester House Oil and Gas Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	(**Indeterminate)					
------------------------	-------------------	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

**HB 364 would impose a moratorium on shallow natural gas leasing around the Homer area. This bill would foreclose future income from shallow natural gas application fees, rentals, and royalties in the Homer area.

Prepared by: Mark D. Myers Phone 269-8800
Division: Oil and Gas Date/Time 3/8/04
Approved by: Thomas Irwin, Commissioner Date 3/8/04
Agency: Natural Resources

Introduced by:

Martin, Moss

Date:

12/16/03

Action:

Adopted

Vote:

6 Yes, 3 No

Action:

Notice of Reconsideration given by Mr. Superman

Action:

Notice of Reconsideration Failed

Vote:

4 Yes, 5 No

**KENAI PENINSULA BOROUGH
RESOLUTION 2003-129**

**A RESOLUTION REQUESTING AMENDMENT OF ALASKA STATUTES 31.05.125
AND 38.05.177(O), WHICH AUTHORIZE THE DEPARTMENT OF NATURAL
RESOURCES COMMISSIONER TO WAIVE COMPLIANCE WITH LOCAL LAWS
FOR SHALLOW NATURAL GAS LEASES IN LIMITED CASES, REQUESTING
ADDITIONAL PUBLIC NOTICE REQUIREMENTS, AND REQUESTING THAT THE
STATE BUY BACK SOUTH PENINSULA SHALLOW GAS LEASES**

WHEREAS, in House Bill 69, effective June 7, 2003, the state legislature amended numerous provisions in state law to encourage the development of shallow natural gas resources; and

WHEREAS, in House Bill 394, effective October 9, 1996, the state legislature also amended numerous statutes to authorize shallow natural gas leasing from sources within 3,000 feet of the surface and including related provisions; and

WHEREAS, while the development of natural resources in Alaska is an important element of Alaska's economy, the recognition of property rights and local authority to regulate uses of property for protection of property rights is similarly important; and

WHEREAS, Sections 4 and 6 of HB 69 enact AS 31.05.125 and 38.05.177(o), which delegate to the Commissioner of the Department of Natural Resources ("DNR") the authority to waive local requirements relating to compliance with local laws upon a demonstration of an overriding state interest; and

WHEREAS, the local planning authority, including planning commissions, councils and assemblies, are best able to understand and implement the needs of the local community respecting land uses; and

WHEREAS, it is in the state's best interest to develop its natural resources utilizing partnerships between the state, mineral lessees, surface owners and the public to ensure public understanding and involvement, as supported by Governor Murkowski in his November 12, 2003 address to the Alaska Municipal League; and

WHEREAS, HB 394 enacted AS 38.055.177 governing shallow gas leases, but only requires notice of the lease application be published in a newspaper of general circulation and not in additional local media if available; and

WHEREAS, requiring publication in the local media will significantly improve notice to members of local communities with local media; and

WHEREAS, the Homer community was not given adequate notice of the proposed shallow gas leases, and was not sufficiently made aware of the impact of HB 394 on the process used for issuing shallow gas leases; and

WHEREAS, because processing a lease application may take more than one year it is appropriate to require additional public notice as circumstances may have changed within the intervening year; and

WHEREAS, at a public meeting held November 10, 2003 in Homer, many residents encouraged the state to buy back the South Peninsula Shallow Gas Leases, and Governor Murkowski preliminarily indicated that he may consider this option after further analysis, if it is feasible and desired by the people, recognizing that any buy back would require legislative approval;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. For all of the above reasons, the Kenai Peninsula Borough Assembly respectfully requests Governor Frank Murkowski and the Alaska State Legislature buy back the South Peninsula Shallow Gas Leases particularly within the Homer Bridge Creek Watershed and other environmentally sensitive areas in the Homer area.


SECTION 2. The Kenai Peninsula Borough urges the Alaska State legislature to significantly amend Alaska Statutes 31.05.125 and 38.05.177(o), to eliminate the ability of the state to waive local land use regulations without advance public notice and hearings, and to require the adoption of clear and high standards that must be met before any local laws may be waived by the DNR Commissioner to accommodate shallow gas leasing.

SECTION 3. That Alaska Statute 38.05.177(c) be amended to require notice of a lease application be published by local news media if available, as well as in a newspaper of general circulation, and to require additional such publication if more than one year elapses between submission of the lease application and final action on the application by the director.

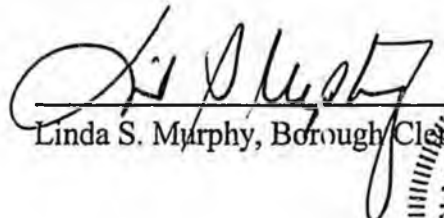
SECTION 4. That copies of this resolution shall be provided to Governor Frank Murkowski, Representatives Vic Kohring, Carl Morgan, Mike Hawker, Kelly Wolf, Mike Chenault, and Paul Seaton, and Senators Georgianna Lincoln, Con Bunde, Thomas Wagoner, and Gary Stevens.

SECTION 5. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF DECEMBER, 2003.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk



**CITY OF HOMER
HOMER, ALASKA**

Mayor. Ladd.

RESOLUTION 03-147(S)

**A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA REGARDING
LOWER PENINSULA SHALLOW NATURAL GAS LEASES AND COAL BED
METHANE DEVELOPMENT.**

WHEREAS, Leases for Coal Bed Methane (CBM) development in the City of Homer and surrounding areas have been approved by the State of Alaska, Division of Oil and Gas, and;

WHEREAS, Notification of said leases by the State of Alaska to the City of Homer has not occurred since year 2000 and therefore this community was not given current information in which to comment to the State concerning these leases and;

WHEREAS, At a Homer Public Information Meeting, November 10, 2003, the Department of Natural Resources, Department of Revenue, Department of Environmental Conservation, and the Alaska Oil and Gas Conservation Commission heard a preponderance of public testimony questioning the State of Alaska's decision to lease Lower Peninsula coal bed methane sub surface land without having provided notification to and timely opportunity for citizen input, and;

WHEREAS, The closed decision-making process utilized by the State of Alaska to lease Lower Peninsula coal bed methane land is contrary to widely held beliefs of Homer area residents and the City of Homer, and;

WHEREAS, CBM development could severely and adversely impact quality of life as well as private and public property including:

- the City of Homer water supply that serves approximately 1100 homes and businesses in the City via water mains and approximately 450 homes and businesses inside and outside the City via water trucks;**
- groundwater vitally important for:**
 - private water wells,**
 - health of the general ecology and the local area economics that are heavily dependent on a healthy ecology (commercial, sport, charter, guided and subsistence fishing, visitor and tourism industries;**
 - home and land values;**
 - roads and public safety;**

NOW, THEREFORE, BE IT RESOLVED, that the City of Council of Homer, Alaska declares that CBM development may not be consistent with the goals of the residential, commercial, recreational, and tourism growth of this community and that the potential adverse impacts of CBM development may far outweigh the potential benefits; and

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42 Page Two
43 Resolution 03-147(S)
44 City of Homer
45

46 BE IT FURTHER RESOLVED, that the Homer City Council declares that projects such as
47 natural gas leases and coal bed methane development are very sensitive to local planning and quality
48 of life, and waiving shallow natural gas and CBM developer compliance from local ordinances and
49 regulations based upon HB 69 is contrary to principles of representative government, and;
50

51 BE IT FURTHER RESOLVED, that the Homer City Council requests that the Legislature
52 and the Governor agree to legislation providing the Commissioner of the Department of Natural
53 Resources the authority to buy back the leases, or repurchase leases within the Homer Bridge Creek
54 Watershed including other environmentally sensitive areas within the City, and deny all future
55 applications for CBM development in, or near the City of Homer and surrounding area, and;
56

57 BE IT FURTHER RESOLVED, that the Homer City Council asks that the State of Alaska
58 place a moratorium on any further leasing or permitting of shallow gas leases and CBM activity in
59 the area until the short and long term adverse effects of CBM and shallow gas development shall
60 be studied and properly regulated in Alaska State, and;

61 BE IT FURTHER RESOLVED, that the Homer City Council requests legislators to repeal
62 HB69 so that local governments may properly regulate CBM development within their jurisdictions.

63 PASSED AND ADOPTED by the City Council of Homer, Alaska this 1st day of December,
64 2003.

CITY OF HOMER

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72 ATTEST:

Jack Cushing

JACK CUSHING, MAYOR

73
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77 *Mary L. Calhoun*
78 MARY L. CALHOUN, CMC, CITY CLERK
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82 Fiscal Note: NA

Post-It® Fax Note	7071	Date	1/16/04	# of pages	2
To	Cameras	From	Mary		
Co./Dept.	Donkowski	Co.	Calhoun		
Phone #	2 /	Phone #			
Fax #	465 3472	Fax #			

83

CITY OF KACHEMAK
KACHEMAK, ALASKA

RESOLUTION 2003-12A

A RESOLUTION OF THE CITY OF KACHEMAK, ALASKA
REGARDING LOWER PENINSULA SHALLOW NATURAL GAS
LEASES AND COAL BED METHANE DEVELOPMENT

WHEREAS, leases for shallow gas or coal bed methane (CBM) development in Kachemak City and the surrounding Homer area have been approved by the State of Alaska, Division of Oil and Gas and;

WHEREAS, notification of said leases was never forwarded by the State of Alaska to Kachemak City, the City of Homer, individual property owners, or announced in either of the local papers and therefore this community was not given adequate notice in which to comment to the State concerning these leases;

WHEREAS, shallow gas or CBM development could severely and adversely impact private and public property including home and land values, groundwater, roads and public safety;

THEREFORE BE IT RESOLVED, that the Kachemak City Council declares that shallow gas or CBM development is inconsistent with the goals of this residential, commercial, recreational and tourism-oriented community and that the potential adverse impacts of natural gas or CBM development would far outweigh any potential benefits and;

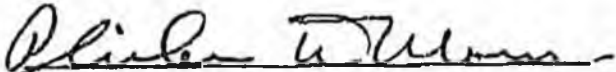
BE IT FURTHER RESOLVED, that Kachemak City requests the Director of the Division of Oil and Gas and all other relevant state agencies to immediately place a moratorium on all permitting activities related to shallow gas or CBM development in, or near, Kachemak City and;

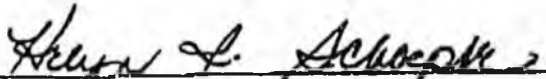
BE IT FURTHER RESOLVED, that Kachemak City requests the Alaska State Legislature to consider buying back the shallow gas leases sold in Kachemak City and the surrounding residential area, and to establish a new shallow gas and CBM program limited to non-residential lands with proper environmental safeguards and citizen participation.

BE IT FURTHER RESOLVED, that Kachemak City directs the Alaska Legislature to repeal HB69 so that local governments may properly regulate shallow gas or CBM development and impacts within their jurisdictions.

ADOPTED BY THE COUNCIL OF THE CITY OF KACHEMAK ON THIS 10th DAY OF December 2003.

CITY OF KACHEMAK


Philemon D. Morris, Mayor


Helyn I. Schoepke, City Clerk



Homer Chamber of Commerce

Post Office Box 541

Homer, Alaska 99603

March 16, 2003

(907) 235-7740

FAX (907) 235-8766

Honorable Paul Seaton
State Capitol
Juneau, AK 99801-1182 via fax 465-3472

Dear Representative Seaton:

The Homer Chamber of Commerce requests your support for legislative reforms to the mineral rights leasing process that would guarantee timely, prior notification of all affected landowners and ensure opportunities for public input. Moreover, we encourage specific legislation to address concerns we have regarding recent Kenai Peninsula coal bed methane lease awards. The Homer Chamber of Commerce supported Governor Murkowski's request for expedited permitting within the Department of Natural Resources. However, we believe there are insufficient safeguards to ensure public participation in the minerals leasing process, generally, and coal bed methane leasing, specifically.


Based on the recent experiences of our members, the Homer Chamber has identified 6 deficiencies within the State's coal bed methane lease procedures that should be addressed:

- **Insufficient Public Notification:** Proposed lease awards were not provided to local municipalities or property owners, nor were lease proposals announced in local media;
- **Insufficient Public Comment:** No mechanism was provided for public input on any proposed leases in advance of their approval;
- **Lack of Governmental Coordination:** No efforts were made to introduce gas development projects to local officials or local government planning bodies;
- **Insufficient Consideration of Local Communities and Values:** No consideration was given to the adverse impacts of gas leases on local property values, groundwater, roads, public safety or natural scenic beauty;
- **Regulatory Confusion:** Conflicting state and local regulation regarding development guidelines; and finally
- **State procedures are not consistent with other industry guidelines that address local concerns.**

As you know, privately held land in Alaska is a scarce commodity. According to the Department of Natural Resources, land in private ownership (other than Native land) comprises less than 1% of Alaska's total landmass. The Homer Chamber of Commerce believes that State officials and State Lawmakers must be more sensitive to local concerns regarding mineral development in these populated areas.

The Homer Chamber of Commerce believes the State must encourage and incorporate local participation on mineral development projects and adopt regulations that adequately address the concerns noted above.

Sincerely,


Julie F. Woodworth, President

cc: Governor Murkowski



Coastal Realty

Annie Whitney
Associate Broker

March 17, 2004

To Whom It May Concern:

I am writing this letter to express my recent professional experience in regards to the local Coal Bed Methane Lease issue. Because of the leases that were activated without public notice or input and the ensuing controversy, the market for raw land, in my opinion, has been compromised.

I have personally experienced a solid buyer (an investor who had purchased property through me in the past) who decided against several purchases when she found out they were in an area where the subsurface rights had been leased. I also have clients who purchased a property through me last summer call me and express grave concern and alarm because they had just found out that the property they had purchased off East End Road was part of the lease. They had anticipated moving their young family to this property to enjoy a quiet and rural lifestyle not available to them in southern Massachusetts. They are now discussing changing their plans and selling their property. However, the threat, now, of not being able to resell and recoup their losses is very real, since more and more buyers are refusing to purchase properties impacted by these leases.

In my opinion this was a VERY ill-advised decision made within the State of Alaska bureaucracy and it is impacting me personally and my personal ability to do business, as well as impacting property values and the ability of owners to sell their property.

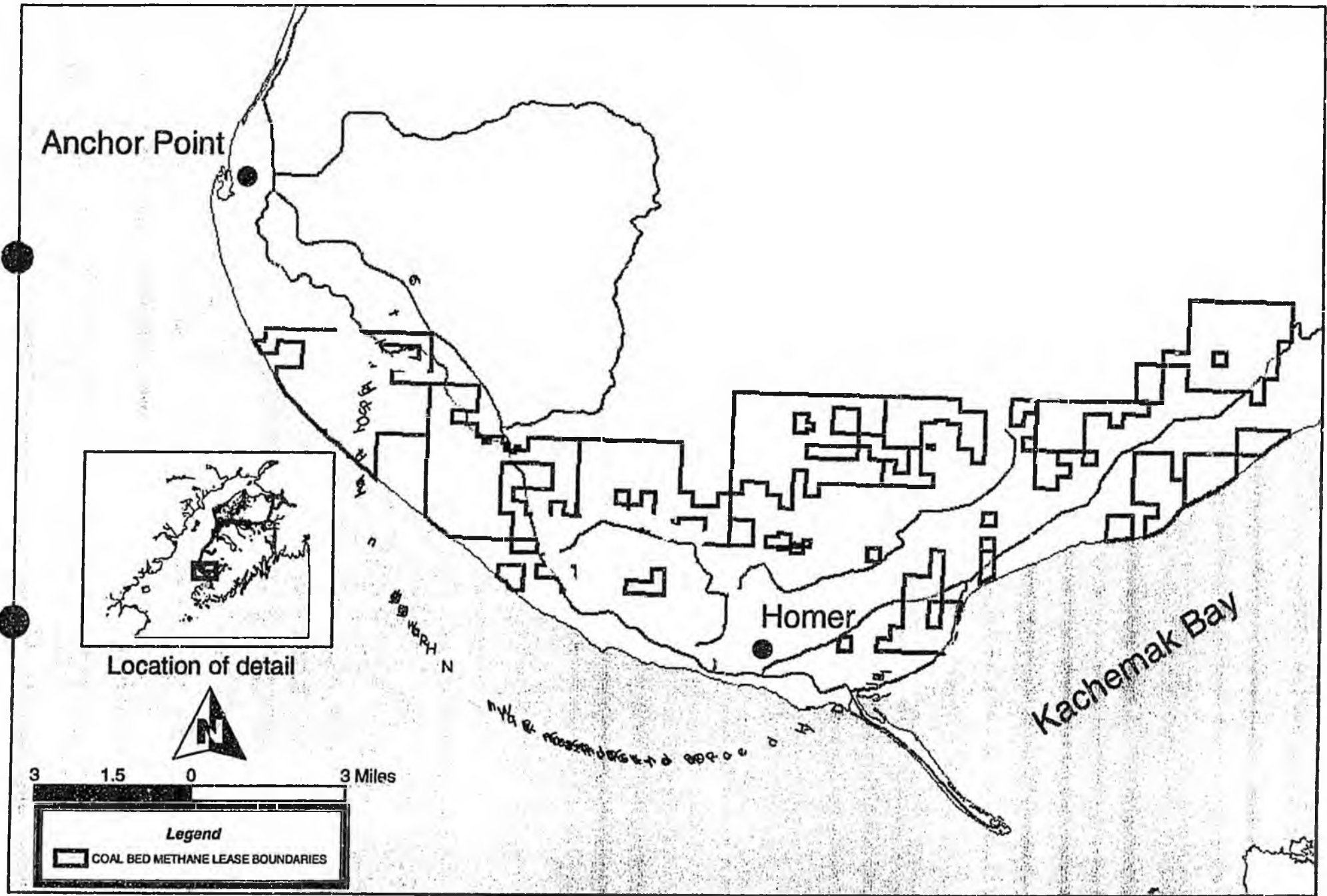
Thank you for your attention to this matter.

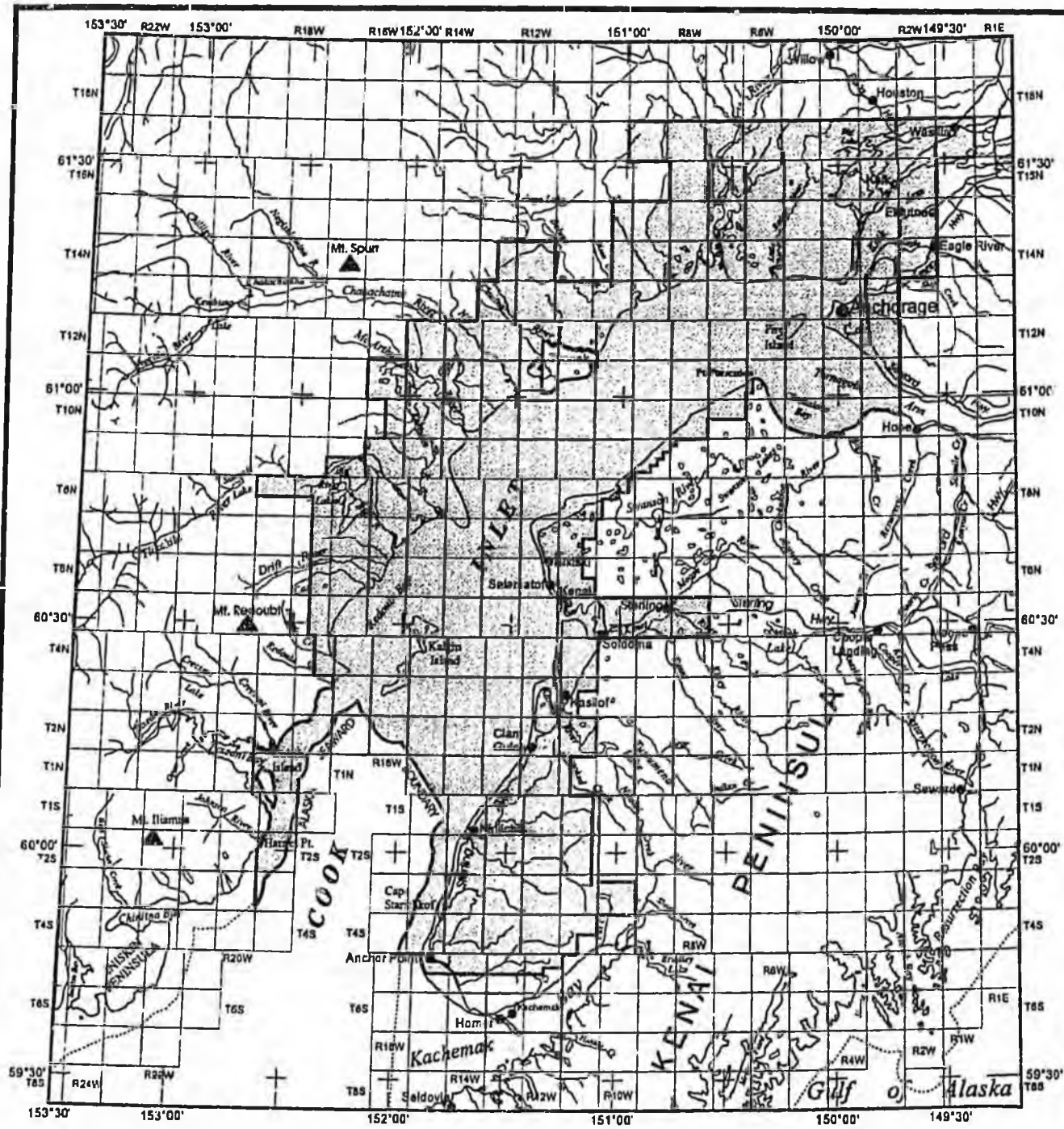
Sincerely,

*Anne C. Whitney
Associate Broker*

anniew@xyz.net
203 W. Pioneer Avenue #1
Homer, Alaska 99603

www.anniesrealestate.com
(907) 235-7700
fax: (907) 235-1216





STATE OF ALASKA
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL AND GAS

COOK INLET AREAWIDE

Proposed Sale Area





Alaska State Legislature

Please enter into the record by testimony to the (H) O + G
COMMITTEE NAME
 committee on HB 364, dated 3/9/04
BILL / SUBJECT TODAY'S DATE

I didn't have my thoughts organized when I testified previously today, so I would just like to add a few words:

I'm personally opposed to developing of CBRM because of ~~the~~ how it can affect the ^{drinking} water (Homer's City reservoir is in the lease), as well as ~~to~~ the land, but I understand why the State might want to encourage development. In that case, please ~~to~~ don't use the 1% of Alaska that is privately owned. That includes my 2.1 acres of land where I have a house.

My concern with HB 364 is that the leases ^{still} in this area will ^{still} be extended if there's a remote possibility that Unocal or Lapp are even thinking of developing. If it's under the discretion of one person vulnerable to pressure from the governor or industry, I don't have a lot of faith in this system. Thank you.

Signed: Emily Ward Emily Ward
TESTIFIER
self
REPRESENTING
PO Box 2672 Homer
ADDRESS
235-9136
PHONE NO.

Faxed 3/9/04

HB

395



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 505 JUNEAU, ALASKA 99801-1182 (907)465-4859

**COMMITTEE SUBSTITUTE FOR HOUSE BILL 395 (O&G)
SPONSOR STATEMENT**

HB 395 was designed to resolve concerns many Alaskans have with coal bed methane development in the areas of property rights, water quality assurance, and local involvement of residents.

This bill accommodates language from HB 420 which sets the framework for a water well fund in the event of damage to a resident's water supply.

Many concerns have been raised recently by residents of the Mat-Su Borough and Homer area through a series of public forums. All sponsors worked diligently, listening to public input from numerous community hearings and comments received during the first hearing within the Special Committee on Oil & Gas

This bill requires that:

- 1) Public comment and other routes of access be considered prior to executing a lease.
- 2) The integrity of the affected water supply is protected.
- 3) Public notice be given prior to the award of a lease via newspapers and direct mail.
- 4) The lessee provide a contingency for dry wells due to CBM operations.
- 5) A shallow gas lease must provide for a water testing requirement by the lessee.
- 6) The owner's surface property be restored in the event of damage.
- 7) Noise from field operation is mitigated.

Finally, language is proposed to close current regulatory loopholes allowing the operators to extract natural gas deeper than the 3,000 foot definition of shallow natural gas without administrative approval for a depth no greater than 4,000 feet. This clarification is necessary to provide Alaskans the guarantee that conventional natural gas resources will not be extracted without going through the competitive bid process.

LEGAL SERVICES

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

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

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


MEMORANDUM

March 11, 2004

SUBJECT: CSHB 395(O&G), relating to shallow natural gas leasing and the regulation of shallow natural gas operations -- sectional analysis (Work Order No. 23-LS1314\C)

TO: Representative Vic Kohring, Chair
House Special Oil and Gas Committee

FROM: Jack Chenoweth
Assistant Revisor of Statutes



Ben Grenn has requested preparation of a sectional analysis for the above-captioned bill.

Changes to the section authorizing shallow natural gas leasing (AS 38.05.177) --

Bill section 5 amends AS 38.05.177(c) relating to requirements of notice. The first insertion (page 4, lines 7 - 12) modifies the minimal public notice requirements when a lease application has been received. The second (page 4, line 13) acknowledges that the director of the division of land should actually consider public comment that may be received. The substitution of "may" for "shall" at page 4, line 15, alters the scope of the director's authority to act, changing it from an act that is mandatory if the standard is met to one as to which the director may exercise discretion. Finally, at page 4, lines 18 - 23, the director is barred from issuing the lease unless the director follows up with public notice of intent to award, the minimum requirements of which are spelled out.

Bill section 6 amends AS 38.05.177(f) to add a series of additional requirements that must be inserted in a shallow natural gas lease, to include (in paragraph (2)) required setbacks applicable to compressor stations that are appropriate to the lease; (in paragraph (3)) appropriate noise mitigation measures; and (in paragraph (4)) surface restoration requirements if the surface is disturbed by exploration or development operations.

Bill section 8: This bill section amends AS 38.05.177(k). In instances in which an owner and a lessee cannot reach agreement for the latter's entry on to property to explore for and develop shallow natural gas and the lessee seeks to post a bond to permit entry, the first amendment (page 7, lines 2 - 10) adds a further requirement that the lessee demonstrate "that access and entry upon the land of the owner is reasonably necessary or convenient" to secure the lessee's rights, and the second amendment (page 7, lines 11 - 13) requires the lessee to provide 30 days' advance notice of initial entry on to an owner's property.

Bill section 9 adds two new subsections.

The language of subsection (p) expands upon the procedures currently applicable to securing protection against damages insofar as those procedures relate to shallow natural gas exploration and development activities:

-- Under paragraph (1), if the owner and lessee come to an agreement as to the lessee's entry, the terms of the agreement are to incorporate the requirements spelled out in AS 38.05.177(f), amended earlier in the bill.

-- Under paragraph (2), if the parties can't agree and the lessee seeks determination of the amount of a surety bond in order to proceed, in conjunction with the director's determination, the owner may provide comments about the appropriate location of improvements to be made on the owner's property.

Subsection (q) supplies a definition for "owner" for relevant subsections in which the term is used.

Changes relating to shallow natural gas activity oversight by the Alaska Oil and Gas Conservation Commission --

Bill section 1: The amendment to AS 31.05.030(j) made by this bill section alters the authority of the Alaska Oil and Gas Conservation Commission as that authority may be exercised with respect to shallow natural gas exploration and development. Paragraph (1) imposes a prohibition against the commission's issuing a permit to drill under AS 31.05 "if . . . operations . . . would involve producing gas from an aquifer that serves as a source of drinking water . . . or . . . for agricultural purposes." Paragraph (2) expands the authority of the commission to regulate hydraulic fracturing associated with exploration for and recovery of shallow natural gas and to regulate as to reinjected water and disposal of wastes produced by those operations.

Bill section 2: In conjunction with shallow natural gas exploration and recovery, this section adds a new provision directing the Alaska Oil and Gas Conservation Commission to initiate a public forum process to resolve informally of public health, safety, welfare, and environmental complaints. The provision sets out the minimal procedural requirements for informal resolution of complaints. The committee added language (page 2, lines 16 and 17) requiring the informal resolution of complaints within 60 days of the filing of the complaints. If informal resolution of a complaint is unsuccessful, the commission may schedule and act on petition concerning the complaint under procedures in place for commission review of matters subject to its jurisdiction.

Standardized references relating to maximum depth of recovery --

Bill section 7: The amendment language added to AS 38.05.177(j) standardizes reference to allowable depths from which shallow natural gas may be recovered, setting a presumptive maximum of 3,000 feet but allowing the commissioner of natural resources

Representative Vic Kohring
March 11, 2004
Page 3

to exercise discretion to allow recovery at depths of not more than 4,000 feet. Recovery at greater depths requires treatment of the operation under conventional oil and gas lease requirements.

Bill sections 3, 4, 5 (language added at page 4, lines 27 and 28), **10, 12, and 13**: The amendments made in each of these sections are conforming changes that reflect the change described in the paragraph above. They eliminate, in the respective definitions of or references to "shallow natural gas," the reference to recovery of natural gas from a depth of up to 4,000 feet and replace it with a reference to 3,000 feet, subject to the commissioner's discretion to allow recovery from a greater depth under AS 38.05.177(j), as described above.

Other matters --

Bill section 11: The amendment made is a conforming change necessitated by renumbering of provisions in bill section 1.

Bill section 14 gives the measure a July 1, 2004, effective date.

JBC:med
04-284.med

LEGAL SERVICES

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

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FAX (907) 465-2029
Mail Stop 3101

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Juneau, Alaska 99801-1182
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COPY

MEMORANDUM

April 16, 2004

SUBJECT: CSHB 395(), (Work Order No. 23-LS1314\G) and
CSHB 531(Res), (Work Order No. 23-LS1818\V)--
notes to accompany the bill drafts

TO: Representative Nancy Dahlstrom, Co-Chair
House Resources Committee

FROM: Jack Chenoweth
Assistant Revisor of Statutes

With this memo are two bill drafts based on my understanding of direction given yesterday afternoon by the working group considering differences between these two drafts.

CSHB 531(Resources), draft version "V":

This is the measure that proposes to scrap the separate leasing process for shallow natural gas leasing and to treat leasing of that commodity under the conventional oil and gas leasing provisions of AS 38.05.180 as "nonconventional gas." There are only four changes to the previous draft of this bill. Rather than amend AS 31.05.125 (waiver of local planning authority, amended by former bill section 6), I repealed the section. Also repealed, per working group direction, were AS 38.05.177(n) (same subject) and paragraphs 1 and 7(c) of sec. 1, ch. 45, SLA 2003. Finally, also per working group direction, I conformed the text of AS 46.03.100(f) to match House action in passing House Bill 524 amended. This Act is given an immediate effective date.

CSHB 395(), draft version "G":

This is the measure that makes more stringent the regulation of shallow natural gas under existing AS 38.05.177. The bill draft contains multiple changes, most of them concerned with the interrelationship between this version and the one described in the previous version. In your review of the text, you will see that a number of provisions are drafted in the alternative, with these alternative provisions given contingent effect.

The title of this bill is amended by adding a clause referring to "contingently redesignating shallow natural gas as nonconventional gas, and relating to the regulation of that gas".

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Bill section 1 is unchanged from the previous draft. **Bill section 2** repeals and reenacts bill section 1 **only** to change reference from "shallow natural gas" to "nonconventional gas."

Bill section 3 is unchanged from the previous draft. **Bill section 4** repeals and reenacts bill section 3 also **only** to change reference from "shallow natural gas" to "nonconventional gas."

Bill section 5: Because this provision assumes that the provisions of bill sections 1 and 3 will operate if CSHB 531(RES) *does not* become law, this bill section retains the language of the previous draft.

Bill section 6: This supplies a definition for the text changes made in bill sections 2 and 4 in the event CSHB 531(RES) *does* become law.

Bill section 7: There is no change in the text of this bill section from the previous draft.

Bill sections 8 - 11: These provisions make changes to various subsections within AS 38.05.177 and operate on the assumption that CSHB 531(RES) *does not* become law. There is no change in the text of any of these bill sections from the previous version.

Bill section 12: If CSHB 531(RES) does become law, the various protections set out in the previous four bill sections would be repealed. In order to retain them, AS 38.05.180(ff), added by CSHB 531(RES), is reenacted. In that reenactment, the provisions of what is set out in bill sections 8 - 11 are reenacted as requirements in AS 38.05.180(ff) and appear here as parts of paragraphs (3), (4), and (5).

Bill sections 13 and 14: These amend the notice provisions, AS 38.05.945(a) and (b), generally applicable to oil and gas leasing to add provisions covering shallow natural gas leases. The text is unchanged from the last previous draft.

Bill section 15: If CSHB 531(RES) becomes law, this provision would operate to reenact AS 38.05.945(b) to undo what is done under bill section 14 immediately above. If CSHB 531(RES) becomes law, nonconventional gas leasing will proceed under the department-initiated/best interest finding process rather than on the basis of nomination and public comment specific to AS 38.05.177, so the changes made by bill section 14 would not be needed.

Bill section 16 conforms the text of AS 46.03.100(f)(3), per working group instruction.

Bill section 17 makes a conforming amendment to CSHB 46.04.030(b) in the event CSHB 531(RES) becomes law.

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Bill section 18: Because this provision assumes that the current provisions of AS 46.04.030(b) will continue to operate if CSHB 531(RES) *does not* become law, this bill section retains the language of the previous draft.

Bill section 19: This supplies a definition for the text changes made in bill section 17 in the event CSHB 531(RES) *does* become law.

Bill sections 20 and 21: These two bill sections make repeals specifically directed by the working group.

Bill section 22: This set of repealers would delete material found earlier in bill sections 5, 13, and 18.

Bill section 23: This is the contingency provision. The contingency is the enactment of a version of House Bill 531, the companion measure. Only if CSHB 531(RES) becomes law do the amendments and repeals proposed in the bill sections identified take effect.

Bill section 24: This is the effective date provision for the contingency. The contingently effective provisions would take effect one day after the effective date of the companion measure.

Provisions not covered by the contingency are, under **bill section 25**, proposed to take effect July 1, 2004.

*

What, then, are the possible outcomes?

First, it is possible that both bills would not pass. I guess that means we start over in 2005.

Second: It is possible that CSHB 395() would not take effect and that CSHB 531(RES) would take effect. Nothing in CSHB 531(RES) is dependent on CSHB 395(), so CSHB 531(RES) would take effect on its own terms. Shallow natural gas leasing under AS 38.05.177 would end and leasing of nonconventional gas under the conventional oil and gas leasing procedures of AS 38.05.180 would begin.

Third: It is possible that CSHB 395() would take effect and CSHB 531(RES) would not take effect. In that event, only the provisions of CSHB 395() that are **not** covered by the contingency provision would take effect, while the contingent provisions in that bill would not take effect (because the contingency, the taking effect of the companion bill, does not occur). In effect, shallow natural gas would continue to be leased under provisions of AS 38.05.177, as amended by that Act.

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Fourth: Both measures become law. By its terms, and assuming the necessary two-thirds vote in each house, CSHB 531(RES) would become immediately effective. The noncontingent provisions of CSHB 395() -- these are the provisions that are drafted on the assumption that shallow natural gas would continue to operate under AS 38.05.177 as amended -- would take effect, again assuming the necessary two-thirds vote in each house, July 1, 2004. The contingent provisions of CSHB 395() -- these are drafted as the superseding provisions -- would take effect one day after the later of the effective date of the companion measure or the noncontingent provisions of the Act.

It's not pretty -- but it should work!

JBC:mdr
04-159.mdr

Enclosure

cc: Eleanor Wolfe, for Representative Beverly Masek, Co-Chair
House Resources Committee



**Representative Beverly Masek
Alaska State House of Representatives
District 15**

TO: Zaz Hollander

FAX: 907-352-6736

FROM: Eleanor Wolfe

PHONE: 907-465-2679

DATE: April 16, 2004

RE: HB 395

MESSAGE: Here is the latest work draft of HB 395.

Number of pages (including cover): 18

**State Capitol
Juneau, AK 99801-1182**

23-LS1314\G
Chenoweth
4/16/04

CS FOR HOUSE BILL NO. 395()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HARRIS, Gatto, Stoltze, Seaton, Kohring

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the recovery of shallow natural gas, to the regulation of shallow
2 natural gas or coal bed methane operations, and to oil and gas leasing operations
3 involving activities not governed under the Alaska Land Act; contingently redesignating
4 shallow natural gas as nonconventional gas, and relating to the regulation of that gas
5 under that contingency; and providing for an effective date."

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

7 * Section 1. AS 31.05.030(j) is amended to read:

8 (j) For exploration and development operations involving shallow natural
9 gas, the commission

10 (1) may not

11 (A) issue a permit to drill under this chapter if the well
12 would be used to produce gas from an aquifer that serves as a source of
13 water for human consumption or agricultural purposes unless the

1 commission finds that the well will not adversely affect the aquifer as a
2 source of water for human consumption or agricultural purposes; or

3 (B) allow injection of produced water except at depths
4 below known sources of water for human consumption or agricultural
5 purposes;

6 (2) shall

7 (A) regulate hydraulic fracturing in shallow natural gas
8 wells to assure protection of drinking water quality;

9 (B) regulate the disposal of wastes produced from the
10 operations unless the disposal is otherwise subject to regulation by the
11 Department of Environmental Conservation or the Environmental
12 Protection Agency; and

13 (C) for the purposes of AS 46.04.030(b), [THE
14 COMMISSION SHALL] determine whether a well drilled for shallow natural
15 gas may penetrate a formation capable of flowing oil and, if so, whether the
16 volume of oil encountered will be of such quantities that an oil discharge
17 prevention and contingency plan will be required.

18 * Sec. 2. AS 31.05.030(j) is repealed and reenacted to read:

19 (j) For exploration and development operations involving nonconventional
20 gas, the commission

21 (1) may not

22 (A) issue a permit to drill under this chapter if the well would
23 be used to produce gas from an aquifer that serves as a source of water for
24 human consumption or agricultural purposes unless the commission finds that
25 the well will not adversely affect the aquifer as a source of water for human
26 consumption or agricultural purposes; or

27 (B) allow injection of produced water except at depths below
28 known sources of water for human consumption or agricultural purposes;

29 (2) shall

30 (A) regulate hydraulic fracturing in nonconventional gas wells
31 to assure protection of drinking water quality;

1 (B) regulate the disposal of wastes produced from the
2 operations unless the disposal is otherwise subject to regulation by the
3 Department of Environmental Conservation or the Environmental Protection
4 Agency; and

5 (C) for the purposes of AS 46.04.030(b), determine whether a
6 well drilled for nonconventional gas may penetrate a formation capable of
7 flowing oil and, if so, whether the volume of oil encountered will be of such
8 quantities that an oil discharge prevention and contingency plan will be
9 required.

10 * **Sec. 3.** AS 31.05 is amended by adding a new section to read:

11 **Sec. 31.05.098. Public forum process concerning shallow natural gas.** (a)

12 For the purpose of resolving public health, safety, welfare, or environmental
13 complaints about potential or actual shallow natural gas exploration and development
14 operations, the commission shall, by regulation, develop and implement a public
15 forum process by which to achieve informal resolution of the complaints within 60
16 days of the filing of the complaints. The commission may provide that, if resolution
17 of the complaints is not achieved through the informal process established by
18 regulation, a party may petition the commission to take action on the complaint under
19 AS 31.05.060 - 31.05.085 as to a matter that falls within the commission's powers and
20 duties under AS 31.05.030. For any other matter, the commission shall refer the
21 complaint to other federal, state, or local agencies, as appropriate.

22 (b) The commission's regulations adopted under this section shall provide for
23 scheduling a public forum at a location reasonably proximate to the land that is the
24 subject of or that is affected by the complaint and reasonable public notice and
25 opportunity to be heard. If the public forum is not personally convened and conducted
26 by a majority of the members of the commission, the person conducting the forum
27 shall prepare and submit to the commission a report of the forum proceedings. The
28 report prepared under this subsection is a public record. The commission may modify
29 a rule or condition in a plan of development or operation for a field or pool to address
30 an issue identified by the commission or the report.

31 * **Sec. 4.** AS 31.05.098(a) is repealed and reenacted to read:

1 (a) For the purpose of resolving public health, safety, welfare, or
2 environmental complaints about potential or actual nonconventional gas exploration
3 and development operations, the commission shall, by regulation, develop and
4 implement a public forum process by which to achieve informal resolution of the
5 complaints within 60 days of the filing of the complaints. The commission may
6 provide that, if resolution of the complaints is not achieved through the informal
7 process established by regulation, a party may petition the commission to take action
8 on the complaint under AS 31.05.060 - 31.05.085 as to a matter that falls within the
9 commission's powers and duties under AS 31.05.030. For any other matter, the
10 commission shall refer the complaint to other federal, state, or local agencies, as
11 appropriate.

12 * Sec. 5. AS 31.05.170(14) is amended to read:

13 (14) "shallow natural gas" means coal bed methane, natural gas drilled
14 for under a lease authorized by AS 38.05.177, or natural gas drilled for in a well the
15 true vertical depth of which is 3,000 [4,000] feet or less;

16 * Sec. 6. AS 31.05.170 is amended by adding a new paragraph to read:

17 (16) "nonconventional gas" has the meaning given in AS 38.05.965.

18 * Sec. 7. AS 34 is amended by adding a new chapter to read:

19 **Chapter 90. Mineral Interests.**

20 **Sec. 34.90.010. Notice of operations.** (a) Except for activities governed by
21 AS 38.05, the developer shall give the surface owner written notice of the oil and gas
22 operations contemplated at least 20 days before commencement of operations. The
23 requirement of written notice may be waived by the parties.

24 (b) Unless notice has been waived by the parties, the developer shall give
25 notice to the record surface owner at the owner's address as shown by the records of
26 the state recorder at the time notice is given. The notice must sufficiently disclose the
27 plan of work and operations to enable the surface owner to evaluate the effect of oil
28 and gas operations on the surface owner's use of the property.

29 (c) If a developer fails to give notice as provided in this section, the surface
30 owner may seek any appropriate relief in the court of proper jurisdiction and may
31 receive actual damages.

1 **Sec. 34.90.020. Damages and posting of bond.** A developer may not
2 exercise a right of entry until the developer makes provision to pay the surface owner
3 full payment for all damages sustained by the surface owner by reason of entering
4 upon the land. If the surface owner, for any cause, refuses or neglects to settle the
5 damages, the developer may enter upon the land after posting a surety bond
6 determined by the Department of Natural Resources using a procedure similar to the
7 procedure used to administer AS 38.05.130, including notice and an opportunity to be
8 heard. The bond must be sufficient as to form, amount, and security to secure to the
9 surface owner payment for damages. The surface owner may institute legal
10 proceedings in a court where the land is located as may be necessary to determine the
11 damages that the surface owner may suffer.

12 **Sec. 34.90.095. Definitions.** In this chapter,

13 (1) "developer" means the person who acquires the mineral estate or
14 lease for the purpose of extracting or using the minerals;

15 (2) "mineral estate" means an estate in or ownership of all or part of
16 the minerals underlying a specific tract of land;

17 (3) "minerals" includes oil and gas;

18 (4) "oil and gas operations" means an activity for which a permit is
19 required by AS 31.05.090 that requires entry upon the surface estate;

20 (5) "surface estate" means an estate in or ownership of the surface of a
21 particular tract of land;

22 (6) "surface owner" means any person who holds record title to the
23 surface of the land as an owner.

24 * **Sec. 8.** AS 38.05.177(c) is amended to read:

25 (c) The director shall give notice under AS 38.05.945 of receipt of the lease
26 application, [AND] call for comments from the public, and execute a lease as
27 follows:

28 (1) the [. THE] director's call for public comments must provide
29 opportunity for public comment for a period of not less than 60 days;

30 (2) if [. IF], after review of information received during the public
31 comment period and consideration of public comments received, the director

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determines that the discovery of a local source of natural gas would benefit the residents of an area, the director may [SHALL] execute a lease for the area described in (b) of this section; th. [THE] director may [SHALL] execute the lease only after completion of a title search, the close of the public comment period, and, if review is required under AS 46.40, after the final consistency determination is made under AS 46.40;

(3) a [. A] lease entered into under this subsection gives the lessee the exclusive right to explore for, develop, and produce, for a term of three years, natural gas on the state land described in the lease; the right to explore for, develop, and produce is limited to gas from a field if a part of the field is within 3,000 feet of the surface.

* Sec. 9. AS 38.05.177(f) is amended to read:

(f) A shallow gas lease must provide for

(1) payment to the state of annual rent in the amount of \$1 an [PER] acre; the [. THE] rent is due and payable on the date determined in the lease; if [. IF] the lease payment is not received by the due date, the director shall mail the lessee one written notice, certified return receipt requested; if [. IF] the lessee fails to pay the rent within 30 days after [OF] receipt of the notice, the director shall terminate the lease;

(2) a water well testing requirement for each lease that contains one or more wells that serve as a source of potable water; the testing requirement of this paragraph applies to each water well that is located within a square that bounds a circle with a radius of one-quarter mile around the drill site and the sides of which are parallel or perpendicular to the four cardinal directions and are tangent to the circle; under this paragraph, the lessee shall, before commencement of production testing and production activities on the lease,

(A) test each well for dissolved contents, including methane, and water flow; and

(B) provide a copy of the test results to the land owner, who shall maintain the test record;

(3) appropriate setbacks governing the placement by the lessee or

1 the lessee's agent of compressor stations on the lease; setbacks developed under
2 this paragraph must be determined with reference to the population density of
3 the parcel or parcels subject to the lease, the size of the owner's parcels, and the
4 general character of the land subject to the lease; the terms of the lease must
5 require the lessee or lessee's agent to negotiate to meet the requirement of this
6 paragraph, but the owner may not unreasonably withhold agreement;

7 (4) reasonable and appropriate measures to mitigate the noise of
8 compressors, engines, and other equipment operated by the lessee or the lessee's
9 agent of compressor stations on the lease; noise mitigation measures developed
10 under this paragraph must be determined with reference to the population
11 density of the parcel or parcels subject to the lease, the size of the owner's
12 parcels, and the general character of the land subject to the lease; the terms of
13 the lease shall require the lessee or lessee's agent to negotiate to meet the
14 requirement of this paragraph, but the owner may not unreasonably withhold
15 agreement;

16 (5) action at the time of the termination or abandonment of the
17 lease to require the lessee or the lessee's agent to restore, reclaim, or abate the
18 adverse effects of the exploration and development operations using natural
19 revegetation or reseeding using endemic plant species; the lease may require the
20 lessee or the lessee's agent to consult with the director of the division of
21 agriculture.

22 * Sec. 10. AS 38.05.177(k) is amended to read:

23 (k) The commissioner [MAY]

24 (1) may adopt only the regulations that are reasonable and that are
25 necessary to implement, interpret, or make specific the provisions of this section or to
26 establish procedures to govern application of the provisions of this section; [AND]

27 (2) may, in addition to any requirement for a bond under
28 AS 38.05.130, establish by regulation a form and amount for statewide, areawide,
29 unit-wide, or per-lease bonds sufficient to secure damages that may be caused by the
30 activities of a lessee, or the lessee's successors or assigns, related to a shallow natural
31 gas lease entered into under this section; if the commissioner acts under this

1 paragraph, the commissioner

2 (A) shall require a person applying for a lease under this
3 section to post the bond as a condition for the director's executing the lease;

4 (B) may not require a bond posted under this paragraph from a
5 person applying for a lease if the person has already posted a bond covering
6 the person's statewide oil and gas leasing activities in an amount of at least
7 \$500,000;

8 (3) shall, if a bond is sought under AS 38.05.130, before the
9 amount of the surety bond to be posted is determined by the director, require as
10 a condition for issuing the bond that the director, after notice and an opportunity
11 to be heard, determine that, to exercise rights under the reservation as set out in
12 AS 38.05.125 and the lease, the lessee has demonstrated that access and entry
13 upon the land of the owner is reasonably necessary or convenient to render
14 beneficial and efficient the complete enjoyment of the property and the reserved
15 rights; the lessee has the burden of demonstrating compliance with the
16 requirement of this paragraph; and

17 (4) shall require the lessee to provide written advance notice to the
18 owner of initial entry onto the property of the owner at least 30 days before
19 initial entry.

20 * Sec. 11. AS 38.05.177 is amended by adding new subsections to read:

21 (p) Under AS 38.05.130 as applicable to shallow natural gas exploration and
22 development that is authorized under this section, if

23 (1) the owner and the lessee enter into an agreement by which the
24 lessee makes provision to pay the owner of the land for all damages, the parties shall
25 incorporate in the agreement the provisions described in (f) of this section that are
26 negotiated;

27 (2) the owner and the lessee do not enter into an agreement by which
28 the lessee makes provision to pay the owner of the land for all damages, and the lessee
29 proceeds to request the director to set the amount of a surety bond, the owner may, in
30 conjunction with notice and the opportunity to be heard, provide the director with the
31 owner's comments about the appropriate location of wells, roads, and other

1 improvements that may be made by the lessee or the lessee's agent to secure the
2 lessee's rights under the lease.

3 (q) In (f), (k)(3), and (p) of this section, "owner" means the property owner
4 whose property is subject to the reservation described in AS 38.05.125(a).

5 * **Sec. 12.** AS 38.05.180(ff) is repealed and reenacted to read:

6 (ff) The provisions of this section that authorize oil and gas leases also apply
7 to authorize the commissioner to issue leases under this section for the production of
8 gas only, subject to the following:

9 (1) in authorizing and managing leases under this subsection, the terms
10 "oil and gas" or "oil or gas" as they are used in this chapter shall be read and applied
11 as referring to gas only;

12 (2) when a lease is authorized as a gas only lease, the lease does not
13 give the lessee the right to produce oil; if a well drilling for gas under a gas only lease
14 authorized by this subsection penetrates a formation capable of producing oil, the
15 owner or operator

16 (A) shall notify the department and the Alaska Oil and Gas
17 Conservation Commission; and

18 (B) may not conduct further operations in the drilled well until
19 the facility complies with all applicable laws and regulations relating to oil and
20 gas exploration and production; however, this subparagraph does not prevent
21 the owner or operator from conducting activities that may be required by the
22 Alaska Oil and Gas Conservation Commission to plug, plug-back, or abandon
23 a well;

24 (3) if, under AS 38.05.130, as applicable to a nonconventional gas
25 lease

26 (A) the owner and the lessee enter into an agreement by which
27 the lessee makes provision to pay the owner of the land for all damages, the
28 parties shall incorporate in the agreement the provisions described in (4)(A) -
29 (D) of this subsection that are negotiated; or

30 (B) the owner and the lessee do not enter into an agreement by
31 which the state, or its lessees, successors, or assigns, will make provision to

1 pay the owner of the land for all damages, and the lessee proceeds to request
2 the director to set the amount of a surety bond, the owner may, in conjunction
3 with notice and the opportunity to be heard, provide the director with the
4 owner's comments about the appropriate location of wells, roads, and other
5 improvements that may be made by the lessee or the lessee's agent to secure
6 the lessee's rights under the lease.

7 (4) for a nonconventional gas lease,

8 (A) the lease must provide for a water well testing requirement
9 for each lease that contains one or more wells that serve as a source of potable
10 water; the testing requirement of this subparagraph applies to each water well
11 that is located within a square that bounds a circle with a radius of one-quarter
12 mile around the drill site and the sides of which are parallel or perpendicular to
13 the four cardinal directions and are tangent to the circle; under this
14 subparagraph, the lessee shall, before commencement of production testing and
15 production activities on the lease,

16 (i) test each well for dissolved contents, including
17 methane, and water flow; and

18 (ii) provide a copy of the test results to the owner, who
19 shall maintain the test record;

20 (B) the lease must provide for appropriate setbacks governing
21 the placement by the lessee or the lessee's agent of compressor stations on the
22 lease; setbacks developed under this subparagraph must be determined with
23 reference to the population density of the parcel or parcels subject to the lease,
24 the size of the owner's parcels, and the general character of the land subject to
25 the lease; the terms of the lease must require the lessee or lessee's agent to
26 negotiate to meet the requirement of this subparagraph, but the owner may not
27 unreasonably withhold agreement;

28 (C) the lease must provide for reasonable and appropriate
29 measures to mitigate the noise of compressors, engines, and other equipment
30 operated by the lessee or the lessee's agent for compressor statements on the
31 lease; noise mitigation measures developed under this subparagraph must be

1 determined with reference to the population density of the parcel or parcels
2 subject to the lease, the size of the owner's parcels, and the general character of
3 the land subject to the lease; the terms of the lease shall require the lessee or
4 lessee's agent to negotiate to meet the requirement of this subparagraph, but the
5 owner may not unreasonably withhold agreement;

6 (D) the lease must provide for action at the time of the
7 termination or abandonment of the lease to require the lessee or the lessee's
8 agent to restore, reclaim, or abate the adverse effects of the exploration and
9 development operations using natural revegetation or reseeded using endemic
10 plant species; the lease may require the lessee or the lessee's agent to consult
11 with the director of the division of agriculture;

12 (E) if a bond is sought under AS 38.05.130,

13 (i) before the amount of the surety bond to be posted is
14 determined by the director, require, as a condition for issuing the lease,
15 that the director, after notice and an opportunity to be heard, determine
16 that, to exercise rights under the reservation as set out in AS 38.05.125
17 and the lease, the lessee has no other reasonable means of entry than
18 access and entry upon the land of the owner; the lessee has the burden
19 of demonstrating compliance with the requirement of this sub-
20 subparagraph; and

21 (ii) in addition to the coverage for actual damages
22 required by AS 38.05.130, provide for payment of reasonable
23 compensation to the owner for any loss by the owner of the owner's use
24 and enjoyment of the property; and

25 (F) the director shall require the lessee to provide written
26 advance notice to the owner of initial entry onto the property of the owner at
27 least 30 days before initial entry.

28 * Sec. 13. AS 38.05.945(a) is amended to read:

29 (a) This section establishes the requirements for notice given by the
30 department for the following actions:

31 (1) classification or reclassification of state land under AS 38.05.300

1 and the closing of land to mineral leasing or entry under AS 38.05.185;

2 (2) zoning of land under applicable law;

3 (3) issuance of a

4 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
5 regarding the sale, lease, or disposal of an interest in state land or resources for
6 oil and gas subject to AS 38.05.180(b);

7 (B) [REPEALED

8 (C)] written finding for the sale, lease, or disposal of an interest
9 in state land or resources under AS 38.05.035(e)(6), except an oil or gas lease
10 sale described in AS 38.05.035(e)(6)(F) for which the director must provide
11 opportunity for public comment under the provisions of that subparagraph;

12 (4) a competitive disposal of an interest in state land or resources after
13 final decision under AS 38.05.035(e);

14 (5) a preliminary finding under AS 38.05.035(e) concerning sites for
15 aquatic farms and related hatcheries;

16 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,
17 lease, or disposal of an interest in state land or resources;

18 **(7) a notice of receipt of a lease application and call for comments**
19 **under AS 38.05.177(c).**

20 * Sec. 14. AS 38.05.945(b) is amended to read:

21 (b) When notice is required to be given under this section,

22 (1) the notice must contain sufficient information in commonly
23 understood terms to inform the public of the nature of the action and the opportunity
24 of the public to comment on it;

25 (2) if the notice is of a preliminary written finding described in
26 (a)(3)(A) of this section **or a call for comments under (a)(7) of this section**, the
27 department shall give notice at the beginning of the public comment period for the
28 preliminary written finding **or call for comments, as appropriate**, notifying the
29 public of the right to submit comments; the department shall give notice by

30 (A) publication of a legal notice in newspapers of statewide
31 circulation and in newspapers of general circulation in the vicinity of the

1 proposed action at least once a week for two consecutive weeks;

2 (B) publication of a notice in display advertising form in the
3 newspapers described in (A) of this paragraph at least once a week for two
4 consecutive weeks;

5 (C) public service announcements on the electronic media
6 serving the area to be affected by the proposed action; and

7 (D) one or more of the following methods:

8 (i) posting in a conspicuous location in the vicinity of
9 the action;

10 (ii) notification of parties known or likely to be affected
11 by the action; or

12 (iii) another method calculated to reach affected parties;

13 (3) if the notice is of an action described in (a) of this section, other
14 than notice of an action under (a)(3)(A) or (a)(7) of this section, the department shall
15 give notice at least 30 days before the action by publication in newspapers of
16 statewide circulation and in newspapers of general circulation in the vicinity of the
17 proposed action and one or more of the following methods:

18 (A) publication through public service announcements on the
19 electronic media serving the area affected by the action;

20 (B) posting in a conspicuous location in the vicinity of the
21 action;

22 (C) notification of parties known or likely to be affected by the
23 action; or

24 (D) another method calculated to reach affected persons.

25 * **Sec. 15.** AS 38.05.945(b) is repealed and reenacted to read:

26 (b) When notice is required to be given under this section,

27 (1) the notice must contain sufficient information in commonly
28 understood terms to inform the public of the nature of the action and the opportunity
29 of the public to comment on it;

30 (2) if the notice is of a preliminary written finding described in
31 (a)(3)(A) of this section, the department shall give notice at the beginning of the public

1 comment period for the preliminary written finding, notifying the public of the right to
2 submit comments; the department shall give notice by

3 (A) publication of a legal notice in newspapers of statewide
4 circulation and in newspapers of general circulation in the vicinity of the
5 proposed action at least once a week for two consecutive weeks;

6 (B) publication of a notice in display advertising form in the
7 newspapers described in (A) of this paragraph at least once a week for two
8 consecutive weeks;

9 (C) public service announcements on the electronic media
10 serving the area to be affected by the proposed action; and

11 (D) one or more of the following methods:

12 (i) posting in a conspicuous location in the vicinity of
13 the action;

14 (ii) notification of parties known or likely to be affected
15 by the action; or

16 (iii) another method calculated to reach affected parties;

17 (3) if the notice is of an action described in (a) of this section, other
18 than notice of an action under (a)(3)(A) of this section, the department shall give
19 notice at least 30 days before the action by publication in newspapers of statewide
20 circulation and in newspapers of general circulation in the vicinity of the proposed
21 action and one or more of the following methods:

22 (A) publication through public service announcements on the
23 electronic media serving the area affected by the action;

24 (B) posting in a conspicuous location in the vicinity of the
25 action;

26 (C) notification of parties known or likely to be affected by the
27 action; or

28 (D) another method calculated to reach affected persons.

29 * **Sec. 16.** AS 46.03.100(f) is amended to read:

30 (f) This section does not apply to discharges of solid or liquid waste material
31 or water discharges from the following activities if the discharge is incidental to the

1 activity and the activity does not produce a discharge from a point source, as that term
2 is defined in regulations adopted under this chapter, directly into any surface water of
3 the state:

4 (1) mineral drilling, trenching, ditching, and similar activities;

5 (2) landscaping;

6 (3) water well drilling and [,] geophysical drilling [, OR COAL BED
7 METHANE DRILLING OR OTHER NATURAL GAS DRILLING TO RECOVER
8 GAS FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE
9 SURFACE]; or

10 (4) drilling, ditching, trenching, and similar activities associated with
11 facility construction and maintenance or with road or other transportation facility
12 construction and maintenance; however, the exemption provided by this paragraph
13 does not relieve a person from obtaining a permit under this section if

14 (A) the drilling, ditching, trenching, or similar activity will
15 involve the removal of the groundwater, stormwater, or wastewater runoff that
16 has accumulated and is present at an excavation site for facility, road, or other
17 transportation construction or maintenance; and

18 (B) a permit is otherwise required by this section.

19 * Sec. 17. AS 46.04.030(b) is amended to read:

20 (b) A person may not cause or permit the operation of a pipeline or an
21 exploration or production facility in the state unless an oil discharge prevention and
22 contingency plan for the pipeline or facility has been approved by the department and
23 the person is in compliance with the plan. This subsection does not apply to an
24 exploration or production facility used solely to explore for or to develop or produce
25 nonconventional [SHALLOW NATURAL] gas resources, except that this exemption
26 does not apply if the Alaska Oil and Gas Conservation Commission determines under
27 AS 31.05.030(j) that

28 (1) a well drilled for shallow natural gas may penetrate a formation
29 capable of flowing oil; and

30 (2) the volume of oil encountered will be of such quantities that a
31 contingency plan will be required.

1 * **Sec. 18.** AS 46.04.900(25) is amended to read:

2 (25) "shallow natural gas" means coal bed methane, natural gas drilled
3 for under a lease authorized by AS 38.05.177, or natural gas drilled for in a well the
4 true vertical depth of which is 3,000 [4,000] feet or less;

5 * **Sec. 19.** AS 46.04.900 is amended by adding a new paragraph to read:

6 (31) "nonconventional gas" has the meaning given in AS 38.05.965.

7 * **Sec. 20.** The uncodified law of the State of Alaska added by sec. 1, ch. 45, SLA 2003, is
8 amended to read:

9 LEGISLATIVE FINDINGS. The legislature finds that

10 (1) [THE DEVELOPMENT OF SHALLOW NATURAL GAS
11 RESOURCES IS IN THE BEST INTERESTS OF THE STATE OF ALASKA;

12 (2)] shallow natural gas is abundant and widespread in Alaska and
13 bears the promise of providing Alaskans, particularly Alaskans living in rural areas,
14 with an inexpensive and clean source of energy if those resources can be economically
15 developed;

16 (2) [(3)] the development of shallow natural gas poses significantly
17 fewer risks and creates substantially less impact to the environment than traditional
18 deep oil and gas projects, which have served as the model for oil and gas industry and
19 environmental regulations to date in Alaska;

20 (3) [(4)] the regulatory requirements developed and applied to
21 traditional deep oil and gas projects in Alaska are ill-suited and unduly onerous when
22 applied to shallow natural gas projects, threatening the economic viability of otherwise
23 desirable exploration and development projects;

24 (4) [(5)] there is an immediate state and national need for the
25 development of clean and economical unconventional energy sources, such as shallow
26 natural gas resources;

27 (5) [(6)] reform of existing laws and regulations is needed to remove
28 unnecessary regulatory burdens on the private sector to foster and encourage the
29 development in Alaska of these necessary resources;

30 (6) [(7)] the legislature is acting in the interest of promoting the active
31 development of such resources, while ensuring that suitable measures are taken to

1 protect human health and safety and the natural environment,

2 (A) to remove impediments to the responsible development of
3 shallow natural gas; and

4 (B) to provide the proper state agencies with clear authority and
5 discretion to adopt regulatory practices appropriate to shallow natural gas
6 exploration and development projects, in recognition of the lower risks posed
7 by such projects to human health and safety and the natural environment [;
8 AND

9 (C) TO RESERVE ALL RIGHTS AND POWERS NOT
10 PREEMPTED BY FEDERAL LAW AND REGULATION IN ORDER TO
11 ASSERT STATE PRIMACY OVER THE REGULATION OF SHALLOW
12 NATURAL GAS].

13 * Sec. 21. AS 31.05.125 and AS 38.05.177(n) are repealed.

14 * Sec. 22. AS 31.05.170(14), 38.05.945(a)(7); and AS 46.04.900(25) are repealed.

15 * Sec. 23. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 CONTINGENT EFFECT OF SECTIONS. Sections 2, 4, 6, 12, 15, 17, 19, and 22 of
18 this Act take effect only if a version of House Bill 531, "An Act relating to natural gas
19 exploration and development and to nonconventional gas, and amending the section under
20 which shallow natural gas leases may be issued" is passed by the Twenty-Third Alaska State
21 Legislature and becomes law.

22 * Sec. 24. If, under sec. 23 of this Act, secs. 2, 4, 6, 12, 15, 17, 19, and 22 of this Act take
23 effect, they take effect on the later of

24 (1) the day following the effective date of the Act described in sec. 23 of this
25 Act; or

26 (2) the day after the effective date of the sections of this Act not described in
27 this section.

28 * Sec. 25. Except as provided in sec. 24 of this Act, this Act takes effect July 1, 2004.



Alaska State Legislature

Please enter into the record by testimony to the House Resources

COMMITTEE NAME

committee on HB 395, dated April 7, 04

BILL / SUBJECT

TODAY'S DATE

Thank you for hearing this bill and opening it to public testimony. Glancing quickly at HB 395, there seem to be a number of good provisions. I'd like to see removal of use of fracturing fluids to protect our aquifers. I'm still concerned about the amount of power the DNR commissioner has, and I'd like to see that lessened. Please allow a second opportunity for public to testify.

Although this bill provides several good provisions, I'd still like to see all the leases bought back so we don't have this sword hanging over our S Peninsula and Mat Su heads. Then, consider starting over with a best interest finding and stay far away from private property unless owners want

Thank you

Signat: Anne Wieland

TESTIFIER

Self

REPRESENTING

PO 1395 Homer

ADDRESS

235-6919

PHONE NO.

23-LS1314J
Chenoweth
4/6/04

CS FOR HOUSE BILL NO. 395()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HARRIS, Gatto, Stoltze, Seaton, Kohring

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the recovery of shallow natural gas, to the regulation of shallow
2 natural gas or coal bed methane operations, and to oil and gas leasing operations
3 involving activities not governed under the Alaska Land Act; and providing for an
4 effective date."

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

6 * Section 1. AS 31.05.030(j) is amended to read:

7 (j) For exploration and development operations involving shallow natural
8 gas. the commission

9 (1) may not

10 (A) issue a permit to drill under this chapter if the well
11 would be used to produce gas from an aquifer that serves as a source of
12 water for human consumption or agricultural purposes unless the
13 commission finds that the well will not adversely affect the aquifer as a
14 source of water for human consumption or agricultural purposes; or

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(B) allow injection of produced water except at depths below known sources of water for human consumption or agricultural purposes;

(2) shall

(A) regulate hydraulic fracturing in shallow natural gas wells to assure protection of drinking water quality;

(B) regulate the disposal of wastes produced from the operations unless the disposal is otherwise subject to regulation by the Department of Environmental Conservation or the Environmental Protection Agency; and

(C) for the purposes of AS 46.04.030(b), [THE COMMISSION SHALL] determine whether a well drilled for shallow natural gas may penetrate a formation capable of flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required.

* Sec. 2. AS 31.05 is amended by adding a new section to read:

Sec. 31.05.098. Public forum process concerning shallow natural gas. (a)

For the purpose of resolving public health, safety, welfare, or environmental complaints about potential or actual shallow natural gas exploration and development operations, the commission shall, by regulation, develop and implement a public forum process by which to achieve informal resolution of the complaints within 60 days of the filing of the complaints. The commission may provide that, if resolution of the complaints is not achieved through the informal process established by regulation, a party may petition the commission to take action on the complaint under AS 31.05.060 - 31.05.085 as to a matter that falls within the commission's powers and duties under AS 31.05.030. For any other matter, the commission shall refer the complaint to other federal, state, or local agencies, as appropriate.

(b) The commission's regulations adopted under this section shall provide for scheduling a public forum at a location reasonably proximate to the land that is the subject of or that is affected by the complaint and reasonable public notice and opportunity to be heard. If the public forum is not personally convened and conducted

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by a majority of the members of the commission, the person conducting the forum shall prepare and submit to the commission a report of the forum proceedings. The report prepared under this subsection is a public record. The commission may modify a rule or condition in a plan of development or operation for a field or pool to address an issue identified by the commission or the report.

* Sec. 3. AS 31.05.170(14) is amended to read:

(14) "shallow natural gas" means coal bed methane, natural gas drilled for under a lease authorized by AS 38.05.177, or natural gas drilled for in a well the true vertical depth of which is 3,000 [4,000] feet or less;

* Sec. 4. AS 34 is amended by adding a new chapter to read:

Chapter 90. Mineral Interests.

Sec. 34.90.010. Notice of operations. (a) Except for activities governed by AS 38.05, the developer shall give the surface owner written notice of the oil and gas operations contemplated at least 20 days before commencement of operations. The requirement of written notice may be waived by the parties.

(b) Unless notice has been waived by the parties, the developer shall give notice to the record surface owner at the owner's address as shown by the records of the state recorder at the time notice is given. The notice must sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of oil and gas operations on the surface owner's use of the property.

(c) If a developer fails to give notice as provided in this section, the surface owner may seek any appropriate relief in the court of proper jurisdiction and may receive punitive and actual damages.

Sec. 34.90.020. Damages and posting of bond. A developer may not exercise a right of entry until the developer makes provision to pay the surface owner full payment for all damages sustained by the surface owner by reason of entering upon the land. If the surface owner, for any cause, refuses or neglects to settle the damages, the developer may enter upon the land after posting a surety bond determined by the Department of Natural Resources using a procedure similar to the procedure used to administer AS 38.05.130, including notice and an opportunity to be heard. The bond must be sufficient as to form, amount, and security to secure to the

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1 surface owner payment for damages. The surface owner may institute legal
2 proceedings in a court where the land is located as may be necessary to determine the
3 damages that the surface owner may suffer.

4 **Sec. 34.90.095. Definitions.** In this chapter,

5 (1) "developer" means the person who acquires the mineral estate or
6 lease for the purpose of extracting or using the minerals;

7 (2) "mineral estate" means an estate in or ownership of all or part of
8 the minerals underlying a specific tract of land;

9 (3) "minerals" includes oil and gas;

10 (4) "oil and gas operations" means the drilling of an oil and gas well,
11 the production and completion operations ensuing from the drilling, and oil and gas
12 geophysical exploration activities that require entry upon the surface estate;

13 (5) "surface estate" means an estate in or ownership of the surface of a
14 particular tract of land;

15 (6) "surface owner" means any person who holds record title to the
16 surface of the land as an owner.

17 * **Sec. 5.** AS 38.05.177(c) is amended to read:

18 (c) The director shall give notice under AS 38.05.945 of receipt of the lease
19 application, [AND] call for comments from the public, and execute a lease as
20 follows:

21 (1) the [. THE] director's call for public comments must provide
22 opportunity for public comment for a period of not less than 60 days;

23 (2) if [. IF], after review of information received during the public
24 comment period and consideration of public comments received, the director
25 determines that the discovery of a local source of natural gas would benefit the
26 residents of an area, the director may [SHALL] execute a lease for the area described
27 in (b) of this section; the [. THE] director may [SHALL] execute the lease only after
28 completion of a title search, the close of the public comment period, and, if review is
29 required under AS 46.40, after the final consistency determination is made under
30 AS 46.40;

31 (3) a [. A] lease entered into under this subsection gives the lessee the

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1 exclusive right to explore for, develop, and produce, for a term of three years, natural
 2 gas on the state land described in the lease; the right to explore for, develop, and
 3 produce is limited to gas from a field if a part of the field is within 3,000 feet of the
 4 surface.

5 * Sec. 6. AS 38.05.177(f) is amended to read:

6 (f) A shallow gas lease must provide for

7 (1) payment to the state of annual rent in the amount of \$1 an [PER]
 8 acre; the [. THE] rent is due and payable on the date determined in the lease; if [. IF]
 9 the lease payment is not received by the due date, the director shall mail the lessee one
 10 written notice, certified return receipt requested; if [. IF] the lessee fails to pay the
 11 rent within 30 days after [OF] receipt of the notice, the director shall terminate the
 12 lease;

13 (2) a water well testing requirement for each lease that contains
 14 one or more wells that serve as a source of potable water; the testing requirement
 15 of this paragraph applies to each water well that is located within a square that
 16 bounds a circle with a radius of one-quarter mile around the drill site and the
 17 sides of which are parallel or perpendicular to the four cardinal directions and
 18 are tangent to the circle; under this paragraph, the lessee shall, before
 19 commencement of production testing and production activities on the lease,

20 (A) test each well for dissolved contents, including methane,
 21 and water flow; and

22 (B) provide a copy of the test results to the land owner, who
 23 shall maintain the test record;

24 (3) appropriate setbacks governing the placement by the lessee or
 25 the lessee's agent of compressor stations on the lease; setbacks developed under
 26 this paragraph must be determined with reference to the population density of
 27 the parcel or parcels subject to the lease, the size of the owner's parcels, and the
 28 general character of the land subject to the lease; the terms of the lease must
 29 require the lessee or lessee's agent to negotiate to meet the requirement of this
 30 paragraph, but the owner may not unreasonably withhold agreement;

31 (4) reasonable and appropriate measures to mitigate the noise of

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1 compressors, engines, and other equipment operated by the lessee or the lessee's
 2 agent of compressor stations on the lease; noise mitigation measures developed
 3 under this paragraph must be determined with reference to the population
 4 density of the parcel or parcels subject to the lease, the size of the owner's
 5 parcels, and the general character of the land subject to the lease; the terms of
 6 the lease shall require the lessee or lessee's agent to negotiate to meet the
 7 requirement of this paragraph, but the owner may not unreasonably withhold
 8 agreement;

9 (5) action at the time of the termination or abandonment of the
 10 lease to require the lessee or the lessee's agent to restore, reclaim, or abate the
 11 adversc effects of the exploration and development operations using natural
 12 revegetation or reseedng using endemic plant species; the lease may require the
 13 lessee or the lessee's agent to consult with the director of the division of
 14 agriculture.

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15 * Sec. 7. AS 38.05.177(k) is amended to read:

16 (k) The commissioner [MAY]

17 (1) may adopt only the regulations that are reasonable and that are
 18 necessary to implement, interpret, or make specific the provisions of this section or to
 19 establish procedures to govern application of the provisions of this section; [AND]

20 (2) may, in addition to any requirement for a bond under
 21 AS 38.05.130, establish by regulation a form and amount for statewide, areawide,
 22 unit-wide, or per-lease bonds sufficient to secure damages that may be caused by the
 23 activities of a lessee, or the lessee's successors or assigns, related to a shallow natural
 24 gas lease entered into under this section; if the commissioner acts under this
 25 paragraph, the commissioner

26 (A) shall require a person applying for a lease under this
 27 section to post the bond as a condition for the director's executing the lease;

28 (B) may not require a bond posted under this paragraph from a
 29 person applying for a lease if the person has already posted a bond covering
 30 the person's statewide oil and gas leasing activities in an amount of at least
 31 \$500,000;

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1 (3) shall, if a bond is sought under AS 38.05.130, before the
2 amount of the surety bond to be posted is determined by the director, require as
3 a condition for issuing the bond that the director, after notice and an opportunity
4 to be heard, determine that, to exercise rights under the reservation as set out in
5 AS 38.05.125 and the lease, the lessee has demonstrated that access and entry
6 upon the land of the owner is reasonably necessary or convenient to render
7 beneficial and efficient the complete enjoyment of the property and the reserved
8 rights; the lessee has the burden of demonstrating compliance with the
9 requirement of this paragraph; and

10 (4) shall require the lessee to provide written advance notice to the
11 owner of initial entry onto the property of the owner at least 30 days before
12 initial entry.

13 * Sec. 8. AS 38.05.177 is amended by adding new subsections to read:

14 (p) Under AS 38.05.130 as applicable to shallow natural gas exploration and
15 development that is authorized under this section, if

16 (1) the owner and the lessee enter into an agreement by which the
17 lessee makes provision to pay the owner of the land for all damages, the parties shall
18 incorporate in the agreement the provisions described in (f) of this section that are
19 negotiated;

20 (2) the owner and the lessee do not enter into an agreement by which
21 the lessee makes provision to pay the owner of the land for all damages, and the lessee
22 proceeds to request the director to set the amount of a surety bond, the owner may, in
23 conjunction with notice and the opportunity to be heard, provide the director with the
24 owner's comments about the appropriate location of wells, roads, and other
25 improvements that may be made by the lessee or the lessee's agent to secure the
26 lessee's rights under the lease.

27 (q) In (f), (k)(3), and (p) of this section, "owner" means the property owner
28 whose property is subject to the reservation described in AS 38.05.125(a).

29 * Sec. 9. AS 38.05.945(a) is amended to read:

30 (a) This section establishes the requirements for notice given by the
31 department for the following actions:

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- (1) classification or reclassification of state land under AS 38.05.300 and the closing of land to mineral leasing or entry under AS 38.05.185;
- (2) zoning of land under applicable law;
- (3) issuance of a
 - (A) preliminary written finding under AS 38.05.035(e)(5)(A) regarding the sale, lease, or disposal of an interest in state land or resources for oil and gas subject to AS 38.05.180(b);
 - (B) [REPEALED
 - (C)] written finding for the sale, lease, or disposal of an interest in state land or resources under AS 38.05.035(e)(6), except an oil or gas lease sale described in AS 38.05.035(e)(6)(F) for which the director must provide opportunity for public comment under the provisions of that subparagraph;
- (4) a competitive disposal of an interest in state land or resources after final decision under AS 38.05.035(e);
- (5) a preliminary finding under AS 38.05.035(e) concerning sites for aquatic farms and related hatcheries;
- (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale, lease, or disposal of an interest in state land or resources;
- (7) a notice of receipt of a lease application and call for comments under AS 38.05.177(c).**

* Sec. 10. AS 38.05.945(b) is amended to read:

(b) When notice is required to be given under this section,

(1) the notice must contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on it;

(2) if the notice is of a preliminary written finding described in (a)(3)(A) of this section **or a call for comments under (a)(7) of this section**, the department shall give notice at the beginning of the public comment period for the preliminary written finding **or call for comments, as appropriate**, notifying the public of the right to submit comments; the department shall give notice by

(A) publication of a legal notice in newspapers of statewide