

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11294 SENATE RESOURCES



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December 31, 2002

Commissioner Ernesta Ballard
Alaska Department of Environmental Conservation
410 Willoughby Ave., Suite 303
Juneau, AK 99801

Via Fax and Email: (907) 465-5070
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Ref: Air Permits Work Group Final Report

Dear Commissioner Ballard:

Attached please find the final report of the Air Permits Work Group, established in August by the department to help guide ADEC in crafting the future for the Air Permits Program at ADEC.

The Air Permits Work Group consisted of representatives from the oil and gas, mining, electrical power and fish processing industries, the military, and citizens organizations. It worked by consensus, adopting this report without objections.

I appreciated the opportunity to facilitate this Work Group as it grappled with challenging technical and public policy issues. Please do not hesitate to contact me if you have any questions regarding the report.

Sincerely,

Brian Rogers
Facilitator

cc: Members of the Air Permits Work Group:
Carl Harmon, Alaska Rural Electric Cooperative Association
Jordan Jacobsen, Alaska Oil and Gas Association
Tom Kuckertz, Prince William Sound Regional Citizens'
Advisory Council
Charlotte MacCay, Council of Alaska Producers
Mike Munger, Cook Inlet Regional Citizens' Advisory Council
Kate Siftar, U.S. Department of Defense
Tom Chapple, Alaska Department of Environmental Conservation
John Kuterbach, Alaska Department of Environmental
Conservation

**Alaska Department of Environmental Conservation
Air Permits Work Group Report**

The Work Group

The Alaska Department of Environmental Conservation (ADEC) created this Work Group to develop proposed short-term and long-term recommendations for changes to ADEC's air permitting program. Members were selected by ADEC to represent affected industries and the public. The Work Group met four times, with numerous sub-group meetings by teleconference and electronic mail. ADEC selected Information Insights to facilitate Work Group meetings.

Members of the Work Group include¹:

Carl Harmon, Alaska Rural Electric Cooperative Association
Jordan Jacobsen, Alaska Oil and Gas Association
Tom Kuckertz, Prince William Sound Regional Citizens' Advisory Council
Charlotte MacCay, Council of Alaska Producers
Mike Munger, Cook Inlet Regional Citizens' Advisory Council
Kate Siftar, U.S. Department of Defense
Tom Chapple, Alaska Department of Environmental Conservation
John Kuterbach, Alaska Department of Environmental Conservation
Facilitators: Brian Rogers and Judy Erickson, Information Insights

Executive Summary

The Work Group recommends that the State of Alaska retain the responsibility to implement the Title V air operating permit program and Clean Air Act Title I major new source review programs, continue to implement the SIP and continue regulating minor source review, subject to further review as explained later in this report, provided that ADEC implements measures outlined in these recommendations to improve the efficiency and responsiveness of the air permitting Program:

- **Construction Permitting** – The Work Group concludes that new source review in Alaska is needlessly complex and that the process takes far too much time to issue permits. The Work Group endorses legislative and regulatory measures to more closely mimic the revised federal 40 CFR Part 51 (PSD/NSR – Prevention of Significant Deterioration / New Source Review) program and to incorporate the major new source review program reforms adopted by the EPA Administrator on November 22, 2002. Minor new source review must be expedited and simplified. Construction permitting in Alaska must account for the unique geographic and environmental conditions (see attachment A) that affect business and facility operations in Alaska.

¹ Stephanie Madsen, representing the fish processing industry, was unable to attend the final meeting and did not participate in approving the report. T.C. Wilson represented ARECA for the first two meetings.

- **Title V Permitting** -- The Work Group finds that the ADEC's difficulty in timely issuance of Title V permits is at least partially a consequence of the fact that the Alaska Title V program is broader in scope and different in content from the federal template codified in 40 CFR Part 70, the model on which most states have relied in developing their Title V programs. The Work Group recommends legislative and regulatory measures that allow the department to adopt a federal core Title V program. The rulemaking should include a requirement that monitoring, record-keeping and reporting consider Alaska's unique characteristics.
- **Program Funding** -- The Work Group finds that the current system of funding air permitting in Alaska through a combination of emission fees and hourly permit administration fees lacks the stability and predictability to enable ADEC to respond effectively to changes in the number and complexity of air emissions sources in the state. In addition the Work Group believes the hourly permit administration fee structure contributes to the Department's inability to promptly process permit applications. The Department should collaborate with stakeholders to develop legislation to address the shortcomings in the current fee system. The Work Group recommends that the revised funding mechanism for the construction permit program should include a series of flat fees for defined services, and consider negotiated project-specific fees for complex projects, in place of hourly permit administration fees. The Work Group looked at fee structures of other states (see Attachment B). The Work Group recommends that the department provide a justification for any proposed fee increase. The future level of emission fees should be based on the department's demonstrated budgetary needs, subject to continuing legislative appropriation and review by the next Work Group of whether there is adequate funding, accounting for Alaska's unique conditions.
- **Mission Statement and Management Plan** -- The Work Group recommends ADEC's Division of Air and Water Quality adopt an air quality mission statement, and develop and implement a management plan to implement the mission statement that includes:
 1. A business plan that provides position by position budgeting and responsibilities;
 2. Performance measures for staff;
 3. Standard Operating Procedures (SOPs) for the staff that ensure timely, predictable permits and permit terms;
 4. Utilization of contractors to support workload peaks and to acquire cost effective and timely expertise for consulting and preparing draft permits;
 5. Management oversight to ensure consistent implementation of rules and policies.
- **Implementation** -- The Work Group recommends that the department extend the term of service of this Work Group, or appoint a similar advisory body representing the interests of diverse stakeholder groups, to work with the department to implement the recommendations provided above, including a

package of legislative and regulatory measures to secure authority for prompt implementation of these reforms. Specific issues requiring additional work include:

1. Air permit fees. The department prepared a preliminary analysis of costs and fee levels required to support the Work Group's recommendations, but there was insufficient time for the Work Group or the department to review and refine the analysis.
2. Technology standards. The Work Group did not complete deliberations on the issue of delegation of responsibility for federal technology standards (NSPS, NESHAPs and MACT standards), and the effect of delegation on the state regulatory structure.
3. Minor new source review. The Work Group did not provide a specific recommendation for changes to the minor new source review program in light of the recommended changes in the PSD and Title V permit programs.
4. Increments. The Work Group did not address how the state should deal with the substantial differences in size of baseline areas for air quality in Alaska versus other states, or how to change Alaska's baseline areas to make them comparable to the rest of the country.

Construction Permitting

Background:

The Work Group concludes that new source review in Alaska is needlessly complex and that process takes far too much time to issue permits. The state's Prevention of Significant Deterioration and New Source Review (PSD / NSR) construction permitting program came into effect in 1983, shortly after the federal PSD rules were adopted nationally. The state's PSD program has remained relatively unchanged since 1983, but EPA's PSD guidance and focus has changed over time. The Alaska new source review rules deviate from federal requirements in ways that in some cases make permitting more costly and resource intensive. EPA recently adopted major revisions to the PSD program. The new EPA rules have clarified requirements and will subject fewer projects to PSD permitting. ADEC will still be required to prevent significant deterioration of air quality in the state.

Recommendations:

The Work Group endorses legislative and regulatory measures to more closely mimic the revised federal 40 CFR Part 51 (PSD/NSR) program and to incorporate the major new source review program reforms adopted by the EPA Administrator on November 22, 2002. Minor new source review must be expedited and simplified. Construction permitting in Alaska must account for the unique geographic and environmental conditions that affect business and facility operations in Alaska.

The state should maintain a state-approved, rather than delegated, PSD/NSR construction permit program.²

The governor should introduce legislation to more closely mimic the revised federal 40 CFR Part 51 (PSD/NSR) program during the 2003 session for passage by the 23rd Alaska Legislature. The Department of Law should conduct a review of the air quality statutes to identify any impediments to a speedy adoption of the revised federal PSD/NSR program, as modified by the new rules. ADEC, working with stakeholders, should be prepared to draft the necessary statutory changes to implement the recommendation as well as any changes deemed necessary to address changes in the scope of regulation of minor sources.

ADEC should streamline the PSD program and adequately staff it so construction permits can be issued within six months of application. ADEC should be authorized and encouraged to use contractors to manage peak workload demand.

The state should continue to use fast track mechanisms (such as owner requested limits and pre-approved limits) for sources that can maintain operating levels below permitting thresholds.

Title V Permitting

Background:

The Work Group finds that ADEC's difficulty in timely issuance of Title V permits is at least partially a consequence of the fact that the Alaska Title V program is broader in scope and different in content from the federal template codified in 40 CFR Part 70, the model on which most states have relied in developing their Title V programs.

Recommendations:

The Work Group recommends legislative and regulatory measures that allow the department to adopt a federal core Title V program. The Work Group recommends that any funding proposals should be tied to the implementation of a Part 70-type program.

All members of the Work Group support the state retaining primacy for the Title V operating permitting program, provided changes can be made to streamline the program and adequately fund it. Making Alaska's Title V operating permit program more like a federal Part 70 program will provide consistent terminology, and more streamlined and consistent permit processes. The Work Group recommends the rulemaking include a requirement that monitoring, record keeping and reporting consider Alaska's unique characteristics.

ADEC should initiate a benchmarking and process analysis for Title V monitoring, record-keeping and reporting, similar to the effort undertaken for the PSD program, for the Title V Operating Permit Program to recommend streamlining opportunities. ADEC should improve permit quality through the implementation of pre-application meetings and standardized formats.

² ADEC has never issued a nonattainment new source review (NSR) construction permit

Program Funding

Background:

The Work Group finds that the current system for funding air permitting in Alaska through a combination of emission fees and hourly permit administration fees lacks the stability and predictability to enable ADEC to respond effectively to changes in the number and complexity of air emissions sources in the state. In addition the Work Group believes that hourly permit administration fee structure contributes to the department's inability to promptly process permit applications.

ADEC has started to build a cost model for the air permit program based on the Work Group's anticipated recommendations regarding the Title V operating and PSD construction permitting programs. In that model, ADEC plans to evaluate the level of funding needed to meet federal requirements over the next three fiscal years. Included in the analysis will be the costs for ADEC to make the necessary statutory and regulatory changes to its air permit program, including any needed Work Group processes, and to enhance its service delivery. ADEC will evaluate how a new funding regime that utilizes a fixed application fee and emissions fees (or a set of fixed fees plus emissions fees) will impact permittees.

Recommendations:

The Work Group recommends that the department provide a justification for any proposed fee increase. The department should collaborate with stakeholders to develop legislation to address the shortcomings in the current fee system. The Work Group recommends that the revised funding mechanism for the construction permit program should include a series of flat fees for defined services, and consider negotiated project-specific fees for complex projects, in place of hourly permit administration fees. The Work Group looked at fee structures of other states. The future level of emission fees should be based on the department's demonstrated budgetary needs, subject to continuing legislative appropriation and review by the next Work Group of whether there is adequate funding, accounting for Alaska's unique conditions.

The proposed fee schedule should provide that all permittees pay fees. To the extent it is cost-effective, fees should be fairly allocated such that the costs of each program are borne by the emitting parties, including those parties using fast track mechanisms (such as owner requested limits and pre-approved limits).

ADEC should be authorized and encouraged to use contractors to manage peak workload demand. ADEC should consider adopting air permit regulations that allow permit applicants to voluntarily pay the costs of contractors to assist DEC in processing permit applications.

FY03 Shortfall Background:

ADEC has entered into an agreement with the Environmental Protection Agency (EPA) to issue all Title V permits by November 2003. The division will experience a cash flow problem this spring if the division fills the four new oil and gas positions the Legislature authorized in the FY 03 budget. Additionally, emissions fees, which are intended to cover the division's overhead costs, will not be adequate to support emission fee-supported work. The division estimates a shortfall of approximately \$200,000.

FY03 Shortfall Recommendations:

Contingent upon ADEC's continued active participation in the air permit reinvention process and continuance of the Work Group process, the Work Group supports a supplemental general fund appropriation of \$200,000 for FY03 to address the program's revenue shortfall.³ Absent any workable solution to the funding shortfall, division staff would need to be reassigned to permit writing. This would result in reductions in inspections, compliance assistance work, complainant response, and work on the state implementation plan (SIP) and regulation changes, resulting in an inability to staff the air permit process reinvention. In addition to the supplemental appropriation, the Work Group recommends several interim measures to help address the short-term problem:

1. ADEC should encourage federal facilities to negotiate with the EPA to use SEPs (supplemental environmental projects) to fund third-party contractors to assist with permit writing and to provide training for ADEC permit writers. ADEC would oversee the contractors' work.
2. ADEC should allow regulated facilities to elect to pre-pay their emissions fees based on projected rather than actual emissions, alleviating this fiscal year's funding shortfall. Any excess fees could be credited to the facilities and applied against future fees or for use in settlements.
3. ADEC should streamline the permitting process by preparing standard permits for companies with multiple like facilities. The peculiarities of individual facilities would be worked out separately. Combined with this recommendation is the proposal to encourage permit applicants to cut and paste from existing approved permits when preparing draft permits.

Mission Statement and Management Plan

Background:

The Work Group finds the mission of the air quality programs is unclear to both the Division of Air and Water Quality and the regulated community.

Recommendations:

The Work Group recommends the division adopt the following air quality mission statement:

"ADEC air quality programs protect the health and welfare of Alaska's residents and environment in a cost-effective and efficient manner that meets federal and state requirements and ensures economic sustainability."

The Work Group recommends the division develop and implement a management plan to implement the mission statement that includes:

- A business plan that provides position-by-position budgeting and responsibilities;
- Performance measures for staff;

³ AOGA abstains from this recommendation because it has a policy of not commenting on legislative budget decisions.

- SOPs for the staff that ensure timely, predictable permits and permit terms;
- Utilization of contractors to support workload swings and to acquire cost effective and timely expertise for consulting and preparing draft permits;
- Management oversight to ensure consistent implementation of rules and policies.

Implementation

Background:

The Work Group finds that while it was able to make substantial progress on air permit issues, there was insufficient time to analyze all information presented to the Work Group. The Work Group further finds that the reinvention of the air permits process will require continued involvement of stakeholders.

Recommendations:

The Work Group recommends that ADEC extend the term of service of this Work Group, or appoint a similar advisory body representing the interests of diverse stakeholder groups, to work with the department to implement the recommendations provided above, including a package of legislative measures to secure authority for prompt implementation of these reforms. The Commissioner should consider expanding membership to include representation from stakeholders affected only by the minor new source review program.

Specific issues requiring additional work include:

1. Air permit fees. The department prepared a preliminary analysis of costs and fee levels required to support the Work Group's recommendations, but there was insufficient time for the Work Group or the department to review and refine the analysis.
2. Technology standards. The Work Group did not complete deliberations on the issue of delegation of responsibility for federal technology standards, and the effect of delegation on the state regulatory structure.
3. Minor new source review. The Work Group did not fully discuss any potential new permitting or other mechanisms to regulate minor sources after the Title V operating permit program and the PSD construction permit program are changed to more closely mirror the comparable federal programs.
4. Increments. The Work Group did not address how the state should deal with the substantial differences in size of baseline areas for air quality in Alaska versus other states, or how to change Alaska's baseline areas to make them comparable to the rest of the country.

Attachment A: Alaska's Unique Characteristics

The State of Alaska is extremely large and sparsely populated (in EPA parlance most facilities are remote and rural). The state is relatively undeveloped with the exception of a few urban areas. There is little existing infrastructure in the way of roads, railroads, ports, rural sanitation and interconnected electric power.

In contrast, the contiguous 48 states have well developed, cost effective transportation systems and power grids, both of which were largely funded by the federal government. Alaska is struggling to provide cost effective transportation and power to its residents and businesses. Many federal funding programs for developing power infrastructure generally no longer exist, except for the Denali Commission. Applicable federal air regulations are more stringent today, in comparison to those in existence when power infrastructure was developed in the lower 48. This makes power generation an extra costly obstacle, with a higher reliance upon funding from the state, local communities and the private sector.

The added costs of technology are extremely burdensome for remote, high-cost operating locations. This is particularly true in rural Alaska where there are limited economic resources and limited economic opportunities. Many of these rural communities rank among the poorest in the nation.

Federal air quality regulations have been developed almost completely with the contiguous 48 states in mind and with little, if any, consideration of the unique conditions of Alaska. These federal regulations have been developed for equipment and resources being used in temperate, populated and well-developed western-based economies of the states. As such, the regulations and guidelines are not necessarily appropriate for Alaska's remote rural geography. The current federal air quality objective of providing nation-wide consistency runs headlong into these unique Alaska characteristics. It is important that Alaska be able to assert some discretion in the application of federal air regulations where these regulations do not contemplate Alaska's unique characteristics.

If the State chooses to operate delegated federal air programs, the unique characteristics in Alaska need to be, by program design, a major consideration in all permit development. This is most important in the PSD program. Alaska regulations need to document the existence of these unique conditions and require their consideration wherever appropriate.

Unique Alaska characteristics and their implications for air permitting

- **Permafrost**
 - Conventional construction methods may cause deterioration of permafrost
 - Construction that includes permafrost protection may be more costly
 - Construction that includes permafrost protection may take more time
 - Excavation may not be feasible in some locations, or may be seasonally limited
 - Some structures may not be suitable for certain geography (e.g., permafrost, tundra)

- Extensive fencing tends to fall down
 - Tall monitoring towers may be unstable
 - Implications for air permitting
 - Requirements for fencing facility boundaries impractical
 - Requirements for tall monitoring towers may be impractical
- **Remote locations, lack of road system, railroad, and infrastructure**
 - Limited means of transporting supplies and products
 - Costs of transportation and equipment
 - Maintenance costs
 - Limited shipping season for remote sites to bring materials on site.
 - Implications for air permitting
 - Requirements to exclude public access through barriers are less necessary.
 - Requirements to monitor or patrol boundaries are less necessary and frequently infeasible or unsafe.
 - Current - increment baseline dates are inconsistent with the Lower 48 because of the large air classification areas in Alaska.
 - Lack of power grids puts the onus on individual facilities to produce their own power – as a private power producer, the developer often faces additional costs because the developer is responsible for all the burden of generating power and pollution control, rather than sharing that burden with other users. Private producers often face more stringent pollution control requirements than public or nonprofit power producers
 - Lack of power grid puts onus on small communities to develop power generation. These communities are rural and generally low-income villages with little resources to expend on complex and expensive pollution control technology.
 - In small communities, there is a lack of accessible expertise to operate and maintain power generation pollution control equipment
 - Lack of available power for offsite monitoring sites – portable generators frequently fail, invalidating data recovery requirements or contaminating data with emissions from diesel-fired equipment.
 - Lack of available power and access for offsite monitoring sites may make data collection prohibitively expensive for some projects.
 - There is a need for backup power and emergency generation, which further exacerbates costs
 - Alternative power generation through batteries may not be feasible due to short battery life in cold weather.

- Road dust potentially becomes a limiting factor for transportation and infrastructure maintenance.
 - Roads over loess soils dry out; blowing dust is difficult to control in cold climates.
 - The time schedule for construction is shortened due to shipping time limitations. Minor delays in permitting can delay construction during the available seasons for a year or more because of missed shipping deadlines.
 - Deadlines to bring a site into compliance may be too short for practicality.
- **Expanse of the state (1/5 the size of the continental United States)**
 - Limited meteorological data available
 - Wide variety of climactic conditions from temperate coastal to high arctic interior
 - Implications for environmental permitting
 - Extensive data collection is frequently required, where in other states the base data already exists
 - Misconceptions about climatic conditions are common
 - Permits may be based on a lack of ambient meteorological data.
- **Presence of migratory mammals and dangerous animals**
 - Fencing requirements obstruct migratory routes.
 - Operations are frequently curtailed during migratory periods.
 - There is limited available data on migration routes.
 - Migration routes are not always predictable.
 - Migration affects the permittee's ability to collect necessary data
 - Dangerous animals are frequently present in the field
- **Extreme cold and darkness**
 - Significant portions of the year have temperatures well below zero
 - The extreme cold and dark result in a limited construction season due to safety and shipping limitations
 - In extreme cold – sub zero temperatures
 - Concrete cannot be poured
 - Excavation may require warmer periods
 - Some materials become too rigid to work with (liners)?
 - Some equipment cannot be safely used in extreme cold
 - Extreme limited daylight during winter - 0 to 4 hours

- Safety
- Ability to see work itself
- Implications for air permitting
 - Too cold at times to safely conduct field monitoring
 - Monitoring instrumentation often fails during cold weather – batteries expire quickly.
 - Extreme cold also requires the presence of backup heat and power to protect human life. Standby life safety equipment (including portable equipment) is not treated as such in permitting.
 - Some equipment is not certified to use in extreme cold.
- No human population impacted
 - In a number of remote industrial settings in Alaska, there is no local human population that is impacted.
 - Strict ambient air boundaries are established for both short-term or long-term facilities that have no relationship to the risk posed by the emissions from these facilities.
 - Current practices of establishing ambient air boundaries are inconsistent with goal of minimizing a development footprint “footprint”

Attachment B: Comparison of Fees

Provided to the Air Permits Work Group by EPA

PA	Current Fee (\$)	\$ Collected	Comments
NH	47.25/ton of emissions	5.2 M	
RI	81.20	2.3 M	
ME	18.87	7.3 M	
VT	32.80	628 K	
CT	59		
MA	25.14	7.5 M	
NJ	34.85	39.3 M	
NY	45	66.2 M	
PR	31	8.3 M	
VI	18	2.4 M	
DC	33.80	515 K	
MD	34.85	6.1 M	CY98 and 99 only
VA	33.44	18.6 M	CY99 and 2000 only
WVA	18.45	7 M	CY99 and 2000 only
Allegheny County	42	5.7 M	
PA	No response		
DE		17.2 M	
AL	20	32.4 M	
Jefferson County	23	6.2 M	
Huntsville	33.82	186 K	
FL	25	55.7 M	
GA	28	64.3 M	
KY	27.50	32.8 M	
Jefferson County	33.82	7.1 M	
MI	20	22.5 M	
NC	16.91	45.2 M	
Mecklenburg County	32	2.2 M	

Forsyth County	30.57	779 K	
Western NC	13.53	1.4 M	
SC	33.82	37 M	
TN	21.70; 13	24.7 M	Two fees are actual v. potential
Nashville/Davidson Counties	25	2.5 M	
Chattanooga/Hamilton	31.33; 18.80	1.7 M	Two fees are actual v. potential
Memphis/Shelby	29.65	1.7 M	Excludes 2000
Knox County	33.85	827 K	
IL	13.50	50 M	
IN	33	56.6 M	
MI	34	53.1 M	
MN	25	41.3 M	
OH	34.85	40.2 M	FY96-98
WI	33.80	68 M	
AR	19.12		
LA	No response		
NM	10.25	18.8 M	
Alb, NM	31	2.7 M	
OK	17.51	4.2 M	
TX	26		
IA	24.50	34.1 M	
KS	13	22.1 M	
MO	25.70	5.1 M	99 only
NB	No response		
Omaha	31.50	2.3 M	
Lincoln	33.82	1.9 M	
WY	10	9.6 M	
UT	31.22	19.2 M	
SD	6	2.9 M	
ND	10	5.7 M	

MT	21.12	7.4 M	
CO	14.98	18.3 M	
R9 States/locals	No response		
AK	No response		
ID	30	7.1 M	
OR	33.63	18.3 M	
LRAPA	33.63	2.1 M	
WA	No response		
Benton County	No response		
NWAPA	No response		
Olympic*	*	109 K	
Puget*	*	5.6 M	
Spokane County	*	575 K	
SWAPCA	No response		
Yakima	32.58	103 K	2000 only
		\$1 Billion	

* Information provided but too complicated to summarize here.

Note: In some cases, I guessed at amounts due to the complexity of certain State fee estimates or noted a cost/ton figure but left off additional fees due to keeping this simple. This is not meant to represent true figures (only gross amounts), so use this information in that vein.

AOGA's Proposed Amendments to HB160
Approved by DEC
March 25, 2003 (Rev. 3/27/03)

Amendment #1:

Amend Sec. 12 as follows:

Page 5, line 6 insert the words "or defer" between the words "exempt" and "a" so that (f) reads:

- (f) The department may exempt or defer a stationary source from the requirement of AS 46.14.130(b) to the extent allowed under 40 C.F.R. 70.3(b).

Rationale: In addition to specifically *exempting* stationary sources, EPA often chooses to *defer* regulating these sources. This minor amendment provides ADEC with this specific authority as well. This is consistent with findings of the Work Group: "The Work Group finds that ADEC's difficulty in timely issuance of Title V permits is at least partially a consequence of the fact that the Alaska Title V program is broader in scope and different in content from the federal template codified in 40 CFR Part 70 . . . The Work Group recommends legislative and regulatory measures that allow the department to adopt a federal core Title V program." Final Report at 4.

Amendment #2:

Amend Sec. 13 as follows:

Page 5 delete lines 12 to 31, page 6 delete lines 1 through 8 and replace with:

Sec. 46.14.130. Stationary sources requiring permits. (a) The owner and operator shall obtain a construction permit from the department before beginning actual construction on any of the following:

(1) a new major stationary source;

(2) a major modification;

(3) a project subject to the construction permitting requirements of 42 U.S.C. 7412(i) (Clean Air Act sec. 112(i)).

Rationale: While the Work Group did not recommend a specific minor permit program, HB 160 selects minor permits as the vehicle to handle smaller sources and projects. The effect of the highlighted amendment is to simplify, and more closely align, Alaska's statutory authority for major projects with the federal requirements. It reserves the construction permitting process for PSD-sized modifications, and has the practical effect of handling minor modifications through the minor permit process. To implement this

section, two new definitions are proposed under Amendment #7. This is consistent with findings of the Work Group: "The Work Group endorses legislative and regulatory measures to more closely mimic the revised federal 40 CFR Part 51 (PSD/NSR) program . . . Minor new source review must be expedited and simplified." Report at 3.

Amendment #3:

Amend Sec. 15 as follows:

On Page 7, line 19, insert a new subsection (2) to read as follows:

(2) monitoring, recordkeeping and reporting requirements for facilities subject to AS 46.14.130(b), which must comply with the requirements established for state operating permit programs in 40 C.F.R. 70.6(a), but which may be modified to take into account this state's unique conditions;

Renumber remaining subsections of AS 46.14.140(a) accordingly.

Rationale: The scope of this revision is narrow in scope and effect. It authorizes DEC to revise its Title V monitoring, reporting and recordkeeping rules to more closely track the requirements of EPA's Title V rules, "taking into account Alaska's unique conditions". This is consistent with findings of the Work Group: "The Work Group recommends legislative and regulatory measures that allow the Department to adopt a federal core Title V program. The Work Group recommends the rulemaking include a requirement that monitoring, recordkeeping and reporting consider Alaska's unique characteristics." Work Group Report at 4.

Amendment #4

Amend Sec. 25, as follows:

On page 12, lines 7-9, delete the sentence which reads:

A general minor permit issued to a particular person takes effect when the person's application is determined to be complete unless the department notifies the applicant that the general permit is not applicable to the person's stationary source.

Rationale: This sentence is problematic because it indicates a "general minor permit" is issued to an individual, when in fact general permits are issued and individuals apply or give notice to be covered by the GP. By eliminating the sentence, the problem language goes away and the level of detail associated with application and notification provisions can still be addressed through the rulemaking process.

Amendment #5

Amend Sec. 26 as follows:

On page 12, line 21, replace "30" with "10", so that Section 26 reads as follows:

*Sec 26. AS 46.14.215 is amended to read:

Sec. 46.14.215. Temporary operations. For purposes of AS 46.14.130(b), the [THE] department may issue a single operating permit under AS 46.14.170, authorizing a stationary source [FACILITY] to operate at specific multiple locations in the state for temporary periods of time. A permit described in this section is valid only for the specific locations identified in the application and authorized by the department. The department may not issue a permit under this section unless the permit contains conditions that will ensure compliance with this chapter at each authorized location, including compliance with ambient air quality standards and applicable increment or visibility requirements adopted under this chapter. A permit under this section must require the owner and operator to notify the department at least **10** [30] days before a change in location of a stationary source [FACILITY] permitted under this section.

Rationale: Makes Alaska statutes consistent with federal requirements, which provide for a 10-day notification period. The 30-day timeframe has prevented many companies from being able to utilize this provision because of the inability to identify the exact location 30 days in advance.

Amendment #6:

Amend Sec. 54 as follows:

On page 23, line 25, insert the words "and 40 C.F.R. 60.14" after "sec. 111(a)" so that the section reads as follows:

*Sec. 54. AS 46.14.990(16) is repealed and reenacted to read:

(16) "modification" has the meaning given in 42 U.S.C. 7411(a) (Clean Air Act, sec. 111(a)) **and 40 C.F.R. 60.14;**

Rationale: HB160 adopts a new definition of "modification." This amendment ensures that Alaska not only follows EPA's definition, but also picks up the activities that EPA defined to be not modifications. Without these exemptions routine production increases, routine maintenance and fuel switches would require a construction permit.

Amendment #7

Amend Sec. 59 by adding two new definitions as follows:

(31) "major modification" has the meaning given in 40 C.F.R. 51.165 and 40 C.F.R. 51.166;

(32) "major stationary source" has the meaning given in 40 C.F.R. 51.165 and 40 C.F.R. 51.166;

Renumber remaining subsections of AS46.14.990 accordingly.

Rationale: The new definitions of "major modification" and "major stationary source" implement the new language in Section 13 that limits construction permitting to major modifications. This is consistent with findings of the Work Group: "The Work Group endorses legislative and regulatory measures to more closely mimic the revised federal Part 51 (PSD/NSR) program . . .". Work Group Report at 3.



Joe Griffith
General Manager

April 3, 2003

The Honorable Scott Ogan
Chair, Senate Resources Committee
The State Senate - Room 103
Juneau, AK 98801-1182

Re: SB 116

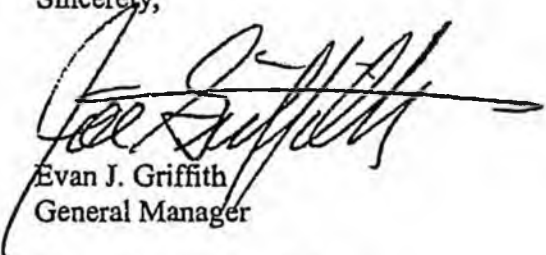
Dear Senator Ogan:

I am writing on behalf of Chugach Electric Association, Inc. to express our support for the committee substitute version of SB 116 to be considered by your committee. Last fall and winter Chugach Environmental Manager, Carl Harmon, represented the utility industry on the Air Permits Work Group convened by the Department of Environmental Conservation to address substantive and fiscal problems affecting air permitting in Alaska.

The final report of the work group recommended a handful of key program changes to reduce delays and to simplify the air permitting process in Alaska while protecting air quality. We believe that the committee substitute version of SB 116 faithfully implements the work group recommendations. DEC Air and Water Quality Division Director, Tom Chapple and his staff have worked closely with stakeholder representatives to craft a bill that will improve the permitting process while providing a more stable revenue stream for the air program.

We look forward to working with air program staff to complete the rulemaking changes that will be needed to implement during this legislation.

Sincerely,



Evan J. Griffith
General Manager

cc: Ernesta Ballard
Tom Chapple
Eric Yould, ARECA

Post-It* Fax Note	7671	Date	4-3-03	# of pages	▶
To	Linda Hay	From	Joe Griffith, GM		
Co./Dept.	Asst. Aide - Sen. Ogan	Co.	Chugach Electric		
Phone	(907) 376-4866	Phone	(907) 762-4740		
Fax #	(907) 373-4724	Fax #	(907) 762-4317		

Chugach Electric Association, Inc.

5601 Minnesota Drive, P.O. Box 196300, Anchorage, Alaska 99519-6300 • (907) 563-7494 Fax (907) 562-0027 • (800) 478-7494
www.chugachelectric.com • info@chugachelectric.com



Alaska State Legislature

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

committee on SB 116, dated 4-4-03
bill/subject

APR 15 2003

5 PAGES

Signed: ANA OLSON
Testifier

Representing (Optional)
HC 30 Box 5438
Address

WASILLA, AK 99654
Phone No.

DANA L. OLSON
HC-30 BOX 5438
WASILLA, AK 99654
4 APRIL 2003

"AIR QUALITY / CONFORMITY"

SB 116

See Question

IF one combines all statutes, regulations
AND put them into one place, AS 46.03.040
still is not satisfied as it cannot by
Constitutional grounds address public trust
AND private property rights AND interests.
It is incomplete as environmental plan.

Negotiated rule making has no constitutional
grounds for existence; especially where prior it was
objected on on the grounds that it provided
no opportunity to apply; nor any opportunity
to choose topics of interest. This is unconstitutional
grounds for invalidating 1st Amendment or by effect.

On the advise of attorney, where no legal
remedy exists, one need not comment; on
termed "environmental plan".

Statutory construction of using proposed law
as basis for existing law can not exist
under administrative law as events not in existence
can not be invalidated or changed.
Statutory construction is unconstitutional.

Under A regulatory scheme (permits)
Changing definition of legal terms; ~~with~~ ^{without}
providing A legal AND FACTUAL BASIS IS INVALID
under NO FAIR NOTICE; nor "due process".

I require A document before hand to comment on.
There is INSUFFICIENCY OF NOTICE ~~forward~~

Notice requirement refers to resource conveyances.
IF one never does ENVIRONMENTAL PLAN; AS 46.03.040
they can be inferred AS resource disposals
or conveyances; AND FAIR NOTICE IS REQUIRED.
No permit shield allowed in A STATE; where
public trust has equal Authority AS Administrative
LAW / AND implementation. The reason being
is that there is no legal STATE means to enforce.
IF the Argument is premised on Administrative
petitions / hearings; then the bill is UNCONSTITUTIONAL
on grounds it curtails A ~~gr~~ ^{court} means to
exercise jurisdiction; where no means
to EXAMINE A FACTUAL record exists.

Lets Address (time)

EPA has hinted at taking over permitting ^(Air)
on about NOV 2003. There IS NO FACTUAL
record demonstrating compelling need
to VIOLATE public process in AS 46.03.040, nor
that anyone will face A hardship.

Please note; no public record exists to ^{my} ~~the~~ state
knowledge, OF any Permittee petitioning For

Also on record for needed "Due Process" in published
in Federal register and due process need and requested
on Knik incinerator and oil rigs activities.

Adoption/Implementation under AS 46.03.040.

Negligence is no grounds for relief.

Finally Elmerdet ARB policy is if you

want to go onto this Federal base, in testing

certificate is needed for 6 visits/month.

Since it doesn't matter where you live, this

is inconsistent legal theory of (state) ARB

versus restriction on funds usage.

I oppose double standards.

Where it can be shown permits

lack sufficiency of notice, one can challenge

them on grounds of adequate notice and

due process.

state

presumption of petitions is not valid for relief

where one can not enforce the ADEC or DNR

Commissioners in a court of law. Prior

requests of mine ignored.

This bill fails to provide access to the

Judiciary and is unconstitutional.

Finally since I need to ask

questions, this format violates

State Law.

-3-
James J. Deane

Question ' ' ' ' .

Why is not implementation
not under South Central
CLEAN AIR Authority? EPA Approved

Sec OLSON EPA decision
~~is~~ that it is not defunct, AS I alleged.

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER

410 Willoughby Ave., Ste 303
Juneau, AK 99801-1795
PHONE: (907) 465-5065
FAX: (907) 465-5070
<http://www.state.ak.us/dec/>

March 6, 2003

The Honorable Scott Ogan
Alaska State Senate
State Capitol, Room 103
Juneau, AK 99801

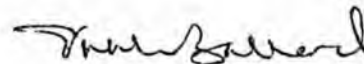
Dear Senator Ogan:

The Department of Environmental Conservation requests a hearing on SB 116 an Act relating to the emission control permit program – Air Quality Program. The State of Alaska has responsibility for management of air quality and we believe that air permits are necessary to maintain Alaska's excellent air quality. However "one size fits all" permits do not protect the environment nor do they meet the goal of having a predictable, reliable and rational program.

This legislation does not change our current protective air quality standards. What it does do is ensure that when sources of air pollution are in close proximity, the cumulative effects will be investigated. It establishes standardized permit conditions based on best management practices. It differentiates between major and minor sources of air pollution and focuses our resources accordingly. Finally, in order to keep this program fiscally self-sustaining changes will be made to the fee structure as well as to appropriate fund sources.

Tom Chapple, Acting Director of the Division of Air and Water Quality will represent the department on this. For additional information, please contact Mr. Chapple at 269-7634 or Mary Siroky, the department's legislative liaison at 465-5355. Thank you for your consideration.

Sincerely,



Ernesta Ballard
Commissioner

cc: Mike Tibbles, Legislative Director, Office of the Governor
Tom Chapple, Acting Director, Division of Air & Water Quality, DEC
Mary Siroky, Legislative Liaison, DEC

FRANK H. MURKOWSKI
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



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JUNEAU

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March 5, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under Authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill related to the state's air quality control program.

The State of Alaska has responsibility for management of air quality and recognizes that air permits are necessary to maintain Alaska's excellent air quality. The bill achieves protection of air quality while reforming the permit review process to make permitting predictable, reliable and rational. Specifically, the bill will:

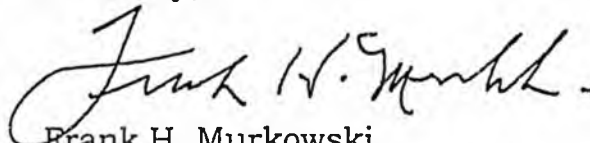
- Allow DEC's program to reflect national precedents, court decisions, and incorporate best practices from other states into our permits.
- Differentiate major source from minor source permits.
- Regulate minor sources based on standardized permit conditions that incorporate best management practices.
- Exempt sources based on standardized permit conditions that incorporate best management practices.
- Exempt sources from permitting to the extent allowed under federal law.
- Achieve efficiency through adopting federal rules by reference.

The Honorable Gene Therriault
March 5, 2003
Page 2

In the end, the reform that this bill initiates will result in more efficient review of permits and more "hard-hat time" for field inspectors working to make sure standards are protective and permits are enforced.

I urge your prompt and favorable consideration of this important legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

SB

122

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 122
(S) Publish Date: 3/6/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Annual wildlife conservation pass and BRU Administration
nonresident big game tag fee increase Component Administration
Sponsor Rules Committee
Requester Governor Component No. 479

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	20.0	20.0	20.0	20.0	20.0	20.0
Travel						
Contractual	555.0	570.0	596.0	623.0	653.0	683.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	575.0	590.0	616.0	643.0	673.0	703.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1024)	206.0	536.7	536.7	536.7	536.7	536.7
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Fish and Game Fund)	575.0	590.0	616.0	643.0	673.0	703.0
TOTAL	575.0	590.0	616.0	643.0	673.0	703.0

Estimate of any current year (FY2003) cost: 35.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The number of vendors will increase since many of the tour guide operators and cruise ship companies do not currently sell licenses/tags. We will need an additional part-time employee to deal with the increase in mailings of stock to vendors, processing of revenue, and reconciliation of vendor accounts. Contractual costs are postage, printing of Pass and printing of vendor collection reports.

See Department of Fish and Game/Division of Wildlife Conservation's fiscal note for revenue projections. In addition to the contractual costs outlined above, AS16.05.390 entitles vendors to retain 5% of the fee that is charged. Retained fees the first fiscal year would be \$375.0. Net revenue would be \$7125.0.

Prepared by: Kevin Brooks, Director Phone 465-5999
Division: Administrative Services Date/Time 3/6/03 10:00 AM
Approved by: Kevin Duffy, Acting Commissioner Date 3/6/2003
Agency: Department of Fish and Game

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB 122 FN #1

ANALYSIS CONTINUATION

AS16.05.390 also entitles vendors to receive \$1.00 for each pass sold. Additional compensation the first year would be \$500.0. The additional compensation is reflected in the contractual costs above.

FY03 costs will be incurred for preparation of the wildlife conservation passes and the distribution to vendors.

Note: The fiscal note does include any projections of Wildlife Conservation Pass expense related to Alaska residents as under this bill regulations exempting Alaskans will be adopted to the extent allowed by law.

Big Game Tag Fee Increase:

Assumption: The number of tag sales will remain constant.

Fish and Game Fund: The increase in Caribou, Sheep, Moose and Goat big game tags will result in a revenue increase of \$206.0 the first fiscal year based on the following: 1. Sales remain same as tags sold during January through June, 2002. The following fiscal years, the revenue increase is based on a full calendar year of tag sales, \$536.7. AS16.05.390 entitles vendors to retain 5% of the fee that is charged. Retained fees for the additional revenue raised would total \$10.3. Total revenue raised would then net the first year \$195.7. The following fiscal years, net would be \$509.9.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 122
(S) Publish Date: 3/6/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title: Annual wildlife conservation pass and BRU: Wildlife Conservation (147)
nonresident big game tag fee increase Component: CARA Implementation
Sponsor: Rules Committee
Requester: Governor Component No. 2564

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	70.0	25.0	25.0	25.0	25.0	25.0
Supplies	25.0	10.0	10.0	10.0	10.0	10.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	95.0	35.0	35.0	35.0	35.0	35.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1004)	7,500.0	7,875.0	8,269.7	8,682.4	9,116.1	9,571.9
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1024 Fish and Game Fund	95.0	35.0	35.0	35.0	35.0	35.0
TOTAL	95.0	35.0	35.0	35.0	35.0	35.0

Estimate of any current year (FY2003) cost: 30.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

Annual revenue estimates are based on the following assumptions:
1) About 1.2 million nonresidents will travel to Alaska as tourists in FY04. Of these about 300,000 will purchase a hunting, fishing or trapping license and therefore would not be required to purchase an annual Wildlife Conservation Pass. Of the remaining 900,000 nonresidents (some of whom are under the age of 16), we project that approximately 500,000 would purchase the pass, generating about \$7.5 million in revenue.
2) We project that the number of pass purchasers will increase by an estimated 5% annually based on current tourism trends.

Prepared by: Matt Robus, Acting Director Phone 465-4190
Division: Wildlife Conservation Date/Time 3/6/03 10:01 AM
Approved by: Kevin Duffy, Acting Commissioner Date 3/6/2003
Agency: Department of Fish and Game

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB 122 FN #2

ANALYSIS CONTINUATION

Note: The fiscal note does not include any projections of Wildlife Conservation Pass revenue related to Alaska residents as under this bill regulations exempting Alaskans will be adopted to the extent allowed by law.

The operating costs, including FY03 costs, associated with the wildlife conservation pass are for outreach to 1) prospective purchasers of the pass to inform them of these new requirements and 2) those who will be selling the passes (e.g., cruise ship companies, tour operators, etc). We expect to produce newspaper articles and radio and television public service announcements, develop fliers for vendors to post explaining the new program, a brochure describing how the funds will be used, and other materials to explain the program to vendors and participants. During the first year of implementation, costs will be significantly higher than in following years when materials have been produced and the program is in place. However, some outreach will continue to be necessary.

Note: The costs of printing the passes, administering the program, and providing compensation to vendors is included in the fiscal note submitted by the Department of Fish and Game, Division of Administrative Services.

STATE OF ALASKA

FRANK H. MURKOWSKI
GOVERNOR

DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

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

March 12, 2003

The Honorable Scott Ogan, Chairman
Senate Resources Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Re: SB 122 "An Act relating to an annual wildlife conservation pass and the fee for that pass; relating to nonresident alien big game tag fees; and providing for an effective date."

Dear Senator Ogan:

SB 122 has been introduced by the Governor through the Rules Committee and referred to Senate Resources. The bill establishes a \$15 annual wildlife conservation pass that will be required of nonresidents who utilize commercial service providers of an opportunity to view wildlife. The funds raised through this fee may be appropriated by the legislature for purposes of fish and wildlife management, viewing, and education programs. State expenditures on such programs may be used to match significant new federal dollars that are available to Alaska through the State Wildlife Grants program. SB 120 also raises the nonresident and nonresident alien tag fees for moose, caribou, sheep and goats. Revenue from tag fees is deposited in the Fish and Game Fund for use in wildlife management.

We respectfully request the scheduling of SB 122 in your committee and urge favorable action on the bill. We are available to meet with you or other members of the committee to answer any questions you may have or provide additional information you may desire.

A copy of the bill and the fiscal notes are enclosed. Thank you for your consideration of our request.

Sincerely,


Kevin C. Duffy, Acting Commissioner

Enclosure

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI
GOVERNOR

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Sectional Analysis Senate Bill 122

Senate Rules Committee by Request of the Governor

“An act relating to an annual wildlife conservation pass and the fee for that pass; relating to nonresident and nonresident alien big game tag fees; and providing for an effective date.”

- Section 1:** Legislative findings
- Section 2:** Adds 16.05.115 providing that funds from the sale of annual wildlife conservation passes shall be deposited in a separate account of the general fund and may be appropriated for wildlife management, wildlife viewing, and wildlife-related education programs.
- Section 3:** Amends 16.05.340(a)(15) to raise nonresident big game tag fees for caribou, goat, moose, and sheep.
- Section 4:** Amends 16.05.340(a)(21) to raise nonresident alien big game tag fees for caribou, goat, moose, and sheep.
- Section 5:** Amends 16.05.350(a) to provide that annual wildlife conservation passes expire on Dec. 31.
- Section 6:** Amends 16.05.360(a) to provide an application process for annual wildlife conservation passes.
- Section 7:** Amends 16.05.380 to provide that the commissioner may appoint agents to sell annual wildlife conservation passes.
- Section 8:** Amends 16.05.390(a) to provide that agents are entitled to compensation. Compensation is \$1 per pass sold and 5% of fees collected.

- Section 9:** Amends 16.05.390 to provide that agents, as directed by the commissioner, shall transmit the required amount of the fees received from sales of annual wildlife conservation passes for deposit in the general fund.
- Section 10:** Amends 16.05.390(c) to provide for payment of compensation to vendors for sales of annual wildlife conservation passes.
- Section 11:** Amends 16.05.390(e) to provide that state employees shall not receive compensation for sales of annual wildlife conservation passes.
- Section 12:** Amends 16.05.390(f) to provide that proceeds and reports from sales of annual wildlife conservation passes must be submitted monthly unless otherwise established by contract.
- Section 13:** Adds Sec. 16.05.417 to require nonresidents age 16 and older to purchase a \$15 annual wildlife conservation pass before using a "commercial provider of an opportunity to view public wildlife." Provides exemptions for Alaska residency and for persons who meet certain criteria. Exempts persons traveling on the Alaska Marine Highway System. Provides that commercial providers of an opportunity to view public wildlife may not provide service to persons required to have a valid annual wildlife conservation pass unless they hold such a pass. Defines commercial provider; field; public wildlife; and transportation as they relate to this section.
- Section 14:** Amends 16.05.420 to provide the conditions and penalties for making a false statement in an application for an annual wildlife conservation pass.
- Section 15:** January 1, 2004 effective date for sections 3 and 4.
- Section 16:** July 1, 2003 effective date for other than sections 3 and 4.

Contributions by Hunters and Anglers to Fish and Wildlife Management

Wildlife conservation funding:

- The Federal Aid in Wildlife Restoration Act, popularly known as the Pittman-Robertson (P-R) Act, was approved by Congress in 1937 to provide funding for wildlife research as well as restoration, rehabilitation and improvement of wildlife habitat. The Act was amended in 1970 to include funding for hunter training programs and the development, operation and maintenance of target ranges.
- Funds are derived from an 11% federal excise tax on sporting arms, ammunition, and archery equipment, and a 10% tax on handguns. These funds are collected from manufacturers by the U.S. Department of the Treasury and are apportioned each year to states on a formula basis. Funds for hunter education and target ranges are derived from one-half of the tax on handguns and archery equipment.
- The apportionment formula considers the total area of the state and the number of licensed hunters in the state. States must provide at least 25 percent of project costs from a non-federal source.
- In the more than 50 years since "P-R" began, over \$2 billion in federal excise taxes have been matched by more than \$500 million in state funds (chiefly from hunting license fees) for wildlife restoration.

Sport fisheries:

- The Federal Aid in Sport Fish Restoration Act, commonly referred to as the Dingell-Johnson (D-J) Act, passed in 1950, and was modeled after the Pittman-Robertson Act to create a parallel program for the management, conservation, and restoration of fishery resources.
- The Sport Fish Restoration program is funded by revenues collected from manufacturers of fishing rods, reels, creels, lures, flies and artificial baits, who pay an excise tax on these items. An amendment in 1984 (Wallop-Breaux Amendment) extended the excise tax to previously untaxed sport fishing equipment.
- State apportionment is based 60% on its licensed anglers and 40% on its land and water area. No State may receive more than 5% or less than 1% of each year's total apportionment.
- In the past 50 years, the Sport Fish Restoration Act has provided over \$3.6 billion to the states to fund research and inventory projects; to build or reclaim 1,200 fishing or boating access sites; and to purchase over 260,000 acres as fishing access areas, boat landings, piers, and fish production sites.

How States are Matching New Federal "State Wildlife Grant" (CARA) Funds

- **Arkansas:** 1/8 of 1% of the state sales tax goes to wildlife and state parks programs. This is generating about \$20 million annually for wildlife programs. **Missouri** also gets significant revenue for wildlife conservation from their state sales tax.
- **Louisiana:** Requires anyone over 16 and under 60 who uses lands administered by their wildlife agency to purchase a "Wild Louisiana Stamp." Cost of the stamp "shall not exceed \$10."
- **Maine:** Governor Baldacci has proposed a \$6 registration fee for canoes and kayaks that would generate \$861,000 for their wildlife agency.
- **Virginia:** ½ of the 4.5% sales tax collected on wildlife-related recreational equipment (bird seed, field guides) goes to wildlife conservation.
- **35 states:** Have a check-off for wildlife conservation on their income tax forms.
- **Colorado:** Dedicates proceeds from its state lottery to wildlife conservation, outdoor recreation, and parks. **Arizona** also gets about 80% of its revenue for "CARA" programs from its lottery.
- **Washington:** Is proposing a "wildlife stewardship decal" of \$25 to encourage donations to fund wildlife viewing activities.

Other countries:

- Since 1996, Belize has collected a US \$3.75 conservation fee from each departing visitor and 20% commission from cruise ship passenger fees for conservation.
- The Galapagos National Park collects an entrance fee of \$100 from foreign non-residents over 12 years of age.

Acceptance of fees by visitors appears to be tied to confidence that fee revenues collected will go back to enhance and conserve resources directly related to the fee assessment.

**Background on S.B. 122:
An Act relating to an Annual Wildlife Conservation Pass**

Why a "Wildlife Conservation Pass"?

- The opportunity to view wildlife is one of the main reasons visitors come to Alaska. About 1.2 million visitors travel to Alaska each summer.
- For nearly a century, hunters and anglers have borne most of the cost of wildlife management. While they are willing to pay their fair share to conserve wildlife populations, many have asked why other wildlife enthusiasts have not stepped up to the plate.
- During the last session of Congress, then-Sen. Frank Murkowski and Rep. Don Young sponsored legislation (known as "CARA") that would have provided a new stable source of funding for fish and wildlife management. In response to this proposed legislation, new federal dollars are coming to Alaska. Last year, Alaska received nearly \$4 million in new State Wildlife Grant money. This year we will receive an additional \$3 million.
- These new federal dollars generally must be matched 1:1 with state dollars. SB 122 provides a way for visitors who use and enjoy Alaska's wildlife, but do not purchase hunting or fishing license, to contribute funds that may be used for wildlife management.
- SB 122 requires visitors who take a commercial tour to view wildlife to buy an annual Wildlife Conservation Pass. The cost of the Pass is \$15, less than the cost of 3-day nonresident sport fishing license (\$20) or a nonresident hunting license (\$85). We estimate it will raise about \$7 million in new revenue.
- The billion dollar tourism industry draws substantial revenue each year from marketing Alaska's wildlife. It's only fair that these visitors and the industry that most directly benefits from it help to sustain our fish and wildlife resources. Most visitors will be happy to know they are making a contribution to wildlife conservation in Alaska.
- One of the legislative priorities of the Alaska Travel Industry Association (ATIA) is "increased wildlife viewing opportunities." These funds could be used to respond to this need by developing interpretive signs for highway pullouts, brochures about viewing opportunities, and other materials to help visitors increase their viewing success and satisfaction. A satisfied visitor is one of the best marketing tools we have.

FRANK H. MURKOWSKI
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98
SB122

March 5, 2003

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that raises additional revenues for fish and wildlife management programs in Alaska.

Alaska's fish and wildlife is a public resource enjoyed by a variety of users from hunters, trappers and anglers to wildlife viewers, many of whom travel to Alaska to utilize our abundant resources. This legislation ensures that the cost of wildlife management is shared more broadly with those who use and enjoy our wildlife, and that the Alaska Department of Fish and Game has the resources necessary to manage Alaska's fish and wildlife resources.

Under this bill, wildlife viewers using certain commercial services will be required to help support management of Alaska's wildlife by purchasing a \$15 annual "wildlife conservation pass" unless they hold another qualifying license or permit. Funds generated will be deposited into a separate account of the general fund and may be used for wildlife management, research, education, and viewing programs.

Alaska is a world class visitor destination, and viewing wildlife is one of the primary visitor attractions. The abundance of wildlife throughout the state provides tremendous economic development opportunities. These user funds will help support wildlife management programs and in so doing will support Alaska's growing tourism industry. Funds from this bill will be used in part to match new federal dollars Alaska is receiving through the State Wildlife Grants Program.

The Honorable Gene Therriault

March 5, 2003

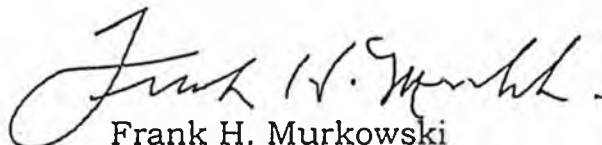
Page 2

This bill also raises the big game tag fees for non-resident and non-resident alien hunters to harvest caribou, moose, goats, and sheep. These increases bring Alaska's fees in line with fees charged in a number of other Western states for these or similar species. In general, hunters visiting our state are more oriented to a recreational experience than Alaska residents and it is important that they support the wildlife management that helps make these resources available.

The fees in this legislation will enhance revenues for a diversity of wildlife management programs. I urge your prompt and favorable action on this legislation.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in cursive script, reading "Frank H. Murkowski".

Frank H. Murkowski
Governor

See Elton
not offered
just discussed

Amendment # 1

p. 2, line 12

Following "wildlife management,"

add:

"fish and wildlife protection,
tourism promotion,"

AMENDMENT

To: SB 122

Page 6, lines 7 – 9:

Delete all material and insert:

(3) a resident who possesses a permanent state identification card issued under AS 18.65.310, a voter registration card issued under AS 15.07.070, a valid driver's license issued under AS 28.15, or who possesses other proof of residence approved by the commissioner.

Page 6, lines 10 – 12:

Delete all material and insert

(4) a person who possesses a sport fishing license, hunting license, trapping license, or a combination of sport fishing, hunting or trapping license issued by the department under this title to the person during the current calendar year.

Page 6, following line 24:

Insert:

(e) The commissioner may issue a duplicate wildlife conservation pass as a replacement for a wildlife conservation pass issued under this section. The fee for a duplicate wildlife conservation pass is \$5. The commissioner shall not issue a duplicate wildlife conservation pass unless the commissioner is satisfied that the original has been lost or destroyed.

Re-letter

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Audubon ALASKA

308 G Street, Suite 217
Anchorage, AK 99501
Tel: 907-276-7034
Fax: 907-276-5069
www.audubon.org

3-28-03

CHAIRMAN SCOTT OGAN
SENATE RESOURCES COMMITTEE
ALASKA LEGISLATURE
Juneau, AK

Mr. Chairman and Committee members:

Please accept this letter as Audubon Alaska's recommendations on Senate Bill 122, establishing an annual Wildlife Conservation Pass. Audubon Alaska is dedicated to the conservation of Alaska's natural ecosystems focusing on birds, other wildlife, and their habitats for the benefit and enjoyment of current and future generations. My name is John Schoen. I am Senior Scientist for Audubon Alaska. Prior to my work with Audubon, I spent over 20 years as a wildlife biologist for the Alaska Department of Fish and Game.

Audubon Alaska supports SB 122 because we believe establishing a state match for federal wildlife dollars will provide significant benefits to the people of Alaska and wildlife conservation. This wildlife conservation pass would essentially be a user fee on people engaging commercial tours involving wildlife viewing.

Although Audubon supports the concept of a user fee to provide a state match for federal wildlife conservation dollars, we have two caveats. First, we believe there should be clear intent language that this funding would go to support wildlife conservation programs in Alaska. Specifically, the money should be focused on nongame conservation, wildlife education, and wildlife viewing programs. These programs will directly benefit the users and the commercial operators involved in wildlife viewing. If this funding were to go in the general fund without clear intent language, Audubon would oppose this legislation. Second we recommend that the legislature work directly with the visitor industry to further refine an appropriate fee structure and implementation date. Finally, I see no reason to exempt Alaska residents from this fee, if they have not already purchased a hunting, fishing, or trapping license.

Thank you for the opportunity to provide Audubon Alaska's comments on this important bill.

Sincerely,

John W. Schoen, Ph.D.
Senior Scientist

Friday, March 28, 2003

RE: SB 122 wild life tour pass

Senate Resource Committee
Chairman Ogen and members of the committee,

I would like to express my opposition to passage of this bill as it nothing more than a Alaska visitor head tax.

Nearly all of the Alaskan communities that are involved with tourism have at one time or another considered the option of instituting a visitor head tax and decided against such action due to it's negative impact to the small local business owners. It does not encourage visitors to come to this state and at a time when very limited state resources are devoted to tourism development, the burden lies on individual businesses to promote themselves.

If this head tax were to be designated to the promotion of Alaska tourism, it may have some merit on those grounds. That not being the case, I am strongly opposed to the passage of this bill, as any short term revenue gains will not out weight the long term costs to Alaska small businesses at a time when those businesses are struggling to achieve sustainable reservations in light of current world events.

Thank you for your time.
Very Sincerely

Dennis Rogers
Alaska Sea Adventures
PO Box 542
Petersburg, Alaska 99833

907-772-3137
whales@aptalaska.net

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

PETERSBURG LEGISLATIVE INFORMATION OFFICE

PHONE: 772-3741

FAX: 772-3779

FAX TRANSMISSION

TO: SENATE Resources Committee

FAX: 465-3265

DATE: 3-28-2003

MESSAGE:

FOR SB 122

From Dennis Rogers

TO THE SENATE RESOURCES COMMITTEE.

Good Afternoon. My name is Julie Hursey. My husband and I own a small charter boat business and run trips out of Petersburg. We became very concerned when we heard the Governor's Budget address, specifically over the issue of the Wildlife Watching Pass". If this bill passes, it could place a financial burden on small Alaskan businesses like ours.

Basically this is a head tax, which will cost each visitor \$15 to watch wildlife in the State. That means a family of six people on one of our trips will pay an extra \$90. And since invoices for this year have already gone out that means our business will have to absorb that cost for each trip. Governor Murkowski said last week that his budget changes were going to cost the average Alaskan about \$300. This tax alone will cost me over \$600 so far this year. Some of the other tour operators I have talked to say that \$15 on one of their trips represents a tax of between 16% to 50% of the total cost. Here in Petersburg, we have a local sales tax of 6%, which would be added on top of that.

Alaska Tourism went into a slump after September 11th, and we are still trying to recover. Our business was down considerably last year. Now with the economy the way it is, and most recently the war with Iraq, our bookings are down from where they should be at this time again this year. Other small Alaska tour operators I have talked to say the same thing.

Americans are staying closer to home in the lower forty-eight, and when they do travel, they are watching their dollars. The State of Alaska should be trying to encourage tourism, not trying to stick visitors with a head tax. It is bad publicity for Alaska. The tourism market is competitive, and people can go to Canada instead, where they get more for their dollar. The Canadian government also spends a lot of money promoting tourism, as I have seen when I have gone to the sportsmen and travel shows.

The money generated by this tax is not going to support the tourist industry in Alaska. Supposedly it will go to a special fund that may or may not be spent on enhancing wildlife viewing. Since it is not constitutional to dedicate funds in that way, there is no guarantee that this will happen. Much of the funding for managing "watchable wildlife" has been cut in recent years. Is that trend suddenly going to be reversed now?

I think it is disingenuous to call this a wildlife conservation pass if the money is not going to be used to conserve wildlife. And by wildlife conservation I do not mean predator control in McGrath. People coming up here to watch wildlife might become very upset if they thought the money they paid to watch a wolf was going to kill a wolf somewhere else in the State. We were affected by a tourism boycott once before over wolf control. There is talk of another boycott now.

The salmon industry has taken a drastic downturn in recent years, and some former commercial fishermen like me have turned to tourism. The local tourist industry, at least in my town is small-scale and in the early stages of development. Added expenses like this wildlife conservation tax eats away at the profit margin. Maybe the big cruise ship lines from Outside can absorb this cost and lower their prices to accommodate the tax, but we can't afford to do that.

I also wonder why there is such a rush to put this tax in place when as yet it is unclear who would be administering the program to collect fees. I also wonder who will be responsible for monitoring who has the pass and who does not. Is this the kind of responsibility that we add to the already overburdened state troopers who are overseeing fish and wildlife? It seems like there are too many unanswered questions to rush this bill through this year.

This season, covering the costs of the wildlife conservation pass is going to make it harder for me to make ends meet. It may sound appealing to pass taxes along to people visiting Alaska from out of state, but in fact, the wildlife-watching pass is going to hurt small Alaskan businesses like mine.

Thank you for giving me the opportunity to speak.

Julie Hursey
Alaska Passages Adventure Cruises

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
DIVISION OF PUBLIC SERVICES

PETERSBURG LEGISLATIVE INFORMATION OFFICE

PHONE: 772-3741

FAX: 772-3779

FAX TRANSMISSION

TO: *SENATE Resources Committee*

FAX: *465-3265*

DATE: *3-28-2003*

MESSAGE:

FOR SB 122

WESTERN CONSERVATION ADMINISTRATIVE OFFICER'S ASSOCIATION
2003 Prices as of 9/20/02

COST TO HUNT-RESIDENT

PROVINCE/STATE	DEER	ELK	BLACK BEAR	TURKEY	MTN LION	MOOSE	SHEEP	ANTELOPE	MTN GOAT	SMALL GAME
Alaska	\$25.00	\$25.00	\$25.00			\$25.00	\$25.00		\$25.00	\$25.00
Alberta	\$58.42	\$33.97	\$14.18	\$25.16	\$51.99	\$33.97	\$51.99	\$51.99		
Arizona	\$22.50	\$64.50	\$13.00	\$15.00	\$13.00		\$184.50	\$64.50		\$25.50
British Columbia (All licenses are subject to 7% Goods & Service Tax)	\$38.52	\$49.22	\$43.87		\$54.57	\$49.22	\$75.97		\$54.57	
California (Prices include application and agent fees)	\$51.45	\$320.25	\$60.90	\$37.80			\$303.75	\$127.75		\$37.80
Colorado	\$20.25	\$30.25	\$30.25	\$10.25	\$30.25	\$200.25	\$150.25	\$20.25	\$150.25	\$15.25
Hawaii	\$35.00			\$25.00			\$35.00		\$35.00	\$25.00
Idaho	\$29.50	\$40.00	\$22.00	\$29.50	\$22.00	\$177.00	\$177.00	\$40.00	\$177.00	\$11.50
Montana (effective 3/1/02)	\$13.00	\$16.00	\$15.00	\$5.00	\$15.00	\$75.00	\$75.00	\$11.00	\$75.00	\$6.00
Nebraska (Includes \$13.00 Habitat Stamp)	\$38.00	\$143.00		\$33.00				\$39.00		\$11.00
Nevada	\$62.00	\$142.00		\$57.00	\$50.00		\$137.00	\$87.00	\$137.00	\$24.00
New Mexico	\$27.00	\$69.00	\$34.00	\$16.00	\$34.00		\$109.00	\$39.00		\$13.00
North Dakota	\$29.00	\$32.00		\$23.00		\$32.00	\$32.00	\$29.00		\$15.00
Oregon	\$32.00	\$47.00	\$29.00	\$29.00	\$29.00		\$109.00	\$44.00	\$109.00	\$17.50
Saskatchewan (Includes \$11 Wildlife Habitat Certificate)	\$49.00	\$66.00	\$28.00			\$44.00				
South Dakota	\$30.00	\$105.00		\$20.00				\$30.00	\$105.00	\$27.00
Texas										
Utah (includes \$5.00 fee)	\$40.00	\$65.00	\$88.00	\$35.00	\$63.00	\$313.00	\$513.00	\$55.00	\$413.00	\$22.00
Washington (Indicates 9.5% transaction fee)	\$39.42	\$39.42	\$21.90	\$32.85	\$21.90	\$109.50	\$109.50		\$109.50	\$32.85
Wyoming (includes \$10 Conservation Stamp)	\$38.00	\$48.00	\$40.00	\$20.00	\$30.00	\$88.00	\$88.00	\$35.00	\$88.00	\$20.00
Yukon Territory	\$10.00		\$15.00			\$15.00	\$20.00		\$20.00	\$5.00
Average Price	\$34.40	\$74.20	\$32.01	\$25.85	\$34.56	\$96.83	\$129.17	\$48.11	\$115.26	\$19.61
Maximum Price	\$62.00	\$320.25	\$88.00	\$57.00	\$63.00	\$313.00	\$513.00	\$127.75	\$413.00	\$37.80
Minimum Price	\$10.00	\$16.00	\$13.00	\$5.00	\$13.00	\$15.00	\$20.00	\$11.00	\$20.00	\$5.00

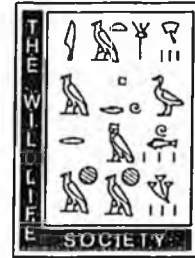
COST TO HUNT-NONRESIDENT

PROVINCE/STATE	DEER	ELK	BLACK BEAR	TURKEY	MTN LION	MOOSE	SHEEP	ANTELOPE	MTN GOAT	SMALL GAME
Alaska	\$235.00	\$385.00	\$310.00			\$485.00	\$510.00		\$385.00	\$85.00
Alberta	\$150.96	\$140.14	\$64.83		\$140.14	\$140.14		\$189.66		
Arizona	\$113.50	\$371.00	\$183.00	\$55.50	\$183.00		\$920.00	\$304.50		\$113.50
British Columbia (Non-resident Alien)	\$235.40	\$315.65	\$294.25		\$315.65	\$315.65	\$583.15		\$369.15	
California (Prices do not include application or agent fees)	\$294.30		\$304.55	\$115.25			\$608.70			\$115.25
Colorado	\$285.25	\$470.25	\$250.25	\$75.25	\$250.25	\$1,580.25	\$1,580.25	\$285.25	\$1,580.25	\$40.25
Hawaii	\$160.00			\$125.00			\$160.00		\$135.00	\$130.00
Idaho	\$363.50	\$467.00	\$363.50	\$190.00	\$363.50	\$1,643.00	\$1,643.00	\$363.50	\$1,643.00	\$73.50
Montana (effective 3/1/02)	\$325.00	\$575.00	\$350.00	\$115.00	\$320.00	\$750.00	\$750.00	\$200.00	\$750.00	\$110.00
Nebraska (Includes \$13.00 Habitat Stamp)	\$188.00			\$78.00				\$142.00		\$67.00
Nevada	\$324.00	\$1,129.00	\$0.00	\$174.00	\$212.00	\$0.00	\$1,124.00	\$374.00	\$0.00	\$111.00
New Mexico	\$191.00	\$481.00	\$161.00	\$76.00	\$211.00		\$3,016.00	\$202.00		\$76.00
North Dakota	\$170.00						\$610.00	\$165.00		\$85.00
Oregon	\$250.00	\$365.00	\$210.00	\$100.00	\$210.00		\$1,035.00	\$260.00	\$1,035.00	\$58.50
Saskatchewan (Includes \$11 Wildlife Habitat Certificate)	\$291.00		\$176.00			\$341.00				
South Dakota	\$155.00			\$85.00				\$155.00		\$100.00
Texas										
Utah (includes \$5.00 fee)	\$213.00	\$338.00	\$313.00	\$60.00	\$263.00	\$1,013.00	\$1,013.00	\$238.00	\$1,013.00	\$50.00
Washington (Indicates 9.5% transaction fee)	\$394.20	\$394.20	\$219.00	\$164.25	\$219.00	\$1,095.00	\$1,095.00		\$1,095.00	\$164.25
Wyoming (includes \$10 Conservation Stamp)	\$230.00	\$420.00	\$260.00	\$60.00	\$260.00	\$1,020.00	\$1,520.00	\$205.00	\$1,520.00	\$60.00
Yukon Territory	\$150.00	\$150.00	\$230.00			\$155.00	\$260.00		\$210.00	\$20.00
Average Price	\$235.96	\$428.66	\$230.59	\$105.23	\$245.63	\$711.50	\$1,026.76	\$237.30	\$811.28	\$85.84
Maximum	\$394.20	\$1,129.00	\$36	\$190.00	\$363.50	\$1,643.00	\$3,016.00	\$374.00	\$1,643.00	\$164.25
Minimum	\$113.50	\$140.14	\$	\$55.50	\$140.14	\$0.00	\$160.00	\$143.00	\$0.00	\$20.00

THE WILDLIFE SOCIETY

ALASKA CHAPTER

1910 Glacier Avenue • Juneau, AK 99801



May 6, 2003

The Honorable Senator Scott Ogan
Senate, State Capitol, Rm. 103
Juneau, AK 99801-1182

Dear Senator Ogan:

On behalf of the Alaska Chapter of the Wildlife Society, I would like to express our support for SB 122, a bill that would require visitors to Alaska who take a commercial tour to view wildlife to purchase a \$15 annual Wildlife Conservation Pass. This bill would provide much needed revenue for wildlife management programs in Alaska and would help ensure that all users of wildlife help pay the costs associated with conserving wildlife, as hunters and anglers have done for decades. Attached is a Chapter resolution supporting SB 122 that was passed by members at our annual business meeting last month.

We would appreciate hearing your views on this bill, and appreciate any support you can offer in getting it passed.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Larsen".

Doug Larsen
Chapter President

RESOLUTION OF THE ALASKA CHAPTER OF THE WILDLIFE SOCIETY

A Resolution Supporting H.B. 163 and S.B. 122.

BE IT RESOLVED BY THE ALASKA CHAPTER OF THE WILDLIFE SOCIETY:

WHEREAS Governor Murkowski has introduced legislation (H.B. 163 and S.B. 122) to raise additional revenues for fish and wildlife management programs in Alaska; and

WHEREAS this legislation would require nonresidents who use a commercial provider of an opportunity to view wildlife to purchase an annual Wildlife Conservation Pass; and

WHEREAS hunters and anglers already contribute substantially to the cost of fish and wildlife management through the purchase of licenses and tags and the payment of excise taxes; and

WHEREAS the Governor's intent is to ensure that "the cost of wildlife management is shared more broadly by those who use and enjoy our wildlife, and that the Department of Fish and Game has the resources necessary to manage Alaska's fish and wildlife resources;" and

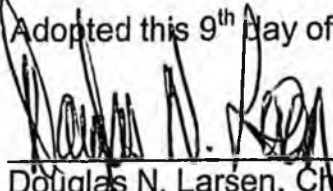
WHEREAS the Alaska chapter of The Wildlife Society endorses these goals; and

WHEREAS the legislation calls for revenues generated from the sale of passes to go into a separate account of the General Fund, where they "may be appropriated by the legislature for the purpose of fish and wildlife management, viewing, and education programs;"

BE IT RESOLVED by the Alaska Chapter of the Wildlife Society, that the Chapter endorses this proposed legislation, provided that a major portion of the funds are appropriated to the Alaska Department of Fish and Game for the stated purposes; and be it

FURTHER RESOLVED that these funds should be appropriated to match federal funds provided to the Department of Fish and Game through the State Wildlife Grant Program, thus ensuring that Alaska is able to make optimal use of these funds.

Adopted this 9th day of April 2003.



Douglas N. Larsen, Chapter President

**United Southeast Alaska Gillnetters**

P.O. Box 23378, Ketchikan, AK 99901 (907) 247-2471 Fax (907) 225-0241 E-mail: usag@uci.net

April 3, 2003

The Honorable Scott Ogen
Chairman, Senate Resources Committee
State Capitol - Room 103
Juneau, Alaska 99801

Send Via Fax To: 907-465-3265

Dear Senator Ogen;

The United Southeast Alaska Gillnetters Association (USAG) represents about 150 fishermen who make their living primarily by drift gillnetting for salmon in Southeast Alaska. Many of our members participate in numerous other fisheries such as crab, shrimp, longline, dive fisheries etc.

USAG supports SB 122 which creates a wildlife viewing pass. We believe it is very appropriate that visitors to our state contribute to the management and protection of the resources they have come here to enjoy. We understand that some of the funds generated by such a pass will be made available to ADFG to support its programs and we favor this use of generated monies. Even if the funds go to the general fund and are used for other purposes, the funds generated by the creation of the viewing pass will support the funding needs of the state.

This type of pass is being used in numerous other places in the lower 48. Examples that come immediately to mind are the Northwest Recreation Pass, and the Red Rock Pass. Both cost \$5.00 per day or \$15.00 for the season. The Northwest Recreation Pass is required in many places in Oregon, Washington etc to park at trailheads, view waterfalls or visit other places of interest in those areas. The Red Rock Pass in the Sedona, Arizona area is required even to pull off the side of the road to view the red rock formations, and is similarly required to park at overlooks and trail heads.

In Alaska, we are reserving timber along ferry routes and main roads for 'view sheds' for visitor's enjoyment. The management of our wild and scenic areas also costs money, as does the management of our wildlife. We urge you and the Senate Resources Committee to support and pass the Wildlife Viewing Pass legislation.

Sincerely,

Kenneth Duckett
Executive Director

S B

1 3 2

SENATE COMMITTEE REPORT

DATE: 04/15/04

FURTHER:

DATE TURNED
IN TO OFFICE: 4-27-04

Resources Committee considered SENATE BILL NO. 132

SB 132 MINTO FLATS GAME REFUGE & TOWNSITE

"An Act removing the Old Minto townsite from the Minto Flats State Game Refuge; and authorizing the Department of Natural Resources to convey certain land at the historic Old Minto site to the Minto Village Council."

and recommends:

- be replaced with _____ CS SB 132 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
<u>DOR</u>	<u>4/4/04</u>			<input checked="" type="checkbox"/>	<u>1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
CHAIR: <u>[Signature]</u>			<input checked="" type="checkbox"/>	

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB132CS(CRA)-DNR-LSME
 () Publish Date: _____

Revision Date/Time (Note if correction): 4/15/2004 Dept. Affected: Natural Resources
 Title: Minto State Game Refuge and Townsite RDU: Resource Development
 Component: Land Sales and Municipal Entitlement
 Sponsor: Sen. Lincoln
 Requester: Sen RES Component No.: 2460

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 (GF 1004)	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Check 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)

This legislation directs DNR to convey a parcel of state land to the Minto Village Council. This proposed Legislation will have no fiscal impact on the department.

Prepared by: Bob Loeffler, Director Phone 269-8600
Mining, Land and Water Date/Time 4/15/04
 Approved by: Thomas Irwin, Commissioner Date 4/15/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 132(CRA)
 (S) Publish Date: 4/15/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Minto State Game Refuge and Townsi RDU Resource Development
 Component Land Sales and Municipal Entitlement
 Sponsor Sen. Lincoln
 Requester Sen CRA Component No. 2460

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual	0.0					
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 (GF 1004)	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
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
 Check 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)*
 This legislation directs DNR to sell a parcel of state land to the Minto Village Council. This proposed Legislation will have no fiscal impact on the department.

Prepared by: Bob Loeffler, Director Phone 269-8600
Mining, Land and Water Date/Time 4/14/04
 Approved by: Thomas Irwin, Commissioner Date _____
 Agency Natural Resources



SENATOR SCOTT OGAN

23RD Alaska State Legislature

Senate District H Lazy Mountain * Butte * Chugiak * Peters Creek * Fairview Loop
Knik-Goose Bay * Big Lake * Houston * Willow * Talkeetna * Trapper Creek

State Capitol, Room 103, Juneau Alaska 99801 * (907) 465-3878 * 1 (800) 862-3878 * Fax (907) 465-3265

Senator_Scott_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogan

FACSIMILE TRANSMITTAL SHEET

TO: Leg Legal	FROM: Linda Hay - Sen Resources
COMPANY: Don Bullock	DATE: 4-27-04
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER:	RE: new CS for SB 132

- URGENT
 FOR REVIEW
 PLEASE COMMENT
 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:

Don - Attached is a copy of the amendment for SB 132 as amended & adopted by the Sen. Resources Committee - please call if there are questions. I believe you were still on line for the conceptual language. This bill did move out of committee & will be read across today.

Thank You

AMENDMENT

#1 as amended

OFFERED IN THE SENATE
TO: CSSB 132(CRA)

BY SENATOR SEEKINS

1 Page 3, following line 5:

2 Insert a new subsection to read:

3 "(c) The conveyance shall also be made subject to the following terms and
4 conditions:

5 (1) the Native Village of Minto waives ^{new lang added} any claim to sovereign
6 immunity with respect to the land, activities on the land, or persons while they are on
7 the land; ~~delete~~

8 (2) the land remains under the sovereign jurisdiction of the state;

9 (3) the land immediately reverts to the state if the Native Village of
10 Minto or a future successor receiving the land or an interest in the land

11 (A) claims that the land is Indian country, as defined in 18
12 U.S.C. 1151, in an administrative or judicial proceeding; or

13 (B) takes any action relating to the land that is incompatible
14 with the state's claim of sovereignty over the land."
15

16 Reletter the following subsection accordingly.

210
44

Slipped under Senator Co. Lincoln's door over the week-end.

LEGAL SERVICES

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

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

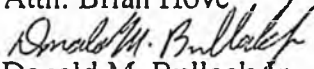
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 23, 2004

SUBJECT: Transfer of state land to Native Village of Minto; sovereign immunity (CSSB 132(CRA)) (Work Order No. 23-LS0578\Q)

TO: Senator Ralph Seekins
Attn: Brian Hove

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

You asked whether the passage of SB 132 would elevate the Old Minto site to have the same sovereign immunity currently enjoyed by the Native Village of Minto (NVM). The answer to your question depends on what version of SB 132 is enacted. If enacted with the enclosed amendment, NVM would waive its immunity and the answer to your question is no. However, if the bill passes in its present form, the sovereign immunity of the NVM would exist to the extent provided for under federal law and would extend to the old village site as property of NVM.

The waiver of sovereign immunity of a tribe, as would occur with your amendment, is valid as long as it is unequivocally expressed and not implied (*Santa Clara Pueblo v. Martinez*, 436 U.S. 49(1978)). In 1996, the Alaska court also held that, if a Native group enjoys sovereign immunity, that immunity may be waived (*Hydaburg Co-op v. Hydaburg Fisheries*, 826 P.2d 751 (Alaska 1992)).

It is not as clear, however, whether the legislature can declare that the state has full jurisdiction over this tribal property or can require that the land revert if there is a claim that it is Indian country. These two matters may be governed by federal law and federal court decisions.

If I may be of further assistance, please advise.

DMB:mdr
04-187.mdr

Enclosure

Subject: Re: More for SB 132, Old Minto Bill
Date: Mon, 26 Apr 2004 11:51:38 -0800
From: Joe Joyner <Joe_Joyner@dnr.state.ak.us>
To: Mark Stopha <Mark_Stopha@Legis.state.ak.us>
CC: Janet Burleson <janet_burleson@dnr.state.ak.us>, John Baker
<John_Baker@law.state.ak.us>, Richard Mylius <dick_mylius@dnr.state.ak.us>

Mark,

We may not necessarily agree with Mr. Bullock's position regarding whether the Village's Sovereign Immunity would extend to lands conveyed to the village by the state. As I understand from our conversation the recipient of this land, Native Village of Minto, is an IRA village not an ANCSA corporation. In fact, it may be that Sovereign Immunity has never been raised with regard to territorial issues. That is, IRA native tribes have some sovereign immunity with regard to its members (marriages, divorces, custody, contracts etc.) but it has not been raised an issue with regard to land. Our Asst. AG. John Baker is far more understanding of these issues than I, and if Janet Burleson approves could be available to answer questions on this issue in this afternoon's hearing at 3:30.

We are also concerned about the addition of a reverter clause that would require the state to monitor actions involving the parcel and to enforce the reversion of the land back into state ownership for any reason. We do not support this provision on the same grounds that we opposed the similar one regarding land use. The state does not want the burden of monitoring these lands or the liability of taking back lands that may be contaminated or encumbered in some way. It would be potentially far more costly to the state to take back contaminated lands than the minuscule risk losing state jurisdiction over this tiny parcel. We would prefer the proposed amendment in subsection (c)(3) not be included in the bill.

Joe

Subject: Re: More for SB 132, Old Minto Bill
Date: Mon, 26 Apr 2004 12:21:04 -0800
From: "John Baker" <John_Baker@law.state.ak.us>
To: <Joe_Joyner@dnr.state.ak.us>, <Mark_Stopha@Legis.state.ak.us>
CC: <dick_mylius@dnr.state.ak.us>, <janet_burleson@dnr.state.ak.us>, "Kevin Saxby" <Kevin_Saxby@law.state.ak.us>

I'd like to add two clarifications if I could. First, Leg Legal's analysis suggests that sovereign immunity attaches to the land; it does not. Sovereign immunity is an absolute defense against legal actions that is enjoyed by entities recognized as possessing sovereign status. It relates to any legal action against the sovereign. The State routinely requires waivers of sovereign immunity to be able to enforce contracts with tribal entities, so proposed section (c)(1) of the bill certainly would not injure the state's interests. Second, Alaska Native tribes are not currently recognized as having territorial jurisdiction over the land they own. That is, while tribal organizations may assert that their land is "Indian country," no court has yet accepted that position. This legislation would not affect that calculation. Again, though, proposed (c)(2) certainly would not harm the State's position.

With regard to the reverter clause issue, DNR's concern about monitoring and potential liability are certainly reasonable from a legal standpoint. Once land is conveyed out of state ownership and becomes subject to uses which may create contamination or other tort liability, it is generally safer for the state not to re-enter the chain of title.

ALASKA STATE LEGISLATURE
Senator Georgianna Lincoln

State Capitol
Juneau, Alaska 99801-1182

(907) 465-3732
Toll Free: 1-888-461-3732
Fax (907) 465-2652

E-mail: Senator_Georgianna_Lincoln@legis.state.ak.us

Standing Committees:
Resources
Transportation
Community & Regional Affairs

Joint Committee:
Legislative Council

Budget Subcommittees:
Administration
Transportation

DISTRICT C

Alatna
Allakaket
Aniak
Angoon
Anvik
Arctic Village
Beaver
Beluga
Bettles
Big Delta
Birch Creek
Boundary
Cape Pole
Central
Chalkyitsik
Chandler Lake
Chenega Bay
Chicken
Chisana
Chistochina
Chitina
Chuathbaluk
Circle
Coffman Cove
Cordova
Cube Cove
Coldfoot
Copper Center
Craig
Crooked Creek
Delta Junction
Deltana
Dot Lake
Dry Creek
Eagle
Eagle Village
Edna Bay
Ellamar
Ernestine
Excursion Inlet
Eureka
Evansville
Eyak
Flat
Fort Greely
Fort Yukon
Fortuna Ledge
Funter Bay
Gakona
Galena
Grayling
Gulkana
Gustavus
Haines
Healy Lake
Hogata
Hobart Bay
Holy Cross
Hoonah
Hughes
Huslia
Hydaburg

MEMORANDUM

TO: Senator Scott Ogan, Chair
Senate Resources Committee

FROM: Senator Georgianna Lincoln *GL*

RE: Committee Hearing for SB132

DATE: April 14, 2004

At your earliest convenience, please schedule SB132 "An Act removing the Old Minto townsite from the Minto Flats State Game Refuge." This bill simply removes the Old Minto townsite from the Minto Flats State Game Refuge and authorizes the Department of Natural Resources to convey certain land at the historic Old Minto site to the Village of Minto.

Attached please find my sponsor statement and letters of support. If you have any questions please contact my staff, Mark Stopha, who will be working on this legislation.

Hyder
Kake
Kaltag
Kasaan
Katalla
Kenicott
Kenny Lake
Klawock
Klukwan
Koyukuk
Labouchere Bay
Lake Minchumina
Lime Village
Livengood
Long Island
Mankomen Lake
Manley Hot Springs
Marshall
McCarthy
McGrath
Medfra
Metlakatla
Mentasta
Minto
Nabesna
Naukati Bay
Nenana
Nikolai
Northway
Nulato
Ophir
Point Baker
Polk Inlet
Port Alice
Port Protection
Rampart
Red Devil
Ruby
Russian Mission
Shageluk
Skagway
Slana
Sleetmute
Stevens Village
Stony River
Strelna
Takatna
Tamacross
Tanana
Tatitlek
Tazlina
Teli In
Tenakee Springs
Tetlin Junction
Tok
Tonsina
Tyonek
Utopia Creek
Venetie
View Cove
Waterfall
Whale Pass
Wiseman
Yakutat



Senator Georgianna Lincoln

Alaska State Legislature, District C
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-3737 • Fax (907) 465-2652
E-mail: Senator_Georgianna_Lincoln@legis.state.ak.us

Sponsor Statement for Senate Bill 132

“An Act removing the Old Minto town site from the Minto Flats State Game Refuge and authorizing the Department of Natural Resources to convey certain land at the historic Old Minto site to the Native Village of Minto.”

In 1971, the residents of Old Minto were forced to move from their village due to flooding and bank erosion. The residents moved to a Native Allotment at the current site of the Village of Minto. The Old Minto site reverted to DNR, and became part of the Minto Flats State Game Refuge in 1988.

Senate Bill 132 will allow for the transfer of approximately 32 acres of land located at the Old Minto Village Site from the Minto Flats State Game Refuge to the Native Village of Minto (NVM). The Native Village of Minto is the governing body of Minto and as such is the appropriate entity to receive the land. Currently, the Interior Athabaskan Cultural Heritage Education Institute (ACHEI) holds a “Public and Charitable Lease” for a youth encampment on the site until 2052.

Old Minto village is located on the banks of the Tanana River, approximately 50 miles northwest of Fairbanks. Old Minto village was the home of the Minto band of Athabaskan Indians from the time of its settlement in 1912 to 1971, when the people relocated to the present village site of Minto due to flooding and bank erosion. Despite relocation, the people of Minto maintain a strong physical commitment to Old Minto. Elders and their descendents go there year-round to camp. The cabins, church, community hall, store, and gravesites still exist today.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Dedicated to preserving the Athabascan way of life.

CULTURAL HERITAGE & EDUCATION INSTITUTE
 P.O. Box 73030 • Fairbanks, Alaska 99707 • (907) 451-0923 • FAX (907)451-0910
 website-<http://www.ankn.uaf.edu/chei> Email-Chei@mosquitonet.com

4-1-04

Senator Georgianna Lincoln
 Senator Ralph Seekins
 Senator Gary Wilken
 Senator Therrialt

Representative Al Kookesh
 Representative Carl Morgan
 Representative Hugh "Bud" Fate
 Representative David Guttenberg
 Representative James A. Holm
 Representative Jim Whitaker
 Representative John B. Coghill, Jr.

With Respect to Senators and Representatives,

The Cultural Heritage and Education Institute would like to strongly support and recommend your affirmative vote of bill 132. This bill allows for the transfer of approximately 32 surveyed acres of land, the Old Minto Village site, section 28, township 1 north, range 8 west and Fairbanks Meridian, from the Minto Flats Wildlife Refuge to The Native Village of Minto.

Founded in the year 1915 by Chief Charlie, Old Minto is a Historic and Traditional site where Athabascan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969 due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans.

The Cultural Heritage and Education Institute has held many important culture, heritage, language and recovery camps for the people of Minto as well as for others in the spirit of sharing Athabascan culture, wisdom, and traditional native ways of knowing. The Minto Family Recovery Camp has helped hundreds of people since 1989. It is the place where the stories are told, and where they can be heard in the setting most conducive for youth to learn. The people of Minto continually visit this special place, by boat, dog sled or snow machine. Whether it

"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishtail (Ch'echalyu), Paint (Tsihyu), and Middle (Tonidra Gheltsilna)." - Chief Peter John



Dedicated to preserving the Athabascan way of life.

CULTURAL HERITAGE & EDUCATION INSTITUTE
 P.O. Box 73030 • Fairbanks, Alaska 99707 • (907) 451-0923 • FAX (907)451-0910
 website-<http://www.ankn.uaf.edu/chei> Email-Chei@mosqultonet.com

is hunting, fishing, basket making or storytelling, the message for the youth is the same; this is our place, where we belong and where our ancestors speak to the spirit of our peoples.

This land has always belonged to these peoples. It is our belief that it should remain with them. Thank you for your attention to this important matter. Feel free to contact us with any questions.

Robert Charlie

Robert Charlie
 Executive Director
 Cultural Heritage and Education Institute



"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishfall (Ch'echalyu), Paint (Tsiyhyu), and Middle (Tontdra Ghelstina)." – Chief Peter John

Old Minto Village Site

Minto Tribal Council Resolution # 03 - 06

Whereas, The land is like our parent, providing us with nourishment and the foundation of our culture, and

Whereas, The Minto people have lived on the land of the Minto Flats continuously for centuries, relocating from the Old Village Site to the present location due to flooding conditions at the Old Site, and

Whereas, Even though the people had to relocate to a new village site, the people of Minto continuously travel to and stay at the Old Village Site to renew the spiritual connection to the site, and participate in cultural activities, and

Whereas, The Old Village Site is still the home of the people who were born there, the connection has never left them, and if the land were granted to the people of Minto this connection would be secure for future generations, and

Whereas, The Minto Village Council is the governing body of the Native Village of Minto, representing all the Minto people, and as such is the most appropriate entity to receive the land and to care for it for generations to come, and

Whereas, The Minto Village Council is a responsible land manager and has the ability to protect the land and its resources, including the important services provided by the Old Minto Recovery Camp that is so valuable for alcohol treatment, as well as the Cultural Heritage and Education Institute.

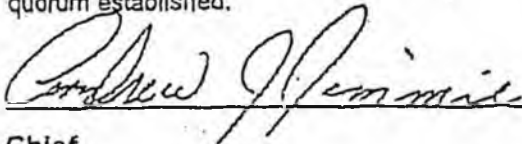
Whereas, It is in the best interest of the State of Alaska to protect the rich cultural heritage of Alaska's indigenous people by transferring the Old Minto

Village Site land, and the responsibility of caring for its cultural significance, to the Native Village of Minto.

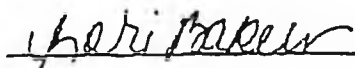
Now Therefore Be It Resolved that the Minto people support the transfer of approximately 32 acres of land at the Old Minto Village Site from the Minto Flats Wildlife Refuge to the Native Village of Minto through the most expedient way available to the State to make such transfer.

Certification

This resolution was adopted by the Minto Village Council by a vote of 5 in favor, 0 opposed, and ___ abstaining, at a meeting of the Tribal Council where notice was posted and a quorum established.



Chief



Secretary/Treasurer

Tanana Chiefs Conference

Chief Peter John Tribal Building

122 First Avenue, Suite 600

Fairbanks, Alaska 99701-4897

(907) 452-8251 Fax: (907) 459-3850

April 7, 2004

SUBREGIONS

KUSKOKWIM

McGrath
Medfra
Nikcok
Takovna
Telida

Senator Georgianna Lincoln
Senator Ralph Seekins
Senator Gary Wilken
Senator Theriault

Representative Al Kookesh
Representative Carl Morgan
Representative Hugh "Bud" Fate
Representative David Guttenberg
Representative James A. Holm
Representative Jim Whitaker
Representative John B. Coghill, Jr.

LOWER YUKON

Anvik
Grayling
Holy Cross
Shogeluk

UPPER TANANA

Dot Lake
Eagle
Heavy Lake
Northway
Tanacross
Tatlin
Tok

Honorable Senators and Representatives:

I am writing today to express support for SB 132 on behalf of Tanana Chiefs Conference (TCC) and the Old Minto Family Recovery Camp. TCC operates the Old Minto Family Recovery Camp, an alcohol and drug rehabilitation facility, on the land that would be transferred by SB 132. As an affected entity, TCC supports and recommends passage of SB 132, which would transfer of approximately 32 acres of land at the Old Minto Village site from the Minto Flats Wildlife Refuge to the Minto Village Council.

The Old Minto Family Recovery Camp has held many substance abuse treatment sessions at the Old Minto site building resiliency for patients in recovery by sharing Athabascan culture, wisdom, and traditional Native ways of knowing. In this way the Old Minto Family Recovery Camp has helped hundreds of people since its opening 1989. It is a place where stories are told, and where they can be heard in a setting most conducive for patients to become sober.

The people of (New) Minto continue to visit this special place, by boat, dog sled, and snow machine throughout the year, checking on staff and patients to support them on their journey to sobriety. The people of Minto also support our yearly Sobriety Potlatch with hundreds of people in attendance. The sober Elders of Minto share their stories of sobriety with the patients during a 4-day period as they show the patients how to prepare traditional foods. These lessons are invaluable to the patients, helping them to recover who they are as sober Alaska Native people.

The land at Old Minto has always belonged to the Minto people. And it is our belief that it should remain with them. Cultural Heritage Education Institute's letter of support on SB 132 details the history of Old Minto as follows:

"Founded in the year 1915, by Chief Charlie, Old Minto is a Historic and Traditional site where Athabascan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for

YUKON FLATS

Arctic Village
Beaver
Birch Creek
Canyon Village
Chalkyitsik
Circle
Fort Yukon
Veneta

YUKON

KOYUKUK

Galena
Huslia
Kaitag
Koyukuk
Nulato
Ruby

YUKON TANANA

Alaina
Allakaket
Evansville
Fairbanks
Hughes
Lake
Minchumina
Manley Hot Springs
Minto
Nenana
Rampart
Stevens Village
Tanana

healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969 due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans... Whether it is hunting, fishing, basket making or storytelling, the message for the youth is the same; *this is our place, where we belong and where our ancestors speak to the spirit of our peoples.*"

It cannot be said any better than this so. Please include Tanana Chiefs Conference and the Old Minto Family Recovery Camp as supporters of the land being returned to the Minto people.

Thank you for your attention to this important matter. Feel free to contact me with any questions.

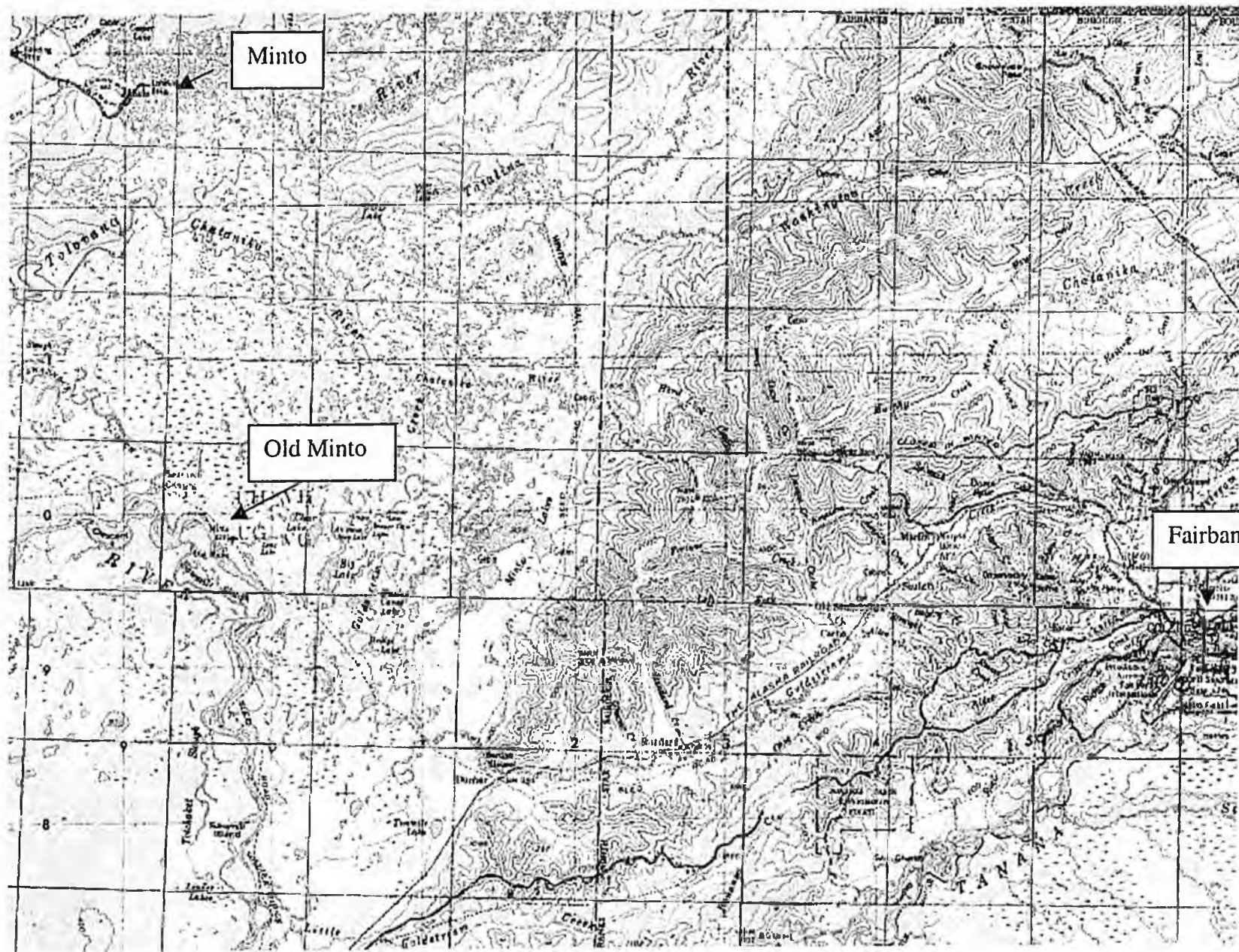
Sincerely,

TANANA CHIEFS CONFERENCE

A handwritten signature in black ink, appearing to read "Harold Brown", with a long horizontal flourish extending to the right.

Harold "Buddy" Brown, Esq.
President and Chairman

cc: Old Minto Recovery Camp



Minto

Old Minto

Fairbanks

TO: Ted Popely
Alaska State Legislature

FROM: Don Mitchell

SUBJECT: SB 132 (Senate Community and Regional Affairs Committee Substitute)

The answers to your queries re SB 132 are as follows:

1. In 1939 the Native Village of Minto (NVM) organized, and received a constitution approved by the Secretary of the Interior pursuant to, the Indian Reorganization Act (IRA).

2. The NVM is one of the Native Entities listed on both the list of Native Entities that the Assistant Secretary of the Interior published in the Federal Register in 1993 and on all succeeding lists. As a consequence, the Secretary of the Interior and the Alaska Supreme Court (in its John v. Baker I decision) assert that the NVM IRA Council is the governing body of a "federally recognized tribe" that possesses both (undefined) governmental authority and sovereign immunity. If the Secretary and the Court are correct, then, as a practical matter, its sovereign immunity allows the NVM IRA Council to refuse to comply with state environmental and all other laws vis-a-vis its use of the Old Minto Site and, if an individual should be injured on the site as a consequence of the NVM IRA Council's negligence, that individual would not be able to file a lawsuit against the NVM IRA Council in either state or federal court.

3. The only sovereign immunity lawsuit presently in any court and of which I am aware is Shannon v. Native Village of Selawik Indian Reorganization Act Council, which is before the U.S. District Court in Anchorage. The complaint in that case requests the court to enter a declaratory judgment that the Secretary of the Interior and Alaska Supreme Court are wrong that, because it appears on the Federal Register list, a Native Entity is a "federally recognized tribe" whose governing body possesses sovereign immunity. If the plaintiff prevails in that action, by inference, the declaratory judgment will apply to the NVM, as well as to Selawik.

4. The Athabascan Indian residents of Minto have incorporated the Seth-De-Ya-Ah Corporation, an ANCSA village corporation. If title to the Old Minto Site is conveyed to the village corporation - rather than to the NVM - there would be no potential sovereign immunity problem.

5. Other observations:

A. section 3(b) of the committee substitute reserves to the State of Alaska the right to enter the Old Minto Site only for the purpose exploring for/developing the oil and gas

and other subsurface resources that subsection (b) reserves. Query: should the State reserve the right to enter the site for other purposes as well? If it should, what other purposes?

B. Should the bill require, as a condition for the conveyance, the NVM IRA Council to waive its sovereign immunity, albeit if any, vis-a-vis its ownership and management of the Old Minto Site?

C. Should the bill require, as a condition for the conveyance, the NVN IRA Council to agree that state law and regulations will continue to apply within the boundaries of the Old Minto Site?

D. Unless the terms of a long term lease include a waiver by the NVM IRA Council of its purported sovereign immunity, the same potential sovereign immunity problem that exists vis-a-vis a conveyance of title would continue to exist.

Subject: SB 132

Date: Mon, 19 Apr 2004 00:22:00 -0800

From: "Richard or Mary Bishop" <rbishop@ptialaska.net>

To: "Sen. Ralph Seekins" <Senator_Ralph_Seekins@legis.state.ak.us>,
"Senator Scott Ogan" <senator_scott_ogan@legis.state.ak.us>

CC: "Jenn Yuhas" <aoc@alaska.net>

*Saw
Lincoln's
bill -*

Attn: Brian Hove, Linda Hay

Hi Brian and Linda- Jeff Logan has probably told you that AOC opposes SB 132. The reasons are: 1) The village council may be viewed as a tribal government. The Alaska Supreme Court has assumed that tribes have some degree of sovereign immunity; to some extent, which doesn't seem to have been defined, tribes may not be subject to state or federal laws, particularly on "tribal" lands. So, this bill may mean creating a "hole in the doughnut" (the Minto Flats State Wildlife Refuge doughnut) where state laws don't apply to uses of fish and game. It may also mean removing the land and activities from other state or federal regulation, such as eventual taxes, child care laws (where there's already confusion about the relation of state and tribal authorities), allowed uses on the land, legal jurisdiction over non-tribal members, and other matters.

Also, even given the Ak Supreme Court decision in Runyon v. AVCP where the court seemed to assume, or accept, some tribal sovereignty for AK villages, as we understand it there is a legitimate legal question as to whether AK villages are tribes, since Congress did not affirm their designation by Ada Deer in '93 or '94. Don Mitchell argues they aren't legally tribes. By giving land to a village council, the State may be promoting the idea that the council is a legitimate tribal entity, and allowing the establishment of "Indian country" (land owned by a tribe). "Indian country" allows the tribe to exercise more authority under federal law.

The U.S. Supreme Court in the Venetie case basically ruled that none of the ANCSA lands are "Indian country". The settlement was done by giving lands and money to CORPORATIONS set up under state law, and subject to state and federal laws.

If the State wishes to accommodate the cultural and sobriety camps conducted at Old Minto, which are very worthwhile programs, the land should be transferred to the village corporation, which is subject to state and federal laws, rather than to a tribal entity with uncertain obligations under these laws. Also, AOC does not believe the State of Alaska should contribute to the confusion over the legal status of Alaska's villages by an action that could be interpreted as recognizing tribal status where it may not exist.

Please give me a call at 455-6151 if you'd like to discuss this further.

Dick Bishop, President, AOC

TO
SENATOR OGAN

FROM
Dick BISHOP, AOC

RE SB 132

TWO PAGES TOTAL

Please include my testimony
in the Committee record.

Thank you,

Dick

**Testimony to the Senate Resources Committee
On SB 132, relating to transfer of Minto Refuge land
By Dick Bishop, President, Alaska Outdoor Council, 4/26/04**

Mr. Chairman and members of the Committee, I am Dick Bishop of Fairbanks. I am testifying on behalf of the Alaska Outdoor Council, of which I am president.

The Alaska Outdoor Council opposes SB132 as currently written. While we applaud the work of the alcohol recovery program and the cultural heritage center operated on the land in question, we do not support transferring state land to another ownership.

The Minto Flats State Game Refuge is an important resource for general public uses. Although there are numerous inholdings within the Refuge, we do not believe the public interest will be served by creating more.

Transfer of the acreage to the Native Village of Minto would very likely mean that activities there – ranging from fish and game regulations to public safety – would no longer be subject to state law. Because the Native Village of Minto was listed as a “tribe” by the federal Interior Department in 1993, along with about 220 other Native villages in Alaska, the Village IRA Council has some claim to sovereign immunity from suit and to other governmental authority.

Although the certainty and the effects of the sovereignty claim are not entirely clear now, current events, including a recent Alaska Supreme Court decision (Runyon v. AVCP) suggest some recognition of sovereign immunity and other governmental authority for villages that were designated tribes in the 1993 Interior Department action. At the very least, there is great confusion about how state and federal laws relate to organizations claiming sovereign tribal authorities.

The Alaska Outdoor Council is concerned about how this confusion and potentially conflicting jurisdictions may affect stewardship of the Minto Flats State Game Refuge and public uses. The Council is also concerned about what sort of precedent may be established with regard to the application of state (and perhaps some federal) laws to lands and waters that may be claimed by villages that claim some degree of sovereign authority.

Finally, we wonder what sort of agreement the State of Alaska has relating to the development of the airstrip and the alcohol recovery and cultural centers on the Refuge – which have been projects of several years duration?

The AOC recommends that the state retain the land and perhaps work out some long-term lease, or possibly transfer the land to the state regulated ANCSA village corporation, with appropriate safeguards regarding future uses, ownership and jurisdictional authority.

Dick Bishop

SB

139

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/12/03

FURTHER: Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4-1-03

Resources Committee considered SENATE BILL NO. 139

SB 139 AK SALMON PRICE REPORT PROGRAM

"An Act repealing the termination date of the Alaska salmon price report program; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
REV	3/28/03		✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Kaeph Seebain</i>	✓			
<i>Ken Stevens</i>	✓			
<i>Thomas H. Wagoner</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
CHAIR: <i>Scott Ogan</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB139
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Alaska Salmon Price BRU Revenue Operations
Report Program Component Tax Division
Sponsor Senator Dyson
Requester Senate Resources Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts	50.0	50.0	50.0	50.0	50.0	50.0
1003 GF Match						
1004 GF	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
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 (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This legislation would remove the June 30, 2003 sunset date in statute, thereby allowing the Department of Revenue Tax Division to continue compiling and producing the Alaska Salmon Price Report. This legislation would not require an additional appropriation.

The Tax Division is required, under AS 43.80.050-.055, to collect from fish processors a multitude of information on catches, prices and volumes, and then prepare the Salmon Price Report, which is distributed three times a year.

The Tax Division, in its budget submission for Fiscal Year 2004, proposes changing the funding source for the Salmon Price Report (\$50,000 per year) from state General Fund to federal money (Salmon Treaty funding through the Department of Fish and Game).

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
Division Department of Revenue Date/Time 5/1/03 6:24 PM
Approved by: Larry Persily, Deputy Commissioner Date 5/1/2003
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB139
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
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Report Program Component Tax Division
 Sponsor Senator Dyson
 Requester Senate Resources Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

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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 ()						
-------------------------------	--	--	--	--	--	--

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 (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

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Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division: Department of Revenue Date/Time 3/28/03 5:37 PM
 Approved by: Larry Persily, Deputy Commissioner Date 3/28/2003
 Agency: Department of Revenue