



1597 HOUSE RESOURCES

(1) "explore" includes to conduct geological or geophysical exploration;

(2) ~~the drilling of a stratigraphic test well is considered geological exploration for geologic strata capable of forming a commercial quality oil and/or gas reservoir~~ ~~an oil or gas deposit~~ located within land in the state only, if the well's target zones are located in the state or in a contiguous part of the same geologic basin; for purposes of this paragraph, a stratigraphic test well is a well drilled for the sole purpose of obtaining geological information to aid in exploring for an oil or gas deposit.

\* **Sec. 22.** AS 43.55.201(b) is amended to read:

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011, except notwithstanding anything to the contrary in AS 43.55.020(a), the full amount of the surcharge is due on the last day of each calendar month on oil produced from each lease or property during the preceding month. The surcharge [AS 43.55.011 - 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.300 - 43.55.310.

\* **Sec. 23.** AS 43.55.201(c) is amended to read:

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 - 43.55.160 [AS 43.55.011 - 43.55.150].

\* **Sec. 24.** AS 43.55.201 is amended by adding a new subsection to read:

d) Oil not considered under AS 43.55.020(e) to be produced from a property is not considered to be produced from a lease or property for purposes of this section.

\* **Sec. 25.** AS 43.55 is amended by adding a new section to read:

**Sec. 43.55.205. Tax credit for surcharge payment.** The amount of a surcharge paid by a producer under AS 43.55.201 may be applied as a credit the producer's taxes due under AS 43.55.011 - 43.55.160. A credit under this section may not be used to reduce a person's tax liability under AS 43.55.011 - 43.55.160 for any month below zero; any portion of a credit not used for that reason may be applied in a later month.

\* **Sec. 26.** AS 43.55.300(b) is amended to read:

(b) The surcharge imposed by (a) of this section is in addition to and shall be paid in the same manner as the tax imposed by AS 43.55.011, except that notwithstanding anything to the contrary in AS 43.55.020(a), the full amount of the surcharge is due on the last day of each calendar month on oil produced from each lease or property during the preceding month. The surcharge [AS 43.55.011- 43.55.150; AND] is in addition to the surcharge imposed by AS 43.55.201 - 43.55.231.]

\* **Sec. 27.** AS 43.55.300(c) is amended to read:

(c) A producer of oil shall make reports of production in the same manner and under the same penalties as required under AS 43.55.011 - 43.55.160 [AS 43.55.011 - 43.55.150].

\* **Sec. 28.** AS 43.55.300 is amended by adding a new subsection to read:

(d) Oil not considered under AS 43.55.020(e) to be produced from a lease property is not considered to be produced from a lease or property for purposes of section.

\* **Sec. 29.** AS 43.55 is amended by adding a new section to read:

**Sec. 43.55.305. Tax credit for surcharge payment.** The amount of a surcharge paid by a producer under AS 43.55.300 may be applied as a credit against the producer's taxes due under AS 43.55.011 - 43.55.160. A credit under this section may not be used to reduce a person's tax liability under AS 43.55.011 - 43.55.160 for any month below zero; any portion of a credit not used for that reason may be applied in a later month.

• **Sec. 30.** AS 43.55.

• 900(6) is repealed and reenacted to read:

(6) "gas" means (A) all natural, associated, or casinghead gas;  
(B) all hydrocarbons that (i) are recovered by mechanical separation of well fluids or by gas processing; and (ii) exist in a gaseous phase at the completion of mechanical separation and any gas processing; and  
(C) all other hydrocarbons produced from a well not defined as oil;

\* **Sec. 31.** AS 43.55.900(7) is repealed and reenacted to read:

(7) "gross value at the point of production" means  
(A) for oil, the value of the oil at the automatic custody transfer meter or device through which the oil enters into the facilities of a carrier pipeline or other transportation carrier in a condition of pipeline quality; in the absence of an automatic custody transfer meter or device, "gross value at the point of production" means the value of the oil at the mechanism or device to measure the quantity of oil that has been approved by the department for that purpose, through which the oil is tendered and accepted in a condition of pipeline quality into the facilities of a carrier pipeline or other transportation carrier or into a field topping plant;

(B) for gas, other than gas described in (C) of this paragraph, that is (i) not subjected to or recovered by mechanical separation or gas processing, the value of the gas at the first point where the gas is accurately metered; (ii) subjected to or recovered by mechanical separation but not gas processing, the value of the gas at the first point where the gas is accurately metered after completion of mechanical separation; (iii) subjected to or recovered by gas processing, the value of the gas at the first point where the gas is accurately metered after completion of gas processing;

(C) for gas run through an integrated gas processing and gas treatment facility that does not accurately meter the gas after the gas

processing and before the gas treatment, the value of the gas at the first point where gas processing is completed or where gas treatment begins, whichever is further upstream;

\* **Sec. 32.** AS 43.55.900(10) is repealed and reenacted to read:

- (10) "oil" means
  - (A) crude petroleum oil; and
  - (B) all liquid hydrocarbons that are recovered by mechanical separation of well fluids or by gas processing;

\* **Sec. 33.** AS 43.55.900 is amended by adding new paragraphs to read:

- (17) "gas processing"
  - (A) means processing a gaseous mixture of hydrocarbons
    - (i) by means of absorption, adsorption, externally applied refrigeration, artificial compression followed by adiabatic expansion using the Joule-Thomson effect, or another physical process that is not mechanical separation;
    - (ii) for the purpose of extracting and recovering liquid hydrocarbons; and
    - (iii) upstream of any gas treatment and upstream of the inlet of any gas pipeline system transporting gas to a market;
  - (B) does not include gas treatment;

- (18) "gas treatment"
  - (A) means conditioning gas and removing from gas non- hydrocarbon substances, for the purpose of rendering the gas acceptable for tender and acceptance into a gas pipeline system; and (B) may include incidentally removing liquid hydrocarbons from the gas.

(19) "Ordinary and Necessary" as defined in Internal Revenue Code for deductible costs in IRC 162 and for capital costs in IRC 263 and 263A including federal regulations thereunder.

(20) "mechanical separation" means

- (A) the natural separation of well fluids into gaseous and liquid substances due to gravity and the different densities of the gases and liquids;
- (B) the release of gaseous substances dissolved in well fluids that occurs as the ambient pressure of the well fluids when recovered at the surface is reduced under controlled conditions;
- (C) the evaporation or other release of gaseous substances from well fluids that occurs while any emulsion of oil and water in the well fluids is broken down chemically or electrostatically or while water and any sediments and impurities dissolved or suspended in it are separated from the oil either due to the buoyancy of oil relative to water or by other mechanical means.

\* **Sec. 34.** AS 43.55.011(b), 43.55.011(c), 43.55.012(b), 43.55.013(b), 43.55.013(c), 24 43.55.013(d), 43.55.013(g), 43.55.013(h), 43.55.013(i), 43.55.013(j), 43.55.013(k), 43.55.016, 43.55.900(1), 43.55.900(8), 43.55.900(11), 43.55.900(12), and 43.55.900(16) are repealed.

\* **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to read:  
APPLICABILITY. (a) Sections 5, 7 - 10, 12, 13, 15, and 19 - 34 of this Act apply to oil and gas produced on or after July 1, 2006.  
(b) Section 11 of this Act applies to oil and gas produced before, on, or after the effective date of sec. 11 of this Act.

\* **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to read:  
TRANSITION PROVISIONS. (a) Notwithstanding any contrary provision of AS 43.55.024(a), enacted by sec. 12 of this Act, for oil and gas produced on or after July 1, 2006, and before January 1, 2007, the phrase "every month an annualized tax credit in an amount equal to one and two-thirds percent" in AS 43.55.024(a), enacted by sec. 12 of this 08 Act, shall be replaced by the phrase "every month during the period July 1, 2006, through December 31, 2006, an annualized tax credit in an amount equal to three and one-third percent."  
(b) Notwithstanding any contrary provision of AS 43.55.024(e), enacted by sec. 12 of this Act, for oil and gas produced on or after July 1, 2006, and before January 1, 2007, the phrase "a calendar year" in AS 43.55.024(e), enacted by sec. 12 of this Act, shall be replaced by the phrase "the last six months of the calendar year."  
(c) Notwithstanding any contrary provision of AS 43.55.160(f), enacted by sec. 21 of this Act, for oil and gas produced on or after July 1, 2006, and before January 1, 2007, the phrase "for every month of a calendar year one-twelfth of the producer's adjusted lease expenditures for the calendar year" in AS 43.55.160(f), enacted by sec. 21 of this Act, shall be replaced by the phrase "for each of the last six months of 2006, one-sixth of the producer's adjusted lease expenditures for that six-month period."  
(d) Notwithstanding any contrary provision of AS 43.55.160(i), enacted by sec. 21 of this Act, for oil and gas produced on or after July 1, 2006, and before January 1, 2007, the number "\$73,000,000" in AS 43.55.160(i), enacted by sec. 21 of this Act, shall be replaced by the number "\$36,500,000."  
(e) For oil and gas produced before July 1, 2006, the provisions of AS 43.55, and 26 regulations adopted under AS 43.55, that were in effect before July 1, 2006, and that were applicable to the oil and gas continue to apply to that oil and gas.

\* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to read:  
TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt regulations to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

\* **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to read:  
REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the heading of AS 43.55 from "Oil and Gas Production Taxes and Oil Surcharge" to "Oil and Gas Production Tax and Oil Surcharge"; article 1 of AS 43.55 from "Oil and Gas Properties Production Taxes" to "Oil and Gas Production Tax"; AS 43.55.011 from "Oil production tax" to

"Oil and gas production tax"; AS 43.55.025 from "Tax credit for oil and gas exploration or gas only exploration" to "Alternative tax credit for oil and gas exploration or gas only exploration"; (5) AS 43.55.150 from "Determination of gross value" to "Determination of gross value at the point of production."

\* **Sec. 39.** Sections 1 - 4, 6, 11, 14, 16, and 37 of this Act take effect immediately under AS 01.10.070(c).

\* **Sec. 40.** Except as provided in sec. 39 of this Act, this Act takes effect July 1, 2006.



# ALASKA STATE LEGISLATURE HOUSE RESOURCES COMMITTEE

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## **SPONSOR STATEMENT CSHB 488 (RES)**

Wednesday, March 22, 2006 / Tim Benintendi, Staff, 465-3715

(version 24-GH2052/L)

COMMITTEE REPORT: 6 "Do Pass" / 1 "Do Not Pass" / 1 "Amend"

CSHB 488 (RES) would convert Alaska's oil severance tax structure from the Economic Limit Factor (ELF) method, to a petroleum profits tax (PPT) method. The governor's version would increase revenue by about \$705 million per year, on average, over the next five years. The House Resources Committee (HRC) version would increase revenue by about \$816 million per year, on average, over the same five years.

The severance tax is one of four levies paid by the oil industry in Alaska, the others being royalties, property taxes, and income taxes. Tax deductions and tax credits continue to be used to motivate industry for exploration, production, and development activities. The objectives of the bill remain as follows: Increase the state's share or "government take," under conditions of high oil market prices; provide industry with new or expanded incentives to explore and produce from marginal and frontier fields; and to ensure motivation for continued activity in the Cook Inlet fields.

The HRC proposed several changes to the governor's bill, most notably, installing a two-pronged progressivity feature on the PPT tax rate. In the governor's version, the PPT rate is a flat 20% regardless of the market price of oil. The HRC version also uses the 20% rate, but only at market prices up to \$50 per barrel (WTI benchmark). At market prices between \$50 and \$110 per barrel, the progressivity feature adds 3/10% of the wellhead value for every dollar the market price is over \$50. A single year of additional revenue in times of high market prices can offset many years of lower revenues when prices are close to their historical average.

If there is a dramatic price shock or the value of oil continues to rise at market prices over \$110 per barrel, the tax generates an additional 37.5% of wellhead value for the state. We would get a greater share at very high market prices. As prices climb, the combined effect of the 20% PPT base rate and the 37.5% progressivity factor (which is deductible in calculating the amount payable under the PPT rate) approaches 50% of the oil's value in Alaska. The committee felt this two-pronged progressivity feature would keep investment opportunity in Alaska strong, while allowing the state to share in windfalls at high spikes of market prices.

Another policy change from the governor's bill to the HRC version was the elimination of transition costs as deductions from income tax. The governor provided a deduction for investment costs incurred in the past five-years, feeling that investments made in that period and directly tied to the production of oil which would be taxed at the new rate, should be allowed. After hearing considerable testimony on this component, the HRC deleted it completely.

Exploration tax credits of 40% under SB 185 (Ch. 59, SLA 03) will be extended ten years under the HRC version, and the governor's credit rate of 20% remains intact. This is intended to motivate explorers and independent firms. As is currently done, a company will be able to choose from the two options as they assess which is most beneficial to them.

The House Resources Committee allowed no credit for abandonment costs, but such expenses remain tax-deductible. And, in terms of a private royalty severance tax rate, the HRC version set it at 5%.

As introduced, the governor's version of HB 488 proposes to make the current oil spill contingency surcharge (which is currently 5-cents per barrel) creditable against the PPT. The HRC left the current statute in place, but modified the program. The current 2-cents per barrel which goes into the Response Mitigation Account (RMA), is reduced to 1-cent. This surcharge will continue in suspension as long as the RMA balance holds at \$50 million. The remaining 3-cent per barrel surcharge, which is deposited into the Prevention Mitigation Account (PMA), increases to 4-cents per barrel under the HRC substitute bill.

The governor provided a \$73 million annual allowance for all producers, against which a 20% credit would be applied, resulting in a \$14.6 million tax credit per company annually. The merits of this allowance and credit incentive eluded committee members, so this provision was changed to a direct tax credit, dollar for dollar, on the first \$12 million worth of capital investment for exploration, production, or development work. This annual credit is non-transferable, non-salable, not eligible for carry-forward, and can only be applied to a current year's severance tax. Should a company spend less than \$12 million, the credit would be applied to whatever amount they did spend.

As protection for explorers and new entrants to Alaska, the HRC devised a tax credit repurchasing program for those credits a company earns on expenditures of up to \$10 million per year for investments in exploration and/or lease purchases in Alaska.

The effective date for HB 488 as introduced by the governor, was July 1, 2006. The HRC version changed that to April 1<sup>st</sup>, also the beginning of a fiscal quarter, but a change which would bring the state another \$200 million this year.

# LEGAL SERVICES

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## MEMORANDUM

March 24, 2006

**SUBJECT:** CSHB 488(RES) -- sectional analysis  
(Work Order No. 24-GH2052\L)

**TO:** Representative Jay Ramras  
Representative Ralph Samuels  
Co-Chairs of the House Resources Committee

**FROM:** Jack Chenoweth  
Assistant Revisioner

The House Resources Committee Substitute proposes to repeal the state's current oil and gas properties production tax and replace it with a production tax on oil and gas. The replacement tax is to be based on a percentage of the production tax value of oil and gas, the determination of which is prescribed by the bill. The measure makes a number of related and conforming additions and changes.

The measure is an administration-sponsored bill, so in the preparation of this memo, for provisions not substantively altered by the Resources Committee, I have drawn on the explanatory language of the administration's February 21 sectional analysis of the bill as introduced.

### **PROVISIONS IMPOSING A PRODUCTION TAX ON THE NET VALUE OF OIL AND GAS:**

#### *Provisions imposing the tax and setting the basic tax rate(s) --*

**Bill section 5:** The bill section enacts (as a repeal and reenactment of AS 43.55.011(a) levying a tax on a percentage of the gross value at the point of production) the tax levy as a production tax on both oil and gas, with exceptions and limitations noted in the provision's text, and sets the rate of levy at 20 percent of the production tax value of the taxable oil and gas.

**Bill section 6:** As part of this bill section, a new subsection, AS 43.55.011(e), is added to authorize a levy and set a rate of levy on oil and gas produced that constitutes a lessor's royalty interest under an oil and gas lease. The rate specifies a rate of five percent of the gross value at the point of production. It also sets out an alternative rate of 20 percent of the gross value that applies under circumstances in which there is evidence the producer's receipt of consideration from the lessor offsets the producer's royalty obligation.

Representative Jay Ramras  
Representative Ralph Samuels  
March 24, 2006  
Page 2

*Provisions authorizing a progressively higher tax rate for oil when the price exceeds \$50 per barrel --*

As part of **bill section 6**, proposed AS 43.55.011(f) sets out an oil price index by which the tax levy on oil is adjusted by an addition .3 percent of gross value per dollar in excess of \$50, based on Gulf Coast prices for West Texas Intermediate crude. Subsection (g) caps the index increase when the average price reaches \$110 per barrel. Subsection (h) sets out the manner in which the index may be calculated and authorizes use of a substitute formula under circumstances specified in the subsection.

*Provisions authorizing a progressively higher tax rate for gas when the price of gas exceeds \$8 per million BTUs --*

Again, as part of **bill section 6**, proposed AS 43.55.011(i) sets out a natural gas price index by which the tax levy on gas is adjusted by 2 percent of gross value when the average Henry Hub price exceeds \$8 per million BTUs. Subsection (j) caps the index increase at 18.75 and subsection (k) spells out the manner in which the index may be calculated and authorizes use of a substitute formula under circumstances specified in the subsection.

*Provisions relating to the determination of the production tax value of oil and gas --*

The oil and gas production tax levy is imposed as a percentage of the production tax value of the taxable oil and gas. Calculation of the production tax value is set out in AS 43.55.160, added by **bill section 28**:

-- Under AS 43.55.160(a), the calculation begins with the determination of the gross value at the point of production of all of a producer's taxable oil and gas statewide. The producer may deduct taxes paid that are attributable to application of the indexed production tax rate increases as well as the deductible costs of oil and gas exploration, development, and production (adjusted deductible lease expenses). Subsection (a) contains language that precludes net value calculation from falling below zero.

-- Subsection (b) sets out rules for the producer's claim and use of unused deductions.

-- Subsection (c) spells out the exploration, development, and production costs that qualify as deductible lease expenses ("total costs upstream of the point of production . . . incurred on or after January 1, 2006, . . . and that are direct, ordinary, and necessary costs for exploring for, developing, or producing oil or gas deposit"), and provides guidance to the department as to evidence of those costs, especially in situations involving activities occurring under operating agreements.

-- Subsection (d) spells out allowable direct costs and costs that may not be deductible because they are not direct costs.

-- The mechanics of making adjustments to a producer's lease expenditures are addressed in subsection (e). Adjustments are required to account for reimbursements, assets sales, and other producer receipts.

-- Subsection (f) authorizes substitution of determination of adjusted lease expenditures on a monthly basis, at the election of the producer.

--The provisions of subsections (g) - (i) spell out additional authority of the department with respect to tax administration, while subsection (j) supplies definitions of terms used.

***Tax credit provisions --***

The measure contains two separate sections authorizing tax credits.

**Bill section 14** adds a new section, AS 43.55.024, that sets out tax credits for certain expenditures and losses. In the section,

-- Subsection (a) authorizes a tax credit of 20 percent of "qualified capital expenditures"--the term is defined in subsection (j)--against the production tax on the net value of taxable oil, bars claim of the tax if the same expenditures are used to claim a credit under AS 43.55.025 (existing tax credit for oil and gas exploration or gas only exploration), and authorizes claim and application of the credit on a monthly basis if, under AS 43.55.160(f), the producer has elected to substitute determination of adjusted lease expenditures on a monthly basis.

-- Subsection (b) authorizes election of a 20 percent tax credit on the basis of carried forward annual losses, defined in the subsection as "the producer's . . . adjusted lease expenditures under AS 43.55.160 for a previous calendar year that was not deductible in any month under AS 43.55.160(a) and (b)."

-- Subsection (c) precludes a tax credit from reducing the producer's tax liability below zero but authorizes application of the unused portion of the credit in a later month.

-- Subsections (d) and (e) establish a system by which tax credits for expenditures and losses as authorized by the section may be transferred through transferable tax credit certificates. Subsection (f) authorizes the department to repurchase credit certificates and, subject to appropriation, make cash refunds, but repurchase and refunds must comply with the requirements spelled out in paragraphs (1) - (5).

-- Subsections (g) and (h) spell out the authority of the department with respect to the administration of transferable tax credit certificates.

-- Subsection (i) bars a producer from making a claim of a tax credit for expenditures to acquire and use certain assets or for costs associated with abandonment.

AS 43.55.170, enacted as part of **bill section 28**, sets out a second or additional tax credit. The section allows the producer to claim a credit for qualified capital expenditures (as that term is defined in AS 43.55.024). The credit may not be applied to reduce the producer's tax liability to less than zero. Unused portions of the credit may be carried forward from month-to-month within a calendar year, may not exceed a total of \$12,000,000 for a calendar year, and may not be carried forward into a following calendar year. These credits are not transferable and not refundable. The authorization for these additional credits expires March 31, 2016.

*Provisions relating to tax payment and the administration of the tax --*

**Bill section 8:** The bill section enacts (as a repeal and reenactment of AS 43.55.020(a)) a requirement of monthly payment of the net value production tax on oil, with payment due at the end of the calendar month for production during the preceding month. The provision spells out conditions when a tax due is delinquent, the handling of overpayments, and limitations on interest that may be payable on tax overpayments.

**Bill section 10,** amending AS 43.55.020(d), deals with a producer's right to charge a private royalty owner for the share of production taxes attributable to royalty oil and gas. The amending language adds a method of determining the royalty share of taxes in the absence of an agreement between the producer and royalty owner to use a different method.

**Bill section 11** expands the current production tax exemption for gas that is used in lease operations by including oil that is used in those lease operations. The section also clarifies the manner of tax treatment of flared gas, based on authorization to do so from the Alaska Oil and Gas Conservation Commission.

**Bill sections 1 and 12:** The latter provision amends AS 43.55.020(f) allowing the Department of Revenue to require production tax to be paid on the basis of prevailing value. It clarifies that the provision applies not only when the sale price differs from the prevailing value but also when the oil or gas on which tax is due is not sold at all. The former sets out a statement of intent for the amendment made to the permanent law provision.

**Bill section 13:** As is done earlier in the bill with respect to oil, proposed AS 43.55.020(g) enacts a requirement of monthly payment of the net value production tax on amounts due under the lessor's royalty share provisions, on the indexed production tax rate increases as applied to oil and the indexed production tax rate increases as applied to gas. Payment is due at the end of the calendar month for production during the preceding month and, if not paid, the tax due is delinquent. Proposed AS 43.55.020(h)

Representative Jay Ramras  
Representative Ralph Samuels  
March 24, 2006  
Page 5

authorizes imposition and collection of a five percent civil penalty on the difference between the amount not paid and a 90 percent threshold if payment, when due, falls below that threshold.

**Bill section 20:** This section, proposing amendments to AS 43.55.030(a), clarifies what the Department of Revenue may obtain as information relevant to determining taxes due under AS 43.55.

**Bill section 21** amends AS 43.55.030(d) to delete a per day penalty for failure to file a tax return under AS 43.55. Other provisions in this measure and in AS 43 are applicable to late filing of tax return documents.

**Bill section 22**, adding AS 43.55.030(e), sets out a requirement of an annual "true-up" of the prior year monthly returns and directs submission of adjustments or corrections of the previously-filed statements.

**Bill section 23**, amending AS 43.55.040, clarifies the department's power to obtain information relevant to determining taxes imposed under AS 43.55 by adding the authority to require filing of regular statements or reports. In addition, the bill section modifies the statutory confidentiality restrictions related to use of information in returns and reports when necessary to determine a taxpayer's liability, particularly as those provisions may be applicable to persons -- state officers and employees and privately-retained contractors -- who may have access to the information.

**Bill section 27:** AS 43.55.150 deals with determining the gross value at the point of production of oil and gas. The addition of new subsection (d) authorizes the Department of Revenue to allow producers to calculate that gross value with a formula that uses a producer's royalty agreement with the state, a royalty value or valuation method accepted by the Department of Natural Resources or the United States Department of the Interior, or another formula using factors such as published price indices.

#### **OTHER SUBSTANTIVE PROVISIONS AFFECTING OIL PRODUCTION AND GAS PRODUCTION TAXES:**

**Bill section 16:** The amendment to AS 43.55.025(b) extends the current production tax credit for exploration expenditures, authorized by AS 43.55.025, from the current deadline of July 2007 (July 2010 for the North Slope and Cook Inlet activities) to July 1, 2016, on a statewide basis.

**Bill section 29:** The amendments to AS 43.55.201 modify the component of the so-called nickel-per-barrel surcharge that directs a portion of the money to the response account in the oil and hazardous substance release prevention and response fund, reducing by one cent the amount directed to that account, and making necessary conforming changes to cross-references.

**Bill section 30:** The addition of AS 43.55.201(d) relieves from payment of this component of the tax surcharge oil that is exempt from the production tax because it is used in lease operations.

**Bill section 31:** The amendments to AS 43.55.300 modify the component of the so-called nickel-per-barrel surcharge that directs a portion of the money to the release prevention account in the oil and hazardous substance release prevention and response fund, increasing by one cent the amount directed to that account, and making necessary conforming changes to cross-references.

**Bill section 32:** The addition of AS 43.55.300(d) relieves from payment of this component of the tax surcharge oil that is exempt from the production tax because it is used in lease operations.

**Bill sections 33 - 35** amend definitions of terms used in the chapter: "gas", "gross value at the point of production," and "oil."<sup>1</sup>

**Bill section 36** adds definitions for "explorer" (for use in the chapter), "gas processing", and "gas treatment".<sup>2</sup>

#### **PROVISIONS PROPOSING REPEAL OF THE CURRENT OIL AND GAS PROPERTIES PRODUCTION TAX:**

In addition to repeals and reenactments made in bill sections 1 and 8, **bill section 37** collects and sets out repeals of provisions relating to the current oil and gas properties production tax that are obsolete or unnecessary due to other changes proposed in the measure:

-- repeal of AS 43.55.011(b) and (c) delete the provisions spelling out the percentage-of-value and cents-per-barrel tax methodologies applicable to taxation of oil;

-- repeal of AS 43.55.012(b) repeals the special cents-per-barrel provisions for heavy oil;

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<sup>1</sup> By cross-reference, the change in the definition of "gas" has the effect of changing the definition of "gas" as used in AS 43.82, the Alaska Stranded Gas Development Act. See AS 43.82.900.

<sup>2</sup> As to the definitions, the administration's initial sectional analysis noted that

Under these definitions, gas processing is considered an operation upstream of the point of production for gas, and generally the line between what is oil and what is gas corresponds to what substances are in liquid form and what substances are in gaseous form, respectively, at the point of production.

-- repeal of AS 43.55.013 eliminates the economic limit factor, or ELF;

-- repeal of AS 43.55.016 deletes the current gas production tax;

-- repeal of AS 43.55.025(k)(3) eliminates the definition of "explorer" as applicable to the current tax credit for oil and gas exploration; the term is defined for the chapter by an addition made in bill section 36;

-- repeal of paragraphs (1), (8), (11), (12) and (16) of AS 43.55.900 eliminate definitions appearing in other repealed sections --"API gravity", "intangible drilling expense", "oil production operation", "old crude oil", and "well days".

#### **CONFORMING ADDITIONS AND AMENDMENTS:**

**Bill section 2** amends criminal provisions for unauthorized disclosure of confidential records. The section imposes criminal penalties on current or former officers and employees for unauthorized disclosure; the amendment extends the penalties to others, private persons such as legal counsel and consultants, who make an unauthorized disclosure of otherwise confidential information to which they have had access.

**Bill sections 3 and 4** authorize a producer who is a taxpayer under the Alaska Net Income Tax Act, AS 43.20, to deduct the production tax payments and disallows the adding back of the production taxes levied and paid in the determination of the producer's corporate income tax.

**Bill section 7** conforms certain statutory language to that used in the Internal Revenue Code and incorporates by reference a definition for a term used elsewhere in the chapter.

**Bill section 9** makes a corrective amendment to AS 43.55.020(b).

**Bill sections 15, 17, 18, and 19:** The provisions are in the nature of conforming amendments made to various subsections of AS 43.55.025, authorizing the current tax credit for oil and gas exploration or gas only exploration. The amendments insert or substitute reference to the specific subsection levying the production tax on oil and gas. The changes are necessary because, as proposed in the original bill and the committee substitute, the chapter (AS 43.55) would have multiple tax credits rather than the one existing tax credit for oil and gas, or gas only, exploration.

**Bill section 24** proposes amendments to AS 43.55.080, directing that production taxes be deposited into the general fund, to incorporate exceptions imposed under the constitutional budget reserve fund amendment, and making a conforming amendment due to addition of new sections to article 1 of AS 43.55.

Representative Jay Ramras  
Representative Ralph Samuels  
March 24, 2006  
Page 8

**Bill section 25**, amending AS 43.55.135, sets out a conforming amendment due to addition of new sections to article 1 of AS 43.55.

**Bill section 26**, amending AS 43.55.150(a), makes conforming amendments relating to the determination of gross value to be calculated and in the reference due to addition of new sections to article 1.

#### **APPLICABILITY, TRANSITIONAL, AND RELATED PROVISIONS:**

**Bill section 38** specifies that provisions relating to the new tax on the production tax value of oil and gas apply to oil and gas produced on or after April 1, 2006, and that the provision under which the Department of Revenue collects the tax on the basis of prevailing value and that clarifies how that value is to be measured, confirming long-standing agency policy, applies to all production without reference to date.

**Bill section 39** sets out a series of transitional provisions that clarify how certain calendar year rules added by the new tax will apply during the first nine-month period that the tax is in effect, that authorize the claim of tax credit for expenditures and losses based on expenditures made on or after January 1, 2006, that set out a transitional schedule for tax payments, and that former regulations in effect under the previous severance tax statute continue to govern oil and gas produced before the April 1, 2006, effective date of the new production tax.

**Bill section 40** authorizes adoption of new regulations and provides that the new regulations adopted may apply retroactively as of the April 1, 2006, effective date of the new production tax.

**Bill section 41** prescribes editorial instructions for the revisor of statutes.

**Bill section 42** adds a provision authorizing retroactive application of expenditures incurred on or after January 1, 2006, for expenditures that support the tax credit claims under the new production tax.

In the event the bill becomes law after April 1, 2006, **bill section 43** makes the provisions of the measure that are identified as taking effect on that date retrospectively effective to that date.

**Bill sections 44 and 45** are the measure's effective dates. The production tax provisions have an April 1 effective date; the remainder of the bill is given immediate effect.

JBC:lmb  
06-118.lmb

## House Resources March 16 and 17:

The House Resources Committee released a summary of its committee substitute on Wednesday, and dealt with amendments on the following Thursday and Friday. A total of 18 amendments were offered. Twelve were adopted. Three amendments were distributed but not offered.

Following the last amendment on Friday, Rep. Carl Gatto moved the bill with individual recommendations. All committee members excepting Rep. Harry Crawford voted to move the measure. Reps. Samuels, Ramras, Seaton, Olson, Elkins and Gatto gave the bill a do pass recommendation. Rep. Kapsner signed, "amend," and Rep. Crawford signed, "do not pass." Rep. LeDoux attended the meeting by teleconference and could not vote to move the bill or sign the committee report.

### Approved amendments

#### *Amendment to remove gas from the surtax*

On Thursday, Rep. Kurt Olson offered amendment #5, designed to make the surtax—what Olson and others called the "escalator"—in subsections AS 43.55.011 (f)-(g), only apply to oil. He said it made little sense to link the two.

Gatto agreed, saying it would be just a nonsensical to apply the escalator to coal.

Co-chair Jay Ramras said he favors increased progressivity for both oil and gas, but agreed that the same index probably isn't appropriate for both. He said he would research a better index and possibly offer it later as an amendment. (See amendment #18, below).

Rep. Paul Seaton said he favors the amendment, but agreed with Ramras that the solution is a separate index.

Amendment #5 was approved without objection.

#### *Amendment reapplying the surtax to gas under a new van Meurs escalator*

On Friday the committee returned to the issue of the surtax on gas, and passed amendment #19, undoing the effect of amendment #5 approved the day before. The gas surtax rate, however, was changed to escalate under the amendment at a rate tied to the price of gas at Louisiana's Henry Hub, the intersection of several interconnected natural gas pipelines and the trading point for natural gas futures contracts on the New York Mercantile Exchange.

"I have the top secret formula here in my hand," quipped Ramras, holding up a sheet of paper containing the holographic formula written by consultant Pedro van Meurs. Amendment #19, offered by Ramras, incorporated the van Meurs formula. The surtax will start to apply when the Henry Hub gas price is above \$8 per million BTU, starting at zero and escalating by 2 percentage points per dollar per million BTU, until reaching a ceiling of 30 percent at \$23 per million BTU.

No one mentioned that on a BTU equivalence basis the \$23 ceiling price is roughly equal to \$150 per barrel, not the \$110 for oil in an amendment #15, adopted just a few minutes earlier, or that the top surtax rate for gas is 30 percent instead of the 37.5 percent also established in amendment #15 (see below). But a few minutes later Seaton figured that out, and offered amendment #21, described below.

#### *Amendment amending the new van Meurs gas escalator*

A few minutes after the committee approved amendment 19, described immediately above, Seaton offered a hastily handwritten amendment #21, which he described simply as "doing for gas what we did for oil." The amendment was adopted without discussion or objection. The import of the amendment was not immediately apparent because it adjusted index numbers in a formula, but the effect is to raise the top surtax rate from 30 percent to 37.5 percent, and lower the gas price at which that rate kicks in from \$23 per million BTU to \$18 per million. On a BTU equivalence basis the amendment made the gas surtax parallel the oil surtax.

*Amendment increasing the "standard credit" by 20 percent*

The draft committee substitute eliminates the \$73 million annual standard per company deduction, substituting instead a \$10 million annual credit. On Friday Ramras proposed amendment #20, increasing this credit to \$12 million. Co-chair Ralph Samuels objected.

Ramras said he wanted to be sure that the bill offers sufficient incentives for the smaller companies that he considers so important to maintaining the flow of new ideas and investments. "It puts a smile on explorer's faces."

"A bigger smile," added Samuels, but he removed his objection and the amendment was approved without objection.

*Amendment eliminating credits for past investments*

Following the rejection of Rep. Mary Kapsner's Thursday amendment to make the tax retroactive to January 1, 2006 (see rejected amendments, below), Kapsner suggested that the committee should be consistent. "In keeping with our decision and philosophy on retroactivity I would like to move amendment #8." The conceptual amendment directs the legal drafters to delete the "sections relating to transitional investment expenditures," thus disallowing any deduction or credits for investments made before April 1, 2006.

Samuels objected, suggesting that viewing the deduction as equivalent to taxable income is an apples and oranges comparison. Ramras agreed, noting that the draft substitute greatly reduces the retroactive deductions in the original bill (which allowed 100 percent of investments in the previous five years) to a reduced percentage of the investments during the previous three years.

Crawford said the companies have for years benefited from the inappropriately low severance tax, which more than compensated them for those investments.

Seaton acknowledged that this is a "troubling area," but said he doesn't think it will affect future exploration

To the probable surprise of the oil lobbyists in the room—and certainly to the surprise of Kapsner—her amendment passed on a 5-4 vote. "I thought, gee, maybe I should go out in the hall and write some more amendments," she said later.

Voting to eliminate the transition deductions were Crawford, Rep. Jim Elkin, Rep. Gabrielle LeDoux, Kapsner and Seaton. Voting against the amendment were the two co-chairs, Samuels and Ramras, joined by Olson and Gatto.

*Amendment allowing credits and deductions for investments made in the first quarter of 2006*

Having removed the transition provisions entirely, the committee decide to give back a little bit of transition relief allowing deductions and credits for investments made after January 1, three months before the April 1 date when most of the tax provisions start collecting money for the state.

The amendment (#14) was approved on Friday with little discussion and no dissent.

*Amendment increasing the surtax to 37.5 percent at WTI prices above \$110 per barrel*

Seaton described his amendment #15 as if it simply clarified the effect of the surtax in terms of the "50-50 split at \$110 per barrel and above." The effect of the amendment, however is to establish a new surtax formula under which the tax rate increases from 17.7 percent at \$109.99 per barrel to 37.5 percent at \$110.00 per barrel and above. The draft substitute bill had the surtax ceiling at 30 percent, which would apply at any WTI price above \$150 per barrel

The amendment was approved with no further discussion and without objection, although Ramras referred to it later in dissuading Kapsner from offering another amendment that she had drafted, to raise the base PPT rate from 20 to 25 percent.

*Amendment limiting deductibility of expenses of a catastrophic oil spill*

By Crawford, amendment #13, lifted from language applying to the state corporate income tax, disallows as a deductible expense any costs incurred as a result of a catastrophic oil spill.

The amendment was approved without objection.

*Technical amendments*

Four technical amendments to correct drafting errors and clear up confusions were approved without objection. Robert Mintz, the assistant attorney general who drafted the administration's original bill, explained all. Despite the explanations, most committee members, lobbyists and reporters had only the dimmest understanding of the specifics.

*Amendment #1* clarifies the adjustments that must be made to avoid allowing windfall deductions of lease expenditures that are later reimbursed by a third party. "It corrects a timing problem," explained Mintz. Without the amendment an asset acquired in one year could create a net loss carry-forward in that year, and then be sold in another year.

*Amendment #2* conforms the language to the change made elsewhere in AS 23.55.170 to substitute a the \$10 million annual credit for the previous \$73 million allowance, and requires that the expenditure must be a qualified capital expenditure as defined elsewhere in the bill. In response to a question from Paul Seaton, Co-chair Samuels said the provision does not allow lease acquisition expenses as a qualified capital expense.

*Amendment #3* allows the Dept. of Revenue to adopt retroactive regulations to deal with a retroactive effective date. Generally the law prohibits regulations to have retroactive effect.

*Amendment #4* fixes ambiguities and inconsistencies in the effective date clauses created by the overall change creating two effective dates.

*Amendment #7* conforms language and references to be consistent with the three-fold scheme of taxation in the new bill--the original 20-percent tax on the leaseholder's net-profits from oil and gas, 5 percent on the gross value of private royalty oil, and the "surtax" on the gross value of all oil when prices are above the trigger price (\$50 per barrel in the Resources CS).

## Rejected amendments

The following amendments were offered and rejected:

### *Amendment to make tax retroactive to January 1, 2006*

On Thursday Kapsner offered amendment #6, to make the tax retroactive to January 1 instead of April 1, 2006. She noted the change would add approximately \$250 million to state revenue, and read from testimony by consulting economist Pedro van Meurs suggesting that the retroactive date would have little impact on the producers' long-run economics.

"I wouldn't want the IRS to do it to me," commented Samuels, opposing the amendment.

Kapsner responded that the April 1 date would almost certainly also be retroactive to the date that the bill finally becomes law.

Samuels agreed: "We may not get this done by April 1. We may be here to July."

The amendment failed on a 3 to 6 vote, with Crawford, Elkin and Kapsner in favor, Gatto, Olson, LeDoux, Samuels, Ramras and Seaton opposed.

### *Amendment to establish a "high energy cost offset fund"*

Kapsner's amendment #10 establishes a "high energy cost offset fund" in the general fund, but the amendment did not say where the money would come from, or include any scheme for how it would be spent. Kapsner said her plan, though not yet reflected in the amendment, is to have money only flow into the fund when oil prices are especially high. The money in the fund would be used to subsidize energy costs when they are high. Kapsner said the details could be worked out later.

Seaton said the notion of creating an "energy fund" doesn't belong in this bill.

Samuels agreed, suggesting that doing a big tax bill is treacherous enough without loading it up with all sorts of extraneous provisions.

Crawford disagreed. "Now is the proper time to go on record."

Ramras expressed moral support for the concept. "People in Fairbanks are using credit cards to straddle the high heating cost months in the winter of '05-'06." He said he agrees that this bill is not the right place for it, but he supports the intent.

The amendment failed on a 3-6 vote, with Republican LeDoux joining Democrats Crawford and Kapsner in favor.

### *Amendment to lower the surtax trigger to \$45 per barrel*

Under the draft House Resources Committee substitute bill the trigger price above which the surtax would be levied was set at \$50 per barrel. Seaton's amendment #12 would have lowered that to \$45. The amendment stimulated lots of philosophical discussion about balancing the extra progressivity and the revenue the amendment would bring to the treasury with the risk that the oil industry would cut back its Alaska investments.

"If somebody is on the bubble, and their investment falls off, it's a tremendous loss to my community Fairbanks," commented Ramras. He said the PPT bill is about three things: raising taxes to a fair level for the state, getting more oil down the pipe, and facilitating the shift of Alaska from an oil economy to a gas-based economy. From his perspective, the state treasury is the least important of the three: "It's the bronze medal. I'm more interested in the gold and silver."

Ramras said he was impressed with the charts submitted by BP that showed the sources of new oil coming predominately from developments in existing fields. "We need to get the last barrel, not just the next barrel."

Crawford said the current substitute puts all the state's eggs in the "high oil price basket." He did not explain how Seaton's proposed amendment would change that, and admitted that he is in a quandary about how to vote on it. "I would have preferred a graduated tax, with a floor." He said he is afraid the oil companies will outfox the state anytime the issue comes down to determining net profits. "If you look at our net profits leases, we don't do nearly as well on them as we do [with royalty leases]. ... This is putting perfume on a pig," said Crawford in summary, but a few moments later he voted for the amendment anyway. The tally was 3-6, with Seaton and Kapsner joining him in support.

*Amendment to delete the optional use of royalty settlements on determining production value*

On Friday Kapsner moved her amendment #9 to eliminate the discretion the commissioner of revenue would have to use royalty settlement agreements as a benchmark in establishing the gross value at the point of production. Administration consultant and former Tax Division Director Dan Dickinson testified that the provision is only an option, and that he presumes that the commissioner would be sure to prevent any field cost deductions that might be a part of the royalty valuation from entering the tax calculation.

The amendment failed on a vote of 2-7, with only Democrats Crawford and Kapsner voting in favor.

*Amendment to establish a PPT revenue floor*

Crawford moved amendment #16, to establish a floor on PPT revenue equal to 6 percent of the gross value at the point of production. "This will protect the state on the downside," said Crawford.

Ramras agreed it would protect the state on the downside, but said he fervently considers that kind of protection unfair. He recalling his lease for restaurant space in a Fairbanks mall, where the landlord took a percent of gross when times were good, and a fixed rent when gross revenue was below a threshold: "[With this bill] we're getting it on the high end. We need to take the risk on the low end."

Samuels said he agrees with Ramras, adding that "savings is the key," so the state will be able to weather the times when prices are low.

*Amendment to remove gas from the bill*

Crawford offered conceptual amendment 17, to remove natural gas from the tax changes in the bill. He argued that the state should not change its tax structure on gas until it sees the Stranded Gas Act contract that the producers and the state say they have agreed to.

Samuels pointed out the conceptual difficulties that applying the PPT to just oil or just gas would entail in terms of allocating costs, but Crawford countered that costs could be allocated based on production, presumably using BTU or some other measure of equivalence.

The amendment failed on a vote of 2-7, with the two Democrats, Crawford and Kapsner voting yes.

# LEGAL SERVICES

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

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

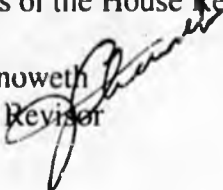
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 16, 2006

**SUBJECT:** Amendments to CSHB 488(RES), draft version "Y"  
(Work Order No. 24-GH2052\Y.4 - Y.7)

**TO:** Representative Jay Ramras  
Representative Ralph Samuels  
Co-Chairs of the House Resources Committee

**FROM:** Jack Chenoweth   
Assistant Revisor

Dan Dickinson visited me this morning, bringing with him four "clean up" amendments to the draft committee substitute supplied yesterday. Since I could not assure him that we could produce a new draft committee substitute incorporating the changes by the time of your scheduled early afternoon hearing, this memo transmits that material set out as four amendments.

In the main, the material tracks the language offered by Mr. Dickinson. However, in amendment Y.6, reference in material supplied by Mr. Dickinson to "sec. 16" seemed incorrect, and I renumbered; please check the references.

I told Dan that, in any final version of the committee substitute, the content of bill sections 29 - 31, amending various subsections of AS 43.55.201, would be brought together in just one bill section, and the content of bill sections 33 - 35, amending various subsections of AS 43.55.300, would be similarly treated.

JBC:med  
06-221.med

Enclosures

## Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207  
Anchorage, Alaska 99503-2035  
Phone: (907)272-1481 Fax: (907)279-8114  
Email: [brady@aoga.org](mailto:brady@aoga.org)  
*Judith Brady, Executive Director*

TO: Senator Tom Wagoner  
Senate Resources Chairman

Representative Ralph Samuels  
House Resources Co-Chairman

Representative Jay Ramras  
House Resources Co-Chairman

FROM: Judith Brady, AOGA Executive Director

DATE: February 24, 2006

RE: Written Testimony for Joint Resources Committee – February 25, 2006

Thank you for the opportunity to provide written testimony for the Joint Resources Committee, Saturday, February 25, 2006 regarding HB 488 and SB 305 – Governor Murkowski's proposal to create a new production tax on the net value of oil and gas.

The Governor's proposal is estimated to be a billion dollar annual tax increase on the Alaska oil and gas industry – doubling the severance tax collected from the current system. This is, by any standard, an unprecedented increase that is of significant concern to AOGA.

Any changes to the existing tax system should continue to maintain as well as improve Alaska's competitiveness in the world in order to attract new capital spending. Increased industry spending will result in greater oil and gas production, more revenue to the State and more jobs for Alaskans. Alaska should strive to be in the upper quartile of competitiveness to attract companies and grow the Alaska private sector economy.

As we all know, this bill is complex. Individual AOGA member companies will need time to fully evaluate the details contained in the 22-page proposal and determine how the provisions of the bill affects each of their operations.

We look forward to working with you.

Cc: Members of House & Senate Resources Committees



## **THE ALLIANCE**

... for responsible development of Alaska's Oil, Gas & Mineral Resources

### **HOUSE-SENATE RESOURCES TESTIMONY.1 On House Bill 488 – Senate Bill 305 February 25, 2006**

Mr. Chairman, thank you for this opportunity to comment on Senate Bill 305 and House Bill 488. My name is Paul Laird, and I'm the general manager of the Alaska Support Industry Alliance.

As a trade organization representing companies and individuals that provide goods and services for Alaska's oil, gas and minerals industries, we know first-hand the critical role that investments in oil and gas exploration and development play in sustaining our members' businesses. As Alaskans, we also know the critical role they play in the future of our state's economy.

We're encouraged by the tax credits and annual allowance contained in these bills, because we believe they will achieve their goal of stimulating new investments both in developing known oil and gas resources and in finding new ones.

To the extent that this legislation could represent a critical step toward providing the fiscal stability and predictability investors will need in order to build a multibillion-dollar gas project, we're encouraged by that, too.

But the Alliance is also deeply concerned about the prospect of a \$1 billion annual tax increase on the industry that's already providing about 90% of Alaska's state revenues and the potential impacts on Alaska's competitiveness and its ability to attract the investments that are our state's lifeblood.

We're also concerned about extracting another \$1 billion a year from the private sector in order to provide even greater funding to a state government that's already projecting a \$1.2 billion budget surplus in the short term, that's growing at a disturbing rate and that still has no fiscal plan for managing excess funds during the good times or balancing the budget when times are lean.

This legislation is very complex, and it has historic implications not only for our industry, but for our state. We, like you, are still working to fully understand the implications to future investments, and thereby, to the economic future of Alaska.

As you consider how to ensure that Alaska gets its "fair share" of the profits from oil and gas production, which effectively means more money to grow the size of state government, the Alliance's 400 member organizations and the more than 30,000 employees who work for them in Alaska urge you to also consider what effect this legislation will have on growing Alaska's economy, and on Alaskans getting our fair share of the private sector jobs and business opportunities that will only come through new oil and gas investments.

#### **ALASKA SUPPORT INDUSTRY ALLIANCE**

360 W. Benson Blvd., Suite 200 • Anchorage, Alaska 99503 • Phone: (907) 563-2226 • Fax: (907) 561-8870 • [www.alaskaalliance.com](http://www.alaskaalliance.com)

**HB**

**497**

# ALASKA STATE LEGISLATURE

## INTERIM

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Suite #203  
Ketchikan, Alaska 99901  
Phone: (907) 247-4672  
Fax: (907) 225-7157



## SESSION

Suite 416  
State Capitol Building  
Juneau, Alaska 99801  
Phone: (907) 465-3424  
Fax: (907) 465-3793

## REPRESENTATIVE JIM ELKINS

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### Sponsor Statement HB 497

Today before you is House Bill 497 "An Act providing for the transfer of property at Clark Bay to the Inter-Island Ferry Authority." If enacted, HB 497 would authorize the Department of Natural Resources to transfer the ownership of certain property to the Inter-Island Ferry Authority for the operation of the Clark Bay Terminal on Prince of Wales Island. Passage of this bill will allow the IFA to construct a new terminal which will provide more efficient marine ferry service to the residents of Prince of Wales Island and Ketchikan and adjacent areas of southern Southeast Alaska. This transfer of ownership implements the intent of the Memorandum of Agreement between the State of Alaska Department of Transportation and Public Facilities and the Inter-Island Ferry Authority, signed July 28, 2000 and August 1, 2000, respectively.

We respectfully request the Resources Committee to adopt the CS for House Bill 497 which will authorize the Commissioner of Natural Resources to transfer land to the Hyder Board of Trade, Inc. for use in support of marine and economic development initiatives. The Roanan Corporation stands ready to work with the Hyder Board of Trade to acquire and develop the "unoccupied tidelands" between their waterfront property (A.T.S. 206) and the Hyder Causeway. This area is approximately the same size the Hyder Board of Trade seeks to have transferred by the Alaska State Legislature. Information on the proposed facility is included in your packets and illustrates the benefits it would bring to Hyder, Alaska as well as the rest of the State.

If either the Inter-Island Ferry Authority or the Hyder Board of Trade, Inc. ceases to exist the land shall revert back to the Department of Natural Resources. We ask for your support on this legislation, thank you.

24-LS1740Y  
Kurtz/Bullock  
4/17/06

**CS FOR HOUSE BILL NO. 497( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE TRANSPORTATION COMMITTEE**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act providing for the transfer of property at Clark Bay to the Inter-Island Ferry**  
2 **Authority and providing for the transfer of property to Hyder Board of Trade, Inc."**

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

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

6 **TRANSFER OF LAND TO THE INTER-ISLAND FERRY AUTHORITY.** (a) The  
7 commissioner of natural resources is authorized to transfer the land described in (b) of this  
8 section to the Inter-Island Ferry Authority.

9 (b) The following land is to be transferred to the Inter-Island Ferry Authority under  
10 (a) of this section:

11 (1) Alaska Tideland Survey No. 1041, within Section 34, Township 73 South,  
12 Range 84 East, Copper River Meridian, containing 4.36 acres more or less;

13 (2) Alaska State Land Survey No. 83-43, within Section 34, Township 73  
14 South, Range 84 East, Copper River Meridian, containing 2.1 acres more or less;

1 (3) State of Alaska unsurveyed tideland and submerged land adjacent to  
2 Alaska Tideland Survey No. 1041, containing 3.11 acres more or less; and

3 (4) State of Alaska unsurveyed upland adjacent to Alaska State Land Survey  
4 No. 83-43, containing 1.68 acres more or less.

5 (c) If the Inter-Island Ferry Authority ceases to exist or the operations of the Inter-  
6 Island Ferry Authority cease at the Clark Bay Terminal located on or adjacent to the land  
7 transferred under this section, the land described in (b) of this section shall revert to the  
8 Department of Natural Resources.

9 (d) This section constitutes legislative approval required under AS 29.35.722(1) for  
10 the transfer of the state asset described in this section.

11 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 TRANSFER OF LAND TO THE HYDER BOARD OF TRADE, INC. (a) The  
14 commissioner of natural resources is authorized to transfer the following land, along with  
15 improvements to the land, to the Hyder Board of Trade, for use in support of marine and  
16 economic development initiatives of the Hyder Board of Trade:

17 (1) Alaska Tideland Survey No. 1622, Tract A, within Section 12, Township  
18 69 South, Range 100 East, Copper River Meridian, consisting of 0.41 acres;

19 (2) State of Alaska unsurveyed tideland and submerged land adjacent seaward  
20 to Alaska Tideland Survey 1622, Tract A, and positioned exactly between Alaska Tideland  
21 Survey 1115 and Alaska Tideland Survey 206. The landward boundary point of the  
22 unsurveyed transfer is represented as boundary corner marker point A.T.S.1115, C-1. The  
23 unsurveyed tideland and submerged land is within Section 12, Township 69 South, Range 100  
24 East, Copper River Meridian, consisting of 1.98 acres, more or less, subject to any existing  
25 right-of-way held by the state.

26 (b) The land transferred under (a) of this section may not be

27 (1) used as security for a loan; or

28 (2) transferred to another person, except that the land may be transferred to the  
29 state or to a municipality that includes the community of Hyder within its boundaries.

30 (c) If the Hyder Board of Trade, Inc., is dissolved or otherwise ceases to exist, or if  
31 the Hyder Board of Trade ceases to use the land for support of marine and economic

- 1 development initiatives of the Hyder Board of Trade, the land transferred under this section
- 2 shall revert to the Department of Natural Resources.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB487-DNR-ML&W-04-5-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: TRANSFER CLARK BAY TERMINAL RDU: Resource Development  
 Component: Claims, Permits and Leases  
 Sponsor: House Transportation  
 Requester: (H) RES Component No.: 2460

**Expenditures/Revenues (Thousands of Dollars)**

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>						

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( *** )</b>	*** Indeterminate***					
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**FUND SOURCE (Thousands of Dollars)**

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)						
<b>TOTAL</b>						

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation would authorize DNR to convey title to parcels of state owned uplands and tide and submerged lands located in Clark Bay, near Hollis, Alaska to the Inter-Island Ferry Authority. It is unclear as to whether the conveyance is mandated or discretionary, or if the conveyance is to be at fair market value or without cost to the Authority.

Due to the lack of exemptive language, DNR assumes that a finding and public review under AS 38.05.035 and AS 38.05.945 will be required. Other than a small but indeterminate amount of land value generated from the possible sale of the small parcels, there is no anticipated significant fiscal impact associated with this proposed legislation. DMLW's existing staff will prepare the best interest finding and the public review and conveyance for these parcels.

Prepared by: Dick Mylius, Acting Director  
 Division: Mining, Land & Water  
 Approved by: Michael L. Menge, Commissioner  
 Agency: Natural Resources

Phone: 907-269-8625  
 Date/Time: 4/25/2006  
 Date: 4/25/2006

Alaska Statutes: AS 29.35.722. Ownership or Operation of Certain State Facilities P

You can also go to The Alaska Legal Resource Center or search the entire website.

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Alaska Statutes.

Title 29. Municipal Government

Chapter 35. Municipal Powers and Duties

Section 722. Ownership or Operation of Certain State Facilities Prohibited.

previous: Section 720. Conflicting Laws Inapplicable.

next: Section 725. Definitions.

AS 29.35.722. Ownership or Operation of Certain State Facilities Prohibited.

The state may not, without the approval of the legislature,

(1) convey or transfer the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state asset, except undeveloped state land as provided in AS 38.05.810 or surplus property, to an authority; or

(2) enter into an agreement with an authority under which the authority would operate the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state facility, system, or function that employs one or more employees.

Note to HTML Version:

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Last modified 9/3/2005

Alaska Statutes: AS 38.05.810. Public and Charitable Use.

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Alaska Statutes.

Title 38. Public Land

Chapter 5. Alaska Land Act

Section 810. Public and Charitable Use.

previous: Section 801. Management of Mental Health Trust Land.

next: Section 820. Occupied Tide and Submerged Land.

AS 38.05.810. Public and Charitable Use.

(a) Except as otherwise provided in AS 38.05.183 (h), the (1) lease, sale, or other disposal of state land or resources may be made to a state or federal agency or political subdivision, (2) lease, sale, or disposal of coal deposits suitable for mining may be made to a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, (3) sale or other disposal of state land may be made to a tax-exempt, nonprofit corporation, association, club, or society organized and operated for the management of a cemetery or a solid waste or other public facility, or (4) sale or other disposal of land within a state subdivision may be made to that subdivision's nonprofit, tax-exempt homeowners' association, for less than the appraised value as determined by the director and approved by the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the applicant, and of the terms of the grant under which the land was acquired by the state. The commissioner shall ensure, by regulation, deed restriction, covenant, or otherwise, that disposals of land under this subsection serve a public purpose and are in the public interest.

(b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the director, upon application filed by an applicant eligible under (b) - (d) of this section, may, by negotiation and without public auction in the manner prescribed in (b) - (d) of this section, lease state land for a term of not more than 55 years. Before leasing, the director shall prepare a land use plan and a land classification to insure that the proposed use is compatible with area utilization. Before the land may be leased under (b) - (d) of this section, it must be shown to the satisfaction of the director that the land is to be used for an established or definitely proposed project, and that the eligible applicant has the financial ability to carry out the project. The commissioner may establish limitations on the acreage which may be leased under (b) - (d) of this section to an applicant.

(c) Eligible applicants under (b) - (d) of this section are limited to nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development. No lease of land may be granted under this section for a project closed to the use and enjoyment of the general public. In every case the applicant shall submit evidence that it is exempt from payment of federal income tax. As a condition of and in consideration of the rights acquired under a lease granted under (b) - (d) of this section, each eligible organization and its parent or subsidiary organizations shall (1) maintain and preserve books, accounts, and records that the director prescribes by regulation as necessary and appropriate; and (2) accord at all reasonable times to the state and its authorized agents and auditors the right of access to those books, accounts and records for the purpose of inspecting, examining and copying them. Any information provided the state in the course of an audit becomes a matter of public record.

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for which the land is to be used and the financial resources of the applicant. The rental may not be less than one percent of the fair market value on land acquired primarily for development, or less than five percent of the fair market value on acquired land. Rent may not be charged for state land leased for a youth encampment. For the purposes of this subsection, "youth encampment" shall be defined by the Commissioner by regulation. Renewal leases may be issued at the discretion of the director upon the expiration of a primary or renewal term. Each lease shall contain a provision for its termination as to all or part of the land upon a finding by the director that the land or a part of it has not been used by the lessee for the purpose specified in the lease for a period of two years. No lease may be assigned or subleased except with the consent of the director, and in any case may only be transferred to an applicant eligible under (b) - (d) of this section. A lessee may not change the use specified in the lease to another or additional use except with the consent of the director. If, at any time after the land is leased, the lessee attempts to assign the lease or transfer control over the land to another, or if the land is devoted to a use other than that for which the land was leased without the consent of the director, the lease automatically terminates.

(e) The lease, sale, or other disposal of state land at appraised fair market value may be negotiated with a licensed public utility or a licensed common carrier by the director with the approval of the commissioner if the utility or carrier reasonably requires the land for the conduct of its business under its license.

(f) The commissioner shall lease state land for telephone or electric transmission and distribution lines for less than the appraised value of the land if the lessee is a nonprofit cooperative association organized under AS 10.25. The commissioner may lease state land that is not located within the boundary of a municipality for the disposal of garbage, refuse, trash, or other waste material for less than the appraised value of the land if the lessee is a licensed public utility authorized to collect and dispose of garbage, refuse, trash, or other waste material outside the boundaries of a municipality. Before determining the annual rental, the commissioner shall consider the nature of the public service rendered by the nonprofit cooperative association or licensed public utility and the terms of the grant under which the land was acquired by the state. A nonprofit cooperative association may not construct improvements other than transmission or distribution lines and substations on land leased under this subsection. A licensed public utility may not construct permanent improvements on land leased under this subsection that are not related to the purpose of the lease.

(g) The commissioner shall retain a reversionary interest on each sale or other disposal granted under (a) or (e) of this section. The commissioner may waive the reversionary interest on a written determination that the waiver is in the public interest.

(h) The commissioner may issue permits to the Alaska Aerospace Development Corporation for purposes of down range space vehicle or payload overflight, booster retrieval, and recovery. The commissioner may, if it is in the best interests of the state, lease land to the Alaska Aerospace Development Corporation for other space-related purposes for, or at less than the appraised market value.

(i) Subject to AS 38.05.820, the commissioner may lease undeveloped state land, including tideland, to a port authority established under AS 29.35.600 - 29.35.730, if the state land is within the physical boundaries of the authority and is needed by the authority for purposes provided in AS 29.35.600 - 29.35.730. The commissioner may lease developed state land, including tideland, to a port authority established under AS 29.35.600 - 29.35.730 only if, (1) the developed state land is within the physical boundaries of the authority; (2) the developed state land is needed by the authority for purposes provided in AS 29.35.600 - 29.35.730; and (3) the legislature approves the lease. A lease of state land under this subsection may be for less than the appraised market value.

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Last modified 9/3/2005

# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

## DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

6800 GLACIER HIGHWAY  
JUNEAU, AK 99801-7900

### SOUTHEAST REGIONAL DIRECTOR'S OFFICE

PHONE: (907) 485-1763  
TTY/TDD: (907) 485-4847  
FAX: (907) 485-2018

November 3, 2005

S. Thomas Briggs  
Inter-Island Ferry Authority  
P.O. Box 495  
Craig, AK 99921

RE: Clark Bay Ferry Terminal

Dear Mr. Briggs:

In review of the legislation pertaining to the subject terminal, the Department's authority is limited to entering an agreement with the IFA for operation of the facility. We do not have authority to convey the improvements. However, given that removal and disposition of the existing terminal building is necessary to upgrade the facility, whatever actions IFA deems necessary to accomplish this are within the management authority previously granted. With this letter you have the States concurrence to proceed with the removal and disposition of the existing terminal building as a necessary part of constructing a new terminal building.

In the future we may want to mutually consider pursuing approval from the legislature to convey the property and improvements to the IFA.

Sincerely,  
DOT & PF Southeast Region



Malcolm A. Menzies, P.E. & L. S.  
Director

**A RESOLUTION OF THE HYDER BOARD OF TRADE INC.  
REQUESTING AND SUPPORTING THE TRANSFER OF TWO  
TIDELAND PARCELS FOR A HYDER MARINE AND  
ECONOMIC DEVELOPMENT INITIATIVE**

Resolution 06-02

**WHEREAS:** The rural community of Hyder Alaska has very limited waterfront to develop marine facilities; and

**WHEREAS:** The need for marine facilities in Hyder is critical to any future community development activity and exceeds the ability of Alaska DOT/PF to address local needs in a timely manner; and

**WHEREAS** The community has a long history of supporting development of the Hyder Intermodal Terminal; and

**WHEREAS:** No municipal government exists in Hyder, and incorporation of the future City of Hyder will demand establishment of a solid economic base within the community prior to efforts of incorporating the community; which is supported by the Hyder Board of Trade; and


**WHEREAS:** The Hyder Board of Trade has an aggressive program of economic development requiring marine facilities to maximize local resource extraction activity; and

**WHEREAS:** The Hyder Board of Trade has identified two parcels of tideland for transfer by the Alaska Legislature to our organization from the State of Alaska, and described as A.T.S. 1622, Tract A, and the adjoining unsurveyed parcel.

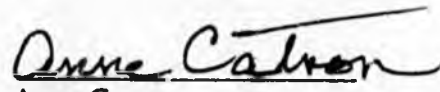
**NOW THEREFORE BE IT RESOLVED THAT:** The Hyder Board of Trade requests a Alaska Legislative transfer of the two parcels to the organization.

**BE IT FURTHER RESOLVED THAT:** John Pearson is fully authorized to speak, sign and represent the Hyder Board of Trade on all matters related to the tideland transfer and proposed legislation.

**ADOPTED BY THE HYDER BOARD OF TRADE INC. April 7, 2006**



Gary Benedict  
President  
Hyder Board of Trade, Inc.



Anne Catron  
Secretary  
Hyder Board of Trade, Inc.

## The Hyder Marine Terminal Tideland Transfer Request

Project Sponsor: Hyder Board of Trade, Inc.  
Organization Type: Not-for Profit, 501-(C)(6)  
Organization Mission: Community Economic Development

*Hyder board of  
Trade*

Contact: John Pearson  
Administrator / Project Planner  
Tel: (907) 789-14002  
e-mail: [jpearson@ptialaska.net](mailto:jpearson@ptialaska.net)

### Project Element Description

The desire and efforts to construct a marine facility in the isolated community of Hyder has a long history as a priority project of the community. With a weak voice in both the political and bureaucratic process primarily due to the size of the community progress with the project has been difficult.

A key element of facility development will be in addition to design and project funding will be the availability of approximately 100,000 square feet of submerged lands and tidelands in order to expand the footprint of the existing small Harbor Island.

Once a significant portion the needed submerged lands has been secured for construction of the expanded island has been secured, the process of permitting for the facility design can begin without hesitation.

Essential to the Board of Trade project design is acquisition of A.T.S. 1622, Tract A, which contains a failing and dangerous vessel float, and noncompliant ADA ramp of DOT. A new float and ramp is included in the Board of Trade development plan, with expanded capability to accommodate small cruise vessels.

Adjacent to A.T.S. 1622, Tract A, is approximately 1.98 acres of unoccupied DNR tidelands identified as vital to the marine terminal project. from the standpoint of the future expanded footprint of Harbor Island.

On site project development is planned for 2007 and 2008 with funding and contribution partnership from the Denali Commission, U.S. Forest Service, State of Alaska, Hyder Board of Trade, Stewart British Columbia and assistance by Roanan Corporation.

A primary aspect of the facility design and usage is the on construction ability of the Hyder Board of Trade to move large quantities of the massive gravel deposits found in Hyder to Southeast and Statewide construction projects. These gravel sales will additionally generate significant program receipts for the Department of Natural Resources. The Board of Trade position is that the tideland contribution by DNR should be viewed in the interest of the agency to generate future program receipts.

On completion in 2008, the new facility will be capable of handling resource (gravel) barges, ferries, and small cruise vessels.

The new Port of Hyder facility will operate under a strict management program providing for the sustainability, the development of new job opportunities and revenue levels to assist in community needs.

It is essential that these first two transfers be accomplished in order for the project to move forward and the planned funding base of the project to be retained.

All questions should be directed to John Pearson the project coordinator, at (907) 789-1402 or by e-mail: [jpearson@ptialaska.net](mailto:jpearson@ptialaska.net) .

# **HYDER MARINE TERMINAL**

## **A TIDELAND TRANSFER REQUEST TO THE 24<sup>TH</sup> SESSION OF THE ALASKA LEGISLATURE**

April 2006

An Economic Development and Community Stability Initiative  
of the

**Hyder Board of Trade Inc.**

Hyder, Alaska

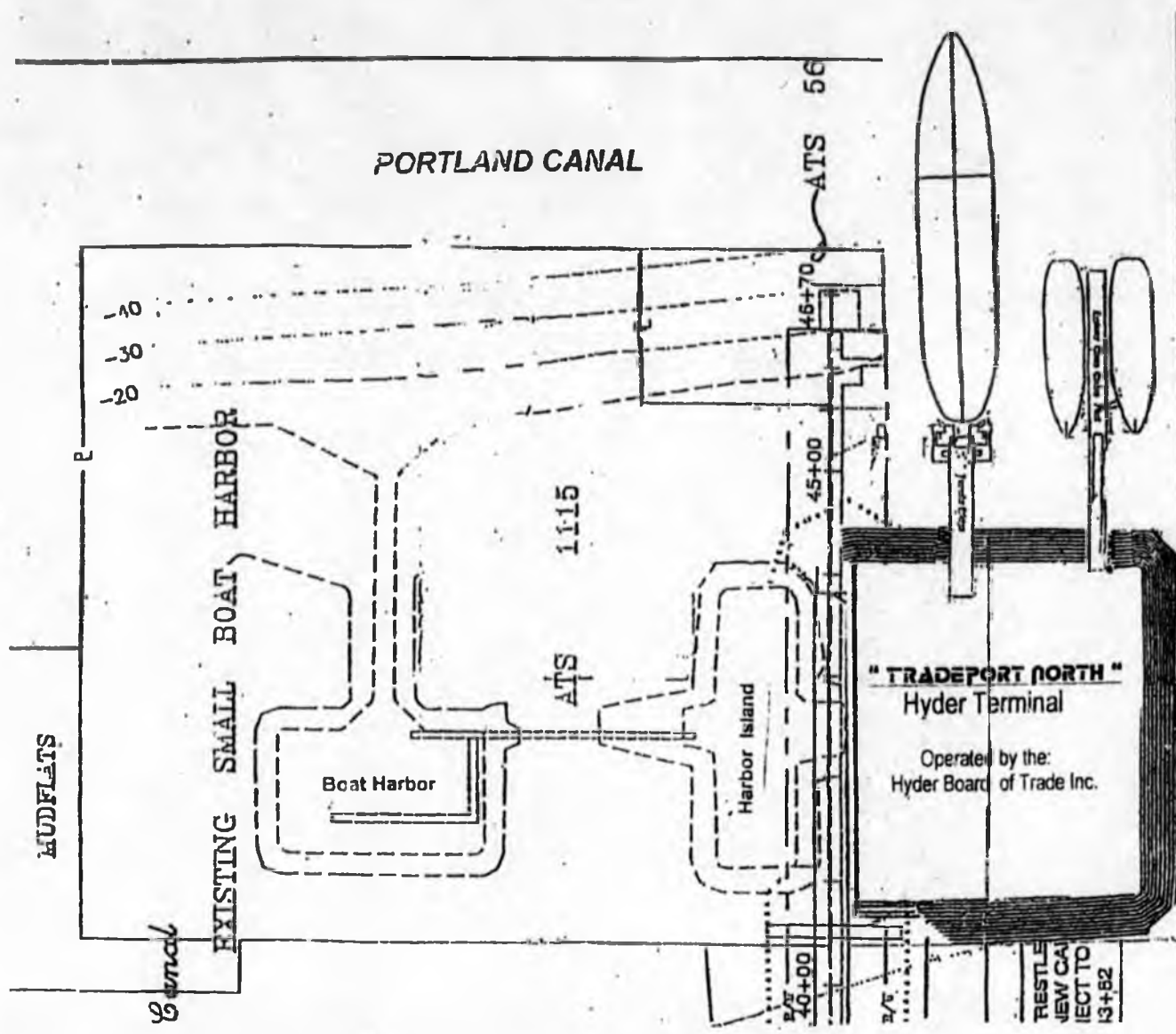
## **JUSTIFICATION FOR THE HYDER TRANSFER**

The Hyder marine facility project has many years of planning and identification as the number one priority of the community behind it. Unfortunately, only until the advent of the Denali Commission and recent developments in eco-tourism cruise programs as well as attention of the mining industry in the Hyder Mining District, has realization of the new facility moved forward.

The timeline for development of the project makes the project fully operational under the Hyder Board of Trade in 2008.

Specific factors associated with the completed project that brings justification and sustainability to the effort is:

- **ACCESS TO GRAVEL:** Today, many Alaska projects are moving gravel from the Pacific Northwest to Alaska due to a shortage of quality gravel. Based on the DOT/PF test results, the large deposits of the Salmon River gravel are very high in the desired quality. Estimates place the generation of yearly gravel deposits available in the Salmon River for transfer to projects at approximately 6 million cubic yards per year. With development of the planned marine facility, both the community of Hyder and the Alaska Department of Natural Resources will benefit from the facility. DNR benefits will come in the form of much increased program receipts from the sale of Hyder river gravel, with no facility infrastructure costs in Hyder to the State of Alaska.
- **SMALL CRUISE VESSEL PORT CALLS:** Over the last three years the Hyder Board of Trade has worked with the eco-tourism cruise industry to develop scheduled port calls to the community. This effort has started to create a basic economic base in the community and will continue to grow. The planned facility constructs a two-berth facility capable of handling vessels in the 88-120-passenger range.
- **FERRY FACILITIES FOR AMHS, IFA OR PRIVATE OPERATOR:** As AMHS has become linked to Prince Rupert, the Department of Transportation and state decision makers have failed to properly analyze the benefits of a Southern Terminus port, linked to the North American Highway system, absent of Canadian Customs holdups, and employing Alaskans. The Hyder facilities on completion in 2008, should bring a reappraisal of the Southern Terminus issue.
- **HOMELAND SECURITY ISSUE:** In the event of a closure of ports of Puget Sound or Canada due to a homeland security event, Alaska stands without a practical southern linkage to the lower 48. The multi-use Hyder facility provides for immediate Cassiar Highway access within 2,000 feet.



**FEATURES OF THE DEVELOPED FACILITY**

On Development of the Hyder Marine Facility the following features will be in place.  
 The timeline for completion of an operational facility with local M.&O. is 2008.

- Container & Gravel Barge Loading
- Ferry Service (AMHS, IFA, Private )
- Small Cruse Vessel Berthing
- Immediate Cassiar Highway Access
- Alaska's only Jones Act Exempt Port
- Fresh Fish Vans Hyder-Chicago in 52 hours
- Critical Gas Line Access Supply Route
- Access to Large Hyder Gravel Deposits
- New Jobs and Community Stability
- 24 / 7 Canadian Customs Clearing

- **JONES ACT EXEMPT:** Unknown to most is the fact that the Port of Hyder Alaska is exempt from the Jones Acts. This designation is only shared by two port facilities in United States.
- **AN IMPORTANT GASLINE SUPPLY ROUTE:** Even without the official announcement of construction details related to the Alaska-Canada gas project, discussion and inquiries are mounting about the use of Hyder, Haines and Skagway as important supply routes to the project.
- **SCHEDULED BARGE TRAFFIC:** Several barge operators including one Canadian operator has expressed an interest in the Hyder project. Until now no barge service has been available to Hyder for approximately forty years. This interest is sparked by the increased mining activity on both the U.S. and Canadian sides of the border.
- **MOVING ALASKA SALMON TO THE MARKETPLACE:** No fresh fish market outlet in Chicago should be without access to Fresh Alaska Wild Salmon product within 52 hours of leaving Alaska. The community of Hyder has first hand experience in the use of empty backhaul trucks traveling the Alaska and Cassiar Highways to points like Chicago. This linkage is immediately available at Hyder once the marine facility is built in 2008. The ferry/barge linkage with the trucks can be established with little effort.
- **24 / 7 CANADIAN CUSTOMS CLEARING:** The Hyder / Stewart customs station of open twenty-four hours per day for processing. This factor is important to all marine traffic movements.
- **NON-SOLAS CERTIFIED VESSELS WELCOMED:** Utilization of non-SOLAS vessels that are not certified to make port calls in Canada for linkage to the Canadian Highway System are fully capable of port calls in Hyder to link with the Canadian Highway. The use of non-SOLAS AMHS vessels between Ketchikan and Hyder should be an active part of all discussions in future expenditures, and recapture of AMHS traffic losses.

---

FOR MORE INFORMATION ON HYDER AND THE PROPOSED FACILITY CONTACT:

**John Pearson**  
**Economic Planner**  
**Hyder Board of Trade (Juneau Office)**  
**8216 Cedar Drive**  
**Juneau, AK 99801**  
**Tel: (907) 789-1402 e-mail: [jpearson@ptialaska.net](mailto:jpearson@ptialaska.net)**

## **Proposed Legislative Transfer of Tidelands and Submerged Land:**

Requesting the Transfer:

Hyder Board of Trade, Inc.,  
501-(C)-(6) Not-for-Profit, Community Economic Development Organization

Contact: John Pearson, Hyder Board of Trade, 789-1402, [jpearson@ptialaska.net](mailto:jpearson@ptialaska.net)

### **Purpose of the Request:**

- Construction of multi-use marine facilities capable of handling barges, ferries, small cruise vessels, work boat, and providing a staging area
- Construct facilities creating new local job opportunities in the community related to opening the Portland Canal Corridor connecting Ketchikan and Hyder-Cassiar Highway 37a to resource related activity.
- Provide an opportunity to jumpstart the sale and transportation of the massive gravel deposits found in the Hyder that lacks a barge loading facility. The Hyder gravel sales will bring significant revenue injections to DNR program receipts.

### **TRANSFER OF LAND TO THE HYDER BOARD OF TRADE INC.**

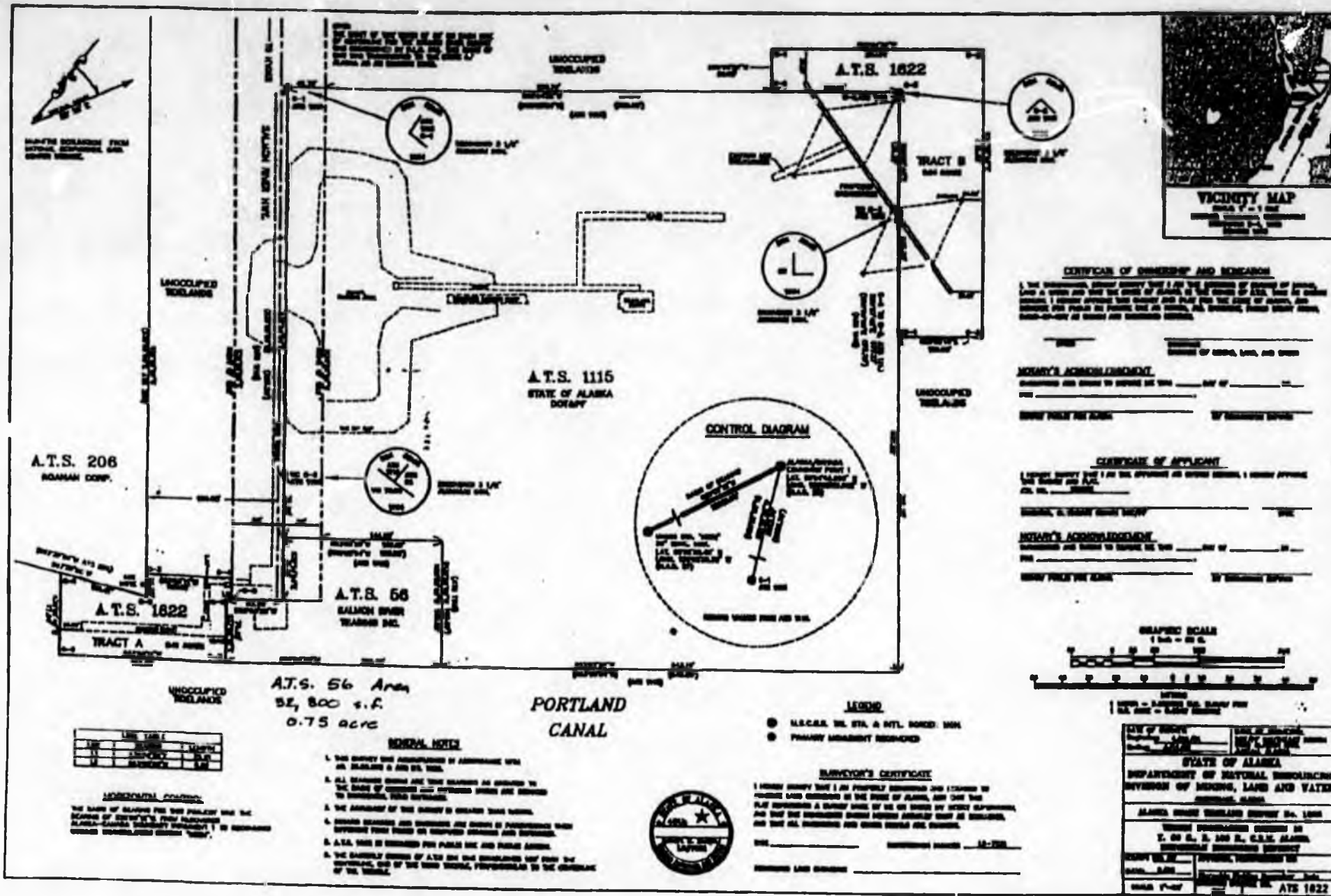
The Commissioner of the Department of Transportation and Public Facilities is authorized to transfer the following tideland, submerged land and ramp/float to the Hyder Board of Trade Inc. under this section:

- Alaska Tideland Survey 1622, within Section 12, Township 69S, Range 100E, Copper River Meridian, consisting of 0.41 Acres. This transfer includes a failing Department of Transportation vessel float and ramp, on a "where is, as is" basis.

The Commissioner of the Department of Natural Resources is authorized to transfer the following tideland and submerged land to the Hyder Board of Trade Inc

- State of Alaska unsurveyed tideland and submerged land (DNR), adjacent seaward to Alaska Tideland Survey 1622 (DOT&PF), and positioned exactly between Alaska Tideland Survey 1115 (DOT&PF) and Alaska Tideland Survey 206 (Roanan Corp.). The landward boundary point of the unsurveyed transfer is represented as boundary corner marker point A.T.S.1115,C-1. The unsurveyed tideland and submerged land (DNR) is within Section 12, Township 69S, Range 100E, Copper River Meridian, consisting of 1.98 acres, more or less. Transfer to the Hyder Board of Trade Inc. recognizes all State of Alaska Right-of-Ways.

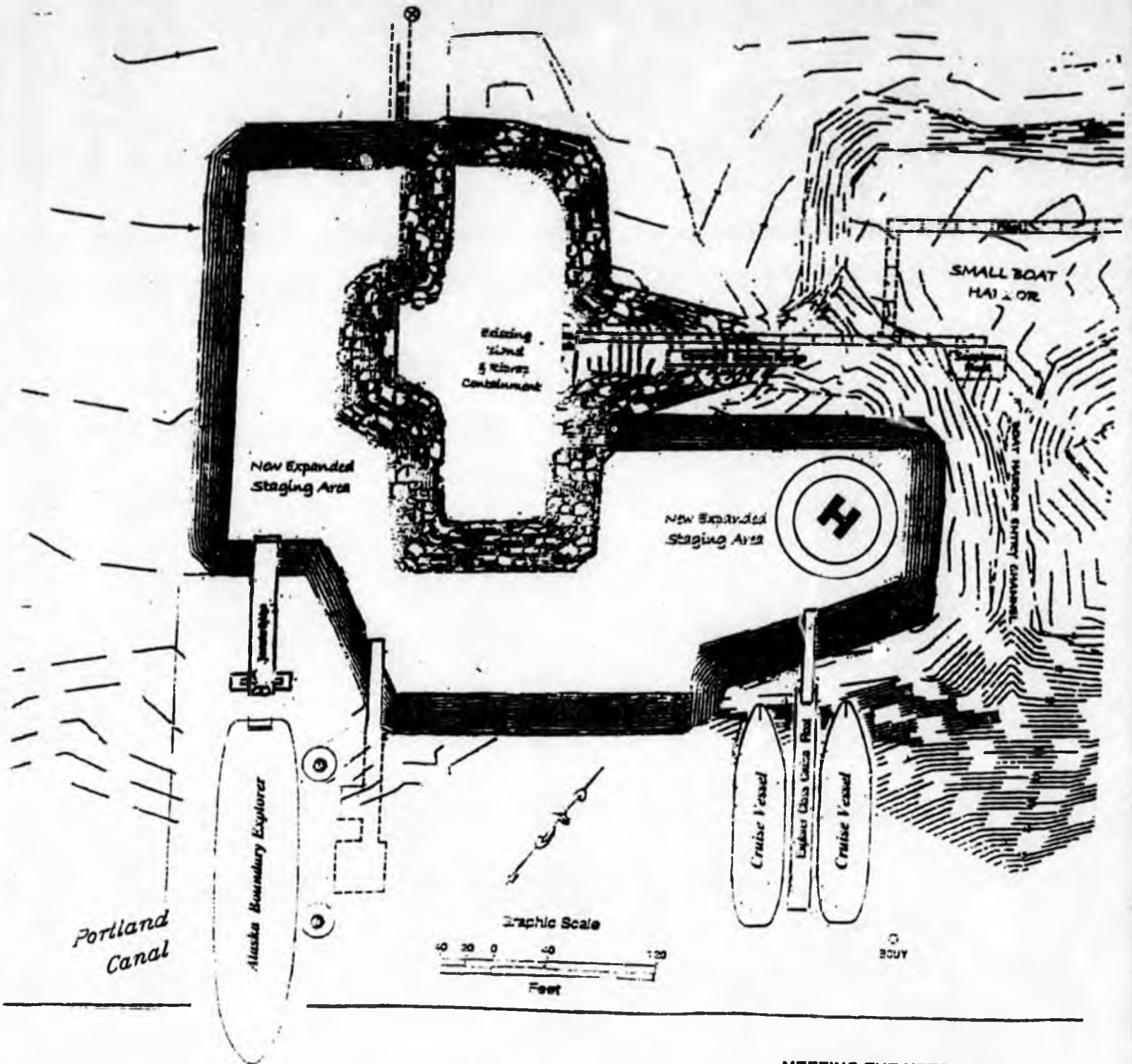
If the Hyder Board of Trade Inc. ceases to exist the Hyder marine facility located on the transferred tideland and submerged land under this section, shall revert to the respective Department of Natural Resources and Department of Transportation and Public Facilities.



A.T.S.1622, Tract A, DOT/PF	0.41 ACRES	
Unoccupied Tidelands, DNR	1.98 ACRES	

**REQUESTED TRANSFER**

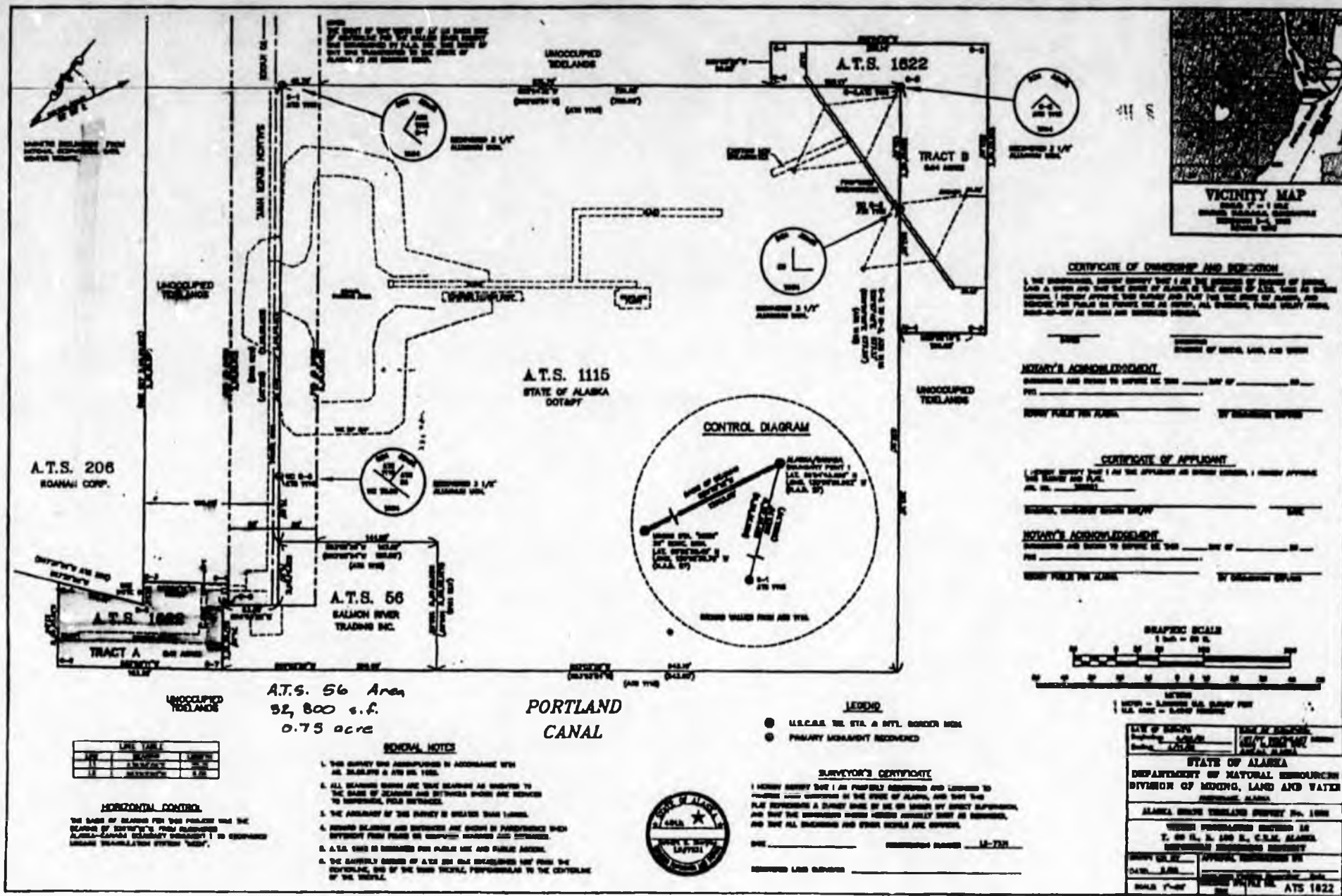
PROPOSED  
**HYDER INTERMODAL MARINE ACCESS TERMINAL**  
 PROVIDING THE KETCHIKAN-CASSIAR LINKAGE FOR RESOURCE DEVELOPMENT



*Alaska's*  
**Misty Fjord & Glacier Gateway**  
 via Hyder - Stewart

**MEETING THE NEEDS OF:**

- Ferries & Barges
- Small Cruise Vessels
- Work Boats
- Buses & RV Traffic
- Kayaks & Pleasure Craft
- Seaplanes & Helicopters
- USCG
- Emergency

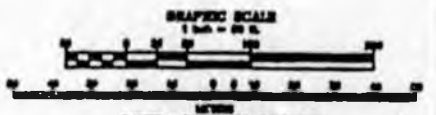


**CERTIFICATE OF OWNERSHIP AND POSSESSION**  
 I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE OWNER OF THE PART OF SAID LAND AS SHOWN AND THAT THE REST OF SAID LAND IS NOT AS SHOWN. I HEREBY APPROVE THIS SURVEY AND PLAN FOR THE STATE OF ALASKA, AND REQUEST FOR PUBLIC USE AS SHOWN, ALL DISTANCES, BEARINGS, BEING MEASURED BY ME AS SHOWN AND BEING CORRECTED.

**NOTARY'S ACKNOWLEDGMENT**  
 SUBSCRIBER AND SIGNER TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ AD 19\_\_\_\_  
 MYSELF FILED FOR ALASKA \_\_\_\_\_ BY \_\_\_\_\_

**CERTIFICATE OF AFFIDAVIT**  
 I, HEREBY CERTIFY THAT I AM THE AFFIDAVIT AS SHOWN HEREON, I HEREBY APPROVE THE NAME AND PLAN.

**NOTARY'S ACKNOWLEDGMENT**  
 SUBSCRIBER AND SIGNER TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ AD 19\_\_\_\_  
 MYSELF FILED FOR ALASKA \_\_\_\_\_ BY \_\_\_\_\_



- LEGEND**
- U.S.C.A.S. 201, 211A & 211L BOUNDARY MARK
  - PRIMARY MONUMENT RECOMMENDED

**SURVEYOR'S CERTIFICATE**  
 I HEREBY CERTIFY THAT I AM PROPERLY LICENSED AND LICENSED TO PRACTICE AS SHOWN IN THE STATE OF ALASKA, AND THAT THIS PLAN REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE DISTANCES, BEARINGS, ARE CORRECTLY SHOWN AS SHOWN, AND THAT ALL DISTANCES AND BEARINGS ARE CORRECT.



LINE TABLE	
1	1.00
2	1.00
3	1.00
4	1.00
5	1.00

**HORIZONTAL CONTROL**  
 THE BASIS OF BEARINGS FOR THIS PLAN WAS THE CLAIMS OF SURVEYOR'S PLAN SUBMITTED ALASKA-CANADA BOUNDARY PROJECT 1 TO GEODETIC BRANCH TRANSLATION SYSTEM TEST.

- GENERAL NOTES**
1. THIS SURVEY WAS ACCOMPLISHED IN ACCORDANCE WITH ALL REGULATIONS AND ACTS OF 1958.
  2. ALL BEARING MARKS ARE TRUE BEARINGS AS SHOWN IN THE BASIS OF BEARINGS AND DISTANCES SHOWN ARE BEARINGS TO SURVEYING, FIELD DISTANCES.
  3. THE ACCURACY OF THIS SURVEY IS BEARING TRUE BEARINGS.
  4. BEARING DISTANCES AND DISTANCES ARE GIVEN IN PARALLELS WHEN DIFFERENT FROM POINTS OR CORNER POINTS AND DISTANCES.
  5. A.T.S. 56 IS BEARING FOR PUBLIC USE AND PUBLIC ACCESS.
  6. THE SURVEYED BOUNDARY OF A.T.S. 56 IS THE DISTANCE FROM THE CENTERLINE, ONE OF THE MAIN TRUCKS, PERPENDICULAR TO THE CENTERLINE OF THE TRUCKS.

**A.T.S. 56 Area**  
 32,800 s.f.  
 0.75 acre

**PORTLAND CANAL**

A.S.T 1622, Tract A (DOT & PF)	0.41 Acres
Unoccupied Tidelands (DNR)	1.98 Acres
Cooperated Contribution to Project (Roanan)	1.92 Acres

**REQUESTED TRANSFER AND ADJACENT AGREEMENT  
 BETWEEN THE HYDER BOARD OF TRADE AND  
 ROANAN CORPORATION**

# Roanan

P. O. Box 241, Port Townsend, WA 98368  
Canadian Offices: 400 - 850 West Hastings Street, Vancouver, BC V6C 1E1  
(800) 567-8828

April 13, 2006

Representative Jim Elkins  
Representative Bill Thomas  
Alaska State Legislature  
Alaska State Capitol  
Juneau, Alaska, 99801

Regarding: Roanan Corporation will assist Hyder, AK in economic development activities

Gentlemen,

First, I want to thank each of you for the time that you took last month to review Roanan Corporation's proposed plans for a major marine facility at Hyder, AK that will create upward of 2000 jobs, and bring new opportunities to Southeastern Alaska, including the transportation infrastructure. This project will have a significant impact on the economic development of the Hyder/Stewart area and an outlet for the resource rich Cassiar Region and the Yukon.

Today, I want to focus on a legislative request by the Hyder Board of Trade, Inc. to the Alaska Legislature (HB-497) associated with the tideland transfer of A.T.S. 1622, Tract A, and another small adjoining parcel to the Board of Trade.

In our opinion, the Board of Trade is effectively attempting to meet the challenges of change in the community by developing basic infrastructure and establishing an economic base that will be important base toward the future incorporation of the community. We applaud the Hyder Board of Trade for their efforts and foresight.

In the spirit of being a good corporate neighbor in Hyder, as well as being the largest landholder in the Hyder townsite, we certainly support and will actively participate in any infrastructure efforts undertaken by the Board of Trade or other organizations.

Therefore, Roanan Corporation stands ready to work with the Hyder Board of Trade to acquire and develop the "unoccupied tidelands" between our waterfront property (A.T.S. 206) and the Hyder Causeway. This area is approximately the same size the Board of Trade seeks to have transferred by the Alaska Legislature in HB-497.

---2---

The end result of this proposed community non-profit organization and private sector partnership will emerge as a well planned and developed marine terminal, capable of handling barges, ferries and small cruise vessels for the economic benefit of the community. The Hyder Board of Trade will operate and maintain the new facility. In simple business terms, once the expenses of operation have been met, the remaining revenue would be committed to meaningful community projects identified by the Board of Trade, including a sustainable facility fund.

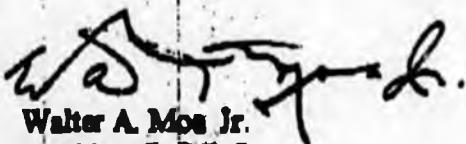
I strongly urge you and your colleagues in the Alaska Legislature to fully support HB-497 and to take into consideration our commitment to Hyder. Roanan Corporation stands ready to assist where we can in the economic and social development of this remote area that now clearly has a bright future.

I look forward to seeing each of you in the future as we move forward with the development of our own marine terminal facility.

If you have any questions, please feel free to give me a call.

Sincerely,

Roanan Corporation



Walter A. Mos Jr.  
President & C.E.O.

cc: Governor Frank Murkowski  
Commissioner Mike Barton, DOT/PF  
Malcolm Menzies, Director, DOT/PF (Southeast)  
John Pearson, Hyder Board of Trade

**John Pearson**

---

**From:** "greg\_patz" <greg\_patz@dot.state.ak.us>  
**To:** "john pearson" <jpearson@ptialaska.net>  
**Sent:** Friday, April 15, 2005 3:41 PM  
**Subject:** Re: Transfer of A.T.S. 1622 Tract A

John:

I will look forward to talking with you toward the end of next week. I am looking into how we can transfer property. We can do this easily if we are transferring to a community, but since Hyder Board of Trade is not a government, I haven't figured out how we can transfer it. We'll discuss options when you visit next week.

Greg

john pearson wrote:

- > Greg,
- >
- > First of all, many thanks for the time you took last week to meet
- > with me regarding options related to
- > A.T.S. 1622, Tract A.
- >
- > During the last week considerable discussion has taken place on the
- > issues and options. The end result is a decision by the Hyder
- > Board of Trade Inc. (local chamber of commerce) to pursue a total
- > transfer of the facility (1622 Tract A) to the HBOT.
- >
- > This next week the HBOT will pass a resolution requesting DOT/PF
- > to facilitate the tract transfer. As soon as I have document from
- > Hyder in hand, you and I will need to meet and discuss the terms of
- > the transfer.
- >
- > So, near the end of next week we should have a chat.
- >
- > Have a good weekend Greg !
- >
- > John
- >

4/5/2006

**John Pearson**

---

**From:** "greg\_patz" <greg\_patz@dot.state.ak.us>  
**To:** "john pearson" <jpearson@ptialaska.net>  
**Cc:** "Victor M E Winters" <vic\_winters@dot.state.ak.us>  
**Sent:** Wednesday, May 04, 2005 3:18 PM  
**Subject:** Hyder Dock

John:

We have reviewed the request by the Hyder Board of Trade for transfer of ATS 1622, Tract A. I would like to suggest a short term recommendation and a long term solution.

We recommend a management agreement for the short term. The agreement can be put into effect fairly quickly and can be written to meet the Board's needs for this summer's activities. The agreement will require Hyder Board of Trade to manage the dock, charge reasonable moorage fees, provide public access, perform maintenance, and carry insurance. Vic Winters is drafting an appropriate agreement and will have it to you for review soon.

The long term solution would be for Hyder Board of Trade to request lease of the tidelands from DNR. We would support that lease request. We would then need to put the dock up for sale. As with all state property, it would be sold by auction after a period of public notice. Hyder Board of Trade would have to bid on the dock in competition. This process will take some time and requires further consideration, so it couldn't be accomplished before this summer.

The next step is to review the proposed management agreement, which Vic will send to you. Then let's talk again. I'll be on leave until May 16.

Greg

4/5/2006

**Jennifer Baxter**

---

**From:** John Pearson [jpearson@ptialaska.net]  
**Sent:** Thursday, April 06, 2006 10:38 AM  
**To:** Jennifer Baxter  
**Cc:** Jim VanHom; Rep. Jim Elkins; Rep. Bill Thomas; GARY BENEDICT- HYDER BOARD OF TRADE; Malcom Menzies  
**Subject:** Hyder Tideland Transfer

Jennifer,

Yesterday I met with Representative Bill Thomas about the tideland transfer. He is in agreement with the process. Additionally, I met with Malcom Menzies at Southeast DOT, and he is onboard.

Malcom said he will develop a letter of no objection and send it to your office today.

As soon as I know the committee schedule for HB 497, I will be attending in support.

Thanks again for your help.

John  
789-1402

4/6/2006

**MEMORANDUM**

February 27, 2006

To: Tom Briggs

From: Bob Blasco

Re: Draft Language for Bill to Transfer Ownership of Property at Clark Bay

What I have done is use the previous legislation, changing transfer to ownership, and including the property descriptions. I do have some concern about whether the state can transfer "ownership" of state land to a "port authority." I have attached to the memo is A.S. 29.35.722 and A.S. 38.05.810. This is just a heads up in case someone in DOTPF or DNR or the legislative staff raise the issue.

**"AN ACT.**

**Authorizing the Department of Transportation and Public Facilities and the Department of Natural Resources to transfer the ownership of certain property to the Inter-Island Ferry Authority for the operation of the Clark Bay Terminal on Prince of Wales Island.**

**LEGISLATIVE APPROVAL. (a) In order to provide more frequent and efficient marine ferry service to the residents of Prince of Wales Island and adjacent areas of southern Southeast Alaska, the legislature authorizes the Department of Transportation and Public Facilities and the Department of Natural Resources to transfer ownership of certain properties to the Inter-Island Ferry Authority for the operation of the Clark Bay Terminal on Prince of Wales Island. This transfer of ownership implements the intent of the Memorandum of Agreement between the State of Alaska Department of Transportation and Public Facilities and the Inter-Island Ferry Authority, signed July 28, 2000 and August 1, 2000, respectively.**

**(b) The property to be transferred to the Inter-Island Ferry Authority is particularly described as follows:**

**Alaska Tideland Survey No. 1041, within Section 34, Township 73, South Range 84 East, Copper River Meridian, containing 4.36 acres more or less**

**Alaska State Land Survey No. 83-43, within Section 34, Township 73 South, Range 84 East, Copper River Meridian, containing 2.1 acres more or less**

**State of Alaska unsurveyed tidelands and submerged lands adjacent to Alaska Tideland Survey No. 1041, containing 3.11 acres more or less**

**State of Alaska unsurveyed uplands adjacent to Alaska State Land Survey No. 83-43, containing 1.68 acres more or less**

- (c) In the event the Inter-Island Ferry Authority ceases to exist operations at the Clark Bay Terminal, the ownership of the property particularly described in (b) of this ACT shall revert to the Alaska Department of Transportation and Public Facilities.
- d) This section constitutes legislative approval under A.S. 29.35.722(1) for the Department of Transportation and Public Facilities and the Department of Natural Resources to enter into deeds and any other transfer of ownership documents to the Inter-Island Ferry Authority for the property described in (b) of this section."

# HYDER MARINE TERMINAL

**A TIDELAND TRANSFER REQUEST  
TO THE  
24<sup>TH</sup> SESSION OF THE ALASKA LEGISLATURE**

April 2006

An Economic Development and Community Stability Initiative  
of the

**Hyder Board of Trade Inc.**

Hyder, Alaska

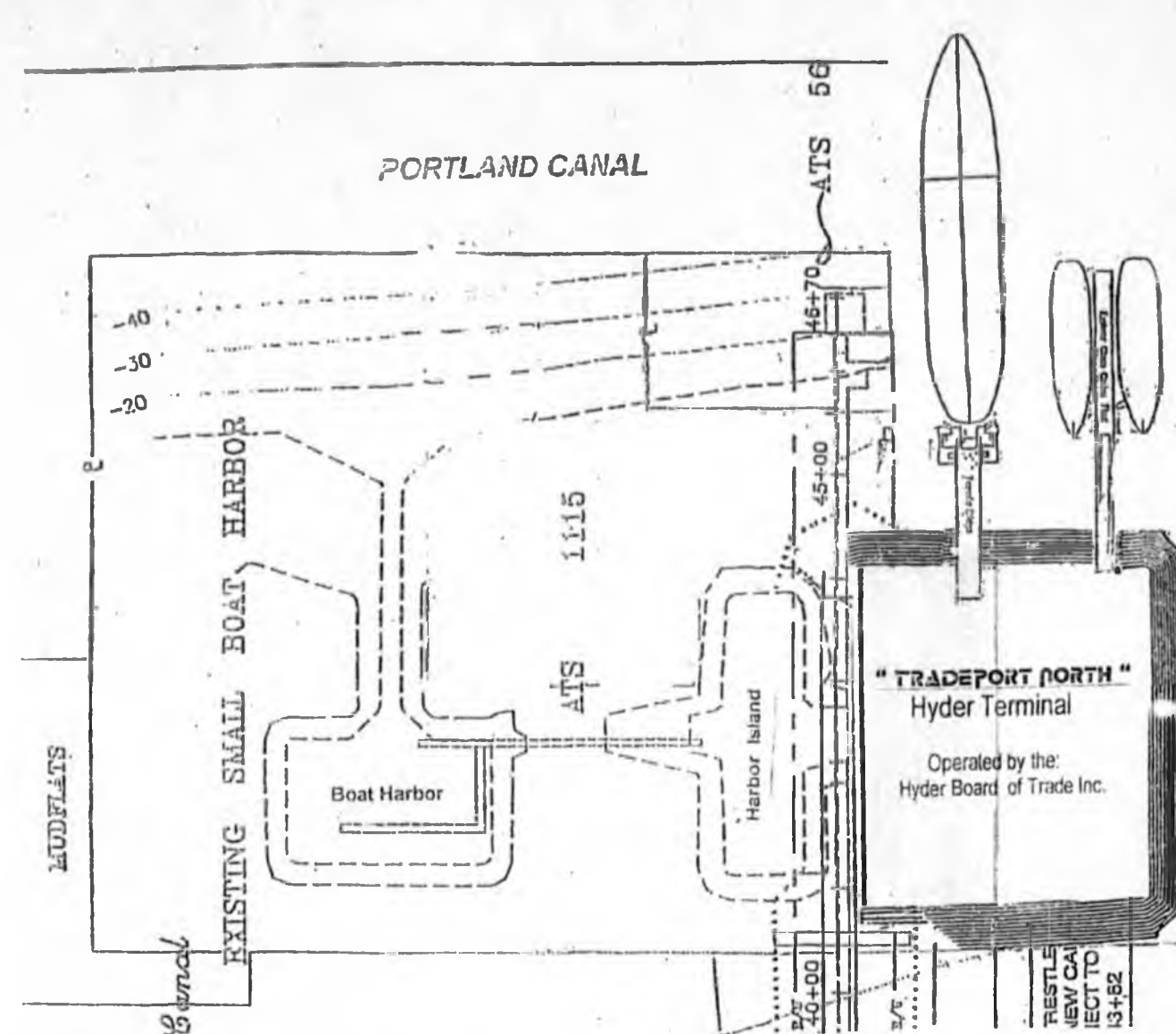
## JUSTIFICATION FOR THE HYDER TRANSFER

The Hyder marine facility project has many years of planning and identification as the number one priority of the community behind it. Unfortunately, only until the advent of the Denali Commission and recent developments in eco-tourism cruise programs as well as attention of the mining industry in the Hyder Mining District, has realization of the new facility moved forward.

The timeline for development of the project makes the project fully operational under the Hyder Board of Trade in 2008.

Specific factors associated with the completed project that brings justification and sustainability to the effort is:

- ACCESS TO GRAVEL:** Today, many Alaska projects are moving gravel from the Pacific Northwest to Alaska due to a shortage of quality gravel. Based on the DOT/PF test results, the large deposits of the Salmon River gravel are very high in the desired quality. Estimates place the generation of yearly gravel deposits available in the Salmon River for transfer to projects at approximately 6 million cubic yards per year. With development of the planned marine facility, both the community of Hyder and the Alaska Department of Natural Resources will benefit from the facility. DNR benefits will come in the form of much increased program receipts from the sale of Hyder river gravel, with no facility infrastructure costs in Hyder to the State of Alaska.
- SMALL CRUISE VESSEL PORT CALLS:** Over the last three years the Hyder Board of Trade has worked with the eco-tourism cruise industry to develop scheduled port calls to the community. This effort has started to create a basic economic base in the community and will continue to grow. The planned facility constructs a two-berth facility capable of handling vessels in the 88-120-passenger range.
- FERRY FACILITIES FOR AMHS, IFA OR PRIVATE OPERATOR:** As AMHS has become linked to Prince Rupert, the Department of Transportation and state decision makers have failed to properly analyze the benefits of a Southern Terminus port, linked to the North American Highway system, absent of Canadian Customs holdups, and employing Alaskans. The Hyder facilities on completion in 2008, should bring a reappraisal of the Southern Terminus issue.
- HOMELAND SECURITY ISSUE:** In the event of a closure of ports of Puget Sound or Canada due to a homeland security event, Alaska stands without a practical southern linkage to the lower 48. The multi-use Hyder facility provides for immediate Cassiar Highway access within 2,000 feet.



### FEATURES OF THE DEVELOPED FACILITY

On Development of the Hyder Marine Facility the following features will be in place. The timeline for completion of an operational facility with local M.&O. is 2008.

- Container & Gravel Barge Loading
- Fresh Fish Vans Hyder-Chicago in 52 hours
- Ferry Service (AMHS, IFA, Private)
- Critical Gas Line Access Supply Route
- Small Cruise Vessel Berthing
- Access to Large Hyder Gravel Deposits
- Immediate Cassiar Highway Access
- New Jobs and Community Stability
- Alaska's only Jones Act Exempt Port
- 24 / 7 Canadian Customs Clearing

- **JONES ACT EXEMPT:** Unknown to most is the fact that the Port of Hyder Alaska is exempt from the Jones Acts. This designation is only shared by two port facilities in United States.
- **AN IMPORTANT GASLINE SUPPLY ROUTE:** Even without the official announcement of construction details related to the Alaska-Canada gas project, discussion and inquiries are mounting about the use of Hyder, Haines and Skagway as important supply routes to the project.
- **SCHEDULED BARGE TRAFFIC:** Several barge operators including one Canadian operator has expressed an interest in the Hyder project. Until now no barge service has been available to Hyder for approximately forty years. This interest is sparked by the increased mining activity on both the U.S. and Canadian sides of the border.
- **MOVING ALASKA SALMON TO THE MARKETPLACE:** No fresh fish market outlet in Chicago should be without access to Fresh Alaska Wild Salmon product within 52 hours of leaving Alaska. The community of Hyder has first hand experience in the use of empty backhaul trucks traveling the Alaska and Cassiar Highways to points like Chicago. This linkage is immediately available at Hyder once the marine facility is built in 2008. The ferry/barge linkage with the trucks can be established with little effort.
- **24 / 7 CANADIAN CUSTOMS CLEARING:** The Hyder / Stewart customs station of open twenty-four hours per day for processing. This factor is important to all marine traffic movements.
- **NON-SOLAS CERTIFIED VESSELS WELCOMED:** Utilization of non-SOLAS vessels that are not certified to make port calls in Canada for linkage to the Canadian Highway System are fully capable of port calls in Hyder to link with the Canadian Highway. The use of non-SOLAS AMHS vessels between Ketchikan and Hyder should be an active part of all discussions in future expenditures, and recapture of AMHS traffic losses.

---

FOR MORE INFORMATION ON HYDER AND THE PROPOSED FACILITY CONTACT:

**John Pearson**  
**Economic Planner**  
**Hyder Board of Trade (Juneau Office)**  
**8216 Cedar Drive**  
**Juneau, AK 99801**  
 Tel: (907) 789-1402 e-mail: [jpearson@otialaska.net](mailto:jpearson@otialaska.net)

## HYDER MARINE TERMINAL

### A TIDELAND TRANSFER REQUEST TO THE 24<sup>TH</sup> SESSION OF THE ALASKA LEGISLATURE

April 2006

An Economic Development and Community Stability Initiative  
 of the

**Hyder Board of Trade Inc.**  
 Hyder, Alaska

**HB**

**498**

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

RULES COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
SPECIAL COMMITTEE ON WAYS & MEANS, MEMBER

website: <http://www.akrepublicans.org/rokeberg/index.php>



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ANCHORAGE, AK 99501  
PHONE (907) 269-0117  
FAX (907) 269-0119

SESSION  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE (907) 465-4968  
FAX (907) 465-2040

## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### SPONSOR STATEMENT HOUSE BILL 498

"An Act authorizing tax credits against the production tax on oil and gas for qualified expenditures for challenged or nonconventional oil or gas and for qualified expenditures for nonconventional or renewable energy resources; giving the Act contingent effect; and providing for an effective date."

New technology, innovation and creative enterprise have always been the foundation of North American economic growth, particularly as a means to increase productivity and efficiently use investment capital. The oil industry has been on the cutting edge of new technology development and in using that technology to prolong the life of oil fields. Alaska depends on the oil industry and its development of new tools to sustain production.

Lower production of oil means lower revenue for Alaska and higher cost per barrel produced. The reserves are available on the North Slope – over 17 billion barrels of recoverable oil – but getting it out of the ground can be challenging. Alaska needs to look at ways to encourage development that will provide easier access to these reserves.

HB 498 grants a 15 percent tax credit against petroleum production taxes to assist in producing these largely inaccessible and costly resources. In addition, the bill grants a 25 percent tax credit against petroleum production taxes for qualified alternative energy projects. This tax credit would enable an Alaskan oil and gas producer to invest in an Alaskan energy project (e.g., wind, solar and tidal electrical production) and earn a reduction in taxes.

HB 498 is intended to encourage use of new technologies and methods of operation that are experimental and cutting edge. Alaska's "unconventional and challenged" resources include 25 to 30 billion barrels of viscous or heavy oil, carbonate geologic formations, and oil shale. These and other hydrocarbons have an enormous potential to bring wealth to Alaskans and help meet the global demand for energy.

I request your support of this legislation.

Sponsor Statement

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 498  
 (H) Publish Date: 4/12/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Tax Credits Nonconventional Oil/Gas RDU: Resource Development  
 Component: Oil and Gas Development  
 Sponsor: House Rules  
 Requester: House Oil and Gas Component No. 439

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact anticipated to the Department of Natural Resources.

Prepared by: William Van Dyke, Acting Director Phone 269-8800  
 Division: Oil and Gas Date/Time 4/6/2006  
 Approved by: Michael Henge, Commissioner Date 4/6/2006  
 Agency: Natural Resources

# FISCAL NOTE

**STATE OF ALASKA  
2006 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 498  
 (H) Publish Date: 4/12/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: revenue  
 Title An Act authorizing tax credits against the RDU Tax and Treasury  
production tax on oil and gas Component Tax  
 Sponsor Rules Committee  
 Requester \_\_\_\_\_ Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	378.2	385.8	393.5	401.3	409.4	417.6
Travel						
Contractual	200.0	200.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>578.2</b>	<b>585.8</b>	<b>393.5</b>	<b>401.3</b>	<b>409.4</b>	<b>417.6</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	See analysis section.					
-------------------------------	-----------------------	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	578.2	585.8	393.5	401.3	409.4	417.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>578.2</b>	<b>585.8</b>	<b>393.5</b>	<b>401.3</b>	<b>409.4</b>	<b>417.6</b>

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would authorize tax credits of 15% against the oil and gas production tax for qualified expenditures on challenged or nonconventional oil or gas, and tax credits of 25% on expenditures for nonconventional or renewable energy resources. These credits would be in addition to credits under AS 43.55.024 and AS 43.55.025 for the same qualified expenditure. Expenditures are qualified if they are ordinary and necessary for research, development, or production of challenged or nonconventional oil or gas, or for research, development, or demonstration of new technology as certified by the department. The Department believes these would include not only qualified capital expenditures, but also non-capital expenditures, and research and development (R&D) costs incurred out of state. The bill becomes effective only if the current Legislature passes a production tax based on a percentage of value. The effective date would be the later of the effective date of such an Act, or July 1, 2006.

Prepared by: Robynn Wilson, Michael Williams, Roger Marks, and Cherie Nier Phone 269-6634  
 Division Tax Division Date/Time 4/10/06 11:00 AM  
 Approved by: Jerry Burnett Date 4/10/2006  
 Agency Department of Revenue

FISCAL NOTE #2

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

BILL NO. HB 498

**ANALYSIS CONTINUATION**

The figures in the table below reflect the reductions in production tax revenues from the bill under the Department of Revenue's Spring 2006 forecast prices, and at higher prices. The Department's long-term price forecast is for \$25.50/bbl ANS West Coast beginning in FY 2009. The Department's economic model assumes that investment for challenged oil is significantly reduced at prices under \$30, and production is subsequently reduced.

The following fields are believed to contain challenged oil: West Sak, Polaris, Orion, Lisburne, Tabasco, and Schrader Bluff. (Currently this totals about 90,000 barrels per day.) In addition, enhanced oil recovery (EOR) expenditures extract both conventional and challenged oil. At this time there no known expenditures anticipated for either nonconventional oil or gas, or nonconventional or renewable energy sources.

The cost assumptions are as follows:

- \$1/bbl on-going capital
- \$5.33/bbl developmental capital
- \$5/bbl operating cost
- \$433 million annually EOR
- \$333 million annually R&D

The table shows the 2006-2012 reductions in production tax from the bill, at volumes associated with the Department's price forecast, and at high prices (above \$30/bbl). These revenues are net of the additions to the state corporate income tax associated with the reduced production taxes, and their subsequent deductibility.

Operating expenditures include costs for 3 additional positions for auditors: 1 O & G Revenue Auditor IV (Range 22) and 2 O & G Revenue Auditor III's (Range 20). In addition, we request 1 additional position for a Engineering Geologist (Range 22) to certify challenged and nonconventional oil or gas and nonconventional or renewable energy sources. Personal Services reflect a 2% yearly increase.

Contractual expenses include \$200,000 in both FY 07 and FY 08 for help in writing regulations.

Fiscal Year	Revenue Reduction DOR Forecast (\$millions)	Revenue Reduction High Prices (\$millions)
2007	138	157
2008	142	162
2009	134	166
2010	133	171
2011	131	175
2012	130	176

24-LS1817S

Chenoweth

4/26/06

**CS FOR HOUSE BILL NO. 498(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE

**A BILL****FOR AN ACT ENTITLED**

1 "An Act authorizing tax credits against the production tax on oil and gas for qualified  
2 development expenditures for challenged oil pools; and providing for an effective date."

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

4 \* **Section 1.** AS 43.55 is amended by adding a new section to read:

5 **Sec. 43.55.026. Credits for expenditures for development of challenged oil**  
6 **pools.** (a) Notwithstanding that an expenditure that is a qualified development  
7 expenditure may be a lease expenditure that is deductible for the purpose of  
8 calculating the production tax value of oil and gas under AS 43.55.160(a), a producer  
9 that incurs a qualified development expenditure may also elect to take a tax credit in  
10 the amount of 15 percent of that expenditure. A credit under this subsection

11 (1) is in addition to any credit under AS 43.55.024 for the same  
12 expenditure; and

13 (2) may be applied against a tax due under AS 43.55.011(e) on oil  
14 produced on or after April 1, 2006.

1 (b) For a calendar year for which the producer makes an election under  
2 AS 43.55.160(f), instead of taking a tax credit at a rate authorized by (a) of this section  
3 as to each separate qualified development expenditure after it has been incurred, a  
4 producer that incurs a qualified development expenditure during that year and that  
5 wishes to apply a credit based on that expenditure against a tax due under  
6 AS 43.55.011(e) shall calculate and apply every month an annualized tax credit in an  
7 amount equal to one and one-quarter percent of the producer's total qualified  
8 development expenditures incurred during that year and for which the tax credit is  
9 taken for that year.

10 (c) A credit or portion of a credit under this section may not be used to reduce  
11 a person's tax liability under AS 43.55.011(e) for any month below zero, and any  
12 unused credit or portion of a credit not used under this subsection may be applied in a  
13 later month.

14 (d) A credit under this section is not transferable.

15 (e) A producer may not take a credit under this section for an expenditure  
16 incurred

17 (1) after March 31, 2016;

18 (2) for an oil pool determined to be a challenged oil pool under (f) of  
19 this section sooner than 30 days after the Department of Natural Resources provides  
20 notice of the determination to the Legislative Budget and Audit Committee;

21 (3) to acquire an asset (A) the cost of previously acquiring which was a  
22 lease expenditure under AS 43.55.160(c) or would have been a lease expenditure  
23 under AS 43.55.160(c) if it had been incurred on or after April 1, 2006, or (B) that has  
24 previously been placed in service in the state; an expenditure to acquire an asset is not  
25 excluded under this paragraph if not more than an immaterial portion of the asset  
26 meets a description under (A) or (B) of this paragraph; for purposes of this paragraph,  
27 "asset" includes geological, geophysical, and well data and interpretations.

28 (f) A lessee under an oil and gas lease issued under AS 38.05.180 may apply  
29 to the Department of Natural Resources for a determination that an oil pool within the  
30 lessee's lease, other than an oil pool described in (i)(1)(A) - (D) of this section, is a  
31 challenged oil pool under this subsection. The Department of Natural Resources shall

1 prescribe the application form to be used and the information to be provided by an  
2 applicant. After consulting with the Alaska Oil and Gas Conservation Commission,  
3 the Department of Natural Resources shall make a determination within six months  
4 after receiving a complete application and shall provide notice of the determination to  
5 the Department of Revenue and the Legislative Budget and Audit Committee. For  
6 purposes of this subsection, a challenged oil pool is

7 (1) an oil pool

8 (A) no part of which is located at a true vertical depth of  
9 greater than 5,500 feet as measured from sea level; and

10 (B) with oil that has an average API gravity of 25 or less; or

11 (2) an oil pool whose reservoir rock primarily consists of carbonates  
12 and has an average permeability of three millidarcies or less.

13 (g) Except as provided in (h) of this section, the department may adopt  
14 regulations to carry out the purposes of this section, including prescribing reporting,  
15 record keeping, and other procedures and requirements to verify the accuracy of the  
16 credits claims and to ensure that a credit is not used more than once, and otherwise  
17 implementing this section.

18 (h) The Department of Natural Resources shall adopt regulations to implement  
19 (f) of this section, including regulations prescribing the method to be used to  
20 determine the average API gravity of oil contained in an oil pool.

21 (i) In this section,

22 (1) "challenged oil pool" means an oil pool

23 (A) in the Ugnu or Schrader Bluff formation within

24 (i) the Prudhoe Bay Unit; or

25 (ii) the Milne Point Unit, except for that portion or  
26 portions of a pool in the Schrader Bluff formation produced from the  
27 drill site S area;

28 (B) in the West Sak or Ugnu formation within the Kuparuk  
29 River Unit, except for that portion or portions of a pool in the West Sak  
30 formation produced from the drill site IC, ID, IE, or IJ drill site areas;

31 (C) in the Ugnu, Schrader Bluff, or West Sak formation within

1 the

2 (i) Tuvaq Unit;

3 (ii) Nikaitchuk Unit; or

4 (iii) Rockflour Unit;

5 (D) in the Lisburne group within the Lisburne Participating  
6 Area of the Prudhoe Bay Unit; or

7 (E) that is determined by the Department of Natural Resources  
8 to be a challenged oil pool under (f) of this section;

9 (2) "develop" does not include the drilling, testing, or evaluation of  
10 delineation wells;

11 (3) "qualified development expenditure" means, except as otherwise  
12 provided in (e) of this section, an expenditure

13 (A) that is a lease expenditure under AS 43.55.160;

14 (B) the primary purpose of which is development of a  
15 challenged oil pool within an oil and gas lease issued under AS 38.05.180; and

16 (C) that is treated as a capitalized expenditure under 26 U.S.C.  
17 (Internal Revenue Code), as amended, regardless of elections made under 26  
18 U.S.C. 263(c) (Internal Revenue Code), as amended, and is

19 (i) treated as a capitalized expenditure for federal  
20 income tax reporting purposes by the person incurring the producer; or

21 (ii) eligible to be deducted as an expense under 26  
22 U.S.C. 263(c) (Internal Revenue Code), as amended.

23 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 TRANSITION PROVISION. Notwithstanding any contrary provision of  
26 AS 43.55.026, enacted by sec. 1 of this Act, for oil and gas produced on or after April 1,  
27 2006, and before January 1, 2007, the phrase "every month an annualized credit in an amount  
28 equal to one and one-quarter percent" in AS 43.55.026(b), enacted by sec. 1 of this Act, shall  
29 be replaced by the phrase "every month during the period April 1, 2005, through  
30 December 31, 2006, an annualized tax credit in an amount equal to one and two-thirds  
31 percent."

1 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3 **TRANSITION: REGULATIONS AND RETROACTIVITY OF REGULATIONS.** (a)  
4 The Department of Revenue and Department of Natural Resources may proceed to adopt  
5 regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative  
6 Procedure Act), but not before the effective date of the law implemented by the regulation.

7 (b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by  
8 the Department of Revenue or Department of Natural Resources to implement, interpret,  
9 make specific, or otherwise carry out the provisions of this Act may apply retroactively to  
10 April 1, 2006, if the agency adopting the regulation expressly designates in the regulation that  
11 the regulation applies retroactively to that date.

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

14 **RETROACTIVE EFFECT.** Sections 1 and 2 of this Act are retroactive to April 1,  
15 2006.

16 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18 **CONDITIONAL EFFECT OF ACT.** This Act takes effect only if the Twenty-Fourth  
19 Alaska Legislature passes a bill, and that bill becomes law, in which the oil production tax  
20 and gas production tax in AS 43.55 are repealed and a production tax on oil and gas based on  
21 a percentage of its production tax value is enacted in AS 43.55.

22 \* **Sec. 6.** If, under sec. 5 of this Act, this Act takes effect, it takes effect on the effective date  
23 of the provisions described in sec. 5 of this Act of the bill referred to in sec. 5 of this Act.

# LEGAL SERVICES

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

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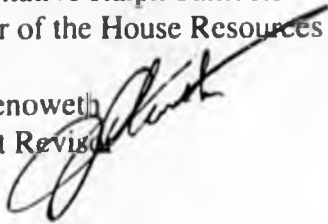
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 26, 2006

**SUBJECT:** Draft CSHB 498(RES), proposing a credit against the oil and gas production tax for expenditures for challenged oil pools (Work Order No. 24-LS1817S)

**TO:** Representative Ralph Samuels  
Co-Chair of the House Resources Committee

**FROM:** Jack Chenoweth  
Assistant Revisioner 

The draft substantially sets out the changes transmitted to your office by the Department of Law, including late changes to the electronic draft that were penciled in and provided by fax.

Since the material was prepared elsewhere, I'm hesitant to alter anything of substance. The bill is oddly structured; rather than being set out in substantive provisions, the critical pieces appear to hang on elements of the section's definitions. Let's see if I am correct in my understanding of its provisions--

The availability of the credit turns on expenditures incurred for a qualified development expenditure (AS 43.55.026(a), page 1, line 9), and "qualified development expenditure" is, in turn, defined to mean, among other elements, an expenditure "the primary purpose of which is development of a challenged oil pool" (AS 43.55.026(i)(3), page 4, lines 14 and 15). The definition of "challenged oil pool" has four subparagraphs, (i)(1)(A) - (D), that identify specific named formations, and a fifth, (i)(1)(E), that is a catchall for determinations of the pool's status under AS 43.55.026(f), and qualification depends on meeting the standards of (f)(1) and (f)(2). Under AS 43.55.026(e), the limitation of paragraph (1) applies to cut off the credit for qualified development expenditures for all pools on March 31, 2016, while under (e)(2), there is an inception delay but only for pools that are administratively determined to qualify under (f).

In the draft, I've corrected references from "AS 43.55.011(a)" to "AS 43.55.011(e)," which conforms to the reference in the Senate-passed version of the production tax. I understand that this will be the vehicle that the House will use in its consideration of changes to the tax.

Representative Ralph Samuels

April 26, 2006

Page 2

I had a little trouble getting my mind around the department's suggested effective date -- "the later of (1) immediately under AS 01.10.070(c) or (2) the effective date [of the oil and gas production tax bill]". Since the second is the critical piece, the draft has a single effective date reference that ties the measure to the effective date of the companion tax reform bill.

JBC:med

06-339.med

Enclosure

24-LS1817L  
Chenoweth  
4/20/06

**CS FOR HOUSE BILL NO. 498( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act authorizing tax credits against the production tax on oil and gas for qualified**  
2 **capital expenditures for challenged or nonconventional oil and for qualified renewable**  
3 **energy expenditures for nonconventional or renewable energy resources; giving the Act**  
4 **contingent effect; and providing for an effective date."**

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

6 **\* Section 1. AS 43.55 is amended by adding new sections to read:**

7 **Sec. 43.55.026. Credits for expenditures for challenged or nonconventional**  
8 **oil. (a) Notwithstanding that an expenditure that is a qualified capital expenditure may**  
9 **be a lease expenditure that is deductible for the purpose of calculating the production**  
10 **tax value of oil and gas under AS 43.55.160(a), a producer that incurs a qualified**  
11 **capital expenditure on or after the effective date of this section for challenged or**  
12 **nonconventional oil under this section may also elect to take a tax credit in the amount**  
13 **of 15 percent of that expenditure. A credit under this subsection**

14 **(1) is in addition to any credit under AS 43.55.024 or 43.55.025 for the**

1 same qualified capital expenditure; and

2 (2) may be applied against any and all taxes due under this chapter on  
3 the producer's taxable oil and gas production.

4 (b) For a calendar year for which the producer makes an election under  
5 AS 43.55.160(f), a producer that incurs a qualified capital expenditure during that year  
6 and that wants to apply a credit based on the annual qualified capital expenditures  
7 against any tax due under this chapter, instead of taking a tax credit of 15 percent of  
8 each separate qualified capital expenditure for the month when the expenditure is  
9 incurred, shall calculate and apply every month an annualized tax credit in an amount  
10 equal to one and one-quarter percent of the producer's total qualified capital  
11 expenditures then budgeted to be incurred during that year.

12 (c) A credit or portion of a credit under this section may not be used to reduce  
13 a person's total liability for taxes under this chapter for any month below zero, and any  
14 unused credit or portion of a credit not used under this subsection may be applied in a  
15 later month.

16 (d) A producer incurring the qualified capital expenditure giving rise to a  
17 credit may not transfer the credit.

18 (e) A producer may not claim a credit for a qualified capital expenditure under  
19 this section for an expenditure made after March 31, 2016.

20 (f) For purposes of this section, an expenditure

21 (1) is a qualified capital expenditure if it is

22 (A) an exploration expenditure as defined under AS 43.55.025  
23 and is accompanied by the information to support that claim for eligibility as  
24 required by AS 43.55.025(j); or

25 (B) incurred for activities in the state for research or  
26 development of challenged or nonconventional oil, or is a material extension of  
27 existing technology, as certified by the department;

28 (2) qualifies for the credit authorized by this section only if made on  
29 land leased under AS 38.05 or on land leased within the National Petroleum Reserve -  
30 Alaska.

31 (g) In this section,

1 (1) "challenged oil" means

2 (A) oil that has an average API gravity of 25 or less produced  
3 from a reservoir or pool located, in whole or in part, north of 68 degrees, 15  
4 minutes North latitude in this state and at a true vertical depth as measured  
5 from sea level of 5,500 feet or less;

6 (B) oil that is produced from a reservoir located, in whole or in  
7 part, north of 68 degrees, 15 minutes North latitude in this state, without regard  
8 to its depth, if the oil has an API gravity of 25 or less and is produced from

9 (i) the Ugnu Formation or West Sak - Schrader Bluff  
10 Formation; or

11 (ii) a formation that is stratigraphically equivalent to or  
12 shallower than a formation described in (i) of this subparagraph;

13 (C) oil that is produced from a reservoir for which, as of  
14 January 1, 2006, one of the following participating areas had been formed: the  
15 Orion or Polaris participating area in the Prudhoe Bay Unit, the West Sak  
16 participating area in the Kuparuk River Unit, or the Schrader Bluff  
17 participating area in the Milne Point Unit;

18 (D) oil that is produced from a reservoir or pool having an  
19 average API gravity of 18 or less, regardless of depth or location within this  
20 state;

21 (E) oil with an API gravity of 25 or less and that is produced as  
22 described in (A) - (C) of this paragraph and that is inherently difficult and  
23 expensive to produce and is certified by the department to be challenged oil;

24 (F) all oil recovered from a separate and distinct zone or  
25 geological horizon that is produced as described in (A) - (E) of this paragraph,  
26 but only if the average monthly API gravity of the oil produced from that zone  
27 or geological horizon does not exceed

28 (i) for oil described in (A), (C), and (E) of this  
29 paragraph, the API gravity limits set in the respective paragraph; and

30 (ii) except as provided in (i) of this subparagraph, the  
31 API gravity limit set in (D) of this paragraph; and

1 (H) oil produced from a reservoir whose reservoir rock is  
2 primarily made up of carbonates;

3 (2) "nonconventional oil" means:

4 (A) oil produced or recovered from or associated with tar  
5 sands;

6 (B) oil produced or recovered from or associated with oil shale;  
7 and

8 (C) oil production not described in (A) or (B) of this paragraph  
9 that is inherently difficult and expensive to produce and is certified by the  
10 department to be nonconventional oil.

11 **Sec. 43.55.028. Credits for expenditures for nonconventional or renewable**  
12 **energy sources.** (a) Notwithstanding that a qualified renewable energy expenditure  
13 under this section may be deductible or may give rise to a tax credit under AS 43.20 or  
14 under any other tax under this title, a producer that incurs a qualified renewable energy  
15 expenditure on or after the effective date of this section for the development or use in  
16 the state of a nonconventional or renewable energy source may also elect to take a tax  
17 credit in the amount of 25 percent of that expenditure. A credit under this subsection  
18 may be applied against any tax due under this chapter AS 43.55 on the producer's  
19 taxable oil and gas production.

20 (b) For a calendar year for which the producer makes an election under  
21 AS 43.55.160(f), a producer that incurs a qualified renewable energy expenditure  
22 during that year and that wants to apply a credit based on the annual qualified  
23 renewable energy expenditures against any tax due under this chapter, instead of  
24 taking a tax credit of 25 percent of each separate qualified renewable energy  
25 expenditure for the month when the expenditure is incurred, shall calculate and apply  
26 every month an annualized tax credit in an amount equal to two and one-twelfth  
27 percent of the producer's total qualified renewable energy expenditures then budgeted  
28 to be incurred during that year.

29 (c) A credit or portion of a credit under this section may not be used to reduce  
30 a person's total liability for taxes under this chapter for any month below zero, and any  
31 unused credit or portion of a credit not used under this subsection may be applied in a

1 later month.

2 (d) Except as otherwise provided in this subsection, a producer incurring the  
3 qualified renewable energy expenditure giving rise to a credit may not transfer the  
4 credit. The producer may transfer the tax credit to an affiliate of the producer that is  
5 also a producer subject to this chapter. Both the producer transferring the credit to its  
6 producer affiliate and the producer affiliate receiving the credit shall report to the  
7 department, on the respective monthly tax statements filed under AS 43.55.030, the  
8 tax credit transfer, the amount of the credit transferred, and the month for which the  
9 credit arose.

10 (e) An expenditure for an activity is a qualified renewable energy expenditure  
11 for purposes of this section if it is

12 (1) an ordinary and necessary expenditure for the activity, as "ordinary  
13 and necessary" is defined for purposes of 26 U.S.C. 162 (Internal Revenue Code), as  
14 amended; and

15 (2) incurred for the development or use of a nonconventional or  
16 renewable energy source.

17 (f) A producer may not claim a credit for a qualified renewable energy  
18 expenditure under this section for an expenditure made after March 31, 2016.

19 (g) In this section, "nonconventional or renewable energy sources" includes

20 (1) solar power;

21 (2) geothermal energy;

22 (3) wind power;

23 (4) nonconventional kinetic energy recovery;

24 (5) exploitation of heat, cold, or another form of energy that is  
25 generated from an industrial or manufacturing activity and that would otherwise be  
26 dissipated into the environment, including electrical cogeneration;

27 (6) gas manufactured from the gasification of coal;

28 (7) coal bed methane;

29 (8) energy that does not involve the consumption or combustion of  
30 hydrocarbons; and

31 (9) an energy source not described in (1) - (8) of this subsection that is

1 certified by the department to be a nonconventional or renewable source of energy.

2 \* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 TRANSITION: REGULATIONS AND RETROACTIVITY OF REGULATIONS. (a)  
5 The Department of Revenue may proceed to adopt regulations to implement this Act. The  
6 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
7 effective date of the law implemented by the regulation.

8 (b) Notwithstanding any contrary provision of AS 44.62.240, a regulation adopted by  
9 the Department of Revenue to implement, interpret, make specific, or otherwise carry out the  
10 provisions of this Act may apply retroactively to the effective date of this Act, if the  
11 Department of Revenue expressly designates in the regulation that the regulation applies  
12 retroactively to that date.

13 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
14 read:

15 CONDITIONAL EFFECT OF ACT. This Act takes effect only if the Twenty-Fourth  
16 Alaska Legislature passes a bill, and that bill becomes law, in which, among other provisions,  
17 the oil and gas properties production (severance) tax is repealed and a production tax on oil  
18 and gas based on a percentage of its production tax value is enacted.

19 \* Sec. 4. If, under sec. 3 of this Act, this Act takes effect, it takes effect on the date that is  
20 the later of

21 (1) the effective date of the Act described in sec. 3 of this Act; or

22 (2) July 1, 2006.

HB 498  
Proposed Definitions and Guidelines  
Bill Van Dyke 4/21/06

In keeping with the theme that incentives should be designed to change targeted behavior of oil and gas lessees I propose the following definition for challenged oil and a guideline for the commissioner to use to grant credits to future challenged oil projects not covered by the definition today. An alternative definition is also offered if it is decided that a policy not as specific and focused as provided in the first definition is needed.

**Definition of challenged oil (#1)**

Oil produced from the following areas

1. the Prudhoe Bay Unit from the Ugnu or Schrader Bluff formations except for oil produced from the Orion and Polaris participating areas.
2. the Kuparuk River Unit from the West Sak and Ugnu formations except for oil produced from the West Sak formation in the drill site 1C, 1D, 1E and 1J drill site areas.
3. the Milne Point Unit from the Ugnu and Schrader Bluff formations except for oil produced from the Schrader Bluff formation in the drill site S area.
4. the Tuvaq Unit from the Ugnu and Schrader Bluff/West Sak formations
5. the Nikaitchuk Unit from the Ugnu and Schrader Bluff/West Sak formations
6. the Rockflour Unit from the West Sak/ Schrader Bluff and Ugnu formations

note: this definition excludes credits for development in identified "core areas" that is currently under evaluation and likely to go forward with or without credits.

If the above definition is deemed to be too restrictive, which I do not believe it is, then I propose the following alternative definition.

**Definition of challenged oil (#2)**

Oil produced from the Ugnu, West Sak or Schrader Bluff formations from the Prudhoe Bay, Milne Point, Kuparuk River, Tuvaq, Nikaitchuk and Rockflour units.

Note: this definition grants credits to projects in the "core areas" that are under evaluation today and likely to go forward with or without credits.

**Guideline for granting credits to new areas**

The commissioner may grant credits for challenged oil not identified above, except for those areas explicitly excluded (i.e., if definition #1 is adopted) if the oil is less than or equal to 22 degrees API (measured monthly and averaged over the area proposed for credit), in pools or reservoirs at depths less than 5500 feet subsea and is more expensive and more difficult to produce than oil with an API gravity above 22 degrees and at depth