

11606 HOUSE RESOURCES



THE CENTER FOR  
FOOD SAFETY

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January 31, 2005

Senator Kim Elton  
State Capitol, Room 115  
Juneau, AK 99801-1182

Dear Senator Elton:

The Center for Food Safety is pleased to endorse Senate Bill No. 25 and your efforts for a mandatory labeling requirement to identify genetically engineered (GE) fish and shellfish. Because GE fish are being developed for commercial use, the potential release into the environment and the use of these fish as food is imminent. Therefore, Senate Bill No. 25 would give Alaskan consumers the right-to know whether their seafood is genetically altered.

GE fish present a host of serious risks to humans and the environment. Human health effects include the potential for toxicity, allergenicity, and antibiotic resistance. As for the environmental impacts, the risk of biological contamination from GE fish is particularly acute, since GE fish may be raised in net pens from which they can easily escape and breed with native strains. The harm of such interbreeding would be severe. A Purdue University study concluded that the release of GE fish could cause the extinction of an entire fish species in a matter of a few generations. The National Academy of Sciences also issued a report warning that GE fish that escape could wreck havoc on the environment.

Despite these potentially irreversible human health and environmental risks, there is a profoundly disturbing lack of federal regulation of marine biotechnology. As such, we applaud your leadership on this issue and hope the Alaskan legislature can step into the void by ensuring that consumers are aware of genetically engineered seafood products through a mandatory labeling requirement.

Sincerely,

*Tracie Letterman*

Tracie Letterman  
Fish Program Director



United Southeast Alaska Gillnetters

P.O. Box 23378, Ketchikan, AK 99901 Phone & Fax (907) 247 2471 Email: usa\_gillnetters@att.net

January 29, 2005

The Honorable Gary Stevens  
The State Senate  
State Capitol, Room 103  
Juneau, Alaska 99801

Send Via Fax to: 465-3517

Dear Senator Stevens,

The United Southeast Alaska Gillnetters (USAG) is an association of about 150 small business owners who catch salmon by drift gillnetting in Southeast Alaska and market salmon throughout the United States. Many of our members also participate in other fisheries such as crab, shrimp, longline, and dive fisheries. USAG strongly supports SB 25 which requires the labeling of genetically modified (GM) fish and fish products sold in the State of Alaska. We believe the Alaskan consumer wants to know and has the right to know if the fish and seafood products they are considering buying for their families have been genetically modified. This is in part a marketing issue as we believe that Alaska wild-caught seafood is the best and most healthy in the world and the Alaska consumer will choose it over a genetically modified product if they are given that information about the respective products. More than that, some GM fish may have attributes that allow those fish to be raised and brought to market at a price point with which quality wild fish cannot compete. If these GM fish are not labeled, the cost conscious consumer may choose the GM product on the basis of price, whereas if that consumer knew it was a GM product, they may not purchase it.

Thank you for introducing this legislation and for your continuing support for our seafood industry.

Yours truly,

Kenneth Duckett  
Executive Director

cc: Senator Elton Via Fax to: 465-2108

Senator Bunde, Chair Senate Labor & Commerce Via Fax to: 465-3871

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway  
Juneau, AK 99801



Phone 907-586-6652

Fax 907-523-1168

E-mail: [seafa@gci.net](mailto:seafa@gci.net)

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January 31, 2005

Senate Labor & Commerce Committee  
Senator Con Bunde, Chair  
Alaska State Legislature, State Capitol  
Juneau, AK 99801-1182

RE: Support for SB 25

The Southeast Alaska Fishermen's Alliance supports SB 25, which would require genetically modified fish or fish products to be labeled. The Joint Legislative Salmon Industry Task Force offered unanimous support for this legislation last year although it failed to make it through the process.

It is important that Alaska have this type of labeling law in place prior to the advent of genetically modified fish or fish products make it into the marketplace. Aqua Bounty has already applied to the United States FDA and Canadian officials for the permits to grow genetically modified fish in fish farms. By being proactive on labeling requirements you help differentiation between genetically altered fish or fish products and our natural wild Alaskan fish in the marketplace. This allows us the use of an important marketing tool.

The Southeast Alaska Fishermen's Alliance is a non-profit membership organization located in Juneau representing our members involved in salmon, crab, shrimp and longline fisheries of Southeast Alaska.

Respectfully,

A handwritten signature in cursive script that reads "Kathy Hansen" followed by a horizontal line.

Kathy Hansen  
Executive Director



# UNITED FISHERMEN OF ALASKA

January 28, 2005

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
(907) 586-2820  
(907) 463-2545 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

Senator Thomas Wagoner, Chair  
Senate Resources Committee  
Alaska State Legislature  
State Capitol (Mail stop 3100)  
Juneau, AK 99801-1182

Dear Senator Wagoner,

United Fishermen of Alaska supports bill SB 25 relating to the labeling and identification of genetically modified fish and fish products. We believe in proper labeling for all farmed, genetically modified, and wild salmon to provide consumers an informed choice in the marketplace. The foundation for proper labeling practices will greatly benefit Alaska's Commercial Fishing Industry and help promote the finest seafood in the world to Alaskans and visitors.

United Fishermen of Alaska represents 31 Alaska Commercial fishing organizations, and hundreds of individual fishermen and related businesses. We support SB 25 and are strongly against all genetically modified seafood and seafood products. Thank you for your attention to this matter.

Sincerely,

Mark D. Vinsel  
Executive Director

CC: Senator Kim Elton

#### MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Drifters Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • Armstrong Keta • Alaska Processors Association • Bristol Bay Preserve Commercial Area NM Fishermen • Cordova District Fishermen United • Crab Rationalization and Buyback Group • Douglas Island Fish and Chum • Fishing Vessel Owners Association • Groundfish Forum • Ketchikan Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association • North Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association • Orlin Harbor Fishermen's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Pure Sea Vessel Owners Association • Seafood Producers Cooperative • Southeast Alaska Herring Sellers Marketing Association • Southeast Alaska Regional Dive Fishermen Association • Southern Southeast Regional Aquaculture Association • United Catcher Boats • United Salmon Association • United Southeast Alaska Canneries • Vardaz Planning Development Association • Western Gulf of Alaska Fishermen





**Testimony Opposing Senate Bill 25  
"An Act relating to labeling and identification of  
genetically modified fish and fish products"**

**Submitted by the Biotechnology Industry Organization  
to the Alaska House Labor & Commerce Committee**

**April 4, 2005**

On behalf of the Biotechnology Industry Organization (BIO), we appreciate the opportunity to submit testimony in opposition to Senate Bill 25, "An Act relating to labeling and identification of genetically modified fish and fish products." BIO strongly supports existing federal requirements for accurate and informative food labels. These labeling requirements communicate information that is relevant to health, safety and nutrition of all food products sold in the United States. State-based labeling requirements that differ from previously established, stringently enforced federal guidelines, provide no value for consumers and only serve to disparage biotechnology foods. In addition, Senate Bill 25 is contrary to existing Alaska state law that calls for conformity with federal food labeling guidelines.

**The requirements of Senate Bill 25 contradict existing Alaska state and federal laws.** Title 17 of Alaska Statute Law (Sec. 17.20.010) states, "the definitions and standards adopted [by the State] shall conform as far as practicable to the definitions and standards adopted under authority of the Federal Food Drug and Cosmetic Act (FDCA)." The U.S. Food and Drug Administration (FDA) does not require labeling of foods derived from biotechnology (genetically modified food) unless that food differs significantly in terms of safety, nutrition, how the food is used, or the consequences of its use. Senate Bill 25 would establish a threshold for labeling that does not exist in federal statute.

**OPPOSITION**

**Senate Bill 25**

**April 4, 2005**

**Page 2**

The U.S. Food & Drug Administration's labeling guidance requires that a food label must reveal all *material* facts about that food. For instance, the FDCA requires that if a biotech food differs significantly from a conventional food in its nutritional or allergenic properties that fact must be disclosed on the label. The FDA has taken a science-based approach in developing this guidance and decided biotech foods do not inherently "present any different or greater safety concern than foods developed by [conventional methods]." FDA uses the principal of "substantia' equivalence"—focusing on the final product, not the process used to develop a food product, to determine how it should be labeled. In addition, mandatory labeling requirements that vary from state-to-state would not only conflict with FDA guidelines, but would be costly and confusing to consumers.

**Proposals similar to Senate Bill 25 have been struck-down in federal court.** In 1996, the Second Circuit Court of Appeals overturned a Vermont law requiring the labeling of milk products from cows treated with biotechnology-derived growth hormone. The Court ruled mandatory labeling of this kind to be unconstitutional forced speech. Following that decision, a number of states, including Alaska (Alaska Stat. § 17.20.013), adopted laws to regulate the voluntary labeling for milk from cows that were not treated with growth hormones. Consistent with FDA policy, these voluntary labeling guidelines require that such labels clearly state that no significant difference has been shown between milk derived from cows that are treated with the growth hormone and those that are not.

**Senate Bill 25 proposes a solution to a situation that does not yet exist in Alaska, or in any state.** There has yet to be single biotech fish product approved for human consumption by the FDA. Therefore, this legislation proposes to regulate a food product that does not yet exist. Alaska should not preempt federal decision-making on this issue. Rather, if sellers of conventionally-bred fish wish to label their products as such, they are free to do so in a truthful and non-misleading way according to FDA guidelines ([www.cfsan.fda.gov/~lrd/biotechm.html#label](http://www.cfsan.fda.gov/~lrd/biotechm.html#label)). Alaska should not force fish breeders to make disclosures that FDA has deemed are not relevant to the health and safety of consumers.

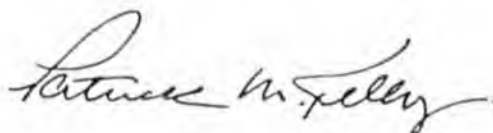
Senate Bill 25

April 4, 2005

Page 3

We strongly encourage the House Labor and Commerce Committee members to oppose Senate Bill 25. If you have any questions or would like additional information on this topic, please feel free to contact Patrick Kelly at 202-962-9503 [pkelly@bio.org](mailto:pkelly@bio.org) or Dr. Barbara Glenn, Director of Animal Biotechnology at 202-962-6697 [bglenn@bio.org](mailto:bglenn@bio.org). Thank you for your consideration of this important matter.

Respectfully submitted,



Patrick M. Kelly  
Vice President  
State Government Relations  
Biotechnology Industry Organization

*The Biotechnology Industry Organization (BIO) represents more than 1,000 biotechnology companies, academic institutions, state biotechnology centers and related organizations in 46 U.S. states and 33 other nations.*

*BIO members are involved in the research and development of health care, agricultural, industrial, and environmental biotechnology products.*

## The Seattle Times

seattletimes.com

Tuesday, June 08, 2004, 12:37 A.M. Pacific

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### Research fuels fear of gene-altered fish

By Sandi Doughton  
Seattle Times staff reporter

In a head-to-head battle for food, normal coho salmon lose out to their genetically engineered cousins, says a new study that adds to the controversy over what critics call "frankenfish."

Not only did the aggressive, gene-modified salmon gobble up most of the feed when raised in tanks with ordinary salmon, but they also gobbled up their weaker competitors — including their own type, British Columbia scientists reported in yesterday's online edition of the Proceedings of the National Academy of Sciences.

The results were often dramatic population crashes, with only one or two of the genetically modified fish surviving in tanks that originally held 50 animals, said lead author Robert Devlin of Fisheries and Oceans Canada.

"When food supplies are low, transgenic (genetically modified) fish have a very significant effect on the population," he said, adding the caveat that laboratory experiments may not predict what would happen if bioengineered salmon escaped into the environment.

But that's a question that needs to be answered soon.

Massachusetts-based Aqua Bounty Farms has asked the U.S. Food and Drug Administration for approval to market what could be the first transgenic food fish: Atlantic salmon that grow twice as fast as normal fish. Aqua Bounty hopes to raise its transgenic salmon in coastal net pens in the United States and market the eggs around the world, said Joseph McGonigle, vice president for external affairs. "We are constantly hearing from companies that are interested in it," he said.

Faster-growing salmon would cut costs dramatically for fish farmers and lead to lower prices in the supermarket, McGonigle said.

Consumer groups, commercial fishermen and some scientists say studies such as Devlin's show the potential ecological consequences of unleashing man-made breeds of fish.

**PRESS COVERAGE**

"We should not be taking a risk like this at a time when native salmon stocks are already in trouble," said Doug Gunan-Sherman, senior scientist at the Center for Food Safety, a consumer group based in Washington, D.C.

A 2002 National Academy of Sciences report expressed moderate concern that genetically engineered fish might pose risks to consumers if, for example, a person who was allergic to scallops ate fish with a scallop gene spliced into its DNA. But experts agreed that the biggest danger is that some of the gene-modified fish would inevitably escape into the environment.



[enlarge](#) STEVE RINGMAN / THE SEATTLE TIMES

Although gene-modified fish grow much faster than normal coho salmon, they don't get much bigger at maturity, researchers say.

Hundreds of thousands of Atlantic salmon have escaped into Northwest waters from salmon farms over the past several years when floating pens were ripped apart by storms or marauding sea lions.

The worst-case scenario involving transgenic fish is the "Trojan gene" hypothesis proposed by Purdue University geneticist William Muir: Genetically engineered salmon outcompete normal fish for food and mates, leading to less-hardy hybrids and the eventual extinction of the entire wild population.

McGonigle says the net pens would hold only sterile females, eliminating the possibility that escapees could breed in the wild. Several other studies, including some in Devlin's lab, have shown that the genetically engineered fish aren't likely to survive well outside of captivity because they're more susceptible to disease and oblivious to predators.

"We realize we have no chance of getting approval unless we can clearly demonstrate these fish are completely sterile, and they represent no genetic threat and no behavioral threat, in terms of competition for resources," he said.

Washington's Fish and Wildlife Commission banned genetically engineered fish from marine net pens, but the state has no rules that bar them from land-based tanks or fresh water, said John Kerwin, who manages the state's hatchery program. Oregon has similar restrictions, while California bans the creatures entirely — including the fluorescent Glo Fish, a genetically engineered aquarium fish that went on sale last year.

Devlin's research for the Canadian government is attempting to unravel the possible impacts of genetically engineered food fish before they're approved.

"We're just starting to gather the kinds of laboratory information which we hope will provide us with understanding about these animals," he said.

He works with coho salmon that overproduce growth hormone as a result of genetic tinkering. Aqua Bounty's Atlantic salmon were engineered in a similar way, using genes from chinook salmon and a species called ocean pout.

In both cases, the genetically engineered fish grow much faster than ordinary fish but don't get much bigger at maturity.

At 1 year of age, Devlin's gene-engineered fish are 10 times the size of ordinary coho.

For the study reported yesterday, Devlin and his colleagues manipulated the amount of food available to the fish. When food was abundant, normal and genetically modified fish coexisted well. It was only when

food was scarce that competition turned deadly for the normal fish.

While populations made up only of normal fish were able to ride out food shortages, mixed populations invariably crashed.

But the experiments also revealed another wrinkle: Populations made up of only genetically engineered fish also crashed when food supplies were low.

Does that mean transgenic fish might pose little risk if they escaped into the environment because they would die out when food supplies drop?

It's possible, Devlin said.

"If you had a small population, where the fish couldn't migrate out of the area, transgenic fish might eat themselves out of house and home and there would be no risks," he said.

But on the other hand, if numbers boomed when food was plentiful, the bioengineered fish could devastate normal fish in the cutthroat competition that would ensue.

McGonigle says he hopes to have an FDA ruling within the next two years, but the target date has been pushed back repeatedly.

Because of regulations to protect businesses, the agency's evaluation process is largely secret, leading critics to call for a new system that is open and gives more authority to environmental and wildlife agencies.

"FDA has absolutely no experience with these kinds of issues," said Guman-Sherman, the Center for Food Safety scientist. "And we know nothing about what they're doing."

*Sandi Doughton: 206-464-2491 or [sdoughton@seattletimes.com](mailto:sdoughton@seattletimes.com)*

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[washingtonpost.com](http://washingtonpost.com)

### Salmon Spawn Rainbow Trout

Scientists in Japan have engineered Asian salmon to produce the eggs and sperm of North American trout, an unprecedented bit of reproductive manipulation that may someday allow researchers to recruit common critters to replenish dwindling endangered species.

The team dissected newly hatched embryos of rainbow trout and removed small batches of "primordial germ cells." Those eventually become eggs or sperm in response to signals they receive from the developing fish.

The researchers, from the Tokyo University of Marine Science and Technology, injected those germ cells into newly hatched Pacific salmon embryos. Some of the cells made their way into the developing ovaries and testes of the recipient salmon, where they matured into rainbow trout eggs and sperm.

A year later, the team collected the milt – the cloud of sperm that make fish release into the water at maturity – of one of those salmon and mixed it with trout eggs. The result was a crop of purebred baby trout, sired by a salmon. (That salmon also produced salmon sperm, which when mixed with trout eggs created hybrid fish that did not survive.)

Other scientists have transplanted primordial germ cells from one fly species to another and from one bird species to another, resulting in the growth of sperm and eggs of one species inside the sex organs of the other. But the new experiment, described in the Aug. 5 issue of the journal *Nature*, marks the first such success in fish and the first to create progeny in any species.

Rainbow trout are plentiful but the technique could help rare species. For example, salmon take one year to become sexually mature while trout take two, suggesting endangered species may be aided through reproductive by faster-breeding species.

-- Rick Weiss

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"I have, I've had them smoked. They are absolutely indistinguishable from any other farmed fish. They are perfectly good-looking fish. I mean they are normal."

The AquAdvantage salmon were developed by Canadian scientists trying to help farmed Atlantic salmon survive winter. Those experiments, which involved introducing fish anti-freeze protein genes into Atlantic salmon from flounders, led to a growth breakthrough when genes from Chinook salmon (a Pacific species) and pout (a type of cod) were introduced.

In the early stages of life, the AquAdvantage salmon grow four to six times as fast as unaltered fish. They then slow down and approach the normal rate of growth. The early growth spurt could allow fish farmers to get fish to market size in 18 months rather than 36 months.

AquAdvantage salmon are found only in experimental fish tanks in the company hatchery in Prince Edward Island and at Memorial University in Newfoundland. A similar type of genetically modified salmon is also under study in a federal government lab in Vancouver.



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# Industry leery of genetically altered fish

■ **SALMON:** Would fast-growing "Frankenfish" imperil wild stocks?

By **MATT VOLZ**  
The Associated Press

JUNEAU — Producers of a genetically modified salmon that would speed the fish's growth to maturity expect their nine-year federal application to sell the fish in the United States to be decided within a year.

That has renewed concern among commercial fishermen who, competition aside, wonder what would happen if the genetically modified fish escaped their pens and mingled with wild salmon.

"They show up in rivers in Alaska, they show up in our fishing nets and already we fear Atlantic salmon as an invasive species in our productive salmon spawning waters," said Mark Vinsel of the United Fishermen of Alaska. "When you add in the genetically modified fish, I think the concerns are multiplied."

Genetically modified, or transgenic, fish are already being denounced by fishermen and anti-fish-farming states such as Alaska as unhealthy, uneconomic and dangerous to native species of salmon.

See Page B-2, DESIGNER FISH

## DESIGNER FISH: *Altered salmon*

*Continued from B-1*

"I'd prefer if you'd call it Frankenfish," said Alaska Sen. Kim Elton, a Democrat from Juneau. "We don't know what additional challenges might accrue because people are changing the genetics of fish."

A transgenic fish's genetic structure is changed at the molecular level, in this case to allow a mature salmon to grow from an egg in 14-16 months instead of the 22-30 months it takes wild salmon to grow. If approved, it would be the first genetically modified animal allowed for food consumption in the United States.

The earliest that genetically modified salmon could hit U.S. and Canada markets would be the next decade, after permits for selling and raising the fish in both countries are approved.

Aqua Bounty Technologies, based in Waltham, Mass., is nine years into the application process with the Food and Drug Administration, and spokesman Joe McGonigle said he expects a decision within a year.

FDA spokeswoman Rae Jones acknowledged by e-mail Aqua Bounty's pending application, but said: "We cannot provide any information about if or when it will be approved, nor can we provide any information about where it is in the approval process."

Aqua Bounty plans to sell genetically modified fish eggs to fish farms. McGonigle said the concerns of interbreeding with wild salmon are unfounded — sterilized transgenic fish could actually reduce the chance of an invasive species hurting the wild salmon populations of the Pacific Northwest.

"You're sitting at the epicenter of hostility to salmon farming," McGonigle said of Alaska. "The single most significant issue is the risk of interbreeding. The only way you can control that is to sterilize the fish."

Sterile or not, Vinsel said, an escaped transgenic fish would still be competing with wild fish for food and to mate.

"I can't honestly take that seriously," McGonigle said, saying the number of wild salmon that

return to native streams outnumber the farmed fish many times over.

McGonigle said he does not expect the genetically modified salmon to compete directly with wild salmon in the market, but contends the products can coexist. Consumer and price tiers will likely be established, with wild salmon at the top and the less expensive and more plentiful transgenic fish at the bottom.

The genetically modified salmon would make it easier for fish farmers to have better control of their stocks and even out periods of gluts and scarcity, McGonigle said.

"Nobody wants to see the prices fall, not to where it becomes difficult for people to make a living," he said.

In Alaska, lawmakers are already preparing for the introduction of genetically modified fish to the market. A bill by Elton and state Sen. Gary Stevens, a Republican from the fishing community of Kodiak, would require labeling genetically modified fish.

Elton says his proposal is complementary to past legislation that required farmed fish to be labeled in Alaska restaurants and shops. Those bills were products of a legislative salmon task force for which the goal was to protect one of the state's biggest industries.

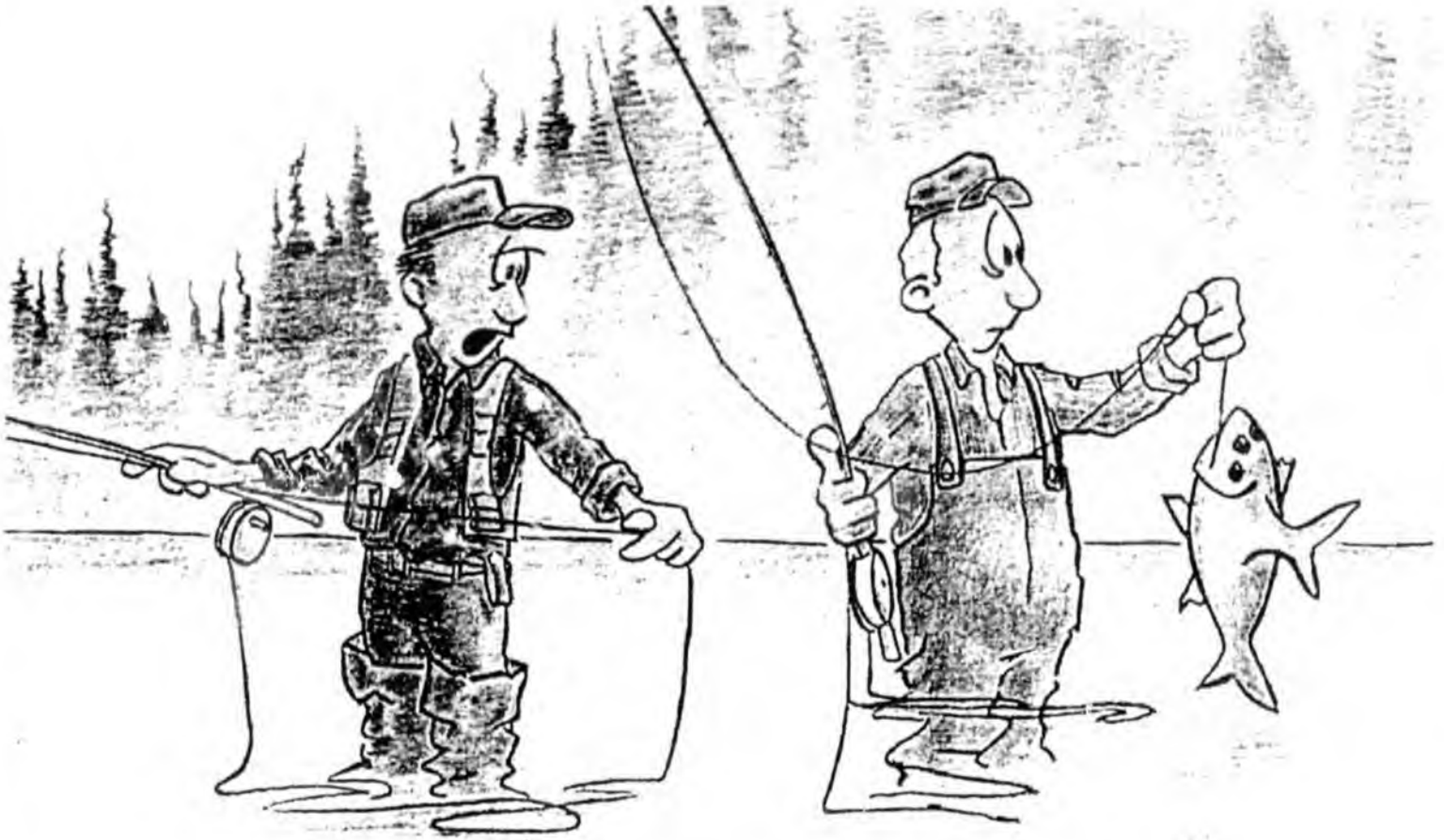
"Hopefully, it sets a pattern," Elton said. "As frequently happens, if one state does something, another state says, 'That's a good model.'"

Elton and Stevens' bill has passed the state Senate and is being considered by the state House.

Aqua Bounty says foods produced through biotechnology are not required to be labeled unless an allergen is introduced, the nutritional content is altered or the result of modification is a new food item.

But the company plans to require its licensees to label their fish, saying consumers are more likely to accept the fish if they have the facts, and for brand recognition.

"Branding is essential for our fish, or for Alaska or for anyone else," McGonigle said.



"THAT MUST BE ONE OF THOSE FARMED SALMON  
WE'VE BEEN HEARING ABOUT."

A SMILE

SB

55



Official Business

# ALASKA STATE LEGISLATURE

## SENATOR THOMAS H. WAGONER

- Chair, Senate Resources Committee
- Vice-Chair, Senate State Affairs Committee
- Member, Community & Regional Affairs
- Member, Legislative Council
- Member, World Trade

Session: January - May

State Capitol, #427

Juneau, AK 99801

Phone: 907-465-2828 Fax: 907-465-4779

Interim: May - December

145 Main Street Loop, Suite 226

Kenai, AK 99611

Phone: 907-283-7996 Fax 907-283-8127

## Sponsor Statement SB 55 Agricultural Land

The Ross Miller family started homesteading twenty-seven acres of land in 1943 in Hope. The Millers leased fifteen acres of adjoining land from the Forest Service, in the early fifties, to use as pasture land. Due to the '64 earthquake, the Millers lost eighteen of their twenty-seven acre homestead. There was an earthquake exchange program set up and compensated the Millers for their loss by giving them only one acre of land. The state, after determining that the Millers had been treated unfairly, decided they were entitled to the fifteen acres of leased Forest Service land as relief. In 1978, agricultural rights to this land were conveyed as provided by former state law AS 38.05.321.

The Department of Natural Resources has declared that the state has no interest in retaining the remaining interest in this property, and support conveying the remaining land rights to the Millers. Unfortunately, DNR is not authorized to remove the agricultural restrictions under current statute.

SB 55 will make a minor statutory change to correct this situation. Anyone who received agricultural rights to land under sec. 6(a) of the Alaska Statehood Act, and the tracts of land were 15 acres or less, would be eligible for fee simple title if the owner pays the fair market value for the remaining interest.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 55  
 (S) Publish Date: 2/1/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Agricultural Land RDU: Resource Development  
 Component: Title Acquisition and Defense  
 Sponsor: Senator Wagoner  
 Requester: Senate Resources Component No.: 2459

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	00	00	00	00	00	00
Travel	00	00	00	00	00	00
Contractual	00	00	00	00	00	00
Supplies	00	00	00	00	00	00
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 (FY2005) cost: 00  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time					
Part-time					
Temporary					

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill requires DNR to convey title for the remaining interests in the land estate to an owner of the rights to that land for agricultural purposes if the land was conveyed to the state as a forest service grant under sec. (6) of the Alaska Statehood Act and the parcel is not more than 15 acres in size.  
  
 \*\* This legislation would enable anyone meeting the law's conditions to purchase the state retained interests to property originally sold by the department as agricultural interest only lands. DNR supports this proposed measure. Other than a small but indeterminate amount of revenue expected to be generated from the sale of the agricultural interests, there is no anticipated significant fiscal impact associated with the implementation of this proposed legislation.

Prepared by: Bob Loeffler Phone: 269-8625  
 Division: Mining, Land and Water Date/Time: 1/31/2005  
 Approved by: Tom Irwin, Commissioner Date: 1/31/2005  
 Agency: Natural Resources

# FISCAL NOTE

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

Fiscal Note Number: 2  
 Bill Version: CSSB 55(FIN)  
 (S) Publish Date: 1/19/06

Revision Date/Time (Note if correction): 1/17/06 Dept. Affected: Natural Resources  
 Title: Agricultural Land RDU: Resource Development  
 Component: Title Acquisition & Defense  
 Sponsor: Senator Wagoner  
 Requester: (S) FIN Component No.: 2459

**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>						

\*\*\* INDETERMINATE \*\*\*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( *** )</b>						
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\*\*\* INDETERMINATE \*\*\*

**FUND SOURCE** (Thousands of Dollars)

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

\*\*\* INDETERMINATE \*\*\*

Estimate of any current year (FY2006) cost: 00

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 bill requires DNR to convey title for the remaining interests in the land estate to an owner of the rights to that land for agricultural purposes if the land was conveyed to the state as a forest service grant under sec. (G) of the Alaska Statehood Act and the parcel is not more than 15 acres in size.

\*\*\* This legislation would enable anyone meeting the law's conditions to purchase the state retained interests to property originally sold by the department as agricultural interest only lands. DNR supports this proposed measure. Other than a small but indeterminate amount of revenue expected to be generated from the sale of the agricultural interests, there is no anticipated significant fiscal impact associated with the implementation of this proposed legislation.

Prepared by: Dick Mylius, Acting Director Phone: 907-269-8625  
 Division: Mining, Land & Water Date/Time: 1/17/2006  
 Approved by: Michael L. Menge Date: 1/17/2006  
 Agency: Natural Resources

# LEGAL SERVICES

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

(907) 465-3887 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

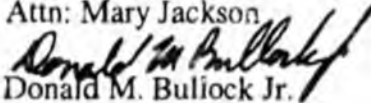
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

December 21, 2004

**SUBJECT:** Draft bill instructing the commissioner of natural resources to issue a patent in certain state land (Work Order No. 24-LS0287\A)

**TO:** Senator Tom Wagoner  
Attn: Mary Jackson

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

Enclosed with this memorandum is the draft bill you requested. The draft instructs the commissioner of natural resources to issue a patent for the remaining state interests in certain land used for agricultural purposes.

Land subject to the bill must meet three requirements:

- (1) the tract originally conveyed by the state is no more than 15 acres;
- (2) the state originally acquired the land from the national forests under the statehood act; and
- (3) the state received the land for purposes of community expansion.

The owner of the agricultural rights in the land would be required to pay the state the fair market value for the remaining interests conveyed by the commissioner.

You asked whether the bill runs the risk of violating the local or special acts prohibition under art. II, sec. 19, Constitution of the State of Alaska. Although the bill would be a general act, testimony on a similar bill in an earlier Legislature reported that only one tract fit the requirements repeated above. Although the application of the bill may be limited, in my opinion, it is likely that the bill would not violate art. II, sec. 19. However, the final determination of whether the bill passes constitutional scrutiny is left to the courts.

Drafting Language

Senator Tom Wagoner  
December 21, 2004  
Page 2

Art. II, sec. 19, reads as follows:

**SECTION 19. Local or Special Acts.** The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

The bill is drafted as a general act in that it does not identify a particular state or situation to which would be applicable.

Although the draft bill does not specifically address a particular parcel of land, it may be that only one parcel in the state is affected by the legislation. Acts with limited application have survived challenges under art. II, sec. 19, when the court has found, after examining both the legislative goals and means to advance them, that the legislation bears a "fair and substantial relationship" to legitimate purposes.<sup>1</sup> Our state's supreme court has stated that legislation "need not operate evenly on all parts of the state to avoid being classified as local or special."<sup>2</sup> In other words, the identification of a substantial valid state interest in an act of limited application can remove the color of what may look like a possible local or special act.

In the course of enacting legislation, there are several levels at which the local or special nature of a bill may be examined. First, the bill may be drafted as a general act that reaches the intended result. Second, when considering the bill in committee and during debate, each legislator may make a decision on the appropriateness of the legislation under the constitution and public policy. Third, if enacted, the governor may review the constitutionality of the legislation along with other policy factors. Fourth, the legislation may be challenged in court where the constitutionality of the measure is ultimately determined.

Looking at the draft bill on its face, it is a general act that has application to any land in the state that meets the requirements in the bill. So long as there is a fair and substantial relationship to legitimate purposes, I believe the bill would not violate art. II, sec. 19, Constitution of the State of Alaska.

If I may be of further assistance, please advise.

Enclosure  
DMB:jad  
04-008.jad

---

<sup>1</sup> *State v. Lewis*, 559 P.2d 630, 643 (Alaska 1977).

<sup>2</sup> *Id.*

# Alaska Statehood Act

## Selection of public lands, fish and wildlife, public schools, mineral permits, mineral grants, confirmation of grants, internal improvements, submerged lands

### Section 6

(a) For the purposes of furthering the development of and expansion of communities, the State of Alaska is hereby granted and shall be entitled to select, within twenty-five years after the date of the admission of the State of Alaska into the Union, from lands within national forests in Alaska which are vacant and unappropriated at the time of their selection not to exceed four hundred thousand acres of land, and from the other public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection not to exceed another four hundred thousand acres of land, all of which shall be adjacent to established communities or suitable for prospective community centers and recreational areas. Such lands shall be selected by the State of Alaska with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other public lands: Provided, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied.

(b) The State of Alaska, in addition to any other grants made in this section, is hereby granted and shall be entitled to select, within twenty-five years after the admission of Alaska into the Union, not to exceed one hundred and two million five hundred and fifty thousand acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: Provided, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the lands so occupied: And provided further, That no selection hereunder shall be made in the area north and west of the line described in section 10 without approval of the President or his designated representative.

(c) Block 32, and the structures and improvements thereon, in the city of Juneau are granted to the State of Alaska for any or all of the following purposes or a combination thereof: A residence for the Governor, a State museum, or park and recreational use.

(d) Block 19, and the structures and improvements thereon, and the interests of the United State in blocks C and 7, and the structures and improvements thereon, in the city of Juneau, are hereby granted to the State of Alaska.

(e) All real and personal property of the United States situated in the Territory of Alaska which is specifically used for the sole purpose of conservation and protection of the fisheries and wildlife of Alaska, under the provisions of the Alaska game law of July 1, 1943 (57 Stat. 301; 48 U.S.C., sections 192-211), as amended, and under the provisions of the Alaska commercial fisheries laws of June 26, 1906 (34 Stat. 478; 48 U.S.C., sections 230-239 and 241-242), and June 6, 1907 (43 Stat. 465; 48

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND & WATER  
OFFICE OF THE DIRECTOR

550 WEST 7<sup>TH</sup> AVENUE, SUITE 1070  
ANCHORAGE, ALASKA 99501-3576  
PHONE: (907) 269-8600  
FAX: (907) 269-8904

January 21, 2005

The Honorable Tom Wagoner  
State Senate  
State Capitol,  
Juneau, Alaska 99801-1182

RE: Support for SB 55

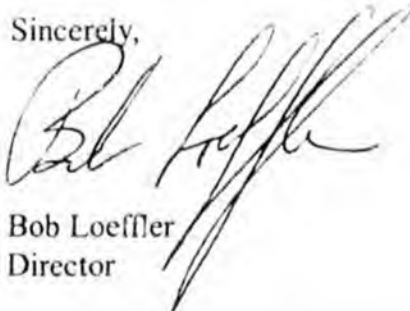
Dear Senator Wagoner:

I am writing to provide my support for SB 55. The Bill is essentially identical to SB 167, introduced by Senator Torgerson in 2001. The bill would enable anyone meeting the law's conditions, to purchase the state retained interests in property originally sold by the department as agricultural interest only lands. After review, it appears that there are few, if any, individuals other than the Miller Family would qualify.

The department reviewed that particular situation and determined that there is no compelling state interest in retaining the remaining interests in this small parcel of land. However, without SB 55 the department has no authority to convey the remaining interests in these properties. We support the bill. It would have no negative affect on the state interest and would help an Alaskan family gain equity in land they have used for many years.

If you need more information or would like to discuss this further, please call me at 269-8600 or Janet Burleson at 465-4730.

Sincerely,



Bob Loeffler  
Director

Cc: Commissioner Tom Irwin  
Special Assistant Janet Burleson

The Honorable Thomas Wagoner  
State Senate  
Alaska State Capitol  
Juneau Alaska 99801-1182

Dear Senator Wagoner,


Amly asked for a statement of support for SB 55. We appreciate your efforts on getting this "problem" resolved. Many thanks.

Sincerely, Frank

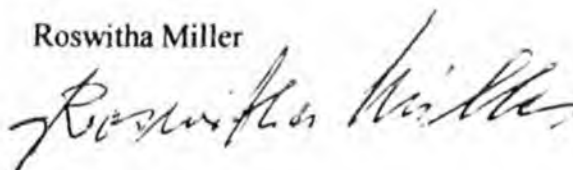
Statement of support for SB 55

We certainly support SB 55. This bill would give us the opportunity to purchase the remaining interest in a 15 acre parcel of land that we own in Hope, which is classified as agricultural rights only. Originally, the parcel was leased from the US Forest Service in the mid 1950's by my parents, Ross and Alma Miller. They wished to obtain those roughly 15 acres as a settlement for land "lost" after the 1964 Earthquake. Because of some errors and omissions by the State of Alaska, their request got lost. After a lengthy period of examination, they were given the option to purchase only ag rights to the 15 acres. At that time, it appeared the State had no interest in that parcel remaining agricultural only, which is still the case today. Being able to purchase full title to this parcel would solve the problems related to the agricultural restrictions and make the land much more usable to us.

Frank L Miller



Roswitha Miller



PO Box 39083  
Ninilchik AK 99639



# Alaska State Legislature

Please enter into the record my testimony to the Senate Resource  
Committee name

Committee on SB 55, dated 2-2-05  
Bill/Subject

I fully support SB 55.  
Since the Millers relocation from the earthquake induced floodplain in Hope the Family has enjoyed this special place for 3 generations. The Miller grandchildren are interested in this land, but the agricultural restrictions do not allow more than 1 dwelling on the 15 acre parcel.

Please consider helping to make this land a home again

Signed:

*Michael Miller*

Testifier

Representing (Optional)

P.O. Box 870586 Wasilla Alaska 99687

Address

907-355-5466

Phone number

**Amy L. Seitz**

---

**From:** POMS@legis.state.ak.us  
**Sent:** Wednesday, February 02, 2005 9:33 AM  
**To:** Sen. Tom Wagoner  
**Subject:** New Pom:SB 55 Agricultural Land

Terry Mcghan  
Po Box 873310

Wasilla 99687-3310,

357-2303

I support SB55 in regard to returning lands back to private ownership.

**Amy L. Seltz**

---

**From:** POMS@legis.state.ak.us  
**Sent:** Wednesday, February 02, 2005 10:57 AM  
**To:** Sen. Tom Wagoner  
**Subject:** New Pom:SB 55 Agricultural Land

Timothy Mcghan  
Po Box 520356

Big Lake 99652-0356,

I am in favor of SB 55.

**Amy L. Seitz**

---

**From:** POMS@legis.state.ak.us  
**Sent:** Wednesday, February 02, 2005 10:54 AM  
**To:** Sen. Tom Wagoner  
**Subject:** New Pom:SB 55 Agricultural Land

Lindsey Mcghan  
Po Box 520356

Big Lake 99652-0356.

Please pass SB 55. Thanks

**Amy L. Seltz**

---

**From:** POMS@legis.state.ak.us  
**Sent:** Wednesday, February 02, 2005 2:44 PM  
**To:** Sen. Tom Wagoner  
**Subject:** New Pom:SB 55 Agricultural Land

Michael Mcghan  
Po Box 870586

Wasilla 99687-0586,

Since the Miller's relocation from the 1964 earthquake induced floodplain in Hope, the family has enjoyed this special place for 3 generations. The Miller grandchildren are interested in the land but the agriculture restrictions do not allow more than one dwelling per 15 acres.  
Help make this land a home.





**SB**

**102**

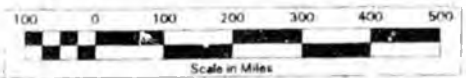
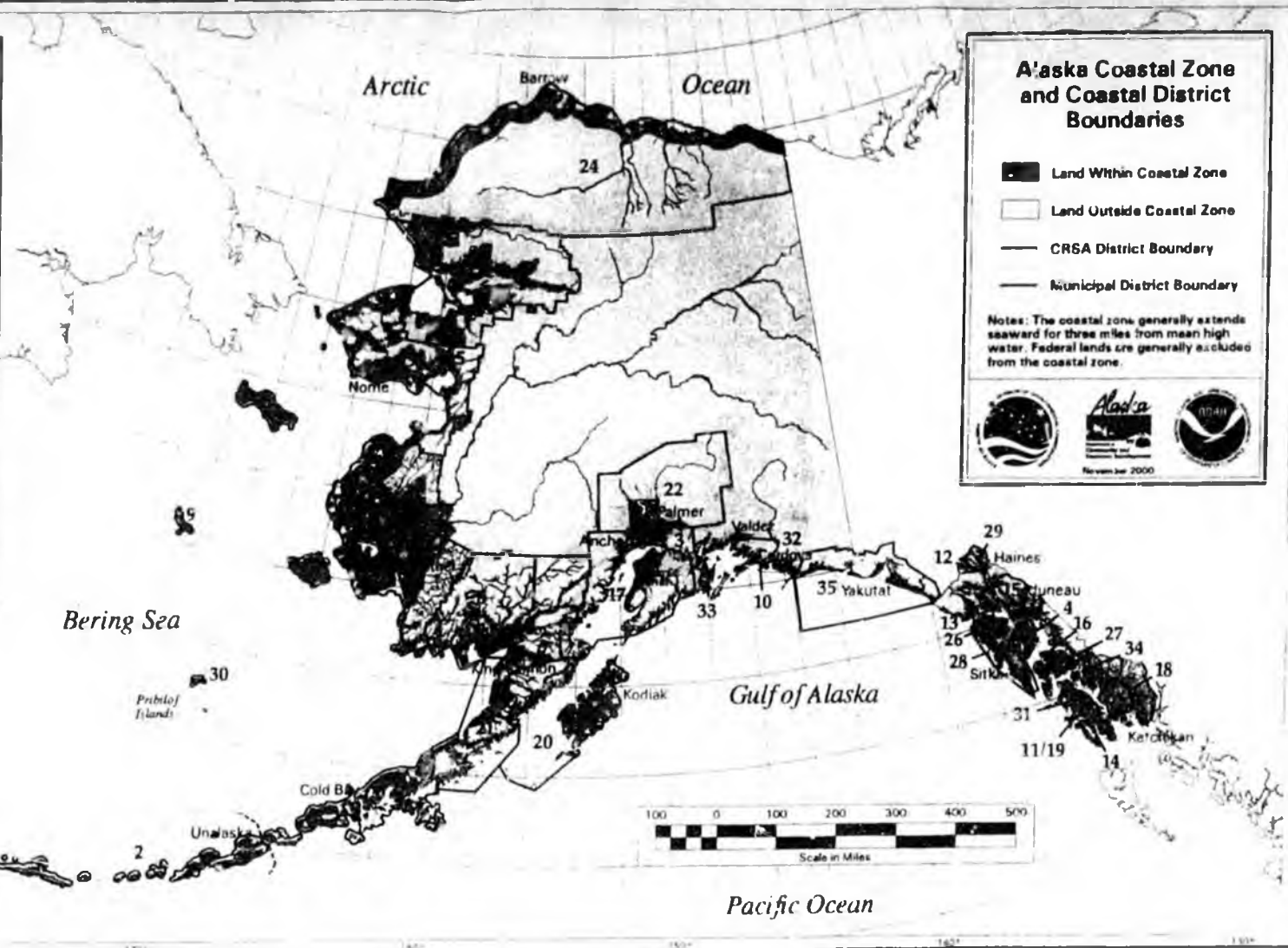
### Coastal Districts

1. Aleutians East Borough
2. Aleutians West CRSA
3. Municipality of Anchorage
4. City of Anchorage
5. Barrow Borough CRSA
6. City of Bethel
7. Bristol Bay Borough
8. Bristol Bay CRSA
9. Central CRSA
10. City of Cordova
11. City of Craig
12. City of Haines
13. City of Hoonah
14. City of Hydaburg
15. City and Borough of Juneau
16. City of Kake
17. Kenai Peninsula Borough
18. Ketchikan Gateway Borough
19. City of Klawock
20. Kodiak Island Borough
21. Lake and Peninsula Borough
22. Matanuska-Susitna Borough
23. City of Nome
24. North Slope Borough
25. Northwest Arctic Borough
26. City of Palcaan
27. City of Petersburg
28. City and Borough of Sitka
29. City of Skagway
30. City of St. Paul
31. City of Thoma Bay
32. City of Valdez
33. City of Whittier
34. City of Wrangell
35. City and Borough of Yakutat

### Alaska Coastal Zone and Coastal District Boundaries

-  Land Within Coastal Zone
-  Land Outside Coastal Zone
-  CRSA District Boundary
-  Municipal District Boundary

Notes: The coastal zone generally extends seaward for three miles from mean high water. Federal lands are generally excluded from the coastal zone.



# Alaska State Legislature

Rep. Harry Crawford  
Rep. Jim Elkins  
Rep. Carl Gatto  
Rep. Mary Kapsner  
Rep. Gabrielle LeDoux  
Rep. Kurt Olson  
Rep. Paul Seaton



State Capitol, Room 124  
Juneau, AK 99801-1182  
**Co-Chairs**  
**Rep. Ralph Samuels**  
(907) 465-2095 fax: 465-3810  
**Rep. Jay Ramras**  
(907) 465-3004 fax: 465-2070

## House Resources Committee

### MEMO

To: Resources Committee

Fm: Jim Pound, Committee Aide

Cc:

Date: May 6, 2005, 10:31 AM

Re: HB 189/SB 102

---

This is the information on SB 102 for inclusion with the backup from HB 139.

Please bring both to Resources Today.

Thanks

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

Thank you

FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 1100 J1  
JUNEAU, ALASKA 99801-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

April 18, 2005

Coastal District Representatives

Re: Update to the Coastal Districts Following Receipt of Office of Coastal and Resource Management's (OCRM) Letter Addressing Preliminary Approval of the Amended Alaska Coastal Management Program (ACMP)

Dear Coastal District Representatives:

I am pleased to share with you a landmark letter issued by OCRM on April 14, 2005. That letter responds favorably to the State of Alaska's December 16, 2004, submission of *The Alaska Coastal Management Program, As Amended*, and concludes an arduous, detailed, comprehensive, and collaborative effort by the State of Alaska and OCRM on the approvability of the state's coastal program.

On February 23, 2005, I wrote OCRM a letter that took a firm position regarding our state's right to manage our coastal uses and resources in a manner consistent with our best judgment. OCRM took a hard look at the issues I identified and re-evaluated their position, as characterized in their January 28, 2005, letter. I appreciate OCRM's flexibility in reviewing the Coastal Zone Management Act (CZMA) and other approval criteria that resulted in a significantly modified list of requirements for Alaska's amended ACMP to be federally approved. OCRM's modified position truly assists our state in developing a coastal program that appropriately addresses the management and protection of Alaska's coastal uses and resources, balances the rights of stakeholders, and does so in a manner fully compliant with the CZMA and its implementing regulations.

Our discussions have culminated with OCRM's April 14, 2005, letter, which identifies the few remaining technical regulatory amendments necessary for the amended ACMP to meet the requirements of the CZMA. The state has agreed to make those revisions identified in the letter as required by law, but will not make further changes which OCRM sought as a policy directive but which had no legal basis.

Once the amended regulations have been adopted in accordance with Alaska's Administrative Procedures Act, OCRM will issue preliminary approval

of the amended ACMP. The revisions are discussed in detail in the OCRM letter and are briefly summarized below.

1. Pursuant to 16 U.S.C. 1455(d)(4) and 15 C.F.R. 923.82(a), the state must hold a public hearing on the amended ACMP before OCRM can make a preliminary approval decision. This public hearing is an opportunity for interested persons to provide oral and/or written testimony on the state's amended ACMP.
2. The Department of Natural Resources (DNR) will make regulatory revisions to the ACMP's state standards at 11 AAC 112 to accommodate the CZMA "effects test" for federal consistency reviews which is required by federal regulation. As described in DNR Commissioner Tom Irwin's April 7, 2005, letter to OCRM, this "effects test" applies to (a) federal agency activities if the federal agency determines that effects to any land or water use or natural resource of the coastal zone are reasonably foreseeable and the state has an enforceable policy addressing the use or resource; and (b) federal license or permit activities that are located within the state's defined coastal area or on the outer continental shelf.
3. The state will make regulatory revisions to the subsistence use standard to allow the state to designate subsistence use areas. This revision will address the potential gap between the effective date of the new state standards at 11 AAC 112 and the implementation of the revised coastal district plans.
4. The state will update the ACMP program description by incorporating into that document all of DNR's existing published guidance pertaining to district planning and implementation.

To secure timely preliminary approval of the amended ACMP, and to assure continued federal funding of the ACMP in state fiscal year 2006, DNR intends to expeditiously revise the regulations to satisfy these procedural requirements. The proposed schedule for accomplishing the above listed tasks and securing preliminary approval from OCRM is as follows:

- April 20, 2005 – DNR releases all proposed regulatory revisions for public review and comment, and provides public notice of the hearing on the amended ACMP;

Coastal District Representatives

April 18, 2005

Page 3

- May 20, 2005 – DNR conducts a public hearing on the amended ACMP in Anchorage;
- May 23, 2005 – DNR closes the public review and comment period on all proposed regulations;
- May 25, 2005 – Having considered all comments on the regulations and incorporated appropriate changes, DNR finalizes and adopts the revised regulations, and submits them to the Department of Law (DOL) for legal review;

May 31, 2005 – DOL transmits regulations to the Lieutenant Governor for filing, establishing an effective date of July 1, 2005;

June 1, 2005 – DNR submits to OCRM: (1) the adopted revised regulations, (2) the summary of the public hearing on amended ACMP, and (3) the revised program description;

July 1, 2005 – OCRM responds to the state, preliminarily approving the amended ACMP; OCRM initiates the NEPA process; and

December 31, 2005 – OCRM completes the NEPA process and approves amended ACMP, such that the state standards at 11 AAC 112 become effective on January 1, 2006.

Over the past several months, coastal district representatives have told us that while all districts will be able to submit a revised district coastal management plan by the July 1, 2005, deadline, additional time would improve the quality of those plans and the public outreach process. Three bills currently before the Legislature have requested various formulations of the request for additional time and the districts have recently indicated that an additional six months would be invaluable to their efforts. I agree.

Therefore, I am announcing that DNR will work with the Alaska State Legislature on Senate Bill 102 and House Bill (HB) 186 to effect three deadline extensions within HB 191 (Chapter 24, SLA 2003). These three deadline extensions will:

- Amend Section 46(c) of HB 191 to extend by six months the district program sunset date;



## Alaska State Legislature

Senate Majority Web: [www.akrepublicans.org](http://www.akrepublicans.org)

Sponsor: Senator Gary Stevens

Current Version: CSSB 102 (RES)

Contact: Doug Letch, 465-4925

### Fact Sheet for: Senate Bill 102

**Short Title:** COASTAL MANAGEMENT PROGRAMS

**Summary:**

- Extends the deadline for coastal resource districts to submit revised district coastal management plans to the Department of Natural Resources.
- Moves the deadline to six months after the State's revised coastal management program is approved by the National Oceanic and Atmospheric Administration.

**Benefits:**

- Gives resource districts more time to submit revised coastal zone management plans while state and federal oversight agencies resolve outstanding issues.
- Gives Alaska's coastal districts a reasonable opportunity for meaningful participation in the development of their coastal management plan.

**Background:**

- In 2003 the Legislature passed House Bill 191, which streamlined the Alaska Coastal Management Program (ACMP). The ACMP was first enacted in 1977 to participate in the federal Coastal Zone Management Act of 1972. The federal program encourages states to adopt coastal programs by providing federal funds and the opportunity for federal consistency review, which allows the state to apply its authority to projects located on federal land where otherwise it would be preempted by federal law. HB 191 created a new coastal management program and required resource districts to submit a revised coastal management plan by July 1, 2005. This bill gives districts more time to comply.

**Coastal Management Programs**  
Sponsor Statement for Senate Bill 102  
Released: February 23, 2005  
Doug Letch

The Alaska Coastal Management Program (**ACMP**) is a partnership between federal, state, and local governments providing state and local governments a voice in federal decision making. Alaska is one of 34 coastal and Great Lakes states and territories that utilize this program, a program that annually channels millions of dollars in federal grant money to the states. The ACMP has helped guide coastal development in the state since it was enacted in 1977.

Without the program the state and local governments lose their ability to control development on federal land and the Outer Continental Shelf. In addition the state will lose millions in federal coastal management planning money.

In 2003, **HB 191** substantially revised the state coastal program. The federal Office of Ocean and Coastal Resource Management (**OCRM**) must approve the revised program. OCRM has determined that additional revisions are necessary before they can grant approval.

The 2003 legislation included state-imposed deadlines for revisions to local coastal programs. Coastal Districts are attempting to follow the statutory directive to revise their programs to meet the new requirements. However, OCRM has identified problems with the state's guidance to local districts regarding the scope and content of their program. The state will have to revise regulatory guidelines for the local districts before the new program can be approved by OCRM. In turn, the local districts will have to re-revise their programs to meet the new guidelines. It is a waste of time, money and effort for districts to revise their plans before the state's program is federally approved and any necessary changes have been made.

SB 102 bases the deadline for district coastal program revisions and annulment of the existing program on federal approval of the state's program. This extension will ensure an orderly and efficient transition to the new program.

###

[http://www.akrepublicans.org/stevensg/24/spst/steg\\_sb102.php](http://www.akrepublicans.org/stevensg/24/spst/steg_sb102.php)

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24-LS0491VN  
Bullock  
5/6/05

**HOUSE CS FOR CS FOR SENATE BILL NO. 102( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

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

**Sponsor(s): SENATORS GARY STEVENS, Olson, Wilken, Dyson, Wagoner**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act repealing the Alaska coastal management program; relating to an extension for**  
2 **review and approval of revisions to the Alaska coastal management program; relating to**  
3 **reviews and modifications by the Department of Natural Resources; relating to coastal**  
4 **resource district policies; providing for an effective date by amending the effective date**  
5 **of sec. 45, ch. 24, SLA 2003; and providing for an effective date."**

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

7 **\* Section 1. AS 09.45.230(b) is amended to read:**

8 (b) A person may not maintain an action under this section based upon an air  
9 emission or water or solid waste discharge, other than the placement of nuclear waste,  
10 where the emission or discharge was expressly authorized by and is not in violation of  
11 a term or condition of

12 (1) a statute or regulation;

13 (2) a license, permit, or order that is

1 (A) issued after public hearing by the state or federal  
2 government; and

3 (B) subject to

4 (i) continuing compliance monitoring;

5 (ii) periodic review by the issuing agency; or

6 (iii) renewal on a periodic basis; or

7 [(iv) AS 46.40; OR]

8 (3) a court order or judgment.

9 \* Sec. 2. AS 16.43.160(e) is amended to read:

10 (e) For an entry permit or an interim-use permit issued for calendar year 2002  
11 and following years, the annual base fee may not be less than \$10 or more than \$300.  
12 The annual base fee must reasonably reflect the different rates of economic return for  
13 different fisheries. The fee for a nonresident entry permit or a nonresident interim-use  
14 permit shall be higher than the annual base fee by an amount, established by the  
15 commission by regulation, that is as close as is practicable to the maximum allowed by  
16 law. The amount of the fee for a nonresident entry permit or a nonresident interim-use  
17 permit may reflect

18 (1) the costs incurred by the state that are directly attributable to  
19 participation of nonresidents in the commercial fisheries of the state;

20 (2) the costs incurred by the state for

21 (A) direct operating expenditures for ongoing management,  
22 support, and regulation of the commercial fishing industry, including relevant  
23 expenditures of the

24 (i) Department of Environmental Conservation - air and  
25 water quality permitting activities and seafood inspection activities;

26 (ii) Department of Commerce, Community, and  
27 Economic Development - commercial fishing loan program, Alaska  
28 Seafood Marketing Institute, regional seafood development program,  
29 and community development quota program;

30 (iii) Department of Fish and Game - division of  
31 commercial fisheries, board support section, division of administrative

1 services, division of sport fish, commissioner's office, and Alaska  
2 Commercial Fisheries Entry Commission;

3 (iv) Department of Labor and Workforce Development  
4 - wage and hour enforcement, mechanical inspections, occupational  
5 safety and health activities, and fishermen's fund;

6 (v) Department of Law;

7 (vi) Department of Natural Resources, including [THE  
8 ALASKA COASTAL MANAGEMENT PROGRAM AND] habitat  
9 programs;

10 (vii) Department of Public Safety - commercial  
11 fisheries enforcement;

12 (viii) Department of Revenue - fisheries business tax  
13 program, fishery resource landing tax program, seafood development  
14 tax program, salmon fishery assessment program, permit buy-back  
15 assessment program, and dive fishery management assessment  
16 program;

17 (ix) University of Alaska - Fisheries Industrial  
18 Technology Center, Institute of Marine Science, Marine Advisory  
19 Program, Sea Grant College Program, and School of Fisheries and  
20 Ocean Sciences;

21 (x) Legislature;

22 (xi) Alaska Court System;

23 (B) indirect operating expenditures for general overhead  
24 attributable to supporting the commercial fishing industry, including  
25 expenditures for general overhead attributable to components of agencies that  
26 have direct operating expenditures identified under (A) of this paragraph and to  
27 components of agencies for which direct operating expenditures related to the  
28 ongoing management, support, and regulation of the commercial fishing  
29 industry cannot be readily determined;

30 (C) capital costs directly supporting the commercial fishing  
31 industry; and

1 (D) expenditures to subsidize the construction and operation of  
2 salmon hatcheries.

3 \* Sec. 3. AS 37.10.058(2) is amended to read:

4 (2) "designated regulatory service" means a regulatory service  
5 provided under the following regulatory programs:

6 (A) control of solid waste facilities under AS 46.03.020(10)(D)  
7 and (E);

8 (B) regulation of the disposal of waste into waters of the state  
9 under AS 46.03.100;

10 (C) certification of federal permits or authorizations under 33  
11 U.S.C. 1341 (sec. 401, Clean Water Act);

12 (D) [A COASTAL MANAGEMENT CONSISTENCY  
13 DETERMINATION RELATING TO A PERMIT OR AUTHORIZATION  
14 ISSUED UNDER A PROGRAM LISTED IN (A) - (C) OF THIS  
15 PARAGRAPH, IF THE DETERMINATION IS MADE BY THE AGENCY  
16 ISSUING THE PERMIT OR AUTHORIZATION;

17 (E)] any authorization for the use or appropriation of water  
18 under AS 46.15; and

19 (E) [(F)] administration of emission control permits for the air  
20 quality control program under AS 46.14.

21 \* Sec. 4. AS 37.10.058(7) is amended to read:

22 (7) "permit" means a permit, license, certificate, or approval [, OR  
23 COASTAL MANAGEMENT CONSISTENCY DETERMINATION];

24 \* Sec. 5. AS 38.05.035(e) is amended to read:

25 (e) Upon a written finding that the interests of the state will be best served, the  
26 director may, with the consent of the commissioner, approve contracts for the sale,  
27 lease, or other disposal of available land, resources, property, or interests in them. In  
28 approving a contract under this subsection, the director need only prepare a single  
29 written finding. In addition to the conditions and limitations imposed by law, the  
30 director may impose additional conditions or limitations in the contracts as the director  
31 determines, with the consent of the commissicner, will best serve the interests of the

1 state. The preparation and issuance of the written finding by the director are subject to  
2 the following:

3 (i) with the consent of the commissioner and subject to the director's  
4 discretion, for a specific proposed disposal of available land, resources, or property, or  
5 of an interest in them, the director, in the written finding,

6 (A) shall establish the scope of the administrative review on  
7 which the director's determination is based, and the scope of the written  
8 finding supporting that determination; the scope of the administrative review  
9 and finding may address only reasonably foreseeable, significant effects of the  
10 uses proposed to be authorized by the disposal;

11 (B) may limit the scope of an administrative review and finding  
12 for a proposed disposal to

13 (i) applicable statutes and regulations;

14 (ii) the facts pertaining to the land, resources, or  
15 property, or interest in them, that the director finds are material to the  
16 determination and that are known to the director or knowledge of which  
17 is made available to the director during the administrative review; and

18 (iii) issues that, based on the statutes and regulations  
19 referred to in (i) of this subparagraph, on the facts as described in (ii) of  
20 this subparagraph, and on the nature of the uses sought to be authorized  
21 by the disposal, the director finds are material to the determination of  
22 whether the proposed disposal will best serve the interests of the state;  
23 and

24 (C) may, if the project for which the proposed disposal is  
25 sought is a multiphased development, limit the scope of an administrative  
26 review and finding for the proposed disposal to the applicable statutes and  
27 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that  
28 pertain solely to the disposal phase of the project when

29 (i) the only uses to be authorized by the proposed  
30 disposal are part of that phase;

31 (ii) the disposal is a disposal of oil and gas, or of gas

1 only, and, before the next phase of the project may proceed, public  
2 notice and the opportunity to comment are provided under regulations  
3 adopted by the department [UNLESS THE PROJECT IS SUBJECT  
4 TO A CONSISTENCY REVIEW UNDER AS 46.40 AND PUBLIC  
5 NOTICE AND THE OPPORTUNITY TO COMMENT ARE  
6 PROVIDED UNDER AS 46.40.096(c)];

7 (iii) the department's approval is required before the  
8 next phase of the project may proceed; and

9 (iv) the department describes its reasons for a decision  
10 to phase;

11 (2) the director shall discuss in the written finding prepared and issued  
12 under this subsection the reasons that each of the following was not material to the  
13 director's determination that the interests of the state will be best served:

14 (A) facts pertaining to the land, resources, or property, or an  
15 interest in them other than those that the director finds material under (1)(B)(ii)  
16 of this subsection; and

17 (B) issues based on the statutes and regulations referred to in  
18 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this  
19 subsection;

20 (3) a written finding for an oil and gas lease sale or gas only lease sale  
21 under AS 38.05.180 is subject to (g) of this section;

22 (4) a contract for the sale, lease, or other disposal of available land or  
23 an interest in land is not legally binding on the state until the commissioner approves  
24 the contract, but if the appraised value is not greater than \$50,000 in the case of the  
25 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or  
26 interest in land, the director may execute the contract without the approval of the  
27 commissioner;

28 (5) public notice requirements relating to the sale, lease, or other  
29 disposal of available land or an interest in land for oil and gas, or for gas only,  
30 proposed to be scheduled in the five-year oil and gas leasing program under  
31 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

1 (A) before a public hearing, if held, or in any case not less than  
2 180 days before the sale, lease, or other disposal of available land or an interest  
3 in land, the director shall make available to the public a preliminary written  
4 finding that states the scope of the review established under (1)(A) of this  
5 subsection and includes the applicable statutes and regulations, the material  
6 facts and issues in accordance with (1)(B) of this subsection, and information  
7 required by (g) of this section, upon which the determination that the sale,  
8 lease, or other disposal will serve the best interests of the state will be based;  
9 the director shall provide opportunity for public comment on the preliminary  
10 written finding for a period of not less than 60 days;

11 (B) after the public comment period for the preliminary written  
12 finding and not less than 90 days before the sale, lease, or other disposal of  
13 available land or an interest in land for oil and gas or for gas only, the director  
14 shall make available to the public a final written finding that states the scope of  
15 the review established under (1)(A) of this subsection and includes the  
16 applicable statutes and regulations, the material facts and issues in accordance  
17 with (1) of this subsection, and information required by (g) of this section,  
18 upon which the determination that the sale, lease, or other disposal will serve  
19 the best interests of the state is based;

20 (6) before a public hearing, if held, or in any case not less than 21 days  
21 before the sale, lease, or other disposal of available land, property, resources, or  
22 interests in them other than a sale, lease, or other disposal of available land or an  
23 interest in land for oil and gas or for gas only under (5) of this subsection, the director  
24 shall make available to the public a written finding that, in accordance with (1) of this  
25 subsection, sets out the material facts and applicable statutes and regulations and any  
26 other information required by statute or regulation to be considered upon which the  
27 determination that the sale, lease, or other disposal will best serve the interests of the  
28 state was based; however, a written finding is not required before the approval of

29 (A) a contract for a negotiated sale authorized under  
30 AS 38.05.115;

31 (B) a lease of land for a shore fishery site under AS 38.05.082;

1 (C) a permit or other authorization revocable by the  
2 commissioner;

3 (D) a mineral claim located under AS 38.05.195;

4 (E) a mineral lease issued under AS 38.05.205;

5 (F) an exempt oil and gas lease sale or gas only lease sale under  
6 AS 38.05.180(d) of acreage subject to a best interest finding issued within the  
7 previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under  
8 AS 38.05.180(w) of acreage subject to a best interest finding issued within the  
9 previous 10 years, unless the commissioner determines that substantial new  
10 information has become available that justifies a supplement to the most recent  
11 best interest finding for the exempt oil and gas lease sale or gas only lease sale  
12 acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage;  
13 however, for each oil and gas lease sale or gas only lease sale described in this  
14 subparagraph, the director shall call for comments from the public; the  
15 director's call for public comments must provide opportunity for public  
16 comment for a period of not less than 30 days; if the director determines that a  
17 supplement to the most recent best interest finding for the acreage is required  
18 under this subparagraph,

19 (i) the director shall issue the supplement to the best  
20 interest finding not later than 90 days before the sale;

21 (ii) not later than 45 days before the sale, the director  
22 shall issue a notice describing the interests to be offered, the location  
23 and time of the sale, and the terms and conditions of the sale; and

24 (iii) the supplement has the status of a final written best  
25 interest finding for purposes of (i) and (l) of this section;

26 (G) a surface use lease under AS 38.05.255;

27 (H) a permit, right-of-way, or easement under AS 38.05.850;

28 (7) the director shall include in

29 (A) a preliminary written finding, if required, a summary of  
30 agency and public comments, if any, obtained as a result of contacts with other  
31 agencies concerning a proposed disposal or as a result of informal efforts

1 undertaken by the department to solicit public response to a proposed disposal,  
2 and the department's preliminary responses to those comments; and

3 (B) the final written finding a summary of agency and public  
4 comments received and the department's responses to those comments.

5 \* Sec. 6. AS 38.05.945(d) is amended to read:

6 (d) Notice at least 30 days before action under (a)(5) of this section shall be  
7 given to appropriate

8 [(1)] regional fish and game councils established under AS 16.05.260

9 [; AND

10 (2) COASTAL RESOURCE SERVICE AREAS ORGANIZED  
11 UNDER AS 46.40.110 - 46.40.210].

12 \* Sec. 7. AS 41.17.900(d) is amended to read:

13 (d) Notwithstanding any other provision of this chapter, the state forester and  
14 the commissioner may not employ the authority vested by this chapter so as to  
15 duplicate or preempt the statutory authority of other state agencies to adopt regulations  
16 or undertake other administrative actions governing resources, values, or activities on  
17 forest land except for

18 [(1)] REGULATIONS UNDER THE COASTAL MANAGEMENT  
19 ACT; AND

20 (2)] regulations, if authorized by the commissioner of environmental  
21 conservation, relating to control of nonpoint source pollution.

22 \* Sec. 8. AS 41.21.492(b) is amended to read:

23 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of

24 (1) the Department of Fish and Game, the Board of Fisheries, or the  
25 Board of Game under AS 16 and AS 41.99.010; or

26 (2) the Department of Environmental Conservation under AS 46.03 [;  
27 OR

28 (3) STATE AGENCIES AND MUNICIPALITIES UNDER  
29 AS 46.39.010 AND AS 46.40.100].

30 \* Sec. 9. AS 41.21.504(b) is amended to read:

31 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

1 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the  
2 Department of Fish and Game or the Board of Fisheries or the Board of Game; or

3 (2) AS 46.03 regarding the responsibilities of the Department of  
4 Environmental Conservation [; OR

5 (3) AS 46.39.010 AND AS 46.40.100 REGARDING THE  
6 RESPONSIBILITIES OF STATE AGENCIES AND MUNICIPALITIES].

7 \* Sec. 10. AS 41.23.420(d) is amended to read:

8 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of

9 (1) the Department of Fish and Game, the Board of Fisheries, the  
10 Board of Game, or the Department of Commerce, Community, and Economic  
11 Development under AS 08.54, AS 16, or AS 41.99.010; or

12 (2) the Department of Environmental Conservation under AS 46.03 [;  
13 OR

14 (3) STATE AGENCIES AND MUNICIPALITIES UNDER  
15 AS 46.39.010 AND AS 46.40.100].

16 \* Sec. 11. AS 44.33.788 is amended to read:

17 **Sec. 44.33.788. Other planning powers.** The department may accept and  
18 expend grants from the federal government and other public or private sources, may  
19 contract with reference to them, and may enter into contracts and exercise all other  
20 powers necessary to carry out 44.33.782 - 44.33.788 [AS 44.33.781 - 44.33.788].

21 \* Sec. 12. AS 44.33.790 is amended to read:

22 **Sec. 44.33.790. Definition.** In AS 44.33.782 - 44.33.790 [AS 44.33.781 -  
23 44.33.790], "department" means the Department of Commerce, Community, and  
24 Economic Development.

25 \* Sec. 13. AS 44.33.844 is amended to read:

26 **Sec. 44.33.844. Boundaries.** The boundaries of an area studied shall conform  
27 to the boundaries indicated in the request for the study under AS 44.33.842 unless the  
28 commissioner, after a public hearing held in the area of the proposed study, determines  
29 that the boundaries should be altered. In determining the boundaries of an area to be  
30 studied, the commissioner shall consider

31 (1) the standards applicable to the incorporation of boroughs under

1 AS 29.05.031;

2 (2) boundaries of regional corporations established under 43 U.S.C.  
3 1606;

4 (3) census divisions of the state used for the 1980 census; and

5 (4) boundaries of the regional educational attendance areas established  
6 under AS 14.08.031 [; AND

7 (5) BOUNDARIES OF COASTAL RESOURCE SERVICE AREAS  
8 ORGANIZED UNDER AS 46.40.110 - 46.40.210].

9 \* Sec. 14. AS 44.66.020(a) is amended to read:

10 (a) Agency programs and activities listed in this subsection that are  
11 specifically designated as provided in AS 44.66.030 are subject to termination during  
12 the regular legislative session convening in the month and year set out after each:

13 (1) programs in the budget categories of general government, public  
14 protection, and administration of justice - January, 1980;

15 (2) programs in the budget categories of education and the University  
16 of Alaska - January, 1981;

17 (3) programs in the budget categories of health and social services -  
18 January, 1982;

19 (4) programs in the budget categories of natural resources  
20 management, development, and transportation - January, 1983;

21 (5) the Alaska coastal management program (AS 46.40) - January,

22 2011.

23 \* Sec. 15. AS 46.40.030(b) is amended to read:

24 (b) In developing enforceable policies in its coastal management plan under  
25 (a) of this section, a coastal resource district shall meet the requirements of  
26 AS 46.40.070 and shall [MAY] not duplicate, restate, or incorporate by reference  
27 statutes and administrative regulations adopted by state or federal agencies.

28 \* Sec. 16. The uncoded law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA  
29 2003, is amended to read:

30 (c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT],  
31 the repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003

1 [OF THIS ACT], and the repeal of the Alaska Coastal Policy Council's duties in  
2 AS 46.40.040, as amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district  
3 coastal management program, including its enforceable policies, approved by the  
4 former Alaska Coastal Policy Council remains in effect for purposes of AS 46.39 and  
5 AS 46.40 until March 1, 2007 [JULY 1, 2006], unless the Department of Natural  
6 Resources disapproves or modifies all or part of the program before March 1, 2007  
7 [JULY 1, 2006].

8 \* Sec. 17. The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA  
9 2003, is amended to read:

10 (a) Within 20 months [ONE YEAR] after the effective date of regulations  
11 adopted by the department of natural resources implementing changes to  
12 AS 46.40.010 - 46.40.090, enacted by secs. 8 - 15 and 44, ch. 24, SLA 2003 [OF  
13 THIS ACT], or by March 1, 2006 [JULY 1, 2005], whichever is later, coastal  
14 resource districts shall review their existing district coastal management program and  
15 submit to the Department of Natural Resources for review and approval a revised  
16 district coastal management plan meeting the requirements of AS 46.40 [, AS  
17 AMENDED BY THIS ACT,] and the implementing regulations.

18 \* Sec. 18. AS 41.17.900(e); AS 44.33.781; AS 46.39.010, 46.39.030, 46.39.040, 46.39.900;  
19 AS 46.40.010, 46.40.020, 46.40.030, 46.40.040, 46.40.050, 46.40.060, 46.40.070, 46.40.090,  
20 46.40.094, 46.40.096, 46.40.100, 46.40.110, 46.40.140, 46.40.150, 46.40.180, 46.40.190,  
21 46.40.195, 46.40.205, and 46.40.210 are repealed.

22 \* Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES; REPEAL OF  
25 CERTAIN COASTAL RESOURCE DISTRICT POLICIES. (a) Notwithstanding any  
26 contrary provision of law, enforceable coastal resource district policies in effect on the  
27 effective date of this section that conflict with AS 46.40.030(b), as amended in sec. 15 of this  
28 Act and as that subsection read on the effective date of this section, or address any matter  
29 regulated by the Department of Environmental Conservation are repealed and are declared  
30 null and void.

31 (b) Within two years after the approval of the state's revised coastal

1 management program developed under ch. 24, SLA 2003 by the National Oceanic and  
2 Atmospheric Administration, Office of Ocean and Coastal Resource Management, United  
3 States Department of Commerce under 16 U.S.C. 1455 and 1457 (Coastal Zone Management  
4 Act of 1972), the Department of Natural Resources shall complete a review and update of  
5 categorically and generally consistent determinations. The Department of Natural Resources  
6 shall complete a review and update of categorically and generally consistent determinations at  
7 least every four years thereafter and shall conform to the requirements of AS 46.40.096(m) as  
8 that subsection read on the effective date of this section.

9 \* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 **EMERGENCY REGULATIONS.** The need to adopt regulations consistent with this  
12 Act is declared an emergency, and the Department of Natural Resources shall proceed to  
13 adopt emergency conforming regulations to implement this Act.

14 \* **Sec. 21.** The uncodified law of the State of Alaska enacted in sec. 49, ch. 24, SLA 2003,  
15 is amended to read:

16 **Sec. 49. Section 45, ch. 24, SLA 2003, [OF THIS ACT] takes effect March 1,  
17 2007 [JULY 1, 2005].**

18 \* **Sec. 22.** Sections 1 - 13 and sec. 18 of this Act take effect July 1, 2011 unless the state's  
19 revised coastal management program has not been approved by the National Oceanic and  
20 Atmospheric Administration, Office of Ocean and Coastal Resource Management, United  
21 States Department of Commerce, under 16 U.S.C. 1455 and 1457 (Coastal Zone Management  
22 Act of 1972) before January 1, 2006. If the state's revised coastal management program is not  
23 approved before January 1, 2006, by the National Oceanic and Atmospheric Administration,  
24 Office of Ocean and Coastal Resource Management, United State's Department of  
25 Commerce, then secs. 1 - 13 and sec. 18 of this Act take effect May 10, 2006. The  
26 commissioner of natural resources shall notify the revisor of statutes on February 1, 2006,  
27 whether the revised coastal management program has been approved as described in this  
28 section.

29 \* **Sec. 23.** Except as provided in sec. 22 of this Act, this Act takes effect immediately under  
30 AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 102(CRA)  
 (S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): 3/16/05 3:20pm Dept. Affected: Natural Resources  
 Title: Relating to District Coastal Management RDU: Resource Development  
Programs Component: Alaska Coastal Management  
 Sponsor: Senators Gary Stevens, Olson Program:  
 Requester: Senate C&RA Component No.: 2680

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services		199.1	199.1			
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>199.1</b>	<b>199.1</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		199.1	199.1			
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>199.1</b>	<b>199.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB191 required districts to have plans submitted by 6/30/2005, with the ACMP review process to be complete by 6/30/2006. Implementation of CSSB102(CRA) extends the district deadline to one year after the State's revised program is approved by NOAA. This fiscal note assumes NOAA/OCRM approval by 6/2006, with the ACMP completion by 6/30/2008. Funding is available for existing staff through 6/30/2006, under the original plan. CSSB102(CRA) will require us to retain 2-3 positions for an additional two years, resulting in this fiscal note request.

Prepared by: Randy Bates, Deputy Director Phone 269-8429  
 Division: Office of Project Management & Permitting Date/Time 3/16/2005  
 Approved by: Tom Irwin, Commissioner Date 3/16/2005  
 Agency: Natural Resources

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSSB 102(CRA)  
 (S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Coastal Management Programs RDU: Comm Assist & Ec Dev (405)  
 Component: Community Advocacy  
 Sponsor: Stevens G, Olson  
 Requester: Senate Community & Regional Affairs Component No.: 2703

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation would extend the deadline for coastal districts to amend their plans. It would have no fiscal impact on the operations of the division.

Prepared by: Michael Black, Director  
 Division: Community Advocacy  
 Approved by: Edgar Blatchford, Commissioner  
 Agency: Commerce, Community, and Economic Development

Phone 907 269 4580  
 Date/Time 3/8/05 2:29 PM  
 Date 3/8/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSSB 102(CRA)  
 (S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Coastal Management Programs RDU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor: Senator Gary Stevens  
 Requester: Senate Community & Regional Affairs Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137  
 Division: Legislative Liaison Date/Time 3/8/05 4.49 PM  
 Approved by: Acting Commissioner Wayne Regelin Date 3/8/2005  
 Agency: Alaska Department of Fish & Game

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSSB 102(CRA)  
 (S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
 Title Act relating to coastal management programs; RDU Division of Water  
and providing for an effective date. Component Water Quality  
 Sponsor Senators Gary Stevens and Olson  
 Requester Senate Community & Regional Affairs Component No. 2062

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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 (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill extends the deadline for submission of revised district coastal management plans by coastal resource districts pursuant to AS 46.40 as amended by ch. 24, SLA 2003. The department anticipates no fiscal impact.

Prepared by: Dan Easton Phone 465-5135  
 Division: Water Date/Time 3/9/05 10:55 AM  
 Approved by: Kurt Fredriksson Date 3/14/2005  
 Agency: Department of Environmental Conservation

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: CSSB 102(FIN)  
 (S) Publish Date: 5/3/05

Revision Date/Time (Note if correction): 5/03/05 11:00am Dept. Affected: Natural Resources  
 Title: Relating to District Coastal Management RDU: Resource Development  
Programs Component: Alaska Coastal Management  
 Sponsor: Senators Gary Stevens, Olson Program  
 Requester: Senate Finance Component No. 2680

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services		133.0				
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>133.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		133.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>133.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 191 required the districts to have plans submitted by 6/30/2005, with the ACMP review process of those plans to be complete by 6/30/2006. Implementation of CS SB 102 extends the district submission deadline to 3/1/2006, 8 months after the deadline established in HB 191. The ACMP review process of those plans would not be complete until 3/1/2007. Funding is available for existing staff through 6/30/2006, under the original plan. SB 102 will require us to retain 2-3 positions for the additional 8 months, resulting in the fiscal note.

Prepared by: Randy Bates, Deputy Director Phone 269-8429  
 Division: Office of Project Management & Permitting Date/Time 5/3/2005  
 Approved by: Tom Irwin, Commissioner Date 5/3/2005  
 Agency: Natural Resources

**FRANK H. MURKOWSKI**  
Governor



P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
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**STATE OF ALASKA**  
**OFFICE OF THE GOVERNOR**  
**JUNEAU**

March 31, 2005

Coastal District Representatives

RE: Summary and Follow-up to March 30, 2005, ACMP Meeting

Dear Coastal District Representatives:

Thank you for attending the March 30, 2005, meeting held in Anchorage to discuss the Alaska Coastal Management Program (ACMP). That 23 of the 27 coastal districts working on district coastal management plan revisions were represented at the meeting was not only encouraging but demonstrated your commitment to this program.

The meeting provided us a valuable opportunity to receive your input regarding the amended ACMP. The professional and articulate comments were appreciated and are being carefully considered. The general issues of concern are summarized below. Please recognize that this summary is not intended to provide a transcript or exhaustive list of every comment made at the meeting, but rather to recap the general themes and issues that you requested the state consider as it continues its efforts to obtain federal approval of the amended ACMP, and to comprehensively review your revised plans.

Federal Approval of the Amended ACMP

Districts voiced universal support of the state's efforts to pursue federal approval of the amended ACMP. Districts confirmed that continued state participation in the federal coastal program allows the coastal districts "a seat at the table" in participating in federal decision making, keeps federal money flowing to the coastal districts, and brings coastal district expertise and local perspective on important local issues to the decision making process.

Coastal District Plan Revisions

Every district stated that it would be able to submit a revised plan to the Department of Natural Resources (DNR) by the July 1, 2005, deadline. However, districts universally supported receiving additional time to develop those plan revisions. Representatives recalled that their original plans required significant time and effort, often stretching to two or three years. Districts asserted that the additional time would be spent on enhancing public participation and education on their district plans and coastal program revisions, as well as on refining the

Coastal District Representatives  
March 31, 2005  
Page 2

content of the revised plans to make the plans more likely to meet DNR approval criteria. Some districts asserted that an additional six months would make a significant difference.

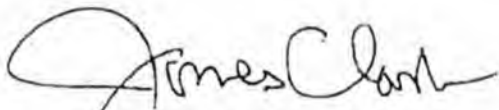
Funding


Districts expressed concern over the source and extent of future funding of the ACMP. Issues raised by districts included immediate funding for implementation absent federal approval of the amended ACMP and additional funding for districts to complete and further revise coastal plans submitted by July 1, 2005.

We thank you for providing your input and comments on these important issues, and want to assure you that we have taken them under advisement. We are presently considering how we will address the issues, and will keep you informed on our progress.

We also want to thank you for the opportunity to share the state's position regarding pursuit of a federally approved coastal management program. The state is committed to securing federal approval of an amended ACMP by the Office of Ocean and Coastal Resource Management (OCRM), but only if that program works for Alaska. We simply will not accept mandates by OCRM regarding how our state should manage its coastal uses and resources when that mandate exceeds federal authority. While we are confident that we recently secured OCRM's commitment to maintain their proper role in assisting us, rather than dictating to us, in developing our program, we will continue to defend our state's right to develop a coastal program in accordance with Alaska's priorities and needs. We share your desire for a federally approved coastal management program, and look forward to your support in convincing OCRM that the amended ACMP provides important and comprehensive management of Alaska's coastal uses and resources, and should be approved expeditiously.

Sincerely yours,

  
James Clark  
Chief of Staff  
Office of the Governor

  
Tom Irwin  
Commissioner  
Department of Natural Resources



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
Silver Spring, Maryland 20910

MAR 3 2005

The Honorable Frank H. Murkowski  
Governor of the State of Alaska  
Juneau, Alaska 99811-0001

Dear Governor Murkowski:

Thank you for your recent letter on Alaska's pending efforts to undertake a major restructuring of the Alaska Coastal Management Program (ACMP). The enclosed summary analysis provides responses to the specific issues raised in your correspondence.

We believe the continued viability of the federally approved ACMP is of great importance to Alaska and the Nation. The letter of January 28, 2005, to Alaska's Department of Natural Resources (DNR) Commissioner Irwin was intended neither as a denial nor a decision, but rather as a further, albeit important, informational step in the process.

Our input did not add criteria and was neither a departure from earlier positions nor an effort to impose new national policies. It was a summary of the few remaining issues to meeting the Coastal Zone Management Act (CZMA) requirements necessary for preliminary approval of a revised ACMP. It also included recommendations for resolving these issues as requested by DNR. Our input was intended as part of the continuing coordination and dialogue at the staff level – not as a federal mandate or prescription, and it was not an effort to shift the balance of authority.

As you may know, there are significant benefits from participating in the CZMA program. Since the 1970s, Alaska has been awarded approximately \$130 million in coastal management funds from the National Oceanic and Atmospheric Administration (NOAA). Additionally, NOAA has identified \$2.6 million for Alaska coastal programs in FY 2005. With CZMA federal consistency authority, Alaska has a powerful tool to review and influence federal actions affecting the coastal zone, including offshore aquaculture and energy development. In addition, the collaborative relationships Alaska enjoys with federal agencies are often forged because of federal consistency.

Further, in response to the U.S. Commission on Ocean Policy's final report, President Bush recently released the U.S. Ocean Action Plan, which states that we will continue to work with state, tribal, and local stakeholders to develop comprehensive strategies to protect the Nation's coastal resources and build upon the successes of existing programs, including the CZMA.

As I stated at the outset, the continued viability of the ACMP is of great importance and we urge you to work with us to take action to prevent its expiration this summer. I propose sending a delegation headed by NOAA's National Ocean Service Policy Director, Thomas Kitsos, Ph.D., to Juneau this month to review the few remaining issues and develop a mutually agreeable course of action that would allow for preliminary approval.

Sincerely,

Richard W. Spinrad, Ph.D.  
Assistant Administrator

Enclosure



Printed on Recycled Paper



The Honorable Frank H. Murkowski

Page 2

c. :   The Honorable Ted Stevens, United States Senate  
          The Honorable Lisa Murkowski, United States Senate  
          The Honorable Don Young, United States Congressman  
          The Honorable Ben Stevens, President, Alaska State Senate  
          The Honorable John Harris, Speaker, Alaska State House of  
          Representatives  
          The Honorable Gary Stevens, Alaska State Senate  
          The Honorable Paul Seaton, Alaska State House of Representatives  
          The Honorable Carlos M. Gutierrez, U.S. Secretary of Commerce  
          The Honorable Conrad C. Lautenbacher, Jr., VADM, U.S. Navy (Ret.),  
          Under Secretary of Commerce for Oceans and Atmosphere  
          Mark Rey, U.S. Under Secretary of Agriculture  
          Henri Bisson, State Director, Bureau of Land Management  
          Forrest Cole, Forest Supervisor, Tongass National Forest  
          John Goll, Regional Director, Alaska, Minerals Management Service  
          Eldon Hout, Director, Ocean and Coastal Research Management  
          Tony MacDonald, Executive Director, Coastal States Organization  
          John Katz, Director, State/Federal Relations, Office of the Governor  
          Edgar Blatchford, Commissioner, Alaska Department of Commerce,  
          Community, and Economic Development  
          Kurt Fredriksson, Acting Commissioner, Alaska Department of  
          Environmental Conservation  
          Tom Irwin, Commissioner, Alaska Department of Natural Resources  
          Wayne Regelin, Acting Commissioner, Alaska Department of Fish and  
          Game  
          Dick LeFebvre, Deputy Commissioner, Alaska Department of Natural  
          Resources  
          Marty Rutherford, Deputy Commissioner, Alaska Department of  
          Natural Resources  
          Bill Jeffress, Director, Office of Habitat Management and Permitting,  
          Alaska Department of Natural Resources

**Response to Specific Issues Raised  
In  
State of Alaska's February 23, 2005 Letter**

**1. Page 1, paragraph 1: "OCRM denied preliminary approval"**

The Office of Ocean and Coastal Resource Management's (OCRM's) January 28 letter did not deny preliminary approval. Rather, it indicated OCRM's inability within the legal requirements of the Coastal Zone Management Act (CZMA) to grant preliminary approval until certain CZMA requirements are satisfied. For example, the State's December 17 submission for local district plans did not meet two of the five CZMA requirements that have been in place for thirty years.

**2. Page 2, paragraph 2: "...denial decision retreated from program approval decisions conveyed to state staff...added entirely new criteria and rationale..."**

Throughout the review and coordination process, OCRM has consistently used provisions of the CZMA as the basis for its opinions and feedback on State of Alaska input. The January 28 letter provided feedback on new information submitted in the State of Alaska's December 17 Submission. For example, NOAA's guidance to the State regarding the scope of the federal consistency effects test and application of the state's subsistence use policy is based on long-standing CZMA requirements.

**3. Page 2, paragraph 3: "OCRM's denial decision adopts a highly prescriptive interpretation of the Coastal Zone Management Act (CZMA)"**

The feedback provided in OCRM's January 28 letter was intended as recommendations to meet CZMA requirements for State of Alaska consideration in developing the ACMP. The recommendations were not a mandate and NOAA will consider other State options that are responsive to the CZMA requirements.

**4. Page 3, 1<sup>st</sup> bullet: "[OCRM] Mandated direct-control ACMP regulatory standards"**

The feedback provided in OCRM's January 28 letter was intended as recommendations to meet CZMA requirements for State of Alaska consideration in developing the ACMP. The recommendations were not a mandate and NOAA will consider other State options that are responsive to the CZMA requirements.

**5. Page 3, 2<sup>nd</sup> bullet: "[OCRM] Mandated expanded role of coastal districts...balance of authority directed by OCRM is inappropriately addressed as a program approval issue"**

The feedback provided in OCRM's January 28 letter was intended as recommendations to meet CZMA requirements for State of Alaska consideration in developing the ACMP. The recommendations were not a mandate and NOAA will consider other State options that are responsive to the CZMA requirements. Further, none of the OCRM feedback should be interpreted as attempting to "shift the balance of authority."

6. Page 4, 1<sup>st</sup> bullet: " 'Geographic Location Description' (GLD) requirement...impose[s] an 'effects test' requirement well beyond what OCRM had previously required...effectively withdrew OCRM's agreement on how to capture the federal effects test in regulations"

There was no intent in OCRM's January 28 letter to expand the scope of the federal consistency effects test or to establish "new national policy." OCRM's description of federal consistency and the use of "geographic location descriptions" in Enclosure III of its January 28 letter applies long-standing statutory and regulatory requirements. The description is not a departure from previous discussions with Alaska DNR staff. The information provided was in response to an Alaska DNR staff request for a detailed description of how the geographic location provision could apply in all circumstances, using the subsistence use policy as an example; and, that is what was provided. In addition, as stated in OCRM's January 28 letter, it is up to the State of Alaska to decide whether to describe geographic locations outside its coastal zone. This provides Alaska with substantial control over what federal license or permit activities it will review for federal consistency and the extent to which it will exert states' rights over federal actions affecting Alaska's coastal uses or resources.

7. Page 4, final paragraph: "ACMP will expire by operation of law in the summer of 2005"

The "summer of 2005" expiration is the result of Alaska HB 191, and not any CZMA or federally imposed deadline.

FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



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February 23, 2005

Richard W. Spinrad, Ph.D.  
Assistant Administrator  
National Ocean Services  
National Oceanic and Atmospheric  
Administration (NOAA)  
SSMC4, Room 13632  
1305 East-West Hwy  
Silver Spring, MD 20910

Subject: State of Alaska's Response to the Office of Ocean and Coastal  
Resource Management's January 28, 2005, Letter and Enclosures  
Relating to Alaska Coastal Management Program Amendment  
Approval Issues

Dear Dr. Spinrad:

I have reviewed the letter and attachments from the Office of Ocean and Coastal Resource Management (OCRM), dated January 28, 2005. In that decisional document, OCRM denied preliminary approval of Alaska's amendment, and explained why it would not initiate the NEPA process required for later approval of a revised amendment. After careful study of the issues, I have concluded that the Alaska Coastal Management Program (ACMP) as envisioned and mandated by OCRM differs from the ACMP that I believe will best manage the competing uses and demands placed upon Alaska's coastal resources.

The original ACMP, approved by OCRM in 1979, provided the standards and protections necessary and appropriate at that time to manage effectively the uses, areas, and resources of the state's coastal zone. Over the next 25 years, the program evolved into a complex, confusing set of requirements which unnecessarily delayed projects in Alaska without corresponding environmental benefits. Therefore, on May 21, 2003, I signed into law House Bill (HB) 191 (chapter 24 SLA 2003) which amended the ACMP in a manner that simplified and clarified the fragmented and defective 25 year old program, while still comprehensively and responsibly managing Alaska's coastal uses and resources.

Richard W. Spinrad, Ph.D.

February 23, 2005

Page 2

During the development of the statutory amendments included within HB 191, as well as the development of the regulations implementing HB 191, the state invited OCRM's participation and review of the amendments, requesting guidance and recommendations to ensure ultimate and timely program approval by OCRM. The state thought it had received that guidance, as well as a commitment from OCRM to work jointly to resolve program approval issues at the earliest juncture. The state then worked long and hard to develop a comprehensive program description of the amended ACMP that satisfied the federal approval criteria, while still fulfilling the mandates of HB 191. I am advised that discussions between the state and OCRM to reach this goal were proceeding constructively into January 2005, with OCRM identifying minor modifications to the ACMP regulations and program description as appropriate for program approval.

Considering this history, and OCRM's intimate involvement with the amended program from its legislative inception, I was dismayed to review OCRM's January 28, 2005, denial decision wherein OCRM not only retreated from program approval positions conveyed to state staff during prior discussions, but failed to adequately evaluate the state's prior submissions against the federal rules, and added entirely new criteria and rationale to justify its denial decision.

OCRM's denial decision adopts a highly prescriptive interpretation of the Coastal Zone Management Act (CZMA), extending, well beyond Congress' mandate when enacting the CZMA "to encourage and assist the states to exercise effectively their responsibilities in the coastal zone ..." 16 U.S.C. 1452.

It is instructive to review the Congressional Commerce Committee's 1971 findings (Calendar No. 510, Report No. 92-526, p. 15-16) that led to the creation of the CZMA, which legislation clearly intended that each state, and not the federal government, manage its coastal uses and resources as that state saw fit:

It is the Committee's intent to recognize the need for expanded state participation in the control of land and water use decisions involving important state or regional interests.... In adopting the states as the focal points for development of comprehensive plans and implementation of management programs for the coastal and estuarine zone, the

Richard W. Spinrad, Ph.D.

February 23, 2005

Page 3

Committee has concluded that the states have, in varying degrees, the resources, administrative machinery, enforcement powers, and constitutional authority on which to build a sound coastal management program.... The principles on which state authority with respect to water regimes are based date back at least to Magna Carta....

We do not believe that the positions OCRM asserts in its January 28, 2005, decision "assists" Alaska in developing our program. Rather, OCRM has now conditioned approval of our program upon OCRM's interpretation of what is best for our state. Under this administration Alaskans decide what is best for Alaska.

I will not detail all of OCRM's unacceptable new mandates to obtain approval of our program, but will list the most significant:

- Mandated direct-control ACMP regulatory standards. OCRM calls for amended ACMP state standards that independently and comprehensively manage the coastal resources. To the contrary, the federal regulations implementing the CZMA allow for comprehensive management of those resources through a network of existing state and federal regulatory authorities. We believe that existing state and federal authorities aggressively manage Alaska's natural resources, coastal and inland. Considering the adequacy of the existing networked structure, we are unwilling to assent to a federal agency dictating duplicative or additional standards along our coasts that confuse stakeholders, unnecessarily delay projects and erode Alaska's sovereignty.
- Mandated expanded role of coastal districts. Consistent with the spirit of HB 191, the state's amended ACMP regulations limited the subject and scope of coastal district enforceable policies. OCRM now asserts that this limitation on coastal district policies raises program approval concerns. The state disagrees with OCRM's position. The ACMP is a networked program, relying on implementation techniques "A" and "B" under 15 C.F.R. 923.42 and 15 C.F.R. 923.43, respectively. State agencies are to implement their existing authorities as well as the standards and policies of the ACMP. Additionally, municipal coastal districts share in the responsibility of implementing their coastal district plan policies through municipal code or ordinance. I would like to emphasize that few other states have coastal districts or their equivalent and there is no requirement that Alaska include

Richard W. Spinrad, Ph.D.

February 23, 2005

Page 4

coastal districts as part of our coastal management program. However, we included districts to supplement existing state and federal authorities where the matter is of local concern. The balance of authority between the state and the coastal districts is a matter within the discretion granted a state in the CZMA, and therefore any specific balance of authority directed by OCRM is inappropriately addressed as a program approval issue. Again, this is a simple matter of state's rights.

- Expanded and unpredictable federal "effects" test. OCRM's decision contained an expansive "Geographic Location Description" (GLD) requirement that would impose an "effects test" requirement well beyond what OCRM had previously required, and beyond what the state feels is necessary to adequately protect coastal uses and resources. Representatives from other federal agencies have also expressed concern with OCRM's federal effects test and the GLD as a "new national policy" with additional burdens never previously considered. This requirement is particularly disappointing considering recent positive communications between the state and OCRM wherein OCRM suggested reasonable amendments to the ACMP regulations. The amended language would have ensured that enforceable policies would be applicable to federal lands to address any activity (regardless of location) that may affect any coastal use or resource located within the state's coastal zone. The state agreed with OCRM's interpretation of the federal regulations on this issue and began preparing, verbatim, the regulatory fix that OCRM had recommended. Unfortunately, the expanded GLD concept contained in the January 28, 2005, documents effectively withdrew OCRM's agreement on how to capture the federal effects test in the regulations, and is unacceptable.

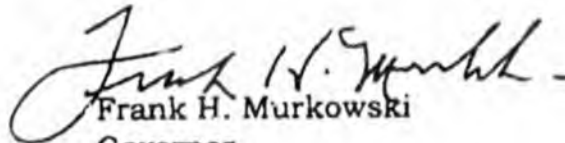
Back in 1971, Congress saw the wisdom of leaving the development of an appropriate coastal management program within the broad framework of the CZMA to each state's judgment of its special priorities and needs. I regret that OCRM has departed from its original legislative mandate and has not allowed Alaska to implement our amended program utilizing existing regulatory tools and in accordance with Alaska's priorities and needs.

Therefore, if OCRM does not immediately abandon the new requirements and broken promises contained in its January 28, 2005, decision, the ACMP will expire by operation of law in the summer of 2005.

Richard W. Spinrad, Ph.D.  
February 23, 2005  
Page 5

We have worked hard to forge relationships with federal agencies and participate in federal decision-making processes independent of ACMP requirements, so we are confident that Alaska's voice will be heard in federal activity and authorization processes even without the formality of the CZMA's federal consistency tools. Still, we acknowledge that a streamlined ACMP would serve a valuable purpose in effectively managing Alaska's coastal uses and resources. This is the reason that my staff has been working for two years to amend the program to provide a fair, predictable, and protective networked management scheme. Unfortunately, OCRM will not allow Alaska to implement that program at this time. The State of Alaska will continue to ensure that resources, coastal and inland, are adequately managed and protected with or without federal participation.

Sincerely yours,

  
Frank H. Murkowski  
Governor



# Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 843-7900 • Fax: (907) 843-7927  
Physical Address: 4700 Bragaw Street • Anchorage, Alaska 99507 • [www.muni.org/planning](http://www.muni.org/planning)

Mayor Mark Begich

Planning Department

April 5, 2005

Honorable Senator Gary Stevens  
State Capitol, Room 103  
Juneau, AK 99801-1182

Subject: Senate Bill 102 w/Committee Substitutes On-Basis

Senator Stevens and Subcommittee Members:

My name is Thede Tobish, and I am a Senior Planner and Coastal District Coordinator for the Municipality of Anchorage. On behalf of the Municipality, please accept this letter as testimony for your committee hearing of:

**SENATE BILL 102.** *"An Act relating to district coastal management programs; and providing for an effective date."*

I want to thank you and the Committee members for this opportunity to testify and comment on the proposal to extend the schedule for Alaska's Coastal Districts to submit Coastal Management Plan revisions, as mandated by HB 191. Please understand that the Anchorage Coastal District has been a consistent advocate for any length of time extension to the original July 1, 2005 deadline. We laud your efforts to find a compromise schedule that meets the needs of the varied Coastal Districts and the original timeline of HB 191.

If it will assist you in deciding this new schedule, please understand the following issues as they relate to Anchorage's specific needs for a delay and adjustment to the plan submission deadline.

Anchorage does need to revise its Coastal Management Plan, since it was one of the original district plans adopted in 1980. It is out-of-date, and requires better specificity. But because of its age and context from the early years of coastal management in Alaska, it served as the basis for many of the Municipality's subsequent regulations and plans. Anchorage's environmental regulations evolved under the guidance of our Coastal Management Plan. HB 191 and the State's proposed new regulations will require a radically different approach to Anchorage's coastal management policies and guidelines. This is even more significant since we will have only had approximately 7 months to complete a new plan in order to meet the deadline. We need more time to address and finalize this new approach.

The Municipal Planning Department is in the midst of creating new or pursuing for significant revisions to six major planning documents, including our Coastal Management Plan. Seven months from initiation to concept approval, given our public outreach and hearing requirements, is never adequate. While we are working hard with consultants to meet the schedule, even a few months extra would provide great relief.

*Community, Security, Prosperity*

Senate Bill 102  
April 5, 2005  
Page 2

Several of Anchorage's major plan projects require interface with elements of what will be in our revised Coastal Management Plan, for instance, how to weave new enforceable policies and their implementation into our Title 29 land use code revisions. Without taking your time to give details of this meshing, suffice it to say that this merging of policies and land use code take time and finessing, public outreach, and review for community consensus.

In addition many of the essential elements of our original Coastal Management Plan, namely some 200 wetlands policies, are no longer eligible for inclusion in our new plan. We are exploring new avenues of how to keep these policies active thru other means, mainly with negotiations with the Corps of Engineers. But additional time would greatly benefit this effort, and better provide Anchorage with the certainty that these management tools will be retained in some manner.

As with many other Coastal Districts, Anchorage was encouraged with the announcement and the results of our March 30, 2005 meeting with the Governor's Office and Department of Natural Resources (DNR) representatives. Chief among the highlights of that meeting was assurance from the Governor's Office and the Commissioner of DNR that continuance of a federally-backed program requires a commitment of the State. In a summary letter of March 31, 2005, both Mr. Clark and Mr. Irwin noted that Coastal Districts stated that they would be able to submit a revised plan by the July 1, 2005 deadline. While that may be true, the content of these plans, including Anchorage's, could be incomplete and may not be consistent with any federal changes to the State's draft regulations. To produce a plan as a placeholder to meet a deadline is anathema to Anchorage's approach to plan productions. It could actually make our additional amendments and public reviews even longer and more involved and take time and funds we may not have.

While the Anchorage District does not question the State's need to maintain its July 1, 2005 deadline for preliminary federal approval of the draft coastal zone regulations, the Coastal Districts continue to have a significant need for relief with their same deadline of July 1. At a minimum, an additional six months time extension on this plan schedule would provide substantial benefit to Anchorage's plan revision program. That time would allow us to address all avenues of new coastal management implementation actions that HB 191 and the proposed regulations have mandated.

Thank you very much for this opportunity.

Sincerely,



Thede Tobish  
Senior Planner/Coastal District Coordinator



**CITY/BOROUGH OF JUNEAU  
ALASKA'S CAPITAL CITY**

**OFFICE OF THE MANAGER**

Telephone: (907) 586-5240; Fax: (907) 586-5385

[Roxi.Swope@ci.juneau.ak.us](mailto:Roxi.Swope@ci.juneau.ak.us)

April 5, 2005

The Honorable Gary Stevens  
Alaska State Senator  
Alaska State Capitol, Room 103  
Juneau, AK 99801-1182

Dear Senator Stevens:

I am writing with regard to the Alaska Coastal Management Program (ACMP) revision process, and SB 102 extending the June 30, 2005 deadline for a mandatory rewrite of the Juneau Coastal Management Program (JCMP). As former Commissioner of the Department of Natural Resources (DNR) and a former appointee to the Alaska Coastal Policy Council, I am very familiar with the Coastal Management Program and the benefits and importance it affords to communities.

The JCMP was prepared over a several-year period during the 1980s, with extensive public and agency involvement and included enforceable policies in areas such as coastal development, habitat, transportation and utilities, recreation, energy facilities, mining, fish and seafood processing, timber harvesting, and the unique Juneau Wetlands Management Plan. The Juneau Wetlands Management Plan was added as a tool to provide a specific and predictable review process for applicants. At this point, it is unclear whether communities may have enforceable policies of any kind. The role of communities in the statewide program has been significantly reduced, and the "due deference" granted to communities through enforceable policies may be virtually eliminated. The only option left would be to attempt to assert deference on a case-by-case basis using state standards. Success in this effort would be highly unlikely.

Even at this stage, DNR still has not provided final guidance on the regulations. DNR's occasional teleconferences with communities have given different, and often contradictory, guidance on the regulations. At this late date it is still unclear how, or if, a community can write policies that may be approved by DNR. In fact, DNR staff has suggested that communities should prepare plans that do not have policies at all, but expanded resource inventories and analyses instead. Without a policy basis, however, the plans would lack specific guidance and be impossible to implement.

As a home rule government, Juneau has broad powers, and is one of a handful of Alaska municipalities with a sophisticated and well-developed planning authority. We can use this authority in lieu of the ACMP, but would exercise it without the benefits of the ACMP, including one-stop permit shopping for the applicant; institutional coordination that, in effect, makes partners out of the different levels of government; ongoing, programmatic communication; pooling of agency knowledge and expertise; joint problem-solving; and due deference to local enforceable policies. Separating local standards from the state program means that an applicant must go through two separate, uncoordinated permit review processes, with the potential for conflicting permit conditions. Specifically, if the current Juneau Coastal Management Program must be removed from the statewide program (because none of its policies meet the new regulatory requirements), and remains only in the local land use code, the applicant will have one coastal management review at the state level, and a second review at the local level under local code. The stated goal of the coastal management program changes was a simplified, streamlined, and predictable review process for applicant.

The state's active coastal districts, including Anchorage, the North Slope Borough, the Kenai Peninsula Borough, the Lake and Peninsula Borough, and the Aleutians West and Cenaliurrit Coastal Resource Service Areas are unanimous in seeking an extension. The June 30, 2005 deadline is unrealistic and ill timed. We simply do not have enough time to complete this work satisfactorily, much less have any hope of a meaningful process for public involvement. The statutory deadline for plan completion has always been short, but has been compounded by continually evolving guidance from DNR, particularly with regard to policy development. I believe that completing plans under these circumstances is premature and wasteful, particularly since the federal Office of Ocean and Coastal Resource Management (OCRM) appears unlikely to approve the state program revisions in their current iteration, leaving the door open for yet another round of plan revisions in six months or a year. Rather than struggle under an unrealistic deadline to prepare a plan that could become quickly outdated, we believe the deadline for plan revision should be 18 months, following final federal approval of the state's ACMP revisions.

Without an extension, the program will either lapse or suffer a significant gap in implementation and funding. The federal OCRM has stated that the changes are a significant amendment, and thus require preparation of an Environmental Impact Statement (EIS). DNR must present OCRM with a complete program amendment document, which it has not yet done. After OCRM officially accepts this package, an EIS must be completed. Then OCRM must review and approve the EIS and make a decision on the program. All of this has to be completed by July 1, 2005, a clearly impossible deadline. If the State of Alaska wants to have a coastal management program, in any form, the deadline must be extended.

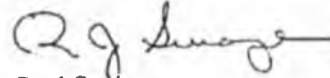
In closing, I would observe that Juneau is one of the premier cruise ship destinations in the world, and has averaged almost 10% growth in cruise visitors annually. It is one of the hard-rock mining centers of the state, home to the largest silver mine in North America, and has recently issued a permit for development of the Kensington gold mine. It has extensive port and industrial development within waterfront areas designated in the JCMP for water-dependent industry. It is homeport to a large commercial fishing fleet and has an expanding seafood processing sector. All of this development has occurred under the auspices of the Juneau Coastal

Senator Gary Stevens  
April 5, 2005  
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Management Program, a program that promoted a local voice and a local role in coastal economic development.

Thank you for your time and attention. Please feel free to contact me or Peter Freer, Community Development Planning Supervisor, should you have any questions or desire any follow-up to this correspondence.

Sincerely,




Rod Swope  
City & Borough Manager

cc: Senator Kim Elton  
Representative Beth Kertula  
Representative Bruce Weyhrauch  
Mayor Bruce Botelho  
Clark Gruening, CBJ Lobbyist

**Douglas Letch**

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**From:** tidepoolak@ak.net  
**Sent:** Wednesday, March 02, 2005 12:03 PM  
**To:** Sen. Gary Stevens  
**Subject:** Protect Local Control in Coastal Decision Making!



Dear Senator Stevens,

The Alaska Coastal Management Program has promoted balanced development throughout Alaska's coastal zone for over 20 years. Since the passage of HB 191, however, it has become increasingly clear this Administration does not value the role local citizens and coastal citizens play in Alaska coastal planning and management. Yet the Alaska Coastal Management Program affords Alaska a bundle of states rights that would disappear without the ACMP. For example, without the ACMP, the state would have little influence over offshore federal decisions, such as current proposals to promote fish farming in federal waters.

Therefore, I am writing now to urge you in the strongest possible terms to:

1. Support passage of HB 146 and SB 102 to extend the timeline for ACMP revisions;
2. Revise the current draft ACMP proposal to meaningfully involve coastal Alaskans and coastal districts in planning and management decisions affecting local coastal communities and resources.

Local control over local decisions has long been a hallmark of the ACMP specifically, and Alaska government generally. Please do not disenfranchise local citizens and communities by casting away these sensible long-standing policies.

Stacy Studetaker  
4288 Cliffside Rd.  
P.O. Box 970  
Kodiak, AK 99615



# *Kodiak Island Borough*

## *OFFICE of the MAYOR*

710 Mill Bay Road

Kodiak, Alaska 99615

Phone (907) 486-9310 Fax (907) 486-9391

January 14, 2005

The Honorable Gary Stevens  
State Capitol, Room 417  
Juneau, AK 99801-1182

The Honorable Gabrielle LeDoux  
State Capitol, Room 409  
Juneau, AK 99801-1182

Dear Gary and Gabrielle:

This letter is to provide you with information about recent developments regarding the Alaska Coastal Management Program (ACMP) and to request your support in extending the July 1, 2005 deadline for submitting revised coastal district plans. Historically the ACMP has been an important tool for the Kodiak Island Borough to promote development while at the same time mitigating adverse effects to important resources and uses.

An extension to the legislatively mandated deadline for submittal of the revised coastal management plans, including that of the Kodiak Island Borough, is necessary for three reasons:

First, requirements for revisions to district plans are ambiguous despite numerous attempts by Alaska's local coastal districts to seek clarification. During a recent teleconference sponsored by the Alaska Department of Natural Resources, coastal district representatives and their consultants expressed frustration over unclear guidance, especially in regard to development of "enforceable policies." Enforceable policies are the local criteria required for approval of development projects.

Second, an extension to plan submission deadline is necessary because the federal Office of Ocean and Coastal Resource Management is currently reviewing the statutory and regulatory changes to the ACMP. Until the federal government finishes its environmental impact statement on the ACMP changes, coastal districts will not know the final criteria for development of their plans.

Third, a number of outstanding problems resulting from the July 2004 ACMP regulations need to be resolved. For example, revisions to the regulations remove the ability of both the state and the coastal districts from influencing important aspects of development projects on federal land such as subsistence. One of the primary reasons for the initial ACMP was to influence projects on federal land including waters of the Outer Continental Shelf.

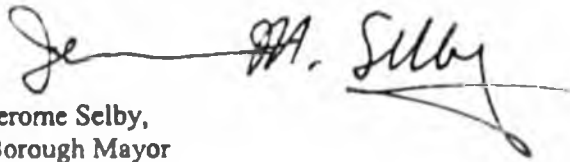
I understand there will be legislative hearings later this month to investigate some of the problems with the ACMP. The Kodiak Island Borough looks forward to participating in these hearings.

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In closing, the borough continues to support opportunities provided by the ACMP to participate in state and federal reviews of development projects. Uncertainty regarding recent changes to the ACMP regulations, however, has the potential to make the project consistency review process unpredictable. We urge your support in extending the deadlines for district plan revisions so that we can work together to resolve outstanding issues.

Sincerely,

OFFICE OF THE BOROUGH MAYOR

A handwritten signature in cursive script, appearing to read "Jerome Selby". The signature is written in dark ink and is positioned above the printed name.

Jerome Selby,  
Borough Mayor

March 14, 2005

Karol Kolehmainen, Program Director  
Aleutians West Coastal Resource Service Area

Thank you for the opportunity to speak to you today. I have faxed a copy of a letter signed by my Board Chairman for your consideration that was previously sent to Senator Hoffman in support of a deadline extension.

As my testimony today I would like to read a portion of a letter sent on March 4, 2005 written by the Alaska Coastal District Association to Mr. Jeffress on the Status of District Plan Revisions.

We are writing this letter out of great concern regarding the status of the Alaska Coastal Management Program. The coastal districts have worked diligently to meet the requirements of the revised ACMP and have always supported a viable state program with a meaningful role for local districts. We feel that preserving our opportunity for continued participation through the ACMP in state and federal decision-making is of paramount importance. In view of the recent exchange of letters between OCRM and the state, many districts are confused regarding how best to proceed in the revisions of our local plans. While we have many questions regarding recent events, we have narrowed them down to a basic few that need to be addressed. We trust that you will take the time to do so. Our questions are as follows:

1. Will the Department of Natural Resources continue to assist the districts in completing their plan revisions?
2. What does Governor Murkowski mean when stating in his February 23 letter to NOAA that the ACMP could "expire by operation of law in the summer of 2005"?
3. If the statewide standards expire this summer (without any legislative action) does the state agree that consistency reviews could continue using district policies?
4. If the Legislature approves a bill extending the time periods for amendment of the state Coastal Management Program and for districts to submit new revised plans, will the Administration support the extension?

If the Administration will not support an extension, we have the following additional questions:

1. If the state program is eliminated will all the implementing Alaska Statutes and regulations previously adopted also go away?
2. How will the federal program be implemented in Alaska if the state program is eliminated?
3. Will the state or districts have the opportunity to comment on or otherwise directly influence federal projects within our jurisdiction?

4. Will federal grants and assistance still be available to Alaska Coastal Districts from the federal government for the operation of our local coastal management plans?

We asked for a written response to our questions as soon as possible, but no later than March 18, 2005 as time is running short for districts to complete their plans. Because, if it is anticipated that the ACMP will terminate on July 1, 2005 the coastal districts will need to develop a course of action as soon as possible.

And then we said, in summary, we are very concerned for the future of the coastal management program and desire continued participation in the management of our coastline.

I have chosen to read you this correspondence because I feel it is typical of the interactions we have had with DNR and is reflective of the sincerity of the coastal districts. There is a lot of confusion regarding where the program is heading and questions that need to be answered. Many questions were raised by OCRM and are legitimate. The program as originally created relied heavily on local policies for implementation. The amended program has greatly reduced opportunity for local policies and relies more on state standards and existing regulations. Whether we agree that this is right or wrong, we need to acknowledge that this type of major restructuring will raise questions that demand to be answered if federal funds are going to be provided and spent. I can use the analogy of a three-legged stool. If significant changes are made in one of the supports then it needs to be apparent how balance will be achieved with what is remaining. And the coastal program is all about balance.

It makes an incredible amount of sense to pass SB 102 and allow the time necessary to make an orderly and efficient transition to the new program. It is of paramount importance that the Alaska Coastal Management Program continues to exist, especially in the unorganized parts of the state such as the Aleutians West Coastal Resource Service Area where the citizens came together and elected to participate in this form of governing.

We and the other coastal districts have been working diligently to complete their plan revisions. Please pass SB 102 and provide the support all this effort deserves.

# ALEUTIANS WEST

COASTAL RESOURCE SERVICE AREA

December 30, 2004

Senator Lyman Hoffman  
State Capital, Room 514  
Juneau, AK 99801-1182

**Subject: Deadline Extension to Continue the Alaska Coastal Management Program (ACMP)**

Dear Senator Hoffman:

I am compelled to write this letter as Chairman of the Aleutians West Coastal Resource Service Area (AWCRSA) Board out of grave concern for the future of the ACMP and to request an extension to the legislative deadlines imposed by House Bill 191. In 2003, the legislature passed HB 191, substantially revising the state's coastal management program and including several mandatory deadlines. We understand the program changes were to accomplish the following:

- provide clear and concise guidance
- provide greater uniformity in coastal management regulations throughout the state
- relate to matters of local concern, and
- not duplicate state and federal legislation

The AWCRSA had spent the previous four years updating our coastal management program and were asked "to shelve" the work pending the revision of the program regulations. The regulations were revised to meet the July 2004 deadline and the next phase of the process began with the revision of local coastal district plans while simultaneously submitting the program amendment to the federal Office of Ocean and Coastal Resource Management (OCRM) for approval. Since July of this year our district has been working with the state to amend our program and craft acceptable policies. However, while we have been working diligently at our program revision, we have found the process complicated by regulations that are not clear and concise but rather inadequate, conflicting, and unclear. This is evidenced by the state's initial submission for preliminary approval of the amended program to the OCRM and their finding of insufficiency. Several areas within the newly crafted program do not provide uniformity and cannot be easily explained. On December 16 the state resubmitted the program amendment and are now very concerned about the OCRM approval given that there are only 6 months remaining to allow full public process and obtain approval to meet the legislative deadline of July 2005. We share their concern.

We must submit our revised plan to the Department of Natural Resources (DNR) within one year after DNR adopted regulations implementing the changes to the coastal program (by July of 2005). Our task is complicated in that recent guidance published by DNR exceeds the legislative requirements of HB 191 and has effectively eliminated the coastal district's ability to craft enforceable policies that will enable a district to