

12035

SENATE

RESOURCES

21 P.3d 344

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(Cite as: 21 P.3d 344)

FN50. 764 P.2d 712, 715 (Alaska 1988);
see also *Alaska General Alarm, Inc. v. Grinnell*, 1 P.3d 98, 106-07 (Alaska 2000).

In the absence of statutory guidance other than the language of subsection .822(j), and because subsection .822(j) specifically authorizes an action for contribution to be brought "during or after" a direct action under subsection .822(a), we conclude that a contribution action under subsection .822(j) should not accrue for statute of limitations purposes until the direct cost recovery ends, either by judgment, settlement, or the conclusion of an administrative action. [FN51]

FN51. In our view, the rule we adopted in *Providence Washington Insurance Co. of Alaska v. McGee* should generally govern the date of accrual when a party who has paid damages assessed jointly and severally under subsection .822(a) files a contribution action to recoup the disproportionate payment. In at least one situation, however, reliance on the *Providence Washington* rule may not be warranted. When a party who has not been forced to pay an award or make cleanup efforts under subsection .822(a) files a contribution action to apportion liability for the damages, the contribution action should be treated as accruing at the time of judgment on the subsection .822(a) action. Applying the *Providence Washington* rule to such cases would encourage subsection .822(a) judgment debtors to delay payment or cost recovery efforts, since any delay would be essentially cost-free and they could always trigger a new period for filing a contribution action by making a small payment on the judgment. In these situations and in other exceptional cases, subsection .822(j)'s express grant of discretion to consider "equitable factors determined to be appropriate by the court" will, we believe, empower trial courts to treat the contribution action as accruing upon entry of the subsection .822(a)

judgment.

*356 E. *Nuisance and Trespass Actions Are Subject to Statutes of Limitations and the Discovery Rule.*

[12] Finally, we consider whether hazardous substance contamination can escape the statute of limitations by being characterized as a continuing nuisance or trespass. FDIC maintains that because the contamination of the Soldotna property "continued over time, and continue[s] up to the present time," no statute of limitations bars its claims for nuisance and trespass. To support this argument, it relies on our ruling in *Wood v. Alm*. [FN52]

FN52. 516 P.2d 137, 142 (Alaska 1973).

We are not persuaded that *Wood* is controlling. In *Wood*, we let stand the superior court's ruling that the defendant's failure to prevent the flooding of the Woods' property was a continuing nuisance that should be abated. [FN53] FDIC reads that case as describing a situation analogous to this case. But in *Wood*, the continuing nuisance was caused by a faulty dike for which the defendants were responsible. [FN54] While damage did occur soon after the dike began to leak, we recognized that compensation for that damage was time barred. [FN55] Nevertheless, the defendants were under a continuing obligation to prevent the inundation of the Woods' land, which they continuously failed to do; their leaky dike allowed water to seep onto the Woods' property up to the day the suit was filed. [FN56]

FN53. *See id.* at 141-42.

FN54. *See id.*

FN55. *See id.*

FN56. *See id.* (indicating that the superior court judge viewed the unrepaired conditions around the Woods' property).

In contrast, the defendants here are not

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exacerbating the contamination that they allegedly caused during the late 1980s. And since they have lost their connection to the land, they cannot be characterized as maintaining an ongoing nuisance. Thus, we do not see how the contamination in this case differs from the harm ordinarily at issue in cases involving torts of a non-continuing nature, where discrete wrongful acts often have lasting consequences.

Insofar as there is a difference that relates to statutes of limitations, it is that injuries from seeping pollutants may be difficult to discover. That characteristic, however, does not militate in favor of describing the defendants' alleged actions as a continuing nuisance or trespass. Rather, the discovery rule adequately addresses this problem by delaying a cause of action's accrual until the plaintiff is aware, or reasonably should be aware, of its existence. [FN57]

FN57. See *Cameron v. State*, 822 P.2d 1362, 1365-68 (Alaska 1991) (laying out the discovery rule and its purpose).

Here, given the parties' briefing, the undisputed facts discussed in the federal court's certification request, and the available record, we conclude that FDIC's allegations do not lend themselves to being framed as a continuing trespass or nuisance. [FN58]

FN58. For the reasons that we advanced in discussing the availability of a statute of limitations defense to direct actions under subsection . 822(a), see *supra* Part III.C, we need not consider what statute of limitations applies to FDIC's trespass claim.

IV. CONCLUSION

In sum, we answer the certified questions as follows:

1. A statute of limitations defense is available for a direct cause of action under AS 46.03.822(a).
2. Alaska Statute 46.03.822(a) creates a private cause of action imposing joint and several strict

liability.

*357 3. A cause of action for contribution under AS 46.03.822(j) may be brought during the pendency of a direct action under subsection .822(a) but does not accrue for purposes of the statute of limitations until the direct action concludes.

4. Continuing trespass and nuisance claims for environmental contamination cannot be brought outside the limitations period under the undisputed circumstances presented here.

21 P.3d 344, 52 ERC 1488

END OF DOCUMENT

Representative Jay Ramras
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V-Chair, Economic Develop.
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House District 10

House of Representatives

MEMO

To: Senator Thomas Wagoner, Chair Senate Resources Committee

Fm: Representative Jay Ramras 

Date: January 19, 2006

Re: House Bill 269 – Hazardous Substance Release Liability

Please accept this memo as a request that the Senate Resources Committee hear House Bill 269.
**“An Act relating to contribution actions relating to the release of a hazardous substance;
and providing for an effective date.”**

Attachments to this memo:

- Sponsor Statement
- Original Copy of HB 269 – 24-LS0879\A
- Sectional for HB 269 - 24-LS0879\A
- DEC Fiscal Note – 0
- LAW Fiscal Note – 0
- Applicable statute – AS 46.03.822
- Relevant Cases
 - *Cooper Industries, Inc. v. Aviall Services, Inc.*
 - *Federal Deposit Insurance Corp. v. Laidlaw Transit, Inc.*

Thank you.

Representative Jay Ramras
Co-Chair, House Resources
V-Chair, Economic Develop.
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House District 10

House of Representatives

MEMO

To: Senator Thomas Wagoner, Chair Senate Resources Committee

Fm: Representative Jay Ramras

Date: May 1, 2005

Re: House Bill 269 – Hazardous Substance Release Liability

Please accept this memo as a request that the Senate Resources Committee hear House Bill 269. "An Act relating to contribution actions relating to the release of a hazardous substance; and providing for an effective date."

Attachments to this memo:

- Sponsor Statement
- Original Copy of HB 269 – 24-LS0879\A
- Sectional for HB 269 - 24-LS0879\A
- DEC Fiscal Note – 0
- LAW Fiscal Note – 0
- Applicable statute – AS 46.03.822
- Relevant Cases
 - *Cooper Industries, Inc. v. Aviall Services, Inc.*
 - *Federal Deposit Insurance Corp. v. Laidlaw Transit, Inc.*

HB

286

Senate Resources Committee

May 4, 2005

Attached is:

WORK DRAFT

SENATE CS FOR HB 286(RES) version \F dated 5/3/05

24-LS0931\F
Chenoweth
5/3/05

SENATE CS FOR HOUSE BILL NO. 286(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES SAMUELS, Dahlstrom, McGuire, Anderson

A BILL
FOR AN ACT ENTITLED

1 "An Act amending the manner of determining the royalty received by the state on gas
2 production by directing the commissioner of natural resources to accept, under certain
3 circumstances, the transfer price of the gas if established by transfer price order of the
4 Regulatory Commission of Alaska; extending and amending the requirements
5 applicable to the credit that may be claimed for certain oil and gas exploration expenses
6 incurred in Cook Inlet against oil and gas properties production (severance) taxes, and
7 amending the credit against those taxes for certain exploration expenditures from leases
8 or properties in the state; and providing for an effective date."

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

10 * Section 1. AS 38.05.180(aa) is amended to read:

11 (aa) Within 90 days after the written request of a lessee of a lease issued under
12 this section or of a lessee of federal land from which the state is entitled under

1 applicable federal law to receive a share of the royalty on gas production, the
2 commissioner shall enter into an agreement with the lessee to use or accept, as the
3 value of the state's royalty share of gas production, the price for the gas established
4 in the contract between the lessee and a gas or electric utility [AS THE VALUE OF
5 THE STATE'S ROYALTY SHARE OF GAS PRODUCTION] sold by the lessee
6 under the contract or the transfer price between the lessee and a gas or electric
7 utility for a transfer by the lessee under an order establishing the transfer price

8 (1) but only if the primary function of the utility with which the lessee
9 has entered into the contract or transfer is to provide, either directly or by selling at
10 wholesale to another utility, gas or electricity to the general public, including
11 residential consumers, within the utilities' service areas, and the utility with which the
12 lessee has entered into

13 (A) the contract is not an affiliated interest, as that term is
14 defined in AS 42.05.990, with the lessee or with a subsequent purchaser of
15 more than 10 percent of the utility's gas or electricity; or

16 (B) the transfer is an affiliated interest, as that term is
17 defined in AS 42.05.990, and the transfer price between the lessee and the
18 utility is established by an order of the Regulatory Commission of Alaska;
19 and

20 (2) unless the commissioner makes a written finding, based on clear
21 and convincing evidence, that

22 (A) the contract price or transfer price is unreasonably low;

23 (B) the prospective reduction in royalty receipts would not be
24 balanced by increased benefits to in-state gas and electric consumers;

25 (C) the lessee and the utility are related in management,
26 ownership, or other aspect and, in the case of a transfer price, that
27 relationship is not regulated under AS 42.05; and

28 (D) the contract price or transfer price is not in the best
29 interest of the state.

30 * Sec. 2. AS 43.55.025(a) is amended to read:

31 (a) Subject to the terms and conditions of this section, on oil and gas produced

1 on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas
2 only lease, [ON OR AFTER JULY 1, 2004,] a credit against the production tax due
3 under this chapter is allowed for exploration expenditures that qualify under (b) of
4 this section in an amount equal to one of the following:

5 (1) 20 percent of the total exploration expenditures that qualify only
6 under (b) and (c) of this section;

7 (2) [,] 20 percent of the total exploration expenditures for work
8 performed before July 1, 2007, and that qualify only unde (b) and (d) of this section
9 [, OR BOTH, FOR A TOTAL CREDIT THAT DOES NOT EXCEED 40 PERCENT
10 OF THE TOTAL EXPLORATION EXPENDITURES];

11 (3) 40 percent of the total exploration expenditures that qualify
12 under (b), (c), and (d) of this section; or

13 (4) [(2)] 40 percent of the total exploration expenditures that qualify
14 only under (b) and (e) of this section [, FOR A TOTAL PRODUCTION TAX
15 CREDIT THAT DOES NOT EXCEED 40 PERCENT OF THE TOTAL QUALIFIED
16 EXPLORATION EXPENDITURES].

17 * Sec. 3. AS 43.55.025(b) is amended to read:

18 (b) To qualify for the production tax credit under (a) of this section, an
19 exploration expenditure must be incurred for work performed on or after July 1, 2003,
20 and before July 1, 2007, except that an exploration expenditure for a Cook Inlet
21 prospect must be incurred for work performed on or after July 1, 2005, and
22 before July 1, 2010, and except that an exploration expenditure, in whole or in
23 part, south of 68 degrees, 15 minutes, North latitude, and not part of a Cook Inlet
24 prospect must be incurred for work performed on or after July 1, 2003, and
25 before July 1, 2010, and

26 (1) may be for seismic or geophysical exploration costs not connected
27 with a specific well;

28 (2) if for an exploration well,

29 (A) must be incurred by an explorer that holds an interest in the
30 exploration well for which the production tax credit is claimed;

31 (B) may be for either an oil or gas discovery well or a dry hole;

1 and

2 (C) must be for goods, services, or rentals of personal property
3 reasonably required for the surface preparation, drilling, casing, cementing,
4 and logging of an exploration well, and, in the case of a dry hole, for the
5 expenses required for abandonment if the well is abandoned within 18 months
6 after the date the well was spudded;

7 (C) may not be for testing, stimulation, or completion costs;
8 administration, supervision, engineering, or lease operating costs; geological or
9 management costs; community relations or environmental costs; bonuses, taxes, or
10 other payments to governments related to the well; or other costs that are generally
11 recognized as indirect costs or financing costs; and

12 (4) may not be incurred for an exploration well or seismic exploration
13 that is included in a plan of exploration or a plan of development for any unit on
14 May 13, 2003.

15 * Sec. 4. AS 43.55.025(c) is amended to read:

16 (c) To be eligible for the [A] 20 percent production tax credit authorized by
17 (a)(1) of this section or the 40 percent production tax credit authorized by (a)(3)
18 of this section, exploration expenditures must

19 (1) qualify under (b) of this section; and

20 (2) be for an exploration well, subject to the following:

21 (A) for an exploration well other than a well that is
22 described in (B) of this paragraph, the well must be [THAT IS] located and
23 drilled in such a manner that the bottom hole is located not less than three
24 miles away from the bottom hole of a preexisting suspended, completed, or
25 abandoned oil or gas well; in this subparagraph [PARAGRAPH],
26 "preexisting" means a well that was spudded more than 150 days but less than
27 35 years before the exploration well was spudded;

28 (B) for an exploration well that explores a Cook Inlet
29 prospect, the well must be located at least three miles from any other well
30 drilled for oil and gas with all distances measured as the horizontal
31 distance between exploration targets, except that the exploration well that

1 is located within three miles of a well drilled for oil and gas qualifies for
2 the tax credit authorized by this subsection if the exploration well tests
3 potential hydrocarbon traps that the commissioner of natural resources
4 determines, after analyzing evidence submitted by the explorer and from
5 other information that the commissioner of natural resources determines
6 relevant, constitute a distinctly separate exploration target.

7 * Sec. 5. AS 43.55.025(d) is amended to read:

8 (d) To be eligible for ~~the~~ [AN ADDITIONAL] 20 percent production tax
9 credit authorized by (a)(2) of this section or the 40 percent production tax credit
10 authorized by (a)(3) of this section, an exploration expenditure must

11 (1) qualify under (b) of this section; and

12 (2) be for an exploration well that is located not less than 25 miles
13 outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a
14 plan of development, except that for an exploration well for a Cook Inlet prospect
15 to qualify under this paragraph, the exploration well must be located not less
16 than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any
17 unit that is under a plan of development.

18 * Sec. 6. AS 43.55.025(e) is amended to read:

19 (e) To be eligible for the 40 percent production tax credit authorized by
20 (a)(4) [IN (a)] of this section, the exploration expenditure must

21 (1) qualify under (b) of this section;

22 (2) be for seismic exploration; and

23 (3) have been conducted outside the boundaries of a production unit or
24 an exploration unit; however, the amount of the expenditure that is otherwise eligible
25 under this subsection is reduced proportionately by the portion of the seismic
26 exploration activity that crossed into a production unit or an exploration unit.

27 * Sec. 7. AS 43.55.025(f) is amended to read:

28 (f) For a production tax credit under this section,

29 (1) an explorer shall, in a form prescribed by the department and
30 within six months of the completion of the exploration activity, claim the credit and
31 submit information sufficient to demonstrate to the department's satisfaction that the

1 claimed exploration expenditures qualify under this section;

2 (2) an explorer shall agree, in writing,

3 (A) to notify the Department of Natural Resources, within 30
4 days after completion of seismic or geophysical data processing, completion of
5 a well, or filing of a claim for credit, whichever is the latest, for which
6 exploration costs are claimed, of the date of completion and submit a report to
7 that department describing the processing sequence and providing a list of data
8 sets available; if, under (c)(2)(B) of this section, an explorer submits a
9 claim for a credit for expenditures for an exploration well that is located
10 within three miles of a well already drilled for oil and gas, in addition to
11 the submissions required under (1) of this subsection, the explorer shall
12 submit the information necessary for the commissioner of natural
13 resources to evaluate the validity of the explorer's claim that the well is
14 directed at a distinctly separate exploration target, and the commissioner
15 of natural resources shall, upon receipt of all evidence sufficient for the
16 commissioner to evaluate the explorer's claim, make that determination
17 within 60 days;

18 (B) to provide to the Department of Natural Resources, within
19 30 days after the date of a request, specific data sets, ancillary data, and reports
20 identified in (A) of this paragraph;

21 (C) that, notwithstanding any provision of AS 38, information
22 provided under this paragraph will be held confidential by the Department of
23 Natural Resources for 10 years following the completion date, at which time
24 that department will release the information after 30 days' public notice;

25 (3) if more than one explorer holds an interest in a well or seismic
26 exploration, each explorer may claim an amount of credit that is proportional to the
27 explorer's cost incurred;

28 (4) the department may exercise the full extent of its powers as though
29 the explorer were a taxpayer under this title, in order to verify that the claimed
30 expenditures are qualified exploration expenditures under this section; and

31 (5) if the department is satisfied that the explorer's claimed

1 expenditures are qualified under this section, the department shall issue to the explorer
2 a production tax credit certificate for the amount of credit to be allowed against
3 production taxes due under this chapter; however, notwithstanding any other
4 provision of this section, the department may not issue to an explorer a
5 production tax credit certificate if the total of production tax credits submitted
6 for Cook Inlet production, based on exploration expenditures for work
7 performed during the period described in (b) of this section for that production,
8 that have been approved by the department exceeds \$20,000,000.

9 * Sec. 8. AS 43.55.025(k) is amended to read:

10 (k) In this section,

11 (1) "Cook Inlet production" means oil or gas production from the
12 Cook Inlet sedimentary basin, as that term is defined by regulation adopted to
13 implement AS 38.05.180(f)(4);

14 (2) "Cook Inlet prospect" means a location within the Cook Inlet
15 sedimentary basin, as that term is defined by regulation adopted to implement
16 AS 38.05.180(f)(4);

17 (3) "explorer" means a person who, in exploring for new oil or gas
18 reserves, incurs expenditures.

19 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

Senate Resources Committee

May 4, 2005

RE: HB 286

Two fiscal notes were issued for HB 286, but apparently the second note did not catch up on the House side.

One of the fiscal notes, from CCED, dated 4/28/05, was included in the packet that was distributed yesterday. It was a zero fiscal note.

The new fiscal note is dated 4/27/05 from DNR. It is a zero fiscal note.

Both fiscal notes are attached.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 286
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Value of Royalty on Gas Production RDU Regulatory Commission of Alaska (399)
 Component Regulatory Commission of Alaska
 Sponsor Samuels
 Requester House Oil & Gas Component No. 2417

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)

HB 286 contemplates changes to DNR's statute, AS 38, by directing the DNR Commissioner to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska. Such activity is within the scope of the RCA's normal operations; consequently no fiscal impact on the agency is anticipated.

Prepared by: Kate Giard, Chairman Phone (907) 263-2110
 Division Regulatory Commission of Alaska Date/Time 4/28/05 12:15 PM
 Approved by: Edgar Blatchford, Commissioner Date 4/28/2005
 Agency Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB286-DNR-O&G-04-27
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Value of Royalty on Gas Production RDU Resource Development
 Component Oil and Gas Development
 Sponsor Rep. Samuels
 Requester House Oil and Gas Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

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

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

CHANGE IN REVENUES ()	***Indeterminate
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)

This bill amends AS 38.05.180(aa), a statute that relates to the royalty value of gas sold to a gas or electric utility that serves the general public. Under the state's oil and gas leases, a producer-lessee must pay the state royalties-in-value (cash) or royalties-in-kind (oil or gas). If the producer pays the gas royalty in-value, meaning that the producer sells the gas to its customer and then tenders a payment to the state, the producer is liable under the lease for a royalty value that is the higher of the producer's actual sales price (less certain allowed deductions) or the average royalty values for other producers in the same area based on their sales.

Under current law, AS 38.05.180(aa) provides that a gas producer can apply to the Commissioner of the Department of Natural Resources (the department) to have its royalty gas valued at its contract sales price

Prepared by: Mark D. Myers, Director Phone 269-8800
 Division: Oil and Gas Date/Time 4/27/2005
 Approved by: Tom Irwin, Commissioner Date 4/27/2005
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB286-DNR-O&G-0

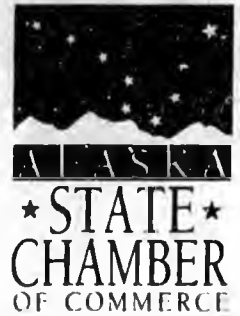
ANALYSIS CONTINUATION

If the Commissioner approves the application, the state gives up the higher of value under the lease, relating to the average sales prices received by other producers as noted above. To obtain approval under AS 38 05 180(aa), the producer must present a negotiated, third-party arm's length contract for the Commissioner's consideration.

HB 286 would change current law to allow a producer-lessee that transfers its gas to an affiliated utility to apply for AS 38 05 180(aa) treatment. Under the bill, if a producer-lessee has an internal transfer price for gas consumed by its utility approved for ratemaking purposes by the Regulatory Commission of Alaska, it could apply to the department to have its transfer price used as its royalty value. In the absence of HB 286, the department would use the higher of value to determine the royalty value. Since there would be no negotiated, arm's length third-party contract for the producer-lessee's internally consumed gas, the higher of value would be the average of the other producers' royalty values.

***Indeterminate. The department is unable to determine whether enacting HB 286 would have a negative or positive fiscal impact on the state. If the transfer price were used for the royalty value, as the bill would permit with department approval, the impact would be negative if the transfer price was lower than the average of other producers' royalty values. However, the fiscal impact would be positive if the transfer price was higher than the average of other producers' royalty values.

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May 4, 2005

Senator Thomas Waggoner, Chair
Senate Resources Committee
& Members of the Senate Resources Committee
State Capital, Room 427
Juneau, AK 99801-1182

The Honorable Chairman and Members of the Senate Resources Committee,

The Executive Committee of the Board of Directors of the Alaska State Chamber of Commerce supports and endorses passage of HB 71 in its form as CSHB 71(FIN) prior to the adoption of Amendment 1 on April 28, 2005. The bill as originally intended would offer a credit for certain exploration expenses against oil and gas production taxes. This bill in its earliest form had a laudable goal of encouraging oil and gas exploration. Unfortunately, CSHB 71(FIN) was amended on the House floor which has changed the initial intent of the bill.

The State Chamber believes the amendment will have a long-term negative impact on current and future oil & gas leases. We urge you to set the amendment aside and conduct a more complete analysis of how the amendment will affect the oil and gas industry in the future.

The State Chamber has repeatedly supported the notion that the state needs to develop a comprehensive long range fiscal structure or process in order to establish economic certainty for business and industry. CSHB71 as amended would change the rules for gas and oil developers, not only in the future, but for development that has already been done. We don't see that as consistent with a notion of fiscal predictability.

The State of Alaska must be perceived as having a stable and predictable investment climate. We must be able to attract companies from around the world, and we must be able to ensure that once they make the decision to invest here, we don't arbitrarily change the rules of engagement.

The State Chamber supports CSHB 71 without the amendment and we hope the committee can make the necessary changes that will not impede future oil and gas exploration. Your thoughtful consideration and careful attention to this matter is sincerely appreciated.

Yours in economic prosperity,

Wayne A. Stevens
President
Alaska State Chamber of Commerce

REPRESENTATIVE RALPH SAMUELS

HOUSE DISTRICT 29

Sponsor Statement HB 286

"An Act amending the manner of determining the royalty received by the state on gas production by directing the commissioner of natural resources to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska; and providing for an effective date."

Anchorage Municipal Light and Power is proposing a housekeeping amendment to AS 38.05.180(aa). The amendment will allow the Department of Natural Resources to use the transfer price for gas set by the Regulatory Commission of Alaska to value the State's share of royalty gas. The amendment reflects language as proposed by ML&P and modified at DNR's request. DNR does not oppose this amendment.

Since 1986, Alaska utilities have been able to use the price set in their long-term gas purchase contracts as the value for royalty gas values.

ML&P has used (aa) for the gas ML&P uses from its share of the Beluga River Field. DNR agreed to let ML&P continue to receive (aa) treatment based on the ML&P/Shell contract even after ML&P bought Shell's interest in the field. But that contract expires at the end of 2005. While ML&P's share in the Beluga River Field will assure ML&P of a supply of gas, in the absence of the proposed legislation, ML&P will not be able to continue to receive (aa) treatment for its gas.

The proposed legislation adds language that allows DNR to use the gas transfer price set by the RCA much like DNR uses the contract price for gas. The transfer price is the rate ML&P is required to charge itself for the Beluga Field gas it uses. The proposed amendment allows DNR to give (aa) treatment not only to an arms-length gas supply contract, but also to RCA-approved orders setting the transfer price when a utility uses its own natural gas.

The proposed amendment is consistent with the purpose of the original law. It will allow ML&P to continue to receive the benefits the Legislature intended to provide to consumers. It assures that rigorous and fair regulatory process will be used to set the price for royalty gas. The fiscal impact will be minimal compared to the (aa) treatment ML&P presently receives. This amendment will help ensure that Anchorage electric consumers have certainty and stability in their electric rates.

Email: Representative_Ralph_Samuels@legis.state.ak.us

Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3810
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0240 Fax: (907) 269-0242

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 286
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Value of Royalty on Gas Production RDU: Regulatory Commission of Alaska (399)
 Component: Regulatory Commission of Alaska
 Sponsor: Samurís
 Requester: Hous Oil & Gas Component No.: 2417

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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)

HB 286 contemplates changes to DNR's statute, AS 38, by directing the DNR Commissioner to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska. Such activity is within the scope of the RCA's normal operations; consequently, no fiscal impact on the agency is anticipated.

Prepared by: Kate Giard, Chairman Phone: (907) 263-2110
 Division: Regulatory Commission of Alaska Date/Time: 4/28/05 12:15 PM
 Approved by: Edgar Blatchford, Commissioner Date: 4/28/2005
 Agency: Commerce, Community, and Economic Development

LEGAL SERVICES

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

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

MEMORANDUM

May 4, 2005

SUBJECT: Draft SCS HB 286(RES) (Work Order No. 24-LS0931VF)

TO: Senator Tom Wagoner, Chair
Senate Resources Committee

FROM: Jack Chenoweth
Assistant Revisor

Please extend to Mary Jackson my appreciation for her clear drafting instructions for the preparation of the draft that accompanies this memo.

I just want to sound a note of caution about the choice of vehicle.

The first sentence of article II, section 13 lays down that "Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws." This draft Senate Committee Substitute does not fit any of the three exceptions, so the single subject requirement must be adhered to. This draft combines materials that relate, in section 1, to valuation of royalty on the state's royalty share of gas production and, in the balance of the measure, to alteration and extension of the credits that may be claimed against the severance tax. The court has given the single subject requirement a very deferential, and very generous, interpretation. Its standard is that an

act should embrace some one general subject; and by this is meant, merely that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.

Gellert v. State, 522 P.2d 1120, 1123 (Alaska 1974). Moreover, the court has also observed that

"what constitutes one subject for purposes of article II, § 13 is broadly construed," and that only a "substantial and plain" violation of the one subject rule will lead us to strike down legislation on this basis.

Evans v. Wood, 56 P.3d 1046 (Alaska 2002), at 1069, quoting *State v. First Nat'l Bank of Anchorage*, 660 P.2d 406 (Alaska 1982) at 415.

Under the standard, it is likely that, if the measure is challenged on article II, section 13 grounds, the challenge would be defeated on an understanding on the part of the court that the entirety of the bill relates to gas. However, the court has expressed some

Senator Tom Wagoner
May 4, 2005
Page 2

reservations about the breadth of its standard and it could be that, if this measure is challenged, the court could look at the legislative history of House Bill 286, decide that the joining of matter involving severance tax credits and calculation of value for purposes of determining royalties--subjects that are not necessarily connected with or related to each other within the context of the legislation--was an example of "logrolling" of the kind that the single subject rule was intended to guard against, and conclude that the violation was both "substantial" and "plain" and that the constitutional requirement had therefore been violated.

The second sentence of article II, section 14 directs that "[n]o bill may become law unless it has passed three readings in each house on three separate days" This provision raises questions when the subject matter of a bill is significantly and substantially altered as it proceeds through the legislative process -- most noteworthy, of course, if the bill is "guttled" or "stripped," and its contents changed in the entirety. The constitutional problem with bill stripping is that the practice raises an issue as to whether the stripped bill has been given the requisite three readings in each house. The court has noted that, while a bill may be substantially revised as it works its way through the legislative process, if the subject of the bill is actually changed in the amendment process from the subject of the originally introduced bill, the bill will not have received the required three readings in each house and will be held not to have been validly enacted. *Van Brunt v. State*, 653 P.2d 343 (Alaska App. 1982); *Casey v. Southern Baptist Hospital*, 526 So.2d 1332 (La. 1988). Essentially, a bill may only be safely stripped if its subject is the same as the subject of the replacement material. The court noted in the *Van Brunt* case:

[I]t is difficult to determine at what point a bill has been so substantially amended that the legislature is dealing with a totally new bill which must start the legislative process again and be read three times by the legislature. A certain amount of deference to the legislature is appropriate because of its primary responsibility under the constitution for the conduct of legislative activity.

653 P.2d at 346. Again, the changes made by the draft of SCS HE 286(RES) do not amount to bill gutting or bill stripping in the conventional sense. However, the committee's proposed addition of the new material to the House-passed bill could, nonetheless, be viewed by the court as a bill that has been "substantially amended" beyond that point that the court thought that it saw when it discussed this subject in *Van Brunt*.

I raise these issues as cautions without intending to be definitive about either issue.

JBC:med
05-340.med

Enclosure

24-LS0931\F
Chenoweth
5/3/05

SENATE CS FOR HOUSE BILL NO. 286(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES SAMUELS, Dahlstrom, McGuire, Anderson

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the manner of determining the royalty received by the state on gas
2 production by directing the commissioner of natural resources to accept, under certain
3 circumstances, the transfer price of the gas if established by transfer price order of the
4 Regulatory Commission of Alaska; extending and amending the requirements
5 applicable to the credit that may be claimed for certain oil and gas exploration expenses
6 incurred in Cook Inlet against oil and gas properties production (severance) taxes, and
7 amending the credit against those taxes for certain exploration expenditures from leases
8 or properties in the state; and providing for an effective date."

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

10 * **Section 1.** AS 38.05.180(aa) is amended to read:

11 (aa) Within 90 days after the written request of a lessee of a lease issued under
12 this section or of a lessee of federal land from which the state is entitled under

1 applicable federal law to receive a share of the royalty on gas production, the
2 commissioner shall enter into an agreement with the lessee to use or accept, as the
3 value of the state's royalty share of gas production, the price for the gas established
4 in the contract between the lessee and a gas or electric utility [AS THE VALUE OF
5 THE STATE'S ROYALTY SHARE OF GAS PRODUCTION] sold by the lessee
6 under the contract or the transfer price between the lessee and a gas or electric
7 utility for a transfer by the lessee under an order establishing the transfer price

8 (1) but only if the primary function of the utility with which the lessee
9 has entered into the contract or transfer is to provide, either directly or by selling at
10 wholesale to another utility, gas or electricity to the general public, including
11 residential consumers, within the utilities' service areas, and the utility with which the
12 lessee has entered into

13 (A) the contract is not an affiliated interest, as that term is
14 defined in AS 42.05.990, with the lessee or with a subsequent purchaser of
15 more than 10 percent of the utility's gas or electricity; or

16 (B) the transfer is an affiliated interest, as that term is
17 defined in AS 42.05.990, and the transfer price between the lessee and the
18 utility is established by an order of the Regulatory Commission of Alaska;

19 and

20 (2) unless the commissioner makes a written finding, based on clear
21 and convincing evidence, that

22 (A) the contract price or transfer price is unreasonably low;

23 (B) the prospective reduction in royalty receipts would not be
24 balanced by increased benefits to in-state gas and electric consumers;

25 (C) the lessee and the utility are related in management,
26 ownership, or other aspect and, in the case of a transfer price, that
27 relationship is not regulated under AS 42.05; and

28 (D) the contract price or transfer price is not in the best
29 interest of the state.

30 * Sec. 2. AS 43.55.025(a) is amended to read:

31 (a) Subject to the terms and conditions of this section, on oil and gas produced

1 on or after July 1, 2004, from an oil and gas lease, or on gas produced from a gas
2 only lease, [ON OR AFTER JULY 1, 2004,] a credit against the production tax due
3 under this chapter is allowed for exploration expenditures that qualify under (b) of
4 this section in an amount equal to one of the following:

5 (1) 20 percent of the total exploration expenditures that qualify only
6 under (b) and (c) of this section;

7 (2) [,] 20 percent of the total exploration expenditures for work
8 performed before July 1, 2007, and that qualify only under (b) and (d) of this section
9 [, OR BOTH, FOR A TOTAL CREDIT THAT DOES NOT EXCEED 40 PERCENT
10 OF THE TOTAL EXPLORATION EXPENDITURES];

11 (3) 40 percent of the total exploration expenditures that qualify
12 under (b), (c), and (d) of this section; or

13 (4) [(2)] 40 percent of the total exploration expenditures that qualify
14 only under (b) and (e) of this section [, FOR A TOTAL PRODUCTION TAX
15 CREDIT THAT DOES NOT EXCEED 40 PERCENT OF THE TOTAL QUALIFIED
16 EXPLORATION EXPENDITURES].

17 * Sec. 3. AS 43.55.025(b) is amended to read:

18 (b) To qualify for the production tax credit under (a) of this section, an
19 exploration expenditure must be incurred for work performed on or after July 1, 2003,
20 and before July 1, 2007, except that an exploration expenditure for a Cook Inlet
21 prospect must be incurred for work performed on or after July 1, 2005, and
22 before July 1, 2010, and except that an exploration expenditure, in whole or in
23 part, south of 68 degrees, 15 minutes, North latitude, and not part of a Cook Inlet
24 prospect must be incurred for work performed on or after July 1, 2003, and
25 before July 1, 2010, and

26 (1) may be for seismic or geophysical exploration costs not connected
27 with a specific well;

28 (2) if for an exploration well,

29 (A) must be incurred by an explorer that holds an interest in the
30 exploration well for which the production tax credit is claimed;

31 (B) may be for either an oil or gas discovery well or a dry hole;

1 and

2 (C) must be for goods, services, or rentals of personal property
3 reasonably required for the surface preparation, drilling, casing, cementing,
4 and logging of an exploration well, and, in the case of a dry hole, for the
5 expenses required for abandonment if the well is abandoned within 18 months
6 after the date the well was spudded;

7 (3) may not be for testing, stimulation, or completion costs;
8 administration, supervision, engineering, or lease operating costs; geological or
9 management costs; community relations or environmental costs; bonuses, taxes, or
10 other payments to governments related to the well; or other costs that are generally
11 recognized as indirect costs or financing costs; and

12 (4) may not be incurred for an exploration well or seismic exploration
13 that is included in a plan of exploration or a plan of development for any unit on
14 May 13, 2003.

15 * Sec. 4. AS 43.55.025(c) is amended to read:

16 (c) To be eligible for the [A] 20 percent production tax credit authorized by
17 (a)(1) of this section or the 40 percent production tax credit authorized by (a)(3)
18 of this section, exploration expenditures must

19 (1) qualify under (b) of this section; and

20 (2) be for an exploration well, subject to the following:

21 (A) for an exploration well other than a well that is
22 described in (B) of this paragraph, the well must be [THAT IS] located and
23 drilled in such a manner that the bottom hole is located not less than three
24 miles away from the bottom hole of a preexisting suspended, completed, or
25 abandoned oil or gas well; in this subparagraph [PARAGRAPH],
26 "preexisting" means a well that was spudded more than 150 days but less than
27 35 years before the exploration well was spudded;

28 (B) for an exploration well that explores a Cook Inlet
29 prospect, the well must be located at least three miles from any other well
30 drilled for oil and gas with all distances measured as the horizontal
31 distance between exploration targets, except that the exploration well that

1 is located within three miles of a well drilled for oil and gas qualifies for
2 the tax credit authorized by this subsection if the exploration well tests
3 potential hydrocarbon traps that the commissioner of natural resources
4 determines, after analyzing evidence submitted by the explorer and from
5 other information that the commissioner of natural resources determines
6 relevant, constitute a distinctly separate exploration target.

7 * Sec. 5. AS 43.55.025(d) is amended to read:

8 (d) To be eligible for the [AN ADDITIONAL] 20 percent production tax
9 credit authorized by (a)(2) of this section or the 40 percent production tax credit
10 authorized by (a)(3) of this section, an exploration expenditure must

11 (1) qualify under (b) of this section; and

12 (2) be for an exploration well that is located not less than 25 miles
13 outside of the outer boundary, as delineated on July 1, 2003, of any unit that is under a
14 plan of development, except that for an exploration well for a Cook Inlet prospect
15 to qualify under this paragraph, the exploration well must be located not less
16 than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any
17 unit that is under a plan of development.

18 * Sec. 6. AS 43.55.025(e) is amended to read:

19 (e) To be eligible for the 40 percent production tax credit authorized by
20 (a)(4) [IN (a)] of this section, the exploration expenditure must

21 (1) qualify under (b) of this section;

22 (2) be for seismic exploration; and

23 (3) have been conducted outside the boundaries of a production unit or
24 an exploration unit; however, the amount of the expenditure that is otherwise eligible
25 under this subsection is reduced proportionately by the portion of the seismic
26 exploration activity that crossed into a production unit or an exploration unit.

27 * Sec. 7. AS 43.55.025(f) is amended to read:

28 (f) For a production tax credit under this section,

29 (1) an explorer shall, in a form prescribed by the department and
30 within six months of the completion of the exploration activity, claim the credit and
31 submit information sufficient to demonstrate to the department's satisfaction that the

1 claimed exploration expenditures qualify under this section;

2 (2) an explorer shall agree, in writing,

3 (A) to notify the Department of Natural Resources, within 30
4 days after completion of seismic or geophysical data processing, completion of
5 a well, or filing of a claim for credit, whichever is the latest, for which
6 exploration costs are claimed, of the date of completion and submit a report to
7 that department describing the processing sequence and providing a list of data
8 sets available; if, under (c)(2)(B) of this section, an explorer submits a
9 claim for a credit for expenditures for an exploration well that is located
10 within three miles of a well already drilled for oil and gas, in addition to
11 the submissions required under (1) of this subsection, the explorer shall
12 submit the information necessary for the commissioner of natural
13 resources to evaluate the validity of the explorer's claim that the well is
14 directed at a distinctly separate exploration target, and the commissioner
15 of natural resources shall, upon receipt of all evidence sufficient for the
16 commissioner to evaluate the explorer's claim, make that determination
17 within 60 days;

18 (B) to provide to the Department of Natural Resources, within
19 30 days after the date of a request, specific data sets, ancillary data, and reports
20 identified in (A) of this paragraph;

21 (C) that, notwithstanding any provision of AS 38, information
22 provided under this paragraph will be held confidential by the Department of
23 Natural Resources for 10 years following the completion date, at which time
24 that department will release the information after 30 days' public notice;

25 (3) if more than one explorer holds an interest in a well or seismic
26 exploration, each explorer may claim an amount of credit that is proportional to the
27 explorer's cost incurred;

28 (4) the department may exercise the full extent of its powers as though
29 the explorer were a taxpayer under this title, in order to verify that the claimed
30 expenditures are qualified exploration expenditures under this section; and

31 (5) if the department is satisfied that the explorer's claimed

1 expenditures are qualified under this section, the department shall issue to the explorer
2 a production tax credit certificate for the amount of credit to be allowed against
3 production taxes due under this chapter; however, notwithstanding any other
4 provision of this section, the department may not issue to an explorer a
5 production tax credit certificate if the total of production tax credits submitted
6 for Cook Inlet production, based on exploration expenditures for work
7 performed during the period described in (b) of this section for that production,
8 that have been approved by the department exceeds \$20,000,000.

9 * Sec. 8. AS 43.55.025(k) is amended to read:

10 (k) In this section,

11 (1) "Cook Inlet production" means oil or gas production from the
12 Cook Inlet sedimentary basin, as that term is defined by regulation adopted to
13 implement AS 38.05.180(f)(4);

14 (2) "Cook Inlet prospect" means a location within the Cook Inlet
15 sedimentary basin, as that term is defined by regulation adopted to implement
16 AS 38.05.180(f)(4);

17 (3) "explorer" means a person who, in exploring for new oil or gas
18 reserves, incurs expenditures.

19 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

Senate Resources Committee

May 4, 2005

RE: HB 286

Two fiscal notes were issued for HB 286, but apparently the second note did not catch up on the House side.

One of the fiscal notes, from CCED, dated 4/28/05, was included in the packet that was distributed yesterday. It was a zero fiscal note.

The new fiscal note is dated 4/27/05 from DNR. It is a zero fiscal note.

Both fiscal notes are attached.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 286
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Value of Royalty on Gas Production RDU Regulatory Commission of Alaska (399)
 Component Regulatory Commission of Alaska
 Sponsor Samuels
 Requester House Oil & Gas Component No. 2417

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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)

HB 286 contemplates changes to DNR's statute, AS 38, by directing the DNR Commissioner to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska. Such activity is within the scope of the RCA's normal operations; consequently, no fiscal impact on the agency is anticipated.

Prepared by: Kate Giard, Chairman Phone (907) 263-2110
 Division Regulatory Commission of Alaska Date/Time 4/28/05 12:15 PM
 Approved by: Edgar Blatchford, Commissioner Date 4/28/2005
 Agency Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB286-DNR-O&G-04-27
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Value of Royalty on Gas Production RDU Resource Development
 Component Oil and Gas Development
 Sponsor Rep. Samuels
 Requester House Oil and Gas Component No. 439

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	***Indeterminate					
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)

This bill amends AS 38.05.180(aa), a statute that relates to the royalty value of gas sold to a gas or electric utility that serves the general public. Under the state's oil and gas leases, a producer-lessee must pay the state royalties-in-value (cash) or royalties-in-kind (oil or gas). If the producer pays the gas royalty in-value, meaning that the producer sells the gas to its customer and then tenders a payment to the state, the producer is liable under the lease for a royalty value that is the higher of the producer's actual sales price (less certain allowed deductions) or the average royalty values for other producers in the same area based on their sales.

Under current law, AS 38.05.180(aa) provides that a gas producer can apply to the Commissioner of the Department of Natural Resources (the department) to have its royalty gas valued at its contract sales price

Prepared by: Mark D. Myers, Director Phone 269-8800
 Division Oil and Gas Date/Time 4/27/2005
 Approved by: Tom Irwin, Commissioner Date 4/27/2005
 Agency Natural Resources

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB286-DNR-O&G-0.

ANALYSIS CONTINUATION

If the Commissioner approves the application, the state gives up the higher of value under the lease, relating to the average sales prices received by other producers as noted above. To obtain approval under AS 38.05.180(a), the producer must present a negotiated, third-party arm's length contract for the Commissioner's consideration.

HB 286 would change current law to allow a producer-lessee that transfers its gas to an affiliated utility to apply for AS 38.05.180(aa) treatment. Under the bill, if a producer-lessee has an internal transfer price for gas consumed by its utility approved for ratemaking purposes by the Regulatory Commission of Alaska, it could apply to the department to have its transfer price used as its royalty value. In the absence of HB 286, the department would use the higher of value to determine the royalty value. Since there would be no negotiated, arm's length third-party contract for the producer-lessee's internally consumed gas, the higher of value would be the average of the other producers' royalty values.

***Indeterminate. The department is unable to determine whether enacting HB 286 would have a negative or positive fiscal impact on the state. If the transfer price were used for the royalty value, as the bill would permit with department approval, the impact would be negative if the transfer price was lower than the average of other producers' royalty values. However, the fiscal impact would be positive if the transfer price was higher than the average of other producers' royalty values.

Senate Resources

May 4, 2005

HB 286 Materials List

- Sponsor Statement: 1 page
- HB 286: 2 pages
- #1 FN: CCED: 4/28/05: 1 page



REPRESENTATIVE RALPH SAMUELS

HOUSE DISTRICT 29

Sponsor Statement HB 286

“An Act amending the manner of determining the royalty received by the state on gas production by directing the commissioner of natural resources to accept, under certain circumstances, the transfer price of the gas if established by transfer price order of the Regulatory Commission of Alaska; and providing for an effective date.”

Anchorage Municipal Light and Power is proposing a housekeeping amendment to AS 38.05.180(aa). The amendment will allow the Department of Natural Resources to use the transfer price for gas set by the Regulatory Commission of Alaska to value the State's share of royalty gas. The amendment reflects language as proposed by ML&P and modified at DNR's request. DNR does not oppose this amendment.

Since 1986, Alaska utilities have been able to use the price set in their long-term gas purchase contracts as the value for royalty gas values.

ML&P has used (aa) for the gas ML&P uses from its share of the Beluga River Field. DNR agreed to let ML&P continue to receive (aa) treatment based on the ML&P/Snell contract even after ML&P bought Shell's interest in the field. But that contract expires at the end of 2005. While ML&P's share in the Beluga River Field will assure ML&P of a supply of gas, in the absence of the proposed legislation, ML&P will not be able to continue to receive (aa) treatment for its gas.

The proposed legislation adds language that allows DNR to use the gas transfer price set by the RCA much like DNR uses the contract price for gas. The transfer price is the rate ML&P is required to charge itself for the Beluga Field gas it uses. The proposed amendment allows DNR to give (aa) treatment not only to an arms-length gas supply contract, but also to RCA-approved orders setting the transfer price when a utility uses its own natural gas.

The proposed amendment is consistent with the purpose of the original law. It will allow ML&P to continue to receive the benefits the Legislature intended to provide to consumers. It assures that rigorous and fair regulatory process will be used to set the price for royalty gas. The fiscal impact will be minimal compared to the (aa) treatment ML&P presently receives. This amendment will help ensure that Anchorage electric consumers have certainty and stability in their electric rates.

Email: Representative_Ralph_Samuels@legis.state.ak.us

Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3810
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0240 Fax: (907) 269-0242

HB

304



Representative John Coghill
Alaska State Legislature
State Capitol, Room 204
Juneau, AK 99801

House Bill 304 Commercial Fishing Loan Program

SPONSOR STATEMENT

This bill is a product of my philosophical belief that government should not compete with the private sector. I want to make sure that any loan program the State administers is the source of last resort.

This bill would require someone applying for a loan through the Commercial Fishing Revolving Loan Fund (CFRLF) for repair, restoration, or upgrading of vessels and gear, for the purchase of entry permits and gear, and for construction and purchase of vessels to be ineligible for financing from other recognized commercial lending institutions. While the division currently utilizes this practice I want it codified to make it a permanent statutory requirement.

HB 304 reduces the amount of loans for refinancing a debt to \$200,000 per person, down from \$300,000. It increases the loan limit for past due federal tax obligations from \$30,000 to \$35,000. And it limits all loans, including purchase of entry permits and gear, vessel purchases, repair of existing vessels, and federal tax debt for one person to \$400,000. That limit now totals \$930,000. The bill reduces security of a loan from 90% to 80% of the appraised value of the collateral. HB 304 changes the interest rate to prime rate plus two percentage points and keeps the cap at 10 ½%.

This bill has been a work in progress. I have been working with the department diligently for the last year to clarify and tighten requirements in the Commercial Fishing Revolving Loan Program.

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

Contact:

Interim Address:

**3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271**

(907)-465-3719

FAX# (907)-465-3258

**State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

HB 304 Commercial Fishing Loan Program

SECTIONAL

Section 1. Provides another qualification for a loan, being the person is not eligible for financing from other recognized commercial lending institutions before qualifying for a loan from the Commercial Fishing Revolving Loan Program. This section adds a requirement that the applicant is not eligible for financing from another source that is a state financial institution, federally chartered financial institution, or the Commercial Fishing and Agricultural Bank.

It also eliminates one category of applicants for a loan to pay federal tax obligations. With the change the applicant must show lack training or lack of employment opportunities in the area other than commercial fishing or is economically dependent on commercial fishing as a livelihood and commercial fishing has been a traditional way of life.

It reduces the refinance obligation limit from \$300,000 to \$200,000.

Section 2. The bill changes the prime rate to a sliding "prime rate plus two percentage points" with a cap of 10 ½%. Prime rate in AS 44.88.599 is defined as "the lowest United States money center prime rate of interest that is published in the Wall Street Journal. The division currently uses the prime plus procedure.

It reduces the percent of appraised value of the collateral that can be loaned to secure a loan from 90% to 80% of the appraised value of the collateral.

Section 3. This section increases the amount of the total balance of federal tax loans from \$30,000 to \$35,000.

Excluding the purchase of fishing quotas by community quota entities, the total outstanding loans for a borrower may not exceed \$400,000.

Section 4. AS 16.10.315 is repealed. This provision required to department to allocate at least 10 percent of the money appropriated annually for loans of \$35,000 or less made for repair, restoration, or upgrading of existing vessels and gear, for purchase of entry permits and gear, and for construction and purchase of vessels.

Section 5. Effective date of July 1, 2006.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 304(FIN)
(H) Publish Date: 4/21/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Commercial Fishing Loan Program RDU Investments (122)
Component Investments
Sponsor Coghill
Requester Finance Component No. 383

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1036)	0.0	(21.8)	(42.9)	(63.2)	(82.5)	(100.9)
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would make several changes to the Commercial Fishing Revolving Loan Fund (CFRLF). Two of the changes would result in fewer loans being made that would reduce the amount of interest earned by the fund. Section 1 of the bill would reduce the amount of vessel and gear refinancing allowed from \$300,000 to \$200,000. The department estimates that this would result in one fewer loan each year totaling \$200,000. A 9% interest rate and a 9.6% delinquency rate were used in the calculation.

Section 3 of the bill would reduce the total amount that a borrower could have in outstanding loans at any given point in time from \$630,000 to \$400,000. The department estimates that this would result in one less loan per year totaling \$68,213. A 9% interest rate and a 9.6% delinquency rate was also used in this calculation.

Prepared by: Greg Winegar, Director Phone (907) 465-2510
Division Investments Date/Time 4/19/06 10:13 AM
Approved by: William C. I ll, Commissioner Date 4/19/2006
Agency Commerce, Community, and Economic Development



Senior Bank Administration
MAC K3212-951
P.O. Box 196127
Anchorage, AK 99519

Wells Fargo Bank, N.A.

April 21, 2006

Rep. John Coghill
Alaska House of Representatives
State Capital Room 204
Juneau, Alaska 99801-1182

Re: CS HB 304 (FIN)

Dear Representative Coghill:

Wells Fargo Bank, Alaska Region, is interested in CS HB 304 (FIN) which addresses the Alaska Commercial Fishing Revolving Loan Fund (CFRLF). Specifically, we support the removal of an interest rate cap on loans made by this fund as proposed in the current version supported by the Finance Committee.

Wells Fargo Bank is actively involved in lending to commercial fishermen throughout the state. Many of our key store locations are situated in areas that have significant commercial fishing activities. As a market rate lender in this industry we view a rate cap as arbitrary and see it as an unfair advantage in a situation that should allow fair competition.

We ask that the Legislature adopt CS HB 304 (FIN) as it was passed out of the Finance Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Brenner", written over a horizontal line.

James L. Brenner
Senior Vice President
Senior Regional Credit Officer

ALASKA DIVISION OF INVESTMENTS
Department of Commerce, Community, & Economic Development

Commercial Fishing Revolving Loan Fund
Historical Summary
(Dollars in Thousands)

AS 16.10.300 -.370; enacted in 1972

3 AAC 80.010 -.900

<i>Eligibility</i>	
<i>Purpose</i>	<i>All Sections: Must be an Alaska resident for a continuous period of the past 2 years immediately preceding the date of application, and;</i>
SECTION A: \$300,000 Maximum	
Purchase limited entry permits; upgrade existing vessels and gear to improve the quality of Alaska seafood.	Possesses a crewmember or commercial fishing license or a permit for the year immediately preceding date of application, and any other two of the past five years, and, has been actively participating in the fishery during those periods.
SECTION B: \$100,000 Maximum	
Purchase limited entry permits, vessels or gear; repair, restore or upgrade existing vessels or gear; upgrade existing vessels and gear to improve the quality of Alaska seafood.	Because of lack of training or lack of employment opportunities in the area of residence, does not have occupational opportunities available other than commercial fishing, or, Is economically dependent on commercial fishing for a livelihood and for whom commercial fishing has been a traditional way of life in Alaska.
SECTION C: \$300,000 Maximum	
Purchase quota shares for the halibut or sablefish fisheries.	For any two of the past five years, possessed a crewmember or commercial fishing license or a permit and actively participated in a fishery for which the license or permit was issued; Qualifies as a transferee for quota shares, and; Is not eligible for financing from other commercial lenders.
SECTION D: \$30,000 Maximum	
Provide loans to satisfy past due federal tax obligations.	Has had a crewmember or commercial fishing license or a permit for the year immediately preceding the date of application and any other two of the past five years, and has actively participated in the fishery during those periods; Because of lack of training or lack of employment opportunities in the area of residence, does not have occupational opportunities available other than commercial fishing, or, Is economically dependent on commercial fishing for a livelihood and for whom commercial fishing has been a traditional way of life in Alaska.
SECTION E: \$2,000,000 Maximum	
Provide loans to qualified Community Quota Entry (CQE) communities for the purchase of Quota Shares.	CQE is certified by NMFS and is eligible to hold Quota shares. CQE is in good standing with the state and federal government. CQE is not eligible for financing from other recognized commercial lending institutions.
SECTION 11: \$300,000 Maximum	
Refinance debts incurred by a borrower to purchase a commercial fishing vessel or gear.	Qualifies for a loan under section A, B, or C.

Terms: Interest rate: Fixed rate at Prime plus 2%, not to exceed 10.5%. (Product quality improvement is Prime rate minus 2%).
 Maximum loan term: 15 years

Statistics as of June 30, 2005

Total appropriations to RLF:	60,201.0	Last appropriation RLF: FY85	3,710.0
Total appropriations from RLF:	<u>(87,313.5)</u>		
Net of appropriations:	<u>(27,112.5)</u>		
Total number of loans committed:	6,152	Number of accounts outstanding:	2,580
Total dollars committed:	382,104.9	Principal amount outstanding:	86,190.0

ALASKA DIVISION OF INVESTMENTS
Department of Commerce, Community, & Economic Development

Commercial Fishing Revolving Loan Fund

Statistical Summary

(Dollars in Thousands)

AS 16.10.300 -.370; enacted in 1972

3 AAC 80.010 -.900

Statistics as of June 30, 2005

Total appropriations to RLF:	60,201.0	Last appropriation RLF: FY85	3,710.0
Total appropriations from RLF:	<u>-89,168.4</u>		
Net of appropriations:	<u><u>-28,967.4</u></u>		
Total number of loans committed:	6,159	Number of accounts outstanding:	2,580
Total dollars committed:	382,558.7	Principal amount outstanding:	86,190.0

1.7% foreclosure

4.7% delinquency



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Financial Services Branch
7600 Sand Point Way N.E.
BIN C15700, Building 1
Seattle, WA 98115

We are accepting applications for the Halibut and Sablefish Fisheries Quota Shares Loan Program (HSQS Loan Program) for fiscal year 2006. We encourage you to submit your loan application. If approved, you will have upwards of four years to utilize your NMFS loan.

Our loans have competitive rates and can extend up to 25 years. Payments are due on a quarterly basis and prepayments are allowed without penalty. Primary collateral is the Quota Shares, and a Preferred Ship Mortgage may be required if you own a U.S. Coast Guard documented vessel (see attached letter from Michael Grable for explanation). Guarantees may also be required.

Please complete the following forms enclosed with this letter (If this is a joint application, each applicant must fill out and sign the enclosed forms.)

- 1) Our application, NOAA Form 88-1
- 2) Tax Information Authorization Form
- 3) Certification Regarding Lobbying Form (extra form for co-applicant)
- 4) Applicant for Funding Assistance Form (extra form for co-applicant)

In addition, please provide the following:

- Proof of U.S. citizenship. (Photocopy of a birth certificate or U.S. passport.) If this is a joint application, both parties must provide proof of citizenship.
- Copy of Transfer Eligibility Certificate (TEC) issued by the RAM Division. If you need to obtain a TEC, contact the RAM Division at 1-800-304-4846. Be advised that the RAM Division will not issue a hired skipper card or allow quota share to be leased by a fisherman that is approved for a loan through our program. The RAM Division can be reached at 1-800-304-4846.
- Copies of complete personal and/or business tax returns for 2003, 2004 and 2005.
- Personal Balance Sheet. (see attached example)



- Copies of recent bank statements showing cash on hand. Please include IRAs or other investment accounts as well.
- Copy of tax assessment or appraisal showing your home's value. Please provide the same for any additional properties you may own.
- List of typical monthly living expenses. Examples - mortgage/rent, utilities, food, auto payments, auto insurance, health insurance, credit cards, other consumer loans, student loans, child support and misc. expenses.
- A brief outline of your fishing experience and any other information you feel is relevant in our review of your experience and skills as a fisherman.
- What type of IFQ do you intend to purchase?
- Indicate how you intend to fish the Quota Shares, (i.e. - on your own vessel or someone else's vessel).
 - If on your own vessel, provide your estimate of costs for fuel, bait, food and crew wages to fish the NMFS financed Quota Shares.
 - If on someone else's vessel, provide the percentage of gross revenues you expect to receive from your Quota Shares.
- Name of fish processor you plan to deliver to. If available, please provide contact name and phone number.
- Copy of U.S. Coast Guard Certificate of Ownership for each vessel you own.
- Your acknowledgement that you will be aboard any and all vessels on which Quota Shares financed under this program is fished at the time such Quota Shares are fished.
- Employer references for applicant and spouse. (unless 100% of your income is self-employment income)
- Three personal references. Provide names and phone-numbers.

Please provide your return address on all correspondence to this office. Also provide us phone-numbers and/or e-mail addresses that we may contact you at from the months of February - September.

For further information you may contact us at (206) 526-6122. Our fax-number is (206) 526-6306. You may also e-mail us at NW.Finance@noaa.gov

The Fisheries Finance Program (FFP) is a direct government loan program authorized under Title XI of the Merchant Marine Act of 1936, as amended, that receives an annual loan authority from Congress to provide long-term loans to the aquaculture, mariculture, and commercial fisheries industries.

Eligible Projects

	Finance and Refinance	Refinance Only
Aquaculture & Mariculture Facilities		
New construction	XX	
Purchase Existing	XX	
Reconstruction	XX	
Fisheries Shoreside Facilities		
New construction	XX	
Purchase Existing	XX	
Reconstruction	XX	
Fishing Vessels		
New construction		XX
Purchase Existing	XX	
Reconstruction		
No increased fishing capacity	XX	
Reconstruction		
Increased fishing capacity		XX

Availability

Congress normally authorizes funds for use during the first quarter of the calendar year.

Is there a maximum or minimum loan amount?
 No. The loan amount cannot exceed 80% of the eligible project cost. The only constraint is the amount of loan authority Congress authorizes for the

FFP on an annual basis, and the annual loan priorities.

What are the benefits of the FFP?

Long-term, fixed rate loans with interest rates 2% over the U.S. Treasury's cost of funds. Call the Regional Financial Services Office in your area for current rates.

Loan maturities up to 25 years, but not exceeding the economic useful life of your project. With a fixed-rate, long-term loan you know what your payments will be for the life of the loan.

FFP loans may be prepaid at anytime without penalty.

If you financed the purchase, construction, reconstruction or reconditioning of your project with a short-term lender, you may want to refinance that short-term loan with a long-term loan over a longer period of time.

If you paid for the purchase, construction, reconstruction or reconditioning of your project out of your own funds, a FFP loan can be used to reimburse a portion of what you paid.

Most financing available to the fishing industry restricts the term to meet the needs of the financial institution not the fisher's borrower. Additionally, most available financing is variable rate rather than fixed rate.

FFP financing considers the useful life of the fishery asset in determining the term and establishes a fixed rate for the term of the loan.

A fixed rate can save money and will stabilize

cash flows. The increased term allows you to repay the loan over the earnings life of the fishery asset.

What are the eligibility requirements?

- ✓ Must be a U.S. citizen.
- ✓ Good earnings record, net worth, and liquidity behind project.
- ✓ Fully secured with borrower's assets.
- ✓ Principals' personal guarantees. Non-recourse credit is not available.
- ✓ Good credit record.
- ✓ Strong primary collateral.

You should have at least a 3-year history of owning or operating the fisheries project which will be the subject of your proposed application or a 3-year history owning or operating a comparable project.

What is not eligible?

- ✓ No venture capital.
- ✓ No start-up projects or new business ventures.

How do I apply for a FFP loan?

Contact the Regional Financial Services Office in your area. A loan officer will be glad to discuss or review your project with you to determine its eligibility under the program.

Northeast Region

NOAA Fisheries, Financial Services
 11-15 Parker Street, Suite 204
 Gloucester, MA 01930-1189
 Phone: 978-281-9203 Fax: 978-281-9375

Southeast Region

NOAA Fisheries, Financial Services
 9721 Executive Center Dr. N.
 St. Petersburg, FL 33702-2419
 Phone: 727-570-5377 Fax: 727-570-5380

Northwest Region

NOAA Fisheries, Financial Services
 7600 Sand Point Way, N.E. (BIN C15700)
 Bldg. 1, Seattle, WA 98115-6349
 Phone: 206-526-6122 Fax: 206-526-6306
 Email: nw.finance@noaa.gov





NOAA FISHERIES

NATIONAL MARINE FISHERIES SERVICE

WE ARE NOW REVIEWING
APPLICATIONS FOR OUR MALIBU AND
SABOTECH QUOTA SHARE LOAN
PROGRAM FUNDING FOR 2008

BENEFITS OF LOAN PROGRAM

What are the eligibility requirements?

- Must be a U.S. Citizen
- Currently own less than 50,000 IFQ lbs.
- Have a Transfer Eligibility Certificate from RAM or can qualify for one.

- Up to 80% Financing for IFQ Purchase or Refinance

- Competitive Fixed Rates up to 25 years: Example As of 10/10/05
16 yr @ 8.618% - 25 yr @ 8.71%

- No Prepayment penalties

How do I learn more about the program or get an application?

Contact Us @ 208-528-8122 Or
Email nw.finance@noaa.gov

Also ask about our Vessel
Loan Program!



✓ Great Rates

✓ Great Services

Ask about our rebate program.

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Seattle, WA 98147

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E-mail: cas@volvo-penta.com

Species	Fishery	Aasking Price*	Offer*	Score Value*
Salmon	SE DRIFT	38	36	34.2*
	PWS DRIFT	55	53*	48.4
	COOK INLET DRIFT	16	30	39.6
	AREA N DRIFT	100	80*	55.5
	BRISTOL BAY DRIFT	80*	78	72.8*
	SE SEINE	63	55	51.4*
	PWS SEINE	25	24	23.4*
	COOK INLET SEINE	N/A	12	11.9
	KODIAK SEINE	21	21	16.7*
	CHGNK SEINE	183	175	160.8
Herring	AREA M SEINE	40	40	28.8*
	VANUAT SET NET	N/A	N/A	13.1
	PWS SET NET	N/A	N/A	61.5
	COOK INLET SET	11	10	12.7*
	KODIAK SET NET	N/A	40	37.8
	AREA M SET NET	N/A	N/A	49.3
	BRISTOL SET NET	20	18	16.4*
	CLSKRONHILL GILLNET	5	N/A	5.8
	LOWER YUKON	N/A	7	8.5
	POWER TROLL	32*	30	28.8*
Mussel	HAND TROLL	10*	10*	7.3
	SAN FRANCISCO	30	N/A	N/A
	SE GILLNET	10	N/A	10*
	PWS GILLNET	N/A	N/A	69.4
	KODIAK GILLNET	10*	N/A	6.3
	NORTON SOUND	45	4	1.9
	SE TEA SEINE	310*	N/A	292.5*
	PWS SEINE	N/A	12	11.8*
	COOK INLET SEINE	10	N/A	11
	KODIAK SEINE	20	N/A	17.4*
Shellfish	SE POUND SOUTH	10	9*	13.0
	SE POUND NORTH	39.5	N/A	48.3
	PWS POUND	4	4*	2.8
	SE DUNGY 75 POT	14.9	13.5	14.3
	SE DUNGY 150 POT	30	28	28.8
	SE DUNGY 225 POT	45	N/A	45.3
	SE DUNGY 300 POT	62.5	60	58.9
	SE TANNER	45	N/A	67.5
	SE RED KING/TANNER	150	100	146.4
	SE BROWN KING/TANNER	180	N/A	N/A
SE RED/BRN KING/TANNER	225	N/A	221.6	
SE BROWN KING	135	N/A	N/A	
SE POT SHRIMP	21	N/A	10.4*	
KODIAK TANNER	40*	32	36.5*	
PUGET SOUND DUNGY	34	33	N/A	
Longline	CHATAM	N/A	190	166.4*
Longline	CLARENCE	270	N/A	212.5
Longline	PWS 4-35'	31	N/A	25.2
Dive	URCHIN	7	N/A	6.8
Dive	CUCUMBER	8.5	N/A	8.8
Dive	GEOBUCK	70	50	11.1

Prices APRIL vary in accordance with market conditions. * In thousands
 * denotes an increase from last month, N/A denotes No Activity
 - denotes a decrease from last month.



sainers, trollers, and gill, drift, and set nets—harvest salmon in both coastal and river fisheries. In every fishery there are different issues, challenges, and opportunities.

The state controls the number of boats under a limited entry permit system and regulates harvests through restrictions on boat size, gear type, and timing of openings. Alaska's biological salmon management has been very successful; the Marine Stewardship Council (an international non-profit group promoting well-managed fisheries) has recognized Alaska's management as "sustainable." The salmon industry is still one of Alaska's top employers, with thousands of jobs in fishing and processing and many more in other businesses that depend indirectly on salmon fishing.

What's the Problem?

The prices fishermen are paid for their catches have plummeted. From the peak in the 1980s to the bottom in 2002, total annual earnings in the salmon fisheries plummeted by two thirds. And as salmon prices and fishermen's earnings fell, so did the value of limited entry permits. Overall permit values declined about two thirds, with losses varying among fisheries. And if we adjust those figures for inflation—to show the change in purchasing power over time—the fall in both earnings and permit values is even steeper, near 75 percent.

Unable to cover their costs, thousands of salmon permit holders—both residents and non-residents—quit fishing. But Alaskans have been hardest hit. The number of resident permit holders actively fishing dropped 40 percent between

1988 and 2002, compared with 27 percent among non-residents. The decline among Alaskans was bigger because the small-scale operators who are most affected by lower prices—setnetters and hand-trollers—are predominantly Alaskans.

The causes of the decline are complex and vary by fishery. The biggest has been competition from farmed salmon, but smaller sockeye harvests, changes in the food industry, and an economic slowdown in Japan (historically Alaska's most important market) have also contributed. Since hitting lows in 2002, total earnings are up—but not in all fisheries.

Why Restructure?

Restructuring can have many goals—but keep in mind that it is not an attempt to improve conservation. Alaska's

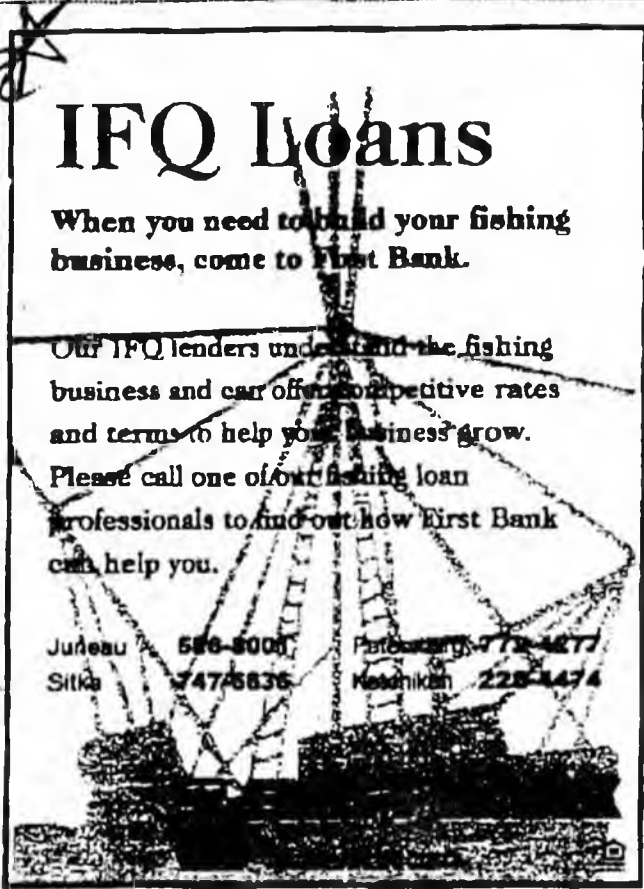


IFQ Loans

When you need to build your fishing business, come to First Bank.

Our IFQ lenders understand the fishing business and can offer competitive rates and terms to help your business grow. Please call one of our fishing loan professionals to find out how First Bank can help you.

Juneau 586-8000 Petersburg 772-4277
 Sitka 747-5836 Kodiak 228-4474



ALASKA DIVISION OF INVESTMENTS
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
MEMORANDUM

TO: Greg Winegar
Lending Branch Manager

FROM: Lujain Fedotov
Anchorage Lending Section Supervisor

DATE: February 21, 2006

SUBJECT: Interest rate survey

Per your request I conducted a survey of several lenders who make commercial fishing loans. The following information was received on February 21, 2006 via telephone conversations:

FARM CREDIT, Erik Olson, Sr Credit Officer, Seattle, Washington, 206-691-2000

TYPES OF LOANS: Farm Credit is a private cooperative with \$5 billion in assets, \$90 million in net revenues, returning .7% to shareholders in 2005. Farm Credit finances quota shares, vessel upgrades, vessel refinances, vessel upgrades or other valid purposes for fishermen, processors, or commercial fishing-related businesses for individuals who live in Oregon, Washington, and Alaska, Idaho, and Montana. Farm Credit specializes in all types of loans, including investment properties, residential properties, etc for commercial fishers and families.

IFQs: 5-15 year term, 1% fee + \$300 - \$500 verification/filing fees charged at closing, rates variable or fixed, with a maximum 50% of value of IFQs as collateral value.

VESSELS: 10 years on existing, 15 years on new vessels, 1% fee + \$300 - \$500 verification/filing fees charged at closing, rates variable or fixed. Maximum collateral LTV is 80% on a new vessel and 50% on existing vessels.

RATES: Current interest rate for an average borrower P + 2%, currently 9.25%, and can be the rate to LIBOR as well. Rates are fixed or variable and vary, dependent upon borrower strength, use of a pricing card, which includes liquidity, debt/asset ratio, production/liability ratio, LTV, and earning/debt coverage ratio. Funds are purchased from AgAmerica or from Western Farm Credit Bank in California.

OTHER INFO: According to Mr Olson, vessel upgrades, IFQ purchases, vessel purchases, and family transfers (where the younger generation is buying all or part of a parent's fishing business) are currently the most active loan requests. They can make construction loans and have technical help available to borrowers.

WEB SITE: www.farm-credit.com

WELLS FARGO BANK, Jon Stavig, Cordova - 424-3258e-mail: jon.k.stavig@wellsfargo.com

TYPES OF LOANS: IFQs, vessel purchases, vessel refinances, upgrades. Most active types of loans this season are vessel purchases, repowering, and working capital.

IFQs: 5-7 year term, 50% LTV, 1% loan fee, variable rates, typically P + 2%, currently 8.25%, variable.

IFQ/VESSEL COMBO: 7-10 year term, 50% LTV, 1% loan fee, variable rates, typically P + 2% currently 8.25%, variable.

VESSELS: 7-10 year max term for existing vessels, 10-year term for new vessels. Vessel financing is 75% LTV, 1% loan fee, Prime + 2% currently 9.25%, variable.

OTHER: Jon states that the general attitude in the local PWS fishery economy is that the drift fleet will be fine this year, but the salmon seine fishery will likely face challenges with the hatcheries in cost recovery mode. Those who participate in the bottom fisheries will continue to be strong.

RATES: Most loans are variable rate of P + 2% currently 8.25%.

WEB SITE: Wells Fargo has a web site at www.wellsfargo.com,

FIRST NATIONAL BANK ALASKA, Mike Dye, Branch Manager, Homer, Alaska - 235-5801e-mail: mdye@fnbalaska.com

TYPES OF LOANS: IFQs and vessels on a case-by-case basis to strong borrowers or to those who have long term relationships with FNBA and/or other collateral to pledge as security.

TERMS: Vary, will base loan on 50% Loan-to-Value of IFQs or vessel, 1% bank fee + closing costs, term usually 5-7 years.

RATES: Most loans are variable rates. Variable rate is commonly P + 2%, currently 8.25%.

FNB has had little change in rates and terms in the past year except the increasing prime interest rate.

WEB SITE: www.fnbalaska.com has no information concerning commercial fishing loans.

CFAB, Bob Clark, VP, Anchorage, Alaska - 276-2007 e-mail: robert@cfabalaska.com

TYPES OF LOANS: Permits, quota shares, vessels, tourism, processing plants in Alaska, tenders

PERMITS: 1% loan fee, variable rates, currently 7.5%, no set Loan-to-Value

IFQs: 1% loan fee, variable rates, currently 7.25 %, with 50% Loan-to-Value. (This is the only rate that has changed since 2005)

**VESSEL/PERMIT:
OR IFQ COMBO** 1% loan fee, variable rates, currently 8.0%

VESSEL ONLY: 1% loan fee, variable rates, currently 8.0%

FEES/TERMS: CFAB requires that borrowers purchase 2% (cap of \$2500) of Class B preferred stock. Term is usually 10-12 years. Smaller loan amounts have shorter terms. Interest rate base for CFAB is 6.0%, same as 2005.

Interest rate can change at any time. Payments are fixed for year periods. Interest rates are set based on base rate plus a percentage with collateral being the determining factor.

**PATRONAGE
REBATE:** Borrowers receive up to 1% check back from CFAB annually. The CFAB Board decides annually what percentage borrowers will receive.

SOURCE OF FUNDS: Spokane Bank of Cooperatives (blended bond rate)

OTHER INFO: Most active loan types are salmon permits & boats with most activity in PWS and SE fisheries. IFQ market is tight. A few tourism loans are being done.

WEB SITE: www.cfabalaska.com is informative and has applications on-line

NORTHRIM BANK, Herman White, Anchorage - 261-3558

TYPES OF LOANS: Northrim Bank is not making direct commercial fishing loans, refers commercial fishing business to CFAB.

Note: Originally called Northrim Bank to talk to Stephen Street, formerly of ABDC, about loans and interest rates. Stephen Street resigned Northrim a week ago.

NMFS Financial, Paige Parasiche, Loan Officer, 7800 Sand Point Way NE, Bin C15700,
Bldg. 1, Seattle, WA 98115 - 206-526-6122

TYPES OF LOANS: Quota Share purchases and refinances, vessels, Aquaculture, and Shore-based processors. \$5,000,000 has been designated as IFQ financing and \$58,000,000 has been designated for vessels/processors.

VESSELS: Most vessels are \$2,000,000 or over in purchase price.

IFQs: Purchases are 80% Loan-to-Value, must pay 20% down in cash. Refinances are 80% Loan-to-Value. Not able to do the new crab quota shares yet, but talking about it.

TERMS: Term is up to 25 years. Little change in interest rates from 2005. Rates are fixed - based on T-Bill rate (at www.treas.gov) + 2% (interest rate currently 6.57% for 10 years and 6.72% for 20 years - up about .25% from 2005). Prequalifications are issued with no set time limit to find quota shares to purchase. Most IFQ borrowers are Alaska, Washington, or Oregon residents.

OTHER: Funding is seasonal with NMFS Financial. They receive funding in March each year--\$5,000,000 for quota and this year and last year for quota shares+ \$59,000,000 for vessels. Commitments are issued when funding is available.

There is no prepayment penalty, but there is a default rate on a case-by-case basis. Borrowers lose their "initial issuer" status if financed by NMFS Financial. If a borrower owns more than 50,000 pounds of quota shares, he is ineligible for financing. Borrowers cannot own a vessel larger than 60'.

NMFS Financial records a vessel mortgage on all quota share loans. Equity in the vessel is not an issue for the mortgage.

There are few changes in the program over the past year.

WEB SITE: None

Senate Resources

May 1, 2006

HB 304 Sponsor Packet

Cover Sheet _____	1 page
Sponsor Statement _____	1 page
Sectional Analysis _____	2 pages
HB0304e (House Finance CS Floor Amended version \X.A) ____	5 pages
Fiscal Note DCCED: 4/19/06 _____	1 page
Bill History: _____	2 pages
Total Pages: _____	12 pages



House Bill 304 Commercial Fishing Loan Program

SPONSOR STATEMENT

This bill is a product of my philosophical belief that government should not compete with the private sector. I want to make sure that any loan program the State administers is the source of last resort.

This bill would require someone applying for a loan through the Commercial Fishing Revolving Loan Fund (CFRLF) for repair, restoration, or upgrading of vessels and gear, for the purchase of entry permits and gear, and for construction and purchase of vessels to be ineligible for financing from other recognized commercial lending institutions. While the division currently utilizes this practice I want it codified to make it a permanent statutory requirement.

HB 304 reduces the amount of loans for refinancing a debt to \$200,000 per person, down from \$300,000. It increases the loan limit for past due federal tax obligations from \$30,000 to \$35,000. And it limits all loans, including purchase of entry permits and gear, vessel purchases, repair of existing vessels, and federal tax debt for one person to \$400,000. That limit now totals \$930,000. The bill reduces security of a loan from 90% to 80% of the appraised value of the collateral. HB 304 changes the interest rate to prime rate plus two percentage points and keeps the cap at 10 ½%.

This bill has been a work in progress. I have been working with the department diligently for the last year to clarify and tighten requirements in the Commercial Fishing Revolving Loan Program.

ALASKA STATE HOUSE OF REPRESENTATIVES



Contact:

Interim Address:

3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

HB 304 Commercial Fishing Loan Program

SECTIONAL

Section 1. Provides another qualification for a loan, being the person is not eligible for financing from other recognized commercial lending institutions before qualifying for a loan from the Commercial Fishing Revolving Loan Program. This section adds a requirement that the applicant is not eligible for financing from another source that is a state financial institution, federally chartered financial institution, or the Commercial Fishing and Agricultural Bank.

It also eliminates one category of applicants for a loan to pay federal tax obligations. With the change the applicant must show lack training or lack of employment opportunities in the area other than commercial fishing or is economically dependent on commercial fishing as a livelihood and commercial fishing has been a traditional way of life.

It reduces the refinance obligation limit from \$300,000 to \$200,000.

Section 2. The bill changes the prime rate to a sliding "prime rate plus two percentage points" with a cap of 10 ½%. Prime rate in AS 44.88.599 is defined as "the lowest United States money center prime rate of interest that is published in the Wall Street Journal. The division currently uses the prime plus procedure.

It reduces the percent of appraised value of the collateral that can be loaned to secure a loan from 90% to 80% of the appraised value of the collateral.

Section 3. This section increases the amount of the total balance of federal tax loans from \$30,000 to \$35,000.

Excluding the purchase of fishing quotas by community quota entities, the total outstanding loans for a borrower may not exceed \$400,000.

Section 4. AS 16.10.315 is repealed. This provision required to department to allocate at least 10 percent of the money appropriated annually for loans of \$35,000 or less made for repair, restoration, or upgrading of existing vessels and gear, for purchase of entry permits and gear, and for construction and purchase of vessels.

Section 5. Effective date of July 1, 2006.

Rep. John Coghill

From: Wittman, Michael [Michael.Wittman@farm-credit.com]
Sent: Friday, April 21, 2006 12:50 PM
To: Rep. John Coghill
Subject: CS HB304 (FIN)

Dear Representative Coghill:

Northwest Farm Credit Services (NWFCFS) is interested in CS HB 304 (FSH), which addresses the Alaska Commercial Fishing Revolving Loan Fund (CFRLF). It is our understanding that the Committee Sponsor Substitute Bill that was introduced in the House Fisheries Committee was the collaborative efforts of the Sponsor—Representative Coghill, the CFRLF and Alan Austerman, Fisheries Policy Advisor, Office of the Governor, State of Alaska.

NWFCFS has over \$12 million in outstanding loans to 57 Alaskan residents, and we actively seek out new business with qualified commercial fishermen in the State. However, we readily acknowledge that there are loan applicants who are not eligible and/or creditworthy by our statutory, regulatory, or internal standards; and it seems appropriate that the State of Alaska attempt to serve those individuals with public funds. The proposed CS HB 304 (FSH) as originally introduced appeared to help clarify that purpose and intent.

We view the CS HB 304 (FIN), as rational and constructive adjustments and clarifications to a public program which in recent years has overlapped into areas and activities well-served by private lenders.

We are concerned by the potential effects of the amendments introduced by the House Resources Committee.

We especially are concerned with the seeming uncertainty as to the interest rate(s) to be charged by the CFRLF. We suggest that public funds in this instance should most appropriately be viewed as a vehicle providing access to credit by eligible residents rather than as a means of offering a potential bargain to a chosen few. Whether or not the State of Alaska is actively borrowing at any particular point in time, there is a cost which can be imputed to any use of public funds; a cost which will generally reflect the broader funds market indices. We urge that CFRLF loan pricing policies be mandated to reflect those imputed costs.

We ask that the Legislature adopt CS HB 304 (FSH) as it was passed out of the Finance Committee.

Thank-you for your consideration.

Sincerely,

Michael G. Wittman
Vice President
Northwest Farm Credit Services

5/1/2006

Fisheries Branch
1900 W Nickerson St. Suite 215
Seattle, WA 98119
206 691-2010 direct
206 691-2005 fax
206 849-9908 mobile

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HB

307

ALASKA STATE LEGISLATURE

Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law

Member:
House Finance Committee
Legislative Council



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

Interim:
PO Box 464
Chugak, AK 99567

BILL STOLTZE STATE REPRESENTATIVE

Representative_Bill_Stoltze@legis.state.ak.us

MEMORANDUM

TO: Senator Thomas Wagoner, Chair
Senate Resources Committee

FROM: Bill Stoltze *BS*

DATE: April 21, 2006

SUBJECT: Hearing Request

I respectfully request a hearing be scheduled for House Bill 307, an Act relating to the Knik River Public Use Area.

Thank you for your consideration.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIF. RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

ALASKA STATE LEGISLATURE

Vice Chair:
House Finance Committee

Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law



Session:
Alaska State Capitol
Juneau, AK 99801-1182
Phone: (907) 465-4958
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Interim:
PO Box 464
Chugiak, AK 99567

BILL STOLTZE **STATE REPRESENTATIVE**

Representative_Bill_Stoltze@legis.state.ak.us

House Bill 307 (RES)

Knik River Public Use Area

"An act creating the Knik River Public Use Area."

The Knik River Valley is a destination for many Alaskans looking for outdoor recreational opportunities. The area is utilized by a wide variety of Alaskans for a wide variety of recreational activities.

With the increasing population in South Central Alaska, more and more people are traveling to the Knik River Valley to recreate. This increase has created the need to establish specific management for the area. House Bill 307 will establish a Knik River Public Use Area. The framework set down by this legislation will protect the area's habitat and provide the recreational activities now available for future generations to enjoy.

I ask for your consideration and support of HB 307 so that this area will have the management it needs to continue to be a source of recreational opportunities for all Alaskans.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

ALASKA STATE LEGISLATURE

Vice Chair:
House Finance Committee

Chair:
House Finance Subcommittees for:
Department of Public Safety
Department of Law



Session:
Alaska State Capitol, Rm 501
Juneau, AK 99801-1182
Phone: (907) 465-4958
Fax: (907) 465-4928

District:
600 E. Railroad Ave.
Wasilla, AK 99654

BILL STOLTZE

STATE REPRESENTATIVE

Representative_Bill_Stoltze@legis.state.ak.us

Explanation of Changes HB 307 to CSHB 307(RES)

Section 1:

Renumbered the purposes to better reflect those comments made during public testimony.

Page 1, Line 10

Changed the specific language having to deal with Trumpeter Swans to protect all migratory waterfowl nesting areas.

Page 1, Line 14-15

Included non-motorized recreational opportunities to the purposes of the public use area.

Page 2, Lines 2-3

Included language to specifically protect private property and miners to access their land and claims.

Section 2:

Page 2, Lines 8-12

Inserted language to direct the Dept. of Natural Resources to hold public hearings in order to adopt a management plan for the public use area. Also included is language that the management plan must include provisions for the enforcement of the plan.

Page 2 Line 19

Deleted the provision that would have the Army Corps of Engineers assist Dept. of Natural Resources with identifying wetland areas within the public use area.

DISTRICT 16

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Section 3:

Page 3, Lines 3-5

Broadened the Commissioner of the Dept. of Natural Resources' ability to restrict the use of firearms in areas where it is determined that the use of weapons constitutes a threat to public safety.

Page 3, Line 7-8

Inserted language to make the allowable activities in the public use area compatible with its purposes.

Page 3, lines 13-18

Instead of grandfathering every trail in the public use area, the Dept. of Natural Resources has to only recognize these trails and the access they provide. In the case of a trail damaging critical habitat, DNR must make accommodations that will either provide the shortest possible route or to perform trail rehabilitation.

Page 3, lines 19-21

Includes language to allow the commissioner of the Dept. of Public Safety and Fish and Game to have the necessary access for them to perform their regular duties within the public use area.

Sec. 41.23.210

Establishes the enforcement statute for the public use area. This will allow, besides current law enforcement personnel, employees of the Dept. of Natural Resources (by approval of the Commissioner) to also enforce those provisions established by this piece of legislation.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 307(REC)
 (H) Publish Date: 4/3/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title: Knik River Public Use Area RDU: Resource Development
 Component: Claims, Permits and Leases
 Sponsor: Rep. Stoltze
 Requester: (H) RES Component No.: 2460

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	92.1	127.2	70.8	70.8	70.8	70.8
Travel	2.0	2.0	2.0	2.0	2.0	2.0
Contractual	75.2	16.2	14.0	14.0	14.0	14.0
Supplies	7.5	4.0	2.0	2.0	2.0	2.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	176.8	149.4	88.8	88.8	88.8	88.8

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Hatch						
1004 GF	176.8	149.4	88.8	88.8	88.8	88.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	176.8	149.4	88.8	88.8	88.8	88.8

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time	2	2	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill establishes the Knik River Public Use Area. The legislation would require DNR to prepare and adopt a land management plan, and manage the area consistent with the purposes established in the legislation and the plan. The costs to DMLW would include expenses related to preparation of the land management plan, public notice and review, adoption and printing of the plan, as well as ongoing management of the public use area.

Prepared by: Dick Mylius, Acting Director Phone: (907)269-8600
 Division: Mining, Land and Water Date/Time: 3/24/2006
 Approved by: Mike Menge, Commissioner Date: 3/24/2006
 Agency: Natural Resources

FISCAL NOTE #1

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CSHB 307(RES)

ANALYSIS CONTINUATION

Plan Preparation and Adoption

(We have assumed that this process will take two years to complete.)

PERSONAL SERVICES COST - \$113.4 total (for 18 months)

One Natural Resource Specialist (NRS) III (range 18) - 9 Mo. FY07, 9 Mo. FY08 - total 18 months at \$6.3/month = \$113.4 - for plan preparation, review and adoption.

TRAVEL, CONTRACTUAL, SUPPLIES

Travel would be minimal at \$1.0 in FY07 and \$1.0 in FY08 as most of the public meetings would be in the Mat-Su Borough.

Contractual costs in FY07 would be for a User Survey (\$36.0), scoping and draft plan ads, public notice printing, room rentals, and the preparation and distribution of news letters and a draft management plan (\$9.5).

Contractual costs in FY08 would be for follow up public meetings room rental, printing and distribution of the final adopted plan (\$2.0).

Other contractual costs include \$7.0 for office space, telephones, core service charges and related expenses for the new position in FY07, and \$2.5 in FY08.

Supplies are budgeted at \$2.0 per year. FY07 includes one-time start-up costs for new computers and office equipment of \$9.5.

Management of Public Use Area

(We have assumed that the permitting and management begin in FY07 and will be ongoing.)

PERSONAL SERVICES COST - \$70.8/year

One Natural Resource Specialist (NRS) II (range 16) @5.9/month - 6 months in FY07 and 12 months/year in FY08 and beyond.

TRAVEL, CONTRACTUAL, SUPPLIES

Travel would be minimal (assumed at \$1.0/year) as the management activities would be in the Mat-Su Borough.

Annual contractual includes \$7.0/year for office space, telephones, core service charges and related expenses for the new position. Other annual contractual costs would be for professional services as needed (\$2.0). FY09 and beyond includes contractual costs of \$5.0/year for a dedicated vehicle for use by the NRS I for field presence.

Supplies are budgeted at \$2.0 per year. FY07 includes one-time start-up costs for new computers and office equipment of \$9.5.

BRT61

51

Butte Community Council RESOLUTION NO. 2005-5

A resolution of the Butte Community Council supporting a bill, for an act entitled, "AN ACT CREATING THE KNIK RIVER PUBLIC USE AREA." State of Alaska, House Bill No. HB 307, and Senate Bill No. SB 197, introduced May 7, 2005.

Whereas: Recent actions by individuals, groups, and statements contained in the "Asset Management Plan for Borough Owned Land in the Butte Area" to propose and solicit new unreasonable restrictions on access and use of public lands in the Butte-Knik River Watershed area, and threaten to eliminate many of the assumed freedoms, lifestyles, and traditional uses of the Butte area residents and others, and

Whereas: Due to the unknown status of the above mentioned actions, and the unknown outcome thereof, this legislation is deemed necessary in order to preserve the traditional uses of the above mentioned public lands, and

Whereas: There are approximately 90 million acres of essentially non-motorized areas already set aside in Alaska in the form of National Parks, Wilderness Areas, Wildlife Refuges, Critical Habitat Areas, State Parks, etc. and

Whereas: We intend that the main purpose of this Knik River Public Use Area is to be for multiple use, including motorized (land, water, and air) ~~vehicle~~ recreation, and including non-motorized use, and

Whereas: There are provisions contained within the Public Use Area legislation regulations to adequately provide for wildlife and habitat protection, and

Whereas: We intend this Knik River Public Use Area to be similar in scope and purpose to the ~~Nelchina~~ Nelchina Public Use Area with its allowed uses such as off road motor vehicles, trapping, hunting, mineral exploration, mining and other legally allowed uses, and

Whereas: The users of these public lands have previously expressed their desires for continued public access by their approvals of past BCC resolutions, public petitions, and their publicly expressed disagreement with many of the proposed restrictions in the draft "Asset Management Plan for Borough Owned Land in the Butte Area."

Now Therefore, we, the people present here tonight, June 8, 2005 being members of the Butte Community Council, by majority vote, approve of this BCC resolution supporting the formation of a Knik River Public Use Area by the Alaska State Legislature.

Signed by: A Quorum of the Board of the Butte Community Council

Dick Coats
Darryl Dreher
Janine Erickson
Jeffrey [unclear]
Willa F. Frey

STATE OF ALASKA

Matanuska Valley Fish & Game Advisory Committee

Frank H Murkowski, Governor

Wayne Kubat, Chair
PO Box 874867
Wasilla, Alaska 99687
ph. & fax: 376-9568
email: args@mtaonline.net

November 23rd, 2005

Senator Huggins and Representative Stoltze,

The Matanuska Valley Fish and Game Advisory Committee unanimously supports House Bill 307 and Senate Bill 197, the bills to create the Knik River Public Use Area as written and introduced by yourselves.

The Knik River has historically been a destination for many visitors. With Anchorage, Palmer, and Wasilla home to over 50% of Alaska's population, this recreational area will provide access for many diverse users of the area. Adjacent to this area is Chugach State Park that restricts those Alaskans looking for an off-road vehicle experience.

Along with the specific management the legislation will create, we believe that additional education and enforcement will create an enjoyable destination for all recreational users and this legislation is a step in that direction. Thank you for your efforts!

Sincerely,

Wayne Kubat
Chairman - Matanuska Valley Fish and Game Advisory Committee

Alaska Frontier Trappers Association
PO Box 3208
Palmer, Alaska 99645

January 30, 2006

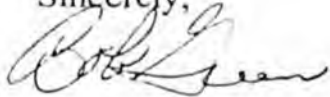
Dear Representative Stoltze and Senator Huggins,

The Alaska Frontier Trappers Association fully support House Bill 307 and Senate Bill 197.

The Knik River has been a favorite destination for all outdoor recreational users. Trappers have a history of trapping on the Knik River since the territorial days. One of the most talked about trappers was Tex Cobb. He trapped all over the South Central area and has been written about in such magazines as "Outdoor Life". Trappers are possibly the first to utilize the area as a means of support and are the first trail blazers.

With the passage of these bills as written, we will be assured of continued use without the threat of closure in the form of a State Park.

Sincerely,



Bob Green
President, Alaska Frontier Trappers Association

By: L. Woods
Amended: 05/17/05
Adopted: 05/17/05

**MATANUSKA-SUSITNA BOROUGH
RESOLUTION SERIAL NO. 05-068(AM)**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH SUPPORTING STATE DESIGNATION OF LAND IN THE KNIK RIVER WATERSHED AS A PUBLIC USE AREA AND FOR THE STATE TO PROVIDE FUNDING TO THE ALASKA DEPARTMENT OF NATURAL RESOURCES TO DEVELOP A MULTIPLE-USE MANAGEMENT PLAN FOR THE AREA.

WHEREAS, the Alaska State Department of Natural Resources (DNR) and the Matanuska-Susitna Borough are the primary landholders of public land in the Knik River Watershed (KRW) and recognize the need to address management issues within portions of the watershed, particularly in the Jim Creek - Swan Lake - Knik River areas; and

WHEREAS, the area includes over 250,000 acres of public land, the majority of which is owned and managed by the Alaska State Department of Natural Resources; and

WHEREAS, the Borough recognizes that use impacts on State land are so significant as to warrant a special study area that should be established under cooperative management; and

WHEREAS, the Knik Arm Wetlands Study (1981) and the Susitna Area Plan (1985) recognized important wildlife value, current and potential future impacts of unmanaged

use, and recommended special designation for areas within the Knik River Watershed; and the South Central Recreation Action Plan (1984) recommended a master plan for the Jim Creek - Swan Lakes area of the Knik River Watershed to more effectively serve diverse recreational interests; and

WHEREAS, this area consists of uplands, wetlands, anadromous streams and other water bodies, unique geologic features, waterfowl staging and nesting areas, and wildlife to include resident moose, black and grizzly bear; and

WHEREAS, citizens and users have expressed repeated concern about significant increases in unmanaged uses, vandalism and other unlawful violations, safety, pollution, littering, impacts to fish and wildlife resources, impacts on nearby residents and users, and have committed significant volunteer resources in attempts to educate local residents and visitors in order to improve the situation; and

WHEREAS, DNR has statewide experience in developing sustainable multiple-use plans that recognize and provide for a wide variety of users of State land, yet in a way that protects important areas; and

WHEREAS, a planning team led by DNR would include public and private land owners and managers, scientists, a wide variety of user groups that currently use the area,

citizens, and adjoining private landholder representation, and would be developed using an open public process; and

WHEREAS, a management planning effort would enhance the opportunity for multiple-use management that would include partnering, collaboration and volunteerism for agencies, landholders, diverse users, residents and citizen groups.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Assembly supports the State creating a public use area for public land in the Knik River watershed and urges the appropriation of funds to the Alaska State Department of Natural Resources to initiate a management planning process which includes all user groups and appropriate agencies for the public land in the area. The State funding should include sufficient resources to implement the management plan and provide enforcement of land-use regulations as provided to them under State Statute for their stewardship of public lands.

ADOPTED by the Matanuska-Susitna Borough Assembly this
17 day of May, 2005.

/s/

TIMOTHY L. ANDERSON, Borough Mayor

ATTEST:

/s/

MICHELLE M. MCGEHEE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Woods, Allen, Colberg, Kvalheim,
Simpson, Colver, and Vehrs



April 18, 2006

Senator Thomas Wagoner
State Capitol, Room 427
Juneau, Alaska 99801-1182

Dear Senator Wagoner:

I am writing regarding CSHB 307 which may come before the Senate Resources committee. I wrote previously regarding the original bill; it has improved considerably but still needs a little work.

The subject area is notorious for vandalism, dangerous shooting and underage drinking parties. Hundreds of residents, including 20-30 year residents, live within view, earshot and/or bullet range; their day to day quality of life is declining as a result. Sadly, good folks have already moved out of the area because their multi-year efforts to get effective enforcement failed. Enforcement personnel are reluctant to patrol this area singly! They (and residents) know the situation requires dedicated armed enforcement to reclaim the area as a safe, nice place to live, hunt, fish and play in. The fiscal notes lacks funding for armed enforcement.

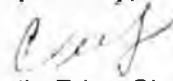
If there was ever a time to provide the desperately needed enforcement, this bill, this year seems the ideal mechanism. We do not take the request for public monies lightly; this is a very serious need. We stand ready to line up with DNR, the borough, users and residents to make this work. Our group and others have volunteered for years in the region doing clean-ups. We are finishing USFWS grant work this year doing waterfowl and wetland surveys, mapping, and data compilation in the subject area. Our goals are dedicated to volunteer work in the realm of restoration, facilities, education. But, we know that even an outhouse will not survive widespread and regularly occurring vandalism without near round the clock enforcement, especially during the busy season. Filthy conditions with human waste are deplorable in several parking areas, including near neighborhoods, along the river, and along Jim Lake, an important silver salmon spawning area.

A few other amendments are needed to make the bill stronger, more inclusive of residents, and provide the management flexibility needed. These amendments are attached.

Our borough is the fastest growing in the state and the Knik River area is 40 minutes from Anchorage. We need great legislation now to avoid failure, bring some peace to residents, and to lay a solid foundation for future success. Please help us get great legislation this session.

Thank you very much,

Respectfully,


Cecily Fritz, Chair
Knik River Watershed Group

Enclosure

To sustain the Knik River Watershed to ensure use and enjoyment for current and future generations

<http://knikriver.org> ♦ info@knikriver.org ♦ (907) 746-0558 ♦ P.O. Box 195 Palmer, Alaska 99645

CSHB 307 "An Act Creating the Knik River Public Use Area"

Amendments:

- To the fiscal note: Add funding for critically needed *armed* enforcement.
- We need a comprehensive inclusive planning effort, and affected residents need assurance they will play a vital role in the process.

Amend page 2 line 8: "The commissioner shall conduct a comprehensive public planning effort to include at minimum public hearings and workshops to ensure full consideration of user and resident interests."

- Trails must be evaluated for resource *and resident* impacts and be compatible with the purposes outlined on page 1. Motorized use is clearly ensured on pages 1 and 3.

Amend Item (d2) page 3 line 13: "As compatible with the purposes identified in 81.23.180, the commissioner shall recognize existing off-road motor vehicle trails, the access those trails provide, and maximize use in the Knik River Public Use Area." Delete the rest of this item.

- Consider Native allotments, cabins, archaeological sites and traditional use areas.

Add to page 1 under Purposes: "The Commissioner shall identify and protect Traditional Cultural Properties in the management plan."

With proper planning, the Knik River area could shed its stigma and become a model of a multiple use, sustained yield, exceptional area uniting users groups and residents

Senate Resources

April 27, 2006

HB 307 Sponsor Packet

Cover Sheet _____	1 page
Sponsor Statement _____	1 page
Explanation of changes _____	2 pages
HB0307b (House Resources Version) _____	6 pages
HB0307a (original version) _____	5 pages
Fiscal Note - #1 DNR 3/24/06 _____	2 pages
Butte Community Council Resolution June 8, 2005 _____	1 page
Fish & Game Advisory Committee Letter 11/23/05 _____	1 page
Alaska Frontier Trappers Association letter 1/20/06 _____	1 page
Matanuska-Susitna Borough Resolution 5/17/05 _____	4 pages
Knik River Watershed Group letter 4/18/06 _____	2 pages
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