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Chapter 41.10. SOIL AND WATER CONSERVATION

Sec. 41.10.010. Declaration of policy.

The farm, forest, and grazing land of the state is a basic asset of the state. It is the policy of this chapter, in the interest of the health, safety, and general welfare of the people of the state, to provide for the development, use, and conservation of this land in accordance with its capabilities.

Sec. 41.10.020. Creation and boundaries of soil conservation district. [Repealed, Sec. 14, ch 69 SLA 1983].

Repealed or Renumbered

Sec. 41.10.030. Purpose of chapter.

The purpose of this chapter is to provide for the orderly development of land, for guiding settlement, and for conserving soil and water and soil resources and controlling and preventing soil erosion.

Sec. 41.10.040. Natural Resource Conservation and Development Board.

The Alaska Natural Resource Conservation and Development Board is composed of five members. The commissioner or, in the absence of the commissioner, the director of agriculture, serves ex officio but without a vote on the board.

Sec. 41.10.045. Executive director.

The commissioner shall appoint an executive director and clerical staff to assist the board.

Sec. 41.10.050. Appointment.

The governor shall appoint members of the board subject to confirmation by a majority of the members of the legislature in joint session.

Sec. 41.10.060. Qualifications of board members.

Members of the board shall be resident bona fide users of land selected from the five major land areas of the state.

Sec. 41.10.065. Major land areas of the state.

The five major land areas of the state are:

Current Alaska Soil and Water Conservation Statutes

- (1) the Arctic and northwest Alaska;
- (2) the Yukon and Tanana Valleys;
- (3) southwest Alaska and the Kenai Peninsula;
- (4) southcentral Alaska; and
- (5) southeast Alaska.

Sec. 41.10.070. Term of office.

The term of office of members is three years.

Sec. 41.10.075. Board meetings.

The board shall hold one regular meeting annually at the state capital and one or more additional meetings at a time and place in the state selected by the board.

Sec. 41.10.080. Vacancies.

The governor shall fill vacancies by appointment for the unexpired term.

Sec. 41.10.090. Compensation and per diem.

Members receive no salary but receive the same per diem and travel expenses authorized for members of state boards.

Sec. 41.10.100. Duties of board.

(a) At the request of the commissioner, the board shall meet and advise the commissioner in the exercise of the powers, duties, and functions of the commissioner.

(b) The board shall also

- (1) receive and review reports concerning the use of soil resources of the state;
- (2) hold public hearings and meetings to determine whether land in the state is being used in a manner consistent with sound soil and water conservation practices;
- (3) make recommendations for specific action necessary to provide for the effective and orderly development of agricultural, forest, and grazing land in the state;
- (4) review an appeal by an applicant or lessee from a decision of the director of the division of lands concerning a sale or lease of state agricultural or grazing land and submit its recommendations to the commissioner or hearing officer;

Current Alaska Soil and Water Conservation Statutes

(5) act in an advisory capacity to the soil and water conservation districts in the state;

(6) act in an advisory capacity to the commissioner and director of the division of agriculture in the review of farm conservation plans for all state agricultural land sales in the state.

Sec. 41.10.110. Powers of commissioner.

The commissioner has the power to

(1) conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the state; to publish the results of these surveys and investigations and to disseminate information concerning the results of the surveys and investigations to prospective settlers and the general public;

(2) make technical guidance and other assistance available to settlers of new land to assure the development of the land in a manner that will permit it to be used in accordance with its capabilities and treated in accordance with its needs;

(3) carry out measures for soil conservation and erosion control within the state, including engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, with the consent and cooperation of the land user or agency having jurisdiction of the land;

(4) cooperate with, furnish assistance to, and enter into agreements with, a user of land or agency within the state;

(5) construct, improve, and maintain soil erosion control and conservation structures as are necessary and practical for carrying out the purposes of this chapter;

(6) develop comprehensive plans for the conservation of soil and control of soil erosion within the state, cropping programs, tillage practices and changes in land use, and publish plans and information and bring them to the attention of users of land within the state;

(7) accept contributions in money, services, materials, or equipment from the United States or its agencies, from an agency of the state, and from any other source, for use in carrying out the purposes of this chapter.

Sec. 41.10.120. Approval of land user.

A survey, investigation or plan for land may not be undertaken by the commissioner and measures for soil conservation and erosion control may not be carried out without the prior approval of the user of the land.

Current Alaska Soil and Water Conservation Statutes

Sec. 41.10.130. Creation and boundaries of soil and water conservation districts.

(a) The commissioner may, on the recommendation of the board, create soil and water conservation districts in the state upon petition signed by 25 or more land users setting out the proposed boundaries of the proposed district. The commissioner shall fix a time for and give notice of a public hearing based on the petition at a convenient location or locations within the boundaries of the proposed district. The commissioner may fix the boundaries of the district created, supervise the election of, prescribe the duties of, and install a governing body of five land users to be known as district supervisors for each district created, and delegate to the district supervisors powers as the commissioner considers necessary to accomplish the purposes of this chapter within the district boundaries.

(b) The area of the state that is not located within a district organized under (a) of this section shall be governed by the board.

Sec. 41.10.140. Definitions.

In this chapter,

(1) "board" means the Alaska Natural Resource Conservation and Development Board;

(2) "land user" or "user of land" means a person who

(A) is a producer of renewable resources, including farming and forestry; and

(B) has a current cooperative agreement with a soil and water conservation district.

**Soil & Water Conservation District
Cooperator Agreement**

Individual or Identity

Telephone Number

Mailing Address

E-Mail Address

City or Town

State

Zip Code

Legal Description of Property (Lot, Block, Subdivision): _____

Select one: ☐ Owner ☐ Manager ☐ Other _____
If cooperator is not the owner, description of authority: _____

If this is a renewal agreement, date when original agreement was signed: _____

THE DISTRICT AGREES TO assist the Cooperator in developing and carrying out natural resource conservation by furnishing to the Cooperator:

1. Information and education;
2. Technical assistance and supervision;
3. Equipment, and other assistance the District may have available; and
4. Encouragement to develop a Conservation Plan.

THE COOPERATOR AGREES TO:

1. Manage above described land in accordance with its needs and capabilities;
2. Consider a District-approved Conservation Plan for the above described land;
3. Follow the Conservation Plan to the best of his and/or her abilities in accomplishing conservation practices on the land;
4. Maintain all structures and practices established in an effective condition and to continue the use of all other conservation measures put into effect; and
5. Use any materials or equipment made available to him and/or her by the District for the purpose and in the manner for which they are provided.

IT IS FURTHER AGREED THAT:

1. This agreement will become effective on the date of the last signature and may be terminated by either party, or modified by mutual consent of parties hereto; and
2. Neither party shall be liable for damage on the other's property resulting from carrying out this agreement, unless such damage is caused by negligence or misconduct.

Cooperator

Date

District Representative

Date Approved by District Board

STATE ENVIRONMENTAL LAWS AFFECTING ALASKA AGRICULTURE

*(See NASDA's website for
Federal Environmental Laws Affecting U.S. Agriculture)*

A Project of the

**National Association of State Departments
of Agriculture Research Foundation**

through the

**National Center for Agricultural Law
Research and Information**

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Website: <http://www.nasda.org/> under the Research Foundation Section

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The Project Participants

National Association of State Departments of Agriculture Research Foundation

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries, and Directors of the fifty State Departments of Agriculture in the fifty states and the territories of Puerto Rico, Guam, American Samoa, and the Virgin Islands. NASDA's mission is to represent the State Departments of Agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry while protecting consumers and the environment. The NASDA Research Foundation is a 501(c)(3) nonprofit, tax-exempt corporation for educational and scientific purposes.

National Center for Agricultural Law Research and Information

The National Center for Agricultural Law Research and Information (Center) was created in 1987 under Public Law 100-202, 101 Stat. 1329-30 to address the complex legal issues that affect American agriculture. The Center focuses its efforts on research, writing, publishing, development of library services, and the dissemination of information to the public. The Center is located at the University of Arkansas School of Law in Fayetteville, Arkansas.

Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS), is a federal agency within the U.S. Department of Agriculture (USDA). NRCS conservationists work with private landowners and operators to help them protect their natural resources.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a federal agency with primary responsibility for implementation of most federal laws designed to protect, enhance, and conserve the nation's natural resources.

Disclaimer

This guide is designed for use by farmers, ranchers, landowners, and their consultants in understanding the effect environmental laws have on agricultural operations. It is not a substitute for individual legal advice. Producers should always confer with their own attorneys, consultants, or advisors as well as federal, state, and local authorities responsible for the applicable environmental laws.

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The contents and views expressed in this guide are those of the authors and do not necessarily reflect the policies or positions of the United States Department of Agriculture (USDA) NRCS or EPA.

Although every effort has been made to ensure the accuracy of the information contained in this book, environmental statutes, regulations, and ordinances are constantly changing. In addition, the overwhelming complexity and extent of environmental law make it impossible for a single book to describe in complete detail and depth all of the environmental laws and regulations impacting agricultural operations. The following material is simply a basic primer on environmental law for agricultural producers. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the National Center for Agricultural Law Research and Information, the University of Arkansas, the United States Department of Agriculture, the National Association of State Departments of Agriculture Research Foundation, the Natural Resources Conservation Service, and the United States Environmental Protection Agency for any liability, claims, damages, or expenses that may be incurred by any person or organization as a result of reference to, or reliance on, the information contained in this book.

The background research and final documents were completed in February 2003. Updates of the information contained in the guide will occur on an as needed basis and be available on the internet.

Anyone with comments concerning the guide should contact the NASDA Research Foundation at 1156 15th Street, N.W., Suite 1020, Washington, D.C. 20005, or phone (202) 296-9680.

Quick Reference Guide

Producer Note: The following chart is intended as a quick reference guide to permits which may be necessary for a particular operation. If a permit is necessary, refer to the page numbers listed referencing this document for further information and contact the agencies listed in the final column for information on applications and procedures for securing a permit for an operation. A list of agencies and contact information is also provided in Appendix A.

Regulatory Area	Type of Activity	Permit Required	Agency
Water Quality <i>pp. 1-7</i>	Livestock and aquaculture operations.	Various state agency permits and certifications, and NPDES. Possible multiple federal agency involvement.	Alaska Department of Environmental Conservation (ADEC), Alaska Department of Natural Resources (ADNR), Alaska Department of Fish & Game (ADF&G), Alaska Division of Governmental Coordination (ADGC), and Environmental Protection Agency (EPA). Other possible agency involvement includes U.S. Army Corps of Engineers (USACOE), U.S. Fish & Wildlife Service (USFWS), U.S. Forest Service, State and local land use and management divisions and districts.
	Wetlands dredge and fill activity or dam, dike, or bridge building activities	Section 404 permit, State agency certification, State agency permits or approvals	USACOE with EPA and ADEC, ADNR and ADF&G
	Water usage	Permit required before withdrawal of any water.	ADNR

Regulatory Area	Type of Activity	Permit Required	Agency
Groundwater <i>pp. 8-10</i>	Groundwater protection	Permit required depending on type of activity and area affected, BMPs may be required Permit required for injection wells	ADEC and ADNR
Air Quality <i>pp. 10-13</i>	Grain terminals and grain elevators	Permit required	ADEC and EPA
	General agricultural operations including odor, dust, or flies	No permit, but may be subject to nuisance suits	ADEC
	Burning	Permit, approval, or notice required	ADEC and ADNR
Solid Waste and Hazardous Waste <i>pp. 13-17</i>	Storage, treatment, or disposal of solid waste	No permit required for most agricultural solid waste, some special requirements may apply	ADEC
	Storage, treatment or disposal of hazardous waste	Permit required	ADEC and EPA
Pesticides and Chemigation <i>pp. 17-19</i>	Sale, distribution & transport of pesticides	Registration, license	ADEC and EPA
	Application of pesticides	License restrictions, special requirements, record keeping	ADEC, ADNR, and EPA
	Disposal of pesticide containers	Special requirements	ADEC and EPA
Wildlife Protection <i>pp. 19-21</i>	Taking of wildlife	Permit or license required, some absolute prohibitions	ADF&G and USFWS

STATE ENVIRONMENTAL LAWS AFFECTING ALASKA AGRICULTURE

Producer Note: Agricultural producers are faced with many challenges in today's rapidly changing world. Changes in industrialization, use of computer-based technology, governmental involvement in market dynamics, and environmental regulation are affecting producers in a number of ways. Environmental regulation is a complex area with both federal and state government involvement. Staying informed is the producer's most useful instrument for meeting the challenges of today's agriculture. This information on environmental regulation is provided to educate producers on the breadth and scope of environmental laws which may impact daily production activities.

I. WATER QUALITY

A. Alaska Water Quality Laws and Regulations

Most states have enacted clean water legislation. While these statutes usually contain provisions similar to those found in the parallel federal legislation, there may be significant differences. In fact, state statutes may impose requirements that are even more restrictive than the federal law. In all cases, Clean Water Act (CWA) requirements must be followed since they are enforced along with the state enacted statutes and regulations implemented by the state administrative agencies. Under the CWA, the Environmental Protection Agency (EPA) has delegated the National Pollution Discharge Elimination System (NPDES) permit program to many states, but this is not the case in Alaska. The EPA approves NPDES permits in Alaska. The Alaska Department of Environmental Conservation (ADEC), however, has certification requirements that must be met before NPDES permits are issued. The ADEC should be contacted before beginning any discharge activities.

Caution: Because environmental laws and regulations change frequently, all producers must stay in contact with both state and federal officials in order to remain in compliance and aware of changes in the law.

Producer Note: Often the specifics of environmental laws are found in agency regulations. In addition, regulations are likely to be amended frequently. As a result, a producer must stay in contact with offices administering specific programs in order to keep up with all changes which may occur.

1. *Alaska Overview*

The ADEC administers the majority of Alaska environmental laws including those addressing water quality, air quality, underground storage tanks, pesticides, waste management, and disposal. Game fish and wildlife and non-game fish and wildlife management are

administered by the Alaska Department of Fish and Game (ADF&G). Permit and other regulations affecting aquatic farming are administered by the Alaska Department of Natural Resources (ADNR), ADF&G, ADEC, and Division of Governmental Coordination (ADGC) within the Office of Management and Budget (OMB) in the Office of the Governor.

Producer Note: The substantive state law in Alaska is often contained in agency regulations printed as the Alaska Administrative Code. Regulations tend to be updated regularly. Agencies often provide copies of regulations, application materials, notices of proposed changes, and guidance materials upon request. Producers should stay in contact with the agencies in order to keep up with specific changes in the regulations.

Due to the burdens of multiple agency permit requirements, the Alaska Legislature has simplified the process.¹ Persons with projects requiring multiple permits may submit a master application to the Alaska Department of Environmental Conservation (ADEC). ADEC coordinates with federal, state, and local agencies to facilitate permitting and the dissemination of information to the public.

Alaska law prohibits polluting or adding to the pollution of air, land, subsurface land, or water of the state.² Under the Alaska Water Pollution Control law, the ADEC has broad authority to adopt pollution standards and to “determine what qualities and properties of water indicate a polluted condition”³

2. *Alaska Water Quality Standards*

The principal water quality law in the state is the Alaska Water Pollution Control and Waste Disposal Statute.⁴ The ADEC is authorized by statute to control pollution, adopt water standards, conduct investigations, and issue compliance or emergency abatement orders.

The Division of Forestry, within the Alaska Department of Natural Resources (ADNR), may require forest landowners, timber owners, or forest managers to conduct routine or comprehensive water quality monitoring in order to assess the impact of operations on water quality and protected water uses and to gage the effectiveness of best management practices (BMPs) in meeting water quality standards.⁵ ADEC is the lead agency for water quality, point source pollution, and nonpoint source water pollution.

¹ AS Title 46, Chapter 35 (AS refers to the Alaska Statutes).

² AS Tit. 46, Ch. 03.

³ AS § 46.03.070.

⁴ AS Tit. 46, Ch. 03.

⁵ AS Tit. 41, Ch. 17; Tit.11, Ch. 95, AAC (AAC refers to the Alaska Administrative Code).

The administrative code sets out water quality standards for various water use classes.⁶ These use classes include: agriculture, aquaculture, industrial, domestic, aquatic life, wildlife, and recreation. The antidegradation policy protects and maintains the level of water quality for existing uses.⁷ The water quality standards set out the maximum allowable degradation according to each water use class. Operations must not cause or contribute to violations of water quality standards. Additionally, an effluent discharge may not impart chronic toxicity to aquatic organisms. ADEC requires “whole effluent toxicity testing” as a condition for a permit approval or certification if it determines an effluent may exceed established water quality limits. A permit from ADEC is required before any solid or liquid waste may be deposited into any water or onto any land.

The ADEC may, in its discretion, authorize a short term variance from the antidegradation requirement providing certain requirements are met. For example, water quality standards may be exceeded within a mixing zone authorized by ADEC. Applications for a mixing zone are made to ADEC. A permit may be issued allowing deposits of substances on the bottom of marine waters (zone of deposit). Water quality standards and the antidegradation requirements may be exceeded in “zones of deposit.” However, standards must not be violated outside the zone by leaching or any other action. The ADEC may also grant “short term variances” from water quality standards for a one time, temporary, nonpoint source water pollution activity or temporary activity connected with fill or dredge material. The ADEC may set site-specific criteria which are different from the criteria set out in the water quality standards criteria and tables. Persons may request, by application, for the ADEC to set site-specific water quality criterion. Persons may also petition the ADEC for the adoption or repeal of a classification of water. ADEC considers permit compliance and best management practices (BMPs) when determining whether to initiate an enforcement action against violators.

There are regulations and prohibitions regarding the construction of dams, dikes, obstructions, or changes to streams or beds (see discussion below on “Changes Affecting Water, Dams, Obstructions, Pollution”). Also any use of waters affecting fish, particularly salmon is highly regulated. These regulations and restrictions are discussed below in the section on state wildlife protection.

The Alaska nuisance law⁸ prohibits anyone from placing a dead animal or parts of such, excrement, garbage, offal, or a “putrid, nauseous, decaying, deleterious, or offensive substance” into any water or onto any land, lot, or premise. It is a misdemeanor to neglect or refuse to abate such a nuisance.

⁶ Tit. 18, Ch. 70, AAC.

⁷ 18 AAC § 70.015.

⁸ AS Tit. 46, Ch. 03

3. *Alaska Pollutant Discharge Elimination System Permits*

The EPA issues national pollutant discharge elimination permits (NPDES) for Alaska. Although the EPA issues the NPDES permits, the ADEC also has requirements which must be met before any such permitting activities are undertaken.⁹ A copy of federal application materials must be contemporaneously filed with the ADEC and the federal permitting agency. The ADEC must certify the activities allowed under the NPDES permit will not violate state water quality. The ADEC also certifies the activities allowed under dredge and fill permits in wetlands and navigable waters will not violate state water quality. Dredge and fill permits are issued by the U.S. Army Corps of Engineers.

Producer Note: Producers should consult with the Alaska Department of Environmental Conservation (ADEC) to determine if any discharge activities conducted within their operations require permits.

a. Concentrated Animal Feeding Operations

Neither the Alaska statutes nor the Alaska Administrative Code mentions concentrated animal feeding operations (CAFOs) or livestock waste facilities. However, a permit is required for a lagoon or stabilization pond.¹⁰ ADEC handles permitting of such lagoons. Permits may be issued for both nonpercolating and percolating stabilization ponds provided certain requirements are met. ADEC may require periodic groundwater monitoring as a condition of the wastewater discharge permit.

b. Concentrated Aquatic Feeding Operations

The ADNR, ADF&G, ADEC, and ADGC all have regulations affecting concentrated aquatic feeding operations (CAqFOs) or aquatic farming.¹¹ Applications are submitted on a multi-agency form to aid the simplification of this process. A producer must apply for a permit from the ADF&G before constructing or operating an aquatic farm or hatchery along with other requirements. Requirements include:

- A permit from the ADF&G;
- An aquatic farmsite lease from the ADNR;
- A Coastal Zone Consistency Certification from ADGC; and

⁹ Tit. 18, Ch. 15, AAC.

¹⁰ 18 AAC § 72.260.

¹¹ AS. §§ 16.40.100 - 16.40.210; Tit. 11, Ch. 63 AAC.

- A water quality certification from ADEC.

The ADEC also has requirements for the operation and siting of CAqFOs and hatcheries that include:

- Restrictions on the use of chemicals;
- Monitoring of operations and products; and
- Protections for the public against contaminated aquatic farm products.

Additionally, various federal permits may be required. For example, water involved in aquatic farming must meet certain federal as well as state water quality standards.¹² Producers should check with the U.S. Army Corps of Engineers, U.S. Forest Service, and U.S. Fish and Wildlife Service as to their requirements. Likewise, there may also be requirements, prohibitions, or restrictions imposed by conservation (?) district management plans, state land use plans, municipal or borough land use plans, and zoning or other local ordinances depending on the particular location and site of the proposed aquatic farm.

An approved Aquatic Farm Development Plan for each aquatic species is required before a permit is issued. Aquatic shellfish farming must be consistent with the Alaska Coastal Management Program (ACMP). Aquatic farm permits require the posting of a bond or other forms of security to cover possible site cleanup or restoration costs. The holder of an aquatic farm permit is under a statutory duty to report disease within 48 hours of discovery to the ADF&G.

Separate permits from the ADF&G are required for the selling, transportation, growing, and acquisition of aquatic stock and plants including wild plants and wild stock. Finfish farming is prohibited by statute.

c. Changes Affecting Water, Dams, Other Obstructions

The ADF&G has permit authority over activities affecting streams frequented by anadromous fish.¹³ In particular, the ADF&G has authority to regulate nonpoint source pollution affecting anadromous fish and anadromous streams and their tributaries. The ADF&G publishes an Atlas and a catalog of “Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes.” These materials identify which waters require ADF&G notification, approval, or a permit before beginning certain activities in or near these waters. These materials include maps, requirements, definitions, permit application procedures, and a user’s guide.

¹² 18 AAC § 34.200

¹³ AS Tit. 16, Ch. 05 & 20.

The ADF&G must be notified before anyone may “use, divert, obstruct, pollute, or change the natural flow or bed of a specified river, lake, or stream” or begin a hydraulic project.¹⁴ The ADF&G may require plans and other information. It is a crime for anyone to proceed in the above activities without ADF&G approval. In addition to fines, a violator may be required to pay costs of stream restoration and damages for fish, wildlife, and their habitat.

The ADNR regulates dams.¹⁵ A dam is any artificial barrier with certain impounding capacities, height, or having the possibility of impacting property or human safety (see the statute and regulations for details). A Certificate of Approval from the ADNR is required before anyone may construct, operate, modify, abandon, use, or remove a dam.

4. *Alaska Nonpoint Source Pollution*

The ADEC is the lead agency for programs addressing nonpoint source pollution.¹⁶ The Forest Resources and Practices Statute¹⁷ authorizes the both the ADNR and ADEC, however, to develop regulations for control of nonpoint source pollution.¹⁸

The ADNR may require forest landowners, timber owners, or forest managers to conduct routine or comprehensive water quality monitoring in order to assess the impact of operations on water quality and protected water uses and to gage the effectiveness of best management practices (BMPs) in meeting water quality standards.¹⁹ The ADNR has authority to investigate and inspect forest land and activities on such land.

Operators on forest lands must file a detailed “plan of operations,” before beginning any activities. There are comprehensive regulations covering bridge construction, culvert construction, other water crossings, channel changes, landings, slope stability standards, bank integrity, timber harvesting, slash activities, land clearing, land use conversion, timber felling and

¹⁴ AS § 16.05.870.

¹⁵ AS Tit 46, Ch. 17; Tit. 11, Ch. 93, AAC.

¹⁶ AS Tit. 41, Ch. 17.

¹⁷ AS Tit. 41, Ch. 17.

¹⁸ The ADF&G, however, has authority to regulate nonpoint source pollution activities affecting anadromous streams and their tributaries or anadromous fish. An approval or a permit may be required by the ADF&G for activities affecting these fish or water courses. See AS Tit. 16, Ch. 05.

¹⁹ Tit. 11, Ch. 95, AAC.

bucking, reforestation, natural timber regeneration, insect infestation, pesticide use, and road location, maintenance, construction, and drainage.²⁰

Operations of little significance or small scale, timber harvesting for personal use, and operations for noncommercial purposes may, however, be exempt from the requirements listed above.

5. *Alaska Enforcement of State Water Quality Laws and Regulations*

ADEC has enforcement authority and takes into consideration the following criteria when determining whether to initiate enforcement proceedings:

- Permit conditions;
- Agency approved plans; and
- Best management practices as determined by ADEC.²¹

A state forester has authority, with due deference to ADEC, to issue a stop work order if degradation of water quality resulted or is likely to result from a forest operation or activity. A state forester may also issue a directive to take corrective action. Failure to obey such orders or directives will subject the violator to a penalty.²²

The ADF&G has enforcement authority as to activities affecting anadromous fish, their spawning beds, and anadromous streams and their tributaries.²³ In addition to fines, a violator may be required to pay stream restoration costs and damages for fish, wildlife, and their habitat.

II. GROUNDWATER

A. Alaska Groundwater Laws and Regulations

There is no “Alaska Groundwater Protection Act,” however, the ADEC is the agency that producers should contact for groundwater questions. Several ADEC programs currently have regulations dealing with groundwater (e.g. water, waste, storage tanks, and pesticides). The primary agency programs and regulations addressing ground water are: Alaska Water Quality

²⁰ Private land and timber owners may be required to maintain, enhance, or protect wildlife habitat. With landowner agreement, provisions for protecting wildlife and their habitats may include land exchanges, purchase of conservation easements, or purchase of fee title.

²¹ 18 AAC § 70.900.

²² 11 AAC § 95.255.

²³ AS Tit. 16, Ch. 05 & 20; Tit. 5, Ch. 95, AAC.

Standards,²⁴ Drinking Water Program,²⁵ ADNR Water Rights,²⁶ Wastewater Disposal,²⁷ Oil and Hazardous Substances Pollution Control,²⁸ Solid Waste Program,²⁹ Hazardous Waste,³⁰ Underground Storage Tanks,³¹ Pesticide Control.³²

1. Alaska Wells

No person may appropriate (take or use) water without a permit.³³ The Alaska Water Use Act³⁴ charges the ADNR with regulating water rights. A person must complete agency forms to apply for a water use right. i.e., an appropriation of water.

A permit from the ADNR is required before drilling or digging a well, and the ADNA requires a report to be filed giving specific information on a completed well. The ADNA requires the same information to be filed when a “well has been deepened, modified, or abandoned,³⁵ and for any water supply well or water well that is used for monitoring, observation, or aquifer testing, including a dry or low-yield well that is not being used.”³⁶

It is illegal to dispose of “septage, sewage solids, fish waste, animal manure, or animal byproducts on the ground within 100 feet of a well that produces water suitable for drinking.”

²⁴ Tit. 18, Ch. 70, AAC.

²⁵ Tit. 18, Ch. 80, AAC.

²⁶ Tit. 11, Ch. 93, AAC.

²⁷ Tit. 18, Ch. 72, AAC.

²⁸ Tit. 18, Ch. 75, AAC.

²⁹ Tit. 18, Ch. 60, AAC.

³⁰ Tit. 18, Ch. 62, AAC.

³¹ Tit. 18, Ch. 78, AAC.

³² Tit. 18, Ch. 90, AAC.

³³ Tit. 11, Ch. 93, AAC.

³⁴ AS Tit. 46, Ch. 15.

³⁵ Certain other requirements must also be met before abandoning a well.

³⁶ 11 AAC § 93.140.

2. *Alaska Underground Injection Wells*

ADEC requires a permit for the construction or operation of any hazardous underground injection well which is classified as a Class I injection well under the Code of Federal Regulations, Underground Injection Control Program, Classification of Wells (40 C.F.R. §144.6(a)(1)).³⁷ Such underground injection wells are heavily regulated.

Beginning March 31, 1989, ADEC approval is not required for a facility that meets any of the following conditions:

- Complies with the Resource Conservation and Recovery Act³⁸ interim standards set out at 40 C.F.R. §265;
- Has a Part B permit under 40 C.F.R. §265; or
- Disposes of hazardous wastes in a permitted underground injection well classified as Class I under 40 C.F.R. §144.6(a)(1).³⁹

Producer Note: Producers should consult with ADEC representatives to determine what regulations and requirements may apply to their underground injection wells.

B. Alaska Coastal Management Program

The ADGC is the lead agency for the Alaska Coastal Management Program (ACMP)⁴⁰ which implements the federal Coastal Zone Management Act of 1972. Although single agencies may implement the ACMP when a single agency permit is required and no federal permit is involved, ADGC coordinates, reviews, and makes final determinations for projects when multiple state agency permits and/or a federal permit is required. This process insures procedural consistency.

A project applicant must submit a packet including all necessary applications and a Coastal Project Questionnaire to the ADGC. Upon request, the agency will assist permit applicants in order to accelerate the pre-application process. Review of a proposed project will be expedited provided certain requirements are met, e.g. if a state or federal permit has been categorically approved by ADGC, if the permitted activity will have no significant impact in the

³⁷ Tit. 18, Ch. 63, AAC.

³⁸ 42 U.S.C. § 6901 *et seq.* (1994).

³⁹ 18 AAC § 63.010.

⁴⁰ AS Tit. 46, Ch. 40; Tit. 6, Ch. 50, AAC.

coastal zone, if a state or federal permit has a general concurrence determination of consistency and a categorical approval of consistency with the ACMP. Emergency expedited review may be implemented to preserve public peace, health, safety, or general welfare.

The ACMP accepts public participation requests and comments regarding proposed projects when received within the comment deadline, and copies of the packet for a proposed project are provided upon request. Comment deadlines must be followed and are found in the regulations.

The objectives of the ACMP include:

- The restoration, management, and enhancement of the overall quality of the coastal environment;
- The development of industrial or commercial enterprises consistent with the social, cultural, historic, economic, and environmental interests of the people of Alaska;
- Orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles;
- The protection and management of significant historic, cultural, natural, and aesthetic values and natural systems or processes within the coastal area;
- The prevention of damage and degradation of land and water reserved for natural values as a result of inconsistent land or water usages adjacent to that land;
- The recognition of the need for a continuing supply of energy to meet Alaska requirements and a contribution to the supply to meet national energy needs; and
- The full and fair evaluation of all demands on the land and water in the coastal area.

Alaska coastal resource districts develop, adopt, and implement coastal management programs. Municipalities and state agencies administer land and water use regulations in conformity with district coastal management programs.

III. AIR QUALITY

A. Alaska Air Quality Laws and Regulations

Alaska law prohibits polluting or adding to the pollution of air, land, subsurface land, or water of the state.⁴¹ “A person may not cause or permit any emission that is injurious to human health or welfare, animal or plant life, or property, or that would unreasonably interfere with the

⁴¹ AS Tit. 46, Ch. 03.

enjoyment of life or property.”⁴² The Alaska Air Quality Control Act,⁴³ charges the ADEC with regulating air quality in the state. ADEC adopts and enforces air quality standards, emission control requirements, and other regulations. The Alaska clean air program follows the requirements of the federal Clear Air Act.

In general, stationary sources of air pollution require a permit from ADEC before any equipment or processes that may cause air pollution are constructed, operated, replaced, or relocated. There are special requirements for air emission that are hazardous and toxic.

Agricultural activities have few special air quality requirements, and most agricultural operations will not require air permits. However, open burning, discussed below, is an exception. On-farm incinerators and grain elevators may also be exceptions. Nuisance laws also apply in air pollution situations (see “other discharge prohibitions” above).

1. Open Burning

Open burning concerns are: wildfires, health hazards, and public nuisance. The ADNR is responsible for regulations and permits relating to fire safety. ADEC will not issue approvals without concurrent permit or inspection from ADNR’s Division of Forestry during fire season, the months of April to October. The ADNR requires a permit during fire season,⁴⁴ and it may be necessary that an inspector inspect the area to be burned. Any permit issued by the ADNR is subject to local laws and regulations which may be more restrictive than state laws and regulations.

The ADEC is responsible for regulations and permits to address health and nuisance concerns.⁴⁵ ADEC policy is “to eliminate, minimize, or control open burning and to encourage other methods of disposal where possible.”⁴⁶ A person requesting approval from ADEC must demonstrate that open burning is the only feasible alternative for disposal. All open burning, whether requiring ADEC approval or not, “must be done in a way that maintains maximum combustion efficiency throughout the burning period.”⁴⁷

⁴² 18 AAC § 50.110

⁴³ AS Tit. 46, Ch. 14; *see also* Tit. 18, Ch. 50, AAC.

⁴⁴ Tit. 11, Ch. 45, AAC.

⁴⁵ Tit. 18, Ch. 50, AAC.

⁴⁶ STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION, OPEN BURNING POLICY & GUIDELINES, (1998).

⁴⁷ STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION, OPEN BURNING POLICY & GUIDELINES, (1998).

All burning must be conducted in accordance with ADEC Open Burning Regulations.⁴⁸ These regulations contain a long list of materials that cannot be incinerated or burned. Prohibited materials include: pesticides and other toxic materials, tires, electrical batteries, lead-based painted wood, and treated wood. Open burning in a Wood Smoke Control Area is prohibited between November 1 and March 31. Also prohibited is burning of animal carcasses and putrescent garbage if odors or smoke would affect other persons or property and any material giving off black smoke. Regulations contain a list of materials which produce black smoke and require written ADEC approval for an exception to the open burning ban. Written approval from ADEC is required for the following:

- Burning of collected materials from land clearing operations for agriculture, development, and forest or habitat management;
- Burning of slash material by farmers or developers; or
- Prescribed burning.⁴⁹

Written approval is required for the above activities if the slash or collected material is from at least 40 acres per year. The same requirements apply to prescribed burns if the intent is to clear at least 40 acres per year. A complete burn plan is required. Producers should work directly with the National Weather Service Fire Weather Forecasters or local fire officials for spot weather forecasts and smoke conditions at the burn site. Pre-burn notice requirements include: ADEC notification at least one day prior to burning; telephone notice to ADEC prior to ignition; notice to authorities that may be impacted, such as fire department, FAA, and State Troopers; and notice to adjacent land managers. The public should also be informed.

Producer Note: An Alaska Smoke Management Plan to control open burning is under development. Producers should contact ADEC for further information. Producers should check with local authorities as local laws and regulations may be more restrictive.

IV. SOLID WASTE AND HAZARDOUS WASTE

Producer Note: There are several laws which control the use and disposal as well as the cleanup of hazardous wastes. Producers who use petroleum, hazardous chemicals, or other products stored in storage tanks must stay informed about requirements governing these activities.

⁴⁸ Tit. 18, Ch. 50, AAC.

⁴⁹ Prescribed burning is intentional fire setting to burn off ground or forest cover.

A. Alaska Solid Waste and Hazardous Waste Laws and Regulations

Alaska's Water Pollution Control and Waste Disposal Statute⁵⁰ imposes requirements on liquid, solid, and hazardous wastes. Operations resulting in disposal of any wastes into the waters or onto the land of Alaska require a permit from ADEC. Applications must be on ADEC or EPA proscribed forms. Disposal is defined as any "deposit of a solid or liquid waste into or onto the water or land of the state, whether the waste is contained or uncontained, by discharging, injecting, dumping, spilling, leaking, placing, discarding, or abandoning the waste so that the waste or any part or byproduct of the waste might enter the environment."⁵¹

1. Alaska Solid Waste

Generally, a permit from ADEC is required for the treatment or disposal of solid waste.⁵² However, regulations exempt single family or duplex residences and farms from permit requirements where the solid waste is generated and disposed on the premises. Other exemptions of interest to agriculture are:

- Landclearing waste including excavated dirt, rock, soil, butt ends, stumps, and other similar waste;
- Tree limbs and other foliage or woody debris, sometimes referred to as "slash" in a timber harvest area;
- Domestic wastewater, nondomestic wastewater, and other wastes that are subject to a permit under Wastewater Disposal Regulations (18 AAC 72) or under the federal Water Pollution Control Act (33 U.S.C. 1342); and
- Septage or septic tank pumping that contain less than five percent solids by weight that are regulated under Wastewater Disposal Regulations (18 AAC 72).⁵³

The exemptions listed above only apply if the wastes and materials are not mixed with nonexempt waste and do not present a health, safety, welfare danger, environmental, or nuisance problem.

⁵⁰ AS Tit. 46, Ch. 03.

⁵¹ 18 AAC § 60.990.

⁵² Tit. 18, Ch. 60, AAC.

⁵³ 18 AAC § 60.005.

Solid waste includes all unwanted, abandoned, or discarded solid or semi-solid material originating from any source whether or not it is subject to decomposition.⁵⁴ Alaska solid waste management laws focus primarily on the regulation of public and private landfills, but they contain some provisions that may apply to agriculture. Nuisance laws may also apply to solid waste disposal situations (see “other discharge prohibitions” above).

A person may not store accumulated solid waste in a manner that causes:

- A violation under litter regulations (see 18 AAC § 64.015);
- The attraction or access of domestic animals, wildlife, or disease vectors;
- A health hazard; or
- Polluted run-off water.⁵⁵

Contracting or arranging for another to collect, store, transport, or treat solid waste does not relieve a person from the responsibility arising from that waste should the person not manage it in compliance with regulations.

Disposal of animal or poultry carcasses not including those from diseased livestock, diseased poultry, or open range deaths must be:

- At a permitted landfill;
- By cremation or incineration in compliance with Air Quality Control Regulations (18 AAC 50); or
- By land burial with the landowner’s permission.

A state veterinarian must authorize the disposal of carcasses of livestock or poultry infected with a communicable disease, and disposal must be in accordance with 9 C.F.R. § 53.4 (Code of Federal Regulations - Destruction of Animals).

Agricultural land application of organic waste from slaughterhouses and fish processors must follow ADEC regulations.⁵⁶ These regulations include maximum particle size, waste treatment prior to application, agronomic rates, run-off, odor, vector control, and incorporation when applied topically to land.

⁵⁴ AS Tit. 46, Ch. 03.

⁵⁵ 18 AAC § 60.010.

⁵⁶ 18 AAC § 60.010.

“A person may not dispose of septage, sewage solids, fish waste, animal manure, or animal byproducts or waste on the ground within 100 feet of a well that produces water suitable for drinking.”⁵⁷

Agricultural activities, including animal grazing, are prohibited on an active monofill⁵⁸ unless management practices adequately protect the public health and environment.

2. *Alaska Biosolids*

ADEC Solid Waste Management Regulations For The Land Application of Biosolids⁵⁹ adopts by reference federal government regulations for land applications of biosolids. Biosolids is defined as a material derived from biosolids or a solid or liquid residue from the treatment of domestic sewage including domestic septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes.

Anyone who prepares biosolids for land application or that applies biosolids to land must apply for a permit from ADEC. In addition, a Coastal Project Questionnaire is required for any operations in a coastal zone (see Alaska Coastal Management Program above). A permit is not required for some types of biosolids provided certain ADEC regulatory conditions are met.

3. *Alaska Hazardous Waste*

Hazardous wastes and wastes deemed to be hazardous are regulated to a greater extent than other wastes under both Alaska and federal law. The Alaska Radiation and Hazardous Waste Protection Statute⁶⁰ has provisions similar to the federal Resource Conservation and Recovery Act (RCRA) for regulating hazardous wastes.

ADEC regulations define hazardous waste as any solid waste identified or listed as hazardous waste by the EPA, or any waste identified as a toxic pollutant by the EPA (see 40 C.F.R. 129.4).⁶¹ Hazardous waste also includes wastes which pose significant threats to health or the environment. The EPA regulations contain lists of hazardous wastes and standards for determining whether substances not on the lists should nevertheless be considered as hazardous.⁶²

⁵⁷ 18 AAC § 60.040.

⁵⁸ Monofills are landfills intended for one type of waste only.

⁵⁹ 18 AAC §§ 60.500 - 60.510.

⁶⁰ AS Tit. 46, Ch. 03.

⁶¹ Tit. 18, Ch. 62, AAC.

⁶² 40 C.F.R. pts 260, 261.

Persons who generate, store, or transport hazardous wastes are subject to extensive regulatory requirements. These regulations include requirements for record keeping, storage, and permitting; equipment, container, and building standards; disposal restrictions; emergency planning; and personnel training. A generator of a hazardous waste must notify the ADEC and obtain a State EPA identification number. A generator may not treat, store, dispose, or offer for transport any hazardous waste without an identification number.⁶³ For any document required to be submitted to the EPA, a copy must be simultaneously submitted to the ADEC.

4. *Alaska Discharge or Spill Reporting*

Oil spills or discharges must be promptly reported to the ADEC.⁶⁴ Likewise any release of a hazardous substance must be promptly reported to the ADEC.⁶⁵ Efforts to cleanup a spill or release must be prompt. The ADEC has discretion to determine when conditions exist that justify why a cleanup should not be attempted including situations of increased public health threat or environmental threat. ADEC should be contacted for regulations regarding spills.

5. *Alaska Underground Storage Tanks*

The ADEC is charged with administering the Alaska Underground Storage Tanks Systems Act.⁶⁶ An Underground Storage Tank (UST) is defined as any tank, pipe, device, or combination of such used to contain petroleum where at least 10% of the volume is located below the ground.

Some tanks are statutorily exempted from the definition of UST.⁶⁷ Farm and residential storage tanks with a capacity up to and including 1100 gallons used for storing motor fuel for noncommercial purposes are exempt. Also exempted are home heating oil tanks where storage and consumption is on the premises, tanks up to 110 gallons capacity, septic tanks, and emergency overfill tanks that are emptied within 24 hours.

Anyone who owns, installs, intends to install an UST or return it to operation is required to register with the ADEC and pay registration fees. ADEC must also be notified before any significant changes are made to an UST. Likewise, ADEC must be notified before the UST is taken out of operation. Additionally, the owner or operator must supply evidence of compliance with all state and federal regulations governing temporary or permanent UST closures. The ADEC requires use of departmental forms for UST registration and notification.

⁶³ 18 AAC § 62.200.

⁶⁴ AS Tit. 46, Ch. 03.

⁶⁵ AS Tit. 46, Ch. 09.

⁶⁶ AS Tit. 46, Ch. 03.

⁶⁷ AS § 46.03.450; for ADEC regulations regarding USTs see Tit. 18, Ch. 78, AAC.

Owners or operators should conduct regular checks for leakage and report discharges immediately. USTs are heavily regulated. Requirements include leak detection systems, spill and overflow prevention, corrosion protection, financial responsibility, integrity or risk assessments, reporting and record keeping. There are extensive regulations for suspected or confirmed spills or releases.

Owners or operators may apply for assistance from the Storage Tank Assistance Fund to help with integrity or site assessments. Grants and loans are also available for certain cleanup, upgrading, or closure costs.

Producer Note: USTs are subject to extensive regulation in Alaska. Producers should check with the ADEC periodically to ensure their underground storage tank system is in compliance.

V. PESTICIDES AND CHEMIGATION

Producer Note: Use of pesticides and other farm chemicals is regulated by federal and state statutes. Most states have some form of licensing or certification requirements controlling pesticide users. Additionally, there are regulations which address safety concerns for pesticide use by workers and around those workers.

A. Alaska Pesticide and Chemigation Laws and Regulations

Producer Note: Alaska, like most states, has laws designed to control the use of pesticides. The laws are designed to closely monitor the distribution and ultimate use of these substances within the state.

1. *Pesticides*

The Alaska Pesticide Control Act⁶⁸ authorizes the ADEC to regulate pesticides and broadcast chemicals. The purpose of the pesticide control law is “to protect human health, safety, and welfare, animals, and the environment by ensuring the proper use, sale, distribution, and disposal of pesticides.”⁶⁹ Regulations regarding pesticides are extensive. Pesticides are defined as “a chemical or biological agent intended to prevent, destroy, repel, or mitigate plant or animal

⁶⁸ AS Tit. 46, Ch. 03.

⁶⁹ Tit. 18, Ch. 90, AAC.

life and any substance intended for use as a plant regulator, defoliant, or desiccant, including insecticides, fungicides, rodenticides, herbicides, nematocides, and biocides.”⁷⁰

The Alaska pesticide laws and regulations apply to anyone who uses, advises regarding use, manufactures, sells, distributes, transports, formulates, stores, or disposes of pesticides. All pesticides must be registered with the ADEC. It is illegal to sell, distribute, or transport unlicensed pesticides. The law requires all pesticides be used, applied, or disposed of in a manner consistent with their labeling.

Restricted-use pesticides must only be bought, used, or applied by a certified applicator. A certified user may only use pesticides in a category of use for which the user is certified. The ADEC may inspect equipment, storage areas, disposal areas, and records. The ADEC has authority to gather evidence, take sworn statements, investigate complaints, and apply for search warrants. The ADEC requires a permit for water or aerial application of pesticides. The ADEC must be notified promptly whenever there is a discharge or release of a pesticide not in compliance with the regulations.

Pesticide rules include:

- Standards, prohibitions, and restrictions on the use of certain pesticides;
- Minimum requirements and license requirements for pesticide applicators;
- Record keeping requirements;
- Pesticide container disposal requirements;
- Drift control requirements;
- Storage requirements;
- Insurance requirements for custom, commercial, or contract use of a pesticide; and
- Specific warning requirements.

There may be additional requirements for pesticide and broadcast chemical use in coastal management districts and forest lands. Producers in these areas should consult with the ADEC to determine additional requirements, if any in these areas. The ADNR has regulations regarding BMPs for forest land.

⁷⁰ 18 AAC § 90.990.

Producer Note: Producers should refer to ADEC regulations and consult with ADEC representatives to determine the specific use and disposal requirements applicable to the pesticides they use. There may be additional requirements for pesticide use in coastal management districts and forest lands.

VI. PROTECTION OF WILDLIFE

Producer Note: Agricultural producers also have responsibilities concerning wildlife and migratory birds which may have habitat located on the producer's property. Federal and state laws contain measures designed to protect or enhance wildlife or wildlife habitat.

A. Alaska Wildlife and Aquatic Protection Laws

Alaska has enacted a variety of laws to protect wildlife, aquatic life, their habitats, and their harvesting. The ADF&G administers the majority of these laws. The ADNR also has some regulations, primarily dealing with forest land use, pertaining to protection of fish and wildlife (see water quality and pollution section and discussion of nonpoint source above). The ACMP (see discussion above) is also involved in the protection of wildlife and aquatic life in coastal, river, or wetland areas. These laws may affect agricultural activities.

1. *Alaska Game Laws*

The Alaska Fish and Game Code,⁷¹ charges the ADF&G with administering state hunting, trapping, and fishing laws. These include laws regarding hunting, fishing, and trapping licenses and seasons, lotteries, subsistence hunting, and other requirements for the taking of game species. The ADF&G also regulates watershed and habitat improvement, management, conservation, protection, use, disposal, propagation, and stocking of game.

There are special requirements for taking animals that are causing damage to crops, livestock, property, or resources.⁷² The taking of some animals in defense of property may require a permit, such as with beaver. A person must not have contributed to the wildlife problem. Other means of protecting life or property must have been exhausted. In all cases, the ADF&G must be notified immediately if wildlife is taken in defense of life or property. Wildlife is the property of the state. The meat or hide of the animal must immediately be surrendered to the ADF&G.

The ADF&G regulates game farming and fur farming, including farming of game birds, and reptiles. The ADF&G requires a biannual aviculture permit before anyone may hold certain

⁷¹ AS Tit. 16, Ch. 05.

⁷² Tit. 5, Ch. 92, AAC.

birds in captivity. The ADF&G may inspect bird keeping facilities for compliance with regulations.

It is deemed a public nuisance to illegally use a net, seine, lantern, snare, device, contrivance, or other material for the purpose of catching, taking, killing, attracting, or decoying fish or game (see above for other public nuisance laws).⁷³

2. *Activities Affecting Alaska Fish or Streams*

The ADF&G has permit authority over activities affecting anadromous streams and streams frequented by fish.⁷⁴ The ADF&G has authority to regulate nonpoint source pollution causing activities affecting anadromous streams and their tributaries.

The ADF&G must be notified before anyone may begin a hydraulic project, “or use, divert, obstruct, pollute, or change the natural flow or bed of a specified river, lake, or stream”⁷⁵ (see discussion above under “Changes Affecting Water, Dams, Other Obstructions, Pollution”).

3. *Alaska Salmon Spawning*

It is illegal, without a permit, to obstruct, divert, pollute any waters, either fresh or salt, utilized by salmon in the propagation of the species, by “casting, passing, throwing, or dumping tree limbs or foliage, underbrush, stumps, rubbish, earth, stones, rock, or other debris, or passing or dumping sawdust, planer shavings, or other waste or refuse of any kind in those waters.”⁷⁶ A permit is required for activities that may render waters “inaccessible or uninhabitable for salmon for spawning or propagation or propagation.”⁷⁷ A permit is required before erecting a dam, barrier, or any type obstruction or diversion which may interfere with salmon and their ingress or egress into waters for natural spawning or propagation. Violation of these laws is a crime.

4. *Alaska Endangered Species*

The ADF&G maintains a list of endangered species indigenous to Alaska.⁷⁸ The list may be updated at least every two years. It is a crime for anyone to take or propagate any species appearing on the state list without a permit.

⁷³ AS § 16.05.800.

⁷⁴ AS Tit. 16, Ch. 05 & 20.

⁷⁵ AS §16.05.870.

⁷⁶ AS Tit. 16, Ch. 10.

⁷⁷ AS Tit. 16, Ch. 10.

⁷⁸ AS Tit. 16, Ch. 20; Tit. 5, Ch. 93, AAC.

The ADF&G and ADNR are charged with preserving the habitat of species threatened with extinction. There are extensive regulations governing wildlife and fish habitats.

The Conservation and Protection of Alaskan Wildlife Statute⁷⁹ classifies certain areas as being essential to the protection of fish and wildlife. The ADF&G manages these “special areas.”⁸⁰ Special areas are state refuges, sanctuaries, and critical habitat areas. Landowners must notify the ADF&G before leasing or disposing of lands in “special areas.” “Special area permits” are required for certain activities in “special areas.” These activities include, grazing or animal husbandry, vegetation destruction, water diversion or withdrawal, dredging, filling, flooding or draining, construction, improvements and other uses.

Private landowners or timber owners may be required to maintain, enhance, or protect wildlife habitat.⁸¹ Provisions for protecting wildlife and their habitats may include, with landowner agreement, land exchanges, purchase of conservation easements, or purchase of fee title.

VII. ENFORCEMENT OF STATE ENVIRONMENTAL LAWS

As with federal environmental laws, persons who violate the regulatory requirements of state environmental laws face substantial penalties. The specific penalties vary to some degree with each statute. However, they generally include both civil and criminal fines. Additional fines can be assessed for each day that an operation remains in violation. For severe or repeated violations, jail sentences can be imposed. State agencies can also bring proceedings, either in court or before an administrative tribunal, to enjoin a producer’s activities and force compliance with the statute. In some cases, citizens may also file suits to enforce the requirements of the environmental laws. As with the federal statutes, state laws afford producers the right to administrative and/or judicial review of agency decisions.

VIII. OTHER ALASKA STATUTES AFFECTING AGRICULTURE

A. Alaska Land Management

The Alaska Public Land law⁸² and the Alaska Land Act⁸³ charges the ADNR with managing state owned lands. The Division of Land (DOL), within the ADNR, has the primary responsibility for land use planning. Plans are required by statute before any sale or lease of state

⁷⁹ AS Tit. 16, Ch. 20.

⁸⁰ AS Tit. 16, Ch. 05 & 20; Tit. 5, Ch. 95, AAC.

⁸¹ AS Tit. 41, Ch. 17.

⁸² AS Tit. 38, Ch. 04.

⁸³ AS Tit. 38, Ch. 05.

land. DOL issues leases for aquatic farming sites on state land. Agricultural land use permits and leases are issued by the Division of Agriculture (DOA), within the ADNR. DOA also issues grazing permits.

There may be restrictions on the use, sale, lease, or disposal of state land classified as agricultural.⁸⁴ All lands leased for agricultural purposes must be managed and used in accordance with approved soil conservation practices. DOA monitors state agricultural land, sold or leased, for compliance with farm conservation plans. The Alaska Soil and Water Conservation statute⁸⁵ charges the ADNR with soil conservation and erosion control. The ADNR may create soil and water conservation districts upon a petition signed by at least 25 land users. Anyone who has received a conveyance of state agricultural land, whether by lease or sale, may be required to cooperate with the appropriate soil and water conservation district.

All state lands leased for grazing purposes must be used, managed, and stocked in accordance with approved range management practices. There must be no interference with the public right to enter leased land for lawful hunting, fishing, trapping, camping, and other appropriate uses. Range improvement requires written approval.

B. Alaska Defense to an Action for Private Nuisance

Alaska has a statute sometimes referred to as a “Right-to-Farm Statute.” This statute sets forth that an agricultural operation will not be deemed a private nuisance when conditions existing on neighboring land have changed provided the agricultural operation was not a nuisance at the time the operation began and the agricultural operation has been in operation for more than three years.⁸⁶

The provisions of this statute do not apply to:

- Liability resulting from improper or negligent conduct of the agricultural operation or
- Flooding caused by the agricultural operation.

The provisions of this statute supercedes any municipal ordinance, resolution or regulations contrary to these provisions.

⁸⁴ For regulations affecting state agricultural land or grazing land, see Tit. 11, Ch. 58, 60, and 67, AAC.

⁸⁵ AS Tit. 41, Ch. 10.

⁸⁶ AS § 09.45.235.

Appendix A - Agencies

Producer Note: State and federal agencies are available to answer questions regarding environmental matters and a producer's compliance with environmental laws and regulations. The following is a list of agencies which should be able to answer questions or provide materials for a producer.

State Agencies:

Department of Environmental Conservation

Spill Hot Line (Hazardous Substances & Oil)

(907) 269-3063 Anchorage

(907) 451-2121 Fairbanks

(907) 465-5340 Juneau or

(800) 478-9300 toll free, after hours for all locations

<http://www.state.ak.us/dec>

Toll Free Numbers:

(800) 770-8818 Air Quality

(800) 770-2137 Drinking Water Information

(800) 510-2332 Permitting Information

(800) 478-2577 Pesticide Use and Disposal

(800) 550-7272 RCRA Permitting, Hazardous Waste

(800) 478-4974 Underground Storage Tanks

(800) 731-1312 Seawatch

3 DEC Divisions (affecting Agriculture):

Division of Air & Water Quality

Southcentral Office

555 Cordova St.

Anchorage, AK 99501-2617

(907) 269-7500

(907) 269-7600 fax

Southeast Office

410 Willoughby Ave, Ste. 105

Juneau, AK 99801-1795

(907) 465-5010

(907) 465-5097 fax

Northern Office

610 University Avenue

Fairbanks, AK 99709

(907) 451-2360

(907) 451-2188 fax

Division of Environmental Health

500 South Alaska Street

Palmer, AK 99645

(907) 745-3236

(907) 745-8125 fax

5 EH Programs (affecting Agriculture)

Animal Industries Program

500 South Alaska Street

Palmer, AK 99645

(907) 745-3236

(907) 745-8125 fax

Drinking Water and Wastewater Program

555 Cordova Street

Anchorage, AK 99501-2617

(907) 269-7647

(907) 269-7655 fax

Food Safety, Sanitation, and Shellfish Program

555 Cordova Street

Anchorage, AK 99501-2617

(907) 269-7640

(907) 269-7510 fax

Pesticide Services Program

500 South Alaska Street

Palmer, AK 99645

(907) 745-3236

(907) 745-8125 fax

Solid Waste Management Program

410 Willoughby Avenue, Suite 105

Juneau, AK 99801-1795

(907) 465-5162

(907) 465-5164 fax

Division of Spill Prevention and Response

Southcentral Office

555 Cordova Street

Anchorage, AK 99501-2617

(907) 269-7500

(907) 269-7600 fax

Southeast Office

410 Willoughby Avenue, Suite 303

Juneau, AK 99801-1795

(907) 465-5010
(907) 465-5097 fax
Northern Office
610 University Avenue
Fairbanks, AK 99709
(907) 451-2360
(907) 451-2188 fax

Department of Fish and Game
1255 West 8th Street
P.O. Box 25526
Juneau, AK 99802-5526
(907) 465-4100
(907) 465-2332 fax
<http://www.state.ak.us/adfg>

2 **ADF&G** Divisions (affecting
Agriculture):
Division of Habitat & Restoration
Headquarters
1255 West 8th Street
P.O. Box 25526
Juneau, AK 99802-5526
(907) 465-4105
(907) 465-4759 fax
Southeast Office
802 3rd Street
Douglas, AK 99824-0020
(907) 465-4290
(907) 465-4272 fax
Southcentral & Western Office
333 Raspberry Road
Anchorage, AK 99518
(907) 344-0541
(907) 267-2464 fax
Northern & Interior Office
1300 College Road
Fairbanks, AK 99701-1599
(907) 459-7289
(907) 459-3091 fax

Division of Wildlife Conservation
Headquarters
1255 West 8th Street
P.O. Box 25526
Juneau, AK 99802-5526
(907) 465-4265
(907) 465-6142 fax
Southeast Office
802 3rd Street
Douglas, AK 99824-0020
(907) 465-4265
(907) 465-4272 fax

Southcentral & Western Office
333 Raspberry Road
Anchorage, AK 99518
(907) 267-2182
(907) 267-2433 fax
Northern & Interior Office
1300 College Road
Fairbanks, AK 99701-1599
(907) 459-7213
(907) 459-6410 fax
Northwest Office
Pouch 1148
Nome, AK 99762
(907) 443-2271
(907) 443-5893

Department of Natural Resources
Southcentral Office
Robert B. Atwood Building
550 West 7th Avenue, Suite 1260
Anchorage, AK 99501-3357
(907) 269-8400
(907) 269-8901 fax
Northern Office
3700 Airport Way
Fairbanks, AK 99709-4699
(907) 451-2705
(907) 451-2706 fax
Southeast Office
400 Willoughby Avenue, 4th Floor
Juneau, AK 99801
(907) 405-3400
(907) 586-2954 fax
<http://www.dnr.state.ak.us/>

5 **DNR** Divisions (affecting Agriculture)
Division of Agriculture
1800 Glenn Highway, Suite 12
Palmer, AK 99645-6736
(907) 745-7200
(907) 745-7112 fax

Division of Forestry
Robert B. Atwood Building
550 West 7th Avenue, Suite 1450
Anchorage, AK 99501-3566
(907) 269-8463
(907) 269-8931 fax

**Division of Geological & Geophysical
Surveys**
794 University Avenue, Suite 200
Fairbanks, AK 99709

(907) 451-5000
(907) 451-5050 fax

**Division of Mining, Land, & Water
Management**

Robert B. Atwood Building
550 West 7th Avenue, Suite 1450
Anchorage, AK 99501-3566
(907) 269-8600
(907) 269-8904 fax

Southcentral Office - Land Only

Robert B. Atwood Building
550 West 7th Avenue, Suite 900
Anchorage, AK 99501-3577
(907) 269-8542
(907) 269-8913 fax

Southeast Office - Land Only

400 Willoughby Avenue, Suite 400
Juneau, AK 99801
(907) 465-3400
(907) 586-2954 fax

Northern Office - Land, Mining, and Water

3700 Airport Way
Fairbanks, AK 99709-2690
(907) 451-2740 - *Land*
(907) 451-2751 fax - *Land*
(907) 451-2790 - *Mining and Water*
(907) 451-2706 fax - *Mining and Water*

Division of Oil & Gas

Robert B. Atwood Building
550 West 7th Avenue, Suite 800
Anchorage, AK 99501
(907) 269-8800
(907) 269-8939 fax

Southeastern Office)

240 Main Street, Suite 500
Juneau, AK 99811-0030
(907) 465-3562 for Coastal Zone Certifications
(907) 465-3075 fax

Southcentral Office

Robert B. Atwood Building
550 West 7th Avenue, Suite 1660
Anchorage, AK 99501
(907) 269-7470 for Coastal Zone Certifications
(907) 269- 3981 fax

U.S. Army Corps of Engineers, Alaska District

(907) 753-2520 for General Permits

Contacts for Aquafarming:

Department of Environmental Conservation

(address above)
(907) 269-7638 for Area Certif. & Shipper's Permits

Department of Natural Resources

(address above)
(907) 269-8546 for Aquatic Farm Site Program

Department of Fish and Game

(address above)
(907) 465-6150 for Stocking and Operating Permits

Division of Government Coordination

**(Office of the Governor, Office of Management
and Budget)**

TERRITORY OF ALASKA

SESSION LAWS

**RESOLUTIONS AND
MEMORIALS**



1947

**PASSED BY THE EIGHTEENTH REGULAR
SESSION OF THE TERRITORIAL
LEGISLATURE**

**CONVENED AT JUNEAU, THE CAPITAL, ON THE
TWENTY-SEVENTH DAY OF JANUARY, 1947,
AND ADJOURNED SINE DIE THE TWENTY-
SEVENTH DAY OF MARCH, 1947.**

CHAPTER 62

AN ACT

[H. B. 85]

To create the Soil Conservation District of Alaska and prescribe its powers; to establish the Alaska Soil Conservation Board and the Conservation Advisory Committee and define their duties.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. SHORT TITLE. This Act may be known and cited as the Soil Conservation District Law.

Policy.

Section 2. FINDINGS AND DECLARATION OF POLICY. The farm, forest and grazing lands of Alaska are basic assets of the Territory. It is declared to be the policy of this Act, in the interest of the health, safety, and general welfare of the people of the Territory, to provide for the development, use and conservation of these lands in accordance with their capabilities.

Purpose.

Section 3. SOIL CONSERVATION DISTRICT. There is hereby created, as a public body corporate and politic, the Soil Conservation District of Alaska, comprising the area of the Territory, to provide a means for the orderly development of lands, for guiding settlement, and for conserving soil and soil resources and controlling and preventing soil erosion within the Territory.

Board membership.

Section 4. ALASKA SOIL CONSERVATION BOARD; CONSERVATION ADVISORY COMMITTEE. There is hereby created, as an agency of the Territory, the Alaska Soil Conservation Board consisting of three bona fide farmers, who are interested in conservation of land resources, appointed by the Board of Administration acting by a majority of its members, after consultation with the

Conservation Advisory Committee established herein. The terms of office of members of the Board shall be three years, except that those first appointed shall be designated to serve for terms of one, two and three years, respectively. The members of the Board shall receive no compensation. The Board may adopt rules and regulations necessary for the execution of its functions and shall keep a record of its official actions. It may employ necessary employees, designate agents, and delegate to any member, employee or agent such powers and duties as it may deem proper. It may call upon the Attorney General of Alaska for legal services. The Board shall designate its Chairman and may change such designation from time to time.

Board may
adopt rules.

There is hereby established a Conservation Advisory Committee, which will be advisory to the Alaska Soil Conservation Board herein created. The Committee shall consist of the General Manager of the Alaska Rural Rehabilitation Corporation, the Regional Forester of the United States Forest Service, the Area Supervisor, for Alaska, of the United States Farmers' Home Administration, the Director of the Agricultural Experiment Station and Extension Service of the University of Alaska, and the Territorial Commissioner of Agriculture.

Conservation
Advisory
Committee.

Section 5. POWERS OF THE DISTRICT. The Soil Conservation Board shall be the governing body of the district and shall have the following powers:

Authority.

1. To conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the Territory; to publish the results of such surveys and investigations and to disseminate information concerning the results of such surveys and investigations to prospective settlers and the general public.

Land surveys.

**Technical
guidance**

2. To make technical guidance and other assistance available to settlers of new land so as to assure the development of such land in a manner that will permit it to be used in accordance with its capabilities and treated in accordance with its needs.

Soil conservation.

3. To carry out measures for soil conservation and erosion control within the district, including but not limited to engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, with the consent and cooperation of the land occupier or agency having jurisdiction thereof.

**Make and enter
agreements.**

4. To cooperate with, furnish assistance to, and enter into agreements with, any occupier of land or agency, governmental or otherwise, within the district, subject to such conditions as the district governing body may deem necessary to advance the purposes of this Act.

5. To construct, improve and maintain such soil erosion control and conservation structures as may be necessary and practical for carrying out the purposes of this Act.

Develop plans.

6. To develop comprehensive plans for the conservation of soil and control of soil erosion within the district, cropping programs, tillage practices and changes in land use, and to publish such plans and information and bring them to the attention of occupiers of lands within the district.

**Accept
contributions.**

7. To accept contributions in money, services, materials, equipment, or otherwise, from the United States or any of its agencies, from any agency of the Territory, and from any other source, for use in carrying out the purposes of this Act.

8. No survey, investigation or plan for any particular land shall be undertaken by the district, nor shall any.

measures for soil conservation and erosion control thereon be carried out, without the prior approval of the occupier of such land. Consent of occupier required.

9. To create sub-districts of the Soil Conservation District of Alaska, upon the petition of 25 or more land occupiers setting forth the proposed boundaries of the sub-district, and after an adequately advertised favorable public hearing has been held at a convenient location or locations within the boundaries of the proposed sub-district; to fix the boundaries of any sub-districts so created; to supervise the election of, prescribe the duties of, and install a governing body of 5 land occupiers to be known as District Supervisors for each sub-district created; and to delegate to the District Supervisors such of the district's powers, as set out in this section, as the Board deems necessary to accomplish the purposes of this Act within the sub-district boundaries. Create sub-districts.

For the purposes of this Act, the term "land occupier" or "occupier of land" means any person, firm or corporation who shall hold title to, or shall be in possession of, three or more acres of land in the Territory, whether as owner, lessee, renter, tenant, or otherwise.

Section 6. SEPARABILITY CLAUSE. If any provision of this Act, or the application of any provision to any person or circumstances, is held invalid, the remainder of the Act and the Application of such provision to other persons or circumstances shall not be affected thereby. Saving clause.

Approved March 25, 1947.

JOURNAL
OF THE
House of Representatives
OF THE
Territory of Alaska
EIGHTEENTH SESSION

BEGUN AND HELD AT
JUNEAU, THE TERRITORIAL CAPITAL
JANUARY 27, 1947

Adjourned Sine Die March 28, 1947
7:40 o'clock, A. M.

OSCAR S. GILL,
Speaker.

WILLIAM L. PAUL,
Chief Clerk.

BRIEF HISTORY OF HOUSE BILLS—(Continued)

No.	AUTHOR AND TITLE	First Reading and Reference	Report of Committee	Second Reading	Engrossment and Other Actions	Third Reading Passage, or Rejection	Returned from Senate	Enrolled, Signed by President and Speaker	Signed or Vetoed by Governor
81.	Miss Garnick: "An Act pertaining to equal pay for female employees."	349	565	601	642	724	891		
82.	Miss Garnick, by request: "An Act to provide for eight Pages to serve in the Territorial Legislature; and making an appropriation therefor."	349							
83.	Mr. Ost: "An Act to amend the first paragraph of subsection Tenth of Section 2383, Compiled Laws of Alaska, 1933, to provide that public utilities must pay legal interest in meter deposits."	364	384	433	453	475	836		
84.	Mr. Huntley: "An Act to amend Chapter 38, Session Laws of Alaska, 1943, for the purpose of increasing the School Tax from \$5.00 to \$10.00 per year; and declaring an								

emergency."	401	641	668	696	668	809		
85. Mr. Huntley: "An Act to create the Soil Conservation District of Alaska and prescribe its powers; to establish the Alaska Soil Conservation Board and the Conservation Advisory Committee and define their duties."	402	454	476	522	476	647	787	906
86. Mr. Huntley: "An Act to appropriate one million dollars for construction of new school buildings within Alaska; and declaring an emergency."	402							
87. Mr. Pollard: "An Act to provide for tax on coin-operated amusement and gaming devices; repealing Chapter 40, Session Laws of Alaska, 1946; and providing an effective date."	412	891 530	585	627	586	927 824	971	
88. Mr. Johnson: "An Act to amend Section 2419, Compiled Laws of Alaska, 1933, relating to proceedings for annexation of territory by municipalities and declaring an emergency."	412	455	477	529	477	627	665	782
89. Messrs. F. Johnson, Ost, Nolan and McCutcheon: "An Act pertaining to operation								

"An Act to amend Chapter 38, Session Laws of Alaska, 1943, for the purpose of increasing the School Tax from \$5.00 to \$10.00 per year; and declaring an emergency."

was introduced, read the first time, and referred to the Committee on Ways and Means.

HOUSE BILL NO. 85, by Mr. Huntley, entitled:

"An Act to create the Soil Conservation District of Alaska and prescribe its powers; to establish the Alaska Soil Conservation Board and the Conservation Advisory Committee and define their duties."

was introduced, read the first time, and referred to the Committee on Agriculture.

HOUSE BILL NO. 86, by Mr. Huntley, entitled:

"An Act to appropriate one million dollars for construction of new school buildings within Alaska; and declaring an emergency."

was introduced, read the first time, and referred to the Committee on Ways and Means.

THIRD READING OF SENATE BILLS

SENATE JOINT RESOLUTION NO. 1 was read the third time.

It was moved by Mr. Huntley, seconded by Mr. McCutcheon, that SENATE JOINT RESOLUTION NO. 1 be recommitted to second reading for the purpose of specific amendments.

Motion carried, and so SENATE JOINT RESOLUTION NO. 1 was referred to the Rules Committee for assignment on the calendar in second reading.

SENATE BILL NO. 17 was read the third time.

Barnett, Chairman, and concurred in by Messrs. Ost, Nolan, Pollard and Coble.

The Speaker announced that he had signed HOUSE BILLS NOS. 73 and 80 and ordered the same transmitted to the Senate for their action.

HOUSE BILLS NOS. 74 and 83 were referred to the Committee on Rules for assignment on the calendar in third reading.

The Committee on Agriculture, to whom was referred HOUSE BILL NO. 85, reported the same back to the House with the recommendation that it do pass. The report was signed by Mr. Huntley, Chairman, and concurred in by Messrs. Pollard, Joy, Edw. Anderson, and Coble.

HOUSE BILL NO. 85 was referred to the Committee on Rules for assignment on the calendar in second reading.

The Committee on Judiciary and Federal Relations, to whom was referred SENATE BILL NO. 29, reported the same back to the House with the recommendation that it do pass with amendments. The report was signed by Mr. M. Johnson, Chairman, and concurred in by Messrs. Laws, Vukovich, Egan, D. Anderson and Hoopes.

SENATE BILL NO. 29 was referred to the Committee on Rules for assignment on the calendar in second reading.

The Committee on Judiciary and Federal Relations, to whom was referred SENATE BILL NO. 39, reported the same back to the House with the recommendation that it do pass with amendment. The report was signed by Mr. M. Johnson, Chairman, and concurred in by Messrs. Laws, Vukovich, Egan, D. Anderson, and Hoopes.

SENATE BILL NO. 39 was referred to the Committee on Rules for assignment on the calendar in second reading.

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 85 was read the second time.

It was moved by Mr. Newell, seconded by Mr. Hoopes, that the following amendment to HOUSE BILL NO. 85, offered by Mr. Newell, be adopted:

Page 2, Line 9, delete comma, insert period. Strike balance of line and all of line 10 to and including the period.

The question being, "Shall the amendment be adopted?", the roll was called with the following result:

Yeas, 12:—D. Anderson, Coble, Egan, Hoopes, M. Johnson, Joy, Laws, Meath, Newell, Snider, Vukovich, Mr. Speaker.

Nays, 10:—Almquist, Edw. Anderson, Barnett, Engstrom, Garnick, Hope, Huntley, Nolan, Ost, Pollard.

Absent, 2:—F. Johnson, McCutcheon.

Motion carried, and so the amendment was adopted.

At the request of Mr. M. Johnson, and by unanimous consent of the House, the Rules were suspended as to HOUSE BILL NO. 85, it was considered engrossed, advanced to third reading, read the third time by title only, and placed in final passage.

The question being, "Shall the Bill pass?", the roll was called with the following result:

Yeas, 22:—Almquist, D. Anderson, Edw. Anderson, Barnett, Coble, Egan, Engstrom, Garnick, Hope, Hoopes, Huntley, M. Johnson, Joy, Laws, McCutcheon, Newell, Nolan, Ost, Pollard, Snider, Vukovich, Mr. Speaker.

Nays, 1:—Meath.

Absent, 1:—F. Johnson.

And so the Bill passed.

There being no objection thereto, the title of the Bill was ordered to stand as the title of the Act.

HOUSE BILL NO. 85 was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE BILL NO. 88 was read the second time.

At the request of Mr. M. Johnson, and by unanimous consent of the House, the Rules were suspended as to HOUSE BILL NO. 88, it was considered engrossed, advanced to third reading, read the third time by title only and placed in final passage.

The question being, "Shall the Bill pass?", the roll was called with the following result:

Yeas, 28:—Almquist, D. Anderson, Edw. Anderson, Barnett, Coble, Egan, Engstrom, Garnick, Hope, Hoopes, Huntley, M. Johnson, Joy, Laws, McCutcheon, Meath, Newell, Nolan, Ost, Pollard, Snider, Vukovich, Mr. Speaker.

Nays, 0.

Absent, 1:—F. Johnson.

And so the Bill passed.

The question then being, "Shall the emergency clause be adopted?", the roll was called with the following result:

Yeas, 20:—Almquist, D. Anderson, Edw. Anderson, Barnett, Coble, Engstrom, Garnick, Hoopes, Huntley, M. Johnson, Joy, Laws, McCut-

It was moved by Mr. M. Johnson, seconded by Mr. Hoopes, that the previously read communications be placed in the permanent files of the House of Representatives.

Motion carried and it was so ordered.

PRESENTATION OF PETITIONS, MEMORIALS AND RESOLUTIONS

HOUSE JOINT MEMORIAL NO. 32, by Mr. Edw. Anderson, memorializing the Secretary of War, the U. S. Engineer Department and the Delegate from Alaska, and urging that the repair and improvement of the harbor on the Snake River at Nome, Alaska, to accommodate the growing commerce of the Bering Sea, coupled with construction of a breakwater to protect the City of Nome, be treated as a priority project, was introduced, read the first time and referred to the Committee on Judiciary and Federal Relations.

REPORTS OF STANDING COMMITTEES

The Committee on Engrossment and Enrollment reported that it had compared the enrolled copy of HOUSE JOINT MEMORIAL NO. 18, with the engrossed copy, and found it correctly enrolled. The report was signed by Mr. Barnett, Chairman, and concurred in by Messrs. Coble, Pollard, Nolan, F. Johnson, and Ost.

The Speaker announced that he had signed the enrolled copies of HOUSE JOINT MEMORIAL NO. 18 and ordered the same transmitted to the Senate for the signatures of the President and the Secretary of the Senate.

The Committee on Engrossment and Enrollment reported that it had compared the engrossed copy of HOUSE BILL NO. 85 with the original and found it correctly engrossed. The report was signed by Mr. Barnett, Chairman,

and concurred in by Messrs. Ost, Coble, Pollard, Nolan and F. Johnson.

The Speaker announced that he had signed HOUSE BILL NO. 85 and ordered same transmitted to the Senate for their action.

The Committee on Engrossment and Enrollment reported that it had compared the engrossed copy of SENATE BILL NO. 52 with the original and found it correctly engrossed. The report was signed by Mr. Barnett, Chairman, and concurred in by Messrs. Ost, Coble, Pollard, Nolan, and F. Johnson.

The Speaker announced that he had signed SENATE BILL NO. 52 and ordered the same returned to the Senate.

The Committee on Engrossment and Enrollment reported that it had compared the engrossed copies of SENATE BILLS NOS. 29 and 39 with the originals and found them correctly engrossed. The reports were signed by Mr. Barnett, Chairman, and concurred in by Messrs. Coble, Pollard, Nolan, F. Johnson and Ost.

SENATE BILLS NOS. 29 and 39 were referred to the Committee on Rules for assignment on the calendar in third reading.

The Committee on Transportation, Commerce and Navigation, to whom was referred HOUSE JOINT MEMORIAL NO. 26, reported the same back to the House with the recommendation that it do pass. The report was signed and concurred in by Mr. Meath. Mr. Laws and Miss Garlick did not concur. Mr. Newell signed the report without recommendation.

The Committee on Transportation, Commerce and Navigation, to whom was referred HOUSE JOINT MEMORIAL NO. 25, reported the same back to the House with

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 85 was read the second time.

It was moved by Mr. Newell, seconded by Mr. Hoopes, that the following amendment to HOUSE BILL NO. 85, offered by Mr. Newell, be adopted:

Page 2, Line 9, delete comma, insert period. Strike balance of line and all of line 10 to and including the period.

The question being, "Shall the amendment be adopted?", the roll was called with the following result:

Yeas, 12:—D. Anderson, Coble, Egan, Hoopes, M. Johnson, Joy, Laws, Meath, Newell, Snider, Vukovich, Mr. Speaker.

Nays, 10:—Almquist, Edw. Anderson, Barnett, Engstrom, Garnick, Hope, Huntley, Nolan, Ost, Pollard.

Absent, 2:—F. Johnson, McCutcheon.

Motion carried, and so the amendment was adopted.

At the request of Mr. M. Johnson, and by unanimous consent of the House, the Rules were suspended as to HOUSE BILL NO. 85, it was considered engrossed, advanced to third reading, read the third time by title only, and placed in final passage.

The question being, "Shall the Bill pass?", the roll was called with the following result:

Yeas, 22:—Almquist, D. Anderson, Edw. Anderson, Barnett, Coble, Egan, Engstrom, Garnick, Hope, Hoopes, Huntley, M. Johnson, Joy, Laws, McCutcheon, Newell, Nolan, Ost, Pollard, Snider, Vukovich, Mr. Speaker.

Nays, 1:—Meath.

Absent, 1:—F. Johnson.

And so the Bill passed.

There being no objection thereto, the title of the Bill was ordered to stand as the title of the Act.

HOUSE BILL NO. 85 was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE BILL NO. 88 was read the second time.

At the request of Mr. M. Johnson, and by unanimous consent of the House, the Rules were suspended as to HOUSE BILL NO. 88, it was considered engrossed, advanced to third reading, read the third time by title only and placed in final passage.

The question being, "Shall the Bill pass?", the roll was called with the following result:

Yeas, 23:—Almquist, D. Anderson, Edw. Anderson, Barnett, Coble, Egan, Engstrom, Garnick, Hope, Hoopes, Huntley, M. Johnson, Joy, Laws, McCutcheon, Meath, Newell, Nolan, Ost, Pollard, Snider, Vukovich, Mr. Speaker.

Nays, 0.

Absent, 1:—F. Johnson.

And so the Bill passed.

The question then being, "Shall the emergency clause be adopted?", the roll was called with the following result:

Yeas, 20:—Almquist, D. Anderson, Edw. Anderson, Barnett, Coble, Engstrom, Garnick, Hoopes, Huntley, M. Johnson, Joy, Laws, McCut-

MESSAGES FROM THE SENATE AND FIRST
READING OF SENATE BILLS

A message from the Senate was read, stating that the Senate was returning HOUSE BILL NO. 85 for the reason that the House had passed the Bill without a majority affirmative vote of all the members.

Upon investigation it was found that the vote on the passage of the Bill in the House had been incorrectly recorded on the backing of the Bill and the Clerk was ordered to make the corrections and return the Bill to the Senate.

Messages from the Senate were read, transmitting SENATE BILLS NOS. 92, 102, 103, 105 and SENATE JOINT MEMORIAL NO. 25, which had passed the Senate.

SENATE BILL NO. 92, by Senator Green, entitled:

"An Act to appropriate \$10,000.00 as a five-year loan to the Second Injury Fund under the Alaska Industrial Board."

was read the first time and referred to the Committee on Ways and Means.

SENATE BILL NO. 102, by Senator Cochran, entitled:

"An Act to amend Section 3 (a) (2) of Chapter 27, Session Laws of Alaska Ex., 1946, relating to exemption of tax on exports to a foreign country."

was read the first time and referred to the Committee on Judiciary and Federal Relations.

SENATE BILL NO. 103, by Senator Cochran, entitled:

"An Act to amend Chapter 18, Session Laws of Alaska Ex., 1946, relating to the levy and collection of a tax on motor fuel oil."

REPORTS OF STANDING COMMITTEES

The Committee on Judiciary and Federal Relations, to whom were referred SENATE BILLS NOS. 115, 107, and 48, reported the same back to the House with the recommendation that they do pass. The reports were signed by Mr. M. Johnson, Chairman, and concurred in by Messrs. Hoopes, Egan, D. Anderson, Laws, and Vukovich.

SENATE BILLS NOS. 115, 107, and 48 were referred to the Committee on Rules for assignment on the calendar in second reading.

The Committee on Engrossment and Enrollment reported that it had compared the engrossed copies of HOUSE JOINT MEMORIALS NOS. 35 and 38 and COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 12 with the originals, and found them correctly engrossed; and that it had compared the enrolled copies of HOUSE JOINT MEMORIALS NOS. 30 and 31 and HOUSE BILLS NOS. 57, 85, and 108 with the engrossed copies and found them correctly enrolled; that it had compared the engrossed copy of SENATE BILL NO. 91 as amended by the House, with the original and found it correctly engrossed. The reports were signed by Mr. Barnett, Chairman, and concurred in by Messrs. Ost, Coble, Pollard, F. Johnson, and Nolan.

The Speaker announced that he had signed HOUSE JOINT MEMORIALS NOS. 35 and 38 and COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 12, and ordered the same transmitted to the Senate.

The Speaker announced that he had signed the enrolled copies of HOUSE BILLS NOS. 57, 85, and 108 and HOUSE JOINT MEMORIALS NOS. 30 and 31, and ordered same transmitted to the Senate for the signatures of the President and Secretary of the Senate.

this session may with such purity of faith and singleness of intention devote themselves to Thy glory that they may prosper the work which has been entrusted to them. Cleanse their thoughts, uplift their minds, enable them to consider all things diligently, and in singleness of heart let them fulfill Thy will; Through Jesus Christ our Lord. Amen."

At the request of Mr. Nolan, and with unanimous consent of the House, the reading of the Journal of the proceedings of the Fifty-Eighth Day was dispensed with, and the Journal was approved.

MESSAGES FROM THE GOVERNOR

A message from the Governor was read, stating that SENATE BILL NO. 32 had been transmitted to the Office of the Secretary of Alaska for permanent filing.

A message from the Governor was read, stating that the Governor had read and approved the following bills and memorials, and same had been transmitted to the Office of the Secretary of Alaska for permanent filing:

HOUSE BILL NO. 57

SENATE BILL NO. 57

SENATE JOINT MEMORIAL NO. 23

HOUSE BILL NO. 85

SENATE BILL NO. 69

REPORTS OF STANDING COMMITTEES

The Committee on Engrossment and Enrollment reported that it had compared the engrossed copies of HOUSE JOINT MEMORIAL NO. 39 and HOUSE BILL NO. 103 with the originals and found them correctly en-

COMPILED LAWS OF ALASKA

1949

*Containing the General Laws of the
Territory of Alaska*

Annotated with Decisions of the District Courts of Alaska,
the Circuit Court of Appeals, and the Supreme
Court of the United States

Published under Authority of Ch 28, SLA, 1947

▼
MR. RALPH J. RIVERS
ATTORNEY GENERAL OF ALASKA
Chairman of Commission

MR. FRANK A. BOYLE
AUDITOR OF ALASKA
Secretary of Commission

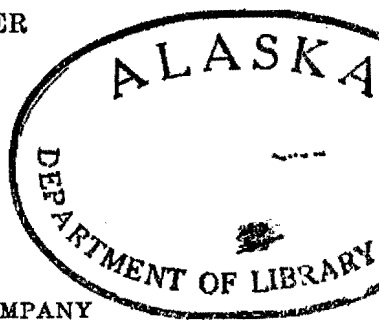
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Member of Commission

17417

Alaska Law Compilation Commission

J. OLIVER TUCKER
Editor in Chief

Volume II



BANCROFT-WHITNEY COMPANY
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SAN FRANCISCO, CALIFORNIA

tus for thawing explosives shall also be provided for use in the mine and shall be under the immediate charge of the mine foreman or some other careful and experienced person. [L 1917, ch 51, § 27, p 110; CLA 1933, § 2292.]

§ 47-3-227. Duty of mine superintendent to keep copy of Act for inspection: Orders of Commissioner of Mines: Form: Duplicates: Approval of apparatus. It shall be the duty of the superintendent of any mine, within the provisions of this Act, to keep at all times, in the office of said mine, and in the timekeepers' office thereof, in an accessible place and subject to inspection by all workmen and persons interested in the same at least one printed copy of this act.

Whenever the approval, order or direction of the Commissioner of Mines is provided for or contemplated in this Act, the same shall be in writing and signed by the Commissioner, and a duplicate of the same delivered to the person or corporation operating said mine; and wherever any apparatus is now installed in any of said mines or workings and the approval of the Commissioner of Mines is contemplated or provided for in this Act, the said approval shall not be construed or deemed necessary until after such mine shall have actually been inspected by such Commissioner and until a written order or approval or disapproval shall have been signed by the Commissioner of Mines and a copy thereof delivered to the owners or operators of the mine. [L 1917, ch 51, § 29, p 113; CLA 1933, §§ 2294, 2295.]

§ 47-3-228. Penalty for violations. Any persons or corporations failing to comply with any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than fifty Dollars (\$50.00), nor more than one thousand Dollars (\$1000.00), or be imprisoned in the federal jail for a period of not less than thirty (30) days nor more than one (1) year, or punished by both such fine and imprisonment, at the discretion of the Court. [L 1917, ch 51, § 30, p 113; CLA 1933, § 2296.]

CHAPTER 4

SOIL CONSERVATION

§ 47-4-1. Short title.

§ 47-4-2. Declaration of policy.

§ 47-4-3. Soil Conservation District: Creation: Area: Purpose.

§ 47-4-4. Alaska Soil Conservation Board: Creation: Members: Appointment: Term: Compensation: Powers: Chairman: Conservation Advisory Committee.

§ 47-4-5. Powers of the board.

§ 47-4-1. Short title. This Act may be known and cited as the Soil Conservation District Law. [L 1947, ch 62, § 1, p 176.]

Separability provision: Section 6, L 1947, ch 62, provides that "if any provision of this Act, or the application of any provision to any person or circumstances, is held invalid, the remainder of the Act and the Application of such provision to other persons or circumstances shall not be affected thereby."

§ 47-4-2. Declaration of policy. The farm, forest and grazing lands of Alaska are basic assets of the Territory. It is declared to be the policy of this Act, in the interest of the health, safety, and general welfare of the people of the Territory, to provide for the development, use and conservation of these lands in accordance with their capabilities. [L 1947, ch 62, § 2, p 176.]

§ 47-4-3. Soil Conservation District: Creation: Area: Purpose. There is hereby created, as a public body corporate and politic, the Soil Conservation District of Alaska, comprising the area of the Territory, to provide a means for the orderly development of lands, for guiding settlement, and for conserving soil and soil resources and controlling and preventing soil erosion within the Territory. [L 1947, ch 62, § 3, p 176.]

§ 47-4-4. Alaska Soil Conservation Board: Creation: Members: Appointment: Term: Compensation: Powers: Chairman: Conservation Advisory Committee. There is hereby created, as an agency of the Territory, the Alaska Soil Conservation Board consisting of three bona fide farmers, who are interested in conservation of land resources, appointed by the Board of Administration acting by a majority of its members, after consultation with the Conservation Advisory Committee established herein. The terms of office of members of the Board shall be three years, except that those first appointed shall be designated to serve for terms of one, two and three years, respectively. The members of the Board shall receive no compensation. The Board may adopt rules and regulations necessary for the execution of its functions and shall keep a record of its official actions. It may employ necessary employees, designate agents, and delegate to any member, employee or agent such powers and duties as it may deem proper. It may call upon the Attorney General of Alaska for legal services. The Board shall designate its Chairman and may change such designation from time to time.

There is hereby established a Conservation Advisory Committee, which will be advisory to the Alaska Soil Conservation Board herein created. The Committee shall consist of the General Manager of the Alaska Rural Rehabilitation Corporation, the Regional Forester of the United States Forest Service, the Area Supervisor, for Alaska, of the United States Farmers' Home Administration, the Director

of the Agricultural Experiment Station and Extension Service of the University of Alaska, and the Territorial Commissioner of Agriculture. [L 1947, ch 62, § 4, p 176.]

§ 47-4-5. Powers of the board. The Soil Conservation Board shall be the governing body of the district and shall have the following powers:

1. [*Surveys and investigations.*] To conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the Territory; to publish the results of such surveys and investigations and to disseminate information concerning the results of such surveys and investigations to prospective settlers and the general public.

2. [*Guidance and assistance of settlers.*] To make technical guidance and other assistance available to settlers of new land so as to assure the development of such land in a manner that will permit it to be used in accordance with its capabilities and treated in accordance with its needs.

3. [*Soil conservation and erosion control.*] To carry out measures for soil conservation and erosion control within the district, including but not limited to engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, with the consent and cooperation of the land occupier or agency having jurisdiction thereof.

4. [*Cooperation with occupants or agencies.*] To cooperate with, furnish assistance to, and enter into agreements with, any occupier of land or agency, governmental or otherwise, within the district, subject to such conditions as the district governing body may deem necessary to advance the purposes of this Act.

5. [*Structures.*] To construct, improve and maintain such soil erosion control and conservation structures as may be necessary and practical for carrying out the purposes of this Act.

6. [*Development and publication of plans.*] To develop comprehensive plans for the conservation of soil and control of soil erosion within the district, cropping programs, tillage practices and changes in land use, and to publish such plans and information and bring them to the attention of occupiers of lands within the district.

7. [*Acceptance of contributions.*] To accept contributions in money, services, materials, equipment, or otherwise, from the United States or any of its agencies, from any agency of the Territory, and from any other source, for use in carrying out the purposes of this Act.

8. [*Approval of occupant.*] No survey, investigation or plan for any particular land shall be undertaken by the district, nor shall

any measures for soil conservation and erosion control thereon be carried out, without the prior approval of the occupier of such land.

9. [*Sub-districts.*] To create sub-districts of the Soil Conservation District of Alaska, upon the petition of 25 or more land occupiers setting forth the proposed boundaries of the sub-district, and after an adequately advertised favorable public hearing has been held at a convenient location or locations within the boundaries of the proposed sub-district; to fix the boundaries of any sub-districts so created; to supervise the election of, prescribe the duties of, and install a governing body of 5 land occupiers to be known as District Supervisors for each sub-district created; and to delegate to the District Supervisors such of the district's powers, as set out in this section, as the Board deems necessary to accomplish the purposes of this Act within the sub-district boundaries.

[*Definitions.*] For the purposes of this Act, the term "land occupier" or "occupier of land" means any person, firm or corporation who shall hold title to, or shall be in possession of, three or more acres of land in the Territory, whether as owner, lessee, renter, tenant, or otherwise. [L 1947, ch 62, § 5, p 177.]

CHAPTER 5

FOREST RESERVE FUND

§ 47-5-1. Appropriation: Expenditure. That twenty-five per cent of all moneys coming into the Treasury of the Territory of Alaska from the Forest Reserve Fund is hereby appropriated and shall be set over by the Treasurer of the Territory into the Public School Current Fund, and shall be expended under the supervision and direction of the Board of Education of the Territory of Alaska in accordance with the laws of said Territory governing the appropriation and expenditure of funds for public schools of said Territory; and the remaining seventy-five per cent of said Forest Reserve Fund is hereby appropriated and shall be used in accordance with established practice for the construction, maintenance and repair of roads in the Territory of Alaska. [L 1925, ch 54, § 1, p 97; CLA 1933, § 1423.]

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SESSION LAWS

Resolutions and Memorials



17410

1960

PASSED BY THE SECOND SESSION
OF THE FIRST STATE
LEGISLATURE

CONVENED AT JUNEAU, THE CAPITAL, ON THE
TWENTY-FIFTH DAY OF JANUARY, 1960,
AND ADJOURNED SINE DIE THE TWENTY-NINTH
DAY OF MARCH, 1960

and the warrant must issue within the maximum term or terms to which the parolee was sentenced. A parole violator may be retaken with or without a warrant for violation of any of the terms of parole. The unexpired term of imprisonment of any such parolee shall be served and shall begin to run from the date he is returned to the custody of the Commissioner under said warrant, and the time the prisoner was at liberty on parole shall not diminish the time he was sentenced to serve.

Sec. 10. Execution of Warrant to Retake Parole Violator. Any parole officer or any officer of any state prison facility, or a prison facility made available to the state under contract, or a peace officer authorized to serve criminal process within the State of Alaska shall execute such warrant by taking such prisoner and confining him in a prison facility designated by the Commissioner. A parolee who has violated his parole may be retaken by a parole officer without a warrant and returned to such prison facility designated by him.

Sec. 11. Revocation Upon Retaking Parolee. Upon the retaking of a parolee, a peace officer making the arrest shall notify the parole officer. The parole officer upon making the arrest, or being notified by a peace officer of an arrest, shall immediately notify the board, or a member thereof. If the retaking has been without a warrant, the parole officer shall submit to the board, or a member thereof, a report in writing indicating in what manner the parolee has violated the terms and conditions of his parole. The board shall cause the parolee to be brought before it without unreasonable delay for a hearing on the violation charged, under such rules as the board may adopt. If the violation is established, the board may then, or at any time within its discretion, revoke the order of parole and terminate such parole or change the terms and conditions thereof, or impose additional conditions. The parolee may waive the hearing provided for in this section.

If parole be revoked and terminated, the prisoner shall be subject to serving the entire remainder of the term to which he was sentenced as provided in Sec. 9 of this Act; the board may, in its discretion, however, require the prisoner to

serve only a part of the term to which he was sentenced. In the event the board does not terminate all or part of the parole, the parolee shall be released from confinement and continue on parole under such terms and conditions as the board may prescribe.

Sec. 12. Fixing Eligibility for Parole at Time of Sentencing. a. Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interests of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may:

(1) Designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner shall become eligible for parole, which term may be less than, but shall not be more than one third of the maximum sentence imposed by the court; or

(2) Fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may become eligible for parole at such time as the board of parole may determine.

b. Upon commitment of a prisoner sentenced to imprisonment under the provisions of subsection (a), the Commissioner, under such regulations as the Board of Parole may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Board of Parole a summary report together with any recommendations which, in his opinion, would be helpful in determining the suitability of the prisoner for parole. This report may include, but shall not be limited to, data regarding the prisoner's previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The board of parole may make such other investigation as it may deem necessary.

It shall be the duty of the various parole officers and government bureaus and agencies to furnish the Board of Parole information concerning the prisoner, and, whenever not incompatible with the public interest, their views and recommendations with respect to the parole disposition of his case.

c. The Board of Parole having jurisdiction of the parolee may promulgate rules and regulations for the supervision, discharge from supervision, or commitment of paroled prisoners.

Sec. 13. Applicability to Persons on Parole or Incarcerated. The provisions of this Act shall apply to all persons convicted and sentenced in the superior court and the district magistrate courts of this state from the effective date of this Act.

Sec. 14. Administrative Procedure Act Inapplicable. The provisions of the Administrative Procedure Act shall not apply to this Act.

Sec. 15. Short Title. This Act may be cited as the "Parole Administration Act."

Sec. 16. Effective Date. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 6, 1960

CHAPTER 82 AN ACT

Relating to soil conservation; repealing and re-enacting Sec. 47-4-4, ACLA 1949; repealing and re-enacting the introductory paragraph of Sec. 47-4-5, and amending Subsecs. 1, 7, and 9 of Sec. 47-4-5, ACLA 1949; and providing for an effective date.

(H.B. 412)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sec. 47-4-4, ACLA 1949 is repealed and re-enacted to read as follows:

Sec. 47-4-4. Soil Conservation Board; Appointment; Qualifications. There is created the Alaska Soil Conservation Board composed of three members appointed by the governor subject to the provisions of the State Organization Act of 1959. Members of the board shall be resident bona fide farmers selected from the major farming areas of the state. The term of office of members is three years, except that initial appointments shall be for terms of one, two, and three years, respectively. The governor shall fill vacancies by appointment for the unexpired term. Members receive no salary but receive the same per diem and travel expenses as are authorized for members of state boards. At the request of the commissioner of natural resources, the board shall meet and shall advise him in the exercise of his powers, duties, and functions.

Sec. 2. The introductory paragraph of Sec. 47-4-5, ACLA 1949, is hereby repealed and re-enacted to read as follows:

47-4-5. Powers of Commissioner of Natural Resources. The Commissioner of Natural Resources shall have the following powers:

Sec. 3. Subsection 1, 7 and 9 of Sec. 47-4-5, ACLA 1949 are hereby amended to read as follows:

(1) **Surveys and Investigations.** To conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the State; to publish the results of such surveys and investigations and to disseminate information concerning the results of such surveys and investigations to prospective settlers and the general public.

(7) **Acceptance of Contributions.** To accept contributions in money, services, materials, equipment, or otherwise, from the United States or any of its agencies, from any agency of the State, and from any other source, for use in carrying out the purposes of this Act.

(9) **Sub-Districts.** To create sub-districts of the Soil Conservation District of Alaska, upon the petition of 25 or more land occupiers setting forth the proposed boundaries of the sub-district, and after an adequately advertised favorable public hearing has been held at a convenient

location or locations within the boundaries of the proposed sub-district; to fix the boundaries of any sub-districts so created; to supervise the election of, prescribe the duties of, and install a governing body of 5 land occupiers to be known as District Supervisors for each sub-district created; and to delegate to the District Supervisors such of the district's powers, as set out in this section, as the Commissioner deems necessary to accomplish the purposes of this Act within the sub-district boundaries.

Definitions. For the purposes of this Act, the term "land occupier" or "occu-

pier of land" means any person, firm or corporation who shall hold title to, or shall be in possession of, three or more acres of land in the State, whether as owner, lessee, renter, tenant, or otherwise.

Sec. 4. The provisions of this Act are supplementary to the State Organization Act of 1959 and modify it solely with respect to the establishment of the Alaska Soil Conservation Board.

Sec. 5. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved April 6, 1960

Alaska Election Code

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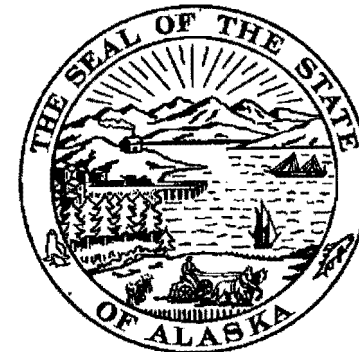
SESSION LAWS

STATE OF ALASKA

THIRTEENTH LEGISLATURE

First Session

January 17, 1983 - June 27, 1983



LEGISLATIVE AFFAIRS AGENCY
Juneau, Alaska



LAWS OF ALASKA

1983

Source

Chapter No.

HCS CSSB 120 (Fin)

69

AN ACT

Relating to soil and water conservation; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 15, 1983
Actual Effective Date: July 16, 1983

AN ACT

Relating to soil and water conservation; and providing
for an effective date.

* Section 1. AS 41.10.030 is amended to read:

Sec. 41.10.030. PURPOSE OF CHAPTER [DISTRICT]. The purpose of this chapter [THE DISTRICT] is to provide for the orderly development of land [LANDS], for guiding settlement, and for conserving soil and water and soil resources and controlling and preventing soil erosion.

* Sec. 2. AS 41.10.040 is amended to read:

Sec. 41.10.040. SOIL AND WATER CONSERVATION BOARD. The [DISTRICT IS GOVERNED BY THE] Alaska Soil and Water Conservation Board is composed of five [THREE] members. The commissioner of natural resources or, in the absence of the commissioner, the director of agriculture, serves ex officio but without a vote on the board.

* Sec. 3. AS 41.10 is amended by adding a new section to read:

Sec. 41.10.045. EXECUTIVE DIRECTOR. The commissioner of natural resources shall appoint an executive director and clerical staff to assist the board.

* Sec. 4. AS 41.10.060 is amended to read:

Sec. 41.10.060. QUALIFICATIONS OF BOARD MEMBERS. Members of the board shall be resident bona fide users of land [FARMERS] selected from the five major land [FARMING] areas of the state.

* Sec. 5. AS 41.10 is amended by adding a new section to read:

Sec. 41.10.065. MAJOR LAND AREAS OF THE STATE. The five major

land areas of the state are:

- (1) the Arctic and northwest Alaska;
- (2) the Yukon and Tanana Valleys;
- (3) southwest Alaska and the Kenai Peninsula;
- (4) southcentral Alaska; and
- (5) southeast Alaska.

* Sec. 6. AS 41.10.070 is amended to read:

Sec. 41.10.070. TERM OF OFFICE. The term of office of members is three years [, EXCEPT THAT INITIAL APPOINTMENTS SHALL BE FOR TERMS OF ONE, TWO, AND THREE YEARS, RESPECTIVELY].

* Sec. 7. AS 41.10 is amended by adding a new section to read:

Sec. 41.10.075. BOARD MEETINGS. The board shall hold one regular meeting annually at the state capital and one or more additional meetings at a time and place in the state selected by the board.

* Sec. 8. AS 41.10.100 is amended to read:

Sec. 41.10.100. DUTY OF BOARD TO ADVISE COMMISSIONER OF NATURAL RESOURCES. (a) At the request of the commissioner of natural resources, the board shall meet and advise the commissioner [HIM] in the exercise of the [HIS] powers, duties, and functions of the commissioner.

* Sec. 9. AS 41.10.100 is amended by adding a new subsection to read:

(b) The board shall also

(1) receive and review reports concerning the use of soil resources of the state;

(2) hold public hearings and meetings to determine whether land in the state is being used in a manner consistent with sound soil and water conservation practices;

(3) make recommendations for specific action necessary to provide for the effective and orderly development of agriculture,

forest, and grazing land in the state;

(4) review an appeal by an applicant or lessee from a decision of the director of the division of land and water management concerning a sale or lease of state agricultural or grazing land and submit its recommendations to the commissioner or hearing officer;

(5) act in an advisory capacity to the soil and water conservation districts in the state;

(6) act in an advisory capacity to the commissioner of natural resources and director of the division of agriculture in the review of farm conservation plans for all state agricultural land sales in the Alaska District.

* Sec. 10. AS 41.10.110 is amended to read:

Sec. 41.10.110. POWERS OF COMMISSIONER OF NATURAL RESOURCES RELATING TO SOIL AND WATER CONSERVATION. The commissioner of natural resources has the power to

(1) conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the state; to publish the results of these surveys and investigations and to disseminate information concerning the results of the surveys and investigations to prospective settlers and the general public;

(2) make technical guidance and other assistance available to settlers of new land to assure the development of the land in a manner that will permit it to be used in accordance with its capabilities and treated in accordance with its needs;

(3) carry out measures for soil conservation and erosion control within the state [DISTRICT], including engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, with the consent and cooperation of the land user [OCCUPIER]

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or agency having jurisdiction of the land;

(4) cooperate with, furnish assistance to, and enter into agreements with, a user [AN OCCUPIER] of land or agency within the state [DISTRICT, SUBJECT TO THE CONDITIONS AS THE BOARD CONSIDERS NECESSARY TO ADVANCE THE PURPOSES OF THIS CHAPTER];

(5) construct, improve, and maintain soil erosion control and conservation structures as are necessary and practical for carrying out the purposes of this chapter;

(6) develop comprehensive plans for the conservation of soil and control of soil erosion within the state [DISTRICT], crop programs, tillage practices and changes in land use, and publish plans and information and bring them to the attention of users [OCCUPIERS] of land [LANDS] within the state [DISTRICT];

(7) accept contributions in money, services, materials, and equipment from the United States or its agencies, from an agency of the state, and from any other source, for use in carrying out the purposes of this chapter.

* Sec. 11. AS 41.10.120 is amended to read:

Sec. 41.10.120. LAND USER [OCCUPIER] SHALL APPROVE PLANS, ~~AND~~ A [NO] survey, investigation or plan for land may not [SHALL] be undertaken by the commissioner of natural resources and [DISTRICT] [SHALL] measures for soil conservation and erosion control may not be carried out [,] without the prior approval of the user [OCCUPIER] of the land.

* Sec. 12. AS 41.10.130 is amended to read:

Sec. 41.10.130. CREATION AND BOUNDARIES OF SOIL AND WATER CONSERVATION DISTRICTS [OF SUBDISTRICTS]. (a) The commissioner of natural resources may, on the recommendation of the board, create soil and water conservation districts in the state [SUBDISTRICTS OF]

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SOIL CONSERVATION DISTRICT OF ALASKA,] upon petition signed by 25 or more land users [OCCUPIERS] setting out the proposed boundaries of the proposed district [SUBDISTRICT]. The commissioner shall fix a time for and give notice of a public hearing based on the petition at a convenient location or locations within the boundaries of the proposed district [SUBDISTRICT]. The commissioner may fix the boundaries of the district [SUBDISTRICT] created, supervise the election of, prescribe the duties of, and install a governing body of five land users [OCCUPIERS] to be known as district supervisors for each district [SUBDISTRICT] created, and delegate to the district supervisors powers as the commissioner considers necessary to accomplish the purposes of this chapter within the district [SUBDISTRICT] boundaries.

(b) The area of the state that is not located within a district organized under (a) of this section shall be governed by the board.

* Sec. 13. AS 41.10.140 is repealed and reenacted to read:

Sec. 41.10.140. DEFINITIONS. In this chapter

(1) "board" means the Alaska Soil and Water Conservation Board;

(2) "land user" or "user of land" means a person who

(A) is a producer of renewable resources, including farming and forestry; and

(B) has a current cooperative agreement with a soil and water conservation district.

* Sec. 14. AS 41.10.020 and AS 41.10.150 are repealed.

* Sec. 15. The terms of the members of the Alaska Soil Conservation Board terminate on the effective date of this Act. The initial members of the Soil and Water Conservation Board appointed under this Act shall be appointed for the following terms: two members shall serve for three-year terms; two members shall serve for two-year terms; and one member shall



LAWS OF ALASKA

1983

Source

Chapter No.

SCS GSHB 311(L&C)

70

AN ACT

Relating to Workers' Compensation; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9.

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 15, 1983
Actual Effective Date: January 1, 1984

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1 serve for a one-year term. Until soil and water conservation districts
2 have been created under AS 41.10.130 as enacted in sec. 12 of this bill,
3 "land user" includes a person who would have been qualified for appointment
4 to the Alaska Soil Conservation Board.

* Sec. 16. This Act takes effect July 1, 1983.

Revisor's notes. — Enacted as AS 41.09.190. Re-numbered in 1994.

Chapter 10. Soil and Water Conservation.

Section

- 10. Declaration of policy
- 30. Purpose of chapter
- 40. Natural Resource Conservation and Development Board
- 45. Executive director
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- 75. Board meetings
- 80. Vacancies
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- 100. Duties of board
- 110. Powers of commissioner
- 120. Approval of land user
- 130. Creation and boundaries of soil and water conservation districts
- 140. Definitions

Collateral references. — 3 Am. Jur. 2d, Agriculture, §§ 20, 25, 36, 37.

3 C.J.S., Agriculture, §§ 2, 6-8.

Measure of damages for wrongful removal of earth, sand, or gravel from land. 1 ALR3d 801.

Prohibiting or regulating removal or exploitation of oil and gas, minerals, soil, or other natural products within municipal limits. 10 ALR3d 1226.

Liability for diversion of surface water by raising surface level of land. 88 ALR4th 891.

Sec. 41.10.010. Declaration of policy. The farm, forest, and grazing land of the state is a basic asset of the state. It is the policy of this chapter, in the interest of the health, safety, and general welfare of the people of the state, to provide for the development, use, and conservation of this land in accordance with its capabilities. (§ 47-4-2 ACLA 1949)

Sec. 41.10.020. Creation and boundaries of soil conservation district. [Repealed, § 14, ch 69 SLA 1983.]

Sec. 41.10.030. Purpose of chapter. The purpose of this chapter is to provide for the orderly development of land, for guiding settlement, and for conserving soil and water and soil resources and controlling and preventing soil erosion. (§ 47-4-3 ACLA 1949; am § 1 ch 69 SLA 1983)

Sec. 41.10.040. Natural Resource Conservation and Development Board. The Alaska Natural Resource Conservation and Development Board is composed of five members. The commissioner or, in the absence of the commissioner, the director of agriculture, serves ex officio but without a vote on the board. (§ 47-4-4 ACLA 1949; am § 1 ch 82 SLA 1960; am § 2 ch 69 SLA 1983; am § 1 ch 127 SLA 1996)

Sec. 41.10.045. Executive director. The commissioner shall appoint an executive director and clerical staff to assist the board. (§ 3 ch 69 SLA 1983)

Sec. 41.10.050. Appointment. The governor shall appoint members of the board subject to confirmation by a majority of the members of the legislature in joint session. (§ 47-4-4 ACLA 1949; am § 1 ch 82 SLA 1960)

Sec. 41.10.060. Qualifications of board members. Members of the board shall be resident bona fide users of land selected from the five major land areas of the state. (§ 47-4-4 ACLA 1949; am § 1 ch 82 SLA 1960; am § 4 ch 69 SLA 1983)

Sec. 41.10.065. Major land areas of the state. The five major land areas of the state are:

- (1) the Arctic and northwest Alaska;
- (2) the Yukon and Tanana Valleys;
- (3) southwest Alaska and the Kenai Peninsula;
- (4) southcentral Alaska; and
- (5) southeast Alaska. (§ 5 ch 69 SLA 1983)

Sec. 41.10.070. Term of office. The term of office of members is three years. (§ 47-4-4 ACLA 1949; am § 1 ch 82 SLA 1960; am § 6 ch 69 SLA 1983)

Sec. 41.10.075. Board meetings. The board shall hold one regular meeting annually at the state capital and one or more additional meetings at a time and place in the state selected by the board. (§ 7 ch 69 SLA 1983)

Sec. 41.10.080. Vacancies. The governor shall fill vacancies by appointment for the unexpired term. (§ 47-4-4 ACLA 1949; am § 1 ch 82 SLA 1960)

Sec. 41.10.090. Compensation and per diem. Members receive no salary but receive the same per diem and travel expenses authorized for members of state boards. (§ 47-4-4 ACLA 1949; am § 1 ch 82 SLA 1960)

Cross references. — For per diem and travel expenses, see AS 39.20.180.

Sec. 41.10.100. Duties of board. (a) At the request of the commissioner, the board shall meet and advise the commissioner in the exercise of the powers, duties, and functions of the commissioner.

(b) The board shall also

- (1) receive and review reports concerning the use of soil resources of the state;
- (2) hold public hearings and meetings to determine whether land in the state is being used in a manner consistent with sound soil and water conservation practices;
- (3) make recommendations for specific action necessary to provide for the effective and orderly development of agricultural, forest, and grazing land in the state;
- (4) review an appeal by an applicant or lessee from a decision of the director of the division of lands concerning a sale or lease of state agricultural or grazing land and submit its recommendations to the commissioner or hearing officer;
- (5) act in an advisory capacity to the soil and water conservation districts in the state;
- (6) act in an advisory capacity to the commissioner and director of the Division of agriculture in the review of farm conservation plans for all state agricultural land sales in the state. (§ 47-4-4 ACLA 1949; am § 1 ch 82 SLA 1960; am §§ 8, 9 ch 69 SLA 1983; am § 88 ch 21 SLA 2000; am § 18 ch 22 SLA 2001)

Effect of amendments. — The 2000 amendment, effective April 28, 2000, substituted "the state" for "the Alaska district" at the end of paragraph (b)(6).

The 2001 amendment, effective May 10, 2001, substituted "division of lands" for "division of land and water management" in paragraph (b)(4).

Sec. 41.10.110. Powers of commissioner. The commissioner has the power to

- (1) conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the state; to publish the results of these surveys and investigations and to disseminate information concerning the results of the surveys and investigations to prospective settlers and the general public;
- (2) make technical guidance and other assistance available to settlers of new land to assure the development of the land in a manner that will permit it to be used in accordance with its capabilities and treated in accordance with its needs;

(3) carry out measures for soil conservation and erosion control within the state, including engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, with the consent and cooperation of the land user or agency having jurisdiction of the land;

(4) cooperate with, furnish assistance to, and enter into agreements with, a user of land or agency within the state;

(5) construct, improve, and maintain soil erosion control and conservation structures as are necessary and practical for carrying out the purposes of this chapter;

(6) develop comprehensive plans for the conservation of soil and control of soil erosion within the state, cropping programs, tillage practices and changes in land use, and publish plans and information and bring them to the attention of users of land within the state;

(7) accept contributions in money, services, materials, or equipment from the United States or its agencies, from an agency of the state, and from any other source, for use in carrying out the purposes of this chapter. (§ 47-4-5(1 — 7) ACLA 1949; am §§ 2, 3 ch 82 SLA 1960; am § 10 ch 69 SLA 1983)

Sec. 41.10.120. Approval of land user. A survey, investigation or plan for land may not be undertaken by the commissioner and measures for soil conservation and erosion control may not be carried out without the prior approval of the user of the land. (§ 47-4-5(8) ACLA 1949; am § 11 ch 69 SLA 1983)

Sec. 41.10.130. Creation and boundaries of soil and water conservation districts. (a) The commissioner may, on the recommendation of the board, create soil and water conservation districts in the state upon petition signed by 25 or more land users setting out the proposed boundaries of the proposed district. The commissioner shall fix a time for and give notice of a public hearing based on the petition at a convenient location or locations within the boundaries of the proposed district. The commissioner may fix the boundaries of the district created, supervise the election of, prescribe the duties of, and install a governing body of five land users to be known as district supervisors for each district created, and delegate to the district supervisors powers as the commissioner considers necessary to accomplish the purposes of this chapter within the district boundaries.

(b) The area of the state that is not located within a district organized under (a) of this section shall be governed by the board. (§ 47-4-5(9) ACLA 1949; am § 3 ch 82 SLA 1960; am §§ 12 ch 69 SLA 1983)

Sec. 41.10.140. Definitions. In this chapter,

(1) "board" means the Alaska Natural Resource Conservation and Development Board;

(2) "land user" or "user of land" means a person who

(A) is a producer of renewable resources, including farming and forestry; and

(B) has a current cooperative agreement with a soil and water conservation district. (§ 47-4-5(9) ACLA 1949; am § 3 ch 82 SLA 1960; am § 13 ch 69 SLA 1983; am § 2 ch 127 SLA 1996)

Cross references. — For additional definitions, see AS 41.99.900.

Sec. 41.10.150. Short title. [Repealed, § 14 ch 69 SLA 1983.]

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Reference

SESSION LAWS

STATE OF ALASKA

NINETEENTH LEGISLATURE

Second Session

January 8, 1996 -- May 7, 1996

First Special Session

May 8, 1996 -- June 6, 1996



VOLUME II

Legislative Affairs Agency
Juneau, Alaska



LAWS OF ALASKA

1996

Source
HB 539

Chapter No.
127

AN ACT

Changing the name of the Alaska Soil and Water Conservation Board.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: July 3, 1996
Actual Effective Date: October 1, 1996

AN ACT

1 Changing the name of the Alaska Soil and Water Conservation Board.

2

3 * Section 1. AS 41.10.040 is amended to read:

4 Sec. 41.10.040. NATURAL RESOURCE [SOIL AND WATER]
5 CONSERVATION AND DEVELOPMENT BOARD. The Alaska Natural Resource
6 [SOIL AND WATER] Conservation and Development Board is composed of five
7 members. The commissioner or, in the absence of the commissioner, the director of
8 agriculture, serves ex officio but without a vote on the board.

9 * Sec. 2. AS 41.10.140(1) is amended to read:

10 (1) "board" means the Alaska Natural Resource [SOIL AND WATER]
11 Conservation and Development Board;

SESSION LAWS

STATE OF ALASKA

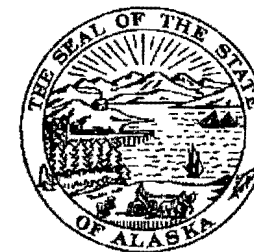
TWENTY-FIRST LEGISLATURE

Second Session

January 10, 2000 -- May 3, 2000

Third Special Session

May 4, 2000 -- May 6, 2000



VOLUME I

Legislative Affairs Agency
Juneau, Alaska

1 contributions may not be less than the rate in effect on January 1, 1961. An elected
 2 official or former elected official may not receive credited service under this subsection
 3 for any period in which the elected official or former elected official was receiving a
 4 retirement benefit from the system. An elected official or former elected official
 5 receiving a retirement benefit from the system on January 1, 1981, is not eligible to
 6 claim credited service under this subsection unless the elected official or former elected
 7 official is reemployed as an active member. Service as an elected official with an
 8 employer constitutes employment as an active member as long as a waiver of coverage
 9 under (a) of this section is not in effect.

10 * Sec. 88. AS 41.10.100(b) is amended to read:

11 (b) The board shall also

12 (1) receive and review reports concerning the use of soil resources of
 13 the state;

14 (2) hold public hearings and meetings to determine whether land in the
 15 state is being used in a manner consistent with sound soil and water conservation
 16 practices;

17 (3) make recommendations for specific action necessary to provide for
 18 the effective and orderly development of agricultural, forest, and grazing land in the
 19 state;

20 (4) review an appeal by an applicant or lessee from a decision of the
 21 director of the division of land and water management concerning a sale or lease of
 22 state agricultural or grazing land and submit its recommendations to the commissioner
 23 or hearing officer;

24 (5) act in an advisory capacity to the soil and water conservation
 25 districts in the state;

26 (6) act in an advisory capacity to the commissioner and director of the
 27 division of agriculture in the review of farm conservation plans for all state agricultural
 28 land sales in the ~~state~~ [ALASKA DISTRICT].

29 * Sec. 89. AS 42.05.381(e) is amended to read:

30 (e) The commission shall adopt regulations for electric cooperatives and for
 31 local exchange telephone utilities setting a range for adjustment of rates by a simplified

1 rate filing procedure. A cooperative or telephone utility may apply for permission to
 2 adjust its rates over a period of time under the simplified rate filing procedure
 3 regulations. The commission shall grant the application if the cooperative or telephone
 4 utility satisfies the requirements of the regulations. The commission may review
 5 implementation of the simplified rate filing procedure at reasonable intervals and may
 6 revoke permission to use the procedure or require modification of the rates to correct
 7 an error. [THE COMMISSION SHALL ADOPT THE REGULATIONS
 8 CONCERNING ADJUSTMENT OF RATES BY LOCAL EXCHANGE TELEPHONE
 9 UTILITIES ON OR BEFORE OCTOBER 1, 1991.]

10 * Sec. 90. AS 42.05.531 is amended to read:

11 Sec. 42.05.531. Distribution of surplus and profits. The surplus and profits
 12 of a ~~public utility~~ [PUBLIC UTILITIES] shall be distributed in accordance with the
 13 bylaws or ordinances controlling the utility.

14 * Sec. 91. AS 42.40.430 is amended to read:

15 Sec. 42.40.430. Acquisition of government property. The corporation, as an
 16 instrumentality of the state, may acquire in its own name from the United States under
 17 [50 U.S.C. APP. 1622 - 1622C (SURPLUS PROPERTY ACT OF 1944),] 40 U.S.C.
 18 471 et seq. (Federal Property and Administrative Services Act of 1949) [,] or other
 19 law, property under the control of a federal department or agency that is useful for the
 20 corporation's purposes. The corporation may acquire from the Department of
 21 Administration property of the state made available under AS 44.68.110 - 44.68.140.

22 * Sec. 92. AS 43.23.065(b) is amended to read:

23 (b) An exemption is not available under this section for permanent fund
 24 dividends taken to satisfy

25 (1) child support obligations required by court order or decision of the
 26 child support enforcement agency under AS 25.27.140 - 25.27.220;

27 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,
 28 or AS 47.12.120(b)(4);

29 (3) claims on defaulted ~~education~~ [SCHOLARSHIP] loans under
 30 AS 43.23.067;

31 (4) court ordered fines;

SESSION LAWS

STATE OF ALASKA

TWENTY-SECOND LEGISLATURE

First Session

January 8, 2001 -- May 8, 2001

First Special Session

June 7, 2001 -- June 9, 2001



VOLUME I

Legislative Affairs Agency
Juneau, Alaska

terminal facilities, including docks and tanker loading facilities, operation control centers for both the upstream part of the pipeline and the terminal, tanker ballast treatment facilities, fire protection system, communication system, and all other facilities used or necessary for an integral line of pipe taken as a whole, to carry out transportation, including an extension or enlargement of the line;

* Sec. 16. AS 38.95 is amended by adding a new section to article 3 to read:

Sec. 38.95.085. Definitions for AS 38.95.075 - 38.95.085. In AS 38.95.075 - 38.95.085,

(1) "commissioner" means the commissioner of natural resources;

(2) "director" means the director of the division of lands.

* Sec. 17. AS 40.15.050 is amended to read:

Sec. 40.15.050. Plats legalized. All plats filed or recorded with the recorder before March 30, 1953, whether executed and acknowledged in accordance with this chapter or not, are validated and all streets, alleys, or public thoroughfares shown on these plats are considered to be dedicated to public use. The last plat of the area of record on March 30, 1953, is the official plat of the area as of that date, and the streets, alleys, or thoroughfares shown on it are considered to be dedicated to public use. The streets, alleys, or thoroughfares shown on an earlier plat of the same area, or any part of it, that are [WHICH IS] in conflict with those shown on the official plat are considered to be abandoned and vacated.

* Sec. 18. AS 41.10.100(b) is amended to read:

(b) The board shall also

(1) receive and review reports concerning the use of soil resources of the state;

(2) hold public hearings and meetings to determine whether land in the state is being used in a manner consistent with sound soil and water conservation practices;

(3) make recommendations for specific action necessary to provide for the effective and orderly development of agricultural, forest, and grazing land in the state;

(4) review an appeal by an applicant or lessee from a decision of the director of the division of lands [LAND AND WATER MANAGEMENT] concerning a sale or lease of state agricultural or grazing land and submit its recommendations to the commissioner or hearing officer;

(5) act in an advisory capacity to the soil and water conservation districts in the state;

(6) act in an advisory capacity to the commissioner and director of the division of agriculture in the review of farm conservation plans for all state agricultural land sales in the state.

* Sec. 19. AS 41.17.950(13) is amended to read:

(13) "riparian area" means

(A) the areas specified in AS 41.17.116(a) on private land in the coastal forest of spruce or hemlock;

(B) the areas specified in regulations adopted by the commissioner under AS 41.17.116(b) on private land outside the coastal forest of spruce or hemlock;

(C) the area 100 feet from the shore or bank of [OR] an anadromous or high value resident fish water body on state land managed by the department and on other public land;

* Sec. 20. AS 43.40.100(4) is amended to read:

(4) "user" means a person consuming or using motor fuel, who

[EITHER]

(A) purchases the fuel out of the state and ships it into the state for personal use in the state;

(B) manufactures the fuel in the state; or

(C) purchases or receives fuel in the state that is not taxed at the time of purchase or receipt or is taxed at a rate that is less than the rate prescribed by AS 43.40.010.

* Sec. 21. AS 44.81.245(9) is amended to read:

(9) a statement of the right of the equitable owner to nominate a person to assume the loan under AS 44.81.250(c) [AS 44.81.245];

**_____ SOIL & WATER CONSERVATION DISTRICT
SUPERVISOR OATH OF OFFICE**

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a Soil and Water Conservation District Supervisor to the best of my ability,

(Signature)

Date

(Printed Name)

WITNESS:

(Signature)

Date

(Printed Name)

**Alaska Department of Natural Resources
Alaska Association of Conservation Districts
and
USDA Natural Resources Conservation Service**

**OPERATIONAL AGREEMENT,
STRATEGY, and LONG-RANGE PROGRAM
PLAN**

2010 -2015

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Introduction

The State of Alaska, Department of Natural Resources (DNR) is responsible for the development and conservation of all non-game natural resources occurring on state owned land. DNR also provides programs and assistance to other agencies and private landowners for natural resource conservation and development throughout the state.

The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) provides technical assistance to private landowners by providing leadership in a partnership effort to help America's private landowners and managers conserve their soil, water, and other natural resources.

Alaska Soil and Water Conservation Districts (SWCDs) are State of Alaska authorized entities with the delegated authority to exercise the duties prescribed by the Commissioner of the Department of Natural Resources as provided in Alaska Statutes (AS) 41.10.

The Alaska Association of Conservation Districts (AACD) is a non-profit organization that performs administrative services for the soil and water conservation districts. AACD's board consists of a representative from each soil and water conservation district's board of supervisors.

Even though SWCDs perform an important service in Alaska, SWCDs lack a consistent and stable funding source as well as a strategy and long-range program plan. The SWCDs' efforts focus primarily on the development and execution of Annual Work Plans (AWP), which are approved, as appropriate, by the Commissioner of DNR and the State Conservationist for the NRCS if NRCS funds are utilized. Working with the agencies and available funding sources involved, each individual SWCD prepares and implements its own AWP.

For the purposes of this agreement, the term 'partner' is meant to encompass the following: federal and state agencies, municipalities, boroughs, city councils or assemblies, native or tribal organizations, private businesses or corporations, non-profit organizations, public service groups, homeowner associations, the University of Alaska or other public education entities, or private individuals.

Current SWCDs include:

Alaska (serves areas where other SWCDs do not exist)	Kenny Lake
Anchorage	Kodiak
Salcha-Delta	Mid-Yukon/Kuskokwim
Fairbanks	Palmer
Homer	Upper Susitna
Kenai	Wasilla

Purpose

This Operational Agreement, Strategy and Long-Range Program Plan is intended to guide the Department of Natural Resources, the Soil and Water Conservation Districts, the USDA Natural Resources Conservation Service, and the Alaska Association of Conservation Districts through the next five years, from 2010-2015.

The ***Purpose*** is to direct the SWCDs towards effective programs in soil and water conservation and to clearly define the roles and responsibilities between DNR, NRCS and the SWCDs as the AACD. SWCD Annual Work Plans, staff position descriptions, district committees, projects, programs, activities, and services will reflect this strategy and program plan. AWP's will be tailored to achieve annual progress towards the overall strategy and program plan goals.

The ***Strategy*** is to undertake the orderly development of land, for guiding settlement, and for conserving soil and water resources and controlling and preventing soil erosion.

The ***Long-Range Program Plan*** provides the means for articulating the projects, programs, activities, and services to be undertaken to implement this strategy. This document presents the vision and challenges for the future, a foundation upon which the Districts build their programs and ultimately serve the public.

This document reflects DNR's, and more specifically SWCDs, inter-relationship with the Alaska Association of Conservation Districts (AACD), and the Department of Natural Resources' Divisions. It also addresses the role of the Natural Resources Conservation and Development Board as an advisory entity to the Department of Natural Resources Commissioner.

This document also reflects DNR's and AACD's, through its member SWCDs, a similar functional and working relationship with the NRCS.

Memorandum of Agreement between the Alaska Department of Natural Resources, the Alaska Association of Conservation Districts, and the USDA Natural Resources Conservation Service

The Alaska Association of Conservation Districts (working with and under the direction of the Soil and Water Conservation Districts), the Department of Natural Resources, and the Natural Resources Conservation Service, agree that this document shall serve as a Memorandum of Agreement between the parties.

This Operational Agreement, Strategy and Long-Range Program Plan (Agreement) was prepared by the DNR, the AACD working under the direction of the Soil and Water Conservation Districts, and the NRCS. Both the DNR and NRCS are responsible for approving the Annual Work Plans of the SWCDs that are applicable to each agency.

Incorporated in this Agreement is the District Operations Manual and DNR Commissioner's delegation of authority to the SWCDs under AS 41.10.

Nothing in this agreement precludes the parties to this agreement, including the individual SWCDs, from entering into separate agreements with any of the parties to this agreement or other private or governmental agencies as long as such agreements are not in conflict to this agreement. Nothing in this agreement is intended to invalidate or modify the terms of any existing agreement between any of the parties to this agreement. Nothing in this agreement alters or limits any of the powers delegated to the SWCDs by DNR under AS 41.10.

Strategy and Long-Range Plan

Planning is the basic tool to develop programs. To develop and maintain effective programs, each districts' supervisors must identify local conservation needs and resource concerns; set corresponding goals; develop plans with clear, measurable objectives; ensure implementation; monitor programs or projects; and evaluate results.

SWCDs meet their delegated responsibilities and objectives by implementing their approved AWP's. These AWP's detail specific projects and activities on an annual basis that further the goals of this Strategy and Long-Range Program Plan.

The Long-Range Program Plan is an effort to improve, enhance and facilitate the programs and projects carried out by the SWCDs. This Strategy and Long-Range Program Plan provides a framework to DNR, NRCS, and AACD, working under the direction of the SWCDs, and other program and funding entities with the ability to address multi-year programs and projects in a comprehensive manner to ensure that they fit with the overall mission of DNR, NRCS and the SWCDs. SWCDs are also encouraged to develop individual 5-year plans and may refer to section 7.03 (pages 38-41) of the District Operations Manual for additional information.

Goals and Objectives

For the purposes of this agreement, these goals are assumed to be those of the DNR and the SWCDs. In implementing these goals and objectives, the SWCDs will work with federal, state, and other entities or agencies as appropriate or that may be the responsible authority. The goals and objectives include, but are not limited to, the following:

Goal: Consistent and Professional Management and Leadership

Objective: Establish direction within the framework of this Strategy and Long-Range Program Plan through state and local public input and annual work planning.

Objective: Maintain professional, legally defensible, personnel management and administration practices.

- Objective: Maintain sound accounting practices and fiscal management.
- Objective: Maintain existing SWCDs, expanding the existing boundaries when appropriate, and establish new districts throughout the state.
- Objective: Develop and maintain good relationships with current and potential partners including but not limited to: federal, state and local agencies and organizations.
- Objective: Maintain adequate staff to implement natural resource programs, projects, and to address issues.
- Objective: Update and maintain SWCD Operating and related manuals and reference materials as appropriate.

Goal: Education and Training

- Objective: Utilize the Canon Envirothon to educate high school students about the importance of conservation practices.
- Objective: Get Water Education for Teachers (Project W.E.T.) in Alaska's classrooms.
- Objective: Educate the public about invasive plants and develop programs for their control.
- Objective: Get Alaska's Awesome Soils education out to the public and to educators.
- Objective: Develop and provide training for district cooperators.
- Objective: Identify and participate in training sessions and seminars as continuing education for district supervisors and staff.
- Objective: Utilize the "Ag in the Classroom" program to educate students about the importance of sustainable agriculture.
- Objective: Participate in and support speech and poster contests to raise public awareness of conservation and resource issues, develop and maintain demonstration projects to provide for interactive public learning opportunities, develop and produce newsletters, brochures and other publications, and develop, support or participate in other outreach activities.

Goal: Soil Resources

- Objective: Identify, develop or utilize available programs to encourage and accomplish soil resources protection including soil erosion prevention and restoration programs.
- Objective: Protect agricultural and forest soil resources.

Goal: Water Resources

- Objective: Work with appropriate partners to assist in establishment of riparian buffers and utilization of best management practices (BMP's) needed for watershed protection and restoration.
- Objective: Develop and implement restoration and protection programs for essential wetlands.
- Objective: Develop and implement nutrient management and agricultural waste management programs.

Goal: Plant Materials/ Invasive Plants

- Objective: Develop and enhance a working relationship with the Division of Agriculture, Plant Materials Center regarding re-vegetation restoration projects.
- Objective: Identify and participate in NRCS' and other federal programs available to manage and control invasive plants.
- Objective: Organize and participate in demonstration projects.
- Objective: Develop and maintain noxious and invasive plant species eradication and management projects in cooperation with the State Noxious Weed Coordinator.

Goal: Forest Management and Development

- Objective: Work with partners on regeneration and forest thinning projects.
- Objective: Work with partners on regeneration techniques by species and by region.
- Objective: Participate in long-term study and demonstration projects focused on tree species, soil, and climate conditions.

Objective: Work with partners to establish forestry and wood lot programs and promote responsible timber harvest methods that sustain the wood fiber needs of the communities.

Objective: Work with the DNR Division of Forestry and other partners on wildland fire mitigation planning and projects.

Goal: Agriculture

Objective: Work with the Division of Mining, Land, and Water and Division of Agriculture to ensure agricultural land sale programs meet local and state needs.

Objective: Work with the Division of Agriculture in development of farm conservation plans.

Objective: Work with appropriate partners to protect Alaska's farms for future generations.

Objective: Work with the Division of Agriculture regarding the establishment of new agricultural producers, markets, and support of Alaska Grown.

Objective: Work with appropriate partners in the identification and establishment of grazing lease opportunities.

Goal: Climate Change and Renewable Energy

Objective: Provide assistance in distribution of information and in development of demonstration projects relating to renewable or alternative energy.

Objective: Increase landowner use and access to information and programs designed to impact climate by educating the public on the benefits of sustainable living practices and earth-friendly land and water management options.

Objective: Work with partners to develop "green infrastructure."

Objective: Participate in research and studies related to climate change and alternative energy sources by collecting and providing local information and input to the University of Alaska and other appropriate partners.

Objective: Work with appropriate partners in the identification and development of alternative energy sources including biofuels

including but not limited to those produced by Alaska farms, fisheries, and forests.

Emerging Issues

As part of the AWP development process, SWCDs should identify new proposals or partnerships and alert DNR and NRCS. The overall Strategy and Long-Range Program Plan will be reviewed at least every five-years to address these issues and the Strategic and Long-Range Plan will be amended accordingly. Such amendments will be accomplished with an "emerging issues summary" submitted annually as an accessory document to the AWP.

Organizational Structure and Functional Roles of the Parties

DNR

The Department of Natural Resources is directed by various state statutes to manage the natural resources (non-game) within the state. One of these responsibilities is the management of land and water resources. The Commissioner, under AS 41.10.130, delegates to the SWCDs powers as the Commissioner considers necessary to accomplish the purposes of soil and water conservation. The NRCDB, created under AS 41.10, performs as an advisory board at the request of the DNR Commissioner in the exercise of the Commissioner's powers under AS 41.10.110 and acts in an advisory capacity to the SWCDs. The NRCDB also has other specific duties under AS 41.10.100 which include:

- reviewing reports concerning the use of soil resources
- holding public hearings and meetings to determine whether land in the state is being used in a manner consistent with solid soil and water conservation practices
- make recommendations for the development of agricultural, forest, and grazing land in the state
- act in an advisory capacity to the soil and water conservation districts in the state
- advising the Commissioner and Director of the Division of Agriculture on farm conservation plans and state agricultural sales located within the Alaska SWCD
- making recommendations to the Commissioner regarding SWCD programs, projects, and state funding
- provide recommendations on other natural resource matters as requested by the Commissioner

The principal staff of the NRCDB is the Executive Director, housed within the Department of Natural Resources Commissioner's Office.

NRCS

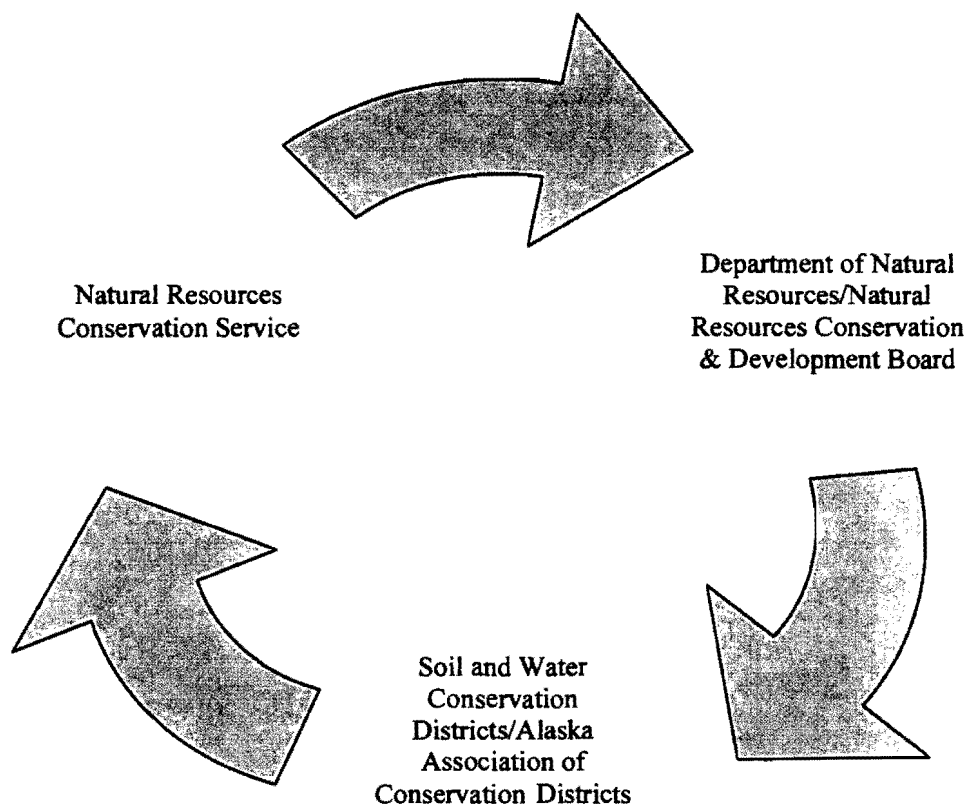
The U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) provides technical assistance to private landowners by providing leadership in a partnership effort to help America's private landowners and managers conserve their soil, water, and other natural resources.

NRCS provides technical assistance based on sound science and suited to a customer's specific

needs. They provide financial assistance for many conservation activities. Participation in NRCS programs is voluntary.

The NRCS Conservation Technical Assistance (CTA) program provides voluntary conservation technical assistance to land-users, communities, units of state and local government, and other federal agencies in planning and implementing conservation systems. These programs provide environmental, social, financial and technical benefits in such areas as clean water, ecological sciences, engineering, resource economics, and social sciences.

The NRCS is also responsible for working with individual SWCDs throughout the state and AACD, as the collective SWCDs.



The diagram above shows the flowing relationship between the three principal organizations. None of the organizations report to or are directly responsible for each other's programs. However, coordination between the entities is necessary for overall program management and functional organization.

SWCDs

The SWCDs are composed of at least 25 cooperators that are bona fide land users within the boundaries of their Districts. Each District is operated by a Board of Supervisors that are elected

by the cooperators in annual elections. Each District is self-governing and establishes programs and develops work plans that meet the needs of the cooperators within their District.

One of the goals of the SWCDs is to provide assistance to current and potential cooperators by distributing information concerning the district's services and the conservation issues within each district. They do this by communicating directly with landowners, schools, libraries, communities, villages, tribal governments and cooperators and acting as facilitators for the conservation of soil, water, agricultural and other natural resources. They are the most effective way of communication at local events such as school programs, town meetings, newsletters, state fairs, and outreach programs across the state.

The SWCDs also facilitate information sharing among agencies, non-governmental organizations, industry, academia and members of the public to increase communication and reduce redundancy among related activities, projects and programs.

Each SWCD is encouraged to seek funding and grants from other governmental and private entities that are not a part of this agreement.

All Districts are members of the AACD.

AACD

The AACD Board consists of an elected representative from each SWCD. The AACD's principal role is to provide administrative services, act as the employer of record for the SWCDs and to seek funding as a collective body of the SWCDs. AACD disseminates funds to the SWCDs awarded to AACD and serves as liaison to said funding sources regarding reporting and financial accountability.

The AACD is a non-profit Alaska Corporation founded by all the SWCDs to handle personnel and administrative matters for the Districts. The AACD is directed by a Board of Directors made up of one voting representative from all the SWCDs.

The AACD principal staff is a Chief Administrative Officer who is responsible for the day-to-day operations of AACD and providing administrative and personnel services to the SWCDs.

Preparing and Prioritizing Proposals for Programs, Projects, Activities and Services

The SWCDs make recommendations to the DNR and NRCS for programs, projects, activities and services to offer. The AACD and NRCDB will work together to review and provide comments regarding legislation or other proposals that may affect the soil and water conservation districts as requested by DNR and/or NRCS. In the case of a disagreement between AACD and NRCDB regarding the above matters, the DNR and/or NRCS will try to resolve any conflict or disagreement. However, it is recognized that both the DNR and NRCS are individually responsible for prioritizing programs, projects, activities, services, and financial obligations created through their organizations. Conflict resolution processes do exist and can be utilized in the case of a disagreement between a SWCD or AACD and NRCS or any other

federal agency. More information on these processes can be obtained from NRCS or any other federal agency. Conflicts between a SWCD or AACD and DNR will be mediated by a Deputy Commissioner with the assistance of the Department of Law if necessary.

Coordination of Annual Work Plans

Annual Work Plans (AWPs) shall be prepared by the SWCDs for submittal to DNR and AACD as required by the annual cooperative agreement executed by DNR with the SWCDs. While a combined AWP including both NRCS and DNR required components may be a future possibility, the District Operations Manual contains current guidelines and a template for AWP preparation and submittal to DNR and AACD. SWCDs shall follow the District Operations Manual until such time as a new template is approved by DNR and the SWCDs. SWCDs are responsible for working with NRCS to develop and submit AWP or work contracts satisfying NRCS' requirements. An Annual Report will be prepared by each SWCD based on their District's prior year AWP. The NRCDB Executive Director will work with AACD to compile these individual SWCD reports into one document available for distribution as appropriate.

Evaluating Progress and Measuring Success

Under this Strategy and Long-Range Program Plan, the DNR Commissioner and, where appropriate, the NRCS State Conservationist will assess the districts accomplishments annually based on the AWP and the collective Annual Report. DNR, NRCS, and AACD will review this agreement, the delegated powers, Strategies, and Long-Range Program Plan at least every five years.

The Strategy and Long-Range Program Plan (SLRPP) and AWP can be amended or supplemented at any time, but particularly on an annual basis with individual SWCDs when specific soil and water conservation programs, projects, activities and services are identified.

Administrative Provisions

Period of Performance

This Operational Agreement, Strategy and Long-Range Program Plan takes effect upon signature of all the parties.

Termination

This Operational Agreement, Strategy and Long-Range Plan may be terminated by any of the signatories to this document upon thirty (30) days written notice to the other parties to the agreement.

This Operational Agreement, Strategy, and Long-Range Plan may also be terminated immediately with the mutual written consent of all the parties at any time.

Integration

This Operational Agreement, Strategy, and Long-Range Plan, any appendices, and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Operational Agreement, Strategy, and

Long-Range Plan shall supersede all previous communications, representations or agreements, either oral or written, between the parties. Exceptions to this include; the District Operations Manual, individual agreements or work contracts between SWCDs or AACD and NRCS or any other potential or current funding source, individual agreements each SWCD executes with AACD, and the annual cooperative agreements between DNR and SWCDs.

Severability

If any section or clause of this Operational Agreement, Strategy, and Long-Range Plan is held invalid by a court of competent jurisdiction, or is otherwise invalid under law, the remainder of this Operational Agreement, Strategy, and Long-Range Plan shall remain in full force and effect.

Interpretation and Enforcement

The parties, following negotiations between them, are executing this Operational Agreement, Strategy, and Long-Range Plan. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this Agreement are not to be construed as limitations or definitions but are for identification purposes only.

No Third-Party Beneficiaries

It is specifically agreed between the parties executing this Operational Agreement, Strategy, and Long-Range Plan that it is not intended by any of the provisions to create in the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

Signatures of the Parties

Alaska
Department of Natural Resources

USDA
Natural Resources Conservation Service



Dick LeFebvre,
Deputy Commissioner

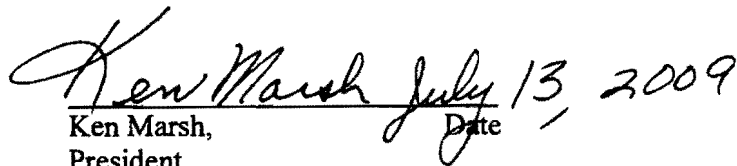
July 10, 2009
Date



Robert Jones,
State Conservationist

7/13/09
Date

Alaska Association of Conservation Districts



Ken Marsh,
President

**PETITION TO AMEND OR FORM SOIL AND
WATER CONSERVATION DISTRICT (AS 41.10)**

The undersigned are qualified land users as defined under AS 41.10 and hereby petition the State of Alaska, Department of Natural Resources, Natural Resources Conservation and Development Board, for

(check one)

- ☐ establishment of a new district.
☐ a boundary change to the _____ Soil and Water Conservation District.

Our proposed boundary map is attached. Our point of contact is:

Name (please print)

Mailing address

Email

Phone

	Name (please print)	Signature	Mailing Address	Email	Phone	Renewable resource produced (AS 41.10.140(2)(A))
1						
2						
3						
4						
5						

	Name (please print)	Signature	Mailing Address	Email	Phone	Renewable resource produced (AS 41.10.140(2)(A))
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						

Division of General Services

Department of Administration



Level I Procurement Manual

(Up to \$5,000)

State of Alaska Level I Procurement Manual (Up to \$5,000)

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State of Alaska Level I Procurement Manual (Up to \$5,000)

Chapter 1: Introduction

The purpose of this manual is to provide guidance to State of Alaska Executive Branch employees (excluding agencies exempt from AS 36.30) who need to purchase goods and services up to \$5,000. The guidelines provided in this manual are in accordance with Alaska Statute 36.30, Alaska Administrative Code 2 AAC 12, Alaska Administrative Manual Sections 81 and 82, and Department of Administration's written purchasing delegation.

Prior to performing any procurement you must receive a written procurement delegation from your Agency.

If your procurement authority is greater than \$2500 and less than \$5,000, you must also signify your understanding by submitting the Level I Procurement Certification application form located at the back of this manual to your department's procurement section.

This manual does not address each department's policies and procedures. It is incumbent upon you to ensure your procurements comply with your department's internal policies and procedures. Any requests for procurement guidance or questions regarding the content of this manual should be directed to your department's procurement section.

Procurement is defined as any expenditure of money appropriated to an agency or spent by an agency irrespective of its source, including federal assistance, to acquire goods or services.

Chapter 2: Ethics/Violations

Ethics:

As public employees, we are required to comply with the Alaska Executive Branch Ethics Act (Code of Ethics), AS 39.52. Public employees may not use their positions for personal gain or to give unwarranted benefit or treatment to any person or business. The Code of Ethics equates public employment to public trust. Any effort to benefit a personal or financial interest through official action is a violation of that trust.

You should avoid even the appearance of a conflict of interest. In case of a potential conflict of interest, advise your supervisor. For example, if a family member works at an auto parts store and you have been asked to purchase auto parts, you should disclose the matter to your supervisor. The procurement should probably be assigned to a co-

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worker to avoid the appearance of a conflict of interest. All procurements must be conducted in a fair and impartial manner.

Violations:

If you violate purchasing statutes, regulations, or administrative manual, regardless of the cause, it is the responsibility of your department to prepare a violation report in accordance with Section 82.320 of the Alaska Administrative Manual for review by the Chief Procurement Officer.

AS 36.30.930 states that a person who contracts or purchases in a manner the person knows to be contrary to the requirements AS 36.30 or 2 AAC 12 is liable for all costs and damages to the State arising out of the violation. A person who intentionally or knowingly contracts or purchases under a scheme or artifice to avoid the requirements of AS 36.30 or 2 AAC 12 is guilty of a class C felony.

Violations of procurement statutes, regulations, the administrative manual, or the terms set forth herein may be cause for revocation of purchasing authority and certification, disciplinary action up to and including dismissal, and/or prosecution under AS 36.30.930.

Chapter 3: Existing Contracts and Procurement Restrictions

There are some goods and services that State agencies must procure from a specific source, or are prohibited from procuring. Contact your department's procurement section for guidance regarding the following contracts and procurement restrictions:

3.1 State Contract Awards (CA):

State Contract Awards are contracts entered into by the Department of Administration, Division of General Services, usually for common items used by State agencies. Contract Awards may be designated as "mandatory" or "non-mandatory." Mandatory contracts require all agencies to procure the items or services from the designated contractor or vendor. Agencies are encouraged to use non-mandatory contracts whenever practicable as they generally result in savings for the State and the procuring agency.

All Contract Awards and the specifics of each are identified in the Contract Award Manual maintained on the Department of Administration's, Division of General Services' website at: <http://doa.alaska.gov/dgs/cam/index.html>

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3.2 Agency Established Contracts:

Individual agencies also establish contracts. For a list of contracts established by your department, contact your procurement section.

3.3 Telecommunications:

Procurement of data communication and telecommunication equipment must be coordinated with DOA/ETS. The following purchases must be coordinated through your department's procurement section prior to submission to DOT/ETS:

- Telephone systems, telephone key systems, telephones (including cell phones), automated attendant, and automated call sequencers;
- Teleconferencing, electronic navigation, image transmission, and video conferencing equipment;
- Data communication equipment, bridges, multiplex equipment, modems (except Hayes compatible PC dial-up modems), routers, and terminal control units;
- Lines, circuits and switches; and
- 2-way radios.

Contact your department's procurement section for procedures to obtain these items. Agencies must also ensure information technology systems, solutions, and services are compliant with State Information Technology and Security Policy and statewide Technology Management Council (TMC) standards.

3.4 Legal Services:

Procurement of legal services requires prior written approval from the Department of Law.

3.5 Construction Procurements:

Construction related procurements are under the statutory authority of the Department of Transportation and Public Facilities (DOT&PF), who may delegate limited authority for these types of procurements to other agencies or directly assist agencies with these types of procurements.

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3.6 Vehicles:

Vehicle procurements are under the statutory authority of the Department of Transportation and Public Facilities (DOT&PF).

3.7 Office Leases:

Acquiring and/or amending office leases is prohibited.

3.8 Unauthorized Expenditures:

Expenditures not essential to State operations are not authorized per the Alaska Administrative Manual, Sec. 35.150. In many cases, these items appear to benefit the individual employee rather than the State. Purchases for personal letterhead stationary, nonessential furniture, coffee, donuts, dues for personal membership, and similar items that are not considered as essential in the administration or conduct of a State office are generally prohibited. Your Commissioner may approve the purchase of food and other items of a personal nature under certain circumstances.

Chapter 4: Procurement Exemptions

In some instances, the procurement of certain goods and services may be exempt from the procurement code or require a less formal or different process. Some of these goods or services are listed below. If you need to acquire goods or services or enter into agreements that fall into these categories you should contact your procurement section for assistance.

4.1 Exemptions to AS 36.30:

AS 36.30.850 (b) and Addendum 1 to Sections 81/82 of the Alaska Administrative Manual provide a listing of specific exemptions from the procurement code.

4.2 Employment Programs and Youth Education and Employment Programs:

In accordance with AS 36.30.311 and 2 AAC 12.050, you may purchase directly from certified employment programs or accredited youth education and

State of Alaska Level I Procurement Manual (Up to \$5,000)

employment programs if you deem it reasonable to use these type programs. You must determine in writing that the supplies or services meet the State's requirements and the price represents a reasonable cost.

4.3 Agreements With Other State of Alaska Agencies:

You must comply with AS 37.07.080(e) and the subsequent Reimbursable Services Agreement (RSA) process when entering into agreements between State agencies that require the transfer of funds between State agencies. For further information you should contact your department's procurement or fiscal section.

4.4 Agreements With Other Governmental Units:

AS 36.30.850 (c) allows State of Alaska agencies to enter into agreements with local, other state, or federal agencies without following the provisions of AS 36.30.

4.5 Federal Supply Schedules:

The State is not authorized to procure from Federal Supply Schedules.

Chapter 5: Basic Purchasing (0 - \$5,000)

Once it is determined that the goods or services you wish to procure are not covered under an existing contract, restricted, or exempt from routine purchasing – the goods or services shall be procured in accordance with the processes and procedures discussed in this section.

5.1 Ensure that the entire amount of the procurement does not exceed \$5,000:

For example:

- The entire amount of an equipment lease is based on the initial payment, monthly lease amounts, and final payment.
- The entire amount of a service contract includes the initial term and all possible renewals.

Per AS 36.30.320 (d) and the State Administrative Manual (Section 81.020), procurement requirements may not be artificially divided or fragmented. Artificial

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fragmentation also includes splitting an invoice for an item or group of items in order to stay within the limit of your procurement delegation.

While there is no definition of artificial division or fragmentation which could address every possible circumstance; when deciding if a division you are considering is artificial or natural, you should use the following guidelines:

Price: The higher the price of a group of items, the more likely they should be consolidated into one purchase.

Similarity of Product: The more similar the product or the more possible it is to find a group of products from one type of vendor, the more likely that items should be consolidated into one purchase.

Predictability: The more predictable the procurement of similar products is, (i.e., you buy the same items every week or every month and store them for use later) the more likely items should be consolidated for periodic purchases.

5.2 Solicitation of Alaska Vendors:

The minimum number of quotes or proposals must be sought from Alaskan vendors prior to soliciting any non-Alaskan vendors unless you determine in writing that soliciting the minimum number of quotes or proposals from Alaskan vendors is not practicable. For example, if you determine that it is reasonable to solicit two vendors for a \$3,500 requirement, those two vendors must be located in Alaska unless you determine in writing that it is impractical to solicit two quotes from Alaska vendors. If it is reasonable to solicit only one vendor for a \$400 requirement, that vendor must be located in Alaska unless you determine in writing that it is impractical to solicit one quote from an Alaska vendor.

5.3 Alaskan Preferences:

Various bidder and product preferences apply to small procurements. The most common is the Alaska Bidder Preference:

Alaska Bidders Preference: Alaskan companies that meet the requirements established by AS 36.30.170(b) must receive this preference. The preference is applied, for evaluation purposes only, by reducing the proposed price by 5 percent.

For example:

A non-Alaskan vendor submits a price of \$4,800 and an Alaskan vendor, who qualifies under AS 36.30.170(b), submits a price of \$5,000. The Alaskan vendor's price is reduced by five percent

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to \$4,750. The Alaskan vendor now has the lowest priced offer and will receive the award. However, the Alaskan vendor will be paid \$5,000.

Additional preferences which may apply to your procurement are listed below:

Alaska Veteran Preference	AS36.30.175
Alaska Offerors	2 AAC 12.260(e) Applied to informal proposals only
Employment Program	AS 36.30.170(c)
Alaskans with Disability	AS 36.30.170 (e)
Employers of People with Disabilities	AS 36.30.170 (f)
Alaska Products	AS 36.30.332
Recycled Products	AS 36.30.337
Local Agriculture & Fisheries Products	AS 36.15.050

Guides to the various preferences are available at the Division of General Services' web site: <http://doa.alaska.gov/dgs/policy.html>

5.4 When purchasing services, determine that an employer/employee relationship will not exist:

If the services you require would result in an employer/employee relationship, you must hire the person through the personnel system, not the procurement system. The State cannot hire employees through the procurement process.

However, the procurement process may be used to acquire the services of an independent contractor. You must ensure an employer/employee relationship will not exist before using the procurement system. If you are not sure, check with your department's procurement staff. The following conditions are indicators that an employer/employee relationship may exist:

- the person is subject to the control of the state, not only as to what will be done but when, where, and how it will be done. It is not necessary that the state actually direct or control the manner in which services are performed, if the state has the right to do so;
- the state has the right to discharge the person;
- the state furnishes the tools, equipment, and a place to work for the individual performing the services.

The following conditions are indicators that people are independent contractors:

- they are subject to control or direction of the state only as to the result to be accomplished and the work to be done, not as to the means and methods for accomplishing the result;

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- they are in business providing a service to the public from which they may derive a profit or suffer a loss.

5.5 **When purchasing services, determine whether the services are professional or non-professional:**

Professional services are defined as services that are predominately professional, technical, or consultative in character. They include analysis, evaluation, prediction, planning, or recommendation, and result in the production of a report or the completion of a task. The award of a professional services contract is usually based on price and multiple evaluation factors. You should contact your department's procurement section for assistance when procuring professional services.

5.6 **Insurance requirements for service contracts:**

If you are procuring a professional or non-professional service, your contract must include insurance form Appendix B1 (available online at DGS's web site) and you must obtain a copy of the contractor's Certificate of Insurance before they begin work. Any waiver to the requirements of Appendix B1 requires prior approval of the Division of Risk Management. Waivers may be requested via email.

5.7 **Contacting (soliciting) a reasonable and adequate number of vendors:**

Reasonable and adequate procedures must be used for procurements of \$5,000 and less. Reasonable and adequate procedures are defined as:

"procedures that ensure fairness to potential offerors and competition commensurate with the circumstances of the procurement, considering price, mission requirements, and available competition; reasonable and adequate procedures includes contacting only one potential offeror in appropriate circumstances"

You shouldn't always contact the same vendors. However, vendors that have previously provided goods and services do not have to be excluded.

When determining whether the number of vendors you plan to solicit for a quote or informal proposal is reasonable and adequate, you should consider the following:

Price: The higher the price, the more competition you should seek;

Mission Requirements: If delay will hamper your mission, less competition is acceptable;

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Competition: The more vendors who can meet your need, the more competition you should seek.

For example, if several vendors could provide an item or service valued at \$1,200 and there was no immediate urgency to complete the procurement, it may be reasonable to obtain two or three quotes. If the item or service costs \$4,700, it may be reasonable to obtain at least three quotes. However, if conditions require an immediate purchase, or if only one vendor can supply the item or service, it would be acceptable to contact only one vendor.

If you determine it is reasonable to solicit two vendors and one vendor submits a quote, but the other vendor declines because the item is out of stock, you have met the requirement to solicit two quotes.

Reasonable and adequate procedures do not apply when using the State designated purchasing card for purchases of \$2,500 and less. Procurements may be made with the state purchasing card after receiving only one quotation or informal proposal. However, when using the purchasing card for procurements between \$2,501 and \$5,000 you must contact a reasonable and adequate number of vendors.

5.8 Soliciting quotes or informal proposals:

You may solicit quotes or informal proposals to acquire goods, services, or professional services. If you solicit quotes, the award will be based on the lowest price received. If you solicit informal proposals, price must still be a factor, but you may evaluate other factors as well.

You may use established prices in place of direct contact with a vendor provided the catalog or price list is regularly maintained by a manufacturer or contractor. When using catalogs, the cost of delivery must be calculated and included when determining the lowest priced offer.

5.9 Written or verbal solicitations:

You may conduct the solicitation process either verbally, or in writing. A verbal process may be used for simple purchases by contacting the vendor(s) and reciting the requirements. However, a written solicitation process should be used for complex requirements and when soliciting informal proposals. A written solicitation process will ensure that all vendors receive the same information, reduce confusion, and reduce the number of protests.

Written Solicitation:

This document should specify the goods or services desired, describe the type of response expected from offerors, and how the responses will be evaluated.

State of Alaska Level I Procurement Manual (Up to \$5,000)

The actual solicitation document will vary depending on the type of goods or services being procured.

A description or specification should list all the essential characteristics that are necessary for the goods or service to meet your mission related needs. Specifications should include items grown or manufactured in Alaska whenever practical.

If no other manner of description will suffice except that of a brand name specification, you may limit offers to a specific brand and model number or catalog number.

The written solicitation document should include:

- Specifications of the goods you wish to acquire, including all specific brands and/or comparable items if appropriate, and when delivery is required. You should also specify the delivery location and state that the price offered by the vendor is the delivered price at that location.
- Specifications of the services required, end result of the services desired, and timeframe of the services.
- Statement of whom to contact if an offeror has a question or requires clarification.
- A listing of applicable Alaskan preferences with a citation of the governing statute or regulation.
- Discussion of what is expected from an interested offeror, i.e. submission of price when soliciting quotes; or submission of a proposal when soliciting informal proposals.
- Statement as to location, dates, and time offeror's response is due.
- Brief discussion on how the award will be made. When soliciting quotes, the award is made to the responsive and responsible offeror that submits the lowest price. When soliciting informal proposals, the award is made to a responsive and responsible offeror based on price and multiple evaluation factors as identified by the procuring agency. A "responsive and responsible offeror" means a firm or person that is capable of performing the work and submits an offer that conforms in all material respects to the solicitation.

To assist in the preparation of a solicitation document, check with your procurement section to obtain boilerplate solicitation documents:

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- The Request for Quotation (RFQ) solicitation document is a standard state form that is usually used when procuring goods and services. The award will be based on the lowest price received.
- Your department may have an Informal Request For Proposals (IRFP) solicitation document that is used when the award is based on price and multiple evaluation factors as identified by the procuring agency.

To avoid confusion and protests, once the solicitation document is released:

- Do not give one or some offeror's advanced and/or additional information. Provide the same information to all potential offerors at the same time.
- Carefully consider questions or criticisms raised by potential offerors in response to your solicitation. Be willing to modify your specifications if warranted. Inform all potential offerors of any changes.

Verbal Solicitation

You may perform the solicitation verbally by contacting each potential offeror and reciting the requirements. Perform the same process as described under the Written Solicitation section of this manual, but instead of issuing a written document, contact the vendor(s) and recite the requirements.

5.10 Receipt and Evaluation of Offeror's Responses:

Depending on the method of solicitation, responses will be received and evaluated.

- If an RFQ was issued, an offeror's response will consist of providing a price. After the application of applicable Alaskan preferences, the award goes to the offeror with the lowest price.
- If an IRFP was issued, an offeror's response will consist of a proposal in which the offeror provides an explanation of how the goods or services would be provided and a price. The proposal is then evaluated based on the multiple criteria and weighting of each as specifically stated in the solicitation document. Price is only one of multiple evaluation factors. Award goes to the offeror who receives the highest score.

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- When only one response is received, the procurement may be awarded to that offeror.
- If you think an offeror may be non-responsive, you should contact your department's procurement section. Typically an offeror is declared non-responsive because they failed to comply with your specifications.
- If a tie exists between two or more responses, award shall be made through a random drawing (2 AAC 12.900). The award shall not be divided.
- Do not allow offerors to change their submissions after the deadline, unless you amend the solicitation and give everyone the same opportunity to modify their offer.
- Do not disclose the content of any offeror's submission to other offerors until after the apparent successful offeror has been selected.
- After evaluation notify the successful offeror. You may issue a confirming procurement document such as a Delivery Order for goods and services, or a professional service contract for professional services. A written professional services contract may consist of a one-page letter stating the contract is the essence of their proposal or you may use the professional services contract forms and appendices normally used for higher level dollar values.
- Your role in the procurement process should continue until the goods are delivered, or the services have been performed. If the contractor fails to perform in accordance with the terms and conditions of your contract, contact your department's procurement section for guidance.

5.11 Documentation:

Agencies are required to make records that facilitate the auditing of purchases:

For purchasing card purchases of \$2,500 and less*, agency records shall be maintained in accordance with the P-Card Users Manual.

For all other purchases of \$5,000 and less*, agency records shall identify who is responsible for the purchase, item or service acquired, and the vendor's name and price.

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Agency records that identify only one vendor, such as an invoice, will be construed to mean that reasonable and adequate procedures for that procurement involved contacting a single vendor.

If you determine that reasonable and adequate procedures involve contacting more than one vendor, agency records shall identify each vendor solicited and their response.

* Include written determination if it's impracticable to solicit the minimum number of quotes or informal proposals from Alaska vendors only (ref. section 5.2).

Chapter 6: Protest Procedures for Procurements less than \$5,000

An offeror is allowed to protest your solicitation or the award of a contract in accordance with 2 AAC 12.695. However, an offeror is required to contact you and attempt to informally resolve a dispute before filing a protest with your Commissioner or designee. If you become aware of a situation that could result in a protest, contact your department's procurement section immediately.

Now that you have completed this manual, forward the following "Level I Procurement Certification" request form to your department's certification program administrator. The information may also be transmitted via email.

After receipt, your department will be allowed to delegate purchasing authority to you for the purchase of supplies and services valued at \$5,000 and less.

This certification is required for purchases greater than \$2,500.

State of Alaska Level I Procurement Manual (Up to \$5,000)

Request for Level I Procurement Certification

Name:	Telephone No:
Department:	Fax No:
Agency/Section:	Email Address:
Address:	Supervisor's Name:
City, State, Zip:	Supervisor's Telephone No:

I certify that I have read and understand this Level 1 Procurement Manual. I agree to be held accountable for the competent, effective, legal, and ethical interpretation and application of this information.

Name/Work Title

Date

SMALL PROCUREMENT MATRIX

SUPPLIES

SERVICES

PROFESSIONAL SERVICES

CONCESSION CONTRACTS

(03/07)

PRICE OF PROCUREMENT	MINIMUM COMPETITION REQUIRED	FORMS USED BY AGENCY	PUBLIC NOTICE REQUIREMENT	AWARD METHOD	KEEP IN PROCUREMENT FILE
\$2,500 Or Less Using State Purchasing Card AS 36.30.320 & 2 AAC 12.400(a)	One quote or direct purchase. May not artificially fragment the purchase to avoid a higher level of competition. One quote or informal proposal must be solicited from an Alaskan vendor prior to soliciting non-Alaskan vendors, unless the procurement officer determines in writing that soliciting quotes from Alaskan vendors is not practicable.	See Purchasing Card Manual.	No minimum requirement.	Low quote or direct purchase.	See Purchasing Card Manual. Identify agency official responsible for the purchase of supply or service and the vendor's name and price. If procedures involve contacting more than one vendor, identify each vendor solicited and their response. Written determination if impracticable to solicit one quote or informal proposal from Alaska vendors only.
\$5,000 or Less* AS 36.30.320 & 2 AAC 12.400(b) *Reasonable and adequate procedures also apply to certain higher value procurements up to \$25,000, see 2 AAC 12.400 (b). TOTAL value of procurement must include all options to renew or extend. For example: <ul style="list-style-type: none"> If contract runs for 3 years, it is the total for the 3 years. If contract runs for 1 year with 2 one-year renewal options, it is the total for 3 years. If professional service, ensure contract meets definition per AAM 81.430.	Use reasonable and adequate procedures that ensure fairness to potential offerors and competition commensurate with the circumstances of the procurement considering price, mission requirements, and available competition. Quote(s) or informal proposal(s) must be solicited from Alaskan vendors prior to soliciting non-Alaskan vendors, unless the procurement officer determines in writing that soliciting quotes from Alaskan vendors is not practicable. May not artificially fragment the purchase to avoid a higher level of competition. Postings in electronic media may satisfy the competitive solicitation requirement.	Delivery Order, invoice, or other forms that provide record keeping and accountability. <i>Professional Services contracts must be in writing. The ASPS form may be required by Agency P&P (if used, the number is assigned by agency).</i>	No minimum requirement.	Select the low quote or most advantageous proposal. Include 5% Alaska Bidder Preference, 10% Alaskan Offerors Preference (for informal proposals if a numerical rating system is used), and all other statutory and regulatory preferences that apply. Written determination required if awarding to a nonresident (AS 36.30.362). Protest procedures under 2 AAC 12.695 apply.	Identify agency official responsible for the purchase of supply or service acquired and the vendor's name and price. Copy of contract and any amendments. If reasonable and adequate procedures involve contacting more than one vendor, identify each vendor solicited and their response. Written determination if impracticable to solicit three quotes or informal proposals from Alaska vendors only. Written determination if awarding to a nonresident (AS 36.30.362). <i>Copy of ASPS, (if used).</i>

ESTIMATED PRICE OF PROCUREMENT	MINIMUM COMPETITION REQUIRED	FORMS USED BY AGENCY	PUBLIC NOTICE REQUIREMENT	AWARD METHOD	KEEP IN PROCUREMENT FILE
<p>\$5,001 to \$25,000</p> <p>AS 36.30.320 & 2 AAC 12.400(c)</p> <p>TOTAL value of procurement must include all options to renew or extend. For example:</p> <ul style="list-style-type: none"> If contract runs for 3 years, it is the total for the 3 years. If contract runs for 1 year with 2 one-year renewal options, it is the total for 3 years. <p><i>If professional service, ensure contract meets definition per AAM 81.430.</i></p>	<p>At least three firms or persons shall be contacted for a quotation or informal proposals. The solicitation and responses may be either written or verbal.</p> <p>Seek minimum number of quotes or informal proposals from Alaskan vendors prior to soliciting non-Alaskan vendors, unless the procurement officer determines in writing that soliciting quotes from Alaskan vendors is not practicable.</p> <p>May not artificially fragment the purchase to avoid a higher level of competition.</p> <p>Postings in electronic media may satisfy the competitive solicitation requirement.</p>	<p>Delivery Order, invoice, or other forms that provide record keeping and accountability.</p> <p>RAP (form #02-100) if required.</p> <p><i>PROFESSIONAL SERVICES</i></p> <p><i>The ASPS form may be required by Agency P&P (if used, the number is assigned by agency).</i></p> <p><i>Standard Agreement Form (#02-093) and appropriate appendices, or a document that has been approved by the AG's Office.</i></p>	<p>Public notice of solicitation occurs when vendor is contacted for quote or informal proposal.</p> <p>Verbal notice of award provided if contacted by vendors.</p> <p>May use General Services vendor list. Rotate if used.</p>	<p>Award in accordance with the specifications and award criteria in the solicitation to the responsive and responsible offer providing the low quote or most advantageous informal proposal.</p> <p>Include 5% Alaska Bidder Preference, 10% Alaskan Offerors Preference (for informal proposals if a numerical rating system is used), and all other statutory and regulatory preferences that apply.</p> <p>Written determination required if awarding to a nonresident (AS 36.30.362).</p> <p>Informal RFP's must weight price no lower than 40% for professional/non-professional services and 60% for supplies, unless department Commissioner approves a waiver in advance.</p> <p>Protest procedures under 2 AAC 12.695 apply.</p>	<p>Identify person who made the solicitation, the specifications, award criteria, date of solicitation, date & time responses were due, names of offerors contacted, summary of verbal responses, copies of all quotes or informal proposals received, and justification for award, copy of contract, amendments and ASPS or RAP forms if used.</p> <p>Written determination if impracticable to solicit three quotes or informal proposals from Alaska vendors only.</p> <p>Written determination if awarding to a nonresident (AS 36.30.362).</p>
<p>\$25,001 to \$50,000</p> <p>AS 36.30.320 & 2 AAC 12.400(d)</p> <p>TOTAL value of procurement must include all options to renew or extend. For example:</p> <ul style="list-style-type: none"> If contract runs for 3 years, it is the total for the 3 years. If contract runs for 1 year with 2 one-year renewal options, it is the total for 3 years. <p><i>If professional service, ensure contract meets definition per AAM 81.430.</i></p>	<p>At least three firms or persons shall be contacted for a quotation or informal proposal. The solicitation and responses must be in writing.</p> <p>Seek minimum number of quotes or informal proposals from Alaskan vendors prior to soliciting non-Alaskan vendors, unless procurement officer determines in writing that soliciting quotes from Alaskan vendors is not practicable.</p> <p>May not artificially fragment the purchase to avoid a higher level of competition.</p> <p>Postings in electronic media may satisfy the competitive solicitation requirement.</p> <p>Service contracts above \$25,000 must be performed in the United States unless a waiver has been approved by the Chief Procurement Officer in advance.</p>	<p>Request for Quotation (form #02-110) and Addendum I as applicable, or Informal Request for Proposals (written).</p> <p>RAP (form #02-100) if required.</p> <p><i>PROFESSIONAL SERVICES</i></p> <p><i>The ASPS form may be required by Agency P&P (if used, the number is assigned by agency).</i></p> <p><i>Standard Agreement Form (#02-093) and appropriate appendices, or a document that has been approved by the AG's Office.</i></p>	<p>Public notice of solicitation occurs when vendor is contacted for quote or informal proposal.</p> <p>Written notice of award is sent to all vendors who provided a quote or informal proposal.</p> <p>May use General Services' vendor list. Rotate if used.</p>	<p>Notice of Award must be in writing to all vendors who responded to solicitation.</p> <p>Award in accordance with the specifications and award criteria in the solicitation to the responsive and responsible offer providing the low quote or most advantageous informal proposal.</p> <p>Include 5% Alaska Bidder Preference, 10% Alaskan Offerors Preference (for informal proposals if a numerical rating system is used), and all other statutory and regulatory preferences that apply.</p> <p>Written determination required if awarding to a nonresident (AS 36.30.362).</p> <p>Informal RFP's must weight price no lower than 40% for professional/non-professional services and 60% for supplies, unless department Commissioner approves a waiver in advance.</p> <p>Postings in electronic media may satisfy the notice of award requirement.</p> <p>Protest procedures under 2 AAC 12.695 apply.</p>	<p>A copy of the solicitation, the names of the firms or persons contacted and copies of all written quotations or informal proposals received, notice of award, and justification for award.</p> <p>Copy of contract and any amendments.</p> <p>Written determination if impracticable to solicit three quotes or informal proposals from Alaska vendors only.</p> <p>Written determination if awarding to a nonresident (AS 36.30.362).</p> <p>RAP (form #02-100) if used.</p> <p><i>Copy of ASPS, (if used).</i></p>

FORMAL PROCUREMENT MATRIX

REQUEST FOR PROPOSALS (RFP) PROCESS

SUPPLIES, SERVICES OR PROFESSIONAL SERVICES

PRICE OF PROCUREMENT	MINIMUM COMPETITION REQUIRED	FORMS USED BY AGENCY	PUBLIC NOTICE REQUIREMENT	AWARD METHOD	KEEP IN PROCUREMENT FILE
<p>Greater Than \$50,000</p> <p>AS 36.30.200</p> <p>The TOTAL procurement value must include all options to renew or extend. For example:</p> <ul style="list-style-type: none"> If contract runs for 1 year with 2 one-year renewal options, use the total value for all 3 years. <p>Purchase Requisition (form #02-099) must be sent to the Division of Enterprise Technology Services for telephone systems, radios, and other telecommunications equipment (see agency delegation of authority).</p> <p>Agencies are to submit requirements for construction, State Equipment Fleet vehicles, mobile homes, portable shelter units and prefabricated and/or sectional office, housing or shelter units directly to the Department of Transportation and Public Facilities.</p> <p>Agencies may not procure leased office space without a specific delegation of authority from the Division of General Services (DGS).</p>	<p>Issue formal Request for Proposals (RFP) in accordance with AS 36.30.130 and 2 AAC 12.130.</p> <p>The Competitive Sealed Proposals (CSP) process may be used for non-professional service contracts if the procurement officer determines in writing, with particularity, that the use of a CSP is more advantageous to the state than an ITB AS 36.30.200(b).</p> <p>No determination is required to use a CSP for professional service contracts.</p> <p>Service contracts above \$25,000 must be performed in the United States unless a waiver has been approved by the Chief Procurement Officer in advance.</p>	<p>Agencies should use DGS's RFP shell (see DGS's internet home page for copies of the document). Request for Proposal must contain:</p> <ol style="list-style-type: none"> date, time, place for delivery of proposals; specific description of service, supply or professional service; contract terms and conditions; sufficient information for an offeror to submit proposal; evaluation criteria and its relative importance or weight; and price must be an evaluation criteria. <p>If professional service, ensure contract meets definition per AAM 82.020.</p> <p>Clearly state all mandatory requirements.</p> <p>An ASPS form for Professional Services may be required by an agency's P&P (if used, the number is assigned by the agency).</p> <p>A Standard Agreement Form (#02-093) and appropriate appendices for Professional Services that has been approved by AG's Office.</p> <p>Delivery order may be used for non Professional Services contracts.</p> <p>RAP form (#02-100) if applicable.</p>	<p>Circulate RFP for 21 days unless procurement officer determines in advance and in writing that a shorter notice period is advantageous and adequate competition is anticipated. Agencies should "time/date" stamp proposal envelopes immediately upon receipt.</p> <p>Advertise on the State of Alaska Online Public Notice system and when practicable use at least one of the following advertising methods per AS 36.30.130 and 2 AAC 12.130:</p> <ul style="list-style-type: none"> DGS vendor list. Publication in a newspaper of general or local circulation. Notices posted in public places where work will be performed or material/supplies furnished. Publication in other appropriate media, including electronic media. <p>The Chief Procurement Officer must approve requests to provide out-of-state notice if it is impracticable to solicit only from Alaskan vendors.</p>	<p>Award is made to the proposal determined in writing to be the most advantageous to the state taking into consideration price and the evaluation factors in the RFP (AS 36.30.250).</p> <p>The evaluation committee is made up of a procurement officer, or at least three state employees or public officials (2 AAC 12.260).</p> <p>Only in-state residents can participate on the evaluation committee unless an exception is approved by the Commissioner of Administration (AAM 81.470).</p> <p>Include a 5% Alaska bidder preference, 5% Alaska veteran preference, 10% Alaskan offerors preference (if a numerical rating system is used), and all other statutory and regulatory preferences that apply.</p> <p>Only timber, lumber or manufactured lumber products originating in Alaska shall be used unless it is determined to be impracticable under AS 36.15.010.</p> <p>A valid Alaska business license is required at the time designated for opening of proposals (AS 36.30.210).</p> <p>You must issue a written Notice of Intent to Award (AS 36.30.365).</p> <p>A written determination required if awarding to a nonresident (AS 36.30.362).</p> <p>RFP's must weight price at 40% or higher for professional/non-professional services and 60% or higher for supplies, unless the Chief Procurement Officer approves a waiver.</p>	<p>Keep a copy of:</p> <ul style="list-style-type: none"> ASPS (if required by Agency P&P). RAP (if used). Original RFP. All proposals including late proposals. All RFP amendments. Register of Proposals prepared under AS 36.30.230 Vendor list or advertising order. Required licenses, permits, insurance coverage, etc. Relevant RFP correspondence. Written determination of award prepared under AS 36.30.250. Contract document. Procurement summary report prepared under AS 36.30.510 - 520. All determinations required by statute, regulation, or the Alaska Administrative Manual. Notice of Intent to Award. Protest, if filed; procurement officer's decision, protest report, appellant comments, appeal, Commissioner's decision if applicable. List of PEC members. All scoring sheets and notes. Confidential items identified under AS 36.30.230(a).

Note: Procurements for legal services must be approved in advance by the Attorney General's Office.
RFPs for Architects, engineers, and land surveys follow different procedures.

FORMAL PROCUREMENT MATRIX

INVITATION TO BID (ITB) PROCESS

SUPPLIES OR SERVICES

PRICE OF PROCUREMENT	MINIMUM COMPETITION REQUIRED	FORMS USED BY AGENCY	PUBLIC NOTICE REQUIREMENT	AWARD METHOD	KEEP IN PROCUREMENT FILE
<p>Greater Than \$50,000</p> <p>AS 36.30.100.</p> <p>The TOTAL procurement value must include all options to renew or extend. For example:</p> <ul style="list-style-type: none"> If the contract will run for 1 year with 2 one-year renewal options, use the total value for all 3 years <p>Purchase Requisition (form #02-099) must be sent to the Division of Enterprise Technology Services for telephone systems, radios, and other telecommunications equipment (see agency delegation of authority).</p> <p>Agencies are to submit requirements for construction, State Equipment Fleet vehicles, mobile homes, portable shelter units and prefabricated and/or sectional office, housing or shelter units directly to the Department of Transportation and Public Facilities.</p> <p>Agencies may not procure leased office space without a specific delegation of authority from the Division of General Services (DGS).</p>	<p>Issue a formal Invitation to Bid (ITB) in accordance with AS 36.30.130 and 2 AAC 12.130.</p> <p>Service contracts above \$25,000 must be performed in the United States unless a waiver has been approved by the Chief Procurement Officer in advance.</p>	<p>Agencies must use the Standard Terms and Conditions boilerplate, and High Tech boilerplate, if applicable (see DGS's internet home page for copies of the documents). The AG's Office must approve any changes to these documents.</p> <p>Agencies should use DGS's bidmast ITB shell (see DGS's internet home page).</p> <p>Delivery Order (form #02-601) may be used for contract document.</p>	<p>Circulate ITB for 21 days unless procurement officer determines in advance and in writing that a shorter notice period is advantageous and adequate competition is anticipated. Agencies should "time/date" stamp bid envelopes immediately upon receipt.</p> <p>Advertise on the State of Alaska Online Public Notice system and when practicable use at least one of the following methods per AS 36.30.130 and 2 AAC 12.130:</p> <ul style="list-style-type: none"> DGS vendor list. Publication in a newspaper of general or local circulation. Notices posted in public places where work will be performed or material/supplies furnished. Publication in other appropriate media, including electronic media. <p>The Chief Procurement Officer must approve requests to provide out-of-state notice if it is impracticable to solicit only from Alaskan vendors.</p>	<p>Award to the lowest responsive and responsible bidder per AS 36.30.170.</p> <p>Include in evaluation:</p> <ul style="list-style-type: none"> 5% Alaska bidder preference per AS 36.30.170(b). 5% Alaska veteran preference per AS 36.30.175. 3%, 5%, or 7% Alaska product preference per AS 36.30.332. 15% Employment program preference per AS 36.30.170(c). 10% Alaskans with disabilities preference per AS 36.30.170 (e). 10% Employers of people with disabilities preference per AS 36.30.170(f). 7% Local agricultural and fisheries product preference per AS 36.15.050. Recycled product preference per AS 36.30.337. <p>Only timber, lumber or manufactured lumber products originating in Alaska shall be used unless it is determined to be impracticable under AS 36.15.010.</p> <p>Valid Alaska business license required at the time designated for bid opening per AS 36.30.110.</p> <p>You must issue a written Notice of Intent to Award (AS 36.30.365).</p> <p>Written determination required if awarding to a nonresident per AS 36.30.362.</p>	<p>Copy of:</p> <ul style="list-style-type: none"> Original ITB. RAP (if used). All bids including late bids. All bid amendments. ITB bidlog. Vendor list or advertising order. The name of each bidder, bid prices, and other appropriate information tabulated under AS 36.30.140 and 2 AAC 12.150. Relevant ITB correspondence. Contract document. All determinations required by statute, regulation, or the Alaska Administrative Manual. Notice of Intent to Award. Protest, if filed; procurement officer's decision, protest report, appellant comments, appeal, Commissioner's decision if applicable.

STATE OF ALASKA

RECORDS RETENTION SCHEDULE FOR SOIL AND WATER CONSERVATION DISTRICTS

Draft
November 2005

Department of Natural Resources
Office of the Commissioner
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Anchorage, AK 99501
907-269-8431



INTRODUCTION

AS 40.2: Management and Preservation of Public Records

AS 40.21 requires the orderly management of local current public records and preservation of noncurrent public records that have permanent historical value. AS 40.21.060 says “the governing body of each political subdivision of the state shall promote the principles of efficient records management for local public records kept in accordance with state law. The governing body shall, as far as practical, follow the program established for the management of state records.”

Purpose of the General Retention Schedule

The purpose of the *General Records Retention Schedule* is to list and describe common filesets that local Soil and Water Conservation Districts administer and to recommend minimum retention periods. The *General Schedule* is meant as a guide. Each district should inventory its records and develop its own records program that addresses its unique requirements. As a result of such a program, unneeded documents may be discarded and less active records may be transferred to cheaper offsite storage, freeing up prime office space.

The General Schedule & Electronic Records

The *Soil and Water Conservation Districts Records Retention Schedule* applies to records regardless of their physical format. Therefore, records created or maintained as the “Record Copy” in electronic format must be retained in accordance with the minimum retention requirements presented on this schedule.

What Is a Record?

A record is any media that captures, preserves or disseminates information; or, documents that are created or received during the course of a district’s official business and preserved or appropriate for preservation by the district as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the state or political subdivision or because of the informational value in them. [refer to AS 40.21.150(5) and (6)]

AS 40.21.150 (4) defines “electronic record” to mean “any information that is recorded in machine readable form.”

E- mail is created or received on an electronic mail system. E- mail that constitutes a “record” as defined in AS 40.21.150(6), including attachments that are transmitted with the e-mail, are subject to individual agency records retention schedules and must be retained for the same period of time as the records series that most closely matches the subject matter contained within the e-mail. If there is no entry that resembles or matches the subject matter of the e-mail, the “record” should be added to the appropriate program retention schedule as a separate series of records. Record e-mail with a retention of

longer than one year should be printed out and placed in the appropriate hard copy file, unless the agency contacts the state archives for further guidance.

E- mail and e- mail attachments that are not a “record” as defined in AS 40.21.150(6) may be destroyed immediately. “Non-record” e-mail includes transitory e-mail which is primarily generated for informal communication of information that does not perpetuate or formalize knowledge.

What are the Four Values of Records that Impact Retention?

Administrative/Operational. These records are needed for current operations of the district.

Financial. Financial records document fiscal transactions needed for audit purposes.

Legal. Records with legal value document the rights of citizens or employees or pertain to contractual obligations.

Historical. Records have historical value if they document policies, procedures, or historical activities.

Other Relevant Statutory References

AS 40.25.110. Provides in part that unless specifically provided otherwise, the public records of all public agencies are open to inspection by the public under reasonable rules during regular office hours.

AS 40.25.120. Every person has a right to inspect a public record in the state, including public records in recorders’ offices... [Exceptions are provided in law.]

AS 40.25.122. A public record that is subject to disclosure and copying under AS 40.25.110 - 40.25.120 remains a public record subject to disclosure and copying even if the record is used for, included in, or relevant to litigation, including law enforcement proceedings, involving a public agency, except that with respect to a person involved in litigation, the records sought shall be disclosed in accordance with the rules of procedure applicable in a court or an administrative adjudication.

AS 40.25.220 (3) "public records" means books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency; "public records" does not include proprietary software programs.

AS 09.80.195. Uniform Electronic Transactions Act—Use of electronic records and electronic signatures; retention of electronic records.

GENERAL OFFICE RECORDS

GO-1	General Correspondence Routine Nature Special Correspondence General & Special Correspondence authored by staff	Retain Routine Correspondence 3 years Retain Special Correspondence 5 years. *Special Correspondence of the Board may have archival value.
GO-2	Policies & Procedures (Major & Minor) Major & Minor Policies & Procedures consist of the Record copy formalized by the Board	Permanent
GO-3	Reports [Annual, Audit, Management & Operation] Reports [All Other] All other includes monthly, statistical, performance, damage & vandalism, safety, monitoring, etc.	Retain annual, audit, management & operation reports permanently Retain all other reports until obsolete, superceded or administration/management need is met
GO-4	Administrative Studies/Special Projects Includes final reports and backup data regarding major administrative studies and special management projects	Retain final reports permanently. Review backup data for archival value.
GO-5	Historical Files This fileset documents the functions and activities of the Department. Consists of promotional media including press releases, news clippings, photographs (prints & negatives), videos, audios, cd's, dvd's and other electronic, magnetic or micromedia. Also includes brochures, pamphlets, etc.	Permanent or for the life of the media
GO-6	Equipment Records (orders, correspondence, usage reports, general maintenance & inventories) Equipment Records (Warranty Information, Instruction/Operating Manuals, Repair/Maintenance History, etc)	Retain for 3 years. Retain for the life of the equipment.
GO-7	Property Control Files Copies of controlled property management reports, excess property reports, property transfer documents, and related correspondence	Retain 3 years
GO-8	Vehicle Files Fileset documents each vehicle owned and serviced by the district. May include title, registration, work orders, correspondence, damage/accident reports, checklists, photographs, and inspection, service, maintenance and report documents	Retain until vehicle is disposed *If vehicle is involved in fatal accident or litigation, keep file 25 years or until legal counsel recommends disposition.
GO-9	Injury & Accident Records Includes incident/accident reports, medical evaluations, public safety officer reports, time loss documentation and other data relating to on the job injuries and accidents	Retain 6 years after resolution of incident
GO-10	Miscellaneous Administrative Information Includes telephone logs, correspondence tracking logs,	Retain 1 year Transitory materials may be reviewed/disposed

	file plans, purchasing logs, property inventories, message books, appointment books/calendars, bulletins, mailroom logs/registers (e.g. certified or registered, postage meter), word processing drafts, day sheets, assignments, forms files, and other indices.	after 30-60 days
GO-11	Technical Reference Files Technical studies, newsletters and publications used in the administration of district business	Until obsolete, superceded or administrative/management need is met
GO-12	Public Records Log and Requests for Information Includes written request for public records received. Log includes date of request, name of requester, and other related information. Technical studies and publications used in the administration of agency business	Retain 1 year
GO-13	Public Information & Media Includes record copies of news/press releases, publications, videotapes, clippings files, speeches, monographs, and pamphlets related to district functions. May include electronic records not duplicated elsewhere.	Permanent or for the life of the media Refer also to GO-5
GO-14	Public Information & Internet Site Consists of web page data, program/system documentation with backup, statistics and other development materials used in the creation/maintenance of the district's internet worldwide web site	Retain until obsolete, superceded or administrative/management need is met, then review for permanent retention. * Backup tapes are stored offsite for security. Tapes are rotated according to established backup procedures.
GO-15	Computer System Includes application software licenses/agreements, data systems and file specifications, security information (access, passwords), user guides, backup procedures, and worldwide web page data.	Backup tapes or CDs are stored offsite for security. Retain documentation file until obsolete, superceded or administrative need is met. System related data should be retained until the system is obsolete or replaced.
GO-16	Building & Land Inventory Records Documents new building construction and razing/renovation of older buildings; tracks land transactions	Construction/renovation: Retain 6 years Ownership records: Retain permanently

DISTRICT BOARD OF SUPERVISOR FILES

BOS-1	<p>Meeting Files (official minutes)</p> <p>Meeting Files (all other backup)</p> <p>The official minutes constitute the official accounts of the proceedings and actions of the district board.</p> <p>Other backup may include notices of meeting, agenda, packets, meeting dockets, roll call, correspondence, complaints, reports, transcripts, legal opinions, financial studies, resolutions, background papers and audio/visual products.</p>	<p>Permanent</p> <p>Retain all other backup data for 5 years</p>
BOS-2	<p>Public Hearing Files</p> <p>Includes documents related to public hearings: notices of meeting, workpapers, signup sheets, written testimony, exhibits and audio/visual materials.</p>	<p>Retain 10 years. Record Copy of proceedings retain in minutes.</p> <p>* If audio tape recordings or notebooks are transcribed, they may be disposed 5 years after approval of minutes or proceedings, or maintained longer if needed for administrative purposes</p>
BOS-3	Resolutions: Adopted	Permanent
BOS-4	Resolutions: Not adopted	<p>Review every 10 years for administrative purposes, then dispose.</p> <p>Certain files that have historical value should be retained permanently.</p>
BOS-5	Oaths of Office	Permanent
BOS-6	<p>Conflict of Interest Statements</p> <p>Statements for elected/appointed supervisors and employees</p>	Retain 6 years
BOS-7	Creation of District files	Permanent
BOS-8	<p>Modification of District Boundary files</p> <p>Includes correspondence, maps, copies of related public hearing backup records.</p>	Permanent
BOS-9	<p>Asset Inventories (Fixed)</p> <p>Asset Inventories (Non-Fixed)</p> <p>Inventories of owned assets indicating value, location, purchasing information, etc.</p>	<p>Retain fixed assets for the life of the asset, or until state authorizes disposal of grant-funded assets.</p> <p>Retain non-fixed assets 3 years</p> <p>Backup records dealing with an asset may be disposed per policy according to type (purchase order, grant, correspondence, etc.)</p>

FINANCIAL RECORDS

F-1	General Accounting Records May include workpapers, spreadsheets, summaries, receipts and other data documenting accounting practices. Includes financial data regarding accounts payable/receivable, grant/contract administration, payments of fees, etc.	Retain 3 years provided an audit or other annual financial statement has been certified
F-2	Travel Accounting Documents travel advances, per diem and transportation fees for supervisors and employees on official district business	Retain 3 years
F-3	Budget Workpapers Documents development of district operating and capital budgets prior to presentation to authorizing entity. Includes budget instructions, submissions, backup documentation, cost allocation, and amendments. Final Approved Budget	Retain Budget Workpapers 3 years Retain Final Budget Permanently
F-4	Financial Reports: Annual Other Accounting & Financial Management Reports Includes Annual Report summarizing financial condition, activity and balances; and routine balancing/status reports output on a regular or ad hoc basis documenting district expenditures and financial activity	Retain Annual Financial Reports permanently Retain all other Accounting & Financial Management Reports until obsolete, superseded or administrative/management need is met. Refer to GO-3 for Audit Reports
F-5	Ledgers & Journals: General & Expenditure Includes Quickbook entries, books of original entry.	Retain permanently
F-6	Vendor Files Documents relating to payment for commodities or services, fees, permits, etc. Consists of financial transaction registers, vouchers, customer orders, logs, invoices, postage meter receipts, etc.	Retain 3 years
F-7	Banking Records Records of bank transactions for revenue and payments including bank statements, deposit slips, wire transfer, agent fees, transmittal of receipts, savings account data, debt service payments, and collected monies.	Retain 3 years provided an audit or other annual financial statement has been certified
F-8	Cancelled checks & check registers	Retain 3 years provided an audit or other annual financial statement has been certified. Recommend that cancelled checks be retained with grant files
F-9	Cash books and Cash journals	Retain 3 years provided an audit or other

		annual financial statement has been certified
F-10	Bills of Sale	Retain 7 years

HUMAN RESOURCE RECORDS

HR-1	Individual Personnel Files	Retain 10 years after employee is no longer employed. Certain information is confidential
HR-2	Recruitment, Selection & Appointment Records Consists of job applications, transcripts, recruitment notices, score sheets, correspondence, etc.	Retain 4 years after appointment is made. Certain information is confidential
HR-3	Job Applications (unsolicited)	Retain 1 year after receipt. Certain information is confidential
HR-4	Job Descriptions Description of specific duties for each position	Retain until obsolete, superceded or administrative/management need is met
HR-5	Unfair Labor Practices Case Files and EEO Complaint Case Files Consists of complaint, investigative reports and notes, correspondence and related backup. Includes cases dismissed, withdrawn or settled.	Retain 10 years. Review prior to destruction for cases that may have historical significance
HR-6	Employee and Volunteer Medical Records Consists of on-the-job accident or illness/medical reports, lost time documentation, records used to monitor exposure, correspondence, etc. Includes employees exposed to blood-borne pathogens, formaldehyde, asbestos, mercury, or other hazardous substances.	Retain Record Copy for 30 years. Retain other copies 1 year after employee terminates. Confidential per AS 40.25.120
HR-7	Hazard Communication & Material Safety Data Sheets Lists of hazardous chemicals present in the workplace and copies of material safety data sheets received with incoming shipments of chemicals and posted in the workplace.	Retain 30 years.
HR-8	Alaska Human Rights Act Records Records of the age, race, and sex of all applicants for employment and all employees.	Retain 2 years
HR-9	Volunteer Forms	Retain 10 years
HR-10	Risk Management Claim Files May include correspondence to/from claims adjusters, attorneys, accident reports (property damage and personal injury), summary reports, payment orders/verification, pleadings/depositions and individual claim records.	Retain 7 years after claim is settled and all legal aspects are resolved
HR-11	Worker's Compensation Claims May include death, permanent total disability, time loss and no time loss cases. Documents include reports of injury/illness, medical reports, correspondence, legal filings, copies of Worker's Compensation Board	Retain 40 years after case is inactive

	decisions/order, and compromise and release agreement, vocational rehabilitation reports/decisions.	
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PROCUREMENT RECORDS

[illegible]

Soil & Water Conservation District
Minutes of Meeting held on (Date)
(Location of meeting)

SWCD Supervisors in attendance:

John Q. Farmer, Chair
Suzie Greenhouse, Vice-Chair
Bart Barleymann, Treasurer/Secretary
Iona Cheval, Supervisor

Others present at the meeting:

Celeste Cavallo, Cooperator
Daisy Dairyman, Cooperator
Angus Holstein, Cooperator
Jane Public, property owner
Dexter Taurine, property owner
Carlos DeFerme, FarmsRUs Consultants

Quorum established and meeting called to order by Chair at 8:30 a.m.

Agenda.

Motion by Bart to accept the agenda as presented. Second by Iona. Passed unanimously.

Minutes.

Motion by Suzie to accept the draft Minutes from December as presented, second by Bart. Passed unanimously.

Financial Report.

Financial report provided to the Board, discussion of line items. Outstanding reimbursements have been submitted and are awaiting payment, upcoming project funding should be available within the next 30 days. Motion by Bart to approve as presented, second by Iona. Passed unanimously.

NEW BUSINESS

Memberships.

The district belongs to several organizations, board discussion on which memberships to continue. Motion by Bart to only pay membership dues to the local chamber and farm association. Second by Iona. Passed unanimously.

Draft Resolution in Support of Agriculture.

At the last meeting staff was instructed by the board to draft a Resolution in Support of Agriculture to be sent to the Governor's Office and appropriate representatives. Draft supplied to the board in their packets, discussion of content. Motion by Suzie to accept the draft as presented, second by Bart. Passed unanimously. Suzie will work with staff to ensure copies are sent to all relevant recipients.

OLD BUSINESS

Anywhereville Road Construction.

Construction is beginning on the Anywhereville Road project, the district has been asked by the project manager for the state to help with oversight of runoff and other environmental concerns during construction. If anything is seen, please contact the district manager who will then inform the project manager through appropriate channels. Construction should be done by snowfall with final seeding, etc. in the spring. Jane Public addressed the board to say the property owners of the area worked for 20 years to get this road and thanked the board for their help. Discussion with the board, the district will continue to assist as needed.

Agriculture Land Sale.

Full discussion postponed to next meeting, state will give presentation at that time, anticipated to be up to 50 Farm Conservation Plans that will need to be done and/or approved by the district for this sale, state will fund the district's time/costs necessary as a part of the ag sale costs.

Mine Opening.

The mine has received all necessary permitting, per board direction staff has been supporting and assisting the property owners for over a year now, unfortunate the operation is not a bona fide cooperator. Should have discussions regarding need to allow other Cooperators that obviously involve soil and water issues that the district can assist with. Mine will start exploration within the next month, the board is invited to the open house. Discussion regarding which supervisors to attend, four will be attending, will need to issue public notice next week.

Local Agriculture Project.

Update to ag project given by staff and contractors. Carlos reported FarmsRUs has completed Phase I of their contract with the district and provided the report associated with Phase I's scope of work. Discussion with the Board regarding FarmsRUs' recommendations to move forward, FarmsRUs recommends the four support mechanisms on the last page of the report. Carlos feels if the board implements the program at bullet 1 it will support the needed marketing of the ag products; bullet 2 recommends a joint effort with the state to promote education with the base message being the reality that without agriculture we do not eat; bullet 3 is necessary because the district needs to be assisting these farmers through the agencies' processes, etc. so the property owner is educated on the process and what that means long-term and short-term; and bullet 4 recommends the implementation of a district program to assist the property owners without other agency involvement, one of the most commonly-heard feedback from the survey was that these property owners want to be assured of confidentiality and realistic best management practices, and they want to work with local folks. Motion by Bart to approve the contractor to proceed to Phase II of the contract, adopting the recommended four actions. Second by Iona. Discussion regarding recommendations. Passed unanimously. Board thanked FarmsRUs for their work and looks forward to Phase II.

PUBLIC COMMENTS.

Angus Holstein thanked the board for the district's assistance and asked if the district is able to assist with another matter, Angus will talk to staff. Dexter Taurine has board the Jones Farm and will be taking over production next month, the Jones' to stay on for the next year to assist with the transition. Dexter attended the meeting today so he could double-check that the board represents how he feels on issues, would now like to become a Cooperator and asked about the process. Staff will provide an agreement after the meeting. Bart welcomed Dexter to the community and offered the district's assistance at any time.

BOARD COMMENTS.

None.

NEXT BOARD MEETING.

To be called when the funding contracts are ready for approval and signature by the board..

Motion to adjourn by Suzie, second by Bart. Passed unanimously.

Meeting adjourned at 10:30 a.m.

Minutes taken by:

Minutes approved by:

Jane Jovial, District Manager

Bart Barleymann, Treasurer/Secretary

_____ **SOIL & WATER CONSERVATION DISTRICT**

Memorandum to: The Department of Natural Resources Natural Resources Conservation and Development Board, and Alaska Association of Conservation Districts

Subject: Fiscal Year 2011 Annual Work Plan

Date: (Date)

This represents the Annual Work Plan of the _____ Soil and Water Conservation District for fiscal year 2011 as required by the District Operations Manual and the Natural Resources Conservation and Development Board (NRCDB). This Work Plan reflects the tasks that will be accomplished and the goals that will be achieved that are consistent with the funding available to the District.

As required by State law, the following is in compliance with Alaska Statute 41.10 and within the parameters set by the Department of Natural Resources.

_____, District Manager

Date

_____, District Chair

Date

_____, District Secretary

Date

Project/Fund A

Provide project description, including but not limited to personnel and/or contractors responsible for completion, goal(s) of the project and/or performance measures, source of funds, who/what the project benefits, and project partners.

Project/Fund B

Provide project description, including but not limited to personnel and/or contractors responsible for completion, goal(s) of the project and/or performance measures, source of funds, who/what the project benefits, and project partners.

Project/Fund C

Provide project description, including but not limited to personnel and/or contractors responsible for completion, goal(s) of the project and/or performance measures, source of funds, who/what the project benefits, and project partners.

Project/Fund D

Provide project description, including but not limited to personnel and/or contractors responsible for completion, goal(s) of the project and/or performance measures, source of funds, who/what the project benefits, and project partners.

Total Anticipated Funds Available

<u>Expected Funding Source</u>	<u>Balance or Expected Revenue</u>
Project/Fund A	\$ 25,416.00
Project/Fund B	\$ 15,104.00
Project/Fund C	\$ 5,000.00
Project/Fund D	\$ 43,560.00
	\$ 89,080.00

Compilation of Work Plan Budgets

<u>Deliverable/Goal</u>	<u>Personnel</u>	<u>Contractual</u>	<u>Supplies & Oper. Exp.</u>	<u>Other</u>	<u>Source Total</u>
Project/Fund A	\$ 8,500.00	\$ 15,000.00	\$ 1,916.00	\$ -	\$ 25,416.00
Project/Fund B	\$ 2,000.00	\$ 13,104.00	\$ -	\$ -	\$ 15,104.00
Project/Fund C	\$ 4,000.00	\$ -	\$ 1,000.00	\$ -	\$ 5,000.00
Project/Fund D	\$ 12,500.00	\$ 25,000.00	\$ 6,000.00	\$ 60.00	\$ 43,560.00
TOTALS	\$ 27,000.00	\$ 53,104.00	\$ 8,916.00	\$ 60.00	\$ 89,080.00

Memorandum to: Department of Natural Resources

From: Homer Soil and Water Conservation District

Subject: Annual Report

Date: August 30, 2009

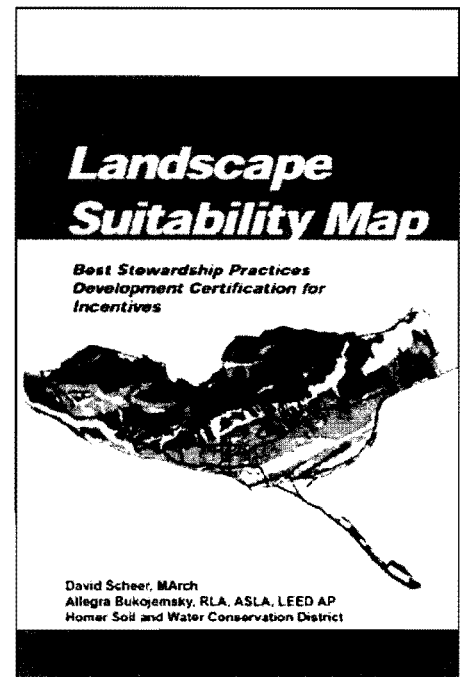
This represents the annual report of the Homer Soil and Water Conservation District (HSWCD) for fiscal year 2009 (July 1, 2008 – June 30th, 2009). This report fulfills a component of the cooperative agreement between the Alaska Department of Natural Resources and the Homer Soil and Water Conservation District, as specified in cooperative agreements with the Department of Natural Resources and the Alaska Association of Conservation Districts.

Program Goals

The Homer District conducted its annual assessment of progress toward completion of the 2009 plan of work.

Goal 1: Land Use Planning

Watershed Planning: The Homer District completed the second phase of a two-year project funded by the US Environmental Protection Agency (EPA). Phase two of this project consisted of developing a pilot incentive-based program to encourage developers in the Homer area to integrate existing natural landscape functions into their development plans. The Developers Certification Program is based on using Homer “Landscape Suitability Maps,” which were developed during the first phase of this project. The Suitability Maps identify lands that are both highly developable and also provide important ecological functions, or “green infrastructure.” If a proposed development falls into an area mapped as both, the developer will most likely be eligible to participate in the District’s proposed incentive program.



The developer certification program was modeled after similar programs elsewhere. In such programs, developers who follow proposed guidelines and employ best stewardship practices as part of their projects can apply for certification and then qualify for procedural or financial incentives, still being identified by the District. This program also provides a selection of best stewardship practices that can be used to earn “credits”. Identified stewardship practices protect valuable natural functions and larger landscape

systems, thus maximizing both economic and ecological values of the land. Credits can be earned in one of two ways: by integrating existing natural landscape functions into the development site plan or by setting aside portions of the parcel in conservation easements. Stewardship practices promoted by the program focus on landscape functions provided by existing “green” infrastructure, such as stormwater storage or slope stabilization, or on public amenities and landscape “connectivity” provided by trails or wildlife habitats.

The process used in developing the suitability map has already become a “template” for other areas. Both the North Star Borough and the Kenai Peninsula Borough are considering using this template to create maps for these regions. Their plans are to use their suitability maps as a guide for future development in sensitive areas. Moreover a generalized green infrastructure map generated by the Homer District has been adopted into the City of Homer’s Comprehensive Plan update.

Partnership Collaboration/Outreach: District staff participated on several multi-agency committees throughout the year. The Homer District Manager was part of the strategic planning committee for the Kenai Peninsula Wetlands Working Group, which is chaired by the EPA project manager for Southcentral Alaska. One goal of this working group is to assess wetland and other important habitat functions throughout the Kenai Peninsula so that areas providing such functions can be incorporated into a Borough wide green infrastructure map, as described above. This group sponsored a green infrastructure course last fall titled *Planning a Sustainable Future: Linking Economic and Environmental Benefits on the Kenai Peninsula*. This course was designed for policy makers, land use planners, and professional developers interested in sustainable development on the Kenai Peninsula.

The Homer District participated in the Kenai Peninsula Fish Habitat Partnership, part of an effort sponsored through the US Fish & Wildlife Service’s National Fish Habitat Action Plan. The partnership’s primary goal for this year has been to develop a strategic plan to protect, restore, and enhance fish habitat across the Peninsula. Meeting this goal involves pulling together diverse stakeholders from across the Borough to prioritize goals and share resources that can contribute to reaching identified goals.



Snow Survey: The Homer District, in partnership with the USDA-Natural Resources Conservation Service (NRCS), managed the 2008-2009 snow survey for the lower Kenai Peninsula. Snow pack was measured at six sites January through March. Data on snow depth and “snow water equivalent” are recorded and used to forecast seasonal runoff and groundwater recharge.

NRCS Range Specialist teaches proper snow sampling techniques to a group of 3rd graders, a field trip organized by HSWCD.

Recreational Planning: Trail work was a large component of the District's workload for 2009. The Homer District, with funding through the State of Alaska Recreational Trails Grant, completed trail upgrades in the Homer Demonstration Forest, a 360-acre forested parcel just outside Homer city limits. HDF projects completed this past year include trail improvements along the Homestead hiking trail, improvements along the self-guided nature trail, and a new trail segment added to the Summer Trail loop. True to the concept of a "demonstration" forest, several trail building methods were employed to demonstrate the methods and to determine both relative costs and effectiveness of each technique.



Installation of two-plank boardwalk in the Homer Demonstration Forest, several trail improvements were made to this parcel of forestland managed by HSWCD.

The Homer District continues to address resource-related concerns expressed by various trail user groups, stakeholders, and local agencies. Concerns are generally the result of poor trail design. By facilitating quarterly meetings with local ATV user groups, the District has gathered important information that can help guide a regional strategic plan for recreation. Currently, a high priority concern is seeking programs that can help local land managers and area users improve, connect, and where appropriate, realign off-road trails in the Caribou Hills Recreational Area. Trail priorities so far identified include the need to realign trails where wetland crossings are degrading wetlands quality and function. Several stream crossings also suffer from poorly routed, designed, and/or maintained trails. Additional concerns identified involve the lack of legal trail easements in the area, and the importance of developing legally recorded connections between trails in ways supported by affected land managers.

Goal 2: Water Quality *Improve salmon habitat:* The Homer District Board of Supervisors has placed a high priority on replacing poorly designed culverts that have been identified as impediments to fish passage. Three culverts in the Anchor River watershed have been targeted for replacement this past year. In the fall of 2008 the Homer District, in partnership with the NRCS, completed a culvert replacement project approximately 4 miles off of Nikolaevsk Road, northeast of Anchor Point. Located on Santiago Lane, this site is on a tributary of the Chakok River. Surveyed in 2006, this crossing consisted of a 16-inch culvert that was recorded to be perched 2 feet. The undersized culvert was constricting the stream channel, thus altering stream hydrology.

This culvert was replaced with a flattened 66-inch diameter culvert to facilitate natural stream flow and fish passage. Upon project completion, almost 2 miles of previously inaccessible stream habitat were opened for salmon spawning.



Santiago Lane culvert, northeast of Anchor Point, prior to replacement. Note the 24 inch drop, preventing the passage of juvenile salmon. .



Santiago 1 year after the culvert replacement, with this new design it is estimate that nearly 2 miles of salmon habitat has been opened.

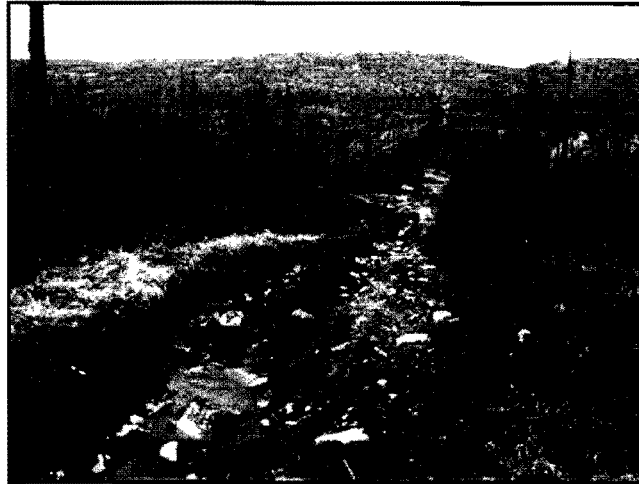
A second District culvert project involved replacing two culverts along Beaver Creek, a tributary to the Anchor River, located 12 miles east of Homer. The existing culverts had previously been assessed by the Alaska Department of Fish Game as “not adequate for fish passage” and their replacement flagged as high priority. With funding from the US Fish and Wildlife Service, this project was undertaken in partnership with the Kenai Watershed Forum. The new culverts under Bald Mountain Road

will allow adult and juvenile salmonids and other aquatic organisms unrestricted access upstream and downstream of the culverts, thus improving habitat conditions and expanding available habitat. This project will improve habitat connectivity within the Anchor River watershed, one way to promote healthy salmon populations.



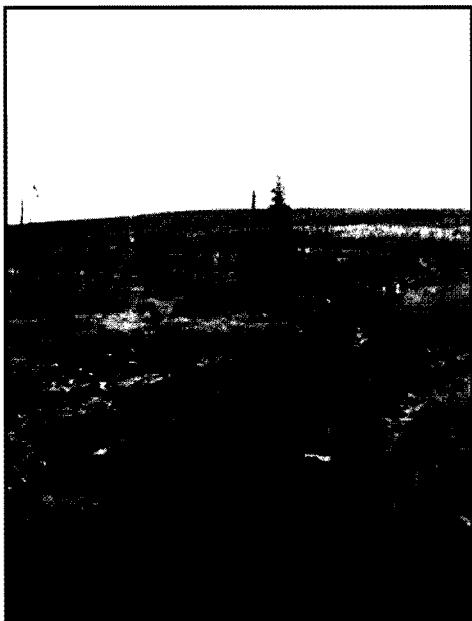
A culvert off Bald Mountain Road, east of Homer. This site has been flagged by the ADFG as a high priority for replacement to improve salmon habitat. This past year, in partnership with the Kenai Watershed forum, we have completed engineer designs to complete this project.

Soil erosion, which causes increased sedimentation into salmon streams, is a primary concern of the Homer District. Several ATV trails have been targeted for improvement to address this concern. ATV rut depth can be used as an indicator of trail quality. Deeper ruts allow channeling of water on the trail and concentrate flows that cause erosion. Using this indicator, the Homer District prioritized two important anadromous streams for trail improvement: Deep Creek and the Anchor River.



Soil Erosion along the Water Hole trail heading east toward Deep Creek, approximately ¼ mile from the crossing.

With a grant administered by the Alaska Department of Environmental Conservation (DEC), the Homer District was able to assess and plan new routes for segments of the Water Hole trail, a popular trail east of Ninilchik. The new routes will move degraded trail segments onto higher ground. With funding through the NRCS Wildlife Habitat Incentives Program, the HSWCD has performed some trail upgrades on the west side of the Deep Creek crossing, including realigning portions of the trail onto higher ground with better drained soils. Along sections where physically rerouting the trail was not feasible, the HSWCD installed 1,600 ft of a porous trail-hardening product as a trial and demonstration.



A second trail crossing prioritized by the District is along the Watermelon Trail, northeast of Homer. About two miles in, this trail crosses Beaver Creek, a tributary to the Anchor River, and then enters the Anchor River/Fritz Creek Critical Habitat Area. Beaver Creek provides important habitat for chinook and coho salmon and for Dolly Varden. Due to ATV traffic, this stream is experiencing significant degradation of riparian zones, as well as increased sedimentation and related turbidity loads. The Homer District has put together a plan to relocate the current crossing upstream to a more suitable location and to install a clear span bridge. This project includes implementation of a stream bank restoration plan and construction of approximately ½ mile of new trail to relocate the existing trail onto upland areas.

A section of the Water Hole trail that had been selected for the installation of porous trail-hardening product. To help improve the drainage the trail was first ditched and then Geo-block was laid. The idea is that a vegetative mat will grow underneath the material, securing this track to the ground.

This workplan has been completed and approved by AKDFG. All the necessary permit have been secured and the District has received additional funding to begin work in FY10.

The HSWCD will work in partnership with a local trail user group, the Homer Snomads, to see this project to an end. We have had a bridge donated, as well arranged for donated heavy equipment time

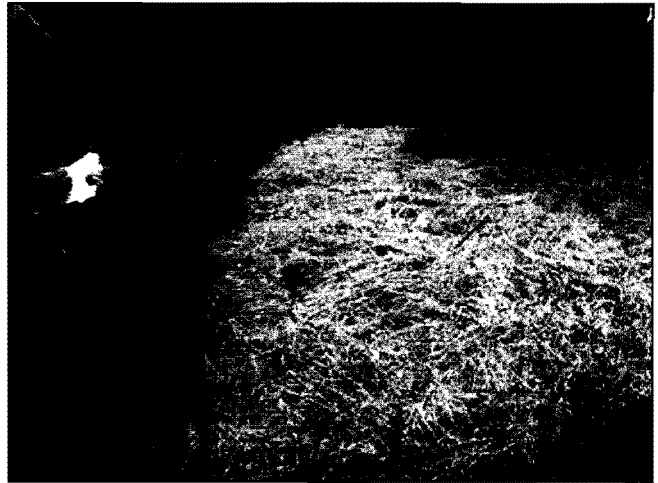


Goal 3: Agriculture

Support agriculture: The Homer District, working closely with our partner agency the NRCS, has continued to support agricultural activities on the lower Kenai Peninsula through several programs. District staff is available to work with local producers to assist with the planning and implementation of recommended conservation practices. Staff has made several site visits related to developing conservation plans and has been available to provide technical expertise. The District has made available both soil sampling and forage testing. Results from these tests are useful in developing nutrient management plans for agricultural producers. The District also maintains licensed staff to provide hay producers with the opportunity to have their crops certified as weed free.

As part of its outreach efforts, the Homer District continued last year to produce and distribute quarterly newsletters. The newsletter is mailed to all cooperators, as well as to numerous agency and organizational partners, and provides updates on both District and NRCS programs and available assistance.

With funding from the EPA, the HSCWD continued to work on developing effective management practices to control invasive reed canary grass (*Phalaris arundinacea*). Reed canary grass is currently found along several Kenai Peninsula streams that support salmon (e.g. Kenai River, North Fork Anchor River, and Beaver Creek). Since reed canary grass can alter stream flows and instream food type and quality, this invasive plant may negatively impact salmon habitat, including spawning gravels. Based on recommendations made to the Kenai Peninsula Cooperative Weed Management Area (KP-CWMA) by leading researchers who visited Kenai Peninsula sites in fall 2007, the District has established several plots to test control measures for this species.



HSWCD trail plots, located in Soldotna, AK . Various treatment techniques have been tested at this site, including shade cloth, mowing, herbicide application, and a combination of mowing/herbicide application. This plot had been treated with an herbicide.

Test trials were conducted through the summer of 2008. Various management techniques were employed, ranging from mechanical removal to herbicide application. In addition to developing an integrated management plan, mapping will be undertaken this summer to map reed canary grass along peninsula salmon-bearing streams and their tributaries. Results of these trials will be compiled and presented at this year's conference of the Alaska Committee for Noxious & Invasive Plants Management.

The HSWCD has worked closely throughout the year with KP-CWMA partners to establish new invasive plant programs to be implemented in the coming seasons. One such program, developed in conjunction with the US Fish and Wildlife Service, is a cost-share program for private landowners who want to eradicate invasive plants that pose a threat to habitat values. The District has developed a protocol to prioritize funding, which will determine the percentage of cost-share reimbursements a potential project will be eligible to receive. This prioritization will take into account the type of non-native invasive weed on the property, the size of the infestation, the location relative to critical habitats, and the expected contributions control methods will have on protection and/or restoration of affected wildlife habitats.

Public outreach has been a central feature of the HSWCD invasive plant program, and this past year was no exception. The District sponsored the 9th Annual KP-CWMA Invasive Weed Workshop, this year held in Seward. In addition the District hosted several community weed pulls and guest presentations, and maintained informational booths at the Homer Farmer's Market and the Kenai Peninsula State Fair. The HSWCD also produced quarterly newsletters providing updates on programs and control recommendations for common invasive plants.



HSWCD Weed Warrior passing out information at the Homer Farmer's Market during weed awareness week.

Goal 4: Education



A Homer High School Natural Resources Technologies student is in the field, collecting soils data and diagramming soil horizons.

The Homer District continued to provide funding for a quarter-time Education Coordinator to teach a Natural Resources Technologies class in partnership with Homer High School. Enrollment was up from previous years; with 23 students completing the class. The FFA curriculum was incorporated into this class, providing students with opportunities to develop their leadership skills.



Katie Conner, on behalf of the Homer High School team, receives their 2nd place award for Natural Resources Competition at the National FFA Convention in Indianapolis, Indiana.

A highlight of the academic year was the Homer FFA-sponsored Career Technical Skills Organization Conference (CTSO), organized for high school kids from Soldotna, Kenai, and Homer. It was a day of trade workshops presented by professionals from the community.

Additional highlights for the Homer High School program included a 1st place finish in the Alaska State Envirothon, earning the right to represent Alaska at the National Canon Envirothon competition in Flagstaff, Arizona. A Homer High School team traveled to Indianapolis, Indiana to compete in the National

FFA competition. As a prize for finishing second in Indianapolis, the Natural Resources team won an all-expense-paid trip to Washington DC for a week of national leadership training.

The Homer District once again sponsored an annual poster contest for local elementary school students and a speech contest for Middle and High School students. The theme last year was *Soils, Dig It*. HSWCD staff made several classroom visits, organized field trips, and even judged a local science fair.



Blaine Spellman, HSWCD Natural Resource Specialist volunteers to judge a local science fair.

Goal 5: Forestry

Forest Stewardship Plans: HSWCD staff, working with the Alaska Division of Forestry, participated in a training program on forest resource inventories that can be incorporated into Forest Stewardship Plans. The District, in collaboration with the USDA Natural Resources Conservation Service, is has introduced a new program to assist cooperators with Forest Stewardship Plans.

Demonstration Forest: The Homer District continued to facilitate quarterly meetings of the Homer Demonstration Forest Steering Committee. The HDF is managed by a steering committee chaired by the Homer District and including representatives from State Forestry, UAA's Kachemak Bay Campus, local secondary schools, ecologists, recreational user groups, and other forest users

Goal 6: Administration and Management

Maintain public presence: In the past fiscal year, the Homer District continued to staff its office during normal business hours so as better to serve its cooperators and the public and to build strong partnerships with both governmental and non-governmental organizations. The District Board of Supervisors held monthly meetings, open to the public, during which the Board interacted with an array of landowners and land managers with a variety of resource concerns.

The District continued to maintain its website, and expanded the mailing list for its quarterly newsletter to include over 350 individuals, organizations, and agencies. Many District projects were highlighted in local news media, with several stories on local radio stations and areawide newspapers.

Provide oversight and guidance to all HSWCD projects: The District Manager oversaw and administered all District programs and projects, including program budgets and documentation of expenditures. The District employed two full-time Natural Resource Specialists, an Education Coordinator, in addition to the District Manager. The District also employed four full-time seasonal employees.

Signatures

TARASCHWIDT
Report prepared by

Chris Raminator
District Chair

Devony Lehner
District Board Member

Devony Lehner

Tara Schwidtt
Signature

[Signature]
Signature

[Signature]
Signature

9/16/09
Date

9/16/09
Date

9/16/09
Date

Community Consulting & Grant Writing

SAMPLE GRANT PROPOSAL:

LOW-INCOME WIND POWER PROJECT

Prepared by

Community Consulting & Grant Writing

This Sample Grant Narrative includes:

- Statement of Need
 - Overview
 - Target Population
 - Assumptions
 - Summary of Problems to be Addressed
 - Inclusion of Low-Income Families in Planning Process
 - Empowerment Zone / Enterprise Community Consideration
- Project Strategy
 - Philosophy
 - Mission
 - Final Goals
 - Interventions
 - Intermediate Outcomes
 - Significant and Beneficial Impact
- Project Design
 - Integration with other Programs
 - Partners and Roles
 - Coordination of Funding
 - Innovation
 - Work Plan and Time Line
 - Potential Problems

This Sample Grant Proposal
is meant to be a model only. Your project will be unique.
Use the ideas but not the text!

Project Theory, Design and Plan

The Big Picture: Future of Electricity in Washington

Electricity prices will continue to rise as the electricity supply becomes more and more dependent on natural gas-fired turbines. In the U.S. 272 gas-fired plants are projected to be connected to the grid over the next decade. At the same time, domestic natural gas production is expected to peak in 2007, Canadian production in 2005, and Mexican production in 2011. Remaining natural gas reserves will be primarily in an unstable Middle East. (Rifkin, *The Hydrogen Economy*, 2002, p. 126-7) In this environment, a continued rise in the market price of natural gas is almost inevitable.

For this reason, it makes sense to shift to energy sources that are not subject to market pricing, to so-called *cost-based* resources. Wind is such a source, and is abundant in Washington State. The price of wind-based energy is a function of the cost of wind-turbines and other infrastructure needed to develop a wind farm. Once these capital costs are paid, the energy source itself, wind, is free. In this sense, a wind farm is an insurance policy for low-income families against future volatility in the price of natural gas.

This project builds on a foundation of partnerships, working with partner utilities to shift from treating the low-income community as passive consumers of power to active developers of power. By developing wind-generated electricity, the low-income community gains access to cost-based energy, escaping the fluctuations of the natural gas commodity market.

Target Population

The Project targets LIHEAP-eligible families heating with electricity.

According to a report prepared for DHHS by Roper ASW, there are 291,886 LIHEAP-eligible households in Washington State. Many of these households include members who are particularly vulnerable to heat or cold:

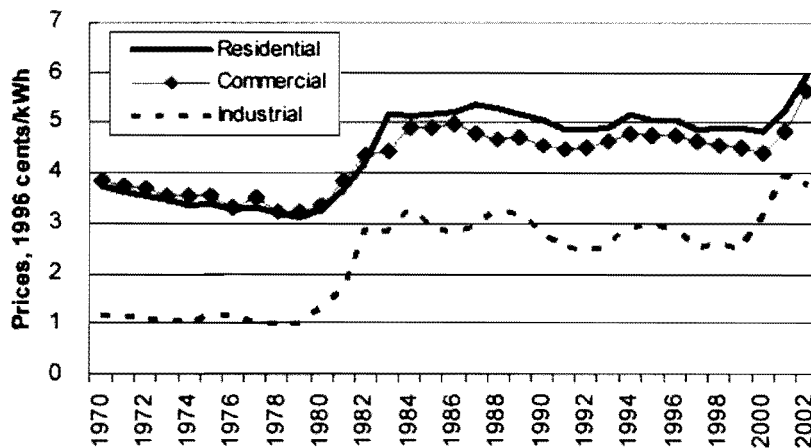
- 89,482 include an elderly person
- 73,051 include a disabled person
- 70,281 include a child five years old or younger

These numbers are based on Washington's LIHEAP income limit of 125% of the Federal Poverty Guidelines. Using a 150% FPG standard approximately doubles each of the numbers above (663,034 households live below 150% FPG; of these 244,950 include an elderly person etc.).

Last year, 57,300 households received LIHEAP, leaving 234,586 eligible households (80%) unserved. Because of historically low-priced hydro-electric power, most Washington low-income homes (73%) heat with electricity rather than natural gas (17%), with the balance using wood, oil, and other fuels. Although Washington once had some of the lowest priced electricity in the nation, since 1980 rates have doubled, even after adjusting for inflation. (See Figure 1.)

And from 1999 to 2002, residential rates saw a rapid surge of 20%. This understates the problem, because the rate increases have been disproportionate across the state, with some areas

Figure 1. Washington Retail Electricity Prices by Sector



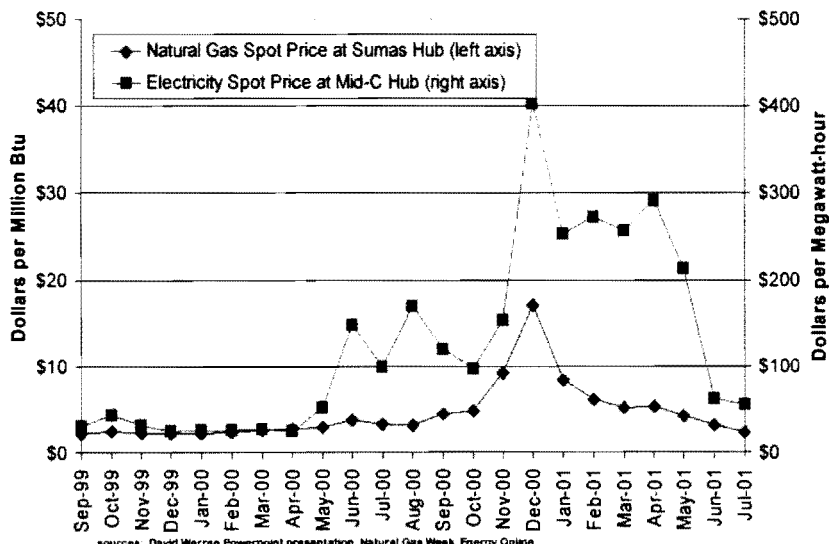
sources: EIA, BEA, OTED 2003 Biennial Report

new single-family residential construction, only 9% is all-electric, according to a June 11, 2003 article in the *Seattle Post-Intelligencer*. And while 53% of Washington's homes heat with electricity (2000 US Census), fully 73% of low-income homes have electric heat. As often happens, low-income families have been left stranded in older housing stock, equipped for the energy markets of three decades ago.

Converting electric-heated households to gas heat would seem to be a solution to electric rate volatility. And in fact, several programs in the state are taking this tack, including the state's LIHEAP program which can perform conversions when a household's heating system is in such bad shape that it must be replaced. However, such conversions are expensive and must be

balanced with the need for energy assistance.

Figure 2. Monthly Average Natural Gas and Electricity Spot Prices



a \$175 incentive on a conversion that may cost \$1500 to \$2000 is too small to make a difference to many low-income families. Also, 73% of low-income families are renters. Typically, they are responsible for utility bills, so there is little incentive for landlords to convert rental units to gas heat.

A large conversion program was announced in June 2003 by Puget Sound Energy (PSE), the largest utility in the state. PSE estimates that it will convert between 20,000 and 25,000 households from electric to gas. Given that the number of all electric households in Washington was placed at 1.2 million by the 2000 US Census, even a "large" program is a drop in the bucket. The program is incentive-based, with \$150 rebates on furnaces, \$25 on gas heaters and free hook-ups. However

Even if all low-income households could be converted to gas heat, the problem would not be solved: PSE just raised gas prices 18% in March 2003. More and more, the gas and electric markets have become intertwined in Washington. Most of the new electric generation plants in Washington are gas-fired. As a result, natural gas prices have themselves become more volatile, and conversion to gas heat no longer provides the low-cost, stable utility bills that it once did. Increasingly, the cost of natural gas is linked to the cost of electricity. Figure 2 shows how natural gas prices at the Sumas Hub in Washington State have begun to track area electric prices.

Figure 3.

source: DOE-EERE



Note that these general maps may not show all of the available resources. Some terrain and meteorological effects can result in excellent localized wind resources in areas not shown here.



Washington annual average wind power

WIND POWER CLASS	50m (164 ft)		
	WIND POWER W/m ²	SPEED m/s	mph
1	0	0	0
2	200	5.6	12.5
3	300	6.4	14.3
4	400	7.0	15.7
5	500	7.5	16.8
6	600	8.0	17.9
7	800	8.8	19.7
	2000	11.9	26.6

RIDGE CREST ESTIMATES (LOCAL RELIEF > 1000 FT)

Even as residential energy costs are rising, Washington's employment outlook is darkening. A US Bureau of Labor Statistics report for April 2003 shows Washington with the second highest unemployment rate (7.3%) of any state. The national rate for the same period was 6.0%. Washington is being particularly hard hit by the loss of high-paying jobs at Boeing. Because of cut-backs in the airline industry since the terrorist attacks of September 11, 2001, Boeing has been forced to lay-off 33,890 workers over the past 19 months and plans further cuts (*Seattle P-I*, 6.20.03). Boeing is also facing stiffer competition. On June 20, 2003 the AP reported, "European plane manufacturer Airbus won a \$5.1 billion order for up to 32 wide-body planes from Gulf carrier Qatar Airways yesterday, snatching another deal from Boeing... Until last week, the airline was considering its first purchase of Boeing planes." Because Boeing is such a large employer in the Puget Sound area, the loss of these high-paying jobs has a negative ripple effect throughout the area.

And so low-income electric-heating households are caught between rising electric rates and negative job growth.

At the same time as companies like Boeing are downsizing, one industry in Washington State is poised for growth: wind energy. A recently completed wind map shows that Washington compares favorably with other states in available wind resources (see Figure 3 below; a more

detailed wind map is included as Appendix K). In Walla Walla County, the State Line Project (the largest wind project in the world) has shown that wind power is competitive with fossil fuels. Technology and cooperative buying power have brought down the cost of wind turbines. State and federal legislation have increased incentives for developing renewable power sources. The wind industry is primed for rapid growth.

Assumptions

There are several assumptions we have made about the needs of our target population and the economic environment around them. The first is that the LIHEAP-eligible population is not going to decline. In fact we assume that given high unemployment projected to persist through at least spring 2005 ("Economic dark cloud lingers over Washington," *Seattle P-I*, 6.20.03), this population will increase, making the need to find a permanent solution for reducing the energy costs of low-income households even greater. Our second assumption is that the amount of money for federal and state energy assistance programs, both LIHEAP and weatherization programs, will decline, again increasing the need for our proposed approach. Our third assumption is that costs for non-renewable electricity-generating resources (coal, natural gas) will rise over time.

Summary of Assumptions/Problems to be Addressed

1. Demand for LIHEAP far outstrips the need. 80% of families eligible for LIHEAP are unserved. Many of these families include vulnerable members.
2. Electricity rates have risen sharply, erasing many of the gains made by development of new nonfederal energy assistance funds.
3. 73% of Washington's low-income households heat with electricity.
4. Conversion from electric heating to natural gas heating is expensive.
5. Natural gas is increasingly used to generate electricity, linking the price of natural gas to electricity and making them rise in tandem.
6. Natural gas prices are likely to continue rising as production in North America and Mexico peak over the next 10 years.
7. Conversion to natural gas is at best part of the solution for low-income households stranded in housing built for energy markets of three decades ago.

Low-Income Inclusion in Planning Process

From the beginning this project has been designed as a collaborative project between the Washington Department of Community, Trade and Economic Development; Washington State Association Community Action Partnership (representing the CSBG/DOE weatherization/LIHEAP network); A W.I.S.H; and utilities. Community involvement, including the direct involvement of low-income representatives, has been built into the project. The project Steering Committee has majority representation from Community Action Agencies, whose boards of directors are mandated to have one-third low-income membership. As members of the Steering Committee, low-income representatives will have an on-going role in developing the project and in recommending changes as necessary. Each of the thirty CAA's partnering on this project, under the coordination of A W.I.S.H, has reviewed the project proposal all the way through the process leading to submittal to DHHS, and has had the opportunity to submit suggestions about the project design.

Empowerment Zone/Enterprise Community Consideration

As noted above, Washington has the second highest unemployment rate in the nation. Our first intervention will target Grays Harbor County, where the unemployment rate is 28% higher than the state as a whole. Other counties targeted because of their high wind resources also have high unemployment rates:

- Klickitat 15.3%
- Skamania 10.1%
- Yakima 10.0%

(See Figure 4 below.)

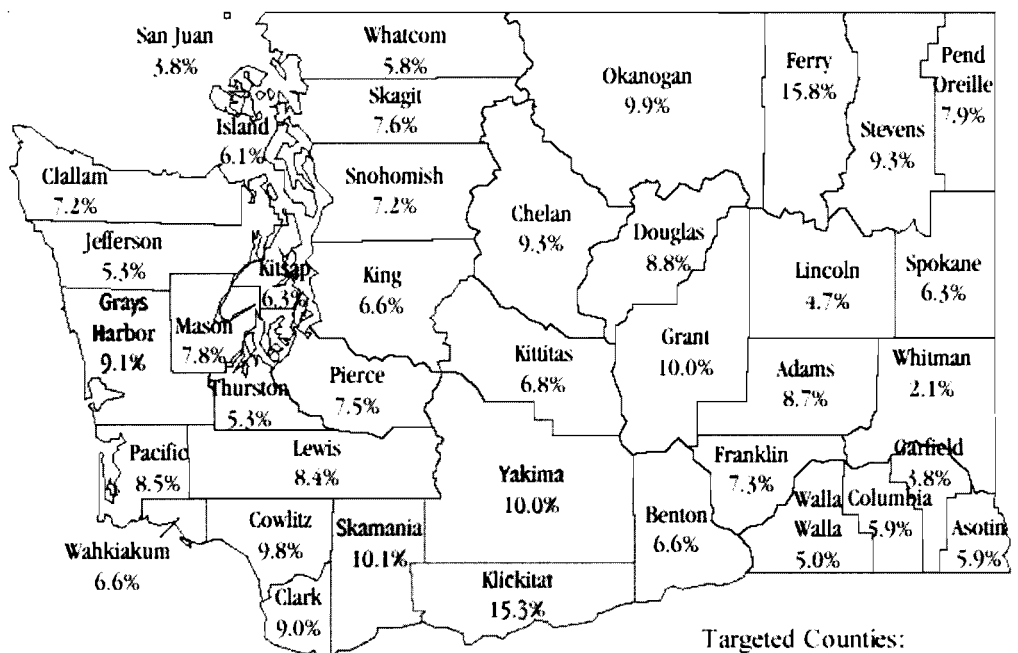
Furthermore, in 2002 Yakima was selected as one of 40 Renewal Communities by HUD and will retain the designation until 2009. "Renewal Community" is a designation added to the Empowerment Zone/Enterprise Community program (now designated the RC/EZ/EC Initiative) in 2001. The unemployment rate in Yakima's Renewal Community (Census Tracts 1, 2, 6 and 15) is 20%. Building a wind farm in Yakima would provide good-paying jobs during the development process, as well as provide low-cost energy to low-income Yakima households on completion. Yakima Valley OIC (the CSBG entity in Yakima), and Northwest Community Action Center (the CSBG entity for other parts of Yakima County) have reviewed this application and are project partners through the Washington State Community Action Partnership (WSCAP).

Figure 4. **Unemployment Rates by County, May 2003**

Washington State = 7.1%

United States = 5.8%

Not Seasonally Adjusted



source: Washington State Employment Security Department

Targeted Counties:
high wind/high unemployment

In Pierce County, part of Tacoma is a federal Enterprise Community and was also designated a Renewal Community in 2002. Unemployment in Tacoma's Renewal Community is 18 percent, with 72 percent of the families in the area identified as low-income. Pierce County's CSBG

entities (Metropolitan Development Council and Pierce County) were active participants in REACH I, working with Tacoma Power to develop a new low-income energy assistance program. The Pierce County CAAs (both members of WSCAP) reviewed this application and are potential partners with the CSBG entities in Yakima County. (Yakima and Pierce Counties are contiguous.)

Project Strategy and Design: Interventions, Outcomes, Goals, Impact [7]

Philosophy

The project treats the low-income community as active developers of power, rather than simply as passive consumers of power. To escape the volatility of market-priced energy sources, the project focuses on wind, a cost-based energy resource widely available in Washington State.

Mission and Impact

The project's mission is to increase the self-sufficiency of low-income families by securing stable energy sources and additional nonfederal energy assistance through participation in the rollout of the wind power industry in Washington State.

Final Goals

The mission can be achieved by accomplishing the following goals:

1. In partnership with utilities and the LIHEAP/Weatherization/CSBG Network, develop 12 megawatts of wind power dedicated to low-income households. The 12 megawatts will be produced by facilities with a useful life of 20 years.
2. Increase utility contributions toward lowering energy burdens by obtaining subsidies for wind development dedicated to low-income households.
3. Reduce the energy burden of 12,000 LIHEAP-eligible families by 20%.
4. For the 12,000 target families, reduce disconnects by 20%.
5. For the 12,000 target families, increase regularity of payments by 15%.
6. For the 12,000 target families, reduce mobility (a predictor of homelessness) by 15%.
7. Improve the health and safety of vulnerable households by reducing the energy burden for 3,700 families that include an elderly person, 3,000 families that include a disabled person, and 2,900 families that include a young child.

NOTE: Each of the benefits described in Goals 3-7 above will be achieved annually for approximately 20 years, the useful life of a wind turbine facility.

Interventions

In general, REACH funds will be used as funding for high leverage activities such as partnership-building, technical assistance, and grant writing. The effect of these activities will be to position the LIHEAP/Weatherization/CSBG Network at the table as wind power develops in Washington State. Actual funding for wind power construction will come from non-REACH funds.

Just as public, cooperative, and investor-owned utilities share in development of other forms of energy generation, there will be various ownership models of wind energy production as the

industry develops. The project will seek to influence the development of each of these models to ensure that the interests of low-income families are considered.

The project will have four primary interventions, explained below in more detail.

1. Single Owner Model
2. Second Wind (Replicate Single Owner Model)
3. Cooperative Model
4. Process Participation
5. Tailored Energy Assistance Programs

Intervention 1: Single Owner Model

The project will help LIHEAP/Weatherization/CSBG CBOs acquire and operate their own wind-turbines, exchanging the energy produced for rate discounts/rebates to low-income customers.

The project will work initially with one community action agency to develop a multi-turbine wind farm. The initial project will serve as a model for replication by other community action agencies in Washington State.

The initial agency is Coastal Community Action Program. During the applicant's prior REACH project, Coastal CAP developed an excellent relationship with its local utility, Grays Harbor Public Utility District. Grays Harbor PUD enhanced its energy assistance fund as a result of discussions with Coastal CAP staff. The single-owner model grows out of further discussions between the utility and Coastal CAP on how to better serve low-income families.

The key parties in developing the model program are

- developer/owner of the wind farm: Coastal CAP
- purchaser of generated power: Grays Harbor PUD
- landowner: Grays Harbor School District
- technical assistance provider: Northwest SEED (see Appendix J for a preliminary Memorandum of Understanding)

Project activities include:

First Scan

- Review Washington wind map (www.windpowermaps.org/windmaps/states.asp).
- Select areas with moderate to strong wind resource (class 3 or higher) and access to transmission lines.
- Northwest SEED, which helped develop the wind maps, will provide technical assistance in identifying additional sites if needed.

Site Assessment & Acquisition

- Perform anemometer test to establish actual wind speed (Note: The wind map is suggestive but not precise. Coastal CAP's proposed site tests out at a higher wind speed than suggested by the wind map.): Northwest SEED will provide technical assistance.
- Estimate monthly and hourly project output based on power curve of intended turbine and measured wind speed: Power production increases by a square function of wind speed; a 26

mph wind blowing for an hour generates significantly more power than a 13 mph wind blowing for two hours; Northwest SEED will provide technical assistance.

- Obtain site control: Coastal CAP has had extensive discussions with Grays Harbor School District; the School District is eager to partner and has identified a site that it will make available to the project for token rent. In return, the project will be used as an educational site to teach students about wind power and energy.

Permitting

- Perform required environmental reviews of project to satisfy applicable U.S. Fish and Wildlife Service and state fish and wildlife requirements.
- Perform required archaeological studies to avoid destruction of cultural artifacts.
- Contact Indian tribes in the project area to ascertain their interests, if any.
- Northwest SEED will provide technical assistance in all areas above.

Access to Transmission Lines

- Obtain necessary access road and transmission corridor easements.
- Identify proposed location of interconnection.
- Establish status of transmission interconnection .
- Determine whether any facilities construction is necessary.
- Establish amount of available or reserved capacity.
- Northwest SEED will provide technical assistance in all areas above.

Construction

(NOTE: REACH funds will not be used for construction, but only for staff time to secure financing that will in turn pay for construction.)

- Identify size and number of turbines.
- Obtain turbines from manufacturer: Project partner Western S.U.N. (see Appendix J for Memorandum of Understanding) will assist Coastal CAP in obtaining turbines and related equipment at a discount. Western S.U.N. uses the purchasing power of its members (which include PUDS, electric co-ops, and municipal utilities) to acquire and implement renewable technologies at the lowest possible cost through market aggregation.
- Prepare site: Lay down access roads, turbine foundations.
- Install turbines.
- Connect to “the grid”: Make connection to transmission lines.
- Northwest SEED will provide technical assistance in identifying the appropriate turbines and choosing a construction firm.

Financing

(NOTE: REACH funds will not be used for financing, but will be used to write grants, negotiate loans, request bonds and pursue other financing mechanisms listed below and in Section II (c) Holistic Program Strategies.)

- Grant-based financing: This is the preferred method of financing. Potential grantors include private foundations such as the Energy Foundation, and government entities such as the Department of Energy.
- Bond financing: Depending on final location of the project site, Coastal CAP may approach the County of Grays Harbor, Grays Harbor PUD, and/or the cities of Aberdeen and Hoquiam to sponsor a bond to cover upfront costs of the project, to be paid back with revenues generated over the life of the power plant.

- **Loan-based financing:** Potential sources include commercial banks. This is not a priority resource because energy-generation projects are looked at sceptically since the Enron bankruptcy. Also, renewables projects are seen as riskier than traditional power plants (e.g., natural gas fired turbines), with a proportionately high interest rate.
- **Sale of “Green Tags”:** Green tags, also known as tradeable renewable energy credits (trc’s), provide a way to buy and sell the environmental attributes of renewable generation separately from the electricity generated. A market currently exists for green tags with wind power valued at from 1 to 4 cents per kWh.

Power Purchase Agreements/Low-Income Credits

- Enter into firm contract for sale of electricity generated: Grays Harbor PUD is eager to purchase up to 6 MWh of power.
- In return for the electricity generated, Grays Harbor PUD will provide a block of credits to Coastal CAP for an equivalent number of kWh. Coastal CAP will award these credits to low-income families applying for energy assistance. (Grays Harbor PUD is the primary provider of electricity in Coastal CAP’s service area.)

Key Immediate Outcomes for Intervention 1

- Sign agreement with School District describing access to site.
- Sign agreement with PUD to provide access to transmission lines.
- Sign agreement with PUD to provide low-income credits enumerated in kWh (rather than dollars) in return for power.
- Obtain all necessary permits.
- Complete financing proposals targeting foundations, federal agencies, local government, etc.

Key Intermediate Outcomes for Intervention 1

- Break ground in construction of wind farm.
- Coastal CAP obtains wind development expertise, allowing the agency to act as technical assistance provider to other LIHEAP/DOE WAP/CSBG CBOs.

Performance Goals for Intervention 1

- Finish construction of wind farm and connect to grid, supplying 6 Mw of power dedicated to low-income families and controlled by CSBG CBO (Coastal CAP).
- Lower by 20% the energy burden of 6,000 LIHEAP-eligible, electric-heated households by use of low-income credits, enumerated in kWh rather than dollars and therefore not subject to fluctuations in market pricing.

Intervention 2: Second Wind Model (Replicate Single Owner Model)

Even before the model wind farm is completed, Coastal CAP staff will have gained enough expertise to assist any of the 29 other members of Washington’s LIHEAP/Weatherization/CSBG network in developing their own wind projects.

Coastal CAP and Northwest SEED will offer workshops on wind development at regularly scheduled energy coordinator conferences and other venues sponsored by Washington State Community Action Partnership (WSCAP).

The REACH program will subcontract with “Second Wind” CBOs who wish to act as developers. The program will target CBOs that the Washington wind map suggests are in high wind areas (e.g., Yakima, Skamania and Klickitat Counties; see Figure 4 above). However, all

CBOs will be eligible to develop projects. Agencies do not have to be in a high-wind area. They can act as co-developers of projects in other areas, especially if they are in the service area of one of the three large investor-owned electric utilities.

In such cases, collaborations among CBOs may prove most productive. The greatest successes were obtained in REACH I by groups of CBOs pooling their funds to work with the large investor-owned utilities (Puget Sound Energy, Avista, PacifiCorp).

Similar strategies will be helpful in the current project to connect projects to transmission lines and establish power purchase agreements. For example, the Community Action Center of Whitman County (poor in wind resources) might wish to collaborate with the Klickitat-Skamania Development Council (rich in wind resources). Even though the two service areas are not contiguous, both are served by Avista.

Subcontracts will be signed in the first year to allow two years to develop additional wind resources.

Once the subcontracts are signed, the development process will follow the same lines as Intervention 1 above, including:

- First Scan
- Site Assessment & Acquisition
- Permitting
- Access to Transmission Lines
- Construction
- Financing
- Power Purchase Agreements/Low-Income Credits

Key Immediate Outcomes for Intervention 2

- Second Wind CBOs learn more about wind power development
- CBOs develop collaborations with other CBOs, utilities
- CBOs are awarded subcontracts

Key Intermediate Outcomes for Intervention 2

- Second Wind CBOs identify sites, sign agreements with utilities, obtain necessary permits, obtain financing
- CBOs break ground in construction of wind farm

Performance Goals for Intervention 2

- Finish construction of additional wind farms and connect to grid, supplying 3 Mw of power dedicated to low-income families and controlled by LIHEAP/DOE WAP/CSBG CBOs.
- Lower by 20% the energy burden of 3,000 LIHEAP-eligible, electric-heated households by use of low-income credits, enumerated in kWh rather than dollars and therefore not subject to fluctuations in market pricing.

Intervention 3: Cooperative Model

The development process is complex and can be intimidating. The LIHEAP/Weatherization/CSBG CBOs will be offered a wealth of training and technical assistance, but some may still not wish to take on the process.

Intervention 3 is an option for CBOs who wish to participate but do not themselves wish to become wind developers. Under this model, the CBOs become part owners in cooperatively-owned wind farms with blocks of power set aside for low-income households. Western S.U.N. will provide training and technical assistance to CBOs on how cooperatively-owned power projects work. (See Memorandum of Understanding attached in Appendix J.)

In this case, the developer will be the Last Mile Electric Co-op (LMEC), a project partner (see Memorandum of Understanding attached in Appendix J). LMEC's principal members are 15 rural electric co-ops and municipal utilities. Thus, key parts of the development process, establishing a power purchase agreement and linking to the transmission grid, are ensured.

LMEC has played a key role in bringing together potential partners to develop smaller scale, renewable energy power plants. For example, LMEC co-sponsored the 2001 Director-Manager Conference for rural utility leaders in Pasco, Washington. Approximately 100 rural utility officials attended the conference. In the same year, LMEC co-sponsored a conference on "Harvesting Clean Energy for Rural Development." This conference was attended by 30 rural utility officials and 170 other participants, including potential funders, landowners, and CAA representatives.

LMEC will perform most of the activities described in Intervention 1 (site assessment and acquisition etc.). As in Intervention 1 above, Western S.U.N. will help the cooperative purchase turbines and related equipment at a discount. However, the CBOs will have a role in developing financing to secure their place in the cooperative. Funding mechanisms can include discretionary money controlled by the CBOs themselves, such as Community Services Block Grant funds, as well as external resources such as grants, bonds, and loans. For a full list of financing mechanisms, see Section II (c) Holistic Program Strategies.

The CBOs and Northwest SEED will also have a key role in shaping the power purchase agreement developed under the cooperative model. As in Intervention 1, CBOs will urge that such agreements be written to provide low-income credits numerated in kWh rather than dollars. As noted above, this will insulate low-income families who receive the credits from price shocks in the energy market.

Key Immediate Outcomes for Intervention 3

- CBOs attend Western S.U.N. trainings on cooperative model of power plant ownership
- CBOs become comfortable with cooperative model

Key Intermediate Outcomes for Intervention 3

- CBOs join LMEC cooperative

Performance Goals for Intervention 3

- LMEC cooperative builds wind farm and connect to grid, with 3 Mw of power dedicated to low-income families and managed by LIHEAP/DOE WAP/CSBG CBOs.
- Lower by 20% the energy burden of 3,000 LIHEAP-eligible, electric-heated households by use of low-income credits, enumerated in kWh.

Intervention 4: Process Participation

This intervention builds on expertise developed in Washington's prior REACH project, which developed over \$12 million in low-income energy assistance by participating in the ratemaking process before the Washington Transportation and Utilities Commission (WUTC). By continuing to participate in procedures such as ratemaking and mergers before the WUTC, REACH can advocate for low-income interests and generate capital for low-income wind projects.

REACH will also participate in the permitting process. A number of gas-fired plants and large wind farms are proposed for development in the near future. Developments must obtain permits before breaking ground. This presents an opportunity for interveners to be heard. For example, Washington plans to require that developers of gas-fired turbines mitigate the carbon dioxide produced by such power plants. By participating in the permitting process, REACH can urge that mitigation be accomplished by purchasing "green tags" from REACH wind projects. In Washington State, new electric power plants with over 350 MW of generating capacity go through a state level review process overseen by the Energy Facility Site Evaluation Council (EFSEC). Smaller developments usually go through a local permitting process. In REACH I, Blue Mountain Action Council secured \$50,000 for low-income energy assistance by participating in the permitting process for a gas-fired turbine power plant. However, most REACH I CBOs participated only in ratemaking processes before the WUTC. Therefore, A W.I.S.H. will provide technical assistance to the CBOs on how to intervene both through EFSEC and at the local level.

Figure 5. New Wind Projects in Washington State

Utility/Developer (Project)	Location	Status	MW Capacity	On Line By
Energy Northwest & Member Utilities (Nine Canyon Ph II)	NA	Under Dev.	15.6	2003 / Bonus 1.3 MW (12)
BPA / Pacific Winds (Maiden Wind Farm)	Benton & Yakima Co. near Presser	Proposed	150	2004
BPA / Pacific Winds (Horse Heaven Hills)	Benton Co.	Proposed	150	2004
Zilkha Renewable Energy (TBD)	Near Ellensburg / Kittitas County	Proposed	100	2004
BPA / SeaWest Wind Power (Roosevelt)	Klickitat County	Speculative	150	2004
BPA / SeaWest Wind Power (Six Prong)	Klickitat County	Speculative	150	2004
BPA / SeaWest Wind Power (Waitsburg)	Walla Walla / Columbia	Speculative	100	2004
BPA / Columbia Windpower (Columbia Wind Ranch)	Klickitat Co.	Speculative	80	2004

Source: www.awea.org

Key Immediate Outcomes for Intervention 4

- Project participates in siting process for new wind plants and gas-fired turbines.
- Project participates in rate cases, mergers and other procedures before the Washington Utilities and Transportation Commission.

Key Intermediate Outcomes for Intervention 4

- Developers and utilities consider interests of low-income households.

Performance Goals for Intervention 4

- Increase utility contributions to reducing low-income energy burdens by generating financing for low-income wind projects.

Intervention 5: Tailored Energy Assistance Programs

In REACH I, we found that ratepayer-funded programs of the large utilities often had to be standardized throughout a large service area to comply with regulatory requirements and administrative ease desired by the utilities. Therefore, the programs did not always best fit needs of the target population. In REACH II, because the energy generated is controlled by the CBOs, they can develop an energy assistance program best tailored to their local area. And programs can be easily modified based on experience of the CBO or projects in other parts of the state. A W.I.S.H. will provide technical assistance on models which do the following:

- Discourage family energy crises
- Encourage responsible vendor and consumer behavior
- Provide incentives that encourage payment of home energy costs
- Provide incentives for vendors to help reduce energy burdens of target families

For example, technical assistance will be provided on Clark County PUD's Guarantee of Service Plan. This program has been documented to reduce delinquent balances, reduce shut-offs, increase regularity of bill payment, reduce write-offs and collection costs. For more detail, see the section on "Significant and Beneficial Impact" below.

The benefits generated by the project will be nonmonetary: energy assistance will be denominated in kWh rather than dollars. In this manner, clients are protected from the gyrations of the energy market. Provisionally, we have set the goal of reducing the energy burden of target families by 20%. This target may be adjusted up or down depending on experience gained as the project unfolds. REACH energy assistance will be combined with other programs operated by the CBOs to provide energy efficiency education and weatherization (funded through LIHEAP and DOE WAP) to maximize impact of benefits. All clients will receive energy efficiency education. Weatherization applications will be done according to established technical specifications, cost effectiveness tests, and applicable building codes. See II (c) Holistic Program Strategies below for more detail on integration of Intervention 5 with existing programs.

The target population for this project is low-income households in Washington State that are at the lowest end of the federal poverty guidelines. We feel our best strategy for serving them is to first move those at the higher end of the guidelines up and away from LIHEAP, since the program reaches only 20% of eligible recipients. By receiving a substantial reduction on their energy bills from REACH generated cost-based energy assistance, households at the higher end of the spectrum will transition off LIHEAP, to be replaced by families at the lower end of the guidelines. Per the state's LIHEAP plan, through targeted intake, we will focus on families with

members who are elderly, disabled, or young children. Weatherization referrals will be likewise targeted.

Key Immediate Outcomes for Intervention 5

- CBOs gain knowledge about energy assistance programs that discourage family crisis and present “win-win” situation for utilities and clients.

Key Intermediate Outcomes for Intervention 5

- Energy assistance programs put in place to distribute energy to target households.

Performance Goals for Intervention 5

- Reduce the energy burden of 12,000 LIHEAP-eligible families by 20%
- For the 12,000 target families, reduce disconnects by 20%.
- For the 12,000 target families, increase regularity of payments by 15%.
- For the 12,000 target families, reduce mobility (a predictor of homelessness) by 15%.
- Improve the health and safety of vulnerable households by reducing the energy burden for 3,700 families that include an elderly person, 3,000 families that include a disabled person, and 2,900 families that include a young child.

Significant and Beneficial Impact

Using a conservative estimate of 28% turbine effectiveness, 12 MW of capacity will generate 29,400 MWh annually (12 MW x 24 hours x 365 days x 28%). The average household in Washington uses 12 MWh annually. Therefore, each year the project could fully cover the energy needs of over 2,400 families. Or each year the project can reduce the energy burden of over 12,000 families by an average of 20%. Although the REACH project will last only three years, the average life of a wind turbine facility is 20 years.

- Over its viable life, the project will generate 588,000 MWh of electricity.
- This is enough energy to reduce by 20% the energy burden of 245,000 families for one year.
- A LIHEAP program of equivalent size in Seattle (where the residential marginal block rate is 8.66 cents per kWh) would require \$50.9 million in funding.
- Therefore, the project has a potential leverage of 50:1.
- Even if energy costs rise over time, project impact will not erode, because benefits are denominated in MWh rather than dollars.

One of the key components to self-sufficiency is the ability to afford basic needs, such as heating, cooking, lighting, refrigeration, water heating and appliances. Wage earners and children cannot go off to school and work and perform successfully if they live in the dark, cannot cook food or have adequate warmth. This project promotes self-sufficiency by ensuring those basic needs are met by having affordable energy bills and energy-efficient homes and appliances, coupled with an education component. CBOs have noted that low-income families have a higher mobility than the general population. Often, a move is precipitated by inability to pay the utility bill. Once a family moves away from its support structures, its chances of becoming homeless greatly increase. Therefore mobility is a precursor to homelessness. By reducing energy burdens, the project will reduce mobility, and therefore homelessness, caused by inability to pay utility bills.

Once wind projects have begun generating power, CBOs have many options to choose among for deploying the energy assistance. They can tailor programs to the needs of their local target

population. Among other models, the project will provide technical assistance on the Clark County Public Utility District's current Guarantee of Service Plan. Under REACH I, most utilities felt the GOSP model to be too complicated. Research conducted by Clark County PUD shows that after implementing its GOSP program, delinquent balances fell from 67% to only 37%, and power disconnects declined by 65%. The most impressive finding was that the regularity of bill paying by low-income households increased. Once low-income customers felt their utility bills were under control, they paid on average \$23 more per month on their bills. Not only did the regularity of bill payments increase, the amount paid also increased. Low-income customers benefited through reduced shut-offs, uncertainty and administrative hassles. Utilities and their ratepayers saved significant costs through lower write-offs, administrative costs and increased customer payments. Thus, the model is created for a cost-effective investment on the part of the utility rather than a "give-away" program, a "win-win" situation for both low-income households and utilities. This data clearly indicates that the Clark County model program can avoid family energy crisis and provide financial incentives that encourage household payments. At the same time the model will show utilities that it is in their interest to reduce low-income family energy burden. We expect to have similar results when implementing energy assistance programs under REACH II.

The goal of replicability is embedded in the project. In fact, the project design calls for replicating the model program developed in Grays Harbor County in other parts of Washington State. Lessons learned in this transition will be applicable to replication in other parts of the country as well. As information is collected and results determined, a report will be developed that outlines both the process and outcomes of this project. That report will be distributed to all project partners (utilities, CBOs) and the Steering Committee. The report is intended to be used as a marketing tool to encourage government bodies, utilities and CBOs across the country to pursue supply-side energy assistance models. The report will be written in a succinct, non-technical, jargon-free manner for public consumption.

The 60 investor owned and public utilities in Washington will receive this report. Follow up contacts will be made to discuss the report's findings and answer any questions the utility may have.

A.W.I.S.H will put a report summary on its web site and make presentations at conferences such as the Energy Northwest Conference, which includes representatives from Washington, Oregon, Alaska and Idaho state governments and the U.S. Department of Energy. A.W.I.S.H will also make the report available to pertinent groups at the state (e.g., Energy Advisory Steering Committee of CTED) and national level (e.g., National Association of Community Action Agencies).

Holistic Program Strategies and Project Innovations

Integration with LIHEAP, DOE WAP, and Other Self-Sufficiency Programs

The energy assistance generated by Interventions 1-4 will be distributed by LIHEAP/DOE WAP agencies using their existing intake staff. Agencies will provide the following services to eligible clients as appropriate:

- (i) energy assistance: cost-based energy assistance (from REACh wind-power projects); ratepayer-funded energy assistance (utility energy assistance funds developed by REACh); federal energy assistance (LIHEAP)
- (ii) energy efficiency education (funded by LIHEAP)
- (iii) weatherization & energy system conversion (if appropriate) (funded by DOE WAP and state weatherization program)
- (iv) family services: needs assessment, counseling, and payment plans related to energy budget management (funded by LIHEAP, utility energy assistance funds); child care, Head Start and state preschool (by referral where CBO does not operate program); health services, vocational training, job search and job prep, senior services, case management, TANF, food stamps (by referral where CBO does not operate program)
- (v) negotiation with home energy suppliers (funded by REACh, LIHEAP, utility energy assistance funds)

The thirty LIHEAP/DOE WAP/CSBG agencies partnering on this project, under the coordination of A W.I.S.H, have put forward suggestions about project design and have reviewed the project proposal throughout the process leading to submittal to DHHS. Each of these partners administers many million dollars worth of community programs such as LIHEAP, DOE WAP, Head Start, health clinics, homeless housing, housing rehabilitation, case management, senior services and child advocacy. In addition, CTED ensures coordination through interagency agreements, regional roundtable meetings, and advisory groups. One of CTED's major interagency agreements is with the State of Washington Department of Social and Health Services to provide client information, outreach and income verification services to local LIHEAP program contractors. Thus, this project will be integrated with the full spectrum of other services for low-income households in each community.

Partners and Roles

The program represents a collaboration of numerous partners representing the private for-profit sector, the private non-profit sector, and government. Project partners have committed \$550,000 in match to the program.

- Washington State Department of Community, Trade and Economic Development: The state entity that oversees LIHEAP will have overall fiscal, management, and reporting responsibility.
- A W.I.S.H.: A private nonprofit representing the 30 CSBG/LIHEAP/DOE WAP entities in Washington will administer the project, coordinate partners, monitor contractors.
- Washington State Community Action Partnership (WSCAP): The state community action association will help coordinate with the community action network.
- CSBG/LIHEAP/DOE WAP network: Many of these 30 entities include private nonprofits and county-based agencies, and will administer energy assistance funds developed under the project and develop wind turbines projects.
- Coastal Community Action Agency: A private nonprofit will serve as model program for wind turbine acquisition, siting and operation and provide technical assistance to other community action agencies on development process.
- Grays Harbor School District: A school district will provide land for the Coastal CAP model program and will use the site to teach students about energy.
- Western SUN: A consortium of private and public utilities will provide training and technical assistance on cooperatively-owned power projects.
- Last Mile Cooperative: An organization representing utilities and others interested in distributed generation will develop a cooperatively-owned model wind project.
- Northwest SEED: A private nonprofit will provide technical assistance on the viability of potential wind power sites and assist in contract negotiation with landowners.

Coordination of Funding

REACH funds will be used to coordinate other funding sources. No REACH funds will be used for actual construction. Potential funding sources include the following:

- **Seattle City Light:** Seattle's municipal utility has a climate change committee that issues requests for proposals to acquire green resources and also meet other city objectives such as affordable energy costs for low-income families.
- **Green Tags:** Also known as tradeable renewable energy credits (trc's), green tags provide a way to buy and sell the environmental attributes of renewable generation separately from the electricity generated. A market currently exists for green tags with wind power valued at from 1 to 4 cents per kWh.
- **Foundation funding:** Foundations such as Bullitt, Brainerd, the Bonneville Foundation, the Energy Foundation and many others are viable sources.
- **Bond Financing:** Community Action Agencies may ask their local utility or local unit of government to sponsor a bond or other public loan to pay for the upfront costs of wind turbines and then pay the loan back from revenues generated over the life of the plant.
- **Qualified Zone Academy Bonds (QZAB):** As part of a Renewal Community/Enterprise Community/Empowerment Zone project, state or local governments can issue bonds at 0-percent interest cost to them to finance public school programs with private business partnerships where the private business contributes money, equipment, or services equal to 10 percent of bond proceeds. The federal government pays interest. For example, if Coastal CAP's model program (which partners with the Grays Harbor School District) were replicated in Yakima (where there is a Renewal Community), the project would be eligible for QZABs.
- **Regulatory Proceedings:** REACH funds will be used to participate in utility proceedings (e.g. rate cases, mergers, etc.) that have a prospect of funding this initiative. In many cases these proceedings are settled through a collaborative process and a settlement agreement.
- **BPA Funds:** The Bonneville Power Administration has five year funding cycles for the Conservation and Renewable energy program which funnels money to their customer utilities for these purposes. The REACH project will work with local utility boards on proposals to use some of these funds for our goals
- **Net Metering:** Net metering has been approved by Washington's legislature and can be a useful tool in making payments to the financing agents for sales of green kilowatts.
- **Local Agency Discretionary Funds:** Some CBOs have discretionary funds that can be invested in wind development and they have expressed interest in doing so.
- **CDBG:** The Community Development Block Grant is a potential funding source for CBOs working in partnership with local government.

- **USDA:** The Department of Agriculture has a number of resources that can be tapped, particularly for rural areas of the project, including the Rural Partnership Office, Rural Development Funds, and the Rural Development Council
- **Department of Energy:** From time to time, DOE's Office of Energy Efficiency and Renewable Energy issues State Energy Program Special Projects Solicitation with a focus on renewable energy sources.

Innovation

- Project views low-income community as producers of energy, not just as passive consumers.
- Project partners include utilities, CBOs, and local government.
- Interventions include a cooperative model for energy production.
- Energy resource to be developed is cost-based (wind) rather than market-based (e.g., coal, gas, oil).
- Project positions itself for success within an industry poised for growth in Washington, the wind industry.
- Project develops energy assistance denominated in kilowatt-hours rather than dollars, insulating the value of assistance from energy price spikes.
- CBOs can tailor energy assistance programs to meet local needs.
- Resources developed under the project will continue to provide benefits for 17 to 20 years after the REACH project period.
- The ratio of leveraged dollars to REACH funds is approximately 50 to 1.

Work Plan/Time Lines and Discussion of Critical Issues

Critical Issues/Potential Problems

Wind turbines are inaccurately perceived as a new, untried technology. For some organizations, the sense of being in the forefront of innovation may actually be enticing. However, we anticipate that a more common reaction will be caution. The following is a discussion of potential issues stemming from this reaction and plans for moving past it.

Issue: Since private sources generally consider renewable energy projects riskier than conventional alternatives, the cost of capital for such projects is higher, and may increase with the advent of competition.

Plan: Pursue a funding mix that focuses on grants, bonds and green tag sales rather than commercial bank loans.

Issue: In Intervention 2, CBOs may be intimidated by the development process and reluctant to becoming developers.

Plan: Provide technical assistance and examples of successful developments. If this does not work, shift focus to Intervention 3 which relies on project partner Last Mile Coop to act as developer.

Issue: Local communities may be resistant to wind farms being located in their areas.

Plan: Partner with rural networking groups (e.g., The Grange, the Rural Development Council, and Washington Rural Electric Cooperative Association) to provide education on the benefits of wind farms to the local economy.

WORK PLAN/TIME LINE: Activities & Milestones	Year I				Year II				Year III				Days Post
	Quarter												
	1	2	3	4	1	2	3	4	1	2	3	4	
State contracts with A W.I.S.H.	■												
State contracts with evaluator (AEA)	■												
A W.I.S.H. subcontracts with partners (NW SEED, Coastal CAP, We. SUN, LMEC)	■												
Finalize Evaluation Plan	■	■											
REACH Conferences/Workshops in DC		■					■				■		
Progress/Financial Reports (SF 269)		■		■		■		■		■		■	
Single Owner Model													
• First scan	■	■											
• Site assessment/acquisition		■	■										
• Permitting			■	■									
• Access to transmission lines			■	■									
• Financing	■	■	■	■									
• Power Purchase Agreements			■	■									
• Construction				■	■	■	■						
• 6 MW capacity on-line							■	■	■	■	■	■	>>
Technical assistance (NW SEED, We. SUN)	■	■	■	■	■	■	■	■	■	■	■	■	
Interim Evaluation Reports				■			■			■			
Policies/Procedures from Process Report							■						
Second Wind Model (replication phase)													
• T.A. to CBOs (Coastal CAP)			■	■	■	■	■	■	■	■	■	■	
• Workshops on wind development			■		■		■		■				
• Subcontracts with other CBOs			■	■	■								
• Wind project development by other CBOs				■	■	■	■	■	■	■	■	■	>>
• 3 MW capacity on-line											■	■	>>
Cooperative Model													
• We. SUN trainings on model to CBOs			■		■		■		■				
• CBOs dev. financing/join LMEC coop.	■	■	■	■	■	■	■	■					
• LMEC develops wind farm	■	■	■	■	■	■	■	■	■				
• 3 MW capacity on-line									■	■	■	■	>>
Process Participation	■	■	■	■	■	■	■	■	■	■	■	■	
T.A. on model assistance programs				■	■	■	■	■	■	■	■	■	
Outcomes													
• Reduce energy burden of 6,000 families							■	■					
• Reduce energy burden of 9,000 families									■	■			
• Reduce energy burden of 12,000 families											■	■	>>
Final Program/Financial Report													90
Final Evaluation Report													365
Dissemination of results													>>

Community Consulting & Grant Writing

More Sample Grant Proposals

SOIL & WATER CONSERVATION DISTRICT
RESOLUTION #2011-01: A RESOLUTION SUPPORTING
AGRICULTURAL DEVELOPMENT IN ALASKA

WHEREAS the state of Alaska contains vast natural resources which are important to the sustainability and future of the state;

WHEREAS Alaska, being isolated from the rest of the United States, has an important need to be more self-sufficient;

WHEREAS Alaskans should support the expansion and accessibility of farmers' markets, roadside stands, farm-based sales, and other forms of direct agricultural sales from the producer to the end consumer;

WHEREAS the general public is increasingly interested in locally produced food, and the purchase and consumption of fresh and local agricultural products offers profit potential and economic opportunity for family farms;

WHEREAS Alaskan agricultural products can be more accessible in local stores, businesses, schools and other potential outlets, if assisted with marketing and other operational obstructions hindering the industry; and

WHEREAS a viable agricultural industry in Alaska represents part of a secure regional food supply, and the sustainability of the local agricultural industry is dependent on the relationship between the producer and the consumer.

NOW THEREFORE BE IT RESOLVED that the _____ Soil & Water Conservation District supports locally-grown agricultural products, and the assistance of the State and other entities to further the development and long-term sustainability of the agricultural industry in Alaska.

PASSED AND APPROVED by the _____ Soil and Water Conservation District Board of Supervisors this _____ day of _____, 2011.

John Q. Farmer, Chair

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE
STATE FARM CONSERVATION PLAN
Pursuant to AS 38 and 11 AAC**

ADL# _____

NAME _____

ADDRESS _____

PHONE Home: _____ Other: _____

Local Soil and Water Conservation District _____

This State Farm Conservation Plan (Plan), authorized under AS 38 and required pursuant to 11 AAC 67.177 and conditions within the Contract, summarizes purchaser's/owner's commitment to proper agricultural land use and conservation practices, which are represented graphically on the attached parcel map and supplementary written narrative. When approved, this plan and its covenants remain with the property title as approved currently or in a subsequent amendment.

Covenants:

- 1) Purchaser of this parcel classified by the State of Alaska for agricultural purposes agrees to inform himself or herself of the governing statute (AS 38.05.321), regulations (11 AAC 67.177 and .180), and associated conditions of sale (see brochure and contract), and to abide by all relevant covenants and restrictions of those statutes, regulations and conditions of sale.
- 2) In compliance with AS 38.05.321, 11 AAC 67.177 and the conditions of sale, purchaser agrees, to the extent development is planned, to develop and maintain this parcel in accordance with the Plan, with primary emphasis upon permanent soil conservation measures, that, when possible, will be in compliance with the appropriate practices and procedures identified in the current USDA/NRCS manual.

When complete, this Plan should address such permanent conservation objectives as: a) protection of wetland, streams and related water resources of the land, and b) protection of highly erodible land, farmsteads, animal rest areas, etc. with conservation practices such as effective wind barriers (natural or planted wind breaks), permanent cover crops, and proper location of improvements.

must be shown on the scale plan map. Of equal importance are the purchaser's/owner's land-development decisions. The proper matching of cropping intentions and methods with suitable soil types and topographical features is essential.

The parcel map should identify: a) map scale, b) non-cropland areas such as wetland, steep slopes, etc. c) clearing configuration (proposed or existing) and acreage; d) real property improvement locations and types (houses, barns, fences, etc.); e) access roads, legal easements and existing physical features such as water bodies.

Map scale _____	Map # of Improvement	Improvement Type (house, barn, etc.)	Size
Total parcel acres _____			
Total cropland acres _____	1.	_____	_____
Cleared acres _____	2.	_____	_____
Cropped acres _____	3.	_____	_____
Pasture acres _____	4.	_____	_____

Purchaser/Owner _____

Date Agreed To _____

Soil and Water Conservation District Comments and/or Recommendations:

(Attach Separate Sheet if Necessary)

Reviewed by the Salcha - Big Delta ***Soil and Water Conservation District on*** _____.

Chair

Date Reviewed

Director, Division of Agriculture

Date Approved _____



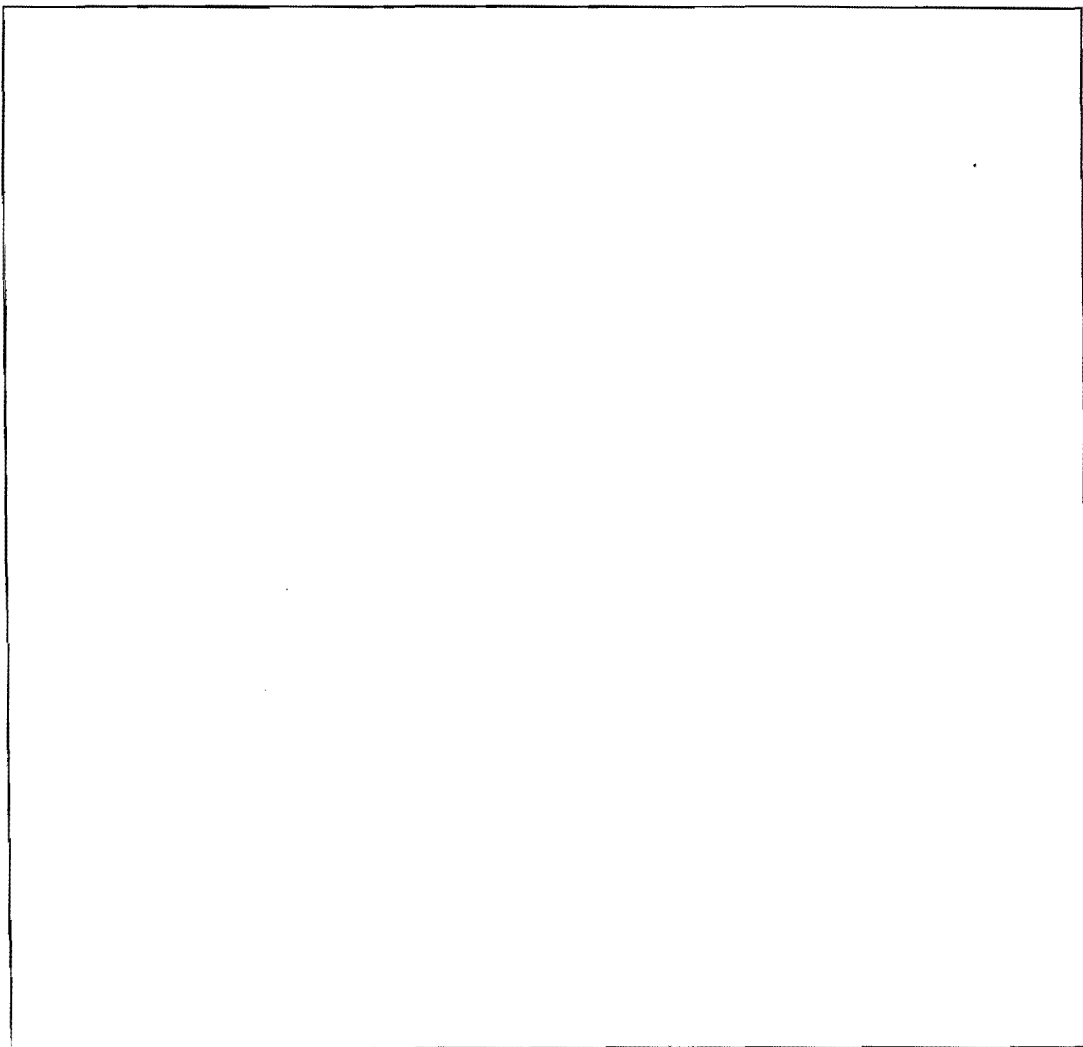
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF AGRICULTURE

FARM CONSERVATION PLAN

Pursuant to A.S. 38.05.020, A.S. 38.05.069, A.S. 38.05.321, and 11AAC 67 160-192

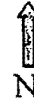
Owner _____ Conservation District _____
Operator _____ No. Salcha - Big Delta Date _____
Scale _____ Acres _____
Approx. Approx.
County _____ Alaska _____ Phone No. _____
State _____

Location (Community, watershed, road & distance, etc.) _____



FARM CONSERVATION PLAN MAP LEGEND

North arrow (needed for orientation)



Parcel Boundary



Field or land use boundary



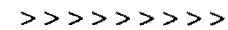
Existing access (roads or trails)



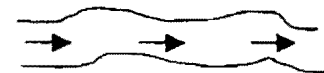
Proposed access (roads or trails)



Irrigation or drainage ditch



Streams



Building with map identification number



Farmstead



Field to be cleared and cultivated

C

Pasture

P

Undeveloped Area (woodlands)

U

Windbreak, leave strip, etc. (width?)



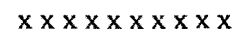
Well



Water reservoir including ponds

R

Fence



Others used

VOLUNTEER SERVICE AGREEMENT AND RELEASE OF LIABILITY FORM

This Volunteer Service Agreement and Release of Liability Form ("Agreement") sets forth the terms and conditions applicable to your volunteer service for the _____ Soil and Water Conservation District ("SWCD").

In consideration for the opportunity to participate in this volunteer service, I agree to the following:

1. **Volunteer Service.** I am volunteering my services on my own initiative and understand that I will receive no pay, benefits, or remuneration of any kind for this volunteer work. I agree to abide by the policies, rules, and regulations of the SWCD, as well as all applicable federal, state and local laws.
2. **Assumption of Risk.** I understand that some work may involve hard physical labor, heavy lifting, or other strenuous activity, and may pose the risk of physical injury. I certify that I am in good health and physically able to perform this type of work. I assume all risk and responsibility for any damage, injury or death to me or to my property which I may sustain while involved in this volunteer work, including but not limited to any related medical costs and expenses.
3. **No Insurance Provided By SWCD.** I understand the SWCD does not provide insurance of any kind for my volunteer services, including but not limited to insurance for the loss or physical damage to me, my personal vehicle, equipment, or other personal property used while performing my volunteer duties. I understand that I must have a valid driver's license if I drive a motor vehicle in connection with this work, and possess and maintain the minimum insurance coverage required by Alaska law.
4. **Photographic Likeness.** I hereby give permission to the SWCD to use my name and photographic likeness in all forms and media for advertising, trade, and any other lawful purposes, without recompense to me.
5. **Release and Indemnification.** I agree to release the SWCD, and its directors, officers, employees, agents, and representatives from any and all liability, loss, damage claim and/or cause of action, known or unknown, of any kind that may arise in connection with my participation as a volunteer, including any liability, loss, damage claim and/or cause of action which may be caused by their negligence or willful neglect. I also agree to defend, indemnify and hold harmless the SWCD, and its directors, officers, employees, agents, and representatives, from any and all liability, loss, damage claim and/or cause of action of any kind that may arise as a result of my own actions or conduct as a volunteer.

IMPORTANT: This Agreement contains the entire agreement between the parties, may only be modified in a writing signed by both parties, and is governed by Alaska law. Your signature below acknowledges that you have fully read, understand and agree to the terms and conditions of this Agreement. We thank you for your support and hope the time you contribute will be rewarding to you as well.

Volunteer's Printed Name	Volunteer's Signature	Date
--------------------------	-----------------------	------

Address _____ City, State & Zip _____

Emergency Contact Person	Emergency Contact Number
--------------------------	--------------------------

Parent / Guardian's Signature (If Volunteer is under 18 years of age) _____ Date _____