



CITY OF NORTH POLE *Alaska*

REGULAR CITY COUNCIL MEETING Monday, September 17, 2012

**Committee of the Whole – 6:30 p.m.
Regular City Council Meeting – 7:00 p.m.**

COUNCIL MEMBERS

Richard Holm	488-1776
Sharron Hunter- <i>Alt Dep Mayor Pro Tem</i>	488-4282
Ronald Jones- <i>Mayor Pro Tem</i>	488-3579
Thomas McGhee	455-0010
Derrick Nelson	490-2446
Bryce Ward- <i>Deputy Mayor Pro Tem</i>	488-7314

MAYOR

Douglas Isaacson 488-8584

CITY CLERK

Kathy Weber, MMC 488-8583

1. Call to Order/Roll Call
2. Pledge of Allegiance to the US Flag –
3. Invocation
4. Approval of the Agenda
5. Approval of the Minutes
6. Communications from the Mayor
7. Council Member Questions of the Mayor
8. Communications from Department Heads, Borough Representative and the City Clerk
9. Ongoing Projects Report
 - a. North Pole Economic Development Corp Radius Study Presentation
10. Citizens Comments (Limited to Five (5) minutes per Citizen)

11. Old Business

12. New Business

- a. Approval of Bids for the 2012 City of North Pole Surplus Sale
- b. Approval of the Purchase of Work Stations for the North Pole Police Department with ABADE Funds
- c. Ordinance 12-19, An Ordinance Repealing Chapter 4, Section 4.23, Motor Vehicle Impoundment and State Forfeiture
- d. Ordinance 12-20, An Ordinance Introducing Chapter 10, Section 10.02, Motor Vehicle Impoundment and State Forfeiture
- e. Ordinance 12-21, An Ordinance Introducing Chapter 2, Section 2.27, Office of Administrative Hearings
- f. Resolution 12-20, A Resolution Establishing the 2013 Capital Projects Priorities for the City of North Pole
- g. Resolution 12-21, A Resolution Requesting the Governor and Legislature to Pursue All Possible Means to Provide Immediate Energy Cost Stabilization and Equalization, Including the Use of Royalty Oil Discount Pricing, In Order to Prevent Further Destabilization of Alaskan Communities and to Decrease Pressure on State Budget Expenses

13. Council Comments

14. Adjournment

The City of North Pole will provide an interpreter at City Council meetings for hearing impaired individuals. The City does require at least 48 hours notice to arrange for this service. All such requests are subject to the availability of an interpreter. All City Council meetings are recorded on CD. These CD's are available for listening or duplication at the City Clerk's Office during regular business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. or can be purchased for \$5.00 per CD. The City Clerk's Office is located in City Hall, 125 Snowman Lane, North Pole, Alaska.

**Committee of the Whole – 6:30 P.M.
Regular City Council Meeting – 7:00 P.M.**

A regular meeting of the North Pole City Council was held on Tuesday, September 4, 2012 in the Council Chambers of City Hall, 125 Snowman Lane, North Pole, Alaska.

CALL TO ORDER/ROLL CALL

Mayor Isaacson called the regular City Council meeting of Tuesday, September 4, 2012 to order at 7:00 p.m.

There were present:

**Mr. Holm
Ms. Hunter
Mr. Jones
Mr. McGhee
Mr. Nelson
Mr. Ward
Mayor Isaacson**

Absent/Excused

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

Led by Mayor Isaacson

INVOCATION

Invocation was given by Thomas McGhee

APPROVAL OF AGENDA

Mr. McGhee moved to Approve the Agenda of September 4, 2012

Seconded by Mr. Jones

Discussion

None

Mr. McGhee moved to consent the following items on the agenda under New Business:

- a. Approval of North Pole City Council for 10 Year Lease Extension with Santa's Senior Center Association, Inc.
- b. Approval of Grant Amendment #1 for Community Development Block Grant for Santa's Senior Kitchen Modification Project
- c. Approval of Contractor to Construct Kitchen Modifications at the Santa's Senior Center as Part of the Community Development Block Grant Funded Kitchen Modification Project
- d. Authorization of the North Pole City Council to Donate to North Pole High School, a 2010 Business Partner, Damaged Lengths of Chain Link Fence Salvaged from along

- NPHS Blvd
- e. Authorization of the North Pole City Council to Approve Change Order #2 for the Lift Station Rehabilitation Project, Phase 2, to Upgrade Phase 1, Electronic Control Panels to Phase 2 Standards

Seconded by Mr. Jones

Discussion

None

On the amendment

PASSED

YES –7- Ward, Holm, Hunter, Jones, Nelson, McGhee, Isaacson

NO – 0

Absent- 0

On the main motion as amended

PASSED

YES –7- Ward, Holm, Hunter, Jones, Nelson, McGhee, Isaacson

NO – 0

Absent- 0

APPROVAL OF MINUTES

Mr. Jones moved to Approve the minutes of August 20, 2012

Seconded by Mr. Ward

Discussion

None

PASSED

YES –7- Ward, Holm, Hunter, Jones, Nelson, McGhee, Isaacson

NO – 0

Absent- 0

COMMUNICATIONS FROM THE MAYOR

GENERAL:

- Spoke with EPA and BLM regarding the fire across the Tanana River and asked for an air quality waiver. He asked why they weren't putting the fire out and the reply was that all their assets were deployed to lower 48 and it was a limited engagement area.

- The EAFB EA team, SAIC, met with the 3 mayors and discussed an environmental analysis for moving the F16's to Elmendorf.
- Mayor Isaacson gave kudo's to Lydian Nelson for all her hard work on the Mayor's Picnic, September 3rd. He also thanked all of those that came out and worked that day with the picnic.

COUNCIL MEMBER QUESTIONS OF THE MAYOR

None

COMMUNICATIONS FROM DEPARTMENT HEADS, BOROUGH REPRESENTATIVE AND THE CITY CLERK

Police Department, Chief Dutra

- None

Fire Department, Buddy Lane

- None

Accountant, Lisa Vaughn

- Submitted to council the summary of citations from 2009 through 2012 with the percentage of received amounts by PFD's that have been garnished. She said that last week was the deadline for 2012 for garnishments.

FNSB Representative:

- Ms. Hunter stated that no business that affected the City of North Pole was discussed.

Director of City Services, Bill Butler

Building Department

- No new building permits issued since August 16 Council meeting

Public Works

- Economic Stimulus energy efficiency project completed
 - City Hall heating control system
 - Installed weather stripping in City Hall, Police Department and Fire Station
 - Installed new thermostats in Public Works and Fire Annex
 - Cleaned Public Works and Fire Department boilers
 - Installed new hot water heater in Police Department

- Community Development Block Grant for Santa's Senior Center Kitchen Upgrade Project
 - Received a single bid for the project higher than estimated construction cost
 - Department of Commerce, Community Affairs and Economic Development approved a grant increase for \$29,752 to finance construction based upon construction bid

Utility Department

- Utility Garage Project
 - Contractor did not achieve substantial completion as of August 31 and is in period of accruing liquidated damages
- Flint Hills Resources is proceeding with construction of industrial sewer force main
 - Project completion estimated to be early October 2012
- Received a call from a Flint Hills attorney that I can expect to be deposed as part of a possible lawsuit between Williams Petroleum and Flint Hills related to sulfolane contamination
- Submitted a grant application to use a prior award to start rehabilitation work on the waste water treatment plant in 2013
 - Appealing a pre-grant application score for additional funding for waste water treatment plant for work to occur in 2014

City Clerk

- The Municipal Election for the City of North Pole will be held October 2, 2012. Attached is a sample ballot for that election.
- The minutes of the last meeting are very short. There was a nasty virus on the computer and our IT person was able to come out on Friday and fix it. If you have any questions or concerns I can give you a CD of the meeting to review.
- Absentee ballots should be here around September 14th.
- Bids are due on the City Surplus Sale on Wednesday, September 12th.
- Reminder:

Registration forms for the 2012 Annual Local Government Conference which will be held in Anchorage November 12-16, 2012 are here. Registration forms must be returned by October 12 to receive the best rates. After October 12th a \$50 late fee will be added per person. Please let me know if you are interested in attending and for those newly elected officials I will tentatively register them. I have also left an application form for the 17th annual "Awards of Excellence" on the dais. There are several categories of awards; People awards to recognize local government officials who have demonstrated a commitment to excellence in local government both within their own communities and on a statewide level; and Community Awards to showcase your area and let others know how you have solved a problem or improved local government. If you have any questions regarding the upcoming conference, please call me at 488-8583 or come in to City Hall.

ONGOING PROJECTS

- None

CITIZENS COMMENTS – 5 Minutes

- None

OLD BUSINESS

ORDINANCE 12-18, AN ORDINANCE APPROVING THE TRANSFER OF NATURAL GAS UTILITY POWER TO THE FAIRBANKS NORTH STAR BOROUGH

Mayor Isaacson stated that the City of North Pole Ordinance is drafted after the FNSB Ordinance. Ms. Winters spoke on the lack of affordable energy in Fairbanks and that this ordinance is an attempt to be a part of the solution to that. She has heard others comment that this is a bureaucracy and that this entity will provide a service for a fee. There has also been concerns with competing with the private sector and the response to that is that it is a 3 legged stool and GVEA is looking out for rate their payers, FHR is looking to have a cheaper product and FNG to get gas to their customers. She stated that there is a whole lot of other area of the borough that isn't represented in this. It is their hope that this entity can do that. She spoke on the public need and the financial advantages of a public utility verses as private ownership.

Public Ownership:

1. No shareholders
2. No profit return
3. No state corporate income tax
4. No federal income tax
5. No property tax
6. Lower borrowing costs
7. Local control

Private Ownership

1. Shareholder dividends
2. Return on equity
3. Pay state corporate tax
4. Pay federal income tax
5. Pay property tax
6. Higher borrowing costs
7. Outside or foreign ownership

Ms. Winters said those are some of the financial advantages between public and private ownership. She said that it was important to note that if this entity is formed it needs to go through a certification process with the RCA. That entity would have a choice to file outside of the FNG area in which case the benefits that accrue to a municipal utility would stay with that. If it overlaps with FNG then the RCA would step in a decide if it would be reasonable competition or whether it benefits the rate payers. She spoke on the changes made in the Ordinance on line

131 and on the Open Meetings Act line 84 – 86.

Public Comment

Don Callahan, 606 Bennington, Fairbanks, AK 7:40 p.m.

Mr. Callahan said that his group (The Lowell Group) has been working diligently to bring affordable energy to the Interior. He said the cheapest way to get LNG here is trucking it from the North Slope. They each of the council members a copy of their draft of the North Slope LNG Facility. He spoke against the City of North Pole Ordinance and FNSB Ordinance.

Ron Therriault, PO Box 70604, Fairbanks, AK 7:42 p.m.

Mr. Therriault said that his business is probably the biggest user of energy in the City of North Pole, going through approximately 80,000 gallons of fuel a year. He is also a member of the Lowell Group. Mr. Therriault said that GVEA is the largest entity with service and service area. He didn't see how the borough could offer something better that GVEA could. He felt that GVEA would be a better entity to do this project and spoke against the City of North Pole and FNSB Ordinances.

Dick Brickley, 1480 Huskey Way, 99709 7:53 p.m.

Mr. Brickley said that Mr. Callahan was exactly right. He went through the booklet on the Interior Alaska's Plan for North Slope LNG Facility. Mr. Brickley spoke in favor of LNG and against the Ordinance.

Hank Bartos, 3514 Lumina Lane, North Pole, AK 8:09 p.m.

Mr. Bartos said they started the Lowell Group in 2003. They were instrumental in putting together the Port Authority and FNG for the first original trucking program and if it had gone through we would have has gas trucked into Fairbanks last year. He said that the legislature has told them that there are too many ideas' out there and no one has a concise complete plan to make it happen. GVEA was asked to buy FNG and they said they had too much of a debt load to be able to do that. He encouraged everyone to take a look at the plan from the Lowell Group and make their own decision.

Vivian Stiver, 523 2nd Ave, Fairbanks, AK 8:20 p.m.

Ms. Stiver said she has been trying to figure out what the benefit is to the City of Fairbanks. She is hearing about getting funding through AIDA. She is confused about the whole idea of the FNSB starting a utility. FNG said they hadn't heard from FNSB. She is still confused on why the FNSB needs it and would like to see it go to a ballot and is concerned about when people are wanting to hurry things up to get it in the governor's budget.

Paul Brown, 1807 Christine Drive, North Pole, AK 8:29 p.m.

Mr. Brown said a major concern of his is that this entity would be competing with the private sector. He said that it is a government entity being created that will essentially knee cap a private entity in FNG. FNG is seeking funding for storage and other projects that they are working and this could be a possible potential that could cripple FNG. It has a big potential to kill a private company. He agreed with Mr. Therriault that GVEA has a greater coverage of area than the FNSB would have. He spoke in favor of the Lowell Group and against the Ordinance.

Chris Storhok 1925 Koonz Drive 8:34 p.m.

He spoke in favor of Ordinance 12-18 and said he was tired of all the talking and nothing happening. He said that he we can not make this mistake again and that we need to get affordable energy to the Interior. He encouraged the council to approve the Ordinance and let the FNSB move ahead. He stated that we pay the highest prices in the nation for our energy and by transferring power to the FNSB it can be done in an open process. We have been failed by elected officials and plan after plan to move this forward that is open to the public.

Dan Britton, FNG 8:41 p.m. 1006 Chena Pump Rd

Mr. Britton stated that he has been in the gas business for 23 years and bringing gas to communities that haven't been served by pipelines. They have been bringing natural gas to Fairbanks through the Point MacKinzie for 14 years. Today they are 23% cheaper than fuel oil. They have put private dollars at risk. Mr. Britton said he is 100% behind idea of bringing a broader supply of natural gas to the most people in Fairbanks and is 100% against the formation of a borough utility. He felt it is not necessary and is an added bureaucracy. He wondered how o you have a 7 member board, 4 elected and 3 appointed that does not become a bureaucracy. How are you going to protect North Pole you have a 1 member voice? FHR has said it is to save them money and they are a private business. Mr. Britton said that the City of North Pole, City of Fairbanks, and FNSB should be concentrating on funding for a plant on the North Slope and continued to outline their plan. He spoke against the Ordinance.

Luke Hopkins, FNSB Mayor 3360 Murphy Dome Rd, 9:19 p.m.

Mr. Hopkins gave an overview of a municipal utility. Its to have a service and areawide service, to be able to be a conduit for lower cost funding, able to get tax exempt financing, or US loans like GVEA. They are able to get federal funding, tax exempt private funding through the financial markets and is somewhat in the same vein as the Port Authority. He stated that the FNSB can't provide it in a areawide basis to all residents with having the authority to have a service. He said that when the 3 mayors met with Gene Therriault, he was given the ordinance and in the month of September he would need to report to the governor the status on the possibility of Natural Gas and an energy solution for this community. Mayor Hopkins said that Mr. Therriault believed that this ordinance is what the governor will want to see. The ordinance is asking for transferring power for lower cost energy when gas arrives in this town.

Merrick Pierce, 720 Whitney, Fairbanks, AK 99710 9:34 p.m.

Mr. Pierce stated that he serves on the board of the Alaska Gasline Port Authority. He said that this community works very well when united. He felt this ordinance gave leverage to the lowest cost of energy for businesses and individuals. The goal is to get gas to your home and business at the lowest cost. AGPA has been in talks with the Asian markets and they are hoping to have a large diameter pipeline. He explained the process of the open season. He has spoken with GVEA and he doesn't see the interest from them and they are not leading the fight. FNG went to AEDA and AEDA turned them down. He spoke in favor of Ordinance 12-18.

Mayor Isaacson suspended the rules for 5 minutes at 9:49 p.m.

Mayor Isaacson called the meeting back to order at 9:57 a.m.

Mr. McGhee moved to suspend the rules to extend the meeting until 11:00 p.m.

Seconded by Mr. Jones

PASSED

YES: 7 – Ward, Holms, Jones, Hunter, Nelson, McGhee, Isaacson

NO: 0

Absent:-0

Rep. Tammie Wilson, District 11 9:57 p.m.

Rep. Wilson said there had been some interesting testimony. The Interior Delegation tried to get GVEA, FHR, and FNG to come together with a plan and a plant. Discussion started with AIDA and they would be a 3rd party. She said unfortunately they ran out of time in the session but the 3.75 million dollars for GVEA to continue with their design engineering did right after they hear that FHR was going to shut down another tower and the legislature felt they needed to move along the trucking for LNG. When she learned that the governor wanted the entity put together she became concerned and called his office. She was under the impression that he wanted the 3 entities (FHR, GVEA, and FNG) together. She wanted to know why there is such a rush right now. She told the council to slow down and figure out what's best for the city. This is not a simple decision. Rep. Wilson said she will call Mr. Therriault find out if he's backing this decision. She had concerns about the board composition and that the Governor is aware of the energy crisis in the Interior. She felt there was too much information out there and that the City needed to take more time to look into it.

Senator Joe Thomas, 879 Vio Way, Fairbanks, Ak

Senaotor Thomas stated that the council was not wasting time here tonight and a lot of people around town who have very little knowledge of what has been going on here over the last several years and a lot of confusion over pipeline projects and when they would be built and how long they're going to take just since ANGA was created. HB 369 said a 5 year pipeline. He said the urgency is here and energy is the big issue. We have been talking in Juneau about it for 3-4 yrs. They need to partner with someone and there will not be a problem getting funding from the government. GVEA and FNG have worked together for at least 3 years and there was some difficulty with the exactness of the plant and ability to disperse some of that with AIDA. GVEA has a problem with AEDA over the Healy clean coal tool project. AEA would be fine but they are not the one to do it because they do not have all the scope that AEDA has. An entity such as FNSB could get best financing. FNG has the most experience with gas. He didn't want to see the council throw out anything and felt the Lowell Group had a good plan.

Jomo Stewart, 1129 23rd Ave, Fairbanks, AK 10:37 p.m.

Mr. Stewart stated that he is the energy project manager for FEDC. He has been able to watch this issue over a long period of time. He said that watching the Lowell Group, FNSB, GVEA, FNG, and the GFCC, he has seen a lot of red faces and heated talk but is encouraged. He has watch them come to some fundamental agreement and fundamental points, thatd gas trucking is the way to go. He said the fastest way to get volume gas to our community to act as a bridge so we can begin to develop our gas infrastructure so when larger pipelines come through we can use the gas. He said that they have an agreement for State participation is the way to go and a beneficial thing that would assure volume and stabilize the economy. Mr. Stewart said he had a number of presentations regarding our economy and this issue. Mr. Stewart gave staticstics on the shift of our economy between 2006 and 2009. He spoke in favor of Ordinance 12-18.

Mr. McGhee *moved to Adopt Ordinance 12-18, An Ordinance Approving The Transfer Of Natural Gas Utility Power To The Fairbanks North Star Borough*

Seconded by Mr. Jones

Discussion

None

Mr. Jones *moved to Postpone Ordinance 12-18, An Ordinance Approving The Transfer Of Natural Gas Utility Power To The Fairbanks North Star Borough to the Meeting of October 1, 2012*

Seconded by Mr. Nelson

Discussion

Mr. Jones said he would like to have a work session and have these entities come to the Finance Committee meeting on September 10th and have a more concerted effort to come up with a right decision.

Mr. Holm said that he agrees with the work session and wouldn't just say that it should be decided by the 1st meeting in October.

Mr. Ward agreed that it was a good idea to postpone until October 1st and thinks it's important to dig into this and see if there is another alternative. The question is not do we have an energy issue but is this the best way to go about it. He said that they need to do their job as elected officials for the public, to do the research and take the time to make educated decisions because the ramifications of what we do today has lasting effects.

Ms. Hunter is opposed to postponing it and had a sense that a lot of the information, the process belongs with the new utility and nothing she heard that doesn't preclude using the Lowell plan and including FNG and using them as a partner in the process. She said it was a tremendous amount of information and process of investigation belongs with the new utility because they will have all the information on an economic basis to say yes, this is good to parcel this out to FNG, because they can do it much more economically as a private entity. She felt that it was important to focus on the fact that this Resolution says that we are giving up our utility powers to have a gas utility. We are not going to set up a gas utility. The proposal being offered is going to have enough people and borough people represent us as well. She said focusing on that and giving tasks is important. The other players are not interested in a FNSB utility.

Mr. McGhee agreed with Ms. Hunter and doesn't see a reason to postpone. He said the council is here to decide whether we want to be a utility. He does believe that the FNSB has more vested interested in North Pole than Fairbanks and we are not in their tax base. He feels there is less of a bias with bringing gas from the FNSB. He thinks the State will stand up and support the borough rather than the 3 entities that have been fighting for years. He spoke in support of the ordinance.

Mr. Nelson said there have been good arguments. He supported postponing the ordinance and agreed that council needed to get more educated on the subject and that it was a good idea to have a workshop on this issue.

Mr. Jones agreed with Ms. Hunter and Mr. McGhee that the FNSB is an excellent proposal. He feels the council is rushing into this. He said that North Pole is never going to build a gas utility here but is asking the council not to jump or leap into anything.

Mayor Isaacson said he fundamentally agrees with Ms. Hunter and Mr. McGhee and sees the City of North Pole's role as supplying the citizens needs. However, because he has learned something in the 6 years of being Mayor, that in this community you move quickly by going slow. He said the need for more information is apparent and have a draft from the City of Fairbanks and a draft from the FNSB and new information from the Lowell Group. He didn't want the council in a position where they made a decision that might preclude others. He felt the governor is pushing this and he has had conversation with the governor along with Mayor Hopkins and closed door conversation with him and with highly place people in his administration. The governor is not going to come to the aid until it's exactly how he wants it to be and that will delay us from getting energy relief here. Mayor Isaacson does want the council to move quickly as a positive relief, as cost effective as possible and that he will help to bring the players to the workshop.

On postponing the Ordinance until October 1, 2012

PASSED

YES –5- Ward, , Nelson, Holm, Jones, Isaacson

NO – 2 – McGhee, Hunter

Absent – 0

NEW BUSINESS

All items approved by consent agenda

- a. Approval of North Pole City Council for 10 Year Lease Extension with Santa's Senior Center Association, Inc.
- b. Approval of Grant Amendment #1 for Community Development Block Grant for Santa's Senior Kitchen Modification Project
- c. Approval of Contractor to Construct Kitchen Modifications at the Santa's Senior Center as Part of the Community Development Block Grant Funded Kitchen Modification Project
- d. Authorization of the North Pole City Council to Donate to North Pole High School, a 2010 Business Partner, Damaged Lengths of Chain Link Fence Salvaged from along NPHS Blvd

- e. Authorization of the North Pole City Council to Approve Change Order #2 for the Lift Station Rehabilitation Project, Phase 2, to Upgrade Phase 1, Electronic Control Panels to Phase 2 Standards

PASSED

YES –7- Ward, , Nelson, McGhee, Holm, Hunter, Jones, Isaacson

NO – 0 -

Absent – 0

COUNCIL COMMENTS

None

ADJOURNMENT

Mr. McGhee adjourned the meeting at 11:00 p.m.

Seconded by Mr. Jones

The regular meeting of September 4, 2012 adjourned at 11:00 p.m.

These minutes passed and approved by a duly constituted quorum of the North Pole City Council on Monday, September 17, 2012.

Douglas W. Isaacson, Mayor

ATTEST:

Kathryn M. Weber, MMC
North Pole City Clerk

125 Snowman Lane
North Pole, AK 99705
P: 907-488-8583
F: 907-488-3002
C: 907-388-2728
Email: Kathy@northpolealaska.com

**City of North Pole
Office of the City Clerk/HR Mgr**

Memo

To: North Pole City Council
From: Kathy Weber
CC: Mayor Isaacson
Date: 9/12/2012
Re: 2012 City Surplus Sale

Attached is the 2012 Surplus items presented to the city council for approval at the August 17, 2012 council meeting. Sealed bids were received by the City of North Pole on Wednesday, September 12, 2012. Bids were opened publicly in the North Pole Council Chambers. Successful bidders are awaiting approval of the North Pole City Council at the regularly scheduled meeting on September 17, 2012 and bidder form attached.

The North Pole City Council reserves the right to reject any and/or all bids and waive any informalities. All items are sold strictly on an "as is, where is" basis. Payment in full, by cash or certified check shall be made and items picked up, within seven (7) days of the City Council awarding the successful bids.

SURPLUS PROPERTY LIST

ADMINISTRATION

<u>LOT #</u>	<u>ITEM DESCRIPTION</u>
1	(2 Compaq UPS R1500 XR Model uninterruptible Power Kits & (1) Power distribution kit.
2	4 computers, computer accessories & parts, 4 garage openers, Sylvania 13" w/built in DVD player, Mobile laptop, handheld Palm, Recordex, DVD's, Assorted cell phones, (2) Vivitar camera's, Panasonic voice recorder, radar detector
3	Stove top, candy dish, Panasonic DVD player, 3 boxes toner cartridges, 5 pellet guns, car bumper, cassette recorder, window tint detector, CD labeling system 2/supplies, RCA VHS camcorder, Canon 35mm camera w/200mm lens & case
4	Women's & children's clothing, dog coats, shoe inserts, assorted misc items
5	50 cc KTM motor bike, Makita drill & charger, 2 baseball bats, JMax Helmet
6	Paper shredder, shelving, 3 boxes of fastener folders, Rubbermaid file organizer
7	Insulated bag, Honeywell safe, wooden jewelry box, wooden business card holder, assorted knives, holster
8	Toshiba copier 2/stand, HP 5100c scanner, 3 Gateway monitors, 1 Minolta printer, 1 canon C5500 printer, 1 Power Pro 450, 1 HP DeskJet 820, 1 HP DeskJet 810c, 1 HP DeskJet, 4 Computer towers, 9 Nortel phones
9	8 tires for recapping (11R 22.5)
10	1992 Ford Crown Victoria VIN#0569
11	2000 Ford Crown Victoria VIN#5741

- 12 1988 Chevy Ambulance
- 13 Wooden garage doors 10 x 16 w/rails & motor
- 14 Metal garage door 12 x 12 w/rails & motor
- 15 2 decorative benches, Honda lawn mower
- 16 Alkota steam & hot high pressure cleaner w/hose & nozzle

Date: September 12, 2012
Time: 3:00 p.m.

2012 CITY OF NORTH POLE
SURPLUS SALE
Official Bid Results

NAME	LOT 1	LOT 2	LOT 3	LOT 4	LOT 5	LOT 6	LOT 7	LOT 8	LOT 9	LOT 10	LOT 11	LOT 12	LOT 13	LOT 14	LOT 15	LOT 16
Chris Lindsoe					80.00		5.00					40.00			25.50	3.00
Dan Kuhnert	109.99							22.99		287.99		603.99			35.99	57.99
Patrick Clarke														300.00	50.00	50.00
Kalen Middleton					206.99										101.99	
Mike States			55.55				22.77			555.77		444.77				
Miles States		80.88			45.77											
Lisa Vaughn															50.00	
Seth Zrucky										200.99		301.00				
Jeffery Macober					200.00											
Roy Ice					105.00											
Jed Smith		40.00			40.00											
Glen Weber			51.00		110.00		22.00								210.00	
Terri Nelson				18.00												
Bill Bellant					70.00					50.00						
Adam Wood										475.00						
Steve Dutra		5.00			111.50		10.00									
Terry Nelson					85.00										60.00	
Dana Johnson Davis			10.00	5.00	100.00					200.00		500.00			25.00	
Jesse Lindsoe										222.22		666.66				25.00

Total amount of sales = \$2,307.59



**North Pole Police Dept.
125 Snowman Ln.
North Pole, AK 99705**

**Chief Steve Dutra
Phone: 907-488-8459
Fax: 907-488-5299**

September 9, 2012

Mr. Mayor and Council:

I would like to ask that you approve the purchase of work stations for the North Pole Police Department. These work stations will replace old and broken desks with new modern work stations that are more durable and user friendly. This purchase will also replace all of the chairs in both the patrol room and Sergeants room.

We sought bids from three separate companies and received extremely poor service and inadequate furniture from one company and the second company never completed a bid. The third company came it a reasonable price and the service is excellent.

The two projects: Sergeants office \$8,464.55 and the patrol room \$11,417.20. All of this came to a total of \$19,881.75.

This bid includes 6 (six) industrial quality workstations 10 chairs and a conference table wired for electricity and LAN connections.

This bid includes delivery and installation at the police department.

The money to fund this project will come from the ABADE, DOJ Funds 21.

Thank you for your time

A handwritten signature in blue ink, appearing to be "S. Dutra".

Chief Dutra

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39509	9/7/2012		CIT003	THOMAS HARRIS	

QUOTE TO: DAVE STEVENSON
CITY OF NORTH POLE
NORTH POLE POLICE DEPT.
125 SNOWMAN LANE
North Pole, AK 99705

SHIP TO: DAVE STEVENSON
CITY OF NORTH POLE
NORTH POLE POLICE DEPT.
125 SNOWMAN LANE
North Pole, AK 99705

P: 907.488.6902
F: 907.488.5299

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F: 907.488.5299

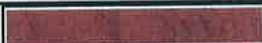





Terms: DUE UPON RECEIPT

Sales Loc.: FAIRBANKS

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
*PRICES ARE FOB FAIRBANKS. *DELIVERY/INSTALLATION TO BE SCHEDULED DURING NORMAL BUSINESS HOURS (8-5/M-F). *ALLOW APPROX. 6-8 WEEKS FOR DELIVERY FROM RECEIPT OF PO. *A DEPOSIT MAY BE REQUIRED TO PROCESS ORDER.				
1	3	TSAFHD2472M S/C: ANCH DESK SHELL-HALF HEIGHT MODESTY PANEL, HIGH PRESSURE LAMINATE, 24X72 BASIC :7243 SEAGULL EDGE :6034 NATURAL CHERRY TOP-SURF:2412 NATURAL CHERRY Tag For: 24/72 Officer OFFICER OFFICE Line Finish Summary <div> <div>2412 NATURAL CHERRY</div> <div>6034 NATURAL CHERRY</div> <div>7243 SEAGULL</div> </div>	534.00	1,602.00
2	3	TSAFHR2448 S/C: ANCH RETURN-PEDESTAL, HIGH PRESSURE LAMINATE, 24X48 BASIC :7243 SEAGULL EDGE :6034 NATURAL CHERRY TOP-SURF:2412 NATURAL CHERRY KEYS :SK PLUG OPTIONS * * OPTIONS * * PULLS *OPT:PULL OPTIONS HDL PULL HANDLE PULL	480.00	1,440.00

Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39509	9/7/2012		CIT003	THOMAS HARRIS	

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
3	3	<p>PULL PULL NICKEL *PULL:NICKEL 9211 NICKEL PED OPT *OPT:PEDESTAL OPTIONS BBF PED BOX/BOX/FILE PED</p> <p>Tag For: 24/48 Officer OFFICER OFFICE Line Finish Summary</p> <p>2412 NATURAL CHERRY </p> <p>6034 NATURAL CHERRY </p> <p>7243 SEAGULL </p> <p>SK PLUG *KEYS:STD:KEY PLUG No Image Available</p> <p>9211 NICKEL </p> <p>TSAFSD72 S/C: ANCH OVERHEAD STORAGE WITH/DOORS, 72 BASIC :7243 SEAGULL KEYS :SK PLUG OPTIONS * * OPTIONS * * BP OPTS *OPT:BACK PANEL OPTIONS WITH BP STD:WITH BACK PANEL DOOR OPT *OPT:DOOR OPTIONS 3 DOORS WITH 3 DOORS</p> <p>Tag For: OC/72 Officer OFFICER OFFICE Line Finish Summary</p> <p>7243 SEAGULL </p> <p>SK PLUG *KEYS:STD:KEY PLUG No Image Available</p>	597.00	1,791.00
4	3	<p>TSAFTB72 S/C: ANCH TACKBOARD-KICK FREESTANDING, 19"HX72"W TKBD :P558 PITCH OPTIONS * * OPTIONS * * FAB DIR *OPT:FABRIC DIRECTION HORZ HORIZONTAL APPLICATION ONLY</p> <p>Tag For: Officer OFFICER OFFICE Line Finish Summary</p> <p>P558 PITCH </p>	176.40	529.20
5	1	<p>TS4L27PG4 S/C: ANCH</p>	220.20	220.20

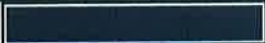
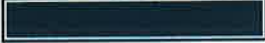



Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39509	9/7/2012		CIT003	THOMAS HARRIS	

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
6	1	<p>LEGS-POST, 27H, PACKAGE/4 LEGS :7243 SEAGULL OPTIONS * * OPTIONS * * LEGS OPT *OPT:LEGS OPTION FIXED STD:FIXED LEGS CAST OPT *OPT:OPTIONAL ON LEGS LEVELERS STD:LEVELERS</p> <p>Tag For: PL Officer OFFICER OFFICE Line Finish Summary</p> <p>7243 SEAGULL</p>	223.20	223.20
7	1	<p>TS4THR3072 S/C: ANCH TOP-RECTANGULAR TABLE, HIGH PRESSURE LAMINATE, 30X72 EDGE :6034 NATURAL CHERRY TOP-SURF:2412 NATURAL CHERRY</p> <p>Tag For: 30/72 Officer OFFICER OFFICE Line Finish Summary</p> <p>2412 NATURAL CHERRY</p> <p>6034 NATURAL CHERRY</p>	139.20	139.20
8	3	<p>PTDMGB3 S/C: ANCH SPHERE-POWER / COMMUNICATION, 2 ELECTRICAL OUTLETS, 6 FOOT POWER CORD, 3 3/8D X 3 3/8W X 3H</p> <p>46216179 S/C: ANCH LEAP; CHAIR, UPHOLSTERED, ADJUSTABLE SEAT DEPTH PLASTIC :6205 BLACK UPHLSTRY:5F17 BLACK OPTIONS * * OPTIONS * * CASTERS *OPT:CASTERS SOFT CST SOFT CASTERS ARMS *OPT:ARM OPTIONS LEAP ARMLESS NO ARMS SEAT HGT *OPT:BASE ASSY HEIGHT RANGE 7" RANGE 7" PNEU SEAT HEIGHT RANGE OPT ACC *OPT:OPTIONAL ACCESSORIES SOIL RET SOIL RETARDANT TREATMENT</p> <p>Tag For: Officer OFFICER OFFICE</p>	544.80	1,634.40



Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39509	9/7/2012		CIT003	THOMAS HARRIS	

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
9	4	Line Finish Summary		
		5F17 BLACK 		
10	2	6205 BLACK 		
		490410VC S/C: ANCH MOVE; CHAIR, PLASTIC BACK, NO ARMS, CASTER UPHLSTRY:5F17 BLACK Tag For: Officer OFFICER OFFICE Line Finish Summary	180.60	722.40
11	1	5F17 BLACK 		
		TS2TWR66L S/C: ANCH STORAGE TOWER-SHELF, WARDROBE HOOK, LEFT HAND, 66H BASIC :7243 SEAGULL KEYS :SK PLUG OPTIONS * * OPTIONS * * PULLS *OPT:PULL OPTIONS HDL PULL HANDLE PULL PULL PULL NICKEL *PULL:NICKEL 9211 NICKEL LOCK OPT *OPT:DOOR(S) DRAWER LOCK OPTIONS DWR LOCK STD:DRAWER LOCK DRAWER *OPT:DRAWER OPTIONS FIL/FIL STD:FILE FILE DRAWERS Tag For: ST/66 Officer Line Finish Summary	955.20	1,910.40
11	1	7243 SEAGULL 		
		SK PLUG *KEYS:STD:KEY PLUG No Image Available		
11	1	9211 NICKEL 		
		TS2TWR66R S/C: ANCH STORAGE TOWER-SHELF, WARDROBE HOOK, RIGHT HAND, 66H BASIC :7243 SEAGULL KEYS :SK PLUG OPTIONS * * OPTIONS * * PULLS *OPT:PULL OPTIONS HDL PULL HANDLE PULL PULL PULL NICKEL *PULL:NICKEL 9211 NICKEL	955.20	955.20

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Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39509	9/7/2012		CIT003	THOMAS HARRIS	

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
	Tag For:	LOCK OPT *OPT:DOOR(S) DRAWER LOCK OPTIONS DWR LOCK STD:DRAWER LOCK DRAWER *OPT:DRAWER OPTIONS FIL/FIL STD:FILE FILE DRAWERS ST/66 Officer Line Finish Summary 7243 SEAGULL  1/2" K PLUG *KEYS:STD:KEY PLUG No Image Available 9211 NICKEL 		

QUOTATION TOTALS

Sub Total	11,167.20
CAPITAL INSTALLATION	250.00
ALASKA NON-TAXABLE	0.00
Grand Total	11,417.20




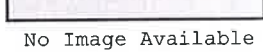


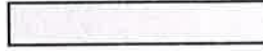
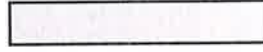
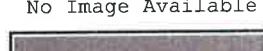


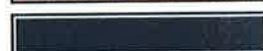
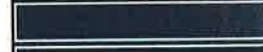

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*****End of Quotation*****

Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39509	9/7/2012		CIT003	THOMAS HARRIS	

Finish Summary

Product Type	Finish Group Description	Finish Description	Finish
Panel Accessory	TACKBOARD	PITCH	
Worksurface	TOP SURFACE	NATURAL CHERRY	
	EDGE	NATURAL CHERRY	
	BASIC (PRIMARY FINISH)	SEAGULL	
	KEYS	*KEYS:STD:KEY PLUG	No Image Available
	PULL	NICKEL	
Support or Bracket	LEGS	SEAGULL	
Overdesk Storage	BASIC (PRIMARY FINISH)	SEAGULL	
	KEYS	*KEYS:STD:KEY PLUG	No Image Available
Freestanding Storage	BASIC (PRIMARY FINISH)	SEAGULL	
	KEYS	*KEYS:STD:KEY PLUG	No Image Available
	PULL	NICKEL	
Table	TOP SURFACE	NATURAL CHERRY	
	EDGE	NATURAL CHERRY	
Seating	UPHOLSTERY	BLACK	
	UPHOLSTERY	BLACK	
	PLASTIC	BLACK	

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Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39509	9/7/2012		CIT003	THOMAS HARRIS	

The following terms and conditions are incorporated into and made a part of the Sales Agreement.

1. Quotations and Orders

- A. **Term:** Unless otherwise stated, all prices are quoted FOB shipping point and are guaranteed for 30 days from date of quotation.
- B. **Acceptance:** All orders over \$500.00 require a hard copy, an electronic purchase order, or an approved quotation with an authorized signature and date of acceptance from the Buyer.
- C. **Modification:** Any modifications to an approved and acknowledged order are subject to the Seller's ability to conform and the manufacturer's approval. Changes must be made via a revised purchase order, change order, or signed and dated revised quotation. (See section 3.A)
- D. **Customer Required Date:** A mutually agreeable (between Buyer and Seller) delivery date is required for each order and will be used as the customer required date.
- E. **Deposits:** A deposit of 50% is required on all orders, unless pre-negotiated with management. Deposits are required when manufacturer(s) or service provider requires a deposit. All custom products or C.O.M. (Customer's Own Materials) require payment in full with the order and are non-cancelable.

2. Invoicing

- A. **Timing:** Contract furniture with related installation and other services would be invoiced after delivery of the product to the job site. Direct shipments from manufacturers will be invoiced upon shipment from the manufacturer. Services not related to purchase of product, unless otherwise negotiated, will be invoiced after the services are substantially completed, as determined by Seller.
- B. **Payment Terms:** For contract furniture and related installation and other services, balance is due in full net 15 days from date of invoice. For services not related to the purchase of product, balance is due in full net 15 days from the date of invoice. Buyer agrees not to withhold more than 10% payment on any invoice because of partial delivery or open punch list items.
- C. **Freight:** Unless otherwise noted, all applicable freight charges are not included in the price quotation and will be invoiced as a separate line item.
- D. **Taxes:** Unless otherwise noted, applicable sales, use, excise, or any other taxes are not included in the price quotation and will be invoiced as a separate line item Buyer agrees to pay any and all applicable taxes. If Buyer possesses tax-exempt status, a certificate of tax exemption is to be provided prior to order placement. Buyer is responsible for self-assessment of any and all applicable taxes due to jurisdictions outside of Alaska.
- E. **Delays:** If Buyer is unable to receive product at the job site on the mutually agreed upon customer required date, product will be deemed delivered and will be invoiced as if delivered. Standard payment terms will apply.

3. Other Charges

- A. **Changes/Cancellations:** Buyer will pay all additional charges from the manufacturer for order changes. Express Ship Orders cannot be changed or cancelled. All product is custom manufactured to customer specifications and, therefore, cannot be returned. Restocking programs are not available. The design department provides a quote, which allows for a specific number of design/specification and/or revision changes. Additional changes beyond the amount quoted will be billed at a standard hourly rate.
- B. **Extra Handling if Site Not Ready:** If job site is not available on mutually agreed upon customer required date, charges will be assessed to the Buyer for additional handling or redirecting of product at a standard hourly rate, or actual charges if performed by a third party.
- C. **Storage:** If job site is not available on mutually agreed upon customer required date, Seller will store product in less than truckload quantities (\$20,000 net orders), without charge for a maximum of 15 days from designated delivery date. Thereafter, a charge of \$1.65 per square foot of storage space used will be assessed and paid by the Buyer.
- D. **Special Packaging or Extra Handling Due to Site Conditions:** Charges will be assessed to the Buyer for special/excessive handling, special packaging, detention, storage and transportation incurred because of site conditions, activity of other trades, or other reasons not specifically identified in the price quotation, at a standard hourly rate, or actual charges if performed by a third party.
- E. **Overtime:** Unless otherwise stated, delivery and installation will be made during Seller's business hours (M-F 8:00 am to 5:00 pm Alaska Standard Time). The Buyer will pay any additional labor costs resulting from overtime or after hours work performed at the Buyer's request.
- F. **Partial Deliveries:** Partial deliveries can be made at the request of the Buyer for an additional charge. Unplanned partial deliveries may result in a premium overtime cost. Seller reserves the right to deliver in complete or partial shipments.

4. Delivery and Installation

- A. **Seller's responsibilities:** Other than for drop shipments, as described in 4.c below, Seller will receive, inspect, stage, deliver and install Buyer's goods. All furnishings will be clean and put into good working order. Cartoning and packing materials will be removed and premises left in good order. When applicable, Seller may send shipments directly to the job site.
- B. **Drop Shipments:** In case of drop shipments where product is delivered from the Manufacturer to the Buyer, Buyer will receive and inspect ordered goods. Buyer is also responsible for filing necessary freight claims in the event of damage.
- C. **Normal Business Hours:** Delivery and installation will be made during Seller's normal business hours (M-F 8:00 am to 5:00 pm Alaska Standard Time)
- D. **Condition of Job Site:** Job site will be clean and clear of all obstructions prior to installation. Buyer will provide adequate facilities and space for unloading, staging, moving, handling and storing product at job site.
- E. **Job Site Services:** Buyer will furnish electrical current, heating, lighting and elevator service at job site without charge to Seller.
- F. **Protection of Delivered Goods:** Buyer is responsible for security and safekeeping product after delivery at job site.
- G. **Risk of Loss:** Buyer assumes all risk of loss, damage or disrepair after scheduled delivery/storage of product to Buyer's site or other agreed upon location for installation or storage, and shall not be released from any obligation under this agreement due to product's loss or damage following such delivery. All visible or concealed damage must be reported to Seller within 10 days of Buyer's receipt of product. Seller will make every effort to replace or repair any losses due to freight damage within the parameters of the claim processes set by the various freight carriers, only if the Seller handled the contracting of the freight involved.
- H. **Delays:** If product cannot be delivered to job site on mutually agreed upon customer required date because site is not ready, Buyer's delays, or Acts of God, Seller shall have reasonable time to deliver and install product when site is available after causes of delay have been eliminated.
- I. **Coordination with Buyer Contact:** Buyer shall designate one person (and a backup) to coordinate the receipt, acceptance, and installation of product between the Seller and Buyer.

****Confidentiality Notice**:** This quotation (including any related drawings and documentation) is confidential and intended only for the individual or entity named in the quote. It contains privilege, proprietary and confidential information that is exempt from disclosure requests under applicable law. This quotation (including any related drawings and documentation) shall not be copied, disclosed to third parties, or used in conjunction with any work or project other than this specific for which it has been prepared.

Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39511	9/7/2012		CIT003	THOMAS HARRIS	

QUOTE TO:

DAVE STEVENSON
CITY OF NORTH POLE
NORTH POLE POLICE DEPT.
125 SNOWMAN LANE
North Pole, AK 99705

SHIP TO:

DAVE STEVENSON
CITY OF NORTH POLE
NORTH POLE POLICE DEPT.
125 SNOWMAN LANE
North Pole, AK 99705

P: 907.488.6902
F: 907.488.5299

P: 907.488.6902
F: 907.488.5299

Terms:






DUE UPON RECEIPT

Sales Loc.: FAIRBANKS

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
*PRICES ARE FOB FAIRBANKS. *DELIVERY/INSTALLATION TO BE SCHEDULED DURING NORMAL BUSINESS HOURS (8-5/M-F). *ALLOW APPROX. 6-8 WEEKS FOR DELIVERY FROM RECEIPT OF PO. *A DEPOSIT MAY BE REQUIRED TO PROCESS ORDER.				
1	1	TSAPF5460 S/C: ANCH PANEL-TACKABLE, 54X60 BASIC :7243 SEAGULL SURF-1 :P558 PITCH SURF-2 :P558 PITCH Tag For: SGT OFFICE Line Finish Summary <div> <div>7243 SEAGULL</div> <div>P558 PITCH</div> <div>P558 PITCH</div> </div>	336.60	336.60
2	1	TSAPBWS66 S/C: ANCH CONNECTOR-PANEL, WALLSTART Tag For: SGT OFFICE	16.80	16.80
3	1	TSAPTE54 S/C: ANCH TRIM-VERTICAL, END OF RUN, 54" BASIC :7243 SEAGULL OPTIONS * * OPTIONS * * END CAP *OPT:END CAP VERT EOR OPTIONS LOW STD:LOW END CAP Tag For: SGT OFFICE	28.20	28.20

Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39511	9/7/2012		CIT003	THOMAS HARRIS	

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
4	3	<p>Line Finish Summary</p> <p>7243 SEAGULL </p> <p>TSAFSD72 S/C: ANCH</p> <p>OVERHEAD STORAGE WITH/DOORS, 72</p> <p>BASIC :7243 SEAGULL</p> <p>KEYS :SK PLUG</p> <p>OPTIONS * * OPTIONS * *</p> <p>BP OPTS *OPT:BACK PANEL OPTIONS</p> <p>WITH BP STD:WITH BACK PANEL</p> <p>DOOR OPT *OPT:DOOR OPTIONS</p> <p>3 DOORS WITH 3 DOORS</p> <p>Tag For: SGT OFFICE</p> <p>Line Finish Summary</p> <p>7243 SEAGULL </p> <p>SK PLUG *KEYS:STD:KEY PLUG No Image Available</p>	597.00	1,791.00
5	3	<p>TSAFTB72 S/C: ANCH</p> <p>TACKBOARD-KICK FREESTANDING, 19"HX72"W</p> <p>TKBD :P558 PITCH</p> <p>OPTIONS * * OPTIONS * *</p> <p>FAB DIR *OPT:FABRIC DIRECTION</p> <p>HORZ HORIZONTAL APPLICATION ONLY</p> <p>Tag For: SGT OFFICE</p> <p>Line Finish Summary</p> <p>P558 PITCH </p>	176.40	529.20
6	3	<p>TS2PBBF22U S/C: ANCH</p> <p>PEDESTAL-BOX/BOX/FILE, UNDER WORKSURFACE, 22"D</p> <p>BASIC :7243 SEAGULL</p> <p>KEYS :SK PLUG</p> <p>OPTIONS * * OPTIONS * *</p> <p>PULLS *OPT:PULL OPTIONS</p> <p>HDL PULL HANDLE PULL</p> <p>PULL PULL</p> <p>NICKEL *PULL:NICKEL</p> <p>9211 NICKEL</p> <p>Tag For: SGT OFFICE</p> <p>Line Finish Summary</p> <p>7243 SEAGULL </p> <p>SK PLUG *KEYS:STD:KEY PLUG No Image Available</p> <p>9211 NICKEL </p>	305.45	916.35

Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39511	9/7/2012		CIT003	THOMAS HARRIS	

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
7	3	TSAFHD2472 S/C: ANCH DESK SHELL-HIGH PRESSURE LAMINATE, 24X72 BASIC :7243 SEAGULL EDGE :6034 NATURAL CHERRY TOP-SURF:2412 NATURAL CHERRY Tag For: SGT OFFICE Line Finish Summary <div> <div>2412 NATURAL CHERRY</div> <div>6034 NATURAL CHERRY</div> <div>7243 SEAGULL</div> </div>	534.00	1,602.00
8	3	TSAFHR2448 S/C: ANCH RETURN-PEDESTAL, HIGH PRESSURE LAMINATE, 24X48 BASIC :7243 SEAGULL EDGE :6034 NATURAL CHERRY TOP-SURF:2412 NATURAL CHERRY KEYS :SK PLUG OPTIONS * * OPTIONS * * PULLS *OPT:PULL OPTIONS HDL PULL HANDLE PULL PULL PULL NICKEL *PULL:NICKEL 9211 NICKEL PED OPT *OPT:PEDESTAL OPTIONS FF PED STD:FILE/FILE PED Tag For: SGT OFFICE Line Finish Summary <div> <div>2412 NATURAL CHERRY</div> <div>6034 NATURAL CHERRY</div> <div>7243 SEAGULL</div> <div>SK PLUG *KEYS:STD:KEY PLUG</div> <div>9211 NICKEL</div> </div>	480.00	1,440.00
9	3	46216179 S/C: ANCH LEAP; CHAIR, UPHOLSTERED, ADJUSTABLE SEAT DEPTH PLASTIC :6205 BLACK UPHLSTRY:5F17 BLACK OPTIONS * * OPTIONS * * CASTERS *OPT:CASTERS HARD CST STD:HARD CASTERS ARMS *OPT:ARM OPTIONS LEAP ARMLESS NO ARMS SEAT HGT *OPT:BASE ASSY HEIGHT RANGE	544.80	1,634.40

Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39511	9/7/2012		CIT003	THOMAS HARRIS	

Line	Quantity	Catalog No./Description	Unit Price	Extended Amount
	Tag For:	7" RANGE 7" PNEU SEAT HEIGHT RANGE OPT ACC *OPT:OPTIONAL ACCESSORIES SOIL RET SOIL RETARDANT TREATMENT SGT OFFICE Line Finish Summary 5F17 BLACK 6205 BLACK		

QUOTATION TOTALS

Sub Total	8,294.55
CAPITAL INSTALLATION	170.00
ALASKA NON-TAXABLE	0.00
Grand Total	8,464.55


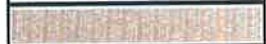




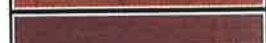






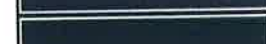
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*****End of Quotation*****

Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
39511	9/7/2012		CIT003	THOMAS HARRIS	

Finish Summary

Product Type	Finish Group Description	Finish Description	Finish
Panel	BASIC (PRIMARY FINISH)	SEAGULL	
	SURFACE 1	PITCH	
	SURFACE 2	PITCH	
Connector	BASIC (PRIMARY FINISH)	SEAGULL	
Panel Accessory	TACKBOARD	PITCH	
Worksurface	TOP SURFACE	NATURAL CHERRY	
	EDGE	NATURAL CHERRY	
	BASIC (PRIMARY FINISH)	SEAGULL	
	KEYS	*KEYS:STD:KEY PLUG	No Image Available
Overdesk Storage	PULL	NICKEL	
	BASIC (PRIMARY FINISH)	SEAGULL	
	KEYS	*KEYS:STD:KEY PLUG	No Image Available
Pedestal	BASIC (PRIMARY FINISH)	SEAGULL	
	KEYS	*KEYS:STD:KEY PLUG	No Image Available
	PULL	NICKEL	
Seating	UPHOLSTERY	BLACK	
	PLASTIC	BLACK	

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Accepted by _____ Title _____ Date _____

Quote Number	Quote Date	Customer Order Number	Customer Number	Account Representative	Project Number
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- B. **Acceptance:** All orders over \$500.00 require a hard copy, an electronic purchase order, or an approved quotation with an authorized signature and date of acceptance from the Buyer.
- C. **Modification:** Any modifications to an approved and acknowledged order are subject to the Seller's ability to conform and the manufacturer's approval. Changes must be made via a revised purchase order, change order, or signed and dated revised quotation. (See section 3.A)
- D. **Customer Required Date:** A mutually agreeable (between Buyer and Seller) delivery date is required for each order and will be used as the customer required date.
- E. **Deposits:** A deposit of 50% is required on all orders, unless pre-negotiated with management. Deposits are required when manufacturer(s) or service provider requires a deposit. All custom products or C.O.M. (Customer's Own Materials) require payment in full with the order and are non-cancelable.

2. Invoicing

- A. **Timing:** Contract furniture with related installation and other services would be invoiced after delivery of the product to the job site. Direct shipments from manufacturers will be invoiced upon shipment from the manufacturer. Services not related to purchase of product, unless otherwise negotiated, will be invoiced after the services are substantially completed, as determined by Seller.
- B. **Payment Terms:** For contract furniture and related installation and other services, balance is due in full net 15 days from date of invoice. For services not related to the purchase of product, balance is due in full net 15 days from the date of invoice. Buyer agrees not to withhold more than 10% payment on any invoice because of partial delivery or open punch list items.
- C. **Freight:** Unless otherwise noted, all applicable freight charges are not included in the price quotation and will be invoiced as a separate line item.
- D. **Taxes:** Unless otherwise noted, applicable sales, use, excise, or any other taxes are not included in the price quotation and will be invoiced as a separate line item Buyer agrees to pay any and all applicable taxes. If Buyer possesses tax-exempt status, a certificate of tax exemption is to be provided prior to order placement. Buyer is responsible for self-assessment of any and all applicable taxes due to jurisdictions outside of Alaska.
- E. **Delays:** If Buyer is unable to receive product at the job site on the mutually agreed upon customer required date, product will be deemed delivered and will be invoiced as if delivered. Standard payment terms will apply.

3. Other Charges

- A. **Changes/Cancellations:** Buyer will pay all additional charges from the manufacturer for order changes. Express Ship Orders cannot be changed or cancelled. All product is custom manufactured to customer specifications and, therefore, cannot be returned. Restocking programs are not available. The design department provides a quote, which allows for a specific number of design/specification and/or revision changes. Additional changes beyond the amount quoted will be billed at a standard hourly rate.
- B. **Extra Handling If Site Not Ready:** If job site is not available on mutually agreed upon customer required date, charges will be assessed to the Buyer for additional handling or redirecting of product at a standard hourly rate, or actual charges if performed by a third party.
- C. **Storage:** If job site is not available on mutually agreed upon customer-required date, Seller will store product in less than truckload quantities (\$20,000 net orders), without charge for a maximum of 15 days from designated delivery date. Thereafter, a charge of \$.65 per square foot of storage space used will be assessed and paid by the Buyer.
- D. **Special Packaging or Extra Handling Due to Site Conditions:** Charges will be assessed to the Buyer for special/excessive handling, special packaging, detention, storage and transportation incurred because of site conditions, activity of other trades, or other reasons not specifically identified in the price quotation, at a standard hourly rate, or actual charges if performed by a third party.
- E. **Overtime:** Unless otherwise stated, delivery and installation will be made during Seller's business hours (M-F 8:00 am to 5:00 pm Alaska Standard Time). The Buyer will pay any additional labor costs resulting from overtime or after hours work performed at the Buyer's request.
- F. **Partial Deliveries:** Partial deliveries can be made at the request of the Buyer for an additional charge. Unplanned partial deliveries may result in a premium overtime cost. Seller reserves the right to deliver in complete or partial shipments.

4. Delivery and Installation

- A. **Seller's responsibilities:** Other than for drop shipments, as described in 4.c below, Seller will receive, inspect, stage, deliver and install Buyer's goods. All furnishings will be clean and put into good working order. Cartoning and packing materials will be removed and premises left in good order. When applicable, Seller may send shipments directly to the job site.
- B. **Drop Shipments:** In case of drop shipments where product is delivered from the Manufacturer to the Buyer, Buyer will receive and inspect ordered goods. Buyer is also responsible for filing necessary freight claims in the event of damage.
- C. **Normal Business Hours:** Delivery and installation will be made during Seller's normal business hours (M-F 8:00 am to 5:00 pm Alaska Standard Time).
- D. **Condition of Job Site:** Job site will be clean and clear of all obstructions prior to installation. Buyer will provide adequate facilities and space for unloading, staging, moving, handling and storing product at job site.
- E. **Job Site Services:** Buyer will furnish electrical current, heating, lighting and elevator service at job site without charge to Seller.
- F. **Protection of Delivered Goods:** Buyer is responsible for security and safekeeping product after delivery at job site.
- G. **Risk of Loss:** Buyer assumes all risk of loss, damage or disrepair after scheduled delivery/storage of product to Buyer's site or other agreed upon location for installation or storage, and shall not be released from any obligation under this agreement due to product's loss or damage following such delivery. All visible or concealed damage must be reported to Seller within 10 days of Buyer's receipt of product. Seller will make every effort to replace or repair any losses due to freight damage within the parameters of the claim processes set by the various freight carriers, only if the Seller handled the contracting of the freight involved.
- H. **Delays:** If product cannot be delivered to job site on mutually agreed upon customer required date because site is not ready, Buyer's delays, or Acts of God, Seller shall have reasonable time to deliver and install product when site is available after causes of delay have been eliminated.
- I. **Coordination with Buyer Contact:** Buyer shall designate one person (and a backup) to coordinate the receipt, acceptance, and installation of product between the Seller and Buyer.

****Confidentiality Notice:**** This quotation (including any related drawings and documentation) is confidential and intended only for the individual or entity named in the quote. If it contains privilege, proprietary and confidential information that is exempt from disclosure requests under applicable law, this quotation (including and related drawings and documentation) shall not be copied, disclosed to third parties, or used in conjunction with any work or project other than this specific for which it has been prepared.

Accepted by _____ Title _____ Date _____



**North Pole Police Dept.
125 Snowman Ln.
North Pole, AK 99705**

**Chief Steve Dutra
Phone: 907-488-8459
Fax: 907-488-5299**

September 11, 2012

Mr. Mayor and Council:

I would like to request that the North Pole City Council repeal North Pole Municipal Code 4.23 Motor Vehicle Impoundment and Forfeiture and replace it with NPMC 10.23 Motor Vehicle Impoundment and State Forfeiture.

This request will move Motor Vehicle Impound and State Forfeiture code from Revenue and Finance Title 4 and place it under Vehicles and Traffic Title 10. This will place the impound process under a more appropriate category. This request will also remove unnecessary and confusing language from the code.

Once this code is adopted it will streamline the impound process and enable the City of North Pole to implement vehicle impound for criminal offenses.

Thank you,

A handwritten signature in blue ink, appearing to be "S. Dutra", written over the printed name "Chief Dutra".

Chief Dutra

**CITY OF NORTH POLE
ORDINANCE 12-19**

**AN ORDINANCE REPEALING CHAPTER 4, SECTION 4.23, MOTOR
VEHICLE IMPOUNDMENT AND STATE FORFEITURE**

WHEREAS, changes to the North Pole Municipal Code is a continually changing requirement; and

WHEREAS, the City of North Pole Municipal Code should be amended to conform to the requirements of the City and to provide clarification as needed.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of North Pole:

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. Chapter 4, Motor Vehicle Impoundment and Forfeiture, Section 4.23.010 – 4.23.900 –of the North Pole Municipal Code of Ordinances is repealed in its entirety as follows:

**~~Chapter 4.23~~
~~Motor Vehicle Impoundment and Forfeiture~~**

Sections:

- ~~4.23.010 Purpose: Public Nuisance.~~
- ~~4.23.020 Presumptions: Vehicle Seizure.~~
- ~~4.23.030 Hearings and Costs.~~
- ~~4.23.040 Notice to Lien Holders and Parties of Record; Service by Publication;
Failure to Appear.~~
- ~~4.23.050 Avoidance of Impoundment or Forfeiture by Owners and Lien Holders;
Defenses.~~
- ~~4.23.060 Presumptions; Knowledge of Violation.~~
- ~~4.23.070 Hearing Notification.~~
- ~~4.23.080 Seizure; Evidence; Burden of Proof.~~
- ~~4.23.090 Resolution Agreement between City and Owner/Lien Holder.~~
- ~~4.23.100 Release of Motor Vehicle.~~
- ~~4.23.110 Bail Release of Motor Vehicle; Vehicle Bond; Amount of Bond; Costs.~~
- ~~4.23.120 Impoundment; Seizure Incident to Arrest; Impoundment Period;
Abandoned Vehicle Disposal; Personal Property in Vehicles.~~
- ~~4.23.130 Forfeiture Process.~~
- ~~4.23.140 Custody of Vehicle; North Pole Police Department; Private Corporations;
Inventory.~~

~~4.23.150 Disposition of Forfeited Property; Return to Claimant.~~

~~4.23.160 Multiple Ownership on Certificate of Title.~~

~~4.23.500 Insurance or Other Security Required.~~

~~4.23.900 Definitions.~~

~~4.23.010 Purpose: Public Nuisance.~~

~~A motor vehicle that is operated, driven or in actual physical control of an individual arrested for or charged with a violation of AS 28.35.030, pertaining to driving while intoxicated or; a violation of AS 28.35.032, pertaining to refusal to submit to chemical tests; or a violation of AS 28.15.291, pertaining to driving while license canceled, suspended, revoked, or limited; or a violation of section 4.23.500 of this chapter pertaining to insurance or other security requirements, may be impounded and may be forfeited to the city in accordance with this article. The purpose of this article is to protect the public by removing public nuisances and deterring driving while intoxicated. A vehicle operated in violation of the aforesated statutes is declared to be a public nuisance for which the registered owners shall be legally responsible subject only to defenses set forth by law.~~

~~4.23.020 Presumptions: Vehicle Seizure.~~

~~A. It shall be presumed that a vehicle operated by or driven by or in the actual physical control of an individual arrested for or charged with a violation of AS 28.35.030, or AS 28.35.032, or AS 28.15.291, or section 4.23.500 of this chapter has been so operated by the registered owner or has been so operated by another person with the knowledge and consent of the registered owner.~~

~~B. A vehicle used in the alleged violation of AS 28.35.030, or AS 28.35.032, or AS 28.15.291, or section 4.23.500 of this chapter shall be impounded for 30 days if the person driving, operating or in the actual physical control of the vehicle has not been previously convicted, and shall be forfeited to the city if the person has been previously convicted.~~

~~C. Impoundment may occur through a seizure of the vehicle incident to an arrest at the discretion of the arresting officer or a court order.~~

~~4.23.030 Hearings and Costs.~~

~~A. Civil impoundment or forfeiture cases may be heard and decided by either the district court or an administrative hearing officer, which throughout this article may be referred to as "the court" or "a court." Hearings before an administrative hearing officer shall take place no less than seven days and no more than 30 days after the registered owner or lien holder requests a hearing. At the request of the city or a claimant, a civil proceeding under this section shall be postponed until the conclusion of any pending~~

~~criminal charges arising out of the incident giving rise to the proceeding under AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter.~~

~~B.— The court shall award the prevailing party in an impoundment or forfeiture case its reasonable attorney's fees and costs. Costs shall include but are not limited to filing costs, advertising costs, police officer time required for testimony, prosecution costs, and other costs incurred in processing the case.~~

~~—4.23.040 Notice to Lien Holders and Parties of Record; Service by Publication; Failure to Appear.~~

~~A.— A lien holder and any party having an interest in the vehicle as shown by the vehicle ownership records by the division of motor vehicles or any agency in any state where the vehicle is registered shall be served with notice of the civil action by certified mail sent to the address of record as shown in the ownership records. In a forfeiture action, the city may serve a party of record personally or by publication if mail service is unsuccessful.~~

~~B.— Service by publication in a forfeiture proceeding shall describe the vehicle, the date and place of impoundment and a contact person, and shall be published once per week for two consecutive weeks in a newspaper of general circulation.~~

~~C.— Any party who fails to appear within 30 days of service of notice of an impoundment or forfeiture waives the right to object to impoundment or forfeiture. Any party who requests a hearing in a civil action shall be deemed served. For actions filed in district court, district court civil rules shall apply. Requests for release of a vehicle made by a person or entity not charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter must be brought in the forum of the civil action.~~

~~—4.23.050 Avoidance of Impoundment or Forfeiture by Owners and Lien Holders; Defenses.~~

~~A.— An owner or lien holder of record may avoid impoundment or forfeiture of that person's interest if the claimant can establish by a preponderance of the evidence that:~~

~~(1) The claimant had an interest in the motor vehicle at the time of the alleged violation or which was acquired in good faith after the violation and not to avoid impoundment or forfeiture;~~

~~(2) A person other than the claimant was in possession of the vehicle and was responsible for the act which resulted in impoundment or forfeiture; and~~

~~(3) Before permitting the operator to gain custody or control of the vehicle, the claimant did not know or have reasonable cause to believe that vehicle would be~~

~~operated in violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter.~~

~~(b) A regulated lien holder may meet the requirements of this section by filing with the court a copy of the vehicle's certificate of title or other security instrument reflecting the lien, with an affidavit stating the amount of the lien and that the lien holder is a regulated lien holder and that the lien holder was not in possession of the vehicle at the time of the act which resulted in the seizure of the vehicle.~~

~~(c) A regulated lien holder shall have no duty to inquire into the driving record of any loan applicant or any member of the loan applicant's family or household, and failure to do so shall not be usable as evidence against the regulated lien holder in any forfeiture proceeding or other civil action.~~

~~(d) A regulated lien holder's interest in a vehicle shall not be subject to forfeiture in any case where:~~

~~(1) The individual who allegedly used the vehicle in violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter is not the person whose dealings with the lien holder gave rise to the lien; or~~

~~(2) The vehicle which the individual was driving, operating or was in actual physical control of at the time of the violation was not the vehicle involved in a prior conviction.~~

~~(e) An acquittal in a criminal proceeding under AS 28.35.030, AS 28.35.032, AS 28.15.291 or Section 4.23.500 of this chapter shall constitute a defense against impoundment or forfeiture of a vehicle if the civil proceeding is based on the same conduct that forms the basis for the criminal charge but pleading to a reduced charge shall not constitute a defense.~~

~~**—4.23.060 Presumptions; Knowledge of Violation.**~~

~~A. When a person other than the claimant was in possession of the vehicle and was driving with a suspended, revoked or canceled license, or without a valid driver's license, or in violation of a limited license, it shall be presumed that the claimant had reasonable cause to believe that the vehicle would be used in violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter. This subsection shall not apply to regulated lien holders.~~

~~B. When the claimant and driver are not the same person and have a familial relationship, such as husband/wife, father/daughter, mother/stepson, etc., it shall be presumed that the claimant is responsible and that the vehicle was operated by the driver with the knowledge and consent of the claimant.~~

~~—4.23.070 Hearing Notification.~~

~~Upon notification from the court of the time and place for a hearing in a civil action, the city shall provide to every person, unless notified by the court, who has an ascertainable ownership or security interest, written notice that includes:~~

- ~~A.— A description of the motor vehicle;~~
- ~~B.— The time and place of the forfeiture or impound hearing;~~
- ~~C.— The legal authority under which the vehicle may be impounded or forfeited; and~~
- ~~D.— Notice of the right to intervene to protect the interest in the motor vehicle.~~

~~4.23.080 Seizure; Evidence; Burden of Proof.~~

~~A.— A seizure is legally unjustified only if there was:~~

- ~~(1)— No reasonable suspicion for the stop of the vehicle leading to an arrest for driving while intoxicated based on the operation, driving or actual physical control of the vehicle; or~~
- ~~(2)— No probable cause for the arrest of an individual for driving while intoxicated based on the individual's operation, driving or actual physical control of the vehicle.~~

~~B.— For purposes of proceedings in an administrative forum, the police report, which may include the narrative; accompanying documents; computer printouts from data bases operated by police agencies and/or government agencies regulating motor vehicles showing the ownership of the vehicle, the driver's license status, and the record of criminal convictions of the driver; and/or tape recordings is admissible evidence so long as it is signed with either the name, initials, badge number, or other identifying mark of an employee of the city in a statement made under oath.~~

~~C.— The burden of proof for an action under this article is preponderance of the evidence.~~

~~—4.23.090 Resolution Agreement between City and Owner/Lien Holder.~~

~~The city may enter into an agreement with the registered owner or lien holder of the vehicle to resolve a civil impound or forfeiture action and permit release of the vehicle. Any such agreement shall include:~~

~~A.— Acceptance by the owner or lien holder of responsibility for meeting the requirements of this section;~~

~~B. — Agreement that the owner or lien holder will take reasonable steps to prevent the person arrested for or charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter from operating the vehicle until properly licensed; and~~

~~C. — Agreement by the owner or lien holder that failure to fulfill the obligations under the agreement may result in forfeiture of the vehicle at the option of the city unless the lien holder is regulated and is required by law or the terms of the security agreement to relinquish possession of the vehicle upon payment of the lien or cure of any default.~~

4.23.100 Release of Motor Vehicle.

~~A person seeking to redeem a vehicle must obtain an order authorizing release of the vehicle unless the release is made under an agreement with the city. A release shall not be granted unless the person can:~~

~~A. — Provide proof of ownership or, if a lien holder, a legal right to repossess the vehicle; and~~

~~B. — Pay or provide proof of payment of any costs imposed, including the impound fees, storage fees and any court costs imposed. The impound fee shall be the actual cost of impound plus an administrative charge to offset the city's processing costs. If the city agrees or the court finds that seizure of a vehicle was legally unjustified, the vehicle shall be released at no cost if the person seeking to reclaim the vehicle does so within five days after the court's finding. A vehicle not claimed within five days after the court's decision is subject to the provisions of AS 28.10.502, relating to towing and storage liens.~~

~~— 4.23.110 Bail Release of Motor Vehicle; Vehicle Bond; Amount of Bond; Costs.~~

~~A. — A person not charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter may petition the court for a bail release of a motor vehicle before a civil action is filed.~~

~~B. — A vehicle return bond shall be set for each vehicle alleged in the complaint to have been used in an alleged violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter. The bond may be posted in cash only. The purpose of this bond is to secure the presence of the vehicle and to provide security to be forfeited if the vehicle is sold, transferred or encumbered after the vehicle has been released pending hearing. If a vehicle is not returned on a return bond, the city may forfeit the bond funds and seize the vehicle to implement the impoundment or forfeiture ordered by the court. The court may not modify the bond requirement or release a posted bond for a vehicle which has been impounded for a period less than the vehicle would have been impounded for if the person was convicted.~~

~~C. — If a person charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter has no previous convictions for those statutes, the minimum vehicle return bond shall be \$400.00. Where the person charged has been previously convicted of any of the offenses above, the minimum vehicle bond shall be determined by the manufactured date of the vehicle as follows:~~

20 years or older	\$ 400.00
15–19 years	\$1,000.00
10–14 years	\$1,500.00
5–10 years	\$2,000.00
0–4 years	\$2,500.00

~~A vehicle return bond may be set above the minimum if the vehicle appears to have been unusually high value for its age but not to exceed twice the minimum amount.~~

~~D. — A vehicle under this section may be released pending hearing upon proof of ownership of the vehicle, payment of the vehicle return bond, and payment of towing and storage fees, including the administrative fee of \$384.00 to offset the city's processing costs.~~

~~E. — The court may order all or any part of the vehicle return bond to be forfeited to the city and may also order that the proceeds of any sale, transfer or encumbrance be forfeited if the vehicle has been sold, transferred or encumbered while subject to a vehicle return bond, if the vehicle is not returned in accordance with an order entered in the case requiring impoundment or forfeiture.~~

~~—4.23.120 Impoundment; Seizure Incident to Arrest; Impoundment Period; Abandoned Vehicle Disposal; Personal Property in Vehicles.~~

~~A. — A motor vehicle that is operated, driven or in the actual physical control of a person arrested for or charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 or Section 4.23.500 of this chapter may be ordered impounded either upon conviction of the person for the offense or upon the decision of the court in a separate civil proceeding. To obtain an order for the impoundment in a contested proceeding, the city must establish by a preponderance of the evidence that the vehicle was operated, driven or in the actual physical control of a person who was acting in violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter.~~

~~B. — If the motor vehicle is seized incident to an arrest or otherwise prior to a conviction or court ordered impoundment, the vehicle may not be held more than two days without a court order obtained to continue its detention. For purpose of computing the two-day period, Saturdays, Sundays and legal holidays are not to be included.~~

~~C.— A vehicle which is ordered impounded under this section shall be held for a period of 30 days. An impoundment order may be made either upon conviction of the person of a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter, or upon decision of a court in a separate civil proceeding.~~

~~D.— Vehicles ordered impounded under this section, which are not claimed at the end of the 30-day court-ordered period of impoundment may be disposed of pursuant to the provisions of AS 28.10.502. If the contents of the vehicle have not been recovered before such disposal, the contents may be disposed of with the vehicle. Personal property in a vehicle that is subject to a vehicle return bond and has not been released can be removed from a vehicle only by the owner of the vehicle and only upon payment of a fee charged for monitoring such recovery of such personal property. Such fee shall be set by contract between the towing and storage contractor and the city. The owner may recover the fee if a court makes a specific finding that the seizure of the vehicle was legally unjustified. In the event the city provides storage on public property the fee to monitor said vehicle shall be included in the storage cost at \$20.00 per day for the first ten days and \$10.00 per day thereafter.~~

4.23.130 Forfeiture Process.

~~A.— A motor vehicle that is operated, driven or in the actual physical control of a person arrested or charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 or Section 4.23.500 of this chapter may be forfeited to the city either upon conviction of any of the offenses listed above or upon decision of a court in a separate civil proceeding. To obtain an order of forfeiture in a contested proceeding, the city must establish by a preponderance of the evidence that the vehicle was operated, driven or in the physical control of the person acting in violation of either offense and the individual has been previously convicted.~~

~~B.— A motor vehicle may be seized and towed to a secure location by a police officer or a police officer's designee upon an order issued by a court having jurisdiction over the motor vehicle upon a showing of probable cause that the motor vehicle may be forfeited or impounded under this section. Seizure without a court order may be made if:~~

- ~~(1)— The impoundment is incident to an arrest; or~~
- ~~(2)— The motor vehicle has been ordered impounded or forfeited and that order has not yet been executed; or~~
- ~~(3)— There is probable cause to believe that the motor vehicle was operated, driven or in the actual physical control of a person in violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 4.23.500 of this chapter.~~

~~C.— A court may order impoundment of a motor vehicle subject to forfeiture in a civil action for a minimum of 30 consecutive days.~~

~~—4.23.140 Custody of Vehicle; North Pole Police Department; Private Corporations; Inventory.~~

~~A.— A motor vehicle seized for the purpose of forfeiture or impoundment should be held in the custody of the department of public safety or a private corporation authorized by the department to retain custody of the vehicle, subject only to the orders and decrees of the court having jurisdiction over any forfeiture or impoundment proceedings. When a motor vehicle is seized, the North Pole Police Department Chief of Police or an authorized designee may:~~

~~(1)— Remove the motor vehicle and any contents in the vehicle to a place designated by the court; or~~

~~(2)— Take custody of the motor vehicle and any contents of the vehicle and remove it to an appropriate location for disposition.~~

~~B.— Following a forfeiture of a vehicle the North Pole Police Department shall make an inventory of the contents of any motor vehicle seized. Personal property can be recovered from the vehicle in the same manner as set forth in section 4.23.120 of this chapter.~~

~~C.— A person in a forfeiture action claiming an interest in the property shall file, within 30 days after service or completion of publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the city's allegations. If a claim and answer is not filed within the required time, the motor vehicle must be forfeited to the city without further proceedings. For a regulated lien holder, the notice of claim and answer is met by the filing of information required in section 78-966 and by adding to the affidavit a statement of the original amount of the loan giving rise to the lien and the current balance due on that loan.~~

~~D.— A claimant may petition the court for sale of a motor vehicle before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interest of the city. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.~~

~~—4.23.150 Disposition of Forfeited Property; Return to Claimant.~~

~~A.— Property forfeited under this article shall be disposed of by the department of public safety in accordance with this section. Property forfeited includes both the vehicle and its contents if those contents have not been recovered before the date of disposal. The department of public safety may:~~

- ~~(1) — Sell the property in a manner that will yield the best price and use the proceeds for payment of all expenses of seizure, custody, court costs and attorney's fees;~~
- ~~(2) — Take custody of the property and use it in the enforcement of city and state criminal codes; or~~
- ~~(3) — Destroy the property.~~

~~B. — When a claimant to a motor vehicle is entitled to its possession, the court shall order that:~~

- ~~(1) — The vehicle be delivered to the claimant immediately subject to costs as described in section 4.23.100 of this section; or~~
- ~~(2) — If the claimant is entitled to some value less than the total value of the motor vehicle, the claimant is entitled to receive either the value of the claimant's interest after the sale of the vehicle upon request and payment of the difference in value by the claimant, the motor vehicle itself.~~

~~C. — When a vehicle is sold and lien holder interest exceeds the sale price, the owner may be held responsible for the difference and the city's cost.~~

~~—4.23.160 Multiple Ownership on Certificate of Title.~~

~~In a contested forfeiture proceeding concerning a vehicle titled in the names of more than one owner on the certificate of title, the court shall proceed as follows:~~

~~A. — If one owner does not avoid forfeiture, the court may order the forfeiture of the entire interest of all the owners in a vehicle which is titled in the names of more than one owner in the disjunctive which is signified by the word "or."~~

~~B. — If such owner does not avoid forfeiture, the court shall order the forfeiture of the interest of any owner in a vehicle which is titled in the names of more than one owner in the conjunctive which is signified by the word "and." Owners of a vehicle titled in the names of more than one owner in the conjunctive are presumed to own the vehicle in equal shares. Under this subsection, the court shall order that the vehicle be sold at public auction and further order that the proceeds from the sale of the vehicle be held by the city's department of finance. After deduction of the reasonable costs of the auction, the amount of the proceeds of the auction for the sale of that vehicle which is equal to the interests of the owners whose interests have not been forfeited shall be returned to those owners if those owners apply to the department of finance within 60 days of the auction. If the owners whose interests have not been forfeited do not apply within that period,~~

~~those funds become the property of the city subject to the rights of any other claimant to those funds.~~

~~—4.23.500 Insurance or Other Security Required.~~

~~A.—The owner or operator of a motor vehicle shall have a current motor vehicle liability policy, or other security that complies with Alaska Statutes Title 28.22.11—28.22.500, when operating a motor vehicle.~~

~~B.—It is unlawful:~~

~~(1) For any person to operate a motor vehicle without proof of the required security in the vehicle;~~

~~(2) For any person to fail to produce proof of security to a police officer upon demand; or~~

~~(3) For any person to operate a motor vehicle without the required security in effect at the time of operation.~~

~~C.—A person convicted of violating subsections b(1) or b(2) shall pay a fine of \$300.00 unless the person produces in court proof of insurance for vehicle liability or other security that had been issued to the person prior to the time of the offense and was valid at the time of the offense, in which instance the citation will be dismissed.~~

~~D.—A person convicted under subsection (b) for the first time may avoid impoundment by presenting proof of insurance in effect no later than 30 days after the date of the offense.~~

~~—4.23.900 Definitions.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~“Assessed or appraised value” of a motor vehicle shall be based upon the Automobile Dealers Association Book (Blue Book) for the same or similar make and model and accessorized motor vehicle. Should there be no Blue Book value; the value shall be \$500.00.~~

~~“Driver” means a person who drives or is in actual physical control of a vehicle.~~

~~“Motor vehicle” means a vehicle which is self propelled except a vehicle moved by human or animal power.~~

~~“Previously convicted” means having been convicted in this or another jurisdiction within ten years preceding the date of the present offense, of operating a motor vehicle, aircraft or watercraft while intoxicated under AS 28.35.030 or another law or ordinance with substantially similar elements, or a refusal to submit to a chemical test under AS 28.35.032 or another law or ordinance with substantial similar elements, or driving a motor vehicle while license suspended, canceled, revoked, or limited under AS 28.15.291 or another law or ordinance with substantially similar elements, or driving a motor vehicle without insurance or other security under Section 4.23.500 of this chapter or another law or ordinance with substantially similar elements.~~

~~“Registered owner” refers to the owner of the vehicle at the time of the offense as shown in the vehicle ownership records of the state division of motor vehicles or another agency with similar responsibilities in another state, but may include subsequent good-faith purchases.~~

~~“Regulated lien holder” means an entity whose lien on the vehicle is a result of lending activities that are subject to regulation by any federal or state agency, commission or department.~~

~~“Vehicle” means a device in, upon or by which a person or property may be transported or driven upon immediately over a highway, road or other public right-of-way. (Ord. 08-08)~~

Section 3. **Effective Date.** This ordinance shall be effective at 5:00 pm on the first City business day following its adoption.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this 1ST day of October, 2012.

Douglas W. Isaacson, Mayor

ATTEST:

Kathryn M. Weber, MMC
North Pole City Clerk

YES:

NO:

Absent:

**CITY OF NORTH POLE
ORDINANCE 12-20**

**AN ORDINANCE INTRODUCING CHAPTER 10, SECTION 10.02, MOTOR
VEHICLE IMPOUNDMENT AND STATE FORFEITURE**

WHEREAS, changes to the North Pole Municipal Code is a continually changing requirement; and

WHEREAS, the City of North Pole Municipal Code should be amended to conform to the requirements of the City and to provide clarification as needed.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of North Pole:

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. Chapter 10, Vehicles & Traffic, Section 10.02.010 – 10.02.900 of the North Pole Municipal Code of Ordinances is introduced as follows:

**Chapter 10.02
Motor Vehicle Impoundment and State Forfeiture**

Sections:

- 10.02.010 Purpose: Public Nuisance.
- 10.02.020 Presumptions: Vehicle Seizure.
- 10.02.030 Hearings and Costs.
- 10.02.040 Notice to Lien Holders and Parties of Record; Service by Publication; Failure to Appear.
- 10.02.050 Presumptions; Knowledge of Violation.
- 10.02.060 Hearing Notification.
- 10.02.070 Seizure; Evidence; Burden of Proof.
- 10.02.080 Resolution Agreement between City and Owner/Lien Holder.
- 10.02.090 Release of Motor Vehicle.
- 10.02.100 Bail Release of Motor Vehicle; Vehicle Bond; Amount of Bond; Costs.
- 10.02.110 Impoundment; Seizure Incident to Arrest; Impoundment Period; Abandoned Vehicle Disposal; Personal Property in Vehicles.
- 10.02.120 Forfeiture Process.
- 10.02.130 Custody of Vehicle; North Pole Police Department; Private Corporations; Inventory.
- 10.02.140 Disposition of Forfeited Property; Return to Claimant.
- 10.02.150 Multiple Ownership on Certificate of Title.
- 10.02.160 Insurance or Other Security Required.
- 10.02.900 Definitions.

10.02.010 Purpose: Public Nuisance.

A motor vehicle that is operated, driven or in actual physical control of an individual arrested for or charged with a violation of AS 28.35.030, pertaining to driving while intoxicated or; a violation of AS 28.35.032, pertaining to refusal to submit to chemical tests; or a violation of AS 28.15.291, pertaining to driving while license canceled, suspended, revoked, or limited; or a violation of section 10.02.160 of this chapter pertaining to insurance or other security requirements, will be impounded and may be forfeited in accordance with this article. The purpose of this article is to protect the public by removing public nuisances and protecting the public from individuals driving while intoxicated. A vehicle operated in violation of the aforesated statutes is declared to be a public nuisance for which the registered owners shall be legally responsible subject only to defenses set forth by law.

10.02.020 Presumptions: Vehicle Seizure.

A. It shall be presumed that a vehicle operated by or driven by or in the actual physical control of an individual arrested for or charged with a violation of AS 28.35.030, or AS 28.35.032, or AS 28.15.291, or section 10.02.160 of this chapter has been so operated by the registered owner or has been so operated by another person with the knowledge and consent of the registered owner.

B. A vehicle used in the alleged violation of AS 28.35.030, or AS 28.35.032, or AS 28.15.291, or section 10.02.160 of this chapter shall be impounded.

C. Impoundment may occur through a seizure of the vehicle incident to an arrest.

D. If the motor vehicle is seized pursuant to this section the vehicle may be released with an agreement between the owner and the city. The city will release the vehicle once the administrative fees are paid.

E. An appeal of the seizure may be filed with the court as outlined in section 4.23.030.

10.02.030 Hearings, Impound Appeal and Costs.

A. Civil impoundment or forfeiture cases may be heard and decided by either the district court or an administrative hearing officer, which throughout this article may be referred to as "the court" or "a court." Hearings before an administrative hearing officer shall take place no less than seven days and no more than 30 days after the registered owner or lien holder requests a hearing. At the request of the city or a claimant, a civil proceeding under this section shall be postponed until the conclusion of any pending criminal charges arising out of the incident giving rise to the proceeding under AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 10.02.160 of this chapter.

B. The court shall award the prevailing party in an impoundment case its reasonable attorney's fees and costs. Costs shall include but are not limited to filing costs, advertising costs, police officer time required for testimony, prosecution costs, court costs and other costs incurred in processing the case.

10.02.040 Notice to Lien Holders and Parties of Record; Service by Publication; Failure to Appear.

A. A lien holder and any party having an interest in the vehicle as shown by the vehicle ownership records of the division of motor vehicles or any agency in any state where the vehicle is registered shall be served with notice of the impound by certified mail sent to the address of record as shown in the ownership records.

B. Any party who fails to appear within 30 days of service of notice of an impoundment waives the right to object to impoundment. Any party who requests a hearing in a civil action shall be deemed served. For actions filed in district court, district court civil rules shall apply. Requests for release of a vehicle made by a person or entity not charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 10.02.160 of this chapter must be brought in the forum of the civil action.

10.02.050 Presumptions; Knowledge of Violation.

A. When a person other than the claimant was in possession of the vehicle and was driving with a suspended, revoked or canceled license, or without a valid driver's license, or in violation of a limited license, it shall be presumed that the claimant had reasonable cause to believe that the vehicle would be used in violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 10.02.160 of this chapter. This subsection shall not apply to regulated lien holders.

B. When the claimant and driver are not the same person and have a familial relationship, such as husband/wife, father/daughter, mother/stepson, etc., it shall be presumed that the claimant is responsible and that the vehicle was operated by the driver with the knowledge and consent of the claimant.

10.02.060 Hearing Notification.

Upon notification from the court of the time and place for a hearing in a civil action, the city shall provide to every person, unless notified by the court, who has an ascertainable ownership or security interest, written notice that includes:

A. A description of the motor vehicle;

B. The time and place of the impound hearing;

- C. The legal authority under which the vehicle may be impounded ; and
- D. Notice of the right to intervene to protect the interest in the motor vehicle.

10.02.070 Seizure; Evidence; Burden of Proof.

A. A seizure is legally justified if the person operated or drove a motor vehicle, aircraft or watercraft:

- (1) while under the influence of an alcoholic beverage, intoxicating liquor, inhalant, or any controlled substance, singly or in combination; or
- (2) as determined by a chemical test taken within four hours after the alleged operating or driving, there is 0.08 percent or more by weight of alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of blood, or if there is 0.08 grams or more of alcohol per 210 liters of the person's breath.

B. A seizure is also legally justified for violations of Alaska Statue for AS 28.15.291, AS 28.35.032, and No Insurance NPMC 10.02.160.

C. For purposes of proceedings in an administrative forum, the police report, which may include the narrative; accompanying documents; computer printouts from data bases operated by police agencies and/or government agencies regulating motor vehicles showing the ownership of the vehicle, the driver's license status, and the record of criminal convictions of the driver; and/or tape recordings is admissible evidence so long as it is signed with either the name, initials, badge number, or other identifying mark of an employee of the city in a statement made under oath.

D. The burden of proof for an action under this article is preponderance of the evidence.

10.02.080 Resolution Agreement between City and Owner/Lien Holder.

The city may enter into an agreement with the registered owner or lien holder of the vehicle to resolve a civil impound action and permit release of the vehicle. Any such agreement shall include:

- A. Acceptance by the owner or lien holder of responsibility for meeting the requirements of this section;
- B. Agreement that the owner or lien holder will take reasonable steps to prevent the person arrested for or charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 and Section 10.02.160 of this chapter from operating the vehicle until properly licensed and insured.

10.02.090 Release of Motor Vehicle.

A person seeking to redeem a vehicle must obtain an order authorizing release of the vehicle unless the release is made under an agreement with the city. To redeem a vehicle the person must:

A. Provide proof of ownership or, if a lien holder, a legal right to repossess the vehicle; and

B. Pay or provide proof of payment of any costs imposed, including the impound fees, storage fees and any court costs imposed. The impound fee shall be the actual cost of impound plus an administrative charge to offset the city's processing costs. If the city agrees or the court finds that seizure of a vehicle was legally unjustified, the vehicle shall be released at no cost if the person seeking to reclaim the vehicle does so within five days after the court's finding. A vehicle not claimed within five days after the court's decision or release by the city is subject to the provisions of AS 28.10.502, relating to towing and storage liens.

10.02.100 Release of Motor Vehicle; Costs.

A. A vehicle under this section may be released upon proof of ownership of the vehicle, payment of towing and storage fees, including the administrative fee of \$384.00 to offset the city's processing costs.

B. Impound towing fees have been set at \$130.00 for impound/towing. Daily impound fees are set at \$30.00 per day. Certified letter notification fee is \$75.00 and a onetime Security Fee is set at \$65.00. Item recovery fees are set at \$50.00 per visit.

10.02.110 Impoundment; Seizure Incident to Arrest; Impoundment Period; Abandoned Vehicle Disposal; Personal Property in Vehicles.

A. A motor vehicle that is operated, driven or in the actual physical control of a person arrested for or charged with a violation of AS 28.35.030, AS 28.35.032, AS 28.15.291 or Section 10.02.160 of this chapter shall be impounded at the time of the arrest of the person for the offense or upon the decision of the court in a separate civil proceeding.

B. If the motor vehicle is seized incident to an arrest or otherwise prior to a conviction or court-ordered impoundment the City shall not hold the vehicle for longer than seven days without obtaining a court order authorizing the continuing seizure. The City is not "holding" a vehicle so long as the City is willing to release the vehicle upon payment of

the required administrative fees.. For purpose of computing the seven-day period, Saturdays, Sundays and legal holidays are not included.

C. Vehicles ordered impounded under this section, which are not claimed at the end of the 30 days of impoundment, may be disposed of pursuant to the provisions of AS 28.10.502. If the contents of the vehicle have not been recovered before such disposal, the contents may be disposed of with the vehicle. Personal property in a vehicle that has not been released at the time of impound can be removed from a vehicle only by the owner of the vehicle and only upon payment of a fee charged for monitoring such recovery of such personal property. Such fee shall be set by contract between the towing and storage contractor and the city. The owner may recover the fee if a court makes a specific finding that the seizure of the vehicle was legally unjustified.

10.02.120 Forfeiture Process.

A. A motor vehicle that is operated, driven or in the actual physical control of a person arrested or charged with a felony violation of AS 28.35.030, AS 28.35.032, will be subjected to forfeiture procedures and impounded to a State of Alaska approved impound facility. The City of North Pole will release the vehicle to an authorized facility pending the outcome of the criminal proceedings.

B. A motor vehicle may be seized and towed to a secure location by a police officer or a police officer's designee upon an order issued by a court having jurisdiction over the motor vehicle upon a showing of probable cause that the motor vehicle will be impounded under the State of Alaska seizure proceedings.

10.02.130 Custody of Vehicle; North Pole Police Department; Private Corporations; Inventory.

A. A motor vehicle seized for the purpose of forfeiture should be held in the custody of the department of public safety or a private corporation authorized by the department to retain custody of the vehicle, subject only to the orders and decrees of the court having jurisdiction over any forfeiture or impoundment proceedings. When a motor vehicle is seized, the North Pole Police Department Chief of Police or an authorized designee may:

- (1) Remove the motor vehicle and any contents in the vehicle to a place designated by the court; or
- (2) Take custody of the motor vehicle and any contents of the vehicle and remove it to an appropriate location for disposition.

B. Following an impoundment of a vehicle the North Pole Police Department shall make an inventory of the contents of any motor vehicle seized. Personal property can be recovered from the vehicle in the same manner as set forth in section 10.02.110 of this chapter.

10.02.140 Disposition of Forfeited Property; Return to Claimant.

A. Property forfeited under this article shall be disposed of by the department of public safety in accordance with this section. Property forfeited includes both the vehicle and its contents if those contents have not been recovered before the date of disposal. The department of public safety may:

- (1) Sell the property in a manner that will yield the best price and use the proceeds for payment of all expenses of seizure, custody, court costs and attorney's fees;
- (2) Take custody of the property and use it in the enforcement of city and state criminal codes; or
- (3) Destroy the property.

B. When a claimant to a motor vehicle is entitled to its possession, the court shall order that:

- (1) The vehicle be delivered to the claimant immediately subject to costs as described in section 10.02.160 of this section.

C. When a vehicle is sold and the lien holder interest exceeds the sale price, the owner may still be held responsible for the city's costs and administrative fees.

10.02.160 Insurance or Other Security Required.

A. The owner or operator of a motor vehicle shall have a current motor vehicle liability policy, or other security that complies with Alaska Statutes Title 28.22.11 – 28.22.500, when operating a motor vehicle.

B. It is unlawful:

- (1) For any person to operate a motor vehicle without proof of the required security in the vehicle;
- (2) For any person to fail to produce proof of security to a police officer upon demand; or

(3) For any person to operate a motor vehicle without the required security in effect at the time of operation.

C. A person convicted of violating subsections b(1) or b(2) shall pay a fine of \$300.00 unless the person produces in court proof of insurance for vehicle liability or other security that had been issued to the person prior to the time of the offense and was valid at the time of the offense, in which instance the citation will be dismissed.

D. A person convicted under subsection (b) for the first time may avoid impoundment by presenting proof of insurance in effect no later than 30 days after the date of the offense.

10.02.900 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning :

“Assessed or appraised value” of a motor vehicle shall be based upon the Automobile Dealers Association Book (Blue Book) for the same or similar make and model and accessorized motor vehicle. Should there be no Blue Book value; the value shall be \$500.00.

“Driver” means a person who drives or is in actual physical control of a vehicle.

“Motor vehicle” means a vehicle which is self propelled except a vehicle moved by human or animal power.

“Previously convicted” means having been convicted in this or another jurisdiction within ten years preceding the date of the present offense, of operating a motor vehicle, aircraft or watercraft while intoxicated under AS 28.35.030 or another law or ordinance with substantially similar elements, or a refusal to submit to a chemical test under AS 28.35.032 or another law or ordinance with substantial similar elements, or driving a motor vehicle while license suspended, canceled, revoked, or limited under AS 28.15.291 or another law or ordinance with substantially similar elements, or driving a motor vehicle without insurance or other security under Section 10.02.160 of this chapter or another law or ordinance with substantially similar elements.

“Registered owner” refers to the owner of the vehicle at the time of the offense as shown in the vehicle ownership records of the state division of motor vehicles or another agency with similar responsibilities in another state, but may include subsequent good-faith purchases.

“Regulated lien holder” means an entity whose lien on the vehicle is a result of lending activities that are subject to regulation by any federal or state agency, commission or department.

“Vehicle” means a device in, upon or by which a person or property may be transported or driven upon immediately over a highway, road or other public right-of-way.

Any terms not defined herein shall be defined as set forth in Alaska Statutes.

Section 3. **Effective Date.** This ordinance shall be effective at 5:00 pm on the first City business day following its adoption.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this 1ST day of October, 2012.

DOUGLAS W. ISAACSON, Mayor

ATTEST:

Kathryn M. Weber, MMC
North Pole City Clerk

YES:

NO:

Absent:



**North Pole Police Dept.
125 Snowman Ln.
North Pole, AK 99705**

**Chief Steve Dutra
Phone: 907-488-8459
Fax: 907-488-5299**

September 11, 2012

Mr. Mayor and Council:

I would like to request the North Pole City Council to adopt CHAPTER 2.27: OFFICE OF ADMINISTRATIVE HEARINGS. This new code will put in place the language necessary for the City of North Pole to contract Hearing Officers to preside over appeals made when a dispute arises over a vehicle impound.

These Hearing Officer's will be contracted to hear evidence presented by the City of North Pole and the responding party and decide, by preponderance of the evidence, whether an impound was conducted according to code.

I encourage you to adopt this code.

Thank you,

A blue ink signature of Chief Steve Dutra, consisting of a stylized 'S' and 'D' followed by a horizontal line.

Chief Dutra

**CITY OF NORTH POLE
ORDINANCE 12-21**

**AN ORDINANCE INTRODUCING CHAPTER 2, SECTION 2.27, OFFICE OF
ADMINISTRATIVE HEARINGS**

WHEREAS, changes to the North Pole Municipal Code is a continually changing requirement; and

WHEREAS, the City of North Pole Municipal Code should be amended to conform to the requirements of the City and to provide clarification as needed.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of North Pole:

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. Chapter 2, Section 2.27, Introducing the Office of Administrative Hearings as follows:

CHAPTER 2.27

OFFICE OF ADMINISTRATIVE HEARINGS

Section

2.27.010	Established
2.27.020	Duties
2.27.030	Qualifications
2.27.040	Appointment
2.27.050	Conflict of interest
2.27.060	Ex parte contacts prohibited
2.27.070	Compensation
2.27.080	Hearing procedures
2.27.090	Scope of Review
2.27.100	Decisions
2.27.110	Reconsiderations
2.27.120	Appeals
2.27.130	Definitions

2.27.010 ESTABLISHED.

(A) The Office of Administrative Hearings is established. Administrative hearing officers shall be appointed by the mayor and confirmed by the City Council. If possible,

there shall be three administrative hearing officers appointed in order to maintain a rotating list of available officers.

2.27.020 DUTIES.

(A) Administrative hearing officers shall have jurisdiction over the following:

- (1) Appeals of forfeiture impounds and seizures of motor vehicles per NPMC 04.23.

2.27.030 QUALIFICATIONS.

An administrative hearing officer shall be an attorney duly licensed to practice law in the State of Alaska, experienced in arbitration, mediation, contract law, and administrative appeals. An administrative hearing officer shall hold no other appointed or elected office or position with the City of North Pole.

2.27.040 APPOINTMENT.

An administrative hearing officer shall be appointed to a two-year term. There is no limit to the number of terms an administrative hearing officer may serve. An administrative hearing officer may be removed for cause by the mayor with the approval of the City Council or by a two-thirds majority vote of the City Council.

2.27.050 CONFLICT OF INTEREST.

- (A) An administrative hearing officer shall not hear or participate in a case where he/she has a conflict of interest, as defined by Canon 3 of the Code of Judicial Conduct, in any matter under investigation or consideration. The administrative hearing officer must disclose any potential conflict of interest to the parties.
- (B) The administrative hearing officer assigned to the case shall, in the first instance, rule on any conflict of interest challenges to him/her participating in the case. All such rulings shall promptly be assigned to another administrative hearing officer for review and decision de novo.

2.27.060 EX PARTE CONTACTS PROHIBITED.

- (A) An administrative hearing officer acts in a quasi-judicial capacity and shall not engage in ex parte communications concerning the matter of appeal with city employees, city contractors, members of the City Council, the appellant, or any parties associated with the impound or forfeiture process.
- (B) If an unsolicited ex parte communication occurs, the administrative hearing officer shall disclose the communication on the record prior to rendering a decision and shall not take information contained in an ex parte communication into consideration.

2.27.070 COMPENSATION.

An administrative hearing officer shall receive compensation of \$150.00, per hour, subject to inflationary increases as set by the City Council. An administrative hearing officer shall also receive reimbursement for reasonable expenses incurred in carrying out the duties of the office.

2.27.080 HEARING PROCEDURES.

Administrative hearing proceedings shall be conducted informally and may be governed by such rules and procedures as the official agency is empowered to conduct such hearings or proceedings may choose to establish, except that:

- (a) Parties may appear in person or through counsel. Parties may waive the opportunity to appear at a hearing. Failure to appear at a hearing shall be treated as a waiver of the opportunity to appear. Provided however, that if a party either waives the opportunity to appear at a hearing or fails to appear, the hearing may proceed and a decision may be issued based upon the evidence and arguments presented.
- (b) Parties may present witnesses and evidence on their own behalf.
- (c) A party or their counsel may cross-examine opposing witnesses on matters relevant to the issues, impeach witnesses regardless of which party first called the witness to testify, and rebut evidence admitted against him or her.
- (d) Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be admitted provided there are guarantees of its trustworthiness and it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.
- (e) All administrative hearings shall be open to the public.
- (f) All parties shall have the right to subpoena witnesses and documents using a form provided by the city clerk and submitted to the clerk for issuance at least five (5) working days before the date of the hearing.
- (g) All administrative hearing proceedings shall be memorialized by an electronic recording or a stenographic record and be conducted in City Council chambers.

2.27.090 Scope of review.

Unless otherwise provided in this Code administrative hearing officers are empowered to conduct, hear and decide de novo all matters appealed and may exercise independent

judgment as to the weight of evidence supporting or refuting the findings of the administrative official and from whose decision the appeal is taken, and shall exercise independent judgment on legal issues raised by the parties.

2.27.100 Decisions.

(A) No later than fifteen (15) days following an administrative hearing conducted under this chapter, the official empowered to conduct an administrative hearing shall issue a written decision based on findings and conclusions adopted by the official. Such findings must be in writing and must be reasonably specific so as to provide interested persons, and where appropriate, reviewing authorities, a clear and concise understanding of the reasons for the decision entered.

(B) The decision, findings of fact and conclusions of law shall be forwarded to all parties to the appeal by US Mail at the address of record provided by the parties and a certificate of distribution of the decision shall be noted on the decision. A final appealable decision must indicate that it is a final order and that a party disputing the decision has thirty (30) days from the date of distribution of the decision to appeal. If an appeal is not timely filed the decision of the administrative hearing officer shall be final and not subject to further review.

2.27.110 Reconsideration.

A decision of the official reached at the conclusion of an administrative hearing may be reconsidered or reheard only if:

- (a) There was substantial procedural error in the original proceedings; or
- (b) The official acted without jurisdiction in the original proceeding; or
- (c) The original decision was based on fraud or misrepresentation; or
- (d) The hearing officer has overlooked or misperceived a material issue of law or fact.

Any person seeking reconsideration or rehearing must file a request with the city clerk together with materials supporting one (1) or more of the grounds stated above within fifteen (15) days of the decision for which reconsideration or rehearing is requested. A rehearing shall be conducted in the same manner as the original proceeding.

2.27.120 Appeals.

Any person seeking an appeal of an administrative hearing must do so within 30 days of the distribution of the decision and all appeals shall be filed in the Superior State Court of the State of Alaska, Fourth Judicial District.

2.27.130 Definitions.

For the purposes of this chapter:

(a) *Administrative hearing* means any hearing, formal conference, or other proceeding before an official which is required by law or by this Code as a condition precedent to the determination by the official of any matter relating to the rights, privileges, duties, obligations or remedies of an identified individual.

Section 3. **Effective Date.** This ordinance shall be effective at 5:00 pm on the first City business day following its adoption.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this 1ST day of October, 2012.

Douglas W. Isaacson, Mayor

ATTEST:

Kathryn M. Weber, MMC
North Pole City Clerk

YES:

NO:

Absent:

RESOLUTION 2012-20

A RESOLUTION ESTABLISHING 2013 CAPITAL PROJECT PRIORITIES FOR THE CITY OF NORTH POLE

WHEREAS, the City of North Pole seeks to provide its residents with a quality level of service and has levied property and sales tax to cover the cost of most city services, but with a small residential base is not able to keep up with the entire costs of maintaining an aging infrastructure without grant assistance; and

WHEREAS, the City of North Pole desires to receive funding from the State of Alaska and the Federal Government for local capital projects designated as the most urgent; and

WHEREAS, Resolution 12-18 established the priority Utility project request for calendar year 2013 as the North Pole Waste Water Treatment Plant Rehabilitation Project and this Resolution establishes other Departmental priority and Community projects as follows:

PUBLIC WORKS

Pedestrian Path Connection Project: The Public Works Department seeks state support to help develop an interconnected network of pedestrian paths throughout the City.

Cost: \$1 million for design and construction.

Brief Description and Justification: The City has made a \$52,896 matching contribution to the FMATS pedestrian path connection project scheduled to go to construction in the City in 2013. The City is requesting funding for the next phase of pedestrian path connects. The City is requesting funding to connect the pedestrian path that terminates at the intersection of the Old Richardson Highway and Homestead Road with the pedestrian path on the recently constructed extension of Homestead Road. The City will construct the pedestrian path to provide an uninterrupted pedestrian path to the North Pole High School and to the North Pole Library that is to be constructed at the intersection of North Pole High School Boulevard and Homestead Road. To expedite construction of the pedestrian path, the North Pole Public Works Department will work cooperatively with the Fairbanks Public Works Department to perform the environmental assessment and project design.

POLICE DEPARTMENT

Priority #1 = New roof for police station

Cost: \$150,000, estimated

Brief Description and Justification: The police department roof cover has been repaired extensively but has not been replaced since the building was built in the 1980's. The condition of the roofing material is poor and we are experiencing some leaks. The cost of replacing the roofing material is substantial; much of this is due to the antenna system mounted on the roof. This antenna must be removed in order to properly fix and repair the roofing material. The city's communication system is housed in the police department and it is vital that we keep this equipment dry.

Priority #2 = Redesign and installation of a heating and cooling system for the police station.

Cost: \$75,000, estimated

Brief Description and Justification: The police department is currently housed in the old City Hall building and this building has inadequate heating and cooling. In the winter the rooms inside the building get to hot. This is due to heating controls being in the wrong locations. The police department personnel experience very hot conditions requiring windows to be open at -20 degrees and colder. This is an inefficient practice and wastes energy. In many of the rooms there is no cooling. During the summer months the rooms are unbearable. Portable air-conditioning units have been placed in several rooms in order to make working conditions tolerable.

FIRE DEPARTMENT

Priority #1: Grant request for Type One 4x4 ambulance: A grant award to the North Pole Fire Department would help ensure a timely EMS response and provide for the safety of our responders and citizens

Cost: \$160,000

Brief Description and Justification: The North Pole Fire Department is the third busiest ambulance provider in Interior Alaska and provides the only ambulance service to an area incorporating the City of North Pole and the North Star Volunteer Fire Service Area; it provides secondary service as a mutual aid response elsewhere in the Fairbanks North Star Borough. The City is applying for funding to purchase a 2012 or newer type one 4x4 ambulance. The new ambulance will meet current standards and address firefighter and patient safety. We have estimated the base cost of the new ambulance at \$160,000, which is based on information from ambulance manufacturers and from a recent delivery to the Fairbanks North Star Borough.

Our current first out ambulance is a 2006 and has 99,000 miles on it. Our back up ambulance is a 2002 that has over 100,000 miles on it, and our reserve ambulance is a 1993. Our high mileage and long service life requires the need for a replacement ambulance. With the purchase of the new ambulance it is the intent of the North Pole Fire Department to move the 2006 ambulance to second out status and place the 2002 ambulance in reserve status. The reserve ambulance is brought online anytime one of the front line ambulances is down for repairs.

Priority #2: Grant request for 100 foot Aerial Platform

Cost: \$980,000.00, estimated

Brief Description and Justification: North Pole Fire Department is applying for funding to purchase a 100-foot aerial platform to replace a 1983 75-foot Tele-squirt. The new apparatus will meet the requirements of NFPA 1901 Annex D, which addresses firefighter capabilities and safety, and adds emphasis to required firefighter safety and operating capabilities of the apparatus. The current aerial that will be replaced does not meet the NFPA requirements and is well beyond its 20-year service life. This purchase would provide a safe, functional, and cost-efficient apparatus.

North Pole Fire Department maintains the only aerial apparatus covering the eastern portion of the Fairbanks North Star Borough covering over 120 square miles. The nearest mutual aid aerial are located 15 to 20 miles away which could lead to serious delays for fire and rescue operations. North Pole is home to two oil refineries and three electric power generation facilities that provide electrical power to the Interior of Alaska, as well as the bulk of the area's schools, commercial occupancies, and apartment complexes. Daily operational needs for responding to fire and rescue operations at these target hazards clearly show the need for a dependable aerial device. The new platform will replace the only aerial apparatus on the east side of the Fairbanks North Star Borough, catering to approximately 35,000 citizens, protected by three departments. This aerial responds as a part of the mutual aid agreement to Eielson Air Force Base which has no aerial device within its department. Within the gates of the Air Force Base are many four story or larger buildings and aircraft hangers, as well as a tank farm holding the aviation fuel for their aircraft. The new platform will be available for all participants when needed, which will increase the interoperability between departments.

CITY CLERK

City Administration Archival System:

Cost: approximately \$150,000.

Brief Description and Justification: The City has invested \$50,000.00 in basic archival equipment, phase one. The second phase of this project is to acquire the electronic equipment and scanners, supplies, and training necessary to implement a document archival system. This system will enable city administration personnel, under the guidance and direction of the City Clerk, to develop an efficient, compliant archival system and secure records in the event of a disaster, as well as expedite retrieval of archived documents.

COMMUNITY

Priority #1: Support Request by North Pole Economic Development Corp (NPEDC) for State Assistance to fund International Federation of Sleddog Sports (IFSS) World Championships to be held in North Pole February 26 – March 3, 2012

Request: \$200,000.00

Brief Description and Justification: The IFSS is a federation of national sled dog sports associations and other national or international organizations contributing to sled dog sports on an educational, scientific, or technical level. One of the IFSS objectives is to gain Olympic recognition of sleddog sports. Our event will bring in mushers and skijorers from throughout the world. The last event was held in Norway, two years ago and prior to that in Daquam, Quebec four years ago. The IFSS World Championship alternates between North America and Europe every two years.

To put on this World Championship, in proper form, North Pole Economic Development Corporation has made a commitment to raise \$400,000.00. We are raising \$200,000.00 from the business and public sectors from across the state and request a 50% match from the state of Alaska. The World Championship will begin a series of 24 events to be held in North Pole, Fairbanks, and Salcha, during February and March 2013, and facilitate the entry of international sled dog mushers in other events throughout the State. The associated economic impact to the affected communities will be significant.

Priority #2: Support Request by the Arctic Winter Games 2014 Host Society for State Assistance:

The Fairbanks 2014 Arctic Winter Games Host Society requests that Governor Sean Parnell include \$1 million in the FY2014 budget for the planning and implementation of the Arctic Winter Games which will be held in Fairbanks on March 15-22, 2014.

Request: \$1,000,000.00

Brief Description and Justification: In February 2011, Fairbanks was awarded the bid to host the 2014 Arctic Winter Games by the Arctic Winter Games International Committee. Since that time, the Host Society has received \$1.5 million in state funding (\$1 million in FY2012 and \$500K in FY2013). The Fairbanks AWG Host Society requests an additional \$1 million in FY2014 to adequately fund their overall budget. The total estimated budget is \$6,504,852.00; the balance is being raised by municipal and non-government grants, cash donations and sponsorships, admissions and sales, and other fundraising.

The funding will be used to continue the work of planning the Games; to hire additional personnel in the 6 months preceding the Games, establish our Volunteer Program, implement our marketing plan, acquire the necessary IT equipment and software and to maintain current administrative expenses.

Since January 2012, when a Sponsorship Manager was hired, the 2014 AWG Host Society has made significant progress in raising funds from the state's corporate community and individual donors, and believes that our goals for cash and in-kind donations, as shown on the attached overall budget, from these sectors are achievable. Nevertheless, it is a heavy lift in the current economic climate so we do not expect to surpass these goals, making our request for additional state funding critical to our overall success. The associated economic impact to the Fairbanks / North Pole areas will be significant.

Priority #3: Support Request by the North Pole Economic Development Corporation (NPEDC) for Funding Improvements at the Corner of Fifth Ave. and St. Nicholas Drive within ADOT&PF Right-of-Way.

Cost: \$100,000.00

Brief Description and Justification: The City of North Pole has embarked on a multi-year landscape and beautification improvement effort and has identified the area between St. Nicholas Drive and the Richardson Highway along Fifth Avenue as being a major focal point and gateway to our community that would be greatly enhanced with landscape improvements. The area was recently changed by the State of Alaska to accommodate the highway improvements required as part of the Dawson Road Interchange Project with no beautification enhancements being completed. The City of North Pole and NPEDC have completed several phases of major improvement projects at Santa Claus Lane and the Richardson Highway. NPEDC, with a permit from ADOT&PF Northern Region, has completed a professional design for the landscape improvements at the corner of Fifth Ave and St. Nicholas Drive. Projected total cost of the improvements is \$200,000.00, the balance coming from private donations.

NOW THEREFORE BE IT RESOLVED, that the North Pole City Council endorses and requests consideration by the Governor and the Alaska State Legislature for the projects herein.

PASSED AND APPROVED BY A DULY CONSTITUTED QUORUM OF THE NORTH POLE CITY COUNCIL this 17th day of September, 2012.

Douglas W. Isaacson, Mayor

ATTEST:

Kathryn M. Weber, MMC
North Pole City Clerk



BOARD OF DIRECTORS

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SENATOR COGHILL'S OFFICE



PHIL COCHRANE

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ALASKA COMMUNICATIONS SYSTEMS



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MADDEN REAL ESTATE



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NORTH POLE CITY COUNCIL



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WWW.NPEDC.COM

North Pole

ECONOMIC DEVELOPMENT
CORPORATION

September 11, 2012

The Honorable Sean Parnell
Governor State of Alaska
PO Box 110001
Juneau, Alaska 99811

Dear Governor Parnell:

Thank you for the efforts you are taking, with your family's support, to make Alaska a better place for economic activity, more vibrant communities, and healthier lifestyles. I appreciate the opportunity to partner with you to make the state of Alaska, better!

North Pole Economic Development Corporation was formed three years ago to help bring economic activity to the North Pole area. We have been successful in making the community a better place to live and by bringing people into our city for commerce by helping initiate Christmas in Ice, bringing the North Pole Championships sled dog race back to the North Pole community, and by beautifying our town. One of our recent accomplishments is landing the International Federation of Sleddog Sports (IFSS) World Championships bid in June. The World Championships (WCh) will take place February 26th through March 17th, 2013 with 24 events ranging from junior and adult sprint races over a period of six days in North Pole, four days ofskijoring at Salcha Elementary, a 200 mile long distance race at Two Rivers, to a mid distance race at the mushers hall and culminating with the Open North American Championship Sled Dog Race. North Pole will be the race headquarters and central location for many of these events and medal ceremonies. Closing ceremonies will take place at an exciting and fun filled event on March 17, 2012.

The IFSS is a federation of national sled dog sports associations and other national or international organizations contributing to sled dog sports on an educational, scientific, or technical level. One of the IFSS objectives is to gain Olympic recognition of sleddog sports. Our event will bring in mushers and skijorers from throughout the world. The last event was held in Norway, two years ago and prior to that in Daquam, Quebec four years ago. The IFSS WCh alternates between North America and Europe every two years.

To put on this WCh, in proper form, North Pole Economic Development Corporation has made a commitment to raise \$400,000.00. We are raising \$200,000.00 from the business and public sectors from across the state and request a 50% match from the state of Alaska. May I suggest that it seems appropriate for the State of Alaska to help fund this event from the general fund. Governor, I am seeking your assistance in helping me make that happen. Whether from funding that wasn't utilized this year and can be redeployed here, or as part of next year's budget, I need your support.



North Pole

Economic Development Corporation

From a cultural and economic point of view, the International Federation of Sleddog Sports World Championships is worthy of yours and the state's support. As you are aware, dog mushing is the official sport of the state of Alaska. Your support will further cement Alaska's stature as *the* premier location for sled dog sports worldwide, while helping to attract visitors and residents alike, to Alaska's interior.

Thank you in advance for your support.

Respectfully,

Buzz Otis
Executive Director

Request to Governor Sean Parnell for \$1 million in state funding to the Fairbanks 2014 Arctic Winter Games (AWG) Host Society in FY2014.

Fy2014 Budget Request

The Fairbanks 2014 Arctic Winter Games Host Society requests that Governor Sean Parnell include \$1 million in the FY2014 budget for the planning and implementation of the Arctic Winter Games which will be held in Fairbanks on March 15-22, 2014.

Support for the Request

- The Arctic Winter Games is the premier multi-sport and cultural event for youth in the circumpolar North.
- Alaska, and particularly, Interior Alaska, will be showcased during the 2014 Games. 2014 will be the first time the Games have been held in Fairbanks since 1988 and the state of Alaska since 2006. The state will not have the opportunity to host the Games again for at least 10 years.
- The 2014 Arctic Winter Games will result in an economic impact of over \$13 million dollars in direct visitor spending and event operations.
- The Games support the state's mission of promoting a healthy economy and strong communities by providing economic growth in Alaska's communities.
- The inability to secure earmarked federal funding available in prior Games held in Alaska require that the 2014 AWG Host Society rely more heavily on state and local government funding to close the gap.
- No future funding requests are anticipated as the Games will be held prior to the FY2015 budget cycle.

Background

In February 2011, Fairbanks was awarded the bid to host the 2014 Arctic Winter Games by the Arctic Winter Games International Committee. Since that time, the Host Society has received \$1.5 million in state funding (\$1 million in FY2012 and \$500K in FY2013). The Fairbanks AWG Host Society requests an additional \$1 million in FY2014 to adequately fund their overall budget.

The funding will be used to continue the work of planning the Games; to hire additional personnel in the 6 months preceding the Games, establish our Volunteer Program, implement our marketing plan, acquire the necessary IT equipment and software and to maintain current administrative expenses.

Since January 2012, when a Sponsorship Manager was hired, the 2014 AWG Host Society has made significant progress in raising funds from the state's corporate community and individual donors, and believes that our goals for cash and in-kind donations, as shown on the attached overall budget, from these sectors are achievable. Nevertheless, it is a heavy lift in the current economic climate so we do not expect to surpass these goals, making our request for additional state funding critical to our overall success.

Current Funding Status

State Funding	\$ 1,500,000
Local Government Funding	\$ 161,000
Corporate Sponsorships	\$ 282,000 (committed)
Individual Donors	\$ 74,000 (committed)
Misc. Donations & Fundraisers	\$ 5,200
In-kind Donations	\$ 60,000
TOTAL	\$ 2,082,200

Estimated Budget**Revenue**

State of Alaska	\$2,500,000.00
Federal Grants	0.00
Re-appropriation from Juneau Bid	19,852.00
Fairbanks North Star Borough	200,000.00
City of Fairbanks	30,000.00
City of North Pole	15,000.00
Grants (Non-Government)	300,000.00
Cash Donations/Sponsorships	1,251,400.00
Gifts In-Kind	1,575,000.00
Souvenir/Merchandise Sales	200,000.00
Games & Ceremonies Admissions	243,000.00
Friends of the Games Fundraising	120,240.00
Culture Event Admissions	50,360.00
TOTAL	\$6,504,852.00

Expenditures

Administration & Finance	\$1,900,000.00
Care & Comfort Athletes	1,500,200.00
Cultural Ceremonies	575,000.00
Marketing/PR/Community Relations	650,000.00
Sport Technical	430,000.00
Volunteers/Protocol	330,000.00
Communications/IT	500,000.00
Sport Venues	165,652.00
Friends of Games Fundraising	55,000.00
Logistics	319,000.00
Sponsorship	80,000.00
TOTAL	\$6,504,852.00



FAIRBANKS 2014 ARCTIC WINTER GAMES HOST SOCIETY

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* = Executive Committee | V = Voting Board | S = Seated/Ex-Officio/Non-Voting 8/14/12

Nature's images caught on film • **Sundays. E1**



FAIRBANKS

Daily News-Miner

The voice of Interior Alaska since 1903

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Sunday, April 29, 2012

Winter is Coming



Jeff Jacobson displays the ceremonial torch Saturday during the Fairbanks 2014 Arctic Winter Games Community Event in the Carlson Center Pioneer Room.

And so are the 2014 Arctic Winter Games, complete with torch and community fervor

By RENEE THONY
rthony@newsminer.com

The Arctic Winter Games torch and flag are in Fairbanks, officially putting the 2012 games in the books, turning all attention to the 2014 games.

"Thank you very much," Fairbanks Northstar Borough Mayor Luke Hopkins said, taking the flag from John Rodda, a member of the Arctic Winter Games International Committee Board Saturday afternoon at the Carlson Center Pioneer Room at a community event.



"This is a very important passing from Whitehorse to Fairbanks," Hopkins continued.



Attendees look through some historical memorabilia Saturday during the Fairbanks 2014 Arctic Winter Games Community Event at the Carlson Center.

"Not just for Fairbanks but for Alaska. This is a great opportunity for us all."

This year's games were in March in Whitehorse, Yukon, and Saturday, those involved in the 2014 games celebrated the final chapter of the 2012 games and the beginning of Fairbanks' involvement.

"We've been working on the 2014 games since 2010," Karen Lane, general manager of the

2014 games, said. "We made our bid in 2010, had the committee here in January of 2011, and in February of 2011, we were awarded the bid."

"The committee chairs went to the 2012 Whitehorse games and learned a lot," she continued, "a lot about how to put on the best games ever, and we will with the community's support."

GET INVOLVED

A number of volunteers are needed to host the 2014 Arctic Winter Games. There are two types of volunteers: planning volunteers and those who work the games. For more information on the games or how you can help, visit www.awg2014.org.

Please see GAMES, Page A6

Artwork for the masses

Suggestions abound for what to put in the new green space

By TIM MOWRY
tmowry@newsminer.com

A status of Iditarod and Yukon Quest champion Lance Mackey and his dog team.

A sternwheeler. Ravens. Those were just a few of the ideas offered by members of the public who stopped by a meeting in downtown Fairbanks on Saturday to gather ideas for what kind of artwork to include in a small patch of land that will be left between Cushman and Barnette streets when the Illinois Street makeover is complete.

Billed as a "Meet Your New Greenspace Event," the informal meeting was held on the east end of the new Barnette Street bridge and was sponsored by the Fairbanks Arts Association.

Four tables were set up with information and survey forms for people to fill out while members of the Fairbanks Metropolitan Area Transportation System's art selection committee, each of whom wore a name tag, mingled with the crowd and answered questions.

Nearby, bulldozers and loaders continued digging up the parking lot in front of the Big I bar and Fairbanks Daily News-Miner for storm drain and utility work.

While it was hard to envision green space and artwork among the mounds of fresh dirt and the rumble of heavy equipment, the filled the nearby parking lot on Saturday, several people stopped by during the three-hour open house to offer their ideas.

Please see ART, Page A6

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1 killed, dozens hurt in tent collapse

By CHANNING JOSEPH
The New York Times

At least one person died and as many as 100 were injured when a part of wind-curved a large tent to collapse on baseball fans near Bush Stadium in St. Louis on Saturday afternoon, officials said. Five people were said to be hospitalized in critical condition.

About 200 baseball fans

had gathered under the tent outside Kiro's Sports Bar to celebrate the St. Louis Cardinals' 7-3 victory over the Milwaukee Brewers.

But as severe weather and high winds hit the region Saturday — in some areas sending trees crashing down on top of cars — a strong wind tilted the tent, which appeared to have been made from a lightweight tarp, and dropped it back down on a

raised set of train tracks. "We've got one confirmed fatality at this time," Fire Chief Dennis Jenkinson of the St. Louis Fire Department said in an interview broadcast on the local NBC affiliate, KSDK.

People were blown by the wind as well as hit by the tent's metal pipes as it collapsed. Jenkinson said about 100 people had received some kind of medical attention

ART: What to fill a public space with

Continued from Page A1

"A statue of Lance Mackey and eight dogs, heading due north," 52-year-old Nera Smiley, wearing a pair of Carhartt hula, said of his vision for a piece of artwork in the new green space. "You'd want it a little larger than life so people can take pictures with it and the dogs would have to be sturdy enough so it didn't want to sit on them they'd be OK and wouldn't break."

"It doesn't have to be Lance Mackey but I'd say he has won four Iditarod and four Yukon Quests, which will probably never be duplicated, plus the guy came back from cancer which serves as inspiration to everybody," Smiley added.

"Cheryl Jones" suggested some kind of artwork depicting ravens. Her idea is to have statues of three ravens featured in the space, at least one of which has its wings spread out to offer protection from rain or shade from the sun. The ravens could be set on pylons, which would offer canvases for temporary graffiti art.

A lot of people here have a thing about ravens, Jones said. "You either love them or hate them."

The FMATS art selection committee is taking public input through May 20 on what kind of artwork to include in the green space, member June Rogers of the Fairbanks Arts Association said.

"We're asking everybody who has some stake in Fair-

banks for their thoughts," she said. "It's such a prominent and historic spot, there are so many reasons for the entire community to be involved."

The committee has a \$325,000 budget for the project, which is scheduled to be completed by the end of May next year, Rogers said.

The triangular-shaped space between the Cushman Street and Barnette Street bridges isn't a huge area but it's a historically important one to Fairbanks because it is where E.T. Barnette, the founder of Fairbanks, pulled ashore in his sternwheeler and decided to set up shop in light of Felix Pedro's discovery of gold north of Fairbanks.

This is a high profile spot here and definitely want to put in something good," George Lounsbury, who represents the Fairbanks committee, said. "Just look at the historical significance of the spot — Felix Pedro coming down here and meeting E.T. Barnette, unloading a bunch of supplies and him needing supplies. The rest is history. Fairbanks said of took off from there."

Local artist Nikka Kanne, co-owner of Gallery 49 in Fairbanks, didn't have a particular vision for artwork in the green space but said it needs to be something that appeals to both pedestrians who are walking through it and motorists who are driving by.

"It's a chance where you have all these art forms —

engineering, landscaping, visual, social — that have a chance to come together in his green space," she said.

The deadline for public comment to the art selection committee is May 30. Survey forms are available online at <http://fmats.alaska.gov>.

Doug Sims attended Saturday's event even though he has already submitted his comment on what should be the artistic centerpiece of the green space. "I'm thinking stern-wheelers," Sims said. "We gotta do something stern-wheelers."

More specifically, Sims said he would like to see an old, iron capitan he helped salvage from the riverbank of the Chena River about 20 years ago set up in the park. The device was used on sternwheelers that used to ply the Chena years ago, he said.

"They would mount it on the base of the boat and there would be ropes tied to the bank," he said. "They'd place the ropes in the capitan and put wooden dowels in and turn it."

"It worked like a screw," Sims said. "They'd use it to wrench themselves over to the bank."

The whole contraption is still sitting underneath a light pole in the back parking lot of the nearby Regal, where it has been stored for several years.

"It's scrap iron, it's rusty, it's old looking," Sims said. "It's totally Fairbanks."

Contact staff writer Tim Mowry at 458-7587.

GAMES: Scores of volunteers needed

Continued from Page A1

The games haven't been held in Fairbanks since 1988, and everyone at Saturday's event — from committee members to volunteers and general supporters — was anxious to get to show off how the Golden Heart city has changed since the late 80s.

"It's hard to believe Fairbanks is actually hosting the games again," Vice President of Arctic Winter Games International Committee Wendy Shiffer said, adding that his daughters participated in the 1986 and 1988 games.

"It's been a long time since Fairbanks has gotten to be in the limelight," he continued. "This is an opportunity for the community to shine, and shine we will."

Nine contingents participate in the games including teams from Alaska, Canada, Greenland and Russia, and while the Arctic Winter Games is considered a sports competition for northern and arctic athletes, the emphasis on cultural celebration is just as great.

The Arctic Winter Games is all about our youth," Jeff Jacobson, a chairman on the games committee, said. "It's about experiencing different cultures and meeting people from all around the world."

In a DVD shown during

Saturday's event, which featured merchandise booths, door prizes, an ice cream sundae bar and an interactive room full of visitors, John Rattle, former chief de mission of Team Alaska, explained the games best.

"From the time people arrive one weekend until they leave the next," Rattle said, "it's pretty much 24/7 sport and culture."

Even though the Fairbanks games aren't until March 15-22 of 2014, there's still plenty for the Fairbanks community to do in terms of preparation and anticipation.

"The fun doesn't end today," Jacobson said Saturday. "It continues on with volunteer sign-up. We'll be needing literally thousands of volunteers."

Jacobson explained that in Whitehorse, a city of about 30,000 people, the games had between 2,000 to 3,000 volunteers.

"That means 1 in every 10 people were volunteering," Jacobson explained.

"We need that, if not more. There are two types of volunteers for the games: planning volunteers and those who work at the games."

Planning volunteers are active now, working in one of 65 committees, helping with everything from accommodations to events like Saturday afternoon's. The volunteers at the games in two years are the ones

needed in bunches, taking tickets and directing people, among other things.

"Without volunteers and committees, the 2014 games won't become reality," Jacobson said. "Being at the Whitehorse games helped us get a better idea of how to make the games in Fairbanks happen."

"We're going to be even better than Whitehorse," Hopkins added. "The volunteers, plus many more, will make it work."

For more information on the Fairbanks games in general or on how you can help, visit www.wag2014.org.

As he handed the torch, a symbol produced when the games were held in Grand Prairie, Alberta, passed from city to city every two years, to Hopkins, Shiffer expressed his excitement about how much time he'll be spending in Fairbanks in the upcoming years.

"On behalf of all the international communities, we're really happy the games are in Fairbanks," he said. "We'll see you over the next two years as we all work together to put on a great games."

Holding the stainless steel torch, Hopkins reprised the phrase.

"This is the warmth that will warm us all in March of 2014," he said. "Of course, it's not too warm. We want good snow and ice."

Contact staff writer Thera Thery at 458-7583.

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HEALY LAKE TRADITIONAL COUNCIL

Official Annual Tribal Membership Meeting and Elections will be held at 2 PM on July 14, 2012 at the Civic Center in Pioneer Park, Fairbanks, Alaska

Mendias Cha-Ag Tribal Members are urged to attend and to call or write at the following numbers and address to update contact information to receive notices for nominations

907-479-0638 or 907-978-8602
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CITY OF NORTH POLE

RESOLUTION 11-30

**A RESOLUTION SUPPORTING THE CONSTRUCTION OF LANDSCAPE
IMPROVEMENTS AT THE CORNER OF FIFTH AVE AND ST. NICHOLAS DRIVE**

WHEREAS, The City of North Pole has embarked on a multi-year landscape and beautification improvement effort; and

WHEREAS, The City of North Pole has identified the area between St. Nicholas Drive and the Richardson Highway along Fifth Avenue as being a major focal point and gateway to our community that would be greatly enhanced with landscape improvements; and

WHEREAS, The area was recently changed by the State of Alaska to accommodate the highway improvements required as part of the Dawson Road Interchange Project with no beautification enhancements being completed; and

WHEREAS, The North Pole Economic Development Corporation has recently completed a major improvement project at Santa Claus Lane and the Richardson Highway and has completed a professional design for the landscape improvements which includes a "Welcome to North Pole" sign; and

WHEREAS, The North Pole Economic Development Corporation will pursue funding for this project through the State of Alaska in an amount of \$100,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the North Pole City Council supports the landscape improvement project at the intersection of the Richardson Highway, Fifth Avenue and St. Nicholas Drive.

BE IT FURTHER RESOLVED, that the North Pole City Council supports the North Pole Economic Development Corporation's pursuit of project funding through the State of Alaska.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this 19th day of December, 2011.

ATTEST:




DOUGLAS W. ISAACSON, Mayor


KATHRYN M WEBER, MMC, City Clerk

PASSED:
YES: 5 – Hunter, McGhee, Ward, Nelson, Jones
NO: 1 – Holm
Absent: Isaacson

RESOLUTION 2012-21

A RESOLUTION REQUESTING THE GOVERNOR AND LEGISLATURE TO PURSUE ALL POSSIBLE MEANS TO PROVIDE IMMEDIATE ENERGY COST STABILIZATION AND EQUALIZATION, INCLUDING THE USE OF ROYALTY OIL DISCOUNT PRICING, IN ORDER TO PREVENT FURTHER DESTABILIZATION OF ALASKAN COMMUNITIES AND TO DECREASE PRESSURE ON STATE BUDGET EXPENSES

WHEREAS, over 177,000 residents within Interior and Rural Alaska in over 187 communities rely on oil based fuels for space heating and electrification, the cost for which has increased dramatically since 2008 becoming an unbearable financial burden for many residents and businesses, evidenced by a great exodus from Rural Alaska during the past few years and by a 205% increase, year-to-date over 2011, in foreclosures within the Fairbanks North Star Borough; and

WHEREAS, the high cost of energy negatively impacts annual household disposable income, limiting spending and purchasing, which in turn negatively impacts local businesses and employment opportunities, mitigated only by the infusion of government money for projects, and regionally, that 70% of all Interior payroll comes from government, according to the Fairbanks Economic Development Corporation, and further negative impacts to businesses is evidenced in the stalled localized commercial and retail investment environment, contributing to a 7.4% decrease year-to-date in construction employment and a 14.3% year-to-date decrease in manufacturing according to the FNSB Summer 2012 Community Research Quarterly; and

WHEREAS, many residents have turned to government assistance in order to pay their bills, for example, Power Cost Equalization (PCE) provided to Rural Alaska increased from \$32 million in FY10 to \$38.5 million in FY13, and the State of Alaska increased the amount of aid available to residents by \$500,000,000.00 from FY10 to FY13, which at this rate of growth, in three years time, assistance to individuals will increase by \$1 billion, which is acknowledged to be unsustainable; and

WHEREAS, multiple programs have been enacted or proposed to give individual assistance, the Alaska Constitution puts emphasis on providing for the “public interest” and the “maximum benefit of the people” (not person), Article 8.1 & 2, which should require government assistance to prioritize regional stability. Constructing natural gas distribution systems, trucking of natural gas, building natural gas pipelines are examples of regional benefit because the use can be enjoyed by all who can access the presumably less expensive fuel which can be readily converted to space heating and fuels for electrification. However, these projects will take multiple years to construct and implement leaving those without the ability to access the fuel stranded without energy cost relief, unless an immediate cost reduction can be supplied in the interim; and

WHEREAS, there are limited options to immediately reduce energy costs for an oil-dependent infrastructure while waiting for new infrastructure to be completed; a primary option which should be completely addressed is to reduce the cost of oil-based fuels to the consumer. The State of Alaska, on behalf of the people, owns Royalty Oil, which by State Statute 38.06.070 (and related statutes) can lower the price of royalty oil, or require a “price or supply benefits to state citizens” (38.06.070.b), and that such considerations can be initiated by “the desirability of localized capital investment, increased payroll, secondary development and other possible effects of the sale, exchange or other disposition of oil and gas or both (38.06.070.a.3);” and “the projected social

impacts of the transaction” (38.06.070.a.4); and “competitive bidding is not required when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists” (38.05.183.a); and legislative approval is not required when “for one year or less if the sale, exchange, or other disposition is entered into to relieve storage or market conditions” (38.06.055.b.1); and any increase to taking royalty oil in-kind can be done by the Commissioner of DNR with a “30 days written notice” (11 AAC 03.015.2); and

WHEREAS, in order to decrease the growth of State spending, it is necessary and in the public interest to stabilize regional economies by immediately decreasing existing energy costs while pursuing transitions to alternative fuel sources, therefore it is necessary to require that any discounts to royalty oil pricing for in-state refining be passed to the consumer.

NOW THEREFORE BE IT RESOLVED, that the North Pole City Council urges the Governor and Legislature to pursue all possible means to provide immediate energy cost stabilization and equalization to all regions of Alaska, including Interior Alaska, and to pursue the discount pricing of royalty oil requiring the cost benefit to be passed on to the consumer, in order to prevent further destabilization of Alaskan communities and to decrease pressure on state budget expenses.

BE IT FURTHER RESOLVED, that this Resolution be distributed to the Governor, the Legislators, the Alaska Municipal League, the Alaska Conference of Mayors, the City of Fairbanks Mayor and Council, the Fairbanks North Star Borough Mayor and Assembly, the Municipality of Anchorage Mayor and Assembly, the North Pole Community Chamber of Commerce, the Greater Fairbanks Chamber of Commerce, the North Pole Economic Development Corporation, the Fairbanks Economic Development Corporation, the Anchorage Economic Development Corporation, Commonwealth North, Institute of the North, and the Alaska Congressional Delegation.

PASSED AND APPROVED BY A DULY CONSTITUTED QUORUM OF THE NORTH POLE CITY COUNCIL this 17th day of September, 2012.

Douglas W. Isaacson, Mayor

ATTEST:

Kathryn M. Weber, MMC, City Clerk

Using Royalty Oil for Immediate Energy Cost Relief

"Why not explore the option?"

Presentation to the North Pole City Council

September 17, 2012

Mayor Doug Isaacson

Where There's a Will...

Start with a "Can't" ... End with a "Won't"

Start with a "Can" ... End with a "Will"

Topics to Cover

- Resolution 2012-21 Requesting Using Royalty Oil for Immediate Energy Cost Relief
- Plan Overview
- Plan Goal
- Review of Compton
- Discussion of "Maximum Benefit"
- Con versus Pro
- Long Term Goal
- Recommendations

Plan Overview

- State authorizes sale of royalty oil at reduced rate for two refined products:
 - Heating oil
 - Fuels for electricity generation
- Make the discount available to ANY in-state refinery willing to:
 - Accept fixed ROI
 - Ensure discount transfers to consumer

Plan Goal

- Reduce current heating oil and electricity costs by half
- Be temporary “path to the bridge”; ends when affordable, sustainable energy solution begins
- Stabilize Interior and Rural (PCE) Regions
- Able to do immediately
- Reduce growth of State Budget
- No taxing event burden on residents

Review of Compton

- The landmark case discussing royalty oil
- But it was answering a different question than “Can maximum benefit be measured by the economic good of the people or must it be measured by the positive impact to the State’s treasury?” (see pp 4-5)

Compton, 2

- “The State may not take royalty 'in kind' unless, after said deductions, it will be in the best interests of the State to do so, which presumably means that it will be receiving an amount at least as great as it would if the royalty was taken 'in value'.”

(p 19, lines 21-25, emphasis added)

Maximum Benefit

- AG Dan Sullivan, Dec 2010 @ FEDC: maximum benefit can be interpreted as more than maximum revenues, there is an economic factor.
- AS 38.06.070: consider impacts to:
 - Revenues
 - Economy, local and regional
 - Social Impacts

Maximum Benefit Possibilities

- AS 38.06.070 (b): “When it is economically feasible and in the public interest...require a “price or supply benefits to state citizens”
 - The OIL OR GAS be refined in-state
 - Effect on regional economies “localized capital investment”
 - Competitive bid not required (38.05.183.a)
 - Legislature not required for 1 year or less (38.06.055.b.1)
 - Requires 30 day notice (11 AAC 03.015.2)

Con versus Pro

CON: *The plan is “unconstitutional”*

PRO: Much of the mechanics are already provided for in State statutes

Con versus Pro

CON: *The plan requires a Constitutional Amendment which requires a Constitutional Convention*

PRO: No. Constitutional questions should first be answered by the State Supreme Court

Con versus Pro

CON: *The plan does not give each person the same benefit*

PRO: AK Constitution, Article 8: "Public Interest" and "People" not "person"

Con versus Pro

CON: *The plan reduces State revenues*

PRO: The plan invigorates the economy and reduces the size of State budget

Con versus Pro

CON: *The plan does not incentivize moving to natural gas*

PRO: The plan should be crafted to end when natural gas can affordably be distributed throughout a community and should have price thresholds

Con versus Pro

CON: *The plan restricts Free Market*

PRO: Refinery participation in the plan is:

- ☐ voluntary
- ☐ provides certainty
- ☐ expands market share
- ☐ creates economies of scale

Con versus Pro

CON: *There's no way to regulate compliance*

- PRO:**
- ☐ The industry uses algorithms
 - ☐ "Easy" test: *is the customer paying less within the established parameters?*

Con versus Pro

CON: *The process will take too long*

- PRO:**
- ☐ May be separate from existing contracts
 - ☐ May be within the complete authority of the DNR Commissioner
 - ☐ May be done before winter

Long-term goal

- Stabilize oil dependant regions in Alaska
- Encourage commercial and industrial investments in the affected regions
- Increase household disposable incomes
- Use only as a “path” to the “bridge” project(s)

Recommendations

- The Governor immediately initiate an analysis and implement according to Statutes
- The Governor hold a “high level summit” with potential stakeholders to work out details
- As necessary, the Governor call a special session of the Legislature
- THIS BE DONE IMMEDIATELY

Title 38. Public Land.

Chapter

- 05. Alaska Land Act (§§38.05.005 – 38.05.990)
- 06. Alaska Royalty Oil and Gas Development Advisory Board (§§ 38.06.110 – 38.06.080)
- 35. Right-of-Way Leasing Act (§§38.35.010 – 38.35.260)

Chapter 5. Alaska Land Act.

Article

- 1. Administration
- 5. Reservation of Rights to Alaska
- 5A. Oil and Gas Exploration Licenses: Leases
- 6. Leasing of Mineral Land

Article

- 7. Mining Rights
- 11. Classification of Land
- 13. Miscellaneous Provisions
- 14. General Provisions

Revisor's notes. - Through administrative reorganization, the Department of Natural Resources has eliminated the division of lands. Duties and responsibilities given to the division of lands under this chapter have been assigned to

other divisions of the department. Duties and responsibilities given to the director of the division of lands under this chapter have been assigned to the deputy commissioner for operations who has been given the additional title "director of lands."

NOTES TO DECISIONS

Chapter enacted pursuant to Alaska Const., art. VIII, § 10. - See *Moore v. State*, 553 P.2d 8 (Alaska 1976); *North Slope Borough v. LeResche*, 581 P.2d 1112 (Alaska 1978).

Cited in *Thomas v. Bailey*, 595 P.2d 1 (Alaska 1979); *Hammond v. North Slope Borough*, 645 P.2d 750 (Alaska 1982); *State v. First Nat'l Bank*, 660 P.2d 406 (Alaska 1982); *Gilman v. Martin*, 662 P.2d 120 (Alaska 1983).

Article 6. Leasing Of Mineral Land.

Section

- 135. Leasing generally; payments and interest
- 137. Leasing agreements
- 140. Limitations
- 145. Leasing procedure
- 150. Coal
- 155. Phosphates
- 160. Oil shale
- 165. Sodium
- 170. Sulphur

Section

- 175. Potassium
- 180. Oil and gas leasing
- 181. Geothermal resources
- 182. Royalty on natural resources
- 183. Sale of royalty
- 184. Limitation on oil and gas leases in certain areas, and Requisition of leases

Sec. 38.05.182. Royalty on natural resources. (a) Any royalty provided for in AS 38.05.135 - 38.05.181 may be taken in kind rather than in money if the commissioner determines that the taking in kind would be in the best interest of the state. However, royalties on oil and gas shall be taken in kind unless the commissioner determines that the taking in money would be in the best interest of the state.

(b) The commissioner shall submit a determination to take royalty in money to the legislature at the first opportunity during a current session or, if the legislature is not in session, at the next regular session. The legislature, within 60 days or by the adjournment of the session, whichever comes sooner, may revoke the determination by concurrent resolution. (§ 1 ch 56 SLA 1970; am § 7 ch 71 SLA 1971; am § 1 ch 9 SSSLA 1974; am § 5 ch 218 SLA 1976; am § 1 ch 146 SLA 1977; am § 8 ch 112 SLA 1980)

Revisor's notes. - Enacted as AS 38.05.362. Renumbered in 1970.

NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*, 633 P.2d 281 (Alaska 1981).

Collateral references. - 38 Am. Jur. 2d, Gas and Oil, §§ 189 to 198.

58 D.J.S., Mines and Minerals, §§ 185 to 192, 213 to 219.

What constitutes "royalty" on oil or gas production within language of conveyance, exception or reservation, 4 ALR2d 492.

Construction and effect of provision in mineral lease excusing payment of minimum rent or royalty, 28 ALR2d 1013.

Solid mineral royalty as real or personal property, 68 ALR2d 728.

Solid mineral royalty under mining lease as real or personal property for purpose of payment of damages in condemnation proceedings, 68 ALR2d 735.

Expenses and taxes deductible by lessee in computing lessor's oil and gas royalty or other return, 73 ALR2d 1056.

Payment of stipulated minimum royalties or annual rental under solid mineral lease as precluding lessor's claim of forfeiture or abandonment, 87 ALR2d 1076.

"Shut-in royalty" payment provisions in oil and gas leases, 96 ALR2d 345.

Rights of parties to oil and gas lease or royalty deed after expiration of fixed term where production temporarily ceases, 100 ALR2d 885.

Sec. 38.05.183. Sale of royalty. (a) The sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182, or the sale, exchange or other disposal in whole or in part of a right to receive future mineral production under a state lease under this chapter, shall be by competitive bid and the sale, exchange or other disposal made to the highest responsible bidder, except that competitive bidding is not required when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists.

(b) When competitive bids are required, the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board, may reject all bids on a determination that because of the amount of the bids, the lack of responsibility on the part of the bidders, or for reasons consistent with the criteria set out in AS 38.06.070, the acceptance of the bids would not be in the best interest of the state.

(c) If the commissioner determines that a sale, exchange or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182 or of a right to receive future mineral production under a state lease under this chapter shall be made otherwise than by competitive bid, and the Alaska Royalty Oil and Gas Development Advisory Board has been notified in writing of that determination, the commissioner shall make public in writing the specific findings and conclusions upon which that determination is based.

(d) Oil or gas taken in kind by the state as its royalty share may not be sold or otherwise disposed of for export from the state until the commissioner determines that the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs. The commissioner shall make public, in writing, the specific findings and reasons on which the determination is based.

(e) When a sale, exchange or other disposal of oil or gas taken in kind by the state as its royalty share, or a sale, exchange or other disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under this chapter is made other than by competitive bid, the sale, exchange or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider

- (1) the cash value offered;
- (2) the projected effects of the sale, exchange or other disposal on the economy of the state;
- (3) the projected benefits of refining or processing the oil or gas in the state;
- (4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state; and
- (5) the criteria listed in AS 38.06.070(a).

(f) The commissioner may not enter into a contract for the sale of royalty oil unless the contract provides that any material amendment to the contract that appreciably reduces the consideration received by the state requires prior approval of the legislature.

(g) AS 38.05.035(e) does not apply to a sale, exchange, or other disposal of oil or gas under this section.

(h) Upon legislative approval, the commissioner may enter into a contract to sell royalty gas taken in kind by the state to a gas or electric utility at a negotiated price for the gas if the commissioner, after considering the consumer benefits, other benefits, and detriments of the sale, makes a written finding that the sale is in the best interest of the state. In this subsection,

- (1) "gas or electric utility" has the meaning given in AS 38.05.180(bb);
- (2) "royalty gas taken in kind by the state" does not include royalty gas taken in kind by the state from gas production on land patented to the state under

(A) P.L. 84-830, 70 Stat. 709 (Alaska Mental Health Enabling Act);

(B) 38 Stat. 1214 (Act of March 4, 1915); or

(C) 43 U.S.C. 1635 in settlement of the claims of the state under 38 Stat. 1214. (§ 1 ch 56 SLA 1970; am § 3 ch 9 SSSLA 1974; am § 9, 10 ch 112 SLA 1980; am § 2 ch 68 SLA 1984; am § 2 ch 105 SLA 1984; am § 1 ch 64 SLA 1985; am § 3 ch 55 SLA 1986; am § 6 ch 134 SLA 1990)

Revisor's notes. - Enacted as AS 38.05.363. Renumbered in 1970.

Cross references. - For legislative findings in connection with the 1986 amendment to this section, see § 1 ch 55 SLA 1986, in the Temporary and Special Acts.

Effect of amendments. - The 1985 amendment added subsection (g).

The 1986 amendment added subsection (h).

The 1990 amendment deleted a provision pertaining to an annual report by the commissioner at the end of the second sentence of subsection (d).

NOTES TO DECISIONS

Waiver of competitive bidding. - An initial waiver of competitive bidding and a second waiver at the time of amendment removed

any obligation to open the contract to competitive bidding. *McKinnon v. Alpetco Co.*, 633 P.2d 281 (Alaska 1981).

Sec. 38.05.184. Limitation on oil and gas leases in certain areas, and reacquisition of leases.

(a) The legislature finds that Kachemak Bay is an area of extraordinary abundance and diversity of marine life that has provided, and will continue to provide in the future, a basis for one of the state's most important commercial fisheries; that recent information discloses that even minute quantities of oil released into the marine environment may be harmful to the larval forms of crabs and other marine life and that the existence of gyral currents within the bay may increase the likelihood of oil coming into contact with these valuable commercial fish and shellfish

species; and that therefore oil and gas development in the bay, at this time, presents an undue hazard to this valuable state renewable resource.

(b) No additional oil or gas leases may be issued by the department or any other state agency for the exploration for or the development or production of oil and gas on state-owned land and waters seaward of the mean higher high water line, beginning at Anchor Point; then around the perimeter of Kachemak Bay, to Point Pogibshi; then west to the three mile limit of state land and waters; then north to a point three miles west of Anchor Point; then east to the mean higher high water line of Anchor Point, the point of beginning.

(c) *[Repealed, § 61 ch 50 SLA 1989.]*

(d) *[Repealed, § 61 ch 50 SLA 1989.]*

(e) *[Repealed, § 61 ch 50 SLA 1989.]*

(f) *[Repealed, § 61 ch 50 SLA 1989.]*

(g) *[Repealed, § 61 ch 50 SLA 1989.]* (§ 1 ch 113 SLA 1976; am § 61 ch 50 SLA 1989)

Effect of amendments. - The 1989 amendment, effective May 27, 1989, repealed subsections (c) - (g).

Chapter 06. Alaska Royalty Oil And Gas Development Advisory Board.

Section

- 10. Purpose
- 20. Establishment
- 25. Membership
- 30. Compensation; per diem, travel
- 35. Meetings, rules, quorum, votes required; conflict of interest

Section

- 40. Powers and duties of the board
- 50. Board review and recommendation
- 55. Legislative approval
- 60. Confidentiality
- 70. Criteria
- 80. Definitions

Sec. 38.06.010. Purpose. It is the purpose of this chapter to facilitate the wise development of Alaska's oil and gas royalty interests by providing means and procedures for sales, exchanges or other disposition of those interests in ways calculated to promote private economic growth consistent with applicable environmental standards and public fiscal stability, and in accordance with AS 38.05.183. (§ 2 ch 9 SSSLA 1974)

NOTES TO DECISIONS

Cited in *McKinnon v. Alpetco Co.*, 633 P.2d 281 (Alaska 1981).

Sec. 38.06.020. Establishment. There is established in the Department of Natural Resources the Alaska Royalty Oil and Gas Development Advisory Board. (§ 2 ch 9 SSSLA 1974; am § 1 ch 112 SLA 1980; am E.O. No. 61 § 2 (1986))

Effect of amendments. - The 1986 amendment substituted "Department of Natural Resources" for "Department of Commerce and Economic Development."

Sec. 38.06.025. Membership; vacancies. (a) The board consists of the commissioner of commerce and economic development; the commissioner of community and regional affairs; the commissioner of natural resources, who is a nonvoting member; and five public members.

(b) The public members shall be appointed by the governor to serve at the pleasure of the governor for five-year staggered terms and confirmed by a vote of a majority of the members of the legislature in joint session. The public members may not be state officers or employees. Four of the public members may not be, nor have been in the past five years, employed by a person whose primary business is, or who owns a controlling interest in a corporation whose primary business is, the exploration for or development, production, transportation, sale, refining, or processing of petroleum products. One of the public members shall possess experience in petroleum-related fields in such areas as exploration, development, production, or economics.

(c) A chairman shall be elected by the board from among the public members.

(d) A public member shall continue in office at the expiration of a term until a successor is appointed and qualifies.

(e) Vacancies in public membership shall be filled in the same manner as original appointment. Except as provided in AS 39.05.080 (4), an appointee to fill a vacancy shall hold office for the balance of the term for which the predecessor on the board was appointed. A vacancy in board

membership does not impair the authority of a quorum of the board members to exercise all the powers and duties of the board. (§ 2 ch 9 SSSLA 1974; am § 8 ch 207 SLA 1975; am § 2 ch 112 SLA 1980; am § 11 ch 80 SLA 1996; am §§ 1, 2 ch 142 SLA 1998)

Cross references. – For transitional provisions concerning the 1998 amendments to subsections (a) and (b), see § 3, ch. 142, SLA 1998 in the 1998 Temporary and Special Acts.

Effects of amendments. – The 1996 amendment, effective January 1, 1997, in subsection (e), in the second sentence, added “Except as provided in AS 39.05.080(4),” at the beginning and made a related stylistic change.

The 1998 amendment, effective September 29, 1998, in subsection (a) substituted “commissioner of community and regional affairs” for “commissioner of revenue” and “five” for “three”; and in subsection (b) rewrote the first sentence and added the last two sentences.

Sec. 38.06.030. Compensation; per diem, travel expenses. Members of the board are in the exempt service under AS 39.25.110 and shall receive per diem and travel allowances as provided by law for other boards and commissions. (§ 2 ch 9 SSSLA 1974)

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

Sec. 38.06.035. Meetings, rules, quorum, votes required; conflict of interest. (a) The board shall prescribe its own rules of procedure. It shall meet at a time and place determined by the chairman, and at other times and places as the chairman, or a majority of the board members, considers necessary. A quorum is a majority of the voting members of the board. The votes of the board members shall be recorded. Effective action to carry out the powers granted under this chapter requires the affirmative vote of a majority of the board members. A board member may not, with respect to a matter before the board, vote for or on behalf of another member of the board.

(b) A member of the board may not act upon a matter in which the relationship of a member of the board with any person creates a conflict of interest. A board member may not have an official connection with or hold stock or securities in, or have a pecuniary interest in, a corporation, company or association engaged in the production or transportation of oil or gas. (§ 2 ch 9 SSSLA 1974; am § 3 ch 112 SLA 1980)

Sec. 38.06.040. Powers and duties of the board. (a) The board shall

(1) in accordance with the criteria set out in AS 38.06.070, develop a plan for the wise development of the state's oil and gas royalty interests; the plan of development shall be consistent with

- (A) growth of the private sector of the economy;
- (B) environmental standards required by law; and
- (C) public fiscal stability;

(2) hold public hearings on proposed sales, exchanges, or other disposals of royalty oil or gas to determine whether the proposals comply with AS 38.06.070;

(3) examine proposed sales, exchanges or other disposal of, and recommend to the legislature that it approve or disapprove a proposed sale, exchange or other disposal of

(A) the oil or gas that is obtained by the state as royalty under AS 38.05.182; or

(B) the rights to receive future oil or gas production under state leases; and

(4) recommend to the commissioner of natural resources the conditions relating to the sale, delivery, transportation, refining or processing of oil or gas which the commissioner may include in the offer and sale of oil or gas obtained by the state as royalty under AS 38.05.182.

(b) The board may

(1) direct the commissioner of natural resources to solicit development plans or bids consistent with the criteria set out in AS 38.06.070 for

(A) the sale, exchange or other disposal of oil or gas obtained by the state as royalty under AS 38.05.182; or

(B) the sale, exchange or other disposal of all or a portion of the rights to receive future oil or gas production under a state lease;

(2) employ an executive director, and contract for the services of professionals, persons with knowledge of economics and other disciplines, and persons with technical skills who may be necessary to assist the board in the exercise of its powers and duties; and

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that are necessary for the exercise of its powers and duties. (§ 2 ch 9 SSSLA 1974; am § 4 ch 112 SLA 1980)

Sec. 38.06.050. Board review and recommendation required. (a) If legislative approval is required by AS 38.06.055, a sale, exchange, encumbrance, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas may not be made by the commissioner of natural resources under AS 38.05.183 without prior review of the proposed sale, exchange, encumbrance, or other disposition by the board. A written recommendation of the board on the proposed sale, exchange, encumbrance, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas shall be submitted to the legislature at the time a bill approving the proposed sale, exchange, encumbrance, or other disposition is introduced in the legislature.

(b) Bids or applications for the purchase of royalty oil or gas may be rejected by the commissioner of natural resources if prior written notice of the proposed disapproval is given to the board.

(c) Competitive bidding in a sale, exchange or other disposition described in (a) of this section may not be waived by the commissioner of natural resources under AS 38.05.183 unless prior written notice of proposed waiver is given to the board.

(d) *[Repealed, § 5 ch 112 SLA 1980.]* (§ 2 ch 9 SSSLA 1974; am § 5 ch 112 SLA 1980; am § 43 ch 21 SLA 1991)

Effect of amendments. - The 1991 amendment, effective June 11, 1991, in subsection (a), substituted "a bill approving" for "a

resolution approving" in the second sentence and made punctuation changes.

NOTES TO DECISIONS

Stated in *McKinnon v. Alpetco Co.*, 633 P.2d 281 (Alaska 1981).

Sec. 38.06.055. Legislative approval. (a) In addition to the recommendation by the board required under AS 38.06.050, the commissioner of natural resources may not enter into a sale, exchange, or other disposition of oil or gas or of the rights or waiver of the rights to receive future production of royalty oil or gas under AS 38.05.183 without the prior approval of the legislature. The legislature may approve a sale, exchange, or other disposition of oil or gas or of the rights or of a waiver of the rights to receive future production of royalty oil or gas only by enacting legislation.

(b) The provisions of (a) of this section do not apply to

(1) the sale, exchange, or other disposition of oil or gas for one year or less if the sale, exchange, or other disposition is entered into to relieve storage or market conditions;

(2) contracts for the sale of state-owned royalty gas or oil that specify the sale and delivery of not more than

(A) 400 barrels of crude oil per day;

(B) 460 barrels of natural gas liquids per day; and

(C) 2,400 Mcf of natural gas per day.

(c) A sale, exchange, or other disposition of oil or gas under (b)(1) of this section may not be continued after the end of one year or renewed with the same party without the prior approval of the legislature under (a) of this section. This subsection does not apply to a sequential competitively bid sale of oil or gas made with the same party under (b)(1) of this section. (§ 2 ch 9 SSSLA 1974; am § 2 ch 146 SLA 1977; am § 1 ch 131 SLA 1978; am § 6 ch 112 SLA 1980; am § 2 ch 64 SLA 1985)

Effect of amendments. - The 1985 amendment in subsection (c) in the first sentence deleted "made" following "oil or gas" and "to provide relief for market or storage conditions" following "same party" and added the last sentence.

Opinions of attorney general. - The legislature may not conditionally approve a contract since such conditional acceptance is in law a rejection of the offer and the contract would have to be returned for renegotiation. February 23, 1977, Op. Att'y Gen.

NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*, 633 P.2d 281 (Alaska 1981).

Sec. 38.06.060. Confidentiality. Notwithstanding AS 09.25.110 - 09.25.120, the board may provide by regulation for the confidentiality of those documents and records in its possession or control which contain confidential business or marketing information the protection of which is essential to the person who has submitted them to the board or in the judgment of the board is essential to the best interest of the state. Such confidentiality, however, shall not preclude the proper review by the legislature. (§ 2 ch 9 SSSLA 1974)

Opinions of attorney general. - The chairman of the Alaska Royalty Oil and Gas Development Advisory Board may accurately represent to various private companies that documents they provide to the board may be held confidential and will not be subject to public disclosure, provided that the board determines

that they should remain confidential, and in addition, the commissioner may advise the companies that documents which the board determines will not be kept confidential will be returned to them. September 26, 1977, Op. Att'y Gen.

Sec. 38.06.070. Criteria. (a) In the exercise of its powers under AS 38.06.040(a) and 38.06.050 the board shall consider

(1) the revenue needs and projected fiscal condition of the state;

(2) the existence and extent of present and projected local and regional needs for oil and gas products and by-products, the effect of state or federal commodity allocation requirements which might be applicable to those products and by-products, and the priorities among competing needs;

(3) the desirability of localized capital investment, increased payroll, secondary development and other possible effects of the sale, exchange or other disposition of oil and gas or both;

(4) the projected social impacts of the transaction;

(5) the projected additional costs and responsibilities which could be imposed upon the state and affected political subdivisions by development related to the transaction;

(6) the existence of specific local or regional labor or consumption markets or both which should be met by the transaction;

(7) the projected positive and negative environmental effects related to the transaction; and

(8) the projected effects of the proposed transaction upon existing private commercial enterprise and patterns of investments.

(b) When it is economically feasible and in the public interest, the board may recommend to the commissioner of natural resources, as a condition of the sale of oil or gas obtained by the state as royalty, that

(1) the oil or gas be refined or processed in the state;

(2) the purchaser be a refiner who supplies products to the Alaska market with price or supply benefits to state citizens; or

(3) the purchaser construct a processing or refining facility in the state.

(c) The board shall make a full report to the legislature on each criterion specified in (a) or (b) of this section for any disposition of royalty oil or gas which requires legislative approval. The board's report shall be submitted for legislative review at the time a bill for legislative approval of a proposed disposition of royalty oil or gas is introduced in the legislature. (§ 2 ch 9 SSSLA 1974; am § 2 ch 131 SLA 1978; am § 7 ch 112 SLA 1980; am § 103 ch 6 SLA 1984; am § 44 ch 21 SLA 1991)

Effect of amendments. - The 1991 amendment, effective June 11, 1991, in subsection (c), made a stylistic change in the first sentence

and substituted "a bill for" for "a resolution for" in the second sentence.

NOTES TO DECISIONS

Quoted in *McKinnon v. Alpetco Co.*, 633 P.2d 281 (Alaska 1981).

Sec. 38.06.080. Definitions. In this chapter

(1) "board" means the Alaska Royalty Oil and Gas Development Advisory Board; and

(2) "state lease" means an oil and gas lease on state land. (§ 2 ch 9 SSSLA 1974)

TITLE 11. NATURAL RESOURCES.

Part

1. Office of the Commissioner (11 AAC 02 – 11 AAC 06)
3. Oil and Gas (11 AAC 22 – 11 AAC 26)
6. Lands (11 AAC 51 – 11 AAC 98)

Editor's notes - Regulations governing grants for innovative pollution control, waste disposal, gold recovery, and water use reduction demonstration projects, adopted jointly by the Departments of Environmental Conservation and Natural Resources, are located in 18 AAC 71.

Publisher's notes - Emergency regulations, if any, are placed in an appendix following the permanent regulations in each pamphlet of the Alaska Administrative Code.

PART 1. OFFICE OF THE COMMISSIONER.

Chapter

02. Appeals
03. Disposition of royalty oil, gas, or gas liquids
04. Payment of oil and gas royalties, rents, and bonuses
05. Fees for department services

CHAPTER 3. DISPOSITION OF ROYALTY OIL, GAS, OR GAS LIQUIDS.

Section

10. Provisions applicable to all dispositions of royalty Oil, gas, or associated substances
15. Taking royalty oil, gas, or associated substances in-kind
20. Procedures to be followed for dispositions
22. Storage conditions
24. Market conditions
26. Provisions applicable to royalty contracts
30. Determination of noncompetitive disposition
40. Notification to royalty board
50. Procedure for noncompetitive disposition
60. Award of noncompetitive disposal
70. Rejection of proposals
80. (Repealed)
90. (Repealed)
91. (Repealed)
100. Disposition by competitive bid

Section

110. Sealed bids
120. Invitation to bid
130. Security
140. Advertisement
150. Distribution of invitation to bid
160. Qualifications of bidders
170. Priorities among bidders
180. Designation of priority
190. In-state processor
200. In-state supplier
210. Rejection of bids
220. Awards
230. Conference with bidder
240. Execution of contract for competitive disposal
250. Definitions

11 AAC 03.010. PROVISIONS APPLICABLE TO ALL DISPOSITIONS OF ROYALTY OIL, GAS, OR ASSOCIATED SUBSTANCES. (a) The commissioner will establish the terms, conditions, and method of disposition of state royalty oil, gas, or associated substances which are or will be taken in-kind.

(b) Before taking royalty oil, gas, or associated substances in-kind, the commissioner will determine in writing that taking in-kind will be in the best interests of the state.

(c) Before taking royalty oil, gas, or associated substances in-value, the commissioner will determine in writing that taking in-value is in the best interests of the state.

(d) Before the execution of a contract for the disposition of royalty oil, gas, or associated substances, the commissioner will make a finding that the disposition is in the best interests of the state. If the disposition is by competitive bid, this determination will, in the commissioner's

discretion, be made before the award of oil, gas, or associated substances to a successful bidder or bidders.

(e) Before the execution of a contract for the disposition of royalty oil, gas, or associated substances that permits the export of royalty oil, gas, or associated substances from the state, the commissioner will determine in writing that the oil, gas, or associated substances subject to export are surplus to present and projected intrastate domestic and industrial needs.

(f) If royalty oil, gas, or associated substances are disposed of to relieve storage or market conditions, the commissioner will, before executing the agreement, determine that the agreement will relieve the storage or market condition.

(g) Determinations or findings made in writing under this chapter will be made public by placing a copy on file in the commissioner's office in Juneau, Alaska and by mailing a copy to the Alaska Royalty Oil and Gas Development Advisory Board.

(h) Determinations or findings concerning disposal of royalty oil, gas, or associated substances under this chapter are revocable at any time before execution by the commissioner of a contract for the sale of royalty oil, gas, or associated substances.

(i) More than one determination or finding under this chapter will, in the commissioner's discretion, be made in the same writing. (Eff. 12/12/80, Register 76; am 8/8/84, Register 91; am 5/22/93, Register 126)

Authority:

AS 38.05.020
AS 38.05.182

AS 38.05.183

11 AAC 03.015. TAKING ROYALTY OIL, GAS, OR ASSOCIATED SUBSTANCES IN-KIND. Royalty oil, gas, or associated substances taken in-kind as provided by AS 38.05.182 must be taken under the provision of the lease, including any amendments or supplements to the lease, which reserves the royalty to the state. If no such provision is in the lease, all or any portion of the state's share will, at the option of the commissioner, be taken in-kind in accordance with the following:

(1) 90 days written notice will be given to each lessee of the state's election to take the royalty products in-kind;

(2) after taking has actually commenced, the amount to be taken in-kind will, in the commissioner's discretion, be increased or decreased from time to time by

(A) not more than 10 percent, upon 30 days written notice to each lessee of record;

(B) greater than 10 percent, upon 90 days written notice; and

(3) the products must be delivered to the state or its designated purchaser free of charge at the point specified in the lease, for determination of the value of the royalty product as if the product to be taken were to be paid in money rather than taken in-kind; the condition of the product must be the same as the non-royalty share at the point of taking; the lessee shall, if necessary, furnish safe storage for the royalty share free of charge for the same duration and in the same manner as storage is provided for the non-royalty share. (Eff. 7/19/86, Register 99; am 5/22/93, Register 126)

Authority:

AS 38.05.020
AS 38.05.145

AS 38.05.180
AS 38.05.182

11 AAC 03.020. PROCEDURES TO BE FOLLOWED FOR DISPOSITIONS. (a) If the commissioner disposes of royalty oil, gas, or associated substances by competitive bid, the commissioner will follow the procedures set out in 11 AAC 03.100 - 11 AAC 03.240.

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 STATE OF ALASKA, et al.,)

4 Plaintiffs,)

5 vs.)

6 AMERADA HESS, et al.,)

7 Defendants.)

8 ARCTIC SLOPE REGIONAL CORP.,)

9 Amicus Curiae.)

1979

Civil Action No. 77-847

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MEMORANDUM OF DECISION AND ORDER

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Before the Court for determination at this time are Plaintiffs' Motion For Summary Judgment and Cross-Motion For Partial Summary Judgment and Defendants' Cross-Motion For Partial Summary Judgment on certain issues concerning royalty payments to be made to the State of Alaska on oil and gas leases.

It is Plaintiffs' contention that Alaska Constitution, Article VIII, Sections 2 and 12, AS 38.05.180(a) and 31.05.110(h) prohibit Defendants from deducting from royalty payments any costs of "producing" gas and oil or, stated differently, any costs that arise prior to the gas or oil entering the Lease Automatic Transfer Meter (LACT Meter) where custody is transferred to the Trans-Alaska Pipeline System (TAPS). Plaintiffs' principle reliance is on AS 38.05.180(a) which reads in pertinent part as follows:

...and the additional lands shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations...upon the payment by the lessee of such bonus as may be accepted by the commissioner and of such royalty as may be fixed in the lease which shall not be less than 12-1/2 per cent in amount or value of the production removed or sold from the lease. (Emphasis added.)

Plaintiffs assert that this statutory provision imposes a duty upon the lessee to "produce" the oil and gas prior to computing royalty obligations. It is their contention that "production"

1 cannot be said to have occurred until the oil and gas is in
2 marketable form, which is at the LACT meter, or with respect to
3 gas, the LACT meter's equivalent. Further, the term "production"
4 must be so interpreted because it is mandated by the Alaska
5 Constitution which provides that the legislature, and not an
6 administrative agency, is to set the terms of oil and gas leases
7 in such a manner as to provide the maximum benefit to the citizens
8 of the State. Alaska Constitution, Article VIII, Sections 2 and
9 12.

10 Defendants contend that the legislature delegated the
11 authority to determine the method of valuing royalty payments to
12 the Commissioner of Natural Resources and that such authority was
13 exercised when the leases for Prudhoe Bay were issued to the
14 Defendants. Those leases contain language that royalty valuation
15 occurs "at the well" when royalty is taken "in value" by the
16 State. Defendants interpret "at the well" to mean some point on
17 the field before the LACT meter and before certain treatment costs
18 have been incurred. The net effect of valuation at this earlier
19 point would be to allow Defendants to deduct the above-mentioned
20 costs prior to determining royalty payments. Defendants further
21 contend that the lease provision controls when the State takes
22 its royalty "in kind." That provision specifically allows a
23 deduction for "cleaning and dehydrating" oil and gas prior to
24 computing royalty.

25 Chronologically, this litigation was commenced on September 2,
26 1977, when the State filed a Complaint For Declaratory Judgment
27 as to the basis for determining the State's royalty interest in
28 oil. A Consolidated Answer was filed by lessee Defendants on
29 October 13, 1977, with demand for a jury trial.

30 On November 1, 1977, the State filed an Amended Complaint
31 seeking determination as to whether AS 11.05.110(a) and (b)
32 results in giving the State a royalty of one-eighth of unit price

1 duction free and clear of unit expense. An Answer was filed on
2 November 18, 1977.

3 On November 8, 1977, Plaintiffs filed a Motion For Summary
4 Judgment on Count I of the Amended Complaint seeking judgment
5 that AS 38.05.180(a), AS 31.05.110(h) and (i), and the Alaska
6 Constitution, Article VIII, Sections 2 and 12 require that the
7 State's royalties be computed on the basis of values at the FACT
8 meter where the product is transferred to TAPS.

9 On March 1, 1978, Defendants filed a Memorandum In Opposition
10 To Plaintiffs' Motion For Summary Judgment and Cross-Motion For
11 Partial Summary Judgment, broadening the issue to include gas as
12 well as oil royalties and seeking an interpretation of the statute
13 when royalty is taken "in kind" as well as "in value." On May 11,
14 1978, Plaintiffs filed their Cross-Motion For Partial Summary
15 Judgment responding to Defendants' additional issues on royalty
16 taken "in kind" and on royalty gas.

17 On July 2, 1978, Brief Amicus Curiae for Arctic Slope
18 Regional Corporation in Support of the State of Alaska's Motion
19 For Summary Judgment and in Opposition to Defendants' Motion For
20 Partial Summary Judgment was filed.

21 On August 31, 1978, Defendants filed their Reply Memorandum
22 To State's Opposition To Defendants' Cross-Motion For Partial
23 Summary Judgment, To State's Cross-Motion For Partial Summary
24 Judgment, and To Brief Amicus Curiae Of Arctic Slope Regional
25 Corporation. On September 15, 1978, the State filed a Reply
26 Memorandum In Support Of State's Cross-Motion For Summary Judgment.

27 The parties presented oral argument to this Court on Dec-
28 ember 11, 1978. Deputy Attorney General Wilson L. Condon and
29 Assistant Attorney General Robert M. Maynard argued on behalf of
30 the Plaintiffs. Richard O. Gantz, Esquire, argued on behalf of
31 the Defendants. Thomas J. Brewer, Esquire, argued on behalf of
32 the Amicus Curiae.

1 All parties have agreed that there is no genuine issue of
2 material fact, and that summary judgment is thus proper. The
3 "evidence" is found in appendices to each parties' memoranda,
4 Plaintiffs' consisting of ten (10) volumes of textual material
5 and over 700 documents. Memoranda and appendices exceed several
6 thousand pages.¹ Neither party disputes any of this evidence.

7 Much of the documentary evidence is historical, rather than
8 relevant in a strict sense. In total it does present the entire
9 chronology of events, central and peripheral, bearing on the
10 issues raised. The Court has not attempted to identify all
11 documents it deemed relevant or persuasive. Undoubtedly some
12 documents of equal relevance have been omitted, and some that are
13 merely peripheral included. The Court's review of documents
14 extended to the whole, rather than just to documents to which its
15 attention was directed.

16 Due to the complexity of these proceedings, it is beneficial
17 to first state what has not been put in issue by the parties. Not
18 relevant as this stage of the proceedings is the method to be
19 employed in calculating allowable costs for royalty purposes.
20 (Counts IV, V.) Nor is the Court called upon to consider what
21 costs are properly deductible by the Defendant if it is concluded
22 that royalties are not to be based on the LACT meter. (Count
23 III.) And while the lease provisions clearly have a bearing on
24 the issues of statutory construction now before the Court, the
25 parties have not moved for an interpretation of the lease itself
26 to determine the point at which royalty is to be valued. (Count
27 II.)

28 The only issues before this Court are whether Alaska Constr-
29

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31 The Court wishes to commend all counsel for the exceedingly pro-
32 fessional manner in which they prepared and presented this case,
both in amassing and organizing the material and in analyzing the
issues raised.

1 tution, Article VIII, Section 2 and 12, and AS 38.05.180(a) dis-
2 allow field cost deductions when royalty is taken "in kind" and
3 "in value", or whether AS 31.05.110(h) on unitization applies to
4 give the State an automatic one-eighth royalty free and clear of
5 field costs regardless of AS 38.05.180(a).

6 For reasons fully set forth below, this Court holds that AS
7 38.05.180(a) prohibits the field costs deductions claimed by the
8 Defendants when royalty is taken "in value." The Court further
9 holds that "cleaning and dehydration" costs are deductible with
10 "in kind" royalty but that the Commissioner is prohibited from
11 collecting royalty "in kind" if the amount realized would be less
12 than if taken "in value." Because the Court's interpretation of
13 AS 38.05.180(a) is dispositive, an interpretation of AS 31.05.110-
14 (h) is unnecessary and will not be addressed.

15 At the outset, the Court notes that it is exercising its
16 independent judgment in reviewing the statute. Union Oil Co. v.
17 Dept. of Revenue, 560 P.2d 21 (Alaska 1977),

18 where...the issues to be resolved turn on statutory inter-
19 pretation, the knowledge and expertise of the agency is not
20 conclusive of the intent of the legislature in passing a
21 statute. Statutory construction is within the scope of the
22 court's special competency, and it is our duty to consider
23 the statute independently. Id. at 23, citing State v. Alcoa
24 Corp., 541 P.2d 730, 736 (Alaska 1975).

25 In this case, the Court is not called upon by either party to
26 review action taken by a regulatory agency. The Court is asked
27 to interpret a statute and the Constitution. Notwithstanding the
28 settled principles of law on cases of statutory interpretation,
29 Defendants urge this Court to adopt a reasonable basis test in
30 reviewing whether the "oil and gas lease contracts reflect a
31 permissible interpretation of .180(a)." The Commissioner of
32 Natural Resources is in no better a position than this Court to
33 determine the intent of the legislature when it enacted that
34 portion of AS 38.05.180(a) that provides "...such royalty...shall
35 not be less than 12-1/2 per cent in amount or value of production

1 removed or sold from the lease." Moreover, as will become clear
2 in the text of this opinion, the Court finds that the "in value"
3 provisions of the lease do not have the meaning ascribed to them
4 by the Defendants, are ambiguous at best, and provide no guidance
5 to the Court in interpreting the statute. One "weighty reason"
6 for rejecting the reasonable basis standard for review, assuming
7 its applicability at all, is where, as here, the administrative
8 agency charged with interpreting the statute fails to do so.
9 Kelly v. Zamarello, 486 P.2d 906 (Alaska 1971). See also, Udall
10 v. Tallman, 380 U.S. 1, 13 L.Ed.2d 616 (1965); Pan American
11 Petroleum Corp. v. Shell Oil Co., 455 P.2d 12, 22 (Alaska 1969),
12 citing Unemployment Compensation Comm'n. of Territory of Alaska
13 v. Aragon, 329 U.S. 143, 91 L.Ed 136 (1946).

14 Defendants assert that the terms of the lease which provide
15 for royalty valuation "at the well" when royalty is taken "in
16 value" and for "cleaning and dehydration" costs when royalty is
17 taken "in kind" are controlling. This argument is premised on
18 the ground that the lease embodies the Commissioner of Natural
19 Resources interpretation of AS 38.05.180(a).

20 When a statute is ambiguous, the Court may give "some weight"
21 to the administrative decision even when exercising (its) inde-
22 pendent review." Union Oil of California v. Dist. of Revenue,
23 560 P.2d 21, 25 (Alaska 1977). Even though the administrative
24 interpretation is not controlling, it is of some importance if
25 the Court determines that the Constitutional and statutory pro-
26 visions in question do not, on their face, mandate that the
27 legislature establish royalty values. For purposes of argument
28 and to trace the historical development of these leases, it will
29 be assumed that the Defendants correctly allege that the statute
30 is ambiguous and that resort to administrative interpretation is
31 necessary.

32 The weight to be given to administrative interpretations is

1 controlled by "the thoroughness evident in its (the department's)
2 consideration, the validity of its reasoning, its consistency
3 with later pronouncements, and all those factors which give it
4 power to persuade, if lacking power to control." Skidmore v.
5 Swift and Company, 323 U.S. 134, 140; 89 L.Ed. 124, 129 (1944).
6 Using this test as a measure and applying it to the facts of this
7 case, it is apparent that the lease language of "at the well" has
8 no fixed meaning and provides no assistance in interpreting the
9 statute.

10 The Department of Natural Resources gave no consideration at
11 all to the phrase "at the well." The oil and gas lease form was
12 drafted during the period from September, 1958, to July, 1959,
13 the time Alaska was emerging from territorial status to statehood.
14 In late September, 1958, Evert Brown, Director of the Territorial
15 Land Board, travelled to various states for the purpose of
16 collecting sample gas and oil lease forms. (Docs. 19 to 23, 24
17 to 29.) Less than two months later, on November 15, 1958, a set
18 of proposed regulations and a draft lease form were completed.
19 The royalty provisions of this form were identical to those in
20 existence in Wyoming. There was no provision for valuing royalty
21 "at the well", nor for allowing "treating and dehydration" costs.
22 After reviewing these forms, Phil Holdsworth (later Commissioner
23 of Natural Resources) commented to a member of the Western Oil
24 and Gas Association (WOGA) that the form was "similar to the
25 federal form now in use, but somewhat simplified." (Doc. 53-1.)
26 This form received general approval at December 11-12, 1958,
27 hearings held in Anchorage. The now disputed royalty provisions
28 were not mentioned at these hearings.

29 On November 18, 1958, after learning of the scheduled hear-
30 ings, Henry Wright, Secretary of WOGA, volunteered his assistance
31 to the Land Board in preparing the lease forms. (Doc. 41-1.)
32 During all of the above activities, WOGA subcommittee members

1 were actively reviewing and recommending approximately 100 changes
2 in the State's proposed lease form. Two of these changes marked
3 the birth of the "at the well" language and an allowance for
4 "treating and dehydration" costs when royalty is taken "in kind."
5 (Doc. 126-6 & 7.)

6 On April 17, 1959, just two days after a new Land Act passed
7 the legislature, Commissioner Holdsworth contacted Paul K. Home,
8 a member of the WOGA subcommittee and an employee of Standard Oil
9 Company of California (SOCAL), asking that he recommend a quali-
10 fied individual who could assist in preparing the regulations and
11 leases for administration of the Alaska Lands Act. (Docs. 137
12 and 138.)

13 Acting on this request, Mr. Home prepared a memorandum which
14 was sent to Pillsbury, Madison and Sutro (Attention: Mr. Sigvard
15 Nielson), a San Francisco law firm retained by SOCAL in oil and
16 gas matters. The memo, signed by W. H. Savage, read in pertinent
17

18 The following taken from Joseph C. Goulden's The Benchwarmers
19 (Ballantine 1974), presents a layman's view of the relationship
20 between this firm and the oil interests:

21 'One of the pillars of the San Francisco financial district,
22 physically as well as figuratively, is the massive Standard
23 Oil Building, on Hush Street at the foot of Telegraph Hill.
24 Here is headquartered one of the largest industrial corpora-
25 tions in the West. Standard permeates the political and
26 economic life of California. It pumps vast quantities of
27 oil from beneath California, and refines it and sells it
28 from retail outlets in every hamlet in the state. The sheer
29 size of Standard means it has an inordinate number of legal
30 problems. It sometimes splashes oil where oil does not
31 belong. It gets into fights with competitors and its
32 franchised dealers. Its vehicles collide with other people's
vehicles. Workers are injured in its refineries and seek
recompence.

33 Tucked away on the upper floors of the Standard Oil Building
34 is a law firm responsible for resolving as many of these
35 legal problems as possible. Pillsbury, Madison and Sutro
36 is itself a power in California. With 180 partners and asso-
37 ciates, it is not only San Francisco's largest firm but also
38 its best in the opinion of many West Coast lawyers. Practice
39 by association is a tenuous concept, but PMS (as Pillsbury,
40 Madison is known in lawyer's shorthand) is good enough to
41 be counsel for Standard Oil and a host of other major
42 California corporations...and seldom does a day pass that a
43 PMS lawyer isn't in a state or federal court somewhere in
California, representing one of its blue-chip clients." 14.
at 42-43.

1 part as follows:

2 ...it is of the utmost importance that...the lease forms
3 ...be prepared by someone who has an appropriate background,
4 experience, and thorough knowledge both of the requirements
5 of the State and of the industry.

6 We know of no one better qualified to fulfill such require-
7 ments than a representative of your firm...In this connection
8 if it is at all possible for your to do so, we would appre-
9 ciate your making the services of Mr. James Wanvig available
10 to the State of Alaska...

11 ...All of them (WOGA representatives) are in accord with the
12 foregoing proposal and agree...that it is imperative that
13 the initial regulations and lease form with respect to oil
14 and gas matters be prepared by...someone who is more familiar
15 with the requirements and necessities of the industry than
16 anyone who is presently available in Alaska for such purpose.
17 (Doc. 137.) (Emphasis added.)

18 So it came to pass that Mr. Wanvig (Pillsbury, Madison &
19 Sutro?; WOGA?; SOCAL?) was retained by the State of Alaska as a
20 "technical consultant" to assist in preparing the oil and gas
21 regulations and leases. (Docs. 141, 145.) Hoping that the State
22 of Alaska found Mr. Wanvig as "delightful and intelligent" as did
23 Pillsbury, Madison & Sutro, he was sent off to the hinterlands.
24 (Doc. 146.) Mr. Wanvig was paid a contract price of \$5,000, plus
25 travel, by the State of Alaska. Although Mr. Nielson made it
26 clear that WOGA was not paying for anything, WOGA was nonetheless
27 billed for Mr. Wanvig's personal living expenses in the amount of
28 \$1,778.17, which was apportioned among WOGA's sixteen (16) oil
29 industry representatives who remitted their share to WOGA, which
30 in turn reimbursed Pillsbury, Madison & Sutro.³ (Docs. 195, 196,
31 202.)

32 Mr. Wanvig relied on the lease draft prepared by the WOGA

3 Although Plaintiffs have been quick to point out that they are
4 not suggesting any "bad faith" on the part of actors herein,
5 nonetheless a cynic might suggest that this arrangement was not
6 unlike the farmer asking the fox how best to protect his chickens.
7 When the late Joseph Rudd, then with the Attorney General's Office,
8 sought comment from Mr. Wanvig regarding the state regulations
9 he had drafted and a Federal law, after receiving some comments
10 from Mr. Wanvig another partner in the firm responded that they
11 could not comment on substantive matters, since they had clients
12 interested in the issue. (Doc. 218.)

1 subcommittee when he began his own drafts. (Doc. 158.) It will
2 be recalled that those forms were the first to contain the phrase
3 "at the well" and to create an allowance for "treating and
4 dehydration" costs when royalty was to be taken "in kind."
5 (Docs. 126, 133-2, 158-1.) These leases differed, of course,
6 from the State's draft lease which did not include "at the well"
7 language and disallowed, by its silence, "treating and dehydrating"
8 costs. (Doc. 72-1.)

9 Mr. Wanvig's final drafts on competitive and noncompetitive
10 leases created separate provisions for "Royalty in Value" and
11 "Royalty in Kind", but otherwise kept the WOGA language intact.
12 Mr. Wanvig did create some additional and more specific royalty
13 provisions, and in so doing, incorporated "at the well" language
14 into other provisions as well. (Docs. 158, 164, 165.)

15 This draft was presented at a hearing held on July 9, 1959,
16 before the Department of Natural Resources. The most significant
17 aspect of this hearing was that there was not one single reference
18 to the provision concerning royalty when taken "in value" by the
19 State. The phrase "at the well", which is the focal point of the
20 Defendants' argument, was never even mentioned. The provision
21 allowing for "treating and dehydrating" deductions for oil and
22 gas taken "in kind" was briefly addressed and the total discussion
23 was as follows:

24 HOLDSWORTH: Mr. Hoffman (El Paso Nat. Gas Prod. Co.) has a
25 comment there. "It seems to me there might be situations in
26 which the requirement that royalty oil and gas delivered in kind
27 'shall be in good and merchantable condition' might impose an
28 unnecessary burden on the lessee."

29 That WOGA, and not the State, was responsible for the insertion
30 of "at the well" and "treating and dehydration" is also relevant
31 in response to Defendants' oral argument portrayal of the State
32 as having inserted these provisions, directed lessees to sign
and now, having found the provisions not in the State's best
interest, seeking to renege. Perhaps counsel is attempting to
apply surrealism to jurisprudence, just as it has been applied
in art and literature.

1 SHAFER: You must clean your oil; you don't have to do it
2 free of charge to the State.

3 HOLDSWORTH: True, but the Federal requires good and mer-
4 chantable condition, as I recall it.

5 SHAFER: I think so.

6 WANVIG: We didn't intend to impose any hardship on a lessee
7 here.⁵ (Doc. 189-95.)

8 After the hearings, the royalty provisions of the lease were
9 changed in two respects. First, the provision allowing for
10 "treating and dehydration" deductions for royalty "in kind" was
11 narrowed in that the word "treating" was substituted by the word
12 "cleaning." Secondly, this deduction was specifically extended
13 to gas as well as oil. No other significant change was made in
14 respect to the royalty provisions as submitted by Mr. Wanvig.

15 Despite the presence of "at the well" language in the lease
16 and its short appearance in the form regulation (dropped prior to
17 issuance of the Prudhoe Bay leases), the Department of Natural
18 Resources has never permitted field cost deductions. The first
19 implementation of the leases occurred with oil and gas discoveries
20 off-shore in Cook Inlet, where approximately ten or more competi-
21 tive lease sales were held. Field cost deductions were not
22 claimed for many field operations and never permitted as to any
23 of them. The only deductions allowed by the State were for
24 transportation charges away from the field to distant markets.
25 (App. Vol. I, p. 56; Vol. II, Supp. E.)

26 In short, neither in the creation nor in the issuance of
27 these leases did the Department ever interpret them to allow for

28 This interchange is presented for the sole purpose of demonstrat-
29 ing the minimal amount of discussion of the royalty provisions.
30 It is used for no other purpose, i.e., content, because the Court
31 is unable to decipher to whom the parties were referring when they
32 acknowledge a deductible cost for treating and dehydration. Mr.
33 Wanvig's comment that "the lessee is presently allowing" a deduc-
34 tion, followed by Mr. Shafer's comment that the oil companies
35 do not have to clean their oil free of charge to the State, does
36 suggest that the parties were not contemplating a deduction for
37 cleaning.

1 field cost deductions. The first widely distributed documentation
2 on administrative policy came in 1967 when the Department official-
3 ly announced to the oil industry that it would refuse to allow
4 field cost deductions. (Doc. 433.) Since this policy was
5 announced after the issuance of the leases, it does not help to
6 resolve what, if anything, the Department had in mind when it
7 issued those leases in 1959. For this reason, the 1967 announce-
8 ment provides no meaningful guidance to the Court.

9 Finally, Defendants contend that "at the well" is the appro-
10 priate language to show the usual custom in the industry for
11 allowing field cost deductions. It was for purposes of "clarifi-
12 cation and to conform lease provisions in the usual practices
13 in the industry" that WOGA first inserted the "at the well"
14 clause. (Doc. 126-7.) A review of the practices of other juris-
15 dictions shows that there is in fact no usual practice or custom
16 notwithstanding the inclusion of "at the well" in the leases.
17 Counsel for both sides have presented voluminous case citations
18 from other jurisdictions interpreting this provision. (Defendants'
19 Memorandum In Opposition To Motion For Summary Judgment at 57-61;
20 Plaintiffs' Reply Memorandum at 12-21.) Some of those cases
21 stand for the proposition that the lessee is permitted to deduct
22 certain field costs prior to determining royalty payments.
23 Sartor v. United Gas Public Service, 173 So. 103 (La. 1937);
24 Warfield Natural Gas Co. v. Allen, 88 S.W.2d 989 (Ky. Ct. App.
25 1935); La Fitte Co. v. United Fuel Gas Co., 284 F.2d 845 (6th
26 Cir. 1960). Other cases hold that "at the well" is ambiguous, is
27 probably synonymous with "on the premises" and that the expenses
28 claimed by the Defendants are not deductible. Skaogs v. Heard,
29 172 F.Supp. 813 (E.D. Tex. 1959); Gilmore v. Superior Oil Company,
30 368 P.2d 602 (Kan. 1964). These cases would permit deductions
31 for transportation costs away from the leased premises to distant
32 markets, a cost not in issue in this case. Many of the cases

1 cited by Defendants permitting field cost deductions do so on
2 constituent products but not on the crude oil itself. Coyle v.
3 Louisiana Gas and Fuel Co., 144 So. 737 (La. 1932); Freeland v.
4 Sun Oil Co., 277 F.2d 154 (5th Cir. 1932), cert. denied 364 U.S.
5 826 (1960). Without resorting to a lengthy discussion of all
6 cases cited by the parties, it suffices to say that this Court
7 cannot assign any fixed definition to "at the well" on the basis
8 of interpretations given by other jurisdictions.

9 Since this Court concludes that there was no administrative
10 interpretation by Alaska officials and the parties concede that
11 there was no legislative interpretation of AS 38.05.180, it is
12 necessary to look elsewhere for guidance.

13 Where legislation is ambiguous and has not been interpreted
14 by the legislature of the enacting state, an interpretation of an
15 identical statute given by a foreign jurisdiction is persuasive
16 authority. Menard v. State, 578 P.2d 966, 971, n. 10 (Alaska
17 1978). 2A Sutherland, Statutes and Statutory Construction, sec.
18 52.02 at 329-30 (Sands Ed. 1973).

19 In 1954, the Federal Mining and Leasing Act, 30 U.S.C. 246
20 was adopted. That Act provided royalty paid to the federal
21 government under competitive leasing "shall not be less than 12-
22 1/2 per centum in amount or value of production removed or sold
23 from the lease." This language, which forms the basis for the
24 present litigation when gas and oil royalty is taken "in value",
25 was lifted verbatim by the Alaska legislature when it adopted the
26 Alaska Land Act in 1959, AS 38.05.180(a).

27 The Plaintiffs' contention is that oil and gas cannot be
28 deemed "produced" within the meaning of the statute until the oil
29 and gas is in some marketable form.⁶ Federal cases support this
30

31 The oil industry has not always disputed the State's interpreta-
32 tion of the term "production." When it wanted an exemption from
the ad valorem tax, it offered the following definition of "pro-

1 interpretation.

2 In 1957, the Acting United States Solicitor issued an opinion
3 in The Texas Company, 64 I.D. 76 (April 1957) holding that the
4 cost of compressing gas to the point where it could enter the
5 transportation pipeline was not properly deducted from royalty
6 payments. The Solicitor found that the lessee had a duty to
7 "produce" the gas and since production could not be said to have
8 occurred until the gas was in a marketable form, the costs of
9 compression could not be deducted:

10 Until the gas from the wells is in such a condition that it
11 can be sold in the market, it cannot be said that the lessee
12 has fulfilled his obligations...The lessee has not shown
13 that the gas can be marketed at the pressure with which it
14 comes from the wells.

15 In fulfillment of its expressed duty to market the gas, the
16 appellant had a contract for the sale thereof. It agreed to
17 deliver the gas at a given pressure presumably in order to
18 sell the gas. It cannot reasonably expect the lessor to
19 assume the costs of meeting the lessee's obligation in this
20 respect. (Quoted in California Company v. Seaton, 187
21 F.Supp. 445, 451 (D.C., D.C. 1960).)

22 6 con't
23 duction":

24 'Facilities for the Separation of the Mixture of Oil, Water
25 and Gas Produced at the Wellhead Are Part of the Process of
26 Production...'

27 '...the onshore treating facilities, including the measuring
28 devices, are integrated, interdependent and an essential
29 part of the producing operation.'

30 The above was in a memorandum prepared by Lawrence Wilson of
31 Union Oil's tax department. (Doc. 500-13, 18.) It was first
32 reviewed by Mr. Sigvold Nielson, of Pillsbury, Madison & Sutro,
that same Mr. Nielson who presumably acted favorably upon WOGA's
urgent request to make Mr. Wanyig available to the State of
Alaska as a Technical Consultant on oil and gas regulations and
lease forms. In reviewing the memo, Nielson made the following
changes which appear in parenthesis:

33 '...Facilities For the Separation of (the mixture of oil,
34 water, and gas produced at) the Wellhead Are Part of the
35 Process of Production and Thereby Exempt from Ad Valorem
36 Tax. (Doc. 498-10.)

37 He too seems to have agreed with the State's interpretation of
38 "production."

39 7
40 See also 7 F.R. 4132, enacted July, 1942, and now codified in

1 This issue again arose under leases issued by the Federal
2 Government to the California Company for gas exploration in
3 southern Louisiana. There, in an order issued on May 21, 1957,
4 the Federal Government refused to permit a deduction for the
5 costs of gathering, compressing and dehydrating the gas. The
6 Texas Company case was specifically affirmed by the Deputy
7 Solicitor of the Department of the Interior on February 20, 1959,
8 and by the Federal District Court. California Company v. Seaton,
9 187 F.Supp. 445, 452 (D.C. 1960), aff'd. sub nom California
10 Company v. Udall, 296 F.2d 384 (D.C. Cir. 1961).

11 Critical to the District Court's affirmance of the adminis-
12 trative decision was an interpretation of the terms "value" and
13 "production" as used in the Federal lease form and the statute.
14 The Court reasoned that the term "value" in the context of the
15 statutory royalty provision meant "estimated or assessed worth"
16 and that the term "production" included preparation for market:

17 The stage of production was not reached by the preliminary
18 steps of exploration and discovery. Successful exploration
19 and discovery lay the basis for marketing of gas in such a
20 stage as to have a value and to command a price. Black's
21 Law Dictionary defines 'production' in the political economy
22 as 'the creation of objects which constitute wealth.' Gas
23 or oil connected with a pipeline or other means of trans-
24 portation to market is an object which constitutes wealth.
25 California Company v. Seaton, supra, at 448-449.

26 When this case went to the Court of Appeals, it had the
27 following comment on the term "production":

28 There is no question as to the Secretary's authority to
29 require the payment of 12-1/2 per cent royalty 'value of
30 production'. The statute so provides...The heart of this
31 controversy is the meaning of 'production'. Does it mean
32 the raw product as it comes from the well, no matter what
33 its condition? Or does it mean the product ready for the
34 market in and to which it is being sold?

35 The premise for the Secretary's decision...was that, since

36 7 con't

37 30 C.F.R. 221.47 which provides that "(u)nder no circumstances
38 shall the value of production of any of said substances for the
39 purposes of computing royalty be deemed to be less than the gross
40 proceeds accruing to the lessee from the sale thereof or less
41 than the value computed on such reasonable unit value as shall
42 have been determined by the Secretary.

1 the lessee was obliged to market the product, he was obligated
2 to put it in marketable condition; and that the 'production'
3 was the product in marketable condition. Theoretically, any
4 gas - any 'production' - is 'marketable'. We can assume
5 that if the price were low enough to justify capital expendi-
6 tures for conditioning equipment, someone would undertake to
7 buy low pressure gas having a high water and hydrocarbon
8 content. A lessee who sold unconditioned gas at such a
9 price would in a rhetorical sense, be fulfilling his obliga-
10 tion to 'market' the gas, and by thus saving on overhead he
11 might find such business profitable. There is a clear
12 difference between 'marketing' and merely selling. For the
13 former there must be a market, an established demand for an
14 identified product. We suppose almost anything can be sold,
15 if the price is no consideration. California Co. v. Udall,
16 supra, at 384.⁸

17 In short, oil and gas have no value until "produced", which
18 means ready for sale. In the case of the Prudhoe Bay operations,
19 that point occurs at the LACT meter. That the Alaska legislature
20 was aware of the federal interpretation of the term "production"
21 is evidenced not only by the adoption of the identical federal
22 language after it had been interpreted in The Texas Company, 64
23 I.D. 74 (April 1957), but also because that interpretation was
24 put into effect by the Federal Government at the Swanson River
25 Field prior to issuance of the Prudhoe Bay leases.

26 The Swanson River oil field was discovered in 1957 and since
27 1960 crude oil has been transported from the field via pipeline
28 (equivalent to TAPS). While the field is Federally owned, the
29 State of Alaska receives 90% of the royalties collected. At no
30 time since pipeline operations began in 1960 has the pipeline
31 company been permitted to deduct costs prior to oil entering the
32 LACT meter. This has been the consistent practice of the Federal
Government and one which it is reasonable to assume the Commis-

8
Two oil and gas treatises cited by the State support this inter-
pretation of the term 'production'. Covenants Implied in Oil
and Gas Leases (2d Ed. 1942) (Merrill), section 85, states that
costs of preparing the product for market are the sole responsi-
bility of the lessee and cannot be deducted from the computation
of royalty value. In accord is the view of Professor Kuntz,
3 E. Kuntz, Oil and Gas, section 39.4 (1967) (Kuntz) who concludes
that the lessee is obligated to produce a marketable commodity
and marketability should be based on the condition or quality of
the gas or oil and not on its location.

1 sioner of Natural Resources knew about when he entered into the
2 leases at Prudhoe Bay. The Commissioner repeatedly stated that
3 it was his impression Alaska was following the Federal model in
4 enacting its own statute. (Docs. 53-1, 140-2, 189-95.)

5 Thus even assuming arguendo that the statute is ambiguous,
6 Defendants' interpretation does not stand up to critical analysis.
7 However, the Court need not rely on its interpretation, premised
8 upon statutory ambiguity, in concluding that the claimed deductions
9 are impermissible. The Court is of the view that the statute is
10 not ambiguous.

11 The statute mandates that the royalty be not less than 12-
12 1/2 per cent of production "removed or sold from the lease." The
13 Court agrees with the position of the Amicus Curiae that this
14 language has a very plain and unambiguous meaning. While the
15 term "production" indicates what is to be valued for royalty
16 purposes, the phrase "removed or sold from the lease" indicates
17 where the product is to be valued. Since no gas or oil is sold
18 directly from the Prudhoe Bay lease, valuation must occur at the
19 place where the product is removed - i.e., metered into TAPS for
20 removal from the unit.

21 This was certainly the intention of the United States Congress
22 when it added the language "removed or sold from the lease" to
23 the Mineral Leasing Act in 1946. During Senate Subcommittee
24 hearings on the bill that amended the Mineral Leasing Act, the
25 following testimony was given by the Vice-President of Seaboard
26 Oil Corporation:

27 Recently, I have been advised that the Interior Department
28 is going to change that practice (computing royalty on the
29 basis of sales); that from now on Government lessees must
30 account for and pay royalty not on the basis of the oil and
gas removed from the lease, but on the basis of the produc-
tion at the well.

31 The following recommendation was made to prevent the above-men-
32 tioned change:

1 I would suggest for your consideration, therefore, the addition of the words "removed or sold from said lease" after
2 the word "production"... (Hearings on S. 1236 Before Subc. of
3 the Senate Committee on Public Lands and Surveys, 79th
Cong., 1st Sess., at 160.)

4 Congress' adoption of that language showed that it "intended to
5 insure that royalty would be due only on oil and gas "removed"
6 from the leasehold, not on total oil and gas produced at the
7 well." Gulf Oil Corporation v. Andrus, 460 F.Supp. 15, 17 (D.C.
8 Cal. 1978), (decided on unrelated grounds).

9 Finally, and probably the most significant factor in this
10 Court's decision, is that this is not simply a case of interpreting
11 AS 38.05.180(a). That legislation came in direct response to two
12 critical constitutional provisions. Article VIII of the Alaska
13 Constitution provides in pertinent part as follows:

14 SECTION 2: General Authority.
15 The legislature shall provide for the utilization, develop-
16 ment, and conservation of all natural resources belonging to
the State...for the maximum benefit of its people. (Emphasis
added.)

17 SECTION 12: Mineral Leases and Permits.
18 The legislature shall provide for the issuance, terms, and
19 terms of leases for coal, oil, gas...Leases and permits
giving the exclusive right of exploration...may be authorized
by law. (Emphasis added.)

20 This Court need not decide the extent of the Commissioner's
21 authority to administer the provisions of AS 38.05.180(a). It is
22 satisfied that such authority does not extend to determining the
23 amount of royalty obligations. These Constitutional provisions
24 require that the legislature set the terms of oil and gas leases
25 in such a manner as to provide the maximum benefit for its people.
26 No "term" could be more critical to its people than the monetary
27 return realized on the depletion of their natural resources. If
28 "production" under AS 38.05.180(a) does not mean what the State
29 claims it means, then the legislature has impermissibly delegated
30 a constitutional duty to an administrative agency. The legislature
31 did not do so. When the legislature determined that the State
32 would get "12-1/2 per cent...of production" is it apparent it

1 meant 12-1/2 per cent of a product, not 12-1/2 per cent of some-
2 thing that had no or negligible market value. With the exception
3 of California's "wet oil", there is no market for crude oil in
4 its raw state. That the legislature was attempting to get the
5 best monetary deal for its people is apparent from the pricing
6 provisions from the lease itself which provide that the highest
7 of any three royalty valuations be paid. To accept the Defendants
8 argument would mean that theoretically the State could receive
9 12-1/2 per cent of nothing, in effect giving away its oil. Under
10 these circumstances, the Court has no difficulty in following the
11 rule of law that statutes must be construed so as to avoid a
12 conflict with the constitution. Crowell v. Benson, 285 U.S. 22,
13 62, 52 S. Ct. 285, 296 (1932); Blanchette v. Conn. Gen. Inf.
14 Corps., 419 U.S. 102, 134, 95 S. Ct. 335, 359 (1974).

15 Nor does the Court have any difficulty in construing the
16 lease so that it conforms to the statute and the Constitution.
17 When royalty gas and oil is taken "in value", its valuation point
18 is at the LACT meter without deductions for costs of producing
19 the product. When royalty is taken "in kind", "cleaning and
20 dehydration" costs are deductible. However, pursuant to Consti-
21 tutional mandate, the State may not take royalty "in kind" unless,
22 after said deductions, it will be in the best interests of the
23 State to do so, which presumably means that it will be receiving
24 an amount at least as great as it would if the royalty was taken
25 "in value". This is the only interpretation which would comport
26 with the Constitutional requirement that the legislature develop
27 the natural resources "for the maximum benefit of its people."
28 This interpretation is now codified in AS 38.05.182.

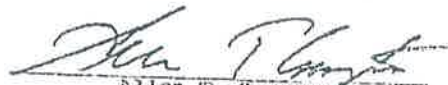
29 Although the State would have this Court declare any deduction
30 void on the ground that the administration agency acted outside
31 the scope of its authority (Plaintiffs' Reply Memorandum in
32 Support Of State's Motion For Summary Judgment at 43-50), such a

1 holding is not necessary, for as the Plaintiffs also point out,
2 "when the State takes royalty in kind it is actually a competitor
3 with the producers..." Plaintiffs' Reply Memorandum In Support
4 Of State's Cross-Motion For Summary Judgment at 8. If royalty
5 "in value" measured at the LACT meter is simply viewed as the
6 minimum 12-1/2 per cent royalty, the State is free to take its
7 royalty "in kind" and market it if it can get a better deal,
8 after the specified deductions are allowed. Its position is
9 different than when it takes royalty "in value"; it has become a
10 competitor. If market conditions are such that the State's
11 return on royalty "in value" is greater than if it went out into
12 the market with its "in kind" oil, presumably it will not take
13 royalty "in kind," since that would not be in the State's best
14 interests.

15 In summary, AS 38.05.180(a) is not ambiguous. The State is
16 entitled to a minimum royalty of 12-1/2 per cent of "production
17 removed or sold from the lease." Field costs incurred prior to
18 LACT meter measurement are costs not incurred prior to removal or
19 sale, and are not generally deductible by lessees. Even if the
20 statute is deemed ambiguous, resort to traditional rules of
21 statutory interpretation leads to the same result. Field costs
22 are costs of production. No administrative interpretation or
23 legislative history suggests the result urged by Defendants.
24 When the State elects to take its royalty "in kind", costs of
25 "cleaning and dehydration" are deductible. the State in essence
26 having become a market place competitor in the sale of a product.
27 Constitutional and statutory limitations preclude the State from
28 taking royalty "in kind" unless it is in the best interests of
29 the State and for the maximum benefit of its people. This must
30 //
31 //
32 //

1 mean, and can be compatibly construed to mean that the price paid
2 when the royalty is taken "in value" is the minimum or floor
3 below which the agency may not go.

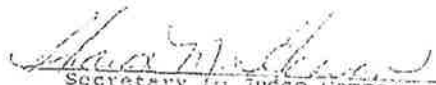
4 DATED at Juneau, Alaska, this 6 day of April, 1979.

5
6
7 
8 Allen T. Compton
9 Superior Court Judge

10 CERTIFICATION

11 This will certify that on this 9 day of April, 1979, I
12 mailed a true and correct copy of the foregoing order to:

13 Wilson L. Condon, Esquire
14 Thomas Brewer, Esquire
15 Robert Maynard, Esquire
16 William B. Rozell, Esquire
17 Richard O. Gantz, Esquire

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Secretary to Judge Compton