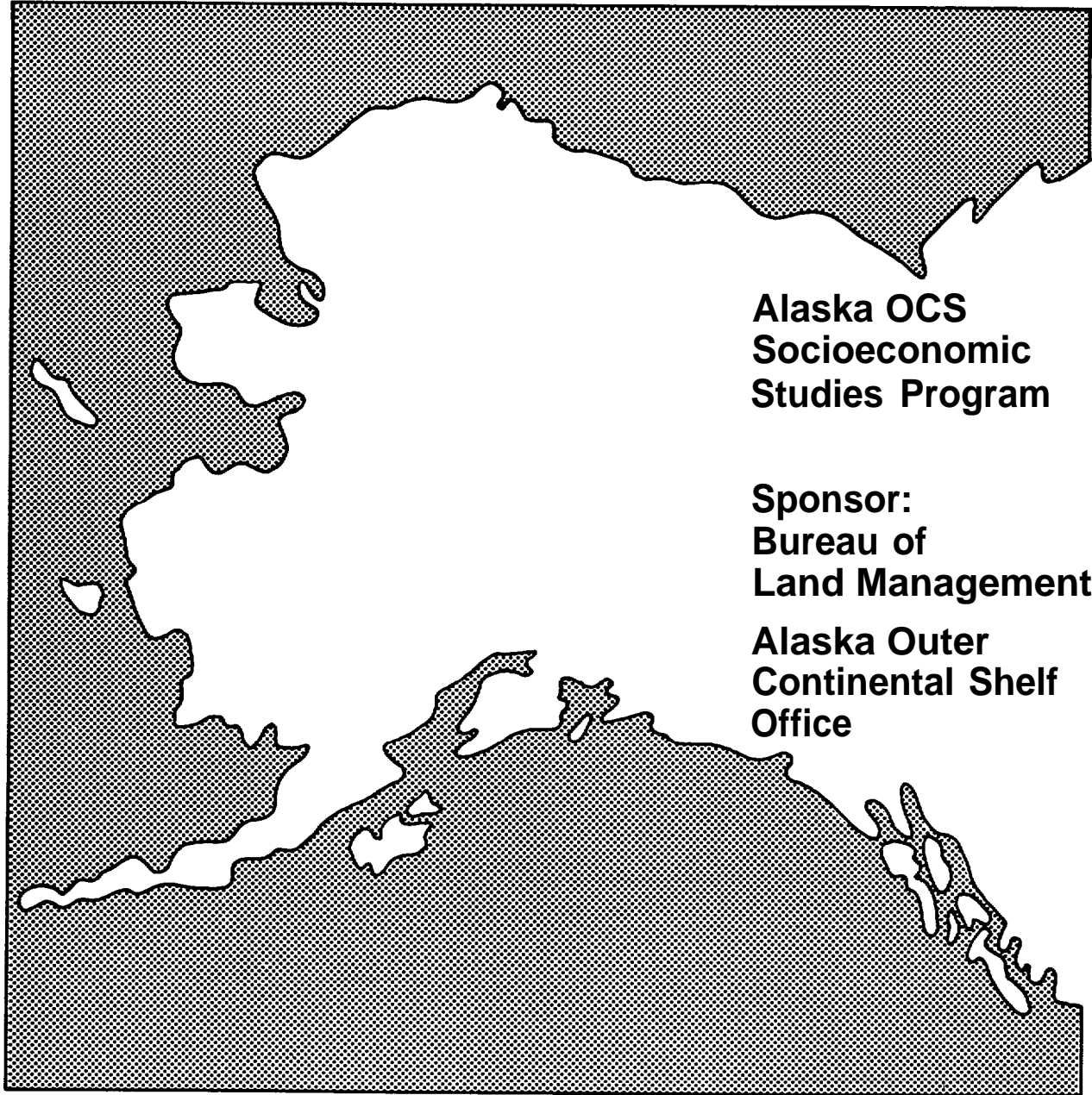


Technical Report  
Number 19



**Alaska OCS  
Socioeconomic  
Studies Program**

**Sponsor:  
Bureau of  
Land Management**

**Alaska Outer  
Continental Shelf  
Office**

Beaufort Sea  
Petroleum Development Scenarios  
Man Made Environment Impacts

The United States Department of the Interior was designated by the Outer Continental Shelf (OCS) Lands Act of 1953 to carry out the majority of the Act's provisions for administering the mineral leasing and development of offshore areas of the United States under federal jurisdiction. Within the Department, the Bureau of Land Management (BLM) has the responsibility to meet requirements of the National Environmental Policy Act of 1969 (NEPA) as well as other legislation and regulations dealing with the effects of offshore development. In Alaska, unique cultural differences and climatic conditions create a need for developing additional socioeconomic and environmental information to improve OCS decision making at all governmental levels. In fulfillment of its federal responsibilities and with an awareness of these additional information needs, the BLM has initiated several investigative programs, one of which is the Alaska OCS Socioeconomic Studies Program.

The Alaska OCS Socioeconomic Studies Program is a multi-year research effort which attempts to predict and evaluate the effects of Alaska OCS Petroleum Development upon the physical, social, and economic environments within the state. The analysis addresses the differing effects among various geographic units: the State of Alaska as a whole, the several regions within which oil and gas development is likely to take place, and within these regions, the various communities.

The overall research method is multidisciplinary in nature and is based on the preparation of three research components. In the first research component, the internal nature, structure, and essential processes of these various geographic units and interactions among them are documented. In the second research component, alternative sets of assumptions regarding the location, nature, and timing of future OCS petroleum development events and related activities are prepared. In the third research component, future oil and gas development events are translated into quantities and forces acting on the various geographic units. The predicted consequences of these events are evaluated in relation to present goals, values, and expectations.

In general, program products are sequentially arranged in accordance with BLM's proposed OCS lease sale schedule, so that information is timely to decision making. In addition to making reports available through the National Technical Information Service, the BLM is providing an information service through the Alaska OCS Office. Inquiries for information should be directed to: Program Coordinator (COAR), Socioeconomic Studies Program, Alaska OCS Office, P. O. Box 1159, Anchorage, Alaska 99510.

ALASKAOCS SOCIOECONOMIC STUDIES PROGRAM

BEAUFORT SEA - PETROLEUM DEVELOPMENT SCENARIOS  
MAN MADE ENVIRONMENT IMPACTS

PREPARED FOR

BUREAU OF LAND MANAGEMENT  
ALASKA OUTER CONTINENTAL SHELF OFFICE

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ALASKAOCS SOCIOECONOMIC STUDIES PROGRAM  
BEAUFORT SEA - PETROLEUM DEVELOPMENT SCENARIOS -  
MAN MADE ENVIRONMENT IMPACTS

Prepared by  
ALASKA CONSULTANTS, INC. for PEAT, MARWICK, MITCHELL & CO.

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<p>The Beaufort Sea region extends across the extreme north of Alaska between the <b>Chukchi</b> Sea and the Canadian border and as far south as the Brooks Range. The region is sparsely settled, with an estimated total population of 9,163 people in July 1977. Over half of these people lived in oil and gas-related camps, with most of the remainder living in eight widely scattered traditional Eskimo communities. Almost <b>all local</b> government facilities and services in the region are provided by a single unit of government, the North Slope Borough.</p> <p>This report evaluates the impact of <b>OCS</b> development on the manmade environment on four of the region's traditional communities. Projections of population and employment have been made in a <b>non-OCS</b> and four OCS scenarios. After estimating probable future community needs in a <b>non-OCS</b> case and taking Borough capital improvement plans into account, the added impact each OCS scenario <b>could</b> be expected to have on population and employment, <b>community</b> facilities and services, plus Borough finances, has been calculated.</p>					
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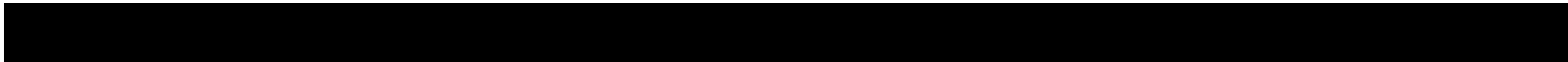
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## INTRODUCTION

The North Slope Borough today is made up of two distinct population groups. On the one hand, there are the permanent residents of the region, primarily Eskimo, who live in the traditional communities. On the other, there are the transient oil and gas-related personnel, primarily white, who live in a series of company camps. The two groups have little direct contact. However, the impact of the oil and gas industry on the lives of people in the region's traditional communities has been a major one.

The discovery of a large oil and gas field in the Prudhoe Bay area and the development which followed that discovery encouraged the formation of the North Slope Borough, an areawide unit of local government with home rule powers. Local government taxation of oil and gas property (and all other taxable property) within the Borough's boundaries was seen as offering a legitimate means for the traditional communities of the region, then among the poorest in Alaska, to begin to attain a range of basic public facilities and services comparable to those already enjoyed in most other parts of the State.

Since its incorporation in July 1972, the Borough has made large investments in capital improvements in all of its traditional villages and more such investments are planned. This activity has had the effect of improving public facilities and services and, also, of creating new jobs in job-poor areas. Thus, although relatively few permanent Borough

residents work directly in oil and gas-related occupations, a large number now work in Borough jobs created largely through revenues derived from the taxation of oil and gas property.

The purpose of this study is to assess the future impacts of oil and gas development in a **non-OCS** case and in the case of four OCS scenarios on the manmade environment of the Beaufort Sea region and four of its member communities - Barrow, Kaktovik, **Nuiqsut** and **Wainwright**. In each of the four OCS cases, the emphasis is placed on the additional impacts that such scenarios could be expected to have beyond what would be anticipated in a **non-OCS** case. To assist in this assessment, a series of projections was developed for anticipated population and employment changes in the individual communities, plus projections of Borough revenues and expenditures. Community **infrastructural** requirements in the case of a **non-OCS** scenario and additional requirements likely to be generated by each of the **four OCS** scenarios have also been examined.

Factual data contained in this report is current as of March 1978 except where specifically noted. A very heavy reliance for source material was placed on three documents. These are Technical Reports Number 8 and 18 prepared by Alaska Consultants, Inc. and the University of Alaska's Institute of **Social** and Economic Research respectively as part of the Alaska OCS Socioeconomic Studies Program. The third document is a draft report entitled Social Analysis, Beaufort Sea Lease Sale prepared by Alaska Consultants, Inc. in December 1977 for the Alaska Department of Community and Regional Affairs.

In addition to primary data sources, detailed information concerning planned Borough school construction projects was obtained from Construction Systems Management, Inc. and detailed fiscal data was provided by Dupere and Associates, Inc. A range of government agencies was also contacted so that realistic standards for the provision of local government services in the North Slope region could be established.



## ASSESSMENT OF THE MANMADE PHYSICAL ENVIRONMENT - NON-OCS CASE

Regardless of the level of future OCS activity in the Beaufort Sea region, continued development of the very large onshore oil and gas resources of this region will exert a major influence on the growth and development of the North Slope Borough and its communities. Since the impacts of OCS development must be seen in terms of their added effect, it is important to first gain an understanding of the types and extent of changes in the manmade environment that could be anticipated in a non-OCS case. The following analysis is therefore offered.

### Community Population and Employment Forecasts

#### RELATION TO STATE/REGION FORECASTS

Forecasts of population in a non-OCS scenario for the traditional communities of Barrow, Kaktovik, Nuiqsut and Wainwright have been made within the context of forecasts for the entire North Slope region as developed by the Institute of Social and Economic Research (ISER) of the University of Alaska. The ISER forecasts were made for the region as a whole and for some components of the region's population. The latter included total civilian population, military population, Native population, exogenous construction employment and mining employment. Not specifically listed was another component numbering 2,966 persons in 1977, declining to 2,288 by 1980, to 657 by 1985 and down to 339 by 1990 before rising again to 664 and 1,096 by 1995 and the year 2000.

respectively. This group is primarily made up of oil and gas-related populations not directly employed in either the construction or the mining sectors.

The 1977 Native population figure cited by ISER (4,029) closely approximates Alaska Consultants' estimate of total population (i.e. Native and white) in the region's traditional communities in 1977 (4,092) and slightly exceeds the official 1977 Borough estimate of total population which was used for State revenue sharing and property taxation purposes (3,612). Forecasts of total population developed by Alaska Consultants, Inc. for Barrow, Kaktovik, Nuiqsut and Wainwright in the case of a non-OCS scenario have been made solely within the context of ISER'S regional forecasts of Native population.

It did not prove practical to relate employment forecasts developed for the traditional communities of Barrow, Kaktovik, Nuiqsut and Wainwright in the case of a non-OCS scenario to ISER's non-OCS employment forecasts for the entire North Slope region. Employment in the North Slope Borough's traditional communities is a minor element in the region's total employment. For example, the combined total employment for Barrow, Kaktovik, Nuiqsut and Wainwright in 1977 (1,051 full-time job equivalents) accounted for only 16.2 percent of the region's total 1977 employment cited by ISER (6,490 jobs). Furthermore, the composition of employment in the region as a whole is fundamentally different from that of its traditional communities. During the remaining years of this century, total employment in the region has been forecast by ISER to



fluctuate significantly, primarily in response to oil and gas-related activities. By contrast, growth in employment in the region's traditional communities is anticipated to occur mainly as a result of local government taxation of oil and gas properties. As a result, it should follow a more gradual and continuing trend.

#### SIGNIFICANT FACTORS AFFECTING GROWTH

The primary factors influencing population growth in the traditional communities of the North Slope Borough except for Barrow have been rates of natural increase and out-migration of the Eskimo population. There is very little in-migration into the smaller villages although there is some movement of villagers back and forth between their home towns and Barrow. The region has recently seen planned migrations from Barrow to smaller communities through the re-establishment of Nuiqsut, Atkasook and Point Lay in connection with the Alaska Native Claims Settlement Act. However, no further such migrations are foreseen. Thus, rates of natural increase and the amount of out-migration should continue to be the major determinants in the growth of all traditional villages of the region except Barrow.

Rates of out-migration tend to be sensitive to employment opportunities. The formation of the North Slope Borough and the passage of the Alaska Native Claims Settlement Act have had the effect of adding new jobs in the smaller communities and this is believed to have encouraged some residents to remain here who might otherwise have migrated to Barrow or

outside the region. It is anticipated that future rates of population growth in these communities will also be related to the extent to which new jobs are available to local residents.

A few residents of smaller villages work outside their villages on construction jobs or in oil and gas-related activities and return during leave periods. This type of back and forth movement is expected to continue if further community growth takes place, particularly in the larger villages such as Wainwright, since there is a limit on the number of new jobs which can be created by either the Borough or the Native corporations.

Unlike the smaller traditional communities of the North Slope region, a major share of population growth in Barrow is derived from in-migration of people from the smaller villages of the region and from outside the region. Essentially all of the latter are whites. In the past, most white migrants to Barrow were either Federal government employees or were associated with the Naval Arctic Research Laboratory (NARL). Recently, however, another group of whites has migrated to Barrow in response to new employment opportunities opened up by the Arctic Slope Regional Corporation and the North Slope Borough. While it is assumed that an increasing proportion of these jobs will be filled by qualified Eskimos, further in-migration of whites to Barrow is expected in the future.

Barrow also attracts new residents from the smaller villages of the region, especially younger people seeking employment opportunities beyond those available in their home towns. This migration from the smaller villages to the regional center will undoubtedly continue in the future.

Some out-migration from Barrow outside the region (and the State) does take place. While this will certainly continue, rates of in-migration should more than compensate for people "lost" to the region.

The key to future rates of growth in Barrow is employment and the dominant forces in providing new jobs in the community since 1970 have been the Arctic Slope Regional Corporation and the North Slope Borough. The North Slope Borough derives the bulk of its revenues from the taxation of oil and gas-related properties so that future levels of activity of the oil and gas industry in this region and the extent to which these activities are subject to local government taxation will be the key to future Borough revenues and, thus, to Borough jobs. New jobs provided by the Arctic Slope Regional Corporation will be tied to the success of its investments, a major part of which are oil and gas-related.

## OVERVIEW OF ASSUMPTIONS, METHODOLOGY AND RESULTS

### Population

The following basic assumptions were made in forecasting population growth for selected traditional North Slope communities in a non-OCS scenario:

- That oil and gas-related development anywhere in the region will not result in the stationing of industry personnel in the traditional communities.
- Population growth in the smaller traditional communities will be derived solely from rates of natural increase. The overall rates of population growth will be slowed by some out-migration to Barrow and outside the region. Although some in-migration of former residents back to these communities has taken place since the passage of the Alaska Native Claims Settlement Act and the incorporation of the North Slope Borough, no further significant in-migration of people into these communities is anticipated.
- Population growth in Barrow will be derived from rates of natural increase, plus in-migration of Eskimo people from the smaller traditional communities of the region and people (mostly whites) from outside the region. People from the region will be attracted to Barrow primarily because of better employment opportunities, while those from outside the region will mainly come here to fill jobs requiring specialized

skills. Some out-migration from Barrow to other areas of the State and the nation is also anticipated but it should be comparatively minor.

ISER's forecasts of Native population in the North Slope region assume a constant 2 percent annual rate of growth through the year 2000. Based on the assumptions outlined above, Alaska Consultants, Inc. believes that rates of increase in the smaller traditional communities of the region will not exceed an annual average of 1 percent. Although some of these villages, particularly Wainwright, have recently been growing faster than this, it is unlikely that they can sustain an average annual growth rate of much more than 1 percent over a long period. Barrow, on the other hand, is expected to grow slightly faster than the 2 percent overall average annual rate forecast by ISER for the region's Native population. The 2.25 percent average annual rate of population growth forecasted by Alaska Consultants, Inc. for Barrow in the case of a non-OCS scenario assumes that out-migration will be more than matched by in-migration, both from within and outside the region, with the remaining growth being due to natural increase.

### Employment

The following basic assumptions were made in forecasting employment growth in selected North Slope Borough traditional communities in the case of a non-OCS scenario:

- That forecasted oil and gas-related employment in the region

will not be based in any of the traditional communities.

- That growth in employment in the three smaller villages of **Kaktovik, Nuiqsut** and **Wainwright** will be derived almost entirely from the activities of the North Slope Borough. Some jobs may be added as a result of the activities of the village corporations established under the terms of the Alaska Native Claims Settlement Act. However, it is believed that present staffing levels for these village corporations are unlikely to change substantially during the next twenty years.
- That growth in employment in Barrow will be derived primarily from both the activities of the North Slope Borough and the Arctic Slope Regional Corporation. Increases in tourism should also take place but, in terms of added jobs, the **'mpact** of this industry on Barrow should be comparatively minor

Forecasts of employment for the North Slope Borough communities of Barrow, Kaktovik, **Nuiqsut** and **Wainwright** have been made by relating the number of jobs to population. Present employment in each of these communities was counted in 1977 by Alaska Consultants, Inc. while the 1977 populations of these towns were derived from North Slope Borough Planning Department estimates. In the case of Barrow, however, the Borough figure was **too** low and Alaska Consultants instead made its own estimate of this city's 1977 population. In the case of a **non-OCS** scenario, it was assumed that existing relationships between **emp'oyment** and population in Barrow, Kaktovik and **Nuiqsut** would hold **approx'mately** true in the future.

There is virtually no unemployment in these communities at the present time although there is a good deal of under-employment. In the case of Wainwright, however, the present relationship between employment and population is assumed to change in the future. Wainwright is a larger village than Kaktovik or Nuiqsut and some economies of scale have been realized in the provision of Borough services here. While this situation will continue in the future, it is expected to do so to a lesser degree. Accordingly, Wainwright's ratio of employment to population should improve during the next twenty or so years.

There is presently about one job for every 3 persons in Barrow. In Kaktovik and Nuiqsut, each job currently represents about 3.8 people. These ratios have been forecasted to continue in the case of a non-OCS scenario. Wainwright, however, was found to have a ratio of one job for every 6.9 persons in 1977. In order for this community to maintain a 1 percent average annual growth in total population through the year 2000, its ratio between employment and population will have to improve. (One can assume that the population of Wainwright would decline in the long run if more opportunities for jobs did not develop). Accordingly, it has been assumed that by 1980 the ratio will be 1:6.5, by 1985 it will be 1:6.0, by 1990 it will be 1:5.5, and thereafter it will be closer to 1:5.0. Thus, Wainwright can be expected to continue to experience some unemployment problems but to a lesser degree than it now does.

## RESULTS OF ANALYSIS

### Aggregate Forecasts

Population. Population forecasts developed by ISER for the North Slope region in the case of a **non-OCS** scenario anticipate significant numerical fluctuations between 1977 and 1989 but a gradual increase thereafter. The regional forecasts do not anticipate an overall population increase during the 1977-2000 period since the total population figure cited for 1977 (9,323) is slightly above that forecasted for the year 2000 (9,021). Regional population is expected to peak at about 10,678 in 1981 during construction of the gas pipeline. It should be noted, however, that this regional population figure was exceeded during construction of the **Trans Alaska Pipeline System**.

Forecasts of Native population developed by ISER for the North Slope region anticipate an average annual **increase of 2 percent** through the year 2000, from an estimated 4,029 people in 1977 to about 6,354 in **2000**. Population forecasts developed by Alaska Consultants, Inc. for the communities of Barrow, Kaktovik, **Nuiqsut** and **Wainwright** also assume constant average annual rates of increase through the year 2000 - 2.25 percent for Barrow and 1 percent each for Kaktovik, **Nuiqsut** and **Wainwright** (see Table 1).

Using an average annual growth rate of 1 percent through the year 2000 for the smaller villages of the North Slope region, **Kaktovik's**



TABLE 1  
 FORECAST OF POPULATION a/  
 NON-OCS SCENARIO  
 BARROW, KAKTOVIK, **NUIQSUT**, **WAINWRIGHT** AND NORTH SLOPE REGION  
 1977 - 2000

Year	Forecasted Population				
	Barrow	Kaktovik	Nuiqsut	Wainwright	Region <u>b/</u>
1977	2,700 <u>c/</u>	134 <u>cl/</u>	157 <u>d/</u>	398 <u>d/</u>	9,323
1978	2,761	135	159	402	7,168
<b>1979</b>	2,823	136	161	406	8,516
1980	<b>2,887</b>	137	163	410	9,980
1981	2,952	138	165	414	10,678
1982	3,018	139	167	418	8,385
1983	3,086	140	169	422	<b>8,191</b>
1984	3,155	141	171	426	8,251
1985	3,226	142	173	430	8,273
1986	3,299	<b>143</b>	175	434	8,477
1987	3,373	<b>144</b>	177	438	8,259
1988	3,449	145	179	442	8,287
1989	3,527	146	181	446	7,080
1990	3,606	147	183	450	7,110
1991	3,687	148	185	454	7,300
1992	3,770	<b>149</b>	187	459	7,449
1993	3,855	<b>150</b>	189	464	7,641
1994	3,942	152	<b>191</b>	469	7,796
1995	4,031	<b>154</b>	<b>193</b>	474	7,984
1996	4,122	156	195	479	8,157
1997	4,215	158	<b>197</b>	484	8,366
1998	4,310	160	199	489	8,562
1999	4,407	162	201	494	8,796
2000	4,506	164	203	499	9,021

a/ Barrow's population forecasted at an annual rate of increase of 2.25 percent through 2000; **Kaktovik, Nuiqsut and Wainwright's** population forecasted at an annual rate of increase of 1 percent through 2000.

b/ Regional population forecasts developed by ISER for the Alaska OCS socio-economic studies program.

c/ Barrow's 1977 population estimated by Alaska Consultants, Inc.

d/ North Slope Borough Planning Department population estimates.

Sources: Alaska Consultants, Inc.  
 University of Alaska, Institute for Social and Economic Research. 1978. Beaufort Sea Petroleum Development Scenarios, Economic and Demographic Impacts. (Technical Report Number 18).

population should be approximately 137 by 1980, 142 by 1985, 147 by 1990, 154 by 1995 and 164 by 2000. Nuiqsut should have a population of about 163 by 1980, 173 by 1985, 183 by 1990, 193 by 1995 and 203 by 2000. Wainwright's population should reach about 410 by 1980, 430 by 1985, 450 by 1990, 474 by 1995 and close to 500 by 2000. Such a constant rate of population increase is, however, very unlikely to occur. In all probability, periods of growth will be interspersed by periods of population stagnation or even decline but the overall average rate of growth forecasted for these communities should nevertheless hold reasonably true in the case of a non-OCS scenario.

Applying a 2.25 percent average annual rate of population increase, Barrow's population can be expected to be in the neighborhood of 2,887 by 1980, 3,226 by 1985, 3,606 by 1990, 4,031 by 1995 and 4,506 by 2000. Again, it is very unlikely that the community's actual annual rate of growth would hold consistently to 2.25 percent but this should be close to the average growth rate experienced in Barrow through the end of the century in the case of a non-OCS scenario.

Employment. Regional employment forecasts developed by ISER for the North Slope in the case of a non-OCS scenario anticipate that total employment will fluctuate between 1977 and 1990 but will increase at a reasonably consistent rate (between 1.9 and 3.4 percent annually) thereafter through the year 2000. Like regional population, regional employment is forecasted to peak in 1981 when construction of the gas line is expected to be at its height. Unlike the regional forecasts of

TABLE 2  
 FORECAST OF EMPLOYMENT  
 NON-OCS SCENARIO  
 BARROW, KAKTOVIK, NUIQSUT, WAINWRIGHT AND NORTH SLOPE REGION  
 1977 - 2000

Year	Forecasted Employment				
	Barrow <u>a/</u>	Kaktovik <u>b/</u>	Nuiqsut <u>b/</u>	Wainwright <u>c/</u>	Region <u>d/</u>
1977	915 <u>e/</u>	36 <u>e/</u>	42 <u>e/</u>	58 <u>f/</u>	6,490
1980	962	36	43	63	8,308
1985	1,075	37	46	72	7,043
1990	1,202	39	48	81	5,769
1995	<b>1,344</b>	41	51	94	6,483
2000	1,502	43	53	100	7,533

- a/ Barrow's employment forecasted at the current ratio of approximately 1 job for every 3 local residents.
- b/ Kaktovik and Nuiqsut's employment forecasted at the current ratio of approximately 1 job for every 3.8 local residents.
- c/ Wainwright's current ratio of approximately 1 job for every 6.9 local residents is not considered to remain constant in this forecast. It is estimated that the 1980 ratio will be 1:6.5, the 1985 ratio 1:6.0, the 1990 ratio 1:5.5, the 1995 ratio 1:5.0 and the 2000 ratio 1:5.0, thus tending toward the existing ratios in other traditional villages of the region outside Barrow.
- d/ Regional employment forecasts developed by ISER for the Alaska OCS socio-economic studies program.
- e/ Average annual employment estimates derived from Alaska Consultants, Inc. count in December 1977.
- f/ Average annual employment estimate derived from Alaska Consultants, Inc. count in April 1977.

Sources: Alaska Consultants, Inc.  
 University of Alaska, Institute for Social and Economic Research. 1978. Beaufort Sea Petroleum Development Scenarios, Economic and Demographic Impacts. (Technical Report Number 18).

population, however, ISER anticipates an overall increase in employment (16.1 percent) for the North Slope between 1977 and 2000. Since total employment is forecasted to rise while total population is forecasted to decline slightly, future unemployment rates for the region can therefore be expected to be below current levels.

The number of jobs in the North Slope's traditional communities is expected to increase at a rate proportionate to forecasted increases in population. This assumption is made on the basis that rates of population growth in these communities will be increasingly tied to employment opportunities. Current relationships between employment and population have been projected to continue for Barrow, Kaktovik and **Nuiqsut**. In the case of **Wainwright**, however, the current ratio between employment and population will have to improve if this community is to maintain an average annual growth rate of 1 percent through the year 2000 (see Table 2).

Applying Barrow's current ratio of one job for every 3 people to forecasted population in the case of a non-OCS scenario, the community should have close to 962 jobs by 1980, 1,075 by 1985, 1,202 by 1990, 1,344 by 1995 and 1,502 by the year 2000. (Alaska Consultants identified a total of 915 full-time jobs in Barrow in 1977).

Assuming that Kaktovik's current ratio of about one job for every 3.8 local residents will continue to hold in the case of a non-OCS scenario, this community can expect only a very modest growth in employment. A

total of 36 jobs was counted here in 1977. This could be expected to increase to 37 by 1985, to 39 by 1990, to 41 by 1995 and to 43 by the end of the century.

Like Kaktovik, Nuiqsut presently has a ratio of about one job for every 3.8 local residents. If this ratio continues, Nuiqsut also can anticipate only a slow growth in employment in the case of a non-OCS scenario beyond the 42 jobs counted here in 1977. In such a case, Nuiqsut could expect about 43 jobs by 1980, 46 by 1985, 48 by 1990, 51 by 1995 and 53 by the year 2000.

Wainwright's present ratio of one job for every 6.9 persons is assumed to improve to 1:6.5 by 1980, to 1:6.0 by 1985, to 1:5.5 by 1990 and to 1:5.0 thereafter. Using these assumptions, the number of jobs in the community should rise from the 58 identified here in 1977 to close to 63 by 1980, 72 by 1985, 81 by 1990, 94 by 1995 and 100 by 2000.

Although growth in employment in each of the four communities has been projected at a constant rate in the case of a non-OCS scenario, it is unlikely that such a constant rate of growth would actually occur, particularly in the smaller communities. What is more probable in the smaller villages is that a comparatively rapid growth in employment would accompany the addition of a major new Borough facility such as a high school and that the number of jobs would then tend to stabilize until another major Borough facility was added.

## Characteristics of Forecasts

Population. The following are the "most probable" characteristics of the future populations of Barrow, **Kaktovik, Nuiqsut** and **Wainwright** in the case of a non-OCS scenario:

- Since no significant in-migration is anticipated into the smaller traditional villages of the region, the population of **Kaktovik, Nuiqsut** and **Wainwright** will remain overwhelmingly (more than 90 percent) Eskimo. In fact, the proportion of Eskimos may well increase as jobs traditionally held by whites, i.e. school teaching, are gradually assumed by qualified Eskimos.
- The largest group out-migrating from the region's smaller villages will continue to be young people without dependents who **will** be seeking educational advancement or improved employment opportunities. Older people and married couples with children **will** tend to remain.
- Barrow's population will remain predominantly Eskimo but to a **lesser** degree than the smaller villages of the region. White migrants to Barrow will primarily be single people or married couples without children. Migrants from smaller villages of the region will **also** tend, at least initially, to have few dependents. Thus, average family sizes in Barrow are likely to be significantly lower than in the other traditional communities of the Borough.

Employment. In the case of a non-OCS scenario, the “most probable” characteristics of future employment in the cities of Barrow, Kaktovik, Nuiqsut and Wainwright should not change significantly from those which now exist:

- A continuing expansion of Borough services to the region is foreseen and, with it, a continuing need for additional central office staff in Barrow to operate and supervise these services. The Arctic Slope Regional Corporation will continue to expand its central office staff in Barrow (and those of several of its subsidiaries) as its investments in the region grow. Some growth in tourism is also expected which should result in increases in transportation and services employment in Barrow and, to a lesser extent, in trade. On the other hand, current employment levels at the Naval Research Laboratory (NARL) and the nearby Distant Early Warning (DEW) Line station are not expected to change significantly. Nevertheless, anticipated growth in local government (Borough), finance, insurance and real estate (the Arctic Slope Regional Corporation) and in transportation and services (tourism) should, in turn, support additional jobs in other sectors, particularly in trade and services.
- The forecast of employment in the cases of Kaktovik and Nuiqsut assumes that almost all new jobs will be derived from the activities of the North Slope Borough. The same is generally true of Wainwright. However, the latter community also has some potential for increases in employment related to tourism.

## Forecasts Versus past Growth ,

Recent rates of population increase in the North Slope Borough's traditional communities have exceeded those forecasted to take place in the non-OCS case. Overall, the population of these communities grew about 33 percent between the time of the 1970 census and July 1977. Barrow's population rose about 28 percent during this same period and **Wainwright's** grew by slightly more than 26 percent. Kaktovik registered a much slower rate of population increase (9 percent). **Nuiqsut** did not exist as a permanent settlement in 1970 but its population rose about 8 percent between 1974 and mid-1977 according to Borough estimates.

Although **Wainwright** has recently seen a period of fairly rapid growth, this growth has not been continuous. In 1939, for example, the **community** had a total of 341 residents. Thereafter, its population declined to 227 by 1950 and then gradually rose again to 315 by 1970. Thus, while **Wainwright** has experienced short-term rapid growth, this has not been sustained over the longer term.

**Kaktovik's** population has remained very stable since the 1960 census when a total of 120 residents was recorded here. By contrast, Barrow has seen consistent strong growth since 1939, initially in response to exploration activities by the Navy in what is now National Petroleum Reserve-Alaska (**NPR-A**) and later as the community assumed the function of a regional center. Barrow's growth was realized at the expense of some of the smaller villages of the region. However, it also grew



because of an in-migration of technicians from outside the region to provide services such as health and education or to conduct scientific research.

Overall, the rate of growth forecasted for the smaller villages of the North Slope region in the case of a non-OCS scenario is not incompatible with established long term trends. A higher rate of growth has been forecasted for Barrow although it is also lower than that recently experienced by this community. Nevertheless, a 2.25 percent average annual rate of population increase is believed to be one which is realistic for Barrow to sustain through the remaining years of this century.

### Identification of Impacts

#### OVERVIEW OF INFRASTRUCTURE STANDARDS

A series of standards has been developed for various local government services and revenues for the North Slope Borough as a whole and four of its member communities so that probable future needs in these areas can be determined in the event of growth in population and/or employment. It should be noted that existing community facilities and services in the permanent communities of the region are generally inadequate and often do not meet the standards cited. However, most of these standards should be met when scheduled public improvements by the North Slope Borough are completed and they are therefore not deemed to be

unrealistic. (These standards are described in detail in the Appendices to this report).

#### DESCRIPTION OF REGIONAL AND COMMUNITY SERVICES LIKELY TO BE IMPACTED

Population growth places new demands on community facilities and services. In small towns, even seemingly minor increases in population can, in some instances, result in a local government unit's having to increase its electric power generating capacity or to add new school classrooms. The following is a description of the regional and community services most likely to be impacted in the North Slope Borough by population growth in the case of a **non-OCS** scenario.

#### Education

At the time of the North Slope Borough's incorporation in 1972, education services in this region were provided by both the Federal and State governments. Schools in Barrow, **Kaktovik** and **Wainwright** were run by the Bureau of Indian Affairs while those at Point Hope and Anaktuvuk Pass were operated by the State. The State-operated schools were taken over by the Borough in 1974, while Bureau of Indian Affairs' facilities were taken over in 1975. Since that time, the Borough has constructed schools in the resettled villages of Point Lay (1975) and Atkasook (1977). The first school building at **Nuiqsut**, however, was erected in the **community** by the Arctic Slope Regional Corporation in 1974.

The North Slope Borough is currently involved in a major upgrading of its schools. In the short term, this primarily involves the addition of new high school facilities since only elementary grades (except for 9th grade classes at Barrow) were taught in the region before the Borough assumed the responsibility for education. To ensure that its new school facilities can accommodate student needs by the time they are built, the Borough projects enrollment from the present until five years after construction is expected to be completed and incorporates the latter figure into its design calculations. A three percent annual growth in enrollment is currently used. This is well above the "most probable" rate of enrollment growth or even rates currently being experienced. However, given the extremely high construction costs in this region, it is more practical to use a "high" forecast than to risk having to add more space soon after construction of the initial facility. As a result, school buildings which the Borough is in the process of adding or which it plans to add in the near future should be adequate to accommodate the "most probable" high school populations of Barrow, Kaktovik, Nuiqsut and Wainwright through the remainder of this century.

Aside from the construction of high school facilities, the North Slope Borough also faces the replacement of most of its elementary school plant before the year 2000. Most structures which the Borough inherited from the State and the Bureau of Indian Affairs will reach the end of their useful lives by the late 1980's or early 1990's. Thus, the Borough will face a major item of capital expense at that time but one which will primarily not be due to growth in student enrollment.

Barrow. Barrow's elementary and high schools are located within a single complex on **Okpik** and **Momegana** Streets. The main building was constructed in 1965 by the Bureau of Indian Affairs and another nine classrooms have been in use by the school district since January 1976. Vocational education and vocational technology rooms were added in 1975 and 1976 respectively.

The Barrow school site takes up an area of 5 hectares (12.36 acres). Altogether, the school houses 22 elementary (early childhood through the 6th grade) and 15 high school (7th through the 12th grade) classrooms. In addition, the school has a gymnasium, a multi-purpose room/lunch room, an instructional materials center, a kitchen, 2 nurses' stations, a TV studio, 10 offices, 9 storage rooms and 5 mechanical rooms. About three-quarters of the school site is occupied by buildings with the remainder being taken up by playground space or maintenance shops.

At the end of the 1976-77 school year, a total of 618 students (excluding early childhood pupils) was enrolled in the Barrow school system. Except for high school grades, however, student enrollment has declined here in recent years. Excluding beginner and early childhood classes, enrollment in kindergarten through the 8th grade dropped by about 19 percent between 1970-71 and 1976-77. This decline is believed to be due to a combination of falling birth rates and an out-migration of young people with children to resettle the villages of **Nuiqsut**, **Atkasook** and **Point Lay**. The group which replaced these people in Barrow contains a high proportion of whites with few or no dependents.

The North Slope Borough plans to construct a new high school and vocational education facility in Barrow in 1979. As presently planned, the new complex will contain 16 general classrooms plus a learning resource center, 2 science laboratories, 2 business education rooms and a home science room. In addition, the new facility is presently also planned to house a trades and industries area, including constructions (i.e. woodwork), power mechanics, welding/metals, drafting and career work study rooms; a physical education area, including a gymnasium, swimming area and indoor ice activities; a fine arts area, including an art room, a band/chorus room and TV production studio; and auxiliary spaces such as an auditorium, administrative offices and food services. Including supplementary space, the new high school facility is tentatively planned to occupy approximately 30,480 square meters (100,000 square feet) of building area.

In terms of space, the planned new high school "greatly exceeds State standards, primarily because portions of this facility are designed to serve general community as well as student needs. It is highly likely that the facility will be scaled down before it is actually built. Cost of the facility is currently estimated at between \$24 and \$25 million.

Kaktovik. The North Slope Borough school district education program in Kaktovik extends from kindergarten through the 12th grade. All students are presently housed in two separate but connected buildings, the older of which was built by the Bureau of Indian Affairs in 1964. The present school plant includes three general classrooms and

a vocational education room. The site covers about .81 hectares (2 acres) and also **accommodates** two units of teacher housing, two storage buildings, a school maintenance shop and playground space.

An addition **to** the Kaktovik school plant is currently being **built** by the State on the same site. This is a 3,352.8 square meter (11,000 square foot) community center facility which **will** include a **three-quarter** size gymnasium/lunch room, kitchen, library, offices, shower/locker room space-and a small swimming pool and which is scheduled for completion in August **1978**.

At the end of the first quarter of 1977-78, the Kaktovik school had an average daily membership of 46 students (29 elementary and 17 secondary). Elementary school enrollments have remained virtually unchanged here during the past twelve years, with the number of students in grades kindergarten through 8 in 1964-65 being identical to final enrollment in these grades in 1976-77.

Borough plans for further additions to the Kaktovik **school** plant have not yet been finalized but two options are currently being considered for the next five year period. One is for the addition of a vocational education facility to the new State-constructed community center. This addition would be approximately 609.6 square meters (2,000 square feet) in area and would include equipment and facilities for three program areas - constructions (i.e. woodwork), metals/welding and power mechanics (i.e. small engine repair). The second alternative is more

comprehensive. It calls for the addition of 2,438.4 to 2,743.2 square meters (8,000 to 9,000 square feet) to the new community center building. The existing library would be converted to a science lab and a new library, three secondary school classrooms, a business education room, a home economics room and office space would be added.

**Nuiqsut.** The North Slope Borough offers a complete elementary and high school education program at **Nuiqsut**. When this community was first re-established, classes were held in tents. Today, however, most children are taught in two school buildings which are connected by a multi-purpose room.

The two original school buildings were brought to the community in 1974 by the Arctic Slope Regional Corporation and contain six classrooms. The multi-purpose room was added by the **Borough** in 1976 and serves as a gymnasium, auditorium and lunch room. Kindergarten through the 12th grade classes are housed in five of the general classrooms while the sixth is used for woodworking courses and two small engine shops. However, additional classroom space is already needed as cooking and sewing classes are presently held in private homes and other classes are taught in the home of one of **the teachers** and in a local church.

During the 1977-78 school year, a total of 80 students was enrolled at the **Nuiqsut** school. This was down slightly from 1976-77 when there was a final enrollment of 86 students (68 in grades kindergarten through 8 and 18 in high school).

The North Slope Borough plans to build a new school in **Nuiqsut** in 1979. Two alternatives have been proposed thus far. The first involves moving the present school and adding about 2,590.8 square meters (8,500 square feet) of floor space. The second proposes construction of a completely new school facility with a 10,999.62 square meter (36,088 square foot) **floor** area. Under the second alternative, the present school buildings would be retained for general community use. (This concept may yet be incorporated into alternative #1). However, if the second alternative plan for the **Nuiqsut** school is adopted, the building will probably have to be substantially re-designed as it greatly exceeds space criteria established by the Department of Education.

**Wainwright.** A complete elementary and high school program is offered in **Wainwright** by the North Slope Borough School District. The main school building was built by the Bureau of Indian Affairs, with the oldest part dating from the early 1960's and the remainder being built in 1968. Relocatable classrooms were added by the North Slope Borough in the summer of 1976. The school site covers an area of slightly less than .81 hectares (2 acres), most of it covered by **buildings** so that outdoor play space is very limited.

The present **Wainwright** school plant was designed as an elementary **school** and the recent addition of high school classes has necessitated the use of relocatable classrooms and non-school buildings. All told, the **school** used nine classrooms during the 1976-77 school year. Of these, four were in the main school building, two were in relocatable units and



one was in the old Presbyterian church. In addition, space was rented in two private homes for sewing classes.

At the end of the 1976-77 school year, a total of 121 students was enrolled at the Wainwright school. Enrollment in grades kindergarten through 8 totalled 89, exactly the same number as was enrolled in these grades at the end of the 1967-68 school year. Another 32 students were enrolled in grades 9 through 12 at the end of the 1976-77 school year.

Because the present Wainwright school is inadequate to accommodate both elementary and secondary students, the North Slope Borough is in the process of building a new high school in the community. This facility is located on a separate site because the existing school site is too small even to meet the needs of elementary students.

The new Wainwright high school will include three general classrooms, a classroom/business education room, a classroom/science lab, two vocational education rooms, a home economics room, a library, a multi-purpose room plus offices, a teachers' lounge and other auxiliary and supplementary space for a total floor area of 7,736.13 square meters (25,381 square feet).

The existing Wainwright school plant, especially the main building, is presently in good condition. Nevertheless, a new elementary school will probably be built at the high school site during the next ten years and the present school buildings retained for general community use.

## Public Safety

Police. Police protection services in the region are provided by the North Slope Borough except in the Pipeline corridor which is served by a State trooper based in Deadhorse. Areawide responsibility for police protection was assumed by the Borough in 1976 and a good deal of effort has since been expended with a view to providing appropriate law enforcement facilities and trained police personnel in each traditional community of the region. Initially, however, most of the Borough's efforts have been concentrated on Barrow.

e Barrow. The Barrow police station is housed in the old fire hall located across the street from Inupiat University. This 1,524 square meter (5,000 square foot) structure dates back to 1964 but was remodeled in 1975 and converted for use as a police station and jail. The latter is actually only a holding facility and contains four temporary detention cells, three for men and one for women. Juveniles cannot be held here and all prisoners who have committed more than minor crimes are flown to Fairbanks.

The Barrow police staff consists of 11 officers and 7.5 support personnel (5 dispatchers, a records clerk, a supervisor and a part-time janitor). In addition, the Borough public safety director and his deputy operate out of the Borough administration building.

Construction of a new public safety building at Barrow is planned for 1981. The site for the new facility has not yet been finalized although one on **Kiogak** Street next to the fire hall on Weather Bureau property (an approximately 3.4 hectare [8 acre] area near the center of town, most of it vacant) is seen by the Borough public safety director as being the most desirable. The new building will house the public safety director and his assistant as well as **Barrow-**based officers and support personnel.

- Kaktovik. There is presently no police officer stationed in Kaktovik, nor does this community have any public safety facilities. Police services are **instead** provided on an "as needed" basis by Borough officers from Barrow and by State troopers based in Deadhorse and Fairbanks. However, construction of an 8.53 by 13.41 meter (28 by 44 foot) modular public safety building is planned for 1978 and, once this building is completed, a full-time Borough **police** officer will be stationed in the community.
- Nuiqsut. Like Kaktovik, **Nuiqsut** presently has no resident police officer nor any public safety facilities. Borough officers fly in from Barrow when needed or a State trooper from **Deadhorse** or Fairbanks may be called in. This **shou**ld change in 1978 when the Borough hopes to add a 6.1 by 14.63 meter (20 by 48 foot) modular public safety building and to

station a full-time senior officer in the community. It also plans to hire a local trainee officer.

- Wainwright. Unlike most traditional villages in the North Slope region, **Wainwright** already has a resident police officer and the Borough is considering hiring a second officer to serve in a back-up role. In addition, a 268.22 square meter (880 square foot) public safety building is scheduled to be built here in the spring of 1978. Like the facilities to be added in **Nuiqsut** and **Kaktovik**, the **Wainwright** public safety building will include two temporary detention cells.

Fire Protection. Fire protection in the North Slope region is presently a locally exercised power. Largely as a result, the level of protection provided in all traditional **communities** except Barrow is currently at a very low **level**. However, the Borough public safety department has recently been assisting individual communities in forming and registering volunteer fire departments so that they may qualify for State revenue sharing funds awarded for this purpose.

- Barrow. The Barrow fire station was constructed in 1975 and is located on **Kiogak** Street on Weather Bureau property. The **local** firefighting force is made up of two partially salaried employees (the fire chief and his assistant) and 22 volunteers. Rolling stock includes a 3,785 liter (1,000

(AS 29.53.045(b) and AS 20.53.050(b)). In addition, local sales and use taxes were limited to the first \$1,000 of each sale or use (AS 43.56.030 (2)(A)). Finally, oil and gas leases and related possessory rights and values were exempted totally from **local** property taxation **(AS 43.56.020(a))**. At the same time, the state imposed a **20 mill** tax on oil and gas exploration, production and transportation properties, and **provided** that local taxes collected under the new provisions of AS 29.53 (above) **would** be credited against the state's **20 mills** (AS 43.56.010). The North Slope Borough mayor later referred **to** these actions as "the destruction of our **local** revenue authority in 1973."<sup>3</sup>

1976 Regulation. In 1976, the borough levied property taxes above the rate established by the per capita limit in order to pay the debt service on borough bonds. Then, in the words of the mayor,

As soon as we did so, without consulting with the Borough or our attorneys . . . , the Commissioner of Revenue wrote to our **Prudhoe** Bay taxpayers to inform them that taxes collected by our Borough [in excess of the per capita limit] **would** not be credited against the 20-mill state ad **valorem** levy on **Prudhoe** Bay property. This resulted in a series of law suits that resulted in the closing of the bond market to the North Slope Borough . . . , resulting in a multi-million dollar 70ss . . . .<sup>4</sup>

The borough sued the state (North Slope Borough v. Sterling Gallagher, et al.) and the oil companies sued both the borough and the state (Sohio Petroleum Company, et al. v. North Slope Borough, et al.). Subsequently, however, the borough agreed not to contest the state's emergency regulation which denied the tax credit, and the state withdrew its contention that the borough could not levy in excess of the per capita limit unless the bonds were in or near default. Further, after a Superior Court ruling

in favor of the oil companies in the Sohio case, the state legislature enacted " **egislation** explicitly authorizing tax levies above the limits in order to pay debt service, regardless of default. But the Sohio case remained alive and the Superior Court again found for the oil companies on grounds that the new law was not constitutionally enacted. The Sohio case is currently on appeal to the Alaska Supreme Court.<sup>5</sup>

1978 Interpretation of Tax Law. In early 1978, the borough and the state advanced conflicting interpretations of **the** local property tax limitation statute (AS 29.53.045(c) and 050(b) mentioned above). The borough population had decreased by 3,000 from 1977 to 1978 due to the completion of the main phase of the **trans-Alaska** pipeline and related construction. Consequently, in order to compensate for the population loss, which adversely affected the per capita tax limit formula, the borough chose to use an alternative property tax formula, also provided by statute. The difference between conflicting borough and state interpretations of the alternative formula amounted to some \$10 to \$15 **mllion** in potential **lo-cal** tax revenues from fiscal 1978.<sup>6</sup> The dispute, not finally resolved as of this writing, further indicates the extreme vulnerability of the borough to state tax **laws** and decisions. Against the background of conflict reviewed here, it also suggests how anti-state government sentiments are continually renewed among borough officials.

#### Oil and Gas Development

Borough relationships with state government in the area of oil and gas development span a broad range of activities over which the borough has

either very limited or untested authority. This section **briefly** indicates some of the more significant of these activities and the nature of the borough's interests in them.

North Slope Haul Road. The haul road, constructed by **Alyeska** for use in construction of the **trans-Alaska** oil pipeline, is to be turned over to the state and will become part of its highway system in 1978. The general issue before the state is whether, when and under what terms the road should be opened for use to the public. The North Slope Borough mayor has repeatedly told state officials, including the governor, that the borough opposes opening the road for **public** use. The borough argues, among other things, that maintenance costs will be excessive and that the traffic and the necessary support services and activities will have harmful effects, particularly on subsistence resources.<sup>7</sup> The borough has similarly attempted to influence the federal Bureau of Land Management (**BLM**) on the issue, given BLM's authority for planning and management of the adjacent federal lands in the pipeline-haul road corridor. The borough assembly has enacted ordinances under its zoning and subdivision authority intended to control future development along the haul road; **however**, the extent of such authority where federal and state **lands** are **involved** is not clear, and specific claims to authority will need to be tested in specific instances. As the local government with general authority in the area, the borough **will** at least play a significant advisory role in the **haul** road and related state development decisions affecting the North Slope region.

Beaufort Lease Sale. The borough, through the mayor, has been consistently critical of proposed offshore oil and gas exploration and development activities, particularly where federal offshore lands are involved, because of environmental risks in arctic ice pack areas. There has been less criticism of state **plans** for **Beaufort Sea** offshore **leasing**; state offshore lands proposed for leasing are generally within a near-shore area considered environmentally safer for oil and gas **development** activities.<sup>8</sup> The state, moreover, has recently established an **advisory** committee for Beaufort leasing, and the borough has representation on the committee. The committee is strictly advisory, however, since the state, through the Department of Natural Resources, has the sole authority for leasing. Participating within the limits of its advisory role, the borough **will** seek to influence regulations affecting federal leasing in the Beaufort as well, which is planned to take place as part of a joint **state-federal** sale in 1979.

Borough Land Selections. Under state law, all boroughs are entitled to select 10 percent of "vacant, unappropriated, and unreserved" state lands within their boundaries (AS 29. 18.190). Most state lands on the North Slope were selected for their oil and gas potential and are located in the Prudhoe Bay and adjacent areas. The North Slope Borough has concentrated its claims to state lands in the Prudhoe Bay field area because of the potential revenues that could be derived from disposal of surface rights and in order to control the use of water and gravel at Prudhoe Bay.<sup>9</sup> The state has refused to act on those claims, contending, among other things, that the lands are not "unappropriated," and are subject to oil



and gas leases. The borough brought suit against the state (North Slope Borough v. Robert LeResche), lost in Superior Court, and has appealed to the Supreme Court, where a decision is pending.

Water, Gravel, and Land Use Permitting. Prudhoe Bay field development has required extensive use of water and gravel resources and the conduct of other activities potentially affecting the land and waters of the North Slope. Wherever state lands and waters, including **anadromous** fish streams, are potentially involved, developers are required to obtain various permits from the Departments of Natural Resources (Division of Lands), Fish and Game, and Environmental Conservation. North Slope Borough officials have been particularly concerned about effects of water and gravel extraction and related development activities on fisheries and on game habitats. Although state authority is generally overriding, the borough has inserted itself into the permitting process through local notification, comment, and other consultation procedures. The borough's demands on state permitting officials are apparently greater than the latter normally expect from the **local** government level .10

#### Fish and Game Protection

North Slope residents have clashed **periodically** with federal and state fish and game enforcement authorities for many years. Most recently, conflict between the North Slope Borough and the State Department of Fish and Game reached a peak during the "caribou crisis" of 1976. Decline in the size of the western arctic caribou herd resulted in restrictions on all hunting, including Native subsistence hunting. In response, the borough denied

that the department's counts were valid, established a Borough Game Management Committee, and called for some significant share of authority in state fish and game management decisions. The borough has also **variously** proposed that it assert some form **of** jurisdiction over **all** subsistence resources, regardless of state authority, and that caribou management authority be transferred from the state Department of Fish and Game to the federal Department of the Interior. The borough mayor has repeatedly complained of "harrassment" by fish and game enforcement **officers**.<sup>11</sup>

In general, the borough's position appears to be that oil and gas development pressures combined with state fish and game mismanagement have been among the greatest threats to North Slope subsistence resources; the borough's solution is to assert greater local authority over fish and game management and protection activities, while at the same time calling for displacement of state by federal management agencies.

#### Coastal Zone Management

Many of the North Slope Borough's concerns about oil and gas development and subsistence protection come together under the borough's concept of coastal zone management. While the state administration was working toward legislation authorizing a statewide coastal management program, the North Slope Borough initiated its own program at the end of 1976. Although emphasizing the perils of OCS development, the borough's "Arctic Coastal Zone Management Program" was defined very broadly to encompass virtually all significant areas of oil and gas development onshore and offshore, and all related problems of fish and game management. The

state legislature enacted an Alaska Coastal Management Act in 1977. The act established an Alaska coastal policy council under which district coastal programs would be developed and implemented by municipalities with planning and zoning powers. The North Slope Borough mayor was appointed to the coastal policy council, and the borough has continuously pressed state officials to view coastal management problems in the expansive terms already articulated by the borough for the North Slope. A key aspect of the borough's perspective is that coastal management programs **should** be locally controlled. <sup>12</sup>

As in the other areas of state-borough relations summarized above, the major question is how far the state will go to accommodate North Slope Borough demands for greater shares of authority in areas of state jurisdiction and prerogative. **It** appears that the North Slope Borough's claims on the state have been articulated more radically than those of any other local government in Alaska to date.

#### BOROUGH-OIL COMPANIES

Similar to its relationships with state government, the North Slope Borough's direct relationships with the oil companies operating at Prudhoe Bay are dominated by conflicts over the definition and use of the **borough's** powers of taxation. As seen by the borough mayor,

The **single** concern of our **corporate taxpayers** [the oil companies]-is tax avoidance, with no compensating-ideological concern for the growth and health of **local** government-in **rural** Alaska . . . . Thus, the North Slope Borough has been in and out of court, **to** defend its right to exist, and its revenue authority. <sup>13</sup>

Consequently, according to the mayor, "Lawyers are the only interface between our borough government and the oil industry as the relationship between local government and corporation taxpayers becomes increasingly unfriendly."<sup>14</sup>

Oil industry officials agree that relationships are indeed unfriendly and that much communication has been necessary between opposing lawyers. One company attorney, who has several times acted as a de facto spokesman for the major companies on the North Slope, believes that much of the **conflict could** have been avoided if the state had assumed more **responsibility** for establishing basic rules, since "state resources and revenues are at stake." Further, in the absence of more effective state-imposed controls and solutions, he believes that the stream of litigation has been unavoidable.<sup>15</sup> Specifically on the tax issue, another industry official states simply that "While the **Company has** an obligation to pay all taxes lawfully imposed by the North Slope Borough, it has a parallel obligation to ensure that the Company pays only those taxes actually required to be paid under **law.**"<sup>16</sup> Together, the oil and gas operators on the North Slope pay about 98 percent of all **locally-generated** tax revenues collected by the borough.

This section summarizes borough-oil company relationships involving the tax issue.<sup>17</sup> These are discussed in terms of borough-oil company litigation and a formal agreement on taxation and financial management between the borough and the companies in 1974.

## Litigation

The oil companies filed four major suits against either the borough or the state between 1972 and 1977. Each has critically affected the borough's authority to **tax**.<sup>18</sup>

- For one and a half years after its incorporation was certified by the state in **1972**, the borough was effectively prohibited from taxing, and therefore from any significant spending activity, until the Alaska Supreme Court **ruled** against a company challenge to the constitutionality of the incorporation action (Mobil Oil Company et al. v. Local Boundary Commission, et al.).
- A second, overlapping suit challenged the borough's authority to tax oil and gas leases (Mobil Oil Company, et al. v. North Slope Borough) . This suit was settled out of court by agreement between the companies and the borough in August 1974. (The content and circumstances of this agreement are discussed below.)
- With major borough taxing and spending programs, including a projected \$150 million capital improvement program, finally underway, the oil companies challenged borough tax rates in excess of the \$1,500 per capita statutory **limit**, discussed above (Sohio Petroleum Company, et al. v. North Slope Borough, et al.).<sup>19</sup> The actions caused a significant reduction in the borough's rate of capital project spending, and the case remains to be decided on appeal to the Alaska Supreme Court.

- Partially as a response to the Sohio suit and to related state legislation restricting its tax authority, the borough reinstated its sales and use tax at the end of 1976. In 1977, an oil company filed a suit challenging the borough's inclusive definition of the "sales and uses" to which such tax levies might apply (BP Alaska v. North Slope Borough).

#### 1974 Agreement

As noted earlier, the state legislature in its 1973 special session passed legislation restricting the borough's authority to tax oil company properties on the North Slope. However, the oil companies' liability for property taxes levied before passage of the legislation remained as a principal issue to be decided in the Mobil Oil v. North Slope Borough case. The borough figured that the companies' liability amounted to some \$15 million in property taxes and \$3 million in **sales** and use taxes.<sup>20</sup> Borough officials were ready, however, to compromise. The 1973 special session had established basic ground rules for future taxation, the Mobil case could have been tied up in the courts for a prolonged period, and borough leaders were anxious to get on with borough programs.<sup>21</sup> The oil companies, too, had an interest in resolving the matter at hand and in stabilizing their financial relationships with the borough at **least** for the immediate future.<sup>22</sup>

As a result, the borough and the companies agreed in August 1974 to settle the Mobil case and related issues. The companies agreed to pay the borough \$5 million: \$3 million in settlement of the borough's previous

tax bills, and a \$2 million advance payment to be credited against the next four years of property tax bills. The borough accepted the compromise amounts and further agreed "to adopt and support a fiscal policy . . . consistent with" their original capital improvements program (CIP), subject to adjustments for inflation and for needs which might "develop subsequent" to the agreement. The companies, in turn, agreed "to support the fiscal program of the Borough" as set forth in the original CIP and in the agreement.<sup>23</sup> This agreement was to be in force for five years.

Within two years, the fragile truce between the borough and the companies broke down. From the borough's viewpoint, this was largely due to the Sohio case, which practically halted the borough's capital improvements program in 1976. The North Slope Borough mayor summarized his version of the matter: "In an attempt to live with the industry we signed an Agreement . . . . The main benefit to the Borough was that the oil industry was to support the Borough's Capital Improvements Program. They have demonstrated that they are not worthy of our trust."<sup>24</sup> Further, key consultants to the borough have complained that the companies never effectively lobbied for desired tax and other legislation in Juneau or assisted in obtaining funds from other sources.<sup>25</sup>

An oil company official, who was instrumental in negotiating the agreement, sees it quite differently. "The North Slope Borough, almost from day one, ignored the agreement in letter and spirit." In 1975, he states, taxes were levied above anything projected, and they were raised again in 1976; further, the NSB added new items to the CIP, such as \$50 million

for public housing. His implication is that these tax and spending increases were beyond those justified by inflation or needs identified subsequent to the agreement. In addition, he claims that industry lobbyists in Juneau supported the borough's successful effort to increase per capita property tax limit from \$1,000 to \$1,500, and the companies acceded to counting transient workers as "residents" for purposes of determining the population base for the per capita tax formula. The oil company official maintains, however, that the borough's real objective is to remove the limits on its tax authority, and that this would work against the longer term economic interests of the companies since it would create pressures to increase the state tax on **oil** properties. <sup>26</sup>

#### BOROUGH-FEDERAL GOVERNMENT

In general, borough relationships with federal agencies are less intense and immediate than they are with state agencies and oil companies. This is due in part to the fact that the federal government does not directly control the borough's tax authority and **policies**, which have been the most critical determinants of the borough's fortunes since its incorporation. Further, with the advent of borough government, the Bureau of Indian Affairs--which had extensive control over social services, education, and related programs in the region--largely withdrew from the North Slope as an immediate and increasingly unwelcome presence. The federal presence on the North Slope remains massive in a physical sense, however, with federal agencies controlling nearly two-thirds of the North Slope region, including nearly 130,000 square kilometers (30 million acres) in the National Petroleum Reserve and Arctic National **Wildlife** Range.



Added to those amounts are about 18,300 square kilometers (four and **one-half** million acres) of public and national interest land withdrawals<sup>27</sup> as well as the **trans-Alaska** oil pipeline and haul road utility corridor and several small military enclaves. 28 The borough, moreover, has been **involved** in intensive and often heated discussions with federal agencies responsible for sea mammal and migratory bird protection. But, with notable exceptions such as the bowhead whale moratorium and quota controversy of 1977-1978, relationships with federal fish and game agencies have been benign compared to recent relationships with state agencies (Departments of Public Safety and Fish and Game) in this field. Perhaps the major unresolved borough-federal issue for the immediate future concerns oil and gas exploration and development on the Outer Continental **Shelf (OCS)** in the environmentally sensitive shear zone and pack ice areas.

This section summarizes borough-federal relationships, focusing on **OCS**, NPR-A, pipeline-haul road utility corridor, and subsistence resource issues. 29

#### Organization for Federal Relations

In late 1976 and early 1977, the North Slope Borough formalized communications with federal agencies by establishing a Washington, **D.C.** liaison office and retaining a prestigious law firm (Van Ness, Feldman, and **Sutcliffe**) to advise and lobby for the borough, representing it before Congress and executive agencies. 30 The borough has also sought the **assistance** of prominent Washington-based conservationists, such as Russell Train, to provide additional support in land and subsistence resource

**issue** areas. And, to facilitate in-house planning and strategy for dealing with OCS, **NPR-A**, and related subsistence resource problems, the borough initiated its Arctic Coastal Zone Management Program and established a new Department of Conservation and Environmental **Security**.<sup>31</sup>

These moves clearly indicate realization by borough leaders that resource development and protection on the North Slope and its adjacent seas are heavily dependent, now as in the past, on federal decision making. The main difference today is that borough organizational and political resources enable North Slope leaders to influence federal decisions in more sustained and sophisticated ways and across a broader range of issues.

#### OCS Development<sup>32</sup>

As noted earlier, the borough mayor in particular has been a persistent and vocal critic of the proposed federal OCS leasing program in the arctic. His concerns were precipitated by **OCS** operations in the Canadian Beaufort Sea near the Mackenzie River **delta, which** were seen as a major environmental and subsistence resource threat to the entire Beaufort gyre extending westward into U.S. waters off the North **Slope coast**. The mayor has targeted the prospective joint federal-state Beaufort lease sale in 1979 as an equivalent direct threat to Native subsistence resources, and he has publicized and pressed his views in several forums, starting with his statewide campaign for the U.S. House of Representatives in 1976.

Although the mayor and his advisors have attempted to develop a concept of "aboriginal offshore jurisdiction" and to emphasize the continuing trusteeship responsibilities of the federal government for Alaska Natives, there are apparently no firm legal grounds on which to base the borough's opposition to the OCS program. The approach, therefore, has so far been primarily political, using forces of publicity and various combinations of reason, pleading, and embarrassment of federal officials. The mayor has spoken widely on the issue; he has written many letters to and met with the Alaska congressional delegation and responsible officials of the Department of the Interior, Corps of Engineers, and Environmental Protection Agency; and he or his representatives have participated in federal OCS Environmental Assessment (research) Program meetings and in the state's joint Beaufort sale advisory committee. In mid-1977, the North Slope Borough sponsored and hosted an **Inuit Circumpolar** Conference (ICC), which involved **Inuit** delegations from Canadian land claims and **Greenlandic** home rule organizations. The **ICC** was in significant part a highly publicized response to Canadian and U.S. programs for OCS exploration and development in the arctic.

#### National Petroleum Reserve-Alaska

The North Slope Borough sees the current exploration and prospective development of **NPR-A** as a problem but also as an opportunity if properly regulated to protect land, water, and subsistence resources. 33 The exploration and future development of the reserve could bring additional taxable resources, jobs for North Slope Natives, and continued and new local access on favorable terms to natural gas and coal resources. Thus,

through its lobbying activity in Washington, the borough actively supported provisions of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) which transferred jurisdiction over the reserve from the Navy to the Interior Department (thus making non-military property subject to taxation), guaranteed Barrow's access to natural gas at low price rates, and established a federal-state-local land use planning program including North Slope Borough representation at policy and working group levels. Although borough officials and advisors are concerned about instances of environmental, archaeological, and subsistence resource disturbance, they seem at least equally concerned that the current exploration program may be too little and too slow in bringing anticipated economic benefits.<sup>34</sup>

#### Utility Corridor

Borough interests in trans-Alaska pipeline utility corridor planning by the Bureau of Land Management were noted in the earlier discussion of state policy on the haul road. Essentially, the borough currently seeks to block, minimize, or control haul road and related land use within the northern part of the utility corridor. The borough's most definitive action so far has been to enact zoning and subdivision ordinances, which are yet to be tested, as instruments for controlling any future development in the corridor.<sup>35</sup>

#### Subsistence Resource Protection

Although not directly pertinent to this report, mention should be made of the bowhead whale and migratory bird controversies. In both of these

matters, the borough's defense of Native subsistence rights has brought **it** into conflict with federal agencies at the national level and even in international forums. 36 Subsistence hunting of migratory fowl has been a perennial problem on the North Slope. The Barrow "duck-in" of **1960** was the most dramatic instance of North Slope Native-federal conflict in this area. 37 In the case of the bowheads, the North Slope Borough mayor spearheaded the Native fight against a moratorium on bowhead **whaling**, which was temporarily resolved before the International Whaling Commission in Tokyo in late 1977, and **lent** borough support to the creation of the Alaska Eskimo Whaling Commission (**AEWC**). (The **AEWC** is composed exclusively of Eskimo whalers, and its authority to manage either stock or whalers is de facto rather than de jure.) The bowhead controversy **sug-**gests the range of borough concerns and the lengths to which its leaders will go in defense of Native subsistence interests as they see them.

The North Slope Borough also clearly recognizes its dependence on oil and gas development, and its leaders pursue potentially conflicting resource extraction and protection values. Reflecting both of these interests, the borough has proposed that, instead of subdividing North Slope lands into separate park, refuge, industrial, and other management areas, the entire region, except for village land selections under the Alaska Native Claims Settlement Act, should be classified "as a wildlife range reserve allowing as the only human activities those associated with natural resource extraction and traditional subsistence **gathering.**"<sup>38</sup>

## Internal Relations

The public record of legal suits, speeches, statements, press releases, newsletters and testimony portray a North Slope Borough government preoccupied with its external relations and with making its mark in the larger world. This public record, moreover, has been produced almost exclusively by the North Slope Borough mayor and his chief advisors. These factors--the external orientation and the concentration of related activity in the mayor's office--strongly suggest a highly centralized regional organization whose **intra-regional** activities are largely overshadowed and even determined by its fortunes in dealing with threats and opportunities flowing in on it from the outside. The crisis-ridden history of the North Slope Borough reinforces this impression. Since its inception, the borough has been forced continually to react to state and federal government and oil company decisions affecting its basic developmental, financial, and subsistence resource protection interests.

This does not mean that there is no significant **intra-regional** dimension to the North Slope Borough experience. We have already noted, for example, the borough government's rapid growth in employment, revenues, and expenditures, including its burgeoning capital improvement program, particularly during the past three years (1975-1977).<sup>39</sup> A borough administrative structure is evolving and extending into villages throughout the region. But this **intra-regional** dimension of borough development has been critically dependent, as we have seen, on a flow of revenues directly subject to policy decisions by the state and legal action by the oil companies. To deal effectively with taxation and related resource development

protection issues, borough leaders have concentrated authority in the mayor's office, thereby reinforcing the centralization inherent in the creation of a regional level of home rule government on the North Slope.

The following sections briefly examine North Slope institutional developments in terms of borough relationships with the Arctic Slope Regional Corporation and the villages within the region. Also noted are pertinent features of the North Slope Borough school district and the **Inupiat** Community of the Arctic Slope established under the federal Indian Reorganization Act.

#### ARCTIC SLOPE REGIONAL CORPORATION

**Borough-ASRC** relationships can be summarized first by indicating basic comparative interests of the two organizations and then by looking at selected aspects of communication and of conflict and cooperation between them.<sup>40</sup>

##### Comparative Interests

Much else obviously follows from the facts that ASRC is a private, **for-profit** organization seeking to increase the value of its shareholdings, while the borough is a public governmental body seeking to raise taxes, provide services, and regulate development in the region. In an **oversimplified** form, these differences are reflected in the comment of one top borough executive that "The borough must collect taxes to survive; the concept of a profit-making corporation is to fight taxes. They [ASRC] don't want to pay taxes." <sup>41</sup> ASRC property, however, is largely shielded

from taxation until 1992 under the terms of the Alaska Native Claims Settlement Act of 1971.<sup>42</sup> Differences between borough and ASRC leaders are still primarily differences of attitude and personality, which are expressed through their rival institutional roles and are moderated by leadership overlaps and family ties.

Both the borough and ASRC are offspring of the Arctic Slope Native Association, and their leaders are engaged in organizing and empowering the region to benefit as fully as possible from arctic petroleum development. Underlying their institutional and personal differences is this common objective, and the leaders of both organizations have tended to divide the regional domain and concentrate on building their own **institution**, each generally observing a rule of minimizing or avoiding interference with the other wherever possible. Thus, despite readily apparent and growing differences, ASRC and borough sufficiently share interests that provide a grounding for less obvious and implicit forms of cooperation within the region.

#### Communication

Borough and ASRC officials and staff almost uniformly report that there is little or no communication between the two organizations, although technical staff **relationships** apparently are becoming more common.<sup>43</sup> While formal and **explicit** communications may be limited, particularly between top officials of the two bodies, ASRC interests are at least potentially represented in borough decision making through ASRC officials' membership on the borough assembly. In 1977, five members of the seven



member assembly were ASRC officials, and ASRC has in this way been heavily represented on the assembly since incorporation. (Three of the five were considered to have especially strong ASRC identities. ) There is less direct representation of the borough in the ASRC structure,<sup>44</sup> although both the mayor and the borough's top departmental director recently served concurrently on ASRC's fifteen-member board of directors.<sup>45</sup> This, of course, does not account for much informal communication between ASRC and borough officials and employees, most of whom reside in Barrow and many of whom are related by blood, marriage, and adoptive ties.

#### Conflict and Cooperation

The ASRC has increasingly participated in North Slope oil and gas development both as a land owner--leasing or otherwise making its land available for exploration--and as a business corporation, contracting to do business with major exploration and development firms on the North Slope.<sup>46</sup>

Although the borough mayor has otherwise vigorously promoted Native efforts to benefit from development through contracting and employment opportunities--and, of course, through borough taxation and expenditures--he has also spoken quite critically of what he perceives to be a growing convergence of interests of the ASRC (and other Native regional corporations) and the oil companies. He has specifically criticized regional corporation opposition to increased state taxation of the oil industry as well as what he has perceived as the readiness of ASRC to adopt some of the industry's financial and tax attitudes on the North Slope.<sup>47</sup> A top ASRC executive, in turn, takes issue with what he perceives as the borough

administration's negative attitude toward development and the opportunity such development represents.<sup>48</sup>

In view of (1) the borough's conditional and mixed reactions to petroleum development and its clear dependence on industry tax revenues and (2) ASRC's varying but mostly passive responses to the borough administration's initiatives in this field, it appears that this "conflict" is, so far, more a matter of symbols, personalities, and attitudes than of hard policy differences.

In building their respective regional organizations and strengthening their capacities to influence, exploit and control the course of arctic petroleum development, borough and ASRC have found several occasions for basic forms of cooperation. The following are some important instances:

- The founding or resettlement of the "pioneer" villages of Atkasook, **Nuiqsut** and Point Lay, which expanded the regional and village corporations' land base under the Alaska Native Claims Settlement Act; the borough participated with ASRC in initially settling and servicing the villages' new residents, and made special provisions for them in its capital improvement program.
- The borough's bonded debt program, which seeks to draw the bulk of its revenues for debt service from the Prudhoe Bay oil companies during the period before ASRC properties become taxable after 1991.<sup>49</sup>

- ASRC'S financial contributions to the **1977 Inuit Circumpolar Conference**, which was organized under the leadership of the borough mayor primarily to mobilize support for common international rules governing **OCS** petroleum development in the arctic; also, ASRC's loans to the western Canadian arctic land claims organization that the borough mayor has allied with in his **OCS campaign**.<sup>50</sup>
- The borough's position on the disposition and management of federal (d) (2) and other public lands on the North Slope, which would permit resource extraction, necessary transport, and subsistence hunting, fishing, and gathering activities, and minimize interference with ASRC oil and gas development **interests**.<sup>51</sup>

Whatever their differences may be in the future, it is apparent that the basic economic interests of ASRC and the borough administration remain close if not totally shared, and that each has tended either to support or to assume a neutral position on the initiatives of the other.

## VILLAGES

The establishment and growth of the North Slope Borough has undoubtedly strengthened the self-governing capacities of the people of the region. The question is whether enhanced self determination at the regional level can contribute to more effective self-government at the village level as well. The answer is not clear. To strengthen their potential influence over outside agencies and to benefit from North Slope petroleum development, North Slope villagers agreed to consolidate and **regionalize** their

traditionally very limited and dependent local governmental authority. In return, villagers have received public works projects, jobs, and incomes. Although the pattern varies from village to village, organized community activity has increased with borough government (and regional / village corporation) programs. But it is also apparent that village activities have become strongly oriented to and dependent upon the decisions of a small number of borough government officials in Barrow. As they begin to assess their new statuses as citizens of the region, some village leaders are increasingly demanding more **effective** representation in borough government decision making.<sup>52</sup>

### Patterns

Relationships between the North Slope Borough government and the villages vary considerably depending on such factors as village size and age, dependence on Barrow, and the level of development of village leadership structures.

Barrow. As the seat of borough government and with nearly two-thirds of the permanent population of the region, Barrow is clearly the dominant village on the North Slope. But Barrow's city government, incorporated with first-class status in 1959, has been largely eclipsed by the new borough government structure with its authority, financial capability, and near monopoly (with **ASRC**) of the community's leadership and technically skilled people. The city government, moreover, transferred most of its local government powers to the borough, as did all of the North Slope villages. Barrow city officials have nonetheless been

frequent and outspoken critics of the borough (service delivery problems and disputes over title to land for borough housing and other construction projects), and successive mayors and managers have attempted to defend what remains of their institutional prerogatives.

Point Hope and Wainwright. These two villages, each **of** about 400 population, are the largest and most organizationally-developed villages outside of Barrow. Point Hope and **Wainwright** were incorporated as **second-class** cities in 1966 and 1962, respectively. Despite transfers of authority and initiative to the borough, their leaders retain a relatively strong sense of village identity. At the same time that they recognize the benefits of borough jobs, services, and facilities, they are **also** critical of delays in the delivery of promised assistance and services. Some regret the erosion of village council powers and are dissatisfied with their very limited participation in borough decision making. As elsewhere on the North Slope, however, there is apparent consensus in these two villages that borough government is beneficial and in the region's interest.<sup>53</sup>

Kaktovik and Anaktuvuk Pass. These are the smallest of the older, established North Slope villages, with about 130 and 150 people, respectively. Anaktuvuk Pass has been an incorporated second-class city since 1957, and Kaktovik since 1971. With very small populations and extremely limited organizational resources, these communities probably had most to gain from incorporation of the borough and the new services and facilities that would be extended to them from Barrow. With some

exceptions, these villages have apparently been less critical of borough service delivery problems and of their limited participation in regional decision making than have Point Hope and **Wainwright**.

Atkasook, Nuiqsut, and Point Lay. These villages are resettlements established through the initiative of borough and ASRC leaders in Barrow so that they would qualify for land entitlements under the Alaska Native Claims Settlement Act. Their identities as "pioneer" villages, their ties to Barrow, and their newness distinguish them from the other North Slope villages. They are, in effect, products of the **land** claims and borough formation movements. They are therefore closely associated with regional organizational interests and most dependent on delivery of services and facilities from Barrow. Among them, only the second-class city of **Nuiqsut** is incorporated under state law.

#### Service and Jobs

The most tangible evidence of borough government in the region's villages is services, facilities, and jobs. Indeed, villagers' perceptions of the borough and their assessment of its performance are largely determined in tangible, material terms. Accordingly, the most common and persistent complaints by village leaders about the borough concern its ability to deliver services and facilities and to do so speedily. Villagers' dependence on the borough for jobs is reflected in 1976 capital improvement project construction activities, which employed about 240 people. These jobs were in addition to some 500 others in the borough administration and school district.

Of the eight communities on the North Slope, only the city of Barrow had a population large enough to support some local services before borough formation. The next two largest communities, Point Hope and **Wainwright**, could support part-time constables but **little** else. The remaining two original villages--Anaktuvuk Pass and Kaktovik--along with the new "pioneer" villages--Point Lay, **Nuiqsut**, and **Atkasook**--were too **small** and resource-poor to exercise powers granted Alaska municipalities in state statutes.

In 1974 the borough administration and assembly called for a special election to authorize the transfer of fourteen powers to the borough (electrification, road and airport construction, street lighting, etc. ). The transfers were endorsed with nearly the same rate of popular acceptance (85 percent) won by bond issues in the same election.

Escalated expectations together with an overload of demands on the borough have produced a flow of complaints about delays in the delivery of services and facilities, including schools, water and sewer facilities, and public safety programs. Some delays and program reductions have been due directly to the borough's legal struggles, such as those following the 1976 law suit (see discussion of **Sohio** case above), which temporarily brought the capital improvements program to nearly a total halt. Others have resulted from the borough's promising too much too soon, or simply from leaving the impression that a vote to transfer powers or to sell bonds would lead directly to new services in a village. And still others have resulted from the failings of program managers and contractors.

On several occasions the city of Barrow in particular has **resisted** transferring powers to the borough. The disagreements in part reflected **personal** and institutional rivalries between the two government units. But, more commonly, like officials in other villages, Barrow officials have questioned the ability of the borough to implement programs sufficiently fast. In Anaktuvuk Pass, after expenditure of \$2.5 million on the construction of a village school, the contractor employed by the borough administration had failed to complete the structure. Village residents faulted the borough and some even threatened to secede from it". In Point Hope, villagers were promised both housing and the relocation of their village, which was situated on unstable shore land. When the borough delayed in addressing their problems, several village corporation board members chartered a plane to Barrow to press their case at a borough assembly meeting.

Despite such problems, villagers look to the borough to meet their needs, and ongoing public works projects and borough jobs in all villages reinforce a perception of the borough as basically a source of material benefits.<sup>54</sup>

### Representation

The borough's representation in the outlying villages 's" stronger than the villages' representation in the borough's decision making structure in Barrow. With the extension of borough services and construction projects into the villages, jobs and incomes are the key indicators of the borough's presence. On the other hand, villagers' presence at borough



headquarters is quite limited. The borough assembly, which is elected at-large, has been almost totally comprised of Barrow residents since incorporation. And the borough administration in Barrow is, of course, a major employer of the city's residents.

The borough has hired "village coordinators" --essentially communicators of messages from Barrow and back--for all outlying villages. Although the coordinators' positions seem to offer sufficient pay for part-time tasks, turnover has been high. Borough officials and staff generally agree that, with one or two exceptions, the coordinator program has not worked well due to such factors as inadequate recruitment, selection, training, and supervision; poor definition of the job; and related **deficiencies.**<sup>55</sup> Some of these jobs have been absorbed into the borough's public works program, with coordinators serving as heavy equipment managers, which is otherwise another paid borough job in each village. The borough has also hired health aides in all villages, and this program is generally regarded as quite successful. **At** least four villages had resident public safety officers, who are employed by the borough Department of Public Safety, at the end of 1977. The borough school district is another major employer, hiring teachers' aides, maintenance workers, and the like in every village. The capital improvement program has been a major if unstable source of construction employment in all villages.

Borough representation in the villages is thus characterized in material and monetary terms. This reinforces the tendency of villagers to perceive the borough as a provider of material benefits, and, as discussed

above, their assessments of the borough appear to be strongly influenced by its speed and success in delivering them.

Village representation within borough government at the regional level is limited in elective positions but substantially more than proportionate in appointive advisory board positions. (See Table 3.) In 1977, six of seven borough assembly members were from Barrow; in the October election, a winning candidate from Point Hope increased the outlying villagers' representation to two. The school board, on the other hand, has progressively increased representation from outlying villages through appointments to vacant positions, with the appointees going on to survive in subsequent at-large elections.<sup>56</sup> The borough mayor has partially compensated for village underrepresentation on the assembly and in borough executive positions by appointing majorities of non-Barrow villagers to the borough's principal advisory boards and commissions.

Head counts are not conclusive measures of village representation in borough government. But Barrow's domination of the borough's legislative and executive branches is obvious as are the inefficiencies and costs of communication between Barrow and the seven outlying villages. Even the villages' mayors, who presumably function as spokesmen for village interests, make few trips to Barrow to meet with the mayor and other **officials.**<sup>57</sup>

TABLE 3. VILLAGE REPRESENTATION  
AS OF AUGUST 1977

<u>Regional Body</u>	<u>Village Membership</u>				
	<u>Total</u>	<u>Barrow</u>	<u>Pt. Hope</u>	<u>Wainwright</u>	<u>Other</u>
<u>Elected</u>					
Assembly	7	6			1
School Board	7	4		2	1
<u>Appointed</u>					
Planning Commission	5	2	1	1	1
Utility Board	5	2	1	1	1
Game Mgmt. Committee	9	3	1	1	4
Historical Commission	4	2	1	1	

SOURCE: North Slope Borough

#### SCHOOL DISTRICT

Although legally a part of borough government, the North Slope Borough school district, like borough school districts elsewhere in the state, operates with substantial autonomy. There is virtually unanimous agreement among both borough and school officials that the district in fact operates independently of the borough government in substantive school policy matters.<sup>58</sup> Further, although the school budget is subject to approval by the assembly, most of the time the district "gets what it wants from the borough, and the school administration is happy."<sup>59</sup> The mayor can recommend overall but no line item budget reductions to the assembly, leaving the school administration and board to determine specific cuts when necessary.

In general, the school district's relationship with the borough government is defined in budgetary and capital improvement program terms; the school district's financial fortunes are linked to the borough's, and the borough has consistently placed a high priority on educational and school construction needs. Supplying about half the funds in the district's budget, the North Slope Borough provides a greater proportion of school funds than any other local government in the state.<sup>60</sup> The school district, then, looks to the borough as a source of financial support, and it has not yet been seriously disappointed insofar as North Slope leaders have been able to control the borough's ability to tax oil company properties.

#### INUPIAT COMMUNITY OF THE ARCTIC SLOPE

The Inupiat Community of the Arctic Slope (ICAS) was established in 1971 as a regional "Indian tribal organization" under the federal Indian Reorganization Act. Like the Arctic Slope Regional Corporation (ASRC) and the North Slope Borough, it was founded by leaders of the Arctic Slope Native Association (ASNA) as a regional instrument for protecting and pursuing Native interests. One of the functions of ICAS has been to serve as a formal vehicle for a suit filed against "third party trespassers" on Prudhoe Bay lands claimed by the ASNA before passage of the Alaska Native Claims Settlement Act.<sup>61</sup>

As an exclusively Native, tax-exempt entity, ICAS could potentially serve as a protective repository of Native corporation lands and stocks after 1991 when the lands become taxable and the stocks alienable. Currently,

ICAS staff work closely with the ASRC land department to provide realty assistance in individual Native land allotment matters. All ICAS officials are from Barrow, and several of them are also officials of ASRC. There are plans to expand the seven-member board to thirteen and to assure that each North Slope village will be represented on the board.<sup>62</sup>

ICAS qualifies for federal funds available exclusively to Indian tribal organizations. After several years of latency, ICAS was reactivated in 1977 with ASRC technical and financial assistance. The stimulus was the federal Indian Self-Determination and Education Assistance Act of 1975 (P. L. 93-638), which made new funds available for Native education, social service, and economic development programs. ICAS provides the North Slope Borough with indirect access (through resolutions and contracts) to federal Indian money for borough health programs, and the related social service activities of the two organizations appear to be closely coordinated. While relations between the borough and ICAS have been harmonious, there is concern on the part of some borough officials that ICAS eventually may compete with the borough for control of social service funds and programs.<sup>63</sup>

#### Conclusion

An Arctic Slope Regional Corporation official, who is also one of the more outspoken members of the borough assembly, recently stated that in his view the North Slope Borough's greatest problem is that "We haven't been able to operate as a normal local government."<sup>64</sup> Other persons close to the borough and its chief officials--a long-term consultant, a former

staff attorney, and a current member of the administration--see the borough as caught in a pattern of government and management "by crisis. "65

Another consultant, closely associated with the borough and its mayor for several years, summarizes the borough experience essentially in the following terms: It has been continuously forced to respond to external threats and attacks; **at the** same time, it is trying to put its own house in order and to manage a massive capital improvements program and meet village needs and expectations in a region that has been badly neglected by state' and federal agencies; the result is government under great pressure with consequent limitations on its ability to function in any stable or predictable fashion. 66

Such characterizations may need to be discounted to some degree because the people who make them have close, personal involvements in the North Slope's and the borough's fortunes. But we have also seen that such observations are grounded in the realities of taxation and development issues and events impinging on the North Slope since the borough's inception.

Preoccupied with their external relations, borough leaders have sought to establish the borough's presence and win acceptance of its rights and authority, the outlines of which are still to be defined. The borough has also sought to ensure an expanding stream of revenues to support its growing expenditure programs and to meet village expectations for the delivery of promised material benefits. In the process, the North Slope Borough has become a highly centralized institution that depends on

outside expertise to help guide it through a very insecure period of development.

In exploiting the economic opportunities that began with the **Prudhoe** Bay discoveries, the borough has become heavily dependent on a petroleum property tax base. At the same time, borough leaders have attempted to protect Native villagers and their subsistence resource interests from the social and environmental disturbance and change that accompany oil development and growth in the region's cash economy.

Under the circumstances, it remains doubtful that the North Slope Borough will soon be able to operate "as a normal local government" --that is, without unusual vulnerability to critical decisions made at state, national, and even international levels.

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## Endnotes

1. Generalization based primarily on personal contacts with some fifteen borough administrative officials and consultants in Barrow and Anchorage between October 1977 and February 1978.
2. Richard W. **Garnett, III**, "Equalization of Local Government Revenues in Alaska," ISEGR Occasional Papers, No. 9 (Fairbanks: Institute of Social and Economic Research, January 1973), p. 16.
3. Testimony of Mayor Eben Hopson, North Slope Borough, before the House Finances Committee, on the Proposed Oil and Gas Tax Measures, April 14, 1977, p. 6.
4. *Ibid.*, pp. 6-7.
5. See "Official Statement of North Slope Borough, Alaska Relating to \$51,000,000 General Obligation Bonds, Series H," June 15, 1977, pp. 11-14; memorandum from Charles K. Cranston to Eben **Hopson**, Mayor, Re: "North Slope Borough Revenue Authority, with special emphasis on litigation," February 3, 1978 (reproduced as Appendix A below).
6. Letter from Thomas K. Williams, **Alaska** Department of Revenue to Lloyd Ahvakana, North Slope Borough, December 20, 1977; letter from Eben **Hopson**, Mayor, North Slope Borough, to Jay S. Hammond, Governor, Re: "Interpretation of AS 29.53.045(c), North Slope Borough 1978 Property Tax Levy," January 3, 1978.
7. See North Slope Borough, "Proposed Land Use Management System for the Haul Road and Other Highways," November 1977.
8. See memorandum from Billy Neakok, Director, Conservation and Environmental Security, to Mayor Eben **Hopson**, Subject: "Statement of the Environmental Protection Policy of the North Slope Borough," March 1977. (This memorandum is reproduced as Appendix B below. )
9. *Ibid.*, p. 2.
10. Based on discussions with officials of the Department of Natural Resources and Fish and Game, Fairbanks, February 1978.
11. Memorandum from Neakok to Hopson, previously cited; letter from Mayor Hopson to James W. Brooks, Commissioner, Alaska Department of Fish and Game, April 29, 1976; letter from Mayor Hopson to Nels Anderson, Alaska House of Representatives, August 3, 1977; and observations at North Slope Borough Assembly-meeting, June 15, 1977 and at meeting of North Slope Borough and Department of Fish and Game officials, Barrow, February 6, 1978.

12. See memorandum from Neakok to Hopson previously cited; North Slope Borough, Arctic Coastal Zone Management Newsletter, Nos. 1-9, January 1977-February 1978; Session Laws of Alaska, 1977, Chapter No. 84; and letter from Mayor Hopson to Kevin Waring, Department of Community and Regional Affairs, February 22, 1977.
13. "Eben Hopson's Statement on the Influence of the State Constitution and the Development of Local Government in Rural Alaska," delivered at the University of Alaska, Fairbanks, October 16, 1977, p. 4.
14. Ibid.
15. Personal contact with Mark **Singletary**, regional attorney, Atlantic Richfield Company, Anchorage, February 10, 1978.
16. Letter from **D.S. Mace**, assistant general manager, **Sohio** Petroleum Company, Anchorage, to Eben Hopson, mayor, North Slope Borough, February 7, 1978.
17. Other types of relationships exist, but they are minor compared to those directly concerned with borough finances, or they involve **relationships** that are primarily indirect--via state and federal government decisions on OCS development, for example. Such secondary or indirect relationships are discussed at appropriate points in other parts of this report.
18. The four cases are described in the borough memorandum reproduced as Appendix A below. Only the basic import of each case is summarized in this section.
19. It should be noted, too, that the suit was precipitated by the state Department of Revenue's "emergency regulation" prohibiting the companies from crediting the excess tax payments against their state property tax bills.
20. Memorandum from Eben Hopson, mayor, North Slope Borough, to assembly and school board, Subject: "State Revenue Structure to Deliver an Equitable Oil Bonus to Citizens of Alaska," December 6, 1976.
21. Personal contact with Robert Dupere, North Slope Borough financial consultant, Barrow, February 7, 1978.
22. Personal contact with Mark **Singletary**, regional attorney, Atlantic Richfield Company, Anchorage, February 10, 1978.
23. "Stipulation and Settlement Agreement" between the North Slope Borough and oil and gas leaseholders and property owners, August 27, **1974**.
24. Memorandum from Eben Hopson, mayor, North Slope Borough, to assembly and school board, December 6, 1976, previously cited.

25. Personal contacts with two borough consultants, February 1978; letter from legislative consultant to mayor Hopson, August 15, 1975.
26. Personal contact with Mark **Singletary**, regional attorney, Atlantic Richfield Company, Anchorage, February 10, 1978. The industry position on the borough's expenditure program is elaborated in recent correspondence between mayor Hopson and two other oil company officials: letter from **D.S. Mace**, assistant general **manager, Sohio** Petroleum Company, to Eben Hopson, mayor, North Slope Borough, February 7, 1978; letter from Harry **W. Brown**, assistant Alaska operations manager, Exxon **Company**, U.S.A., to mayor Hopson and other borough officials, February 14, 1978; and letter from **Eben Hopson**, borough mayor, to **D.S. Mace**, **Sohio** Petroleum Company, February 22, 1978.
27. Under sections 17(d)(1) and 17(d)(2) of the Alaska Native Claims Settlement Act.
28. See Alaska Consultants, Inc., "North Slope Borough Issues Overview," December 1976, Table **2**, p. 36.
29. See especially Chapter V below for more detailed treatment of **OCS, NPR-A**, utility corridor, and related oil and gas development activities.
30. Arctic Coastal Zone Management Newsletter, No. 2, February **1977**; National Journal, Vol. 10, No. 5 (February 4, 1978), p. 174.
31. Memorandum from Neakok to **Hopson**, previously cited.
32. This section is based primarily on several articles in the borough's Arctic Coastal Zone Management Newsletter, Nos. 1-9 (January 1977-February 1978).
33. This section is based primarily on testimony of mayor Eben Hopson and the then-president of the Arctic **Slope** Regional Corporation, Joe Upicksoun, as reported in Federal Energy Administration, "Hearings on Pet 4 Exploration, Development, Production and Related Issues," Barrow, April 10, 1976 (transcript); and memorandum from Tom Smythe, Alaska Consultants, Inc., to mayor Eben Hopson, North Slope Borough, Subject: "Background information for Mayor Hopson's presentation before the Federal Energy Administration's public hearing in Barrow on 10 April 1976." See Chapter V below for detailed treatment.
34. Personal contact with borough consultant, Barrow, February 1978.
35. Chapter **V below** includes detailed treatment of this **issue**.
36. See Arctic Coastal Zone Management Newsletter, Nos. 3-9 (March 1977-February 1978) for the borough's version of these controversies.

37. In defiance of the International Bird Treaty of 1916, Barrow hunters--138 in all--shot eider ducks out of season and presented themselves, ducks in hand, to federal enforcement officers who backed out of the situation. See Alaska OCS Socioeconomic Studies Program, "Beaufort Sea Region Sociocultural Systems," March 1978 (Draft report), pp. 61-63.
38. "Testimony of Mayor Eben Hopson before the General Oversight and Alaska Lands Subcommittee on Section 17 (d)(2) Lands," August 12, 1977; Arctic Coastal Zone Management Newsletter, No. 7 (October 1977).
39. See Chapter II above.
40. This section on **borough-ASRC** relationships is distilled primarily from personal contacts with some twenty borough and ASRC officials, staff, and consultants between October 1977 and February 1978. Most of these contacts were with persons associated **mainly** with the borough. A complete list of personal contacts appears at the end of this report.
41. Personal contact, North Slope Borough official, Barrow, December 1977.
42. It is the borough's sales and use tax that currently can tap the value of ASRC transactions and property but not yet in large amounts.
43. See note 40 above.
44. The consensus of perceptions on the North **Slope** seems to be that the primary identification of the ASRC-assembly member is as an ASRC official rather than as a borough assembly member. Similarly, a borough executive official who also serves as an ASRC director is identified as borough official first and foremost.
45. It should be noted that the North Slope leadership pool is a relatively small one; it is not a new or uncommon phenomenon that one person wears two or more leadership or official hats.
46. See, for example, "Tough Times for Some Native Firms," Alaska Industry, Vol. X, No. 1 (January 1978), pp. 50-51.
47. "Mayor Hopson's Warning to the People of the Canadian Arctic," Testimony before the Berger Inquiry, September 21, 1976; memorandum from Eben **Hopson** to **assembly** and school board, December 6, 1976, previously cited.
48. Personal contact with ASRC official, October 1977
49. Personal contact with borough consultant, Barrow, February 1978.
50. Arctic Coastal Zone Management Newsletter, No. 1 (January 1977).

51. See discussion under "Federal Relations" above; **also, personal contact with borough consultant, Anchorage, February 1978.**
52. This discussion of village-borough relationships is based primarily on personal contacts with nine borough administrative officials; five assembly members, including two from villages other than Barrow; a current official of Barrow; and six Point Hope village leaders. All of these contacts were made between October 1977 and February 1978. Other sources are noted as appropriate.
53. See Chapter IV below for further discussion of North Slope villagers' attitudes toward borough government.
54. See description of capital improvements program levels by village in Chapter II above.
55. See note 52 above. Also based on review of reports of village coordinators in borough administration **files.**
56. Personal contact with Don **Renfroe**, North Slope Borough school district superintendent, Barrow, February 7, 1978.
57. Personal contact with a top borough administrative official, Barrow, December 1977.
58. Personal contacts with mayor, assembly members, and school **superintendent,** Barrow, October 1977-February 1978.
59. Ibid.
60. Personal contact with Don Renfroe, school superintendent, Barrow, February 7, 1978.
61. The suit, originally titled Edwardsen v. Morton, is now known as United States v. Atlantic Richfield Company, et al.; it is presently before the U.S. District Court for the District of Alaska. The federal government has assumed responsibility for pursuing the case under its Native trusteeship obligations.
62. Personal contact with ICAS official, Barrow, February 1978.
63. Personal contacts with borough administration and assembly officials, Barrow, October 1977-February 1978.
64. Personal contact, Barrow, February 1978.
65. Personal contacts, Anchorage, January-February 1978.
66. Personal contact, Anchorage, February 1978.



#### IV. GOALS AND CONSTRAINTS

The North Slope Borough wants oil and gas development to supply the tax revenues necessary to pay for construction of **public** Facilities, **provi-**sion of services, and employment of the largest part **of** the region's work force outside of Prudhoe Bay. The borough also **wants** to increase Native control of the region and to protect subsistence hunting and fishing and related land and water use values. To pursue these potentially conflicting objectives, North Slope leaders have centralized authority and initiative in borough government, using it as an instrument of confrontation and bargaining with external agencies that also have substantial controls of their own over the region. Arctic petroleum development is thus both a condition of and a challenge to local **self-**determination on the North Slope, presenting both opportunities and threats to Native interests.

This chapter discusses the North Slope Borough's development and protection goals and the borough's efforts and capacities to achieve them. A brief review of the character of borough policy making is followed by an examination of major policy issues of petroleum development and taxation and protection of Native social and environmental interests. A final section explores some of the current meanings and forms of "**self-**determination" on the North Slope.

## Borough Policy Making

The structure of policymaking (for the major issues discussed in this report) in North Slope Borough government is dominated by the mayor and a few close advisors; the borough assembly for the most part is **passive-**reactive and ultimately compliant. The content of policy reflects the borough's pursuit of divergent developmental and protection goals--to defend against threats and to exploit opportunities presented to it by outside forces.

### POLICY STRUCTURE

Holding office since the borough's incorporation, Mayor Eben Hopson is a "strong mayor" in both formal-legal and informal-personal senses of the term. The borough's home rule charter vests broad executive powers in the office of the mayor, and Mayor Hopson has aggressively exercised them, testing their limits in many directions. With the assistance of consultants and other advisors, the mayor has also attempted to push the borough powers to their limits, testing borough authority and influence at state and national levels. On the public record and in the estimation of participants and close observers, the incumbent mayor is clearly the dominant figure in North Slope Borough **government.**<sup>1</sup>

Some of the borough's consultants have contributed substantially to the development of the borough's financial policies. Planning and engineering consultants have been less prominent, but nonetheless important, contributors to borough policy development and administration as well.<sup>2</sup> The principal financial consultant has played a key role in borough



affairs beginning with the drive toward incorporation: he provided **essen-**  
**tial** information and advice; he devised plans for borough financing  
(revenue anticipation notes and other forms of borrowing) during the **two-**  
year period that the borough's tax authority was under challenge in the  
courts; and he developed basic bonding and expenditure strategies for the  
capital improvements program. Other consultants have helped devise strat-  
egies for dealing with issues of land management and resource protection  
and have lobbied intensively in Washington, **D.C.** on legislation affecting  
the National Petroleum Reserve and coastal zone management issues. A  
consultant-lobbyist in Juneau has been instrumental in defending the  
borough's tax authority and in winning some tax concessions (e.g., in-  
crease in per capita tax limit from \$1,000 to \$1,500).

In general, the key financial and planning consultants have had long-  
standing ties with the borough and its chief officials, and they are con-  
sidered essential participants in borough policy development. They,  
along with a group of non-Native department heads and staff people, pro-  
vide expertise and experience not otherwise available on the North Slope,  
and their loyalty to the borough has been reciprocated by the mayor and  
other borough officials.

Policy initiative is thus centered in the borough executive and particu-  
larly in the mayor's office. The assembly, in contrast, with few **excep-**  
**tions** considers only those issues that the mayor, assisted by his **consul-**  
tants and advisors, places before it. Moreover, the assembly generally  
approves the mayor's proposals and requests with little or no modification.

Assembly members themselves acknowledge that initiative lies with the mayor and that they depend on his agenda and the information he supplies.<sup>3</sup> While this dependence is not necessarily to assembly members' liking, at least one assembly leader believes that the pace of events and the complexity of issues facing the borough have required the assembly to defer often to the administration. Several assembly members nonetheless criticize the mayor's control of assembly agendas and information, which, they claim, have rarely been available to them until immediately before a meeting.<sup>4</sup> Further, the mayor has even effectively asserted control over the schedule of assembly meetings, to the dismay of one former presiding officer.<sup>5</sup>

Given the mayor's official and personal dominance of borough affairs, and the pattern of crisis-like reactions to major issues continually arising in the larger political-intergovernmental sphere in which the borough operates, it is not surprising that borough policy making is strongly executive-centered and that what the mayor says is generally indistinguishable from "official" borough policy pronouncements on any given issue. Indeed, one key staff member observes that the mayor's statements generally are borough policy, and he points out that the assembly generally passes resolutions introduced by the mayor. He further observes that the only check the assembly has effectively imposed on the mayor derives from its ability to "bicker" over the details of the mayor's proposals rather than from any authority to interpose itself as a source of initiatives or significant **alternatives**.<sup>6</sup>

Taken together, these characteristics of borough policy making indicate the need for caution in assessing the meanings and effects of borough policy positions. The mayor's statements, whether or not officially endorsed by the assembly, often appear to be tests of the political environment rather than definitive positions that can then be translated into operational programs or specific actions. It is clear, however, that, under the mayor's leadership, the borough is establishing itself, in the words of one staff member, as a "clearinghouse" for the plans and activities of external agencies on the North Slope. In this way, the borough is fulfilling its basic function as "a system to confront a system" <sup>7</sup> and as such, the first task is to get the attention of external agencies, putting them on notice that the borough **cannot** easily be circumvented or ignored, regardless of the practicability of any given objective or demand.

#### POLICY OBJECTIVES

The borough mayor in 1977 identified three "factors" essential to a "basic understanding" of the North Slope area and its people:

The basis of the Eskimo (**Inupiat**) culture of the North Slope Borough is vested in subsistence pursuits. In fact, the absence of subsistence would unquestionably mean the destruction of the **Inupiat** culture.

Natural resource extraction provides the present and only foreseeable future means of local self-determination and an improved level of living for the indigenous peoples of the North Slope.

Environmental safeguards are essential to protect the habitat which nurtures subsistence resources while, at the same time, enabling the extraction of natural resources to provide a cash income.

These, in essence, are the themes of all borough policy on issues of development, taxation, and protection of subsistence-related values. Resource extraction is necessary to provide cash income for improving living standards. In these terms, moreover, "resource extraction" provides the "means of local self-determination," which is the primary purpose of a borough government that can provide services and facilities and regulate development. The borough is thus the critical local instrument for extracting tax revenues, distributing benefits, and regulating development in order to protect subsistence habitat.

Without development, then, there is no "self-determination." Yet development **is also** perceived to pose threats to a subsistence-based **Inupiat** culture. How effectively are the potential conflicts of objectives avoided or resolved in practice? It is possible only to derive a tentative and approximate answer to this question. Borough responses to developmental opportunities and environmental threats tend to shift and change with perceptions and events, and they do not simply or consistently add up to a single coherent statement of borough goals and strategies. Further, the borough's many statements on development and environmental policy issues are not always necessarily intended or expected to be taken at literal face value. Rather, they often appear to be designed to establish bargaining positions, to indicate broad goals and directions, and to elicit modifications rather than complete transformations of an external agency's plans and activities on the North Slope. The political world is much too complex to yield in any clear-cut or direct fashion to simple pronouncements, and North Slope leaders seem to be quite aware of this.

Subject to further examination in this chapter and the next, we can summarize the criteria that appear to underlie borough policy making in petroleum development and subsistence protection issues-areas:

- As a general rule, petroleum development that promises to increase tax revenues and other economic benefits on the North Slope should be favored.
- Development that both promises significant economic benefits and threatens subsistence resources should proceed with appropriate environmental safeguards.
- Development that threatens subsistence resources while promising few or no economic benefits should be strongly opposed.

The borough, in short, asks two basic questions of all proposed development activity: Will it pay? and what will be its effect on subsistence resources? Having committed itself to a projected \$150 million capital improvements program--with facilities in place and debt service mostly paid before Native corporation lands become taxable after 1991--and looking to its economic viability in the longer run, the borough must be pro-developmental in practice if not always in its pronouncements. On the other hand, it can afford to strike extreme postures against development, such as federal OCS leasing, that appear to have high environmental risks and relatively limited local economic pay-offs. Finally, in order to assure that existing and future developments will, indeed, pay off as desired, the borough must persistently seek such changes in state tax laws and regulations that will expand its authority to tax petroleum

industry property, and it must be prepared to spend substantial time in court with the oil companies.

#### Petroleum Development and Taxation

Petroleum development provides the tax revenues necessary to sustain a massive capital improvements program and growth in the North Slope Borough government generally. Consequently, in the mayor's words, "Threats to the continuation of mineral resource development in the North Slope Borough are threats to the social and economic advancement of the people of the North Slope Borough. "g Further, the borough must continually push against state and oil company barriers to higher levels of taxation in order to tap the revenue base that petroleum development provides. The borough, therefore, looks to continued development of petroleum resources, and its leaders "spend a phenomenal amount" of time on tax and related financial issues.<sup>10</sup>

#### FINANCIAL STAKES AND CONSTRAINTS

By 1977 the assessed value of property in the North Slope Borough totaled over \$3.5 billion, an amount second only to Anchorage's \$4.5 billion, among Alaska's local taxing jurisdictions. 11 Virtually all of the North Slope property values, 98.5 percent, are based on Prudhoe Bay and related pipeline facilities owned by the oil companies. This potential tax base accounted for one-fourth of all assessed property values in Alaska municipalities in 1977 and about two-thirds of the value of oil and gas-related properties located in municipalities. (See Table 4.) The result is that with only 3 percent of the municipal population in Alaska

TABLE 4. PROPERTY VALUES AND DEBT OF NORTH SLOPE BOROUGH  
AND ALL MUNICIPALITIES IN ALASKA, 1977

<u>Variable</u>	<u>Alaska Municipalities</u>	<u>North Slope Borough</u>	<u>Borough as Percentage of Alaska Municipalities</u>
Total assessed property value (in millions)	\$14,000	\$ 3,570	26%
<b>Oil and gas property<sup>2</sup></b> value (in millions)	<b>\$ 5,390</b>	<b>\$ 3,310</b>	<b>61%</b>
Oil and gas as percentage of <b>total</b>	39%	93%	238%
Total debt <sup>3</sup> (in millions)	\$ 520	\$ 84	16%
Total debt as percentage of total value	3.7%	2.4%	65%
Population	397,368 <sup>4</sup>	12,614 <sup>5</sup>	3%
Per capita debt	\$1,308	\$ 6,630	507%
Per capita value	\$35,320	\$280,580	<b>794%</b>

<sup>1</sup>Includes all boroughs and home rule and first-class cities outside of boroughs.

<sup>2</sup>Full assessed value of oil and gas exploration, production, and pipeline transportation property (under AS 43.56) in municipalities.

<sup>3</sup>Total general obligation bonded indebtedness.

<sup>4</sup>Civilian population in municipalities.

<sup>5</sup>Includes 8,800 Prudhoe Bay-Deadhorse population.

SOURCES: Alaska Department of Community and Regional Affairs, Alaska Taxable 1977, pp. 32, 34; North Slope Borough, Official Statement of the North Slope Borough, Alaska, Relating to \$51,000,000 General Obligation Bonds, Series H, June 15, 1977, p. 10.

(at the peak of Prudhoe Bay-pipeline construction activity), the North Slope's property value per capita was nearly eight times greater than that of all municipalities in the **state**.<sup>12</sup>

The borough has made the most of the limited access it has to that enormous revenue base, given the restrictions of state law. By mid-1977 it had sold \$84 million in general obligation bonds to support its capital improvements program (**CIP**), giving it about one-sixth of the total bonded indebtedness and five times the per capita debt of all Alaska municipalities. (See Table 4.) With its huge property values, however, the borough's debt-to-value ratio was less than that of all municipalities statewide. The borough's overriding financial problem, then, is that state law does not allow the borough full access to the North Slope property base.

To secure its bonds and pay its debts, the borough depends of course on the oil and gas properties. Between 1975 and 1976, the borough's tax program was first blocked by oil company litigation and then limited by a \$1,000 per capita property tax revenue provision of state law. With the raising of the limit to \$1,500 and a population increase, the borough's property tax revenues jumped from **\$7 million** in fiscal 1976 to over \$19 million in 1977, accounting for **nearly** two-thirds of its total general revenues. <sup>13</sup> (See Table 5.) Concurrently, the North Slope Borough's projected **CIP** rose from \$61 million in 1974, to \$115 million in 1976, and to \$152 million in 1977. And, as we have seen, by the end of 1977 the borough had sold \$84 million in general obligation bonds for the



CIP. Debt service charges on the bonds increased accordingly: from \$3.8 million in 1977 to \$4.8 million in 1978 and to a projected \$15.3 million in 1979.<sup>14</sup> Although its present obligations are scheduled to be paid off by 1992, there are **still** some \$70 million in **CIP** projects yet to be funded and there will likely be more projects added to the CIP in the future. This, moreover, is on top of the costs of funding expansions in growth of borough government programs generally, and steady increases in the maintenance costs of the **CIP** as projects are completed and brought on line.

TABLE 5. NORTH SLOPE BOROUGH REVENUES, 1973-1977

Fiscal Year	Total Revenues (in 1000s)	Property Tax Revenues	
		Amount (in 1000s)	Percent of Total
1973	\$ 550	\$ 418	76%
<b>1974</b>	6,160	3,550	58
1975	11,720	5,500	47
1976	16,630	6,880	41
1977	30,000	<b>19,180</b>	64

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SOURCES: North Slope Borough, Official Statement of the North Slope Borough, Alaska, Relating to \$51,000,000 General Obligation Bonds, Series H, June 15, 1977; North Slope Borough, Annual Financial Report, fiscal year July 1, 1976-June 30, 1977.

Both the \$1,500 per capita tax limitation and the alternative statutory formula (225 percent of the average per capita assessed valuation in the state times the borough's population) are strongly affected by the borough's volatile population growth and decline, which, in turn, is due to

the vicissitudes of petroleum development activity. The result is shown in Table 6. In a peak fiscal year like 1978, the borough can collect \$19 million in property taxes, but it can expect to realize only \$10 million in 1980 because of the projected decline in population. The table also shows that under the \$1,500 per capita limit the property tax mill rate is a function of combined population and property value trends, and the borough is prohibited from imposing any higher rate. One short-term borough response is to shift from the \$1,500 per capita formula to the alternative property value basis for levying taxes, as was discussed in Chapter 111. But this does not solve the borough's longer-run problem. Although the immediate decline may be stemmed, the limits imposed under both approaches act similarly to keep the borough's tax authority in effective check. <sup>25</sup>

TABLE 6. EFFECTS OF POPULATION CHANGES ON NORTH SLOPE BOROUGH FINANCES UNDER THE \$1,500 PER CAPITA STATUTORY LIMIT

<u>Fiscal Year</u>	<u>January 1 Population</u>	<u>Allowable Property Taxes (in 1000s)</u>	<u>Property Tax Base (in millions)</u>	<u>Equivalent Millage Rates</u>
1978	12,614	\$18,921	\$3,539	5.36
<b>1979</b>	9,319	13,979	4,079	3.43
1980	7,653	10,130	4,757	2.41
1985	9,116	13,674	5,083	2.69
1990	8,178	12,267	3,986	3.08

SOURCE: North Slope Borough, Official Statement, June 15, 1977, Table A-1, p. A-5.

Another response of the borough to the statutory limits, as we have seen, was to impose a tax levy above the per capita rate in order to cover debt service on its bonds, an action that resulted in the Sohio case.<sup>16</sup> If the borough wins the case, it apparently would be able to tax as needed for debt service. But this probably would not end the matter, for future legislatures could impose other restrictions on the borough's tax authority and the oil companies could choose again to litigate.<sup>17</sup>

Even if the legal barriers to borough taxation were cleared away once and for all (which is not likely), the fact remains that the existing stream of borough property tax revenues will effectively end when Prudhoe Bay oil production ends, perhaps in twenty-five years. The borough, therefore, must favor and encourage new oil and gas development on the North Slope at the same time that it litigates and lobbies for an "unrestricted right . . . to tax property."<sup>18</sup>

Existing financial commitments alone--particularly as reflected in the CIP and in five to six hundred borough and school district jobs--prompted one top North Slope official to the conclusion that "We're on a spending pattern that isn't reasonable unless the borough gets a larger share of the resources" of the North Slope.<sup>19</sup> Or, as stated by Mayor Hopson, "I am very concerned about the long term economic impact of oil and gas development upon our Arctic community. We are riding the crest of a high economic wave, and I fear about where it will deposit us, and how hard we will land."<sup>20</sup>

## EXPECTATIONS AND OBJECTIVES

The mayor and his advisors expect and, indeed, count on **further oil** and gas development on the North Slope. And, notwithstanding the mayor's well-publicized criticisms of OCS exploration and development, the borough's opposition has been neither total nor unconditional. In assessing its future economic condition, for example, the borough has explicitly incorporated the following assumption into its financial projections: "Locally assessed [property values] will decrease after pipeline construction activities and production wells are completed in the Prudhoe area; however, offset increases are due from offshore leasing, Regional Corporation leasing, and National Petroleum Reserve activities . . . ." <sup>21</sup> Borough officials and advisors have also noted potential benefits from gas line construction, further development of the **Prudhoe Bay** field, possible exploration and development of major structures in the Arctic Wildlife Range, and, in general, further "extensive oil exploration" and leasing activity by federal and state governments on the North Slope. <sup>22</sup>

The mayor has tended to aim most of the borough's complaints about OCS programs at proposed activities in the offshore ice pack and shear zone areas and not at every form or location of OCS exploration activity. <sup>23</sup> As we have **noted**, this opposition was triggered by Dome Petroleum's exploration program in the Canadian arctic off the Mackenzie Delta area. Further, it appears that the mayor's real aim is to influence the terms and conditions of **OCS** exploration and development programs rather than to stop them. <sup>24</sup> This conclusion is generally consistent with the record reviewed in this report, and it is reinforced by the fact that the

borough expects to benefit economically from OCS onshore support facilities. And, to the extent that it can effectively exercise its taxing powers in the offshore area to the three-mile territorial limit, it also expects to tap offshore facilities as well.<sup>25</sup>

It nonetheless appears that the borough prefers onshore over offshore development, and it has particularly favored exploration of the National Petroleum Reserve-Alaska (NPRA) and of Arctic Slope Regional Corporation lands. Beyond the currently uncertain tax revenues that **might be derived** from activities in the petroleum reserve, the mayor has also **emphasized** economic benefits that might accrue to ASRC and the village corporations. He has **called** for regional and village corporation involvement in NPRA "at all levels, including drilling and all support operations, and pipeline construction and management." And, as for the borough, he foresees an opportunity for it to provide "revenue generating" utility, security, and health service programs in the prospective oil **fields.**<sup>26</sup> **Additionally,** the borough has continued to press the North Slope's **long-standing** interest in expanding its access to natural gas from the **reserve** to provide village heat and power.<sup>27</sup>

The borough's overriding interest in the potential economic advantages of NPRA and other onshore petroleum development does not cancel its commitment to environmental protection. But its position seems to be that adverse onshore impacts can be mitigated and managed more effectively than offshore impacts. A federal official with responsibilities in the NPRA exploration program recently noted that while borough officials

have shown concern for protecting subsistence resources and historical sites, "they haven't tried to **block** exploration in any way." He further observed that "We show far greater concern, are more restrictive in the reserve, than ASRC is outside [the reserve], "2<sup>8</sup> implying that the borough may look the other way when it comes to corporation lands.

In 1977 testimony before congressional hearings on the federal (d) (2) lands issue, Mayor Hopson made a special plea for a land policy that would facilitate the development of ASRC lands, and he noted that, for all prospective oil and gas exploration and development, "in terms of commercial extraction only small amounts of the land surface will be disturbed and temporarily occupied. "2<sup>9</sup> And a borough consultant recently underlined the borough's interests, pointing out that the borough "wouldn't do anything to jeopardize" the exploration and development of ASRC lands, such as taking a threatening position on the (d)(2) issue or through use of its potential regulatory authority over corporation lands. 30

We have also noted (in Chapter III) the borough's interest in the selection of state lands at **Prudhoe** Bay, under state law authorizing all boroughs to select 10 percent of "vacant, unappropriated, and unreserved" lands within their borders. In 1973 and **1974**, the North Slope Borough attempted to select nearly 200,000 acres of state **land**, mostly in the Prudhoe Bay area. Apart from the direct regulatory authority that borough ownership of the lands would afford, the borough also sought revenue from "leases and other disposals of the surface of the selected property. "31

The borough's attitude toward petroleum development emerges roughly as follows:

- Offshore development may be too risky except in nearshore areas and should be resisted for environmental reasons; however, where it occurs, environmental safeguards **should** be strict and the borough should, as always, attempt to derive maximum economic returns from such development.
- Onshore development is generally to be favored, especially where there are potential tax revenues, local jobs and income, and local access to fuel supplies; environmental safeguards should be applied but not so rigidly as to delay or discourage development.
- Development of NPRA and ASRC lands will be of particular benefit to the borough and its people, but virtually any onshore development that is reasonably mindful of **subsistence** and other environmental values should be encouraged.

The single, clear exception to the borough's positive commitment to arctic petroleum development is its negative attitude toward the offshore **OCS** program as articulated by the mayor. This exception should not obscure the fact that the borough is fundamentally dependent on oil and gas development for its economic survival. **It** should also be noted that the problem with OCS development, from the borough's point of view, is not only that it may be environmentally risky. It is also that offshore development, particularly in federal waters, seems likely to offer the fewest economic returns to local interests. But the borough's basic

response to petroleum development is to assume its desirability and inevitability and then to bargain for, demand, and extract the most favorable terms that it can.

### Native Protection

#### PERSPECTIVE

There is little or nothing that the North Slope Borough can do positively to make oil development happen in the arctic, on the schedule, in the form, or at the level that it wants. All it can do is hope and wait for developments that might be turned to its economic advantage. The borough's effective responses occur only after the oil facilities and equipment arrive on the North Slope as taxable resources. Then borough leaders and advisors devote the main part of their energies to protecting the borough's authority to tax, extracting tax revenues, and spending the funds for capital improvements, borough programs, and general government support.

There is also little the borough itself can do to stop arctic oil and gas developments that may cause social and environmental harm and, what is worse, offer few or no economic benefits in return. But the effects of large-scale petroleum development are elusive, complex, and varied, and it is a ways difficult to predict how benefits and costs will net out for one interest or another. Moreover, the borough is now locked into its new oil-dependent cash economy, and it is forced to look first to its future economic security and then to its environmental security.



So the basic attitude of the borough toward arctic oil development can be a blend of fatalism and opportunism. In general, development will occur (or not) regardless of the ambitions and desires of the North Slope Borough, and it will bring uncertain combinations of opportunities and threats. If that is essentially the case, then the most rational response of the borough to petroleum development is to pursue two apparently contradictory courses simultaneously, treating oil development as both an opportunity and as a threat without having to make a "balanced" response. The borough can seek to extract as many economic benefits as possible, and it can also demand all of the concessions and conditions, including environmental safeguards, that seem desirable. Both courses can be pursued to their effective political and legal limits because what the borough manages ultimately to accomplish will neither make nor break large-scale oil development in the arctic.

An underlying objective in the borough's efforts to protect subsistence resources, traditional land use areas, and other Native values is to extract increasingly greater shares of control over the North Slope region from federal and state agencies. As in the area of oil development and taxation discussed above, the borough is here demanding acceptance and recognition of its local governmental status and authority. The effective limits of the borough's authority in a region formerly the exclusive province of federal and state agencies are still being defined, and the process of defining those limits is as much political as it is legal. The borough is continuously testing the limits of law, pressing into formerly exclusive agency domains, and asserting its prerogatives. Thus

the North Slope Borough's efforts to protect Native subsistence and related values is but a part of its broader **campaign** to achieve an identity and to be recognized as a legitimate and authoritative presence in the region--a home rule borough government that is "taken seriously" by federal and state governments and by oil companies. As a result, **it is** difficult to isolate borough "environmental **responses**" to oil and gas development from the **full** range of responses it is making to external forces as a developing regional political **inst**itution on the North Slope. For this reason, too, it is often difficult to distinguish rhetoric from reality, and pronouncements from operational programs, on **the** North Slope.

#### BOROUGH ENVIRONMENTAL PROTECTION **POLICY**

In early **1977** the head of the borough's newly-established Department of Conservation and Environmental Security presented a formal policy memorandum on North Slope environmental protection, which was apparently approved by the mayor as an official statement of borough administration policy. 32 The memorandum declares that

It is the policy of the North **Slope** Borough to recognize the inevitable development of Arctic energy and mineral reserves, and the threats **to** our environmental security posed by this development. We seek to avoid harmful impact upon its citizens, families and communities resulting from this development. **We** feel with good cooperation between government and industry, our land can yield its subsurface wealth with tolerable disturbance of our people and our **land.**<sup>33</sup>

The statement then points to the critical environmental threat: "Our greatest concern is caused by Arctic offshore operations. **We** know of no proven technology through which oil can be safely taken from under the ice that covers the Arctic outer continental shelf." Taking note of

Canadian Beaufort OCS exploration, the statement proposes that a "single Arctic offshore working agreement between Canada and the U.S." would be necessary and that the "**Circumpolar Inupiat** Community" should also be a party to an international coastal management system. 34 In addition, the basic statement of policy calls for borough controls "over **surface-**disturbing development to enable protection of the many traditional use values of our land" and ends by naming another threat that borough leaders evidently consider as great or greater than OCS:

. . . \* it is our policy to guard against permanent immigration to the Arctic. We are opposed to the creation of permanent oil field communities, and regard Arctic population growth to be potentially our greatest environmental security problem. Accordingly, we oppose public use of the Fairbanks-Prudhoe oil pipeline **haul** road, and other such permanent **public** access **to the Arctic.** 35

The memorandum includes discussion of various proposed "strategies" for carrying out the environmental protection policy, two of which are explored further here: "arctic coastal zone management" and land use controls.

#### ARCTIC COASTAL ZONE MANAGEMENT

We suggested in Chapter III that the borough's concept of a coastal zone management expansively covers most of its concerns relating to the development of oil and gas resources and the protection of subsistence resources and Native access to them. Perhaps more to the point, "arctic coastal zone management" as developed so far by the borough is more accurately described as a loose series of borough goals, demands, strategies, and tactics rather than as an identifiable program. Under the

broad heading of coastal zone concerns, borough efforts have included the following kinds of Native protectionist activities:

- **The mayor's** opposition to Canadian OCS exploration, which he highlighted in his 1976 congressional campaign, and his call for an **OCS** moratorium until a "single set" of international **rules were** developed and enforced to assure the environmental safety of all **OCS** programs **in** the international arctic.
- The **Inuit Circumpolar** Conference of mid-1977 held in Barrow and attended by Native delegates from Canada, Greenland, and Alaska; the conference focused on arctic environmental protection issues and the development of an international arctic policy to respond to OCS and related developmental threats.
- Follow-up efforts by the borough to strengthen "alliances" with Canadian Native groups as a means of bringing international political pressure to bear on U.S. and Canadian governments and multi-national oil corporations involved in arctic OCS **programs.**<sup>36</sup>
- Contacts with national environmentalist organizations to solicit their support for the borough's OCS position and to establish a Native-environmentalist alliance for political support at national and international levels on OCS and subsistence resource protection **issues.**<sup>37</sup>
- Statements and related efforts in the face of state game management restrictions to define caribou management as an international problem requiring Canadian and North Slope Native participation through the borough's Department of Conservation and Environmental Security, which combines "the borough's existing game management

. . . [coastal zone management] and environmental protection programs . . . . "38

- Contacts with Canadian Native groups, U.S. State Department, and others to "push for changes in the Migratory Birds Treaty to decriminalize duck hunting in the Arctic," again relating this problem broadly to problems of Native control, coastal management, and traditional subsistence **rights.**39
- Statements claiming and attempting to justify a "doctrine of aboriginal offshore jurisdiction" in reaction to the federal OCS program and to the International Whaling Commission's restrictions on bowhead whaling; this interest extends even to "development of a legal position regarding Borough jurisdiction beyond the **three-mile limit** which would serve to carry out the intent of the Borough's coastal zone management plan and program. "40

The above examples are fairly representative of the flurries of statements and activities continually emerging from the borough in the broad area of Native protection; particularly when contrasted with the more methodical, sustained, and directly productive efforts that go into the borough's taxation, budgeting, capital improvements, and employment programs, they do not qualify as effectively organized and integrated elements of North Slope Borough government. Rather, they represent an aggressive political testing of borough influence in policy areas beyond the established and more conventional areas of borough government activity where law and precedent provide firmer grounds for North Slope Native claims and demands. In the protectionist area, the borough is increasingly responding more

"conventionally" in its efforts to assert greater control over regional land use plans and decisions by federal and **state** agencies.

#### LAND USE CONTROLS

The North Slope Borough's participation in federal and state programs for the National Petroleum Reserve, OCS development, and the trans-Alaska pipeline haul road and utility corridor is discussed in detail in Chapter v. Here, we will only indicate the general character of borough responses to land use policy issues associated with these major development **pro-**grams. In this area, the borough's efforts are apparently becoming **inte-**grated into a more stable pattern of borough government activity, and the borough itself is apparently becoming more closely integrated into federal and **state** planning and decision making processes.

The borough planning department in 1977 commissioned a study of the extent and limits of the borough's regulatory authority over the development and use of federal, state, **village**, and other lands in the region. 41 While the report focuses on the haul road and utility corridor issue, its analysis and implications go beyond that single issue to the basis of borough claims to a greater share of control over developments on federal (and state) lands in the region.

In general, the report finds that the mere fact of federal land ownership and management jurisdiction does not necessarily carry exclusive federal control with it. To determine the extent of relative federal-local shares of control, "the specifics of the situation must be examined," 42 and local

government "may exercise control over federal lands to the extent regulation would not be inconsistent with or frustrate clear federal policies and programs. "4<sup>3</sup> Thus "Determination of when federal regulations 'override' state or local controls involves a balancing of respective actions" and a finding that the interests clearly conflict. 44 And "Where there is no overriding federal law or policy, local concerns should be respected. "4<sup>5</sup>

The report proceeds to identify several provisions of federal land management laws that require federal agency consultation and coordination with local governments, including local rights to notice of impending federal actions, public hearings, and other forms of local involvement.<sup>46</sup> It further points to the legal importance of local comprehensive plans and consistent regulations in order to establish a clear, rational basis and acceptable procedures for any effective local control or participation in federal regulation of land.<sup>47</sup>

Given the "coordination and consultation" provisions of law, the legal ambiguities of intergovernmental claims to control, and the importance of establishing positive precedents in specific situations, the report observes that "The ability to cooperate and participate with others as they make decisions about how land is to be used may be more important than the power to control such decisions after they have been made. 1148 An essentially similar analysis is made of local-state relationships in the application of local regulations to state owned and managed lands, and similar conclusions drawn.<sup>49</sup>

The report thus suggests a relatively conservative framework and approach for North Slope Borough government participation in federal and state agency land use plans and programs. It is conservative not in the sense of advising timidity, but in encouraging close examination of legal openings for borough participation, which, in turn, would be based as fully as possible on reasonable local objectives and policies and pursued in a cooperative spirit. As noted earlier, the borough apparently is moving in the recommended direction, although not of course to the exclusion of continuing conflict over tax issues and periodically aggressive pronouncements and claims, particularly in the area of subsistence resource protection and regulation.

The North Slope Borough has largely succeeded in winning the attention of federal and state agency officials when its leaders feel that basic interests are at stake. One borough official who works closely with federal and state environmental and resource management agencies acknowledges that the latter have become increasingly quick to take notice of borough claims and complaints and that confrontation tactics still work. But he also sees the value in the more conventional approaches represented in the borough's participation in cooperative intergovernmental planning programs such as for OCS and state coastal zone management.<sup>50</sup>

By the end of 1977, the North Slope Borough was directly represented on federal-state-local planning/advisory groups for National Petroleum Reserve exploration and development and for haul road and utility corridor management. In addition, the borough was participating in a state advisory



group for the development of stipulations for the prospective 1979 joint Beaufort sale, and the borough mayor had been appointed to the Alaska Coastal Policy Council. Concerning the last **of** these, it should be noted that the borough was also preparing specific land use **plans** and policies for the coastal area potentially affected by a Beaufort lease sale and that this activity was being carried out with state financial assistance.<sup>51</sup>

These are some of the current signs that the borough is maturing as an institution and that it is gaining the recognition if not the unqualified acceptance its leaders have sought for it from federal and state agencies. The question is whether these more conventionally institutionalized forms of borough interaction with federal and state agencies will result in pay-offs and incentives sufficient to encourage longer term cooperation from the borough.

The state's coastal management program is a case in point. The 1977 state coastal management act<sup>52</sup> provides for the development of district coastal management programs "which shall be based upon a municipality's . . . comprehensive plan . . . or statement of needs, policies, objectives, and standards governing the use of resources within the coastal area of the **district.**"<sup>53</sup> Further, the municipality--in this case the North Slope Borough--"shall implement" the program.<sup>54</sup> But district programs are **also** subject under the law to state standards and approval and indirectly to federal OCS and other interests as well. This version of coastal management stands in some contrast to the borough's concept of "arctic coastal zone management," and it remains to be seen whether borough, state and

federal officials will be able to bargain effectively with each other within its framework.

### Self-Determination

On the North Slope, the drive toward "self-determination" has been based on the consolidation of new power and authority at the regional **level** through the development of a strongly executive-centered borough government. The borough has served primarily as an instrument for extracting and spending tax revenues derived from petroleum development at Prudhoe Bay and for claiming greater shares of local control over the terms and **conditions** of the petroleum development on which the borough depends. Although its potential regulatory powers over land and resources are important, the borough's principal concerns since its incorporation have been to establish and expand its authority to tax and to spend.

The incorporation and growth of North Slope Borough government has been achieved in the face of varying amounts of opposition and resistance, primarily to Native leaders' claims to some substantial share of the region's taxable property base. But the borough has also met resistance to its sometimes equally ambitious claims to control of the **land**, waters, and subsistence resources that are closely associated with traditional Native values. Conflicts with external agencies and interests have thus been central and persistent in the experience of the borough's leaders, who accordingly have been preoccupied with strengthening and exercising the centralized regional authority necessary to defend and extend North Slope claims to self-determination **vis-a-vis** outside authorities and

interests. In this context, "self-determination" means effectively using regional governmental authority to exploit and defend against "inevitable" developments impinging from outside, and to do this in the interests of the borough and the **people** of the North Slope.

Villagers' interests have not been ignored as the broader regional process of development has evolved. They are direct beneficiaries of the services, facilities, and jobs that are the major tangible products of the borough's efforts. In borough leaders, they also have aggressive spokesmen defending more traditional Native values against perceived outside encroachments. But while villagers are beneficiaries of the region's political development, they are not significant participants in it. They are primarily recipients and consumers of borough government goods. Given their past dependence on even more remote and less beneficent federal and state **agen-**ties, this does not necessarily represent a backward step. In material terms, it is clearly an advance.

#### BOROUGH AND VILLAGERS

A large proportion of North Slope villagers have **held** jobs with the borough and have therefore benefited in a very direct and immediate sense from their regional government. Further, despite complaints about service delivery, most villagers believe that the borough is working to meet their needs. Many villagers are ambivalent or doubtful about the changes that have occurred in their lives as a result of petroleum development, but they tend to give some credit to the borough for its handling of the oil

companies. The following results from a late 1977 survey of North Slope villagers support each of these findings.<sup>55</sup>

Table 7 shows the major employers of village respondents who were holding cash income jobs at the time of the survey. (56 percent of the respondents held such jobs, and 44 percent were not currently employed.) The single largest employer was ~~the~~ the borough government, which accounted for 35 percent of total village wage employment. Construction projects under the borough's capital improvements program probably supplied many of these borough jobs during the fall period of the survey. Adding in jobs with the borough school district, over half (52 percent) of employed village respondents were currently holding jobs with the borough.

TABLE 7. VILLAGERS' CURRENT WAGE EMPLOYMENT, BY MAJOR EMPLOYER

	<u>Number</u>	<u>Percentage</u>
Borough government	61	35%
Borough school district	29	17
Private business	28	16
Village corporation	22	13
Federal government	12	7
Other employment	1;	<u>13</u> <b>100%</b>

When asked if they had ever had a job with the North Slope Borough or with a borough contractor, 55 percent of the villagers answered affirmatively. Related questions established that these villagers held an average of three different jobs with the borough for an average total of 35 weeks of

employment, **again** suggesting that many were employed in construction work under the borough's **CIP**. On the other hand, less than 20 percent of the **villagers** reported that they had worked for an **oil or pipeline** company.

**Villagers** were asked to identify the organization on the North Slope which "best meets their needs," selecting one from the list shown in Table 8. Given the breadth of the question, the relatively high proportion of respondents selecting the borough (38 percent) tends to suggest basically favorable attitudes toward the borough among villagers generally. However, non-Barrow villagers were somewhat more likely to name their more immediately-present village corporations, **while** Barrow respondents were more likely to name the borough.

TABLE 8. ORGANIZATION "BEST MEETING" VILLAGER NEEDS

	<u>Number</u>	<u>Percentage</u>	
Village council	25	<b>8%</b>	
North Slope Borough	115	38	
Village Corporation	54	18	
Regional Corporation	21	<b>7</b>	
State government	<b>10</b>	3	
Federal government	<b>15</b>	<b>5</b>	
Oil Companies	3	<b>1</b>	
None	14	5	
Don't know	<u>43</u>	<u>1</u>	4
	<b>300</b>	<b>100%</b>	

Note: Barrow respondents were more likely to choose the borough; final tabulations will be adjusted to show a higher percentage for the borough.

Asked specifically if they thought that the North Slope Borough is "helping to meet your needs," 66 percent of the villagers answered positively (Table 9). Again, Barrow residents were more likely than other villagers to give this response, but very substantial support for the borough was evident in all villages.

TABLE 9. IS THE BOROUGH HELPING TO MEET YOUR NEEDS?

	<u>Number</u>	<u>Percentage</u>
Meeting needs	206	66%
Not meeting needs	42	14
Don't know	<u>62</u> 310	<u>20</u> 100%

Note: Barrow respondents were more likely to answer positively; final tabulations will be adjusted to show a higher percentage of favorable responses.

In an effort to determine general feelings about the changes that have occurred on the North Slope as a result of oil and gas development, villagers were asked to "Think about the big buildings and machines at Prudhoe Bay and the pipeline. Think about the new jobs at Prudhoe and jobs on the pipeline. Think about the land that is being used and the animals that live on the land. Think about all these things and please tell me whether you think they have been good or bad for the people of the North Slope." Their responses are shown in Table 10. Many respondents believe, on balance, that petroleum development has had bad effects, and their answers to related questions indicated that they had subsistence resource and environmental problems in mind. But about the same number felt that petroleum development, overall, has been good, and these villagers tended

especially to **think of** the increased **number** of available jobs. Another large group saw good and bad effects as about equal, but **the** single most common response of villagers (35 percent) was that they did **not** know what to think of the changes overall.

TABLE 10. GENERAL ASSESSMENTS OF NORTH SLOPE PETROLEUM DEVELOPMENT

	<u>Number</u>	<u>Percentage</u>
Good	57	<b>18%</b>
Bad	<b>67</b>	22
Both "	67	22
No change	<b>11</b>	4
Don't know	108	<b>35</b>
	<b>310</b>	<b>100%</b>

The **importance** villagers attribute to subsistence hunting and **whaling** is reflected in the fact that respondents in over 40 percent **of** the region's households report that they obtained half or more **of** their food from whaling and other subsistence activities in 1977. At the same time, over 70 percent think that they obtained less subsistence food **in** 1977 than in 1970. Almost half of these respondents mentioned caribou hunting regulations as the major reason for the decline in their subsistence take.

The borough mayor thus seems to be striking a very responsive chord among villagers in his recurrent campaigns against state game enforcement authorities. On the other hand, villagers do not perceive the borough (and less so, any other organization) as being particularly effective in a

related area. To the question, "Which of these [listed organizations] is doing the best job of controlling when and where oil and gas development takes place?" villagers responded as shown in Table 11. While the borough was named by 21 percent of the respondents--more than any other organization --54 percent quite understandably answered that they just did not know.

TABLE 11. ORGANIZATION DOING "BEST JOB" OF CONTROLLING OIL DEVELOPMENT

	<u>Number</u>	<u>Percentage</u>
State government	14	5%
Federal government	12	4
North <b>Slope</b> Borough	62	21
Arctic Slope Regional Corp.	35	12
Other	6	2
None	8	3
Don't know	<u>161</u>	<u>54</u>
	<b>298</b>	<b>100%</b>

Finally, villagers were asked to evaluate how effectively the North Slope Borough was dealing with oil companies on the North Slope, including its use of borough tax authority. Somewhat less than half of the respondents felt that the borough was doing a fair or good job, but just as many did not know (Table 12). There were even higher proportions of "don't know" answers to similar questions about the effectiveness of the Arctic Slope Regional Corporation and the federal and state governments.



TABLE 12. ASSESSMENT OF BOROUGH DEALINGS WITH OIL COMPANIES

	<u>Number</u>	<u>Percentage</u>
Good job	<b>82</b>	26%
Fair job	64	21
Poor job	15	5
Don't know	<u><b>151</b></u>	<u>48</u>
	<b>312</b>	<b>100%</b>

In general, the borough government as an institution has established its presence and value in the minds of North Slope villagers, particularly as a source of jobs and services. Villagers are **less** certain and probably less informed about the borough's posture toward arctic petroleum development. However, they are very sensitive to environmental issues centering on the protection of subsistence resources and their traditional rights to hunt and to whale. The borough mayor's campaign against state and federal restrictions on subsistence activities is apparently in **close** tune with villagers' needs and sentiments.

#### ACCOUNTABILITY

The borough enjoys widespread support on the North Slope, and it has at least the acquiescence of its main potential **rival** institution, the Arctic **Slope** Regional Corporation. Within the borough structure, the executive clearly dominates the assembly. The mayor's office, and the personally strong incumbent mayor, definitely control North Slope Borough government, and there is little or no effective organized opposition or even any serious competition within the region.

The mayor at an early date took the lead in calling for the transfer of village powers to the borough, in establishing a home rule charter commission (which made it possible for the mayor to serve a term in office beyond the established two-term limit), and in setting basic tax **policies** to meet the revenue crisis of the borough's first two to three years.<sup>56</sup> He and his close advisors in the years since have exclusively developed all important policies for taxation of petroleum and other properties, regulation of development, expenditures for capital improvements and other borough programs, and for protection of subsistence and other resources. There 's simply no record of any significant policy initiative from the **assembly**, and on virtually all major policy questions, the assembly **ap**-proves the mayor's proposals.<sup>57</sup> Although the pattern of executive **domi**-nance in policy formulation and initiative is not unique to the North Slope, the extent of the mayor's domination **of** the North Slope Borough does tend to set it apart from virtually **all** other major municipalities in the **state**.

This is not to imply anything sinister or irregular about the politics of North Slope Borough government. To the contrary, our analysis has identified several major factors contributing to the flow of power to the mayor's office, irrespective of Mayor Hopson's personal dynamism. The North Slope Borough has had to cope with a series of threats to its legal and financial survival from its beginning, and it has had to respond to state and national policy initiatives critically affecting the region's lands and resources. And there is no apparent end in sight to the **crisis**-like character of borough government affairs. These conditions alone are

sufficient to explain the growth and **pre-eminence** of executive authority in any governmental institution.

On the North Slope, the condition of executive domination at the regional level is reinforced by other factors as well: the physical isolation and the distances between small villages, the traditional dominance of Barrow, the limited pool of experienced and educated leadership, and the **preoccupation** of potential political rivals with their own regional and village corporation affairs. Finally, villagers have been quick to look to the borough administration to meet their basic social service, educational, health, and employment needs, and, more than any other institution in their experience, the North Slope Borough has at **least** begun to deliver. It is significant, too, that the oil companies (and, less so, the state and federal governments), and not the villagers, are supplying the tax dollars to pay for borough programs. There is thus ample incentive for most permanent residents of the North Slope to support the borough's taxing and spending policies to the fullest extent possible, and no immediate financial self-interest in opposing or even seriously questioning them. Although officials of the Arctic Slope Regional Corporation may emerge as effective critics, particularly of the borough's tax policies, they have yet to react in more than limited, sporadic, and often personally idiosyncratic ways.

There is no question that North Slope Borough leaders have aggressively defended and represented in many ways the interests of the region's villagers. At this stage of the borough's development, however, it is **clear**

that the practice of political accountability within the region is a far less important check on borough leadership than are the limits imposed by external institutions having their own authority and claims on the region's lands and resources. The next chapter takes a detailed look at borough responses to federal and state policies for the North Slope haul road, the National Petroleum Reserve, and outer continental shelf development.

## Endnotes

1. Speeches, legislative testimony, press releases, letters, and similar borough documents on significant issues almost **always** come from the mayor. Discussions with borough officials, staff, and **consultants** throughout the course of this study consistently reinforced this view of Hopson's status both within the borough structure and in the borough's external relations. Personal observations at borough meetings and conferences also lent support to this estimation.
2. This discussion of borough consultants and advisors is distilled from personal contacts with some twenty borough executive and administrative officials, assembly members, and consultants between October 1977 and February 1978.
3. Personal contacts with five assembly members, Barrow, October and December 1977 and February 1978.
4. This point was confirmed by a well-placed administrative staff member, personal contact, October 1977.
5. Personal contact, Barrow, December 1977.
6. Personal contact, Anchorage, January 1978. These observations were reinforced repeatedly in our personal contacts with borough officials and consultants and in our analysis of borough documents throughout the course of the study.
7. Personal contact, Anchorage, January 1978.
8. "Testimony of Mayor Eben Hopson before the General Oversight and Alaska Lands Subcommittee on Section 17(d)(2) Lands," August 12, 1977, p. 2.
9. *Ibid.*, p. 3.
10. Personal contact with former borough staff member, Anchorage, February 1978.
11. Alaska Department of Community and Regional Affairs, Alaska Taxable 1977, p. 34.
12. If assessed pipeline property values in the unorganized borough were included (about \$3.1 billion), the North Slope Borough would account for about 20 percent of total property values and 40 percent of oil and gas exploration, production, and transportation properties statewide. With this adjustment, the North Slope's per capita property value would still be about seven times greater than that for the state as a whole. (*Ibid.*, p. 32-34. )

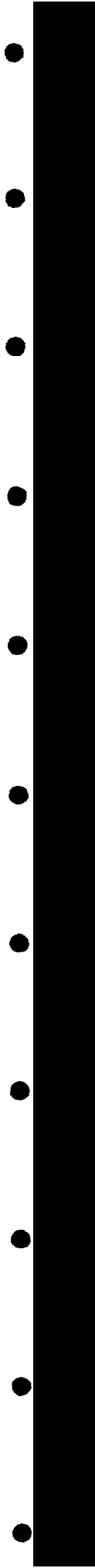
13. In comparison, the Fairbanks-North Star Borough, with a population some fifteen times greater than the North Slope's Native village population, collected only \$6.7 million in property taxes in 1977, or only about one-third of the North Slope Borough's collections. Property taxes comprised about one-seventh of Fairbanks' total general revenues of \$49 million. (Personal contact, R. Jones, finance director, Fairbanks-North Star Borough, March 29, 1978. )
14. North Slope Borough, Annual Financial Report, **fiscal** year 1977, pP. 41, 103-4. In comparison, the Fairbanks borough's debt service payments in 1977 were \$4.9 million and the State of Alaska's were about \$60 million (Anchorage Daily News, April 5, 1978).
15. Letter from John R. Messenger, deputy commissioner, Alaska Department of Revenue, to Eben Hopson, mayor, North Slope Borough, March 6, 1978. According to the Department of Revenue, the borough would be allowed to tax **only** a portion of the assessed property **value**, but it could do so to a maximum of 30 mills, which is the statutory limit for any municipality. It appears that such a mill rate, when applied to the allowable portion of property value in 1979, will yield tax revenues near the amount collected by the borough in **1978**.
16. See Chapter III and Appendix A for details.
17. Two major companies recently indicated their continuing readiness to do so in view of the borough's expanding **CIP** and the high **level, long-term** costs it implies. (Letters from D.S. Mace, assistant general manager, **Sohio** Petroleum Company, to Eben Hopson, mayor, North Slope Borough, February 7, 1978; and from Harry W. Brown, assistant Alaska operations manager, Exxon Company, U.S.A., to Mayor Hopson, February 14, 1978.)
18. Letter from Eben Hopson, mayor, North Slope Borough, to Brenda Itta, Alaska House of Representatives, March 17, 1976.
19. Personal contact, Barrow, February 1978.
20. "Mayor Hopson's Warning to the People of the Canadian Arctic," Testimony before the **Berger** Inquiry, September 21, 1976, p. 13.
21. North Slope Borough, Official Statement . . ., June 15, 1977, Table A-6, p. A-10.
22. Ibid., p. 7; also, personal contacts with two borough staff members, a former staff member, and two consultants, Anchorage and Barrow, January-February, 1978.
23. See, for example, "Mayor Eben Hopson's Statement to Alaskan **Conservationists Concerned About Offshore Oil and Gas Development in the Beaufort Sea**" (no date, approximately fall 1976).
24. Personal contact, borough staff official, January 1978.

25. The borough attorney tentatively holds the opinion that the borough's tax authority does extend to the three-mile offshore limit. The legal description of the borough's boundaries does include the **three-mile territorial sea**, but the practical meaning and effect of such "jurisdiction" apparently is not **clear**.
26. Federal Energy Administration, "Hearings on Pet 4 Exploration, Development, Production, and Related Issues," Barrow, April 10, 1976 (transcript), pp. 274-5. In 1975, the borough established Service Area No. 10 to provide water, sewer, and solid waste utilities systems in the Prudhoe Bay-Deadhorse industrial area, which were also intended to be "revenue generating." By early 1978, it was not clear that any of these facilities would be successfully completed and used. Construction delays, financial overruns, permitting problems, and engineering deficiencies contributed, among other factors, to the project's disarray. (Letter from Ernst Mueller, commissioner, Alaska Department of Environmental Conservation, to Eben Hopson, mayor, North Slope Borough, January 26, 1978; memorandum from Bob Martin, Facility Construction and Operation, Department of Environmental Conservation, to Files, Subject: "North Slope Water and Sewer," September 6, 1977.) The Service Area No. 10 story appears to be a complex case study in its own right, and can be noted only **in passing** here. A subsidiary of the NANA Regional Corporation, NANA Environmental Systems, Inc., contracted with the borough for construction and management services for the Service Area No. 10 project. The project seems to have met with one minor or major disaster after another from the start.
27. Beyond the reserve, borough officials have even discussed "taking advantage of the **ARCO** refinery at **Prudhoe** to meet some of the Boroughs fuel needs." The idea was to achieve "energy independence on a village-by-village basis" and to get fuel for village fuel cells. (Letter from James Marshall, administrative assistant to the mayor, to Tim Bradner, BP Alaska, September 22, 1976.)
28. Personal contact with official of Bureau of Land Management, Fairbanks, February **1978**.
29. "Testimony before the General Oversight and Alaska Lands Subcommittee," August 12, 1977, p. 5.
30. Personal contact with borough consultant, Anchorage, February 1978.
31. Memorandum from Charles K. Cranston to Eben Hopson, mayor, North Slope Borough, Subject: "North Slope Borough Revenue Authority, with special emphasis on litigation," February 3, 1978 (reproduced as Appendix A below). The state's refusal to recognize the borough's land claims resulted in a law suit, North Slope Borough v. Robert LeResche, presently on appeal to the Alaska Supreme Court.

32. Memorandum from Billy Neakok, director, Conservation and Environmental Security, to Mayor Eben Hopson, Subject: "Statement of the Environmental Protection Policy of the North Slope Borough" (no date, approximately March 1977). (Reproduced as Appendix B below. ) See Arctic Coastal Zone Management Newsletter, No. 4 (May-June 1977).
33. Neakok memorandum, p. 4.
34. *Ibid.*, p. 4.
35. *Ibid.*, pp. 4-5. See Chapter V below for detailed discussion of the haul road issue.
36. See any of several issues of the Arctic Coastal Zone Management Newsletter for discussions of borough interests and activities.
37. *Ibid.*; also, "Mayor Eben Hopson's Statement to Alaskan Conservationists Concerned About Offshore Oil and Gas Development in the Beaufort Sea" (no date, approximately fall 1976); letter from Eben Hopson, mayor, North Slope Borough, to David R. Brewer, president, Friends of the Earth, Washington, D.C., February 26, 1977.
38. Arctic Coastal Zone Management Newsletter, No. 1 (January 1977) and No. 3 (March-April 1977).
39. *Ibid.*
40. Arctic Coastal Zone Management Newsletter, No. 2 (February 1977); "**Mayor Eben Hopson's** Address on Government Relations to the 1977 AFN Convention, Anchorage, Alaska," November 11, 1977; Alaska Consultants, Inc., "North Slope Borough Coastal Zone Management Program Considerations," December 1976, p. 28.
41. Conrad Bagne, "North Slope Borough Legal Powers and Options on the Haul Road and Adjacent Federal and State Lands," A report submitted to the North Slope Borough Planning Department, November 1, 1977. Excerpts from this report are reproduced as Appendix C below.
42. *Ibid.*, p. 1.
43. *Ibid.*, pp. 5-6.
44. *Ibid.*, p. 9.
45. *Ibid.*, p. 23.
46. *Ibid.*, pp. 23-26 ff.
47. *Ibid.*, pp. 32-36.
48. *Ibid.*, p. 1.



49. Ibid., pp. 50-53 ff.
50. Personal contact, Anchorage, February 1978.
51. Personal contact with official of Alaska Department of Community and Regional Affairs, Anchorage, February 1978.
52. Session Laws of Alaska, 1977, Chapter 84.
53. AS 46.35.030.
54. AS 46.35.090(b).
55. The North Slope survey was conducted under the National Science Foundation-supported Man in the Arctic Program (MAP) of the Institute of Social and Economic Research. Conducted between October and December 1977, the survey was based on 80 percent coverage of all households in Point Hope, **Wainwright**, Anaktuvuk Pass, **Nuiqsut**, and Kaktovik, and a 50 percent simple random sample of all households in Barrow. (Point Lay and Atkasook were not included in the survey. ) The interviews were conducted primarily by North Slope Natives.  
  
Most (over half) of the 317 adult respondents were male, most were heads of households, and most were between the ages of 18 and 40. Sixteen additional cases will be added to the final data, and tabulations, such as those presented here, will be adjusted as appropriate to account for the smaller percentage of households selected in Barrow. Such adjustments will affect the results presented here only where the Barrow response significantly differs from the non-Barrow response to a particular item. Where this occurs, it is noted in the above discussion.
56. "Policies to be Presented to all Villages on the North Slope" (no date, approximately late 1972).
57. Based on review of North Slope Borough Assembly Minutes 1972-1977 and on contacts and observations indicated in note 3 above.



## CHAPTER V. PETROLEUM DEVELOPMENT CASES

### Introduction

The North Slope Borough was founded on revenues from Prudhoe Bay development, but the giant field has a limited life, and borough, state, federal, and oil company officials are looking to other areas of the giant municipality as future sources of not only gas and oil but profits and taxes as well.

This chapter looks at how the North Slope Borough has dealt (and is dealing) with several cases of petroleum exploration and petroleum-related development in the arctic. Histories of the North Slope haul road, the National Petroleum Reserve in Alaska, and offshore leasing in the Beaufort Sea are briefly described, followed by detailed examinations of how the North Slope Borough--largely through Mayor Eben Hopson--has made its voice heard as state and federal officials make decisions about opening the haul road to the public, developing the petroleum reserve, and selling petroleum leases in the Beaufort Sea.

The chapter also looks at several other instances in which the borough--or its villages--have spoken out and attempted to influence development. Finally, the chapter draws some conclusions about what the borough is trying to accomplish as more petroleum development occurs in Alaska's arctic.

## North Slope Haul Road

About 272 kilometers (170 miles) of Alaska's newest highway cross the North Slope Borough, linking the remote municipality to the rest of the state by land for the first time--but the borough does not want a public road drawing more people to the arctic.

Built by **Alyeska** Pipeline Service Company in 1974, the 576-kilometer (360-mile) gravel haul road from **Prudhoe** Bay on the Arctic Ocean to the Yukon River in the Interior was used and maintained by Alyeska during construction of the **trans-Alaska** pipeline and provided a link with existing roads south of the Yukon. Most of the land the road crosses is owned by the federal government, but the road belongs to the State of Alaska under terms of a federal grant of right-of-way and construction agreements with **Alyeska**. The state attorney general's office has determined the federal right-of-way was issued for construction of a public highway, and the haul road was built to meet state secondary highway standards. <sup>1</sup> With the oil now flowing through the **trans-Alaska** pipeline, the state is scheduled to take over management and maintenance of the road from **Alyeska** in late 1978.

But the North Slope Borough does not want the northern half of the road--from the borough boundary at the Brooks Range to Prudhoe Bay--open to the public. In a December 1977 statement, borough mayor Eben Hopson said, "Public use of the haul road has been opposed by the North Slope Borough. It is our policy to guard against permanent immigration to the Arctic. . . .

we regard Arctic population growth to be potentially our greatest environmental security problem. We oppose not only public use of the haul road, but also any other such permanent access to the Arctic."\*

Governor Jay Hammond announced in January **1978** that the state would limit access to the road to industrial users and commercial tour buses until **1983**, when a natural gas pipeline from Prudhoe Bay south along the road route and then east into Canada along the Alaska Highway is scheduled to be completed. Hammond said wider public use of the road "might be **appropriate**" after construction of the gasline, but that "I much prefer to crack the road open conservatively and then make adjustments as time, experience and appropriate means of funding will permit." He noted that maintenance of the road crossing a mountain range and hundreds of miles of wilderness terrain will cost about \$13 million the first year the state assumes control and about \$10.5 **million** annually by **1980**. "These figures are put into perspective when one realizes that the total highway budget for all roads in Alaska annually is \$40 million," Hammond **added**.<sup>3</sup> The governor has also said the state is studying methods of charging industry for the use of the road during this period.<sup>4</sup>

The federal government owns all but about the 112 most northerly kilometers (70 miles) of land along the haul road; the state owns the rest. The state will determine ultimate public access to the road stretching to the Arctic Ocean, but the Bureau of Land Management of the Department of the Interior manages the federal lands adjoining most of the route (the "utility corridor" ).

## BACKGROUND

In the early 1970s, the State of **Alaska's** position was that the haul road would be open to general public use when the oil pipeline was completed. In "Comments on the Proposed **Trans-Alaska** Pipeline," a 200-page statement prepared by the state Department of Law in **1971**, a paragraph on the proposed haul road reads, "During the third year of maximum [pipeline] construction, rest areas can be constructed to accommodate the tourists once the North Slope haul road is open for public use . . . The Department of Highways estimates that over 400 recreational trips per week will be made on the new road on an annual average starting in the summer season following the end of maximum construction **activity.**"<sup>5</sup>

But in 1975 and 1976, Governor Hammond--who had been elected in 1974--took several steps toward **re-evaluating** the state's earlier position that the haul road would be open for unrestricted public use when the oil pipeline was completed. He named commissioners of several state departments and the director of the state Division of Policy Development and Planning to a haul road task force to study effects, costs and benefits of opening the road after pipeline construction and to make recommendations for road policy when the state" assumed its management and maintenance. The governor also created the Alaska Growth Policy Council, an eleven-member citizen's council, to hold public hearings and offer recommendations for state policy on issues--like opening of the haul road--affecting future development in the state. And Hammond asked the state attorney general's office to prepare an opinion on "legal constraints on differing management options for the **trans-Alaska** pipeline haul road."<sup>6</sup>

## Hearings and Planning

In **early** 1976, the Alaska Growth Policy Council held public hearings in Barrow, Fairbanks, Anaktuvuk Pass, **Allakaket**, and Bettles on the haul road issue. Mayor Hopson of the North Slope Borough told the council:

There are many existing transportation deficits to overcome throughout our borough which should be overcome before the state **begins** to think about spending money to operate and maintain a public highway between Fairbanks and **Prudhoe Bay** . . . the state's secondary highway program . . . has never **been extended** to our borough communities, and I would think the state's growth policy would be to take care of existing problems in the Arctic before creating new ones . . . the economics of haul road operation and maintenance are highly questionable . . . . The question of opening the haul road for public use raises other questions about new pressures on our caribou herds, and about new, non-traditional community development at **Prudhoe Bay** and along the road . . . we **don't want** to encourage such new community development . . . .  
"7

In 1976 the growth council made its recommendations to the governor: limit **road** use to "support of **oil** and gas and hard mineral extraction" in the immediate future and ask the Federal-State Land Use Planning Commission to undertake a comprehensive land-use study of the entire haul road region before setting a long-term policy on road use.<sup>8</sup> The same year, the **attor-**ney general reported to the governor that agreements with the federal Department of the Interior, the Federal Highway Administration, and Alyeska Pipeline Service Company established the haul road as a public highway that would have to be maintained for **public** use. The legal opinion said closing the road entirely could cost the state the federal grant of right-of-way, make the state liable for repayment of approximately \$30 million **in** federal funds used in building the road and a bridge across the Yukon River, and expose the state to possible litigation by Alyeska for

the loss of the use of the road. But the attorney general said the state could limit access to the road--" properly framed regulations reasonably restricting the use of the road could withstand judicial challenge and afford a high degree of management flexibility to the state without undue exposure to liability" --and that there were legal means of charging industry for use of the road **after the** state assumed control of it.<sup>9</sup>

In September **1976**, the governor announced, ". . . for the short term, the road will be opened just for use by mining and industrial interests" and that this interim policy would be in effect "until the Federal-State Land Use Planning Commission and local governments have developed a rational plan for the sound and profitable management of state and federal lands in the area" and until "determination of whether the road will be needed for construction of a gas line." He also noted industry would be charged for the use of the **road.**<sup>10</sup>

Before Governor Hammond was elected, the Bureau of Land Management began work on a "management framework plan" outlining tentative proposals for uses and management of federal lands along the pipeline corridor, with emphasis on the undeveloped area north of the Yukon River. 11 This early set of recommendations for recreational facilities and other land uses was based on the assumption that the haul road would be "open to full public use" when the pipeline was completed, and the BLM in early 1975 asked the North Slope Borough and other government agencies to comment on the preliminary plan. 12 When Governor Hammond announced his interim road policy in September 1976, the BLM began revising its plan in light of the



new state policy of limiting public access to the road for some period after the pipeline was completed. <sup>13</sup>

#### BOROUGH INTERESTS

During 1977--while the state and federal governments studied future uses of the haul road and lands surrounding it--Mayor Hopson wrote a series of letters asking government officials for clarification of haul road policy and stating the borough's position on the road across the arctic. In February 1977, Hopson wrote members of the Alaska Legislature in support of a resolution requiring the governor to present more information on the haul road to the 1978 legislative session. Hopson noted, "Maintenance of the road would promote an influx of tourists for whom no support facilities exist. Arctic travel can be very dangerous during much of the year . . . these dangers could result in an overwhelming increase in service requests made to our Public Safety Department which we are not prepared to bear. "<sup>14</sup>

One member of the legislature replied: ". . . many of us in the **legislature** do not consider the opening or the closing of the haul road to be a matter for the governor's decision. Instead we regard this as something for the legislature to decide. We will of course consider costs among other factors. "<sup>15</sup>

In May 1977, Hopson wrote Governor Hammond: "It is my understanding that the haul road has continued maintenance characteristics that render it

uneconomical for use of any kind. Has abandonment of the haul road been considered as a policy alternative?"<sup>16</sup>

In letters in June and November 1977, Hammond replied, "Because of circumstances and agreements entered into by previous administrations, we are faced with the reality that the haul road can and will not be totally closed," but that "My administration, along with representatives of your planning department, the Federal-State Land Use Planning Commission and various federal agencies are jointly involved in generating recommendations for future use of the road--use based on comprehensive land use planning for the Arctic . . . My staff has, and will continue, to work closely with your planning **department.**"<sup>17</sup>

Also in late 1977, the BLM issued a pamphlet containing its revised proposals for land **use** management along the haul road and scheduled a series of public hearings on the new proposals, described by a BLM official as "raw, essentially single use recommendations reflecting . . . technical specialists judgments concerning the resource base available and projected future needs and **wants.**"<sup>18</sup>

Eben Hopson commented on these BLM recommendations in letters to Governor Hammond and Guy Martin, Assistant Secretary for Land and **Water** Resources in the Department of the Interior:

. . . only a comprehensive land use and transportation plan much more developed than the initial BLM effort can suffice as any kind of **decisionmaking** tool for the haul road area . . . . A plan must be developed by all concerned parties and must weigh and evaluate not just individual resources, but highly important considerations such as the borough's

home rule planning powers and concerns, the future of regional corporation lands, the preservation of the subsistence life style and economy and the total impact of a new road on one of the last remaining wilderness areas of the nation . . . . we strongly recommend putting a halt to further distribution and discussion of the initial BLM report and the immediate establishment of an interdisciplinary BLM, state and borough planning team to thoroughly address the many issues raised by the road and its future use.

In a reply to Hopson's letter, a BLM official noted the bureau had planned to discuss the set of recommendations with borough and state officials before the pamphlet was released to the public but was prevented from doing so through a chain of circumstances that forced early public distribution of the brochure. The official added, ". . . the brochure was designed to highlight various recommendations on land use as developed by technical specialists without regard to conflicts or the impacts on other resources . . . BLM is not advocating the opening or the closure of the road."<sup>20</sup> BLM planners also met with borough officials in Barrow in November, after release of the land-use recommendations.

Secretary of the Interior Cecil **Andrus** did take a position on opening of the haul road in an October 1977 letter to Governor Hammond: "I believe it may be desirable to utilize the road exclusively for construction purposes if the [gas line] route is approved . . ." <sup>21</sup> Shortly thereafter, Guy Martin, Assistant Secretary for Land and Water Resources, directed the **BLM** in Alaska to postpone public hearings on its land use recommendations and "determine the level of development of plans by other interests, beginning with other federal agencies, the state and local governments" and to consider holding "joint hearings" in **1978** on future uses of lands

along the haul road. 22 In January 1978, the BLM began a series of "planning coordination" meetings with representatives of federal and state agencies and the North Slope and Fairbanks North Star boroughs. The North Slope Borough and the BLM agreed that during 1978 haul road planning a representative of the borough would work with the BLM planners.<sup>23</sup>

#### BOROUGH PLANNING

While writing to and meeting with federal and state officials during 1977, North Slope Borough leaders were also devising their own plan for controlling development along the haul road, should the road be opened to the public. In a letter to the borough assembly in November 1977, Mayor Hopson said, "... the only way we can get the federal and state governments to listen to us is to use our legal planning and zoning powers as a home rule borough. We have always had the power to zone land and impose standards on roads through our subdivision powers."<sup>24</sup>

#### Legal Opinion

Earlier that year, the borough had hired a land-use attorney to write an opinion on the municipality's "powers and options on the haul road and adjacent federal and state lands."<sup>25</sup> In an opinion submitted to the borough in November 1977, the attorney said, "It is unlikely the North Slope Borough can assert its control over the road to the exclusion of all other interests. At the same time, those other interests may not totally exclude or ignore the concerns of the borough."<sup>26</sup>

Regarding the borough's options for controlling development on federal lands within borough boundaries, the attorney wrote:

. . . The "exigencies of the particular case" will determine the relative authority and jurisdiction. States, and local units of government delegated state authority, may exercise control over federal lands to the extent regulation would not be inconsistent with or frustrate clear federal policies or programs. . . .

Determination of when federal regulations "override" state or local controls involves a **balancing of respective** actions and a preemption like examination. If the federal interest **clearly** conflicts with the state action or leaves nothing for the state to address, the federal law will prevail. 27

The **legal** opinion also discusses aspects of the Federal Land Policy and Management Act of 1976,<sup>28</sup> which "reviewed and clarified" the Bureau of Land Management's responsibilities in preparing land use plans for public lands:

. . . Where there is no overriding federal law or policy, **local** concerns should be respected. Federal law may become the controlling law, but there is room for negotiation here. Local citizen advisory councils may be established to advise on plans and management decisions. . . .

. . . when public lands are to be sold, the local government in the area is to be given at least 60 days notice "in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance." This might arguably include leases and conveyances of partial interests in public lands . . . Specifically, the Secretary [of the Interior] is prohibited from making any conveyance of public lands "containing terms and conditions which would . . . constitute a violation of state and local land use plans or programs." With the right to notice and prohibition against conveyances in violation of local law, the borough should be able to stop proposed inconsistent development proposals. 29

Regarding borough versus state authority on state-owned lands within the borough, the attorney wrote:

. . . The state has delegated a fairly broad range of police powers to local governments. . . .

. . . .The statutory granting of zoning power in [Alaska Statute] 29.33.090 is very broad . . . Zoning may address itself to, among other things, the use of the land, structures located on the land, and distribution of population. A zone or district can be drawn on a map controlling all uses of land within that area. Certain types of uses can be allowed in the zone and all others prohibited. . . .

Conditional use permits are specifically authorized . . . The conditional or special use permit technique could be utilized to control development along the haul road. A zoning district would be established along the haul road in an area where development is desired or anticipated. This could be up to so many miles on either side of the road. . . .

. . . Efforts to develop in certain areas may be denied until public service facilities are constructed or otherwise planned to be made available.<sup>30</sup>

On the borough's options for controlling access to the haul road itself, the attorney noted:

The borough does not normally have authority over planned construction of state highways. It may specifically request, however, that it be allowed to assume "responsibilities relating to the planning of transportation corridors" within the borough. [Alaska Statute] 19.10.280. . . .

. . . .Additional borough control may be possible under A.S. 19.20.060, which provides "The department [of transportation and public facilities] and a municipality may enter into an agreement with each other . . . for the financing, planning, establishment, improvement, maintenance, use regulation or vacation of controlled-access facilities or other public ways in their respective jurisdictions." The haul road might be designated a "controlled access facility" to limit the ingress and egress therefrom. This would require significant cooperation with the state transportation department.<sup>31</sup>

The report also notes that "a balancing of interests test" is "arguably the best approach" to deciding if local controls shall have effect on state-owned lands. Under this balancing of interests, "Governmental entities will be subjected to local zoning actions, unless some interest of that entity deserves paramount protection and encouragement. There are no Alaska cases on this matter. Statutes that bear on this are few and of limited **application.**"<sup>32</sup>

### Resolutions

Based on this legal opinion and the work of the borough's planning commission and planning department, the borough assembly in late 1977 approved a resolution outlining a series of borough policies regarding the haul road and enacted a zoning ordinance amendment creating a "highway related development district" adjacent to the haul road; the amendment specifies how the borough hopes to regulate development along the haul road and any future major roads through the borough. At the same time, the assembly enacted an amendment broadening the borough's authority over subdivision of **land.**<sup>33</sup> In a statement accompanying the resolution and ordinances, the borough planning department noted the ordinances "would not necessarily prohibit opening of the road or various uses along it, but they would give the borough planning commission and assembly early knowledge of such proposals and the power to approve, change or reject various developments."<sup>34</sup>

Major points in the borough's resolution on the haul road include:

. . . the Borough Planning Commission respectfully requests that the State of Alaska continue the existing policy of utilizing the Haul Road from the south side of **Atigun** Pass

in the vicinity of **Chandalar** camp north to Prudhoe Bay only for use by major industrial interests, with appropriate **local**, State and federal reviews and controls. Any permanent policy should only be adopted after careful and meaningful study and review by **all** interested and relevant parties, and should include detailed analysis of total road closure options. . . .

The Borough further requests that prior to any reconsideration of any permanent policy, the State initiate a program of development **and** maintenance of a secondary highway system and adequate airports in each of the Borough communities starting with adequate road connections from each community airport to the center of town. Adequate year-round roads in each Borough community should be the major priority of the state before expenditure of additional resources is even considered for major roads from outside the Borough communities. . . .

The Borough further requests formal recognition and acknowledgement by the State and federal governments of the validity of local Borough powers and of the fact that the Borough is the dominant governmental entity in the northern portion of the Haul Road, given its zoning, subdivision review and other governmental powers. . . . **Appropriate** action should be taken where necessary to ensure that all major public improvements in the Borough, not only the Haul Road and its adjacent development, are subject to a thorough review by the Borough staff, planning commission and other reviewing bodies with adequate time to change or even stop developments with unjustifiable negative impacts on the Borough. Similar ongoing coordination and review with the Arctic Slope Regional Corporation and relevant village corporations should be provided.

The Borough further requests that the State and federal governments join the Borough, Regional Corporation and adjacent communities and interests to prepare a cooperative, detailed land use and transportation plan not only for the Haul Road area, but all of the Borough. . . . This effort should also include analysis and firm policy suggestions on any and all new **communities** which might be established in the Borough. . . . **35**

To implement these haul road policies, the borough assembly enacted a zoning ordinance amendment establishing "highway related development" districts along major roadways, specifying "uses permitted by right" and uses that require "special use" permits. Uses permitted by right are:



Maintenance, emergency and service facilities necessary to the state or other public upkeep of the roadway;

Oil and other resource pipelines or transportation systems and necessary operation and maintenance facilities.

Under the borough plan, other uses would require "special use" permits; these permits will be issued for uses which:

Will be clearly dependent upon or related to the operation of the roadway;

Will not damage or threaten wildlife or other natural resources;

Will not damage or threaten historic resources, subsistence lifestyles or significant scenic areas;

Will be for a use for which there is a demonstrated need in the Borough that is not adequately met by other proposed or existing developments;

Will further the clustering of development and not contribute to strip type development;

Will not unduly burden the Borough's ability to meet the needs of its citizens and provide services in a systematic manner;

Will be relatively self-contained, not produce external site impacts, and not overburden functioning natural systems;

Will have minimal visual impacts upon the natural environment and the roadway itself;

Will not violate or frustrate any of the policies of the Borough's comprehensive or other plans, or provisions of this and other ordinances; and

Will not diminish or alienate any of the values for which a Native Allotment has been issued. 36

Also, the borough amended its subdivision ordinance to read:

. . . It is the intent of the Borough to ensure its interest and rights are protected and adequately considered in any action within its boundaries involving the subdividing of

land and the development and opening of roads and highways. It is the intent of the Borough to assert its rights and interests over all such actions regardless of the owner, private or public of the land or right of way. . . .

This chapter shall govern **all** subdividing or re-subdividing of land, all development **and** dedication to the Borough or other public entity of any street, road or highway on lands within the Borough, and the vacation of any ~~street~~ road, highway easement or right-of-way in the Borough. <sup>37</sup>

With the governor's recent announcement **that the** haul road will be closed to **all** but industrial traffic and commercial **tour** buses until the gas line is completed, the test of the borough's regulatory power over state and federal land along the haul road is yet to come. In March 1978, a special committee of the state legislature was considering whether to attempt to override the governor's decision and call for opening of the haul road before 1983.<sup>38</sup> In a 1976 statement, Governor Hammond said of the controversial gravel road: "The haul road will be opened to the **ex-**tent Alaskans are willing to pay for it--environmentally, socially and economically. In that process I believe most Alaskans desire first to read the price tags, not simply write blank checks. "<sup>39</sup> The leaders of the North Slope Borough have shown they intend to make **themselves** heard in the coming years while the costs and benefits of a public **h:ghway** across the North Slope are being tallied.

#### National Petroleum Reserve in Alaska

##### BACKGROUND

The North Slope Borough wants tax dollars from and unrestricted subsistence use of the National Petroleum Reserve in the heart of the borough,

but the federal government has not yet decided what to do with the vast reserve once thought to hold more oil than the Prudhoe Bay field.

A region covering 93,437 kilometers (23 million acres) roughly from Point Barrow south to the Brooks Range and from Icy Cape east to the **Colville** River was designated Naval Petroleum Reserve No. 4 by President Warren Harding in 1923. The Secretary of the Navy was authorized to "explore, protect, conserve, develop, use and operate" the reserve, with the provision that Native residents of the area were not to be "disturbed in their aboriginal use, beneficial occupancy and enjoyment of the lands."<sup>40</sup> The reserve remained under the control of the U.S. Navy until June 1977, when jurisdiction was transferred to the Department of the Interior under terms of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258). The reserve was then renamed the National Petroleum Reserve in Alaska (**NPRA**).

Based on early government exploration, the U.S. Geological Survey once estimated there might be 33 billion barrels of recoverable oil in the reserve; the neighboring Prudhoe Bay field holds an estimated 10 billion barrels of oil. But government exploration in the reserve to date has confirmed only **100** million barrels of recoverable oil, and the USGS currently estimates between 2 and 8 billion barrels of oil may lie in the reserve. There are natural gas wells operating near Barrow, and the USGS estimates there may be as much as 25 trillion cubic feet of natural gas in the reserve.<sup>41</sup> The Department of the Interior is currently exploring for additional petroleum deposits in the reserve.

## Borough Interests

Mayor Eben Hopson of the North Slope Borough has said the petroleum reserve, "roughly the size of Indiana," was designated **on** traditional lands of the arctic Eskimo "without asking us, for it was our land . . . [and] without any compensation."<sup>42</sup> The reserve covers 40 percent of the borough, and about 80 percent of the North Slope's Eskimo population lives in four borough villages on the reserve. Barrow, the largest Eskimo village **in** the region, and the smaller communities of **Wainwright, Nuiqsut** and **Atkasook** sit within the reserve. Under terms of the **1971** Alaska Native Claims Settlement Act, these four Native communities selected about 136.5 square kilometers (400,000 **acres**) of land in the reserve, but the federal government holds subsurface rights to these lands.<sup>43</sup>

In a 1976 statement to the Federal Energy Administration, Mayor Hopson said one of the reasons for organization of the municipal government on the North Slope in 1972 was "to secure a measure of the control we would have had if the land of [the reserve] had not been taken from us in the first place."<sup>44</sup> **Hopson has** said the borough would like all federal lands on the North Slope--including the petroleum reserve--classified as one "wildlife range under conditions allowing unimpeded subsistence gathering and controlled natural resource development," rather than under several federal classification systems.<sup>45</sup>

A more specific borough stand on **petroleum development** in the reserve was outlined by a borough consultant in 1976: ". . . private enterprise **de-**velopment of [the reserve] should be encouraged as soon as practicable" to provide a "leasehold interest for the North Slope Borough to tax."

Also, during the period of government exploration "substantial federal assistance [should] be rendered to the borough to overcome the impact from [NPRA] activities. . . . And during all exploration and development, "protection of environmental and human values [should] be **fully exercised.**"<sup>46</sup>

#### Exploration and Planning Programs

Little petroleum exploration was done in the reserve until 1944, when the Navy began "an ambitious exploration and drilling program," making 44 core tests, drilling 36 wells, and gathering 5,600 kilometers (3,500 line miles) of seismic surveys between 1944 and 1953. In 1953, a Navy Survey Board "questioned the value of **NPR-4**, due to its access problems and vulnerability," and the exploration work was stopped.<sup>47</sup> The federal government spent about \$40 **million** on this nine-year exploration program, and the largest oil field discovered was the **Umiat** field in the southeastern part of the reserve, where the Navy estimated there were 70 million barrels of recoverable oil; several smaller oil fields found within the reserve were estimated to hold an additional 30 million barrels. In 1949, a field with estimated reserves of 25.2 billion cubic feet of **natural** gas was discovered near Barrow. Until 1964, gas from this area--known as the South Barrow gas field--was used to supply Navy installations and Distance Early Warning System sites with fuel. In 1964, the federal government authorized the village of Barrow to also receive gas from the **field.**<sup>48</sup>

Mayor Hopson has called this period between 1949 and 1964 "a long, frustrating . . . struggle to get permission to hook our homes in Barrow to gas mains that **criss-crossed** Barrow through our back yards. Although it

sounds incredible today, the Navy was absolutely implacable in its refusal to let us use our own natural gas to heat our homes . . . ."<sup>49</sup>

No major exploration work was done in the reserve from 1953 until 1973, when "in view of the continuing dependence of the United States on costly imported oil," the U.S. government began taking another look at the petroleum reserve, and in fiscal 1974 Congress appropriated \$7.5 million for a small exploration program.<sup>50</sup> The following year, Congress appropriated more than \$60 million for exploratory work in the reserve, and the Navy established a program calling for drilling of 26 test wells and gathering of more than 16,000 kilometers (10,000 line miles) of seismic surveys by roughly 1980.<sup>51</sup> As was done in previous Navy exploration of **the** reserve, the work was to be government-financed, with the Navy contracting for drilling and other needed services.

In late 1975, with government exploration underway in the petroleum reserve, the federal Energy Policy and Conservation Act was passed. One provision of this act required the Federal Energy Administration to study the petroleum reserve in Alaska and provide Congress with "recommended procedures for the exploration, development and production of [the reserve]; analyses of arrangements for the participation of private industry and capital, including private-industry leasing; [and] recommendations for protecting the economic, social and environmental interests of Alaska Natives residing within [the reserve]."<sup>52</sup> At about the same **time**, Governor Jay Hammond appointed members of his cabinet to a task force to look at "all issues related to [the reserve] and their relationship to

other North Slope concerns," and to make state positions on possible development of the reserve known to federal officials.<sup>53</sup>

Federal Energy Administration representatives came to Alaska in early 1976, meeting with state officials and holding public hearings in Anchorage, Fairbanks, and Barrow. In August 1976, the federal agency issued its report, finding "Overall, FEA favors private sector conduct of [reserve] exploration, development, production and transportation activities for reasons of efficiency," although "A government exploration program should be continued during the period required to implement a leasing plan." Also, the FEA concluded there were "substantial benefits to be realized from timely development of [reserve] petroleum **resources.**"<sup>54</sup>

The federal report also projected several possible development scenarios and looked at effects on the state as a whole and on the North Slope in particular of development of a 500-million barrel, a 1-billion barrel, and a 3-billion barrel oil field in the petroleum reserve:

Under private development the State would realize fiscal gains of [between] \$150 million . . . and \$500 million. Under complete government development . . . the **state** if uncompensated by the federal government could suffer a net fiscal loss . . . of [between] \$40 million and \$160 million. . . .

. . . In the North Slope Borough . . . population additions **of 500** [to] 2,400 . . . could be expected. . . . If, on average, it cost local governments \$900 to support each additional resident, then . . . local population increases [could cost between] \$30 million and \$120 million. Increased tax revenues and transfers from federal and state governments to local jurisdiction were not estimated. However, they would undoubtedly ease these cost impacts.<sup>55</sup>

In general, the federal report noted:

The federal government should consider ways to assure that the state and the North Slope Borough governments are assisted in offsetting negative net economic impacts resulting from [reserve] development . . . .

. . . . Appropriate measures for mitigating potential adverse environmental and socioeconomic impacts should be implemented. Specific measures regarding the mitigation of adverse environmental and socioeconomic impacts are premature at this time. Further study is needed.<sup>56</sup>

#### NAVAL PETROLEUM RESERVES PRODUCTION ACT

Even as the Federal Energy Administration was gathering information for its report to Congress on methods for and effects of development in Alaska's reserve, another federal act concerning Naval Petroleum Reserve No. 4 became law. In April 1976, the Naval Petroleum Reserves Production Act was passed, separating the naval petroleum reserve in Alaska from the three other naval reserves in the United States and prohibiting development in the Alaska reserve until several wide-ranging studies had been completed. The act shifted jurisdiction for the reserve in Alaska from the Department of the Navy to the Department of the Interior and redesignated the giant reserve as the "National Petroleum Reserve in Alaska," to be used "as consistent with the total energy needs of the Nation, and for other purposes." The other three naval petroleum reserves in the United States remained under the control of the Secretary of the Navy and were designated to be used "as needed for national defense purposes."<sup>57</sup>

The North Slope Borough lobbied in Washington, D.C. in support of the act and hailed its passage as a sign that "local municipal intervention can influence national energy policy to accommodate local needs."<sup>58</sup> Th.



borough hoped the shift from **military** control to the jurisdiction of a civilian agency would result in leasing of lands in the reserve to private industry for petroleum exploration and development, thus providing the borough with taxable property in the reserve. A borough consultant noted in 1976 that if the federal government carried out its own exploration and development program in the reserve "with [its] own equipment, directly contracting for services such as drilling rather than by leasing lands for exploration and development, then there will be no leasehold interest for the North Slope Borough to **tax.**"<sup>59</sup>

Aside from the possible tax benefits to be gained by the switch to the Interior jurisdiction, the borough saw the Interior Department as the preferred agency to administer the act and manage the surface resources in a way "sympathetic to the needs and desires of our people."<sup>60</sup> In a letter to Jack Horton, then Assistant Secretary of the Interior, Mayor Hopson explained the borough's additional reasons for supporting the act:

Our efforts for passage of this act and our relationship to it are premised upon the maintenance and enhancement of the best elements of our age-old culture. Much of our cultural heritage accrues to us from the relationships of our people while engaged in subsistence pursuits. . . .

The borough must be able **to** assure its people that their fish, game, productive berry-picking areas, fish camps, archeological and historical sites of cultural significance, and their free access to these subsistence resources and sites will not be inhibited. Otherwise, a way of life will be drastically altered, and to all intent and purpose a culture will be **des-**troyed.<sup>61</sup>

When putting together the 1976 act, federal lawmakers included some provisions borough lobbyists had supported, and Mayor Hopson has said, "The

borough was even encouraged to submit its position in legislative language, some of which remains in the act. "6<sup>2</sup> The act **calls** for **wide-** ranging land-use studies of the reserve's resources, examination of systems for development of petroleum deposits in the reserve, and continuing petroleum exploration, but the legislation expressly prohibits actual development in the reserve until Congress takes further action. In the only exception to this ban on development, the act not only **allows** but requires the Interior Department to assure Barrow and nearby government facilities a continuing natural gas supply. The Interior Department is also required to establish regulations for surface management of lands in the reserve and to determine if impact funds are to be provided to any local communities adversely affected by the government's exploration and study programs. 63 These provisions of the 1976 act of special interest to the borough are discussed **in** greater detail below.

### Surface Regulations

The 1976 act calls for establishment of surface regulations for the reserve:

With respect to any activities related to the protection of environmental, fish and wildlife, and historical or scenic values, the Secretary of the Interior shall assume all responsibilities as of the date of the enactment **of** this title. . . . The Secretary may promulgate such rules and regulations as he deems necessary and **appropriate** for the protection of such values within the reserve. 64

The Interior Department's Bureau of Land Management in Alaska was assigned responsibility for drawing up regulations for surface management of lands

in the reserve, and in the summer of 1976, the BLM issued draft regulations and invited comments from the North Slope Borough.

In a June 1976 letter to the state director of the BLM, Mayor Hopson wrote, "The North Slope Borough's major concern is the maintenance of traditional uses of the National Petroleum Reserve by North Slope Natives," and, that "as written, [the draft regulations] deny the right of Natives to pursue their subsistence activities 'without authority.'" Hopson asked that the final regulations place no restrictions on subsistence activities in the reserve.<sup>65</sup>

In its final regulations--which were approved by the Acting Secretary of the Interior in May 1977 and will remain in effect at least until studies in the reserve have been completed--the Bureau of Land Management noted:

Biological resources can be depleted gradually to a point of endangering future productivity without the depletion being recognized to the untrained eye. Therefore, the Secretary's discretion must be maintained to exercise management when necessary. Adequate provision has been included . . . to protect the needs of subsistence users.<sup>66</sup>

And the surface regulation itself reads:

To the extent consistent with the requirements of the [Naval Petroleum Reserves Production Act] and after consultation with appropriate Federal, State and local agencies and Native organizations, the authorized officer may limit, restrict, or prohibit uses of and access to lands within the reserve

Except for petroleum exploration which has been authorized by the act, use authorizations must be obtained from the authorized officer prior to any use within the reserve . . . .

the reserve, with five drilling crews of about 50 persons each. At the same time, five construction crews of about 60 persons each and four seismic crews of about 40 persons each were in the reserve, for a total exploration work force of about 700. The main base of operations for the exploratory work is Camp Lonely, at Pitt Point about 260 kilometers (100 miles) southeast of **Barrow.**<sup>74</sup>

#### Land-Use Study

The naval reserves act also calls for a study to determine "the best overall procedures to be used in the development, production, transportation, and distribution of petroleum resources in the reserve." <sup>75</sup> This study is to be completed in January 1980 and is being carried out by the Office of Minerals Policy and Research Analysis and the U.S. Geological Survey out **of Washington, D.C.**

The act also requires another study, a broad-ranging land-use study that Mayor Hopson has called "the most important section of the act to the **borough.**"<sup>76</sup> This section (105(c)) states:

The Secretary of the Interior shall establish a task force to conduct a study to determine the values of, and best uses for, the lands contained in the reserve, taking into consideration (A) the natives who **live** or depend upon such lands (B) the scenic, historical, recreational, fish and wildlife and wilderness values (C) mineral potential (D) and other values of such lands.

Any such task force shall be composed of 'representatives from the government of Alaska, the Arctic slope native community, and such offices and bureaus of the Department of the Interior as the Secretary of the Interior deems appropriate, including, but not limited to, the Bureau of Land Management, the United States Fish and Wildlife Service, the United States Geological Survey, and the Bureau of Mines.<sup>77</sup>

The task force called for in this section was formed soon after the act was passed and is made up of the chiefs of seven Interior agencies in the state and representatives of the State of Alaska, the North Slope Borough, and the Arctic Slope Regional Corporation. Chairman of this group is the state director of the Bureau of Land Management. This task force is overseeing work begun in 1977 by seven work groups and a core planning team; the work groups are made up of employees of seven Interior agencies, and the core planning team is made up of federal employees and **representatives** of the State of Alaska and the North Slope Borough. The work groups are collecting information on resources in the reserve, and from this information the planning team will develop land-use recommendations--subject to review and approval by the task force--by April 1979. The **recommendations** will be sent to the Secretary of the Interior, who will present them to Congress. <sup>78</sup>

These recommendations to Congress "will provide a framework within which legislation relating to "land use designations and administration can be formulated. It will identify needs for detailed resource management plans . . . transportation corridor plans or multiple use plans . . . [and] identify requirements for additional or continued studies and/or inventory. <sup>1179</sup>

The borough's representative on the core planning team has said the borough administration **would** ultimately like to see "the entire area [federal lands on the North Slope] under one classificatory system" that would allow "maximum control of development while insuring continuation

of the present land use and occupancy systems. "8° Mayor **Hopson** has said he would like all federal lands north of the Brooks Range classified as a wildlife **range**.<sup>81</sup>

Borough Land Use Planning. In **1976**, the borough began work on its own land use **plan** for the entire North Slope, work described by the borough planning director as an effort to "map every aspect of the past use of the land, every aspect of the present use of the **land**, and then make some projections about what we feel are important considerations for future use. This would provide the basis for a land-use policy statement that takes into consideration food chains . . . [and] lifestyles . . ." <sup>82</sup>

As an initial step toward this land use plan, in 1976 the borough began making "traditional land use inventories" of areas around villages. In June 1977, interested in this work by the borough, the planning team of the federal land-use study contracted with the North Slope Borough to provide the planning team with reports on the "subsistence, recreation, and historic and cultural values in the petroleum reserve from the Native point of view." <sup>83</sup> **Representatives of** the National Park Service--one of the seven Interior agencies involved in the federal land use study--began work with the borough in the summer of 1977. In November 1977, the park service and the borough submitted reports to the federal planning team on present land use and historic sites in the areas of **Wainwright** and **Nuiqsut**. The North Slope Borough also submitted its previously compiled "traditional land use inventories" for areas around those villages.

In submitting the reports, a park service researcher noted, "**It was** thought that the areas which are significant to the people today because of historic value, land use potential or present subsistence practices could be accurately located and defined to insure that the interests of the local people are best represented in future plans for the North Slope."<sup>84</sup> The borough newsletter has said these joint borough-planning team studies represent the only element of the federal reserve land-use study "that goes directly to the permanent indigenous residents of the land for its data and **perspectives.**"<sup>85</sup>

In submitting the **Wainwright** traditional land use inventory to the federal planning team, the borough also included a copy of a formal resolution adopted by the borough planning commission concerning the **Wainwright** inventory. This resolution reads in part:

The land use areas shown in the Inventory are essential for the maintenance of a subsistence economy which provides work the people desire and for which they have exceptional skills, and provides alternatives to a total cash **economy** and a possible dependence on a welfare economy . . . .

Many of the sites identified in the Inventory are located on lands which will be administered by **the** Secretary of the Interior through the Bureau of Land Management.

Any action by the BLM, including subsequent inventories, land use plans or regulations, which potentially affects land uses and sites identified in the Inventory, should take into consideration the past and present uses shown in the Inventory. BLM should further consult with the people from the village of **Wainwright** to insure an opportunity for procedural due process and to avoid conflicts between those who depend on the land and those who administer its use. Land use changes should consider the terms and conditions of the people of **Wainwright.**

The proposed BLM surface management regulations should include protection of the sites and land uses shown in the **inventory.**<sup>86</sup>

Impact Assistance

In a final section of interest to the North Slope Borough, the Naval Petroleum Reserves Production Act authorizes the Secretary of the Interior to provide federal assistance to local communities, if the Secretary judges the government exploration and study programs are causing the communities "an unfair and excessive financial **burden.**"<sup>87</sup>

The Department of the Navy discussed potential impacts of the exploration program on residents of the reserve in its environmental impact statement issued in May 1977, and the **continuing** exploration work--**essentially** the same as that outlined by the Navy--is being carried out under this environmental impact statement. The document says in part:

Impacts on trades and services will be extremely limited by lack of opportunity for project personnel to visit Native communities . . . .

. . . . Impact on public services and facilities will be **minimal because** both base camps and exploratory well sites will be located away from existing communities . . . . the introduction of project workers from outside the [reserve] is not expected to lead to increased demands on state and local law enforcement agencies . . . base camps and drilling sites will be located away from existing communities. Educational facilities within the North Slope Borough should not be affected by the exploration program. It is not anticipated that exploration workers will relocate dependents to the North Slope. Barring a major catastrophe, project-related use of the . . . hospital at Barrow would be avoided . . .

. . . Large pieces of equipment will be barged to Lonely, **Barrow** or perhaps **Wainwright** . . . a modest increase to the annual barge traffic currently operating **along** the Arctic coast and should not significantly affect it. <sup>88</sup>

In a comment on this environmental impact statement, a borough spokesman noted that the North Slope is an extremely underdeveloped area and that



"Given such **underdevelopment, it** is possible that major oil and gas **exploration** . . . could pass through the area, cause inflation, labor force instability, and environmental change or degradation, and leave little in the way of real economic growth **behind.**"<sup>89</sup>

Earlier, in a 1976 letter to the Assistant Secretary of the Interior, Mayor Hopson wrote, "The commitment of borough manpower to the [federal land-use study] and in the review and monitoring of exploration activities will constitute an impact since it will detract from the borough's performance in other areas. Of course, added pressure on utilities, transportation systems and other portions of community infrastructure, can not help but have some **impact.**"<sup>90</sup>

Looking beyond the exploration stage to possible effects of **actual petroleum** development **in** the reserve, the borough has taken the position that federal funds should be provided to help correct existing deficiencies in village transportation systems, utilities, and services before the borough can be expected to deal with any impacts from federal development of the petroleum reserve. The borough planning director told the Federal Energy Administration in **1976**, "The requests that the villages have with respect to existing deficiencies are not large . . . so if you're spending nine million dollars [for example] on an airport that is supporting oil development . . . take a look at village airport needs." <sup>91</sup>

In February 1978, Secretary of the Interior Cecil Andrus told the U.S. Senate that the Interior Department had budgeted **\$181** million for petroleum

exploration in Alaska's reserve in fiscal 1979 but that no significant petroleum deposits had been discovered since the government's exploration program was renewed in 1975. **Andrus** said that **if** no significant reserves are found in 1978 and 1979 the Interior Department might not be willing to make such a large appropriation for drilling in the reserve in 1980.<sup>92</sup> Meanwhile, the North Slope Borough is operating under the assumption that commercial deposits of oil and gas will be found in the reserve--and the Eskimos of the North Slope are making known what they expect from the lands they feel were taken from them when the **reserve** was established by **President** Harding in 1923.

#### Beaufort Leasing

The federal and state governments plan to sell petroleum leases in near-shore areas of the Beaufort Sea in late 1979, in a region the U.S. Geological Survey has estimated may hold up to 3.9 billion barrels of oil and 6 trillion cubic feet of **gas**.<sup>93</sup> But the mayor of the North Slope has frequently maintained that the oil industry does not yet understand the forces of arctic ice and that onshore development of petroleum resources is preferable until better techniques for taking oil and gas from below arctic waters have been devised.

In February 1978, the State of Alaska and the federal Department of the Interior signed an agreement setting the stage for the first joint federal-state offshore lease sale in the United States, to be held in a 2,640 square kilometer (650,000 acre) area of "nearshore polar subsea lands" between the National Petroleum Reserve and the Arctic National

Wildlife Range. The proposed sale area extends roughly 11.1 kilometers (7 miles) offshore in waters up to 20 meters (60 feet) deep; the state controls 68 percent of this area and the federal government an additional 19 percent. The remaining 13 percent falls between shore and a series of small, state-owned barrier islands about 9.6 kilometers (6 miles) offshore, and both the federal and state governments claim jurisdiction over that portion of the proposed sale area.<sup>94</sup> This ownership dispute will probably be settled in court; the February agreement calls for any lease sale revenues from this contested area to be placed in escrow pending resolution of the dispute.<sup>95</sup>

#### BACKGROUND

Since 1974, the state and federal governments have separately considered offering petroleum leases in the Beaufort Sea; the state has previously sold some offshore petroleum leases in the Beaufort and Chukchi seas, but there have been no such federal lease sales off the arctic coast. The state controls waters up to 5 kilometers (3 miles) offshore, and the federal government controls waters beyond the 5-kilometer (3-mile) limit, on the Outer Continental Shelf (OCS). In three lease sales held before September 1969, and in September 1969, when the State of Alaska sold petroleum leases on the Prudhoe Bay field, some leases in nearshore areas off the arctic coast were sold to oil companies.<sup>96</sup>

In early 1975, state officials reported there were ten seismic crews doing exploratory surveying in nearshore areas of the Beaufort and that an exploratory well had been drilled on one of the Niakuk Islands off

Prudhoe Bay. <sup>7</sup>By July 1978, exploratory wells had also been drilled on a man-made gravel island in the delta of the **Sagavanirktok** River, on **Flaxman** Island east of **Prudhoe** Bay, and on the beach at Point Thompson southwest of **Flaxman**. Oil and gas finds have been reported at the **Flaxman** and Point Thompson wells, and in mid-1978 a second Point Thompson well was being drilled, with plans for a third exploratory well in the Point Thompson area. Twenty-six oil companies have interests in the Point Thompson wells, with Exxon Company USA acting as operator. An exploratory well was also drilled on an artificial ice island in Harrison Bay in the winter of 1976-1977 and is considered the only "offshore" exploratory well that has been permitted in U.S. Beaufort waters. The state Division of Oil and Gas Conservation--which issues permits for exploratory wells on state lands under petroleum leases--considers wells drilled on natural and man-made gravel islands as "onshore" because permanent drilling surfaces could be maintained on such gravel islands.<sup>98</sup> (The ice island project is discussed in detail below.)

The Beaufort Sea is covered with ice much of the year and has been called "one of the world's most hostile environments for oil exploration and development." <sup>9</sup>Waters along the Beaufort continental shelf are generally open from roughly late **July** to early **fall**, but the length of this open season varies from year to year and is influenced by wind and other weather conditions. Scientists divide ice in the Beaufort into three zones: landfast ice, shear zone ice, and polar pack ice. Landfast ice, ice held fast to the shore and therefore relatively immobile throughout the winter, forms from the shore out to waters up to about 25 meters (75 feet) deep and is

often 2 meters (6 feet) thick. In deeper waters along the continental shelf, shear zone ice forms; this ice is mobile and is affected by currents, tides, winds and polar pack ice further offshore. In a 1976 article, Science magazine reported this mobile **Beaufort** ice is "subject to active shearing and the formation of formidable pressure ridges so thick and massive as to scour the sea bottom in waters up to 45 meters (144 feet) deep. " Seaward of the continental shelf is the polar pack ice, which, depending on weather conditions, affects movement of the shear ice. Overall, scientists emphasize the "severity and unpredictability" of **Beaufort** Sea ice.<sup>100</sup>

An estimated 163 species of birds--most of which are migratory--are found along the arctic coast in the summer season. About 22 land and 15 marine species of mammals live along the arctic coast or in the waters of the Beaufort and **Chukchi** seas. Some of these animals, including caribou and whales, are also migratory, wintering in more southerly regions and spending the short summer season in the arctic. Scientists believe there are about **71** species of fish in the Beaufort and **Chukchi** seas.<sup>101</sup>

## BEAUFORT PLANNING

### Borough Interests

In early **1977**, the North Slope Borough issued a "Statement of the Environmental Protection Policy" of the borough, including a summary of the borough's position on nearshore and Outer Continental Shelf petroleum exploration and development:

The borough's policy [is] to oppose all Arctic OCS operations until safe and responsible extraction technology [can] be designed and tested. At the same time the borough [has decided] to support . . . efforts to consolidate state and federal near-shore **explorations as** a safe first step in U.S. Beaufort off-shore **operations.**<sup>102</sup>

Since 1975, Mayor Eben Hopson of the North Slope Borough has issued a series of statements to state and federal officials and the public on the question of petroleum leasing in the U.S. Beaufort and on offshore **exploratory** work already underway in the Canadian Beaufort. He has emphasized the arctic Eskimos' dependence on whales and other marine life and has spoken out most often against the dangers of petroleum exploration in the shear ice zone on the federal Outer Continental Shelf, noting, "We **Inupiat** are the experts on the ice. We know of no proposed or proven oil production technology able to withstand the dynamics of the Arctic ice. Until such technology exists it seems foolish and irresponsible to drill for oil on the Outer Continental Shelf of the Beaufort **Sea.**"<sup>103</sup>

Hopson has also spoken of the costs to state and local governments of federal OCS development and has said that the federal government "should be required to deal with the **socio-economic** impact of OCS development upon **coastal** communities before harmful impact happens . . . . This will involve a **special** revenue sharing program for coastal states and **municipalities** financed as part of the cost of development."<sup>104</sup>

The borough mayor has also looked critically **at** exploration work proposed for nearshore areas of the Beaufort, although favoring exploration in

these regions over OCS exploration. He has **said** of arctic offshore exploration in general:

The biggest danger in Arctic coastal zone resource development is ignorance of the realities of the Arctic environment. The industry is underestimating the environmental dangers of the Arctic ice cap . . . . I have advocated the negotiation of some kind of international Arctic treaty governing all offshore oil and gas development along the Arctic coast. I feel that industry **should** be **held** to a **single** set of rules in all Arctic offshore operations. <sup>105</sup>

### Federal Planning

In 1974, following the Arab embargo on oil shipments to the United States and a subsequent sharp increase, in the cost of imported oil, the federal Department of the Interior announced the initiation of "Project Independence," a program designed to ultimately make the United States independent of foreign oil sources. Part of this program called for stepping up petroleum exploration on the Outer Continental Shelf, **with** nine **OCS** lease sales scheduled for waters off Alaska between 1975 and **1978**. A Beaufort **Sea OCS** lease sale was set for the fall of 1977. <sup>106</sup>

Looking toward this scheduled federal Beaufort sale and possible future state petroleum lease sales in the nearshore Beaufort, the U.S. Army Corps of Engineers in 1974 compiled a "background study" of resources along the arctic coast and in 1975 issued a draft environmental impact statement based on the background study. The Corps of Engineers issues permits for all structures to be located "on, under or over navigable waters of the United States," including petroleum exploration and development structures in offshore areas under state or federal mineral **leases**. <sup>107</sup>

The Corps' 1974 background study of the arctic coast found:

The Natives of the Arctic are generally unaware of the potential for offshore development in the Beaufort and Chukchi seas areas. They have been neither informed nor consulted . . . . development activities and attendant pollution may adversely affect the animals of the sea, which are very important to the Native's lifestyle, their culture and their livelihood . . . .

. . . . Revenues [accruing to the North Slope Borough] will not be directly affected during early stages of development. Establishment of support facilities will, however, have positive local and regional effects. . . . Revenues collected will be mainly a result of taxation of property and equipment onshore. (Tax status of offshore structures is unknown. ) . . . 108

After the release of the Corps' draft impact statement based on this background study, Mayor Hopson wrote the Corps that "The draft statement is unacceptable from our point of view," noting the statement lacked specific descriptions of proposed development activities and that "Taxation options open to the North Slope Borough constrain the actual revenue collections and will be inadequate to provide a standard of living commensurate with impending changes. 11109

Hopson went on to say:

The statement itself presents the best evidence for the deferral of permits for structures along the Arctic coast . . . . The statement repeatedly acknowledges that additional studies are needed within the biological and geological disciplines and on ice factors. . . .

. . . The Arctic Slope, as an entity, continues to be endangered by the stereotypic image that it is a barren wasteland of ice and snow, and the rapid development of its resources should, therefore, pose no threat. Environmental impact statements . . . must emphasize that . . . the Arctic abounds in marine and land wildlife. 170



Hopson ended this 1975 letter to the Corps of Engineers with one of his first statements on what the borough wanted when offshore development occurred:

Local participation in the determination of **likely** social and environmental impacts

Access to affordable energy fuel for domestic consumption within the North Slope Borough

A 10-year federal financial participation plan around which the federal government can ~~budget~~ <sup>get</sup> for economic assistance in the management of the impacts.

In April **1976**, the first federal OCS sale off Alaska--a sale criticized by the state government for not taking sufficient account of environmental considerations--was held in the **Gulf** of Alaska. But in August 1977, before the planned Beaufort OCS sale, the Department of the Interior announced a revised schedule of federal **OCS** lease sales, slowing the pace of the 1974 plan and calling for a Beaufort lease sale in December 1979. Secretary of the Interior Cecil Andrus said the new schedule had been drawn up "in close consultation" with state and local governments and that "Development of several of the frontier areas of the **OCS** off the coast of Alaska, such as the Beaufort Sea, pose significant technological challenges . . . we will proceed with these sales only if there is existing technology for exploratory operations and it is reasonable to assume that technology for development will be available at the appropriate **time.**"<sup>112</sup>

#### State Planning

At about the same time the Corps of Engineers was preparing its impact statement for the arctic coast, Governor Jay Hammond was considering

whether to lease state lands in nearshore areas of the Beaufort as a means of raising needed revenue for the state.<sup>113</sup> Hammond called for an environmental assessment of effects of petroleum leasing in the Beaufort and for public hearings on a possible lease sale in the **Beaufort**.

The state's draft environmental assessment of effects of a Beaufort lease sale was released in April 1975 and discussed the possibility that **combined petroleum** developments on the North Slope--including the **trans-Alaska** pipeline, a natural gas pipeline from Prudhoe Bay, and nearshore petroleum development--could create a "permanent settlement" of as many as 15,000 persons at Prudhoe Bay:

The primary responsibility for providing services to a permanent settlement would fall . . . to the North Slope Borough

. . . \*

. . . Even though Beaufort Sea nearshore development might **generate** up to \$500 million in taxable property, the North Slope Borough would only be able to tax that property on the basis of population rather than on services required . . . . This level of revenue [might] not be sufficient to support the sudden massive operating and capital **cost increase** associated with the creation of a new community. <sup>114</sup>

Therefore, the assessment went on to say, because of limitations on the borough's revenue-generating power, the state would have to assume much of the cost for such a permanent community and that "existing information on the state and local costs of a new community development in Alaska must be carefully considered before any policy decisions on the creation of a permanent settlement at Prudhoe Bay are **made**."<sup>115</sup>

The environmental assessment **also** drew general comparisons of the Beaufort coast with other coastal areas which might be considered for petroleum leasing:

Other areas such as Lower Cook Inlet, Bristol Bay, Yakutat, etc., are more productive of the animals economically important to humans than the Beaufort Sea. However, Beaufort areas produce ringed seal, Arctic fox, and waterfowl, all of which are essential to the furtherance of a dying culture.

Ecological damage can be expected to have longer lasting effects in the Beaufort than in other areas of the state.

**Existing** developmental **technology** and **support** systems are less thoroughly developed and **tested** for-Arctic-areas.

Our ability to predict damage to the Beaufort ecosystem and therefore to safeguard **against** it is poorly established relative to other areas. **116**

Following release of the environmental assessment, the state held public hearings in Anchorage, Fairbanks, and Barrow. At the Barrow hearing in May 1975, Mayor Hopson testified that in general "We do not **object** to any development providing that adequate precautions are adhered to" and went on to suggest that if the state's purpose in offering petroleum leases in the Beaufort was to raise revenue, then in the long run it might be more profitable for the state--and the North Slope Borough--to work toward private exploration and development of the federal petroleum reserve that was at that time controlled by the Department of the Navy, rather than to look to petroleum development in the **Beaufort.** **117**

By late 1975, Governor Hammond had decided against offering leases in the Beaufort primarily as a means of raising revenue for the state; instead, the state legislature established a tax on petroleum reserves at Prudhoe

Bay, a tax to be credited against future oil and gas **production.**<sup>118</sup> The governor was now interested in delaying the scheduled federal OCS lease sale in the northeast Gulf of Alaska and raised the possibility of **state-federal** cooperation on a Beaufort sale in exchange for postponement of the Gulf **OCS** sale. In a September 1975 letter to an environmental group, Hammond wrote:

I am trying to establish a policy structure which will at least delay Outer Continental Shelf development in the northeast Gulf and other key marine areas of Alaska . . . and will work toward Federal-State cooperation in Outer Continental Shelf areas where development may be proper. I believe the Beaufort fits into the" latter **category.**<sup>119</sup>

But the governor added, "We are not going into the Beaufort blindly and haphazardly, nor have we any intention of allowing industry to do so . . . The basic problem is one of information gaps, through which risks and **un-**certainties flow. It was my conclusion, after hearing from all concerned, that the risks would not be unacceptable and that the uncertainties can be hedged and **reduced.**"<sup>120</sup>

In May 1976, Mayor Hopson wrote the governor that state officials may have misinterpreted Hopson's remarks at the 1975 hearings on Beaufort Sea leasing and clarified that while "we are not opposed to safe and responsible oil and gas development within our borough, . . . we are not at all sure that such technology exists to enable safe and responsible offshore oil development. . . . given our confidence in each project, we will not oppose offshore exploration and development."<sup>121</sup>

The following month, the governor replied to Hopson's letter, noting that he was pleased to have Hopson's "most recent expression of opinion regarding this sale" and that state officials had felt "both the borough and the Native corporations [had] testified in favor of a sale" during the 1975 Barrow hearing. Hammond went on to say that "no **final** decision has been made regarding scheduling of a **[Beaufort]** sale," and that when the sale was held it would be "in the public interest" and "maintain high standards of public participation in the resource allocation process." <sup>122</sup>

The state ultimately decided against a 1976 Beaufort sale and continued working toward a joint federal-state lease offering in the nearshore Beaufort.

#### OFFSHORE BEAUFORT EXPLORATION

In early 1976, while speaking out on planned federal and state lease sales in the Beaufort, Mayor Hopson also looked at plans for the first offshore exploratory well in the nearshore of the U.S. Beaufort and at Canadian plans for deepwater exploratory drilling in the open waters of the Canadian Beaufort.

#### Union Oil Ice Island

One of several companies that bought petroleum leases in Harrison Bay west of Prudhoe in 1969, Union Oil in 1973 began planning an exploratory well to be drilled from an artificial ice island in the shallow bay. In the spring of 1975, the company applied for necessary permits to **drill** the exploratory well, which would be considered the first offshore well

in the American Beaufort.<sup>123</sup> Permits for this offshore work were required from the Corps of Engineers and the Department of Natural Resources' Division of Oil and Gas Conservation, as well as approval from several federal and state agencies looking at environmental **considerations.**<sup>124</sup>

In November 1975, Mayor Hopson wrote to the chief of the Corps of Engineers in Alaska, noting "We do not want you to grant permission to drill one single exploratory well anywhere off our coast until we understand all of the implications" and asked the Corps **in particular** not to grant a permit to Union Oil until the borough had learned more about the proposed ice island **work.**<sup>125</sup> Hopson also asked Alaska's Senator Ted Stevens to question the Corps about the ice island project, and in February the Corps of Engineers wrote Stevens:

The ice island concept is a new one and has caused some concern among environmental groups, some federal and state resource agencies and residents of the Beaufort Sea area . . . . However, the Alaska Department of Fish and Game has endorsed Union's proposals. [Union Oil] has succeeded in resolving the objections raised by these parties with the exception of Mr. Hopson. . . .

. . . . Because **[Hopson's]** objection occasioned a delay in **processing** the application, Union Oil has determined to postpone drilling until next winter. . . . The company has scheduled a meeting with Mr. Hopson to discuss the North Slope Borough's concerns. . . ."<sup>126</sup>

The following month, Mayor Hopson notified Senator Stevens that oil company representatives had met with the borough, and "Based upon the information presented to us, it is my opinion that Union Oil's Harrison Bay project has been well-designed. . . . If offshore drilling on our side of the Beaufort Sea is inevitable, the Union Oil project would seem to be a

safe and well-planned first step. . . . But it's the first step in a direction in which we feel great apprehension." Hopson added that he would notify the Corps of Engineers that the borough had no "specific objection" to the ice island **plan**, but wanted approval of the project tied to cleanup of an area near **Point Lay** where a Union seismic crew had worked the previous year. <sup>127</sup>

At the same time Hopson was writing Stevens, the borough attorney notified Union Oil that ". . . though fraught with environmental problems, [the project] can go forward without any objection by the North **Slope Borough**," noting again that the borough wanted cleanup of seismic work at **Point Lay**.<sup>128</sup>

But in May 1976, Hopson changed his position and notified the Corps of Engineers that he wanted the Corps to withhold **all** permits for exploration in the **Beaufort--including** the permit for Union Oil's ice island--in an attempt to force the oil industry to call off planned exploratory work in the open waters of the Canadian Beaufort Sea (discussed in detail in the following **section**).<sup>129</sup>

In the winter of 1976-77, Union Oil obtained permits to create an artificial ice island in 4 meters (12 feet) of water in Harrison Bay and **car-**ried out exploratory drilling from the island between December 1976 and April 1977, when the company moved its drilling equipment off the ice; the ice island broke up later in the spring. <sup>130</sup> The January 1977 borough newsletter reported the ice island project was "relatively safe . . . in

a shallow, sheltered ice-fast nearshore area on a carefully constructed ice island designed to contain the results of a blowout should one occur," and a later newsletter called the project "**successful.**"<sup>131</sup>

#### Canadian Beaufort Drilling

In April **1976**, the Canadian government gave Dome Petroleum, Ltd., permission to **drill** two exploratory **wells** 45 kilometers (28 miles) and 80 kilometers (50 **miles**) offshore from the Mackenzie Delta during the short **summer-fall** open water season. Although the Canadians had previously done exploratory drilling from natural and man-made islands in the nearshore waters of the Mackenzie **Delta** off Canada's Northwest Territories, these two exploratory wells--in waters 26 meters (80 feet) and 60 meters (180 feet) **deep--****would** mark the first deepwater petroleum exploration in **the Beaufort.**<sup>132</sup>

The Canadians had given "approval in principle" to the project in 1973 and called for a \$12 million environmental assessment of the plan.<sup>133</sup> In early 1976, Hopson protested the planned **deepwater** exploration to Canada's Secretary of State for External Affairs, **Allan MacEachen.** Secretary **MacEachen** told Hopson the Canadian government had "considered the concerns expressed by Canadian and U.S. Native communities" before approving the Dome project and had established "special safety precautions," including a minimum of two **drillships** in the Beaufort to **provide back-up** if needed, continuous federal monitoring of the drilling, equipment to prevent well blowouts, and a requirement that drilling stop on September 15 to allow operators about a month before the ice moved in to drill a relief well should a blowout occur.<sup>134</sup>



In protesting the Canadian plan, Hopson maintained Canada's environmental assessment of the project was inadequate; that currents would deposit any oil spill in Canadian Beaufort waters on **U.S.** arctic shores and that such a spill could "destroy the delicate food chain upon which **all** life in the arctic **depends;**" that the oil industry had circumvented U.S. environmental standards by drilling in Canadian waters; and that an international treaty outlining a single set of standards for offshore drilling in the arctic should be negotiated among arctic coastal nations before such drilling began.<sup>135</sup>

Throughout the first half of 1976, Hopson wrote letters to federal and state officials asking them to try to prevent Canadian open water drilling; he asked Governor Hammond and the Corps of Engineers to "suspend all cooperation with the oil industry" in plans for offshore drilling in U.S. Beaufort waters until the planned Canadian drilling was **postponed.**<sup>136</sup>

In July 1976, the Washington Post reported that the U.S. State Department had reviewed Canada's environmental assessment of the project and had called for "urgent discussions" with the Canadians. The Post **said** the United States had asked Canada to use "utmost caution" in the drilling and that the two countries had set up joint committees to discuss oil spill liability and possible U.S. Coast Guard help in the event of a well blowout or oil **spill.**<sup>137</sup>

Stanley Doremus, deputy assistant secretary in the Department of the Interior, told the Post the possibility of a blowout occurring in one of

the Canadian exploratory wells was "reasonably low" but that if a blowout did occur in the fall when the ice was moving into the Beaufort, "You might have a continuous oil spill for **as long** as a year because the ice would prevent drilling a relief hole." **Doremus** said if an oil spill occurred in the Canadian Beaufort "The likelihood of **oil** coming ashore in Alaska is pretty high, since the currents and the winds take everything westward . . . oil doesn't break up and disperse as rapidly in cold water, "**138**

An official with the Canadian embassy told **the Post** just before the start of the deepwater drilling that the decision to **allow** the project had been "difficult" but "Canada is short of oil. **We** have become net importers, whereas three or four years ago we were heavy exporters. "**139**

Two deepwater exploratory wells were drilled in the Canadian Beaufort in the 1976 summer season, and in June 1977 the Canadian government gave Dome Petroleum approval for an additional three-year exploratory program, subject to the same safety standards required the previous year. In the 1977 summer season, three **drillships** found gas at three sites in the open waters of the Beaufort. **140**

## COASTAL MANAGEMENT PLANNING

### State Planning

During the period 1974-1977, when the state and federal governments were considering holding petroleum lease sales in the Beaufort, the State of Alaska--with federal funding--was working toward establishment of a

statewide "coastal management program" to guide future development not only along the arctic coast but along all of Alaska's coastline. Several state agencies worked toward setting up coastal management guidelines and standards, and in 1975 the state legislature considered a coastal management bill that would have given the state government a very strong role in coastal management planning, almost to the exclusion of regional interests; this legislation did not pass.<sup>141</sup>

In fiscal 1977, the state received about \$1 million in federal funds for coastal management planning. State officials decided to make about \$200,000 of this money available to local governments to aid in development of regional coastal management plans. The Department of Community and Regional Affairs oversaw allocation of funds to local governments, including the North Slope Borough. The borough is under contract to the Department of Community and Regional Affairs to establish a coastal management program, concentrating first on the region between the National Petroleum Reserve and the Arctic National Wildlife Range, where the planned 1979 federal-state Beaufort nearshore lease sale is to take place. The borough is also under contract to the department to prepare a socioeconomic impact study of the planned Beaufort sale.<sup>142</sup>

In June 1977, the state legislature passed revised coastal management **legislation**. The Alaska Coastal Management Act calls for local **governments** to draw up their own coastal management plans, subject to state approval, and for establishment of an Alaska Coastal Policy Council to

formulate statewide guidelines for coastal management, taking into consideration interests of individual coastal regions. <sup>143</sup>

The coastal policy council --made up of representatives of seven state agencies and nine representatives of coastal regions around the state-- released its draft of "Standards of the Alaska Coastal Management Program" in January 1978. Public hearings were held on the draft, and in late March the policy council submitted a final set of coastal management guidelines to the state legislature and the attorney general's office. <sup>144</sup>

#### Borough Planning

Mayor Hopson represents the North Slope Borough on this statewide coastal policy council, but before the 1977 act setting up the council became law, the North Slope Borough had inaugurated its own "coastal zone management program." In late 1976, the borough announced the establishment of a coastal zone management program, a broad program under the office of the mayor and the borough planning department, aimed at coordinating all the borough's efforts toward controlling onshore and offshore development in the borough into a far-reaching plan. This coastal zone management program was to be a means of dealing with "environmental security problems"-- a wide array of borough concerns, including protection of land and sea subsistence resources. Borough planners envisioned the program growing into an "international Arctic regional program" that would involve the oil industry and all the nations of the arctic coast in setting up a coastal management program for the entire arctic. <sup>145</sup>

As a step toward this international arctic cooperation, Mayor Hopson and borough planners in 1976 began organizing an **"Inuit Circumpolar** Conference," to be held in Barrow and to attempt to draw delegates from Canada, Greenland, and Siberia. This international conference was to be "a means of dealing effectively with the important international questions relating to Beaufort Sea development and its impact upon the **Inupiat**" and as a move toward "organizing international [coastal zone management] cooperation able to deal with the Beaufort Sea as a single ecological system in which all offshore operations would be held to a single set of **rules.**"<sup>146</sup>

The **Inuit Circumpolar** Conference was held in Barrow in the summer of 1977, drawing delegates from Canada and Greenland. At this conference, the delegates established a committee to draw up a charter for an international **Inuit** organization and passed resolutions in support of "continued **circumpolar** community organizational work" in transportation, game management, housing, resource development, and education.<sup>147</sup>

#### LEASE SALE PLANNING

Following announcement that the federal and state governments would hold a joint lease sale in the Beaufort in late 1979, both governments issued a "call for nominations and comments" on proposed tracts in the 2,640 square kilometer (650,000 acre) nearshore **area.**<sup>148</sup> This call for nominations and comments is one of a series of steps to be taken by government before any acreage is put up for sale in 1979; there are several points at which the borough may comment on federal and state plans. By April 24, **oil** companies are to notify the governments which tracts they are interested

in bidding on, and federal and state agencies and local governments--including the North Slope Borough--can offer information to influence which tracts will ultimately be offered for **sale.**<sup>149</sup>

### Federal Planning

After receiving comments and nominations on the proposed federal sale tracts, the Department of the Interior will prepare a draft environmental impact statement on those areas which seem most probable for leasing; comments will be solicited and hearings held on this draft before preparation of the final impact statement. Also, when federal lease tracts are actually sold, buyers will sign "notices of **support,**" requiring leaseholders to supply the local government with information on planned **operations;** the borough can **protest** these planned operations to the Interior Department's U.S. Geological Survey, which oversees development of lease **tracts.**<sup>150</sup>

Federal planning for a Beaufort petroleum lease sale actually began in late **1974,** when the federal government decided to accelerate its OCS leasing schedule. The Interior Department's Bureau of Land Management then began conducting a broad range of socioeconomic and environmental studies in areas to be affected by planned offshore leasing. The National Oceanic and Atmospheric Administration is under contract to the BLM to conduct scientific studies of coastal areas; this work includes studies of geological hazards; ecosystems and typical biology of areas; physical oceanography; behavior of hydrocarbons in water; sources of disturbance to local ecosystems; and effects of various elements of petroleum

development on local ecosystems. In fiscal 1978, the Department of the Interior is spending \$8 million on scientific studies of the Beaufort Sea; \$19 million was budgeted for these studies in several coastal areas of Alaska this year. Interior plans to spend about \$7 million for scientific studies in the Beaufort area in fiscal 1979.<sup>151</sup>

### State Planning

In 1977, the state Division of Minerals and Energy Management of the Department of Natural Resources began drawing up a revised set of oil and gas "releasing procedures" for state-owned lands. **Public** hearings were held on these proposed regulations in March 1978, and they have been submitted to the commissioner of the Department of Natural Resources for approval. The regulations **call** for the state's leasing procedures to be consistent with the state's coastal management plan and approved management plans of individual coastal regions. Other provisions of the regulations call for social, economic, and environmental studies of proposed sale areas; public hearings on proposed sales; and establishment of an advisory committee for each sale to advise the head of the Department of Natural Resources on "lease sales, stipulations and other matters . . . ." This advisory council is to be made up of representatives of various state agencies and representatives of borough or local governments "most affected by the sale."<sup>152</sup>

Such an advisory committee for the Beaufort lease sale was formed in early 1978, and three representatives of the North Slope Borough attended the first committee meeting in **February.**<sup>153</sup>

## Borough Influence

The borough has taken the position that its jurisdiction extends 5 kilometers (3 miles) into the Beaufort Sea, and the official incorporation description of the borough draws boundary lines out to the 5-kilometer (3-mile) **limit**. An attorney with the state attorney general's office has said that if no state law explicitly reserves nearshore jurisdiction for the state, the borough may be able to make a case for some jurisdiction in state-controlled waters of the Beaufort, depending on which areas of power the borough attempts to **exercise**.<sup>154</sup>

How much the North Slope Borough **will** be able **to** influence petroleum **exploration** and development along the **arctic** coast remains to be seen. The U.S. Geological Survey has estimated **that** the continental shelf of the Beaufort Sea between Point Barrow and the Canadian border could hold 15 billion barrels of recoverable oil and 41 trillion cubic feet of **gas**.<sup>155</sup>

In early **April**, the state announced a **five-year** schedule of offshore petroleum lease sales in areas around the state. The first sale is tentatively slated for October 1978 in the Point Thompson area on the Beaufort, adjacent to the site of existing exploratory wells. And the state plans another offshore sale in Beaufort waters in April 1982.<sup>756</sup>

Questioned in late 1977, many borough leaders agreed with Mayor **Hopson's** stand on offshore leasing but felt Hopson's statements on offshore development had had little effect on actions of the state and federal governments to **date**.<sup>157</sup>



In a late 1977 letter to a state official, Mayor Hopson said the borough intended to continue stressing "the care that must be taken to preserve the traditional subsistence **values** of our land **and ocean** as oil is taken from under the ice. . . . We do not seek any more than I feel **all** Alaskans should have as offshore decisions **are made** in Alaska's . . . **waters.**"<sup>158</sup>

#### Other Cases

##### BEAUFORT-CHUKCHI SEISMIC SURVEYS

In early 1976, the Department of the Interior's U.S. Geological Survey began notifying state and federal agencies in Alaska of its intention to conduct seismic surveys through the use of explosives in the Beaufort and **Chukchi** seas off the coast of the North Slope Borough during the coming summer season. The Geological Survey noted this seismic work was part of "marine geophysical investigations" the agency was responsible for **carry-**  
**ing** out to "provide timely and accurate data for Federal, State and public use on the resource potential of U.S. offshore public **lands.**"<sup>159</sup>

The agency prepared an environmental assessment of this action, holding that the planned work "did not constitute a major Federal action" and therefore did not require preparation of an environmental impact statement under **terms of** the National Environmental Protection Act (**NEPA**) Of 1969.<sup>60</sup> The environmental analysis outlined "precautions **to** be taken **to** avoid or minimize harm to marine animals and minimize the extent of fish **kill.**"<sup>161</sup>

The Alaska Department of Fish and Game protested the planned work, noting, ". . . we believe the use of 19 tons of high explosives in an area hosting animal life, some species of which are endangered, is unreasonable" and asked that the planned work "be delayed for one year to allow analysis through the NEPA process."<sup>162</sup>

The **National** Marine Fisheries Services (**NMFS**) of the National Oceanic and Atmospheric Administration also commented on the proposed seismic work, notifying USGS that although the fisheries service appreciated the "extensive, sincere effort being made to avoid or minimize environments" damage" during the seismic surveys, that if the work was carried out as planned USGS could find itself in violation of federal laws prohibiting the "accidental taking (killing or disturbance)" of certain marine **mammals**.<sup>163</sup> The fisheries service went on to say, "While the **NMFS** is not in a position to prohibit . . . the blasting part **of the** program, we also, unfortunately, cannot remove the burden of what constitutes an illegal activity. A violation of these laws requires enforcement by **NMFS**."<sup>164</sup>

The Alaska Department of Fish and Game also notified the North Slope Borough of the planned seismic work. The borough then asked Alaska's U.S. Senators Mike Gravel and Ted Stevens to question USGS about the proposed work and to request USGS not to go forward with the plan until the **interests** of the North Slope Borough had been taken into **account**.<sup>165</sup>

The borough also wrote the USGS directly. The borough asked that, in the future, USGS inform the borough in advance about proposed offshore

surveying so the borough could comment on plans and "communicate the information to our village residents along the coast." The borough also asked the USGS to prepare a full environmental impact statement before going ahead with the plan and went on to say that the use of explosives "would not only entail a fish kill which is significant in relation to the subsistence nature of resource utilization in this area, but the attendant disruption of marine mammal patterns poses a substantial impact upon the interrelationship of **local** residents with their environment." **"166**

In September 1976, the borough learned that the USGS--spurred "at least in part" by an inquiry from Senator Mike Gravel--had postponed its planned work for one year. <sup>167</sup> Early in 1977, the director of the USGS told Senator Stevens--in response to an inquiry from Stevens on behalf of the borough--that "as a result of concerns expressed by representatives of several agencies, the 1976 field program was postponed." **"168** The head of the USGS went on to say, ". . . we are pursuing new technology that may enable us to conduct the seismic program partly with nonexplosive sound sources, thus further reducing the potential environmental **hazards.**" **"169**

Also early in **1977**, the associate director of the USGS notified the North Slope Borough that "In view of our current work **load** and financial limitations, we have decided . . . to limit our **summer** of 1977 Alaskan seismic surveys to reflection profiling using nonexplosive sound sources," but held open the possibility that explosives might have to be used in future seismic work if results obtained with other methods were not "adequate to assess the oil and gas potential of the continental shelf rocks offshore

from Point Barrow." The letter went on to say that if, in the future, the use of explosives appeared necessary, the USGS would "request comments from the North Slope **Borough.**"<sup>170</sup>

A representative of the USGS **reported** in April 1978 that seismic work without the use of explosives had been carried **out** off the arctic coast during the 1977 summer season.<sup>171</sup>

#### ARCTIC WILDLIFE RANGE EXPLORATION

**In March 1978,** the North Slope Borough village of Kaktovik protested congressional legislation that would open the way for oil and gas exploration in the northwest part of the Arctic National Wildlife Range, in an area that includes portions of the calving grounds of the Porcupine caribou herd.

The U. S. Congress is now considering a Carter administration proposal that would place 400,000 square kilometers (92.5 million acres) of land in the state under national **park,** wildlife refuge, wild and scenic rivers, and national forest systems. The proposal calls for enlargement of the existing 35,562 square kilometer (9 million acre) Arctic National Wildlife Range--which falls **largely within** the North **Slope** Borough--into a 53,000 square kilometer (13 million acre) "Arctic Wilderness" that would be part of the National Wilderness Preservation System and closed to petroleum **exploration.**<sup>172</sup>

But in mid-March, the U.S. House Committee on Interior and Insular Affairs approved an amendment to that legislation; this amendment would allow a 5-year petroleum exploration program in a 5,000 square kilometer (1.2 million acre) coastal area of the range where geologists believe oil and gas potential "could rival [that of] **Prudhoe Bay**" to the west. <sup>173</sup>

The proposed exploration area "includes portions of the calving grounds and post calving aggregation area" of the 100,000-animal Porcupine caribou herd, which ranges over a 250,000 square kilometer (96,000 square mile) area in Canada's Yukon Territory and northeast Alaska. Biologists have described the calving grounds as "the focal point of the annual migration" and noted that these areas have "been **selected** by caribou because of their favorability for calf survival and growth and development." <sup>174</sup>

In a **letter** protesting the proposed exploration, the mayor, three city councilmen and a dozen other residents of Kaktovik on Barter Island on the western edge of the wildlife range told Congress, "We oppose opening this area to exploration," <sup>175</sup> and added:

We felt the Arctic Wildlife Range was to protect the animals and the land. Winter exploration would interfere with denning of the **polar** bear. . . . What would happen to the fish? There are birds there too -- the **brants**, ducks and Canadian honkers. It is not only the caribou. . . .

We hunt, fish and trap in that area. It is important to us . . . \*

When we **leave** Barter Island by plane, we usually go to Prudhoe Bay to transfer. Thus we know what it is **like** and we do not want it here -- not even the exploration. . . .

President Carter, Secretary of Interior **Andrus** and Governor Hammond have **all** said the Arctic Wildlife Range does not need to be **explored.**" <sup>176</sup>

The **Kaktovik letter** also supported creation **of** an American-Canadian wilderness range **to** protect wildlife since "caribou, bears, **birds** and other animals cross these boundaries without notice. . . . "177

In a late March statement, Secretary **of** the Interior Cecil Andrus called the proposed "Arctic Wilderness" an area with "perhaps the most unique and fragile values of **all** our proposals" as **well** as the one which "is under the greatest pressure for other uses," recognizing that geological exploration has identified an area east of Prudhoe as "promising for oil and gas." Andrus added that ". . . known wildlife values in the refuge [outweigh] the possibility of a petroleum strike there. The highest and best use of this land is not exploitation of its finite resources but perpetuation of its renewable **resources.**"178

Previously, Andrus had said, "If sometime down the road we are so desperate for petroleum that we" are willing to pay what I would consider the highest price man can pay for oil and gas, then we may . . . open the Arctic Wildlife Range to exploration. But I simply don't believe we are that **desperate.**"179

There is no evidence that the North Slope Borough has taken a position on the specific legislation now before Congress, but in testimony before the House General Oversight and Alaska Lands Subcommittee in August 1977, Hopson spoke in favor of designation of all federal lands on the North Slope in one classification system that would allow "unimpeded subsistence

gathering and controlled natural resource development." Hopson went on to say:

Natural resource extraction provides the present and only **fore-**seeable future means of local self-determination and an improved level of living for the indigenous peoples of the North Slope.

• it would be sheer folly to impose a lands policy which would prohibit access to the few potential commercial deposits which may be developed aside from **Prudhoe** Bay. . . .

This is . . . a plea for a lands **policy** that will enable the exploration, designation and development of what will probably be a relatively small number of commercial deposits of non-renewable **resources.**"<sup>180</sup>

But in the same presentation to the congressional committee, Hopson stressed the need for "environmental safeguards" that would "protect the habitat which nurtures subsistence resources" and noted that specific areas of critical wildlife habitat should be excluded from exploration activities. He also called for "an international agreement with Canada" for effective protection of wildlife of the **region.**<sup>181</sup>

In thus supporting both petroleum exploration and habitat protection, Hopson implied that an acceptable balance between the two can be achieved on the North Slope.

Two congressional **committees** have yet to consider the proposed opening of the Arctic Wildlife Range to petroleum exploration before the bill comes to a **general** vote.<sup>182</sup> And if the bill becomes law, it remains to be seen whether the North **Slope** Borough will side with **Kaktovik** for protection of wildlife habitat or against **Kaktovik** in view of potential borough revenues from resource development in the vicinity of the Porcupine caribou calving grounds.

## Concl usi ons

The North Slope Borough's petroleum development policies can **be** found in the letters and speeches of **Eben** Hopson. State and federal officials planning haul road use, studying the petroleum reserve, or preparing to sell leases in the Beaufort Sea hear from him regularly. In **Hopson's** many written and spoken comments on petroleum development in arctic Alaska, several overall policies **of** the vast municipality emerge:

- Because petroleum development supports the fast-growing North **Slope** Borough government, the borough must look to its future and encourage development outside **Prudhoe** Bay. But because the borough also wants to protect the fish and game resources the arctic Eskimos have traditionally valued and had unrestricted access to, it encourages certain kinds of development above others. Those developments which would threaten numbers of fish and game available or access to those resources are opposed. The opening and development of the haul road, for instance, would draw many people, some permanently, to the arctic. This increased population and accompanying pressure on fish and game could reduce resource populations and might lead state officials to tighten existing controls on Native caribou hunting and to introduce new restrictions on subsistence use of other fish and game.
- Because it is growing fast and has a large capital improvements program to support, the borough encourages those developments which seem likely to produce the most revenue at the smallest cost to the borough. The borough has supported private exploration and development of the National Petroleum Reserve because



such development **would** offer the borough several advantages: taxable development property; large numbers of temporary workers to be counted on the borough's census rolls and thereby increase the borough's taxing limits; sites far removed from villages and thus probably not placing a strain on existing borough services; workers confined to development enclaves with services most likely provided by oil companies rather than the borough; workers spending time off outside the borough and thus not adding hunting and fishing pressures.

- Developments that might harm fish and wildlife habitat and produce uncertain revenues are opposed by the borough. Mayor Hopson has emphasized repeatedly that offshore exploration, for instance, could take a heavy toll of marine mammals and fish. And at the same time, it is not clear how much the borough could tax offshore facilities and accompanying onshore support sites (given state limits on borough taxing power).
- The borough opposes developments that might create permanent non-Native communities on the North Slope and views the haul road as a potential danger. Any significant number of people deciding to make their permanent homes along the haul road could not only place pressures on fish and game resources, but threaten Eskimo control of the regional government.
- The borough wants North Slope resources to be developed in phases, thus assuring the borough of a steady stream of revenues. Mayor Hopson has supported onshore over offshore exploration and development, holding that adequate technology for taking oil from

below arctic ice does not yet exist and that serious exploration of potential onshore reserves--as in the petroleum reserve--should be done before it is necessary to move exploration offshore. Also, Hopson has called for a federal land policy that would leave the door open for future exploration of potential reserves, rather than the establishment of federal reserves closed to resource exploration.

- The borough wants any developments near villages to provide villages access to natural gas for fuel.

The above points have been made repeatedly by Mayor Hopson, and whether residents of individual villages support these general policies is yet to be seen. The only major petroleum developments on the North Slope now are the **Prudhoe** Bay complex and the **trans-Alaska pipeline**, far removed from village sites, and instances where individual villages have had to make decisions about petroleum exploration and development near their homes have thus far been few. As discussed earlier in the chapter, residents of Kaktovik have recently opposed opening of the Arctic National Wildlife Range to petroleum exploration, but the borough has not yet taken a position on this specific case.

Earlier, the village of Kaktovik faced the petroleum development question when deciding whether to support the proposed Arctic Gas pipeline route that would have passed near the village. After consultation with officials of the Arctic Slope Regional Corporation, the Kaktovik village corporation decided to support placement of an Arctic Gas staging area

on Barter Island so the village could receive natural gas from the project. **Kaktovik's** city council and village corporation formed a planning commission to meet with Arctic Gas representatives; as a result of these meetings, Arctic Gas agreed **to shift** its proposed route from along the resource-rich coast 48 kilometers (30 miles) inland. Kaktovik residents were also concerned about the possible effects of several thousand workers in the vicinity of the village. The North Slope Borough was aware of Kaktovik's support of the Arctic Gas route but took no official position on gas line routing. There was no official borough-village communication on the question, and the borough did not attempt to intercede. Mayor Hopson announced personal support for the **Alcan** route in the fall of 1977.<sup>183</sup>

In another incident, residents of Point Hope on the **Chukchi** Sea protested in the summer of 1977 when they learned the Arctic Slope Regional Corporation and Chevron USA had made plans to begin exploratory drilling on village corporation lands near Point Hope. After a public protest meeting at Point Hope, the regional corporation decided against the planned drilling; village residents were upset that they had not been consulted about the planned drilling and feared the work would disrupt subsistence resources in the area. There is no evidence that the North Slope Borough took sides in this dispute between the village and regional **corporations.**<sup>184</sup>

With several petroleum developments pending on the North Slope, it remains to be seen how much the borough will get of what it wants and whether individual villages will choose to support or oppose borough policies when exploration and development move near their homes.



## Endnotes

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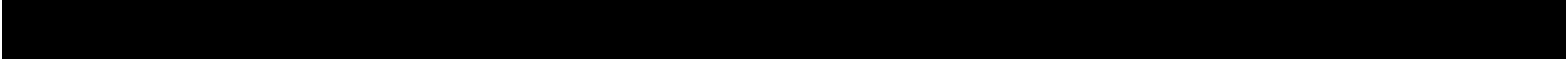
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## VI. CONCLUSIONS

This study has dealt generally with how petroleum development has affected government in the North Slope region and how the North Slope Borough has responded to the opportunities and problems accompanying that development. We have focused on key issues of taxation, development, and environmental protection and related interactions of the **borough** and external organizations. We have also looked within the region, examining some basic political and economic relationships of the borough with the eight North Slope villages and with the Arctic **Slope** Regional Corporation.

The conclusions presented in the first part of this chapter are confined strictly to the North Slope case. In the second part we attempt to draw some general implications, based on the North Slope experience, for other rural Alaska regions.

### The North Slope Case

#### CHARACTER OF THE BOROUGH

The story of the North Slope Borough is highlighted by borough leaders' aggressive pursuit of tax revenues, authority, and recognition, often in the face of outside opposition and resistance. Prudhoe Bay oil made North Slope Borough government financially feasible and economically and politically expedient for the Native people of the region. Establishing a **borough** for the whole North Slope was the most effective means available for gaining direct local access to the enormous tax base at Prudhoe Bay. Once established, the borough could also assert North Slope Natives' claims to

some share of control over the region's land, water, and subsistence resources, beyond the rights granted them under the Alaska Native Claims Settlement Act. Since the borough's incorporation, its officials have devoted very substantial energies to asserting and defending their tax and regulatory powers.

The combative, aggressive styles of North Slope leaders during the land claims movement carried over to their borough formation and development efforts. The initial reluctance of the state administration to act on the incorporation petition, and the oil companies' legal challenges first to the incorporation action and then, in a series of suits, to borough taxation of oil properties, contributed to a growing "seige mentality" among borough officials, centering in the office of the mayor. This condition has been further reinforced by a series of federal and state initiatives impinging on the North Slope and to which borough leaders are compelled to respond: OCS leasing plans, national interest (d)(2) land legislation, National Petroleum Reserve exploration, pipeline-haul road corridor planning and management, and subsistence hunting and whaling restrictions.

Through all of this, borough officials have also been attempting to follow through on promises of borough government to North Slope villagers. Basic objectives of incorporation included gaining control of public educational programs and providing new facilities, services, and jobs in all North Slope villages. These objectives are being realized, but not without additional problems of financing and management, particularly in the

capital improvements program. The CIP is dependent on an assured flow of oil property tax revenues, which has been subject to blocks and restrictions and remains in jeopardy.

**North** Slope Borough government has not yet stabilized into a "normal local government" pattern; financially and in its external relations, its **vulnerabilities** continually force it into **reactive**, "crisis government" **modes**.

#### POLICY ISSUES AND EXTERNAL RELATIONS

Borough government has enabled North Slope leaders to influence and to participate in federal and state decision making as never before in the region's experience. In this sense, the North **Slope** Borough clearly is serving as an effective means of enhancing regional self-determination. But self-determination and dependence are not mutually exclusive conditions, as borough leaders undoubtedly know. The more they press and expand their claims on North **Slope** resources, the greater becomes their relative vulnerability to federal, state, and oil company decisions. The borough's dependence on oil property tax revenues is the outstanding case, where borough access to its major source of funds is directly subject to state tax laws and regulations, oil company legal action, and federal and state leasing, exploration, and development policies.

The most important limit on borough taxation **of oil** properties is not oil company opposition but state government laws and regulations. The state government's interest in assuring some measure of statewide tax and revenue equity transcends the North Slope Borough's interest in gaining

unrestricted authority to tax the greatest concentration of oil company properties in Alaska. This basic state interest, which persists through changes of administrations and legislatures, was the primary reason for the state's initial reluctance to support borough incorporation, and it remains the reason for state administrative and legislative limitations on the borough's authority to tax.

Economic security is of necessity the borough's first priority and environmental security the second. But since the North Slope Borough is not responsible for oil and gas development and has little influence over whether, when, and where such development occurs on federal and state lands, it can afford to press both its development-taxation and its environmental protection demands to their limits, often in apparent contradiction and without consistency or balance.

In practical effect, the borough's demands for environmental protection are not incompatible with its encouragement of petroleum development that offers potential economic benefits to the borough and its people. Except for federal OCS development, which may have a smaller potential payoff for the borough than developments elsewhere in the region, borough officials have not sought seriously to impede exploration and development activities on North Slope lands. The borough instead appears to be doing two things: First, it is seeking protection particularly of subsistence resource habitats and specific Native traditional use lands--protection that can be accommodated without significantly deterring oil exploration or development activities on the National Petroleum Reserve, on regional

corporation **lands**, or at Prudhoe Bay and in adjacent areas. Second, it is making claims to some share of control over federal and state lands and waters, regardless of whether oil exploration and development activities are directly involved. For this reason, it is often difficult to distinguish the borough's environmental protection responses from its broader political responses to federal and state actions affecting the North Slope region.

Notwithstanding the aggressive and sometimes strident and extreme character of borough claims, there are indications that borough relations with state and federal governments are taking more moderate and conventional forms as well. There are signs, too, that state and federal officials are responding to the borough's plea to be "taken seriously." The borough has claimed some success, for example, in lobbying in Congress (on National Petroleum Reserve legislation) and the state legislature (on municipal tax law amendments), effectively finding and cooperating with influential **allies** in the process. Currently, the borough is directly represented in several intergovernmental advisory groups, including the State Coastal Management Council, a federal-state haul road and corridor planning group, the National Petroleum Reserve land use study task force and planning team, and a state Beaufort Leasing advisory committee. And, in part due to federal and state laws mandating local involvement, the borough participates routinely in various federal and state development and environmental permitting processes affecting North Slope lands and waters.

In general, it appears that the North Slope Borough is progressively becoming integrated into an evolving federal-state-local intergovernmental system for the region. This development, however, is **still** in an unstable, nascent stage, which corresponds to the borough's own present phase of development as a political and governmental institution.

#### WITHIN THE REGION

North Slope oil and gas development has stimulated the formation and growth of a regional government that has used **oil** property tax revenues to provide an unprecedented level of new jobs, facilities, and services to the Native people of the North Slope. Further, borough activities in the villages, particularly capital improvement projects, have contributed to a new and higher level of organized public involvement in village affairs. Village council governments, however, already displaced in part by village corporations, have been further eclipsed by these developments. Villagers now look to borough leaders in Barrow to deliver jobs, services, and facilities and to exercise the local government powers transferred to them by the village councils.

Local government authority has largely been consolidated at the regional level, and **it** is exercised by the borough's top executive officials and their advisors. The institutionally and **personally** strong borough executive, centered in the mayor's office, is relatively autonomous and can chart the borough's course unencumbered by significant internal institutional or political checks.

The borough executive **may well** represent basic interests of the Native villagers, but, outside of Barrow, villagers are minimally represented in the borough structure. Villagers "participate" in borough affairs primarily as employees (in capital improvement projects) and consumers of borough goods.

The only significant taxpayer resistance that borough officials so far have faced comes from the oil companies. But borough officials are not responsible to them as elected officials are to a voting constituency. Oil companies on the North Slope are outside institutional adversaries, not borough citizens.

Within the borough structure, the assembly has yielded to the executive on **all** major matters, foregoing the usual legislative checks on executive power. To some extent this is an institutional response to the exigencies of crisis government responding to external threats and opportunities.

The Arctic Slope Regional Corporation is potentially the major regional institutional check on borough government, but it has not yet acted consistently or aggressively in this role. There is instead a pattern of non-interference, mutual accommodation, and even of cooperation between the two organizations, notwithstanding personal conflicts and other surface tensions between some of their officials. It is likely, however, that their institutional differences will grow, particularly as borough taxation increasingly impinges on corporation activities. There are already signs of corporation resistance to borough tax policies affecting

the oil exploration programs in which the corporation is engaged both as a land owner and a business contractor.

Another **intra-regional** check on borough government could come from permanent settlements of non-Native residents associated with longer-run arctic petroleum development. Although this has been avoided at **Prudhoe Bay**, such settlements are not necessarily precluded in the future. Borough leaders view this as one of the most serious potential threats to **Native** control of regional government *on* the North Slope, and thus to **Inupiat** "self-determination."

For the present, borough executive leaders are limited and checked primarily by external rather than internal political and institutional factors--by oil companies filing suits in the courts, by state and federal laws reserving tax and regulatory powers over North Slope lands and resources, and by federal and state agencies interpreting and administering these laws.

#### Other Regions

The North Slope represents an extreme and in many ways unique case of the interaction of petroleum development and regional institutional development in Alaska. It is obvious that without **Prudhoe Bay** or its equivalent there would be no North Slope Borough or its equivalent today. **Prudhoe Bay** is the overriding factor in the North Slope Borough experience, and any attempt to discuss potential institutional changes in other Alaska



regions in the **light** of the North Slope case must. first recognize the far-reaching implications of that fact.

Thus, insofar as future petroleum development may be a significant factor affecting institutional change elsewhere, its effects will be qualified in the first place by the level, timing, and location of specific discoveries and the development and support activities that follow. At a minimum, future petroleum and other resource developments would need to offer significant taxable properties that could not be tapped directly for local benefit except through creation or expansion of a **local** government taxing jurisdiction. Similarly, they would have to present social and environmental threats that could effectively be countered with new or stronger local government planning, zoning, and other land use controls and other regulatory authorities. Moreover, even if either or both of these conditions were met, basic characteristics of the region would strongly affect **local** institutional responses. **Among** these characteristics are:

- o The existing institutional development of the region, including the relative statuses, roles, and interests of regional corporations, non-profit associations, village corporations, and village and city governments;
- Characteristics of the region's existing political leadership structure associated with these institutions, including patterns of factionalism and alliances, and the number and diversity of potential leadership pools;

- The number, sizes, **distribut**ion and proximity of community settlements within the region, including the existing level and distribution of community facilities and services;
- The patterns of land tenure and resource ownership, including state, Native corporation, and other lands subject to varying management regimes; and
- The balance of Native and non-Native population in a region.

These are a few of the more obvious differences among regions potentially **subject** to future resource development activities that **could** affect patterns of regional institutional change. Given these limits to generalization, we will confine brief comments to state and federal policies potentially affecting Alaska rural regions. Assessment of the effects of such policies and other factors on regional **institutional** change would require detailed studies of individual regions.

State policies directed to achieving greater degrees of tax and service equity statewide are potentially the most important factors affecting local government institutional change in Alaska's rural regions. Even in the North Slope case, where **intra-regional** Native responses are so prominent, the state's interest was and remains a dominant factor affecting the North Slope Borough's terms of access to the Prudhoe Bay tax base. Within this broader context of state tax and service equity considerations, and of related state policies for local government organization, state and federal resource development policies will also affect regional institutional responses and change.

Resource development activities can bring increased environmental threats as well as augmented tax **bases** to regions and communities. Rural leaders, therefore, may respond not only positively to capture new tax bases (**even** if they represent only a fraction of **Prudhoe Bay's**), **but also** defensively to threats to subsistence habitat and outside intrusions into previously isolated Native village areas. In such cases, new local government authority and jurisdiction may be necessary to tax and to impose zoning and other local land use controls in affected areas.

It is significant that, on the North Slope, the borough was incorporated concurrently with establishment of the Arctic Slope Regional Corporation. Elsewhere in rural Alaska, regional corporations are the dominant institutions, and they have preempted key political and economic leadership roles. Thus, the regional corporations are increasingly capable of controlling or at **least** strongly influencing their regions' future course of institutional development. As for-profit institutions with major land holdings and investments, they undoubtedly will take a critical view of new taxing jurisdictions and authorities in their regions.

A major obstacle to the formation of organized borough governments in Alaska's rural regions since statehood has been the absence of adequate property tax bases to support education and other local government programs. The state government, however, has taken several steps to remove this obstacle through establishment of Rural Education Attendance Areas (**REAA's**), a commitment to provide **for** rural high **school** programs in some 126 bush villages, and moves toward 100 percent funding of public education

operating costs statewide. In addition, state-municipal revenue sharing has grown, and it is likely that state funding for education and other local government activities will increase in the future as petroleum revenues flow into the state treasury. As a result, rural areas are facing progressively lower relative costs of incorporating as boroughs or as first-class cities, which are legally obligated to cover a local share of educational costs as well as provide support for other government functions.

At the same time, regional corporations and federal and state resource development and leasing agencies are gradually introducing new forms of revenue generating activity into rural regions. To the extent that such regions develop tax bases--while also benefiting from 100 percent state funding of the capital and operating costs of education as well as from other state services--urban interests will demand that the rural areas begin to assume a greater part of the tax burden. Indeed, several bills have been introduced in the state legislature over the years which would impose property taxes in the unorganized borough. Other related bills have proposed to mandate various forms of borough organization in rural areas, just as Alaska's urban boroughs were forced into existence by the Mandatory Borough Act of 1963. It is likely that proposals for state taxation of property in the unorganized borough and for mandatory borough organization will continue to be made. And pressures to enact them will mount as urban interests perceive growing taxable resources and activities in presently unorganized areas of the state.

Thus, the push for greater equity in the distribution of tax burdens is added to the pull of prospectively increasing tax bases and growing state funding for education and other local government programs. The North Slope Borough is an extreme case of the "pull" effect, in which the state limited the local taxing authority. In the future, state government will continue its attempts at balancing tax burdens and service benefits and determining appropriate combinations of state and local access to the tax bases associated with resource development. The outcomes of these continuing policy processes are likely to have profound, long-term effects on local government institutional responses and change in Alaska.



APPENDIX A

Memorandum: North Slope Borough Revenue Authority,  
With Special Emphasis on Litigation

Prepared by Charles K. Cranston  
For Mayor Eben Hopson, North  
Slope Borough

February 3, 1978





Memorandum!

DATE : February 3, 1978

TO: Eben Hopson, Mayor  
North Slope Borough

FROM: Charles K. Cranston

RE : North Slope Borough Revenue Authority,  
with special emphasis on litigation.

You have asked us to prepare for you a short memorandum outlining the problems which have arisen concerning the North Slope Borough's revenue generating authority. I believe the best way to approach this is to give a summary of the litigation in which the North Slope Borough has been involved insofar as it affects basic issues pertaining to the North Slope Borough's revenue generating authority. In presenting this summary of litigation, I have discussed those cases which affect the revenue generating capability of the North Slope Borough as a whole. I have omitted reference to any case which affects only a specific levy of tax on a specific group of taxpayers. In my opinion, the latter type of case is not one which raises serious issues pertaining to the North Slope Borough's revenue authority.

(1) Mobil Oil Company, et al vs. Local Boundary Commission, 518 P ed 92 (1974). This was an action brought by a group of oil companies doing business in Prudhoe Bay challenging the legality of the North Slope Borough incorporation. Among the issues involved were whether the property of largely non-resident owners could be subjected to regulation and taxation by the North Slope Borough. The Supreme Court ruled in favor in Borough incorporation thereby subjecting the property of various lessees in the Prudhoe Bay area to taxation by the North Slope Borough.

(2) Mobil Oil vs. North Slope Borough (Superior Court, Fourth Judicial District, at Fairbanks). This action was consolidated with approximately twenty-four other separate lawsuits brought by almost every oil company owning property in the Prudhoe Bay industrial area subject to the property tax of the North Slope Borough. At issue was the validity of that portion of the 1972 and 1973 property tax levy of the North Slope Borough upon the lessees' interest in oil and gas leases at Prudhoe Bay. Among the factors upon which the value of the lessees' interest was based was the value of the oil and gas reserves at Prudhoe Bay. The amount of the levy was within then existing statutory limitation of thirty mills, AS. 29.53.050. The oil company challenge was based principally on the then existing oil and gas gross production tax. The oil companies argued that the gross production tax imposed by the state was in lieu of all other taxes imposed by a municipality upon oil and gas properties.

There was never a final judicial determination of the question, although the Superior Court in Fairbanks, the Honorable Warren W. Taylor, Jr. , issued a preliminary injunction prohibiting the North Slope Borough's levy of the tax upon oil and gas reserves. The case was ultimately settled by payment from the oil companys to the North Slope Borough in the amount of three million dollars, plus an additional two million dollars to be credited upon five successive years' taxes.

Largely as a result of the issues raised in Mobil Oil Company vs North Slope Borough, the Alaska legislature met in special session in October and November of 1973. As a result of that special session, AS. 43.56 was enacted. In addition certain amendments were added to AS. 29.53. This legislation affected the revenue ability of the North Slope Borough in three principal areas :

(a) AS. 29.53.045 (b) and AS. 29.53.050(b) imposed a limitation upon the ability of a municipality to levy a property tax. The limit then imposed was \$1,000.00 per capita (since amended to \$1,500.00 per capita). In addition, an alternate formula was provided establishing a limit on the total assessed valuation upon which a municipality could levy. In practical effect, these limitations were directed solely at the North Slope Borough since no other Alaska municipality was then, or is now in any danger of approaching the statutory limitations;

(b) AS. 43.56.030(2) (A) imposed a limit upon the sales tax which could be levied upon oil and gas exploration production and pipeline transportation property. That limit was and is still \$1,000.00 for each sale of said property;

(c) In addition, AS. 43.56.020(a) exempted from local property taxes the following:

Property rights attached to or inherent in the right to explore for or produce oil and gas; oil and gas leases or properties whether producing or not; oil or gas in place; oil or gas produced or extracted in the state; the value of intangible drilling expenses and exploration expenses.

As a result of the 1973 legislation, there has been a continuous dispute between the North Slope Borough on one hand and the oil companies on the other relative to the validity of taxes imposed by the North Slope Borough upon oil and gas exploration, production and pipeline transporatation property.

(4) North Slope Borough vs Atlantic Richfield Company; Sohio vs North Slope Borough (Superior Court, Third Judicial District - Pending decision by Alaska Supreme Court) .

These consolidated actions arise under AS. 43.56 and AS. 29.53 and involve the interpretation of certain provisions of the legislation and acted by the 1973 special session. The North Slope Borough's position is that the limitations contained in AS. 43.56

and AS. 29.53.045 and .050 are limitations upon revenue generated to fund the Borough operating budget. The Borough has not considered and does not now consider the limitations applicable to revenues raised to pay debt service on its general obligation bonds. To sustain this position, the Borough relies on AS. 29.53.055 and AS. 29.58.180(a). Those sections **in summary** provide that taxes may be levied without limitation as to rate or amount for the purpose of paying debt service upon a municipality's general obligation bonds." In 1976 the North Slope Borough levied **in excess** of the statutory limitations contained in AS. 29.53.045 and .050. The excess **levy**, 2.26-mills was for the purpose of **funding** general obligation bond debt service of the North Slope Borough. There was an immediate challenge to this levy by **Sohio**, Atlantic Richfield, and other oil companies doing business within the North Slope Borough. Judge **Kalamarides** rendered a decision unfavorable to the North Slope Borough. He ruled that AS. 29.53.055 did not permit a debt service levy in excess of the limitations of AS. 29.53.045 and .050 except in cases of default or pending default. The legislature in 1977 subsequent to Judge **Kalamarides'** decision adopted Chapter 94 **SLA** 1977. That legislation amended AS. 29.53.055 and AS. 29.53.180(a) by providing that a **municipality** may levy an excess of the limitations contained in AS. 29.53.045 and AS. 29.53.050 regardless of default or pending default **in order** to pay debt service on **its** general obligation bonds. In a subsequent decision, Judge **Kalamarides** held the 1977 amendment unconstitutional.

The case was appealed to the **Alaska** Supreme Court, has been argued, and is at presently awaiting decision by that court.

(5) B.P. Alaska va. North Slope Borough, (Superior Court, Third Judicial District). Since the revenue generating ability of the **North Slope Borough** was severely limited by AS. 43.56 and its companion legislation AS. 29.53, the North Slope Borough reimposed NSB . 3.32, the Sales and Use Tax, effective **December 1, 1976**. NSB 3.32.010(T) defined a sale upon which the sales tax **is** imposed, with some exceptions, generally **in** terms of a unit of property or an hour of service. Based upon that ordinance in December, 1976 and January, 1977 sales tax levies were made upon **B.P. Alaska** in an amount in excess of \$900,000.00. **B.P. Alaska** made a sales tax return for the months in question for an amount under \$20,000.00. In dispute is the meaning of AS. 43.56.030(2) **(A) which limits** the taxes on the **retail** sale or use of **oil** and gas exploration production and pipeline transportation property to the first \$1,000.00 of each **sale**. **B.P. Alaska, Inc.** generally contends that a sale **is** based upon a monthly invoice regardless of the amount of the invoice or the number of items appearing on the invoice. **The North Slope Borough** contends that a sale is based upon each unit of property described **in** the invoice or upon each hour (or sometimes **day**) of labor for which an invoice **is** rendered. The matter **is** presently pending before the Superior Court, Third Judicial District. A briefing schedule is about ready to commence and the case should be submitted to the court by the summer of 1977.

(6) North Slope Borough vs. LaResche, (Superior Court, Third Judicial District: awaiting decision before Alaska Supreme Court) .

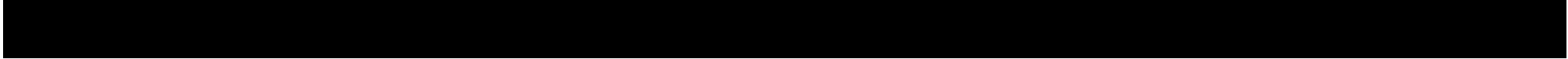
The issue in the case does not involve taxation. However, it does th  
affect the revenue generating ability of the North Slope Borough  
since it involves the right of the Borough to select 10% of vacant,  
unappropriated and unreserved state land pursuant to AS. 29.18.190.  
The North Slope Borough in 1973 and 1974 made its land selections  
under that statute. To date, no selection application within the  
Prudhoe Bay industrial area has been approved. The Borough filed  
suit seeking a mandatory injunction compelling the Commissioner of  
Natural Resources to convey to it the land selected. There was  
an unfavorable decision in the State Superior Court which has been  
appealed to the State Supreme Court. Because of its inability to  
obtain its selection within the Prudhoe Bay area industrial area,  
the North Slope Borough has been deprived of revenue which it would  
otherwise obtain from leases and other disposals of the surface of  
the selected property.

The foregoing represents a summary of all litigation in which  
the North Slope Borough is, or has been, involved which affects its  
revenue generating abilities. If you have any further questions  
or require clarification of any matter of which I have discussed,  
please do not hesitate to contact me.

APPENDIX B

Memorandum: Statement of the Environmental Protection Policy  
of the North Slope Borough

From Billy Neakok, Director, Conservation  
and Environmental Security  
To Mayor Eben Hopson  
North Slope Borough



**OR'S** OFFICE  
r. 211  
MINISTRATION & FINANCE  
T. 210  
**LIC** WORKS DEPT.  
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NORTH SLOPE BOROUGH  
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EXT. 245  
HEALTH **AGENCY**  
EXT. 241  
ACCOUNTING  
EXT. 237

MEMORANDUM

TO: Mayor Eben Hopson

FROM: Billy Neakok, Director  
Conservation and Environmental Security

SUBJECT: Statement of the Environmental Protection Policy  
of the North Slope Borough

Our Assembly President, Oliver Leavitt, has asked for a statement of Borough environmental protection policy. This memorandum has been prepared to respond to that request.

BACKGROUND:

One of the reasons for the organization of the North Slope Borough in 1972 was our need to protect our land against the harmful results of Arctic energy fuel development. We did so with the full knowledge that our Arctic Slope Regional Corporation would become actively involved in the oil and gas business.

Organizing an Arctic regional home-rule government from scratch has been demanding upon our community, but its complexities have not distracted us from the task of defending the environmental security of our land and people.

The evolution of the Borough's environmental protection policy began in the spring of 1960, when the people of Barrow engaged in the peaceful direct-action demonstration against the enforcement of Migratory Bird Treaty's ban on our subsistence duck hunting. This incident, the Barrow "Duck-In", reflected popular mood that resulted in our region's leadership in the Alaska Native Land Claims Movement in the 1960's, and in the development of regional government in the 1970's. While we were politically powerless during the initial exploration and development of the Prudhoe Bay field, Borough organization enabled us to deal with further development.

Perhaps the first significant event in the evolution of Borough environmental protection policy was the Borough's

MEMORANDUM CONTINUED

land selections at **Prudhoe Bay**. Under State law, our Borough government is entitled to select up to ten percent of **State-owned** lands within our jurisdiction. Our first selections in 1973 under this entitlement were made to enable our government to control the use of gravel at **Prudhoe Bay**. It is our policy to regard gravel as surface estate and as a critically important environmental factor. Unfortunately, this initial effort to assert local control over the environment was opposed by the State of Alaska and resulted in litigation that continues.

In 1974, we were presented with national decisions to conduct Arctic Outer Continental Shelf (**OCS**) lease sales, and speed up the exploration and development of Naval Petroleum Reserve No. 4 (**NPR-4**). We began hearing from the **Inuvialuit** about Canadian offshore oil and gas operations in the Beaufort Sea. We interceded in the Union Oil East Harrison Bay ice island exploration project, and arranged for Union oil engineers to come to Barrow to explain this project to the Borough's staff, Planning Commission, and Assembly.

In 1975, the **Borough** interceded in the enactment of national Naval petroleum reserves legislation that transferred **NPR-4** (now **NPR-A**) to the civilian control of the Department of the Interior. We caused language to be included in this legislation that established the **NPR-A** Task Force to enable equal participation of the Borough and Arctic Slope Regional Corporation in comprehensive **NPR-A** land use planning.

The Borough's successful Washington, **D.C.** **NPR-4** lobby laid the foundations for the decision to establish a full-time Washington, **D.C.** Legislative Liaison program earlier this year.

While we began closely monitoring plans for offshore operations in the U.S. Beaufort, we continued to hear disturbing reports of Canadian **Beaufort** Sea projects and, in the summer of 1975, we made a decision to establish good communications with our people in Canada and Greenland in order to keep informed of all Arctic offshore operations. This led to plans to host a conference of our community leaders from Canada and Greenland.

In January, 1976, you were asked by the **Inuvialuit** of **Inuvik**, Northwest Territories, to intercede with the Canadian government against plans to permit the oil industry to begin Arctic **OCS** operations in the Canadian Beaufort Sea, and subsequent work led the Borough to adopt the policy that Canadian Beaufort Sea **OCS** operations were of direct concern to the **people** of the Borough.



MEMORANDUM CONTINUED

In March, 1976, the Borough conducted a pre-conference planning meeting attended by **Inupiat** land claims leaders from Canada and Greenland. We met to plan an agenda for the first **Inuit Circumpolar Conference (I.C.C.)** that was scheduled for November, 1976. This Conference was later **re-scheduled** for the week of June 13, 1977.

In June, 1976, the Canadian cabinet granted **final** approval of the first Beaufort Sea OCS explorations and the Borough undertook to bring these operations to national attention. Because information had been circulated that these operations were approved after a five-year environmental impact assessment program, the Canadian Beaufort Sea study resulted in scientific recommendations that final approval be withheld pending the development of improved and proven Arctic OCS technology. The Borough's policy was to oppose all Arctic OCS operations until safe and responsible extraction technology could be designed and tested. **At** the same time, it was decided to support State efforts to consolidate State and Federal near-shore explorations as a safe first step in U.S. Beaufort offshore operations.

The Borough's Planning Department began to document traditional/historical use of Beaufort coastal zone lands that might be impacted by offshore and **NPR-A** operations with a view to eventual designation of industrial development and historic use zones.

In December, 1976, the Borough decided to initiate an Arctic Coastal Zone Management Program (**CZM**) as an **inter-**departmental project of the Mayor's office and the Planning Department. The **I.C.C.** was viewed as a **CZM** activity aimed at organizing international **CZM** cooperation able to deal with the **Beaufort** Sea as a single ecological system in which all offshore operations would be held to a single set of rules.

In the summer of 1976, it became clear to the Borough that the Arctic Gas pipeline route had strong national political support in both the U.S. and Canada, and the Mackenzie Valley route became an environmental protection and **CZM** problem.

Borough sensitivity to the fact that pipelines may contribute to environmental problems was heightened by the 1976 Western Arctic caribou herd crisis. Widespread worry about the impact of **Trans-Alaska** oil pipeline construction upon normal caribou herd migration appeared to have been justified when the State suddenly placed sharp restrictions upon subsistence caribou hunting, citing a sudden reduction in the size of the herd. The Borough responded to the

crisis by establishing, with the help of the Arctic Slope Regional Corporation, a Borough Game Management Committee, and we began to **plan** improved game management as an important step in the evolution of our environmental protection policy.

In February, you made the decision to take an important step to secure Assembly approval of the creation of the Borough's new Department of Conservation and Environmental Security. Concurrently, you also established the Borough's new Washington, **D.C.** Legislative **Liaison**, and engaged a highly regarded, politically knowledgeable Washington, **D.C.** law firm to assist in the development of sound national Arctic policies.

POLICY STATEMENT:

It is the policy of the North Slope Borough to recognize the inevitable development of Arctic energy and mineral reserves, and the threats to our environmental security posed by this development. We seek to avoid harmful impact upon its citizens, families and communities resulting from this development. We feel with good cooperation between government and industry, our land can yield its subsurface wealth with tolerable disturbance of our **people** and our **land**.

Our greatest concern is caused by Arctic offshore operations. We know of no proven technology through **which** oil can be safely taken from under the ice that covers the Arctic outer continental shelf. The Borough is anxious to actively cooperate in Arctic offshore technology research and development.

Cooperation is the key to the Borough's environmental protection policy. We believe this cooperation must be **circumpolar** in scope and character, and it must be led by the five Arctic coastal nations. Our most immediate need for this level of cooperation relates to Beaufort OCS operations begun by the oil and gas industry in the Canadian Beaufort. We look for the organization of a single Arctic offshore working agreement between Canada and the U.S.; a single **tri-lateral** coastal zone management system; **tri-lateral**, because there is need for a strong Arctic energy partnership between the United States, Canada, and the **Circumpolar Inupiat** community. We seek the security assured by one **law** in the Arctic, one Law of the Sea.

Within our jurisdiction, we seek sufficient control over surface-disturbing development to enable protection of the many traditional use values of our land. To gain this control, we will negotiate where we can, but legislate where we must.

MEMORANDUM CONTINUED

Our Borough environmental policy recognizes our responsibilities of public stewardship over the national Arctic values of our **land**. Thus, **it** is our policy **to** guard against permanent immigration to the Arctic. We are opposed to the creation of permanent oil field communities! and regard Arctic population growth to be potentially our greatest environmental security problem. Accordingly, we oppose public use of the Fairbanks-Prudhoe **oil pipeline haul** road, and other such permanent public access to the Arctic.

STRATEGY:

Introduction:

The DCES **will** use a four-point strategy **to** carry out the Borough's environmental protection policy; Arctic Coastal Zone Management in cooperation with State, **local and Canadian governments**; Surface Disturbance Management aimed at the **protection of environment** and conservation of traditional land use values; Game Management to improve Arctic game management **through the** use of modern technology and **traditional** hunting-skills; and Arctic Environmental Research Management to lead and organize a sustaining program of **national** and international scientific research and cooperation able to deal with the Arctic as a whole from our own point of view.

1. Arctic Coastal Zone Management:

Environmental security problems posed by Arctic offshore operations will be handled by the Arctic Coastal Zone **Management** Program (**CZM**). International cooperation will be essential to successful Arctic Coastal Zone **Management**. This cooperation must include strong industrial participation. As a result, our Arctic Coastal Zone Management Program will be operated as an international Arctic regional program.

Because **of** the international character of environmental security problems posed by Arctic offshore operations, our Arctic Coastal Zone Management Program will be operated as an international program.

As a means to organizing international cooperation necessary to our environmental security, the Borough has organized the First **Inuit Circumpolar** Conference with the hope that the **Inupiat Circumpolar** Assembly will be organized as an on-going federation of all regional **Inupiat** communities in North America. The **Inupiat Circumpolar** Assembly would negotiate with the governments of Greenland, Canada and the U.S. **for** agreements necessary for successful Arctic Coast Zone Management, and the protection of international Arctic environmental security.

The organized participation of the **circumpolar Inupiat** community in Arctic Coastal Zone **Management** is necessary for safe and successful Arctic offshore operations, so our Borough's own CZM program will be organized as a prototype model designed for possible use by our people **in** Canada and Greenland as they develop home-rule government.

2. Surface Disturbance Management:

Surface Disturbance Management will be aimed at the protection of traditional, cultural, and existing **land use values** in the face of the development of oil, gas, coal and mineral reserves with the Borough. When **fully** operational, our Surface Disturbance Management Program will enable Borough planners and field workers to work **with** each exploration or development project to insure minimum surface disturbance, maximum value conservation, and environmental security. Surface Disturbance Management will necessarily require close cooperation with State and Federal agencies to avoid duplication of effort, and to insure good enforcement of State and Federal regulations governing Arctic Slope resource development.

Working closely with the Planning Department and with the Arctic Slope Regional Corporation, we will begin to develop a computerized Land Use Management Information System for effective site-specific management and protection of our land. This information will include oral, as well as documented historic use; animal census; history of surface disturbances; estimated resource values; capital improvements; etc., for each section of land within the North Slope Borough.

3. Game Management:

Even though the State of Alaska is charged with the exclusive responsibility for game management and is not a power exercised by the North Slope Borough, the DCES will build a complete Borough-wide Game Management Program to supplement, and cooperate with, Federal and State game management programs. The Borough's Game Management Program will join professional with traditional game management techniques to improve our management of caribou, for instance. Joining with the **Inuvialuit** of the Canadian Western Arctic, we will maintain close surveillance of the entire Western Arctic caribou herd. Through all of this we will be able to replace management theory with documented knowledge of the herds' size, locations, age, and general health. This knowledge will enable more rational caribou management than is possible today. **We** hope to pioneer the role of local government in North American Arctic game management. And, **our** Game Management Program will enable our best hunters to

MEMORANDUM CONTINUED

earn money by using and improving their hunting knowledge and skills upon which our game management will be based.

The decriminalization of Arctic subsistence hunting of migratory birds will be pursued as part of our Game Management Program. We will work to provide for subsistence hunting in the U.S./Canadian Migratory Birds Treaty, just as such provision was made in the recently signed U.S./U.S.S.R. Migratory Birds Treaty.

Through its Game Management Program, the Borough will cooperate with the work of the International Whaling Commission to conserve stocks of our Bowhead Whale, and the other whale species used by our people.

4. Arctic Environmental Research Management:

The DCES will undertake to organize an Arctic Environmental Research Management agenda necessary for the protection of our international Arctic environmental security. Among the objectives of this agenda would be the formulation of:

- a. Minimum **criteria** for acceptable environmental impact statements.
- b. On-going analysis **of** environmental safety of Arctic energy industrial technology.
- c. On-going research and surveillance **of** the developing Law of the Sea of the Arctic,
- d. Game biology and management research.
- e. Organization of international Arctic scientific research programs in which modern scientific method is joined with the memory of Inupiat oral history, the store of **empirical** knowledge verbally transmitted by the **Inupiat** from generation to generation.
- f. Development of the "energy park" concept as an option for land classification and management within the Borough. The energy park concept would result in a thorough assessment of subsurface values, and controlled development for the purpose of safe resource extraction, and the ultimate classification of lands as a single Arctic coastal wildlife refuge, and an international environmental security zone.



APPENDIX C

Excerpts From: North Slope Borough Legal Powers and Options on the  
Haul Road and Adjacent Federal and State Lands

Prepared for the North Slope Borough  
Planning Department  
By Conrad **Bagne**

November 1, 1977





## Introduction

The completion of the Trans-Alaska Pipeline and potential opening of the adjacent Haul Road raises many issues. It is unlikely the North Slope Borough can assert its control over the Road to the exclusion of all other interests. At the same time, those other interests may not totally exclude or ignore the concerns of the Borough.

This report discusses a number of options available to the Borough in regulating the Road and development that may occur near to it because of the increased ease of access. In doing so, the jurisdiction of local governments over various types of land--federal, state, village, etc.--is considered. It also highlights a number of decision-making processes involving such lands that should be monitored and participated in. The ability to cooperate and participate with others as they make decisions about how land is to be used may be more important than the power to control such decisions after they have been made.

An aggressive stance by the Borough over use and development of the Haul Road is recommended. Several changes in Borough land use control mechanisms are proposed to enable the Borough to make its presence and desires known, and ultimately to control the decisions being made. Above all, the Borough should not allow its position on the future development of the area to go unheard. Unfortunately, the interest

and authority of the Borough local government has not been adequately considered by others traditionally in the position of making decisions. This includes the federal government as well as private development interests. Hopefully, all can work together in the future for the best interests of the people of the North Slope Borough, the State of Alaska and the Nation.

### Local Authority

The state's police power, and its delegated exercise by respective borough or other local governments, extends over all lands within its boundaries. This includes lands of the federal government, of state and local government themselves, reservation lands (with some exceptions) , and privately-held property. The extent of the local control may be limited by federal or state actions, but the specifics of the situation must be examined.

The importance of local control and planning in the area of land use development and environmental protection has been historically emphasized and relied upon by state and federal governments. Protection of the public welfare has been delegated very heavily to local governments. The federal National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. , recognizes the importance of local and state govern-

ments. This is also reflected in the Environmental Quality Improvement Act of 1970, 42 U.S.C. §4371 to 74, which states that the primary responsibility for enhancement of the national environment through control of pollution, water and land resources, transportation, and economic and regional development rests with state and local governments. 42 U.S.C. §4371 (b)(1) and (2). Other federal acts, 16 U.S.C. §1451 to 1464, and executive orders, e.g. , E.O. No. 11752, also support this.

Proprietary Authority

The federal government's authority over its land may be proprietary or legislative in nature. Proprietary authority may be found in the "Property Clause" of the U.S. Constitution, Article 1, section 3, clause 2. Legislative authority may extend from the reservation of authority by the federal government in the admission of a state to the union, or from a cession by a state of authority to the federal government. The federal authority may be controlling over attempts to assert state powers under the Supremacy Clause, Article VI, clause 2, or a state may simply have given away or ceded all its authority to act.

The federal government's power over land it owns extends mostly from the "Property Clause" of the U.S. Constitution; Article IV, Sec. 3, Clause 2 provides:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

Though the federal government does not have a general "police power," that having been reserved to the states under the tenth amendment, the property clause gives it a "power over its own property analogous to the police power of the several states." Camfield v. U.S., 167 U.S. 518, 525 (1897). This power extends to the land, wildlife living thereon, and non-federal areas adjacent to public lands. The U.S. Supreme Court had occasion to review the Camfield decision and reaffirmed that case's holding that:

[T]he Property Clause is broad enough to permit federal regulation of fences built on private land adjoining public land when the regulation is for the protection of federal property. . . . the power granted by the Property Clause is broad enough to reach beyond territorial limits. Kleppe v. New Mexico, 426 U.S. 529, 538, 96 S.Ct. 2285, 2291 (1976).

While this authority is "without limitations" and its "furthest reaches . . . not definitely resolved," states are not totally powerless as to federally owned lands within their boundaries. "The "exigencies of the particular case" will determine the relative authority and jurisdiction. States, and local units of government delegated state authority, may exercise control over federal lands to the extent regulation would not be inconsistent with or frustrate clear federal policies and programs. Thus, it is necessary' to determine

if the federal government has chosen to exercise its powers and the degree to which local or state regulation might be in conflict... .

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Determination of when federal regulations "override" state or local controls involves a balancing of respective actions and a preemption like examination. If the federal interest clearly conflicts with the state action or leaves nothing for the state action to address, the federal law will prevail.

This does not mean that the simple existence of federal regulations will necessarily prevent application of state controls. State regulations that are more stringent may be permitted unless Congress evidenced an intent to the contrary. Analysis of federal exercise of authority to determine if there has been a preemption of legislative authority involves consideration of several factors. Concurrent state action will be allowed where there is no clear Congressional intent to displace state regulations, there is no such implied intent, or compliance with both state and federal requirements is a physical impossibility...-

.....\*\* \*\* = .\*\* \*\* = .\*\* " " \* | .\* " " \* 9 .....

The federal government may acquire legislative jurisdiction over federal lands by "cession" Or **consent** of the state to a yielding of the state's police powers. This authority is separate from the federal government's power under the Property Clause and from jurisdiction retained when a state joined the **union**. Cession involves the situation where a state relinquishes **its** sovereignty or police powers over land that has been acquired by the federal government. This is a "derivative legislative power" and may be acquired "from a state pursuant to Art. 1, §8, cl. 17 of the Constitution by consensual acquisition of land, or by non-consensual acquisition followed by the State's subsequent cession of legislative authority over land."

Considering legislative authority of the federal government over its property in Alaska, there, would appear to be no general cessions made by the state in the area of the North Slope Borough's jurisdiction nor significant acquisitions pursuant to Art. 1, sec. 8, cl. 17--except for the Naval Petroleum Reserve. Section 4 of the Alaska Statehood Act was amended by the Alaska Omnibus Act to specifically clarify that the federal government did not retain "absolute jurisdiction" over all public lands in the state. 48 U.S.C. prec. §21 note. A study prepared in 1969 for the Public Land Law Review Commission by the Department of Justice indicated there were no lands in Alaska claimed to be subject to exclusive legislative jurisdiction of the federal government. Approximately

25 million acres were listed as subject to partial or concurrent legislative authority. See Federal Legislative Jurisdiction, App. B--Jurisdictional Status of Federal Lands, Table 3--By State and Agency (May 1969).

The amended Statehood provision limits "absolute jurisdiction and control" to native lands or lands held by the United States in trust for such natives. 48 U.S.C. prec. §21 note. However, even "absolute" control is not meant to be exclusive, and would not totally prohibit local/state laws from being applied. *Kake Village v. Egan*, 369 U.S. 60, 71 ( 1 9 6 2 ) :

[A]n examination of past statutes and decisions makes clear . . . that the words "absolute jurisdiction and control" are not intended to oust the State completely from regulation of Indian "property (including fishing rights)." - "Absolute" in §4 carried the gloss of its predecessor statutes, meaning undiminished, not exclusive.

Indian and native lands may be trust lands, tribal or individual (allotments) , or fee patent lands owned outright. Fee held lands will be treated as other private properties and is the apparent result in the ANCS Act. The state's jurisdiction over tribal trust lands or individual allotments held in trust by the federal government is more complicated. Public Law 280, 28 U.S.C. §1360(a), provides that for certain states, including Alaska, ". . . those civil laws of such State or Territory that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory."

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There is some question whether this includes local land use controls as "civil laws of such State . . . of general application." A recent decision of the Ninth Circuit, *Santa Rosa Band of Indians v. Kings County*, 532 F.2d 655 (9th Cir 1975), holds that zoning is not such a civil law. Furthermore, 28 U.S.C. §1360(b) prohibits state' "encumbrance" of trust lands. Zoning has been construed in some cases to be an encumbrance and therefor prohibited. See *Santa Rosa*, supra. Finally, the regulations adopted pursuant to Public Law 280 concerning local zoning, 25 C.F.R. §1.4, state that such zoning does not apply "to tribal or allotment lands held in trust by the federal government, unless approved by federal authorities.

The application of local zoning to trust lands is still unclear and the judicial decisions are mixed. The Regulations noted above have been criticized for lack of statutory support.

#### Federal Lands Transferred to Alaska Natives

The jurisdiction of the state and local units of government extends over lands granted to Alaskan natives under the Settlement Act. These lands may be treated as any other private holding of land once patented to individual natives or groups, or village or regional corporations. The ANCS Act declares that the settlement is to be made "without establishing any permanent racially defined institutions,



rights, privileges or obligations, without creating a reservation system . . . and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska." 43 U.S.C. §1601(b). Aside from easements potentially reserved by the Secretary across native lands,\* the only general restriction affecting the state is a prohibition on taxation of undeveloped native lands until 1991. However, lands that are leased or developed may be taxed-- "municipal taxes, real property taxes, or local assessments." The tax exemption provision is somewhat ambiguous and may be interpreted in several ways. See Price, et al., "The Tax Exemption of Native Lands Under "Section 21(d) of the Alaska Native Claims Settlement Act, " 6 UCLA-Alaska Law-Review 1 (1976).

As noted previously, the exclusiveness of federal jurisdiction over federal property may be determined by express or implied intent to allow or not allow local laws to be applied. This intent can be found by examining the statutory authority for federal management agencies and the major federal land classifications. Much of the public lands are under the management responsibility of the Department of Interior's

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\*43 U.S.C. §1616(c) provides that areas withdrawn for utility and transportation corridors across public lands may not be selected by Natives or the state.

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Bureau of Land Management; the second major classification of federal lands, the National Forests, are managed by the Department of Agriculture's Forest Service. The authority and responsibility of the BLM was recently reviewed and clarified by a new organic act--Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743. The Forest Service's authority was also recently modified by Congress.

The BLM Act directs the Secretary of the Interior to inventory and develop land use plans for all public lands under his jurisdiction--except OCS lands and reservation lands. Of particular importance in this process is the consultation and participation of the public and state/local government. 43 U.S.C. §1712(c) (9) provides that the Secretary shall:

. . . coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located. . . . [and] keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands . . . assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of state and local government officials. . . . Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

Thus the plans prepared for federal lands will address local/state concerns. The extent of the "consistency" with local plans is not well spelled out. It is clear, however, local authority has not been totally preempted. Where there is no overriding federal law or policy, local concerns should be respected. Federal law may become the controlling law, but, there is room for negotiation here. Local citizen advisory councils may be established to advise on plans and management decisions, and are to include local elected officials.

43 U.S.C. §1739(a).

The Act is even stronger on following local pollution control regulations. The BLM plans are to:

provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans. . . . 43 U.S.C. §1712(c) (8).

This provision calls for compliance, without **any qualifiers**. State/local pollution regulations must be followed. Pollution controls are often difficult to distinguish from other controls implementing a local land use plan. The Act is not very detailed here, perhaps the regulations will address this. The exact nature of local plans to be considered is not spelled out well either. The Act speaks of planning and management programs, as well as plans, so policies and objectives of the Borough may be asserted even though a formal comprehensive plan evidencing the policies may not yet be fully adopted.

The Act does define the term "public involvement":

[T]he opportunity for participation] by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance. 42 U.S.C. §1702(d).

Also , when public lands are to be sold ("offering for sale or otherwise conveying") , the local government in the area is to be given at least 60 days notice "in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. " 43 U.S.C. §1720 [§210 of Act]. This might arguably include leases and conveyances of partial interests in public lands, as the term public lands is defined in the Act to include any interest in land. 43 U.S.C. §1702(e) [§103 of Act]. The use of easements, permits and leases, among other devices, is specifically allowed as a means of managing public lands. 43 U.S.C. §1732(b). Patents or other documents of conveyance may include such terms "necessary to insure proper land use and protection of the public interest." 43 U.S.C. §1718. Specifically, the Secretary is prohibited from making any conveyance of public lands:

containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans or programs. 43 U.S.C. §1718.

With the right to notice and prohibition against conveyances in violation of local regulations, the Borough should be able to stop proposed inconsistent private development proposals. The local Borough regulations might be incorporated into the conveyance itself. This would give the added advantage of having the potential resort to federal enforcement of those conditions. 43 U.S.C. §1733. The Borough could still enforce its regulations and attempt to stop alleged violations . . . .

. . . . .

The powers of the Borough in the area of land use planning and control are quite typical, with the exception that adoption of controls is made mandatory. The state has delegated a fairly broad range of police powers to local governments. Initially through its planning commission, the Borough Assembly is to adopt land use and zoning regulations including a zoning map. N.S.B. Charter §8.010-.020. The basic document for establishment of land use controls is the community's "comprehensive plan. This plan, with its various policies and substantive elements on land use, transportation, etc., sets the framework for making land development decisions and should determine which regulations are to be adopted. Though the plan has no direct regulatory effect, zoning must be adopted in "accordance" with this comprehensive plan. N.S.B. Code §19.04.010. This means the two documents

must be consistent. 'l'he zoning must be designed to ensure protection of the plan' s stated policies and accomplishments of its goals. Zoning that would inhibit or frustrate these goals and policies is invalid and should not be consciously adopted.

Temporary zoning regulations may be established as interim controls while the community's various plans are being completed. Without adoption of formal plans, the zoning must obviously proceed on its own. The interim controls are only that--temporary--and the appropriate plans and policies must be prepared and formally adopted. As'long as the plans and permanent controls are being studied and developed with reasonable deliberation and in good faith, the interim controls will stand. As time passes, however, the interim nature of the temporary controls weakens their validity. Several years to develop a plan is not unreasonable, and the time may be considerably longer as the situation increases in complexity.

The statutory grant of zoning power in A.S. 629.33.090 is very broad as is the Borough Charter. N.S.B. Charter S8.010-020. Zoning may address itself to, among other things, the use of land, structures located on the land, and distribution of population. A zone or district 'can be drawn on a map controlling all uses of land within that area. Certain types of uses can be allowed in the zone and all others prohibited. Limitations or requirements for the amount of

land necessary for a project, density of development, and design constraints on the height or location on the property of structures may also be included in this zoning provision. The stated uses of a zoning district are typically allowed by right if the stated requirements are met. There is no provision for discretionary review of any proposal; it is a yes or no situation. More detailed conditions and a modicum of discretion are made possible by the conditional use permit procedure.

Conditional use permits are specifically authorized. A.D. §19.33.084 (d) (3). Use variances are prohibited. A.S. §29.33.110(c). Conditional use permits are provided for in A.S. §19.33.084 (d) (3) and in N.S.B. Code §212.160(c) (3), to be issued, by the Planning Commission. The conditional or special use permit technique could be utilized to control development along the Haul Road. A zoning district would be established along the Haul Road in an area where development is desired or is anticipated. This could be up to so many miles on either side of the Road, or mapped in detail on the basis of development potential or known problems along the Road. Once mapped, development could not take place in this zone until certain specified conditions were satisfied. An application for the permit would have to be made by the land owner or developer, and this application would be reviewed by the Borough planning commission, or other authorized decision-maker, to determine if the conditions would be

met and ensure the proposed action would be in the Borough's best interest. The specified conditions could relate to expected environmental impacts, dangers to Borough's inhabitants, policies in Borough plans, or most any matter of concern to development in the area.

This would differ from the simple by right zoning classification in that the latter use may be developed without the necessity of applying for a permit and meeting certain conditions precedent to development. Use of the special permit does necessitate commitment of resources to administer and issue the approvals. Some conditions may also require an ongoing monitoring to ensure compliance, which could also require time and personnel to make inspections or complaints by others as to violations might be awaited. before taking any action. A bond or fee to cover cost of monitoring might be required. It is also possible to impose a time limit on the special permit, thus necessitating reapplication and review of the activity after a certain amount of time has passed.

Review of the permits is presently by appeal to the Borough Assembly acting as a Board of Adjustment. N.S.B. Code §19.32.030(A)(3). Additional review would be by resort to the courts. Two important elements of the statutory section delegating zoning authority to the Borough are authorization to use contract zoning and a provision that



zoning may "stimulate systematic development of transport a-  
tion, water, sewer, school, park and other public facilities."  
A.S. §29.33 .090(c) (6). Code language is similar to this latter  
language. N.S.B. Code §19.04.010. It should be sufficient  
to provide for timing of development in accordance with the  
availability of public services. Efforts to develop in  
certain areas may be denied until public facilities services  
are constructed or otherwise planned to be made available.

This would allow for establishment of broad districts  
or sectors within which development might be allowed and  
areas where it would be discouraged or not allowed. Districts  
might be established around Barrow and Prudhoe Bay as areas  
permitting development, with more specific zoning use districts  
then delineated within the general district. Another district  
or sector might be established along the Haul Road up to a  
distance of so many miles. Development could be allowed in  
this area, but prohibited outside the sector. The area might  
be further separated into more traditional zoning districts  
for various types of residential, commercial or industrial  
uses. The remainder of the Borough outside areas designated  
as development sectors would not be available for development  
until general policies on areas suitable for such development  
were modified.

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Historically, states and other political subdivisions of the state have asserted that they are immune from local land use controls. Immunity has often been absolute for any governmental function, agent of the state, or for an entity with the power of eminent domain. All of these theories or bases for immunity have been criticized as substituting "distracting surrogates for reasoned adjudication." See Note, Governmental Immunity from Local Zoning Ordinances, 84 Harvard Law Rev. 869 (1971). That note argues for something more in the nature of 'a balancing test between one governmental development concern and another governmental regulatory interest. A balancing of interests test is set forth in Orange County v. City of Apopka, 299 So.2d 652 (Fla. 1974). This is arguably the best approach. Governmental entities will be subjected to local zoning actions, unless some interest of that entity deserves paramount protection and encouragement.

There are no Alaska cases on this matter. Statutes that bear on this are few and of limited application. However, a recent statute for public works would seem to indicate support for the balancing of interests test. A.S. S35.10.030 states that projects of the state department of public works "shall comply with all local planning and zoning ordinances." A waiver may be granted from the local regulations upon review of the governor where an "overriding state interest is involved."

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Even lands owned by the state that are not being used for construction of public works projects should come under local control unless an overriding state interest might be shown. It may be argued that the statutory enactments are consenting to local control only in the specified situations, and that otherwise state exemption prevails. The assumption that all state actions and lands are exempt unless otherwise provided by statute, however, begs the question. The preferable balancing type of test would seem to have gained legislative approval and be worthy of wider application. A conclusive answer on this is not possible at this time.

There is also a provision to permit local management of state lands--comparable to a cession or retrocession at the federal/state level. A.S. §38.05.027. This would permit the state to agree to local--village or municipality--management or development programs for state resources. This might further enhance local borough management and planning efforts. It might also be combined with federal retrocession of authority to the state, to establish local management programs over federal lands as well.

Finally, before any state lands may be "classified, reclassified, sold, leased or otherwise disposed of, including the renewal of a lease entered into after September 22, 1976," notice must be given to all municipalities within six miles of the property. A municipality--through its governing body, executive officer or planning agency--may request that the state consult with it. The state's legal responsibility does

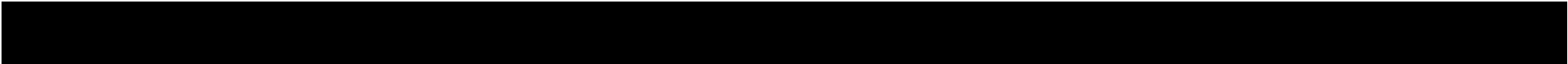
not, however, go beyond consulting. The administrative regulations on outright sale provide that no land "within or adjacent to" a municipality (apparently written before the 1976 amendment of A.S. 538.05.305) may be sold until the proposed use of the land has been studied and reviewed jointly by the director and local authorized planning agencies. 11 A.A.C. 54.110. The statutory provision would apparently apply to permits under A.S. §38.05.330 and right of way leases under A.S. §38.35.010 to .230. Administrative regulations of the department of natural resources provide that local zoning regulations are to be part of any contract for sale of state lands. 11 A.A.C. 54.450, and 11 A.A.C. 56.470. State land leases are also to be subjected to local zoning and a zoning violation is declared to be a violation of the lease. 11 A.A.C. 58.700.

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The Borough does not normally have authority over planned construction of state highways. It may specifically request, however, that it be allowed to assume "responsibilities relating to the planning of transportation corridors" within the Borough. A.S. §19.10.280. This section provides the procedures to be followed in making this request. The Borough does have authority to provide streets and transportation services and regulate their usage under its Charter or Chapter 48 of Title 29.

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The ownership patterns along the road may also influence the Borough's ability to exercise control over roads being constructed to tie into the Haul Road . As discussed previously, the Borough may assert jurisdiction over all lands within its boundaries, though some controls might be found to be pre-empted if contrary federal regulations were asserted. The Haul Road lies within an utility corridor over federal lands. Policies on this corridor and classification under 17d(2) of ANCSA may affect options here. The Borough should attempt to control all roadways that access onto the Haul Road, under joint agreement with the state and as an exercise of its own Police powers.



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LIST OF PERSONS CONTACTED

256





## LIST OF PERSONS CONTACTED

### Barrow

#### NORTH SLOPE BOROUGH

Jake Adams, presiding officer, borough assembly, February 9, 1978.

Lloyd Ahvakana, director, administration and finance, October 14, 1977.

Nelson Ahvakana, member, borough assembly, December 13, 1977.

Joe **Akpik**, member, borough assembly, October 13, 1977.

George **Amaogak**, borough assessor, October 12, 1977.

Herb **Bartel**, planning director, December 13, 1977.

Arnold Brewer, Sr., member, borough assembly, December 15, 1977.

Eugene Brewer, deputy director, public works, October 11, 1977.

**Kavasji Dadachanji**, deputy director, administration and finance, acting comptroller, December 14, 1977.

Earl **Finkler**, planning consultant, October 13, 1977; February 6, 1978.

Eben Hopson, mayor, December 14, 1977.

Edward Hopson, member, borough assembly, October 13, 1977.

Oliver Leavitt, former member, borough assembly, December 14, 1977.

Kim **Moeller**, director, public safety, October 12, 1977.

Billy Neakok, director, conservation and environmental security, December 13, 1977.

**Elise** Patkotak, director, health and social services, February 7, 1978.

Don Renfroe, superintendent, school district, February 7, 1978.

Alice Solomon, member, borough assembly, December 15, 1977.

Harry Stotts, director, public works, October 11, 1977.

OTHER

Charlotte Brewer, magistrate, October 13, 1977.

Robert Dupere, financial consultant, North Slope Borough, February 7, 1978.

Nate **Olemaun**, mayor, Barrow, October 13, 1977.

Arthur **Panigeo**, executive director, **Inupiat Community of** the Arctic Slope, February 8, 1978.

Joe **Upicksoun**, president, **Inupiat** Community of the Arctic Slope, October 12, 1977.

Point Hope

Nick Hank, **Tigara** Corporation, January 4, 1978.

Amos Lane, member, borough planning commission, January 5, 1978.

Lenny Lane, member, borough assembly, December 15, 1977.

Daniel **Lisburne**, executive vice president, **Tigara** Corporation, January 4, 1978.

David Stone, village manager, January 4, 1978.

Rex **Tuzroyluk**, borough game management commission, January 5, 1978.

Anchorage

Jon **Buchholdt**, special assistant to mayor, North Slope Borough, February 27, 1978.

Max Brewer, chief, USGS **NPRA** operations, **March** 30, 1978.

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