

Introduced by:	Martin, Moss
Date:	12/16/03
Action:	Adopted
Vote:	6 Yes, 3 No
Action:	Notice of Reconsideration given by Mr. Superman
Action:	Notice of Reconsideration Failed
Vote:	4 Yes, 5 No

**KENAI PENINSULA BOROUGH
RESOLUTION 2003-129**

A RESOLUTION REQUESTING AMENDMENT OF ALASKA STATUTES 31.05.125 AND 38.05.177(O), WHICH AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES COMMISSIONER TO WAIVE COMPLIANCE WITH LOCAL LAWS FOR SHALLOW NATURAL GAS LEASES IN LIMITED CASES, REQUESTING ADDITIONAL PUBLIC NOTICE REQUIREMENTS, AND REQUESTING THAT THE STATE BUY BACK SOUTH PENINSULA SHALLOW GAS LEASES

WHEREAS, in House Bill 69, effective June 7, 2003, the state legislature amended numerous provisions in state law to encourage the development of shallow natural gas resources; and

WHEREAS, in House Bill 394, effective October 9, 1996, the state legislature also amended numerous statutes to authorize shallow natural gas leasing from sources within 3,000 feet of the surface and including related provisions; and

WHEREAS, while the development of natural resources in Alaska is an important element of Alaska's economy, the recognition of property rights and local authority to regulate uses of property for protection of property rights is similarly important; and

WHEREAS, Sections 4 and 6 of HB 69 enact AS 31.05.125 and 38.05.177(o), which delegate to the Commissioner of the Department of Natural Resources ("DNR") the authority to waive local requirements relating to compliance with local laws upon a demonstration of an overriding state interest; and

WHEREAS, the local planning authority, including planning commissions, councils and assemblies, are best able to understand and implement the needs of the local community respecting land uses; and

WHEREAS, it is in the state's best interest to develop its natural resources utilizing partnerships between the state, mineral lessees, surface owners and the public to ensure public understanding and involvement, as supported by Governor Murkowski in his November 12, 2003 address to the Alaska Municipal League; and

WHEREAS, HB 394 enacted AS 38.055.177 governing shallow gas leases, but only requires notice of the lease application be published in a newspaper of general circulation and not in additional local media if available; and

WHEREAS, requiring publication in the local media will significantly improve notice to members of local communities with local media; and

WHEREAS, the Homer community was not given adequate notice of the proposed shallow gas leases, and was not sufficiently made aware of the impact of HB 394 on the process used for issuing shallow gas leases; and

WHEREAS, because processing a lease application may take more than one year it is appropriate to require additional public notice as circumstances may have changed within the intervening year; and

WHEREAS, at a public meeting held November 10, 2003 in Homer, many residents encouraged the state to buy back the South Peninsula Shallow Gas Leases, and Governor Murkowski preliminarily indicated that he may consider this option after further analysis, if it is feasible and desired by the people, recognizing that any buy back would require legislative approval;

NOW THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. For all of the above reasons, the Kenai Peninsula Borough Assembly respectfully requests Governor Frank Murkowski and the Alaska State Legislature buy back the South Peninsula Shallow Gas Leases particularly within the Homer Bridge Creek Watershed and other environmentally sensitive areas in the Homer area.


SECTION 2. The Kenai Peninsula Borough urges the Alaska State legislature to significantly amend Alaska Statutes 31.05.125 and 38.05.177(o), to eliminate the ability of the state to waive local land use regulations without advance public notice and hearings, and to require the adoption of clear and high standards that must be met before any local laws may be waived by the DNR Commissioner to accommodate shallow gas leasing.

SECTION 3. That Alaska Statute 38.05.177(c) be amended to require notice of a lease application be published by local news media if available, as well as in a newspaper of general circulation, and to require additional such publication if more than one year elapses between submission of the lease application and final action on the application by the director.

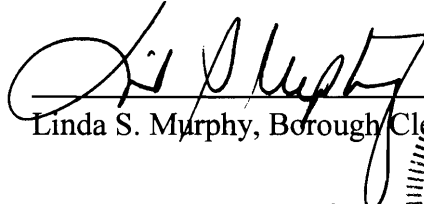
SECTION 4. That copies of this resolution shall be provided to Governor Frank Murkowski, Representatives Vic Kohring, Carl Morgan, Mike Hawker, Kelly Wolf, Mike Chenault, and Paul Seaton, and Senators Georgianna Lincoln, Con Bunde, Thomas Wagoner, and Gary Stevens.

SECTION 5. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF DECEMBER, 2003.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk

