NANA Development Corporation

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December 13, 2001

Mr. Randy Bates
Division of Governmental Coordination
Office of the Governor
P.O. Box 110030
Juneau, Alaska 99811-0030

Re: Draft Proposed ACMP Implementation Regulations

Dear Mr. Bates:

On behalf of NANA Regional Corporation, Inc., and NANA Development Corporation, I am writing to express our serious concerns with DGC's draft proposed Alaska Coastal Management Program (ACMP) Implementation Regulations. A large percentage of NANA's land is located within the coastal zone. NANA is presently fully engaged at the Red Dog mine and we are beginning to explore for oil and gas in our region as well as for other resources. The new regulations will have a profound impact upon our ability to pursue that activity and the benefits that such activity will provide to the NANA people. It is imperative that the regulation of activity within the coastal zone reflect a clear, well-organized, equitable framework so as to ensure that Alaska's regulatory climate is one that does not unduly discourage private sector investment and economic development. We do not believe these proposed regulations succeed in that regard.

NANA has worked closely with the Resource Development Council, Alaska Oil & Gas Association, the Alaska Miners Association, the Alaska Support Industry Alliance and Sealaska Corporation as well as many other individual companies in the review of the proposed regulations. To that end you will probably recognize a similarity in our comments to those of the other participants. You should interpret that similarity as identifying those areas of the proposed regulations that are obviously flawed. NANA's concerns with the proposed regulations fall into five areas: 1) clarity, 2) schedule, 3) applicability, 4) procedure for elevation, 5) homeless stipulations.

<u>Clarity</u>

The proposed regulations are extremely difficult to read much less understand. A number of professional permitting people from the various groups attempted to develop

a flow chart for the consistency review process based on the new regulations. They could not do so as they frequently encountered either dead ends or continuous loops.

The proposed regulations will force any entity, be they a corporation or individual, that come under the umbrella of the ACMP to retain profession guidance and then there is no assurance that a consistency review can be prosecuted in a reasonable time.

Schedule

It is extremely important to an applicant for a permit that is subject to consistency review to have at the onset some assurance of a timeline for completeness of the review. The former regulations, although not perfect, were a definite improvement over what has been proposed in the current draft.

The proposed regulations do not offer any predictable timeline to the process. We cannot determine when the clock starts or when it will stop. Once it does start there are numerous opportunities for delays, suspensions, modifications and etc., most without the concurrence of the applicant. The regulations must provide a timeline, the proposed regulations do not.

Applicability

One of the most often sought answers that a petitioner may seek from the proposed regulations is "Do the regulations apply to my project?" Sadly, we believe that the draft regulations do not provide any consistent answer. We submit that DGC revisit the original ACMP Act and redefine the applicability of the regulation to only those projects that have a "direct and significant impact upon coastal resources". We further submit that this may be an opportune time to re-evaluate the coastal zone boundary and the consistency of that boundary with the federal definition.

Elevation and Petition

The petition process conflicts with the state law requirement that a decision on a petition be made within 30 days of the petition filing. The proposed regulations will preclude such a schedule. The proposed two-tiered elevation system should be eliminated and should be replace by a single review by the agency commissioners.

Homeless Stipulations

We are advised that in all probability, the proposed "Homeless Stipulations" lack statutory authority. The proposed procedure to codify the practice of attaching "conditions" to ACMP consistency reviews for which the DGC has no statutory authority could jeopardize the entire ACMP. We strongly suggest that DGC re-evaluate their position.

NANA appreciates the opportunity to comment on the proposed ACMP regulations and we sincerely hope that you will take these comments and the comments of others seriously as you draft the final regulations. The ACMP regulations are of significant significance to any entity engaged in any commercial enterprise within the coastal zone. For this reason they must be understandable, reasonable, consistent, and predictable. We look forward to working with you to that end.

Sincerely,

for - Helvi Sandvik, President
NANA Development Corporation

cc: Charlie A. Curtis, President, NRC
Governor Tony Knowles
Lieutenant Governor Fran Ulmer
Pat Galvin, Director, DGC
Commissioner Pat Pourchot, DNR
Commissioner Michele Brown, DEC
Commissioner Frank Rue, DF&G