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**CITY AND BOROUGH OF SITKA
RESOLUTION 2010-35**

**A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF
SITKA, ALASKA, SUPPORTING LEGISLATION TO EXTEND AND RESTORE
THE ALASKA COASTAL MANAGEMENT PROGRAM TO ENABLE
EFFECTIVE COASTAL COMMUNITY PARTICIPATION**

WHEREAS, the City and Borough of Sitka has participated in the Alaska Coastal Management Program (ACMP) since approval of its first Sitka Coastal Plan in 1981; and

WHEREAS, the “streamlined ACMP process” which began with House Bill 191 in 2003 forced the complete revision of all Alaska Coastal Management plans (Sitka’s revision was approved in 2007) and resulted in a greatly diminished role for coastal districts, including inability to establish meaningful local enforceable policies and removal of air and water quality from ACMP project reviews; and

WHEREAS, Sitka lost more than half of its 55 enforceable policies, the only portion of Sitka’s coastal plan with standing in the ACMP permit review process, and the remaining policies are limited and ineffective in coastal comments addressing local issues; and

WHEREAS, the ACMP will sunset July 1, 2011 and all Coastal Management funding and coordination will cease unless the Alaska State Legislature extends the program;

NOW, THEREFORE BE IT RESOLVED that the City and Borough of Sitka Assembly supports legislation to extend the ACMP, eliminate the “DEC carve-out” and bring back air and water quality issues in the ACMP consistency review process, eliminate requirements for pre-designation of subsistence, habitat, or other areas subject to policies, and permit meaningful local participation in the ACMP through expanded enforceable policies addressing a wide range of coastal uses to permit City and Borough of Sitka and other coastal communities to better manage the coastal zone.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska, on this twenty-eighth day of December, 2010.

Cheryl Westover, Mayor

ATTEST:

Sara Peterson
Acting Municipal Clerk

December 21, 2010

TO: Jim Dinley, Administrator
through Dave Wolff, Acting Administrator
Mayor and Assembly

FROM: Marlene Campbell, Government Relations Director

SUBJECT: Resolution Supporting Extension and Revision of Alaska Coastal
Management Program

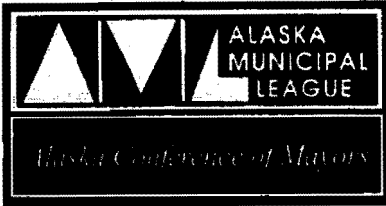
This is a request to approve/revise Resolution 2010-35 to extend and restore the Alaska Coastal Management Program (ACMP) to enable effective coastal community participation. I have been the City and Borough of Sitka's (CBS) Coastal Management Coordinator since 1987. Ever since the 1980's, CBS has received a minimum of \$25,000 annually to the General Fund to cover the cost of a portion of the Coordinator's salary.

The ACMP was extensively adversely impacted by changes to the ACMP statutes in 2003 and regulations in 2005. Since then, the Sitka Assembly has approved resolutions supporting the upgrade of the Alaska Coastal Management Program to return some of the balance to the program and permit Sitka and other coastal districts to again have a "seat at the table" in permit decisions directly affecting the coastal zone. While there have been legislative attempts to help restore a meaningful role for coastal municipalities through House Bill 74 and Senate Bill 4, none have been approved.

The Alaska Coastal Management Program is now subject to a "sunset" provision which will permanently terminate the ACMP on July 1, 2011, unless the State Legislature passes legislation to extend it and the Governor does not veto. With this very real threat to the survival of the program requiring immediate action this legislative session, all Coastal Districts, Alaska Municipal League (see enclosed), and other groups are issuing resolutions and contacting legislators to support the continuation of the ACMP.

The City and Borough of Sitka Coastal Management Program has been a model of effective coastal management, allowing the Sitka community to have due deference and protect local resources and activities while permitting responsible development, since 1981. There has never been a Sitka project not permitted due to the ACMP, but ill-sited proposals have been required to relocate to other locations. For example, the Mottett aquafarm project was not permitted in Leesoffskaia Bay (based on a unanimous Assembly vote) but was later permitted with no objection in Whiting Harbor.

The ACMP gives CBS and the Sitka community an active role in asserting maximum local self-government, and the Assembly's support for the Coastal Management Program is an important part of this statewide effort. Enclosed is a comment letter on the 2008 ACMP revisions evaluation for your background information. If there are any questions about the ACMP or the many ways Sitka benefits, please contact me at 747-1855 (phone) or campbell@cityofsitka.com (e-mail).



217 Second Street, Suite 200 • Juneau, Alaska 99801

Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

**ALASKA MUNICIPAL LEAGUE
RESOLUTION #2011-22**

**A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE REGARDING SUPPORT
FOR AND AMENDMENTS TO THE ALASKA COASTAL MANAGEMENT PROGRAM**

WHEREAS, one of the goals of the Alaska Municipal League is to preserve local government options to ensure municipal government can be highly responsive to unique circumstances and to meet the mandate of the Alaska Constitution "to provide for maximum local self government;" and

WHEREAS, since its inception in 1977, the Alaska Coastal Management Program (ACMP) has provided Alaska's coastal municipalities a powerful tool to promote responsible development while protecting coastal resources and uses; and

WHEREAS, a cornerstone of the ACMP has been the ability for municipalities organized as coastal districts to develop enforceable policies that address local circumstances and concerns; and

WHEREAS, changes to the ACMP statutes in 2003 and changes to the ACMP regulations in 2005, reduced the effectiveness of the ACMP, including a diminished role for coastal districts, including the inability to establish meaningful local enforceable policies, the removal of air and water quality from coordinated ACMP project reviews, and elimination of the Coastal Policy Council that facilitated public engagement in administrative and program decisions; and

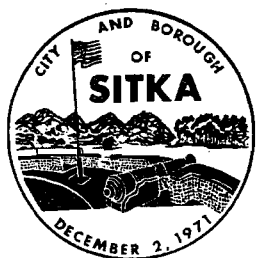
WHEREAS, the ACMP will sunset on July 1, 2011 unless the Alaska State Legislature extends the program.

NOW, THEREFORE BE IT RESOLVED that the Alaska Municipal League supports legislation that will extend the ACMP, establish a coastal policy board, bring back air and water quality issues into the ACMP consistency reviews, eliminate requirements for designation of subsistence use areas, and allow meaningful enforceable policies.

PASSED AND APPROVED by the Alaska Municipal League on this 19th day of November, 2010.

Signed: Hal Smalley
Hal Smalley, President, Alaska Municipal League

Attest: Kathie Wasserman
Kathie Wasserman, Executive Director, Alaska Municipal League



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

August 15, 2008

Randy Bates, Director
Division of Coastal and Ocean Management
Department of Natural Resources
P.O. Box 111030
Juneau, Alaska 99811 — By FAX: 907-465-3075

RE: Comments on Re-Evaluation of the Alaska Coastal Management Program

Dear Director Bates:

On April 2, 2004, the Sitka Coastal Management Program wrote a comment letter on proposed changes to the Alaska Coastal Management Program proposed Regulations in response to the requirements of HB 191 (Chapter 23, SLA 03). I was not surprised to find that most of my comments and concerns had proved valid subsequent to the reorganization of the State's Coastal Management Program. I am therefore submitting portions of this April 2, 2004 letter which are still relevant as part of my current comments (in quotations):

“We understood HB 191 was intended in part to streamline and clarify the Coastal Management review process, to support expeditious but responsible economic development, and to continue to protect the resources and uses of those coastal resources of importance to coastal communities.

“After exhaustive analysis of the revised, cross-referenced, fragmented new regulations, however, these goals are clearly not met. The revamping of the subject uses to exclude some of these uses, the movement of sections of the subject uses to a planning or other section, and the requirement for having to cross-reference obscure “definitions” that limit the coastal zone to only the salt-water influenced, “designated” or “delineated” portion of the coastline (depending on what subject use is being referred to) and exclude important coastal resources which are an integral part of local Coastal District Programs, has NOT streamlined the regulations.

“If not modified, these proposed Regulations changes will likely ELIMINATE Coastal Districts’ ability to facilitate responsible development and at the same time protect those most important coastal resources on both the uplands and tidelands and will virtually eliminate the Sitka Coastal Management Program’s Enforceable Policies.

“The City and Borough of Sitka strongly supports economic development and supports the streamlining of permitting processes. But through our Coastal Management Program, the City and Borough of Sitka also supports due deference to the local government and our citizens in management decision-making directly affecting our community. The Sitka Coastal Management

Program has given the Municipality and our citizens “a seat at the table” in the Coastal Management Consistency Review process, and I believe our record has consistently been to facilitate resolution of conflicts and expeditious permitting of projects. But our Coastal Management Program also has enforceable policies which specifically weigh **public need, public benefit, and public use** rather than allowing any development to be permitted anywhere especially on public lands with no consideration of whether or not the use is compatible with the community, conflicts with other uses, and/or could cause serious adverse impacts to resources or the environment. We have long been told the Sitka Coastal Management Program has been an exemplary and highly workable program, striking a reasonable balance between development and protection of our coastal resources in the process. We only wish to continue this workable relationship between developers, the public, and local, state and federal agencies, as modified where required by the results of HB 191.

“With this general philosophical introduction, I will try to comment on major areas of impacts the revised regulations, with all their cross-references and limitations, will cause the Sitka Coastal Management Program. **If the new regulations were only intended to implement HB 191, then the draconian changes which will greatly restrict District Enforceable Policies and reduce the Statewide Standards to a “shell” along the salt-water coastline rather than the entire coastal zone, convolute and confuse what was formerly straightforward subject uses, and eliminate various standards entirely, should be rewritten to return to the basic intent of HB 191 and permit a meaningful, although obviously reduced-scope, Alaska Coastal Management Program to continue. Coastal Districts would be pleased to assist with this worthwhile effort.**

“Deleting wording “feasible and prudent” and adopting “practicable” adversely impacts many Sitka Enforceable Policies which utilize the term “feasible and prudent” as defined in *11 AAC 180.900. DEFINITIONS (20) “Feasible and prudent” means consistent with sound engineering practice and not causing environmental, social, or economic problems that outweigh the public benefit to be derived from compliance with the standard which is modified by the term “feasible and prudent”*. This entire definition is deleted in the revised regulations. It is basically to be replaced by (16) *“Practicable” - means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes*”. The Sitka Coastal Program uses the term “feasible and prudent” throughout the entire Coastal Plan and includes this wording in at least twelve of Sitka’s Enforceable Policies, to ensure the “feasible and prudent” analysis as defined above can be considered; this is an important part of our review process. To remove “feasible and prudent” from the Definitions, and especially to replace this term with “practicable”, which doesn’t require any analysis other than the cost and feasibility of a project with no analysis of sound engineering practice or the environmental, social, or economic consequences of the project that might outweigh the public benefit of the project, prohibits the Coastal Programs from doing their due diligence to look at all the potential issues which are Coastal Management responsibility. **We request that the “feasible and prudent” definition be maintained, and the term “practicable” definition be deleted or at least not given lopsighted “weight”**.

“In the 23 years the Sitka Coastal Management Program has been in existence, the use of “feasible and prudent” has not as far as records show resulted in non-permitting of a project, and its use has not caused vague or inappropriate interpretation of our Enforceable Policies; it has permitted appropriate review and consideration of all the facts...both with respect to the project and any issues with the project.

“The State Standards under 11 AAC 180.010. COVERAGE OF CHAPTER. “(a) This chapter contains standards for the use of and application by districts and state agencies in carrying out their responsibilities under the Alaska Coastal Management Act...” deletes the section “If the District Program and the Standards in this chapter both address the same operational subject or issue, the provisions of the district program are controlling...” This chapter also substantively reduces the State Standards or their definitions. The cumulative effect of removing or reducing the scope of the State Standards, as well as the coastal districts’ ability to provide stronger enforceable policies than contained in the State Standards, effectively eliminates district program ability to address coastal issues in most areas. **Why do the coastal standards have to be removed or weakened?**

“We recommend the standards be tightened to be more enforceable, and that coastal district enforceable policies also be rewritten to be reasonable and enforceable. We do not recommend that whole sections of the Standards such as Mining, where projects can potentially cause enormous impacts, be put “off limits” to the Coastal Program. Sitka Coastal District Enforceable Policy 8.2, the only mining-related policy, only requests that applications for mining projects include development and reclamation plans and bond provisions. This is a reasonable policy to protect coastal resources and coastal uses, while allowing mining efforts to proceed. We request that this standard remain, so that Sitka can continue to use Policy 8.2 to encourage responsible mining projects while providing for future reclamation.

“The modification of 11 AAC 180.040 COASTAL DEVELOPMENT to make this Standard applicable only to development in or adjacent to “coastal waters”, rather than to the entire “coastal areas” greatly limits coastal districts’ abilities to provide enforceable policies to guide development in this section. We request that the coastal zone definition be broadened to include a more realistic coastal zone, and not just salt-water influenced coastal areas. In this Coastal Development section, the substitution of “practicable” for “feasible and prudent” is a good example of how this language weakens the standard. There needs to be an analysis of not only what is practicable or feasible for an applicant, but also what is prudent in terms of “inland alternative to meet the public need for the use or activity.” Again, please do not substitute “practicable” for “feasible and prudent”-- this would force only the economics and feasibility to the developer to be considered, rather than what is prudent for public need; preservation of the resource.

“The modification of GEOPHYSICAL HAZARD AREAS to be moved to Chapter 185.070 and changed to NATURAL HAZARD AREAS is ill advised. This is a legitimate part of the Coastal Zone, and requiring that only those areas “designated by districts or state agencies” can have policies is unworkable. ALL of the City and Borough of Sitka (4,710 square miles) is in a major earthquake fault zone, has dormant but not dead volcanos, and has a significant risk of tsunami runup throughout the entire coastline. Unless we are arbitrarily able to “designate” our entire Coastal District a “Natural Hazard Area”, which is highly unlikely, we cannot maintain our two enforceable policies, 2.1 and 2.2. Please revise this section to recognize geophysical hazard areas without requiring some arbitrary designation, unless this is defined to include an entire coastal district. Each project must be evaluated based on the site specific conditions for the specific project.

“The modification of the Recreation section to be moved to Chapter 185.070, Planning Standards, is very unfortunate. Recreation is a major use and activity in the Sitka Coastal Management Program, and just designating areas for recreational use limits what enforceable

policies a coastal district could provide for this section. Sitka has an advantage in already having designated the most unique, important recreational use areas in the Sitka Public Use Management Plan, and we hope these modifications will not force us to abandon our enforceable policies for these Special Management Areas (SMA). **We request that this section ensure that coastal districts continue to be able to assess potential projects impacts to major public recreational use both in the SMA's and elsewhere in the coastal district. We do support 11 AAC 180.060 Coastal Access.**

“SUBSISTENCE has been rewritten and moved to 11 AAC 185.070. The Subsistence priority, 6AAC 80.120. “SUBSISTENCE (A) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources” has been deleted. The new requirement that only areas designated under 6 AAC 185.070 as “subsistence areas” would have any consideration for Subsistence enforceable policies negates the Sitka Program’s Enforceable Policies 9.1 and 9.3. The Sitka Coastal District recognizes SUBSISTENCE RESOURCES as the important issue rather than just certain locations where they might be abundant. **Please rewrite this standard to retain the subsistence priority (assure opportunities for subsistence usage of coastal areas and resources) and not require meaningless designation of certain areas unless the entire coastal zone is included. Almost the entire coastal zone in the Sitka Coastal Program (except for the downtown Sitka area) is heavily used for subsistence uses and resource gathering. It is meaningless to designate specific areas when it is the access to the resources for subsistence that is important.**

“11AAC 180.120 HABITATS has been substantially reduced in scope, and the re-definition of rivers, streams and lakes to exclude all uplands rivers, streams and lakes from the “coastal waters” basically unless there is salt water influence or they are anadromous absolutely defeats the efforts most coastal districts and local communities agree is critically important to maintain our coastal resources and the habitats which permit the many uses and activities we enjoy in the coastal zone. While we do not want to preclude development, we do want to protect the coastal zone, not only for the sake of the resources but for the benefit of the users of the resources as well...our fishing industry, for example. **Please rewrite the Habitats section to include critical uplands habitats for non-anadromous as well as anadromous rivers, streams, and lakes and permit coastal districts to frame defensible and locally high priority enforceable policies that balance development interests with protection of high-value habitat issues.** At the very least, make each section, including habitats, reasonably comprehensive without obscure definitions and cross references, so that in reading about a standard like “Resources and Habitats” it is clear what is and is not covered under this section.

“The use of “avoid, minimize, or mitigate adverse impacts” rather than achieving the goal of management to ensure protection of a resource is also short-sighted. We recommend adding back in the positive goals of assuring adequate water flow, nutrients and oxygen levels (as an example) and then stating that if this goal is achieved, additionally the use “shall be managed to avoid, minimize, or mitigate...”. This language has replaced real positive management in several sections, including several in Habitats (11 AAC 180.120 etc.) If the “avoid, minimize or mitigate” language is adopted, it will permit activities to proceed in spite of the damage it might cause to (for example) (7) natural vegetation within riparian areas. The positive management language of “must be managed to protect natural vegetation, water quality, important fish or wildlife habitat, and natural water flow” would be deleted, not leaving any guidance as to what is actually meant by “ avoid, minimize, or mitigate significant adverse impacts to natural vegetation within riparian areas.”

“To adequately review and comment on these regulations changes, I would need a substantive idea of how OPMP will implement the changes. They are so confusing and inconsistent that there is no one list one can go to determine what is and is not in the coastal zone. I’ve been told the Swan Lake AMSA would be included under the Recreation Planning Standard, but not under the Habitat Standard. But once an area is moved to a Planning Standard, and separated into two sections as proposed, what will this mean for districts wanting to write enforceable policies. The complexity of these Regs. rewrites is so great that after a month of studying them and working with other coastal districts to try to unravel the complexities, “the devil is in the details” in terms of how they will be administered and what it will mean to coastal district programs. **I object to the short time frame for comment, request an extension to comment, and request reasonable answers to the list of Coastal District Association questions which would better enable us to productively comment. Better yet, if OPMP and the Coastal Districts could just have an opportunity to work together productively to meet the intent of HB 191 and still keep the Alaska Coastal Management Program viable, the Sitka Coastal District would be pleased to cooperate in this worthwhile effort.**

“The Sitka Coastal Management Program has always been a strong supporter of the opportunity for coastal districts to partner with agencies to have a meaningful “seat at the table” in land and water management decision making for our coastal zone. Our intent is NOT to limit development, but to permit development while protecting our resources and their uses and activities for future generations as well.

“I already have many more pages of specific comments concerning these changes, and even more questions about the proposed changes. I will rather conclude these comments with the statement that each specific comment can likely be repeated elsewhere throughout these Regulation revisions, and the above comments should be taken as a starting point for the many other places in the proposed Regulations which are equally in need of further revision. I hope based on the various coastal district comments made during this process, that OPMP can rethink its vast revamping of our Alaska Coastal Management Regulations and return to a more cohesive, comprehensive, and thoughtful Alaska Coastal Management Program regulations format which meets the requirements mandated in HB 191.”

All of the above April 1, 2004 comments have proved accurate. Even in areas of the Sitka Coastal Program that were retained, such as the Swan Lake Area Meriting Special Attention (AMSA) and Special Management Areas, Sitka’s enforceable policies have become almost useless. Sitka’s Coastal Plan lost more than 50% (fifty percent) of its enforceable policies in the implementation of the revision/reduction of the ACMP. Those that remain cannot relate to air or water quality, habitat or subsistence issues, thereby “gutting” the effectiveness of Sitka’s Coastal Program. The following is a summary of the above issues which the State Coastal Program declined to address:

1. The DEC carve-out and loss of air and water quality State Standards removed consideration of air and water quality issues from the Alaska Coastal Management Program. Not only should DEC reviews be integrated back into the ACMP consistency review process and the Statewide ACMP Standards include Air and Water Quality Standards, but coastal districts should be able to write local enforceable policies which are more specific than the State Standards as long as they do not duplicate the State Standards or DEC statutes or regulations. How can the ACMP, including the coastal

districts, meaningfully review environmental issues without addressing air and water quality? The DEC carve-out supposedly related to the timing of DEC permits. However, the Corps of Engineers also has timelines separate from the ACMP process and yet manages to do their job and withhold final project approval until the ACMP process is completed.

To amend DEC's exclusion, amend AS 46.40.040(b)(1), AS 46.40.096 (g)(i), and (k). Also, repeal regulations associated with the DEC carve-out. Amend 11 AAC 114.270(f) to clarify that coastal districts can establish policies that do not duplicate DEC statutes and regulations. Statewide Air and Water Quality Standards need to be added back into the ACMP to adequately address high priority ACMP concerns, and to allow coastal districts as well as agencies to address these State Standards in comments. Further coastal districts should once again be able to have local air and water quality policies that do not duplicate the State Standards or DEC statutes or regulations.

2. Mining activities can provide major economic benefits but should be developed responsibly and should obviously be subject to the ACMP. Mining should be restored as a part of the ACMP under the Sand and Gravel Standard (11 AAC 112.260), including allowing coastal districts to write mining policies which do not duplicate state or federal laws. The Sand and Gravel Standard should be amended to clarify the Standard applies to fresh water as well as salt water operations.

3. Designated Area requirements are unrealistic and far too costly to map and evaluate to be feasible for most coastal districts to even begin and should be eliminated. Districts such as Sitka which already have detailed maps and research studies in place for AMSA's such as Swan Lake, very important streams such as Indian River (Sitka's secondary water supply and major anadromous fish stream which has its own master plan—the only anadromous stream for which Sitka could maintain its riparian setback policy), and Special Management Areas (Sitka's unique recreation and subsistence use areas), should be able to maintain these designated areas. They are already identified as valuable coastal resource areas.

However, local districts need to be able to write Habitat, Subsistence, Hazardous Areas, and Historic Areas enforceable policies which relate to the habitat, the subsistence or other resource, specific hazards, and other specific environments of sufficient importance that enforceable policies need to be in place. These policies should apply to the specific coastal area in which they occur, not just a certain designated area. Sitka has over 300 miles of coastline, much of which is rocky and not overly sensitive, but some of which is very important for the protection of habitats and subsistence uses that could be irreversibly harmed by certain activities, but not necessarily others. These are SITE SPECIFIC evaluations dependent on the proposed use. They cannot be arbitrarily designated, because every proposed use has different consequences. While the resource or use can be identified in an enforceable policy, application to specific sites must be evaluated on a case-by-case basis.

The requirement that Habitat, Recreation, Subsistence, Hazards, and Historic Areas policies (and others) can only be used with designated areas must be eliminated. The designated area requirements need to be removed in 11 AAC 114.250, 11 AAC 114.270, 11 AAC 112.210, 11 AAC 112.270, 11 AAC 112.300, 11 AAC 112.320, and anywhere else Designations are required.

4. The changes to the Habitat Standard should be removed. The current Habitat Standard no longer addresses air or water quality issues, and applies only to saltwater wetlands and not freshwater

wetlands (including those which are contiguous). These changes have so “gutted” the Habitat Standard that coastal districts can no longer write enforceable policies nor agencies defend against wanton habitat destruction. There is no longer adequate consideration of cumulative impacts. There is no way to prohibit development on high value wetlands or on major public use uplands or tidelands areas. Riparian area setbacks on salmon streams, an important Habitat issue, are not permitted in enforceable policies except for designated, heavily mapped and researched areas.

A current local example of how basic and important the above issue is at the local level, is the inability of the Sitka Coastal Program or agencies interested in maintaining a no-development buffer in riparian areas along anadromous fish streams to maintain any specific setback. The Sitka plan formerly had an enforceable Habitats policy requiring a 25 foot setback “where feasible and prudent” from anadromous fish streams. Now developers can build to the ordinary high water line in the stream, where Fish and Game jurisdiction begins, since the Sitka district could not retain its policy..

The “avoid, minimize, mitigate” sequence does not provide for using good judgment to protect valuable habitat—this requirement immediately moves to paying the expense of mitigating impacts rather than not permitting development on high value areas in the first place. The three-part test previously used by the ACMP to allow projects which could not meet the standards to go forward if 1) there is significant public need for the proposed use or activity, with deference to the coastal district; 2) there is no feasible or prudent alternative to meet the public need; and 3) all feasible and prudent steps to maximize conformance with the standards have been taken. This standard provided alternatives for projects with high public benefit to proceed even with habitat impacts, but also permitted communities, coastal districts and agencies to limit or prohibit projects that had little public benefit or support and the potential to harm habitats, resources and public uses.

This is a good example of where “practicable” DOES NOT adequately replace where “feasible and prudent”, since “practicable” only refers to economic considerations but does not weigh harm to habitats or uses. The Habitat Standard should be rewritten to return to a comprehensive definition and ability to write enforceable policies on Habitat and Resource issues, addressing uplands habitats, freshwater wetlands, shoreline areas, salmon streams, important fisheries habitats, and other components of Habitats essential to comprehensively review project proposals in the coastal zone.

5. The Sitka Coastal District strongly objected to the disastrous removal of the Habitat Division from the Alaska Department of Fish and Game and was very pleased that the Governor took action to return the Habitat Division to Fish and Game. Unfortunately, this “return” has happened in name only. The Habitat Division has not been put under Fish and Game Department leadership. The three Sitka Department of Fish and Game Habitat positions lost when Fish and Game lost the Habitat Division have not been restored. The “Habitat Division” is not functioning any differently than it functioned when managed as Office of Habitat Management and Permitting in the Department of Natural Resources, and all habitat biologists dealt with Sitka issues “remotely” out of the Juneau office. THE HABITAT DEPARTMENT SHOULD BE RECONSTITUTED BY THE DEPARTMENT OF FISH AND GAME FROM FISH AND GAME PERSONNEL, WITH ALL THREE SITKA HABITAT POSITIONS RESTORED IN THE IMMEDIATE FUTURE. The Sitka ADF&G office regularly has processed over 100 permits per year in important habitats supporting major resources. OHMP has not adequately served Sitka and the Northern Panhandle while being managed “remotely”. The same OHMP staff are now theoretically working for ADF&G, but ADF&G has not reconstituted its own division. Please facilitate the Department of Fish and Game

reconstituting its Habitat Division without interference or involvement from past OHMP DNR staff. DCOM needs to take strong leadership to restore the Habitat Division, including DFG Habitat personnel, to ADF&G.

The coastal zone should be returned to a comprehensive definition, not excluding important areas of direct interaction such as contiguous wetlands, anadromous fish streams, riparian zones, and other environments directly impacting the coastal waters. The removal of much of the coastal zone from the State's definition of coastal waters is indefensible and unacceptable.

6. Coastal districts should be able to write enforceable policies whenever State or Federal law does not adequately address a matter or there is greater specificity in the local policy. DCOM's interpretation of the State's having "adequately addressed" issues even if there is no specific policy relating to a specific issue in the State Standards or Regulations is not defensible. Just because an agency has authority to address an issue, if that has not happened or has only been done generally, coastal districts should be able to retain or get re-approved meaningful specific local policies that have not been developed by agencies even if the agency has the ability to write a law but has not done so. Coastal districts should be allowed to write policies, and DCOM should not limit the scope of enforceable policies just to those that "flow from" specific matters addressed within a State Standard. The words "a specific" should be added to AS 45.20.070 (a)(2)(C)(ii) to provide statutory clarification of the Legislature's intent to allow districts to write policies.

7. Coastal Policy Council should be reconstituted as a streamlined stakeholder group composed of the working group coastal district representatives, one resource agency rep. for DNR, ADF&G, and DEC (perhaps a division level rep), and a DCOM rep. It should cooperatively assess the re-evaluation and assess impacts of proposed implementation measures. It should have the authority to approve district plans and program changes and award funding like the CIAP funding. It should also be able to intercede if any agency is arbitrary and capricious in its ACMP-related decisions.

8. The Department of Natural Resources has inherent conflicts of interest in approving permits for lands and waters resources use, and at the same time having management responsibility for taking care of the coastal zone through the ACMP. Removing the ACMP from this bias and moving it to the Department of Commerce, Community and Economic Development (in the Division of Community and Regional Affairs, or putting DCRA back into separate department status if that larger change could be made), would make much better management sense, as long as it is totally separated from DNR. DCCED is already managing the grants efficiently and has been involved in the ACMP long before it was taken out of the Governor's office and moved to Department of Natural Resources.

9. Aquatic Farmsite DNR permits result in major ongoing demands on the coastal resources, habitats, and uses. This process needs to be fully integrated into the ACMP consistency review process, and not held only once per year in its own separate process. A specific application from 2004 was granted by DNR in Sitka Sound despite its own Area Plan Special Management Zone status^{and} enormous opposition. The City and Borough of Sitka, Sitka Tribe of Alaska, Sitka Conservation Society, and concerned citizens appealed the permit. That appeal has now been remanded back to DNR for another appealable decision. This permit process disregards damage to resources, habitats, marine mammals, and public use of high value intertidal areas of great importance to the public. This aquatic farmsite permit process is flawed and inconsistent with the ACMP and needs to be comprehensively revised.

10. When the reevaluation hopefully results in real improvements to the ACMP, and DCOM implements the changes, please provide an expedited and efficient, non-confrontational, consistent support (both program and budget) to coastal districts to revise their coastal plans accordingly. The last four years has been the most stressful of my professional career trying to meet the OPMP wholesale new requirements for coastal plans, losing more than half of Sitka's enforceable policies and most of the effectiveness of the remaining ones, and revising the Plan over and over to meet ever-changing OPMP directives, without the resources to succeed. There must be a new, supportive, expedited process developed to accommodate future changes to district plans (especially those mandated by DCOM or other agency requirements). There must also be some appeal mechanism for districts that are treated inconsistently or arbitrarily in DCOM decisions about local plans.

11. Last but certainly not least, the ACMP needs to re-learn the value of the coastal districts in guiding the preservation and development of the coastal zone at the local level, on the grounds, "where the rubber meets the road". Coastal districts should receive due deference in the interpretation of their coastal plans. They should have a seat at the table on all reviews and on any major revisions to the ACMP. They should be permitted to provide both advisory information and enforceable policies in permit reviews. They should be direct partners with DCOM staff to work on the re-evaluation...not just attending teleconferences, but brainstorming meaningful changes to the State's Coastal Management Program. Given the universal failure of the DEC carve-out and Designations and other components of the "new" ACMP to work, it is time for DCOM to propose substantive improvements and then work together with the coastal districts and the Legislature and Governor's office to implement them.

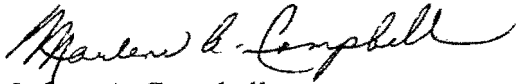
Many commenters including me made many of these same comments back in 2004, but they were ignored. Once again, these coastal district comments on the re-evaluation, as well as the NOAA Final Evaluation Findings on the Alaska Coastal Management Program, should be used as the basis for sincere, much needed ACMP revision. Much of this revision could be simplified to "put it back the way it was". The ACMP in DGC had some specific problems which could still be solved, but many components of the program, including the positive relationship between the Division of Governmental Coordination and the Alaska coastal districts, worked well and should be reconstituted.

This coastal district, and probably most Alaska coastal programs, remain committed to working together to craft a Coastal Management Program we can all live with. If DCOM begins with a sincere effort to craft real improvements, directly involve the coastal districts in this process, and provide significant ongoing funding for coastal plan revisions and implementation, there is hope for a brighter future for the Alaska Coastal Management Program.

DCOM could start with the good-faith effort to share the enormous increase in CIAP funds (from \$1.5 million to as much as \$25 million) with all coastal communities...not just the eight lucky ones, and not just State agencies and State use. The coastal zone should be the ultimate beneficiary of these funds—not just the 8 districts directly qualifying (all could potentially be impacted) and certainly not State agencies. These funding decisions should be made with direct involvement of all parties.

Thank you for the opportunity to comment. If you have questions, I can be reached at 907-747-1855 (phone); campbell@cityofsitka.com(e-mail); 907-747-1856 (fax).

Sincerely,

A handwritten signature in cursive script that reads "Marlene A. Campbell".

Marlene A. Campbell

Coastal Management Coordinator (City and Borough of Sitka Government Relations Director)

cc: Jim Dinley, Administrator