

State of Alaska FY2004 Governor's Operating Budget

Department of Law Natural Resources Component Budget Summary

Component: Natural Resources

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Component Mission

Mission statement appears at the department summary and BRU levels.

Component Services Provided

Provide legal advice and representation to state departments, boards and commissions that regulate Alaska's lands, waters, and renewable natural resources. Represent those agencies in litigation, and draft and review regulations governing them. Draft bills requested by the Governor's Office, and comment on legislation dealing with natural resources. Advise the Governor's Office on natural resource matters.

Component Goals and Strategies

Ensure that Alaska's lands, waters, and renewable natural resources are managed and allocated by state agencies in a manner that is consistent with the law.

Defend against legal challenges to actions taken by Alaska natural resources agencies.

Pursue legal actions against persons who are illegally using, damaging, or destroying Alaska's lands, waters, or renewable natural resources.

Provide legal advice and assistance to the Governor's Office and state agencies on matters of federal Indian law and assist in the development of state-tribal relations.

Provide legal advice to the Alaska Board of Fisheries and to the Alaska Board of Game and defend their conservation and allocation decisions against legal challenges.

Provide legal advice to the Alaska Commercial Fisheries Entry Commission and defend the commission's decisions concerning the issuance of limited entry permits for participating in certain state fisheries.

Provide legal advice to the Alaska Department of Fish and Game to ensure that its management of commercial, sport, personal use, and subsistence fisheries and its management of sport and subsistence hunts comply with the law. Advise the department in its efforts to enhance fishery and game populations, interact with private fish hatcheries, and operate state fish hatcheries. Pursue legal action to prevent, mitigate, or eliminate harmful impacts on fish habitat.

Provide legal advice to the Division of Governmental Coordination and to the Coastal Policy Council to ensure that coastal zone coordination is conducted in a lawful manner. Defend against legal challenges to state actions implementing the Alaska Coastal Management Program.

Assist the Alaska Department of Natural Resources to negotiate and draft state timberland leases. Help the department resolve legal issues concerning ownership and management of uplands, tidelands, and submerged lands.

Advise state agencies on riparian rights and represent the state in legal actions concerning transfer, leasing, and other uses of state lands. Assist the agencies on matters regarding public access to Alaska and federal lands.

Advise and assist the Alaska Department of Natural Resources to manage mining claims on state lands and restrict or eliminate surface uses that conflict with those claims.

Pursue legal actions that will prevent or eliminate trespass on, destruction of, or damage to state lands, waters, timber, and other natural resources.

Help wildlife protection officers, other law enforcement officers, and Assistant District Attorneys investigate and prosecute crimes against the state's natural resources including, when appropriate, acting as prosecutors in criminal cases. Pursue legal actions for the forfeiture of vessels and other property used in violating state natural resource laws.

Advise state agencies on issues relating to mental health trust lands and Native allotments and represent the state in legal actions involving those lands.

Advise natural resource agencies on legal issues arising under state laws that govern procurement, ethics, open meetings, and public records.

Key Component Issues for FY2003 – 2004

The Natural Resources component has been cut over the last several years due to general fund budget reductions. The Anchorage Natural Resources section has significantly less staff than it did ten years ago. The Fairbanks office has recently experienced a workload shift as one of the attorneys in the two-attorney section was promoted and assumed the responsibilities of the Office Chief. As a result many natural resources cases are sent to Anchorage to be addressed where short staffing may mean that do not get sufficient attention. For these reasons, we are requesting a Natural Resources attorney be added to the Fairbanks office in FY 2004.

During the upcoming fiscal year, the Department's Natural Resources Sections will be involved with the following key issues:

1. Disputes with the federal government, Native Corporations, and private landowners concerning navigability over waterways, title to submerged lands, and public rights-of-way over federal lands.
2. On-going questions concerning Native sovereignty, especially Indian gaming.
3. Litigation concerning the Endangered Species Act and the Marine Mammals Protection Act that would affect the State's management of fish and game.
4. Actions by federal managers concerning subsistence on federal lands and actions that affect State management of fish and wildlife on non-federal lands.
5. Federal management decisions concerning road building, timber harvests, and other activities in Alaska's National Forests.
6. Litigation concerning the consistency of oil and gas projects with coastal management standards.
7. Litigation concerning Alaska's right to charge nonresidents higher annual fees to participate in the State's commercial fisheries.
8. Challenges to subsistence decisions of the Alaska Boards of Fisheries and Game, especially concerning the subsistence priority on the Kenai Peninsula.

Major Component Accomplishments in 2002

- Represented the state before the Alaska Supreme Court and federal district court in challenges to state determinations that oil and gas projects are consistent with coastal management standards.
- In several appeals before the supreme and superior courts, successfully defended CFEC's denial of requests for issuance of limited entry permits.
- Assisted resource agencies in preparing comprehensive regulations that deal with coastal consistency determinations and assisted DNR in developing regulations that substantially revise the standards for permitting miscellaneous activities on state lands.

- Negotiated with a floating tourist lodge to bring it into compliance with regulations dealing with state tideland permits.
- Represented CFEC & ADF&G in an appeal to Alaska Supreme Court regarding the state's nonresident commercial fishing fees.
- Advised a group appointed by the Governor to draft bills for amending state constitution and laws to solve the subsistence impasse.
- In an appeal to the Alaska Supreme Court, are defending the joint boards of fisheries and game designation of most of the Anchorage bowl and the Kenai Peninsula as areas where it is not appropriate to apply the subsistence priority.
- In the context of the expansion of the Anchorage airport, defended against a lawsuit challenging a new process for permitting wetland development.
- Successfully settled a challenge to ADF&G's authority to require a stream-crossing permit for development adjacent to an artificial waterway.
- Successfully defended against a challenge to a Board of Fisheries management plan that allocated harvest opportunities among competing salmon setnetters who fish in Kodiak waters.
- Successfully defended a challenge to a bison hunt near the Copper River and defended regulations for moose hunting in the Koyukuk River area.
- Defeated a motion to intervene by private parties in the original action in the U.S. Supreme Court over Southeast Alaska tide and submerged lands.
- Defended the state's decision not to add Cook Inlet beluga whales to the state's endangered species list.
- Developed and defended regulations to allow a co-operative for commercial fishing in the Chignik area and successfully defended a regulation requiring stationary fishing gear operators to remain at the site while the gear is operating.

Statutory and Regulatory Authority

AS 44.23.020

Natural Resources
Component Financial Summary

All dollars in thousands

	FY2002 Actuals	FY2003 Authorized	FY2004 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	1,028.4	1,200.5	1,184.6
72000 Travel	22.8	23.7	23.7
73000 Contractual	104.7	57.1	57.1
74000 Supplies	13.7	30.2	30.2
75000 Equipment	14.1	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	1,183.7	1,311.5	1,295.6
Funding Sources:			
1004 General Fund Receipts	965.1	982.8	964.6
1007 Inter-Agency Receipts	218.6	328.7	331.0
Funding Totals	1,183.7	1,311.5	1,295.6

Natural Resources

Proposed Changes in Levels of Service for FY2004

No service changes.

**Summary of Component Budget Changes
From FY2003 Authorized to FY2004 Governor**

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2003 Authorized	982.8	0.0	328.7	1,311.5
Adjustments which will continue current level of service:				
-To Legislation/Regulations to adjust vacancy by fund source ADN# 0330132	-8.0	0.0	0.0	-8.0
-Annualize FY2003 COLA Increase for GP/SS Bargaining Units	0.0	0.0	0.9	0.9
-\$75 per Month Health Insurance Increase for Non-covered Staff	7.3	0.0	1.4	8.7
-To Human Services Section to adjust vacancy by fund source	-1.6	0.0	0.0	-1.6
-To Statehood Defense to adjust vacancy by fund source	-15.9	0.0	0.0	-15.9
FY2004 Governor	964.6	0.0	331.0	1,295.6

Natural Resources

Personal Services Information

	Authorized Positions		Personal Services Costs	
	<u>FY2003</u> <u>Authorized</u>	<u>FY2004</u> <u>Governor</u>		
Full-time	14	13	Annual Salaries	931,685
Part-time	1	2	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	275,583
			<i>Less 1.88% Vacancy Factor</i>	(22,710)
			Lump Sum Premium Pay	0
Totals	15	15	Total Personal Services	1,184,558

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Attorney III	3	0	1	0	4
Attorney IV	2	0	1	0	3
Attorney V	1	1	1	0	3
Law Office Assistant I	2	0	2	0	4
Law Office Assistant II	1	0	0	0	1
Totals	9	1	5	0	15