

State of Alaska FY2008 Governor's Operating Budget

Department of Law Environmental Law Component Budget Summary

Component: Environmental Law**Contribution to Department's Mission**

The Environmental Section provides advice and representation to several agencies, including primarily the Department of Environmental Conservation (DEC), to assist them in the performance of their duties related to environmental matters. The section's representation includes instances where the state is seeking to enforce cleanup or secure cost recovery as well as in those cases where the state is sued with respect to its role in a contaminated site or in carrying out its regulatory function.

Core Services

Contaminated sites: In consultation with DEC, department attorneys pursue appropriate enforcement actions to ensure cleanup at contaminated sites or recommend to DEC that the state initiate a state led cleanup. In either case, the department pursues appropriate reimbursement of any state cleanup expenditures. The department consults with DEC in decisions to release a potentially responsible party from liability when available evidence indicates that the party is not, in fact, liable. Department attorneys work with DEC to negotiate prospective purchaser agreements for contaminated sites when appropriate.

Oil spill prevention and response: The department advises and defends DEC regarding oil spill contingency plan approvals. When spills occur, the department provides investigative, enforcement, and litigation services to ensure that the response is prompt and complete, that state costs and damages are reimbursed, and that violations of law are assigned fair consequences. Advice is provided with respect to the prevention and amelioration of fuel oil spills from above and under ground storage tanks.

Air and water quality: The Department provides legal advice to DEC regarding air permits and brings enforcement actions against entities who violate clean air laws. The Department also provides advice on water quality issues including permitting for large mines, National Pollutant Discharge Elimination System (NPDES) primacy, marine vessel wastewater discharges, domestic wastewater, and drinking water. Advice is provided to the Village Safe Water program on a variety of issues related to that program.

Coastal Management Program: The Department provides legal advice to the Department of natural Resources (DNR) relating to the Alaska Coastal Management Program (ACMP) and the performance of the agency's duties under that program.

Public health: The Department provides legal advice to DEC's Division of Environmental Health on public health issues, such as food safety, animal health, and pesticides.

Homeland security: Legal advice is provided to various state officials regarding efforts to improve security of critical facilities, such as the Trans Alaska Pipeline and drinking water supplies.

Legal defense of state actions: The environmental law component defends state agencies and officials when they are sued for the performance of their duties. These include cleanup decisions, issuance of permits, approval of contingency plans, consistency determinations and other matters.

FY2008 Resources Allocated to Achieve Results

FY2008 Component Budget: \$2,381,700

Personnel:

| | |
|--------------|-----------|
| Full time | 14 |
| Part time | 1 |
| Total | 15 |

Key Component Challenges

1. Investigate and pursue appropriate legal actions to hold BP and others accountable for oil spills from pipeline corrosion and the resulting partial shutdown of the Prudhoe Bay field.
2. Resolve the Exxon Valdez oil spill reopener issue.
3. Establish the legal foundation for state primacy in NPDES permitting.
4. Hold the federal government accountable for non-compliance with state environmental laws.
5. Provide legal advice and defend challenges relating to the ACMP district plan revisions and ABC list revisions under the new Alaska Coastal Management Program.
6. Partner with DEC to develop a program and detailed regulations to implement provisions of Ballot Measure 2 (the "Cruise Ship Initiative") approved by the voters in the August 2006 primary elections.
6. Defend challenges to DEC contingency plan decisions and develop oil spill prevention regulations.
7. Help develop new regulations for water quality, air quality and solid waste

Significant Changes in Results to be Delivered in FY2008

No changes are anticipated.

Major Component Accomplishments in 2006

In FY2006, the component recovered over \$2,700,000 for state costs and penalties related to violations of state environmental laws and obtained cleanup agreements with polluters with an estimated value of over \$59,765,000 for a total benefit to the state of over \$62,465,000. To accomplish this, the component expended only \$1,234,000.

In separate activities this component defended several potentially significant lawsuits where the state was alleged to have violated environmental laws with claimed damages in the millions of dollars.

The component also participated in lawsuits, such as those involving the Prince William Sound and North Slope contingency plans, where the interests of the state are under attack based upon alleged violations of environmental laws.

The component had significant responsibility for providing legal advice for important natural resource activities, including the development of regulations district plan amendments and a Generally Consistent Determination with the U.S. Forest Service and the ACMP.

The component played a key role with DEC in developing a program and an extensive regulation project as part of the state's application to the U.S. Environmental Protection Agency (EPA) for primacy of the National Pollutant Discharge Elimination System (NPDES) Program under the Clean Water Act.

The component worked with state and federal agencies to facilitate various economic development projects including the Kensington mine project. The state intervened in legal challenges to defend some of these projects.

The component represent the State in its role as an amicus on briefs submitted to the U.S. Supreme Court in a Clean Water Act consolidated case in which the Court reviewed the exercise of federal jurisdiction over certain wetlands (*Rapanos* and *Carabell*). The State of Alaska joined with other amici in also raising the issue of state rights over the management of wetlands within state boundaries where the wetlands have no significant nexus to navigable waters.

Statutory and Regulatory Authority

AS 44.23.020

| Contact Information |
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Environmental Law Component Financial Summary

All dollars shown in thousands

| | FY2006 Actuals | FY2007 Management Plan | FY2008 Governor |
|--|----------------|---------------------------|-----------------|
| Non-Formula Program: | | | |
| Component Expenditures: | | | |
| 71000 Personal Services | 1,209.0 | 1,365.2 | 1,734.4 |
| 72000 Travel | 38.4 | 38.6 | 39.6 |
| 73000 Services | 546.0 | 470.4 | 560.9 |
| 74000 Commodities | 18.6 | 35.0 | 37.8 |
| 75000 Capital Outlay | 8.0 | 0.7 | 9.0 |
| 77000 Grants, Benefits | 0.0 | 0.0 | 0.0 |
| 78000 Miscellaneous | 0.0 | 0.0 | 0.0 |
| Expenditure Totals | 1,820.0 | 1,909.9 | 2,381.7 |
| Funding Sources: | | | |
| 1004 General Fund Receipts | 314.8 | 953.4 | 1,424.8 |
| 1007 Inter-Agency Receipts | 631.5 | 424.2 | 424.6 |
| 1018 Exxon Valdez Oil Spill Settlement | 222.8 | 0.0 | 0.0 |
| 1055 Inter-agency/Oil & Hazardous Waste | 532.3 | 532.3 | 532.3 |
| 1114 Exxon Valdez Oil Spill Restoration Fund | 118.6 | 0.0 | 0.0 |
| Funding Totals | 1,820.0 | 1,909.9 | 2,381.7 |

Estimated Revenue Collections

| Description | Master Revenue Account | FY2006 Actuals | FY2007 Management Plan | FY2008 Governor |
|---|------------------------------|-------------------|---------------------------|--------------------|
| Unrestricted Revenues | | | | |
| None. | | 0.0 | 0.0 | 0.0 |
| Unrestricted Total | | 0.0 | 0.0 | 0.0 |
| Restricted Revenues | | | | |
| Interagency Receipts | 51015 | 631.5 | 424.2 | 424.6 |
| Exxon Valdez Oil Spill Settlement | 51392 | 222.8 | 0.0 | 0.0 |
| Interagency Recs./Oil & Hazardous Waste | 51395 | 532.3 | 532.3 | 532.3 |
| Exxon Valdez Oil Spill Restoration Fund | 51413 | 118.6 | 0.0 | 0.0 |
| Restricted Total | | 1,505.2 | 956.5 | 956.9 |
| Total Estimated Revenues | | 1,505.2 | 956.5 | 956.9 |

**Summary of Component Budget Changes
From FY2007 Management Plan to FY2008 Governor**

All dollars shown in thousands

| | <u>General Funds</u> | <u>Federal Funds</u> | <u>Other Funds</u> | <u>Total Funds</u> |
|---|----------------------|----------------------|--------------------|--------------------|
| FY2007 Management Plan | 953.4 | 0.0 | 956.5 | 1,909.9 |
| Adjustments which will continue current level of service: | | | | |
| -Fund Source Adjustment for Exempt Employees Health Insurance Increases | 0.5 | 0.0 | -0.5 | 0.0 |
| -FY 08 Health Insurance Increases for Exempt Employees | 0.9 | 0.0 | 0.9 | 1.8 |
| -Fund Source Adjustment for Retirement Systems Increases | 98.6 | 0.0 | -98.6 | 0.0 |
| Proposed budget increases: | | | | |
| -New Attorney V - Cruise Ship Initiative | 272.8 | 0.0 | 0.0 | 272.8 |
| -FY 08 Retirement Systems Rate Increases | 98.6 | 0.0 | 98.6 | 197.2 |
| FY2008 Governor | 1,424.8 | 0.0 | 956.9 | 2,381.7 |

Environmental Law Personal Services Information

| Authorized Positions | | | Personal Services Costs | |
|----------------------|---|----------------------------------|----------------------------------|------------------|
| | <u>FY2007</u> <u>Management</u> <u>Plan</u> | <u>FY2008</u> <u>Governor</u> | | |
| Full-time | 14 | 14 | Annual Salaries | 1,048,395 |
| Part-time | 1 | 1 | Premium Pay | 0 |
| Nonpermanent | 0 | 0 | Annual Benefits | 725,169 |
| | | | <i>Less 2.21% Vacancy Factor</i> | (39,164) |
| | | | Lump Sum Premium Pay | 0 |
| Totals | 15 | 15 | Total Personal Services | 1,734,400 |

Position Classification Summary

| Job Class Title | Anchorage | Fairbanks | Juneau | Others | Total |
|-------------------------|-----------|-----------|----------|----------|-----------|
| Assoc Attorney II | 1 | 0 | 0 | 0 | 1 |
| Attorney IV | 5 | 0 | 2 | 0 | 7 |
| Attorney V | 1 | 1 | 1 | 0 | 3 |
| Attorney VI | 1 | 0 | 0 | 0 | 1 |
| Law Office Assistant I | 1 | 0 | 0 | 0 | 1 |
| Law Office Assistant II | 1 | 0 | 0 | 0 | 1 |
| Paralegal II | 1 | 0 | 0 | 0 | 1 |
| Totals | 11 | 1 | 3 | 0 | 15 |