

**Alaska Center for the Environment · Alaska Community Action on Toxics ·
Alaska Conservation Alliance/Alaska Conservation Voters · Alaska Public Interest
Research Group · Cook Inlet Keeper · Northern Alaska Environmental Center ·
Southeast Alaska Conservation Council · University of Alaska Marine Advisory Program**

June 8, 2004

Governor Frank H. Murkowski
Office of the Governor
Juneau, AK 99811

VIA FACSIMILE: 907.465.3532

RE: ENVIRONMENTAL ENFORCEMENT IN ALASKA

Dear Governor Murkowski:

Alaska Department of Environmental Conservation Commissioner Ernesta Ballard frequently has stated that “enforcement will be the predictable consequence of failure to comply” with environmental rules and laws in Alaska. Given the critical role enforcement plays in effective environmental management, the undersigned public interest and academic organizations urge you to review the attached report and to implement critical reforms in the state’s environmental enforcement procedures and activities.

These recommendations derive from state environmental enforcement and spill report data from December 1, 2002 through January 15, 2004, analyzed by Cook Inlet Keeper’s Senior Engineer Lois Epstein (see the report, *Cops Off the Beat: Problems with Alaska’s Environmental Enforcement During the Murkowski Administration* at www.inletkeeper.org/enforcement.htm).

The report’s key findings include:

- Criminal fines represented only 0.2% of all penalties collected;
- The state obtained no criminal fines against industry, only against individuals for vehicle emissions violations in Fairbanks and Anchorage;
- The state places an overwhelming emphasis on enforcing air pollution violations – nearly 9 of every 10 enforcement actions;
- Only 7% of the civil and criminal enforcement actions were taken against the state’s biggest industries, i.e., oil production and related activities, tourism (including cruise ships), fishing/seafood processing, logging, and mining, even though these industries have the greatest potential to pollute and represented 34% of the reported spills. None of these actions were against logging or mining operations;
- The number of enforcement actions taken, including Notices of Violation that do not always result in penalties, has declined over time;
- The top 10 oil and hazardous substance spills (5 from oil production, 3 from mining, 1 each from logging and “other”) have not resulted in penalties; and,
- There have been only 5 penalties for oil spill damages and no penalties for hazardous substance spill damages, while there were 2,356 reported oil and hazardous substance spills (nearly 6 spills per day), with an average size of 150 gallons and with 13% of the spills greater than 50 gallons.

Among its most important recommendations to the Alaska Department of Environmental Conservation and the Attorney General's office are the following:

- The state should seek criminal fines more frequently including outside of Fairbanks and Anchorage, and for greater amounts;
- While enforcement of air rules and laws is critical, the state also needs to recognize the importance of Alaska's water and land resources by increasing the percentage of environmental enforcement actions against violators of water and land pollution requirements;
- The state should prioritize environmental enforcement actions against industry over actions against individuals since industry has the greatest potential to pollute;
- The state should increase the overall number of environmental enforcement actions; and,
- Since the state has the authority to fine those who spill oil and hazardous substances, at a minimum the state should penalize those with high spill volumes, those with repeated releases, and those who spill in environmentally sensitive areas.

The undersigned organizations believe sound economic development is consistent with environmental protection. As a result, we urge you to carefully consider these proposed reforms.

Thank you for your attention to this important matter. Please direct your response to Bob Shavelson of Cook Inlet Keeper.

Sincerely,



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cc: Alaska Department of Environmental Commissioner Ernesta Ballard
Alaska Attorney General Greg Renkes
Marcia Combes, U.S. EPA Alaska Operations Office
John Iani, U.S. EPA Region 10 Administrator
Danny Consenstein, Trustees for Alaska Executive Director