



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

## Office of the City Manager

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### MANAGER'S REPORT

April 13, 2015

To: The Mayor and Council

From: Marvin L Yoder

Date: April 8, 2015

#### **Pioneer Avenue**

ADOT/PF has included new pavement on Pioneer Avenue in the STIP. There was some interest in having the travel lanes narrowed so that there could be striping for a bicycle lane on one side of the highway. The ADOT position is that if the City wants to modify the State plans, the City would be required to assume the maintenance of that street once the repair work is done.

DOT Email (We did have this reso, as I reviewed my records, but there is one outstanding question...In order to do the striping and the skinnier lanes to accommodate the bike lanes we need the City to take over ownership and maintenance of the final project. If it stays a DOT road we will just mill and pave it to our standards. If we are giving Pioneer Ave to the City we can provide the bike lanes and skinnier lanes the city requested.)

#### **Lease RFP's**

The City, in response to a couple of requests, has prepared two Requests for Proposals to lease property on the spit and in the Airport Terminal. If we get responses that meet the City requirements, they will be presented to the council for approval on a future agenda.

There may need to be an adjustment to the City Land Allocation Plan before the lease is signed.

#### **Mental Health Trust Land Sale**

Attached is a scope of work authorized by the Trust Land Office (State of Alaska Mental Health Trust) to appraise several parcels of land. The Mental Health Trust owns 3 parcels of land on the spit in the area of the Coal Bay Subdivision. The Trust is willing to sell these parcels to the City for fair market value.

The City Administration has agreed to the assumptions and the deliverables. The appraisal should be complete in several months. The City Council will then decide if the City will purchase these parcels.

### **Fish Tax**

At the last meeting the Council approved a resolution to request fish tax revenue from the Borough. The United Fishermen of Alaska provided fact sheets that emphasize the inequities.

<u>Community</u>	<u>Ex-vessel price</u>	<u>Fish Tax received</u>
Homer	\$ 80,000,000	\$ 37,136
Seward	\$ 11,300,000	\$ 498,298
KPB	\$132,700,000	\$1,500,000

The Ex-vessel price of the fish landed in Homer is 60% of the fish landed in the entire Borough; the City received 2.5% of the Fish tax.

### **Cannabis Commission**

The City received a memo from a Homer Citizen re: the make-up of the Cannabis Commission.

There were two quotes from the Homer Personnel Regulations that need clarification.

- 8.7 restricts an employee from using their position with the city to promote a 'personal interest'. The purpose of having the Police Chief on the Commission is to offer a 'Professional' not a personal opinion. Regardless of whether they are officially appointed to the Commission the City should request police input before setting policy.
- 8.9 restricts employees from serving on 'policy making' boards. The Cannabis Commission is an advisory not a policy board. Recommendations from the Cannabis Commission will be placed on the City Council agenda. It will be a Council decision on whether to enact the recommendations into regulation or policy.

The Council needs to decide if it is advisable to have staff on the Commission to enunciate the City interests, even if staff is not a voting member.

### **FYI**

Trust Land Office –Appraisal assumptions

Safebuilt –Municipalities and Mary Jane

HB 172 MARIJUANA REG,, CLUBS; MUNIS, LOCAL OPTIONS

UFA –Commercial Fishing and Seafood Processing Facts, Homer

AEA –Battle Creek Diversion

Calibrating a New Membrane Plant

March 27, 2015



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*via email at*  
**cmeyer@ci.homer.ak.us**

**RE: Appraisal Assumptions for Three Trust Parcels on the Homer Spit  
MHT 9200607  
MH Parcels: SM-0335, SM-0339, and SM-0342**

Dear Mr. Meyer:

This letter is to follow up our teleconference meeting on March 16, 2015 regarding the City of Homer's (City) interest in purchasing three Mental Health Trust parcels located on the Homer Spit. The outcome of the meeting concluded that both the City and the Trust Land Office (TLO) should come to a mutual agreement on appraisal assumptions as the next step.

The results of the meeting that the appraisal assumptions would include the following:

1. The parcel boundaries will be defined from the 1963 Engineering Plat File No. 28-96 (Attachment 1) and the 1963 Engineering Plat File No. 34-27. (Attachment 2).
2. The parcels will be appraised as raw land with no improvements.
3. The parcels will be appraised with no clouds on the title.
4. That portion of Trust parcel SM-0339 that extends in the harbor will be considered tidelands.

We also agreed that the TLO will hire Black-Smith, Bethard & Carlson, LLC to perform the appraisal but acknowledge that Derry and Associates will be used if the City does not find the results of the first appraisal acceptable. In either case, the mutually agreed appraisal assumptions will be used. I have attached a draft scope of services for the appraisal including the appraisal assumptions for your review (Attachment 3). Let me know if you agree with the draft scope of services and I will send a final version for your signature or revise the language and return the document for further conversation.

Sincerely,



Victor Appolloni  
Southcentral Area Lands Manager

Attachments: Attachment 1 - 1963 Engineering Plat File No. 28-96  
Attachment 2 - 1963 Engineering Plat File No. 34-27  
Attachment 3 - Draft Appraisal Scope of Services

Cc: Marvin Yoder, Interim City Manager, myoder@ci.homer.ak.us  
Cindi Bettin, Senior Lands Manager, cindi.bettin@alaska.gov

**Attachment 3**  
**Draft Scope of Services and Deliverables – Homer Spit Appraisals**

This letter serves as an agreement for the Trust Land Office (TLO) to obtain the services of Black-Smith, Bethard & Carlson, LLC (Contractor), to appraise three Alaska Mental Health Trust lots located on the Homer Spit. Contractor agrees to provide the TLO with the following scope of services and deliverables.

**Scope of Services**

Contractor to prepare summary appraisal reports (appraisals) for the below described lots located on the Homer Spit.

**Trust Parcel SM-0335**

Township 07 South, Range 13 West, Seward Meridian, Alaska  
Section 1: Lot 4 in Block 2 of Engineering Plat File No. 28-96, Coal Bay Alaska Subdivision  
Containing 0.595 acres, more or less.

According to the survey plat filed in the Homer Recording District on December 3, 1963 as serial no. 63-1097.

**Trust Parcel SM-0339**

Township 07 South, Range 13 West, Seward Meridian, Alaska  
Section 1: Parcel 2 of Engineering Plat File No. 28-96, Coal Bay Alaska Subdivision  
Containing 1.00 acres, more or less.

According to the survey plat filed in the Homer Recording District on December 3, 1963 as serial no. 63-1097.

**Trust Parcel SM-0342**

Township 07 South, Range 13 West, Seward Meridian, Alaska  
Section 1: Lot 1 of Engineering Plat File No. 34-27  
Containing 0.22 acres, more or less.

According to the survey plat filed in the Homer Recording District on December 3, 1963 as serial no. 63-1094.

The appraisals will include the following requirements:

- 1) The appraisals will meet the most current Uniform Standards of Professional Appraisal Practice (USPAP) standards as published by the Appraisal Foundation.
- 2) The appraisals will use the definition from page 23 of The Appraisal of Real Estate, Thirteenth Addition, 2008, to define market value as, “The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.”
- 3) The appraisals must include identification of the appraisal problem and scope of work (part of USPAP standards).

- 4) The appraiser must make an onsite inspection of the property.
- 5) Appraisals must contain onsite photographs that clearly illustrate the character and quality of the property. Photographs may be used by the TLO for any other purpose without additional compensation to the Contractor.
- 6) Appraisals must contain comparable sale data with comparable sale locations mapped in relation to the appraised property.
- 7) Data Analysis and Conclusions. Data will include market analysis, highest and best use, and land valuation. Adjustments made in relating comparable transactions to the subject property must be discussed and presented in an adjustment table.
- 8) The appraisal reports are a public document that may be made available to the public upon request. The appraisals shall not contain any language that restricts public use.

The appraisals will include the following assumptions:

- 1) The parcel boundaries will be defined from the 1963 Engineering Plat File No. 28-96 and the 1963 Engineering Plat File No. 34-27.
- 2) The parcels will be appraised as raw land with no improvements.
- 3) The parcels will be appraised free and clear of any clouds on the title.
- 4) That portion of Trust parcel SM-0339 that extends in the harbor will be considered tidelands.

**Deliverables**

- 1) A complete summary appraisal report as defined in the above Scope of Services will be provided to the TLO on or before June 30, 2015 (two hard copies and two digital copies on a CD or thumb drive). Time for deliverables dates will be reasonably extended as mutually agreed upon between the TLO and Contractor.



MH Parcel SM-0335

Township 07 South, Range 13 West, Seward Meridian, Alaska  
Section 01: Lot 4 in Block 02 of Engineering Plat 28-96, Coal Bay Alaska Subdivision  
Containing 0.595 acres, more or less.  
According to the survey plat filed in the Homer Recording District on December 3, 1963.

MH Parcel SM-0339

Township 07 South, Range 13 West, Seward Meridian, Alaska  
Section 01: Parcel 2 of Engineering Plat 28-96, Coal Bay Alaska Subdivision  
Containing 1.00 acres, more or less.  
According to the survey plat filed in the Homer Recording District on December 3, 1963.

MH Parcel SM-0342

Township 07 South, Range 13 West, Seward Meridian, Alaska  
Section 01: Lot 1 of Engineering Plat 34-27  
Containing 0.22 acres, more or less.  
According to the survey plat filed in the Homer Recording District on December 3, 1963.

© Google Earth

PROPERTY  
TO BE  
PURCHASED



## MUNICIPALITIES AND MARY JANE

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MAKING A  
DIFFERENCE  
WHERE YOU  
NEED US

Nationwide, community development departments have been dealing with a new industry that has never before been regulated by zoning or building codes. Marijuana has been legalized for recreational use in four states and medicinal use in 19 states. While federal laws governing marijuana need to be considered and accounted for, President Obama has made it clear that the current administration will respect states' rights and not interfere with marijuana stores or users in states where it has been legalized.<sup>i</sup> Most state laws and requirements address issues of criminal justice and monitoring of use. Codes and rules governing land use and construction of facilities for this new industry have largely been left to the authority of local municipalities in the states where recreational and medicinal marijuana has been legalized. In other words, the city of Denver ordinances only apply within the City and County of Denver. Individuals should go to each city or county's website to determine specific marijuana sale and consumption laws.<sup>ii</sup>

Each government involved is continuously having discussions on how to regulate this industry to protect the safety of the community. These discussions range from identifying structural issues not considered in the building code, to potential impacts on land uses in zoning ordinances. SAFEbuilt has been asked to address some major issues that we have encountered in dealing with marijuana dispensaries and grow facilities. It is our goal to share some ideas through a two-part series on what communities can do to prepare and

properly regulate this new industry, as well as open a conversation among community development departments on best practices.

### CONTAINMENT OR ELIMINATION OF ODOR

The odor from marijuana is very strong, distinctive and unpleasant for many people. Thus, communities can amend their building codes in an effort to reduce the impact of marijuana odor. Filters can greatly help in diminishing the odor; however, there is currently no code requirement to have filters installed in dispensaries. This increases the likelihood of nearby businesses and residents complaining of smell. Requiring carbon filters, especially in cultivation rooms, cannot only lessen the odor but also lessen the number of complaints the department receives. In the end, regardless of what measures are taken, the odor is usually never completely removed. These odors can permeate a facility and will not dissipate without deep cleaning following the closure of the operation.

Zoning regulations now have to take the odor issue into consideration. When a dispensary is located in a strip mall, or close to residential neighborhoods, there is the possibility that complaints will arise from the nearby tenants about the noxious odor. The city of Denver, at one point, considered banning marijuana use that could be smelled by a neighbor, as well as bans on backyard, front porch and balcony use.<sup>iii</sup> The City has not taken action on this idea as it is understandably very difficult to measure odor and regulate smell. However, in

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Each government involved is continuously having discussions on how to regulate this industry to protect the safety of the community.

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most cities and counties, if marijuana odor is perceived to be excessive, residents can file a nuisance odor complaint with the Department of Environmental Health.<sup>iv</sup>

Consideration should be given on how to best address closed facilities during the permit process and how to handle complaints regarding the acceptable amount of odor. Does your state allow for the community to hold a bond for cleaning facilities upon a closure? Regardless of the answer, it would behoove municipalities to open the floor for discussion. Such was the case in San Miguel County, CO earlier this year where:

"Staff has discussed the question of requiring a bond for cleanup of a cultivation site with the Colorado Department of Revenue — Marijuana Enforcement Division ("DOR-MED.") The DOR-MED closely tracks all plants from seed to sale and all operators of cultivation facilities. They would be aware of any plants that are not in production and would follow up with the operator and if necessary take control of the plants. In checking with DOR-MED and various other jurisdictions we did not find where any of these entities were requiring a bond for clean-up."<sup>v</sup>

Conversations and resolutions like these are crucial in aiding municipalities in navigating the tumultuous and never-before-mapped waters of dealing with marijuana processes and complaints.



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The use of chemicals in the cultivation process can endanger the water supply should they come into the system improperly.

## VENTILATION

While containment of odor is a significant issue, ensuring proper ventilation is equally a concern. When the product is grown indoors, as it typically is, we have seen many issues with mold. The high humidity levels can create an ideal environment for rapid mold growth. This can become dangerous to the health of people living or working in the facility. Furthermore, the structural stability of the building can be compromised if the mold and humidity reaches the point of rotting and decomposing the wood.

The amount of ventilation for the facility is an item that is often overlooked in these types of operations. Growers are eager to establish grow rooms and work to contain the odor, only to fail in taking the time to ensure there is proper ventilation. In fact, in some operations depending on the size of the heating unit and amount of fuel used if the system is not electrical, the grow room may require an air quality permit.<sup>vi</sup> Requiring air quality permits for these operations is something that all municipalities dealing with this issue should open dialogue to.

## DISPOSAL OF WASTE AND BY PRODUCTS

The use of chemicals in the cultivation process can endanger the water supply should they come into the system improperly. These chemicals can create issues for wastewater treatment systems, raising the cost for treatment or possibly impacting downstream ecologies. To combat the waste issues, legalization states have implemented licensing rules that require marijuana stems and organic waste from growing and processing operations to be rendered unusable by mixing them with 50 percent other materials and grinding them up before disposal or composting.<sup>vii</sup> If any dangerous wastes are generated, dangerous waste regulations need to be followed.<sup>viii</sup> Solid waste management is regulated at the local level by the city or county health departments. In Michigan, where medicinal marijuana is legal but not recreational, the city of Ferndale passed an ordinance that requires that "a waste disposal plan shall be included with all applications for

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a facility detailing plans for chemical disposal and plans for plant waste disposal.”<sup>ix</sup> Many communities dealing with this issue would benefit from looking into an ordinance similar to this one. Operations should consult with their local health department to determine the amount of solid waste oversight needed as well as your local public works department to ensure both waste disposal and backflow prevention concerns are addressed.

## USE OF COMMUNITY RESOURCES

The cultivation industry requires a significant amount of water and electricity. Indoor marijuana growing operations account for about 1% of all electric consumption in the U.S.<sup>x</sup> In California, where recreational marijuana is prohibited, marijuana production accounts for an astounding 3% of the state's electricity use.<sup>xi</sup> According to a study published in 2012, a typical indoor grow room for marijuana has the same power density- about 200 watts per square foot- as a data center.<sup>xii</sup> Growing marijuana indoors allows growers to have greater control over their crops- this requires heaters, carbon dioxide and ozone generators, carbon filters, dehumidifiers, fans, and of course, high intensity lights.<sup>xiii</sup> Communities need to monitor the supplies and usage of both of these resources when considering new grow facilities. In Denver for example, Xcel Energy has been working with marijuana growers to develop a rebate program that aims to encourage pot growers to ditch their old lighting for more efficient models. The idea behind this rebate explained Gabriel Romero, Xcel spokesman, “is to try to get growers to use efficient lighting off the bat so we don’t take as much of a hit to our system.”<sup>xiv</sup> Whether or not the legalization of marijuana improves the community energy-use scenario is still up for debate. Regardless, we have noticed that most of these cultivation efforts would benefit from identifying ways to recycle electricity to keep the costs lower and to sustain the community power supply.

## RESIDENTIAL RECREATIONAL GROW OPERATIONS

Because of high purchasing prices and taxes, long lines and to avoid being seen buying



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Indoor marijuana growing operations account for about 1% of all electric consumption in the U.S.

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in public, many individuals turn to growing marijuana in their own home. Colorado law, as well as Washington and Alaska, allows people 21 and older to grow up to six plants, provided it’s in an “enclosed, locked space.”<sup>xv</sup> In Oregon, people 21 and older are allowed four plants. A high number of home owners and renters (landlords can prohibit marijuana in their home should they desire) are now growing their own product for personal use and often don’t have the education or technical expertise needed to do it safely and correctly. When growers do not take the necessary safety precautions or meet code requirements, it usually results in several electrical violations, building code violations with egress, ventilation issues and mold problems. Another problem we face in residential areas is the extraction of the oils for vapor pens and edibles. The process of extracting these oils is difficult and when done improperly, the danger of the toxicity and high flammability is increased. As a result, we have seen several house explosions due to improper ventilation during the cooking process to remove the oils. Regulations need to be put in place to only allow cooking processes in commercial kitchens that have the proper ventilation and safety requirements.

When it comes to permitting and following the communities' laws and regulations, many of these home growers are a considerable strain on government resources when they create numerous code violations, some with considerable life safety concerns that need to be addressed. With the use of grow lights, for example, there is a lot of new wiring, light fixtures, and electrical ballasts required. Undoubtedly, some of these growers are using individuals who are not qualified to perform electrical installations. We have actually seen electrical wires tapped right into the main power line coming into the building before the meter.

We are now observing a high number of non-permitted grow rooms in residential uses. One of the main violations we see is the blocking or covering of egress windows to make sure the rooms stay dark for proper growing conditions. In certain communities, the code enforcement department works in conjunction with the police department to try and monitor if individuals and households are abiding by the city's zoning or code restrictions with regards to home growing. But without any sort of noticeable inclination or tip, knowing the location of an illegal grow operation in a residential neighborhood is difficult. Our advice would be to have the code enforcement and police departments in marijuana-legalized communities communicate with residents on the importance of having permitted and approved grow rooms and to encourage citizens to report any suspicious activity.

## WHAT NOW?

Both marijuana advocates and skeptics agree that it will be years before we get answers to all of our questions and fully understand all the implications of this new industry on local government. In the meantime, it is up to each community to work through these evolving issues and implement appropriate regulations.

These are just some of the notable issues we have come across that are stirring up discussion. SAFEbuilt is available to assist your community in answering code related questions and providing some guidance through our

experience in this emerging industry. We would like to hear from others who are involved in the regulation of this industry at the local level. What have you seen or done that has promoted compliance and addressed the potentially negative impacts of this new industry?

<sup>1</sup> Ingold, J. (2014, January 3). A Colorado marijuana guide: 64 answers to commonly asked questions. Retrieved December 15, 2014, from [http://www.denverpost.com/marijuana/ci\\_24823785/colorado-marijuana-guide-64-answers-commonly-asked-questions](http://www.denverpost.com/marijuana/ci_24823785/colorado-marijuana-guide-64-answers-commonly-asked-questions)

<sup>2</sup> Retail marijuana use within the city of Denver. Retrieved December 18, 2014, from <https://www.colorado.gov/pacific/marijuanainfodenver/residents-visitors>.

<sup>3</sup> Ingold, J. (2014, January 3). A Colorado marijuana guide: 64 answers to commonly asked questions. Retrieved December 15, 2014, from [http://www.denverpost.com/marijuana/ci\\_24823785/colorado-marijuana-guide-64-answers-commonly-asked-questions](http://www.denverpost.com/marijuana/ci_24823785/colorado-marijuana-guide-64-answers-commonly-asked-questions)

<sup>4</sup> Retail marijuana use within the city of Denver. Retrieved December 18, 2014, from <https://www.colorado.gov/pacific/marijuanainfodenver/residents-visitors>.

<sup>5</sup> (2014, February 28). [http://www.sanmiguelcounty.org/departments/planning/documents/2014-6\\_000.pdf](http://www.sanmiguelcounty.org/departments/planning/documents/2014-6_000.pdf)

<sup>6</sup> Department of Ecology. Marijuana Licensing and the Environment. Retrieved December 18, 2014, from <http://www.ecy.wa.gov/topics/marijuana.html>

<sup>7</sup> Department of Ecology. Marijuana Licensing and the Environment. Retrieved December 18, 2014, from <http://www.ecy.wa.gov/topics/marijuana.html>

<sup>8</sup> Department of Ecology. Marijuana Licensing and the Environment. Retrieved December 18, 2014, from <http://www.ecy.wa.gov/topics/marijuana.html>

<sup>9</sup> City of Ferndale. Oakland County, MI. [http://www.mml.org/pdf/ords/medicatt%20marihuana\\_ferndale.pdf](http://www.mml.org/pdf/ords/medicatt%20marihuana_ferndale.pdf)

<sup>10</sup> Howland, E. (2014, February 27). This is the grid. This is the grid on legalized marijuana. Any questions? [http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH\\_agA.mailto](http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH_agA.mailto)

<sup>11</sup> Howland, E. (2014, February 27). This is the grid. This is the grid on legalized marijuana. Any questions? [http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH\\_agA.mailto](http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH_agA.mailto)

<sup>12</sup> Howland, E. (2014, February 27). This is the grid. This is the grid on legalized marijuana. Any questions? [http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH\\_agA.mailto](http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH_agA.mailto)

<sup>13</sup> Howland, E. (2014, February 27). This is the grid. This is the grid on legalized marijuana. Any questions? [http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH\\_agA.mailto](http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH_agA.mailto)

<sup>14</sup> Howland, E. (2014, February 27). This is the grid. This is the grid on legalized marijuana. Any questions? [http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH\\_agA.mailto](http://www.utilitydive.com/news/this-is-the-grid-this-is-the-grid-on-legalized-marijuana-any-questions/233103/#.VlTtesH_agA.mailto)

<sup>15</sup> Ingold, J. (2014, January 3). A Colorado marijuana guide: 64 answers to commonly asked questions. Retrieved December 15, 2014, from [http://www.denverpost.com/marijuana/ci\\_24823785/colorado-marijuana-guide-64-answers-commonly-asked-questions](http://www.denverpost.com/marijuana/ci_24823785/colorado-marijuana-guide-64-answers-commonly-asked-questions)

29th Legislature(2015-2016)  
**Bill History/Action for 29th Legislature**

**BILL:** HB 75

**SHORT TITLE:** MARIJUANA REG,CLUBS;MUNIS,LOCAL OPT ELECT

**BILL VERSION:** CSHB 75(JUD) AM

**CURRENT STATUS:** (S) CRA

**STATUS DATE:** 04/03/15

THEN JUD

**SPONSOR(S):** COMMUNITY & REGIONAL AFFAIRS

**HEARING:** (S) CRA Apr 07 3:30 PM BELTZ 105 (TSBldg) Bills Previously Heard/Scheduled TELECONFERENCE

**TITLE:** "An Act relating to the registration of marijuana establishments by municipalities, relating to the definition of 'marijuana'; clarifying standards for personal use of marijuana by persons 21 years of age or older; prohibiting the public consumption of marijuana; authorizing the registration of marijuana clubs; relating to established villages and to local option elections regarding the operation of marijuana establishments; and providing for an effective date."

**Bill Number:**

Jrn-Date	Jrn-Page	Action
01/23/15	0067	(H) READ THE FIRST TIME - REFERRALS
01/23/15	0067	(H) CRA, JUD
03/06/15	0380	(H) CRA RPT CS(CRA) NT 3DP 3NR
03/06/15	0380	(H) DP: NAGEAK, SEATON, TILTON
03/06/15	0380	(H) NR: DRUMMOND, REINBOLD, HUGHES
03/06/15	0381	(H) FN1: ZERO(CED)
03/30/15	0617	(H) JUD RPT CS(JUD) NT 1DP 3NR 3AM
03/30/15	0617	(H) DP: LEDOUX
03/30/15	0617	(H) NR: MILLETT, CLAMAN, FOSTER
03/30/15	0617	(H) AM: LYNN, KELLER, GRUENBERG
03/30/15	0618	(H) FN1: ZERO(CED)
04/01/15	0662	(H) RULES TO CALENDAR 4/1/2015
04/01/15	0662	(H) READ THE SECOND TIME
04/01/15	0663	(H) JUD CS ADOPTED UC
04/01/15	0663	(H) ADVANCED TO THIRD READING 4/2 CALENDAR
04/02/15	0686	(H) READ THE THIRD TIME CSHB 75(JUD)
04/02/15	0686	(H) RETURN TO SECOND FOR ALL AMS UC
04/02/15	0686	(H) AM NO 1 FAILED Y10 N27 E3
04/02/15	0687	(H) AM NO 2 ADOPTED UNAN CONSENT
04/02/15	0688	(H) AM NO 3 ADOPTED UNAN CONSENT
04/02/15	0688	(H) AM NO 4 ADOPTED UNAN CONSENT
04/02/15	0689	(H) AM NO 5 NOT OFFERED
04/02/15	0689	(H) AUTOMATICALLY IN THIRD READING
04/02/15	0689	(H) PASSED Y35 N2 E3
04/02/15	0689	(H) EFFECTIVE DATE(S) SAME AS PASSAGE
04/02/15	0694	(H) TRANSMITTED TO (S)
04/02/15	0694	(H) VERSION: CSHB 75(JUD) AM
04/03/15	0790	(S) READ THE FIRST TIME - REFERRALS
04/03/15	0790	(S) CRA, JUD
04/03/15	0790	(S) REFERRED TO COMMUNITY & REGIONAL AFFAIRS

29th Legislature(2015-2016)  
**Bill Text 29th Legislature**

00 CS FOR HOUSE BILL NO. 75(JUD) am

01 "An Act relating to the registration of marijuana establishments by municipalities;  
 02 relating to the definition of 'marijuana'; clarifying standards for personal use of  
 03 marijuana by persons 21 years of age or older; prohibiting the public consumption of  
 04 marijuana; authorizing the registration of marijuana clubs; relating to established  
 05 villages and to local option elections regarding the operation of marijuana  
 06 establishments; and providing for an effective date."

07 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

08 \* Section 1. AS 11.71.900(14) is amended to read:

09 (14) "marijuana" means all parts [THE SEEDS, AND LEAVES,  
 10 BUDS, AND FLOWERS] of the plant (genus) Cannabis, whether growing or not, the  
 11 seeds thereof. [; IT DOES NOT INCLUDE] the resin [OR OIL] extracted from any  
 12 part of the plant, and [PLANTS, OR] any compound, manufacture, [SALT,]  
 13 derivative, mixture, or preparation of the plant, its seeds, or its resin, including  
 01 marijuana concentrate; "marijuana" [FROM THE RESIN OR OIL, INCLUDING  
 02 HASHISH, HASHISH OIL, AND NATURAL OR SYNTHETIC  
 03 TETRAHYDROCANNABINOL; IT] does not include [THE STALKS OF THE  
 04 PLANT,] fiber produced from the stalks, oil or cake made from the seeds of the plant,  
 05 [ANY OTHER COMPOUND, MANUFACTURE, SALT, DERIVATIVE,  
 06 MIXTURE, OR PREPARATION OF THE STALKS, FIBER, OIL OR CAKE, OR  
 07 THE] sterilized seed of the plant that [WHICH] is incapable of germination, or the  
 08 weight of any other ingredient combined with marijuana to prepare topical or  
 09 oral administrations, food, drink, or other products;

10 \* Sec. 2. AS 17.38.020 is amended to read:

11 Sec. 17.38.020. Personal use of marijuana. Notwithstanding any other  
 12 provision of law, except as otherwise provided in this chapter, the following acts, by  
 13 persons 21 years of age or older, are lawful and are not [SHALL NOT BE A] criminal  
 14 or civil offenses [OFFENSE] under Alaska law or the law of any political subdivision  
 15 of Alaska or bases [BE A BASIS] for seizure or forfeiture of assets under Alaska law:

16 (1) possessing, using, displaying, purchasing, or transporting  
 17 marijuana accessories or one ounce or less of marijuana;

18 (2) possessing, growing, processing, or transporting not [NO] more  
 19 than six marijuana plants, with three or fewer being mature, flowering plants, and  
 20 possession of the marijuana produced by the plants on the premises where the plants  
 21 were grown, except that not more than 24 marijuana plants, with 12 or fewer  
 22 being mature, flowering plants, may be present in a single dwelling regardless of  
 23 the number of persons 21 years of age or older residing in the dwelling;

24 (3) transferring one ounce or less of marijuana and up to six immature  
 25 marijuana plants to a person who is 21 years of age or older without remuneration;

26 (4) consumption of marijuana, except that nothing in this chapter  
 27 permits [SHALL PERMIT] the consumption of marijuana in a public place; and

28 (5) assisting, aiding, or supporting another person who is 21 years of  
 29 age or older in any of the acts described in (1) - (4) of this section.

30 \* Sec. 3. AS 17.38.020 is amended by adding a new subsection to read:

31 (b) In this section, assisting is limited to the quantities described in (a) of this  
 01 section and does not include

02 (1) using, displaying, purchasing, or transporting marijuana in excess  
 03 of the amount allowed in this section;

04 (2) possessing, growing, processing, or transporting marijuana plants  
 05 in excess of the amount allowed in this section; or

06 (3) growing marijuana plants for another person in a place other than  
 07 that other person's dwelling.

08 \* Sec. 4. AS 17.38.040 is amended to read:

09 Sec. 17.38.040. Public consumption banned, penalty. It is unlawful to  
 10 consume marijuana in a public place. A person who violates this section is guilty of a  
 11 violation punishable by a fine of up to \$100.

12 \* Sec. 5. AS 17.38.070(f) is amended to read:

13 (f) Nothing in this section prevents the imposition of penalties on [UPON]  
14 marijuana establishments for violating this chapter or rules adopted by the board or a  
15 municipality under [LOCAL GOVERNMENTS PURSUANT TO] this chapter.

16 \* Sec. 6. AS 17.38.100(c) is amended to read:

17 (c) Within 10 days after receipt of [UPON RECEIVING] an application or  
18 renewal application for a marijuana establishment, the board shall notify the  
19 municipality of the board's receipt of the application and [IMMEDIATELY]  
20 forward a copy of each application and half of the registration application fee to the  
21 local regulatory authority for the municipality [LOCAL GOVERNMENT] in which  
22 the applicant desires to operate the marijuana establishment, unless the municipality  
23 [LOCAL GOVERNMENT] has not designated a local regulatory authority under  
24 [PURSUANT TO] AS 17.38.110(c).

25 \* Sec. 7. AS 17.38.100(d) is amended to read:

26 (d) Within [45 TO] 90 days after receiving an application or renewal  
27 application, the board shall issue an annual registration to the applicant unless the  
28 board finds the applicant is not in compliance with regulations adopted under  
29 [ENACTED PURSUANT TO] AS 17.38.090 or the board is notified by the relevant  
30 municipality [LOCAL GOVERNMENT] that the applicant is not in compliance with  
31 ordinances enacted and regulations adopted under [MADE PURSUANT TO]  
01 AS 17.38.110 and in effect at the time of application.

02 \* Sec. 8. AS 17.38 is amended by adding a new section to read:

03 **Sec. 17.38.105. Protest and review of registration or renewal.** (a) A  
04 municipality may protest the issuance or renewal of a registration by sending the board  
05 and the applicant a protest and the reasons for the protest within 60 days after receipt  
06 by the municipality from the board of notice of the filing of the application. The board  
07 may not accept a protest received after the 60-day period, and, in no event, may a  
08 protest cause the board to reconsider an approved renewal of a registration. The board  
09 shall consider a protest and testimony received at a hearing conducted under (e)(1) or  
10 (2) of this section when it considers the application or continued operation, and the  
11 protest and the record of the hearing conducted under (e)(1) or (2) of this section shall  
12 be kept as part of the board's permanent record of its review. If an application or  
13 continued operation is protested, the board shall deny the application or continued  
14 operation unless the board finds that the protest is arbitrary, capricious, or  
15 unreasonable.

16 (b) If the permanent residents residing outside of but within two miles of an  
17 incorporated city or an established village wish to protest the issuance or renewal of a  
18 registration within the city or village, they shall file with the board a petition meeting  
19 the requirements of (e)(3) of this section requesting a public hearing within 30 days  
20 after the receipt of notice required under AS 17.38.100(c). The board shall consider  
21 testimony received at a hearing conducted under (e)(3) of this section when it  
22 considers the application, and the record of a hearing conducted under (e)(3) of this  
23 section shall be retained as part of the board's permanent record of its review of the  
24 application.

25 (c) A municipality may recommend that a registration be issued or renewed  
26 with conditions. The board shall consider recommended conditions and testimony  
27 received at a hearing conducted under (e)(1) or (2) of this section when it considers the  
28 application or continued operation. The recommended conditions and the record of the  
29 hearing conducted under (e)(1) or (2) of this section shall be kept as part of the board's  
30 permanent record of its review. If the municipality recommends conditions, the board  
31 shall impose the recommended conditions unless the board finds that the  
01 recommended conditions are arbitrary, capricious, or unreasonable. If a condition  
02 recommended by a municipality is imposed on a registrant, the municipality shall  
03 assume responsibility for monitoring compliance with the condition, except as  
04 otherwise provided by the board.

05 (d) In addition to the right to protest under (a) of this section, a municipality  
06 may notify the board that the municipality has determined that a registrant has violated  
07 a provision of this chapter or a condition imposed on the registrant by the board.  
08 Unless the board finds that the municipality's determination is arbitrary, capricious, or  
09 unreasonable, the board shall prepare the determination as an accusation against the

registrant under AS 44.62.360 and conduct proceedings to resolve the matter.

(e) The board

(1) may, except as provided in (2) of this subsection, hold a hearing to ascertain the basis of a protest to an application by a municipality;

(2) shall hold a public hearing if a protest to the issuance or renewal of a registration made by a municipality is based on a question of law;

(3) shall hold a public hearing on the question of whether the issuance or renewal of a registration in a city or village would be in the public interest if a petition containing the signatures of 35 percent of the adult residents having a permanent place of abode outside of but within two miles of an incorporated city or an established village is filed with the board;

(4) shall send notice of a hearing conducted under this subsection 20 days before the hearing to each community council established within the municipality and to each nonprofit community organization entitled to notification under AS 17.38.100(c).

\* Sec. 9. AS 17.38.110(a) is amended to read:

(a) A municipality [LOCAL GOVERNMENT] may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, [OR] retail marijuana stores, or marijuana clubs through the enactment of an ordinance or by a voter initiative. An established village may prohibit the operation of marijuana establishments by a voter initiative as provided in AS 17.38.200.

\* Sec. 10. AS 17.38.110(b) is amended to read:

(b) A municipality [LOCAL GOVERNMENT] may adopt [ENACT] ordinances or regulations not in conflict with this chapter or with regulations adopted under [ENACTED PURSUANT TO] this chapter, governing the time, place, manner, and number of marijuana establishment operations. A municipality with power to establish civil and criminal penalties [LOCAL GOVERNMENT] may establish civil and criminal penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in the municipality [SUCH LOCAL GOVERNMENT].

\* Sec. 11. AS 17.38.110(c) is amended to read:

(c) A municipality [LOCAL GOVERNMENT] may designate a local regulatory authority that is responsible for processing applications submitted for a registration to operate a marijuana establishment within the boundaries of the municipality [LOCAL GOVERNMENT]. The municipality [LOCAL GOVERNMENT] may provide that the local regulatory authority may issue [SUCH] registrations should the issuance by the municipality [LOCAL GOVERNMENT] become necessary because of a failure by the board to adopt regulations under [PURSUANT TO] AS 17.38.090 or to accept or process applications in accordance with AS 17.38.100.

\* Sec. 12. AS 17.38.110(d) is amended to read:

(d) A municipality [LOCAL GOVERNMENT] may establish procedures for the issuance, suspension, and revocation of a registration issued by the municipality [LOCAL GOVERNMENT] in accordance with (f) [OF THIS SECTION] or (g) of this section. These procedures shall be consistent with the [SUBJECT TO ALL] requirements of AS 44.62 (Administrative Procedure Act).

\* Sec. 13. AS 17.38.110(e) is amended to read:

(e) A municipality [LOCAL GOVERNMENT] may establish a schedule of annual operating, registration, and application fees for marijuana establishments, provided, the application fee is [SHALL ONLY BE] due only if an application is submitted to a municipality [LOCAL GOVERNMENT] in accordance with (f) of this section and a registration fee is [SHALL ONLY BE] due only if a registration is issued by a municipality [LOCAL GOVERNMENT] in accordance with (f) [OF THIS SECTION] or (g) of this section.

\* Sec. 14. AS 17.38.110(h) is amended to read:

(h) A local regulatory authority issuing a registration to an applicant shall do so within 90 days after [OF] receipt of the submitted or resubmitted application unless the local regulatory authority finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations adopted under [MADE PURSUANT

08 TO] (b) of this section in effect at the time the application is submitted to the local  
 09 regulatory authority. The municipality [LOCAL GOVERNMENT] shall notify the  
 10 board if an annual registration has been issued to the applicant.

11 \* Sec. 15. AS 17.38.110(i) is amended to read:

12 (i) A registration issued by a municipality [LOCAL GOVERNMENT] in  
 13 accordance with (f) [OF THIS SECTION] or (g) of this section shall have the same  
 14 force and effect as a registration issued by the board in accordance with AS 17.38.100.  
 15 The holder of the [SUCH] registration is [SHALL NOT BE] subject to state  
 16 regulation or enforcement [BY THE BOARD] during the term of that registration.

17 \* Sec. 16. AS 17.38.110(j) is amended to read:

18 (j) A subsequent or renewed registration may be issued under (f) of this  
 19 section on an annual basis only upon resubmission to the municipality [LOCAL  
 20 GOVERNMENT] of a new application submitted to the board under [PURSUANT  
 21 TO] AS 17.38.100.

22 \* Sec. 17. AS 17.38.110(l) is amended to read:

23 (l) Nothing in this section limits the [SHALL LIMIT SUCH] relief [AS MAY  
 24 BE] available to an aggrieved party under AS 44.62 (Administrative Procedure Act)  
 25 or an ordinance consistent with AS 44.62.

26 \* Sec. 18. AS 17.38.110 is amended by adding new subsections to read:

27 (m) A municipality that has not prohibited the operation of marijuana  
 28 cultivation facilities, marijuana product manufacturing facilities, marijuana testing  
 29 facilities, retail marijuana stores, or marijuana clubs under (a) of this section may  
 30 create a local advisory board to advise the municipality on issues related to licensing  
 31 of marijuana establishments and regulation of marijuana.

01 (n) Except as provided in AS 29, the exercise of the powers authorized by this  
 02 section by a borough may be exercised only on a nonareawide basis. In this  
 03 subsection, "nonareawide" means throughout the area of a borough outside all cities in  
 04 the borough.

05 \* Sec. 19. AS 17.38 is amended by adding new sections to read:

06 Sec. 17.38.200. Local option. (a) If a majority of the voters voting on the  
 07 question vote to approve the option, an established village shall exercise a local option  
 08 to prohibit the operation of marijuana establishments.

09 (b) A ballot question to adopt a local option under this section must at least  
 10 contain language substantially similar to the following: "Shall (name of village) adopt  
 11 a local option to prohibit the operation of marijuana establishments? (yes or no)."

12 Sec. 17.38.210. Removal of local option. (a) If a majority of the voters voting  
 13 on the question vote to remove the option, an established village shall remove a local  
 14 option previously adopted under AS 17.38.200. The option is repealed effective the  
 15 first day of the month following certification of the results of the election.

16 (b) A ballot question to remove a local option under this section must at least  
 17 contain language substantially similar to the following: "Shall (name of village)  
 18 remove the local option currently in effect, that prohibits the operation of marijuana  
 19 establishments, so that there is no longer any local option in effect? (yes or no)."

20 (c) When issuing a registration in the area that has removed a local option, the  
 21 board shall give priority to an applicant who was formerly registered and whose  
 22 registration was not renewed because of the results of the previous local option  
 23 election. However, an applicant described in this subsection does not have a legal right  
 24 to registration, and the board is not required to approve the application.

25 Sec. 17.38.220. Effect on registrations of prohibition of marijuana  
 26 establishments. If a majority of voters vote to prohibit the operation of marijuana  
 27 establishments under AS 17.38.200, the board may not issue, renew, or transfer,  
 28 between persons or locations, a registration for a marijuana establishment located  
 29 within the perimeter of the established village. A registration that may not be renewed  
 30 because of a local option election held under AS 17.38.200 is void 90 days after the  
 31 results of the election are certified. A registration that expires during the 90 days after  
 01 the results of a local option election are certified may be extended, until it is void  
 02 under this section, by payment of a prorated portion of the annual registration fee.

03 Sec. 17.38.230. Prohibition of sale, purchase, and manufacture after  
 04 election. (a) If a majority of the voters vote to prohibit the operation of marijuana  
 05 establishments under AS 17.38.200, a person may not knowingly sell, purchase, or



06 manufacture marijuana in the established village.

07 (b) If there are registered establishments within the established village, the  
08 prohibition on sale, purchase, and manufacture is effective beginning 90 days after the  
09 results of the election are certified.

10 (c) A person who violates this section is guilty, upon conviction, of a class A  
11 misdemeanor. Each violation is a separate offense.

12 **Sec. 17.38.240. Procedure for local option elections.** (a) An election to adopt  
13 a local option under AS 17.38.200 or remove a local option under AS 17.38.210 shall  
14 be conducted as required in this section.

15 (b) Upon receipt of a petition of 35 percent or more of the registered voters  
16 residing within an established village, the lieutenant governor shall place on a separate  
17 ballot at a special election the local option or removal of local option that constitutes  
18 the subject of the petition. The lieutenant governor shall conduct the election under  
19 AS 15.

20 (c) An election under (b) of this section to remove a local option may not be  
21 conducted during the first 24 months after the local option was adopted or more than  
22 once in a 36-month period.

23 (d) After a petition has been certified as sufficient to meet the requirements of  
24 (b) of this section, another petition may not be filed or certified until after the question  
25 presented in the first petition has been voted on. Only one local option question may  
26 be presented in an election.

27 **Sec. 17.38.250. Establishment of perimeter of established village.** (a)  
28 Except as provided under (b) and (c) of this section, for purposes of AS 17.38.200 and  
29 17.38.220, the perimeter of an established village is a circle around the established  
30 village that includes an area within a five-mile radius of the post office of the  
31 established village. If the established village does not have a post office, the perimeter  
01 of an established village is a circle around the established village that includes an area  
02 within a five-mile radius of another site selected by the local governing body or by the  
03 board if the established village does not have a local governing body.

04 (b) If the perimeter of an established village determined under (a) of this  
05 section includes any area that is within the perimeter of another established village  
06 and, if the other established village has

07 (1) also adopted a local option under AS 17.38.200, the local option of  
08 the established village that is less restrictive applies in the overlapping area;

09 (2) not adopted a local option under AS 17.38.200, the local option  
10 does not apply in the overlapping area.

11 (c) If the board determines that the perimeter of an established village as  
12 provided under (a) and (b) of this section does not accurately reflect the perimeter of  
13 the established village, the board may establish the perimeter of the established village  
14 and the areas of overlapping perimeter described under (b) of this section for purposes  
15 of applying a local option selected under this chapter.

16 **Sec. 17.38.260. Notice of the results of a local option election.** If a majority  
17 of the voters vote to prohibit or remove a local option under AS 17.38.200 or  
18 17.38.210, the lieutenant governor shall notify the board of the results of the election  
19 immediately after the results are certified. The board shall immediately notify the  
20 Department of Law and the Department of Public Safety of the results of the election.

21 \* **Sec. 20.** AS 17.38.900(5) is amended to read:

22 (5) "local regulatory authority" means the office or entity designated to  
23 process marijuana establishment applications by a municipality [LOCAL  
24 GOVERNMENT];

25 \* **Sec. 21.** AS 17.38.900(6) is amended to read:

26 (6) "marijuana" means all parts of the plant of the genus cannabis  
27 whether growing or not, the seeds thereof, the resin extracted from any part of the  
28 plant, and every compound, manufacture, [SALT,] derivative, mixture, or preparation  
29 of the plant, its seeds, or its resin, including marijuana concentrate; "marijuana" does  
30 not include fiber produced from the stalks, oil, or cake made from the seeds of the  
31 plant, sterilized seed of the plant that [WHICH] is incapable of germination, or the  
01 weight of any other ingredient combined with marijuana to prepare topical or oral  
02 administrations, food, drink, or other products;

03 \* **Sec. 22.** AS 17.38.900(9) is amended to read:

04 (9) "marijuana establishment" means a marijuana cultivation facility, a  
05 marijuana testing facility, a marijuana product manufacturing facility, [OR] a retail  
06 marijuana store, or a marijuana club;

07 \* Sec. 23. AS 17.38.900 is amended by adding new paragraphs to read:

08 (15) "dwelling" has the meaning given in AS 11.81.900;

09 (16) "established village" means an area that does not contain any part  
10 of an incorporated city or another established village and that is an unincorporated  
11 community that is in the unorganized borough and that has 25 or more permanent  
12 residents;

13 (17) "marijuana club" means an entity registered to allow consumption  
14 of marijuana by paying members of the club on the registered premises and whose  
15 members are 21 years of age or older;

16 (18) "public place" means a place to which the public or a substantial  
17 group of persons has access and includes but is not limited to highways, transportation  
18 facilities, schools, places of amusement or business, parks, playgrounds, prisons, and  
19 hallways, lobbies, and other portions of apartment houses and hotels not constituting  
20 rooms or apartments designed for actual residence; "public place" does not include a  
21 marijuana club.

22 \* Sec. 24. AS 17.38.100(d), 17.38.100(e), and 17.38.900(4) are repealed.

23 \* Sec. 25. This Act takes effect immediately under AS 01.10.070(c).

**New Text Underlined [DELETED TEXT BRACKETED]**

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# HOMER, Alaska



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PO Box 20229  
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## Commercial Fishing and Seafood Processing Facts

**Homer is the #65 fishing port in the U.S. by volume & #45 by value of 2013 landings.<sup>6</sup>**

### JOBS - FISHING

#### Permit holders, Crew and Vessels (2013) in Homer:

CFEC commercial fishing permit holders: **582<sup>1</sup>**  
Total permits owned: **1023<sup>1</sup>**  
Permit holders who fished: **455<sup>1</sup>**  
Commercial crew (full year) license holders: **631<sup>2</sup>**  
Total skippers who fished plus Crew in 2013: **1,086<sup>1,2</sup>**  
Percentage of local population who fished: **21.1%<sup>1,2,4</sup>**  
Vessels home ported: **581<sup>3</sup>** Vessels owned: **569<sup>3</sup>**

**Each of these individual small and family businesses represents investment, employment, and income in the Homer community.**

### INCOME

Estimated 2013 **ex-vessel** income by Homer-based fishermen: **\$80 million<sup>1</sup>**

Earnings generated from commercial fishing circulated in the local economy through taxes; purchases, rentals, hotels, electricity, entertainment, fuel, vehicles, food, repair and maintenance parts, transportation, travel, medical, and other services. **Virtually every business in Homer benefits from commercial fishing dollars.**

### JOBS – PROCESSING

Seafood processing jobs (Kenai Pen. Borough) **2204<sup>5</sup>**  
AK resident processing jobs: **939<sup>5</sup> (42.6%)**  
Processing wages: **\$18.8 million<sup>5</sup>**  
AK resident processing wages: **\$8.5 million<sup>5</sup> (45.2%)**

### ...AND MORE JOBS

In addition to direct harvester and processor workers, fisheries related jobs include fuel, accountants, consultants, air and water travel, hardware and marine repair and supply businesses, advocacy and marketing organizations, air cargo crew, freight agents, and scientists.

In 2013, **10.3 million<sup>6</sup>** pounds of seafood were landed in Homer for an estimated value of **\$25.6 million<sup>6</sup>**, and most of this was shipped or flown out, providing many transportation sector jobs.

**Government related jobs include** Alaska Department of Fish and Game • Fish and Wildlife Protection/Alaska Department of Public Safety • Docks and Harbors • Alaska State Troopers • United States Coast Guard • University of Alaska School of Fisheries • Alaska Sea Grant Marine Advisory program, and more.

### REVENUE to the State and Community through Fishery Taxes ...

FY 2013 Shared taxes – Homer received **\$37,136<sup>7</sup>** in fisheries business and landing taxes through the municipal tax-sharing program from Homer fisheries landings and businesses. The State of Alaska received a like amount.

#### Footnotes - Sources:

1. Commercial fishing permit activity, estimated harvest and earnings by permit holder are from AK Commercial Fishery Entry Commission (CFEC) at <http://www.cfec.state.ak.us/gpbycen/2013/mnu.htm>.
2. Crew numbers are from Alaska Department of Fish and Game 2013 Commercial Crew license list, and is the number of full year adult resident license holders who list their address in a given community.
3. Vessel home port numbers are from "AK CFEC Yearly 2013Vessel CSV file available online at <http://www.cfec.state.ak.us/plook/> and is a count of commercial fishing licensed vessels that list home port or ownership in a given community.
4. 2013 Population figures used to calculate percentage of resident skippers who fished plus crew are from DCCED AK Community Information Database online at <http://commerce.state.ak.us/cra/DCRAExternal>.
5. Processor Employment and Wages 2013 Data is from Alaska Department of Labor at <http://labor.alaska.gov/research/seafood/statewide/AKSFPBorca.pdf>.
6. NOAA, NMFS Office of Science and Technology, see reports "Total Commercial Fishery Landings at Major U.S. Ports" ranked by value, by poundage <http://www.st.nmfs.noaa.gov/commercial-fisheries/commercial-landings/index>.
7. Revenue figures from 2013 AK Dept of Revenue Shared Taxes report, pp. 17-20: <http://www.tax.alaska.gov/programs/sourcebook/index.aspx>.



April 1, 2015

City of Homer  
491 E. Pioneer Avenue  
Homer, AK 99603  
907.235.8121

**Subject: Finding of No Historic Properties Affected - Battle Creek Diversion, Bradley Lake Hydroelectric Project (FERC No. 8221) License Amendment**

To Whom it May Concern:

Alaska Energy Authority (AEA) is proposing to amend the Bradley Lake Project license (FERC No. 8221) to provide an additional water source for Bradley Lake by diverting water from the adjacent Battle Glacier area of the Upper Battle Creek watershed. The additional water will increase power generation at the hydroelectric facility without increasing the capacity of installed generation. The proposed Battle Creek Diversion is located near Homer, Alaska in Township 5S, Range 9W, Sections 7, 8, and 17-19, Seward Meridian, USGS Quadrangle Seldovia, C-3 (See Figure 1).

Pursuant to 36 CFR 800.4(d)(1), implementing regulations of Section 106 of NHPA, and in preparation of an amendment application filed with FERC on March 12, AEA recommends that no historic properties would be affected by the proposed Battle Creek Diversion project.

***Project Description***

The Battle Creek Diversion Project consists of the construction, operation, and maintenance of a new diversion system on Battle Creek to provide a supplemental water source for Bradley Lake. The project is located on the Kenai Peninsula near Kachemak Bay (Figure 1). Specifically, project components include:

- Construction and operation of a primary diversion and intake facility on the West Fork of Upper Battle Creek, including a main concrete weir wall diversion dam 16 feet in structural height and 60 feet in length at the top of the dam;
- Construction and operation of up to approximately 1.7 miles of main water conveyance pipeline. The 6 foot diameter steel pipe will be installed below ground for its entirety, from the Dam on West Fork of Upper Battle Creek to the riprap stilling basin at the existing diversion structure (See Figure 1);
- Construction of approximately 2.9 miles of conveyance access and maintenance roads;
- Temporary material and equipment staging at five areas along existing and proposed access roads.

***Area of Potential Effect***

AEA has identified the Area of Potential Effect (APE) for the Battle Creek Diversion as the project footprint (i.e., lands affected by the diversion and conveyance structures and access roads) in addition to a ¼ mile buffer zone surrounding project features. The APE includes all material and equipment landing and staging areas and structures (Figure 2).

### ***Efforts to identify Historic Properties***

The Alaska Heritage Resources Survey (AHRS) records at the Alaska SHPO were reviewed in March 2015. No AHRS-listed resources have been documented within the Battle Creek Diversion APE.

Previous investigations for cultural resources were conducted in the Bradley Lake vicinity in support of Bradley Lake Hydroelectric Project licensing efforts in 1979, 1980, and 1983. The 1979 and 1980 cultural resource surveys consisted of reconnaissance level pedestrian transects throughout the entire Bradley Lake Hydroelectric Project area (with the exception of steep slopes, rock outcrops and marshy, wetland areas) and included coverage of the area in the current APE. Shovel testing was conducted in the original inundation areas, to the north of the current APE. As a result of the 1979 and 1980 surveys, five previously recorded archaeological sites were relocated and no additional sites were identified. All five sites are located in excess of one mile outside of the Battle Creek Diversion APE.

The 1983 cultural investigations consisted of low elevation helicopter flight reconnaissance and a literature search and archival research, including research into BLM homestead files, Native Allotment applications, and Alaska Native Claims Settlement Act (ANCSA) 14(h)(1) selections. As a result of the 1983 survey effort, two historic sites (historic fox-fur farms) eligible for inclusion in the National Register of Historic Places were identified in the vicinity of the Bradley Lake Hydroelectric Project. Both of these sites are located in excess of one mile outside the Battle Creek Diversion APE.

To supplement the existing cultural resource inventories, AEA conducted an on-site cultural resource investigation of the Battle Creek Diversion APE in September 2012. See attached report: *Battle Creek Diversion, Amendment to Bradley Lake Hydroelectric Project (FERC No. 8221), Cultural Resources Report, HDR Alaska, Inc., January 2013*. Please note that the project description and footprint in the January 2013 report have been updated and reduced since the study was conducted. The investigation consisted of a low elevation helicopter flight reconnaissance, followed by a pedestrian survey. Discretionary shovel testing was also conducted during survey, within areas to be affected by the construction of Battle Creek Diversion project structures, including staging areas, access routes, and material sites. No cultural resources were identified within the APE as a result of the 2012 investigation.

### ***Finding of Effect***

A cultural resources review of existing information and results of pedestrian field survey find that there are no identified archaeological, historic, or other cultural resources located within the Battle Creek Diversion APE. In addition, the APE is located at approximately 1700 feet above sea level; in general, prehistoric sites within the Kachemak, Cook Inlet, and Prince William Sound region are located at much lower elevations, closer to shoreline or along prominent rivers and river bluffs. (De Laguna 1934). This suggests that the Battle Creek APE has a little potential for containing unidentified cultural resources, a conclusion supported by the 2012 survey work. Subsequently, based on the findings outlined above and documented in the enclosed report, AEA recommends that the Battle Creek Diversion will have no effect on historic properties.

In addition to the State Historic Preservation Office, we are consulting with the following parties for this project: the Seldovia Village Tribe; the Nanwalek Council IRA; the Port Graham Village Council; the Kenaitz Tribe; the English Bay Corporation; the Port Graham Corporation; the Seldovia Native Association, Inc.; the Chugach Alaska Corporation; the Cook Inlet Regional, Inc.; the Pratt Museum in Homer; the City of Homer; the City of Seldovia; and the Kenai Peninsula Borough.

Please direct your concurrence or comments to me at 907-771-3065, or via email at [bcarey@aidea.org](mailto:bcarey@aidea.org).  
Copies of the survey report are available upon request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bryan Carey".

Bryan Carey, P.E.  
Project Manager

Attachments:

- Figure 1: Project Area Map
- Figure 2: Area of Potential Effect Map

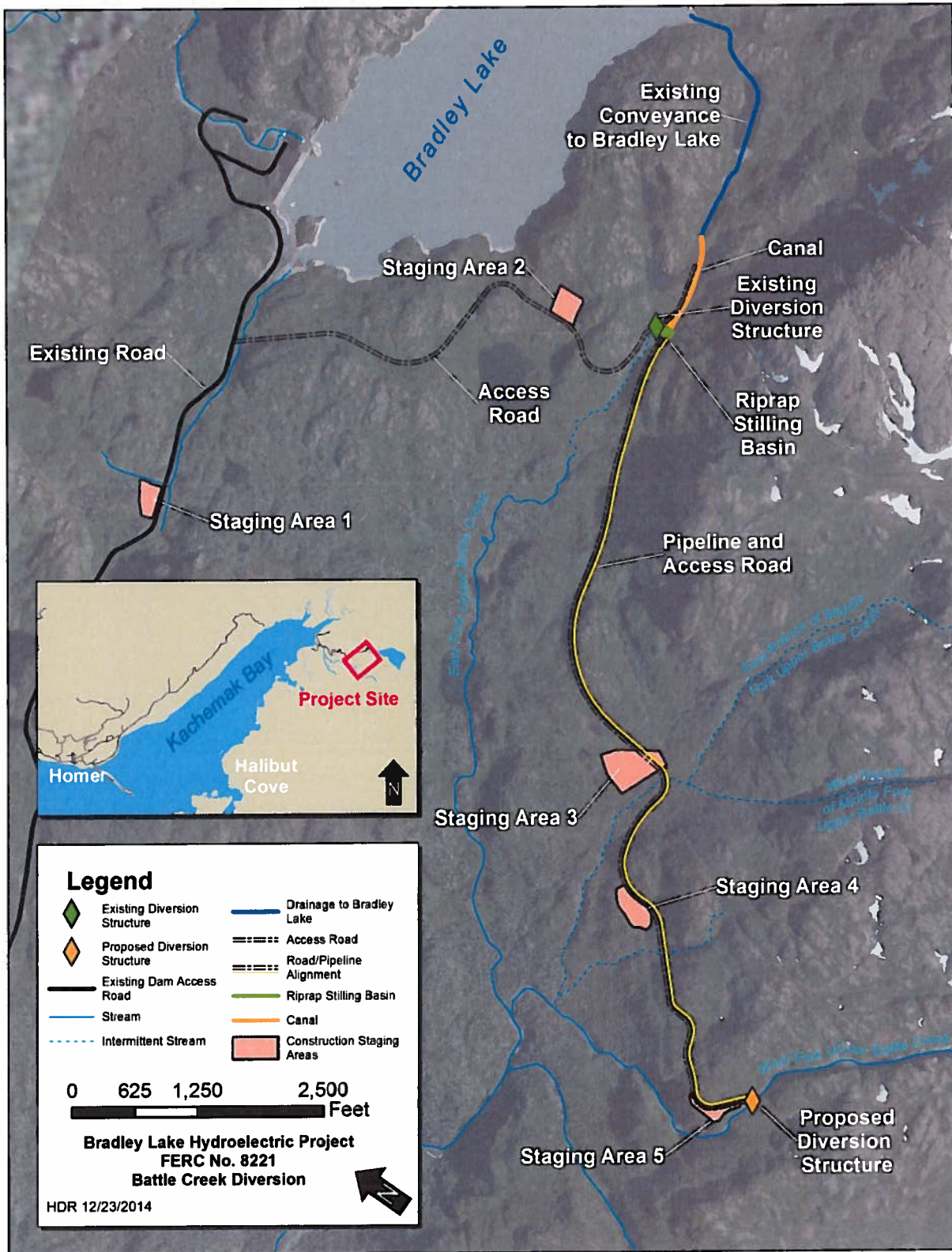


Figure 1. Battle Creek Diversion General Project Area.

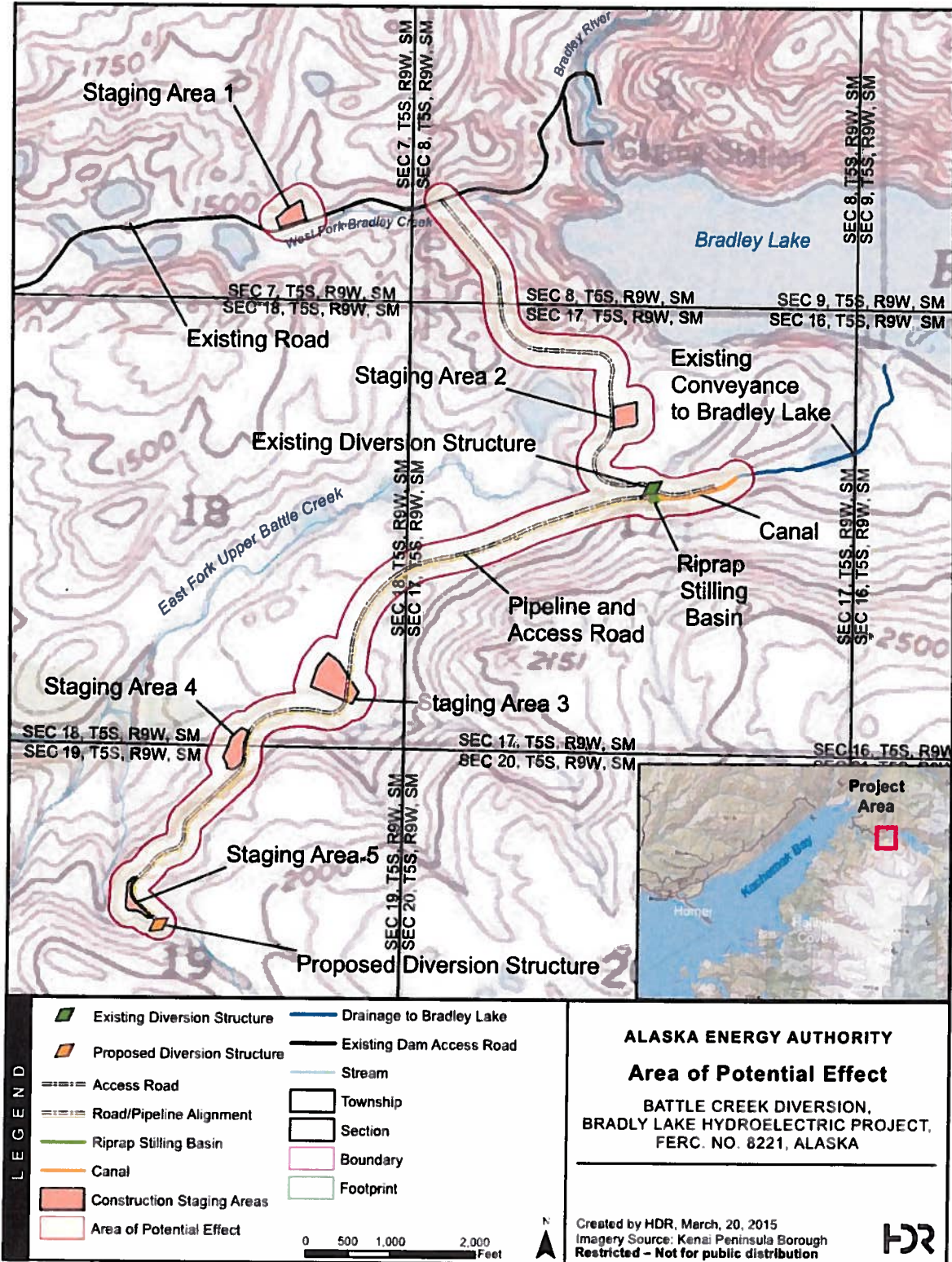


Figure 2. Area of Potential Effect (APE).





## Calibrating a New Membrane Plant Clears Hurdles

A coastal municipal water utility replaced its obsolete pressure sand filtration water treatment plant with a new state-of-the-art submerged membrane plant and expected a clear path ahead for safe water. But operators soon had to reduce disinfection by-product formation, remove manganese fouling, decrease total organic carbon, and more. **BY JOHN E. KOCH, CAREY MEYER, AND TODD COOK**

**H**OMER, ALASKA, situated on the Kenai Peninsula in southern Alaska, is known for its halibut and the narrow Homer Spit, which reaches 4.5 miles into Kachemak Bay. In the past decade, indications were that the city's water treatment plant needed to be replaced. Algae in the plant's surface water source throughout the summer months correlated with high disinfection by-products (DBPs) in the distribution system during fall sampling periods. In addition, the algae prompted frequent backwashing of the plant's sand filters, resulting in reduced capacity.

The backwashing also resulted in two major problems: Water production during the summer tourist and halibut fishing season dangerously approached system demand, and the waste backwash water pond reached its overflow point. Neither phenomenon was desirable from a public relations or regulatory aspect.

### A PROMISING NEW BEGINNING

A new treatment facility went online in June 2009, comprising a rapid-mix basin

to blend alum prior to a three-stage tapered flocculation basin, followed by a submerged membrane filtration system. Disinfection was accomplished with sodium hypochlorite. Total trihalomethanes (TTHMs) and haloacetic acids (HAA5) had been high in the city's long, dead-end-prone distribution system. However, expectations were that the new water plant coming online would improve total organic carbon (TOC) removals, and summer DBP spikes would significantly decrease. That didn't happen. Therefore, a comprehensive investigation was initiated to determine why.

**Dead-End Distribution Issues.** Homer has a long distribution system, with two long lines and a low density of approximately 1,500 service connections. Most of the system isn't looped and has many dead ends. The city's Public Works Department operates and maintains approximately 42 miles of water distribution lines, five water-storage tanks, 22 pressure-reducing stations, and more than 300 fire hydrants.

**DBP Testing Begins.** After the plant was commissioned, the first series of testing

for TTHMs and HAA5 showed marginal improvement from preconstruction levels. But the levels were expected to continue to decrease once the system had stabilized and the "old" water was displaced by permeate from the new plant.

Figure 1 illustrates the DBPs from a sampling point at the end of a five-mile line at the end of the Spit, beginning in 2005 and continuing through the summer of 2012. The system's DBP levels continued to increase, reaching TTHM and HAA5 levels of 66 µg/L and 46 µg/L, respectively, in March 2011. The maximum contaminant levels for these DBPs, which typically form when sodium hypochlorite reacts with naturally occurring organic matter in drinking water, are 80 µg/L and 60 µg/L, respectively.

Similarly, DBP levels in the city's East End sampling point also continued to increase, reaching levels of 100 µg/L for TTHMs in September 2010 and 73 µg/L for HAA5s in June 2009. The elevated TTHM reading in September wasn't unusual, as DBPs in previous years had increased in the fall after the peak algae



The city of Homer's reservoir would "turn over" with the onset of warmer summer weather. As a result, iron and manganese in the bottom sediment would be drawn into raw water pumps, leading to operational problems and water quality concerns.

season. What was disconcerting was that the new water treatment plant's processes and submerged membranes didn't significantly reduce the DBPs.

**Darkened Water Appears.** Another problem arose when a water main break occurred in 2011, stirring up the water in the distribution system. After the main was repaired and flushed, customers started complaining about black sediment in their tap water. Having spent millions of dollars on a new water treatment plant, city administrators and local citizens were disgruntled with their water, which looked like cola whenever scouring velocities were created in the distribution system.

**INVESTIGATING THE PROBLEMS**

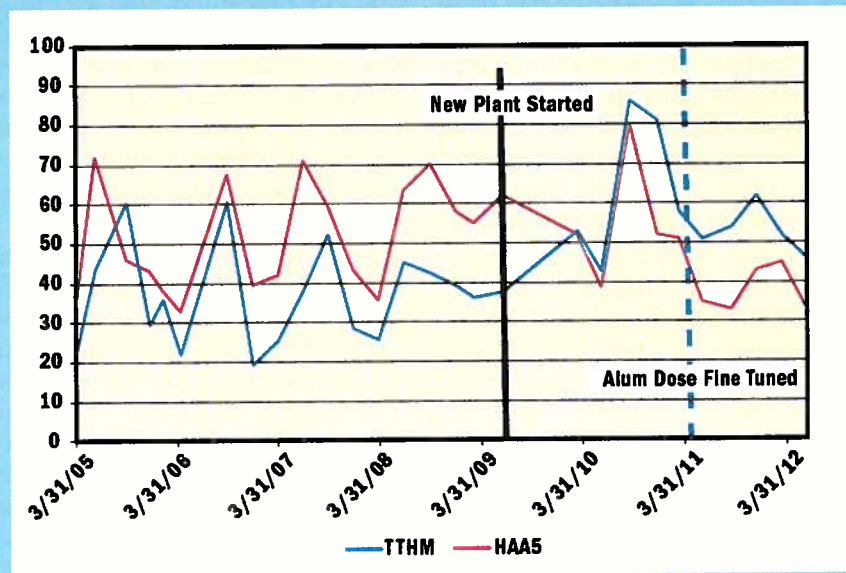
A systematic approach was developed to determine which treatment unit was the primary TOC-removal mechanism and at what point in the system the DBPs became a significant concern. Figure 2 (page 22) illustrates a single-line schematic of the water plant and primary distribution system.

As expected, the filters removed most of the TOC. It became apparent that the raw water was highly reactive, as significant

DBP formation occurred after the CT tank, and even higher levels occurred after the 1-mil gal tank.

**Figure 1. Spit Sample Point**

DBP levels continued to increase even after the new treatment plant was brought on line, prompting a comprehensive investigation to determine why.

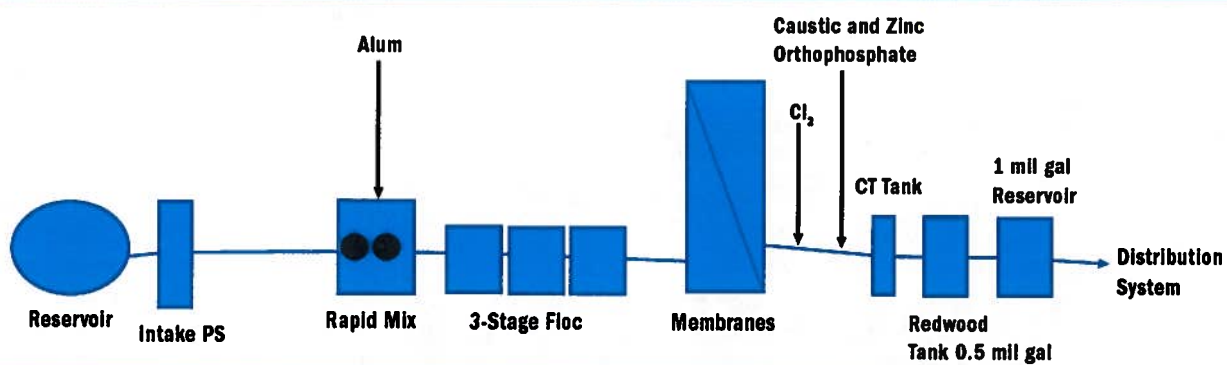


PHOTOGRAPHS: HDR

# Treatment

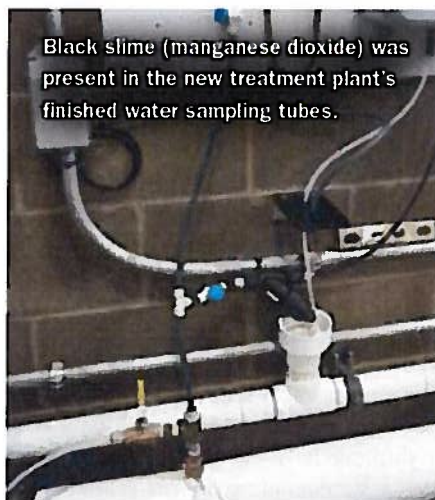
## Figure 2. Plant Schematic

A systematic approach was developed to determine which treatment unit was the primary TOC-removal mechanism and at what point in the system the DBPs became a significant concern.



TOC, UV-254, manganese, iron, pH, alkalinity, chlorine, and DBPs were measured in the water plant and distribution system.

Subsequently, operators who had worked in the old pressure sand filter plant reported the plant's instrumentation sampling tubes were changed routinely because of built-up deposits of black slime. As shown in the photograph below, the same black slime was present in the new plant's finished water sampling tubes. Identified as manganese dioxide, the slime is a gooey black substance produced by oxidation of manganese with chlorine. When the new



membrane plant was started, prechlorinating the raw water wasn't a standard operating procedure.

TOC from the raw water reservoir varied from 2.80 mg/L to 3.96 mg/L. With the onset of warmer summer weather, the surface water reservoir "turns over." Thus, iron and manganese in the bottom sediment are drawn into the raw water pumps.

TOC prior to the CT tank varied from 1.27 mg/L to a high of 2.02 mg/L. The raw water's alkalinity remained relatively constant at 21 mg/L. The investigation revealed the membrane cleaning water that was recycled to the rapid-mix chamber after settling in a two-stage decant lagoon system had TOC levels exceeding 4.3 mg/L, alkalinity less than 5, TTHMs greater than 26 µg/L, and a detectable chlorine level. The decant lagoon system is shown in the photograph on page 23.

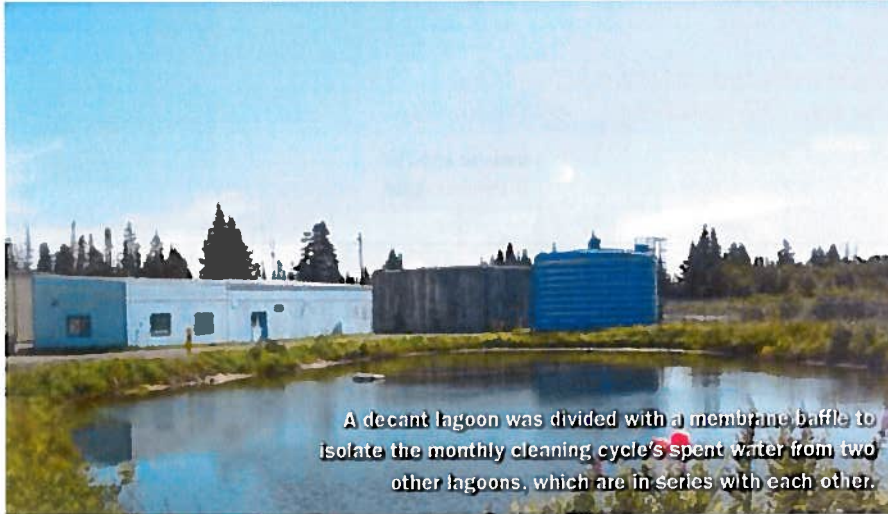
One lagoon is divided with a membrane baffle to isolate the monthly cleaning cycle's spent water from two other lagoons, which are in series with each other. The membrane system was commissioned to provide a chlorine residual of 0.1 or less in the spent water discharged to the lagoons. The high chlorine levels in the ponds resulted from a high chlorine concentration in the water discharged from the membrane's neutralization tank after cleaning cycles.

## OPERATIONAL CHANGES

Significant issues uncovered during the investigation resulted in changes in the plant's overall operation. Variable-frequency drives were installed on the raw water feed pumps to maintain a more constant feed rate to the treatment plant, making it easier to maintain uniform and consistent chemical doses. In addition, consistent flow reduced contact time in the CT tank and clearwells to further reduce DBPs in the system.

Sodium bisulfite dosage, the chemical used to neutralize chlorine in the filter-cleaning backwash water, was increased to further reduce chlorine levels before the water was discharged into the decant/settling ponds. Refinements in the membrane system's cleaning regimen were experimented with to further reduce DBP formation. Sodium hypochlorite filter-clean frequency was reduced substantially, and citric-acid cleans were performed as scheduled. Minimizing the sodium hypochlorite cleans reduced the potential for DBP formation in the decant lagoons. Because water from the decant lagoons is recycled back to the plant, reducing DBP formation as a result of filter-cleaning backwash reduced DBPs in the treated water.

Additional testing was performed to determine the optimum alum dose at the rapid-mix tank to obtain a floc that could



be consistently removed by the membrane filters. The alum dose was increased, and better floc formation was occurring in the three-stage flocculation tanks. As a result, the membrane filters were able to more effectively remove TOCs, and the chlorine dose to the treated water could be reduced while maintaining the target chlorine level in the distribution system.

Further study also revealed that the orthophosphate level was too

low to adequately treat the distribution system for corrosion control. The dosage was raised from 0.2 mg/L to the target dosage of 1–2 mg/L. Currently, the system has reached equilibrium at 2.1 mg/L. Almost immediately, the black water disappeared. The phosphate keeps the manganese in solution unless heated, which typically isn't a problem in Alaska. Customer complaints about black water decreased significantly, and distri-

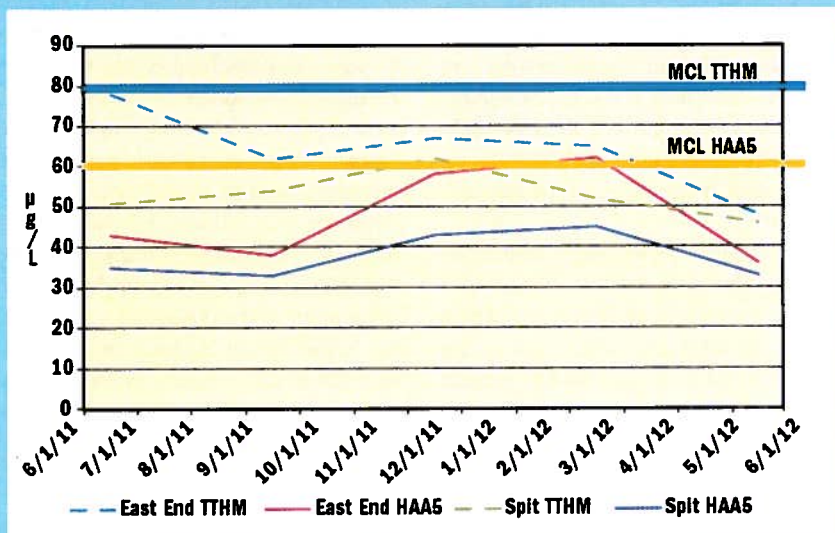
bution operators have reported they no longer find black sediment in the pressure-reducing valve stations.

To resolve concerns with the town's dead-end mains, Public Works personnel periodically release water from fire hydrants. Homer residents often ask why the city flushes water from the fire hydrants, because, at first glance, it seems to be a waste of water. The answer is that regular hydrant flushing is a vital part of routine water system maintenance.

Flushing improves water quality by removing minerals that have collected in the water mains. In addition, flushing maintains chlorine residual. Because of the low number of customers per mile of water main, water can be stored within Homer's distribution system longer than the chlorine residual lasts. Flushing water mains allows Homer to maintain trace residual chlorine in the water, as required, to ensure protection from pathogen contamination once water leaves the treatment plant. Over time, chlorine breaks down; water without chlorine residual can no longer be considered microbiologically clean. By flushing or bleeding water out of the system, especially off dead-end lines, such as the 5-mile-long Homer Spit dead-end water line, safe, pathogen-free drinking water is maintained through the system.

### Figure 3. DBP Reductions

Operational changes significantly reduced DBP levels at both sampling stations.



### KEEPING THE SYSTEM STRONG

Since Homer's water treatment plant operators started maintaining a more uniform raw water flow into the new treatment plant, consistent chemical dosages have been easier to maintain. Periodic jar testing and visual observation of the floc in the flocculation basins have resulted in lower TOC levels, thereby reducing the initial chlorine dose and lowering the potential for DBPs. Figure 3 illustrates DBP reductions at both of the sampling stations since the improvement was implemented in the second quarter of 2011. Additional DBP reductions have been made in the Homer water system during the last year.