

State of Alaska
FY2010 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 enforcement and recovery of costs and damages as well as defense of the state 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.
- Contaminated sites: 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, investigative, enforcement, and litigation services are provided 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 underground storage tanks.
- Air and water quality: The department advises DEC regarding air permits and brings enforcement actions against entities violating clean air laws. The department 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 advises the Department of Natural Resources 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: The department provides legal advice to various state officials regarding efforts to improve security of critical facilities, such as the TransAlaska 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.

FY2010 Resources Allocated to Achieve Results

FY2010 Component Budget: \$2,097,900	Personnel:	
	Full time	12
	Part time	1
	Total	13

Key Component Challenges

1. Investigate and pursue appropriate legal actions to hold British Petroleum (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 FY2010

No changes are anticipated.

Major Component Accomplishments in 2008

In FY 2008, the component recovered over \$7,866,492 for state costs and penalties related to violations of state environmental laws and obtained cleanup agreements with polluters with an estimated value of over \$57,604,624 for a total benefit to the state of over \$65,471,116. To accomplish this, the component charged its various client agencies only \$1.8 million in legal fees.

The component assisted DEC in the continuing investigation of the 2006 BP pipeline spills and shutdowns due to corrosion.

In earlier fiscal years, the component intervened on behalf of the state in the Kensington appeal, a challenge by environmental groups to the federal permits for tailings disposal at the Kensington Mine. The Federal District Court upheld the permits, but on appeal the Ninth Circuit Court of Appeals reversed, invalidating the permits and halting further construction at the mine. Both the state and Coeur Alaska, Inc., owner of the mine, petitioned the U.S. Supreme Court for certiorari review, and the Court granted those petitions in June 2008. The case is now in the briefing stage and will be argued on January 12, 2009.

The component had significant responsibility for providing legal advice for important coastal management issues, including development of district plan amendments and revision of the ABC List.

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 NPDES Program under the Clean Water Act. The component is assisting with legislation needed to meet program requirements for federal approval.

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 assisted DEC in a number of regulations projects.

The component secured a settlement with the federal government for funds to cleanup a former federal facility, Wrangle Institute.

Statutory and Regulatory Authority

AS 44.23.020

AS 46.08.070

Contact Information

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**Environmental Law
Component Financial Summary**

All dollars shown in thousands

	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	1,153.0	1,495.0	1,553.2
72000 Travel	28.2	38.6	38.6
73000 Services	3,940.8	470.4	470.4
74000 Commodities	22.4	35.0	35.0
75000 Capital Outlay	16.2	0.7	0.7
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	5,160.6	2,039.7	2,097.9
Funding Sources:			
1004 General Fund Receipts	577.1	1,058.8	1,104.2
1007 Inter-Agency Receipts	4,089.0	448.6	461.4
1055 Inter-agency/Oil & Hazardous Waste	450.0	532.3	532.3
1061 Capital Improvement Project Receipts	44.5	0.0	0.0
Funding Totals	5,160.6	2,039.7	2,097.9

Estimated Revenue Collections

Description	Master Revenue Account	FY2008 Actuals	FY2009 Management Plan	FY2010 Governor
Unrestricted Revenues				
None.		0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0
Restricted Revenues				
Interagency Receipts	51015	4,089.0	448.6	461.4
Capital Improvement Project Receipts	51200	44.5	0.0	0.0
Interagency Recs./Oil & Hazardous Waste	51395	450.0	532.3	532.3
Restricted Total		4,583.5	980.9	993.7
Total Estimated Revenues		4,583.5	980.9	993.7

**Summary of Component Budget Changes
From FY2009 Management Plan to FY2010 Governor**

All dollars shown in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2009 Management Plan	1,058.8	0.0	980.9	2,039.7
Adjustments which will continue current level of service:				
-FY2010 Wage and Health Insurance Increases for Bargaining Units with Existing Agreements	29.1	0.0	29.1	58.2
-Correct Unrealizable Fund Sources in the Salary Adjustment for the Existing Bargaining Unit Agreements	16.3	0.0	-16.3	0.0
FY2010 Governor	1,104.2	0.0	993.7	2,097.9

**Environmental Law
Personal Services Information**

Authorized Positions			Personal Services Costs	
	FY2009 Management Plan	FY2010 Governor		
Full-time	12	12	Annual Salaries	1,098,214
Part-time	1	1	COLA	43,251
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	497,892
			<i>Less 5.26% Vacancy Factor</i>	(86,157)
			Lump Sum Premium Pay	0
Totals	13	13	Total Personal Services	1,553,200

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Assoc Attorney II	1	0	0	0	1
Attorney IV	6	0	0	0	6
Attorney V	1	1	1	0	3
Attorney VI	1	0	0	0	1
Law Office Assistant I	1	0	0	0	1
Paralegal II	1	0	0	0	1
Totals	11	1	1	0	13