

**State of Alaska
FY2004 Governor's Operating Budget**

**Department of Law
Environmental Law
Component Budget Summary**

Component: Environmental Law

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Component Mission

Mission statement is included at the department summary and BRU levels.

Component Services Provided

Environmental Law provides legal representation to state agencies for the investigation, defense and prosecution of claims regarding contaminated sites around the state as well as legal advice on environmental matters. The section also provides legal representation to state agencies for the defense and prosecution of claims regarding the EXXON VALDEZ oil spill, the reimbursement of oil spill-related costs and the expenditure of restoration funds. Environmental Law also provides paralegal services, data collection and processing to support the activities. The budgeted cost of the Environmental Law section is relatively modest in comparison to the revenues that may be returned to the state treasury through its efforts.

The section was established in 1989 in the aftermath of the EXXON VALDEZ oil spill to force superior court in action against Exxon, Alyeska, and the TAPS Owner Companies alleging a number of violations of state law and seeking a broad array of damages, including a claim for injuries to the state's natural resources. In March 1991, the state filed an action in federal court seeking restoration costs and natural resource damages under the Clean Water Act. That effort has culminated in a remarkable series of agreements that have brought over \$1 billion to the state for restoration of the oil spill impacted area and reimbursement of state and federal response, damage assessment, and litigation expenditures. While the case has settled as to the state's claims and liabilities, work remains concerning expenditure of the restoration funds. As of September 1, 2001, full reimbursement of all state oil spill-related expenses has been accomplished.

In 1993 the expertise of the EXXON VALDEZ litigation team was, in part, redirected to initiate and implement a special project to force the cleanup and to recover for costs and damages related to contaminated sites around the state that pose an imminent or substantial threat to public health or the environment.

In order to deal effectively with these environmental threats and to ensure that those responsible for environmental degradation pay for the costs to the state of their actions, DEC requires substantial assistance from the Department of Law. [See "DEC Cost Recovery Policy & Procedures" (August 1993)]. Department staff, utilizing information provided by DEC gather information and documentation on contaminated sites and other pollution incidents. Department attorneys then perform a legal analysis of the sites' potential for responsible party cleanup, statutory penalties or state cost recovery action. To accomplish this, the department identifies "responsible parties" for these matters as well as those parties' financial ability to initiate remediation and the potential for success of legal action. In consultation with DEC, department attorneys pursue appropriate enforcement actions to ensure cleanup at these 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.

The Environmental section defends environmental lawsuits against the state. The section is also involved in prosecuting cruise lines that foul Alaska's air and waters and advises DEC regarding implementation of the recently enacted Alaska cruise ship oversight program. Finally, the department uses funds from this component to provide advice to agencies, primarily DEC, about environmental compliance issues and other matters such as the accommodation of environmental laws to national and state security concerns.

Component Goals and Strategies

Maximize the state's efforts to secure cleanup of contaminated sites and to ensure, to the greatest extent possible, that the costs of such cleanup are borne by the responsible parties.

Provide advice to the Department of Environmental Conservation (DEC) for measures relating to protection of the environment.

Minimize the monetary exposure of the state to claims by the United States and third parties for damages relating to environmental problems.

Ensure that the available restoration funds from the EXXON VALDEZ settlement are expended in accordance with law and for the maximum benefit of the Alaska environment.

Work with state and federal agencies and the EXXON VALDEZ Oil Spill Trustee Council to provide for the appropriate restoration of the natural resources damaged by the EXXON VALDEZ oil spill.

Work with state agencies in the prosecution of litigation related to cleanup and cost recovery from responsible parties for contaminated sites in the state.

Promote responsible protection for the environment of Alaska.

Provide for the defense of environmental claims against the state.

Work with state and federal agencies to ensure that environmental laws accommodate national and state security needs.

Key Component Issues for FY2003 – 2004

1. What are the legal considerations for granting a permit for the aerial application of herbicides on a large tract of privately owned land.
2. What are the legal considerations in permitting the use of a natural lake for a tailings impoundment area.
3. To what extent may the federal government be held accountable for non-compliance with state environmental laws.

Major Component Accomplishments in 2002

- In FY 2002, the department recovered almost \$1,800,000 for state costs and penalties related to violations of state environmental laws and obtained cleanup agreements with polluters with an estimated value of over \$3,345,000 for a total benefit to the state of over \$5 million. To accomplish this, the department expended only \$1,378,300.
- In separate activities under this component, the department defended several potentially significant lawsuits where the state was alleged to have violated environmental laws with claimed damages in the millions of dollars.
- The department successfully prosecuted claims against cruise lines which fouled Alaska's air and water and continues to be involved in the state's oversight of that industry through the development of regulations and enforcement of laws.
- The department also participated in lawsuits, such as those involving the Prince William Sound contingency plan, where the interests of the state are under attack based upon alleged violations of environmental laws.

Statutory and Regulatory Authority

AS 44.23.020

Environmental Law
Component Financial Summary

All dollars in thousands

	FY2002 Actuals	FY2003 Authorized	FY2004 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	1,006.9	876.0	905.4
72000 Travel	15.8	43.9	43.9
73000 Contractual	328.0	287.6	287.6
74000 Supplies	13.4	33.8	33.8
75000 Equipment	14.2	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	1,378.3	1,241.3	1,270.7
Funding Sources:			
1004 General Fund Receipts	516.9	600.0	625.3
1007 Inter-Agency Receipts	255.9	160.2	161.2
1055 Inter-agency/Oil & Hazardous Waste	470.8	481.1	484.2
1108 Statutory Designated Program Receipts	134.7	0.0	0.0
Funding Totals	1,378.3	1,241.3	1,270.7

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Proposed Changes in Levels of Service for FY2004

No service changes.

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

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2003 Authorized	600.0	0.0	641.3	1,241.3
Adjustments which will continue current level of service:				
-Annualize FY2003 COLA Increase for GP/SS Bargaining Units	0.0	0.0	0.6	0.6
-\$75 per Month Health Insurance Increase for Non-covered Staff	3.3	0.0	3.5	6.8
-From Legislation/Regulations to adjust vacancy by fund source	12.0	0.0	0.0	12.0
-From Deputy Attorney General's Office to adjust vacancy by fund source	10.0	0.0	0.0	10.0
FY2004 Governor	625.3	0.0	645.4	1,270.7

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Personal Services Information

	Authorized Positions		Personal Services Costs	
	<u>FY2003</u> <u>Authorized</u>	<u>FY2004</u> <u>Governor</u>		
Full-time	11	11	Annual Salaries	728,127
Part-time	1	1	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	215,021
			<i>Less 4.00% Vacancy Factor</i>	(37,748)
			Lump Sum Premium Pay	0
Totals	12	12	Total Personal Services	905,400

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Assoc Attorney II	1	0	0	0	1
Attorney III	2	0	1	0	3
Attorney IV	3	0	0	0	3
Attorney V	1	0	0	0	1
Attorney VI	0	1	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	10	1	1	0	12