



Council of

Alaska Producers

Comments supporting funding for the State to assume primacy over Section 404 of the Clean Water Act

March 22, 2023

Representative Bryce Edgmon, Co-Chair
Representative Neal Foster, Co-Chair
Representative DeLena Johnson, Co-Chair
House Finance Committee

Dear Representative Edgmon, Representative Foster, Representative Johnson, and members of the House Finance Committee,

The Council of Alaska Producers (CAP) is writing to support funding for the Alaska Department of Environmental Conservation (ADEC) to assume primacy over Section 404 of the Clean Water Act.

Formed in 1992, CAP is a non-profit trade association that works to inspire Alaskans to realize a shared goal of sustainable mineral production, providing economic and social benefits to our communities and the people of Alaska. CAP represents the interests of Alaska's five large metal mines and several advanced projects, informing members on legislative and regulatory issues, supporting and advancing the mining industry, and educating members, the media, and the general public on mining related issues.

Like other states, Alaska has assumed primacy over multiple federal laws, including the Clean Air Act in 1972; the Safe Drinking Water Act in 1978; Section 402 of the Clean Water Act (National Pollutant Discharge Elimination System) in 2012; and is in process of assuming primacy over the Resource Conservation and Recovery Act. In 2013, the Alaska Legislature passed legislation establishing primacy over 404. It is now time for the funding to be approved so the State can assume primacy over this program which is currently managed at the federal level by the US Army Corps of Engineers. Including the requested funding in the FY24 operating budget will allow the State to begin the application process as authorized.

The value of primacy is a more efficient and cost-effective program with regulatory decisions made by Alaskans who best understand our state's unique conditions. Primacy does not weaken oversight: the programs are required to follow federal law and cannot be less stringent. A program run by the State is accountable to Alaskans and the State Legislature, assuring that Alaska will have control of its permitting priorities.

CAP member companies have a long history of supporting agency cost-recovery for the State's primacy of the Clean Air Act, the Alaska Pollutant Discharge Elimination System program, and other permitting through reimbursable service agreements with the State Office of Project Management and Permitting. Fees for service are an expected part of doing business and we are prepared to

discuss fees with ADEC. CAP also supports efforts by the State to secure federal funding for the Section 404 primacy program since it is the only primacy program that is not partially funded by the federal government.

Thank you for your consideration of funding a program that will strengthen the State's permitting oversight while delivering greater efficiency and stability. These are valuable steps to attract investment and ensure that projects are developed responsibly for the benefit of Alaska and Alaskans.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Matthias", with a stylized flourish at the end.

Karen Matthias
Executive Director