



# Southeast Conference

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Nov 9, 2005

Cindy Roberts  
Denali Commission  
510 L Street, Ste 410  
Anchorage, Alaska 99501

**Re: Final Report for Grant #156-05 – Solid Waste Entity Formation (\$19,000)**

Dear Cindy,

With this letter, I am submitting a final work product. I will summarize the work done under this grant.

I am pleased to report that we accomplished more than we intended with this grant. Not only did we research solid waste entities in the Lower-48, review Alaskan statutes and provide templates for all regions of Alaska, but, through a state representative, have helped draft legislation that would create and authorize Solid Waste Management Authorities in Alaska. This legislation is to be introduced in the 2006 Alaska State Legislature.

As of September 30, 2005, we had expended 100% of the grant funds.

Here are some of the highlights during the grant period:

- Work began in mid-2005 with SEC staff and board, its Environment Committee and contractor Ecology and Environment, Inc.
- SEC maintained an active role in this work, with weekly conference calls and updates from the contractor. This information then was relayed to the board and committees.
- The contractor interviewed dozens of representatives from state government, federal government, consulting businesses and solid waste authorities.
- We developed a matrix and white paper to look at entity formation options for Alaska.
- We had an independent attorney review the white paper and matrix.
- We developed a template for communities and regions in Alaska to use.
- We drafted legislation for a Solid Waste Management Authority
- We gave presentations at the SEC annual Meeting on Sept. 26 in Wrangell. Speakers were contractor Dick Smith on the solid waste report; Rollo Pool, on solid waste entities; and Kake Tribal Corp. general manager Duff Mitchell on its waste-to-energy option (plasma arc).
- We met twice with Waste Management, Inc. which operates the landfill in Juneau.

- We gave presentations to the Juneau Rotary Club and to the Juneau Economic Development Council on solid waste, recycling and other issues.

Our solid waste work in the regional continues to garner interest by the media. During the life of this grant, we updated reporters in Haines, Sitka, Juneau, Wrangell, Ketchikan, and Petersburg. State and federal officials are engaged in discussion of regional solid waste plans. The governor supports an effort to keep Southeast Alaska communities from shipping these wastes from Alaska.

We are enthused with the work to date and encouraged with the number of communities expressing interest for consideration as a regional site and with the support at state and federal levels. Again, we appreciate the support from the Denali Commission for this grant.

Should you have any questions, please do not hesitate to contact me, by mail, phone or email: [rollo@seconference.org](mailto:rollo@seconference.org).

Sincerely Yours,

A handwritten signature in black ink that reads "Rollo Pool". The signature is written in a cursive, flowing style.

Rollo Pool  
Executive Director



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## Alaska Solid Waste Entity Formation

A Look at Options to Coordinate  
Transfer, Handling and Disposal of Solid Wastes  
In Alaskan Communities



### Contractors

**Ecology & Environment, Inc.  
Cedarbrook Consulting**

for

### **Southeast Conference**

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**Oct 31, 2005**

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## **SUMMARY**

### **SOLID WASTE ENTITY FORMATION FRAMEWORK**

Over the last decade in Southeast Alaska, landfills and waste-to-energy plants and incinerators have closed. The cheapest and quickest alternative for any community has been to ship municipal solid waste (MSW) by barge and rail to super landfills in the Continental US. Lack of available and suitable land near existing communities and high costs to develop a landfill have prevented any community from taking on this task itself.

Southeast Alaska is an isolated area of 70,000 residents living in more than 25 communities scattered over an area comprising 20 million acres – roughly half the size of Washington State. This area is dependent on barge, airline and ferry service to connect it with the contiguous 48 states and British Columbia. Recycling and municipal waste collection is expensive with some communities paying over \$100-200/ton to ship recyclables to markets and MSW to landfills, while the cost per ton for disposal in Anchorage is \$40/ton.

Presently, communities in Southeast Alaska are shipping 23,000 tons of municipal waste each year out of state – some as far as 1,100 miles. Other Southeast communities have landfills nearing capacity, while many small communities have improper or unpermitted dumps.

Southeast Conference feels that its communities, cooperating as a single entity, can produce a regional solution to deal with MSW. The goal is to recycle more, save communities money over current costs, and produce jobs in the region. At a minimum, a regional facility, should it happen, will include recycling (Materials Recovery Facility) on the front end and a state-of-the art landfill. Other options may include thermal reduction (waste-to-energy) and space for composting and for treating oily soils.

In the last 15 months, SEC has begun work under two Solid Waste grants from the federal government. One is to do a report that looks at solid waste handling options in Southeast Alaska - especially those communities that ship waste to the Lower-48. This report will be done in late November 2005, and it will list options (including a regional landfill and recycling center) and potential sites. Several communities (Petersburg, Wrangell, Thorne Bay, Sitka and Kake) are interested in being considered as a future site.

A second grant from the Denali Commission, which is the subject of this report, has helped determine what kind of legal entity is needed for communities to move and process municipal solid waste and to operate a regional landfill.

Through a grant from the Denali Commission, Southeast Conference hired consultants and a law firm to study regional solid waste handling in other states, to review state statutes and to offer advice on entity formations.

There are two primary legal vehicles to move, process and dispose of solid waste. One is a Joint Government Agreement, for which there is existing statutory authority. Another option, and likely to be more preferable, is a Solid Waste Management Authority. Draft legislation has been prepared for the 2006 Alaska legislature. The legislation would be applicable to other regions or to a group of communities elsewhere in Alaska.

## **SEC STUDY METHODOLOGY**

A Solid Waste Entity Matrix (Attachment #1) was developed by Ecology & Environment, Inc. (E&E) to provide basic information regarding a range of different business operations and management structures including For-Profit Corporation, Nonprofit Corporation, Limited Liability Company, Cooperative Corporation, Partnership, Federation and Commission, Authority and Joint Government Agreement. The two most common entities encountered in E&E's research for solid waste management structures and those most appropriate for Southeast Alaska are the Authority model and, by contract, with a Joint Government Agreement.

Under AS 29.35.010 and Article X and Section 13 of the Alaska Constitution, all municipalities have the power to enter into an agreement, including an agreement for cooperative or joint administration, for any function of power, including management of solid waste. Unincorporated areas do not have this ability, and, therefore, some of the very smallest communities in Southeast Alaska would not be able to enter into Joint Government agreements. However these small communities could contract for services provided by an entity created by a Joint Government Agreement.

## **JOINT GOVERNMENT AGREEMENT**

E&E developed a template for a Joint Government Agreement (Attachment # 2) that would establish a regional solid waste authority. This template provides language for the typical sections found in Joint Government Agreements and identifies those areas needed further development by the participating communities. Additionally this template can easily be modified for use in establishing any type of joint government agreement. In the process of developing the template for a Joint Government Agreement, E&E developed an outline for a Joint Government Agreement (Attachment #3) and an outline for an Authority Created Under a Joint Government Agreement (Attachment #4). Both "outline" documents identify the general elements to be incorporated in a Joint Government Agreement and into an authority and provide another set of criteria to use in establishing a Joint Government Agreement.

## **AUTHORITY**

For the purposes of the discussion, the term "authority" has been used generically to mean an "entity with administrative powers."

The second most common entity formed to manage solid waste is an Authority established in statute. Alaska statutes currently provide for Port Authorities (AS 29.35.600) and Regional Resource Development Authorities (AS 30.13). Both of these authorities are for transportation purposes only and cannot be used for solid waste. There are no solid waste authorities or general authorities that can be used for solid waste issues in Alaska statutes.

E&E found that a solid waste management entity (authority) established via a Joint Government Agreement as a viable method for consideration by SE Conference because a statutorily created Authority is more cumbersome to create.

Southeast Conference retained Baxter Bruce & Sullivan to provide legal review and analysis of the matrix and outline documents prepared by E&E. They did not review the template for a Joint Government Agreement as it had not been completed. Their conclusion is that a statutorily established authority is the most attractive option, unless there is some political opposition to enabling legislation that would allow communities to form solid waste authorities just as they form port authorities.

### **STATUTORY CHANGE**

A statutorily authorized Solid Waste Authority in Alaska will require passage of enabling legislation. One of the uniform features of most statutorily-created Solid Waste Authorities reviewed is that, in each participating community, elected officials and voters approve of its participation.

Using the Port Authority Statute as a model, E&E created a draft solid-waste statute. (Southeast Conference has submitted it to Rep. Peggy Wilson who has sent it to the Alaska Department of Law for review.)

E&E developed a template for a Regional Solid Waste Management Authority modifying the Port Authority statute (AS 29.35.600) by eliminating the requirements for development and plan approval at various points in the process. The Regional Resource Development Authority requires, among other elements, a petition be submitted and approved by the administration, a vote of the people and at least 3 board members be appointed by the governor.

Through the office of Rep. Peggy Wilson (District 2 – Wrangell) and the Legislative Affairs Agency, draft legislation has been created and is attached (attachment # 6).