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# SEMIANNUAL REPORT TO THE CONGRESS

FY 2008 – SECOND HALF

OFFICE OF THE INSPECTOR GENERAL

DENALI COMMISSION

ANCHORAGE, ALASKA



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INSPECTOR GENERAL

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MEMORANDUM FOR FEDERAL CO-CHAIR CANNELOS

From: Mike Marsh, CPA, MPA, CFE, Esq.  
Inspector General

Subject: Semiannual report to agency head and Congress for second half of FY 2008

The discussion below constitutes my report to the agency head and Congress, as required by the Inspector General Act, for the second half of FY 2008. This is the fifth such report for this function here at the Denali Commission.

BACKGROUND: THE BUSINESS OF THE DENALI COMMISSION

The Denali Commission is an independent federal agency with its office in Anchorage, Alaska. Congress created it in 1998 through the Denali Commission Act.<sup>1</sup> The agency serves as a national “experimental field station” that explores different possibilities for providing basic facilities in remote Alaskan settlements (clinics, powerhouses, fuel tanks, central places to wash clothes and take a shower).

The served settlements are largely in the “other Alaska” that most visitors from the “Lower 48” never see — far from the roads, the power grid, and the state’s scenic railroad. The untamed Yukon, Kuskokwim, and Koyukuk rivers might be considered the far-west extension of “Route 66,” but all three shifting rivers lack the navigation aids found on the commercial waterways in the rest of the nation.

And the bathroom continues to be a bucket for many residents of “bush” Alaska (outhouses on the tundra often aren’t feasible). From a broader international perspective, the public health conditions of the developing third world are still a reality up here. Denali serves places where the electricity is sometimes, the water is undrinkable, the fuel tanks leak, the food rots, the garbage sits, the teeth fall out, a shower is a treat, and people get diseases that we assumed were history.

<sup>1</sup> P.L. 105-277, 42 U.S.C. § 3121.

In Denali's search for solutions, the little agency ( $\approx$  25 employees) has tried brainstorming, coordination, and grants with every form of entity: municipal, nonprofit,<sup>2</sup> tribal, cooperative, educational, state, and corporate. And the size of these beneficiaries has ranged from a schoolhouse with 11 pupils<sup>3</sup> to a large, multinational, publicly-traded corporation.<sup>4</sup>

Last month, the Denali Commission was 10 years old. Congress' experiment with Denali might be considered the last chapter in the settlement of the American West — since issues such as rural electrification were largely addressed a half-century ago in the rest of the nation.

### CHALLENGES EMERGING FROM DENALI'S DECADE

Over Denali's lifespan of only a decade, Congress has given the little agency both funding (around \$1 billion) and flexibility (freedom to innovate compared to the traditional federal bureaucracy). From the inspector general's perspective, Denali's challenges at this point fall into the following five categories.

#### 1. Transitions from Diesel Dependency

The national struggle with escalating fuel prices is exacerbated in bush Alaska, where many remote settlements still depend upon diesel fuel for basic heating and electricity. In contrast, no state would seem more blessed with the natural resources to solve its own energy problems. Beyond the well-known oil fields, it's all here: natural gas, coal, rivers, waterfalls, volcanoes, timber, dramatic tides, hot springs, howling winds, and long hours of summer daylight.

Our past inspection reports have criticized the Denali Commission for perpetuating the paradigm of diesel dependency in its project selections (a past emphasis on replacing fuel tanks and diesel generators).<sup>5</sup> And a chronically uncomfortable call for Denali is the size of settlement that warrants public support for such diesel-based facilities.<sup>6</sup> Users must be able to afford the fuel and maintenance after Denali gives them the keys.

The Denali Commission continues to self-examine its role in preserving rural settlements — whether from the forces of nature, the realities of the world economy, or simply people's choice to live elsewhere ("out-migration"). While national lore may abstractly decry construction to "nowhere," the choices are very real, and very serious, for rural families that must go without what most of America takes for granted.

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<sup>2</sup> Both secular and faith-based.

<sup>3</sup> See our report for Red Devil, Alaska at the inspector general home page at [www.denali.gov](http://www.denali.gov).

<sup>4</sup> See our report for the Agrium corporation's project (Nikiski, Alaska) at the inspector general home page at [www.denali.gov](http://www.denali.gov).

<sup>5</sup> See our report for Sterling Landing at the inspector general home page at [www.denali.gov](http://www.denali.gov).

<sup>6</sup> Examples of small settlements with Denali-funded energy facilities are Tenakee Springs (est. pop. 98), Chuathbaluk (est. pop. 95), Sleetmute (est. pop. 92), Atka (est. pop. 90), Hughes (est. pop. 69), Stevens Village (est. pop. 68), Clark's Point (est. pop. 65), Stony River (est. pop. 42), Alatna (est. pop. 41), Takotna (est. pop. 50), Red Devil (est. pop. 36), Nikolski (est. pop. 31), and Lime Village (est. pop. 28).

Under new leadership in the last several years, Denali has made significant progress in challenging Alaska's past rural paradigm of diesel dependency. With the exception of controversial nuclear energy,<sup>7</sup> Denali has tried all the alternatives for small communities somewhere in Alaska. The agency's repertoire of projects so far has included wind turbines, geothermal, run-of-the-river hydro, waste heat recovery, diesel efficiency, natural gas, tidal, interties, in-river turbines, underwater cable, coal gasification,<sup>8</sup> and steam from a wood boiler. (Denali's online public database<sup>9</sup> shows over 180 projects categorized as "Other Energy.")

One rural Alaskan community (Galena, pop.  $\approx$  600) has received national attention for its efforts to obtain a small "nuclear battery."<sup>10</sup> And there appear to be other remote places around the state that would welcome a demonstration project of this technology.

Though rural communities vary greatly in their positions on this option, the head of the Denali Commission has invited them to approach the agency with any proposals. However, the existing system for licensing nuclear power presumes the construction of massive plants. Congress will need to implement a new process if it wants Denali to take the lead in demonstration projects of this potential northern solution.

Even within Denali's existing energy projects, there's a controversial issue that it has limited ability to resolve without congressional assistance. While Denali funds the construction of new generators and tank farms around the state, the agency doesn't try to remove their rusting predecessors — or remediate the soil they've contaminated over the decades ("brownfields"). Communities periodically voice this disappointed expectation to Denali's management. The state's environmental regulator also voiced it to us as a general concern during one of our recent inspection projects. While this regulator can review a site's history with Denali's staff, this is not a step in the current process for screening grant applications.

We have previously written about an opportunity in waiting that sometimes accompanies the state's brownfields.<sup>11</sup> The military is the state's largest employer, which includes the remediation of hundreds of formerly used defense sites around Alaska (the FUDS). Cleanups can involve restorative compensation to damaged communities, as well as the basic cleanup itself. Denali's staff should remember this possibility of partnering with the military when screening grant applications.

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<sup>7</sup> The federal government's first environmental impact statement arguably surfaced during a public controversy over a nuclear project in bush Alaska a half-century ago. See William Hedman and Charles Deters, *The Legacy of Project Chariot* (Bureau of Indian Affairs, ca. 2005), page 11, and Dan O'Neill, *The Firecracker Boys* (Basic Books, 2007), page 293.

<sup>8</sup> See our recent September 2008 inspection report for the Agrium corporation's project (Nikiski, Alaska) at the inspector general home page at [www.denali.gov](http://www.denali.gov).

<sup>9</sup> See [www.denali.gov](http://www.denali.gov).

<sup>10</sup> See "10 Audacious Ideas to Save the Planet," *Popular Science*, July 2008, pages 42-43, and Gwyneth Cravens, *Power to Save the World: The Truth About Nuclear Energy* (Knopf 2007), page 363.

<sup>11</sup> See our inspection report for Sterling Landing at the inspector general home page at [www.denali.gov](http://www.denali.gov).

## 2. Remote Health Care Delivery

Denali's enabling act<sup>12</sup> directs it to do the following:

*Demonstration Health Projects — In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health and Human Services is authorized to make grants to the Denali Commission to plan, construct, and equip demonstration health, nutrition, and child care projects, including hospitals, health care clinics, and mental health facilities (including drug and alcohol treatment centers) in accordance with the Work Plan . . .*

To accomplish this, Denali will consider building a clinic in any settlement with at least 50 people. This is an idealistic aspiration considering that around half of Alaska's rural settlements have less than 350 people.

Several parameters seem to control the ability of clinics in such small places to provide the types of medical treatment that the Lower 48 would consider "normal:"

- Staffing by non-physician health professionals who are authorized to act under the general supervision of a distant physician.
- Periodic visits by physicians and dentists ("itinerant" services).
- Consultations with distant physicians via "telehealth" diagnostic equipment.
- Staffing by a financial manager who can supplement the basic Indian Health Service operating grant with other funding, such as Medicaid and Medicare reimbursement, federal grants for low-income clinics, and the traditional billing of private insurance companies.
- Economies of scale by sharing overhead, such as billing services or office space.

Problems in all five of these areas contributed to the failure of a clinic that was the subject of our recent inspection report.<sup>13</sup> Denali provided \$1 million to construct a clinic at a tiny, unincorporated settlement at the very end of Alaska's paved road system. This settlement has a permanent resident population of only around 100 people, but Denali funded the clinic on the assumption of billing summer tourists.

Denali presumed a 30-year lifespan for the clinic when the grant was awarded. However, the owner-tribe temporarily closed the clinic last spring after less than three years of use. While the clinic is open again, services are very reduced and unlikely to increase given the lack of capacity that the small tribe has to operate a public clinic on its own.

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<sup>12</sup> Denali Commission Act § 307(c).

<sup>13</sup> See our October 2008 inspection report for the clinic at Chitina, Alaska at the inspector general home page at [www.denali.gov](http://www.denali.gov).

In the inspected project, Denali explored the outer limits of the envelope as to what a small tribe could do on its own in an isolated place where winters can reach  $-50^{\circ}$  F. Often these experiments work; sometimes they don't. In the latter, the key is to candidly advance the public understanding of what went wrong.

Over the past several years, Denali has increased the technical sophistication with which it screens grant requests for small clinics. Under this improved process, failures like the inspected clinic should be rare. Operation under the supportive umbrella of a regional health corporation will probably be the norm. Also, Denali's FY 2009 work plan indicates the agency's intent to initiate a \$250,000 grant program that will address the difficult issues of recruiting and retaining the medical staff for small clinics.

However, one possibility for isolated clinics might be their use as medical school field stations. We recommended that Denali contact medical schools that focus on public health and explore the potential assignment of students serving rotations, residencies, and fellowships. Any doctors-in-training who appreciate mountain climbing, fishing, skiing, and flying may find this a more than tolerable way to serve their professional rites of passage.

Another "bush" possibility may be the direct operation of clinics within the local school, a symbiotic arrangement for all concerned. The school district's business office can profit from additional federal funding and the processing of insurance billings. The school is the one place in the community with the most reliable utilities (including electricity, Internet, and running water). The same housing used to recruit rural teachers can entice the skilled paraprofessionals and itinerant doctors that are critical to clinic success. No target population is more important for health care than the next generation (and the parents raising it). Both the popular educational video-conferencing network and the telehealth diagnostic system are funded through the same national excise tax on phone bills. And, last but not least, physical inclusion within a local school is the best insurance of some well-maintained, continuing public use if Denali's hope for three decades of use as a clinic turns out to be overly optimistic.

Examples of other tiny settlements that have received Denali grants to construct clinics are Sleetmute (est. pop. 92), Egegik (est. pop. 81), Twin Hills (est. pop. 71), Clark's Point (est. pop. 65), Stevens Village (est. pop. 68), Beaver (est. pop. 64), and Alatna (est. pop. 41).

Despite the small population served by such clinics, diagnostic code data is commonly collected by the regional health corporations in the ordinary course of treating patients. Analysis of this data for a sample of small clinics could reveal whether this form of service delivery results in better care and better health.<sup>14</sup> The Denali Commission has so far, though, declined to attempt any such analysis of diagnostic and treatment data.

As Denali builds away, it would be invaluable to know whether all this "infrastructure" is making rural Alaskans any freer of past physical scourges and modern behavioral ones. The third world conditions of the "other Alaska" are still out there in the land beyond the tourism commercials.

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<sup>14</sup> In FY 2006, a condition that caused OMB to rate the commission as merely "adequate" in the publicly-reported PART evaluation was that it "lacks adequate evaluations that assess program impact."

A further concern is the application of “telehealth” technology in Denali’s small clinics. The basic theory is that a local paraprofessional will examine a patient using a kiosk of sensors and imaging devices that enable diagnosis by a distant physician. This equipment is found in over 200 of Alaska’s bush clinics, and it’s a key component in Denali’s basic paradigm for their construction.

Rural telehealth networks are subsidized out of a national excise tax on phone bills. And no state gets subsidized more than Alaska for this purpose. The FCC’s monitoring report shows that 58% of the entire nation’s \$34.4 million subsidy went to Alaskan providers, with Alaska’s average subsidy of \$54 per rural person dwarfing the next-highest of less than \$2 per person in North Dakota.<sup>15</sup>

Alaska’s appetite for telehealth is not surprising given both the lack of rural doctors and the lack of rural roads compared to most of America. A study by the University of Alaska shows, overall, lots of provider use and lots of provider satisfaction with the telehealth system.<sup>16</sup>

However, we’ve encountered anecdotes of small clinics that simply don’t use the provided equipment. Our recent report on the clinic at Chitina (pop. ≈ 100) shows a lack of telehealth use, despite an annual federal (but non-Denali) payment of around \$200,000 for this clinic to access the network.<sup>17</sup> Our prior report on tiny, unincorporated Takotna (pop. ≈ 50) noted the same problem.<sup>18</sup> And the agency head himself recently noted the lack of use at Huslia (pop. ≈ 250).

At first glance, these anecdotes may suggest a need for Denali to revisit its planning that presumes a telehealth capability in every clinic. But telehealth remains a promising technological answer for remote health care. Nonuse at tiny clinics may be symptomatic of the recurring need to emphasize the sustainability of local skills as much as the sustainability of local buildings. The issue should be further studied in view of the major changes in Internet technology.

### 3. Role of the State Government in Denali’s Work

The Denali Commission is one of seven congressional experiments<sup>19</sup> with the federal-state hybrid entities known as “regional commissions.” State governments function as “partners” in these collaborations and have considerable influence over what these commissions do.

The State of Alaska participates in Denali’s work in significant ways. State officials spend many hours meeting with Denali each year. In fact, under the enabling act, the state’s governor serves as the ex-officio “state co-chair” of the Denali Commission, and at the governor’s request

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<sup>15</sup> Federal Communications Commission, *Universal Service Monitoring Report*, docket no. 98-202 (2007), page 5-14, Table 5.4.

<sup>16</sup> University of Alaska, *Evolution & Summative Evaluation of the Alaska Federal Health Care Access Network Telemedicine Project* (November 2004).

<sup>17</sup> See our October 2008 inspection report for the clinic at Chitina, Alaska at the inspector general home page at [www.denali.gov](http://www.denali.gov).

<sup>18</sup> See our report for Takotna, Alaska at the inspector general home page at [www.denali.gov](http://www.denali.gov).

<sup>19</sup> Appalachian Regional Commission, Denali Commission, Delta Regional Authority, Northern Great Plains Regional Authority, and three newborns in the latest Farm Bill (P.L. 110-246, sec. 14217).

the state OMB director has been appointed by the U.S. Secretary of Commerce to physically substitute for the governor as this commissioner. The enabling act also designates the state university president as one of the other commissioners. They thus act as advisors to the agency head (the “federal co-chair”) in his adoption of the annual Denali “work plan” mandated by statute.

The head of the Denali Commission and state OMB director together convene an important (and apparently unique) forum in which federal and state officials periodically coordinate their projects and lessons from around the state. And Denali’s enabling act<sup>20</sup> places its transportation program (100+ projects) under a specialized board that includes eight experts appointed by the state’s governor as well as Denali’s agency head.

And the state government has long detailed its technical specialists to Denali, both full-time and in temporary service on the numerous committees that Denali uses to select projects and craft other solutions (to “coordinate” as the “great convener” in the words of the agency head). The state could potentially negotiate reimbursement for these details under the Intergovernmental Personnel Act, but it has not done so.

Just as importantly, various state agencies formally function by agreement as Denali’s “program partners” and physically implement much of the work that Denali decides to do around Alaska. The execution of Denali’s projects throughout Alaska is clearly a joint state and federal effort in this respect.

But Denali’s federal funding isn’t directly leveraged with state money to the degree found at other major regional commissions.<sup>21</sup> The State of Alaska counters that it has during 2005-2008 invested \$2 billion in the same generic policy areas as Denali (health, energy, etc.), but this is still different than a “hard match” of state cash directed to specific Denali projects.

In fairness to Denali and the state, there are some significant exceptions. The state has partnered with Denali by providing sizeable state grants and loans toward 200+ units of housing that enable remote school districts to recruit teachers for difficult assignments. The state has also contributed \$300,000 toward Denali’s “pre-development” program that screens funding applications and balances community wish-lists with the realistic local capacity to sustain a facility over the long term.

Nevertheless, the handwriting is on the wall that the future of the Denali Commission lies in an increasing financial partnership with the State of Alaska. As discretionary congressional spending continues to contract, the state with the biggest savings account — and the most limited taxes on its citizens — will need to increasingly support the only regional commission that serves a single state. If this is Congress’ intent, it should further specify the expected financial hard-match by non-federal sources in the appropriations for Denali’s work.

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<sup>20</sup> Denali Commission Act § 309.

<sup>21</sup> Appalachian Regional Commission and Delta Regional Authority.



#### 4. Meaningful Role of Advisory Commissioners

Another issue needing Congress' attention is the evolving use of Denali's statutory "blue-ribbon" panel of ex-officio advisory commissioners.

Though named the Denali *Commission*, the agency is not actually headed by a multiperson body. Rather, the enabling act places it under the sole control of an agency head, known as the "federal co-chair," who is appointed to four-year terms by the Secretary of Commerce.<sup>22</sup>

The enabling act does indeed establish a seven-member panel of "commissioners,"<sup>23</sup> which is composed of the agency head, five ex-officio statewide leaders from key organizations,<sup>24</sup> and the state's governor. The membership of this board reflects the agency's structure as an experimental collaboration of players from the federal, state, and nonprofit sectors. However, this panel of commissioners does not function as an oversight board that supervises the agency head. The latter has usually accorded great deference to the panel's recommendations over the past decade, but the group is still only an advisory board in practice. And only the federal co-chair has the legal authority to sign grant agreements.<sup>25</sup>

Despite the limited role of Denali's multiperson body, this inspector general has repeatedly noted that Denali's most untapped resource is the commissioners themselves. They're no ordinary advisory board. In the enabling act, Congress has assembled the most esteemed "dream team" of statewide experts since the drafting of the Alaska Constitution a half-century ago.

However, the enabling act's combination of a FACA exemption<sup>26</sup> and little statutory guidance has left commissioners in an uncomfortable state of ethical limbo. On one hand, the statute names them as ex-officio commissioners due to their home organizations' presumed insights into Denali's subject matter around the state. On the other hand, the strict federal conflict-of-interest rules disfavor serving two masters on boards designed to govern by consensus.<sup>27</sup>

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<sup>22</sup> Denali Commission Act § 303(b)(2).

<sup>23</sup> With the exception of the agency head, the "commissioners" serve on a very intermittent, part-time basis and are physically present at Denali's office only when needed for meetings.

<sup>24</sup> The respective CEOs of the Alaska Federation of Natives, the Alaska AFL-CIO, the Associated General Contractors of Alaska, the Alaska Municipal League, and the University of Alaska.

<sup>25</sup> Denali Commission Act § 305(d).

<sup>26</sup> Denali Commission Act § 308 states that "[t]he Federal Advisory Committee Act shall not apply to the Commission."

<sup>27</sup> To protect all concerned and at the commissioners' request, the federal co-chair and inspector general jointly asked the Department of Justice (DOJ) in 2006 for clarification of the ethics regulations applicable to the commissioners. DOJ advised that, in the absence of further congressional guidance, they are "special government employees" subject to the federal rules against conflicts of interest.

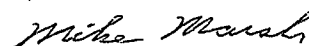
But the panel has no formal authority to govern and, with one exception,<sup>28</sup> its purpose is not to reach a consensus. Rather, ten years of experience shows that the commissioners' most valuable contribution is to unabashedly weigh in with the diverse, distinctive, and often conflicting *individual* perspectives of the organizations that send them. Congress should thus encourage this unfettered public input by mirroring the treatment of all six other regional commissions and clarifying that Denali's commissioners are simply not federal employees. (For instance, the Appalachian Regional Commission's enabling act says that its commissioners "*are not federal employees for any purpose . . .*"<sup>29</sup>) Since this is a matter of what these advisory commissioners do at their meetings, this clarification would seem to be appropriately implemented through an amendment to the open meetings law that Congress adopted for the Denali Commission in 2005 at 42 U.S.C. § 15911(c).<sup>30</sup>

##### 5. Perpetuation of a Decade of Northern "Lessons Learned"

Over the past decade, Congress has given Denali around \$1 billion to serve as a national experimental field station that explores different possibilities for solving the problems of rural Alaska. Often the experiments worked; sometimes they didn't.

But the articulation of lessons-learned is as much a part of this northern proving ground as breakthroughs and successes. While the inspector general isn't here to be Denali's "cheerleader," we recognize that Denali has very much been a "learning organization." And it has at public expense acquired a wealth of experience that should be perpetuated as technical knowledge available to the Lower 48 and other northern nations in solving their own problems.

Documentation at the University of Alaska seems the optimal way to perpetuate all the breakthroughs and blind alleys in solving northern problems. The failure to capture this decade of lessons would be reminiscent of the popular film in which the priceless relic from a heroic quest ends up as simply crated inventory in a government warehouse.



MIKE MARSH, CPA, MPA, CFE, ESQ.  
INSPECTOR GENERAL

<sup>28</sup> Substantively, the enabling act — literally read — only specifies that the commissioners as a group will recommend an annual "*proposed work plan for Alaska*," with projects and funding priorities, to the federal co-chair, who acts on behalf of the Secretary of Commerce. The statute directs the federal co-chair to either accept the work plan or return it to the panel for revision. See Denali Commission Act § 304.

<sup>29</sup> See 40 U.S.C. § 14301(f). The Delta Regional Authority has a similar provision at 7 U.S.C. § 2099aa-1(h)(5)(c). And the Northern Great Plains Regional Authority has a similar provision at 7 U.S.C. § 2099bb-1(h)(5)(c). The three new Farm Bill regional commissions also have a similar provision at 40 U.S.C. § 15301(e). All of these regional commission statutes have their own specific conflict of interest provisions for non-federal participants.

<sup>30</sup> Though not an amendment to the Denali Commission Act, the agency's open meetings statute is codified as a permanent part of the United States Code at 42 U.S.C. § 15911(c). There is no legislative history available concerning Congress' decision to enact this provision for the Denali Commission.