

27-LS0334\B

Bullock

3/11/11

CS FOR HOUSE BILL NO. 89()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-SEVENTH LEGISLATURE - FIRST SESSION****BY****Offered:****Referred:****Sponsor(s): REPRESENTATIVE SEATON****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to the disposal of certain bedload material in conjunction with a flood**
2 **mitigation plan."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 38.05.872 is amended by adding new subsections to read:

5 (b) The commissioner may offer for disposal bedload material from an area
6 subject to a site-specific flood mitigation plan approved by the commissioner under
7 the terms in (c) of this section after making a finding that

8 (1) removal of the bedload gravel will offset future costs to the state
9 that are attributable to flood damage;

10 (2) the sale of the bedload gravel under (b) - (d) of this section at a cost
11 that may be below fair market value is in the best interests of the state; and

12 (3) removal of the bedload gravel will enhance the effectiveness of the
13 flood mitigation plan in preventing a flood or minimizing flood damage.

14 (c) A person, other than the state or federal government or a political

1 subdivision of the state, acquiring bedload material under a disposal authorized by the
2 commissioner under this section shall comply with the terms and conditions
3 established by the commissioner and pay to the department a royalty of not less than
4 12.5 percent of pretax profit calculated by subtracting from the value of the bedload
5 material the actual direct costs of extricating, loading, and transporting the material to
6 market, if applicable. The commissioner may adopt regulations that identify the
7 method and means for determining the value of the bedload material and the costs that
8 may be deducted for the purpose of calculating the amount to be paid to the state. In
9 this subsection, "value" means the sales price of the material in a bona fide arm's-
10 length transaction between unaffiliated parties or the sales price of the material had the
11 material been sold in a bona fide arm's-length transaction between unaffiliated parties.

12 (d) In this section, "bedload material" means gravel, rock, and other material
13 located below the plane of the ordinary high water mark or the mean high water mark
14 of a river, lake, stream, or other coastal water.

15 * **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to
16 read:

17 REVISOR'S INSTRUCTION. The revisor of statutes shall change the catch line of
18 AS 38.05.872 from "Disposition of state land for flood control projects" to "Disposition of
19 state land and material for flood mitigation."