

## Politics

# The Alaska Legislature is considering a bill to assert state control over Alaska's submerged lands

KYUK | By [Olivia Ebertz](#)

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*Alaska Department Of Fish And Game*

The Alaska Legislature is considering a bill from Gov. Mike Dunleavy that would assert more state control over Alaska's federal lands and waterways. If passed, it would pave the way for less federal regulation and oversight, and it would give the state more

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control over resource extraction. The goal of the bill is for the state to claim all of Alaska's submerged lands, which refer to waterways and the lands underneath them.

The bill lists nearly 2,000 bodies of water in Alaska that the state says that it owns the submerged lands to. It also says it owns the lands to bodies of water it may have forgotten to list. The list includes the entire Yukon River, and every part of the Kuskokwim River that winds through federal land.

The bill says that the state owns all of the land underneath these waterways, and all the bodies of water on this list are on federal land. About 60% of Alaska is federal land, which includes almost all of the Yukon-Kuskokwim Delta.

These are what the state has determined are "navigable waters." To understand this term and the bill, you need to know the history of a U.S. Supreme Court decision called *Sturgeon v. Frost*.

In the *Sturgeon v. Frost* decision, the Supreme Court granted Alaska control over all of the navigable waters in the state, even ones in federal lands. Navigable waters, in legalese, refers to bodies of water that you could navigate with a boat when statehood was granted.

The state says that with this bill, the federal government would have to litigate each of these bodies of water if it wants to regain control of them.

But here's the catch. A lawyer on the winning side of the *Sturgeon v. Frost* decision, Doug Pope, said that actually, the state isn't allowed to decide whether these bodies of water are navigable. He said that even though the state won control over the navigable waterways in *Sturgeon v. Frost*, it still needs to go through a process with the Federal government to figure out if the body of water was indeed navigable at statehood.

"Whether a body of water is navigable or not is a question of federal law. It's not a question of state law. It's a case by case determination, as it should be," said Pope.

It's an expensive and long process to determine whether something is navigable. But with this list, the state government is attempting to bypass that process.

Why does the State want to own the navigable waters and submerged lands anyway? One reason is that it wants to bypass federal permitting processes. Right now, the state has to apply for permits to conduct business in federally managed waters. Some of those include permits for mining, burying lines like fiber optic cables, building docks, and erosion control. There's a long list. The state says that with this bill, the federal government would now have to apply for permits with them.

The state says that it also wants to "clarify" its dominion over state fisheries conservation and regulation. In the Yukon-Kuskokwim Delta, the federal government has managed the Lower Kuskokwim Chinook fishery since 2014. On the Yukon River,

some residents have asked the federal government to manage its Chinook and chum fishery after a devastating chum salmon crash last year.

State jurisdiction over these waterways could minimize Tribal influence over fisheries. The federal government has co-managed the lower Kuskokwim fishery with Tribes. The State does not co-manage fisheries with Tribes, nor does it recognize them, but the federal government does.

Republican Sen. Josh Revak chairs the senate resource committee. He intends to [move the bill](#) to the Senate floor during the committee hearing on April 27. He says that Alaska is owed these lands.

“It’s a states’ rights issue,” said Revak.

But Pope, the lawyer who defended Sturgeon, said that the Legislature has more important things to deal with. The legislative session ends on May 18, and it still has to pass a budget.

The submerged lands bill is part of a [broader effort](#) by the Dunleavy Administration to take over control of federal land and waterways. If passed, this bill would open more of the state up to resource extraction, less regulation, and less federal oversight.

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