

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

May 8, 2023

2:02 p.m.

MEMBERS PRESENT

Representative McKay, Chair
Representative Rauscher, Vice Chair
Representative McCabe
Representative Patkotak
Representative Saddler
Representative Wright
Representative Armstrong
Representative Mears
Representative Dibert

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 92(2D RES)

"An Act relating to state ownership of submerged land underlying navigable water within the boundaries of federal areas; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 92

SHORT TITLE: STATE OWNERSHIP OF SUBMERGED LAND

SPONSOR(S): SENATOR(S) GIESSEL BY REQUEST

03/08/23	(S)	READ THE FIRST TIME - REFERRALS
03/08/23	(S)	RES
03/29/23	(S)	RES AT 3:30 PM BUTROVICH 205
03/29/23	(S)	Heard & Held
03/29/23	(S)	MINUTE(RES)
04/12/23	(S)	RES AT 3:30 PM BUTROVICH 205
04/12/23	(S)	Heard & Held
04/12/23	(S)	MINUTE(RES)
04/14/23	(S)	RES AT 3:30 PM BUTROVICH 205
04/14/23	(S)	<Bill Hearing Canceled>
04/17/23	(S)	RES AT 3:30 PM BUTROVICH 205

04/17/23 (S) Moved CSSB 92(RES) Out of Committee
 04/17/23 (S) MINUTE(RES)
 04/19/23 (S) RES RPT CS 5DP 1AM SAME TITLE
 04/19/23 (S) DP: GIESSEL, BISHOP, CLAMAN, DUNBAR,
 KAUFMAN
 04/19/23 (S) AM: KAWASAKI
 04/21/23 (S) RETURNED TO RES COMMITTEE UC
 04/21/23 (H) RES AT 1:00 PM BARNES 124
 04/21/23 (H) Scheduled but Not Heard
 04/24/23 (S) RES AT 3:30 PM BUTROVICH 205
 04/24/23 (S) Moved CSSB 92(2d RES) Out of Committee
 04/24/23 (S) MINUTE(RES)
 04/25/23 (S) RES RPT CS(2D RES) 3DP 1NR 1AM NEW
 TITLE
 04/25/23 (S) DP: GIESSEL, BISHOP, DUNBAR
 04/25/23 (S) NR: WIELECHOWSKI
 04/25/23 (S) AM: KAWASAKI
 05/01/23 (S) TRANSMITTED TO (H)
 05/01/23 (S) VERSION: CSSB 92(2D RES)
 05/03/23 (H) READ THE FIRST TIME - REFERRALS
 05/03/23 (H) RES
 05/05/23 (H) RES AT 1:00 PM BARNES 124
 05/05/23 (H) -- MEETING CANCELED --
 05/08/23 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

JIM WALKER, Section Chief
 Public Access Assertion and Defense
 Division of Mining Land and Water
 Department of Natural Resources
 Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSSB 92(2d RES).

RON OPSAHL, Assistant Attorney General
 Natural Resources Section
 Civil Division (Anchorage)
 Department of Law
 Anchorage, Alaska

POSITION STATEMENT: Answered questions about the law of trespass during the hearing on CSSB 92(2d RES).

ACTION NARRATIVE

[2:02:30 PM](#)

CHAIR TOM MCKAY called the House Resources Standing Committee meeting to order at 2:02 p.m. Representatives Mears, Armstrong, Dibert, Saddler, Wright, Patkotak, McCabe, Rauscher, and McKay were present at the call to order.

SB 92-STATE OWNERSHIP OF SUBMERGED LAND

[2:03:29 PM](#)

CHAIR MCKAY announced that the only order of business would be CS FOR SENATE BILL NO. 92(2d RES), "An Act relating to state ownership of submerged land underlying navigable water within the boundaries of federal areas; and providing for an effective date."

CHAIR MCKAY noted that the companion bill has been given careful consideration in the House Resources Standing Committee. He called attention to a letter dated May 5, 2023, [included in the committee packet] from the Department of Natural Resources responding to questions posed by his office.

[2:04:54 PM](#)

JIM WALKER, Section Chief, Public Access Assertion and Defense Section Chief, Division of Mining Land and Water, Department of Natural Resources (DNR), acknowledged the presence of his colleague, Tisha Valentine.

[2:05:48 PM](#)

CHAIR MCKAY asked if the proposed legislation would have any impact on the state's land entitlement.

MR. WALKER responded that the proposed bill would only deal with state owned submerged lands within federal areas, not private or unconveyed Native land. He asserted that it would not have an impact on the state's land entitlement.

CHAIR MCKAY asked if Native lands would be exempt.

MR. WALKER affirmed that all Native lands would be exempt, including lands that have not been conveyed.

[2:09:34 PM](#)

CHAIR MCKAY asked how current law would apply if someone used the designated rivers in the proposed legislation to trespass on private lands.

[2:10:15 PM](#)

RON OPSAHL, Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), Department of Law (DOL), in response, stated that the law of trespass would not be changed by this bill. He confirmed that CSSB 92(2d RES) is drafted for federal lands. In response to a follow-up question concerning someone taking resources from private lands while trespassing, he repeated that trespass laws would not be changed.

[2:11:46 PM](#)

CHAIR MCKAY noted the absence of representation from the Board of Game and the Big Game Commercial Services Board. He mentioned that there are written responses available in the aforementioned letter.

[2:12:11 PM](#)

REPRESENTATIVE MEARS pointed out the listing of the waters in the proposed legislation. On behalf of her constituents, she questioned whether it would be difficult to go through the legislative process for any updates to the listing.

MR. WALKER informed the committee that the proposed legislation would require yearly reporting to the legislature. Currently, the list includes areas within the bounds of the National Park Service, the U.S. Forest Service, and the National Wildlife Refuge System. He stated that there would be ongoing quality assurance and quality control of the list of navigable waters moving forward. He asserted that with improved ariel imagery and technology, the process would become easier as DNR moves on to areas within the Bureau of Land Management and the U.S. Fish and Wildlife Service. He explained that following proceedings with federal government litigation concerning certain rivers, there will be updates to the list. He commented that the burden on DNR to provide yearly updates to the legislature is minimal compared with the photographic analysis, review of historical information, and maintaining user accounts.

REPRESENTATIVE MEARS mentioned the necessity to revisit these topics annually and asked if it would be possible, after a few

years, to create a more streamlined process that does not need to go through the legislature.

MR. WALKER concurred with this approach to managing navigable waters.

[2:17:23 PM](#)

MR. WALKER, in response to a question from Chair McKay, explained that the proposed legislation would create correspondence with the federal government to bring about closure concerning issues of land management and jurisdiction. He further explained that it would accelerate the process of determining "who owns what in these federal areas."

[2:19:56 PM](#)

REPRESENTATIVE DIBERT asked why Mendenhall River and Mendenhall Lake were previously removed from the list.

MR. WALKER responded that Mendenhall River and Mendenhall Lake have been removed because of active litigation. In response to a follow-up question, he stated that there are several court cases statewide relating to navigable waters, but they do not have the same level of usage as Mendenhall Lake, and this is because of the lake's proximity to a population center.

[2:23:13 PM](#)

CHAIR MCKAY announced that SB 92 was held over.

[2:23:55 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at [2:24] p.m.