

Original sponsor: Rules Committee by request  
of the Governor

Offered: 4/14/77  
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 176

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the reservation of water; and  
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 46.15.030 is amended to read:

10 Sec. 46.15.030. WATERS RESERVED TO THE PEOPLE. Wherever occurring  
11 in a natural state, the waters are reserved to the people for common use  
12 and are subject to appropriation and beneficial use and to reservation  
13 of instream flows and levels of water, as provided in this chapter.

14 \* Sec. 2. AS 46.15.090 is amended to read:

15 Sec. 46.15.090. PREFERENCE IN GRANTING PERMITS. When there are  
16 competing applications for water from the same source, and the source is  
17 insufficient to supply all applicants, the commissioner shall give  
18 preference first to public water supply, then to reservations of in-  
19 stream flows or levels of water as provided in sec. 145 of this chapter,  
20 and then to the use which alone or in combination with other foreseeable  
21 uses will constitute the most beneficial use.

22 \* Sec. 3. AS 46.15 is amended by adding a new section to read:

23 Sec. 46.15.145. RESERVATION OF WATER. (a) The state or any  
24 political subdivision or agency of the state may apply to the commis-  
25 sioner to reserve sufficient water to maintain a specified instream flow  
26 or level of water at a specified point on a stream or body of water, or  
27 in a specified stretch of stream, throughout the year or for specified  
28 times of the year, for protection of fish and wildlife habitat, migra-  
29 tion and propagation, for recreation and park purposes, and for sanitary

1 and water quality purposes.

2 (b) Upon receiving an application, the commissioner shall proceed  
3 in accordance with sec. 70 of this chapter.

4 (c) The commissioner shall issue a certificate reserving the water  
5 requested if he finds

6 (1) that the rights of prior appropriators will not be  
7 affected by the reservation;

8 (2) that a need exists for the reservation;

9 (3) that there is unappropriated water in the source suffi-  
10 cient for the reservation; and

11 (4) that the proposed reservation is in the public interest.

12 (d) After the issuance of a certificate of reservation, the  
13 specified water shall be withdrawn from appropriation and the commis-  
14 sioner shall reject an application for a permit to appropriate the  
15 reserved water, except for public water supply.

16 (e) A reservation under this section does not affect any rights in  
17 existence when the certificate reserving water is issued.

18 \* Sec. 4. AS 46.15.260(1) is amended to read:

19 (1) "appropriate" means to divert, impound, or withdraw a  
20 quantity of water from a source of water, or, in the case of a public  
21 agency, to reserve water in accordance with sec. 145 of this chapter,  
22 for a beneficial use;

23 \* Sec. 5. AS 46.15.260(2) is amended to read:

24 (2) "appropriation" means the diversion, impounding or  
25 withdrawal of a quantity of water from a source of water, or, in the  
26 case of a public agency, the reservation of water in accordance with  
27 sec. 145 of this chapter, for a beneficial use;

28 \* Sec. 6. AS 46.15.260(3) is amended to read:

29 (3) "beneficial use" means a use of water for the benefit of

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the appropriator, other persons or the public, that is reasonable and consistent with the public interest, including, but not limited to, domestic, agricultural, irrigation, industrial, manufacturing, fish and shellfish processing, mining, power, public, sanitary, fish and wildlife, [AND] recreational uses, and maintenance of water quality;

\* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-070(c).