

HB

169

MAR. 30, 1975

CHM. ANDERSON

File 169

AND MEMBERS OF THE RESOURCES
COMITTEE :

Please be advised that as a
water and interested citizen I
wholly advocate the following
Bills :

HB No. 109 - Relating to land
Use planning in Alaska

SB No. 175 - Providing for a
Coastal Zone Management plan.

Also be advised that representatives
who advocates the proposed wolf
extermination in unit 20A will
be conservation's public enemy no.
1. next election.

Respectfully,

Richard Seifert
College, Alaska

BRISTOL BAY NATIVE CORPORATION

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March 26, 1975

Honorable Nels A. Anderson, Jr.
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99801

Re: HB 169--Land Use Planning Commission

Dear Nels:

From the Native and Regional point of view, HB 169 should be buried--deep. Never mind the avowed purposes of the bill--Section 46.28.130--they include everything conceivable, and half of them are inconsistent with the other half. The real thrust of this legislation is to give the administration in Juneau full control and power over any and all future development in the State of Alaska.

One may like the present administration, but even so this is too much power to place in their hands. And one hates to think what some other administrations might do or might have done with such power.

Turning first to the definitions at Section 46.28.950, it seems that the "areas of critical environmental concern" could easily end up including every acre of land in the State, whether publicly or privately owned. "Development" means any land or water use whatsoever; and "development of more than local impact" could have a meaning just as broad. "Uses of regional benefit" could easily translate to "government installation." In fact, most all of these definitions are broad enough to mean whatever the proposed Commission might want it to mean.

Going through the Act section by section:

Section 46.28.020. The Council that will develop a land and water use plan consists only of gubernatorial appointees. The chairman of the Council is not even subject to legislative confirmation. Such a Council, in view of the great power it will exercise, seems to me too insulated from the public.

Honorable Nels A. Anderson, Jr.
March 26, 1975
Page 2

Section 46.28.070. The Council has powers of eminent domain. This power to seize private lands does not seem legitimate for a planning body. Similarly, subsection (7) purports to authorize the Council to "take any action it considers necessary" to carry out its functions. Obviously, the purported grant of power would be limited by the Constitution of the United States and the Constitution of Alaska; even so, it is bad policy even to try to give a governmental entity such blanket powers.

Section 46.28.120. This section would produce a headon conflict with the Hammond Administration's proposed Coastal Zone Management Plan.

Section 46.28.130. As previously mentioned, the purposes expressed in this section are all-encompassing.

Section 46.28.210-290. Once the Council has developed a Plan, the Commission will administer it. The composition and powers of the Commission are subject to the same criticisms directed at the Council.

Section 46.28.300-305. This is the heart of the proposed legislation. The permit requirement, in view of the definitions and the power of exemption, simply gives the Commission total, unbounded, arbitrary control over all development and all land use within the State. It may be that the Council through its Plan or the Commission through self-restraint will choose to limit the power, but it is very dangerous to count on it. It should not be necessary to do so.

Section 46.28.380. Under this section, the Commission could actually impose an unwanted development upon a local community.

Section 48.28.900-910. Calling a one-hundred-thousand dollar fine a "civil penalty" does not make it one. Such a fine is an extraordinarily stiff, probably unconstitutional penalty for an inadvertent violation of such an all-pervasive regulatory scheme. Even the penalties for wilfull violations seem somewhat oppressive.

Alaska is undergoing the development process. We are all aware of the dangers for abuse to land and ecosystem which are inherent in that process. I believe that HB 169 was designed with intention of curbing those abuses and not just with the intention of controlling Native regional corporations. But the trickle-down planning and dictatorial


Honorable Nels A. Anderson, Jr.
March 26, 1975
Page 3

powers HB 169 contains create dangers far greater than those it seeks to cure.

The problem with this bill is that the whole approach is wrong. The proper approach, it seems to me, is to identify the particular abuses we seek to curb, and to take specific, limited steps to curb them. This is the principle of limited government, first enunciated by the Founding Fathers of the United States two centuries ago. It is still a pretty good principle today.

Sincerely,

BRISTOL BAY NATIVE CORPORATION



Eric Treisman
General Counsel

ET:ms

cc: Land Managers
11 Regional Corporations