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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1972

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

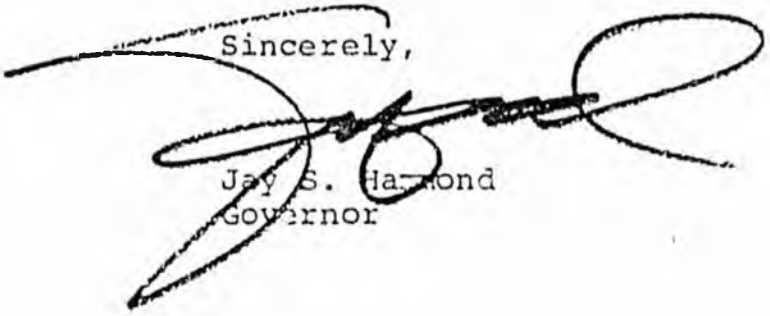
Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to preservation of the confidentiality of trade secrets and other proprietary information submitted to the Department of Environmental Conservation. The bill improves access by the department to confidential information by assuring the person supplying the information that confidentiality would be preserved. This is especially important to effectively regulate air and water quality and solid waste discharges.

The bill is very similar to the provisions of SB 90 and HB 7 which are currently in the Senate Rules and House Judiciary committees, respectively. The provisions of AS 46.03-.865(a), (b), (c) and (e) in sec. 1 of the bill are nearly identical to the provisions of AS 40.25.015(e)(11), (f), (g), and (h), respectively, which would be enacted by SB 90.

The primary differences between this bill and SB 90 are that this bill (1) deals only with trade secret information submitted to the Department of Environmental Conservation; (2) includes trade secrets voluntarily submitted to the department; (3) requires a written request of confidentiality; (4) allows release of the confidential information sooner than 20 years after submittal, upon authorization of the person supplying the information; and (5) requires the department to provide a general description of all information which it is keeping confidential.

Sincerely,


Jay S. Hammond
Governor

Part 4. Administrative Procedure.

Chapter

62. Administrative Procedure Act (§§ 44.62.010 — 44.62.650)

Chapter 62. Administrative Procedure Act.

Article

1. Application and Effect (§§ 44.62.010 — 44.62.030)
2. Submission, Filing and Publication of Regulations (§§ 44.62.040 — 44.62.125)
3. The Alaska Administrative Register and Code (§§ 44.62.130 — 44.62.170)
4. Procedure for Adopting Regulations (§§ 44.62.180 — 44.62.290)
5. Judicial Review (§ 44.62.300)
6. Agency Meetings Public (§§ 44.62.310 — 44.62.312)
7. Legislative Review of Rules (§ 44.62.320)
8. Administrative Adjudication (§§ 44.62.330 — 44.62.630)
9. General Provisions (§§ 44.62.640 — 44.62.650)

Revisor's note. — In this chapter the 1970 Alaska constitutional "secretary of state" has been changed to amendment (SJR 2) changing the "lieutenant governor" in conformity with designation of that office.

Establishment of quotas by the Board of Game on the taking of game must be in accordance with this chapter. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

As must be regulations promulgated under AS 16.05.257. — See *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

While AS 16.05.257, which authorizes the Board of Game to adopt regulations providing for subsistence hunting, does not specifically refer to this chapter, it appears clear that it merely sets forth an additional purpose for which regulations may be promulgated. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Issuance of permits for killing of caribou based on verbal instructions

to agents held improper. — The issuance of permits for the killing of caribou in certain specified areas of the state based on verbal instructions to the permit agents as to the need of individual applicants does not conform to requirements of this chapter. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Nothing in this chapter authorizes the Board of Game to impose requirements not contained in written regulations by means of oral instructions to agents. Such verbal additions to regulations involving requirements of substance are unauthorized and unenforceable. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Cited in *Hammond v. Hickel*, Sup. Ct. Order (File Nos. 4281, 4282, 4283, 4284, 4285, 4291), 588 P.2d 256 (1978).

Article 1. Application and Effect.

Section

10. Application to State Organization Act of 1959
20. Authority to adopt, administer, or enforce regulations

Section

30. Consistency between regulation and statute

Alaska Statutes

Title 46. Water, Air and Environmental Conservation.

Chapter

- 03. Environmental Conservation (§§ 46.03.010 — 46.03.900)
- 05. Water Pollution Control Act (Repealed)
- 07. Village Safe Water Act (§§ 46.07.010 — 46.07.080)
- 10. Pollution as Nuisance (Repealed)
- 15. Water Use Act (§§ 46.15.010 — 46.15.270)
- 25. Alaska State Commission of Oceanography (Repealed)
- 26. Commission for Ocean Advancement Through Science and Technology (Repealed)
- 30. Certification of Operators (§§ 46.30.010 — 46.30.130)
- 35. Environmental Procedures Coordination (§§ 46.35.010 — 46.35.210)
- 40. The Alaska Coastal Management Program (§§ 46.40.010 — 46.40.210)

Chapter 03. Environmental Conservation.

Article

- 1. Declaration of Policy (§ 46.03.010)
- 2. Department of Environmental Conservation (§§ 46.03.020 — 46.03.040)
- 3. Water Pollution Control (§§ 46.03.050 — 46.03.130)
- 4. Air Pollution Control (§§ 46.03.140 — 46.03.240)
- 5. Radiation Protection (§§ 46.03.250 — 46.03.310)
- 6. Pesticide Control (§§ 46.03.320 — 46.03.330)
- 7. Prohibited Acts and Penalties (§§ 46.03.710 — 46.03.850)
- 8. General Provisions (§§ 46.03.860 — 46.03.900)

Editor's note. — Section 5, ch. 120, SLA 1971, provides: "All litigation, hearings, investigations and other proceedings pending under any law amended or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding any such transfer or amendment provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended by this Act or functions which may be transferred by this Act,

remain in effect for the term issued, unless or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by any law amended by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1971, remain in effect unless or until revoked, or modified under the provisions of this Act."

Legislative committee report. — For report on ch. 120, SLA 1971 (SB 75 am H), see 1971 House Journal, p. 1016.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. proposed (Dept. of Law File #J-77-046-82)
Title "An Act relating to confidentiality of trade secrets supplied to DEC."
Requested by the Dept. of Environmental Conservation Date 1/6/82

II. FISCAL DETAIL

Agency Affected there is potential for a 1 State agencies to be affected
Program Category Affected see above
BRU, Program, Or Subprogram(s) Affected see above
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	-0-	-0-			
200 TRAVEL	-0-	-0-	-0-			
300 CONTRACTUAL	-0-	-0-	-0-			
400 COMMODITIES	-0-	-0-	-0-			
500 EQUIPMENT	-0-	-0-	-0-			
600 LAND & STRUCTURES	-0-	-0-	-0-			
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-			
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-			
FEDERAL FUNDS	-0-	-0-	-0-			
OTHER (Specify Source)	-0-	-0-	-0-			

POSITIONS

FULL TIME	-0-	-0-	-0-			
PART TIME	-0-	-0-	-0-			
TEMPORARY	-0-	-0-	-0-			

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section II)

IV. DATE January 5, 1982 PREPARED BY Lynn H. Suksdorf
AGENCY Dept. Environmental Conservation
Original: Legislative Finance PHONE 465-2640
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)