SB

7

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

FEB 18 1981

February 12, 1981

The Honorable Bettye Fahrenkamp
Chairman, Senate Resources Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 7, "Act relating to accretion, reliction, and erosion; and providing for an effective date"

Dear Senator Fahrenkamp:

This letter is in response to your inquiry of January 27, 1981, in which you requested our comments on SB 7, "An Act relating to accretion, reliction, and erosion; and providing for an effective date." The apparent intent underlying the proposed legislation is to codify the common law rules relating to accretion, reliction and erosion. At the present time, the vast majority of states have not codified the common law rules in this regard, primarily (we assume) because a significant body of case law has developed in the area and there is at least some possibility that an attempt at codification might work a change in the law, as expressed in those cases, even though the intent was merely to codify it.

In addition to the attempt to codify the common law, SB 7 addresses one geophysical process which is not currently addressed in common law, that of isostatic rebound (identified as "glacio-isostasy" in the bill), which is the gradual rising of the surface of the earth as glaciers recede. As is probably to be expected, this geophysical phenomenon has not been addressed to any great extent in judicial decisions since it occurs in relatively few locations in the world.

However, the effect of this phenomenon on land title where privately-owned lands abut water bodies currently is the subject of litigation here in Alaska in the case of Honsinger v. State, Civ. Action 1JU-73-210 (First Judicial District at Juneau). The case involves title to approximately 95 acres of wetlands abutting Castineau Channel just south of the Juneau airport. In that case, the Honorable

Thomas B. Stewart, presiding superior court judge, already has ruled that isostatic rebound does not have the same legal effect as accretion where the common law rule is that the property owner gains title to lands appearing as a result of accretion. However, Judge Stewart has ruled that the adjacent private property owner does not obtain title to new lands appearing as a result of isostatic rebound, and title to those lands which previously were below the line of mean high water (and therefore owned by the state) remains in the state. Under Judge Stewart's ruling, the state holds title to lands appearing as a result of isostatic rebound, not the private property owner.

The property owner in the Honsinger case has petitioned the Alaska Supreme Court to review Judge Stewart's decision. The court has not yet determined whether it will review the decision at this time rather than wait until the superior court action is completed (as is normally the case). However, as it stands at the present time, the law in the State of Alaska with respect to isostatic rebound (i.e., "glacio-isostasy") is that the land appearing as a result of that geophysical phenomenon is state-owned and does not inure to the private property owner. SB 7, as currently drafted, would have precisely the opposite result and therefore represents a change in the law as found by Judge Stewart. Accordingly, at this time, it would be inaccurate to view the proposed legislation as merely codifying existing law in the area since it clearly would be changing the law as announced by Judge Stewart in the Honsinger case.

We will let you know as soon as the Supreme Court makes a decision on Mr. Honsinger's petition for review. In the meantime, if we can be of further assistance, please contact us at your convenience.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: G. Thomas Koester
Assistant Attorney General

GTK:dlm

cc: Keith Specking
Office of the Governor

Arthur Peterson
Assistant Attorney General

Tom Meacham
Assistant Attorney General

Loni Levy
Assistant Attorney General

offensive conduct, even if it was strategic conduct. In the instant case, the closure was not strategic, but was based solely on economic conditions. Accordingly, we conclude that Acme did not violate its agreement with the Union and plaintiff's motion for summary judgment will be granted.

Charles W. DeBOER, Plaintiff,

v.

UNITED STATES of America, Defendant.

No. J76-9 Civ.

United States District Court, D. Alaska.

May 17, 1979.

Plaintiff sued United States to quiet title to accretions which had gradually been added to plaintiff's federal homestead. The District Court, von der Heydt, J., held that for purposes of rule that meander line will be treated as boundary of grant if, between time of survey and time of entry, "substantial" amount of land was formed by accretion, 105.22 acres added to 165.05-acre plot between 1920 and 1959 through accretions was "substantial," and title to 105.22 acres, as well as acreage added since that time, had to be quieted in favor of the United States.

Ordered accordingly.

1. Federal Courts ⇐430

Question of title to accretions gradually deposited by ocean on adjoining upland property patented under federal homestead laws is governed by federal law.

2. Navigable Waters ⇐44(3)

Generally, grantee of land bounded by body of navigable water acquires right to any natural and gradual accretion formed along the shore.

3. Navigable Waters ⇐37(4)

Meander line will be treated as boundary of grant of federal land if, between time of survey and time of entry, substantial amount of land was formed by accretion between survey line and the shoreline.

4. Public Lands ⇐42

When grants to federal land are at issue, any doubts are resolved for the government, not against it.

5. Navigable Waters ⇐37(4)

For purposes of rule that meander line will be treated as boundary of federal land grant if, between time of survey and time of entry, "substantial" amount of land was formed by accretion, 105.22 acres added to 165.05-acre plot between 1920 and 1959 through accretions was "substantial," and title to 105.22 acres, as well as acreage added since that time, had to be quieted in favor of the United States.

See publication Words and Phrases for other judicial constructions and definitions.

Jim Reeves, Faulkner, Banfield, Doogan & Holmes, Anchorage, Alaska, for plaintiff.

Cynthia Pickering, Asst. U. S. Atty., Anchorage, Alaska, for defendant.

Jonathan K. Tillinghast, Asst. Atty. Gen. of Alaska, Juneau, Alaska, for applicant for intervention State of Alaska.

MEMORANDUM AND ORDER

VON DER HEYDT, District Judge.

THIS CAUSE comes before the court on cross-motions for summary judgment.

In this case the plaintiff DeBoer has sued the United States under 28 U.S.C. § 2409a to quiet title to accretions which have been gradually added to Mr. DeBoer's federal homestead near Gustavus, Alaska, on the north shore of Icy Strait. The State of

Alaska is also a party to this case because it has made land selection applications under the Alaska Statehood Act for the disputed accretions. These applications were filed after the plaintiff received patent to his homestead and none of them have been adjudicated by U. S. Bureau of Land Management. The claim of the State of Alaska depends upon whether the United States holds title to the accretions so that the property was available for selection.

In July, 1920, a U. S. Surveyor executed a survey of fractional T. 40 S., R. 59 E., Copper River Meridian, located on the north shore of Icy Strait. In December, 1961, Lot 2, Section 17, and Lots 8, 9, and NE ¼ SE ¼, section 18, was patented to the plaintiff Charles W. DeBoer as a homestead. The lots as surveyed in 1920 contained 165.05 acres bounded by meander lines on two sides. In June, 1959, when plaintiff made a homestead entry on the property described above, these lots contained 270.27 acres, the additional 105.22 acres having been added to the parcel along its seaward boundary by gradual accretion. By 1977 it was estimated that about 107 acres more had been added to the property in question so that the entire parcel including the lots at the time of survey, the accretions added between survey and homestead entry, and the accretions added since homestead entry totaled approximately 377 acres. The question before the court focuses on the title to the 105.22 acres added by accretion between survey and homestead entry because title to those accretions determines the title to the accretions since homestead entry.

[1] The question of title to accretions gradually deposited by the ocean on adjoining upland property patented under the federal homestead laws is governed by federal law. *Hughes v. Washington*, 389 U.S. 290, 291, 88 S.Ct. 438, 19 L.Ed.2d 530 (1967).

[2] The general federal rule is that the grantee of land bounded by a body of navigable water acquires a right to any natural and gradual accretion formed along the shore. *Hughes v. Washington*, 389 U.S. at 293-94, 88 S.Ct. 438. *Jefferis v. East Omaha Land Co.*, 134 U.S. 178, 189, 10 S.Ct. 518, 33 L.Ed. 872 (1890). The reasons for this rule have been stated variously. "'[T]hese owners being often losers by the breaking in of the sea, or at charges to keep it out, this possible gain is therefore a reciprocal consideration for such possible charge or loss.'" *Jefferis v. East Omaha Land Co.*, 134 U.S. at 192, 10 S.Ct. at 522 (quoting Blackstone's Commentaries). In *Hughes v. Washington*, the U. S. Supreme Court stated that, "Any other rule would leave riparian owners continually in danger of losing the access to water which is often the most valuable feature of their property, and continually vulnerable to harassing litigation challenging the location of the original water lines." 389 U.S. at 293-94, 88 S.Ct. at 441.

But despite the sound reasons for this rule, some courts, including the Ninth Circuit Court of Appeals, have discovered an exception to it. The exception is that the meander line will be treated as the boundary of the grant if, between the time of survey and the time of entry, a substantial amount of land was formed by accretion between the survey line and the shoreline. *Wittmayer v. United States*, 118 F.2d 808, 810 (9th Cir. 1941); *Smith v. United States*, 593 F.2d 982 (10th Cir. 1979). This exception has come to be known as the *Basart* doctrine because of its adoption by the Under Secretary of Interior in *Madison v. Basart*, 59 I.D. 415, 422 (1947). The *Basart* opinion cited the Ninth Circuit opinion in *Wittmayer* in support of the Department's adoption of this exception to the general rule.

This exception, and the *Wittmayer* opinion in particular, have been persuasively criticized in a well reasoned opinion of the District of North Dakota. *United States v. 11,993.32 Acres of Land*, 116 F.Supp. 671 (D.N.D.1953). In that opinion District Judge Vogel fully examined the case law on the subject and found a lack of support either in equity or in precedent for the conclusory statement of the *Basart* doctrine found in *United States v. Wittmayer*. The primary objection to the *Basart* doctrine is that the determination of what is a "sub-

stantial" amount of accretion between survey and patent subjects land titles to a vague and uncertain standard.

> The rule of the second exception as contended for here by the Government suggests its own unfitness. Certainty of titles is a fundamental consideration in the broad area of law concerned with conveyancing. A rule based upon a determination of whether the accretion between the time of survey and the time of entry is substantial or not necessarily makes the scope of a patent of land bounded by a meander line uncertain or makes the meander line presumptively the boundary line, which it confessedly is not. Such a rule as suggested by the Government would be that generally the patentee acquires the accretions but that if he stands to get too much according to an uncertain standard, he then doesn't get any. Such an exception would soon displace the generally accepted rule that a patentee, on lands bounded by water, owns the accretions thereto in the absence of fraud or mistake.

United States v. 11,993.32 Acres of Land, 116 F.Supp. at 679.

This court further notes that this exception to the general rule appears inequitable. There is no evidence in the record that the plaintiff knew of the difference between the survey and the land as it appeared on his entry. The existence of this exception to the rule causes this homesteader, and others like him, to lose what is probably one of the most valuable aspects of his property, its access to the water. While the homesteader would receive a "windfall" from application of the general rule, this enrichment is not "unjust" because he took the risk of losing the "windfall" from the same natural forces that added the acreage to his homestead.

[3] Having noted this court's disagreement with the *Basart* doctrine, no way exists to escape the binding effect of the Court of Appeals decision in *United States v. Wittmayer*, 118 F.2d 805 (9th Cir. 1941), one of the cases upon which the doctrine is based. While the Supreme Court decisions discuss the general rule, they do not decide whether the *Basart* exception has the disapproval of the court. In view of this state of the law, this court has no choice but to hold that the meander line will be treated as the boundary of the grant if, between the time of survey and the time of entry, a substantial amount of land was formed by accretion between the survey line and the shoreline.

The only question left to be decided is whether the 105.22 acres added to the 165.05 acre lot between 1920 and 1959 is "substantial." As noted above there is little to guide the courts in deciding what is "substantial." The United States Manual of Surveying Instructions (1973) at 172 states that:

> In determining what constitutes a "substantial" accretion, to which the rule in *Madison v. Basart* is applicable, the area of accretion should be compared quantitatively with the riparian lots to which it attached. Some consideration should also be given to the total area accreted. Accretion to a small lot might be large in proportion but negligible in absolute size. From the standpoint of *size* and *relative size*, the area in question can be weighed as in the case of omitted lands.

(emphasis in original).

[4, 5] It has long been established that when grants to federal land are at issue any doubts are resolved for the Government, not against it. *Andrus v. Charlestone Stone Products Co.*, 436 U.S. 604, 617, 98 S.Ct. 2002, 56 L.Ed.2d 570 (1978). *United States v. Union Pacific R. Co.*, 353 U.S. 112, 116, 77 S.Ct. 685, 1 L.Ed.2d 693 (1957). In view of this canon of construction this court finds the 105.22 acres to be substantial" both in size and relative size and therefore this case fits within the exception to the general rule.

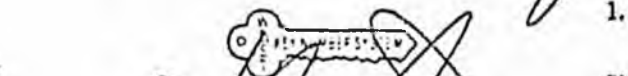
In view of the above, the court holds that title to the disputed 105.22 acres of accretion added between survey and patent and the acreage added since that time must be quieted in favor of the United States.

Accordingly IT IS ORDERED:

1. THAT the plaintiff's motion for summary judgment is denied.

2. THAT the United States' motion for summary judgment is granted.

3. THAT the Clerk may prepare a final judgment form stating that title to the disputed accretions is quieted in favor of the United States.



BAYSIDE ENTERPRISES, INC., et al.

v.

Dale CARSON, etc.

Charles Grady KELLER and Daytona International, Inc., a Florida Corporation

v.

CONSOLIDATED CITY OF JACKSONVILLE, etc., et al.

Nos. 78-889-Civ-J-M, 78-898-Civ-J-M.

United States District Court, M. D. Florida, Jacksonville Division.

May 17, 1979.

Action was brought seeking declaration that municipal ordinance governing adult entertainment and services was unconstitutional and seeking a permanent injunction against enforcement of ordinance. The District Court, Melton, J., held that: (1) ordinance was incompatible with First Amendment insofar as it authorized denial, suspension, or revocation of adult entertainment license based upon commission or conviction of specified criminal act; (2) ordinance's disclosure requirements governing adult entertainment license application procedures were not constitutionally offensive; (3) system of license fees under ordinance did not unermissibly infringe upon rights protected by First Amendment; (4) administrative procedure established by ordinance for judicial review of license denials or revocations was not constitutionally defective, and (5) plaintiff did not substantially prevail in litigation so as to be entitled to award of attorney fees.

Order accordingly.

1. Constitutional Law ⇐90.1(5)

First Amendment will allow injunctive remedies against dissemination of particular items that have undergone judicial review, accompanied by special procedural safeguards that attend cases in that area, and found to be obscene; First Amendment will not allow blanket injunctions directed at materials that have not been judicially found obscene, regardless of probability, based on distributor's track record on prior occasions, that materials will actually be obscene. U.S.C.A.Const. Amend. 1.

2. Constitutional Law ⇐90.1(4)

Licensing provisions of municipal ordinance governing adult entertainment were incompatible with First Amendment insofar as they authorized denial, suspension, or revocation of adult entertainment license based upon commission or conviction of specified criminal act. U.S.C.A.Const. Amend. 1.

3. Theaters and Shows ⇐3

Provisions of licensing procedures of municipal ordinance governing adult entertainment, which required disclosure of names of applicants, whether applicant had previously had his or its license revoked and whether applicant had been convicted of specified criminal acts within five years preceding date of application, were not constitutionally offensive. U.S.C.A.Const. Amend. 1.

4. Constitutional Law ⇐90.1(1)

Governmental entity cannot tax exercise of First Amendment rights; when it imposes a tax that might implicate those rights, it has burden of demonstrating that tax is designed to finance system of administration unrelated to suppression of speech.

SB7

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

FRED S. HONSINGER, et al.,

Plaintiffs,

vs.

STATE OF ALASKA, et al.,

Defendants.

SEP 29 1983

Barbara A. Hood, Clerk

By: Deb

No. 1JU-73-210 Civil

MEMORANDUM OF DECISION

Plaintiffs in this case are upland owners of substantial acreage in an area within the City and Borough of Juneau commonly referred to as the "Mendenhall wetlands." It is an area of acknowledged economic and ecological value about which there are strong local public views relating to conflicting conservation and development interests. The issues in the case concern ownership of approximately 95 acres of land adjacent to that owned by plaintiffs which have emerged from tidelands' status to upland in the years between the time of the original federal homestead patent surveys of plaintiffs' land and the present. Those intitial surveys were bounded on the seaward side by an established meander line delineating the reach of mean high tides. At present the meander line of mean high tide is markedly seaward of where it was in the original surveys, and the contest involves the "new" land between.

Whether this land belongs to plaintiffs or the defendant State of Alaska involves both factual and legal questions. The factual questions relate principally to what processes in fact physically caused the land to emerge from its previous tideland condition. The parties agree at least that the emergence could substantially involve a phenomenon labelled "isostatic rebound," or "glacio-isostatic uplift."

The crucial legal issue is whether, assuming the new land was formed by that geophysical process rather than by more ordinary alluvial depositions or by reliction (receding of the waters), such land should be held to belong to the upland owner or to the state.

As may be noted from the chronologically-coded file number of this action, it has been pending resolution for many years. In large part the delay has been caused by genuine and extensive efforts by the parties to reach a negotiated settlement of the matter. In 1979 it became apparent that these efforts would not succeed, and defendants then moved to "establish the law of the case," based on a stipulation of counsel filed May 11, 1979. Counsel have prepared excellent and extensive memoranda of law, with supporting citations and reference materials, and the matter is before the court for decision on defendants' motion.

The issue is essentially one of first impression, with potential in its resolution for relatively wide-ranging economic and social impact in a glaciated, tidal region such as this northern portion of southeastern Alaska. The legal issue may be more succintly stated as "whether the common law rule that accreted land inures to the littoral owner is applicable to acreage created by glacio-isostatic uplift." At least two cases previously before this court have raised the issues, and reference to them is appropriate in appreciating at least the incidence of concern with the legal effect of this geological phenomenon. The cases are Schafer v. Schnabel, 494 P.2d 802 (Alaska 1972), and DeBoer v. State, No. 1JU-74-29 Civil. The latter case, because of jurisdictional questions, was subsequently litigated in the U. S. District Court for Alaska, as DeBoer v. United States and State of Alaska, 470 Fed.Supp. ~~605~~ (1979). However, both cases were determined

on other issues, so that the question now pending was not resolved. The careful research of counsel has revealed no other reported decision in which the issue was raised or met.

It is not my intention in this statement of decision to analyze extensively the legal litany of the common law doctrines relating to rights of accretion and reliction. That has been done quite sufficiently in the memoranda submitted on the motion. The critical matter is simply to state a choice between the traditional law of accretion and the exception to it urged on defendants' behalf, and to state the reasons for reaching that choice. Though the issue is indeed close, and susceptible to resolution either way on substantial grounds, my determination is in favor of the State's position.

That choice is fundamentally made upon weighing of the policy considerations supporting the ancient common rule as against those in favor of an exception. In my view the balance favors a rule retaining public ownership of recently exposed tidelands. I am convinced the decision should be founded on equitable principles balancing between the competing interests, rather than upon equitably blind adherence to common law, however venerable simply from its age. This approach has recently been applied by the supreme court of Hawaii, in determining against the former littoral owner where access to the ocean was cut off by a lava flow forming new land. State by Kobayashi v. Zimring, 566 P.2d 725, 734 (Ha. 1977). As also noted in that decision, other courts have found that though littoral access should be preserved where possible, that policy is not so sacred as to be inviolate and may have to be deferred in favor of other considerations. (See cases cited in Zimring, at p. 734.)

There are basically three policy reasons indicated as justifying the rule that lands formed gradually and imperceptibly should inure to the littoral owner. The first and most prominent of these is that the riparian character of the land may be its most valuable feature, and the owner should be allowed to retain that right to access to the adjacent waters that inured in the nature of the land as originally acquired. It is particularly with relation to this policy reason that it appears the public interest outweighs that of the private landowner. A policy giving large benefits from this widespread natural phenomenon, in effect gratuitously, to only a few does not appear equitable as against a policy spreading those benefits in equal measure to all of the people of the State. This is more especially true where there is such increasing public demand for recreational and public use, as well as for protection against destruction of the natural character of lands just such as these are. Under its duties as a trustee of the lands, the State will be obligated to protect the property and regulate its use. It may be presumed that this duty would be implemented by devoting the land to actual public uses, such as for recreation. And likewise presumably there could be no sale of the land unless it promoted a valid public purpose. The upland owners under this policy would share in the public access to the land and adjacent waters, losing only the private nature of the access held when their lands were originally acquired. Their right of access, held with the public, would be lost only if access is outweighed by some conflicting public interest use or if the land is sold in the public interest. (See generally Zimring, at p. 735.)

Plaintiffs have argued that such a public interest policy should be adopted by the legislature rather than by

the courts of this state, and have noted that legislation of this sort has been enacted in some states. E.g., Oregon Revised Statutes § 274.440. While certainly the legislature could and perhaps should properly act to regulate the interests here involved, that does not preclude the court from acting in the absence of a legislatively-determined policy. This follows logically from the fact that the traditional doctrine of accretion is no more than a court-determined policy itself based on equitable grounds.

The second policy reason for the traditional rule relates to the notion of "natural justice" that the upland owner bears the risk of loss to his property from natural causes and therefore should enjoy the benefit of gain deriving from such processes. There may be some validity to the State's argument, which plaintiffs challenge, that the doctrine does not apply to glacio-isostatic uplift because that phenomenon in recorded human history has not had a reverse character. In other words, there is no countervailing risk of loss from this particular process. In my view, it is a more persuasive argument that even though this "natural justice" notion may have some merit, it is outweighed by the public interest concerns already expressed.

The third policy reason is that the traditional rule gives greater certainty and stability to land titles. It is argued that a rule which would give the State title to narrow strips of new coastal land formed by very gradual processes would engender litigation about the location of the line of mean high water. However, it appears highly unlikely that any such litigation would develop unless there were indeed valuable lands that had been identified and at least arguably created by the geologic process involved in this action. As for difficulties of proof relating to the

actual processes by which the new land was formed, these do not appear to be so complex or formidable as to outweigh the public policy interests that have been noted as basically determinative.

For the reasons indicated the defendant State's motion to establish the law of the case will be granted, and a form of order to that effect has been filed and entered.

DATED: September 29, 1980.

Thomas B. Stewart
Presiding Judge

CERTIFICATION

This is to certify that on the above date I mailed a copy of this Memorandum of Decision to:

Jonathan K. Tillinghast, Esquire
Michael M. Holmes, Esquire

Secretary to the Judge

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI

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Senate

Committee on Resources

March 2, 1981
1:30 p.m.

Beltz Room
211 - Capitol

MEMBERS PRESENT

SENATOR FAHRENKAMP
SENATOR FISCHER
SENATOR STURGULEWSKI
SENATOR MULCAHY
SENATOR ELIASON
SENATOR GILMAN
SENATOR BRADLEY

HEARING: SB 7 — An Act relating to accretion, reliction and erosion.

SB 83 — An act restricting the authority of the department of natural resources to regulate certain activities in state recreation areas.

Senator Ray, stated the reason he introduced SB 7 was because there is no law in Alaska to cover changes in ground build-up due to glacier action. Under this bill if the land increased where there was no land before, it would go to the private land owner.

Tom Koester, Attorney General's office, stated that Judge Stewart had ruled that land being added by glacier activity does not belong to the private land owner because it is a specific kind of process. The case is before the supreme court and they have not decided whether they will hear the case.

Mike Holmes, Attorney for Smith and Honsinger, stated that throughout the United States land build-up belongs to the upland owner to the meander line. The case has not come up previously on the activity of glaciers and therefore, in the absence of a law, Judge Stewart came up with a judicial rule. He stated that he thought that Judge Stewart had erred in his ruling that the new property becomes the property of the state.

Senator Eliason moved that SB 7 be moved to the Judiciary Committee with the stipulation that the bill return to the Resources Committee.

Senator Bennett stated that SB 83 is intended to make sure that state recreation areas can continue to be used by the citizens. The Chena Recreation Area turned out to be a lock up. It consists of ¼ million acreas outside Fairbanks with chains and burms to prevent access by people. Miners are being cited, harrassed and prevented from getting to their holdings. He stated the original intent for the recreation area was a playground for people not a wildlife preserve. He stated that he would like to see an amendment to SB 83 allowing the taking of

Alaska State Legislature

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Senate

Committee on Resources

MR. PRESIDENT:

THE SENATE RESOURCES COMMITTEE HELD HEARINGS YESTERDAY ON SB 7, "AN ACT RELATING TO ACCRETION, RELICTION, AND EROSION."

AFTER HEARING TESTIMONY ON THIS MEASURE, THE RESOURCES COMMITTEE FEELS THAT IT SHOULD WAIVE SB 7'S REFERRAL WITH THE UNDERSTANDING THAT AFTER THE JUDICIARY COMMITTEE COMPLETES ITS CONSIDERATION OF THIS LEGISLATION, IT BE RETURNED TO THE RESOURCES COMMITTEE FOR ITS FURTHER CONSIDERATION.

THE COMMITTEE FELT THAT THE BILL SHOULD BE LOOKED AT BY THE JUDICIARY COMMITTEE FIRST IN ORDER THAT THEY CAN ESTABLISH THE BILL'S POSSIBLE I JECT ON ALASKA'S LAWS EFFECTING LAND OWNERSHIP. THE RESOURCES COMMITTEE WOULD LIKE TO TAKE A LOOK AT THIS BILL AFTER THIS DETERMINATION IS MADE TO STUDY THE STATE POLICY THIS BILL CREATES. ALSO AT THAT POINT, THE COMMITTEE WOULD LIKE TO HEAR TESTIMONY FROM THE DEPARTMENT OF NATURAL RESOURCES ON ITS POSITION.

MR. PRESIDENT, I ASK UNANIMOUS CONSENT THAT THE RESOURCE COMMITTEE WAIVE CONSIDERATION OF SB 7 WITH THIS UNDERSTANDING.