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# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



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## Senate Committee on Resources

### MINUTES

April 18, 1983  
3:03 p.m.

Beltz Room  
Room 211, Capitol

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### MEMBERS PRESENT

Senator Fahrenkamp, Chair  
Senator Ziegler, Vice Chair  
Senator Eliason

Senator P. Fischer  
Senator V. Fischer  
Senator Sturgulewski

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### CALENDAR

- SB 216 An Act relating to mining lease locations.
- SB 11 An Act making special appropriations to the Alaska Power Authority; and providing for an effective date.
- SJR 24 Requesting that Alaska be exempted from legislation allowing abrogation of existing natural gas contracts.
- Oversight hearing on AS 46.15.145, reservation of instream water; and proposed DNR regulations.

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### SB 216

Senator Sturgulewski moved to consider the committee substitute for SB 216.

Bob Arnold, Deputy Commissioner of the Department of Natural Resources, said the extension of time for lease hold locations is needed, and is supported by the mining community.

Phil Holdsworth, representing the Alaska Miners Association, concurred with the committee substitute.

Senator Sturgulewski moved the committee substitute with individual recommendations, subject to a title change. The motion passed without objection.

SB 11

Senator Fahrenkamp noted that mark-up work is being done on SB 11, and that she did not plan to move the bill this date.

Senator Eliason offered two amendments to SB 11: \$3,074,000 for the Pelican Hydroelectric project, and \$130,000 for a loan to the City of Thorne Bay for a hydro facility.

Senator Ziegler requested that staff report on the status of the Tyee and Swan Lake projects.

Senator V. Fischer submitted three proposed amendments: \$2.9 million for a feasibility study of the Chakachamna hydro project, \$1.6 million for other railbelt energy studies, and a reduction from \$22 million to \$17.5 million for Susitna studies and licensing.

SJR 24

Jim Palmer, Committee staff, said the resolution addresses a bill before the US Senate which would deregulate the natural gas industry. Alaska has little ability to compete among pipelines, and if the state is required to renegotiate contracts, the price of energy to consumers may increase over 100%.

Senator V. Fischer moved SJR 24 with individual recommendations. There being no objection, the motion passed.

Oversight Hearing on Reservation of Instream Water

Tom Hawkins, director of the Division of Land and Water, Department of Natural Resources, referred to a memorandum prepared by his division. The Department supports the goals of the instream flow law and regulations. He explained the need for the 1980 amendments and stated that the DNR regulations would allow adjudication of federal reserved water rights by the state. Hawkins explained the miners' concerns with the regulations, and why the department felt their concerns were probably unfounded.

Joe Cladouhos, Department of Environmental Conservation, referred to the department's position paper, which had been submitted to the committee. The department supports the regulations.

Bruce Baker, of the Habitat Division of the Department of Fish and Game, stated that the regulations are essential to maintain stream flows and for fish habitat and production. He

further stated that the regulations would help the Department to accurately develop statistics and techniques for measuring stream conditions, which would be useful in developing proposals to DNR for water flow reservations.

Tom Koester, Assistant Attorney General, discussed the conflicting views of the Reagan and Carter administrations on federal water rights and stated that the proposed regulations would give the department the right to adjudicate with the federal government to determine the amount of water necessary to fulfill federal needs.

Phil Holdsworth, Alaska Miners Association, noted the stream reclassification process the Department of Fish & Game completed in compliance with the current statute. Holdsworth said the miners are concerned with the Attorney General's interpretation of "person" in the current statute. He further stated that the miners feel the four categories in the current statute used to apply for a reservation are too restrictive as they do not mention hydroelectric or other industrial uses.

Al Stein, United Southeast Alaska Gillnetters Association, expressed support for the regulations, as the streams are the industrial base of the fishing industry.

Tom Koester explained the Attorney General's interpretation of "person" as a question of what right is being conveyed: whether it is a reservation belonging to an individual or a reservation that resides in the public interest. He stated that hydroelectric development and irrigation would be diversionary uses, which are not addressed in the 1980 amendments. Rather, the amendments create an additional competing use of water by allowing for reservation of instream flow. He concluded by explaining the State's prior appropriations doctrine, which grants priority to the first permit granted.

Jay Nelson, Alaska Environmental Lobby, said the environmental community supports the legislation and the regulations.

The meeting was adjourned at 4:16 p.m.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M  
JUNEAU, ALASKA 99811  
PHONE:

April 13, 1983

APR 14 1983

The Honorable Bettye Fahrenkamp  
Chairman, Senate Resources  
Alaska State Senate  
Pouch "V"  
Juneau, AK 99801

Dear Senator Fahrenkamp:


Please consider this amendment to SB 216. We have discussed the matter with Pat Pourchot, of your staff, and we will be available to testify on the necessity for this change in the Senate Resource hearing on Monday.

\* Sec. 2. As 38.04.020(c) is amended to read:

(c) Land to be retained in state ownership may be classified by the commissioner into multiple-use management categories under AS 38.05.300. [LAND WITHIN A MUNICIPALITY RETAINED IN STATE OWNERSHIP CONSISTS OF LAND CLASSIFIED FOR RETENTION IN STATE OWNERSHIP AS OF DECEMBER 31, 1980.] Land outside a municipality to be retained in state ownership consists of land classified for retention in state ownership by the commissioner by July 1, 1985 [1983]. Land conveyed to the state by the federal government that is to be retained in state ownership consists of land classified by the commissioner within two years of receipt of tentative approval or patent, whichever occurs first. State land not classified for retention in state ownership or selected by the municipality under this section shall be classified and included in the land disposal bank. The commissioner shall ensure that the bank includes at least 500,000 acres.

If you have any questions, please let me know.

Sincerely,

  
Esther C. Wunnicke  
Commissioner

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## Senate

### Committee on Resources

April 15, 1983

#### Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Hearing, Instream Flow Oversight; SB 216, Mineral leasehold extension; SJR 24, Natural Gas Deregulation and Contract Abrogation.

Background information on Instream Flow is being sent under separate cover.

#### SB 216

AS 38.05.185 provides that on state lands of mineral character or lands where significant land use conflicts exist mining claims would convert to leases prior to production. Because of the numbers of claims on such lands going into the production of placer gold and the inability of the Department of Natural Resources to convert the claims to leases, in 1981 the Legislature passed a bill to permit production on regular claims to proceed until December 31, 1983 without having to convert to a lease.

Attached is a memorandum from Kay Brown, Director of DMEM, explaining the difficulties the Department is having in complying with the lease provisions for the large number of claims by the 1983 deadline. SB 216 would move the deadline for such conversions to December 31, 1985 to enable the Department to prepare the lease form and procedures, to process the mining claims on affected state lands, and to study the entire leasehold system and recommend possible changes in existing law and regulation.

#### Amendment to SB 216

Another provision of Title 38 dealing with land issues which involves a deadline which can not be administratively met is AS 38.04.020(c). This section requires the Department to classify all state lands to be retained in state ownership by July 1, 1983. Lands not so classified would be included in the land disposal bank for possible disposal.

The classification process is lengthy and normally done in conjunction with land use plans for certain regions or areas of the state. This planning and classification process is not yet completed for several areas of the state and the identification of all lands which might be recommended for retention in state ownership has not been done nor will it be done by July of this year.

The attached letter from the DNR requests an amendment to SB 216 to extend the deadline for the classification of land to be retained in state ownership from July 1, 1983 to July 1, 1985. In addition, it is recommended that language pertaining to state lands recommended for retention in municipalities be deleted. This work has already been completed and the language is moot.

SJR 24

The Reagan Administration has introduced legislation (S 615) amending the Natural Gas Policy Act of 1978. The Administration's proposal attempts to combine phased decontrol of gas prices with measures enabling pipelines and producers to get out of long-term contracts that are believed to be keeping gas prices high. A summary of the key points of this legislation is attached.

SJR 24 requests that Congress exempt the State of Alaska from section 316 of the Administration bill. Section 316 allows the abrogation of existing natural gas supply contracts. Section 316 is also attached for your information.

The current price of gas sold to Chugach Electric for example is 26¢. It is estimated that if the Administration's proposal passed intact as now drafted, this price could increase to \$2.50 and above. The Department of Natural Resources has stated that the request for this exemption is consistent and in accord with official State position.

Additional attachments have been included for your information.

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: SB 216  
 Title: Extending deadline for leasehold locations  
 Sponsor: Fahrenkamp and Bennett  
 Requestor: Senate Resources

II. FISCAL DETAIL

Agency Affected: Natural Resources  
 Program Category Affected: Mgmt. of Min. Res.  
 BRU, Program of Subprogram(s) Affected: Mineral Development

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0			
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
	0	0	0			

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mark Wittow *Mark Wittow* Phone: 465-2400  
 Division: Commissioner's Office Date: 4/13/83  
 Approved by Commissioner: Man Hallman Date: 4/13/83  
 Department: Natural Resources

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

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## Senate

### Committee on Resources

May 27, 1983

#### Memo

To: Rep. Jack Fuller, Chairman House Rules Committee

From: Senator Bettye Fahrenkamp

Subject: SB 216, Mining Lease, Land Classification Extensions

You now have SB 216 in your Committee which, as originally drafted and passed by the Senate, would simply extend two deadlines contained in AS 38.05 for converting to a mining lease system and for classifying land to be retained in state ownership. Because of staff and funding limitations and legal complications, these deadlines simply can not be met this year in a responsible way.

However, in the House Resources Committee two amendments to the bill were adopted which make substantial changes in the bill. I am strongly opposed to these amendments and recommend that they be deleted.

The first amendment is contained on page 1, line 28, and would shorten the deadline for classifying state lands from the Senate version of July 1, 1985, to December 1 of this year. This deadline would barely give the DNR sufficient time to hold required public hearings and simply do a pro forma statewide classification not based on planning and resource evaluation. Additionally, considerable manpower would be diverted from programmed activities, including land disposals. I believe two years is a reasonable time to accomplish this task without adversely affecting other programs. Because the current acreage in the land disposal bank is well over a million acres already, the extension of the deadline to retain land by the state will in no way affect land disposals.

The second amendment is contained in the new Section 3 on page 2. It would require the opening up of all lands in the disposal bank slated for remote parcels after three years under the remote parcel program. Although I agree that the land disposal program needs improvement, this should be a product of much more study--study which I intend to do over the interim. This bill is simply not the vehicle to launch a new, unstudied approach to land disposal on a piecemeal basis.

I hope that the Rules Committee would review these amendments and remove them prior to passing this needed legislation.

*Recinded*  
*23-14*  
*adoption*  
*motion to*  
*adopt*  
*rec. GS for SB*  
*216*  
*28-12*

1 ownership consists of land classified by the commissioner within two  
2 years of receipt of tentative approval or patent, whichever occurs  
3 first. State land not classified for retention in state ownership or  
4 selected by the municipality under this section shall be classified  
5 and included in the land disposal bank. The commissioner shall ensure  
6 that the bank includes at least 500,000 acres.

7 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
8 10.070(c).

*Add new Section 3 Remember remaining section*

*38.040.020 add new (e) committee minutes  
to reflect addition*

*(e.) Notwithstanding other provisions of this  
title there is within the disposal bank not  
proposed for disposal under (d) 2-4 of this  
section within the following three years  
shall be available for staking under the  
state parcel program provided that staking  
under this provision not be allowed within  
the miles of any existing private land or  
state parcel entry.*

SB 216, MINING LEASE LOCATION MORATORIUM EXTENSION

BACKGROUND

STATE LAW PROVIDES THAT <sup>ON</sup> STATE LANDS OF MINERAL CHARACTER OR WHERE LAND USE CONFLICTS EXIST MINING CLAIMS WHICH ARE STAKED WOULD CONVERT TO MINING LEASES PRIOR TO PRODUCTION.

IN 1981 THE LEGISLATURE EXTENDED THE DEADLINE FOR CONVERSION OF CLAIMS TO LEASES UNTIL DEC. 31, 1983 BECAUSE OF THE DRAMATIC INCREASE IN PLACER GOLD CLAIMS ENTERING PRODUCTION WITH THE RISE IN GOLD PRICES AND THE ABSENCE OF MINERAL LEASE PROCEDURES AT THAT TIME.

CURRENT SITUATION

DNR REPORTS THAT WITH THE PROSPECTS OF HAVING TO CONVERT HUNDREDS, IF NOT THOUSANDS OF CLAIMS, AND THE TECHNICAL PROBLEMS WHICH STILL EXIST WITH THE MINERAL LEASE LOCATION SYSTEM, THE DEPARTMENT WOULD BE UNABLE TO MEET THE <sup>December</sup> DEADLINE THIS YEAR. THEY ARE REQUESTING AN EXTENSION TO FURTHER STUDY AND EXPLORE THE PROBLEMS AND PROCEDURES OF MINERAL LEASE LOCATION SYSTEM AND POSSIBLY TO RECOMMEND CHANGES IN THE LAW.

ADDITIONALLY, ANOTHER PROVISION OF TITLE 38 REQUIRES DNR TO CLASSIFY ALL STATE LANDS TO BE RETAINED IN STATE OWNERSHIP BY JULY 1, 1983. LANDS NOT SO CLASSIFIED WOULD BE INCLUDED IN THE LAND DISPOSAL BANK FOR POSSIBLE DISPOSAL. BECAUSE OF DNR'S PLANNING PROCESS PRIOR TO CLASSIFICATION, THIS DEADLINE IS NOT GOING TO BE MET. HAVING THE LANDS GO TO THE DISPOSAL BANK SERVES NO USEFUL PURPOSE AND IN NO WAY WOULD REDUCE THE ANNUAL LAND DISPOSALS (THERE ARE OVER 600,000 ACRES IN THE DISPOSAL BANK CURRENTLY FROM WHICH 60,000 WILL BE DISPOSED THIS YEAR).

BILL'S PROVISIONS

THE BILL EXTENDS THE LEASE CONVERSION MORATORIUM FOR TWO MORE YEARS UNTIL DEC. 1985. THE BILL ALSO EXTENDS THE LAND CLASSIFICATION DEADLINE TWO YEARS UNTIL JULY 1, 1985.

added in Committee Substitute

TESTIMONY BEFORE THE HOUSE RESOURCES COMMITTEE

SB 216, MAY 13, 1983

Mr. Chairmen, members of the Committee, I apologize for not being able to testify today in person but I am chairing a meeting of the Senate Resources Committee during this same time period.

However, I would like<sup>x</sup> give my strong endorsement to SB 216 and urge the Committee to take swift action on this measure. The bill simply extends the moratorium currently in existence for converting mining claims to mineral leases for another two years. This extension is necessary for the Department of Natural Resources to continue to develop the leasehold system prescribed by law and to identify additional legal and technical problems which have surfaced. Within two years it is quite possible that the Department will recommend to the legislature changes which may be needed in current law regarding the leasehold system.

In addition, the Senate Resources Committee adopted an amendment to the bill which would also extend another deadline in Title 38 for an additional two years. Current statutes call for the state to identify all state lands to be retained in state ownership by July 1, of this year. Lands not identified would fall automatically into the land disposal bank. Land identification by the state has preceded after land use planning has been completed which has taken some time. There simply is not sufficient time to complete the planning and the subsequent classification process by the July 1, 1983 deadline. Rather than interrupting this reasoned, phased process to land classification, an extension is warranted. Such an extension will have no impact on the amount of land to be disposed of as current lands in the disposal bank far exceed annual disposals well into the future.

Thank you for this opportunity to present my views on this legislation.

*(Handwritten mark)*