

HJR

Handwritten cursive letters 'h' and 'r'.

## WILD AND SCENIC ISSUE

BECAUSE THERE ARE RIVERS IN ALASKA THAT HAVE BEEN DETERMINED AS BEING WILD AND SCENIC WITH OUT A DETERMINATION AS TO THEIR BEING CONSIDERED NAVIGABLE, THERE EXISTS THE DISTINCT POSSIBILITY THAT TRADITIONAL USES ON THESE AND OTHER RIVERS MAY NOT CONTINUE AT HISTORIC LEVELS.

IF A GIVEN WATER BODY IS FOUND TO BE NAVIGABLE, THE STATE WILL HAVE TITLE TO THE LAND UNDER SUCH A BODY THUS ALLOWING LOCAL RESIDENTS, AS CITIZENS OF THE STATE, TO BE IN A STRONGER POSITION TO ARGUE FOR CUSTOMARY AND TRADITIONAL USES BOTH ON THE WATER AS WELL AS ALONG EACH ONE OF IT'S SHORES.

IN TERMS OF ESTABLISHING RESOURCE AND RECREATIONAL PRIORITIES ON OUR ALASKAN WATER BODIES IT ESSENTIAL THAT LOCAL, STATE, AND FEDERAL CONCERNS BE ADDRESSED IN AN ORDER THAT ALLOWS THOSE PEOPLE WHO MOST DIRECTLY AFFECTED TO CONTINUE THEIR CUSTOMARY AND TRADITIONAL USES TO THE GREATEST DEGREE POSSIBLE.

TO THAT END IT DOES NOT MAKE SENSE TO ESTABLISH A FEDERAL CLASSIFICATION OF A WATER BODY BEFORE A LOCAL AND STATE PRIORITY SUCH AS NAVIGABILITY IS RESOLVED.

TO THAT END I HAVE SUGGESTED WITH THIS RESOLUTION THAT THE FEDERAL GOVERNMENT RECOGNIZE AND ADHERE TO SUCH A POLICY WITH THE OBVIOUS BENEFIT BEING MORE LOCAL CONTROL IN THE LONG TERM FOR OUR LOCAL ALASKAN RESIDENTS.

*Hona*

Original sponsor: Shultz

IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 14 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

Relating to the navigability of Alaska's rivers and lakes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS Alaska's rivers and lakes have always been a primary means of transportation and access for the people of the state; and

WHEREAS a great many of these same waterbodies have traditionally and historically served as routes for commerce and trade; and

WHEREAS the geographic features of the State of Alaska necessitate the continued use of these rivers and lakes for traditional travel purposes; and

WHEREAS the federal government is not considering several traditional means of transportation used in Alaska, such as jet unit and aluminum river boat, inflatable boats, air boats, and winter use, when determining whether bodies of water in Alaska are navigable; and

WHEREAS all other states have had the opportunity to demonstrate navigability of waterbodies within their boundaries on a much less restrictive basis; and

WHEREAS the State of Alaska has several test cases now in litigation that will help establish a basis for claiming navigability of its waterbodies; and

WHEREAS trade, travel, commerce, subsistence, and recreational activities should continue on a traditional basis on Alaska's navigable rivers and lakes; and

WHEREAS the federal government may propose waterbodies in Alaska for classification as wild and scenic rivers without knowing whether or not

1 they will be determined navigable; and

2 WHEREAS such classification may prevent the citizens of this state  
3 from continuing their historical and traditional uses of Alaskan water-  
4 bodies;

5 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
6 the President of the United States and the Congress to direct the Secretary  
7 of the Interior to suspend further classification of Alaskan waterbodies as  
8 wild and scenic rivers until such time that a final decision is reached on  
9 the issue of navigability, thus allowing historical and traditional activ-  
10 ities to continue on the Alaskan waterbodies in dispute or in litigation.

11 COPIES of this resolution shall be sent to the Honorable Ronald  
12 Reagan, President of the United States, the Honorable George Bush, Vice-  
13 President of the United States and President of the U.S. Senate; the Honor-  
14 able Thomas P. O'Neill, Jr., Speaker of the U.S. House of Representatives;  
15 the Honorable Donald Hodel, Secretary of the Interior; and to the Honorable  
16 Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the  
17 Honorable Don Young, U.S. Representative, members of the Alaska delegation  
18 in Congress.  
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# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M  
JUNEAU, ALASKA 99811  
PHONE:

March 26, 1985

The Honorable Bette Cato  
Chair, Transportation Committee  
Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Cato:

Thank you for inviting this department's views with regard to HJR 14 (relating to navigability and designation of Wild and Scenic Rivers). The department earlier provided several suggested wording changes which are being incorporated into the Committee Substitute. Those changes provide consistency with terms as they are being used to present the state's position in certain litigation on navigation.

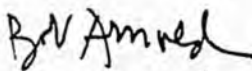
With the passage of ANILCA in December, 1980, Congress designated 26 Alaskan rivers to the list of National Wild and Scenic Rivers. At the same time 12 other rivers were withdrawn from the public domain, subject to valid existing rights, to complete studies on their suitability for inclusion in the system. These studies were to be complete and submitted to the Secretary of the Interior last fall.

Only these 12 rivers would be addressed by this resolution, and three have been administratively determined to be navigable. Thus, its impact may be somewhat limited. Inasmuch as wild and scenic river designation may have consequences upon the uses of the river and its bed, it is desirable to settle the issue of ownership ahead of such designation.

One other suggested change to HJR 14 would be to delete the reference to float planes in the fourth whereas. On February 28, 1985, the Ninth Circuit Court of Appeals found in the Slopbucket Lake case that "... float planes and related incidental watercraft is insufficient as a matter of law to render the lake navigable for purposes of title."

Mike Vediner from our Division of Land and Water Management will be available at the committee hearing to answer questions.

Sincerely,



Robert D. Arnold  
Deputy Commissioner

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

#### M E M O R A N D U M

Date: 26 March 1985  
To: Legal Services  
From: Rhonda Cargill, Professional Assistant  
House Transportation Committee  
Re: HJR 14

Please make the following changes to HJR 14 so that we can submit a committee substitute at tomorrow morning's 7:00 House Transportation Committee meeting:

<u>Page/Line</u>	<u>Change</u>
Page 1, Lines 13-14	Delete: [BOTH COMMERCIAL AND NONCOMMERCIAL] Replace with: <u>traditional travel</u>
Page 1, Line 15	Delete: [BUREAU OF LAND MANAGEMENT] Replace with: <u>federal government</u>
Page 1, Line 17	Delete: [FLAT BOTTOM] Replace with: <u>jet unit and aluminum</u>
Page 1, Line 17	Delete: [DOG SLED, AND SNOW MACHINE] Replace with: <u>inflatable boats, air boats, and winter use</u>

Page 1,  
Line 25

Insert between "trade," and "commerce": travel

Page 2,  
Line 3

Delete: [LEGALLY]

Please note that the committee meets at 7:00 a.m. We would deeply appreciate your giving us a work draft before day's end.

Introduced: 1/23/85  
Referred: Transportation and  
Resources

1 IN THE HOUSE

BY SHULTZ

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HOUSE JOINT RESOLUTION NO. 14

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to the navigability of Alaska's

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rivers and lakes.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS Alaska's rivers and lakes have always been a primary means of  
9 transportation and access for the people of the state; and

10 WHEREAS a great many of these same waterbodies have traditionally and  
11 historically served as routes for commerce and trade; and

12 WHEREAS the geographic features of the State of Alaska necessitate the  
13 continued use of these rivers and lakes for ~~both commercial and noncommer-~~  
14 cial purposes; and <sup>traditional travel</sup>

15 WHEREAS the <sup>federal government</sup> Bureau of Land Management is not considering several  
16 traditional means of transportation used in Alaska, such as float plane,  
17 ~~Jet unit and aluminum flat-bottom river boat, dog sled, and snow machine,~~ <sup>inflatable boats, air boats, and winter use</sup> when determining  
18 whether bodies of water in Alaska are navigable; and

19 WHEREAS all other states have had the opportunity to demonstrate  
20 navigability of waterbodies within their boundaries on a much less restric-  
21 tive basis; and

22 WHEREAS the State of Alaska has several test cases now in litigation  
23 that will help establish a basis for claiming navigability of its water-  
24 bodies; and

25 WHEREAS trade, <sup>travel</sup> commerce, subsistence, and recreational activities  
26 should continue on a traditional basis on Alaska's navigable rivers and  
27 lakes; and

28 WHEREAS the federal government is now studying waterbodies in Alaska  
29 for classification as wild and scenic rivers without knowing whether or not

1 they will be determined navigable; and

2 WHEREAS such classification may prevent the citizens of this state  
3 from <sup>22</sup>legally continuing their historical and traditional uses of Alaskan  
4 waterbodies;

5 BE IT RESOLVED that the Alaska State Legislature respectfully requests  
6 the President of the United States and the Congress to direct the Secretary  
7 of the Interior to suspend further classification of Alaskan waterbodies as  
8 wild and scenic rivers until such time that a final decision is reached on  
9 the issue of navigability, thus allowing historical and traditional activ-  
10 ities to continue on the Alaskan waterbodies in dispute or in litigation.

## BACKGROUND ON HJR 14

The purpose of this resolution is to request the President and Congress to suspend any further classifications of Alaskan waterbodies as wild or scenic until such time as a final decision is reached on the issue of navigability. This would allow traditional activities to continue on any waterbodies in dispute.

Traditional activities would include subsistence, recreation, trade and commercial use.