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# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4907

## Senate Committee on Resources

M E M O R A N D U M

February 17, 1986

TO: Mary Nordale, Commissioner  
Department of Revenue

FROM: Senator Arliss Sturgulewski  
Chairman, Senate Resources Committee

RE: CSSB 338 (Resources)

"An Act making, amending, and repealing appropriations for the Alaska Power Authority for railbelt energy development, Bradley Lake hydroelectric project, and the power cost equalization fund; and providing for an effective date"

Based on Senate Resources Committee testimony on January 29, 1986, a CS for SB 338 is being proposed at our next hearing on February 21, 1986.

Please review the attached draft and advise as to its accuracy in amending the Susitna hydroelectric project fund.

Thank you.

1           “(F) any offense which may be prosecuted in a  
2 court of the United States which involves the exporta-  
3 tion of firearms or ammunition.”.

4                           AMENDMENTS TO SECTION 925

5           SEC. 105. Section 925 of title 18, United States Code,  
6 is amended—

7           (1) in subsection (c)—

8                   (A) by deleting the words “has been convict-  
9 ed of a crime punishable by imprisonment for a  
10 term exceeding one year (other than a crime in-  
11 volving the use of a firearm or other weapon or a  
12 violation of this chapter or of the National Fire-  
13 arms Act)” and inserting in lieu thereof the words  
14 “is prohibited from possessing, shipping, trans-  
15 porting, or receiving firearms or ammunition”;

16                   (B) by inserting the word “transportation”  
17 after the word “shipment”;

18                   (C) by deleting the words “and incurred by  
19 reason of such conviction,”; and

20                   (D) by adding after the words “the public in-  
21 terest.” the words “Any person whose application  
22 for relief from disabilities is denied by the Secre-  
23 tary may file a petition with the United States  
24 district court for the district in which he resides  
25 for a judicial review of such denial. In a proceed-  
26 ing conducted under this subsection, the scope of

1           judicial review shall be governed by section 706  
2           of title 5, United States Code. The court may in  
3           its discretion admit additional evidence where fail-  
4           ure to do so would result in a miscarriage of jus-  
5           tice.”; and

6           (2) in subsection (d)—

7                   (A) by deleting the words “may authorize”  
8                   and inserting in lieu thereof the words “shall  
9                   authorize”;

10                   (B) by deleting the words “the person im-  
11                   porting or bringing in the firearm or ammunition  
12                   establishes to the satisfaction of the Secretary  
13                   that”; and

14                   (C) by inserting before the semicolon in para-  
15                   graph (3) the following: “, except in any case  
16                   where the Secretary has not authorized the im-  
17                   portation of the firearm pursuant to this para-  
18                   graph, it shall be unlawful to import any frame,  
19                   receiver, or barrel of such firearm which would be  
20                   prohibited if assembled”; and

21                   (D) by deleting the words “may permit” and  
22                   inserting in lieu thereof the words “shall permit”.

23                   **AMENDMENTS TO SECTION 926**

24           **SEC. 106.** Section 926 of title 18, United States Code,  
25 is amended by—

1           (1) inserting "(a)" before "The Secretary" the  
2 first place it appears;

3           (2) inserting the word "only" after the word  
4 "prescribe";

5           (3) deleting the words "as he deems reasonable"  
6 and inserting in lieu thereof the words "as are";

7           (4) deleting the words "The Secretary shall give  
8 reasonable public notice, and afford interested parties  
9 opportunity for hearing, prior to prescribing such rules  
10 and regulations" and inserting in lieu thereof the  
11 words: "*Provided*, That no such rule or regulation pro-  
12 mulgated after the effective date of this Act may re-  
13 quire that records required to be maintained under this  
14 chapter or any portion of the contents of such records,  
15 be recorded at or transferred to a facility owned, man-  
16 aged, or controlled by the United States or any State  
17 or any political subdivision thereof, nor that any  
18 system of registration of firearms, firearms owners, or  
19 firearms transactions or dispositions be established:  
20 *Provided further*, That nothing in this section shall be  
21 deemed to expand or restrict the Secretary's authority  
22 to inquire into the disposition of one or more firearms  
23 pursuant to a criminal investigation."; and

24           (5) inserting at the end thereof the following:



1 eighty days after the date of enactment of this Act. At that  
2 time the Secretary shall publish and provide to all licensees a  
3 compilation of the State laws and published ordinances of  
4 which licensees are presumed to have knowledge pursuant to  
5 chapter 44 of title 18, United States Code, as amended by  
6 this Act. All amendments to such State laws and published  
7 ordinances as contained in the aforementioned compilation  
8 shall be published in the Federal Register, revised annually,  
9 and furnished to each person licensed under chapter 44 of  
10 title 18, United States Code, as amended by this Act.

11 (2) The provisions of sections 103(5)(C), 104(2), 105,  
12 and 107 of this Act shall be applicable to any action, petition,  
13 or appellate proceeding pending on the effective date of this  
14 Act. In considering any petitions for Presidential pardons  
15 submitted by persons convicted of violations of chapter 44 of  
16 title 18, United States Code, prior to the effective date of this  
17 Act, the Congress recommends that consideration be given to  
18 whether the violation would have been punishable under this  
19 Act, and to the purposes and findings contained in the pream-  
20 ble thereto.

21 **TITLE II—AMENDMENTS TO TITLE VII OF THE**  
22 **OMNIBUS CRIME CONTROL AND SAFE**  
23 **STREETS ACT OF 1968**

24 **SEC. 201.** Title VII of the Omnibus Crime Control and  
25 Safe Streets Act of 1968 (sections 1201, 1202, and 1203 of

1 the appendix to title 18, United States Code) is hereby  
2 amended to read as follows:

3       "SEC. 1201. (a) In the case of a person who violates  
4 section 922(g) of title 18, United States Code, and who has  
5 three previous convictions by any court referred to in section  
6 922(g)(1) of title 18, United States Code, for robbery or bur-  
7 glary, or both, such person shall be fined not more than  
8 \$25,000 and imprisoned not less than fifteen years, and, not-  
9 withstanding any other provision of law, the court shall not  
10 suspend the sentence of, or grant a probationary sentence to,  
11 such person with respect to the conviction under section  
12 922(g) of title 18, United States Code, and such person shall  
13 not be eligible for parole with respect to the sentence im-  
14 posed under this subsection.

15       "(b) As used in this title—

16               "(1) 'robbery' means any crime punishable by a  
17 term of imprisonment exceeding one year and consist-  
18 ing of the taking of the property of another from the  
19 person or presence of another by force or violence, or  
20 by threatening or placing another person in fear that  
21 any person will imminently be subjected to bodily  
22 injury; and

23               "(2) 'burglary' means any crime punishable by a  
24 term of imprisonment exceeding one year and consist-  
25 ing of entering or remaining surreptitiously within a

1 building that is property of another with intent to  
2 engage in conduct constituting a Federal or State  
3 offense.”.

Passed the Senate July 9 (legislative day, July 8),  
1985.

Attest:

JO-ANNE L. COE,  
*Secretary.*

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

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

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

January 29, 1985

Hon. Arliss Sturgulewski  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811

Re: Review of proposed CSSB 338

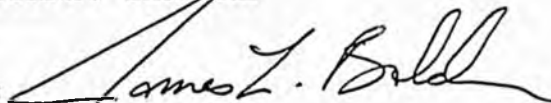
Dear Senator Sturgulewski:

We have reviewed the proposed committee substitute for SB 338. This bill appears to make the amendments necessary to maintain the status quo for appropriations made for the power cost equalization program, Bradley Lake, and Susitna River hydro-electric projects. The original version appeared to delete the fiscal year 1985 installments of the continuing appropriations in dispute in Trustees for Alaska, et al. v. State, No. 3AN-84-12053 CIV (Super. Court, 3d Jud. Dist.). Please let me know if we can be of further assistance.

Sincerely yours,

HAROLD M. BROWN  
ATTORNEY GENERAL

By:



James L. Baldwin  
Assistant Attorney General

JLB/pjg

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

TRUSTEES FOR ALASKA, ALASKA )  
PUBLIC INTEREST RESEARCH )  
GROUP )  
Plaintiffs )  
vs. )  
STATE OF ALASKA )  
Defendant )  
\_\_\_\_\_ )

No. 3AN-84-12053 CIV

JUDGMENT

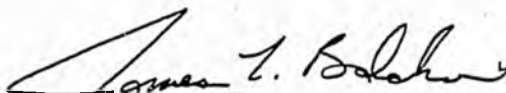
This action having been tried before the Court on cross-motions for summary judgment,

IT IS ORDERED, that judgment shall be entered for plaintiff as to the claim under Article IX, section 7 of the Alaska Constitution; and that plaintiff's complaint is dismissed on the merits as to the claim under Article II, section 13 of the Alaska Constitution.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Brian C. Shortell  
SUPERIOR COURT JUDGE

Approved as to form:

  
James Baldwin  
Assistant Attorney General

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
2 THIRD JUDICIAL DISTRICT AT ANCHORAGE

3 TRUSTEES FOR ALASKA, ALASKA )  
4 PUBLIC INTEREST RESEARCH )  
5 GROUP, )

6 Plaintiffs, )

7 vs. )

8 STATE OF ALASKA, )

9 Defendant. )

No. 3AN-84-12053 CIV.

10 ORDER GRANTING IN PART  
11 STATE'S MOTION FOR A STAY

12 The court, having read the pleadings submitted by the  
13 parties and after hearing argument finds:

14 (1) By order dated August 30, 1985 the State, Alaska  
15 Power Authority, was enjoined from expending any money from  
16 three appropriations made for fiscal year 1986. The court found  
17 that the manner in which these appropriations were enacted vi-  
18 olated the dedicated fund prohibition set out in art. IX, sec. 7  
19 of the Alaska Constitution. These appropriations were made to  
20 provide for the financing of the Susitna and Bradley Lake Hydro-  
21 electric projects and the power cost equilization program.

22 (2) The state and members of the public will suffer  
23 immediate irreparable harm if the fiscal year 1986 appro-  
24 priations enacted in ch. 96, SLA 1985, page 9, line 5 (Bradley  
25 Lake Hydroelectric financing), and ch. 98, SLA 1985, page 59,  
26 line 18 (power cost equilization) are enjoined.

27 (3) The state and members of the public cannot be  
28 adequately protected from the harm occasioned by an injunction  
29 which prevents the state from providing assistance to consumers  
30 for power cost equilization under AS 44.83.162.

31 (4) The state and members of the public cannot be  
32 adequately protected from the harm caused by the loss of  
33 preconstruction earnings on bond proceeds from a sale of bonds  
34 scheduled as a part of the financing of the Bradley Lake Hydro-  
electric project.

1 (5) The state has suffered no harm as a result of the  
2 injunction ordered by this court as to the appropriation enacted  
3 in ch. 98, SLA 1985, page 8, line 17, for the Susitna Hydroelec-  
4 tric project. The state has represented that it does not plan  
5 to implement the appropriation until late June of 1986. The  
6 state has represented that any money to implement the appro-  
7 priation would not be transferred from the general fund to the  
8 power development fund (AS 44.83.382) until well after the leg-  
9 islature has convened and adjourned and the defendant has had  
10 sufficient time to prosecute its appeal.

11 (6) It is in the public interest to preserve the sta-  
12 tus quo for the power cost equilization and Bradley Lake appro-  
13 priations.

14 IT IS ORDERED

15 (1) The order dated August 30, 1985 granting plain-  
16 tiffs' motion for an injunctio. is stayed as to the appro-  
17 priations enacted in ch. 96, SLA 1985, page 9, line 5 (Bradley  
18 Lake Hydroelectric financing), and ch. 98, SLA 1985, page 59,  
19 line 18 (power cost equilization).

20 (2) The Alaska Power Authority may expend the appro-  
21 priations made for fiscal year 1986 in ch. 98, SLA 1985, page  
22 59, line 18 for the power cost equilization program as provided  
23 in AS 44.83.162.

24 (3) The Alaska Power Authority may make necessary  
25 expenditures from the appropriations enacted in ch. 96, SLA  
26 1985, page 9, line 5, to complete the financing of the Bradley  
27 Lake Hydroelectric Project. These expenditures may include the  
28 transfer of amounts under appropriations in dispute in this  
29 action to a fund or funds created under a trust indenture or  
30 other financing documents established for the benefit of owners  
31 of obligations issued or to be issued in connection with the  
32 financing of the Bradley Lake Hydroelectric project, and the  
33 irrevocable pledge or expenditure of this amount for those pur-  
34 poses.

1 (4) Because there is no proof of immediate harm to  
2 the public interest, the state's motion for a stay of the in-  
3 junction ordered as to the appropriation enacted in ch. 96, SLA  
4 1985, page 8, line 17 (Susitna Hydroelectric project), is  
5 DENIED. However, if, before the legislature convenes or an ap-  
6 peal is decided, the state believes that new facts have arisen  
7 which prove imminent harm to the public interest, the state may  
8 renew its request for a stay from this court, if appropriate, or  
9 the Alaska Supreme Court.

10  
11  
12 DATED: \_\_\_\_\_

\_\_\_\_\_  
13 Brian Shortell  
14 Superior Court Judge

15 APPROVED AS TO FORM:

16  
17 \_\_\_\_\_  
18 Bob Adler  
19 Counsel for Plaintiffs  
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ATTORNEY GENERAL, STATE OF ALASKA  
STATE CAPITOL  
POUCH K. JUNEAU, ALASKA 99811  
PHONE 465-3600

Eric Smith  
Deborah Williams  
c/o Trustees for Alaska  
333 Gambell Street, Suite B  
Anchorage, AK 99501  
(907) 276-4244

Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

TRUSTEES FOR ALASKA, ALASKA )  
PUBLIC INTEREST RESEARCH )  
GROUP, )  
Plaintiffs, )  
vs. )  
STATE OF ALASKA, )  
Defendant. )

No. 3AN-84-12053 CIV

ORDER GRANTING MOTION FOR JUDGMENT TO PLAINTIFFS

This action came before this Court on Plaintiffs' Motion for Judgment on the Pleadings, or in the Alternative, For Summary Judgment, pursuant to a Stipulation filed by the Parties. The Court finds, upon consideration of the pleadings and briefs, and arguments of counsel, that there is no genuine issue of material fact in dispute, and that Plaintiffs are entitled to judgment as a matter of law.

IT IS ORDERED that Plaintiffs' Motion for Judgment on the Pleadings, or in the Alternative, For Summary Judgment is granted, and that the following relief is appropriate:

1. The Court finds and declares that AS 44.83.165, 44.83.410, and 44.83.420, and Sections 314, 317, and 318 of ch 171 SLA 1984 are unconstitutional, and are null and void and of no effect;
2. The State is enjoined from expending any monies appropriated by AS 44.83.165, AS 44.83.410 and AS 44.83.420 on or after July 1, 1985;
3. The State is ordered to return to the general fund the unexpended balance of any funds appropriated by AS 44.83.165, AS

44.83.410, and AS 44.83.420 on or after July 1, 1985;

4. The Court will award Plaintiffs their reasonable costs and attorneys fees incurred in connection with this action, upon appropriate motion filed by the Plaintiffs.

\_\_\_\_\_  
Judge Brian C. Shortell

Dated: \_\_\_\_\_

Proposed letter of intent to CS for SB 338 (Resources)

By the Alaska Environmental Lobby  
February 21, 1986

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It is the intent of the Legislature that none of the monies appropriated in sections 4 and 8 of this act be used for continuation of licensing proceedings before the Federal Energy Regulatory Commission relating to any proposed Susitna River hydroelectric project.

It is further the intent of the Legislature that "Railbelt energy development" as mentioned in sections 4 and 8 of this act specifically includes the development, promotion, and dissemination of energy conservation technologies, devices, and practices.

For many of us who have been supporters of a strong program for railbelt energy, it has become apparant that there are severe problems with the financial feasibility of Susitna as a megaproject.



You are the Chairman of the Board of the Alaska Power Authority. When will you be prepared to come before this committee and give us APA's answer to the energy needs of southcentral and the railbelt?

*if plans for financing  
if support of railbelt utilities*

*not so forward — ~~if not from~~  
no so good  
other options*

---

*7 lesser projects!  
shift - carefully done*

*Small project - include -*

*2 stage - 3 stage*

*Devils Canyon*



**Homer Electric Association, Inc.**

CENTRAL OFFICE: 3977 LAKE STREET • HOMER, ALASKA 99603 • (907) 235-8167

March 20, 1986

MAR 25 1986

Mr. Lee Nunn, Chairman  
Alaska Power Authority  
P. O. Box 190869  
Anchorage, Alaska 99519-0869

Dear Mr. Nunn:

The Homer Electric Board and Staff have reviewed recent information concerning the three-step plan for the Susitna Hydroelectric Project. More specifically, we looked at the Devil Canyon phase that anticipates a total direct cost of \$1,323,000,000 (1985 dollars). Attached is a summary of the information presented to us.

We understand it will cost about \$5 million to complete the feasibility study and the FERC licensing for this first phase. Preliminary data indicates cost of power from the project appears feasible.

Homer Electric endorses continued work toward the Devil Canyon phase of the Susitna Project. We specifically request: (1) continue work on the FERC licensing and feasibility study; (2) re-appropriation of the \$200 million appropriated last year.

To stop work on the project now appears foolhardy. Work should be completed necessary to make a final decision on Devil Canyon. The cost to do this of approximately \$5 million appears reasonable. Secondly, it is our understanding new appropriations are not being requested beyond re-appropriation of last year's funding. This too seems reasonable in face of falling state revenue.

Susitna is controversial, but a lot of progress has been made, including down-sizing of the initial cost impact by building it in phases. This progress is significant.

Mr. Lee Nunn, Chairman -- Page 2

March 20, 1986

We will do our part by negotiating in good faith for a power sales agreement. Thank you for your continued work.

Sincerely yours,

HOMER ELECTRIC ASSOCIATION, INC.



B. Kent Wick  
General Manager

BKW:em

cc: ~~Sen. Arless Sturgulewski~~  
Chairman, Senate Resources Committee

Sen. Paul Fischer  
Rep. Mike Navarre  
Rep. Andre Marrou

March 19, 1986

DEVIL CANYON DAM -- SUMMARY

<u>Project Cost:</u>	1985 Dollars	\$1,323,000
	Nominal Dollars (inflated to 1999)	3,800,000

<u>Cost of Power:</u>	<u>Assumptions</u>	<u>Cost/kWh in 1999 (Nominal Dollars)</u>
	No State Equity/5.5% inflation	18.3¢
	\$300 Million State Equity/5.5% infl.	13.8¢
	\$500 Million State Equity/5.5% infl.	11.2¢
	No State Equity/4.0% inflation	13.3¢
	\$300 Mill. State Equity/4.0% infl.	9.8¢
	\$500 Mill. State Equity/4.0% infl.	7.8¢

Power & Energy Output:

Installed Capacity	460 MW
Annual Energy Output	1,998 GWH

Due to water limitations, winter capacity would be as low as 65 mW (April). This can be mitigated by regulating the winter daily flows between 200 mW peak and 50 mW off-peak.

Source of Financing:

To be determined. Probably a combination of State Equity contributions and revenue bonding.

Prepared from APA data of March 18, 1986



ARLISS STURGULEWSKI, Chairman  
 BETTYE FAHRENKAMP, Vice Chairman  
 JACK COGHILL  
 DICK ELIASON  
 VIC FISCHER  
 RICK HALFORD  
 FRED ZHAROFF

POUCH V  
 JUNEAU, ALASKA, 99811  
 (907) 465-4907



Senate  
 Committee on Resources

M E M O R A N D U M

January 28, 1986

TO; All Members  
 Senate Resources Committee

FROM: Staff, <sup>H</sup> Senate Resources Committee

RE: CSSB 338

CSSB 338 would correct the state statutes as required by the courts ruling that the continuing appropriation for power projects violated constitutional provisions.

The CSSB 338 repeals the continuing appropriations for the Susitna hydroelectric project, the Bradley Lake hydroelectric project, and the power cost equalization fund, and reappropriates those funds as specific appropriations.

There are no additional funds appropriated.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUCH V  
JUNEAU, ALASKA, 99811  
(907) 465-4907

## Senate Committee on Resources

M E M O R A N D U M

January 28, 1986

TO: All Members  
Senate Resources Committee

FROM: Staff, <sup>H</sup> Senate Resources Committee

RE: CSSB 338

CSSB 338 would correct the state statutes as required by the courts ruling that the continuing appropriation for power projects violated constitutional provisions.

The CSSB 338 repeals the continuing appropriations for the Susitna hydroelectric project, the Bradley Lake hydroelectric project, and the power cost equalization fund, and reappropriates those funds as specific appropriations.

There are no additional funds appropriated.

W/ 30 days

- ① Financial analysis of the Perm Dev fund
- ② Statement of what they are going to do.

non-financial w/out using PF

R.B. energy -  
(4 - Director  
majority on Bd.)

- ③ ~~State report~~  
State report  
w/ finance plan

Senator Arliss Sturgulewski  
Chairman, Senate Resources Committee  
Senate Resources Hearing on  
Railbelt Energy  
January 29, 1986

no in developing

We are at a critical point in the process of finding a solution to the demand for railbelt energy. Several years ago we asked the APA to go and look for a feasible method of providing for this need.

Construction -

APA focused on the Susitna Dam for their study. That study has been through numerous versions. The FERC licensing application has been changed and an amended application is being prepared. Statutes require that APA prepare a financial plan and present it to OMB and the Governor for their review before presentation to the legislature. This finance plan has never been presented to the legislature. A preliminary plan of financing has been presented to the Alaska Power Authority Board and that plan says we should go no further in the project. A recommendation to the APA Board of Directors by the Executive Director states that we should limit spending to essential activities. A team of financial experts tells us that the project cannot be financed without using the income stream from the Permanent Fund.

Amended FERC application ~~slide~~  
Preliminary - only financing of PF ~~was~~  
Confusing policy trends

We have requested Mr. Heath, Executive Director of the APA, to discuss Railbelt Energy with the Senate Resources Committee and to help resolve some of these questions. Are we at the end of the line on Susitna? Is it prudent to continue to spend money on a project that does not have a viable financial plan and no purchase contracts by the railbelt utility companies? We need to ask, where do we go from here?

If Susitna is not built, there will still be a demand for energy, and it must come from some other source.

This meeting today will hopefully provide the public and the committee with the facts of the matter. The people and this committee deserve to know what is happening.

# opinion

*File  
Sundman*  
*Frank*

## Anchorage Daily News



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Gerald E. Grilly  
Publisher

Howard Weaver  
Managing Editor

Suzan Nightingale  
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983  
Lawrence Fanning, Editor and Publisher 1967 to 1971

Alaska's Only Morning Newspaper • Founded In 1946 by Norman C. Brown

# A chance Alaska simply won't take

Some gambles just aren't worth the risk, no matter how big the payoff. Take the idea of using permanent fund earnings to guarantee the bonds needed to finance the Susitna hydroelectric project.

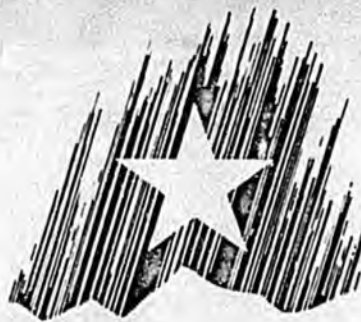
According a preliminary financing plan prepared for the Alaska Power Authority, the state would have to offer the entire earnings of the Alaska Permanent Fund as security for the bonds. Since the proposed bonds would amount to \$12.1 billion for just the first two of the project's three stages, the repayment guarantee would involve hundreds of millions of dollars a year.

Although the plan is still just a draft, it raises serious questions about how far Alaska may have to go to secure funding for Susitna. Only oil generates more revenue for the state treasury than the permanent fund. Right now the fund's income pays dividends to every Alaskan and helps inflation-proof the fund. If the earnings are ever going to be used for some other purpose, they should help pay for the basics of state government — education, public safety, health and welfare — not to secure one of the most expensive hydro projects ever built in the country.

Gov. Bill Sheffield and several legislators quickly rejected using fund earnings to guarantee Susitna bonds, and rightfully so. Even Susitna supporters know this is a chance Alaskans aren't willing to take.

A good end on the ...

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Anchorage • Star of the North  
Chamber of Commerce

Frank  
File  
Jan 31 1986

January 29, 1986

Honorable William Sheffield  
Governor of Alaska  
Pouch A  
Juneau, Alaska 99811

RE: Preliminary Draft Susitna Plan of Finance  
dated January 16, 1986

Dear Governor Sheffield:

To write off the Susitna Hydroelectric project at this time based on a draft preliminary finance report is premature and would prove to be irresponsible. Other sources of financing that would not involve the Permanent Fund should have been explored.

The Legislature and the Executive Branch should continue funding the FERC application and its study of the railbelt energy alternatives so that all avenues of financing can be considered.

The undisputed energy crisis to the Railbelt is still coming. Finalization of these energy studies will lead to the best solutions for the 400,000 consumers that live in this area.

We ask for your consideration.

Sincerely yours,

Anchorage Chamber Energy Committee  
Robert C. Penney, ~~Chairman~~  
Al Fleetwood  
Joe Henri  
Tom Stahr  
David Gottstein  
Ken Johnson  
Mano Frey

cc: Legislators

President: Elaine Atwood Executive Committee: Larry Baker,  
Ken Calhoon, George Easley, Lee Fisher, Joe Heintz, Harold Heinze, Glenda Rhodes  
Board: Col. Larry Bolls, Mike Burns, Dave Dittman, Sen. Jan Faiks, Al Fleetwood, Alice Hartig, Jack Hayes,  
Duane Heyman, Col. Scott Tippin, Kay Linton, Bill MacKay, Earl Miller, George N. Nelson, John Norman, Al Parrish,  
Bob Penney, Chief Brian Porter.

415 F Street, Anchorage, Alaska 99501-2254 (907) 272-2401

Introduced: 1/15/86  
Referred: House Special Committee on  
State Loans and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 477

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making and amending appropriations for the  
7 Alaska Power Authority; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. (a) The sum of \$200,000,000 is appropriated from the  
11 general fund to the Alaska Power Authority for deposit in the power devel-  
12 opment fund (AS 44.83.382) for the purpose of financing the Susitna River  
13 hydroelectric project.

14 (b) Up to \$9,100,000 of the amount set out in (a) of this section may  
15 be spent in fiscal year 1987 for planning and predesign activities for the  
16 Susitna River hydroelectric project.

17 \* Sec. 2. The sum of \$50,000,000 is appropriated from the general fund  
18 to the Alaska Power Authority for deposit in the power development fund  
19 (AS 44.83.382) to finance the Bradley Lake hydroelectric project.

20 \* Sec. 3. The sum of \$21,700,000 is appropriated from the general fund  
21 to the Alaska Power Authority for deposit in the power cost equalization  
22 fund (AS 44.83.162).

23 \* Sec. 4. AS 44.83.165 is amended to read:

24 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-  
25 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984 [,  
26 AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-  
27 QUENT FISCAL YEAR] from the general fund to the power cost equaliza-  
28 tion fund (AS 44.83.162).

29 \* Sec. 5. AS 44.83.410 is amended to read:

1           Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR SUSITNA RIVER  
2           HYDROELECTRIC PROJECT. The sum of \$100,000,000 is appropriated on  
3           July 1, 1984 [AND THE SUM OF \$200,000,000 IS APPROPRIATED ON JULY 1 OF  
4           EACH SUBSEQUENT FISCAL YEAR] from the general fund to the authority  
5           for deposit in the power development fund (AS 44.83.382) for the pur-  
6           pose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,]  
7           the Susitna River hydroelectric project.

8           \* Sec. 6. AS 44.83.420 is amended to read:

9           Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
10          HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on July  
11          1, 1984 [OF EACH FISCAL YEAR] from the general fund to the authority  
12          for deposit in the power development fund (AS 44.83.382) for the pur-  
13          pose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,]  
14          the Bradley Lake hydroelectric project.

15          \* Sec. 7. The fiscal year 1986 appropriations made at page 8, line 17  
16          and page 9, line 5, ch. 96, SLA 1985; and page 59, line 18, ch. 98, SLA  
17          1985 are repealed.

18          \* Sec. 8. Obligations, encumbrances, and expenditures incurred against  
19          appropriations repealed or amended in this Act are considered obligations,  
20          encumbrances, and expenditures of the appropriations enacted in secs. 1 --  
21          3 of this Act. The appropriations enacted in secs. 1 -- 3 of this Act do  
22          not appropriate any more money than was previously appropriated by the  
23          appropriations amended or repealed in secs. 4 -- 7 of this Act.

24          \* Sec. 9. The appropriations in secs. 1 and 2 of this Act are for capi-  
25          tal projects, and lapse in accordance with AS 37.25.020.

26          \* Sec. 10. Sections 1 -- 7 of this Act are retroactive to July 1, 1985.

27          \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
28          10.070(c).

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

TRUSTEES FOR ALASKA, ALASKA )  
PUBLIC INTEREST RESEARCH )  
GROUP )  
Plaintiffs )  
vs. )  
STATE OF ALASKA )  
Defendant )

---

No. 3AN-84-12053 CIV

JUDGMENT

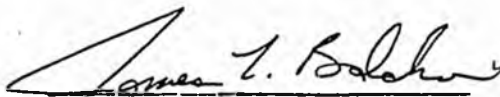
This action having been tried before the Court on cross-motions for summary judgment,

IT IS ORDERED, that judgment shall be entered for plaintiff as to the claim under Article IX, section 7 of the Alaska Constitution; and that plaintiff's complaint is dismissed on the merits as to the claim under Article II, section 13 of the Alaska Constitution.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Brian C. Shortell  
SUPERIOR COURT JUDGE

Approved as to form:

  
James Baldwin  
Assistant Attorney General

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
2 THIRD JUDICIAL DISTRICT AT ANCHORAGE

3 TRUSTEES FOR ALASKA, ALASKA )  
4 PUBLIC INTEREST RESEARCH )  
GROUP, )  
5 Plaintiffs, )  
6 vs. )  
7 STATE OF ALASKA, )  
8 Defendant. ) No. 3AN-84-12053 CIV.  
9

10 ORDER GRANTING IN PART  
11 STATE'S MOTION FOR A STAY

12 The court, having read the pleadings submitted by the  
13 parties and after hearing argument finds:

14 (1) By order dated August 30, 1985 the State, Alaska  
15 Power Authority, was enjoined from expending any money from  
16 three appropriations made for fiscal year 1986. The court found  
17 that the manner in which these appropriations were enacted vi-  
18 olated the dedicated fund prohibition set out in art. IX, sec. 7  
19 of the Alaska Constitution. These appropriations were made to  
20 provide for the financing of the Susitna and Bradley Lake Hydro-  
21 electric projects and the power cost equilization program.

22 (2) The state and members of the public will suffer  
23 immediate irreparable harm if the fiscal year 1986 appro-  
24 priations enacted in ch. 96, SLA 1985, page 9, line 5 (Bradley  
25 Lake Hydroelectric financing), and ch. 98, SLA 1985, page 59,  
26 line 18 (power cost equilization) are enjoined.

27 (3) The state and members of the public cannot be  
28 adequately protected from the harm occasioned by an injunction  
29 which prevents the state from providing assistance to consumers  
30 for power cost equilization under AS 44.83.162.

31 (4) The state and members of the public cannot be  
32 adequately protected from the harm caused by the loss of  
33 preconstruction earnings on bond proceeds from a sale of bonds  
34 scheduled as a part of the financing of the Bradley Lake Hydro-  
electric project.

1 (5) The state has suffered no harm as a result of the  
2 injunction ordered by this court as to the appropriation enacted  
3 in ch. 98, SLA 1985, page 8, line 17, for the Susitna Hydroelec-  
4 tric project. The state has represented that it does not plan  
5 to implement the appropriation until late June of 1986. The  
6 state has represented that any money to implement the appro-  
7 priation would not be transferred from the general fund to the  
8 power development fund (AS 44.83.382) until well after the leg-  
9 islature has convened and adjourned and the defendant has had  
10 sufficient time to prosecute its appeal.

11 (6) It is in the public interest to preserve the sta-  
12 tus quo for the power cost equilization and Bradley Lake appro-  
13 priations.

14 IT IS ORDERED

15 (1) The order dated August 30, 1985 granting plain-  
16 tiffs' motion for an injunction is stayed as to the appro-  
17 priations enacted in ch. 96, SLA 1985, page 9, line 5 (Bradley  
18 Lake Hydroelectric financing), and ch. 98, SLA 1985, page 59,  
19 line 18 (power cost equilization).

20 (2) The Alaska Power Authority may expend the appro-  
21 priations made for fiscal year 1986 in ch. 98, SLA 1985, page  
22 59, line 18 for the power cost equilization program as provided  
23 in AS 44.83.162.

24 (3) The Alaska Power Authority may make necessary  
25 expenditures from the appropriations enacted in ch. 96, SLA  
26 1985, page 9, line 5, to complete the financing of the Bradley  
27 Lake Hydroelectric Project. These expenditures may include the  
28 transfer of amounts under appropriations in dispute in this  
29 action to a fund or funds created under a trust indenture or  
30 other financing documents established for the benefit of owners  
31 of obligations issued or to be issued in connection with the  
32 financing of the Bradley Lake Hydroelectric project, and the  
33 irrevocable pledge or expenditure of this amount for those pur-  
34 poses.

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(4) Because there is no proof of immediate harm to the public interest, the state's motion for a stay of the injunction ordered as to the appropriation enacted in ch. 96, SLA 1985, page 8, line 17 (Susitna Hydroelectric project), is DENIED. However, if, before the legislature convenes or an appeal is decided, the state believes that new facts have arisen which prove imminent harm to the public interest, the state may renew its request for a stay from this court, if appropriate, or the Alaska Supreme Court.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Brian Shortell  
Superior Court Judge

APPROVED AS TO FORM:

\_\_\_\_\_  
Bob Adler  
Counsel for Plaintiffs

ATTORNEY GENERAL, STATE OF ALASKA  
STATE CAPITOL  
POUCH K. JUNEAU, ALASKA 99811  
PHONE 465-3600

Eric Smith  
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333 Gambell Street, Suite B  
Anchorage, AK 99501  
(907) 276-4244

Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

TRUSTEES FOR ALASKA, ALASKA )  
PUBLIC INTEREST RESEARCH )  
GROUP, )  
Plaintiffs, )  
)  
vs. )  
)  
STATE OF ALASKA, )  
Defendant. )  
)

No. 3AN-84-12053 CIV

ORDER GRANTING MOTION FOR JUDGMENT TO PLAINTIFFS

This action came before this Court on Plaintiffs' Motion for Judgment on the Pleadings, or in the Alternative, For Summary Judgment, pursuant to a Stipulation filed by the Parties. The Court finds, upon consideration of the pleadings and briefs, and arguments of counsel, that there is no genuine issue of material fact in dispute, and that Plaintiffs are entitled to judgment as a matter of law.

IT IS ORDERED that Plaintiffs' Motion for Judgment on the Pleadings, or in the Alternative, For Summary Judgment is granted, and that the following relief is appropriate:

1. The Court finds and declares that AS 44.83.165, 44.83.410, and 44.83.420, and Sections 314, 317, and 318 of ch 171 SLA 1984 are unconstitutional, and are null and void and of no effect;

2. The State is enjoined from expending any monies appropriated by AS 44.83.165, AS 44.83.410 and AS 44.83.420 on or after July 1, 1985;

3. The State is ordered to return to the general fund the unexpended balance of any funds appropriated by AS 44.83.165, AS

44.83.410, and AS 44.83.420 on or after July 1, 1985;

4. The Court will award Plaintiffs their reasonable costs and attorneys fees incurred in connection with this action, upon appropriate motion filed by the Plaintiffs.

\_\_\_\_\_  
Judge Brian C. Shortell

Dated: \_\_\_\_\_

## MEMORANDUM

TO: Steve

DATE: December 3, 1985

FROM: Garrey

SUBJECT: Continuing Power  
Appropriations

During the last legislative session, suit was filed by Trustees of Alaska challenging the continuing appropriation scheme set up in 1985 for:

Power Cost Equalization  
Susitna Hydroelectric Project  
Bradley Lake Hydroelectric Project

The legislature then put the FY '86 appropriations in the budget bill as separate items.

The court has ruled that the FY'86 appropriations are invalid because they were set up as continuing appropriations. The state has appealed that decision to the Alaska Supreme Court. The Supreme Court has taken no action on the appeal.

The state filed a Motion for Stay and a Superior Court hearing was held on 9/19/85. Specifically the state requested that the stay be granted for the Power Cost Equalization and Bradley Lake appropriations.

The state argued and Trustees of Alaska agreed that "there is immediate and irreparable harm to the people who are beneficiaries of the Power Cost Equalization Program".

Trustees of Alaska maintain that the correct solution is for the legislature to meet in special session to appropriate the money. They did not object, however to the stay in the case of Power Cost Equalization.

The state requested the stay for the Bradley Lake appropriation because three Japanese banks have committed to the bond financing; the documents are in the final drafting stage; the bond sale is scheduled for October 2nd; that the banks relied on the last legislature's confirmation of their appropriations.

Further, the financing commitment was to expire on October 19 and proposed federal legislation would make it impossible to do Bradley Lake with tax exempt bonds.

**Continuing Appropriations - Page 2**

**The loss of tax exempt financing would increase the cost of the Bradley Lake project by an estimated \$39 million.**

**The court took the general position that, if they had a chance to deal with them now, the legislature would approve the Bradley Lake and Power Cost Equalization appropriations.**

**The original court order with respect to the FY '86 Susitna appropriation still stands. The money must, unless the state wins on appeal, go back to the General Fund.**

**The judge made it clear that if the legislature doesn't take action on the appropriations in January, 1986, he will be favorable to a motion to dissolve the Stay Order.**

**My personal opinion is that the Supreme Court will say that continuing appropriations are invalid but that since the legislature included them in the FY'86 budget act as separate items, they are as legal as any other appropriation in that bill.**

AS PROMISED, HERE IS THE COMPLETE  
TRANSCRIPT OF THE STAY HEARING ON THE  
CONTINUING APPROPRIATION ISSUE.

Mike Greany  
9/24/85

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TRANSCRIPT OF PROCEEDINGS  
TRUSTEES OF ALASKA v. STATE  
No. 3AN 84-12053  
September 19, 1985

H & M COURT REPORTING  
1031 WEST 4TH AVENUE, SUITE 220  
ANCHORAGE, ALASKA 99501  
(907) 274-5661

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

TRUSTEES OF ALASKA, )  
 )  
 Plaintiff, )  
 )  
 vs )  
 )  
 STATE OF ALASKA )  
 )  
 )

Case No. 3AN-84-12053

TRANSCRIPT OF PROCEEDINGS  
M.O. GRANTING DEFENDANT'S MOTION FOR STAY  
M.O. TAKING UNDER ADVISEMENT DEFENDANT'S MOTION  
RE: CONFINEMENT

SEPTEMBER 19, 1985

BEFORE THE HONORABLE BRIAN SHORTELL

A P P E A R A N C E S:

Eric Smith, Esq. for defendant  
833 Gambell Street, Suite B  
Anchorage, Alaska 99501

James Baldwin, Esq. for plaintiff  
Attorney General's Office  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501

Tape: K-1185  
Logs: 1542 - 1885

H & M COURT REPORTING  
1031 WEST 4TH AVENUE, SUITE 220  
ANCHORAGE, ALASKA 99501  
(907) 274-5661

1 P R O C E E D I N G S

2 SEPTEMBER 19, 1985

3 THE CLERK:

4 This court now resumes its session.

5 THE COURT:

6 Be seated. We're not the record in case  
7 no. 3AN-84-12053 Civil, Trustees for Alaska  
8 versus State of Alaska. This is on a Motion to  
9 -- Motion for Stay and an associated Motion to  
10 Clarify Order.

11 I think, I'd like to discuss the Motion for  
12 Stay, unless there's some reason why I  
13 shouldn't first; and to the extent that -- that  
14 it's affected by the Motion to Clarify the  
15 order, we'll discuss that also. All right.

16 I think I probably will have some questions  
17 for you on the motion for stay first. It may  
18 make this a little quicker than it might  
19 normally will.

20 First, I got a message that somehow you  
21 were involved in some of negotiations. Is that  
22 true?

23 MR. BALDWIN:

24 We were, Your Honor. Those negotiations  
25 have terminated at this time.

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THE COURT:

Okay. So I want to know, first, is the -- the -- the reason you need the stay in your view are really relate only to the Bradley Lake situation and the Power Cost Equalization Plan, right? Because there is no immediate harm threatened with regard to Susitna, is that correct?

MR. BALDWIN:

There is no immediate harm threatened with regards to Susitna, that's correct, Your Honor.

THE COURT:

And, by the same token, the Plaintiffs have no objection to my entering a stay of my order with regard to the Power Cost Equalization Program, correct?

MR. SMITH:

Your Honor, we believe that there is one available remedy for the State, which would be for the legislature to convene in a special session to appropriate the money, and that would be one available extra judicial remedy. And we're not sure whether it's appropriate for the court to hear this motion on that grounds.

1                   However, we do understand that there is  
2                   immediate and irreparable harm to the people  
3                   who are beneficiaries of the Power Cost  
4                   Equalization Program, and we certainly  
5                   sympathize with that concern and understand on  
6                   the court's equitable powers to deal with that  
7                   situation.

8                   THE COURT:

9                   Well, that's not my -- an answer to my  
10                   question. Do you oppose a stay with regard to  
11                   the financing of the immediate expenditures  
12                   with regard to the Power Cost Equalization  
13                   Program?

14                   MR. SMITH:

15                   I guess, our initial position is that the  
16                   appropriate solution is for the State -- is  
17                   that the court should not grant equitable  
18                   relief when there is an available remedy to the  
19                   State.

20                   However, as an alternative argument, that  
21                   the court is not prepared to rule on that  
22                   issue, we do not oppose the stay.

23                   THE COURT:

24                   Okay. I see.

25                   All right. I have another question for the

1 Plaintiff and this -- this relates to the  
2 Motion to Clarify. Your original position  
3 seemed to me to be that there were a number of  
4 grounds for invalidating this statutory scheme.

5 And that if I found in your favor on -- on  
6 any one of them, the -- your -- all three of  
7 these programs would -- well, the whole scheme  
8 wouldn't necessarily have to go. And there was  
9 no real distinction between the Fiscal Year '85  
10 monies and the '86 monies; the '85 money would  
11 not be invalidated, and the '86 monies would.  
12 Right.

13 MR. SMITH:

14 That's correct.

15 THE COURT:

16 And it's now your position -- and it really  
17 only recently arrived at and, in fact, arrived  
18 at read after you read the State's Motion for  
19 Clarification. That there are a number of  
20 funds, which relate to 1985 -- Fiscal Year 1985  
21 appropriations, that may, in fact, be  
22 invalidated; but only if I found in your favor  
23 on the confinement issue, correct?

24 MR. SMITH:

25 Correct.

1 THE COURT:

2 Okay.

3 Well, let me tell you so that you can all  
4 understand this. My feeling was that the --  
5 that the continuing appropriations -- the issue  
6 as to whether or not -- whether or not the  
7 continuing appropriations violated Article 9  
8 Section 7 of the constitution is what I decided  
9 this case on.

10 And I didn't go beyond that. And the  
11 reason that I didn't go beyond that was because  
12 it was not brought to my attention that there  
13 would be any different result with regard to  
14 any of the other arguments made.

15 Now, that you tell me that, I suppose, that  
16 opens up a number of new and interesting  
17 avenues for us. But there's only one ground  
18 that I have found in your favor on, and it's  
19 the Article 9 Section 7 issue.

20 So the extent that you need clarification,  
21 I think, you've got it. It's what the basis of  
22 my decision is.

23 But that, you know, that does conjur up the  
24 possibility that I'm going to have to go  
25 further and deal with the other argument.

1 MR. SMITH:  
2 If I may, Your Honor.  
3 THE COURT:  
4 Uh-hm (affirmative).  
5 MR. SMITH:  
6 In the letter of clarification, does your  
7 ruling hold that the FY -- Fiscal Year 1986  
8 Appropriations enacted by the 14th Legislature  
9 are invalid...  
10 THE COURT:  
11 Yes.  
12 MR. SMITH:  
13 ...is that ruling?  
14 THE COURT:  
15 Yes.  
16 MR. SMITH:  
17 And even then -- even though if they  
18 appropriated separately in the FY-86 budget?  
19 THE COURT:  
20 Yes.  
21 MR. SMITH:  
22 I think, it would be a simple matter to  
23 draft the order to that effect.  
24 THE COURT:  
25 Sure. And all you really have to do is do

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that.

On the other hand, if the plaintiffs want to -- want to -- want all of these ground to be decided then, I suppose, you can approach me in a better way than you've done up until this point. So that I can deal with it.

It appears to me that, really, you didn't think too much about this until now, plaintiffs; and that, perhaps, what we need is supplemental briefing on those other issues if you really think it's necessary to go on with those other issues.

MR. BALDWIN:

If -- if I may incur, Your Honor.

THE COURT:

Uh-hm (affirmative).

MR. BALDWIN:

Our position was that the case on confinement was very weakened; for purposes of appeal could be abandoned at this point. And one of the reasons for asking for this hearing was so that we could limit the issues for the Supreme Court so that we could arrive at an expeditious proceeding.

I would be willing to accept a concession

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from plaintiffs that that issue is no longer  
with us.

THE COURT:

You mean, in other words, they give up to  
you?

MR. BALDWIN:

They give up to us on that point. I  
feel...

THE COURT:

It looked like they were going to do that  
in their opposition.

MR. BALDWIN:

However, Your Honor, the -- the -- the  
position is...

THE COURT:

Well, what -- what I'd like to know from  
you is -- is -- as soon -- since -- since it  
appears that other -- that funds other than  
those already -- invalidated under the  
Article 9, Section 7 argument are implicated  
here.

And since it appears that plaintiffs  
doesn't -- don't want those funds to be spent  
either, it would appear that I'm going to have  
to decide this.

1           But I don't know that there's been a whole  
2           lot of deep analysis given to it, since the  
3           only opportunity the plaintiffs have had to  
4           deal with it is in the context of an opposition  
5           to a Motion to Clarify that's been brought on  
6           in short notice.

7           MR. BALDWIN:

8           Well, Your Honor, I believe, the issue was  
9           submitted to you in briefs and argued. We felt  
10          that your holding must have -- must have denied  
11          them that relief based on the confinement  
12          argument, Your Honor.

13          We felt that it was a weak argument, it was  
14          not well supported, and that we prevailed. And  
15          that's what we hope to arrive at through this  
16          clarification.

17          THE COURT:

18          Well, you just got clarification then; you  
19          were wrong. And with -- not necessarily wrong  
20          in the long run, but you were -- you were wrong  
21          as to the basis for my decision.

22          Now, you know what it is. So you gotta --  
23          you're going to have to tell me what you want  
24          me to do from here on in, because it appears  
25          they're not going to drop that argument; and it

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would appear that I'm going to have to decide it.

Do you want me to let you brief it further? Do you want me to decide it on the papers that I've got?

Plaintiff.

MR. SMITH:

It's out position that the issue has been briefed adequately on -- by way of a brief explanation, I hope you appreciate that it was our intent to request only that relief that we felt was appropriate at the time.

THE COURT:

Uh-hm (affirmative).

MR. SMITH:

And our initial analysis was simply that the first year, in which the appropriations acted as a continuing appropriation, was Fiscal Year 1986. And we did not want to approach the court with relief that extended beyond that that we felt we were entitled to.

Upon analysis of the Motion to Clarify, it occurred to us that that line of reasoning was not correct with respect to the confinement issue; and we felt somewhat obligated to bring

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this matter to the court's attention.

We do so with apologies to the court, but our clients are simply not prepared at this time -- and I would have to confer to them before they abandon that argument -- we do not agree with the state that the arguments are weak. However, they were briefed and argued before the court; and we would simply ask the court to pass on that issue.

THE COURT:

All right. All right. And I'll do that. But I'll -- I'm going to have to take it under advisement and go into it much more deeply than I did. So that will take some time.

MR. SMITH:

I appreciate that.

MR. BALDWIN:

Your Honor, certainly, if the court feels that additional briefing would assist us...

THE COURT:

Well, I'm gonna -- I'll leave it up to you. If you want to brief it further, that's fine with me. I don't mind. And the more briefing probably the better able I'll be able to understand your position.

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But I'm willing to take it under advisement now or I'm willing to defer that, taking it under advisement until you submit that you ask me to allow you to file. But if you don't ask me, I will take it under advisement right now.

And plaintiffs are not asking me; do you want to file something further?

MR. BALDWIN:

I think, that the delay occasioned by that will be more harmful for the State than -- then...

THE COURT:

Okay. All right.

MR. BALDWIN:

...expedited decision.

THE COURT:

So at this point, it's fully briefed and -- and it's -- it will be taken under advisement and I'll decide it as quickly as I can. And it may -- that may occasion some delay; I don't know how much, but I'm certainly not going to have an immediate decision for you and I'd be surprised if I got it for you before two weeks.

MR. BALDWIN:

Yes, Your Honor. Well, as I -- I think, as

1 we set out in our briefs, the -- the delay  
2 occasioned by that decision, of course, will  
3 really adversely affect the financing that we  
4 have underway for Bradley Lake, which would  
5 bring a substantial benefit to the state and  
6 the public, and we only ask the court to  
7 consider that affect. And -- and...

8 THE COURT:

9 All right. Tell me what -- what -- what --  
10 now, just the delay occasioned by a decision on  
11 the confinement issued, tell me what harm that  
12 causes you?

13 MR. BALDWIN:

14 The harm is that we have now a commitment  
15 from banks who are offering a letter of credit  
16 to back up a financing of short -- long term  
17 variable demand notes for the actual financing  
18 of the -- of the Bradley Lake Project.

19 The problem is that this type of an  
20 arrangement is currently authorized under  
21 Federal law, which we are advised is subject  
22 very soon to change in the congress. And  
23 without an -- this legal form, of what is known  
24 as arbitrage, will be available to us only for  
25 a very short time.

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THE COURT:

Well, I understand -- I understand that that -- I just want to know if the Fiscal Year '85 funds are part of this whole security arrangement?

MR. BALDWIN:

Yes, they are. '85 and '86, we must have unrestricted availability. Although, not the ability to spend, but the availability of the funds for the purpose as appropriated from both Fiscal Year '85 and Fiscal Year '86 before we can close on the financing arrangements.

THE COURT:

Okay. So -- so the issue, now, with regard to the stay and with regard to any delay that might be occasioned by my deciding the confinement issue is, essentially, the same; and that is whether deprivation of the use of the funds as security for the short term financing plan would be of irreparable harm to defendants, right?

MR. BALDWIN:

Basically, that is -- that is it, Your Honor. Not only to the defendants, but to all of the rate payers who would be under an

1 increased debt service obligation if we cannot  
2 obtain the investment income earned through  
3 this financing arrangement.

4 THE COURT:

5 Sure. Sure. That -- that's just a  
6 secondary effect. Right.

7 I -- I -- the way I see your argument is,  
8 briefly, with regard to Bradley Lake is that  
9 the banks have committed to the bond financing;  
10 that the documents are in the final drafting  
11 stage; that the bond sale is scheduled for  
12 October 2nd; that the banks relied on the last  
13 legislature's confirmation of their  
14 appropriations.

15 And, in other words, the fact that they  
16 didn't refuse to allow these appropriations to  
17 go through for Fiscal Year '86.

18 That the commitment expires on the 19th of  
19 October; and the federal legislation would  
20 remove the benefits of -- of financing if -- if  
21 bond delivery doesn't occur during 1985; and  
22 that particular -- the scheme that's under --  
23 that is now and it will be in effect would  
24 reduce the cost of long-term fixed rate  
25 financing by \$39 million, right?

1 MR. BALDWIN:

2 That's right, Your Honor. Our best advice  
3 that we have received from financial advisors  
4 and individuals in Washington who are following  
5 this bill, is that the likelihood is very high  
6 that by January 1st, the Federal Internal  
7 Revenue Code will be changed to assist  
8 arbitrage -- that legal arbitrage arrangements  
9 will no longer be possible under federal law.

10 THE COURT:

11 By when?

12 MR. BALDWIN:

13 By January 1st.

14 THE COURT:

15 Okay. Okay. All right.

16 So if I get no objection to this, I think,  
17 that I'm going to take it up under the same --  
18 take up the issue of delay for my taking the  
19 confinement issue under advisement.

20 Under the -- under the same analysis as I  
21 would take up whether or not I would issue a  
22 Stay of the Order with regard to the -- to the  
23 ground for which I found in favor of plaintiffs

24 That sounds -- does that ring a sour note  
25 anywhere for either one of you?

1 MR. BALDWIN:

2 No, Your Honor.

3 THE COURT:

4 Okay. All right.

5 Well, I think, I understand what you're  
6 saying about Bradley Lake and irreparable harm  
7 seems to be conceded on the Power Cost  
8 Equalization Program, assuming that I'm not  
9 going to buy the argument that I should force  
10 the -- or that I should force a decision to be  
11 made whether or not a special session should  
12 take place.

13 And I'm prepared, at this point, to find  
14 that there would be irreparable harm if I  
15 didn't stay the case. So, really, the  
16 secondary issue then it occurs is that -- is  
17 that of adequate protection.

18 Tell me, I'd just like to hear why you  
19 think that you that you can't be adequately  
20 protected? Or maybe the issue is, really, what  
21 real harm is going to occur.

22 And let me tell you how I feel about  
23 this. Although, I invalidated this plan, it  
24 does appear to me that if the legislature had a  
25 chance to deal with this and was forced to

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appropriate a separate appropriation for these funds for this year, it seems, highly likely, that they would indeed appropriate the funds.

Which suggests to me, that if they did and there's not really that much difference between the time -- timed plan if they do it in October, or if they do it in January or February.

If I'm wrong on that, you have to tell me why I'm wrong.

MR. SMITH:

Your Honor, I think you have to go to the gravamen of this lawsuit. The major point of this lawsuit is that the constitution requires the legislature to give affirmative annual consideration of each expenditure that it makes.

If the legislature does not do that, the irreparable harm to the plaintiffs is the automatic violation of the Alaska Constitution with each dollar that is spent under these unlawful appropriations.

THE COURT:

Well, I can understand that that is certainly an academic affect. You can say that

1           there's -- there's harm and it's irreparable in  
2           a sense from any violation of law.

3           But question is what the real irreparable  
4           harm is, in fact, if it's highly probably that  
5           that the appropriations will take place as soon  
6           as the legislature gets a chance to deal with  
7           it.

8           MR. SMITH:

9           I guess, the real irreparable is that once  
10          the money is spent, it cannot be recovered. It  
11          is conceivable, perhaps, it is entirely likely  
12          that the legislature would reappropriate this  
13          money, but I cannot answer that question on  
14          behalf of the legislature.

15          The point is that when passing on a Motion  
16          for Stay, I think, the key consideration for  
17          the court is whether the plaintiff's position  
18          or the defendant's position can be returned to;  
19          can you preserve the status quo if the stay is  
20          granted.

21          If the stay is granted, we cannot return  
22          the plaintiffs to the status quo, because the  
23          money cannot be recovered. Conversely, if the  
24          stay is denied and the case is reversed on  
25          appeal, the money will remain in the general

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fund and the only harm to the defendants will be delay.

And, I guess, perhaps, the easiest way to address this is by analogy. If, as a person who generally practices environmental law, if I want to prevent someone from building a condominium on an area that has been proposed as a wilderness area, once they build the condominium, you have destroyed the wilderness nature of the region. You cannot recover it.

Now, it may be true that the wilderness area would or would not be designated. It's impossible for us to prove the negative. But the fact remains, that we cannot be returned the status quo antea if the money is spent.

THE COURT:

Well, what -- all right. In review what does the evidence show? What money is going to be spent between now and February?

MR. SMITH:

In -- well, in the case of Power Cost Equalization, the money will be spent. But, we have agreed to that.

In the case of Bradley Lake, the State is proposing to use that money as collateral.

1 Now, I would ask the court to consider what  
2 happens in the event that the Supreme Court  
3 upholds this court's decision? That money can  
4 no longer be used as collateral and it's not  
5 clear what would happen, but the Alaska Power  
6 Authority has built a half of cart on a body of  
7 money that's no longer there.

8 They might default on the bond. The  
9 legislature might have to bail them out. In  
10 which case, the APA has essentially ratcheted  
11 the same money out of the legislature.

12 But, I think, you can see that it's a  
13 rather tenuous position to use as collateral,  
14 for \$226 million worth of bonds, money that is  
15 granted on a judicial stay and that might be  
16 removed eventually.

17 THE COURT:

18 Well, I'm assuming that the banks would --  
19 would understand the tenuous position they'd be  
20 in relying on stay that -- that -- of a  
21 decision that, in fact, I believe is going to  
22 be affirmed, and so do you. Although, the  
23 State disagrees.

24 And if they make that commitment, I'm --  
25 I'm assuming that they're dealing with the

1 State knowing all of the facts.

2 MR. SMITH:

3 As a matter of fact, Your Honor, I'm not  
4 sure the State has demonstrated that the deal  
5 would go through on the basis of a stay.

6 Remember that the State entered into these  
7 negotiations knowing that the money had been  
8 challenged, but assuming that they would be  
9 upheld.

10 THE COURT:

11 All right. But, if the deal doesn't go  
12 through if -- when -- if a stay is issued and  
13 they are in a tenuous position, there's no  
14 irreparable harm -- there's no harm to your  
15 interests, is there?

16 Because, in fact, none -- the money is not  
17 used as -- the funds aren't used as collateral  
18 and they're not in a position of ratcheting the  
19 legislature back in to -- in to appropriating  
20 the funds, are they?

21 MR. SMITH:

22 Not if the bank does not uphold the deal,  
23 that is correct. I guess, what my problem is  
24 is a question of burden of proof here.

25 In order to ask the court for a stay, the

1 State has to proof that it needs needs the  
2 money. So the basic rule should be that they  
3 can't use the money for any other purpose than  
4 some irreparable harm, and assuming that other  
5 equitable defenses that we've raised in our  
6 papers don't work.

7 So, perhaps, even if the court's reasoning  
8 is upheld, the State should be limited to only  
9 those matters that the State has proven to the  
10 court are necessary. If you grant the stay  
11 across the board and this deal falls through,  
12 then we'd still be free to spend that money on  
13 anything...

14 THE COURT:

15 Oh, I see what you mean.

16 MR. SMITH:

17 ...whether or not they've proven  
18 irreparable harm for a need.

19 THE COURT:

20 Okay. All right. I think, I understand  
21 you.

22 MR. BALDWIN:

23 Your Honor...

24 THE COURT:

25 Go ahead.

1 MR. BALDWIN:

2 ...there is one point, I think, we've  
3 loosely used the word collateral here for the  
4 status of the appropriation...

5 THE COURT:

6 Uh-hm (affirmative).

7 MR. BALDWIN:

8 ...is that as I understand collateral is  
9 security for a note or something of that  
10 effect, that it's not quite that way in this  
11 transaction.

12 The availability of the appropriation --  
13 that's just it -- it just has to be available  
14 for expenditure for construction, or rate  
15 stabilization, or some other construction  
16 reserve type purpose, has to be available but  
17 not expended; and, therefore, is not pledged as  
18 a repayment of any obligation.

19 The obligation that we have on these bonds  
20 is purely what's known as a naked moral  
21 obligation of the State when no funds are  
22 pledged from the general fund.

23 THE COURT:

24 Okay. Where do I have that in the  
25 evidence?

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MR. BALDWIN:

It's in the -- I believe, it's in the -- in the -- in the Affidavit of Seegraves, or it is in the Affidavit of Grimes (phoenetic). If it's not there, I can provide that to you as an additional bit of evidence.

THE COURT:

Well, I was trying to figure out what the -- exactly what the security plan was.

MR. BALDWIN:

Your Honor, this may be out of the ordinary. We are in a rather strange proceeding here today. I have present in court today bond counsel on this transaction who is prepared to address the court.

If you would like a detailed discussion of how the transaction works, I would defer to him myself.

THE COURT:

Well, that's fine. I -- I -- I would appreciate that. The question would be, I suppose, whether it's under oath or whether it's simply by representation as a lawyer for the State. This is a lawyer who represents the State?

1 MR. BALDWIN:

2 He represents the Power Authority in this  
3 transaction.

4 THE COURT:

5 Well, I hear from him. I may require him  
6 to be put under oath, but I'm not inclined to  
7 do that.

8 MR. BALDWIN:

9 It's up to...

10 THE COURT:

11 Go ahead. I'd just like to hear what --  
12 what the security arrangement really is so that  
13 I can...

14 MR. BALDWIN:

15 Your Honor...

16 THE COURT:

17 ...grab on to it.

18 MR. BALDWIN:

19 ...for the purposes of the record, this is  
20 Mr. Eric Wohlforth of Wohlforth and Flint, the  
21 State's bond counsel, on the stand.

22 MR. SMITH:

23 I guess, my only question is that this is  
24 going to be viewed as testimony for the  
25 purposes of appeal. It's not evidence on the

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record. It's simply advising the court on the nature for purposes of...

THE COURT:

Yes, and I'm assuming that it -- that whatever information that's given here can be supplemented by affidavit -- or, I mean, can be substantiated by...

MR. BALDWIN:

I would be happy to do that, Your Honor.

THE COURT:

All right.

MR. WOHLFORTH:

Your Honor, the nature of the -- the appropriation, which was made last year for Fiscal Year 1985-86 or the fiscal year which we're in, was represented to the three Japanese banks who have made the Letter of Credit Commitment as an appropriation available and unencumbered.

It is not an appropriation which is in the nature of a security collateral for the debt. It was represented to the bank that in the nature of State equity for the construction of the project with earlier appropriations totaling 118 million.

1           That's simply and precisely the nature of  
2           the appropriation as viewed from the consortium  
3           of the three Letter of Credit Japanese banks,  
4           not in the nature of a pledge or otherwise  
5           devoted to the bonds. But equity money, freely  
6           available, unencumbered, and ready to be used  
7           for construction and financing of the project.

8           THE COURT:

9           What would happen, in your view, if -- if  
10          in February it turned out that this money was  
11          no longer available?

12          MR. WOHLFORTH:

13          Your Honor, it's an instant situation. Mr.  
14          -- a present day situation has been made -- I  
15          think, made clear by the assistant attorney  
16          general. The banks have been dealing with a  
17          state of facts, which includes the availability  
18          of the \$50 million 1985-86 appropriation.

19          If -- if somehow that matter cannot be  
20          clarified that the money is, in fact, available  
21          through affirmative action of this court, then  
22          the banks will say within the matter of -- of  
23          -- without exaggeration -- ten days to two  
24          weeks, we're abandoning this commitment. You  
25          represented a state of facts to us which is not

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-- turns out to be not what you said it was because of an unfavorable court decision.

What would happen then, assuming, federal tax law would permit -- and there's a large assumption there -- there would have to be a renewal of negotiations with other banks to obtain a brand new \$271 million commitment for financing of this type, and this is one of the large commitments that's ever been obtained for this kind of Letter of Credit Tax Exempt Financing.

There's a substantial doubt whether or not there could be a renewal of a commitment, certainly, from these or other banks given the posture of, if you will, a failure of the instant financing.

So it's really a matter of accomplishing within a ten day to two-week timeframe this current financing or starting all over again, really, from ground one with a much lesser chance of success. I won't represent...

THE COURT:

I think, I understand that. But, my question was directed at -- at sometime in the future if the funds no longer become available.

1           Certainly, if the plan is invalidated and  
2           it's held up -- suppose the supreme court  
3           decision comes down in January or something  
4           like that then, of course, the funds aren't  
5           available, are they?

6           MR. WOHLFORTH:

7           It's true, Your Honor. Again, I have to  
8           speculate -- and I don't represent this as firm  
9           from the banks. But it is our feeling, and my  
10          judgment, that if the court should rule that  
11          the 1985-86 appropriation was, in fact, made by  
12          the legislature separately from the continuing  
13          appropriation; as having been made separately,  
14          stands not withstanding the invalidity of the  
15          continuing appropriation.

16          And as bond counsel, and as the bankers  
17          insist on it, that the attorney general, as  
18          well, were able to state in the offering  
19          documents that the appeal as to the 1985-86  
20          dollar appropriation by the legislature was  
21          without merit, then it's our feeling and, I  
22          guess, without making it a certainty; it's a  
23          feeling of judgment that the banks would go  
24          forward under the commitment, because they are  
25          used to and accept the notion of non-

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meritorious appeals.

They -- in other words, they would be prepared to take the risk that there would be supreme court divestment of that...

THE COURT:

Okay.

MR. WOHLFORTH:

...1985-86 appropriation under those circumstances.

THE COURT:

I see. Thank you.

MR. WOHLFORTH:

Thank you.

THE COURT:

I appreciate it.

(Pause)

THE COURT:

Well, as far as I'm concerned, I have all I need to make a decision. Does anybody else want further time?

MR. SMITH:

If I may, Your Honor, I'd just like to respond to one or two things that were just said.

The Alaska Power Authority -- knowing that

1 this lawsuit had been brought and knowing that  
2 these funds might be ruled unconstitutional --  
3 approached this consortium of Japanese banks  
4 and represented that this money would be  
5 available.

6 In fact, on the basis of the plaintiff's  
7 lawsuit, the court has ruled that the money is  
8 -- had been unconstitutionally appropriated  
9 and, therefore, is not available.

10 Now, the State is coming before the court  
11 and saying that they are being irreparably  
12 harmed. But they're being irreparably harmed  
13 not because of this court's decision, but  
14 because of the negotiations that they entered  
15 into of their own accord, knowing that these  
16 funds have been challenged. And I would simply  
17 submit to the court in equity that that is  
18 bootstrapping and is inappropriate.

19 THE COURT:

20 All right. Thanks.

21 MR. BALDWIN:

22 Yes, just in brief reply to that.

23 When we entered into this case, Your Honor,  
24 we -- and, I say, the State -- was of a mind  
25 that it had a possibility of losing it.

1           And, in order to hedge our bets, so to  
2 speak, or in an over-abundance of caution, we  
3 moved forward by appropriating the money  
4 separately in the FY-86 budget; thinking that  
5 by using that device -- by approaching the 14th  
6 Legislature separately and asking that body to  
7 appropriate separately -- then the money for  
8 these three purposes that, at least, that money  
9 would be secure.

10           And the court's ruling in joining the State  
11 on the Fiscal Year '86 Appropriation was  
12 totally unsuspected. Because we had taken this  
13 separate action to approach the legislature to  
14 put it in our budget and to seek separate  
15 enactment of that money.

16           And we felt that based on those actions --  
17 even flying in the face of the statute, which  
18 on its face appears to automatically  
19 appropriate the money, that we could assure  
20 that our project could go forward and let the  
21 battle fly on about whether automatic  
22 continuing annual appropriations are valid.

23           So in counter to what counsel for plaintiff  
24 has said, we felt that we approached this with  
25 all the caution that could be exhibited to

1 preserve our important financing of hydro-  
2 electric projects.

3 And, even, a cursory review of the pages of  
4 the budget in Chapter 96 SLA-85 and Chapter 98;  
5 if the court would -- would draw its attention  
6 to page 8 of the budget, it will note that the  
7 legislature specifically conditioned the FY-86  
8 appropriation for Susitna and indicated with  
9 this condition, which is a binding condition as  
10 far as our -- as far as we can tell as a matter  
11 of law.

12 Stating, it is the intent of the  
13 legislature the following total amount of  
14 capital improvement monies for preliminary  
15 design and licensing of the Susitna Project  
16 shall not be exceeded in FY 1986, unless  
17 reviewed and approved by the Legislative Budget  
18 and Audit Committee.

19 And listed a total of expenditures  
20 totalling approximately \$22 million.  
21 Basically, it told the Power Authority it can't  
22 spend anymore than \$22 million in that fiscal  
23 year out of the -- out of the \$200 million  
24 appropriated in this bill.

25 And we feel that that's absolutely clear

1 that the legislature did not feel bound to live  
2 up to the appropriation enacted by the  
3 13th Legislature, but stepped forward and took  
4 its own, independent, individual action on  
5 this.

6 So that's why we proceeded; that's why we  
7 made our representation; and that's why we feel  
8 we did not act in a reckless and irresponsible  
9 matter.

10 And that's why we asked the court for  
11 clarification today, because we thought that  
12 since plaintiffs had submitted the order to you  
13 before the legislature had acted in March, the  
14 order -- a formal order was submitted to Your  
15 Honor in March of 1984; the legislature  
16 adjourned in of May, 1984.

17 And plaintiffs were not even aware that the  
18 matter was in the budget until we brought it to  
19 their attention.

20 We thought that, clearly, we could validate  
21 the '86 -- if they had agreed to the '85,  
22 certainly, the reasoning must apply to '86.  
23 Their reasoning appears to be that the  
24 13th Legislature had the power over the FY-85  
25 Appropriation, therefore, it was conceded to be

1 valid under their Article 9, Section 7  
2 argument.

3 That that analysis, surely, must apply to  
4 the Fiscal Year 1986 Appropriation since that  
5 the 14th Legislature, itself, acted  
6 specifically in regard to that amount of money  
7 as shown by the -- the condition it placed on  
8 the -- on Fiscal Year 1986 Appropriation.

9 So, I think, the Power Authority has not  
10 acted in a recklessly in any way to the  
11 detriment of the public interest here.

12 THE COURT:

13 Okay. Thank you.

14 I'm going to grant the stay. Specifically,  
15 I find that -- that the defendants are  
16 threatened with irreparable harm. It's clear  
17 that their -- the security plan is in  
18 jeopardy. It looks like they could suffer a  
19 huge financial loss if, in fact, the -- the  
20 security plan is thrown out. The Power Cost  
21 Equalization Program funds, of course, their  
22 irreparable harm is conceded as to them.

23 As to adequate protection to the  
24 plaintiffs, I have sympathy for the idea that  
25 -- that an illegal plan -- and I -- I think,

1 that in a large part I found and I'm going to  
2 go on further with regard to the confinement  
3 issue and decide on those issues -- but in a  
4 large part, I found that this statutory plan is  
5 unconstitutional and I don't lightly stay a  
6 decision like that. If I feel that my decision  
7 is based on reason and I do. I mean, it seems  
8 very -- the plaintiffs have a very strong  
9 argument with regard to Article 9, Section 7.

10 But it seems very clear to me from the  
11 material that I've had in this file that the  
12 legislature given an opportunity to  
13 independently appropriate monies for  
14 Fiscal Year '86 and to validate whatever  
15 appropriations remain from Fiscal Year '85,  
16 that might be involved in this whole equation  
17 would do that.

18 They might take a different position with  
19 regard to monies in 1989 or 1988, but it seems  
20 very clear to me that they would appropriate,  
21 given the situation.

22 Now, so that the issue would be whether or  
23 not I force a legislative session -- a special  
24 legislative session, which we've got almost  
25 conclusive evidence, I think, that it's very

1 expensive; and we've already had one this  
2 year. I see no reason to compel another one  
3 when the new session of the legislature  
4 convenes in three months.

5 And any other harms to the plaintiffs from  
6 issuance of the stay, aside from some  
7 vindication of constitutional principles is, to  
8 me, it's pretty speculative at this point.

9 So I find that they can be adequately  
10 protected and there are surely serious and  
11 substantial issues in this case. Clearly,  
12 there are with regard to the confinement issue,  
13 even if I fine in the plaintiffs' favor.

14 And, although, I think, their argument is  
15 strong on Article 9, Section 7, I'm not  
16 prepared to say that these are -- issues are  
17 not obviously without merit on appeal.

18 Counsel?

19 MR. SMITH:

20 Yes, I'd like to ask two questions.

21 First, to clarify that the stay would apply  
22 not to Susitna funds, but only to Bradley Lake  
23 and the Power Cost Equalization.

24 THE COURT:

25 You mean the -- the question that --

1            yeah.    I -- I -- as I understand your  
2            presentation, Susitna expenditures are not  
3            likely within the next year.

4    MR. BALDWIN:

5            Not likely until the earliest, FY-87.

6    THE COURT:

7            And actual expenditures for Bradley Lake  
8            aren't likely until spring.

9    MR. BALDWIN:

10           We -- we plan to encumber in the spring.  
11           It's not likely that we will begin spending.

12   THE COURT:

13           Well, encumbrance; let's talk about  
14           encumbrance.

15           You won't even be encumbering until the  
16           spring of next year?

17   MR. BALDWIN:

18           That's how I understand it.

19   THE COURT:

20           Well passed the time when the legislature  
21           will have an opportunity to look at this.

22   MR. BALDWIN:

23           Certainly, Your Honor.

24   MR. SMITH:

25           My second question, Your Honor, in line

1 with that thought, is that there is one way  
2 that the court could limit it's relief in a  
3 fashion that would provide maximum possible  
4 protection to plaintiffs without harming their  
5 plan at all.

6 And that is that the relief could be  
7 limited to some time certain within the regular  
8 legislative session, say January 30th.

9 THE COURT:

10 You mean until, say, February?

11 MR. SMITH:

12 February 15th, and if Your Honor is correct  
13 that the legislature would, in fact,  
14 reappropriate that money, that would give them  
15 ample time to do so.

16 THE COURT:

17 Well, I'm not prepared to do that at this  
18 point, but it seems to me that it's always --  
19 relief is always available to you either from  
20 me or, if I lose jurisdiction from the supreme  
21 court, it could dissolve the stay that's been  
22 issued; and if, in fact, the legislature makes  
23 it very clear that they're not about to act on  
24 this until -- until the supreme court acts,  
25 then, I assume, that it would be appropriate to

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make a motion to dissolve the stay.

It's -- it's -- I'm not -- I don't want --  
I don't think it's appropriate for me, at this  
point, to give the legislature a timetable. It  
seems very clear to me that this is a very  
important issue and that they will probably be  
dealing with it almost immediately when they go  
into session.

And if I still have jurisdiction, is the  
question, in January, I'd be looking very  
seriously at dissolving any stay if they gave  
clear indication that they weren't going to  
act.

Anything else?

MR. BALDWIN:

Not from the State.

THE COURT:

Do you require a written order?

MR. BALDWIN:

Your Honor, I...

THE COURT:

In my view, my reasons for issuing the stay  
are clear on the record, and if you don't think  
so or if you think they need supplementation,  
you can propose an order to me. But I really

1           don't think a written order is necessary.

2 MR. BALDWIN:

3           Yes, Your Honor, if we have a disagreement,

4 I think, we'll settle it by presenting an order

5 to the court, but I...

6 THE COURT:

7           Okay. That's fair -- that's fair enough.

8           Now, given the argument that was just made

9 by the St... 's counsel, are you sure that you

10 don't want further brief this issue, the one

11 issue that remains?

12 MR. SMITH:

13           The issue on confinement?

14 THE COURT:

15           Yes.

16 MR. SMITH:

17           Your Honor, I think, we will make a

18 decision in the next day or so whether or not

19 to request written brief if that's permissable

20 to the court.

21 THE COURT:

22           Okay. All you have to do is then contact

23 opposing counsel and stipulate to a briefing

24 schedule, and I will defer decision until

25 you've fully briefed the matter.

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MR. SMITH:

Thank you, Your Honor.

THE COURT:

But I won't defer decision any further than ten days. So you won't get any more than ten days to file additional briefs.

MR. BALDWIN:

Your Honor, with the additional relief of a stay, makes us want to think about it for a couple of days as well, and we do...

THE COURT:

Sure, that's fine with me, and I won't be getting to it until next week surely. So let me know and maybe you can just drop a phone call to my secretary, and then if you want to stipulate in writing you can also do that.

MR. BALDWIN:

Certainly, Your Honor.

THE COURT:

Okay. Thank you, Mr. Baldwin.

MR. BALDWIN:

Thank you.

MR. SMITH:

Thank you.

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THE CLERK:

Please rise. Court stands in recess  
subject to call.

(Whereupon the hearing adjourned at 4:12  
p.m.)

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CERTIFICATE

UNITED STATES OF AMERICA )  
 ) ss.  
STATE OF ALASKA )

I, Georgi Ann Haynes, Notary Public in and for the State of Alaska, residing at Anchorage, Alaska, and verbatim reporter for H & M Court Reporting, do hereby certify:

That this transcript, as heretofore annexed, is a true and correct transcription of testimony of said proceedings, to the best of my knowledge, and thereafter transcribed;

I am not a relative, or employee, or attorney, or counsel of any of the parties, nor am I financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 20th day of September, 1985.

*Georgi Ann Haynes*  
Notary Public in and for Alaska  
My commission expires: 1/10/87



Anchorage • Star of the North  
Chamber of Commerce

*File*  
*SB338*  
APR 4 1986

April 3, 1986

Senator Arliss Sturgulewski  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Dear Arliss:

Thank you for your request to the Energy Committee to comment on pending issues relating to the Alaska Power Authority. We are aware of legislation which has been drafted which would convert the APA into a line agency within the Department of Commerce & Economic Development. It appears this approach may be related to recent decisions by the APA board of directors and to recurring discussions among the utilities regarding possible restructuring of the railbelt utilities.

The energy committees of both the Anchorage Chamber of Commerce and the Alaska State Chamber of Commerce met yesterday to discuss the issues surrounding the APA and both committees came to unanimous agreement on the following points:

1. We support continuation of the APA, but we believe the board should be restructured as an independent body comparable to the board of the Alaska Railroad. We need an entity which is capable of long-range planning and has the ability to act. Power supply problems have to be resolved which extend one or two decades in length. They are not going to be resolved by a politicized agency whose planning horizon extends only to the next election.

2. A generation and transmission cooperative (G&T) has been proposed for the railbelt as an alternative to the APA for developing power projects for this region. This may be a reasonable alternative for that purpose, but we strongly

President: *Elaine Atwood* Executive Committee: *Larry Baker,*  
*Ken Calhoon, George Easley, Lee Fisher, Joe Heintz, Harold Heinze, Glenda Rhodes*  
Board: *Col. Larry Bolls, Mike Burns, Dave Dittman, Sen. Jan Faiks, Al Fleetwood, Alice Hartig, Jack Hayes,*  
*Duane Heyman, Col. Scott Tippin, Kay Linton, Bill MacKay, Earl Miller, George N. Nelson, John Norman, Al Parrish,*  
*Bob Penney, Chief Brian Porter.*

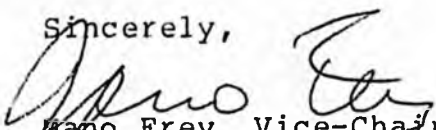
415 F Street, Anchorage, Alaska 99501-2254 (907) 272-2401

believe the APA should remain in place until such an entity has in fact been created by the railbelt utilities. Even if a G&T is organized and it assumes responsibility for the development of future power projects for the railbelt, there will still be a need for a statewide power agency such as the APA.

3. Detailed feasibility assessment of the Devil Canyon project should continue while alternative energy studies are being conducted. The state has a substantial investment in time and money in studies of the upper Susitna River, and completion of a feasibility determination of the Devil Canyon project is estimated to cost approximately \$3 1/2 million over a 6 month period. There has never been any question about the need for new and replacement generating capacity in the next decade to serve the railbelt. Studies on the Upper Susitna over the years have repeatedly found Devil Canyon to be economically attractive.

We appreciate the interest you and the Senate have in developing a rational energy future for Alaska. We know that despite the oil glut which now exists, we must plan now for a future which will have very different problems. We are pleased to respond to your request for our comments and would be happy to comment further as these issues develop.

Sincerely,



Hans Frey, Vice-Chairman  
Energy Committee  
Anchorage Chamber of Commerce



David Hutchens, Co-Chairman  
Energy Committee  
Alaska State Chamber of Commerce

cc: Senator Jan Faiks

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

### OFFICE OF MANAGEMENT AND BUDGET

#### DIVISION OF STRATEGIC PLANNING

*file SB338*  
BILL SHEFFIELD, GOVERNOR

POUCH AD  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3568

APR 4

1986

April 3, 1986

Mr. Robert Heath  
Executive Director  
Alaska Power Authority  
P.O. Box 190869  
Anchorage, AK 99519

Dear Bob:

The board of the Alaska Power Authority must soon define more closely the "review of alternatives" that we have resolved to initiate in the wake of our actions on the two-dam Susitna Project. Since staff will be drafting a work plan for the board to consider, I would like to express my ideas on this subject, and my concerns about how we proceed.

Foremost on my mind is the implication for the Power Authority of declining State revenues. The fiscal situation of the State has changed the fundamental premises under which the Alaska Power Authority has been operating since the early 1980s. Our inability to devise a workable financing plan for the Susitna project is symptomatic of the new fiscal reality.

All of the energy projects undertaken by the Power Authority have been funded fully from the State's general fund (e.g., the Anchorage-Fairbanks intertie, and rural waste heat projects) or funded in substantial measure from the general fund (e.g. the four-dam pool projects, and Bradley Lake). It seems very doubtful that there will be significant amounts of general fund money available for new energy projects

(in the foreseeable future, anyway). Regrettably, this is so notwithstanding the political bargain struck years ago that the Railbelt would eventually get its own large energy project as a quid pro quo for the heavy expenditures on the four-dam pool and rural energy subsidies. The money simply won't be there.

If this is the case, it seems to me the board needs to assess the new situation; and then explore its implications for project planning. Only after we have a clearer understanding of our financial resources should we turn to the evaluation of specific projects. Specifically, I have two major concerns about moving immediately and directly to a technical review of project alternatives to the Susitna development. One concern is that there may be innovative options and smaller-scale alternatives that now deserve consideration, but which are not in the existing list of competitors to the Susitna megaproject and will therefore be excluded from a technical review. A second concern is that the leading alternatives to the Susitna project are also megaprojects, and therefore equally unfinanceable and unrealistic in the current fiscal circumstances of the State.

Much more than updated engineering reports, at the present time the Power Authority needs some thoughtful analysis, creative planning, and serious dialog with Railbelt utilities about the energy future of the Railbelt and the role of the Alaska Power Authority in it.

How can the State maximize subsidy to power consumers in the Railbelt from the limited funds it may have available for this purpose? If the State's financial contribution to new generating capacity is going to be relatively small, should the State play a direct role in acquiring and operating these facilities or should it work through existing utilities? There are lots of such questions that we should work ourselves through before spending more money on engineering assessments of currently-identified alternatives to Susitna. We may well need the assistance of a qualified consultant in this effort, as well as advice from utility planners and other experts from outside the State.

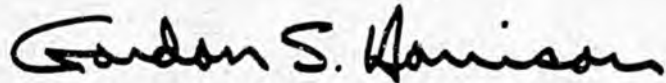
Mr. Robert Heath

- 3 -

April 3, 1986

Perhaps we should think in terms of a two- or three-phase review, with the first phase covering the planning issues. In any case, at this point I am reluctant for the board to request an appropriation solely for the purpose of more project-oriented analysis and review.

Sincerely,

A handwritten signature in dark ink, reading "Gordon S. Harrison". The signature is written in a cursive style with a large initial "G".

Gordon S. Harrison  
Associate Director

cc: Board Members



POUCH V  
JUNEAU, ALASKA 99811

# Alaska State Legislature Senate

## A G E N D A

### SENATE FINANCE COMMITTEE

---

Wednesday, April 9, 1986 -- 4:30 p.m.

- SB 338            "An Act making, amending, and repealing appropriations for energy programs; and providing for an effective date."
- SB 468            "An Act creating the Railbelt energy fund."

Testimony of Dr. Joyce Murphy  
President of the Board  
Chugach Electric Association

Senator Faiks - Senator Sackett  
- Ladies and Gentlemen of the committee:

Thank you for allowing me the time to speak before you this afternoon.

My name is Dr. Joyce Murphy. I am president of the board of directors of Chugach electric association. CEA is the largest producer of electric energy in the state. We serve nearly 3/4 of the state population. Our member/consumers are very concerned about the energy needs of the railbelt area and the allocation of the funds designated for the railbelt energy use.

Chugach Electric Association supports the establishment of a railbelt energy fund into which the \$200 plus million (including accrued interest) would be deposited. CEA concurs with the other railbelt utilities that these funds should be set aside in a trust fund to be used for railbelt energy needs.

We also are in favor of the establishment of a railbelt council which would bring all the concerned parties together to evaluate all of the options and to make a recommendation on the best option or options for the use of these funds. It is also important that the council work together to determine the energy future of the railbelt area and what the best options are to meet these energy needs. We believe there is a need for community input from the consumer and this council could act as a forum for this purpose. We would support a specific time frame for the council's existence and for its recommendations to be made to the 1987 legislative body.

Thank you for your help on this very important issue that affects all consumers in the railbelt area.

Introduced: 3/26/86  
Referred: Resources and  
Finance

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

SENATE BILL 43

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act creating the Railbelt energy fund; and pro-  
7 viding for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 44.25 is amended by adding a new section to read:

10 Sec. 44.25.050. RAILBELT ENERGY FUND. There is established in  
11 the general fund the Railbelt energy fund. The fund consists of money  
12 appropriated to it by the legislature. The Department of Revenue  
13 shall manage the fund. Interest received on money in the fund shall  
14 be accounted for separately and may be appropriated into the fund  
15 annually. The legislature may appropriate money from the fund to  
16 assist in meeting Railbelt energy needs.

17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

3/26/86

Date 4/2/86

Mr. President

The Committee on RESOURCES considered SB 468  
creating the Railbelt energy fund; efd.

and (a majority of the committee) (~~the committee~~) reports it back with the following recommendations:

- do pass
- do pass with attach 1 amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title \_\_\_\_\_
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  ~~NEW~~ FISCAL NOTE
- reports it back without recommendation Ø
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

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MEMBERS HAVING  
OTHER RECOMMENDATIONS

Railbelt no REC

[Signature] " "

[Signature] No Rec

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[Signature]  
Chairman

[Signature]  
Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No: SB 468  
Title: Creating Railbelt Energy Fund

Sponsor: Senate Resources  
Requestor: Senate Resources  
Date of Request: April 1, 1986

FISCAL DETAIL

Agency Affected: Department of Revenue  
BRU: Treasury Management

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS "	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker *MB*  
Division: Treasury

Phone: 465-2350  
Date: April 1, 1986

Approved by Commissioner: *Henry H. Stedake*  
Agency: Department of Revenue

Date: 4/1/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

THE FOLLOWING DOCUMENT HAS  
NOT BEEN FILMED BUT IS  
AVAILABLE IN THE ORIGINAL  
FILE

# ...with your Permanent Fund Dividends

It's  
in  
Your  
Hands

# You will pay for this...

On January 24, 1986, the executive director of the Alaska Power Authority (APA) felt that he had no choice but to recommend that virtually all work on Susitna dam planning and licensing be called to a halt, pending an emergency review of the most current financial information available.

Four days earlier, APA's east-coast financial consultants had released a report concluding that the state of Alaska can afford the Susitna dams only if it offers all interest from the Permanent Fund as security for special revenue bonds or reinstates both state income and sales taxes.

There are many other compelling reasons not to proceed with the Susitna dam project. A few of these are spelled out in this brochure.

As you read this, state decision-makers are considering a scaled-down version of the two-dam Susitna project. You can make a tremendous difference in the course of the Susitna River — and in the energy policy of the state of Alaska as a whole — by writing today.

Governor Bill Sheffield  
Pouch A  
Juneau, AK 99811  
465-3500

Senators and Representatives  
Pouch V  
Juneau, AK 99811

★ Urge that no further money be spent on Susitna dam planning and licensing. \$150 million has already been spent, but this is not good reason to lock the state of Alaska into a \$20.5 billion debt, and it is not a good reason to take the "permanent" out the Permanent Fund.

★ Urge decision-makers to seriously consider the full range of alternatives to the huge, centralized, extremely costly Susitna project. Some of these alternatives have been recommended by the Federal Energy Regulatory Commission (FERC). Many are addressed in "Alaska's Energy Future," a report released in January 1986 by the Northern Alaska Environmental Center, the Alaska Public Interest Research Group and Trustees for Alaska.



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Fairbanks, Alaska

Northern Alaska Environmental Center

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(907) 452-5021



Artliss Sturgulewski

2957 Sheldon Jackson



Northern Alaska Environmental Center  
 218 DRIVEWAY  
 FAIRBANKS, ALASKA 99701  
 (907) 452-5021

# You will pay for this...



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 Fairbanks, Alaska

## ...with your Permanent Fund Dividends

It's  
 in  
 Your  
 Hands

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Arliiss Sturgulewski

2957 Sheldon Jackson

TELECOPY COVER SHEET  
ANCHORAGE INFORMATION OFFICE

Please  
Deliver  
ASAP

TO: Sen. Sturgubewski  
Sen. References PHONE: \_\_\_\_\_

FROM: Municipal Light & Power PHONE: \_\_\_\_\_

ADDITIONAL INSTRUCTIONS: SB 338

DATE/TIME SENT: \_\_\_\_\_ PLEASE ACK. RECEIPT: \_\_\_\_\_

DISPOSAL OF ORIGINAL: \_\_\_\_\_ THROW AWAY  
\_\_\_\_\_ HOLD FOR PICK UP \_\_\_\_\_

NUMBER OF PAGES: 8 (NOT COUNTING COVER SHEET)

BY: Mr. Johnson  
not able to  
present at  
teleconference  
today

# Municipality of Anchorage



POUCH 6-650

ANCHORAGE, ALASKA 99502-0650

(907) 264-4431

CITY AND VILLAGE  
MAYOR

OFFICE OF THE MAYOR

November 13, 1985

Honorable Bill Sheffield  
Governor of the State of Alaska  
Third Floor, State Capitol  
Pouch A  
Juneau, Alaska 99811

Dear Governor Sheffield:

Anchorage has supported the construction of the Bradley Lake Hydroelectric project because we believe it constitutes a critical element in the long term power supply for Anchorage and the surrounding areas. With the Alaska Intertie operational, Bradley Lake should logically become an integral part of the Railbelt's power supply and should be so constituted.

Over the past several years Anchorage has repeatedly requested of the Alaska Power Authority that provisions be made so that Anchorage can contract for and receive Bradley Lake power. To meet our requirements it is necessary to have an improved transmission line connection with Bradley Lake, or in the interim, to have contractual arrangements such that Anchorage would be entitled to its share of Bradley power when the necessary transmission circuits are built. Since our latest request, which was for the interim accomodation only, has been summarily dismissed, we have no further recourse but to appeal to you.

It is not only the customers of Anchorage's municipal electric utility that are being deprived of Bradley power, but all consumers in Anchorage and north to Fairbanks. Even though Chugach Electric Association has contracted for a large increment of Bradley power this power cannot reach their customers in Anchorage but can only be used to meet wholesale commitments on the Kenai. Therefore as presently constituted Bradley Lake is of no benefit to Alaskans outside the Kenai and even the displaced generation cannot be effectively used elsewhere. The deficiencies of the existing transmission will also militate against reliability on the Kenai because to a great extent they will remain electrically isolated from the remainder of the Railbelt's interconnected

GOVERNOR SHEFFIELD  
November 13, 1985  
Page 2

system. The improved Kenai to Anchorage transmission link will result in a strong electrical connection from Homer to Fairbanks thus maximizing reliability and insuring that the rate and rate stabilizing benefits of the Bradley Lake Project will become available to nearly three-quarters of all Alaskans.

Considering that the Bradley Lake Hydroelectric project will cost nearly as much as the Four Dam Pool combined, it is incumbent that it be configured to benefit the maximum number of Alaskans as possible. Certainly to restrict for all time these benefits just to consumers whose utilities can take delivery of Bradley Lake power at the time the power comes on line is discriminatory. And at the same time to delay initial studies on the transmission facilities necessary to provide the wider benefit is shortsighted.

We request that you ask the Alaska Power Authority to immediately commence preliminary studies on a Kenai-Anchorage tie line of adequate capacity and reliability at a minimum to transmit to Anchorage the power displaced by Bradley Lake and to modify the conditional sales contracts for Bradley power to allow other utilities to opt in on equal terms; i.e., post card rates, at such time as adequate transmission becomes available.

Very truly yours,

  
Tony Knowles  
Mayor

## MUNICIPALITY OF ANCHORAGE

RECEIVED  
ML & P DEPT.  
DEC 19 8 28 AM '85

Date: December 18, 1985  
 To: All Departments  
 Thru: Bob Smith, Municipal Manager *Bob Smith*  
 From: Wanda Bryan, Manager, Office of Agenda Control *WB*  
 Subject: Regular Meeting of December 17, 1985

## ITEM

1. CALL TO ORDER
2. ROLL CALL
3. MINUTES OF PREVIOUS MEETING
4. CONSENT AGENDA
  - A. BID AWARDS
    1. AM 1423-85, remodel of Museum, Capital Projects. APPROVED
    2. AM 1424-85, furnishing newspaper advertising. APPROVED
    3. AM 1425-85, Mulcahy Baseball Park improvement, P&M. APPROVED
    4. AM 1464-85, loop feed for substation 16, ML&P. APPROVED
  - B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION
    1. AO 85-219, amending the OSHP, Planning. P.H. SET FOR 1-14-86
    2. AR 85-276, appropriating \$361,000 for slope stabilization structures above Hiland Drive, P.W. P.H. SET FOR 1-14-86
    3. AR 85-277, financing the Ridesharing Program, Transit. P.R. SET FOR 1-14-86
  - C. INFORMATION AND REPORTS
    1. AIM 282-85, age discrimination audit, Employee Relations. ACCEPTED
    2. AIM 284-85, 1985 end-of-year assessment values, Finance. ACCEPTED
  - D. RESOLUTIONS FOR ACTION
    1. AR 85-278, admin. letters to labor agreements, E.R. APPROVED
    2. AR 85-279, appropriating \$61,200 for vehicle I/M, H&HS. APPROVED
    3. AR 85-280, appropriating \$16,500 for day care assistance, H&HS. APPROVED
    4. AR 85-281, appropriating \$39,310 for rental rehab program, H&HS. APPROVED
    5. AR 85-282, appropriating \$32,000 for the seismic safety study, Community Planning. APPROVED
  - E. NEW BUSINESS
    1. AM 1403-85, Liquor License for Discount Liquor #74. APPROVED
    2. AM 1444-85, 1986 Liquor License Renewals - Beverage Dispensary: Diamond Jim's, Package Store; Diamond Jim's, Restaurant/Eating Place; Golden Phoenix Rest., Restaurant Eating Place/Restaurant Designation: Yamatoya Restaurant, Pizza Saturn, and Venesia Pizzeria. APPROVED
    3. AM 1445-85, 1986 Liquor License Renewal for The Avenue. CARRIED OVER TO 1-7-86
    4. AM 1446-85, Liquor License for New China Chinese Rest. APPROVED
    5. AM 1461-85, contract award to Fed. of Community Councils. APPROVED
    6. AM 1422-85, prof. engineering services for Merrill Field. APPROVED

ITEM	ASSEMBLY ACTION
7. <u>AM 1436-85</u> , Central Office switching equipment, ATU.	APPROVED
8. <u>AM 1438-85</u> , equal access hardware & software for various wire centers, ATU.	APPROVED
9. <u>AM 1435-85</u> , amend #1 to Wilder Construction Co. for conical trail and 42" force main, C.P.	APPROVED
10. <u>AM 1436-85</u> , amend #1 for Lake Otis Pkwy, C.P.	APPROVED
11. <u>AM 1459-85</u> , CO #2 to Wilder Construction Co. for West Northern Lights Blvd., C.P.	APPROVED
12. <u>AM 1460-85</u> , Bartlett Pool design review, C.P.	APPROVED
13. <u>AM 1437-85</u> , rep. for Anchorage v. Ferche, Law Dept.	APPROVED
14. <u>AM 1439-85</u> , CO #1 for A/C Couplaz landscape project, P&R.	APPROVED
15. <u>AM 1440-85</u> , CO #2 to Chester Creek Greenbelt Pkg., P&R.	APPROVED
16. <u>AM 1455-85</u> , funding of non-profit recreational org., P&R.	APPROVED
17. <u>AM 1441-85</u> , GPT equipment and software, Police Department.	APPROVED
18. <u>AM 1442-85</u> , time ext. for Brandee subd. agreement, P.W.	APPROVED
19. <u>AM 1452-85</u> , CO #2 for Birchwood/Chugiak LEISA imp., P.W.	RECONSIDERED AND APPROVED
20. <u>AM 1458-85</u> , CO #2 for 1984 street light imp., P.W.	APPROVED
21. <u>AM 1443-85</u> , CO #1 for Karen LID No. 156, AMWU.	APPROVED
22. <u>AM 1447-85</u> , ext. of animal control contract, H&HS.	APPROVED
23. <u>AM 1448-85</u> , mgmt. services agreement for 4th Avenue Theater, P&R.	APPROVED
24. <u>AM 1449-85</u> , data base software products, Info Systems.	APPROVED
25. <u>AM 1451-85</u> , study for AMWU & GIS Study, Info Systems.	APPROVED
26. <u>AM 1453-85</u> , CO #1 to promote Ride-Sharing, Transit.	APPROVED
27. <u>AM 1454-85</u> , grant agreement with the ACVB.	APPROVED
28. <u>AM 1457-85</u> , Public Transit Advisory Board appointment.	APPROVED
29. <u>AM 1462-85</u> , Bidding Review Board appointment.	APPROVED
30. <u>AM 1463-85</u> , supply of distribution transformers, ML&P.	APPROVED
31. <u>AM 1465-85</u> , chest x-rays, H&HS.	APPROVED
32. <u>AM 1466-85</u> , purchase of duplicating equip., Print Shop. <u>AM 1466-85(A)</u> , regarding same.	APPROVED

END OF CONSENT AGENDA

5. REGULAR AGENDA

- A. BID AWARDS
- B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION
- C. INFORMATION AND REPORTS
- D. RESOLUTIONS FOR ACTION
- E. NEW BUSINESS

END OF REGULAR AGENDA

6. UNFINISHED BUSINESS AND UNFINISHED ACTION ON PUBLIC HEARING ITEMS

- A. AM 1407-85, lease of space at 4th & "D", P&R and Police. APPROVED
- B. AO 85-188, Anc Park, Greenbelt & Recreation Facility Plan. APPROVED AS AMENDED

4

ITEM	ASSEMBLY ACTION
C. <u>AO 85-173</u> , Title 21, Commercial Use Districts, Planning.	APPROVED AS AMENDED
D. <u>AO 85-178</u> , new fares for People Mover System, Transit.	APPROVED
E. <u>AO 85-97</u> , composition and membership, Chugiak Birchwood Eagle River, Board of Supervisors.	CARRIED OVER TO 2-11-86
1. <u>AO 85-97(8)</u>	
2. <u>AO 85-97(8-1)</u>	
3. <u>AO 85-97(8-2)</u>	
7. BOARD OF ADJUSTMENT/ASSEMBLY APPEALS	
8. SPECIAL ORDERS/EXECUTIVE SESSIONS	
A. <u>AR 85-263</u> , water revenue bonds.	APPROVED
B. <u>AR 85-284</u> , changing the name of 9th Avenue to Martin Luther King Parkway.	F.H. SET FOR 1-7-86
C. <u>AR 85-285</u> , appropriating \$25,000 to equipment management fund.	APPROVED
D. <u>AIM 286-85</u> , lease of 4th Ave. & "D" St. space for Police Dept.	ACCEPTED
E. <u>AIM 287-85</u> , parking fine increase.	ACCEPTED
F. <u>AIM 288-85</u> , revenues/expenses of parking enforcement program.	ACCEPTED
G. <u>AIM 289-85</u> , unemployment compensation claims.	ACCEPTED
H. <u>AIM 290-85</u> , Health & Human Services breastfeeding classes.	ACCEPTED
P R O C E E D	
9. APPEARANCE REQUESTS (MUST BEGIN AT 7:30 PM)	
A. Wayne D. Carpenter, funding for AK Wildlife Museum.	APPEARED
10. CONTINUED PUBLIC HEARINGS	
11. NEW PUBLIC HEARINGS (MUST END NO LATER THAN 11:30 PM)	
1. <u>AR 85-275</u> , appropriating \$741,300 for 1985 unemployment compensation claims, OMB.	APPROVED
2. <u>AR 85-265</u> , appropriating \$460,000 for construction claim on the Sullivan Sports Arena.	APPROVED
3. <u>AR 85-260</u> , appropriating \$105,000 for social service block grant projects, H&HS.	APPROVED
4. <u>AM 1456-85</u> , Liquor License for Protes.	APPROVED
5. <u>AO 85-211</u> , creating Sunny Acres water district.	CARRIED OVER TO 1-7-86
6. <u>AR 85-274</u> , addition to Chugiak High School site.	APPROVED AS AMENDED
7. <u>AR 85-263</u> , 1986 construction of Lake Otis Parkway Accelerated Road Project.	APPROVED
8. <u>AO 85-214</u> , continuing the Animal Control Advisory Board.	APPROVED
9. <u>AO 85-213</u> , damage to underground utility facilities, Law.	APPROVED AS AMENDED
10. <u>AR 85-267</u> , relating to the Power Development Fund.	APPROVED
11. <u>AO 85-218</u> , increase in penalty for Parking Violations.	APPROVED
12. <u>AR 85-208</u> , addition to Spanard recreation center.	APPROVED
13. <u>AO 85-206</u> , rezoning of Gregory Subdivision.	APPROVED
14. <u>AO 85-207</u> , rezoning of Drake Subdivision.	APPROVED AS AMENDED
15. <u>AO 85-208</u> , rezoning Lots 246 and 244A (Rabbit Creek CC).	APPROVED AS AMENDED

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12. 11

ASSEMBLY ACTION

12. UNFINISHED AGENDA
13. AUDIENCE PARTICIPATION
14. MAYOR'S COMMENTS
15. ASSEMBLY COMMENTS
16. ADJOURNMENT: 12:00 MIDNIGHT

Pub. ANCHORAGE TIMES  
P.O. No. 30242-1152-85

6

Submitted by: Assemblyman Baker

For reading: November 26, 1985  
For Public Hearing: 12/17/85

ANCHORAGE, ALASKA  
AE NO. 85- 267

RESOLUTION RELATING TO THE POWER DEVELOPMENT FUND

WHEREAS the Assembly has expressed its commitment to the development of energy programs for Alaska as established in AS 44.83.380; and

WHEREAS an integral part of these programs include meeting the long-term energy needs of Alaska's railbelt citizens; and

WHEREAS the Power Development Fund provides Alaskans with a savings account to meet these energy needs; and

WHEREAS the Assembly continues its commitment to power projects previously approved as part of the state's energy programs, including the Railbelt power projects; and

WHEREAS the Alaska State Legislature expressed its continued support for the state to proceed with the licensing procedures for the Susitna projects through its expression of Legislative Intent which accompanied the project's \$200 million appropriation for Fiscal Year 1986 in chapter 96 SLA 84; and

WHEREAS a recent court decision invalidated the appropriation to the Susitna project in Fiscal Year 1986;

BE IT RESOLVED the Assembly encourages the Legislature to reaffirm its commitment to meeting the Railbelt's energy needs through appropriations to the Power Development Fund for this purpose.

PASSED AND APPROVED by the Anchorage Municipal Assembly this 17 day of

December, 1985.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Municipal Clerk

7

*FOR THE RECORD*

ML&P TESTIMONY FOR THE FEB. 21ST TELECONFERENCE HEARING ON SENATE BILL 338.

ON DEC. 17TH, 1985, THE ANCHORAGE MUNICIPAL ASSEMBLY APPROVED RESOLUTION #85-267, TITLED "A RESOLUTION RELATING TO THE POWER DEVELOPMENT FUND". THIS RESOLUTION STATES:

"WHEREAS, ... (READ WORD FOR WORD)

ML&P APPLAUDS THIS RESOLUTION SUPPORTING APPROPRIATIONS INTENDED TO BENEFIT ALL RAILFELT CONSUMERS EQUALLY.

264-4409

HOWEVER, ML&P URGES THE SENATE TO CONSIDER THE LIMITATIONS THAT HAVE BEEN WRITTEN INTO THE <sup>BRADLEY LAKE PROJECT</sup> CONTRACT AGREEMENTS PERTAINING TO THE AVAILABILITY OF BRADLEY LAKE POWER IN THE FUTURE. SPECIFICALLY, THE "OPT-IN"

CLAUSES OF THE ALASKA POWER AUTHORITY CONTRACTS WITH HEA AND CEA PREVENT AGREEMENTS WITH NEW PARTICIPANTS FOR POWER, FOR THE LIFE OF THE PROJECT,

IF THE PARTICIPANTS DID NOT HAVE THE MEANS TO TAKE THE <sup>POWER</sup> ~~PROPERTY~~ BY THE TIME THE PROJECT IS PLACED "ON-LINE" (EST. FEB. 1990). <sup>the "bottom line" of this "opt-in" clause is that</sup> WITHOUT THE

<sup>or Replacement</sup> ~~UPGRADE~~ OF THE ANCHORAGE-KENAI TRANSMISSION FACILITIES, ONLY THE ELECTRIC UTILITIES <sup>Prior to 1990</sup> NOW

SERVING THE KENAI AREA COULD BE GUARANTEED THE BENEFITS OF THIS PROJECT.

THEREFORE, ML&P URGES <sup>the state</sup> ~~US~~ TO

REQUEST THE ALASKA POWER AUTHORITY TO IMMEDIATELY COMMENCE PRELIMINARY

STUDIES ON A KENAI-ANCHORAGE TRANSMISSION FACILITY OF ADEQUATE

CAPACITY AND RELIABILITY ~~TO TRANSMIT~~ TO TRANSMIT TO ANCHORAGE THE

POWER DISPLACED BY BRADLEY LAKE, OR TO MODIFY THE CONDITIONAL SALES

CONTRACTS FOR BRADLEY POWER TO ALLOW OTHER UTILITIES TO "OPT-IN", ON

EQUAL TERMS, AT SUCH TIME AS ADEQUATE TRANSMISSION BECOMES AVAILABLE. <sup>a letter from</sup> THIS REQUEST WAS

OUTLINED IN MAYOR KNOWLES ~~LETTER~~ TO GOVERNOR SHEFFIELD DATED

NOVEMBER 13, 1985.

ML&P FEELS THAT IT IS ESSENTIAL THAT AN ANCHORAGE-KENAI TRANSMISSION

LINE BE COMPLETED BEFORE THE BRADLEY HYDROELECTRIC PROJECT IS PLACED

"ON-LINE", AND THE PROJECT BENEFITS BE ASSURED FOR ALL

RAILFELT RESIDENTS.

*3*

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUCH V  
JUNEAU, ALASKA 99811  
(907) 485-4907

## Senate Committee on Resources

M E M O R A N D U M

February 17, 1986

TO: Mary Nordale, Commissioner  
Department of Revenue

FROM: Senator Arliss Sturgulewski  
Chairman, Senate Resources Committee

RE: CSSB 338 (Resources)

"An Act making, amending, and repealing appropriations for the Alaska Power Authority for railbelt energy development, Bradley Lake hydroelectric project, and the power cost equalization fund; and providing for an effective date"

Based on Senate Resources Committee testimony on January 29, 1986, a CS for SB 338 is being proposed at our next hearing on February 21, 1986.

Please review the attached draft and advise as to its accuracy in amending the Susitna hydroelectric project fund.

Thank you.

# Alaska State Legislature

APA  
338

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4907



## Senate Committee on Resources

M E M O R A N D U M

February 17, 1986

TO: Hal Brown, Attorney General

ATTN: Jim Baldwin, Assistant Attorney General

FROM: Senator Arliss Sturgulewski  
Chairman, Senate Resources Committee

RE: CSSB 338 (Resources)

"An Act making, amending, and repealing appropriations for the Alaska Power Authority for railbelt energy development, Bradley Lake hydroelectric project, and the power cost equalization fund; and providing for an effective date"

Based on Senate Resources Committee testimony on January 29, 1986, a CS for SB 338 is being proposed at our next hearing on February 21, 1986.

Please review the attached draft and advise as to its accuracy in amending the Susitna hydroelectric project fund.

Thank you.

*Chugach* ELECTRIC ASSOCIATION, INC.  
Anchorage, Alaska

## RESOLUTION

WHEREAS, the Alaska Legislature has expressed its commitment to the development of an energy program for Alaska as established in AS 44.83.380; and

WHEREAS, an integral part of this program includes meeting the long-term energy needs of Alaska's railbelt citizens; and

WHEREAS, the Power Development Fund provides Alaskans with a savings account to meet these energy needs; and

WHEREAS, the Legislature continues its commitment to power projects previously approved as part of the State's energy program, including the Railbelt power projects; and

WHEREAS, the Legislature expressed its continued support for the State to proceed with the licensing procedures for the Susitna projects through its expression of Legislative Intent which accompanied the project's \$200 million appropriation for Fiscal Year 1986 in chapter 96 SLA 84; and

WHEREAS, a recent court decision invalidated the appropriation to the Susitna project in Fiscal Year 1986.

BE IT RESOLVED, that Chugach Electric Association requests that the Legislature reaffirm the State's commitment to meeting the Railbelt's energy needs through appropriations to the Power Development Fund for this purpose; and

BE IT FURTHER RESOLVED, that Chugach Electric Association requests the Legislature to expeditiously approve, upon convening of the Second Session of the Fourteenth Legislature, the appropriation of \$200 million to the Power Development Fund; and

BE IT FURTHER RESOLVED, that Chugach Electric Association respectfully requests the Governor's continued commitment to meeting the Railbelt's energy needs by support of this appropriation.

## CERTIFICATION

I, Joyce M. Murphy, do hereby certify that I am Acting Secretary of Chugach Electric Association, Inc., an electric non-profit cooperative membership corporation organized and existing under the laws of the State of Alaska; that the foregoing is a complete and correct copy of a resolution adopted at a meeting of the Board of Directors of this corporation, duly and properly called and held on the 16th day of October, 1985 that a quorum was present at the meeting; that the resolution is set forth in the minutes of the meeting and has not been rescinded or modified.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of this corporation this 16th day of October, 1985.

(Seal)

Joyce M. Murphy  
Secretary

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF

POUCH V  
JUNEAU, ALASKA. 99811  
(907) 465-4907



## Senate Committee on Resources

M E M O R A N D U M

January 28, 1986

TO: Hal Brown, Attorney General

ATTN: Jim Baldwin, Assistant Attorney General

FROM: Senator Arliss Sturgulewski  
Chairman, Senate Resources Committee

RE: SB 338

Please review the enclosed CSSB 338 and advise as to its technical accuracy in correcting the continuing appropriation for energy projects that was ruled invalid by the recent court rulings.

Enclosure

Proposed letter of intent to CS for SB 338 (Resources)

By the Alaska Environmental Lobby  
February 21, 1986

---

It is the intent of the Legislature that none of the monies appropriated in sections 4 and 8 of this act be used for continuation of licensing proceedings before the Federal Energy Regulatory Commission relating to any proposed Susitna River hydroelectric project.

It is further the intent of the Legislature that "Railbelt energy development" as mentioned in sections 4 and 8 of this act specifically includes the development, promotion, and dissemination of energy conservation technologies, devices, and practices.

Frank - released 1:30 PM 1/29

ALASKA'S ENERGY FUTURE

A Policy Statement  
and  
Assessment of Energy Plans

by

The Northern Alaska Environmental Center  
Trustees for Alaska  
Alaska Public Interest Research Group

Research funding by  
The Alaska Conservation Foundation

January 1986

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ENERGY POLICY FOR THE RAILBELT . . . . . 2

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THE SUSITNA PROJECT . . . . . 13

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## ALASKA'S ENERGY FUTURE

### INTRODUCTION

When the Alaska Power Authority (APA) filed an application with the Federal Energy Regulatory Commission (FERC) in February, 1983, to obtain a license to construct the Susitna Project, the intent was to first build the Watana phase at 1020 MW and then the Devil Canyon phase at 600 MW.

In October, 1985, the Board of Directors of the APA approved a staff suggestion that the license application to FERC be amended so that construction of the Project would occur in three phases rather than two. As a three phase Project, a scaled down version of the Watana Dam would first be constructed, then the Devil Canyon Dam would be completed, and finally the Watana Dam would be raised to its full height. At completion, the dependable capacity of the Susitna Project would be 1,620 MW, the same as the two phase Project.

The reason for the change is that the three phase design reduces the initial costs of the Watana Dam, thereby improving its prospects for financing. Also, the three phase approach more closely matches the size of the Susitna Project to the Railbelt's load growth and its need for replacement capacity. The APA

expects to submit an amended license application to FERC by March, 1986.

The purpose of this paper is twofold. One purpose is to reassess Alaska's energy policy for the Railbelt, which has presently placed Susitna as the centerpiece of that area's energy needs by revolving the policy around that particular Project, and to then suggest alternative scenarios for meeting the actual needs of the Railbelt under a proposed new energy policy.

The second purpose is to provide constructive analysis of the material presented by the APA in the draft version of the amended license application. In short, we do not find that the amended license application conclusively demonstrates that the Susitna Project is the preferred scenario for meeting the electrical needs of the Railbelt at this time.

#### ENERGY POLICY FOR THE RAILBELT

During the past several years, the Susitna Project has been touted as the centerpiece of the energy future for Alaska's Railbelt. Consequently, pursuit of the FERC license application that is needed before the Susitna Project can be constructed has, in essence, been the de facto energy policy statement for the Railbelt. Much of the energy planning for the Railbelt has been

based on determining the feasibility of Susitna. The emphasis given to other possible sources of power generation as well as non-electrical uses of energy has been insignificant by comparison.

Despite all of the money which has been spent on studying the Susitna Project (approximately \$150 million to date), the Project is not a sure bet. Some of the key assumptions used to justify the Project are optimistic and there is significant risk to the State if the assumptions do not pan out. Because changes in Alaska's economic conditions are now fact instead of speculation (e.g. reduced oil revenues), it is now time to pause and reconsider the energy needs and options for the Railbelt. If this is not done now, before there is actually a commitment to construct Susitna, the price of reconsideration will be even more expensive in the future.

Reconsideration of the energy needs and options for the Railbelt should begin with a review of energy policy. The closest thing to an official energy policy statement for the Railbelt is a statute which describes the purpose of the Susitna Project (AS 44.83.310).

"The primary purpose of the Susitna River hydroelectric project is to generate, transmit, and distribute electric power in a manner which will

- (1) minimize market area electrical power costs;

(2) minimize adverse environmental and social impacts while enhancing environmental values to the extent possible; and

(3) safeguard both life and property."

In essence, the statute sets conditions for a project rather than establishes goals for relevant energy programs. Furthermore, the first condition is an ambiguous statement about economic feasibility of the Susitna Project which is not consistent with other statutes (AS 44.83.177-189) regarding economic and financial feasibility of APA projects. Although there are those who support this statement as the principal energy policy for the Railbelt, the statute does not adequately address the Railbelt's diverse energy needs and options.

Given the lack of a meaningful policy statement for charting the energy future for the Railbelt, we would like to propose the following policy statement:

The State, in conjunction with the private sector, should formulate and implement a comprehensive energy program for the Railbelt which results in an adequate supply of energy at the lowest reasonable cost to the consumer, the State, and the environment.

This policy statement closely resembles the primary energy goal suggested in the draft version of "Alaska's Energy Plan - 1986" that is being prepared by the APA. However, the policy statement which we propose is specifically for the Railbelt,

speaks to greater involvement by the private sector, and requires that earnest consideration be given to all viable alternatives.

Some elaboration is needed in order to fully understand the rationale behind the energy policy statement that we propose.

- \* Environmental quality and economic development are both vital human needs. Implicit in this policy statement, then, is an understanding that, in most cases, environmental quality and economic health are not mutually exclusive goals. Economic health is fundamental to a healthy human/social environment. Conversely, a healthy environment can provide the human and natural resources needed to sustain economic well-being.
  
- \* Underlying the policy statement is a skepticism of the State's ability to be an appropriate provider of energy. The State's track record shows that political solutions usually prevail, often contradicting rather than complementing sound technical judgment. More confidence, we feel, can be placed with the private sector, which, given the opportunity, proper incentives, and regulations to protect the public, can come closer to optimization of energy supply than any State agency.

- \* The energy program for the Railbelt should be comprehensive and address all potential supplies of energy, including energy conservation, as well as all significant end-uses. In the past, the State's energy planning emphasis has been on electricity and usually one major source of generation to meet projected demand in a large region. In some cases, project planning has been based on an optimistic set of economic conditions (an example being the Lake Tyee Project) which led to significant problems when the actual cost of power turned out to be substantially higher than what was projected during the feasibility studies. The difficulties of the Four Dam Pool negotiations and the substantial subsidy that was needed for utilities to sign power sales agreements is an example which can not be ignored and should not be repeated.
  
- \* The policy statement also implicitly underscores the probable advantages of small- or medium-sized energy projects, which can be quickly installed and can satisfy demand while not relying on long-range projections, thus avoiding inherent risks of economic failure.
  
- \* Selecting the least expensive source of energy should be based on least cost not least price. If the

emphasis in energy planning is based on the least price to the consumer and subsidies or hidden costs are used to achieve this price, the likely result is a less than optimal utilization of natural and financial resources. Some of the worst energy boondoggles have been justified on the basis of least price to the consumer while ignoring actual costs.

- \* Environmental costs must consider intangible environmental benefits such as the importance of wilderness to the Alaskan lifestyle, as well as environmental benefits which can be translated into economic value, such as fish and game resources. Unfortunately, aesthetic values can not be adequately expressed by benefit/cost methodology. Consequently, energy planners must be able to give as much consideration to the will of the people as they give to statistical data.

To further clarify the policy that we propose, and to help guide planning for the energy future of the Railbelt, we would like to refer to a recent publication by the American Public Power Association entitled The Next 10 Years: A Strategic Guide for Public Power. This publication analyzes the significant problems experienced by utilities during the past decade and suggests guidelines for avoiding these problems during the next

decade. It states, "Public power systems learned 12 lessons in the last decade." Some of these lessons directly apply to the Railbelt, and deserve serious consideration. These are:

"The least cost answers must deal with the demand side of utility operations as well as the supply side."

"Because of changed conditions, some issues -- like development of the breeder reactor and getting electric utilities off natural gas -- may not be as important or urgent today as they were earlier."

"Events and economics are pushing utilities toward regional solutions, shared power plants, unit purchases, smaller generating units, modular construction, and local energy sources where costs and technology allow." (Emphasis added.)

"Because nobody knows exactly what the future will look like, it may be best to seek a variety of cost-effective solutions which can be implemented in increments closely geared to expansion of consumer need."

Although Alaska tends to consider its conditions to be unique relative to the lower 48 states, the advice of the American Public Power Association is too compelling to ignore.

#### OUR PROPOSAL FOR THE RAILBELT

The FERC staff, in their Draft Environmental Impact Statement for the two phase Susitna Project, stated that "based on consideration of engineering feasibility, economic characteristics, and environmental impacts, [it is] concluded that a mixed thermal-based generation scenario appears to be the

most effective approach to meeting the projected generation requirements of the railbelt area."

After closely reviewing the amended license application, we find that the economic and financial uncertainties associated with the three phase Susitna Project are not substantially different from the original license application. FERC's recommendation for a mixed thermal-based generation scenario for the Railbelt is therefore still the most prudent strategy for the APA and utilities to pursue.

In fact, because of the economic and financial uncertainties, the APA needs to give serious consideration to a mixed thermal-based scenario if it is to avoid having all of its eggs in one basket with a weak handle. Even if the Susitna Project's feasibility is eventually confirmed, and the Project is constructed, the mixed thermal-based scenario will assure adequate firm capacity before the Susitna Project comes on line, plus adequate reserve capacity once the Project is actually operating. To us, there is no reason, other than blind commitment to a project, for the APA not to seriously support a mixed thermal-based alternative.

A serious effort to evaluate a mixed thermal alternative should consider at least the following three scenarios.

1. The existing system (including the Bradley Lake Project) with coal-fired power plants displacing gas turbines as Cook Inlet gas reserves become depleted. This is close to the thermal alternative presented in the amended license application except that greater emphasis would be given to the design and cost data available from the private sector.
  
2. The existing system (including the Bradley Lake Project) with power generation using North Slope gas becoming available about the time that Cook Inlet gas reserves become depleted. A North slope gas scenario should not be limited to existing technology but should make reasonable efforts to determine the technical developments that are likely to occur during the next twenty years. For instance, in the future, will DC transmission lines be more economic for long distance transmission than AC transmission lines? Also, to what degree can the Railbelt benefit from ARCO's plans to extract oil from the West Sak reserves?
  
3. An energy conservation scenario that evaluates technologies and programs (i.e. low-income weatherization) which can either reduce the per customer consumption of electricity or reduce the per customer consumption of gas. All energy conservation measures should be cost-effective based on economic criteria similar to that used for the Susitna Project. Data on energy conservation measures should be

incorporated into the models used to generate the load forecast, thereby influencing both the Susitna scenario and thermal scenarios. If energy conservation measures do reduce the load forecast, it could either defer the year that Susitna should come on line or result in a thermal alternative having the most favorable benefit-to-cost ratio.

Since the APA has not demonstrated enough interest in energy conservation, despite its statutory mandates, we feel it necessary to make constructive suggestions in this area. The following are some strategies which the APA should consider:

1. Residential/Commercial Buildings. Improving the heat retention of residential and commercial buildings, particularly in Anchorage, can extend the life of Cook Inlet gas reserves. Any program should avoid the difficulties experienced a few years ago with the State's energy audit program. Also, any program should be equitable, yet provide greater reward to those who make some effort to conserve.

One approach to consider is to have a State-funded program which offers financial incentive to property taxpayers that have energy efficient buildings. In line with the energy mortgage valuation concept, buildings would receive an energy conservation assessment (on a voluntary basis) and be given a rating. The rating would determine the percentage

of property tax that the State would pay to the respective municipality for that particular building. It would be up to the building owner to make whatever improvements are needed to either be rated high enough to receive payment or to improve the rating and increase the payment.

The State could offer energy audits and loan programs to facilitate the program. Some low income people who have inefficient homes may not have the upfront cash to afford a retrofit. A program like this could have support from the construction industry, especially now that new construction has drastically declined. A good case could be made to use some of the Susitna funding for this program, at least an amount which is equal to the money needed to continue the FERC license process. It would be impossible to judge what kind of response this program would have, but if the response is meager, then the money is still available for Susitna. If the response is strong, it would indicate that the Susitna studies underestimated the potential for energy conservation. Also, this program would provide a data base to estimate the effect of full penetration of energy conservation programs.

2. Load Management. Utilities have a vested interest to undertake load management programs and improve their load factor. The State can provide utilities with incentive to

initiate such programs. For instance, cooperative and investor-owned utilities pay a state tax on their revenues, and the State could allow expenses for load management to be tax-deductible. Although the tax is not very much, utilities would not pass up the opportunity for a tax deduction if it were available. Since the tax is nominal, the revenues that the State would lose would be insignificant and in large part returned to the general public via lower electric rates.

#### THE SUSITNA PROJECT

The APA's amended license application to FERC is the most current and complete description of the design and feasibility of the Susitna Project. Generally speaking, the three-stage Project that is proposed is closer to being a realistic attempt to match the size of the Susitna Project to the load forecast for the Railbelt. Also, the amended license application tends to be more substantive and objective.

However, we still find that the APA uses some parameters which probably do not accurately forecast future conditions. Additionally, the APA basically ignores two alternatives (energy conservation and North Slope gas generation) which may have

economic merit. And, the APA often uses inconsistent standards when comparing the feasibility of Susitna to alternatives.

### Alternatives

To determine the economic feasibility of a project such as Susitna, the APA compares the expected life cycle costs of the Project to the expected life cycle costs of the existing system (often called the base case) and/or the most likely alternative. If the total costs for the Project are less than the total costs for the base case or the alternative, it will have a benefit-to-cost ratio (benefit/cost) greater than 1.0. The bottom line in determining the economic feasibility of a proposed project is whether or not its benefit/cost is greater than 1.0.

The benefit-to-cost methodology used by the APA is well established and widely accepted nationally, although often criticized. Most of the criticism has been based on differences of opinion regarding the assumptions that are used to calculate costs and whether or not the proposed project is being compared to the most economic alternative. If the most economic alternative is not used for the benefit/cost calculations, the proposed project will appear more favorable than what it actually is.

All of the feasibility studies for the Susitna Project, including the amended license application, consider an extension of the base case as the most economic alternative. Essentially, this continues the use of Cook Inlet natural gas for power generation until the reserves are depleted (projected for soon after the year 2000), coal-fired steam plants replacing gas turbines as they become retired, and the addition of the Bradley Lake Hydroelectric Project.

Since the benefit-to-cost methodology determines life cycle costs for the alternative starting at the earliest date that phase 1 of the Susitna Project can come on line (1999), most of its costs are based on coal-fired steam plants. The two locations which have been used in the study are a mine-mouth plant at Beluga and a plant at Nenana using the Healy coal deposits.

We contend that the cost estimates for the coal-based alternative to the Susitna Project include assumptions which are exceptionally high, and therefore favor Susitna. Also, energy conservation and North Slope gas generation are viable alternatives which could either defer or supplant the need for the Susitna Project and should not be omitted from the analysis.

More specifically:

## Coal

An assumption which significantly affects the cost of the thermal alternative is the 1.5% long-run real (less inflation) rate that has been applied to the 1985 price of coal. If no real escalation rate had been assumed, the benefit/cost of the Susitna Project would drop from 1.48 to 1.28. The reasons given for this escalation rate are 1) rising wages, 2) regulations governing coal production, and 3) rising operating costs.

One of the thick volumes used to support these assumptions includes a graph which shows that real hourly rates for bituminous coal workers has been relatively flat for the past decade. Considering this piece of information as well as current industrial trends, assuming any real escalation rate in wages seems unrealistic. Also, the assertion that regulatory and operating costs will rise is based more on past trends than future probability. In fact, it is conceivable that there could actually be a decline in the real price for coal.

The private sector has proposed two coal-fired power plants to serve the Railbelt.

1. Allied-Signal is investigating a 150 MW mine-mouth power plant using coal reserves from the Matanuska field. This project was not included in the

alternative scenario because of its small size relative to the overall power needs for the Railbelt. The APA has consistently ignored energy resources or technologies which cannot match the size of Susitna. This essentially eliminates consideration of any alternative scenario that is based on a diverse mix of resources or technologies that may be cost-effective but not of megawatt size. If the amended license application is to be objective, it must consider the Allied-Signal project as well as other smaller-scaled energy resources and technologies.

2. In conjunction with plans to export coal from the Beluga field, Diamond Shamrock has proposed the development of a mine-mouth power plant to serve Railbelt needs. Although the APA's alternative scenario is based on a Beluga power plant, the data provided by consultants estimate higher construction and fuel costs than the costs assumed by Diamond Shamrock. It would seem that cost estimates provided by a serious proposal would be the most reasonable costs to use in the amended license application.

#### Natural gas

A key assumption used in establishing prices for natural gas

illustrates an inconsistent standard that frequently appears in the amended license application. In estimating costs for the thermal alternative, the APA insists on using natural gas prices that are based on the netback price, which is the highest market value. On the other hand, the costs for Susitna are based on the State investing hundreds of millions of dollars in the Project with absolutely no return on its investment, let alone a return based on market interest rates. Obviously, the price elasticity of demand for natural gas generation and Susitna power are not based on similar assumptions. To be consistent, the value of the State's financial resources and natural resources should be based on comparable economic assumptions.

It should also be noted that the actual contract prices for domestic use of Cook Inlet natural gas are significantly less than the netback price. Although the Alaska Department of Natural Resources is intent on taxing Cook Inlet natural gas at the netback price, thereby forcing substantial price increases on the gas consumers in the Anchorage area, it is not yet clear that consumers will accept this tax without resistance. If contract prices prevail, the economic analysis will have substantially overestimated the price of natural gas for the thermal alternative, and underestimated the funding needed for rate stabilization.

One of the most serious omissions of the amended license

application is the total lack of consideration given to North Slope gas generation as a future energy resource for the Railbelt. To quote from the application: "the Alaska Power Authority believes that it is inappropriate to attempt to account for this alternative in its analysis" and "only Cook Inlet gas is considered available for purposes of this analysis."

The APA received funding a few years ago to investigate the feasibility of bringing North Slope gas to the Railbelt via a pipeline, or via a transmission line with the generation on the North Slope. The one token study which was done by Ebasco (who, with Harza Engineering, also has a contract for studying the feasibility and design of the Susitna Project) was so poorly executed that the APA staff had to make substantial corrections, stating in a cover letter that "Ebasco's transmission facility cost estimates are overly conservative [too high]." Ebasco's cost estimates were considerably higher than the actual construction costs for the Anchorage/Fairbanks Intertie along the same stretch of corridor.

If North Slope gas is developed within the next twenty years, construction of the Susitna Project could be analogous to bringing coal to Newcastle. The Susitna Project could be coming on-line about the time that the Railbelt is awash with natural gas, which could well be less expensive than Susitna. Unless the APA can conclusively demonstrate that it may be decades before

North Slope gas is developed, that North Slope gas will be prohibitively expensive to Railbelt consumers, or that the Railbelt's energy needs will be substantial enough to justify both North Slope gas and Susitna, the risk of developing two multi-billion dollar energy systems which would essentially serve the same domestic market is too great for the State to undertake.

### Energy Conservation

The APA is required by statute (AS 44.83.400) to "ensure that communities that benefit from the energy program for Alaska implement cost-effective energy conservation measures for residences, commercial and public buildings, and industries." Also, the APA has statutory responsibility for "facilities that recover and use waste energy" (AS 44.83.070) and "thermal energy sources and... alternative sources of power and heat including energy conservation." (AS 44.83.177)

Despite the statutory responsibilities that the APA has for energy conservation, the track record which demonstrates that energy conservation measures can be cost-effective, and the need to comply with FERC requirements by considering all viable alternatives including energy conservation, the APA has no energy conservation program for the Railbelt, nor is it given serious consideration in the amended license application. The application clearly states APA's contention that energy

conservation programs are being "phased out" and that "the Railbelt area has limited ability to adopt conservation measures that would result in large-scale electricity savings."

There is considerable evidence which contradicts the APA's statements about energy conservation. For instance, the weatherization program continues to receive state and federal funding. Also, industrial research and development continues to produce more efficient appliances, lighting, and other end-uses.

By way of example, the latest addition of Most Efficient Appliances states that the best 17 cubic foot refrigerator now uses 750 kwh per year where last year's best model used 865 kwh. APA's load forecast assumed 1,800 kwh for existing refrigerators and 1,500 kwh for newer models. Furthermore, it is interesting to note that the gas industry, in order to penetrate markets now served by electrical utilities, is developing more efficient fuel cells which provide both heating and electrical needs. This development, which is expected to be commercially available in 1988, could be applicable to the commercial sector in Anchorage.

The list of contradictions goes on. However, the point is that unless the APA can provide data to support its rationale about energy conservation, its statements can only be viewed as value judgments rather than objective analysis.

## Economic and Financial Parameters

### Risk

The most compelling concern that we have with the Susitna Project is the amount of risk that is inherent in many key assumptions. Although the amended license application addresses the issue of risk in a number of ways, such as sensitivity tests, the APA does not actually discuss what would happen if construction of the Susitna Project were to proceed and economic conditions turn out to be less favorable than those used in the feasibility analyses.

For instance, what if the Alaska Department of Revenue (ADOR) oil price and revenue forecasts are reasonably correct and the subsidy (rate stabilization) that the Susitna Project needs (if its rates are to be less than the thermal alternative) has to be increased by billions of dollars? If the public is willing to accept a worse case scenario, then it will accept the risk associated with the Project. But if the public is only told about the expected benefits of a project and not about the negative aspects, then the public is being misled.

### Oil Price Forecasts

The economic feasibility of the Susitna Project hinges on

long-term oil price forecasts. The oil price forecast is critical to the load forecast, the cost of the thermal alternative, and the amount of State revenues that can be appropriated to the Susitna Project.

The Alaska Department of Revenue formulates its own oil price forecast as part of its revenue forecast. Even though appropriations for the Susitna Project are dependent on these forecasts, the APA refuses to consider the ADOR forecasts in its economic analysis of the Susitna Project except when included with five other forecasts as a composite forecast. The reason for this is that the ADOR forecast is considerably lower than the other forecasts and if it were used by itself, the Susitna Project probably would not be economically feasible. When considered only as part of a composite forecast, ADOR's lower oil prices are sufficiently diluted to be insignificant.

The uncertainty of APA's 50-year oil price projections is well depicted by a recent panel of eminent world oil price experts convened by a State senator for the purposes of projecting 1987 oil prices. None of these experts were willing to make unqualified predictions for a single year, much less for many years into the future. The representative from the U.S. Department of Energy presented estimates for ten years, but noted that they were subject to a 50% range of error.

Until the APA has the courage to determine the economic feasibility of the Susitna Project using the ADOR oil price and revenue forecasts, the public will not be fully cognizant of the high risk inherent in the Project.

#### Rate Stabilization

The APA uses the rate stabilization concept "to reduce retail costs during the initial years of operation of the With-Susitna plan to a level equal to the cost of the Without-Susitna alternative." Although the rate stabilization concept is an interesting solution to circumvent some of the difficulties that capital-intensive projects encounter during the initial years of operation, the concept, as used by the APA, can only be considered a subsidy. If the rate stabilization concept were not used as a subsidy, the financing needed to reduce power costs during the initial years of operation would be returned to the State in real terms once the cost of Susitna power is less than the thermal equivalent.

FERC license applications are not meant to be exciting reading, but there is reason to be excited about the rate stabilization needs for the Susitna Project, particularly if power sales agreements from Railbelt utilities are conditional to the APA guaranteeing that the wholesale price of Susitna power will not exceed the equivalent price for thermal generation. If

the composite oil price and load forecast hold true, the APA will need to provide \$685 million in nominal dollars to subsidize power rates in the Railbelt. However, data presented in the sensitivity analysis show that if the Wharton forecast holds true (which would mean lower oil prices than the composite forecast) then the funding needed for rate stabilization skyrockets to \$12.570 billion in nominal dollars. No data are presented on how much funding would be needed if the ADOR forecasts (which are lower than even the Wharton forecast) were used in the load forecast and economic analysis.

Key decision-makers need to be aware of the financial volatility associated with the rate stabilization concept. Small changes in oil prices cause large changes in rate stabilization funding needs. Also, as funding needs for rate stabilization increase, State revenues to provide this need will be substantially less.

The amended license application provides data which illustrate the volatility of rate stabilization but the APA does not draw attention to or even discuss the data's significance. Given the uncertainty of long-term oil price forecasts and the fiscal implications of rate stabilization to the State, the only prudent basis for the State to appropriate funding for rate stabilization for the Susitna Project is to assume the lowest oil price forecasts (ADOR).

## Tax-exempt Revenue Bonds

Critical to the economic and financial feasibility of the Susitna Project is the ability to issue tax-exempt revenue bonds. Under current conditions, the Internal Revenue Service (IRS) does not allow tax-exempt bonds for the Susitna Project. To overcome this rather significant obstacle the APA is pursuing an approach where the APA directly bills the consumer for the electricity used and the utilities essentially become collecting agencies. The APA hopes that this concept will meet the tax-exempt conditions of the IRS.

## Direct Billing

There is considerably uncertainty regarding the direct-billing approach. Before IRS approval is obtained, Railbelt utilities must agree to the new role direct billing by the APA would create for them, and legislation must be enacted to give the APA the authority needed to directly bill consumers.

There are some significant policy questions about vesting that much authority in the APA (or any other agency). The direct billing concept is inventive but self-serving to the APA. It remains to be seen how well others agree that the concept is in the best interests of the consumer.

## Discount Rate

The 3.5% real discount rate used by the APA in its economic analysis assumes that the Susitna Project will be financed with tax-exempt bonds. If this is not the case, the discount rate must be change to reflect financing via taxable revenue bonds. Changing this parameter will significantly affect the economic feasibility of the Susitna Project. For instance, assuming the composite revenue forecast, the benefit/cost drops from 1.48 to 1.28 when the real discount rate goes from 3.5% to 4.5%.

The APA does not suggest what a taxable discount rate would be or venture to determine the feasibility of the Susitna Project under these circumstances. However, in all likelihood, it would be significantly greater than 4.5%. It would not be surprising if the benefit/cost would drop below 1.0 if the economic analysis were based on a discount rate appropriate for taxable revenue bonds.

## Combined Sensitivity Test

Although a combined sensitivity test implies that the feasibility of the Project has been tested by the complete range of conditions that can be reasonably expected to occur, we find that conditions which could result in a benefit/cost of less than

1.0 tend to be omitted. The most notable omission is the ADOR oil price forecast, which is lower than the Wharton forecast.

To give the full range of economic conditions that the Susitna Project may be exposed to, the APA should determine its economic feasibility assuming the ADOR oil price and revenue forecasts, the contract prices for Cook Inlet natural gas, no real escalation rate for coal prices, and a discount rate based on taxable revenue bonds.

#### Environmental Considerations

The APA's efforts to resolve the many environmental issues related to the Project are evident. However, a number of major impacts remain to be comprehensively addressed, and mitigative measures for a number of important known impacts are not set forth.

It is critical to note that the FERC consultation regulations, as amended in March 1985, are insistent that environmental and other studies required for a FERC decision on a license application must be conducted prior to filing of the application. The comments below should be read in light of this fundamental principle.

## Water Flow

The APA has failed to demonstrate that an adequate source of water will be available throughout the life of the Project. In the amended license application, the APA acknowledges that glaciers play a highly significant role in the hydrology of the middle Susitna basin, and admits that little data are available to predict future trends. The implications of this inability to predict whether or not the Project will have sufficient flows to meet power demands and/or environmental flow constraints over the life of the Project pose serious ramifications not only to APA's fisheries mitigation analysis, for instance, but to the viability of the Susitna Project as a whole.

Neil Davis, in his book Energy Alaska, addressed the latter implication:

"It is uncertain whether the climate is changing, although it seems to be, and a continued warming trend appears likely because of a worldwide increase of atmospheric carbon dioxide. It is not known what will happen to glaciers if the trend continues: they may either shrink or grow, or some may shrink while others grow. Whatever happens will affect the magnitude of hydropower resource in a glaciated watershed, perhaps severely enough to make a shambles of the 50-year forecast of runoff necessary to estimate to cost of power generation at a particular hydropower site." (page 389.)

## Water Quality

We find two major flaws in the APA's treatment of the water quality issue. First, the application identifies, but indicates no means of preventing, clear violations of Alaska water quality standards; without this, construction and operation of the Project will violate both State and federal law. Second, the APA fails to quantify and to evaluate possible additional water quality violations with respect to a number of parameters.

The amended license application includes admissions that Project construction and operation will result in violations of State water quality standards for at least two parameters (turbidity and suspended solids) but it is not clear whether these estimates include the full effects of Project-induced or construction-related erosion. The discussion attempts to minimize the importance of these violations by indicating that similar levels occur under natural conditions, without any adverse effect on aquatic systems. This approach is simply illegal under both State and federal law.

Furthermore, the amended license application does not properly quantify the water quality impacts of nutrients, ions, and perhaps most significantly, heavy metals. Since heavy metals such as mercury have been shown to accumulate in fish at other hydroelectric projects, this issue is of particular concern, both

from an environmental perspective and from the standpoint of commercial and sport fishermen who utilize Susitna River salmon and other species. For that standpoint, as well as from determining whether additional violations of water quality standards will occur, this analysis is seriously deficient.

#### Aquatic Systems

Though significant strides have been made in evaluating the flow regime since the original license application, this section in the amended license application still is lacking in five key areas.

1. The possible effects on the Susitna River below Talkeetna is given only cursory attention. The primary rationale given for this is that dilution from major tributaries (the Talkeetna and Chulitna Rivers) will mask any downstream water quality impacts. But this analysis is not season-specific.

This oversight is critical because winter flows for the Project will contribute to higher than normal middle river flows, at the time when flow contributions from the other tributaries is the lowest, resulting in increased sediment loads from the Project, along with an increase in turbidity.

More complete analysis of this flow regime may result in a revision of the repeated statement that chronic winter suspended sediment levels may be "stressful, but...are not expected to be lethal" to fish.

2. Not counting losses in smaller streams that are affected by construction and related impacts, at least 8,800 grayling will be lost due to inundation of habitat. Because of high turbidity levels, reservoirs themselves will not provide suitable replacement habitat. Despite the fact that grayling is one of the most important sportfishing species in Alaska, especially in the Susitna River basin, no effective mitigative measures for grayling are proposed.
3. The value of high summer turbidity levels for predation avoidance, particularly by juvenile salmon, is significant. Indications are that chinook salmon, for example, use turbid water for cover when structural diversity is lacking, and that juvenile chinook densities are two times higher in turbid waters than clear waters. The potential impact of lower summer turbidity levels, then, would appear significant, but no discussion of this issue is presented in the amended license application.
4. The APA in the amended license application relies almost exclusively on vertebrates as "evaluation species." This is

particularly disconcerting in that lower trophic levels are better indicators because impacts to lower trophic levels result in secondary and tertiary impacts to higher species.

Of particular concern here is the effect of decreased primary productivity during the fall and spring, due to increased turbidity levels.

Without a more complete understanding of impacts to lower trophic levels, a comprehensive evaluation of impacts to vertebrates is simply not possible. Where effects to low trophic levels are discussed, they are addressed in a cursory and conclusive fashion, and obviously do not have a complete and sound basis.

5. The amended license application indicates that the slough modification measures necessary to preserve critical overwintering habitat have not been tested, but will be at an appropriate time. As noted above, the FERC regulations require that such studies be completed before the application is submitted.

#### Access

The proposed Denali-North access route was selected in order to remain on schedule for the timely completion of the Project

rather than for any sound environmental reasoning. The APA admits this route will probably have more adverse impacts to both wildlife resources and archeological sites, contradicting itself with an earlier statement that the route is the most favorable solution to minimizing impacts to the environment. Moreover, several contradictory statements related to the actual time necessary to construct the road make unclear the benefits to remaining on schedule this route will allow. Thus, a less environmentally preferred route may be chosen for little or no Project benefit.

#### Moose

That inundation of large areas of important habitat will result in carrying capacity reduction for moose is acknowledged in the amended license application. The lost habitat includes critical winter habitat, calving areas, and early spring habitat. But this does not include possible downstream impacts due to hydrological changes, which the APA is unable to accurately assess, though the APA does admit this may be significant, so the effect of lost acreage may be even greater particularly during and following heavy winters.

Additionally, though the APA has initiated a program designed to replace or enhance moose habitat in other areas to compensate for these losses, actual areas have not been firmly

identified, so the ultimate efficacy of the program has not been demonstrated.

#### Wolves

The analysis on wolves admits the probable loss of the Watana wolf pack, but only speculates as to longer-range predator/prey effects. The overall effects of reduced ungulate populations, increased competition between predators (including human hunters due to increased access), and other factors are not comprehensively addressed in the amended license application. For example, lower moose populations may not only affect wolf populations, a discussion of which is lacking, but because of increased hunting demand, may result in controversial and artificial wolf-control proposals. Population dynamics as a result of these correlations are unfortunately not given attention.

#### Bears

Since essential black bear denning and other habitat is concentrated along the Susitna River, the Watana inundation will cause irreparable loss of bear habitat, and create tremendous competition for remaining areas that are suitable. Impacts to brown bears, while not as great, will still be significant, especially at key feeding areas such as Prairie Creek. No

discussion concerning secondary and cumulative impacts on bears from lower prey concentrations or increased human pressure is present, nor is any viable mitigation plan for either species outlined in the amended license application. It is evident, therefore, that middle Susitna bear populations will be affected extremely heavily by the Susitna Project, with little hope of adequate mitigation.

#### Dall Sheep

The APA does not present any evidence in the amended license application whether observed elevations of sheep reflect a preference for various elevations from an absolute perspective, or whether elevation relative to the heights of the river and nearby terrain are more significant. Since sheep prefer higher elevations to avoid predators, it would seem that relative elevation may be more important.

#### Recreation and aesthetics

We understand that it is inevitable that the Project would irrevocably alter the character of the middle Susitna basin from a remote wilderness setting to a relatively highly developed and more intensively used region. However, the APA unfairly minimizes the value of wilderness recreational areas on the basis of an analysis that focuses largely on numbers of users. This

approach skews the entire analysis because high use levels are fundamentally inconsistent with wilderness use, i.e. the values would disappear under more intensive pressure.

This misunderstanding is evidenced most dramatically by the statement that an "aesthetic impact that is rarely seen is less critical than one which is occasionally seen, and much less critical than one which is seen frequently and from many different vantage points." To the wilderness recreationist, the value of an aesthetic resource is inversely proportional to the number of viewers and the difficulty of obtaining the view. This bias will always result in a more intensive use being preferred.

The approach to aesthetic and wilderness resources in the amended license application understates the primary existing values of the region by depending on this intensity of use bias. The real existing value of the region lies in the extremely unique character of the river topography, as reflected in the Vee Canyon and Devil's Canyon, and the unparalleled white water experiences that these areas have to offer.

Yet it is precisely these areas that will be destroyed by the Susitna Project, in favor of reservoirs that will not be productive enough to support a viable sport fishery, and that, despite the APA's predictions, probably will not be used as heavily as existing recreational sites that are closer to

population centers, therefore making those sites more valuable as intensive use recreation areas. The significance of this misconception is that the "recreational value" that ostensibly will be created by the Project cannot validly be cited an important secondary Project benefit, as is attempted in the amended license application. Instead, the primary Project effect in this area will be to destroy completely unique and irreplaceable recreational and aesthetic resources.

#### CONCLUSION

In conclusion, the amended license application does not present a convincing case that, at this time, the Susitna Project should be the centerpiece for the Railbelt's energy future. The feasibility is based more on speculation than proven need and conditions, while key environmental factors remain inconclusively determined. Most importantly, the amended license application is deficient in its consideration of alternatives to Susitna. Until this deficiency is rectified, the APA is not in a position to submit or strongly defend the amended license application.

We feel it would be in the best interest of the State and its people for decision-makers and others to step back and reassess the direction of Alaska's energy future. It is an especially opportune, if not critical, time to do this now during

a period of reduced oil revenue coupled with factors that make for an uncertain energy plan.



Cramer ✓  
01/24/86

Original sponsor: Sturgulewski

Funding Information

General Fund	\$271,700,000
Other Funds	- 271,700,000
	<u>          0          </u>

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 338 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropria-  
7 tions for the Alaska Power Authority for the Susitna  
8 River hydroelectric project, Bradley Lake hydroelec-  
9 tric project, and the power cost equalization fund;  
10 and providing for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
13 Hydroelectric Project Financing - \$200,000,000) is repealed.

14 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake  
15 Hydroelectric Financing - \$50,000,000) is repealed.

16 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
17 Equalization - \$21,700,000) is repealed.

18 \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
19 to the power development fund (AS 44.83.382) for the purpose of equity  
20 investment in, and rate stabilization for, the Susitna River hydroelectric  
21 project.

22 \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
23 to the power development fund (AS 44.83.382) for the purpose of equity  
24 investment in, and rate stabilization for, the Bradley Lake hydroelectric  
25 project.

26 \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
27 to the power cost equalization fund (AS 44.83.162) for the purpose of  
28 providing power cost equalization assistance to utilities.

29 \* Sec. 7. AS 44.83.165 is amended to read:

SLA 1984 56409  
CH 171  
P. 17

1           Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-  
2           IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984 [,  
3           AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-  
4           QUENT FISCAL YEAR] from the general fund to the power cost equaliza-  
5           tion fund (AS 44.83.162).

6           \* Sec. 8. AS 44.83.410 is amended to read:

7           Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR SUSITNA RIVER  
8           HYDROELECTRIC PROJECT. The sum of \$100,000,000 is appropriated on  
9           July 1, 1984 [AND THE SUM OF \$200,000,000 IS APPROPRIATED ON JULY 1 OF  
10           EACH SUBSEQUENT FISCAL YEAR] from the general fund to the authority  
11           for deposit in the power development fund (AS 44.83.382) for the pur-  
12           pose of ~~financing~~ EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,  
13           the Susitna River hydroelectric project.

14           \* Sec. 9. AS 44.83.420 is amended to read:

15           Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
16           HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on July  
17           1, 1984 [OF EACH FISCAL YEAR] from the general fund to the authority  
18           for deposit in the power development fund (AS 44.83.382) for the pur-  
19           pose of ~~financing~~ EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,  
20           the Bradley Lake hydroelectric project.

21           \* Sec. 10. Obligations, encumbrances, and expenditures incurred against  
22           appropriations repealed or amended in this Act are considered obligations,  
23           encumbrances, and expenditures of the appropriations enacted in secs. 4 - 6  
24           of this Act. The appropriations enacted in secs. 4 - 6 of this Act do not  
25           appropriate any more money than was previously appropriated by the appro-  
26           priations amended or repealed in secs. 1 - 3 and 7 - 9 of this Act.

27           \* Sec. 11. The appropriations in secs. 4 and 5 of this Act are for  
28           capital projects, and lapse in accordance with AS 37.25.020.

29           \* Sec. 12. Sections 1 - 9 of this Act are retroactive to July 1, 1985.

1 \* Sec. 13. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).  
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Introduced: 1/15/86  
Referred: House Special Committee on  
State Loans and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 477

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act making and amending appropriations for the  
7 Alaska Power Authority; and providing for an effective date."  
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. (a) The sum of \$200,000,000 is appropriated from the  
11 general fund to the Alaska Power Authority for deposit in the power devel-  
12 opment fund (AS 44.83.382) for the purpose of financing the Susitna River  
13 hydroelectric project.

14 (b) Up to \$9,100,000 of the amount set out in (a) of this section may  
15 be spent in fiscal year 1987 for planning and predesign activities for the  
16 Susitna River hydroelectric project.

17 \* Sec. 2. The sum of \$50,000,000 is appropriated from the general fund  
18 to the Alaska Power Authority for deposit in the power development fund  
19 (AS 44.83.382) to finance the Bradley Lake hydroelectric project.

20 \* Sec. 3. The sum of \$21,700,000 is appropriated from the general fund  
21 to the Alaska Power Authority for deposit in the power cost equalization  
22 fund (AS 44.83.162).

23 \* Sec. 4. AS 44.83.165 is amended to read:

24 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-  
25 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984 [,  
26 AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-  
27 QUENT FISCAL YEAR] from the general fund to the power cost equaliza-  
28 tion fund (AS 44.83.162).

29 \* Sec. 5. AS 44.83.410 is amended to read:

1           Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR SUSITNA RIVER  
2           HYDROELECTRIC PROJECT. The sum of \$100,000,000 is appropriated on  
3           July 1, 1984 [AND THE SUM OF \$200,000,000 IS APPROPRIATED ON JULY 1 OF  
4           EACH SUBSEQUENT FISCAL YEAR] from the general fund to the authority  
5           for deposit in the power development fund (AS 44.83.382) for the pur-  
6           pose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,]  
7           the Susitna River hydroelectric project.

8           \* Sec. 6. AS 44.83.420 is amended to read:

9           Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
10           HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on July  
11           1, 1984 [OF EACH FISCAL YEAR] from the general fund to the authority  
12           for deposit in the power development fund (AS 44.83.382) for the pur-  
13           pose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR,]  
14           the Bradley Lake hydroelectric project.

15           \* Sec. 7. The fiscal year 1986 appropriations made at page 8, line 17  
16           and page 9, line 5, ch. 96, SLA 1985; and page 59, line 18, ch. 98, SLA  
17           1985 are repealed.

18           \* Sec. 8. Obligations, encumbrances, and expenditures incurred against  
19           appropriations repealed or amended in this Act are considered obligations,  
20           encumbrances, and expenditures of the appropriations enacted in secs. 1 --  
21           3 of this Act. The appropriations enacted in secs. 1 -- 3 of this Act do  
22           not appropriate any more money than was previously appropriated by the  
23           appropriations amended or repealed in secs. 4 -- 7 of this Act.

24           \* Sec. 9. The appropriations in secs. 1 and 2 of this Act are for capi-  
25           tal projects, and lapse in accordance with AS 37.25.020.

26           \* Sec. 10. Sections 1 -- 7 of this Act are retroactive to July 1, 1985.

27           \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
28           10.070(c).

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION  
POUCH WF-STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3795

*continuing appropriations*

September 24, 1985

Senator Jay Kerttula, Chairman  
Legislative Budget and Audit Committee  
Pouch Z  
Palmer, Alaska 99645

Dear Senator:

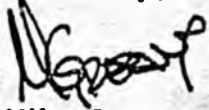
Enclosed is the transcript of the September 19 hearing on the notice to stay the court's earlier order regarding the appropriations for: Susitna, Bradley Lake and Power Cost Equalization.

The court granted a partial stay which allows the Power Cost Equalization program to continue and makes the Bradley Lake appropriations available for the current financing proposal. The order regarding the Susitna appropriations stands -- the monies must be returned to the General Fund.

The state will proceed with its appeal to the Supreme Court regarding the constitutionality of the continuing appropriations. The court clarified that it held the continuing appropriations unconstitutional on the basis of Article IX, Section 7 which prohibits the dedication of funds.

As a practical matter, this partial stay allows time for the Legislature in regular session to deal with these issues -- obviating the need for a Special Session.

Sincerely,



Mike Greany, Director  
Legislative Finance Division

cc: Legislative Budget and Audit Committee members (without enclosure)  
Gerry Wilkerson, Director, Legislative Audit

enclosure

MG/gs

BY: V. Fischer

AMENDMENT # 1

SB 338 Page 1, line 15 Sec. 4 is amended to read:

\* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund to the power development fund (AS 44.83.382) for the purpose of Railbelt energy development.  
[EQUITY INVESTMENT IN AND RATE STABILIZATION FOR THE SUSITNA RIVER HYDROELECTRIC PROJECT.]

BY: V. Fischer

AMENDMENT #2

SB 338 Page 1, line 9 add new Section 1 to read:

\* Sec. 1. Ch 171, SLA 1984 page 47, line 10 is amended to read:

[CONTINUING] Appropriation for [SUS. RIVER HYDROELECTRIC PROJECT] Railbelt energy development. The sum of \$100,000,000 is appropriated on July 1, 1984 [AND THE SUM OF \$200,000,000 ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR] from the general fund to the authority for deposit in the power development fund (AS 44.83.382) for the purpose of Railbelt energy development. [EQUITY INVESTMENT IN AND RATE STABILIZATION FOR THE SUSITNA HYDROELECTRIC PROJECT.]

Renumber following sections accordingly.

1/2/86

APRN AK News Nightly Story of 12/18:

PETER KENYON (REPORTER):

"The Governor's comments came in an interview Wednesday on the budget. He said some media accounts of the lack of Susitna money in his Susitna budget could be misleading since there is sixteen million dollars in the Alaska Power Authority budget that will go toward the FERC licensing process for Susitna. He also said he intends to introduce legislation to reappropriate the \$200 million that was knocked out of the Power Development Fund by Judge Brian Shortell - he found the continuing appropriations unconstitutional. And once that money is legally back in the Power Development Fund Sheffield said he'd like to see nearly ten million dollars used for actual design work on Susitna.

Governor Sheffield: "And we will ear. . . 9.7 million of that 200 million dollars to go into advanced construction design and engineering for Susitna"

KENYON: That idea has already been approved by the APA Board and it marks the first real step outside the licensing process for Susitna. APA Executive Director Bob Heath acknowledged that this ten million dollars does mark a new step forward for the project.

HEATH "It represents what might be called the first part of, the first little bit of construction if you will. We intend to move an existing camp into a permanent location, expand that camp, build an airstrip, and very possibly - and this is subject to some discussion - put a pioneer road back in there, and do some geotechnical work.

PETER K The future of Susitna is still in doubt but this design money gives Susitna supporters more to think about than just plowing through federal licensing paperwork.

Bob Heath: I guess you could say it's the first physical phase of the project up until now we've done a lot of studying and a lot of thinking and a lot of pieces of paper. This is the first physical piece.

PETER KENYON: Susitna is now scheduled to come on line by 1999 Governor Sheffield says there are still conditions to be met but if they are, he'll endorse the project.

Sheffield: Well, I've always endorsed Susitna but always said, Peter, that we're not going to build it until we know who we're going to sell the power to and how we are going to finance it. It's just a necessary item, but to be able to make that decision down the road whether we are ever going to have Susitna or not.

The APA met with Southcentral utilities representatives Monday and hopes to have an agreement within a couple of months. In Juneau, This is Peter Kenyon.

my copy



## Alaska Environmental Lobby, Inc.

204 N. Franklin Street, Suite 3 Juneau, Alaska 99801

907-586-2345

---

TESTIMONY ON RAILBELT ENERGY OVERVIEW AND SB 338  
BEFORE THE SENATE RESOURCES COMMITTEE  
JANUARY 29, 1986

SCOTT HIGHLEYMAN,  
EXECUTIVE DIRECTOR

---

Thank you, Madame Chair. For the record my name is Scott Highleyman, Executive Director of the Alaska Environmental Lobby. The Environmental Lobby represents 20 conservation groups from around the state.

Thank you for the opportunity to comment on railbelt energy and specifically on the bill before the committee to reappropriate 200 million dollars for the Susitna hydroelectric project. I am especially pleased to be in front of the Resources Committee of the state's policy-making body to discuss energy policy. The last few days have shown the need for new policy direction in our state energy planning. Many people from around the state look forward to policy leadership from this committee.

Heretofore, the Susitna project has been the centerpiece of railbelt energy policy. Discussion from all sides of the issue has focused on the merits and debits of one massive project. Left in the shadow of Devil's Canyon and Watana has been discussion of viable alternatives and options. With the startling issue of the draft financing report last Friday at the APA hearing, we now have the opportunity and obligation to reassess the state's energy needs, its obligations and the direction it should proceed. I urge this committee to start with a clean slate, re-assess our policy, and begin with new assumptions.

As a helpful beginning, the environmental community would like to offer an outline of a viable, new energy policy for Alaska:

The State, in conjunction with the private sector, should formulate and implement a comprehensive energy program for the Railbelt which results in an adequate supply of energy at the lowest reasonable cost to the consumer, the State, and the environment.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB  
KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY  
DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY  
KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDERNESS GUIDES ASSOCIATION  
SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL

These thoughts are more fully discussed in a report entitled "Alaska's Energy Future" prepared for today's committee hearing by the Northern Alaska Environmental Center, Trustees for Alaska, and the Alaska Public Interest Research Group. Very briefly, I'd like to highlight the key provisions contained in this new energy policy:

\*\*\*Recognition that environmental quality and economic health are both vital human needs.

\*\*\*An emphasis on the private sector as a provider of energy. The state should act in the role of guide--providing incentives where necessary to encourage programs and regulation where necessary to protect the public.

\*\*\*Consideration of all potential supplies of energy, including energy conservation.

\*\*\*A rational bias towards small or medium-sized energy projects, quickly installed that can satisfy demand while not relying on long-range projection.

\*\*\*An emphasis in energy planning on least cost to the state and not least price to the consumer.

\*\*\*Careful consideration of the environmental costs of proposed projects including the loss of intangible benefits such as wilderness to Alaskan lifestyles.

With such an energy policy fixed in our minds, it's much easier to see viable, readily available, energy sources for the railbelt that do not include the Susitna project. The thermal alternative found by the FERC staff to be the most attractive energy source for the railbelt--more attractive than Susitna--is in place or presently feasible. The entire issue of North Slope Gas needs to be seriously studied. And, the economic use of conservation as a net producer of energy in Alaska has hardly begun. If I may, I'd like to give some constructive suggestions in the area of conservation:

\*\*\*Implement a program to improve the heat retention of residential and commercial buildings. One approach would be a State-funded financial incentive rewarding property tax-payers that have energy efficient buildings. Buildings could be given an energy conservation assessment on a voluntary basis resulting in an efficiency rating. Based on the rating, a percentage of property tax would be paid by the State to the respective municipality for that building.

\*\*\*Load management incentives could be established to encourage utilities to improve their load factor. The state could allow cooperatives and investor-owned utilities to deduct from their state revenue tax expenses for load

management. Because the tax is nominal, the revenue the State would lose would be insignificant and in large part returned to the public via lower electric rates. But although the tax is not very much, utilities would not pass up the opportunity for a tax deduction.

Given the trend nation-wide in the utility business, it probably won't take very much state prodding in the form of incentives to get utilities more interested in conservation as a part of their profit-making, energy-producing business. The Chugach Electric CARES program, in which five percent loans are available to qualifying consumers for energy-saving house improvements, is a good example of the way in which utilities can--and undoubtedly will--capitalize on conservation as good business.

Now, I come to specific comments on action this committee--in its policy-making role--can make today. I am encouraged by the tough questions you were asking the APA today. I hope you will continue to keep asking tough questions when the Authority brings another version of the Susitna Dam up from the dead. If they propose a single dam--the so-called high Devil's Canyon project--I implore you to reject this proposal just as it was rejected by Kaiser Engineering and the APA staff themselves in the late 1970's. Remember that the three phase project discussed by the prestigious bond consultants in their draft financial report just five days ago was chosen by the APA as the most feasible project to finance. The consultants concluded we could finance it only if we were willing to raid the Permanent Fund. Since Devil's Canyon is a smaller project, perhaps it could be financed with "only" a state income tax !!

Please do not spend any more money on Susitna. The State is spending over 1.5 million dollars every month for the project. It has already spent 150 million dollars in the last few years. The Draft Plan of Finance for the Susitna project prepared by seven prestigious bond experts recommends on page three of the report:

Prior to the commitment of any additional funds for the Project, the Power Authority believes it is imperative that a comprehensive and feasible financing program be agreed to by all parties....However, it is important to point out that, given the magnitude of the financing requirements, good business practice dictates that power sales agreements setting forth the obligations of the Utilities be in place before any borrowing begins. Furthermore, memoranda of understanding should be in place before further funds are expended on the Project.

It is ironic that the APA's own draft financing plan five days ago called for a halt to money spent on the project; it would be tragic for this committee to pass out a bill five days later reappropriating 200 million dollars for the Susitna hydroelectric project. Please take the time to reexamine the need for this appropriation and the opportunity to give a new direction to state energy policy.

Thank you.

RAILBELT ENERGY OUTLINE

1. Overview from APA Executive Director Bob Heath
  - A. Status of Projects
    - 1) Susitna
    - 2) Bradley
  - B. Amended FERC License
  - C. Preliminary Plan of Finance
  
2. SB 338 - Reappropriation of Power Funds  
Committee Substitute available
  
3. SB 123 - Governor's bill regarding Power  
Development Fund interest  
Sponsor Substitute available
  
4. This meeting is being teleconferenced on a listen-  
only basis because of the limited time we have  
available today. There will be many other  
opportunities for the public to comment on this  
subject in the near future.

# Alaska State Legislature

ARLISS STURGULEWSKI, Chairman  
BETTYE FAHRENKAMP, Vice Chairman  
JACK COGHILL  
DICK ELIASON  
VIC FISCHER  
RICK HALFORD  
FRED ZHAROFF



POUCH V  
JUNEAU, ALASKA. 99811  
(907) 485-4907

## Senate Committee on Resources

M E M O R A N D U M

January 28, 1986

TO; All Members  
Senate Resources Committee

FROM: Staff, <sup>H</sup> Senate Resources Committee

RE: CSSB 338

CSSB 338 would correct the state statutes as required by the courts ruling that the continuing appropriation for power projects violated constitutional provisions.

The CSSB 338 repeals the continuing appropriations for the Susitna hydroelectric project, the Bradley Lake hydroelectric project, and the power cost equalization fund, and reappropriates those funds as specific appropriations.

There are no additional funds appropriated.

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

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

January 29, 1985

Hon. Arliss Sturgulewski  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811

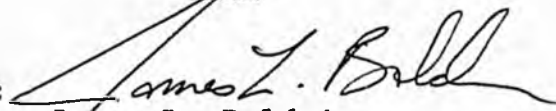
Re: Review of proposed CSSB 338

Dear Senator Sturgulewski:

We have reviewed the proposed committee substitute for SB 338. This bill appears to make the amendments necessary to maintain the status quo for appropriations made for the power cost equalization program, Bradley Lake, and Susitna River hydro-electric projects. The original version appeared to delete the fiscal year 1985 installments of the continuing appropriations in dispute in Trustees for Alaska, et al. v. State, No. 3AN-84-12053 CIV (Super. Court, 3d Jud. Dist.). Please let me know if we can be of further assistance.

Sincerely yours,

HAROLD M. BROWN  
ATTORNEY GENERAL

By:   
James L. Baldwin  
Assistant Attorney General

JLB/pjg

1/2/86

APRN AK News Nightly Story of 12/18:

*Frank  
w/ Susitna*

PETER KENYON (REPORTER):

"The Governor's comments came in an interview Wednesday on the budget. He said some media accounts of the lack of Susitna money in his Susitna budget could be misleading since there is sixteen million dollars in the Alaska Power Authority budget that will go toward the FERC licensing process for Susitna. He also said he intends to introduce legislation to reappropriate the \$200 million that was knocked out of the Power Development Fund by Judge Brian Shortell - he found the continuing appropriations unconstitutional. And once that money is legally back in the Power Development Fund Sheffield said he'd like to see nearly ten million dollars used for actual design work on Susitna.

Governor Sheffield: "And we will earmark 9.7 million of that 200 million dollars to go into advanced construction design and engineering for Susitna"

KENYON: That idea has already been approved by the APA Board and it marks the first real step outside the licensing process for Susitna. APA Executive Director Bob Heath acknowledged that this ten million dollars does mark a new step forward for the project.

HEATH "It represents what might be called the first part of, the first little bit of construction if you will. We intend to move an existing camp into a permanent location, expand that camp, build an airstrip, and very possibly - and this is subject to some discussion - put a pioneer road back in there, and do some geotechnical work.

PETER K The future of Susitna is still in doubt but this design money gives Susitna supporters more to think about than just plowing through federal licensing paperwork.

Bob Heath: I guess you could say it's the first physical phase of the project up until now we've done a lot of studying and a lot of thinking and a lot of pieces of paper. This is the first physical piece.

PETER KENYON: Susitna is now scheduled to come on line by 1999 Governor Sheffield says there are still conditions to be met but if they are, he'll endorse the project.

Sheffield: Well, I've always endorsed Susitna but always said, Peter, that we're not going to build it until we know who we're going to sell the power to and how we are going to finance it. It's just a necessary item, but to be able to make that decision down the road whether we are ever going to have Susitna or not.

The APA met with Southcentral utilities representatives Monday and hopes to have an agreement within a couple of months. In Juneau, This is Peter Kenyon.

Cramer  
01/16/86 ✓

Original sponsor: Sturgulewski

Funding Information

General Fund	\$271,700,000
Other Funds	- 271,700,000
	- 0 -

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 338 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making and amending appropriations for the  
7 Alaska Power Authority for the Susitna River hydro-  
8 electric project, Bradley Lake hydroelectric project,  
9 and the power cost equalization fund; and providing  
10 for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
13 Hydroelectric Project Financing - \$200,000,000) is repealed.

14 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake  
15 Hydroelectric Financing - \$50,000,000) is repealed.

16 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
17 Equalization - \$21,700,000) is repealed.

18 \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
19 to the power development fund (AS 44.83.382) for the purpose of equity  
20 investment in, and rate stabilization for, the Susitna River hydroelectric  
21 project.

22 \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
23 to the power development fund (AS 44.83.382) for the purpose of equity  
24 investment in, and rate stabilization for, the Bradley Lake hydroelectric  
25 project.

26 \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
27 to the power cost equalization fund (AS 44.83.162) for the purpose of  
28 providing power cost equalization assistance to utilities.

29 \* Sec. 7. This Act takes effect immediately in accordance with

1 AS 01.10.070(c).

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Original sponsor: Sturgulewski

Funding Information

General Fund \$271,700,000  
Other Funds - 271,700,000  
- 0 -

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 338 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropria-  
7 tions for the Alaska Power Authority for the <sup>Palmetto</sup> Susitna  
8 <sup>Angoon River</sup> hydroelectric project, Bradley Lake hydroelec-  
9 tric project, and the power cost equalization fund;  
10 and providing for an effective date."

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29 \* Sec. 7. AS 44.83.165 is amended to read:

1           Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-  
2 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984 [,  
3 AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-  
4 QUENT FISCAL YEAR] from the general fund to the power cost equaliza-  
5 tion fund (AS 44.83.162).

6 \* Sec. 8. AS 44.83.410 is amended to read:

7           Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR SUSITNA RIVER  
8 HYDROELECTRIC PROJECT. The sum of \$100,000,000 is appropriated on  
9 July 1, 1984 [AND THE SUM OF \$200,000,000 IS APPROPRIATED ON JULY 1 OF  
10 EACH SUBSEQUENT FISCAL YEAR] from the general fund to the authority  
11 for deposit in the power development fund (AS 44.83.382) for the pur-  
12 pose of equity investment in, and rate stabilization for, the Susitna  
13 River hydroelectric project.

14 \* Sec. 9. AS 44.83.420 is amended to read:

15           Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
16 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on July  
17 1, 1984 [OF EACH FISCAL YEAR] from the general fund to the authority  
18 for deposit in the power development fund (AS 44.83.382) for the pur-  
19 pose of equity investment in, and rate stabilization for, the Bradley  
20 Lake hydroelectric project.

21 \* Sec. 10. Obligations, encumbrances, and expenditures incurred against  
22 appropriations repealed or amended in this Act are considered obligations,  
23 encumbrances, and expenditures of the appropriations enacted in secs. 4 - 6  
24 of this Act. The appropriations enacted in secs. 4 - 6 of this Act do not  
25 appropriate any more money than was previously appropriated by the appro-  
26 priations amended or repealed in secs. 1 - 3 and 7 - 9 of this Act.

27 \* Sec. 11. The appropriations in secs. 4 and 5 of this Act are for  
28 capital projects, and lapse in accordance with AS 37.25.020.

29 \* Sec. 12. Sections 1 - 9 of this Act are retroactive to July 1, 1985.

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\* Sec. 13. This Act takes effect immediately in accordance with AS 01.-  
10.070(c).

Call  
Terry  
Cramer 230

Cramer ✓  
2/10/86

Original sponsor: Sturgulewski

Funding Information

General Fund	\$271,700,000
Other Funds	- 271,700,000
	- 0 -

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 338 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropriati-  
7 tions for the Alaska Power Authority for Railbelt  
8 energy development, Bradley Lake hydroelectric  
9 project, and the power cost equalization fund; and  
10 providing for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
13 Hydroelectric Project Financing - \$200,000,000) is repealed.

14 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake  
15 Hydroelectric Financing - \$50,000,000) is repealed.

16 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
17 Equalization - \$21,700,000) is repealed.

18 *OK* \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
19 to the power development fund (AS 44.83.382) for the purpose of Railbelt  
20 energy development.

21 *OK* \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
22 to the power development fund (AS 44.83.382) for the purpose of <sup>FINANCING</sup> ~~of equity~~  
23 investment in, and rate stabilization for, the Bradley Lake hydroelectric  
24 project.

25 *OK* \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
26 to the power cost equalization fund (AS 44.83.162) for the purpose of  
27 providing power cost equalization assistance to utilities.

28 \* Sec. 7. AS 44.83.165 is amended to read:

29 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST

1 EQUALIZATION. The sum of \$16,300,000 is appropriated on July 1, 1984,  
2 [AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-  
3 QUENT FISCAL YEAR] from the general fund to the power cost equaliza-  
4 tion fund (AS 44.83.162).

5 \* Sec. 8. AS 44.83.410 is amended to read:

6 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY  
7 DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of  
8 \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF  
9 \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR  
10 from the general fund to the authority for deposit in the power  
11 development fund (AS 44.83.382) for the purpose of Railbelt energy  
12 development [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE  
13 SUSITNA RIVER HYDROELECTRIC PROJECT].

14 \* Sec. 9. AS 44.83.420 is amended to read:

15 Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
16 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on  
17 July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the  
18 authority for deposit in the power development fund (AS 44.83.382) for  
19 the purpose of equity investment in, <sup>FINANCING</sup> and rate stabilization for, the  
20 Bradley Lake hydroelectric project.

21 \* Sec. 10. Obligations, encumbrances, and expenditures incurred against  
22 appropriations repealed or amended in this Act are considered obligations,  
23 encumbrances, and expenditures of the appropriations enacted in secs. 4 - 9  
24 of this Act. The appropriations enacted in secs. 4 - 6 of this Act do not  
25 appropriate any more money than was previously appropriated by the appro-  
26 priations amended or repealed in secs. 1 - 3 and 7 - 9 of this Act.

27 \* Sec. 11. The appropriations in secs. 4 and 5 of this Act are for  
28 capital projects, and lapse in accordance with AS 37.25.020.

29 \* Sec. 12. Sections 1 - 9 of this Act are retroactive to July 1, 1985.

1 \* Sec. 13. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).  
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Original sponsor: Rules/governor

Funding Information

General Fund	\$271,700,000
Other Funds	(271,700,000)
	-0-

1 IN THE HOUSE

BY THE HOUSE SPECIAL  
COMMITTEE ON STATE LOANS

2 CS FOR HOUSE BILL NO. 477 (Loans)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropri-  
7 tions for energy programs; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
11 Hydroelectric Project Financing - \$200,000,000) is repealed.

12 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake  
13 Hydroelectric Financing - \$50,000,000) is repealed.

14 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
15 Equalization - \$21,700,000) is repealed.

16 X \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
17 to the Railbelt energy fund (AS 44.25.050) for the purpose of Railbelt  
18 energy development.

19 \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
20 to the power development fund (AS 44.83.382) for the purpose of financing  
21 the Bradley Lake hydroelectric project.

22 \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
23 to the power cost equalization fund (AS 44.83.162) for the purpose of  
24 providing power cost equalization assistance to utilities.

25 \* Sec. 7. AS 44.83.165 is amended to read:

26 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-  
27 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984, [AND  
28 THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT  
29 FISCAL YEAR] from the general fund to the power cost equalization fund

1 (AS 44.83.162).

2 \* Sec. 8. AS 44.83.410 is amended to read:

3 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY  
4 DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of  
5 \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF  
6 \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR]  
7 from the general fund to the authority for deposit in the power devel-  
8 opment fund (AS 44.83.382) for the purpose of Railbelt energy develop-  
9 ment [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE SUSITNA  
10 RIVER HYDROELECTRIC PROJECT].

11 \* Sec. 9. AS 44.83.420 is amended to read:

12 Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
13 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on  
14 July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the  
15 authority for deposit in the power development fund (AS 44.83.382) for  
16 the purpose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZA-  
17 TION FOR,] the Bradley Lake hydroelectric project.

18 X  
19 \* Sec. 10. The unexpended, unobligated, and unencumbered balance of the  
20 appropriation in sec. 8 of this Act is repealed and reappropriated to the  
21 Railbelt energy fund (AS 44.25.050).

22 \* Sec. 11. Obligations, encumbrances, and expenditures incurred against  
23 appropriations repealed or amended in secs. 1 - 3 and 7 - 9 of this Act are  
24 considered obligations, encumbrances, and expenditures of the appropria-  
25 tions enacted in secs. 4 - 6 of this Act. The appropriations enacted in  
26 secs. 4 - 6 and 10 of this Act do not appropriate any more money than was  
27 previously appropriated by the appropriations amended or repealed in secs.-  
28 1 - 3 and 7 - 9 of this Act.

29 \* Sec. 12. The appropriations in secs. 4, 5, and 10 of this Act are for  
capital projects, and lapse in accordance with AS 37.25.020.

1 \* Sec. 13. Sections 1 - 3 and 5 - 9 of this Act are retroactive to  
2 July 1, 1985.

3 \* Sec. 14. This Act takes effect on the effective date of an Act creat-  
4 ing the Railbelt energy fund.  
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14-2064 ✓  
Cramer  
4/9/86

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Railbelt energy council; and  
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. FINDINGS. The legislature finds that

10 (1) state energy policy should change from a policy of assuming  
11 responsibility for providing low cost power to a policy of assisting the  
12 private sector to provide adequate power at reasonable cost;

13 (2) state funds available for energy development should be used  
14 as leverage to assist in financing projects that utilities cannot finance  
15 themselves;

16 (3) utilities should be encouraged to assume the responsibility  
17 of generating regional power rather than relying on the state;

18 (4) energy planning and financing must be efficient and  
19 cost-effective;

20 (5) the Railbelt energy fund should be used as leverage to  
21 develop power sources that will meet investment criteria.

22 \* Sec. 2. COUNCIL CREATED. (a) The Railbelt energy council is estab-  
23 lished to

24 (1) recommend how Railbelt energy funds can best be directed to  
25 meet the future energy needs of southcentral Alaska;

26 (2) recommend the best unified options for planning, financing,  
27 constructing, and managin' power facilities; and

28 (3) cooperate with the Alaska Power Authority to examine the  
29 feasibility and desirability of smaller Susitna hydroelectric projects.

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(b) Membership on the council consists of two members appointed by the governor, one of whom must represent an energy supplier; two senators appointed by the president of the senate; two members of the house of representative appointed by the speaker of the house; and one representative from each of the seven Railbelt utilities. *7/10*

(c) By February 15, 1987, the council shall report its recommendations to the legislature.

\* Sec. 3. This Act is repealed June 30, 1987.

\* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

*Keypad  
some qualification  
for utilities rep.*

Original sponsor: Rules/governor

<u>Funding Information</u>	
General Fund	\$271,700,000
Other Funds	<u>(271,700,000)</u>
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1 IN THE HOUSE

(SB 338)

BY THE HOUSE SPECIAL COMMITTEE ON STATE LOANS

2 CS FOR HOUSE BILL NO. 477 (Loans)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropria-  
7 tions for energy programs; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
11 Hydroelectric Project Financing - \$200,000,000) is repealed.

12 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 5, line 5 (Bradley Lake  
13 Hydroelectric Financing - \$50,000,000) is repealed.

14 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
15 Equalization - \$21,700,000) is repealed.

16 X \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
17 to the Railbelt energy fund (AS 44.25.050) for the purpose of Railbelt  
18 energy development.

19 \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
20 to the power development fund (AS 44.83.382) for the purpose of financing  
21 the Bradley Lake hydroelectric project.

22 \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
23 to the power cost equalization fund (AS 44.83.162) for the purpose of  
24 providing power cost equalization assistance to utilities.

25 \* Sec. 7. AS 44.83.165 is amended to read:

26 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-  
27 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984, [AND  
28 THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT  
29 FISCAL YEAR] from the general fund to the power cost equalization fund

1 (AS 44.83.162).

2 \* Sec. 8. AS 44.83.410 is amended to read:

3 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERG  
4 DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum o  
5 \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM O  
6 \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR  
7 from the general fund to the authority for deposit in the power devel-  
8 opment fund (AS 44.83.382) for the purpose of Railbelt energy develop-  
9 ment [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE SUSITNA  
10 RIVER HYDROELECTRIC PROJECT].

11 \* Sec. 9. AS 44.83.420 is amended to read:

12 Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
13 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated or  
14 July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the  
15 authority for deposit in the power development fund (AS 44.83.382) for  
16 the purpose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZA-  
17 TION FOR,] the Bradley Lake hydroelectric project.

18 \* Sec. 10. The unexpended, unobligated, and unencumbered balance of the  
19 appropriation in sec. 8 of this Act is repealed and reappropriated to the  
20 Railbelt energy fund (AS 44.25.050).

21 \* Sec. 11. Obligations, encumbrances, and expenditures incurred against  
22 appropriations repealed or amended in secs. 1 - 3 and 7 - 9 of this Act are  
23 considered obligations, encumbrances, and expenditures of the appropria-  
24 tions enacted in secs. 4 - 6 of this Act. The appropriations enacted in  
25 secs. 4 - 6 and 10 of this Act do not appropriate any more money than was  
26 previously appropriated by the appropriations amended or repealed in secs.  
27 1 - 3 and 7 - 9 of this Act.

28 \* Sec. 12. The appropriations in secs. 4, 5, and 10 of this Act are for  
29 capital projects, and lapse in accordance with AS 37.25.020.

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Sec. 13. Sections 1 - 3 and 5 - 9 of this Act are retroactive to July 1, 1985.

\* Sec. 14. This Act takes effect on the effective date of an Act creating the Railbelt energy fund.

Introduced: 4/11/86  
Referred: Finance

PH

Funding Information  
General Fund \$4,000,000  
Other Funds -0-  
\$4,000,000

1 IN THE SENATE BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 477

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska  
7 Power Authority for the Devil Canyon dam project; and  
8 providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. The sum of \$4,000,000 is appropriated from the Railbelt  
11 energy fund in the general fund to the Alaska Power Authority for preparing  
12 a feasibility study and a plan of finance for the Devil Canyon dam project  
13 in accordance with AS 44.83.181.

14 \* Sec. 2. It is the intent of the legislature that the Alaska Power  
15 Authority report regularly as requested to the Legislative Budget and Audit  
16 Committee on progress on the Devil Canyon dam project.

17 \* Sec. 3. The appropriation made by this Act is for a capital project  
18 and is subject to AS 37.25.020.

19 \* Sec. 4. This Act takes effect July 1, 1987.

Offered: 3/26/86  
Referred: Finance

Original sponsor: Rules/governor

Funding Information

General Fund \$271,700,000  
Other Funds (271,700,000)

-0-

BY THE HOUSE SPECIAL  
COMMITTEE ON STATE LOANS

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 477 (Loans)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act making, amending, and repealing appropriations for energy programs; and providing for an effective date."

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

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\* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna Hydroelectric Project Financing - \$200,000,000) is repealed.

11

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\* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake Hydroelectric Financing - \$50,000,000) is repealed.

13

14

\* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost Equalization - \$21,700,000) is repealed.

15

16

\* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund to the Railbelt energy fund (AS 44.25.050) for the purpose of Railbelt energy development.

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\* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund to the power development fund (AS 44.83.382) for the purpose of financing the Bradley Lake hydroelectric project.

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\* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund to the power cost equalization fund (AS 44.83.162) for the purpose of providing power cost equalization assistance to utilities.

21

22

\* Sec. 7. AS 44.83.165 is amended to read:

23

Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-

24

IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984, [AND

25

THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT

26

FISCAL YEAR] from the general fund to the power cost equalization fund

1 (AS 44.83.162).

2 \* Sec. 8. AS 44.83.410 is amended to read:

3 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY  
4 DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of  
5 \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF  
6 \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR]  
7 from the general fund to the authority for deposit in the power devel-  
8 opment fund (AS 44.83.382) for the purpose of kailbelt energy develop-  
9 ment [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE SUSITNA  
10 RIVER HYDROELECTRIC PROJECT].

11 \* Sec. 9. AS 44.83.420 is amended to read:

12 Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
13 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on  
14 July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the  
15 authority for deposit in the power development fund (AS 44.83.382) for  
16 the purpose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZA-  
17 TION FOR,] the Bradley Lake hydroelectric project.

18 \* Sec. 10. The unexpended, unobligated, and unencumbered balance of the  
19 appropriation in sec. 8 of this Act is repealed and reappropriated to the  
20 Railbelt energy fund (AS 44.25.050).

21 \* Sec. 11. Obligations, encumbrances, and expenditures incurred against  
22 appropriations repealed or amended in secs. 1 - 3 and 7 - 9 of this Act are  
23 considered obligations, encumbrances, and expenditures of the appropria-  
24 tions enacted in secs. 4 - 6 of this Act. The appropriations enacted in  
25 secs. 4 - 6 and 10 of this Act do not appropriate any more money than was  
26 previously appropriated by the appropriations amended or repealed in secs.-  
27 1 - 3 and 7 - 9 of this Act.

28 \* Sec. 12. The appropriations in secs. 4, 5, and 10 of this Act are for  
29 capital projects, and lapse in accordance with AS 37.25.020.

1       \* Sec. 13. Sections 1 - 3 and 5 - 9 of this Act are retroactive to  
2 July 1, 1985.

3       \* Sec. 14. This Act takes effect on the effective date of an Act creat-  
4 ing the Railbelt energy fund.

Cramer ✓  
3/28/86

Original sponsor: Sturgulewski

Funding Information

General Fund	\$271,700,000
Other Funds	- 271,700,000
	- 0 -

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 338 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropria-  
7 tions for energy programs; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
11 Hydroelectric Project Financing - \$200,000,000) is repealed.

12 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake  
13 Hydroelectric Financing - \$50,000,000) is repealed.

14 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
15 Equalization - \$21,700,000) is repealed.

16 \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
17 to the Railbelt energy fund (AS 44.25.050) for the purpose of Railbelt  
18 energy development.

19 \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
20 to the power development fund (AS 44.83.382) for the purpose of financing  
21 the Bradley Lake hydroelectric project.

22 \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
23 to the power cost equalization fund (AS 44.83.162) for the purpose of  
24 providing power cost equalization assistance to utilities.

25 \* Sec. 7. AS 44.83.165 is amended to read:

26 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST EQUAL-  
27 IZATION. The sum of \$16,300,000 is appropriated on July 1, 1984, [AND  
28 THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT  
29 FISCAL YEAR] from the general fund to the power cost equalization fund

1 (AS 44.83.162).

2 \* Sec. 8. AS 44.83.410 is amended to read:

3 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY  
4 DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of  
5 \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF  
6 \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR]  
7 from the general fund to the authority for deposit in the power devel-  
8 opment fund (AS 44.83.382) for the purpose of Railbelt energy develop-  
9 ment [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE SUSITNA  
10 RIVER HYDROELECTRIC PROJECT].

11 \* Sec. 9. AS 44.83.420 is amended to read:

12 Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
13 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on  
14 July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the  
15 authority for deposit in the power development fund (AS 44.83.382) for  
16 the purpose of financing [EQUITY INVESTMENT IN, AND RATE STABILIZA-  
17 TION FOR,] the Bradley Lake hydroelectric project.

18 \* Sec. 10. The unexpended, unobligated, and unencumbered balance of the  
19 appropriation in sec. 8 of this Act is repealed and reappropriated to the  
20 Railbelt energy fund (AS 44.25.050).

21 \* Sec. 11. Obligations, encumbrances, and expenditures incurred against  
22 appropriations repealed or amended in secs. 1 - 3 and 7 - 9 of this Act are  
23 considered obligations, encumbrances, and expenditures of the appropria-  
24 tions enacted in secs. 4 - 6 of this Act. The appropriations enacted in  
25 secs. 4 - 6 and 10 of this Act do not appropriate any more money than was  
26 previously appropriated by the appropriations amended or repealed in secs.-  
27 1 - 3 and 7 - 9 of this Act.

28 \* Sec. 12. The appropriations in secs. 4, 5, and 10 of this Act are for  
29 capital projects, and lapse in accordance with AS 37.25.020.

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\* Sec. 13. Sections 1 - 3 and 5 - 9 of this Act are retroactive to July 1, 1985.

\* Sec. 14. This Act takes effect on the effective date of an Act creating the Railbelt energy fund.

Offered: 2/24/86  
Referred: Finance

Original sponsor: Sturgulewski

Funding Information  
General Fund \$271,700,000  
Other Funds - 271,700,000  
- 0 -

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 338 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act making, amending, and repealing appropriations for the Alaska Power Authority for Railbelt energy development, Bradley Lake hydroelectric project, and the power cost equalization fund; and providing for an effective date."

7

8

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

9

\* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna Hydroelectric Project Financing - \$200,000,000) is repealed.

10

11

\* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake Hydroelectric Financing - \$50,000,000) is repealed.

12

13

\* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost Equalization - \$21,700,000) is repealed.

14

15

\* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund to the power development fund (AS 44.83.382) for the purpose of Railbelt energy development.

16

17

\* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund to the power development fund (AS 44.83.382) for the purpose of equity investment in, and rate stabilization for, the Bradley Lake hydroelectric project.

18

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\* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund to the power cost equalization fund (AS 44.83.162) for the purpose of providing power cost equalization assistance to utilities.

20

21

\* Sec. 7. AS 44.83.165 is amended to read:

22

Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST

1       EQUALIZATION. The sum of \$16,300,000 is appropriated on July 1, 1984,  
2       [AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-  
3       QUENT FISCAL YEAR] from the general fund to the power cost equaliza-  
4       tion fund (AS 44.83.162).

5       \* Sec. 8. AS 44.83.410 is amended to read:

6               Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY  
7       DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of  
8       \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF  
9       \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR]  
10       from the general fund to the authority for deposit in the power  
11       development fund (AS 44.83.382) for the purpose of Railbelt energy  
12       development [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE  
13       SUSITNA RIVER HYDROELECTRIC PROJECT].

14       \* Sec. 9. AS 44.83.420 is amended to read:

15               Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
16       HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on  
17       July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the  
18       authority for deposit in the power development fund (AS 44.83.382) for  
19       the purpose of equity investment in, and rate stabilization for, the  
20       Bradley Lake hydroelectric project.

21       \* Sec. 10. Obligations, encumbrances, and expenditures incurred against  
22       appropriations repealed or amended in this Act are considered obligations,  
23       encumbrances, and expenditures of the appropriations enacted in secs. 4 - 6  
24       of this Act. The appropriations enacted in secs. 4 - 6 of this Act do not  
25       appropriate any more money than was previously appropriated by the appro-  
26       priations amended or repealed in secs. 1 - 3 and 7 - 9 of this Act.

27       \* Sec. 11. The appropriations in secs. 4 and 5 of this Act are for  
28       capital projects, and lapse in accordance with AS 37.25.020.

29       \* Sec. 12. Sections 1 - 9 of this Act are retroactive to July 1, 1985.

1 \* Sec. 13. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).

Introduced: 1/13/86  
Referred: Resources and Finance

Funding Information  
General Fund \$271,700,000  
Other Funds -0-  
\$271,700,000

1 IN THE SENATE

BY STURGULEWSKI

2

SENATE BILL NO. 338

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act repealing appropriations and reappropriating  
7 money; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
10 Hydroelectric Project Financing - \$200,000,000) is repealed.

11 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake  
12 Hydroelectric Financing - \$50,000,000) is repealed.

13 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
14 Equalization - \$21,700,000) is repealed.

15 \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
16 to the power development fund (AS 44.83.382) for the purpose of equity  
17 investment in, and rate stabilization for, the Susitna River hydroelectric  
18 project.

19 \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
20 to the power development fund (AS 44.83.382) for the purpose of equity  
21 investment in, and rate stabilization for, the Bradley Lake hydroelectric  
22 project.

23 \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
24 to the power cost equalization fund (AS 44.83.162) for the purpose of  
25 providing power cost equalization assistance to utilities.

26 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.-  
27 10.070(c).

MEMORANDUM

3/25/86

TO: Rep. John Sund

FROM: J. Hartle *JH*  
*RA*

*CS SB 338 (Fin)*

RE: Sectional analysis of CSHB 477 (Loans)

- Section 1. Repeals continuing appropriation for Susitna.
- Section 2. Repeals continuing appropriation for Bradley Lake.
- Section 3. Repeals continuing appropriation for PCE. (*Power Cost Equalization*)
- Section 4. Reappropriates \$200 million repealed in section 1, to the Railbelt Energy Fund (HB 699).
- Section 5. Reappropriates \$50 million repealed in section 2, to the Power Development Fund in the APA.
- Section 6. Reappropriates \$21.7 million repealed in section 3, to the PCE Fund.
- Section 7. Appropriates \$16.3 to PCE and repeals the continuing nature of the appropriation.
- Section 8. Appropriates \$100 million to the Power Development Fund for the purpose of Railbelt Energy Development, repeals the continuing nature of the appropriation.
- Section 9. Appropriates \$50 million to the Power Development Fund for Bradley Lake, repeals the continuing nature of this appropriation.
- Section 10. Repeals and reappropriates the unexpended and unobligated portion of the \$100 million appropriation amended in section 8 to the Railbelt Energy fund.
- Section 11. Makes clear that no new funds are appropriated in this Act, and that obligations, encumbrances and expenditures incurred against appropriations amended or repealed are legal.

Section 12. States that appropriations made here are capital and do not lapse at the end of the fiscal year.

Section 13. Effective date for the sections appropriating money that has had encumbrances made against them.

Section 14. Makes the Act effective on the creation of the Railbelt Energy Fund (HB 699)



# ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

237 E. FIREWEED LANE • SUITE 301  
ANCHORAGE, ALASKA 99503 • (907) 276-3235

April 1, 1986

Senator Jan Faiks, Co-Chairman  
Senate Finance Committee  
Pouch V  
Juneau, AK 99811

Dear Senator Faiks:

At the March 27 hearing of the Senate Finance Committee on SB 338, ARECA staff was asked to present to the Committee the association's recommendations for a "working group" on Railbelt energy.

The electric cooperatives serving the Railbelt commend the legislature for its commitment to resolving the energy crisis our consumers will face in the not-too-distant future.

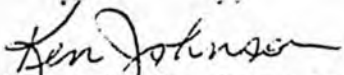
The establishment of a dedicated "working group," serving in an advisory capacity to both the legislature and the Alaska Power Authority, could help bring together the technical experts and policy makers responsible for changing the future course of Railbelt energy development.

To best maximize existing resources, and to involve the various groups who must be part of the decision making process on Railbelt energy, ARECA believes the advisory group should be comprised of:

- one member from each of the seven Railbelt utilities;
- one member from both the House and Senate;
- one public member;
- the executive director of the APA;

We must all work in harmony to develop a long-term energy plan to meeting the needs of Railbelt consumers. The legislature's formal establishment of an advisory group would be the first step in the development of that plan.

Respectfully,

  
Kenneth S. Johnson  
Director of Information

cc Senate Finance Committee Members  
Senate Resource Committee Members

DEMOCRACY IN ACTION

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y. STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1986

SUBJECT: CSSB 338 (Finance)  
(Appropriations for Energy Programs)

TO: Senator Jan Faiks  
Co-Chairman, Senate Finance

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

Enclosed is the draft CSSB 338 (Finance) you requested. Sections 4, 8, and 10 appropriate money to the Railbelt energy fund. That fund would be created under HB 699, which states that the legislature may appropriate money from the fund to assist in meeting Railbelt energy needs.

There is a question concerning how the constitutional prohibition against dedication of funds applies to the Railbelt energy fund. Article IX, Section 7 of the Alaska Constitution states

DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska. (Section 15 establishes the permanent fund.)

If a strict interpretation of the prohibition in this section is taken, the legislature may not limit the future use of money by an appropriation to a special fund. A more relaxed reading of the section would find that the appropriation by the legislature serves to meet the constitutional objective and the amount appropriated loses its status as "proceeds of any state tax or license." It would retain any limit as to use imposed by the appropriation. Of course, a

future legislature could repeal the restrictive purpose and appropriate the money for any purpose it wished, since one legislature may not bind another.

In State v. Alex, 646 P.2d 203, at 210, (Alaska 1982), the Alaska Supreme Court discusses the purpose of the amendment that changed the wording of the constitutional section from prohibiting the dedication of "all revenues" to the present language prohibiting the dedication of "proceeds of any state tax or license." The court noted

The committee's spokesman stated that the purpose of the proposed amendment was to allow for the setting up of certain special funds, such as sinking funds for the repayment of bonds, but to prohibit the earmarking of any special tax to that sinking fund. Thus, the change did not seek to exempt some sources of revenue from the prohibition, but was intended instead to allow necessary dedication of funds once they were received and placed in the general fund. Review of the convention discussion shows that the amendment was not intended to limit the prohibition of earmarking. (Citations omitted)

The examples that support that dedication after receipt include retirement contributions and the proceeds of bond sales. It is not clear whether the appropriation for the Railbelt energy fund would receive similar treatment by the court.

In an opinion issued November 30, 1982, the attorney general discussed the constitutionality of "Dedication of Money to Specific Purposes on a Continuing Basis When Appropriated." The opinion states, at 12 -13,

A question of the proper application of the dedicated funds prohibition arises when money is appropriated to a revolving loan fund or other special reserve fund or account. . . . Special reserve funds involve essentially the setting aside of money for certain specified future needs or conditions which may or may not occur. When this is done, it might be argued that the legislature has made an impermissible dedication with respect to the future use of the money placed in those funds and accounts.

Senator Faiks  
Page 3  
March 29, 1986

We believe the better view is that the dedication prohibition does not apply to money once appropriated by the legislature, regardless of whether the appropriation contemplates that the money will be expended. Usually appropriations authorize money to be spent. In other cases, however, the legislature may prefer to establish by general law a continuing loan program and finance it through a one-time appropriation or to reserve money in a special fund or account for future use for limited purposes. A strong argument can be made that money once appropriated, regardless of the mechanism utilized, loses its character as revenue for the purpose of the dedicated funds prohibition because the purpose of the prohibition, i.e., that the legislature retain control over state revenues, has been satisfied. (Citations omitted, emphasis in original.)

If the present legislation is challenged in court, and the court holds that the Railbelt energy fund constitutes an improper dedication of funds, it is likely that the result will be that the Railbelt fund will be treated as an account in the general fund, for the legislature to appropriate from as it sees fit.

If I may be of further assistance, please advise.

TC:ml  
me1/048

COMMITTEE REPORT  
SENATE

FURTHER:

FINANCE

1/13/86

Date

2/21/86

Mr. President

The Committee on RESOURCES considered SB 338  
repealing appropriations and reappropriating money; efd.

and (a majority of the committee) (~~the committee~~) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 338 (Res)  
new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT" [ ] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Rich Halford  
Dennis P. ...  
...  
...

V. Fischer - with  
letter of intent  
protecting the  
capital of the  
Railbelt Fund.

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

COMM RPT. (RES)

Adis Stupulski  
Chairman

Do Pass  
Chairman recommendation

*Henry Cramer ✓  
Jim Ballman ✓  
A.P.A. ✓*

Original sponsor: Sturgulewski

<u>Funding Information</u>	
General Fund	\$271,700,000
Other Funds	- 271,700,000
	<u>- 0 -</u>

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 338 (Resources) →

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making, amending, and repealing appropria-  
7 tions for the Alaska Power Authority for Railbelt  
8 energy development, Bradley Lake hydroelectric  
9 project, and the power cost equalization fund; and  
10 providing for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 \* Section 1. Section 3, ch. 96, SLA 1985, page 8, line 17 (Susitna  
13 Hydroelectric Project Financing - \$200,000,000) is repealed.

14 \* Sec. 2. Section 3, ch. 96, SLA 1985, page 9, line 5 (Bradley Lake  
15 Hydroelectric Financing - \$50,000,000) is repealed.

16 \* Sec. 3. Section 26, ch. 98, SLA 1985, page 59, line 18 (Power Cost  
17 Equalization - \$21,700,000) is repealed.

18 \* Sec. 4. The sum of \$200,000,000 is appropriated from the general fund  
19 to the power development fund (AS 44.83.382) for the purpose of Railbelt  
20 energy development.

21 \* Sec. 5. The sum of \$50,000,000 is appropriated from the general fund  
22 to the power development fund (AS 44.83.382) for the purpose of equity  
23 investment in, and rate stabilization for, the Bradley Lake hydroelectric  
24 project.

25 \* Sec. 6. The sum of \$21,700,000 is appropriated from the general fund  
26 to the power cost equalization fund (AS 44.83.162) for the purpose of  
27 providing power cost equalization assistance to utilities.

28 \* Sec. 7. AS 44.83.165 is amended to read:

29 Sec. 44.83.165. [CONTINUING] APPROPRIATION FOR POWER COST

*Repeals  
Continuing*

1 EQUALIZATION. The sum of \$16,300,000 is appropriated on July 1, 1984,  
2 [AND THE SUM OF \$21,700,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSE-  
3 QUENT FISCAL YEAR] from the general fund to the power cost equaliza-  
4 tion fund (AS 44.83.162).

5 \* Sec. 8. AS 44.83.410 is amended to read:

*7/85*

6 Sec. 44.83.410. [CONTINUING] APPROPRIATION FOR RAILBELT ENERGY  
7 DEVELOPMENT [SUSITNA RIVER HYDROELECTRIC PROJECT]. The sum of  
8 \$100,000,000 is appropriated on July 1, 1984, [AND THE SUM OF  
9 \$200,000,000 IS APPROPRIATED ON JULY 1 OF EACH SUBSEQUENT FISCAL YEAR]  
10 from the general fund to the authority for deposit in the power  
11 development fund (AS 44.83.382) for the purpose of Railbelt energy  
12 development [EQUITY INVESTMENT IN, AND RATE STABILIZATION FOR, THE  
13 SUSITNA RIVER HYDROELECTRIC PROJECT].

14 \* Sec. 9. AS 44.83.420 is amended to read:

15 Sec. 44.83.420. [CONTINUING] APPROPRIATION FOR BRADLEY LAKE  
16 HYDROELECTRIC PROJECT. The sum of \$50,000,000 is appropriated on  
17 July 1, 1984, [OF EACH FISCAL YEAR] from the general fund to the  
18 authority for deposit in the power development fund (AS 44.83.382) for  
19 the purpose of equity investment in, and rate stabilization for, the  
20 Bradley Lake hydroelectric project.

*also expenditures*

21 \* Sec. 10. Obligations, encumbrances, and expenditures incurred against  
22 appropriations repealed or amended in this Act are considered obligations,  
23 encumbrances, and expenditures of the appropriations enacted in secs. 4 - 6  
24 of this Act. The appropriations enacted in secs. 4 - 6 of this Act do not  
25 appropriate any more money than was previously appropriated by the appro-  
26 priations amended or repealed in secs. 1 - 3 and 7 - 9 of this Act.

27 \* Sec. 11. The appropriations in secs. 4 and 5 of this Act are for  
28 capital projects, and lapse in accordance with AS 37.25.020.

29 \* Sec. 12. Sections 1 - 9 of this Act are retroactive to July 1, 1985.

*going back  
to '85  
approp*

1 \* Sec. 13. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).  
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Introduced: 4/11/86  
Referred: Finance

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

SENATE BILL NO. 476

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to hydroelectric projects; and

7

providing for an effective date."

8

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

9

\* Section 1. FINDINGS. The legislature finds that

10

(1) the Alaska Power Authority has not fully complied with the

11

applicable statutes in developing the Susitna hydroelectric project;

12

(2) the Alaska Power Authority has not followed a consistent and

13

prudent decision-making process designed to resolve the Railbelt energy

14

needs in the most effective manner and at least cost to the consumer and

15

the state;

16

(3) the state has spent approximately \$145,000,000 on studies

17

and licensing activities related to the Susitna River hydroelectric proj-

18

ect;

19

(4) the studies conclude that the Susitna project represented

20

the best long-term solution to the Railbelt energy needs;

21

(5) coordination and cooperation between the Alaska Power Au-

22

thority and utilities during the Susitna project left much to be desired.

23

\* Sec. 2. INTENT. (a) The legislature intends that the authority

24

provide for a comparative analysis by an independent expert of all reason-

25

able alternatives to the proposed project as an integral component of the

26

feasibility study under AS 44.83.181(b)(3).

27

(b) The legislature further intends that the Office of Management and

28

Budget comply with AS 44.83.183 and submit its recommendations to the

29

legislature in writing no later than April 15, 1987, and that the authority

1 refrain from submitting the license application for the Devil Canyon dam  
2 project until the project is approved by the legislature under AS 44.83.-  
3 185(c).

4 \* Sec. 3. AS 44.83.181(a) is amended to read:

5 (a) Unless the reconnaissance study has been disapproved by the  
6 office of management and budget under AS 44.83.179, the authority  
7 shall complete a feasibility study and plan of finance for each pro-  
8 posed project. The authority shall complete and attach conditional  
9 power sale agreements with the appropriate utilities to the plan of  
10 finance.

11 \* Sec. 4. AS 44.83.185(b) is amended to read:

12 (b) The authority may not proceed with work on the engineering  
13 or design phase of a proposed new project for which legislative ap-  
14 proval is required until the legislature approves the proposed new  
15 project. The authority may not proceed with work on the final design  
16 phase of a proposed new project and may not submit an application to  
17 the Federal Energy Regulatory Commission unless the legislature has  
18 approved submission of the application. However, the authority may  
19 proceed with other [THE] engineering or design work necessary to meet  
20 the requirements for submission of a license application for the  
21 proposed new project to the Federal Energy Regulatory Commission  
22 without obtaining legislative approval of the proposed new project.

23 \* Sec. 5. AS 44.83.330 is amended to read:

24 Sec. 44.83.330. CONSTRUCTION, MAINTENANCE AND OPERATION OF  
25 PROJECT. If the legislature approves the project under AS 44.83.185  
26 [WITHIN ONE YEAR AFTER APPROVAL OF ITS PRELIMINARY REPORT SUBMITTED  
27 UNDER AS 44.83.320(b)], the authority may enter into a contract for  
28 the construction of the Susitna River hydroelectric project or a part  
29 of the project in a manner consistent with the purpose of the project

1 as described in AS 44.83.310.

2 \* Sec. 6. AS 44.83.340(a) is amended to read:

3 (a) If the Susitna River hydroelectric project is approved by  
4 the legislature [UNDER AS 44.83.325], beginning in 1983 the authority  
5 shall prepare an annual report which explains in detail

6 (1) the status of construction on the Susitna River hydro-  
7 electric project;

8 (2) the completion date of any phase of the Susitna River  
9 hydroelectric project which has been completed and the reasons for any  
10 deviation between the completion date and the expected completion date  
11 stated in the preliminary report required under AS 44.83.320(b);

12 (3) the actual cost of any phase of the Susitna River  
13 hydroelectric project which has been completed and the reasons for any  
14 deviation between the actual cost and the expected cost stated in the  
15 preliminary report required under AS 44.83.320(b);

16 (4) the federal and state permits necessary to begin or  
17 continue construction of the Susitna River hydroelectric project, the  
18 actual dates on which the federal and state permits necessary to begin  
19 or continue construction were obtained, and the reasons for any de-  
20 viation between the actual dates and the expected dates stated in the  
21 preliminary report required under AS 44.83.320(a) or in the earlier  
22 annual reports required under this section;

23 (5) any other information the authority considers appropri-  
24 ate or necessary to adequately inform the governor and the legislature  
25 of the status of the Susitna River hydroelectric project.

26 \* Sec. 7. Because of the extensive and numerous studies of the Susitna  
27 River hydroelectric sites, the Devil Canyon project is exempt from the  
28 requirements of AS 44.83.177 - 44.83.179.

29 \* Sec. 8. Section 10, ch. 169, SLA 1984 is repealed.

1       \* Sec. 9. AS 44.83.325 is repealed.

2       \* Sec. 10. LEGISLATIVE APPROVAL OF THE DEVIL CANYON DAM PROJECT.     The  
3 authority shall report regularly as requested to the Legislative Budget and  
4 Audit Committee on progress on the Devil Canyon dam project. The authority  
5 may not advertise for bid proposals for the feasibility study unless the  
6 committee approves. The authority may not award the contract for the study  
7 unless the committee approves.

8       \* Sec. 11. This Act takes effect immediately in accordance with AS 01.-  
9 10.070(c).