

S B

292

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SECOND SUB. FOR SB 292

Revision Date: \_\_\_\_\_ Department Affected: Fish and Game  
Title: Goodnews Bay Submerged Lands Area BRU: Habitat  
Component: Habitat

Sponsor: Hoffmann  
Requestor: Senate Resources COMPONENT SERIAL NO. 

	4	8	6
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EXPENDITURES/REVENUES: (Thousands of Dollars, (inflation not included))

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
FUND SOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: No impact on current year

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Frank Rue, Director Phone: 465-4105

Division: Division of Habitat Date: 5-1-92

Approved by Commissioner: [Signature]

Agency: Department of Fish and Game Date: 5/5/92

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SSSB 292

Revision Date: 5-Feb-92 Department Affected: Natural Resources  
 Title: Establishing the Goodnews Bay BRU: Mining Management  
Submerged Land Area Components: Mining Management  
 Sponsor: Senator Hoffman  
 Requestor: Senate Resources COMPONENT SERIAL NO. 442

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	* 1000.0					
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	* 1000.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	* 10,000.0					
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	* 11,000.0					
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	* 11,000.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

\* See Attached

Prepared by: Sam Dunaway, Acting Director Phone: 762-2171  
 Division: Mining Date: 5-Feb-92  
 Approved by Commissioner: Harold C. Heinze Date: 5-Feb-92  
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Note SSSB 292  
Goodnews Bay Submerged Land Area

Section 2 of this bill establishes the Goodnews Bay Submerged Land Area (GBSLA) as a limited use area that is closed to mining, mineral entry and leasing, and also closed to mineral exploration, development and extraction. There are 74 mining claims located within the GBSLA. Since the owners of these claims will not be able to make use of the property rights they have acquired, the state will need to buy back or acquire the claims.

To determine the validity of these claims, a mineral endowment analysis that assesses the availability of minerals and what they are worth may be needed. The analysis may require some exploration and drilling and could cost an estimated \$250,000.

In addition to validity costs, the buy-back costs for valid claims could be as much as ten million dollars. Actual costs would depend on the results of the mineral endowment analyses.

There are also other costs related to this bill. There are 4.5 Offshore Prospecting Permits (OPPs) located within the GBSLA, where mining activity will not be allowed, and 9.5 OPPs located in areas adjoining the GBSLA where all mineral permits and leases will be canceled. The OPP costs of the owners as of last year at this time are approximately \$750,000, for which they would expect reimbursement.

COST SUMMARY

1.	Mining Claim Validity Determinations	--	\$	250,000
2.	OPP Applicant Costs (as of last year)	--	\$	750,000
3.	Mineral Value Buy-Back Estimate	--	\$	10,000,000
				<hr/>
	Total		\$	11,000,000

**SENATE COMMITTEE REPORT**  
FIRST COMMITTEE OF REFERRAL

DATE: 5/14/91  
1/14/92 -- SS intro  
3/19/92 -- 2d SS intro

FURTHER:

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: \_\_\_\_\_

Resources                      Committee considered                      2D SSSB 292

GOODNEWS BAY SUBMERGED LAND AREA

and recommends:

replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )  
 attaches amendment(s)

same title  
 new title  
 technical title change  
(HB only)

adopts \_\_\_\_\_ Letter of Intent

further referral to the \_\_\_\_\_

do pass

do not pass

no recommendation

individual recommendations

**NEW FISCAL NOTES:**                      Dept/Date

zero fiscal notes \_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

appropriation--no fiscal note

**PREVIOUS FISCAL NOTES:**                      Dept/Date

Governor's bill with fiscal notes:

zero fiscal notes \_\_\_\_\_

\_\_\_\_\_

fiscal notes \_\_\_\_\_

\_\_\_\_\_

**DO PASS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chair: Signature and Recommendation

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 2
To	Jerry Lachapart	
From	Sen Res	
Co.	LAP Legal	
Dept.	Sen Res	
Fax #	2024	
	Phone #	4907
	Fax #	

Amendments to 2nd Sponsor Substitute to SB 292

On page 1, Line 9

On page 1, Line 9

After "economies" insert:

"The legislature also finds that the submerged lands near Goodnews Bay are considered the best prospect in the United States for locating commercially recoverable platinum. Platinum group metals were first mined from onshore deposits in the area in 1926. It has long been suspected that placing platinum metals are concentrated in sediments of Goodnews Bay."

On page 1, Line 9.

After "economies" delete:

"That heritage, and current use, could be endangered by mining, mineral entry or location, mineral leasing, ,or mineral prospecting in the submerged land of the bay."

On page 2, line 1

after "interest.", insert:

"The Legislature also finds that environmentally sound exploration of state land and water adjoining the Goodnews Bay Submerged Land area should proceed."

On page 3, line 24

Delete subsection (b)

Please incorporate this!

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 1
To	Jerry Lachapart	
From	Sen Res	
Co.	LAP Legal	
Dept.	Sen Res	
Fax #	2024	
	Phone #	4907
	Fax #	

11:39 AM

Finding Of The Commissioner  
Mineral Closing Order No. 607  
A8 38.05.18(a)

:  
:  
:

In preparation for issuing offshore prospecting permits (OPPs) in selected areas near Goodnews Bay, the Director of the Division of Mining (DOM), Department of Natural Resources, prepared a best interest finding and coastal consistency determination, dated August 10, 1990, after coordinating and reviewing resource data and considering comments by various state agencies, the Cenaliulriit Coastal Management District, and the general public. The Commissioner concurred with the best interest finding.

The best interest finding states that the Director of the DOM decided to reject all OPP applications within Goodnews Bay because of the high value and sensitivity of the shallow bay to disturbance and because of strong public comment opposing exploration and mining within Goodnews Bay. He found that the issuance of OPPs within the bay not to be in the best interest of the state. The Director of the DOM also decided to reject all or portions of the OPP applications covering the entrance of Goodnews Bay and offshore portions on both sides of the north and south spits located at the entrance of the bay because of high concentrated seasonal feeding and migration by fish, birds, and marine mammals at the bay entrance and important biological resources present offshore along the spits.

In conjunction with the rejection of all or portions of certain OPPs, the best interest finding also stated that the Director of the DOM intended to initiate procedures necessary for closing to new locatable mineral entry the intertidal area encompassing the first one-quarter mile (1320 feet) seaward from the mean high tide line within Goodnews Bay, and both sides of the north and south spits.

As a result of the August 2, 1990 commissioner level elevation meeting regarding the coastal buffer issues of the coastal consistency determination, an agreement was reached between the Department of Fish and Game (ADF&G) and the Department of Natural Resources (DNR) that DNR would issue a mineral closing order (MCO) along the coast within the OPP disposal area a distance of 1320 feet seaward from mean high tide. In anticipation of additional OPPs being issued south of the present OPP area, DNR agreed to extend the MCO or issue a similar one along the coast south of the disposal area to the southern end of Chagvan Bay. The extended MCO includes the tide and submerged lands 1320 feet seaward from mean high tide along the eastern shoreline of Kuskokwim Bay and within Chagvan Bay. The extended MCO terminates at the southern line of Section 33 of Township 16 South, Range 75 West, S.M.

Finding of the Commissioner  
MCO 607  
Goodnews Bay/Kuskokwim Bay/Chagvan Bay  
Page 2

The extension of the OPP disposal area MCO is to protect the migratory corridor for salmon and herring moving north along the coast of Kuskokwim Bay to Goodnews Bay and for protecting and preserving the natural habitat and wildlife populations of Chagvan Bay. Chagvan Bay is almost totally situated within the Cape Newenham State Game Refuge which was established by the Alaska State Legislature in 1960. Chagvan Bay is a large shallow estuarine embayment known for its large productive eelgrass beds and importance as a resting and feeding area for vast numbers of birds on their way to and from nesting grounds to the north. The bay is especially critical to Pacific herring which spawn in large numbers on the eelgrass and to black brant which stop in the spring to feed on eelgrass.

This mineral closure does not apply to and will not affect the adjacent uplands (areas above the mean high tide line) in any way. It covers state-owned tide and submerged lands only within those lands described in MCO 607. It also will not affect the valid existing rights of the approximately sixteen (16) mining claims presently located within the tide and submerged lands along the Kuskokwim Bay shoreline but would preclude the staking of new mining claims in the area if any of the existing claims become invalid.

It is my finding that the fish and wildlife uses of the lands described in Attachment A of this order constitutes an important and significant surface use and that mining would be incompatible with this use. It is therefore, my finding, in accordance with AS 38.05.185(a), that the best interests of the State of Alaska are served by the closure to new locatable mineral entry those lands identified in MCO 607, to entry under the locatable and mining laws of the State of Alaska. Mineral Closing Order No. 607.

---

Harold C. Heinze, Commissioner  
Department of Natural Resources

---

Date

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF LAND

MINERAL ORDER 607

X Closing Lands to Mineral Entry \_\_\_\_\_ Opening Lands to Mineral Entry \_\_\_\_\_

I. Name GOODNEWS BAY/KUSKOKWIM BAY/CHAGVAN BAY

II. This mineral order is based upon the attached Commissioner's Finding and the written documentation contained in:

Area Plan: \_\_\_\_\_ Dated \_\_\_\_\_

Management Plan: \_\_\_\_\_ Dated \_\_\_\_\_

Site Specific Plan: \_\_\_\_\_ Dated \_\_\_\_\_

Other: FINAL BEST INTEREST FINDING Dated August 10, 1991

III. File Number \_\_\_\_\_ Legal Description \_\_\_\_\_ Acreage \_\_\_\_\_

(See Attachment A)

IV. This order is subject to valid existing rights and issued under the authority granted by AS 38.05.185 - 38.05.275 to the Department of Natural Resources. The above described lands are hereby X close \_\_\_\_\_ opened to entry under the locatable mineral and mining laws of the State of Alaska.

Concur: [Signature]  
Director  
Division of Land

July 29 1991  
Date

Concur: [Signature]  
Director  
Division of Mining

July 30 1991  
Date

Approved: \_\_\_\_\_  
Commissioner

\_\_\_\_\_ Effective Date

ATTACHMENT A

Goodnews Bay/Kuskokwim Bay/Chagvan Bay  
Mineral Closing Order No. 607

Legal Description:

This mineral closing order encompasses a strip of land 1320 feet wide, measuring seaward from the mean high tide line in the following areas:

SEWARD MERIDIAN

Goodnews Bay & Vicinity

T12S, R73W:  
Portions of Sections  
17-21, 28, 32-33.

T12S, R74W:  
Portions of Sections  
19-20, 23-30.

T12S, R75W:  
Portions of Sections  
25-26, 34-36.

T13S, R74W:  
Portions of Sections  
3, 8-10, 16-19.

T13S, R75W:  
Portions of Sections  
6-8, 13, 16-21, 23-24,  
26-30, 32.

T13S, R76W:  
Portions of Sections  
1-2, 12.

Kuskokwim Bay

T14S, R75W:  
Portions of Sections  
4-5, 9, 16, 21, 28, 33.

T15S, R75W:  
Portions of Sections  
4, 9, 15-16, 21-22,  
27, 34.

Goodnews Bay/Kuskokwim Bay/Chagvan Bay  
MCO 607  
Legal Description  
Attachment A  
Page 2

Kuskokwim Bay (con't)

T16S, R75W:  
Portions of Sections  
2-3, 10, 15, 22, 27-28,  
33.

Chagvan Bay

T16S, R74W:  
Portions of Sections  
5-8, 17-19, 30.

T16S, R75W:  
Portions of Sections  
1-2, 11-12, 14-15,  
22-23, 25-27, 34-36.

Totaling approximately 11,630 acres

7-LS1242V  
Luckhaupt  
5/6/92

CS FOR 2d SPONSOR SUBSTITUTE FOR SENATE BILL NO. 292 (RESOURCES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR HOFFMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Goodnews Bay Submerged Land Area; closing the area to mining,  
2 mineral entry, mineral location, mineral prospecting, and mineral leasing; and providing  
3 for an effective date."

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

5 \* Section 1. FINDINGS. The legislature finds that Goodnews Bay is of extreme importance to the  
6 culture, communities, and residents of the area. Since the area was first inhabited, Goodnews Bay has  
7 been and remains a source of fish, including salmon and herring, wildlife, and marine life important for  
8 local cash and subsistence economies. The legislature also finds that the submerged lands near  
9 Goodnews Bay are considered the best prospect in the United States for locating commercially  
10 recoverable platinum. Platinum group metals were first mined from onshore deposits in the area in 1926.  
11 It has long been suspected that placer platinum metals are concentrated in sediments of Goodnews Bay.  
12 A reduction in the fishery resource because of mining, mineral entry or location, mineral prospecting,  
13 or mineral leasing activity would be extremely harmful to the cultural heritage of the communities and  
14 residents of the area. The legislature finds that closing the Goodnews Bay Submerged Land Area to

1 mining, mineral entry or location, mineral prospecting, and mineral leasing represents the maximum use  
2 of the area consistent with the public interest. The legislature also finds that environmentally sound  
3 exploration of state land and water adjoining the Goodnews Bay Submerged Land Area should proceed.

4 \* Sec. 2. AS 41 is amended by adding a new chapter to read:

5 CHAPTER 24. LIMITED USE AREAS.

6 Sec. 41.24.010. PURPOSE OF CHAPTER. The purpose of this chapter is

7 (1) to establish the Goodnews Bay Submerged Land Area as a limited use area  
8 to be managed by the department as provided in AS 41.24.020;

9 (2) to protect and perpetuate the fisheries resources and habitat in the area; and

10 (3) to close the area to mining, mineral entry, mineral location, mineral  
11 prospecting, and to leasing as mineral land.

12 Sec. 41.24.020. GOODNEWS BAY SUBMERGED LAND AREA ESTABLISHED. (a)

13 The state tideland, submerged land, and water lying within the area described in this subsection  
14 is designated as the Goodnews Bay Submerged Land Area: Starting at the northern starting  
15 point, which consists of the northern section line of Section 2, Township 13 South, Range 76  
16 West, Seward Meridian, where it intersects with the mean higher high tide line, continuing  
17 southerly along the higher high tide line of Kuskokwim Bay to Goodnews Bay, thence continuing  
18 along the higher high tide line of Goodnews Bay, then southerly again along the higher high tide  
19 line of Kuskokwim Bay to Chagvan Bay, thence continuing along the higher high tide line of  
20 Chagvan Bay, thence southerly again along the higher high tide line of Kuskokwim Bay to the  
21 point where the higher high tide line intersects with the southern boundary line of Section 33,  
22 Township 16 South, Range 75 West, Seward Meridian, thence westerly along the section line to  
23 a point 1,320 feet seaward from the higher high tide line, thence northerly along a line 1,320 feet  
24 seaward of the higher high tide line to a point where this line intersects the westward extension  
25 of the northern boundary of Section 2, Township 13 South, Range 76 West, Seward Meridian,  
26 thence easterly along the section line to the northern starting point.

27 (b) The land and water described in (a) of this section is closed to

28 (1) mining, mineral location, mineral entry, mineral prospecting, and mineral  
29 leasing under AS 38.05.185 - 38.05.275;

30 (2) exploration, development, and extraction of minerals under AS 38.05.135 -  
31 38.05.184.

1 (c) The department may not manage the Goodnews Bay Submerged Land Area as a unit  
2 of the state park system.

3 (d) The department shall manage the Goodnews Bay Submerged Land Area as it does  
4 other state land and water except as provided in (b) of this section and shall permit other uses  
5 as provided by law.

6 Sec. 41.24.030. MANAGEMENT OF OFFSHORE STATE LAND AND WATER  
7 ADJACENT TO THE GOODNEWS BAY SUBMERGED LAND AREA. (a) The department  
8 shall manage offshore state land and water adjoining the Goodnews Bay Submerged Land Area  
9 as it does other state land and water and shall permit other uses as provided by law, except as  
10 provided in this section.

11 (b) The department may permit mineral and mining activity in the offshore state land and  
12 water adjoining the Goodnews Bay Submerged Land Area <sup>after consultation with</sup> ~~unless the~~ commissioner of fish and  
13 game <sup>and</sup> ~~determines~~, before the beginning of the activity or during the course of the activity, that

14 (1) the activity

15 (A) is: consistent with the protection of fish and wildlife, their habitat,  
16 and their use in the Goodnews Bay Submerged Land Area; <sup>and areas</sup>

17 (B) unduly restrict or interfere with the public use and enjoyment of the  
18 resource values of the Goodnews Bay Submerged Land Area; and

19 (2) effects of the activity upon fish and wildlife, their habitat, and their use in the  
20 Goodnews Bay Submerged Land Area can be mitigated;

21  
22 \* Sec. 3. APPLICABILITY. The prohibitions in AS 41.24.010 - 41.24.020, added by sec. 2 of this  
23 Act, do not apply to valid mineral leases for the offshore state land and water within the Goodnews Bay  
24 Submerged Land Area described in AS 41.24.020(a), added by sec. 2 of this Act, that are in existence  
25 on the effective date of this Act.

26 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SSSB 292

Revision Date: 5-Feb-92 Department Affected: Natural Resources  
 Title: Establishing the Goodnews Bay BRU: Mining Management  
Submerged Land Area Components: Mining Management  
 Sponsor: Senator Hoffman  
 Requestor: Senate Resources COMPONENT SERIAL NO. 442

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	* 1000.0					
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	* 1000.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	* 10,000.0					

REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	* 11,000.0					
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	* 11,000.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

\* See Attached

Prepared by: Sam Dunaway, Acting Director Phone: 762-2171  
 Division: Mining Date: 5-Feb-92  
 Approved by Commissioner: Harold C. Heinze Date: 5-Feb-92  
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,  
& Impacted Agency(ies).

Fiscal Note SSSB 292  
Goodnews Bay Submerged Land Area

Section 2 of this bill establishes the Goodnews Bay Submerged Land Area (GBSLA) as a limited use area that is closed to mining, mineral entry and leasing, and also closed to mineral exploration, development and extraction. There are 74 mining claims located within the GBSLA. Since the owners of these claims will not be able to make use of the property rights they have acquired, the state will need to buy back or acquire the claims.

To determine the validity of these claims, a mineral endowment analysis that assesses the availability of minerals and what they are worth may be needed. The analysis may require some exploration and drilling and could cost an estimated \$250,000.

In addition to validity costs, the buy-back costs for valid claims could be as much as ten million dollars. Actual costs would depend on the results of the mineral endowment analyses.

There are also other costs related to this bill. There are 4.5 Offshore Prospecting Permits (OPPs) located within the GBSLA, where mining activity will not be allowed, and 9.5 OPPs located in areas adjoining the GBSLA where all mineral permits and leases will be canceled. The OPP costs of the owners as of last year at this time are approximately \$750,000, for which they would expect reimbursement.

COST SUMMARY

1. Mining Claim Validity Determinations	--	\$	250,000
2. OPP Applicant Costs (as of last year)	--	\$	750,000
3. Mineral Value Buy-Back Estimate	--	\$	10,000,000
			<hr/>
		Total	\$11,000,000

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. SECOND SUB. FOR SB 292

Revision Date: \_\_\_\_\_ Department Affected: Fish and Game

Title: Goodnews Bay Submerged Lands Area BRU: Habitat

Component: Habitat

Sponsor: Hoffmann

Requestor: Senate Resources

COMPONENT SERIAL NO. 

	4	8	6
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
FUND SOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: No impact on current year

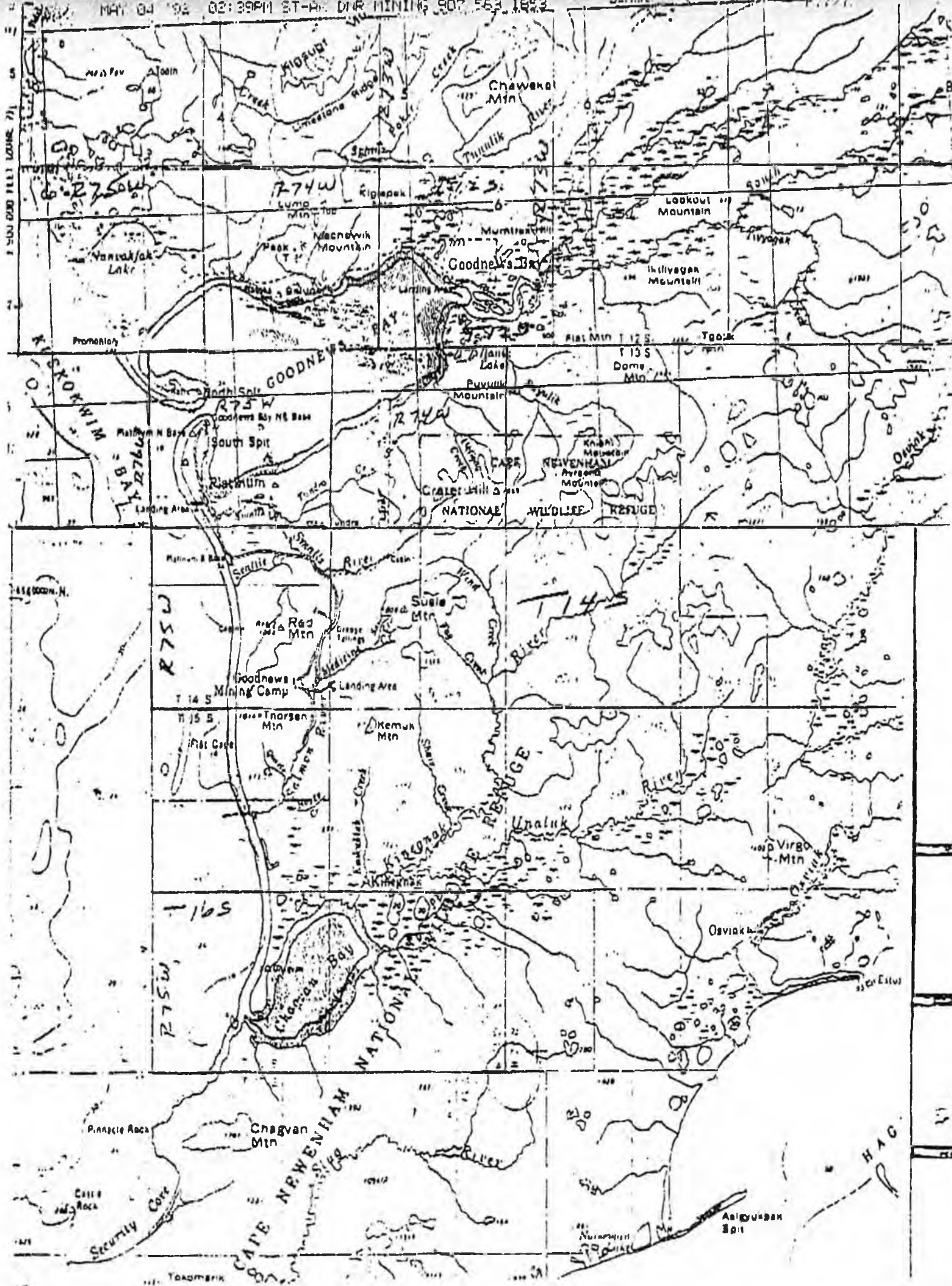
ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Frank Rue, Director Phone: 465-4105

Division: Division of Habitat Date: 5-1-92

Approved by Commissioner: [Signature]

Agency: Department of Fish and Game Date: 5/5/92



Security Cove

Chagvan Mtn

Asigvagan Spit

HAG

TRADEMARK

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

May 4, 1992

**SUBJECT:** CSHB 575 (Finance) (Work Order No. 7-LS1949\P)

**TO:** Representative Eileen McLean  
Representative Mike Navarre, Co-Chairs  
House Finance Committee

**FROM:** Jack Chenoweth  
Legislative Counsel 

A portion of this bill is conditioned upon the voters' not defeating the "dedicated transportation fund" proposal in the November, 1992, general election if the proposal is put to them. The only "dedicated fund" proposal that looks to have a possibility of adoption this year is SJR 23. Under it, the revenue from motor fuel taxes would become subject to dedicated treatment on and after July 1, 1993.

The penny per gallon surcharge, added by sec. 10, the revenue from which would become available for the storage tank assistance fund, would take effect July 1, 1992, and there is no provision for its automatic expiration. However, since I think the courts would view that surcharge as an increment to the motor fuel tax, then assuming legislative passage and eventual voter approval of SJR 23, that additional penny would also be subject to the dedication requirement for the revenue it generates beginning July 1, 1993.

In other words, under the assumptions mentioned, you should not count on use of the proposed motor fuel surcharge to support the storage tank cleanup program after mid-1993.

JBC:mi  
92-066.mai

Enclosure

CS FOR HOUSE BILL NO. 575 (FINANCE)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act increasing the motor fuel tax, imposing a motor fuel surcharge, and authorizing  
2 certain municipalities to levy and the state to collect and remit a motor fuel tax not to  
3 exceed two cents per gallon; and providing for an effective date."

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

5 \* Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

6 (51) AS 29.45.750 (municipal motor fuel tax)

7 \* Sec. 2. AS 29.45 is amended by adding a new section to read:

8 ARTICLE 6. MOTOR FUEL TAX

9 Sec. 29.45.750. MUNICIPAL MOTOR FUEL TAX. (a) Each of the following may, by  
10 ordinance, levy, on the same transactions and subject to the same restrictions as set out in  
11 AS 43.40 and to the exemptions set out in AS 43.40.015 - 43.40.100, a tax on motor fuel:

12 (1) a unified municipality;

13 (2) a home rule or general law borough; and

14 (3) a city in the unorganized borough.

1 (b) The tax levied by a municipality under this section may not exceed two cents per  
2 gallon.

3 (c) The tax levied under this section does not apply to

4 (1) aviation gasoline;

5 (2) motor fuel used in and on watercraft of all descriptions; and

6 (3) aviation fuel other than gasoline.

7 (d) The levy authorized by this section is in addition to any other levy of a municipal  
8 tax on the sale, transfer, or consumption of motor fuel. The governing body of a municipality  
9 shall promptly inform the commissioner of revenue of its adoption of an ordinance to levy, or  
10 to amend an ordinance that levies, the tax authorized by this section.

11 (e) If a municipality enacts an ordinance to levy the tax authorized by this section, the  
12 Department of Revenue shall

13 (1) collect the tax in the manner provided for collection of the tax proposed by  
14 AS 43.40; and

15 (2) after retaining one percent of the amount collected under (1) of this subsection  
16 to offset the expenses of administration, remit to the municipality the balance of the proceeds of  
17 the tax.

18 \* Sec. 3. AS 43.40.010(a) is amended to read:

19 (a) On sales or transfers of motor fuel in the state outside a municipality that levies  
20 a tax under AS 29.45.750. there [THERE] is levied a tax of 18 [EIGHT] cents a gallon. On  
21 sales or transfers of motor fuel within a municipality in the state that levies a tax under  
22 AS 29.45.750. there is levied a per gallon tax of 18 cents less the rate per gallon. not to  
23 exceed two cents per gallon. that is imposed by a levy of a motor fuel tax by the  
24 municipality under AS 29.45.750. The tax under this subsection is levied on all motor fuel  
25 sold or otherwise transferred within the state, except that

26 (1) the tax on aviation gasoline is four cents a gallon,

27 (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents  
28 a gallon, and

29 (3) the tax on all aviation fuel other than gasoline is two and one-half cents a  
30 gallon.

31 \* Sec. 4. AS 43.40.010(b) is amended to read:

1           (b) On consumption of motor fuel in the state outside a municipality that levies a  
2 tax under AS 29.45.750, there [THERE] is levied a tax of 18 [EIGHT] cents a gallon. On  
3 consumption of motor fuel within a municipality in the state that levies a tax under  
4 AS 29.45.750, there is levied a per gallon tax of 18 cents less the rate per gallon, not to  
5 exceed two cents per gallon, that is imposed by a levv of a motor fuel tax by the  
6 municipality under AS 29.45.750. The tax under this subsection is levied on all motor fuel  
7 consumed by a user, except that

8           (1) the tax on aviation gasoline consumed is four cents a gallon,

9           (2) the tax on motor fuel used in and on watercraft of all descriptions is five cents  
10 a gallon, and

11           (3) the tax on all aviation fuel other than gasoline is two and one-half cents a  
12 gallon.

13 \* Sec. 5. AS 43.40.010(e) is amended to read:

14           (e) Sixty percent of the proceeds of the revenue from the taxes levied under this section  
15 on aviation fuel, excluding the amount determined to have been spent by the state in its  
16 collection, shall be refunded to a municipality owning and operating or leasing and operating an  
17 airport in the proportion that the revenue was collected at the municipal airport. All other  
18 proceeds of the taxes levied under this section on aviation fuel shall be paid into a special  
19 aviation fuel tax account in the state general fund. The legislature may appropriate funds from  
20 this account for aviation facilities.

21 \* Sec. 6. AS 43.40.010(f) is amended to read:

22           (f) The proceeds from the revenue from the tax levied under this section on motor fuel  
23 used in boats and watercraft of all descriptions shall be deposited in a special watercraft fuel tax  
24 account in the general fund. The legislature may appropriate from this account for water and  
25 harbor facilities.

26 \* Sec. 7. AS 43.40.010(g) is amended to read:

27           (g) The proceeds of the revenue from the tax levied under this section on all motor  
28 fuels, except as provided in (e), (f) and (j) of this section, shall be deposited in a special highway  
29 fuel tax account in the state general fund. The legislature may appropriate funds from it for  
30 expenditure by the Department of Transportation and Public Facilities directly or as matched with  
31 available federal-aid highway money for maintenance of highways, construction of highway

1 projects and ferries included in the program provided for in AS 19.10.150, including approaches,  
2 appurtenances and related facilities and acquisition of rights-of-way or easements, and other  
3 highway costs including surveys, administration, and related matters. All departments of the state  
4 government authorized to spend funds collected from taxes imposed by this section [CHAPTER]  
5 shall perform, when feasible, all construction or reconstruction projects by contract after the  
6 projects have been advertised for competitive bids, except that, when feasible, arrangements shall  
7 be made with political subdivisions to carry out the construction or reconstruction projects. If  
8 it is not feasible for the work to be performed by state engineering forces, the commissioner of  
9 transportation and public facilities may contract on a professional basis with private engineering  
10 firms for road design, bridge design, and services in connection with surveys. If more than one  
11 private engineering firm is available for the work the contracts shall be entered into on a  
12 negotiated basis.

13 \* Sec. 8. AS 43.40.010(i) is amended to read:

14 (i) Within 30 days after the legislature convenes the Department of Transportation and  
15 Public Facilities shall submit an annual budget covering anticipated revenues and their  
16 expenditure, for the consideration and approval by the legislature. The budget shall cover all  
17 money collected or anticipated to be collected under this section [CHAPTER] for the year  
18 following the adjournment of each regular session of the legislature.

19 \* Sec. 9. AS 43.40.010(j) is amended to read:

20 (j) The proceeds from the tax levied under this section on motor fuel used in snow  
21 vehicles and, unless a tax refund is applied for under AS 43.40.050(a), other internal combustion  
22 engines not used in or in conjunction with a motor vehicle licensed to be operated on public  
23 ways shall be deposited in a special nonpublic highway use account in the general fund. The  
24 legislature may appropriate from this account to the Department of Transportation and Public  
25 Facilities for trail staking and shelter construction and maintenance.

26 \* Sec. 10. AS 43.40 is amended by adding a new section to read:

27 Sec. 43.40.012. SURCHARGE ON MOTOR FUEL. (a) In addition to the tax levied  
28 by AS 43.40.010, there is levied a surcharge of one cent a gallon on all motor fuel subject to tax  
29 under AS 43.40.010.

30 (b) The surcharge imposed by (a) of this section shall be collected and remitted in the  
31 same manner as the tax levied and collected under AS 43.40.010.

1 (c) Notwithstanding any other provision of this chapter, the commissioner of revenue  
2 shall deposit amounts received from the levy of the surcharge under this section into the general  
3 fund.

4 (d) The commissioner of administration shall separately account for the proceeds of the  
5 surcharge collected under this section and deposited into the general fund. The legislature may  
6 use the annual estimated balance in the account to make appropriations to the Department of  
7 Environmental Conservation for the storage tank assistance fund established under AS 46.03.410.

8 \* Sec. 11. Sections 1 - 4 of this Act do not take effect if amendments to the state constitution are  
9 proposed at the November 1992 general election to create as a dedicated fund a transportation fund to  
10 receive, among other sources, the revenue from the state's levy and collection of motor fuel taxes, and  
11 a majority of the voters at that election does not approve the adoption of those amendments.

12 \* Sec. 12. If secs. 1 - 4 of this Act take effect, they take effect January 1, 1993.

13 \* Sec. 13. Sections 5 - 10 of this Act take effect July 1, 1992.

14 \* Sec. 14. Section 11 of this Act takes effect immediately under AS 01.10.070(a).